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SENATE—*Saturday, November 20, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. FEINGOLD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.—Ephesians 6:12

Almighty God, in the Senate's battle against crime, poverty, unemployment, teenage problems, education and all the troubles of the world, it becomes increasingly apparent that the real warfare transcends the material and the secular.

When Gen. Douglas MacArthur spoke to the joint Congress after the Pacific war, he insisted that war was no longer a solution—it was totally destructive, that the problem was theological, and that if we would save the flesh, we must save the spirit. General MacArthur understood that the battle is basically spiritual.

As the Senators have a period free from legislative pressure, help them to contemplate the necessity for spiritual and moral renewal in our Nation. Remind them of the spiritual, moral consensus of our Founding Fathers which conceived this Nation and generated a political system that is the greatest in human history. Eternal God, restore to us the faith of our fathers. Renew us in the origins of our political legacy and lead us out of the futility that seems to increase daily.

For the glory of God and the welfare of our Nation. Amen.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, shortly the Senate will resume debate on the North American Free-Trade Agreement. I am advised that there are 3 hours and 10 minutes remaining for debate on that measure, and I anticipate that the Senate will complete all or almost all of that debate today.

There are a large number of measures which remain to be dealt with but only two which are contested and will require recorded votes. Those are the North American Free-Trade Agreement and the unemployment insurance extension. It is my hope—my strong hope —that we can complete action on both of those measures today.

Following lengthy meetings last evening, we were unable to reach agreement on a procedure for resolving the unemployment insurance matter. Those discussions will resume immediately this morning. I hope we can reach an agreement.

I have made clear that the vote on NAFTA will be the last recorded vote in this Congress and we must resolve unemployment insurance before we have the final vote on NAFTA; that is to say, if we do not resolve the unemployment insurance matter today and it is required that we put it off until next week, we will also then put off the vote on NAFTA. So that we will then have to return next week to complete action on both.

I very much hope that proves not to be the case and we can do both today so that those Senators who have other commitments will not be required to return on Monday when the Senate will return to session, but Senator DOLE and I will be here to deal with the remaining matters, all of which can be handled by consent and without the necessity for recorded votes.

So I merely want to say to Senators that, as they know, I have been trying hard to have this session completed prior to Thanksgiving. About 2 weeks ago we all thought it would be great if we could get out by next Wednesday. Expectations have been increasing at a steady rate. I am very pleased at that, but we have to do our business before we leave. I hope it can be today but that will depend upon our ability to reach agreement on unemployment insurance. So I wanted to make this statement so there can be no misunderstanding of where we are.

If we have to return next week because we cannot reach agreement on unemployment insurance, I will try very hard to have our return be as early in the week as possible. That will require some cooperation by Senators because if we cannot get consent on a procedure it may require us to be here as late as Wednesday. We will do that if necessary but I hope it will not be necessary.

So, I thank Senator WALLOP and Senator BAUCUS for coming in after two very long evenings to handle the debate on NAFTA and I will now yield the floor to them so that debate on that matter can resume.

As I indicated last evening, I do not know whether or not there will be votes today. It will depend upon the subjects I have just been discussing, particularly the unemployment insurance. But if there are votes, none will occur prior to noon. So no Senator need be present on the floor prior to then unless a Senator wishes to participate in the debate on the free-trade agreement.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3450, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3450) to implement the North American Free-Trade Agreement.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the manager of the bill for all of the good work he has done in bringing this bill to the attention of the Senate.

In 221 B.C., China began construction of a great wall to surround their country. They built a wall because they were scared. They were scared of what was on the outside. They were scared of what the rest of the world would do. They were scared that they could not compete with the rest of the world, so they hid behind a wall. America will not build a wall in 1993 around our country. We are not a scared Nation. We are not afraid of what is on the outside. We are not afraid to compete.

Instead of building walls around our country it is time to build bridges to other nations: Bridges of commerce, bridges of technology, and bridges of trade. America's future cannot be built on fear, but rather must be based on boldness and a willingness to face challenges. America is a Nation of winners. We are not a Nation of losers. Our people do not run from competition. We do not run from a battle. America is a strong Nation because our people are strong and we will not hide behind a wall.

I congratulate President Clinton for his boldness in negotiating the NAFTA agreement. It is truly the measure of a new Democrat who is willing to compete in the world. It is a mark of a leader who wants America to compete in the future and not live in the past. It is controversial. It is controversial because it is new. It is controversial because it is bold. But it represents at the same time what makes our Nation great.

America has always looked forward and not backward. If President Clinton and the Congress thought that our American working men and women were second class, we would not have a NAFTA agreement. If we thought our workers were not the best in the world, we would not be writing a NAFTA agreement, we would be building a wall around our country. Walls are to hide behind. American workers hide from no one. Their skills and their knowledge have taken our Nation to the No. 1 spot of all industrialized nations in the world. It is an insult to American workers to even suggest that they cannot compete with Mexico unless it is from behind a wall of protection.

So, let us today, as a great Nation, say to the rest of the world: Knock down the walls. Let the competition begin. This Nation is not afraid to compete. We will not build a wall. We will, instead, pass a North American Free-Trade Agreement.

I think the NAFTA is clear in what it does for our country, for our Nation, the opportunities it provides for American workers who I think will prosper and increase in numbers as a result of a free-trade agreement. This agreement will say to our competitors around the world, we want to compete but we want to compete on even terms. We want to sell our products in Mexico without a 20-percent tariff that prevents our products from entering into their marketplace.

We have a General Motors plant in my State of Louisiana. They make pickup trucks. They do a very fine job because that plant is highly productive, it is modern, it is efficient. Our workers are smart, intelligent—they are the best in the world. No one can produce a pickup truck better than the workers in that plant in Shreveport, LA.

I met with those workers and they expressed their concern to me about a NAFTA agreement. They said they were afraid the Mexicans would be able to make that plant relocate down in Mexico because their wages were so much cheaper.

I said to those workers: You are the best in the world. You do not need a wall of protection for you to be able to compete with Mexican workers. You are physically located closer to Mexico than you are to Washington, DC. You make a product that Mexican men and women and families are going to need—a light pickup truck. And you have an opportunity, geographically and from a technological standpoint, to produce that product in that plant at a price that is better than they can do in Mexico.

So I conclude by saying this is a good agreement for America and American workers. We are not afraid to compete. Our workers are second to no one. America was built on competition and the ability to do better than any other country on the face of the Earth.

In this agreement, we will do better than our competition and we will be successful. That is why I support the NAFTA.

Mr. BAUCUS. Mr. President, I ask unanimous consent that 5 minutes from the Republican time be transferred to the proponents on the Democratic side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I also ask unanimous consent the Senator from Minnesota be recognized for 5 minutes and his time be charged against the Democratic opponents' time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Thank you, Mr. President. I wanted to briefly respond to the remarks of the Senator from Louisiana.

Those of us who oppose the North American Free-Trade Agreement are not trying to erect walls. We are trying to tear down the wall of repression and violation of human rights in Mexico.

In the post-cold-war period the United States of America, this administration, the Clinton administration, could have lit a candle by using trade policy to promote democracy and human rights in our closest neighbor to the south, Mexico. And that could have set the pattern for other trade agreements in Central America and South America and with other countries as well. But we did not do that and that is the tragedy of this agreement.

Mr. President, I suggest that to sign this trade agreement with a country that violates the human rights of its citizens, to sign a trade agreement that is linked to labor repression, goes against the core values of what we stand for as a nation. Every time I raise this question on the floor of the Senate, I must say, there has not been a direct response to it.

Working people in our country, average working families, are not afraid to compete. Their insight is based on a rigorous economic analysis. They understand that they will be in trouble, and their families will be in trouble, relative to wages of 59 cents an hour or $1 an hour or $2 an hour with high productivity in Mexico, because the wage earners in Mexico cannot join independent unions, because the government can outlaw strikes, and because when people seek redress of grievance, they can find themselves imprisoned. Why is our silence so deafening in this Chamber when it comes to these human rights questions?

Finally, I have heard my colleagues, in very good faith—some of whom I consider to be very good friends—talk about the insecurity of people in our country. That is what this is really about. I want to analyze in the brief time I have left part of the why of that insecurity.

Part of the why of that insecurity is the problem of representation. Regular citizens, which I mean in a positive sense, ask the question: Who decides to sign this trade agreement and who might lose their job?

They ask the question: Who decides that we should cut taxes for wealthy, high-income people in a 1981 agreement for which there was broad congressional support. And who cannot afford to send their children to school, to college?

They ask the question: Who decides that deficit reduction is the major goal of public policy, and whose children go without an adequate education, whose children go hungry?

They ask the question: Who decides that we cannot afford universal health care coverage, that we cannot afford a comprehensive package of benefits, and whose families go without health care coverage?

They ask the question: Who decided that we cannot have an adequate appropriation of funding to make sure that there are programs for job retraining to address worker displacement, and whose families are going to be without jobs?

They ask the question: Who decides that we cannot invest in our economy and invest in high-paying jobs and invest in education and invest in opportunity, and whose families pay the price?

Mr. President, I suggest that this NAFTA agreement goes to the heart of the issue of representation. And the challenge for each and every one of us after this agreement passes, because it is going to pass in the Senate, is to do well for people when it comes to each and every one of those issues. Otherwise, there will continue to be a disconnect between the speeches that we give in the Chamber of the Senate and reality regarding the pressing issues in the lives of the people whom we represent.

That is what this is all about. For my own part, it was a core value to me, a moral issue to me to represent working people in this country. I worry that this trade agreement will not lead to the uplifting of the standards of the people in Mexico or the people in our country. And it saddens me to no end that the people I met in the shantytowns and the people I met who are not with the PRI, their voice never got heard here in the Chamber of the U.S. Senate. And the voices of many, many people in our country—I think perhaps the majority of people—did not really get heard when it came to their concerns about this trade agreement.

We are going to pass it, and I say after we pass it, let us move forward with good public policy in all these other areas. I say to all the people who oppose NAFTA, you can be proud, and you should keep on marching and you should keep on fighting, and you should demand accountability from all of us, Democrats and Republicans alike.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I now yield 7 minutes to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 7 minutes.

Mr. KERRY. Mr. President, I thank the Senator from Montana.

The Senator from Minnesota asked for a direct answer and I will, in the course of my comments, give him a direct answer to the issue he raises.

I would like to say at the outset that there are powerful reasons, a series of powerful reasons, for why we should support NAFTA. But there are also a powerful set of reasons why NAFTA has very little to do with the fundamental problems of the American workplace today and why the issues the Senator from Minnesota raises are absolutely valid, but they will neither be cured by nor deterred by the passage of NAFTA. They are a different set of issues.

First of all, NAFTA will create a net set increase in American jobs. We ought to understand that. It turns the one-way street we have today, because of the tariff imbalance, into a two-way street and clearly, on its face, without dispute, taking tariffs down from 2½ times our tariff level and the goods coming in increases the goods that will flow into Mexico. Every independent study shows this. I can cite a host of companies in Massachusetts—Gillette in south Boston that will go from $4 million of sales to $12 million of sales in a brief period of time because of that increase.

Second, NAFTA recognizes the reality of today's economy—globalization and technology. Our future is not in competing at the low-level wage job; it is in creating high-wage, new technology jobs based on our skills and our productivity. If we think America will be better off by closing down to compete with low wages, we will cease to be an economic superpower.

Third, NAFTA will inevitably increase the purchasing power of Mexicans, which will mean more American goods sold to Mexicans.

Fourth, it will have a long-term significant impact on illegal immigration by raising the wages of Mexicans and the opportunities of Mexicans so they do not feel the only place that they can go to get that opportunity is across the borders of the United States.

Fifth, it will contribute to the growth and the maturity of the Mexican economy and thereby alleviate some of the potential for social and political explosions which could set back progress. And there has been progress made. The Senator from Minnesota said what is the direct answer? The direct answer is that it is only by giving opportunity and raising the purchasing power of Mexicans that you will ultimately give them the capacity to claim greater say in their own country. That has been proven to happen in Eastern Europe, proven to happen in Asia, and it will happen also in Mexico.

The Senator from Connecticut, Senator DODD—who probably knows Mexico better than anybody in the Senate—has pointed out eloquently the importance of this measure in helping the progress that has been made to continue in Mexico.

Sixth, it will have a vital impact on our own efforts to create a new order in trade by helping to push the GATT process along, by helping to create a new relationship in Asia, and by helping the United States not to turn inwards but to turn outwards in its trade relationships and have a significant impact on those.

Seventh, it will improve markedly the current state of the environment. To not have NAFTA is to not begin cleanup and not link trade sanctions to environmental cleanup. To pass NAFTA is for the first time to link trade and the environment with an enforcement mechanism that will provide for cleanup. Without it, our citizens are injured by virtue of the environmental devastation in the maquiladora areas.

Eighth, it advances the cause of sustainable development by introducing into the entire trade agreement network this concept of trade sanctions as a means of leveraging environmental standards. This is a path-breaking measure which we should not lose.

Ninth, it acknowledges the inevitable integration between Mexico and the United States and it opens the door to that same integration to create one of the most powerful trading blocs in the world—the North-Southwestern Hemisphere trading bloc—and that is a vital effort as we watch China and Asia, the Asian tigers, emerge with even greater power today.

Mr. President, we have heard a great deal of talk about the differential in wages. People assert again and again that because the wages in Mexico are lower, that automatically means we are going to lose a lot of jobs. I dispute that. Harley Shaiken, of the University of California, San Diego, did a study that showed that the most sophisticated of the Mexican plants are able to compete against our level of productivity, but it points out also that there are very few of those plants in Mexico.

A recent Washington Post article showed that it will take many, many years before other plants in Mexico can get on line sufficiently to compete with our productivity level. Meanwhile, if we are doing the right things in the United States, we will be creating a whole new level of productivity and capacity by virtue of investment in this country.

Moreover, at this point in time, productivity in Mexico, on a whole, is far lower than in the United States. Gary Hufbauer, at the Institute of International Economics, estimates that the difference in productivity between the United States overall and Mexican maquiladora plants is seven times, which is exactly the same ratio as the difference in their wages. In fact, the average Mexican employee adds about $9,500 to the value of the widget that they build versus some $70,000 that an American worker adds to the value of the product that we make.

Now, Mr. President, it has been shown that if you look at the price of building a car, while wages are lower in Mexico, the fact is it is still cheaper to build the car in the United States because of the fact that you have a differential in shipping costs, because our plants are better, because our workers are more skilled.

In the end, studies show that wage rates are only 2 percent of the cost of making an automobile in Mexico and 8 percent in the United States. There is an enormous differential in that other 92 percent of what makes up the cost of doing business. In that regard, the United States is far more competitive.

I might simply point out that if wages were the only ingredient of determining where people go, then Bangladesh would be a powerhouse, Costa Rica would be a powerhouse. But as we learned from the experience of Germany, there is——

The ACTING PRESIDENT pro tempore. The Senator has used 7 minutes.

Mr. KERRY. One additional minute.

Mr. President, let me just say in summary, NAFTA will open the door to more jobs in the United States. But unless the United States decides to pay attention to the real problems of the American worker, which are that we have 90 million Americans who are functionally illiterate, the fact that we pay too little attention to long-term investment, the fact that we are investing too little in our own infrastructure and not empowering entrepreneurial activity in this country, that is the problem of America, not NAFTA. If we will do what Germany does, where the wages are 60-percent higher than they are in America but they outcompete us in terms of exports, we will be stronger as a nation. We must pass NAFTA as a means of moving to this new future but, more importantly, we must pay attention to the real problems of the American workplace which demand an investment in education and in the skill level of the American worker.

I thank the distinguished Senator from Montana.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP. Mr. President, I yield 10 minutes to the Senator from Minnesota [Mr. DURENBERGER].

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for 10 minutes.

Mr. DURENBERGER. Mr. President, I thank the Chair.

I am personally pleased that there has been a period of time between the passage of NAFTA on the House side and on the Senate side. I think that it has given us all some time to reflect on some of the tensions that have been felt both in this body and in the other body. It has also provided an opportunity to examine our relationships with the White House over the last several months, particularly as we have headed up to this very critical debate. The wide margin of the vote on the House side, and the very obvious margin by which NAFTA will pass when we eventually vote on it on this side, has demonstrated that there is a spirit in this body, just reflected most obviously by my colleague from Massachusetts, of not only bipartisanship and cooperation, but more importantly, I think, of a powerful vision for the future of our country that exists in Congress to a degree that we did not previously realize.

In my view, Mr. President, by the passage of NAFTA we will have reaffirmed to everyone in this country that we are a world leader; that we do have a vision for the future; that we are not insensitive to the problems that we face as a people; that we are not insensitive to the impact of the restructuring of our economy and the economies of other countries of the world; that NAFTA, free trade, hemispheric trade, changes in the General Agreement on Tariffs and Trade, which we hope will come in the next several weeks, are all very critical to the restructuring process and to the redevelopment of economies in all of the world.

I think it is critically important to this President, to this Senate, and to this Congress that we endorse in this body, by as large a margin as possible, the work of several Presidents, the work of several Congresses, and the work of the leaders of many parts of this hemisphere.

The President's hand has been strengthened substantially, as we will see as he meets with the leaders of the APEC counties in Seattle over the next several days. Without this mandate, our country would not have the tools that it needs to tackle trade problems that we have with our Asian trade partners—the high trade deficits, and the continuing bias in the trade barriers that we face selling in Asian markets.

Without this vote, the Uruguay round of GATT would be dead. Today, as you saw in the papers already this morning, there is not only hope but there is strength.

Mr. President, I thank my colleague from Massachusetts for the comments that he made relative to the comments made earlier by my junior colleague from Minnesota. We both speak for the same constituencies and we both speak to the same concerns. He expressed very well his concerns for workers, farmers, and others who work for a living in our State. But I think my colleague from Massachusetts expressed it perhaps better than I when he said that there are different courses to take to accomplish the same end. NAFTA is an important course to take to strengthen the value of work, workers, and families in the State of Minnesota.

Two years ago, my colleague from Montana, Senator BAUCUS, who has been managing this bill on the Democratic side, and Senator Lloyd Bentsen, now Secretary of the Treasury and then chairman of the Finance Committee, and I took a 2-week trip throughout this hemisphere. I think it was in August 2 years ago. We visited in Mexico, we visited in Equador, in Peru, Chile, Argentina, Brazil, and Venezuela. We were following a similar visit by then Special Trade Representative, Ambassador Carla Hills and we were preceding a trip by the Vice President of the United States, Dan Quayle, both of whom are Republicans.

But I was struck in our trip by the totally bipartisan nature of the American representation in the hemisphere. I was also struck by the way in which leaders, economic, political, and social, in all of the countries of the hemisphere reacted to the bipartisan nature of this emerging American trade policy.

Having served for 15 years now in the Senate Finance Committee, where we wrestle with trade policy, I have lived through the period of time in which Presidents said trade policy was their own, to a period of cooperation, particularly with the Finance Committee and now with the Senate as a whole, the Ways and Means Committee and the Congress as a whole. And I think trade policy in America, while it may be in this case somewhat argumentative, is a whale of a lot better, and America is a lot better, because of the spirit of cooperation that exists between the White House and the Congress.

It was a challenge for a Democratic candidate for President to support NAFTA. It was an even bigger challenge when he was elected as a Democratic President of the United States for him to take on the challenge of NAFTA, particularly in the context in which its opponents have spoken.

So I congratulate President Clinton, I congratulate the administration, I congratulate my Democratic friends on the Senate side in particular, and the leadership on the Democratic side for not only embracing the notion of NAFTA but for providing leadership in this country, in this hemisphere, and around the world for taking down trade barriers which discriminate against Montanans, Minnesotans, and everybody else in this country.

The point of my remarks is to try to demonstrate something that was not very well demonstrated in the House of Representatives, where a lot of the Democratic leadership was opposing their own President. In this body, it is very different. I will not try to rationalize why, but I think it is important to the American people to understand that international trade, hemispheric trade, neighborly relations is not a political issue, and that it is leadership on the part of the Democrats as well as Republicans in this body that have made a very substantial difference and will continue to make that difference that will move our country forward.

I come from a State which would not exist without international trade. We have offered up practically all of our iron ore to win two world wars, and a variety of other ores for the steel producing in other States, such as the State of Michigan. Minnesotans work in a resource to provide freedom around the world.

Minnesota agriculture is totally dependent on export markets. You can tell from day to day, week to week, month to month, disaster to disaster, how dependent agriculture in this country, particularly in my State, is on opening up export markets. When we traveled in the hemisphere I met people from 3M, Honeywell, General Mills, and a variety of Minnesota companies, small and large. I used to work for H.B. Fuller in Central America. Various South American countries, as well as the Caribbean nations are all over the place selling Minnesota technology, selling Minnesota products, selling relationships, if you will, that build Caribbean countries, Central American countries, South American countries, with Minnesota know-how, Minnesota products, Minnesota invention, Minnesota talents.

So it has been a long, long time that Minnesotans have been involved in small, medium, and large companies around the world and in this hemisphere.

Our State of Minnesota is very, very dependent, as are its workers and its agriculture producers, on bringing down trade barriers around the world.

A NAFTA defeat would be a serious blow to people in Minnesota, many of whom are just beginning to concentrate on Mexican and Latin American markets. As European and Far Eastern economies stagnate, as these countries raise barriers against United States products, Minnesota needs to look toward more promising markets. The extension of NAFTA to Caribbean countries, to Central American and South American countries, is going to help us in Minnesota overcome the problem of the restructuring of our economy and that of the rest of the world.

NAFTA will create the world's largest open market. It will have a population of 370 million; it will have a GDP of $7 trillion. It is an unparalleled opportunity for Americans, for the United States as a whole, and for Minnesota in particular.

Since Mexico started to remove its trade barriers, Minnesota exports to Mexico have grown by 191 percent. In 1992 alone, last year, we had $261,420,000 worth of exports to Mexico. Sales of Minnesota products to Mexico will dwarf this figure once we pass NAFTA, remove the remaining trade barriers, and begin to expand trade around the world.

We have already experienced great growth in exports as a result of the United States-Canada Free-Trade Agreement. Minnesota exports to Canada have increased 65 percent over the last 4 years as a result of the free trade agreement. In 1992 alone, Minnesota's exports to Canada totaled $1.8 billion.

Minnesota will not be alone in prospering from NAFTA. In 1987, the United States had a $5.7 billion trade deficit with Mexico. In 1992, just 5 years later, we had a surplus trade balance with Mexico of $5.6 billion.

In 1990, United States trade with Mexico totaled $59 billion—putting Mexico behind only Canada and Japan in overall trade with our country.

It is time for the United States to expand its freedom of trade with a trading partner that has a proven record of buying our products, and especially a trading partner that has striven to open its market to even more U.S. goods.

And Mexico is a proven trading partner. Mexico bought $40.6 billion worth of United States goods in 1992 alone.

The United States currently buys more from countries with which we have enormous trade deficits—countries like those in the Far East. Does it make much more sense to buy more from a country that will in turn provide an expanded market for even more Minnesota goods and services? Mexico is the third largest United States export market, and it is the fastest growing.

Minnesota has experienced great growth in exports as a result of the United States-Canada Free-Trade Agreement. Minnesota exports to Canada have increased 65 percent over the last 4 years as a result of this agreement. In 1992, Minnesota's exports to Canada totaled $1.8 billion.

Just as the Canadians are our natural trading partner being our neighbor, so too are the Mexicans. The CFTA was just the beginning of the enormous trade potential in our hemisphere—Minnesota will continue to be an export leader as we expand our exports.

I hear constantly from Minnesotans across the State who urge me to support NAFTA because it will significantly expand their business and agricultural export opportunities.

The elimination of the high Mexican tariffs on agricultural products will open a large and growing market for our farmers. Not one single agriculture interest in the State of Minnesota opposes NAFTA. Not one. Minnesota agriculture depends on exports.

Minnesota Department of Agriculture Commissioner Elton Redalen bears out this analysis. He estimates:

> That "NAFTA could mean up to $2.5 billion in additional agricultural exports to Mexico and because Minnesota is such a strong agricultural State, estimates indicate the NAFTA will increase agricultural revenues to Minnesotans by $80 to $110 million. This is simply too big of an opportunity to pass up.

The opportunities for the U.S. agricultural industry are endless under the NAFTA. Without it, however, we threaten the prosperity of this industry that has been sparked—at least in part—by the preliminary tariff reduction. And we risk closing our farmers out of this profitable market entirely, as Mexico without NAFTA, will seek a free-trade agreement with another country which will be given the preferential tariff reduction, which will price United States agricultural products right out of the market.

Minnesota agriculture depends on access to a world market. The NAFTA is a choice about whether Minnesota farmers will help define the future with a world of new markets, or bind themselves to the past.

Small businesses will be able to compete in a market that is all but impenetrable to them now due to the cost of high tariffs and other unfair trade practices—barriers which NAFTA will eliminate or significantly reduce.

Minnesota's 3M is a world leader in the export of production materials—more than half of 3M's sales came from markets outside of the United States—$1.5 billion in 1992 and 3M will increase its exports of production materials to Mexico once NAFTA is passed. Indeed, they recently added 300 manufacturing jobs in the United States to service the growing demand of the Mexican market and 3M's exports to Mexico have increased almost ninefold since 1986 and they expect them to continue growing.

Honeywell is another Minnesota company that will benefit from breaking down the Mexican trade barriers. Honeywell sources 95 percent of the raw materials it uses in its Mexican operations from the United States—this amounts to about $2.2 billion this year. After decades of flat sales in Mexico, since 1987 Honeywell has experienced an increase of 137 percent in sales there. Minnesota jobs in administration, sales, R&D, and engineering will only increase as a result of expanded exports of Honeywell's products to Mexico.

Over 700 Minnesotans make medical devices at Lake Region Manufacturing Co. of Chaska, MN. G.E. Melton, the company's chief financial officer, states:

> We have no intention of moving jobs out of the U.S. We like it here in Minnesota. There is a work ethic here that can't be matched in Mexico or Canada. But if we can't sell our products, be competitive in those two markets, then someone else, probably from Japan or Asia, will be there to supply the market. Lake Region currently exports 25–30% of our production. If we lose those sales, one hundred more Minnesotans would be unemployed. A vote for NAFTA is a vote for Minnesota.

An improved investment climate in Mexico will not cost United States jobs—it will create new ones. Much of the new investment in Mexico will be not the movement of United States jobs to Mexico, but rather the relocation of United States facilities in the

Far East to Mexico. These relocations from the Far East will serve both Mexican and United States markets, but they will displace imports from the Far East that are shipped from countries possessing significant trade barriers to our products. Minnesota companies will be able to sell more parts, components, and services to these relocated facilities as they seek quality inputs.

While we have made substantial progress reducing trade barriers with Japan, much work remains to be done. Barriers remain against construction services, against auto parts, against telecommunications products and services, to name a few. The biggest problems are structural impediments which include a real cultural bias against purchasing imported products. Is it not better to open our market to two countries which have demonstrated consumer demand for U.S. products?

NAFTA will significantly benefit the United States, throughout our whole economy. The side agreements on environmental and worker rights will give us needed leverage to obtain improvements in Mexico's enforcement of environmental laws. Mexico has the right laws, but neither the funding nor the will to enforce them.

The mere pressure of negotiating NAFTA has resulted in a Mexican commitment to provide further funding for environmental law enforcement—many polluting plants have already been closed, a United States-Mexican Commission committed to cleaning up the border, and a new United States-Mexican Development Bank to provide funding for environmental protection in Mexico. All of these initiatives will help a number of Minnesota companies which specialize in environmental technologies.

Mexico has also committed, through the labor side agreement, to increasing its minimum wage, permitting workers to organize into unions, and pursuing other improvements in worker rights.

I would like to remind my colleagues that none of this would have occurred without NAFTA. NAFTA is going to be a huge plus for human rights in Mexico—because it will raise the standard of living of the Mexican people, and reduce the economic hardship that sends so many Mexicans spilling into the United States in desperate search of a better life.

There has been some relocation of United States jobs to Mexico in the past. Decisions to relocate are based on far more complex considerations than a mere comparison of labor costs. Key factors include worker productivity, infrastructure needs, transportation costs, telecommunications access, proximity to suppliers, local laws and regulations, and stability of the Government. These factors weigh just as heavily as labor costs.

H.B. Fuller Co. in St. Paul has operated in Mexico, Central America, the Caribbean, and South America for nearly three decades. Using partners, local leaders and companies, this company has built local markets, created more jobs in its U.S. operations than in Latin America, and returned investment dollars to Minnesota. In fact, the President of H.B. Fuller, Walter Kissling, is a Costa Rican who rose from a Central American President to International Business to his current position in the United States.

I am proud of American workers. They are the most productive in the world. One study states that Mexican workers are only one-fifth as productive as United States workers. That certainly would be an important consideration for those companies looking at a possible relocation. In fact, we have already seen some United States companies who have invested in Mexico close their Mexican plants and move back to the United States.

The productivity of these plant levels in Mexico was so low that they were losing money. Without NAFTA, more jobs will shift to Mexico.

The threat of sanctions included in the side agreements will enable us to achieve further progress. The threat of withdrawing from the NAFTA, as is our right under the agreement, will pave the way for further progress. Again: What leverage would we have without NAFTA?

With NAFTA, we gain all of the benefits of open preferential access to the Mexican economy, as well as addressing current unfair trade practices. Without NAFTA, we would see diminished United States export opportunities, continuing plant relocations, disregard for the environment, maquiladoras, immigration pressures—and put ourselves at a competitive disadvantage vis-a-vis our Far East competitors, who would exploit investments in Mexico to target the United States market.

America has a national mission to promote global prosperity. Our principles show how we can do it. We must not shrink from our responsibility to lead the whole world into a peaceful, prosperous 21st century economy. For the good of our economy, for the future of our country, and for the future of a world in which too many people are still mired in poverty and yearn for the prosperity that can only be built on a foundation of global economic freedom, we must implement the NAFTA.

Mr. WALLOP. Mr. President, I yield 20 minutes to the Senator from Texas [Mr. GRAMM].

The ACTING PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, very seldom, even in the U.S. Senate, do you have an opportunity to cast a vote that will change the lives of tens of millions of people. The drama occurred on Wednesday in the House of Representatives. We are going through the motions here in the Senate, because we know the outcome of this debate, we know what the vote is going to be, and we know NAFTA is going to win.

But I am grateful that I am here, and that I have the opportunity to cast this vote for NAFTA.

A decade from today we will look back at the vote in the House and in the Senate. As we look back on the debate which has occurred in the country, when we look back on the millions of jobs created in North America by NAFTA, as we look back on the fact that it turned out to be, as I believe it will, the catalyst for a free-trade agreement from the Arctic to the Antarctic, that it turned out to be, as I believe it will, the catalyst for a successful new GATT round for the bringing down of trade barriers, and for the expansion of trade, jobs, growth, and opportunity that come with it, around the world, I think as we look back people a decade from now will have a hard time understanding what was controversial about NAFTA.

I think they will have a hard time understanding why there were objections. Those of us who were privileged to be here will be able to look back and know that there were objections, but those objections were overcome, and that we did not let fear dictate America's policy. We let history, facts, and American confidence dictate that policy. And the world will be greatly different because we did.

I want to say something about the House of Representatives. I think unfortunately that, even in this great monument of American democracy that we all work in, it is easy to get into the frame of mind that this is a political job, that people are motivated by politics. Certainly in this debate around the country on NAFTA, the whole political process has been held up to ridicule.

As a person who was privileged to serve in the House for 6 years, a person who has served now in the Senate for 9 years, I wish to say that I have never been prouder of the House of Representatives than I was on Wednesday. What we saw was American democracy in action. We did see protesters throwing phony $50 bills on the floor of the House of Representatives. We have heard a lot of shouting and criticism from many sources. But when all the dust settled, when the debate occurred, I believe the House of Representatives acted correctly and courageously in approving NAFTA. It was a great moment for the House of Representatives, and I congratulate them.

This is a nonpartisan issue. NAFTA was not on Bill Clinton's agenda. Bill Clinton had a hard time in the campaign deciding whether he was for it or against it. It was not supported by his basic political constituency. But I give the President credit. When he came into office, when he saw that the future of the country in terms of our foreign relations was tied to NAFTA, he got behind it, and he did what he had to do to win. I congratulate him on that great victory.

I am grateful for the support for NAFTA from Democrats. But, Mr. President, I would not be honest standing here today if I did not say that this is a Republican agenda. Ronald Reagan first came out for NAFTA. I introduced a North American Free-Trade Agreement bill in the Congress in 1986. I am proud of the fact that 75 percent of the Republican Members of the House of Representatives voted for NAFTA, while only 40 percent of the Democrats did. I believe that we are going to come close to 90 percent of our Republican colleagues in the Senate voting for NAFTA.

I am also proud that the Democratic support in the Senate is going to be much higher than it was in the House.

But the debate about trade is a debate about the future. I am not sure that people understand how important world trade is. I have spent much of my career talking about deficits and about Government. But these issues are small potatoes as compared to trade. The expansion of world trade since World War II has literally changed the planet that we live on.

We created at the end of World War II a world trading system that rebuilt Europe, that rebuilt Japan, that created economic miracles in Korea, and in Taiwan, and Hong Kong, places that had never had economic growth on a sustained basis before. This wealth creating machine was so powerful that it changed first the economic balance of power in the world, and then the military balance in the world. It tore down the Berlin Wall, liberated Eastern Europe, transformed the Soviet Union, and changed the very world that we live in. That was all accomplished because of American leadership, under President Truman and President Eisenhower and President KENNEDY and President Reagan, to expand world trade.

I have behind me a map which I find to be interesting. The map has the continents as they look in the atlas, but I have superimposed on the map some circles which represent the ability of the various nations to produce goods and services.

This whole debate is about trying to merge the Mexican market, which is a relatively small economic market, with the huge American market and with a large Canadian market. But I ask my colleagues, in looking at this chart, to realize that it was American policy and leadership that created the European Economic Community, one of the world's greatest free-trade areas. It was our policy and our leadership under Democratic and Republican Presidents that created this economic miracle. It was our policy and our leadership that rebuilt the Japanese economy. And in doing so, we not only made them rich, but we made ourselves rich through that trade, and we won the cold war. It was a little twig off of the American tree that we stuck in the ground in Korea, and it grew into a world economic power—and the same in Taiwan and the same in Hong Kong. This is a process that we built, and today we take a gigantic step forward in seeing it grow, in nurturing it and seeing that the world benefits from it.

There have been a lot of criticisms of NAFTA, and I want to try to respond to them briefly. First of all, I hope in listening to this debate, whether you are listening to Ross Perot or whether you are listening to Ralph Nader or whether you are listening to any of the other critics of NAFTA, those who have and will speak here on the floor of the Senate and those who spoke in the House, I hope that you notice that never, ever once, will the opponents give a single example of one nation in history that has ever lost jobs or seen a decline in wages as a result of entering into a free-trade agreement or a broad trade-expansion agreement. I am not aware that there is a single instance in the history of the world where a country has lost by entering into an agreement to mutually reduce trade barriers in order to create economic growth.

Mr. RIEGLE. Will the Senator yield for a question at this point?

Mr. GRAMM. If I have time when I finish my statement, I will be happy to discuss this with the Senator.

We have people who say Mexico is not ready for this agreement. They say that they want to see changes in Mexico. Let me give you some of the changes that have occurred in Mexico:

Since 1987, Mexico has privatized 900 state enterprises. They have denationalized their banking system. They have joined GATT. They have unilaterally cut their trade barriers that apply to American goods by 75 percent. They have opened up their political process. A conservative opposition party has won the governorship in two northern states in Mexico. Currently, opposition parties hold 36 percent of the seats in the lower house of the Mexican Congress. I might point out that the opposition party holds only 40 percent of the seats in the United States House of Representatives. President Salinas has dismissed, indicted, convicted, or sent to jail 600 government officials for corruption. Inflation in Mexico has fallen from 160 percent a year to 10 percent a year. The Mexican peso has become fully convertible. Whereas in 1986, 1.7 million illegal aliens were apprehended in the United States that year, that number is down now to 1.1 million.

My point is, the greatest recent economic and social transformation on the planet has occurred not in Eastern Europe, but south of our border. People talk about Mexican wages falling, and Mexican wages did fall for 15 years. But they fell because of socialism. They fell because of deficits and bad government in Mexico. What happened when those wages fell is that American foreign investment in Mexico fell. Mexican purchases of American goods fell. Mexican capital fled Mexico and came to the United States.

When President Salinas came into office and instituted economic reforms, what happened? Wages started to rise. Since 1986, real wages, measured in American dollars, are up in Mexico by 133 percent. Wages are up in the United States by 19.6 percent. And as wages rose, what happened? American investment in Mexico and world investment in Mexico grew. Mexican importation of American goods grew dramatically. Nobody disputes the fact that the increased purchase of American goods by Mexico since 1987 has created over 250,000 jobs in American export industries.

We have heard that when a low-wage country enters into a trade agreement with a high-wage country, wages fall in the high-wage country and jobs leave. We are all familiar with Ross Perot saying that you cannot compete against people who make less money than you do. Is that not a peculiar argument for Ross Perot to make? I have never met anybody who makes more money than Ross Perot. How does Ross Perot compete? Why do the rest of us not put him out of business, given that we are willing to work for less? The problem is that while he preaches flat-Earth economics, he does not practice it. He is good at what he does and, as a result, he makes a lot of money. We are good at what we do as a country.

I want to give you an example that I think is a good analogy to the North American Free-Trade Agreement. Portugal was a relatively poor country before it came into the European Economic Community. Its wages were about one-sixth German wages. Wages in Portugal, unlike wages in Mexico, had fallen for a decade prior to entering into the European Economic Community. According to the logic of the critics of NAFTA, you would think that the jobs in Germany, which were paying wages six times as high as employment in Portugal, would have all run off to Portugal. You would think there would not be a job left in Germany. What happened when Portugal came into the European Economic Community in 1986? What happened was that wages grew in Portugal by 220 percent between 1985 and today. They benefited. But what happened in Germany? Wages grew by 170 percent. Employment benefited in both countries.

There is no evidence anywhere that I am aware of, nor has anyone in this debate presented any evidence, that any nation has ever entered into a free-trade agreement and lost jobs or seen its wages go down. In fact, the European Community is a perfect counter example to that.

Let me move toward my conclusion, Mr. President, by saying this: The issue here is what kind of vision do we have for America's future? It seems to me that on NAFTA we are debating two competing visions.

One vision is a vision of defeatism. It is a vision that says we cannot compete. Nobody comes out and says it, but you know it is what they mean. They say: We have to build a wall around America to keep out this foreign competition because it is unfair. The Japanese are too protectionist, and they have too high a level of technology. The Mexicans may be willing to have free trade, but their wages are too low. There is always a reason we cannot trade with people.

These are the people who just cuss and raise a ruckus when some Japanese politicians say that American workers are lazy and dumb. But it is obvious when you listen to what they say that they believe it nevertheless, that they believe we cannot compete and that we have to build a wall around America to protect ourselves.

Mr. President, I do not believe that the Japanese politicians who have said those bad things are right. I think they are wrong. I think we can compete, and I am willing to take on the world.

Without question, we could compete more effectively if we did a better job right here in the U.S. Senate, if we did not raise taxes all the time and squander the labors of the people under the pretense of caring for them, to paraphrase Thomas Jefferson.

But the bottom line is this: The vision of the opponents is a vision of protectionism, to protect us from competition.

Now that Dallas is back as the Super Bowl champions—hopefully we will be back again, hopefully we will win the Super Bowl for many years to come—people forget that it has only been a few years since Dallas was 1 and 15.

The logic of the critics of NAFTA would have been to say, well, Dallas cannot compete, especially in a conference that has the best teams in the league; they ought to call off competition for 3 or 4 years so they can become competitive.

You do not become competitive by not competing. By playing in the best division in the league, Dallas became Super Bowl champions again. I believe that America can remain Super Bowl champions by competing.

I want to conclude by reading a passage from a great American, a Democratic Member of Congress from New York at the turn of the century, a person whom we have all forgotten. I want to read his quote because it defines the other vision, the vision of America competing, of reaping the benefits from trade, the vision that recognizes that the world is changing, that the world is competitive, and that we must change with it, that we must compete or we are going to be left behind, as powerful as we are and as much as we have dominated the world in the post-war period. We are either going to lead or we are going to follow. I want to lead, which is why I am for NAFTA. Bourke Cockran was a Democratic Congressman, perhaps the Nation's most eloquent spokesman for free trade. His eloquence had a profound impact on Winston Churchill. While Winston Churchill changed political parties, there is one issue he never deviated from, and that was support for free trade. This is from a speech that Cockran gave in London on July 15, 1903, praising Britain for its system of free trade. I want to conclude by reading two paragraphs from this speech.

> Your Free Trade system makes the whole industrial life of the World one vast scheme of cooperation for your benefit. At this moment, in every quarter of the globe, forces are at work to supply your necessities and improve your condition. As I speak, men are tending flocks on Australian fields, and shearing wool which will clothe you during the coming winter. On Western fields men are reaping grain to supply your daily bread. In mines, deep underground, men are swinging pick-axes and shovels to wrest from the bosom of the earth the ores essential to the efficiency of your industry. Under tropical skies hands are gathering from bending boughs luscious fruit which, in a few days, will be offered for your consumption on the streets of London. Over shining rails locomotives are drawing trains; on heaving surges sailors are piloting barks; through the arid desert Arabs are guiding caravans all charged with the fruits of industry to be placed here freely at your feet.
>
> You alone, among all the inhabitants of the earth, encourage this gracious tribute and enjoy its full benefit, for here alone it is received freely, without imposition, restriction, or tax, while everywhere else barriers are raised against it by stupidity and folly.

Great Britain rejected this system, and they lost their position of world leadership. Today, we embrace it and we commit to the principle that America will not lose its position of world leadership.

I am proud that we are going to adopt NAFTA. It is going to change the world, and we are going to be a part of it.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, a point of personal privilege.

May I point out to my friend from Texas, Mr. Bourke Cockran, was known as the golden voice of Tammany Hall.

Mr. GRAMM. And he was that.

The ACTING PRESIDENT pro tempore. The Senator from Virginia [Mr. ROBB] is recognized.

Mr. BAUCUS. Mr. President, I yield 15 minutes to the Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, freedom is a gamble. With any right or any privilege comes the possibility that one will lose. There is safety behind thick walls. There is little risk. But the walls, that bring safety also confine, and it is difficult to grow, beyond them.

Like any freedom, free trade is a gamble. And I do not blame anyone either in this Chamber or outside for being uncertain about the prospect of open competition. But I believe that removing barriers frees us.

Tearing down the walls, which separate our businesses from the growing markets next door, can allow an energetic and dynamic America to break free from the bonds of stagnation.

I know, Mr. President, that many Americans feel themselves to be at risk. They think of Canada as a vast storehouse of natural resources, and wonder why anyone will buy from our mines, our forests, our trawlers. And they think of Mexico as a land awash in cheap labor, and wonder whey anyone will buy from our mills, our foundries, our factories.

The answer is that our factories, and our mines, and our people make the goods that the world wants.

We make them more productively, we make them more efficiently, and we make them better than anyone else anywhere.

Give us fair and equal rules, and I will put America one-on-one against anybody. That's what NAFTA does—it levels the playing field. It allows America to do the things we do best—to innovate, to market, and to produce quality efficiently.

I know many Americans fear that businesses will line up to rush south the moment we pass this agreement. But if those businesses wanted to go, they would have gone already—or they will go in the future, with or without NAFTA. NAFTA does not make it easier to move production to Mexico. It just makes it easier to sell our products there.

Those businesses stayed in America, because they knew that American workers outproduce their counterparts across either border.

Our skills are greater. Our plants, and methods of harvesting natural resources, are more sophisticated. And we have achieved all this while maintaining the world's standard for worker safety, and environmental responsibility. And we have achieved all this while tariffs restricted our ability to export particularly to the south.

Mexicans want U.S. goods, the average Mexican already spends more on products made in the United States than the average Japanese citizen.

This despite tariff barriers, that in many cases, make our products more expensive than the equivalent Mexican product. The demand is there.

When NAFTA permits us to become fully price-competitive by eliminating the tariffs and other barriers, at the border, sales will increase even more. And sales, mean jobs here at home.

You can see the power of the Mexican market in Virginia's experience.

George Grayson, professor of Government at William and Mary, and a recognized scholar on Mexico, notes that over the last 4 years, while Virginia's exports to the rest of the world grew by a healthy 63 percent, exports to Mexico shot up 286 percent.

I met recently with the heads of major manufacturing companies from Virginia, and they were very clear, on two points: First, they and their employees, are exporting to the Mexican market today. It is a strong and growing market.

And second, eliminating Mexico's barriers to trade, will let them dramatically increase that trade, and with that their employment.

America's exports to Mexico, have been held in check by restrictive tariffs, which weighed most heavily on those things America does best.

Semiconductors and electronics, automobiles and textiles.

With NAFTA, these barriers will fall. With NAFTA, the power of the American worker can finally be brought to bear unfettered by foreign interference.

For proof just look north. For the last 5 years, trade between the United States and Canada has been mostly free and getting freer. The result has been good for both countries.

Canada has become our largest trading partner, more even than Japan. Businesses that market in Canada have seen sales and employment improve. And Canadian businesses that export to the United States have largely seen the same.

That experience proves that free trade is not a question of us versus them. It is not kill or be killed. It is us and them working together. Canada and Mexico buy our products. We buy theirs and together we prosper.

Those who know me and who have followed my career know that I have always supported free trade abroad as a means of providing jobs to people here at home. Given that long-standing support, this vote should have been easy. But it is not easy. It is not easy because of the anguished voices I have heard from Virginians who are afraid that NAFTA will cause them to lose their jobs.

I read the anxiety in the letters I receive from Virginians; I hear the anxiety in the voices of people I talk to when I travel throughout the Commonwealth and I know of the anxiety in groups that have long been my friends.

So I have gone back and studied the agreement and I have talked to economists and I have read editorials and articles about the likely effects of NAFTA. I have searched for the cause of the harm which many believe NAFTA will wreak.

The more I have searched the more I have come to understand that it is our past trade policies which have caused this anxiety; that NAFTA is not the disease, it is part of the cure.

Mexico's tariffs are higher than ours—on average 2½ times higher and their economy is growing.

We should take advantage of the opportunity for more domestic job growth which NAFTA presents.

This is all to say that I share the sentiment of so many hard working Virginians. We need to create more jobs in this country. And we've done better this past year than in the previous 4 years.

We need to create better jobs in this country. We need to ensure that our children have more opportunity.

I share the goals of those Virginians who wrote against NAFTA. I just do not share the conclusion that NAFTA keeps us from reaching those goals.

For those in my political party who face little or no opposition for renomination, voting in favor of NAFTA does not pose much of a political problem. On the other hand, there is no question in my mind that opposing NAFTA would have enormous political benefit for those of us who may face a serious primary challenge, especially since one vote either way at this point probably will not make a difference.

But I believe how we vote on NAFTA does matter because it is central to America's strategy to compete and win in today's global economy.

I have read countless articles opposing NAFTA and I have listened to many of our congressional colleagues argue against it in both the House and Senate.

There is no question that most of the emotion is on the other side of the argument but in spite of some very passionate arguments in opposition—many by key friends and allies on most other issues—I am firmly convinced that the fears most often expressed are much more likely to come to pass if NAFTA is not ratified than if it is.

I also believe that to oppose NAFTA would be wrong. I have considered this agreement at great length and waited to examine all possible arguments. And the more I looked at it, Mr. President, the more clearly I came to see that the arguments against NAFTA have one common theme.

That theme is fear. Fear that America cannot compete; fear that the future will be worse than the present; fear that by treating other countries as equals they will dupe us, and abuse us, and defeat us.

The arguments, however deeply felt, simply do not conform to business realities; they distort the nature of Mexico's economy and people, and they overlook the experiences of free-trade arrangements around the world.

I do not take the concerns of those who oppose NAFTA lightly.

I told President Bush, and later President Clinton, that to win the hearts and minds of America's work force, we have to address the concerns and fears of workers who are afraid that they will lose their job because of NAFTA. And that fear is not lessened by an individual's knowledge that two currently unemployed cousins might find work as a result of NAFTA. The two jobs gained will not make up for the one they are afraid they might lose. That fear may not be justified, but it is real.

I have felt a great uneasiness, an insecurity among many Virginians and among many Americans for some time since long before NAFTA.

That is why, when I read this agreement closely, I looked specifically for anything in NAFTA which would justify or exacerbate that fear. And I found that to the contrary, this agreement is much more likely to create and sustain jobs in both the short run and the long run.

Will there be difficulties? Of course there will. Realistically, in the short run, some industries may not do as well as others. But assistance for those industries and their workers are built into the agreement and into the side agreements. And the President has pledged to follow through.

The focus of our national effort has to be on those who may lose their jobs. Not just those who may be affected by free trade, but all Americans suffering from economic dislocations.

It is in our national interest to help those in low-wage, low-skill jobs, move up, regardless of our trade arrangements.

I strongly believe that the current jobs which may be affected, are not nearly so numerous as the jobs we will create, as the lives we will improve, as the opportunities we will provide if we ratify this agreement.

And if we believe, in our minds and in our hearts that ratifying NAFTA will be better for America than letting it fail, we have an obligation to vote accordingly, no matter how much it may complicate our lives politically.

I believe that this is a defining moment for each of us and for America. Not because of the direct consequences regarding jobs created or lost because with Mexico's economy currently only 5 percent of the United States. I believe that the impact either way will be more modest than most of the claims made by either side.

Far more important is the impact this vote will have on our nearest southern neighbor on our hemispheric relations and on our international trade relationships, and what it will say about our leadership and direction in the post-cold-war era.

If NAFTA is ratified, the President and Congress will have an obligation to work even harder to address the legitimate insecurities that underlie much of the opposition to NAFTA.

For example, we will have to focus to a greater degree on equal and fair treatment of workers on both sides of the border. The economic benefits of NAFTA can only be fully realized when Mexican workers are allowed to share fully in their economic expansion, and by doing so become greater consumers of United States goods.

And I should point out to those concerned about particular facets of NAFTA, that this is a living agreement. Like the United States/Canada Free-Trade Agreement, standing committees will adjust the implementation of the deal as it goes forward to make up for abuses, injustices, or situations that may not have been foreseen.

And it is not merely an economic agreement.

NAFTA requires that our trade partners improve: their environmental conditions and their labor conditions, so that we are all able to compete on an equal basis. And that way, we have a better, cleaner continent on which to live along with more and better jobs.

Mr. President, Mexico will develop with us or without us. I cannot believe it is better to let Mexico go its own way perhaps with the help, of other foreign powers, than to join with Mexico, and Canada, to raise all of our economies.

That question has been answered again and again in my State of Virginia.

Let me quote from a letter I received, from the president of Comdial, an 800-worker electronics firm in Charlottesville.

He says:

> Five years ago, we decided to do assembly work, in Mexico, on our line of standard telephone instruments.
>
> I grant that we were attracted by the idea of saving labor costs.
>
> However, we soon learned that our savings in labor costs were more than offset by the higher costs of: transportation, rework due to quality problems and generally poor productivity compared with our U.S. labor force.
>
> After two years, we brought production back to the U.S.

As you can see, Mr. President, the Mexican worker is not 10 feet tall.

The letter continues:

> More recently, we have made efforts to export into Mexico.
>
> We have achieved some sales but the results have been disappointing due largely to high tariffs and difficult technical approval procedures.

Mr. President, NAFTA would eliminate those barriers, tariff, and non-tariff alike.

Quoting again:

> With the risks of poorer productivity, currency exposure, increased shipping and administrative costs, and other factors, it would be foolhardy to relocate to Mexico or anywhere else if the only benefit were lower wages.

Mr. President, that's real-life experience worth listening to.

More proof that we can, compete and win comes from Lynchburg, VA.

A company there, Limitorque, set up a Mexican factory, to make valve actuators, for Pemex, the State-owned, Mexican petroleum company.

But Pemex found the performance of the same valve actuators, made in Virginia, so superior, and the price so competitive, that they decided to buy from the Virginia plant, instead, and now the Mexican Government oil company, buys most of their actuators from that Virginia factory.

Moreover, a 40-percent defect rate, made real production costs so much higher at the Mexican factory that Limitorque closed it and moved production back to Virginia.

Or listen to Virginia's farmers who tell me that freer exports to Mexico mean 50,000 new jobs in American agriculture.

They are proud that from 1990 to 1992 the export of food products from Virginia to Mexico increased 1,300 percent.

And it will increase even more without trade barriers.

Or if you prefer, listen to the voice of history.

Around the world, free trade is becoming the norm. Europe has eliminated its internal barriers. Canada and the United States have done so. And the Pacific rim nations are meeting right now in Seattle to consider the same steps.

On occasions, in the past, America has tried to isolate itself from the world. We have stood by, and let others lead. Yet, in the long run that has cost us not only in money, but in lives. The lesson of protectionism in the twenties that brought us into the Depression, and isolationism, in the thirties, which eventually forced us into global war is that America stands by only at its own risk.

And I submit, that standing by is a risk with too little possibility of reward.

I commend to my colleagues the words of Dean Acheson, who said:

> The counsels of "discretion" and "cowardice" are appealing.
>
> Such a course might get one by the issue of the moment, but it has bitter and evil "consequences."
>
> In the long days and years, which stretch beyond that moment of decision, one must live with one's self; and the consequences of living with a decision which one knows has sprung from timidity and cowardice, go to the roots of one's life.
>
> It is not merely a question of "peace of mind," although that is vital; it is matter of "integrity of character."

Mr. President, I believe that an America free to do business is an America that will win.

Because I know and have faith in the American worker and the American character, I will vote to tear down the barriers that surround us so that our Nation may grow anew.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP. Mr. President, I yield 10 minutes to the Senator from Colorado, [Mr. BROWN].

The ACTING PRESIDENT pro tempore. Senator from Colorado is recognized for 10 minutes.

Mr. BROWN. Mr. President, I rise in strong support of the NAFTA. I think scholars in years hence will puzzle as to why this was even debated or a point of controversy in the U.S. Senate. The facts are fairly undisputed. The reality is, what NAFTA does is to bring the trade barriers that Mexico imposes on American products down to the same level that we impose on their products. The reality that seems to be undisputed in this Chamber is that Mexico already has relatively free access to the United States market now. Over half the goods that they ship us come in just duty free and the balance of the goods, less than half of them, come in at an extremely low tariff rate. How can this be bad? Mexico already has relatively free access to us.

Also undisputed is the fact that the United States faces huge barriers in a variety of important products in shipping into Mexico. If someone really is opposed to Mexico reducing its barriers on American products, let them stand up and say so, but I have not heard that. The reality is, this is a one-sided agreement. We get much more from the agreement than we give up. Mexico has huge barriers, and we have very little. The agreement is enormously tilted toward America's advantage.

Some have raised the wage differential as reason to be concerned about this particular agreement. The wage differential exists today. It existed before the agreement, and it may well exist after the agreement. But virtually every economist who has spoken out on this indicates they expect the wage differential between Mexico and the United States to shrink with the agreement, not increase. Clearly, the wage differential that is talked about is not a reason to reject NAFTA; if anything, it is a reason to adopt it.

The same analysis applies to many of the things that have been brought up.

I thought it might be worthwhile to share a few thoughts as to what the real problems with this agreement is and how we need to be prepared to address them. The real objection to NAFTA when you cut through all the discussion is that our negotiators did too good a job, not too bad a job. The reality is, they won concessions in a broad range of areas including eliminating Mexico's restrictions on investment. That is the real rub. That is why people are so concerned about this agreement. It is because Mexico makes a number of concessions. They not only open their borders to our products, which is an enormous advantage to America, but they also make concessions with regard to the restrictions they have. The agreement helps make it clear that Americans are allowed to invest in Mexico. The restrictions on U.S. ownership are, if not done away with, at least dramatically reduced.

The fact is, you have seen a dramatic change in the ability to repatriate currency. The bottom line is that the objection to NAFTA is that we have gotten too much from the agreement and not too little.

I think we may be missing the real point in this debate. Is it likely there will be more investment and ownership by Americans in Mexico with this agreement? Yes, I think there will be. That is what I suspect many of the opponents of this agreement are concerned about. I think we may be missing, though, the real comparison of how this brings competitive edge and competition to the United States. The real competition will not just be in wages or productivity. The real competition will be in a variety of other things where we are noncompetitive as a country.

We have the lowest savings rate of any major industrialized country on the face of the Earth. If we in Congress think we can continue to impose penalties on savings while our competitors, who have access to our markets, do not, we are kidding ourselves. The competition is going to be in capital gains treatment. Because if we have dramatically higher rates in taxing capital gains than our competitors, we will lose investment and we will lose jobs.

The competition comes in regulations. This year, we have the likelihood that there will be 80,000 pages of new regulations in the Federal Register. That is an area where we will suffer by competition. The fact is we do more central planning with Government regulation than any country on the face of the Earth does today.

Let me repeat what this debate may not be focused on. We do more micromanagement and central planning from the Federal Government today, with 80,000 pages of new regulations in the Federal Register, than any country on the face of the Earth.

Some will say we do not control as much and we are simply more efficient at it. Maybe that is true. But the reality is, if we want to compete with Mexico or any other country, we have to take a new look at the way we micromanage this economy.

We are going to have competition in taxes. The unparalleled string of huge tax increases imposed on the American people will make us less competitive. That has to be addressed.

NAFTA does pose problems for this country and it does pose potential problems with regard to competition. But those problems are not just over wage rates. Those problems are over the things that this Chamber controls: capital gains treatment, Government regulations, taxes, a hostile attitude toward working men and women and their ability to perform their functions.

NAFTA is a good agreement. It opens up a new market to us. It provides us equal access. But no one should vote for this treaty without realizing that it will intensify worldwide competition and it will intensify competition in areas Americans do not excel at. When the playing field becomes the question of overregulation and taxes and regulatory burden, this country has to change.

Can we change? I believe we can. But no one should believe that NAFTA is a panacea or will solve our problems. What it will do is place even greater competitive pressure on the U.S. economy. I believe we have to compete. I believe we have to move forward. But as people listen to this debate today, they should understand that the questions are not about just wage rates. The questions are about concessions by the Mexicans which reflect the decision to move into a competitive world economy. I only hope that we have the resolve, not just to vote for NAFTA, but that we have the resolve to compete on the basis that the world's economy will reward winners in the years ahead.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I yield myself 3 minutes, followed by 10 minutes for the learned Senator from Ohio [Mr. METZENBAUM].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise to a painful point of personal privilege, nay institutional privilege, for nothing less than the reputation of the U.S. Congress has been put in jeopardy this very morning in the pages of the New York Times by the incendiary television performer, Mr. Russell Baker.

Mr. Baker, in a column on the op-ed page, discusses the grave matter before the Senate today, the issue of the North American Free Trade Agreement, in terms that, at very least, are derisory, and which could in certain circumstances be deemed inflammatory by a court of law, not excluding the possibility of this body sitting in judgment whilst the House of Representatives presented the case.

It is Mr. Baker's singular assertion that votes—votes, Mr. President—were bought for this bill by the cucumber lobby. Not to mention the beef lobby and the wheat lobby. The whole world knows that these practices ceased and desisted from the moment the Democratic Party and Franklin D. Roosevelt liberated Congress from the fell grip of Smoot and Hawley.

More alarming still, possibly seditious, Mr. Baker alleges that one Texas vote may cost the Treasury $1.4 billion for construction of airplanes the Pentagon does not want.

Mr. President, this sort of innuendo not only offends against public taste but threatens a central institution of the Republic, which is to say civilian control of the armed services. It is well the United States is not engaged in more than the statutory limit of nine armed combat situations at this time, lest Mr. Baker find himself not only before the bar of this body, in a figurative sense—for we have long abolished such barbarisms of an older monarchical autocracy—but more fearsome, the bar of public opinion.

If Mr. Baker had shown any of the stick-to-it-iveness and industry associated with old fashioned American journalism, he would have discovered in section 515 of the bill a provision for the Center for the Study of Western Hemispheric Trade. This is a large new multimedia, interdisciplinary, multilingual campus facility which, by statute, will be constructed in the State of Texas after consultation with the Commissioner of Customs. It will implement academic exchange programs and other cooperative research and instructional agreements with the complementary North-South Center at the University of Miami at Coral Gables.

It will also engage in intramural sports, including an annual exhibition football game with the Buffalo Bills. That took care of Texas—not tinkering with the national defense.

It should be clear to the Senate, Mr. President, that something near sedition may be afoot. There have yet been no proven sightings of Cuban agents in the lobbies, but we must never forget that no one would be more delighted with the ruin of this great enterprise than Fidel Castro, and be ever alert to subversive influences wheresoever they might appear. It is a painful duty to which we as Senators are sworn, and to which banner we proudly hail.

Thank you, Mr. President, and I ask unanimous consent that the appropriate documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 20, 1993]

EASY ON THAT CUCUMBER

(By Russell Baker)

When history honors the role played by victuals in the annals of the Great Republic, let it be recorded that it was the fruit-and-veggie bloc that saved the White House's bacon when the North American Free Trade Agreement was in jeopardy at the Capitol.

To say that the President bought a victory with oranges, tomatoes and cucumbers would be unkind to the Congressfolk of the garden and sunshine states. Mr. Clinton had predicted that many patriotic Congresspersons would barely risk their political careers "to do what they think is right."

Justice compels us to concded that risking their political careers may have been what the fruit-and-veggie bloc were doing when they told the White House it could stick free trade in its ear unless tomatoes, cucumbers, and Florida orange juice were protected from foreign competition.

The prima-facie evidence, however, suggests they were less interested in doing what was right for the republic than in doing what was right for businesses that flourish in their district, or to put it in plainer English, for themselves.

Having been told for years by demographers and political analysts that the American farmer is as gone as the horse collar, I was astonished to learn from this event that it ain't so. The tomato farmer and the cucumber grower not only live, they also have power to make Congressmen force the President to excuse them from enjoying the blessings of free trade.

A cucumber lobby: Who would have guessed it? Could it have been founded by Representative J.J. (Jake) Pickle of Texas?

Not to be outdone in the grocery political competition, beef and wheat were also granted boons by the President. Representatives from wheat producing areas and cattle zones had seemed strangely indifferent to statements that North American free trade would produce economic marvels.

Could it have been a rare case of Congressional unselfishness? Perhaps beef and wheat people were willing to sacrifice the benefits free trade would bring their constituents rather than vote against their colleagues in organized labor, who feared free trade would finish them off.

Not so, as it turned out. Beef and wheat were merely waiting for Mr. Clinton to assure them that if they would just vote for free trade he would help them avoid having to compete with other nations' freely traded wheat and beef.

And so the grocery coalition—fruit and veg, beef and spaghetti—was instrumental in giving Mr. Clinton his free-trade agreement. There is nothing remarkable about such bartering and buying of votes when a President wants something as desperately as Mr. Clinton wants the fee-trade agreement.

In close-run fights the politician who holds out until the last moment often may walk away with so much Federal gravy that he will need a tank train to get it all out of Washington. The present fight, for instance, has been garnished with news that one Texas vote may cost the Treasury $1.4 billion for construction of airplanes the Pentagon doesn't want.

The public usually pays the final bill for these exercises, but an amazing exception occurred during the fight for the first Reagan tax cut in 1981. Then Democrats decided not to fight the big Reagan cuts; instead, they started competing with Republicans to make them even bigger.

Events rarely turn out so happily for the public, though Mr. Clinton keeps assuring us that we will all bless the day free trade comes to North America. Organized labor's disagreement is based on its rust-belt experience with industries that go abroad for cheap labor, leaving ruin and unemployment behind.

Mr. Clinton's prediction that North American free trade will invigorate the economy is the only reason he has given labor to love him. Concessions went to the grocery bloc, but not to the rust belt. Ironically, those concessions may result in raising grocery prices slightly for struggling rust belt workers before the great economic revival begins.

Ater showing he can get along without Jesse Jackson, the President has now shown he can get along without organized labor. With this rough treatment of old populist elements of the Democratic Party, those who think something new is in the wind now hail him as "a new Democrat." What is that? Seems a little like an old Republican.

SEC. 155. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

(a) AMENDMENT TO THE CBI.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

"SEC. 219 CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with appropriate officials in the State of Texas, is authorized and directed to make grants to an institution (or a consortium of such institutions) to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemisphere Trade (hereafter in this section referred to as the 'Center'). The commissioner of Customs shall make the first grant not later than December 1, 1994, and the Center shall be established not alter than February 1, 1995.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine—

"(1) the impact of the NAFTA on the economies in, and trade within, the Western Hemisphere,

"(2) the negotiation of any future free trade agreements, including possible accessions to the NAFTA; and

"(3) adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of customs shall consult with appropriate officials of the State of Texas and private sector authorities with respect to selecting, planning, and establishing the Center. In selecting the appropriate institution, the Commissioner of Customs shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere, including the impact of the NAFTA on individual economies and the desirability and feasibility of possible accessions to the NAFTA by such countries.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studied, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(6) Implement academic exchange programs and other cooperative research and instructional agreements with the complementary North/South Center at the University of Miami at Coral Gables.

"(e) DEFINITIONS.—For purposes of this section—

"(1) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement.

"(2) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere, mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.

"(g) DURATION OF GRANT.—The Commissioner of Customs is directed to make grants to any institution or institutions selected as the Center for fiscal years 1994, 1995, 1996, and 1997.

"(h) REPORT.—The Commissioner of Customs shall, no later than July 1, 1994, and annually thereafter for years for which grants are made, submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The first report shall include—

"(1) a statement identifying the institution or institutions selected as the Center,

"(2) the reasons for selecting the institution or institutions as the Center, and

"(3) the plan of such institution or institutions for operating the Center.

Each subsequent report shall include information with respect to the operations of the Center, the collaboration of the Center with, and dissemination of information to, Government policymakers and the business community with respect to the study of Western Hemispheric trade by the Center, and the plan and efforts of the Center to continue operations after grants under this section have expired.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1994, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of section 219 of the Caribbean Basin Economic Recovery Act (as added by subsection (a)).

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, I recognize that a majority of the Senate is likely to vote for the North American Free-Trade Agreement, and I congratulate the President for his success. But I must tell you that I am deeply saddened by this outcome. In my view, NAFTA will be bad for American workers, bad for Mexican workers, and bad for the environment of both countries. I believe very strongly that we could, and should, have done much better.

Let me make clear from the outset that I support free trade. Free trade is good for America when it occurs on a level playing field. Free trade with Canada and the Nations of Europe makes sense because those countries have a standard of living, and free, democratic governments, that are similar to ours.

But NAFTA is a far cry from free trade. Yes, the agreement does provide for the elimination of tariffs and trade restrictions between Mexico and the United States. But take a closer look at NAFTA, and you see American companies shipping jobs south of the border to reap billions in profits by exploiting Mexican workers and degrading the environment. Look closely at Mexico, and you see a one-party dictatorship with a history of corruption and suppression of worker rights. By institutionalizing the relationship between corporate America and Mexico's ruling party, NAFTA guarantees the further exploitation of Mexican workers at the expense of American jobs.

Mr. President, it does not take a rocket scientist to figure out the eliminating tariffs and trade restrictions, and guaranteeing the security of investments in Mexico, will cost hundreds of thousands of Americans their jobs. They are the ones who will pay the price. As this chart shows, U.S. manufacturing workers earn $16.17 an hour. Canadian workers earn $17.02 an hour and Mexican workers earn an average of $2.35 an hour, and in the maquiladora area, only $1.64 an hour. The wage ratio between the United States and Mexico is about 7 to 1.

This huge wage differential is no accident. In fact, the Mexican Government has for years collaborated with business and the government-controlled unions to suppress wages, as part of a scheme to attract foreign investment. The government has also worked to repress workers' rights to organize and bargain collectively to improve their wages and working conditions. And we, the American Government, are about to play into their hands.

Take the case of Agapito Gonzales, for example. Gonzales was the head of an independent industrial workers union in Matamoros, Mexico, where many United States-owned plants are located. In 1992, Gonzales was aggressively seeking to improve wages and working conditions for workers in Matamoros. At a critical stage in the negotiations—listen to this—the Mexican Government threw the 76-year-old Gonzales in jail, on charges that he had failed to pay enough taxes 4 years earlier. He ended up in the hospital, where he remained under house arrest for 7 months. The message to workers was clear: The government would not tolerate their efforts to improve their meager wages, even through the lawful exercise of their rights.

Throwing a labor leader in prison at the time of negotiations for some claim of unpaid taxes 4 years earlier—how would the American people feel if that occurred to one of our American labor leaders? We would not tolerate it, but we are playing right into the hands of the Mexicans and the big businesses of this country who want to move their plants to Mexico at cheap labor rates.

NAFTA will put America's stamp of approval on Mexico's deplorable practices. In recent issues of a number of trade magazines, one of the Mexican states ran an advertisement that says it all. As you can see from this enlarged version, the advertisement shows a picture of an American businessman saying to himself, "I can't find good, loyal workers for a dollar an hour within a thousand miles of here."

And the ad says, "Yes you can, in Yucatan!" Then it goes on to say: Labor costs average under $1 an hour in Yucatan, and U.S. firms would save over $15,000 a year per worker by moving to Yucatan. If we adopt NAFTA, put yourself in the shoes of America's corporate giants—with no trade restrictions, ironclad investment protections, and a government that suppresses wages, where would you build your plant?

Who is kidding whom in this situation? if you were an employer paying $16 an hour and had a chance to manufacture the same kind of product in Mexico for $1.64 or $2 an hour, where do you think you would go? It is absurd to think that this is going to help American workers. That is, in my opinion, an unmitigated lie. It will not help American workers. Maybe some will get extra jobs at low-paying wages, but it will literally pull down the standard of living for people earning decent wages at the present time, whether in labor union shops or nonlabor union shops.

Our experience in recent years confirms that the Fortune 500 will not hesitate to use NAFTA to exploit Mexican labor. GM, for example, is the largest private employer in Mexico today. As GM shuts down United States plants and eliminates thousands of American jobs, it simultaneously adds employees to its 50 Mexican plants. If we adopt NAFTA, scores of U.S. firms will follow suit. Plain and simple, NAFTA puts American jobs on a fast track to Mexico. And anybody who thinks it does not is kidding themselves.

Americans who are lucky enough to keep their jobs will find their wages plummeting as a result of NAFTA. In a recent Roper poll, one-quarter of the executives surveyed admitted that they would use NAFTA as a bargaining chip. So America's hardworking men and women had better get used to hearing this refrain: "If you don't agree to cut your wages, we're going to Mexico."

What sort of protections does NAFTA include for American workers? As currently drafted, NAFTA provides blanket protection for intellectual property, for financial services, and for United States investments in Mexico, so that investors do not lose money. But there is not a word about protecting American workers.

Oh, there is a labor side agreement. It is wonderful. As these charts show, there are 25 steps to go through to get any relief. Here is step 1, step 2, step 3, step 4, step 5, step 6, step 7, step 8, step 9, step 10, step 11, steps 12, 15, 16, 17, 18, 19, 24, 25. Each of those steps takes time. Each of those steps results in more and more delay. And anybody who thinks that the labor side agreement is going to help the American worker ought to stop smoking pot because it is just a dream. It is just unrealistic. The labor people of this country are being left on the back burner. They are not getting any protection. The labor side agreement is not worth a tinker's damn. And hardworking Americans are going to pay the price.

Oh, you can holler about the fact that the labor union bosses were involved in fighting NAFTA in the House. Sure, they were, because their workers are going to pay the price. They are the ones who are going to get squeezed. They are the ones whose wages are going to get cut back. Anybody who thinks it is not going to happen just is not realistic. This labor side agreement does not mean anything, because by the time we get through those 25 steps, the working person is going to be either homeless or unemployed or working at McDonald's for $5 an hour.

I say to you, Mr. President, as far as this agreement is concerned, it is going to pass, it is going to become law. I do not know how soon the real impact will be felt as far as workers in this country are concerned, but I predict without a shadow of a doubt that the workers of this country are the ones who will pay the price for NAFTA. I can understand why the stock market has started to go up. If you can push wages down, then maybe companies can make a little more money. But you get to a point where you have to say, well, who is going to have the money to buy those automobiles, or those refrigerators, or that furniture, because if you start to depress wages, there just is not going to be that much buying power.

Let me walk through some of the steps included in the labor side agreement's absurdly complicated 25-step process.

First, let's assume a complaint is made to the United States Government that Mexico is not enforcing its laws. The United States would then investigate the complaint. If the United States finds that the charge has merit, we would consult with Mexico, first at the staff level, and then at the ministerial level, for as long as the parties choose to do so. If the matter is not resolved, the United States can call for a committee of experts to review the matter, provided it meets three conditions. First, it must involve safety and health or technical labor standards. Second, it must be trade-related. And third, it must involve mutually-recognized laws.

After the committee reports, the parties again consult over the matter. If two of the three parties agree that there is a persistent pattern of failure to enforce the law, then an arbitral panel may be requested. If the arbitral panel finds a violation, then the panel is to devise an action plan to remedy the violation. Then the parties must agree to the recommended action plan. If the parties cannot agree, the matter goes back to the panel and possible monetary penalties. Finally, if the party in violation fails to comply with the plan or pay the fine, then NAFTA trade sanctions may be imposed.

This 25-step process will take no less than 3 years, and I suspect it may take much longer. While the Governments of the United States and Mexico spend years consulting, thousands of American workers will be out on the street. I am sad to say that the labor side agreement will not help a single American worker save his or her job.

I should also point out that this dispute resolution process does not even apply to workers' rights to organize or bargain collectively to improve their wages and working conditions. Instead, it simply requires Mexico to enforce laws like its paltry 60-cents-an-hour minimum wage. As a result, Mexico will be free to continue to throw union leaders in jail, and companies can continue to blacklist suspected union sympathizers.

Mr. President, let me give the Members of this body a sense of what NAFTA has in store for workers here in Mexico. Last year, I visited Matamoros, in the maquiladora zone, and was shocked at the horrifying squalor in which Mexican workers live. These pictures only begin to tell the story. The first picture shows a plant owned by the Chamberlain Corp., that produces garage door openers. As you can see, the workers live outside the plant in one-room cardboard shacks and patched-together wooden shanties. The next picture shows one of these homes, with no electricity and no running water. The third picture shows the water supply for one of these neighborhoods—a stream which carries toxic runoff from nearby American-owned plants. The children of these workers breathe air thick with pollutants discharged by the factories where their parents work. They bathe in, and drink from, these toxic streams. It is a tragedy—and when workers try to improve these conditions, they are all too often blacklisted or thrown in jail.

If we adopt NAFTA, the United States Government will be putting its stamp of approval on the corporate practice of shipping American jobs to Mexico to exploit workers in Matamoros and other Mexican towns. And the United States will be sending a signal not just to Mexico, but to the whole world, that we will cut trade deals even with countries in which workers are anything but free. And to add insult to injury, NAFTA will cost the American taxpayer up to an estimated $20 billion over the next 10 years in lost tariff revenues and administrative costs.

Mr. President, our choice here is not, as NAFTA's proponents have claimed, between this agreement or nothing. Instead of encouraging United States firms to move their plants to Mexico, we should have used our economic leverage to protect American jobs. Specifically, we should have required Mexico to raise the wages and the living standards of its people before we agree to lower our tariffs. Instead of further entrenching Mexico's one-party regime, we should have demanded true democratic reforms as a precondition to any trade agreement.

Is there any precedent for steps such as these? You bet. These are precisely the kind of steps the developed nations of Europe took before they let their less-developed sisters into the European Community. The E.C. refused entry to Spain, for example, during the dictatorship of Francisco Franco. After his death, Spain was admitted only after an 11-year transition period in which it had to upgrade its environmental and labor standards, hold free elections, and ensure an independent judiciary. Greece and Portugal went through similar 5 and 7 year transitions respectively. We should have insisted that Mexico raise its wages and living conditions, protect workers' rights, and hold free elections, as a condition to any trade deal.

Ultimately, I am very saddened by the likely approval of this NAFTA. I am very sad for the many American workers who will lose their jobs, and for many others who will face pressures to accept lower wages. My constituents know this agreement is a raw deal; they have sent me thousands of letters on this issue, a rate of 10 to 1 against NAFTA.

Mr. President, I accept the fact that the Senate is likely to adopt this agreement, but I am very worried for millions of hardworking American families. I hope I am wrong about the impact of NAFTA. But I am certain that we could, and should, have done much better.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself 5 minutes.

I have spoken about how important international trade is to my State of Oregon, and that one job in six in Oregon is dependent upon trade.

Mr. President, it has not always been that way. Congressman Willis Hawley, of Smoot-Hawley fame, was an Oregon Congressman from Oregon's First District. I assume that when he pressed to pass the now infamous Smoot-Hawley tariff bill, protectionist legislation, he had the best interests of Oregonians in mind. But now things have changed. Oregonians overwhelmingly support NAFTA. They understand the importance of it to my State and to the country.

To demonstrate this, I would like to read just from three letters that I have had from Oregonians that would illustrate this.

First from Steven Barkwell of Milton-Freewater, OR:

> The subject of NAFTA is very important to me. * * *
>
> My wife and I spent three years in Mexico starting and running a greenhouse nursery operation with good success. While there, we saw a great need for consumer products, as well as capital equipment. They have next to nothing.
>
> We also saw a population which genuinely covets products with MADE IN USA stamped across them. From Levis jeans to Kentucky Fried Chicken to the Ford Taurus; Mexicans are proud to own, and willing to pay for, United States products.
>
> Labor is not cheap, nor abused in Mexico. True, our unskilled labor was paid a base of 10 dollars per day. On top of this, we had to pay all family medical and dental insurance, 2 weeks vacation time, 2 weeks Christmas bonus, profit sharing, copious legal holidays, public housing system and their retirement system.

This is the interesting sentence:

> Skilled labor is more costly than in the USA!
>
> Mexicans have money to spend. While the minimum wage is low, we must realize that many Mexicans have no debt, no cars or telephones. Their modest dwellings were passed down from the family or were constructed piecemeal with cash. Land is free to the poorest of Mexicans. They in fact have more discretionary income than most Americans.

The second letter is from Edward Gomes of Aloha, OR:

> Dear Senator Packwood:
>
> Originally I sent you the above letter with a NAFTA-no. You were kind enough to acknowledge my letter. We originally disagreed on this subject. Since then I have reevaluated my view and now support you on NAFTA. Your letter was informative and made me be aware. Mostly, today our President signed with some side agreements. I've heard, via the news that these agreements are supposed to protect our delicate global environment and protect American workers.

Mr. Gomes goes on, but here is a man who was initially opposed and has switched his position.

Finally, from Brian Warner of Beaverton, OR:

> We have a unique opportunity to create the largest trading bloc in the world. Mexico represents a huge potential market for United States goods, and the Mexican economy will continue to improve, giving them ever greater buying power, power to buy United States goods.
>
> As the rest of the world seems to be intent on ethnic and national division, we should stand apart and lead the way into the 21st century. Not only will we show the world our

true leadership, we will also benefit by assuring the continued dominance of our North American economy at a time when it is severely threatened by an emerging Pacific rim.

I support free trade and I support NAFTA. Please vote for NAFTA and for the future of our economy. Please do not listen to the voices that want to take our economy back to the 1950's; it cannot happen and it will not work.

Mr. President, let me conclude with something that I said yesterday. Mexico is not a poor country. This is not Bangladesh. This is not Sri Lanka. This is not Haiti. They have money to spend. Mexico per person, per capita spends more for American goods than any other country in the world. It spends more per person for American goods than Japan; it spends more per person for American goods than Germany. Germany and Japan are prosperous countries. Yet Mexico, allegedly a poor country, spends more per person.

What greater opportunity could we want than the opportunity to have unfettered access to Mexico's market which has an almost unlimited appetite for everything made in the United States. I hope this Senate when we vote, hopefully later this afternoon, will support the NAFTA treaty by an overwhelming majority. I yield the floor.

Several Senators addressed the Chair.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Michigan to be subtracted from the Democratic opponents' time.

Mr. RIEGLE. Mr. President, I know the Senator from Maryland wants to get into an exchange here, but, unfortunately, I cannot give my 10 minutes away for that purpose.

Mr. SARBANES. If the Senator could give me just 1 minute.

Will the Senator yield me 1 minute to make a point?

Mr. BAUCUS. Mr. President, I yield 1 minute but it must come from the time of the Democratic opponents.

Mr. SARBANES. I understand. I just want to address two points that the Senator from Oregon made.

First of all, any trading bloc which includes the United States in it will be the largest trading bloc in the world. The United States could enter into a free-trade agreement with a country much smaller than Mexico and that would be the largest trading bloc in the world because of the size of the American economy.

Second, the Senator said that Mexico spends more per person for United States goods than any other country. That is a very interesting observation. I wish to address it. The way that figure is arrived at so that assertion is made is they take the number of United States exports to Mexico and divide it by the number of Mexicans. But most of those United States exports into Mexico are intermediate goods which go from the United States to the maquiladora plants for assembly and then come back into the United States. They are never bought by Mexicans as part of consumer goods.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SARBANES. And another significant part of those figures are capital goods used to build plants in Mexico to export consumer goods into the United States.

Only 15 percent of United States exports going into Mexico are consumer goods. So the purchase by Mexicans is one-seventh of the figure which the Senator from Oregon is asserting to this body.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 10 minutes.

Mr. RIEGLE. I thank the Chair.

Mr. President, this is a sad and troubling moment in our national history. I am really struck by the disconnection between the debate here and what is really going on across the country at the present time in our communities, and in our national and family life.

The people of America trying to follow this debate and trying to relate it to what is going on in their own personal circumstances must think that we all live on a different planet because we talk in such a grand way about creating jobs in Mexico. There is a desperate need for creating jobs here in the United States, and we are not doing that. In fact, we are moving away from that.

So that is why, fundamentally, this is such a sad and troubling moment in our national history. We have a desperately serious job shortage problem in America today. It is our most important problem. Unemployment is rising in America. More and more workers are finding that they can only find part-time work. In many families both a mother and father are holding two jobs each, four jobs between them, often at or near the minimum wage, to try to generate just enough income to be able to scrape by.

There is very little time for family life, very little time to give to their children or other things because of this steady erosion not only in the sheer volume of jobs but in what our jobs in America are paying.

We have seen the income for our jobs dropping over the last 20 years. As a result, we are seeing a steady grinding down of the middle class in the United States. It used to be that a hard-working person could aspire to get to the middle class, have a middle-class standard of living, and perhaps even go beyond that. Now people are finding that they cannot keep themselves in the middle class. They are sliding back into lower and lower income areas.

The underclass of American citizens, those really in poverty, is growing at a terrifying rate, an absolutely terrifying rate. We see it in our urban centers in a dramatic way. But it is also happening in our rural areas, the rising level of poverty. If you go into the outlying areas of Michigan or any one of the 50 States, you will find in the rural areas people are just barely scraping by, driving old cars, maybe that have had four or five previous owners, that are unsafe. They cannot afford anything else. Many of them cannot even afford that.

Of course, in our urban centers, our urban youth, whether black or white youth, other minorities, are finding the unemployment rates are 50, 60, 70 percent.

So we have an urgent need for a job-growth strategy in America. The disaster of Reaganomics during the eighties, which was this cruel and destructive policy of trickle-down economics, has served to accelerate those trends and create a widening division in America between the rich, who have gotten much, much richer over that period as all the income figures show, and most other families who are working harder and harder and still are slipping backward.

NAFTA is the ultimate expression of trickle-down economics, and it is going to have a terribly damaging effect on our economy, on our working families, and on our social order. Most of the people in this country out beyond the beltway, beyond this insular ring of privilege here, most of the people in the country know that. They understand economics. They know how this is going to work. They have seen the jobs leaving the country before now, and they know this will accelerate those trends.

For our urban youth, who cannot find jobs, they are finding today that it is easier to get a gun than it is to be able to go out and get a job.

That is a prescription for disaster for America. And we are seeing it. We are seeing it in the mayhem, of all of the manifestations of the "Clockwork Orange" society that we are in, the unsafe society across this country that we are seeing today.

I cited recently a story about a mother of three who recently went to a bank teller machine in Detroit and took out some money. She was accosted by three youths. She was shot and killed by a 9-year-old who was accompanied by an 11-year-old and a 14-year-old. That is not an uncommon situation. That is a story in the paper today—another terrifying story of urban violence in our local community here.

It is not surprising that we are seeing our society coming apart, because you have to have enough jobs in society to hold your society together. People have to be able to work. They have to be able to make a contribution. They have to be able to earn, to support themselves, and to support their families. If you do not have a job in America today, you are nobody. You are invisible. You, in effect, disappear.

In fact, even among our homeless population—we have over 500,000 homeless veterans today in the United States—people that wore the uniform of the country, went to serve, many of them in Desert Storm, who have come back and they cannot find work. They have been humiliated to the point where they are out living under bridges and in cardboard boxes because they have not found any way to hook into this economic system of ours.

The people that are going to make the money on NAFTA are the wealthy elite in this country. You can see it in what is happening in the stock market. You can see who stood up to speak for NAFTA; all the pin-striped suit crowd, all of the lobbying money that has been spent on it, the pundits, the people here within the beltway who love to gather in the salons of Georgetown and talk about how wonderful it is to be for free trade. They are out of the line of fire. They have plenty of money. They do not have to worry about their jobs.

The fact that somebody out in Flint, MI, or somebody in Chicago, somebody in some other State across the country is going to take it right between the eyes when they lose their jobs, it is an abstraction. It is a fine point. And it is very easy for them to dismiss because they are out of the line of fire. It does not mean very much to them.

That is what is wrong with America today. We have forgotten about our own people. We are in here now about to pass a job strategy for Mexico. We need a job strategy for the United States. We are about to bring 60 million Mexican workers into our work force who earn one-seventh to one-ninth of what our workers earn.

As Senator METZENBAUM just pointed out, our workers cannot compete with that. We cannot possibly compete with that. That is why we have had so many plants in America close and move to Mexico. We are going to see much more of that in the future. But we are also going to see the grinding down of the wage levels for the jobs that are still left in America because the owners of those firms are going to tell the workers, either you take less in wages and benefits or we are going to have to close and move to Mexico.

That is the inevitable effect of this. Yes; some will make billions. That is why the Mexican Government has spent tens of millions of dollars lobbying this thing through, because they stand to make vast fortunes. They bought and paid for the services of our own former U.S. Trade Ambassador, William Brock, who was hired by the Mexican Government, $30,000 a month they are paying. That is $360,000 a year. That is more than we pay the President of the United States.

He is one of dozens in our country that have sold out and gone to work to help ram this thing through. We saw what happened in the House of Representatives. We had NAFTA defeated 10 days ago. But then we saw the administration take out the checkbook of the American taxpayer and buy the votes they needed to turn that vote around. And every press outlet in the country reported on it. It has been in every newspaper, television, radio show, and program across the country talking about those deals.

That is how this vote got turned around. It has been driven by special interest money, and pressure and privilege, because some people stand to make tens of billions of dollars on moving our jobs to Mexico, and grinding down the wage levels here in the United States.

We desperately need to invest in our own people for a change. That is why Bush and Quayle were thrown out, to put an end to Reaganomics, an end to trickle-down economics. And how ironic it is that George Bush left that poisoned cup on the desk in the White House there, the NAFTA cup, and this administration sadly has come in and decided that they would just drink it right on down. That is what has happened here. It is a great shame. It is a great tragedy. We are going to pay for it in broken lives out across this country over the next several years.

It reminds me very much of Vietnam. We have a wall down there for the Vietnam veterans with 59,000 names.

Most of the names on that wall are not of the families of the economic elite of this country. We are going to have another wall, and it will be an invisible wall on which there will be 500,000, perhaps 5 million or more names of workers in this country—again not of the economic elite—who will lose their jobs or their chances for jobs in America because NAFTA is going to pass. Their job and job opportunity is going to go to Mexico, and it is going to be given to a worker down there working essentially at slave-labor wages. We are going to do without here in this country, and people will wonder how it is—our own people, desperate for work, are going to ask: How can we believe in America, when America does not believe in us?

How do we say to our urban youth: Love and believe in this country, but we have nothing for you? We cannot give you decent education or safe streets or a chance at a job, where you have some prospect of having a life and forming a family of your own and holding it together. No, we cannot do that in America today because we do not have enough job opportunity to go around. But we can go to Mexico with NAFTA and bring in 60 million Mexican workers to compete with our own.

It is wrong and ought to be voted down.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Oklahoma under the time taken from the Republican side.

Mr. NICKLES. Mr. President, I wish to thank my friend and colleague, Senator BAUCUS from Montana, and congratulate him for his leadership on this issue, and not just this week. He has made some very eloquent statements. Also, I thank him for his issuing strong support for free trade for the last several years. That has not been easy. Many in his party, as evidenced by the speech just made by our colleague from Michigan, strongly oppose this philosophy.

I wish to also compliment Senator PACKWOOD, who made an excellent speech not just this morning, but yesterday. He has been tireless in his effort in support of NAFTA.

I compliment Senator DOLE as well, who, from the outset, has taken a very strong bipartisan approach to passing this agreement.

I would like to compliment President Clinton, because during the campaign this issue would have been an easy thing to oppose, and yet he stated he would support it. I think the President was right in supporting NAFTA. I compliment him.

In addition, I want to compliment and congratulate Ronald Reagan because he advocated a free trade zone between all three countries as far back as 1979. We now see that his vision can become a reality.

I would like to, Mr. President, rebut a couple of the comments of my friend and colleague from Michigan. I heard the words "we cannot compete" used here. I have heard him say that "American labor cannot compete with Mexican labor." I disagree. I ran a manufacturing plant in Ponca City, OK, and I assure you we can compete. As a matter of fact, we make goods and services that can be sold in Mexico, and we want to expand that opportunity.

I will say that I know a lot of firms in my State of Oklahoma that have a significant wage differential, maybe seven times that which is offered in Mexico, but even they can compete. American labor can compete anywhere in the world with anyone, given the opportunity for free and fair trade. We do not have fair trade right now because there are high tariffs for most U.S. products going into Mexico—2½ times higher than ours on average. That is not fair. It does not allow Americans the opportunity for fair trade. Though my friend from Michigan is making strong statements saying "we cannot compete," many Americans are saying, "Let us compete; let us tear down those tariff and other trade barriers, and give American workers the opportunity to compete in this expanded market."

Mr. President, NAFTA provides a win-win situation. It will allow individuals in all three countries to benefit.

Where we have goods and services that we want to sell and which they want to buy, both parties benefit. And when both parties are trading voluntarily, it is a winning situation, and it is mutually advantageous. Since Mexico has liberalized their trade policies, we have seen trade grow substantially. In 1986, total trade between our two countries was $29 billion. In 1992, it grew to $75 billion. Did American firms lose in that growth? No. Actually, we gained. We went from a $5.7 billion trade deficit to a $5.6 billion trade surplus. So American workers not only competed, but we competed well. I would add that the living standards in both countries were enhanced by that increase in trade over the last 5 years.

As a matter of fact, Mexico is the fastest growing market for United States exports in the world, and that market will grow even more significantly if we pass this trade agreement. It will not, if we follow the philosophy of protectionism—building more barriers and tariffs to restrict free trade. That is the wrong philosophy.

Again, I compliment President Clinton and Ronald Reagan and BOB DOLE and BOB PACKWOOD and MAX BAUCUS, and others, who have supported free trade and advocated the opportunity to expand our markets. We are fighting for the individual rights of American plants and companies and employees to have an opportunity to compete in a market that is growing very rapidly, a market of 370 million people.

I agree that this agreement is not perfect. I have some problems with it. It is 2,000 pages. If you really think about it, you could probably draw a very simple free-trade agreement on one page, and you could say: Effective January 1, next year, we are going to eliminate all tariffs and trade barriers among all three countries. But we did not do that. We made it much more complicated, and it is going to keep tax lawyers and a lot of consultants busy for the next dozen years or so to comply with this trade agreement. I also say that I have reservations about the side agreements. I question their necessity, and I can see some litigation evolving from those additional agreements. I have looked at them very closely, and I really do not think they will do a serious amount of damage.

This trade agreement sends a signal to the entire world community—not just to the three countries—that America is willing to enhance trade, that we believe in free trade, and we do want to tear down tariff barriers. I think that is very positive.

And I also say that if we defeat NAFTA, we will do serious damage setting back Mexico because they are trying to liberalize trade. They are moving toward a free market. We asked the Soviet republics to do that, and also other countries that have been under the domination of totalitarian governments and Communist governments.

Americans believe in free trade, and we have to support it. That is what we are doing here by our affirmative votes for NAFTA. If we defeat this agreement, it would be doing the opposite.

The North American Free Trade Agreement is overwhelmingly in the national interest of the United States, and of our bordering neighbors. Seldom in the course of a Nation's commercial or diplomatic history does such an opportunity present itself, no less one which will impact the citizens of an entire continent. Passage of NAFTA will significantly bolster political and economic stability throughout North America, and will signal a new era of competitive market leadership for the United States.

In contrast, failure to secure the successful passage of NAFTA would send a disturbing signal that America is not confident in her ability to compete in the global economy. Nations far beyond the scope of North America would be rightly disillusioned, wondering why the world's most successful democracy—one founded on the vigorous opportunities and promises of free enterprise—would shrink from competition.

Though the slogan "compete or retreat" is a simple way to address the economic choice before us, the ramifications of retreating extend far beyond any immediate economic implications. Retreating would put at risk the financial and democratic stability of Mexico—and that possibility would clearly be unacceptable to permit on our watch.

NAFTA comes in the wake of tremendous advances within the Mexican political and economic systems. Under the leadership of President Salinas, ambitious reforms have taken root across their society. NAFTA will lock in and improve upon those positive transformations—which is clearly in our long-term national interest.

NAFTA will significantly reduce Mexican tariffs and other trade barriers, which average 2½ times higher than ours. All three nations will benefit from increasing trade and expanding economies. But without the benefit of NAFTA, Mexico could slip into an era of economic stagnation and decline. Any erosion of the recent progress made south of our border may lead to significant increases in Mexican unemployment, and consequently raise the tide of illegal immigration, drug traffic and social unrest.

Should NAFTA fail, not only will we be relinquishing the multiple economic and political benefits of this monumental agreement, but we will saddle future generations of Americans with serious national social problems.

I have said that, this is an enormous agreement, towering in its scope, and I would never claim all 2,000 pages are perfect. There will be, unfortunately, some displacement as markets adjust, yet many more new jobs will be created. NAFTA is an enormous opportunity—and our responsibility as legislators, Republican and Democrat, is to support the long-term national interest of America. For some, the vote will not be an easy one to cast; but for all, the world is watching to see if we step up to the challenge. We owe our children, our world neighbors, and ourselves that commitment to leadership. I urge my colleagues to vote for the North American Free Trade Agreement.

Mr. BAUCUS. I yield 10 minutes to the Senator from Tennessee, with the time taken off of the opponents on the Democratic side.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, over the past months, I have spent many hours meeting and talking with my fellow Tennesseans about the North American Free Trade Agreement. I have also listened with care to the debate that has been waged here in the Nation's Capital.

Over these weeks, I have tried to hear both sides. But I have also held to a fundamental first principal: No one, in my view, can participate meaningfully in this dialog without first stepping into the shoes of a young American father or mother who feels the pinch of declining wages, the pressure of increasing needs and the perpetual anxiety of a threatened livelihood.

Mr. President, having applied that simple humanity test to arguments and analyses both pro and con, I have concluded that I cannot in conscience vote to ratify this North American Free Trade Agreement.

Like everyone else, I could resort to the macro-economic model favored by my side of the issue to explain my position. And I could buttress my case with statistics from a wide range of authorities. But we all know the data is variable and disputable, while the humanity principle, in my view, is clear and unchanging.

This trade agreement will harm the working people of my State. More specifically, it will harm the most vulnerable working people of Tennessee—the people easiest to hurt and hardest to help, the Tennesseans whose present jobs are most tenuous and whose future prospects are most nebulous.

Again, my colleagues are well aware of the many economic models and analyses which characterize NAFTA as either a job creator or job killer. The Joint Economic Committee recently analyzed 16 of the major NAFTA economic impact studies.

We could easily spend many days going back and forth over those numbers and projections. However, none of the economic models answer all of our questions about NAFTA.

What is lost on the participants of this debate, is that all of the experts agree that at least some workers will lose their jobs. Furthermore, the experts agree that those whom NAFTA put in greatest jeopardy are those who in recent years have already suffered the most dislocation due to other factors.

The job loss resulting from NAFTA will impact most severely those Americans already making the lowest wages and those Americans already most at risk of losing their jobs. NAFTA may offer help for many better paid workers and additional opportunity for those workers who already have the skills and the training to situate themselves comfortably. But for the low-skill, low-wage American worker, the prospect would turn from dim to bleak.

This fundamental asymmetry arises inescapably from this agreement. One group of Americans would bear a disproportionate burden of the NAFTA's pain and they would not get to share in its benefits.

I believe that we must be sensitive to this obvious disparity. After all, as many as a half a million Americans may lose jobs as a result of NAFTA. And, the difficulty of finding new jobs for those dislocated by NAFTA is largely ignored, especially considering the problems already faced by workers with few skills and meager resources.

Economic progress may require change in peoples' lives, but a humane society takes account of the pain that it often entails. We should be especially concerned when the pain falls on people who already are most vulnerable. And, we must recognize an obligation to make some provision for those who otherwise might be left behind.

I would point out, too, that American workers will not have to lose their jobs to be harmed by NAFTA. The agreement could have a chilling effect on wages and the standard of living for workers whose jobs remain in the United States. Many people do not understand that NAFTA's most important provisions concern foreign investment rather than tariffs and that NAFTA could put a downward pressure on U.S. wages caused by a company's threat of relocation.

It is no secret that many United States companies are relocating to Mexico because of rock-bottom wages and the absence of any real collective bargaining among Mexican workers. Zenith Electronics Chairman John Pearlman told the New York Times on March 21, 1993, that when it comes to relocating a plant "there is no question that Mexico's labor costs are decisive."

We should not fool ourselves. The gulf between Mexican and American wages remains enormous. For example, the Mexican minimum wage of $4.20 per day works out to 53 cents an hour. That is barely 3 percent of the U.S. average hourly compensation of $16.17. Average Mexican hourly compensation in all manufacturing is no only 15 percent of United States levels, far below the 22 percent of 1980.

Therefore, given this enormous disparity of wages, it will become increasingly difficult for American workers to bargain for wages that will maintain their current standard of living. NAFTA puts a gun to the American workers' head.

Pointing a finger South to the border, any American company could declare a wage threshold. Try to go beyond it, and the plant is moved to Mexico. Or management could demand wage concessions to keep a plant operating. NAFTA could totally distort the real value of work and wages in America. Instead of improving the Mexican standard of living, it could drag ours down.

The worst case scenario is that American companies will relocate some or all of their manufacturing operations to Mexico. This has been happening in my home State of Tennessee. Since 1986, at least 11 operations have closed in Tennessee and moved to Mexico. The companies represented include General Electric, Allied Signal, Phillips, Takata Corp., TRW, R.G. Barry, United Technologies, Sunbeam-Oster and Levi Strauss.

This massive relocation has cost over 5,600 jobs in communities from Memphis to Greenville. A county like Rhea, which Oster left, has few other job opportunities. There are few alternatives for those whose jobs were shipped to Mexico. In many rural counties in Tennessee, there is one plant. When that plant goes south, hope goes with it.

The pro-NAFTA forces say we will lose good paying jobs to Mexico regardless of whether NAFTA is passed or not. However, I see no reason to telescope those job losses. I see no reason to turn academic conjecture into a fait accompli.

And Mr. President, in this regard, I hope we are clear that NAFTA is not just a tariff agreement—far from it. The investment incentives and guarantees contained in this Agreement make it far easier and more attractive to move American jobs to Mexico.

The Congressional Budget Office has stated that NAFTA is meant to "attract and productively absorb foreign capital" and to make Mexico more appealing to United States investors.

The United States International Trade Commission has stated and I quote, "The pursuit of foreign capital and technology is generally acknowledged to be a major factor in Mexico's interest in NAFTA."

And what happens to an American worker who loses his or her job to NAFTA? Unfortunately the safety net created by NAFTA is a very loose weave and it will be very easy to slip through it into joblessness and poverty.

To keep costs down, the retraining program is funded at only $28 million a year. Only 5,185 workers per year would be eligible for 9 months of retraining. This is less than the 1-year training offered by the current Trade Adjustment Assistance Program.

The funding for retraining is wholly inadequate. The pro-NAFTA Institute for International Economics predicts an additional 25,000 to 30,000 dislocated workers a year due to NAFTA. And, according to the Congressional Budget Office, which is very conservative in its estimates, 200,000 workers would lose their jobs over a 10-year period because of NAFTA.

Given the potential job loss I would like to address the "Who Gets What" question that has bedeviled this debate. Those who support NAFTA see a burgeoning Mexican marketplace for United States goods. They argue that a growing Mexican economy and eager Mexican consumers will snap up United States goods.

The truth is that Mexican consumers never see most United States exports because they are largely capital equipment and assembly parts. Only 15 percent of exports to Mexico were finished consumer goods.

Mexican consumers pay an average of $50-a-year on American consumer goods versus the $450 which is cited by the administration. Mexican consumers simply do not have the purchasing power to buy American-made products.

We have also heard a great deal about NAFTA and the environment. Unfortunately, Mexico's extremely lax environmental laws and lax enforcement policies have made pollution profitable. NAFTA, done right, could be an extremely positive force to clean up Mexico's terribly polluted and toxic landscape.

Unfortunately, this NAFTA does not have the teeth, nor the resources to turn around Mexico's environmental wasteland. Enforcement of domestic environmental laws involves a closed-end, multi-step, tortuous process that is stacked against environmental and consumer concerns. Another country could even challenge our high health and safety standards.

One must get the consent of the other party to even proceed with a case. True enough, there are trade sanctions at the end of the process. However, under the scheme the negotiators decide upon, sanctions may never be available.

In addition, there is no assured source of funding for the massive border cleanup that must take place. And worst of all, there is no integrated border plan to require the cleanup in the first place.

Mr. President, in conclusion, I do not believe that the North American Free Trade Agreement is in the best interests of this Nation. There are too many unanswered questions, too many loose ends and too much pressure on the most vulnerable among us. I believe we can do better and I believe we should.

However, I am a realist and I know that this legislation will pass. Nonetheless, I want to put both of our governments on notice that along with others, we will be watching very closely the implementation of this Agreement. We will be watching to ensure that all of the safeguards and side agreements are carried out. We will be watching to see that workers rights and environmental regulations are strictly enforced. We will be watching to see that Mexico abides by our high standards, and that ours are not dragged down by theirs. Mr. President, I yield the floor.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that 3 minutes of the Republican time be transferred to the Democratic proponents.

Mr. President, I yield 15 minutes to the Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized for 15 minutes.

Mr. HARKIN. Mr. President, I have followed with great interest the national debate on the North American Free Trade Agreement. I have gathered as much information about it as I could in order to make a sound decision. This is not an easy decision for me. Many good arguments have been made by those favoring the agreement and those opposing it. The case is not overwhelming on either side of the issue. Iowans seem to agree, according to a recent poll which showed them evenly divided on the issue: 36 percent in favor, 36 percent opposed, and 28 percent undecided.

I have reached my decision on NAFTA based on whether the people of Iowa and our Nation will be better off with or without the agreement. After a great deal of consideration, it is my judgment that the balance tips somewhat in favor of supporting the agreement—perhaps 51 percent in favor and 49 percent against. I need not go into great detail about the various projected ramifications of NAFTA, which have been discussed at great length already. In any event, it is impossible to predict the future with certainty. So NAFTA involves a bit of a gamble, just like any action looking to the future. But I am satisfied that the odds are somewhat more favorable than unfavorable.

From an Iowa perspective, NAFTA has two main benefits: Reducing tariffs on our exports and promoting economic growth in Mexico that will make Mexico a better customer for our products. NAFTA will reduce tariffs and trade barriers that restrict exports of a number of our most important Iowa products: Agricultural commodities, such as corn, pork, and soybeans; processed foods; and manufactured goods such as industrial machinery and equipment and consumer products. Over time, the agreement is expected to promote the development of a middle class in Mexico that will be able to afford more of what we have to sell from Iowa and from the United States as a whole.

This, of course, is the key to Mexico's future: That it develop a strong middle class.

We know from experience that open markets and exports are decidedly in the best interest of Iowa and our Nation. NAFTA promises better markets and prices for our farmers.

My difficulty with NAFTA is not that it involves a tough decision, but with the nature of the choice that I have had to make. I have long stood for free and fair trade and improved exports because they mean economic growth and jobs at home. My State of Iowa stands to benefit greatly from open markets and exports. But I also know that Iowans share my concerns about other matters that temper the pursuit of free trade at any cost. Obviously, a perfect agreement is not achievable. No agreement can satisfy every critic. But I do believe we could have had a better agreement.

As he promised, President Clinton negotiated side agreements addressing deficiencies in the basic NAFTA text concerning labor and environmental issues. These side agreements contain innovative mechanisms designed to ensure enforcement of environmental and labor standards and protections, and to work toward higher standards for labor and environmental protection. Today we have virtually no influence on labor and environmental matters in Mexico. With the side agreements, NAFTA gives us new opportunities to promote better labor and environmental conditions for our neighbor to the south.

I must add, Mr. President, that a couple of years ago I announced my intention to seek my party's nomination for the office of President of the United States. During my brief and unsuccessful campaign, I described an alternative vision of NAFTA. I would have renegotiated NAFTA. This version of NAFTA would not have been before us, had my party nominated me and had I been elected. But that was not the case. The choice of our party is the President of the United States.

President Clinton had a different approach. He said he would negotiate side agreements to improve upon the basic text.

Again, I wish that the labor and environmental provisions were in the basic text of the agreement. That is where they belong.

For example, the side agreement on labor does not provide trade sanctions for violations of the basic right of labor to organize, bargain collectively and strike. Moreover, the labor side agreement lacks the enforcement teeth contained in the main NAFTA text for protecting capital, investments, and intellectual property rights. I asked Secretary of Labor Robert Reich about this matter at a hearing last month. I asked him why working people should be entitled to any less protection than property and pointed out that even with the side agreement on labor, NAFTA elevates property rights above human rights.

As long as we are talking about change, Mr. President, it is time to change this outdated view that somehow, in our negotiated agreements with other countries dealing with trade, we can protect everything that deals with capital and property but we cannot deal with protecting basic human rights. It is time to change that outdated view.

Although the labor side agreement improves upon the basic NAFTA text, more must be done. As a longtime advocate for human rights throughout the world, I encourage President Clinton to view NAFTA as only the starting point for addressing labor and other human rights problems in Mexico. I urge him to establish a special task force within his administration to monitor the effect of NAFTA on labor conditions in the United States, Mexico and Canada. This task force should cooperate closely with and report regularly to congressional committees having oversight responsibility on labor matters. We must be prepared to take strong action under NAFTA and, if necessary, to withdraw from the agreement if it worsens rather than improves the circumstances of working men and women.

The effectiveness of any agreement depends on commitment to enforcing it.

So I call on President Clinton to provide vigorous leadership in enforcing the side agreements on labor and environmental protection.

It is not difficult to see why U.S. working men and women are concerned about NAFTA, and why the arguments against NAFTA have become so impassioned. When adjusted for inflation, the earnings of full-time male workers in the United States have actually declined over the past 20 years. For the bottom 60 percent of male U.S. workers average real wages fell 20 percent between 1973 and 1992. As Lester Thurow has pointed out, the earnings potential of the bottom two-thirds of the U.S. work force is collapsing. Is it any wonder that these workers feel vulnerable to any perceived threat to their jobs or wages? How can we fault them if they do not share the enthusiasm for NAFTA of those comfortably ensconsed in academic, Government, and corporate offices?

NAFTA has become a rallying cry and symbol for much deeper problems in our Nation's economy—problems that have sapped the confidence of U.S. workers in their ability to compete and prosper in the rapidly changing world economy. The real root of these problems is not trade policy, but our failure to make the kind of investments here at home in human resources, physical capital and infrastructure that are necessary for economic growth and productivity. We would not have become embroiled in this wrenching national debate over NAFTA if our working people felt they were getting the support they need to face new economic challenges. Consider the fate of President Clinton's package earlier this year of investments in worker skills and infrastructure, which was scaled back dramatically—too much, in my opinion—but still fell victim to a Senate filibuster. And promises of retraining assistance for those dislocated by NAFTA surely ring hollow to those who have been ignored for so long.

There is only $95 million in here for trade adjustment assistance.

Because NAFTA brought to a head frustrations that had been brewing for many years, it is little wonder that organized labor invested so much in trying to defeat it. Although it may appear that way now, I do not see approval of NAFTA as a rejection of labor's objectives of promoting workplace democracy and improving wages, working conditions and living standards here and in other countries. Nor do I believe that approval of NAFTA shows that labor is out of step. In the NAFTA debate, labor has given voice to legitimate concerns of our working men and women, and it has done so sincerely and with the best motivations. I disagree—and I disagree strongly—with President Clinton's unfair characterization of labor's efforts against NAFTA as "roughshod, musclebound." Those unwarranted code words were demeaning to every working person and to organized labor.

Also objectionable in all the rhetoric, has been the suggestion that Mexico is in some way not good enough to join us in a trade agreement. We have heard derisive comments about poor housing, low wage rates, environmental and health problems, drug trafficking, illegal immigration and various other matters. Much of this rhetoric is mean-spirited and frankly in my view, bigoted. Mexico is a country with its problems—just as we have our problems—but it is making progress on solving them. Mexico and its people have not deserved the disparaging rhetoric they have suffered in this debate.

I believe we will make more progress—on labor, environmental, human rights, and other issues—through engagement with Mexico under this imperfect agreement than we will by rejecting it and hoping for a better one. Samuel Johnson said that one "who waits to do a great deal of good at once will never do anything." We can approve this agreement and increase the odds of doing a substantial amount of good for our country and Mexico over a period of time. Or we can reject this agreement and wait for a better one that may well never come.

So, in the end, I believe the better course is to approve this agreement, with the hope, with the confidence, with the trust in President Clinton that he will take leadership, along with our partners Canada and Mexico, to enforce vigorously the side agreements and to ensure that labor, human rights, and environmental concerns take their rightful place at the table.

Mr. President, I ask unanimous consent that two articles on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN AMERICAN COMMON MARKET

(By Lester Thurow)

Each of these three books expresses a fundamental truth. Ross Perot and Pat Choate articulate a frustrated cry of real economic pain that is not being heard. Gary Hufbauer and Jeffrey Schott correctly argue that NAFTA will lead to more economic good than bad in the United States. Orme understands that NAFTA is really about fundamentally changing Mexico's long-run economic future. Its direct impact, good or bad, on the United States is *de minimis*.

Regardless of whose estimates you believe, the net increase or decrease in jobs is so small as to be lost in the rounding errors of American labor statistics. If Hufbauer and Schott are right, America will gain 170,000-jobs over five years. If Perot and Choate are right, 480,000 jobs will be lost. Historically the United States often has monthly gains or losses this big. The small stream of jobs produced or lost by NAFTA will not be noticed in a sea of 130 million American workers.

There are a lot of low-wage places in the world (one of them, Puerto Rico, already belongs to an American common market), where any business that simply wants low wages either has gone or will go. At most NAFTA might redirect some of this flow to Mexico. It is not going to change the magnitude of the future flow by an noticeable amount.

When it comes to estimating job losses or gains, the only truthful answer is that no one knows exactly how many jobs will be lost or gained. Neither of the two estimates is derived from detailed micro-economic studies of Mexican and American industries. Both are simply extrapolations drawn from historical analogies based on what once happened elsewhere in the world. Mexico is America's largest neighbor, shares thousands of miles of common border, and both the United States and Mexico live in the global economy of the 1990s. Even if detailed micro-economic studies were done it would not be possible to estimate job losses.

What we do know is that the direct impact on the United States will be very small. With a gross domestic product (GDP) only 4 to 5 percent that of the United States, Mexico will not be an economic locomotive for America. Its markets are too small to speed up American growth; its firms are not competitive enough to increase the enormous already existing global pressures to make American firms more efficient. Like its effects on jobs, Mexico's effects on American growth will be too small to be measured.

The "giant sucking sound" of jobs going south, as Perot puts it, or the engine roar of accelerating economic performance will in reality be but a minor rumble of economic indigestion or a small burp of economic contentment.

But as Orme correctly points out, very modest direct effects do not make NAFTA an unimportant agreement for either Mexico or the United States. All three books agree that NAFTA is vital to Mexico since it essentially locks Mexico into a private market framework and gives investors (Mexicans and foreigners) confidence that Mexico has permanently broken out of the Latin American swamp of erratic economic policies. If this assurance to investors makes Mexico in the long run into a much wealthier country than it otherwise would be, the United States has a lot to gain. Living next to a large prosperous neighbor is better than living next to a large poor neighbor—politically and economically.

While Perot and Choate are wrong to imply that keeping the Mexicans out of a free trade agreement with the United States will somehow help the average American worker, they are right to express a cry of pain. To put it bluntly, the American political process has lost sight of the economic well-being of the bottom 60 percent of its work force.

From 1973 to 1992 the per capita American GDP after correcting for inflation rose 27 percent. Yet over the same time period average wages for the bottom 60 percent of male workers fell 20 percent in real terms. Median male wages fell 12 percent. For non-supervisory workers (those who don't boss anyone else) real weekly wages fell 20 percent and hourly wages fell 13 percent. If one looks at young males 18 to 24 years of age who work full-time year-around (basically those who graduate from high school but do not go on to college) the percentage earning less than $12,195 (in 1990s dollars) more than doubled in the decade of the 1980s from 18 to 40 percent. For young women the increase was from 29 to 48 percent.

Earnings prospects are collapsing for the bottom two-thirds of the work force. Workers in this part of the earnings distribution don't have to be told by Ross Perot that the Bush administration wasn't thinking about their welfare when NAFTA was negotiated. And then, although President Clinton talked about them during the election, he has ignored them in his first year in office. Their number one need is not deficit reduction or even health care. It is good jobs.

Hufbauer and Schott point to what we all know must be done. "The ability of the NAFTA partners to gain maximum benefits from the pact with minimum adjustment costs depends importantly on maintaining domestic economic policies that ensure growth." Falling wages "reflect larger forces in the US economy, especially low rates of investment both in human training and in physical capital. The right policy response to poor US wage gains will not be found in trade barriers." True, but it is equally true that what needs to happen to restore rising wages isn't happening—and is not likely to happen.

After suffering two decades of falling real wages it is not surprising that Ross Perot can appeal to millions of Americans who lash out at the Mexicans in their frustration. The real answer to their problems lies elsewhere, but there is not even a glimmer of hope that those real answers will be adopted. President Clinton's $100 billion in skill and infrastructure investment disappeared into Senator Dole's black hole of a filibuster earlier this year and hasn't been heard from since. Whatever the talk about retraining those who will be hurt by NAFTA (and everyone agrees that some will be hurt), the historical record would lead even an optimist to the conclusion that it won't happen. Such retraining has oft been promised but seldom successfully done.

Orme points out that the ultimate benefit of integration with Mexico depends upon whether you believe that the United States is fundamentally complementary or competitive with Mexico. The unfortunate truth is that it is both. America is now a First World economy with a large, growing Third World economy in its midst. The First World part of the American economy will benefit from integration. It is complementary with Mexico. Unfortunately the Third World part of the U.S. economy is fundamentally competitive. It faces what economists know as "factor price equalization." If business can hire Third World skills at Third World wages elsewhere, why should they pay more for Third World skills just because the people with those skills happen to be found in a First World country, the United States? They shouldn't, they aren't and they won't—even if NAFTA is defeated. There is always somewhere else to go.

Ideally NAFTA should be seen as a phase 1 agreement with a phase 2 agreement to follow. The phase 2 agreement would seek to make Mexico and the United States into a joint production area that could export more to the rest of the world by combining high value-added American components with labor-intensive Mexican processes to make both of us more competitive in world markets. Since much of the integration between Mexico and the United States will happen even if NAFTA is not ratified, the real question about NAFTA is whether it can be used as a good management agreement to make that inevitable integration less painful on both sides of the border than it otherwise would be.

But when it comes to that bottom line so beloved by economists, there is a simple truth. After seating the Canadians at our economic table and after two presidents of the United States have extended an official invitation to the Mexicans to join us for dinner, retracting that invitation isn't a very attractive prospect. We would be saying to ourselves and the world that we are willing to sit down to share a common economic meal with the Canadians—but not the Mexicans.

AND A REALITY CHECK

(By Robert J. Samuelson)

There's a great fog over NAFTA. We are told that it's about jobs. It isn't. At most, NAFTA will produce small job gains or losses. NAFTA is mainly about how we deal with Mexico. If there's a historic parallel, it's the Marshall Plan. In 1947 Europe was hungry and desperate. By supplying food, fuel and machinery, we sought to build strong and stable allies.

NAFTA is a gamble in the same spirit, though it doesn't involve massive U.S. aid. The basic idea is to help Mexico escape its poverty through trade and investment on the theory that a richer Mexico would be a better neighbor. The gamble is worth taking. We share huge interests and problems: trade, drugs, immigration and the environment. By itself, Mexico's prosperity wouldn't bridge all our political and cultural differences—but it might make them more manageable.

Listening to the bitter NAFTA debate, you wouldn't know that this is the central issue. The White House has mistakenly chosen to engage the debate on narrow trade grounds. The whole affair has become an emotional and misleading argument about jobs. NAFTA is being attacked for problems it will not cause and praise for benefits it will not produce.

House Majority Leader Richard Gephardt—the best-known NAFTA opponent after Ross Perot—deplores the "hemorrhage of American jobs across the border." What hemorrhage? Perhaps he's referring to the 386,000 jobs created between 1980 and 1992 in Mexico's maquiladora industries along the U.S. border. That's a big number, but it's only 2 percent of the 18.2 million jobs created in the United States during the same period. Not all the maquiladora jobs came from U.S. plants, and many that did would have gone elsewhere (Asia, the Caribbean) if they hadn't moved to Mexico.

Not to be outdone, the White House says NAFTA will create 200,000 new jobs by 1994. Whoa. The estimate is two to five times higher than private projections. It also implies that NAFTA would be a major contributor to job growth. Not so. Even if the White House estimate came true, those jobs would represent only a tiny fraction of the 4.9 million new jobs that the Congressional Budget Office expects by 1995.

The truth is that NAFTA's immediate economic impact on us, for good or ill, would be small. The reason is that Mexico—with a third of our population—has an economy only one-twentieth as large. (In 1992 it had a GDP of $324 billion compared with our $6 trillion.) It can't afford to buy that much from us. Nor is the lure of Mexico's low wages that compelling to our industry. Mexican workers aren't as productive as American workers. The transport and communications systems are fairly primitive. In 1992 Mexico had less than 5,000 miles of paved four-lane highways.

The jobs obsession perpetuates the worst myths about trade. Beyond rabid union opposition, what sustains the fight against NAFTA are deep suspicions that trade is to blame for most of our economic woes. Half the respondents in one survey thought NAFTA would lower living standards. Popular wisdom, though, is wrong. Trade plays a "surprisingly little role" in our economic troubles, as a study by international economists Paul Krugman and Robert Lawrence finds. Consider three myths.

Myth: Our industries, uncompetitive in world markets, are steadily losing ground.

In fact, the United States remains the world's largest exporter. In 1992 it accounted for 12.3 percent of global exports, followed by Germany (11.8 percent) and Japan (9.3 percent). Until 1992, our trade deficit had been declining rapidly; the recent reversal reflects slumps in Europe and Japan.

Myth: Trade has destroyed millions of high-paying manufacturing jobs.

Some industries—autos, steel, apparel—have suffered, and the number of manufacturing jobs (18.2 million in 1992) is actually lower than in 1970. But the main cause of stagnating employment is that U.S. industry has become more efficient. Manufacturing output has doubled since 1970. The same number of workers produces more; trade hasn't "deindustrialized" America.

Myth: Low-wage competition is driving down the wages of unskilled workers.

The main reason this isn't true is that competition from low-wage countries affects only a small share of U.S. workers. High-wage countries provide most of our imports; Japan and Canada alone supply nearly two-fifths. In turn, trade affects only about a third of manufacturing, and manufacturing accounts for less than a fifth of all U.S. jobs. Most economists think that computers have reduced the demand for less-skilled workers and, therefore, their wages.

Myths like these sustain the anti-NAFTA case. Gephardt warns that the agreement might depress all U.S. wages and living standards. Nonsense. Mexico provides only 7 percent of our imports, and it already has largely free trade with us. American tariffs on its exports average 1.9 percent. Some U.S. industries would lose protection over 10 to 15 years under NAFTA—sugar, citrus, apparel. Still, the White House, for all its exaggeration, is probably right that the agreement will initially boost U.S. exports. Mexico's barriers to or products are higher and will fall further. Chrysler estimates that NAFTA would enable it to sell 25,000 more cars to Mexico by 1995.

The irony is that Mexico is giving up more protection in NAFTA than we are. It is doing so to reassure investors, foreign and domestic, that it is permanently liberalizing its trade and investment polices. The aim is to stimulate an investment boom that will expand Mexico's internal production and modernize its roads, ports, and telephones. Mexico will export more, but it will also import more because it will need advanced equipment for its industry. Indeed, that has already happened. Our trade surplus with Mexico in 1992 was $5.4 billion.

But NAFTA will not succeed or fail on a few years' trade statistics. Its real promise is to foster a more middle-class Mexico and reduce immigration to the United States. It will be a decade or more before anyone can judge whether the gamble is paying off. The question now is whether we have the patience to make it. NAFTA's opponents are—despite disavowals—preaching protectionism, and there larger agenda is to make fundamental changes in U.S. policies.

In that sense, NAFTA is a symbolic lightning rod for wider frustrations. This is why the debate has strayed so far from facts and become so misleading. What Congress does will, like its decision on the Marshall Plan, make a broader statement about our self-confidence and good judgment,

Mr. HARKIN. Mr. President, I yield back whatever time I had.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, on behalf of Senator BAUCUS, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Massachusetts for 10 minutes.

Mr. KENNEDY. Mr. President, the decision on the North American Free Trade Agreement is an extremely difficult one for all of us who care about the lives and the future of working men and women and their families.

The strengths of this agreement are bitter-sweet—because they remind us how defective NAFTA is in other ways.

It is easy to understand why business is salivating over NAFTA and labor is spitting at it. This NAFTA contains far-reaching safeguards for U.S. enterprises that decide to invest in Mexico. But its great defect is that it fails to offer equivalent safeguards for American workers whose jobs are jeopardized or whose wages are held down.

We all know the relentless succession of economic shocks and pain that families have had to endure in recent years—the recession, continuing unemployment, defense cutbacks, company layoffs, and the insidious modern euphemism that sends shivers down the spine of workers—corporate downsizing. All of these shocks will now be compounded by the shock of NAFTA, and working men and women are right to be angry.

Economists tell us that NAFTA will mean a net gain in jobs in the years ahead for Massachusetts and so many other States. But what is causing so much difficulty is the little word with big implications—net. That word slips easily off economists' tongues. But it has a devastating impact on all those who are caught in the net and whose jobs and livelihoods are at risk.

What do we say to all those workers who will lose their jobs because of NAFTA? It is no comfort to them that others—some faceless others—will gain jobs in larger numbers.

The anguish that so many families feel is eloquently stated in a letter I received on NAFTA from a constituent in Massachusetts. His name is Richard Walker. He works for Raytheon, and this is what he writes:

> DEAR SENATOR KENNEDY: I'm writing you today because of the deep concerns I have about the rapid destruction of what is left of the middle class in our country. NAFTA will be the final blow.
>
> I've been with Raytheon Company for 12 years. Presently, I'm a troubleshooter at the Missile Systems Division in Quincy. I've been working on the AMRAAM program for over 4 years. Our competition at AMRAAM is Hughes. Hughes produces AMRAAM in Tucson. Mexico is thirty miles away where the wages are 80 cents per hour. How will Raytheon compete? Management at Raytheon showed our union negotiating team a "Frontline" documentary on what Hughes is up to in Tucson. Raytheon is using this as a bargaining tool.
>
> This does not bode well for the 30,000 Raytheon workers in Eastern Massachusetts or all the small electronic companies that supply us at Raytheon. A couple of weeks ago, we had another large round of lay-offs. It wears heavily on me when I see people crying in the hallways at work. I've never seen anything like it. They are crying because there are no jobs out there. Senator, we can't all retrain for jobs in the health care industry. The hospitals in Boston are laying off.
>
> My wife Mary and I have been blessed with 2 sons. Michael, age 5, and Kevin, age 1. I'm lying awake some of these nights wondering how I'm going to continue to feed my family.
>
> Eight years ago, we were able to buy a cottage in Yarmouth. We were participants of the American Dream, working hard and enjoying the fruits of our labor. Now the cottage is for sale, and I just got a package from the Greensboro, North Carolina, Chamber of Commerce. With 12 years at Raytheon, I doubt I will see 13.
>
> Senator Kennedy, we are being forced out of the Commonwealth. The family, friends and State we love, we are probably going to have to leave. We are the Okies of the 90's. A friend of mine in West Roxbury just moved his family to Greensboro. High tech has been going South just like the mills did. Our Commonwealth is exporting people. Our Nation now has more people working for the Government than are in manufacturing.
>
> NAFTA will just speed up this process and push what is left of manufacturing right into Mexico. It seems the Republican Party theme of, "I've got mine, screw everyone else," is firmly entrenched in this country.
>
> Senator, as a member of the rapidly vanishing middle class, I can say in earnest, we are getting clobbered out here. Corporate greed and downsizing are the plagues of the 90's.
>
> Where will it bottom? Unemployment from cradle to grave? Hanging by a thread day after day was not in my game plan. I just want hope and dreams back in my life and above all a future for my kids.
>
> RICHARD J. WALKER.
>
> West Roxbury, MA.

As Mr. Walker's letter proves, ordinary citizens who are not bankers or investors are deeply concerned about how NAFTA will affect their jobs. Some are union members, and many others are not. They share a common fear. They have seen average real wages grow by only 7.5 percent in the last 20 years, and many of them have actually lost income, or even lost their jobs. They fear for their future, and their children's future.

These concerns cannot be contemptuously dismissed as the so-called parochial views of backward-looking labor leaders. They are legitimate fears of concerned and progressive men and women who have built this country and made it great. Now, faced with NAFTA, they worry that they are being sacrificed on the altar of someone else's economic theory.

They are rightly suspicious of those who favor NAFTA and who so cavalierly dismiss workers' concerns, but have never felt their pain.

The union leaders and union members who oppose this NAFTA are not isolationists or protectionists.

For decades, the labor movement has stood as a bulwark for freedom and democracy against tyranny around the world. The labor movement was essential in making America a strong society. Its advocacy of progressive legislation has brought immense benefits to all Americans, whether or not they have a union card.

Without their active support, we would never have enacted Social Security, Medicare and Medicaid, or the civil rights laws that have transformed America in the past half century. Their commitment to these and many other causes has improved the lives of working families in the United States and throughout the world.

Earlier this year, Republicans in the Senate blocked a vote on the President's $16 billion job creation bill, which would have created more jobs than NAFTA will cost. Many of my Republican colleagues have made it very difficult to extend unemployment benefits. Many of them say that they will block or severely cut back health reform. They oppose needed measures to improve workers' health and safety.

But standing against these compelling arguments against NAFTA is a larger overriding truth. All of the problems that working families face because of the Nation's inability and unwillingness to deal with the dislocations they are suffering will be even worse if NAFTA is defeated.

With NAFTA, there is at least some chance that the worst of the job losses will be reduced, that fewer plants will be induced to move to Mexico to take advantage of shamefully low wages and lax pollution rules, and that some firms previously considering a move to Mexico to reach the market there will now stay in the United States and rely on the important new opportunities for exports opened up by NAFTA.

In addition, there are obvious benefits under NAFTA for many sectors of our economy in Massachusetts. Mexico is a good export market for our State. Our exports to Mexico more than doubled between 1987 and 1992. Over 5,000 jobs in our State are supported by exports to Mexico, and over half of those jobs were created in the past 5 years.

An important part of our State's economic future relies on export industries. NAFTA will eliminate tariffs of up to 20 percent on computers. It will assure intellectual property protections for software, biotechnology, and other high-tech firms. It will reduce other tariffs and nontrade barriers, and open up Mexican Government procurement for sectors like scientific instruments and telecommunications equipment. Financial service firms and firms at the cutting edge of emerging technology in the environmental, health, scientific, plastics, and computer services areas will benefit. Future economic growth in Massachusetts is heavily dependent on these sectors.

Passing NAFTA is also essential if we are to succeed in completing the Uruguay round of GATT, and breaking down trade barriers to our products throughout the world.

We cannot turn our back on progress or cast our votes against the future. Massachusetts, like America, has prospered over the years because of trade, and we can prosper in the years ahead because of trade.

Our challenge is to see that trade is fair as well as free. This NAFTA is only a beginning. It is not the final word. We can work to improve it in the months and years ahead, just as the administration has acted in recent weeks to accommodate the concerns of many in Congress who were reluctant to support the original agreement.

Above all, we owe the most help to those who will be hurt the most by this agreement. In voting for NAFTA, I pledge to do all I can to alleviate the burden, and I am confident that the Clinton administration will be an effective and committed partner in this effort.

President Kennedy understood that when the economy is wrong, nothing else is right. The Trade Expansion Act of 1962 was one of the central economic achievements of his administration. It helped to end a long period of recession and stagnation, and begin one of the longest uninterrupted periods of growth and prosperity in our history.

As he often said, a rising tide lifts all the boats. If we are faithful to that principle, if we make a new commitment to fulfill it, then NAFTA, for all its faults, can be a success, and bring a brighter future.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for 2 minutes.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Montana. I think this truly has been a bipartisan effort. My friend, the Senator from Massachusetts, was talking about some of the other issues where we may have differed, but I think this is a bipartisan effort, and I applaud the President and the Republican leadership and the Democratic leadership for coming together on something that is going to make a difference for America.

To keep the jobs in this country for the working people of America, it is fundamental that America must continue to increase —increase our industries, increase our markets. It is new industries and new markets that will create the new jobs for the working people of America, and that is what NAFTA will do. It is said a rising tide lifts all boats. That is what NAFTA is. We are going to work with our neighbor to the south, and their economy is going to improve, just as it has dramatically over the last 5 years. As they grow, so do we.

One of six jobs in America depends on exports. One of every three acres farmed in our country is for export. Exports equal jobs. So I am proud to support NAFTA.

Illegal immigration has been a problem for this country. I have said many times, and I will say it again, that I have never been so impressed as I was by President Salinas of Mexico when he spoke in Texas in 1991 and he said: We must come together in a common market because we want to export goods not people.

So by having NAFTA build the economy of Mexico while it builds jobs in America, we are going to see our relations with our sister country improve dramatically.

To see our relations with Mexico improve is very, very important for the illegal immigration problem. NAFTA is not an end; NAFTA is a beginning. Canada, the United States and Mexico will create the largest trading alliance in the entire world. What we will take from this when we go through it and it works, is go all the way to the tip of South America. I will just say that the alliance of the Americas will be our strength of the future. Thank you, Mr. President.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there now be a period for morning business for purposes of the discussion on NAFTA; that the Senators who controlled the time during the consideration of the legislation now be in charge of yielding time to Senators for the purpose of speaking on the subject of NAFTA.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I now yield to the Senator from Kentucky for as much time as he wishes to consume.

WHAT KIND OF FUTURE DO WE FACE?

Mr. FORD. Mr. President, I thank the majority leader for allowing us this period of time. There have been so many who have wanted to speak, both pro and con, as it relates to this issue and it is one that has the rapt attention, I think, of the American people. I thank the floor manager for the proponents in handling this in such a manner.

Mr. President, I have listened carefully to the debate. I have examined the treaty very closely, read the economic forecasts and, most important, I have listened to my constituents on both sides of this issue.

Never before have so many Americans and, yes, so many Kentuckians, paid this kind of attention to a proposed trade agreement. They are paying attention because they recognize that NAFTA is about more than just trade policies. It is about what kind of an economy, what kind of standard of living and what kind of future we are to face. It is not just trade, it is about people.

Despite the intense interest, proponents of the treaty have casually dismissed the fears of those who see America coming out on the short end of this deal, of those who see their jobs and business opportunities going south.

Mr. President, who is to say their fears and their interests are not the interests of the Nation, that their fears and their interests are somehow less important, less valuable than those who expect to gain from this treaty?

I am certainly not prepared to say that. Because while I received plenty of those mass mailing postcards and plenty of those computer-generated letters, it was the letters penned on plain old lined notebook paper with just a few sentences that seemed to get to the core of this debate.

There was a letter from a man in Bradfordsville, KY, that asked me just one question: Why should Mexicans want to buy American corn when other South American countries, with little or no standards, produce and sell corn cheaper because of the much lower standards?

There was the letter from a couple in Lebanon, KY, who said they just did not get it. The Government must be trying to pull the wool over the public's eyes. Low Mexican wages might entice manufacturing jobs down south, but how would they increase the average Mexican's ability to buy more U.S. goods?

There was the man from Campbellsville who said that perhaps exports would increase to Mexico, but at what price?

I read a column the other day that disturbed me greatly. That column said whether we gain 300,000 jobs or lose 200,000 jobs is meaningless in a Nation of 130 million jobs.

It is a sad day, Mr. President, in this country when we dismiss thousands of people and their families as meaningless. I say to my friends these letterwriters are not meaningless to me. They are my constituents. They are the men and women who are trying to hold on to their jobs in times of corporate streamlining and downsizing. That is a good word, Mr. President: "Downsizing." That is really laying off, being fired, losing your job. There are families trying to save for their children's education and for their retirement. They are the people who make our communities strong and carry the hope of a better life for the future generations.

Remember them? They are the ones who played by the rules and believed that hard work pays off. And they are the people whose plain old common sense—not fear—says something about the agreement is not fair. If the agreement passes, I sincerely hope that 300,000 jobs are created rather than 200,000 jobs lost. I sincerely hope that we see an explosion of United States goods and products being bought by the people of Mexico. I sincerely hope that if large corporations move south, our small businesses will be able to compete against lower wages, lower taxes and fewer regulations.

But hope will not win my vote today. My concerns have not been alleviated in this debate. No one has adequately answered how this treaty assures that we will not see the one-way flood of goods from Mexico, will not see Mexico become an export platform for other nations with low wages and substandard conditions.

No one has guaranteed that farmers and small businesses will be able to survive the 10 to 15 years that NAFTA allows Mexico to phase out its high barriers to agriculture and industry. No one has explained why we must pick winners and losers. Mr. President, no one has explained to this Senator why NAFTA must pick winners and losers among the U.S. industry with incentives for big business to move south and simply a wish of "good luck" as they leave to the small businesses left behind to fend for themselves—small businesses who live under OSHA, clean air, clean water, and minimum wage and Federal regulations.

Where is the logic in encouraging large businesses to back up while heaping higher and higher standards and higher costs on those who remain?

No one has explained to me how this treaty can be a quick-fix for the American economy. It is wrong to rely exclusively on exports to Mexico to boost our economy.

Exports are only 10 percent of our overall economic activity, and exports to Mexico are a small fraction of that 10 percent. No one has explained to me how, when we currently export almost $50 billion to Mexico, with only $7 billion reaching the Mexican consumer, and the rest coming back as finished goods, that equals more jobs for Americans and more Mexicans purchasing our goods.

That is a false figure, Mr. President. When you count the export and it is going to be assembled in Mexico and come back with a low tariff and low wages, how do we gain many American jobs?

Just how much increased buying power can we squeeze out of a country that makes up only 4 percent of the total buying power of our three countries combined? We hear so much about the $7 trillion economy, $7 trillion economy that we will be able to create here. Well, $6 trillion of that is the United States; 11 percent is Canada and 4 percent is Mexico. Mr. President, that just does not compute, at least not on a computer made in the United States of America.

But perhaps the best lesson is history itself. We heard all these same arguments before China opened up to trade. The talk was just as big. We were going to sell goods faster than we could make them. Yet, while there have certainly been improvements for the average Chinese citizen, trade is still very much a one-way street with China. Our trade deficit with China, our second largest, has increased every year since we opened the door to trading and is now nearing a $30 billion deficit in balance of trade with these United States.

I am not against raising Mexico's standards to meet ours, but no one can explain to those Kentuckians with doubts how we can risk lowering our standards for the sake of signing this agreement.

I am not against free trade with Mexico, and neither are those Kentuckians who have written to me. We need to foster trade relations with our neighbors to the north and to the south. It is in the best interests of the United States that we build a strong trading bloc in this hemisphere, but this agreement does not do it.

What we are against is accepting second best, and this treaty is second best. I believe we can do better than this treaty. My vote today is not a vote for isolationism, but there happens to be some isolationism now in this treaty. Kentucky does not sell any citrus, but we put a barrier up now for citrus. We do not sell sugar, but they put a barrier up to isolate us on sugar sales and others.

In Kentucky, for instance, we do sell a lot of tobacco and we sell tobacco to Mexico. We have had a 20-percent tariff, a request for license fee and franchise fee. They dropped the license fee and franchise fee but raised the tariff to 50 percent. So now it takes us 6 years to get back to where we are today with Mexico, and 10 years to get back to zero. So Kentucky did not receive any favors.

As that constituent of mine wrote, how in the world are they going to buy our grain when they can buy it from other countries cheaper with less standards?

Mr. President, it is not a vote for isolationism but a vote for going back to the drawing board for a deal that takes the American people's concerns seriously.

I compliment President Clinton on his efforts to improve this treaty. Regardless of the vote today, I stand ready to work with him to ensure that this treaty ultimately works for the benefit of all Americans. But for today, Mr. President, my vote is with those people others call "meaningless." I will oppose NAFTA.

I thank the floor leader and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I would like to say a few words about wages as a component of this decision that all of us are about to make.

Many people are concerned that because wages are lower in Mexico than they are in the United States, as a consequence of that, and as a consequence of the passage of the North American Free Trade Agreement, many jobs are going to go south to Mexico.

First, Mr. President, I think it is important to remind all of us that the degree to which jobs have moved south to Mexico, or to any other country—and there has been some of that, no doubt about that, and it is a consequence of intense global competition, particularly in the last 10, 20, 30 years—has happened without any NAFTA. NAFTA did not cause that, because there is no NAFTA. We are here today to decide whether or not to approve the NAFTA.

What is important to know is that Mexico does have low wages. That is true. The minimum wage is quite low. It is 50, 60 cents, something like that, per hour. But the average wage in Mexico is about $2.50, a lot lower than United States wages, but not quite as low as some of the opponents like to say.

Wage rates are a part of investment decisions. There is no doubt about that. It is a factor that any businessman or business woman takes into consideration when deciding whether to locate a plant in one location or another.

But I think if we are honest with ourselves, we also have to recognize that there are many other factors in addition to wages. What are they? One is the cost of health care. Another is the crime rate. What is the crime rate in one location versus another? Literacy, what is the literacy rate? Obviously, the better the literacy rate, the higher the rate, the more attractive it is for a company to locate in that part of the world compared to others.

Schools, what is the school system? Taxes is a big factor. What about the frequency of power outages? It is a big cost to a company if the power outage frequency is much higher in one part of the world than another. Power outage is quite infrequent in the United States, but it is much more frequent in other countries, including Mexico, which has a fairly high frequency of power outages. That means all construction has to stop. The plant line has to stop. It is very chaotic. And starting up a line again, a production line, after it is stopped, also is quite costly. It is very inefficient.

What about the cost of transport, the quality of the telecommunications system? The United States has a quite good telecommunications system. It is very good. It helps a company's production, increases companies' productivity. But other countries have poor quality telecommunications systems. That is a factor a business person takes into consideration when deciding to locate a plant in one part of the world or another. What about the productivity of its workers? Productivity is probably close to the bottom line that any employer must take into consideration.

If a company cares only about wages, Mr. President—and the fact is most companies do not care only about wages. There are many companies in the United States where wages are an extremely low percentage of the cost of the total production.

Mr. President, this debate asks us basic questions about our economic future. And it poses basic questions about ourselves.

Must we hang onto the past and preserve the status quo—or can we open new frontiers and find new opportunities?

Can we compete in the world market and remain a world leader?

Are we guided by our fears or by our hopes?

NAFTA'S EFFECT ON OUR ECONOMY

To answer these questions, let us look first at the details of NAFTA.

What does it mean for our economy, sector by sector?

Manufacturing. The U.S. International Trade Commission finds NAFTA will raise U.S. exports by 16 percent or more in autos and auto parts, electronics, ceramics, computers, and computer parts. They go up 6 to 15 percent in bearings, machine tools, pharmaceuticals, chemicals, industrial machinery, and major household appliances. Employment will rise by up to 5 percent in steel, textiles, bearings, pharmaceuticals, machine tools, and chemicals. We pick up 8,000 jobs by partially opening PEMEX, Mexico's oil monopoly, to American contract bids. Environmental technology firms find a huge new market.

In agriculture, NAFTA means big gains for U.S. exports of wheat, feed grain, corn, beef, and other commodities. Mexico's agricultural tariffs average 16 percent. They go as high as 25 percent on frozen beef. NAFTA brings them all down to zero. And that means $2 to $2.5 billion more in agricultural exports every year.

For service industries like banks and insurers, NAFTA is the best opportunity in years. Today, for example, only 20 percent of Mexican drivers and 8 percent of Mexican homeowners have insurance. American insurance companies will have the same access to Mexico that Mexican firms have today to the United States.

On intellectual property, NAFTA is the best trade agreement ever concluded. It brings Mexico up to the highest international standards. It defends the works and inventions of our writers, software authors, inventors, pharmaceutical firms, and recording artists from piracy. That means they will export more and create more jobs in America.

JOBS, EXPORTS AND GROWTH

Now let us step back a bit and look at the whole picture. What does NAFTA mean for our country?

First, jobs. The International Trade Commission finds NAFTA will create a net of at least 95,000 new American jobs, on top of the 700,000 American jobs that already depend on exports to Mexico and Canada. All will be threatened if we reject NAFTA. Nineteen of twenty studies say NAFTA means jobs.

Opponents of the NAFTA say it cuts loss of deals but not one for workers. Wrong. There is one deal for workers—it is the whole NAFTA. The entire NAFTA is devoted to creating jobs for working people. NAFTA is a jobs agreement.

Second, exports. NAFTA strengthens the trends that raised our exports to Mexico from $12.4 billion in 1987 to $40.6 billion last year, and converted a $5.7 billion trade deficit with Mexico to a $5.4 billion trade surplus this year. And for those of you who wonder, 85 percent of the growth in our trade with Mexico has come outside the maquiladora system.

Third, competitiveness. NAFTA enlarges our home market by 88 million Mexican citizens. Half of them are under 18 years old. As they grow up, they will create a boom in consumer goods that will last decades. And NAFTA will give us a permanent advantage over Japan, the EC, and East Asia in this market.

And finally, growth. NAFTA raises our GNP, permanently, by 0.5 percent. That's $25 billion a year, every year. And since a bigger economy means more revenue, it cuts the deficit at the same time. No serious economist disputes that. Free trade means more economic activity; and that means more revenue. Every major trade agreement has brought in revenue. So will NAFTA.

What is the wildest exaggeration of NAFTA's cost? Totaling every NAFTA-related expense and tariff loss; plus billions we have to spend anyway on border cleanup; and adding a few billion more for fun, NAFTA opponents say it could cost $30 billion. Well, the $25 billion a year in new growth matches that in 1 year and 3 months. Our investment starts paying in March, 1995.

ENVIRONMENTAL PROTECTION

What about the environment? Today we have a disaster on the border. The GAO finds that 8 out of 10 maquiladora plants operate in blatant violation of Mexican environmental law. Last June I visited Juarez. I saw them, and smelled them, for myself.

Today, 55 million gallons of industrial waste and 24 million gallons of raw sewage will pour out of Juarez into the Rio Grande. Today, 50 million gallons of sewage will gush into the Tijuana River. Yesterday, too, and tomorrow, and every day.

We cannot do a thing about it if NAFTA fails. But if NAFTA passes, under the environmental side agreement we can demand that Mexico enforce its laws; and impose trade sanctions if it will not. And, of course, NAFTA sets a precedent for including environmental issues in the GATT and all our trade agreements.

The National Audubon Society explains it perfectly:

> NAFTA is a new kind of trade agreement—one which considers the environmental consequences of free trade, and one which attempts to change an unacceptable environmental status quo. * * * [T]he interests of wildlife and the environment are better served with NAFTA and the Side Agreement than without then.

If you say this is still not enough, you make the perfect the bitter enemy of the good. Maybe you think dispute resolution will take too long. But what is the alternative? If we reject NAFTA, we have the status quo. We will get enforcement right around the time icicles glitter on the roof of hell.

And with NAFTA, Mexico will work with us to clean up the border. Without NAFTA we have to clean it up anyway; Mexico has no reason to help; and the maquiladora program—which NAFTA eliminates—will keep on pumping out the garbage.

NAFTA is also a big step forward for labor standards. The abuses are real. I have seen them. I have talked to Mexican child workers. But the abuses are there now. Without NAFTA we can do nothing about them. The labor side agreement tackles the worst abuses—child labor, evasion of the minimum wage, unsafe worksites. And if NAFTA passes, Mexico has pledged to tie its minimum wage to increases in productivity. On labor too, we set a precedent and improve the status quo.

NAFTA AS PART OF LONG-TERM ECONOMIC STRATEGY

Altogether, NAFTA enlarges our home market from 270 to 360 million consumers. It promotes U.S. exports in high technology, manufacturing, services, and agriculture. With the side agreements it makes Mexico meet high standards of environmental protection and labor rights. And as Clyde Prestowitz says, NAFTA gives us some control over movements of capital by allowing us:

> * * * to do in Mexico what Japan has done in Thailand. There, Japanese companies have invested and assembled components shipped from Japan into products for export to the world. Japan thereby runs a trade surplus with Thailand, while both their production and exports increase. Under NAFTA, United States firms should be able to do the same in Mexico.

Likewise, the EC brought Spain, Portugal, and Greece into the Community when their wages were one-third of Germany's. Since then, wages in both Germany and southern Europe have gone up. The same will happen here, when we bring in Mexico.

WAGES AS PART OF INVESTMENT STRATEGY

NAFTA opponents think otherwise. They say we cannot compete with low-wage workers. Every job NAFTA creates in Mexico will come right out of the United States.

Well, Mexico does have low wages. And wage rates are part of investment decisions. But so are many other things: the cost of health care; the crime rate; literacy and schools; taxes the frequency of power outages; the cost of transport; the quality of telecommunications; the productivity of the work force.

If a company only cares about wages, it can go to Mexico today. Of course, if it only cares about wages it probably will not go to Mexico. Lots of countries have much lower wages. It can move farther south to Bolivia, across the gulf to Haiti, down the Pacific to Peru, or to any of dozens of other countries.

But they are moving now, and NAFTA lets us control the process, and keep high-technology, high-skill, high-wage jobs in the United States. And of course, investment decisions in the real world are much more complex than NAFTA opponents admit.

Here is an example. Mexican auto jobs pay about a tenth of American auto jobs. If pay were the only issue in auto plant decisions, NAFTA would be terrible for American autoworkers.

But pay is not the only issue. The Office of Technology Assessment compared the cost of making cars for the U.S. market. They counted in not just wages but health benefits, productivity, transport costs, and other factors. They found that when Ford wants to sell a car in the United States, it costs $8,770 to make it here and $9,180 to make it in Mexico. thus, for every car Ford makes in Mexico and sells here, Ford loses $410 in profits.

That is a good reason to make cars here. It is why GM will make the 1995 Chevy Cavalier in Lansing, not Mexico. NAFTA also abolishes laws forcing companies that sell cars in Mexico to make them in Mexico. Together, that is why the guy on the line at Ford—and every American autoworker—is a big winner with NAFTA. NAFTA makes it more, not less, attractive to invest in America.

The same is true in other industries. Quality Coil moved to Mexico from Connecticut in 1989. Four years later it moved right back, because as its CEO said, one employee in Connecticut produces as much as three in Juarez.

McIlhenny moved a plant from Mexico to Louisiana, where it can fill bottles of Tabasco four times as fast.

A Mexican maker of pizzas and pasta, Pasta Exclusivos de Mexico, just decided to move from Mexico City to Texas. Why? Late delivery by Mexican suppliers, high absenteeism and worker turnover, bureaucracy, unpredictable blackouts and power surges. Above all, productivity.

Six Americans on an automated line can make 15,000 pizzas an hour, as much as 35 Mexican workers make in a whole day. Pasta Exclusivos will pay the Texans who work on that line $7 an hour, almost five times as much as Mexico City's $1.50 an hour workers. But, as Gabriel Cohen, the company's chief financial officer, says, "Labor costs are a relatively insignificant part of the picture—about 2 percent of all outlays."

TODAY'S ONE-WAY FREE TRADE AGREEMENT

That is how the real world works. But even if you could ignore productivity, absenteeism, government red tape, power failures, and transport costs, saying that rejecting NAFTA will keep jobs here makes no sense. Why is that? Because the U.S. tariff NAFTA will eliminate makes so little difference.

Our tariff on Mexican goods averages 4 percent. A Mexican-made microwave oven that costs $100 today will cost $96.15 once we abolish the tariff. The buyer saves $3.85. If he has two kids, he can use it to buy them each an ice cream cone. It is hardly a lot of money.

Of course, the oven is probably a maquiladora product. That means it already comes duty-free. It will not cost a penny less if NAFTA passes. Today, at least 30 percent of Mexican goods come in duty-free through the maquiladoras and the Generalized System of Preferences. We're already close to free trade from Mexico.

By contrast, Mexico's tariff wall averages 10 percent. And on the far side of the wall is a minefield of quotas, investment restrictions, and other non-tariff trade barriers. NAFTA gets rid of them all. NAFTA makes our one-way free-trade agreement a two-way free-trade agreement.

NAFTA AND LATIN AMERICA

Now let us look at what NAFTA means for our ability to remain the leader of our hemisphere and the world.

Every Latin American nation is watching this vote. If we vote "yes," we act in the tradition of Franklin Roosevelt's good neighbor policy, John Kennedy's Alliance for Progress, and Jimmy Carter's crusade for human rights. We create jobs and prosperity in the United States, Mexico, and ultimately the whole hemisphere.

What will they think if we vote "no"? At the very least they will conclude—rightly—that their economic future does not lie with the United States. As Octavio Paz said 10 days ago, if we reject NAFTA:

> It would not be impossible for Mexico to look toward Japan or the European Community for trade and investment. More important, rejection would unleash a wave of anti-U.S. sentiment that would quickly spread to the rest of Latin America.

NAFTA AND ASIA

Our decision is just as important in Asia. Out in Seattle, President Clinton is doing everything he can to open the fastest-growing markets in the world to American goods. He met ASEAN leaders to make sure we are in on Southeast Asia's economic boom.

Today he will meet Prime Minister Hosokawa of Japan and President Jiang Zemin of China to cut our two biggest trade deficits and open the world's second and fifth largest markets.

What does our debate mean for these talks? The President, since he is an optimistic man, puts it this way:

> [NAFTA passage] will give me enormous leverage when I * * * meet with the General Secretary of the People's Republic of China, when I go out to meet with the Prime Minister of Japan and all the other leaders of Asia, when I try to convince the Europeans that it's time for a world-wide trade agreement.

But if we turn him down, he goes to these meetings a shrunken, diminished leader. How can he get agreements from Japan and China, if he cannot get one from his own party?

NAFTA AND THE GATT

The consequences would go well beyond Latin America and Asia. They would reach around the world. We have twenty-five days to finish the Uruguay Round of the GATT. If we succeed we could raise world economic production by $270 billion a year. We could raise American GDP by $65 billion a year by 2003, and $130 billion by 2013.

A successful round would let us export $6 billion more a year in farm products; protect pharmaceuticals, movies, recordings, and software programs from pirates; open new markets to American banks and insurers; and cut tariffs, abolish quotas, and eliminate other barriers to trade around the world.

But if the round is to succeed, the countries with the most egregious trade barriers have to give a lot. Japan's tariffs on wood products. The European Community's agricultural export subsidies and broadcast quotas. The developing countries with no pharmaceutical patent laws, rampant copyright piracy, and restrictions on services. They will not do it if they think President Clinton cannot deliver the agreement in Congress.

And that is just what they will conclude if we reject NAFTA. They will never open their markets, give up their farm subsidies, or protect our intellectual property works if they believe President Clinton can't get Congress to approve a deal anyway.

NAFTA AND DEMOCRATS

Finally, for those of us who are Democrats, let us put trade policy aside for a moment and think about what this vote means for our party.

There can be no question of renegotiating this agreement. Mexico will not take a slap in the face—Mexico will not take wild claims that it is a Stalinist dictatorship or an international economic basket case—and come back for more. There is no question of another NAFTA or a "North American Common Market." Rejecting NAFTA is rejecting free trade with Mexico. Mexico knows that and will look for its future elsewhere. So our choice today is a permanent choice.

If we kill NAFTA today—if we repudiate the legacy of Roosevelt, Kennedy, and Carter—we will make sure our first President in over a decade fails as an international leader. We reveal ourselves as isolationists and protectionists.

And we prove our party to be incapable of governing.

If we reject NAFTA, we show ourselves a party with no discipline; a congressional party, not a national party; a party of permanent opposition, which cannot work even with one of its own in the White House. Why in that case would the American people turn to us again in 1996? Or ever?

That is for Democrats. But for all of us, the questions this debate poses, the questions we must answer today, are very basic and very clear.

We can cast a vote for fear. We can vote the agreement down and stick with the status quo. And in the long run, as Vice President GORE said in his debate with Ross Perot, we can close our market and return to the world of the Smoot-Hawley tariff.

Or we can cast a vote for hope, for new frontiers and opportunities, for jobs, and for NAFTA.

If you honestly think—like Perot and Pat Buchanan—that we can prosper by closing our market at home, you must oppose NAFTA.

But if you believe we can only prosper by exporting, opening markets abroad, and creating new jobs, you must vote for NAFTA.

We who think the status quo is not good enough—we who do not want to go back to Smoot-Hawley—believe more exports, stronger environmental protection, higher labor standards, a larger market, and more jobs are good for America. And thus we conclude that NAFTA makes us better off than we are today.

I think fear makes a poor and errant guide. I think Benjamin Franklin was right when he said, "No nation was ever ruined by trade."

Mr. President, reason is a better guide. Hope is a better guide. America can compete. America can lead. The right vote on NAFTA is "yes."

The PRESIDING OFFICER. The Senator from Michigan is recognized and has by the prior agreement 33 minutes.

Mr. RIEGLE. I thank the Chair.

Mr. President, there are a lot of things to respond to here today. I spoke earlier this morning in a very limited time period so I was not able to cover many points I will now attempt to cover in terms of responding to some of the issues raised by the Senator from Montana, and others, earlier in the day.

Let me start by saying again that the NAFTA that is before us is terribly threatening to this country and is going to do great damage to the job base of our country and to our economic future. When you damage the job base you damage people. You damage their lives, their hope for the future. And you start to tear apart the social order and the social fabric of the country.

That is really what is involved here. This is a very dangerous turn of events, and it is not coming in a vacuum. We have a lot of other problems in America today. We have drug problems. We have problems of persistent poverty in many areas of the country. This has gotten much worse under trickle down economics under Raeganomics. You have the downsizing in defense industries. You have major companies in America downsizing and shaving benefits. You have tremendous job-market problems anyway. There are many economic riptides going through our system today.

And you have tremendous economic problems around the world. You have very high unemployment in Europe today. Everyone who is talking about the virtues of the European Community is omitting the fact that in the major countries of Europe unemployment today is well over 10 percent. There is a lot of urban unrest and violence in those places, in part because of high unemployment, and the problem is getting worse, not better.

So to bring NAFTA into the picture now where we have all these other difficulties in our own country I think puts the Nation at real risk.

Unfortunately, this is a very insulated environment around here. The Members of the Senate spend a lot of time talking with editorial writers and talking with some of the big business, big economic interests people and spokespeople and so this is a kind of group-think process that goes on and everybody basically ends up saying the same thing to one another.

So when the word gets implanted and the propaganda campaign builds up to the point that everybody is saying NAFTA is a wonderful thing, in here within the Beltway so many of the elite, the political, economic, and so-called cultural elite, keep repeating the same thing to one another. It is sort of like lemmings. After a while it takes on a force of its own because if you speak a contrary view then, first of all, you are not part of the group thought process of that elite but, second, you cannot really penetrate in any meaningful way their thinking because they are immune to argument or evidence.

It has become a matter of reinforcement within that group of a point of view that they have developed, and they do not want to think differently. They do not want to hear facts that challenge the suppositions. Frankly, they, for the most part, are ignoring the terrible economic difficulties in our country.

I talked with two people the other day who are for NAFTA. These are two individuals who are doing very well in our society, making several hundred thousands of dollars a year. In the same conversation, they were complaining about the crime problems here in America. They live here in the Washington area. They do not feel they can go out of their apartments or condominiums safely during the day or at night to walk their dogs or to run or jog or even to walk to a store to buy something, because of their apprehension about the crime problem.

And yet, they and many others have a hard time seeing the cross-relationship between the fact that if you have persistent high unemployment and very little opportunity for somebody to break in to the economic system to get a job and climb the economic ladder the way people could in this country 20, 10, or 30 years ago, you are going to help seed crime, then you are going to create an environment where there is an antisocial attitude that takes hold, there is not a view that everybody is important. And we are not going to have enough jobs to go around. It is very easy for a culture of crime to take hold, partly driven by the economic deprivation, but also by the fact that there is a breakdown in any sense of social enfranchisement, of a social connection one to the other.

If a society as a whole and the Government is, in effect, saying that unemployed workers do not matter, what is in that message that goes out to people in the country who are dispossessed, who have low opportunity, who may feel desperate in their own ways, who have not had the advantages that others of us have had? What is the message to them?

If the message is that that is all right, that is how the society works, grab what you can—if they see the corporate elite grabbing what they can, if they see Members of the House of Representatives being able to be, in a sense, bought and paid for with a vote for NAFTA by grabbing what they can, then why is not the message out to the society as a whole: Grab what you can.

Well, of course, that is the message. But it is a very destructive message and it is a message that is taking this country downhill.

And so this is not just a one-dimensional issue. This is an issue about our economic future. It is about how people are able to live, about the fabric of our society, whether we care about whether people have job opportunities and whether people can have a decent life, whether they have a chance to form families.

Today more and more of our college graduates who go through college and amass excellent academic records and a good record of part-time work experience and other extracurricular activities, are finding when they circulate their résumés, that they cannot get any job. Many of them, after circulating their résumés several months after graduating, are generally giving up and going back and moving in with their mothers and dads, which makes no one happy.

I have talked to any number of people who have lost their jobs in the financial sector, in the automotive sector, in the defense production sector, high-tech, at large firms, medium-size, small-size firms, who have not been able to find alternative work and are drifting out there today, unemployed in many cases, for many months and even years.

And oftentimes, when they finally find a replacement job, if they were earning $30,000, maybe the replacement job pays $15,000 or $12,000 a year.

So, as I said earlier, I am running into more and more cases in Michigan where, in families that are intact, both the mother and the father are each working at as many as two or even three jobs, and so they are never home. They are working two shifts each day, sometimes at a Kmart, sometimes at a Burger King, maybe at or just above the minimum wage.

But by the time you pay your Social Security taxes and other taxes and you pay your automobile insurance, probably on a second- or third-hand car, and you buy gas to get to work and you buy clothes, even if they are used clothes, you do not have enough money left after those kinds of low wages, even in three or four or five jobs in one family, to provide a decent living standard for that family.

Now maybe that works in Mexico, because we know wages are very low down there and the living standard is very low down there. But it does not work here in America.

What it does is it steals the American dream from people and that is what has been happening. That is why there is so much disillusionment in the society. That is why our political system is in turmoil. That is why we had a third-party candidate run and amass nearly 20 percent of the vote in the last national election. That is why the President, when he was elected, got only 43 percent of the vote. That is one manifestation, and rising violence and crime is another manifestation.

Just as many voters decide it is not even worth voting. And I see why they would feel that way when they watch this debate coming out of this Chamber today, listening to all of this economic elitism being peddled here as to how wonderful this thing is going to be.

People out across the country have already seen how NAFTA works because we have had, in effect, a sort of NAFTA for many years now in the maquiladora program. We have shipped all kinds of work down to Mexico. Plants all over Michigan have closed. I have talked to the workers in plants that have closed and moved to Mexico.

I say to the Senator from California, I visited a plant recently in a town just outside of Detroit, principally a work force of women. They were making radiator hoses. That company just closed and they moved the jobs down to Mexico. They had 2 weeks to go before the plant was actually going to close. I went out there to talk to the women who were working there. They were told, by the way, by the person managing the company, that if they came out to talk to me about it, as a U.S. Senator on the sidewalk, they ran the risk of not being able to stay on and finish the last 2 weeks of work before the plant did close. That was the intimidation to keep them from talking to me. Many did come out and talk to me, despite that fact. Most of them are single, heads of households. They are just scraping by, so they may have 2 or 3 children at home, trying to hold their lives together, and they have no alternative work.

Now that plant is closed. There is no other work for them to do. They cannot get an income.

I mean, the notion that they can provide properly for their children or have health care, it is out of the question.

I talked to some women in Owosso, MI the other day. Their plant closed about 3 years ago. Their stories would break your heart. We sat around a coffee table in a restaurant and talked for a while.

Here is what they told me. They told me that they had been so poverty stricken since their plant closed and no replacement work, that they buy virtually all their clothes at yard sales. They virtually buy no new clothes, because they cannot afford even to go to low-cost outlets, like Kmart or Sears or Penney's to buy something because they just cannot afford it. They just do not have the income. They have too many basic necessities that they have to pay for to keep food on the table and the utility bills in the winter time, and so forth. So they are buying clothing that has been used two or three times before, they are buying used shoes.

We hear this talk about us selling more cars to Mexican workers. We need to sell more cars to American workers. We need to have workers in America that can afford to buy cars.

I asked them around the table, I said, "Can you imagine in your lifetime ever being able to buy a new car built here in this country?" And they could not even imagine it. I mean, they sort of laughed out loud around the table, sort of a cynical laugh, because it is so far beyond any possible reach that they now see; that it is out of the question. It is all they can do to scrape together enough money to buy a car that has maybe been owned by four or five other people and has 125,000 miles on it, an old wreck. And that may be all they can afford.

So the notion of some day being able to buy a new car is out of the question.

But when I hear the Senator from Montana talk about the fact that these wage differentials do not mean anything, then why are we now shipping billions of dollars worth of work down to the maquiladora areas to have the work processed and then bring it back into the United States? Of course it is being done to take advantage of the low labor rates and the low environmental standards and the low workplace standards.

But what this does, if NAFTA passes, as it is about to, it is going to validate that and it is going to say it is fine to do that and it is going to put every other firm in America under terrible pressure to follow that example of going down and taking advantage of those low-cost Mexican wage earners and knock the worker here in America out of work. But also, to then go to other workers in America in firms where they are now earning low wages and say, "Look, if you do not accept even lower wages, or if you do not accept a reduction in what meager benefits you have now been getting, we are going to close this plant and move to Mexico." And it is going to downgrade the wages of the workers that are still left here in America.

Mrs. BOXER. Will the Senator yield for just a very brief moment?

Mr. RIEGLE. Yes, of course.

Mrs. BOXER. I want to thank the Senator from Michigan because he puts all this in plain English. The bottom line is there is going to be downward pressure on wages in terms of the people who are lucky enough to keep their jobs.

Mr. RIEGLE. That is right.

Mrs. BOXER. Because the threat will be there: We are going to go to Mexico. And this treaty is an open invitation. And the other point the Senator makes so eloquently is there is nothing new about NAFTA. People stand up and say, "This is new, let us not be afraid, it is bright"—it is as old as the hills. It is exploitation of workers. It has been going on forever.

What would be new——

Mr. RIEGLE. Exactly.

Mrs. BOXER. Is if we, as proud Americans, said: Yes, we want you to come into a common market and here are the markers you have to meet for workplace standards and safety and human rights and democracy. And then we will have a common market we can be proud of.

So I want to thank the Senator. The Senator is going to be missed here. But at least we have you for another year and a half, and am I glad we have you for this debate.

I yield.

Mr. RIEGLE. I thank the Senator for her personal comments and also for her observations.

May I ask the Chair how much time remains of the time allocated to me?

The PRESIDING OFFICER. The Senator has 20 minutes left.

Mr. RIEGLE. I must say I am very grateful to my colleague from Montana for speaking for 33 minutes, because it gives me the chance to do exactly that, to present the other side. So I am gratified, really, beyond words for that.

I want to now illuminate another part of this problem. It has not gotten talked about much because it is sort of the dirty little secret that has been swept under the rug in the NAFTA debate and it is one of the problems the elite really choke on because the facts are so difficult for them to deal with.

We have a huge drug problem in America. We have a huge drug problem with drugs coming from Mexico into America. It is going to get a lot worse. The drug problem in this country is going to get a lot worse when we go into this kind of open market arrangement under NAFTA. A number of very important, authoritative articles have been written in national news publications that lay this out. I am just going to read a little bit from one to put these facts on the record. This is from the New York Times.

The New York Times is passionately for the NAFTA. They have propagandized for it, I think shamelessly, in an awful lot of what they have written. But the drug problem is so serious that even they have had to write a story about the threat that it poses to our country.

This is an article that ran this year, on May 24. Here is the headline on that New York Times story, which I have previously had printed in the RECORD. It says, "Free Trade Treaty May Widen Traffic In Drugs, U.S. Says," the treaty being NAFTA. This is what it says, quoting now directly.

> Cocaine smugglers working with Colombian drug cartels are starting to set up factories, warehouses and trucking companies in Mexico to exploit the flood of cross-border commerce expected under the North American Free Trade Agreement, United States intelligence and law-enforcement officials say.
>
> The Mexican smugglers are buying and setting up the companies "as fronts for drug trafficking," said a report written by an intelligence officer at the United States Embassy in Mexico City. The phenomenon was confirmed by a senior United States official who oversees enforcement of anti-drug laws and who spoke on condition that he not be named.
>
> The cocaine traffickers "intend to maximize their legitimate business enterprises within the auspices of the new U.S.-Mexico free trade agreement," the report said. The report was released under the Freedom of Information Act to the National Security Archive, a private research group in Washington that seeks to declassify Government documents.
>
> TAKING ADVANTAGE OF ADVANTAGE
>
> The document said traffickers planned to invest in trucking and warehousing businesses in Mexico as conduits for drug shipments. They have also started to buy manufacturing and assembly plants known as maquiladoras as fronts for drug shipments, the senior United States official said.

I am going to jump a little further in the article:

> A trade expert and two former United States trade negotiators said that while United States and Mexican officials had foreseen the possibility that drug traffickers would take advantage of the trade pact, the problem was not raised during the negotiations. In fact, the pact does not address law enforcement issues related to trade.
>
> WHY IT WASN'T TALKED ABOUT
>
> "This was in the 'too hot to handle' category," said Gary Hufbauer, a senior fellow at the Institute for International Economics and co-author of a favorable book about the trade pact. "It's a painfully obvious problem. The huge increase in traffic will provide a huge cover for drug traffickers."

It goes on at great length here and, as I say, I put it in the RECORD just 2 days ago.

Why would the New York Times, citing U.S. intelligence reports and other unnamed but clearly high-ranking officials they talked to to confirm this, print this story about the severe danger of a massive increase of drugs into the United States under NAFTA? Because that is precisely what is going to happen. And that is what is happening.

The law enforcement system in Mexico is virtually nonexistent. Corruption there is rampant, everybody knows that, from the elections, right down through the court systems, to bribing local officials. It is just commonplace. It is well known. It has been documented. Everybody who studies the problem admits that problem. They say it is going to get better. It has not gotten better to any appreciable degree over a long period of time, but that is the problem we face.

Understand that over half the cocaine coming into the United States today comes through Mexico. Have you heard any of the pro-NAFTA people make that point? Has a single one talked about it? Or what we might do about it? Or been honest enough to admit that aspect of the threat to our country? I have not heard one word said about it off that side.

Why? Because they do not dare talk about it. I have put into the RECORD other major articles from the Houston Chronicle, from other major national newspapers that have run front-page stories on the problem of just drug trafficking alone, and the explosion in the volume of drugs coming across the border from Mexico.

How is it going to work? A drug smuggler, as this article points out, comes in and buys a different business in Mexico. It can be anything, making tires or axles or any kind of a product. They load them up, put them in the trucks, bring them on up here.

There is a huge volume of trucks going to be coming across the Mexican border into United States, and that is a very easy way to get the drugs in here. We cannot possibly examine all of these trucks. We are not doing it now. That is why over half the cocaine coming into the country now is coming from Mexico. But you open the floodgates and you have given this open invitation to the Colombian drug lords and others to move to Mexico, which our own intelligence reports tell us they are doing, because we are opening the doors wide open for this to happen.

Is that smart? No, that is stupid. But we are doing it. Why? Because some people are going to make billions and billions of dollars under the NAFTA. They are going to do it by moving plants to Mexico, as we have seen in the past, to take advantage of the low-cost labor and low environmental standards and the absence of environmental protections and workplace protections.

The same thing in the area of pesticides. There are pesticides that we have banned here in the United States that are in use in Mexico. You better get ready for it because you are going to start eating those pesticides and so are your kids, once the Mexican produce starts coming across the border in the expanded volumes in which it comes in here. You are not even going to know about it. You are not going to know where this produce comes from. You are not going to know whether you are eating DDT or feeding it to your kids, but that is going to be happening. Why? Because somebody is going to be making an enormous private profit by bringing it in off low-cost labor into this market and the buyer beware. In effect, the buyer be damned. That is what is going to happen.

We just had an article 2 days ago on diseased cattle coming in. Because they have major problems in that area in Mexico and they are infecting, now, the herds of cattle in Texas, and the cattle people in Texas are all up in arms about it. We are all eating that hamburger and all eating the other products that are coming out of there. But somebody is making a lot of money.

I will tell you who is not going to be making a lot of money, and that is going to be the workers in America who lose their jobs and have their jobs go to Mexico. Those workers who are out of work now, that I described, in Owosso or the other areas of Michigan, who have had their jobs go to Mexico, they are in desperate trouble.

Do you know what? They think this country of ours does not care about them. Do you know what? This country does not show any sign of caring about them. We talk about, well, we are going to help the displaced workers. There is precious little here to help the displaced workers. One of the great ironies is that the people in the House of Representatives who voted to pass the NAFTA are, by and large, the very same people who voted against a job stimulus program for workers in this country just a few months ago.

So they are happy to vote for jobs for Mexico and to vote against jobs for America. So we have more and more people out of work, working part time, desperately needing work and income, and they are being told, "Sorry, we have nothing for you. We cannot help you." But we can have a jobs program for Mexico.

So we are going to have 60 million Mexican workers, working at a tiny fraction of what we earn, coming now into the U.S. labor force. They are going to compete with every other worker in America. They are going to compete for what work is available and they are going to compete on the basis of wages.

We know from all that has been said that their productivity down there, particularly in their manufacturing operations, is very nearly as high as ours, but at one-seventh or maybe even one-ninth the wage levels we are earning at now.

So when the Senator from Montana says wage levels do not matter, then why have over 500 companies gone down to the maquiladora areas to set up manufacturing, a large part of which turns around and comes back into the United States? If low labor rates are not worth it, then why have they done it? Are they fools? Of course they are not fools. They are making billions of dollars doing it, and they are intimidating workers in this country. This is the final outrage of trickledown economics. This is the revenge of Reaganomics. It is the revenge of George Bush leaving this NAFTA package here and convincing, unfortunately, this administration to take and ram it on through.

There has been more to it than that. There is a ton of money that has been spent on taking and lobbying this bill through the Congress. I put in the RECORD before articles out of the Wall Street Journal and out of the National Journal. Here is the one out of the Wall Street Journal earlier this year. Headline: "Mexico Mounts a Massive Lobbying Campaign to Sell North American Trade Accord in the United States."

> Critics of the North American Free Trade Agreement charge that under the trade accord, Mexico will snatch U.S. jobs, but Mexico has already set off the boom in at least one U.S. industry: Lobbying.

This is the Wall Street Journal—

> Mexico is bankrolling a nationwide campaign to sell the trade accord to Americans. Crafting and carrying out this campaign is an impressive lineup of political heavyweights, including former U.S. Trade Representative William Brock; Toney Anaya and Jerry Apodaca, past governors of New Mexico; former Commerce Department trade chief Robert Herzstein; and retired Navy Secretary Edward Hidalgo.

And the list goes on.

What the Mexicans did in one specific case, they came here to the United States to our own former Trade Ambassador, William Brock. They hired him; the Mexican Government hired him to change uniforms, go to work for them—our former top trade official—and help ram this thing through the Congress. Do you know how much they are paying him? They are paying him $30,000. You say, "$30,000 a year?" No, $30,000 a month; $360,000 a year. That is more than we pay the President of the United States. And he is one of dozens—this article lists them, Republican and Democratic lobbyists downtown here. Every single one has been hired by the Mexican Government to the tune of tens of millions of dollars to propagandize this thing through here. And all of the propaganda that they have been putting out for months I am hearing in all of these speeches by the pro-NAFTA supporters over the last few hours and days here in the United States Senate.

"The wage levels don't matter." Baloney, that is what this whole thing is about. Of course the wage levels matter. If the wage levels did not matter, this would not even be talked about. We would not have all these hundreds of thousands of jobs down in the maquiladora areas.

The Japanese and others cannot wait for this to happen. Do you know under NAFTA, Japan can come into Mexico, they can set up a plant—and they are buying all kinds of facilities down there now. They can ship in half the parts—all the good stuff, the engines and all of the sophisticated equipment into Mexico from Japan. They can add the other 50 percent of the building of the car with Mexican labor, some of it through subsidiary companies in Mexico that are also owned by Japanese firms. As long as 50 percent of it is built by the Mexicans, they can then send it duty free into the United States and not have $1 of value in that car of anything from the United States or $1 of labor from a single worker in the United States. It can be half Japanese, half Mexican and come storming right on in here. You think they are not going to do that? Of course they are going to do that.

Why would we ever enter into an agreement like that? I can understand why George Bush and Carla Hills would do it, because I know what their philosophy was and their orientation was. It was anti-worker. They had an economic program for every country in the world except this one, and that is why they were thrown out.

This is a jobs program for Mexico and, my Lord, we need a jobs program for America. The fact that I said earlier, we have over 500,000 homeless veterans alone in this country right now who cannot sustain themselves. We ought to have a program to let them go to work, for crying out loud. They were important enough to us earlier that we asked them to wear the uniform of this country and defend this country, and they went off and did it at the risk of their own lives and many of them carry wounds from the wars they served in, many in Desert Storm.

Now they are back and they cannot find work and they are out homeless living under bridges, in doorways and in cardboard boxes. And yet, we come in here now with a jobs program for Mexico.

I want Mexico to do well, but our first obligation ought to be to have our people do well. What about people in America? I thought they elected us; I did not think the Mexicans elected us. I thought the Americans elected us. We ought to come in here and go to bat for our people first. When we see to it that we have enough jobs to go around for our people, then let us see what we can do about helping create jobs some other place. But you do not take and steal from your own people to give to somebody else. You do not tell somebody in America, "Sorry, you don't matter; you don't count; we don't hear your problem; we're too busy to help you because we have to go down south of the border, or somewhere else around the world, and help somebody else."

I am sick of that. So is the country. And this elitism that permeates this debate, all these wonderful gossamer visions about jobs in the future. People have to eat today, they have to eat tonight, they have to feed their kids tonight. We have people by the thousands and hundreds of thousands in this country, families that are out living in cars, for crying out loud, because they do not have the money to put a roof over their head and they are out living as roustabouts to go here and there to try to find a little work here, a little work there.

In Detroit, MI, I can take you to street corner after street corner, as I can here, where people are holding up signs that say, "We'll work for food."

We are not talking about back in the Depression. We are talking about today in November 1993, Americans who need work. And NAFTA turns its back on them in order to generate private profit for the economic elites. This is Wall Street versus Main Street.

It is as clear as a bell, and it is going to devastate not just our job base but it is going to hurt a large part of small business in this country. When the big firms go, the little firms die as well. They do not have the resources to pack and go down to Mexico and take advantage of cheap labor and low standards in Mexico. And they are going to get snuffed out here in this country. It is the one job engine we have had, that being small business. They are not helped by this and they are smart enough to know it.

But we have a giveaway mentality inside the beltway and we want to help everybody everywhere except our own people. The worse the problems become, the harder of hearing we get. The more the cries rise, the less we seem to be able to understand it and do anything about it.

Well, there is going to be some retribution. You wait and see. People are not going to accept having their Government turn their back on their basic human needs and on their family needs, and that is what is happening here.

So the college professors, the academic elites, the editorial board elites, the economic elites that are living off the fat of the land and who are out of the line of fire willing to feed the working class into the line of fire, you may win a temporary victory now, but a day is coming where the working people and the little people of this country are going to take power back. When they take it back, we are going to change the way these kinds of decisions are made because people are being ruthlessly exploited. They are being exploited today and they are going to be exploited far worse under NAFTA. That is what it is all about. That is why it was Ronald Reagan's idea in the first place.

Yes, and it probably will destroy what is left of the labor movement in this country, and that will be a shame because the labor movement in this country helped us build the middle class, and the middle class has made America what it is. It has enabled us to be a melting pot.

Somebody talked the other day about isolationism. We better worry about isolationism here in the United States, of isolating our own people, of isolating the underclass, of isolating black citizens in this country who face unconscionably high rates of unemployment. We talk about holding families together. You try to hold a family together if you cannot find a job. Give people a job and you will start seeing families holding themselves together.

I saw a guy the other day in Michigan on a motorcycle. He was down to the pocket change in his pants at a job training center. He had a whole armload of certificates showing how accomplished he was in machine tool work. He told me how he had had to leave his family to go out on the road, desperate to find work, and he was down literally to the little bit of gas that was left in the gas tank in the motorcycle and change in his pockets. As he was showing me the certificates of about 10 or 15 years of competent work and achievement, he began to cry, and the tears were coming down his face, over the fact he had had to leave his family and leave his children to go on the road like this. There is that kind of a demeaning experience in this country, a real, live, breathing person, and you can multiply him by the millions.

Now, how do we get them in here? How do we get their voice heard? Is there anybody in here who cares about them enough to spend 5 cents to help them? I am not talking about spending the money to help the Mexicans and to get their economy going and to rev up their job situation. I am talking about really getting at the hardcore unemployment in the United States.

What if we just had a program to start with the veterans? Are people here who are for NAFTA willing to spend the money if we give it to the private sector to hire every unemployed veteran in the United States, to give them the dignity of work and the chance to be able to sustain themselves and to have an identity again?

No, we are not willing to do that because we are a bunch of hypocrites. We are not willing to do it.

We went into the situation the other day on the gulf war syndrome. We have thousands upon thousands of sick veterans from Desert Storm. I think part of it is chemical poisoning. Can we get the Defense Department to acknowledge the problem? No, they cannot see the problem. I asked them if they would designate at least a code under the veterans benefit program, gulf war syndrome, so they would be eligible at least to be able to be covered so they would not end up being homeless as they try to pay for health care. So far they have refused to do that.

That is how we turn away from our own people. That is what is destroying people's faith in Government and in democracy itself. You wonder why people are not voting. This is why they are not voting. Oh, I know the elite are voting because they have this thing wired, and when they cannot wire it on the inside, then they hire all these lobbyists that the Wall Street Journal talks about and the National Journal talks about to come in and steamroller this thing through. If this does not work—and by the way, that had failed up until a few days ago—you know what they do? They take out the checkbook of the American taxpayer, they go over to the House of Representatives and they shop around. They say to this Member of Congress or that Member of Congress, what does it take? We know you are against NAFTA and we need you to vote for NAFTA. You want an aircraft carrier? We will work that out. You need a bridge here, you need this, you need that? It has all been reported out, so then you go and buy the votes. You wonder why people are cynical. They are cynical because the Government is turning its back on the working people of this country, and NAFTA is about the most dramatic example of that that anyone could ever hope to see.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Iowa is recognized.

Mr. GRASSLEY. I ask unanimous consent to speak 22 minutes on the Clean Air Act.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I object. We are here in morning business for the discussion of the North American Free-Trade Agreement. I wonder if there are other Senators here who wish to speak on the North American Free-Trade Agreement.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Point of information. Have we been extended time between the 20 hours of time for debate on NAFTA?

The PRESIDING OFFICER. That is what is happening by consent.

Mr. GRAMM. Will the Senator yield me 5 minutes?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I am not going to get into a debate with our distinguished colleague from Michigan. I try to remember there is not much use trying to convince people who are not going to be convinced. But I cannot be walking through the Chamber and hear someone call a commitment to trade a betrayal of the American worker and not respond to that.

I remind my colleagues of several facts. First, from the colonial period until today, whenever America has engaged in any trade activities, we have always been trading with countries where wages have been lower than in our own country, and I hope that this will always be the case. As long as we maintain the greatest system of opportunity in the history of the world, as long as we are committed to science and technology in the future, I believe that this will always be the case.

Second, I would like to remind my colleagues and anyone watching this debate, despite the fact there is a lot of passion in opposition to NAFTA, despite the fact that it is very easy to frighten people about NAFTA and about trade, the bottom line is that no one has presented any evidence whatsoever to substantiate the claim that free-trade agreements denude countries of jobs or drive down wages.

When I spoke earlier today, I pointed out that no one in this whole debate has presented a single case where a country by entering into an agreement to have free trade with another country or group of countries or by entering into an agreement to mutually lower tariffs, in the 5,000 years of recorded history, has seen itself lose jobs or have declining wages.

Second, it is not as if free trade has never happened before, that there have never been free-trade agreements before. The European Economic Community is decades old. When Greece came into the European Economic Community, when Portugal came into the European Economic Community, when Spain came into the European Economic Community, countries like Germany had very high wages, six times as high as those in Portugal. In 1986, when Portugal came into the European Economic Community, the arguments of our colleagues who oppose this agreement would lead you to think that all the jobs ran off and left Germany and that wages collapsed there.

It did not happen. What happened was that wages in Portugal went up by over 200 percent between 1986 and 1992, and yet wages in Germany more than doubled. In the same period, wages in the United States went up by about 20 percent. I am sure we have colleagues who are thankful every day that we did not join the European Economic Community; our wages might have doubled like Germany's.

My point is this. You can have all the fears you want. You can raise all the objections you want. But you cannot have all the facts you want. Why NAFTA is going to win in the Senate, why it won in the House, despite all of the organized efforts of so many groups to defeat it, is because history is on the side of NAFTA.

Our country is the most powerful country in the history of the world. We have literally remade the world in our own image in very many ways since World War II. But we are not powerful enough to stop the course of history; the course of history is clearly moving in the direction of trade. There is only one thing that could shove us off in the ditch. There is only one thing that could take away our position of world leadership. That would be if we tried to build a wall around America and go hide under a rock somewhere. That is something we must not do.

The free-trade agreement with Mexico is a logical extension of American trade policy. If we do not have confidence that we can, with an enlightened Government policy and with an effort by our workers and by our businesses, outproduce Mexico, then we have a great lack of self-confidence in our Nation and in our people. I have no such lack of self-confidence. I am absolutely convinced that this trade agreement is going to benefit us as all trade agreements have always benefited any group or any nation that has entered into them.

Finally, I just remarked how the world changes. When Pericles in his great funeral oration talked about the greatness of Athens, I think it is very instructive that he spoke about trade. He said, "because of the greatness of our city, goods are brought here from all over the world and we consume them as freely as they are consumed in the countries where they are produced." That was the greatness of Athens. It is the greatness of America. Trade and free enterprise and democracy built America. Trade tore down the Berlin Wall and won the cold war. To the suggestion that trade is a betrayal of the American worker, I say trade is an affirmation of the American worker. It is the ultimate vote of confidence in the American worker.

A final point that remarkably carries no weight in debate, but it ought to carry weight is this. If I am a free person, what right does the Government have to tell me I cannot buy without restriction a good that is not illegal to consume, that I cannot buy it because it is produced in another country?

Is that not an abridgment of my freedom? Does that not limit my freedom? Who gives the Government the right to say that, if Mexico can produce a better shirt, I as a free person do not have a right to buy it? Too often our Government tries to say that. Too often they are successful in saying it. But my freedom is diminished when they do. It happens every day, but I do not accept it as being right. I object to it.

NAFTA is an important agreement. It is going to be adopted. I simply could not pass through the Chamber and hear it referred to as a betrayal of the American worker. NAFTA is a commitment to the American worker. For the working people of Texas, the people that are working now, and the people that are going to be working because of it, I renew my support for NAFTA.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Arkansas whatever time he may consume.

Mr. BUMPERS. I will probably yield part of it back.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this is the first time I have spoken on the NAFTA. Sometimes, to wait is the better part of valor. I was castigated to some extent in the Arkansas press for not taking a stand on it much sooner than I did.

I was happy to read in the new biography of JFK that he, too, used to delay his decisions until he absolutely had to make them. I happen to think that is a good quality. I have known a lot of people who are called decisive. But oftentimes those people shoot from the hip without really thinking about the decision. The longer one ponders a decision, the more apt it is to be a correct one.

It was only 2 or 3 weeks ago that I began to immerse myself in this issue, because I saw no reason to do it any sooner than I had to. I had a packet on my desk that I assumed the administration had sent me—maybe the Department of Commerce—that must have been about 1 inch thick. It seemed to me it covered just about every aspect of the arguments on both sides. I have not read the bill, nor has any other Member of the U.S. Senate. It has extremely convoluted, difficult language in it. So I have to depend on the authority of somebody who read it and understood it and wrote the summary to tell me what is in the NAFTA.

When I first studied the agreement, I could not imagine how it could possibly be beneficial to the United States. I am going to vote for this agreement, Mr. President. But, after having read that lengthy summary, I am convinced that both sides—I do not mean to denigrate or to be patronizing—but I am convinced that both sides have greatly exaggerated their case here on the floor of the Senate.

I do not mind telling you—and I hope this does not sound self-serving—I could make a very powerful argument on either side of this. All the arguments that have been made here have a lot of merit. But I also agree with the President when he says these are changing times and we must be bold, we must be willing to change.

This is something of a roll of the dice. My first thought, being from a rural State like Arkansas, was that a number of small rural communities in my State have what we call cut-and-sew operations, garment manufacturers that hire anywhere from 100 to 300 people. If those plants close down, which they have been doing with a great deal of regularity in the past few years, there is just nothing else in that community for those people to do. That has been a fairly stable business in my State for the past 3 or 4 years, which means that we have begun to compete with both the so-called Pacific rim, the Asian nations, and with the Central American nations. The apparel manufacturers are the people I worried most about.

But I had my staff do a check on the mail we have had from the business community. We got a lot of mail from labor leaders and members of unions in our State who were, as you know, very strongly opposed to the agreement.

So I went through the mail from the business community also. Strangely enough, of the five apparel manufacturers in my State who wrote me about it, four of them favor this agreement. Levi Straus has a big presence in my State—and we certainly appreciate them. They have been tremendous for our economy. Levi Straus is one of those companies that will make it with NAFTA or without NAFTA. But they strongly favor it. The other three that I heard from were relatively small operators, and they favor it.

The truth of the matter is we are not going to know, Mr. President, for several years whether we have done the right thing or not. The downside politically is, if we have a downturn in the economy next year, the opponents will say it was NAFTA even though NAFTA would probably have nothing to do with it. The people here who favor this, if we have an upturn a year from now or 2 years from now, proponents would say it is because of NAFTA. Both sides will take credit for whichever way it turns out. But I do not see how we can possibly lose very much out of this, and I think we stand to gain quite a lot.

I talked to one of the biggest entrepreneurs in my State yesterday. As a matter of fact, I do not mind telling you it was Don Tyson, of Tyson Foods. I said, "Don, I hope you aren't moving any poultry plants to Mexico as a result of NAFTA." He said, "We don't have any intentions of doing that." He said, "We have a presence down there. We own a percentage of a poultry operation in Mexico now." And I am not going to tell you all of the rest of the things he said, but in any event, he did say, "We hope to produce more chickens, and with the Mexican tariff dropped we hope to sell a lot more poultry to Mexico, and we will not have to have a Mexican presence to do that."

Virtually all the business people I talk to echo the same sentiment. I talked to some businessmen who said, "We went, admittedly, to Mexico because of a labor differential." And some of them I have talked to, at least one, said, "And we came back because that differential was not enough, that was not enough inducement to keep us there because of all the other disadvantages."

You know, I do not think anybody likes pollution. I do not think any company wants to go someplace where you cannot breathe the air or drink the water. I do not think people just willy-nilly take off for Mexico because you can hire labor for $1 an hour down there.

I am talking rather philosophically about this agreement because this has not really been a debate. It is everybody speaking to the folks back home. Everybody here has long since had his mind made up about how he is going to vote. We are just sitting around now waiting for something else to happen. But there are two or three things I would like to say that I have not heard said.

I remember one of the most fiery, volatile debates we ever had on the Senate floor was over the United States aid to the Contras in Nicaragua. The argument was consistently made by those who strenuously opposed aid to the Contras, that if we sent them as much economic assistance, so they could raise their children on a decent diet; feed, clothe, and house their children, you would not have that war going on in such places.

So everybody said, "War is no solution; economic preservation and well-being is the solution to all wars." There is some truth in that.

Those people who were adamantly opposed to aid to the Contras, based on the proposition we should be sending economic aid rather than military assistance to the Contras, ought to be voting for NAFTA, because one of the big advantages we are supposed to derive out of this is that the Mexican economy is supposed to prosper. They are supposed to be much better off under this agreement. And the argument here among those of us who favor this say we are going to be better off, too.

So it is a win-win situation, based on the arguments of those who favor it. I say that because of two things. No. 1, Mexico has as stable a political system now as they have ever had. I personally think Salinas may be the best President they have ever had. He began to ferret out cheating, putting corrupt people in jail.

Nobody thought that would ever happen in Mexico. A lot of people are sitting around waiting to see who his successor will be to see if he is such a champion of democratic institutions, in the mold of Salinas. But I think this agreement, from a political standpoint, is good for Salinas, and I believe it is good for the economy of Mexico and, therefore, for his successor and the political stability of Mexico.

If there is anything the United States does not need, it is turmoil, economic or political turmoil, on its border to the south. So I believe maybe the biggest advantage we get out of this agreement is to provide Mexico with stability.

The Senator from Montana has done a magnificent job of sponsoring this. When I was studying, I guess political science 103–A, at the University of Arkansas, I remember the professor saying that the stability of any nation depends on the size of its middle class. He said the only thing that has saved Mexico from revolution right now—and, Senator, I hate to tell you how many years ago that was that he said this in class—the stability of Mexico has been totally dependent on an expanding middle class. It is incumbent upon us to help them continue to expand it. This agreement, hopefully, will continue expanding their middle class and providing even more stability.

You know what worries me about our own Nation more than anything else? Our middle class is shrinking. I can tell you that provides a great deal of potential trouble for this Nation. All you have to do is see the number of people in this country living below the poverty line.

Incidentally, we have debated the Brady bill, assault weapons, and all those things, in the past couple of days and I am for those things because, marginally, they help curb the crime rate. But the truth is that as long as more people in this country go below the poverty line, you can expect the crime rate to increase. I do not want to get off on that, but you do not have to be a rocket scientist to figure out that college graduates are not out here killing each other in southeast Washington. People who make $30,000, $40,000 a year are not out here killing each other. When it comes to drugs, college graduates and people making $30,000, $40,000 a year are not doing drugs.

What does that tell you? It tells you exactly how to deal with those problems: Provide decent paying jobs. Give every child when he graduates from high school a real chance, not a rhetorical empty promise, but a real chance for a piece of the rock.

If I were a father of three, which I am—but if I lived in Mexico and my children were hungry, I would be fighting and scratching and clawing to get to the United States, just as they are. One of the biggest hidden costs of all of our social programs is the massive cost of immigration into this country from Latin America.

So if NAFTA works at all, Mr. President, one of the biggest benefits of all is one that has been unspoken about on the floor of the Senate; it will slow that massive emigration out of Mexico, which costs us socially and economically.

It is 10 times better to provide aid to people where they live and want to stay.

You know why I vote for foreign aid—for two reasons: My State is agricultural, and most of foreign aid is agricultural, so we benefit from it. But the principal reason is, it is 10 times better to send food and economic assistance to people where they live and want to stay than to have them trying to swim the ocean to try to get to the United States.

So if NAFTA fulfills any of its promises, it will slow the immigration rate into this country, and I think that is a perfectly legitimate reason to consider the agreement favorably.

Finally, Mr. President, the number one problem in the world is the burgeoning birth rate. In Somalia, there are 6 million people with an ability to feed, in perpetuity, about one and a half million people. When we leave Somalia sometime after the first of the year, it will not be long before you see the same pictures of Somalians starving on evening television. And the idea of trying to bring democracy to Somalia, where they have had nothing but a thousand years of clan fighting, is downright foolish. They do not have the remotest idea of what democratic institutions are, but more than anything else, they do not understand that they are not ever going to make it, as long as they have a limited amount of arable land and continue to have a birth rate of about six children per family.

Mexico, to their credit, has made some strides in bringing about a decrease in their birth rate. In our foreign aid bills we often adopt an amendment that says: "None of the money herein may be spent for birthrate counseling, contraceptives, etc."

You think about it. Every man or woman that has a grain of sense in the whole world knows that the number one problem facing this planet is the 150 percent increase in the world's population in the last 60 years. There are 5.2 billion people on the planet, headed for 10 billion by the year 2035. Probably it will never hit 10 billion because we cannot even begin to sustain 10 billion people. But when we start talking about population, you see all of the red lights on the television cameras snap off. It is a dull subject.

Why is Mexico a poor nation? Because they have more people than they can feed, clothe, and house.

Mrs. Bumpers and I went to Acapulco on a little vacation in 1963.

If I am not mistaken, the population of Mexico at that time was 40 million people. Today it is 85 or 90 million, and some people say 92 million people. They are not ever going to make it, with their population increasing at such a rate.

Brazil had 45 million people at the end of World War II. Today they have over 140 million people. They will never make it with a birth rate like that.

And Mexico will never make it, with or without NAFTA, until their birth rate declines precipitously from where it is right now. But I will tell you how that happens, too. That happens with economic prosperity and education. The countries that pretty well have their birth rate under control are the developed nations.

Italy is the only developed nation on Earth that has a declining population, and now they are worried about losing their ethnic identity. Japan and Germany have an almost zero population growth.

We have been doing a little better in the United States, but not as well as we should. You cannot discuss this issue without someone wanting to jump up and inject the abortion issue into it.

Well, as I said in the beginning, no minds are being changed around here. These statements are all being made for public consumption—and not to try to persuade a Member. I wish we could go ahead and vote. It is going to pass here overwhelmingly. I am willing to roll the dice with President Clinton and try to improve the plight of Mexico because I think that alone is good for us.

Yesterday a British television cameraman caught me out in the hallway and asked: What do you think about President Clinton and the Chinese? Do you think he will have any effect on the Chinese changing their human rights policies?

I love Bill Clinton. We have been friends a very long time. But the answer to that is no. Not because the President is not very persuasive, and I am sure he is doing his best with the Chinese, but the truth of the matter is, every nation, the United States included, does what it thinks is in its own best interest. I do not think, no matter what anybody says, that we are going to get the Chinese to alter their policy until they feel it is in their interest to do so. They never have and never will.

I am voting for NAFTA because I think it is in our long-range best interest. I also think it is in Mexico's best interest, and that is one of the reasons it is in ours.

I yield the floor, Mr. President.

Mr. BAUCUS. Mr. President, I yield 22 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 22 minutes.

REFORMULATED GASOLINE PROGRAM

Mr. GRASSLEY. Mr. President, I rise today to discuss an issue of great importance to rural America, to consumers, and to urban areas seeking cleaner air. The issue is what fuels will be allowed in the reformulated gasoline program beginning in 1995?

It is incredible that this question is still unresolved. Congress thought that it was decided in the fall of 1990 when we passed the clean air bill.

We decided at that time that the reformulated gasoline program ought to be fuel neutral, that is, both ethanol—a grain-derived oxygenate produced in Midwest States such as Iowa, Illinois, and Nebraska should be encouraged, and MTBE—a methanol-derived chemical produced by the major oil companies should also be used.

In fact, as you may recall, we agreed to reduce the oxygen content required for these fuels to allow for MTBE's use, and to avoid mandating the use of only ethanol.

As the regulations were developed, however, it became clear that what was emerging was an effective mandate for the use of MTBE. The proposed regulations would have virtually eliminated the use of ethanol.

Therefore, Senators GEORGE MITCHELL, MAX BAUCUS, BOB DOLE, and JOHN CHAFEE joined in a letter to the Environmental Protection Agency that underscored congressional intent that ethanol should have a competitive role in the RFG market, noting that the Clean Air Act was not intended to be a methanol mandate at the expense of ethanol.

So the issue was decided again. This time President Bush instructed his EPA not to mandate the use of MTBE, to assure a role for ethanol in the program, and to encourage the use of this important renewable domestically-produced alternative fuel.

Well, then-candidate Bill Clinton railed against the Bush proposal. He said it was just a cynical attempt to buy votes in Illinois, and that if elected President he would do better.

Clinton said he would convene a summit of all interested parties and work out a viable solution that was even better for ethanol than the Bush proposal. In fact, in Indianola, IA, candidate Clinton promised to make a growing market for ethanol part of his energy policy. With regard to the Bush plan, candidate Clinton stated:

> In a Clinton/Gore Administration, ethanol will be part of an honest and consistent strategy to increase the use of renewable fuels, not a manipulative and unreliable campaign promise . . . A Clinton/Gore Administration will expand the use of ethanol, to increase American jobs, reduce our dependence on foreign oil, and improve the environment

Today, the field in Indianola where President Clinton promised to increase the production and use of fuel ethanol lies empty. And today, a year later, Bill Clinton's campaign promises appear to be as empty as the Indianola field from which they were uttered.

Mr. President, a year has passed, and President Clinton has convened no summit to resolve this issue as he promised.

The Clinton White House has shown no interest, no involvement, and no response. In the meantime, EPA career bureaucrats who insist that only methanol, and methanol-derived ethers, can be used in the reformulated gasoline march ahead, ignoring congressional intent, and ignoring good science.

Members of Congress attempting to meet with the Vice President on this issue have been ignored. More than 150 Members of Congress have written to the President on this issue—only to be given a perfunctory reply that EPA is looking into the issue.

Mr. President, support for ethanol in the reformulated fuels program is widespread throughout the country. Twelve Governors—Republican and Democrat Governors—from throughout the Midwest have written the President.

These Governors have sought President Clinton's support for ethanol. All they want is for the President to honor his campaign promises.

Governors from the States of Michigan, Ohio, Iowa, Illinois, Nebraska, Wisconsin, Minnesota, Kansas, South Dakota, Indiana, and North Dakota strongly support ethanol and they want action on this issue.

I want to share with my colleagues some excerpts from these letters.

My own Governor, Terry Branstad, a strong supporter of ethanol, wrote the president over 2 months ago and said,

> By recognizing ethanol as a major player in the reformulated gasoline market, the ethanol industry can forge ahead with plans to expand production. This expansion of the ethanol market will yield many economic benefits to Iowa and other Midwestern states.

Governor Branstad is exactly right. Americans would reap major economic benefits with an expanded ethanol industry.

Gov. Tommy Thompson of Wisconsin wrote President Clinton saying he is convinced that ethanol belongs in the reformulated fuels program. He goes on to say in his letter of August 19, 1993, that:

> The most recent flooding in the Midwest has hit our farmers hard, in particular corn growers. An additional hardship of not including ethanol in reformulated gasoline will only exacerbate the serious problems currently being faced in America's heartland.

Mr. President, we all remember so vividly the devastation that the floods of 1993 wreaked on the Midwest this past summer. Crops were destroyed. Homes were destroyed. Lives were destroyed. Supporting ethanol will help these victims of the flood by boosting the Midwest economy and increasing jobs.

Mr. President, Gov. Walter Miller of South Dakota also voiced his strong support to the President on the economy stating that:

> Our country faces many challenges, the most pressing of which is to generate jobs that will contribute positively to our economy. Producing all-natural ethanol from American corn is positive for our economy in comparison to using imported petroleum.

Mr. President, do you remember these words? "It's the economy, stupid!" I remember. And it is remembered by Americans who relied upon President Clinton's campaign promises to resolve the ethanol issue more favorably than had President Bush.

But the opposite is about to happen. It is the economy that will suffer if President Clinton fails to support ethanol in the reformulated fuels program.

Governor Miller also touched on an important issue that is a big concern to the Governor of Nebraska. Imports. Mr. President, Gov. Ben Nelson wrote the President saying that the "use of imported methanol is ominous."

Methanol is what the oil companies import to make MTBE, the oxygenated fuel that EPA has mandated to be in the reformulated fuels program. And Governor Nelson backs up his statement with facts. He adds that:

> Since the summer 1990, when U.S. oil imports exceeded our total domestic production for the first time in history, there has been an increasing awareness of the dangers to our economy and to our security resulting from such dependence on foreign oil. Today, we import a third more oil than any other nation in the world. Every day Americans pay more than $154 million for imported oil.

Yes, $154 million. Every single day. Governor Nelson continues:

> Increasing ethanol's use will be a step toward reducing the nation's growing dependence on foreign petroleum and lessening the nation's trade deficit. If ethanol is not a full participant in reformulated gasoline, it is clear that OPEC will benefit more from the Clean Air Act Amendments than American farmers, ethanol producers, and the domestic natural gas industry. It is beyond belief that we would import products to clean the air we have polluted with foreign oil.

Mr. President, he's exactly right. It is beyond belief that we continue to depend so much on oil imports. It is beyond belief that we embrace a policy that allows foreign oil to pollute our air. And it is beyond belief that thanks to President Clinton's inaction, we are about to mandate the use of a foreign product that is suppose to clean up this air.

I emphasize the word "suppose" for now, and will explain in a moment.

Indiana Gov. Evan Bayh also supports ethanol's inclusion in the reformulated fuels program. Governor Bayh, in a letter last month to the President stated, "Increased use of the fuel would decrease our dependence on imported oil."

Gov. Jim Edgar wrote President Clinton citing a study sponsored by the Council of Great Lakes Governors. Governor Edgar said that this study, the most comprehensive and sophisticated scientific study ever attempted, established ethanol's environmental effectiveness in reducing urban ozone.

Mr. President, ethanol reduces urban ozone. It's been scientifically proven. This study proved that the use of a 10 percent ethanol blend is just as good at cleaning up urban ozone air quality problems as using a 11-percent MTBE blend.

That is the purpose of the reformulated fuels program—to reduce urban ozone pollution.

The most difficult issue affecting the reformulated fuels program has not been resolved by the study.

Now the EPA needs to take their blinders off, give this study an honest look, and include ethanol in the program.

Mr. President, I ask unanimous consent that all 12 Governor's letters be printed in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Des Moines, IA, August 6, 1993.

President WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: This letter requests your support of a strong role for ethanol in the Reformulated Gasoline Program.

I have just reviewed the results of the Systems Applications International Study, "Comparison of the Air Quality Effects of Ethanol and MTBE in Reformulated Gasoline in the Lake Michigan Region," which was conducted for the Council of Great Lakes Governors in July.

The results of the study, which uses the most comprehensive and sophisticated data ever collected, show that ethanol can improve the air quality of our major urban centers. Specifically, the study concludes that a reformulated gasoline blended with ethanol decreases ozone formation to the same extent as methyl tertiary butyl ether (MTBE), a petroleum-based alternative.

By recognizing ethanol as a major player in the reformulated gasoline market, the ethanol industry can forge ahead with plans to expand production. This expansion of the ethanol market will yield many economic benefits to Iowa and other Midwestern states.

Thank you for your attention to this critical issue.

Sincerely,

TERRY E. BRANSTAD,
Governor of Iowa.

OFFICE OF THE GOVERNOR,
Columbus, OH, September 16, 1993.

Hon. WILLIAM CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: On behalf of the farmers and citizens of the state of Ohio, I respectfully request your support of the inclusion of ethanol in the Environmental Protection Agency's pending Reformulated Gasoline Program (RGP).

Certainly the results of the recently completed "Systems Application International Study" commissioned by the Great Lakes Governor's Association ("Comparison of the Air Quality Effects of Ethanol . . . in Reformulated Gasoline—July 1993) indicates ethanol can improve the air quality of our major urban centers as effectively as petroleum based methyl tertiary butyl ether (MTBE).

Agriculture is Ohio's number one industry and corn (a major source of ethanol) is the number one commodity produced by that industry. Your support of ethanol and the inherent benefits of your endorsement would help provide Ohio's (and the nation's) ethanol industry the incentive to expand production. Such expansion would result in cleaner air, more jobs, a stronger agricultural economy and reduced dependence on foreign oil.

Therefore, based on extensive research and testing, I believe the inclusion of ethanol in the Reformulated Gasoline Program is the right thing to do for Ohio, the Great Lakes Region as well as the entire country.

I appreciate your consideration and attention to the issue as we work together to improve our environment while strengthening the cornerstone of the country's economy—agriculture.

Sincerely,

GEORGE V. VOINOVICH,
Governor, State of Ohio.

OFFICE OF THE GOVERNOR,
Indianapolis, IN, September 14, 1993.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: It is my pleasure to bring to your attention a study recently completed by the Council of Great Lakes Governors. The study investigated the impact of ethanol blended fuel on ozons formation in the Lake Michigan Airshed.

The study concluded that emissions from gasoline blended with ethanol are less reactive than gasoline blended with another additive, methyl tertiary butyl ether (MTBE). Ethanol was shown to be as effective as MTBE in reducing ozone pollution.

Results of the study have been forwarded to Environmental Protection Agency Administrator Carol Browner. As the EPA finalizes rules for the reformulated gasoline (RFG) program in ozone non-attainment areas, I hope this recent study is considered.

Because ethanol is a renewable fuel produced from corn, ethanol production offers great economic promise, especially to the Midwest states. Increased use of the fuel would decrease our dependence on imported oil.This latest study offers evidence that ethanol is also environmentally justified to be included in the requirements of the reformulated gasoline program.

For these reasons, I urge the EPA's consideration of ethanol's participation in the RFG program. Thank you for your attention to this issue.

Sincerely,

EVAN BAYH.

OFFICE OF THE GOVERNOR,
Lansing, MI, September 8, 1993.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to send to you the final report of a study that was sponsored by the Council of Great Lakes Governors (CGLG) on the comparative impact of ethanol-blended fuels in ozone formation. The study, "Comparison of the Air Quality Effects of Ethanol and MTBE in Reformulated Gasoline in the Lake Michigan Region," was conducted by Systems Applications International (SAI).

The study simulates the ozone air quality impacts of an 11 percent MTBE blend at 8.1 RVP (Reid Vapor Pressure) and a 10 percent ethanol blend (E10) with a RVP a full 1.0 psi higher in the Lake Michigan Air Shed to the year 2000. The results of the study demonstrate that ethanol does not have a detrimental effect on ozone air quality. In fact, the results of this study reveal essentially no difference in ozone formation between the two oxygenates (ethanol and MTBE) using the same clear gasoline base.

The SAI study also tested the sensitivity of the results to gasoline volatility by using a lower average RVP base of 7.8 psi as the base instead of 8.1 psi. The net affect of E10 compared to MTBE on the overall potential ozone from on-road emissions appears to be significantly reduced if the base RVP is lowered by only 0.3 psi. This result is very important to us in Michigan as my Steering Committee on Clean Air Act Implementation is recommending tightening RVP standards for base gasoline in Michigan's ten moderate ozone non-attainment counties to 7.8 RVP rather than opting into the EPA Reformulated Gasoline program (RFG). This is a cost-effective approach which further reduces VOC and ozone emissions. The study credited the use of E10 with an additional 4.6 percent reduction in gas total VOC emissions between calendar years 1995 and 2000.

These "clean air/clean fuel" standards, along with companion measures, need to be passed by the Michigan Legislature this fall to fully comply with the federally mandated requirements and deadlines in the U.S. Clean Air Act amendments of 1990 and to avoid severe federal sanctions. The package includes the opportunity for more jobs and economic growth while providing significant environmental and public health benefits. I am confident that we will be successful with our sound proposals, as we have bi-partisan legislative support along with support from key business, public health and environmental groups.

The CGLG study is a significant advance on earlier work. It utilizes a far more extensive data base and a more detailed inventory as part of the Lake Michigan Ozone Study using MOBILE 5a. The study also benefits from a focus on the year 2000, which is more likely to reflect the conditions of the EPA Reformulated Gasoline Program as well as changes in motor fuel standards for RVP. The use of a five-day ozone episode has also enabled a careful examination of effects throughout the air shed.

The protocol was reviewed by U.S. EPA and Argonne National Laboratory prior to the initiation of the study. SAI and the study's sponsors met with staff from the EPA Office of Mobile Sources in Ann Arbor, Michigan, to discuss the proposed protocol. A number of modifications were made to the study protocol based on EPA's suggestions.

Based on this study's conclusion and those from earlier studies that also indicated no significant difference in the ozone air quality impact between the two oxygenated fuels, I recommend that ethanol serve an important role in the U.S. EPA Reformulated Gasoline Program. Since 11 percent MTBE will be playing an appropriate role in the RFG, so should 10 percent ethanol. They represent a pair of blends that can share the same clear gasoline base, have similar octane levels, and meet all the requirements of the Clean Air Act Amendments of 1990 for RFG other than the 1 psi RVP increase for the ethanol blend.

Thank you for your interest and attention to this important matter.

Sincerely,

JOHN ENGLER,
Governor.

OFFICE OF THE GOVERNOR,
Springfield, IL, August 12, 1993.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The Council of Great Lakes Governors recently completed the most comprehensive and sophisticated scientific study ever attempted which compared the impact of ethanol blended fuel on ozone formation in the Lake Michigan Airshed. The results of the study have been forwarded to U.S. Environmental Protection Agency (USEPA) Administrator Carol Browner.

The conclusions of this scientific analysis further establish ethanol's environmental effectiveness in reducing urban ozone. The best available data and models were used to conduct this study. State air pollution officials and Argonne National Laboratory scientists provided vigorous review of both the study design and the final results. The design of this analysis was finalized only after USEPA provided input into the study protocol, assumptions and database.

It is imperative that ethanol not be precluded from participating in the reformulated gasoline program for ozone non-attainment areas. The USEPA is currently finalizing the rules for this program and according to the results of this and other studies, there is no scientific basis for preventing ethanol's participation in the reformulated gasoline program.

If ethanol is allowed to fairly compete with other clean-burning fuels in the reformulated gasoline market, a commensurate increase in ethanol production will occur providing a very important economic stimulus to the Midwest and our vital rural sector. On a national basis, the increased use of this renewable fuel will help diminish our dependence on imported oil and other fossil-fuels while helping to bring our urban areas into attainment for both ozone and carbon monoxide levels.

The science is now available to support the decision to use ethanol blended fuels in reformulated gasoline, but action must be taken soon.

Thank you for your attention to this very important issue to the American farmer and to the economic health of the Midwest.

Sincerely,

JIM EDGAR,
Governor.

MINNESOTA DEPARTMENT
OF AGRICULTURE,
Saint Paul, MN, August 16, 1993.

CONTACT: Jackie Renner, MDA Communications Director

GOVERNOR HAILS RESULTS OF NEW STUDY

Governor Arne H. Carlson today praised the findings of a comprehensive scientific study on the effectiveness of ethanol in reducing ozone in urban areas.

The Council of Great Lakes Governors commissioned the study earlier this year. The study confirms that ethanol-blended reformulated gasoline is cleaner than other gasoline blends and is, therefore, beneficial to the environment.

Governor Carlson said, "This study reinforces what we believed all along. Ethanol is an environmentally-friendly fuel, even in large cities with serious smog problems. This is good news for Minnesota agriculture at a time when the industry has been hard-hit by too much rain and not enough warm weather."

Minnesota Department of Agriculture Commissioner Elton R. Redalen noted the study is important because President Clinton is under court order to make a final announcement by September 15 on the role that ethanol will play in nine major metropolitan areas that have serious enough smog problems to have been designated "ozone non-attainment areas" based on the 1990 Clean Air Act. The Twin Cities have not been designated as an "ozone non-attainment area" but are required to use cleaner burning fuel during the winter months because of high levels of carbon monoxide pollution.

This study compared the impacts of ozone formation between gasoline blended with MTBE (methyl tertiary butyl ether) which is a petroleum based additive, and gasoline blended with 10 percent ethanol. The study was conducted by Systems Applications International, a California-based firm that previously had conducted environmental studies for both the EPA and the oil industry.

Commissioner Redalen added, "This is a real morale booster for all Minnesota corn farmers. It again confirms there's no scientific basis to bar ethanol from use to help clean the air in our smoggiest cities."

STATE OF WISCONSIN,
August 19, 1993.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to request your support for the inclusion of ethanol at 10% blends in the Reformulated Gasoline (RFG) Program that is currently being established by the U.S. Environmental Protection Agency (USEPA). As a former member of The Governors' Ethanol Coaliton, I know that you are aware of the debate that has circulated around this issue over the past two years. That is why Wisconsin, along with other states in the Council of Great Lakes Governors, commissioned the most comprehensive study to this point in the resolution of this very difficult issue.

The focus of the study was to analyze the air quality effects of oxygenated fuel additives used in the RFG program. The study simulated the difference in ozone formation from the use of the two most commonly used oxygenates (ethanol and MTBE) in the Chicago-Milwaukee area for the year 2000. The Council initiated the study in an effort to bring the debate to an environmentally responsive and scientifically valid resolution.

After reviewing the study's results, I am convinced that ethanol belongs as an oxygenate in the RFG program for use in ozone nonattainment areas. In addition, the most recent flooding in the Midwest has hit our farmers hard, in particular corn growers. An additional hardship of not including ethanol in reformulated gasoline will only exacerbate the serious problems currently being faced in America's heartland. A favorable inclusion of ethanol in reformulated gasoline will not only help the nation's corn growers, but provide many additional jobs from the expansion of production of this domestically produced fuel. That is why I ask for your consideration and that of USEPA in resolving this issue and including ethanol as a way of resolving ozone formation in the Lake Michigan airshed.

Sincerely,

TOMMY G. THOMPSON,
Governor.

STATE OF KANSAS,
Office of the Governor, October 5, 1993.
Hon. BILL CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you know, the Environmental Protection Agency is preparing to finalize regulations implementing the reformulated gasoline (RFG) requirements included in the Clean Air Act. I am writing because I believe recent scientific information demonstrates the efficiency of modifying the proposed rules to assure a competitive role for ethanol in this important program.

The Council of Great Lakes Governors recently completed the most exhaustive analysis of the ozone forming potential of ethanol and MTBE blended reformulated gasolines ever conducted. The conclusions of this study are clear—there is no difference in the ozone potential of either oxygenate when blended with the same reformulated gasoline blendstock. In fact, the ethanol-blended fuel produced maximum ozone level, 6 ppb less than the MTBE blended fuel. This is significant because the current proposal by EPA allows the unrestricted use of MTBE in RFG, but requires ethanol blenders to secure an expensive, specially-tailored reformulated gasoline blendstock. Such a requirement is uneconomic, discourages the use of ethanol in this important program, and cannot be supported for any air quality reason.

As a member of the Governors Ethanol Coalition, I have been working for more than two years to find an environmentally and technically sound resolution to this issue. I believe the Council's study answers any questions regarding ethanol's air quality effects, and provides the basis to promulgate a truly oxygenate neutral program that allows either 10-percent ethanol or 11-percent MTBE to be added to the same reformulated gasoline blendstock with the assurance that the environment will be equally protected. In doing so, this Administration will reduce the cost of the program to consumers by providing a competitive oxygenate market, allow more areas to take advantage of the RFG program by increasing oxygenate supplies, and send a strong signal to American farmers of its commitments to rural economic growth.

An expanding market for ethanol is critically important to the Kansas agricultural economy. Trade reports indicate that there are plans for more than a billion gallons of domestic ethanol production capacity which will move forward if market opportunities for ethanol are encouraged with favorable RFG regulations. This level of production expansion represents hundreds of thousands of jobs, billions in new investment and economic growth, reduced energy imports, and an improved balance of trade.

Mr. President, the increased use of ethanol reflects the synergistic relationship between economic growth and environmental improvement which has been fundamental to your message to the American people. Assuring that the RFG rules allow for the use of ethanol will help to make a reality.

Sincerely yours,

JOAN FINNEY.

STATE OF SOUTH DAKOTA,
Pierre, SD, October 4, 1993.
THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to request your support for the inclusion of ethanol at the 10 percent blend in the Reformulated Gasoline (RFG) Program currently being considered by the U.S. Environmental Protection Agency.

As Governor of South Dakota, it is important to me ethanol be ensured a strong role in any program designed to help clean up the air in our nation's most polluted cities.

I do not ask this in consideration of a subpar fuel. I ask this because I know ethanol will have no negative effects on air quality at the 10 percent level. The study done by the Council of Great Lakes Governors is a definitive resource on that question. I am asking for you to ensure ethanol's role because the facts are clear 10 percent ethanol is good for the air and humans.

Our country faces many challenges—the most pressing of which is to generate jobs that will contribute positively to our economy. Producing all-natural ethanol from American corn is positive for our economy in comparison to using imported petroleum. Being an agriculture-based state, ethanol production is an important part of my state's economy.

Your assistance with this effort is important to many people in my state who work at ethanol plants, as well as to all people who want a stronger economy and cleaner air.

Sincerely,

WALTER D. MILLER.

STATE OF COLORADO,
Denver, CO, September 28, 1993.
Hon. BILL CLINTON,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: As a charter member of the Governor's Ethanol Coalition, I strongly support the emerging role of ethanol in our nation's renewable energy supply. I am concerned that regulations proposed by the Environmental Protection Agency (EPA) will significantly curtail the market for ethanol in many of our nation's largest metropolitan areas.

EPA is developing final regulations to implement the reformulated gasoline (RFG) requirements included in the Clean Air Act. The proposed regulations would allow the unrestricted use of MTBE in reformulated gasoline, but would require ethanol blenders to secure an expensive, specially-tailored RFG blendstock. I understand that this requirement is based upon EPA's contention that ethanol blends elevate ozone levels—a major problem in many urban areas.

In July, the Council of Great Lakes Governors completed the most exhaustive analysis ever conducted of the ozone-forming potential of ethanol and MTBE blended reformulated gasolines. The study's chief conclusion: no difference exists in the ozone-forming potential of 10 percent ethanol or 11 percent MTBE when blended with the same RFG blendstock. A copy of the study's executive summary is enclosed.

Trade reports indicate that industry plans to expand domestic ethanol production capacity by more than a billion gallons if market opportunities for ethanol are encouraged with favorable RFG regulations. Such an expansion represents billions in new investment, thousands of new jobs, reduced energy imports and an improved balance of trade.

Increased use of ethanol is consistent with your message to the American people that we can have economic growth as well as environmental quality. Assuring that the RFG rules allow for the competitive use of ethanol will help our nation reach both of these key goals.

Sincerely,

ROY ROMER,
Governor.

Mr. GRASSLEY. Mr. President, I want to share with my colleagues another letter. This letter is from the mayor of Chicago, Richard Daley. Chicago is the largest single market for ethanol-blended fuels in the country. Mayor Daley in a July 13 letter, told President Clinton:

> Ethanol use has important economic and energy security implications for the city of Chicago, the State of Illinois and the nation at large. Illinois is the largest producer of ethanol in the nation. . . . Ethanol-blended fuels have been successfully marketed in the City of Chicago for the past 12 years. . . . The City of Chicago supports ethanol.

Mr. President, Mayor Daley wants the environmental needs of the citizens of Chicago met. Mayor Daley wants a competitive market to hold down costs and provide consumers with a choice. Mayor Daley wants to create rural economic development opportunities for the state of Illinois.

I ask unanimous consent that Mayor Daley's outstanding letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE MAYOR,
Chicago, IL, July 13, 1993.
Hon. WILLIAM J. CLINTON,
The President, The White House Washington, DC.

DEAR MR. PRESIDENT: To ensure a competitive role for ethanol-blended fuels, I am requesting your support for modifications to the proposed rule implementing the reformulated gasoline requirements of the Clean Air Act.

The proposed rule would severely restrict the use of ethanol blends in Chicago and other major cities, and give the other oxygenated fuel, a methanol-based chemical produced by major oil companies known as MTBE, a virtual lock on the market for the oxygenates that must be included in reformulated gasoline for environmental purposes.

Recent studies have demonstrated that, while ethanol may increase mass emissions, its higher oxygen content and lower reactivity result in a fuel blend equal to or better than MTBE in reducing ozone formation. There is no legitimate reason to impose barriers to the use of ethanol in the reformulated gasoline program.

Chicago's interest in these rules is threefold. First, we want to be certain that the implementation of this program will result in a demonstrable reduction in ozone levels, not just a reduction in the mass of emissions that may lead to ozone formation. A focus on emissions accounting, rather than actual ozone formation, would not address the true environmental needs of the citizens of Chicago, and might require the imposition of more stringent and perhaps more costly ozone control programs at a later date.

Second, we want the assurance that there will be a competitive market for the oxygenates that are required to be included in the reformulated gasoline program. Competition will hold down costs and provide consumers with a choice. Ethanol-blended fuels have been successfully marketed in the City of Chicago for the past 12 years. They account for nearly 40 percent of the fuels sold in the Chicago metropolitan area today and enjoy widespread consumer support. If the reformulated gasoline regulations result in only MTBE being available, consumer support for the program will quickly diminish.

Finally, ethanol use has important economic and energy security implications for the City of Chicago, the State of Illinois and the nation at large. Illinois is the largest producer of ethanol in the nation and Chicago is the largest single market for ethanol-blended fuels in the country. Ethanol production creates rural economic development opportunities, provides jobs in regions all over the state of Illinois, and enhances our energy security by replacing imports of foreign crude oil.

Ethanol production is important to our nation's economy and energy security, provides healthy competition in the reformulated gasoline marketplace, and, most importantly, is an effective weapon in our fight for cleaner, healthier air. The City of Chicago supports ethanol, and we believe it must be allowed to compete in the reformulated gasoline market in a meaningful way. I urge your support and assistance to ensure that it is allowed to compete.

Sincerely,

BILL M. DALY,
Mayor.

Mr. GRASSLEY. Mr. President, all of these public leaders are simply requesting that ethanol be allowed to be used in the reformulated gasoline programs. All they want is choice. They do not want to be forced to mandate MTBE for their citizens and lock out ethanol, a fuel produced in many of these States.

Despite the simplicity and the merit of these requests, however, recent press reports indicate that EPA has once again decided which fuels should be allowed to compete in the reformulated gasoline market, and this time, the decision is that ethanol should not be allowed to compete.

So I rise today, Mr. President, to say that this is a totally unacceptable result of the clean air bill we passed. It flies in the face of congressional intent. It mocks the former administration's good-faith effort to assure a role for ethanol in this program.

And, finally, it begs the question—was Bill Clinton being honest with the people of Iowa—and the people throughout America interested in a clean, domestically produced, renewable fuel such as ethanol?

Was President Clinton sincere a year ago when he said that his administration would improve upon the Bush plan and increase the role for ethanol in future gasoline markets?

Or, has he simply ceded responsibility for energy and economic policy to EPA bureaucrats that have a decidedly promethanol and antiethanol bias?

This is an important question, because in the absence of any leadership from the White House on this issue, EPA has perpetuated an extremely negative, acrimonious, and misleading campaign against ethanol, and promoted an MTBE only program that will leave this country more dependent on imported energy, lining the pockets of international oil companies.

Let us face it. Many oil companies do not want ethanol because they cannot control its supply. These oil companies are intent upon maximizing hydrocarbon throughput at the expense of domestically produced renewable energy sources, and at the expense of American consumers, and I might add, at the expense of American's health.

There are several serious questions regarding the efficacy of an MTBE mandate that, in the absence of a competitive alternative, will undermine consumer acceptance of the reformulated fuels program.

First of all, MTBE is offensively odoriferous. Simply stated, this stuff stinks.

I would like my colleagues to take a whiff of this. It is incredible. It is making people sick.

In fact, Congress just approved a waiver for Alaska because MTBE was making people sick. And yet, the U.S. Government is about to mandate the use of MTBE in the reformulated fuels program.

I wish I could bring a vial of MTBE to the Senate floor today so my colleagues could smell it first hand. So they could understand my alarm with what EPA is about to mandate in fuels all across the country.

Unfortunately, or perhaps fortunately for my colleagues, the Senate rules prohibit anything other than water on the Senate floor.

But MTBE is on EPA's list of controlled toxic substances, in fact, it's poison.

Now there is some irony. We can't bring anything more potent on the Senate floor than water, yet we are about to let EPA mandate the use of a controlled toxic substance in cities from coast to coast. Mr. President, this makes no sense.

In sharp contrast, the only way ethanol can be harmful is if you get intoxicated on it. And of course, a lot of people around the world pay good money to get intoxicated.

EPA's MTBE mandate presents four serious problems to Americans which I would like to discuss—the impact on public health, the threat to groundwater supplies, the excessive cost, and the weakening of our energy security.

Each of these problems would be resolved, or at least mitigated if ethanol were allowed to compete effectively in this important program.

PUBLIC HEALTH

MTBE is on EPA's list of controlled toxics for a reason. It is dangerous. Chronic toxicity studies in male rats found significant nephrotoxic effects; that is, clear pathologic changes in the kidney, from relatively low exposures to MTBE.

The Centers for Disease Control have discovered serious public health questions that remain unresolved. These problems involve the exposure to MTBE evaporative and exhaust emissions that have yet to be completely evaluated.

After an exhaustive study in Fairbanks, Alaska, last winter, the CDC, in a letter to the Alaska Department of Environmental Conservation reported their findings as follows:

1. In areas where MTBE was added to gasoline, MTBE was detectable in the blood of both occupationally-exposed persons and the general public.
2. Persons with higher blood levels of MTBE reported serious symptoms, including headache, nausea, burning of the nose and throat, and spaciness, far more frequently than those with lower blood levels of MTBE.
3. Exposure to gasoline without MTBE did not result in increased symptoms.
4. We believe that until MTBE is fully evaluated in community-based studies, questions will remain as to its safety for widespread distribution and use.

Finally, the CDC noted that its investigation determined "a similar relationship between higher blood levels of MTBE and symptoms in Stamford, CT."

Mr. President, I ask unanimous consent that the CDC letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN
SERVICES, PUBLIC HEALTH SERVICE,

Atlanta, GA, August 12, 1993.

Hon. JOHN A. SANDOR,
Commissioner, Department of Environmental Conservation, Juneau, AK.

DEAR MR. SANDOR: Enclosed please find an interim report that describes the epidemiologic investigations on human exposures to methyl tertiary butyl ether (MTBE) conducted by the Centers for Disease Control and Prevention (CDC) in collaboration with the Alaska Department of Health and Social Services and the Alaska Department of Environmental Conservation in Fairbanks, Alaska.

Our major findings were:

1. In areas where MTBE was added to gasoline MTBE was detectable in the blood of both occupationally-exposed persons and the general public.
2. Persons with higher blood levels of MTBE more frequently reported symptoms, including headache, nausea, burning of the nose and throat, and spaciness, compared to these with lower blood levels of MTBE.
3. Exposure to gasoline without MTBE did not result in increased symptoms.
4. We believe that until MTBE is fully evaluated in community-based studies, questions will remain as to its safety for widespread distribution and use.

Thank you for the opportunity to work with you to investigate the illnesses in Fairbanks. As you know, we discovered a similar relationship between higher blood levels of MTBE and symptoms in Stanford, Connecticut. The consistency between the two study sites add strength to these findings.

We hope this interim report will be helpful to you. We believe it raises questions which must be resolved in future investigations.

Please contact us if you have other questions or concerns that we can address. We can be reached at (404) 422-7320.

Sincerely yours,

RUTH A. ETZEL, M.D., PH.I.,
Chief, Air Pollution and Respiratory Health Branch, Environmental Hazards and Health Effects, National Center for Environmental Health.

Mr. GRASSLEY. For its part, the EPA discounts these concerns, maintaining that the consumer complaints are only the result of the increased cost of MTBE blended gasolines.

Mr. President, simply dismissing these concerns does not square with consumers in Alaska, Montana, New Jersey, New York, and elsewhere that have experienced very real headaches, nausea, and vomiting that they attribute to MTBE.

One report in the Bergen Record noted that the National Center for Environmental Health Strategies received 6,000 complaints from New Jersey consumers in just 2 months after MTBE was introduced as the only oxygenate in the northern New Jersey metropolitan market. As noted by one Record story:

> Working service station pumps for seven years, George Abbott Jr. figured he'd grown accustomed to gasoline's eye-watering vapors. Then oxygenated fuels arrived. "They say it cleans the air," Abbott, 22, said at his father's Fair Lawn Service Center. "But it's horrible. I get headaches all the time. You can't even stand near the cars.

Mr. President, unlike MTBE, ethanol would not cause these problems for Mr. Abbott.

I ask unanimous consent that just a few of the hundreds of press reports all across the country noting the consumer complaints attributed to MTBE exposure be added to the RECORD.

In addition to the consumer complaints, there are also reports of an alarming increase in MTBE-related health complaints from workers. Anecdotal evidence abounds. According to one report in U.S. Oil Week:

> Life changed for Brian Ahern of Fairbanks, Alaska, the day he was doused by gasoline with MTBE in it. Months after his Nov. 16 accident, the 30-year-old told us he can't stand for more than 20 minutes before his legs give out. He walks with a cane and hasn't driven since January. Ahern says he suffers from memory lapses, headaches and has problems concentrating. A former small-engine mechanic, he says he can't even change the spark plugs in his snowmobile because he can't remember what to do.

Another Oil Week article describes "health horror stories" collected by MTBE marketers:

> Fresno, California, jobber Bob Goeringer tells Oil Week he's convinced a life-threatening allergic reaction he suffered this winter was linked to increased levels of MTBE in gasoline. Goeringer's story, along with complaints from 15 to 20 other jobbers, convinced the California Independent Oil Marketers Association to survey members about MTBE related health problems.

Mr. President, I ask unanimous consent that these press reports be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Oil Week, Nov. 20, 1993]

(By Susan Ferrar)

MTBE LINKED TO ILLNESS

EPA will threaten sanctions against Alaska for trying to ditch oxy-fuels, our sources say.

Meantime, Center for Disease Control study to be released shortly found oxygen-rich additive MTBE in the bloodstreams of people who complained of flu-like symptoms from exposure in Alaska last year, sources say.

But study concludes cases are too limited on a geographical basis to draw any broad conclusions, according to *Oil Week* sources.

EPA threats: Letter by Administrator Carol Browner reportedly circulating within the agency warns Alaska the agency will go after its highway funds if the state stops oxy-fuels.

But Paul Argyropoulos of EPA's Office of Mobile Sources told us the agency hasn't decided yet on how to respond to Alaska.

He says EPA is still reviewing data from MTBE testing under cold temperatures. Agency's findings should be released later this fall, Argyropoulos says.

Department of Environmental Conservation in Alaska has asked EPA to suspend oxy-fuels in Anchorage and Fairbanks until studies based in arctic climates prove MTBE works safely and effectively to cut air pollution, DEC Spokesman Joe Ferguson says.

State regulators filed an emergency reg to delay planned Nov. 1 start-up for oxy-fuels until 75 days after the state is satisfied MTBE is safe.

Last winter, EPA agreed to stop the oxy-fuels in Fairbanks after wide-spread complaints of breathing problems, nausea and headaches.

But Argyropoulos says legally EPA may not be able to allow Alaska to opt out of the program this time without imposing sanctions. Clean Air Act requires oxygen-treated fuels in non-attainment areas, he says.

EPA has already threatened another Western state, California, with sanctions for bucking EPA over smog inspections. EPA backed down last week.

WORKERS REGISTER SPORADIC HEALTH COMPLAINTS ABOUT EXPOSURE TO MTBE FUMES

Several petroleum and tank equipment employees in at least three states who have been exposed to large amounts of oxygenated gasoline blended with MTBE, an ether derived from methanol, have complained of health problems ranging from severe headaches to nausea, but observers close to this issue stress that the complaints are isolated and do not appear to reflect a widespread problem. None of the sources interviewed for this story were aware of any similar concerns associated with workers exposed to significant amounts of oxygenated fuel blended with ethanol, the other main additive used in the federal oxy-fuel program.

The complaints are receiving growing attention because they are being registered in the wake of the December 1992 suspension of the oxygenated gasoline program in Fairbanks, AK, over concerns about harmful effects of oxygenates in low temperatures (New Fuels Report, Feb. 15, p.1). And state officials in Alaska are now examining whether to suspend the Anchorage oxy-fuel program because of related concerns.

The federal wintertime oxygenated fuels program, which began on Nov. 1, 1992, mandates the sale of oxygenated gasoline in 39 carbon monoxide (CO) non-attainment areas.

An official with the Petroleum Equipment Institute, located in Tulsa, OK, says that the group received its most recent health complaint about oxy-fuels last week from a petroleum equipment contractor working around gasoline containing MTBE. The employee complained of severe headaches and is wearing a special mask when working with the fuel in an attempt to alleviate the problem. PEI officials add that they were informed of a similar complaint several weeks ago from a large petroleum equipment contractor in New Jersey, but they could not be more specific.

According to a source with the Tank Installers of Pennsylvania State Association, which works with about a hundred companies, the group has heard complaints about oxygenated fuels from installer members in the Philadelphia area. Once again, these complaints generally centered around the use of MTBE. Philadelphia, and four surrounding counties, are mandated to use oxy-fuels. Members of the tank installers group are the workers who open the fuel pumps to change hoses and replace gaskets.

The source says that the complaints show there is a need to recognize the potential health problems that can occur from exposure to large amounts of oxygenates—particularly MTBE—and that there is a need for proper ventilation and other protective measures when individuals are working around them.

The official explains that a handful of member companies within the Philadelphia area have issued complaints to the tank installers association about workers experiencing nausea, vomiting and dizziness when they were exposed to substantial levels of MTBE fumes.

Some of the complaints were registered late last year by the Walt Forest Service Station Equipment Company on behalf of a few other firms that the company does business with. According to an official with Walt Forest, which specializes in pump repair, tank removal and installation, these firms included individual gasoline stations, a fuel supplier with delivery trucks and another related company that works on pumps. Health problems from exposure by employees with the companies to significant amounts of MTBE resulted in health problems ranging from nose bleeds to the hospitalization of an employee for inflamed lungs.

The source would not release specific names of the companies involved, explaining that concerns over the health effects of oxygenates could jeopardize the business relationship that Walt Forest has with the firms. Other complaints were submitted to the tank installers association by C&S Contractors, which is also in the Philadelphia area, but no further details were available.

In addition, an official with the Pennsylvania Petroleum Association received complaints in November and December of last year from G. Mase and Brinker Fuels, two small, independent distributors of gasoline in suburban Philadelphia, an association official says. The petroleum association, based in Harrisburg, is comprised of petroleum distributors and does not include major oil companies among its members. The observer explains that the complaints were generally for headaches and nausea, and he adds that he does not know if the problems are a "symptom of a greater health effect." While it appears that MTBE was involved in those incidences, this could not be confirmed at press time.

An official with the Petroleum Equipment Contractors Association of New Jersey, located in Springfield, adds that he is familiar with complaints from employees of member companies that' they sometimes become lightheaded around fumes from oxygenated fuel blended with MTBE. The source stresses that the group has yet to receive any official complaints about health effects linked to oxy-fuels, but he also adds that he anticipates a few written complaints about the problem. The New Jersey petroleum equipment association has about 60 members in the petroleum equipment field.

DRIVERS IN ALASKA, MONTANA PROMPT INQUIRY INTO OXY FUELS

(By Bill Scanlon)

Complaints from drivers in Alaska and Montana have prompted an Environmental Protection Agency investigation into health effects of fuel oxygenated with MTBE. Results should be available by November.

But Colorado noses apparently have gotten used to MTBE in gasoline, and official complaints of headaches or dizziness have dwindled to one or two a year here, says Colorado Department of Health.

MTBE—methyl tertiary butyl ether—helps gasoline burn more completely, so it reduces the amount of poisonous carbon monoxide in the air.

The ether in MTBE can cause dizziness and nausea. In very high concentrations, it has caused kidney failure in lab animals, said Dr. Richard Irons, director of molecular toxicology at the University of Colorado Health Sciences Center.

In 1987–88, metro Denver became the first site in the country to mandate oxyfuels in wintertime driving. That year, Colorado Department of Health got 2,700 inquiries from drivers, including 28 people complaining about the smell and a handful saying it caused dizziness or nausea, said Kim Livo, air pollution specialist with the Colorado Health Department. Then gasoline got an 8% mixture of MTBE—or a does of ethanol. Now, the MTBE content is 15%.

Now, virtually no one complains to the state about the odor, and one or two people a year complain about dizziness or asthma attacks, he said.

Last fall, oxyfuels were mandated in three dozen metro areas as a way to attack pollution and meet clean Air Act amendments.

In the first four weeks of the program in Alaska, officials in Fairbanks received 120 complaints of illness. Gov. Walter Hickel halted sales of MTBE in December.

EPA and Health Department officials in Colorado know about the MTBE health studies but continue to say the good outweighs the harm and want mandatory oxyfuels to continue as a wintertime strategy.

"No information has come to light to dissuade us from oxyfuels," said Jack Hidinger, deputy director of air radiation and toxics for EPA Region 8. MTBE lowered carbon monoxide emissions 23% last winter, Livo says.

Opponents say the reductions are less, that it costs about $1,100 for each ton saved, and that it's better to target the few dirtiest cars and let the others save a nickel or so a gallon at the pump.

Ether from, MTBE is the strongest smell at the pump. Livo recommends staying as far away from the nozzle as possible.

[From the Wall Street Journal, Mar. 5, 1993]

OFFICIALS STUDY ANTIPOLLUTION GASOLINE FOR HEALTH RISKS

(By Robert Johnson)

A cleaner-burning gasoline blend that is one cornerstone of the nation's antipollution efforts is being investigated by the Environmental Protection Agency as a possible health threat.

Complaints, including headaches and nausea, by consumers in Alaska have already led to a ban of the most common form of so-called oxygenated gasoline in Fairbanks. Alaska Gov. Walter Hickel halted sales of the new fuel in December after environmental officials in Fairbanks received 120 complaints of illness during the first four weeks it was sold last November. Protesters paraded in cars draped in black crepe paper.

The EPA has received other reports of minor ailments from people refueling and motoring with oxygenated fuel in Colorado, Montana and New Jersey. The EPA and the federal Centers for Disease Control and Prevention are following up on consumer complaints.

The health complaints raise questions about the mandated use of oxygenated fuel as specified in the Clean Air Act Amendments of 1990. The oxygenate in question is called methyl tertiary butyl ether, or MTBE. EPA officials admit they were surprised to find MTBE in blood samples from people in Alaska—though they still aren't sure it is a health hazard. Federal investigators say they won't have any definitive answers to the health questions about MTBE for some time. The EPA says it hopes to have enough information by November, when the next period of mandated use would begin, to decide whether it needs to reconsider the use of MTBE.

The regulations requiring the use of oxygenated fuel took effect last fall at about the same time MTBE manufacturers concluded a long-term study showing a low incidence of kidney tumors in male rats exposed to high doses of MTBE.

Mary Smith, director of the EPA's field operations and support division, says, "We don't have a bottom line yet on the cancer issue. We're still studying whether it's a carcinogen"—a substance that produces cancer.

A preliminary report by epidemiologists at the CDC shows that the blood of several Fairbanks residents contained measurable levels of MTBE. The researchers say they aren't certain whether the gasoline's fumes and exhaust from vehicles burning the fuel cause anything more serious than temporary discomfort because long-term research on humans hasn't been done yet.

Officials at Arco Chemical Co., the biggest U.S. producer of MTBE, say its gasoline additive isn't a cancer threat to consumers. "The exposure level is just too low," says Larry Andrews, manager of toxicology at Arco Chemical, based in Newtown Square, Pa.

According to Mr. Andrews, the participants in the CDC study breathed air with roughly 100 parts per billion of MTBE, vs. the 3,000 parts per million of MTBE inhaled by rodents in the cancer study.

Arco Chemical, of which Atlantic Richfield Co. owns 83%, says that it isn't any surprise that MTBE shows up in minute levels in blood, but that it is baffled by the reports of headaches and nausea. The company says residents haven't complained in Denver and Las Vegas, where the additive has been used for several years. Arco Chemical is starting a study at Rutgers University to probe, among other things, the amount of MTBE inhaled by New Jersey commuters.

Though the existence of certain carcinogens in gasoline and concerns about the exposure of refinery workers to them aren't new, worries over the new methanol additive throw an unexpected wrench right into the middle of Washington's antipollution strategy. Under the Clean Air Act amendments, oxygenated gasoline, designed to reduce dangerous carbon monoxide emissions, became the wintertime standard—from Nov. 1 to Feb. 28—in 39 metropolitan areas that have unhealthy levels of carbon monoxide. The EPA estimates that 70% to 90% of carbon monoxide pollution comes from motor vehicles, and burning oxygenates produces lower levels of the poison.

Ironically, some of the same environmentalists who pressed for the law requiring MTBE use now say Congress may have moved too fast. "People shouldn't be exposed as guinea pigs," says David Doniger, an attorney at the Natural Resources Defense Council, in Washington. "Now, MTBE itself has become a pollutant."

To be sure, the criticism of MTBE is being met with considerable skepticism by some federal and local environmental officials. Says the EPA's Ms. Smith, who lives in the Washington area, "I fill my car with MTBE, and I haven't felt any ill effects." She says some motorists complain that gasoline containing MTBE smells bad, and they may be overreacting.

Moreover, say state clean-air officials in Alaska and Montana, many of the complaints that MTBE caused flu-like symptoms occurred during the middle of flu season.

The motives of some who object to MTBE may be at least partly economic. The petrochemical has one major competitor—ethanol, made mostly by refining corn. That pits the corn industry against petroleum refiners, who make most of the methanol used in MTBE. At stake is the wholesale market for oxygenated fuel, which ranged from $14 million to $16 million a day during the recent winter season, according to oil industry officials. MTBE has 70% share of the oxygenated gasoline market, with ethanol at 30%.

In Montana, a panel of physicians appointed to study complaints about illness from MTBE recommended recently that the sale of oxygenated fuel continue—so long as it's made from ethanol. But to the EPA's Ms. Smith, the request for ethanol-based oxygenated fuel "Is frankly a marketing issue. That's mainly because Montana is a big agricultural state."

Moreover, ethanol supporters are spreading the work that MTBE might be dangerous. "There very clearly could be a problem with MTBE," says Mike Byran, a spokesman for the National Corn Growers Association in St. Louis. The common stock of the nation's largest ethanol producer, Archer-Daniels-Midland Co., rallied briefly last week when a securities analyst highlighted the illness attributed in MTBE in Alaska.

Ethanol has long struggled for acceptance by motorists. As the chief ingredient of gasohol during the 1970s, ethanol was viewed as little more than a cheap, temporary substitute for gasoline. "Cars on gasohol just choked to a stop." says Jerry Levine, director of corporate studies at Amoco Corp., which makes no MTBE but buys it for its gasoline. He says many of the technical problems with ethanol have been solved by improving the mixture, but public acceptance still lags.

MTBE, in contrast, is generally considered an enhancer of engine performance. It has long been used as 2% to 3% of some gasoline mixtures to boost octane levels. At that level, MTBE gasoline doesn't have an unusual odor. But the gasoline formula to reduce carbon monoxide is 15% MTBE, and EPA officials say the higher concentration has a noticeably stronger smell.

Consumers have an economic motive to complain about MTBE, too. Adding it to gasoline raised the pump price 14 cents a gallon in Alaska last winter, despite EPA assurances the increase would be only three to five cents. Gasoline containing ethanol costs roughly the same at the pump as MTBE. Anger over the higher prices caused by MTBE preceded complaints about it as a source of illness, say state environmental officials in Alaska.

[From the Los Angeles Times, Oct. 4, 1993]

QUESTIONS OF HEALTH RISK CLOUD USE OF SPECIAL FUEL

(By Marla Cone)

As metropolitan areas across the nation are switching to a special winter blend of gasoline, federal researchers are unable to agree whether the highly touted fuel poses a health threat to motorists—especially in Alaska.

For almost a year, the U.S. Environmental Protection Agency has puzzled over why hundreds of Alaskans, and some other people scattered elsewhere, complained of headaches, nausea, dizziness and other minor health problems while refueling their cars with oxygenated gasoline when it was introduced last year. The complaints were so alarming in Alaska that its governor has refused to allow the fuel to be sold there this winter.

The gasoline is the cornerstone of a year-old national clean-air effort that has been widely lauded for reducing carbon monoxide, a dangerous gas in car exhaust. Each winter, 39 metropolitan areas that suffer excessive carbon monoxide pollution—including all of California, New York City, Baltimore, Seattle, Minneapolis and Philadelphia—must switch to the new gasoline.

Investigations into the safety of the gasoline, which contains a chemical called methyl tertiary butyl ether, or MTBE, have raised more questions about health risks than they have answered.

Two federal research agencies recently reported conflicting results, thrusting EPA Administrator Carol Browner into an uncomfortable role of either ignoring the uncertainties or overhauling an important, congressionally mandated clean-air program that affects 70 million people.

EPA's Office of Research and Development and Yale University concluded that the gasoline "is unlikely to be a substantial acute health risk" after tests that exposed people to MTBE, according to an Aug. 19 draft of an EPA report not yet publicly released.

But epidemiologists for the U.S. Centers for Disease Control found an apparent link between symptoms and MTBE after blood tests and surveys of some residents of Fairbanks, Alaska.

"EPA feels pretty comfortable that it is a safe, effective product. But different people looking at the same data are making different conclusions," said Phil Millam, EPA's regional air quality chief for the Pacific Northwest and Alaska.

Citing the uncertainties, Alaska Gov. Walter J. Hickel has requested an exemption from the oxygenated gas program. "It would be irresponsible to mandate the use of this fuel until the people of Alaska can be assured there is no serious increased health risk," he said in a letter to Browner a month ago.

Now, the EPA, which has been silent on the controversy, is under pressure to clarify its stance within a month; most areas will switch fuels on Nov. 1.

In California, service stations began early, pumping the winter blend as of Friday. State air-quality officials say they have no qualms because Californians reported no illnesses or health complaints when the new fuel was introduced last fall.

"We didn't see the same problem here that they suspect in other places," said state Air Resources Board spokesman Bill Sessa. "And even if [oxygenated gasoline] is a problem, the situation in California is far different than the rest of the country anyway."

Unlike most states, California service stations have vapor-control nozzles that eliminate up to 95% of refueling fumes, and the state's winter gasoline contains only one-third to one-half of the oxygenates found in fuels in other states.

"Exposures in other states are undoubtedly higher," Sessa said, "but whether they are high enough to pose a health risk is up to EPA to decide."

EPA officials say they are not seriously considering abandoning the program; they believe the health benefits outweigh the uncertainties. Oxygenated fuel has reduced the dangerous peaks of carbon monoxide, which occur largely in winter because of meteorological conditions, according to the agency's data.

The EPA, however, now is wrestling with whether to suspend the program in Fairbanks and Anchorage. Browner faces the sticky task of either imposing sanctions on Alaska or granting a special waiver even when most of her advisers believe the health concerns are unfounded.

Many EPA air quality officials believe the complaints in Alaska were generated by a bizarre mix of mass hysteria fed by widespread media reports and a deep resentment of the federal fuel mandate. Many Alaskans, they say, were eager to complain about oxygenated gasoline because it raised pump prices by 14 cents per gallon there, far more than anyplace else in the nation.

"It's a lot of hokum," one EPA official said of the illness complaints. "Can I totally discount it? No. It is mostly baloney? Yes."

Others in the EPA and the CDC, however, say Alaska's unusual arctic conditions may increase the amount of MTBE that people breathe. Most of the health complaints surfaced in Fairbanks, which has severe ice fogs and strong inversion layers that might concentrate fumes.

"To be honest, I have some concerns that price and press heightened the complaints in Alaska. But to be balanced, most of the testing we have done is a warmer temperatures, so there may be something to it in Fairbanks," said one top air-quality official at EPA headquarters in Washington, who asked to remain unidentified because the agency has not yet taken an official stance.

In their tests. EPA researchers exposed 37 healthy adults to MTBE for one hour at room temperature. Afterward, all 37 had MTBE in their bloodstreams, but medical tests detected no respiratory inflammation, eye irritation, headaches, lightheadedness or other symptoms, according to the EPA's report. Yale University repeated the tests on 43 others and also found no symptoms.

"Taken together, the EPA and Yale studies provide a consistent picture," the researchers' report says.

CDC researchers, however, tested 18 Fairbanks residents and found that the more MTBE in their blood, the more frequently they reported symptoms, especially headaches. Similar, although mixed, results were found when CDC tested 44 people in Stamford, Conn.

"In Fairbanks, we have concerns, because there are lots of people who told us about the problems they have been experiencing. But beyond that, we cannot generalize about other areas," Dr. Ruth Etzel, team leader of the researcher, told The Times.

"Headache was by far the most predominant complaint," she said. "Some also complained of dizziness and nausea. Some had sore throats."

Etzel, who heads the CDC's air pollution health branch, said blaming the complaints in Alaska on climate is just speculation because no one yet understands the possible risks.

"Until MTBE is fully evaluated in community-based studies, questions will remain as to its safety for widespread distribution and use," Etzel said in a letter to Alaska's environmental commissioner.

EPA officials, however, were angered by the letter. They call the CDC data questionable and say their own tests were more reliable because the subjects underwent health tests by experts, whereas the CDC relied on people's subjective, self-reporting of symptoms.

On the other hand, the EPA and Yale research projects have their own shortcomings. The researchers note in their report that they only tested healthy adults and "this leaves the question open about more subtle health risks, especially among susceptible" people who are sensitive to chemicals. They also conducted all their tests in 75-degree temperatures, not arctic conditions.

Nationally, a multibillion-dollar investment by oil and chemical companies is at stake. Although other compounds can be used to add oxygen to fuel, they are more costly than MTBE and switching would force major, expensive changes in the plants that produce the winter fuel.

Jack Hinton, a Texaco Inc. manager who chairs an American Petroleum Institute committee on MTBE, said the industry was "quite surprised" by the rash of complaints from Alaska.

Studies of industrial workers exposed to much more MTBE than are motorists detected no similar health problems. Hinton said. Also, the chemical has been added to wintertime gasoline in Denver and Phoenix since the late 1980s, and although some initial complaints surfaced there, no widespread illnesses or symptoms were reported.

"Predominantly, people in the industry come down on the side that [oxygenated fuel] is safe. But there is still an arctic question that hasn't been answered," said Hinton, whose company is one of four that provides the fuel to Alaska. "We want to provide a safe, usable product to our motoring public, so we're very interested in resolving this.'

FUEL STANDARDS

Metropolitan areas that violate the health standard for carbon monoxide must switch to a special oxygenated gasoline during late fall and winter, when carbon monoxide pollution peaks. Most areas must comply with the federal law as of Nov. 1, although California began using the fuel Friday. Here is a list of the areas:

Alaska: Anchorage, Fairbanks.
Arizona: Phoenix.
California: Statewide.
Colorado: Colorado Springs, Denver-Boulder, Ft. Collins-Loveland
Connecticut: Hartford-New Britain-Middletown.
Maryland: Baltimore.
Massachusetts: Boston-Lawrence-Salem.
Minnesota: Minneapolis-St. Paul, Duluth.
Montana: Missoula.
Nevada: Las Vegas, Reno.
New Mexico: Albuquerque.
New Jersey/New York: New York City metropolitan area including northern New Jersey; Syracuse.

North Carolina: Greensboro-Winston-Salem-High Point, Raleigh-Durham.

Ohio: Cleveland-Akron-Lorain.

Oregon/Washington: Grant's Pass, Klamath County, Medford, Portland-Vancouver, Seattle-Tacoma, Spokane.

Pennsylvania area: Philadelphia-Trenton, N.J.-Wilmington, Del., metropolitan area.

Tennessee: Memphis.

Texas: El Paso.

Utah: Salt Lake City, Provo-Orem.

Washington, D.C.: metropolitan area.

WORKER SAYS MTBE CRIPPLED HIM

(By Sasan Farrar)

Life changed for Brian Ahern of Fairbanks, Alaska, the day he was doused by gasoline with MTBE in it.

Months after his Nov. 16 accident, the 30-year-old told us he can't stand for more than 20 minutes before his legs give out. He walks with a cane and hasn't driven since January.

Ahern says he suffers from memory lapses, headaches and has problems concentrating. A former small-engine mechanic, he says he can't even change the spark plugs in his snowmobile because he can't remember what to do.

Mary Lamielle of National Center for Environmental Health Strategies in Voorhees, N.J., says Ahern is one of about 200 to complain to non-profit group about MTBE.

State of Alaska has asked EPA to suspend oxy-fuels program planned for Anchorage and Fairbanks, after wide-spread health complaints involving oxygen additive MTBE.

Most complaints cite less serious flu-like symptoms from exposure. But Fresno, Calif., jobber Bob Goeringer earlier told us he's convinced a life-threatening allergy attack he suffered this year was linked to MTBE (OW5/17).

Ahern's incident is the second critical MTBE complaint we've heard of. Ahern was replacing a fuel line on a forklift while working for a Kawaskai dealership when the line split in several places and began spraying him with fuel.

MTBE NIGHTMARE . . .

To stop the leaks, he says he had to reach in toward the engine where he was sprayed in the face and head. His jacket and shirt were drenched in the process and his jeans got soaked while he worked.

Ahern had no extra clothes with him so he couldn't change. After 15 minutes, Ahern says he started to feel light-headed. An hour later he felt sick.

He left work a half hour early, driving four blocks home on his snowmobile. He can't remember reaching his apartment, but says his wife found him stumbling up the stairs.

She called the hospital and was advised to get him out of his clothes and into the shower. He figures he wore his fuel-drenched clothes for about two hours.

Ahern didn't feel better that night and was taken to the emergency room where he passed out. He was given oxygen and sent home.

Ahern's former employer, Alaska Fun Center, confirms he was hospitalized, but declined further comment.

He says he gradually grew better over the next week. He found a new job at a Yamaha and Suzuki dealership, but weakness in his legs, migraines and concentration problems forced him to quit after Jan. 4.

Ahern's doctor did not comment by presstime. Ahern filed for workman's comp, but Wausau Insurance refused to pay, claiming his symptoms weren't caused by the accident.

Ahern told us he had to go on welfare to support his three boys. Claims department for Wausau Insurance, reached in Beaverton, Ore., refused to comment.

Big hurt: "Not being able to take care of my kids the way I used to," Ahern says. Also, suspicion that people don't believe his story.

"After a while, you start to question yourself," he says.

MARKETERS COLLECT MTBE HEALTH HORROR STORIES

Fresno, Calif., jobber Bob Goeringer tells Oil Week he's convinced a life-threatening allergic reaction he suffered this winter was linked to increased levels of MTBE in gasoline.

Goeringer's story, along with complaints from 15 to 20 other jobbers, convinced California Independent Oil Marketers Association to survey members about MTBE-related health problems.

Surveys will go out later this month.

Meantime, another California jobber told us he may provide gas masks to workers next year after receiving complaints of headaches and nausea from virtually all his truck drivers.

Jobber, who asked not to be identified, says workers complained of peeling skin after contact with MTBE fuels.

Severe allergy: Goeringer, Visa Petroleum, noticed sinus congestion and draining in November.

By December and through January and February he suffered from severe asthma to the point he experienced difficulty breathing. He also lost his voice.

Goeringer says he took prednisone, an anti-inflammatory with severe side-effects, for four months to try to clear up his lungs. He got off the drug a couple of weeks ago and most symptoms finally subsided.

Though Goeringer doesn't work directly with fuels, he's convinced his problem was caused by MTBE fumes in the atmosphere.

Symptoms came on about the same time new regs required refiners to add MTBE to gasoline.

"What else could it be? he asks. "I've lived in this body for 67 years and I've never felt anything like it," he told us.

Also, Goeringer says, doctors at Las Vegas Clinic told him they found elevated levels of petroleum chemicals and sulfur when they tested him. Clinic did not return our call by press time.

Recent tests—funded by the oil industry and producers of MTBE—have concluded that for normal, healthy, young adults, there are no significant health risks under temperate conditions.

First, let it be known that those so-called tests were funded by the oil industry and producers of MTBE.

Second, how many people and how frequently fall under the scope of these tests' assurances? What about those of us who are not normal, healthy, young adults? What do they mean by temperate conditions?

Thus, while EPA is prepared to accept these tests, they do not answer questions about subpopulations that may be more sensitive to chemical exposure, including children and the elderly.

Moreover, the tests which were conducted did not address concerns raised about MTBE exhaust emissions that the Center for Disease Control identified as a potential concern.

Barry Grossman, founder of Oxy-Busters in New Jersey, has stated:

> "[w]e feel they're [bureaucrats] down-playing the extent to which people who are sensitive to it are affected by it. We're going to walk around the next seven months with headaches and other ailments.

I agree. The bureaucrats are downplaying the potential concerns. They would like this issue to go away.

But as long as EPA insists that there should be no alternatives to methanol based ethers, as long as ethanol is banned from clean air markets, there will continue to be legitimate questions from certain subpopulations that are particularly sensitive to MTBE that want and need an alternative.

Earlier this month, Congress agreed that more study was needed before an MTBE mandate was put in place in Alaska. Alaska Governor Walter Hickel stated:

> [i]t would be irresponsible to mandate the use of this fuel (MTBE) until the people of Alaska can be assured there is no serious increased health risk.

My only question is why just Alaska? What about the consumers in New Jersey, in Montana, in Connecticut, who have similarly complained about the health effects of MTBE. Why don't we care about them? Why won't we assure now that consumers in these States won't be forced to use MTBE beginning in 1995 when the RFG program commences.

Unless we act now to stop EPA's MTBE mandate, we'll be back in the summer of 1995 suspending this important program in States all across the country because there will be alternatives to MTBE in the marketplace.

GROUNDWATER

Every day in the United States, thousands of gallons of gasoline are spilled or leaked from storage facilities, contaminating surrounding environments, including aquifers.

A recent paper published by the University of Oklahoma concludes that the health and environmental risks associated with MTBE have not been fully evaluated.

The report stated that MTBE appears not to biodegrade once released into the environment, creating a potentially dangerous environmental/public health concern.

In sharp contrast to MTBE, other oxygenates, including ethanol, biodegrade rather quickly.

A University of Oklahoma study found that after 249 days, there was no evidence of the anaerobic destruction of MTBE, indicating that it may never biodegrade.

Another study has found that fish absorb MTBE from the water into their body. The fish concentrates the MTBE about 1.5 times, for example, if the water is 10 ppm MTBE, the fish would contain 15 ppm.

The RFG program is expected to create a market for between 400,000 and 700,000 barrels per day of oxygenate. If MTBE is the only oxygenate used, and ethanol is precluded, the potential for groundwater contamination is increased accordingly.

COST

If MTBE is mandated for use in the RFG program, consumer costs will rise dramatically.

There are two reasons cost will increase—insufficient domestic MTBE supply and lack of competition.

In every area that implemented an oxyfuel program last year where MTBE has had a marketplace monopoly, consumer gasoline costs rose. I have press reports demonstrating the cost increases in some of these areas:

Alaska—14 cents per gallon.

New York/New Jersey—8–10 cents per gallon.

Montana—10–12 cents per gallon.

Demand for MTBE created by a marketplace mandate could create a shortage of at least 100,000 barrels per day, and up to 400,000 b/d with opt-in areas. Such a shortage will drive up profits for MTBE producers and increase imports.

Mr. President, well over 50 percent of all MTBE produced domestically is controlled by one major oil company. Mandating the sole use of MTBE in the RFG market will create a powerful monopoly for this one company. How fuel neutral is that?

ENERGY SECURITY

As I've stated, there will simply be insufficient domestic supplies of MTBE to satisfy an MTBE mandate in RFG. This will require increasing amounts of imported products. MTBE imports for just the first 6 months of 1993 exceeded 178 million gallons.

Imports of MTBE will continue to rise to more than 400 million gallons this year because of the 1993–94 oxyfuel season. By 1995, industry estimates that more than half of all MTBE requirements will be met with imports.

Imported methanol will also be necessary to satisfy domestic MTBE production. More than 800 million gallons of imported methanol will be necessary each year to satisfy growing domestic MTBE.

From virtually every angle, an MTBE mandate makes little sense, and certainly poor public policy.

It will stifle economic growth across rural America, costing jobs and investment in domestic ethanol production.

It will increase the cost of the RFG program to consumers by reducing available oxygenate supplies and curtailing competition.

It will increase our dependence on imported energy.

And it raises serious public health and environmental questions that can only be addressed by providing marketplace alternatives.

President Clinton needs to be reminded of his commitment to increase ethanol's use to the people of America.

He needs to pay attention to the Members of Congress and Governors from States all across the country that want competition, want consumer choice, and want ethanol in this market.

He needs to get a handle on his Environmental Protection Agency, with its decidedly antiethanol bias, and get that Agency to start working cooperatively with the ethanol industry to find solutions to problems instead of acrimony.

And he needs to decide this issue, once and for all, so that ethanol's role in this important market can be assured and expansion, job creation, and investment in the domestic ethanol industry can move forward without further delay.

I ask unanimous consent to print in the RECORD letters written to the President.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

U.S. SENATE,
Washington, DC, October 28, 1993.

The PRESIDENT,
The White House, 1600 Pennsylvania Ave., Washington, DC.

DEAR MR. PRESIDENT: Who in your White House is in charge of your ethanol policy, i.e., ethanol's role in the Clean Air Act's Reformulated Fuels Program? I heard that one White House staffer reportedly dismissed the ethanol issue because "the only ones supporting ethanol are Republicans like Bob Dole and Chuck Grassley."

It is inconceivable that Democrat Senators and Congressmen have failed to draw your attention and energies to this problem.

In fact, it is inconceivable that your White House did not make this a top priority from day one. Little more than a year ago, at the "Harkin/Lloyd-Jones Fall Fest" in Indianola, Iowa, you attacked President Bush for not doing enough for ethanol. More importantly, you promised to "bring the EPA and the Agriculture Department and all the people together. We will do the research we need to hammer out the difficulties here. We'll solve it and we'll use ethanol as part of our national energy security future."

Mr. President, I have written to you twice and to Vice President Gore once urging your resolution of this problem, and offering my assistance. Governors—both Democrat and Republican—from all over the country have written to you as well, but have not received an answer.

In the meantime, EPA bureaucrats move forward toward implementing a policy which, for all practical purposes, will ban the use of ethanol, while virtually mandating MTBE for the Reformulated Fuels Program. This is incredible! Congress just gave Alaska a waiver because MTBE is making motorists and gasoline attendants sick with headaches, nausea, vomiting, etc.

Time is running out. Your help is needed immediately. Once again, I stand ready to be of any assistance that I can.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

U.S. SENATE,
Washington, DC, November 5, 1993.

Mr. DAVID GERGEN,
Counselor to the President,
The White House, Washington, DC.

DEAR MR. GERGEN: We are requesting your assistance in an issue of tremendous importance to rural America—the use of ethanol in the Clean Air Act Reformulated Fuels Program (RFG). Ethanol has enjoyed widespread bipartisan support for fifteen years. It is a domestically produced renewable fuel that creates jobs and economic development across the Midwest as grain demand increases to meet ethanol production requirements.

The importance of this issue is reflected by the considerable attention it received during last year's Presidential elections. We are writing to you today because the Clinton Administration has not implemented the President's promise "to bring the EPA and the Agriculture Department and all the people together. We will do the research we need to hammer out the difficulties here. We'll solve it and we'll use ethanol as part of our national energy security future."

Fuel ethanol is extremely important to the vigor of American agriculture. More than 400 million bushels of grain were used in the production of ethanol last year, with each bushel yielding approximately 2.5 gallons of ethanol.

Furthermore, the General Accounting Office concluded that the increased use of ethanol would reduce farm subsidies by $1 billion per year, and would increase farm output by $2.5 billion by the year 2000. These developments would create more than a million new jobs and net the Federal budget between $3.9 and $4.8 billion.

The potential for rural economic development created by increased ethanol demand was critical to our support for the Clean Air Act when it was passed in 1990. That bill required the addition of oxygenates, such as ethanol, in reformulated gasolines beginning in 1995. Importantly, when we wrote those provisions, we intended there to be free and open competition between the available oxygenates. We believed, then, and do now, that a competitive oxygenate market is essential to controlling costs from this program and assuring consumer acceptance.

Unfortunately, EPA's proposed program creates a virtual mandate for the use of ethanol's marketplace competitor—methyl tertiary butyl ether (MTBE). MTBE is a methanol-derived chemical produced by the major oil companies. This is an unacceptable situation politically. But, more importantly, it would have very negative public policy ramifications if left unchanged.

First, Congress wrote the RFG program to be a tool for states to use to reduce ozone pollution. With regard to ethanol, EPA has ignored this congressional mandate and determined the role for ethanol blends based solely on the mass of its emissions. Such an approach by its design ignores the overall air quality benefits of ethanol, including reduced carbon monoxide, an ozone precursor, and the reduced ozone-forming potential of ethanol emissions.

Second, it is important to recognize that the debate on this issue has been polarized by the competitive motivations of all parties, making a rational discussion of the marketplace and environmental issues almost impossible. The oil industry produces and profits from the use of ethanol's marketplace competitor—MTBE, a methanol-based chemical that will be increasingly imported from the Middle East. The ethanol industry and major farm organizations have suggested that ethanol should be allowed to be used in RFG "without restriction," while environmental organizations want ethanol use to be restricted to only that of an ether.

Earlier this year, the Council of Great Lakes Governors attempted to bring some objective analysis to this debate by commissioning a study to determine the actual ozone effects of ethanol and MTBE. In short, the study concluded that there was virtually no difference in ozone air quality when either ethanol or MTBE is added to the same reformulated base gasoline. More than 150 Members of Congress and 12 Governors have written to President Clinton requesting that this analysis be used to find an environmentally sound and technically based solution to this issue.

To resolve this problem, we would suggest the following;

1. Promulgate EPA's original Reg-Neg proposal, but affirm that 10-percent ethanol blends will be certified as RFG pursuant to the authority granted by the Certification Equivalency provision described in Section 211(k)(4)(B) under the following conditions:

Only 10-percent blends (3.5 percent oxygen) are used;

Oxygen credits cannot be accumulated or traded for ethanol blends certified under this provision;

The ethanol must be added to a reformulated gasoline blendstock that has been certified for use with 11-percent MTBE; and

The fuel blend meets the "no net NOx" and toxic reduction requirements of Section 211(k)(3)(B).

2. Modify EPA's MOBILE Guidance document to the states such that the mass VOC emissions from 10-percent ethanol blends certified under Section 211(k)(4)(B) are deemed equivalent to those of MTBE for the purpose of calculating Section 182 reasonable further progress requirements.

The effect of these two initiatives will be to allow both 10-percent ethanol and 11-percent MTBE blends, which have been determined to have equivalent ozone effects, to compete in the reformulated gasoline market with appropriate restrictions to preserve the environmental objectives of the Clean Air Act. It will allow the regulatory process to move forward. Furthermore, it will encourage states to opt in immediately—states which otherwise have been reluctant to adopt a reformulated fuels program that bars ethanol. Moreover, it will reconcile the ozone equivalency of these two oxygenates with EPA's emission-driving program and not penalize states or industries trying to meet their Section 182 requirements.

David, this issue needs to be resolved. Already too much time has been lost. A favorable resolution of this issue would allow expansion in the ethanol industry to resume, creating tremendous employment and economic investment across the Midwest at a time when such a stimulus is desperately needed. Moreover, assuring competition in the oxygenate market will reduce the cost and increase consumer acceptance of the RFG program.

We need your assistance in getting this resolved. Please let us know what we can do to be of assistance.

Sincerely,

RICHARD G. LUGAR,
U.S. Senator.
CHARLES E. GRASSLEY,
U.S. Senator.

UNITED STATES SENATE,
Washington, DC, November 24, 1992.
President-Elect BILL CLINTON,
State Capitol, Little Rock, AK

DEAR MR. PRESIDENT-ELECT: I appreciated your communication of November 4 to me expressing your interest in working together in the weeks and months to come. There is one issue that I would like to raise now that is of considerable importance to our rural economy, jobs, and agriculture. That issue is your position and intentions with regard to President Bush's solution to the problems that had been hindering ethanol's participation in the reformulated fuels program of the Clean Air Act.

I am enclosing a copy of the October 12, 1992, article from "U.S. Oil Week" which includes a number of quotes from your chief energy policy director, Bill Burton, Several factually incorrect statements regarding this issue and President Bush's solution are attributed to Mr. Burton, and I hope none reflect your position.

Mr. Burton should realize that the Negotiated Rulemaking Act that codifies the "reg-neg" option does in no way restrict the rights of agencies or parties found under the Administrative Procedure Act. It is entirely up to an agency whether or not to utilize a "reg-neg" process, or for that matter, to publish as a proposed or final rule the consensus of the participants to any reg-neg proceeding.

Nor do participants of a "reg-neg" forfeit their rights. Moreover, strong objections were raised during EPA's public comment period not only by virtually every ethanol producing company in the nation, but also the American Agriculture Movement, National Farmers Organization, National Farmers Union, National Grange, American Farm Bureau Federation, National Corn Growers Association, National Pork Producers Association, National Grain Sorghum Producers, National Wheat Growers Association, National Cattlemen's Association, National Barley Growers Association, Corn Refiners Association, Renewable Fuels Association, and 22 State Corn Grower Associations.

Dozens of Senator and Congressmen, including Vice President-Elect Al Gore, felt strongly that the EPA's "reg-neg" proceedings were moving contrary to Congressional intent and were undermining the role of ethanol in the reformulated fuels program. Enclosed is a copy of a letter signed by 27 Senators expressing these concerns, which unfortunately, went unheeded by EPA and its "reg-neg" participants.

The significance of our concern about EPA's use of the "simple model" is that it barred the use of good science that would prove that the use of ethanol will reduce ozone, not increase it, in ozone non-attainment areas. By the time the "complex model" would have been utilized, MTBE (much of it originating from overseas) would have locked ethanol out of the reformulated fuels market.

A study conducted by the National Corn Growers Association in 1990 found that the increased production of ethanol resulting from the Clean Air Act could produce 35,000 jobs in the State of Iowa alone. The hope for these jobs, along with the largest new market for corn, has been put on hold because of concerns that you will overturn President Bush's solution.

I am asking that you set the record straight so that ethanol producers around the country may proceed immediately with their plant expansion construction. Therefore, I urge you first, to announce that as a minimum, you will implement President Bush's solution. Second, I urge you to announce that you will improve this solution by building upon it with additional pro-ethanol initiatives such as the Governors' Ethanol Coalition proposal you supported last June which would guarantee ethanol a 50 percent market share of oxygenate blend stock by 1997.

I assure you that I reciprocate your desire to work together in the coming months to tackle our nation's problems. I hope that this ethanol issue will be the first of many that we can successfully resolve.

Sincerely,

CHARLES E. GRASSLEY
United States Senator.

U.S. SENATE,
Washington, DC, May 18, 1993.
Hon. ALBERT GORE, Jr.,
The Vice President of the United States,
Washington, DC.

DEAR MR. VICE PRESIDENT: I am pleased that you will be meeting with a number of Democrat Senators to discuss the role of ethanol in the Clean Air Act's Reformulated Fuels Program.

I commend you for your support for ethanol as a Senator. As you can see from the attached copy of our July 31, 1991 letter to EPA's Administrator, William Reilly, you joined 26 other Senators warning EPA that its "reg-neg" proceedings were moving contrary to Congressional intent and were undermining the role of ethanol in the reformulated fuels program.

Unfortunately, EPA and its "reg-neg" participants chose to ignore our letter, and subsequently, have taken the apparent position that only the participants, and not Congress, have the authority to determine Congressional intent.

Don't you agree that the purpose of the Reformulated Fuels Program was to reduce ozone, not volatile organic chemicals? The best science must be used by EPA, and this means science that accounts for ozone forming potential (i.e., atmospheric photochemistry) in the promulgation of these rules. This is a far more accurate indicator of actual ozone forming potential than the mass base accounting system currently proposed by EPA.

A great deal is at stake for rural America. By one estimate, the Clean Air Act could create 35,000 jobs in Iowa alone. But if the anti-ethanol forces of the oil industry and a few misguided environmental interests prevail, American corn farmers could lose as much as $1.9 billion in cash income by 1997, while government deficiency payments for corn could increase by $3.3 billion.

In view of the BTU tax, the barge tax, the farm program cuts, and the EPA ethanol problems, I cannot recall a time when rural Americans and farmers were hit with so much potentially devastating government policy at once. Your assistance in turning this around is crucial. Let me know if I can be of assistance.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

U.S. SENATE,
Washington, DC, February 10, 1993.

The President
The White House
1600 Pennsylvania Ave., Washington, DC.

DEAR MR. PRESIDENT: I am writing to offer whatever assistance is appropriate with regard to the problems your administration is having with the publication of EPA's proposed ethanol reformulated fuels rules.

These proposed rules should be released for public review and comment immediately.

The ethanol reformulated fuels solution developed by the Bush administration is critical to farmers, rural workers, and the general health of our rural economy. By one estimate, the Clean Air Act could create 35,000 jobs in Iowa alone. And if these rules are not adopted, corn farmers could lose as much as $1.9 billion in cash income by 1997, while government deficiency payments for corn could increase by $3.3 billion.

Rural Americans are becoming understandably anxious by the mixed signals about your commitment to ethanol in the reformulated fuels program. The concern surfaced before the election when your chief energy policy director, Bill Burton, attacked the Bush ethanol solution as a betrayal of the oil industry.

The Bush administration worked hard during it's final two months to honor its promise to farmers and rural Americans. OMB and EPA officials coordinated their efforts closely in order to finish these proposed regulations.

Regrettably, your administration prohibited these proposals from being made public. This followed assurances to Democratic Senators that the rules would be published immediately. But now we learn this past weekend this will not be the case.

It seems strange that in view of the close coordination between EPA and OMB officials in developing these proposals, that now OMB is claiming it did not perform an adequate review.

What I recommend is that you release these proposed rules to the public immediately, and treat them as a starting point—a bare minimum as to what the Clinton administration will do to increase the use of ethanol in reformulated fuels.

Once published, it will give you the opportunity to carry out your campaign promise to implement as President, the Governor's Ethanol Coalition proposal which mandates the ethanol's share of the oxygenate blend stock grow to 50 percent by 1992.

I stand ready to assist you in implementing your promised support of the Governor's plan.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah [Mr. BENNETT] is recognized for 4 minutes.

SENATOR HATCH EXONERATED

Mr. BENNETT. Mr. President, I rise on a matter totally unrelated to those we have been discussing but one of which I think both the Senate and the country should be aware.

Some time ago my senior colleague, Mr. HATCH, came under heavy press barrage and became the subject of many rumors which caused him to ask the Senate Ethics Committee to examine those rumors, to make sure there was no substance to them.

I understand that last night the Ethics Committee completed its examination and by a unanimous vote exonerated Senator HATCH of any wrongdoing. I think we should pause on this occasion to recognize, first, that the investigation came as a result of Senator HATCH's request, not because of anybody else accusing him.

Second, the investigation is now completed and Senator HATCH has been given a unanimous clean bill of health.

I have always maintained my faith in Senator HATCH's integrity. We on this floor have heard him demonstrate his outrage at some of the excesses that the media have gone to. It is a time of great rejoicing, at least in this Senator's office, that the cloud of suspicion has been lifted from Senator HATCH, as he himself knew it would be when he asked for this investigation in the first place.

So I call the attention of the Senate to this action on behalf of the Ethics Committee and extend my personal congratulations to Senator HATCH that this matter is now firmly and solidly and officially behind him. I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

PASSAGE OF THE NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. PELL. Mr. President, last week, I announced that I would support the North American Free-Trade Agreement. Now that the agreement has come to the Senate, I would like to reiterate that support and express my belief that with its passage, we are taking an important and historic step forward in securing our country's economic future as well as the hemisphere's stability and progress toward democracy.

Since I have already outlined in some detail for the RECORD the reasons I support NAFTA, as well as some of the reservations I have about it, I will not do so again here. But I would like to say a couple of things regarding the manner in which this debate was conducted and to my friends in the labor community who have expressed their opposition to this agreement.

First, I commend all of those in the Congress who have maintained a level of decorum befitting the institution while debating this complex, difficult, and emotional issue. While the rhetoric from those outside of the Congress has often been extreme and I might say, unseemly, the debate here, though intense, has been informed and civil.

Second, for those in the labor community who have argued with passion against this agreement, I understand the anxiety that you feel. As one who has been involved in fighting for and voting for the gains that we have been able to achieve for the American worker, I know how hard it has been to establish in law basic concepts of fairness, safety, and equity in the workplace. I know the struggle that working men and women have gone through to get decent compensation for their work and security in their employment.

Many believe that NAFTA threatens these gains and indeed the very existence of hundreds of thousands of U.S. jobs. I am confident that U.S. labor standards are not threatened by NAFTA and also that we will actually experience a net job gain. For that reason, I support NAFTA and believe that American workers stand to gain from the agreement. Nevertheless, I salute those in the labor community who have been steadfast in their opposition to NAFTA as I believe they are honestly doing what they believe is necessary to represent the interests of working people. While I do not agree with them here, I look forward to continuing to work with them in the future on other matters.

In conclusion, I welcome this historic day in the Senate as we consider NAFTA. I applaud those who have worked so diligently over the years to bring this agreement to fruition and particularly salute President Clinton and Vice President GORE, without whose support and articulate advocacy in these closing weeks, the United States would have lost the opportunities that NAFTA presents. I believe that with NAFTA's passage, we will embark on a new era in hemispheric relations and in the process embrace with confidence the coming age of the global economy.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMBARGO ON LIBYAN OIL

Mr. KENNEDY. Mr. President, before we adjourn, I hope the Senate will approve Senate Resolution 165, which I am about to speak to, and I am very optimistic that it will. It will be an extremely important action of the U.S. Senate and the American people.

Mr. President, when Senate Resolution 165 asks the President to take all appropriate steps to see that the Government of Libya complies with U.N. resolutions requiring it to turn over the suspects indicted in the terrorist bombing of Pan Am flight 103 in December 1988. The resolution specifically calls for the imposition of an embargo on Libyan oil, if that is what it takes to obtain Libyan compliance, and that is what it may well take.

I am pleased to be joined in this effort by the bipartisan group of Senators who are sponsors of this resolution and who have been vigorous supporters of stronger action against Libya.

In particular, I want to commend the leadership of Senators LAUTENBERG, MOYNIHAN, D'AMATO, HELMS, MITCHELL, PELL, KERRY, BRADLEY, DODD, FORD, LEVIN, LIEBERMAN, SASSER, and WOFFORD.

Nearly 5 years ago, on December 21, 1988, Pan Am flight 103 was blown out of the sky over Lockerbie, Scotland. The flight had originated in Frankfurt, Germany, after a stop at Heathrow Airport to change to a larger plane for the final leg of the flight to the United States. The bomb went off an hour after the plane had taken off from Heathrow en route to New York City. It was bringing a large number of Americans home for the Christmas holidays, which made the tragedy even more despicable and poignant.

Tragically, 270 people from 21 countries, including 189 Americans, died in the attack. That bombing will go down in history as one of the worst terrorist atrocities of our time.

Then, 2 years ago this month, after an extensive international investigation, United States and British law enforcement authorities cracked the case. The bomb was apparently placed in a suitcase on an Air Malta feeder flight from the island of Malta to Frankfurt, then transferred to Pan Am flight 103A and then, in London, transferred to Pan Am flight 103. Two Libyans were identified as directly involved in placing the bomb on the feeder flight and were indicted for the crime—the former manager of the Malta office of Libyan Arab Airlines, and a senior Libyan intelligence official.

Ever since then, we have been trying to bring these two Libyans to justice. But the Government of Libya has consistently and persistently stonewalled all of these efforts. It is time to get serious, and it is important that the Senate be on record in support of the strongest possible economic sanctions against Libya, including an oil embargo.

In March 1992, the U.N. Security Council adopted a resolution imposing modest economic sanctions because of Libya's failure to turn over the suspects indicted for the Pan Am bombing, as well as Libya's refusal to cooperate in France's investigation of the 1989 bombing of a French airliner over Chad, which killed 171 people, including 7 Americans.

The 1992 sanctions prohibited air traffic to and over Libya. They banned the supply of aircraft parts to Libya. They banned arms sales to Libya. And they reduced Libya's diplomatic representation in other countries. These were limited sanctions. They have been in effect for more than a year, and they are clearly insufficient to bring about the surrender of the two suspects.

Last week, the Security Council adopted a further resolution imposing additional sanctions, which will go into effect on December 1. The new sanctions include a limited freeze on Libyan assets in other countries, and a ban on the sale of certain oil producing equipment and supplies.

All of us hope that these added sanctions will be successful. But they fall well short of an oil embargo, which is the step that many of us believe may well be necessary to bring about the surrender of the suspects.

The purpose of this resolution is to send a clear message to the international community that President Clinton has the solid support of the United States Senate for much stronger future sanctions against Libya, including a full embargo on Libyan oil.

We are all aware of the economic impact that an oil embargo might also have on some nations in Western Europe. Clearly, we must work with Italy, Greece, Germany, Spain, and other countries to ease any burden that an oil embargo will place on them. Obviously, in aiming at Libya, we do not intend to hit our allies. I am confident that when Libyan terrorism is the issue, the world community can find a way to do without Libyan oil.

In 1982, the United States unilaterally imposed our own oil embargo against Libya. That step was the culmination of a series of incidents and confrontations that escalated when Libya was put on the State Department list of terrorist nations in 1979. That escalation included the looting of the United States Embassy in Tripoli in 1980, the closing of the Libyan Embassy in Washington in 1981, and an attack on United States Air Force planes by Libyan jets in 1981, in which two Libyan jets were shot down.

Our 1982 oil embargo against Libya had a modest economic impact on the United States—5.3 percent of our oil imports and 2 percent of our oil came from Libya, and some United States firms were disadvantaged. But we believed, and we continue to believe, that it was essential to impose the embargo at that time against the renegade regime of Colonel Qadhafi in Libya.

Qadhafi's support for terrorism has continued over the years. In 1986, two American servicemen were killed in the bombing of the La Belle disco in Berlin. The Reagan administration implicated Libya in that attack and bombed Libya in retaliation. Also in 1986, in response to terrorist attacks at the Rome and Vienna airports in 1985, President Reagan authorized further unilateral trade sanctions against Libya.

This resolution demonstrates our resolve to the Government of Libya. The suspects in the bombing of Pan Am flight 103 must be turned over to the United States or Scotland for trial. Justice must be done and must be seen to be done. No amount of delay will relieve Libya of its responsibility. Libyan terrorists cannot murder innocent civilians and think that, if enough time passes, or if enough compensation is offered, we will forget about their crime.

The families will not forget, and America will not forget. We will not rest until all those responsible for this abominable terrorist atrocity are brought to justice. We owe nothing less to the families who lost loved ones on Pan Am flight 103. We owe nothing less to our country in the worldwide battle against international terrorism.

Our resolution deserves the unanimous approval of the Senate.

I thank my colleagues for their support.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF THE CHIEF OF THE FOREST SERVICE

Mr. CRAIG. Mr. President, for the entire history—starting in 1905 until now—of the U.S. Forest Service, they have developed a way of elevating their leadership from within by using a competitive process based on merit and experience. Since the Senior Executive Service was established, the Chief of the Forest Service has been selected from the top ranks of the Forest Service executives qualified under the SES Program. In other words, all Chiefs of the U.S. Forest Service since Gifford Pinchot, a fellow who history says was responsible for working to create the Forest Service with Teddy Roosevelt, have always been from within the quality ranks of the Service itself.

The Clinton administration's political appointment of Jack Ward Thomas as the new Chief of the Forest Service sets an extremely dangerous precedent for future management of the 191 million acres this Nation calls its public forests and grasslands.

The position of the Chief was made political despite the vehement opposition of over 70 supervisors—that is the leadership across the country of the Forest Service—from Republican and Democrat Senators and Representatives who called the President in a bipartisan way and asked that he not do this, from a former Chief, Max Peterson, who many of us know here, and from a large list of current Forest Service employees.

The administration now claims they are going to have to rely on science, and that they made their decisions based on science. Most certainly, they are arguing, they did not make it on politics. And yet, by their own admission and by the establishment of this precedent, they have chosen a political way of making this appointment and creating a major blow to the employees who have always been reluctant to deal in politics because they are professional people we have hired in our Government to manage our public lands and our public forests. The kind of demoralization that is now going on inside the U.S. Forest Service is yet to determine the reputation and the quality of that agency because this administration has decided they want to make it a political process.

To compound the confusion that many of us now have, on November 16, Secretary Espy created an independent Forest Service law enforcement organization which will report only to the Chief. Perhaps unknowingly, the Secretary has created what I think is a potential monster. No longer will the law enforcement program be integrated on a field-program-to-field-program basis as it relates to recreation and fire suppression and timber management. No longer will law enforcement activities be coordinated for the greater accountability of anyone outside of Washington, DC.

I predict this law enforcement group, armed with its new-found power and autonomy, will disrupt the programs of the Forest Service, damage the cooperative relationship that the Forest Service has with local counties and entities of government that it must associate with out in our public-lands States, and intimidate district rangers and Forest Service investigators who were early on charged with that responsibility.

In creating a separate law enforcement organization, Secretary Espy ignored the 1990 report prepared with a cross-section of Forest Service employees from all organizations and levels as it related to their conclusions about how law enforcement inside the Forest Service organization and on forested lands ought to go. The "Future Agenda for Law Enforcement," which was established as an internal document of high quality, was largely ignored. The Senate Agriculture Committee, on which I serve, which has oversight of the Forest Service, has not been afforded the opportunity to comment on these major reorganizational shifts—the Chief and the law enforcement efforts. No hearings have yet been held and the committee has received scant information as to these points of major change.

It would appear that the Secretary's announcement was deliberately timed just in advance of the holiday recess to preclude any immediate congressional action for these purposes.

Yesterday, I introduced legislation cosponsored by other Senators that says in essence if you are going to politicize the position of the Chief, then it ought to be a political appointment that would be confirmed by the Senate, as all other major political appointments are done.

On October 21, Senator HATFIELD, myself, Senator WALLOP, and Senator BURNS, wrote the Secretary urging that he not do this and that he not politicize the position of the Chief.

Well, he ducked and blinked for just a short time by creating a short-term position, and then last week, of course, reached in and created a political position in the form of Jack Ward Thomas as the new Chief.

In light of the foregoing, it seems particularly inconsistent that Secretary Espy's draft of legislation to reorganize the USDA makes no mention of the Forest Service reorganization.

The Forest Service is the largest of the USDA agencies with approximately 40,000 employees nationwide. The USDA reorganization has been the subject of hearings in the whole Senate Agriculture Committee, but the absence of any Forest Service proposal raises serious questions of the administration's intent.

I think by now it is obvious I feel very strongly that the Forest Service reorganization must be included as a part of the overall USDA reorganization plan. In that way the agricultural committee will have an opportunity to question these major reorganizational decisions which are now independent of Congress. We need to see alternatives for the Washington offices and the regional offices personnel reductions, and what are the budget targets, clearly the reorganization of this stovepipe approach to law enforcement and certainly an analysis of other major programs.

Mr. President, this is an unprecedented move on the part of this administration. I only hope that an agency with the kind of history and quality of administering of our public lands ever since 1905 is not destroyed for political reasons by the Clinton administration. But there is no doubt that today, taking a career position, the chief of the U.S. Forest Service, and reaching in and making it political without giving this Senate in a bipartisan way the opportunity to review that appointment and make comments on it, is a dangerous precedent that I believe will come home to haunt this administration.

I yield back the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

ORDER OF PROCEDURE

Mr. RIEGLE. Mr. President, I ask unanimous consent to speak for as long as 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair.

FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I am rising today in what will be my last statement this year telling my colleagues about the problems facing real people as a result of the health care crisis that is facing our country. Today I want to share with everyone the story of Christopher Arnold of Pontiac, MI. Christopher, who is only 5 years old, suffers from primary immune deficiency disease.

I want to show you a picture of him. It comes from an article that ran in the Open Press newspaper on April 6 of this year. Here is the picture of Christopher. That story, of course, tells about the problem that he is facing with which I want to outline now.

For 4 years prior to Christopher's birth, Debbie worked for the same company as Rick. However, after complications during Christopher's birth, Debbie was out of work for several months. When she finally returned to her job, she was demoted to a position in which she was forced to travel. Because she could not travel with an infant at home, she was forced to leave her job.

Christopher lives at home with his parents, Debbie and Rick Arnold, and his 15-year-old sister, Delena. Rick is an insurance agent for Blue Cross-Blue Shield, and Debbie works part time at a photographer's studio. Rick's income varies with his sales, but together, the Arnold's yearly income usually amounts to about $40,000.

It was not until about 6 months after Christopher's birth that the Arnolds found out just exactly what this medical problem was that he was facing. Christopher was, unfortunately, born with an immune system disorder. Actually, of the people in our society, there are an estimated 1 in every 500 who have to cope with this problem. But it means that the defense system within his own body is not able to fight ordinary infections that humans are faced with having to fight off all the time.

Every 2 or 3 weeks, Christopher gets a blood infusion which costs between $1,500 and $1,800. He is constantly on antibiotics, and also takes asthma medication. The cost of his medications can be as high as $1,000 each month.

That is in addition to the blood infusion that he needs. This little guy has already had 10 surgeries. Rick pays about $2,000 annually for the insurance policy to cover his family. And it is fortunate that he has that degree of coverage because so many do not. But that does not solve the problem, as you will soon hear.

At first, his insurer refused to cover Christopher's home infusions. But after numerous appeals from Christopher's doctors, and the home care company that administers his therapy, the insurer agreed to cover 80 percent of Christopher's treatments and medications.

But Rick and Debbie are still paying as much as $10,000 each year for the 20 percent of Christopher's care that their policy does not cover. I can imagine what it would be for somebody even in a worse situation with no coverage at all.

Fortunately, about a year ago, the Arnolds found out they were eligible for benefits through Special Health Care Services. Special Health Care Services is a State program that provides benefits for children with chronic illnesses, and they have been picking up the remaining 20 percent of Christopher's bills for the past year.

The benefits and premiums for this program are based on a family's income. Because their income is low, the Arnolds have not had to pay anything for the benefits they have received so far. They are worried, however, because their income has gone up since they first became eligible, and they will be reviewed early next year. They fear that they will have to begin paying premiums for the extra benefits, which may be too expensive for them to afford and to meet other basic living costs.

The health care bills that the Arnolds had been paying prior to enrolling in Special Health Care Services put them in financial distress. Their credit rating has been ruined because they have been forced to pay their bills late, and this year alone, they have been in foreclosure on their home twice. In fact, just this Monday, they had to remortgage their house, which was going to be foreclosed on at noon on Tuesday. If they had not found a company to remortgage their home on Monday, they might have been out on the streets right now.

Imagine not just a family being forced out onto the streets because of these kinds of accumulated medical bills but imagine taking a little sick guy like Christopher out into that condition. And there are children like that out there now in other circumstances as we know.

Christopher's sister, Delena, is only 2 years away from being ready to go to college. She dreams of going to medical school and becoming a doctor. And good for her to have that kind of ambition. But at this point, Debbie and Rick know they will never be able to afford to provide their daughter this kind of education.

In fact, Rick is actually locked into the job. We talked about job lock because of health insurance. He is in that situation because it would be virtually impossible to find a new employer that would cover Christopher because of his what is called preexisting condition.

The Arnold's greatest fear is that when Christopher reaches the age of 23 he will not be able to get insurance on his own. He has already been denied life insurance. Christopher will need care for the rest of his life, so they also fear the day that they will reach the lifetime maximum of their coverage. They have a maximum of $1 million, but annual expenses for Christopher's care can be as high as $100,000.

Mr. President, the sickness of a child can be devastating for a family. And it is happening all across this country in cases like this and others.

And it is just not right that a sickness like Christopher's also has to be so financially devastating for the Arnolds. Through health care reform we must make sure that health care is both available and affordable for American families. We must provide out-of-pocket spending limits for families such as the Arnolds rather than allow insurance companies to limit the amounts they will pay. We have to reform our insurance market so that people like the Arnolds don't have to worry about changing jobs or whether Christopher will be able to get coverage when he is too old to be covered under his father's policy. And most importantly, we have to make sure that Christopher will always have the high quality doctors and services that he has already been receiving.

I think these are goals for health care reform that most of us agree with. The reform plan that President Clinton proposed and I am cosponsoring does achieve these goals. It will assure that all children are covered no matter what, and it will make sure that people like the Arnolds do not have to face the possibility of losing their home because of their medical expenses for their son.

Mr. President, I am going to do everything I can to make sure we pass legislation that accomplishes these goals before the end of next year.

I want to say to the majority leader, who has been such a strong fighter and advocate in behalf of health care reform, that when we achieve that we will make sure that youngsters like this in the country like Christopher Arnold shown here will have a chance, have the chance that God intended to see to it that they have the care and that their families can respond to their needs and have some kind of a chance for a full life in this great country of ours.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague for his statements, and look forward to working with him to pass health care reform next year.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on H.R. 3167, the bill to extend the emergency unemployment benefits; that immediately upon the reporting of the conference report Senator GRAMM be recognized to make a motion to recommit the conference report back to conference for the purpose of restoring the original Senate language on the reduction of the Federal work force; that there be 60 minutes for debate, equally divided in the usual form, on that motion; that at the conclusion or yielding back of time the Senate, without any intervening action, or debate vote on Senator GRAMM's motion; that if the motion is defeated then the Senate, without any intervening action or debate, vote on the conference report; that if the motion to recommit is adopted then the bill be sent back to conference.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167), a bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 8, 1993.)

MOTION TO RECOMMIT

Mr. GRAMM. I move to recommit the conference report on H.R. 3167 to the committee of conference with instructions that the conferees on the part of the Senate further insist on Senate amendment numbered 1.

Mr. DOLE. Mr. President, here we go again. For the second time this year, the Senate is debating an extension of unemployment benefits that is not paid for.

Since November 1991, Congress has acted to extend unemployment benefits four times, with the most recent extension coming in March 1993. The first three extensions, under President Bush, were paid for each year consistent with the budget law. But, the first extension under President Clinton was declared an emergency and added $5.7 billion to the deficit. I voted against that extension of benefits.

THE FACTS ABOUT H.R. 3167

The Congressional Budget Office—the President's own hand-picked budget scorekeeper—says that all of the new spending in H.R. 3167—a total of $1.07 billion—would occur in 1994, but the bill not be paid for until 1998. CBO projects that in fiscal year 1994, this bill would increase the deficit by more than $1 billion.

Back in September, OMB Director Panetta said—and I quote—"we're not going to submit [a proposal to extend unemployment benefits] * * *, unless it's paid for." OMB Director Panetta was one of the authors of the original pay-as-you-go requirements. He knows what they mean. Perhaps, that is why the administration never submitted a formal proposal to extend these benefits.

Mr. President, Senator NICKLES and I worked in good faith with the chairman, the Majority Leader, and representatives of the administration to try to find a solution. We were unable to find a mutually acceptable way to pay for the bill, but we were able to make a positive contribution to this debate. We crafted a sense-of-the-Senate resolution that puts the Senate on record on two important points: The first is that, based current economic forecasts, we believe this will be the last extension of the Emergency Unemployment Compensation Program. Second, we believe the administration should come forward with a proposal to reform the Unemployment Compensation Program at the earliest possible date. This resolution was adopted with bipartisan support and the support of the administration.

For those out of work, the holiday season is the hardest. I understand that. There are good people in my State who have worked hard all of their lives and now find themselves out of work. They stand to gain 7 additional weeks of benefits under this bill. What has amazed me is how many of these people were outraged to learn that this bill will add to the deficit.

They understand that we will never get the deficit under control until we are willing to set some priorities. The administration can do better. The administration should do better. The least we should be able to do is prevent this increase from adding to the deficit.

Mr. GRAMM. Mr. President, let me begin by thanking the majority leader for giving me an opportunity to have this vote. I would guess that he probably has worked his side of the aisle pretty thoroughly on it and believes he has the vote. Perhaps he does. Nonetheless, I am grateful for the opportunity.

Let me remind my colleagues how we came to this point, what is at stake, where we are if we accept this motion to recommit with instructions, where we are if we reject it, and what the issue is, so that every Member of the Senate can understand the issue, and so that the American people can understand as well.

When we were on the unemployment insurance bill, I offered an amendment with Senator GRASSLEY that put into place a binding mechanism to enforce the President's reinventing government proposal and reduce the size of the Federal bureaucracy over the next 5 years by 252,000 positions. The mechanism sets out in law the President's goals for a reduction in the size of the bureaucracy, triggers a mechanism whereby the Office of Management and Budget, on a quarterly basis, estimates whether the provisions of law reducing the size of the bureaucracy are being met; and in any quarter where the Office of Management and Budget finds that we are not meeting the targets, there is an automatic, governmentwide hiring freeze that stays in effect until those targets are met.

This amendment, when it was offered, was adopted by the Senate by a vote of 82 to 14.

Mr. President, I ask unanimous consent that the vote that was taken on that occasion be reprinted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3167 by Mr. ROSTENKOWSKI—Unemployment Compensation Amendments of 1993, 10/28/93—Senate Vote No. 1341: 82–14.

(Senate agreed to the Gramm Amendment No. 1090, to reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review.)

AMONG 82 MEMBERS WHO VOTED "YES"

Baucus, Bennett, Biden, Bingaman, Bond, Boren, Bradley, Breaux, Brown, Bryan, Bumpers, Burns, Campbell, Chafee, Coats, Cochran, Cohen, Conrad, Coverdell, Craig, Danforth, Daschle, DeConcini, Dodd, Dole, Dorgan, D'Amato, Exon.

Faircloth, Feingold, Ford, Gorton, Graham, Gramm, Grassley, Gregg, Harkin, Hatch, Hatfield, Heflin, Helms, Hollings, Hutchison, Inouye, Jeffords, Johnston, Kassebaum, Kempthorne, Kerrey, Kohl, Lautenberg, Leahy, Levin, Lieberman, Lott, Lugar

Mack, Mathews, McCain, Mitchell, Moseley-Braun, Moynihan, Murkowski, Murray, Nickles, Packwood, Pell, Pressler, Reid, Robb, Rockefeller, Roth, Sasser, Shelby, Simpson, Smith, Specter, Stevens, Thurmond, Wallop, Warner, Wofford

AMONG 14 MEMBERS WHO VOTED "NO"

Akaka, Byrd, Domenici, Glenn, Kennedy, Kerry, Metzenbaum, Mikulski, Nunn, Pryor, Riegle, Sarbanes, Simon, Wellstone

AMONG 4 MEMBERS WHO WERE "NOT VOTING"

Boxer, Durenberger, Feinstein, McConnell

Mr. GRAMM. Mr. President, we voted 82–14 to include this amendment because the provision carried out the President's program, because it set out our commitment to reduce the Federal bureaucracy in law, and because it saved what the Congressional Budget Office has now estimated to be $21.8 billion.

After we adopted that amendment here in the Senate and then passed the unemployment extension bill with that amendment on it, the House voted on a motion to instruct conferees in which they voted overwhelmingly to tell the House conferees to accept the Senate provision and to put $21.8 billion of savings in the bank on behalf of the American people. The conference met later in the day, and the majority members of the conference took less than 5 minutes to reject the Senate position and to adopt a conference report that dropped the Gramm-Grassley amendment and, in the process, eliminated $21.8 billion of real savings for the American people over the next 5 years.

That conference report went back to the House, and in an extraordinary action, the House voted to recommit it back to conference with instructions that the House conferees should accept the Gramm-Grassley amendment and put $21.8 billion in the bank for the American people. We now have a situation where the conferees are afraid to go back to the House, because on two occasions the House has said: Adopt the amendment saving $21.8 billion. So what has happened here in the eleventh hour is the bill has been brought to the Senate, and I have made a motion—in this case, the same motion that has been adopted twice in the House—which is to instruct the conferees to adopt the amendment and to save the $21.8 billion.

What happens if we accept this motion? What happens if we reject it? If we accept the motion, it will go back to the House for conference. They have voted for this provision twice. So if we send it back to conference and the conferees take it to the House in the form that we have passed it, and the House adopts it, then the debate is over and we will save $21.8 billion.

If we adopt the motion and send it back to conference and the House, which has voted for the amendment on two previous occasions, rejects it, then we have an impasse and the bill might die. I say to my colleagues that I know we are going to have a lengthy debate here, where people are going to say: If you want to go home, forget the American taxpayer, forget the $21.8 billion of savings you voted for, reject this amendment, and you can go home, and the taxpayer will not save the $21.8 billion. But who cares? And they are going to say: If we adopt the amendment, it is going to create an impasse with the House, and it is going to delay our departure. My argument is exactly the opposite. The House, on two occasions, has voted for this amendment. If we adopt the amendment in the Senate one final time, the House will almost certainly take it, and that will be the end of the debate.

So the issue now is not when we are going home. We can go home today, and we can go home today whether we pass this amendment or whether we do not pass this amendment. The issue today is: Shall we save the American taxpayer $21.8 billion?

I have a final point before I let the opposition speak and begin to recognize those who will speak on behalf of the motion. We have taken this $21.8 billion and we have used it, in part, to fund the crime bill. Someone could say, well, why do we not just wait and adopt it as part of the crime bill? The answer, I think, is pretty clear.

First of all, if the White House and the leadership of the Democratic Party are so determined that they are not going to let the taxpayers save this $21.8 billion, what makes you think they are going to let us adopt a crime bill that has this provision in it?

Second, they are going to say we can adopt this later, and in the "sweet by-and-by" we can save this money.

Today is Saturday. All over America, the last college football games of the year are being played. Our situation is exactly analogous to one of those college football games. We have fought hard, we have the ball down on the opposition's goal line. We have won in the Senate once, and we have won in the House twice. The American people can see $21.8 billion of real savings. That is larger than the cumulative spending cuts in the first 3 years of the Clinton budget—$21.8 billion of money for the American taxpayer. We are on the goal line. Are we going to walk off and leave the ball here? Or are we going to punch it in over the goal line and score?

I say when we have come all this way, when $21.8 billion of savings is at stake, when deficit reduction is at stake, when building prisons to put violent criminals in prison is at stake, let us not walk off and leave the ball on the goal line. This vote and the vote on NAFTA will be the last votes of this session in the Senate no matter what. But what will be different is that if we adopt this amendment, we are going to save $21.8 billion. If we do not adopt it, we are going to walk off and leave that money, and we may never get it again. Eighty-two Members of the Senate said they were for this. I am asking those 82 Members to vote for it again.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, this is the simplest of decisions the Senate will make in this first session of the 103rd Congress. Are we willing to have unemployed workers who have been out of work for half a year or more, have the benefits which the Senate has approved, which the House has approved, which a committee of conference of the Senate and House has approved, and which has been paid for? Will we let these men and women, these workers and their families have the extended benefits, or will we take them away?

The $21.8 billion has been used on the crime bill. I do not wish to be personal about my friend from Texas, but he said, in announcing that this had been done, "I believe that it is truly doing God's work and America's work at the same time."

Now, we will leave the deity out of it, but America can do this work only once. We have spent this money on crime. It is not needed for this bill. This bill is paid for. If you wish to have these benefits extended as we have voted to do in the House and the Senate, and two times in conference, vote against the motion to recommit. If you desire to take away these benefits, that is the choice of the individual Senator. At the end of this first session of the 103d Congress, I am a bit out of voice, a tiny bit out of patience. This legislation expired more than a month ago. It has been held up for reasons difficult to comprehend. It is here before us to enact if we will and reject if that is the judgment of the Senate. But that is a judgment that lands in the homes of a million Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, I am going to yield to my distinguished colleague from Iowa, but let me make one point before I do. When we passed the President's budget, many people who voted against it—and I voted against it—said it did not cut spending enough. Many people who voted for it said, "I am voting for it, but I want to cut spending more and the President has promised that we are going to get a chance this year to cut spending more." I am sure my colleagues can still hear those voices in their ears.

This is the last chance we are going to have this year to cut spending. This is the last opportunity we are going to have to save the taxpayers' money. And $21.8 billion will be saved if we vote for this amendment. The House has voted for it twice. Their leadership is over there twisting arms until they break begging them, "For God's sake, the President said he is for it. But you know the President is not for it. The President does not want to reduce the number of people in the Federal bureaucracy. Do not vote for this amendment. If you vote for this amendment we are going to have to make the cuts." Despite all the political pressure they have failed, not once, but twice. We voted 82 to 14 for this amendment. We are on the goal line. We are going to save more money with this amendment than we are going to save in the first 3 years of the President's budget. This is the last chance in 1993 to actually save the taxpayers any money.

I yield 6 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa, Senator GRASSLEY, is recognized for 6 minutes.

Mr. GRASSLEY. Mr. President, go to any high school government class, go to any college political science class, go to your coffee shop at any small or big town in the United States of America and try to explain what a few people in this body are trying to do to this bill, and everybody is going to be aghast. They are not going to understand that American Government can work that way.

We had this amendment pass this body by an overwhelming margin—I think 82 to 14. It passed the other body by an overwhelming margin of over 100 votes. Then all of a sudden a few people meet in conference committee and it is gone.

Understand that what this amendment did is exactly what the President of the United States said he wanted, and the Vice President of the United States in reinventing Government—this is part of his program. And explain that when all the majorities are for it, and the President is for it, and the Vice President is for it, and it has passed both bodies at least once, one body twice, it does not happen. It takes a lot of chutzpah for a conference committee to take a provision that has this much support and just throw it out.

We are dealing with an amendment here that reinvents Government, and it was part of this unemployment insurance extension bill.

All we are simply saying is that what the Vice President and the President said they are going to do—that there is a plan to accomplish it of reducing by 1999 our employment by 252,000 people. The cap that is in this bill would do nothing more than enforce and put teeth in the President's and the Vice President's agenda that we all know as National Performance Review.

It passed the Senate 82 to 14. Subsequently, it was approved on a motion to instruct House conferees, 275 to 146, and yet the provision was taken out in conference committee on the unemployment extension bill, done without any explanation. The initiative to kill the provision came from the other body's majority party.

Mr. President, someone neglected to inform the conferees that this is part of the President's National Performance Review effort, that the President supports reducing Government employment. It is a critical effort on the part of this Congress. This Gramm-Grassley amendment is with us to cooperate with the President for reform, and also it is an effort to end gridlock. It is a critical component of the ongoing effort to reform our Government and make less Government work better. And the effort enjoys much bipartisan support. It enjoys bipartisan support as reflected in these rollcalls because the American people are demanding that we pare back an overweight Federal Government and make it more effective.

Not long ago, the other body was chided across America on the issue of the "discharge petition." That was a measure by the other body that they could vote publicly one way and then somehow vote the opposite way in secret to bottle up something with the same provisions in committee.

That is exactly what happened in this case. Both Chambers showed overwhelming support for the Gramm-Grassley amendment. But the conference met in closed quarters, some Capitol hideaway of the chairman of the Ways and Means Committee. And, lo and behold, the measure just disappeared—presto, poof, vanished.

The President's and Vice President's noble efforts to reform and reinvent Government are thus, by a few people, dealt a severe blow. So the conferees reported out a bill stripping the Gramm-Grassley amendment from it. And that bill is before us today.

The House sticks by their position, 226 to 202 for this amendment. The second go-around, still a vast majority for it.

I think it sends a pretty clear signal, Mr. President, a clear message. The President wants reform. The Vice President wants reform. The Senate wants reform. The House wants reform. The American people expect that reform.

But the question is, Do the conferees want reform?

Well, maybe, with these instructions, this time they will get it right.

Mr. President, old Washington hands—those who have been around this town many years—are laying down bets that reform will not happen. Notwithstanding the best intentions of this administration and many of us in Congress.

They say the biggest obstacles to reform are the powerful committee chairmen in Congress. These powerful committee chairmen, they say, are wedded to special interests and will not give up their fiefdoms.

Meanwhile, the public is becoming increasingly perturbed with Members of Congress who say one thing and do another. They vote one way in public, and the opposite way in private.

I mentioned the example of the discharge petition. Members are also aware that it happens in other issues on this floor and this is just the latest.

There are two realities of Washington politics that are once again taking hold—Congress as a barrier to reform; and Congress saying one thing one time and then letting something else happen quietly another time that undoes what previously had been done.

The old Washington hands have it right; and, the American people have it right. Congress is the obstacle to reform, and Congress says one thing and does another.

Mr. President, premeditated hypocrisy is alive and well in Washington. This is precisely what the American people are fed up to here about. Once again, I ask the question: Will the conferees get it right and put teeth in our reforms of Government? Or, will they once again resort to premeditated hypocrisy, and defang the bill of its Gramm-Grassley provision?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PACKWOOD. Mr. President, I support this extension of the Emergency Unemployment Compensation [EUC] Program. It will provide much needed relief for our unemployed workers.

Although the national unemployment rate has slowly declined in recent months, unemployment remains high in too many corners of our country. In September, Oregon's unemployment rate was 7.5 percent compared to the national rate of 6.7 percent. And Oregon's timber communities are still suffering greatly—Douglas County's unemployment rate is over 11 percent.

When the EUC Program expired 6 weeks ago, Oregon had the foresight to pass State legislation and opt into the extended benefits [EB] program so that unemployed Oregonians would receive additional benefits. But many States did not act quickly enough and are relying on this legislation to allow them to provide unemployment benefits through January 1994. Many Americans are out of work through no fault of their own and they desperately need these unemployment benefits.

It is unfortunate that this bill has been delayed by a variety of circumstances. Some will argue that the delays are caused by a Senate floor amendment which would put into law Vice President GORE'S recommendation to reduce Federal Government employees by 252,000 by fiscal year 1999. I disagree. This amendment enjoys widespread support in both the Senate and the House. It passed the Senate by an overwhelming majority of 82 to 14, receiving more favorable votes than the unemployment bill itself. The House conferees have been instructed on two occasions to accept it. Over the objection of myself and others, the conferees rejected the amendment. The time has come to accept this amendment and move forward this important legislation.

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi, Senator LOTT, is recognized for 5 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Texas for yielding me this time.

I rise to support what he is doing here today. We were told some days ago, I guess it was weeks ago, that there was an urgent need for the extension of these unemployment insurance benefits, that we needed to get it through here very quickly, that these people were looking for these benefits. That was, I believe, some 30 days ago. This basically has expired.

So my question is: Why has it not already been passed? It could have been passed already. All the House and Senate had to do was go along with how they had already voted, accept the Gramm amendment to save $21.8 billion, and it would have already been law. This could have been passed 2 or 3 weeks ago. It could have passed by unanimous consent just yesterday. All that had to be done was accept the savings of the Gramm amendment that was added to this unemployment insurance provision and it would have been law.

Now, this is the last chance we have to do something about cutting spending. I can just hear us as we go back to our various States next week or the week after. We are going to be saying, "Oh, yes, we stepped up to the important task of cutting spending. Why, I voted to cut $21.8 billion in personnel reductions, as was recommended by the Clinton-Gore National Performance Review Panel."

But when the chips were down, did the Senate stick with how they had already voted? I mean, it is important that the Senate voted 82 to 14 for the Gramm provision. The House had a motion to instruct that passed 257 to 146 to keep the Gramm language, and in the motion to recommit to the conference, the House again insisted on the Gramm language with a vote of 226 to 202.

The Senate and the House have spoken. So why is that language not in this bill at this time? I cannot understand it.

Some people say, "Well, we have now added it to the crime package."

Yes, I remember the crime package. Two years ago, we passed a pretty good crime package here in the Senate. It went to conference, and in the dead of night, on a Sunday, it was rewritten. A whole different bill came back. I have real serious doubts, when we see a conference between the House and the Senate on the crime bill, if this personnel savings reduction will actually be in there.

So I am not convinced that is the way to solve the problem.

One thing that bothers me, also, about this provision is the unemployment insurance package is not paid for in the first year. So any of my colleagues that really care about deficit spending or deficits or reducing what is spent around here, you have a double-edge sword here. No. 1, you have a bill that is not paid for in the first year, the unemployment insurance package; No. 2, you have a chance to vote again the way you have already voted to save $21.8 billion.

Now, how are you going to explain that? How are you going to go home to your constituents and say, "Well, yes, I was for this personnel reduction. I voted for it on a vote of 82 to 14. But when it came back in a really crucial decision to make it part of the unemployment insurance package, well, I could not do it in that instance."

What we need to do is to vote with Senator GRAMM in what he is trying to do here. We can pass unemployment insurance; we can save $21.8 billion in personnel costs. I mean, who among us can be opposed to that? The President is for it. The Vice President is for it. We voted for it. The House voted for. Let us do it. It is a real simple thing. We ought to take a vote. We ought to vote again to have this savings, and then we can vote on NAFTA and we can go home and say, "We extended these unemployment insurance benefits. We cut spending $21.8 billion. We passed NAFTA. We have done what is right for America."

That is the way we ought to end this session up. This is the last train pulling out. I can see it. It is leaving now, Saturday afternoon. The distinguished leader is on the floor. He is doing his very best to wrap up this important issue, and we want to be helpful. And this is how we can do it.

So I urge my colleagues, vote with Senator GRAMM on this. Let us wrap up the session right. I will be prepared to vote with Senator GRAMM, vote for the unemployment insurance benefits and vote for NAFTA. And that is the first I said that on the floor of the Senate.

So this is the thing to do this afternoon. It is the right thing to do. We are going to see who really wants to cut spending this afternoon. Is there any among us here in the Senate this afternoon that would like to save $21.8 billion? So, you are going to get a chance to stand up and cast your vote with Senator GRAMM this afternoon.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may we ask for a showing of hands as to how many Senators would wish to save the same $21.8 billion twice?

Mr. GRAMM. Three times.

Mr. MOYNIHAN. The Senator from Washington graciously concurred.

And now you have a sense of the economic wisdom of this body, or its accounting techniques.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, we are only going to have a chance this year to save it once.

The question is, who is for real and who is not for real? Who was telling the truth when they voted 82 to 14 and who was not?

We hear every day about the minority holding up the Senate. Eighty-two Members of the Senate have voted for this provision; 275 Members of the House. And yet a small number of people who do not want to cut Government spending are holding up the Senate.

I yield 4 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado, Senator BROWN, is recognized for 4 minutes.

Mr. BROWN. Mr. President, the facts are very clear. This is saving over $21 billion. The American people want it saved. The leaders from the White House through the House and the Senate have identified this as an area where we can and should cut. We have all identified it as an area of low priority. What has happened here? People who have espoused saving money, espoused cutting spending, are now prepared to eliminate this measure, this savings, and see it go by the boards.

This is a very simple question. The American people want it. People have advocated it. And now we are going to have a test as to whether or not people's walk matches their talk.

The White House announced they are favoring another $100 billion in rescissions and savings. And yet they have not brought a package to the Congress to do it.

So a number of Members of the House and the Senate, on a bipartisan level, have come together in the House to form the Penny-Kasich plan and in the Senate the Kerry-Brown plan. Our plan saves $109 billion. It is bipartisan.

What do we have from the White House?

The headline in the Washington Post: "White House Lobbies Against Plan."

The simple fact is, the White House is advocating saving money, but when it comes to actually saving it, they are opposing it.

That double approach, that approach where you advocate it but then vote against it or oppose it, is what has caused this deficit.

Mr. President, these are simple basic figures. This is the national debt. It now exceeds $4 trillion, in just the few years that are pictured here. No one can look at this chart and come away saying we are not a train wreck ready to happen. This is a national catastrophe. The $21 billion in this bill is peanuts, but it is essential toward turning this around. It is essential for honesty in government.

Mr. President, whether you are a Democrat or Republican, if you look at what is happening to our Nation, we are pouring the future of this country down the drain. We are providing the most irresponsible example of fiscal waste of any time in the history of mankind. No one can look at this and not come away aghast at what we are doing to this beloved Nation.

This amendment is $21 billion-plus that can be saved out of a targeted area that everyone claims they agree on. If we do not take advantage of this opportunity it will be lost again. Those who love this country, and I believe every Member of this body does, have to be concerned.

There was a point at which some said, "Look, the deficit does not matter. We owe it to ourselves." But what has happened, of course, everyone knows, we have borrowed so much money we have had to borrow it from foreign interests around the world. No one claims we owe it to ourselves anymore. The simple fact is we are like an alcoholic. We cannot seem to help ourselves. Senator GRAMM has provided us an opportunity to do it, to let our walk match our talk. Will this body do it? I hope they will. But one thing should not go left unsaid.

While this body voted overwhelmingly for this savings, our conferees deserted the ship. Even though they had an obligation to stand up for the Senate, and the savings of the Senate, when they got to conference they could not concede fast enough. What we do with this vote is tell our conferees we want you to represent the Senate. Incidentally, we want you to represent the American people.

This train wreck that will happen to our economy if this Congress continues to throw away money like drunken sailors will affect every American. It will affect every job. It will affect the soundness of the world economy.

We have a chance to change that. We have a chance to put ourselves on the right course. I hope this body will stand up and vote for the Gramm amendment and insist that our walk matches our talk.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? If no one yields time, time will be equally charged.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I have 2 minutes and 14 seconds. I want to go ahead and use part of it and I want to anticipate the argument we are going to hear.

First of all we have spent the better part of 2 days in an effort to try to prevent me from offering this motion. Finally, when it became clear that I was willing to hold the Senate here until Wednesday, or until Christmas, that has changed and we are now going to vote on this motion to preserve my amendment.

You are going to hear an argument that basically says this money has been spent many times in many different bills. My point here is that it has never been enacted into law and actually saved. What this amendment does is save $21.8 billion.

Now, it is true if we ever pass a crime bill, parts of the money will be used in that crime bill to build prisons, to lock up violent criminals and repeat offenders. But this amendment is not about spending, it is about saving. I think it is a cynical farce to argue about how this money is being spent, and there are a lot of people with great imaginations who are thinking about how to spend this money and other money. The issue is, the money has never actually been saved. Our objective in this amendment today, in 1993, is to save $21.8 billion.

We have had many votes here where people have gotten up and talked about reducing spending. The distinguished majority leader has chastised Members of the Senate on my side of the aisle for not voting to reduce the deficit. I issue him this challenge today: Vote to reduce the deficit by $21.8 billion.

One of the things we will know when this vote is over: Who is for real and who is phony on the issue of deficit reduction. We are at the goal line. We have adopted this amendment in the Senate. It has been adopted twice in the House. It has been circumvented by a small number of people who do not want the money saved.

We are on the goal line now. Can we stick with $21.8 billion? Or are we phony in claiming we will save the money in the sweet by and by?

The PRESIDING OFFICER (Mr. KERREY). The Senator's time has expired. Who yields time?

Mr. MOYNIHAN. I yield such time as the majority leader desires.

Mr. MITCHELL. Mr. President, the distinguished Senator from Texas used the words cynical farce, and phony. I think that is the best description. I cannot think of a better description of this amendment. I think that is what this is. In the words of the Senator from Texas, a cynical farce, and a phony.

This money—we voted this in the crime bill. Now we are going to vote it on the unemployment bill?

I rarely make predictions of certainty, Mr. President, but I predict with certainty the day we get back here in January someone is going to offer to use this same thing for some other measure, and a fourth time, and a fifth time, and a sixth time. The Senator from Mississippi said, why, if you just vote for this you can go home and issue a press release saying you saved money.

I think that tells us what the motive is here. It is issuing press releases saying you saved money.

And the blizzard of press releases that will flow when we return to session in January will make the snow in Maine look like nothing. We are going to be swamped with press releases from Senators, and mostly our distinguished colleagues over here, saying how they spent this money—how they saved this money over and over again. This will be the most used money in recent history.

We heard the word "phony" used over and over again. The talk is about the need to cut spending. We had 24 votes on the appropriations bills to cut spending; 24 times the Senate was called upon to vote on actual, specific, spending cuts. Not formulas, not caps, not processes, not mechanisms, not speeches—but actual spending cuts. Does the Senator from Texas have any idea on how many of those votes he actually voted to cut spending?

Mr. GRAMM. I do not think the majority leader would like to compare his record on fiscal responsibility with mine. Maybe we have votes on defense cuts. I do not know. I am sure I am going to get to hear. I know how I am going to vote on this amendment to cut spending.

Mr. MITCHELL. We have to leave a little suspense here, so I will leave it to him to check it out.

The fact of the matter is everybody knows what is going on here. This has been a very long, interesting, and productive session of the Senate. But I think it is fitting that it ended as it began, with speeches about deficit reduction that are, in the words of my colleague himself, a cynical farce and a phony.

I urge my colleagues to reject this cynical farce, and this phony amendment. This has already been done. Everybody here knows it has been done. Let us no longer delay the unemployment insurance extension that is and will be so badly needed.

Mr. President, I think our colleagues are out of time. We have more time but unless the distinguished chairman of the Finance Committee wishes to continue further, we could yield back the time and proceed to a vote right now.

On behalf of the chairman I will yield back the time if my colleague will, and then we will have a vote.

Mr. KOHL. Mr. President, I voted for the Gramm amendment when it was originally before the Senate. I think it is a good idea. The President has identified substantial budget savings that will result from cutting the Federal bureaucracy by 252,000 employees over the next 5 years. And though I believe that the President will carry through on his promise to eliminate these positions, it does no harm—and probably does some good—to write these savings into law.

So why not do it today? Why not adopt the Gramm amendment? I will give you two good reasons to vote "no."

First of all, the Gramm amendment is a good idea raised at a bad time. We are about to go out of session. The Gramm amendment will kill the extension of unemployment benefits for the rest of this year. It will send this bill back to conference instead of to the President's desk. At the end of any session, that would be a mistake. At the end of this particular session, it is an even greater mistake. We will soon pass NAFTA, a trade agreement that could lead to the loss of hundreds of thousands of American jobs. How can we, in the same hour, vote to send jobs to Mexico and vote to kill the benefits that will keep alive those workers whose jobs we sacrificed? I, for one, cannot.

Second, we have already voted to lock in these savings on the recently passed crime bill. In fact, we voted to both lock in the savings and use some of them to increase the number of policemen and women patrolling our streets. I believe it is a smoke and mirrors of the worst kind to claim, last week, that we cut the bureaucracy to fund law enforcement and claim, this week, that we cut the same bureaucracy to reduce the deficit.

That said, I want to point out that I am a sponsor, along with Senator KERREY from Nebraska and several other Senators from both parties, of a budget-cutting plan that also includes these cuts in the Federal bureaucracy. However, our plan notes very clearly that if the savings from cutting the Federal work force are adopted elsewhere—for example, in a crime bill—we will not count them as part of our deficit reduction totals. We acknowledged that you can't have your cake and eat it too. I urge Senator GRAMM and his supporters to do the same.

Mr. President, this is a destructive amendment and a misleading amendment. I urge the Senate to reject it.

Mr. LEVIN. Mr. President, I support the goal of cutting the level of Federal employment along the lines suggested by the President's Commission on Reinventing Government. I voted that way as part of the effort to pay for the crime bill that we passed yesterday. Therefore, any attempt to portray a vote against the Gramm motion to recommit as opposition to cutting the level of Federal employment is a total distortion.

So, this is not a vote for or against cutting the level of Federal employment. I support that, as do a majority of my colleagues. And, I believe that we will enact those cuts as part of the crime bill when it is enacted next year. I hope this vote today is about whether we want to pass an extension of Federal unemployment. I support such an extension, and for that reason will vote against the motion to recommit.

I fear that this vote is an attempt by some to have their cake and eat it—to vote to cut Federal employment levels as a way to reduce the deficit after they have already voted to cut the same dollars in order to pay for the crime bill. They seek to do this and to embarrass those who feel a need to be consistent and vote against this motion to recommit. No wonder the American public is cynical about what happens in the Congress.

Mr. LIEBERMAN. Mr. President, I will be voting against this motion to recommit. In doing so, I would like to make clear that I am not against reducing the Federal work force by

252,000 employees. I fully support making these reductions, and am fully committed to the President's efforts to reinvent Government to make it work better and cost less.

But we should not hold up extended unemployment benefits over the holidays over what would be a symbolic vote. We have already passed the reduction of 252,000 employees as part of the crime bill, and in addition we have locked in those savings and directed them to fund tough, new anticrime initiatives. We will achieve these reductions.

For this reason, I am voting against this motion to recommit.

Mr. LAUTENBERG. Mr. President, I voted for the Gramm amendment on October 28. I intend to vote against it today.

I do not vote against it because I oppose it. In fact, I favor it. I want to see Vice President GORE's performance review recommendations put into place. Indeed, I was one of the first to implement some of those recommendations in this year's transportation appropriations bill where I eliminated demonstration projects, transportation earmarks, and reformed the Essential Air Services Program. Just last week I joined with nine of my colleagues in offering a $45 billion deficit reduction package. So I am committed to reducing Federal spending.

But we do not have to hold up unemployment benefits to do it.

What Senator GRAMM wants to do here has already been done—and done in a more meaningful way—on the crime bill. I supported an amendment to that bill which not only reduced Federal employment; it also took the money which was saved and devoted it to deficit reduction or to fighting crime.

That is meaningful. The only meaningful thing about this motion to recommit this bill is that it would result in hundreds of thousands of Americans being denied unemployment benefits. These people need help; they deserve help; they earned the right to get help by paying unemployment taxes while working, and by working until forces beyond their control brought them to the unemployment lines. They should not be held hostage to an issue that has nothing to do with them.

Mr. President, it is almost Thanksgiving. The unemployed want to celebrate that holiday even if they do not have much to be thankful for. The least we can do is give them this extension of their unemployment benefits. And that is what I will vote to do.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is on the motion to recommit. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 36, nays 63, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—36

Bennett
Bond
Brown
Burns
Cochran
Coats
Craig
D'Amato
Coverdell
Dole
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Thurmond
Wallop
Warner

NAYS—63

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Domenici
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wofford

NOT VOTING—1

Dorgan

The motion to recommit the bill (H.R. 3167) to conference was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I urge adoption of the conference report.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am advised by the distinguished Republican leader that one or more colleagues on that side of the aisle wish a recorded vote on this measure. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—79

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Domenici
Durenberger
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—20

Brown
Cochran
Coverdell
Craig
Danforth
Dole
Exon
Faircloth
Gramm
Gregg
Helms
Kempthorne
Kerrey
Lott
Lugar
Mack
Nickles
Pressler
Smith
Wallop

NOT VOTING—1

Dorgan

So the conference report was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, and Members of the Senate, it had been my hope and intention to now proceed promptly to vote on the North American Free-Trade Agreement. I have just discussed the matter briefly with the distinguished Republican leader. He has requested a brief period of time for a consultation with his colleagues on that and other matters.

Therefore, I think it appropriate to accommodate that request, and I will now ask that there be a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARAB LEAGUE BOYCOTT

Mr. LAUTENBERG. Mr. President, yesterday the Senate considered a resolution I introduced, Senate Concurrent

Resolution 50, calling for an end to Arab League boycott of Israel and American companies that do business with Israel. I am pleased that Senators SARBANES, GRASSLEY, LIEBERMAN, MACK, MOYNIHAN, and PELL are cosponsors of this resolution.

The resolution expresses the sense of Congress that ending the boycott is a matter of great urgency for our Nation. It makes clear that the boycott is a priority issue in our bilateral relations with each Arab State.

The resolution is in line with a letter that I along with Senator GRASSLEY and 75 of our colleagues in the Senate recently sent to the head of the Arab League calling for an end to the boycott.

Since the establishment of the Jewish State in 1948, the Arab countries have, in addition to striking Israel militarily, declared economic war against her, and those that do business with her. They do this by boycotting Israel and companies that do business with Israel.

A few weeks ago, the world hoped and expected that the Arab League would publicly renounce the boycott. We had just witnessed a breathtaking signing ceremony which laid the groundwork for Israeli-Palestinian reconciliation. The conditions were ripe for a renunciation of the boycott.

After decades of conflict, Prime Minister Rabin and Chairman Arafat concluded that cooperation—rather than conflict—holds the greatest promise for attaining peace and prosperity for the Israeli and Palestinian people. Chairman Arafat finally renounced terrorism and recognized Israel's right to exist. Despite the history of bloodshed and battle, they recognized each other. They shook hands and courageously agreed to work together for peace between Israel and the Palestinians.

Because the Arab League has linked progress on the Palestinian issue to a renunciation of the boycott, I expected the Arab countries to agree to lift the boycott after the Israeli-Palestinian agreement was signed. I expected the Arab nations to support the peace process with an appropriate confidence building measure.

But they didn't.

Instead, the Arab League took a series of decisive steps backward. The League formally reaffirmed its commitment to the boycott policy. Indeed, Arab representatives began discussing methods to step up rather than dismantle the boycott of American companies. And in a demonstration that their ideology had not changed and their intransigence had not altered, they scheduled an Arab League meeting to discuss adding more American firms to the list of blacklisted companies. Fortunately, the meeting was cancelled, which is a step in the right direction.

Mr. President, we already know that the economic boycott undermines Israel's economy. Now, in the wake of the Israeli-Palestinian agreement, a failure to lift it will harm the economies in Gaza and the West Bank too.

Why? Because a significant emphasis is now being placed on economic development in the West Bank and Gaza—development that will be inextricably linked to Israel's economy. The international community has already pledged development assistance, and economic cooperation has been in the forefront of discussion between the Israelis and Palestinians.

Given the monumental changes that have taken place between Israel and the Palestinians, clinging to the boycott no longer makes sense. The boycott will hurt the same people the Arab League has, in the past, vigorously claimed it wants to help—the Palestinians. It will make it that much harder to create a viable and stable economy in the West Bank and Gaza.

Secretary of State Warren Christopher commented on this point recently when he said that the Arab boycott "hurts not only the Israelis but also the Palestinians because they will be partners in many endeavors."

What the Arab League has demonstrated is that it has taken the tactics of terrorism to heart. Terrorists have always been willing to place hostages at risk as part of a strategy to achieve their goals. The Arab League has now demonstrated, again, that it is willing to hold the Palestinians hostage—to put them at risk—in order to achieve the goal of harming Israel. The cynicism of this strategy reveals the relative low priority the Arab League places on helping the Palestinians and the high priority it places on harming the Israelis.

But it is not just the Israelis and the Palestinians who suffer from the Arab League's economic blackmail. Importantly, Mr. President, the secondary and tertiary boycott—the refusal to do business with companies doing business with Israel—imposes harmful and unnecessary burdens on the United States economy as well.

Hundreds of businesses have been officially blacklisted by the Arab League. Because of the Arab League economic blackmail, they lose business. And that costs American jobs.

U.S. policy unalterably opposes the boycott. The United States has been seeking its end for many years. Our laws reflect that policy by barring U.S. companies from acquiescing in the boycott. American businesses should not be asked to violate U.S. law to conduct business in the Middle East.

But they are.

We know that in 1992, almost 10,000 documents containing requests to take boycott-related actions were reported to the Department of Commerce's Bureau of Export Administration. That means our businesses were asked nearly 10,000 times to break the law and acquiesce in the boycott.

We know that according to the Commerce Department's most recent preliminary statistics, 314 of the boycott compliance requests from July through September came from Saudi Arabia. This is the highest number from Saudi Arabia in any quarter in the last year and a half.

Because the boycott harms America's economy, the U.S. Trade Representative has, at my urging, included the boycott in its annual report outlining major barriers to U.S. trade.

It is also why the U.S. Trade Representative, Micky Kantor, has asked the International Trade Commission to conduct an economic analysis of the boycott on U.S. industry and jobs.

Additionally, given the harm to our own economy, continuation of the boycott undermines U.S. support for the peace process. The American people may question why the United States takes a political and economic leadership role in the effort to achieved peace while the Arab States penalize American companies doing business in and with Israel.

Mr. President, it's time for the boycott to go.

To its credit, the administration has been forcefully seeking an end to the boycott. At the United Nations last month, Secretary of State Warren Christopher attempted to seek a call for an end to the Arab boycott.

And President Clinton recently proclaimed: "I am confident that in the course of time, we will get the ban lifted."

I hope the President is right. But, for now, the Arab League stands in the way.

Perhaps it would be different if the Arab League adopted the view of the editor of a Saudi weekly who recently suggested "that we reconsider the boycott and ponder the benefits of establishing an economic relationship that makes the Jewish State want to foster and improve it."

Perhaps it would be different if the Arab League acted on the words of the Omani foreign minister, who recently stated "the boycott is a matter of the past and should remain in the past."

But the Arab League countries are not adopting this attitude. They refuse to move away from their intransigent position. They claim their citizens are not ready for a renunciation of the boycott. Syria is trying to turn back the diplomatic clock by calling for a tightening of the boycott. Consequently, the Arab League is digging in its heels.

Mr. President, the game has gone on long enough. It is time for the Arab League to put its money where its mouth is and abandon the boycott.

Now that the Palestinians have courageously entered into productive dialog with Israel and significant progress has been made, the Arab League needs to step up to the plate. It should not create new conditions for lifting the boycott. For too long, the Palestinians have been used by the Arab League as pawns in the game of Middle Eastern politics.

It's time for the Arab League to put the diplomatic chess board away, take a confidence-building step, and support the peace process by dismantling the boycott.

I urge my colleagues to approve this resolution without delay.

TRIBUTE TO FLOYD "PEP" YOUNG

Mr. DODD. Mr. President, I rise today to pay tribute to a great baseball player. His name was Floyd Lemuel Young, and I would like to tell my colleagues a bit about this remarkable career.

First of all, Floyd was his given name, but his fellow ball players never knew him by that name. Throughout his minor league career, he was known as Whitey because of his blond hair. When he arrived in the major leagues with the Pirates, Coach Honus Wagner dubbed him Pep because of his hustling style of play. That nickname stuck.

Pep Young was from the small community of Oakdale, near Jamestown, NC. He was on the smallish side, at 5 feet 9 inches and 160 pounds. But he was a fierce competitor and a brilliant all-around baseball player. In fact, in his column for the Chicago Evening American, the great pitcher Dizzy Dean said of Pep, "he scampers all around and eats up them grounders like a little old owl picking up field mice, and he don't never drop none."

While playing for the minor league club in Wichita, Pep was versatile enough to play every defensive position except catcher and first base during the same season. The Wichita baseball writer, Jack Copeland, proposed that since Pep was so popular and so versatile, the ball club should hold a special "Pep Young Day" so the fans could see Pep play the other two positions as well.

Although Pep began his minor league career with teams in North and South Carolina, he first became a star with the Wichita organization. He was named to the all-league team in 1931, and led the team to the league championship in 1932. The Pirates called him up to the major leagues the next year.

The Pirates believed that Pep was the best defensive second baseman in the major leagues, according to Charles "Chilly" Doyle of the Pittsburgh Sun-Telegraph. Doyle himself wrote, "nobody can field like Young." Nevertheless, he could not crack the starting lineup because of concerns over his hitting, so he spent his first two major league seasons as a utility player.

In 1935, Pep finally got his break. The regular second baseman, Cookie Lavagetto, suffered a pulled tendon. Pep stepped in and, as the Sporting News reported, "earned a regular job at the position with his slick fielding and timely hitting. He * * * became a favorite with Pittsburgh fans on the opening day of the next home stand, when he collected two triples and a pair of singles in four times at bat against Carl Hubbell of the Giants."

In 1937, Pep led the Pirates in home runs, and he led the entire National League in fielding with an average of .988. Honus Wagner called Pep the only "super-human second-sacker" he had ever seen.

Pep's performance in 1937 certainly raised some eyebrows in the major leagues. In 1938, the New York Giants manager Bill Terry offered a fortune, as Chilly Doyle put it, to the Pirates in hopes of trading for Pep. The Pirates turned the offer down, in large part because they did not want to aid their National League rivals.

The Pirates' refusal stung the Giants. Sportswriter Bill Corum, in his column for the International News Service, reported that the Giants' owner, Horace Stoneham, was devastated that the trade did not go through. Stoneham lamented:

> Young would have meant the difference in the pennant race * * * When I went to bed I thought Pep was ours. But when I woke up the phone was ringing, and it seemed that the Pirates had changed their minds. Now that it was broad daylight they didn't want to part with Young at any price, and right there the National League pennant race was decided.

Pep went on to play brilliant baseball for the Pirates in 1938. He teamed with future hall-of-famer Arky Vaughn to lead both the National League and the American League in double plays with 168. Pep also continued to come up with timely and game-winning hits. There was even talk that Pep should be the MVP of the National League, especially if the Pirates won the pennant.

Alas, as all Pirate fans know, the team lost the pennant on the last day of the season. Pep did not win the MVP award, but Liberty Magazine selected him for its all-league team that year. The magazine's team was elected by the ballplayers themselves. Their selection at second base, over such legendary players as Billy Herman of the Cubs, was Pep Young.

Pep had two more good seasons with the Pirates before assorted injuries finally ended his career with the team. He was then picked up by the Brooklyn Dodgers and traded to the Cincinnati Reds. He finished the 1941 season with the St. Louis Cardinals. He spent the next 3 years in the Pacific Coast League with Sacramento and in the American Association League with Columbus. He returned to the Cardinals in 1945 for 1 year as a utility infielder.

But even after he left the major leagues for good his career was not over. Always resilient and determined, Pep had a deep love for the game of baseball. He kept playing and coaching in the industrial leagues when he returned to North Carolina. In 1948, at the age of 41, he was named to the North Carolina all-star baseball team. So Pep ended his career much as he began it: as a hustling, talented and beloved player. He was truly what baseball is all about.

CHINESE MILITARY BUILDUP IN THE 1990'S

Mr. PRESSLER. Mr. President, China today faces a lower military threat than at any time in the past 150 years. Yet, that is about to change. China is the only declared nuclear power in the world that has been increasing its military spending. By some estimates, Chinese military spending may have doubled in the past 5 years.

Anytime a nondemocratic regime markedly increases its military spending it should be a matter of concern for our defense planners. In the case of China, we must look beyond the raw numbers to four prime questions:

First, what weapons systems is China intending to produce?

Second, what outside assistance is China receiving?

Third, what are China's capabilities and intentions?

Fourth, what are the implications of these developments for our defense planning and arms control goals?

Mr. President, recently the Western press has begun to ask these questions. They have found very disturbing preliminary answers. For example, on November 9, the Los Angeles Times carried an extensive article suggesting that the Chinese are attempting to produce their own versions of the Russian SS–24 and SS–25 mobile intercontinental ballistic missiles. The SS–24 can carry up to 10 nuclear warheads, each of which is five times the size of the first atomic bomb dropped on Hiroshima, and can put them within 200 meters of a target more than 6,000 nautical miles away. The SS–25 is a road mobile ICBM with an even larger warhead, but with the same accuracy as the SS–24.

There is a reason why China is building Soviet-style weaponry. The Chinese apparently are getting help from former Soviet sources. On October 14, the Wall Street Journal reported, "weapons designs and mathematical modeling work are being sent to China by electronic mail from Russian weapons laboratories." The November 12 issue of the Washington Times reported that Russian experts are supplying China with "technology for triggering nuclear weapons."

The November 16 New York Times reported the existence of a Chinese military strategy book, published this year, which identifies the United States as China's principal future military adversary. This book outlines various war scenarios including the invasion of Taiwan, "War on the Korean

Peninsula and China's seizing of oilfields in the South China Sea."

Mr. President, all Americans sincerely hope that by the end of this decade, if not sooner, China will be both prosperous and democratic. China is well on the road to prosperity. However, there is no guarantee that democracy in China will occur. The implications of a new non-democratic entrant onto the world scene with modern, nuclear-tipped ICBM's are ominous. China did, in fact, first explode a nuclear weapon in 1964 but its delivery systems are 1960's vintage at best. Obtaining the technology to produce their own versions of the SS–24 and SS–25 would amount to an elevator ride straight up for Chinese strategic weapons capabilities.

Therefore, I have written to the distinguished chairman of the Senate Foreign Relations Committee, Senator PELL, and the distinguished ranking member, Senator HELMS, asking that, as a matter of high priority, the committee hold extensive hearing as soon as Congress reconvenes on Chinese military capabilities and their implications for arms control.

Mr. President, I ask unanimous consent that articles from the Los Angeles Times, Wall Street Journal, Washington Times, and New York Times, as well as my letter to the chairman of the Senate Foreign Relations Committee, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Nov. 9, 1993]

CHINA UPGRADING NUCLEAR ARMS, EXPERTS SAY BEIJING IS ALSO DEVELOPING NEW MISSILE SYSTEMS, INCLUDING BETTER ICBM'S, TO DELIVER THE WARHEADS, THEY BELIEVE.

(By Jim Mann)

When China carried out an underground nuclear test Oct. 5, its action was widely perceived as a political message, a gesture of defiance aimed at President Clinton and the U.S. Congress.

Many believed, as one international human rights activist put it, that China was "thumbing its nose at the United States"—particularly since the 90-kiloton blast came a scant two weeks after Beijing's campaign for the 2000 Olympic Games, for which Washington had little enthusiasm, ended in humiliating defeat.

But in the month since then, the small coterie of U.S. government experts and scholars who study the Chinese People's Liberation Army and its nuclear weapons program have concluded that China conducted the nuclear test for military purposes—ones that had little to do with the touchy state of relations between Washington and Beijing.

"It's clear to me that the test was not done for political reasons," says one Pentagon official. The test broke a yearlong international moratorium on nuclear testing that the Clinton Administration had hoped would continue.

Rather, the official explained, last month's explosion at China's Lop Nor testing site in the Xinjiang region was part of a series of tests in which the PLA is rushing to develop "follow-on systems" for its strategic nuclear forces.

"The purpose was definitely modernization (of nuclear weapons)," said Bonnie Glaser, a Washington-based consultant on Chinese defense strategy. "The Chinese are moving ahead."

So what is China doing?

"In the late 1980s, the Chinese decided they needed serious testing and development to bring their strategic nuclear deterrent up to international standards," explained Ronald S. Montaperto, a former Defense Intelligence Agency specialist now working at the Institute for National Strategic Studies.

"To do that, they needed some new warheads," he said. "They wanted something that was smaller, more deployable, more accurate."

Specialists note that China also carried out two underground nuclear tests in 1992, one of them a one-megaton blast that was China's largest ever and was 500 times the size of the bomb that exploded at Hiroshima. China has carried out 39 nuclear tests since it acquired the bomb in 1964 and has been testing at the rate of about once a year in the past decade.

Along with the new warheads, these specialists say, China has been developing new missile systems, including better intercontinental ballistic missiles.

"The Chinese are moving from these first- or second-generation liquid-fuel missiles to more mobile, more accurate solid-fuel missiles," says Timothy McCarthy, senior analyst at the Monterey Institute of International Studies.

This has happened with every nuclear missile program in the world, McCarthy notes. The pattern is to move toward missiles with solid fuel, which can be more easily moved from place to place, and with better guidance systems. And new missile systems require new warheads as well.

McCarthy, who also writes for Jane's Intelligence Review, said he believes China is developing a new ICBM similar to the Soviet SS–25. It would be a more accurate version of China's current ICBM, the DF–5, which has a range of about 8,000 miles and could reach the United States.

Specialists on weapons proliferation also link China's nuclear tests to missile programs. "The best explanation for why they are testing that I can figure out is that they need smaller warheads for new multiple-warhead missiles that they are developing," says Henry Sokolski, a former Pentagon official.

China's long-range missiles and ICBMs, first tested in 1970 and 1971, were originally planned to be able to reach Guam and the continental United States respectively. But many of these were eventually targeted on the Soviet Union—particularly after border skirmishes broke out and China and the Soviet Union came close to war in 1969.

Asked whether some of the Chinese ICBMs once aimed at Soviet territory have now been aimed at the United States, a Pentagon specialist replied, "I don't think there's been any major shift."

But other experts on Chinese nuclear forces say they were designed with the United States in mind and that they must be a factor in American military planning.

"They (the Chinese missiles) can reach Kansas City," notes Chong-pin Lin of the American Enterprise Institute. "And with the improvement of China's strategic deterrent, China can complicate the calculus of Washington if the United States should want to intervene militarily somewhere around China's periphery."

If it neutralizes the possibility of American military intervention in Asia, Lin believes, China can use its conventional weapons to intimidate its neighbors.

"China may never use the nuclear weapons, but the upgrading of its nuclear arsenal will be translated into a threat in foreign policy, economics and other non-military areas," he says.

Lin is particularly concerned about the possibility of nuclear blackmail by China in its dealings with Taiwan. In contrast, Pentagon planners, who are responsible for worrying first of all about the protection of the United States, find less cause for alarm in China's developing nuclear program.

"China's nuclear weapons are a deterrent," says a Defense Department official. "If potential enemies have nuclear weapons, you need them to be able to retaliate. China's nuclear arsenal is modest in terms of numbers, in comparison with that of the United States or the former Soviet Union. And they (the Chinese) are not preparing to have a run at matching our numbers as we come down (under existing arms-control treaties)."

All the experts agree that China is rushing to finish up its current series of nuclear tests because it can see the momentum building around the world for a treaty that imposes a comprehensive ban on nuclear testing.

"Chinese military leaders know they will soon be under pressure to get into international arms control. They need this technological advance (in their weapons program), so they don't lose anything when a freeze goes into effect," Montaperto says.

Last July, President Clinton announced that the United States would halt nuclear testing for another 15 months, so long as other nuclear powers observed the informal moratorium. And in a September speech to the U.N. General Assembly, he publicly called upon China to abandon what U.S. intelligence officials had reported were preparations for a new nuclear test.

Some of the U.S. China hands believe Clinton's action was unwise because the most the United States could ever have expected from the Beijing leadership was a delay, not cancellation, of the nuclear test.

"I thought it was particularly clumsy of this Administration to have the President call upon China at the United Nations for the nuclear test not to take place," says Douglas Paal, former head of Asian affairs for the George Bush Administration's National Security Council. "Anyone who knows China knows that would guarantee the test would take place."

Within hours after the Oct. 5 explosion in China, Clinton ordered the Energy Department to make preparations for the United States to resume underground nuclear testing next year. He stopped short of saying for sure that the American tests will start up again. It was a reminder of the extent to which China is now helping set America's foreign policy agenda.

[From the Washington Times, Nov. 12, 1993]

MISSILE BUILDUP IN CHINA COULD THREATEN UNITED STATES

(By Martin Sieff)

China is engaged in a long-term strategic weapons buildup to achieve superpower status, which eventually could threaten the United States, defense and intelligence sources say.

The buildup involves far closer military relations with Russia and will give Beijing the capability to threaten the U.S. mainland, defense experts said.

"There is no question it enhances their future strategic threat to the United States," said a top U.S. expert on China.

China's buildup is focused on the development of a force of intercontinental ballistic missiles (ICBMs) that would have the range and accuracy to hit major Russian and American population centers and military targets, the defense sources said.

U.S. defense analysts take this development seriously because they believe 50 to 60 percent of China's current ICBM arsenal, which is far more modest and inaccurate, is still aimed at American targets, the sources said.

The Clinton administration seeks to shore up its deteriorating relations with Beijing. As part of this effort, Charles Freeman, assistant secretary of defense for regional security, visited Beijing last month to promote closer relations between the Pentagon and the People's Liberation Army.

But China's relations with Russia are a lot closer. The two giant nations signed a five-year military cooperation agreement yesterday. The pact primarily provides for exchanges of experts and other personnel, said Wu Jianmin, a Chinese Foreign Ministry spokesman.

Relations between the two militaries are already very close. China last year bought about $1.8 billion in arms from Russia, including 26 Sukhoi-27 fighters and 144 air-to-surface missiles.

China has also hired scores, possibly hundreds, of Russian scientists from former Soviet missile and nuclear programs, U.S. intelligence sources said.

"The Russian cooperation with China is one of the most important issues which is not being openly addressed by the [Clinton] administration. The Russians and the Chinese are very secretive and keep it very quiet," said James R. Lilley, former U.S. ambassador to China and South Korea and now with the American Enterprise Institute, a conservative policy group.

"The Chinese and Russian military establishments are hand in glove. They have intimate relations with each other. Their cooperation is all over the place. It's big stuff," he said.

"China has been buying nuclear and missile know-how from the former Soviet republics, especially Russia. It is now working on a mobile SS-25 intercontinental ballistic missile," said Henry Sokolski, a Pentagon officer in charge of non-proliferation in the Bush administration.

"The labs in Russia are run by former Communists, many of whom feel comfortable dealing with the Chinese. They can make some money that way and get to play around again," Mr. Sokolski said.

"The Russians have all these scientists getting $50 a month. The Chinese can offer them $3,000 a month, chauffeur-driven cars and a two-year contract," Mr. Lilley said.

Intelligence community sources told the same story.

"It's in the intelligence files," one source said. "What they're doing [is] getting the latest techniques of submarine nuclear propulsion. They're trying to solve their problems of launching missiles from submerged submarines.

"The kinds of stuff they are getting is very specialized: technology for triggering devices for nuclear weapons, solid rocket fuel, muffling technology for diesel submarines," the intelligence source said.

The U.S. government is aware of the scale of traffic in former Soviet scientists going to work in China, but its efforts to stanch the flow have been unsuccessful.

"We have gone to the Russian government and said to them, 'Please stop,' but I don't think they can. I don't think [Russian President Boris] Yeltsin knows what the hell they're doing," one source said.

[From the New York Times, Nov. 16, 1993]

CHINESE MILITARY SEES THE UNITED STATES AS A FOE

(By Patrick E. Tyler)

BEIJING, November 15.—A Russian diplomat browsing through a bookstall here recently came across this title: "Can the Chinese Army Win the Next War?"

On the cover, President Jiang Zemin was quoted as saying, "We must win high-tech small-scale wars under modern conditions." Inside, it identified the United States as China's principal military adversary in the future and sketched out eight war scenarios, including the retaking of Taiwan, war on the Korean Peninsula and China's seizing of oilfields in the South China Sea.

It was extraordinary that such a document could be published in China, which treats any discussion of military strategy, doctrine and planning as the most treasured of state secrets.

But this thin book, which was later banned and recalled by the Communist Party authorities, is now a widely circulated attraction in Beijing's diplomatic quarter.

TRYING TO SHAPE OPINION

Western officials have linked it to a general effort by some hard-line officers of the Chinese Army and their allies in retirement and in academia to mobilize public opinion against China's potential enemies.

The appearance of the book and others like it, as well as recent leaks to Hong Kong newspapers indicating major disaffection in the army over China's recent disputes with the United States, underscores the damage to Chinese-American military relations that the Clinton Administration is trying to address.

It also underscores the extent to which China's military leaders have begun to challenge the civilian authorities over the future military policy of the world's most populous country.

From interviews with diplomats here who have contact with Chinese military officials, one thing seems clear: Tempers have been flaring.

First there was the American sale of F-16 fighters to Taiwan last year, and then in August the United States imposed sanctions on China over the transfer by China of missile equipment to Pakistan. These sanctions were announced in the midst of the Yinhe episode, which turned out to be a case of mistaken intelligence in which Washington said the Chinese cargo ship Yinhe was carrying chemical-weapon ingredients to Iran. An inspection proved that it was not.

"The military was one of the institutions in China that was particularly offended by the sale of F-16's to Taiwan last year," a Western diplomat here said. He added that there were "elements" in the Chinese military who would like their civilian leaders "to show more gumption in standing up to the United States."

GENERALS CONFRONT PRESIDENT

A Hong Kong journal with close ties to Beijing recently carried an account of a confrontational meeting between President Jiang and his generals on Sept. 8, and this account has been taken as credible by some analysts here. Eight senior generals led by Defense Minister Chi Haotian were said to have met with Mr. Jiang to express their frustration over the "soft stance" Beijing was taking toward American "hegemonism" and "power politics."

AN EMOTIONAL MEETING

The generals were said to have become "very excited during the meeting" and presented the President with a petition signed by 180 high-ranking officers demanding that China "take a solemn and just stand" against the United States.

Mr. Jiang was said to have calmed the generals by reminding them that since China had developed nuclear weapons in the 1960's, "we are no longer afraid of the threats and bullying of the two hegemonists," meaning Russia and the United States. But the intensity of the encounter reflected the depth of convictions in the military.

Strong mistrust toward American intentions was also apparent from the 80-page book of military analysis that caught the eye of the Russian diplomat this fall. Though the book was written under a pen name and published by Southwest Normal University Press in Sichuan Province in June, it betrayed the knowledge and experience of a seasoned member of the Chinese military establishment, diplomats here say.

"Although at present, China does not pose a real threat strategically to the United States, the United States still considers China a hypothetical target in its regional defense strategy," the banned analysis says. "Because of serious opposition and differences in ideology, social system and foreign policies between China and the United States, it would be impossible to improve fundamentally Sino-U.S. relations."

[From the Wall Street Journal, Oct. 14, 1993]

U.S. FEARS CHINA'S SUCCESS IN SKIMMING CREAM OF WEAPONS EXPERTS FROM RUSSIA

(By John J. Fialka)

WASHINGTON.—China's success in recruiting Russian weapons experts and acquiring nuclear and ballistic missile technology sends a shudder through the Clinton administration, which fears China's efforts will eventually enable its strategic nuclear forces to reach the U.S.

According to government officials, as many as a thousand technicians, scientists and engineers from Russia's previously top secret weapons complexes have been recruited to come to China for high salaries and reportedly lavish living allowances.

Meanwhile, Russia's system for keeping track of its weapons scientists has broken down. And a $100 million international effort, led by the U.S., to give the scientists work has been stalled, despite more than a year of preparations.

One State Department official, who asked not to be identified, called the situation "extremely unfortunate." The Chinese are exploiting a situation where "the cream of the weapons community wasn't being paid salaries last summer," the official said.

REQUESTS FOR DEMARCHES

Another official said several specific incidents involving the accelerated eastward flow of experts and technology have triggered requests for diplomatic protests, called demarches, against both Russia and China, moves that were rejected by the State Department because of the current sensitivity in dealings with both countries. However, a State Department spokesman said he wasn't aware of any demarches that had been dropped.

The recruitment of weapons experts is only one aspect of China's aggressive pursuit of Russian technology, including the SS-25, Russia's most modern, mobile intercontinental ballistic missile. Chinese experts are visiting Russian defense plants, and weapons designs and mathematical modeling work are being sent to China by electronic mail from Russian weapons laboratories. "You don't have to leave the country to be recruited," declared one official.

"In Russia, they can go recruit these guys semi-openly," said James R. Lilley, U.S. ambassador to China and Defense Department official during the Bush administration. He said the Chinese media has reported that as many as 3,000 former Soviet experts have been recruited for salaries as high as $2,000 a month each, plus housing, a car and living expenses. "With the Chinese," he said, "they can get cash on the barrelhead."

A BONANZA FOR CHINESE

Mr. Lilley, now an analyst at the American Enterprise Institute, a private research foundation here, called the transfer a "bonanza" for the Chinese. With Russia's help, he asserts, China's military is making a major shift from a land-based defense force to one capable of projecting military power throughout the Far East and beyond.

China's focus on more modern nuclear weapons and long-range missiles, he said, violates at least two treaties and will eventually "threaten U.S. vital interests in the Pacific."

Chinese officials have played down their military modernization efforts, including a recent nuclear test, claiming their defense budget is a relatively tiny $7.3 billion. But Mr. Lilley claims larger amounts are hidden in other agency budgets.

Meanwhile, the Central Intelligence Agency last week told the Senate Government Affairs Committee that the Russian government's power to control the exodus of its weapons scientists has largely evaporated. "A centralized automated data system containing information on citizens who possess state secrets does not exist," the CIA noted in a written statement.

CORRUPTED BY BLACK MARKET

Russia's Internal Affairs Ministry, which issues passports, has been overwhelmed with requests and "corrupted" by black market operators and commercial firms generating passports and visas on short notice, the CIA said.

The potential problem was anticipated by both the Bush administration and key committees in Congress in the winter of 1991. The U.S. then committed $35 million to establish centers in Moscow and Kiev that would function as job clearinghouses for former military scientists seeking commercial research work.

Though Japan, Canada and European countries later boosted the funding to nearly $70 million, objections from Russia's Parliament and from Ukraine politicians stopped the centers from opening.

The State Department official said preparatory work on the centers is completed. Citing economic desperation being faced by nuclear experts in such closed military cities as Arzamas-16 and Chelyabinsk-70, the official said, "We are really seeing the conditions now to which these centers were designed to respond."

LAW ENFORCEMENT SUPPORT FOR S. 1607

Mr. BIDEN. Mr. President, the full Senate has spoken emphatically in favor of comprehensive crime legislation. The crime bill now fully funds $22.3 billion in comprehensive anticrime programs including: $8.9 billion to fund 100,000 police officers; $6 billion in aid to State and local prisons, jails and military-style boot camps; $250 million for rural anticrime efforts; $1.2 billion for drug court programs targeting drug offenders now released on probation; $500 million for secure prisons for violent juvenile offenders; $300 million to prevent crime in the Nation's schools; and $100 million to combat violent youth gangs.

In addition, this bill provides the largest ever expansion of the Federal death penalty, more than 60 penalty increases and new offenses, covering violent crimes, drug trafficking and gun crimes.

Of course, final passage of this bill was the product of efforts from many quarters. But, none have worked longer, harder or with more dedication than the leading State and local law enforcement officials of this country. For the past 4 years, these leaders have worked closely with me to make comprehensive crime legislation a reality. I expressed my gratitude to the leaders—and the members—of these organizations earlier this week, but I would like to again offer my thanks for the many months of effort devoted by the Nation's law enforcement officers. A list of these organizations follows, and I ask unanimous consent that this list be printed in the RECORD along with the letters sent by all these leaders:

Robert T. Scully, Executive Director, National Association of Police organizations;

Dewey Stokes, National President, Fraternal Order of Police;

Kenneth T. Lyons, National President, International Brotherhood of Police Officers;

Sylvester Daughtry, Jr., President, International Association of Chiefs of Police;

Charles "Bud" Meeks, Executive Director, National Sheriffs' Association;

Joseph M. Wright, Executive Director, National Organization of Black Law Enforcement Executives;

James M. Rhinebarger, Chairman, National Troopers Coalition; and

Joseph Papili, President, Delaware State Troopers Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Please be advised that the National Association of Police Organizations (NAPO), representing over 145,000 sworn law enforcement officers in over 2000 police associations throughout this country, enthusiastically gives its wholehearted and unqualified support for the passage of "The Violent Crime And Law Enforcement Act of 1993" (S. 1607). NAPO is excited by the fact that this bill includes $22.3 billion to assist law enforcement in their anti-crime programs including: $8.9 billion to fund 100,000 local law enforcement officers; $6 billion in aid to state and local prisons, jails and military-style boot camps; and money that will address crime in rural America; drug court programs targeting drug offenders now released on probation; secure prisons for violent juvenile offenders; crime prevention in the nation's schools and combat violent youth gangs.

NAPO sincerely hopes that the Kohl amendment which prohibits the sale and possession of handguns by juveniles and the assault weapon amendment sponsored by Senator's DeConcini, Feinstein and Metzenbaum remain intact and is passed as part of S. 1607. Even though NAPO always has been and continues to oppose the Police Corp Program and additionally, NAPO was hoping to have included in this crime bill the Law Enforcement Officers Bill of Rights, NAPO still throws its support behind the most comprehensive anti-crime bill ever to have passed either body of Congress.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

FRATERNAL ORDER OF POLICE,
Columbus, OH, November 9, 1993.

Hon. JOSEPH BIDEN,
U.S. Senate, Washington, DC.

DEAR JOE: On behalf of the Fraternal Order of Police, which represents 248,000 rank-and-file police officers nationwide, I am pleased to advise you of our support for the comprehensive omnibus crime bill (S. 1607, as amended thus far) which you are now guiding through the Senate.

Although floor action on this important legislation is not yet completed, I did want to take this opportunity to commend you for all that you have done to move this measure forward and to strengthen it along the way. We are particularly pleased with the funding language added last week which, at least in theory, would provide approximately $22 billion worth of various anticrime initiatives. We also note the deletion of the Byrne Grant "hammer" as initially contained in the habeas corpus section of S. 1488, and applaud your efforts to remove this language.

While the crime bill now before the Senate is not perfect, it does represent the triumph of what is possible over what would be ideal. An ideal crime bill would contain a "Police Officers' Bill of Rights," a ban on certain types of semi-automatic assault weapons along the lines of legislation posed by Senator DeConcini, and the deletion of the "Police Pattern and Practice" language which originated in the House last session. Regardless of these problems, however, the legislation as it stands this afternoon is an important step forward and you are to be commended for it.

The FOP regards S. 1607, as amended thus far, as the most significant federal effort to combat violent crime in America in recent memory. We would urge you to continue to resist any amendments which would alter the objectives of this legislation and, on behalf of the law enforcement community, we salute you for your efforts on our behalf.

Sincerely,

DEWEY STOKES,
National President.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN,
Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: The International Brotherhood of Police Officers (IBPO) represents more than 40,000 federal, state and local rank and file law enforcement officers across the country. IBPO is the largest law enforcement officers union in the United States. Today we write to inform you of the

IBPO's strong support and endorsement of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993.

The IBPO has long advocated comprehensive efforts to address violent crime where it occurs: at the state and local level. S. 1607 represents historic achievements to accomplish this goal. The bill fully funds a total of $22.3 billion in anti-crime programs. Most importantly, the bill provides $8.9 billion to fund 100,000 police officers. The decision to not only authorize but appropriate the resources required to put additional officers on the streets truly recognizes the importance of providing resources to state and local police who are responsible for over 95 percent of the arrests made in the United States.

S. 1607 provides $6 billion in aid to state and local prisons, jails, and boot camps, $150 million towards educational initiatives for current law enforcement officers, $100 million to combat violent youth gangs, $300 million to prevent crime in the nation's schools and $1.2 billion for drug courts that require drug testing, treatment and alternative punishment for young drug offenders.

In addition, S. 1607 takes other critical steps to combat crime. For example, S. 1607 enacts a ban on certain semi-automatic assault weapons. As you know from our recent testimony before the Senate Judiciary Committee, the IBPO supports reasonable efforts to curb proliferation of military-style assault weapons that have no legitimate sporting purpose. In addition, S. 1607 incorporates the provisions of the Violence Against Women Act, which takes a comprehensive approach to reducing domestic violence.

S. 1607 is, by far, the most comprehensive legislation Congress has ever proposed to combat violent crime. The IBPO wishes to thank you for your continued dedication of the highest quality to law enforcement issues. We urge the Senate to take swift action to approve S. 1607.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
Arlington, VA, October 22, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: The International Brotherhood of Police Officers is an affiliate of the Service Employees International Union, the fourth largest union in the AFL-CIO. The IBPO represents over 40,000 state and local law enforcement officers across the United States and is the largest police union in the country. I am writing today to urge you to support S. 496, the Gun Dealer's Licensing Reform Act, introduced by Senator Simon, which would create reforms to the Federal Firearm Licenses System.

S. 496 allows the Bureau of Alcohol, Tobacco and Firearms to effectively weed out those abusing the system from the majority of honest, law-abiding firearm dealers. S. 496 increases the license fee for firearm dealers from $10 to $750. The current fee has remained unchanged since enactment of the Gun Control Act of 1968; this increase accounts for inflation and additional costs associated with processing and inspection.

In addition, S. 496 tightens loopholes present in the current system. The bill drops the 45-day requirement for action on firearm dealer license applications, allows ATF agents to investigate a dealer more than once a year, if necessary, and requires dealers to report shortages in firearm shipments, or lost or stolen inventory to the Bureau. Finally, the bill would require dealers to certify that they are in compliance with state and local laws before receiving a new license.

Through these provisions, S. 496 prevents the circumvention of state and local laws and ensures the enforcement of federal firearms laws. For example, in the District of Columbia, local laws ban the sale of handguns, but a federal license can still be granted. Passage of S. 496 insures the rank-and-file officers we represent consistency in the enforcement of firearms laws.

Earlier this year, Senator Simon attempted to amend the FY94 Treasury and Postal Service Appropriations Bill to include an increase in the license fee. Although this amendment was defeated by a vote of 30–68, we thank you for your support and, in addition, urge your support for S. 496, a common sense and comprehensive package which allows legitimate gun dealers to continue their business and local law officers to enforce the law.

If you have any questions or comments, please do not hesitate to contact my Legislative Director, Chris Sullivan, at your convenience.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL ASSOCIATION OF CHIEF OF POLICE,
Alexandria, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman of the Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: The International Association of Chiefs of Police (IACP) has watched with interest the development of your bill S. 1067, the "Violent Crime Control and Law Enforcement Act of 1993." IACP believes that the bill and the various amendments that have been debated and added over the last week will go a long way toward addressing violent crime in this country. You and your fellow Senators, especially Senator Hatch, are to be commended for your efforts.

We continue to have concerns about the funding levels and effectiveness of the Police Corps provisions. As you know, and as is articulated in the attached IACP resolution, we will continue to resist this proposal that we believe to be a wasteful use of scarce taxpayers' dollars. We are pleased however, by your assurances that the final bill will not include a "police officers bill of rights."

As was pointed out repeatedly during the debates, fighting crime in the United States occurs primarily at the state and local level. Strong actions and laws must begin at these levels. But the federal government can, and by this legislation will, provide coordinating leadership and needed funding to insure that the nation puts more police officers on the streets, incarcerates violent criminal offenders, provides remedial programs and treatment for non-violent offenders, and develop preventative programs to dissuade future generations from involvement with guns, gangs and drugs.

Again, the IACP commends the efforts of you and your colleagues in the State and look forward to working with you on other matters we have discussed to combat violent crime.

Sincerely,

SYLVESTER DAUGHTRY, Jr.,
President.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: Congratulations on your masterful work on the Crime Bill which is now before the Senate. The Sheriffs of the United States are deeply grateful for your commitment to legislation which will attack the crime problems which are of such concern to the entire nation.

We at the National Sheriffs' Association are satisfied with the progress of the crime bill. Rural crime issues are being addressed in an appropriately aggressive fashion. Monies are being designated for much-needed jail and prison construction. We are pleased to note that the Triad amendment will direct attention to the concerns about crimes affecting the elderly.

Sheriffs nationwide support the crime bill. We trust that your colleagues will agree with you and vote to enact legislation at the earliest possible date.

Sincerely,

CHARLES B. MEEKS,
Executive Director.

NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES,
November 10, 1993.

Senator JOSEPH R. BIDEN, JR.,
Chairman, U.S. Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: On behalf of the membership of NOBLE, I write to commend you for your untiring efforts with respect to the most significant comprehensive anti-crime bill that has ever been considered in the United States.

Furthermore, we urge Congress to include a ban on the manufacture and sale of military-style assault weapons. Candidly, we are puzzled as to why anyone would consider to do otherwise, unless they were directly involved in the manfuacturing and/or sale of weapons of that type.

Also, we strongly support the inclusion of boot camps, innovative drug programs, and creative efforts to negate the violent activity of youths.

Keep-up the good work and let us know what we can do to assist in getting the crime bill passed now.

Take care and best regards

Sincerely,

JOSEPH M. WRIGHT,
Executive Director.

NATIONAL TROOPERS COALITION,
Albany, NY, November 15, 1993.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: We applaud you for your continuing efforts in combating this Nation's escalating crime problem. We know that you are deeply involved at the present time in attempting to work out an acceptable and effective crime bill. The National Troopers Coalition is extremely interested in the passage of legislation that will effectively deal with our Nation's crime problem.

We stated the views of the NTC to you on s. 1488 a few weeks ago. Since that time, you have introduced a separate bill. S. 1607. In addition, it is our understanding that certain provisions of S. 1607 relating to habeas proposals have now been detached and will be considered separately.

Since events with respect to the crime bill are fast moving at this point, we wanted to simply restate the NTC's position on this legislation. First, the NTC strongly supports proposals that will provide for funding for additional state and local police officers. Second, the NTC supports funding to aid state and local prisons, jails and military style camps, and to construct regional prisons for state offenders from states which have truth-in-sentencing statutes with respect to violent offenders. Third, the NTC supports legislation that contains genuine habeas reform, which (a) preserves Supreme Court decisions, rather than retraining from them, (b) prevents relitigation of constitutional issues determined in state proceedings where the petitioner had a full and fair opportunity for review, (c) contains effective time limits on the filing of habeas petitions, and (d) does not impose cumbersome and costly counsel requirements in state capital cases. Fourth, the NTC supports legislation that would reform the exclusionary rule to allow the admissibility of evidence seized under objectively reasonable circumstances. Fifth, the NTC supports the "Brady Bill" and wishes to compliment you on your tireless efforts on this particular legislation.

Our organization is committed to continue working with you and the other congressional leaders in Congress to pass tough and effective crime legislation. We do support you on the Violent Crime Control and Law Enforcement Act of 1993.

Sincerely,

JAMES A. RHINEBARGER,
Chairman.
JOHNNY L. HUGHES,
Chairman, Legislative and Congressional Affairs.

DELAWARE STATE
TROOPERS ASSOCIATION,
Dover, DE, November 10, 1993.
Hon. JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate Judiciary Committee, Washington, DC.

Dear Senator Biden: The Delaware State Trooper Association strongly supports your Crime Bill S. 1607. After many years of debate in Congress this bill is an important piece of legislation for law enforcement and the American public.

We recognize that there will never be a perfect crime bill, however, S. 1607 contains many areas of Public Safety that are important in reducing crime in America. Everywhere in America crime is a major topic of discussion and concern. With the passage of this bill it will enable Law Enforcement to impact reducing crime.

We applaud the Senate Judiciary Committee and your efforts in pushing for passage. Please do not hesitate to call if we can be of any assistance to you or your staff in getting this Bill to the President.

Passage of this Bill is of major importance to all Americans.

Sincerely,

JOSEPH PAPILI,
President.

TRIBUTE TO STUART MOLDAW

Mrs. FEINSTEIN. Mr. President, it gives me great pleasure to rise today to acknowledge and congratulate Mr. Stuart Moldaw, who was recently confirmed as Alternative Representative of the United States to the United Nations. I have known Stuart Moldaw for many years and can think of no one more qualified and deserving of this prestigious position.

In 1949, Mr. Moldaw graduated from Syracuse University with a bachelor of science degree in marketing and economics. His first position was as a buyer for a department store based in Connecticut. He quickly rose up the corporate ladder, and in 1955 he moved to California to become a regional supervisor for Lerner Shops.

Four years later, Mr. Moldaw went into business for himself. He organized Stuart G. Moldaw Enterprises, operating Country Casual Stores, which he sold in 1970. This was only the beginning of his string of successful entrepreneurial pursuits which have continued through today. In this 34 year span, Mr. Moldaw has founded and/or owned a variety of well known and highly recognized companies, including Ross Stores, Inc., Home Express, Avia Shoe, Home Club and Athletic Shoe Factory. He co-founded U.S. Venture Partners, which has become one of the largest venture capital firms in the country.

Mr. Moldaw has since decided to move into the next stage of his career, which involves phasing out his business activities and focusing on the challenges of government service. Mr. Moldaw articulates the motivation for this change:

> As I look back on my career, my strongest motivation comes from the creative aspects of my efforts and the sense of contributing something to the community * * * In the larger world, this kind of motivation translates to a sense of service to the greater good utilizing the entrepreneurial skills I have learned. As I look at the world and see the selfishness and discord that prevails, I want to work at equalizing opportunities and bringing people closer together.
>
> In my numerous business deals, I have learned the delicate art of bringing opposing factions together and discovering an acceptable compromise so both parties leave the table satisfied * * * I believe my many years as a skilled negotiator, communicator and administrator will help me serve our government.
>
> I am a self-made businessperson, starting out with absolutely nothing but a desire to do well for myself and my family. I have had the good fortune of being financially successful beyond my wildest dreams. I think that only in the United States could this be accomplished. As a result, I have a strong feeling of wanting to give something back to my country.

As an entrepreneur specializing in consumer products, specialty retailing, and real estate industries, Mr. Moldaw has established himself as an effective leader and innovator. These qualifications, combined with his compassionate managerial style and unwavering support of social justice, will certainly translate into tremendous success in his new post.

I am sure that Stuart Moldaw will serve dutifully and honorably as the Alternative Representative of the United States to the United Nations. I commend his wife, Phyllis, his two daughters and three grandsons for their support of Stuart's rise to this new challenge. I know he will make them, as well as our country, very proud.

NATIONAL OPTICIANS MONTH

Mr. HELMS. Mr. President, every January for many years has been designated National Opticians Month in honor of some very special professionals who mean a great deal to the American people.

The sponsor of this observance is the Opticians Association of America. And, Mr. President, this year's leader of that fine association is a distinguished North Carolina lady, Mrs. Patricia M. Tolar of Carrboro, NC.

Most Americans' impressions of the world around us come chiefly through our eyes. And to make the most of the precious gift of sight, nearly 60 percent need vision help, most of whom need eyeglasses, contact lenses, or some other form of vision aid.

Mrs. Tolar and her skilled colleagues provide the expert assistance needed by so many. Modern technology has made available literally thousands of possible combinations of eyeglass frames and lenses as well as a wide variety of contact lenses and low-vision aids. Dispensing opticians play a vital role in guiding eyewear consumers to the specific combination that fits their individual needs.

Mr. President, through formal education programs, voluntary national certification, mandatory licensing in many States, and programs of continuing education, dispensing opticians acquire the skills and competence to assist eyewear consumers and fill their eyewear prescriptions correctly, efficiently, and effectively.

Moreover, retail opticians are an important part of the Nation's small business community. They provide the competitive balance that keeps eyewear affordable for so many Americans.

I am pleased to acknowledge the essential role of dispensing opticians as they help all of us make the most of our eyesight. I reiterate my pride that North Carolina is home to this year's president of the Opticians Association of America.

A TAX ON MEDICAL DEVICES

Mr. HATCH. Mr. President, for the benefit of my colleagues I would like to submit a letter from the Utah Biomedical Industry Council in response to an article in the July 14 edition of the Wall Street Journal entitled "Medical-Device Firms Seek User Fees to Expedite FDA Product Applications." The letter makes an excellent case for why the imposition of a user fee could amount to a tax on medical devices.

With the enactment of the Medical Device Amendments of 1976, Congress authorized the U.S. Food and Drug Administration to provide reasoned and consistent regulatory oversight with regard to the safety and effectiveness of medical devices in the United States. Over the past several years, however, the FDA has come under increasing criticism for its implementation of these and subsequent amendments to the Act.

I want to point out that both the health care industry and consumers need and expect the FDA to do a good job. Indeed, the efficient and timely implementation of this regulatory program should serve to improve the overall health of American citizens as well as to create jobs at home and enhance economic growth for the country.

As an example, 248,000 workers were employed in the health care technology industry in 1990, which generated some $31.2 billion in the production of health care technology products. The industry consists of highly diverse manufacturers, both large and small, which produce a vast array of life-saving and life-enhancing equipment and supplies that have benefited millions of Americans.

The industry, however, is now faced with ever-increasing gridlock due to the FDA's inefficient product review and approval process. The FDA's proposal to impose so-called user fees, allegedly to expedite and improve the product review process, simply will not solve the problem. The imposition of a fee or tax will not contribute to a more efficient and effective regulatory system, which should be our primary goal. I am fearful that it would only serve as another round of taxes that inhibit innovation and growth.

I commend the Utah Biomedical Industry Council for the insight shown in their letter to the Journal. I ask unanimous consent that the text of the letter be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UTAH BIOMEDICAL
INDUSTRY COUNCIL,
Salt Lake City, UT, August 6, 1993.

NED CRABB,
Letters Editor, The Wall Street Journal, Dow Jones & Company, Inc.

DEAR EDITOR: We were upset with the theme of the article "Medical-Device Firms Seek User Fees to Expedite FDA Product Applications" in the July 14, 1993, Wall Street Journal. While some of our country's major corporations may see user fees as an acceptable cost of doing business perhaps even a means of thwarting competition, those of us who are closer to the entrepreneurial end of the business have grave concerns over this issue. In fact we question the accuracy of the data presented in your article. We believe that the majority of medical device companies oppose user fees because the imposition of such fees will not address the crux of the problem at the FDA.

The current gridlock at the FDA is not simply the result of inadequate funding. It's an issue of balance, efficiency, and judgement. The FDA is one of many government agencies whose never-ending growth seems inversely proportional to its ability to accomplish its primary mission. Its reach has exceeded the original Congressional intent. The time has come to re-evaluate the system, not just throw more money at it, particularly when the proposed method of funding risks the catastrophe of reforming the medical device industry along the lines of the pharmaceutical industry. It would mean the death of entrepreneurial, innovative small companies that make up 80% of the American medical device industry. Large companies would benefit temporarily if the industry were consolidated to a few monopolistic corporate entities relying solely on price increase to produce growth, but the long term results would be worse medicine for every American.

Few people recognize that the FDA's primary mission, as stated in the 1976 Medical Device Amendments to the Food, Drug and Cosmetic Act, was to balance the need for safe and effective devices with the need for continued advances in medical device technology. Unfortunately, the Center for Devices and Radiological Health evolved in an atmosphere where no credit was given to people within the agency for fostering the introduction of new and better devices. Contrarily, they only received attention—in the form of criticism—when something went wrong with a medical device. Thus, they naturally focussed their attention on correcting problems, real or perceived, with products already on the market. They became increasingly fearful of making a mistake. Ergo, it was better to delay a new product's introduction than to let it on the market and risk having to answer some unknown problem that might appear later on.

New knowledge has accelerated technological progress in our laboratories, but certain aspects of education and training in our society have not kept pace. The technical experts within the FDA cannot be expected to keep up with the myriad of disciplines that fall under the umbrella of foods, drugs, and medical devices. In spite of this reality, the public has developed an attitude that risk-free medicine should not only be possible, but is somehow a God-given right which the government is obliged to guarantee. Isolated scandals involving inappropriate relationships between government regulators and greedy private interests coupled with the unrealistic and conflicting demands of Congress and special interest groups have driven FDA workers to focus more introspectively, eschewing outside input and advice. It is as if the FDA requires the answers to be apparent before the questions are asked. The result—gridlock.

New and better techniques of manufacturing and quality control are constantly evolving. Today's entrepreneurs must not only be innovative in their fields of expertise but they must implement total quality control if they are to be successful. The challenges to small, growing companies are enormous. What is our government doing to create an environment favorable to success and thereby help such companies keep America first in medical devices? The FDA sends in investigators to shut companies down. The rationale is one of enforcement rather than encouraging safe and effective new devices through education.

Congress established the Division of Small Manufacturers' Assistance specifically to insure that the Medical Device Amendments of 1976 would not be overly burdensome to small businesses and thus cripple the growth of our industry. In the past few years, 50% of the staff of that Division has been transferred into regulatory compliance areas. The very people whose mission was to ease the regulatory burden were transferred into the negative "find them doing something wrong and shut them down" part of the agency. This current negative imbalance is killing the medical device industry in America. Will user fees correct the problem? We don't think so!

User fees are a tax. If put upon the medical device industry they will be a tax on innovation because that is the nature of the industry. This tax will further aggravate the present imbalance by adding an additional burden to those of us who are striving to develop and introduce new, more advanced medical products. Following the course we have set, America is sure to lose its leadership in medical device technology. User fees will simply accelerate the inevitable end.

Truly innovative products are held up at the FDA more by the problems with the agency's approach than any lack of funding. Such products automatically fall into the FDA's Class III designation where there are few experts in the agency equipped to deal with a truly new technology. Even low or no-risk products get stuck in this logjam if they have no pre-1976 "substantially equivalent" antecedents. Risk assessment with any new technology is imperative, but if the FDA would use outside experts early in their deliberations, months or even years could be cut off the time to gain permission to submit your product to the marketplace. Appropriate attention to this single criticism could reduce the agency's expenses enormously.

The agency has been criticized for holding up very simple "me-too" products (e.g., a tongue depressor) by forcing such manufacturers to jump through the same hoops required of manufacturers that produce much more complex products. In fact, the vast majority of medical devices being regulated by the FDA do not pose significant risks. Except for critical medical devices that threaten, save, or sustain life, the medical device industry would be much more efficiently regulated by the competitive pressures of the global economy. Health care professionals are competent, discerning, and critical where medical devices are concerned. They are, and will always be, the best and final arbiters of whether a medical device is worthy of market success. Unless the risk to public health is sufficient to warrant regulatory intervention, it is folly to interpose a government bureaucracy between the industry and the marketplace.

We in the medical device industry have an obligation to educate the public. Americans at large are seemingly unaware that the FDA's administration of the medical device laws is jeopardizing the most dynamic health care system in the world. The concept of risk-free medical care is noble, but is in reality an insupportable tenet. We accept risk in every endeavor pursued or encountered. Were this not true, much of the need for medical practitioners and their devices would not exist. Placing such expectations upon the industry therefore defies logic and common sense.

Were the agency and the regulations to be reformed for the genuine public good we might expect the following: A government agency staffed to complement the knowledge base of medical practitioners and industry; a sensible regulatory scope that restricts only those devices posing a significant threat to the public health; kudos given for successes rather than failures; public education or "advertising" of the process and ensuring results; a uniform standard of expectations understood within the agency and within industry; a willingness to enlist outside resources when necessary and appropriate; an understanding of market place forces as opposed to capricious regulation, and the inference that such regulation always results in a better product; and an agency using its resources to become more efficient, not one using resources to expand further inefficiencies.

Congress has called for substantial reforms within the FDA to eliminate the current gridlock. Congress must act to influence more than just the rules for processing market clearance applications through the FDA. It must direct the FDA to employ sensible and realistic risk assessment with respect to medical devices and relinquish control of low-risk devices to free market forces. The climate at the FDA must be changed to bring about incentives for a balanced regulatory approach. We must not allow medical device innovation to be sacrificed upon the "sacred" FDA altars of safety and efficacy. User fees are a step in the wrong direction!

Sincerely,

WM. DEAN WALLACE, MD, Ph.D.,
Chairman, Utah Biomedical Industry Council.

JUSTICE RUTH BADER GINSBURG

Mr. MITCHELL. Mr. President, recently some friends of the newest Supreme Court Justice, Ruth Bader Ginsburg, honored her at a dinner. Vice President GORE and Mr. Sanford Greenberg both spoke, and I believe the sentiments they expressed are those of many to whom Justice Ginsburg has been an inspiration.

I ask unanimous consent that the texts of these remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. Sanford Greenberg. Sue and I are delighted to welcome you to our home this evening. Before I introduce the Vice President, let me tell you the story of a woman named Ruth. She is a modest woman with a hard-earned reputation for decency and courage. At an early age, she confronts the death of a close family member. Then, offered the opportunity to live a traditional life, she opts instead for change and endures all the trials, tribulations and uncertainties change produces. In the end, Ruth falls in love with a warm and caring man, himself a prominent figure, and, with his unflagging support, goes on to take her place in history.

Sound familiar? Of course. It sounds like the story of Ruth and Marty Ginsburg. And it is. But it is also the story of Ruth the Moabite, the protagonist of the Old Testament Book of Ruth and the greatgrandmother of King David. Widowed as a young woman, Ruth the Moabite rejects her mother-in-law Naomi's advice to stay in Moab to seek a new husband; instead, she chooses to leave all that she has known and accompany Naomi to Israel. "Whither thou goest, I will go. Whither thou lodgest, I will lodge. Your people shall be my people and your God my God". There she meets and marries Boaz, a kinsman of her late father-in-law. They beget Obed, who begets Jesse, who begets David.

Why do I speak of this ancient heroine? First, like Justice Ginsburg, she reminds us of the proud heritage of Biblical women—indomitable, loyal to faith and family but willing to take on the unknown. Second, just as the historical Ruth played a pivotal role in ensuring the continuing greatness of her people, I believe our Ruth has an historic role to play in helping the Supreme Court find its way from its past glories to a future greatness so important to our society. Finally, on a personal level, Sue and I see in our beloved friend and neighbor the same beautiful human qualities that endeared Ruth to Boaz. Without being presumptuous, I hope, Sue and I imagine it was these same qualities that endeared Ruth to the President and to the Vice President.

I first met the Vice President a number of years ago. With my usual subtlety, I told him that I believed one could no longer govern our country effectively without a working knowledge of international economics. Several weeks later, to my amazement and delight, he called, said he had been thinking about what I had said, agreed, and would I help him gain such a working knowledge. Thus began for me an extraordinary journey which culminated in the economic "teach-in" the President and the Vice President conducted in Little Rock just after the election.

If I didn't know him as I do, I would think that Al Gore is too good to be true. He has the intellectual vigor and capacity to take on subjects as big as the great outdoors—come to think of it, he even takes on the great outdoors. He is a devoted family man and a loyal friend and as Tipper said recently, he has now become a star of late night television.

At a time when it is particularly challenging to find role models for our children, I take great pride in counting among my friends a man whose life, intellect and character embody all that is best in America. The Vice President of the United States, Al Gore of Tennessee.

Vice President Al Gore. What a wonderful, warm occasion for all of us to share with Sandy and Sue. I know that I speak for everyone here, Sandy and Sue, in saying thank you so much for putting this together for your friend Ruth and for all of us. It is great to be here. May I say to all of you that Tipper and I count Sandy and Sue among our closest friends; they have been very warm to us for many years. Sandy mentioned this really unusual series of learning experiences that we shared together over a period of years. We got people right on the cutting edge to come in to try to deal with the monumental problem of my ignorance about the changes in the economic structure of our country and the world. We learned a lot together and it was a lot of fun. Sue and Tipper work together closely now and we have enjoyed it a great deal.

What an extraordinary gathering this is. The Judiciary and Executive branches, I see General, excuse me, Ms. Reno. She told me recently about the derivation of the phrase Attorney General. Apparently, in England, there were two kinds of attorneys, one for general matters. The phrase originated from that, although it now has a kind of military rank to it. But over where we live, up there, over in our neighborhood, when people get lost and try to figure out their way, they say, "Follow Reno." That is sort of what we are doing in this administration.

I see my pal, Eleanor Holmes Norton, my colleague in the Congress. I still have a little role in the Congress. You may have noticed, incidentally, that every time I vote, we win. I do other things. I come over to the House chamber because the President put me in charge of technology. I made it a point to sit behind him during the State of the Union speeches in case something went wrong. But Eleanor and I have worked together very closely on a number of matters and now are working together on the reinventing government project. I also see Jim Woolsey and his wife Sue. We have been spending an awful lot of time together. Jim's moved in and has really done a bang up job at the CIA. And, you know, when I look at these appointments, the person who is really due the credit for finding talented people like Attorney General Janet Reno and Judge Ruth Bader Ginsburg and Jim Woolsey now, is Bernie Nussbaum. Bernie and Toby are both here and Bernie is about the closest friend I have in the White House. We go around a lot together and have hallway conferences on a regular basis, and may I say about our guest of honor, that there is no way I could compete with or top the wonderful words Sandy has said about Justice Ginsburg and her husband Marty. It is a true honor for us to be with you this evening.

Our sixteen year old daughter Kristin had one of the great thrills of her life this past weekend when she sat behind the Justice at Cirque de Soleil. Our brother in-law was bolder than she and brokered a little encounter there. But here's the point that I want to make. She was thrilled not so much because of your position on the Supreme Court; that was important, but as part of a project at school, she had gone just a little bit beyond her former depth and taken on an assignment to learn about the Quasi Suspect Classification used for women and the scrutiny test applied to such Suspect Classification. And she had read every word of a 1978 law review article, and she said, "Dad, this is just awesome!" It was such a wonderful thing for us as parents to see her mind just lit up by your words and the power of your logic and your arguments. It really was a great feeling.

Now I am reminded of a quotation from the book "Anatomy of a Murder," the best seller of years ago. "Judges, like people, can be divided into four classes: judges with neither head nor heart—they are to be avoided at all cost; judges with head but no heart—they are almost the same; then judges with heart but no head—risky but better than the first two; and finally those rare judges who possess both head and heart"—that is Justice Ginsburg and we are honored to be here with you this evening and in this wonderful house.

Justice Ruth Bader Ginsburg. Thank you so much. I'm overwhelmed. And first I hope all of you will join me in a toast to the best neighbors anyone could have, Sue and Sandy Greenberg. May I offer one more toast, to the best looking, also the best, Vice President.

(Insert of Vice President Gore): That is a quasi suspect remark!

Two wonderful friends from Sweden are with me this evening. They've come the furthest, Gerald and Monica Nagler. Gerald and Monica have known me since I was very young. I told them, some minutes ago, the story of a not very well-known Virginia Woolf novel, "Orlando," recently released as a film by Sally Potter. There's a scene in "Orlando" in which , after three centuries, a man turns into a woman overnight. She looks at herself in the mirror and realizes that she is the same person, except she's a woman. And I want to say to my very good friends and neighbors, if I ever stop trying to be the person Sandy described, please tell me. The world may treat me differently, but I will strive to be, all my days, the Ruth of whom Sandy spoke.

Thank you so much for coming.

PASSAGE OF PENDING INCOME TAX TREATIES

Mr. PELL. Mr. President, today we have pending before us six income tax treaties with the Netherlands, Mexico, Barbados, Russia, the Czech Republic, and the Slovak Republic. The Foreign Relations Committee held an extensive hearing on these treaties and reported them out unanimously this week. The administration has stressed the importance of these treaties and has urged their passage prior to recess.

While I hope all of these treaties can be ratified today, the administration has stressed the importance of action on the treaty with the Netherlands. The treaty with the Netherlands significantly improves an existing treaty which has been the subject of some abuse by third parties. Because the administration placed such importance on improving the Dutch treaty, it negotiated the protocol to the treaty recently with the hopes of having it considered by the Senate prior to recess becoming effective by January of next year. Under the terms of the treaty, if the treaty is not ratified before the end of the year, its effective date will be delayed until 1995.

The administration has also highlighted the importance of ratifying the treaty with Mexico. This is the first income tax treaty with Mexico. If the North American Free-Trade Agreement is passed, ratification of the treaty with Mexico will certainly take on greater importance.

Mr. President, I urge the ratification of the pending treaties.

PRIVATE SECURITIES LITIGATION

Mr. DODD. Mr. President, I rise to address a very difficult but important question—the effectiveness of the private securities litigation system. Beginning last summer, the Subcommittee on Securities, which I chair, has been examining the effectiveness of private securities litigation in protecting investors and deterring fraud.

The subcommittee held two lengthy hearings at which we heard conflicting testimony from plaintiffs' lawyers, accountants, and high technology companies about just how effective the securities litigation system is. It is clear, however, that strong enforcement of the Federal securities laws by both the Securities and Exchange Commission [SEC] and investors is essential if we are to deter securities law violations.

After hearing testimony from more than two dozen witnesses and reviewing thousands of pages of submissions, it is apparent that the securities litigation system is not working as it should, and needs improvement. I was particularly swayed by testimony from various investor groups—who represent the very parties we want to protect—that the system is not operating the way it should.

Therefore, after the Senate reconvenes in 1994, I intend to introduce legislation to reform the current securities litigation system, particularly with respect to rule 10b–5 class action litigation. I intend to work closely with Senator DOMENICI on this effort.

While I have not yet developed a bill, my goal will be to make the system more effective in protecting investor interests, while trying to reduce the cost of some securities litigation so it is not an impediment to capital formation.

There are three areas where we might make such improvements. First, we need to strive to screen out frivolous securities cases and coercive settlements. While I am not persuaded by the arguments for anything like the "English Rule," in which the loser pays the winner's lawyer's fees, we should consider other ways in which we can better deter unfounded cases from being pursued.

Second, we should find ways to give investors better control over securities class-action cases, and over the lawyers who claim to represent them. People with a financial stake in a company ought to call the shots more effectively in cases that are supposed to be brought on their behalf.

Finally, we should strengthen the role of accountants as public watchdogs. The threat of an enormous judgment under joint and several liability is an inefficient way of encouraging auditors to fulfill their duty to the public. A stronger and more direct disciplinary system for the accounting profession would be preferable. One approach could be to create a self-regulatory organization for accountants similar to those that have been created for brokers and dealers. Like those organizations, such an entity should be directly overseen by the SEC.

In addition to new safeguards to strengthen the responsibilities of accountants to the public, we should consider modifying joint and several liability, so that the liability of defendants will be more closely linked to their relative degree of fault. However, a strict proportionate liability scheme is inappropriate because we must never leave innocent investors without adequate redress.

There are a number of ways to craft a modified proportionate liability scheme to meet these goals. I hope to come up with a comprehensive solution that better protects investors without promoting what often appears to be a wasteful and ineffective litigation system in which some plaintiffs' attorneys pursue frivolous cases and accountants or outside directors, in effect, become guarantors when they associate with a company.

THE NEED FOR REFORM OF SECTION 10b–5 OF THE SECURITIES LAWS

Mr. DOMENICI. Mr. President, America is suffering from hyperlexia, a serious disease caused by an excessive reliance on law and lawyers. It is pervasive throughout our society but has reached serious dimensions in the area of court-created private actions brought under section 10b–5 of the Securities and Exchange Act of 1934.

Because over the years 10b–5 private rights of action have developed in the courts, independent of any congressional statutory guidance, the Senate Securities subcommittee held 2 days of hearings to evaluate how the system is working. Chairman DODD, myself, and other members of the Securities Subcommittees sat through some of the longest hearings I every recall. I have to say, when Chairman DODD conducts a hearing we all learn a great deal. Congress works as it should, in the Securities Subcommittee. We have collected a great deal of data and have heard from a lot of experts and affected parties.

My conclusion is that the system is broken and reform is greatly needed.

We found that the threat of hung jury awards is being misused to target emerging, rapidly growing companies, especially in the high-technology and biomedical technology areas where stock prices are volatile. There is nothing fraudulent per se about stock volatility. In fact, for new, high-technology companies volatility is to be expected. Nonetheless, lawsuits are filed based upon little more than the drop in stock price.

The hearings provided 10 reasons why reform is needed in the 10b–5 area:

First, cases settle regardless of the merits.

Second, company officials refuse to talk to analysts about their projections for fear of being sued if the estimates don't materialize.

Third, experienced and respected members of the corporate community refuse to serve on the boards of high-technology companies because of potential liability from unwarranted securities litigation.

Fourth, small investors berate the class-action plaintiffs' lawyers because the lawyers, not the shareholders run these cases.

Fifth, small investors are only getting pennies on the dollar for their losses but their lawyers get millions of dollars in legal fees.

Sixth, institutional investors believe these lawsuits are merely transferring money from one set of shareholders to another with the plaintiffs' class-action lawyer taking a share that looks a lot like greenmail.

Seventh, accounting firms are withdrawing from the auditing business and are shunning emerging, high-technology companies as clients because high technology is a high-risk target for 10b–5 securities litigation.

Eighth, CEO's are wastefully distracted from running their companies.

Ninth, the system isn't deterring fraud because insurance companies pay the settlements.

Tenth, the threat of a huge jury verdict becomes an unintended regulatory mechanism. If Congress wants to regulate, we should regulate. The courts are a very inefficient form of regulation.

My objective is reform which will restore rational, merit-based criteria to securities litigation and stop what the Wall Street Journal labeled the "Class-action shakedown racket."

No one disputes the essential role private rights of action play in maintaining investor confidence and insuring the integrity of our capital markets. Private rights of action, to quote William McLucas of the SEC, "enable defrauded investors to seek compensatory damages and thereby recover the full amount of their losses."

That is what the system, according to the SEC, is supposed to do. This is the primary yardstick by which we should measure how well the system is working.

Yet when we heard from an actual victim, she argued rather passionately that the system had failed her. She didn't feel that the system had afforded her a full recovery of her losses. She testified that victims get as little as 4 cents to 17 cents for every $1 of their losses while the class-action lawyers received the lion's share of any settlement. The defrauding defendants did not pay a dime. Her layman's conclusion was backed up by most academic studies that have been done on this subject.

When we heard the data from professional economists, "the merits don't matter" conclusion paralleled victims' antedotes and the academic studies of Janet Cooper Alexander of Stanford, Frederick Dunbar, and Vinita Juneja of the National Economic Research Association, and Philip Drake and Michael Vetsuypens of Southern Methodist University. Strong cases are settling for no more than weak cases and the system encourages the filing of weak cases.

Vince O'Brien, who specializes in providing economic and financial analysis for attorneys involved in complex litigation testified that companies known to be risky investments were much more likely to be sued under section 10b-5. There is no reason to believe that fraud is significantly more prevalent at such companies, consequently, this suggests that these suits are being used as an insurance for normal investment risk rather than to recover for injury due to fraud. A well working 10b-5 system should recognize that risk is risk and not fraud.

His studies concluded that high-technology industries—consisting of electronics, computers, and medical devices accounted for one out of every four suits filed.

We heard from three innocent high-tech company CEO's who had been sued under 10b-5. They were representing their own companies and many other midsize growth, and high-technology companies that provides 585,000 high-paying jobs. These are the leading edge American firms with total revenues of approximately $65 billion. These spokesmen felt the system had totally failed them.

Some had been sued when the stock price fell when they missed an earnings projection. Some had been sued when the stock went up. Another company was sued for settling one of these strike suits.

These are the firms that are creating new jobs year after year. These job producers' legal bills and settlements come at the expense of jobs and economic growth that could have been, but won't be created.

I walked away thinking that American entrepreneurs are dammed if they litigate to the end, and damned if they settle. The prohibitive cost of the former and the derivative litigation peril of the later place these companies in a no-win situation.

Individual investors get little monetary benefit from class action suits. But the system doesn't treat all investors the same. If you are lucky enough to be a "class representative," sometimes called a pet plaintiff, the plaintiffs' lawyers will negotiate a $10,000 to $15,000 bonus for letting them use your name. If you only purchased a couple shares of stock, the return on the investment is much better than for the class as a whole. This practice undermines the fairness of the system.

Reviewing the studies led me to the conclusion that the plaintiffs' lawyers have a conflict of interest with their class clients when they decide to settle one of these cases.

I find it troubling when the Chief of Enforcement for the SEC testifies that "these [plaintiffs'] class action counsels often operate in an entrepreneurial capacity rather than as a fiduciary operating at the direction of the client." Testimony from the North American Securities Administrators Association identified an "inherent conflict of interest in the attorney-client relationship in class-action securities suits which goes somewhat unchecked by ethical concerns."

These statements support my conclusion that the private enforcement system is broken.

Former SEC Chairman Richard Breeden came to the same conclusion a year ago, "a litigation system that fails to separate strong claims from meritless claims serves no one. It does not serve investors who have clear, solid claims and yet receive only a modest settlement, even more modest after payment of substantial attorneys' fees. It does not serve companies who have valid, strong defenses, and yet pay millions to settle claims to avoid the costs and risks of litigation. Excessive class-action settlements may deter companies from raising capital through the public markets and operating as public companies. In addition, litigation in all too many cases may be seen as the route for trying to recover what may have been market losses."

I think something is wrong when one of the most prominent plaintiffs' lawyers in their area has only taken five class-action, 10b-5 cases, in his entire career to trial—out of hundreds that he has filed. These cases have a suspiciously high settlement rate. The system's incentives encourage the filing of weak cases just to fore settlements.

I think there is something wrong with a system when the attorneys' fees for the defense are more than the settlement. Settlements for less than the defendant' litigation costs is an indication that the case was week or without merit. The plaintiffs' lawyers are choosing to avoid a test on the merits in court.

The plaintiffs' lawyers are forceful advocates of the current system. They argue that rule 11 of the Federal Rules of Civil Procedure is an adequate safeguard against frivolous litigation. But rule 11 is in transition and is being weakened. Under the proposed reform, sanctions would be discretionary instead of mandatory and parties would have a safe harbor of 21 days following notice of an alleged violation to withdraw the offending filing before a request for sanctions could be filed.

The SEC told us that investor confidence is extremely important and that disclosure is the cornerstone of our securities system. But the CEO's testified that the threat of litigation is eroding that cornerstone. The threat of litigation is chilling disclosure. CEO's and other company officials won't talk to analysts.

And what is the system doing to deter fraud? We really didn't hear any testimony supporting the alleged deterrent impact all this litigation is having. Most settlements are paid by insurance companies. As a consequence bad actors are insulated from the financial peril of their wrongful acts.

Outside directors are being adversely affected. A recent Harris poll of the Fortune 1000 (March 1993) revealed that inadequate directors and officers insurance was listed by 90 percent of the directors polled as the major factor discouraging business people from serving on corporate boards.

Only 46 percent were very confident that the courts would exonerate them of liability if they had acted prudently and responsibly in discharging their duties.

The American Business Conference recently did a poll similar to the Harris poll. The results are similar:

Seventy-five percent said that 10b-5 litigation is affecting their ability to compete.

Eighty-one percent said that they are spending increasing amounts of time on litigation and that the commitment has doubled in the last 5 years.

Twenty-six percent said that the threat of litigation has led to a policy of not serving on the boards of startup firms.

Forty-nine percent of the settlements went to the plaintiffs' attorneys.

Congress should change the economics of filing these cases so that innocent defendants won't be pressured into settling. We need to modify the risk/benefit equation of taking a case to the jury. I am not considering doing away with joint and several liability for individuals who knowingly commit fraud, but I do have in mind a two-tier liability system which would retain joint-and-several liability in certain instances but also include a proportionate liability rule for those only incidentally involved.

We need to lessen deep-pocket incentives for plaintiffs' lawyers to bring frivolous lawsuits against innocent officers and directors perhaps by providing a maximum liability safe harbor so that they will serve on boards.

Perhaps it is time for the securities laws to move from the 1930's to the 1990's and join the emerging trend of utilizing alternative dispute resolution. Over the recess I am going to further explore the pros and cons of creating a system under which the plaintiff is given a choice: Alternative dispute resolution using specialized securities special masters or going to Federal court with a lower pays rule for the class-action attorneys who file frivolous cases. Under the new system, a plaintiff-class action would not be required to use the alternative dispute resolution system. Nor would the attorney be bound by its determination. However, any plaintiffs' class-action counsel who chose not to use ADR or who rejected its result would be obliged to go forward in Federal court under a "loser pays" set of rules. The American Business Conference recently suggested that we examine this approach.

We need reforms to foster more disclosure of valuable information to the marketplace, perhaps a statutory 10b-5 safeharbor for earnings projections and other predictive statements made with a reasonable belief that they are true.

We should consider reforms which closer align the interests of the plaintiffs' class-action lawyer with the interests of his clients. We need some form of attorney discipline to eliminate the race to the courthouse that takes place as attorneys compete for the lucrative lead counsel assignment. Perhaps a "class-action attorney pays" rule when his case is not substantially justified would make class-action counsel more accountable.

We need reforms to make it easier for the class to understand how the lawyers are being compensated and to challenge attorneys' fees.

We need reforms so that the plaintiffs' class recovers more of their losses when there is real fraud, and nothing when the case lacks merit.

We need reforms that make the system more transparent—easier to understand. Complaints should have more detail so that judges can dismiss those with no merit expeditiously.

The settlement terms should be easier to understand. Perhaps we should have plaintiff steering committees to make sure class counsel is acting in the best interests of the class of clients.

We should prohibit brokers and dealers from receiving steering fees for referring customers to attorneys, prohibit attorneys from representing the class if he/she has a beneficial interest in the underlying securities, prohibit bonus payments to professional plaintiffs, and prohibit disgorgement funds recovered by the SEC to be paid to plaintiffs' lawyers.

We should heed the caution of the Supreme Court, "litigation under rule 10b-5 presents a danger of vexatiousness different in degree and kind from that which accompanies litigation in general." We need reforms to protect our capital markets from that abuse.

It is the end of the session. Where do we go from here? I am looking forward to working with Chairman DODD to craft a bill that appropriately addresses this problem early next session. His unsurpassed knowledge of our securities laws will guarantee us success in making well-reasoned and greatly needed reforms.

WELFARE REFORM

Mr. BROWN. Mr. President, there is a secret to success in America. It is work. Work means opportunity and growth. It gives fulfillment. To reform welfare, we have got to provide people an opportunity for self-respect and work.

In 1988, when I was in the House, we made a step toward changing our welfare system to encourage work in the Family Support Act. Because the Senate had passed a work requirement in its 1988 welfare reform package, we were successful in getting one through the House and signed into law in the Family Support Act. While President Clinton now takes credit for the Family Support Act, I must tell you it was the Republicans in the House and Senate who crafted and passed the work requirement.

Today, Senator DOLE and I, along with several of our colleagues, announce that we are ready to work for true welfare reform: requiring work for able bodied adults on welfare, requiring parents to support their children, increasing flexibility for States to design welfare programs, and limiting welfare to those it was designed to help.

Briefly, what we outline today includes: requiring job search by adults applying for Aid for Families with Dependent Children [AFDC]; establishing a voucher program for welfare recipients to use to find a job which will pay them twice the amount of their combined AFDC and food stamp benefits; requiring single parents to work or prepare for work through education, job training, skill development or on-the-job training; and allowing States to drop able bodied adults for AFDC cash benefit rolls after 5 years.

Another important part of welfare reform is strengthening paternity establishment and child support enforcement. The Brown/Dole proposal does this in several ways: changing the law so a mother does not get her portion of cash AFDC benefits until she has fully cooperated in getting her children's paternity legally established; encouraging States to establish uniform forms and systems for wage-withholding of child support and to honor other States' child support orders; requiring noncustodial parents whose children are on welfare to pay court-ordered child support or to participate in welfare work programs; and

In talking about welfare reform, one of the things we've heard repeatedly is the need for States to have the ability to design welfare programs that meet their needs and not the Federal bureaucracy. To do this, our proposal would allow States to impose certain welfare requirements without getting a waiver from the Federal Government. States could implement new requirements or programs: to improve school attendance; so that no benefits would be paid for additional children born while the parent is on welfare; to limit new State residents to the same level of AFDC benefits as the previous State for 1 year; and to eliminate the welfare penalty if a mother marries a man not the father of her children.

We also propose a new procedure to standardize and streamline the process for States to get exemptions from Federal welfare requirements.

Finally, we limit who can get welfare and what is required of some welfare recipients. Under the Brown/Dole proposal: Most noncitizens would not be eligible for welfare, except emergency medical services. Refugees would be eligible for welfare benefits only for 1 year beyond the time required to become a U.S. citizen. Welfare recipients addicted to drugs or alcohol would be required to participate in rehabilitation programs and required to undergo random drug tests to remain eligible. Persons found innocent by reason of insanity and in an institution would not be eligible for disability benefits based on their mental condition.

This proposal takes what was done in the 1988 Family Support Act and builds on it. We've talked with the House Republicans, who introduced their own welfare reform bill last week, and have incorporated many of their ideas. There are other ideas out there we want to consider and ask our colleagues to bring them to us. Over the recess we will take this outline and turn it into a bill to be introduced when we come back.

Republicans want to work on welfare reform. Senators PACKWOOD, HUTCHINSON, HELMS, GRAMM, MCCAIN, CRAIG, LOTT, BURNS, WALLOP, WARNER, D'AMATO, SIMPSON, NICKLES, COVERDELL, DURENBERGER, SMITH, COHEN, KASSEBAUM, and COCHRAN have signed on to help us in this effort. We ask other Senators to look at this proposal, bring us their ideas and suggestions, and help us reform welfare to encourage work, responsibility, opportunity and self-esteem.

I ask unanimous consent that the outline of the Senate Republican Welfare Reform bill be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTLINE OF SENATE REPUBLICAN WELFARE REFORM BILL

TITLE I: AFDC TRANSITION-TO-WORK AND WORK PROGRAM

A. AFDC Transition-to-Work Program (first 2 years on AFDC)

1. Initial AFDC Applicant Job Search.

States must require AFDC applicants to participate in job search while their welfare application is being processed. Applicants must be reimbursed for transportation and child care expenses. States can provide emergency aid when payment cannot be delayed. States retain considerable flexibility in defining such emergencies, although they must include in their state plan the general guidelines they will follow. States can decide not to follow this provision by passing a state law specifically exempting themselves. At the time of AFDC enrollment, families are referred to the AFDC Transition-to-Work Program in which they are expected to work or prepare for work:

(a) at state option, participation in the AFDC Transition Program should begin after 1 year for some or all participant families defined as job ready by states; participation may begin any time prior to one year, as determined by the state;

(b) recipients and the welfare agency create a written plan describing what each must do so the parent can prepare for work; the written plan must include the statement that after 2 years (or less at state option) parents who have not secured paid employment must work in exchange for their AFDC benefit;

(c) at the end of the first year in the transition program, an assessment is made by the state to determine whether the recipient has made "clear and substantial progress" toward preparing for work (this requirement is waived if the state has elected to hold the recipient out of the transition program for 1 year); and,

(d) states, in consultation with the Secretary, establish the guidelines by which "clear and substantial effort" is defined; states can set their own guidelines within the following framework:

(1) the general rule, to which education is an exception (see below), is that families must participate at least 520 hours per year or 20 hours a week, although states have flexibility in how the 520 hours is achieved (e.g., 100% time for 3 months, 50% time for 6 months, or 25% time for 12 months fulfills the requirement);

(2) within 12 months of enactment, the Secretary must publish rules about how education hours are counted; the guiding principle should be whatever a given educational institution (including certified professional training schools and certified degree-granting programs) considers full-time enrollment, and maintaining at least minimum passing evaluations, counts as participation, with some restrictions to prevent welfare "diploma mills";

(3) in two-parent families, at least one parent must meet participation requirements; states have the option of requiring participation by both parents;

(4) parents can use the 6-month birth exemption only one time; if a subsequent child is born while the parents are on AFDC, only the 4-month exemption is in effect;

(5) all the programs authorized in section 482(d) of the Social Security Act (education, job skills, job readiness, job development and placement, group and individual job search, on-the-job training, work supplementation, community work experience) count as participation under the AFDC Transition program.

2. Sanctions.

Participants who fail to meet the criteria for participation are sanctioned as follows:

(a) for the first offense, the adults lose their AFDC benefit for 3 months; if the 3 months elapse and the recipient has not complied with the criteria, then the recipient is deemed to have started the second offense period;

(b) the sanction for the second offense is similar to the first except that in addition to complying with the criteria, at least 6 months must elapse before benefits are restored; if the recipient still does not comply, then the recipient is deemed to have entered the third offense period;

(c.) for the third offense, the parent is dropped from AFDC for at least one year and payments on behalf of the child(ren) may be made in the form of vendor payments to pay for housing costs or to a representative payee; and,

(d.) when families are dropped from AFDC, they retain Medicaid, Food Stamps, housing, and any other benefit for which they are otherwise eligible.

3. Exemptions.

(a.) incapacitated, as currently defined in regulations (not including drug and alcohol offenders);

(b.) at state option, those enrolled in drug and alcohol abuse programs (with a 12-month limitation);

(c.) during a 6-month period after which a recipient gives birth to the first child born after the recipient participates in AFDC;

(d.) during a 4-month period after which a recipient gives birth to the second or subsequent child born after the recipient participates in AFDC;

(e.) during a 2-month period following the return home of a child who had been removed from the home;

(f.) providing full-time care of a disabled dependent.

B. AFDC Work Program

If parents have not found a job after two years, they will be given a voucher equivalent to the combined value of their AFDC and Food Stamp benefit. This voucher may be given to an employer to serve as a wage replacement. In order to hire an AFDC recipient with a voucher, the employer must certify to the welfare agency that the individual is being hired at a wage at least twice the value of the voucher. The employer is eligible to receive the wage replacement payment for one year. After one year, the reimbursement level of the wage replacement is reduced by one half. At the end of the second year, the wage replacement is eliminated entirely. During the time of employment covered by the wage replacement, employers may also participate in the Targeted Job Tax Credit (TJTC).

At the end of two years receipt of AFDC, the recipients will be given three months to seek employment with the voucher. If, at the end of three months, they are unable to secure employment with the voucher, they must participate in a work program established by the state. However, if at any time, subsequent to beginning participation in a work program, they secure employment, they may use the wage replacement voucher according to the conditions specified above.

1. Program Outline.

(a.) most states now conduct a Community Work Experience Program (CWEP) in which parents work, usually in a public sector job, for the number of hours equal to their AFDC benefit divided by the minimum wage; the current CWEP hours requirement is rewritten to mandate that recipients work for 35 hours per week;

(b.) states can also require participation in the Work Supplementation program in which the AFDC benefit is used to subsidize a private sector job;

(c.) reforms to the Work Supplementation program include:

(1.) elimination of the requirement that all jobs must be new jobs;

(2.) creation of new financial incentives for states to use the program: recipients participating in the Work Supplementation program must be paid a salary at least equal to their AFDC plus food stamp benefits; states can negotiate arrangements with employers to pay enough of the salary that some part of the value of the AFDC benefit will not be required to reach the AFDC plus Food Stamp minimum; in these cases, and in cases where the wage replacement voucher is used, states can continue to request the federal share of the AFDC benefit as if the entire benefit were still being paid by state funds (this provision has the effect of allowing states to keep the entire amount by which the employer-provided salary "buys out" the AFDC benefit);

(d.) states can create a new work program, subject to approval by the Secretary, that combines features of CWEP and Work Supplementation or uses entirely new approaches developed by the state;

(e.) after 3 years of participation in the work program (and a total of 5 years on AFDC), states have the option of dropping recipients from the AFDC rolls; they would continue to be eligible for Medicaid; food stamps, and other benefits.

2. Sanctions.

Same as above.

3. Exemptions.

Same as above.

C. Work Program for Two-Parent Families.

At least one parent in two-parent families on AFDC must be required to work 32 hours per week and engage in job search for 8 hours per week. States are required to pay the combined AFDC-Food Stamp benefit in cash only after the completion of the work requirement for any given period. If the work requirement has been only partially met, states must proportionately adjust the AFDC-Food Stamp payment level. All states can exercise the 6-month option in designing their AFDC two-parent program (current law prohibits about half the states from using the 6-month option).

D. Work Program for Fathers or non-custodial parents.

Non-custodial parents of children on AFDC must either pay child support or participate in a work program.

(1.) Non-custodial parents who are the equivalent of 2 months in arrears on their child support, unless they have a court-approved plan for repayment, must participate in this program.

(2.) States can design their own programs, but their program must include at least the following three elements:

(a.) initial contact with the non-custodial parent must include a letter that informs them they must pay child support, that they should contact the child support office, and that they are subject to fines and penalties if they do not cooperate;

(b.) if the non-custodial parent does not pay child support within 30 days, then they must enroll in a job search program for 2 to 4 weeks;

(c.) if the non-custodial parent still does not pay child support within 30 days, they must enroll in a work program for at least 35 hours per week (30 hours if the program also requires job search).

(3.) The work program state participation requirements outlined above apply to the work program for non-custodial parents; the denominator for calculations is the number of non-custodial parents with children on AFDC who do not pay child support.

(4.) Only incapacitated non-custodial parents are exempt.

TITLE II: PATERNITY ESTABLISHMENT

(A.) If the paternity of any dependent named on an AFDC application has not been legally established, the mother must provide the name of the father or possible fathers to AFDC officials as part of the application process:

(1.) The existing eligibility requirement requiring the custodial parent to cooperate with and assign support rights to the state agency shall remain in effect.

(2.) If the mother is not certain who the father is, she must name all the men she thinks could be the father.

(3.) In the case of families with one child, once the mother has provided the father's name, the family is eligible for an AFDC cash benefit for the child.

(4.) In the case of families that have at least one child for whom paternity has been established and at least one child for whom paternity has not been established, the family will receive an AFDC benefit for the children.

(B.) After giving the father's name, the mother must cooperate with the state child support enforcement agency to establish paternity:

(1.) Once paternity is legally established, the family is eligible for the full AFDC benefit for a family of that size.

(2.) If the child support agency finds that the man named by the mother is not the father, the mother is dropped from the rolls until paternity is established, and payments for the child(ren) may be made as vendor payments to provide for housing or to a representative payee.

(3.) In the case of a family with more than one child at least one of which has paternity established, a false name will still result in the custodial parent being dropped from the rolls, and payments for the child(ren) being made as vendor payments for housing or to a representative payee.

(C.) Upon application for Medicaid prior to eligibility for AFDC, as well as upon participation in any state or federal program, state and federal officers and employees upon first recognizing that she is pregnant, shall inform her that:

(1.) she will not be able to receive AFDC benefits until she identifies the father, and

(2.) she should do whatever is necessary to get the father to acknowledge paternity as soon as possible.

(D.) States must develop procedures in public hospitals, Federally Qualified Health Centers, and clinics that facilitate the acknowledgment of paternity.

(E.) States must develop procedures, in consultation with the Secretary, to handle cases in which mothers claim the father is dead or missing. State procedures should be based on the principle that the burden of proof is on the mother.

(F.) The mother is exempt from these requirements if her pregnancy was caused by rape or incest or if the state concludes that pursuing paternity will result in physical harm to the parent or child.

(G.) The States, in consultation with the Secretary, shall develop procedures for determining undue hardship when, despite full cooperation by the custodial parent, the State is unable to establish paternity.

(H.) States are required to follow the provisions outlined above unless the state passes a law specifically declaring that the state wants to exempt itself.

(I.) The state paternity establishment requirement of 75 percent in current law (as passed in OBRA '93) is increased to 90 percent. As under current law, states under 90 percent must increase by 3 percent each year if their percentage is over 50 percent and 6 percent each year if their percentage is under 50 percent.

TITLE III. EXPANDED STATUTORY FLEXIBILITY FOR STATES

The following provisions are subject to either an opt-in or opt-out requirement. For those provisions which are opt-in, a state may choose to adopt the provision in its AFDC program. For those provisions which are opt-out, a state must include the provisions in its AFDC program unless the state passes a law specifically requiring that such provision not be included in its AFDC program.

A. Rewards and sanctions for immunization and/or health checkups.

Allow states to increase the total monthly AFDC benefit by up to $50 per month for 6 months (not necessarily consecutive) for complying with immunization, EPSDT screening, or other health requirements. Families could be sanctioned by up to $50 per child per month until the requirements are met. States can decide not to follow this provision by passing a state law specifically exempting themselves.

B. Rewards and sanctions for school attendance.

Allow states to increase the total monthly AFDC benefits by up to $75.00 if they meet or exceed attendance standards as established by the state. Families with school-age children who attend school less than the state-established minimum without good cause will be subject to a sanction of up to $75.00 per child per month. Good cause is defined by states in consultation with the Secretary.

C. No additional money for more children.

States have the option of not paying any additional benefits for children born 10 months after the date of application for AFDC. States can, but are not required to, allow exceptions for families:

(1) that leave AFDC due to earnings for at least 90 days if employment is terminated for good cause, and/or

(2) that remain off AFDC for 12 consecutive months.

D. Married couple transition benefit option.

States would be permitted to allow AFDC recipients who marry someone who is not the father of their child, and who would become ineligible for AFDC, to keep up to ½ of their current benefit for up to one year as long as their combined family income is below 150% of the poverty level. Couples who marry and would be eligible for AFDC-UP in the state may be treated by the state as eligible for either AFDC-UP or the state's new "married couple" transition benefit, but not both.

F. AFDC benefit levels for new state residents.

States have the option of providing new residents of their state with the same level of AFDC benefits as provided by the state from which the residents moved. This level of benefits can be provided for no more than 1 year.

G. Parenting classes, money management.

States have the option of requiring AFDC parents to participate in parenting classes and classes on money management during the Transition Program. Such participation counts toward fulfillment of state participation requirements.

H. Increase asset limit with respect to earned income of minors.

States have the option of increasing the asset limit for minors who have earned income and accrued savings to be used for education expenses.

TITLE IV. EXPEDITED STATE WAIVER AUTHORITY

A. Office of Waiver Coordination.

All waivers submitted under title I, X, XIV, XIX or part A or D of title IV will be submitted to and considered by the Office of Waiver Coordination in the Department of Health & Human Services. This Office shall provide States assistance and technical advice in applying for waivers under the various titles and shall provide States assistance in obtaining technical information necessary to conduct or renew demonstration projects. To the extent that any waiver is affected by or related to the Food Stamp Act of 1977, the Director of the Office, appointed by the Secretary, shall consult and coordinate with the Secretary of Agriculture on such waiver. The Director shall also develop and implement a standardized 5-year waiver form process to apply with respect to all waivers as well as provide for development and implementation of a uniform reporting form to be filled out and filed with the Secretary every 3 years by States participating under a waiver. Within 45 days, the affected programs must provide the Director with views on whether the proposal will move families toward independence from welfare. Within 120 days, the Director must reach a decision and notify the State. If the waiver request has not been acted upon within 120 days, the request is deemed to be approved.

TITLE V: CHILD SUPPORT ENFORCEMENT

A. Improved Tracking of Absent Parents to Enforce Support

(1.) The Federal parent Locator service would be expanded to improve access to information nationwide and the Federal Office of Child Support Enforcement would coordinate an information network between states to provide for speedy interstate searches.

(2.) States shall be required to recognize and enforce child support orders established in other states, thus placing jurisdiction for child support disputes in the state where the child resides.

B. Streamlined Wage Withholding

Streamline the interstate system of wage withholding by establishing uniform notices and requiring employers to honor withholding notices from out-of-state courts.

TITLE VI: WELFARE RESTRICTIONS

A. Aliens

(1.) All welfare benefits (other than emergency Medicaid) are eliminated for non-citizens, except for refugees and certain permanent residents as defined below.

Exceptions for refugees and permanent resident aliens:

(a.) refugees who have been adjusted to permanent resident status can receive welfare for only 1 year beyond the time limit required for them to apply for citizenship (unless they are over age 70);

(b.) permanent resident aliens over age 70 who have been legal residents for at least 5 years are eligible for welfare benefits.

(2). State AFDC agencies must provide the name, address, and other identifying information to the Immigration and Naturalization Service for all illegal immigrant parents with citizen children.

(3). Any noncitizen who is currently residing in the U.S. and is affected by any of the above provisions is exempt from that provision for 1 year following passage of the bill; any federal department that administers welfare programs that currently serve resident aliens must directly notify, or ensure that states notify, all resident aliens affected by provisions outlined above.

B. Supplemental Security Income.

Provide that persons who have pled guilty by reason of insanity may not collect SSI benefits based on disability from their mental condition.

TITLE VII: MISCELLANEOUS PROVISIONS

A. AFDC Recipients and Drug Addiction

(1.) AFDC applicants and recipients determined by states to be addicted to alcohol or drugs must participate in addiction treatment.

(2.) Failure of addicts to participate on a satisfactory basis as defined by the state will result in expulsion from AFDC for 2 years. States may establish priorities for treatment based on availability of services. States may not remove addicts from the AFDC rolls for failure to participate in a treatment program when the treatment service is unavailable to the addict-recipient.

(3.) States may waive participation requirements during the transition program for up to 1 year if AFDC recipients are participating in addiction treatment programs; however, states must continue to include all addicted recipients in the denominator for calculation of participation standards.

(4.) States are authorized to use random and unannounced drug tests with recipients who have participated in drug rehabilitation programs or have a history of addiction; refusal by the recipient to submit to drug testing will result in termination of the adult's cash AFDC benefit. Payments on behalf of the child may be made in the form of vendor payments or to a representative payee.

B. Eligibility for Food Stamps

(1) In order to qualify for Food Stamps, adults must be:

(a) receiving unemployment insurance, AFDC, SSI, disability insurance, workers compensation, or social security,

(b) pregnant women in the last month of pregnancy or within two months of giving birth,

(c) participating satisfactorily in the Food Stamp work program, or

(d) able to show proof of incapacitation or current employment

(2) Clarifying rule: If an adult in a Food Stamp household that includes children fails to meet the requirements and is disqualified from participation, the children will still qualify for benefits (but their household size will be reduced by 1 person).

C. Evaluation of Education and Training Programs

The Department of Health and Human Services is required to fund research that examines the impacts of education and training programs on exits from AFDC, welfare expenditures, wage rates, employment histories, and repeat spells on AFDC. At least one of the studies must involve three groups to which AFDC adults are randomly assigned: a control group not required to participate in any special activity, a group required to participate in education or job training programs, and a group required to participate in job search or job search and work experience. Participants must be followed for at least 5 years.

D. Demonstrations on Fraud and Administrative Efficiency

(1) HHS is authorized to conduct demonstrations in several states to determine whether providing welfare benefits (including AFDC, Food Stamps, Medicaid, housing, etc.) by use of electronic cards and automatic teller machines will reduce administrative costs and fraud; within 5 years HHS must write a report to Congress summarizing the results of the studies and making recommendations about whether, and how, more states might be required to use electronic funds transfer programs. For any project not yet approved upon enactment, the following standards and restrictions shall apply:

(a) All Electronic Benefit Transfer (EBT) projects shall be treated as demonstrations with requisite evaluations until data is available establishing the cost-effectiveness for the federal government.

(b) Federal funding for hardware is prohibited.

(c) Regardless of conditions agreed to for cost neutrality purposes, when the demonstration is ended the federal match shall continue to be capped at 50%.

(d) Federal Approval of EBT demonstrations shall be conditioned on the following:

(1) Cost neutrality for the federal government;

(2) Reasonable time frames for development and implementation including consideration for conversion and potential disruption to benefit disbursement to recipients;

(3) Reasonable limits establishing numbers of transactions and service fees for recipients;

(4) Stipulation of anti-fraud procedures to prevent misuse of EBT cards;

(5) Stipulation of procedures to insure privacy;

(6) Description of an equitable cost accounting system for expansion of EBT availability to state and federal programs in addition to the original developing programs.

(2) HHS is required to appoint a commission composed of cabinet officials, outside experts, and state administrators to determine the cost and feasibility of creating an inter-state system of Social Security numbers of all welfare participants for the purpose of ensuring that no adults or children are participating in welfare programs in more than one state.

THE NEED FOR WELFARE REFORM

Mr. GORTON. Mr. President, I speak today to lend my support to the Republican welfare reform efforts. Senators BROWN, DOLE, and others have developed a welfare reform plan which will start up down the road toward serious reform. While it includes many worthwhile proposals, and I am pleased to endorse it, there are other issues which still must be addressed in order effectively to reform the welfare system.

The first step in solving any problem is to define it. I recently came across a political cartoon that demonstrates graphically, if a bit cynically, the parameters of the debate. The cartoon pictures two men, one standing at the top of a cliff next to a nice home and car. He has let down a rope for the other man who is at the bottom of the cliff in a rundown neighborhood that could be located in almost any inner city in America. The man at the top yells down "climb" while the man at the bottom yells back "lift"

Like most satire, this cartoon simplifies the problem, but captures its essence.

How are welfare recipients to climb up the rope if rope-climbing is something they've never seen or done before, and if it is obviously easier and safer not to do so? Those of us at the top of the cliff need to create positive reforms that make it feasible for welfare recipients to climb that rope and join us at the top. We can even help out by pulling while they climb—it doesn't have to be either/or.

How serious is the need for welfare reform?

In 1987, the Washington State Legislature directed the Washington State Institute for Public Policy to answer that question via a five-year study of those in Washington State who receive or who are at risk of receiving government assistance. Let me share some of their findings with you.

Of the children living in public assistance households: 82 percent had mothers who were not currently married; 55 percent lived in households with only one adult; 25 percent of children 6 to 12 years old and 36 percent of children 13 to 18 years old, had repeated a grade in school; and 21 percent of children 13 to 18 years old had been suspended or expelled from school.

These findings are supported by similar national poverty statistics reported by the Congressional Research Service: 20.7 percent of families in which the head of the household had less than a high school education were poor; and 31.7 percent of families in which the head of the household was unemployed were poor.

Only 5.7 percent of those families in which the head of the household was employed were poor, compared to the overall family poverty rate of 10.3 percent.

Now, we can draw some fairly obvious conclusions from these figures: People who have jobs—particularly full-time jobs—tend not to be poor and thus are less likely to need Government assistance or welfare; and low educational levels and single parenting greatly increase the likelihood that a person will need public assistance. Not very profound insights, but ones to which our current welfare system seemingly works at cross-purposes.

Over the past three decades, we have fought poverty by artificially inflating the incomes of those needing assistance, and in doing so, have inadvertently, and with the best of intentions, created a system that promotes dependency without providing opportunities and incentives for leaving that system. And we have spent an enormous amount of money in the effort.

In 1992, Federal spending for the broad category of social welfare programs accounted for half of all Federal spending—a total of $777 billion. Of that $777 billion, $285 billion was budgeted specifically for public assistance programs. This is more than the $273 billion we spent on defense, more than the $199 billion interest on the national debt, more than the $208 billion for all other Federal programs combined.

Yet, for all of the money spent on social welfare programs, poverty has continued to rise. In Washington State there was a 19-percent increase in welfare caseloads between July 1990 and February 1992. Nationally, the numbers are just as dramatic. In the first 5 months of fiscal year 1992, Aid to Families with Dependent Children [AFDC] climbed to a record 4.685 million families, including 9.2 million children. This is 21 percent above the comparable 1990 level. These numbers suggest that our current efforts are doing little to transform dependence into independence, or that more money is not necessarily the answer.

The Republican Welfare Reform Plan puts an emphasis on work and education. It requires welfare recipients to work, look for work, or continue their education. If a participant refuses to do any of these requirements, he or she will be cut off from all Federal cash supplements.

The Washington State Institute for Public Policy report on welfare listed employment as a major factor to help women stay off of public assistance. It found:

> Women who had a job in the month before they left public assistance were able to stay off for a median length of 23 months compared to 15 months for women who did not have a job when they left. * * *
>
> Women on public assistance are less likely to be working or looking for work, and are more likely to be out of the labor force altogether, than women at risk of receiving public assistance.

Part of the problem with our current system is the lack of incentives for people either to leave welfare and go to work, or to form a two-parent family. Robert Rector of the Heritage Foundation testified before the House Select Committee on Hunger that for a woman to continue to receive her welfare check she must do two things: she must not work and she must not marry someone who is working. He went on to state that "nearly all (welfare programs) have strong antiwork effect(s) * * *."

Thus more than just demanding work, real welfare reform must include incentives to work. If, for example, a single mother saves more than $1,000, her AFDC benefits will be cut back. The example of Sandra Rosado highlights the problem with this limit. A New York Times article reported on Ms. Rosado:

> Working part time at a community center, Sandra Rosado saved $4,900 to go to college and escape the web of welfare that is all her family has known * * *. But her thrift and industry have lead to a bureaucratic nightmare for Miss Rosado and her family.

When Government officials found out about her savings, her family was forced to spend the money in order to stay on AFDC. Then Federal officials ordered her mother to pay a fine of $9,342. Why should Sandra Rosado have her dreams of going to college and escaping poverty dashed because she was thrifty and hard working?

Another problem with welfare is if a woman works more than 100 hours or marries someone who does, she loses her AFDC eligibility and therefore her medical and child care benefits—even if the household income still falls within the eligibility range of AFDC. In testimony before the House Select Committee on Hunger, Mark Greenberg, the senior staff attorney for the Center for Law and Social Policy, described the 100 hour work rule as a major disincentive for AFDC–UP (unemployed parents) families. He concludes his testimony by saying "Real welfare reform * * * would remove the barriers to work and the barriers to family formation."

While this plan does not include alterations to either the 100 hour work rule or the $1,000 asset limitation, I believe that we can reach an accommodation on these issues before the final debate occurs.

The GOP task force welfare reform plan also includes provisions to encourage the formation of stable families. It emphasizes parental responsibility for the support to their children. Mothers must identify the fathers of their children. Fathers must live up to their responsibilities and financially support their offspring.

Welfare reform must be approached with more creativity than just providing additional funding. We must find new and innovative ways to use our money that will address the problems of disincentives to work and to formation of stable families.

Another problem with the current welfare reform system is that it is convoluted. It is spread through 72 different programs in several different agencies. If we are truly going to reform welfare, simplification and consolidation must be a primary focus. Along with this, must be a focus on rigorous input-output analysis. No longer can we simply pour money into programs and expect them to work. There must be vigorous scientific evaluation of each program to ensure that the anticipated results are indeed occurring.

In conclusion, Mr. President, the welfare reform plan being announced today takes significant steps down the road of real reform. In the absence of any other proposal, it will provide the Senate with a foundation on which to build. However, this plan should not be seen as the final solution to welfare. I lend my support on the confidence more will be done.

SENATE REPUBLICAN WELFARE REFORM PROPOSAL

Mr. COHEN. Mr. President, today I am joining several of my Republican colleagues in proposing the outlines of a comprehensive package of welfare reform proposals.

The debate on how to address the broken system of welfare assistance in this country is long overdue, and I support the concepts included in the outline published today in the CONGRESSIONAL RECORD as a means of establishing certain parameters to the debate.

Many States have been working on various approaches to welfare reform, and we need to support those efforts and make them more effective. That is the general concept I support, which I believe is incorporated in the package of welfare reform proposals proposed by the Senate Republican Welfare Reform Task Force.

In the coming months, I look forward to participating in further discussions with my fellow Senators and all those interested in achieving reform on the regulatory changes needed to reach our goal. While I support the concepts contained in this package, I will certainly be reviewing the legislative details when they become available to determine whether the final bill is something I can support. Today's action demonstrates my commitment to reform and my intent to participate fully in the debate that will occur, hopefully, next year.

I appreciate the efforts of the Republican leader, Senator DOLE, and Senators BROWN and PACKWOOD in developing this package of reform proposals.

NOMINATION OF JUDGE THOMAS SHANAHAN

Mr. DOLE. Mr. President, earlier this week, the Senate Judiciary Committee reported out by voice vote the nomination of Judge Thomas Shanahan to fill a vacancy on the Federal District Court in Nebraska.

As a member of the Nebraska Supreme Court, Judge Shanahan dissented in several key cases upholding the convictions of child sexual abusers and drug offenders. These dissents, as I understand them, have hinged on technical interpretations of evidentiary rules and State criminal laws. And as I said earlier this month, technicalities do matter, for if Judge Shanahan's views had prevailed in these cases, the convictions of vicious child sex abusers and violent drug offenders would have been overturned.

Now, Mr. President, I do not intend to block Judge Shanahan's confirmation. When Judge Shanahan is finally confirmed, I wish him the very best in his new career as a Federal judge.

But once he gets to the Federal bench, it is my hope that Judge Shanahan will act responsibly and not look for reasons to excuse criminal behavior. It is also my hope that he will interpret the criminal laws, not in accordance with his own political philosophy or vision of social justice, but rather according to the intent of the laws' drafters.

I will be following Judge Shanahan's record on the Federal bench with interest.

Mr. President, I ask unanimous consent that an article from the Omaha World-Herald be inserted in the RECORD immediately after my remarks.

There being no objection, the article was ordered to be printed in RECORD, as follows:

DOLE CALLS NOMINEES SOFT ON CRIME ISSUES

(By Kevin O'Haxlon)

In a Senate speech Wednesday night, Senate Minority Leader Bob Dole, R-Kan., criticized several Clinton administration nominees to the federal bench, including Nebraska Supreme Court Judge Thomas Shanahan, who has been nominated as a federal district judge for Nebraska.

Dole said the nominees were soft on crime issues.

Doe said, "Make no mistake about it: Technicalities do matter. For if Judge Shanahan's views had prevailed in these cases, the convictions of vicious child sex abusers and violent drug offenders would have been overturned."

Dole referred to questions posed to Shanahan Oct. 20 by Sen. Orrin Hatch during a hearing on his appointment.

Hatch, R-Utah, asked Shanahan to explain his written opinions on six cases involving the admissibility of evidence or sentencing practices. He said he disagreed with Shanahan's positions.

Summaries of those cases and excerpts of Shanahan's written opinions:

In 1991, Shanahan wrote a dissent when the high court upheld a Lancaster County District Court conviction of Robert D. Stephens for sexually assaulting a 1-month-old girl.

Stephens argued that the district court erred in allowing evidence to be admitted showing he had had recurring sexual contact with another child.

In his dissent, Shanahan wrote, "If the trend continues in this court's construction and application . . . conduct throughout a defendant's lifetime will be admissible and, if reincarnation is a fact, will be admissible from another life."

Shanahan was the lone dissenter in a 1990 decision that affirmed Michael Yager's conviction in Sarpy County District Court for fondling an 8-year-old boy.

Shanahan said the conviction was flawed because evidence about past sexual assaults or sexual activities was admitted during the trial.

Shanahan wrote that the majority's decision "has done nothing to rein a runaway rule that threatens to trample on a defendant's right to a fair trial."

In 1989, the court affirmed a Lancaster County District Court conviction of Norman Oliver for third-offense drunken driving. Oliver argued that his previous convictions failed to show that his guilty pleas had been entered voluntarily and intelligently; that prosecutors listed the wrong date on one of his prior convictions; and that the court should have given him credit on his sentence for time spent in alcohol treatment.

"The majority's opinion is somewhat of a judicial shell game which requires a defendant to locate a procedural pellet for challenging the constitutionality of the . . . prior conviction," Shanahan wrote. "Fundamental unfairness occurs, however, because there is no pellet to be uncovered."

In 1989, Shanahan wrote a unanimous opinion overturning the conviction of a Douglas County woman, Jean L. Abdouch, on a charge of illegally manufacturing marijuana.

Shanahan wrote that evidence found in searches conducted jointly by private citizens and law enforcement officers may be subject to the same legal restrictions that govern searches by officers acting alone.

Authorities obtained the evidence during a 1987 search of a rural acreage where Ms. Abdouch lived. When her roommate died, his family went to the farm with Douglas County sheriff's deputies to recover his personal property.

The deputies did not have a search warrant. A baby sitter permitted the family and deputies to enter the house.

The deputies, on their own initiative, searched a barn and found marijuana plants and seeds.

Shanahan said the actions by the family and the deputies were "too interdependently connected and inseparable" to distinguish their participation in the search of Ms. Abdouch's farm.

In 1986, the Supreme Court upheld the conviction of a Milford, Neb., man for growing marijuana, saying that the search of an open field without a warrant was constitutional.

Terry Havlat was convicted of manufacturing a controlled substance, marijuana, after Nebraska State Patrol officers in August 1983 entered his farm and seized 600 pounds of marijuana plants. The plants were seized without a court-ordered search warrant.

Havlat was sentenced to 20 months to 40 months in prison and fined $1,000. He appealed the conviction and sentence, arguing that the marijuana seized at the farm should not have been used as evidence if it was seized in violation of Nebraska and U.S. constitutional provisions guaranteeing the right to be free from unreasonable searches and seizures.

Shanahan said Havlat's constitutional rights were violated.

Shanahan said the officers "trespassed" on Havlat's land on six different occasions to gain evidence that he was growing marijuana.

In 1985, Shanahan dissented when the court affirmed the Douglas County District Court conviction of Curtis D. Morrow on two counts of delivering marijuana and cocaine. In the presence of a Nebraska State Patrol informant, Morrow and another man, Michael Harlow, agreed to travel to Florida and buy cocaine in exchange for $10,000 promised by the informant, who also asked them for drugs for his personal use.

Morrow and Harlow arranged to deliver cocaine and marijuana to the informant at a restaurant the next day. At the meeting, Harlow passed marijuana under the table to an undercover officer who had accompanied the informant to the restaurant. A few minutes later, Morrow gave the keys to his car to Harlow, who left and returned later and gave the undercover officer the drugs.

The Supreme Court rejected Morrow's argument that his presence at the discussions and delivery of the drugs was insufficient evidence for a conviction and that his 1- to 3-year sentence was excessive.

In his dissenting opinion, Shanahan wrote: "This court should have modified Morrow's sentence to probation, the sentence imposed on Morrow's equally excessive co-defendant."

CRIME BILL—GUN CONTROL

Mr. PRESSLER. Mr. President, yesterday the Senate passed a bipartisan crime bill by an overwhelming margin, 95–4. In so doing, we gave the American people a truly significant, if not historic, piece of legislation. It is my hope that when scholars write a history of this Nation's efforts to fight crime, they will regard the Senate's crime bill as the opening chapter of the turning point.

The $22 billion authorization we approved is a substantial sum of money. Some of my colleagues have argued that they would rather see these funds spent on educating our young people, housing the homeless, caring for the sick, or rebuilding our Nation's infrastructure. All are certainly noble, worthy causes.

However, we have a very serious problem facing the Nation today. This problem is the absence of basic freedoms in our daily lives. I am speaking of the freedom from fear in our neighborhoods; the freedom from danger in our schoolyards; and the freedom from terror in public places. Crime is a fundamental national problem.

No government deserves to be called a civil government if it cannot secure the safety and security of its citizens. We are coming perilously close to this state of affairs. Certain parts of the country already are in a state or violent disorder. It is time we get serious about fighting crime. We need to put our money where our mouth is. Yesterday, we did just that.

The Senate also has spent considerable time debating the issue of gun control. It is not a new issue. It has been with us for several years. The most controversial provision of the crime bill just passed is a measure that would ban several models of assault weapons. And, of course, the Senate has been tangled in a debate over legislation that would impose a waiting period on the legal purchase of a handgun. Debates on gun control measures are very contentious and, at times quite emotional. The recent verbal battles have been no exception.

Today, in the aftermath of the latest debate, I wish to speak about the basic issue of gun control. When discussing any measure that would control the availability of guns, the first and foremost question we in Congress must ask is: Does the measure merely have the appearance of being tough on crime, or does it really do something to reduce crime and violence in our streets?

If this question is avoided or not answered, I fear we will be right back to business as usual. I say that because it is a simple fact that current so-called tough gun control laws simply do not have any real impact on violent crime. Instead, these laws punish law-abiding citizens by limiting their constitutional rights.

For proof, I ask my colleagues to look no further than out the windows of the Capitol. Right now, the District of Columbia has one of the most restrictive gun control statutes in the country. Residents of the District are not permitted to carry a handgun at all. Two very limited circumstances exist for law-abiding residents to even possess a handgun: First, they must have licensed the handgun in the District prior to 1975, when D.C.'s gun control legislation was enacted; or second, they must be a local or Federal law enforcement officer. Members of Congress have an added advantage: We and our staff could be authorized to carry a handgun if our lives have been threatened.

As for rifles or shotguns, the only lawful way for a D.C. resident to lawfully possess these types of weapons is: First, obtain a permit from the District of Columbia; and second, store the weapon disassembled and separate from the ammunition used to fire it. This means it cannot be kept at home ready to use at a moment's notice.

The bottom line is that the second amendment to the Constitution does not apply for the law-abiding citizen in the District of Columbia. It is nonexistent. What does the D.C. citizen get in return for the loss of his or her second amendment rights? Does the citizen get, in return, a city free from violence, free from fear, and free of crime? Hardly. I am sure it will come as no surprise to any Senator that violent crime is not in decline here in the District of Columbia. D.C. citizens have gotten the short end of the deal and we are paying dearly for it.

Every year, the number of murders in the District of Columbia increases. In fact, just two weekends ago, four more people were killed in the District. These murders put this year's murder rate ahead of last year's—with almost 2 months left. More than 400 homicides already have occurred in the District in 1993.

What we have is the darkest of ironies: Our Nation's Capital is the murder capital of the Nation. What more proof does any Senator need? The plain and simple fact is: Gun control does not end crime. It does not stop it. It does not deter it. It does not hinder or hamper violent crime. It does not disarm the lawless. Even worse, all three laws really do is make it more difficult for law-abiding citizens to protect themselves.

Mr. President, The American people are not extremist on the issue of gun control. The people of my home State, South Dakota, have a very reasonable approach. South Dakotans are willing to accept reasonable restrictions on gun availability, but only if violent crime truly will be reduced as a result. In fact, South Dakota currently has a 2-day waiting period for the purchase of handguns, even though violent crime there fortunately is not a problem.

I understand that many see gun control measures, such as the Brady bill as a reasonable approach to solving crime. However, the American people need to know that most, if not all, gun control measures—no matter how reasonable or how strict they may appear on the surface—would not have any noticeable impact on violent crime. Congress will pass them, if at all, only because they create the appearance of being tough on crime.

A better approach to the issue of violent crime is contained in the crime bill we just passed yesterday. Under the Senate bill, anyone who commits a crime with a gun would receive an additional mandatory 10-year sentence; if the gun is fired, the convict would get an additional 20 years; if an assault weapon is used, an extra 30-year mandatory sentence would be imposed. Further, anyone convicted of a gun-related offense three times, or convicted of a crime resulting in death, would get either life in prison or the death penalty. Criminals need to know: Anyone willing to take three strikes against the law with a gun will be put in prison for life or put to death.

Mr. President, this is a really tough approach to violent crime. A career criminal should be a career prisoner. This is not a complicated idea. It is not a new theory of crime control. But it is effective. Violent criminals who use guns need to be locked up for long periods of time. We must get them off the streets and get them behind bars. If we want to take a realistic approach to crime, we should focus more on criminal control, not gun control. That will make a real difference.

Mr. President, I also ask unanimous consent to place in the RECORD an editorial which appeared recently in a South Dakota newspaper, the Yankton Press and Dakotan, on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Yankton Press and Dakotan, Nov. 4, 1993]

A Real Anti-Crime Bill Starts With Crooks, Not With the Victims

Sen. Larry Pressler jumped onto President Clinton's so-called crime bill; and former Yanktonian Tom Brokaw spoke in Sioux Falls about how dangerous American cities have become compared to South Dakota.

Both are right.

Meanwhile many of the root causes of crime continue to go unmentioned because it's dangerous political waters to call it like it is, and point out who is committing crime.

Whether one takes a "hard line" toward root problems or a soft, "politically correct" one, we're probably looking at two generations or more to create real change in a growing urban "criminal culture" that has nothing better to do.

Guns? Anti-gun lobby propaganda has many people believing statistics that are just plain wrong. So-called assault weapons are already illegal and guns that look like assault weapons are statistically insignificant in crime. Even the biggest supporter of the Brady Bill's waiting period for guns admit that it would not cut crime.

So why handcuff people wanting to exercise their constitutional rights just to create an image of being anti-crime? The Brady Bill actually means that a strong-arm crook, gang or stalker has a 5-day free ride to terrorize or murder helpless, disarmed victims.

The reality is that much of today's crime is caused by social programs put into place a generation and a half ago supposedly to end the root causes of crime.

How? The "great society" built thousands of "low income housing" units for welfare folks. In urban environments these now are havens for drugs, gangs and organized crime. Non-criminal residents live a life of terror.

Residents are victims of a social breakdown where there is no incentive whatsoever to be law abiding, hard-working citizens. The government provides the basics, and "the good life" is available from crime.

For the time being, the crime bill that Pressler supports makes sense:

The Republican measure supports the death penalty for drug lords, a stop to endless appeals for death row inmates, and harsh, mandatory sentences for people who use guns in the commission of a crime, Pressler said. The Democratic measure doesn't do any of that, he said.

"A career criminal should be a career prisoner," Pressler said of the gun-related provisions in the GOP bill. "That's a real tough approach."

The measure would add mandatory terms of 10 years to a sentence if a criminal uses a gun in a crime, 20 years if the gun is fired, 30 years if an assault weapon is used, and anyone convicted of a gun-related offense three times gets either life in prison or a death penalty," he said.

Pressler also said Republicans want to do away with parole and probation for violent offenders.

A non-criminal literally can have tanks and fighter aircraft without hurting anyone. A criminal mind makes a weapon from a broken broom handle to terrify and victimize people who aren't as physically strong.

The reality is that there is a growing criminal culture, and a response which disarms the non-criminal culture simply aids the predators.

Short-term, put the predators away. Long-term? We've got to dump the criminal culture. That's the real challenge.

COMMITTEE T1

Mr. BOREN. Mr. President, I call to my colleagues' attention the important and necessary work of a group called Committee T1 and one of its subcommittees T1M1. Committee T1 is a communications advisory group comprised of representatives from private industry and government. In cooperation with the International Telecommunications Union and State Department, Committee T1 develops and recommends the national technical standards in the telecommunications arena that allows industry to compete and Americans to communicate with each other and the rest of the world. Indeed, Committee T1 is playing a key role in the Information Age.

Without objection, I would like to submit for the RECORD an article written by my friend, Dr. Philip Johnson who chairs the important T1M1 subcommittee. The article counsels the communications industry to be mindful of the public good in its pursuit of private interests. In my view, this is sound advise that can apply here in Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALANCE OF PUBLIC GOOD AND PRIVATE INTEREST IN COMMITTEE

(By Phil Johnson)

At my father's funeral this summer, the words of the service reminded me of the spiritual, "Jacob's Ladder." Specifically, I thought about the rendition used as background music in the PBS series on the American Civil War. This rendition was made with the first commercially available audio recording equipment and is in the Library of Congress. It was not the eloquence of the words nor the tonal quality of the music dynamics, but I was mesmerized by the recording. It was as if the "clicker"—that great late twentieth century male power tool for TV control—had itself been put on freeze frame and let the TV play on, unabated. And then I realized that the ex-slaves, recording the song perhaps thirty years after the Civil War, achieved a unity across many voices that is uncommon today. This unity, and its directed, yet mournful calling, in retrospect, is the quintessential soul music. For, what was expressed was their unified expression for a common, unfettered, freedom and acceptance of the private pain that is not shared. It wasn't surprising to learn, in researching the genesis of Jacob's Ladder that the lyrics were everchanging, dependent on the audience and performers, that both whites and blacks used the song and that, two generations ago, this song (and others) was the mainstay of family reunions, that flickering invention, almost extinct today, of people finding common threads in their lives, yet defining their own individuality at the same time.

There is a lesson here for Committee T1. Today, to solve the issues of conflict between the public good and the private interest, we are tempted to take the uni-directional path, the narrow view. And yet to preach of the public interest and to serve only one's private concerns in ways abandoning the public interest, begs for either regulation or revolution. Yet what each of us privately wants is a polity less split by competing pressures, less fragmented by interest adept in moralistic rhetoric and absolutistic posturing, leading to less suspicion and more disposition to mutual cooperation and self-regulation. This self-regulation for the public good within the private sector context of Committee T1 is the only way to both think better of ourselves and act on the best of our common belief.

It will not be easy to achieve such a relationship, in Committee T1 or elsewhere. To work toward one in the interests of Committee T1 entails real risks, particularly if collaboration is pursued in an opportunistic fashion on either side, or is pursued by either party only for private ends.

Committee T1 also plays another role, a role essential in a pluralistic, free society. That is the role of independent critic, critic of the private sector it inhabits and guardian of the shared values of fairness and due process. The historical exercise of that dual role by Committee T1 has not always endeared it to others, nor should it even render Committee T1 immune from the critical insights of others. The essential fact is that the capacity to be an independent responsible voice, speaking its convictions in a reasoned and balanced way, has been vital to America and must continue to be important. It is always necessary, for the health of the rest of the society, that some institution in this country—and I lobby for that to be Committee T1—sustain the reality of nongovernmental solutions to the nation's needs and do that by continuing to send out individuals who understand and wish to strengthen the important traditions of independence and pluralism that have marked our country's history.

It is so much easier to take the easy solution. But it derives from the multi-faceted reality of the lives of these ex-slaves that the harder way—the road less traveled—achieves both public good and private interest in their society and in ours.

GOVERNMENT WELFARE PROGRAMS

Mr. FAIRCLOTH. Mr. President, I have spent the past 45 years in the private sector meeting a payroll as a farmer and a businessman. Every year I have watched as the Congress went into session and adjourned, leaving it more difficult for me to run my business and meet a payroll because of the excessive rules, regulations, and new Government spending programs that have put our country on the path to an economic catastrophe.

Out of all of the spending programs implemented by the Federal Government, I do not know of a group that has been bigger than those collectively known as welfare. The Federal Government currently runs approximately 75 means tested welfare programs. Government welfare programs—often well intentioned—have destroyed the initiative of whole generations of our citizens.

Welfare has gone from being a helping hand to being a way of life. Its perverse set of incentives and disincentives has made it economically insane for the great bulk of welfare recipients to choose work over leisure.

The result has been the creation of a Government-spawned permanent underclass. The same children who would have, a generation or two ago, been scratching and clawing their way up the ladder of success, are today instead worrying about drug deals, bullets flying through the windows of their apartments in the public housing projects, and about having babies themselves.

Observers from across the political spectrum have recognized that a simple common-sense principle has gotten our nation and the poor into the present fix: You get more of what you pay for. And for the last 3 years we have paid people to not work. As a result, we have gotten a lot of people who are paid but don't work.

Consequently we have seen an explosion of entitlement spending and entitlement mentality. Millions of Americans live day after day, month after month and year after year on paychecks from the government and give nothing in return—except their assurance that they will stay poor, and continue to fuel the Government poverty machine.

This mentality has cost us hundreds of billions of dollars. There is no end in sight. Welfare programs are not currently subject to caps or any discretionary review by the Congress. That means we end up spending vastly more than we can afford, based solely on the numbers generated by welfare bureaucrats.

That is not the way to solve the welfare problem. The first step in reforming the system—which I am outlining today—is to draw a line in the sand, which our current out of control spending must then not cross. I propose we place a cap on the growth of welfare entitlement spending. We must restrict the long term aggregate rate of growth in welfare spending to 4 percent per annum. Some individual programs would be permitted to grow by more than 4 percent. Others would grow by less. But the total growth for all programs must be held collectively at or below 4 percent per annum.

Second, if we are going to begin a real reform of the system—and end the hollow liberal rhetoric of reform—we must move the funding of the welfare machine out of the hands of welfare bureaucrats and their number crunchers. They have let loose an endless flow of taxpayer dollars to those they have determined to be entitled to the federal purse, with no recognition of what makes common sense.

That is why I am announcing my plan to introduce, upon Congress' return from the holidays, a bill to totally overhaul the welfare system in America. It will break the vicious cycle of welfare dependency by ending the handouts which have crippled the desire of able-bodied people to work.

If a person is on welfare because they truly can't find a job, then they can expect to work for their welfare benefits. People will be helped if they need help, but like everyone else in this country, lying around and collecting a check will not be an option.

There are a number of proposals being talked about, including one by the President, which claim to share the goal of replacing welfare with workfare. But I felt that it was necessary to introduce my own bill because I believe that sound welfare reform legislation is based on seven principles, all of which are not adequately represented in any of the other proposals. I ask unanimous consent that a treatise on their principles be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRINCIPLES OF REAL REFORM

The welfare system desperately needs reform. Real reform would convert welfare from a one way hand-out into a system of mutual responsibility in which welfare recipients would be given aid but would be expected to contribute back to society for assistance given. A reformed system must strongly discourage dependency and irresponsible behavior and encourage constructive behavior. It must firmly control soaring welfare costs which are slowly bankrupting the nation. Finally, and most importantly, welfare reform must seek to reduce the illegitimate birth rate in the U.S. and promote the formation of stable two parent families. Any "reform" which does not dramatically reduce the illegitimate birth rate will not save money and will fail to truly help America's children and society.

Real reform should be based on the following seven principles:

(1) Establish Serious Workfare. The key to successful workfare is the number of welfare recipients who are required to participate. Following the pattern of the 1988 reforms it is likely that the Clinton plan will be quite complex, appearing to require large numbers of recipients to perform community service work, when in reality few are. Real reform would require *all* fathers in the AFDC–UP program to perform community service work 40 hours per week in 1994. It would also require able-bodied single persons in the Food Stamp program to work. Finally, half of all single mothers on AFDC should be required to perform community work service for benefits by 1996.

(2) Establish Sensible Workforce Priorities. Workfare programs should be efficient and low cost. Workfare should be imposed first on those person who have the least justification for being out of the labor force. Therefore workfare requirements should be imposed initially on able bodied, non-elderly single persons on welfare, followed by fathers in two parent families on welfare and absent fathers who fair to pay child support. After workfare has been put in operation for the preceding groups, those single mothers on AFDC who do *not* have pre-school children should be required to work.

High daycare expenses mean that putting a single mother with a young child to work in a community service work program costs roughly two to three times as much as requiring a mother with an older child to work. Because work programs inevitably operate within fixed budgets, an emphasis on workfare participation by mothers with younger children leads to a sharp reduction in the total number of persons who will be required to work. One little understood aspect of the workfare debate is that liberals often attempt to focus workfare programs on mothers with very young children precisely because they understand this will quickly soak up available funds and thereby limit the number of recipients required to participate. Liberal welfare advocates also would like to undermine the general concept of workfare by showing that all workfare programs cost more than they save; they promote the least cost-effective workfare programs (ie, those with a heavy emphasis on mothers with young children) precisely to for that purpose.

Around half of AFDC single mothers do *not* have any pre-school children under age five. Workfare should be imposed on single mothers with younger children under five only after most mothers with older children have been required to work. (However, if an AFDC mother gave birth to an added child after her initial enrollment in AFDC, that child would not exempt her from work requirements even if the child were under age 5. This rule is needed to prevent mothers from having added children to escape the work requirement.)

(3) Limit Welfare to Unwed Teen Mothers. The present welfare system, by paying young women to have children out of wedlock, encourages them in a course of action that in the long-term proves self-defeating to the mothers and harmful to both the children and society. Placing millions of single mothers in work and training programs, will have little positive effect for society as long as the illegitimate birth rate remains over 30 percent.

Congress must go to the heart of the dependency problem by seeking to reduce the number of illegitimate births. It has been a tragic mistake for the government to pay money to fourteen year old girls on the condition that they have children out of wedlock. The government should begin to address the illegitimacy problem by ending the disastrous present policy of giving AFDC cash payments to unmarried teen mothers.

As Washington Post reporter Leon Dash has shown in his book *When Children Want Children*, most unwed teen mothers both conceive and deliver their babies deliberately rather than accidentally.[1] While young women do not bear unwanted children in order to gain a welfare income, they are very much aware of the role which welfare will play in supporting them once a child is born. Refusing to pay young unwed mothers direct cash benefits would certainly result in a sharp and substantial drop in teen illegitimacy.

Federal AFDC funds which are currently given directly to unwed mothers under age 21 should be converted into block grants to the states. State governments could use the funds to develop innovative new policies for assisting those teenagers who continue to have children out of wedlock. Such policies could include supporting the mothers in tightly supervised group homes or promoting adoption, but federal funds could no longer be used to simply give cash welfare to teen mothers.

(4) Require Paternity Establishment for Children Receiving AFDC. Current law requires that an AFDC mother must make a "good faith" effort to identify the father of the child in order to receive AFDC. This law is ignored. The government should require, for children born after January of 1994, that the mother must identify the father of the child in order to receive AFDC or Food Stamps.[2] Exceptions to this rule in a few hardship cases could be given but the exceptions should not exceed ten percent.

Modern DNA testing permits us to determine the child's real father with absolute confidence. Once the mother has identified the father and paternity has been established the father can be required to pay child support to offset welfare costs. If the child support paid does not equal half the cost of the welfare benefits received by the mother and child, the remainder should become a debt which the father must repay at a future point in his life.

If the father claims he cannot pay any child support because he cannot find a job, the government may require community service work from him to fulfill his obligation. Experiments with this approach in Wisconsin have led to surprising increases in the ability of absent fathers to locate private sector employment and pay child support. Moreover, the definite expectation among young men that they will be identified as fathers and required to pay child support for their children may put an end to the ethos in some communities, where young men assert their masculinity by fathering children they have no intention to support.

(5) Reduce Welfare's Marriage Penalty. The current welfare system heavily penalizes marriage between a mother and a working man. This marriage penalty should be reduced by creating a tax credit for lower income parents who are married and who are working rather than living on welfare.

(6) Provide Increased Funding for Abstinence Education. Out of wedlock births are at the core of the expansion of the welfare state as well as many other social problems. Scientific experiments have shown that sexual abstinence curricula substantially change teenager's attitudes toward early sexual activity. Among girls taking abstinence courses, pregnancy rates are reduced by a phenomenal 50% when compared to girls who have not taken the sex abstinence classes. By contrast, programs promoting contraception often increase pregnancy rates.

(7) Cap the Growth of Welfare Spending. Any fair observer would note that no matter how frequently we "end welfare", the costs continue to rise. Welfare absorbed around 1.5% of GNP when Lyndon Johnson launched the War on Poverty in 1965; it had risen to over 5% by 1992. With a $308 billion price tag, welfare spending now amounts to $8,300 for each poor person in the U.S. Worse, Congressional Budget Office figures showing total welfare costs rising to a half trillion, about 6% of GNP, by 1998. Predictably, the Clinton administration maintains that a half trillion is not enough; "ending welfare" means adding on even more spending.

The long history of bogus welfare reforms, all of which were promised to save money but did not, leads to one obvious conclusion. The only way to limit the growth of welfare spending is to do just that: Limit the growth of welfare spending. The welfare system must be put on a diet. The future growth of federal means-tested welfare spending at should be capped at 4% per annum. Individual programs would be permitted to grow at greater than or less than 4% according to Congressional priorities, but aggregate spending must fall within the 4% ceiling.

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[1] Leon Dash, "When Children Want Children: an Inside Look at the Crisis of Teenage Parenthood", USA, Penguin Books, 1989.

[2] For children born years ago it often is impossible to locate the father. The paternity establishment rule should therefore be applied prospectively: mother should be required to establish paternity in order to receive welfare for children born in 1994 and after.

By slowing the outpour from the federal welfare spigot, the cap would gradually reduce the subsidization of dysfunctional behavior; dependency, non-work, and illegitimacy. The cap would send a warning signal to state welfare bureaucracies. Cushioned by a steady and increasing flow of federal funds in the past, most bureaucracies have found no need to grapple with the tough and controversial policies needed to really reduce illegitimacy and dependency. With a cap on future federal funds, state governments would, for the first time, be forced to adopt innovative and aggressive policies which would reduce the welfare rolls.

Mr. FAIRCLOTH. Mr. President, the only guarantee my business and its employees have is that if they work hard, apply themselves, and do the right thing, they have an opportunity to carve out a place for themselves and their families in the American system. In short, like all of the other taxpayers in America, they know they have to work for a living.

When government tries to create cradle-to-grave security for people, it not only gives those people a false sense of security, it will destroy the initiative that built this country, and ultimately bankrupt the Nation.

It only makes common sense to expect that people who are being given a helping hand by the working people of America should be expected to at least do a day's work themselves. These working taxpayers who struggle along every day with no guarantees should not be expected to guarantee a way of life for those who choose not to work.

The Congress must take back authorizing authority over welfare programs. Congressional authorizing committees must take back control of the Federal welfare spending bureaucracy, guided by firm caps on what they will be allowed to allocate to programs within their jurisdiction.

The search for true welfare reform will come from spending the taxpayer's money more wisely. The current process is blind, it writes blank checks to the numerous failed Federal and State programs. To get the welfare house in order we have got to have firm caps and oversight.

Mr. President, I look forward to working toward true welfare reform with men and women of good will from both parties. If other Senators have proposals that embody the seven principles that I have outlined, then there is room for agreement.

But any proposal which falls short of those seven principles also falls short of true welfare reform, and the American people expect and deserve better than that. True welfare reform is my commitment to the American people. I invite my colleagues to join me in that commitment.

Mr. President, I ask unanimous consent that an outline of the welfare spending cap bill and other material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTLINE OF WELFARE SPENDING CAP BILL

CONTROLLING WELFARE COSTS

The purpose of this bill is to control the future growth of spending on means-tested welfare programs and programs targeted to economically disadvantaged communities. The bill also gives state governments far greater authority in managing and operating these programs.

A. Cap the Growth of Total Welfare Spending

(1) Restrict the long term rate of growth of aggregate spending in the attached list of programs to 4 percent per annum. Individual programs would be permitted to grow by more or less than 4 percent per annum as long as the total growth for all programs was at or below 4 percent.

(2) Each year, the Budget Committee would allocate funds for particular programs to different authorizing Committees within the overall cap limits.

(3) The base year spending for calculating the spending growth caps would be FY 1994. Total spending in FY 1995 would be 0% higher than in FY 1994, spending in FY 1996 would be 4% higher than in FY 1995. Growth in aggregate spending in all subsequent years would be limited to 4 percent per annum.

B. Convert Entitlement Program into Appropriated Accounts

(1) All programs on the list which are currently entitlement programs would be converted into appropriated accounts. The authorizing Committee with jurisdiction over each program would be instructed to make changes necessary to operate the program as a discretionary account.

(2) For programs converted from entitlement to discretionary accounts the amount allocated to each state would equal the amount received from that program by the state in FY1993, plus a prorated share of any increase in funds appropriated for the whole program above the FY1993 level. The prorated share would equal the percentage of total program funds received by the state in FY1993. Authorizing Committees would be free to change the state allocation formulae at future points in time.

(3) For all means-tested programs included under the cap state governments would be given full legal authority to determine benefit levels and eligibility criteria for the program. This provision would override any other provision in federal law determining benefit levels and eligibility standards. However, states must ensure that funds from the programs predominantly aid low income persons within the state; low income households meaning households with incomes less than 33 percent of the median household of that size within the state.

(4) For purposes of the Omnibus Budget Reconciliation Act of 1993, all programs on this list which are currently mandatory accounts would not be included under the present discretionary spending caps of the Reconciliation Act. These formerly mandatory programs would continue to be subject to the pay go provisions on mandatory programs.

(5) All savings from spending reductions enacted to conform to the welfare spending cap must be used for deficit reduction; the savings cannot be used to fund increases in other government programs not subject to the cap.

THE U.S. WELFARE SYSTEM[1]—MEANS-TESTED ASSISTANCE PROGRAMS AND AID TO ECONOMICALLY DISTRESSED COMMUNITIES

CASH AID

Cash 01) Aid to families with dependent children.

FY 1991: federal $12,482 million, state, $10,484 million.

FY 1992: federal $13,569 million, state, $11,354 million.

Budget account number: 75–1501–0–1–609.

Source: Committee on Ways and Means. Committee, U.S. House of Representatives, *Overview of Entitlement Programs: 1993 Green Book*, page 679.

Cash 02) Supplemental security income.

FY 1991: federal $14,228 million, state, $3,751 million.

FY 1992: federal $18,808 million, state, $3,987 million.

Budget account number: 75–0406–0–1–609.

Source: 1991—1992 *Green Book*, pp. 825–826; 1992—Office of Supplemental Security Income, Office of Budget.

Cash 03) Earned income tax credit (EITC)—refundable competent only.

FY 1991: federal $8,465 million.

FY 1992: federal $10,605 million.

Budget account number: 20–0906–0–1–609.

Source: *Overview of Entitlement Programs: 1993 Green Book*, p. 1058.

Cash 04) Foster care: Title IV E.

FY 1991: federal $1,819 million, state, $1,037 million.

FY 1992: federal $2,209 million, state, $1,259 million.

Budget account number: 75–1545–1–1–506.

Source: *Overview of Entitlement Programs: 1993 Green Book*, page 886.

Cash 05) Assistance to refugees and Cuban/Haitian entrants (cash component).

FY 1991: federal $192.15 million.

FY 1992: federal $165.215 million.

Budget account number: 75–1503–0–1–609.

Source: Office of Refugee Resettlement.

Cash 06) Emergency assistance to needy families with children.

FY 1991: federal $153 million, state, $153 million.

FY 1992: federal $133.5 million, state, $133.5 million.

Budget account number: 75–1501–0–1–609.

Source: *Overview of Entitlement Programs: 1993 Green Book*

Cash 07) Adoption assistance.

FY 1991: federal $189.832 million, state, $108.204 million.

FY 1992: federal $205.611 million, state, $116.850 million.

Budget account number: 75–1545–1–1–506.

1992—Appendix, p. 602, (HHS) *FY 1994 Budget of the United States Government*.

Medical 04) Medical assistance to refugees and Cuban/Haitian entrants.

FY 1991: federal $157.516 million.

FY 1992: federal $184.982 million.

Budget account number:

Source: U.S. Department of Health and Human Services, Office of Refugee Resettlement.

Medical 05) Migrant health centers.

FY 1991: federal $49.421 million.

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[1] Where specific figures on state spending have not been available, state spending figures have been calculated by the formula used by the Congressional Research Service, "Cash and Non-Cash Benefits for Persons with Limited Income: Eligibility Rates, Recipient and Expenditure Data, FY 1980–1990."

FY 1992: federal $57.636 million.

Budget account number: 75–1101–0–1–550.

Source: 1991—Appendix I, p. 494, (HHS) *FY 1993 Budget of the United States Government. 1992—Appendix, p. 602, (HHS) FY 1994 Budget of the United States Government.*

FOOD AID

Food 01) Food stamps

FY 1991: federal $19,765 million, state $1,247 million.

FY 1992: federal $23,540 million, state $1,378 million.

Budget account number: 12–3505–0–1–605.

Source: *Overview of Entitlement Programs: 1993 Green Book*, page 1609.

Food 02) School lunch program (free and reduced price segments for children with family incomes below 185 percent of the federal poverty income threshold).

FY 1991: federal $3,623.1 million.

FY 1992: federal $4,015.0 million.

Budget account number: 12–3539–0–1–605.

Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*

Food 03) Special supplemental food program for women, infants, and children (WIC).

FY 1991: federal $2,300.5 million.

FY 1992: federal $2,566.5 million.

Budget account number: 12–3510–0–1–605.

Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*

Food 04) The emergency food assistance program (TEFAP).

FY 1991: federal $168.302 million.

FY 1992: federal $189.3 million.

Budget account number: 12–3635–0–1–351.

Source: 1991—p. 356, *FY 1993 Budget*. 1992—p. 389, *FY 1994 Budget.*

Food 05) Nutrition program for the elderly.

FY 1991: federal $578.211 million state $65.728, million.

FY 1992: federal $598.027 million, state $68.020, million.

Budget account number:

Source: Department of Health and Human Services; Program Information Division, USDA.

Food 06) School breakfast program (free and reduced price segments for low income children)

FY 1991: federal $667.3 million.

FY 1992: federal $763.7 million.

Budget account number: 12–3539–0–1–605.

Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*

Food 07) Child and adult care food program.

FY 1991: federal $491.5 million.

FY 1992: federal $509.3 million.

Budget account number: 12–3539–0–1–605.

Source: Program Information Division, Food and Nutrition Service, USDA, and Congressional Research Service.

Food 08) Summer food service program for children.

FY 1991: federal $180.9 million.

FY 1992: federal $206.1 million.

Budget account number: 12–3539–0–1–605.

Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*

Food 09) Needy families food distribution program (commodity food distribution program on Indian reservations in lieu of food stamps).

FY 1991: federal $64.67 million.

FY 1992: federal $62.178 million.

Budget account number: 12–3503–0–1–605.

Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*

Food 10) Commodity supplemental food program (CSFP) for mothers, children and elderly persons.

FY 1991: federal $67.8 million.

FY 1992: federal $89.8 million.

Budget account number: 12–3512–0–1–605.

Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*

Food 11) Special milk program (free segment).

FY 1991: federal $1.3 million.

FY 1992: federal $1.8 million.

Budget account number: 12–3502–0–1–605.

Source: Congressional Research Service.

HOUSING AID

Housing 01) Section 8 lower income housing assistance.

FY 1991: federal $11,400 million.

FY 1992: federal $12,307 million.

Budget account number: 86–0139–0–1–604.

Source: Congressional Research Service *Cash and Non-cash Benefits.*

Housing 02) Low-rent public housing.

FY 1991: federal $4,544.19 million.

FY 1992: federal $5,007.86 million.

Budget account number:

Source: 1991—Appendix I, pp. 536, 554, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix I, pp. 643, (HUD) *FY 1994 Budget of the United States Government.*

Housing 03) Section 502 rural housing loans for low income families.

FY 1991: federal $1,317.655 million.

FY 1992: federal $1,479.522 million.

Budget account number:

Source: *FmHA Total Obligations Report Through FY 92*, January, 1993, p. 39.

Housing 04) Section 236 interest reduction payments.

FY 1991: federal $553.141 million.

FY 1992: federal $652.434 million.

Budget account number: 86–0148–0–1–604.

Source: 1991—Appendix I, pp. 536, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 643, (HUD) *FY 1994 Budget of the United States.*

Housing 05) Section 515 rural rental housing loans.

FY 1991: federal $576.334 million.

FY 1992: federal $573.030 million.

Budget account number:

Source: *FmHA Total Obligations Report Through FY 92*, January, 1993.

Housing 06) Section 521 rural rental assistance payments.

FY 1991: federal $308.094 million.

FY 1992: federal $298.72 million.

Source: FmHA Total Obligations Report Through FY 92, January, 1993.

Housing 07) Section 235 homeownership assistance for low-income families.

FY 1991: federal $109.028 million.

FY 1992: federal $45.357 million.

Budget account number: 86–0148–0–1–604.

Source: 1991—Appendix I, pp. 536, 554, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 643, (HUD) *FY 1994 Budget of the United States Government.*

Housing 08) Section 101 rent supplements.

FY 1991: federal $49.589 million.

FY 1992: federal $54.5 million.

Budget account number:

Source: Department of Housing and Urban Development, Office of Budget.

Housing 09) Indian housing improvement grants.

FY 1991: federal $22.956 million.

FY 1992: federal $20.134 million.

Budget account number: 14x–2301–0–1–452.

Source: 1991—Appendix I, p. 623, (DOInterior) 452–00.03 *FY 1992 Budget of the United States Government.* 1992—Department of Interior.

Housing 10) Section 504 rural housing repair loans grants for very low income rural home owners.

FY 1991: federal $23.917 million.

FY 1992: federal $12.508 million.

Budget account number:

Source: *FmHA Total Obligations Report Through FY 92*, January 1993.

Housing 11) Section 514 farm labor housing loans.

FY 1991: federal $13.836 million.

FY 1992: federal $15.942 million.

Budget account number:

Source: *FmHA Total Obligations Report Through FY 92*, January, 1993.

Housing 12) Section 523 rural housing self-help technical assistance grants and section 523 rural housing loans.

FY 1991: federal $13.704 million.

FY 1992: federal $8.603 million.

Budget account number:

Source: *FmHA Total Obligations Report Through FY 92*, January, 1993.

Housing 13) Section 516 farm labor housing grants.

FY 1991: federal $10.667 million.

FY 1992: federal $13.519 million.

Budget account number:

Source: *FMHA Total Obligations Report Through FY 1992.*

Housing 14) Section 533 rural housing preservation grants for low income rural home owners.

FY 1991: federal $22.999 million.

FY 1992: federal $23.000 million.

Budget account number:

Source: FmHA Total Obligations Report Through FY 92, January, 1993.

ENERGY AID

Energy 01) Low-energy home energy assistance program.

FY 1991: federal $1,742.075 million state $112 million.

FY 1992: federal $1,142.317 million state $88 million.

Budget account number: 75–0420–0–1–609

Source: 1991—Appendix I, p. 518, (HHS) *FY 1993 Budget of the United States Government*, and Department of Energy. 1992—Appendix, p. 624, (HHS) *FY 1994 Budget of the United States Government*, and Department of Energy.

Energy 02) Weatherization assistance.

FY 1991: federal $198 million.

FY 1992: federal $194 million.

Budget account number: 89–0215–0–1–999.

Source: Department of Energy, Weatherization Assistance Program.

EDUCATION AID

Education 01) Pell grants.

FY 1991: federal $5,274.869 million.

FY 1992: federal $5,621.657 million.

Budget account number: 91–0200–0–1–502.

Source: 1991—Appendix I, p. 436, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 542, (DOE) *FY 1994 Budget of the United States Government.*

Education 02) Head start.

FY 1991: federal $2,055,267 million state: $514 million.

FY 1992: federal $2,201,763 million state: $550 million.

Budget account number: 75–1636–0–1–506.

Source: 1991—Appendix I, p. 520, (HHS) *(FY 1993 Budget of the United States Government.* 1992—Appendix I, p. 627, (HHS) *FY 1994 Budget of the United States Government.*

Education 03) Title one grants to local education authorities for educationally deprived children under the elementary and secondary education act.

FY 1991: federal $5,557.985 million.

FY 1992: federal $6,158.813 million.

Budget account number: 91–0900–0–1–501.

Source: 1991—Appendix I, p. 425 (DOE) *FY 1993 Budget of the United States Government.* (Basic Grants and Concentration Grants Under Chapter I). 1992—Appendix I, p. 531, (DOE) *FY 1994 Budget of the United States Government.*

Education 04) Supplemental educational opportunity grants (SEOG).

FY 1991: federal $523.810 million.

FY 1992: federal $578.481 million.

Budget account number: 91–0200–1–512.

Source: 1991—Appendix I, p. 436, (DOE) *FY 1993 Budget of the United States.* 1992—Appendix, p. 542, (DOE) *FY 1994 Budget of the United States.*

Government. Education 05) Chapter one migrant education program.

FY 1991: federal $294.596 million.

FY 1992: federal $308.298 million.

Budget account number: 91–0900–0–501.

Source: Office of Migrant Education, Department of Education

Education 06) Special programs for students from disadvantaged backgrounds (trio programs).

FY 1991: federal $333.758 million.

FY 1992: federal $385.139 million.

Budget account number:

Source: 1991—Appendix I, p. 446, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, P. 549, (DOE) FY 1994 Budget of the United States Government.

Education 07) State student incentive grants (SSIG) for needy students.

FY 1991: federal $63.537 million state $63.537 million.

FY 1992: federal $68.728 million state $68.728 million.

Budget account number: 91–0200–0–1–502.

Source: 1991—Appendix I, p. 437, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, P. 542, (DOE) *FY 1994 Budget of the United States Government.*

Education 08) Fellowships for graduate and professional study for disadvantaged minorities.

FY 1991: federal $41.797 million.

FY 1992: federal $51.581 million.

Budget account number: 91–0900–0–1–502.

Source: Department of Education.

Education 09) Follow through.

FY 1991: federal $7.265 million.

FY 1992: federal $8.632 million.

Budget account number: 91–1000–0–1–501.

Source: 1991—Appendix I, p. 427, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 533, (DOE) *FY 1994 Budget of the United States Government.*

Education 10) Even start.

FY 1991: federal $48.635 million.

FY 1992: federal $68.991 million.

Budget account number: 91–0900–0–1–501.

Source: 1991—Appendix I, p., 425, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 531, (DOE) *FY 1994 Budget of the United States Government.*

JOBS AND TRAINING AID

Training 01) Training for disadvantaged adults and youth (JTPA II–A), block grant).

FY 1991: federal $1,778.484 million.

FY 1992: federal $1,773.484 million.

Budget account number: 16–0174–0–1–504–00.01.

Source: 1991—Appendix I, p. 676, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 786, (DOL) *FY 1994 Budget of the United States Government.*

Training 02) Summer youth employment program (JTPA II–B)

FY 1991: federal $699.777 million.

FY 1992: federal $1,182.880 million.

Budget account number: 16–0174–0–1–504–00–02.

Source: 1991—Appendix I, p. 676, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 786. (DOL) *FY 1994 Budget of the United States Government.*

Training 03) Job corps (JTPA–IV).

FY 1991: federal $805.270 million.

FY 1992: federal $925.826 million.

Budget account number: 16–0174–0–1–504–00.12.

Source: 1991—Appendix I, p. 676, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 786, (DOL) *FY 1994 Budget of the United States Government.*

Training 04) Senior community service employment program.

FY 1991: federal $359.885, state, $39.99.

FY 1992: federal $397.872, state, $44.21.

Budget account number: 16–0175–0–1–504.

Source: 1991—Appendix I, p. 677, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 787, (DOL) *FY 1994 Budget of the United States Government.*

Training 05) Job opportunity and basic skills training (JOBS).

FY 1991: federal $560.165 million, state, $347.485 million.

FY 1992: federal $496.460 million, state, $294.278 million.

Budget account number: 75–1509–0–1–504.

Source: Office of Financial Management, Administration for Children and Families, HHS.

Training 06) Foster grandparents.

FY 1991: federal $62.081 million, state, $14 million.

FY 1992: federal $65.590 million, state, $14 million.

Budget account number: 44–0103–0–1–506.

Source: Office of Management and Budget, Planning and Budget Division.

Training 07) Senior companions.

FY 1991: federal $27.557 million, state, $7 million.

FY 1992: federal $28.727 million, state, $7 million.

Budget account number: 44–0103–0–1–506.

Source: Office of Management and Budget, Planning and Budget Division.

Training: 08) Migrant and seasonal farm workers training program.

FY 1991: federal $138.224 million.

FY 1992: federal $151.736 million.

Budget account number: 16–0174–0–1–504.

Source: Office of Specially Targeted Programs, Office of Job Training Programs, Employment and Training Administration.

Training 09) Indian and Native American employment and training program.

FY 1991: federal $72.350 million.

FY 1992: federal $82.693 million.

Budget account number: 16–0174–0–1–504.

Source: Office of Specially Targeted Programs, Office of Job Training Programs, Employment and Training Administration, DOL.

SOCIAL SERVICES

Services 01) Social services block grant (Title XX).

FY 1991: federal $2,822.492 million, state, $2,229 million.

FY 1992: federal $2,707.538 million, state, $2,138 million.

Budget account number: 75–1634–0–1–506.

Source: 1991—Appendix I, p. 519, (HHS) *FY 1993 Budget of the United States. Government.* 1992—Appendix, p. 626, (HHS) *FY 1994 Budget of the United States Government.*

Services 02) Community services block grant.

FY 1991: federal $420.639 million.

FY 1992: federal $442.384 million.

Budget account number: 75–1504–0–1–506.

Source: 1991—Appendix I, p. 519, (HHS) *FY 1993 Budget of the United States Government.* 1992—Appendix I, p. 625, (HHS) *FY 1994 Budget of the United States Government.*

Services 03) Legal services corporation.

FY 1991: federal $327.186 million.

FY 1992: federal $350 million.

Budget account number: none.

Source: Assistant to the President and Counsel to the Board of Directors, Office of the President, Legal Services Corporation.

Services 04) Emergency food and shelter program.

FY 1991: federal $134 million.

FY 1992: federal $134 million.

Budget account number: 58–0103–0–1–605.

Source: Federal Emergency Management Agency.

Services 05) Social services for refugees and cuban/haitian entrants.

FY 1991: federal $66.811 million.

FY 1992: federal $67.009 million.

Budget account number:

Source: *Report to Congress,* Office of Refugee Resettlement, 1991, 1992, 1993.

Services 06) Title X family planning.

FY 1991: federal $140.609 million.

FY 1992: federal $149.404 million.

Budget account number: 75–0350–0–1–550.

Source: 1991—p. 494, *Budget for the United States Government FY 1993.* 1992—p. 603, *Budget for the United States Government FY 1994.*

Services 07) Volunteers in service to America (VISTA).

FY 1991: federal $34.8 million.

FY 1992: federal $37.5 million.

Budget account number: 75–1536–0–1–506.

Source: Office of Management and Budget, Planning and Budget Division, ACTION.

Service 09) Title IIIb supportive services under the older americans act.

FY 1991: federal $291.051 million.

FY 1992: federal $299.238 million.

Budget account number:

Source: 1991—Appendix I, p. 520, (HHS) *FY 1994 Budget of the United States Government.* 1992—Appendix, p. 627, (HHS) *FY 1994 Budget of the United States Government.*

Services 10) Daycare assistance for families "at risk" of welfare dependence.

FY 1991: federal $216.248 million.

FY 1992: federal $381.550 million.

Budget account number:

Source: *Overview of Entitlement Programs: 1993 Green Book,* page 1010.

DEVELOPMENT AID

Community aid 01) Community development block grant.

FY 1991: federal $2,976.388 million

FY 1992: federal $3,090.281 million

Budget account number: 86–0162–0–1–451

Source: 1991—Appendix I, p. 559, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 666, (HUD) *FY 1994 Budget of the United States Government.*

Community aid 02) Urban development block grant program (UDAG)

FY 1990 federal $128.267 million

FY 1992: federal $51.604 million

Budget account number: 86–0170–0–1–451

Source: 1991—Appendix I, p. 560, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 667, (HUD) *FY 1994 Budget of the United States Government.*

Community aid 03) Economic development administration.

FY 1991: federal $153.137 million

FY 1992: federal $140.560 million

Budget account number: 13–2050–0–1–452

Source: 1991—Appendix I, p. 376, (Department of Commerce) *FY 1993 Budget of the*

United States Government. 1992—Appendix, p. 410, (DOC) *FY 1994 Budget of the United States Government.*

Community aid 04) Appalachian regional development program

FY 1991: federal $163.132 million

FY 1992: federal $130.795 million

Budget account number: 46–0200–0–1–452

Source: 1991—Appendix I, p. 929, (Appalachian Regional Commission0 *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 1038 (Appalachial Regional Commission) *FY 1994 Budget of the United States Government.*

Community aid 05) Legalization impact aid

FY 1991: federal $827.474 million

FY 1992: federal $501.327 million

Budget account number: 75–1508–0–1–506

Source: 1991—Appendix I, p. 519, (HHS) *FY 1993 Budget of the United States Government.* 1992—Appendix I, p. 625, (HHS) *FY 1994 Budget of the United States Government.*

STATEMENT ON THE NOMINATION OF REED E. HUNDT

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of Reed E. Hundt to the Federal Communications Commission [FCC]. The President has indicated his intention to designate Mr. Hundt as Chairman once he is confirmed. The Commerce Committee reported the nomination of Mr. Hundt without objection on October 6, 1993, and Senators from both sides of the aisle have indicated the importance of moving quickly on Mr. Hundt's nomination.

Mr. Hundt is well-qualified for the position of FCC Chairman, having founded the telecommunications practice at his law firm, Latham & Watkins, and having represented several public interest clients on a pro bono basis. In his nomination hearing before the Senate Commerce Committee on September 22, 1993, Mr. Hundt clearly demonstrated that he understands the many important issues facing the FCC.

In particular, the FCC must grapple with implementation of the new Cable Act and spectrum allocation. In addition, I am particularly interested in working with the FCC as the Senate considers measures to address the problem of violence on television.

In dealing with these and other important issues, Mr. Hundt, if confirmed, must consider the concept of public interest regulation. Under previous administrations, we often heard only about deregulation and more deregulation. The Communications Act of 1934 does not call for deregulation; it calls for appropriate regulation in the public interest, convenience and necessity. The FCC must show respect for this legislative mandate.

If confirmed, Mr. Hundt will become Chairman, replacing Interim Chairman James Quello, who will remain as Commissioner. During this transition period, Mr. Quello has made an outstanding contribution, continuing his distinguished service at the FCC over the past two decades. He has overseen the initial phases of implementation of the 1992 Cable Act, and has led the FCC to issue rules for personal communications services. Jim Quello is to be commended for his leadership during this period.

I urge my colleagues to support Mr. Hundt's confirmation, and I look forward to working closely with him once he is confirmed.

HONORING THE VIETNAM WOMEN'S MEMORIAL

Mr. WARNER. Mr. President, I rise today to talk about a very special event I had the honor of attending. On March 10, 1993, I went to a luncheon in honor of the Vietnam Woman's Memorial project given in Statuary Hall of the U.S. Capitol. Among the guests present, there were volunteers from the project, distinguished veterans, leaders of the major veterans organizations, and Members of Congress. These guests came to honor those associated with the Vietnam Women's Memorial.

One individual, however, is deserving of special praise, Diane Carlson Evans. Through her will and dedication, this memorial was made possible. As a nurse in the Vietnam war, Mrs. Carlson Evans saw first hand the horror of this conflict. Like so many other veterans of the Vietnam war, she returned to this country not as a hero, but as a pariah in societies' eyes. With this memorial, America is finally extending remembrance to a long-forgotten group of Vietnam veterans; the women. Overcoming tremendous obstacles, Mrs. Carlson Evans proved that one person can make a difference.

The challenge of capturing the emotion of the Vietnam war through the eyes of those women who served, was taken by Ms. Gleena Goodacre. Ms. Goodacre, a sculptor from Santa Fe, NM, created a bronze statue depicting three women surrounding a fallen male comrade. I see in this work the same genius that was in the design of the Vietnam Veterans' Memorial. The ability to freeze frame a moment in history while evoking all those emotions associated with that moment is truly extraordinary. Ms. Goodacre's sculpture brilliantly succeeds in providing the physical symbol of healing for those women who have waited 20 years for peace and may at last begin to experience it.

At the luncheon, remarks were made by Senator STROM THURMOND, Congressman TIM PENNY, Senator BOB DOLE, and Representative CONNIE MORELLA. All touched on the importance of this memorial, and the impact it has on all men and women. From specifically recognizing nurses who served in Vietnam, to highlighting contributions made by all women in time of war, this memorial helps in the healing process associated with the Vietnam war. Furthermore, it draws attention to the needs of women veterans today and our continued efforts to provide for the veterans of this country. I would like to have included in the RECORD, the remarks of the Majority Leader, Senator GEORGE MITCHELL. I believe the words spoken by my distinguished colleague truly summarizes the sentiments felt about the Vietnam Women's Memorial.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, November 10, 1993.

For immediate release

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL REGARDING CELEBRATION OF PATRIOTISM AND COURAGE

I am pleased to be here with such a distinguished group to join you in your Celebration of Patriotism and Courage to commemorate the dedication of the Vietnam Women's Memorial. I am especially pleased to be able to accept this sculpture on behalf of the Senate Veterans' Affairs Committee and the rest of the Senate.

Tomorrow, the nation's newest memorial will be unveiled on the Mall, in a grove of trees near the Reflecting Pool. When dedicated, the Vietnam Women's Memorial will become the first memorial honoring the military service of American women.

The memorial, approved by Congress and funded by private donations, is a moving tribute to the 11,000 female military and medical personnel who served in Vietnam.

Women served with great courage and dedication in Vietnam and made invaluable contributions in many critical roles. The memorial is a poignant reminder of the debt America owes to those women who served in the defense of our nation and its values.

Congress is currently taking other actions to ensure that the women who have served their country receive all of the benefits which they have so clearly earned.

Senator Rockefeller and Congresswoman Schroeder have introduced legislation to improve the Department of Veteran Affairs program of sexual trauma counseling for veterans and to enhance the VA's women veterans coordinator program. Senators Warner and Mikulski and Representatives Evans, Morella, and Lambert have been instrumental in developing and advancing these important bills.

I support this legislation, which was unanimously approved by the full Senate Veterans' Affairs Committee of which I am a member, and hope that it will be enacted into law in the near future.

I believe that our nation owes a tremendous debt to all of its veterans, male and female. However, we owe a special debt to the women veterans who have served so honorably, for so long, with so little recognition.

The Vietnam Women's Memorial is a highly visible symbol of the contribution which women veterans have made. It is also a first step in securing for women veterans the recognition and benefits to which they are entitled.

I commend the members of the Vietnam Women's Memorial project for their tireless efforts in securing the approval and funding for completion of this memorial. I also commend the sculptor, Glenna Goodacre, for her vision in designing the statute. I appreciate the work all of you have done on behalf of America's women veterans, and know that you have the appreciation of all Americans as well.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

STATEMENT ON THE NOMINATION OF LINDA HALL DASCHLE

Mr. LAUTENBERG. Mr. President, I rise today to enthusiastically support Linda Hall Daschle for the position of Deputy Administrator of the Federal Aviation Administration.

Linda has worked professionally in the aviation field for her entire career and has developed significant expertise in all aspects of our Nation's aviation system. She currently serves as senior vice president of the American Association of Airport Executives, a position she has held since 1987. In this capacity, she has directed the association's Federal affairs and environmental affairs departments, working in the areas of airport operations, safety, security, and capital development. Prior to this appointment, she served as director of Federal affairs of the Air Transport Association of America, Director of the Office of Congressional, Community and Consumer Affairs at the Civil Aeronautics Board, and as Regional Director of the CAB with responsibility for a 13-state region in the Midwest.

Linda's work in aviation has been marked with distinction, and she has taken on positions of increasing responsibility and challenge. She has demonstrated management skills and has excelled at reaching out to affected parties, the public, and State and local governments. She is thoroughly familiar with current policy issues and can work well with Congress. She is bright, articulate, knowledgeable, effective, and accomplished in her work and would be an excellent Deputy Administrator at the FAA. Her integrity is unquestioned.

Linda will serve the administration and the country well in this position. I support her strongly and urge a quick confirmation.

HAWAII COMPUTER TRAINING CENTER: REAFFIRMING SELF-WORTH

Mr. AKAKA. Mr. President, I would like to bring to the attention of this body a program whose inspiring success has impressed me greatly—the Hawaii Computer Training Center [HCTC].

It is as multifaceted as a rare gem. It represents a partnership between a community-based nonprofit organization and a global business giant. It is supported by Federal, State, and corporate funding. Its students may be in their late teens or in their sixties, or anywhere in between. It takes unemployed disadvantaged and minority trainees and gives them the ability to compete in a high-technology world.

HCTC is a joint venture between IBM Corp. and Alu Like, Inc., whose primary mission, throughout my home State, is to assist native Hawaiians in achieving social and economic excellence. Through the efforts of this IBM/Alu Like partnership and a local team of caring corporate sponsors, HCTC provides no-fee training for individuals who are unemployed or underemployed, who are unable to afford such training through conventional means and who have a true desire to improve themselves and their futures.

Since HCTC's doors opened in 1986, they have graduated nearly 350 students. Their job placement rate is 95 percent.

Yet, beyond the praiseworthy structure and the incredible employment success statistics, the essence of HCTC lies in the hearts of the truly special people who are part of each graduating class.

This past July, I was privileged to speak at the commencement of class XVIII. I can say, with fervent conviction, that the ceremony, like all others before it, marked much more than merely the completion of 15 weeks of intense computer training. It was a monument to the human spirit.

Every HCTC commencement bears testimony to an absolute commitment to purpose—an unwavering dedication, despite great personal sacrifice, to the pursuit of a valued mission and the achievement of a very admirable goal.

Every HCTC commencement pays tribute to personal strength in the search for a better tomorrow—courage, in the face of sometimes horrifying and intimidating odds, to take up the challenge and claim the right to a brighter future.

Every HCTC commencement is a forceful and undeniable reminder to the world of the unique identity and value of every individual graduate. It is a reaffirmation, to a society that often treats its members as faceless, that every one of these men and women is someone worthy of recognition, someone of dignity, someone who now holds what had previously seemed like out-of-reach dreams in his or her own hands.

And every HCTC commencement reflects achievements that have and can take on far greater and broader significance than even some graduates may recognize. The gloriousness of what they have accomplished for themselves also stands as a beacon of encouragement, empowerment and guidance to who knows how many others out in the community at large.

The American essayist Norman Cousins said, "The starting point for a better world is the belief that it is possible."

By taking that truth to heart and proving its value year after year, the Hawaii Computer Training Center, Alu Like, IBM, all others involved in support of this program and, most importantly, every successful student, continue to make believers out of everyone they touch.

They do not simply fulfill personal ambitions; they set prominent and lasting examples for us all. the brilliant flame of their achievements does not merely light individual paths to the future, they kindle new fires of hope all around them.

Mr. HATFIELD. Mr. President, will the Senator yield for one unanimous-consent request?

Mr. BRADLEY. I yield.

Mr. HATFIELD. I thank the Senator.

COSPONSOR ADDITION TO S. 1592

Mr. HATFIELD. Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 1592, legislation introduced by my colleague from North Dakota, Senator DORGAN, regarding unfunded Federal mandates.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senator BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I ask for order in the Senate.

The PRESIDING OFFICER. Will the Senate please come to order.

The Senator from New Jersey has the floor.

Mr. BRADLEY. Mr. President, I ask unanimous consent that a statement by me that restates and elaborates the points I made in the debate on NAFTA appear in the RECORD prior to the final vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF MARINA GENTILINI

Mr. BRADLEY. Mr. President, I rise to express my appreciation and respect for Marina Gentilini who served as my personal assistant for 15 years. Marina Gentilini will be retiring for health reasons at the end of this month after a career in Federal service that expanded the House of Representatives, the Commerce Department, and the Agriculture Department.

What can you say about someone who has been your right hand for 15 years? Loyal, competent, dedicated. She arrived in my office every morning by 7:30 and rarely left before 7:30, 8:30, even 9:30. She worked weekends, snatched vacations only when it was appropriate and wherever she was and whatever she was doing always remained available for my call.

An airplane canceled on a Sunday, call Marina. A speech that needed a new draft, call Marina. A train that had to be met, call Marina. A visitor needed a place to meet, call Marina.

A birthday or an anniversary that was almost forgotten, Marina called you. A TV appearance that could not be missed, Marina called you. Those 10 telephone messages that just had to be returned, Marina called you. A family from New Jersey whose 10-year old son wanted a picture with you, Marina called you.

Marina set a tone of professionalism that insisted on quality, some might say perfection, in little things such as the clothes people wore or in big things such as assuring ethical standards that were purer than Caesar's wife. She was steadfast and uncompromising.

Although she lived many years in Washington she never forgot her roots in the Minnesota small town where she grew up in a wonderful family that instilled her with a burning desire to excel and to serve. In many ways she never left that small town. In many ways I never left the small Missouri town I grew up in. That was one of our bonds.

Do not say a bad word about BRADLEY in Marina's presence or she will take your head off. Privately she was quite candid about my many obvious shortcomings, but publicly her perceptions of me shared with the world conveyed only the positive.

All people who telephoned me got Marina. After a conversation with her, they felt better even if the answer was no. She listened, empathized, counseled.

Knowing that in Washington there are two kinds of people, those who talk and those who do, Marina never left any doubt that she was a person of action. The paper had to move. The calls had to be made. The details that are the difference between the ordinary and the exceptional had to be attended to.

Marina also was a part of my family. My wife Ernestine relied on her, and our daughter Theresa Anne grew up with her in a role of loving aunt. In fact, I came to think of Marina as the older sister I never had.

So decades of service have come to an end. No more deadlines. No more schedules. No more tension. No more stress.

Marina deserves a lighter load, a long life, and the affection of those who care about her. She has mine and my family's, as well as my gratitude to her for 15 years of extraordinary dedication, competence, and loyalty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the Chair.

Mr. President, I think all of us who had the privilege of hearing those remarks of the distinguished colleague from New Jersey were deeply touched.

Mr. President, we cannot hear. May we have order in the Chamber? I will just wait a minute.

The PRESIDING OFFICER. The cheer is for the Senator from Virginia.

Mr. WARNER. Mr. President, I recognize there are certain things as a football game going on, and momentarily I will resume.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. WARNER. Mr. President, I rise as one of the very last Senators to express my conviction that the North American Free-Trade Agreement is in the best interests of this country, and I shall shortly cast my vote in its support.

I do so like almost every colleague, after a very, very long period of deliberation and study, and I also do so bringing back the refrain from an old song that I knew so well during World War II. It related to primarily our bomber force, but the song went something like "coming home on a wing and a prayer." And that is the way I feel.

My prayer is that this agreement will help give Mexico the courage and the conviction to join America as a full partner in stopping the ever-increasing illegal flow of drugs across that border. My prayers will likewise be that we join together as full partners the two nations in stemming the flow of illegal immigration.

My vote is cast for those two reasons, not for any promise from the White House or any other piece of largess or politics or otherwise. It is really solidly for those two reasons.

The wing is like the sturdy wing. It is like that wing that supported our free trade through these many years of our country. It has been a concept that each time has remained sturdy and it has remained sound.

Let us look at the North American Free-Trade Agreement for what it is. It is really an experiment. There have been the hours and hours of debate, the study, the hearings. Well-intentioned people have come forth time and time again.

I have listened to all that is going to happen for the good in this country and all that is going to happen for the good in Mexico. And it is described as a panacea; it is going to solve almost every ill on this side of the border and every ill on that side of the border. I thought sometimes we transplanted the word "panacea" in the dictionary for NAFTA.

For instance, I must have had a dozen industrialists into my office this past week, well-intentioned manufacturers of Virginia, everyone of them solidly in favor. Then they recounted time and time again we are ready to go, we are ready to send this. It is like everyone was lining up like an Oklahoma land rush flying down in Mexico.

If you listened to the detractors you hear that everybody on the Mexican side is ready like a land rush to flow up into the United States.

Really we do not know what is going to happen. This is an experiment, but we go in it with good faith and good intentions and the hope and the prayer that it survives.

If it does not work out, I hope this body has the courage to stand up and face that fact and make such adjustments as may be necessary.

I yield the floor.

Mr. AKAKA. Mr. President, I have carefully considered the various studies and arguments offered by both sides and have listened closely to the Senate debate over the past 2 days. I have decided to vote against this North American Free-Trade Agreement.

I am dismayed by the hyperbole and caricature frequently employed by NAFTA advocates to portray opponents of this agreement as frightened protectionists or captives of special interests. Mr. President, I share the goals and vision so eloquently expressed by President Clinton in arguing the NAFTA. I share the President's commitment to ensure a strong and competitive American economy, to provide good business opportunities for U.S. firms and high-paying, skilled jobs for our workers, and to promote democratic ideals and values abroad. I support free and fair trade and know for a fact that, on a level playing field, American businesses and workers can successfully compete and win in the global economy.

Mr. President, I recognize the importance of new, international markets to the growth and prosperity of our economy. I do not oppose this pact because of what it proposes to do by removing trade barriers with Mexico and improving our access to Mexican markets. No, I will vote against NAFTA because of what it overlooks.

The North American Free-Trade Agreement provides strong protection for the rights of property and capital. In the agreement, the United states sought stringent provisions to protect a number of specific investor rights and secured formal changes in Mexican practices. NAFTA also ensures a guaranteed level of access for American companies to Government procurement contracts in Mexico. GAO estimates that opportunities for U.S. suppliers of goods and services with the Mexican state oil and electrical industries, PEMEX and CFE, are a $6 to $9 billion market.

I am convinced that NAFTA presents great opportunities for a wide array of American corporations. I commend our trade negotiators for their success in locking in these guaranteed access and investor security provisions. However, in contrast to these strong business and market access protections, NAFTA fails to provide comparable, secure, and enforceable protection for labor rights and U.S. environmental standards. NAFTA lacks any incentives encouraging the Mexican Government to enforce its own labor laws, to respect labor and human rights. This is why I must vote against this agreement.

Mr. President, I have reviewed all the studies which forecast a limited positive overall impact on the U.S. economy with slight job losses or gains. I am concerned that the combination of strong investor and capital protections, combined with the weak labor side agreement, will exacerbate American job losses and suppress American wages. I am not referring to the low-skilled, low-wage jobs which some studies predict we will exchange for better-paying, skilled positions. My concern is for the skilled manufacturing jobs that already exist in the United States.

During the debate on Thursday night, my friend, the senior Senator from Maryland [Mr. SARBANES], laid out a detailed argument about how strong investor protections and weak labor safeguards could depress wages and displace jobs for American workers. We are all familiar by now with the Roper Poll conducted for the Wall Street Journal which surveyed American business executives. Forty percent of the executives polled said they would likely shift some production to Mexico if NAFTA should pass. Almost a quarter surveyed admitted that they would use NAFTA as a lever during bargaining to exact concessions and hold the line on wages. The Senator from Maryland is correct in emphasizing that we should be focusing on the fact that the Mexican work force represents 30 percent of the United States work force, not the GDP comparison between our two countries. The ability of the Mexican Government to suppress labor rights and ignore it's own labor, safety, and environmental laws serves to keep wages low—much lower that the true level of worker skill and productivity—could have a tremendous impact upon our economy and the livelihood of thousands of American communities.

A recent commentary in Business Week also speaks to the possibility of substantial United States job losses if investment dollars, both domestic and foreign, are shifted to Mexico. Mr. Aaron Bernstein, author of the article, points out that all of the econometric projections fail to consider the implications of a shift in investment from the United States to Mexico. He concludes that significant capital movement to Mexico could eliminate the forecast job gains from increased trade. Further a shift of $2.5 billion in new investment to Mexico would lose 375,000 United States jobs over 5 years.

Mr. President, this agreement with Mexico has significance beyond the specific trade and investment issues we are currently debating. NAFTA is intended to serve as a cornerstone for future trade agreements with Chile, Argentina, and other Latin American nations, perhaps, eventually expanding to encompass the Pacific rim. If NAFTA is to become the beacon for other nations to join us in free trade, we must make certain that the precedent we set here today reflects our great Nation's cherished ideals, values, and commitments. I identify these as the following: elimination of barriers and opening of markets, promotion of respect for human rights and democratic values, assurances for sound environmental stewardship, and increased opportunities and prosperity for working families.

Mr. President, I have come to the conclusion that NAFTA fails to meet these standards. While I will vote against this agreement, I also promise to work with President Clinton to strengthen our economy, create good jobs, and increase prosperity for all Americans. I look forward to working with him to ensure that we provide the worker retraining, better educational opportunities, and affordable health care that our American working men and women rightly deserve. I have faith in the President's promise to guard against any exploitation of the agreement that will be detrimental to U.S. workers and our economy at-large, and I intend to join him in maintaining the strictest vigilance in that regard.

Mr. WOFFORD. Mr. President, today I will vote against the North America Free-Trade Agreement. Two years ago, when President Bush sought fast track authority for NAFTA, I voted against it. I believed then, as I do now, that this trade agreement would mean that Pennsylvania jobs would be on a fast track to Mexico, and further lower our workers standard of living.

Not much has really changed. NAFTA was the wrong agreement as negotiated by the Bush administration. And I am convinced that it is the wrong agreement now, even with the side agreements added by the current administration in order to try to remedy NAFTA's defeats. I am convinced it is still not a good agreement.

Let me quote a recent Russell Baker column:

> * * * there's something cruel, offensive, and faintly dishonest [in the NAFTA-backers'] argument that any pain felt by the working classes will be only a "short-run" experience. The argument comes easily to people with the financial security required to live in the "long run." Corporate America and the Washington establishment, both ardent for this agreement, consist of people who can afford to wait for the year of the Jubilee.
>
> For working stiffs, life is lived in the "short run." The rent is due at the end of the month, the grocery money every Friday. Politicians, tycoons, and media stars exhorting such people to ponder the comforts to come in the "long run" can only sound like hypocrites or visitors from another planet.

Immediate job loss is my first concern about NAFTA, but there is more. This agreement will force a loss in workers standard of living. Because for many workers, this agreement will give companies new leverage to drive their wages down in order to meet low wage competition from Mexico and to forestall companies from moving to Mexico.

I support expanding international trade—trade that translates into a higher standard of living and greater economic opportunity. But trade agreements must raise the standard of living, not lower them. We have an example of a positive trade agreement already, the European Common Market and the careful way it integrated Spain and Portugal into the community of democratic European countries.

By contrast, this NAFTA will not do enough to eliminate artificially low wages in Mexico. And it does not do enough to ensure that the benefits of freer trade will translate into higher living standards for those here at home and in Mexico.

And it does nothing for those who stand to lose the most. Are NAFTA's corporate supporters committed to helping workers adjust to the new economic rules? Will there on the Republican side of the aisle who gave so many votes to NAFTA now support the kind of comprehensive worker assistance and training program that must go alongside such a trade agreement? I hope so.

There are those that say that if you are against NAFTA, you are running away from the competition and hiding from the new world order. They say it will weaken our hand in negotiating agreements with Asia and Europe.

I do not think so. The last thing I want is the United States to miss opportunities to improve economic opportunities here at home or to shrink from our responsibilities abroad. I believe the strong concern for American workers shown by the opponents of NAFTA will be a signal to other countries to take more seriously U.S. proposals to make new trade agreements fair.

We could have done better than this NAFTA. But now we must all hope that the gains foreseen by the agreement's proponents will be forthcoming.

Now is also the time to move forward and on to other battles. I have written President Clinton to congratulate him on his victory and to call on him to show the same kind of leadership that led to NAFTA's approval in pressing for a comprehensive program of adjustment assistance for families and communities, a successful completion of the GATT negotiations, extending unemployment benefits and health care reform.

Mr. President, I ask unanimous consent that the full text of this letter to President Clinton appear following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 18, 1993.
President WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Congratulations on your victory in the House of Representatives last night which appears will soon be duplicated in the Senate, but without my vote. My own opposition to this North American Free Trade Agreement will be recorded when it comes before the Senate. But now we must all hope that the long-term gains for our economy which you foresee will outweigh the pain it will bring to many working families in Pennsylvania and other states. And we must work together to deal with the loss of jobs and the downward pressure on wages that will be part of the price paid for free trade with Mexico.

When President Bush sought fast track negotiating authority for the North American Free Trade Agreement I voted against it—because I did not think we should be saddled with an agreement that put American jobs at such risk. I wanted to make sure that any agreement reached adequately protected the interests of the working people of both the United States and of Mexico. And I wanted a new administration to have a chance to start afresh in shaping a common market approach in which trade would be on fair terms.

I will vote against NAFTA in the Senate because, among other reasons, I do not think the side agreements on the environment and labor standards are strong enough to force the Mexican government to bring about the changes in policies and practices required. But once NAFTA goes into effect those side agreements on labor standards and the environment must be vigorously enforced and, I hope, strengthened. I look to your leadership to do so. Mexico will hold a great competitive advantage until its labor and environmental standards are brought up to a level with our own.

Then we must respond with a sense of urgency to those who lose their jobs when companies shift to lower wage operations in Mexico. For thousands of Pennsylvanians, the pain from NAFTA is not likely to be "short-term." In the present state of our economy, the loss of a job usually means a long and difficult transition. And for workers who feel the pressure of being asked to take lower wages—or who make other concessions in order to compete with Mexican products and forestall their employer from moving to Mexico—this pain will be recurring.

Beyond the full enforcement of labor and environmental side agreements which will help both American and Mexican workers, there are several vital initiatives needed for the sake of American families and communities. They reflect your stated commitment to "putting people first."

The first urgent need is to develop comprehensive dislocated worker assistance. The current transitional aid proposal for workers hurt by NAFTA is inadequate. You have promised a comprehensive trade adjustment assistance program that includes job training, health care benefits and income supports, and assistance to communities to create jobs. But many of NAFTA's supporters in Congress have in the past been unwilling to support such investments in American workers and communities. We will need all your persuasive skills to bring these supporters to the legislative table.

Those who may benefit from NAFTA have a moral obligation to support aid for those who will be burdened by it. That aid should include far greater incentives for corporations to fulfill their responsibility, not only to current shareholders, but to longtime employees, their families and communities.

Second, we must negotiate a successful conclusion to the General Agreement on Tariffs and Trade. GATT is potentially of far greater economic importance to the people of Pennsylvania and the U.S. as a whole than our trade relations with Mexico. The current draft agreement for GATT does not sufficiently open overseas markets to American goods. It does not compel other nations to adequately reduce their agricultural subsidies and import barriers. And it threatens American laws against unfair trade practices. I hope the size and strength of the opposition to NAFTA will strengthen your hand in negotiating a GATT that remedies these problems and expands the benefits of world trade for American workers and companies.

Third, I urge you once again to call on Congress to extend unemployment compensation benefits prior to its recess. You sought such an extension earlier this autumn and the need remains great, both in Pennsylvania and across the country. It would be unacceptable for Congress not to pass assistance which, for many families, remains critical to paying the mortgage and putting food on the table.

Fourth, and of overriding importance to the health of our economy and of our people, we must win the fight for national health care reform. As you have said, health care reform is necessary to give Americans the confidence to change. And for those who lose their jobs, reform that guarantees continued health coverage is essential.

You have my good wishes for your meeting with the leaders of Asia and my pledge to work with you to achieve these goals.

Sincerely,

HARRIS WOFFORD.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that a statement concerning NAFTA by former Peace Corps volunteers be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY FORMER PEACE CORPS VOLUNTEERS AGAINST NAFTA

Having lived in Latin American or other less developed regions of the world as Peace Corps Volunteers, we are (with friends or neighbors also signing) concerned about how the North American Free Trade Agreement (NAFTA) would affect people north and south of the U.S./Mexico border.

We doubt the claim made by some that NAFTA will help Mexico be more stable and prosperous. Indeed, a trait common to poor, unstable nations is that their wealthy elites are more active in export/import trading than in developing the internal markets and human resources of their own nations.

We therefore appeal to Congress to: (1) reject NAFTA; and (2) examine whether our nation's thirst for foreign markets and resources is due to our overlooking needs and resources of our own people, leading to the growing income disparities here.

Reich, Orianne, Alaska (Wasilia).
Hopman, Clarence,[1] Arkansas (Dumas).
Rose, Steve, California (Costa Mesa).
Easterly, John, California (Niadera).
Schwind, Carolyn, California (San Diego).
McGraw, Bruce, California (San Diego).
Kennedy, Bill, California (San Francisco).
Alexander, Bill, California (San Luis Obispo).
Kemp, Suzanne, California (Santa Rosa).
Rosales, Roduska, California (Sebastopol).
Roberto, Jacquelyn, California (South Pasadena).
Kent, Jon[1], Colorado (Denver).
Cruz, Shelly Horsley, Connecticut (New Haven).
Kis, Cynthia & David, Florida (Naples).
Boggs, Paulette[1], Florida (Prince Charles).
Gladden, Jennifer, Florida (Prince Charles).
Poister, Molly R., Georgia (Roswell).
Halpern, Pat, Hawaii (Hilo).
Moorman, Dennis, Illinois (Chicago).
Feldmeier, Russell, Illinois (Chicago).
Boyd, Lucinda, Illinois (Chicago).
Inks, Jeff, Indiana (Carmel).
Trembley, Stephen, Kansas (Arlington).
Nagengast, Dan, Kansas (Auburn).
O'Connor, Frances, Maryland (Baltimore).
Hickey, Julia, Maryland (Baltimore).
Conn, Del, Maryland, (Bethesda).
Caldwell, Michael,[1] Maryland (Bowie).
Harris, Narva, Maryland (Germantown).
Lucas, J.D., Maryland, (Glen Burnie).
Beckwith, Frank,[1] Maryland (Hagerstown).
Zellem, Marsha, Maryland (Rockville).
Yang, Helen,[1] Maryland (Rockville).
Dain, William, Mass. (Newtonville).
Grossman, Richard, Mass. (Provincetown).
MacArthur, Mary, Mass. (Somerville).
Green, Ron, Massachusetts (Bedford).
Kieltyka, David, Michigan (Hemingway).
Blackburn, Joe, Missouri (Concordia).
Walton, Roy,[1] Missouri (Montgomery City).
King, Ed,[1] Missouri (Princeton).
Diechman, Don, Missouri (Wellsville).
Rosario, Angel, Montana (Eureka).
Rosario, Lynne, Montana (Eureka).
Quinn, Clover, Montana (Hamilton).
Schaefer, Ed,[1] Nebraska (Bellevue).
Furlong, Beth, Nebraska (Omaha).
Van Atta, Mike,[1] New Jersey (Chatham).
Caruso, Fred,[1] New Jersey (Columbia).
Koch, Fred,[1] New Jersey (Morganville).
Henry, Ed, New Jersey (South Orange).
Nylan, Henry,[1] New York, (Brooklyn).
Saul, J.,[1] New York (Lynbrook).
Gray, Ed, New York (St. Johnsville).
Shand, Hope,[1] North Carolina (Chapel Hill).
Ehrman, Cindy,[1] North Carolina (Chapel Hill).
Christman, Carolyn,[1] North Carolina (Chapel Hill).
Clouse, Mary, North Carolina (Moncure).
Bixby, Don,[1] North Carolina (Pittsboro).
Zaumsell, Kathy, North Carolina (Pittsboro).
Speas, Richard, North Carolina (Rural Hall).
Holloway, Brenda, North Carolina (Winston-Salem).
Barone, Rev. Alan D., Ohio (Dayton).
Brock, Madonna, Ohio (Goshen).
Sheely, Phillip,[1] Pennsylvania (Abbottstown).
Sheely, Norma, Pennsylvania (Abbottstown).
Currente, Peter,[1] Pennsylvania (Albrightsville).
Bosch, Edward J., Pennsylvania (Allentown).
Bronot, Ed,[1] Pennsylvania (Dove).
Bargo, Conrad H., Pennsylvania (East Stroudsburgh).
Elnicki, Anna, Pennsylvania (Fallsington).
Doherty, Jim, Pennsylvania (Havertown).
Kapner, Daniel, Pennsylvania (Lancaster).
Bishop, Lee,[1] Pennsylvania (Levittown).
Bishop, Edie, Pennsylvania (Levittown).
McGrath, Joseph A., Pennsylvania (Monroeville).
Choi, Monica, Pennsylvania (Narberth).

Morrow, Jeanne S., Pennsylvania (New Bloomfield).
McGarvey, Paul, Pennsylvania (North Wales).
McCleary, Keith, Pennsylvania (Red Lion).
Llodoc, Letitia M., Pennsylvania (Stroudsburg).
Havlik, Patricia, Pennsylvania (Womelsdorf).
Fraser, Robert,[1] Pennsylvania (Yiadon).
Riggon, Vicki,[1] Tennessee (Nashville).
Hickerson, Larry,[1] Tennessee (Nashville).
Oliveri, Joseph, Texas (Austin).
Fomey, Joe, Texas (North Richland Hills).
Oakley, Catherine,[1] Texas (San Antonio).
Mann, Grant,[1] Utah (Salt Lake City).
Ross, Lew,[1] Utah (Salt Lake City).
Maurer, Paul,[1] Virginia (Arlington).
Clausen, Donald, Virginia (Burke).
Clausen, Pat, Virginia (Burke).
Bryan, Alonzo, Virginia (Falls Church).
Hoskins, Mark,[1] Virginia (Falls Church).
Joannides, Peter,[1] Virginia (McLean).
Leahy, Vic, Virginia (Springfield).
Ridlington, John, Washington (Kettle Falls).
Bates, Dale M., Washington (Nine Mile Falls).
Bates, Suzan, Washington (Nine Mile Falls).
Heidlebaugh, Tom, Washington (Tacoma).
Allen, Marsha, Washington, D.C.
Leach, Maryann, Washington, D.C.
Wolf, Steve, Washington, D.C.
Meadows, Connie,[1] West Virginia (Huntington).
Hackenberger, Steven, Wisconsin (Janesville).
Cutsinger, Loren, Wisconsin (Janesville).
Post, Arthur, Wisconsin (Mr. Horeb).
Rhyner, Vicki, Wisconsin (Wausau).

[1] Experience is other than Peace Corps, most are Viet Nam veterans.

Mr. HOLLINGS. Mr. President, this attempt to pass NAFTA has been an unprecedented effort to twist facts and distort the truth. Yesterday, the Commerce Department announced new trade figures. A funny thing happened to our burgeoning trade surplus with Mexico, it is disappearing. Last month we posted a $101.1 million trade deficit with Mexico. Last year we did have a $5.4 billion surplus, this year that surplus has shrunk to $1.7 billion, a 60-percent decrease.

Mr. President, it is no surprise to this Senator that the trade surplus has diminished. Nora Lustig at the Brookings Institution predicted this in 1991.

> The upsurge in imports is in part a response to the expansion of productive capacity in anticipation of Mexico's positive outlook * * * The Current large imbalance in the trade account may well be a one-time phenomenon in the sense that it is the result of the modernization of the productive plant that will soon render its fruits in the form of higher net exports.

The fact is that despite the propaganda disseminated by Mexico's high-paid lobbyists, Mexico's economy is growing at a paltry 1.1 percent, hardly a fast-growing economy.

As Mark Twain said, "the truth is so precious it should be used sparingly." In the NAFTA debate, it was hardly used at all. The trade figures released today prove this.

Mr. LIEBERMAN. Mr. President, I rise in support of NAFTA.

NAFTA promises clear benefits for my home State of Connecticut, for this country, and for the future of the global trading system. I would not vote for NAFTA otherwise.

It is no secret that the downturn in the economy has hit my State especially hard. The economy—and more specifically the need to keep and create good jobs—is of paramount concern to the people of Connecticut.

I believe that one way to keep and create these jobs is to capitalize on Connecticut's strength as a savvy and effective exporter. Removing the biggest barrier we face in trying to sell our goods and services in Mexico—that is lowering the tariffs we pay in order to get our goods into Mexico—will mean more of our goods and services going to Mexico. It's that simple.

Indeed over the 5-year period of 1987–92, Mexico took steps toward opening their markets to our goods. Over that time Connecticut's exports to Mexico grew 142 percent—making Mexico Connecticut's seventh largest export market. At the same time, the United States went from running a trade deficit to running a trade surplus with Mexico. What that translates to in concrete terms is that in 1992 the people of Mexico bought $40.6 billion of our goods and services—$5.4 billion more than we bought from them.

Let me give you another illustration of how Mexico takes to heart the urging to "Buy American." The average Mexican spends $380 per year on our goods and services. The average Japanese, who earns 10 times as much, spends only $400. Of every dollar the Mexican people spend on imported products, 80 cents goes to the United States.

Connecticut, among the top five exporting States in the country, is in a wonderful position to benefit from the implementation of NAFTA. Sikorsky envisions the export of helicopters to be used by the Mexican oil industry. Connecticut orchard owners will no longer face a 20-percent tariff on apples being sent to the Mexican market. Pratt and Whitney hopes to export engines for Mexico's commercial airlines. Lego Systems expects increased sales to Mexico to translate into a 10-percent expansion of their workforce in Enfield. And Hartford, CT, the insurance capital of the world, will finally be able to break into the Mexican insurance market—a fact which will undoubtedly provide a big boost to their troubled bottom lines. In the areas of chemicals and computers—both important export markets for Connecticut—average Mexican tariffs are in the 10–20-percent range. When these tariffs are taken down to zero, we can expect substantial benefits.

I understand that there is a tremendous amount of concern that Mexico's lower wages will cause companies to shut down operations in the United States and move to Mexico. This is a concern that I can relate to because Connecticut is a relatively high-wage State that often faces the prospect of companies moving to lower wage States. However, a few facts argue against that sound of jobs moving to Mexico that we have heard so much about. The first is that wages, in and of themselves, do not determine where a company locates. It has been rightly argued that were this so, Haiti and Bangladesh would be economic powerhouses. If you need further evidence, just ask Keith Gibson with Quality Coils in Connecticut. He moved to Mexico 4 years ago to take advantage of cheap labor and returned to Stonington, CT, last April. For Mr. Gibson it came down to productivity—"I can hire one person in Connecticut for what three were doing in Juarez."

Again, I could not stand on this floor and vote for an agreement that I thought would hurt us. I have not dismissed lightly the views of people like John Olsen, with Connecticut's AFL–CIO, Phil Wheeler with the Connecticut's UAW, Andy Romegialli with Connecticut's Machinists or Steve Alger with Connecticut's Electrical Workers. They are people I respect, people whose opinions I value, people I consider to be my friends. However, on this issue, I can say only that we disagree and I hope they will understand our disagreement is over tactics, not goals. I believe NAFTA will protect and create jobs in Connecticut.

There is a tremendous amount of fear in Connecticut, and across this country, about our economic future. As Vice President GORE stated so eloquently last week, "This is a choice between the politics of fear and the politics of hope. It's a choice between the past and the future. This is a fork in the road. The whole world is watching."

I would also like to address President Clinton on the broader issues that I believe are involved in this NAFTA debate.

First, congratulations. The House vote was an impressive achievement. Two weeks ago, NAFTA's prospects were grim, and you and your CPR crew brought it back to life. Only the best in the Presidential business are able to achieve this kind of turnaround.

This accomplishment should also put to rest many of the complaints that have been made against you. Too often, we have heard that you have been indecisive and uncertain; your ability to take over this issue and rescue it puts that charge to rest. Too often, we have heard that you are to ready to compromise and delay, but there was no compromise or delay in this fight. This battle, perhaps more than any other act in your Presidency, has taught Congress about your resourcefulness and your advocacy.

Second, thank the Republicans. For the first time, on one of your most important initiatives, you put together a bipartisan alliance. We do not have a parliamentary government—we have a power-sharing arrangement between the parties. Your work with the Republicans on this legislation and the positive respect that emerged on both sides in this process presents an opportunity for you to build a bipartisan bridgehead. The best way for your health care initiative and other major programs to emerge is if you continue to build on the working relationships with the other side of the aisle that you have begun on NAFTA. There is an opening here; I urge you to build on it.

Third, one of the most important messages that the debate on this issue has brought home over the last several months is the depth of the anxiety most Americans feel about their economic future. They are right to feel this way. Since 1973, real incomes for all but the upper middle class have been in decline in this country. Too often in recent years, American companies have chosen to boost productivity through layoffs rather than more aggressive competition.

You understand these issues—I have seen ample evidence of that over the last year. I hope that your two major economic issues this year—reconciliation and NAFTA—will be followed up with a comprehensive economic strategy next year.

I encourage you to be bold next year. This economy is troubled and there is a tremendous amount of fear in this country that Congress does not have the courage to do something about that trouble. We need to cut the budget further and we need to consider how to leave more dollars in the pockets of the middle class and the job generators in this country. After the House vote on NAFTA, you announced you were going to send a job training bill to the Congress early next year. That's great. But job training is not a substitute for job creation. Let me urge you to assemble a broad and dramatic legislative package and get it up here early in 1994. You and your administration know all the pieces that must be included. They include trade promotion, reduction of export controls, promotion of manufacturing and technology programs, lower cost financing for growing firms, better technology transfer, better product commercialization from our massive Federal investments in basic research, and stronger support for R&D. Mr. President, no one bill will do, no single strategy will work in isolation; I ask you to open a battle on all these economic fronts.

Behind the scenes, deep in your bureaucracy, your agencies have been making real progress on this agenda, but the American people do not know that. Send us a package that tells us where you stand on these issues and builds legislative support for a tough agenda to recapture foreign markets, rebuild our manufacturing base, restore technology leadership.

In closing, Mr. President, I ask you to speak to the anxiety Americans have about their economic future by working with this Congress to develop a full economic agenda. A number of us in this body—from both sides of the aisle—are eager to help shape and implement that agenda.

Mr. DURENBERGER. Mr. President, there are many people who worked hard to achieve the NAFTA success, including the President and his Cabinet. To me, the one person who ranks at the top of the list is my former colleague, Congressman Bill Frenzel.

As you know, Bill has been serving the Clinton administration as Special Adviser for NAFTA, concentrating on Republican votes. When Bill was called by the President, he willingly accepted the task, and he dropped his other priorities to pursue a NAFTA win. He was so committed to the goal of passing NAFTA legislation that he chose to serve the President as a volunteer.

Bill did not have an enviable job in the House. The lobbying was intense, often brutal. Many Democrat leaders deserted their own President to oppose the NAFTA. Republicans, who resisted handing a victory to a President of the opposite party, were not easily convinced that they should be the ones to save the agreement. The target for Republican votes was 118, with 100 Democrats to complete the tally. At first both targets seemed impossible to meet.

It was not easy for Bill Frenzel, a long-time former member of the Ways and Means Committee's trade subcommittee, from my home State of Minnesota, to convince Republicans to support NAFTA. This was no longer a Bush initiative. There was more opposition to this agreement than any trade agreement faced previously. The public was starting to take an interest in NAFTA. It was hard for them to understand the complicated details in this lengthy agreement. It was hard to provide to Members of Congress the ammunition they needed to convince their constituents that this agreement was important when the prevailing view was that NAFTA was the cause of all evils.

Always a hard worker, Bill took the time to work with all 132 Republicans who voted for the NAFTA, many of which labored over what was a tough decision. He persisted in his round-the-clock mission and delivered 14 more votes than expected. That is the kind of achievement that may never be understood "outside the Beltway", but I want to publicly thank Bill Frenzel for the kind of success few ever predicted.

With Bill's leadership, 132 Republicans were able to look beyond tempting politics to cast a vote that would ensure the continued leadership of the United States in the international arena. Only 102 Democrats looked beyond this vote to understand how this would undermine their President's efforts to combat trade barriers and expand U.S. trade opportunities. There were 156 Democrats who chose to serve up a serious defeat for their own President that would have been devastating to an already weakened President.

I thank all of my colleagues in the House and the Senate who had the courage to vote for NAFTA despite extensive opposition. I especially thank my former colleague Bill Frenzel. To me he is the real hero of this debate.

Mr. CONRAD. Mr. President, this is a difficult vote for me. I support free trade and agreements that open markets to U.S. products. Mexico is a growing market for United States products and a gateway to the rest of Latin America. North Dakota's economy is centered around agriculture, and agriculture is extremely trade dependent. Trade agreements that eliminate trade-distorting export subsidies, open markets and create a level playing field are clearly in the interests of our agricultural producers because U.S. agriculture can compete with anyone in the world when the rules are fair.

Moreover, the world is shrinking and, as a result, the global economy is changing. Trillions of dollars in investments circle the globe every day, chasing the capital markets from Tokyo to Europe to Wall Street. Revolutions in telecommunications allow information to move throughout the world unimpeded and played a key role in the fall of communism. National boundaries are becoming less and less important in international commerce. These changes are not going to stop if this country tries to ignore them or turns its back on the world. As President Clinton has said, we need to compete, not retreat.

For all these reasons I strongly believe that we need to enter into a trade agreement with our neighbors to the south. We need to create a framework that defines the rules of the new global competition. These rules will determine not only who wins and who loses in this competition, but also what values are worth preserving amid this competition.

Unfortunately, the North American Free-Trade Agreement [NAFTA] we have before us today is not free trade and it is not fair trade. Instead, it establishes unfair rules for wheat and barley growers in my State, and it creates a playing field that is tilted against American workers. If our vote today were on a trade agreement that established free and fair trade with Mexico, I would enthusiastically support it. But that is not the choice we have before us.

EXAGGERATED RHETORIC

The NAFTA represents the first trade agreement ever reached among countries with such different levels of economic, social and democratic development. NAFTA will have a profound influence on the future course of our economic development, not so much through its direct effects as through the signals it sends about our priorities, about how we will approach our economic future, and about who will win and who will lose from this approach. These are important questions and deserve careful consideration and debate.

That is why I find it so disappointing that, over the past several months, these important questions have been buried in an avalanche of demagoguery about the NAFTA. Listening to many supporters, one might think that passing NAFTA would solve all our economic problems and instantaneously move average working Americans into the higher paying jobs of the future. Listening to many opponents, one might think that passing NAFTA would cause all our manufacturing jobs to move to Mexico, destroy the Mexican and United States environments, and give away our sovereignty.

Of course, both these views are wrong. The NAFTA is neither economic salvation nor economic disaster. Some aspects of the NAFTA will be good for our country, and some will be bad; on most issues, the arguments for and against the NAFTA are closely balanced. Despite the many claims about how many jobs the NAFTA will create or cost and the many arguments on other issues, no one really knows what the future will hold—with or without the NAFTA. We do know that the Mexican economy is small enough that, whether the overall effect is positive or negative, it will likely be relatively small in comparison to our overall economic performance.

In addition to looking at the impact of the NAFTA on the country as a whole, I have spent a great deal of time considering its impact on North Dakota. Here again, the rhetoric of NAFTA supporters is not borne out by the facts. Wheat is the most important crop in North Dakota. Wheat growers hope that recent commitments from the administration will resolve the many problems created by the United States-Canada Free Trade Agreement [CFTA], but so far we have only vague promises and no action. Some other commodities anticipate very little gain from the NAFTA. Still others expect expanded trade opportunities in Mexico as a result of NAFTA based on projections by the administration and other NAFTA supporters. But because the Mexican market is small compared to our overall agricultural exports any impact on prices and incomes will likely be small; the estimates of price increases after 10 years are smaller than daily fluctuations on the commodity exchanges. Moreover, I am not convinced that the optimistic estimates of export gains will be borne out in practice, because I have seen previous optimistic promises on the impact of a trade agreement run into a bitter reality for North Dakota farmers.

LESSONS OF THE CANADIAN FREE TRADE AGREEMENT

Mr. President, I have heard rosy projections before, and they have made me very skeptical of promised benefits from a trade agreement. When the United States-Canada Free Trade Agreement came before the Congress in 1988, I was given promise after promise that the Canadian agreement would be good for North Dakota and that it could not possibly harm wheat producers in this country.

Mr. President, since the [CFTA] was implemented, Canadian wheat has flooded into the U.S. market. Imports of durum have increased from nothing in 1985–86 to 15 million bushels in each of the last 2 years. Imports of hard red spring wheat last year—a record 35 million bushels—were five times the average in the 5-year period prior to implementation of the CFTA. This has happened not because Canadian wheat farmers are more efficient or more competitive than U.S. producers, but because the CFTA put in place a system of unfair competition.

For example, the CFTA allows Canada to use transportation subsidies on wheat and barley shipments into the United States. And it does nothing to curb the secretive, anticompetitive pricing practices of the Canadian Wheat Board. I recognized the problems these flaws in the agreement could cause for North Dakota, and I sought assurances from the Reagan administration that these problems would be resolved. Unfortunately, these assurances have turned out to be worthless. We were told in the CFTA implementing legislation that the President would negotiate an end to eastbound Canadian rail subsidies. That hasn't happened. We were told that we retained the option to use section 22 of the Agricultural Adjustment Act to protect our farm programs. Section 22 requires the Secretary of Agriculture to advise the President whenever he has reasons to believe that imports are materially interfering with any program or operation of the Department, and further requires the President to take action if he agrees that there is reason for such belief. But the Bush administration refused to even consider initiating a section 22 case despite clear evidence of damage to the wheat program.

As if that were not enough, Mr. President, we learned earlier this year that in a secret agreement then-Trade Representative Clayton Yeutter had told the Canadians that the plain language of the agreement when it comes to selling into our market at below cost did not mean what it said. The agreement says that Canada cannot sell into the United States at less than the full acquisition price of the grain. But, instead of the full acquisition price of Canadian grain, Mr. Yeutter told the Canadians that we would only count part of the price. We wouldn't count the transportation subsidy that gives their producers a 50 cents per bushel advantage and we wouldn't count the interim and final payments of the Canadian Wheat Board that typically amount to at least 20 percent of the total payments the Canadian Wheat Board makes to producers.

The resulting imports have depressed prices and cost U.S. producers hundreds of millions of dollars in lost income. And because the types of wheat produced in Canada compete most directly with those grown in North Dakota, my State has borne the brunt of this unfair competition. This has been a bitter lesson for North Dakotans. It has poisoned the well for them—and for me—when it comes to so-called free-trade agreements. When I first came to the Senate, I believed strongly that free trade could benefit our country in general and agriculture in particular because of its dependence on export sales. I still believe this. However, I have learned that when it comes to so-called free-trade agreements, the devil is in the details. And in the CFTA, those details have cost North Dakota hundreds of millions of dollars. This causes many in agriculture, and many who represent agriculture in the Congress, to be very skeptical when we examine so-called trade agreements and the gains we are told they will bring.

IMPACT OF THE NAFTA ON NORTH DAKOTA

My experiences with the CFTA necessarily color my approach to the NAFTA, especially since NAFTA incorporates these flawed provisions of the CFTA. As it was negotiated by the Bush administration, there was no question in my mind that the NAFTA would have been bad for North Dakota. Not only did it incorporate the flawed CFTA provisions on trade in grain, it extended them to Mexico and made them worse by allowing Canada to use westbound transportation subsidies—prohibited in the CFTA for shipments into the United States—for shipments into Mexico. It contained a loophole that would have permitted Mexico, which is currently a net importer of sugar, to ship unlimited amounts of sugar to the United States if it became a net exporter by converting its beverage industry from sugar to high fructose corn sweetener. It provided small minimum quotas for exports of potatoes and dry edible beans to Mexico without providing any assurances that additional exports would compete on an equal footing with products from other countries. It had no mechanism for ensuring that Mexico would not gain a competitive advantage over farmers and firms in this country by turning a blind eye to flagrant, routine violations of its labor and environmental laws.

Since that time, however, the Clinton administration has addressed many of these issues. It reached agreement with Mexico to close the loophole on sugar. Now, Mexico will not be able to become a net surplus producer of sugar by converting its beverage industry from consumption of sugar to consumption of high fructose corn sweetener. This will protect the $1.5 billion sugar industry in the Red River Valley of North Dakota and Minnesota from what could have been a devastating influx of cheap Mexican sugar.

The administration has also included in its Statement of Administrative Action language addressing two concerns that I raised in the Senate Agriculture Committee. One provision specifies that the administration will seek immediate negotiations with Mexico to accelerate the reduction in Mexican tariffs on dry edible beans and potatoes. The second provision addresses the question of how Mexico will treat United States commodities subject to a tariff rate quota when it chooses to import more of these commodities than the required minimum. Historically, United States producers of many of these commodities have benefited from increased export opportunities to Mexico when Mexican production was less than Mexican demand. Producers in my State were very concerned that, in this situation under the NAFTA, Mexico might turn to suppliers outside the United States to fill its domestic production shortfall. The Statement of Administrative Action commits the administration to immediate consultations with Mexico to ensure that, in this situation, United States producers will have access no less favorable than that provided to any other supplier. If these negotiations are successful, they will provide increased export opportunities for these two commodities. But I cannot know whether, once the agreement is implemented, the administration will follow through on these issues.

Finally, on wheat, the administration has taken several steps toward addressing the problems with the CFTA that I have already discussed. The NAFTA Implementation Act contains a provision establishing end use certificates for Canadian wheat and barley. Unfortunately, I am very concerned that the version of end use certificates included by the administration lacks the substance of the legislation I have championed. End use certificates are intended to track Canadian grain in this country to ensure that it does not illegally enter our subsidized export programs. They are intended to be equivalent to the end user certificates Canada requires on United States grains.

The version included by the administration, however, reflects a compromise version of this legislation reached during action on the Omnibus Budget Reconciliation Act of 1993 earlier this year. During negotiation of that compromise, many of the details regarding implementation of end use certificates were stripped from the statutory language and instead included in the Statement of Managers. However, the administration has not included the language from the Statement of Managers in its Statement of Administrative Action. Consequently, there is no guarantee that the end use certificates will operate as intended.

In addition, the Department of Agriculture has studied the impact of Canadian wheat imports and determined that Canadian imports are costing the U.S. taxpayer over $600 million in additional wheat program outlays. Consequently, the Secretary has advised the President that he has reason to believe that wheat imports are materially interfering with our wheat program and recommended that he proceed with a section 22 investigation. Earlier this week, the President wrote me to promise that he would go forward with the section 22 case in 60 days unless Canada took action that made a section 22 investigation unnecessary. But the President's letter contains no criteria to suggest what Canadian actions would be considered sufficient for the President to halt the section 22 action.

All these assurances, if implemented would represent significant improvements in the NAFTA negotiated by the Bush administration. If they are implemented, they would remove the major sources of concern to producers in North Dakota. Under these circumstances, the gains that are projected for corn, soybean, sunflower, beef and pork producers could make NAFTA a new winner for North Dakota.

However, all these potential benefits for North Dakota agriculture would be negated if the administration does not fully implement the assurances it has given me and my colleagues. Moreover, because the Mexican market is small relative to our overall agricultural exports, any positive impact from increased exports will also be small. Thus, whether or not NAFTA is good for North Dakota depends very heavily on whether the assurances we have been given will turn into concrete results.

IMPACT ON THE COUNTRY

When I turn to the country as a whole, the central issue is jobs. How will NAFTA affect the working men and women of this country?

Here again, I am not convinced that NAFTA will provide net benefits. Unfortunately, the NAFTA was negotiated primarily with the interests of business and investors in mind and not those of average working Americans. That is why there are specific protections for direct and indirect investment in Mexico in the NAFTA while labor issues are relegated to a supplemental agreement. The benefits to working Americans, if any, will be spinoffs from increased business opportunities in Mexico.

There are two factors that make it difficult to determine the overall impact on American workers. First, as I said earlier, we cannot know how many of the effects that opponents and supporters believe will result from the NAFTA would also happen without the NAFTA. Second, the two main effects that are expected from NAFTA have diametrically opposed effects on jobs. Improving protection for investors in Mexico will accelerate the movement of plants and jobs to Mexico. Lowering Mexican tariffs will increase our exports to Mexico and create jobs in this country.

I am very concerned about the implications of combining our economy with one in which manufacturing wages average only one seventh of average wages in the United States. Supporters argue that any company that would move to Mexico under NAFTA could move to Mexico today. They are right, but they are telling only half the story. Today there are many reasons why American companies might think twice before moving a plant to Mexico. The NAFTA eliminates these impediments to investment in Mexico. It provides for intellectual property protection. It guarantees the right to repatriate profits. It protects against expropriation. Quite simply, it lowers the risk of investing in Mexico and changes the climate by putting a "Good Housekeeping" seal of approval on Mexico. NAFTA tells business that it's perfectly acceptable to eliminate American jobs and relocate to Mexico to take advantage of low wages there.

Not surprisingly, a Wall Street journal poll found that more than half of U.S. companies with annual sales of over $1 billion are either very likely or somewhat likely to shift some production to Mexico in the next few years if the NAFTA passes. And it explains why a Congressional Budget Office study of the effects of NAFTA concluded that the major benefit of NAFTA to Mexico would be increased investment in Mexico.

In some respects, Mr. President, passing NAFTA is equivalent to adding 50 million Mexican workers to compete with American workers for scarce manufacturing jobs and low-wage service jobs. These 50 million Mexican workers earn, on average, only $2.35 per hour. Yet, with American equipment and some training at a minimum wage of just 58 cents an hour, they can be almost as productive as U.S. workers. The impact on average workers in this country will be negative. Some American companies will take advantage of the investment protections in the

NAFTA to relocate jobs to Mexico and eliminate jobs in this country. In addition, the threat of relocation will put downward pressure on those jobs that remain in this country.

But we cannot know how much difference NAFTA will really make to plant location decisions. How many of those CEO's polled by the Wall Street Journal would have been likely to shift production to Mexico without NAFTA? As NAFTA supporters are fond of pointing out, American factories are moving to Mexico, Europe and Asia without NAFTA. In the future, if NAFTA passes, we will be unable to look back and tell whether a factory that moved to Mexico would have done in the absence of NAFTA. We will not know if that factory would have moved to Mexico even without NAFTA. And, if it would not have, we will not know whether that factory would have stayed in the United States or moved to some other, lower wage location. These decisions are not based on labor costs alone. Labor costs are important, but managers must also take into account available infrastructure, transportation, and many other costs of doing business.

On the other side of the ledger, NAFTA will almost certainly result in increased exports to Mexico that will support and create jobs in this country. Currently, Mexico maintains high tariffs on most United States goods and outright restrictions on others. NAFTA eliminates these tariffs and barriers, and will make American goods available to Mexican consumers. Over the past 5 years, as Mexico reduced its tariffs on our goods, United States exports increased dramatically. NAFTA will continue this trend.

Opponents of NAFTA point out that many of these exports are U-turn exports—equipment and components that will be used to assemble final products for re-export to the United States. They are right; at $2.35 an hour, the average Mexican worker does not earn enough to buy many consumer goods. But the Mexican middle class is growing and exports of consumer goods comprise the fastest growing portion of United States exports to Mexico. Moreover, even U-turn exports support jobs in this country. If United States firms were not supplying assembly plants in Mexico, we have no guarantee that they would be supplying plants in this country. It is equally likely that instead Japanese firms would be supplying assembly plants elsewhere in Asia. The jobs maintained and created by exports spurred by the NAFTA will tend to offset the effects of jobs lost to Mexico from plant relocations.

No one knows what the net impact of these two opposite effects will be. But almost everyone who has studied the issue has concluded that the impact will be very small. Most predict net job gains or job losses in the range of tens of thousands per year or much less. These numbers pale in comparison with the hundreds of thousands of jobs that are routinely created and lost every month. The aggregate effect on our economy is likely to be small.

However, the impact on individuals of the change and dislocation caused by NAFTA will be immense. Unfortunately, Mr. President, we do not yet have in this country an effective system of lifelong learning and job training that gives our workers the skills necessary to move quickly or easily from one profession to another. And the experience of the past decade suggest that those workers who lose their jobs as a result of the NAFTA, even with the worker retraining package included in this legislation, will face long stretches of unemployment and lower wages when they finally find new jobs. It is not at all clear to me that the small net gains that are expected from NAFTA are worth the large costs to individual workers in this country.

NAFTA COULD HAVE BEEN BETTER

Many of these concerns could have been alleviated by negotiating a NAFTA that would raise wages and improve working conditions in Mexico. The failure of NAFTA to ensure that Mexican wages rise to a level commensurate with Mexican productivity and its standard of living hurts United States workers in two ways. First, it makes Mexican labor relatively more attractive than United States workers by maintaining a wage differential larger than that justified by productivity differences. Second, it tends to keep Mexican workers too poor to export enough American-made products to offset the jobs lost to relocation. This failure also stands in stark contrast, as many others have pointed out, to the detailed protections that were negotiated for investors in Mexico.

I will vote against NAFTA because I cannot in good conscience tell hard-working farmers in North Dakota that I have solved the Canadian trade problems that have cost them hundreds of millions of dollars when the last administration failed to implement its commitments and there has not yet been any real action to back up the assurances of the current administration. I hope that this action will be forthcoming. I will continue to work with the administration to ensure that it is. But we are not there yet. For these reasons, I cannot vote for this NAFTA.

Mr. BYRD. Mr. President, I have listened to the arguments, and I have decided to vote against the North American Free-Trade Agreement. I arrived at this decision not out of fear that the United States cannot compete with Mexico, but because this agreement fails to lay the proper foundation for fair competition. In fact, until the United States and Mexico make significant changes in our respective economies, it will be difficult to construct any trade agreement that will serve United States interests.

This does not mean that we should abandon the goal of liberalizing trade between our countries. On the contrary, lowering barriers and increasing opportunities for trade and investment should, and hopefully will continue. Increased United States investment in Mexico will help that country continue the arduous task of economic restructuring and will ultimately result in higher wages and a higher standard of living for the Mexican people. But this economic development should be precondition for, not a goal of, a free trade regime. Until the Mexican economy has shed its legacy of tight authoritarian control, and until wages and employment there have risen to a level where Mexican workers can achieve a decent standard of living, free trade with Mexico will automatically hurt American workers. Opening our economy to goods produced by workers making less than $2 an hour will undoubtedly cost U.S. jobs, particularly low skill jobs in labor-intensive industries, and hurt small businesses within our borders.

For our part, the United States needs to focus on job creation for American workers before we embark on programs to create jobs in other countries. I have heard the proponents of this agreement tout increases in United States exports that will offset any increased imports from Mexico. What they fail to mention is that the exports will be primarily in highly mechanized, capital-intensive industries, while the imports from Mexico will consist of goods made with labor-intensive production. This disparity is exactly the reason that big business in America favors the agreement and labor organizations oppose it.

The situation in West Virginia provides a good example of this dichotomy. The large chemical companies with their heavily mechanized, capital-intensive production will see increased exports to Mexico, but this will not necessarily result in much increased employment in West Virginia because of the nature of the production process. On the other hand, the glassware and chinaware producers in West Virginia, a labor-intensive industry, will lose out and will be forced to cut employment, wages, or both. Under NAFTA, the owners of American capital—big business—win, and the owners of American labor—the individual workers—lose. Any marginal benefits of NAFTA for U.S. exports are far outweighed by the damage to the U.S. labor market. We do not help our economy by hurting our workers and our small manufacturers.

The U.S. economy has just weathered a very painful recession with huge job losses, and the economic recovery remains fragile. Most companies that have laid off workers have made it clear that they will not be rehired.

Those jobs have disappeared forever, and such U.S. corporate downsizing continues. For America to compete internationally, which we must do, Government and industry should develop a strategy for creating good jobs for Americans before we enter into an agreement that will place additional strains on the labor force and on certain sectors of our economy.

In this regard, I find it regrettable that the Senate failed to pass President Clinton's stimulus package early this year. Some of that package focused on short-term programs, but much of the package would have supported increased investment in infrastructure and research and development in critical areas. Initiatives such as these are exactly what this country needs in order to pave the way for agreements such as NAFTA. We must find ways to generate secure, skilled jobs for U.S. workers that have been, and will continue to be, displaced in the rapidly changing world marketplace.

As I have said, I do not fear free and open competition with Mexico, as long as we take the steps necessary to prepare ourselves for that competition. Liberalized world trade has provided much of the impetus for the post-World War II economic growth, and I hope that the United States can negotiate future agreements that will continue that trend. But we cannot pursue free trade at any cost, and particularly not if the cost is higher unemployment for American workers. Unfortunately, NAFTA does not address the fundamental differences between the economies of the United States and Mexico. I fear that forcing the premature integration of these two economies could have a negative effect on the United States. Since I assure that this body will vote to pass NAFTA, I can only hope that those negative effects are minimal and short-term. And I hope that this body and the President will take genuine steps to enhance our international competitiveness by creating high-wage jobs in the United States.

Mr. SMITH. Mr. President, I have spent a great deal of time agonizing over which side of the fence I was going to be on in this issue of NAFTA. I have done what probably is unusual around here. I took the time to read through 1,200 pages of this document. I read the side agreements.

I spent time talking personally to a number of people on both sides of the issue. I spoke to Ross Perot personally about it. I spoke to many members of the United We Stand organization in my State. I spoke to the labor unions representing the AFL-CIO people in New Hampshire. I spoke to many people on both sides of the fence nationally who were lobbying for or against the agreement.

I had a briefing from the Vice President of the United States, AL GORE, and the Secretary of the Treasury, Lloyd Bentsen. I have had briefings from Mickey Kantor. I read countless editorial writings on both sides, from Pat Buchanan to the Wall Street Journal and the New York Times, of positions in favor.

So it has been a long ordeal for me. It has taken me months to make up my mind.

Today, reluctantly, I come down in opposition to this North American Free-Trade Agreement.

Mr. President, I rise today as a supporter of free trade. In my 9 years in Congress, I have consistently opposed protectionist measures designed to erect walls around the United States of America. I have been a supporter of the fast-track procedure—as a matter of fact, I voted for the fast track for this free-trade agreement—that allows for our President to negotiate trade agreements on equal footing with his international counterparts. I supported the United States-Canada Free-Trade Agreement in 1989 that removed the tariff fence along our northern border.

Mr. President, I think it is important to dispel the notion that "free trade" is a dirty phrase. Over the past 2 years, more than 80 percent of the growth in the U.S. Economy has been sustained by exports. In 1991, increased exports of more than $30 billion created 600,000 new jobs in the United States. In fact, the Department of Commerce reports that every additional $1 billion of exports crates 22,000 new jobs in America.

New Hampshire, in particular, has benefited from increased access to foreign markets. Trade with Canada and Mexico supported over 13,000 manufacturing jobs in our State in 1991. In addition, exports to our North American trading partners have grown significantly over the past 5 years and now account for nearly one-third of total New Hampshire exports. With the accelerating growth of international trade and commerce, it is critical that the United States open new markets around the world. To achieve open markets in North America, we need to support a clearly defined, responsible, lucid agreement which calls for an organized, systematic reduction—and eventual elimination—of tariffs between the United States, Mexico, and Canada. Such a document must also leave the decisions on health, labor, safety, and environmental standards up to the individual nations themselves. And this agreement should create opportunities for businesses—not impose additional regulations upon them.

Well, regretfully, Mr. President, the NAFTA we are asked to support today falls far short of the mark. This NAFTA is very different from the NAFTA of 1 year ago, or even 1 week ago. This ever-changing, fluid document is very different from the concept of free trade and business expansion which I support. When I think of free trade, I do not think of the 1,200 pages of complex rules, regulations, and specifications on who can trade what, where, when, how, and how much—as embodied in this NAFTA. The constant changes, lack of consensus on both sides, and invasion of the sovereignty of the United States make this NAFTA a bureaucratic nightmare. This NAFTA—and especially its side agreements—go far beyond the concept of free trade. Actually they impede free trade.

What are my specific concerns about NAFTA?

First, overregulations is the opposite of what is needed for business growth:

The pending NAFTA should not be perceived as the only solution to increasing jobs and productivity in the United States. In addition to free trade other remedies are for Congress to implement pro-growth initiatives here at home—like reducing the capital gains tax so businesses can invest and expand, working to eliminate the Federal deficit which hinders economic growth, and eliminating cumbersome regulations and mandates on business have not been forthcoming from the Congress.

However, the side agreements to NAFTA imply the opposite. In the words of Ambassador Mickey Kantor, these side agreements would ensure that "No nation will lower labor or environmental standards, only raise them."

Not a week goes by that I don't get a letter from a small business owner suffocating under the blanket of Federal regulation. Not a week goes by when I don't hear from a small town in New Hampshire that cannot afford to comply with excessive Government mandates, regulations, and environmental standards. Now we have a trade agreement that says—in essence—things will only get worse. Efforts to roll back the heavy hand of Government regulation will be met head on by side agreements designed by advocates of big Government.

Mr. President, NAFTA will be very good for the redtape industry and for the lawyers—very good indeed.

Second, additional bureaucracy in and of itself, as it is set up in this agreement, infringes on U.S. sovereignty:

Adoption of NAFTA's side agreements would establish at least 32 new international government bodies or arbitration panels. These international commissions will, through an arduous, bureaucratic process, arbitrate challenges the NAFTA regulations. I am gravely concerned about the adjudication of disputes before the commissions and its affects on our sovereignty rights.

The United States has a right to set our own health, labor, safety, and environmental standards. This new bureaucratic army will lead an attack on our

Federal and State laws. These side agreements could, in effect, lock in existing U.S. laws for years to come, thereby inhibiting the right of the U.S. Congress to revise and amend our laws at its discretion. The NAFTA grants sweeping powers to these unelected international commissions between the three nations. These powers are inconsistent with free trade and a free nation.

In addition, unlike the General Agreement on Trade and Tariffs [GATT], the NAFTA side agreements establish procedures that deny adequate rights of appeal. While the United States represents 85 percent of the North American market, we are given only 33 percent of the vote in matters that are brought before the governing commission. On any given issue, Canada and Mexico can vote to keep deliberations secret—a fact that should be of concern to every Member of this body. They can vote to keep matters secret and we have one-third of the votes. So we could not win under any circumstances if those two nations wish to outvote us.

For these reasons, I last night voted for the measure offered by Senator STEVENS to eliminate these side agreements, which was denied on a point of order, which would have eliminated the very side agreements I am concerned with.

The NAFTA before the U.S. Senate today represents an attack on our national sovereignty that must be repelled. I cannot in good conscience lend my support to an agreement that violates the spirit of the Constitution I have sworn to uphold, and the United States' right to maintain our own standards.

Third, taxpayer subsidy to corporate and foreign governments polluters:

Mr. President, the third reason I am opposing this NAFTA today is because it would result in the implementation of legislation for a billion dollar border facility for environmental cleanup along the United States-Mexican border. I cannot support this further expansion of loan guarantees—up to $8 billion—to pay for environmental abuses south of the border. Why should the American taxpayer be required to pay for problems they did not cause and could not prevent? Why are the taxpayers being asked to finance the pledges of increased spending that are embodied in the agreement before the Senate?

Fourth, concern about bartering for votes:

A true free-trade agreement should stand—and be approved by Congress—on the strength of principle. I remember the congressional debate on the United States-Canada Free-Trade Agreement, and it did not resemble the "Let's Make a Deal" attitude that has permeated this NAFTA debate.

This horse trading for votes to support the agreement has gotten the attention of our North American neighbors. On November 18, 1993, the Washington Post quoted Ontario Premier Bob Rae as saying:

> It strikes me as absolutely bizarre that . . . in the name of a free trade agreement [President Clinton] would be making all kinds of last-minute deals which stop Canada from having decent free trade access to the United States.

I ask unanimous consent the entire article be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. I agree. Mr. President, the President has promised to impose import curbs on Canadian wheat and Canadian peanut butter on certain products—in order to appease wavering legislators. Members of Congress are being asked to support higher tariffs so that we may lower tariffs. This artificial trade merry-go-round is more than bizarre; it is intellectually dishonest and inconsistent with the goal of free trade.

In conclusion, Mr. President, I am deeply disappointed in this NAFTA. As a strong proponent of free trade, I wanted to support this agreement. I regret that the issues of bureaucracy, overregulation, sovereignty and subsidies preclude me from supporting this measure.

EXHIBIT 1

[From the Washington Post, Nov. 18, 1993]

THE NORTH AMERICAN FREE-TRADE AGREEMENT—CANADA

(By Anne Swardson)

TORONTO, Nov. 17.—Canadians, never very fond of the North American Free Trade Agreement, were downright cranky today over the fact that congressional votes for NAFTA were being secured by possible new trade protections against Canada.

Ontario Premier Bob Rae, leader of Canada's largest province, charged that Canadian interests were being sold out in the name of NAFTA.

"It strikes me as absolutely bizarre that . . . in the name of a free trade agreement [President Clinton] would be making all kinds of last-minute deals which stop Canada from having decent free trade access to the United States," Rae said. "What he is doing is saying [to Congress]: 'I'll be a protectionist against Canada in order to get you on [my] side for free trade with Mexico.' It's completely bizarre.

Across the nation, Canadians pointed out that Clinton's promises to consider imposing import curbs on Canadian wheat and Canadian peanut butter to appease wavering legislators were not exactly consistent with the goal of free trade.

"Apparently, Clinton is willing to act like a wet noodle in order to placate the U.S. pasta lobby," the Toronto Star said in an editorial. ". . . It's hard to see why Ottawa would still proclaim NAFTA into law if the price of free trade were pasta protectionism at the border."

The Canadian Parliament has approved NAFTA, but the new government of Prime Minister Jean Chretien has not yet taken the final step to make the accord law. Ministers in his government generally played down the wheat and peanut butter deals, but said Chretien will raise numerous trade issues when he meets with Clinton in Seattle Friday at the Asia Pacific Economic Cooperation forum.

In both trade compromises, Washington has committed itself to imposing limits on Canadian exports within 60 days if certain conditions are met. Shipments of Canadian durium wheat, used in pasta-making, have increased sharply in recent years, leading to complaints from American farmers that their prices are being undercut. And American peanut growers complain that peanut butter from Canada can sell for less than the American product, whose price is pushed up by government price supports.

Chretien, who took office earlier this month, promised during the campaign to renegotiate portions of NAFTA, and he has not publicly changed his stance. In calling for new rules on subsidies and below-cost "dumping," Chretien is attempting to address widespread concerns that Canada is a victim of too many unfair-trading cases filed by American interests. The wheat and peanut butter deals seem to have accentuated those concerns.

Polls have found more Canadians oppose NAFTA than support it, although the major pollsters have not tested public opinion in several months. Unlike Mexico, Canada has nothing to gain from NAFTA-related trade restrictions, because each restriction erodes the free trade treatment Canada now enjoys.

Canadians, who live under a parliamentary system, also are less accepting than Americans of a political world in which vote-buying is a common occurrence.

"Don't expect our howls to be heard in Washington," radio commentator Andy Barrie said today in Toronto. "The sound of ringing phones in the congressional offices [as Clinton brokers new deals] will drown them out . . . If Congress agrees to NAFTA today, Clinton will know he got the best trade deal money can buy."

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there are many parts of the NAFTA agreement that make it unfair to workers in the United States, but I am just going to focus on a few this evening, mainly as it relates to automobiles and auto parts.

First, under NAFTA, Mexico's discriminatory trade laws against American manufactured automobiles remain for 10 years.

Mexico now discriminates against United States assembled autos by requiring auto manufacturers to produce in Mexico in order to sell in Mexico. They also require manufacturers in Mexico to export $2 worth of automobiles from Mexico for every $1 worth of autos that they bring into Mexico. Those are called trade balancing laws. They have had the effect of making it impossible to sell in Mexico cars assembled in the United States.

That is the barrier we face with American assembled automobiles.

Now, under NAFTA, that barrier remains at a slightly phased down version for 10 years. That is the phase down period. Some people say, under NAFTA, these barriers are eliminated. What they do not tell you is that they remain for 10 years. We face those restrictions for 10 years, slightly phased down, yet we are going to lose manufacturing jobs in the auto and auto parts sector during that 10 year period because of these discriminatory restrictions.

What they do not tell you, because I do not think people want to know this, is that we are going to be asked to put into American domestic law—for the first time—these discriminatory restrictions that are currently in Mexican law. If NAFTA is agreed to, they become part of American domestic law. That is the first line under the auto decree part of the appendix of NAFTA. Reading from NAFTA:

> Until January 1, 2004, 10 years, Mexico may maintain the provisions of the decree through development of the Mexican automotive industry.

That is one part of the unfairness. But, we do not have any restriction on cars assembled in Mexico coming here. What is our restriction? Zip.

Next, Mexico's current laws require auto manufacturers in Mexico to purchase 36 percent of the parts that they use from Mexican parts manufacturers. That discriminatory law would also not be eliminated for 10 years under NAFTA. It would drop gradually during that 10-year period, from 36 to 34 percent for 5 years, and then for the next 5 years, 1 percent a year down to 29 percent.

We do not have any restriction on auto parts made in Mexico coming here. They have restrictions on our auto parts going to Mexico. And that restriction that discriminates against American auto parts also becomes part of NAFTA, which becomes part of American domestic law.

Why do we allow discriminatory restrictions on American autos and auto parts to remain for 10 more years? Why do we tolerate it for 10 more months or 10 more days? It is one thing for Mexico to protect its auto industry, which it has done. But surely, we should not incorporate in American domestic law discriminatory restrictions against our automobiles and our auto parts.

It is tough enough to compete against the $1 an hour labor, weak enforcement on environmental safety, and child labor laws, without tolerating discriminatory restrictions against our products for 10 more years.

This country has lost over 2½ million manufacturing jobs since 1979. A lot of that has been lost because of unfair trade practices. This is one of them. NAFTA says "Wait 10 more years, auto workers. Be discriminated against for 10 more years, and at the end of 10 more years then the discriminatory barriers end. In the meantime, take the slight reduction in the barrier and be satisfied with that."

And what I am here to say is we should not. Whether or not you produce autos or auto parts, all of us have manufacturing in our States. And what this is symptomatic of is a weak policy relative to manufacturing jobs.

Mr. President, NAFTA does not give us an open market for our automobiles or free trade for our automobiles. It has 2,000 pages of deals, rules involving all kinds of industry and trade. Some of our industries do well. Some of them do terribly. I am looking at an industry which is probably the biggest, involves more people employed in this country than any other industry. What I am telling this Senate is that the restrictions which discriminate against our auto parts and automobiles remain for 10 years in a slightly phased-down version, and this treaty would put those discriminatory restrictions in our law for the first time.

We want to get rid of these barriers now not 10 years from now. Get rid of the Mexican barriers to our autos and auto parts now if you really believe in free trade, or do not give us the lectures about free trade. Drop the lectures. Drop the optimist-pessimist, future-past, rear view mirror-front view mirror right now. Drop the barriers to American automobiles and auto parts now instead of 10 more years of discrimination and hundreds of thousands of more lost jobs in a very important manufacturing sector.

This is what we have lost in manufacturing jobs in this country. I want to compare it to Mexico, Japan, and Germany since 1985.

In 1985, the United States had 19.2 million manufacturing jobs. In 1992, 7 years later, 18.1 million. We lost over 1 million manufacturing jobs.

Mexico, during that period, went from 2.3 million manufacturing jobs to 3.3 million manufacturing jobs. That is an increase of 1 million manufacturing jobs in 1985 to 1992.

Japan went from 10.6 million to 13.8 million.

Germany went from 8.06 million to 8.34 million.

Every one of them significant increases in manufacturing jobs, except us. And one of the reasons that we have lost jobs, one of those—and there are many—is because we have tolerated one-way streets in trade. This is a perfect example of it, one-way street in trade with Mexico in auto parts.

The way to get rid of it is to get rid of it now, not 10 years from now.

If they will not get rid of it, and they want to protect their auto industry at the cost of auto jobs and auto parts jobs here, then we have no alternative but to tell them—Japan, Mexico, Canada—we have to put the same restrictions on your products that you put on our products and we will phase out our restrictions at the same rate that you phase out your restrictions. That is a two-way street.

Free trade is get rid of the barriers now. Let us do it. But if you are not going to do it, if you are going to keep those restrictions on our products for 10 years, then for Heavens' sake, if we have any common sense and care about our manufacturing sector, we have to put the same restrictions on the other guy that the other guy puts on us.

I wonder if the Chair would tell me how many more minutes I have.

The PRESIDING OFFICER. The Senator has 6 minutes and 1 second.

Mr. LEVIN. I thank the Chair.

Mr. President, the underlying premise supporting NAFTA is that American exports to Mexico will increase and that all exports create jobs. That is the premise. Over and over and over again we are told by the administration that there will be 200,000 American jobs created in the first 2 years of NAFTA. That was the President in September. And every other member of the administration is using the same 200,000-job figures. Secretary Bentsen calculates 200,000 more jobs in the next 2 years; Secretary Ron Brown, 200,000 big-wage jobs by 1995; Ambassador Kantor 200,000 jobs, the same 200,000 jobs.

The claim is a gross distortion. What it is based on is an assumption that there will be $10 billion in increased exports in the next 2 years and then they multiply it by 20,000 jobs per billion and they come up with 200,000 jobs. What they have not done is deduct any job losses from increased imports. The 200,000-job figure that this administration has been using refers only to export-created jobs in the next 2 years under NAFTA.

That is exactly one-half of the picture. Even if the assumption is right that we will have $10 billion more exports, what they have not even calculated, although they admit there will be some lost jobs to imports, is what the number of those jobs lost to imports is. They have not made any deduction on the 200,000 new jobs they claim for jobs lost as a result of imports. Do all imports lose jobs? No. But the administration and everybody admits some imports are job losses. But, we still do not get any deduction for imports.

That is what I call "NAFTA math." It is half of the picture, exactly half of the picture. In the NAFTA math book, which would make my old math teacher wince, they only have pluses, no minuses. We asked the Undersecretary of Commerce for Economic Affairs, Paul London, last week whether or not it is not true that there is going to be some job losses from imports. He said, "Yes." We asked him, "Have you deducted them from the 200,000?" He said, "No." We asked, "Do you know about how many there are?" He said, "No." We asked, "Did you try to calculate how many there will be?" He said, 'No." But, there it still flows, 200,000 jobs.

It is a distortion. It is like looking at a ledger in a business and just looking at the revenues, not at the expenses, and saying it has been a really profitable year. By NAFTA math, we would be doing real well with Japan. Just look at the exports to Japan. Our exports to Japan are just terrific, in the tens of billions of dollars. In 1992, we had $47 billion in exports to Japan. Under NAFTA math, that is 840,000 export-created jobs to Japan. We are doing great by NAFTA math. There are 840,000 export-driven jobs because of exports to Japan. But, our trade policy with Japan, in reality, is a disaster because you must deduct the much larger losses from imports from that export figure.

They do the same thing with that 60,000 automobile figure. I have heard that over and over again in the last few days. There will be 60,000 more cars shipped to Mexico next year. That is a Department of Commerce figure which it derived from information it allegedly got from the Big Three. Assuming that it is true for the moment, how many extra cars are coming this way to the United States next year? Again, it is exactly one-half of the picture. All you get is export number. Ask the Commerce Department how many extra cars are coming this way to the United States In fairness, do you have to deduct the extra number coming this way from the extra number going that way, or at least consider them? We only get half of the picture. Is that the way they are going to sell this agreement? The answer is yes.

We tried for a month to get a number from the Commerce Department on the other half of the picture, how many additional cars are coming this way to the United States. Mexico increased their exports from 39,100 to 341,800 cars in the last 5 years. So if they claim, as they do, that 60,000 more cars under NAFTA will be going south, and those are all job creators under NAFTA math, how many additional cars will come this way north, and how many of those cars will be job losers? I think the Commerce Department owes the American people that number. I know the Commerce Department will not give us that number, and that is wrong and unfair. We have an obligation to improve the way we measure plant relocation and job loss in the United States. I held a hearing on this very topic last spring which showed that our Government does not even track the movement of U.S. plants offshore. In 1992, the Department of Labor discontinued its Mass Layoff Survey, the only survey that even attempted to track plant movement. If NAFTA passes, I will work to require the Labor Department to begin collecting this data in a useful way so we can monitor runaway plants and jobs.

Proponents of NAFTA have tried to portray anyone opposing NAFTA as preaching fear while they preached optimism. But when it looked like NAFTA was going to lose, the fear of Japan's going into Mexico was raised, the threat of anti-Americanism in Mexico was stressed, and the threat of illegal immigration was emphasized, to give but a few examples.

We must vote to defeat this NAFTA and send a strong message to our trade negotiators and our President that we want a better trade policy for our Nation. We want a trade policy that will allow our workers to compete on a level playing field. We want a trade policy that will ensure good jobs at fair pay for our people.

I yield the floor.

Mr. WARNER. Mr. President, as I approach my vote on NAFTA, I am reminded of that wonderful World War II song about aviators returning home "on a wing and a prayer."

After long and careful deliberation, I have decided to support NAFTA, with the fervent prayer that the agreement will convince Mexico to do all it can to help America stem the flow of illegal drugs and illegal aliens across our common border. This prayer, not a White House handout, is the basis for my vote.

The "wing," a sturdy wing, one which always succeeded in America, is the concept of free trade. Accept NAFTA for what it is: a bold, yet risky, experiment in free trade.

Whether or not to vote for NAFTA has truly been one of the most difficult votes I've been asked to decide since I have been in the Senate. I have read countless articles, spoken to numerous people, attended unlimited briefings, and have conducted my own conference in Virginia earlier this year.

This agreement has been touted so highly by its proponents that it has transcended from a trade agreement to a panacea which purportedly will solve all the Nation's ills on both sides of the border. Equally vocal, NAFTA's opponents view this agreement as our country's first step towards demise. Which side's statistics does one believe?

Undoubtedly NAFTA is a historic initiative, one which offers a unique opportunity to expand our exports, increase our productivity and ultimately create new jobs. It demonstrates to the world that America is committed to free enterprise and free trade, and that we negotiate in good faith.

Throughout the lengthy deliberation on NAFTA, my concerns have centered upon the critical issues of drug traffic and illegal immigration. At my request, the Senate Select Committee on Intelligence, of which I am vice chairman, looked into these issues.

In the final analysis, I am counting on a cooperative spirit between our Nation and Mexico to resolve these problems—a spirit which NAFTA should foster.

NAFTA is not the panacea it has been touted to be by its ardent proponents, nor does it offer the opportunities of the Oklahoma land rush, as debate would lead us to believe. What we have before us is an experiment, one which follows the free trade principles that constitute sound economic policy, sound trade policy, and sound foreign policy.

I ask unanimous consent that articles by former Governor of Virginia Gerald Baliles and James Miller, former Director of the Office of Management and Budget and current President of Citizens for a Sound Economy in support of NAFTA be printed at this point in the RECORD, along with a letter from Attorney General Janet Reno regarding the impact of NAFTA on illegal drug trafficking and illegal immigration, concerns which prompted my vote.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAN TRADE BE EXPANDED BY RESTRICTING IT?

(Remarks by former Virginia Governor, Gerald L. Baliles)

I am pleased to be here with you today. I think it is especially significant and important that this meeting is cosponsored by the International Practice Section of the Virginia Bar, the George Mason University International Institute and the Virginia State Chamber of Commerce. That these three groups are working together in this way is good news for those who want to see Virginia become even more globally competitive in the future.

At the outset, I want to congratulate Dr. Stuart Malawar on his having received the Hardy Cross Dillard Award. The International Transactions Program he has developed and seen grow is a major success story in Virginia higher education. I have supported it from the earliest days with my words, with my actions, and now—with my son having just enrolled in the program—with my wallet!

In most of the speeches I have given over three years, regardless of the topic, I have found a way to focus on the importance of the global economy. Our ability to create jobs, expand opportunity and serve our citizens depends increasingly on our ability to compete and trade globally.

I always find a receptive audience for that message here in Northern Virginia. I know some of you have heard me expound on some of these subjects before. In fact, many of you could probably give this speech yourselves. You need no education on the importance of trade.

The fact of the matter, however, is that most Americans do. There is perhaps no better example of that fact then the current debate, now reaching almost fever pitch, over the North American Free Trade Agreement (NAFTA).

You have all seen the polls in the nation's major newspapers. While the public is closely divided on whether NAFTA should be approved, the astounding fact is that so many people have no idea what it is. Even among those with an opinion, there is very little knowledge about what is actually in the agreement, how trade with Mexico has grown over the past several years, or what is at stake should the Congress reject the agreement.

All of this was perhaps most visibly displayed when, a week or two ago, Jay Leno asked people on the street if they knew anything about NAFTA. He found out what the polls have already told us. Though I did not watch the show, I am told some thought NAFTA was a brand of soap; others thought it was the name of a rock band. And this in Southern California—an area of the country with an enormous stake in the outcome of this debate.

If I have ever seen a more compelling case for the importance of educating our people about these issues, I don't know what it is. The giant sucking sound you hear is most likely the vacuum of knowledge that too many are eager to exploit.

In this context, it is worth noting that, while they may agree on virtually nothing else, Pat Buchanan and Ralph Nader have argued against both NAFTA and GATT and, indeed, against the U.S. belonging to GATT at all. Between them—one on the right and one on the left—lies that vacuum, and a citizenry willing, even hoping, to be led. Enter Ross Perot.

Let me be clear. I do not mean to say that anyone who knows anything should be in support of this agreement, and that those opposing it are ignorant of the facts. On any issue, two people looking at the same facts can come to a different conclusion. My own conclusion is that NAFTA is an important part of this nation's plan to compete in a global economy and that it should be approved. I strongly support the agreement. I realize others might not.

The point I do wish to make, and to drive home in the remainder of my remarks, is that the American public needs to better understand the facts and the issues so that claims and arguments can be more carefully evaluated.

Somehow, it must be understood that the growth and prosperity of our country is increasingly tied to the expansion of international commerce.

Our standard of living is directly tied to the continuing expansion of our economic relationship with Mexico and Latin America, and to the success of the effort to expand trade through a new modernized GATT agreement.

We should more fully appreciate that increases in trade have led, over the past several years and during the entire course of our history, to the creation of new jobs in every state in the union, including Virginia.

And, we need to understand that, in a global economy, capital, production and labor will continue to move across national borders—regardless of the outcome of the NAFTA debate.

I am aware that rarely in our history have our leaders been able to successfully explain the importance of trade to the American public. With the exception of the post-war era—during which the consensus for containment of communism made such things a little easier—our leaders, too often, have not even tried.

The fact is that throughout the first century and a half of our history, attempts to contain, manage and restrict international trade were a fixture on the American political landscape. During that period, tariffs were always a major issue dominating the time and attention of Congresses, presidents and opinion leaders. The Smoot-Hawley tariffs, which so deepened and lengthened the Great Depression, were not so much an aberration, but the unfortunate culmination of decades of political pressure and precedent. Indeed, the past fifty years of American leadership in the cause of liberal trade is itself the aberration.

It has always been difficult for political leaders—particularly those in favor of trade expansion—to explain trade issues to their constituents, particularly in uncertain times. An old professor of mine, E.E. Schattschneider, once tried to explain why, in the face of all available evidence to the contrary, it is so hard for legislators to vote to reduce tariffs and expand trade. "The history of the American tariff is the story of a dubious economic policy turned into a great political success," he wrote. "The very tendencies that have made the legislation bad have made it politically invincible."

A former U.S. trade negotiator once put it a little more bluntly as reported in *American Trade Politics*, a book published by the Institute for International Economics. In the words of this trade negotiator, a politician who votes to lower trade barriers while under special interest pressure is performing, and I quote, an "unnatural act."

So, the restriction of trade does have a place in the American political tradition. But we must realize that the era of sheltered industries and self-sustaining domestic markets for America has ended. The new global economy respects no national boundaries, respects no preordained market shares, respects no prior claim to profits.

Our leaders must, as Adam Smith once said, "represent the future to the present," and explain this to the American people. I am very pleased that President Clinton has chosen to do so.

Of course, it is difficult to talk about the future to an electorate seemingly convinced that government—at all levels—is adrift, debating issues as if in a vacuum with little sense of how those issues relate to one another, to the lives of ordinary people, or to the future of the country.

And it is an electorate nostalgic for a simpler past, when the United States was the unquestioned economic leader. Some, on both the left and the right, sensing this nostalgia, work to accommodate it, promising a return to that past if only we will contain the evil designs of our competitors; that if we contain Japan, for example, or reduce our trade and investment with Mexico, we can return to the economic position we held in the first twenty years of the post-War period.

It is true that many Americans have legitimate fears about the future of their jobs and their communities. They have an understandable impulse to fix blame and seek redress. The expansion of trade comes with a share of pain, as has every economic change and advance from the beginning of our history. This should not be underestimated, and it should be addressed.

But all we need to do is look at the economies of Eastern Europe and Latin America to see the consequences of looking inward. For a more direct comparison, all we need to do is look at the Smoot-Hawley tariffs, to see the price a strong nation can pay when it restricts trade.

Of course, those examples are far away, in either time or distance. So, let's look at some facts that are not well enough understood by the American people.

To hear the debate, you might well conclude that the U.S. exports nothing of value to Mexico. Yet, since Mexico joined the GATT agreement in 1986, U.S. exports to Mexico have risen from $14 billion to more than $40 billion—an increase of 178 percent. We now run a trade *surplus* with Mexico of nearly $6 billion.

These numbers are mirrored in Virginia. We have seen exports of goods and services from Virginia to Mexico rise at an average annual rate of 38 percent since 1986, from $41 million to more than $158 million. Export growth from Virginia to Mexico during this period was more than 200 percentage points greater than export growth to the rest of the world, according to the U.S. Department of Commerce. This increase includes goods in such important sectors as transportation equipment, paper products and rubber and plastic products.

It is important to remember that, while our tariffs on Mexican-made goods are already rather low, Mexican tariffs on American-made goods are much higher. This treaty will, over time, level that playing field for our companies.

To hear the debate, you might also conclude that Mexicans are too poor to buy anything of real value from Americans. Yet, the fact is that the average Mexican spends 34 percent more on American goods than the average European and 14 percent more than the average Japanese consumer.

It is true that millions of Mexicans live in poverty. Yet, 30 percent of the country lives on a wage that one might consider middle or upper-middle class. People who buy computers and other such items. That amounts to 25 million people, the size of the population of Canada!

To hear the debate, you might conclude that low wage Mexican workers are poised to take as many American jobs as can be moved south of the border the very moment NAFTA is approved. This may be the most vivid image used by treaty opponents to play on the fear of American workers fearful of losing their jobs.

Yet, labor costs are but one factor in determining where production will occur. Though the labor component of the cost of building an average automobile is five times as high in the U.S. as in Mexico, the fact remains that it is less expensive to build that car here. Shipping and other costs more than make up the difference.

To hear the debate, you might think that the entire exercise is about making it easier for American firms to invest in Mexico, thereby, to use the popular phrase, "exporting jobs."

Yet, the treaty will actually reduce the current incentive to move jobs to Mexico by phasing out Mexican domestic content requirements, permitting additional use of American-made parts and components. A major U.S. automobile company has already announced that it will move jobs back across the border as the treaty will make it easier to sell American-made automobiles in Mexico.

It should be noted that there are some inconsistencies in the investment debate. It is interesting that, as a consensus grows in some quarters that we should increase our investments in places like Eastern Europe, Africa and Southeast Asia, some would work to stoke fears of similar investments in Mexico.

In all of this, we should not forget the fact that Canada—this nation's largest trading partner—is an active part of this agreement. Indeed, NAFTA builds on the U.S.-Canada Free Trade Agreement, which has been good for America's economy—and Virginia's. In fact, the Commonwealth's trade with Canada has nearly doubled since the Canadian agreement was signed. That is why I joined with then-Governor Clinton to urge the National Governors Association to endorse the treaty with Canada in 1988.

The American people need to be better informed on all of this. These increases in trade with Mexico I have described will not go on at these rates forever, nor—in an economy our size—will this agreement be the silver bullet that will set the nation's economic course right again. But this agreement can point the direction to a future of expanded commerce and greater opportunity.

And what if it fails?

Mexico's political leadership has taken enormous political risks in opening the country's economy to more of our products, and privatizing key sectors of the economy. Those gains would be seriously jeopardized if the anticipated result, economic growth based on expanded trade with the United States and Canada, fails to materialize. NAFTA opponents point to continuing problems in Mexican politics, but do they seriously believe that rejection of this agreement will help liberalize the Mexican political system?

Mexican environmental officials—many of whom I have met—are working hard to develop new procedures to enforce their laws. It will take time and it will take money. Most of our nation's environmental groups now believe the environmental side accord will further the goal of protecting the Mexican environment and support the agreement. How can anyone seriously believe that rejection of NAFTA will help Mexican environmental officials in their effort to promote better environmental management?

Mexican working conditions admittedly suffer by comparison with ours, as do wages. But, as I have already stated, the actual cost of production, given shipping costs, productivity differences and the like means that it can be cheaper to manufacture goods in the United States. Besides, does anyone seriously believe that the way to promote Mexican living standards is to deny the Mexican economy its best opportunity for growth?

It is true that American workers are increasingly worried about their future. The economy has changed fundamentally, there is no going back. Some jobs, some industries will disappear—with NAFTA or without. But does anyone seriously believe that denying the American worker the opportunity to sell more than $40 billion worth of goods and services to Mexico each year is going to help raise standards of living on our side of the border?

Let me share one final worry, which brings me back to the question posed by the title of my speech: "Can trade be expanded by restricting it?"

I just finished four months as Chairman of the National Commission to Ensure a Strong Competitive Airline Industry. We studied a wide variety of issues and made 60 recommendations. But we spent much of our time looking at the international scene, and we did not like what we saw.

A patchwork quilt of bilateral aviation agreements—1200 in all—now governs the world's aviation system. Those agreements are under increasing pressure as several of our air service partners seek to restrict service. One of our most important agreements—that with France—has been renounced. Others may follows. Service will suffer.

The result of this trend will be a reduction in the flow of people, products and services. I have argued that if this continues, we will have proven the thesis that you cannot expand trade by restricting it, and economies all over the world will suffer.

I believe we face a similar situation with this agreement. The stakes are much higher than our future relationships with Mexico and Canada—and those are critical stakes. If we reject this agreement, the Europeans will see no reason to summon up the political courage necessary to complete the GATT Round. Why should they? To agree on a deal to expand world trade, face the wrath of their own special interests and then see the U.S. Congress back away from the deal?

The Europeans, indeed all of our trading partners, are watching the outcome of the NAFTA debate closely. Their incentive to deal with us if this agreement is rejected will be diminished to near zero. The most advanced countries will see much less advantage to opening their markets to goods from less advanced economies. Western Europe, for example, will be less willing to open to Eastern Europe.

I believe rejection of this agreement will be our worst economic mistake since Smoot-Hawley. We will be adopting trade restriction as a *de facto* national policy if Congress votes no.

As President Clinton pointed out last week, our decision to lead the way toward liberalized trade after World War II has helped bring unimagined prosperity to this country and to others around the world. Some call those other countries competitors. I prefer to call them markets. If we vote to eliminate competitors, we vote to eliminate markets.

If we had not made the decision after World War II to liberalize trade, we would all be poorer. We have a similar opportunity now. The entire question of our commitment to the expansion of global trade—which has been subsumed for so long in our commitment to the containment of communism—is now open for debate. It is critical that the debate be conducted on the highest plane possible, with the American public in full possession of the facts. Those of you in this room, regardless of your position on a particular trade agreement, have the ability and the obligation to ensure that this occurs. This debate is too important to the future competitiveness of the country to be conducted without all the facts.

I believe the debate must be conducted with reason rather than emotion, and decided by facts rather than fiction. We can and must ensure that we proceed along this path. I hope that you will help.

Thank you.

How Do You Spell NAFTA? In Virginia—It's J-O-B-S

FAIRFAX.—Of the various reasons for supporting NAFTA, one of the most important is the positive impact that approval of the agreement would have on employment in Virginia.

While Ross Perot may hear a great sucking sound in Texas, we in Virginia have been hearing the sounds of trucks, trains, and ships carrying Virginia-made products to our neighbors south of the border. According to a new study by Virginia Citizens for a Sound Economy, during the past five years the value of Virginia exports to Mexico increased nearly four-fold: from $41 million in 1987 to $158 million in 1992. Some 2,300 jobs were created in the Old Dominion.

This didn't happen by accident. In major part, it was the result of dramatic reforms initiated by President Carlos Salinas. In addition to making the Mexican political system less corrupt and more accountable, Salinas has put the Mexican economy on the road to a free market. An important part of the Salinas program of economic liberalization has been the lowering of tariffs and other impediments on U.S. goods flowing into Mexico. This has made it more attractive for Mexican consumers and companies to purchase U.S. products, including those made in Virginia.

Like it or not, the permanency of the Salinas reforms hinges on the success of NAFTA. Simply put, if NAFTA fails, we will see a reversion to protectionism in Mexico, not to mention less stability in the political order.

What would disapproval of NAFTA mean for jobs in Virginia? First, the growth of Virginia exports to Mexico might well come to a halt, and the volume could even shrink. But just assume there is no further growth. According to Virginia Citizens for a Sound Economy, if this happened an estimated 9,000 jobs in Virginia that would have been created over the next five years simply won't materialize.

But even this understates the effects of NAFTA on employment in Virginia. Since NAFTA would lower trade barriers much more rapidly than in the past, many more than the 9,000 jobs mentioned above are at stake. Perhaps another 5,000 or even 8,000. No one knows for sure.

What does Virginia export to Mexico? In value terms, the largest share is transportation equipment—26 percent. Computers account for 18 percent; chemical products for 13 percent; food products for 9 percent; primary metals for 8 percent; and the rest, 26 percent. These do not represent the "hamburger-flipping jobs" so disparaged by the alarmists. These exports represent solid, secure jobs that pay more than average U.S. wages.

If NAFTA is passed, the highest tariff rates on transportation equipment would fall from 10 percent to zero. The tariff on industrial machinery would fall from 17 percent to zero; on computers from 16 percent to zero; and on chemical products from 20 percent to zero. These tariff reductions and other liberalizations in trade will accelerate Virginia exports to Mexico and create more jobs in the Old Dominion.

An anti-NAFTA vote would clearly jeopardize job creation in Virginia. A pro-NAFTA vote would mean not only more jobs but more personal freedom and consumer choice.

It ought to be a no-brainer.

**Jim Miller, former budget chief for President Reagan, is with Virginia Citizens for a Sound Economy.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, November 12, 1993.

Hon. JOHN W. WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: Thank you for taking the time to talk to me about the North American Free Trade Agreement. I appreciate very much this opportunity to provide you with additional information.

NAFTA WILL REDUCE ILLEGAL IMMIGRATION

As we discussed, I am insisting that we do everything humanly possible to protect our borders against those who would ignore our immigration laws. Our efforts include significantly increasing the size of the Border Patrol, implementing innovative approaches to deploying our personnel most effectively along the border, using new technologies to sharpen our eyes and ears on the border, and shutting the loopholes that some use to flout our immigration laws.

Nonetheless, the basic fact remains: People come to America illegally because they seek better jobs. We will not reduce the flow of illegal immigrants until these immigrants find decent jobs, at decent wages, in Mexico. Our best chance to reduce illegal immigration is sustained, robust Mexican economic growth. NAFTA will create jobs in the United States and in Mexico. The new Mexican jobs will go to Mexican workers who might otherwise cross illegally into America. These jobs will help us stem the tide of illegal immigration.

Numerous studies prove this point. In 1986, Congress created the Commission for the Study of International Migration. After completing its work, this Commission concluded that the creation of new and better jobs in Mexico—through measures including a free trade pact—is the only long-term way to reduce illegal immigration to the United States. A University of California study in 1991 also found that free trade with the United States and internal economic reforms would reduce illegal immigration from Mexico. The study estimated that NAFTA could reduce illegal Mexican immigration by anywhere between 250,000 and 1.1 million people. Even a study by a NAFTA opponent at the Economic Policy Institute concluded in 1991 that NAFTA would reduce illegal immigration from Mexico by as many as 1.6 million people by the turn of the century.

The failure of NAFTA would worsen the problem of illegal Mexican immigration. For example, major agricultural reforms are already underway in Mexico. These reforms will take place with or without NAFTA. The reforms will cause many Mexican workers to leave their rural homes. With the jobs created by NAFTA, these workers will get jobs in nearby cities. If NAFTA fails, Mexican urban centers will not be able to absorb the influx of farm workers. That will mean even greater pressures on our borders.

Recently I met with a distinguished group of immigration experts and economists. And this group was unanimous: If America is truly determined to reduce illegal immigration, then NAFTA must be approved. The failure of Congress to ratify NAFTA will strike a devastating body blow at our efforts to halt illegal immigration.

NAFTA WILL ENHANCE AMERICA'S DRUG INTERDICTION PROGRAMS

You and I are both concerned about stanching the flood of illegal drugs over the Mexican border. This job requires genuine, sustained cooperation with the Government of Mexico. I firmly believe that NAFTA will assist our law enforcement efforts.

First, NAFTA will cement for decades close ties between America and Mexico. The trade agreement will make cooperation between our two countries the norm instead of the exception. With NAFTA in place, I can work more effectively with my Mexican counterparts to ensure tough, honest enforcement of our anti-drug laws.

Second, NAFTA will give us additional law enforcement tools. Customs Service Chief George Weise said recently that although NAFTA will increase cross-border commerce, NAFTA's net effect will be an improvement in the Custom Service's drug interception efforts. NAFTA will enable Customs agents to enter Mexican plants that they now lack the authority to inspect. While their access would be primarily to ensure that goods bound for the United States actually originate in Mexico, such access will also give them the opportunity to look for signs of illicit narcotics.

Third, NAFTA will ensure cooperation on a whole range of other important issues with Mexico. For example, during my recent meetings with the Mexican President and Attorney General, we discussed a program to return illegal immigrants who are serving time in American prisons. This is a very important initiative; it would free up scarce American prison space so that we can incarcerate more violent, repeat offenders. NAFTA's passage will significantly boost programs such as our prisoner return initiative.

In short, Senator Warner, the experts I met with recently confirmed that our best chase to reduce illegal immigration is continued and meaningful Mexican economic growth. The passage of NAFTA is essential to the achievement of this goal.

Please do not hesitate to call upon me if I can provide any additional information.

Sincerely,

JANET RENO.

Mr. SPECTER. Mr. President, no vote has been more difficult among the 4,758 votes I have cast as a U.S. Senator than this one on NAFTA. After extensive study, listening to constituents, discussions with so-called experts, consultation with colleagues, and personal deliberation, I have decided to support NAFTA.

My main worry on supporting NAFTA is the potential loss of jobs in the short run. Such job losses are enormously problemsome for the entire country, but especially for Pennsylvania, which has been hard hit in many industries including steel, coal, textiles, and glass—to mention only a few.

However, in my judgment, that significant disadvantage is outweighed by the prospects for some offsetting job gains within a reasonable period of time and the long-range prospects for many additional jobs. Notwithstanding the long-range benefits of free trade, it is still difficult to cast a vote which may cost many Americans, including many Pennsylvanians, their jobs. I have anguished over that concern as I have heard from many constituents from threatened industries.

It is hard to vote against so many friends among the working men and women who oppose NAFTA; but, of course, I have many friends who support NAFTA and ultimately I must decide where the balance lies in the interest of my State and Nation.

As my Senate voting record demonstrates, I have consistently supported the interests of the working men and women in voting for raises in the minimum wage, extended unemployment benefits, expanded job training, and increased funding for workers displaced by imports or defense cuts.

The Federal Government must make good on current promises, which I support, to develop a comprehensive program to offset employment dislocation due to NAFTA. The transitional worker assistance program and increased funding for job training are indispensable parts of the Federal Government's responsibility to ease job losses caused by NAFTA.

My unwavering support for our working men and women and my extensive efforts on the Senate Appropriations Committee to bring Federal projects to Pennsylvania have been directed to supporting existing jobs and to stopping the erosion of the industrial base of my State. In considering NAFTA, I believe it is necessary to weigh the interests of the next generation of Americans, including Pennsylvanians, on expanding job opportunities for the future. The competing interest of security for the present and opportunities for the future have to be carefully evaluated and balanced.

I am confident that the United States can compete effectively with Mexico, Canada, and for that matter other countries in the markets of free trade notwithstanding the lower wages which currently prevail in other countries. As I have supported extensive Federal programs for current workers which involve some burdens for the next generation on the deficit, I think that consideration and benefits must be given to the next generation on free-trade agreements like NAFTA.

The benefits of free trade will improve the future economies of most, if not all, nations including the United States. Our role as a world leader on free trade, as well as many other matters, is very important, but this leadership will not involve long-range costs to the United States like our leadership on other matters. It will instead provide substantial long-range economic gains for our people as well as the other people of the world.

Many important aspects of our trade laws have not been addressed notwithstanding the fundamental unfairness to U.S. industries caused by subsidized and dumped imports. Subsidized and dumped goods violate the basic principles of free trade which mean the costs of production plus a reasonable profit without permitting foreign governmental subsidies or dumping.

Since 1982, I have sponsored and pushed legislation which would create a private right of action in the Federal courts to obtain injunctions to stop dumped or subsidized goods from coming into our country and to provide damages to compensate workers and companies which have sustained serious damages from such imports.

I voted against the so-called fast track for NAFTA because I wanted to preserve my right to offer amendments on the Senate floor including provisions for such private rights of action. Regrettably, the so-called fast-track provisions were enacted and amendments are not possible. I have pressed executive branch officials including the Secretary of Commerce and the U.S. Trade Representative to support such private rights of action. While I have received a sympathetic hearing, I have received no commitments; but I intend to press these issues with executive branch officials and with legislative proposals in the Senate.

In my extensive travels through Pennsylvania's 67 counties, I have seen the problems of Pennsylvania's working men and women including the injury caused by dumping and subsidized imports which violate the principles of free trade. I have witnessed the difficulties of obtaining fair access to foreign markets by Pennsylvania's farmers and manufacturers, and I have seen the potential for economic growth in our State and Nation hampered by such barriers to free trade.

As I have frequently said, a Pennsylvania Senator has the diverse representation of some six States contrasting the interests of farmers, residents of the inner cities, steelworkers, people who live in the Allegheny National Forest, coal miners, and participants in the emerging high-technology industries.

This has been a very emotional issue for America. I watched the often-heated and sometimes-eloquent arguments on the floor of the House of Representatives on Wednesday. I know that the pressure has been more intense in the House because that was where the battle was expected to be the closest. But the Senate has received its share of comment and controversy.

While the affirmative vote in the House and likely majority in the Senate presages the passage of NAFTA, this may not be the last word on this important subject. The Congress will have the opportunity and responsibility to revisit this subject. Many of us will closely monitor the situation to observe Mexican and Canadian compliance and the tangible steps taken by the administration to assist displaced workers. The doors of Congress remain open to modification should that become necessary.

Mr. GLENN. Mr. President, let me begin by saying that the vote I cast today is not any easy or automatic one. I consider myself to be a strong supporter of free—but fair—trade. I have consistently supported the GATT, with its reasoned sector-by-sector approach to multilateral trade negotiations. I supported the United States-Canada Free-Trade Agreement and the United States-Israel Free-Trade Agreement—the only two free-trade agreements the United States currently has.

But today we are talking about something very much different from those two existing agreements. There is no precedent for a free-trade—and free-investment—agreement between countries as disparate as the United States and Mexico. There are profound difference in levels of economic development, in wages rates, and most importantly, in general standard of living.

In saying this I am simply stating facts, I mean no disparagement of our friends and neighbors to the south. I believe the United States should seek vigorously to expand trade and economic links with Mexico and with the rest of the nations in our hemisphere. And I would like to be able to vote for NAFTA, but I must conclude that NAFTA in its present form is not acceptable.

There has been much hype and hyperbole by both sides in this NAFTA debate. The decision we make on this agreement has been characterized by NAFTA proponents, mischaracterized in my opinion, as a choice between hope and fear, between optimism and pessimism. That is rhetorical nonsense.

This is not a choice between the past and the future; it is a choice about what kind of future. It is a hardheaded economic decision about how the United States can best promote our international competitiveness while improving the standard of living for American workers and their families. I believe the majority leader in the other body was exactly right when he said it is this NAFTA that represents the past, the past where the United States too often used trade policy concession to achieve other, mainly foreign policy, goals.

This is a complex and complicated agreement, five volumes, thousands of pages. I am skeptical of anyone who says they know exactly how it will play out; I imagine it will be a mixed picture.

But by almost every study, every assessment or estimate, Ohio will be one of the States most affected by NAFTA. Plus or minus jobs? That is the basic question. Short-term? Long-term? Ohio has substantial trade with Mexico now. Will that trade—that is jobs—go up or down? Estimates go all over the lot, proving only that it is extremely difficult to predict what will happen following the creation of a new and previously untried entity like NAFTA. Predictions vary—the administration's rosy scenario asserts that "Ohio could have 5,500 more jobs by the end of 1995," and presumably even more as NAFTA is fully implemented and the Mexican economy grows in the years ahead. On the other end of the spectrum, a now year-old doom and gloom prediction by a noted international trade expert estimates that Ohio could lose as many as 56,000 jobs with NAFTA's implementation. To compound the problem further, most of the people doing doing the forecasting are sincere, thoughtful, and credible experts you want to believe. The truth probably lies somewhere in the middle of all the predictions.

I believe the rhetoric and hyperbole on both sides has been escalated far beyond a reasonable level. I do not believe that passing NAFTA will be the all important saving grace of the Mexican economy as some would have us believe, nor will failure to pass NAFTA doom the Mexican economy to the doldrums. Conversely, north of the border, NAFTA approval is not likely to result in quite the big sucking sound job loss that has received so much attention, nor will defeat of NAFTA guarantee a vibrant United States economy by protecting against cheaper labor costs in Mexico.

I want to take a few minutes to outline another primary concern I have about the agreement—it significantly increases the attractiveness of investment in Mexico creating a powerful magnet drawing investment—and the jobs created by that investment—south of the border. I do not believe this probable investment flow has been given sufficient attention in most studies, nor in the congressional debate, and it is probably the single most important factor in the education of whether NAFTA will prove to be beneficial or an albatross round the U.S. neck.

NAFTA proponents have used the example of the integration of Spain and Portugal into the EC to support their contention that NAFTA will not lead to the diversion of investment from the United States to Mexico. I believe an examination of the facts of that case is instructive.

First, the wage gap between the United States and Mexico, at 7 to 1, is much larger than that which existed between the EC and Spain and Portugal, at 2 to 1. Second, the number of workers Mexico adds to this newly integrated market is much larger than what was brought into the EC by Spain and Portugal. Mexico's work force of 30 million equals 24 percent of that of the United States and Canada. In contrast, the work force of Spain and Portugal was only 14 percent that of the EC. Third, the EC committed $85 billion to promote development in the economically disadvantaged regions of the Community—it invested and continues to invest in the poorer countries added to the EC and in poorer regions of original EC countries which suffer as a result of competition from the lower-wage new entrants.

Finally, the EC required that its new entrants be functioning democracies and that they adopt common labor, social, and legal standards in order to minimize capital flight in search of the lowest wages and standards.

NAFTA proponents have argued that American businesses can invest in Mexico now, and that is certainly true and they certainly have. However, when they carry that thesis forward to suggest that those who wanted to go have done so or that NAFTA will not change the situation, they ignore one of the two fundamental pillars of the agreement and thus mislead the American people.

NAFTA is every bit as much a free-investment agreement as it is a free-trade agreement; I do not think anyone would dispute that assertion. NAFTA would ensure United States investors and their investments treatment equal to that afforded Mexico's own investors. NAFTA would end Mexico's current restrictions on foreign investment, eliminate performance requirements, remove the general approval process for foreign investment, and liberalize investment rules in various sectors. NAFTA would prohibit expropriations, ensure the convertibility of foreign investor's Mexican currency and the repatriation of profits. NAFTA would provide for the protection of intellectual property and establish a dispute settlement mechanism for foreign investors outside the Mexican courts.

In summary, as the Congressional Research Service stated in a report on Mexico's investment policy, NAFTA "would increase investor confidence in Mexico by providing more assurances that Mexico would not reverse the changes in foreign investment regulations and by providing foreign investors with more legal protection for their investments in Mexico."

And finally, of course, NAFTA would give those who invest in productive capacity in Mexico free and unimpeded access to the largest consumer market in the world, the United States of America.

So now that their investment would be more secure, why would investors want to invest in Mexico, what advantages does Mexico have to attract these investors? My friends on the other side of this issue say that if low wages were the sole criteria for investment decisions, Haiti and Bangladesh would be economic superpowers. That gross simplification misses the key point—it is not low wages alone that make Mexico attractive; it is the low wages combined with relatively high productivity in the manufacturing export sector and the nearly 260-million person United States market.

As labor economist Harley Shaiken has ably pointed out, Mexican productivity in this sector has grown rapidly to where it approaches or matches our own, but at Third World labor rates which are not permitted to rise in tandem with productivity. And it is to trends in the manufacturing export sector, financed primarily by foreign, principally United States, investment, that one must look to try to foretell the future of wages and productivity in the foreign investment sector of the Mexican economy.

Now NAFTA proponents claim that, once we are one economic unit, the beneficial impact of the agreement on the economies of all three nations will cause Mexican wages to rise thus wiping out the gap and eliminating the incentive to go south in search of cheap labor. That is nice in theory. But I have asked repeatedly how long will this take? Years? Decades? Generations? And I have never received a satisfactory answer.

It is not very comforting to understand that, contrary to what is predicted by economic theory, Mexican wages have not risen as productivity increased. This is because wage rates are fixed by government policy. And government policy is not particularly interested in erasing the wage-productivity gap that is so attractive to the foreign investors Mexico is actively seeking.

I understand that President Salinas has pledged to link the Mexican minimum wage to productivity increases. Unfortunately, the current Mexican minimum wage is about 58 cents an hour. Even if that wage is allowed to increase every year by the same rate predicted for the faster-rising productivity in their manufacturing export sector, we are only talking about a 2 to 3 cents per hour increase. Tell me, at that rate, how many years will it take for Mexican wage rates to even begin to approach United States wages of today?

I was involved in international business before I came to the Senate. And I am convinced that this very substantial wage rate-productivity gap will be a powerful incentive for American companies to produce in Mexico. Sure Mexico may have offsetting disadvantages. But for many industries, they would have to be pretty dramatic to wipe out the advantages of much cheaper yet productive labor.

Now NAFTA proponents dismiss this concern saying that any NAFTA-induced investment diversion will be too small to matter, will come at the expense of U.S. investments elsewhere not at home, and any jobs lost will be replaced by better jobs created here. They say that 19 of 20 studies showed that NAFTA would be good for the U.S. economy and labor. But guess what, none of those 19 studies even attempted to factor in the impact of even a small investment shift from the United States to Mexico. They simply ignore it, assume it away.

Selling NAFTA, or studying NAFTA, on the basis of its trade impact alone is misleading and incomplete. Mexico wants investment from NAFTA, they have stated a goal of increasing the share of foreign investment to 15–20 percent of all new investment in Mexico, and they were willing to agree to very generous investment protection provisions to get it.

It is hardly idle speculation that American businesses might build manufacturing capacity in Mexico, in fact it is idle speculation to assume they will not. The United States is by far and away the largest foreign investor in Mexico, accounting for roughly two-thirds of the direct foreign investment there.

Mexico's liberalizations of the 1980's led to an explosion of United States manufacturing plants being located there, most in the maquiladora zone. In the last 6 years, United States companies' investments in plant and equipment in Mexico has tripled. Absent any increase in the United States savings rate, an increase in United States direct investment in Mexico will come at the expense of United States investment elsewhere and at home. It seems entirely reasonable, therefore, to conclude that at least a significant portion of that new investment in Mexico will be diverted from investment here in the United States.

In a survey conducted by the Roper organization for the Wall Street Journal in September 1992, 40 percent of United States companies stated that they were very likely or somewhat likely to shift some production to Mexico in the next few years if NAFTA is passed. For companies with sales of at least $1 billion a year, the percentage responding this way was 55 percent. Yet the pro-NAFTA studies used by supporters of this agreement simply assume that will not happen and then go on to make their cheery predictions.

The Congressional Joint Economic Committee also reviewed many of the studies predicting the economic impacts of NAFTA. Of the 16 studies examined by JEC, 10 "begin by assuming that no investment will be diverted from the United States to Mexico, and are therefore unable, by design, to conclude that the United States could suffer job losses because of shifted investment." Of the remaining six, four attempt to quantify and factor in a level of investment diversion. Of those four studies, three show negative effects on U.S. employment—significant gross job dislocations, net job losses, and reduced wages.

To me this strongly suggests that the investment liberalization impact of NAFTA must be given equal weight with trade liberalization impact. And when this is done, those consistently rosy scenarios get considerably cloudier.

We owe it to the working men and women of America to develop and effectively implement economic and trade policies which promote growth and investment at home. I do not fail to understand the importance of exports to our economic well being. My State of Ohio is the third largest exporter of manufactured goods; one of every seven Ohio manufacturing jobs is related to exports.

But we cannot blithely assume that those jobs will automatically remain in Ohio, indeed, we know better. Yes, American firms can go to Mexico now if they want to. But it is equally true that NAFTA will increase the security and attractiveness of investment in Mexico. I do not believe American Government policy should promote, encourage, or accelerate the movement of even more investment to Mexico. We need that investment, and those jobs, in Ohio and across this country.

Finally, I would like to draw my colleagues attention to a short piece by Aaron Bernstein in the Nov. 8, Business Week. In that article Mr. Bernstein summarizes succinctly and persuasively the main arguments which have led me to reluctantly conclude that I cannot vote for this NAFTA.

I want to see the Mexican economy grow and prosper. I want the Mexican standard of living to improve to the point where it is equal to our own. But the process should not be one that risks further reducing an already hard-pressed U.S. standard of living, nor seriously risks the loss of U.S. jobs, to be regained only at some undefined future decade or generation.

I believe the goal of a greatly expanded Mexican economy, which I certainly support, can be achieved at less risk by increased emphasis on United States/Mexican negotiations along the GATT lines, sector by sector and product by product. It may take a little longer—but it is more fair.

I ask that the Bernstein article be reprinted in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Nov. 8, 1993]

AN ANTI-NAFTA ARGUMENT YOU HAVEN'T HEARD

(By Aaron Bernstein)

For months, a media juggernaut has rolled over anyone who challenged the North American Free Trade Agreement (NAFTA). That's because economists have won the day by repeating their graduate school lessons like a mantra: History shows that free trade is good, so NAFTA will benefit the U.S. economy. Those who say otherwise are dismissed as ignorant or irresponsible.

But the argument overlooks the treaty's biggest impact, which won't be on trade but on investment, mainly by U.S. companies in Mexico. Most studies rely on the 19th century theory of free trade, which assumes capital doesn't cross borders. Result: The studies miss the drain of U.S. investment dollars—which began several years ago in anticipation of the pact's becoming law.

Some quick arithmetic suggests that investment lost under NAFTA could outweigh potential gains from increased trade. "Most economic models of NAFTA don't look at capital movements," says Edward E. Leamer, a trade economist at the University of California at Los Angeles. "And it might give a different answer as to whether NAFTA is good or bad for the U.S. work force if they did."

NO ONE HAS LOOKED

Indeed, of 19 NAFTA forecasts reviewed by the Congressional Budget Office (CBO), just five looked at the issues. Four of these assumed—bizarrely—that any investment surge in Mexico would come from somewhere other than the U.S. The only study delving into the issue, by Robert K. McCleery, an American economist at Kobe University in Japan, predicted that NAFTA would displace about $2.5 billion of investment from the U.S. to Mexico annually.

What does that mean for U.S. jobs? McCleery doesn't ask, because he assumes the U.S. economy will fill in lost jobs with new ones. But Georgia State University economist Donald Ratajczak figures that $1 billion of U.S. investment generates about 30,000 jobs. Assuming a $2.5 billion annual capital outflow, that would mean 375,000 potential new jobs lost over five years—more than wiping out the 170,000 gain that Gary Clyde Hufbauer and Jeffrey J. Schott of the Institute for International Economics in Washington predict will occur in five years if NAFTA passes. Bruce G. Arnold, the economist who wrote the CBO paper, acknowledges that investment outflows could wipe out potential job gains from NAFTA, but he admits that "no one has looked at it much."

The pro-NAFTA argument rests on some shaky assumptions about exports, too. Hufbauer and Schott, like most others, assume that higher exports are a net increase for the U.S. economy. But the recent export surge to Mexico wasn't fueled by Mexicans on a spending spree. Some 37% of it went to *maquiladoras*, which ship most of their output right back to the U.S., according to a recent General Accounting Office study. That's not a net boost to U.S. gross domestic product—it's production lost to another country.

Moreover, the CBO found that a further third of U.S. exports to Mexico consisted of capital goods. If much of this money comes from U.S. companies closing plants at home and setting up new ones in Mexico, these exports aren't a net gain for the U.S. either.

Lets take an example: Say General Motors Corp. shuts an Ohio plant that had cost $1 billion to build and that employs 30,000 people. Then, it builds a factory in Mexico, buying $1 billion of equipment from U.S. makers. Hufbauer and Schott figure the economy will be swelled by $1 billion in new exports—enough, they estimate, to create 19,600 new jobs for American workers. But the investment and 30,000 jobs lost in Ohio are left out of the equation.

Trade theory is convincing—about the benefits of increased trade. But it doesn't address what's happening between the U.S. and Mexico, which are merging their economies. If the effects of integration overwhelm the trade gains, the U.S. could be the loser. And economists simply don't pay enough attention to that possibility.

Mr. PRESSLER. Mr. President, I once again rise in strong support of NAFTA. I applaud the administration in vigorously pursuing passage of NAFTA this year. I do have serious reservations regarding the impact of the side agreements to NAFTA and the commissions and committees that the side agreements will create. While I supported efforts to delete the side agreements from the implementing legislation, their being part of this bill should not defeat the agreement.

Approval of NAFTA, and having it operative next year opens the door to further gains in world trade negotiations for a new GATT. Defeat of NAFTA now could place unnecessary roadblocks to completing the Uruguay round. This should not happen. I look forward to NAFTA becoming operative. I intend to work with the administration to pursue even more trade opportunities for the United States under a new GATT Agreement.

Why do I take such strong interest in NAFTA and GATT? that's easy: Agriculture is my State's No. 1 industry, contributing nearly $14 billion to it's economy. Growth in the agricultural sector is essential to South Dakota's future. Exports are crucial to that growth. In 1992, South Dakota's agricultural exports totaled nearly $900 million. Many of these exports are going to our neighbors to the north and south. As much as 65 percent of South Dakota's wheat production is exported overseas. Maintaining and expanding foreign market opportunities is vital to economic growth to South Dakota's farmers and ranchers.

Many small businesses in South Dakota also stand to make significant gains from NAFTA. These range from mining operations, clothiers, manufacturers, electronics, bakeries, financial institutions, computers, service industries—all are in support of NAFTA.

A bright economic future for South Dakota depends on: First, increasing exports of U.S. agricultural and small business products; second, eliminating nontariff trade barriers and significantly reducing the use of unfair export subsidies; and third, a level playing field in the world trade arena.

History has taught us that economic growth is attained through freer trade. The United States stands to make significant gains from NAFTA. It should be approved.

Mr. HATCH. Mr. President, today I am going to depart somewhat from the types of speeches we have heard on this floor both for and against the North American Free-Trade Agreement [NAFTA]. This past Thursday, I offered my own analysis, rooted in the statistical data that has been provided from CBO and other sources that Congress routinely accepts as reliable. NAFTA is clearly the most extensively analyzed, hotly debated, and openly negotiated trade agreement in the past 60 years.

Today, I want to look somewhat beyond NAFTA, but, I first want to review what I believe it will take to make NAFTA work. And I'm taking this approach because I feel a strong obligation to the many opponents of NAFTA. While I disagree with their arguments, many of which were cast in fear of the unknown, I never doubted that we would have to make the case.

I have also been influenced by a statement made by the former Office of Technology Assessment Director, Dr. John Gibbons, a distinguished physicist who is now Director of the White House Office of Science and Technology Policy.

In the foreword to the 1991 OTA study entitled: "Competing Economies," Dr. Gibbons wrote:

> A test of [our] national competitiveness is whether standards of living improve while world market share holds steady or increases. The United States is failing on both counts.

Mr. President, NAFTA will force us to review our national attitude toward trade and toward the private sector as well as public sector machinery that will determine its success or failure.

NAFTA IS A LANDMARK EVENT IN U.S. FOREIGN POLICY

In many ways, NAFTA will influence hemispheric economic relations in much the same way that the North Atlantic Treaty Organization [NATO] influenced regional security. I predict that a hemispheric economic alliance will emerge from the rather rough beginnings of NAFTA in much the same way that NATO's 15 member alliance emerged from the smaller Brussels Treaty.

And, NAFTA will expand for much the same reason: the American people are awakening to a broader regional responsibility as well as opportunity to subdue a threat.

Quite obviously, this threat is not the military type of threat that prompted NATO's development. Rather, our commitment to NAFTA derives from the need to secure and promote our own prosperity through trade participation, rather than isolation.

We recognize that standing idle in our own hemisphere will create a vacuum of economic opportunity that will quickly be seized by our trading partners elsewhere. I hasten to add that even Canada had begun negotiating a separate free trade agreement with Mexico in the event Congress failed to support NAFTA.

THREE CRITERIA TO GUIDE NAFTA'S SUCCESSFUL IMPLEMENTATION

Mr. President, let me suggest three considerations that we must make for guiding the United States into the successful implementation of NAFTA.

First, our national trade philosophy must provide the values which are imbedded into our trade practices.

Second, we need a sound policy to guide government as it regulates, restricts, promotes, or influences trade in any other way.

Third, we need to inculcate a spirit of enterprise in our business community, motivating them to be competitive, even aggressive, in seeking markets aboard.

NAFTA WILL PROVIDE THE FRAMEWORK FOR CHANGE

Mr. President, let me address the first consideration, our economic philosophy. NAFTA is spawning an important theoretical variant to American economic philosophy. We are entering into a unique type of economic cooperation that will almost certainly be found throughout the hemisphere within a generation.

NAFTA will provide trade reforms that will lift all boats with a rising tide of prosperity. I believe this will occur through maximized participation by businesses of all sizes.

In this regard, NAFTA promotes many fundamental principles of U.S. economic philosophy, such as antitrust. We did not put NAFTA in place solely for large, so-called multinational corporations. It is not intended to give large oligopolistic companies great marketing power. On the contrary, NAFTA designedly shares market power with U.S. businesses of all sizes.

In this sense, NAFTA will allow businesses of all sizes, if I may repeat myself, to find new conduits for products, services, capital, technology, management, environmental improvements, and even new business partners.

Mr. President, we have seen the rest of the world adopting the free market system with enthusiasm. This accounts in great part for expanded trade, which occurs best in this type of market environment. NAFTA is built upon the free market philosophy, of which the United States is the ideological champion. As NAFTA expands, hopefully to integrate the economies of Chile, Argentina, Colombia, Uruguay, Ecuador, and others, it will also expand the inherent power of the American economic philosophy and the policies that underscore it.

GOVERNMENT POLICY MUST ACCOMMODATE NEW TRADE PRIORITIES

Mr. President, few would dispute the likelihood that it will be the U.S. economy that will drive NAFTA. Our economy will also, therefore, drive closer hemispheric cooperation.

Our leadership will depend on more than just economic clout. We must show moral leadership. This means that our Government policies must be fair to all parties.

Without question, the United States will enforce its own domestic trade laws to deal with unfair trade practices injurious to the interests of our business community. There was no support in Congress from any quarter to weaken our existing trade statutes, such as the section 301 antidumping protections, during the NAFTA negotiations.

But, like any successful neighborhood businessman knows, we must practice the "golden rule" in business. We must assure our trading partners that the same sense of fairness will be applied in resolving disputes brought either in the U.S. court system or on the NAFTA dispute resolution panels on which U.S. representatives will sit. At the same time, we will expect nothing less from our NAFTA partners.

Government policies influence trade in other ways. We need to take care that this influence is not destructive. I plead with my colleagues to incorporate an enlightened sense of purpose in the laws that we write, the guidance we provide the executive branch, and the behavior that we display on trade matters. More specifically, this means, among other things:

We should be tolerant of different languages, customs, and cultural attributes. They may complicate trade at the outset, but such differences can be overcome.

We must learn to work with the domestic economic policies, practices, and institutions of our trading partners.

We must cause our Government's massive and complex trade bureaucracy and machinery to exercise restraint. We should avoid oppressive Government regulations that substitute frivolous legal formulas for policies that produce economic gains.

We must deal directly with one particularly compelling fact: Foreign trade is a form of foreign policy that is conducted largely by private businesses. This will be a major readjustment for a country, like ours, whose foreign policy over the past half century has been dominated by national security and particularly defense interests.

NAFTA WILL PROMOTE A SPIRIT OF INTERNATIONAL ENTERPRISE

Finally, Mr. President, I believe NAFTA, like no other trade agreement in our history, will motivate our business community toward the international marketplace. Let me provide several reasons for this observation.

First, if I may briefly indulge in theory, economists have long used the simple method of "factor mobility" to distinguish between foreign and domestic trade. In domestic trade, major factors of production, such as capital and technology, move within a country. In international trade, they move between countries.

The United States has been a country blessed and endowed with ample resources and a huge domestic market. However, since World War II, our share of gross domestic product [GDP] devoted to foreign trade has risen slowly until the late 1970's when its growth accelerated to the current level of somewhere between 11 and 14 percent.

This reflects the fact that the rest of the world wants what we have. Resources are in increasingly short supply in many parts of the world; therefore, there are ready markets for U.S.-produced goods and services. For the United States, foreign trade is a source for the capital we now need to carry our growing debt burden.

As we have learned twice in our history, once after the industrial revolution—from Britain in the late 1800's—and again more recently from Japan, better manufacturing management technologies and methodologies can be found outside the United States. In both cases, we adopted the changes.

Most recently, we have seen U.S. worker productivity move from a position of stagnation in the late seventies to world leadership today. The adoption of many foreign management ideas and technologies, modified to suit our needs, have thrust our productivity to a level of five times that of Mexico and many times that of every other country in the world. This will be a major source of our hemispheric leadership—our neighbors, especially Mexico, expressly seek our technology through these trade agreements.

Second, competition drives innovativeness, as business knows well. However, there are three additional steps that U.S. businesses will have to take to penetrate Mexican, Canadian, and the other hemispheric markets over time.

First, they will have to adapt to foreign consumer needs. Automobiles must reflect foreign safety standards or emission controls and foods may have to be spiced to foreign taste, for example.

Second, businesses will have to adopt new operational styles that suit markets in which they hope to have a presence. This will mean complying with investment and banking laws, and other practices that will have to be learned and perhaps even begrudgingly accepted.

Third, businesses will have to acculturate themselves to culture and customs as they affect operations in a Latin American country in a way that will make the U.S. business person a welcome, rather than a feared partner.

Mr. President, all of these things add up to unprecedented opportunity for the United States if we approve NAFTA. It is a framework for learning, for prospering, and for expanding our trade horizons.

Mr. KEMPTHORNE. Mr. President, since I came to the Senate in January of this year, I have made a point of thoroughly investigating the provisions of the North America Free-Trade Agreement and its side agreements. I had said during my campaign for this seat that I would reserve comment on NAFTA until I saw the final document. I was criticized back then by those who said that NAFTA was an agreement set in concrete. They said it could not be changed. Since then I have been proved right by the modification of NAFTA by at least two formal side agreements and numerous letter agreements. In fact lately, NAFTA has looked less like it is set in concrete that it has looked like a moving target. Side agreements on sugar, wheat, citrus, beef, cucumbers, lettuce, celery, bell peppers, tomatoes, wine and peanuts have been negotiated in just the last 2 weeks. The cost of one NAFTA vote was $450 million for the North American Development Bank. We will not know the cost of NAFTA for weeks or years to come as the slick side deals bought and paid for with pro-NAFTA votes come to light. If a vote has to be bought in this way, NAFTA, the product, must not be all it's advertised.

NAFTA is more than just a trade agreement. If NAFTA were just a trade agreement it would simply eliminate trade tariffs and barriers, expand markets and create jobs. If NAFTA did just, I would strongly support it. But NAFTA is not just a tariff cutting bill. NAFTA creates new layers of international bureaucracy.

Throughout the year, I have consistently stated that if the interests of Idaho were not well served by the treaty, I would feel compelled to oppose the treaty on that basis alone. At the time, I was referring to an adverse impact the treaty might have on particular Idaho industrial or agricultural groups or commodities. However, after taking a much closer look into NAFTA, there is an obvious defect in the agreement so basic and so fundamental that its seriousness must outweigh other considerations. I'm concerned the NAFTA treaty will fatally compromise the sovereignty of Idaho. I cannot, and I will not, vote to approve NAFTA if it infringes on the sovereignty of the State of Idaho.

Although the NAFTA agreement provides that the agreement itself cannot supersede State law, State laws in violation of NAFTA will be challenged by the United States if the State law is inconsistent with NAFTA. Although the NAFTA agreement itself does not overturn any conflicting State law, the United States has an obligation to Mexico and Canada to take all necessary measures to bring State laws into conformity with the agreement. The implementing legislation specifically authorizes the Federal Government to challenge any State law which conflicts with NAFTA. Mexico and Canada, or any national of those two countries, will have an opportunity to challenge a State's acts before the Councils for the Commission for Labor and Environmental Cooperation. Not much attention has been focused on these trinational commissions created by the side agreements. The United States, Mexico and Canada will be represented on each commission, depending on the side agreement, by the EPA Administrator or the Secretary of Labor. Within the Environmental Side Agreement the range of issues the council may consider is far reaching, from "promoting public awareness" about the environment to "approaches to environmental compliance and enforcement." The council is to work for the continued improvement of environmental laws, and to do so without reducing levels of environmental protection. Within the labor side agreement, the council shall cooperate to promote activities regarding issues as varied as the "formation and operation of unions" to "occupational safety and health" and "social programs for workers and their families." While it is hoped that most decisions are to be by consensus, two governments could outvote a third.

Idaho will have no right to represent itself or participate in the defense of her own acts before the council. A State or local governments only allowed participation will be as a result of a United States request for information.

State governments should have a greater degree of autonomy than is reflected in this side agreements. If a state law is in conflict with NAFTA but the relevant State government can make a case for its retention, the law should be retained and should be exempted from the agreement.

A five-member arbitral panel can declare that State and local acts violate NAFTA and the panel may impose monetary sanctions against the United States. We can assume the United States will seek to pass on the cost of that monetary sanction to the individual State or local government. I am concerned that the United States will want to recover from Idaho, a penalty imposed against the United States by the arbitral panel, in cases where the State disagrees with the interpretation of a State or Federal law or regulation. Legitimate differences in interpretation could be wrongly labeled as a failure to enforce an environmental law. Language should be included which prohibits the Federal Government from recovering a fine or other penalty where an interpretive dispute or a constitutional question exists.

I believe the administration should guarantee that NAFTA enforcement actions will not be used as evidence and should be inadmissible in any Federal proceeding against a State or local government. This is especially needed since under the existing agreement States are denied a reasonable opportunity to be heard and evidence of such a decision would have an unreasonable prejudicial effect.

States like Idaho will be denied the constitutional right to establish stricter regulations and policies than are imposed by the Federal Government. We will have no control over our own State product standards and regulations, pesticide regulations, chemical bans, natural resource management policies, toxic waste restrictions, or sustainable and organic agricultural rules. Right to work laws could be challenged as inconsistent with NAFTA's goal of "upward harmonization." Since any NAFTA member could challenge another country's laws with respect to an issue they deem "denies economic opportunity," litigation could soon bog down Federal and State economic initiatives.

I believe the United States should seriously reconsider any agreement which gives up United States sovereignty to any multinational group that will place the needs of international trade over the interests of the American people.

These concerns are not simply the concerns of one Senator from Idaho; they are shared by many. I cannot lightly dismiss the sovereignty of the Federal Government or disregard the 10th amendment to the Constitution and the power within it which is reserved to the States. I cannot, and I will not, vote to approve NAFTA if it infringes on the sovereignty of the State of Idaho.

Idaho, as a state with magnificent natural resources, suffers from tough environmental regulations that stem from vaguely worded laws. Idahoans do not want any more vaguely written environmental laws that cannot be interpreted, implemented or enforced. Idahoans do not want Mexico and Canada telling them how to protect their land. And Idahoans do not want the EPA Administrator to be the sole person solely looking out for Idaho's interests in an international environmental protection commission.

Mr. THURMOND. Mr. President, in all my years of service in the U.S. Senate, I do not remember such a lively debate on a trade matter. Over the last few weeks, my office, and I am sure that of every other Senator and Member of Congress, has been inundated with information and calls about the North American Free-Trade Agreement (NAFTA). People on both sides of this issue have been very vocal in expressing their opinions. However, from all this information and rhetoric, it appears to me that no consensus exists as to whether this is a good or bad agreement.

Proponents and opponents both have convincing arguments to support their position. In general, businesses think Mexico has great market potential, and that without some of the current trade barriers which deter trade, United States companies can compete and sell more goods in the Mexican marketplace. However, those opposed to NAFTA feel that the Mexicans do not have the necessary resources to purchase more United States goods, and that the United States will lose jobs.

Mr. President, many problems currently exist in Mexico which need to be addressed before we accept this trade agreement. They have low wages; few, if any, worker safeguards; and severe environmental problems. Once again there are differing opinions as to how NAFTA will affect these situations. Proponents of this agreement feel that NAFTA will help increase the wages and worker standards in Mexico. Opponents feel that these problems will continue and become progressively worse with NAFTA.

One of the most important industries in South Carolina, the textile and apparel industry, is divided over the merits of NAFTA. The arguments this industry has are basically the same as for any other industry. For example, some of the companies feel that the rules-of-origin provisions included in NAFTA help ensure that only the United States, Canada, and Mexico will benefit from the passage of this agreement. Further, supporters of NAFTA feel that the 88 million people in Mexico would purchase many United States produced goods. However, with cheap, abundant labor, it is felt that Mexico would take a sizable portion of this industry away from the United States.

My State is very divided over NAFTA. Many workers feel that they might lose their job to lower paying Mexican workers if this agreement is passed. Further, they feel that many problems must be addressed before we enter into a trade agreement with Mexico.

After careful consideration, I have concluded that if NAFTA is adopted now, this action would be detrimental to the economy of my State and result in the loss of jobs to the working people.

Mr. President, I shall vote against NAFTA and stand with the workers of my State, and hope they will not be hurt, regardless of the outcome.

Mr. BRADLEY. Mr. President, I want to say that I believe that the opposition to NAFTA is truly responding to the legitimate frustrations and fears and worries of millions of Americans. I also believe NAFTA is the wrong target for those angers and frustrations and, indeed, it has become a lightning rod for them.

Mr. President, no consideration of NAFTA is possible until we begin to see what our predicament is. I think we are in the midst of four economic transformations:

The end of the cold war, the economic effect of which is to drop the number of people working in the defense sector from 7.2 to 4.2 million.

Two, the gigantic national debt that went up from $900 billion to about $4 trillion in 12 years, the result of which was to turn the real estate boom into a real estate depression.

Three, the knowledge revolution. The introduction of the computer into the work force had a profound effect in reducing the number of people working. Steelworkers in 1979 were about 721,000. This year they are 374,000, although we produce as much steel and import less.

And four, the explosion of markets in the world. Three billion more people in the world markets today as the walls of communism, protectionism, and authoritarianism have fallen. Three billion more potential customers for American goods, 1 billion more workers producing tradable goods competing with our workers. Indeed, in the last 20 years, 60 percent of the garment industry, largely because of the competition, has gone to Asia.

Mr. President, a lot of people have lost a lot of jobs and are continuing to lose jobs because of these four economic transformations. I believe it is important that we are sensitive to their needs. I believe organized labor is responding to their needs. And in the tradition of those of us who believe the trade union movement has played an enormously important role in our country and in the world, I believe we should assure adequate health care, lifetime education, and pension security to those working Americans who have lost their jobs and those who will lose their jobs from these transformations.

I know that many of my friends in organized labor disagree with me on NAFTA. They have waged a vigorous fight to defeat it. I respect them greatly. They have legitimate frustration with the job losses of the last decade. Every day they have to deal with the plight of lost jobs, lost health insurance, lost pensions. I share with them a desire to create jobs and take care of those who've worked hard everyday of their life to earn a wage for their families and make America a better, stronger Nation.

But, Mr. President, to defeat NAFTA solves none of the problems caused by the four transformations. To defeat NAFTA won't bring back the cold war or stop the use of computers or shrink the world market or reduce the Federal debt. To deal with the effects of these transformations requires a national effort—an economic secure platform comprised of health care, lifetime education, and pension security that will help our workers ride the currents of these transformations without being destroyed until they get a new job. But the morning after the tears of compassion have dried up, what people want is a path to a new job.

And, Mr. President, passing NAFTA is part of an overall solution. Why do I say that? Because export growth in jobs is absolutely essential. From 1983 to 1989, export jobs in the United States went from 3.8 to 6 million. In my State of New Jersey, they went from 133,000 to 199,000 in just 6 years. Exports are one of the few forces that are creating jobs. Moreover, export jobs earn 12 to 17 percent more than other jobs.

Mr. President, what NAFTA does is generate export jobs. Over a 10-year period it eliminates tariff and nontariff barriers in manufacturing. Over a 15-year period it eliminates tariff and nontariff barriers in agriculture. It locks Mexico into the free market reforms that were initiated in the 1980's and it gives the United States access to a market of 90 million people on a preferential basis.

Mr. President, one of the overlooked aspects of this is that the Mexican economy is only 23 percent manufacturing and is 60 percent services. American companies are already in Mexico in manufacturing because that is the only way we could get access to sell anything in Mexico. We had to build it there because they had such high tariff and nontariff barriers.

But even then when United States manufacturers were producing in Mexico for a Mexican market, our service providers were denied access to that Mexican market. And the reason that is relevant, Mr. President, is that the number of people working in the United States in services in the last 20 years has skyrocketed, and the number of people working in manufacturing has plummeted. In 1952, 34 million people were working in manufacturing; today that number is 17 million people. In 1952, 59 million people were working in services; today there are 79 million people. The reality is we are opening up the Mexican market not only to United States manufacturers but precisely in the sector in which we have the largest number of people working—services.

Let us just go down the list of where some of these jobs are going to come from: both manufacturing and services.

Autos: 60,000 autos exported to Mexico in the first year of NAFTA that backs up to 10,000 to 15,000 American jobs according to the Department of Commerce.

Agriculture: Corn growers in Illinois, Iowa, and Indiana, producing 150 bushels an acre will be competing with corn growers in Mexico who produce at 35 to 40 bushels an acre. No contest. One company, ADM, says 9,500 additional jobs will be created as a result of this.

Textiles: As I said, 60 percent of the garment industry left and went to Asia. They did not go to Mexico. They went to Asia. If 10 percent of that production came back to Mexico, it would generate about 1 billion yards of demand for textiles, and create about 100,000 jobs in the textile sector, which is a higher wage sector than the garment sector.

Heavy equipment: Caterpillar sold 5 tractors in Mexico in 1987; now it sells 1,000 tractors and its sales are increasing every year by leaps and bounds. In 1991, General Electric had sales in Mexico of $1.45 billion, three times the amount that it exports back to the United States. Over 10 years, GE sees a market of $34 billion for power generations alone. These are high wage manufacturing jobs.

In addition, there are tens of thousands of jobs in the service sector.

Mr. President, there are real jobs in the service sector, 60 percent of the Mexican economy, and 79 percent of the American employment. For example:

Construction: Ryland Homes says it is going to get a part of President Salinas' program to build 320,000 homes in Mexico. American architects and engineers and plasterers and American steel and sheetrock and windows will be needed in Mexico.

Transportation: Union Pacific & Burlington Northern predict an increase in business of 15 percent annually in traffic between Mexico and the United States. There is an old saying in Mexico. Back in the early 20th century, one leader in Mexico said "Between the United States and Mexico should not be the sound of a locomotive, but the sound of a desert." That was the kind of suspicion. That is changing. Union Pacific & Burlington will be connecting our countries.

Oil and gas: For the first time we will be able to get in; Dresser Industries, Solar Turbines, big and large companies—$20 billion in demand, over 10 years.

Intellectual property for the first time is protected; 75 percent of the worldwide share of computer software is the United States. One company, Microsoft, increased sales in Mexico 100 percent in 1992 and 200 percent in 1993 with employment up 300 percent for Mexico and Latin America.

Pharmaceuticals. One company in my State says with the NAFTA, they will increase employment by 800 jobs. In film distribution, a major growth industry, there is no parallel in the world to the United States industry; it is finally protected and able to sell into Mexico.

Lennox China. They predict that in 4 years there will be a dramatic increase.

Insurance in Mexico is growing at 20 percent a year; 3 percent a year in the United States. The average Mexican spends $30 for insurance; the average American spends $1,950. That is a major growth market.

Finance. Beneficial Finance tells me—a New Jersey company—5 years after NAFTA is in effect, they will have opened 50 offices in Mexico and each will support a job in New Jersey at $40,000 to $50,000 a job.

Environmental technology. Companies like Brown and Caldwell in California will be cleaning up the environment, creating jobs in the United States. M&M Mars in New Jersey sales will go from $30 to $200 million.

Mr. President, what about the jobs and small business? NAFTA will give small businesses access to the Mexican market that because of local production, investment rules, and export requirements it could never get otherwise.

Mr. President, I will submit for the RECORD, and I ask unanimous consent to have printed in the RECORD, a list of 30 different small businesses in the State of New Jersey that deal with earrings, printing inks, paint tools, pressure valves, and vents that see Mexico as a major market.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NEW JERSEY COMPANIES PARTICIPATING IN NAFTA PRESS CONFERENCE

Company, location, and products

Ace Printing; Springfield, NJ; commercial printing.

Alcan Aluminum; Union, NJ; non-ferrous metallic powders and pigments.

Cavanagh; printing inks.

American Cynamid; Bound Brook, NJ; industrial chem's, pesticides.

Att/Bell Labs; Murray Hill, NJ; telephone circuit sys, r&d.

Bag Packaging; Roselle, NJ; bags, plastic sheeting.

Biach Industries Inc.; Cranford, NJ; tensioning eqp, hydro pmps.

Cooperheat Inc.; Piscataway, NJ; heat treating equip.

Croll-Reynolds Co.; Westfield, NJ; pollution control eqp.

Degussa Corp.; Ridgefield Pk, NJ; chem's, precious met's catalysts.

Dock Resins; Linden, NJ; specialty chemicals.

Fluets Corp.; Hillside, NJ; machine parts, lab equipment.

Fluoramics Inc.; Mahwah, NJ; switches and lubricants.

Gemco; Camden, NJ; pharmaceutical machinery.

Girard Equipment; Rahway, NJ; pressure relief vents, valves.

Harris Corporation; Somerville, NJ; semiconductors.

Haarmann & Riemer Corp.; Springfield, NJ; flavors & fragrances.

Hayward Pool Products, Inc.; Elizabeth, NJ; swimming pool & spa equip.

Henry Heide Corp.; New Brunswick, NJ; non-chocolate candy.

Hexacon Electric Co.; Roselle Pk, NJ; hand soldering equip.

Hillside Spinning & Stamping Co.; Union, NJ; consumer/commercial bakeware.

IKG Industries; Clark, NJ; steel and aluminum bar grating.

Lafollette Vineyard/Winery; Belle Mead, NJ; vineyard/winery.

Lermer Packaging Corp; Garwood, NJ; plastic vials, jars, & closures.

Lincoln Mold & Die Corp.; Roselle, NJ; molds for closures.

Lors Machinery; Union, NJ; resistance welders.

Mentor Graphics Corp.; Warren, NJ; software.

Merck; Whitehouse Sta., NJ; pharmaceuticals.

Dyna-Lite Inc.; Hillside, NJ; strobe lghts, electronic flashes.

Electrocatalytic Inc.; Union, NJ; electrochlorinating machinery.

Emcore; Somerset, NJ; crystal production machinery.

Fanwood Chemical; Fanwood, NJ; chemical marketing.

Red Devil Inc.; Union, NJ; hand tools, painting tools, caulking.

Reheis Inc.; Berkeley Heights, NJ; materials for pharmaceuticals.

Rose Art Industries; Orange, NJ; chalk, crayons, paint sets.

The Schundler Company; Metuchen, NJ; perilite & vermiculite.

Seagrave Coatings Corp.; Carlstadt, NJ; arcrylic, urethane, epoxy.

Sealed Air Corp.; Totowa, NJ; plastic foamed pkgs, cushioned envelopes and meat absorbent pads.

S.S. White Technologies, Inc.; Piscataway, NJ; flexible shafts.

Union Carbide; Bound Brook, NJ; plastic resins, solvents.

Van Leer Chocolate; Jersey City, NJ; chocolate candy.

Vanton Pump & Equipment; Hillside, NJ; rotary pumps & steel castings.

Walden Farms; Linden, NJ; salad dressings.

Micron Powder Systems; Summit, NJ; pulverizing and mixing mach.

Milton Can Co.; Elizabeth, NJ; metal cans and pails.

National Starch & Chemical Co.; Bridgewater, NJ; adhesive, starches, resins.

The Newark Group, Inc.; Cranford, NJ; paperboard.

QEI Inc.; Springfield, NJ; automation equipment.

Mr. BRADLEY. The point is that we are going to export a lot to Mexico. It is going to generate jobs in the United States. But is the corollary true? Does every import take an American job? No; that is not true. Look at one of our major imports from Mexico, oil, at 750,000 barrels of oil a day, the fourth largest supplier in the world. That counts as imports. Does that take U.S. jobs? No. It is necessary to create jobs in the United States.

One of the unlooked-at aspects of this agreement is that under NAFTA there will be more investment in oil development in Mexico. I pose the question: Would you rather be more dependent on oil from Mexico or from the Persian Gulf? Under NAFTA, you will get the opportunity to be more dependent on Mexico.

We have some people opposing the agreement saying, "You are not going to sell a lot in Mexico; they are poor people."

The statistics: Mexicans purchase $458 per capita of American goods. More than any country in Europe and more than Japan. Aha, the opponents say. "What about the maquiladoras, send it down, send it back?" OK, take them out of the equation—$353 per person. That's still higher than the average European and almost as high as Japan at $395 per person.

The reality is that Mexico is the second largest manufacturing market for our goods, and it is the third largest farm market for our goods. There are 750,000 cars sold in Mexico every year—750,000 cars. People say Mexicans are all so poor. My question to you then is: Who is buying the 750,000 cars, projected to be one million by the end of the decade? Exports in the first year after NAFTA will be 60,000 into Mexico. At the end of the decade, it is expected to be 400,000 into Mexico.

Mr. President, regarding the Perot picture of Mexico—that shack with all of the poor people—I do not deny there are poor people, but there is also a middle class there. Some of the people in this body who make the assertion to the contrary, I would ask you to drive around Mexico City, Monterey, Pueblo, Guadalajara, Chihuahua, or Leon and look at the places—good houses, good cars. They take their kids to Disney World, and they send their kids to college. They eat well. They have good furniture in their homes.

The reality is that one-fifth of the Mexican population earns three-fifths of the income—not a good distribution of income, but we do not have much to brag about in this country either. But who can deny it is a market? There are 20 million people in the Mexican middle class. It is ready to buy American goods today.

Mr. President, the reality is that Mexico looks more like Texas than it does Guatemala. The reality is that $7 out of every $10 people in Mexico spend on imports, they buy from the United States. They are virtually dependent on the United States for machinery, staple foods, consumer goods, civil engineering, software, pharmaceuticals, on and on. And within 15 years, we will be interdependent, and that middle class will not be 20 million, but 50 million, and we will be selling them goods made by American workers that are earning the higher wage in the export sector.

Look at what happened as Spain and Portugal came into the European Community. Everybody's wages went up—in Spain and the rest of Europe. And that's the way it will be for Mexico and the United States. It would be a win-win situation.

Mr. President, in addition to the jobs that will be created in both countries, the NAFTA will make us more competitive against the real threats to U.S. jobs that come from Europe and Japan. By the time the NAFTA is fully implemented, Mexico, the United States, and Canada will have interdependent economies in which parts of the same products will be produced in each of our countries. The result will be a world product that will keep jobs in North American with the greater number of higher paying jobs in the U.S. Without NAFTA we will be less competitive.

So the agreement makes economic sense but it also makes political sense.

To see how far Mexico has come and how dramatically the political climate in Mexico has changed I ask you when you are next in Mexico City to visit the Museum of Intervention. That museum depicts all the times in Mexican history that the United States has intervened militarily. One can't leave that museum without a deep understanding of the anti-Americanism that has characterized Mexican politics for generations. An issue at the UN—Mexico voted against the United States. A help to Castro—Mexico gave it gladly. A United States initiative in Central America—Mexico criticized fiercely. Mexican politics reminded both the United States and Mexico at every turn about what divided us rather than what united us.

Now that has all changed. The Salinas regime has reached out for the first time in history to their big neighbors to the north. They have done everything we have asked of them to streamline their economy and they have begun to see that full political freedom cannot be far behind greater economic freedom.

I am not going to make excuses for the failure of Mexican democracy or the shortcomings of human rights enforcement. I believe a nation cannot call itself great until it is a democracy. Freedom cannot stop with a free market, it must also extend to politics and ultimately the transfer of power through elections that are transparently fair.

The next challenge for the next great Mexican leader is to bring fully representative democracy and competitive elections to the country of Mexico. The next great President will do for the political structure of Mexico what President Carlos Salinas has done for the economic structure. of Mexico. But that notwithstanding, is it better for us to be engaged or run away? I say it is better to be engaged.

Is it better to spit on the Mexican hand of partnership or is it better to take it and move forward? I say it's better to pass NAFTA and use our interaction with our partner to push toward more democracy and more adherence to human rights.

The labor side agreements give us ways to highlight, for example, the failure of Mexico to enforce it's minimum wage law. And if NAFTA had been in place in the 1980's it would have also given the Mexicans the right to highlight the failure of the Reagan administration to enforce United States labor laws. Under NAFTA we retain the right to file a section 301 action if worker rights are grossly violated. Through the increased consultation, we have a means to put pressure on Mexico to achieve changes in its trade union structure. If we reject NAFTA we have no clout. We become the intruding "gringo," who rejected Mexico. We lose our influence.

Do you believe that Mexico will be more or less democratic if we reject NAFTA? I say if we reject NAFTA Mexico will be less democratic. Its next leader cannot possibly focus on political reform because he'll have to deal with economic crises—a plummeting peso, return of inflation, capital flight and a desperate rush to attract capital by any means possible—not excluding a return to the desperate sweatshop-cesspool days of the 1980's maquiladora program.

With NAFTA the next leader can be a man who will have the political skill to take Mexico from a reformed single party state to a multiparty political power in which elections are open and free beyond question.

Although freedom is not complete yet, there is no doubt in my mind that economic freedom leads to political freedom. The only question is whether it will be aided by a commitment of the political leadership.

The old corporatist Mexico of government giving subsidies to monopolists who did what they wanted with workers and had to competition from abroad is over. Now the once monopolistic industry is many different companies competing to produce against United States and worldwide competition. That process leads to a fragmenting of the old labor movement and an emergence of independent unions or at least companies competing for talent by offering higher benefits to more talented workers so as to get higher productivity. Such a dynamic environment will produce greater prosperity and greater political dynamism.

But none of that can happen if we are not engaged on a day-to-day basis—engaged as a partner after passage of NAFTA. NAFTA is central to achieving a common Northern American democracy and a broadly accepted record of respect for human rights.

For some on this floor who oppose this agreement on labor rights grounds I cannot help but think back to the earlier 1980's when the international banks had Mexico under their thumb, extracting a declining wage and bigger debt for a promise not to label Mexico insolvent. There was a time when Mexico was sending its export earnings to pay interest and not to improve the circumstance of Mexican workers. And what did many of today's opponents to NAFTA do then? Silence. Nothing. Third world debt was exotic and some of today's opponents of NAFTA who now make speeches on this floor had no interest in attacking the debt's impact on Mexico's workers. The case of the opponents of NAFTA would be stronger now if they had spoken up then. I wish they had been as vigorous in attacking the abuses of capital, then, as they are in defending the rights of labor, now.

But the reality of NAFTA will mean more openness in Mexico, more democracy, and a fine partnership in the pursuit of freedom and prosperity.

In terms of social policy I do not need to say more then that half the population of Mexico is under the age of 19. Does anybody doubt that with one million young Mexicans entering the workforce each year that if there are no jobs in Mexico they'll be heading north? Is there any doubt that when they head North they will be taking the jobs of minimum wage workers because as illegals they will work for less than the minimum wage? That integration and movement is taking place. If we defeat NAFTA it will explode, burdening social welfare education and health systems as far north as Chicago.

President Salinas has taken a historic decision to abolish communal farms, the so-called EHIDOS, which keep rural people poor and on government subsidies. That means that irrespective of NAFTA thousands will be leaving the farm. With NAFTA, some will move off the antiquated communal farms into agricultural that has a chance of exporting north, fruits and vegetables; or they will go to work in light industries, established by investment made possible by NAFTA. Without NAFTA these displaced farm workers will simply head north.

When fast-track passed I told the story of a small town named Decosse in Nueva Leon. 6,000 people, only 2,000 men. Most of the men had gone to the United States. They didn't want to be away from their families but they needed a job and trade barriers prevented that job from being in Mexico.

Mr. President, our daughter once spent a summer in Central Mexico on a service project in which she worked in rural villages doing work such as digging latrines and painting homes. On one day a Mexican worker was very kind to her and she asked what she could do to repay the kindness. The man said, "next time you see a Mexican in the United States, go up to him and say hello, because he is afraid." Mr. President, with NAFTA there will be less reason for Mexicans to live away from their families, work for below minimum wage, take jobs from the poorest Americans, and rise each day with constant fear as their companion.

In addition to the economic, political and social policy, Mr. President, I believe that NAFTA provides an example of how to lead in a post cold-war world. It shows that by being inclusive we can show a world looking for an example how to handle the social and economic tensions that exist in many other places. For example, where in the world does an advanced wage, high skilled country exist next to a lower wage, lower skilled country in which immigration pressures remain acute? The answer is Europe. Eastern Europe after the walls of communism came tumbling down now seeks closer relations with Western Europe. What does the West do—blocks exports from the East in most products where the East has a competitive advantage. Juxtapose that shortsightedness with the vision of NAFTA. Juxtapose the xenophobia of Europe with the openness of NAFTA. Juxtapose a Europe where increasingly nationality is defined by ethnicity and a North America where Canadians, Americans, and Mexicans come in all colors, all eye shapes and from many, many ethnic backgrounds. NAFTA says that Mexicans and Americans are part of the same Western tradition; that Latino culture has much to offer American culture; that there is no "other" in North America; that ethnicity does not define nationality.

In Europe they are putting up walls and not taking people in. They are highlighting ethnic divisions, not pluralism.

We have an opportunity to show how you lead in a post-cold war world by reaching out as a pluralistic democracy seeking unity with a neighbor. That is why this agreement is an historic opportunity that we must not reject. That is one of the reasons why it is a parallel to the purchase of Louisiana by Thomas Jefferson, or to the purchase of Alaska by Seward and Johnson, or to Harry Truman's decision to say, "We are not going to retreat to isolation, but we are going to reach out to the rest of the world."

So, Mr. President, I believe that NAFTA makes economic sense, it makes political sense, it makes social sense. It allows us to lead in a new way in a post-cold-war world. But I must say there is another reason that I feel a particular conviction about this treaty.

Some people have said NAFTA is the most important thing that happened to Mexico since the revolution. I agree with that. Other people say the difference between Mexico and the United States is the difference between 18th Century England and 15th Century Spain. To a certain extent I agree with that, although Mexico has its own unique culture and America is infinitely more diverse.

To me this agreement symbolizes something even greater than the economic, political, social, world leadership, and cultural advantages that I have spoken of.

The agreement tells a story. It is as if two brothers estranged from each other for many years will finally sit down together at the same table, sharing a meal and planning once again for their common future. It is as if they are starting to talk and clear up the misunderstandings of their estrangement even as they rediscover what they share that brings them together and gives their lives meaning.

I believe that a common destiny will be forged from this moment and this agreement in ways that we cannot even conceive and I believe it will enrich our culture and our society. That is why I think it is so terribly important that we pass the North American Free-Trade Agreement and get on about the business of building a better world.

FARM-CITY WEEK

Mr. BURNS. Mr. President, we bring to a close the first session of the 103d Congress today and step back and look at things we have done all year as we move into a holiday season.

Mr. President, I rise today to remind this Nation of the week ahead which has been officially designated Farm/City Week, and it has been so since 1955. During this time of thanksgiving, we pause for just a moment in our hectic daily schedules, not to just say thanks but to reflect on just how and why we are the best fed and clothed Nation on Earth. Why we can feed and clothe ourselves and tons of food for the starving in countries like Somalia.

This coming week, most Americans will gather together with their families around the table of the traditional Thanksgiving meal. What is on that table will vary from home to home but I would say in the majority of cases will be the traditional turkey and all the trimmings.

This is truly a great nation of food producers. No other nation in the world has a good machine like it. No other nation, no other society on the face of the Earth has, at their fingertips, at the nearest supermarket or grocery store, the greatest volume of the most nutritious varieties of food for every appetite and every age. It is, for all this volume and variety, the safest and the most economical. This Nation spends less of its disposable income for their daily bread, this basic of all necessities for life, than any other nation on Earth. I ask all Americans or anybody else, can you challenge that?

Why is this so? American agriculture a long time ago had the vision and foresight to educate, to develop and use new technologies, and a deep dedication to feed a hungry world.

Not only does this American farmer or rancher feed this Nation but the world. Agricultural exports are the bright and shining spot in our balance of trade. This country has always enjoyed an export surplus in agricultural foodstuffs. Food for peace and food given by this country to feed the hungry of the world is supplied by the men and women who are the producers and caretakers of our farm lands.

This Farm/City Week is to highlight this great industry. Though you may not consider yourself as a part of agriculture, think about it like this: If you eat, you are involved in agriculture.

Even though the statement is true, you just might be a little more directly involved than you think. After all 16 percent of this country's GDP is generated by agriculture, is the largest employer when taking into account the production and all the services that requires, processing and marketing, the transportation and distribution, financial services for all phases, one might conclude that all of us go about our way in feeding this Nation. In fact, agriculture is responsible for 21 million jobs nationally.

We are not the same Nation as we were some 50 years ago. We tend to forget at times that what we do and demand of our Government inhibits our ability to apply new technologies so we can produce food and fiber for a demanding and hungry society. Production agriculture is a fragile business. The elements, floods and droughts, pests and disease have more to say about how successful we are than anything we can humanly do. The use of new and developing technologies has allowed agriculture to cut the use of chemicals 20 percent since 1982, to cut soil erosion 90 percent on 36.5 million acres of conservation reserve program, to develop renewable and environmentally friendly products such as ethanol, soy ink, corn deicers, plastics from corn starch, high value oils, and the list goes on. In agriculture, every day is Earth Day.

There is a way we Americans can destroy this food machine. We can regulate, prevent the use of technologies, and do away with the infrastructure to develop new technologies. Since only 4.6 million Americans live on our farms and ranches—only 2 percent of our total population—and they are easily overlooked and outvoted in national policy debates. The U.S. population has increased 10 percent in the last decade but farm population has declined 12 percent.

There are more Americans that are third or fourth generation off the farm and have forgotten or were never informed on the basics of food production. I would have to tell my fellow Americans, there are some myths about food production. Ask the men and women on the land; they will be more than happy to visit with you.

So, as we gather this Thanksgiving, let us really give thanks for this wonderful food machine and this wonderful country, the United States, the men and women whose knowledge and expertise put this wonderful harvest in our kitchens. What you will see on your table represents everything that is good about America. It represents imagination, knowledge, risk, dedication, a faith in this great Nation, faith in a higher power, and good old hard work.

Let us give thanks for the hands that prepare the feast that is to come. Let us think of those who are not so blessed and share with them this bounty of 1993.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

CONCLUSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask the period for morning business be concluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate resume consideration of North American Free-Trade Agreement.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3450) to implement the North American Free-Trade Agreement.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I will shortly make a statement on the North American Free-Trade Agreement, and I have been meeting with the distinguished Republican leader on how to bring this matter, and others, to a conclusion. He has asked for an additional about 15 minutes to discuss the matter with his colleagues and is now in such discussions. I believe it appropriate to accommodate that request. I hope to make a decision and to announce that decision to the Senate within about 15 minutes, on the time for a vote and what other matters the Senate will be taking up today.

Therefore, I ask all Senators for their patience. I understand the difficulty caused by the uncertainty, but I think the request for a period of consultation is a reasonable and appropriate one, and, therefore, I hope to have an announcement in the near future.

Mr. President, the Senate will vote on the North American Free-Trade Agreement. It is one of the most important decisions we will make in this Congress.

We have come to the end of a long vigorous debate on this agreement. The negotiations were concluded over a year ago. On December 17, 1992, President Bush, Prime Minister Mulroney, and President Salinas signed the accord.

Since then, the Senate, the House of Representatives, and the Nation as a whole have engaged in an intense debate over the issue. Almost every aspect of the text of this agreement has been examined and debated.

Congress has conducted many hearings, and there have been countless studies about the potential impact of the agreement.

There is no doubt that Congress and the Nation have both fully debated the North American Free-Trade Agreement.

Our country today stands at a crossroads in its economic development. Immediately after the Second World War, the American economy dominated the entire world. We had no competition.

Over the intervening 40 years, our economic growth has been strong, but so has the growth of our trading partners and competitors. Relative to the total world economy today, the U.S. economy claims a smaller share than it did during the 1950's and 1960's.

Our gross domestic product as a percentage of the global economy has declined from approximately 37 percent in 1950 to approximately 22 percent in 1992.

Those numbers by themselves do not convey much. But what they mean is that the United States, as well as the rest of the world, has become incomparably more prosperous in the last 40 years than it was in the preceding 40 years.

The economic miracle of the postwar world is that with growing international trade, every nation's economy has grown, human well-being has reached levels never before known to history, and the leading beneficiary of that trend has been our country.

We too often take our economic miracle for granted. We should remember that the growth we enjoyed came primarily from growing expanding trade: More American goods sold to Europe, to the Pacific nations, to Latin America meant more American jobs, more income to Americans, better choices for American consumers and growing national prosperity.

We could never have achieved our status today without selling to international markets. We will never sustain or exceed today's economic growth rates without access to international markets.

The future of our economy depends on our ability to respond to the demands of the global marketplace.

So we cannot turn our backs on opportunities in new and growing markets anywhere in the world. Our economic security depends on our willingness and skill at adapting to a rapidly changing global economy.

In our past, Americans responded to the challenges of change—the challenge of rebuilding Europe and Japan. Today's Americans are just as able as our parents were to respond to challenge and to reap rewards from new opportunities.

The realities we have to face today are different than those in the past. Capital, technology and information are all highly mobile today. Manufacturing plants can be easily reproduced in new locations. Computers have made it possible to use distant locations for many financial transactions. Capital itself flows readily in a free market to the most profitable investments.

These new facts of life have been taking shape and gathering speed throughout the past decade. International borders do not restrain the movements of the world's corporations. We cannot ignore that fundamental fact.

Rejecting this trade agreement will not change that fundamental fact.

The North American Free-Trade Agreement is an opportunity and a challenge to take advantage of that fact.

It offers economic opportunities for the future by starting the process of expanding markets in this hemisphere.

This agreement will create an economy of $6.5 trillion and 370 million people—an enormous market—whose purchasing power will grow as its prosperity grows.

Even without this agreement, Mexico is already one of our most valuable trading partners.

Our trade balance with Mexico was a $5.4 billion surplus in 1992, a dramatic improvement from a $5.7 billion deficit in 1987. Mexico is now our third largest trading partner.

Mexico is a promising new customer for United States goods and services, and its promise will only grow in the future as its citizens become wealthier and demand more choices and more products.

We have an opportunity to help speed up the expansion and wealth of this market by approving the trade agreement before us today.

Like every such agreement, it is not without flaws. Those who compare it with the United States-Canada Free Trade Agreement have a point, for that earlier agreement did have many flaws.

But rejecting the North American Free Trade Agreement will not remedy those flaws in the United States-Canada Free Trade Agreement. It would only reject a valuable new relationship with Mexico and preserve the status quo with Canada. I do not think this result is in the best interests of this Nation or my State of Maine.

At the same time, I understand the concerns many have expressed about environmental impacts, among others.

But this agreement links trade and environmental goals more closely than any previous trade agreement. The agreement itself, its environmental side agreement, and the United States-Mexico border plan will enhance cooperation on a broad range of environmental issues. In that respect, it does more to take into account environmental concerns than virtually any other economic agreement our Nation has signed in the past.

Environmental groups have long recognized the global interdependence of the environment we live in. They have sought international agreements for environmental cooperation.

That is why many prominent national environmental groups have expressed their support for the North American Free Trade Agreement. The National Wildlife Federation, the Natural Resources Defense Council, the World Wildlife Fund, the National Audubon Society, the Environmental Defense Fund, and Conservation International—all have endorsed this trade agreement.

These groups recognize this agreement for what it is: An opportunity to promote environmental cooperation among the countries of North America while promoting economic growth through trade.

But the issue of the North American Free-Trade Agreement transcends the broad economic opportunities provided to U.S. businesses and workers. It is more important than the promise of environmental cooperation with our neighbors.

This agreement will define the American role in the global economy and in world affairs well into the 21st century.

With the passage of this agreement, Congress affirms the leadership role of the United States in this hemisphere and around the world.

Our economy will reap the benefits of expanded markets in Mexico, the Caribbean, Central and South America. The United States and Mexico will work cooperatively to improve the border infrastructure, and all three nations will work to protect the environment of North America.

If we reject the agreement, however, it will send an ominous signal to the world: That the United States fears the challenges of this post-cold war global economy.

We must have the courage and the confidence to lead this country into the next century. We cannot reenter the past.

As I said at the outset, the national debate has been vigorous because this trade agreement does mean change, and in the post-cold war period, change has been both benign and malignant.

Downsizing in American companies as our economy strives for efficiency has seen many good, skilled American workers out of a job for the first time in their lives. Automation and improved computer technology has seen many jobs vanish as transistor chips perform the functions that once needed human beings.

It is no surprise that Americans fear the fallout of this economic change. They have a right to be wary, for too many times in our past, changes have come to our economy, have disrupted the lives and hopes of hundreds of thousands of families, and government has responded slowly, grudgingly, often inadequately.

That is a governmental response that cannot and will not be repeated. The pace of economic change is too swift, its dislocations too great, in today's world, for anyone to indulge the rhetoric of free markets as an excuse for governmental inaction.

The government which wishes to expand trade must recognize that it has a reciprocal responsibility to the people who risk the most from the immediate short-term effects of that expansion.

Those who favor the trade agreement, as I do, must acknowledge and accept the responsibility to remember that there is more than one step in this process toward a more prosperous world.

The first step is opening markets and freeing trade.

But the second, and equally important step, is to make certain that our own people do not disproportionately pay for the costs that are a part of every significant economic change.

I expect that when the Senate comes to debate the programs to help American workers adapt that every Senator who has supported this agreement will be equally strong in his or her support of helping American workers as well. It is our responsibility. I accept it.

We now must work together to prepare the U.S. economy for the challenges of the 21st century.

Our workers must be educated and trained so that the industries of the future will invest in this country.

We have to reduce the burden that health care places on American businesses—and on our global competitiveness.

This agreement is only one step in insuring that our Nation will have a strong and dynamic economy in the next century.

The Senate now will decide whether America will actively engage the challenges of this post-cold war period, or whether this Nation will reject new opportunities for the future. I believe that we must approve the North American Free-Trade Agreement to preserve and enhance the future of our people.

Mr. President, I yield the floor. I note the presence of the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, in just a few moments, maybe 20 minutes—my speech will not take that long—but all the talk will end and the Senate will join the House of Representatives in passing the North American Free-Trade Agreement.

My remarks will be brief. I think we have heard the debate; we listened to the House debate; we heard the debate for several months. My position in strong support of NAFTA is well known and there is no need to prolong what has already been a very lengthy debate.

I want to commend my colleagues on both sides of the debate. There are concerns on both sides of the agreement. Despite all that has been said or written about NAFTA in the past few weeks, the surveys reflect a lot of Americans, including many in my State, are still not certain what NAFTA is all about. So I want to take a few minutes to cut through the hype and the exaggerations and to talk straight with the American people.

Some of the opponents of NAFTA would have us believe that American negotiators were snookered, that somehow Mexico and Canada have fooled Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton, and that they have pulled the wool over the eyes of every living Nobel Prize economist and every living former Secretary of State, all of whom support NAFTA.

They want us to believe that the minute this agreement is adopted, the moving vans will be headed to Mexico, transporting American businesses and American jobs. I just happen to believe, instead of listening to these predictions of doom and gloom, the American public should listen to the truth.

Let me be clear in saying the truth of the matter is that NAFTA is not perfect. There will be a lot of flaws, there have been a lot of flaws discovered. There may be more. It will not solve all of our economic problems or protect every job. But nearly every unbiased expert who has studied the issue believes NAFTA will enhance economic growth and job creation in the United States. When you sort out all the charts and charges, and now the countercharges, and all the predictions that the sky is falling, you cut right to the heart of the issue, NAFTA comes down to one word, and that is leadership.

America has a choice. We can choose to be a leader in today's global economy, strengthening our relationship with our first- and third-largest trading partners, sending a message to other countries that America is open for business—America is open for business—or we can pass the baton of leadership to Japan and to Europe, close our doors to new markets and new opportunities, and resign ourselves to the future as an economic also-ran.

The answer is clear. NAFTA is right for America, and it is also right for my State of Kansas, where it will create new opportunities for our farmers, for our aviation industry, and for our manufacturers.

I ask unanimous consent that editorials from around my State in papers such as the Chanute Tribune, Wichita Eagle, Hutchinson News, the Hays Daily News, and Topeka Capital Journal be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, it is important to remember the battle for free trade and the economic growth and jobs creation it brings does not end with the passage of the North American Free-Trade Agreement. It is just the beginning.

A good agreement in the ongoing Uruguay round of the GATT talks will create many more jobs and raise our standard of living far higher than will NAFTA. As the Chanute Tribune pointed out, Mr. President, if we really want to create a lot of jobs in America, then we should stop burdening our small business men and women with more taxes, more mandates, more regulations and paperwork.

The Republicans stand ready to assist President Clinton in that mission just as we have assisted him on NAFTA.

I wish to end by commending those responsible for the passage of this agreement, and that includes President Reagan, who first advanced the idea of a North American free trade zone; it includes President Bush and Ambassador Carla Hills, who did the tough work of negotiating, and it certainly includes President Clinton and Vice President GORE and Ambassador Kantor who stood up to the threats of the protectionist elements in their party and who never let up their campaign in these critical last few days.

I am also very proud to congratulate my fellow Republicans in the House led by Congressman MICHEL and Congressman GINGRICH and 130 other Republicans who supplied the majority of the votes to pass the free-trade agreement in the House.

I think they have remained true to our historic commitment and philosophy of free trade, open markets, and job creation. We made the difference for one reason.

I remember my asking a former President, "What should I tell someone if they ask me why I am voting for NAFTA?" And he said without a pause, "Tell them you are doing it because it is the right thing to do."

It is the right thing to do. We are making the right decision. Again, I do not disparage any of my colleagues who have another view. I do not question their motives. This is a difficult vote, but in my view we are making the right decision by supporting the North American Free-Trade Agreement.

EXHIBIT 1

[From the Topeka Capital Journal, Nov. 19, 1993]

WHAT'S AFTER NAFTA?

Free trade is coming with or without the North American Free Trade Agreement. The important thing about its passage Wednesday night is what it says to the world about our commitment to it, and about the confidence we have in our ability to compete.

When the House approved NAFTA 234 to 200, a surprisingly wide margin of victory for the controversial agreement, it said loud and clear that America can stand up under global competition. It said our closest neighbors are also our closest trading partners. And it said the fears promulgated by the extreme opposition to NAFTA were mere poltergeists making unwarranted noise.

Indeed, the sun came up the next day, contrary to the picture painted by Ross Perot. But then, Perot predicted huge losses in the Gulf War and dozens of bank failures after last year's presidential election.

No, cool, rational thought carried the day. And, interestingly, approval of the North American trading bloc—which still must undergo final approval in Mexico and Canada—may bear pressure for freer trade elsewhere in the world. And that could be very healthy for the world's traders, chief among them the United States.

There should be other side benefits as well. The Mexican economy should improve as trade escalates. Relations will most likely improve. Pressure from an emboldened capitalistic system should bring pressure to bear on the Mexican government to institute democratic reforms. And trade barriers, in a kind of economic domino effect, should begin to fall elsewhere.

President Clinton is to be congratulated for rallying support for the North American Free Trade Agreement. His tireless efforts have taken the nation one step closer to the 21st century.

[From the Hutchinson News, Nov. 19, 1993]

NO MORE FEAR

The politics of fear was soundly defeated Wednesday night when members of the U.S. House of Representatives voted to approve the North American Free Trade Agreement, a pact with Mexico and Canada that will enhance the economic opportunities for Americans.

The vote was a majority victory for President Clinton and for this nation, which has finally reveled in and struggled through the contentious democratic process to enact a major trade agreement.

Nations watching the vote from afar must have wondered about the nonpartisan approach to this embattled legislation, a true product of the ebb and flow that is the hallmark of the democratic process.

Ironically, a Democratic president found himself successfully courting Republicans, who responded positively and voted for the good of the nation, rather than for a particular party. Special interests were unable to control this legislation and the mouthy Ross Perot, who would be king, turned out to be no more than a court jester.

The NAFTA victory clearly sets the nation on a course into the 21st century, boldly moving toward a tomorrow that offers a host of fresh opportunities.

Kansas farmers now have now have a broader market in which to sell grain, a solid trading bloc that stretches across the length of North America.

The president's victory also established this administration as having the courage of its convictions and the will and the skill to maneuver through the political nooks and crannies of Washington to secure a major win. NAFTA is not now wallowing in the mire of some bog to once again be regurgitated by a future president. Instead, it is about to speed its way through the U.S. Senate and into law.

Hurrah! Hurrah!

The word "winner" appears to be back in the American lexicon. It feels good to hear the word, and time will prove that the ayes in the House were right Wednesday and right for the economic future of the country.

Do something, we said shortly after this president narrowly won election. He has done something and it was a whale of a job. He deserves the country's admiration for showing leadership and tenacity against the purveyors of fear when it was desperately needed.

[From the Hays Daily News, Nov. 18, 1993]

NAFTA's Message More Than Trade

The best news about NAFTA's passage by the House may not be what the trade agreement does for trade with Mexico and Canada.

Instead, what may be best about it is the hope its passage offers that the U.S. government may work efficiently again.

For too long, NAFTA looked like it would go down to congressional defeat in what had become the routine fashion for many good ideas.

The pattern was there again. Organized special interest groups, including labor unions and some environmental organizations, trotted out their scare tactics.

Furious form letters from members of those groups, armed with a one-sided view of the issue and few real facts, piled up in congressional offices. Members of Congress began to fear their votes could cost them their seats.

That scenario has happened repeatedly in recent years, on gun control, Medicare and Social Security changes among other issues. It almost happened with NAFTA.

Organized labor trotted out every bit of its clout to try to defeat ratification of the agreement.

In the end, most Americans seemed to see them as just another special interest group, temporarily on the same side as some of the more radical environmental groups.

The administration took its case to the people by taking on Ross Perot and won a victory in public opinion by managing to portray Perot as someone with a special interest—the presidency and power—rather than a representative of the best interests of the entire nation.

The White House, handicapped in its fight for NAFTA by the traditional Democratic links to organized labor, worked with Republicans as well as Democrats to build support for the passage of the agreement.

What came out of all that effort was a surprising show of strength and unity on the issue.

Labor leaders, and Perot, are now trying to claim that the victory was won simply by bribery—the old way.

It doesn't appear that was the case. It looks like a rare instance in which Congress, the president and the American people managed to recognize that something is good for the long term future of this nation and to agree to do that something.

Now we can hope that such concern for the common good will be repeated soon on other issues.

[Editorials from the Wichita Eagle, Nov. 19, 1993]

NAFTA: Approval of Trade Agreement Means United States Must Get Competitive

Approval of the North American Free Trade Agreement could be seen as the economic equivalent of the collapse of the Berlin Wall. Just as the end of Soviet-style communism fundamentally changed global politics, NAFTA represents the destruction of trade barriers.

In effect, by its pro-NAFTA vote Wednesday, the U.S. House launched the United States into the post-Cold War economy.

Considerable credit for the remarkable, far-sighted vote goes to President Clinton, who promised in his election campaign to be a new kind of Democrat, a leader more concerned about the country's future economic prosperity than in appeasing powerful Democratic labor constituencies.

Indeed, the president was part of one of the most intriguing political coalitions in recent congressional history. NAFTA would not have passed without considerable Republican support, made possible partly by the strong leadership of Rep. Newt Gingrich, R-Ga., who on most issues is poles apart from the Democratic president.

Mr. Clinton and Mr. Gingrich share a vision of an America aggressively competing in global markets. It's an America that rejects paranoia and protectionism. It's an America that rejects paranoia and protectionism. It's an America that sees the free-market economy as the best way to improve the lives of people around the world. It's an America that welcomes the challenge to produce the best products available in the world.

Further to his credit, the president is not stopping with NAFTA. Shortly after the vote, he flew to Seattle for a meeting with Asian leaders to informally discuss even broader agreements to enhance trade around the Pacific Rim. The president also promised to seek a successful conclusion to the seemingly endless negotiations over a new General Agreement on Tariffs and Trade, which could generate a new wave of global economic growth and opportunity for the United States.

Yes, as NAFTA opponents warned, there will be pain as the country undergoes a fundamental economic transformation. That makes it vital for Congress to enact such legislation as the School-to-Work Opportunities Act, which would offer young Americans the skills needed in a global economy. Congress also needs to ensure job training for Americans displaced by the new economic realities.

NAFTA is the cornerstone of a new American economy. The transition from the old to the new will be complicated and often difficult. But the unexpectedly large pro-NAFTA vote in the House showed that America will be a major player into the emerging world economy. The next challenge is to ensure that the United States will be a winner in the new game.

Horrors: Critics of NAFTA Deal-Making Need a Refresher Course in Civics

Ross Perot and labor leaders profess to be horrified that President Clinton made trade concessions to certain House members in return for yes votes on NAFTA. These good folks need a refresher course in civics.

Trading votes for concessions isn't evil. It's the only way government can function. This is a representative democracy where legislative action requires a majority. To create bills capable of attracting majorities, lawmakers must work compromises.

In the case of NAFTA, several House members—including Floridians worried that competition from Mexican growers could harm their state's tomato growers—persuaded the president to protect certain fruits and vegetables from Mexican competition for the first few years of the agreement. In return for that concession, those representatives agreed to vote yes.

Considering that Florida tomatoes eventually will have to compete for buyers head to head with Mexican tomatoes, this wasn't an unreasonable concession for Mr. Clinton and the pro-NAFTA forces to make. It caused no harm to the spirit of the NAFTA pact. Had Mr. Clinton failed to strike this deal, NAFTA likely would have failed in the House, causing horrendous long-term harm to his ability to conduct foreign policy, and to the nation's ability to grow stronger economically through exports.

Refusing to budget on one's beliefs, no matter what, makes for great movie fare—and, as Mr. Perot has demonstrated, great political one-liners. But when it comes to passing critical legislation such as NAFTA, refusing to budget is a recipe for governmental gridlock.

The irony in the NAFTA situation is that many of the same people who complained of government gridlock during last year's campaign—including Mr. Perot—now castigate the president for using the only tool capable of ending gridlock: making intelligent, reasonable deals in return for support. Go figure.

[From the Chanute Tribute, Nov. 15, 1993]

NAFTA: Yes

One of the problems surrounding the North American Free Trade Agreement is the flood of baloney that accompanies the debate on the issue.

Exaggerations, half-truths, twisted facts, skewed studies, scare tactics and cute sound bites have taken the place of analysis and reasoning. As a result the American public is left bewildered by the issue.

This is not an easy subject to debate or digest. But the hoopla has changed the discussion so that it is no longer just a complicated issue. Now it is nearly an impossible one.

Vice President Al Gore has done his share to harm the debate. Just yesterday he said the defeat of NAFTA in Congress would be "catastrophic" to our foreign policy.

Not true. NAFTA's defeat would make us look like a bunch of protectionist sissies. It would set us back a few years in the development of foreign markets for exports. But that's not a catastrophe.

One of the most significant issues raised so far against NAFTA is the specter of job loss when manufacturers are drawn south by cheap Mexican labor.

But American jobs have already been pulled out of this country—to both Mexican and the Asian rim—by corporations in search of cheap labor. That will continue to happen whether NAFTA is ratified or not.

We will see a modest increase in the number of jobs created by companies exporting goods to an expanding Mexican consumer market. But those gains will have a negligible impact on the American job market as a whole.

A greater detriment to job growth is the U.S. Congress, which has stymied U.S. economic expansion by burdening employers with growing numbers of federal regulations, mounds of paperwork, increasing mandated employee benefits and higher taxes.

NAFTA will tear down restrictive tariffs and quotas that raise the price of consumer goods for the citizens of both the U.S. and Mexico. It will allow Kansas producers greater access to markets for their grain and beef.

And it will probably raise the standard of living for Mexico's consumers, which in turn will give them more disposable income for the purchase of U.S. goods and services.

NAFTA will work, if Congress has the guts to give it a try.

[From the Russell Daily News, Nov. 16, 1993]

THE DEFINING MOMENT

The Defining Moment for the United States will occur Wednesday as members of the House of Representatives register their votes for or against passage of the North American Free Trade Agreement. It will be the day that America decides which path to follow, whether to turn inward, or to continue to expand free markets and lower trade barriers.

NAFTA must be passed. It is so important not only to Americans today, but to the welfare and livelihood of our children and their children.

America must compete successfully in the world's markets or we will go down the drain. If we do not continue to expand trade, we will decline and will no longer be the productive giant of the world.

History shows that every time that trade barriers have been reduced or eliminated, people on both sides have benefited. Every time tariffs have been increased, unemployment has grown on both sides, and oftentimes wars have occurred as a result of unemployment and inflation, which isolationism produced.

Japan today would be a much more prosperous nation if their import barriers were not so high and their trade surplus not so huge.

This is another of those cases where we must take the long view, for the sake of our children and the nation's future. To rebuild our economy and to create jobs will require a wrenching readjustment driven by the need to be fully competitive in an integrated world economy. To some degree, that requires a leap of faith, but America's underlying assets should make the leap easier than it initially appears.

The great political struggle over NAFTA is at an endgame. What stands out in retrospect is how infrequently its proponents could muster the courage to go beyond their talking points and tell the hard truth behind the need for the agreement.

Stated crudely, it is this. Even if approved, NAFTA cannot—and will not—make life appreciably better in the short run for the millions of American workers whose economic condition has darkened during the past 20 years. It will, however, improve the possibility of long-run improvement, while failure to endorse NAFTA will further diminish that prospect.

To put it another way, there is no way to return to the glory years when we were the world's lone economic giant and could do no wrong. In today's global market, there are no free rides. We will either compete or inexorably fall.

NAFTA alone is no magic elixir. Nothing is. And it will definitely prove to be a bitter potion for some American industries and workers. But the economic environment that NAFTA (and the other trade agreements that will face the nation during the next month) will produce is the absolute precondition for a thundering American revival. As the old saying goes: No pain, no gain.

NAFTA is a free trade agreement that creates a vast North American market in which there will inevitably be domestic losers even as the overall economy is the beneficiary. Some low-wage jobs here will indeed go under in the face of untrammeled competition from even lower-wage industries south of the border. And some high-wage industries will pull up states and seek lower labor costs in Mexico, knowing that they will face no tariff barriers when they ship their products into this country.

But most of that is already happening without NAFTA. Its passage will speed the process somewhat, but it will not produce it.

Conversely, however, NAFTA will provide a vast market for innumerable American products and services that today are kept out of Mexico by high tariffs. It will reward efficient manufacturers and play to our greatest economic strength, which is an educated, mobile work force. Many of the jobs that will be created will be better jobs than the ones that are lost, while those lost jobs will support Mexican workers who are not only eager, but able, to buy American products.

There is no magic wand that can create an insular America where jobs are secure and foreign competitors scarce. There is only certainty that efforts to block out foreign competition and lock in domestic industry will make business and unemployment worse.

So let's go with NAFTA now, then let's improve it and expand it to Brazil, Chile, Argentina, Venezuela and other South American nations, to Central American countries, and then to Greenland and Iceland. Let's pursue the General Agreement on Tariffs and Trade (GATT). Then we will be in a much better position to hold our own and to prosper while competing with the European Economic community and the Asian and Pacific Economic Block.

Mr. DOLE. I suggest absence of a quorum, the time to be charged equally between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DODD. I yield myself 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I know that President Reagan was a supporter of the North American Free-Trade Agreement, but for historical reference the first President to commit to this was Lyndon Johnson, in a speech given in Punta del Este in 1967, calling for a North American free-trade zone including the entire hemisphere. As we are closing this debate, I think it is important to note that he was the first American President to articulate such a trade zone in this hemisphere in a conference of leaders of this hemisphere. It was in that speech on that day that the first American President articulated this idea.

As we close this debate, I think it is worth noting that it was Lyndon Johnson who first expressed those views, at least as an American President.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

THRIFT DEPOSITOR PROTECTION ACT OF 1993

Mr. FORD. Mr. President, I submit a report of the committee of conference on S. 714, the Thrift Depositor Protection Act, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 19, 1993.)

Mr. D'AMATO. Mr. President, I rise today in support of the conference report on the RTC Completion Act.

This legislation provides the necessary funds to protect insured depositors in our Nation's thrift institutions. It is vitally important that these funds are made available for this purpose, for the cost of delay is enormous.

The Treasury Department estimates that each day the RTC goes without the necessary funds the ultimate cost to the taxpayer is increased by $3 million. The total cost in not funding the RTC since April 1, 1992, has already exceeded $1 billion. Further delay will only add to this bill.

Mr. President, we should be totally clear that this money does not go to bail out thrift institutions or their owners. Not one cent of RTC money has gone to protect the shareholders of failed thrift institutions. In addition, the conference report explicitly states that funds made available to the RTC in this legislation may not be used, in any manner, to benefit any shareholder of an institution that has been taken over by the RTC.

The funds are used to protect small depositors. The RTC has paid the Federal insurance claim on 21.8 million depositor accounts. The size of the average account is only $9,000.

There is no choice about whether to meet our obligations under Federal deposit insurance. Congress has repeatedly stated that the full faith and credit of the United States stands behind our deposit insurance system. Our whole financial systems depends upon public confidence in our institutions and in the Government's promise to insure depositors. We cannot fail to keep our promise to the Nation's depositors. The bill must be paid. If we don't fund the RTC now, we will have to fund them later, except that the cost later will be more.

Mr. President, the conference committee deleted an $8.5 billion appropriation for the Savings Association Insurance Fund [SAIF] that had been included in the Senate bill. The SAIF will not need funds until 1995, when the RTC ceases to take in newly failed thrift institutions. At that time, the funding needs of the RTC can be determined, and appropriations authorized, if necessary. In addition, the SAIF can also draw on any funds that RTC did not spend in resolving its case load, so that the actual amount of appropriations needed, if any, can be determined after we know what the RTC's total costs will be.

The conference report mandates that the RTC implement numerous management reforms. For example, the RTC must establish a comprehensive business plan. It must appoint a chief financial officer who reports directly to the chief executive officer. It must improve its contracting systems and contractor oversight. It must establish an audit committee to monitor the internal controls of the RTC and the recommendations of the inspector general and the GAO. It is required to respond to problems identified by its auditors, or certify that no action is necessary or appropriate. It must develop and maintain effective internal controls to prevent fraud, waste, and abuse. It must appoint an assistant general counsel for professional liability. It must improve the management of its legal services, and may only hire outside law firms when the use of such law firms provides the most practicable, efficient, and cost-effective resolution to the action. These and other reforms should enhance the management of the RTC, and correct many of the problems we have experienced in the past in its operations.

Mr. President, the conference report also contains provisions encouraging the RTC to contract with minority- and woman-owned businesses, or with contractors who subcontract with or from joint ventures with minority- and woman-owned businesses. The conference report clarifies that these provisions do not supersede the corporation's primary duty of minimizing costs to the taxpayer and maximizing the total return to the Government.

Mr. President, I urge that the Senate approve this conference report today, so that the RTC can finish its job of closing down insolvent institutions and protecting insured depositors.

Mr. RIEGLE. Mr. President, I rise as chairman of the Banking Committee to urge swift passage of the conference report on the RTC Completion Act. Approval of this report will enable us to complete, finally, the thrift cleanup by providing funds to protect federally insured depositors at failed S&L's.

This process has already gone on too long. The RTC has been without funds for more than 19 months. Delay is costly. The Congressional Budget Office estimates that delays in thrift funding during the 1980's increased the cost to taxpayers by $66 billion. Right now, conservatorships that the RTC does not have the funds to resolve continue to lose money. They lost $744 million in the second quarter this year. That's $8 million a day. Some of those losses are unavoidable, but the RTC has estimated that $3 million of each day's losses are pure waste.

In the past, the Senate has repeatedly acted to avoid such waste. Nineteen months ago, when the RTC's funding expired, the Senate immediately passed legislation to provide adequate funds, but the other House was unable to act. This year, the Senate responded quickly to the administration's request. Now, the House has succeeded in passing this bill, and we have had a brief but successful conference. This is the final step, but if we are unable to act before adjourning, we will add many millions of unnecessary costs.

This bill provides $18.3 billion for the RTC. These are funds that were previously appropriated to the RTC, but their availability expired before the RTC was able to use them. The bill also extends the time during which failed thrifts are sent to the RTC by about a year and a half. The administration believes this funding should be sufficient for the job. If we are fortunate, the actual need may be less. Any funds not needed will not, and cannot be spent. If there is any money left over, it must be returned to the Treasury.

It is important to remember that the purpose of this legislation is to protect depositors at failed thrifts. That is where all the money goes: to depositors. So far, the RTC has made whole 22 million depositor accounts. These are not fat cats. The average size of protected accounts is $9,000. If we do not provide the money, ultimately we will be forced to default on our Federal deposit guarantees.

While, so far, the RTC has fully met its responsibilities to protect depositors, its efforts at managing the disposition of failed assets acquired from failed thrifts have been flawed. This legislation, produced after long hours of work with Banking Committee members, the administration, and the House should result in a number of significant improvements in the RTC's management and strategies. The bill requires the RTC to establish a comprehensive business plan for the remainder of its existence. It requires the RTC to market real estate assets on an individual basis for at least 120 days before marketing them on a bulk or multiasset basis. The RTC must also revise its procedures for qualifying contractors to strengthen contractor systems and oversight and to maintain uniform procurement guidelines to prevent the acquisition of goods and services at widely different prices. The Oversight Board must establish an audit committee for the RTC and the RTC must maintain procedures which provide for a prompt and determinative response to problems identified by auditors and to maintain effective internal controls designed to prevent, identify, and correct fraud, waste, and abuse. The RTC must appoint an assistant general counsel for professional liability within its Division of Legal Services, improve its management of legal services, and report on the actions of the Division to Congress. The RTC must maintain an effective management information system, appoint a chief financial officer, and include in its annual report an itemization of the expenditure of funds appropriated under this bill and a disclosure of the compensation of executives and directors of institutions in RTC conservatorship or receivership. And a new process is established for nondefaulting business and commercial borrowers at failed thrifts to appeal decisions by the RTC to terminate their loans, and a new responsiveness unit or ombudsman in every regional office.

The bill also ensures significant opportunities for minority and women-owned businesses. The RTC must maintain a division of minorities and women's programs headed by a vice president of the RTC who also must be a member of the RTC's executive committee. It must establish guidelines for goals for a reasonably even distribution of contracts among minority- and women-owned business [MWOB] subgroups comprising more than 5 percent of all registered MWOB contractors and require sanctions for RTC contractors not complying with joint-venturing and subcontracting requirements.

The legislation generally prohibits the RTC from giving bonuses in amounts that exceed those given at other Government agencies. It also requires the FDIC and the RTC to establish an interagency transition task force for the purpose of facilitating the transfer of RTC operations and personnel to the FDIC or the FSLIC resolution fund in a coordinated manner. The bill expands and improves the RTC and FDIC affordable housing program at no additional cost. The whistleblower protections applicable to RTC contractors are applied to FDIC contractors and bank regulators. And the bill makes the inspector general of the FDIC a Presidential appointment, rather than an agency appointment.

I was disappointed that the conference did not accept the Senate position on extending the statute of limitations on all RTC tort actions to 5 years. That was a mistake. The House provision, which the conference did accept, extends the statute of limitations only in some cases. But that is at least an improvement from current law.

We need to pass this bill now to institute all of these improvements and stop the deterioration and waste that results when failed and failing thrifts are allowed to continue operating. The administration supports this legislation, as did the previous administration. I would like to ask unanimous consent to insert a letter of support I received Thursday from Secretary Bentsen into the RECORD at this point. And I would also like to insert a letter I received yesterday from GAO Comptroller General Bowsher that confirms the necessity of this legislation. I urge my colleagues to vote for this conference report.

RTC ISSUES

Mr. METZENBAUM. Would the chairman of the Banking Committee further clarify the intent of Congress with respect to the statute of limitations applicable to the RTC as receiver or conservator on matters involving contracts?

Mr. RIEGLE. I would be pleased to further respond to my colleague from Ohio. Although the legislation only addresses the statute of limitations applicable to the RTC as receiver for tort claims, I want to reiterate our intent with respect to the statute of limitations applicable to the RTC as receiver or conservator on matters involving contracts. The Financial Institutions, Reform, Recovery and Enforcement Act of 1989 [FIRREA] provides the RTC as well as the FDIC as conservator or receiver a minimum of 6 years from the date of appointment as receiver or conservator to bring suit on contract claims. Contract claims include suits brought to enforce delinquent loans and other assets owned by the receiver or conservator. In granting the RTC the authority to dispose of loans and other assets, it was the intent of the Congress, as expressed in FIRREA, that all of the rights of the receiver or conservator with respect to such loans and other assets be transferred as well. These rights include the right to bring suit on the loans and other assets within the same period provided by law to the RTC, that is, a minimum of 6 years. Most courts have recognized this intent and have sustained the transferees right to bring suit within the time allotted to the RTC and FDIC. To hold otherwise would greatly diminish the ability of the RTC to dispose of delinquent loans and other such assets expeditiously and would drive up the costs of liquidating these assets, diminishing the return on assets and driving up the ultimate cost to the taxpayer of resolving the savings and loan crisis.

Mr. METZENBAUM. Would the chairman further clarify the intent of the provision regarding the authority granted to the RTC in resolving minority institutions?

Mr. RIEGLE. The RTC should use this enhanced minority resolutions authority to avoid resolutions whereby depository institutions, or branches thereof, serving minority areas are acquired from the RTC solely for the purpose of buying deposits and are promptly closed or have their banking services significantly curtailed. To that end, the RTC should negotiate and memorialize in deposit transfer agreements and in purchase and assumption agreements commitments from acquirors of depository institutions, or branches thereof, in minority neighborhoods requiring such acquirors to maintain full service branches at or near the locations acquired for a reasonable period of time following the acquisition.

STATUTE OF LIMITATIONS

Mr. BRYAN. Would the chairman of the Banking Committee please clarify whether the statute of limitations provision included in the RTC Completion Act conference report is intended to affect the rationale of judicial decisions interpreting 12 U.S.C. 1821(k)?

Mr. RIEGLE. I thank the Senator from Nevada who serves as the ranking member of the Banking Committee for his inquiry. Under current law, 12 U.S.C. 1821(k) provides that actions against directors and officers may lie for gross negligence or other more serious conduct. It also preserves actions that may be brought under other applicable law, including actions based on simple negligence. The latter provision has been the subject of considerable litigation around the country, and most recently, a seventh circuit decision adverse to the RTC's position. Nevertheless, the RTC and FDIC have established, through decisions such as FDIC versus Canfiled (10th circuit), and FDIC versus McSweeney (9th circuit), that actions premised on ordinary negligence are permissible if allowed under other applicable law, such as State law. These decisions should not be disturbed by the mere extension of the limitations period applicable to certain types of tort actions.

NEGLIGENCE VERSUS GROSS NEGLIGENCE

Mr. MACK. As the distinguished Senator from Connecticut knows, the conference report on the RTC funding includes compromise language for the extension of the statute of limitations for RTC-initiated tort actions. At this time, I would like to ask the distinguished Senator the intent underlying one critical aspect of the compromise—the distinction between negligence and gross negligence.

Mr. DODD. Let me first describe my understanding of the compromise. First, the extension will apply retroactively to revive a claim that is barred by the current statute of limitations, but only where the claim "arises from fraud, intentional misconduct resulting in unjust enrichment, or intentional conduct resulting in substantial loss" to the failed thrift.

Second, the extension will apply to a claim that is not currently time-barred, but only if the claim arises from "gross negligence or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct." As a result, the extension will not apply to a simple negligence claim or to any claim arising from simple negligence, such as the breach of a fiduciary duty of care.

Finally, while the statute of limitations is generally extended from 3 to 5 years, the authority to take advantage of the extended statute sunsets when the RTC terminates. By that time, the statute of limitations will be extended more than 3 years but less than 5 years.

Mr. MACK. That description is very helpful and it leads me to my real concern—could the RTC simply change the name of its negligence actions to gross negligence just to take advantage of the extended statute of limitations?

Mr. DODD. Absolutely not. This interpretation is just plain wrong, and I think it's important that we set the record straight, clearly and completely. The intent of this legislation is to draw a clear distinction between actions arising from simple negligence and the much more serious situation involving actions arising from gross negligence or conduct worse than gross negligence. Under no circumstances could courts permit RTC attorneys to simply restyle simple negligence cases as gross negligence cases in order to get the benefit of the extended statute.

Mr. MACK. I agree. The RTC should only be able to use the extension for actions based on legitimate allegations of gross negligence or worse conduct. It should not apply to simple negligence claims that are just given a different name.

Mr. DODD. The Senator is correct. Let me also emphasize that there is a clear distinction, well-recognized in the law, between negligence and gross negligence, and that the intent of the provision is to recognize this clear distinction. For example, Black's Law Dictionary defines gross negligence as "the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another." Black's further states that gross negligence is not "simple inadvertence," but instead "very great negligence, or the absence of slight diligence, or the want of even scant care." In contrast, simple negligence focuses on "inadvertence, thoughtlessness, inattention, and the like."

The courts have been equally clear about this distinction. For example, according to *Ryan* v. *Foster & Marshall, Inc.*, 556 F.2d 460 (9th Cir. 1977), "Gross negligence * * * is characterized by conscious indifference to or reckless disregard of the rights of others."

In sum, the provision in the bill reflects the clear intent to draw a bright line between such claims and claims that arise from far more serious misconduct. The distinction between negligence and gross negligence is intended to be this bright line, based on the clear understanding from numerous courts and commentators that there is a substantial and meaningful difference in the seriousness of misconduct involved in the two types of torts.

Mr. MACK. Thank you for clarifying this important issue.

Mr. KERRY. Mr. President, at the time Secretary Bentsen came before the Senate Banking Committee in the spring, with a nine-point plan to reform the Resolution Trust Corporation, I expressed my concern that the Treasury Department did not have an adequate picture of the magnitude of the problems at the RTC.

At the GAO has documented, the RTC has never had adequate controls on its operations. There has been waste, fraud, and abuse of a magnitude that is substantial but whose amount no one has been able to specify. What is certain is that a number of private law firms, accounting firms, and real estate contractors have taken advantage of RTC's management weaknesses to rip off the public—increasing the overall cost of the S&L bailout.

The RTC had failed to operate according to the law establishing its existence, FIRREA. We required the RTC to maximize recovery on assets it acquires. As the GAO has concluded, it hasn't done so, due to mismanagement, inadequate financial and information systems, fraud and abuse.

We also required the RTC to minimize the impact of its activities on local markets. For example, as we have heard from one experienced RTC real estate asset manager, there is substantial reason to believe that the RTC may be contributing to the collapse of real estate prices in California, through auction sales of real estate that are chasing the market down.

We required the RTC to make efficient use of its funds. Again, the GAO has found numerous failures here, and we will hear testimony today from more than one witness about how RTC managers leave funds sitting in interest-free accounts, costing the taxpayers thousands of dollars for no reason.

Fourth, we required RTC to minimize losses incurred in resolving cases, by going after S&L wrongdoers. As the GAO has acknowledged, the RTC last year disrupted its ability to sue those whose wrongdoing contributed to savings and loans losses through a reorganization that has resulted in the demoralization of staff and inadequate case development.

Early this year, in light of my decision—a painful decision—to support the administration's request for the final installment of paying for the savings and loan crisis—I asked my staff to reach out directly to RTC employees to determine whether the kinds of problems identified by the GAO are continuing. I wanted to determine whether there were ongoing management problems at the RTC in addition to the obvious difficulties the RTC was having creating adequate systems to handle these enormous resolutions.

I found to my dismay that literally dozens of employees and managers from RTC across the country, were candidly confessing to my office that the GAO's reports of disarray at RTC only scratched the surface. That the reality was worse. As one recently departed senior official from RTC in Washington told my staff, the RTC was not only "a catastrophe," but also "a snakepit."

My office was told of case after case of waste, fraud, abuse and mismanagement, in many cases involving people in very senior positions within the agency at RTC offices across the country.

I heard allegations of the steering of contracts by RTC personnel to former or future employers. I heard of major accounting firms receiving huge RTC contracts, and then hiring inexperienced people off the street who did incompetent work, and padded their bills to boot. I was told of RTC managers telling lower-level employees to pay bills regardless of the quality of the work.

I was told about faulty computer systems for legal billing and thousands of lost invoices, so that the RTC could not determine whether a bill was legitimate or not.

I was told repeatedly about cases of sexual discrimination and even physical sexual harassment at the RTC.

I was told about RTC employees being asked by RTC managers to fabricate data for Congress when the real data was unavailable, or would not look good. I was told of cases where RTC employees were discouraged from telling the truth to the GAO. And I heard disturbing suggestions that the RTC's inspector general was viewed by employees as being in bed with management and ineffective.

On September 23, the Banking Committee took the testimony of 13 of the most courageous whistleblowers, who presented 5 hours of testimony to us under oath.

What we heard was shocking. We heard that RTC's auction sales are costing the taxpayers 15 percent or more in relation to the real value of the real estate, and the data is massaged to hide the losses through appraising mechanisms that narrow the difference between the real value and whatever RTC actually sells the property for.

We heard that managers at the RTC have yelled and cursed their staff, physically and sexually accosted staff, targeted women and minorities for abuse, attempted to force staff to break RTC rules and regulations, attempted for force the award of contracts to their friends, and attempted to force others to cover-up their actions.

We heard of phony bills being paid and paid again by the RTC to people who did incompetent work that was not needed in the first place. We heard of the Government taking a dive in prosecuting cases against S&L wrongdoers in Colorado and in Texas.

As a senior RTC investigator with extensive experience told my staff:

> I've worked for the government all my life. Is the RTC worse? Yes, it is the worst I ever saw. This is not the real government. They don't have any rules. They do their own thing. Places I come from, people are very tight with a dollar. At the RTC, there is no attempt to save the taxpayers any money. The organizations defies any command structure. People aren't held accountable for their actions and they aren't getting their job done. I've never been in an organization that when someone brings a problem to management's attention, instead of fixing the problem, they try to get rid of the person who brought the problem to their attention.

I could go on and on with a history of the abuses at the RTC, as indeed, the RTC's own employees did for 5 hours on September 23. But that is not necessary here.

I will vote against funding the RTC today, and urge my colleagues to vote against the funding.

The GAO tells us today that this bill contains about four times as much money as the RTC is ever going to need, and that none of the money is needed now.

Even if the RTC needed the money, which it does not, I could not in good conscience authorize another penny for an agency that has so cavalierly wasted the taxpayers' money to date, and which has remained incapable of control by the new administration.

Recently, I met with Deputy Secretary of the Treasury Roger Altman, who I know wants to do the right thing with the RTC. Mr. Altman had his full share of responsibilities before this burden was placed upon him, and he has never been in a position to devote his entire schedule to solving the RTC's deep problems.

I fully appreciate how difficult it has been for the Treasury to solve the deep problems it inherited at the RTC, problems which have been exacerbated by the temporary nature of the Agency.

And I have tried to work with the administration in the effort to respond to these problems.

I have suggested to the administration that they immediately take the following steps to deal with waste, fraud, and abuse at the RTC:

First, to deal with the enduring personnel problems at the Agency, send in a team of professionals from outside RTC to examine RTC's management style and morale problems. A team of outsiders is necessary to respond to the pervasive personnel abuses and practices that have become endemic at the RTC.

Second, the administration needs to send a message of zero tolerance for abusive personnel practices. Management personnel who have committed ethical or personnel violations need to be removed and punished, and not merely put back to the FDIC and thereby protected. Patterns of EEOC complaints and other personnel, expense account, and conflict allegations are appropriate places to begin in evaluating where action needs to be taken.

Third, witness after witness has testified that the RTC Inspector General's office has little credibility among rank and file employees at the Agency. Steps need to be taken to restore the credibility of the Inspector General.

Fourth, RTC needs to take aggressive action against contractors who have abused the agency, and thereby send the message that fraud will not be tolerated. Limits should be placed on subcontracting, whereby firms broker subcontracts, hiring temps who often have no special skills, and making profit for no real work of their own.

Fifth, over the past 9 months, the administration has failed to put its own people in place at the RTC, and has not really placed anyone in the position of devoting his or her full-time to solving the Agency's problems. The administration needs to focus its attention on the catastrophe it inherited, because the catastrophe will not disappear by inattention. Instead, it can only grow.

We have done legislatively all we can do to give the RTC the tools to clean up after the S&L disaster. FIRREA's goals are clear, and we have given the RTC a lot of discretion as to how to go about achieving them. There is no legislative solution to the kind of problems the RTC has. The problem is a management problem—an executive branch function—and of a very serious nature.

I urge my colleagues to vote against further funding for the RTC until the administration has implemented a plan that convincingly ends the endemic waste, fraud, and abuse pertaining to the RTC's first 4 years of operation.

Mr. DOLE. Mr. President, we all know that the Resolution Trust Corporation is everyone's favorite punching bag. Over the years, I've taken a few swipes myself, expressing my disappointment, for example, that the RTC Regional Office in Kansas City had once used taxpayer funds to purchase original artwork.

KEEP A CLOSE EYE ON THE RTC

Today, I continue to receive complaints from constituents about irregular bidding procedures, or auctions that don't work as advertised, or RTC bureaucrats who make a habit of not returning phone calls. When I feel that a complaint has merit, I pass it along, and I expect the RTC to take remedial action. As long as the RTC is in business, I will be keeping a close eye on its activities.

RTC FUNDING IS NOT PARTISAN

Now, this is the first RTC funding bill of the Clinton administration. When President Bush and Secretary of the Treasury Nick Brady came to the Hill seeking additional funding for the RTC, most of my colleagues on the other side of the aisle were ready to lend their support. They knew that RTC funding is an American issue, not a partisan issue. S&L's don't fail based on the number of Republican or Democrat depositors.

Certainly, no one likes voting money to bail out the S&L mess. But the bottom line is that we must forge ahead and close one of the saddest chapters in our Nation's financial history. The longer we delay RTC funding in the shortrun, the greater the cost to the American taxpayers in the long run.

And let's be clear: We're not talking about bailing out S&L executives and stockholders. Every penny of this bill goes to protect depositors.

Those who will benefit from this bill are not the S&L highfliers, but the millions of people throughout the country who thought they were making a prudent decision when they chose to deposit their hard earned savings in savings institutions.

I am pleased that the conference report requires the RTC to adopt certain reforms, including stronger internal controls against waste and fraud. The RTC must appoint a chief financial officer, improve its contracting system, and establish an audit committee. In addition, it must improve the management of its legal services and may hire only those law firms that provide the most cost-effective services.

Although these reforms won't prevent every glitch, they will help ensure that the American people get a bigger bang for their RTC buck.

Mr. President, many years ago, the U.S. Government made a commitment to the American people—that it would lend its full faith and credit to any deposit placed in an insured institution. If the Government is to remain true to this commitment today, we must act responsibly and pass this conference report.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—54

Akaka
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Breaux
Bryan
Bumpers
Chafee
Coats
Cohen
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Feinstein
Ford
Glenn
Grassley
Gregg
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lieberman
Lugar
Mathews
Mikulski
Mitchell
Moseley-Braun
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Roth
Sarbanes
Sasser
Simon
Simpson

NAYS—45

Baucus
Bradley
Brown
Burns
Byrd
Campbell
Cochran
Conrad
Coverdell
Craig
DeConcini
Exon
Faircloth
Feingold
Gorton
Graham
Gramm
Harkin
Hatch
Helms
Hollings
Hutchison
Kempthorne
Kerrey
Kerry
Kohl
Lautenberg
Lott
Mack
McCain
McConnell
Metzenbaum
Moynihan
Nickles
Pressler
Rockefeller
Shelby
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NOT VOTING—1

Dorgan

So the conference report was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I now suggest the absence of a quorum, and ask that the time be charged equally to the two sides on the NAFTA debate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll. The time will be divided equally on this quorum call.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. I object. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senate will please be in order.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent the proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. May I inquire of the time remaining on the NAFTA debate?

The PRESIDING OFFICER. All time has expired on the NAFTA debate. All time has expired.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senator from South Dakota be recognized for 3 minutes on the NAFTA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I rise today, as ranking member of the Small Business Committee, to offer my full support for the North American Free-Trade Agreement. In these past months, I have received many letters and calls from small business men and women urging a yes vote for NAFTA—a trade agreement that means expanded markets, higher returns, less regulation, and job creation.

How will this happen? When it comes to exporting, the engine of our Nation's economy—the small entrepreneurs—has repeatedly been confined. These innovators have been squeezed out of markets by a multitude of tariff and nontariff barriers. NAFTA promises to create one of the largest and richest markets in the world, and our Nation's small businesses stand to be a major beneficiary. Unfortunately, unfounded fear has been instilled in the American people. It is the fear that NAFTA would rob our citizens of hundreds of thousands of jobs. Congress must react not to fears, but job creator for our country, particularly for small businesses.

Without the promise of NAFTA, small businesses will continue to wrestle with all the regulations involved in exporting to Mexico. Most small businesses do not have the means to overcome this regulatory burden. Presently, small firms shipping goods to Mexico by truck are forced to drop their product at the border and return home empty. Owners then pay extra for a Mexican truck to transport their products to their final destinations. High Mexican tariffs are another costly barrier making it virtually impossible for many small firms to compete. A further setback is a Mexican law which requires small business service providers to locate in that country in order to operate there. This is a cost many small businesses are unable to handle. Finally, local content restrictions bar many small parts suppliers from selling their wares to United States manufacturers located in Mexico.

With the enactment of NAFTA, U.S. small businesses would be relieved of these burdens. This would open the door to increased growth in foreign trade. How? Mexico would open its 2,000-mile border to United States trucks for the first time. Many tariffs would be reduced substantially and immediately. United States firms located in Mexico would be able to rely more heavily upon United States parts suppliers—many of which are small businesses. In addition, firms that provide services in Mexico no longer would be required to locate in that country. Added together, these reductions in current trade barriers would create new opportunities for our entrepreneurs to expand into one of the fastest growing markets in the world.

Mexico already is the third largest market for United States goods. Fifteen cents out of every dollar earned in Mexico goes toward buying United States products. Since 1986, United States exports to Mexico have more than tripled. We have turned a $5.4 billion trade deficit into a $5.7 billion trade surplus—a turnaround of $11.1 billion. With figures such as these, imagine what could result from a trade agreement that would enable Mexico's gross domestic product to continue its steady rise. As the purchasing ability of Mexican businesses and consumers increases, the United States undoubtedly will benefit.

Many ask: What about job loss? Yes, it is true NAFTA will cause some Americans to lose their current jobs. However, it is estimated that if the trade agreement is enacted, for every job that is lost, five jobs would be created. For those who do lose their jobs, the administration has promised to propose a worker retraining program.

I represent a State in which 98 percent of businesses are small businesses. If I did not fell absolutely certain that NAFTA were a step in the right direction for small businesses, I would not be offering my full support for this free-trade agreement. NAFTA is a step in the right direction for small business. It represents a move toward continued prosperity for our businesses and the workers they employ.

America's small businesses currently are making trade deals at a rate faster than our Nation's big exporting companies. They are our country's most reliable source of new job growth. We must do everything we can to support them. A free-trade agreement with our two neighboring countries is a way to provide additional invaluable opportunities for the entrepreneurs of America.

As the vote on the NAFTA nears, I urge my colleagues to keep in mind that protectionist policies are not an effective way to preserve jobs. In fact, they often destroy jobs by forcing businesses to operate at inefficient cost levels—a situation which proves fatal for many businesses, large and small. NAFTA's passage would serve only to strengthen the position of our country's most ambitious job creators and enhance their role as international competitors.

Mr. MITCHELL. Mr. President, I say to the Members of the Senate, I have been trying for some time to get to a vote on the North American Free-Trade Agreement, and we will do so shortly. The Republican leader has requested a brief period for consultation with his colleagues on some other matters and I think it is appropriate that I accommodate that request. I assure you it is and will be brief.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair did not hear an objection raised.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEST VIRGINIA DEFEATS MIAMI

Mr. ROCKEFELLER. Mr. President, I have been living in West Virginia for 29 very happy years, and this is not a statement that meets the moment of trade relations in the world, but I wish to share my joy with my colleagues that the West Virginia University football team just defeated the University of Miami, which is probably the biggest athletic triumph in the history of our State. I am trying to contain myself and be as dignified as I can, and I am not doing it very well, but I wanted to share that with my colleagues.

I thank the Chair.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. MITCHELL. Mr. President, I ask for the regular order.

The PRESIDING OFFICER the clerk will report the regular order of business.

The legislative clerk read as follows:

A bill (S. 414) to amend tile 18, United States Code, to require a waiting period before the purchase of a handgun.

The Senate resumed consideration of the bill.

Pending: Mitchell/Dole amendment No. 1218, in the nature of a substitute.

Mr. MITCHELL. Mr. President, I ask unanimous consent to modify the Mitchell-Dole substitute. I send the modification to the desk.

AMENDMENT NO. 1218, AS MODIFIED

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

SEC. ___02. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending either on the day before the date that is 48 months after such date of enactment unless the Attorney General extends the date by twelve additional months, or on the day that the Attorney General notifies the licensees in all of the States under section ___03(d) of the Brady Handgun Violence Prevention Act, whichever occurs earlier, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

Mr. MITCHELL. Mr. President, let me explain just briefly the modification, and then proceed to vote on the Mitchell-Dole substitute to the Brady bill as just modified and to be immediately followed by a vote on the North American Free-Trade Agreement.

In the Mitchell-Dole substitute, there is a sunsetting provision. It is stated in the bill at 60 months, 5 years. This modification reduces the sunsetting period from 5 years to 4 years unless the Attorney General decides to add an additional 12 months, putting it back to the original 5 years.

I ask the clerk now merely to state the modification.

The original language was 60 months. It now reads as such. I ask the clerk to state it.

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk read as follows:

Beginning on the date that is 90 days after the enactment of this subsection and ending either on the day before the date that is 48 months after such date of enactment unless the Attorney General extends the date by 12 additional months, * * *.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. That is the modification. I therefore now ask if we can proceed to vote on the Mitchell-Dole substitute.

Mr. President, I am advised that in order to avoid multiple votes, we have to bring the bill to third reading and have a substitute for the House bill. So we will do that. That will take just a moment.

If the Senator from Idaho wishes to address the Senate, I will be pleased to yield to him.

Mr. CRAIG. I thank the majority leader for yielding.

While this compromise has been struck on a very important bill, and there have been some tremendous gains made by those of us who believe that this kind of legislation does not serve the gun-owning public of America well, it is without question moving us very rapidly toward what will, and that is an instant background check that will provide American citizens the right to own guns without question and deny criminals those guns.

Today we have 18 million names on file in a computer downtown, and as soon as States can qualify, this legislation will bring it on line, so that the waiting period will go away.

Now, while I think it is significant, because I do not believe waiting periods serve the public well, I will oppose it. But it is without question a major advance toward solving a problem that I think clearly has to be addressed in this country.

I thank the majority leader.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I appreciate the Senator's comments. Of course, the Senator's comments were not addressed to this modification. They have nothing to do with the modification. They have to do with the inclusion of the instant check system as a whole, which is in the substitute——

Mr. CRAIG. That is correct.

Mr. MITCHELL [continuing]. Which was in the bill. That in fact was the compromise that Senator DOLE and I, with Senators METZENBAUM and KOHL, struck in 1991.

Mr. CRAIG. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. CRAIG. The modification moves us 12 months closer to that instantaneous background check.

Mr. BIDEN addressed the Chair.

Mr. MITCHELL. Yes, I yield.

Mr. BIDEN. Mr. President, I do not want to mislead anybody. I will be chairing that conference, and I am going to move it back 12 months.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The majority leader has not relinquished his right to the floor.

Mr. METZENBAUM. Will the majority leader yield?

Mr. MITCHELL. Does the Senator wish me to yield?

Mr. METZENBAUM. Very briefly, if I may speak.

Mr. MITCHELL. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, we have gone a long way on the Brady bill. For 7 years, we have been fighting on the subject. I know we are now ready to adopt the Brady bill. We have a 4-year provision, with the Attorney General having the right to extend it for an additional year, which is the same 5 years we were talking about.

I think maybe we are finally going to make the right decision with respect to the Brady bill and start to eliminate some of the handguns in this country; keep people from buying them, that is, those who should not be buying them.

I think when we pass this bill, it will be a major victory for the American people. I think the decision last night was a very wrong one, in so many ways, but I think better thoughts have come about since last night and I am prepared to go forward with the vote.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Are we prepared to adopt the Mitchell-Dole substitute?

Mr. KOHL. Mr. President, occasionally the Senate is full of good surprises. Today is one of those days—because we are going to enact the Brady bill.

This modification is more than acceptable—it preserves the extent of the original legislation.

It will help save lives. And passing this bill—which 90 percent of the American public has demanded—will help restore their faith in our Government.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as modified.

The amendment (No. 1218), as modified, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 414 be read a third time; that the Senate turn to the consideration of H. R. 1025; that all after the enacting clause be stricken; that the text of S. 414 be inserted in lieu thereof; and, that a vote occur on passage of H.R. 1025; further that the Senate insist on its amendment, request a conference with the House; and, that the Chair be authorized to appoint conferees.

Mr. DOLE. Mr. President, I have no objection. I want to make a 1-minute statement before the vote.

Mr. MITCHELL. I yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was read for the third time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I will take 1 minute.

I think it is unfortunate that the chairman of the committee announced in advance that he had no confidence in what the Senate might do.

Some of us have been working all day on this in good faith. Maybe we should not have. But we have been trying in good faith to find a compromise, and I think it is most unfortunate the chairman of the committee said that whatever happened it is going to be 5 years. Maybe he can do that. But there will be other bills coming along. We will keep that in mind as we look down the road.

I think many of our Members who might have been able to support this measure are now put on notice by the chairman that it does not make any difference what you did, it is going to be 5 years.

There are a number of good provisions in this bill that have not been in any Brady bills before. There are about seven or eight provisions on law enforcement, going after the criminals and not after the victims that are in this bill that have not been in the bill before.

So I assume the chairman is going to knock those out in conference too. If we are going to do all that, we might as well vote "no," and then we can filibuster the conference report when it comes back.

Mr. BIDEN. Mr. President, that would be fine with me. But let me make it clear what I meant. The fact of the matter is that on this provision it is not worth much of a distinction in where the House is. The House made it clear. They voted overwhelmingly—5 years. We are at 4 years with the right of the Attorney General to extend it to 5.

I have been to enough conferences to know where it is going to end up. I do not want to mislead anybody. When we come back here, and if it comes back, there is an understanding that somehow I am going to be able to protect 4 years with a 1-year extension by the Attorney General versus what the House has. The answer to that is I want to put everybody on notice that is not likely to happen—could happen—highly unlikely. I just want to have total clean hands in this.

With regard to the rest of the provisions in this bill, we did negotiate them. They are good provisions. I will go into the conference to try to protect the Senate's position on what is the Mitchell-Dole substitute. But as it relates to this latest change that is bringing about this so-called compromise, I do not want anybody to be misled as to what is likely to happen. But it seems to me that we will go into the conference, we will take the Senate's position into the conference. But I am a realist.

Mr. MITCHELL. Mr. President, 2½ years ago we began the legislative process that culminates in just a few moments. Senator METZENBAUM has for years been advocating the Brady bill. He is joined by others here.

The bill in its initial form, I stated then, I believed would not accomplish the purpose of its supporters, and we then had in 1991 a serious good faith, lengthy negotiation, principally involving Senator DOLE and myself, Senator METZENBAUM, and Senator KOHL.

We then came up with the bill which we thought was a good bill, and so did the Senate—67 Senators voted for it.

Mr. President, that bill did not become law because it was included in the larger bill which was not enacted. Now we have come to this year, and we have had another good faith negotiation. It has been as long and tedious as any negotiation I have ever been involved in. We have been 5 days, most nights—not so much us but our poor staffers working through the night—trying to reach agreement.

There are a lot of good provisions in this bill. We had some disagreement. The principal disagreements were over preemption which the Senate rejected. That rejection stands now. There is no preemption in this bill.

The second difficult agreement was over sunsetting, which the Senate included. The sunsetting was at 5 years. The House did the same thing. It rejected preemption and accepted a 5-year sunset.

Now, over the past days since we were unable to get cloture, we have modified it in the manner that has been stated by the clerk which we have agreed upon. This has been painful and difficult for everybody. But let us not lose sight of the fact that for those who believe this to be an important measure, this is a significant success. Just a few days ago, just a few hours ago, we were in the position of not even being able to vote on this. Now we are going to vote on this.

I fully respect the views of the Senator from Idaho, and those who may vote on this, because on principle they disagree with what this bill will do, and they disagree with the motivation behind it.

Those of us who share an opposite view ought not to let it be obscured by the difficulty and the problems that have developed, particularly in these most recent moments, and statements about the significance of what is occurring. This is a significant action.

The Senate is now going to pass a Brady bill. And I hope and trust that when we come back from conference, whenever and in whatever form that is, we will be in a position to adopt that and have it enacted into law.

Mr. President, I ask unanimous consent that immediately following the vote on the Brady bill, without any intervening action or debate, the Senate vote on the North American Free-Trade Agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I ask the majority leader if the votes could be 10 minutes.

Mr. MITCHELL. No. There may be Senators not present.

I would like, if I could. We will try to speed it up.

Mr. President, I inquire of the Republican leader: Is there anything he wishes to say at this time on either subject?

Afterward, there will be time for statements by Senators.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. It requires unanimous consent to request the yeas and nays at this point.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, the bill is read a second time.

Without objection, the text of S. 414 is substituted.

The clerk will read the bill for the third time.

The bill (H.R. 1025) was read for the third time.

The PRESIDING OFFICER. The bill having been read for the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—63

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Bumpers
Byrd
Chafee
Coats
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Hutchison
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb

Rockefeller
Roth
Sarbanes
Sasser
Simon
Thurmond
Warner
Wellstone
Wofford

NAYS—36

Bennett
Breaux
Brown
Bryan
Burns
Campbell
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Johnston
Kempthorne
Leahy
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Specter
Stevens
Wallop

NOT VOTING—1

Dorgan

So, the bill (H.R. 1025), as amended, was passed.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 414 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 1025, and the Chair is authorized to appoint conferees on the part of the Senate.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The clerk will read H.R. 3450 for the third time.

The bill was ordered to a third reading and was read the third time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—61

Baucus
Bennett
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bumpers
Chafee
Coats
Cochran
Coverdell
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Hutchison
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Leahy
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mitchell
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Robb
Roth
Simon
Simpson
Specter
Wallop
Warner

NAYS—38

Akaka
Boxer
Bryan
Burns
Byrd
Campbell
Cohen
Conrad
Craig
D'Amato
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Heflin
Helms
Hollings
Inouye
Kempthorne
Kohl
Lautenberg
Levin
Metzenbaum
Mikulski
Moynihan
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Shelby
Smith
Stevens
Thurmond
Wellstone
Wofford

NOT VOTING—1

Dorgan

The bill (H.R. 3450) was passed.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask unanimous consent that I be permitted to speak as in morning business for about 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1756, S. 1758, and S. 1768 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

VIOLENT CRIME IN ALASKA

Mr. MURKOWSKI. Mr. President, it occurred to me that this would be an appropriate time to share with my colleagues a little background because often times the assumption is that crime is associated with our large inner-city areas. As a consequence, I wish to provide you with the reality that crime is all over the United States. Violent crime continues to victimize innocent Americans and it reaches as far as my home State of Alaska.

The FBI reports that the number of violent crimes increased in the United States from 1991 to 1992. Forcible rapes increased 2 percent and aggravated assaults 3 percent.

The violent crime statistics for my home State of Alaska are certainly as disturbing as the national statistics. I shall share some of these with you today.

The 1992 crime report in Alaska was compiled from uniform crime reporting data submitted by law enforcement agencies within Alaska; most major cities and more than 85 percent of our population is represented in these figures.

I have an Alaska crime clock for last year, 1992. It addresses the occurrences of various crimes.

I will start right here with the crime index.

The crime index indicates that on average one crime of either the violent or property crimes included on this chart occur every 16 minutes and 13 seconds. The statistics that make up this crime index total include violent crimes, every 2 hours and 19 minutes, which include robbery, every 13 hours and 57 minutes; murder, every 8 days and 7 hours; aggravated assault, every 3 hours and 25 minutes; and forcible rape, every 15 hours and 29 minutes. Further, the crime index includes property crimes, every 18 minutes and 23 seconds, which include burglaries, every 1 hour and 41 minutes; larceny-theft, every 25 minutes and 38 seconds; and vehicle theft, every 3 hours and 2 minutes. This is the frequency rate of annual reported crimes in my State of Alaska.

Mr. President, this chart shows the increase in select offenses in Alaska per 100,000 population. As you can see, in 2 years, these statistics increased by almost 1,000 incidents per 100,000 people.

As a consequence, Mr. President, all over the United States, there is significant increases in all types of crime. And, how we address this terrible plague on society has been addressed within this body in the last few days during the extended debate on crime legislation.

Mr. President, it is unfortunate that in our State we had a 6.8 percent increase in rapes reported in 1992 from the previous year, a total of 566 rapes.

Alaska's average rate of rape per capita per 100,000 people from 1980 to 1990 is two times greater than the Nation's average rate of rape. Alaska has ranked in the top five States in the Nation per capita for the highest rate of rape per capita over a 15-year span.

Now, the conclusion of all this is to keep in mind that while it is important that we continue to do what we can to get at the roots of this violent crime, we must recognize that our first priority must be to protect the lives of innocent Americans from the overwhelming violence that has infiltrated our society today. And my State is no exception, unfortunately.

So, Mr. President, the way to do this is simply to put our criminals in jail—identify criminals, and give them severe sentences; and discipline the juveniles delinquents in addition to letting them know that society simply will not tolerate criminal behavior.

As a consequence Mr. President, the recent action where this body has increased penalties, provided more uniformed policemen, provided more money for prisons, I hope will go a long way to bring home a message to those that are associated with criminal activity and that these individuals receive the message that society is absolutely fed up and, as a consequence, we are prepared to take such measures as are necessary to reduce the threat to those law-abiding citizens in our country and throughout our State.

APPOINTMENT OF CONFEREES—H.R. 1025

The PRESIDING OFFICER (Mr. MATHEWS). Under the previous order, the Chair appoints the following conferees for H.R. 1025.

The Presiding Officer appointed Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. HATCH, and Mr. CRAIG conferees on the part of the Senate.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. EXON assumed the chair.)

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, are we in morning business with Senators allowed to speak therein?

The PRESIDING OFFICER. We are not.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that we have a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCERNING THE ARAB BOYCOTT OF ISRAEL

The text of the concurrent resolution (S. Con. Res. 50) concerning the Arab boycott of Israel, as agreed to by the Senate on November 19, 1993, is as follows:

S. CON. RES. 50

Whereas the signing on September 13, 1993, of the Declaration of Principles between the Palestine Liberation Organization and the Government of Israel signals a new era of cooperation in the Middle East;

Whereas a true peace in the Middle East can only be established and remain in effect if there is economic stability and cooperation in the region;

Whereas adherence to the Arab League boycott of Israel is a source of economic instability in the Middle East;

Whereas the members of the Arab League instituted a primary boycott against Israel in 1948;

Whereas in the early 1950's the Arab states instituted a secondary and tertiary boycott against United States and other firms because of their commercial ties to Israel;

Whereas the boycott attempts to use economic blackmail to force United States firms to comply with boycott regulation;

Whereas the boycott was cited by the United States Trade Representative in the 1992 National Trade Estimate Report on Foreign Trade Barriers as an "additional legal restraint to United States trade in the region";

Whereas hundreds of United States firms have been blacklisted and barred from doing business with members of the Arab League under the secondary and tertiary boycott;

Whereas the total damage caused by the boycott is unknown because the number of United States firms that conduct business with Israel have not attempted commercial transactions with members of the Arab League due to the boycott is uncertain; and

Whereas the United States has a policy of prohibiting United States firms from providing Arab states with the requested information about compliance to boycott regulation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Anti-Boycott Resolution of 1993".

SEC. 2. EXPRESSION OF CONGRESSIONAL VIEWS.

The Congress—

(1) believes the continuation of the Arab League boycott of Israel will be a severe impediment to the economic prosperity of all participating nations and to the establishment of a lasting peace and prosperity in the Middle East;

(2) believes the secondary and tertiary boycott cause substantial economic losses to United States firms;

(3) welcomes the actions by those members of the Arab League that have begun dismantling the secondary and tertiary boycott, and urges them to continue their efforts until a complete dissolution of the primary, secondary, and tertiary boycott is achieved;

(4) hopes that the indefinite postponement of the October 24, 1993, meeting of the Central Boycott Committee signals an end to the placement of more United States firms on the boycott list and a willingness to dismantle the boycott in its entirety;

(5) urges those states that have begun to or are considering dismantling all forms of the boycott to proceed promptly with such dismantlement;

(6) urges those states that are still enforcing the boycott to dismantle the boycott in all its forms and to issue the necessary laws, rules, and regulations to ensure that United States firms have free and open access to Arab markets regardless of their business relationships with Israel;

(7) urges those states, in addition, to cease enforcing and requiring participation in the boycott in its primary, secondary, and tertiary forms;

(8) urges the United States Government to continue to raise the boycott as an unfair trade practice in every appropriate international trade forum; and

(9) expresses the sense of the Congress that the end of the Arab League boycott of Israel is of great urgency to the United States Government and will continue to be a priority issue in all bilateral relations with participating states until its complete dissolution.

COASTAL HERITAGE TRAIL ROUTE AUTHORIZATION

The text of the bill (S. 1574) to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

S. 1574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of Public Law 100-515 (16 U.S.C. 1244 note) is amended by striking "$250,000" and inserting in lieu thereof, "$2,500,000".

NATIONAL PEARL HARBOR REMEMBRANCE DAY

The text of the joint resolution (S.J. Res. 140) to designate December 7, 1993, as "National Pearl Harbor Remembrance Day," as passed by the Senate on November 19, 1993, is as follows:

S.J. RES. 140

Whereas on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas more than 2,000 citizens of the United States were killed and more than 1,000 citizens of the United States were wounded in the attack on Pearl Harbor;

Whereas the attack on Pearl Harbor marked the entry of the United States into World War II;

Whereas the veterans of World War II and all other people of the United States commemorate December 7 in remembrance of the attack on Pearl Harbor; and

Whereas commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the Armed Forces of the United States during World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1993, is designated as "National Pearl Harbor Remembrance Day". The President is authorized and requested—

(1) to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities; and

(2) to urge all Federal agencies and interested organizations, groups, and individuals,

to fly the flag of the United States at half staff on December 7, 1993, in honor of the individuals who died as a result of their service at Pearl Harbor.

THE HAZARD MITIGATION AND RELOCATION ASSISTANCE ACT OF 1993

The text of the bill (S. 1670) to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

S. 1670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazard Mitigation and Relocation Assistance Act of 1993".

SEC. 2. HAZARD MITIGATION.

(a) FEDERAL SHARE AND TOTAL CONTRIBUTIONS.—Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) in the first sentence, by striking "50 percent" and inserting "75 percent"; and

(2) in the last sentence, by striking "10 percent" and all that follows through the end of the sentence and inserting "15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.".

(b) APPLICABILITY.—The amendments made by this section shall apply to any major disaster declared by the President pursuant to The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.

SEC. 3. PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.

Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The President"; and

(2) by adding at the end the following new subsection:

"(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

"(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

"(2) TERMS AND CONDITIONS.—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

"(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

"(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Director that provides assurances that—

"(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

"(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

"(I) a public facility that is open on all sides and functionally related to a designated open space;

"(II) a rest room; or

"(III) a structure that the Director approves in writing before the commencement of the construction of the structure; and

"(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

"(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

"(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

"(3) STATUTORY CONSTRUCTION.—Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.".

SEC. 4. TREATMENT OF REAL PROPERTY BUYOUT PROGRAMS.

(a) INAPPLICABILITY OF URA.—The purchase of any real property under a qualified buyout program shall not constitute the making of Federal financial assistance available to pay all or part of the cost of a program or project resulting in the acquisition of real property or in any owner of real property being a displaced person (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

(b) DEFINITION OF "QUALIFIED BUYOUT PROGRAM".—For purposes of this section, the term "qualified buyout program" means any program that—

(1) provides for the purchase of only property damaged by the major, widespread flooding in the Midwest during 1993;

(2) provides for such purchase solely as a result of such flooding;

(3) provides for such acquisition without the use of the power of eminent domain and notification to the seller that acquisition is without the use of such power;

(4) is carried out by or through a State or unit of general local government; and

(5) is being assisted with amounts made available for—

(A) disaster relief by the Federal Emergency Management Agency; or

(B) other Federal financial assistance programs.

EXTENSION OF COURT-ANNEXED ARBITRATION

The text of the bill (S. 1732) to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

S. 1732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF ARBITRATION.

(a) AMENDMENT OF REPEAL.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note; Public Law 100–702; 102 Stat. 4664) is amended in the first sentence by striking out "5 years after the date of the enactment of this Act" and inserting in lieu thereof "December 31, 1994".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note; Public Law 100–702; 102 Stat. 4664) is amended in the first sentence by striking out "4" and inserting in lieu thereof "7".

CONCERNING THE INTERNATIONAL YEAR OF THE WORLD'S INDIGENOUS PEOPLES

The text of the concurrent resolution (S. Con. Res. 44) to express the sense of Congress concerning the International Year of the World's Indigenous Peoples, as passed by the Senate on November 19, 1993, is as follows:

S. CON. RES. 44

Whereas United Nations Resolution 45/164 of December 18, 1990, proclaimed the year 1993 as the International Year of the World's Indigenous Peoples, in order to strengthen international cooperation for a solution to the problems faced by indigenous communities in areas such as human rights, the environment, development, education, and health;

Whereas indigenous peoples are descendants of the original inhabitants of many countries with diverse cultures, religions, languages, and social and economic customs;

Whereas an estimated 300 million indigenous peoples live in more than 70 countries, including the United States;

Whereas indigenous peoples are often disadvantaged and face common difficulties in their homelands, including issues such as self-determination, the preservation of land and natural resources, the preservation of culture, arts, and language, and dismal social and economic conditions;

Whereas many indigenous peoples continue to face discrimination and exploitation in their homelands;

Whereas the rights and social and economic conditions of indigenous peoples have often been overlooked by individual nations and the international community; and

Whereas the United Nations Working Group on Indigenous Populations has drafted a Declaration on the Rights of Indigenous Peoples: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should cooperate with the United Nations in its efforts to raise the level of public interest in and consciousness of the problems of indigenous peoples;

(2) the United States should address the rights and improve the social and economic conditions of its own indigenous peoples, including Native American Indians, Alaska Natives, Native Hawaiians, Chamorros, American Samoans, and Palauans;

(3) the United States should support the United Nations in its efforts to establish international standards on the rights of indigenous peoples; and

(4) the United States recognizes that the year 1993 is an insufficient time period for promoting public awareness of the plight of indigenous peoples and urges the United Nations to proclaim an International Decade of the World's Indigenous Peoples.

TRADING WITH INDIANS ACT OF 1993

The text of the bill (S. 1501) to repeal certain provisions of law relating to trading with Indians, as passed by the Senate on November 19, 1993, is as follows:

S. 1501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

Section 437 of title 18, United States Code, is repealed.

THE DOE NATIONAL COMPETITIVENESS TECHNOLOGY PARTNERSHIP ACT

The text of the bill (S. 473) to promote industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

[The bill, S. 473, will appear in a subsequent issue of the RECORD.]

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION ENTITLED "THE HEALTH SECURITY ACT OF 1993"—MESSAGE FROM THE PRESIDENT—PM 74

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am pleased to transmit today to the Congress the "Health Security Act of 1993."

This legislation holds the promise of a new era of security for every American—an era in which our Nation finally guarantees its citizens comprehensive health care benefits that can never be taken away.

Today, America boasts the world's best health care professionals, the finest medical schools and hospitals, the most advanced research, and the most sophisticated technology. No other health care system in the world exceeds ours in the level of scientific knowledge, skill, and technical resources.

And yet, the American health care system is badly broken. Its hallmarks are insecurity and dangerously rising costs.

For most Americans the fear of losing health benefits at some time has become very real. Our current health insurance system offers no protection for people who lose their jobs, move, decide to change jobs, get sick, or have a family member with an illness. One out of four Americans is expected to lose insurance coverage in the next 2 years, many never to be protected again. Altogether, more than 37 million Americans have no insurance and another 25 million have inadequate health coverage.

Rising health care costs are threatening our standard of living. The average American worker would be making $1,000 a year more today if health care accounted for the same proportion of wages and benefits as in 1975. Unless we act, health care costs will lower real wages by almost $600 per year by the end of the decade and nearly $1 in every $5 Americans spend will go to health care.

Small businesses create most of the new jobs in America and while most want to cover their employees, more and more cannot. Under the current health care system, cost pressures are forcing a growing number of small business owners to scale back or drop health insurance for their employees. Small businesses spend 40 cents of every health insurance dollar for administration—eight times as much as large companies. And only 1 in every 3 companies with fewer than 500 workers today offers its employees a choice of health plan.

Our health care system frustrates those who deliver care. Doctors and nurses are drowning in paperwork, and hospitals are hiring administrators at 4 times the rate of health care professionals. The system places decisions that doctors should be making in the hands of distant bureaucrats. Its incentives are upside down; it focuses on treating people only after they get sick, and does not reward prevention.

Clearly, our challenges are great. This legislation is sweeping in its ambition and simple in its intent: to preserve and strengthen what is right about our health care system and fix what is wrong.

Our needs are now urgent. A Nation blessed with so much should not leave so many without health security.

This legislation draws upon history. It reflects the best ideas distilled from decades of debate and experience.

It reflects the sense of responsibility that President Franklin Roosevelt called for when he launched the Social Security program in 1933 and recommended that health care be included.

It reflects the vision of President Harry Truman, who in 1946 became the first President to introduce a plan for national health reform.

It reflects the pragmatism of President Richard Nixon, who in 1972 asked all American employers to take responsibility and contribute to their workers' health care.

And it reflects the ideas and commitment of generations of Congressional leaders who have fought to build a health care system that honors our Nation's commitments to all its citizens.

Today America stands ready for reform. For the first time, members of both parties have agreed that every American must be guaranteed health care. An opportunity has been placed before us. We must not let it pass us by.

This legislation builds on what's best about the American health care system. It maintains and strengthens America's private health care. It extends the current system of employer-based coverage that works so well for so many. It protects our cherished right to choose how we are cared for and who provides that care. It invests in improving the quality of our care.

This legislation recognizes that America cannot, and need not, adopt one model of health care reform. It allows each State to tailor health reform to its unique needs and characteristics, as long as it meets national guarantees for comprehensive benefits, affordability, and quality standards. It establishes a national framework for reform, but leaves the decisions about care where they belong—between patients and the health care professionals they trust.

Under this legislation, every citizen and legal resident will receive a Health Security Card that guarantees the comprehensive benefits package. People will be able to follow their doctor into a traditional fee-for-service plan, join a network of doctors and hospitals, or become members of a Health Maintenance Organization. Like today, almost everyone will be able to sign up for a health plan where they work. Unlike today, changes in employment or family status will not necessarily force a change in health coverage.

The self-employed and the unemployed will receive their health coverage through the regional health alliance, a group run by consumers and business leaders, that will contract with and pay health plans, provide information to help consumers choose plans, and collect premiums. The largest corporations—those employing 5,000 workers or more—will have the option of continuing to self-insure their employees or joining a regional alliance.

The legislation is financed by three sources: requiring every employer and individual to contribute to paying the cost of health care; raising excise taxes on tobacco and requiring small contributions from large corporations, which form their own health alliance; and slowing the growth in spending on Federal health care programs. Enormous efforts have been made to ensure that the financing is sound and responsible.

The Health Security Act is based upon six principles: security, simplicity, savings, quality, choice, and responsibility.

Security. First and foremost, this legislation guarantees security by providing every American and legal resident with a comprehensive package of health care benefits that can never be taken away. That package of benefits, defined by law, includes a new emphasis on preventive care and offers all Americans prescription drug benefits.

Under this legislation, insurers will no longer be able to deny anyone coverage, impose lifetime limits, or charge people based on their health status or age. The legislation also limits annual increases in health care premiums, and sets maximum amounts that families will spend out-of-pocket each year, regardless of how much or how often they receive medical care.

The legislation will preserve and strengthen Medicare, adding new coverage for prescription drugs. To meet the growing needs of older Americans and people with disabilities, a new long-term care initiative will expand coverage of home and community-based care.

The legislation also provides residents of underserved rural and urban areas with better access to quality care. It also offers incentives for health professionals to practice in these areas, builds urban-rural health care networks, and protects those doctors, hospitals, clinics, and others who care for people in underserved areas.

Simplicity. To relieve consumers, business and health professionals of the burdens of excess paperwork and bureaucracy, this legislation simplifies our health care system. It requires all health plans to adopt a standard claim form; creates a uniform, comprehensive benefits package; and standardizes billing and coding procedures.

Savings. The legislation promotes true competition in the health care marketplace. It increases the buying power of consumers and businesses by bringing them together in health alliances. Health plans will no longer succeed by trying to pick only healthy people to insure; they will have to compete on price and quality. This competition will be backed up by enforceable premium caps.

This legislation also criminalizes health fraud, imposing stiff penalties on those who cheat the system. And it takes steps to reduce "defensive medicine" and discourage frivolous medical malpractice lawsuits by requiring patients and doctors to try to settle disputes before they end up in court, and by limiting lawyers' fees.

Quality. The legislation empowers consumers and health care professionals by providing information on quality standards and treatment results. It calls for new investments in medical research, including heart disease, bone and joint disease, Alzheimer's disease, cancer, AIDS, birth defects, mental disorders, substance abuse, and nutrition. To help keep people healthy, rather than only treating them after they get sick, the legislation pays fully for a wide range of preventive services and offers new incentives to educate primary care doctors, nurses, and other family practitioners.

Choice. Through comprehensive reform, the legislation gives Americans a new level of control over their health care choices. It ensures that people can follow their doctor and his or her team into any plan they choose to join. It transfers the choice of health plan from the employer to the individual, and guarantees a choice of health plans, including at least one traditional fee-for-service plan. Doctors and health professionals may participate in multiple health plans if they wish.

Responsibility. Under this legislation, every employer and individual will be required to pay for health coverage, even if that contribution is small. It extends the current employer-based system for financing health coverage—a system that now serves 9 of every 10 Americans who now have health insurance. To ensure affordability, small businesses, low-wage employers, and low-income individuals and families will get substantial discounts.

This legislation will strengthen our economy. Our current system is so much more costly than any other system in the world, and the American people should not be asked to pay huge new taxes in order to afford health care reform. This plan raises no new broad-based taxes, but spends our health care dollars more wisely. It levels the playing field for small businesses, making it possible for them to insure their families and employees. It eases the tremendous burden of rising health costs on big business, helping them to compete for global markets. And by bringing the explosive growth in health costs under control, it sets us in the right direction of reducing our national debt.

The legislation restores common sense to American health care. It borrows from what works today, letting us phase in change at a reasonable pace and adjust our course if needed. It builds on what works best—and makes it work for everyone. Our task now is to work together, to leave behind decades of false starts and agree on health care reform that guarantees true security. The time for action is now. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 20, 1993.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 1:06 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that Speaker has signed the following enrolled bills and joint resolution:

H.R. 914. An Act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes.

H.R. 2650. An Act to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems.

H.R. 3161. An Act to made technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes.

S. 433. An Act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

S. 1667. An Act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months.

S.J. Res. 55. Joint Resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

S.J. Res. 75. Joint Resolution designating January 2, 1994, through January 8, 1994, as 'National Law Enforcement Training Week."

S.J. Res. 122. Joint Resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. BYRD).

The message also that House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 322. An Act to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

H.R. 783. An Act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

H.R. 897. An Act to amend title 17, United States Code, to modify certain registration requirements, and for other purposes.

H.R. 1237. An Act to establish procedures for national criminal background checks for child care providers.

H.R. 3351. An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

H.R. 3378. An Act to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes.

H.J. Res. 216. Joint Resolution designating January 16, 1994, as "Religious Freedom Day".

The message further announced that the House has passed the following bill, without amendment:

S. 1670. An Act to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes.

At 5:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 58. An Act to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations.

H.R. 324. An Act to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole or supervision.

H.R. 1133. An Act to combat violence and crimes against women.

H.R. 1250. An Act to amend the coastwise trade laws to clarify their application to certain passenger vessels.

H.R. 1994. An Act to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes.

H.R. 2457. An Act to direct the Secretary of the Interior to conduct a salmon captive broodstock program.

H.R. 2811. An Act to authorize certain atmospheric, weather, and satellite programs and functions of the National Oceanic and Atmosphere Administration, and for other purposes.

H.R. 3098. An Act to amend title 18, United States Code, to prohibit the possession of a handgun or hand ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile.

H.R. 3402. An Act to establish a fountain darter captive propagation research program.

H.R. 3512. An Act to abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council.

H.R. 3515. An Act to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these Acts and to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1507) to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3351. An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of development alternative methods of punishment for young offenders to traditional forms of incarceration and probation; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on November 20, 1993, he had presented to the President of the United States, the following enrolled bills and joint resolutions:

S. 433. An Act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

S. 1667. An Act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months.

S.J. Res. 55. Joint Resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

S.J. Res. 75. Joint Resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

S.J. Res. 122. Joint Resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Linda Hall Daschle, of South Dakota, to be Deputy Administrator of the Federal Aviation Administration.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Jeanne Hurley Simon, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1997.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments and an amendment to the title:

S. 431. An Act to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection (Rept. No. 103–197).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1052. A bill to authorize appropriations for fiscal years 1994 and 1995 for the Coast Guard, and for other purposes (Rept. No. 103–198).

S. 738. A bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers (Rept. No. 103–199).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1569. A bill to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes (Rept. No. 103–200).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1126. A bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes (Rept. No. 103–201).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1458. A bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes (Rept. No. 103–202).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 687. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes (Rept. No. 103–203).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 1736. A bill to amend the Internal Revenue Code of 1986 to enhance the Nation's energy security by promoting renewable energy resources and energy conservation; to the Committee on Finance.

By Mr. McCAIN:

S. 1737. A bill to establish the Office of the Inspector General within the General Accounting Office, modify the procedure for congressional work requests for the General Accounting Office, establish a Peer Review Committee, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 1738. A bill to amend the Social Security Act to extend for 3 years the provision for compensation of qualified organizations serving as representative payees, and for other purposes; to the Committee on Finance.

By Mr. PRYOR:

S. 1739. A bill to suspend temporarily the duty on lambdacyhalothrin; to the Committee on Finance.

S. 1740. A bill to suspend temporarily the duty on Diquat Dibromide; to the Committee on Finance.

By Mr. MCCAIN:

S. 1741. A bill to provide for the establishment of business accounts for air travel by Federal employees to maximize costs savings, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROCKEFELLER:

S. 1742. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. HATCH, Mr. MACK, Mr. BENNETT, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. DOLE, Mr. FAIRCLOTH, Mr. GREGG, Mr. HELMS, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. LOTT, Mr. LUGAR, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. GRASSLEY):

S. 1743. A bill to provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans, and for other purposes; to the Committee on Finance.

By Ms. MOSELEY-BRAUN:

S. 1744. A bill to establish a National Commission on Financial Services to study the strength and weaknesses of the United States financial services system and its ability to meet the needs of the United States economy and the needs of users of the United States financial services system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRYAN:

S. 1745. A bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress for retirement purposes; to the Committee on Governmental Affairs.

By Mrs. KASSEBAUM (for herself, Mr. DODD, Mr. INOUYE, Mr. STEVENS, and Mr. DURENBERGER):

S. 1746. A bill to establish a youth development grant program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 1747. A bill to provide for enforcement of State court judgements against federally forfeited assests of individuals who are delinquent in payment of child support; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 1748. A bill to provide procedures for the contribution of volunteer United States military personnel to international peacekeeping or peacemaking operations; to the Committee on Foreign Relations.

By Mr. PACKWOOD (for himself, Mr. BREAUX, Mr. HEFLIN, and Mr. MURKOWSKI):

S. 1749. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers, and importers from the firearms excise tax; to the Committee on Finance.

By Mr. METZENBAUM:

S. 1750. A bill to transfer certain food safety and inspection functions to the Consumer Product Safety Commission, to establish an Office of Public Liaison, and to require the development of certain plans, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MCCAIN:

S. 1751. A bill to amend the National Wool Act of 1954 to provide that the reduction in the support price for wool and mohair programs do not apply to households who are participating, or are eligible to participate, in the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1752. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1753. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1754. A bill regarding the suspension of duty on diflunisal; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1755. A bill amend the Internal Revenue Code of 1986 to promote and improve employee ownership in the United States; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1756. A bill to encourage the optimum utilization of fisheries resources, to reduce waste in commercial fish harvesting and processing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. AKAKA, Mr. BAUCUS, Mrs. BOXER, Mr. BUMPERS, Mr. CAMPBELL, Mr. CONRAD, Mr. DODD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LEVIN, Mr. MATHEWS, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. SIMON, and Mr. WOFFORD) (by request):

S. 1757. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

By Mr. MURKOWSKI:

S. 1758. A bill to establish a Stewardship Endowment Fund to fund activities for the restoration of injured natural resources in Alaska resulting from the T/V EXXON VALDEZ oil spill, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, Mr. SIMON, Mr. METZENBAUM, and Mr. MCCONNELL):

S. 1759. A bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to inititate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. SIMPSON, and Mrs. BOXER):

S. 1760. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. MURRAY (for herself and Mr. HATFIELD):

S. 1761. A bill to provide early out authority for Forest Service employees; considered and passed.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mrs. KASSEBAUM):

S. 1762. A bill to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements; considered and passed.

By Ms. MIKULSKI (for herself, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1763. A bill to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations; considered and passed.

By Mr. BIDEN:

S. 1764. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; considered and passed.

By Mr. MITCHELL (for himself and Mr. BAUCUS):

S. 1765. To designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes; considered and passed.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1766. A bill to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes; considered and passed.

By Mr. GORTON (for himself, Mr. LEVIN, Mr. RIEGLE, Mr. FEINGOLD, and Mr. KOHL):

S. 1767. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes; considered and passed.

By Mr. MURKOWSKI:

S. 1768. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 172. A resolution providing that notwithstanding the sine die adjournment; the President of the Senate, the President Pro-tempore, the Majority and Minority Leaders are authorized to make appointments to commissions, committee, boards, or conferences; considered and agreed to.

S. Res. 173. A resolution to extend the time of the Senate Ethics Study Commission for making its findings and recommendations to the leadership; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 1736. A bill to amend the Internal Revenue Code of 1986 to enhance the Nation's energy security by promoting renewable energy resources and energy conservation; to the Committee on Finance.

ENERGY AND ENVIRONMENT TAX ACT OF 1993

Mr. DASCHLE. Mr. President, before the session comes to a close, I would like to introduce a measure for consideration next year.

During my 7-year tenure as a member of the Senate Finance Committee, numerous tax measures have been considered that would promote our Nation's energy and environmental goals. Some of these measures have been my own, but many have been proposed by other members who share my interest in this area.

During this time, I have become convinced that energy and environmental legislation should go hand-in-hand. Every item of energy legislation should be considered in light of environmental concerns, and every item of environmental legislation should be viewed in terms of our energy policy goals. There may be a few areas where there will be no overlap, but we simply cannot fail at least to ask the question of whether legislation in either of these areas is consistent with our goals in the other.

At a minimum, linking energy and environmental policies will help us to avoid establishing counterproductive and inconsistent incentives in the law. More importantly, addressing energy and environmental policy together may encourage the development of new proposals that address goals in both areas.

Concerns raised about the consequences of our current patterns of energy use on global warming, acid rain, and other forms of air pollution, and about our persistent and economically debilitating dependence on foreign oil, demonstrate that we as a Nation must make greater strides toward constructing an environmentally and economically sensible energy policy. Vast opportunity exists to improve upon our current patterns of energy generation and use, and I intend to do whatever I can to ensure, at a minimum, that the Tax Code promotes environmentally responsible energy policies.

Specifically, there are two areas where energy and environmental policy seem particularly connected—renewable energy and energy conservation. The legislation I am introducing today—the Energy and Environment Tax Act of 1993—deals with those two areas. It is not comprehensive, but its provisions are roughly grouped into tax measures that promote renewable energy and those that promote energy conservation.

The renewable energy measures include minor incentives for solar, geothermal, and wind energy, as well as renewable alcohol fuels, including biodiesel. The conservation measures will encourage utilities' conservation programs, electric mass transit vehicles, soil and water conservation, and other measures to preserve the environment.

Renewable energy is critical to our national energy security. Yet, even a cursory glance at the Internal Revenue Code reveals a gross imbalance in tax expenditures between nonrenewable and renewable energy technologies. Without commenting on the merits of specific provisions, I strongly question the wisdom of spending so much on nonrenewable energy, while investing next to nothing in renewable energy by comparison. This is an extraordinarily short-sighted approach.

Interestingly, many forms of renewable energy—ether fuel additives, solar, and wind power, to name a few—also have significant advantages for the environment. A dollar invested in renewable energy, therefore, pay off in terms of both energy security and an improved environment.

Likewise, conserving existing energy resources promotes our national energy security, while enhancing the environment. Yet, again, our Tax Code does not reflect the importance of energy conservation.

Ironically, most of the tax measures to promote renewable energy and encourage energy conservation cost relatively little compared to the existing tax incentives for nonrenewable forms of energy. It doesn't take much to tip the balance so that emerging technologies can become financially viable—or so that utilities can expand their conservation programs. And the savings to the environment and to our national security cannot be measured in dollars.

Nonetheless, I am very sensitive to budgetary concerns and intend to ask the Joint Committee on Taxation to prepare a section-by-section revenue estimate of this legislation. Once that has been done, I will propose offsets for the cost of these measures.

The time has come to put the Nation's energy policy squarely in the context of improving environmental quality. The tax code can and should be designed to encourage investment in environmentally responsible energy production and in improving energy conservation and efficiency. So much remains to be achieved that we cannot delay. If we are successful, we stand to gain a greater measure of control over our Nation's energy supply, clean the air that lingers over our polluted cities, and ease the financial drain we all feel when it comes time to pay the energy bill.

Mr. President, I request that the text of this legislation along with a summary of its provisions be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Energy and Environment Tax Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—INCENTIVES FOR RENEWABLE ENERGY RESOURCES

SEC. 101. ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the alcohol fuels credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) 50 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the alcohol fuels credit).

"(B) ALCOHOL FUELS CREDIT.—For purposes of this subsection, the term 'alcohol fuels credit' means the portion of the credit under subsection (a) which is attributable to the alcohol fuels credit determined under section 40(a)."

(b) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting "or the alcohol fuels credit" after "empowerment zone employment credit".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

(2) EXCEPTION.—The amendment made by this section shall not apply to—

(A) any credit which was determined in a taxable year, or

(B) the portion of any credit which is carried back to a taxable year,

beginning on or before December 31, 1993.

SEC. 102. ENERGY CREDIT ALLOWED AGAINST MINIMUM TAX.

(a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 101, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) Rules for application of energy credit.—

"(i) In general.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) Net chapter 1 tax.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) Energy credit.—For purposes of this subsection, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a)."

(b) Conforming Amendments.—

(1) Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 101(b), is amended by striking "or the alcohol fuels credit" and inserting ", the alcohol fuels credit, or the energy credit".

(2) Subclause (II) of section 38(c)(3)(A)(ii), as added by section 101(a), is amended by inserting "or the energy credit" after "alcohol fuels credit".

(c) Effective Date.—

(1) In general.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

(2) Exception.—The amendment made by this section shall not apply to—

(A) any credit which was determined in a taxable year, or

(B) the portion of any credit which is carried back to a taxable year,

beginning on or before December 31, 1993.

SEC. 103. TAX CREDIT FOR BIODIESEL FUELS.

(a) In General.—Section 40 (relating to credit for alcohol used as a fuel) is amended by adding at the end the following new subsection:

"(i) Special Rules for Biodiesel.—

"(1) In general.—In the case of biodiesel used as a component of, or replacement for, diesel fuel (as defined in section 4083(a)(3))—

"(A) the biodiesel shall be treated in the same manner as alcohol for purposes of this section, and

"(B) subsection (h) shall apply in computing the amount of any credit under this section with respect to the biodiesel.

"(2) Biodiesel.—For purposes of this subsection, the term 'biodiesel' means a liquid derived from biological materials (other than alcohol) for use in compression ignition engines."

(b) Effective Date.—The amendment made by this section shall apply to biodiesel produced, and sold or used, in taxable years beginning after December 31, 1993.

SEC. 104. REPEAL OF ALCOHOL FUEL CREDIT INCOME INCLUSION FOR BIODIESEL AND CERTAIN ALCOHOLS.

(a) In General.—Section 87 (relating to inclusion in income of the alcohol fuels credit) is amended by adding at the end the following new subsection:

"(b) Exception for Biodiesel and Certain Alcohol-Based Ethers.—Subsection (a) shall not apply to any portion of the alcohol fuel credit determined for the taxable year under section 40(a) which is attributable to—

"(1) biodiesel (as defined in section 40(i)(2)),

"(2) ethanol which is used to produce ethyl tertiary butyl ether, or

"(3) alcohol which is used to produce any ether derived from alcohol in a chemical reaction in which there is no significant loss in the energy content of the alcohol."

(b) Conforming Amendment.—Section 87 is amended by striking "Gross" and inserting: "(a) In General.—Gross".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 105. SMALL WIND TURBINES ELIGIBLE FOR ENERGY CREDIT.

(a) In General.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) equipment which uses wind energy to generate electricity but only if such equipment has a rated capacity of 50 kilowatts or less and is not primarily used in the trade or business of producing electricity for sale to an unrelated person, or".

(b) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 1993.

SEC. 106. CLARIFICATION OF APPLICATION OF ENERGY CREDIT TO PROPERTY USING SOLAR ENERGY.

(a) In General.—Paragraph (3) of section 48(a) (relating to energy credit) is amended by adding at the end the following: "For purposes of subparagraph (A)(i), equipment shall be treated as using solar energy if its average annual use of energy from sources other than solar energy does not exceed 50 percent of its total energy input."

(b) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 1993.

TITLE II—INCENTIVES TO PROMOTE ENERGY CONSERVATION

SEC. 201. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC AND GAS UTILITIES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 197 the following new section:

"SEC. 198. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC AND GAS UTILITIES.

"(a) General Rule.—In the case of an electric or gas utility, there shall be allowed as a deduction for the taxable year an amount equal to the energy conservation expenditures paid or incurred by the taxpayer during such taxable year.

"(b) Energy Conservation Expenditures.—For purposes of this section, the term 'energy conservation expenditures' means expenditures for—

"(1) subsidies provided directly or indirectly to customers for the purchase, installation, or modification of—

"(A) any device or service primarily designed to reduce consumption of electricity, natural gas, or steam or to improve the management of energy demand, or

"(B) any specially defined energy property (as defined in section 136(c)(2)(A)),

"(2) energy use consulting and audits of commercial, residential, and industrial properties, or

"(3) administrative, promotional, and other costs associated with expenditures described in paragraph (1) or (2).

Such term shall not include any expenditure taken into account in determining the basis of any tangible property which is owned by the taxpayer and which is of a character subject to the allowance for depreciation.

"(c) Electric or Gas Utility.—For purposes of this section, the term 'electric or gas utility' means any corporation engaged in the furnishing or sale of electric energy, natural gas, or steam if the rates for such furnishing or sale have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public utility or public service commission or other similar body of any State or political subdivision thereof or of the District of Columbia."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 263(a) is amended by striking "; or" at the end of subparagraph (F) and inserting a comma, by striking the period at the end of subparagraph (G) and inserting ", or", and by adding at the end the following new subparagraph:

"(H) expenditures for which a deduction is allowed under section 198."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Energy conservation expenditures by electric and gas utilities."

(c) Effective Date.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 1980.

SEC. 202. LARGE ELECTRIC TRUCKS, VANS, AND BUSES ELIGIBLE FOR DEDUCTION FOR CLEAN-FUEL VEHICLES.

(a) Deduction Allowed in Lieu of Credit.—Subsection (c) of section 30 is amended by adding at the end the following new paragraph:

"(3) Exception for trucks, vans, and buses.—The term 'qualified electric vehicle' shall not include any vehicle described in subclause (I) or (II) of section 179A(b)(1)(A)(iii)."

(b) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 1993.

SEC. 203. CREDIT FOR PROPERTY USED IN CERTAIN AGRICULTURE-RELATED ACTIVITIES TO CONTROL ENVIRONMENTAL POLLUTION AND FOR SOIL AND WATER CONSERVATION EXPENDITURES.

(a) In General.—Section 46 (relating to amount of investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) in the case of an eligible taxpayer (as defined in section 48(c)), the agricultural environmental credit."

(b) Agricultural Environmental Credit.—Section 48 is amended by adding at the end the following new subsection:

"(c) Agricultural Environmental Credit.—

"(1) In general.—For purposes of section 46, in the case of an eligible taxpayer, the agricultural environmental credit for any taxable year is equal to the lesser of—

"(A) the sum of—

"(i) 15 percent of the aggregate bases of all agricultural environmental properties placed in service by the taxpayer during such taxable year, and

"(ii) 15 percent of the amount allowed as a deduction under section 175 (determined without regard to paragraph (4)(B)) for such taxable year, or

"(B) the lesser of—

"(i) $15,000, or

"(ii) the excess of—

"(I) $150,000, over

"(II) the amount of the credit taken into account under this section by the taxpayer for taxable years preceding the taxable year.

"(2) Eligible taxpayer.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'eligible taxpayer' means any taxpayer primarily engaged in a farming-related business.

"(B) FARMING-RELATED BUSINESS.—For purposes of this subsection, the term 'farming-related business' means—

"(i) a farming business (as defined in section 263A(e)(4)),

"(ii) a trade or business of mixing fertilizers from purchased fertilizer materials, and

"(iii) a trade or business of the wholesale distribution of animal feeds, fertilizers, agricultural chemicals, pesticides, seeds, or other farm supplies (other than grains).

"(3) AGRICULTURAL ENVIRONMENTAL PROPERTY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'agricultural environmental property' means any new identifiable treatment facility—

"(i) which is used in a farming-related business for the primary purpose of complying with Federal, State, and local environmental laws dealing with the abatement or control of water, soil, or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat, and

"(ii) which does not significantly—

"(I) increase the output or capacity, extend the useful life, or reduce the total operating costs of plant or property to which such facility relates, or

"(II) alter the nature of any manufacturing or production process or facility.

"(B) NEW IDENTIFIABLE TREATMENT FACILITY.—The term 'new identifiable treatment facility' has the meaning given such term by section 169(e)(4)(A), determined by substituting 'December 31, 1993' for 'December 31, 1968' each place it appears.

"(4) SPECIAL RULES.—

"(A) COORDINATION WITH ENERGY AND REHABILITATION CREDITS.—This subsection shall not apply to—

"(i) any property to the extent the basis of such property is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)), or

"(ii) energy property.

"(B) COORDINATION WITH DEDUCTION FOR SOIL AND WATER CONSERVATION EXPENDITURES.—The amount which would (but for this subparagraph) be allowed as a deduction under section 175 for any taxable year shall be reduced by the lesser of the amount of the credit determined under paragraph (1)(A)(ii) for the taxable year or the credit allowed under paragraph (1) for the taxable year.

"(C) COORDINATION WITH AMORTIZATION OF POLLUTION CONTROL FACILITIES.—This subsection shall not apply to any property to the extent an election is made under section 169 with respect to the basis of such property."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 48 is amended to read as follows:

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; AGRICULTURAL ENVIRONMENTAL CREDIT."

(2) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended to read as follows:

"Sec. 48. Energy credit; reforestation credit;
agricultural environmental
credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1993, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 204. AMORTIZATION OF POLLUTION CONTROL FACILITIES.

(a) IN GENERAL.—Paragraph (1) of section 169(d) (defining certified pollution control facility) is amended by striking "January 1, 1976" and inserting "January 1, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to additions to basis in taxable years beginning after December 31, 1993.

SUMMARY OF "THE ENERGY AND ENVIRONMENT TAX ACT OF 1993"

TITLE I: RENEWABLE ENERGY RESOURCES

Sec. 101 *Alcohol Fuels Credit May Offset Minimum Tax.*—Would allow otherwise qualified taxpayers that fall under the Alternative Minimum Tax (AMT) to take advantage of the existing alcohol fuels tax credit. The credit could not reduce a taxpayer's minimum tax liability by more than 50% in any given year.

Sec. 102 *Solar and Geothermal Investment Tax Credit Allowed Against Minimum Tax.*—Would permit otherwise qualified businesses that are subject to the Alternative Minimum Tax (AMT) to take advantage of the existing investment tax credit for solar and geothermal energy facilities.

Sec. 103 *Biodiesel Tax Credit.*—Would establish a new tax credit for taxpayers that produce biodiesel fuels. The credit would apply only with respect to the "renewable" portion of the fuel.

Sec. 104 *Repeal of Alcohol Fuels and Biodiesel Tax Credit Income Inclusion.*—Would exclude both the alcohol fuels credit and the new biodiesel credit from a provision of the tax code that requires such credits to be included in taxable income.

Sec. 105 *Small Wind Turbines Eligible for Investment Tax Credit.*—Would allow businesses that invest in small wind turbines (rated capacity of 50 kilowatts or less) a 10% tax credit based on the amount of their investment. The credit is designed to encourage use of wind turbines by businesses for their own internal energy needs and, therefore, is not available where the energy generated is sold to others.

Sec. 106 *Clarification of Application of Solar Credit.*—Would clarify that equipment qualifies for the existing solar investment tax credit as long as its average annual use of energy from sources other than solar energy does not exceed 50% of its total energy output.

TITLE II: ENERGY CONSERVATION

Sec. 201 *Energy Conservation Expenditures of Electric and Gas Utilities.*—Would clarify that electric and gas utilities may deduct the full cost of conservation program expenditures in the year in which they are paid or incurred, rather that spreading the deduction ratably over a period of years.

Sec. 202 *Large Electric Trucks, Vans, and Buses Eligible for Deduction for Clean-Fuel Vehicle.*—Would allow electric trucks, vans and buses to qualify for the applicable $50,000 deduction currently available for clean-fuel vehicles.

Sec. 203 *Credit for Property Used in Certain Agriculture-Related Activities to Control Environmental Pollution and for Soil and Water Conservation Expenditures.*—Would provide a 15% credit against income tax for any new machinery, equipment, building, or other structure which is used in a farming-related business for the primary purpose of complying with federal, state, and local environmental laws. The credit would be capped at $15,000 per year, with a lifetime limitation of $150,000.

Sec. 204 *Amortization of Pollution Control Facilities.*—Would extend the existing deduction for the cost of pollution abatement property to plants or property in operation before January 1, 1994. (Current provision only applies to plants or property in operation before January 1, 1976.)

By Mr. McCAIN:

S. 1737. A bill to establish the Office of the Inspector General within the General Accounting Office, modify the procedure for congressional work requests for the General Accounting Office, establish a peer review committee, and for other purposes; to the Committee on Governmental Affairs.

GENERAL ACCOUNTING OFFICE OVERSIGHT AND IMPROVEMENT ACT OF 1993

• Mr. McCAIN. Mr. President, today, I am introducing the General Accounting Office Oversight and Reform Act of 1993.

Congress established the GAO in 1921 to assist the legislative branch in its oversight of Federal agencies. As Congress' watchdog, auditor, and analyst the GAO can have significant influence on our Nation's policy, legislative agenda, and political discourse.

Because the GAO's mission is so important, we have an obligation to ensure that the agency meets our highest standards of excellence and maintains a reputation beyond reproach.

Unfortunately, in recent years, numerous complaints about bias, partisanship, and inferior work quality have dogged the agency. I'm troubled by these complaints and believe that even the perception of a problem at the GAO must be addressed promptly. The legislation I am introducing today will take the necessary remedial steps. It would institute independent oversight of the agency and bolster the GAO's internal quality control procedures.

First, Mr. President, the legislation seeks to create an independent Office of the Inspector General within the GAO. Inspectors General play a vital oversight function at most Government agencies, including the Library of Congress and the Government Printing Office.

The GAO has nearly 5,000 employees and a $400 million annual budget. Like agencies of comparable size and responsibility, the GAO should have an independent officer to monitor its activities and improve the efficiency and effectiveness of its programs. The creation of an inspector general will address concern that the GAO suffers from a lack of accountability. If any agency can appreciate the need for and benefits of independent oversight, it should certainly be the General Accounting Office.

Mr. President, in addition to creating an Office of the Inspector General, the legislation seeks to institute a number of changes in GAO's operating procedures to enhance fairness, professionalism and nonpartisanship.

First, the bill calls on the Comptroller General to notify promptly the ranking member when the GAO receives a work request from the chairman of a congressional committee, and conversely, to notify the chairman when a request is received from the ranking member. Furthermore, it would require notification in the CONGRESSIONAL RECORD when the GAO approves any work request. These measures are intended to improve communication between the GAO and Congress on a nonpartisan basis and to address concern that the GAO can be used for partisan sneak attacks.

Second, the bill would codify a GAO policy that work requests from ranking members be given a priority and status equal to requests from committee chairmen. As objective investigator and finder of fact, the GAO should be statutorily required to treat requests equally, whether they come from Democratic or Republican leadership.

Third, the bill would require the GAO to provide affected agencies with an opportunity to comment on GAO's findings and to include relevant comments in its investigative reports.

Current GAO policy suggests that auditors should seek and include relevant agency comments. Notwithstanding this policy, only about two-thirds of GAO's reports include such written input. In addition, under current rules, Members of Congress can request the GAO to forego contacting the agency. In the interest of fairness and accuracy, agency input should be requisite.

Fourth, the bill seeks to require GAO to reference its sources of factual information and to list all organizations contacted in the conduct of its investigations and studies.

Mr. President, conclusions are only as good as the information they are based upon. By requiring the GAO to list the organizations it contacts, and footnote the source of its facts, Congress and the public can be reassured that reports are thoroughly and fairly researched.

Fifth, the bill will prohibit the release of any report until GAO's internal quality control procedures have been complied with. The release of reports which have not been finalized and may contain inaccuracies does not serve the informational needs of Congress nor the public interest. The premature release of unconfirmed reports should not be permitted.

Mr. President, in addition, to these specific statutory changes, I believe we can and should make other improvements in GAO's quality control programs and other activities. The legislation seeks to establish a special GAO peer review committee to help craft appropriate and responsible measures. The bill vests the panel with 10 specific directives.

Directive 1, the committee will establish a formal GAO product review process. This process will enable agencies and affected parties to appeal to the GAO to correct factual errors, and to reconsider findings which are substantially influenced by information that is either erroneous or not previously considered.

The GAO does not currently have a formal and accessible problem resolution procedure and it should. I emphasize that such procedures should be available to non-Government as well as Government petitioners. Many Nongovernment organizations are directly affected by GAO activities. They should have an opportunity to set the record straight if and when necessary.

Directive 2, the panel will establish procedures to notify Congress, the public, and the media when corrective actions or retractions are made.

Because GAO reports have such enormous influence and are quoted widely in the media, Congress and the public should be notified when corrections or retractions are made.

Directive 3, the committee will establish guidelines to eliminate inappropriate advocacy of policy or the expression of unsubstantiated conclusions within GAO reports and testimony.

Factfinding is the GAO's primary role. There are, however, times when Congress asks the GAO to make qualitative judgments which can place the Office on one side or another of contentious political issues.

The GAO must walk a fine line in the effort to respond to Congress without exceeding its scope or level of expertise. All of us would agree that the GAO should not cross the line between program analysis and political advocacy. Perhaps part of the problem is that we need a clearer idea of exactly where that line is drawn.

The peer review committee can help illuminate this gray area and set guidelines so that GAO's credibility and independence is not tainted by the appearance of politics or caprice.

Directive 4, the committee will review existing quality control procedures, standards, and guidelines, and recommend improvements to ensure that GAO work product is fair, factual, unbiased, and professional.

One idea the committee should consider is a policy that would enable congressional requesters to remain anonymous to the GAO personnel who are conducting the audit or investigation. Implementing such a process would address widespread concern that the GAO tailors findings to meet the needs of the member who requested the report.

Directive 5, the panel will establish a policy to eliminate duplicative or superfluous auditing and investigative activities.

I understand that one Department of the Interior program was audited 12 times in 1 year. At some point, the auditing process itself may become wasteful and burdensome. GAO should have clear guidelines and standards to eliminate work that is duplicative, superfluous, or wasteful, even if that means refusing the work request of a Member of Congress.

Directive 6, the committee will report to Congress on the number of man-hours expended and the cost incurred by respondents to GAO audits.

Again, GAO's mission is to help root out fraud, waste, and abuse. It's important that we understand the total cost of conducting this work, to be sure the audit and investigative process itself is not wasteful.

Directive 7, the bill calls on the committee to report to the Comptroller General and the Congress its recommendations to improve professionalism, impartiality and excellence within the GAO and among its employees.

Under this directive, the committee should review hiring practices, employee training and morale, the work environment, and other administrative issues to determine what measures can be taken to better the organizations and further the purposes for which the GAO was created.

Directive 9, the panel will report to the Comptroller General and the Congress on the steps taken to achieve the goals and purposes of this legislation.

Finally, Mr. President, the bill calls on the Comptroller General to implement the recommendations of the peer review committee to the greatest extent practicable. Should the Comptroller General decide not to implement a committee recommendation, he or she will be required to notify the congressional leadership, in writing, stating the specific reasons why.

We want to ensure that we actually improve the GAO, not just create another committee with lofty goals, high principles, and absolutely no impact on the status quo.

Is the status quo at the GAO that bad, Mr. President? Are these measures really necessary? I believe that in many areas the GAO does an excellent job. The office is a powerful oversight tool which has helped uncover and eliminate many problems and deficiencies in the administration of Government programs. Most GAO employees are well trained, highly motivated, and honorable public servants and the Comptroller General should be congratulated on his many successes and on his commitment to address problems, real and perceived, at the GAO.

Nevertheless, over the past several years the GAO has been the subject of disturbing criticism. There have been charges of partisanship, bias, and the production of unprofessional work. Most disturbing is the perception that the GAO has become arbitrary and ineffective, and suffers from insufficient oversight of its own.

In a recent survey conducted by GAO, congressional customers of the

Office expressed concern that the GAO is subservient to major requesters and that the Office is jeopardizing its credibility as an analytical fact-finding unit by advocacy.

They felt that there has been a decline in knowledge of agency programs, a lack of expertise commensurate with technical nature of issues and a lack of understanding of the legislative process.

Mr. President, the GAO is only as effective as its reputation for objectivity, fairness, and accuracy. It cannot possibly fulfill its mission without maintaining the highest degree of trust and credibility in its work product.

The criticism voiced in the congressional survey and complaints about the GAO aired in the media indicate an erosion of trust and credibility that should concern each of us. It cries out for action.

Perhaps some of the criticism leveled at the GAO can be written off as "kill the messenger" syndrome. But, not all of the criticism can be so easily dismissed.

Senator BOND uncovered questionable research practices involving a GAO report on the management of the Missouri River. The GAO used a biased report prepared by one of the affected parties as the factual basis for its analysis. GAO drew conclusions without checking the facts, or, at least indicating the source of their information. Such unprofessional work is disconcerting to say the least.

In addition, there have been instances where the GAO has crossed the line from policy into politics. A 1988 transition report issued by the GAO stated: "Additional revenues are probably an unavoidable part of any realistic strategy for reducing the deficit."

Mr. President, the fact is we have been raising taxes for years in the name of deficit reduction. Yet, the deficit grows. Interestingly, I saw no statement in the report that "spending constraints are an unavoidable part of any realistic strategy to reduce the deficit." This is a conclusion that even those refined in the art of tax and spend have come to realize. Yet, this part of the equation is conspicuously absent from the counsel of our fact-finders.

I might also mention, Mr. President, over the past several years the GAO has issued reports, several in the natural resources area, that have come under serious fire. There were allegations that the GAO had the facts wrong, was out of touch, and did not understand the issues or the applicable laws. I am not here to pass judgment on the allegations, but, at the very least, these controversies point out the need for a problem resolution procedure to settle questions of fact and to address complaints. This legislation will create such a process.

I find it curious that in the past 12 years, not one GAO report has been retracted. It is hard to believe that an agency which produces over 1,000 reports per year never gets it wrong. To err is human. Not to admit error, particularly in accounting and investigative work, is dangerous. Not to have a process by which errors can be corrected after the fact is inexcusable. Let's correct that.

Our forefathers knew that no mortal man, nor any institution of his making is infallible. This is why they established the system of checks and balances which has served our Nation so well.

It is time for checks and balances at the GAO. The creation of an independent Inspector General and improved quality control procedures at the GAO will ensure that Congress and the American people have a watchdog that meets the highest standards of integrity and excellence. We deserve that much and can afford no less.

The GAO is too important to Congress and the effective oversight of the executive branch to allow its services to decline or its reputation to be tainted. I hope that the introduction of the GAO Oversight and Reform Act of 1993 will call attention to these issues and spur productive debate as we pursue a comprehensive solution.

I ask unanimous consent that the text of the bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Accounting Office Oversight and Improvement Act of 1993".

TITLE I—INSPECTOR GENERAL OF THE GENERAL ACCOUNTING OFFICE

SEC. 101. ESTABLISHMENT OF INSPECTOR GENERAL.

(a) IN GENERAL.—Chapter 7 of title 31, United States Code, is amended—

(1) by redesignating section 704 as section 705; and

(2) by inserting after section 703 the following new section:

"§ 704. Inspector General

"(a) There is established the Office of Inspector General within the General Accounting Office.

"(b) The Inspector General shall be appointed and perform his duties in accordance with the provisions of section 8F of the Inspector General Act of 1978.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 31, United States Code, is amended by striking out the item relating to section 704 and inserting in lieu thereof the following:

"704. Inspector General.

"705. Relationship to other laws.".

SEC. 102. SPECIAL PROVISIONS CONCERNING THE GENERAL ACCOUNTING OFFICE.

The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating sections 8E and 8F as sections 8F and 8G, respectively;

(2) in section 8G (as redesignated by paragraph (1) of this section)—

(A) by striking out "8C, or 8D" and inserting in lieu thereof "8C, 8D, or 8E"; and

(B) by striking out "section 8E(a)" and inserting in lieu thereof "section 8F(a)";

(3) by inserting after section 8D the following new section:

"SPECIAL PROVISIONS CONCERNING THE GENERAL ACCOUNTING OFFICE

"SEC. 8E. (a)(1) For purposes of this section the term 'Inspector General' means the Inspector General of the Office of the Inspector General for the General Accounting Office established under section 704 of title 31, United States Code.

"(2) To the extent provided under section 705 of title 31, United States Code—

"(A) the General Accounting Office shall be an establishment under this Act; and

"(B) the Comptroller General of the United States shall be the head of such establishment under this Act.

"(b)(1) Notwithstanding section 3 of this Act, the Inspector General—

"(A) shall be appointed jointly by—

"(i) the Majority Leader and Minority Leader of the Senate; and

"(ii) the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

"(B) may only be removed from office by a joint resolution of Congress, after notice and an opportunity for a hearing, only for—

"(i) permanent disability;

"(ii) inefficiency;

"(iii) neglect of duty;

"(iv) malfeasance; or

"(v) a felony or conduct involving moral turpitude.

"(2) An Inspector General removed from office under paragraph (1)(B) may not be reappointed to the office."; and

(4) in section 11—

(A) in paragraph (1) by inserting ", and the Comptroller General of the United States" before "; as the case may be;" and

(B) in paragraph (2) by inserting ", and the General Accounting Office" before "; as the case may be".

SEC. 103. COMPENSATION.

Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, General Accounting Office.".

SEC. 104. REORGANIZATION WITHIN THE GENERAL ACCOUNTING OFFICE.

The Comptroller General may reorganize, consolidate, or terminate the Office of Special Investigations and transfer or terminate any function of such Office consistent with the provisions and amendments made by this title to—

(1) eliminate the performance of any function by the Office of Special Counsel, which shall be performed by the Inspector General of the General Accounting Office after the date of the enactment of this Act; and

(2) provide for greater efficiency by the General Accounting Office.

TITLE II—GENERAL ACCOUNTING OFFICE FINAL REPORTS AND CONGRESSIONAL REQUESTS FOR REPORTS

SEC. 201. FINAL REPORTS AND CONGRESSIONAL REQUESTS FOR REPORTS.

(a) IN GENERAL.—Chapter 7 of title 31, United States Code, is amended by inserting after section 720 the following new sections:

"§ 721. Final reports

"(a) For purposes of this section, the term 'agency' means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

"(b)(1) In addition to actions taken under section 718(b)(1), the Comptroller General shall provide an agency that is relevant to a report, an opportunity to review any finding of the General Accounting Office in such report before such report is final and released.

"(2) After providing the review made available under paragraph (1), the Comptroller General shall include a summary of the agency response as a part of the final report.

"(c) To the greatest extent practicable consistent with applicable law, the Comptroller General shall include a list of all organizational contacts and sources of information used in each final report.

"(d) If a Member of Congress requests the Comptroller General to withhold the release of a final report to any person, the Comptroller General may release such report no earlier than 7 days after the date on which such request is received.

"(e) A final report may not be released, unless the Comptroller General makes a written determination included in such report that the General Accounting Office has complied with all internal quality control procedures.

"§ 722. Congressional requests for reports

"(a) No later than 3 days after receiving a request for a report—

"(1) from the chairman of a committee of the Congress, the Comptroller General shall notify the ranking member of such committee that such request was received; and

"(2) from the ranking minority member of a committee of the Congress, the Comptroller General shall notify the chairman of such committee that such request was received.

"(b)(1) No later than 3 days after approving a request to prepare a report for a Member of the Congress the Comptroller General shall—

"(A) notify the Majority Leader and the Minority Leader of the Senate of such approval if the requester is a Senator; and

"(B) notify the Speaker of the House of Representatives and the Minority Leader of the House of Representatives of such approval if the requester is a Member of the House of Representatives.

"(2) The Comptroller General shall provide appropriate notification for publication in the Congressional Record of all approvals of requests from Members of Congress to prepare reports. All such approvals shall be published in the Congressional Record.

"(c) The Comptroller General shall treat all requests from chairmen and ranking members of committees of the Congress on an equal basis.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 5, United States Code, is amended by inserting after the item relating to section 720 the following:

"721. Final reports.
"722. Congressional requests for reports.".

TITLE III—GENERAL ACCOUNTING OFFICE PEER REVIEW COMMITTEE

SEC. 301. ESTABLISHMENT OF GENERAL ACCOUNTING OFFICE PEER REVIEW COMMITTEE.

There is established the General Accounting Office Peer Review Committee (hereafter in this title referred to as the "Committee").

SEC. 302. MEMBERSHIP.

(a) APPOINTMENT.—(1) The members of the Committee shall be appointed by the Comptroller General of the United States from a list of individuals jointly nominated by the Majority Leader and the Minority Leader of the Senate, and a list of individuals jointly nominated by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives.

(2) The Comptroller General shall designate one of the members appointed under paragraph (1) to serve as Chairman of the Committee.

(3) The Comptroller General shall appoint an appropriate individual to fill any vacancy which may occur on the Committee.

(b) MEMBERS.—The Committee shall be composed of no more than 15 members of whom—

(1) 2 members shall be Senators, who shall not be members of the same political party;

(2) 2 members shall be Members of the House of Representatives who shall not be members of the same political party;

(3) 2 members shall be Inspectors General of executive agencies;

(4) 2 members shall be individuals who are not Federal officers or employees; and

(5) 7 members shall have experience or expertise in Federal administrative policymaking, procedure, and processes.

(c) EX OFFICIO MEMBER.—The Comptroller General shall serve as a nonvoting ex officio member of the Committee.

(d) COMPENSATION.—(1) No member of the Committee who is a Federal officer or employee shall receive compensation for service to the Committee.

(2) Notwithstanding section 1342 of title 31, United States Code, no member of the Committee who is not a Federal officer or employee shall receive compensation for service to the Committee.

(e) TRAVEL EXPENSES.—The members of the Committee who are not Federal officers and employees shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

SEC. 303. FUNCTIONS OF THE COMMITTEE.

The Committee shall—

(1) recommend a formal process and standards for review under which agencies, and affected parties may appeal to the General Accounting Office to correct factual errors, and to reconsider findings contained in General Accounting Office studies, audits, investigations, and reports which are based on or substantially influenced by erroneous information, or previously unconsidered information;

(2) recommend procedures to notify the Congress, the public, and the media of modifications or retractions to studies, audits, investigations, and reports following a review described under paragraph (1);

(3) review policies and guidelines, and recommend improvements to eliminate inappropriate advocacy of policy or the expression of unsubstantiated conclusions within General Accounting Office reports and testimony;

(4) recommend improvements to ensure that General Accounting Office work product is fair, factual, unbiased, professional and consistent with the purposes for which the General Accounting Office was established;

(5) review the General Accounting Office's internal quality control procedures, including—

(A) Government Auditing Standards;

(B) the General Accounting Office's Communications Manual;

(C) the General Accounting Office Policy Procedures Manual; and

(D) the Post-Assignment Quality Review System;

(6) recommend procedures for making the requester of any service by the General Accounting Office to remain anonymous to the General Accounting Office team members conducting and overseeing the relevant investigation and reporting activities;

(7) review the General Accounting Office's policies and procedures, and make recommendations to eliminate duplicative or superfluous auditing and investigative activities;

(8)(A) provide an estimate to the Congress on the number of annual man-hours and costs incurred by respondents to General Accounting Office audits; and

(B) recommend policies, guidelines or procedures to reduce compliance costs without adversely affecting the necessary activities of General Accounting Office auditors or the quality of work product; and

(9) make recommendations to the Comptroller General and the Congress on measures to—

(A) improve professionalism, impartiality, independence, and excellence within the General Accounting Office;

(B) improve hiring practices, employee training and morale, administrative structure and policies; and

(C) further the purposes for which the General Accounting Office was established.

SEC. 304. IMPLEMENTATION OF RECOMMENDATIONS.

(a) IN GENERAL.—To the greatest extent practicable consistent with applicable law, the Comptroller General shall implement the recommendations of the Committee (including the establishment or modification of procedures, guidelines, and standards).

(b) NOTIFICATION TO THE CONGRESS.—(1) Upon the termination of the Committee the Comptroller shall submit to Congress a report on the recommentions made pursuant to this Act.

(2) No later than 90 days after the date of the termination of the Committee, the Comptroller General shall notify the Majority Leader and the Minority Leader of the Senate, and the Speaker of the House of Representatives and the Minority Leader of the House of Representatives of any Committee recommendation that the Comptroller General is unable to implement and the specific reason for such inability.

SEC. 305. SUPPORT SERVICES.

The General Accounting Office shall provide administrative and support services for the Committee.

SEC. 306. FEDERAL ADVISORY COMMITTEE ACT.

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

SEC. 307. TERMINATION OF COMMITTEE.

The Committee shall terminate 1 year after the date of the enactment of this Act.•

By Mr. RIEGLE:

S. 1738. A bill to amend the Social Security Act to extend for 3 years the provision for compensation of qualified organizations serving as representative payees, and for other purposes; to the Committee on Finance.

REPRESENTATIVE PAYEE AMENDMENTS OF 1993

Mr. RIEGLE. Mr. President, today I introduce legislation reauthorizing the representative payee program which allows certain nonprofit organizations to act as fiduciaries for Social Security beneficiaries who are unable to manage their own finances due to youth, mental or physical impairments.

The Social Security Administration has had difficulty locating qualified groups or individuals to act as representative payees on behalf of beneficiaries who are unable to manage their finances. According to a GAO report, 8,500 adult beneficiaries had their benefits suspended because no qualified representative payee could be found to manage the beneficiaries finances.

In response to the shortage of qualifed representative payees, Congress, in the Omnibus Budget Reconciliation Act of 1990, strengthened the Social Security Administration's representative payee program by allowing nonprofit groups to collect a fee for providing financial assistance to Social Security beneficiaries who were incapable of managing their own finances. These nonprofit groups must be approved by the Social Security Administration and have been in existence before October 1, 1988. The representative payees receive benefits directly from the Social Security Administration and can only use the funds to meet the needs of the beneficiary. This program expires on July 1, 1994.

The program has had some success in expanding the number of groups who will act as representative payees for Social Security beneficiaries but more time is needed to increase participation. As a result I believe this program deserves to be extended. The legislation I introduce today would extend the program until July 1, 1997.

The legislation would also make an important modification to expand the number of potential representative payee organizations by allowing nonprofit groups created after October 1, 1988, to participate in the program. According to a GAO report which surveyed advocates, local Social Security offices and representative payee organizations, one the most common suggestions to improve the program was to allow groups established after October 1, 1988 to participate. Due to the fact that some still have a concern that a few organizations may attempt to profit from the $25 fee, this legislation requires a nonprofit organization to be in existence for at least 1 year. This important modification will improve the effectiveness of the program.

I thank the Chair and ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Representative Payee Amendments of 1993".

SEC. 2. COMPENSATION FOR QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.

(a) TITLE II.—

(1) EXTENSION.—Section 205(j)(4)(D)) is amended by striking "July 1, 1994" and inserting "July 1, 1997".

(2) ELIGIBILITY OF ORGANIZATIONS.—Section 205(j)(4)(B)(iii) of such Act (42 U.S.C. 405(j)(4)(B)) is amended by striking "on October 1, 1988" and inserting "at least 1 year before the commencement of services as a representative payee of any such individual",

(b) TITLE XVI.—

(1) EXTENSION.—Section 1631(a)(2)(D)(iv) of the Social Security Act (42 U.S.C. 1383(a)(2)(D)(iv)) is amended by striking "July 1, 1994" and inserting "July 1, 1997".

(2) ELIGIBILITY OF ORGANIZATION.—Section 1631(a)(2)(D)(ii)(II)(cc) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)(II)) is amended by striking "on October 1, 1988" and inserting "at least 1 year before the commencement of services as a representative payee of any such individual".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsections (a)(1) and (b)(1) shall take effect on July 1, 1994.

(2) ELIGIBILITY OF ORGANIZATIONS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect on the date of the enactment of this Act, and shall only apply with respect to—

(A) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(B) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

By Mr. MCCAIN:

S. 1741. A bill to provide for the establishment of business accounts for air travel by Federal employees to maximize costs savings, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENT TRAVEL SAVINGS ACT OF 1993

• Mr. MCCAIN. Mr. President, today, I'm pleased to introduce the Government Travel Cost Savings Act of 1993.

The General Services Administration reports that last year, the Federal Government spent an astounding $1.8 billion dollars for commercial air travel by Federal employees. This is a shockingly large outlay of taxpayers dollars.

We have an obligation to examine official air travel by Federal employees very carefully to ensure that such travel is for necessary purposes and that legitimate travel is being conducted as cost-efficiently as possible.

The legislation I'm introducing today is a first step in the effort to lower the Federal Government's air travel bills. It will do so by seeing that the government fully benefits from the frequent flyer award plans offered by the airline industry.

The Federal Government's contracts with the airlines permit Federal participation in frequent flyer programs, but we have no policy requiring that we take full advantage of the opportunity. As a result, taxpayers are losing millions of dollars per year by paying for tickets that could otherwise be obtained free if the Federal Government would fully participate in mileage award and bonus programs.

The Government Travel Cost Savings Act of 1993 will remedy this problem by requiring Federal personnel managers, including the Congress, to establish frequent flyer accounts with an appropriate carrier or carriers for employees who travel by air on official business. The bill stipulates that awards generated from these business accounts can be used solely for official business purposes.

I have asked the Congressional Budget Office to estimate how much enactment of this bill would save in Federal travel costs. I look forward to their report which will take several weeks to prepare. Based on preliminary calculations, however, I believe that full participation in mileage award plans could create significant savings.

I want to point out that the business frequent flyer accounts required by the legislation would be separate from any accounts the Federal employee may maintain with the airlines for personal travel. This is a matter of fairness to the taxpayer and the federal employee.

Under existing rules, if a Federal employee has a personal account and earns a travel award with mileage accumulated even in part by official travel miles, the award, usually a free ticket, is technically the property of the Government. This means that the employee loses credit for any mileage paid for at personal expense.

The fact of the matter is that few employees are claiming official travel miles and they are going to waste. Clearly, the status quo is not fair either to the taxpayer or to the Federal employee.

Establishing business frequent flyer accounts for Federal employees who travel will ensure that the Government receives credit for taxpayer funded travel, while protecting the rights and property of Federal employees. This is a step we should have taken a long time ago and I hope we can enact it without delay.

In addition, Mr. President, the Government Travel Savings Act calls on the General Services Administration to negotiate with the airline industry to allow each government unit with a travel budget to establish its own group frequent flyer account. Such group accounts would enable offices to pool the business miles of their employees and take advantage of the economies of scale.

The bill authorizes the Administrator of the GSA to establish the offering of a group frequent flyer account as a condition of the Federal Government's transportation service contracts with the airlines, if the Administrator believes it will result in savings to the government.

Mr. President, the Federal debt worsens. I worry that we have become modern day Nero's fiddling while Rome is aflame. We must be increasingly creative and disciplined if we are to stem the rising tide of red ink that is fueling the fire.

The Government Travel Savings Act of 1993 is a modest but I believe appropriate measure which will save money. I look forward to receiving input on the bill so that we can have a productive examination of the relevant issues, and the exact level of savings we can anticipate.

In addition, I intend to look more closely at the general issue of government travel because I cannot believe that with the many cost-effective communications alternatives available today, spending $1.8 billion a year on air travel is fully justified.

I also believe we should examine the Federal Government's air transportation service contracting program which grants a virtual lock on Federal business to certain carriers serving specific routes in exchange for a guaranteed level of Federal business at a guaranteed Federal rate. Are such customer volume guarantees artificially stimulating travel that may not be necessary? Is the contract system meeting our needs for maximum cost-efficiency? What is the impact of Federal contracts on competition and pricing in the airline industry? These are all legitimate and important questions that merit careful evaluation.

I intend to request the chairman and ranking member of the Government Affairs Committee for an oversight hearing on Federal air travel and the Government Travel Cost Savings Act in the near future so that we can have a full and public examination of the relevant issues and move forward with prudent reforms that are in the public interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Air Travel Savings Act of 1993".

SEC. 2. BUSINESS ACCOUNTS FOR AIR TRAVEL BY FEDERAL EMPLOYEES.

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5709 the following new section:

"§ 5710. Business accounts for air travel

"(a) The General Services Administration or any agency entering into a contract with an air carrier for travel on official business—

"(1) subject to the provisions of paragraph (2), shall include as a term of such contract that such air carrier shall—

"(A) establish a separate air travel business account for any employee, designated by the head of the agency employing such employee, for travel on official business by such employee on such air carrier;

"(B) deposit any award or bonus by such air carrier awarded to such employee for travel on official business into the employee's air travel business account; and

"(C) apply any such award or bonus from such employee's air travel business account to any travel on official business by such employee on such air carrier except that such awards or bonuses shall not be used for seating upgrades; and

"(2) may include as a term of such contract, as an alternative to the term required under paragraph (1), that such air carrier shall—

"(A) establish an air travel business account for any office or administrative unit of an agency, as designated by the head of such agency, for travel on official business by employees of such office or administrative unit on such air carrier;

"(B) deposit any award or bonus by such air carrier awarded to any employee of such office or administrative unit for travel on official business into the air travel business account of such office or administrative unit; and

"(C) apply any such award or bonus from the air travel business account of such office or administrative unit to any travel on official business by any employee of such office or administrative unit except that such awards or bonuses shall not be used for seating upgrades.

"(b) All air travel business accounts established under this section shall be separate from any personal account of an employee. Any award or bonus from an air travel business account may be used only for travel on official business except that such awards shall not be used for seating upgrades.

"(c) To the greatest extent practicable, the General Services Administration shall include the term described under subsection (a)(2) in a contract to maximize travel costs savings.

"(d) The General Services Administration shall promulgate regulations to carry out the provisions of this section. Such regulations shall include a requirement that, to the greatest extent practicable to maximize travel costs savings, employees shall—

"(1) travel on official business with air carriers awarding awards and bonuses for official business travel, regardless of whether such travel is on an air carrier under a contract described under this section; and

"(2)(A) participate in any program of such air carrier awarding awards and bonuses; and

"(B) use such awards and bonuses for only official business travel except that such awards shall not be used for seating upgrades.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5709 the following new item:

"5710. Business accounts for air travel.".

SEC. 3. APPLICATION TO THE CONGRESS.

(a) IN GENERAL.—No later than 180 days after the date of the enactment of this Act, the Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives shall promulgate regulations relating to Members of Congress and any employee whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, respectively, that—

(1) require any Member of the Senate, officer of the Senate, Member of the House of Representatives, or officer of the House of Representatives who enters into a contract with an air carrier for travel on official business by a Member or employee—

(A) subject to the provisions of subparagraph (B), shall include as a term of such contract that such air carrier shall—

(i) establish a separate air travel business account for any Member or employee, designated by the applicable Member or employing committee or office of such employee, for travel on official business by such Member or employee on such air carrier;

(ii) deposit any award or bonus by such air carrier awarded to such Member or employee for travel on official business into the Member's or employee's air travel business account; and

(iii) apply any such award or bonus from such Member's or employee's air travel business account to any travel on official business by such Member or employee on such air carrier except that such awards or bonuses shall not be used for seating upgrades; and

(B) may include as a term of such contract, as an alternative to the term required under subparagraph (A), that such air carrier shall—

(i) establish an air travel business account for any committee or office as designated by the applicable Member, committee, or office, for travel on official business by Members or employees of such committee or office on such air carrier;

(ii) deposit any award or bonus by such air carrier awarded to any Member or employee of such committee or office for travel on official business into the air travel business account of such committee or office; and

(iii) apply any such award or bonus from the air travel business account of such committee or office to any travel on official business by any Member or employee of such committee or office except that such awards or bonuses shall not be used for seating upgrades; and

(2) to the greatest extent practicable to maximize travel costs savings, require committees and offices (including Members' offices)—

(A) to enter into contracts with air carriers awarding awards and bonuses for official business travel; and

(B) to require Members and employees to—

(i) travel on official business with air carriers awarding awards and bonuses for official business travel, regardless of whether such travel is on an air carrier under a contract described under this section; and

(ii)(I) participate in any program of such air carrier awarding awards and bonuses; and

(II) use such awards and bonuses for only official business travel except that such awards or bonuses shall not be used for seating upgrades.

(b) SEPARATE BUSINESS ACCOUNTS.—All air travel business accounts established under this section shall be separate from any personal account of a Member or employee. Any award or bonus from an air travel business account may be used only for travel on official business except that such awards or bonuses shall not be used for seating upgrades.

(c) COMMITTEE AND OFFICE ACCOUNTS.—To the greatest extent practicable, any Member of Congress or officer of the Congress entering into a contract as provided under this section shall include the term described under subsection (a)(1)(B) to maximize costs savings.•

By Mr. ROCKEFELLER:

S. 1742. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NASA AUTHORIZATION ACT, FISCAL YEAR 1994

• Mr. ROCKEFELLER. Mr. President, it is my pleasure as chairman of the Subcommittee on Science, Technology and Space to introduce the National Aeronautics and Space Administration [NASA] Authorization Act for fiscal year 1994. Although the fiscal year began last month, NASA still faces many months, maybe years, of restructuring its major programs and its internal organization in response to changing national priorities an expectation of real budget constraints. This bill provides direction to NASA for these changes during fiscal year 1994. More importantly it will serve as a marker and a guide for the fiscal year 1995 [NASA] Authorization Act that I plan to introduce just after the President submits to the Senate his budget proposals for fiscal year 1995.

Even before I bring the 1995 authorization bill to this Chamber, I plan to introduce a companion bill to provide policy direction to NASA's important and evolving technology development programs. In the NASA technology bill, I want to increase the emphasis NASA places on making a meaningfully contribution to the competitiveness of U.S. firms in world markets. My subcommittee examined the role of Federal research programs in support of American industry at several of its hearings this year, both those hearings devoted to NASA and those with a broader focus. I regret to say that NASA's record for technology transfer and technology commercialization, albeit glittering with some outstanding successes, is overall not all that it could have been.

For more than three decades, NASA's space projects were developed with little regard to the usefulness of the technology outside its designed mission. NASA's approach to technology transfer focused on "spinoffs", the secondary application of NASA-developed space technology. Since NASA championed specialized technologies for its own use, companies were often unable to apply or even adopt the technologies for commercial use. Increasingly, this spinoff approach to transferring Federal technology is criticized as serendipitous and unfocused.

In responding to competitiveness issues, NASA is establishing new programs but it is not yet clear that NASA is moving in right direction. For example, it has designed programs to "push" technologies to the private sector. With this approach, NASA is identifying and funding technologies that its scientists feel may have commercial potential, rather than working closely with industry to investigate technologies that industry thinks could be commercially important while also scientifically important to NASA. Before NASA proceeds too far with structuring new technology promotion programs, I believe the Congress will want to determine whether funding levels are commensurate with the benefits to industry, as well as to science, and how other NASA resources can be used more productively to enhance U.S. competitiveness.

Mr. President, this detailed examination of NASA's technology programs will be only a part of the scrutiny that our space program requires. Increased international economic competition and constrained Federal budgets have also raised concerns of whether NASA's overall budget accurately embraces our national priorities today or merely reflects a historical accumulation of projects, some of which may be only marginally relevant to these priorities. In addition, chronic cost overruns on contracts, schedule delays in projects, and spacecraft failures have tarnished NASA's "can do" reputation and, instead, send a signal to the American public that NASA has serious international management and performance problems.

To examine these issues and the role of NASA in a post-Cold War Era, my subcommittee held four hearings this year totally devoted to NASA and several other hearings on science and technology issues that are also relevant to NASA. From these hearings and other studies, there is now no doubt in my mind that NASA maintains too many projects for the amount of funding it receives. Many of these projects were begun a decade ago when NASA assumed it would receive significant real growth in its budget each year. Today, Congress and the administration are trying to deal with the excess spending of those days and to reduce the Federal deficit.

The process of trimming NASA's funding expectations, and even some of its projects, has begun. As NASA Administrator Dan Goldin testified this week before the Science, Technology and Space Subcommittee, when he joined NASA less than two years ago the 5-year projection for NASA's budget was $106 billion, an average of more than $21 billion per year. A year later, in President Bush's last budget submission, NASA's 5-year spending projection was cut to $96 billion. This year, while asking for more money for NASA in fiscal year 1994 than Congress appropriated the previous year, President Clinton's first budget proposal reduced NASA's 5-year budget projection to $80 million. The initiatives of the Reinventing Government Program introduced this past summer cut another $2 billion and the administration is now telling NASA that next year's budget submission will reduce the 5-year projection even more, to $71.5 billion.

Our colleagues on the Senate and House appropriations committees recently notified NASA that it can expect less than that, perhaps about $70 billion over the next 5 years. Even if further cuts are not made, such an outlook will give NASA an average budget over the next 5 years of $14 billion, one-third less than the outlook only 20 months ago.

In an initial reaction to these projections of out-year budget reductions, NASA has stretched research and development projects, I suspect because of hopes of future funding increases. The elimination of some lower priority projects occurred only through Congressional initiation. Aside from those cuts, the stretch-out practice could be maintained, if NASA so chooses, under the fiscal year 1994 appropriations act and the authorizations levels in the bill I am introducing today. That archaic practice will have to be abolished in future budgets, beginning with the coming fiscal year. Instead, deft surgical cuts and termination of other projects are needed before they drain essential resources from programs with higher priorities.

The Congressionally-initiated cuts in NASA's FY 1994 appropriation, most importantly the cancellation of Advanced Solid Rocket Motor Program, are reflected in the bill that I am introducing today. This bill provides total of $14,696.5 million is provided to NASA for fiscal year 1994, an increase of over $387 million from the fiscal year 1993 appropriations act. The amount authorized for research and development is over $7.594 billion, or about 51.6 percent of the entire authorization. The size of this program points out the importance of the bill I will introduce in January to make NASA's technology programs more relevant to today's national priorities.

Of the amount authorized for R&D, 29 percent is directed to space sciences and the bill has included a special focus on life sciences collaboration with the National Institutes of Health. Just as NASA and the Department of Defense can both save money and operate more efficiently through shared projects, NASA and NIH can both benefit from working together on the health issues that are important to each agency.

As requested by the Clinton administration, the bill provides $1.946 billion for the redesigned space station, with a funding limitation of $2.1 billion for space station development and the related costs in fiscal year 1994. This year, I am able to support this funding for the space station because the Administration significantly reduced the program costs through an extensive redesign and it directed NASA to hold space station funding at a constant $2.1 billion for each of the next 4 years.

I was also heartened that the Administration seized a rate opportunity to broach negotiations with Russia this past summer to develop a concept for an international space station in concert with our European, Japanese, and Canadian partners. If our nation's human space program is to survive, I believe we must engage the international community in cooperative activities like the space station. In support of the Administration's efforts, this bill provides $100 million through special reprogramming authority to fund cooperative space activities with Russia.

In undertaking this effort, however, we must ensure that an international space station enhanced by Russian participation does not become a space station dependent on Russian participation. The design being developed by NASA may be moving too far toward a Russia-dependent space station. For that reason, this authorization bill—like the appropriations act we approved a month ago—prevents NASA from spending the bulk of fiscal year 1994 funds available for the space station until it has reported to the Congress on the final configuration, schedule, and costs of its space station design. My subcommittee will examine this report very carefully and I am sure it will have a significant impact on our fiscal year 1995 authorization bill.

The importance of NASA's potential contribution to aeronautics is also emphasized in this bill. It provides over $1 billion in funding for aeronautics research and technology development. Of this amount, about 28 percent is directed to technology development projects that are designed specifically to enhance the competitiveness of the U.S. aircraft and engine manufacturers. NASA's long collaboration with U.S. aircraft manufacturers helped our country achieve leadership in aeronautics and contributed to a substantial trade surplus in this area. However, that leadership is now being challenged, not co-incidently I suspect, as NASA's aeronautics facilities deteriorate and its support to American industry declines. To begin to turn this situation around, the authorization bill provides $74 million for the study and design of urgently needed wind tunnel facilities in the United States. This investment is essential to maintaining our competitive position in aeronautics.

Mr. President, although I have perhaps dwelt in this statement more on the problems at NASA that we need to address than on the many successes that we take for granted, I do not want to leave the impression that NASA has more problems than successes. I feel NASA is a good agency, one has much to offer the Nation. Despite recent losses and failures of spacecraft, something that has to be expected from time to time, NASA has produced technological wonders in aeronautics and space. NASA has some problems, but I believe the agency can weather the changes in national priorities and demonstrate it is relevant to the American public today.

With sound direction from Congress, NASA's research and technology can make significant contributions to American science and American competitiveness. I am committed to working with NASA and the administration to help shepherd necessary changes within the agency to enhance these contributions. To facilitate that process, I will introduce a NASA authorization bill for FY 1995 soon after the President submits a NASA budget request, hopefully in January or February. I am initiating this effort in coordination with Representative GEORGE BROWN, the Chairman of the Science, Space, and Technology Committee in the other body, who has established a similar timetable. I look forward to working with my colleagues in the Senate to pass that bill by mid-year, well before the beginning of the next fiscal year.●

By Mr. NICKLES (for himself, Mr. HATCH, Mr. MACK, Mr. BENNETT, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. DOLE, Mr. FAIRCLOTH, Mr. GREGG, Mr. HELMS, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. LOTT, Mr. LUGAR, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. GRASSLEY):

S. 1743. A bill to provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans, and for other purposes; to the Committee on Finance.

CONSUMER CHOICE HEALTH SECURITY ACT

Mr. NICKLES. Mr. President, in the debate over health care reform, a fundamental choice has emerged: Who should drive health care reform? Should it be government? Or should it be consumers, empowered with more control over health care choices and costs?

President Clinton's proposal relies on more Federal control and regulation of a trillion-dollar industry that represents one-seventh of our economy and provides the highest quality health care in the world. His plan outlaws virtually all of the current health plans and substitutes a one-size-fits-all program which forces consumers into government controlled monopolies the President calls "health alliances." In classic Washington fashion, he overpromises and underfunds his program while denying individual choices concerning both benefits and costs of health care plans.

I have come to the Senate floor today to introduce, for myself and principle coauthors Senators HATCH and MACK, health care legislation that eschews the big government solutions of the President.

Along with Senators HATCH and MACK, this legislation is sponsored by Senators DOLE, SIMPSON, COCHRAN, LOTT, STEVENS, BURNS, THURMOND, BENNETT, BROWN, COATS, COVERDELL, CRAIG, FAIRCLOTH, GREGG, HELMS, HUTCHISON, KEMPTHORNE, LUGAR, MURKOWSKI, SMITH, WALLOP, and GRASSLEY.

The Consumer Choice Health Security Act of 1993 achieves the goals of the Clinton plan and other so-called managed competition plans with one major difference: The Consumer Choice alternative gives families and individual Americans, not government bureaucrats, control over their health insurance. Much like choices found under the 33-year-old Federal Employee Health Benefits Program, our plan will offer individuals the opportunity to select the health plan of their choice with different benefits and prices.

Here's how it would work: The tax exclusion for company-sponsored health plans would be replaced with individual tax credits. Companies would take the money they spend to subsidize their employee's health insurance and give it to the employee in the form of wages. Then, a tax credit would be given to individuals. The combination of higher wages plus the tax credit will provide them the resources to purchase health insurance they want—the choice is theirs.

While individual tax credits would replace the current tax exclusion for company-sponsored health programs, the Consumer Choice plan would preserve employer-provided coverage; however, it would be the employee's decision to determine whether to remain on the company plan, or choose something different.

People whose medical expenses consume a greater share of their income would receive a larger credit. Because the tax credit is refundable, the poor and unemployed will get significant assistance from the government to purchase insurance.

Everyone will be required to carry at least catastrophic health insurance for their protection and to stop cost shifting. No one can be turned down because of preexisting illness, terminated because of an illness, and everyone will be able to take their health care policy with them from one job to another. Consumers could also choose to establish a tax-free medical saving account, using the funds they save to pay for additional health benefits or to save for long-term health care needs.

The Consumer Choice Plan, which is 202 pages long, compared to President Clinton's 1,342 page bill, is simple in its approach yet goes much farther than the Clinton plan to reform what is broken in the current system. For example, to tackle runaway medical malpractice costs, the Consumer Choice Plan will save billions of dollars by capping punitive damage awards, and limiting attorney fees. Like most other credible plans, our plan takes steps toward cutting red tape and government waste by streamlining health insurance claims and easing regulatory burdens on providers.

But just as important as what the plan will do, is what the plan won't do, especially compared to the Clinton Government-is-the-answer health plan. Because it contains no onerous mandates that force employers to cough up additional dollars to provide health insurance, as the Clinton plan does, it won't cost jobs. It won't add to the total cost of health care, nor to the federal deficit. Furthermore, unlike most other major health care proposals, the Consumer Choice Plan's costs have been estimated to be revenue neutral by an independent econometrics firm, Lewin-VHI.

This comprehensive health care bill keeps government's hands off health care, except to police insurance plans to protect consumers and guarantee access. Unlike the Clinton plan, it won't ration or reduce the quality of health care through price controls in the form of premium caps, or global budgeting which limits how much can be spent on health care.

The Consumer Choice Health Security Act bill will protect what's right about the current system—quality, choice of doctors—and knock down the barriers that deny any American access to affordable health care.

Health care reform is indeed a complex issue. The Consumer Choice Plan seeks a straightforward solution for providing choice and care. It is wrong to think, however, that the problems we face in health care require the kind of invasive big-government surgery proposed by the Clinton administration.

The cure could be provided by a simple dose of choice and competition.

I ask unanimous consent that a factsheet on the Consumer Choice Health Security Act and the bill itself be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Consumer Choice Health Security Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

Sec. 101. Refundable health care expenses tax credit.
Sec. 102. Medical savings accounts.
Sec. 103. Other tax provisions.

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

Sec. 111. Federally qualified health insurance plan.
Sec. 112. Family security benefits package.
Sec. 113. Rating practices.
Sec. 114. Guaranteed issue.
Sec. 115. Guaranteed renewability.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

Sec. 117. Establishment of regulatory program for certification of plans.
Sec. 118. Standards for regulatory programs.

Subtitle C—Employer Provisions

Sec. 121. General provisions relating to employers.
Sec. 122. Conversion of non-self-insured plans.
Sec. 123. Provisions relating to existing self-insured plans.
Sec. 124. Continuation of employer-provided health coverage required until effective date of new coverage under this Act.
Sec. 125. Requirements with respect to cashing out employer-sponsored plans.
Sec. 126. Enforcement.

Subtitle D—State Plan Requirements

Sec. 131. State plan requirements.

Subtitle E—Federal Preemption

Sec. 141. Federal preemption of certain State laws.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

Sec. 201. Study of medicare private health insurance program.
Sec. 202. Elimination of medicare hospital disproportionate share adjustment payments.
Sec. 203. Reduction in adjustment for indirect medical education.
Sec. 204. Imposition of copayment on laboratory services.
Sec. 205. Imposition of copayment for certain home health visits.
Sec. 206. Imposition of copayment for skilled nursing facility services.
Sec. 207. Shift payment updates to January for all payment rates under hospital insurance program.
Sec. 208. Acceleration of transition to prospective rates for facility costs in hospital outpatient departments.

Subtitle B—Medicaid

Sec. 211. Cap on Federal payments made for acute medical services under the medicaid program.
Sec. 212. Waivers for the furnishing of acute medical services under the medicaid program.
Sec. 213. Termination of disproportionate share payments.
Sec. 214. Grants for health insurance coverage, acute medical services, preventive care, and disease prevention.

TITLE III—HEALTH CARE LIABILITY REFORM

Sec. 301. Short title.
Sec. 302. Definitions.
Sec. 303. Health care malpractice.
Sec. 304. Health care product liability of manufacturer or seller.
Sec. 305. General provisions relating to health care liability.
Sec. 306. Punitive damages.
Sec. 307. Exceptions.
Sec. 308. Rules of construction.

TITLE IV—ADMINISTRATIVE COST SAVINGS

Subtitle A—Standardization of Claims Processing

Sec. 401. Adoption of data elements, uniform claims, and uniform electronic transmission standards.
Sec. 402. Application of standards.
Sec. 403. Periodic review and revision of standards.
Sec. 404. Health insurance plan defined.

Subtitle B—Electronic Medical Data Standards

Sec. 411. Medical data standards for hospitals and other providers.
Sec. 412. Application of electronic data standards to certain hospitals.
Sec. 413. Electronic transmission to Federal agencies.
Sec. 414. Limitation on data requirements where standards in effect.
Sec. 415. Advisory commission.

Subtitle C—Development and Distribution of Comparative Value Information

Sec. 421. State comparative value information programs for health care purchasing.
Sec. 422. Federal implementation.
Sec. 423. Comparative value information concerning Federal programs.

Subtitle D—Preemption of State Quill Pen Laws

Sec. 431. Preemption of State quill pen laws.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

Sec. 501. Penalties for health care fraud.
Sec. 502. Rewards for information leading to prosecution and conviction.

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

Sec. 511. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health insurance plan.

TITLE VI—ANTITRUST PROVISIONS

Sec. 601. Exemption from antitrust laws for certain competitive and collaborative activities.
Sec. 602. Safe harbors.
Sec. 603. Designation of additional safe harbors.
Sec. 604. Certificates of review.
Sec. 605. Notifications providing reduction in certain penalties under antitrust law for health care cooperative ventures.
Sec. 606. Review and reports on safe harbors and certificates of review.
Sec. 607. Rules, regulations, and guidelines.
Sec. 608. Definitions.

TITLE VII—LONG-TERM CARE

Sec. 701. Exclusion from gross income for amounts withdrawn from individual retirement plans or 401(k) plans for long-term care insurance.
Sec. 702. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.
Sec. 703. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 704. Effective date.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans,

(2) make the American health care system responsive to consumer needs and encourage

the provision of quality medical care at reasonable prices through enhanced competition,

(3) provide more equitable tax treatment of health insurance and medical care expenses, and

(4) assist low-income and uninsured Americans in purchasing health insurance and receiving primary medical care.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

SEC. 101. REFUNDABLE HEALTH CARE EXPENSES TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. HEALTH CARE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the sum of—

"(1) 25 percent of the sum of the qualified health insurance premiums and the unreimbursed expenses for medical care paid by such individual during the taxable year which does not exceed 10 percent of the adjusted gross income of such individual for such year, plus

"(2) 50 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 10 percent but does not exceed 20 percent of such adjusted gross income, plus

"(3) 75 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 20 percent of such adjusted gross income.

"(b) QUALIFIED INDIVIDUALS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified individual' means the taxpayer, the spouse of the taxpayer, and each dependent of the taxpayer (as defined in section 152) who is enrolled in a federally qualified health insurance plan.

"(2) FEDERALLY COVERED INDIVIDUALS.—The term 'qualified individual' does not include any individual whose medical care is covered under—

"(A) title XVIII or XIX of the Social Security Act,

"(B) chapter 55 of title 10, United States Code,

"(C) chapter 17 of title 38, United States Code, or

"(D) the Indian Health Care Improvement Act.

"(3) SPECIAL RULE IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.—Any child to whom section 152(e) applies shall be treated as a dependent of both parents.

"(4) MARRIAGE RULES.—The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

"(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage for any taxable year is determined by the number of whole months in such year in which the taxpayer is a qualified individual.

"(d) QUALIFIED HEALTH INSURANCE PREMIUMS.—For purposes of this section, the term 'qualified health insurance premiums' means premiums for—

"(1) a federally qualified health insurance plan, and

"(2) any other benefits or plans supplementary to such a federally qualified health insurance plan.

"(e) FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.—For purposes of this section, the term 'federally qualified health insurance plan' means a health insurance plan which is described in section 111 of the Consumer Choice Health Security Act of 1993.

"(f) MEDICAL CARE.—For purposes of this section—

"(1) IN GENERAL.—The term 'medical care' means amounts paid—

"(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, and

"(B) for transportation primarily for and essential to medical care referred to in subparagraph (A).

"(2) AMOUNTS PAID FOR CERTAIN LODGING AWAY FROM HOME TREATED AS PAID FOR MEDICAL CARE.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

"(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

"(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed $50 for each night for each individual.

"(3) COSMETIC SURGERY.—

"(A) IN GENERAL.—The term 'medical care' does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) COSMETIC SURGERY DEFINED.—For purposes of this paragraph, the term 'cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

"(4) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

"(g) SPECIAL RULES.—For purposes of this section—

"(1) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—

"(A) IN GENERAL.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

"(B) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(2) SPECIAL RULE FOR DECEDENTS.—

"(A) TREATMENT OF EXPENSES PAID AFTER DEATH.—Expenses for the medical care of the taxpayer which are paid out of the taxpayer's estate during the 1-year period beginning with the day after the date of the taxpayer's death shall be treated as paid by the taxpayer at the time incurred.

"(B) LIMITATION.—Subparagraph (A) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this subparagraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

"(i) a statement that such amount has not been allowed as a deduction under section 2053, and

"(ii) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

"(3) FORM OF INSURANCE CONTRACT.—In the case of an insurance contract under which amounts are payable for other than medical care—

"(A) no amount shall be treated as paid for insurance to which subsection (a) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

"(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

"(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

"(4) EXCLUSION OF AMOUNTS ALLOWED FOR CARE OF CERTAIN DEPENDENTS.—Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

"(5) COORDINATION WITH ADVANCE PAYMENT AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply to any credit to which this section applies.

"(6) SUBSIDIZED EXPENSES.—No expense shall be taken into account under subsection (a), if—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) the payment, reimbursement, or subsidy of such expense is not includable in the gross income of the recipient.

"(7) COORDINATION WITH MEDICAL SAVINGS ACCOUNTS.—The amount otherwise taken into account under subsection (a) shall be reduced by the amount (if any) of the distributions from any medical savings account of the taxpayer during the taxable year which is not includible in gross income by reason of being used for qualified medical expenses (as defined in section 25A(c)(2)).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF HEALTH EXPENSES CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a health care expenses eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's health care expenses advance amount.

"(b) HEALTH CARE EXPENSES ELIGIBILITY CERTIFICATE.—For purposes of this title, a health care expenses eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 34A for the taxable year,

"(2) certifies that the employee does not have a health care expenses eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(3) states whether or not the employee's spouse has a health care expenses eligibility certificate in effect, and

"(4) estimates the amount of premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care (as defined in section 34A) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) HEALTH CARE EXPENSES ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'health expenses advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care included in the health care expenses eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Health care expenses.".

(2) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of health care expenses credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 102. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. MEDICAL SAVINGS ACCOUNTS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 25 percent of the amount paid in cash during such year by or on behalf of such individual to a medical savings account.

"(b) LIMITATIONS.—For purposes of this section—

"(1) ONLY 1 ACCOUNT PER FAMILY.—No credit shall be allowed under subsection (a) for amounts paid to any medical savings account for the benefit of an individual, such individual's spouse, or any dependent (as defined in section 152) of such individual if such individual, spouse, or dependent is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—The aggregate amount of contributions which may be taken into account under subsection (a) with respect to any individual for any taxable year shall not exceed the sum of—

"(A) $3,000, plus

"(B) $500 for each individual who is a dependent (as so defined) of the individual for whose benefit the account is established.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the individual for whose benefit the trust is established, but only if the written governing instrument creating the trust meets the following requirements:

"(i) No contribution will be accepted unless it is in cash and contributions will not be accepted for any taxable year in excess of the amount determined under subsection (b)(1).

"(ii) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(iii) No part of the trust assets will be invested in life insurance contracts.

"(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(v) The interest of an individual in the balance in such individual's account is nonforfeitable.

"(vi) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) shall apply to the distribution of the entire interest of beneficiaries of such trust.

"(B) TREATMENT OF COMPARABLE ACCOUNTS HELD BY INSURANCE COMPANIES.—An account held by an insurance company in the United States shall be treated as a medical savings account (and such company shall be treated as a bank) if—

"(i) such account is part of a federally qualified health insurance plan (as defined in section 34A(e)),

"(ii) such account is exclusively for the purpose of paying the medical expenses of the beneficiaries of such account who are covered under such health insurance plan, and

"(iii) the written instrument governing the account meets the requirements of clauses (i), (v), and (vi) of subparagraph (A).

"(2) QUALIFIED MEDICAL EXPENSES.—The term 'qualified medical expenses' means amounts paid by the individual for whose benefit the account was established for premiums for a federally qualified health insurance plan (as so defined) and the unreimbursed expenses for medical care (as determined under section 34A) of such individual, the spouse of such individual, and any dependent (as so defined) of such individual.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of a medical savings account shall be included in the gross income of the individual for whose benefit such account was established unless such amount is used exclusively to pay the qualified medical expenses of such individual.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount allowable under subsection (b) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) PENALTY FOR DISTRIBUTIONS NOT USED FOR MEDICAL EXPENSES.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used to pay the medical expenses of the individual for whose benefit the account was established, shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

"(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the individual for whose benefit the account is maintained, if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such individual not later than the 60th day after the day on which the individual received the payment or distribution.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit the medical savings account was established, such individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a medical savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day) and no portion of such distribution were used to pay qualified medical expenses.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a medical savings account was established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual and not used to pay qualified medical expenses.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (c).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each applicable dollar amount shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the deemed average total wages (as defined in section 209(k) of the Social Security Act) for the preceding calendar year, exceeds

"(B) the deemed average total wages (as so defined) for calendar year 1996.

"(3) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (1), the term 'applicable dollar amount' means the $3,000 and $500 amounts in subsection (b)(2).

"(4) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or, if such amount is a multiple of $5 and not of $10, such amount shall be rounded to the next highest multiple of $10).

"(h) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 25A(c)(1)),",

(3) by striking "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 25A(c)(1)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 25A(b)(2) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account and a distribution to which section 25A(d)(2) applies shall be treated as an amount not contributed.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of the Internal Revenue Code of 1986 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 25A(c)(1)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 25A(e)(2)(A) to such account.", and

(2) by inserting "or a medical savings account described in section 25A(c)(1)" in subsection (e)(1) after "described in section 408(a)".

(d) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "**OR ON MEDICAL SAVINGS ACCOUNTS**" after "**ANNUITIES**" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 25A(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following:

"Sec. 25A. Medical savings accounts.".

(2) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical savings accounts, certain 403(b) contracts, and certain individual retirement annuities.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 103. OTHER TAX PROVISIONS.

(a) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—

(1) IN GENERAL.—Subsection (d) of section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new paragraph:

"(5) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—The exemption amount for any individual for such individual's taxable year shall be zero, unless the individual includes the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual in the return claiming such exemption amount for such individual.".

(2) EMPLOYER ROLE.—Section 3402 of the Internal Revenue Code of 1986 (relating to income tax collected at source) is amended—

(A) by striking "section 151(d)(2)" in subsection (f)(1)(A) and inserting "paragraph (2) or (5) of section 151(d)", and

(B) by adding at the end the following new subsection:

"(t) DETERMINATION OF STANDARD DEDUCTION STATUS.—For purposes of applying the tables in subsections (a) and (c) to a payment of wages, the employer shall treat the employee as having an exemption amount of zero unless there is in effect with respect to such payment of wages a withholding exemption certificate furnished to the employer by the employee by April 1, indicating the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(b) TERMINATION OF MEDICAL EXPENSE DEDUCTION.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—No amount paid after December 31, 1996, shall be treated as an expense paid for medical care.".

(c) TERMINATION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(d) TERMINATION OF EXCLUSION FOR EMPLOYER-PROVIDED HEALTH INSURANCE.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any amount paid after December 31, 1996.".

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

SEC. 111. FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.

(a) IN GENERAL.—A federally qualified health insurance plan is a health insurance plan offered, issued, or renewed on or after January 1, 1997, which is certified by the applicable regulatory authority as meeting, at a minimum, the requirements of sections 112, 113, 114, and 115, and the regulatory program described in section 117.

(b) GENERAL DEFINITIONS.—As used in this Act—

(1) HEALTH INSURANCE PLAN.—The term "health insurance plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement, but does not include any of the following offered by an insurer:

(A) Accident only, dental only, disability only, or long-term care only insurance.

(B) Coverage issued as a supplement to liability insurance.

(C) Workers' compensation or similar insurance.

(D) Automobile medical-payment insurance.

(2) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

(A) in the case of a State with a program described in section 117, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

(B) if the State has not established such a program or such program has been decertified under section 117(b), the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, America Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 112. FAMILY SECURITY BENEFITS PACKAGE.

(a) IN GENERAL.—The requirements of this section are met, if the health insurance plan—

(1) provides coverage for all medically necessary acute medical care described in subsection (b),

(2) does not exclude coverage for selected illnesses or selected treatments if consistent with medically accepted practices, and

(3) meets the patient cost sharing requirements of subsection (c).

(b) ACUTE MEDICAL CARE.—Coverage for all medically necessary acute medical care is described in this subsection if such coverage includes—

(1) physician services,

(2) inpatient, outpatient, and emergency hospital services and appropriate alternatives to hospitalization, and

(3) inpatient and outpatient prescription drugs.

Nothing in this subsection may be construed to require the inclusion of abortion services.

(c) COST SHARING REQUIREMENTS.—The requirements of this subsection are as follows:

(1) LIMITATION ON DEDUCTIBLES.—A health insurance plan shall not provide a deductible amount for benefits provided in any plan year that exceeds—

(A) with respect to benefits payable for items and services furnished to a single individual enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $1,000; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

(B) with respect to benefits payable for items and services furnished to a family enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $2,000 per family; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by such percentage increase.

If the limitation computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—

(A) IN GENERAL.—A health insurance plan may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section after an individual or a family covered under the plan has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit for a plan year.

(B) LIMIT ON OUT-OF-POCKET EXPENSES.—As used in this paragraph—

(i) OUT-OF-POCKET EXPENSES DEFINED.—The term "out-of-pocket expenses" means, with respect to an individual or a family in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the individual or the family covered under the plan.

(ii) OUT-OF-POCKET LIMIT DEFINED.—The term "out-of-pocket limit" means for a plan year beginning in—

(I) a calendar year prior to 1998, $5,000; or

(II) for a subsequent calendar year, the limit specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

SEC. 113. RATING PRACTICES.

(a) IN GENERAL.—The requirements of this section are met, if, except as provided in subsection (b), the health insurance plan provides for—

(1) a variation in premium rates only on the basis of age, sex, and geography, and

(2) a charge of the same premium rates to new applicants and existing policyholders with the same age, sex, and geographic characteristics.

(b) INCENTIVE DISCOUNTS.—A plan may discount an individual's premium rate as an incentive for participating in a program, approved by the applicable regulatory authority to be offered in conjunction with the coverage, which has as its objective, 1 or more of the following:

(1) To promote healthy behavior.

(2) To prevent or delay the onset of illness.

(3) To provide for screening or early detection of illness.

SEC. 114. GUARANTEED ISSUE.

(a) IN GENERAL.—Except as provided in paragraph (2), in the case of applications made on and after January 1, 1998, the following rules apply:

(1) IN GENERAL.—The requirements of this section are met, if, except as provided in paragraph (2), the health insurance plan—

(A) provides guaranteed issue at standard rates to all applicants, and

(B) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant who, on the date the application is made, has been continuously insured for a period of at least 1 year prior to the date of the application under 1 or more of the following health insurance plans or programs:

(i) Another federally qualified health insurance plan.

(ii) An employer-sponsored group health insurance plan in effect before the date of the enactment of this Act.

(iii) An individual health insurance plan in effect before such date.

(iv) A program described in—

(I) title XVIII or XIX of the Social Security Act,

(II) chapter 55 of title 10, United States Code,

(III) chapter 17 of title 38, United States Code,

(IV) chapter 89 of title 5, United States Code, or

(V) the Indian Health Care Improvement Act.

(2) BREAK IN COVERAGE.—In the case of an applicant who has not been continuously insured for a period of 1 year prior to the date the application is made, the health insurance plan may exclude from coverage, or limit coverage for, any preexisting medical condition for a period no greater than the lesser of—

(A) the number of months immediately prior to the date of the application during which the individual was not insured since the illness or condition in question was first diagnosed, or

(B) 1 year.

(b) TRANSITION RULE.—In the case of applications made in 1997, the requirements of this section are met, if the health insurance plan—

(1) provides guaranteed issue at standard rates to all applicants, and

(2) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant.

SEC. 115. GUARANTEED RENEWABILITY.

The requirements of this section are met, if the health insurance plan provides the policyholder with a contractual right to renew the coverage which stipulates that the insurer cannot cancel or refuse to renew the coverage except for cases of—

(1) nonpayment of premiums by the policyholder, or

(2) fraud or misrepresentation by the policyholder.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

SEC. 117. ESTABLISHMENT OF REGULATORY PROGRAM FOR CERTIFICATION OF PLANS.

(a) IN GENERAL.—Each State shall establish no later than January 1, 1997, a regulatory program which meets the standards referred to in section 118.

(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review each State regulatory program to determine if such program continues to meet and enforce the standards referred to in section 118. If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards after such an opportunity, the Secretary shall decertify such program and assume responsibility with respect to health insurance plans in the State.

SEC. 118. STANDARDS FOR REGULATORY PROGRAMS.

(a) IN GENERAL.—The Secretary, in consultation with the National Association of Insurance Commissioners (hereafter in this section referred to as "NAIC") shall develop by not later than 1 year after the date of the enactment of this Act, in the form of model Acts and model regulations, State regulatory program standards which include—

(1) procedures for certifying that the requirements of part I of this subtitle have been met by a health insurance plan applying for certification as a federally qualified health insurance plan,

(2) the requirements described in subsections (b), (c), and (d),

(3) requirements with respect to solvency standards and guaranty funds for carriers of federally qualified health insurance plans, and

(4) reporting requirements under which carriers report to the Internal Revenue Service regarding the acquisition and termination by individuals of coverage under federally qualified health insurance plans.

(b) PASSBACK OF CLAIMS AND PREMIUMS.—The requirements of this subsection are met, if, in the case of an applicant who has been continuously insured, as described in section 114(b)(1)(B), and is at the time of the application receiving treatment for a preexisting medical condition—

(1) the federally qualified health insurance plan is allowed to pass back to the applicant's previous plan any claims relating to such condition, together with a portion of the premium, and

(2) such previous plan is required to pay such claims and premium incurred during the lesser of—

(A) the duration of the course of the treatment or spell of illness, or

(B) 2 years from the date at which coverage commenced under the federally qualified health insurance plan.

(c) MARKETING PRACTICES.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan retains the right to select agents with whom such plan contracts and to determine the amount and form of compensation to such agents, except that—

(1) if the carrier chooses to contract with an agent, the carrier may not terminate or refuse to renew the agency contract for any reason related to the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan, and

(2) the carrier may not, directly or indirectly, enter into any contract, agreement, or arrangement with an agent that provides for, or results in, any consideration provided to such agent for the issuance or renewal of such a plan to vary on account of the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan.

(d) RISK ADJUSTMENT OR REINSURANCE PROGRAMS.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan participates in a State-administered risk adjustment program (or, at the option of the State, a reinsurance program) designed to compensate for the potential occurrence of grossly disproportionate distributions of above-standard or below-standard insured risks among federally qualified health insurance plans.

(e) NONBINDING STANDARDS.—The Secretary, in consultation with NAIC, shall also develop within the 1-year period described in subsection (a), nonbinding standards for premium rating practices and guaranteed renewability of coverage which, if the insurer so elects, is more generous (additional benefits or lower cost sharing or both) than the requirements under part I of this subtitle for federally qualified health insurance plans.

Subtitle C—Employer Provisions

SEC. 121. GENERAL PROVISIONS RELATING TO EMPLOYERS.

(a) PREMIUMS WITHHELD.—Each employer shall—

(1) withhold from each employee's wages the amount of the employee's health insurance premium and remit, directly or indirectly, such premium to the insurance plan of the employee's choice according to an agreed upon schedule, and

(2) within the first 30 days of any calendar year or the date of the hire of an employee, notify each employee of the employee's right to claim an advance refundable tax credit for such premium under section 34A of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—The requirements under subsection (a) shall apply with respect to calendar year 1997 and thereafter.

SEC. 122. CONVERSION OF NON-SELF-INSURED PLANS.

In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is not a self-insured plan, the insurer from whom the plan was purchased (or, in the event such insurer refuses, any new subsidiary, corporation, insurer, union, cooperative, or association willing to become the new sponsor of the plan) shall—

(1) notify, not later than October 1, 1996, all of the primary insured beneficiaries of the employer-sponsored plan of their rights to convert their insurance coverage to a federally qualified health insurance plan (as defined in section 111) offered by the insurer with benefits identical to, or actuarially equivalent to, those of the employer-sponsored plan and the rates of that coverage, and provide such beneficiaries 60 additional days to decline or accept the new coverage, and

(2) offer such coverage beginning January 1, 1997, at premium rates which vary only by age, sex, and geography, except that the combined total of the new rates charged separately to the various beneficiaries may not exceed the total group rate paid by the employer or employees or both under the employer-sponsored plan on the last day it is, or was, in force.

SEC. 123. PROVISIONS RELATING TO EXISTING SELF-INSURED PLANS.

(a) IN GENERAL.—In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is a self-insured plan, the employer sponsoring the plan may, at anytime following such date sell, transfer, or assign the plan to any existing or new, subsidiary, corporation, insurer, union, cooperative or association, willing to become the new sponsor of the plan, except that—

(1) such sale, transfer, or assignment may not take effect unless first approved by a two-thirds majority vote of all the primary-insured beneficiaries of the plan, and

(2) the terms or conditions and benefits or coverage of the plan, and the eligibility criteria for participation in the plan, may not be altered before such date.

(b) PROVISIONS GOVERNING PLAN.—As of the date of the enactment of this Act, the sponsor of the plan described in subsection (a) becomes subject to all laws governing the operation of a corporation selling health insurance in the applicable State or States and to the provisions of section 122.

SEC. 124. CONTINUATION OF EMPLOYER-PROVIDED HEALTH COVERAGE REQUIRED UNTIL EFFECTIVE DATE OF NEW COVERAGE UNDER THIS ACT.

(a) IN GENERAL.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by inserting after subclause (V) the following new subclause:

"(VI) QUALIFYING EVENT INVOLVING END OF PLAN.—In the case of an event described in paragraph (3)(G), December 31, 1996.".

(b) QUALIFYING EVENT INVOLVING END OF PLAN.—Paragraph (3) of section 4980B(f) of the Internal Revenue Code of 1986 (defining qualifying event) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The termination by the employer of the group health plan after the date of the enactment of the Consumer Choice Health Security Act of 1993.".

(c) CONFORMING AMENDMENT.—Clause (ii) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "The date" and inserting "Except in the case of a qualifying event described in paragraph (3)(G), the date".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring after the date of the enactment of this Act.

SEC. 125. REQUIREMENTS WITH RESPECT TO CASHING OUT EMPLOYER-SPONSORED PLANS.

(a) NON-FEDERAL EMPLOYERS.—

(1) IN GENERAL.—Each employer contributing in whole or in part to an employer-sponsored health insurance plan on December 1, 1996, shall, within 30 days after such date—

(A) notify each employee participating in the plan of the amount spent by the employer on the employee's health insurance, as determined under paragraph (2),

(B) add such amount to the cash wages of the employee commencing with pay periods beginning on and after January 1, 1997, and

(C) hold each employee harmless for the employer's share of any payroll taxes due under chapter 31 of the Internal Revenue Code of 1986 on such amount.

(2) AMOUNT OF INCLUSION.—The amount described in paragraph (1)(A) shall equal the actuarial value of the employer's contribution for group health issuance coverage apportioned to the plan's beneficiaries according to the new premiums for individual and family coverage determined by the insurer.

(3) PRIOR TERMINATION.—Any beneficiary of an employer-sponsored health insurance plan who voluntarily terminates coverage under such a plan before December 1, 1996, forfeits the right to receive the value of the beneficiary's coverage in cash.

(b) COMMISSION ON CASHING OUT FEHBP BENEFITS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established an independent board to be known as the "Benefits Cash Out Commission" (in this subtitle, referred to as the "Commission").

(B) Duties.—The Commission shall study and propose a procedure under which individuals may cash out health benefits under chapter 89 of title 5, United States Code, and pay scales and retirement benefits would be adjusted accordingly. The Commission shall report to Congress regarding such study and proposal not later than 1 year after the date of the enactment of this Act.

(C) Membership.—

(i) In general.—The Commission shall be composed of 13 members appointed by the President by and with the advice and consent of the Senate.

(ii) Consultation.—In selecting individuals for nominations for appointments for the Commission, the President should consult with—

(I) the Speaker of the House of Representatives concerning the appointment of 3 members;

(II) the Majority Leader of the Senate concerning the appointment of 3 members;

(III) the Minority Leader of the House of Representatives concerning the appointment of 3 members; and

(IV) the Minority Leader of the Senate concerning the appointment of 3 members.

(iii) Chair.—The President shall designate 1 individual described in clause (ii) who shall serve as Chair of the Commission.

(iv) Composition of commission.—The membership of the Commission shall include individuals with national recognition for expertise in the valuation of health insurance benefits and of Federal civilian pay and retirement benefits.

(D) Administrative provisions.—

(i) Meetings.—Each meeting of the Commission shall be open to the public.

(ii) Pay and travel expenses.—

(I) In general.—Each member, other than the Chair, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(II) Chair.—The Chair shall be paid for each day referred to in subclause (I) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(III) Travel expenses.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(iii) Staff.—

(I) In general.—Subject to subclauses (II) and (III), the Chair, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(II) Pay.—The Chair may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS-15 of the General Schedule.

(III) Detailed personnel.—Upon request of the Chair, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(iv) Other authority.—

(I) Contract services.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(II) Leases, etc.—The Commission may lease space and acquire personal property to the extent funds are available.

(2) Consideration.—

(A) In general.—The proposal described in paragraph (1)(B) shall be considered by the Congress under the procedures for consideration of an "approval resolution" as described in subparagraph (D).

(B) Effective date of implementation.—The provisions of the proposal shall become effective on January 1, 1997.

(C) Period for resubmission of proposal in case of nonapproval.—If the proposal of the Commission described in subparagraph (A) is not approved by Congress, the Commission shall by not later than January 1, 1996, submit a new proposal to Congress.

(D) Rules governing congressional consideration.—

(i) Rules of house of representatives and senate.—This subparagraph is enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in clause (ii), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(ii) Terms of the resolution.—For purposes of subparagraph (A), the term "approval resolution" means only a joint resolution of the 2 Houses of the Congress, providing in—

(I) the matter after the resolving clause of which is as follows: "That the Congress approves the recommendations of the Benefits Cash Out Commission as submitted by the Commission on ________________", the blank space being filled in with the appropriate date; and

(II) the title of which is as follows: "Joint Resolution approving the recommendation of the Benefits Cash Out Commission".

(iii) Introduction and referral.—On the day on which the recommendation of the Commission is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such recommendation shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such recommendation is transmitted, the approval resolution with respect to such recommendation shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The approval resolution introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(iv) Amendments prohibited.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this clause shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.

(v) Period for committee and floor consideration.—

(I) In general.—Except as provided in subclause (II), if the committee or committees of either House to which an approval resolution has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the approval resolution and it shall be placed on the appropriation calendar. A vote on final passage of the approval resolution shall be taken in each House on or before the close of the 30th day after the approval resolution is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the approval resolution. If prior to the passage by 1 House of an approval resolution of that House, that House receives the same approval resolution from the other House then the procedure in that House shall be the same as if no approval resolution had been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

(II) Computation of days.—For purposes of subclause (I), in computing a number of days in either House, there shall be excluded any day on which the House is not in session.

(vi) Floor consideration in the house of representatives.—

(I) Motion to proceed.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) Debate.—Debate in the House of Representatives on an approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(III) Motion to postpone.—Motions to postpone, made in the House of Representatives with respect to the consideration of an approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(IV) Appeals.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(V) General rules apply.—Except to the extent specifically provided in the preceding provisions of this clause, consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(vii) Floor consideration in the senate.—

(I) Motion to proceed.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) General debate.—Debate in the Senate on an approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(III) Debate of motions and appeals.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the approval resolution, except that in the event the manager of the approval resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(IV) Other motions.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

SEC. 126. ENFORCEMENT.

(a) In General.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by inserting after section 5000 the following new sections:

"SEC. 5000A. FAILURE OF EMPLOYERS WITH RESPECT TO HEALTH INSURANCE.

"(a) General Rule.—There is hereby imposed a tax on the failure of any person to comply with the requirements of sections 121 and 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person.

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) on any failure with respect to an employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) Noncompliance period.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) Correction.—A failure of a person to comply with the requirements of section 121 or 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

"(c) Limitations on Amount of Tax.—

"(1) Tax not to apply where failure not discovered exercising reasonable diligence.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) Tax not to apply to failures corrected within 30 days.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) Waiver by Secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) Liability for Tax.—

"(1) In general.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a health insurance plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the health insurance plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) Special rules for persons described in paragraph (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"SEC. 5000B. FAILURE OF CARRIERS WITH RESPECT TO HEALTH INSURANCE.

"(a) General Rule.—There is hereby imposed a tax on the failure of any carrier offering any health insurance plan to comply with the requirements of sections 122 and 123 of the Consumer Choice Health Security Act of 1993.

"(b) Amount of Tax.—

"(1) In general.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 50 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued by the carrier on whom such tax is imposed.

"(2) Gross premiums.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any health insurance contract.

"(3) Controlled groups.—For purposes of paragraph (1)—

"(A) Controlled group of corporations.—All corporations which are members of the same controlled group of corporations shall be treated as 1 carrier. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) Partnerships, proprietorships, etc., which are under common control.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 carrier. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) Limitation on Tax.—

"(1) Tax not to apply where failure not discovered exercising reasonable diligence.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the carrier on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) Tax not to apply where failures corrected within 30 days.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the carriers on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) Waiver by Secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(b) Clerical Amendments.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new items:

"Sec. 5000A. Failure of employers with respect to health insurance.
"Sec. 5000B. Failure of carriers with respect to health insurance.".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1997.

Subtitle D—State Plan Requirements

SEC. 131. STATE PLAN REQUIREMENTS.

(a) In General.—As a condition of receiving Federal funds for health care programs after December 31, 1996, each State shall meet the requirements of the following subsections.

(b) Health Plans for Uninsured.—The requirement of this subsection is met, if the State establishes a program to provide health insurance coverage at least equal to that of the federally qualified health insurance plans (as defined in section 111) to any resident (other than a federally covered individual (within the meaning on section 34A(b)(2) of the Internal Revenue Code of 1986) who refuses to voluntarily purchase such insurance coverage privately. Such coverage may be through—

(1) the State's program under title XIX of the Social Security Act,

(2) an existing or new State health care program, including a State program established under section 1933 of the Social Security Act,

(3) any private insurer the State contracts with for this purpose, or

(4) any health insurance plan available to the resident.

(c) Enrollment in Plan.—The requirement of this subsection is met, if—

(1) in the case of any uninsured individual described in subsection (b) who is eligible for assistance under a State program established under section 1933 of the Social Security Act, such individual is identified by the State and provided with assistance through such a program, and

(2) in the case of any uninsured individual described in subsection (b) who is not eligible for such assistance, such individual is identified by the State and automatically

enrolled in the program described in subsection (b), except that—

(A) the State may charge such individual a premium for coverage under the program which the State deems appropriate given the cost of coverage and the individual's ability to pay, and

(B) such individual may, upon submitting proof of having purchased a federally qualified health insurance plan (as so defined), terminate coverage under the State program without penalty.

(d) MONITORING.—The requirement of this subsection is met, if the State designates or creates an office of the State government to monitor the health insurance coverage status of workers and their dependents residing in the State for the purposes of determining eligibility for State health care assistance programs.

Subtitle E—Federal Preemption

SEC. 141. FEDERAL PREEMPTION OF CERTAIN STATE LAWS.

All State laws in existence on January 1, 1997, in the following areas are preempted:

(1) MANDATED INSURANCE BENEFIT LAWS.—Laws requiring health insurance policies to cover specific diseases, services, or providers.

(2) ANTI-MANAGED CARE LAWS.—Laws restricting the ability of managed care plans to selectively contract with providers of their choice.

(3) MANDATED COST-SHARING LAWS.—Laws restricting the extent to which insurers may require enrollee cost sharing as part of their plans, or restricting the extent to which managed care plans may impose different levels of cost sharing on enrollee claims for treatment by providers not participating in the plan.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

SEC. 201. STUDY OF MEDICARE PRIVATE HEALTH INSURANCE PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of permitting future medicare beneficiaries to elect, upon attaining medicare eligibility, to retain private health insurance coverage and receive, in lieu of the medicare benefits such beneficiaries would otherwise be entitled to, certificates for use in purchasing private health insurance coverage. The study shall recommend—

(1) certificate amounts which—

(A) provide the maximum assistance possible to eligible individuals,

(B) are adjusted for different classes of beneficiaries on the basis of age, sex, and geography to reflect actuarial differences in the cost of insurance, and

(C) will not further jeopardize the future solvency of the medicare program, as projected by the trustees of the medicare trust funds as of the date of the report of the study,

(2) a mechanism for annually adjusting such amounts, and

(3) legislative, regulatory, and administrative reforms necessary or desirable for establishing such a program.

(b) REPORT.—The Secretary shall submit a report regarding the study described in subsection (a) to the Congress no later than January 1, 1996.

SEC. 202. ELIMINATION OF MEDICARE HOSPITAL DISPROPORTIONATE SHARE ADJUSTMENT PAYMENTS.

Section 1886(d)(5)(F)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(i)) is amended by inserting "and before September 30, 1994," after "1986,".

SEC. 203. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c * (((1+r) to the nth power) - 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1994, 'c' is equal to 1.89,

"(II) October 1, 1994, and before October 1, 1995, 'c' is equal to 1.395, and

"(III) October 1, 1995, 'c' is equal to 0.74.".

SEC. 204. IMPOSITION OF COPAYMENT ON LABORATORY SERVICES.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after October 1, 1994.

SEC. 205. IMPOSITION OF COPAYMENT FOR CERTAIN HOME HEALTH VISITS.

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for home health services furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all per visit costs for home health services furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year), unless such services were furnished to the individual during the 30-day period that begins on the date the individual is discharged as an inpatient from a hospital.".

(2) PART B.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(F) with respect to home health services—

"(i) the lesser of —

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A),

"(ii) if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2), or

"(iii) if (and for so long as) the conditions described in section 1814(b)(3) are met, the amounts determined under the reimbursement system described in such section,

less a copayment amount equal to 20 percent of the average of all per visit costs for home health services furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year), unless such services were furnished to the individual during the 30-day period that begins on the date the individual is discharged as an inpatient from a hospital;".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of such Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health services furnished on or after October 1, 1994.

SEC. 206. IMPOSITION OF COPAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Paragraph (3) of section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a copayment amount equal to 20 percent of the average of all per day costs for such services furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to post-hospital extended care services furnished on or after October 1, 1994.

SEC. 207. SHIFT PAYMENT UPDATES TO JANUARY FOR ALL PAYMENT RATES UNDER HOSPITAL INSURANCE PROGRAM.

(a) PPS HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) in the matter preceding subclause (I), by striking "fiscal year" and inserting "particular time period",

(B) in subclause (IX), by striking "fiscal year 1994", and inserting "the 15-month period beginning on October 1, 1993",

(C) in subclauses (X), (XI), and (XII), by striking "fiscal year", and

(D) in subclause (XIII), by striking "fiscal year 1998 and each subsequent fiscal year" and inserting "1998 and each subsequent calendar year".

(2) OTHER HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(ii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "fiscal years 1994 through 1997" and inserting "the 15-month period beginning on October 1, 1993,", and

(ii) by striking "and" at the end, and

(B) by striking subclause (VI) and insert the following:

"(VI) 1995 through 1997, is the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)), or in the case of a hospital for a calendar year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, and

"(VII) subsequent calendar years is the market basket percentage increase.".

(B) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI)—

"(I) a hospital's 'update adjustment percentage' for a calendar year is the percentage by which the hospital's allowable operating cost of inpatient hospital services recognized under this title for the cost reporting period beginning in fiscal year 1990 exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, increased for each calendar year (beginning with 1995) by the sum of any of the hospital's applicable reductions under subclause (VI) for previous years; and

"(II) the 'applicable reduction' with respect to a hospital for a calendar year is the lesser of 1 percentage point or the percentage point difference between 10 percent and the hospital's update adjustment percentage for the calendar year.".

(3) SOLE COMMUNITY AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(iv) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(i) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993",

(ii) in subclause (III), by striking "fiscal year", and

(iii) in subclause (IV), by striking "fiscal year 1996 and each subsequent fiscal year" and inserting "1996 and each subsequent calendar year".

(B) TARGET AMOUNT ADJUSTMENT.—Section 1886(b)(3)(C) of such Act (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(i) in clause (iii), by inserting "or portion of a cost reporting period occurring before December 31, 1994," before "the target amount", and

(ii) in clause (iv), by striking "fiscal year 1995 and each subsequent fiscal year" and inserting "1995 and each subsequent year".

(C) EXTENSION OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii)(II) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)(II)) is amended—

(i) by striking "for discharges occurring during a fiscal year ending on or before September 30, 1996" and inserting "for discharges occurring during the 15-month period beginning on October 1, 1993, and during any calendar year ending on or before December 31, 1996", and

(ii) by striking "such fiscal year" and inserting "such 15-month period or such calendar year, as the case may be".

(4) CONFORMING AMENDMENTS.—

(A) Section 1886(b)(3)(B)(iii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(i) by inserting "beginning in" after "cost reporting periods",

(ii) by striking "fiscal year" the first place it appears and inserting "particular time period",

(iii) by striking "or fiscal year" the first and second place it appears, and

(iv) by striking "cost reporting period or fiscal year" and inserting "period".

(B) Section 1886(d)(1)(A) of such Act (42 U.S.C. 1395ww(d)(1)(A)) is amended in the matter preceding clause (i) by inserting "or calendar" after "fiscal".

(C) Section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) is amended by inserting "or calendar" after "fiscal" each place it appears.

(D) Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended in the first sentence by inserting "or calendar" after "fiscal" the first place it appears and by inserting "for each fiscal year through 1994" after "in the United States, and".

(E) Section 1886(d)(3)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(ii)) is amended—

(i) by striking "1994," and inserting "1993, and occurring in the 15-month period beginning on October 1, 1993,", and

(ii) by striking "fiscal year" the second and last place it appears and inserting "time period".

(F) Section 1886(d)(3)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking "the fiscal year beginning on October 1, 1994" and inserting "1995".

(G) Section 1886(d)(3)(A)(iv) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(i) by striking "fiscal year beginning on or after October 1, 1995" and inserting "year beginning on or after January 1, 1996",

(ii) by striking "and within each region", and

(iii) by striking "fiscal" each place it appears.

(H) Section 1886(d)(3)(D) of such Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(i) by inserting "or calendar" after "fiscal" each place it appears, and

(ii) by inserting "for each fiscal year through 1994" after "and shall establish".

(I) Section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(i) in the second sentence, by striking "at least every 12 months thereafter" and inserting "beginning January 1, 1995, at least every 12 months thereafter", and

(ii) in the last sentence, by inserting "or calendar" after "fiscal" the first and last place it appears.

(J)(i) Section 1886(d)(4)(C)(iii) of such Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) is amended—

(I) by inserting "or calendar" after "fiscal" the first place it appears, and

(II) by deleting "fiscal" the last place it appears.

(ii) The requirements of paragraphs (3)(E) and (4)(C)(iii) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(K)(i) Section 1886(d)(5)(A) of such Act (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(I) in clause (i), by striking "fiscal years ending on or before September 30, 1997" and inserting "calendar years ending on or before December 31, 1997",

(II) in clause (ii), by striking "fiscal years beginning on or after October 1, 1994" and inserting "calendar years beginning on or after January 1, 1995",

(III) in clause (iv), by inserting "or calendar" after "fiscal",

(IV) in clause (v), by striking "fiscal year" each place it appears, and

(V) in clause (vi), by striking "fiscal" and inserting "calendar".

(ii) The requirement of section 1886(d)(5)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(L) Section 1886(d)(5)(E)(ii) of such Act (42 U.S.C. 1395ww(d)(5)(E)(ii)) is amended by inserting "or calendar" after "fiscal".

(M) Section 1886(d)(6) of such Act (42 U.S.C. 1395ww(d)(6)) is amended by inserting "or December 1 of each calendar year (beginning with calendar year 1995)" after "1984)".

(N) Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended in the matter preceding clause (i) by striking "fiscal year" and inserting "particular time period".

(O) Section 1886(d)(9)(C)(i) of such Act (42 U.S.C. 1395ww(d)(9)(C)(i)) is amended—

(i) by striking "fiscal year" the first place it appears and inserting "time period",

(ii) by striking "for fiscal year 1989", and

(iii) by striking "fiscal years" and inserting "time periods".

(P) Section 1886(d)(10)(C) of such Act (42 U.S.C. 1395ww(d)(10)(C)) is amended—

(i) in clause (i), by striking "fiscal year" and inserting "particular time period", and

(ii) in clause (ii), by inserting "or calendar" after "fiscal" the first place it appears and striking "fiscal" the last place it appears.

(Q) Section 1886(e)(2) of such Act (42 U.S.C. 1395ww(e)(2)) is amended—

(i) in subparagraph (A), by striking "fiscal years" and inserting "particular time periods", and

(ii) in subparagraph (B), by striking "fiscal year" each place it appears and inserting "particular time period".

(R) Section 1886(e)(3) of such Act (42 U.S.C. 1395ww(e)(3)) is amended—

(i) in subparagraph (A)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1986)", and

(II) by striking "that fiscal year" and inserting "the succeeding year", and

(ii) in subparagraph (B)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1989)", and

(II) by striking "that fiscal year" and inserting "the succeeding year".

(S) Section 1886(e)(4)(A) of such Act (42 U.S.C. 1395ww(e)(4)(A)) is amended in the first sentence by striking "fiscal" the first and last place it appears and by striking "(beginning with fiscal year 1988)".

(T) Section 1886(e)(4)(B) of such Act (42 U.S.C. 1395ww(e)(4)(B)) is amended by striking "fiscal" the first place it appears and by striking "(beginning with fiscal year 1992)".

(U) Section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) is amended—

(i) in subparagraph (A), by striking "the May 1 before each fiscal year (beginning with fiscal year 1986) and inserting "May 1" and by striking "that fiscal year" and inserting "the succeeding year",

(ii) in subparagraph (B), by striking "fiscal".

(V) The second and third sentences of section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) are each amended by striking "fiscal" each place it appears.

(W) Section 1886(g)(1)(A) of such Act (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(i) by striking "fiscal years 1992, through 1995" and inserting "fiscal years 1992 and 1993, the 15-month period beginning on October 1, 1993, and calendar year 1995", and

(ii) by striking "such fiscal year" and inserting "such period".

(5) CLERICAL AMENDMENTS CONCERNING TRANSITIONAL PAYMENTS FOR A RECLASSIFIED HOSPITAL.—

(A) Section 1886(d)(8)(A) of such Act (42 U.S.C. 1395ww(d)(8)(A)) is amended in the matter preceding clause (i), by striking "cost reporting periods" and inserting "years".

(B) Section 1886(d)(8)(A)(i) of such Act (42 U.S.C. 1395ww(d)(8)(A)(i)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(C) Section 1886(d)(8)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(8)(A)(ii)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(b) HOME HEALTH AGENCIES.—Clause (iii) of section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by striking "July 1, 1991, and annually thereafter (but not for cost reporting periods beginning on and after July 1, 1994, and before July 1, 1996)" and inserting "July 1 of 1991, 1992, and 1993 (but not for cost reporting periods beginning on and after July 1, 1994, and before January 1, 1997), and annually thereafter ".

(c) HOSPICE CARE.—

(1) IN GENERAL.—Clause (ii) of section 1814(i)(1)(C) of such Act (42 U.S.C. 1395f(i)(1)(C)) is amended—

(A) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993", and

(B) in subclauses (III), (IV), (V), and (VI), by striking "fiscal year" each place it appears and inserting "calendar year".

(2) CONFORMING AMENDMENT.—Section 1814(i)(2) of such Act (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'accounting year' means—

"(i) fiscal years 1985 through 1993,

"(ii) the 15-month period beginning on October 1, 1993, and

"(iii) calendar years beginning on or after January 1, 1995.".

(d) SKILLED NURSING FACILITY SERVICES.—

(1) IN GENERAL.—The last sentence of section 1888(a) of such Act (42 U.S.C. 1395yy(b)) is amended by striking "October 1, 1995" and inserting "January 1, 1996".

(2) CONFORMING AMENDMENTS.—

(A) Section 1888(d)(4) of such Act (42 U.S.C. 1395yy(d)(4)) is amended by striking "fiscal" each place it appears.

(B) Subsections (a)(1) and (b) of section 13503 of the Omnibus Budget Reconciliation Act of 1993 are amended by striking "fiscal years 1994 and 1995" each place it appears and inserting "the 15-month period beginning on October 1, 1993, and calendar year 1995".

SEC. 208. ACCELERATION OF TRANSITION TO PROSPECTIVE RATES FOR FACILITY COSTS IN HOSPITAL OUTPATIENT DEPARTMENTS.

(a) OUTPATIENT SURGERY.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) in subclause (I)—

(A) by striking "and 42 percent" and inserting "42 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 25 percent for portions of cost reporting periods beginning in fiscal year 1995, and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995", and

(2) in subclause (II)—

(A) by striking "and 58 percent" and inserting "58 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 75 percent for portions of cost reporting periods beginning in fiscal year 1995, and 100 percent for portions of cost reporting periods beginning on or after October 1, 1995".

(b) OUTPATIENT RADIOLOGY AND DIAGNOSTIC SERVICES.—Section 1833(n)(1)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking "January 1, 1991." and inserting "January 1, 1991, and beginning on or before September 30, 1994. The term means 25 percent for portions of cost reporting periods beginning in fiscal year 1995 and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995.".

Subtitle B—Medicaid

SEC. 211. CAP ON FEDERAL PAYMENTS MADE FOR ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"CAP ON FEDERAL PAYMENT MADE FOR ACUTE MEDICAL SERVICES FURNISHED UNDER THE MEDICAID PROGRAM

"SEC. 1931. (a) ANNUAL FEDERAL CAP.—For purposes of furnishing acute medical services to eligible individuals, the Secretary shall pay to a State for a fiscal year under section 1903 an amount that does not exceed the State's total funding amount for such fiscal year determined under subsection (b).

"(b) STATE TOTAL FUNDING AMOUNT.—

"(1) IN GENERAL.—A State's total funding amount for a fiscal year is an amount equal to the lesser of—

"(A) the sum of—

"(i) the product of—

"(I) the per-adult funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are at least 21 years of age who will receive acute medical services in the State during the fiscal year; and

"(ii) the product of—

"(I) the per-child funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are under 21 years of age who will receive acute medical services in the State during the fiscal year; or

"(B) the maximum Federal amount for such State (as determined under paragraph (3)).

"(2) PER-ADULT AND PER-CHILD FUNDING AMOUNTS.—The Secretary shall calculate for each State a per-adult funding amount and a per-child funding amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995—

"(I) the per-adult funding amount for a State shall be an amount equal to the base per-adult funding amount determined under subparagraph (B) increased by 20 percent of such amount; and

"(II) the per-child funding amount for the State shall be an amount equal to the base per-child funding amount for the State determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the per-adult funding amount for a State and the per-child funding amount for a State, respectively, shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 1 percentage point.

"(B) BASE PER-ADULT FUNDING AMOUNT.—The base per-adult funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were at least 21 years of age; divided by

"(ii) the total number of eligible individuals who were at least 21 years of age who received acute medical services in such State during fiscal year 1993.

"(C) BASE PER-CHILD FUNDING AMOUNT.—The base per-child funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were under 21 years of age; divided by

"(ii) the total number of eligible individuals who were under 21 years of age who received acute medical services in such State during fiscal year 1993.

"(3) MAXIMUM FEDERAL AMOUNT.—The Secretary shall calculate for each State a maximum Federal amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995, the maximum Federal amount for a State shall be an amount equal to the base maximum Federal amount determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the maximum Federal amount for a State shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 2.5 percentage points.

"(B) BASE MAXIMUM FEDERAL AMOUNT.—

"(i) IN GENERAL.—The base maximum Federal amount for a State is an amount equal to the State's applicable percentage (as determined under clause (ii)) of the State's total maximum amount (as determined under clause (iii)).

"(ii) STATE'S APPLICABLE PERCENTAGE.—A State's applicable percentage determined under this clause is a percentage equal to the quotient of—

"(I) the amount of Federal funds paid to the State for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993, divided by

"(II) the amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(iii) STATE'S TOTAL MAXIMUM AMOUNT.—A State's total maximum amount determined under this clause is an amount equal to the applicable percentage of the total amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(c) MINIMUM EXPENDITURE BY STATES.—

"(1) IN GENERAL.—For the purpose of furnishing acute medical services to eligible individuals and providing administrative services to such individuals in a fiscal year, a State shall incur expenditures which are at least equal to the product of—

"(A) the State's updated per capita amount, and

"(B) the total number of eligible individual's receiving acute medical services in the State during such fiscal year.

"(2) UPDATED PER CAPITA AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The updated per capita amount for a State shall be—

"(i) for fiscal year 1995, an amount equal to the State's base per capita amount, and

"(ii) for fiscal year 1996 and each succeeding fiscal year, an amount equal to the amount determined under this subparagraph for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(B) BASE PER CAPITA AMOUNT.—The base per capita amount for a State shall be an amount equal to the quotient of—

"(i) the total amount of State expenditures in fiscal year 1993 for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals, divided by

"(ii) the total number of eligible individuals receiving acute medical services during fiscal year 1993.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ACUTE MEDICAL SERVICES.—The term 'acute medical services' means all of the care and services furnished to individuals eligible under a State plan under this title except the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)).

"(J) Hospice care (as defined in section 1905(o)).

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is eligible to receive medical assistance under the State plan under this title.

"(3) FEDERAL FUNDS.—The term 'Federal funds' means funds paid to a State under section 1903, excluding funds paid under such section with respect to expenditures by such State in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(4) STATE EXPENDITURES.—The term 'State expenditures' means expenditures by a State under its plan under this title, excluding expenditures in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

SEC. 212. WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1932 as section 1933 and by inserting after section 1931 the following new section:

"WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM

"SEC. 1932. (a) IN GENERAL.—The Secretary shall establish a process under which a State with a State plan approved under this title may apply for waivers of any of the requirements under this title in order to establish innovative and cost effective programs for furnishing acute medical services (as defined in section 1931(d)(1)) to eligible individuals (as defined in section 1931(d)(2)).

"(b) APPLICATION FOR WAIVERS.—

"(1) IN GENERAL.—In order to receive a waiver under subsection (a), a State shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

"(2) APPROVAL OF APPLICATION.—

"(A) INITIAL REVIEW.—Within 60 days after an application is submitted by the State under this subsection, the Secretary shall review and approve such application or provide the State with a list of the modifications that are necessary for such application to be approved.

"(B) ADDITIONAL REVIEW.—Within 60 days after a State resubmits any application under this subsection, the Secretary shall review and approve such application or provide the State with a summary of which items included on the list provided to the State under subparagraph (A) remain unsatisfied. A State may resubmit an application under this subparagraph as many times as necessary to gain approval.

"(c) DURATION OF WAIVERS.—Except as provided in subsection (d), any waiver under this section shall be granted for a period of 5 years, and renewed for subsequent 5-year periods, unless the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(d) TERMINATION OF WAIVERS.—The Secretary may terminate a waiver granted under this section at any time if the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(e) REPORTS.—

"(1) IN GENERAL.—The State shall, through an independent entity, evaluate the programs operated under a waiver granted under this section and submit interim and final reports to the Secretary at such times and containing such information as the Secretary shall require.

"(2) REPORT TO CONGRESS.—Not later than 60 days after the receipt of a final report by the State regarding a waiver granted under this section, the Secretary shall submit a report to Congress.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

SEC. 213. TERMINATION OF DISPROPORTIONATE SHARE PAYMENTS.

(a) IN GENERAL.—

(1) ELIMINATION OF STATE PLAN REQUIREMENT.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended by striking "which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and".

(2) CONFORMING AMENDMENTS.—(A) Section 1923 of such Act (42 U.S.C. 1396r–4) is repealed.

(B) Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended by striking "facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and".

(C) Section 1902(s) of such Act (42 U.S.C. 1396a(s)) is amended by striking ", and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1),".

(D) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by striking "and subsection 1923(f)".

(E) Section 1903(d)(6) of such Act (42 U.S.C. 1396b(d)(6)) is amended—

(i) by striking "(6)(A)" and inserting "(6)",

(ii) by striking "(i)" and "(ii)" and inserting "(A)" and "(B)", respectively, and

(iii) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after October 1, 1996.

SEC. 214. GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION

"SEC. 1933. (a) IN GENERAL.—The Secretary shall provide grants to States for the purpose of conducting State programs under which individuals with incomes below 150 percent of the income official poverty line are provided health insurance coverage, acute medical services, preventive care, and disease prevention services. A State receiving a grant under this section shall conduct a program described in this section in consultation with the Secretary and in any manner determined appropriate by the State which is in accordance with subsection (b).

"(b) REQUIREMENTS ON PROGRAMS.—

"(1) PRIORITY OF BENEFITS.—A State program conducted under this section shall give priority to individuals who—

"(A) are ineligible for benefits under a State plan under title XIX of the Social Security Act,

"(B) are eligible for the tax credit established under section 34A of the Internal Revenue Code of 1986, and

"(C) have unreimbursed expenses for health insurance coverage and medical care—

"(i) exceeding 5 percent of the individual's adjusted gross income, and

"(ii) not otherwise taken into account in determining the credit under section 34A of the Internal Revenue Code of 1986 for such individual.

"(2) SERVICES.—

"(A) MANDATORY.—A State program conducted under this section shall provide financial assistance as determined by the State for purchasing health insurance coverage and paying medical bills to individuals described in paragraph (1).

"(B) OPTIONAL.— A State program conducted under this section may provide—

"(i) medical services directly to eligible individuals,

"(ii) primary and preventive care services to underserved populations,

"(iii) funding for community and migrant health centers,

"(iv) delivery of outpatient primary and preventive health services,

"(v) improvements to the availability and quality of emergency medical services and trauma care,

"(vi) transportation of victims of medical emergencies, including air transportation for victims of medical emergencies in rural areas, and

"(vii) telecommunications systems between rural medical facilities and other medical facilities which have expertise in certain areas or equipment that can be utilized by rural facilities through such systems.

"(c) FEDERAL FUNDS AVAILABLE FOR GRANTS.—

"(1) IN GENERAL.—The total amount of Federal funds available under this title for grants to States under this section shall be—

"(A) $14,200,000,000 for fiscal year 1997,

"(B) $15,800,000,000 for fiscal year 1998,

"(C) $17,400,000,000 for fiscal year 1999,

"(D) $20,000,000,000 for fiscal year 2000, and

"(E) for each fiscal year thereafter, the amount for the preceding fiscal year increased by 7.5 percent of such amount.

"(2) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(A) IN GENERAL.—The Secretary shall pay to each State conducting a program under this section for a fiscal year an amount equal to the State's percentage (as determined under subparagraph (B)) of the total amount available for grants under this section as provided in paragraph (1).

"(B) STATE PERCENTAGE.—

"(i) IN GENERAL.—A State's percentage determined under this subparagraph for a fiscal year is a percentage equal to the quotient of—

"(I) the number of individuals in the State's needy population (as defined in clause (ii)) for such fiscal year, divided by

"(II) the total number of individuals in the needy populations of all States for the fiscal year.

"(ii) STATE NEEDY POPULATION.—The term "State's needy population" means, with respect to a fiscal year, the number of individuals equal to the product of—

"(I) the average number of individuals in the State with incomes below the income official poverty line during the 3 preceding fiscal years (as determined by the Secretary), and

(II) the State's Federal percentage (as determined under clause (iii)).

"(iii) STATE FEDERAL PERCENTAGE.—

"(I) IN GENERAL.—A State's Federal percentage for a fiscal year is the greater of—

"(aa) 1 minus the percentage determined under subclause (II), or

"(bb) 40 percent.

"(II) PERCENTAGE DETERMINED.—The percentage determined under this subclause is the product of—

"(aa) .40, and

"(bb) the product of the amount determined under subclause (III) multiplied by itself.

"(III) AMOUNT DETERMINED.—The amount determined under this subclause is the quotient of—

"(aa) the State's share of total taxable resources, divided by

"(bb) the State's share of need.

"(d) STATE EXPENDITURES.—

"(1) IN GENERAL.—For a fiscal year, a State shall expend for purposes of conducting the State program described in subsection (a) an amount at least equal to—

"(A) for fiscal year 1997, the base year DSH payment for the State (as defined in paragraph (2)) updated by the percentage change in the consumer price index between fiscal year 1996 and fiscal year 1995 (as determined by the Secretary of Commerce), and

"(B) for fiscal year 1998 and each succeeding fiscal year, an amount equal to the amount determined under this clause for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(2) BASE YEAR DSH PAYMENT.—For purposes of paragraph (1), the term 'base year DSH payment' means the amount of expenditures made by the State in fiscal year 1996 in the form of payment adjustments in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(e) OTHER DEFINITIONS.—

"(1) INCOME OFFICIAL POVERTY LINE.—For purposes of this section, the term 'income official poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(2) STATE'S SHARE OF TOTAL TAXABLE RESOURCES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of total taxable resources for the State (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years), divided by

"(ii) the average of the total taxable resources for all States (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years).

"(B) SPECIAL RULE FOR THE DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), with respect to the District of Columbia, the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of the total personal income in such District for the 3 preceding calendar years (as determined by the Secretary of Commerce), divided by

"(ii) the average of the total personal income for all States for the 3 preceding calendar years (as determined by the Secretary of Commerce).

"(3) STATE'S SHARE OF NEED.—The term 'State's share of need' for a fiscal year means the quotient of—

"(A) the average number of individuals in the State with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary), divided by

"(B) the average number of individuals in all States with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1996.

TITLE III—HEALTH CARE LIABILITY REFORM

SEC. 301. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform Act of 1993".

SEC. 302. DEFINITIONS.

For purposes of this title the term—

(1) "approved by the Food and Drug Administration" means, with respect to a health care product, that the health care product—

(A) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug or device was approved by the Food and Drug Administration; or

(B) is generally recognized as safe and effective under conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations;

(2) "arbitration" means a dispute resolution process in which the parties submit the dispute outside of a Federal or State civil justice system for resolution by a person or panel of persons;

(3) "economic losses" means losses for hospital and medical expenses, lost wages, lost employment, and other pecuniary losses;

(4) "health care malpractice action" means a civil action alleging a health care malpractice claim against a health care provider or health care professional;

(5) "health care malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services based on negligence or gross negligence, breach of express or implied warranty or contract, or failure to discharge a duty to warn or instruct to obtain consent;

(6) "health care product" means a drug, as defined under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device, as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), or any combination thereof;

(7) "health care product liability action" means a civil action alleging a health care product liability claim against a manufacturer or seller of a health care product or against a health care provider or health care professional;

(8) "health care product liability claim" means any claim relating to harm alleged to have been caused by a health care product;

(9) "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State, including a physician, nurse, chiropractor, nurse midwife, physical therapist, social worker, or physician assistant;

(10) "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State;

(11) "injury" means any injury, illness, disease, or other harm that is the subject of a health care malpractice claim; and

(12) "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental

anguish, disfigurement, loss of enjoyment of life, and other nonpecuniary losses.

SEC. 303. HEALTH CARE MALPRACTICE.

(a) APPLICATION.—The provisions of this section shall apply to any health care malpractice action filed in any Federal or State court and any health care malpractice claim resolved through arbitration.

(b) PAYMENTS.—No person may be required to pay more than $100,000 in a single payment in damages for expenses to be incurred in the future, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based on projections of when expenses are likely to be incurred.

(c) DAMAGES.—(1) The total amount of damages received by an individual shall be reduced, in accordance with paragraph (2), by any other payment which has been made or which will be made to such individual to compensate such individual for an injury, including payments under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other source of payment intended to compensate such individual for such injury.

(2) The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described under subparagraph (A).

(d) STATUTE OF LIMITATIONS.—(1) Except as provided under paragraph (2), no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the expiration of the 4-year period that begins on the date the alleged injury occurred, whichever is later.

(2) In the case of an alleged injury suffered by a minor who has not attained 6 years of age, no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the date on which the minor attains 10 years of age, whichever is later.

(e) ATTORNEYS' FEES.—With respect to any health care malpractice action or any health care malpractice claim, attorneys' fees may not exceed—

(1) 25 percent of the first $150,000 of any award or settlement under such action or claim; and

(2) 15 percent of any additional amounts in excess of $150,000.

SEC. 304. HEALTH CARE PRODUCT LIABILITY OF MANUFACTURER OR SELLER.

(a) NONAPPLICATION OF STRICT LIABILITY.—A manufacturer or seller of a health care product approved by the Food and Drug Administration shall not be strictly liable for any injury alleged to have resulted from—

(1) a defect in the design of the health care product; or

(2) a failure to warn or instruct regarding a risk posed by the health care product that was neither known nor reasonably knowable at the time the health care product left the control of the manufacturer or seller.

(b) DUTY TO WARN.—(1) A manufacturer or seller of a health care product that is to be prescribed by, or used at the direction of, a health care professional shall not be liable for harm allegedly caused by a failure to warn or instruct the ultimate user or recipient of the product about a risk if the manufacturer or seller provided adequate warning or instruction to the user's or recipient's health care professional.

(2) This subsection shall not apply to any health care product to which the Food and Drug Administration specifically provides that a warning or instruction regarding such product shall be given by the manufacturer or seller directly to the ultimate user or recipient.

SEC. 305. GENERAL PROVISIONS RELATING TO HEALTH CARE LIABILITY.

(a) LIMITATION ON NONECONOMIC DAMAGES.—(1) Except as provided under paragraph (2), the total amount of damages which may be awarded to an individual and the family members of such individual for noneconomic losses resulting from an injury which is the subject of a health care malpractice claim or a health care product liability claim may not exceed $250,000, regardless of the number of defendants against whom the claim is brought, the number of claims brought with respect to the injury, or the number of actions brought with respect to the injury.

(2)(A) In any jury trial, the jury shall not be informed of the limitation established under paragraph (1). If the jury awards an amount for noneconomic damages that exceeds $250,000, the court shall reduce the award to $250,000 unless the court finds that special circumstances (such as egregious injury) would make such reduction unjust.

(B) In any case in which the court finds a reduction under subparagraph (A) would be unjust, the court may—

(i) decline to reduce such award; or

(ii) reduce such award by a lesser amount than provided for under subparagraph (A).

(b) SEVERAL LIABILITY FOR NONECONOMIC LOSS.—(1) In any health care malpractice action or health care product liability action the liability of each defendant for noneconomic loss and for punitive damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss and punitive damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under paragraph (2). A separate judgment shall be rendered against such defendant for that amount.

(2) For purposes of this subsection, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 306. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable law, be awarded against a defendant in a health care malpractice action or a health care product liability action only if the claimant establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting conscious, flagrant indifference to the health of the claimant or to the health of those persons who might be harmed by the health care product.

(b) DETERMINATION OF AMOUNT.—The amount of any punitive damages award shall be determined (subject to appellate review as permitted by applicable law) by the trial judge.

(c) LIMITATION CONCERNING CERTAIN HEALTH CARE PRODUCTS.—Punitive damages shall not be awarded against a manufacturer or seller of a health care product approved by the Food and Drug Administration where that health care product caused the claimant's harm.

SEC. 307. EXCEPTIONS.

The provisions of sections 304(a) and 306(c) shall not apply in any case in which—

(1) the defendant, before or after premarket approval of a drug or device, withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government required information that is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(2) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device.

SEC. 308. RULES OF CONSTRUCTION.

Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the grounds of inconvenient forum;

(6) restrict or limit the preemptive effect of any other Federal law; or

(7) create any cause of action under Federal law.

TITLE IV—ADMINISTRATIVE COST SAVINGS

Subtitle A—Standardization of Claims Processing

SEC. 401. ADOPTION OF DATA ELEMENTS, UNIFORM CLAIMS, AND UNIFORM ELECTRONIC TRANSMISSION STANDARDS.

(a) IN GENERAL.—The Secretary shall adopt standards relating to each of the following:

(1) Data elements for use in paper and electronic claims processing under health insurance plans, as well as for use in utilization review and management of care (including data fields, formats, and medical nomenclature, and including plan benefit and insurance information).

(2) Uniform claims forms (including uniform procedure and billing codes for uses with such forms and including information on other health insurance plans that may be liable for benefits).

(3) Uniform electronic transmission of the data elements (for purposes of billing and utilization review).

Standards under paragraph (3) relating to electronic transmission of data elements for claims for services shall supersede (to the extent specified in such standards) the standards adopted under paragraph (2) relating to the submission of paper claims for such services. Standards under paragraph (3) shall include protections to assure the confidentiality of patient-specific information and to protect against the unauthorized use and disclosure of information.

(b) USE OF TASK FORCES.—In adopting standards under this section—

(1) the Secretary shall take into account the recommendations of current task forces, including at least the Workgroup on Electronic Data Interchange, National Uniform

Billing Committee, the Uniform Claim Task Force, and the Computer-based Patient Record Institute;

(2) the Secretary shall consult with the National Association of Insurance Commissioners (and, with respect to standards under subsection (a)(3), the American National Standards Institute); and

(3) the Secretary shall, to the maximum extent practicable, seek to make the standards consistent with any uniform clinical data sets which have been adopted and are widely recognized.

(c) DEADLINES FOR PROMULGATION.—The Secretary shall promulgate the standards under—

(1) subsection (a)(1) relating to claims processing data, by not later than 12 months after the date of the enactment of this Act;

(2) subsection (a)(2) (relating to uniform claims forms) by not later than 12 months after the date of the enactment of this Act; and

(3)(A) subsection (a)(3) relating to transmission of information concerning hospital and physicians services, by not later than 24 months after the date of the enactment of this Act, and

(B) subsection (a)(3) relating to transmission of information on other services, by such later date as the Secretary may determine it to be feasible.

(d) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress recommendations regarding restructuring the medicare peer review quality assurance program given the availability of hospital data in electronic form.

SEC. 402. APPLICATION OF STANDARDS.

(a) IN GENERAL.—If the Secretary determines, at the end of the 2-year period beginning on the date that standards are adopted under section 401 with respect to classes of services, that a significant number of claims for benefits for such services under health insurance plans are not being submitted in accordance with such standards, the Secretary may require, after notice in the Federal Register of not less than 6 months, that all providers of such services must submit claims to health insurance plans in accordance with such standards. The Secretary may waive the application of such a requirement in such cases as the Secretary finds that the imposition of the requirement would not be economically practicable.

(b) SIGNIFICANT NUMBER.—The Secretary shall make an affirmative determination described in subsection (a) for a class of services only if the Secretary finds that there would be a significant, measurable additional gain in efficiencies in the health care system that would be obtained by imposing the requirement described in such paragraph with respect to such services.

(c) APPLICATION OF REQUIREMENT.—

(1) IN GENERAL.—If the Secretary imposes the requirement under subsection (a)—

(A) in the case of a requirement that imposes the standards relating to electronic transmission of claims for a class of services, each health care provider that furnishes such services for which benefits are payable under a health insurance plan shall transmit electronically and directly to the plan on behalf of the beneficiary involved a claim for such services in accordance with such standards;

(B) any health insurance plan may reject any claim subject to the standards adopted under section 401 but which is not submitted in accordance with such standards;

(C) it is unlawful for a health insurance plan (i) to reject any such claim on the basis of the form in which it is submitted if it is submitted in accordance with such standards or (ii) to require, for the purpose of utilization review or as a condition of providing benefits under the plan, a provider to transmit medical data elements that are inconsistent with the standards established under section 401(a)(1); and

(D) the Secretary may impose a civil money penalty on any provider that knowingly and repeatedly submits claims in violation of such standards or on any health insurance plan (other than a health insurance plan described in paragraph (2)) that knowingly and repeatedly rejects claims in violation of subparagraph (B), in an amount not to exceed $100 for each such claim.

The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under subparagraph (D) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan—

(A) that is subject to regulation by a State, and

(B) with respect to which the Secretary finds that—

(i) the State provides for application of the standards established under section 401, and

(ii) the State regulatory program provides for the appropriate and effective enforcement of such standards.

(d) TREATMENT OF REJECTIONS.—If a plan rejects a claim pursuant to subsection (c)(1), the plan shall permit the person submitting the claim a reasonable opportunity to resubmit the claim on a form or in an electronic manner that meets the requirements for acceptance of the claim under such subsection.

SEC. 403. PERIODIC REVIEW AND REVISION OF STANDARDS.

(a) IN GENERAL.—The Secretary shall—

(1) provide for the ongoing receipt and review of comments and suggestions for changes in the standards adopted and promulgated under section 401;

(2) establish a schedule for the periodic review of such standards; and

(3) based upon such comments, suggestions, and review, revise such standards and promulgate such revisions.

(b) APPLICATION OF REVISED STANDARDS.—If the Secretary under subsection (a) revises the standards described in 401, then, in the case of any claim for benefits submitted under a health insurance plan more than the minimum period (of not less than 6 months specified by the Secretary) after the date the revision is promulgated under subsection (a)(3), such standards shall apply under section 402 instead of the standards previously promulgated.

SEC. 404. HEALTH INSURANCE PLAN DEFINED.

In this title, the term "health insurance plan" has the meaning given such term in section 111(b) and includes—

(1) the medicare program (under title XVIII of the Social Security Act) and medicare supplemental health insurance, and

(2) a State medicaid plan (approved under title XIX of such Act).

Subtitle B—Electronic Medical Data Standards

SEC. 411. MEDICAL DATA STANDARDS FOR HOSPITALS AND OTHER PROVIDERS.

(a) PROMULGATION OF HOSPITAL DATA STANDARDS.—

(1) IN GENERAL.—Between July 1, 1995, and January 1, 1996, the Secretary shall promulgate standards described in subsection (b) for hospitals concerning electronic medical data.

(2) REVISION.—The Secretary may from time to time revise the standards promulgated under this subsection.

(b) CONTENTS OF DATA STANDARDS.—The standards promulgated under subsection (a) shall include at least the following:

(1) A definition of a standard set of data elements for use by utilization and quality control peer review organizations.

(2) A definition of the set of comprehensive data elements, which set shall include for hospitals the standard set of data elements defined under paragraph (1).

(3) Standards for an electronic patient care information system with data obtained at the point of care, including standards to protect against the unauthorized use and disclosure of information.

(4) A specification of, and manner of presentation of, the individual data elements of the sets and system under this subsection.

(5) Standards concerning the transmission of electronic medical data.

(6) Standards relating to confidentiality of patient-specific information.

The standards under this section shall be consistent with standards for data elements established under section 401.

(c) OPTIONAL DATA STANDARDS FOR OTHER PROVIDERS.—

(1) IN GENERAL.—The Secretary may promulgate standards described in paragraph (2) concerning electronic medical data for providers that are not hospitals. The Secretary may from time to time revise the standards promulgated under this subsection.

(2) CONTENTS OF DATA STANDARDS.—The standards promulgated under paragraph (1) for non-hospital providers may include standards comparable to the standards described in paragraphs (2), (4), and (5) of subsection (b) for hospitals.

(d) CONSULTATION.—In promulgating and revising standards under this section, the Secretary shall—

(1) consult with the American National Standards Institute, hospitals, with the advisory commission established under section 415, and with other affected providers, health insurance plans, and other interested parties, and

(2) take into consideration, in developing standards under subsection (b)(1), the data set used by the utilization and quality control peer review program under part B of title XI of the Social Security Act.

SEC. 412. APPLICATION OF ELECTRONIC DATA STANDARDS TO CERTAIN HOSPITALS.

(a) MEDICARE REQUIREMENT FOR SHARING OF HOSPITAL INFORMATION.—As of January 1, 1996, subject to paragraph (2), each hospital, as a requirement of each participation agreement under section 1866 of the Social Security Act, shall—

(1) maintain clinical data included in the set of comprehensive data elements under section 411(b)(2) in electronic form on all inpatients,

(2) upon request of the Secretary or of a utilization and quality control peer review organization (with which the Secretary has entered into a contract under part B of title XI of such Act), transmit electronically the data set, and

(3) upon request of the Secretary, or of a fiscal intermediary or carrier, transmit electronically any data (with respect to a claim) from such data set,

in accordance with the standards promulgated under section 411(a).

(b) WAIVER AUTHORITY.—Until January 1, 2000:

(1) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is a small rural hospital, for such period as the hospital demonstrates compliance with such requirements would constitute an undue financial hardship.

(2) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is in the process of developing a system to provide the required data set and executes agreements with its fiscal intermediary and its utilization and quality control peer review organization that the hospital will meet the requirements of subsection (a) by a specified date (not later than January 1, 2000).

(3) The Secretary may waive the application of the requirement of subsection (a)(1) for a hospital that agrees to obtain from its records the data elements that are needed to meet the requirements of paragraphs (2) and (3) of subsection (a) and agrees to subject its data transfer process to a quality assurance program specified by the Secretary.

(c) APPLICATION TO HOSPITALS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall provide that each hospital of the Department of Veterans Affairs shall comply with the requirements of subsection (a) in the same manner as such requirements would apply to the hospital if it were participating in the Medicare program.

(2) WAIVER.—The Secretary of Veterans Affairs may waive the application of such requirements to a hospital in the same manner as the Secretary of Health and Human Services may waive under subsection (b) the application of the requirements of subsection (a).

SEC. 413. ELECTRONIC TRANSMISSION TO FEDERAL AGENCIES.

(a) IN GENERAL.—Effective January 1, 2000, if a provider is required under a Federal program to transmit a data element that is subject to a presentation or transmission standard (as defined in subsection (b)), the head of the Federal agency responsible for such program (if not otherwise authorized) is authorized to require the provider to present and transmit the data element electronically in accordance with such a standard.

(b) PRESENTATION OR TRANSMISSION STANDARD DEFINED.—In subsection (a), the term "presentation or transmission standard" means a standard, promulgated under subsection (b) or (c) of section 411, described in paragraph (4) or (5) of section 411(b).

SEC. 414. LIMITATION ON DATA REQUIREMENTS WHERE STANDARDS IN EFFECT.

(a) IN GENERAL.—If standards with respect to data elements are promulgated under section 411 with respect to a class of provider, a health insurance plan may not require, for the purpose of utilization review or as a condition of providing benefits under the plan, that a provider in the class—

(1) provide any data element not in the set of comprehensive data elements specified under such standards, or

(2) transmit or present any such data element in a manner inconsistent with the applicable standards for such transmission or presentation.

(b) COMPLIANCE.—

(1) IN GENERAL.—The Secretary may impose a civil money penalty on any health insurance plan (other than a health insurance plan described in paragraph (2)) that fails to comply with subsection (a) in an amount not to exceed $100 for each such failure. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan that is subject to regulation by a State, if the Secretary finds that—

(A) the State provides for application of the requirement of subsection (a), and

(B) the State regulatory program provides for the appropriate and effective enforcement of such requirement with respect to such plans.

SEC. 415. ADVISORY COMMISSION.

(a) IN GENERAL.—The Secretary shall establish an advisory commission including hospital executives, hospital data base managers, physicians, health services researchers, and technical experts in collection and use of data and operation of data systems. Such commission shall include, as ex officio members, a representative of the Director of the National Institutes of Health, the Administrator for Health Care Policy and Research, the Secretary of Veterans Affairs, and the Director of the Centers for Disease Control.

(b) FUNCTIONS.—The advisory commission shall monitor and advise the Secretary concerning—

(1) the standards established under this subtitle, and

(2) operational concerns about the implementation of such standards under this subtitle.

(c) STAFF.—From the amounts appropriated under subsection (d), the Secretary shall provide sufficient staff to assist the advisory commission in its activities under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1995 through 2000 to carry out this section.

Subtitle C—Development and Distribution of Comparative Value Information

SEC. 421. STATE COMPARATIVE VALUE INFORMATION PROGRAMS FOR HEALTH CARE PURCHASING.

(a) PURPOSE.—In order to assure the availability of comparative value information to purchasers of health care in each State, the Secretary shall determine whether each State is developing and implementing a health care value information program that meets the criteria and schedule set forth in subsection (b).

(b) CRITERIA AND SCHEDULE FOR STATE PROGRAMS.—The criteria and schedule for a State health care value information program in this subsection shall be specified by the Secretary as follows:

(1) The State begins promptly after enactment of this Act to develop (directly or through contractual or other arrangements with 1 or more States, coalitions of health insurance purchasers, other entities, or any combination of such arrangements) information systems regarding comparative health values.

(2) The information contained in such systems covers at least the average prices of common health care services (as defined in subsection (d)) and health insurance plans, and, where available, measures of the variability of these prices within a State or other market areas.

(3) The information described in paragraph (2) is made available within the State beginning not later than 1 year after the date of the enactment of this Act, and is revised as frequently as reasonably necessary, but at intervals of no greater than 1 year.

(4) Not later than 6 years after the date of the enactment of this Act the State has developed information systems that provide comparative costs, quality, and outcomes data with respect to health insurance plans and hospitals and made the information broadly available within the relevant market areas.

Nothing in this section shall preclude a State from providing additional information, such as information on prices and benefits of different health insurance plans, available.

(c) GRANTS TO STATES FOR THE DEVELOPMENT OF STATE PROGRAMS.—

(1) GRANT AUTHORITY.—The Secretary may make grants to each State to enable such State to plan the development of its health care value information program and, if necessary, to initiate the implementation of such program. Each State seeking such a grant shall submit an application therefor, containing such information as the Secretary finds necessary to assure that the State is likely to develop and implement a program in accordance with the criteria and schedule in subsection (b).

(2) OFFSET AUTHORITY.—If, at any time within the 3-year period following the receipt by a State of a grant under this subsection, the Secretary is required by section 422 to implement a health care information program in the State, the Secretary may recover the amount of the grant under this subsection by offset against any other amount payable to the State under the Social Security Act. The amount of the offset shall be made available (from the appropriation account with respect to which the offset was taken) to the Secretary to carry out such section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to make grants under this subsection, to remain available until expended.

(d) COMMON HEALTH CARE SERVICES DEFINED.—In this section, the term "common health care services" includes such procedures as the Secretary may specify and any additional health care services which a State may wish to include in its comparative value information program.

(e) STATE DEFINED.—In this title, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

SEC. 422. FEDERAL IMPLEMENTATION.

(a) IN GENERAL.—If the Secretary finds, at any time, that a State has failed to develop or to continue to implement a health care value information program in accordance with the criteria and schedule in section 421(b), the Secretary shall take the actions necessary, directly or through grants or contract, to implement a comparable program in the State.

(b) FEES.—Fees may be charged by the Secretary for the information materials provided pursuant to a program under this section. Any amounts so collected shall be deposited in the appropriation account from which the Secretary's costs of providing such materials were met, and shall remain available for such purposes until expended.

SEC. 423. COMPARATIVE VALUE INFORMATION CONCERNING FEDERAL PROGRAMS.

(a) DEVELOPMENT.—The head of each Federal agency with responsibility for the provision of health insurance or of health care services to individuals shall promptly develop health care value information relating to each program that such head administers and covering the same types of data that a State program meeting the criteria of section 421(b) would provide.

(b) DISSEMINATION OF INFORMATION.—Such information shall be made generally available to States and to providers and consumers of health care services.

Subtitle D—Preemption of State Quill Pen Laws

SEC. 431. PREEMPTION OF STATE QUILL PEN LAWS.

(a) IN GENERAL.—Effective January 1, 1996, no effect shall be given to any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic form.

(b) SECRETARIAL AUTHORITY.—The Secretary may issue regulations to carry out subsection (a). Such regulations may provide for such exceptions to subsection (a) as the Secretary determines to be necessary to prevent fraud and abuse, with respect to controlled substances, and in such other cases as the Secretary deems appropriate.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

SEC. 501. PENALTIES FOR HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) OFFENSE.—Whoever, being a health care provider, knowingly engages in any scheme or artifice to defraud any person in connection with the provision of health care shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

"1347. Health care fraud.".

SEC. 502. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

SEC. 511. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH INSURANCE PLAN.

(a) CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), in the matter before subparagraph (A), by inserting "or of any health insurance plan," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health insurance plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a health insurance plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health insurance plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health insurance plan" after "or XX".

(b) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH INSURANCE PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health insurance plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health insurance plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health insurance plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health insurance plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health insurance plan,", and

(ii) by striking "State plan," and inserting "State plan or the health insurance plan,".

(2) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a), (b), or (c), any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(3) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(c) HEALTH INSURANCE PLAN DEFINED.—Section 1128 of such Act (42 U.S.C. 1320a–7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH INSURANCE PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health insurance plan' means a health insurance program other than the medicare program, the medicaid program, or a State health care program.".

(d) CONFORMING AMENDMENT.—Section 1128(b)(8)(B)(ii) of such Act (42 U.S.C. 1320a–7(b)(8)(B)(ii)) is amended by striking "1128A" and inserting "1128A (other than a penalty arising from a health insurance plan, as defined in subsection (i))".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

TITLE VI—ANTITRUST PROVISIONS

SEC. 601. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN COMPETITIVE AND COLLABORATIVE ACTIVITIES.

(a) EXEMPTION DESCRIBED.—An activity relating to the provision of health care services shall be exempt from the antitrust laws if—

(1) the activity is within one of the categories of safe harbors described in section 602;

(2) the activity is within an additional safe harbor designated by the Attorney General under section 603; or

(3) the activity is specified in and in compliance with the terms of a certificate of review issued by the Attorney General under section 604 and the activity occurs—

(A) while the certificate is in effect, or

(B) in the case of a certificate issued during the 2-year period beginning on the date of the enactment of this Act, at any time on or after the first day of the 2-year period that ends on the date the certificate takes effect.

(b) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(1) IN GENERAL.—If any person brings an action alleging a claim under the antitrust laws and the activity on which the claim is based is found by the court to be exempt from such laws under subsection (a), the court shall, at the conclusion of the action—

(A) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(B) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(2) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to paragraph (1) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

SEC. 602. SAFE HARBORS.

The following activities are safe harbors for purposes of section 601(a)(1):

(1) COMBINATIONS WITH MARKET SHARE BELOW THRESHOLD.—Activities relating to health care services of any combination of health care providers if the number of each type or specialty of provider in question does not exceed 20 percent of the total number of such type or specialty of provider in the relevant market area.

(2) ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care provided to patients.

(B) EXCEPTION.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under this paragraph if the activity is conducted for purposes of financial gain.

(3) PARTICIPATION IN SURVEYS.—The participation of a provider of health care services in a written survey of the prices of services, reimbursement levels, or the compensation and benefits of employees and personnel, but only if—

(A) the survey is conducted by a third party, such as a purchaser of health care services, governmental entity, institution of higher education, or trade association;

(B) the information provided by participants in the survey is based on prices charged, reimbursements received, or compensation and benefits paid prior to the third month preceding the month in which the information is provided; and

(C) if the results of the survey are disseminated, the results are aggregated in a manner that ensures that no recipient of the results may identify the prices charged, reimbursement received, or compensation and benefits paid by any particular provider.

(4) JOINT VENTURES FOR HIGH TECHNOLOGY AND COSTLY EQUIPMENT AND SERVICES.—Any activity of a health care cooperative venture relating to the purchase, operation, or marketing of high technology or other expensive medical equipment, or the provision of high cost or complex services, but only if the number of participants in the venture does not exceed the lowest number needed to support the venture. Other providers may be included in the venture, but only if such other providers could not purchase, operate, or market such equipment or provide a competing service either alone or through the formation of a competing venture.

(5) HOSPITAL MERGERS.—Activities relating to a merger of 2 hospitals if, during the 3-year period preceding the merger, one of the hospitals had an average of 150 or fewer operational beds and an average daily inpatient census of less than 50 percent of such beds.

(6) JOINT PURCHASING ARRANGEMENTS.—Any joint purchasing arrangement among health care providers if—

(A) the purchases under the arrangement represent less than 35 percent of the total sales of the product or service purchased in the relevant market; and

(B) the cost of the products and services purchased jointly accounts for less than 20 percent of the total revenues from all products or services sold by each participant in the joint purchasing arrangement.

(7) NEGOTIATIONS.—Activities consisting of good faith negotiations to carry out any activity—

(A) described in this section,

(B) within an additional safe harbor designated by the Attorney General under section 603,

(C) that is the subject of an application for a certificate of review under section 604, or

(D) that is deemed a submission of a notification under section 605(a)(2)(B),

without regard to whether such an activity is carried out.

SEC. 603. DESIGNATION OF ADDITIONAL SAFE HARBORS.

(a) IN GENERAL.—

(1) SOLICITATION OF PROPOSALS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall publish a notice in the Federal Register soliciting proposals for additional safe harbors.

(2) REVIEW AND REPORT ON PROPOSED SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall—

(A) review the proposed safe harbors submitted under paragraph (1); and

(B) submit a report to Congress describing the proposals to be included in the publication of additional safe harbors described in paragraph (3) and the proposals that are not to be so included, together with explanations therefore.

(3) PUBLICATION OF ADDITIONAL SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall publish in the Federal Register proposed additional safe harbors for purposes of section 601(a)(2) for providers of health care services. Not later than 180 days after publishing such proposed safe harbors in the Federal Register, the Attorney General shall issue final rules establishing such safe harbors.

(b) CRITERIA FOR SAFE HARBORS.—In establishing safe harbors under subsection (a), the Attorney General shall take into account the following:

(1) The extent to which a competitive or collaborative activity will accomplish any of the following:

(A) An increase in access to health care services.

(B) The enhancement of the quality of health care services.

(C) The establishment of cost efficiencies that will be passed on to consumers, including economies of scale and reduced transaction and administrative costs.

(D) An increase in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(E) An improvement in the utilization of health care resources or the reduction in the inefficient duplication of the use of such resources.

(2) Whether the designation of an activity as a safe harbor under subsection (a) will result in the following outcomes:

(A) Health plans and other health care insurers, consumers of health care services, and health care providers will be better able to negotiate payment and service arrangements which will reduce costs to consumers.

(B) Taking into consideration the characteristics of the particular purchasers and providers involved, competition will not be unduly restricted.

(C) Equally efficient and less restrictive alternatives do not exist to meet the criteria described in paragraph (1).

(D) The activity will not unreasonably foreclose competition by denying competitors a necessary element of competition.

SEC. 604. CERTIFICATES OF REVIEW.

(a) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary and the Chair, the Attorney General shall (not later than 180 days after the date of the enactment of this Act) issue certificates of review in accordance with this section for providers of health care services and advise and assist any person with respect to applying for such a certificate of review.

(b) PROCEDURES FOR APPLICATION FOR CERTIFICATE.—

(1) FORM; CONTENT.—To apply for a certificate of review, a person shall submit to the Attorney General a written application which—

(A) specifies the activities relating to the provision of health care services which satisfy the criteria described in section 603(b) and which will be included in the certificate; and

(B) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 607.

(2) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—Within 10 days after an application submitted under paragraph (1) is received by the Attorney General, the Attorney General shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

(3) ESTABLISHMENT OF PROCEDURES FOR ISSUANCE OF CERTIFICATE.—In consultation with the Chair and the Secretary, the Attorney General shall establish procedures to be used in applying for and in determining whether to approve an application for a certificate of review under this title. Under such procedures the Attorney General shall approve an application if the Attorney General determines that the activities to be covered under the certificate will satisfy the criteria described in section 603(b) for additional safe harbors designated under such section and that the benefits of the issuance of the certificate will outweigh any disadvantages that may result from reduced competition.

(4) TIMING FOR DECISION ON APPLICATION.—

(A) IN GENERAL.—Within 90 days after the Attorney General receives an application for a certificate of review, the Attorney General shall determine whether the applicant's health care market activities are in accordance with the procedures described in paragraph (3). If the Attorney General, with the concurrence of the Secretary, determines that such procedures are met, the Attorney

General shall issue to the applicant a certificate of review. The certificate of review shall specify—

(i) the health care market activities to which the certificate applies,

(ii) the person to whom the certificate of review is issued, and

(iii) any terms and conditions the Attorney General or the Secretary deems necessary to assure compliance with the applicable procedures described in paragraph (3).

(B) APPLICATIONS DEEMED APPROVED.—If the Attorney General does not reject an application before the expiration of the 90-day period beginning on the date the Attorney General receives the application, the Attorney General shall be deemed to have approved the application and to have issued a certificate of review relating to the applicant's health care market activities covered under the application.

(5) EXPEDITED ACTION.—If the applicant indicates a special need for prompt disposition, the Attorney General and the Secretary may expedite action on the application, except that no certificate of review may be issued within 30 days of publication of notice in the Federal Register under subsection (b)(2).

(6) ACTIONS UPON DENIAL.—

(A) NOTIFICATION.—If the Attorney General denies in whole or in part an application for a certificate, the Attorney General shall notify the applicant of the Attorney General's determination and the reasons for it.

(B) REQUEST FOR RECONSIDERATION.—An applicant may, within 30 days of receipt of notification that the application has been denied in whole or in part, request the Attorney General to reconsider the determination. The Attorney General, with the concurrence of the Secretary, shall notify the applicant of the determination upon reconsideration within 30 days of receipt of the request.

(C) RETURN OF DOCUMENTS.—If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of documents submitted by the applicant in connection with the application for the certificate, the Attorney General and the Secretary shall return to the applicant, not later than 30 days after receipt of the request, the documents and all copies of the documents available to the Attorney General and the Secretary, except to the extent that the information has been made public under an exception to the rule against public disclosure described in subsection (g)(2)(B).

(7) FRAUDULENT PROCUREMENT.—A certificate of review shall be void ab initio with respect to any health care market activities for which the certificate was procured by fraud.

(c) AMENDMENT AND REVOCATION OF CERTIFICATES.—

(1) NOTIFICATION OF CHANGES.—Any applicant who receives a certificate of review—

(A) shall promptly report to the Attorney General any change relevant to the matters specified in the certificate; and

(B) may submit to the Attorney General an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) AMENDMENT TO CERTIFICATE.—An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

(3) REVOCATION.—

(A) GROUNDS FOR REVOCATION.—In accordance with this paragraph, the Attorney General may revoke in whole or in part a certificate of review issued under this section. The following shall be considered grounds for the revocation of a certificate:

(i) After the expiration of the 2-year period beginning on the date a person's certificate is issued, the activities of the person have not substantially accomplished the purposes for the issuance of the certificate.

(ii) The person has failed to comply with any of the terms or conditions imposed under the certificate by the Attorney General or the Secretary under subsection (b)(4).

(iii) The activities covered under the certificate no longer satisfy the criteria set forth in section 603(b).

(B) REQUEST FOR COMPLIANCE INFORMATION.—If the Attorney General or Secretary has reason to believe that any of the grounds for revocation of a certificate of review described in subparagraph (A) may apply to a person holding the certificate, the Attorney General shall request such information from such person as the Attorney General or the Secretary deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under this paragraph.

(C) PROCEDURES FOR REVOCATION.—If the Attorney General or the Secretary determines that any of the grounds for revocation of a certificate of review described in subparagraph (A) apply to a person holding the certificate, or that such person has failed to comply with a request made under subparagraph (B), the Attorney General shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Attorney General shall revoke the certificate or modify it as the Attorney General or the Secretary deems necessary to cause the certificate to apply only to activities that meet the procedures for the issuance of certificates described in subsection (b)(2).

(D) INVESTIGATION AUTHORITY.—For purposes of carrying out this paragraph, the Attorney General may conduct investigations in the same manner as the Attorney General conducts investigations under section 3 of the Antitrust Civil Process Act, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(d) REVIEW OF DETERMINATIONS.—

(1) AVAILABILITY OF REVIEW FOR CERTAIN ACTIONS.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to paragraph (3), the applicant or certificate holder (as the case may be) may, within 30 days of the denial or revocation, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous based on the preponderance of the evidence.

(2) NO OTHER REVIEW PERMITTED.—Except as provided in paragraph (1), no action by the Attorney General or the Secretary pursuant to this title shall be subject to judicial review.

(3) EFFECT OF REJECTED APPLICATION.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefore shall be admissible in evidence, in any administrative or judicial proceeding, concerning any claim under the antitrust laws.

(e) PUBLICATION OF DECISIONS.—The Attorney General shall publish a notice in the Federal Register on a timely basis of each decision made with respect to an application for a certificate of review under this section or the amendment or revocation of such a certificate, in a manner that protects the confidentiality of any proprietary information relating to the application.

(f) ANNUAL REPORTS.—Every person to whom a certificate of review is issued shall submit to the Attorney General an annual report, in such form and at such time as the Attorney General may require, that contains any necessary updates to the information required under subsection (b) and a description of the activities of the holder under the certificate during the preceding year.

(g) RESTRICTIONS ON DISCLOSURE OF INFORMATION.—

(1) WAIVER OF DISCLOSURE REQUIREMENTS UNDER ADMINISTRATIVE PROCEDURE ACT.—Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) RESTRICTIONS ON DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information disclosed—

(i) upon a request made by the Congress or any committee of the Congress,

(ii) in a judicial or administrative proceeding, subject to appropriate protective orders,

(iii) with the consent of the person who submitted the information,

(iv) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(v) in accordance with any requirement imposed by a statute of the United States, or

(vi) in accordance with any rule or regulation promulgated under subsection (i) permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in clauses (i) through (v).

(3) PROHIBITION AGAINST USE OF INFORMATION TO SUPPORT OR ANSWER CLAIMS UNDER ANTITRUST LAWS.—Any information disclosed in an application for a certificate of review under this section shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a person is entitled to the protections provided by such a certificate.

SEC. 605. NOTIFICATIONS PROVIDING REDUCTION IN CERTAIN PENALTIES UNDER ANTITRUST LAW FOR HEALTH CARE COOPERATIVE VENTURES.

(a) NOTIFICATIONS DESCRIBED.—

(1) SUBMISSION OF NOTIFICATION BY VENTURE.—Any party to a health care cooperative venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file with the Attorney General a written notification disclosing—

(A) the identities of the parties to such venture,

(B) the nature and objectives of such venture, and

(C) such additional information as the Attorney General may require by regulation.

(2) ACTIVITIES DEEMED SUBMISSION OF NOTIFICATION.—The following health care cooperative ventures shall be deemed to have filed a written notification with respect to the venture under paragraph (1):

(A) SUBMISSION OF APPLICATION FOR CERTIFICATE OF REVIEW.—Any health care cooperative venture for which an application for a certificate of review is filed with the Attorney General under section 603.

(B) CERTAIN VENTURES.—Any health care cooperative venture meeting the following requirements:

(i) The venture consists of a network of non-institutional providers not greater than—

(I) in the case of a nonexclusive network in which the participating members are permitted to create or join other competing networks, 50 percent of the providers of health care services in the relevant geographic area and 50 percent of the members of the provider specialty group in the relevant market; or

(II) in the case of an exclusive network in which the participating members are not permitted to create or join other competing networks, 35 percent of the providers of health care services in the relevant geographic area and 35 percent of the members of the provider specialty group in the relevant market.

(ii) Each member of the venture assumes substantial financial risk for the operation of the venture through risk-sharing arrangements, including (but not limited to)—

(I) the acceptance of capitation contracts;

(II) the acceptance of contracts with fee withholding mechanisms relating to the ability to meet established goals for utilization review and management; and

(III) the holding by members of significant ownership or equity interests in the venture, where the capital contributed by the members is used to fund the operational costs of the venture such as administration, marketing, and computer-operated medical information, if the venture develops and operates comprehensive programs for utilization management and quality assurance that include controls over the use of institutional, specialized, and ancillary medical services.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—

(A) REQUEST OF ATTORNEY GENERAL.—At any time after receiving a notification filed under paragraph (1), the Attorney General may require the submission of additional information or documentary material relevant to the proposed health care cooperative venture.

(B) PARTIES TO VENTURE.—Any party to a health care cooperative venture may submit such additional information on the venture's behalf as may be appropriate to ensure that the venture will receive the protections provided under subsection (b).

(C) REQUIRED SUBMISSION OF INFORMATION ON CHANGES TO VENTURE.—A health care cooperative venture for which a notification is in effect under this section shall submit information on any change in the membership of the venture not later than 90 days after such change occurs.

(4) PUBLICATION OF NOTIFICATION.—

(A) INFORMATION MADE PUBLICLY AVAILABLE.—Not later than 30 days after receiving a notification with respect to a venture under paragraph (1), the Attorney General shall publish in the Federal Register a notice with respect to the venture that identifies the parties to the venture and generally describes the purpose and planned activity of the venture. Prior to its publication, the contents of the notice shall be made available to the parties to the venture.

(B) RESTRICTION ON DISCLOSURE OF OTHER INFORMATION.—All information and documentary material submitted pursuant to this section and all information obtained by the Attorney General in the course of any investigation or case with respect to a potential violation of the antitrust laws by the health care cooperative venture (other than information and material described in subparagraph (A)) shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial proceeding in which such information and material is subject to any protective order.

(5) WITHDRAWAL OF NOTIFICATION.—Any person who files a notification pursuant to this section may withdraw such notification before a publication by the Attorney General pursuant to paragraph (4). Any person who is deemed to have filed a notification under paragraph (2)(A) shall be deemed to have withdrawn the notification if the certificate of review in question is revoked or withdrawn under section 604.

(6) NO JUDICIAL REVIEW PERMITTED.—Any action taken or not taken by the Attorney General with respect to notifications filed pursuant to this subsection shall not be subject to judicial review.

(b) PROTECTIONS FOR VENTURES SUBJECT TO NOTIFICATION.—

(1) IN GENERAL.—

(A) PROTECTIONS DESCRIBED.—The provisions of paragraphs (2), (3), (4), and (5) shall apply with respect to any action under the antitrust laws challenging conduct within the scope of a notification which is in effect pursuant to subsection (a)(1).

(B) TIMING OF PROTECTIONS.—The protections described in this subsection shall apply to the venture that is the subject of a notification under subsection (a)(1) as of the earlier of—

(i) the date of the publication in the Federal Register of the notice published with respect to the notification; or

(ii) if such notice is not published during the period required under subsection (a)(4), the expiration of the 30-day period that begins on the date the Attorney General receives any necessary information required to be submitted under subsection (a)(1) or any additional information required by the Attorney General under subsection (a)(3)(A).

(2) APPLICABILITY OF RULE OF REASON STANDARD.—In any action under the antitrust laws, the conduct of any person which is within the scope of a notification filed under subsection (a) shall not be deemed illegal per se, but shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in relevant markets.

(3) LIMITATION ON RECOVERY TO ACTUAL DAMAGES AND INTEREST.—Notwithstanding section 4 of the Clayton Act, any person who is entitled to recovery under the antitrust laws for conduct that is within the scope of a notification filed under subsection (a) shall recover the actual damages sustained by such person and interest calculated at the rate specified in section 1961 of title 28, United States Code, for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust under the circumstances.

(4) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(A) IN GENERAL.—In any action under the antitrust laws brought against a health care cooperative venture for conduct that is within the scope of a notification filed under subsection (a), the court shall, at the conclusion of the action—

(i) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(ii) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(B) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to subparagraph (A) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

(5) RESTRICTIONS ON ADMISSIBILITY OF INFORMATION.—

(A) IN GENERAL.—Any information disclosed in a notification submitted under subsection (a)(1) and the fact of the publication of a notification by the Attorney General under subsection (a)(4) shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a party to a health care cooperative venture is entitled to the protections described in this subsection.

(B) ACTIONS OF ATTORNEY GENERAL.—No action taken by the Attorney General pursuant to this section shall be admissible into evidence in any judicial or administrative proceeding for the purpose of supporting or answering any claim under the antitrust laws.

SEC. 606. REVIEW AND REPORTS ON SAFE HARBORS AND CERTIFICATES OF REVIEW.

(a) IN GENERAL.—The Attorney General (in consultation with the Secretary and the Chair) shall periodically review the safe harbors described in section 602, the additional safe harbors designated under section 603, and the certificates of review issued under section 604, and—

(1) with respect to the safe harbors described in section 602, submit such recommendations to Congress as the Attorney General considers appropriate for modifications of such safe harbors;

(2) with respect to the additional safe harbors under designated under section 603, issue proposed revisions to such activities and publish the revisions in the Federal Register; and

(3) with respect to the certificates of review, submit a report to Congress on the issuance of such certificates, and shall include

in the report a description of the effect of such certificates on increasing access to high quality health care services at reduced costs.

(b) RECOMMENDATIONS FOR LEGISLATION.—The Attorney General shall include in the reports submitted under subsection (a)(3) any recommendations of the Attorney General for legislation to improve the program for the issuance of certificates of review established under this title.

SEC. 607. RULES, REGULATIONS, AND GUIDELINES.

(a) SAFE HARBORS, CERTIFICATES, AND NOTIFICATIONS.—The Attorney General, with the concurrence of the Secretary, shall promulgate such rules, regulations, and guidelines as are necessary to carry out sections 602, 603, 604, and 605, including guidelines defining or relating to relevant geographic and product markets for health care services and providers of health care services.

(b) GUIDANCE FOR PROVIDERS.—

(1) IN GENERAL.—To promote greater certainty regarding the application of the antitrust laws to activities in the health care market, the Attorney General, in consultation with the Secretary and the Chair, shall (not later than 1 year after the date of the enactment of this Act), taking into account the criteria used to designate additional safe harbors under section 603 and grant certificates of review under section 604, publish guidelines—

(A) to assist providers of health care services in analyzing whether the activities of such providers may be subject to a safe harbor under sections 602 or 603; and

(B) describing specific types of activities which would meet the requirements for a certificate of review under section 604, and summarizing the factual and legal bases on which the activities would meet the requirements.

(2) PERIODIC UPDATE.—The Attorney General shall periodically update the guidelines published under paragraph (1) as the Attorney General considers appropriate.

(3) WAIVER OF ADMINISTRATIVE PROCEDURE ACT.—Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under paragraph (1).

SEC. 608. DEFINITIONS.

In this title, the following definitions shall apply:

(1) The term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) The term "Chair" means the Chair of the Federal Trade Commission.

(3) The term "health insurance plan" has the meaning given such term in section 111(b).

(4) The term "health care cooperative venture" means any activities, including attempts to enter into or perform a contract or agreement, carried out by two or more persons for the purpose of providing health care services.

(5) The term "health care services" means any services for which payment may be made under a health insurance plan, including services related to the delivery or administration of such services.

(6) The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(7) The term "person" includes a State or unit of local government.

(8) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(9) The term "specialty group" means a medical specialty or subspecialty in which a provider of health care services may be licensed to practice by a State (as determined by the Secretary in consultation with the certification boards for such specialties and subspecialties).

(10) The term "standard setting and enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

TITLE VII—LONG-TERM CARE

SEC. 701. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS OR 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS AND SECTION 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

"(a) GENERAL RULE.—The amount includible in the gross income of an individual for the taxable year by reason of qualified distributions during such taxable year shall not exceed the excess of—

"(1) the amount which would (but for this section) be so includible by reason of such distributions, over

"(2) the aggregate premiums paid by such individual during such taxable year for any long-term care insurance contract for the benefit of such individual or the spouse of such individual.

"(b) QUALIFIED DISTRIBUTION.—For purposes of this section, the term 'qualified distribution' means any distribution to an individual from an individual retirement account or a section 401(k) plan if such individual has attained age 59½ on or before the date of the distribution (and, in the case of a distribution used to pay premiums for the benefit of the spouse of such individual, such spouse has attained age 59½ on or before the date of the distribution).

"(c) DEFINITIONS AND SPECIAL RULES RELATING TO LONG-TERM INSURANCE CONTRACTS.—

"(1) LONG-TERM CARE INSURANCE CONTRACT.—

"(A) IN GENERAL.—For purposes of this section, the term 'long-term care insurance contract' means any insurance contract issued if—

"(i) the only insurance protection provided under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(ii) the maximum benefit under the policy for expenses incurred for any day does not exceed $200,

"(iii) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(iv) such contract is guaranteed renewable,

"(v) such contract does not have any cash surrender value, and

"(vi) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(B) SPECIAL RULES.—

"(i) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be treated as described in subparagraph (A)(i) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(ii) CONTRACT MAY COVER MEDICARE REIMBURSABLE EXPENSES WHERE MEDICARE IS SECONDARY PAYOR.—Subparagraph (A)(iii) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(iii) REFUNDS OF PREMIUMS.—Subparagraph (A)(vi) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(2) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, and rehabilitative services, and maintenance or personal care services, which—

"(i) are required by a chronically ill individual in a qualified facility, and

"(ii) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(B) CHRONICALLY ILL INDIVIDUAL.—

"(i) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in clause (ii)) for a period of at least 90 days due to a loss of functional capacity, or having a similar level of disability (as determined by the Secretary in consultation with the Secretary of Health and Human Services), or

"(II) having a similar level of disability due to cognitive impairment.

"(ii) ACTIVITIES OF DAILY LIVING.—For purposes of clause (i), each of the following is an activity of daily living:

"(I) MOBILITY.—The process of walking or wheeling on a level surface which may include the use of an assistive device such as a cane, walker, wheelchair, or brace.

"(II) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(III) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(IV) Transfer.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(V) Eating.—The process of getting food from a plate or its equivalent into the mouth.

"(C) Qualified facility.—The term 'qualified facility' means—

"(i) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(I) which is licensed under State law, or

"(II) which is a certified facility for purposes of title XVIII or XIX of the Social Security Act, or

"(ii) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in clause (i).

"(D) Maintenance or personal care services.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in subparagraph (B)(ii).

"(E) Licensed health care practitioner.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(3) Inflation adjustment of $200 benefit limit.—

"(A) In general.—In the case of a calendar year after 1995, the $200 amount contained in paragraph (1)(A)(ii) shall be increased for such calendar year by the medical care cost adjustment for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(B) Medical care cost adjustment.—For purposes of subparagraph (A), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(i) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(ii) such component for August of 1994."

"(d) Other Definitions.—For purposes of this section—

"(1) Individual retirement account.—The term 'individual retirement account' has the meaning given such term by section 408(a).

"(2) Section 401(k) plan.—The term 'section 401(k) plan' means any employer plan which meets the requirements of section 401(a) and which includes a qualified cash or deferred arrangement (as defined in section 401(k)).

"(e) Special Rules for Section 401(k) Plans.—

"(1) Withdrawals cannot exceed elective contributions under qualified cash or deferred arrangement.—This section shall not apply to any distribution from a section 401(k) plan to the extent the aggregate amount of such distributions for the use described in subsection (a) exceeds the aggregate employer contributions made pursuant to the employee's election under section 401(k)(2).

"(2) Withdrawals not to cause disqualification.—A plan shall not be treated as failing to satisfy the requirements of section 401, and an arrangement shall not be treated as failing to be a qualified cash or deferred arrangement (as defined in section 401(k)(2)), merely because under the plan or arrangement distributions are permitted which are excludable from gross income by reason of this section."

(b) Conforming Amendments.—

(1) Section 401(k) of such Code is amended by adding at the end the following new paragraph:

"(11) Cross reference.—

"For provision permitting tax-free withdrawals for payment of long-term care premiums, see section 137."

(2) Section 408(d) of such Code is amended by adding at the end the following new paragraph:

"(8) Cross reference.—

"For provision permitting tax-free withdrawals from individual retirement accounts for payment of long-term care premiums, see section 137."

(3) The table of sections for such part III is amended by striking the last item and inserting the following new items:

"Sec. 137. Distributions from individual retirement accounts and section 401(k) plans for long-term care insurance.

"Sec. 138. Cross references to other Acts."

SEC. 702. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

Subsection (a) of section 1035 of the Internal Revenue Code of 1986 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a long-term care insurance contract (as defined in section 137(c)(1))."

SEC. 703. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Certain Accelerated Death Benefits.—

"(1) In general.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured—

"(A) who is a terminally ill individual, or

"(B) who is a chronically ill individual (as defined in section 137(c)(2)(B)) who is confined to a qualified facility (as defined in section 137(c)(2)(C)(i)),

shall be treated as an amount paid by reason of the death of such insured.

"(2) Terminally ill individual.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less.

"(3) Physician.—For purposes of this subsection, the term 'physician' has the meaning given to such term by section 137(c)(2)(E)."

SEC. 704. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1994.

CONSUMER CHOICE HEALTH SECURITY ACT

WHAT IT DOES

The Consumer Choice Plan:

Provides the security of universal health care coverage for all Americans guaranteeing them access to insurance that is portable, and available regardless of pre-existing conditions. It would take effect on January 1, 1997.

Provides individuals and families with a maximum choice of health insurance plans with a wide variety of benefits and costs, including the ability to keep the employer-sponsored benefits they have now. That's more choice than most Americans have now.

Individuals and families are provided with the resources to purchase the health insurance plan that best fit their needs with tax credits in place of the current employee tax exclusion for health care expenses. People whose health expenses consume a larger percentage of their incomes would get a bigger tax credit.

Controls rising health care costs by empowering consumers with choice and individual responsibility and infusing real competition between insurance companies for the consumer's health care dollar.

Further reduces rising health care expenses with real reform of medical malpractice laws, including capping awards for noneconomic damages.

Creates Medical Savings Accounts, or MSA's which can be used to pay medical bills or to pay for extra benefits.

Modeled after the 33-year-old Federal Employee Health Benefit Program (FEHBP), giving consumer the same option of choice now enjoyed by U.S. Senators and Representatives. The FEHBP's annual cost increases have averaged a third less than other private health insurance programs.

WHAT IT DOES NOT DO

The plan has no new, job-killing mandates on employers to provide and pay for health insurance for their employees. Employers must only give their employees the option of retaining their current benefits, or "cashing out" their benefits and joining another plan.

The plan requires no new taxes.

The Consumer Choice and Health Security Act does not wipe out existing health insurance policies, unlike the Clinton plan, which would outlaw nearly every health insurance plan now in existence. Under the Consumer Choice Act, people who are happy with their employer-sponsored coverage can keep it.

The plan places no price controls or "premium caps" on insurance plans that could reduce the quality of coverage and even result in the rationing of health care.

The plan creates no new national health board or government bureaucries are created.

There is no government coercion to purchase benefits now wanted or needed, beyond a minimum catastrophic insurance requirement.

HOW IT WORKS

Insurance Reform to Guarantee Access

The Consumer Choice and Health Security Act provides for guaranteed issue of health insurance policies. Insurers could not exclude coverage of any preexisting medical condition of any applicant who switches from one insurance plan to another or of any currently uninsured person who buys insurance.

Insurers cannot cancel or refuse to renew coverage of a health insurance policy except for non-payment of premiums or fraud or misrepresentation. Insurers could not offer bonuses to brokers for selling insurance to "healthy" people or avoiding the sale of policies to people with preexisting conditions, or engaging in any other discriminatory sales practices.

Health insurance underwriting would be limited, allowing insurers to vary premiums only on the basis of age, sex and geography. However, because of the importance of prevention and healthy lifestyles, the legislation would allow insurers to give incentive discounts to promote healthy behavior, prevent or delay the onset of illness, or provide for screening or early detection of illness.

Certain state laws pertaining to mandated benefits and services, anti-managed care laws, and mandated cost-sharing would be preempted.

Tax Credits

Individual tax credits would replace the current tax exclusion for company sponsored health plans.

Tax credits which would become available on January 1, 1997, would be structured to give all Americans a basic level of tax relief on all of their health expenses, with greater tax relief targeted to those individuals and families who, because of illness or below average incomes, face proportionately higher health expense relative to their income. The credits would be structured as follows:

Health insurance premiums and unreimbursed medical expenses as a percent of gross income	Percent reimbursed
Below 10 percent	25
10 to 20 percent	50
20 percent or more	75

At a minimum, for every $100 which is spent on health insurance premiums, or contributed to a Medical Savings Account, or spent on any out-of-pocket medical expenses, the individual or family would pay $25 less in taxes. The greater the ratio of health costs to income, the greater the tax benefits. Low-wage persons with higher percentage health costs would receive greater benefits. The tax credit would be as much as $75 per $100 spent on health care, and would be refundable as explained below.

The credits are refundable, meaning that if the value of the credit is more than an individual's or family's tax liability, the government would pay the difference. Much like the treatment of the Earned Income Tax Credit (EITC), employers would reduce their tax liability and provide the tax credit as additional income in the employees' paycheck, so they could purchase insurance.

Family Security Benefit Requirements

Society should not have to pay the price for irresponsible individuals who refuse to purchase insurance and then expect us to pick up the tab when they become seriously ill or injured. Every individual and family would be required to have minimum health insurance coverage to cover medically necessary "acute medical care," including: Physician services: inpatient, outpatient, and emergency services and appropriate alternatives to hospitalization; inpatient and outpatient prescription drugs; and, a maximum deductible amount of $1,000 for an individual and $2,000 for a family and an out-of-pocket limit of $5,000. These amounts would be indexed to inflation in future years.

For Medical Savings Accounts, or MSAs, the Consumer Choice plan would provide the same basic 25% tax credit for deposits. Each household would be permitted to have one MSA and to make an annual deposit no greater than the sum of $3,000 plus $500 for each dependent. The funds in an MSA could be used to pay medical bills not covered by their insurance plans, and to pay health insurance premiums.

Transitional Rules: In order to provide individuals and families with secure, portable benefits, insurers and employers who currently provide health insurance coverage would be required to provide policyholders with the option of converting their existing coverage to an individual or family plan. Employers would also be required to add the value of the coverage they now offer to their workers' wages. Thus, workers could take their coverage with them when they changed jobs or could use the money to buy a different plan that better suited their needs.

Employer Provisions

Individuals and families could still purchase health insurance through their employers. This would not be their only option, since they would be able to receive the same tax relief if they purchased coverage on their own or through other groups such as unions, churches, farm bureaus, business coalitions, professional associations, or through some other group—similar to the choices that more than 10 million Federal employees, retirees and their families have today.

To ensure that individuals and families are able to make regular premium payments on their health insurance, employers would be responsible for withholding premiums from their employees' paychecks and sending these premiums to the employees' chosen insurer. Employers would also be responsible for adjusting their workers' tax withholding to reflect the new tax credits. Thus, taxpayers would not need to wait until they filed their tax returns to claim back the new tax credits.

Individuals who fail to enroll in private health insurance plans would be ineligible to claim the personal exemption on their federal income taxes. Employers would adjust their withholding to reflect this increased income tax liability.

Financing the Consumer Choice Plan

Because the Consumer Choice tax credit is more generous than the tax deductions and exclusions that it would replace, it will result in a net revenue loss to the federal government of $133 billion between 1997 and 1999. To offset this revenue loss, the bill calls for savings in the Medicare and Medicaid programs of $139 billion over five years.

Growth in federal Medicaid payments to states for acute care will be capped at 20 percent above the fiscal year (FY) 1993 level in FY 1995. In subsequent years, federal Medicaid acute care payments to states would grow at 2.5 percent above the consumer price index. This will produce a five-year savings of $72 billion.

Medicare savings will be achieved by eliminating payments to "disproportionate share" hospitals, reducing payments to hospitals for indirect medical education costs, continuing the transition to a prospective payment system (PPS) for outpatient services, and by updating PPS payments on January 1 of each year, rather than on October 1. Further savings would be achieved by placing a 20-percent coinsurance requirement on laboratory and home health services. These changes will save the Medicare program $67 billion over five years.

COMPARISON OF SAVINGS ACHIEVED: THE PRESIDENT'S HEALTH PLAN AND THE CONSUMER CHOICE PLAN

[In billions of dollars]

Program	Consumer choice	President
Medicare	67	152
Medicaid	72	225

Cutting Costs through Malpractice, Paperwork Reforms

The Consumer Choice plan would place a $250,000 limit on noneconomic damages, provide for periodic payment of malpractice awards that exceed $100,000, limit the liability of a defendant for noneconomic and punitive damages to their percentage of fault, as determined by the trier of fact and place caps on attorney fees. It would also provide for offsets from collateral sources and would set forth rules for any health care malpractice claims filed in state or federal court or resolved through arbitration.

The Secretary of Health and Human Services would have the power to require all health care providers to submit claims to health insurance companies in accordance with standards developed by the Secretary, if providers are not voluntarily complying with the standards. The Secretary is also directed to adopt standards relating to data elements for use in paper- and electronic-claims processing of health insurance claims, uniform claims forms and uniform electronic transmission of data.

Helping the Disadvantaged

The Medicaid Disproportionate Share program—now used to reimburse providers to help defray the cost of uncompensated care—would be converted into grants to states for health insurance coverage, health promotion and disease prevention. The program would target assistance to individuals who are not eligible for Medicaid, who have incomes less than 150 percent of poverty, and whose unreimbursed payments for health insurance premiums and medical care, net of federal tax credits, exceed 5 percent of adjusted gross income.

Consumer Protections

The Federal government will continue to police insurance programs to protect consumers from being defrauded. Federal criminal penalties are established against health care providers and insurers who knowingly defraud persons in connection with a health care transaction.

Anti-Trust Provisions

The Attorney General, after consultation with the Secretary of Health and Human Services, the Director of the Office of Management and Budget, and a representative of the Federal Trade Commission, is required to promulgate guidelines under which a health care joint venture may submit an application requesting an exemption from antitrust laws.

The Attorney General is directed to issue Health Care Certificates of Public Advantage, within one year of the Consumer Choice plan's enactment, to eligible health care joint ventures. The Attorney General is required to issue such certificates to a health care joint venture upon a finding that (1) the benefits that are likely to result from such venture outweigh the reduction in competition that is likely to result; and (2) such reduction in competition is reasonably necessary to obtain such benefits.

• Mr. MACK. Mr. President, on rare occasion in the course of our public service each of us has the privilege of contributing to a solution that will make America a significantly better place for our families and future generations. Today is a high point for me as I join with Senator NICKLES and 22 of my colleagues in proudly introducing the Consumer Choice Health Security Act of 1993. I firmly believe we have brought before the Senate a creative and comprehensive health care reform plan for all Americans.

It offers effective solutions to the problems we all agree must be addressed such as appropriate access to health care for all Americans, elimination of preexisting condition exclusions and portability of insurance policies. Yet, it spares us the disastrous effects of an exploding bureaucracy that the President's plan would cause.

Mr. President, the issue isn't whether our health care system should be reformed, but how to do it. Reform should give consumers more choice and more control over health care dollars. President Clinton wants to reform our health care system through an explosion of government. That's wrong. We strongly believe health care should be reformed through an explosion of consumer choice and competition.

The Consumer Choice Health Security Act changes the current system of providing tax relief largely for employer-based insurance and replaces it with a refundable tax credit, which provides direct tax relief to individuals and families regardless of where they acquire their health insurance—from an employer, a union, a church or a business group.

These refundable tax credits would be provided so that individuals and families could purchase a minimum catastrophic health insurance policy with a limit on deductibles and out-of-pocket expenses. Refundable tax credits would be available for health insurance premiums, out-of-pocket medical expenses and contributions to Medical Savings Accounts [MSAs].

Every individual and family would receive a basic refundable tax credit with greater tax relief targeted to individuals and families who, because of illness or below average incomes, spend a higher percentage of their income on health care.

To further assist low-income individuals and families, the legislation provides Federal grants to States for health insurance coverage, health promotion and disease prevention. We target financial resources toward those individuals who are ineligible for Medicaid, have incomes less than 150 percent of poverty, and who have unreimbursed medical expenses, after receiving their refundable tax credits, greater than 5 percent of their adjusted gross income.

Because individual Americans, instead of their employers, would own their health care policies, the policies would be portable—changes in career or circumstance would no longer affect coverage. Since there is no so-called employer mandate, this plan encourages job creation instead of the job destruction resulting from the President's plan.

By solving the portability problem and providing needed insurance reforms such as the elimination of preexisting condition clauses, insurance companies will have an important incentive to keep people healthy. Currently, insurance companies have no incentive to treat their policyholders as anything other than transitory customers. They have no reason to invest resources in individuals. With this legislation, insurance companies will recognize that they may have customers for life, and will concentrate their efforts on preventive services such as regular checkups and cancer screenings, an issue of great importance to me.

I also believe that individual ownership of policies will promote more cost-conscious consumption of health care. Cost containment starts with the users of health care services, and empowering them to make the decisions, not government bureaucrats, will help slow the explosion in health care costs.

The Consumer Choice Health Security Act also addresses medical malpractice reform. In no other industrialized country do health providers confront the day-to-day threat of litigation like in the United States. This legislation includes a cap on noneconomic damages of $250,000, elimination of joint and several liability for noneconomic damages, and periodic payments of awards over $100,000. These vital reforms will permit the orderly utilization of services, by reducing, if not eliminating, the need for defensive medicine.

I come from a family that has been forced to confront the health care issue personally. My wife, our daughter, my mother and I are all cancer survivors. My brother, Michael, died of cancer in 1979.

During the difficult moments of our illnesses, we worked with our doctors to choose the treatments that were best for us. We had a choice and so should all Americans.

In short, Mr. President, our legislation will empower Americans to make choices about health care plans and providers. Individuals can make these decisions just as they decide any other important issue, like what kind of house to buy, what mortgage to purchase, the amount of flood insurance to carry—and the list goes on and on.

Our health care system, which accounts for one-seventh of our economy, is the most innovative in the world. We have the best providers, the best hospitals, and the highest quality medical technology. Most importantly, we have choice. These positive forces, which separate our system from others, must be preserved as we strive to correct the problems within the system.

The Consumer Choice Health Security Act accomplishes this goal and keeps vital health care decisions where they belong: in the hands of individuals and families rather than bureaucrats. I encourage my colleagues to support high quality, affordable health care for Americans today and in the future. I urge my Senate colleagues to support this vital legislation.●

Mr. HATCH. Mr. President, I am delighted to join with my distinguished colleagues, Senator NICKLES and Senator MACK, in sponsoring the Consumer Choice and Personal Health Security Act.

Indeed, as we introduce this legislation today, the debate on health care reform now takes center stage before the Congress. And, as my colleagues well know, the discussion on reforming our Nation's health care system will be the preeminent issue before the Congress and the country in 1994.

I, for one, think it's about time that we in the Congress make a careful and thorough examination of the Nation's health care system. Without doubt, Americans do enjoy the finest health care system in the world. But, as we all know too well, there are problems with the system, and we need to carefully address them with appropriate and meaningful legislative solutions.

The President's legislation has served to focus the debate on the ways in which he proposes to address the issue of comprehensive health care reform. Our bill will serve to broaden that debate by contributing workable and appropriate reform proposals.

The President's bill proposes fundamental and sweeping reform of health care through a system of controlled government management. Our bill takes a different approach by empowering consumers with control and a greater role in the decisions affecting their health coverage.

Our bill would decouple employer-provided benefits and health insurance, thereby restoring health care as an individual responsibility. In addition, our plan goes further than the Clinton bill by reforming medical malpractice laws and addressing the problems of punitive damage awards as well as reforming onerous product liability regulations and antitrust law.

I wish to thank my colleagues and the staff for the time and energy they have devoted in developing our legislation. I particularly want to recognize the outstanding work of John Cohrssen on my staff who devoted endless hours in helping to fashion the legislation we have before us today. I look forward to working with my colleagues in the Senate and in the House as consideration of this legislation progresses.

By Ms. MOSELEY-BRAUN:

S. 1744. A bill to establish a National Commission on Financial Services to study the strength and weaknesses of the U.S. financial services system and its ability to meet the needs of the U.S. economy and the needs of users of the U.S. financial services system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE NATIONAL COMMISSION ON FINANCIAL SERVICES ACT

• Ms. MOSELEY-BRAUN. Mr. President, our financial services system plays a critical role in the American economy. Families use it to purchase a car, to buy a home, to fund their children's education, and for a myriad of other everyday, but vitally important, purposes. Businesses use it to fund their operations, to finance expansion, to create jobs, and for an equally large variety of other reasons. In fact, our economy absolutely depends on the ability of our financial services system to meet the needs of consumers and households, communities, agriculture, business, governments of all types, and nonprofit entities.

It is equally clear that our financial services system, and our economy as a whole, are undergoing major changes. The revolution in communications, computerization, and other technological changes, changes in the kinds of services demanded by various users of our system, the creation of new financial products and services and whole new financial sectors, and structural changes in our economy itself are all combining to reshape our financial system.

Our banking system is shrinking as a percentage of the overall financial system. Mutual funds now have over $2 trillion in assets. And the derivatives area, perhaps most visibly embodied in the two Chicago futures exchanges, has resulted in changes in our financial system that weren't even imagined a few decades ago.

The Federal Government's involvement in our financial services system is almost as complex as the system itself. The Treasury Department, the Department of Housing and Urban Development, the Federal Reserve, the Securities and Exchange Commission, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and the Federal Trade Commission are just some of the Federal departments and agencies with major responsibilities and authorities that directly impact on our financial system.

Federal laws and regulations ensure the stability of our payments system, and protect the savings of ordinary Americans. Federal laws and regulations govern the conduct of monetary policy, and ensure that consumers have the information they need to shop for credit. Federal laws and regulations protect the integrity and fairness of our capital markets, and the privacy of consumer credit history information. Federal laws and regulations created a huge secondary market in mortgages, and regulate important parts of each and every homebuying transaction. Federal laws and regulations in the financial services area affect every single American—and the rest of the world.

Given the scope and extent of Federal involvement in our financial system, and given the scope and extent of the changes now underway in that system and our economy at large, I believe it is time for a comprehensive examination of our financial system. That is why I am today introducing the National Commission on Financial Services Act.

Now, there have been a lot of studies of various financial issues in the past, including: the Hunt Commission, established in 1970; the Financial Institutions in the Nation's Economy [FINE] study, conducted in 1975; President Carter's report on geographic restrictions, conducted in 1978; and, most recently, the 1991 study, entitled "Modernizing the Financial System."

All of these studies examined parts of our financial system. However, the subtitle of the 1991 study, "Recommendations for a Safer, More Competitive Banking System," highlights the differences between what has gone before and what I am proposing today.

The commission approach embodied in my amendment will study the entire financial system, not just the banking system. And, since the banking system is shrinking as a percentage of our total financial system, I think it is appropriate that we look at the entire system in a comprehensive way.

Moreover, this legislation mandates a study of our financial system from the viewpoint of our economy and from the viewpoints of users of the financial system, including consumers and households, communities, agricultural interests, and businesses of all sizes, instead of from the viewpoint of providers or from the viewpoint of government. To ensure that objective is met, the voting member of this commission will be drawn from the users of the system.

I am new to these issues at the Federal level. However, I have worked with them at the State level, and I strongly believe it could be very helpful to have the framework of a broad set of recommendations to help us deal with the huge changes underway in our economy and our financial system.

I do not think such a commission should prevent us from acting on those issues that are ready for action during this Congress. However, whether we attempt to act comprehensively in the future, or whether we go step-by-step, I think we will clearly benefit having some better understanding of: the needs of the users of our financial system; how well the system meets those needs; and the impact Federal laws and regulations have on the system and its ability to meet the needs of consumers, communities, businesses, and the rest of the users of our financial system.

A comprehensive study of our financial system can give Congress and the President a framework that will help us ensure that Federal laws and regulations are adequate and up-to-date, that they do not get in the way of or distort the fundamental changes now underway in our financial system and in our economy, and that they are able to achieve their public policy objectives.

At the same time, such a study can help us frame new responses, to extend and reform Federal laws and rules to cover new areas where necessary and appropriate, and to meet ongoing public needs in new, creative ways.

Mr. President, the commission created by this legislation will report back to Congress in January of 1995. That 1 year time period is, I am convinced, one of the best investments in our future we can make.

If we care about big issues, like the future of our economy and our international competitiveness, and if we care about people and communities, and how the financial system works for them, then we should begin this study now. I urge my colleagues to join me in working to see that the National Commission on Financial Services Act is quickly enacted into law.

Mr. President, I ask unanimous consent that a summary of the major provisions of the National Commission on Financial Services Act, and a copy of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Commission on Financial Services Act".

SEC. 2. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 11 voting members and 6 nonvoting members appointed as follows:

(A) Five voting members and 2 nonvoting members appointed by the President.

(B) Two voting members and 1 nonvoting member appointed by the Speaker of the House of Representatives.

(C) One voting member and 1 nonvoting member appointed by the Minority Leader of the House of Representatives.

(D) Two voting members and 1 nonvoting member appointed by the Majority Leader of the Senate.

(E) One voting member and 1 nonvoting member appointed by the Minority Leader of the Senate.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, including representatives of business, agriculture, and consumer organizations.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointments of the members of the Commission shall be made not later than March 31, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this section referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a thorough study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including the needs of—

(A) individual consumers and households;

(B) State and local communities;

(C) agriculture;

(D) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial services);

(E) governmental and nonprofit entities; and

(F) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the extent to which Federal administrative and legislative policies—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for users of the system, regardless of where such users are located; and

(C) the extent to which Federal administrative and legislative policies are meeting their objectives in the most cost-effective and efficient manner possible.

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Securities Exchange Commission;

(G) the Commodities Futures Trading Commission;

(H) the Director of the Congressional Budget Office; and

(I) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations on how the Federal Government can improve the operation of the United States financial services system, including whether or not any changes are needed in the legislative and administrative policies that impact on—

(1) the ability of the Board of Governors of the Federal Reserve System to effectively conduct monetary policy;

(2) the ability of the financial services system, or any part thereof, to respond to the needs of users of the system;

(3) the systematic safety of the financial services system;

(4) the cost to participants in the financial services system of providing financial services to users of the system;

(5) the competitiveness of the various providers of financial services;

(6) how funds are allocated to the financial services system; and

(7) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than January 20, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 3(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

SUMMARY OF MAJOR PROVISIONS OF THE NATIONAL COMMISSION ON FINANCIAL SERVICES ACT

THE STUDY

The Commission, in consultation with a variety of federal agencies, departments and offices, would be charged to:

(a) Conduct a broad-ranging assessment of the strengths and weaknesses of the U.S. financial services system in meeting the needs of users of that system, including: consumers and households; communities; governmental and non-profit entities, agriculture, small, medium, and large-sized businesses (debt, equity and other needed financial services), and exporters, and others needing international financial services.

(b) Examine the changes underway in the U.S. economy and the financial services area, and the impact of those changes on the ability of the financial services system to meet the needs of users of that system in the next ten years and beyond.

(c) Study how well federal administrative and legal policies help:

(1) Achieve consumer protection objectives,

(2) Ensure competition, prevent anti-competitive acts and practices, and prevent undue concentration,

(3) Ensure financial services are provided in a nondiscriminatory manner; and

(4) Ensure access to the financial services system for all users, wherever located.

Such study should include an examination of whether federal administrative and legal policies are meeting their objectives in the most cost-efficient and effective manner possible.

(d) Consider what steps the federal government should take that could improve the operation of the system, including whether or not any changes are needed in the legal and administrative policies that impact on:

(1) The ability of the Federal Reserve to effectively conduct monetary policy;

(2) The ability of the financial services system, or parts thereof, to respond to the needs of consumers, communities, agriculture, small, medium, and large businesses, governmental and non-profit entities, and exporters;

(3) The systemic safety of the financial services system;

(4) The cost of to some or all participants in the financial services system to providing financial services to users of the system;

(5) The competitiveness of various providers of financial services;

(6) How funds are allocated to the financial services system; and

(7) How funds are allocated by the financial system to users of the system or to categories of users.

COMPOSITION OF THE COMMISSION

(a) 11 voting members: 5, including the Chairman, to be appointed by the President; 2, to be appointed by the Speaker of the House; 1, to be appointed by the Minority Leader of the House; 2, to be appointed by the Majority Leader of the Senate; and 1, to be appointed by the Minority Leader of the Senate.

Voting members shall be appointed from users of the financial system, including consumers, agriculture, business etc. * * *, and from experts in economics, international trade and related disciplines. No voting member shall come from the financial services system or from the government bodies that regulate the financial services system (current or former members).

(b) 6 non-voting members: 2, to be appointed by the President; 1, to be appointed by the Speaker of the House; 1, to be appointed by the Minority Leader of the House; 1, to be appointed by the Majority Leader of the Senate; and 1, to be appointed by the Minority Leader of the Senate.

Non-voting members shall be appointed from among individuals who are experts in finance or in the financial system.

TIMING

The study and legislative recommendations must be completed and transmitted to the President, to the Speaker of the House, and the President Pro Tempore of the Senate on January 20, 1995.●

By Mr. BRYAN:

S. 1745. A bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress for retirement purposes; to the Committee on Government Affairs.

TREATMENT OF MEMBERS OF CONGRESS' RETIREMENT

● Mr. BRYAN. Mr. President, today I introduce a bill to require the retirement benefits of Members of Congress be on complete parity with that of other Federal civil servants. The current practice where Members of Congress receive a more generous annuity is unacceptable.

Under the present retirement system, Members of Congress pay slightly more into the Federal pension plans than executive branch workers. However, the benefit formulas applicable to Members provide a higher percentage of pre-retirement pay for each year of service than formulas applicable to the executive branch.

This is true whether Members of Congress are covered by the Civil Service Retirement Services [CSRS] or the Federal Employees' Retirement Service [FERS]. CSRS covers Members and executive branch employees who were employed before January 1, 1984. The FERS Program covers Members and executive branch employees hired after January 1, 1984.

In general, Members participating in CSRS pay 8 percent of their gross salary in to that pension plan; executive branch employees covered by the CSRS pay 7 percent of their salary. Members participating in FERS pay 1.3 percent of their gross salary in to the plan; executive branch employees covered by FERS pay 0.8 percent of their salary.

Annuities for Members and executive branch employees are based on accrual rates. Under the present system, accrual rates for Members are higher than those for executive branch employees. The CSRS accrual rate for Members is 2.5 percent for each year of service; for executive branch employees it is 1.5 percent for the first 5 years of service, 1.75 percent for the second 5 years of service, and 2 percent for all service over 10 years. The FERS accrual rate for Members is 1.7 percent for each year of the first 20 years of service and 1 percent for service over 20 years. For executive branch employees, the FERS accrual rate is 1 percent for each year of service if the worker retires before age 62, and 1.1 percent for all service for workers retiring at age 62 or older with at least 20 years of service.

As a matter of fairness, Members of Congress should not receive greater retirement benefits than the civilian Federal employees at Nellis Air Force Base of the Las Vegas Housing and Urban Development field office. The bill I send to the desk will fix this injustice and restore equity to the system.

The bill I introduce will do two things. First, it provides a new rule so that no Members of Congress will receive an annuity that is higher than his or her final rate of pay. Second, it changes the accrual formula under CSRS and FERS to calculate an annuity so that it is the same as all other executive branch employees.

Mr. President, I believe this is essential to show the American people that we are not treating ourselves differently than others in the executive branch. Members of Congress should not receive a more generous retirement—this is a matter of fairness.●

By Mrs. KASSEBAUM (for herself, Mr. DODD, Mr. INOUYE, Mr. STEVENS, and Mr. DURENBERGER):

S. 1746. A bill to establish a Youth Development Grant Program, and for other purposes; to the Committee on Labor and Human Resources.

YOUTH DEVELOPMENT BLOCK GRANT ACT OF 1993

● Mrs. KASSEBAUM. Mr. President, I introduce the Youth Development Block Grant Act of 1993 on behalf of myself, Senator DODD, Senator STEVENS, Senator INOUYE, and Senator DURENBERGER. The purpose of this initiative is to expand community-based youth development programs for 6- to 19-year-olds.

The United States has concentrated most of its efforts on behalf of youth on specific problems that have captured the attention of the American public. This well intentioned response has had two major results: First, the creation of a maze of narrowly defined categorical programs to address the specific needs of a particular population; and second, insufficient resources devoted to preventive services for youth. These two factors, combined with our concern about the increasing vulnerability of the American family, have led to the development of the Youth Development Block Grant Act.

The central goal of the Youth Development Block Grant [YDBG] is to promote and support positive youth development. The bill will fund programs focused on prevention that help children and youth develop the values and life skills they need to succeed. It reflects the belief of leaders in the field of youth development, including the Carnegie Council on Adolescent Development and the Center for Youth Development and Policy Research, that youth programs should address the development of social, moral, emotional, physical, and cognitive capacities.

Likewise, the legislation reflects the strong consensus among youth development experts that programs should not segregate so-called high-risk youth and should use participatory, hands-on methods to engage youth in learning and the acquisition of critical life skills.

Rather than wait until young people are in crisis, this legislation will fund programs that help children and youth develop the values and life skills they need to succeed. Rather than forcing service providers to define the needs of a youth to conform to the labyrinth of rules and regulations of a categorical program, they can identify the youth's needs based on what is actually needed. The Youth Development Block Grant represents a holistic approach to youth and to funding community-based programs.

This proposal incorporates many of the principles which policy makers and service providers have identified as necessary for effective federal support for human services—local control, flexibility, coordination, and accountability. Provisions in the legislation concentrate on improving the quality of community-based youth development programs through a focus on basic competencies and the development of effective practice standards.

Most existing youth development programs are provided not by government agencies but by community-based organizations. The Youth Development Block Grant builds on the strength, credibility, and expertise of these community-based organizations by giving them a leadership role in both the planning and delivery of YDBG-funded services. The legislation distinguishes these youth development organizations from other youth-serving organizations that focus primarily on credentialing (such as schools) or treatment and control of youth who have engaged in high-risk behaviors such as substance abuse or juvenile delinquency.

There is a broad and growing consensus among youth policy experts about the importance of increased investment in positive youth development programs. For example, in major recent studies, both the Chapin Hall Center for Children at the University of Chicago and the Carnegie Council have concluded that, if youth are to succeed, there must be a well-developed infrastructure of youth development services in their communities.

While community-based youth development organizations are providing critical services to millions of youth, millions more go unserved or underserved. The proposed funding level reflects the conviction that the federal government must go beyond small demonstration programs and make an investment in strengthening community-based youth development programs.

This legislation authorizes the Youth Development Block Grant for four years. The authorized funding level is $400 million in fiscal year 1995, and "such sums as necessary" for fiscal years 1996, 1997, and 1998.

No new Federal funding will be required. One-half of the funding will be from existing youth development categorical programs and the remainder will be re-directed from other Federal discretionary programs. The Youth Development Block Grant Act represents a commitment to restructure current Federal funding for youth development programs and match existing appropriations for youth development programs with funds from other non-youth service sources.

Just as important as the need to increase the resources available for prevention-focused youth development programs is the need to transform the structure from the current potpourri of narrowly defined categorical programs. We need to make more effective and efficient use of the funds that are available.

Most policy makers and direct service providers agree that human service programs need to be better coordinated and services better integrated. In addition, there is a need for programs to be more locally controlled and funding more flexible. The challenge has been to develop initiatives which incorporate each of these goals and still ensure that programs are accountable for achieving desired outcomes. The Youth Development Block Grant was specifically designed to meet that challenge.

As this bill receives further consideration, a list of currently funded categorical programs for youth development will be identified to be folded into the Youth Development Block Grant structure. These programs will be gradually subsumed into the Youth Development Block Grant over a period of three years to allow for a smooth transition into the new structure.

Funds from youth development categorical programs which are folded into the block grant structure will be matched by the transfer of funds from other Federal discretionary programs. Although this bill would have the effect of eliminating specific categorical youth service programs, the activities and services offered at the local level can continue to operate under the new YDBG structure.

The Youth Development Block Grant Act of 1993 was developed as a bipartisan effort to support preventive youth development activities in local communities. It was developed in conjunction with the National Collaboration for Youth, a 15-member coalition of major youth-serving organizations. These organizations collectively provide direct services to over 25 million children and youth each year.

Members of the National Collaboration for Youth endorsing the Youth Development Block Grant Act include: American Red Cross, Association of Junior Leagues International, Big Brothers/Big Sisters of America, Boy Scouts of America, Boys and Girls Clubs of America, Camp Fire Boys and Girls, Child Welfare League of America, 4-H, Extension Service, Girl Scouts of the USA, Girls Incorporated, National Network of Runaway and Youth Services, The Salvation Army, WAVE, Incorporated, YMCA of the USA, YWCA of the USA.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Youth Development Block Grant Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Allocation and distribution of funds.
Sec. 6. Local Youth Development Board.
Sec. 7. State Youth Development Commission.
Sec. 8. National Youth Development Commission.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In an increasingly complex and competitive world economy, the human capital of the United States is its most important resource. Too many young people in the United States are reaching adulthood unprepared to be productive workers, effective parents, or responsible citizens. The United States cannot remain strong unless the Nation ends this tragic waste of human potential.

(2) Over the past decade, public concern related to young people has focused primarily on improving academic performance and combating youth problems such as substance abuse and juvenile delinquency. The Federal Government has established ambitious National Education Goals and declared a "War on Drugs", and Federal Government investment related to both initiatives has increased dramatically.

(3) It is becoming increasingly clear, however, that the United States will neither achieve the education goals of the Nation nor make significant progress on problems such as substance abuse and juvenile delinquency unless the Nation addresses the broader developmental needs of youth. Young people who lack self-confidence, self-discipline, respect for others, and a sense of connection to their families and communities, are unlikely to be successful in school, and far more likely to engage in high-risk behaviors.

(4) Parents have primary responsibility for the social, moral, emotional, physical, and cognitive development of their children. However, tremendous social and demographic changes during the last 30 years have had a significant effect on family life and youth development, creating the need for programs to strengthen families and help parents meet the social, moral, emotional, physical, and cognitive needs of their children.

(5) The lack of supervision of youth by parents and the lack of meaningful activity after school for youth contributes to the spread of violent juvenile delinquency in the

form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among youth in our Nation.

(6) The United States expects too much of its schools if the Nation asks the schools to meet single-handedly the needs described in paragraph (5) in addition to accomplishing their basic educational mission. Only a strong partnership among families, schools, local government, religious organizations, community-based youth-serving organizations, community-based family-serving organizations, business, and labor can create a community environment that truly supports the youth of the Nation in reaching their highest potential.

(7) Nonschool-based youth development programs, including youth clubs, sports and recreation programs, mentoring programs, and leadership development and community service programs, make a major contribution to helping youth develop the life skills and moral values that will prepare the youth for the challenges of adolescence and the independence and responsibilities of adulthood.

(8) Participation in positive youth development programs can lead to a reduction in high-risk behaviors, including school failure, teenage pregnancy, use of alcohol and drugs, and juvenile delinquency. Youth from low-income, at-risk communities, who would greatly benefit from such programs, however, are least likely to have access to such programs.

(9) Community-based youth-serving organizations are an effective resource in developing and implementing community youth development plans, both because of the responsiveness of the organizations to local community values and concerns, and the ability of the organizations to mobilize community resources. For example, the 15 member organizations of the National Collaboration for Youth collectively serve over 25,000,000 youth, and mobilize over 4,000,000 volunteers to carry out community-based youth development services.

(10) Notwithstanding the efforts of community-based youth-serving organizations, in most local communities youth development efforts are so fragmented and underfunded that millions of youth nationwide go unserved, and no process exists through which key groups regularly come together to develop a comprehensive youth development plan. Without a mechanism for coordination, narrowly focused Federal programs are unable to meet the comprehensive needs of the youth of the Nation.

(11) Increased Federal investment in programs under the Head Start Act and other early childhood development programs signals an encouraging shift toward a comprehensive long-term, holistic, investment-oriented strategy in promoting the healthy development of children in the United States.

(12) It is critical that the Federal Government adopt the same type of comprehensive strategy in promoting the positive development of youth, and encourage and empower communities to develop and implement comprehensive youth development plans.

SEC. 3. PURPOSES.

It is the purpose of this Act to expand community-based youth development services, and to support communities in designing strategic plans for youth development that—

(1) give priority to prevention of youth problems through youth development;

(2) support the primary role of the family in positive youth development;

(3) support community-based youth development organizations in expanding youth development opportunities; and

(4) promote increased community coordination and collaboration in meeting the developmental needs of youth.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary for Children and Families of the Department of Health and Human Services.

(2) COMMUNITY-BASED.—The term "community-based", used with respect to a youth development organization or a youth-serving organization, means such an organization that—

(A) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) is not a government entity; and

(C) is representative of a community or a significant segment of a community and is engaged in providing services to the community.

(3) COUNTY.—The term "county" includes a political subdivision of a State.

(4) LOCAL BOARD.—The term "Local Board" means a Local Youth Development Board established under section 6.

(5) LOW INCOME FAMILY.—The term "low income family" means a family with an income below the poverty line.

(6) NATIONAL COMMISSION.—The term "National Commission" means the National Youth Development Commission established under section 8.

(7) NATIONAL YOUTH DEVELOPMENT ORGANIZATION.—The term "national youth development organization" means an organization whose purpose and activities are national in scope, and that, either directly or through its local affiliates, provides youth development programs in at least 7 States.

(8) OUTCOME OBJECTIVE.—The term "outcome objective" means an objective that relates to the impact of a program or initiative, with respect to the participants in the program or initiative or the community that the program or initiative serves, such as an objective relating to changes—

(A) in the competencies described in paragraph (15)(A) of individual participants in the program or initiative;

(B) in the incidence of positive or negative behaviors among such participants; or

(C) in the incidence of such behaviors among youth in such community.

(9) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(10) PROCESS OBJECTIVE.—The term "process objective" means an objective that relates to the manner in which a program or initiative is carried out, such as an objective relating to—

(A) the degree to which the program or initiative is reaching its intended target population;

(B) the number, age, gender, and ethnicity of the youth involved in the program or initiative;

(C) the degree to which the services delivered are consistent with the intended program model; and

(D) the cost of delivering services under the program or initiative.

(11) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(12) STATE COMMISSION.—The term "State Commission" means a State Youth Development Commission established under section 7.

(13) YOUTH.—The term "youth" means an individual who is not younger than 6 and not older than 19.

(14) YOUTH DEVELOPMENT ORGANIZATION.—The term "youth development organization" means a youth-serving organization with a major emphasis on providing youth development programs.

(15) YOUTH DEVELOPMENT PROGRAM.—The term "youth development program" means a program that—

(A) in order to enable youth to deal successfully with the challenges of adolescence and prepare the youth for the independence and responsibilities of being parents, workers, and citizens, helps the youth to develop—

(i) social competencies, such as work and family life skills, problem-solving skills, and communication skills;

(ii) moral competencies, such as personal values and ethics, a sense of responsibility and citizenship (including participation in civic life and community service), and respect for diversity;

(iii) emotional competencies, such as a sense of personal identity, self-confidence, autonomy, and the ability to resist negative peer pressure;

(iv) physical competencies, such as physical conditioning and endurance, and an appreciation for and strategies to achieve lifelong physical health and fitness; and

(v) cognitive competencies, such as knowledge, reasoning ability, creativity, and a lifelong commitment to learning and achievement;

(B) conducts activities with a primarily nonacademic focus;

(C) employs primarily active and experiential learning methods; and

(D) promotes the competencies described in subparagraph (A) through group and one-to-one activities, which may include activities in youth clubs, sports and recreation, mentoring, arts, values education, leadership development, crime and delinquency prevention, community service or volunteerism, child care, career counseling, job skills training, life skills training, health education including drug and alcohol prevention, parenting skills activities, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment.

(16) YOUTH-SERVING ORGANIZATION.—The term "youth-serving organization" means an organization with a primary focus on providing youth development, medical, educational, special education, psychological, vocational and training, rehabilitative, or housing services to youth.

SEC. 5. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act, $400,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998.

(b) ALLOCATION AND DISTRIBUTION OF LOCAL ALLOCATION FOR FISCAL YEARS FOR WHICH APPROPRIATIONS EQUAL OR EXCEED $100,000,000.—

(1) TOTAL LOCAL ALLOCATION.—For any fiscal year for which the total sums appropriated under subsection (a) are not less than $100,000,000, the Assistant Secretary shall reserve 93.5 percent of such sums (referred to

in this subsection as the "total local allocation") to make allocations under this subsection to States to assist Local Boards in carrying out the activities described in section 6.

(2) ALLOCATION OF FUNDS TO STATES.—

(A) IN GENERAL.—For each such fiscal year, the Assistant Secretary shall allocate to each State Commission the sum (referred to in this subsection as the "State portion of the total local allocation") of—

(i) an amount that bears the same relation to ⅓ of the total local allocation as the number of youth in the State bears to the number of youth in all States;

(ii) an amount that bears the same relation to ⅓ of such allocation as the number of youth from low income families in the State bears to the number of such youth in all States; and

(iii) an amount from the remaining ⅓ of such allocation, calculated in accordance with a formula prescribed by the Secretary that takes into account the extent to which violent juvenile crime has increased in the State since 1990, relative to the extent to which violent juvenile crime has increased in all States since 1990.

(B) REGULATION.—The Secretary shall prescribe the formula described in subparagraph (A)(iii) by regulation issued after consultation with the Attorney General.

(3) DISTRIBUTION OF FUNDS TO STATES.—To be eligible to receive such State portion of the total local allocation, the State Commission shall prepare, and submit to the Assistant Secretary, an application at such time, in such manner, and containing such information, as the Assistant Secretary may reasonably require. Such application shall include, at a minimum, an assurance that the State Commission is prepared to administer such amount in compliance with all the requirements of this Act, and, in the case of any application submitted after the first year in which the State Commission receives funds under this Act, the State strategic plan described in section 7(c)(4).

(4) ALLOCATION OF FUNDS TO LOCAL BOARDS.—

(A) IN GENERAL.—For each fiscal year for which a State receives such State portion of the total local allocation, the State Commission shall allocate to each Local Board in the State the sum (referred to in this subsection as the "local allocation") of—

(i) an amount that bears the same relation to ⅓ of the State portion of the total local allocation as the number of youth in the county served by the Local Board bears to the number of youth in the State;

(ii) an amount that bears the same relation to ⅓ of such State portion as the number of youth from low income families in the county bears to the number of such youth in the State; and

(iii) an amount from the remaining ⅓ of such State portion, calculated in accordance with a formula prescribed by the Secretary that takes into account the extent to which violent juvenile crime has increased in the county since 1990, relative to the extent to which violent juvenile crime has increased in the State since 1990.

(B) REGULATION.—The Secretary shall prescribe the formula described in subparagraph (A)(iii) by regulation issued after consultation with the Attorney General.

(5) DISTRIBUTION OF FUNDS TO LOCAL BOARDS.—

(A) INITIAL PLANNING FUNDS.—For the first fiscal year for which Local Boards in a State are eligible to receive funds under this subsection, the State Commission shall make available to each eligible Local Board in the State, 5 percent of the local allocation of such Board, to be used for initial planning purposes. To be eligible to receive such amount, the Local Board shall submit to the State Commission a letter of intent to apply for funds under this subsection. Such letter of intent shall include a list of the members of the Local Board, including sufficient information about their organizational affiliations to demonstrate compliance with the requirements of subsections (c) and (d) of section 6.

(B) DISTRIBUTION OF PROGRAM FUNDS.—

(i) IN GENERAL.—For each fiscal year for which a State receives a State portion of the total local allocation, the State Commission shall distribute to each eligible Local Board in the State an amount equal to the remainder of the local allocation of such Board.

(ii) APPLICATION.—To be eligible to receive such amount, the Local Board shall prepare, and submit to the State Commission, an application, at such time, in such manner, and containing such information as the State Commission may reasonably require to assure compliance with this Act. Such application shall include, at a minimum, a local strategic plan described in section 6(f), a description of the programs for which funding will be provided, and information indicating the extent to which the programs meet the effective practice standards described in section 8(c)(3)(C).

(c) ALLOCATION AND DISTRIBUTION OF STATE ALLOCATION FOR FISCAL YEARS FOR WHICH APPROPRIATIONS EQUAL OR EXCEED $100,000,000.—

(1) TOTAL STATE ALLOCATION.—For any fiscal year for which the total sums appropriated under subsection (a) are not less than $100,000,000, the Assistant Secretary shall reserve 4 percent of such sums (referred to in this section as the "total State allocation") to make allocations to State Commissions to carry out the activities described in section 7.

(2) GENERAL ALLOCATION.—Except as provided in paragraph (3), for each such year, the Assistant Secretary shall make such allocations in accordance with the requirements of subsection (b)(2). For the purposes of the application of such requirements to allocations under this subsection, references in subsection (b)(2) to the total local allocation shall be deemed to be references to the total State allocation.

(3) MINIMUM STATE ALLOCATION.—For each such year, the Assistant Secretary shall allocate to each State Commission under this subsection an amount that is not less than ½ of 1 percent of the total State allocation.

(d) ALLOCATION AND DISTRIBUTION OF LOCAL ALLOCATION FOR FISCAL YEARS FOR WHICH APPROPRIATIONS ARE LESS THAN $100,000,000.—

(1) GRANTS.—For any fiscal year for which the total sums appropriated under subsection (a) are less than $100,000,000, the Assistant Secretary shall reserve 97.5 percent of such sums and shall make grants from such reserved sums, on a competitive basis, to eligible Local Boards to carry out the activities described in section 6.

(2) CONSIDERATIONS.—In making such grants, the Assistant Secretary shall consider the criteria described in the formula provided in subsection (b)(2). The Assistant Secretary shall ensure an equitable geographic distribution of such grants, and shall ensure that a variety of program models receive funding under this subsection.

(3) APPLICATION.—To be eligible to receive a grant under this section, a Local Board shall submit to the Assistant Secretary an application at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the Local Board will comply with such evaluation process as the Assistant Secretary may reasonably require to assure compliance with this Act, and including any information that a Local Board is required to submit in an application described in subsection (b)(5)(B).

(4) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a Local Board shall meet such requirements as the Assistant Secretary may by regulation require.

(5) INITIAL DISTRIBUTION.—The Assistant Secretary may award an initial grant to a Local Board under this subsection for a period of up to 3 years. The Assistant Secretary may terminate the funding made available through such grant during such period if the Local Board fails to comply with the provisions of this Act.

(6) RENEWAL OF GRANTS.—After the initial grant period, in determining whether to renew or continue a grant to a Local Board to carry out activities, the Assistant Secretary shall give substantial weight to the effectiveness of the activities in achieving the process and outcome objectives specified in the local strategic plan described in section 6(f)(1). If the total sums appropriated under subsection (a) are greater than $100,000,000 for the fiscal year for which the Local Board seeks a renewal or continuation, the Local Board shall apply to the State Commission for funding under subsection (b).

(7) TREATMENT OF GRANTS.—For purposes of this Act, a grant awarded to a Local Board under this section shall be considered to be a local allocation.

(8) APPLICATION OF PROVISIONS.—The provisions of section 6 shall apply to Local Boards receiving funds under this subsection. For purposes of the application of such provisions, references to the State Commission shall be deemed to be references to the Assistant Secretary.

(e) NATIVE AMERICAN ORGANIZATIONS.—

(1) IN GENERAL.—From the sums appropriated under subsection (a) for any fiscal year, the Assistant Secretary shall reserve 1.5 percent of such sums to make grants to eligible Native American organizations to assist the organizations in carrying out the activities described in section 6.

(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a Native American organization shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may reasonably require to assure compliance with this Act, including any information that a Local Board is required to submit in an application described in subsection (b)(5)(B).

(3) APPLICATION OF PROVISIONS.—The provisions of section 6 shall apply to Native American organizations receiving funds through grants made under this subsection. For purposes of the application of such provisions, references to a county shall be deemed to be references to the area served by the organization, and references to the State Commission shall be deemed to be references to the Assistant Secretary.

(4) DEFINITION.—As used in this subsection:

(A) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 250b(e)).

(B) NATIVE AMERICAN ORGANIZATION.—The term "Native American organization" means an Indian tribe or Native Hawaiian Organization.

(C) Native Hawaiian organization.—The term "Native Hawaiian Organization" has the meaning given the term in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)).

(f) Reservation of Funds for Administration for Children and Families.—From the sums appropriated under subsection (a) for each fiscal year, the Assistant Secretary shall reserve 1 percent of such sums for the National Commission and the Administration for Children and Families to carry out the activities required by this Act.

(g) Authority To Assist Local Boards in Nonparticipating States/Reallocation of State Funds.—

(1) In general.—For any fiscal year for which a State Commission does not submit an application for an allocation under subsection (b), the Assistant Secretary may use the allocation of such State to make direct grants to eligible Local Boards in the nonparticipating State.

(2) Application.—To be eligible to receive a direct grant under paragraph (1), a Local Board shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may reasonably require to assure compliance with this Act, including any information that a Local Board is required to submit in an application described in subsection (b)(5)(B).

(3) Application of provisions.—The provisions of section 6 shall apply to Local Boards receiving funds through grants made under this subsection. For purposes of the application of such provisions, references to the State Commission shall be deemed to be references to the Assistant Secretary.

(h) State Reallocation.—For any fiscal year for which a State Commission does not submit an application for an allocation under subsection (b), and the Assistant Secretary does not use the allocation as described in subsection (g), the Assistant Secretary shall make available the allocation of such State to such other States as the Assistant Secretary may determine to be appropriate.

(i) County Reallocation.—For any fiscal year for which a Local Board in a State does not submit an application for an allocation under subsection (b), the State Commission shall make available the allocation of such county to such other counties in the State as the State Commission may determine to be appropriate.

(j) Obligation and Expenditure of Funds.—

(1) State obligation of funds.—Any State Commission that receives an allocation from the Assistant Secretary under subsection (b) or (c) shall obligate the allocation not later than 1 year after the date of such receipt or return the allocation to the Assistant Secretary for reallocation in accordance with subsection (h).

(2) Local board expenditure of funds.—Any Local Board that receives an allocation from a State Commission under subsection (b) or (d) shall expend the allocation not later than 3 years after the date of such receipt or return the allocation to the State Commission for reallocation in accordance with subsection (i).

SEC. 6. LOCAL YOUTH DEVELOPMENT BOARD.

(a) Establishment of Local Board.—

(1) In general.—In order for entities within a county to be eligible to receive assistance under this Act, the Chief Elected Officer of a county shall facilitate the establishment of a local entity, or designate an existing local entity, that meets the requirements of this section, to serve as a Local Youth Development Board.

(2) Establishment of multicounty local board.—The Chief Executive Officers of 2 or more counties may agree to facilitate the establishment of a local entity, or designate an existing entity, that meets the requirements of this section, to serve as a multicounty Local Board. Such a multicounty Local Board shall carry out the duties described in subsections (f), (g), (i), and (j) with respect to the counties involved. If such a multicounty Local Board is established, all duties required by this section to be carried out by the Chief Executive Officer of a county shall be carried out jointly by the Chief Executive Officers of each participating county.

(b) Number of Members on the Local Board.—The Chief Executive Officer of the county shall determine the total number of members on the Local Board.

(c) Composition of Local Board.—

(1) Representatives of youth development organizations.—

(A) Representatives of nationally affiliated youth development organizations.—One-third of the members of the Local Board shall be representatives of community-based youth development organizations that are affiliated with national youth development organizations.

(B) Representatives of nonaffiliated youth development organizations.—One-third of the members of the Local Board shall be representatives of community-based youth development organizations that are not affiliated with national youth development organizations.

(C) Special rule for less populated counties.—In the case of a county with a population of 100,000 or less, if the Chief Executive Officer of the county determines that, because of the absence of community-based youth development organizations, the county cannot establish a Local Board meeting the requirements of subparagraph (A) or (B), representatives of community-based youth-serving organizations may be selected to serve on the Local Board, and may participate on the Local Board, on the same basis as representatives of community-based youth development organizations.

(2) Other community representatives.—One-third of the members of the Local Board shall be representatives of the community, such as representatives of youth-serving organizations, local government, religious organizations, educational institutions, business, labor, private funding organizations, parents, or youth.

(d) Selection of Local Board Members.—

(1) Representatives of youth development organizations.—Organizations described in subsection (c)(1)(A) that provide services within the county shall select the members described in such subsection. Organizations described in subsection (c)(1)(B) that provide services within the county shall select the members described in such subsection. The Local Board shall include, in the application described in section 5(b)(5), a description of the processes used by both such types of organizations to select members of the Local Board.

(2) Other community representatives.—Members described in subsection (c)(2) shall be appointed by the Chief Executive Officer of the county. If any political subdivision of a State is located totally or partially within the county, and the population of the subdivision is more than 40 percent of the total population of the county, the Chief Executive Officer of the subdivision and the Chief Executive Officer shall jointly appoint such members.

(3) Age of members.—At least 2 of the members of the Local Board shall be under the age of 20 at the time of such appointment.

(4) Background of members.—The membership of the Board shall reflect the racial, ethnic, and gender composition of the county population.

(5) Terms; officers; vacancies.—The Local Board shall adopt, and shall include in the application described in section 5(b)(5), bylaws that include provisions regarding the terms of office of members, the election of officers, and the selection of members to fill vacancies, of the Local Board.

(e) Fiscal Agent.—

(1) Appointment of fiscal agent.—The Local Board shall appoint a fiscal agent for the Board.

(2) Duties.—The fiscal agent shall carry out such duties as the Local Board may determine to be appropriate.

(f) Duties of Local Board.—

(1) Local strategic plan.—The Local Board shall prepare and submit to the State Commission for approval, as part of the application described in section 5(b)(5), a local strategic plan for youth development in the county involved, including—

(A) the results of an assessment of local needs and resources;

(B) specific process and outcome objectives for youth development programs; and

(C) measures of program effectiveness that shall be used to evaluate the progress of grant recipients in achieving such objectives.

(2) Monitoring, evaluation, and technical assistance.—The Local Board shall be responsible for establishing monitoring and evaluation procedures, consistent with such requirements as may be established by the Assistant Secretary, to assess the progress of grant recipients in achieving the process and outcome objectives identified in the local strategic plan. Such procedures shall utilize the measures of program effectiveness described in paragraph (1)(C) and the standards for effective practices described in section 8(c)(3)(C). Local Boards shall also provide technical assistance to applicants and grant recipients under subsection (g).

(3) Appeal.—In the event that a State Commission denies approval of the strategic plan of the Local Board described in paragraph (1), the Local Board may, in accordance with regulations to be established by the Assistant Secretary, appeal the denial.

(g) Grants.—

(1) In general.—The Local Board shall award grants in accordance with this subsection to—

(A) eligible community-based youth development organizations; and

(B) eligible partnerships that—

(i) are comprised of youth-serving organizations and governmental entities; and

(ii) conduct youth development programs,

to pay for the Federal share of carrying out youth development programs addressing one or more of the process objectives, and one or more of the outcome objectives, established in the local strategic plan described in subsection (f)(1).

(2) Request for proposals.—The Local Board shall issue a request for proposals, which shall invite the organizations and partnerships described in paragraph (1) to apply for a grant under paragraph (1). Such request shall specify the process and outcome objectives to be addressed by the Local Board.

(3) ELIGIBLE APPLICANTS.—

(A) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Local Board shall—

(i) award at least 85 percent of the funds made available through such grants to community-based youth development organizations certified under subparagraph (B); and

(ii) take into account the extent to which the program meets the effective practice standards described in section 8(c)(3)(C).

(B) CERTIFICATION.—

(i) PROCEDURE.—The Local Board shall establish a procedure, in accordance with regulations to be issued by the Assistant Secretary, for certifying organizations as community-based youth development organizations.

(ii) APPEAL.—The Assistant Secretary shall issue regulations that specify a process by which an organization may appeal a denial of such certification.

(4) GRANT APPLICATIONS.—To be eligible to receive a grant under this subsection, an organization or partnership described in paragraph (1) shall submit an application to the Local Board at such time, in such manner, and containing such information as the Local Board reasonably may require, including, at a minimum, the following information:

(A) In the case of an organization, a statement regarding whether the organization is a community-based youth development organization, and, if the organization seeks certification as such an organization, sufficient information to substantiate the statement.

(B) The manner in which the program will address the process and outcome objectives identified in the local strategic plan described in subsection (f)(1).

(C) The extent to which the program utilizes the effective practice standards established under section 8(c)(3)(C).

(D) A proposed budget for the program.

(5) FUNDING PERIOD.—The Local Board may award a grant to an organization or partnership under paragraph (1) for a period of up to 3 years. The Local Board may terminate the funding made available through such grant during such period if the program fails to comply with the requirements of this Act, or if insufficient Federal funds are appropriated under section 5(a) to permit the continuation of funding for the full grant period of all such grants awarded by the Local Board.

(6) RENEWALS OF GRANTS.—The Local Board may renew grants made under paragraph (1). After the initial grant period, in determining whether to renew a grant to a Local Board to carry out activities, the Local Board shall give substantial weight to the effectiveness of the activities in achieving process and outcome objectives specified in a local strategic plan described in subsection (f)(1).

(7) FEDERAL SHARE REQUIREMENT.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out a youth development program described in paragraph (1) shall be—

(i) 80 percent for the first year for which the program receives funding under this subsection;

(ii) 65 percent for the second such year;

(iii) 50 percent for the third such year; and

(iv) 30 percent for the fourth such year and any subsequent year.

(B) NON-FEDERAL SHARE.—In providing for the remaining share of the cost of carrying out such a program, each recipient of assistance under this subsection—

(i) shall provide for such share through private sources;

(ii) may provide for such share through a payment in cash; and

(iii) may provide for not more than 25 percent of such share through a payment in kind, fairly evaluated, including facilities, equipment, or services.

(h) ANNUAL REPORTS TO LOCAL BOARD.—Each organization or partnership receiving a grant under subsection (g) to carry out a program shall, not later than 45 days after the end of each fiscal year of the Local Board, prepare and submit to the Local Board an annual report on the program during the fiscal year, in such manner and containing such information as the Assistant Secretary may reasonably require to determine compliance with this Act.

(i) ANNUAL REPORT TO STATE COMMISSION.—Each Local Board shall, not later than 75 days after the end of each fiscal year of the Local Board, prepare and submit to the State Commission an annual report in such manner and containing such information as the Assistant Secretary may reasonably require to determine compliance with this Act. Such report shall contain, at a minimum, information on the programs and activities funded by the Local Board during the fiscal year under this section and the extent to which the programs achieved the process and outcome objectives specified in the local strategic plan under subsection (f).

(j) PLANNING, ADMINISTRATION, COORDINATION, EVALUATION, AND FISCAL AGENT EXPENSES.—In addition to any initial planning funds provided under section 5(b)(5)(A), the Local Board may use up to 5 percent of the funds received under section 5(b)(5)(B) for planning, administration, coordination, and evaluation expenses, and expenses of the fiscal agent of the Local Board. Each organization or partnership that receives a grant under subsection (g) may use up to 10 percent of the funds received under the grant for planning, administration, and coordination, and may use up to an additional 5 percent of such funds for evaluation expenses.

SEC. 7. STATE YOUTH DEVELOPMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—In order for entities within a State to be eligible to receive assistance under this Act, the Governor of the State shall establish an entity, or designate an existing entity, that meets the requirements of this section, to serve as a State Youth Development Commission.

(b) SIZE, COMPOSITION, AND APPOINTMENT OF COMMISSION.—

(1) NUMBER OF MEMBERS.—The Governor of the State shall determine the total number of members on the Commission.

(2) APPOINTMENT BY THE GOVERNOR.—The members of the Commission shall be appointed by the Governor.

(3) COMPOSITION OF COMMISSION.—

(A) REPRESENTATIVES OF NATIONALLY AFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—One-third of the members of the State Commission shall be representatives described in section 6(c)(1)(A).

(B) REPRESENTATIVES OF NONAFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—One-third of the members of the State Commission shall be representatives described in section 6(c)(1)(B).

(C) OTHER MEMBERS.—One-third of the members of the State Commission shall be representatives of State governments or representatives described in section 6(c)(2).

(D) AGE OF MEMBERS.—At least 2 of the members appointed to the Commission shall be under the age of 20 at the time of such appointment.

(E) BACKGROUND OF MEMBERS.—The Governor shall ensure that the membership of the State Commission fairly represents urban and rural populations and reflects the racial, ethnic, and gender composition of the State population.

(F) LOCAL BOARD REPRESENTATION.—At least 2 of the members appointed to the Commission shall be members of different Local Boards in the State at the time of their appointment.

(4) TERMS; OFFICERS; VACANCIES.—The State Commission shall adopt, and shall include in the application described in section 5(b)(3), bylaws that include provisions regarding the terms of office of members, the election of officers, and the selection of members to fill vacancies, of the State Commission.

(c) DUTIES OF STATE COMMISSION.—

(1) REVIEW OF COMMUNITY YOUTH DEVELOPMENT PLANS.—In accordance with regulations issued by the Assistant Secretary, within 30 days of the submission by a Local Board of an application under section 5(b)(5), the State Commission shall either approve the application and distribute to the Local Board its local allocation under section 5, or notify the Local Board of the additional steps that the Local Board shall take to bring the plan into compliance with this Act.

(2) MONITORING OPERATIONS OF LOCAL BOARDS.—The Commission shall have primary responsibility for ensuring that the Local Boards operate in compliance with this Act.

(3) TECHNICAL ASSISTANCE TO LOCAL BOARDS.—The State Commission shall provide technical assistance related to the development and implementation of local strategic plans described in section 6(f) to Local Boards that are applicants for, or recipients of, local allocations under section 5(b).

(4) GOALS AND STRATEGIC PLAN FOR YOUTH DEVELOPMENT.—

(A) STATE POLICY GOALS.—After a review of local strategic plans submitted by Local Boards within the State under section 6(f), the State Commission and the Governor shall develop policy goals for the State, based on the process and outcome objectives in such strategic plans.

(B) STATE STRATEGIC PLAN.—Based on the State policy goals, the Commission and the Governor shall develop a State strategic plan for youth development, including specific State process and outcome objectives, designed to achieve the State policy goals.

(5) ANNUAL REPORT.—Each State Commission shall, not later than 120 days after the end of each fiscal year of the State Commission, prepare and submit to the Assistant Secretary and the National Commission an annual report, in such manner and containing such information as the Assistant Secretary may reasonably require to determine compliance with this Act. Such report shall contain, at a minimum, information on the programs and activities funded in the State during the fiscal year under this Act, and the extent to which the Local Boards in the State achieved the process and outcome objectives specified in the local strategic plan described in section 6(f)(1).

(d) RELATIONSHIP TO INDEPENDENT STATE BODY ESTABLISHED UNDER THE CLAUDE PEPPER YOUNG AMERICANS ACT OF 1990.—To provide improved coordination of public and private services for youth and their families, the State Commission shall—

(1) consult with the Independent State Body established under section 930 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12336) in the development of the State strategic plan under subsection (c)(4);

(2) consult with the Independent State Body in developing and implementing strategies for improved coordination between activities funded under this Act and other public and private services for youth and their families; and

(3) submit a copy of the annual report required under subsection (c)(5) to the Independent State Body, concurrently with the submission of the report to the Assistant Secretary and the National Commission.

(e) COORDINATION WITH INDEPENDENT STATE BODY ESTABLISHED UNDER THE CLAUDE PEPPER YOUNG AMERICANS ACT OF 1990.—In addition to the annual report required under subsection (c)(5), the State Commission shall provide information obtained from the annual reports submitted by the Local Boards under section 6(i) to the Independent State Body under subsection (d)(3), including a detailed accounting of the number of participants in programs in the State that are funded under this Act, specified by age, gender, economic background, race, ethnicity, and disability.

SEC. 8. NATIONAL YOUTH DEVELOPMENT COMMISSION.

(a) ESTABLISHMENT OF NATIONAL YOUTH DEVELOPMENT COMMISSION.—There is established a National Youth Development Commission that shall advise the Assistant Secretary on the implementation of this Act.

(b) ESTABLISHMENT, SIZE, COMPOSITION, AND APPOINTMENT OF NATIONAL COMMISSION.—

(1) ESTABLISHMENT; NUMBER OF MEMBERS.—The National Youth Development Commission shall be composed of 21 voting members, and such ex officio nonvoting members as the President may determine to be appropriate.

(2) APPOINTMENT OF NATIONAL COMMISSION.—

(A) IN GENERAL.—The voting members of the National Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(B) NOMINATIONS FROM HOUSE OF REPRESENTATIVES.—Seven voting members of the National Commission shall be appointed from among individuals nominated by the Speaker and Minority Leader of the House of Representatives.

(C) NOMINATIONS FROM SENATE.—Seven voting members of the National Commission shall be appointed from among individuals nominated by the Majority Leader and Minority Leader of the Senate.

(D) TIMING.—The President shall appoint the initial voting members of the Commission within 90 days after the date of enactment of this Act.

(3) COMPOSITION OF NATIONAL COMMISSION.—

(A) REPRESENTATIVES OF NATIONALLY AFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—Seven of the voting members of the National Commission shall be representatives of national youth development organizations, or of the affiliates of such organizations.

(B) REPRESENTATIVES OF NONAFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—Seven of the voting members of the National Commission shall be representatives described in section 6(c)(1)(B).

(C) OTHER MEMBERS.—Seven of the voting members of the National Commission shall be appointed from among representatives described in section 7(b)(3)(C).

(D) AGE OF MEMBERS.—At least 2 of the voting members appointed to the National Commission shall be under the age of 20 at the time of such appointment.

(E) BACKGROUND OF MEMBERS.—The President shall ensure that the voting membership of the National Commission fairly represents urban and rural populations and reflects the racial, ethnic, and gender composition of the population of the United States.

(4) TERM OF OFFICE.—

(A) IN GENERAL.—Each voting member of the Commission shall serve for a term of 3 years, except that one-third of the members first appointed to the Commission after the date of enactment of this section shall serve for a term of 1 year, and one-third of such members shall serve for a term of 2 years, as designated by the President. The members designated to serve a term of 1 year, and the members designated to serve a term of 2 years, shall include a fair distribution of members from the 3 categories of members described in subparagraphs (A), (B), and (C) of paragraph (3), and a fair distribution of members appointed as provided in paragraph (2)(B), of members appointed as provided in paragraph (2)(C), and of other members.

(B) REAPPOINTMENT.—Members of the National Commission may not serve more than 2 consecutive terms.

(5) VACANCIES.—Any vacancy on the National Commission shall be filled in the same manner as the original appointment. In filling such a vacancy, the President shall ensure that the National Commission meets the requirements of paragraph (3). Any member appointed to fill such a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed or elected.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—The National Commission shall elect a Chairperson and Vice Chairperson from among its members.

(7) OTHER OFFICERS.—The Commission may elect from among its membership such additional officers for the Commission as the Commission determines to be appropriate.

(8) MEETINGS.—The Commission shall meet not less often than 2 times each year. The Commission shall hold additional meetings if 15 members of the Commission request such meetings in writing. A majority of the appointed members of the Commission shall constitute a quorum.

(9) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, members of such Commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for persons employed intermittently in the Government service.

(10) SPECIAL GOVERNMENT EMPLOYEES.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, and any other provision of Federal law, a member of the Commission (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

(11) STATUS OF MEMBERS.—

(A) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a member of the Commission shall be considered to be a Federal employee.

(B) OTHER CLAIMS.—A member of the Commission has no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Commission, in connection with any transaction involving the provision of financial assistance by the Commission or the Administration for Children and Families. This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Commission.

(C) EFFECT ON OTHER LAW.—This subsection shall not be construed—

(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions; or

(ii) to affect any other right or remedy against the United States under applicable law, or against any person.

(12) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the National Commission.

(c) DUTIES OF NATIONAL COMMISSION AND ASSISTANT SECRETARY.—

(1) DUTIES OF NATIONAL COMMISSION.—The National Commission shall—

(A) review and approve the proposal described in paragraph (2)(A)(i), regarding the goals and strategic plan referred to in such paragraph;

(B) review and approve the proposal described in paragraph (2)(B)(i), regarding the grants, contracts, allocations, reallocations, and payments described in paragraph (2)(B);

(C) review and approve the proposal described in paragraph (2)(C)(i), regarding the regulations, standards, policies, and procedures, described in such paragraph;

(D) review and approve the proposed plan for evaluation and monitoring referred to in paragraph (2)(D)(i);

(E) review and approve the proposed report referred to in paragraph (2)(E)(i);

(F) review, and advise the Assistant Secretary regarding, such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act;

(G) inform the Assistant Secretary of any aspects of the actions of the Assistant Secretary that are not in compliance with the goals and strategic plan approved under subparagraph (A), the proposals approved under subparagraphs (B) and (C), the plan approved under subparagraph (D), and the report approved under subparagraph (E);

(H) advise the President and the Congress concerning developments relating to youth development that merit the attention of the President and the Congress;

(I) ensure the effective dissemination of information and facilitation of the transfer of technology on youth development issues, including program information, sources of funding, and methods of evaluation;

(J) provide (directly or by contract) training and technical assistance to State Commissions and Local Boards; and

(K) carry out any other activities determined to be appropriate by the Assistant Secretary.

(2) GENERAL DUTIES OF ASSISTANT SECRETARY.—The Assistant Secretary shall—

(A)(i) prepare and submit to the National Commission a proposal regarding the goals and strategic plan described in paragraph (3)(A); and

(ii) after receiving and reviewing approved goals and an approved strategic plan under paragraph (1)(A), issue the goals and strategic plan described in paragraph (3)(A);

(B)(i) prepare and submit to the National Commission a proposal regarding such grants, contracts, allocations, and reallocations, as are necessary or appropriate to carry out this Act; and

(ii) after receiving and reviewing an approved proposal under paragraph (1)(B), make such grants, contracts, allocations, and reallocations, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments);

(C)(i) prepare and submit to the National Commission a proposal regarding the regulations described in paragraph (3)(B), and such other standards, policies, and procedures, as are necessary or appropriate to carry out this Act; and

(ii) after receiving and reviewing an approved proposal under paragraph (1)(C)—

(I) establish such regulations, standards, policies, and procedures as are necessary or appropriate to carry out this Act; and

(II) establish and administer such programs and initiatives as are necessary or appropriate to carry out this Act;

(D)(i) prepare and submit to the National Commission a proposed plan for the evaluation and monitoring of activities under this Act, in accordance with paragraph (3)(D); and

(ii) after receiving an approved plan under paragraph (1)(D) establish the system described in paragraph (3)(D);

(E)(i) prepare and submit to the National Commission a proposed report described in paragraph (3)(F); and

(ii) after receiving an approved report under paragraph (1)(E), submit the report described in paragraph (3)(F);

(F) prepare and submit to the National Commission an annual report, and such interim reports as may be necessary, describing the major actions of the Assistant Secretary with respect to the personnel that carry out this Act, and with respect to the standards, policies, procedures, programs, and initiatives implemented to carry out this Act;

(G) inform the National Commission of, and provide an explanation to the National Commission regarding, any substantial differences regarding the implementation of this Act between—

(i) the actions of the Assistant Secretary; and

(ii)(I) the goals and strategic plan approved by the National Commission under paragraph (1)(A);

(II) the proposals approved by the National Commission under subparagraph (B) or (C) of paragraph (1);

(III) the evaluation and monitoring plan approved by the National Commission under paragraph (1)(D); or

(IV) the report approved by the National Commission under paragraph (1)(E); and

(H) consult with appropriate Federal agencies in administering the programs and initiatives carried out under this Act.

(3) SPECIFIC DUTIES OF THE ASSISTANT SECRETARY.—

(A) NATIONAL POLICY GOALS AND STRATEGIC PLAN.—

(i) NATIONAL POLICY GOALS.—After a review of State strategic plans developed under section 7(c)(4), and input from Local Boards, the Assistant Secretary shall develop and issue national policy goals that are based on the process and outcome objectives specified in such plans.

(ii) NATIONAL STRATEGIC PLAN FOR YOUTH DEVELOPMENT.—Based on the national policy goals, the Assistant Secretary shall develop a national strategic plan for youth development, including specific process and outcome objectives, designed to achieve the national policy goals.

(B) REGULATIONS.—The Assistant Secretary shall issue all regulations necessary for the administration of this Act, including—

(i) regulations (regarding funding formulas) described in paragraphs (2) and (4) of section 5(b);

(ii) regulations (regarding appeals of denials of local strategic plans) under section 6(f)(3);

(iii) regulations (regarding certification, and appeals of denials of certification, of organizations as community-based youth development organizations) under section 6(g)(3);

(iv) regulations (regarding review of the applications of Local Boards by State Commissions) under section 7(c)(1);

(v) effective practice standards described in subparagraph (C);

(vi) regulations that specify a process for certifying that an organization qualifies as a national youth development organization; and

(vii) interim final regulations governing the first fiscal year of operation under this Act, which shall be issued within 120 days after the appointment of the National Commission.

(C) EFFECTIVE PRACTICE STANDARDS.—The Assistant Secretary shall develop and issue standards that specify effective practices for conducting community-based youth development programs, and such specified practices shall include—

(i) addressing one or more of the process objectives, and one or more of the outcome objectives, identified in the local strategic plan described in section 6(f)(1);

(ii) incorporating components that promote the competencies described in section 4(15)(A) in youth;

(iii) recognizing the primary role of the family in positive youth development and seeking to strengthen families;

(iv) promoting the involvement of youth, parents, and other community members in the planning and implementation of the program;

(v) coordinating services with other youth and family services in the community, and helping participants access the services;

(vi) exposing youth to a variety of adult role models and mentors;

(vii) encouraging youth leadership and civic involvement;

(viii) seeking to establish a long-term relationship with participating youth;

(ix) employing strong outreach efforts to low-income youth and their families;

(x) providing age-appropriate programs;

(xi) providing programs that—

(I) are open to all youth regardless of such factors as race, color, religion, sex, national origin, disability, or social or economic background; or

(II) target a population related on the basis of one or more of such factors, if such targeting is designed to meet the special needs of such population; and

(xii) using not less than 5 percent and not more than 10 percent of funds made available through the grant to provide preservice and inservice training and educational materials and services for program staff.

(D) MONITORING AND EVALUATION.—The Assistant Secretary shall develop and establish a system for monitoring and evaluating the effectiveness of activities funded under this Act. The system shall utilize the standards for effective practices issued under subparagraph (C).

(E) COORDINATION.—The Assistant Secretary shall consult with appropriate Federal agencies to ensure effective coordination of programs funded under this Act with other Federal programs serving youth and families.

(F) REPORT.—Every 2 years, the Assistant Secretary shall submit to the President and the Congress a report describing the activities funded under this Act, and an assessment of the effectiveness of the activities in meeting the process and outcome objectives described in subparagraph (A)(ii).

(d) RELATIONSHIP TO FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.—To provide improved coordination of public and private services for youth and their families, the National Commission shall—

(1) consult with the Federal Council on Children, Youth, and Families established under section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314), in developing and implementing strategies for improved coordination between activities funded under this Act and other public and private services for youth and their families; and

(2) submit a copy of any reports required under subsection (c)(3)(F) to the Federal Council on Children, Youth, and Families, concurrently with the submission of the report to the President and the Congress.

(e) STAFF AND CONSULTANTS.—

(1) STAFF.—

(A) IN GENERAL.—The National Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(B) COMPENSATION.—The National Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(2) CONSULTANTS.—The executive director may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of such title.

(3) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Director and the head of the Federal agency, any of the personnel of that department or agency to the National Commission to assist the Commission in carrying out the duties of the Commission under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.•

• Mr. DODD. Mr. President, I offer my support for the measure being introduced by my distinguished colleague from Kansas, Senator KASSEBAUM. The Youth Development Block Grant is a response to what I see as a gaping hole in Federal policy. We focus a lot of attention on youth when their behavior becomes a problem for society or a threat to its peace of mind. But we do very little to help youth—especially those at particular risk—find alternatives to the streets that will help them grow into productive citizens.

For the past 2 weeks, we have heard much about the consequences of not providing those alternatives. Youth increasingly are becoming both footsoldiers and gun fodder for a war taking place on our streets. I firmly believe we must crack down on the crime that has laid siege to many of our communities. But I believe just as firmly that we must act to prevent youth from becoming involved in crime. We must reach out to them before they are reached by gangs and the lure of the streets.

Crime and violence are not the only problems facing our young people. Children are trying alcohol and other drugs at increasingly younger ages. Seventy-seven percent of eighth graders report having tried alcohol. Half a million teens give birth each year, most out of wedlock, placing the futures of both mother and child at risk.

It is a complex world these children face, and there are few guideposts and helping hands to help them navigate it. There is an old African proverb that says: "It takes an entire village to raise a child." Far from being nurtured by their communities, however, too many children are being left to raise themselves. They are spending greater amounts of time with no adult supervision. Children in poor neighborhoods are most at risk and least likely to find the social supports they need to traverse safely into adulthood.

Mr. President, in hearings before the Subcommittee on Children, which I chair, and in meetings with young people from my home State of Connecticut, I always ask what young people themselves recommend to prevent our youth from getting into trouble. I hear an amazing variety of answers. But one theme I hear consistently. They say there is nothing to do after school, no where to go but home or the streets. They are yearning for positive activities and influences in their lives. But all too often, they find gyms closed, school doors locked, and recreation programs that have gone begging for resources.

I have long been an advocate of approaching the needs of our children and youth from the standpoint of prevention. In 1990, Congress enacted the Young Americans Act, which I authored and on which I worked closely with Senator KASSEBAUM. This legislation was designed to promote a cohesive approach to planning and providing services for children and established Federal and State coordinating mechanisms for youth policy.

The anti-crime legislation the Senate adopted just today included several measures to prevent problems among youth. My Ounce of Prevention Council included in that bill will help us cut through the bureaucratic turf issues to fund innovative community efforts to give youth positive alternatives.

We must keep pushing to bring attention to the needs of our youth. The reasons should be obvious to all, but I will go over them once again. If the youth of today are going to be the productive citizens of tomorrow who will ensure that our Nation is competitive, they must have a good foundation. They must see opportunities. They must realize there are alternatives that lead somewhere productive—alternatives to mean streets that can only end up in blind alleys.

That is why I am cosponsoring the Youth Development Block Grant Senator KASSEBAUM is introducing today. It is built around the idea that communities, working with families, must make a concerted effort to provide youth with experiences that will lay a strong foundation for the adult roles they will need to assume. Its basic premise is that the needs of our youth must become a priority for our Nation—not just when we realize the need to get the Uzis out of their hands or get them off welfare—but early on, when these problems can be prevented.

This block grant would draw on the experiences of the community-based youth organizations that crafted the legislation—the YMCA's and YWCA's, the Boys and Girls Clubs, Big Brothers/Big Sisters, Boys and Girl Scouts, Camp Fire Boys and Girls, 4-H, the American Red Cross, Junior Leagues, the Salvation Army, Girls, Inc., WAVE, the National Network of Runaway and Youth Services and the Child Welfare League. Over the years, these organizations have contributed much to providing youth with positive developmental programs. They are to be commended for their advocacy on behalf of young people and their diligent efforts in developing this legislation

This legislation is not a final product. For example, I think that we can better streamline the administrative structure through which funds would flow. I also would like to see greater flexibility on who the participants will be at the local level. For example, other community-based organizations such as schools, churches, parks and recreation departments have some terrific programs out there on which we should also capitalize.

Finally, while I think a flexible, community-based program might better serve the needs of youth than some of the small categorical programs we currently have, I want to carefully review the effectiveness of existing programs as part of the discussion of consolidation. I am confident that these issues and others can be addressed as the Congress seeks to craft legislation responsive to our Nation's youth.

This legislation provides an important recognition of a critical issue facing the country. I am encouraged that those of us in Congress and elsewhere have a growing awareness that we ignore the needs of our youth at our own peril and that the solutions to these problems must come from the communities themselves. Perhaps we are recognizing that, like the proverbial African village, it takes the entire nation to raise a generation well prepared for the future. I am excited about this movement and eager to join Senator KASSEBAUM and other colleagues who also care deeply about giving youth the positive alternatives and opportunities they deserve.•

By Mr. GLENN:

S. 1747. A bill to provide for enforcement of State court judgments against federally forfeited assests of individuals who are delinquent in payment of child support; to the Committee on the Judiciary.

THE CHILD SUPPORT FAIRNESS ACT OF 1993

• Mr. GLENN. Mr. President, I introduce the Child Support Fairness Act of 1993. This legislation is intended to cure a serious defect in current law that serves as a barrier to the collection of rightfully-owned child support. Under current law, Uncle Sam acts more like an accomplice to a deadbeat dad, than a friend to a deserving mother.

My legislation would allow the Federal Government to satisfy a valid state court judgment for back child support from funds that were forfeited by a delinquent parent due to violation of Federal laws.

Mr. President, the collection of child support payments in America is in a deplorable state. It is estimated that over 17 million children are owed in excess of $20 billion in unpaid child support. Fathers, and sometimes mothers, all too frequently disregard their moral and legal responsibilities. The children are the one's who suffer.

The need for this legislation came to my attention through a tragic situation involving a woman in Warren County, OH. The woman's former husband was arrested entering the United States after failing to declare the full amount of money he was carrying. On his arrest, the Customs Department seized close to $30,000. During the course of the criminal proceeding the former wife obtained a valid State court judgment for $7660.26 in back child support. Customs officials acting in accordance with Federal law, refused to satisfy the State court judgment. At the final disposition of this case, not one penny of the $40,000 went to the children.

My legislation, unfortunately, won't help these children. And it comes too late to help many others who have gone penniless when their deadbeat dads have been arrested, and thousands of dollars that were rightfully theirs were forfeited.

Sure, not every person who has property confiscated will be a deadbeat dad.

But surely, those who would break our Federal drug and customs laws would not hesitate to violate State child support laws.

My legislation will amend current law so that the U.S. Government never again will have to say "no" to a deserving child. Assets that are seized and forfeited by the Federal Government will be subject to valid State court judgments for payment of back child support.

Current law allows for payment to innocent third party owners of forfeited property. Several States allow former spouses owed back child support to bring petitions as third party owners of forfeited property. Children owed money for back child support clearly are innocent third party owners. Unfortunately, they are also third party victims.

For too long, governments have ignored the needs and rights of children. Children are all too often pawns in disputes between parents. They are the victims of "financial abuse". This legislation is not a panacea. But without it, many children will continue to go without financial support that is just at their fingertips. Right now, only government red tape stands in the way. It's high time we cut through that red tape.

Under my bill, the Department of Justice and the Department of the Treasury will be required to notify the Department of Health and Human Services when property is seized. HHS will in turn notify the State where the obligor had his or her last known address. The burden rests with the State child support enforcement agency to notify a resident who is owed child support that the obligee has had assets seized and forfeited.

It is my hope that a comprehensive, nation-wide tracking system will soon be in place. Such a system would allow for a streamlined, cross check of deadbeat dads and those who have had their assets forfeited. This type of system would serve as the center piece for implementation of my legislation.

Mr. President, this legislation is a first step on the road to fairness and justice for our children. I look forward to working with my colleagues toward enactment of this bill in this coming session of Congress.•

By Mr. PACKWOOD (for himself, Mr. BREAUX, Mr. HEFLIN, and Mr. MURKOWSKI):

S. 1749. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers, and importers from the firearms excise tax; to the Committee on Finance.

RELIEF FROM THE FIREARMS EXCISE TAX

• Mr. PACKWOOD. Mr. President, today I am introducing legislation to exempt custom gunsmiths—those who produce less than 50 firearms a year—from the firearms excise tax in section 4182 of the Internal Revenue Code.

This bill is similar to a bill I introduced in April 1991. That bill was incorporate into the H.R. 11, the Revenue Act of 1992. Unfortunately, the Revenue Act of 1992 was vetoed by President Bush.

This bill merely incorporates into the tax code a policy previously adopted by the Congress. In 1982, the Congress passed a supplemental appropriations bill, Public Law 97-276, which prohibited the Bureau of Alcohol, Tobacco and Firearms (BATF) from collecting the firearms excise tax from producers of less than 50 firearms a year.

In recent years, the BATF has taken the position that the 1982 custom gunsmith provision expired at the end of fiscal year 1982 (September 30, 1983). I believe the intent of the 1982 law was to establish a permanent ban on the collection of the firearms excise tax from a custom gunsmith.

Custom gunsmiths are a special kind of craftsman. They make high quality, typically one-of-a-kind, firearms. They make very few firearms each year—less than 50. Often, many years may have passed before the custom gunsmith becomes aware of the firearms excise tax. The information needed for compliance with the tax is long gone. Moreover, it is an administrative headache for the BATF to locate and collect the firearms excise tax from someone who only makes a few firearms a year.

My bill clears up the controversy over the 1982 law by adding to the tax code an explicit exemption for custom gunsmiths, effective for firearms sold after October 1, 1983.

I hope my colleagues will join me and cosponsor this measure to clarify the excise tax rules for America's custom gunsmiths.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.

(a) IN GENERAL.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) (b) of section 52 shall be treated as one person for purposes of paragraph (1)."

(b) EFFECTIVE DATE; REFUNDS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.•

By Mr. METZENBAUM:

S. 1750. A bill to transfer certain food safety and inspection functions to the Consumer Product Safety Commission, to establish an Office of Public Liaison, and to require the development of certain plans, and for other purposes.

FOOD SAFETY REFORM ACT OF 1993

Mr. METZENBAUM. Mr. President, I rise today to introduce the Food Safety Reform Act of 1993. The purpose of this bill is to consolidate responsibility for the Nation's food safety under one roof, and to make public health and the needs of consumers the top priorities of food inspectors and regulators.

There are several systemic, governmentwide problems with respect to food safety which this bill will address.

First and foremost, there is an attitude problem among food safety regulators, in particular, the Food Safety and Inspection Service. FSIS is part of the Department of Agriculture—USDA. USDA's central mission is the promotion of U.S. food production, processing and sales. I think that is a wonderful mission. American farmers need all the help they can get, and the food industry is among the Nation's leading employers.

Yet, there is a conflict in missions. How can FSIS, an organ of USDA, be a tough regulator of the food industry when its parent agency, USDA, is dedicated to promotion of the food industry?

Mr. President, I do not believe that regulation and industrial growth are mutually exclusive. But it seems to me that every time food regulation gets in the way of the food industry, industry always wins. The culture of FSIS is too accommodating of food processors, and too unwilling to take a tough stand and stick with it.

Mr. President, the second governmentwide problem is that food safety is explicitly or implicitly considered a matter of animal science, or of manufacturing science.

There is no question that what happens to animals and produce during breeding and processing are key factors in food safety. But they are not the primary factors.

Human health is what food safety is all about. Human health is the reason we are spending $2 billion annually on food safety. Human health must be the standard against which all food safety decisions are tested. This is not the case today.

Finally, Mr. President, food safety has become a bureaucratic football. There are too many agencies enforcing too many statutes. The overlapping responsibilities and regulations are tripping up American food producers, while failing to produce better food safety for American consumers.

Mr. President, with these big picture matters in mind, I drafted the Food Safety Reform Act of 1993. This bill will consolidate responsibility for food safety under the Consumer Product Safety Commission [CPSC]. I do not contemplate the physical relocation of the many thousands of Federal workers involved in food safety. Rather, I want the CPSC to take responsibility for setting policy and priorities, for enforcement, and for personnel matters.

I believe that centralizing responsibility for food safety in an agency whose priority, since its founding, has been protection of consumers, will go a long way toward correcting the "attitude problem" of food safety regulators. Also, by consolidating authority for food safety, there can be no more "buck-passing," no more quarrels over turf. This bill creates a new feature for U.S. food safety regulation: Accountability.

My bill also requires establishment of an Office of Public Health Liaison within the CPSC. Too often, food safety agencies fail to consult with Federal and State public health officials. There is an abundance of data that can be put to better use, if only the lines of communication are opened up.

I want the Office of Public Health Liaison to be an effective force. To this end, the bill requires the chairman of the CPSC to conclude memoranda of understanding with a range of Federal and State agencies in order that exchange of public health data is no longer a matter of discretion.

This bill also requires the CPSC to report to Congress with a unified, comprehensive plan for modernizing the American food safety system. With fits and starts, different agencies are currently plodding toward post 1950's food safety technology. Innovation that has meaning for American consumers can only come if the entire food safety system modernizes in a coordinated fashion. Consumers will be no safer if poultry inspectors are equipped with the latest technology, but fish inspectors are left using their eyes and noses to ensure wholesomeness. Americans simply do not eat in a compartmented fashion, so food safety modernization cannot be carried out in a compartmented fashion.

Finally, Mr. President, this bill requires the CPSC to report on its plans for establishing a comprehensive food safety data base. The fact of the matter is that we know very little about infectious doses of food-borne contaminants. We know very little about how contaminants are transmitted. We know very little about how to detect contaminants in a prompt, affordable manner. The fact is that before spending substantial sums modernizing our food safety system, we ought to have the scientific data on which to base our decisions.

Mr. President, I am frank to tell my colleagues that food safety is not an issue on which I have always dreamed of legislating. It is not an issue which I studied in school or was involved in during my years as a private citizen.

I have involved myself in food safety because the need for reform has become so obvious, while the impediments to reform have grown so large.

Mr. President, for nearly a decade, we have debated the condition of our food safety system. The battle lines have rarely changed, and neither have the issues.

Everyone agrees that our food safety system needs to be overhauled. Yet no one seems willing to take on the challenge of radical reform.

Everyone agrees that our food inspection system is based on 1950's technology. Yet no one is setting the right priorities for research.

Everyone agrees that authority for ensuring a safe food supply is fragmented all over the Federal bureaucracy. Yet no one is willing to give up their turf in order that a more coordinated system can be established.

Mr. President, whether the issue is research, inspection, oversight or consumer education, the right hand of our food safety bureaucracy never seems to know what the left hand is doing.

We have something like 12 agencies enforcing nearly 20 different legislative acts. There is bureaucratic infighting and miscommunication. The food safety leadership seems to be afflicted with revolving door syndrome so common to the Defense Department: Regulatory agencies seem to care more for the concerns of industry, than the concerns of their customers. In this case, the customer is the American consumer. I am not sure that this fact is clearly understood any more.

Mr. President, my concern stems from some disturbing patterns I have noticed. When problems are brought to the attention of regulators, or to the attention of producers and processors, they all seem to replay set answers over and over again.

They say we have the safest food supply in the world. Fine. Then should we rest on our laurels while, according to the centers for disease control, 4 million Americans per year are sickened by food-borne diseases, and another 2,000 die from them?

They say that the current inspection system, in which each animal carcass is viewed by a USDA inspector, is getting the job done. What they don't say is that most food-borne disease today comes from microscopic bacteria. To the alleged efficacy of visual inspection, I say, big deal. Carcasses today need to be microscopically, or chemically inspected.

They say that all the stories of food contamination are the product of media hype or of organized labor agitation. I do not doubt that the media is interested in food safety, since it is an issue affecting every single American. I would hope that the media is interested. And I do not doubt that labor is interested in the food industry: Food processing is, statistically, as dangerous an occupation as mining.

To brush off complaints about food safety as media or labor hype is just too easy an answer. It's an excuse, and I don't buy it.

Finally, regulatory and industry will say that the consumer is ultimately responsible for the safety of his or her food. This argument is probably the most galling one of all.

Sure, consumers need to be smart.

Sure, they need to cook meat thoroughly, or treat canned products with care. But the American kitchen is not a laboratory, and the American consumer is not an epidemiologist.

Consumers' common sense will take care of run-of-the-mill contaminants in food. No food product is sterile, and it is unreasonable to seek purity from our inspection system.

But the simple fact is that as a larger percentage of our food supply is contaminated with pathogens of increasing variety and quantity, more people are going to get sick.

An added factor is that a growing number of Americans suffer from so-called immuno-suppression maladies such as AIDS and hepatitis. The elderly also have weaker immune systems, and many more Americans are growing older.

People in these groups are at a greater risk of contracting food-borne illnesses, and of being more severely affected by them.

To me, it is an explosive combination. More people are becoming susceptible to food-borne disease, and the amount of disease being carried by food is also increasing.

So the notion that food safety is the consumer's problem is bunk, pure and simple. It is an excuse for maintaining the status quo, for maintaining the comfortable relationship that has developed between the regulator and the regulated.

To be sure, I cannot look my constituents in the face and tell them that they are responsible for food safety after their Government spends upwards of $2 billion annually on food safety.

Mr. President, the lack of action on food safety certainly does not result from a lack of independent, expert opinion on the matter. Since 1985, there has been a virtual parade of studies by the respected National Academy of Sciences. By the General Accounting Office, and by a host of other groups.

In 1985, the N.A.S. published "Meat and Poultry Inspection: The Scientific Basis for the Nation's Program." This study documented the gap between modern processing techniques and the antiquated meat and poultry inspection system.

Then in 1987, N.A.S. focused on food safety in the chicken industry. In "Poultry inspection: The basis for a risk-assessment approach" the Academy's food and nutrition board described how poorly deployed were our inspection resources in poultry plants. As chickens whiz by at speeds up to 30 birds per minute, poultry inspectors are supposed to be able to pronounce the product wholesome and worthy of the USDA seal of approval."

A 1988 N.A.S. report entitled "Designing Foods: Animal Product Options in the Marketplace" identified the range of innovative managerial, scientific and processing techniques that could be applied to food production and inspection.

Then, in 1990, the National Academy was called on to "evaluate the success of its own evaluation". In "cattle inspection: evaluation of streamlined inspection system," The N.A.S. outlined how dangerous the USDA's "streamlined inspection system" was for meat and poultry. But the Academy went on to review, point-by-point, how well its own 1985 recommendations had been implemented by the Food Safety and Inspection Service. FSIS received a failing grade.

If the National Academy of Sciences' work hasn't been enough, the General Accounting Office has also looked into America's food safety mess.

A 1990 GAO report was appropriately entitled, "Food Safety and Quality: Who does what in the Federal Government." To cover this topic GAO filled two volumes.

In 1992, GAO echoed the National Academy's calls for better science in food inspection. Its report, "Uniform Risk-based Inspected need to ensure safety food supply," Pointed out the "inconsistencies and illogical differences" in food safety enforcement. The GAO pointed out that responsibility for inspection is often determined by administrative factors, as opposed to good science and good policy. For example, meat and poultry processors are inspected daily, although with archaic techniques. Fish processors, on the other hand, may be inspected only once every 3 to 5 years. There is no scientific basis for this disparity.

GAO's most recent study, issued in July 1993, is a classic understatement. It is titled "Innovative Strategies May Be Needed To Regulate New Food Technologies." Think that innovative strategies are needed to regulate all food technologies, new and old.

Mr. President, I am introducing the Food Safety Reform Act of 1993 because I am sick and tired of NAS and GAO studies piling up and collecting dust. I am sick and tired of hearing about children being hospitalized during E. coli outbreaks in beef, or about the growing threat of salmonella in poultry. I am sick and tired of hearing those responsible for food safety pass it off as labor and media hype. And I am sick and tired of hearing that food safety is the problem of American consumers.

Finally, Mr. President, I would note that the Food Safety Reform Act will not be the only measure of its type pending before Congress.

Senator DURENBERGER has introduced legislation which would create an entirely new food safety agency. I like the bold nature of the Durenberger proposal. However, I am afraid that I do not like the potential cost. Reforming food safety will be expensive enough without creating yet another bureaucratic entity. My bill leaves the bureaucrats in place, but centralizes responsibility for their management. This, I believe, will be significantly less expensive than setting up another agency.

Vice President GORE also has a proposal, delivered as part of the National Performance Review. Mr. GORE has proposed that FSIS, the USDA agency responsible for meat and poultry inspection, be transferred to the Food and Drug Administration. The Vice President's proposal has the benefit of making meat and poultry inspection part of a public health agency. However, it fails to address the many other food safety functions spread out among a variety of other agencies. In addition, I believe that the FDA is already overburdened with its primary responsibility as a drug and medical device regulator.

The Food Safety Reform Act of 1993 takes a middle road between the Gore and Durenberger proposals. It is intended to be as comprehensive as DURENBERGER's Super Food Agency, but with the lower cost of GORE's transfer of regulatory authority.

Mr. President, I look forward to working with Senator DURENBERGER, with the Vice President, and with all others interested in fixing the American food safety mess. We have been remiss in our responsibility to the American consumer, and it is about time we act to restore confidence in our food safety system.

Mr. President, I ask unanimous consent that a copy of the Food Safety Reform Act of 1993 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food Safety Reform Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; Table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—TRANSFER OF FOOD SAFETY AND INSPECTION FUNCTIONS

Sec. 101. Transfer of food safety functions to the Consumer Product Safety Commission.
Sec. 102. Personnel provisions.
Sec. 103. Delegation and assignment.
Sec. 104. Reorganization.
Sec. 105. Rules.
Sec. 106. Transfer and allocations of appropriations and personnel.
Sec. 107. Location of personnel.
Sec. 108. Determination of certain functions and incidental transfers.
Sec. 109. Effect on personnel.
Sec. 110. Savings provisions.
Sec. 111. Separability.
Sec. 112. Transition.
Sec. 113. References.
Sec. 114. Conforming amendments.

TITLE II—SPECIFIC FUNCTIONS OF THE COMMISSION AFTER TRANSFER

Sec. 201. Appointment of an Executive Director for safety.
Sec. 202. Preparation of a memorandum of understanding.
Sec. 203. Plans.

TITLE III—ESTABLISHMENT OF A LIAISON OFFICE

Sec. 301. Establishment of the Office of Public Health Liaison.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Reports.
Sec. 402. Authorization of appropriations.
Sec. 403. Effective date.

SEC. 2. FINDINGS.

The Congress finds that—

(1) American consumers are entitled to a safe supply of food, which requires no more than reasonable and proper care to maintain its wholesomeness;

(2) the United States Government's system for ensuring food safety is outdated, is fragmented, and is not yielding a level of wholesomeness commensurate with the resources being devoted to the system;

(3) American consumers' confidence in their food supply is undermined by the condition of their Government's food safety regulatory system;

(4) demographic changes in the United States will increase the threat of foodborne diseases to a growing number of American consumers;

(5) the paramount priority of the food safety system is human health;

(6) the paramount interests to be protected by the food safety system are the interests of the American consumer;

(7) the food safety system has not responded to the presence of new contaminants and new modes of transmission of infection;

(8) food safety regulators have not adequately taken advantage of potential innovations in food inspection techniques;

(9) food safety regulators have not developed a sufficiently reliable, independently verified scientific basis for modernization of the food safety system;

(10) as currently constituted, the United States food safety system is not capable of responding to food safety challenges in a coordinated, comprehensive and efficient manner; and

(11) the purposes of this Act can be satisfactorily achieved without the physical relocation of entities and personnel currently constituting the United States food safety system.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) consolidate fragmented Federal authority for inspection and regulation of the United States' food supply under the Consumer Product Safety Commission;

(2) focus the food safety and inspection system of the United States on the needs of the American consumer;

(3) make public health the primary criterion in the evaluation of the United States' food safety and inspection system;

(4) provide for coordinated, efficient modernization of the system; and

(5) improve cooperation among Federal, State, and local agencies involved in ensuring food safety and public health.

SEC. 4. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) Chairman.—The term "Chairman" means the Chairman of the Consumer Product Safety Commission.

(2) Commission.—The term "Commission" means the Consumer Product Safety Commission.

(3) Federal agency.—The term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code.

(4) Function.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(5) Office.—The term "office" includes any office, administration, agency, department, institute, unit, organizational entity, or component thereof.

TITLE I—TRANSFER OF FOOD SAFETY AND INSPECTION FUNCTIONS

SEC. 101. TRANSFER OF FOOD SAFETY FUNCTIONS TO THE CONSUMER PRODUCT SAFETY COMMISSION.

(a) In General.—There are transferred to the Commission all functions exercised before the effective date of this Act (including all related functions of any office or employee) of or relating to food safety and inspection carried out by—

(1) the Secretary of Agriculture or the Department of Agriculture under—

(A) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(B) the Agricultural Adjustment Act (7 U.S.C. 601 et seq,) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.); and

(D) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(2) the Secretary of the Interior or Department of Interior, or the Secretary of Commerce or the Department of Commerce under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) ;

(3) the Commissioner of Food and Drugs and the Secretary of Agriculture under the Federal Anti-Tampering Act (18 U.S.C. 1365 et seq.);

(4) the Administrator of the Environmental Protection Agency or the Environmental Protection Agency under—

(A) title 14 of the Public Health Service Act, commonly known as the "Safe Drinking Water Act" (42 U.S.C. 300f et seq.); and

(B) section 408 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a), and related provisions of law;

(5) the Secretary of Commerce or the Department of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(6) the Secretary of Health and Human Services or the Department of Health and Human Services under—

(A) the Import Milk Act (21 U.S.C. 141 et seq.);

(B) section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a), and related provisions of law; and

(C) the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) respecting—

(i) labeling of foods; and

(ii) setting standards of identity, quality, and fill of container for food products.

(b) Performance of Transferred Functions.—The Commission shall carry out the functions transferred under subsection (a).

SEC. 102. PERSONNEL PROVISIONS.

(a) Appointments.—

(1) In general.—The Chairman may appoint and fix the compensation of such officers and employees (including investigators, attorneys, and administrative law judges) as may be necessary to carry out the respective functions transferred under this title.

(2) Civil service.—Except as otherwise provided by law, the officers and employees shall be appointed in accordance with the civil service laws and the compensation of the officers and employees fixed in accordance with title 5, United States Code.

(b) Experts and Consultants.—

(1) In general.—To carry out this title, the Chairman may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate the experts and consultants for each day (including travel time) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title.

(2) Travel expenses.—To carry out this title, the Chairman may pay experts and consultants who are serving away from their homes or regular places of business travel expenses and a per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 103. DELEGATION AND ASSIGNMENT.

(a) In General.—Unless otherwise expressly prohibited by law or otherwise provided by this Act, the Chairman may delegate any of the functions transferred by this title, and any function transferred or granted after the effective date of this Act, to such officers and employees of the Commission as the Chairman may designate, and may authorize successive redelegations of the functions as may be necessary or appropriate.

(b) Continuing Responsibility.—No delegation of functions by the Chairman under this section or under any other provision of this Act is intended to relieve the Chairman of responsibility for the administration of the functions.

SEC. 104. REORGANIZATION.

The Chairman is authorized to allocate or reallocate any function transferred under this title among the officers of the Commission, and to establish, consolidate, alter, or discontinue such organizational entities in the Commission as may be necessary or appropriate.

SEC. 105. RULES.

The Chairman is authorized to prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Chairman determines to be necessary or appropriate to administer and manage the functions of the Commission.

SEC. 106. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

(a) In General.—Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred in accordance with this title.

(b) Use of Funds.—Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 107. LOCATION OF PERSONNEL.

During the fiscal year in which this Act is enacted, the Chairman shall enter into a lease agreement with the head of each transferred agency for the provision, by each such agency, of space and support services for personnel who are transferred under this Act.

SEC. 108. DETERMINATION OF CERTAIN FUNCTIONS AND INCIDENTAL TRANSFERS.

(a) In General.—The Director of the Office of Management and Budget, at such time as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions, as may be necessary to carry out this title.

(b) Termination of Affairs.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities of which all functions are transferred by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 109. EFFECT ON PERSONNEL.

Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions is not intended to cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of the employee under this title.

SEC. 110. SAVINGS PROVISIONS.

(a) Continuing Effect of Legal Documents.—An order, determination, rule, regulation, permit, agreement, grant, contract, certificate, license, registration, privilege, or other administrative action—

(1) that has been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this title; and

(2) that is in effect at the time this Act takes effect, or was final before the effective date of this Act and is to become effective on or after the effective date of this Act,

shall continue in effect according to the terms of the action until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, an official of a Federal agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—

(1) IN GENERAL.—This title shall not affect any proceeding (including a notice of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending before a transferred office on the effective date of this Act, with respect to functions transferred by this title. The proceeding and application shall be continued.

(2) ORDERS.—An order shall be issued in the proceeding, an appeal shall be taken from the order, and a payment shall be made pursuant to the order, as if this Act had not been enacted. An order issued in the proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this subsection is intended to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent as the proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect a suit commenced before the effective date of this Act. In the suit, a proceeding shall be had, an appeal taken, and a judgment rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against a transferred office, or by or against any individual in the official capacity of the individual as an officer of a transferred office, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by a transferred office relating to a function transferred under this title may be continued by the Commission with the same effect as if this Act had not been enacted.

SEC. 111. SEPARABILITY.

If a provision of this Act or the application of this Act to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SEC. 112. TRANSITION.

The Chairman is authorized to utilize—

(1) the services of the officers, employees, and other personnel of a transferred office with respect to functions transferred by this title; and

(2) funds appropriated to the functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

SEC. 113. REFERENCES.

Each reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the head of a transferred office with regard to functions transferred under this title shall be deemed to refer to the Chairman; and

(2) a transferred office with regard to functions transferred under this title shall be deemed to refer to the Commission.

SEC. 114. CONFORMING AMENDMENTS.

Not later than 180 days after the effective date of this Act, if the Chairman determines (after consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget) that technical and conforming amendments to Federal statutes are necessary to carry out the changes made by this Act, the Chairman shall prepare and submit to Congress recommended legislation containing the amendments.

TITLE II—SPECIFIC FUNCTIONS OF THE COMMISSION AFTER TRANSFER

SEC. 201. APPOINTMENT OF AN EXECUTIVE DIRECTOR FOR SAFETY.

(a) IN GENERAL.—There is established in the Commission the position of an Executive Director of Food Safety, who shall be appointed by the Chairman.

(b) DUTIES.—The Executive Director of Food Safety shall perform such responsibilities as the Chairman shall prescribe.

(c) COMPENSATION.—The Executive Director of Food Safety shall be compensated at a rate of pay fixed by the Chairman.

SEC. 202. PREPARATION OF MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman shall enter into a separate memorandum of understanding with each of the following to carry out the objectives described in subsection (b):

(1) The Secretary of Health and Human Services.

(2) The Administrator of the Occupational Safety and Health Administration.

(3) The Secretary of Commerce.

(4) The Secretary of Defense.

(5) Executive officers of State health departments.

(6) The head of any other governmental entity as determined necessary by the Chairman.

(b) OBJECTIVES.—The Chairman and each entity that enters into a memorandum of understanding under subsection (a) shall carry out the following objectives, respecting food safety and inspection:

(1) Regular exchange of food safety and inspection information and scientific data among entities under a memorandum of understanding.

(2) Full access, on demand by an entity under the memorandum of another entity that entered into the memorandum, to all information and scientific data required under this Act.

(3) Ensuring the best reasonable safety for government and private employees involved in the production, shipping, processing, inspection, or any other function of the food production process.

(4) Conducting interagency regulation of food processing and production in the most comprehensive and consistent manner.

SEC. 203. PLANS.

(a) PREPARATION AND SUBMISSION OF A DATABASE PLAN.—Not later than 1 year from the date of enactment of this Act, the Chairman shall prepare and submit to the appropriate committees of the Senate and the House of Representatives a plan for the development of a comprehensive nationwide food safety database and surveillance system. The surveillance system developed under the plan shall include—

(1) a determination of infectious doses of common foodborne pathogens for all potential patient populations;

(2) public health protocols to standardize and improve the reporting of outbreaks of foodborne illness by local public health authorities to the Centers for Disease Control; and

(3) such other requirements the Chairman determines necessary.

(b) PREPARATION AND SUBMISSION OF A TECHNIQUE PLAN.—Not later than 1 year from the date of enactment of this Act, the Chairman shall prepare and submit to the appropriate committees of the Senate and the House of Representatives, a plan for the innovation and implementation of food safety and inspection techniques, including techniques of hazard analysis of critical control points, rapid pathogen detection, trace-back technology, irradiation of foods, and such other techniques the Chairman determines necessary.

TITLE III—ESTABLISHMENT OF A LIAISON OFFICE

SEC. 301. ESTABLISHMENT OF THE OFFICE OF PUBLIC HEALTH LIAISON.

(a) IN GENERAL.—There is established within the Commission an Office of Public Liaison.

(b) FUNCTIONS.—The Office of Public Liaison shall provide information and advice, with respect to food safety and inspection, to agencies of the United States Public Health Service, the National Academy of Sciences, State and local public health agencies, and academia, and shall carry out such other activities as the Chairman determines necessary.

TITLE IV—GENERAL PROVISIONS

SEC. 401. REPORTS.

On the date that is 1 year after the date of the enactment of this Act, and 3 years thereafter, the Chairman shall report to Congress on the estimated additional cost of implementing this Act.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 403. EFFECTIVE DATE.

Except for sections 107, 108, 202, and 203, which shall become effective on the date of enactment, this Act shall become effective on the earlier of—

(1) such date during the 180-day period beginning on the date of enactment of this Act as the President may direct in an Executive order; or

(2) the date that is 180 days after the date of the enactment of this Act.•

By Mr. MCCAIN:

S. 1751. A bill to amend the National Wool Act of 1954 to provide that the reduction in the support price for wool and mohair programs do not apply to households who are participating, or are eligible to participate, in the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

LOW-INCOME WOOL PRODUCERS LEGISLATION

• Mr. MCCAIN. Mr. President, I am introducing legislation today to protect the poorest Americans who participate in the Federal Wool and Mohair Program. I am deeply concerned about the economic impact that a total elimination of this program will have on the thousands of wool and mohair producers who live below the Federal poverty line.

My legislation would allow wool and mohair producers who receive or are eligible for food stamps to continue to receive payments from the Department of Agriculture for the production of wool and mohair without any reductions. Legislation recently signed into law will phase out the Wool and Mohair Program by 1997, and payments to producers will be significantly cut in 1995 and 1996.

The validity and cost of the Wool and Mohair Program was the subject of considerable scrutiny and debate in the Congress this year, and understandably so. At a time of massive Federal budget deficits and increasing burdens on our Nation's taxpayers, it is imperative the Congress take decisive action to reduce spending on a wide range of Federal programs. I believe the Wool and Mohair Program, which cost taxpayers $191 million in 1992, is one of them.

However, there is one aspect of the Wool and Mohair Program that I feel is very important, and merits careful consideration of the Congress. In the West, there are thousands of native Americans who receive very small payments each year for the wool and mohair they produce. These native Americans are often very poor, and the modest amount of money they receive from the Federal Government helps them put food on the table for their children and families. I think it would be a grave mistake for the Congress to ignore the plight of these impoverished citizens and cause them unnecessary economic injury.

A few facts on the profiles of the native Americans who participate in the Wool and Mohair Program should be of interest. In New Mexico, Arizona, and Utah there were 6,799 members of the Navajo Nation who received assistance from the Wool and Mohair Program in 1992. The average payment received by Navajo wool producers was $206 in 1992, and Navajo mohair producers received an average of $178.67. Since producers of one of these commodities on the reservation usually also produces the other, the average payment to Navajos from the Wool and Mohair Program last year was $385.

As you can see, the Navajo's who participate in the Wool and Mohair Program are not receiving substantial amounts of money. They are certainly not receiving the tens of thousands of dollars that have been previously allocated by the USDA to many large producers in the West. Those payments—including some as high as several hundred-thousand dollars—cannot be justified, and the time has certainly arrived to end them.

Furthermore, according to the Navajo Nation's Grazing Committee, "the average Navajo producer owns 40 sheep and 30 goats. While small, many Navajo families rely heavily on their herds of sheep and goats as their main sources of income." It is quite clear that these are low-income, family ranchers who probably have been tending sheep for generations, as did their ancestors.

Tending small herds of sheep and goats is often the only economic enterprise these native Americans can engage in. They live in areas of the West where there are virtually no other means to provide for themselves and their families. Life on many of the Indian reservations in America can be extremely difficult, and many of the citizens of our country would be jarred by the circumstances that many native Americans endure day after day.

The Federal Government consigned native Americans to areas of our country where there is little economic growth and decent job opportunities, and I firmly believe we have a special obligation to help them as a result. At the very least, we should not cause native Americans further economic pain, and totally eradicating the Wool and Mohair Program would do just that.

It is inarguable that Native Americans face some of the most dire economic and social circumstances of any people in the United States. The facts are disturbing:

The average per capita income of the Navajo Nation is only $4,106, one-fourth less than the average American.

Unemployment on reservations averages four-to-five times that of other regions of the United States, and the percentage of Navajos living in poverty is an astounding 56.1 percent, four times higher than the rest of the country.

More than 15 percent of Indian homes lack basic sanitation facilities, a rate eight times worse than the rest of the United States.

There are also native Americans from other tribes in the States of Colorado, Wyoming, and South Dakota that receive wool and mohair payments. It is important to point out, however, that the legislation I am introducing today does not preserve wool program benefits for individuals on the basis of ethnicity or region of the country in which they live. My legislation would simply allow any wool and mohair producer who receives or is eligible for food stamps to continue to receive payments under the existing formula.

This legislation would allow wool program participants who qualify for food stamps to continue receiving payments without having their payments reduced in 1995 and 1996, as the recently enacted wool program legislation mandates. When the program is effectively terminated after payments are distributed in 1996, my legislation would permit these low income participants to continue receiving wool and mohair payments.

The cost of this legislation would be extremely small in view of the current cost of the Wool and Mohair Program. Last year, the wool program cost taxpayers $191 million. The total amount of wool and mohair payments paid out to native Americans in the West in 1991 was approximately $2.3 million. This is only 1.2 percent of the entire cost of the program.

As you can see, I seek to preserve only a very small segment of the wool program as we know it today.

I believe this small segment of the wool program is well worth saving. While I am most familiar with the importance of these payments to native Americans, any producer whose income qualifies them for food stamps would continue to receive wool payments under this legislation.

In order to ascertain exactly how much this bill would cost, I have asked the Secretary of Agriculture to provide me with precise figures on how many wool and mohair producers have incomes below the poverty line. I am awaiting this information and will make it available to my colleagues as soon as I receive it.

Based upon research and my discussions with tribal officials, however, I think it is reasonable and accurate to estimate that my legislation would continue payments in the range of $2 million per year. That means the adoption of this legislation would still permit the current cost of the wool program to be reduced by over 98 percent.

At the same time, we will be preserving critical assistance to poor families whose lives are already difficult enough. We should not look away from the injury these proud and hardworking people will endure as a result of a total elimination of the wool program.

I look forward to having this proposal evaluated by the Senate, and I urge all of my colleagues to carefully consider how this modest but important proposal will help the lives of Americans who are truly disadvantaged.

I thank the Chair and ask unanimous consent that a copy of the legislation be printed at this point in the RECORD as if read.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION OF FOOD STAMP HOUSEHOLDS FROM REDUCTION OR ELIMINATION OF WOOL AND MOHAIR PROGRAMS.

(a) SUPPORT PRICE FOR WOOL AND MOHAIR.—Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) in subsection (a), by striking "through December 31, 1995." and inserting "through—

"(1) December 31, 1995; or

"(2) in the case of a household that is participating, or is eligible to participate, in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (referred to in this Act as a 'food stamp household'), December 31, 1997."; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting after "1995" the following: "(or, in the case of a food stamp household, December 31, 1997)";

(B) in paragraph (3), by striking "No" and inserting "In the case of producers of wool and mohair other than food stamp households, no"; and

(C) in paragraph (4)(A), by inserting after "1995" the following: "(or, in the case of a food stamp household, December 31, 1997)".

(b) Reduction in Payments.—The second sentence of section 704(a) of such Act (7 U.S.C. 1783(a)) is amended by inserting after "In the case of" the following: "wool and mohair marketed by producers, other than food stamp households, for".

(c) Elimination of Wool and Mohair Programs.—Section 3 of Public Law 103–130 (7 U.S.C. 1781 note) is amended—

(1) by striking subsections (a) and (b); and

(2) in subsection (c), by striking "(c) Prohibition.—Effective" and inserting "In the case of a producer other than a household that is participating, or is eligible to participate, in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), effective".•

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1752. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1753. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1754. A bill regarding the suspension of duty on diflunisal; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

• Mr. BRADLEY. Mr. President, I introduce legislation which temporarily suspends the duties of famotidine, finasteride, and diflunisal. Joining me in sponsoring this legislation is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 3174, H.R. 3176, and H.R. 3428.

According to the International Trade Commission, these chemicals do not have domestic producers and are imported by Merck & Co., a pharmaceutical company located in New Jersey. All three chemicals are used for medicinal purposes.

A temporary duty suspension on these products benefit those whose ailments require them. Often inflated costs of medicines are impediments to those who need them. These duty suspensions would allow the pharmaceutical company to import the drugs at reasonable prices without the consumer paying the ultimate price.

Mr. President, I ask unanimous consent that the text of these bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1752

SECTION 1. SUSPENSIONS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	3,5-Dimethyl-2-hydroxymethyl-4-methoxy-pyridine (pyrmethyl alcohol) (CAS No. 86604–78–6) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/96
"9902.31.13	2-Mercapto 5-methoxy benzimidazole (metmercazole) (CAS No. 37052–78–1) (provided for in subheading 2933.90.80)	Free	No change	No change	On or before 12/31/96
"9902.31.14	m-Chloroperoxybenzoic acid (MCPBA) (CAS No. 00937–14–4)) (provided for in subheading 2916.39.04)	Free	No change	No change	On or before 12/31/96
"9902.31.15	N'-(aminosulfonyl)-3-[[[2-[(diaminomethylene)-amino]-4-thiazoly]-methyl] thio] propanimidamide (famotidine) (CAS No. 76824–35–6) (provided for in subheading 2935.00.57)	Free	No change	No change	On or before 12/31/96".

SEC. 2. APPLICABILITY.

The amendments made by this Act apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1753

SECTION 1. SUSPENSION OF DUTY ON FINASTERIDE AND FINASTERIDE TABLETS.

Subchapter II of chapter 99 of Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	N-(1,1-dimethylethyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxamide (finasteride) (provided for in subheading 2933.79.50)	Free	No change	No change	On or before 12/31/96"; and
"9902.32.02	N-(1,1-dimethylethyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxamide tablets (finasteride tablets) (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1754

SECTION 1. SUSPENSION OF DUTY ON DIFLUNISAL.

Heading 9902.30.23 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/95".

SEC. 2. APPLICABILITY.

(a) In General.—The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) Retroactive Provision.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the 15th day after the date of the enactment of this Act, any entry or withdrawal from warehouse—

(1) that was made after December 31, 1992, and before such 15th day; and

(2) with respect to which there would have been no duty if the amendment made by section 1 applied to such entry or withdrawal;

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.•

By Mr. BINGAMAN:

S. 1755. A bill to amend the Internal Revenue Code of 1986 to promote and improve employee ownership in the United States; to the Committee on Finance.

EMPLOYEE OWNERSHIP PROMOTION AND IMPROVEMENT ACT OF 1993

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will promote employee ownership. Although many are unfamiliar with the idea of employee ownership, I believe that it can serve as a key to our Nation's productivity and competitiveness. It can also serve as a means to narrow the disturbing earnings polarization we have seen in our economy over the last 20 years.

Simply put, employee ownership for participating employees means a piece of the company. It creates entrepreneurs out of workers. And it rewards productivity with earnings.

Mr. President, some might ask why this is important to our Nation. The answer is highlighted in studies that compares nonemployee owned and employee owned companies. In many cases, results indicate a correlation between stock performance and meaningful employee ownership. A Rutgers University study in March, for example found that while companies in which executives held 10 percent of the companies stock performed the same in companies in which they did not, company stock in companies in with worker holdings of 10 percent or greater jumped 23 percent last year versus 4.2 percent for the Dow Jones Industrials. The most recent update from the Rutgers group indicates the index of shares of public companies with 10 percent or greater employee ownership is up 11.25 percent for the year to date, compared to 0.6 percent for the Dow, 4.6 percent for the S&P 500, 7.86 percent for equity mutual funds, and 3.7 percent for the Wilshire 5000. Clearly, there is a link between performance and employee ownership, especially when ownership is broad based, and brings with it progressive employee participation. It is exactly this sort of performance that lead to job creation, economic expansion, and increased competitiveness for our Nation. And it is exactly these sorts of high performance workplaces that can promote the labor-management relationship that we all believe are in our national interest.

Employee ownership can also help meet some of the demands for patient capital. Patient capital is the type of capital put into start-up and growing businesses with the intention of waiting several years or more for that investment to bear fruit. The United States, for various reasons, is experiencing a shortage of patient capital. We recognized the need to encourage long-term investment during the reconciliation process, when we included a modification of Senator BUMPERS' legislation providing capital gains relief for those willing to make long-term investments in small and growing businesses. It makes logical sense that employees are ideal investors for such companies. Clearly, they have an interest in seeing a company succeed, and are in a better position than many investors to determine the potential of the company they invest in.

Employee ownership can also significantly help combat the growing disparity of the haves and have nots in this Nation. To quote Jeffrey Gates' testimony before the Senate Democratic Task Force on Defense/Economic Conversion last September:

> The 1980s saw the most significant rise in wealth concentration since the 1920s, with the wealthiest one percent of Americans increasing their proportional share of the nation's net worth by more than 19 percent between 1983 and 1989. Meanwhile, from 1976-1986, the share of national income flowing to the poorest 10 percent of U.S. households dropped from 1.1 percent to 0.9 percent, a drop of more than 19 percent . . . full-time workers living below the poverty line represented 18 percent of the U.S. workforce in 1990, up from 12.1 percent in 1979.

Clearly, the growing disparity in incomes should be of concern to all of us. Throughout America's long history of democracy, we have strived to maintain a strong middle class, and the involvement of all in our governance. This system will clearly begin to lose legitimacy when the hopes for entering and maintaining the status of the middle class begin to disintegrate. Indeed, we can see the seeds of hopelessness all around us.

One of the benefits of employee ownership is that it can help close the gap of disparity that grew so large in the 1980s. It can create entrepreneurship, and the hope that entrepreneurship brings. It can also be part of a much-needed strategy to focus on our common destiny and future.

Because I believe that employee ownership can bring these kinds of benefits to our country, 2 years ago I began to develop a legislative package to promote employee ownership. I found that since 1974, we have had some incentives for employee ownership, particularly employee stock ownership plans, [ESOP's], in large part due to the foresight of Senator Russell Long of Louisiana and other members of the Finance Committee. Those incentives, however, have been somewhat limited, and it is clear that the potential benefits of employee ownership dictate more Federal involvement in promoting ownership. I consulted with many experts of employee ownership to determine what shape that involvement should take. The legislative package of initiatives, which I am introducing today, is the result of those consultations.

Mr. President, I welcome the involvement of others in fine tuning this package. In crafting it, I have attempted to encourage broad participation in ownership, long-term investments, and the dissemination of information on employee ownership. It is my hope that it will serve as a beginning point for the Congress to seriously address the need to promote employee ownership, for the good of this Nation's competitiveness, the good of our workers, and for our nation's future.

I ask unanimous consent that a summary of this legislation, and its full text, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Ownership Promotion and Improvement Act of 1993".

SEC. 2. REFERENCES TO INTERNAL REVENUE CODE OF 1986.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—INVESTMENT INCENTIVES

SEC. 101. EXCLUSION FOR GAIN FROM SALE OR EXCHANGE OF CERTAIN STOCK OF AN EMPLOYEE OWNED BUSINESS.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:

"SEC. 1203. EXCLUSION FOR GAIN FROM SALE OR EXCHANGE OF CERTAIN STOCK OF AN EMPLOYEE OWNED BUSINESS.

"(a) GENERAL RULE.—

"(1) EXCLUSION.—In the case of a taxpayer other than a corporation who has gain from the sale or exchange of qualified stock of an employee owned business, gross income shall not include an amount equal to the sum of the amounts determined by applying the applicable percentages determined under paragraph (2) to such gain.

"(2) APPLICABLE PERCENTAGES.—The applicable percentages under paragraph (1) shall be determined under the following table:

"In the case of stock held:	The applicable percentage is:
At least 5 years but less than 6 years.	50
At least 6 years but less than 7 years.	60
At least 7 years but less than 8 years.	70
At least 8 years but less than 9 years.	80
At least 9 years but less than 10 years.	90
10 or more years	100.

"(b) LIMITATION.—

"(1) IN GENERAL.—The aggregate amount of gain which may be excluded under subsection (a) for a taxable year shall not exceed $250,000 reduced by the aggregate amount of gain excluded by the taxpayer under subsection (a) for prior taxable years.

"(2) TREATMENT OF MARRIED INDIVIDUALS.—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting '$125,000' for '$250,000'.

"(B) ALLOCATION OF EXCLUSION.—In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(c) QUALIFIED STOCK OF AN EMPLOYEE OWNED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified stock of an employee owned business' means any stock in a corporation which is issued by such corporation on or after December 31, 1993, if—

"(A) as of the date of issuance, such corporation is an employee owned business, and

"(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified stock of an employee owned business unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON.—Stock acquired by the taxpayer shall not be treated as qualified stock of an employee owned business if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(B) SIGNIFICANT REDEMPTIONS.—Stock issued by a corporation shall not be treated as qualified stock of an employee owned business if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

"(C) TREATMENT OF CERTAIN TRANSACTIONS.—If any transaction is treated under section 304(a) as a distribution in redemption of the stock of any corporation, for purposes of subparagraphs (A) and (B), such corporation shall be treated as purchasing an amount of its stock equal to the amount treated as such a distribution under section 304(a).

"(D) EXCEPTION FOR PURCHASE OF STOCK FROM EMPLOYEES.—Subparagraph (A) shall not apply to the purchase of stock by a corporation from an employee in connection with such employee's termination of employment with the corporation, or in connection with repurchasing shares offered for sale by employee shareholders.

"(4) SPECIAL RULES.—

"(A) REPURCHASE BY CORPORATION, ETC.—If—

"(i) stock in a corporation in the hands of a taxpayer would be qualified stock of an employee owned business except that it was issued before December 31, 1993, and

"(ii) the taxpayer sells such stock to such corporation or to an employees' trust fund which is described in section 401(a) and which is exempt from the tax under section 501(a),

such stock shall be treated as qualified stock of an employee owned business for purposes of applying subsection (a) to any gain of the taxpayer on such sale.

"(B) DISTRIBUTIONS TO EMPLOYEES.—If an employees' trust which is described in section 401(a) and which is exempt from tax under section 501(a)—

"(i) purchases stock in a corporation at original issue from such corporation or from a person who acquired such stock at original issue from such corporation, and

"(ii) distributes such stock to an employee, the stock distributed to such employee shall be treated as acquired by the employee at original issue and the employee's holding period for such stock shall include the period from issuance to distribution.

"(d) EMPLOYEE OWNED BUSINESS.—

"(1) IN GENERAL.—For purposes of this section, the term 'employee owned business' means any domestic corporation if—

"(A) at least 50 percent of the employees of the corporation own directly, or have allocated to an account in an employees' trust described in section 401(a) which is exempt from tax under section 501(a), stock in such corporation, and

"(B) stock owned by the employees of the corporation represents at least 30 percent of—

"(i) each class of outstanding stock of the corporation, or

"(ii) the total value of all outstanding stock of the corporation.

"(2) EXCLUSION OF CERTAIN STOCK FOR PURPOSES OF DEFINITION.—If an employee owns directly, or through an allocation to an account in an employees' trust described in section 401(a) which is exempt from tax under section 501(a), stock representing more than 5 percent of—

"(A) each class of outstanding stock of the corporation, or

"(B) the total value of all outstanding stock of the corporation,

no stock owned by such employee directly or through such an allocation shall be included under paragraph (1)(B).

"(e) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

"(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of 1 or more qualified trades or businesses, and

"(B) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified trade or business' means any trade or business other than—

"(A) any banking, insurance, financing, leasing, investing, or similar business,

"(B) any farming business (including the business of raising or harvesting trees), and

"(C) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A.

"(4) ELIGIBLE CORPORATION.—For purposes of this subsection, the term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(A) a DISC or former DISC,

"(B) a corporation with respect to which an election under section 936 is in effect or which has a direct or indirect subsidiary with respect to which such an election is in effect,

"(C) a regulated investment company, real estate investment trust, or REMIC, and

"(D) a cooperative.

"(5) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(6) WORKING CAPITAL.—For purposes of paragraph (1)(A), any assets which—

"(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

"(B) are held for investment and are reasonably expected to be used within 2 years to finance research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

"(7) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(8) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(f) STOCK ACQUIRED ON CONVERSION OF OTHER STOCK.—If any stock in a corporation is acquired solely through the conversion of other stock in such corporation which is qualified stock of an employee owned business in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified stock of an employee owned business in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

"(A) such amount shall be treated as gain described in subsection (a), and

"(B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified stock of an employee owned business in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified stock of an employee owned business was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer described in paragraph (2), the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) DESCRIPTION OF TRANSFERS.—A transfer is described in this subsection if such transfer is—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified stock of an employee owned business is exchanged for other stock which would not qualify as qualified stock of an employee owned business but for this subparagraph, such other stock shall be treated as qualified stock of an employee owned business acquired on the date on which the exchanged stock was acquired.

"(B) LIMITATION.—This section shall apply to gain from the sale or exchange of stock treated as qualified stock of an employee owned business by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time. The preceding sentence shall not apply if the stock which is treated as qualified stock of an employee owned business by reason of subparagraph (A) is issued by a corporation which (as of the time of the transfer described in subparagraph (A)) is an employee owned business.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified stock of an employee owned business under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which such limitation applied (determined after the application of the second sentence of subparagraph (B)).

"(D) CONTROL TEST.—In the case of a transaction described in section 351, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

"(i) BASIS RULES.—For purposes of this section—

"(1) STOCK EXCHANGED FOR PROPERTY.—In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(3) TREATMENT OF CONTRIBUTIONS TO CAPITAL.—If the adjusted basis of any qualified stock of an employee owned business is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

"(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

"(1) IN GENERAL.—If the taxpayer has an offsetting short position with respect to any qualified stock of an employee owned business, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

"(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

"(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

"(2) OFFSETTING SHORT POSITION.—For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified stock of an employee owned business if—

"(A) the taxpayer has made a short sale of substantially identical property,

"(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

"(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(k) COORDINATION WITH EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.—In the case of qualified stock of an employee owned business that is also qualified small business stock (as defined in section 1202(c))—

"(1) the taxpayer shall elect whether gain from the sale of such stock is excluded under this section or section 1202, and

"(2) the limitation under—

"(A) subsection (b) shall be reduced by the amount of such gain excluded under section 1202, and

"(B) section 1202(b) shall be reduced by the amount of such gain excluded under subsection (a).

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN QUALIFIED STOCK OF AN EMPLOYEE OWNED BUSINESS.—An amount equal to the amount excluded from gross income for the taxable year under section 1203."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "and (7)" and inserting "(7), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(C) the exclusion provided by section 1203 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting "(2)(C)," after "(2)(B),".

(2) Paragraph (4) of section 642(c) is amended—

(A) by inserting "or 1203(a)" after "1202(a)", and

(B) by inserting "1203, respectively" after "1202".

(3) Paragraph (3) of section 643(a) is amended by inserting "or 1203" after "1202".

(4) Paragraph (4) of section 691(c) is amended by striking "1202," and inserting "1202, 1203,".

(5) The second sentence of paragraph (2) of section 871(a) is amended by striking "section 1202" and inserting "sections 1202 and 1203".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1202 the following new item:

"Sec. 1203. Exclusion for gain from sale or exchange of certain stock of an employee owned business."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after December 31, 1993.

SEC. 102. DEFERRAL OF CAPITAL GAINS TAX ON SALE OF EMPLOYER SECURITIES MODIFIED TO INCLUDE SECURITIES OF PUBLIC COMPANIES.

(a) IN GENERAL.—Section 1042(c)(1)(A) (relating to sales of stock to employee stock ownership plans) is amended by striking "that has no stock outstanding that are readily tradable on an established securities market".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of securities occurring on or after December 31, 1993.

SEC. 103. ESOP DIVIDEND EXCEPTION TO ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.

(a) IN GENERAL.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

"(v) TREATMENT OF ESOP DIVIDENDS.—Clause (i) shall not apply to any deduction allowable under section 404(k)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

TITLE II—INCENTIVES TO EMPLOYEES

SEC. 201. USE OF 401(k) PLANS WITHIN EMPLOYEE STOCK OWNERSHIP PLANS.

(a) IN GENERAL.—Section 4975(e)(7) (relating to the definition of employee stock ownership plan) is amended by adding at the end the following: "An employee stock ownership plan may include a qualified cash or deferred arrangement under the same rules which apply to stock bonus plans under section 401(k), and an employee stock ownership plan may provide for matching contributions under the same rules which apply to stock bonus plans under section 401(m). Any contributions described in section 401(k)(2)(A), and any matching contributions described in section 401(m)(4)(A), which are made to an employee stock ownership plan may be used to make payments on a loan incurred for the purpose of acquiring qualifying employer securities (as described in section 404(a)(9))."

(b) ELECTIVE DEFERRALS.—

(1) INCREASE IN LIMIT FOR CERTAIN CONTRIBUTIONS.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended by adding at the end the following new paragraph:

"(9) INCREASE IN LIMIT ON ELECTIVE DEFERRALS FOR CONTRIBUTIONS TO EMPLOYEE STOCK OWNERSHIP PLANS.—The limitation under paragraph (1), as increased under paragraph (4), shall be increased by the lesser of—

"(A) the amount of any elective deferrals for contributions to an employee stock ownership plan (as defined in section 4975(e)(7)), or

"(B) $3,000."

(2) COST-OF-LIVING ADJUSTMENT.—Section 402(g)(5) (relating to cost-of-living adjustment) is amended to read as follows:

"(5) COST-OF-LIVING ADJUSTMENT.—The Secretary shall—

"(A) adjust the $7,000 amount under paragraph (1), and

"(B) in the case of years beginning after 1994, adjust the $3,000 amount under paragraph (9),

at the same time and in the same manner as under section 415(d)."

(c) EFFECTIVE DATE.—

(1) The amendment by subsection (a) is effective as of November 6, 1979, with respect to references to section 401(k) and effective October 22, 1986, with respect to references to section 401(m).

(2) The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993.

SEC. 202. REDUCTION OF TAX RATES ON EMPLOYEE STOCK OWNERSHIP PLAN RETIREMENT DISTRIBUTIONS.

(a) IN GENERAL.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended to read as follows:

"(a) TAXABILITY OF BENEFICIARY EXEMPT TRUST.—

"(1) IN GENERAL.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(2) EXCLUSION FOR PORTION OF LUMP-SUM DISTRIBUTION FROM ESOPS.—

"(A) DISTRIBUTION OF SECURITIES.—In the case of a lump-sum distribution of employer securities from an employee stock ownership plan (as defined in section 4975(e)(7)), there shall be excluded from gross income 50 percent of the net appreciation in securities of the employer corporation realized at the time of sale.

"(B) CASH DISTRIBUTION.—If an employee stock ownership plan (as defined in section 4975(e)(7)) distributes cash in lieu of employer securities held immediately before the distribution, there shall be excluded from gross income an amount equal to 50 percent of the net appreciation of such employer securities.

"(C) TREATMENT AS LUMP-SUM DISTRIBUTION.—For purposes of this paragraph, no distribution to any taxpayer other than an individual, estate, or trust may be treated as a lump-sum distribution under this paragraph."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made on or after December 31, 1993.

SEC. 203. GAINS FROM THE SALE OR EXCHANGE OF CERTAIN EMPLOYER SECURITIES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. GAINS FROM THE SALE OR EXCHANGE OF CERTAIN EMPLOYER SECURITIES.

"(a) TREATMENT OF GAIN.—

"(1) GENERAL RULE.—In the case of an individual, gross income shall not include gain from the sale or exchange of qualified employer securities but only if the sale or exchange occurs—

"(A) after the individual has attained the age of 55;

"(B) after the individual has held the qualified employer securities for 10 years while employed by the corporation which issued the qualified employer securities; and

"(C) during the 1-year period following the individual's separation from service as an employee of the corporation which issued the qualified employer securities.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be excluded under paragraph (1) for all taxable years shall not exceed $100,000.

"(b) DEFINITIONS.—For purposes of this section, the term 'qualified employer securities' means stock in a corporation which was originally issued to, or purchased by, the individual while the individual was employed by such corporation."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by redesignating the item relating to section 137 as section 138, and by inserting after the item relating to section 136 the following new item:

"Sec. 137. Gains from the sale or exchange of certain employer securities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges occurring on or after December 31, 1993.

SEC. 204. ALLOWANCE OF DEDUCTION WITH RESPECT TO CERTAIN EMPLOYEE STOCK OPTIONS.

(a) IN GENERAL.—Section 421 (relating to general rules regarding certain stock options) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE.—

"(1) IN GENERAL.—In the case of a transfer of a share of stock in an employee owned business (as defined in section 1203(c))—

"(A) subsection (a)(2) shall not apply, and

"(B) the corporation described in subsection (a)(2) shall be allowed, for the taxable year in which the option is exercised, a deduction equal to the fair market value of the stock at the time the option is exercised, reduced by the fair market value of the stock at the time the option is issued.

"(2) OPTIONS EXERCISED BY CERTAIN EMPLOYEES.—Paragraph (1) shall not apply to any option exercised by an employee who—

"(A) during the taxable year in which the option is exercised, receives compensation from the corporation which exceeds $200,000, or

"(B) on the date that the option is exercised, owns stock representing greater than 5 percent of the total value of all outstanding stock of the corporation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to options granted on or after December 31, 1993.

SEC. 205. CERTAIN CORPORATIONS ALLOWED TO SPONSOR EMPLOYEE STOCK OWNERSHIP PLANS.

(a) IN GENERAL.—Subparagraph (A) of section 1361(c)(2) (relating to definition of S corporation) is amended by inserting after clause (iv) the following new clause:

"(v) A trust established pursuant to an employee stock ownership plan (as defined in section 4975(e)(7))."

(b) TRUSTEE TREATED AS SHAREHOLDER.—Subparagraph (B) of section 1361(c)(2) (relating to definition of S corporation) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), the trustee shall be treated as the shareholder."

(c) APPLICATION OF UNRELATED BUSINESS TAX.—

(1) IN GENERAL.—Subsection (b) of section 513 (relating to unrelated trade or business) is amended—

(A) by striking "or" before "by a partnership" and inserting a comma, and

(B) by inserting ", or by an S corporation of which it is a shareholder" before the end period.

(2) SPECIAL RULES.—So much of subsection (c) of section 512 (relating to unrelated taxable income) as precedes paragraph (2) is amended to read as follows:

"(c) SPECIAL RULES APPLICABLE TO PARTNERSHIPS AND S CORPORATIONS.—

"(1) IN GENERAL.—If a trade or business regularly carried on by a partnership of which an organization is a member, or by an S corporation of which a trust established pursuant to an employee stock ownership plan (as defined in section 4975(e)(7)) is a shareholder, is an unrelated trade or business with respect to such organization or trust, such organization or trust shall, in computing its unrelated business taxable income (and subject to the exceptions, additions, and limitations contained in subsection (b)), include its share (whether or not distributed) of the gross income of the partnership or S corporation from such unrelated trade or business and its share of the partnership or S corporation deductions directly connected with such gross income."

(d) S CORPORATION TO PAY ESOP'S UNRELATED BUSINESS TAX.—

(1) IN GENERAL.—Section 1361 (relating to definition of S corporation) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP TRUSTS.—A trust shall not be treated as described in clause (v) of subsection (c)(2)(A) unless the S corporation the stock of which is held by such trust pays, or guarantees the payment by such trust of, any tax imposed by section 511. Any such payment or guarantee shall be made in such manner as the Secretary may prescribe and shall not be treated as a contribution to the trust under section 404(a)."

(2) CONFORMING AMENDMENTS.—

(A) Section 408(b) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

"(14) Any guarantee or payment of a tax liability as described in section 1361(e) of the Internal Revenue Code of 1986."

(B) Subsection (d) of section 4975 (relating to tax on prohibited transactions) is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; or", and by inserting after paragraph (15) the following new paragraph:

"(16) any guarantee or payment of a tax liability as described in section 1361(e)."

(e) Computation of Tax on Unrelated Business Income.—Subsection (a) of section 511 (relating to imposition of tax on unrelated business income of charitable organizations) is amended by adding at the end the following new paragraph:

"(3) Special rule for certain trusts.—In the case of a trust described in section 1361(c)(2)(A)(v), the tax imposed by paragraph (1) on such trust's pro rata share of an S corporation's income pursuant to section 1366 shall be computed by multiplying its pro rata share of such income by the highest rate of tax specified in section 11(b)."

(f) S Corporation Stock Distributions to ESOP Not Treated as Contributions.—Section 404(a) (relating to deductions for contributions of an employer to an employee trust) is amended by adding at the end the following new paragraph:

"(10) Distributions with respect to stock of s corporation.—Distributions with respect to the stock of an S corporation made to an employee stock ownership plan (as defined in section 4975(e)(7)) shall not be considered contributions for purposes of this section or section 415(c)."

(g) Deduction for S Corporation Stock Distributions.—Paragraph (2) of section 404(k) (relating to deduction for dividends paid on certain employer securities) is amended by adding at the end the following new subparagraph:

"(C) Dividend.—The term 'dividend' shall include distributions with respect to stock of an S corporation which would be treated as a dividend but for the application of section 1368(a)."

(h) ESOP May Distribute Cash.—The second sentence of paragraph (2) of section 409(h) (relating to right to demand employer securities put option) is amended to read as follows: "In the case of an employer that is an S corporation or whose charter or bylaws restrict the ownership of substantially all outstanding employer securities to employees or to a trust described in section 401(a), a plan which otherwise meets the requirements of this subsection or section 4975(e)(7) shall not be considered to have failed to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that participants entitled to a distribution from the plan shall have a right to receive such distribution in cash, except that such plan may distribute employer securities subject to a requirement that such securities may be resold to the employer under terms which meet the requirements of paragraph (1)(B)."

(i) Effective Date.—The amendments made by this section shall apply to plans sponsored on or after December 31, 1993.

TITLE III—STATE PROGRAMS TO ENCOURAGE EMPLOYEE OWNERSHIP

SEC. 301. PROGRAMS REGARDING EMPLOYEE OWNERSHIP AND PARTICIPATION.

(a) Establishment of Program.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor (referred to in this section as the "Secretary") shall establish a program to facilitate the establishment of State programs to foster increased employee ownership and greater employee participation in business decisionmaking throughout the United States.

(b) Purpose of Program.—The Secretary shall establish the program under subsection (a) to encourage State programs which focus on the following:

(1) Activities involving education and outreach to inform individuals about the possibilities and benefits of employee ownership, gainsharing, and participation in business decisionmaking, including financial education.

(2) Activities involving technical assistance to assist employee efforts to become business owners.

(3) Activities involving participation training to teach employees and employers methods of employee participation in business decisionmaking.

(4) Activities involving training other organizations to apply for funding under this section.

(c) Program Details.—In focusing on activities referred to in subsection (b), the Secretary may include in the program provisions that would—

(1) in the case of activities under subsection (b)(1)—

(A) provide for the targeting of key groups such as retiring business owners, unions, managers, trade associations, and community organizations;

(B) encourage cooperation in organizing workshops and conferences; and

(C) provide for the preparation and distribution of materials concerning employee ownership and participation;

(2) in the case of activities under subsection (b)(2)—

(A) provide for the performance of prefeasibility assessments;

(B) provide assistance in the funding of objective third party feasibility studies; and

(C) provide a data bank to help employees find legal, financial, and technical advice in connection with company ownership;

(3) in the case of activities under subsection (b)(3)—

(A) provide for courses on employee participation; and

(B) provide for the development and fostering of networks of employee-owned companies to spread the use of successful participation techniques; and

(4) in the case of activities under subsection (b)(4)—

(A) provide for visits to existing programs qualified under this title by staff from new programs receiving funding under this title; and

(B) provide materials to be used by organizations qualified under this title.

(d) Regulations.—Regulations issued by the Secretary pursuant to this title shall include provisions assuring that any program within the several States established for the purposes of this title be—

(1) proactive in encouraging actions and activities that will promote and encourage employee ownership of companies and participation in decisionmaking therein; and

(2) comprehensive in emphasizing both employee ownership of companies and employee participation in company decisionmaking so as to boost productivity and broaden capital ownership.

(e) Grants.—Any program established pursuant to subsection (a) shall provide for grants to the program within the several States in accordance with section 304.

SEC. 302. OFFICE OF EMPLOYEE OWNERSHIP AND PARTICIPATION.

(a) Establishment.—The Secretary shall establish, within the Department of Labor, the Office of Employee Ownership and Participation (hereinafter referred to as the "Office") to promote employee ownership, gainsharing, and employee participation in company decisionmaking.

(b) Functions.—The functions of the Office are to—

(1) support programs within the several States approved by the Secretary as being in compliance with the program established pursuant to section 301; and

(2) facilitate the formation of new programs within the several States for the purpose of accomplishing the goals of this title.

(c) Duties.—In carrying out its functions under subsection (b), the Office shall—

(1) in the case of activities under subsection (b)(1), support those programs within the several States that are designed to achieve the goals and purposes set forth in this title and to provide such support by—

(A) making matching Federal grants under section 304; and

(B) acting as a clearinghouse on techniques employed by the programs within the several States and disseminating information to such programs, or funding such information gathering and dissemination programs by groups outside the Office; and

(2) in the case of activities under subsection (b)(2), facilitate the formation of new programs by encouraging the establishment of such programs in each of the 50 States, including the holding or funding of an annual conference to bring together representatives from existing programs with the several States and representatives from States without such existing programs.

SEC. 303. ORGANIZATION OF THE OFFICE.

(a) Director.—There shall be at the head of the Office a Director of Employee Ownership and Participation (hereinafter referred to as the "Director") who shall be appointed by the Secretary.

(b) Employees.—In carrying out the functions of the Office, the Director may select, appoint, employ, and fix the compensation of such employees as shall be necessary to carry out the functions of the Office.

SEC. 304. GRANTS.

(a) In General.—For the purpose of making grants authorized under the program established pursuant to section 301, the Office is authorized to make grants for use in connection with programs within the several States for any of the following activities:

(1) Education and outreach.

(2) Participation training.

(3) Technical studies, including prefeasibility and feasibility studies.

(4) Activities facilitating cooperation among employee ownership firms.

(5) Training for newly formed organizations to be provided by existing organizations qualified under this title, except that such funding shall not exceed 10 percent of the total grants under this title and will not require matching State contributions.

(b) Matching.—Grants under this section shall be made by the Office on a matching basis, $1 of Federal money for every 50 cents of non-Federal money.

(c) Applications.—The Office shall prescribe the form and information necessary for applications for grants under this section.

(d) Amounts and Conditions.—The Office shall determine the amounts and the conditions for grants made under this section.

(e) Grants on Behalf of Other Entities.—

(1) STATE APPLICATIONS.—Each of the several States may sponsor and submit applications on behalf of units of State or local governments, State-supported institutions of higher education, and nonprofit organization programs meeting the requirements of this title, but in no case shall the aggregate amounts of these grants made to any unit of State or local government, State-supported institutions of higher education, or nonprofit organization programs exceed the amount set forth in subsection (g).

(2) APPLICATIONS BY ENTITIES.—In any case in which a State fails to establish a program pursuant to this title during any fiscal year, the Secretary shall allow in the subsequent fiscal year entities described in paragraph (1) to make applications for grants on their own initiative. States would be allowed to submit applications in subsequent years as well but would no longer be able to screen applications first for submission to this program.

(f) ANNUAL REPORT.—Each grant recipient shall submit an annual report to the Office setting forth how all moneys from grants pursuant to this title were expended during the 12-month period preceding the date of the submission of the report.

(g) LIMITATIONS.—Grants to each of the recipients shall be limited for each fiscal year as follows:

(1) Fiscal year 1994, not to exceed, in the aggregate $200,000.

(2) Fiscal year 1995, not to exceed, in the aggregate $220,000.

(3) Fiscal year 1996, not to exceed, in the aggregate $242,000.

(4) Fiscal year 1997, not to exceed, in the aggregate $266,200.

(5) Fiscal year 1998, not to exceed, in the aggregate $292,000.

SEC. 305. AUTHORIZATIONS.

(a) IN GENERAL.—For the purpose of making grants pursuant to section 304, there are authorized to be appropriated the following:

(1) For fiscal year 1994, $2,500,000.

(2) For fiscal year 1995, $4,250,000.

(3) For fiscal year 1996, $6,000,000.

(4) For fiscal year 1997, $7,750,000.

(5) For fiscal year 1998, $9,500,000.

(b) ADMINISTRATIVE EXPENSES.—For the purpose of funding the Office, there is authorized to be appropriated for each of the fiscal years 1994 through 1998 an amount not in excess of 7.5 percent of the maximum amount available under subsection (b), or $250,000, whichever is the lesser.

SEC. 306. OFFICE REPORTING.

Prior to the expiration of the 36-month period following the date of enactment of this Act, the Director shall report to the Congress on the progress of employee ownership and participation in businesses in the United States. The report shall include a critical cost and benefit analysis of program activities.

SUMMARY OF EMPLOYEE OWNERSHIP PROMOTION AND IMPROVEMENT ACT OF 1993

PURPOSE OF LEGISLATION

Ownership by American workers of their companies results in improved productivity, quality, and competitiveness, as well as a more rational distribution of capital in the United States.

The proposed legislation promotes this policy objective by providing:

Incentives to create and finance employee-owned companies (Sections 101, and 301).

Incentives for existing companies to create or expand ESOPs and other stock incentive plans (Section 103, 201, 204, 205), and for existing shareholders to sell stock to these plans (Section 102).

Incentives for employees to save for retirement by investing in their own companies (Section 101, 201, 202, and 203).

IMPORTANT DEFINITIONS (FOR PURPOSES OF SECTIONS 101 AND 204)

Employee-Owned Business

"Employee-owned business" means an active domestic corporation in which at least 50% of employees own stock (directly or allocated through a tax qualified plan) and such stock represents at least 30% of each class of outstanding stock (or 30% of the total value of all outstanding stock).

Certain business activities are specifically excluded from this definition (e.g., banking, insurance, financing, leasing, investing, farming, and product extraction).

For the purpose of this definition shares owned by any individual who owns more than 5% of the capital stock of the corporation shall be excluded from the 30% calculation.

Qualified Stock of an Employee-Owned Business

Stock must have been issued on or after December 31, 1993, or stock may have been issued prior to December 31, 1993 if it is subsequently purchased by the corporation or an Employees Trust Fund.

Stock must have been acquired at its original issue for cash or other non-stock property, or as compensation for services, or a combination of these.

Company must be employee-owned at the time of issue and must remain an active employee-owned business for substantially all of the tax payer's holding period.

TITLE I—INVESTMENT INCENTIVES

Section 101: Exclusion for Gain from sale or Exchange of an Employee Owned Business.

Objective: Encourages long term investment in the stock of employee-owned businesses.

Approach: Allows a tax exclusion on a portion of the gain realized from sale of the "qualified stock of an employee-owned business", if the stock is held for at least five years. The exclusion increases from fifty percent (for a five year holding period) to one hundred percent (for ten years or more). The total lifetime exclusion for any individual under this Section would be limited to $250,000, or $125,000 for a married individual filing a separate return.

Assessment: This section provides a major incentive to make long-term investments in employee-owned businesses, both for employees, as well as for investors in start-up employee-owned businesses. It also requires that the investment be "patient," to benefit from the exclusion.

TITLE I—INVESTMENT INCENTIVES

Section 102: Deferral of Capital Gains Tax on Sale of Employer Securities Modified to Include Securities of Public Companies.

Objective: Provides an incentive to shareholders of public companies to sell shares to the company's ESOP.

Approach: Section 1042 of the IRC now allows the seller of qualified stock to defer capital gain taxes if the stock is sold to the ESOP of a privately held company. To take advantage of this tax deferral several conditions must be met. Key ones are: (1) the stock must have been owned for at least three years, (2) the proceeds must be reinvested in qualified replacement property within twelve months, and (3) the ESOP must own at least 30% of the company's shares after the transaction. Under this proposed modification to Section 1042 of the IRC, qualified shares of publicly traded companies would also be eligible for this favored tax treatment.

Assessment: This Section would create significant demand to either create or enlarge the ESOPs of public companies, since those who sell to the ESOP could receive a significant deferral on capital gain taxes. The creation of a 30% ESOP provides employees with an important ownership stake in their company and induces non-employee stock holders to sell on a tax-deferred basis to the ESOP under Section 1042.

Section 103: ESOP Dividend Exception to Adjustments Based on Adjusted Current Earnings.

Objective: Removes ESOP dividends as a tax preference item for calculation of corporate Alternative Minimum Tax.

Approach: The tax laws of 1984 and 1986 permitted dividends paid on ESOP stock to be tax deductible. Until 1989, these ESOP dividends were not subject to the corporate Alternative Minimum Tax, or AMT. In the tax bill of 1989, Congress altered the complex calculations utilized to figure the AMT. When the IRS issued regulations implementing the new formulas, IRS retroactively deemed ESOP dividends to be subject to the corporate AMT. This proposed section would clarify that the IRS position is an incorrect interpretation of the law, and that ESOP dividends are not subject to the corporate AMT.

Assessment: ESOP dividends were intended to be tax deductible in the original formulation of the tax incentives for ESOPs to encourage the formation of ESOPs. By restoring this tax treatment, the intent of the original legislation will be reestablished.

TITLE II—INCENTIVES TO EMPLOYEES

Section 201: Use of 401(k) Plans Within Employee Stock Ownership Plans.

Objective: Provides incentives to create ESOPs and have employees save for their retirement through elective tax-deferred contributions to their Company's ESOP.

Approach: Modifies those parts of the IRC which deal with ESOPs and 401(k) plans. Under this section, the annual elective salary deferral limit of $7000 (adjusted annually, and now $8994) for 401(k) plans could be exceeded by up to $3000 for elective deferrals to the company's ESOP. Both the ESOP and non-ESOP limits will be adjusted annually, per existing methods.

Assessment: This provision would incentivize companies to establish ESOPs in conjunction with their existing 401(k) savings plans, since the individual annual deferred salary limits of their employees could thereby be increased.

Section 202: Reduction of Tax Rates on ESOP Retirement Distribution.

Objective: Provides a reduced tax rate to retirees for lump sum distributions from ESOPs.

Approach: Allows for an exclusion from income of an amount equal to fifty percent of the appreciation of employers securities held in the company ESOP when distributed after an employee retires. The company and employee contributions would be taxed as normal income as is currently done. The Section also puts stock distributions and cash distributions on an equal footing by allowing cash distributions to receive the same capital gains treatment as stock distributions.

Assessment: This provision will greatly help retirees who take either stock or cash distributions from their company ESOP at retirement by significantly reducing their effective tax rate. Currently, cash distributions are taxed as normal income (with some provision for income averaging), unless rolled over into an IRA. This change will particularly help those who must live off these distributions after retirement. This feature will enhance the value of current ESOPs and create incentives to start new ESOPs.

Section 203: Gains from the Sale or Exchange of Certain Employer Securities.

Objective: Encourages employees to make long-term investments in their own companies.

Approach: Excludes from income one hundred percent of the capital gain on an employee's investment in his or her employer securities if: (1) the security is originally issued to or purchased by an employee and held for at least ten years, (2) the employee is at least fifty-five years old, and (3) the security is sold within one year after separation. The aggregate amount of such exclusions for all taxable years cannot exceed $100,000.

Assessment: This provision will incentivize long-term employee investment in their own companies, regardless of whether the company is an "employee-owned business" or not, or whether it is publicly traded or not. It encourages employee ownership of both publicly traded and privately held companies, and will create incentives for the management of privately held companies to allow their employees to become owners.

Section 204: Allowance of Deductions With Respect to Certain Employee Stock Options.

Objective: Encourages employee-owned businesses to use tax-advantaged Incentive Stock Options (ISO's) to motivate and reward their employees.

Approach: Allows employee-owned businesses to take a tax deduction equal to the compensation element of ISO's for the year in which the ISO is exercised, while allowing the recipient to defer taxes until the stock is sold. The company would receive no deduction for ISO's exercised by "key employees." This provision would not apply to options granted before December 31, 1993.

Assessment: The IRC does not now allow a company tax deduction when ISO's are exercised, though the individual may defer taxes until the stock is sold. By allowing such a company deduction, both the company and the stockholder receive a tax benefit. ISO's (a form of qualified stock option) are one of the most successful financial motivating tools available, but, after The Tax Reform Act of 1986, have been less frequently used since they are more costly than non-qualified options. This provision would restore the use of ISO's for employee-owned businesses, thereby increasing the involvement of employees in their own business, and motivating companies to achieve employee-owned status. The "key employee" restriction will prevent companies from receiving benefits from options exercised by high salaries employees (i.e., annual compensation >$200,000) or shareholders with large holdings (i.e., >5% ownership).

Section 205: Certain Corporations Allowed to Sponsor ESOPs.

Objective: Allow S-Corporations to establish ESOPs, thereby benefiting a larger number of employees.

Approach: Modifies the IRC sections which deal with S-Corporations, thus allowing such corporations to establish ESOPs.

Assessment: Small businesses are ideal for fostering employee ownership, since employees could become stockholders with a modest investment and see the enterprise grow based on their collective efforts. This provision would afford S-Corporations the opportunity to use the advantages of ESOPs now available to C-Corporations, and increase the number of U.S. workers who could participate in ownership of their employer's securities.

TITLE III—STATE PROGRAMS TO ENCOURAGE EMPLOYEE OWNERSHIP

Section 301: Programs Regarding Employee Ownership and Participation.

The Secretary of Labor shall establish an Employee Ownership and Participation Program to encourage and facilitate state programs that focus on: (1) education and outreach, (2) technical assistance, (3) participation training, and (4) training for preparing grant applications under section 304 below.

Section 302: Office of Employee Ownership and Participation.

The Secretary of Labor shall establish a Department of Labor Office to support existing state programs and facilitate new state programs. Duties of the Office shall include: (1) making of matching federal grants, (2) acting as a clearinghouse for information, and (3) facilitating information exchange and promoting state programs.

Section 303: Organization of the Office.

Authorizes the appointment of a Director of the Office of Employee Ownership Participation by the Secretary, and the staffing of such office.

Section 304: Grants.

Establishes program of grants to implement the functions in Title III to be administered by the Office. Also establishes reporting requirements, grant limitations, and other procedural elements.

Section 305: Authorizations.

Authorizes total pool of funds for grants, beginning at $2.5 million in FY 1994 escalating to $9.5 million in FY 1998, and establishes administrative costs of the Office, as not to exceed the lesser of 7.5% of the annual grant amounts, or $250,000.

Section 306: Office Reporting.

Establishes the requirement to report to Congress on the cost benefit of Title III activities.•

By Mr. MURKOWSKI:

S. 1756. A bill to encourage the optimum utilization of fisheries resources, to reduce waste in commercial fish harvesting and processing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL FISHERIES WASTE REDUCTION ACT OF 1993

Mr. MURKOWSKI. Mr. President, I rise today to introduce a measure designed to encourage the regional fishery management councils created by the Magnuson Fishery Conservation and Management Act to take control of, and resolve one of the most pressing problems of modern fisheries.

Under Magnuson, we have successfully developed the capability to harvest vast amounts of this Nation's fish resources, and today, U.S. vessels have almost completely supplanted the foreign vessels that once took the bulk of the resources in our exclusive economic zone.

What we have not done, however, is to take adequate steps to ensure that we control the level of waste that occurs in our fisheries.

Today, I am introducing legislation that will direct regional fishery management councils throughout the country to identify waste levels in the fisheries they manage, and to adopt measures to reduce it. My bill will amend the Magnuson Act to require that waste reduction become one of the purposes of the act, and be treated as an integral part of Federal fisheries planning throughout the country.

To those who are unfamiliar with the fishing industry, this may sound like a simple thing—an obvious thing—a thing that should have been taken care of long ago. Unfortunately, because each fishery, each gear type, each target species and each style of processing may yield different levels of waste, it is not at all a simple issue.

I know that my colleague, the senior Senator from Alaska, shares my concerns about the management of our fishery resources and will carefully consider all proposals including his own and those of other Members when the Senate Commerce Committee begins work on the Magnuson Act reauthorization next year. He has indeed shown great leadership in this area. I am not a member of the Senate Commerce Committee and so I introduce this bill today to express my concern for the wise use and management of our fishery resources and to add my proposals to those that may be considered by the committee when it addresses waste in our fisheries during consideration of amendments to the Magnuson Act.

Although it is late in this session, it is my hope that introducing this legislation now will encourage interested parties to accept that Congress is indeed serious about addressing the issue of waste, and to use the opportunity of the congressional recess to discuss both this proposal and any others that may be offered. It is my firm belief that the time has come for action.

Mr. President, there are several different kinds of waste that occurs in modern fishing. First, there is the waste that occurs through the incidental catch of fish and other creatures that are not the target of the fishermen. Although many of these fish are edible and some are of relatively high value, they are most often discarded either because we are concentrating solely on a specific species or because our management rules require it. This is what we call bycatch, and very few of those discarded fish survive to be caught another day.

Second, there are what we call economic discards. These are fish that, although of the target species, are unsuited for processing by virtue of their size, sex, or other reasons. They, too, go overboard, and again, very few survive the experience.

Finally, there are discards of unprocessed fish parts that might be turned into useful fish meal and oil, but are not considered worth the extra effort of doing so.

Taken as a whole, Mr. President, these discards achieve a level of overall waste in commercial fisheries that is absolutely appalling. In a world where millions of people are starving, this is a disgrace of unparalleled proportions.

In some U.S. fisheries, the bycatch rate is estimated to be as high as nine pounds for every pound of fish retained for processing. Globally, some sources estimate that bycatch is in the realm of 10 to 20 billion pounds of non-target sea creatures per year. Even my home State of Alaska, where authorities have been far more progressive than the national average, some fisheries result in bycatch and economic discard levels so high that less than half the harvested fish is actually processed for consumption.

Back home in Alaska, we have a term for what we see in the Nation's fisheries today. We call it wanton waste when it occurs in State-regulated activities, and wanton waste it is indeed.

Despite all this, Mr. President, let me be very-clear: it is not this Nation's fishermen who are at fault for this problem. Indeed, the clearest and most audible calls for change have come from within the fishing industry itself. Fishermen tend to be, both by inclination and profession, conservationists. Their whole lifestyle is based on the sustainable harvest of the ocean's gifts. It is by no choice of theirs that we have reached such an unfortunate state. However, fishermen are also businessmen, and operate in a highly competitive environment. In order to survive, they must maximize their production of salable fish, and that all too often means they must concentrate on one species, lest they lose ground to their competitors.

This sad state of affairs is virtually forced on our fishermen because harvests are generally capped, and like the late bird who finds no worm, the slow fisherman will find his season closed willy-nilly, without regard to any effort he may have made to minimize waste.

There are all kinds of proposals that have been made to deal with this problem, from penalties, to incentives, to privatizing the fisheries. None of them will work in all situations. It is for that reason that I believe the answers must come from the industry itself, through the regional management council structure established by the Magnuson Act.

This approach will provide the greatest flexibility, on a region by region basis, to deal with the various facets of what has become a national disgrace. And make no mistake about it, flexibility will be the key to resolving this matter successfully, using methods that are equitable for all concerned.

Make no mistake; flexibility does not mean we should be undecided. We must take action. We can no longer afford to regard fisheries waste as an inevitable cost of doing business. It is no such thing.

However, we must beware of simplistic solutions which could drive our fishermen out of business, or which will fail to have adequate impacts, or which may create environmental problems we cannot now foresee. For example, some people advocate the concept of full utilization, meaning anything and everything captured must be retained for use. They argue that bycaught fish will die anyway, so if we cannot turn them into edible seafood products, we should be making fish meat and oil from them, at the very least. However, we are far from knowing how such a change in policy might affect the ocean. Is it better to put those fish back in the ocean where they can feed others, or should we turn them into meal that might fertilize a farm field in the midwest?

In short, Mr. President, we must accept that we do not have all the answers.

That is why this bill emphasizes the need to reduce the number of mortalities that occur as a result of bycatch, rather than on more drastic measures, and on reducing the level at which we discard unused fish and fish parts from our target species. These focal points, when addressed on a national scale but with real sensitivity to local differences, are the most likely to result in real change. And I submit, Mr. President, that real change is what we need today.

I ask you, my colleagues and friends, to join in this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Commercial Fisheries Waste Reduction Act of 1993".

SEC. 2. FINDINGS

The Congress finds that—

(1) Current commercial fisheries practices in the United States and world wide contribute to a significant waste of edible food resources which are harvested, but discarded without processing for human consumption or other uses.

(2) Fish currently harvested but discarded without processing include in some fisheries large numbers of juvenile fish which would have significantly greater value both as an economic asset to the fishery and to the maintenance of the species if they were allowed to reach maturity before harvesting.

(3) Fish currently harvested but discarded without processing include in some commercial fisheries significant numbers of adult fish or fish parts which could be processed for human consumption, but which are required to be discarded for various fisheries management purposes, or which are considered unsuitable for a particular market of immediate interest to the fishing vessel operator.

(4) Fish currently harvested but discarded without processing include significant numbers of fish of species for which there is presently no viable market, but which, if they remained unharvested, could form the basis for future fisheries as new markets and processing techniques are developed.

(5) There is cause for concern that current levels of mortalities among non-target fish species may have adverse environmental consequences.

(6) High discard levels, if concentrated geographically, may cause damage to the productivity of the resources using the ocean bottom and near-bottom areas.

(7) The current level of scientific knowledge is insufficient to determine if adverse impacts may result from the removal of nutrients presently returned to the ocean through the discard of non-target fish species and of unutilized portions of targeted species.

(8) It is in the national interest both environmentally and economically to minimize mortalities among non-target species taken incidentally to the various directed fisheries.

(9) It is in the national interest to encourage the utilization where practicable of all parts of fish harvested in directed fisheries for that species.

SEC. 3. AMENDMENTS TO MAGNUSON ACT.

The Fisheries Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended—

(1) In subsection 1801(b)(4) by inserting "in a non-wasteful manner and" after "maintain,";

(2) In subsection 1801(b)(6) by inserting "in a non-wasteful manner" after "such development";

(3) In subsection 1802(21)(B) by inserting ", including efforts to limit mortality in non-target species for the purposes of resource conservation and food production" after "ecological factor";

(4) In section 1802 by adding at the end the following new paragraph:

"(33) The term "non-target species" means fish caught incidentally to fishing for a particular species or group of species and which may or may not be retained aboard the fishing vessel for subsequent processing and/or sale.";

(5) In section 1851(a)(1) by adding "and encourage the minimization of mortalities among non-target species" after "prevent overfishing";

(6) In section 1851(a)(5) by striking the word "promote" and inserting in its place the word "consider";

(7) In section 1851(a) by adding at the end the following new paragraph:

"(8) Conservation and management measures shall encourage the non-wasteful taking of fishing resources, including the reduction of discards of fish and fish parts, and the minimization of mortalities among non-target species.";

(8) In section 1853(a) by redesignating paragraph (4) as paragraph (6) and renumbering the subsequent paragraphs accordingly; and by inserting the following new paragraphs:

"(4) assess and specify—

"(A) to the maximum extent practicable an estimate by numbers of fish or weight thereof of the extent of anticipated mortalities among non-target species taken incidentally to the fishery or fisheries for which the plan is prepared, and

"(B) to the maximum extent practicable, an estimate by numbers of fish or weight thereof of anticipated discard levels of fish and fish parts taken pursuant to the fishery, but not utilized;

"(5) contain a description of measures intended to reduce mortalities among non-target species taken incidentally to the fishery or fisheries for which the plan is prepared, and to encourage the use of target species in a manner which minimizes the discard of fish and fish parts;'; and

(9) In section 1853 by adding at the end the following new subsection:

"(g) REQUIRED AMENDMENT OF MANAGEMENT PLANS.

Each council shall—

"(1) within one year from the date of enactment of this subsection, submit to the Secretary such amendments for each management plan under its jurisdiction as are needed to comply with subsections (a) (4) and (5) of this section; and

"(2) thereafter submit annually to the Secretary a report identifying any changes to the estimate and descriptions required in subsections (a) (4) and (5) and in paragraph (1) of this subsection, and providing an explanation of the cause or causes of such changes.".

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. AKAKA, Mr. BAUCUS, Mrs. BOXER, Mr. BUMPERS, Mr. CAMPBELL, Mr. CONRAD, Mr. DODD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LEVIN, Mr. MATHEWS, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. SIMON, and Mr. WOFFORD) (by request):

S. 1757. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

THE HEALTH SECURITY ACT

Mr. MITCHELL. Mr. President, I am pleased to introduce the Health Security Act. The act represents an extraordinary effort on the part of Members of this body and Members of the House of Representatives. It represents hundreds of hours of consultation with families who have been adversely affected by the current health care system, with providers of care, and with many other interested organizations and individuals. This consultative process is unprecedented in my experience in the Senate. But all of this effort would not have brought us to this point without the leadership of President and Mrs. Clinton. They are to be commended for their vision, their willingness to take on this most difficult issue and their openness to input from many points of view.

The act proposes a comprehensive restructuring of the way health care is financed and delivered in this country. We are compelled to act, because our health care system cannot survive in its current form.

Every year, 1 million more Americans lose their health insurance coverage. Millions of others—in fact, nearly all Americans—fear losing their coverage if they become seriously ill or lose their job.

Many Americans have the most basic decisions of their life dominated, indeed dictated, by health care coverage and cost considerations. Whether to marry. Whether to have children. Where to work. Where to live.

These fundamental decisions should not be dictated by concerns about health insurance. But in the current system, they are.

President Clinton knows that we must reform the system. Members of Congress know that reform must come. And the American people know that reform must come.

This act represents an important first step toward protecting the health security of every American. It is also an important first step toward controlling the rapidly escalating costs of health care for families, for business, and for government.

The Health Security Act will assure security. The American people will have health coverage that can never be taken away. No longer will life decisions be driven by concerns about losing health care coverage.

The Act will assure savings, with meaningful cost containment provisions intended to control the rapidly escalating costs of health care.

It will expand choice. Consumers will be guaranteed the opportunity to choose from a variety of health plans and providers. For many Americans, this will represent their first opportunity to select the type of coverage or the specific provider that best suits their medical needs.

The Act will improve the quality of the American health care system. This will be accomplished in part by creating standards and guidelines for health professionals based on the researched outcomes of common procedures.

The Act will move toward simplicity in the health care system by reducing paperwork and moving to electronic billing. Providers will be able to spend their time treating patients and keeping abreast of the latest developments in medical research, instead of processing paperwork.

Finally, the President's plan will require responsibility from every American. Every business and every individual will be required to assume a fair share of the responsibility for health care in America.

Introduction of the Health Security Act represents the formal beginning of the Congressional debate on this critical matter.

The debate will be lively. There are bound to be differences of opinion about how best to achieve the goals the President has set forth, even among those of us who support this legislation.

There will certainly be differences of opinion with those who want to provide access to health care for every American, but who do not support the President's approach. I refer specifically to the efforts of the Republican Health Care Task Force, led by Senators DOLE and CHAFEE.

I have worked for many years with Senator CHAFEE and Senator DOLE on the Senate Finance Committee. I welcome their efforts to join in developing a meaningful health care reform proposal which includes the fundamental goal of ensuring universal access to health care for every American. I commend them for their work on this issue, and I look forward to working with them.

There are parts of the Chafee/Dole proposal which are similar to provisions in the President's plan. I want to note, in particular, that the Republican plan also calls for a mandate.

The Chafee proposal would require all individuals to purchase health insurance. That's a mandate. The Clinton plan requires all businesses to provide health insurance. So, the debate will not be over whether there should be a mandate, but rather how best to mandate coverage to assure that every American has health insurance.

There are also significant differences. In addition to the requirement on employers, I believe we must have meaningful, enforceable cost containment.

I believe that inclusion of these components is critical if we are to achieve our shared fundamental goal, which is to assure that every American has affordable health care coverage.

We must remember what President Clinton said when he presented the Health Security Act to Congress. He said that he is willing to compromise, but that he will not sign a bill that does assure health care coverage for every American.

It is my belief that we will not send him such a bill. I believe that Democrats and Republicans can and will work together to agree upon a health care reform plan which will both ensure health care security for all Americans and control health care costs.

And I believe that we can—and that we must—work together to achieve these goals during this Congress.

The legislative process for health care reform will be challenging. We will move as quickly as is prudent given the scope and complexity of the bill.

Many committees of the House and Senate will have parts of this bill before them. This legislation touches on many areas of American life, and accordingly will be referred to several committees.

I am working closely with the committee chairs to move this historic bill through the legislative process.

It will be a complicated process. No one should believe that it will be easy. But the cost of inaction will be much higher than the cost of action.

We can reform our health care system. It will be done so long as all parties involved remain focused on our common goal: to provide affordable health care to all of our citizens.

The consensus that today supports universal health coverage for all Americans represents an unprecedented opportunity to achieve meaningful reform.

Of course, consensus doesn't mean the end of debate. Complex questions remain about the extent of coverage, the costs of care, and how to pay those costs. These are not easy questions to answer. They'll demand compromise from every sector-providers, patients, young and old, hospitals and insurers.

The public debate on health care reform has focused on the issues of cost and access. We know we can't keep doubling health care spending every five years.

The cost of health care threatens the fiscal health of the Federal Government, State governments, every American business, and every American family.

Access is equally important. Uninsured people are flooding some emergency rooms and clinics with cases ranging from the trivial to the life-threatening. Millions more live in fear that a serious illness or a pink slip will mean the loss of insurance coverage.

It is the tension between expanding access and controlling the cost of health care which continues to present a challenge to those who are attempting to develop responsible public policy.

The challenge is to strike an appropriate balance between these two important objectives.

We must work together in good faith, to embrace the common aspects of the many plans which have been advanced, and to negotiate until we have enacted the best possible plan for the American people.

I challenge all Members of the Senate, on both sides of the aisle to work with us, to share the responsibility, and to share the benefit of achieving this critical goal.

I ask unanimous consent that a memorandum from the White House be printed in the RECORD which describes a number of changes in the bill which are clarifications of the administration's policy. In addition, I ask unanimous consent that a more lengthy list of all changes, including strictly technical corrections be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON HEALTH SECURITY ACT

The Health Security Act transmitted to the Congress today contains several changes from the version released in October. These changes are necessary to conform the legislation to the President's policy. In addition, there is another list of strictly technical corrections. The changes are as follows:

Medicare—The reimbursement for advanced practice nurses under Medicare is defined more clearly to describe which services will be reimbursed. Several of the changes to the Medicare program to limit the rate of growth in Medicare are extended until the year 2003, and the Secretary of Health and Human Services will report to the Congress on the growth of spending under the Medicare program with recommendations for limits on the rate of growth if the rate of increase exceeds the increase in health care spending overall plus one percent.

Tax Changes—

Independent Contractors—The authority of the Secretary of Treasury to promulgate regulations defining independent contractor status is clarified to target such authority to abuses and to emphasize that there is no authority to override specific statutory exemptions.

Tax Cap—The tax cap, which becomes effective in 2004, is clarified to ensure that it includes all employer spending, including cost sharing, for the comprehensive benefit package.

Advisory Commission on Regional Variations in Health Care Costs—The provisions on the Advisory Commission are changed slightly to describe more accurately the report and recommendations on regional variations in health care spending and the process of Congressional disapproval of recommendations.

Benefits—The periodicity schedule for preventive benefits for children is altered to serve adolescents more appropriately. The flexibility in the mental illness and substance abuse benefit is more explicitly described by detailing the substitution of different methods of treatment, such as intensive nonresidential treatment as a substitute for inpatient treatment. The day limits for services, that exist prior to the expansion of benefits in 2001, and applicable copayments and deductibles on mental illness and substance abuse benefits are clarified to conform to the intended policy. The effect on the premium caps of including additional mental illness and substance abuse benefits in 2001 is detailed.

Veterans' Health Programs—A fund for infrastructure development for the health facilities of the Department of Veterans Affairs and benefits currently available to veterans, which are inadvertently omitted, are included.

State and Federal Maintenance of Effort and Subsidy Payments—Several clarifications of the responsibilities of the Federal and State governments to contribute funds based on current Medicaid and other expenditures are added. The maintenance of effort payment by the States does not include current payments for wraparound services for non-cash children; Federal and State governments share responsibility for funding subsidies for the cash population for cost—sharing and for premiums, as under the Medicaid program. In addition, the maintenance of effort payments by States for the current Medicaid population increases more slowly if State expenditures for the interim period increase more slowly then the national average.

Quality—A section on quality relating to the development of demonstration standards for the licensing of health care institutions, which was inadvertently omitted, is included.

Limitiations on Borrowing—Specific limits are imposed on borrowing for various purposes, including the corporate alliance guaranty fund, the transitional risk pool, and Federal subsidy payments.

Corporate Alliance Option—The option for corporate alliances to provide coverage through regional alliances for establishments with fewer than one hundred employees is deleted.

Multiemployer Plans—Multiemployer plans with more than 5000 members which choose not to form a corporate alliance may pay premiums to the regional alliance for their members if they assume the legal obligations of the employer to do so.

Equal Contribution Rule—an equal contribution rule for employers, requiring the same dollar contribution by the employer for all employees in the same class in the same alliance for benefits beyond the comprehensive benefits package, which was inadvertently omitted, is added.

Long-Term Care Cost Sharing—The schedule for cost sharing for long-term care services provided under the home and community based care program is reduced from a maximum of 40% to 25%, together with conforming changes.

Personal Needs Allowance—The personal needs allowance provided to Medicaid nursing home residents is increased to $50 from the current $30, as opposed to an increase of $70 previously described.

Early Retiree 20% Share—Employers currently obligated to provide health benefits to employees will be required, beginning in 1998, to pay the individual 20% share of the cost of the comprehensive benefit package for those employees.

Workforce and Academic Health Centers—The definition of academic health centers is clarified to assure that such centers include medical schools and other health professional training programs, as well as teaching hospitals. The timetable for expanding the number of primary care physicians is advanced to 1998 to achieve the transition to primary care. The authorizations for the workforce development programs are increased by $400 million annually, as intended. The program for training of advanced practice nurses is funded by $200 million, in addition to funds available under the GME program. The termination dates for the Medicare Direct and Indirect GME programs are adjusted to maintain a constant source of funding for these institutions. The workforce retraining program under the Secretary of Labor is clarified to ensure the establishment of an Institute for Health Care Workforce Development and to detail the specifics of the retraining program.

Indian Health Service—The eligibility of individuals enrolled in Indian Health Service programs for Premium discounts is clarified.

CHANGES BEFORE TITLE I

Page 2, in the table of subtitles of title I, strike any reference to subtitle H or I.

Page 3, in subtitle B of title VI, strike "Financings" and insert "Financing".

TITLE I CHANGES

[Subtitle A—Universal Coverage and Individual Responsibility]

Page 17, line 3, strike "section 8302(b)" and insert "section 8302(b) or 8306(b)".

Page 18, line 18, strike "an employee benefit plan" and insert "a plan".

Page 19, line 7, strike "arrangement" and insert "plan".

Page 19, line 20, add a period after "coverage".

Page 20, beginning on line 9, strike "paragraph (2)(A)" and insert "subsection (a)(2)(A)".

Page 21, beginning on line 10, strike "class of family enrollment under this Act" and insert "'class of family enrollment'".

Page 21, lines 13, 17, 20, and 22, insert "enrollment or" before "class".

Page 22, beginning on line 1, strike "term 'family', with respect to a class of enrollment, refers" and insert "terms 'family enrollment' and 'family class of enrollment' refer".

Page 22, beginning on line 5, strike "term 'couple', with respect to a class of enrollment" and insert "term 'couple class of enrollment' ".

Page 23, line 7, insert "under this Act" after "children".

Page 24, after line 2, insert the following:

"(E) CHILDREN PLACED FOR ADOPTION.—A child includes a child who is placed for adoption with an eligible individual."

Page 24, line 7, insert "or in which children are not residing with their parents" after "area".

Page 24, line 8, insert "eligible" after "of".

Page 24, line 10, strike "and".

Page 24, line 12, insert "and" after the comma.

Page 24, after line 12, insert the following:

(4) treatment of children of parents who are separated or divorced,

Page 24, lines 16 and 17, strike "QUALIFIED" and insert "QUALIFYING".

Page 24, line 22, insert "and in such following month would be a medicare-eligible individual but for this paragraph" after "following months".

Page 24, line 24, strike "the following" and insert "such following".

Page 25, line 3, strike "a medicare-eligible individual (determined without regard to paragraph (1))" and insert "an individual".

Page 25, strike lines 7 through 13.

Page 25, line 19, insert "collectively" after "treated".

Page 26, line 5, insert "(as defined in section 1902(33))" after "recipients".

Page 26, line 21, insert ", as added by section 8101(a)(1)" after "Code".

Page 27, line 12, strike "1073a(d)(1)" and insert "1073a(e)(2)(A)".

Page 27, line 13, insert "(as added by section 8001(a))" after "Code".

Page 28, line 10, strike "individual" and insert "student".

Page 29, line 9, strike "the health" and all that follows through line 13 and insert "for transfer payments see section 1346(e).".

Page 29, line 24, strike "612(c)(1)" and insert "1901(b)(1)".

Page 30, line 4, strike "an" and insert "a".

[Subtitle B—Benefits]

• Page 32, line 21, strike "health" and insert "illness".

Page 35, lines 6, 13, and 21, insert "such" after "in".

• Page 40, after line 18 insert the following (and redesignate provisions accordingly):

"(d) INDIVIDUALS AGE 6 TO 12.—For an individual at least 6 years of age, but less than 13 years of age, the clinician visits specified in this subsection are 3 clinician visits."

• Page 40, lines 19 and 20, strike "6" and insert "13".

Page 41, lines 3 and 5, insert a comma after "exams" and "cancer", respectively.

• Page 41, line 8, strike "obtained;" and insert "obtained, if medically necessary;".

• Page 41, line 16, strike "5" and insert "3".

• Page 45, line 19, strike "**HEALTH**" and insert "**ILLNESS**".

• Page 45, line 21, strike "health" and insert "illness".

• Page 46, line 1, strike "health" and insert "illness".

Page 46, line 2, insert "(described in subsection (c))" after "treatment".

• Page 46, line 3, strike "health" and insert "illness".

Page 46, line 4, insert "(described in subsection (d))" after "treatment".

• Page 46, line 5, strike "health" and insert "illness".

Page 46, line 6, insert "(described in subsection (e)" after "treatment".

• Page 46, lines 14, 16, and 17, strike "health" and insert "illness".

• Page 46, line 22, strike "or" and insert "disorder or a diagnosable".

• Page 47, line 5, strike "or" and insert "disorder or a diagnosable".

• Page 47, strike line 14 and all that follows through "and" on line 16 and insert the following:

"(A) a health professional designated by the health plan in which the individual is enrolled"

• Page 47, line 20, strike "health" and insert "illness".

• Page 47, line 20, insert before the period "with respect to a diagnosable mental disorder or a diagnosable substance abuse disorder".

• Page 47, line 24, strike "health" and insert "illness".

• Page 48, line 5, strike "health" and insert "illness".

Page 48, line 7, strike "as defined" and insert "described".

• Page 48, lines 9, 10, 11, and 15, strike "health" and insert "illness".

• Page 48, line 19, strike "or" and insert "disorder or a diagnosable".

• Page 48, line 24, strike "health" and insert "illness".

• Page 49, lines 8 and 11, strike "health" and insert "illness".

• Page 49, after line 12 insert the following:

"(A) RESIDENTIAL MENTAL ILLNESS TREATMENT.—Such treatment, when provided with respect to a diagnosable mental disorder in a setting that is not a hospital or a psychiatric hospital, is covered only to avert the need for, or as an alternative to, treatment in a hospital or a psychiatric hospital, as determined by a health professional designated by the health plan in which the individual receiving such treatment is enrolled.

(B) RESIDENTIAL SUBSTANCE ABUSE TREATMENT.—Such treatment, when provided with respect to a diagnosable substance abuse disorder in a setting that is not a hospital or a psychiatric hospital, is covered only if a health professional designated by the health plan in which the individual receiving such treatment is enrolled determines (based on criteria that the plan may choose to employ) that the individual should receive such treatment."

• Page 49, line 13, strike "(A)" and insert "(C)".

• Page 49, strike line 22 and all that follows through page 50, line 24, and insert the following:

"(D) ANNUAL LIMIT.—Prior to January 1, 2001, such treatment is subject to an aggregate annual limit of 30 days. A maximum of 30 additional days of such treatment shall be covered for an individual if a health professional designated by the health plan in which the individual is enrolled determines in advance that—

(i) the individual poses a threat to his or her own life or the life of another individual; or

(ii) the medical condition of the individual requires inpatient treatment in a hospital or a psychiatric hospital in order to initiate, change, or adjust pharmacological or somatic therapy."

• Page 51, beginning on line 2, strike "Substance abuse treatment," and all that follows through line 7 and insert the following:

"Such treatment, when provided in a hospital or a psychiatric hospital with respect to a diagnosable substance abuse disorder, is covered under this section only for detoxification requiring the management of psychiatric conditions associated with withdrawal from alcohol or drugs. The items and services described in this section do not include medical detoxification as required for the management of medical conditions associated with withdrawal from alcohol or drugs (which is covered under section 1111)."

• Page 51, line 10, strike "health" and insert "illness".

• Page 51, line 13, strike "or" and insert "disorder or a diagnosable".

• Page 51, lines 19 and 20, strike "health" and insert "illness".

• Page 52, lines 1 and 4, strike "health" and insert "illness".

• Page 52, beginning on line 6, strike "A health" and all that follows through line 9 and insert the following:

"An individual shall receive coverage for such treatment if a health professional designated by the health plan in which the individual is enrolled determines (based on criteria that the plan may choose to employ) that the individual should receive such treatment."

• Page 52, beginning on line 19, strike "health or" and insert "disorder or a diagnosable".

• Page 52, line 21, strike "the individual" and insert "such an individual".

• Page 53, beginning on line 3, strike "such treatment" and all that follows through page 54, line 4, and insert the following:

the number of covered days of inpatient and residential mental illness and substance abuse treatment that are available to an individual under the 30-day limit described in the first sentence of subsection (c)(2)(D) shall be reduced by 1 day for each 2 covered days of intensive nonresidential mental illness and substance abuse treatment that are provided to the individual, until such number is reduced to zero.

(ii) ADDITIONAL DAYS.—After the number of covered days referred to in clause (i) has been reduced to zero with respect to an individual, the individual shall receive coverage for a maximum of 60 days of intensive nonresidential mental illness and substance abuse treatment if a health professional designated by the health plan in which the individual is enrolled determines that the individual should receive such treatment.

(D) DETOXIFICATION.—Intensive nonresidential mental illness and substance abuse treatment consisting of detoxification is covered only if it is provided in the context of a treatment program.

• Page 54, line 5, strike "(D)" and insert "(E)".

• Page 54, line 7, strike "health" and insert "illness".

• Page 54, beginning on line 12, strike "that substitute" and all that follows through line 17 and insert the following:

may not be applied toward any annual out-of-pocket limit on cost sharing under any cost sharing schedule described in part 3 of this subtitle if such treatment is provided—

(i) with respect to a diagnosable substance abuse disorder; or

(ii) pursuant to subparagraph (C)(ii).

• Page 54, line 20, strike "health" and insert "illness".

• Page 54, line 22, strike "or" and insert "disorder or a diagnosable".

• Page 55, line 10, strike "health" and insert "illness".

• Page 55, strike line 16 and all that follows through page 56, line 2, and insert the following:

(B) DISCRETION OF PLAN..—An individual shall receive coverage for outpatient mental illness and substance abuse treatment consisting of substance abuse counseling and relapse prevention if a health professional designated by the health plan in which the individual is enrolled determines (based on criteria that the plan may choose to employ) that the individual should receive such treatment. This subparagraph does not apply to group therapy covered pursuant to subparagraph (C)(ii)(II).

Page 56, line 4, strike "PYCHOTHERAPY" and insert "PSYCHOTHERAPY".

• Page 56, beginning on line 7, strike "annual" and all that follows through the period on line 8 and insert "an aggregate annual limit of 30 visits per individual.".

• Page 56, beginning on line 13, strike "the annual" and all that follows through page 57, line 14, and insert the following:

the number of covered days of inpatient and residential mental illness and substance abuse treatment that are available to an individual under the 30-day limit described in the first sentence of subsection (c)(2)(D) shall be reduced by 1 day for each 4 visits. After such number has been reduced to zero, no additional visits under the preceding sentence may be covered.

(ii) SUBSTANCE ABUSE COUNSELING AND RELAPSE PREVENTION.—

(I) IN GENERAL.—Except as provided in subclause (II), the number of covered days of inpatient and residential mental illness and substance abuse treatment that are available to an individual under the 30-day limit described in the first sentence of subsection (c)(2)(D) shall be reduced by 1 day for each 4 visits for substance abuse counseling and relapse prevention that are covered for the individual under subparagraph (B). After such number has been reduced to zero, no visits for substance abuse counseling and relapse prevention may be covered, except as provided in subclause (II).

(II) GROUP THERAPY.—Prior to January 1, 2001, substance abuse counseling and relapse prevention consisting of group therapy is subject to a separate aggregate annual limit of 30 visits, if such therapy occurs within 12 months after the individual has received, with respect to a diagnosable substance abuse disorder, inpatient and residential mental illness and substance abuse treatment or intensive nonresidential mental illness and substance abuse treatment. The provisions of clause (i) and subclause (I) do not apply to therapy that is described in the preceding sentence.

(D) DETOXIFICATION.—Outpatient mental illness and substance abuse treatment consisting of detoxification is covered only if it is provided in the context of a treatment program.

• Page 57, line 15, strike "(D)" and insert "(E)".

• Page 57, line 17, strike "health" and insert "illness".

• Page 58, strike lines 1 through 8.

• Page 58, strike lines 15 through 21 and insert the following:

(2) DIAGNOSABLE MENTAL DISORDER AND DIAGNOSABLE SUBSTANCE ABUSE DISORDER.—The terms "diagnosable mental disorder" and "diagnosable substance abuse disorder" means a disorder that—

(A) is listed in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised or a revised version of such manual (except V Codes for Conditions Not Attributable to a Mental Disorder That Are a Focus of Attention or Treatment);

(B) is the equivalent of a disorder described in subparagraph (A), but is listed in the International Classification of Diseases, 9th Revision, Clinical Modification, Third Edition or a revised version of such text; or

(C) is listed in any authoritative text specifying diagnostic criteria for mental disorders or substance abuse disorders that is identified by the National Health Board.

Page 61, line 3, strike "added" and insert "inserted".

Page 61, line 3, strike"2006" and insert "2005".

Page 65, lines 2, 11, and 19, strike "National Health Board" and "Board" each place it appears and insert "Secretary".

Page 67, line 6, strike "repair" and insert "repair, function,".

Page 67, line 8, after "dental" insert "devices".

Page 68, line 7, strike "diagnosis" and insert "routine eye examinations, diagnosis,".

Page 68, line 9, insert, ", according to a periodicity schedule established by the National Health Board" after "age".

Page 73, line 9, strike "one" and insert "one, but not more than one,".

Page 73, line 12, strike "lower" and insert "Lower".

Page 73, line 13, strike the semicolon and insert a period.

Page 73, line 14, strike "higher" and insert "Higher".

Page 73, line 15, strike "; or" and insert a period.

Page 73, line 16, strike "combination" and insert "Combination".

Page 75, line 7, insert "any" after "and".

Page 75, line 18, insert "(expressed as a percentage of an amount otherwise payable or as a dollar amount, respectively)" after "amounts".

• Page 76, line 11, strike "(d)(2)(D) and (e)(2)(D)" and insert "(d)(2)(E) and (e)(2)(E)".

• Page 77, line 3, strike "(d)(2)(D) and (e)(2)(D)" and insert "(d)(2)(E) and (e)(2)(E)".

Page 78, line 18, strike "which" and insert "which, under the higher cost sharing schedule described in section 1133,".

Page 78, beginning on line 20, strike "under" and all that follows through line 21 and insert a period.

• Page 78, line 23, before "The higher" insert "(a) IN GENERAL.—".

• Page 79, line 14, strike "health" and insert "illness".

• Page 79, line 15, strike "1115)" and insert "1115(c))".

• Page 79, after line 17, insert the following (and redesignate provisions accordingly):

(3) shall require an individual to incur expenses during each episode of intensive nonresidential mental illness and substance abuse treatment (described in section 1115(d)) equal to the cost of one day of such treatment before the plan provides benefits for such treatment to the individual;

• Page 80, after line 22, insert the following:

(b) EPISODES OF TREATMENT.—

(1) INPATIENT AND RESIDENTIAL TREATMENT.—For purposes of subsection (a)(2), an episode of inpatient and residential mental illness and substance abuse treatment shall be considered to begin on the date an individual is admitted to a facility for such treatment and to end on the date the individual is discharged from the facility.

(2) INTENSIVE NONRESIDENTIAL TREATMENT.—For purposes of subsection (a)(3), an episode of intensive nonresidential mental illness and substance abuse treatment—

(A) shall be considered to begin on the date an individual begins participating in a program described in section 1115(d)(1)(A) and to end on the date the individual ceases and such participation; or

(B) shall be considered to begin on the date an individual begins receiving home-based or behavioral aide services described in section 1115(d)(1)(B) and to end on the date the individual ceases to receive such services.

• Page 83, in the item relating to inpatient and residential mental health and substance abuse treatment, strike "health" and insert "illness".

• Page 83, in the item relating to intensive nonresidential mental health and substance abuse treatment, strike "health" and insert "illness".

• Page 83, in the item relating to intensive nonresidential mental illness and substance abuse treatment, after "treatment" insert "(except treatment provided pursuant to section 1115(d)(2)(C)(ii))".

• Page 83, after the item relating to intensive nonresidential mental illness and substance abuse treatment, insert the following:

Intensive nonresidential mental illness and substance abuse treatment provided pursuant to section 1115(d)(2)(C)(ii).	1115	$25 per visit	50 percent of applicable payment rate.

• Page 83, in the item relating to outpatient mental health and substance abuse treatment, strike "health" and insert "illness".

Page 85, line 11, insert ", minus 1" after "1994".

Page 85, line 16, insert "than" after "less".

Page 86, line 12, strike "(other than services referred to in paragraph (2))".

Page 89, line 9, strike "6003(a)" insert "6003".

[Subtitle C—States Responsibilities]

Page 91, beginning on line 24, strike "subpart B of part 2 of subtitle F (relating to Federal operation of a State health care system)" and insert "subpart C of part 1 of subtitle F (relating to responsibilities in absence of State systems)".

Page 92, line 7, strike "that contains" and insert ". The update shall contain".

Page 92, line 10, strike "subtitle C" and insert "this Act".

Page 93, line 6, strike "Federal law" and insert "this Act".

Page 93, line 9, insert "subtitles A and B of" before "title X".

Page 94, line 21, strike "requirements" and insert "requirement".

Page 95, line 3, strike "ethnicity" and insert "age".

Page 97, line 19, strike "meet" and insert "meets".

Page 100, line 2, strike "1542(c)" and insert "1541(b)".

Page 100, line 18, insert "subtitles A and B of" before "title X".

Page 101, line 8, strike "1421(a)(1)" and insert "1421(b)(1)".

Page 101, line 13, strike "1421(a)(2)" and insert "1421(b)(2)".

Page 101, line 21, strike "section 1505(i)" and insert "sections 1503(i) and 1551(a)".

Page 102, line 5, strike "section 1505(j)(2)" and insert sections 1503(i) and 1552".

Page 104, line 9, insert "of the plan" after "inability".

Page 105, line 1, insert "(A)" after "(2)".

Page 105, line 3, strike "and" and insert "or".

Page 105, line 4, strike "(3)" and insert "(B)".

Page 105, line 15, strike "plan" and insert "system".

Page 109, line 12, strike "in".

Page 111, line 24, insert "health" after "alliance".

Page 112, line 6, strike "1327(a)" and insert "1327".

Page 113, line 10, strike ", except that" and all that follows up to the semicolon on line 15.

Page 114, lines 8 and 14, strike "(4)" and "(5)" and insert "(3)" and "(4)".

Page 114, line 8, strike "PROCESS FOR CONSUMER COMPLAINTS" and insert "OMBUDSMAN OFFICE".

Page 114, line 10, strike "a" and all that follows through line 13 insert "an office of ombudsman).".

[Subtitle D—Health Alliances]

Page 115, line 15, strike "title" and insert "subpart".

Page 118, line 2, strike "3" and insert "4".

Page 118, line 5, strike "of a corporate alliance".

• Page 118, line 10, strike "(e)(3)" and insert "(e)(2)".

• Page 118, line 19, strike "(e)(4)" and insert "(e)(3)".

Page 119, line 1, strike "affiliated with a national labor agreement" and insert "maintained by one or more affiliates of the same labor organization, or one or more affiliates of labor organizations representing employees in the same industry,".

Page 120, line 10, insert "(as defined in section 1901(b)(2)(C))" after "employee".

• Page 120, line 9, strike "LARGE EMPLOYER ALLIANCES" and all that follows through "Each" on line 9 and insert "FULL-TIME EMPLOYEES OF LARGE EMPLOYERS.—Each".

• Page 120, lines 9 through 14, move the indentation 2 ems to the left.

• Page 120, strike line 15 and all that follows through page 121, line 2.

Page 121, beginning on line 18, strike "Each" and all that follows through line 24 and insert the following: "Each full-time employee of a member of a rural electric cooperative or rural telephone cooperative association which has an election in effect as a corporate alliance (and each full-time employee of such a cooperative or association) is eligible to enroll in a corporate alliance health plan offered by such corporate alliance.".

Page 122, line 3, strike "1013(b)" and insert "1013".

• Page 122, strike lines 23 and 24.

• Page 123, lines 1, 10, 17, and 22, and page 124, line 1, strike "(2)", "(3)", "(4)", "(5)", and "(6)" and inserting "(1)", "(2)", "(3)", "(4)", and "(5)".

• Page 123, line 12, strike ", not including" and all that follows up to the period on line 15.

Page 124, line 23, strike "to provide notice of their intent".

Page 125, line 9, strike "such report is submitted" and insert "which the employer first becomes such a sponsor".

Page 125, line 20, strike "the second" and all that follows through line 22 and insert "March 1, 1996.".

Page 127, line 13, insert "subject to section 6022(a)(1)," after "(1)".

Page 129, line 7, strike "premium exceeds 120 percent of the weighted-average premium within the alliance" and insert "bid exceeds 120 percent of the regional alliance per capita premium target (as determined under section 6003)".

Page 129, line 18, strike "health" and insert "regional".

Page 129, line 19, insert "(as defined in section 1902(14))" after "eligible enrollee".

Page 129, line 24, insert "REGIONAL" before "ALLIANCES".

Page 132, line 20, strike "to be" after "and".

Page 136, line 11, strike "The" and insert "Consistent with part 2 of subtitle B of title V, the".

Page 137, line 22, strike "1021" and insert "1011".

Page 140, line 15, insert "eligible" after "unenrolled".

Page 140, line 25, insert "1322(c)" after section".

Page 144, line 24, insert "or participation" after "ment".

Page 145, line 22, strike "Each" and insert "Before each open enrollment period each".

Page 146, strike the sentence beginning on line 2.

Page 146, line 18, strike "5005(d)(1)" and insert "5005(c)(1)".

Page 146, line 20, insert ", consistent with section 1404," after "shall".

Page 147, line 7, insert "the" after "of".

Page 147, line 24, strike "health" and insert "regional".

Page 147, line 25, strike "gender, ethnicity" and insert "sex, national origin".

Page 149, line 17, strike "shall" the first place it appears.

Page 150, line 6, strike "paragraphs" and insert "subsections".

Page 150, at the end of line 9, insert the following: "The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act."

Page 150, line 11, insert "**OF REGIONAL ALLIANCES**" before "**RELATING**".

Page 153, line 8, insert "(as defined in subsection (b)(1)(B))" after "premiums".

Page 153, line 26, insert "amount (as defined in subsection (b)(2)(B))" after "payment".

Page 155, line 11 strike ", 6125," and insert "through".

Page 156, line 11, insert "REPAYMENT" after "CREDIT".

Page 156, line 12, insert "repayment amount" after "credit".

Page 159, line 2, strike "1895" and insert "1894".

Page 159, line 3, insert ", added by section 4003" after "Act".

Page 160, line 22, and page 161, line 8, strike "mail" and insert "provide".

Page 162, line 10, strike "6103" and insert "6104".

Page 162, line 11, strike "verification" and insert "reconciliation".

Page 162, line 12, strike "described in" and insert "for use under".

Page 162, line 17, insert "the" before "Secretary".

Page 162, line 18, strike "eligibility" and insert "eligibility".

Page 162, line 22, strike "verification form" and insert "reconciliation statement".

Page 163, line 14, strike "the information required to file income reconcilation" and insert "to file income reconciliation".

Page 164, line 5, strike "5201" and insert "5101".

Page 165, line 2, strike ", and no" and insert ", No".

Page 166, line 17, strike "and such" and insert ", Such".

Page 167, line 11, strike "section" and insert "subsection".

Page 168, line 13, strike "1895" and insert "1894".

Page 168, line 20, insert "by the family" after "owed".

Page 169, line 24, strike "1012(e)(2))" and insert "1012(e)(1)".

Page 171, amend lines 18 and 19 to read as follows:

(A) such amount multiplied by the sum of—

(i) the administrative allowance percentage for the regional alliance, computed by the alliance under section 1352(b), and

(ii) 1.5 percentage points; and

Page 172, line 3, strike "CONSOLIDATED" and all that follows through "(2)" on line 10 and insert "APPLICATION OF PORTION OF SET ASIDE.—Amounts attributable to subsection (b)(2)(A)(ii)".

Page 173, line 5, strike "section" and insert "subtitle".

Page 173, line 9, strike "this section" and insert "section 6201(a)".

Page 174, line 1, strike "section" and insert "subtitle".

Page 174, line 8, strike "this section" and insert "section 6201(a)".

Page 175, line 19, insert "section" after "under".

Page 175, line 21, insert "the" after "of".

Page 176, line 4, strike "section 1343" and insert 'subpart A".

Page 176, line 6, strike "1343(d)" and insert "1345(d)".

Page 176, line 14, strike "each year".

Page 176, line 16, strike "resulting from" and all that follows through line 18 and insert "attributable to section 1351(b)(2)(A)(ii).".

Page 179, line 4, strike "9201(b)(1)(D)" and insert "9201(e)(1)".

• Page 181, line 10, insert "under subsection (c)(1)" after "cost sharing".

• Page 181, strike line 23 and all that follows through page 182, line 9, and insert the following:

(2) SPECIAL TREATMENT OF CERTAIN AFDC AND SSI FAMILIES.—In the case of an AFDC or SSI family enrolled in a lower or combination cost sharing plan or receiving a reduction in cost sharing under paragraph (1), the amount of copayment applied with respect to an item or service (other than with respect to hospital emergency room services for which there is no emergency medical condition, as defined in section 1867(e)(1) of the Social Security Act) shall be an amount equal to 20 percent of the copayment amount otherwise applicable under sections 1135 and 1136, rounded to the nearest dollar.

Page 184, line 17, strike "that" and insert "the".

Page 186, line 23, strike "in the family adjusted income (as defined by the Secretary)" and insert "(as defined by the Secretary) in the family adjusted income".

Page 188, line 7, strike "**REDUCTIONS**" and insert "**DISCOUNTS**".

Page 189, line 19, strike "sec-" and insert "subsec-".

Page 191, line 4, strike "reduction" and insert "discount".

Page 191, line 8, strike "(e)" and insert "(f)".

Page 191, line 19, strike "an an" and insert "an".

Page 191, line 20, strike "(f)" and insert "(g)".

Page 192, lines 1 and 5, strike "(g)" and "(h)" and insert "(h)" and "(i)".

Page 193, line 16, strike "PREMIUM PREMIUM" and insert "PREMIUM".

Page 197, line 25, strike "1322(b)(3)" and insert "1322(b)(2)".

Page 198, line 24, and page 199, lines 2 and 5, strike "an" and insert "a corporate".

Page 200, line 6, strike "subpart" and insert "part".

Page 202, line 4, insert "area" after "premium".

Page 203, line 4, strike "1327(a), 1328(a), and 1328(b)" and insert "1327, and 1328".

Page 205, line 8, strike "sections 1395 and 1396" and insert "sections 1394, 1395, and 1396".

Page 205, line 23, insert a comma after "plan".

Page 208, line 8, strike "(d)" and insert "(a)".

? Page 208, beginning on line 21, strike "covered individuals" and insert "enrolled individuals".

Page 208, line 25, and page 209, line 20, insert "Health Plan" after "Alliance".

Page 210, line 23, strike "(b)" and insert "(c)".

Page 211, line 13, strike "subsection" and insert "section".

Page 212, line 10, strike "paragraph (1)" and insert "this section".

Page 213, line 11, strike "sub-".

Page 213, line 16, insert "of Labor" after "retary".

Page 213, line 19, strike "1396" and insert "1395".

Page 214, line 7, strike "section" and insert "part".

Page 214, line 8, strike "make" and insert "authorize".

Page 214, line 15, strike "(4)" and insert "(3)".

Page 214, line 19, strike "fund" and insert "Fund".

Page 214, line 23, and page 217, line 9, insert "of Labor" after "Secretary".

Page 215, line 4, and page 216, line 19, strike "(4)" and insert "(3)".

• Page 215, line 14, insert after the period the following: "The total balance of the Fund obligations outstanding at any time shall not exceed $500,000,000.".

Page 216, line 14 and 16, strike "the Secretary" and insert "such Secretary".

Page 217, line 15, insert "so" after "rates".

Page 218, line 15, strike "Secretary" and insert "Secretary of Labor".

Page 220, line 13, strike "or (D)".

Page 220, line 17, strike "health plan".

Page 221, after line 2, insert the following:

SEC. 1398. PAYMENTS TO FEDERAL GOVERNMENT BY MULTIEMPLOYER CORPORATE ALLIANCES FOR ACADEMIC HEALTH CENTERS AND GRADUATE MEDICAL EDUCATION.

(A) IN GENERAL.—A corporate alliance with an eligible sponsor described in section 1311(b)(1)(B) shall make payment to the Secretary of an amount equivalent to the amount (as estimated based on rules established by the Secretary and based on the annual per capita expenditure equivalent calculated under section 6021) that would have been payable by the alliance under section 1353 if the alliance were a regional alliance.

(b) REFERENCE TO EXEMPTION FROM ASSESSMENT.—For provision exempting certain corporate alliance employers participating in an alliance described in subsection (a) from an assessment under section 3461 of the Internal Revenue Code of 1986, as added by section 7121 of this Act, see section 3461(c)(1) of such Code.

[Subtitle E—Health Plans]

Page 221, line 8, insert "applicable to health plans" after "4".

Page 221, line 13, strike "with respect" and all that follows through line 15 and insert the following: "which is a self-insured health plan and with respect to which the applicable requirements of title I of the Employee Retirement Income Security Act of 1974 are met.".

Page 221, line 20, strike "1522(e)" and insert "1522(b)".

Page 224, line 2, insert "discriminate, or" after "may".

Page 224, line 5, insert a comma after "discriminating".

Page 224, lines 6, strike "gender, income" and insert "sex, language, socio-economic status, age, disability".

Page 224, line 16, strike "or gender" and insert "sex, language, age or disability".

Page 224, line 18, strike "income," and insert "socio-economic status, disability,".

Page 224, line 21, strike "NORMAL OPERATION OF HEALTH PLAN" and insert "BUSINESS NECESSITY".

Page 225, line 1, strike "is necessary to the normal operation of the health plan" and insert "is required by business necessity".

Page 225, line 6, strike "in an accessible form".

Page 227, line 21, strike "1364" and insert "1384".

Page 228, line 13, strike "health" and insert "regional".

Page 231, line 4, insert "and in the case of emergency services without regard to prior authorization" after "plan".

Page 233, line 14, insert "regional alliance" after "Each".

Page 234, line 16, insert "of" after "use".

Page 238, line 10, page 239, line 13, and page 240, line 10, strike "alliance-eligible" and insert "alliance eligible".

Page 238, line 18, strike "such" and insert "this".

Page 239, line 17, strike "title II" and insert "subtitle B".

Page 240, line 5, strike "part B of".

Page 241, at the end of line 25, insert the following: "The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act."

Page 242, line 18, strike "schedule" and insert "table".

Page 244, line 3, strike "8204" and insert "8203".

Page 244, line 4, strike "offers" and insert "offer".

Page 246, line 16, strike "health" and insert "regional".

Page 248, line 1, strike "regional alliance".

Page 250, line 20, strike "APPROVAL" and insert "DISAPPROVAL".

Page 251, line 14, strike "House of Representatives" and insert "Senate".

[Subtitle F—Federal Responsibilities]

Page 252, lines 7 and 12, strike "VIII" and insert "X".

Page 253, line 24, strike "as provided above".

Page 254, line 5, strike "right" and insert "authority".

Page 254, line 8, strike "Act" and insert "act".

Page 254, line 22, insert "nursing, or other clinical practices," after "medicine,".

Page 257, line 12, insert "and" after the comma.

Page 257, line 22, strike "part 3 of this subtitle" and insert "subpart E of this part".

Page 257, strike lines 24 and 25 and lines 1 and 2 on page 258.

Page 258, lines 3 and 6, strike "(j)" and "(k)" and insert "(i)" and "(j)".

Page 258, line 5, strike "subpart G" and insert "subpart F".

Page 261, line 3, strike "1200(a)" and insert "1200(b)".

Page 261, line 12, strike "1201(a)" and insert "1200(b)".

Page 261, line 18, strike "1996" and insert "1996".

Page 261, line 19, strike "part" and insert "subpart".

Page 263, line 8, strike "established".

Page 264, line 12, strike "1513" and insert "1512(b)(2)".

Page 265, line 23, strike "and the Secretary of the Treasury".

Page 265, line 24, strike "subpart B" and insert "subpart C".

Page 268, line 23, strike "for medical education training programs funds".

Page 269, line 25, insert "for grants under this subsection" after "1996".

Page 270, line 3, strike "of".

Page 270, line 20, insert "for grants under this subsection" after "1998".

Page 270, strike lines 21 through 23.

Page 271, line 15, strike "1512(2)" and insert "1512(b)(2)".

Page 272, line 18, strike "1562" and insert "1552".

Page 274, line 22, strike "of the classes" and insert "class".

Page 275, line 6, strike "class of family enrollment of coverage of a married couple without children" and insert "couple-only class of family enrollment".

Page 277, line 12, remove the space after "PAYMENTS".

Page 277, line 15, strike "(b)" and insert "(c)".

Page 278, line 13, strike "1346(b)(3)" and insert "1361(b)(3)".

Page 278, line 17, strike "1324(c)" and insert "1351(b)".

Page 279, line 9, strike "(b)" and insert "(c)".

Page 280, line 21, strike "(c)" and insert "(d)".

Page 280, line 23, strike "5102(a)" and insert "5120(a)".

Page 281, line 20, strike "part" and insert "subpart".

Page 282, line 18, strike "1203(c)" and insert "1204(a)".

Page 282, line 19, strike "paragraph (3)" and insert "subsection (c)".

Page 287, line 5, strike the colon and insert a dash.

Page 287, line 11, strike "302(b)(4)(A)" and insert "802(b)(4)(A)".

Page 287, line 12, strike "and".

Page 287, line 15, strike the period and insert a semicolon.

Page 287, after line 15, insert the following:

(E) cost effectiveness relative to the cost of alternative course of treatment options, including non-pharmacological medical interventions; and

(F) improvements in quality of life offered by the new product, including ability to return to work, ability to perform activities of daily living, freedom from attached medical devices, and other appropriate measurements of quality of life improvements.

Page 288, line 4, insert a comma after "pharmacy".

Page 289, line 19, strike "described" and insert "specified".

Page 290, line 17, strike "XXIII" and insert "XXVI".

Page 291, line 5, insert ")" after "Act".

Page 291, line 11, strike "community practice networking" and insert "qualified community practice network".

Page 292, line 9, strike "otherwise" after "would not".

Page 292, line 11, insert "if such a provider was not so certified" after "package".

Page 294, line 18, strike "E" and insert "C".

Page 295, line 22, strike "D of title I" and insert "G".

Page 295, lines 24 and 26, strike "health".

Page 296, line 1, strike "subtitle E of title I" and insert "subtitle D".

Page 298, line 7, strike "1347(c)" and insert "1345(d)(1)".

• Page 298, line 12, insert "section 1607 and" after "out"

Page 298, line 12, insert "including under title XI" after "under this Act".

• Page 298, after line 24, insert the following:

(c) EMPLOYERS PARTICIPATING IN REGIONAL ALLIANCES THROUGH MULTIEMPLOYER PLANS.—In the case of an employer participating in a multiemployer plan, which plan elects to serve as a regional alliance employer on behalf of its participating employers, the employer's payment obligation under section 6121 shall be deemed satisfied if the employer pays to the multiemployer plan at least the premium payment amount specified in section 6121(b) and the plan has assumed legal obligations of such an employer under such section.

[Subtitle G—Employer Responsibilities]

Page 299, line 18, strike "for purposes of section 6121(d)" and insert "under section 1901(b)(2)".

Page 301, line 8, strike "qualified" and insert "qualifying".

Page 301, line 13, strike the period and insert a colon.

Page 301, line 22, strike "for purposes of section 6121(d)" and insert "under section 1901(b)(2)".

Page 302, line 17, strike "6121(d)" and insert "1901(b)(2).

Page 303, line 6, strike "qualified" and insert "qualifying".

Page 305, line 25, strike "be" and insert "by".

Page 306, line 21, strike "subsection" and insert "section".

Page 307, line 14, insert "and" after the comma.

Page 312, line 4, strike "part 2 of".

• Page 312, strike lines 8 through 12 and insert the following:

(a) IN GENERAL.

(1) EQUAL VOLUNTARY EMPLOYER PREMIUM PAYMENT REQUIREMENT.—

(A) REGIONAL ALLIANCE HEALTH PLANS.—If an employer makes available a voluntary employer premium payment (as defined in subsection (d)) on behalf of a full-time employee (as defined in section 1901(b)(2)(C)) who is enrolled in a regional alliance health plan of a regional alliance in a class of family enrollment, the employer shall make available such a voluntary employer premium payment in the same dollar amount to all qualifying employees (as defined in section 1901(b)(1)) of the employer who are enrolled in any regional alliance health plan of the same alliance in the same class of family enrollment.

(B) CORPORATE ALLIANCE HEALTH PLANS.—If a corporate alliance employer makes available a voluntary employer premium payment on behalf of a full-time employee who is enrolled in a corporate alliance health plan of a corporate alliance in a class of family enrollment in a premium area (designated under section 1384(b)), the employer shall make available such a voluntary employer premium payment in the same dollar amount to all qualifying employees of the employer enrolled in any corporate alliance health plan of the same alliance in the same class of family enrollment in the same premium area.

(C) TREATMENT OF PART-TIME EMPLOYEES.—In applying subparagraphs (A) and (B) in the case of a qualifying employee employed on a part-time basis (within the meaning of section 1901(b)(2)(A)(ii)), the dollar amount shall be equal to the full-time employment ratio (as defined in section 1901(b)(2)(B)) multiplied by the dollar amount otherwise required.

(2) LIMIT ON VOLUNTARY EMPLOYER PREMIUM PAYMENTS.—

(A) REGIONAL ALLIANCE HEALTH PLANS.—An employer may not make available a voluntary employer premium payment on behalf of an employee (enrolled in a regional alliance health plan of a regional alliance in a class of family enrollment) in an amount that exceeds the maximum amount that could be payable as the family share of premium (described in section 6101(b)(2)) for the most expensive regional alliance health plan of the same alliance for the same class of family enrollment.

(B) CORPORATE ALLIANCE HEALTH PLANS.—An employer may not make available a voluntary employer premium payment on behalf of an employee (enrolled in a corporate alliance health plan of a corporate alliance in a class of family enrollment in a premium area, designated under section 1384) in an amount that exceeds the maximum amount that could be payable as the family share of premium (described in section 6101(b)(3)) for the most expensive corporate alliance health plan of the same alliance for the same class of family enrollment in the same premium area.

(C) EXCLUSION OF PLANS WITHOUT MATERIAL ENROLLMENT.—Subparagraphs (A) and (B) shall not take into account any health plan that does not have material enrollment (as determined in accordance with regulations of the Secretary of Labor).

(3) NONDISCRIMINATION AMONG PLANS SELECTED.—An employer may not discriminate in the wages or compensation paid, or other terms or conditions of employment, with respect to an employee based on the health plan (or premium of such a plan) in which the employee is enrolled.

Page 312, line 14, strike "paragraph (3)" and insert "subsection (c)".

Page 312, line 17, and page 313, line 16, insert "employer" after "voluntary".

Page 312, line 18, strike "towards the enrollment of the employee in a health plan".

Page 312, amend lines 20 through 23 to read as follows:

(B)(i) the sum of the amount of the applicable alliance credit (under section 6103 and the voluntary employer premium payment, exceeds (ii) the premium for the plan selected.

Page 313, line 2, strike "difference" and insert "excess".

• Page 313, line 20, insert "(other than subsection (a)(2))" after "(b)"

Page 313, line 21, strike "contributions" and insert "premium payments".

Page 313, strike line 23 and all that follows through page 314, line 10.

Page 314, line 11, strike "(e) VOLUNTARY EMPLOYER CONTRIBUTION" and insert "(d) VOLUNTARY EMPLOYER PREMIUM PAYMENT".

Page 314, line 12, strike "contribution" and insert "premium payment".

• Page 314, after line 17, insert the following:

SEC. 1608. EMPLOYER RETIREE OBLIGATION.

(a) IN GENERAL.—If an employer was providing, as of October 1, 1993, a threshold payment (specified in subsection (c)) for a person who was a qualifying retired beneficiary (as defined in subsection (b)) as of such date, the employer shall pay to or on behalf of that beneficiary for each month beginning with January 1998, an amount that is not less than the amount specified in subsection (d), but only if and for so long as the person remains a qualifying retired beneficiary.

(b) QUALIFYING RETIRED BENEFICIARY.—In this section, the term "qualifying retired beneficiary" means a person who is an eligible retiree or qualified spouse or child (as such terms are defined in subsections (b) and (c) of section 6114).

(c) THRESHOLD PAYMENT.—The term "threshold payment" means, for an employer with respect to a health benefit plan providing coverage to a qualifying retired beneficiary, a payment—

(1) for coverage of any item or service described in section 1101, and

(2) the amount of which is at least 20 percent of the amount of the premium (or premium equivalent) for such coverage with respect to the beneficiary (and dependents).

(d) AMOUNT.—The amount specified in this subsection is 20 percent of the weighted average premium for the regional alliance in which the beneficiary resides and for the applicable class of family enrollment.

(e) NATURE OF OBLIGATION.—The requirement of this section shall be in addition to any other requirement imposed on an employer under this Act or otherwise.

(f) PROTECTION OF COLLECTIVE BARGAINING RIGHTS.—Nothing in this Act (including this section) shall be construed as affecting collective bargaining rights or rights under collective bargaining agreements.

• Page 314, line 18, strike **"1608"** and insert **"1609"**.

[Subtitle J—General Definitions; Miscellaneous Provisions]

Page 315, strike lines 1 and 2.

Page 315, line 18, strike "hs" and insert "has".

Page 315, line 19, strike "subtitle C" and insert "section 3121 of such Code, subject to the provisions of chapter 25".

Page 315, line 23, insert "3121" after "section".

Page 318, line 24, strike "qualifying".

Page 320, lines 11 through 15, move the indentation of this subparagraph in 2 ems.

Page 320, after line 15, insert the following:

(D) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under rules established by the Board, an employee who is not described in subparagraph (C) shall be considered to be employed on a full-time basis by an employer (and to be a full-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of the employment in the industry, represents full time employment.".

Page 321, lines 8 through 20, move the indentation of this subparagraph out 2 ems.

Page 321, line 9, strike "EMPLOYEE" and insert "EMPLOYEES".

Page 321, line 9, strike "contigent" and insert "contingent".

Page 321, line 14, insert "wage" after "ly".

Page 322, line 15, strike "101(a)(19)" and insert "101(a)(20)".

Page 323, line 23, and page 330, line 24, insert ", for a month," after "means".

Page 324, line 2, insert "for the month" after "Act".

Page 324, line 23, strike "of title II".

Page 325, line 16, strike "under part 2 of subtitle E".

Page 326, line 22, strike "high" and insert "higher".

Page 327, line 24, strike "established under part 1 of subtitle F of title I" and insert "created under section 1501".

Page 328, line 22, insert "enrollment" after "parent".

Page 329, line 19, strike "means" and all that follows through line 22 and insert "that is not a corporate alliance employer" and insert "means, with respect to an employee, an employer that is not a corporate alliance employer with respect to such employee.".

Page 330, line 1, strike "under part 1 of subtitle E of title I".

Page 331, lines 3 and 6, insert "for the month" before the comma.

Page 331, lines 4 and 7, insert "is" after "who".

Page 331, line 8, strike "such" and insert "the Social Security".

Page 331, line 9, insert "for the month" before the period.

Page 331, line 21, strike "1004(c)" and insert "1005(c)".

Page 332, line 12, insert "a provision of" after "to".

Page 332, line 13, insert "that provision of" after "to".

TITLE II CHANGES

[Subtitle A—Medicare Outpatient Prescription Drug Benefits]

Page 336, line 24, strike the semicolon and insert a period.

Page 337, line 7, strike "; and" and insert a period.

• Page 337, strike lines 10 through 13 and insert the following:

"(3) The term 'covered outpatient drug' does not include any product—

"(A) which is administered through infusion in a home setting unless the product is a covered home infusion drug (as defined in paragraph 95));

"(B) when furnished as part of, or as incident to, any other item or service for which payment may be made under this title; or

"(C) which is listed under paragraph (2) of section 1927(d) (other than subparagraph (I) or (J) of such subparagrah) as a drug which may be excluded from coverage under a State plan under title XIX and which the Secretary elects to exclude from coverage under part B.

Page 338, line 14, strike "paragraph" and insert "subparagraph".

Page 338, line 19, insert "or an enteral or parenteral nutrient" after "drug".

Page 339, line 2, strike "his" and insert "the individual's".

Page 339, strike line 21 and all that follows through page 340, line 17 (and redesignate the succeeding subsection accordingly).

Page 346, line 1, strike "for drugs furnished after 1996,".

Page 347, line 11, strike "average manufacturer non-retail price for the drug (as defined in section 1850(f)(2))" and insert "published average wholesale price for the drug".

Page 348, line 13, strike "under paragraph (4)" and insert "established under this paragraph".

Page 349, strike line 20 and all that follows through page 350, line 7 and insert the following:

"(B) PRIOR AUTHORIZATION.—The Secretary may require advance approval for a covered outpatient drug which the Secretary finds is subject to misuse or inappropriate use, is not cost effective, which is a multiple source drug with a restrictive prescription, or is subject to negotiation under section 1850(c)(3). The Secretary may also establish maximum quantities per prescription and limits on the number of prescription refills. The Secretary shall ensure that any advance approval requirements imposed under this subparagraph do not restrict the access of patients to medically necessary covered outpatient drugs on a timely basis, and assure prompt determinations of approval or disapproval and provide a means for providers and patients to appeal a decision to disapprove a drug".

Page 351, insert after line 2 the following (and redesignate the succeeding provision accordingly):

"(8) COUNSELING REQUIREMENTS FOR PHARMACIES.—A pharmacy may not receive any payment under this part for a covered outpatient drug unless the pharmacy agrees to answer questions of individuals enrolled under this part who receive a covered outpatient drug from the pharmacy regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and other matters relating to the dispensing of such drugs.

Page 354, Line 12, strike "substituting" and all that follows through the end of line 13 and insert "striking the period at the end of paragraph (2) and inserting '; and', and ".

Page 354, line 25, strike "1995" and insert "1996".

Page 356, line 9, insert closing quotes after "1834(d),".

Page 357, line 16, strike "either—" and all that follows through page 358, line 3, and insert the following: "dispensed by a pharmacy during such quarter to individuals (other than individuals enrolled with an eligible organization with a contract under section 1876) eligible for benefits under this part, as reported by such pharmacies to the Secretary.".

Page 362, line 23, strike "that are participating pharmacies under this part".

Page 363, line 20, strike "(4)" and insert "(3)".

Page 366, line 18, strike "Administration," and insert "Administration (but in no event earlier than July 1, 1996),".

Page 366, line 20, strike "(if earlier)".

Page 366, line 22, strike the period and insert a comma.

Page 366, after line 22, insert the following: "whichever is earlier.".

Page 370, strike lines 6 through 24 and insert the following:

(b) EXCLUSIONS FROM COVERAGE.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)), as amended by sections 4034(b)(4) and 4118(b), is amended—

(1) by striking "and" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) A covered outpatient drug (as described in section 1861(t))—

"(A) furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1850 for the year, or

"(B) excluded from coverage during the year by the Secretary pursuant to section 1850(c)(3)(D) (relating to negotiated rebate amounts for certain new drugs).".*

Page 371, strike lines 1 through 10 (and redesignate the succeeding sections accordingly).

Page 373, line 9, strike "outpatient" and insert "home infusion".

Page 373, line 11, strike "secretary" and insert "Secretary".

Page 374, lines 13 and 14, strike "(A)" and "(B)" and insert "the entity (i)" and "(ii)".

Page 375, line 9, strike "resect" and insert "respect".

Page 375, line 11, insert "and" after the comma.

Page 378, line 1, strike "after 'home health agency, or whether' ".

Page 379, insert after line 9 the following:

(g) CONFORMING AMENDMENTS RELATING TO COVERAGE OF ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—(1) Section 1834(h)(4)(B) of such Act (42 U.S.C. 1395m(h)(4)(B)) is amended by striking ", except that" and all that follows through "equipment".

(2) Section 1861(s)(8) of such Act (42 U.S.C. 1395x(s)(8)) is amended by inserting after "dental" the following: "devices or enteral and parenteral nutrients, supplies, and equipment".

Page 379, strike line 10 through page 380, line 3 (and redesignate the succeeding sections accordingly).

Page 381, line 4, strike "the Social Security" and insert "such".

Page 381, line 12, strike "both".

Page 381, line 13, insert "enrolled in" after "and".

Page 381, line 21, strike "The" and insert "Except as otherwise provided, the".

[Subtitle B—Long-term Care]

Page 382, line 15, strike "in" and insert "for".

Page 382, strike lines 18 through 21.

Page 383, line 1, strike "(except" and all that follows through "period)" on line 2.

Page 383, line 6, strike "program" and insert "plan".

Page 384, lines 20 and 25, and page 386, line 6, strike "State".

Page 385, strike lines 4 through 7.

• Page 387, line 7, strike "during each 5-fiscal-year period (with the first such period beginning with fiscal year 1996)" and insert "for each fiscal year during the period beginning with fiscal year 1996 and ending with fiscal year 2003 and for each 5-fiscal-year periods thereafter".

Page 387, at the end of line 11 insert the following: "If the Secretary makes an adjustment under section 2109(a)(5)(C) for a year, each State shall update the specifications under this paragraph to reflect the impact of such an adjustment.".

Page 388, line 21, strike the second period.

Strike "subpart" and insert "part" at the following places: page 390, lines 2 and 11; page 391, lines 5, 7, and 10; page 394, lines 16 and 24; page 396, line 21; 397, line 20; page 402, line 3; page 403, lines 13 and 24; page 405, line 16; page 408, lines 20 and 21; page 409, lines 9 and 10; page 416, line 24.

Page 390, line 7, strike all that follows the dash up to "The" on line 8 (and move the indentation of lines 8 through 11 2 ems to the left).

Page 390, strike lines 12 through 19.

• Page 390, after line 19, insert the following:

(12) HEALTH CARE WORKER REDEPLOYMENT REQUIREMENT.—The plan provides for compliance with the requirement of section 3074(a).

• Page 391, after line 1, insert the following:

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1996, shall be effective as of January 1, 1996). In order to budget funds allotted under this part, the Secretary may establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year.

Page 392, line 21, strike the comma and insert a semicolon.

Page 394, line 18, strike "in and out of bed".

Page 399, line 2, insert "or" after "Secretary,".

Page 400, line 19, strike "poverty level (as defined in section 1902(25))" and insert "official poverty line (referred to in section 1902(25)(A))".

Page 400, line 20, insert "(determined without regard to section 1902(25(B))" after "involved".

Page 401, lines 3, 7, and 10, strike "the poverty level applicable to a family of the size involved" and insert "such official poverty lines (as so applied)".

• Page 401, lines 3 and 6, strike “250 percent” and insert “200 percent”.

• Page 401, line 5, strike “25 percent” and insert “20 percent”.

• Page 401, lines 7 and 10, strike “400 percent” and insert “250 percent”.

• Page 401, line 9, strike “40 percent” and insert “25 percent”.

Page 403, line 17, and page 404, line 6, strike “and a” and insert “. A”.

Page 405, line 15, insert “, in accordance with the Cash Management Improvement Act,” after “the Secretary”.

Page 405, line 15, strike “pay” and insert “authorize payment”.

Page 405, line 16, insert “(beginning on or after January 1, 1996)” after “for each quarter”.

Page 406, line 19, strike “75” and insert “78”.

Page 408, line 2, strike “pay” and insert “provide for payment of”.

Page 408, line 19, strike “For” and insert “Subject to paragraph (5)(C), for”.

Page 408, lines 23, 24, and 25, strike “4.5”, “7.8” and “11.0” and insert “$4.5”, “$7.8”, and “$11.0”.

Page 409, line 1, strike “14.7” and insert “$14.7”.

Page 409, line 2, strike “18.7 billion. [$56 to 2000}” and insert “$18.7 billion.”.

Page 409, line 4, strike “26.7 billion. [48-56 for out years]” and insert “$26.7 billion.”.

Page 409, lines 6 and 7, strike “35.5” and “38.3” and insert “$35.5” and “$38.3”.

Page 410, line 9, insert a closing parenthesis after “(b)(3)(D)”.

Page 410, line 10, strike “*[review:]*”.

• Page 410, line 16, insert “disabled individuals” after “provided”.

• Page 410, line 17, insert “such individuals” after “paid for”.

Page 410, lines 17, 20, and 22, strike “title” and insert “part”.

• Page 410, at the end of line 20, insert the following: “At the time a State first submits its plan under this part and before each subsequent fiscal year (through fiscal year 2003), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2003), as the Secretary determines to be necessary to carry out this paragraph.”.

• Page 411, amend lines 1 through 7 to read as follows:

(C) ADJUSTMENTS TO FEDERAL BUDGET.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1996 and ending with fiscal year 2003) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the total Federal budget under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by the Secretary) that would have been made under title XIX of the Social Security Act for home and community based services for disabled individuals but for the provision of similar services under the program under this part.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised total Federal budget under this subsection for such fiscal year (and succeeding fiscal years before fiscal year 2003).

Page 411, line 9, strike “paymet” and insert “payment”.

• Page 411, after line 12, insert the following:

(E) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this part.

Page 417, line 3, strike “section 2109(a)” and insert “subsection (a)”.

Page 417, line 8, strike “improvement” and insert “improve”.

Page 425, line 24, strike all that follows the dash up to “The” on page 426, line 2.

Page 426, lines 5 and 9, strike “(i)” and “(ii)” and insert “(A)” and “(B)”.

Page 426, lines 5 and 15, move indentation 2 ems to the left.

Page 430, line 18, strike “in and out of bed”.

Page 446, line 12, strike “premiums” and insert “premiums)”.

TITLE III CHANGES

[Subtitle A—Workforce]

Page 497, line 24, strike “(a)(1)” and insert “(c)(1)”.

Page 498, line 10, strike “**OF**” and insert “**REGARDING**”.

Page 498, line 19, insert “For purposes of this subtitle:” after the dash.

Page 498, line 20, and page 499, line 9, strike “For purposes of this subtitle, the” and insert “The”.

• Page 499, after line 15, insert the following:

(C) The term “approved physician training program” includes any post-graduate program described in subparagraph (A), whether operated by academic health centers, teaching hospitals, multispecialty group practices, ambulatory care providers, prepaid health plans, or other entities.

Page 500, line 11, strike “approved physician training” and insert “eligible”.

Page 500, line 15, insert “all medical, surgical, and other physician specialties and” before “subspecialties”.

Page 500, line 21, insert “, pursuant to section 3011,” after “shall”.

Page 500, line 22, strike “under section 3011”.

• Page 501, line 5, strike “2002–03” and insert “1998–99”.

Page 503, line 3, strike “MINIMUM TOTAL” and insert “TOTAL”.

• Page 503, line 6, strike “2003–04” and insert “1998–99”.

• Page 503, line 17, strike “2003–04 through 2007–08” and insert “1998–99 through 2002–03”.

Page 504, line 11, strike “, with respect” and all that follows through line 14 and insert “means a position as a training participant.”.

Page 505, line 18, strike “RESIDENCY”.

Page 505, line 24, strike “each of the” and insert “such”.

• Page 507, amend lines 5 through 21 to read as follows:

(a) IN GENERAL.—In the case of an approved physician training program that in accordance with section 3032 submits to the Secretary an application for calendar year 1996 or any subsequent calendar year, the Secretary shall make payments for such year to the program for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3033, and may administer the payments as a contract, grant, or cooperative agreement.

Page 508, line 1, strike “program” and insert “approved physician training program involved”.

Page 508, line 10, strike “3031” and insert “3031(a)”.

Page 508, line 11, insert “for a calendar year” after “section”.

Page 508, line 16, insert “the application demonstrates that” after “(2)”.

Page 508, line 20, strike “assurances of compliance with such agreements that are satisfactory to the Secretary” and insert “such assurances of compliance with the agreements as the Secretary may require”.

• Page 509, strike line 16 and all that follows through page 510, line 23, and insert the following:

(a) ANNUAL HEALTH PROFESSIONS WORKFORCE ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2) and section 3034, the amount available for a calendar year for making payments under sections 3031 and 3051 (constituting an account to be known as the annual health professions workforce account) is the following, as applicable to the calendar year:

(A) In the case of calendar year 1996, $3,200,000,000.

(B) In the case of calendar year 1997, $3,550,000,000.

(C) In the case of calendar year 1998, $4,800,000,000.

(D) In the case of each of the calendar years 1999 and 2000, $5,800,000,000.

(E) In the case of each subsequent calendar year, the amount specified in subparagraph (D) increased by the product of such amount and the general health care inflation factor for such year (as defined in subsection (d)).

(2) TRANSITIONAL PROVISION.—

(A) With respect to making payments under sections 3031 and 3051 for calendar year 1996 or 1997, the Secretary shall first make payments under section 3031 to eligible programs described in subparagraph (B) in the amount determined for the programs under subsection (b) for such year, and then, from such amounts as remain available in the annual health professions workforce account for such year, shall make payments under section 3031 to other eligible programs and shall make payments under section 3051.

(B) An eligible program described in this subparagraph is such a program that is operated in a State that is a participating State under title I.

Page 511, line 2, strike “determined by the Secretary under subsection (a) for the calendar year involved” and insert “available for a calendar year”.

Page 511, line 10, strike “an individual” and insert “such a participant”.

Page 511, line 12, strike “(2)(B)” and insert “(2)”.

Page 511, line 25, strike “an individual” and insert “a participant in an approved physician training program in the medical specialty involved”.

• Page 512, line 7, strike “the general health care inflation factors for such years (or if there is no such factor for a calendar year, the consumer price index for the year)” and insert “the consumer price index”.

• Page 512, after line 16, insert the following (and redesignate the succeeding subsection accordingly):

(c) LIMITATION.—If, subject to subsection (a)(2), the annual health professions workforce account available for a calendar year is insufficient for providing each eligible program with the amount of payments determined under subsection (b) for the program for such year, the Secretary shall make such pro rata reductions in the amounts so determined as may be necessary to ensure that the total of payments made under section 3031 for such year equals the total of such account.

Page 512, line 19, strike “, with respect to a calendar year, means the amount determined under subsection (a) for such year” and insert “means the account established pursuant to subsection (a)(1)”.

Page 513, line 6, strike "annual health professions workforce account under section 3033(a)" and insert "amount specified in section 3033(a)(1) for the annual health professions workforce account".

• Page 513, line 18, strike "and transferred" and all that follows through line 20 and insert the following:

and—

(A) in the case of each of the calendar years 1996 and 1997, transferred in an amount equal to 50 percent of such payments made for the calendar year involved; and

(B) in the case of calendar year 1998 and each subsequent calendar year, transferred in an amount equal to the aggregate regional alliance portion determined under subsection (c)(2)(A).

• Page 514, lines 3 and 17, insert "(other than calendar year 1996 or 1997)" after "year".

Page 514, line 9, insert "the amount specified in section 3033(a)(1) for" after "(A)".

Page 515, line 7, strike "each calendar year" and inset "calendar year 1996 and each subsequent calendar year".

• Page 515, line 9, strike "appropriated" and all that follows through line 11 and insert the following:

appropriated—

(A) in the case of each of the calendar years 1996 and 1997, an amount equal to the difference between—

(i) the amount specified in section 3033(a)(1) for the annual health professions workforce account for the calendar year involved; and

(ii) the sum of the amount transferred under section 4051 for such year and the amount transferred under subsection (b)(2)(A) for such year; and

(B) in the case of calendar year 1998 and each subsequent calendar year, an amount equal to the aggregate corporate alliance portion determined under subsection (c)(2)(B) for the calendar year involved.

Page 515, line 16, strike "(1)" and insert "(1)(B)".

• Page 515, after line 19, insert the following:

(3) GRADUATE NURSE EDUCATION.—Effective January 15 of calendar year 1996 and each subsequent calendar year, there is hereby transferred to the Secretary, out of any money in the Treasury not otherwise appropriated, 50 percent of the amount specified in section 3063(b) with respect to the annual graduate nurse training account.

Page 516, lines 10 and 18, and page 517, line 3, strike "3033(c)" and insert "3033(d)".

• Page 517, strike line 20 and all that follows through page 519, line 2 and insert the following:

(a) PAYMENTS REGARDING EFFECTS OF SUBPART B ALLOCATIONS.—For each of the four calendar years specified in subsection (b)(2), in the case of an institution that submits to the Secretary an application for such year in accordance with subsection (d), the Secretary shall make payments for the year to the institution for the purpose specified in subsection (c). The secretary shall make the payments in an amount determined in accordance with subsection (e), and may administer the payments as a contract, grant, or cooperative agreement.

(b) INSTITUTIONS LOSING SPECIALITY POSITIONS; RELEVANT YEARS REGARDING PAYMENTS.—

(1) INSTITUTIONS LOSING SPECIALITY POSITIONS.—The Secretary may make payments under subsection (a) to an institution only if, with respect to the calendar year involved, the institution meets the following conditions:

(A) The institution operates one or more programs that—

(i) are approved physician training programs; and

(ii) are receiving payments under section 3031 for such year.

(B) The aggregate number of speciality positions in such programs (in the medical specialities with respect to which such payments are made) is below the aggregate number of such positions at the institution for academic year 1993-94 as a result of allocations under subpart B.

(2) RELEVANT YEARS.—The Secretary may make payments under subsection (a) to an institution only for the first four calendar years after calendar 1997 for which the institution meets the conditions described in paragraph (1).

(3) ELIGIBLE INSTITUTION.—For purposes of this section, the term "eligible institution" means an institution that submits to the Secretary an application in accordance with subsection (d).

Page 519, line 6, insert "involved" after "institution".

Page 519, line 12, insert "application demonstrates that the institution meets the conditions described in subsection (b)(1) and that the" after "Secretary; the".

Page 519, line 16, strike "section and provides assurances of compliance with such agreements satisfactory to the Secretary" and insert "subpart and the application provides such assurances of compliance with the agreements as the Secretary may require".

Page 519, line 21, strike "section" and insert "subpart".

Page 519, line 24, strike "determined by the Secretary under section 3033(a)" and insert "available".

Page 519, line 25, strike "the calendar" and insert "such".

Page 520, line 11, insert "aggregate" before "number".

• Page 520, amend lines 19 through 22 to read as follows:

(A) For the first calendar year after calendar 1997 for which the eligible institution involved meets the conditions described in subsection (b)(1), 100 percent.

(B) For the second such year, 75 percent.

(C) For the third such year, 50 percent.

(D) For the fourth such year, 25 percent.

Page 521, line 1, strike "section, the" and insert "subsection, the aggregate".

Page 521, lines 4 and 9, insert "aggregate" before "number".

Page 521, line 6, insert "eligible" before "institution".

Page 521, line 16, strike "programs of the" and insert "the approved physician training programs of the eligible".

Page 522, line 2, strike "health care".

• Page 522, line 4, strike "general health care inflation factors" and all that follows through line 7 and insert "consumer price index.".

• Page 522, after line 13, insert the following:

PART 2—INSTITUTIONAL COSTS OF GRADUATE NURSING EDUCATION; WORKFORCE PRIORITIES

SEC. 3061. NATIONAL COUNCIL; AUTHORIZED GRADUATE NURSE TRAINING POSITIONS; INSTITUTIONAL COSTS.

(a) PROGRAM REGARDING GRADUATE NURSE TRAINING PROGRAMS.—The Secretary shall, in accordance with this part, carry out a program with respect to graduate nurse training programs that is equivalent to the program carried out under part 1 with respect to approved physician training programs.

(b) DEFINITIONS.—For purposes of this part:

(1) The term "graduate nurse training programs" means programs for advanced nurse education, programs for education as nurse practitioners, programs for education as nurse midwives, programs for education as nurse anesthetists, and such other programs for training in clinical nurse specialities as are determined by the Secretary to require advanced education.

(2) The term "graduate nurse training position" means a position as a individual who is enrolled in a graduate nurse training program.

(3) The term "programs for advanced nurse education" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 821 of the Public Health Service Act.

(4) The term "programs for education as nurse practitioners" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as nurse practitioners.

(5) The term "programs for education as nurse midwives" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as nurse midwives.

(6) The term "programs for education as nurse anesthetists" means programs meeting the conditions to be programs for which awards of grants may be made under section 831 of the Public Health Service Act for education as nurse anesthetists.

SEC. 3062. APPLICABILITY OF PART 1 PROVISIONS.

(a) IN GENERAL.—The provisions of part 1 apply to the program carried out under section 3061 to the same extent and the same manner as such provisions apply to the program carried out under part 1, subject to the subsequent provisions of this section. Section 3051 does not apply for purposes of the preceding sentence.

(b) NATIONAL COUNCIL.—With respect to section 3001 as applied to this part, the council shall be known as the National Council on Graduate Nurse Education (in this part referred to as the "National Council"). The provisions of section 851 of the Public Health Service Act regarding the composition of the council under such section apply to the composition of the National Council to the same extent and in the same manner as such provisions apply to the council under such section 851.

(c) ALLOCATION OF GRADUATE NURSE TRAINING POSITIONS; FORMULA PAYMENTS FOR OPERATING COSTS.—With respect to subparts B and C of part 1 as applied to this part—

(1) the funding agreement described in section 3011 is to be made by graduate nurse training programs;

(2) designations under section 3012 and allocations under section 3013 apply to graduate nurse training positions; and

(3) payments under section 3031 are to be made to graduate nurse training programs, subject to the requirements for such payments.

SEC. 3063. FUNDING.

(a) IN GENERAL.—With respect to sections 3033 and 3034 as applied to this part, the provisions of this section apply.

(b) ANNUAL GRADUATE NURSE TRAINING ACCOUNT.—Subject to subsection (c), the amount available for each calendar year for making payments pursuant to section 3062(c)(3) to graduate nurse training programs (constituting an account to be known as the annual graduate nurse training account) is $200,000,000.

(c) Sources of Funds for Account.—The amount specified in subsection (b) for the annual graduate nurse training account for a calendar year shall be derived from the following sources:

(1) The transfer under section 3034(d)(3).

(2) The transfer under section 3104(d)(3).

Page 522, line 14, strike “**2**” and insert “**3**”.

• Page 522, strike line 15 and all that follows through page 523, line 5.

Page 523, line 6, strike “**3062**” and insert “**3071**”.

• Page 523, amend lines 8 through 11 to read as follows:

(a) In General.—

(1) Funding.—For purposes of carrying out the programs described in this section, there is authorized to be appropriated $400,000,000 for fiscal year 1994 and each subsequent fiscal year (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs).

(2) Administration.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Health and Human Services.

Page 523, line 13; page 524, lines 6 and 19; page 525, line 14; and page 526, lines 8 and 25 strike “section 3061” and insert “subsection (a)”.

Page 524, line 5, strike “(b)” and insert “(c)”.

Page 524, line 19, strike “(c)” and insert “(d)”.

Page 524, line 20, strike “include” and all that follows through “A” on line 22 and insert “include a”.

Page 525, strike lines 8 through 13.

• Page 525, after line 13, insert the following:

(e) Inappropriate Practice Barriers; Full Utilization of Skills.—for purposes of subsection (a), the programs described in this section include a program—

(1) to develop and encourage the adoption of model professional practice statutes for advanced practice nurses and physical assistants, and to otherwise support efforts to remove inappropriate barriers to practice by such nurses and such physician assistants; and

(2) to promote the full utilization of the professional education and clinical skills of advanced practice nurses and physician assistants.

Page 525, lines 14 and 20, strike “(d)” and “(e)” and insert “(f)” and “(g)”.

Page 526, line 1, strike “**3063**” and insert “**3072**”.

• Page 526, amend lines 2 through 5 to read as follows:

(a) In General.—

(1) Funding.—For purposes of carrying out the programs described in this section, and for carrying out section 3073, there is authorized to be appropriated $200,000,000 for fiscal year 1994 and each subsequent fiscal year (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs).

(2) Administration.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Labor (in this section referred to as the “Secretary”).

Page 526, line 7, strike “Job Banks” and insert “Workforce Adjustment Programs”.

• Page 526, amend lines 11 through 13 to read as follows:

(A) A program for skills upgrading and occupational retaining (including retraining health care workers for more advanced positions as technicians, nurses, and physician assistants), and for quality and workforce improvement.

• Page 526, amend lines 17 through 21 to read as follows:

(C) A program to develop and operate health-worker job banks in local employment services agencies, subject to the following:

(i) Such job banks shall be available to all health care providers in the community involved.

(ii) Such job banks shall begin operation not later than 90 days after the date of the enactment of this Act.

(D) A program to provide for joint labor-management decision-making in the health care sector on workplace matters related to the restructuring of the health care delivery system provided for in this Act.

Page 527, line 3, strike “, and for establishing and operating the Institute authorized in section 3064”.

Page 527, line 15, strike “and” and insert “an”.

• Page 527, amend lines 23 through 25 to read as follows:

(1) Joint labor-management implementation and administration.

Page 528, line 8, strike “**3064**” and insert “**3073**”.

• Page 528, line 12, strike “may” and insert “shall”.

• Page 528, line 13, strike “The subsequent provisions of this section apply to any such Institute.”.

• Page 528, line 23, strike “the system of” and insert “proper staffing of the health care delivery system serving the”.

Page 528, line 25, strike “and”.

• Page 529, line 1, strike “of such system on health care workers and the needs of such workers with respect to the system” and insert “this Act, and of related changes regarding health care, on health care workers and the needs of such workers with respect to such matters”.

• Page 529, line 5, strike the period and insert “; and” and the following:

(C) the development and implementation of high-performance, high-quality health care delivery systems, including employee participation committee systems and employee team systems, that will contribute to the development of better, more effective health care by increasing the role, the responsibilities and the area of independent decision-making authority of health care workers.

• Page 529, amend lines 8 through 10 to read as follows:

JOB BANKS, AND HIGH-PERFORMANCE WORKPLACES.—The Secretary of Labor is authorized to—

(A) carry out section 3070 acting through the Director of the Institute; and

(B) implement the recommendations of the Director regarding employee participation committees and other high-performance systems.

Page 530, line 12, strike “(c)” and insert “(d)”.

• Page 530, after line 12, insert the following (and redesignate the succeeding paragraphs accordingly):

(2) The term “employee participation committees” means committees of workers independently drawn from the facility's workforce, or selected by unions where collective bargaining agreements are in effect, and which operate without employer interference and consult with management on issues of costs and efficiency, workplace reorganizations, productivity, and quality of care.

[Subtitle B—Academic Health Centers]

• Page 530, strike line 25 and all that follows through “the Secretary shall” on page 531, line 4 and insert the following:

(a) In General.—In the case of a qualified academic health center or qualified teaching hospital that in accordance with section 3102 submits to the Secretary a written request for calendar year 1996 or any subsequent calendar year, the Secretary shall

• Page 531, strikes lines 11 through 16.

Page 531, line 18, strike “Centers” and insert “Institutions”.

Page 531, line 19, strike “academic health center” and insert “eligible institutions”.

Page 531, beginning on line 21, strike “such centers” and insert “such institutions”.

• Page 531, line 23, after the period insert the following:

Such costs include—

(1) with respect to productivity in the provision of health services, costs resulting from the reduced rate of productivity of faculty due to teaching responsibilities;

(2) the uncompensated costs of clinical research; and

(3) exceptional costs associated with the treatment of health conditions with respect to which an eligible institution has specialized expertise (including treatment of rare diseases, treatment of unusually severe conditions, and providing other specialized health care).

• Page 531, strike line 24 and all that follows through page 532, line 3, and insert the following:

(c) Definitions.—

(1) Academic health center.—For purposes of this subtitle, the term “academic health center” means an entity that—

(A) operates a school of medicine or osteopathic medicine, as defined in section 799 of the Public Health Service Act;

(B) operates, or is affiliated with, one or more other types of schools or programs described in such section, or with one or more schools of nursing (as defined in section 853 of such Act); and

(C) operates, or is affiliated with, one or more teaching hospitals.

(2) Teaching hospital.—For purposes of this subtitle, the term “teaching hospital” means a hospital that operates an approved physician training program (as defined in section 3011(b)).

(3) Qualified center or hospital.—For purposes of this subtitle:

(A) The term “qualified academic health center” means an academic health center that operates a teaching hospital.

(B) The term “qualified teaching hospital” means any teaching hospital other than a teaching hospital that is operated by an academic health center.

(4) Eligible Institution.—For purposes of this subtitle, the term “eligible institution”, with respect to a calender year, means a qualified academic health center, or a qualified teaching hospital, that submits to the Secretary a written request in accordance with section 3102.

Page 532, line 7, strike “academic health center” and insert “qualified academic health center or qualified teaching hospital”.

Page 532, line 16, strike “entity” and insert “qualified academic health center or qualified teaching hospital”.

Page 532, line 20, strike “entity” and insert “center or hospital”.

• Page 532, strike line 24 and all that follows through page 534, line 2, and insert the following:

(a) Annual Academic Health Center Account.—Subject to section 3104, the amount available for a calendar year for making payments under section 3101 (constituting an account to be known as the annual academic health center account) is the following, as applicable to the calender year:

(1) In the case of calendar year 1996, $3,100,000,000.

(2) In the case of each of the calendar years 1997 and 1998, $3,200,000,000.

(3) In the case of calendar year 1999, $3,700,000,000.

(4) In the case of calendar year 2000, $3,800,000,000.

(5) In the case of each subsequent calendar year, the amount specified in paragraph (4) increased by the product of such amount and the general health care inflation factor (as defined in subsection (d)).

Page 534, beginning on line 3, strike "CENTERS" and insert "INSTITUTIONS".

Page 534, line 11, insert "the" before "product".

Page 534, line 5, strike "center" and insert "institution".

Page 534, strike lines 7 through 9 and insert the following:

(1) the annual academic health center account available for the calendar year; and

Page 534, line 13, strike "center" and insert "institution".

Page 534, strike line 22 and all that follows through page 535 line 2, and insert the following:

and—

(I) applicable to patients discharged from the institution (or hospitals of the institution, as the case may be) in such preceding year; or

(II) in the case of patients discharged on or after January 1, 1998, applicable to patients discharged in calendar year 1997; to

Page 535, line 5, strike "centers" and insert "institutions".

• Page 535, beginning on line 10, strike "centers" and insert the following: "institutions. In making such recommendations, the Secretary shall consider the costs described in section 3101(b) that are incurred by such institutions.".

Page 535, strike lines 13 through 21 and insert the following:

(1) The term "annual academic health center account" means the account established pursuant to subsection (a).

Page 536, line 3, strike ".—The annual academic health center account under section 3103(a)" and insert "ACCOUNT.—The amount specified in section 3103(a) for the annual academic health center account".

• Page 536, amend lines 13 through 16 to read as follows:

(2) Payments made by regional alliances under section 1353 and—

(A) in the case of each of the calendar years 1996 and 1997, transferred in an amount equal to 50 percent of such payments made for the calendar year involved; and

(B) in the case of calendar year 1998 and each subsequent calendar year, transferred in an amount equal to the aggregate regional alliance portion determined under subsection (c)(2)(A).

• Page 536, line 23, and page 537, line 11, insert "(other than calendar year 1996 or 1997)" after "year".

Page 536, line 26, strike "(2)" and insert "(2)(B)".

Page 537, line 3, insert "amount specified in section 3103(a) for" after "the".

Page 538, line 2, strike "each calendar year" and insert "calendar year 1996 and each subsequent calendar year".

• Page 538, amended lines 4 through 6 to read as follows:

otherwise appropriated—

(A) in the case of each of the calendar years 1996 and 1997, an amount equal to the difference between—

(i) the amount specified in section 3103(a) for the annual academic health center account for the calendar year involved; and

(ii) the sum of the amount transferred under section 4052 for such year and the amount transferred under subsection (b)(2)(A) for such year; and

(B) in the case of calendar year 1998 and each subsequent calendar year, an amount equal to the aggregate corporate alliance portion determined under subsection (c)(2)(B) for the calendar year involved.

Page 538, line 11, strike "(1)" and insert "(1)(B)".

Page 538, line 14, strike the second period.

• Page 538, after line 14, insert the following:

(3) GRADUATE NURSE EDUCATION.—Effective January 15 of calendar year 1996 and each subsequent calendar year, there is hereby transferred to the Secretary, out of any money in the Treasury not otherwise appropriated, 50 percent of the amount specified in section 3063(b) with respect to the annual graduate nurse training account.

[Subtitle C—Health Research Initiatives]

Page 538, line 14, strike the second period.

Page 543, line 2, strike "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 543, beginning on line 8, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 543, beginning on line 15, strike "from Public Health Service Initiatives Fund".

[Subtitle D—Core Functions of Public Health Programs; National Initiatives]

Page 544, line 6, strike "AUTHORIZATIONS" and all that follows through the period on line 7 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 544, beginning on line 10, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 544, beginning on line 19, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 555, beginning on line 11, strike "After consultation with the advisory board established in section 3335, the" and insert "The".

Page 555, line 17, strike "3301" and insert "3301(b)".

Page 556, beginning on line 10, strike "Subject to paragraph (3), the" and insert "The".

Page 556, line 21, strike ", subject to paragraph (3),".

[Subtitle E—Medically Underserved Populations]

Page 558, line 8, strike "AUTHORIZATIONS" and all that follows through the period on line 9 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 558, beginning on line 16, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 561, line 4, strike "AUTHORIZATIONS" and all that follows through the period on line 5 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 561, beginning on line 9, "from Public Health Service Initiatives Fund (established in section 3701)".

Page 564, line 15, strike "title XXIII" and insert "title XXVI".

Page 566, line 13, strike "(g)" and insert "(f)".

Page 567, line 10, insert "of such section" after "(c)(4)".

Page 569, line 22, strike "from an award".

Page 572, line 18, strike "serves" and insert "includes".

Page 579, line 15, insert after "shall" the following: ", subject to the Federal Credit Reform Act of 1990.".

Page 579, line 17, insert after "Secretary" the following: ", in consultation with the Secretary of the Treasury,".

Page 580, line 11, insert after "determines" the following: ", in consultation with the Secretary of the Treasury, and subject to the Federal Credit Reform Act of 1990,".

Page 588, line 17, strike "AUTHORIZATIONS" and all that follows through the period on line 18 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 588, beginning on line 21, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 589, line 7, strike "AUTHORIZATIONS" and all that follows through the period on line 8 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 589, beginning on line 14, strike "from Public Health Service Initiatives Fund (established in section 3701)".

[Subtitle F—Mental Health; Substance Abuse]

Page 596, line 8, strike "AUTHORIZATIONS" and all that follows through the period on line 9 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 596, beginning on line 11, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 597, line 22, strike "3501(c)(2)" and insert "3501(b)(2)".

Page 598, line 16, strike "3501(c)(2)" and insert "3501(b)(2)".

Page 603, line 8, strike "a plan to achieve" and insert the following: "a report on (including a plan for) the measures to be implemented by the State to achieve".

Page 603, line 13, after the period insert the following sentence: "The plan required in the preceding sentence shall meet the conditions described in section 3074(b).".

Strike "mental health" and insert "mental illness" in each of the following locations: Page 603, lines 9, 11, 15, and 19; page 604, lines 1, 7, and 14; page 605, lines 10, 13, 15, and 20; page 606, lines 1, 19, 20, and 24.

Page 606, line 13, strike "the a" and insert "the".

[Subtitle G—School Health]

Page 609, strike lines 18 through 24.

Page 610, line 22, strike "(I)" and insert "(H)".

Page 610, line 23, strike "(J)" and insert "(I)".

Page 610, line 25, strike "(K)" and insert "(J)".

Page 612, line 13, strike "AUTHORIZATIONS" and all that follows through the period on line 14 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 612, beginning on line 17, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 617, line 11, strike "STATES" and insert "STATE EDUCATION AGENCIES".

Page 617, line 12, strike "STATES" insert "STATE EDUCATION AGENCIES".

Page 618, beginning on line 2, strike "goals established under" and insert "the State's school improvement plan, if any, under title III of".

Page 620, line 21, strike "STATES" and insert "STATES" and insert "STATE EDUCATION AGENCIES".

Page 621, line 13, strike ", if any,".

Page 636, line 20, strike "AUTHORIZATIONS" and all that follows through the period on-line 21 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 636, beginning on line 24, strike “from the Public Health Service Initiatives Fund (established in section 3701)”.

Page 637, line 12, strike “are:” and insert “are the following:”.

Page 638, line 19, insert a period at the end of the line.

Page 640, strike line 24 and all that follows through page 641, line 2.

Page 641, line 3, strike “(d)” and insert “(c)”.

Page 642, line 4, strike “part” and insert “subpart”.

Page 642, line 6, strike “(e)” and insert “(d)”.

Page 643, line 1, strike “Evidence of” and insert “A description of”.

Page 643, line 7, strike “(f)” and insert “(e)”.

Page 643, beginning on line 7, strike “two planning grants” and insert “one planning grant”.

Page 643, line 8, after the period insert the following: “A planning grant may not exceed two years in duration.”.

Page 643, line 12, insert a period after “sites”.

Page 643, line 20, and page 645, line 4, strike “3461(h)” and insert “3461(g)”.

[Subtitle H—Public Health Service Initiative]

Page 648, line 13, strike “includes” and all that follows through line 14 and insert the following: “includes the programs of subtitles C through G of this title and the programs of subtitle D of title VIII.”.

[Subtitle I—COBRA Continuation]

Page 649, line 11, strike “**Cobra**” and insert “**COBRA**”

TITLE IV CHANGES

[Subtitle A—Medicare and Alliances]

Page 656, strike line 10 and all that follows through page 657, line 7 and insert the following:

“(1) COVERAGE OF ALL MEDICARE-ELIGIBLE INDIVIDUALS.—The State's application shall assure that the provisions of the succeeding paragraphs of this subsection shall apply to all medicare-eligible individuals who are residents of the State.”.

Page 658, line 4, strike “individual” and insert “individual”.

Page 658, line 6, strike “B” and insert “C”.

Page 658, line 13, strike “premium rate, coinsurance” and insert “coinsurance”.

Page 658, line 15, strike “to such individuals”.

Page 658, strike line 17 and all that follows through page 659, line 7, and insert the following:

“(ii) the plan's payment rates for covered items and services are accepted as payment in full for such items and services.

Page 659, line 13, insert “(including payments under section 1862(b)(4))” after “title”.

Page 662, line 9, strike “subtitle A of title VI” and insert “section 6001(a)”.

Page 663, line 24, strike “ ‘health care budget’,”.

Page 664, line 11, insert “(or which is eligible to enter into such a contract, as determined by the Secretary)” before “that is”.

Page 664, line 16, insert “(for the same benefits as alliance-eligible individuals)” after “in such plan”.

Page 664, line 18, add at the end the following: “The premium imposed with respect to such an individual by the plan shall be in an amount (determined in accordance with rules of the Secretary and notwithstanding other provisions of such Act) which reflects the difference between the premium otherwise established (adjusted by a factor to reflect the actuarial difference between medicare beneficiaries and other plan enrollees) and the amount payable under paragraph (3).”.

Page 664, line 25, insert “or dependent” after “spouse”.

Page 665, line 6, insert “or dependent” after “spouse”.

Page 665, line 12, strike “(a)(1)(C)” and insert “(a)(1)(C) (notwithstanding the second sentence of paragraph (1))”.

Page 666, line 15, strike “a health plan” and insert “an eligible organization”.

Page 666, line 18, strike “individual's” and insert “individual's”.

Page 667, line 1, strike “**TREATMENT OF CERTAIN MEDICARE BENEFICIARIES**” and insert “**PAYMENTS TO REGIONAL ALLIANCES ON BEHALF OF CERTAIN MEDICARE-ELIGIBLE INDIVIDUALS**”.

Page 667, line 5, strike “TREATMENT” and insert “PAYMENTS TO REGIONAL ALLIANCES ON BEHALF”.

Page 667, line 7, strike “(a)” and all that follows through the dash on line 16.

Page 667, line 23, insert after the first period the following: “In the case of an individual to whom such section applies, unless all the members of the family would be medicare-eligible individuals (but for section 1012(a) of such Act), the reductions in liability under section 6115 of such Act shall be based upon the alliance credit amount for an individual class of enrollment (as defined in section 1011(c)(1)(A) of such Act).”.

Page 668, line 9, strike “**ACTIVE**”.

Page 668, amend lines 13 through 19 to read as follows:

(A) in clause (i), by striking “large group health plans (as defined in clause (iv))” and inserting “group health plan (as defined in subparagraph (A)(v), taking into account the exceptions described in clauses (ii) and (iii) of subparagraph (A))”; and

Page 669, amend lines 7 through 9 to read as follows:

(A) in clause (i), by striking “an individual is entitled” and all that follows through “such benefits” and inserting “an individual (or a member of the indvidual's family) who is covered under the plan by v’rtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226A”;

Page 669, insert after line 19 the following (and redesignate the succeeding provision accordingly):

(d) NO PRIMARY PAYMENT FOR SERVICES UNDER A HEALTH PLAN.—Section 1862(b)(2)(A) (42 U.S.C. 1395y(b)(2)(A)(i)) is amended—

(1) by striking “or” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “, or”;

(3) by inserting after clause (ii) the following new clause:

“(iii) payment has been made, or can reasonably be expected to be made, with respect to the item or service under any health plan under the Health Security Act.”; and

(4) in the second sentence—

(A) by striking “and” after “applies”, and

(B) by inserting before the period at the end the following: “, and a health plan under the Health Security Act to the extent that clause (iii) applies”.

(e) SIMPLIFICATION OF COORDINATION OF BENEFITS.—Section 1862(b)(4) (42 U.S.C. 1395y(b)(4)) is amended by adding after and below subparagraph (B) the following:

“Notwithstanding the previous sentence, where payment is made for an item or service by a primary plan that is a health plan (within the meaning of section 1400 of the Health Security Act) and for which payment would be made under this title but for this subsection, payment may be made under this title (without regard to deductibles and coinsurance) in the amount of the cost sharing imposed under such primary plan (consistent with such Act).”

Page 670, line 22, strike “may be specified by the Secretary” and insert “shall be the period specified by the Secretary under section 1876(c)(3)(A)(i)”.

Page 671, line 6, insert “designated under section 1876(c)(3)(B)” after “party”.

Page 673, line 4, strike “CAPITATION” and insert “CAPITATED”.

Page 673, line 20, insert “for purposes of section 1876(c)(3)(C)” after “the Secretary”.

Page 675, line 7, strike the closing quotation marks and the period that follows them.

Page 675, after line 7, insert the following:

“(v) To the extent that total payments under clause (i) in a year—

“(I) exceed the payment set aside as a result of the reduction under subparagraph (C) for the year, the Secretary shall increase the percentage reduction under such subparagraph for the following year by such percentage as will result in an increase in the reduction equal to such excess in previous payments, or

“(II) are less than the payment set aside as a result of the reduction under subparagraph (C) for the year, the amount of such difference shall remain available in the succeeding years for additional payments under this subparagraph and the Secretary may take such difference into account in establishing the percentage reduction under subparagraph (C) for the following year.”.

Page 675, line 9, insert “(i)” after “1876(a)(1)(C)” and after “1395mm(a)(1)(C)”.

Page 675, line 10, strike “4122(a)” and insert “4132(a)”.

Page 675, line 11, strike “(by a uniform percentage) determined by the Secretary” and insert “by a uniform percentage (determined by the Secretary for a year, subject to adjustment under subparagraph (G)(v))”.

Page 675, line 13, strike “for a particular year”.

Page 675, line 23, strike “1890” and insert “1890”.

Page 675, line 26, insert after “title” the following: “(other than individuals enrolled with an eligible organization with a risk-sharing contract under section 1876(g))”.

Page 676, line 1, strike “enroll in a point-of-service network” and all that follows through “and may”.

Page 676, line 4, strike “the network” and insert “a point-of-service network established by the Secretary in accordance with the criteria described in subsection (b)”.

Page 676, line 8, strike “appropriate geographic service areas for such networks” and insert “an appropriate geographic service area for each such network”.

Page 676, line 12, strike the semicolon and insert “, except that no such service area may be served by more than one such network;”.

Page 676, strike lines 13 and 14 (and redesignate the succeeding paragraphs accordingly).

Page 676, line 21, strike “incentive arrangements” and insert “incentives”.

Page 676, line 23, strike the semicolon and insert “, and to encourage individuals to receive services under this title through the network;”.

Page 677, strike lines 1 through 3 and insert the following:

“(6) establish procedures to be used for the provision of case management services and criteria for determining whether (and under which circumstances) services which would otherwise not be covered under this title would be covered by the network under such case management;".

Page 677, line 4, insert "establish" after "(8)".

Page 677, line 8, strike "and" and insert after such line the following (and redesignate the succeeding paragraph accordingly):

"(8) establish standards for the selection of physicians for the network based on practice patterns and a demonstration of effective quality assurance; and

"(9) develop standards to ensure that the point-of-service option does not result in a net financial loss to the medicare program under this title after the implementation of the option in an area, taking into account administrative costs, the costs of services (which would otherwise not be covered under this title) provided to beneficiaries under case management, and the costs of incentives for physicians, other providers, and beneficiaries; and".

Page 677, line 9, insert "apply" before "such".

Page 677, line 9, strike the closing quotation mark and the period following such mark, and insert after such line the following:

"(c) BONUS PAYMENTS PERMITTED.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may increase the amount of payment otherwise provided under this title for items and services furnished by individuals who are members of a point-of-service network under this section by a bonus payment (in such amount as the Secretary may determine).

"(2) CRITERIA FOR RECEIVING PAYMENT.—The Secretary may make a bonus payment under this subsection to members of a point-of-service network if the Secretary determines that the members of the network have reduced the costs to the medicare program of the items and services furnished by the network without adversely affecting the quality of care provided to beneficiaries.".

Page 678, line 13, and page 679, line 14, strike "subsection (i)" and insert "subsection (c)".

Page 679, line 3, strike "in an arrangement for a point-of-service network" and insert "under a point-of-service network arrangement".

Page 679, strike lines 16 through 18.

Page 679, line 19, strike "(6)" and insert "(5)".

Page 679, line 21, strike "2001(c)" and insert "2003(b)".

Page 680, lines 9 and 12, strike "he" and "him" and insert "the individual" in both places.

Page 680, line 16, strike "**OF OUTPATIENT PRESCRIPTION DRUGS**" and insert "**EXPANSIONS**".

• Page 681, strike line 1 and all that follows through page 683, line 10, and insert the following:

SEC. 4022. EXPANDED COVERAGE FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.

(a) PHYSICIAN ASSISTANTS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(b) NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(1) by inserting "(I)" before "in a rural area", and

(2) by inserting ", (II) in any other area, in the case of services furnished by nurse practitioners other than services furnished to an inpatient of a hospital, or (III) in any other area, in the case of services furnished by clinical nurse specialists other than services furnished to an inpatient of a hospital, skilled nursing facility or nursing facility (as defined in section 1919(a)), and" after "section 1886(d)(2)(D)".

(c) CONFORMING AMENDMENTS.—(1) Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "described in section 1861(s)(K)(iii)".

(2) Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)) is amended by striking "provided in a rural area".

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended by striking "provided in a rural area".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

Page 684, line 16, strike "a bill" and insert "or other person".

Page 684, line 18, insert "or person" after "individual".

Page 691, lines 11 and 23, strike "paid" and insert "paid,".

Page 691, line 20, strike "an assessment" and insert "damages".

Page 692, strike lines 1 through 11.

Page 693, line 8, strike "employees" and insert "employee".

Page 693, line 11, insert a closing quotation mark and a period after the period.

Page 693, line 17, strike "copayment—" and all that follows through page 694, line 9 and insert the following: "copayment if the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals.".

Page 694, line 20, strike "who is obligated" and all that follows through page 695, line 2 and insert the following: "who receives assistance under a grant or cooperative agreement for the provision of health care services under title V, title XX, or the Public Health Service Act, or is obligated as a matter of law to provide services according to a schedule which provides for discounts based on the ability of the individual services to pay, if—

"(i) in the case of an individual or entity who receives assistance under a grant or cooperative agreement for the provision of health care services under title V, title XX, or the Public Health Service Act, the remuneration is directly and primarily related to the activity supported by the grant or cooperative agreement; and

"(ii) the remuneration is pursuant to a written arrangement for the use or procurement of space, equipment, goods, or services for the referral of patients that—

Page 695, move the matter from lines 3 through 18 two ems to the right.

Page 695, line 3, strike "(i) the arrangement" and insert "(I)".

Page 695, line 9, strike "(ii) the arrangement" and insert "(II)".

Page 695, line 17, strike "the Federal grant or cooperative agreement" and insert "a grant or cooperative agreement described in clause (i)".

Page 696, line 25, strike "a" and insert "each".

Page 697, line 17, strike the dash and insert a colon.

Page 698, line 9, strike "and".

Page 698, line 13, strike the period and insert "; and".

Page 698, insert after line 13 the following:

(5) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.".

Page 699, line 19, strike "paragraphs" the second place it appears.

Page 700, line 20, insert "designated health" after "the case of"

Page 701, line 15, strike "CAPITATED" and insert "OTHER CAPITATED PAYMENTS".

Page 702, line 23, through page 703, line 2, move the indentation 2 ems to the left.

Page 703, line 20, strike "that serves a significant number" and all that follows through "Act)," and insert the following: "for which 85 percent of the patients are members of a medically underserved population designated under section 330 of the Public Health Service Act (as determined in accordance with regulations of the Secretary),".

Page 706, line 21, strike "a laboratory in exchange for the provision of clinical laboratory services" and insert "an individual or entity as compensation for items or services if the items or services are".

Page 709, strike lines 4 through 16 (and redesignate the succeeding provisions accordingly).

Page 709, line 19, strike "2006(c)(3)" and insert "2005(c)(3)".

Page 711, lines 5 through 13, indent 2 additional ems.

Page 715, line 15, insert "under the Health Security Act" after "a health plan".

Page 716, line 7, strike "federal" and insert "Federal".

Page 716, lines 8 and 9, strike "state" and insert "State".

Page 716, line 8, insert "(under subtitle D of title I of such Act)" after "health alliance".

Page 716, line 10, strike "the plan" and insert "a health plan under such Act or a public program".

Page 716, line 16, strike "(6)" and insert "(12)".

Page 716, line 22, strike "or" and insert ", payment, or".

Page 717, line 8, strike "(as defined in subsection (g))".

Page 718, line 12, strike "TRUST FUND" and insert "ACCOUNT".

Page 718, line 16, strike "Trust Fund" and insert "Account".

Page 718, line 22, strike "was".

Page 720, line 25, strike the comma.

Page 721, line 19, strike "1128(b) (42 U.S.C. 1320a–7(b))" and insert "1128 (42 U.S.C. 1320a–7)".

Page 721, line 21, strike "paragraph (1)" and insert "subsection (a)(1)(A)".

Page 721, insert after line 25 the following (and redesignate the succeeding provisions accordingly):

(2) in subsection (b)(5)—

(A) by striking "or" at the end of subparagraph (A),

(B) by adding "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) an applicable health plan (as defined in section 1902(6) of the Health Security Act) under section 5411 or 5412(b)(3) of such Act,";

(3) in subsection (b)(6)(B), by striking "XVIII or under a State health care program" and inserting "XVIII, a State health care program, or an applicable health plan (as defined in section 1902(6) of the Health Security Act)";

Page 722, line 2, strike "paragraph (7)" and insert "subsection (b)(7)".

Page 722, line 4, strike "paragraph (8)(B)" and insert "subsection (b)(8)(B)".

Page 722, line 13, strike "paragraph (9)" and insert "subsection (b)(9)".

Page 722, line 14, insert "provide" after "or".

Page 722, line 20, strike "paragraph (11)" and insert "subsection (b)(11)".

Page 723, line 8, strike "paragraph (12)" and insert "subsection (b)(12)".

Page 723, line 13, strike "any actions" and all that follows through "any sanctions" and insert "any violations of law have occurred, including violations".

Page 723, line 17, strike "and".

Page 723, insert after line 17 the following (and redesignate the succeeding provision accordingly):

(9) in subsection (b)(14), by striking "XVIII or XIX" and inserting "XVIII, a State health care program, or an applicable health plan (as defined in section 1902(6) of the Health Security Act)"; and

Page 723, line 18, strike "paragraph (15)" and insert "subsection (b)(15)".

Page 723, line 20, strike "54.." and insert "5412".

Page 726, strike "calendar" each place it appears on lines 5 and 20 and insert "fiscal".

• Page 726, strike lines 7 through 19 and insert the following:

(1) In the case of fiscal year 1996, $1,500,000,000.

(2) In the case of each of the fiscal years 1997 and 1998, $1,600,000,000.

Page 726, line 22, strike "the product of such amount" and all that follows through page 727, line 2 and insert the following: "the Secretary's estimate of the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with the midpoint of the previous fiscal year.".

Page 727, line 5, strike "an academic year" and insert "a year".

• Page 727, line 22, and page 728, line 10, strike "January 1, 1998" and all that follows through "participating State)" and insert "October 1, 1995".

Page 729, strike "calendar" each place it appears on lines 2 and 16 and insert "fiscal".

• Page 729, strike lines 3 through 15 and insert the following:

(1) In the case of fiscal year 1996, $2,100,000,000.

(2) In the case of each of the fiscal years 1997 and 1998, $2,000,000,000.

Page 729, line 18, strike "the product of such amount" and all that follows through line 23 and insert the following: "the Secretary's estimate of the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with the midpoint of the previous fiscal year.".

• Page 730, lines 4 and 14, strike "January 1, 1998" and all that follows through "participating State)" and insert "October 1, 1995".

Page 731, line 18, strike "in such amounts" and all that follows through the first period on line 21 and insert "in the same amounts and under the same terms and conditions under which the Secretary makes payments to eligible organizations with risk-sharing contracts under section 1876.".

Page 731, line 25, strike "January 1, 1998" and insert "October 1, 1995".

Page 732, line 22, strike "any individuals entitled to benefits under this title who are enrolled with such a plan" and insert "any veteran, other than a veteran described in section 1831(b)".

Page 732, line 24, insert "(other than any individuals described in section 1831(b) of title 38, United States Code)" after "year".

[Subtitle B—Medicare Savings]

• Page 734, line 16, strike "2001" and insert "2003".

Page 734, line 19, strike "Section" and insert "(a) IN GENERAL.—Section".

Page 735, line 4, strike "1994" and insert "1995".

Page 735, line 4, insert "and" after "1.89,".

Page 735, strike lines 5 and 6 (and redesignate the succeeding provision accordingly).

Page 735, insert after line 8 the following:

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 4102(a) of the Health Security Act".

Page 735, line 19, insert "for discharges occurring after September 30, 1995," before "the Secretary".

• Page 737, line 2, strike "2000" and insert "2003".

• Page 738, line 11, strike "2000" and insert "2003".

Page 738, line 25, and page 742, line 5, strike "subtitle C of title I of".

Page 739, line 21, strike "5 percent" and insert "5.5 percent".

Page 740, line 14, strike "e to the nth power" and insert "e to the nth power—1".

Page 740, line 17, strike "—1".

Page 743, line 21, strike "1991 THROUGH 1993" and insert 1991 THROUGH 1994".

Page 744, line 2, strike "and 1993" and insert "1993, and 1994".

Page 744, line 14, strike "1994" and insert "1995".

Page 744, line 17, strike "physicians's" and insert "physicians'".

Page 744, line 18, strike "1994" and insert "1995".

Page 746, line 15, strike "1992 THROUGH 1995" and insert "1992 THROUGH 1996".

Page 746, line 18, strike "and 1995" and insert "1995, and 1996".

Page 746, line 23, strike "1996" and insert "1997".

Page 747, line 1, strike "1993" and insert "1997".

Page 747, line 19, strike "1994" and insert "1995".

Page 749, insert after line 7 the following new subsection:

(c) REPEAL OF PERFORMANCE STANDARD FACTOR.—

(1) IN GENERAL.—Section 1842(f)(2), as amended by section 4111(a)(3), is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 1842(f)(2)(B), as added by section 4111(a), is amended in the matter following clause (iv) by striking "1, multiplied by 100" and all that follows through "subparagraph (C))" and inserting "1 and multiplied by 100".

Page 749, line 19, strike "1995" and insert "1995".

Page 750, line 8, strike "3 percentage points" and insert "3 percent and adjusted by the update established under paragraph (3) for 1995".

Page 751, line 4, strike "(i)".

Page 751, line 8, strike ", and, if so" and all that follows through "subsection (b)(3)".

Page 751, line 21, strike "physicians" and insert "physician's".

Page 752, line 17, strike "this subsection—" and all that follows through page 753, line 2, and insert the following: "this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.".

Page 753, line 14, insert "projected" and "relative value".

Page 753, line 15, insert "for a calendar year" after "hospital)".

Page 753, line 17, strike "each physician's service" and insert "for physicians' services".

Page 753, line 20, strike "during 1996" and insert "during the second year preceding such calendar year".

Page 754, line 2, insert "projected" after relative value".

Page 754, line 3, insert "in a calendar year" after "hospital".

Page 754, line 7, strike "each physician's service" and insert "for physicians' services".

Page 754, line 10, strike "during 1996" and insert "during the second year preceding such calendar year".

Page 754, line 10, strike ", adjusted" and all that follows through "subparagraph (C))" on line 14.

Page 754, line 17, strike "each physician's service" and insert "physicians' services".

Page 754, line 19, strike "during 1996" and insert "during the second year preceding such calendar year".

Page 755, strike lines 15 through 24.

Page 756, line 6, strike "a" and insert "the".

Page 757, line 3, add at the end the following: "Notwithstanding any other provision of this title, no payment may be made under this part for any physician's service furnished by a member of a hospital's medical staff to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for payment for such service not later than 90 days after the last day of the year.".

Page 757, line 20, strike the semicolon and insert the following: ", including interest at an appropriate rate determined by the Secretary;".

Page 757, line 23, and page 758, lines 6 and 13, strike "10" and insert "15".

Page 758, line 8, strike "limit;" and insert "allowable average per admission relative value; and".

Page 758, line 8, strike the semicolon and insert the following: ", including interest at an appropriate rate determined by the Secretary;".

Page 759, line 8, strike the period and insert the following: ", on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.".

Page 760, line 6, strike "Medicare" and insert "medicare".

Page 763, line 11, insert ", as amended by subsection (a)(1)," before "is amended".

Page 763, line 19, insert "(42 U.S.C. 1395u(c)(2)(F)(iii)), as added by subsection (a)(2)," before "is amended".

Page 763, line 20, strike "4115(a)" and insert "4115(a)(1)".

Page 763, line 23, insert ", as amended by subsections (a)(1) and (b)(1)," before "is amended".

Page 764, line 1, strike "(1)" and insert "(I)".

Page 764, lines 1 through 14, indent 2 additional ems.

Page 764, line 19, insert ", as amended by subsections (a)(1), (b)(1), and (c)," before "is amended".

Page 765, line 15, insert "IN GENERAL.—" after "(1)".

Page 765, line 16, strike "by".

Page 765, lines 17, 19, and 21, insert "by" after "(A)", "(B)", and "(C)".

Page 765, line 19, strike "time" and insert "place".

Page 766, line 3, strike "1886(d)" and insert "1886(d)(2)(D)".

Page 766, line 4, strike "subparagraph (A)" and insert "paragraph (1)".

Page 767, line 17, strike "**BIDDING**" and insert "**ACQUISITION**".

Page 770, strike lines 4 and 5 (and redesignate the succeeding provision accordingly).

Page 771, line 14, strike "the payment amount" and all that follows through "previous year" and insert the following: "the projected payment amount that would have applied to the item or service under part B if the item or service had not been furnished through competitive acquisition under such section".

Page 772, line 4, strike "4117(a)" and insert "4118".

Page 772, line 19, strike "the fee schedules" and all that follows through "previous year" and insert the following: "the projected payment amount that would have applied to such tests under this section if the tests had not been furnished through competitive acquisition under section 1847".

Page 773, line 12, strike "20" and insert "100".

Page 773, line 18, insert "before" after "and".

Page 778, line 12, strike "The portion" and insert "For 1995 and succeeding years, the portion".

Page 779, line 3, strike "The portion" and insert "For 1995 and succeeding years, the portion".

Page 780, line 2, strike the closing quotation mark and the period following such mark and insert after such line the following:

"(vii) For purposes of clauses (ii) through (v), in determining the weighed average of all adjusted average per capita costs determined under paragraph (4) for a class, the Secretary shall not take into account any costs associated with individuals entitled to benefits under this title under section 226A.".

Page 784, line 15, strike "surgery" and insert "surgery, coronary artery by-pass surgery,".

• Page 786, after line 14, insert the following:

PART 5—REPORT ON MEDICARE SAVINGS FOR FISCAL YEARS 2000 THROUGH 2003

SEC. 4151. REPORT ON SAVINGS.

(a) In General.—The Secretary shall submit to Congress, by January 30, 1999, a report that contains—

(1) a determination of whether the average, annual rate of growth in spending under the medicare program (taking into account savings under this subtitle) in the 4-fiscal-year period beginning with fiscal year 2000 will exceed the rate of growth described in subsection (b); and

(2) if so, recommendations as to how to achieve the rate of growth specified in subsection (b).

(b) Rate of Growth Described.—The rate of growth described in this subsection is the sum of the following:

(1) CPI.—The average annual percentage change in the CPI.

(2) Medicare population.—The average, annual percentage change in the number of medicare-eligible individuals.

(3) Real GDP per capita.—The average, annual percentage change in the real, per capita gross domestic product of the United States, and

(4) 1 percent.—1 percentage point.

[Subtitle C—Medicaid]

Page 787, line 24, insert ", as amended by section 13631(a)(3) of OBRA–1993," before "is".

Page 788, lines 1 through 5, indent 2 additional ems.

Page 788, line 10, insert ", as amended by section 13631(h)(1)(C) of OBRA–1993," before "is".

Page 788, line 7, strike "part 1 of subtitle C of title VI of such Act" and insert "subtitle A of title IX of the Health Security Act".

Page 789, line 24, strike "1902(a)(10(A)" and insert "1902(a)(10)".

Page 790, line 11, strike "option" and insert "election".

Page 789, line 25, strike "1396a(a)(10)(A)" and insert "1396a(a)(10)".

Page 790, line 11, strike "option" and insert "election".

Page 790, line 12, strike "exercising such option" and insert "making such election".

• Page 791, line 5, strike "$70" and insert "$50".

• Page 792, line 5, strike "if the amendment made by subsection (a) had not taken effect (as estimated by the Secretary)" and insert "based on the personal needs allowance in effect in the State as of September 30, 1993".

• Page 792, strike line 11 and all that follows through page 799, line 23 (and redesignate the succeeding section accordingly).

Page 800, line 5, insert ", as amended by section 4201(b)," before "is".

Page 800, lines 7, 9, 10, and 12, strike "(61)", "(62)", "(62)", and "(63)" and insert "(62)", "(63)", "(63)", and "(64)".

Page 801, line 21, strike "4201" and insert "4201(a)".

Page 802, lines 16 and 19, strike "18 years of age or older".

Page 802, after line 22, insert the following:

"(4) Children under 18 years of age (or, at the option of the State, under age 19, 20, or 21).

Page 803, line 23, after the period insert closing quotation marks and a period.

Page 803, strike line 24.

Page 805, line 7, strike "and 4213 and by subsection (b)" and insert "4213, and 4221(b)".

Page 805, line 15, strike "make payment" and insert "provide for payment".

Page 805, line 17, insert "or appropriate' after "necessary".

Page 805, line 26, insert "of the Health Security Act" after "1001(c)".

Page 806, line 4, strike "18" and insert "19".

Page 806, line 6, strike "for" and all that follows through the end of line 9.

Page 806, line 23, strike "applicable poverty level (as defined in section 1902(a)(25)(A) of the Health Security Act)" and insert "income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to a family of the size involved)".

Page 807, lines 9 and 15, strike "the applicable" and all that follows through "Act)" on line 11 and insert "such income official poverty line" both places.

Page 808, line 10, strike "an alliance" and insert "a".

Page 808, line 11, strike "1300" and insert "1400(a)".

Page 810, line 5, strike "the percentage of".

Page 810, line 9, strike "is" and insert "are".

Page 810, line 23, strike "and".

Page 810, line 21, insert ", non-DSH" after "non-cash".

Page 811, line 13, insert ", non-DSH" after "non-cash".

Page 813, lines 6 and 15, and page 814, line 7, strike "within the meaning of section 1200 of" and insert "under".

Page 813, lines 10 and 17, strike "1997" and "1996" and insert "1998" and "1997".

Page 813, line 14, strike "a quarters" and insert "any quarters".

Page 814, line 12, strike "1997" and insert "1998".

Page 815, line 10, strike "section 4213" and insert "sections 4201(b) and 4214(a)".

Page 815, lines 13, 15, 16, and 18, strike "(62)", "(63)", "(63)", and insert "(63)", "(64)", "(64)", and "(65)".

Page 817, line 11, strike "of the Health Security Act"

• Page 819, lines 21 and 23, strike "$840" and "$1,680" and insert "$600" and "$1,200".

TITLE V CHANGES

[Subtitle A—Quality Management and Improvement]

Page 826, line 4, strike "discrete".

Page 829, beginning on line 1, strike "by the individuals" and all that follows through line 2 and insert a period.

Page 829, beginning on line 10, strike "measures" and all that follows through line 13 and insert "a measure shall be expected to vary widely among the individuals and entities whose performance is assessed using the measure.".

Page 830, line 8, strike "Board" and insert "Council".

Page 831, line 17, strike "will" and insert "shall".

Page 831, line 17, strike "it" and insert "the Board".

Page 832, line 14, after "alliance" insert "area".

Page 833, insert after line 4 the following:

(d) Public Availability of Information in National Practitioner Data Bank on Defendants, Awards, and Settlements.—

(1) In general.—Section 427(a) of the Health Care Quality Improvement Act (42 U.S.C. 11137(a)) is amended by adding at the end the following new sentence:

"Not later than January 1, 1996, the Secretary shall promulgate regulations under which individuals seeking to enroll in health plans under the Health Security Act may obtain information reported under this part with respect to physicians and other licensed health practitioners participating in such plans for whom information has been reported under this part on repeated occasions.".

(2) Access to data bank for point-of-service contractors under medicare.—Section 427(a) of such Act (42 U.S.C. 11137(a)) is amended—

(A) by inserting "to sponsors of point-of-service networks under section 1890 of the Social Security Act," after "State licensing boards,", and

(B) in the heading, by inserting "Related" after "Care".

Page 836, line 17, insert "collect and" after "shall".

Page 842, line 24, strike "and".

Page 842, line 25, strike the period and insert "; and".

Page 842, insert after line 25 the following:

(4) in subsection (m)(1), by striking ", except that the Secretary" and all that follows and inserting a period.

• Page 843, after line 4, insert the following:

SEC. 5011. UNIFORM STANDARDS FOR HEALTH CARE INSTITUTIONS.

(a) Development of Standards.—Not later than 3 years after the date of the enactment of this Act, the National Health Board shall develop demonstration standards for the licensing of health care institutions that address essential performance requirements related to patient care. The standards shall be developed in a manner that permits them to be applied uniformly to all such institutions, except in the areas of fire safety, sanitation, and patient rights, and so as not to undermine ongoing nursing home reforms.

(b) Demonstration Projects.—By January 1, 1996, the National Quality Management Council shall complete demonstration projects for the standards developed under subsection (a) and shall revise the standards according to the findings of such projects. The demonstration projects shall evaluate the impact of these standards in ensuring quality of care, reducing cost, and reducing burdens on health care providers.

(c) Preemptive Effect of Fully Implemented Standard.—After a standard developed under this section is tested, evaluated, revised, and fully implemented, it shall replace existing standards, except in cases in which statutory changes are necessary to implement such standards. In such cases, the National Quality Management Council shall recommend to the President and the Congress revisions in Federal statutes to conform the statutes to the standards.

(d) Consolidated Audit and Inspection.—The National Quality Management Council shall undertake research efforts designed to develop a system for carrying out through grant or contract a single, consolidated annual audit and inspection of each health care institution and health care provider for the combined purposes of Federal, State, local, and private licensure, accreditation, and certification.

Page 843, line 14, strike “5005(d)” and insert “5005(c)(2)”.

Page 843, line 19, strike “quality” and insert “professional”.

[Subtitle B—Information Systems, Privacy, and Administrative Simplification]

Page 846, line 2, strike “States and the Federal Government” and insert “States, the Federal Government, health alliances, and health plans”.

Page 852, strike lines 2 and 3 and insert the following:

(5) health plans;

(6) representatives of health care providers;

(7) representatives of employers;

(8) representatives of consumers of health care;

(9) experts in public health and health care information and technology; and

(10) representatives of organizations furnishing health care supplies, services, and equipment.

Page 865, line 9, strike “manner” and insert “medium”.

Page 869, line 22, strike “discrete”.

[Subtitle C—Remedies and Enforcement]

Page 875, line 13, insert “(other than emergency services which under section 1406(b) may not be subject to preauthorization)” after “services”.

Page 880, beginning on line 4, strike “corporate alliance health plans” and insert “plans described in subsection (b)”.

Page 880, line 25, insert “a supplemental benefit policy described in section 1421(b)(1) or” after “under”.

Page 881, line 15, strike “Proceedings” and insert ‘Notwithstanding part 2, proceedings”.

Page 881, line 22, insert “a supplemental benefit policy described in section 1421(b)(1) or” after “under”.

Page 883, line 1, strike “except”.

Page 883, line 24, strike “this section” and insert “section 5204”.

Page 884, line 12, insert “a supplemental benefit policy described in section 1421(b)(1) or” after “under”.

Page 886, line 21, insert “of the United States” after “district court”.

Page 887, strike line 23 and all that follows through line 1 on page 888 and insert the following:

(2) Decisions finding in favor of complainant.—If the hearing officer's Page 888, line 8, strike “(i)” and insert “(A)”.

Page 888, line 10, strike “(ii)” and insert “(B)”.

Page 888, line 14, strike “(iii)” and insert “(C)”.

Page 888, line 18, strike “(iv)” and insert “(D)”.

Page 892, line 19, strike “the date of the proceeding” and insert “the date of the decision”.

Page 893, strikes lines 17 through 22.

Page 893, line 22, strike “published”.

Page 893, line 23, strike “(g)” and insert “(f)”.

Page 894, insert after line 5 the following:

SEC. 5206. RULES GOVERNING BENEFIT CLAIMS DETERMINATIONS.

(A) In General.—Determinations made under this part or by any State court in connection with a complaint based on an act or practice described in section 5202(b) shall be in accordance with the provisions of this Act, the comprehensive benefit package as provided by this Act, the rules and regulations of the National Health Board prescribed under this Act, and decisions of the National Health Board under this Act.

(b) Rights and Remedies Under State Law.—Subject to subsection (a), the rights and remedies available in State court against a health plan providing services through a regional alliance in connection with a complaint based on an act or practice described in section 5202(b) shall be governed by State law.

Page 894, line 6, strike “**5206**” and insert “**5207**”.

Page 895, align lines 1 through 3 with lines 4 through 7.

Page 895, line 7, strike “subsection (a)” and insert “paragraph (1)”.

Page 898, line 3, insert “a supplemental benefit policy described in section 1421(b)(1) or” after “under”.

Page 898, line 23, strike “subpart A” and insert “section 5202(b)”.

Page 899, line 3, insert “participation” before “agreement”.

Page 900, line 2, strike “health”.

Page 902, line 14, strike “subsection (a)” and insert “paragraph (1)”.

Page 904, line 5, strike “(d)” and insert “(c)”.

Page 904, line 16, strike “an”.

Page 911, line 10, insert “on the basis of age or disability” after “discrimination”.

Page 911, line 12, strike “1973” and insert “1975”.

Page 911, line 12, strike “6102” and insert “6101”.

Page 911, line 17, strike “aggreived” and insert “aggrieved”.

Page 912, line 1, strike “(c)” and insert “(b)”.

Page 912, line 2, strike “the” and insert “a”.

Page 912, lines 15 and 17, strike “(d)” and “(c)(1)” and insert “(c)” and “(b)(1)”.

Page 916, line 25, strike “subsection (b)” and insert “subsection (a)”.

[Subtitle D—Medical Malpractice]

Page 918, line 10, strike “paragraph (2)” and insert “this part”.

Page 920, line 23, strike “in a civil action”.

Page 921, lines 16 and 23, strike “plan” each place it appears and insert “health plan”.

Page 922, line 1, insert “(or failure to provide)” after “provision of”.

Page 922, line 11, strike “National Health”.

Page 922, line 14, strike “plans” and insert “health plans”.

Page 923, line 1, strike “National Health”.

Page 924, lines 3, 6, 7, and 12, and page 925, lines 10 and 24, strike “medical”.

Page 925, line 19, strike “Medical”.

Page 923, line 24, strike “(b)(2)” and insert “(b)(1)”.

Page 925, line 21, strike “a defendant to”.

Page 926, line 11, insert “matter” after “subject”.

Page 927, line 3, insert “system” after “resolution”.

Page 927, line 4, insert “percent” after “33⅓”.

Page 927, line 25, strike “claimant” each place it appears and insert “plaintiff”.

Page 928, line 10, strike “claimant” and insert “plaintiff”.

Page 928, line 25, strike “of Health and Human Services”.

Page 930, line 17, strike “of Health and Human Services”.

Page 931, line 18, strike “after” and insert “after the last day of”.

[Subtitle E—Fraud and Abuse]

Page 932, line 8, strike “of Health and Human Services”.

Page 932, line 9, strike “Office of the”.

Page 933, line 10, strike “, Secretary,”.

Page 933, line 12, strike “established”.

Page 933, line 13, strike “, the Secretary,”.

Page 933, line 21, strike “that relate” and all that follows through “such program” and insert “relating to the activities described in paragraph (1)”.

Page 933, line 24, insert “part 2 of” after “under”.

Page 935, lines 3 through 8 and insert the following:

(h) Definition.—In this part and part 2, the term “Inspector General” means the Inspector General of the Department of Health and Human Services.

Page 935, line 16, strike “Account ').” and insert “Account')”.

Page 935, line 20, strike “subsection (b)(4)” and insert “section 5412(d)(2)”.

Page 935, line 25, strike “(e)” and insert “(d)”.

Page 936, line 7, strike “XVIII” and insert “XVIII,”.

Page 936, line 20, strike “Account,” and insert “Account”.

Page 936, line 25, strike “to assist” and insert “as determined jointly by”.

Page 937, line 11, strike “travel” and insert “travel,”.

Page 937, line 14, strike “operations;” and insert “operations; and”.

Page 938, line 13, insert “or” after the semicolon.

Page 938, line 24, strike “such Office” and insert “the Inspector General”.

Page 939, line 1, strike “such Office” and insert “the”.

Page 939, line 5, strike “365 days” and insert “1 year”.

Page 939, lines 9, 18, and 20, strike “such Office” and insert “the Inspector General”.

Page 939, line 9, strike “Health Care” and insert “Department of Justice”.

Page 939, line 23, strike “Office of”.

Page 940, line 1, strike “524(d)(1)” and insert “524”.

Page 940, lines 9 and 15, strike “is described in” and insert “is excluded from participation in a public program under, or is otherwise described in,”.

Page 941, line 5, strike “written”.

Page 941, lines 6, strike “5412 of this Act” and insert “5412(e)”.

Page 941, lines 7, 13, and 20, page 942, lines 4 and 8, and page 944, line 21, strike “described in” and insert “excluded from participation in a public program under, or is otherwise described in,”.

Page 941, line 20, strike "(4) or (5) of sections" and insert "(4), (5)(A), or (5)(B) of section".

Page 943, line 2, insert "(together with the period thereof)" after "exclusion".

Page 943, line 3, strike "5412" and insert "5412(b)(3)".

Page 944, line 2, strike "(3), (4), (5), (6), (7), (8), (9), or (14)" and insert "(6)(B), (7), (8), (9), (11), (12), (14), or (15)".

Page 944, line 12, insert "or section 5412(b)(3)" after "section".

Page 944, line 18, strike "the" and insert "a".

Page 944, line 22, strike "1128(b)(8)" and insert "1128(b)(12)".

Page 944, line 23, strike "and a such" and insert "or section 5412(b)(3) and at such".

Page 945, line 13, insert "and each" after "plan".

Page 946, insert after line 2 the following:

(j) EFFECT OF EXCLUSION.—Notwithstanding any other provision of this Act, no payment may be made under a health plan for the delivery of or payment for any item or service (other than an emergency item or service, not including items or services furnished in an emergency room of a hospital) furnished—

(1) by an individual or entity during the period when such individual or entity is excluded pursuant to this section or section 5412(b)(3) from participation in a health plan; or

(2) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to this section or section 5412(b)(3) from participation in a health plan and the person furnishing the item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

(k) DELEGATION.—The Secretary may delegate authority granted under this section to the Inspector General.

Page 946, line 13, strike "1128A" and insert "1128A(a)".

Page 946, line 15, strike "XIX" and insert "XIX,".

Page 947, line 10, strike "eligible to enroll in an applicable health plan".

Page 947, line 12, strike the period and insert the following: ", or to cause such individual to induce others to enroll in a particular plan".

Page 947, line 16, strike "(6)" and insert "(5)".

Page 948, line 3, strike "XIX" and insert "XIX,".

Page 948, line 5, insert "or assessment" after "penalty".

Page 948, strike line 13 and all that follows through page 949, line 14 and insert the following:

(1) APPLICABILITY OF PROCEDURES UNDER SOCIAL SECURITY ACT.—Except as otherwise provided in paragraph (2), the provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil monetary penalty, assessment, or exclusion under this section in the same manner as such provisions apply with respect to the imposition of a penalty, assessment, or exclusion under section 1128A of such Act.

(2) AUTHORITY OF SECRETARY OF LABOR AND STATES TO IMPOSE PENALTIES, ASSESSMENTS, AND EXCLUSIONS.—

(A) IN GENERAL.—The Secretary of Labor or a State may initiate an action to impose a civil monetary penalty, assessment, or exclusion under this section with respect to actions relating to a corporate alliance health plan or a regional alliance health plan, respectively, if authorized by the Attorney General and the Secretary pursuant to regulations promulgated by the Secretary in consultation with the Attorney General.

(B) REQUIREMENTS DESCRIBED.—Under the regulations promulgated under subparagraph (A), the Attorney General and the Secretary shall review an action proposed by the Secretary of Labor or a State, and not later than 120 days after receiving notice of the proposed action from the Secretary of Labor or the State, shall—

(i) approve the proposed action to be taken by the Secretary of Labor or the State;

(ii) disapprove the proposed action; or

(iii) assume responsibility for initiating a criminal, civil, or administrative action based on the information provided in the notice.

(C) ACTION DEEMED APPROVED IF DEADLINE MISSED.—If the Attorney General and the Secretary fail to respond to a proposed action by the Secretary of Labor or a State within the period described in subparagraph (B), the Attorney General and the Secretary shall be deemed to have approved the proposed action to be taken by the Secretary of Labor or the State.

Page 950, line 24, strike "a an" and insert "a".

Page 953, line 120, strike "5402(e)" and insert "5402(d)".

Page 954, line 1, strike "5402(e)" and insert "5402(d)".

Page 955, line 13, strike ", or for or because of,".

Page 955, line 21, strike ", or for or because of any such conduct on the part of such an official".

Page 955, line 25, strike ", or for or before of such conduct".

Page 956, line 5, strike the period and insert a semicolon.

Page 956, after line 5, insert the following; shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Whoever, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a health care alliance or health plan, shall be fined under this title or imprisoned not more than two years, or both.

Page 956, line 6, strike "(b)" and insert "(c)".

Page 958, line 10, strike ", or for use in connection with civil forfeiture under section 981(a)(1)(C) of this title".

Page 957, line 16, strike "5402(e)" and insert "5402(d)".

Page 958, line 9, strike "5402(e)" and insert "5402(d)".

Page 959, line 11, strike "new section".

Page 959, line 17, strike "American".

Page 960, strike line 3 and all that follows through line 12 and insert the following:

"CHAPTER 33—EMBLEMS, INSIGNIA, IDENTIFIERS, AND NAMES".

(c) CLERICAL AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 33, United States Code, is amended by adding at the end the following new item:

Page 960, line 13, strike "(c)" and insert "(d)".

Page 960, line 23, strike "plan," and insert "plan".

Page 960, line 23, strike "Government," and insert "Government".

TITLE VI CHANGES

[Subtitle A—Premium Caps]

Page 964, line 7, insert "subpart A of" after "under".

Page 966, line 19, strike "a".

Page 967, line 5, strike "(2)" and insert "(3)".

• Page 967, after line 22, insert the following:

For purposes of subparagraph (D)(i), the actuarial value of the increase with respect to mental illness and substance abuse derives (included within the comprehensive benefit package) shall not exceed an actuarial value based on the amount of the total expenditures that would have been made in 2001 by States and subdivisions of States for mental illness and substance abuse services (included in such package as of 2001) if this Act has not been enacted.

Page 968, line 1, strike "1999his" and insert "2000.—In this".

Page 968, line 9, insert "and for 2000" after "1999".

Page 968, line 10, strike "1999" and insert "2000".

Page 968, line 12, strike "1998" and insert "1999".

Page 968, line 15, strike "2000" and insert "2001".

Page 968, line 19, strike "1999" and insert "2000".

Page 968, line 24, insert ", minus 1" after "fiscal year"

Page 969, line 1, strike "FACTOR.—The factor" and insert "FACTORS.—The factors".

Page 969, line 2, strike "is 1 plus" and insert "are".

Page 969, lines 3 and 16, strike "The" and insert "1 plus the".

Page 969, strike lines 10 through 15.

Page 969, line 16, strike "(iii)" and insert "(ii)".

Page 970, line 13, strike "inflator" and insert "inflation".

Page 971, line 25, strike "method" and insert "methods".

Page 972, move line 1 and all that follows through page 974, line 3, to page 983, after line 10, after making the following modifications:

On page 972, line 1, strike "(d)" and insert "(e)".

On page 972, line 3, insert "the" after "If".

On page 972, line 8, and page 974, line 2, strike "section 6003(a)" and insert "this section".

On page 972, line 9, strike "inflation factor" and all that follows through page 973, line 17, and insert the following: "per capita premium target shall be reduced, by ½ of the excess percentage (described in paragraph (2)) for the year, for each of the 2 succeeding years.".

On page 973, line 18 strike '(3)" and insert "(2)".

On page 973, line 21, insert "the" after "(A)".

Page 974, line 4, strike "(e)" and insert "(d)".

Page 975, line 3, strike "the" after "of".

Page 975, line 4, strike "subsection (c)(3);; and insert "paragraph (4)".

Page 977, line 3, insert "and will not include adjustments to offset payments below costs by public programs" after "removed".

Page 977, line 6, strike "(i) IN GENERAL.—" and run the succeeding sentence directly after the dash on line 5 (with the same indentation as the following subparagraph).

Page 978, line 2, strike "high" and insert "higher".

Page 978, line 16, strike "(C)" and insert "(4)".

Page 978, line 24, strike ", '995, and 1996" and insert "and 1995".

Page 979, line 6, strike "Administrator of the Health Care Financing Administration" and insert "Secretary".

Page 980, line 9, strike "paragraph (3)" and insert "subsection (e)".

Page 980, line 12, insert "(without regard to subsection (e))" after "under this section".

Page 980, line 13, strike "and".

Page 980, after line 16, insert the following:

(3) ADJUSTMENT FOR PREVIOUS EXCESS RATE OF INCREASE IN EXPENDITURES.—Such target for a year is subject to a decrease under section 6001(d).

Page 981, line 10, strike "TYPES" and insert "TYPE".

Page 981, line 17, strike "Health Care Financing Administration" and insert "Secretary".

Page 984, line 5, strike "premium".

Page 984, line 20, insert "final" after "the".

Page 986, line 17, strike "6002" and insert "6003".

Page 986, line 18, insert "of" after "(B)".

Page 987, line 7, strike "preliminary".

Page 987, at the end of line 21, insert the following: "A participating State may regulate the rates charged by providers furnishing health care items and services to all private payers. Such regulation of rates may not cause a corporate alliance health plan to be charged, directly or indirectly, rates different from those charged other health plans for the same items and services or otherwise discriminate against corporate alliance health plans."

Page 987, line 23, insert "the" after "if".

Page 988, line 10, strike "target exceeds the amount of such premium" and insert "statewide average target exceeds the amount of such statewide average accepted bid".

• Page 989, strike line 7 and all that follows through page 995, line 3, and insert the following:

(c) ELIMINATION OF REGIONAL VARIATION IN PREMIUMS DUE TO PRACTICE PATTERN.—

(1) COMMISSION STUDY.—The advisory commission shall examine methods of eliminating variation in regional alliance per capita premium targets due to variation in practice patterns, not due to other factors (such as health care input prices and demographic factors), by 2002.

(2) COMMISSION REPORT.—The advisory commission shall submit to the Board a report that specifies one or more methods for eliminating the variation described in paragraph (1).

(3) BOARD RECOMMENDATIONS.—The Board shall submit to Congress, by not later than July 1, 1995, detailed recommendations respecting the specific method to be used to eliminate the variation described in paragraph (1) by 2002. Such recommendations may take into account regional variations in demographic or health status and in health care input prices, based on the availability of accurate proxies for measuring price variation. In taking into account health care input prices, the Board shall explain what percentage of variation found should be adjusted and what percentage of the premium should be adjusted.

(d) CONGRESSIONAL CONSIDERATION.—

(1) IN GENERAL.—Detailed recommendations submitted under subsection (c)(3) shall apply under this subtitle unless a joint resolution (described in paragraph (2)) disapproving such recommendations is enacted, in accordance with the provisions of paragraph (3), before the end of the 60-day period beginning on the date on which such recommendations were submitted. For purposes of applying the preceding sentence and paragraphs (2) and (3), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(2) JOINT RESOLUTION OF DISAPPROVAL.—A joint resolution described in this paragraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the Board submits recommendations under subsection (e)(3) and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the National Health Board concerning elimination of regional variation in regional alliance premiums, as submitted by the Board on ———.", the blank space being filled in with the appropriate date; and

(C) the title of which is as follows: "Joint resolution disapproving recommendations of the National Health Board concerning elimination of regional variation in regional alliance premiums, as submitted by the Board on ———.", the blank space being filled in with the appropriate date.

• Page 995, line 5, strike "APPROVAL and insert "DISAPPROVAL".

• Page 995, line 20 and page 996, line 2, strike "subsection (e)" and insert "subsection (c)(3)".

• Page 995, line 23, strike "House of Representatives" and insert "Senate".

• Page 996, line 6, strike "paragraph (1)(A), (1)(B), or (2) of subsection (e)" and insert "subsection (c)(3)".

• Page 996, after line 7, insert the following new subsection:

(e) ELIMINATION OF REGIONAL VARIATION STATE PAYMENT AMOUNTS.—

(1) COMMISSION STUDY.—The advisory commission shall examine methods of reducing variation among State in the level of payments required under subtitle A of title IX by 2002. The commission shall examine methods of reducing variation due to practice patterns, historical differences in the rates of reimbursement to providers, and in the amount, duration, and scope of benefits covered under State Medicaid plans.

(2) COMMISSION REPORT.—The advisory commission shall submit to the Board a report that specifies one or more methods for reducing the variation described in paragraph (1).

(3) BOARD RECOMMENDATIONS.—The Board shall submit to Congress, by not later than July 1, 1995, detailed recommendations respecting the specific, method to be used to reduce the variation described in paragraph (1) by 2002 in a budget neutral manner with respect to total government payments and payments by the Federal Government. In submitting recommendations under this paragraph, the Board shall consider the fiscal capacity of the States.

(4) CONGRESSIONAL CONSIDERATION.—

(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, the provisions of subsection (d) shall apply to recommendations under paragraph (3) in the same manner as they apply to recommendations under subsection (c)(3).

(B) SPECIAL RULES.—In applying subparagraph (A)-

(i) the following shall be substituted for the matter after the resolving clause described in subsection (d)(2)(B): "That Congress disapproves the recommendations of the National Health Board concerning reduction of regional variation in State payments, as submitted by the Board on ———.": and

(ii) the following shall be substituted for the title described in subsection (d)(2)(C); "Joint resolution disapproving recommendations of the National Health Board concerning reducing regional variation in State payments, as submitted by the Board on ———.".

(f) INFORMATION.—The advisory commission shall provide the Board, States, and regional alliances with information about regional differences in health care costs and practice patterns.

Page 997, line 7, insert "premium" after "per capita.".

Page 997, line 21, insert "for the plan" after "(3))".

Page 998, line 6, insert "(II)" after "exceeds".

Page 998, line 11, strike "amount" and insert "amounts".

Page 998, line 21, strike "(4)" and insert "(3)".

Page 999, lines 17 and 20, strike "(i)" and "(ii)" and insert "(A)" and "(B)".

Page 999, lines 17 through 22, move the indentation 2 ems to the left.

Page 999, line 24, strike ", subject to paragraph (3),".

Page 1000, line 3, strike "6002" and insert "6003".

Page 1000, line 17, insert "the" after "(i)".

Page 1002, line 14, strike "paragraphs (B) and (C)" and insert "paragraph (B)".

Page 1002, line 14, strike "adjusted plan" and insert "applicable network".

Page 1002, line 15, strike "network" and insert "participating".

Page 1003, copy the sentence beginning on line 6 at the end of line 14 on page 1004.

Page 1003, line 23, strike "adjusted plan" and insert "applicable nonnetwork".

Page 1003, line 24, strike "nonnetwork" and insert "nonparticipating".

Page 1004, line 8, strike "adjustment" and insert "increase".

Page 1005, line 4, strike "1997" and insert "1998".

Page 1005, line 15, strike "2000" and insert "2001".

Page 1006, line 15, strike "1997" and insert "1998".

Page 1007, line 6, strike "(beginning on or after 2000)" and insert "(after 2000)".

Page 1008, line 16, strike "Unites' and insert "United".

[Subtitle B—Premium-Related Financing]

Page 1012, line 6, strike "sum of the".

Page 1012, line 13; page 1013, line 17; and page 1015, line 22; strike "1364" and insert "1384".

Page 1013, line 9, strike "established" and insert "specified".

Page 1013, line 9, strike the semicolon and insert a comma.

Page 1013, line 20, strike "and" and insert ", if".

Page 1013, line 25, insert "if such combined premium is less than the total of the premiums otherwise applicable (without regard to this subsection)" after "applied".

Page 1014, line 1, insert "combined" before "premium".

Page 1014, line 4, insert "in such case," after "(3)".

Page 1014, line 12, strike "6000(c)" and insert "6000(b)".

Page 1014, line 15, strike "health".

Page 1015, line 2, strike "subpart B of part 2 of subtitle B of title" and insert subpart D of page 3 of subtitle".

Page 1015, line 8, strike "this subsection" and insert "subsection (c)".

Page 1015, line 24, strike "low" and insert "lower".

Page 1016, line 1, strike "section 1903( )) for that class" and insert "paragraphs (7) and (20) of section 1902 for the class and premium area)".

Page 1016, line 4, strike "6013" and insert "6013(b)".

Page 1016, line 11, strike "1902( )" and insert "1901(a)(1)(A)".

Page 1016, line 11, strike "as determined under clause (ii),".

Page 1016, line 20 strike "1902( )" and insert "1902(9)".

Page 1018, line 12, strike "described" and insert "as defined".

Page 1018, after line 13, insert the following:

(4) MONTHLY APPLICATION TO AFDC AND SSI FAMILIES.—Paragraph (1)(A) (and the family obligation amount under subsection (c) insofar as it relates to an AFDC or SSI family) shall be applied to the premium or family obligation amount only for months in which the family is such an AFDC or SSI family.

Page 1018, line 17, insert "the" after "of" the second place it appears.

Page 1019, line 11, strike "LOWER-THAN-AVERAGE-COST" and insert "AT-OR-BELOW-AVERAGE-COST".

Page 1019, line 14 and 23, strike "lower-than-average-cost" and insert "at-or-below-average-cost".

Page 1019, line 22, strike "LOWER-THAN-AVERAGE-COST" and insert "AT-OR-BELOW-AVERAGE-COST".

Page 1020, line 9, strike "determined under section 1332(a)" and insert "defined in section 1372(d)".

Page 1020, line 24, strike "(2)(A)" and insert "(2)".

Page 1021, line 10, strike "(2)(B)" and insert "(2)".

Page 1022, line 10, strike "(ii)" and insert "(II)" and indent the line 2 additional ems (so the indentation corresponds to subclause (I) in lines 3 through 9).

Page 1023, line 5, strike "(ii)" and insert "(II)" and indent the line 2 additional ems (so the indentation corresponds to subclause (I) in lines 1 through 4).

Page 1023, amend line 14 through 20 to read as follows:

(A) IN GENERAL.—

(i) FAMILIES WITH INCOME BELOW 150 PERCENT OF POVERTY.—In the case of a family with family adjusted income of less than 150 percent of the applicable poverty level, in no case shall the family obligation amount under this subsection for the year exceed 3.9 percent (adjusted under subparagraph (C)) of the amount of such adjusted income.

(ii) OTHER FAMILIES WITH INCOME BELOW $40,000.—In the case of a family with family adjusted income of a least 150 percent of the applicable poverty level but less than $40,000 (adjusted under subparagraph (B)) for a year, the family obligation amount under this subsection for the year is equal to 3.9 percent (adjusted under subparagraph (C)) of the amount of such adjusted income.

Page 1023, line 24, strike "(A)" and insert "(A)(i)"

Page 1024, line 3, and page 1025, line 17, strike "1902( )" and insert "1902(9)".

Page 1024, line 19, insert "the" "plus".

Page 1024, line 22, strike "increase or decrease".

Page 1027, line 16, insert "(as defined in section 6000(a)(1))" after "bid".

Page 1027, line 18, insert "premium" after "capital".

Page 1027, line 23, strike the comma.

Page 1029, line 13, delete the space before the period.

Page 1031, line 9, strike "6103" and insert "6103(a) for a month".

Page 1031, line 10, strike "of the amount of such credit in accordance with section 1343" and insert "of an amount equal to the base employment monthly premium (applicable to such class) for the month under section 6122".

Page 1031, line 24 and 25, strike the commas.

Page 1032, line 6, strike "such rules" and insert "rules of the Board".

Page 1032, line 9, insert "(except in the case described in section 6114(a))" after "and".

Page 1032, line 14, strike "1902(b)(2)" and insert "1901(b)(2)(A)".

Page 1032, line 19, strike "6121(d)" and insert "1901(b)(2)(A)".

Page 1032, line 21, strike "6121(d)" and insert "1901(b)(2)(B)".

Page 1033, line 2, insert "of" after "(2))".

Page 1033, line 11, insert "For purposes of paragraph (1)—" after the dash.

Page 1034, line 19, and page 1038, line 12, strike "part 2" and insert "part 3".

Page 1035, line 1, strike "paragraph (2)" and insert "subsection (f)".

Page 1036, line 23, strike "alliance credit" and insert "repayment amount described in section 6111(a)".

Page 1036, line 24, insert "level" after "poverty".

Page 1037, strike lines 2 through 8.

Page 1037, after line 8, insert the following:

(3) MONTHLY APPLICATION TO AFDC AND SSI FAMILIES.—Paragraph (1) insofar as it relates to an AFDC or SSI family shall be applied so as to reduce to zero the liability amount only for months in which the family is such an AFDC or SSI family.

Page 1038, line 2, strike "6121(e)" and insert "1901(b)(3)".

Page 1038, line 5, strike "6126)" and insert "6126".

Page 1038, line 24, strike "susection" and insert "subsection".

Page 1039, line 4, strike "subsection (a)" and insert "this section".

Page 1039, line 13, and page 1040, line 21, strike "6121(d)(1)(A)" and insert "1901(b)(2)(A)".

Page 1041, strike lines 3 through 8.

Page 1041, line 9, strike "(e)" and insert "(d)".

Page 1041, line 17, strike "1374(h)" and insert "1274(i)(2)".

Page 1041, line 24, insert "or parents" after "spouse" each place it appears.

Page 1042, line 13, strike "1345" and insert "1345" and insert "1345(c)".

Page 1042, line 15, strike the comma.

Page 1042, line 17, strike "1902(b)(1)" and insert "1901(b)(1)".

Page 1043, line 18, strike "employer" and insert "employment".

Page 1044, line 16, strike "STATE" and insert "STATE".

Page 1045, line 13, strike "and" and insert ", if".

Page 1046, line 20, strike "equal to" and all that follows through page 1047, line 7, and insert the following:

as follows:

(1) INDIVIDUAL ENROLLMENT.—The base employment monthly premium for the individual class of enrollment is equal to 1/12 of 80 percent of the credit-adjusted weighted average premium (as defined in paragraph (4)) for such regional alliance for the individual class of enrollment.

(2) COUPLE-ONLY ENROLLMENT.—

(A) IN GENERAL.—The base employment monthly premium for the couple-only class of enrollment is equal to 1/12 of 80 percent of the product described in subparagraph (B), divided by the sum described in subparagraph (C).

(B) TOTAL PREMIUMS FOR COUPLE-ONLY ENROLLMENTS.—The product described in this subparagraph is—

(i) the credit-adjusted weighted average premium for such regional alliance for the couple-only class of enrollment, multiplied by

(ii) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(C) NUMBER OF WORKERS AND EXTRA WORKERS.—The sum described in this subparagraph is—

(i) the sum specified in subparagraph (B)(ii), plus

(ii) the number of additional workers (determined under subsection (b)(1)), for families receiving coverage within such class from regional alliance health plans offered by the regional alliance.

(3) SINGLE AND DUAL PARENT ENROLLMENTS.—

(A) IN GENERAL.—The base employment monthly premium for the single parent and dual parent classes of enrollment is equal to 1/12 of 80 percent of the sum described in subparagraph (B), divided by the sum described in subparagraph (C).

(B) TOTAL PREMIUMS FOR SINGLE AND DUAL PARENT ENROLLMENTS.—The sum described in this subparagraph is the sum of the products described in the following clauses:

(i) TOTAL PREMIUMS FOR SINGLE PARENT ENROLLMENT.—The product of—

(I) the credit-adjusted weighted average premium for such regional alliance for the single parent class of enrollment, multiplied by

(II) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(ii) TOTAL PREMIUMS FOR DUAL PARENT ENROLLMENT.—The product of—

(I) the credit-adjusted weighted average premium for such regional alliance for the dual parent class of enrollment, multiplied by

(II) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such months.

(C) NUMBER OF WORKERS AND EXTRA WORKERS.—The sum described in this subparagraph is—

(i) the sum specified in subparagraph (B)(i)(II); plus

(ii) the sum specified in subparagraph (B)(ii)(II); plus

(iii) the number of additional workers (determined under subsection (b)(1)), for families receiving coverage within the dual parent class of enrollment from regional alliance health plans offered by the regional alliance.

(4) CREDIT-ADJUSTED WEIGHTED AVERAGE PREMIUM DEFINED.—In this subsection, the term "credit-adjusted weighted average premium' means, for a class of enrollment and a regional alliance, the weighted average premium for the class and alliance, reduced by the amount described in section 6106(b) for such class and alliance.

Page 1047, amend lines 8 and 9 to read as follows:

(b) DETERMINATION OF ADDITIONAL WORKERS FOR COUPLE-ONLY AND DUAL PARENT CLASS.—

Page 1047, line 13, strike "average, annual, estimated number of premium payments per family" and insert "estimated total number of additional workers".

Page 1047, line 15, insert "12 times" after "(A)".

Page 1047, line 19, strike "divided by" and insert "minus".

Page 1047, amend lines 20 through 22 to read as follows:

(B) the sum described in subsection (a)(2)(B)(ii) or (a)(3)(B)(ii)(II) for the couple-only and dual parent classes, respectively.

Page 1048, line 10, strike "couple" and insert "couple-only or dual parent".

Page 1048, line 12, strike the comma.

Page 1048, line 16, strike "1902(b)(2)(A)" and insert "1901(b)(2)(A)".

Page 1049, amend lines 13 through 19 to read as follows:

(A) the alliance's estimate of the estimated total number of additional workers for the alliance and the estimate of the number of covered families, and

(B) the actual total number of additional workers and the actual number of covered families,

the estimated total number of additional workers to be applied under this section

Page 1050, line 5, strike "(relating to cost containment)".

Page 1050, line 9, strike "(A) FOR FIRST YEAR.—" and run in the succeeding sentence at the end of line 8.

Page 1050, strike lines 16 through 23.

Page 1051, line 5, strike "subsections (a) and (c)" and insert "this section".

Page 1051, line 18, strike "part" and insert "subpart".

Page 1052, in the table following line 19, strike "fewer than" and insert "not over".

Page 1053, line 6, strike "subject to subsection (b)(3)(C)(i),".

Page 1053, line 18, strike "1902(b)(2)" and insert "1901(b)(2)".

Page 1053, line 19, insert "PER FULL-TIME EQUIVALENT EMPLOYEE" after "WAGES".

Page 1053, line 21, insert "per full-time equivalent employee" after "wages".

Page 1055, line 5, strike "part" and insert "subpart".

Page 1055, after line 16, insert the following:

(h) TREATMENT OF MULTI-ALLIANCE EMPLOYERS.—In the case in which this section is applied to an employer that makes employer premium payments to more than one regional alliance, the reduction under this section shall be applied in a pro-rated manner to the premium payments made to all such alliances.

Page 1056, line 12, insert "(i)" after "(C)".

Page 1057, line 9, strike "1311(b)(1)(C)" and insert "1311(c)(1)(B)".

Page 1057, line 16, strike "1311(d)(3)" and insert "1311(e)(3)".

Page 1057, line 19, strike "percentage (as defined" and insert "proportion (specified".

Page 1057, line 24, and page 1058, line 1, insert "risk" after "excess".

Page 1058, line 1, insert "RISK" after "EXCESS".

Page 1058, lines 17, 21, and 22, strike "extra" and "EXTRA" each place they appear and insert "excess" and "EXCESS".

Page 1059, line 22, strike "is" and insert "may be".

Page 1061, line 18, insert after the period the following: "The reduced weighted average accepted bid is used under section 6000(b)(1) in computing the weighted average premium, which in turn is used under section 6122(a)(1) in computing the base employment monthly premium, which in turn is used under section 6121(b)(2)(A) in computing the employer premium amount."

Page 1061, line 24, strike "1901(6)" and insert "1901(c)(2)".

Page 1063, line 19, strike "sham" and insert "fraudulent".

Page 1065, line 1, strike "1364(b)" and insert "1384(b)".

Page 1065, line 14, strike "cost containment" and insert "premium caps".

[Subtitle C—Payments to Regional Alliance Health Plans]

Page 1066, line 21, strike "1342" and insert "1351".

Page 1067, line 2, strike "subsection (d)" and insert "section 6202(d)".

Page 1068, line 7, strike "type" and insert "class".

Page 1071, line 7, strike ", the amount by which".

Page 1071, line 10, strike "exceeds" and insert "minus".

Page 1071, lines 11 and 12, indent 2 additional ems so it reflects the indentation of lines 8 through 10.

Page 1071, line 20, strike "(b)(1)" and insert "(b)(1)".

TITLE VII CHANGES

[Subtitle A—Financing Provisions]

Page 1088, strike lines 1, 2, and 3, and insert the following:

PART 2—HEALTH RELATED ASSESSMENTS

SEC. 7121. HEALTH RELATED ASSESSMENTS.

Page 1088, strike lines 7 and 8 (but not the material following line 8) and insert the following:

"CHAPTER 24A—HEALTH RELATED ASSESSMENTS

"Subchapter A. Assessment on corporate alliance employers.
"Subchapter B. Temporary assessment on employers with retiree health benefit costs.
"Subchapter C. Definitions and administrative provisions.

"Subchapter A—Assessment on Corporate Alliance Employers

Page 1090, line 4, insert "to the extent attributable to payroll described in paragraph (2)(B)" before the period.

Page 1090, strike lines 5 through 22.

Page 1091, line 1, strike ".—In the case of an" and insert "IN MULTIEMPLOYER CORPORATE ALLIANCES.—An".

Page 1091, line 7, strike ", the payroll" and all that follows through line 9 and insert "is not subject to the assessment under this section. In the case of an employer who is a corporate alliance employer in part (but not solely) by reason of such employees, the payroll of such employer shall be determined without taking into account such employees.".

Page 1092, line 3, insert "the first sentence of" after "to in".

Page 1092, strike lines 4 through 8 and insert the following:

"Subchapter B—Temporary Assessment on Employers with Retiree Health Benefit Costs

Page 1092, strike line 9 and all that follows through the material preceding line 19 and insert the matter on page 1337, line 13 through page 1342, before line 8 (subject to the following changes):

On page 1337, line 13, strike "**3463**" and insert "**3462**".

On page 1340, line 13, strike "**B**" and insert "**C**".

On page 1340, line 15, strike "**3464**" and insert "**3463**".

On page 1341 , line 7, strike "ASSESSMENT" and insert "ASSESSMENTS".

On page 1341, line 10, strike "assessment" and insert "assessments".

On page 1341, amend lines 19 through 24 to read as follows:

"(1) PAYMENT.—

"(A) SECTION 3461.—Any assessment under section 3461 shall be paid at the same time and in the same manner as the tax imposed by chapter 21.

"(B) SECTION 3462.—Any assessment under section 3462 for any calendar year shall be paid on or before March 15 of the following calendar year; except that the Secretary may require quarterly estimated payments of such assessment in a manner similar to the requirements of section 6655.

On page 1342, line 7, strike "24A" and insert "24".

On page 1342, in the matter between lines 7 and 8, strike "24B. Temporary Assessment on Employers With Retiree Health Benefit Costs" and insert "24A. Health-related assessments".

Page 1094, line 3, strike "1999" and insert "1997".

Page 1094, line 21, before the sentence beginning with "If" insert the following (and indent the sentence 2 ems):

"(1) IN GENERAL.—

Page 1094, line 24, and page 1095, line 3, strike "$10,000" and insert "$15,000".

Page 1095, after line 3, insert the following:

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$30,000' for '$15,000' each place it appears.

Page 1096, line 24, strike the closing quotation marks.

Page 1096, after line 24, insert the following:

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d)."

Page 1100, amend lines 3 through 6 to read as follows:

"(c) DUE DATE FOR RETURNS AND STATEMENTS.—The written return required under subsection (a) shall be made, and the statement required under subsection (b) shall be furnished to the individual, on or before January 31 of the second year following the calendar year for which the return under subsection (a) is required to be made."

Page 1100, line 11, strike "6050Q" and insert "6050Q(a)".

Page 1100, line 19, strike "returns" and insert "statements".

Page 1101, line 1, insert "CERTAIN" after "OF".

Page 1101, beginning on line 1, strike "FOR 1996".

Page 1101, line 10, strike "2001" and insert "1999".

[Subtitle B—Tax Treatment of Employer-Provided Health Care]

- Page 1110, line 4, and page 1111, line 23, strike "2003" and insert "2004".
- Page 1110, line 9, strike "or".
- Page 1110, after line 9, insert the following:

"(B) such coverage consists of coverage of cost sharing amounts under the comprehensive benefit package described in such section (including such coverage under a cost sharing policy under section 1421(b)(2) of such Act), or

- Page 1110, line 10, strike "(B)" and insert "(C)".

[Subtitle C—Employment Status Provisions]

- Page 1119, line 3, strike "**DEFINITION OF EMPLOYEE**" and insert "**ANTIABUSE REGULATIONS RELATING TO EMPLOYMENT STATUS**".
- Page 1119, line 4, strike "Chapter" and insert "In order to prevent misclassification of workers so as to minimize payments under this Act, chapter".
- Page 1119, amend lines 15 through 20 to read as follows:

"(b) SCOPE OF REGULATIONS.—Such regulations may modify the rules otherwise applicable for the determinations referred to in paragraphs (1) and (2) of subsection (a); except that—

“(1) such regulations shall give significant weight to the common law applicable in determining the employer-employee relationship, and

“(2) nothing in such regulations shall modify the provisions of paragraph (1), (3), or (4) of section 3121(d), section 3506, section 3508, or section 3511.”

• Page 1120, before line 1, insert the following:

(c) EFFECTIVE DATE.—The regulations described in section 3510 of the Internal Revenue Code of 1986 (as added by this section) shall be effective for periods beginning no earlier than the date which is 6 months after the date such regulations are promulgated as final regulations.

(d) REPORT TO CONGRESS.—Upon issuance of the regulations described in section 3510 of the Internal Revenue Code of 1986 (as added by this section) as final regulations, the Secretary of the Treasury shall submit a report to Congress relating to such regulations, including an explanation of their purposes and the issues they are designed to address.

[Subtitle D—Tax Treatment of Funding Retiree Health Benefits]

[Subtitle E—Coordination with COBRA Continuing Care Provisions]

[Subtitle F—Tax Treatment of Health Care Organizations]

Page 1135, line 21, strike “(m)(3)(B)(i)” and insert “(m)(6)(B)(i)”.

Page 1136, line 3, strike “NOT”.

Page 1136, line 6, strike “not”.

Page 1136, line 13, insert “NOT” before “TREATED”.

Page 1136, line 16, insert “not” after “shall”.

Page 1138, line 19, strike “and”.

Page 1138, after line 19, insert the following:

“(2) which is not taxable as a life insurance company under part I of this subchapter, and

Page 1138, line 20, strike “(2)” and insert “(3)”.

Page 1139, line 15, strike the closing parenthesis.

Page 1139, after line 15, insert the following flush sentence:

In the case of an organization which has as a material business activity the issuing of accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts, the administering of accident and health insurance contracts by such organization shall be treated as part of such business activity for purposes of paragraph (3)(A).”

[Subtitle G—Tax Treatment of Long-term Care Insurance and Services]

Subtitle H—Tax Incentives for Health Services Providers]

[Subtitle I—Miscellaneous Provisions]

TITLE VIII CHANGES

[Subtitle A—Military Health Care Reform]

Page 1183, line 20, insert “at least” after “in the plan”.

Page 1188, line 3, strike the sentence beginning “The Secretary” and insert “The payment responsibilities of Medicare under this paragraph shall be in the same amounts and under the same terms and conditions under which the Secretary of Health and Human Services makes payments to eligible organizations with a risk-sharing contract under section 1876 of the Social Security Act.”.

Page 1188, line 13, strike “plan” and insert “program”.

Page 1189, line 21, strike “shall be required to pay a family share under section 1342” on line 22 and insert “shall have such payment responsibilities as the Secretary establishes, but not to exceed payment of a family share under section 1343”.

[Subtitle B—Department of Veterans Affairs]

• Page 1193, after line 12, conform the table of sections in the new chapter 18 of title 38 to the changes below.

• Page 1195, line 17, strike “**described**”.

• Page 1195, line 22, insert “that veteran and ” after “applicable to”.

• Page 1195, line 18, strike “each veteran described in section 1823(a) of this title” and insert “veterans”.

• Page 1196, strike lines 1 through 4.

• Page 1196, transfer lines 5 through 25 to page 1199, immediately before line 3.

• Page 1197, strike lines 1 through 12.

• Page 1197, strike line 14 and all that follows through page 1198, line 4.

• Page 1198, line 5, strike “(b)”.

• Page 1198, line 7, strike “and cost sharing policies” and insert “and may offer cost sharing policies. Such supplemental policies and cost sharing policies shall be”.

• Page 1198, line 10, strike “**1825**” and insert “**1824**”.

• Page 1198, beginning on line 21, strike “section 1823(a) of this title” and insert “subsection (b)”.

• Page 1199, after line 2, insert the following:

“(b) The veterans referred to in subsection (a) are the following:

• Page 1199, line 3, strike “(b) For other VA enrollees” and insert “(c) In the case of a VA enrollee who is not described in subsection (b)”.

• Page 1199, after line 9, insert the following:

“(d) In the case of a veteran with a service-connected disability who is enrolled in a VA health plan and who has net earnings from self-employment, the Secretary shall, under regulations prescribed by the Secretary, provide for a reduction in any premium payment (or alliance credit repayment) owed by the veteran under section 6126 or 6111 of the Health Security Act by virtue of the veteran's net earnings from self-employment.

Page 1199, line 13, strike “VA health plan or”.

Page 1199, strike lines 16 through 20 and insert the following:

“(b)(1)A VA health plan shall be considered to be a Medicare HMO.

Page 1199, line 25, strike “section 1823(a)” and insert “section 1831(b)”.

Page 1200, beginning on line 5, strike “on the same basis” and insert “in the same amounts and under the same terms and conditions”.

Page 1201, line 12, strike “**Funds**” and insert “**Fund**”.

Page 1201, strike lines 13 and 14 and insert the following:

“(a) There is hereby established in the Treasury a revolving fund to be known as the ‘Department of Veterans Affairs Health Plan Fund’.

Page 1201, line 23, strike “of that health plan”.

Page 1201, beginning on line 24, strike “a VA health plan” and insert “the Department”.

Page 1202, strike lines 4 and 5.

Page 1202, strike lines 6 through 9 and insert the following:

“(d) Amounts in the revolving fund are hereby made available for the expenses of the delivery by a VA health plan of the items and services in the comprehensive benefit package and any supplemental benefits package or policy offered by that health plan.

Page 1203, line 1 strike “to any veteran who is” and insert “by any facility of the Department (whether or not operating as or within a health plan certified as a health plan under the Health Security Act) in the case of a veteran who is not”.

Page 1206, line 9, insert “, except that the Secretary shall provide for preference for preference eligibles (as defined in section 2108 of title 5, United States Code) in a manner comparable to the preference for such eligibles under subchapter I of chapter 33, and subchapter I of chapter 35, of such title” before the period.

• Page 1206, after line 16, insert the following;

“§ 7345. Veterans Health Care Investment Fund

“(a) There is hereby authorized to be appropriated to the Department, in addition to amounts otherwise authorized to be appropriated to the Department for VA health plans, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirement of subsection (b).

“(b) For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall, subject to subsection (a), credit to a special fund (in this section referred to as the ‘Fund’) of the Treasury an amount equal to—

“(1) $1,000,000,000 for fiscal year 1995;

“(2) $600,000,000 for fiscal year 1996; and

“(3) $1,700,000,000 for fiscal year 1997.

“(c)(1) Subject to paragraph (2), amounts in the Fund shall be available to the Secretary only for the VA health plans authorized under this chapter.

“(2) For fiscal year 1995, 1996, or 1997, the amount credited to the Fund for the fiscal year shall be available for use by the Secretary under paragraph (1) only if appropriations Acts for that fiscal year, without addition of amounts provided under subsection (a) for the Fund, provide new budget authority for the Department of Veterans Affairs Medical Care account, for that fiscal year, of no less than the amount for that account proposed in the budget of the President for that fiscal year under section 1105 of title 31.

“(d) The Secretary shall submit to Congress, no later than March 1, 1997, a report concerning the operation of the Department of Veterans Affairs health care system in preparing for, and operating under, national health care reform under the Health Security Act during fiscal years 1995 and 1996. The report shall include a discussion of—

“(1) the adequacy of amounts in the Fund for the operation of VA health plans;

“(2) the quality of care provided by such plans;

“(3) the ability of such plans to attract patients; and

“(4) the need (if any) for additional funds for the Fund in fiscal years after fiscal year 1997.

• Page 1206, line 17, strike “**7345**” and insert “**7346**”.

• Page 1207, conform the table of sections following line 6.

• Page 1207, after the table of sections following line 6, insert the following:

(c) TRANSITION PROVISION.—The limitation in the second sentence of section 7344(c) of title 38, United States Code, as added by subsection (a), shall not apply during fiscal year 1994.

[Subtitle C—Federal Employees Health Benefits Plan]

Page 1207, line 17, and page 1208, lines 2, 5, and 9, insert “(as last in effect)” before the period.

Page 1208, line 18, insert “, as last in effect” after “851)”.

Page 1209, line 18, strike "individual or".

Page 1209, line 11; page 1212, line 7; page 1213, lines 6, 8, and 11; page 1214, line 6; page 1215, line 6; page 1219, line 11; strike "a FEHBP" and insert "an FEHBP".

Page 1210, line 1, strike "OPTIONAL OFFER" and insert "OFFER".

Page 1210, line 2, strike "may" and all that follows through "(A)" on line 4 and insert "shall".

Page 1210, line 6, strike "; and" and all that follows up to the period on line 13.

Page 1210, move 2 ems to the left the indentation of lines 4 through 6.

Page 1210, line 24, redesignate the matter after the dash as a clause (i), with the following heading: IN GENERAL.—

Page 1211, after line 9, inset the following:

(ii) REFERENCES.—Any reference in clause (i) to the Office of Personnel Management shall, for purposes of any annuity (including monthly compensation under subchapter I of chapter 81 of title 5, United States Code) payable under provisions of law which are administered by a Government entity other than the Office, be considered to be a reference to such other Government entity.

Page 1211, line 13, strike "6115" an insert "6114".

Page 1212, line 6, strike "paragraph" and insert" subparagraph".

Page 1212, line 18, strike "may" and all that follows through "(i) to" on line 19 and insert "shall".

Page 1212, line 21, strike "; and" and all that follows up to the period on line 24.

Page 1212, move 2 ems to the left the indentation of lines 4 through 6.

Page 1215, line 1, strike "of a medicare select plan (as defined in paragraph (3)" and insert "for enrollment with an eligible organization under a risk-sharing contract under section 1876 of the Social Security Act".

Page 1217, line 19; page 1218, line 7; page 1221, line 23, insert "last" after "benefits".

Page 1217, line 20; page 1218, line 8; page 1221, line 24, strike "(as last in effect)".

Page 1221, line 17, strike ", but for this subtitle," and insert "(but for this subtitle)".

Page 1221, line 23, strike "them" and insert "to annuitants".

Page 1221, line 24, insert "to retired employees under" after "and".

Page 1222, line 17, strike "subtitle C of title VIII of the Health Security Act" and insert "this subtitle".

[Subtitle D—Indian Health Service]

Page 1229, line 25, strike "a premium" and insert "premiums".

Page 1230, line 12, insert "reside" after "(A)".

Page 1230, line 18, strike "pay" and insert "provide for payment".

Page 1231, line 15, strike "8303(a)(1)" and insert "8302(a)".

Page 1231, line 19 and following, strike "payors" and insert "payers" each place such term appears.

Page 1233, line 8, strike "System" and insert "Service system".

Page 1235, line 4, strike "AUTHORIZATIONS" and all that follows through the period on line 5 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 1235, beginning on line 8, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 1235, line 16, strike "described in such subsection" and insert "of carrying out this subtitle".

•Page 1235, after line 17, insert the following:

SEC. 8314. PAYMENT OF PREMIUM DISCOUNT EQUIVALENT AMOUNTS FOR UNEMPLOYED INDIANS.

(a) DETERMINATION.—The Secretary shall determine (and certify) to the Secretary of the Treasury) for each fiscal year (beginning with fiscal year 1998) an amount equivalent to the aggregate amount of the premium discounts (established in section 6104) that would have been paid to individuals described in subsection (c) if such individuals had been enrolled in regional alliance health plans.

(b) PAYMENT.—For each fiscal year for which an amount is certified to the Secretary of the Treasury under subsection (a), from the funds available under section 9102, such Secretary shall pay the amount so certified to the Indian Health Service for the purpose of providing the comprehensive benefit package.

(c) INDIVIDUAL DESCRIBED.—For purposes of this section, an individual described in this subsection is an individual described in section 8302(a) who is not a qualifying employee or a family member of such an employee.

[Subtitle E—Amendments to ERISA]

Page 1237, line 2, strike "parts 1 and 4" and insert "parts 1, 4, and 6".

Page 1237, line 16, strike "subparagraph (A)" and insert "clause (i)".

Page 1238, line 12, strike "parts 1 and 4" and insert "parts 1, 4, and 6".

Page 1239, beginning on line 7, strike "provisions" and insert "subsections".

Page 1239, line 15, strike "parts 1 and 4" and insert "parts 1, 4, and 6".

Page 1239, line 21, insert "(29 U.S.C. 1030)" after "section 110".

Page 1239, line 23, insert "(29 U.S.C. 1030)" after "section 111".

Page 1240, line 4, insert "(a)" after "SEC. 111.".

Page 1242, line 9, strike "1161(a)" and insert "1162(2)".

Page 1242, line 22, strike "1167(2)" and insert "1167(3)".

Page 1243, line 18, insert "or" after "606".

Page 1244, line 20, strike "such Act" and insert "the Employee Retirement Income Security Act of 1974".

Page 1244, beginning on line 21, strike "subsection" and insert "paragraph".

Page 1245, line 11, add after "CORRECTIONS.—" the following: "Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993—".

Page 1245, beginning on line 12, strike "section 601 of such Act (as redesignated by section 8403)" and insert "section 609 of the Employee Retirement Income Security Act of 1974".

Page 1245, line 16, strike "601" and insert "609".

Page 1245, line 19, strike "601" and insert "609".

Page 1246, line 19, strike "the Health Security Act" and insert "section 1200 of this Act".

[Subtitle F—WIC]

Page 1248, line 21, strike "$4,126,000,000" and insert "$4,136,000,000".

TITLE IX CHANGES

[Subtitle A—Aggregate State Payments]

• Page 1250, line 8, strike all that follows the dash through "each participating" on line 10 and insert "Each" (and move the indentation of lines 10 through 13 2 ems to the left).

• Page 1250, strike lines 14 through 18.

• Page 1251, line 23, insert "for each State" after "determine".

• Page 1252, line 15, insert "RECEIVING AFDC OR SSI" after "CHILDREN".

• Page 1252, line 18, insert "of the Social Security Act" after "1905(a)".

• Page 1252, line 19, insert "of such Act" after "1905(r)".

• Page 1252, line 21, insert "of such Act" after "1933(c)".

• Page 1252, line 22, insert "of such Act who are AFDC or SSI recipients" after "1934(b)(1)".

• Page 1252, line 24, insert "for each State" after "mine".

• Page 1254, line 11, strike "assistance" and insert "assistance".

• Page 1255, line 18, and page 1256, line 5, strike "DSH" and insert "DSH".

• Page 1257, line 15, strike "4221(c)" and insert "4222(a)".

• Page 1258, line 6, strike "Each" and insert "Subject to subsection (c), each".

• Page 1259, after line 6, insert the following:

(c) ADDITIONAL AMOUNT.—The amount of payment under subsection (a) for a State for a year shall be increased by the State medical assistance percentage multiplied by the sum of the followings:

(1) AMOUNT OF SPECIAL INCREASE IN PREMIUM DISCOUNT.—The aggregate increase in the premium discounts under section 6104 for AFDC and SSI families enrolled in regional alliance health plans in the State that is attributable to subsection (b)(2) of such section, and

(2) AMOUNT OF BASIC COST SHARING REDUCTION.—The amount of any cost sharing reduction under section 1371(c)(1) for such families.

Page 1259, line 17, insert "regional alliance" after "the".

• Page 1260, line 16, strike "paragraph (2)" and insert "subparagraph (B), or, if less, the increase percentage specified in subparagraph (C)".

• Page 1260, line 19, strike "paragraph (1)" and insert "subparagraph (A)".

• Page 1260, line 20, strike "paragraph" and insert "subparagraph".

• Page 1260, after line 24, insert the following:

(C) INCREASE PERCENTAGE.—

(1) IN GENERAL.—The increase percentage for a State specified in this subparagraph is the Secretary's estimate of the percentage increase in the per capita expenditures specified in clause (ii) from fiscal year 1993 through the year before the first year, adjusted so as to eliminate any change in medicaid expenditures that is attributable to a reduction in the scope of services, an arbitrary reduction in payment rates, or a reduction in access to high quality services under the State medicaid plan.

(ii) PER CAPITA EXPENDITURES.—The per capita expenditures specified in this clause for a year is the quotient of the baseline medicaid expenditures for the State (determined as if the year were substituted for 1993), divided by the number of AFDC recipients enrolled in the State medicaid plan for the year.

Page 1261, line 1, strike "(C)" and insert "(D)".

Page 1263, line 5, strike "for each regional alliance".

Page 1264, line 5, strike "9011(b)" and insert "9011(a)".

Page 1265, line 14, strike "baseline" and insert "base".

Page 1265, line 15, strike "medicaid expenditures" and insert "expenditures for medicaid".

Page 1266, line 21, strike "the the" and insert "the".

Page 1267, line 14, insert "Commonwealth or" after "such a".

Page 1267, line 15, strike "an appropriate" and all that follows through "based on" on line 17 and insert "the State payments under part 1 taking into account".

Page 1267, line 21, strike "would would" and insert "that would."

Page 1268, strike lines 1 through 9 (and redesignate the succeeding paragraph accordingly).

• Page 1268, line 10, strike "(3)" and insert "(2)".

Page 1268, line 11, insert "not covered under the supplementary security income program" after "territories".

Page 1268, line 11, insert "Commonwealths and" after "such".

Page 1268, line 12, strike "means" and insert "includes".

Page 1268, line 25, insert "(A)" before "95 percent".

Page 1269, line 2, insert ", plus (B) the sum described in section 9011(c)" before the period.

Page 1269, line 14, insert "and, in consultation with the Secretary of the Treasury, the cash management interests of the Federal Government" before the period.

[Subtitle B—Aggregate Federal Alliance Payments]

Page 1270, line 22, insert "amount" after "payment".

Page 1271, line 21, strike "not otherwise counted".

Page 1272, line 9, strike "subpart B of part 1" and insert "subtitle B of title VI".

Page 1272, line 15, strike "1895 of the Social Security Act" and insert "1894 of the Social Security Act (as added by section 4003)".

Page 1275, line 10, strike "States" and insert "regional alliances".

Page 1275, line 22, and page 1276, line 15, strike "(4)" and insert "(3)".

Page 1278, line 20, strike "(4)(A)" and insert "(4)(B)".

Page 1279, line 14, strike "House of Representatives" and insert "Senate".

[Subtitle C—Borrowing Authority]

Page 1281, line 5, strike the comma.

• Page 1281, after line 15, insert the following:

(5) LIMITATION ON LOAN BALANCE OUTSTANDING TO A REGIONAL ALLIANCE.—The total balance of loans outstanding at any time to a regional alliance shall not exceed—

(A) for the first year, 25 percent of the estimated total premiums for the alliance for such year, or

(B) for a subsequent year, 25 percent of the actual total premiums for the alliance for the previous year.

Page 1282, line 6, strike "ERROR" and insert "DISCREPANCY".

Page 1282, line 15, strike "under section 1343(b)(2)" and insert "section 1351(c)".

Page 1283, line 2, strike "include the" and all that follows through line 13 and insert "are errors described in section 9102(b)(4)(B)(ii).".

Page 1283, line 16, strike "(b)(3)" and insert "(b)(4)".

Page 1283, line 20, strike "under section 6122(b)".

Page 1283, line 24, insert "the" after "to".

Page 1284, line 4, strike "6017(b)(2)(C))" and insert "6107(b)(2)(C)".

• Page 1284, after line 4, insert the following:

(g) ADVANCES; LIMITATIONS ON ADVANCES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Treasury is authorized to advance to the Secretary, under terms and conditions determined by the Secretary of the Treasury, amounts sufficient to cover the loans made to regional alliances by the Secretary under this section.

(2) LIMITATION.—The total balance of Treasury advances outstanding at any time to the Secretary under paragraph (1) shall not exceed $3,500,000,000.

TITLE X CHANGES

Page 1289, line 6, and page 1290, line 3, strike "10011" and insert "10011(b)".

Page 1289, line 21, strike ", INDIANS, AND PRISONERS" and insert "AND INDIANS".

Page 1291, line 13, strike "that".

Page 1291, after line 16, insert the following:

(c) ADMINISTRATION.—The Secretary of Labor shall administer this part and, for such purposes, the Secretary is authorized to prescribe such rules and regulations as may be necessary and appropriate.

Page 1291, line 20, strike "Except as provided in subsection (b), each" and insert "Each".

Page 1292, line 4, strike "Such" and insert "Except as provided in subsection (b), such".

Page 1292, line 8, strike "(a)" and insert "(a)(2)".

Page 1292, line 18, strike "subpart" and insert "part".

Page 1293, line 6, insert "services provided by" after "access to".

Page 1293, line 12, insert "with respect to one or more types of illnesses or injuries in a geographic area" after "providers,".

Page 1303, line 22, strike "Secretaries" and insert "Secretary".

Page 1304, line 15, insert "on its work" after "report".

Page 1306, line 5, strike "Section 1(b)(2)" and insert "Subsection (b)(2) of the first section."

Page 1306, line 24, strike "January 1, 1998" and insert "the date under section 10501 that such subtitles apply to regional alliances, and regional alliance health plans, in the State".

TITLE XI CHANGES

Page 1307, line 11, strike "the Health Security" and insert "this".

Page 1307, line 18, insert "with respect to" after "title."

Page 1309, line 17, strike "civil money penalties" and insert "a civil money penalty".

Page 1309, line 21, strike "subparagraph" and insert "subsection".

Page 1312, line 12, strike "the date of introduction of the Health Security Act" and insert "October 27, 1993,".

Page 1313, line 22, strike "to".

Page 1314, line 2, strike "and duration" and insert ", and duration of coverage under the plan".

Page 1318, line 11, strike "such" and insert "an".

Page 1321, line 20, strike "such" and insert "health insurance plan".

Page 1325, line 20, insert "(specified by the Secretary of Labor)" after "period".

Page 1328, line 16, strike "(c)" and insert "(e)".

• Page 1328, line 24, before the period insert the following: ", except that the total balance of such Treasury advances at any time shall not exceed $1,500,000,000".

Page 1330, line 19, strike "labor" and insert "Labor".

Page 1333, line 5, strike "medical-" and insert "medical".

Page 1335, line 6, strike "1995" and insert "1996".

Page 1335, line 9, strike "such" and insert "Such".

Page 1335, line 10, strike "as defined in paragraph (5)(B)(ii))" and insert "described in paragraph (5)(B)(ii)".

TITLE XII CHANGES

Strike title XII.

[The substance of this title has been moved to page 1092, after line 8.]

Mr. ROCKEFELLER. Mr. President, with great pride, today I become an original cosponsor of President Clinton's Health Care Security Act of 1993—to join him and my colleagues in putting forward legislation that when enacted will guarantee every American health care that can never be taken away. And I congratulate the First Lady and her dedicated staff for leading the intense and crucial effort that has brought us to this historic point.

I mean it when I say that it would be impossible for me to express the enormous hope that I have as I submit my name as a cosponsor of this legislation. We are making history in this chamber today. We are all committing ourselves to help enact health care reform that delivers on the President's rock-solid, nonnegotiable principles of health security, quality, choice, simplicity, savings, and responsibility. Americans deserve no less. It is our responsibility to take this body of work that the President has presented and fashion it into a law that will truly, systemically, reform our health care system—guaranteeing universal access and coverage for all, and the cost containment our system needs.

As we join together to introduce this legislation, it seems appropriate to reflect on what has made systemic health care reform a burning passion for me. Thirty years ago, as a VISTA worker, I went to Emmons, WV—a small coal camp town deep in the West Virginia hills. Like so many West Virginians, the families there worked hard sunup to sundown, just to scratch out a living.

My time in Emmons was more rewarding and productive than I can ever convey. We built a library. We pulled down an abandoned school house in another town, brought the boards back one by one to Emmons, and built a community center. We started a preschool. We won a hard fight just to get the school bus to stop at Emmons.

But for all we accomplished, there were things that could not be changed. One was that for all their hard work and strong values, the people of Emmons could never, ever feel secure about their health. There were no guarantees that if they really needed medical care, they could afford it.

That struck me as being just plain wrong. In a country as great as ours—with the prosperity and the opportunity we have faith in—people can work hard their whole lives, pay their fair share of taxes, play by the rules, and still not have peace of mind about their health. That was true then, it is true today.

After VISTA, and because of my time in Emmons, I decided to make public service my career and West Virginia my home. I served in the legislature, and was Governor for two terms. Throughout, I struggled with the health care needs of West Virginians.

With rural hospitals that aren't paid enough to care for the people that need them. With the cruelty of finding out that losing one's job also means losing one's health insurance. With parents who have told me what it's like to choose between taking a sick child to the doctor or putting food on the table. With families who are ruined when a grandparent gets Alzheimer's, and they find out this country still doesn't have a decent long-term care policy.

That's why I decided, after coming to the Senate, that I would focus on health care issues. Soon, I found myself chairing something called the Pepper Commission. We took our charge very seriously, and produced a bold blueprint for health reform and long-term care. We helped to put the health care issue where it belongs on the public agenda—front and center.

Americans are now demanding action. Our health care system is broken, and it is long past the time to insist on a repair job. Health care consumes nearly one-fifth of our economy, yet remains a wasteful, insecure, and bloated machine that just plain doesn't work.

Our prosperity, our standard of living, our job security, our optimism for the future have been worn away by paperwork, fraud, waste, loopholes, fine print, and a torrent of cost increases that threaten to wash away every family, business, and budget we build.

We spend $1 trillion on health care today—more than on health care than on defense, education, and Social Security pensions combined—and it will be $2 trillion by 2000. Yet we have over 2,000,000 Americans losing their health insurance each month. And of those, one million will go without insurance for half-a-year and 100,000 will never get their insurance back. And let me tell you the truly shocking part of all this—the vast majority of the people who lose their health care coverage are middle-class Americans who pay premiums, work hard, play by the rules.

One West Virginian, a man who works in a small upholstery factory, put it all into clear perspective when he told me he never expected to pay nothing for health care, but he sure didn't expect it to be his biggest expense, exceeding his mortgage and car payments. "I can't enjoy my good health," he said to me, "for fear of bad health."

And looking beyond each family's fears, we as a Nation are being weighed down by out-of-control health costs. Look at our auto industry—General Motors, Food, and Chrysler all pay far more in health costs for their workers than their Japanese counterparts, in some cases over 300 percent more. The sticker-prices on American cars account more for autoworkers' health care costs than for the steel in the cars. I steadfastly believe that if you are antihealth care reform, you are anticompetitiveness, antijobs, and antigrowth.

That's why I will be fighting with every ounce of my energy to help enact the President's health care reform plan.

Because it will offer people like the West Virginia upholstery worker, the people that my colleagues and I are sworn to represent, our families and our friends, and every single American some basic, valuable things, again: security, choice, savings, simplicity, quality, and responsibility.

The principles of President Clinton's health care plan will remain, no matter what kind of legislative compromises on mechanics or details result down the road, they will be the bottom line that every American will wind up with:

Security—of health coverage you can never lose, of having benefits that will never be taken away. No redlining, no arbitrary cancellations, no getting dumped for a preexisting condition, or unemployment, or any other reason.

Choice—to go to the doctors we choose. Most consumer choices will increase under this plan.

Savings—a system that ends health care hyperinflation and puts consumers in the health care driver's seat. Instead of each household or one small business looking for health coverage one at a time, they'll be part of an alliance that give you real clout. The message sent to insurance companies is, "If you want our business, you'll have to earn it.

Simplicity—elimination of the redtape that drive us all—doctors, nurses, and patients—absolutely crazy. Every American will have a computerized health care I.D. card that, when presented to a doctor or hospital, will offer entire medical histories and profiles and after treatment will allow for direct electronic billing to a health insurer. No forms. No paperwork. No endless phone calls and bureaucracy.

Quality—consumers will be given quality "report cards" and all plans will have to meet national quality standards; and

Responsibility—regardless of what the final plan is, those who do pay for health care will no longer pay for those who do not.

The President's plan is not perfect. There are some things that I would like, and others, too, I'm sure, to see strengthened, or modified. But that's understandable. This bill is still our master blueprint.

Understand that this is the most intricate, complicated subject. It is far and away the most difficult subject that I have worked on in my lifetime as a public servant, as a state representative, as a Governor, as a representative of the people of West Virginia in the United States Congress. It affects in some way more than one-fifth of our entire economy. It asks people to learn to do business a new way or handle health care in a new way—and change is never easy.

It is understandable that there are provisions in this legislation that I, or my colleagues, will want to see changed, rearranged, added, or deleted. That's to be expected. But the test should be whether or not this plan is a vast, vast improvement over what we have today. The answer to that is unquestionably yes.

There are so many provisions in this legislation that are critical to me. Many are an outgrowth of the work that I have done as Chairman of the Medicare and Long Term Care Subcommittee on the Senate Finance Committee. Many are based on what I've learned from the experiences, and the needs, of my own State of West Virginia.

For example, the President's reforms of our health professional workforce and the restructuring of graduate medical education training to provide more primary care practitioners are based, in large part, on legislation that I introduced earlier in this year, my Primary Care Workforce Reform Act. I am heartened by the President's commitment to improve the production and distribution of primary care practitioners, and to take responsibility for seeing to it that providers are practicing where we need them most. I am very much looking forward to doing more on this front, to correct the serious maldistribution of providers that we have today, and to stop the oversupply of physicians that is so detrimental to our broader cost containment efforts. States like West Virginia know the hurdles that we face in our current system to insuring that care is available to those who need it. Having an appropriately trained health care workforce, one that emphasizes primary care, is critical to making this whole reform initiative work on the ground. Incentives need to be changed in this area, and in enhancing the attractiveness of primary care in general. The President's bill is a good first step.

As Chairman of the Medicare and Long Term Care Subcommittee, I have a special obligation to insure that reform improves the health care available to older Americans. The President's prescription drug benefit, and the important new home and community based care program will go a long way to providing the medicine and the kind of care that the people who rely on Medicare need most, along with disabled Americans. I will, of course, be paying special attention to these areas as they move through the legislative process. How the Medicare program and health care reform intersect is something we need to carefully understand so that we are sure that we are doing all we can to promote the health of our senior citizens, and protect the fundamental mission of the Medicare program.

As the one of the leaders in the Senate of liability reform, the malpractice and tort reform provisions that the President proposes are very important to me. He has worked hard to deliver on his promise to include meaningful tort reform in his health care reform proposal. Now it is up to Congress to review it, and see if there are areas that should be improved upon. I intend to work with all my colleagues to explore that question.

There are many other parts of this legislation that I care deeply about. Hundreds of questions will need to be answered to the satisfaction of those of us who are responsible for voting on the final details. What are the appropriate roles of the States and the Federal Government in assuring quality, affordable health care is available to all? How do we make sure that this system is implemented in a way that universal access to health care is available just as soon as possible? How do we insure that alliances build on the efficiencies in the private market, and have the necessary accountability so that they serve the best interests of all citizens? Are the discounts adequate to insure that we are providing the help that many small businesses and low income families will need to participate in this new system? There are so many questions and it will be our duty to work through the answers to be sure that the final product achieves our shared goals. Now we have a text that we can turn to. The health care reform legislative process is officially underway.

I have no delusions. It will take a great deal of courage, and continued leadership from our President, and those of us in Congress, to change our ways. We will have to stop and remember at every turn that the scariest results of all are if we do nothing or fail to achieve the fundamental goals of reform. We should have the courage to act, and fear the consequences of throwing up our hands, and allowing this country to be practically alone in being unable to find a way to guarantee the security of health care for all of our citizens.

This Clinton health care reform plan is the only plan presented in this detail and with this care. It is the only plan to be submitted that guarantees every single American a comprehensive set of benefits that can never be taken away in way that can engender the support that we need.

I pledge to dedicate my heart and soul in the days, and weeks and months ahead, to helping see to it that this legislation passes before the historic 103d Congress completes its work. There is no more important priority for America, or this Senator.

Mr. DODD. Mr. President, I rise today as a proud cosponsor of the Health Security Act, which was formally introduced today.

I have said before and I will repeat again today—this bill has the potential to be one of the most important pieces of legislation considered by Congress in the 20th century. Its effect, I believe, will be as far reaching and significant as the Social Security legislation of the 1930's and the civil rights legislation of the 1960's. Like these other measures, it is based on the principles for which this Nation stands—dignity, security, and justice.

The Health Security Act will provide a new and desperately needed guarantee for all Americans. It will guarantee that regardless of your job, your health, your family, or where you live—you will have the security of health care coverage.

It has become clear that there is an increasingly strong consensus for health care reform in this country. I am not suggesting that everyone agrees on what form this change should take. There is certainly a great deal of disagreement on this point. But nearly everyone agrees that change is imperative.

I'd like to share with you the story of a woman that I believe illustrates why we so desperately need comprehensive health care reform in the United States. Earlier this week, at a hearing I chaired on maternal and child health care needs, Lynn Morrison of Stone Mountain, GA, told how our present health care system failed to support her and her family when she was in need.

Ms. Morrison learned she was pregnant shortly after she had changed jobs. Her new job did not offer health insurance, but allowed her to be closer to her first daughter's school. She tried to secure coverage through her husband's policy, but coverage was denied because her pregnancy was considered a pre-existing condition.

Lynn Morrison, crying as she testified, said she had wanted to get her baby off to a healthy start. She was worried because she was 32 years old and feared that the pregnancy might be complicated. She tried numerous ways to get care; she even got a temporary Medicaid card, but no doctors would see her.

Eventually, in her fifth month of pregnancy, she found a package prenatal plan for uninsured women at significant cost to her and her family. Although it was a great relief to have secured this care, she had needed it earlier. As she had feared, her pregnancy was complicated: She went into premature labor twice and was hospitalized.

As stories like this one demonstrate, the case for reform is clear and compelling. We simply cannot continue as we are now. Our health care system is badly broken. It prevents women like Lynn Morrison from receiving prenatal care that they desperately need.

The system labels pregnancy a preexisting condition and denies women prenatal care that we all know would save dollars and prevent health problems down the road. This system works against our Nation's families, and it leaves too many people without coverage. We must fix it.

The current session of Congress began with good news for our Nation's families when we passed the Family and Medical Leave Act, and the President signed it into law. I hope when this Congress comes to an end, we will have more good news for the Nation's families—comprehensive reform that meets the needs of all Americans.

I see the President's plan as the best hope for achieving this end, and that is why I decided to become an original cosponsor of the Health Security Act.

I agree with the six critical principles on which the President's proposal is based: Security, savings, quality, choice, simplicity, and responsibility. Other plans fall short on one or more of these standards, and each is critical for true reform.

More than any other element, I believe that we must ensure that coverage is universal. All Americans must receive the health care that they need when they need it. We must ensure that a pregnant woman will not have to wait until her fifth month of pregnancy to receive prenatal care. Some proposals on the table do not include this assurance, and I find them unacceptable.

I am an enthusiastic participant in this effort because of the tone that the debate has taken so far. I firmly believe that this should not be a partisan cause. The President and First Lady know this and have demonstrated a sincere willingness to listen to criticism and suggestions and take them into account. We as Members of Congress also know this, and the American people know this. The issues at stake are simply too serious to be held hostage by partisan bickering.

Republicans and Democrats, doctors and patients, small businesses and large corporations—all agree that reform is imperative. I hope we will seize this opportunity, form a broad-based consensus about the shape of reform, and give the American people what they are demanding: A health care system that works for everyone without runaway costs.

To be sure, we will not agree on every aspect of this proposal. There are certainly parts of the President's plan about which I have reservations about. I will watch these provisions carefully, and I may try to modify them as we consider the bill. I am sure that the same is true for the other cosponsors of the bill.

But we cannot allow specific objections to small parts of the plan to derail the entire effort. We must see the introduction of the Health Security Act as the beginning of the process, not its end. In the months ahead, we will be working together to shape this legislation to make sure that we create the best plan possible.

As we begin formal consideration of the bill, I will continue to focus specifically on preventive care and the unique needs of pregnant women and children, as I have in the past. We can no longer afford to neglect prenatal care or allow policies to define pregnancy as a preexisting condition. We can no longer afford to neglect child immunizations. We can no longer accept the risk of neglecting the health of adolescents. I want to work toward a reform plan that provides solid benefits in these areas and contains provisions to make sure the benefits reach those who need them.

We must act now to provide the American people with the health care system they need and the health care system they deserve. I urge my colleagues to support the Health Security Act.

Mr. BAUCUS. Mr. President, I am pleased to cosponsor the Health Security Act, President Clinton's proposal to control health care costs and provide health care security to all Americans.

This proposal could not come at a more critical time. Americans are demanding change. We are all fed up with a system that is too costly, too inefficient, and—in many cases—too unfair.

HEALTH CRISIS IN MONTANA

Even in my home State of Montana, with it's small, rural population, health costs have exploded. Skyrocketing health costs are hurting our economy, depleting our State budget, lowering our wages, and forcing over a fifth of our population to go without health insurance.

The statistics are astounding. Over the last decade, health costs in Montana rose almost 400 percent faster than wages. Montana families are spending over $3,000 a year on health care, yet their average income is among the lowest in the country at $28,000 for a family of four. Unless we pass comprehensive reform, Montana families can expect to pay over $7,000 by the year 2000.

Business spending on health care has also skyrocketed, rising by over 280 percent over the last decade. Without health reform, businesses in Montana can expect to spend over $1.2 trillion on health care by the year 2000.

HEALTH REFORM WILL BENEFIT MONTANA

The costs of inaction are too high. While we will debate the relative costs and benefits of a number of features of this proposal, let's not lose sight of one threshold test: does it represent a meaningful improvement over the present system? In most instances, I believe the answer to the question is a resounding "yes."

The administration's proposal will address the fundamental problems in our health care system: access and cost. At long last, the United States will join the ranks of every other western industrialized nation by providing universal coverage at a reasonable price.

SMALL BUSINESS

I am still concerned about how this proposal will impact small businesses. Most Montana employers have fewer than 100 employees. And only half of the businesses with fewer than 50 employees offer health insurance.

In 1989, I served on the Pepper Commission, which was charged with developing a health reform plan that would guarantee universal coverage. The Commission recommended an employer mandate. I opposed the Commission's recommendations because I felt they posed an unfair burden to small business.

I say this not to criticize the Pepper Commission, which was so ably chaired by my friend and colleague, Senator ROCKEFELLER. But it is important to note a key distinction between the Clinton plan and the Pepper Commission plan. The Clinton plan has strong cost controls which would prevent large premium increases. It also caps how much employers must spend on health insurance, with much lower caps for small businesses.

The President clearly wants to make insurance affordable for small businesses. Make no mistake about it, this plan contains many pro-businesses provisions.

Most of the small businesses I know tell me they want to offer insurance, but simply can't afford to spend 15 to 20 percent of their payroll on premiums. The President's plan would cap how much low wage small businesses would have to spend on health care from as low as 3.5 percent of payroll to 7.9 percent of payroll. This is just a fraction of what it would cost these businesses to purchase insurance right now.

I also applaud the provision that would allow the self-employed to deduct 100 percent of the cost of their health insurance. Large businesses have been able to do this for a long time. It is about time that our Tax Code treat small businesses fairly.

INCREASE ACCESS FOR RURAL COMMUNITIES

I am particularly pleased with the rural health care included in this proposal. Almost half of our 56 counties have no physician who will deliver a baby and 8 of our counties have no physician at all.

Montanans know that giving people in rural communities a health insurance card does not guarantee access to health care. Even with insurance, many rural communities would still have no doctors or nurses to provide care.

The President's proposal would seriously address our provider shortages. Provisions in this package would offer rural health providers tax credits and bonuses; link rural providers with other health care institutions by expanding grants for telecommunications; and invest in new medical equipment for rural areas.

These provisions would definitely increase access to health care in rural communities.

CONCLUSION

But, of course, much work lies ahead. Clearly, there will be many changes to this plan before it is ultimately enacted into law. I am supportive of the Health Security Act, but I believe the plan can be improved. As I work to restructure our health care system, I will fight for a comprehensive, equitable plan which gives Americans meaningful choices and reduces waste.

Through all of this, I hope we can keep the spirit of bipartisanship and cooperation alive. There are no simple or quick fix solutions. As complex as these problems are, I am confident we can find sound answers if we all work together.

Mr. DASCHLE. Mr. President, over 50 years ago Franklin Delano Roosevelt painted for the American public a picture of a country where senior citizens were paying a terrible price for our Nation's failure to secure them in their old age.

His paint brush was the fireside chat, his canvass was our grandparents' conscience, and the picture they finished together was Social Security.

That picture was completed over 50 years ago, and not since then have we worked together as a nation to secure a new right of citizenship in our land.

We have now reached a crossroads in our country, and I believe it is time for another great advance, this time to tackle the problems that are so deeply rooted in our health care system. Fortunately, we have a President and a First Lady who share this belief. They understand that, as in 1933, we have fallen behind the other industrialized nations at a great cost.

They recognize that something is terribly wrong when we stand alone with South Africa as the only two advanced nations in the world that fail to secure its citizens against disease, and condemn families to a lifetime of poverty when their children fall ill. They have pointed out that nowhere else is fear of losing health insurance permitted to trap citizens in jobs or prevent them from establishing their own small business. They believe, as Roosevelt did a half century ago, that America can do better, and wants to do better.

We do not lack the will. We have lacked the leadership.

Now we have the leaders, and it is time to rise to the challenge.

With the introduction today of the Health Security Act, Bill and Hillary Clinton have given the Congress and the people their vision for an America where all citizens have the security that their health care can never be taken away. An America where one's age, health status, or place of employment does not dictate one's access to care. An America where everyone has the peace-of-mind that they will be able to care for their young children or their ailing parents when and if it becomes necessary.

It is up to us now to work together in the Congress and as a nation to secure this vision for our Nation.

CLINTON'S PLAN VERSUS THE ALTERNATIVES

Over the next year we will carefully study the plan the President has proposed, as well we should. We will debate its details and improve upon the original proposal. This is a healthy and necessary process.

But as we engage in this debate and refinement of the President's plan, let us be sure we hold on to the six major principles upon which his legislation was built: Security, simplicity, savings, quality, choice, and responsibility.

It is particularly important that we retain these principles as we consider other health proposals that are held up as viable alternatives to the Health Security Act. When I study these plans, I am too often disappointed that the rhetoric surrounding them does not match the reality.

The plans proposed by Senator CHAFEE, Senator BREAUX, Senator NICKLES and Senator GRAMM, and the measures introduced in the House by Representative COOPER and Representative MICHEL, all represent serious efforts, and I welcome the sponsors' participation in the debate. But I also must express serious reservations about the ability of these measures to fulfill all of the goals that we have established for health reform.

The authors may bill their proposals as the "compromise, middle-of-the-road" alternatives. They may talk about making significant improvements without calling for the comprehensive reforms of the President's plan.

But when evaluated against the President's six major principles, none of them holds up.

For example, neither the Cooper bill nor Gramm bill provides health security for all Americans—security that citizens of every other nation take for granted; security that our citizens want and deserve. Of the alternatives to the President's plan, only Senator CHAFEE's plan makes this a priority.

Equally distressing, none guarantee that skyrocketing health costs will be reined in. They all fail to assure businesses and individuals that their premiums will be affordable, if competition fails to contain costs.

These are two of the most important goals of health reform, and I believe these proposals, for the most part, fall short on both of these counts.

I also find troubling the failure of these plans to define a comprehensive benefits package to which all Americans would be entitled, the failure to preserve the individual's right to choose his or her own doctor or other health provider, and the omission of a plan for expanding access to long-term care. On the other hand, the President's plan tackles each of these matters.

CONCLUSION

Last November, voters demanded change. They demanded action on the problems that plague us. The health care plan outlined by the President is the kind of comprehensive reform of the system that Americans want and need.

We must pass a reform plan soon, before our problems become even more intractable. And if we do, we will do so over the objections of the special interests who want to maintain the status quo.

We must set this Nation on the road to a healthy future, where peace-of-mind is no longer a luxury only the wealthiest can afford.

The President has painted a picture of a better system—now it is up to us to find the will to make this picture a reality.

Mr. RIEGLE. Mr. President, reforming this country's health care system is one of the greatest challenges this Congress has faced in recent history. Although a number of us have recognized the growing problem of rising health care costs for many in this country, it has taken the national leadership and vision that the President and Mrs. Clinton have given and will continue, to address the complexity of the problem and overcome the entrenched special interests.

The rising cost of private health insurance is creating tremendous problems for many families and business's in this country. Too many people are losing their coverage, or can't afford to cover all the members of their family. Many are paying higher copayments and deductibles. And many businesses are finding it more and more difficult to provide insurance for their employees, even though most would like to do so.

Today, nearly 40 million Americans have no health insurance at all. That includes close to 1,000,000 in Michigan alone and as many as 300,000 children. More citizens are losing coverage each day. All of us know of a friend or family member who has experienced a problem in this area. We need national health care reform to provide every citizen the security of health care coverage.

I have been working to reform the health care system for over a decade. I first introduced a bill in 1982. Now, there is a growing consensus that a new health care plan must be hammered-out and adopted—just as Social Security was, and Medicare later. Because of my strong belief that reform is needed, I sought to become and was made Chairman of the Finance Subcommittee on Health for Families and the Uninsured. To help develop a consensus on health care reform I have held close to 40 public hearings and forums across Michigan and in Washington on health care to gather all the facts, consider our options, and build public support for a comprehensive overhaul of our system. And I will continue to solicit the views of Michigan citizens to make sure that the final plan addresses the unique health care needs of Michigan.

The Administration's proposal will make sure that all Americans have the peace of mind that comes with health insurance coverage and guaranteed access to high quality care, regardless of where they work or whether they lose or change their jobs. The proposal also contains a comprehensive plan to control health care costs. I am particularly pleased that the plan contains provisions to help out our Nation's early retirees who are increasingly finding their coverage reduced. The high costs of retiree health placed on certain businesses, like American auto companies, put them at a severe disadvantage with foreign competitors.

Mr. President, I have agreed to cosponsor the President's plan because I believe it is based on the right principles and it will provide an excellent framework for our debate. Before this plan is enacted, however, it will be scrutinized and evaluated, and changes will be made. For example, I am especially concerned that all children in this country receive coverage as soon as possible and would like to be able to devise a way for them to be phased in first.

As you know Mr. President, I have been telling this Senate about a person in Michigan who has faced problems with our present health care system every week since last August. This week I talked abut Christopher Arnold, who is only 5 years old but suffers from immune deficiency disease. His illness has been financial devastating for his family, and his father is unable to even think about changing jobs to increase the family's income because Christopher would lose the insurance coverage that he has due to his pre-existing condition. One of the most important ways that I will judge any health care reform plan is by how it helps the Arnolds and other people like them.

Although the introduction of this bill has been long-awaited, the process of ironing out the details and developing consensus is just beginning. It will be a long and difficult process, and we can't hope to achieve it without broad bipartisan support.

Reforming our health care system is a complex issue, but it can and must be solved. The plan that the administration has proposed is the most comprehensive plan that has been introduced. It establishes the right goals and the right sense of urgency. It gives us a chance to finally step up to this problem and solve it.

Our goal is to get a comprehensive health care reform program enacted by the end of this Congress, which would be about October 1 of next year. As Chairman of the Finance Subcommittee on Health, I will invest every ounce of energy that I have to work with my Republican and Democratic colleagues to get this done.

By Mr. MURKOWSKI:

S. 1758. A bill to establish a Stewardship Endowment Fund to fund activities for the restoration of injured natural resources in Alaska resulting from the T/V EXXON VALDEZ oil spill, and for other purposes; to the Committee on Environment and Public Works.

EXXON VALDEZ OIL SPILL STEWARDSHIP ENDOWMENT

Mr. MURKOWSKI. Mr. President, I rise to introduce a bill to create a stewardship endowment to provide for part of the long term stewardship costs associated with recovery of damaged resources and services of the Exxon Valdez oil spill (EVOS) area by encouraging the conservation of funds to fund long term studies.

Specifically, the legislation:

Establishes in the Treasury of the United States an endowment fund into which the Trustees may choose to transfer any portion of the civil settlement funds; amends Title XXX of the Energy Policy Act of 1992; Allows the Secretary, with the unanimous consent of the Trustees, to invest a portion of the corpus and income of the Endowment Fund in such a way to generate sufficient income to carry out the purposes of restoration; and allows, upon the request of the Trustees, the Secretary to transfer income earned to the Trustees to spend on restoration.

On March 24, 1989, the T/V Exxon Valdez ran aground on Bligh Reef in Prince William Sound spilling 11 million gallons of North Slope crude oil. This was the largest oil spill in United States history. The Exxon Valdez oil spill contaminated thousands of miles of Alaska's coastline. It killed birds, mammals, and fish, and damaged other resources.

On October 8, 1991, the U.S. District Court approved an agreement that settled the claims of the United States and the State of Alaska against Exxon for various criminal violations and for recovery of civil damages resulting from the oil spill. In the civil settlement, Exxon agreed to pay the State of Alaska $900 million over a period to 10 years to restore resources and human uses injured by the spill.

The spending guidelines for the civil settlement funds are set forth in a Memorandum of Agreement and Consent Decree (MOA).

The definition of "restore" or "restoration" under the MOA is broad and means: any action, in addition to response and cleanup activities required or authorized by state or Federal law, which endeavors to restore to their prespill condition any natural resource injured, lost, or destroyed as a result of the oil spill and the services provided by that resource or which replaces or substitutes for the injured, lost or destroyed resource and affected services. Restoration includes all phases of injury assessment, restoration, replacement, and enhancement of natural resources, and acquisition of equivalent resources and services."

The settlement defines natural resources as the land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to or managed by the State or Federal governments. Examples of natural resources are birds, fish, mammals, subtidal plants and animals, and archaeological resources.

In addition to restoring natural resources, funds may be used to restore reduced or lost services (human uses) provided by injured natural resources. For example, subsistence, commercial fishing, and recreation including sport fishing, sport hunting, camping, tourism, and boating are services that were damaged by injuries to fish and wildlife.

This Trustee Council consists of 6 Federal and State trustees. The State of Alaska trustees include the Commissioner of the Department of Environmental Conservation, the Commissioner of the Department of Fish and Game, and the Alaska Attorney General. The Federal Trustees include their lead representatives in Alaska of the following three agencies, the U.S. Department of the Interior, the U.S. Department of Agriculture, and the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Placing the funds in an endowment so that they can grow even larger for future use for these stated purposes is consistent with this MOA requirement and, in fact, may be the best way to ensure that we can meet this purpose more effectively by ensuring thoughtful decisions with regards to the use of the funds and ensuring the use of the funds much farther into the future.

The $900 million civil settlement requires Exxon to deposit funds each year beginning December 1991 and ending September 2001. The State of Alaska has already received $340 million and will receive $70 million a year through the year 2001. Creating an endowment allows us to fund restoration activities indefinitely—after Exxon payments end in 2001.

The endowment would work in the following manner. The Trustee Council of the Exxon Valdez oil spill settlement funds can decide how much of these funds they want to place into the endowment.

The trustees can then use the annual interest proceeds from the endowment to fund restoration activities, such as scientific studies and wildlife restorations.

The Trustee Council can decide how they want to invest the principal or the funds in the endowment, by placing the principal into a federally insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other instruments and securities.

Trustees could, by unanimous consent, remove funds.

The following reasons further support an endowment.

In the summary of public comment on alternatives of the Draft Exxon Valdez Oil Spill Restoration Plan, approximately two-thirds of 699 responses favored establishing an endowment or savings account of some kind. Approximately two-thirds of all people who favored an endowment thought the earnings should be used for monitoring and research.

The recent General Accounting Office report was critical of the council's initial spending of settlement money on administrative costs and reimbursements to Exxon and government agencies for spill cleanup expenses.

The enormity of the settlement makes an endowment a good option. As of September 1, 1993, Exxon has paid the government $340 million ($90 million in 1991, $150 million in 1992, and $100 million in 1993); Exxon will pay the governments $70 million yearly until 2001. Of the civil settlement funds, about $107.5 million has been used to reimburse Federal and state agencies for past spill-related work, about $40 million to Exxon for certain agreed upon cleanup work, about $19 million for the 1992 work plan; and about $35 million for the 1993 work plan.

The purpose of creating an endowment is to encourage the conservation of settlement funds for needed long term scientific research and ecosystem studies.

Catastrophic failures of the multimillion dollar Prince William Sound herring and pink salmon fisheries this year raise serious questions about the effectiveness of restoration and enhancement activities resulting from the Exxon settlement funds. Scientists have been unable to explain the disastrous disappearance of herring and pink salmon from the Sound in 1993; they lack an understanding of the Sound's natural cycles, of water temperatures and food chains.

Moreover, the Yukon drainage fishery has steadily declined from a healthy subsistence and commercial opportunity to total closure today. No one knows "why"—what caused the run failure in the Yukon drainage? Funds are needed for studies since, to this date, only ineffective and inadequate data and research programs exist.

It is important to note that fishing is Alaska's leading employer and second leading private sector industry in terms of gross benefits to the state, behind only the petroleum industry. For all of these reasons, I have introduced this bill to encourage the conservation of the Exxon Valdez Settlement Funds to provide for the maintenance of restoration and enhancement activities for the Prince William Sound.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stewardship Endowment Fund Act of 1993".

SEC. 2. FINDINGS, PURPOSE, AND INTENT OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) for national security purposes, the United States requires steady and secure sources of oil as well as other sources of energy;

(2) while protecting the oil-producing capabilities of the United States is important, it is also important to protect the environment from which the oil is drawn;

(3) following the discharge of oil from the T/V EXXON VALDEZ on March 23 and 24, 1989, when the vessel went aground on Bligh Reef in Prince William Sound, Alaska, a settlement was reached;

(4) under the terms of the Agreement and Consent Decree (as described in section 207 of Public Law 102-229) that the Federal Government and the State of Alaska entered into with the Exxon Corporation, Exxon will pay a total sum of $900,000,000 over a period of 10 years for damages and environmental restoration to the Federal Government and the State of Alaska (referred to in this section as "settlement funds");

(5) the placement of a portion of the settlement funds in a Stewardship Endowment Fund would create a stream of income over and above the initial settlement funds that could be used to meet the needs of environmental restoration over a period that extends beyond the 10-year period specified in paragraph (4);

(6)(A) catastrophic failures with respect to salmon fisheries in Prince William Sound, and other biological events, indicate an urgent need to carry out long-term multidisciplinary research efforts to enable the full implementation of an effective restoration and enhancement program; and

(B) the research should fully examine all possible causes of, and solutions to, the problems described in subparagraph (A);

(7) similar failures with respect to other salmon fisheries and changes in the populations and ratios of other species further indicate that a broad approach to scientific investigation may be necessary to determine whether events in Prince William Sound concerning salmon fisheries may be caused by, or affected by, events in other geographic areas;

(8) a stable source of research funding is needed in order to provide for long-term research necessary for the successful restoration and enhancement of Prince William Sound; and

(9) the Endowment Fund referred to in paragraph (5) would facilitate the administration of the settlement funds by the Trustees designated by the President and the Governor of the State of Alaska to act, for the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as trustees of natural resources injured, lost, or destroyed as a result of the discharge of oil from the T/V EXXON VALDEZ;

(b) PURPOSE.—It is the purpose of this Act to establish in the Treasury of the United States a Stewardship Endowment Fund in order to create a stream of income that will carry out the purposes specified in the Memorandum of Agreement and Consent Decree that the United States and the State of Alaska entered into on August 28, 1991, for a period that extends beyond the payment period referred to in subsection (a)(4).

(c) INTENT OF CONGRESS.—It is intent of Congress that the conservative use of settlement funds and earnings from the settlement funds should be encouraged in order to provide for the maintenance of restoration and enhancement activities for Prince William Sound (including providing for long-term scientific studies and ecosystem research necessary to support restoration and enhancement activities).

SEC. 3. STEWARDSHIP ENDOWMENT FUND.

Title XXX of the Energy Policy Act of 1992 (Public Law 102-486) is amended by adding at the end the following new section:

"SEC. 3022. STEWARDSHIP ENDOWMENT FUND.

"(a) DEFINITIONS.—As used in this section:

"(1) AGREEMENT AND CONSENT DECREE.—The term 'Agreement and Consent Decree' means the Agreement and Consent Decree described in section 207 of Public Law 102-229 (105 Stat. 1715) and approved by the United States District Court for the District of Alaska on October 8, 1991.

"(2) ENDOWMENT FUND.—The term 'Endowment Fund' means the Stewardship Endowment Fund established pursuant to subsection (b).

"(3) NATURAL RESOURCES.—The term 'natural resources' has the meaning given the term in the Agreement and Consent Decree.

"(4) OIL SPILL.—The term 'Oil Spill' means the grounding of the T/V EXXON VALDEZ on Bligh Reef in Prince William Sound, Alaska, on March 23 and 24, 1989, and the resulting oil spill.

"(5) RESTORATION.—

"(A) IN GENERAL.—The term 'restoration' means any action, in addition to response and cleanup activities required or authorized by State or Federal law, that endeavors to—

"(i) restore—

"(I) a natural resource injured, lost, or destroyed as a result of the Oil Spill to the prespill condition; and

"(II) the services provided by the resource; or

"(ii) replace or substitute for the injured, lost, or destroyed resources and affected services.

"(B) PHASES OF INJURY INCLUDED.—The term includes all phases of injury assessment, restoration, replacement, and enhancement of natural resources, and the acquisition of equivalent resources and services.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(7) SETTLEMENT FUNDS.—The term 'settlement funds' means the settlement funds established pursuant to the Agreement and Consent Decree.

"(8) TRUSTEES.—The term 'Trustees' means the officials designated by the President and the Governor of the State of Alaska to act, for the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as trustees of natural resources injured, lost, or destroyed as a result of the Oil Spill.

"(b) STEWARDSHIP ENDOWMENT FUND.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, there is established in the Treasury of the United States a Stewardship Endowment Fund to facilitate the restoration of natural resources in Alaska injured as a result of the Oil Spill. The Fund shall consist of such sums as are deposited in the Fund pursuant to paragraph (2) and any interest earned on investments of the Fund pursuant to paragraph (3).

"(2) DEPOSITS.—The Trustees may transfer from the settlement funds to the Secretary, for deposit in the Endowment Fund, a portion of the settlement funds.

"(3) INVESTMENTS.—The Secretary, with the unanimous consent of the Trustees, shall invest the corpus and income of the Endowment Fund in federally insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other instruments and securities (as determined by the Secretary, with the unanimous consent of the Trustees). The Secretary, with the concurrence of the Trustees, shall, to the maximum extent practicable, ensure that the investments made pursuant to this paragraph generate a sufficient amount of income to carry out the purposes referred to in subsection (c)(2)(B).

"(c) WITHDRAWALS AND EXPENDITURES.—

"(1) CORPUS PROHIBITION.—A withdrawal or expenditure may be made from the corpus of the Endowment Fund with the unanimous consent of the Trustees.

"(2) PERMISSIVE WITHDRAWALS.—

"(A) IN GENERAL.—On request of the Trustees, the Secretary shall transfer, at least annually, all or a portion of, the income of the Endowment Fund to the Trustees for expenditure by the Trustees in a manner consistent with subparagraph (B).

"(B) USE OF TRANSFERRED FUNDS.—Funds may be transferred to the Trustees, and expended by the Trustees, only for restoration.".

SEC. 4. CONFORMING AMENDMENT.

The table of contents in section 1(b) of the Energy Policy Act of 1992 (106 Stat. 2776 et seq.) is amended by adding after the item relating to section 3021 the following new item:

"Sec. 3022. Stewardship Endowment Fund.".

By Mr. BIDEN (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, Mr. SIMON, Mr. METZENBAUM, and Mr. MCCONNELL):

S. 1759. A bill to establish a national background check procedure to censure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes; to the Committee on the Judiciary.

NATIONAL CHILD PROTECTION ACT OF 1993

Mr. BIDEN. Mr. President, I rise today to introduce legislation to confront what I believe is one of the most threatening dangers confronting the Nation—the tragedy of child abuse.

The national extent of child abuse and neglect has grown to shocking epidemic proportions—more than 2,500,000 reports of child abuse and neglect are made each year.

Many abused children are victimized in their homes, but there is a large and growing number of children being victimized outside the home.

Today, about 6 million preschool children are in a day care program for some or all of their day. By 1995, at least 8 million preschoolers will be in day care.

This rapidly growing rise in children being cared for outside their homes must be met by an expanded national effort to protect these children. This is the goal of the National Child Protection Act I introduce today.

Two years ago, the Senate Judiciary Committee convened a hearing to discuss this proposal—with television personality and child abuse activist Ms. Oprah Winfrey, and several child abuse experts. Ms. Winfrey brought to the committee a plan that was the foundation for the National Child Protection Act of 1993.

The idea behind the National Child Protection Act of 1993 is simple: We must do everything we can to detect convicted criminals before they are hired as child care workers, not after another tragedy takes place.

If enacted, this act will help build the State and national systems necessary to prevent convicted criminals from being hired as child care workers. In 1991, similar systems in just 6 States identified more than 6,200 individuals—convicted of serious criminal offenses, such as sex offenses, child abuse, violent crimes and felony drug charges—seeking jobs as child care providers.

How many children would have been put at risk if these convictions had not been detected? How many children are at risk today because they live in states without checks to identify convicted criminals? To both questions, of course, the answer is "too many."

If a comprehensive, nationwide system was in place, it is likely that it would block literally thousands of dangerous criminals from obtaining jobs in the day care field.

The key provisions of the National Child Protection Act I introduce today include: Specific timetables so that accurate, up-to-date information on child abuse convictions are available on a national basis within 3 years; $20 million in direct Federal assistance to help States improve criminal justice records; and measures to protect the rights of all—speeding access to background check information, providing appeal procedures to correct inaccuracies in these checks, and confidentiality protections for information contained in criminal records checks.

I would like to credit Senator DECONCINI, who in 1984, along with Congressman GEORGE MILLER, wrote the first law calling for national criminal background checks for child care workers. In addition, Senator SPECTER was also involved in developing such systems when he proposed the Juvenile Detention Employees Act of 1983.

The Crime Control Act of 1990—signed into law nearly 3 years ago—extended similar background check requirements for Federal day care services. Senator REID and I wrote this legislation, which is helping to protect the thousands of children served every day in Federal agencies' day care centers. Today, we must have such a system available to all.

In addition, Senator MCCONNELL has introduced background check legislation.

Senator DECONCINI, Senator SPECTER, Senator REID, Senator MCCONNELL, myself, several other Senators, and many Congressmen have devoted countless hours to this important issue. After all these efforts, we cannot delay any longer.

Today, I am pleased that I am joined in introducing the national Child Protection Act by several cosponsors to this legislation—Senators HATCH, DECONCINI, THURMOND, SIMON, GRASSLEY, HEFLIN, METZENBAUM and MCCONNELL.

Mr. President, I ask unanimous consent that a copy of the National Child Protection Act of 1993 appear in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "National Child Protection Act of 1993".

SEC. 2. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 3. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, a brief description of the child abuse crime or offenses for which the person has been arrested or is under indictment or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system maintained by the Federal Bureau of Investigation based on fingerprint identification

or any other method of positive identification;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 4. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized criminal justice agency of a State shall report child abuse crime information to, or index child abuse crime information in, the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall, subject to the availability of appropriations—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis through the national criminal background check system;

(B) establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of final case dispositions in computerized criminal history files for all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain at least 80 percent currency of final case dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve full disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 5. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), which guidelines shall include the requirements and protections of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime; and

(ii) may not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a) be limited to the conviction or pending indictment information reasonably required to accomplish the purposes of this Act;

(F) that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge; and

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the provider who is the subject of a background check;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check;

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis a background check; and

(K) that a State or Federal provider of criminal history records, and any employee thereof, shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a criminal background check, or due to a criminal history record's being incomplete.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 6. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 4 of the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1995, 1996, and 1997.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 4 of this Act.

By Mr. METZENBAUM (for himself, Mr. SIMPSON, and Mrs. BOXER):

S. 1760. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

PUBLIC BUILDINGS REFORM ACT OF 1993

Mr. METZENBAUM. Mr. President, I rise to introduce legislation which will start us on the road to reforming the Federal Government's real estate activities.

I'm greatly encouraged by the dedication of Roger Johnson, the new Administrator of the General Services Administration. I believe he is committed to bringing sanity to the Government's public buildings process. But the job is a difficult one. He will need congressional help. And that is what this legislation we are offering today will provide.

This bill is the product of much hard work by the Senate Environment and Public Works Committee's General Services Administration task force, which I chair. Senators SIMPSON and BOXER, the very able and dedicated members of the GSA task force, join me in cosponsoring it.

The purpose of this legislation is simple and straightforward—to help save tax dollars in the leasing and building of Federal office space.

Frankly, this is one area which screams out for closer scrutiny.

GSA is the principal Federal agency responsible for providing office space for millions of Federal workers. The agency controls over 7,700 buildings and more than 250 million square feet of office and storage space nationwide. In fiscal year 1994, GSA expects to spend close to $1 billion in new construction and repairs and more than $2 billion on leases.

Despite the enormous responsibilities and dedicated work force of GSA, the agency has been plagued by inherent structural and operational weaknesses and frequent changes in leadership and direction. It has also been subjected to the external pressures of other Federal client agencies, the courts, and Congress.

The General Accounting Office has criticized GSA for lacking strategic focus on for failing to manage the Government's real estate portfolio in a business-like, cost-effective manner.

Who knows how many millions—perhaps—billions of dollars have been lost because GSA failed to get the best deals in leasing and building office space to meet the housing needs of Federal workers.

But the fault does not lie solely with GSA. Effective congressional oversight of GSA has been lacking. Funding and authorization of public building projects by Congress has been conducted on a piecemeal basis, often without adequate information or detail about actual costs or how a project fits into a long-range plan for meeting the needs of the Federal work force.

The bill seeks to change all that.

It seeks to strengthen congressional oversight of GSA real estate activities by requiring GSA to provide Congress with long-range public buildings plans and better information on individual projects which require congressional authorization. This is important.

Each year, GSA presents the Public Works committees in the House and Senate with a program for construction, repairs and leases for the upcoming fiscal year. But projects within the program are not ranked according to importance or necessity. And many are based on questionable economic assumptions. Furthermore, GSA continues to submit additional prospectuses to Congress for approval throughout the year. Many such projects are not even initiated by GSA but are started at the behest of a Member of Congress. While each project's sponsor believes his or her project a high priority, this piecemeal approach makes it difficult—if not impossible—for Congress to make rational, cost-effective choices about these projects or to understand how they fit into the overall long-term real estate needs of the Federal Government.

The bill being introduced today includes a provision similar to a proposal offered last year by Senator MOYNIHAN to require GSA to submit building project plans to Congress on a 2-year cycle and to rank projects within these plans by priority. This will provide authorizers and appropriators a thoughtful, reasoned blueprint for meeting the

Government's real estate needs. Furthermore, in an effort to encourage greater strategic thinking at GSA, this biennial plan will also require GSA to provide a long-term capital asset management plan.

To further strengthen congressional oversight and ensure that GSA's real estate decisions are cost-effective, this bill will require GSA to prepare better economic analyses of individual projects and close loopholes which currently enable GSA to avoid congressional scrutiny of some projects.

Even though GSA is responsible for reviewing the suitability of judicial and other agencies' requests for space, concerns have arisen as to whether GSA performs this function with the proper scrutiny, toughness and fiscal conservatism deserved. The judiciary, for instance, has been roundly criticized for seeking to build Taj Mahals for its judges. And GSA has been roundly criticized for allowing them to be built.

This legislation will require agencies to review their space needs in a more realistic manner. It calls on GSA to work with the agencies and the courts to establish uniform standards for meeting housing needs. And, after 2 years, the bill cuts all agencies' aggregate office space budgets or related housing costs such as energy, supplies or furniture by no less than 5 percent.

The bill will accomplish a number of other objectives. It will give GSA authority to act as a clearinghouse for governmentwide real property management. It will create an ombudsman to help negotiate disputes between GSA and private contractors. And it also addresses the recommendation in the administration's National Performance Review on ending GSA's monopoly in providing office space to customer agencies. The bill requires OMB, along with GSA, to report to Congress within 1 year on the feasibility and desirability of this objective. If OMB determines it makes sense to end the monopoly, the bill directs that GSA maintain a key oversight role in determining whether other agencies are making real estate decisions which benefit taxpayers.

Mr. President, the introduction of this bill is a first step on the road to trying to fix the way this Government meets its real estate needs. I look forward to hearings on this measure next year and obtaining input from all who wish to help make the General Services Administration operate more effectively and efficiently in an effort to save tax dollars.

I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Reform Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) as of the date of enactment of this Act, the General Services Administration (referred to in this section as "GSA"), as the principal agency responsible for providing office and storage space for Federal workers, controls over 7,700 Federal Government buildings and over 253,000,000 square feet of office and storage space nationwide;

(2) in order to carry out the essential housekeeping functions of the Federal Government, for fiscal year 1994, GSA expects to spend more than—

(A) $925,000,000 to construct, alter, purchase and acquire public buildings; and

(B) $2,000,000,000 on leases for space;

(3) despite the enormous responsibilities and dedicated work force of GSA, the agency has been plagued with inherent structural weaknesses, internal management and operational problems, frequent changes in leadership and direction, and external pressures from other Federal agencies, the courts, and Congress;

(4) GSA lacks a strategic focus, does not operate in a business-like manner, and has not developed a comprehensive policy framework for managing the overall real estate portfolio of the Federal Government of approximately 400,000 buildings;

(5)(A) effective congressional oversight of GSA has been lacking; and

(B) funding and authorization of public building projects by Congress has been conducted on a piecemeal basis, often without adequate information or detail about actual costs or how a project fits into a long-range plan for meeting the needs of the Federal work force; and

(6) the problems described in paragraphs (1) through (5) have resulted in an inefficient and ineffective public buildings program and a drain of millions of tax dollars.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure that, after the date of enactment of this Act, the public building and leasing projects of the Federal Government meet the needs of the Federal work force in a more strategic cost-effective manner;

(2) strengthen congressional oversight of the real estate activities of GSA by requiring GSA to provide Congress with long-range public building plans and better information on individual projects that are subject to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a));

(3) ensure that GSA serves as a central repository for the asset management information of the Federal Government; and

(4) require a report on encouraging competition in the provision of Federal office and storage space to reduce the overall costs of providing office and storage space for the Federal Government.

SEC. 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS PROJECTS.

(a) IN GENERAL.—Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is amended—

(1) in subsection (a)—

(A) by striking the fourth sentence;

(B) by designating the first, second, and third sentences as clauses (i), (ii), and (iii), respectively, of paragraph (2)(B);

(C) by inserting after "(a)" the following new paragraph:

"(1)(A) Not later than February 1, 1995, and February 1 of every second year thereafter, the Administrator shall submit to Congress a biennial public buildings plan (referred to in this subsection as the 'biennial plan'), for the first 2 fiscal years that begin after the date of submission, for such projects relating to the construction, alteration, purchase, or acquisition of public buildings, or the lease of office or storage space, as the Administrator determines are necessary to carry out the duties of the Administrator under this Act or any other provision of law.

"(B) The biennial plan shall include—

"(i) a strategic long-term capital asset management plan for accommodating the public building needs of the Federal Government which reflects office space demands and fluctuations in market forces building construction and availability;

"(ii) a list, in order of priority, of construction, alteration, purchase, and acquisition projects subject to paragraph (2) for which authorizations of appropriations are requested for 1 or both of the 2 fiscal years referred to in subparagraph (A), including a description of each project and the number of square feet of space involved with respect to each project;

"(iii) a list, in order of priority, of lease and lease renewals for which authorizations of appropriations are requested for 1 or both of 2 fiscal years referred to in subparagraph (A);

"(iv) an explanation of the orders of priority specified under clauses (ii) and (iii);

"(v) a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed of;

"(vi) a proposed budget for the repair and maintenance of public buildings in existence on the date of the biennial plan;

"(vii) the estimated annual and total cost of each project; and

"(viii) recommendations, prepared in consultation with the Director of the Office of Management and Budget, with respect to appropriations that are necessary to carry out the biennial plan.

"(C)(i) The Administrator shall hold a public hearing, and certify in the biennial plan that the hearing was held, in the locality of each major construction, alteration, purchase, acquisition, or lease project included in the biennial plan.

"(ii) Each hearing shall—

"(I) examine—

"(aa) the economic, social, and other effects and benefits of the project to the locality; and

"(bb) the consistency of the project with local urban planning objectives; and

"(II) in the case of new construction, consider the impact of the project on local commercial vacancy rates.

"(D) The Administrator shall include in the biennial plan, with respect to each project—

"(i) any final report that is required to be prepared pursuant to any applicable Federal law including any environmental assessment or impact statement required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(ii) a report that indicates the consideration that was given to facts and issues concerning the project and the various alternatives that were raised during the hearing required under subparagraph (C) or that were otherwise considered.

"(E) If a project included in a biennial plan is not approved in accordance with this subsection, or if funds are not made available to carry out the project, the Administrator may include the project in the next biennial plan.";

(D) in paragraph (2) (as designated by subparagraph (B))—

(i) by inserting after "(2)" the following new subparagraph:

"(A) Notwithstanding any other provision of law, the Administrator may not obligate funds that are made available for any project for which approval is required under subparagraph (B) unless—

"(i) the project was included in the biennial plan for the fiscal year; and

"(ii) a prospectus for the project was submitted to Congress under subparagraph (C).";

(ii) in subparagraph (B) (as designated by subparagraph (B))—

(I) in clauses (i) and (ii) (as designated by subparagraph (B)), by striking "$1,500,000" each place it appears and inserting "$1,000,000";

(II) in clause (i) (as designated by subparagraph (B)), by adding at the end the following new sentence: "No funds may be used for the alteration of a public building to the extent that the cost of the alteration would result in an aggregate cost of alterations of the building in excess of $1,000,000 over a 5-year period, unless the alteration has been approved in accordance with this clause."; and

(III) in clause (ii) (as designated by subparagraph (B)), by adding at the end the following new sentence: "No funds may be used for the lease of space within a public building to the extent that the lease would result in an aggregate cost of the space leased within the building in excess of $1,000,000 annually, unless the lease for the additional space in the building has been approved in accordance with this clause."; and

(iii) by adding at the end the following new subparagraph:

"(C) For the purpose of obtaining approval of a proposed project under subparagraph (B), the Administrator shall transmit to Congress a prospectus of the project, including—

"(i) a brief description of the public building to be constructed, altered, purchased, acquired, or the space to be leased under this Act;

"(ii) the location of the public building or the space, and a description of other alternative locations considered, the costs of the alternative locations, and a brief explanation of the rejection of the alternative locations;

"(iii) an estimate of the maximum cost, based on the standards for measuring office space of the Building Owners and Managers Association, to the Federal Government of the public building to be constructed, altered, purchased, or acquired, or the space to be leased;

"(iv) with respect to each alteration of a public building—

"(I) a description of each previous alteration and the cost of the alteration;

"(II) a statement of whether future expenditures for which approval is required under subparagraph (B) are anticipated to maintain the building; and

"(III) the expected remaining useful life of the building;

"(v) a comprehensive plan for providing space for all Federal Government officers and employees in the locality of the proposed public building or the space to be leased, after considering suitable space that may continue to be available in Federal Government-owned or occupied public buildings in existence on the date of the plan;

"(vi) with respect to each project for the construction, alteration, purchase, or acquisition of a public building, a statement by the Administrator that suitable space owned by the Federal Government is not available and that suitable rental space is not available at a price commensurate with the price of the proposed project;

"(vii) a descriptive analysis that outlines the rationale, economics, and cost savings associated with selecting construction, alteration, purchase, or acquisition of a public building over each of the other alternatives, including a certification by the Administrator that realistic economic assumptions are utilized to justify a proposed project; and

"(viii) a statement of rents and other housing costs being paid, as of the date of the prospectus, by the Federal Government for the Federal agencies to be housed in the public building to be constructed, altered, purchased, or acquired, or the space to be leased."; and

(E) by adding at the end the following new paragraph:

"(3) If the Administrator, in consultation with the Commissioner of the Public Buildings Service, determines that an overriding economic or safety interest requires emergency authority to construct, alter, purchase, or acquire a public building, or lease office or storage space, and that the authority cannot be obtained in a timely manner through the biennial planning process required under paragraph (1), the Administrator may submit a written request for the authority to the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives. If Congress specifically provides the authority by Act of Congress, the Administrator may carry out the emergency project.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively.

(b) INCLUSION OF REQUESTED BUILDING PROJECTS IN BIENNIAL PLAN.—Section 11(b) of such Act (40 U.S.C. 610(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may include a prospectus for the funding of a public building project for which a report is submitted under paragraph (1) in a biennial public buildings plan required under section 7(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 4(b) of such Act (40 U.S.C. 603(b)) is amended by striking "$1,500,000" and inserting "$1,000,000".

(2)(A) Section 7 of such Act (40 U.S.C. 606) is amended—

(i) in subsection (a), by striking "Committee on Public Works of the Senate and House of Representatives, respectively" each place it appears and inserting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(ii) in subsection (c)—

(I) by striking "Committees on Public Works of the Senate and of the House of Representatives, respectively," and inserting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(II) by striking "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives," and inserting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

(B) Section 11(b) of such Act (40 U.S.C. 610(b)) is amended by striking "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives" and inserting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

SEC. 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.

Section 12 of the Public Buildings Act of 1959 (40 U.S.C. 611) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator shall use the results of the continuing investigation and survey required under paragraph (1) to establish a central repository for the asset management information of the Federal Government."; and

(2) in subsection (b)—

(A) by designating the first and second sentences as paragraphs (1) and (2), respectively; and

(B) by adding at the end the following new paragraph:

"(3)(A) Each Federal agency shall—

"(i) identify unneeded, obsolete, and underutilized public buildings; and

"(ii) annually report the information on the buildings described in clause (i) to the Administrator.

"(B) The Administrator shall find more cost-effective uses for, or sell, the public buildings identified under subparagraph (A).".

SEC. 5. DESIGNATION OF PUBLIC BUILDINGS OMBUDSMAN.

The Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 22. DESIGNATION OF PUBLIC BUILDINGS OMBUDSMAN.

"(a) IN GENERAL.—The Administrator shall designate an official to act as ombudsman within the Public Buildings Service of the General Services Administration. The ombudsman shall carry out the duties described in subsection (b).

"(b) DUTIES.—The ombudsman designated under subsection (a) shall—

"(1) receive complaints, grievances, and requests for information from the public with respect to matters relating to public buildings and concerning private sector business interests and contracting officers of the General Services Administration;

"(2) make findings and render assistance with respect to the complaints, grievances, and requests received under paragraph (1); and

"(3) make such recommendations to the Administrator as the ombudsman considers appropriate.".

SEC. 6. REPORT ON ENDING GSA MONOPOLY WITH RESPECT TO PUBLIC BUILDINGS PROJECTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, shall report to Congress on the feasibility and desirability of ending the monopoly of the General Services Administration with respect to providing office and storage space for Federal agencies, including whether the ending of the monopoly is necessary and would be cost-effective.

(b) PLAN.—If the report required under subsection (a) determines that it is feasible and desirable to end the monopoly, the Director shall submit a plan for ending the monopoly and provide recommendations for the implementation of the plan. The plan shall ensure at least an oversight role for the General Services Administration in determining the adequacy of the request of an individual agency for office or storage space and whether a proposed project with respect to space is in the best economic interests of taxpayers.

SEC. 7. ADDRESSING GOVERNMENT DOWNSIZING.

(a) REPORT ON LONG-TERM HOUSING NEEDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each Federal agency (as defined in section 13(3) of the Public Buildings Act of 1959 (40 U.S.C. 612(3)) shall review and report to Congress on the long-term housing needs of the agency. The agency shall attempt to provide for the reduction of the housing needs of the agency.

(2) ASSISTANCE FROM ACCOUNT MANAGERS.—The Administrator of General Services shall designate 2 account managers for each agency to assist—

(A) the agency in carrying out the review required under paragraph (1); and

(B) the Administrator in preparing uniform standards for housing needs for—

(i) executive agencies (as defined in section 13(4) of such Act (40 U.S.C. 612(4)); and

(ii) establishments in the judicial branch of the Federal Government.

(b) REDUCTION IN HOUSING COSTS.—By the end of the third fiscal year that begins after the date of enactment of this Act, each Federal agency referred to in subsection (a)(1) shall reduce by no less than 5 percent—

(1) the aggregate office and storage space held by the agency on the date of enactment of this Act; or

(2) the annual housing costs (including the costs of energy, supplies, furniture, and minor repairs) of the agency, as compared to the housing costs of the agency for the fiscal year during which this Act was enacted.

SUMMARY OF PUBLIC BUILDINGS REFORM ACT OF 1993

SECTION 1. SHORT TITLE

SECTION 2. FINDINGS & PURPOSE

SECTION 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS PROJECTS

. . . requires GSA to submit to Congress, as part of an ongoing two year planning cycle, its authorization and appropriations requests, in order of priority, for building, altering, purchasing or leasing government office space.

. . . requires GSA to hold public hearings in the locality of each major project included in the biennial plan to examine the costs and benefits of the projects and, in the case of new construction, to consider the impact of the project on local commercial vacancy rates.

. . . prevents the Administrator from obligating funds for any prospectus-level project unless the project is part of the biennial plan for the fiscal year and unless a prospectus for it is also submitted to and authorized by appropriate congressional committees, as required under current law.

. . . reduces the trigger by which certain projects are submitted to Congress for review and approval. The trigger threshold is lowered from $1.5 million to $1 million a year per new construction project. Also, language is included to assure that the appropriate congressional committees have the opportunity to approve repair projects in a given building if the aggregate cost of such repairs will exceed $1 million over 5 years. Committee approval would also be required for all leases in a particular building if their aggregate cost exceeds $1 million annually.

. . . improves upon the information included in prospectuses sent to Congress by, among other things, requiring GSA to base its cost estimates on the same standards used by the private sector's Building Owners and Managers Association. Also requires GSA to prepare a descriptive analysis outlining the rationale for selecting construction, alteration, purchase or acquisition of a public building over each of the other alternatives including certifying that realistic economic assumptions are utilized to justify a project.

. . . provides emergency authority to the Administrator to obtain office space outside the biennial planning process only if there is an overriding economic or safety interest at stake. Congress would have to enact such emergency authority on a project-by-project basis.

. . . ends GSA's ability to increase the costs of projects by 10% without prior Congressional approval.

. . . ensures that "11b" project requests made by congressional committees are considered as part of the overall biennial planning process and not authorized separately.

SECTION 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.

. . . establishes a central repository at GSA to house the asset management information of the Federal Government. Each agency will identify unneeded, obsolete and underutilized public buildings and annually report the information to GSA. GSA, in turn, will find more cost-effective uses for the public buildings, including selling them.

SECTION 5. DESIGNATION OF PUBLIC BUILDING OMBUDSMAN

. . . creates an ombudsman within the Public Buildings Service of GSA to help mitigate problems arising between private sector business interests and GSA contracting officers.

SECTION 6. REPORT ON ENDING GSA MONOPOLY WITH RESPECT TO PUBLIC BUILDING PROJECTS

. . . requires OMB, in consultation with GSA, to report to Congress within one year on the feasibility of ending GSA's monopoly in providing office space for Federal workers. Preserves an oversight role for GSA over other agencies real estate activities if it is determined that the monopoly should be ended.

SECTION 7. ADDRESSING GOVERNMENT DOWNSIZING

. . . within one year, each agency shall report to Congress on the long-term housing needs of the agency in an attempt to reduce the need for space. GSA will designate managers to each agency to assist in this review and to help GSA prepare uniform standards for housing needs for executive agencies and the courts. By the end of the third year, each federal agency shall reduce by no less than 5 percent its aggregate office space or housing costs (including the costs of energy, supplies, furniture, and minor repairs.)

Mr. SIMPSON. Mr. President, I am most pleased to rise today and join my colleagues from the Environment and Public Works Committee to introduce this legislation. In particular, I want to commend my able and hard-working colleagues on the GSA Task Force, Senator HOWARD METZENBAUM and Senator BARBARA BOXER. Senator BOXER has been most outstanding in her work on our task force. Senator METZENBAUM, as always, has been particularly dogged and unstinting in his drive direction, perseverance, and his energy. It has been a true delight to work with them both in this endeavor.

Mr. President. Our work is just beginning with the introduction of this legislation. I want to make it very clear that we are committed to working with the Administration—particularly the General Services Administration and the Office of Management and Budget—in continuing to fine tune this bill.

There is wide agreement that something is very wrong with the process our government uses in leasing and constructing the necessary buildings to house our government agencies. It became obvious early in the course of our task force investigations, that the American taxpayer is not being well served. We know there is a problem when contractors or suppliers candidly tell us that the GSA is the best thing that ever happened for their own profitability in their own business. During past administrations—Republican and Democrat alike—the GSA has become a giant "milk cow" and there is a feeding frenzy of contractors, landlords, and suppliers out there who are getting fat on the cream paid for by the taxpayers.

That is not the fault of any individual or group of employees at the GSA. Our task force has learned that most—if not all—are hard working and honest folks. It is the process that has been skewed, and that is our focus.

The current administration was elected on a platform of change. This legislation will do much to accomplish real, measurable, and positive change.

On a positive note—the current GSA Administrator, Mr. Roger Johnson, has the potential, in my view, to be the best Administrator in the history of that agency. He has been most cooperative with the work of our task force.

Our colleague and chairman of the task force, Senator METZENBAUM, has already explained this legislation in some detail. I would take this opportunity to briefly outline the provisions that I feel are the most significant in terms of changing the process and saving taxpayer dollars.

This legislation directs the Administrator to create a long-term asset management plan for our government. Such a concept is not at all revolutionary, Mr. President. However, our task force has discovered that the GSA has never had such a plan. So, in that respect, we are indeed plowing new ground.

In order to be an effective manager of the Government's capital assets—

buildings—the GSA must have a planning tool that can help the Administration and Congress make responsible, long term decisions concerning the housing needs of our Government. We were amazed, Mr. President, to learn that the personnel of the GSA knew they should have such a plan, but that the combined influences of shifting priorities and of political pressure have prevented that from ever happening. The taxpayers have been poorly served by the existing practice. This legislation, Mr. President, will help bring about the necessary change in the planning process to best serve American taxpayers.

As an integral part of a long-term capital asset management plan, the GSA will be required to prepare a capital budget. The GSA will consult with the Office of Management and Budget in preparing that budget and long term building plan. GSA will submit that plan to the authorizing committees of the House and Senate every 2 years.

The authorization committees of both Houses of Congress will continue to be responsible for oversight and examination of the 2-year plan. That will accomplish another significant change.

For the first time in recent memory, the Appropriations Committees will have a tangible financial plan from the GSA that they can use in making more informed spending decisions. That will do much to eliminate the potential for waste and congressional overspending.

This planning and budgeting procedure can be accomplished within the existing scoring rules of the budget agreement. It is our intent, with the valuable assistance of the OMB and the GSA, to create a process which will forcefully encourage ownership, instead of leasing, and still provide the GSA with the necessary fiscal flexibility to get the best deal possible for the American taxpayer. We can do that without changing the scoring rules, and we can do that within the constraints of the budget agreement.

One section of the existing Public Buildings Act, section 11(b), has been a giant maw of a loophole which has allowed truckloads of pure pork projects to be shipped all over our country. Billions of dollars for buildings have been appropriated based on 11(b) reports of need. At best, there has been minimal oversight by any Member of Congress. Indeed, Mr. President, I would hunch that there was never any "oversight" of any of those projects whatsoever.

Section 11(b) is a curious section of the Public Buildings Act. It is my understanding that this section was originally included to provide a means whereby a Member of Congress could obtain a preliminary review of whether there was a legitimate need for additional Government office space. The only other way that the GSA could be directed to explore ways to obtain additional space was if the agency made a direct request.

Over the years, however, section 11(b) has somehow assumed an almost magical quality. I am unaware of any instance where the GSA has ever said there was no "need" in such a report. Somehow, an 11(b) report has been allowed to evolve into an alternative to the statutory process which otherwise requires that the authorizing committees must approve a proposal prior to an appropriation.

Now, Mr. President, it is virtually guaranteed that if anyone requests an 11(b) report, there will be a building constructed—regardless of whether it is truly needed or even wise to do so. Believe it, that violates both the letter and the spirit of the Public Buildings Act.

The legislation we are introducing today does not repeal section 11(b). Even though that would be my personal preference. The task force has recognized that there can be a legitimate purpose to be served by that section. The question we had to wrestle with, then, was how to ensure that section 11(b) is used legitimately.

We believe that we have accomplished that goal with a provision in this legislation which requires a 2-year public buildings plan to be submitted for thorough review. This section provides that the Administrator, at his discretion, may include an 11(b) project in his long-term plan.

However, the Administrator must also provide certain additional information for committee review. He must prioritize that 11(b) project on an equal footing with the other building priorities. He must provide detailed reports on the true need, the long-term costs, the alternatives and the cost of those alternatives, as well as any other economic, social, or environmental impacts of the project.

In short, Mr. President, before any building proposal is approved, the GSA must stand tall behind it—with facts, figures, and alternatives. Most importantly, the GSA must be prepared to budget for that proposal. That will mean that there may be other buildings that have a lower priority. We will no longer be appropriating funds without rhyme, reason, or purpose in mind.

The ultimate goal, for this Senator, is to put in place legislation that will get the Government back in the building owning mode, and away from the wasteful leasing mode.

It was not too long ago when the Federal Government owned nearly 60 percent of the building space it occupied. During the past few years, in part because of the scoring rules and lack of long term capital management plans, the Government's ownership percentage has dropped to nearly 40 percent. That, in my view, is wasteful, disgraceful, and unacceptable.

This legislation will help get us back on track. We will move toward ownership and sound management practices.

I look forward to the hard work ahead. We will be having hearings on this legislation early in the second session of this Congress. We will be doing all that we can to work together and see this legislation passed by both bodies of Congress and signed into law by the end of the 103d Congress.

Again, I want to thank my colleagues on this task force, and pay special tribute to our fine steady committee chairman, Senator BAUCUS, and our effective and always cooperative ranking member, Senator CHAFEE. Without their steady support and assistance, we would not have come this far. I do look forward to their continued participation and support.

Mrs. BOXER. Mr. President, today with the introduction of the Public Buildings Projects Act, we are taking the long-awaited step to change the way the Federal Government procures and manages its 250 million square feet of office space and $188 billion worth of real estate.

The office space splurge that has flooded the Federal building procurement process will be brought under specific controls each step of the way, from public hearings in the affected localities, to thorough reporting requirements to the public works committees of Congress. And, just in case procurement abuses are not uncovered in this process, contractors and other interested citizens will have an ombudsman to go to with their complaints.

In addition, we will curb the political gameplaying that provides only a veneer of justification for many past public building projects. Once this legislation is enacted, each public building project hereafter will have the sanction of the Administrator of the General Services Administration [GSA] or it will not go forward.

The key to this legislation is the establishment of a capital asset management program by the GSA. I am particularly pleased with the requirement in this bill for the Administrator to consider suitable space that may be available in existing Federal properties. Military base closings in California and across the country will leave considerable vacant Federal building space. GSA should be taking this space into account before constructing new buildings for Federal agencies or leasing additional space.

Finally, this bill takes the first serious step to study whether the GSA should have a monopoly on managing Federal office space. Perhaps the staff of the agencies looking for new quarters, given a limited budget, can do a better job in obtaining the most practical, cost-effective procurement possible.

It is time to bring the cost efficiencies of reducing the size of the Federal Government to the agency that houses the Federal Government, the General Services Administration. The landlord—the Federal taxpayers—deserve to get the best value for their money.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mrs. KASSEBAUM):

S. 1762. A bill to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements; considered and passed.

DIETARY SUPPLEMENT REGULATION MORATORIUM ACT OF 1993

Mr. HATCH. Mr. President, I rise today to introduce the Dietary Supplement Regulation Moratorium Act of 1993, along with Senators KENNEDY and KASSEBAUM.

This legislation is necessary to ensure that the Food and Drug Administration does not take any unwarranted action on dietary supplements before Congress has the opportunity to consider the issue next year.

As of last night, a total of 63 Members of the U.S. Senate—Democrats and Republicans, liberals and conservatives alike—63 U.S. Senators have united to stand against the food and Drug Administration's completely unwarranted efforts to torpedo the dietary supplement industry and restrict 100 million consumers' access to safe products.

These 63 cosponsors of S. 784, the Dietary Supplement Health and Education Act, are the real champions of democracy, because they are doing what they were sent to Washington to do: represent the people.

And Mr. President, as of last night, 207 Members of the House of Representatives—Democrats and Republicans, liberals and conservatives—207 U.S. Representatives have united behind the valiant efforts of our colleagues, BILL RICHARDSON and ELTON GALLEGLY, to say to the FDA, "enough is enough. we don't support your overly-regulatory bureaucracy which is impeding consumers' ability to receive information about the healthful benefits of dietary supplements."

In my eyes, Mr. President, and the eyes of over 100 million Americans, these 207 House Members who have cosponsored S. 1709 represent the best and the brightest in our Government, because they alone recognize that the people have spoken. And the people want the dietary supplement legislation enacted this year.

I am sad to say, though, that despite weeks of meetings with Senators and their staffs, with consumer representatives and AIDS activists, with lawyers and industry CEOs, with citizen activists and leading medical researchers—weeks during which we made genuine progress in negotiating an acceptable bill—the labor committee could not reach agreement.

As Ken Murdock, Chairman of the Board of Nature's Way Products in Springville, UT, said to me, "Senator HATCH, a bad bill is not better than any bill at all." I agree completely with his analysis.

Let me be clear about this. I understand that changes will be made in a final compromise. Many, both for and against the bill, have indicated they believe there are areas of S. 784 which need improvement. They believe that the safety sections need to be strengthened. They believe that dietary supplement health claims should be measured against the same "significant scientific agreement" standard that applies to foods.

And I am committed to make these changes. No one wants snake oil on the market, least of all I. No one wants unsafe products on the market, least of all I.

I agree that there should be adequate scientific information to prove claims that dietary supplements have the represented health benefits. I agree that unsafe products should not be marketed. The bill should reflect this.

And, so, with much regret—because I genuinely believe it was possible to enact a bill this year—after conferring with our outstanding House leader, Representative BILL RICHARDSON, I reluctantly concluded that it would not be possible to reach agreement this year.

During the time before Congress reconvenes, we will start again, and the case brought to the Congress by the American people will only be all-the-more compelling.

Here is the irony in all this. Efforts to improve our health care stand at the top of the national agenda. It is the top priority of the President of the United States and the First Lady.

And here we have 100 million people who are working to lead healthy lives, who are doing everything the Government wants them to do, and we turn around and say, "Hey, the majority of the Congress supports you, but unfortunately, we can't get a bill passed."

Today we stand at a crossroads. Either we can seize the initiative and resolve this issue, or we can double back, do nothing, and allow the FDA to continue its life-and-death grip on products which have been proven to enhance public health.

The choice to me is obvious.

It is no secret to anyone in this Chamber how I feel about dietary supplements.

I really believe in them. I use them daily. They make me feel better, as they make millions of Americans feel better.

And it is no secret that the dietary supplement industry is large in Utah, some $700 million to $1 billion a year.

There is no issue I feel with more passion than dietary supplements. I have been smeared publicly by detractors of this legislation. They allege that I am pushing this legislation to protect a financial interest which is so small it is laughable.

No, the interest I am trying to protect is the people of this United States, the people who are flooding our phone lines and our offices with pleas to get the FDA off their backs.

The other day my office had a call from a lawyer in Utah whose company was being challenged by the FDA because the toothpaste if distributes whitens and brightens. The FDA said that was a drug claim. Is that what we want the FDA to be enforcing?

And if you think it's bad now, just you wait.

BILL RICHARDSON, ELTON GALLEGLY, and I have joined together to halt the FDA's nonsensical attitude, to use a polite term, an attitude which presumes that all Americans are idiots and don't have the brains to make health care choices for themselves.

I want my colleagues to know that I believe we are making progress in our negotiations, but we aren't there yet. For this reason, Senator KENNEDY, Senator KASSEBAUM, and I have drafted this bill, the "Dietary Supplement Regulation Moratorium Act of 1993," which will impose a 4-month moratorium with respect to the issuance of regulations on dietary supplements. It is our intent that this legislation would not preclude the FDA from work on finalizing claims which are in the pipeline, namely that for folic acid.

This legislation shows the Congress continued commitment to resolving the dietary supplement issue in favor of the American people. We owe it to them.

Mr. President, there has been so much confusion surrounding the dietary supplement issue.

The FDA has testified before Congress that they have no intent to make dietary supplements available as drugs, yet they publish Federal Register notices saying they will.

The FDA has come to the Congress decrying snake oil, but then avers that 80 percent of the market is safe.

One month the FDA sends a report to Congress stating, "The vast majority of dietary supplements consumed today do not raise serious health or regulatory concerns".

The next month, the Commissioner testifies before the House that "for every dietary supplement in the marketplace that may have some value, there are 100 or 1,000 that are worthless."

The FDA has presented the Congress with a report, "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace," which is so riddled with inaccuracies that Congressman RICHARDSON and I have called upon the administration to withdraw it.

I ask unanimous consent that my analysis of this report, entitled "False and Misleading", be inserted in the RECORD at this point.

The FDA has taken a solid law, the Nutrition Labeling and Education Act, and turned it on its head. The point of the NLEA was to educate the consumer about good nutrition, not block information.

Is the FDA educating the public about good health by refusing to allow pregnant women to be informed that 0.4mg of folic acid taken daily could dramatically reduce their chance of having a baby with birth defects?

Is FDA educating the public when it holds up the shield of "significant scientific agreement" to block all supplements but calcium from bearing health claims?

Is FDA protecting the public health when it turns down a health claim for antioxidants, even though surveys show 8 out of 10 doctors regularly use vitamin E?

The FDA has come before the Labor and Human Resources Committee and was unable to advise on such a simple question as to whether or not it would be a violation of the law for health food stores to hand out legitimate journal articles or Government publications that discuss dietary supplements.

I ask unanimous consent that two such articles, one a reprint from the New England Journal of Medicine regarding Vitamin E, and the other a Centers for Disease Control Morbidity and Mortality Weekly Report on folic acid be included in the Record.

In closing, Mr. President, during this new moratorium, I urge the administration to do what they did not do during the current moratorium.

I challenge the administration to work with us to find a solution to this problem.

I challenge the 33 Senators who are not cosponsors of S. 784, and the 228 Members of the House who are not cosponsors of H.R. 1709 to work with us to find a solution to this problem.

And I also challenge the American public to take on the FDA in a direct way.

I challenge every dietary supplement proprietor in the Nation to reprint these articles and place them in their stores. I challenge every user of dietary supplements to go to the stores and distributors where they purchase their nutritional products and ask for this information. Perhaps, in this way, we can seize the answers we seek.

Mr. President, we are here as representatives of the people. The people have spoken and their views are clear. They want access to dietary supplement products, access to information about those products, and they want Congress to make certain that happens.

Since the Dietary Supplement Health and Education Act cannot be considered this year, a moratorium is clearly necessary. For this reason, Senators Kennedy, Kassebaum, and I have drafted the legislation we are now considering, and I urge its immediate consideration.

Mr. President, I ask unanimous consent to print additional material at the conclusion of my remarks.

Without objection the material was printed in the Record, as follows:

FALSE AND MISLEADING—FDA'S REPORT "UNSUBSTANTIATED CLAIMS AND DOCUMENTED HEALTH HAZARDS IN THE DIETARY MARKETPLACE"

(A Staff Report to Senator Orrin G. Hatch)

I. EXECUTIVE SUMMARY

The Food and Drug Administration report, "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace," released July 29, 1993 at a House Subcommittee hearing on dietary supplements, should be immediately withdrawn and the FDA should apologize to the Congress and the public for its release. This false and misleading document is so riddled with inaccuracies that it lacks any evidentiary value and raises serious questions about the motives of those who are responsible for its preparation.

The report was designed to support FDA's objections to pending legislation which would clarify the agency's regulation of dietary supplements. An analysis of the report and the underlying documentation used in its preparation reveal that FDA has knowingly submitted false information to Congress, and that it has willfully violated the presumption of accuracy and impartiality traditionally granted the agency. The report conclusively proves FDA's animosity to dietary supplements.

The Clinton Administration must take immediate steps to discipline those who have participated in the preparation and submission of this misleading document and to make sure that future information provided by the FDA to Congress and the American people is both accurate and unbiased and gathered pursuant to federal law.

There can be little doubt that the report was hastily thrown together for a dramatic unveiling at the Congressional hearing. The FDA completely ignored the rigorous preapproval requirements for surveys in the Federal Paperwork Reduction Act. According to the agency's own documents, barely three weeks before the July 29 hearing, 63 agency officials were sent out in a nationwide "undercover survey" to find examples of health food store employees making unsubstantiated claims. Their operating instructions were laid out in a "not for public distribution" memorandum, which instructed these employees on how to dress and act, what leading questions should be asked, and not to discuss the assignment outside of the office. The results of their investigation were to be conveyed secretly on a specially prepared reporting form. It is hard to imagine a clearer case of government entrapment and misuse of taxpayer dollars.

The field reports from the undercover agents were thrown together with claims taken from selected items of dietary supplement literature which, according to Dr. Kessler's testimony, "the agency just happened to have." This jumble of "evidence" became the body of the report released to Congress. And, not surprisingly, much of the report is wrong.

Incredibly, 142 of the 528 products listed in the first section of the report are not manufactured, sold or distributed by the company to which they are attributed. Moreover, 34 "products" simply do not exist. The FDA's own substantiation for 6 products does not contain the claim alleged by the agency. Seventeen products on the list were no longer marketed at the time the report was released. Duplications and mistakes account for another 25 products. One of the alleged products listed in the report is not even a dietary supplement. It is a paperback book. In other words, a substantial part of the report is simply wrong!

More than half of the 528 products are attributed to only three companies. One has never been contacted by the FDA. A second, inspected by the agency for several weeks in 1992, was promised a detailed response but never heard from FDA. This company complained to the Congress after FDA released the report. The third was sent two warning letters by FDA. That company responded immediately and changed the promotional material for 19 of its products. Nevertheless, all 19 products were included in the report.

FDA did not provide this office with any substantiation for the entire section of the report concerning recent regulatory actions taken by the FDA against dietary supplement companies. Consequently, it is impossible to determine when the actions were taken, the companies' responses, or the current status of the products in question. Moreover, it is impossible to determine either the amount of agency resources spent on these actions or the justification for the agency's regulatory priorities for why some supplements were targeted and others were not.

The third section of the report, a compilation of statements attributed to store employees, is the most disturbing. Several of the actual field reports clearly were heavily edited to produce a dramatic report.

What makes the report even more disturbing was that it was used as the foundation for Dr. Kessler's inflammatory conclusion at the House Subcommittee hearing: "We are back at the turn of the century, when snake-oil salesmen could hawk their potions with promises that couldn't be kept."

Not surprisingly, members of Congress and the media were misled and innocent companies were defamed. One congressman described the report as a "pretty impressive report of unsubstantiated claims and documented health hazards in the dietary supplement marketplace." Articles in the Los Angeles Times, USA Today, and other national publications highlighted the report and the 500 examples of unsubstantiated claims. Network TV carried the Commissioner's statements on national television. These comments were made on the assumption that the FDA report was accurate. We now know it was not.

II. FALSE AND MISLEADING STATEMENTS IN THE SECTION ENTITLED: A REVIEW OF CURRENT PROMOTIONAL LITERATURE AVAILABLE TO CONSUMERS IN THE MARKETPLACE RELATED TO SPECIFIC ILLNESSES

The staff analysis in this section is based on a sampling of the information contained in the report from eight companies as these contained more than half the "claims in the report.

Key inaccuracies in the report

Thirty four of the 528 products on the list simply do not exist; 142 were assigned to companies that neither manufacture or sell the product; 25 products are listed more than once; one of the alleged dietary supplements is not a product but a paperback book; 3 products are listed more than once for the same claim; and, 17 of the products on the list were removed from the marketplace prior to release of the report.

The FDA states that the first section of the report compiles "examples of dietary supplements and the claims being made for those products. Only printed claims have been included in the list: Pamphlets and brochures, leaflets, point of purchase materials and product advertisements were the primary sources of the claims." [Emphasis added] It is very important to recognize that the claims in the report were not based on any label attached to a product.

This 40 page section lists 528 products containing the name of the product, the firm which allegedly manufactures or sells the product, and the "unsubstantiated claim." For the most part, the products are grouped by selected bodily symptoms or systems. They are not listed alphabetically or by company, thus, making it very difficult to crosscheck the relationships between the product and the claim.

FDA asserts that "each product makes at least one unsubstantiated claim" and "most make several." The agency concludes that "they all have one thing in common: Not one of the claims has been substantiated by the FDA before their appearance in the marketplace."

When the report was released at the July 29, 1993 hearing, it was immediately questioned. Congressman Bliley (R-VA) asked Dr. Kessler whether he was aware of some of the inaccuracies in the report and that companies had been cited for products which they did not manufacture or sell. Dr. Kessler responded by assuring Mr. Bliley that there was "a lot of material in boxes," but that the FDA had "documentation behind each one of these claims." When pushed further, Dr. Kessler promised to provide the Subcommittee with copies of the agency's documentation for each of the claims in the report, which he did after some delay. A careful review of these documents has raised additional concerns about the accuracy of the report and has brought into question the motives of those who were involved in its preparation.

Wrongly attributed products to Crystal Star Herbal Nutrition

According to the FDA, the report is supposedly a list of products for which a manufacturer or the seller is making "unsubstantiated" claims. The most frequently listed company in this section is Crystal Star which is charged with having made 178 of the 528 products on the FDA's list, roughly 34%. In other words, one out of every three products on the list is allegedly a Crystal Star product.

The facts are that Crystal Star, a small firm of 15 people in Sonora, California, does not make, manufacture or sell 141 of the 178 products attributed to it. Moreover, the claims do not come from Crystal Star pamphlets, brochures, leaflets, point of purchase materials and product advertisements. Rather, the FDA relied solely upon "Healthy Healing", a reference book written by Linda Rector Page, a well known author and one of the founders of the company. The book is not a catalog of company products. The reference book cautions: "To be used for information only. It is not a claim for cure or mitigation of disease, but is rather an adjunctive approach—supplying individual daily nutritional needs that otherwise might be lacking in today's diet."

Wrongly listed products that do not exist

The agency went to great extremes to attribute certain non-existing products to Crystal Star Herbal Nutrition. Statements of nutritional fact and the author's general description of dietary substances were taken out of context or were used by the agency to justify listing a product and a claim, even where no product exists.

At the beginning of "Healthy Healing," the author devotes several pages to describing common nutrients and dietary substances and the foods in which they can be found. No specific products are even mentioned. Nonetheless, the FDA has used these statements to justify putting several products on the list. For example, on page 14 of the book, the author provides a general discussion of the nutritional role of Vitamin C. This is used by the FDA to justify attributing a product, Vitamin C, to Crystal Star.

In fact, Crystal Star Herbal Nutrition does not make or sell Vitamin C, nor has it published any brochures, pamphlets or other advertising materials about Vitamin C. The FDA uses this one section of the book to justify assigning 33 non-existent products to Crystal Star. Similarly, on page 25, the retail store, the Herb Nook, is assigned a product, P-4, which it does not sell.

Wrongly listed products no longer on the market

The FDA also included products in the list which are no longer on the market. For example, three products assigned to Country Life, a firm in Hauppauge, New York, are not on the market. L-Cystine, which is listed on page 2, has not been sold for more than two years. The firm does not carry L-Isoleucine, which is listed on page 24, and Formula II Glycemic Factors, on page 26, is no longer on the market.

On page 11 of the report, the FDA attributes the product, Chaparral, to the Herb Nook, of Austin, Texas. But, according to the firm, it no longer carries this product, and is not in the current company brochure, which was revised in April 1993. This same product is also listed on page 32 of the FDA report, under the section on cancer.

The agency also listed 12 products assigned to the Health Center for Better Living which are no longer sold by the company. For example, Comfrey, which is listed on page 25 of the report, was not in the company's catalog at the time of the FDA report. Poke Root, is not sold by the company. Beech is not sold by the company, nor is Skunk Cabbage.

None of these three companies were contacted by the FDA prior to the release of the report to make sure that products in question were still being sold. Similarly, no effort was made by the FDA to determine whether the materials the agency "just happened to have" were up to date.

Wrongly turned a paperback book into a manufacturer

Perhaps the most startling and alarming example of the report's inaccuracies can be found on page two. The 10th product listed is actually a paperback book entitled, "The Miracle Nutrient: Coenzyme Q10," by Emile G. Bliznakov, M.D. and Gerald L. Hunt, published by Bantam Books, its 9th printing. The FDA has provided no evidence that either author manufactures or sells Coenzyme Q10. The book reviews products by many companies, and the authors recommend talking with one's family doctor before making any changes in one's diet. How a paperback book could be mistakenly included on a list of dietary supplement products making unsubstantiated claims defies explanation.

Wrongly listed products more than once

Twenty-five of the products are listed at least twice. In the introduction for the report, it might appear that the agency provided a justification for this duplication by asserting that almost all dietary supplements make multiple unsubstantiated claims. This explanation does not, however, explain why the agency listed the same product more than once, even though the unsubstantiated claim attributed to it was the same.

On page 13, the report lists the product Kyo-Chrome, and the company listed with it is "Wakunaga of American Co. Ltd., Makers of Kyolic." On page 18, the product is listed again, although this time the company listed is simply Kyolic, Ltd. (same company). The product is listed a third time on page 21. This time, the company listed with the product is a distributer. In all three instances, the "unsubstantiated claim" is the same.

On page 36, the product listed is Country Life Amino Acids (L-Lysine) and the company to which it is attributed is Country Life. This same product is also listed on page 39. In both instances, the "unsubstantiated claim" is the same.

The product Refresh with the claim "regulating cholesterol, metabolism and hormones" company fliers was listed twice, on page 12 and page 18, apparently because it was attributed by two different retail stores.

Wrongly listed product language that had been already been changed at FDA's request

Thirty-seven products were attributed to Indiana Botanic Gardens. Included were 19 products that had been the subject of FDA warning letters because of their description in a company brochure. The company had immediately responded to the warning letters and notified the FDA of its compliance with the requested changes months before the release of the report. In fact, the agency included its warning letters to the company in the section on recent regulatory actions.

Wrongly made "unsubstantiated" synonymous with "false"

FDA states that not one of the claims made for the 528 listed products has been substantiated by the agency prior to their appearance in the marketplace. This implies that no substantiation exists for any of these claims, which is patently untrue.

For example, the first product listed on page 17 is Garlicin, which is manufactured by Madaus Murdock, Inc., in Springville, Utah. This product is a garlic dietary supplement. A review of the agency's own documents reveal that the actual "unsubstantiated claim" for this combination product is as follows: "This powerful combination helps provide nutrients known to be present in healthy heart and circulatory systems."

It should be noted that manufacturers have complained that under FDA's proposed regulations they will not be able to petition the FDA for approval of claims relating to the cardiovascular benefits of garlic because herbs do not meet certain pre-conditions specified by the agency in its proposed NLEA regulations. As cardiovascular disease is this nation's leading cause of death, the FDA should at least consider using its scarce resources to evaluate the substantial worldwide scientific literature for garlic health claims rather than to continue to assert such claims are meritless.

III. STATEMENTS IN THE SECTION ENTITLED: "EXAMPLES OF RECENT REGULATORY ACTIONS"

This section purports to provide a list of representative regulatory actions, primarily product seizures and warning letters, taken by the FDA between November, 1990 and June, 1993 against 188 dietary supplement products that have made "unsubstantiated claims about serious medical conditions." The agency notes that each case is extremely resource-intensive and the current investment of resources has failed to stem the tide of unsubstantiated claims. Unfortunately, it was not possible to determine the accuracy of these allegations, because the agency did not provide any documentation in support of this section. Moreover, the report does not provide any supporting information on the actual amount of staff time taken to prepare the warning letters or to conduct the product seizures.

IV. DISTORTIONS IN THE SECTION: "EXAMPLES OF CURRENT ORAL CLAIMS MADE BY HEALTH FOOD STORE EMPLOYEES FOR SPECIFIC ILLNESSES"

The FDA intended this section demonstrate the "pervasiveness of unsubstantiated claims for serious diseases being made for these products across the nation." To document its conclusions about oral claims, the agency sent an unusual, "not for public distribution" memorandum to all of its district offices dated July 8, 1993, which began as follows:

"In preparation for Congressman Waxman's July 29, 1993, hearing on dietary supplements, Dr. Kessler is eager to collect information on dietary supplement products currently on the market and the claims being made for them. Consequently, we are requesting the district offices to conduct an undercover survey of dietary supplements. Due to the sensitive nature of the subject, the assignment should not be discussed outside of the office."

The memorandum went on to require each district office to assign three consumer safety officers or inspectors to make 6 site visits to local health food stores. The visits were to be conducted undercover and the FDA employees were told to wear "casual dress" and to conduct themselves as if it were a "friendly visit." Sample questions were provided, and a special reporting form had to be completed at the conclusion of each visit.

The agency was unable to mask its bias to find unsubstantiated claims. The undercover investigators were told to collect only one product per visit, "preferably a product with significant claims" in one of three predetermined categories—immune system problems, cancer and hypertension or high blood pressure. If more than one product was recommended, the investigators were instructed to ask which product was best or which product the salesperson recommended.

The sample questions provided by the FDA removed any doubt as to the intent of the agency. They were as follows:

(A) I am feeling kind of weak, do you have anything to help fight infection or help my immune system?

(B) Do you have anything that works on cancer?

(C) What do you sell to help high blood pressure?

The FDA's interpretation of existing law and regulation would make virtually any answer to these questions, other than a refusal to respond, a violation of the law. For example, the FDA would assert that a product has been misbranded simply because an employee offers an opinion about the health benefits of the product. The questions were designed to create an offense where no offense existed prior to the question.

Since no records were kept by the store personnel, it would be impossible to determine the accuracy of the FDA's assertions in this section of the report, but the agency's own documents raise serious questions about the FDA findings.

According to the field reports, store employees did not make oral health claims about a specific product in 19 instances, more than six times the number reported by the FDA. In 5 of these 19 instances, the store employees specifically refused to make a claim, despite pressure from the undercover investigators. In addition, two reports were listed twice.

In at least 33 instances, store employees used a reference book to answer the questions posed by the undercover agents. Moreover, in 14 cases, agency personnel on their own noted that the store did not contain promotional material which made health claims about dietary supplements. Documentation for 7 visits was not made available by the FDA.

Selective editing

The FDA also heavily edited several investigator reports in an attempt to bolster the findings of this section. For example, on page 77 of the report, the agency unfairly claims that a pharmacist in Knoxville, Tennessee, indicated that some doctors recommended that their patients purchase and use niacin, primarily for cholesterol.

In contrast, in the actual investigation report, the undercover investigator asked the pharmacist which supplement might help with hypertension. The pharmacist indicated that some doctors recommended that some patients use niacin, primarily for cholesterol, *and then asked whether the undercover operative was currently taking any blood pressure medication. When the operative replied that she was taking Prazosin, the pharmacist then instructed the undercover operative not to buy the supplement until he had first consulted with his physician.* (emphasis added)

The portion of the investigator's report which the FDA chose to delete puts the entire discussion in a much different light. The pharmacist did not make a claim about a specific product, nor did she attempt to sell any product. Instead, she provided a general answer and then went the extra step to make sure that the operative did not purchase any dietary supplement until he had consulted with his doctor. Nonetheless, the FDA asserts that this conversation is an example of the "pervasiveness" of unsubstantiated claims being made in the market place.

Even a vague statement raises an FDA concern. On page 78 of the report, the investigator asked a sales clerk in a store in Buffalo, New York, for an alternative for high blood pressure medicine. According to the investigator's report, the clerk did not provide a specific answer nor mention an actual product. Instead, the sales clerk recommended a better diet, including a reduction in fat, and suggested that garlic might be added to soups and meat dishes. The undercover operative then asked about a specific product, which the clerk indicated she carried. The investigation report noted that there were no claims on this product nor was there any literature making any health claims about the product. One has to wonder what law the FDA feels that this sales clerk violated during the discussion.

On page 86 of the report, the undercover investigator asked an employee in a natural food store in San Francisco for "vitamins which were good for building immunity." The clerk responded that herbs were better for building immunity than vitamins and suggested that Siberian Ginseng and Echinacea herbs were thought to be good to use but *indicated that he was not allowed to recommend any specific product.* (emphasis added) The investigator also asked about what the store might have for immune-compromised individuals. The clerk recommended that the investigator contact a Chinese doctor and an herbalist. Again, the FDA uses this discussion as an example of pervasive, unsubstantiated claims being made in the marketplace.

On page 96 of the report, the investigator asked the two employees in a store in Pittsburgh, Pennsylvania, what they would "recommend for cancer." The actual investigation report indicates that the employees referred the investigator to a book, which made no specific claims about cancer. When pressed again, both employees refused to recommend any specific product.

On page 97 of the report, the investigator visited in a store in Aiea, Hawaii and asked whether the store had anything that worked for cancer. The employee stated that he was not a doctor and could not recommend any products and suggested that the investigator should do some research before purchasing any products. In its summary of this investigation, the FDA deleted the clerk's statement that he could not recommend any products.

Also on page 97 of the report, the investigator asked a clerk in a store in Tempe, Arizona, about two specific products for his girlfriend who has skin cancer. The clerk responded that he could not prescribe anything and gave the investigator a reference book. After the clerk found the two products requested by the investigator, he was asked again to make a recommendation. Once again, the store clerk refused to make a recommendation. The investigator asked for literature and was told that no literature was available. According to the agency, the "unsubstantiated claim" occurred when the clerk gave the undercover operative the reference book.

In sum, the section purports to be a list of examples where sales personnel were making "unsubstantiated" health claims about dietary supplements, yet a review of the actual investigation reports indicates that the FDA had to significantly edit several examples so that they could be included in the list. If the FDA had been accurate in its summary of these reports, the number of examples of incidents where store personnel made no claim about a specific product would have increased significantly, some six times the number claimed by the FDA.

Use of reference books and materials

As noted earlier, in several instances, the sales personnel consulted a reference book before answering the undercover operatives. The book mentioned the most frequently in the investigation reports was entitled, "Prescription for Nutritional Healing," which was written by James F. Balch, M.D. and Phyllis A. Balch, CNC. The book is based upon their experience using dietary supplements in patient care. The authors are in private practice and do not make any products.

The FDA apparently believes that any statement not pre-approved by the agency is an "unsubstantiated claim." Thus, the agency objects to a clerk referring to a reference book, making a statement about his or her own personal history, providing customer testimonials, making a general statement such as "many doctors say," or simply the offering of an opinion. The report does not describe how the FDA envisions regulating all of these forms of speech.

Inappropriate use of federal resources

What is most troubling about this section, however, is the fact that senior officials at the FDA, a branch of the federal government, directed 63 agency personnel to become undercover investigators to spy on their fellow citizens, hoping to entrap them into making what the agency asserts are "unsubstantiated claims" about dietary supplement products. To make sure that this undercover operation produced the results sought by the agency, these undercover operatives were told to ask questions which the agency knew would likely produce a violation of the law. It would be hard to find a more blatant example of entrapment by federal officials.

Moreover, this operation was not an enforcement action to correct an identifiable problem. The agency made no effort to explain to store owners or employees that they should not make such representations or to discuss with these individuals what kind of claims or representations, if any, the agency feels are permissible.

The FDA ignored the Federal Paperwork Reduction Act which was designed to minimize the burden of government information collection, minimize the cost of such collection to the federal government, and maximize protection of Americans' privacy. Compliance with this law would have undoubtedly precluded the survey as it was conducted by the FDA. Indeed, that is the very purpose of the requirements of the Paperwork Reduction Act. Moreover, federal funds were not appropriated to FDA to conduct undercover surveys in order to develop supporting material for a Congressional hearing.

Amazingly, the only identifiable purpose for this undercover operation was to provide Dr. Kessler with something newsworthy for a Congressional hearing. At the very time that the agency is complaining publicly that it does not have adequate funds to perform its statutory mission, officials were willing to spend an estimated $25,000 on this one section alone in attempt to make Dr. Kessler look good before Congress and the national media. It is distressing to learn that the agency is willing to place a higher priority on the Commissioner's public posturing than on actually correcting the problems he and his agency complain are so pervasive.

[From the New England Journal of Medicine]

VITAMIN E CONSUMPTION AND THE RISK OF CORONARY DISEASE IN WOMEN

(By Meir J. Stampfer, M.D., Charles H. Hennekens, M.D., JoAnn E. Manson, M.D., Graham A. Colditz, M.B., B.S., Bernard Rosner, Ph.D., and Walter C. Willett, M.D.)

Rapidly growing evidence suggests that oxidation of low-density lipoprotein (LDL) plays an important part in atherosclerosis. As Steinberg et al., have found,[1-3] oxidized LDL is taken up more readily than native LDL by macrophages to create foam cells. Also, oxidized LDL is chemotactic for circulating monocytes,[4] and it inhibits the motility of tissue macrophages.[5] It may also be cytotoxic to endothelial cells[6] and may increase vasoconstriction in arteries.[7] Oxidized LDL has been identified in atherosclerotic lesions,[8-10] and elevated titers of circulating autoantibodies to epitopes of oxidized LDL are found in patients with atherosclerosis.[11] Lipid peroxide concentrations have been found to be higher in patients with atherosclerosis.[12] In addition, the susceptibility of LDL to oxidation was correlated with the severity of atherosclerosis.[13]

Vitamin E is a potent lipid-soluble antioxidant carried in LDL.[14-15] It inhibits the proliferation of smooth-muscle cells in vitro,[16] and when added to plasma, it increases the resistance of LDL to oxidation.[17] LDL from volunteers given alpha-tocopherol supplements showed increased resistance to oxidation.[18] Several small trials of vitamin E in peripheral vascular disease have been reported, but the results have been inconclusive.[19-23] We therefore studied the association between vitamin E intake and the incidence of major coronary disease events in the Nurses' Health Study.

METHODS

The Nurses' Health Study began in 1976, when 121,700 female registered nurses living in 11 states completed mailed questionnaires containing items about lifestyle and medical history.[24, 25] Every two years, follow-up questionnaires are sent to update the information and identify newly diagnosed conditions.

ASCERTAINMENT OF DIET AND USE OF VITAMIN E SUPPLEMENTS

In 1980, a dietary questionnaire was included in the mailing that listed 61 food items, each with a specified portion size. The women reported the average frequency with which they had consumed each item during the previous year. We computed the average daily intake of nutrients by multiplying the frequency of consumption of each item by the nutrient content, and totaling the nutrient intake for all the food items. The reproducibility and validity of this questionnaire have been described elsewhere.[26-36] The correlation between vitamin E intake as assessed by the questionnaire and plasma alpha-tocopherol levels was 0.34 (P=0.006) in one study[26] and 0.42 (P=0.03) in another.[31] Because the correlation between two plasma levels measured eight weeks apart is about 0.6,[36] a higher correlation between a single plasma determination and dietary intake cannot be expected.

We assessed the dietary intake of the participants in 1980, but information on vitamin E intake and use of multivitamin supplements was also collected on each subsequent biennial questionnaire. Participants reported whether they regularly used multivitamin supplements, and if so, the exact type and brand. We also inquired about specific supplements, including vitamins A, C, and E and beta carotene.

STUDY POPULATION

A total of 98,462 nurses returned the 1980 diet questionnaire. We excluded women who left 10 or more items blank (4 percent), whose reported food scores were implausible (2.7 percent), and who had a history of cancer (except nonmelanoma skin cancer), angina, myocardial infarction, stroke, or other cardiovascular disease. A total of 87,245 women remained. All the exclusions were made before the analysis of the data.

Follow-up questionnaires were mailed to the participants in 1982, 1984, 1986, and 1988. Women who reported diagnoses of cardiovascular diseases were asked for permission to examine their medical records. We included women with cardiovascular conditions that occurred after the return of the 1980 questionnaire but before June 1, 1988. For each woman, only the first event was considered. On the basis of the responses to the questionnaire, follow-up for nonfatal outcomes was 97.1 percent of the total possible person-years.

A myocardial infarction was considered confirmed if it met the World Health Organization criteria[37] of symptoms and either typical electrocardiographic changes or elevated cardiac enzymes. Infarctions of indeterminate age were excluded. We designated as probable infarctions those that were reported by the nurse, required hospitalization, and were corroborated by additional information (in a letter or telephone interview), but for which records were unobtainable.

Most deaths were reported by relatives or postal authorities. We searched the National Death Index for the names of nonrespondents and estimate that over 98 percent of deaths were identified.[38] When death from cardiovascular disease was suspected, we requested permission to review the medical records. A death was designated as due to coronary heart disease if it involved a confirmed fatal myocardial infarction or if the woman was known to have had coronary heart disease and coronary disease was listed as the underlying cause on the death certificate without another, more plausible cause. In no case did we rely solely on the listing of a cause on the death certificate as confirmation of death from coronary disease. Since sudden death in women can often occur without coronary disease, we excluded 26 cases of sudden death—i.e., death within one hour of the onset of symptoms in an apparently healthy woman without other evidence of coronary disease.

Although the primary a priori end point was major coronary disease (defined as nonfatal myocardial infarction or death due to coronary disease), we also assessed other cardiovascular events. We considered as one category coronary-artery surgery (bypass or angioplasty), on the basis of reports by the women.

Strokes were confirmed by medical records and classified, according to the criteria of the National Survey of Stroke, as ischemic strokes (embolic or thrombotic), subarachnoid hemorrhages, intracerebral hemorrhages, or strokes of unknown cause.[39] We included strokes that required hospitalization and were corroborated by information in a letter or interview, and fatal strokes that could be confirmed by medical records, other reliable information, or a death certificate.

STATISTICAL ANALYSIS

The primary analysis was based on incidence rates. For all women, person-months were allocated according to the exposure variables on the most recent questionnaire until death or an end point was reached, or until May 31, 1988. We used information on the intake of vitamin E in 1980 from dietary sources only. Height and parental history of myocardial infarction were both ascertained in 1976; all other exposures apart from diet, including the consumption of multivitamins and vitamin E supplements, were updated on each follow-up questionnaire.

To avoid a spurious finding due to the influence of disease on the use of vitamin supplements, women with a diagnosis of any cardiovascular disease or cancer (except nonmelanoma skin cancer) were excluded from further analysis. Because diet was not updated after 1980, the analyses of dietary vitamin E intake were based on women who did not have those diagnoses in 1980. In the analyses of the use of vitamin E supplements, for which data were updated biennially, women with new diagnoses of cardiovascular disease or cancer were excluded at the beginning of each two-year follow-up period. Thus, at the start of each such period, the base population included no women who reported these diagnoses.

For the analyses of total vitamin E intake, we divided the cohort according to quintiles based on intake, both with and without adjustment for total energy intake.[28] The relative risk was defined as the incidence in women in various categories of vitamin E intake (the number of end points divided by the person-time of follow-up in that category) divided by the corresponding rate for

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the women in the lowest category of intake. For the analyses of the use of vitamin E supplements, we compared users of such supplements with nonusers. Relative risks with 95 percent confidence intervals were adjusted for age in five-year categories, and tests for trend across fifths of the group were performed.[40] Stratified analyses that adjusted for age and one other variable at the same time were performed to assess possible effect modification and confounding. To adjust simultaneously for multiple risk factors, proportional-hazards models[41] were employed with vitamin E supplements used as a time-dependent variable. All P values were two-tailed.

RESULTS

During 679,485 person-years of follow-up from 1980 to 1988, 552 cases of major coronary disease were documented: 437 nonfatal myocardial infarctions (360 confirmed and 77 probable) and 115 confirmed deaths from coronary disease. Because there were no material differences in any analyses between fatal and nonfatal outcomes or in the results when the probable cases were excluded, these have been combined into a single category. Analyses with or without adjustment for total energy intake yielded very similar results; for simplicity, therefore, only the unadjusted results are shown. We observed a pronounced and statistically significant reduction in the risk of major coronary disease among women with a high intake of vitamin E, as compared with those with a low intake. After adjustment for age and smoking status, the relative risk for those in the highest fifth of intake was 0.66 (95 percent confidence interval, 0.50 to 0.87), as compared with those in the lowest fifth. The apparent benefit was attributable mainly to the use of vitamin E from supplements, because high levels of intake from dietary sources were not associated with significant reductions in risk. Even the highest levels of dietary intake of vitamin E were far lower, however, than the intake among supplement users. Analyses adjusting for age and smoking status (Table 1) showed even more clearly that the lower risk of coronary disease was associated primarily with the intake of vitamin E from supplements rather than from the diet. Subsequent analyses therefore focused on vitamin E supplementation.

The amount of vitamin E in multivitamins is typically 30 IU or less, whereas specific vitamin E supplements usually contain 100 IU or more. After adjustment for age and smoking status in separate stratified analyses, both vitamin E supplements and multivitamins were associated with a lower risk of major coronary disease. The relative risk for women who took multivitamins was 0.78 (95 percent confidence interval, 0.64 to 0.96), and for those who took vitamin E supplements it was 0.57 (95 percent confidence interval, 0.41 to 0.78), as compared with the risk in those who took neither.

The women who took multivitamins or vitamin E supplements differed somewhat from those who took neither. The age-standardized percentages and means for various known or suspected coronary risk factors, according to the use of multivitamins or vitamin E. Among women who took supplements there was a higher proportion of postmenopausal hormone users, vigorous exercisers, and nonsmokers. The magnitude of the overall differences was modest, however. For example, the 5.2 percent difference in hormone use between women who took both multivitamins and vitamin E supplements and those who took neither would account for a risk reduction of just 2.5 percent[24]

The multivariate models that controlled simultaneously for risk factors including age, body-mass index, smoking status, alcohol intake, menopausal status, postmenopausal hormone use, vigorous activity, regular use of aspirin, hypertension, high cholesterol level, diabetes, total energy intake, use of vitamin E supplements, and use of multivitamin supplements. The relative risk associated with the use of specific vitamin E supplements was 0.63 (95 percent confidence interval, 0.45 to 0.88). Those who took multivitamins were also at lower risk, although this association was not statistically significant.

Because users of both vitamin E and multivitamin supplements had a somewhat higher intake of other antioxidant nutrients, we repeated the multivariate analyses and controlled for the intake of catotene and vitamin C (including that consumed as supplements). This adjustment slightly attenuated the apparent benefit of vitamin E, but the association remained statistically significant with a relative risk of 0.69 (95 percent confidence interval, 0.49 to 0.97).

The best evidence for a mechanism by which vitamin E could reduce coronary disease is of a reduction in atherosclerosis. We therefore reasoned that the short-term use of vitamin E supplements would be associated with little reduction in risk. Users of vitamin E for less than two years had no significant reductions in risk, with a relative risk of 0.86 (95 percent confidence interval, 0.52 to 1.43). Use of vitamin E for two or more years, however, was associated with a decrease in risk of 41 percent (62 to 9 percent) even after adjustment for the intake of other antioxidants. We found no significant trend toward lower risk for periods of more than two years, but because of the small numbers of long-term users, we had little statistical power to detect such a trend if one were present. Users of vitamin E for 15 or more years had a relative risk of 0.59 (95 percent confidence interval, 0.14 to 2.39).

When we adjusted for coronary risk factors and excluded women who used vitamin E supplements for less than two weeks, we found that a dose of less than 100 IU per day was associated with little or no apparent benefit, but the confidence intervals were broad; the relative risk was 0.93 (95 percent confidence interval, 0.23 to 3.75). There was no suggestion of a trend toward a greater decrease in risk with higher daily doses; the relative risks were 0.56 (95 percent confidence interval, 0.21 to 1.51) for doses of 100 to 250 IU per day, 0.56 (95 percent confidence interval, 0.33 to 0.96) for doses of 300 to 500 IU per day, and 0.58 (95 percent confidence interval, 0.24 to 1.42) for doses of 600 or more IU per day.

To distinguish further the effect of vitamin E supplements from that of multivitamins, we compared the risk among women who used only vitamin E supplements, women who used only multivitamins, women who used both, and women who used neither (the reference group). After omitting women who used vitamin E supplements in low doses and for short periods and adjusting for the factors we found a relative risk of 0.41 (95 percent confidence interval, 0.18 or 0.93) for users of vitamin E supplements only, 0.87 (95 percent confidence interval, 0.69 to 1.09) for users of multivitamins only, and 0.50 (95 percent confidence interval, 0.31 to 0.83) for users of both. In separate multivariate analyses, the relative risk for specific vitamin E use among the multivitamin users was 0.58 (95 percent confidence interval, 0.35 to 0.97); among nonusers of multivitamins, it was 0.46 (95 percent confidence interval, 0.22 to 0.98).

We observed no marked differences between subgroups with respect to the association of vitamin E supplements with lower risk. Some investigators have suggested that antioxidants might be more important among cigarette smokers, but we found similar reductions in risk among vitamin E users who smoked (relative risk, 0.55; 95 percent confidence interval, 0.30 to 1.02) and those who did not (relative risk, 0.52; 95 percent confidence interval, 0.29 to 0.90). Adjustment for the intake of saturated, monounsaturated, or polyunsaturated fat and analyses of different categories of fat intake had no material effect. Because the diagnosis of diabetes or high cholesterol level could alter diet, we performed analyses in which women with those conditions were excluded; we also performed analyses in which there was no exclusion for prevalent disease at the base line of each two-year follow-up period. The findings from these alternate analyses were virtually the same as those for the whole cohort.

In further analyses, we explored the effect of vitamin E supplementation on other cardiovascular outcomes and overall mortality. For none of the categories, including overall mortality, was the association as pronounced as for major coronary disease, which was a priori the main hypothesis. However, there were suggestive trends for all the outcomes.

DISCUSSION

In this large prospective study, we observed a risk of major coronary disease among women who took vitamin E supplements that was about 40 percent lower than the risk in women who did not take these supplements; this association changed little after adjustment for coronary risk factors and the intake of other dietary antioxidants. The prospective study design eliminated the potential for biased recall of vitamin E use, and because the follow-up rate was high, it is unlikely that differential follow-up could have affected the results materially.

Information on vitamin use and other potential risk factors was reported by the women, but we believe it to be reliable. Reports of various conditions have been validated by review of the medical records and by direct measurement.[27,42] Also, the risk factors reported by the women were strong predictors of subsequent cardiovascular disease,[24,43-45] and all the participants were registered nurses with a demonstrated interest in medical research.

Perhaps healthier women select themselves for vitamin supplementation. Nurses who took vitamin E had a somewhat better risk profile than those who did not, but the differences were not striking. Adjustment for a wide range of risk factors had only a modest effect on the estimates of relative risk (from 0.61 to 0.63); suggesting only minor confounding by the risk factors measured. Some unmeasured factor might be a confounding variable, but it would have to be both highly associated with use of vitamin E supplements and a very strong risk factor to explain these results.

Although we cannot rule out such self-selection as an explanation, other lines of evidence also support a cause-and-effect relation. If self-selection were the entire explanation, one would expect to have observed a similar apparent benefit among short-term users of vitamin E and users of other vitamin supplements, such as multivitamins and vitamin C. In multivariate analyses, a significant risk reduction was observed for vitamin E, but not for multivitamin supplements. Also, further analysis indicated a lower risk among the women who took vitamin E, but not among those who took vitamin C, even in the highest quintile, which included only users of specific vitamin C supplements. We had insufficient statistical power to test adequately for a trend toward increased protection with longer use. The lack of a dose-response association is not surprising, because blood levels do not rise in a linear fashion with increasing doses of vitamin E.[36] The modest trends toward reduced risk among users of multivitamins may possibly be explained by an effect of folate and vitamin B_6 to reduce otherwise elevated levels of homocyst(e)ine in a subgroup.[46]

As with postmenopausal estrogens,[24] we did not observe the same magnitude of effect of vitamin E on cardiovascular outcomes other than major coronary disease. Although the findings were not statistically significant, there were trends toward a reduction in the risk of mortality from cardiovascular causes, ischemic stroke, coronary-artery surgery, and overall mortality.

A benefit of vitamin E in reducing the risk of major coronary heart disease is plausible because of the substantial evidence indicating the importance of oxidation of LDL in atherosclerosis.[1–3,47,48] No association was observed between plasma levels of vitamin E and resistance to LDL oxidation among nonusers of supplements, but vitamin E supplementation markedly increased the resistance.[18] This finding is consistent with our results in suggesting that supplementation at levels far higher than those achievable by diet alone may be needed to reduce LDL oxidation. In a randomized trial in monkeys fed an atherogenic diet, animals given vitamin E supplements had less arterial stenosis than those given placebo,[49] but the study was small and the results somewhat inconsistent.

Epidemiologic data on this research question are sparse. Gey et al. observed that in regions of Europe with high rates of coronary disease, the mean plasma levels of vitamin E were lower than in other regions,[50] but this association could also be due to other differences. Although Salonen et al. found no association between plasma levels of vitamin E and coronary disease,[51] there were few users of vitamin E supplements in the population. In a case-control study of angina, Riemersma et al.[52] observed a statistically significant relative risk of 0.37 when the highest and the lowest quintiles for plasma vitamin E intake were compared; no significant associations were seen for plasma levels of vitamin C or carotene. In a small, four-month randomized trial of vitamin E among patients undergoing angioplasty, restenosis was reduced by 25 percent in the treatment group, but the result was not statistically significant.[21]

Rimm et al.[53] have reported findings in men that were very similar to those we observed, using a similar prospective design. As in our study, those findings could not be explained by confounding by other coronary risk factors or dietary variables.

Although we cannot exclude the possibility of residual confounding, the consistency of our findings, the biologic plausibility, and the similar results from another prospective cohort[53] all support the possibility of a casual explanation and suggest that vitamin E supplements may reduce the risk of coronary heart disease. Randomized trials of adequate size in secondary and primary prevention will be needed to test this question.[3] Because vitamin E appears not to be toxic, even in high doses,[54] such trials, notably the Women's Health Study,[55] have been initiated. Public policy recommendations about the widespread use of vitamin E should await the results of these trials.

We are indebted to the participants in the Nurses' Health Study for their continuing outstanding level of cooperation; to Frank E. Speizer, M.D., overall principal investigator for the study; and to Mark Shneyder, Stefanie Bechtel, Gary Chase, Karen Corsano, Kate Saunders, Lisa Dunn, Barbara Egan, Lori Ward, and Marion McPhee for their unfailing help.

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VITAMIN E CONSUMPTION AND THE RISK OF CORONARY HEART DISEASE IN MEN

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Antioxidants such as vitamin C, carotenoids, and vitamin E[1,2] are hypothesized to help prevent atherosclerosis by blocking the oxidative modication of low-density lipoprotein (LDL), which may be selectively incorporated by monocytes in the arterial wall.[3,4] Oxidized LDL may also contribute to atherogenicity by reducing macrophage motility in the intima,[5] increasing monocyte accumulation,[6] and increasing cytotoxicity.[7]

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Accumulating laboratory data support a link between dietary antioxidants and a reduced risk of atherosclerosis, but epidemiologic evidence is limited.[8–10] We therefore examined these relations in men enrolled in the Health Professionals Follow-Up Study.

METHODS

The Health Professionals Follow-up Study is a prospective investigation of 51,529 male health professionals who were 40 to 75 years of age in 1986. The study population included 29,683 dentists, 10,098 veterinarians, 4185 pharmacists, 3745 optometrists, 2218 osteopathic physicians, and 1600 podiatrists. The study began in 1986, when the participants completed a detailed questionnaire on diet and medical history. We mailed follow-up questionnaires in 1988 and 1990 to update information on exposure and to ascertain events related to newly diagnosed coronary disease.[11,12]

We used a priori criteria to exclude from the study 1530 men whose reported daily energy intake was outside the range of 800 to 4200 kcal or who left blank 70 or more questions about food on the dietary questionnaire. Because men with cardiovascular disease or related conditions may alter their dietary patterns after diagnosis, we excluded a further 10,089 men who reported myocardial infarction, angina, stroke, coronary-artery bypass grafting or angioplasty, diabetes, or hypercholesterolemia on the base-line 1986 questionnaire. The 39,910 remaining men were eligible for follow-up.

After repeated mailings, we received questionnaires from or confirmed the deaths of over 96 percent of eligible participants in 1988 and 1990.[13] The remaining nonresponding participants were assumed to be alive if they were not listed in the National Death Index.

DIETARY ASSESSMENT

The 1986 dietary questionnaire inquired about the average frequency of intake of 131 foods over the previous year. Ten additional items specifically addressed the current use of vitamin supplements, including the type, dose, and duration. Although we have no information on the specific forms of vitamin E supplements (natural vs. synthetic), we did ask the participants to identify specific brands of multivitamins, cooking oils, and cold cereals. Nutrient intakes were computed by multiplying the frequency with which each food item or supplement was consumed by its nutrient content, derived primarily from information from the Department of Agriculture,[14] for the portion size or dose listed.[15–17] We calculated nutrient scores for both dietary and supplementary intake, except in the case of carotene, for which only the total intake was calculated, because only 2.2 percent of the men reported taking carotene supplements. Carotene intake was calculated on the basis of the values for vitamin A in vegetables and fruits and the one third of vitamin A from dairy products that is in the form of carotene.[14] We assigned a value of 10,000 IU for men who reported taking carotene supplements.

We assessed the validity of the food-frequency questionnaire in a random sample of 127 men living in the Boston area. We compared nutrient intake as specified on the questionnaire with two one-week diet records spaced approximately six months apart.[16–18] Pearson correlation coefficients between the diet records and the dietary questionnaire were adjusted for total energy intake[19] and for within-person variability in reported daily intake.[20] The adjusted correlation coefficients were 0.64 for carotene, 0.92 for total vitamin C, and 0.92 for total vitamin E. For men not taking supplements, the coefficients were lower: 0.77 for vitamin C and 0.42 for vitamin E.[16]

CASE ASCERTAINMENT

Fatal coronary disease, nonfatal myocardial infarction, coronary-artery bypass grafting, and percutaneous transluminal coronary angioplasty occurring between 1986 and January 31, 1990, were considered as end points. Participants who reported an incident myocardial infarction on the 1988 or the 1990 questionnaire were sent a letter asking them to confirm the report and requesting permission to review the medical records. Myocardial infarctions were confirmed with use of the criteria of the World Health Organization[21]: compatible symptoms plus either typical electrocardiographic changes or elevation of cardiac enzymes. We classified 3 percent of the fatal and 18 percent of the nonfatal myocardial infarctions as "probable" because the medical records were unobtainable although the diagnosis was corroborated by supplementary information. Reports of bypass grafting or angioplasty were confirmed by medical records for 98 of 102 participants (96 percent). Therefore, participants' own reports of these end points were considered sufficient for confirmation.

Deaths were reported by next of kin, coworkers, postal authorities, or the National Death Index. Fatal infarctions were confirmed from medical records or autopsy reports. Fatal coronary disease was also considered confirmed if it was listed as the underlying cause on the death certificate, and a diagnosis of incident coronary disease (after January 1, 1986) was confirmed on the basis of records or interviews. The listing of a cause of death on the death certificate was not accepted in itself as confirming fatal coronary disease. Sudden death was defined as death within one hour of the onset of symptoms in men who had no previous serious illness or plausible cause of death other than coronary disease. Because in men sudden death is generally attributable to coronary disease, we included such deaths (for 33 men) as indicative of fatal coronary disease. When subjects had multiple end points, only the first was included in the analysis. The physicians reviewing the medical records were unaware of the reports of dietary intake.

STATISTICAL ANALYSIS

Each participant's follow-up time began with the date of return of the 1986 questionnaire and continued until the diagnosis of an end point, death, or January 31, 1990, whichever came first. Relative risks were calculated by dividing the incidence rate of coronary disease among the men in each category of antioxidant intake by the rate for the men in the lowest category. Adjusted relative risks for age (in five-year categories) were derived by the Mantel-Haenszel method.[22] The Mantel extension test[23] was used to test for linear trends. To adjust for other risk factors, we used multiple logistic regression to generate odds ratios as an estimate of relative risk. In multivariate logistic models, we tested for significant monotonic trends by assigning each participant the median value for the category and modeling this value as a continuous variable. All P values are two-sided.

RESULTS

During 139,883 person-years of follow-up, we documented 667 coronary end points: 360 bypass grafts or angioplasties, 201 nonfatal myocardial infarctions, and 106 fatal coronary events.

The age-adjusted and multivariate relative risks of coronary disease according to quintile group for the intake of vitamin E, carotene, and vitamin C (including supplements). As compared with the men in the lowest quintile group for vitamin E intake, the men in the highest quintile group had an age-adjusted relative risk of coronary disease of 0.59 (95 percent confidence interval, 0.47 to 0.75; P for trend = 0.01). The relative risks were similar after multivariate adjustment. For a high intake of carotene, the age-adjusted relative risk of coronary disease was 0.71 (95 percent confidence interval, 0.55 to 0.92; P for trend = 0.02). The relative risks for carotene were also not materially altered by multivariate adjustment. A high intake of vitamin C was initially suggestive of a slight inverse association (age-adjusted relative risk, 0.83; 95 percent confidence interval, 0.64 to 1.08). After further adjustment for risk factors and the use of other antioxidants, however, the relative risk was 1.25 (95 percent confidence interval, 0.91 to 1.71; P for trend=0.98).

All the participants in the two highest quintile groups for vitamin E intake used multivitamins or specific vitamin E supplements. We suspected that these men might differ substantially from those who did not take supplements, and we therefore examined the distribution of risk factors according to quintile group for total vitamin E consumption. The prevalence of hypertension and the percentage of calories derived from fat were similar. Differences in the intake of dietary fiber, cholesterol, and total fat were generally proportional to absolute differences in caloric intake and were not due to differences in dietary composition. However, because patterns of smoking, fiber intake, aspirin use, and physical activity were different, we controlled for these variables in all the multi-variate analyses.

When the 5804 men with baseline hypercholesterolemia or diabetes were included, the results were not appreciably different.

Also, there were no material differences between the specific diagnostic categories. For fatal coronary disease or nonfatal myocardial infarction, the multivariate relative risk between the highest and lowest quintile groups for vitamin E intake was 0.63 (95 percent confidence interval, 0.45 to 0.89), and for bypass grafting or angioplasty the relative risk was 0.68 (95 percent confidence interval, 0.48 to 0.97). The corresponding results for carotene and vitamin C were also similar.

Excluding probable cases of myocardial infarcation did not alter these results appreciably.

To assess further the role of vitamin E supplements, we divided total intake into dietary and supplemental sources. Quintiles of dietary vitamin E were calculated on the basis of dietary intake without supplements, whereas the dose categories for supplemental vitamin E were those specified in the baseline questionnaire. The two lowest categories of supplement use represent men who reported using multiple vitamins or using vitamin E supplements infrequently. Among men taking any supplemental vitamin E, we found only a modest inverse association between the dose and the risk of coronary disease (P for trend=0.22). The maximal reduction in risk was seen among men consuming 100 to 249 IU per day, with no further decrease at higher doses. We found a suggestion of an inverse association between dietary vitamin E and the risk of coronary disease among men who did not take vitamin supplements, with a relative risk of 0.79 (95 percent confidence interval, 0.54 to 1.15) for the highest as compared with the lowest quintile group (P for trend=0.11). The variation in dietary vitamin E intake was much lower than the variation in intake from supplements; the median of the highest quintile group for dietary intake (12.9 IU per day) fell within the lowest category of supplemental intake. We also examined the association between the duration of vitamin use and the risk of coronary disease. Using the categories for the duration of vitamin use that appeared on the base-line questionnaire (0 to 1, 2 to 4, 5 to 9, and 10 or more years), we found a suggestion of an inverse trend between the duration of vitamin E use and the risk of coronary disease. Men reporting use of vitamin E supplements for 10 or more years had a relative risk of 0.65 (95 percent confidence interval, 0.46 to 0.92) as compared with nonusers.

The multivariate relative risk of coronary disease among men taking specific vitamin E supplements (i.e. not multivitamins) was 0.75 (95 percent confidence interval, 0.61 to 0.93) as compared with nonusers. Among men who took vitamin E supplements in doses of at least 100 IU per day for two or more years the relative risk was 0.63 (95 percent confidence interval, 0.47 to 0.84) as compared with nonusers after we controlled for multivitamin use.

The relative risk of coronary disease in men taking 100 or more IU per day of vitamin E for two or more years, as compared with nonusers of supplements, ranged from 0.57 to 0.67 in multivariate analyses after we controlled separately for quintile groups for the intake (from dietary sources and supplements combined) of retinol; vitamins B_1, B_2, B_6, B_{12}, C, and D; and calcium, folate, niacin, iron, magnesium, and zinc. Whereas the relative risks associated with vitamin E remained significant in each model, those comparing the highest with the lowest quintile groups for the other nutrients were not statistically significant.

The reduction in the risk of coronary disease associated with the highest quintile group for total vitamin E intake was somewhat less among current smokers (relative risk, 0.67; 95 percent confidence interval, 0.34 to 1.31) than among those who had never smoked (relative risk, 0.52; 95 percent confidence interval, 0.34 to 0.78). The inverse association was not appreciably modified by age, family history of myocardial infarction, or dietary intake of alcohol, carotene, vitamin C, polyunsaturated fat, total fat, magnesium, or iron.

In our analysis of overall mortality (in 578 men), the relative risk was 0.78 (95 percent confidence interval, 0.60 to 1.01; P for trend=0.06) when we compared the highest and lowest quintile groups for vitamin E intake. Mortality during the first four years of follow-up of a healthy population is skewed toward death from sudden causes, such as trauma, and diseases with a delayed time to death are underrepresented.

The association between dietary carotene and the risk of coronary disease differed significantly according to base-line smoking status. Among men who had never smoked, no association was observed. We did, however, find a significant inverse association between carotene intake and coronary disease among current and former smokers. Among current smokers, the relative risk was 0.30 (95 percent confidence interval, 0.11 to 0.82) when the highest and lowest quintile groups for intake were compared; among former smokers, the risk was 0.60 (95 percent confidence interval, 0.38 to 0.94). The reduction in risk among current smokers was significant even in the third quintile group for dietary carotene intake (whose intake was equivalent to half a carrot per day).

DISCUSSION

These data are compatible with the hypothesis that an increased intake of antioxidants, primarily as vitamin E, but also as dietary carotene in former and current smokers, is associated with a reduced risk of coronary disease. Although we cannot exclude the possibility that an unknown variable associated with high antioxidant intake is responsible for the reduction in coronary disease, the lack of a significant association of coronary disease and other micronutrients (e.g., vitamin C) consumed as either diet or supplements suggests a causal interpretation.

The high rate of follow-up reduced potential bias due to loss to follow-up, and because dietary information was collected prospectively, we eliminated recall bias. To reduce the possibility of bias associated with recent dietary changes related to disease, we excluded men with coronary disease, diabetes, or high cholesterol levels at base line. The finding that the apparent benefit of vitamin E supplements was stronger with longer-term use is further evidence of a specific effect rather than simply self-selection.

Men with a higher intake of vitamin E have somewhat healthier risk profiles. After we controlled for this health-conscious behavior however, a strong protective association with vitamin E intake persisted. Any remaining residual confounding would need to be large to explain the relative risk we observed. Serum lipids were not measured in the total cohort and could potentially be confounding variables. In a subsample of participants,[16] however, vitamin E intake was not correlated with either total or high-density lipoprotein cholesterol (r=-0.02 for both). In studies of vitamin E supplementation, vitamin E did not alter blood lipid levels.[24,25] Hence, confounding according to lipid level is an unlikely explanation of our results. If uncontrolled confounding explains the inverse association for vitamin E, we would expect a similar effect of vitamin C, which was similarly associated with a healthier lifestyle (data not shown). After adjustment for vitamin E, however, vitamin C was not associated with a reduction in coronary disease, a result that supported a specific effect of vitamin E.

Our findings for vitamin E are consistent with geographic correlations between serum vitamin E levels and coronary mortality rates[8] and reduced serum levels of alpha-tocopherol (the principal component of vitamin E) in patients with angina.[26] Most notably, the associations we found for vitamin E supplements were remarkably similar to those found among women in the Nurses' Health Study.[27] Vitamin E appeared to reduce atherosclerosis in a small experiment in monkeys[28] and to decrease the rate of restenosis among patients after angioplasty.[29] Little difference in vitamin E levels was seen, however, between persons with and persons without myocardial infarction when measurements were made in previously collected and stored serum samples.[30-32] These studies may have failed to find differences in serum alpha-tocopherol levels for several reasons: because few participants used supplements, because a single measurement cannot distinguish between short- and long-term supplement use, and because the degradation of alphatocopherol in stored samples[4] reduces the overall variation. Alternatively, intracellular antioxidant levels may be more important than serum levels in inhibiting the cell-mediated oxidation of LDL.[33]

In addition to the strong association with vitamin E supplements, we found a moderate reduction in the rise of coronary disease with increasing intake of non-supplemental dietary vitamin E. The primary sources of dietary vitamin E are vegetable oils and to a lesser extent seeds, cereal grains and nuts. Although we incorporated information on specific brands of margarines and cooking oils into the dietary intake scores, the vitamin E content of foods is dependent on cooking, processing, and storage.[34] Limited variability in dietary vitamin E intake and error in measurement due to the instability of vitamin E may have obscured a stronger inverse association. In a subsample of 121 men in our study, we found only a weak partial correlation (r=0.11) between dietary vitamin E and serum alpha-tocopherol levels, which was greatly enhanced (r=0.51) after the inclusion of vitamin E from supplements * * * vitamin E alone and coronary disease is consistent with experimental evidence in which the resistance of LDL to oxidation[35-38] is increased only by supplemental vitamin E intake at levels 10 to 100 times the standard recommended dietary allowance.[39] Supplementation at this level has been shown to be nontoxic over a moderate follow-up period.[40]

With regard to carotene, in a cohort of 1299 elderly Massachusetts residents followed for 4.75 years, Gaziano et al. found a relative risk of 0.55 (95 percent confidence interval, 0.34 to 0.87) for death from cardiovascular causes when the highest and the lowest quartile groups for intake were compared.[10] In a preliminary report from the ongoing Physicians' Health Study trial, men with angina who were randomly assigned to receive beta carotene had fewer subsequent cardiovascular events than those assigned to placebo.[41]

We and others have reported lower levels of plasma carotene (but not alpha-tocopherol)[1,2,26,35,42] among smokers. The increased oxidative stress brought on by smoking may increase the susceptibility of lipids to oxidation[43-46] and increase the demand for plasma antioxidants to quench oxygen free radicals.

Vitamin C preserves the endogenous antioxidants[47] and quenches oxidants in hydrophilic environments.[48] Much of the oxidation of LDL particles, however, occurs in the subendothelial space, a hydrophobic environment that favors a protective effect of fat-soluble vitamins (vitamin E or carotene) over water-soluble vitamins (vitamin C).[49]

Cross-cultural data suggest that men in countries with higher rates of mortality from coronary causes have, on average, plasma vitamin C levels that border on being deficient.[8] Because the median of the lowest quintile group for dietary vitamin C intake was 78 mg per day in our study (recommended daily allowance, 60 mg),[39] we could not test this hypothesis.

In the follow-up of the cohort in the first National Health and Nutrition Examination Survey,[9] men reporting an intake of 50 mg or more of vitamin C per day (including supplements) had a standardized mortality ratio of 0.58 for all cardiovascular disease. However, vitamin C from diet alone was not appreciably related to cardiovascular disease. Hence, the effect appears to be explained by the use of vitamin supplements, and perhaps not specifically those of vitamin C, because the authors did not account for vitamin E use.

We found an inverse association between vitamin E intake and coronary disease that was weak at best when only dietary sources were taken into account. At the higher levels of intake reached with supplementation, the association became significant. We cannot rule out the possibility that confounding may partly account for our results; a cause-and-effect relation cannot be established from these observational data. However, these findings, together with similar findings in women,[27] support the hypothesis that supplemental vitamin E may reduce the risk of coronary disease. Public policy recommendations about the use of vitamin E supplements should await the results of additional studies.

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ANTIOXIDANT VITAMINS AND CORONARY HEART DISEASE

This issue of the Journal contains two important reports of large-scale prospective studies, one in men[1] and one in women,[2] showing that the use of large doses of vitamin E supplements is associated with a significantly decreased risk of coronary heart disease. The study populations were enormous—almost 40,000 men and more than 80,000 women—and the participants were followed for four and eight years, respectively. The studies were very carefully conducted: there was more then 95 percent follow-up, independent validation of the dietary questionnaires, and careful documentation of end points. In both studies the benefit of vitamin E was largely, if not entirely, confined to the subgroup of the population taking large amounts of the supplements. In other words, within the range of vitamin E intakes afforded by natural foodstuffs, even when supplemented by multivitamins at usual doses, there was little or no protective effect. The data on vitamin C intake were essentially negative in both studies and were thus at variance with the findings of Enstrom et al.,[3] who showed that in a comparably large population (more than 11,000 men), both mortality from coronary heart disease and overall mortality were inversely correlated with vitamin C intake. In men who smoked, carotene intake was associated with a lower risk of coronary heart disease in the Health Professionals Follow-up Study,[1] but it had no apparent effect on risk in the Nurses' Health Study.[2]

In both studies, the authors address the important issue of possible confounding variables. Thus, the possibility of self-selection among the subjects taking vitamin supplements was considered. Indeed, the men in the upper fifth of the group in terms of vitamin E intake did exercise more and were more likely to take aspirin. Controlling for these variables by multivariate logistic-regression analysis did not greatly affect the conclusions, however. Moreover, the authors point out that those who took vitamin C supplements did not have less coronary disease, suggesting that health consciousness itself is not enough to explain the association. Unfortunately, information about plasma cholesterol levels was not available in either study (the subjects could only report "high cholesterol" on a written questionnaire). Nevertheless, these two large epidemiologic studies add support to the hypothesis that oxidation of lipoproteins plays a part in atherogenesis.

Epidemiologic correlations alone, no matter how high the level of statistical significance, cannot establish causal relations, as the authors of these papers recognize. The probability that the relation is a causal one remains a matter of judgment. That judgment will be affected by the strength of the relation, its consistency, its biologic plausibility, and other criteria. However, there is no prescribed, objective way to quantify the relation. In this discussion I shall address, first, the issue of biologic plausibility and, second, the possible implications of these new results with regard to clinical management and future research.

Our research group has recently proposed the hypothesis that low-density lipoprotein (LDL) that has undergone oxidative damage is considerably more atherogenic than native LDL.[4] A key point is that oxidized LDL particles (and certain other modified forms of LDL) are ligands for the "scavenger" receptors on macrophages and can therefore convert them to the cholesterol-loaded foam cells characteristic of the earliest atherosclerotic lesions, the fatty streaks.[5-8] But this is only one of a growing list of biologic properties of oxidized LDL that make it more atherogenic than native LDL. Among the others are its chemoattractant action on monocytes, its cytotoxicity, its ability to stimulate the release of growth factors and cytokines, and its ability to act as an immunogen. There is now strong evidence that oxidation of LDL does indeed occur in vivo, in both animals and humans.[9-10] That it has a causative role in experimental atherosclerosis has been shown by studies in animals that document a decrease of 30 to 80 percent in rates of lesion progression in the animals receiving antioxidants. These impressive results were obtained in the presence of plasma cholesterol levels ranging from 600 to 2000 mg per deciliter, even though the antioxidant-treated animals and the controls had comparable degrees of hypercholesterolemia.

There is understandable excitement among investigators about the possibility that antioxidants may represent a new preventive and therapeutic method, one that could take its place alongside cholesterol-lowering drugs. If the hypothesis is correct, the rate of progression of lesions would be a simultaneous function of the plasma levels of LDL and the rates at which LDL undergoes oxidative modification. The combination of LDL-lowering and antioxidant therapy should be additive or even synergistic. Some clinical studies are already under way, and definitive results could be available as early as three to five years from now. What do we do in the meantime? Should we recommend that our patients take antioxidant supplements?

The oxidative-modification hypothesis of atherogenesis has reached what we might call the awkward age: it has matured to the level of a hypothesis strongly supported by experimental and epidemiologic data, but it has not yet attained the status of a clinically validated hypothesis. If the only antioxidants available for clinical use had unacceptable side effects, I doubt that there would be much pressure at this time to start using them without waiting for clinical intervention trials to evaluate their benefits objectively. But the fact of the matter is that we do have available a number of natural antioxidants, including vitamin E, vitamin C, and beta carotene, that are generally considered not to be toxic. Consequently, we hear the seductive argument "Why not?" There are good reasons why not.

First, I think we must not make exceptions to the rule that recommendations to our patients must be backed by proof of a clear benefit to be conferred. Admittedly, "proof" turns out on closer inspection to be a relative term. How sure do we have to be fore we make recommendations? It should be noted that except for one small treatment study in primates involving vitamin E, we do not even have data demonstrating the efficacy of the natural antioxidant vitamins in animals; all the other studies in animals were done with antioxidant drugs. My own conviction is that proof must include at least some valid clinical intervention trials demonstrating the magnitude of the benefit to be obtained in humans. No such data are available, except for a preliminary presentation by Gaziano and coworkers of an interim analysis of results in a subgroup of men in the Physicians' Health Survey.[11] A primary hypothesis of that study was that beta carotene would be anticarcinogenic, but in view of the growing evidence that lipid oxidation may play a part in atherogenesis, it was decided to do a preliminary analysis looking for effects on coronary heart disease in a subgroup of subjects. That subgroup of 333 men already had clinical evidence of coronary heart disease when the study began. Those taking beta carotene had about 40 percent fewer cardiovascular events, and the difference was statistically significant. Unfortunately, the complete data from this potentially exciting study will not be reported for another three or four years.

A second reason for rejecting the "Why not?" argument is that we do not have data showing that the long-term (and presumably lifetime) intake of very large doses of natural antioxidants will not be toxic. Studies in humans have rarely gone beyond six months and have never involved thousands of subjects. Are we really sure that 500 or 1000 IU of vitamin E daily carries no risk over a five-year period? A 20-year period? Having inadequate data on the benefit to be expected, we should hesitate to accept any potential risk.

Finally, before we lend our imprimatur to the wide-spread use of a still unproved treatment, one that requires the patient only to pop a few pills, we should ask how many patients will slack off on their adherence to better-established, but somewhat more onerous, preventive measures such as a cholesterol-lowering diet, regular exercise, and smoking cessation.

We face a cruel ethical dilemma with hypotheses at this awkward age. If antioxidant treatment is highly effective, clinical trials now in progress or in the planning stages could give us definitive answers in just a few years.[11,12] On the other hand, reaching a consensus on the pathogenetic importance of oxidized LDL—and thus on the value of antioxidant therapy—may not be any easier than it was to reach a consensus on the importance of an elevated plasma cholesterol level as a risk factor for coronary heart disease. Meanwhile, I think we must play by the rules and insist on large, long-term, double-blind clinical trials. Until they are done, please, let's hold the vitamin E.

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Footnotes at end of article.

RECOMMENDATIONS FOR THE USE OF FOLIC ACID TO REDUCE THE NUMBER OF CASES OF SPINA BIFIDA AND OTHER NEURAL TUBE DEFECTS

SUMMARY

Spina bifida and anencephaly are common and serious birth defects. Available evidence indicates that 0.4 mg (400 µg) per day of folic acid, one of the B vitamins, will reduce the number of cases of neural tube defects (NTDs). In order to reduce the frequency of NTDs and their resulting disability, the United States Public Health Service" recommends that:

All women of childbearing age in the United States who are capable of becoming pregnant should consume 0.4 mg of folic acid per day for the purpose of reducing their risk of having a pregnancy affected with spina bifida or other NTDs. Because the effects of higher intakes are not well known but include complicating the diagnosis of vitamin B_{12} deficiency, care should be taken to keep total folate consumption at <1 mg per day, except under the supervision of a physician. Women who have had a prior NTD-affected pregnancy are at high risk of having a subsequent affected pregnancy. When these women are planning to become pregnant they should consult their physicians for advice.

INTRODUCTION

Each year in the United States about 2,500 infants are born with neural tube defects (NTDs) spina bifida and anencephaly. In addition, an unknown number of fetuses affected by these birth defects are aborted. All infants with anencephaly die shortly after birth, whereas the majority of babies born with spina bifida grow to adulthood with, in severe cases, paralysis and varying degrees of bowel and bladder incontinence. The evidence that consumption of folic acid, one of the B vitamins, before conception and during early pregnancy (the periconceptional period) can reduce the number of NTDs that has been accumulating for several years. Published data are available from randomized controlled trials,.[1,2] nonrandomized intervention trials,[3,4] and observational studies[5-8] (Tables 1 and 2).

One of the most rigorously conducted studies was the randomized controlled trial sponsored by the British Medical Research Council (MRC).[2] The study showed that high-dose folic acid supplements (4.0 mg per day) used by women who had a prior NTD-affected pregnancy reduced the risk of having a subsequent NTD-affected pregnancy by 70%.

Preliminary results from the Hungarian randomized controlled trial of multivitamin/mineral supplementation (including 0.8 mg of folic acid) among women who had not had a prior NTD-affected pregnancy were reported in 1989.[9] This was stopped in May 1992 on the advice of an ad hoc scientific advisory committee because of evidence of an NTD-protective effect of the multivitamin/mineral preparation relative to the study placebo preparation (Czeizel AE: personal communication, May 1992).

Three of four published observational studies showed a lowered risk of NTDs for women who have not had a prior NTD-affected pregnancy and who consumed 0.4–0.8 mg (400–800 µg) of folic acid daily from multivitamin supplements (Tables 1 and 2).

In summary, the data available indicate that folic acid can help avert NTDs when given at high-dose levels (i.e., 4.0 mg per day). The results of the British MRC study showed that the addition of other vitamins to 4.0 mg of folic acid confers no extra benefit in averting NTDs. Based on a synthesis of information from several studies, including those which used multivitamins containing folic acid at a daily dose level of >0.4 mg, it was inferred that folic acid alone at levels of 0.4 mg per day will reduce the risk of NTDs. The protective effect found in the studies of lower-dose folic acid, measured by the reduction in NTD incidence, ranged from none to substantial (Tables 1 and 2); a reasonable estimate of the expected reduction in the United States is 50%. Thus there appear to be excellent prospects for substantially reducing the number of NTDs among U.S. women who have not had a prior NTD-effected pregnancy through the use of folic acid at intakes of approximately 0.4 mg daily.

RECOMMENDATIONS

Available evidence indicates that 0.4 mg (400 µg) per day of folic acid, one of the B vitamins, will reduce the number of cases of NTDs. In order to reduce the frequency of NTDs and their resulting disability, the United States Public Health Service recommends that:

All women of childbearing age in the United States who are capable of becoming pregnant should consume 0.4 mg of folic acid per day for the purpose of reducing their risk of having a pregnancy affected with spina bifida or other NTDs. Because the effects of high intakes are not well known but include complicating the diagnosis of vitamin B_{12} deficiency, care should be taken to keep total folate consumption at <1 mg per day, except under the supervision of a physician. Women who have had a prior NTD-affected pregnancy are at high risk of having a subsequent affected pregnancy. When these women are planning to become pregnant, they should consult their physicians for advice.

COMMENT

The possibility for reducing by 50% the number of cases of spina bifida and other NTDs in the United States through daily consumption of 0.4 mg. of folic acid presents an important opportunity in public health. Efforts are now being made by the PHS to assure that all women capable of becoming pregnant consume 0.4 mg. of folic acid daily to achieve this goal.

There are three potential approaches for the delivery of folic acid to the general population in the dosage recommended: (a) improvement of dietary habits, (b) fortification of the U.S. food supply, and (c) use of dietary supplements. The Food and Drug Administration (FDA) will have to determine which approaches will best achieve the goal of increasing folic acid intake while ensuring that potential risks created by overfortification of food with folic acid, and thus overconsumption of this substance, are not reached. This process will require rulemaking and will include substantial efforts to involve the obstetrics community, other medical groups, the scientific community, consumers, industry, and other PHS agencies in a search for the best way to accomplish this goal. While this process is under way, and before the FDA issues final regulations on food fortification and permissible health claims on food labeling, further food fortification with folic acid would be inappropriate, and no health claims should be made.

Folate intake >0.4 mg per day can be obtained from the diet through careful selection of foods. Folate is a generic term for food compounds that have the biologic activity of folic acid; in general, folates obtained from foods are not as well absorbed as is folic acid. Although the average consumption of dietary folate by women in the United States has been estimated to be about 0.2 mg per day[10], women who select foods consistent with the U.S. Dietary Guidelines for Americans and the U.S. Dietary Pyramid are likely to consume diets containing >0.4 mg of folate daily. Use of currently available fortified foods, such as some breakfast cereals, can also provide important sources of folic acid.

Folic acid supplement pills containing 0.4 mg of folic acid also are available, as are multivitamin preparations containing folic acid. About 20% of U.S. women now consume multivitamin preparations, which generally contain 0.4 mg of folic acid.[11] Supplements for pregnant women generally contain up to 0.8 mg of folic acid.

Given these alternative routes for obtaining adequate amounts of folic acid, it is recommended that women be advised of the options available to them to obtain daily intakes of 0.4 mg of folic acid and be encouraged to meet this goal.

The research that serves as the basis for this recommendation generally focused on the use of supplements from at least 1 month before conception through early pregnancy, the periconceptional period. Development of the defect in the neural tube occurs within the first month after conception, before most women are aware of their pregnancy. Because >50% of pregnancies in the United States are unplanned.[12] It would be prudent for women to consume 0.4 mg of folic acid daily on a regular, continuous basis as long as they are capable of becoming pregnant.

Because supplements containing folic acid at the 0.4 mg level are widely available, this dosage has been the focus of the available observational research studies. It is possible that lower doses of folic acid may reduce the risk for NTDs, but further research would be needed to learn the minimum effective dose.

At this time, FDA allows food to be labeled according to the level of nutrients in the food relative to the U.S. Recommended Daily Allowances (USRDAs). Consumption of folic acid at USRDA-level doses (0.4 mg for non-pregnant women) is considered a safe and desirable practice. Over the years, RDAs have ranged from 0.18 to 0.4 mg of folic acid for women for childbearing age. RDAs for pregnant women have ranged from 0.4 to 0.8 mg per day. Folic acid is a water-soluble vitamin, and any excess consumed is rapidly excreted in the urine. The effects of higher doses are not well known, although they include complicating the diagnosis of vitamin B_{12} deficiency in certain people.[13] Irreversible neurologic damage may occur if B_{12} deficiency is not diagnosed and treated. Therefore, women should be careful to keep their total daily folate consumption at <1 mg per day. Women may wish to consult their physicians or other health-care providers (nutritionists, dietitians) about how to best obtain the recommended amount of folic acid, while avoiding excessive consumption. Caution should also be taken to prevent excessive use of multivitamin supplements or fortified foods containing vitamin A, since excess vitamin A may cause birth defects. Further research will be needed to identify any unknown adverse effects.

It is expected that consumption of adequate folic acid will avert some, but not all, NTDs. The underlying causes of NTDs are not known. Thus it is not known what proportion of NTDs will be averted by adequate folic acid consumption. From the available evidence, CDC estimates that there is the potential for averting 50% of cases that now

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Footnotes at end of article.

occur. However, until further research is done, no firm estimate of this proportion will be available. Moreover, further research will be needed to identify the causes of NTDs that are not averted by folic acid intake.

The current recommendation is directed to all U.S. women, including women who have had a previous NTD-affected pregnancy. In August 1991, CDC issued a guideline[14] for women who have had a prior pregnancy affected by NTDs and who are planning to start a new pregnancy. The guideline called for the consumption of a 4.0-mg daily dose of folic acid, from at least 1 month before conception through the first 3 months of pregnancy. The guideline did not specifically address the issue of folic acid consumption among these women during the times when they are not planning to become pregnant. Women who have had an NTD-affected pregnancy should consume 0.4 mg of folic acid per day, unless they are planning a pregnancy. When these women are planning to become pregnant, they can follow the August 1991 guideline and consult their physicians about the desirability of using 4.0 mg of folic acid per day. Because 4.0 mg of folic acid per day is a very high dose, there may be risks associated with these levels. Although it appears that a lower dose, such as 0.4 mg, may have as great a beneficial effect as 4.0 mg, women who are at very high risk of having an NTD-affected pregnancy may choose to follow the August 1991 guideline (a) because it is based on data from the most rigorous study directly pertinent to their risk of NTDs and (b) because their risk of having an NTD-affected pregnancy may outweigh any risk that may occur as the result of the use of 4.0 mg of folic acid.

TABLE 1. INTERVENTION STUDIES OF FOLIC ACID AND NEURAL TUBE DEFECTS (NTDs)

Study	Design	Subjects	Exposure	Results	Comments
Laurence, et al, 1981[1].	Randomized controlled trial in Wales.	Pregnant women with prior NTD-affected pregnancy: Supplemented mothers took 4 mg of folic acid daily. Unsupplemented mothers took a placebo.	Supplemented women were given 4 mg of folic acid or placebo daily at least 1 month before conception through the 1st trimester.	2 NTD-pregnancies among 60 supplemented women. 4 NTD-pregnancies among 51 placebo-treated women. Relative risk=0.40, not statistically significant.	60 percent reduction in risk.
UK MRC study, 1991[2].	Randomized controlled multicenter trial in UK and Hungary.	Pregnant women with prior NTD-affected pregnancy' Supplemented mothers took 4 mg of folic acid daily. Unsupplemented mothers took a placebo.	Women given 4 mg of folic acid or placebo daily at least 1 month before conception through the 1st trimester.	6 NTD-pregnancies among 593 supplemented women. 21 NTD-pregnancies among 602 unsupplemented women. Relative risk=0.28, $p<0.05$.	72 percent reduction in risk.
Srnithells, et al, 1983[3].	Nonrandomized controlled multicanter trial in UK.	Pregnant women with prior NTD-affected pregnancy: Supplemented mothers took 0.36 mg of folic acid + multivitamins daily. Unsupplemented mothers took nothing.	Women given 0.36 mg of folic acid + multivitamins or reported no use from 1 month before conception through the 1st trimester.	3 NTD-pregnancies among 454 supplemented women. 24 NTD-pregnancies among 519 unsupplemented women. Relative risk=0.14, $p<0.05$.	88 percent reduction in risk.
Vergel, et al, 1991[4].	Nonrandomized controlled trial in Cuba.	Pregnant women with prior NTD-affected pregnancy: Supplemented mothers took 5 mg of folic acid daily. Unsupplemented mothers took nothing.	Women given 5 mg of folic acid or reported no use from 1 month before conception through the 1st trimester.	0 NTD-pregnancies among 81 supplemented women. 4 NTD-pregnancies among 114 untreated women. Indeterminant protective effect not statically significant.	Complete protective effect.

Footnotes at end of article.

TABLE 2. OBSERVATIONAL STUDIES OF FOLIC ACID AND NEURAL TUBE DEFECTS (NTDs)

Study	Design	Subjects	Exposures	Results	Comments
Mulinare, et al. 1988[5].	Case/control in metropolitan Atlanta.	NTD case babies and normal control babies, Pregnant women without a prior NTD-affected pregnancy..	Multivitamin supplement containing 0–0.8 mg of folic acid at least 1 month before conception through the 1st trimester..	24 supplemented & 157 unsupplemented NTD case-women. 405 supplemented & 1,075 unsupplemented women controls. Odds ratio=0.40, $p<0.05$..	60 percent reduction in risk.
Bower and Stanley, 1989[6].	Case/control in Western Australia.	Spina bifida case babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy..	Dietary folate and multivitamin supplement at least 1 month before conception through the 1st trimester..	77 NTD cases: 154 control mothers in study. The highest folate quartile was compared with the lowest. An increasing protective effect was observed from the lowest to the highest quartile. Odds ratio=0.25, $p<0.05$..	75 percent reduction in risk.
Mills, et al. 1989[7].	Case/control in California and Illinois.	NTD case babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy..	Multivitamin + folate supplement containing up to 0.8 mg of folic acid + diet at least 1 month before conception through the 1st trimester..	89 supplemented & 214 unsupplemented NTD case-women. 90 supplemented women controls. Odds ratio=0.91, not statistically significant..	No protective effect.
Milunsky, et al. 1989[8].	Prospective cohort in New England.	NTD cases babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy..	Multivitamin + folate supplement containing 0.1–1.0 mg of folic acid + diet at least 1 month before conception through the 1st trimester..	10 NTD-pregnancies among 10,713 women who took multivitamin + folate. 39 NTD-pregnancies among 11,944 women who took multivitamins without folate. Relative risk=0.28, $p<0.05$..	72 percent reduction in risk.

Footnotes at end of article.

FOOTNOTES

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*The recommendations were developed through the efforts of the Centers for Disease Control, the Food and Drug Administration, the Health Resources and Services Administration, and the National Institutes of Health, coordinated through the Office of the Assistant Secretary for Health.

By Mr. MURKOWSKI:

S. 1768. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS SETTLEMENT TECHNICAL CORRECTIONS

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Alaska Native Claims Settlement Act Technical Corrections Act of 1993. The purpose of this bill is to address several noncontroversial technical corrections to the Alaska Native Claims Settlement Act [ANCSA] of 1971.

The bill I am introducing today is not a perfect bill. Several provisions presented to me by the Alaska Federation of Natives are not included in this legislation. I have elected to withhold introducing these because concerns have been expressed about them that deserve attention. These provisions relate to the Nellie Juan Land Transfer, the Rescission of Relinquishment provision, the Seldovia Native Corporation provision, and the provision dealing with subsurface estate beneath Native Allotments in the National Petroleum Reserve in Alaska.

When a compromise is reached that satisfies all parties involved, I will add these provisions to my bill. I am confident that these provisions will be attached to my legislation before Congress takes any action in committee on this legislation.

Mr. President, enactment of ANCSA was a monumental event in Alaska. The land grants and compensation contained in ANCSA are unprecedented. ANCSA created business corporations based on existing Alaska Native communities instead of the old-style reservation system. The corporations created under ANCSA became responsible for managing and investing their assets to the benefit of their all-Native shareholders. ANCSA established a system whereby Alaska Natives could become self-sufficient and thereby determine their own destinies.

While ANCSA is a unique law which is working extremely well, occasionally we find the need to fine tune the law. The bill I am introducing today will correct several provisions in ANCSA so that Alaska Natives can truly determine their own destinies.

Section 1 of the bill would allow the Chugach Alaska Corporation to select a specific track of land in Alaska which is on the edge of Chugach's current land selections.

Section 2 would relieve the Department of the Interior of further land selection obligations to the two Native groups of Caswell and Montana Creek.

Section 3 is intended to remedy certain problems Alaska Native Corporations are experiencing with respect to federal mining claims on conveyed Native lands.

Section 4 would provide authorization of appropriations to provide technical assistance to Village Corporations for the purpose of conveying land to Village Corporations.

Section 5 would make certain veterans from the Korean conflict and the Vietnam era eligible for land allotments.

Section 6 authorizes the Cook Inlet Regional Corporation to return title to a 10-acre site in Wrangell, AK, to the United States Government.

Section 7 corrects legislative language concerning lapsed mining claims located within the boundaries of the Wrangell-St. Elias National Park and Preserve.

As introduced, the Alaska Native Claims Settlement Act Technical Corrections Act of 1993 should not be viewed as a final product. It is a legislative vehicle that will be amended and perfected during the next several weeks, enabling the Alaska Congressional delegation, the Alaska Governor's office, and Alaska's Native community to actively participate in the legislative process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. KAGEET POINT LAND SELECTION.

The lands contained in the western half of Township 21 South, Range 24 East, Copper River Meridian, commonly known as "Kageet Point", shall be considered and treated as acreage allotted to the Chugach Alaska Corporation for the purpose of making selections under section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)).

SEC. 2. RATIFICATION OF CERTAIN CASWELL AND MONTANA CREEK NATIVE ASSOCIATIONS CONVEYANCES.

The conveyance of approximately 11,520 acres to Montana Creek Native Association, Inc., and the conveyance of approximately 11,520 acres to Caswell Native Association, Inc., shall be considered and treated as conveyances under section 14(h)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(2)). The group corporations for Montana Creek and Caswell are hereby declared to have received their full entitlement and shall not be entitled to the receipt of any additional lands under the Alaska Native Claims Settlement Act.

SEC. 3. MINING CLAIMS AFTER LANDS PATENTED TO REGIONAL CORPORATION.

Section 22(c) of Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended by adding at the end the following new paragraph:

"(3) After the fee or subsurface lands subject to a valid mining claim have been patented to a Regional Corporation—

"(A) any person holding such valid mining claim shall continue to meet all requirements of the general mining laws and section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744);

"(B) the United States shall continue to administer the mining claim, unless and until the Secretary, acting through the Bureau of Land Management, waives administration in favor of the Regional Corporation; and

"(C)(i) except as provided in clause (ii), all revenues from the mining claim otherwise due the United States shall be remitted to the Regional Corporation for distribution pursuant to section 7(i) of this Act; and

"(ii) if the Regional Corporation patent does not cover all land covered by the mining claim, the Regional Corporation shall be entitled only to the proportion of revenues reasonably allocated to the portion of the mining claim so covered.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS TO IMPLEMENT CONVEYANCES.

Section 14(c) of Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) by striking "Each patent" and inserting "(1) Each patent"; and

(3) by adding at the end the following new paragraph:

"(2) There is authorized to be appropriated such sums as are necessary to provide technical assistance to Village Corporations in carrying out this subsection. The Secretary may make amounts available pursuant to this subsection through contracts with nonprofit organizations, whose function is to provide technical assistance in planning, developing, and administering assistance to Village Corporations in fulfilling the requirements of this subsection.".

SEC. 5. OPEN SEASON FOR CERTAIN NATIVE ALASKA VETERANS FOR ALLOTMENTS.

(a) IN GENERAL.—During the 1-year period beginning on the date of enactment of this Act, an individual described in subsection (b) is eligible for an allotment of not to exceed 160 acres under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(b) ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—An individual is eligible under subsection (a) if the individual would have been eligible under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971, and the individual is a veteran of the Korean conflict or the Vietnam era.

(2) DECEASED PERSONS.—In the case of an individual described in paragraph (1) who is deceased, the heirs of the individual shall be treated as the individual described in paragraph (1).

(c) CONVEYANCE DEADLINE.—The Secretary of the Interior shall complete land conveyances pursuant to this section not later than 2 years after the date of enactment of this Act.

(d) IMPLEMENTATION.—The Secretary shall prescribe such rules as are necessary to carry out this section.

(e) DEFINITIONS.—For the purposes of this section, the terms "veteran", "Korean conflict", and "Vietnam era" have the meaning given such terms in paragraphs (2), (9), and (29), respectively, of section 101 of title 38, United States Code.

SEC. 6. TRANSFER OF WRANGELL INSTITUTE.

(a) PROPERTY RETURN.—Cook Inlet Region, Incorporated, is authorized to transfer to the United States the 10-acre site of the Wrangell Institute in Wrangell, Alaska, and the structures contained thereon. The Administrator of General Services shall accept title to such property and the structures contained thereon, on behalf of the United States.

(b) RESTORATION OF BIDDING CREDITS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), in exchange for the land and structures at the Wrangell Institute transferred pursuant to subsection (a), the Administrator of General Services shall restore bidding credits to the Cook Inlet Region, Incorporated property account in the Treasury established pursuant to section 12(b) of Public Law 94-204 (43 U.S.C. 1611 note), in an amount equal to the sum of—

(A) $382,305, plus interest; and

(B) the cost of legal and other expenses incurred as a result of the return of the property.

(2) CALCULATION OF INTEREST.—The interest credited to the Cook Inlet Region, Incorporated property account pursuant to paragraph (1) shall be compounded semiannually at the same interest rate that was in effect for 5-year United States Treasury bonds on November 2, 1987. The interest shall be calculated for the period beginning on November 2, 1987, and ending on the date that the land is conveyed to the United States.

(3) USE OF RESTORED CREDITS.—Bidding credits restored to the Cook Inlet Region, Incorporated property account pursuant to paragraph (1) shall be available solely for the acquisition of General Services Administration properties.

(4) HOLD HARMLESS.—The United States shall defend and hold harmless Cook Inlet Region, Incorporated, and its subsidiaries, in any claim arising from Federal or Cook Inlet Region, Incorporated, ownership of the land and structures, prior to the return of such land and structures to the United States.

SEC. 7. LAPSED MINING CLAIMS.

Section 22(c)(2)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) in clause (i)—

(A) by striking "outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and"; and

(B) by striking "The Secretary shall promptly determine the validity of such claims or locations within conservation system units."; and

(2) in clause (ii), by striking "outside a conservation system unit" each place such phrase appears.

ADDITIONAL COSPONSORS

S. 154

At the request of Mr. GRAMM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 154, a bill to ensure that any peace dividend is invested in America's families and deficit reduction.

S. 207

At the request of Mr. LOTT, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 207, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 228

At the request of Mr. BRYAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 228, a bill to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16.

S. 469

At the request of Mr. WARNER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 469, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Vietnam Women's Memorial.

S. 613

At the request of Mr. HARKIN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 613, a bill to prohibit the importation of goods produced abroad with child labor, and for other purposes.

S. 717

At the request of Mr. DANFORTH, his name was added as a cosponsor of S. 717, a bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

S. 738

At the request of Mr. DANFORTH, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 738, a bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers.

S. 946

At the request of Mr. BROWN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 946, a bill to reduce the legislative branch budget by 25 percent.

S. 991

At the request of Mr. JOHNSTON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 991, a bill to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes.

S. 994

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 994, a bill to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1228

At the request of Mr. BROWN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1228, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes.

S. 1359

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Colorado [Mr. CAMPBELL], the Senator from North Dakota [Mr. DORGAN], the Senator from North Carolina [Mr. HELMS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 1359, a bill to amend the Food Stamp Act of 1977 to require the domestic production of food stamp coupons.

S. 1560

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1560, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1560, supra.

S. 1592

At the request of Mr. HATFIELD, his name was added as a cosponsor of S. 1592, a bill to improve Federal decision making by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

S. 1614

At the request of Mr. LEAHY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1614, a bill to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

S. 1698

At the request of Mr. MACK, his name was added as a cosponsor of S. 1698, a bill to reduce the paperwork burden on certain rural regulated financial institutions, and for other purposes.

S. 1715

At the request of Mrs. HUTCHISON, the names of the Senator from Nebraska [Mr. EXON], the Senator from Georgia [Mr. COVERDELL], the Senator from Oklahoma [Mr. BOREN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 27, a bill to express the sense of Congress that funding should be provided to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs and to expand the Job Corps program, and for other purposes.

SENATE RESOLUTION 170

At the request of Mrs. BOXER, her name was added as a cosponsor of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

SENATE RESOLUTION 172—RELATIVE TO SINE DIE ADJOURNMENT

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 172

Resolved, That notwithstanding the sine die adjournment of the present session of the

Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 173—EXTENDING THE SENATE ETHICS STUDY COMMISSION RECOMMENDATION PERIOD

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 173

Resolved, That S. Res. 111, which was adopted May 21, 1993, is hereby amended by striking "December 31, 1993" each place it appears and inserting "March 1, 1994".

AMENDMENTS SUBMITTED

TAX CONVENTION WITH MEXICO

SARBANES EXECUTIVE AMENDMENT NO. 1228

Mr. SARBANES proposed an amendment to the Reservation proposed by the Committee to the resolution of ratification of the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol (Treaty Doc. 103–7); as follows:

In lieu of the reservation proposed to be inserted by the Committee, insert the following:

(a) Understanding: That the phrase "both Contracting States shall apply that lower rate" in paragraph 8(b) of the proposed protocol is understood to mean that both Contracting States agree to promptly amend the Convention to incorporate that lower rate; and

NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

KENNEDY (AND SIMPSON) AMENDMENT NO. 1229

Mr. FORD (for Mr. KENNEDY for himself and Mr. SIMPSON) proposed an amendment to the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

Titles I and III of this Act may be cited as the "Immigration and Nationality Technical Corrections Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

Sec. 101. American Institute in Taiwan.
Sec. 102. Special immigrant status of retired officers and employees of international organizations.
Sec. 103. Treatment of Tibet under per country levels.
Sec. 104. Authority for Secretary of State to make refugee determinations.
Sec. 105. Clarification of certain grounds for exclusion and deportation.
Sec. 106. Labor market information pilot program for employment-based immigrants.
Sec. 107. United States citizens entering and departing on United States passports.
Sec. 108. Applications for visas.
Sec. 109. Limitations on performance of longshore work by alien crewmembers—Alaska exception.
Sec. 110. Family unity and temporary protected status.
Sec. 111. Adjustment of status of certain representatives of foreign governments and international organizations.
Sec. 112. Priority dates for aliens registered on the Western Hemisphere waiting list.
Sec. 113. Other miscellaneous and technical corrections to immigration-related provisions.

TITLE II—NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

Sec. 201. Short title.
Sec. 202. Equal treatment of women in conferring citizenship for children born abroad.
Sec. 203. Nationals, but not citizens, at birth based on use of physical presence instead of residence.
Sec. 204. Children born out of wedlock.
Sec. 205. Child born outside of the United States of an alien parent; conditions for automatic citizenship.
Sec. 206. Naturalization of children on application of citizen parent.
Sec. 207. Former citizens of United States regaining United States citizenship.
Sec. 208. Intent to reside permanently in the United States after naturalization.
Sec. 209. Terminology relating to expatriation.
Sec. 210. Administrative and judicial determinations relating to loss of citizenship.
Sec. 211. Cancellation of United States passports and consular reports of birth.
Sec. 212. Report on citizenship of certain legalized aliens.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Secretary of State to issue United States passports to United States citizens and nationals only.
Sec. 302. Fraud and misuse of travel documents.
Sec. 303. Border Patrol Museum and Memorial Library Foundation.
Sec. 304. Special immigrant status for certain aliens employed abroad.

TITLE I—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

SEC. 101. AMERICAN INSTITUTE IN TAIWAN.

Section 101(a)(27)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(D)) is amended—

(1) by inserting "or of the American Institute in Taiwan," after "of the United States Government abroad,"; and

(2) by inserting "(or, in the case of the American Institute in Taiwan, the Director thereof)" after "Foreign Service establishment".

SEC. 102. SPECIAL IMMIGRANT STATUS OF RETIRED OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS.

Section 101(a)(27)(I)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(I)(iii)) is amended by striking subclause (II) and inserting in lieu thereof the following: "(II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1993, whichever is later.".

SEC. 103. TREATMENT OF TIBET UNDER PER COUNTRY LEVELS.

(a) APPLICATION OF IMMIGRATION AND NATIONALITY ACT.—The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1994, with respect to Tibet as a separate foreign state, and not as a component or dependent area of another foreign state.

(b) DEFINITION.—For purposes of this section, the term "Tibet" refers to the territory encompassed by Tibet as of October 1, 1949.

SEC. 104. AUTHORITY FOR SECRETARY OF STATE TO MAKE REFUGEE DETERMINATIONS.

Section 207(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(1)) is amended—

(1) by inserting "(A)" immediately after "(1)";

(2) by inserting "and subject to subparagraph (B)," after "subsections (a) and (b),"; and

(3) by adding at the end thereof the following:

"(B) The Secretary of State, together with the Attorney General, shall develop procedures under which the Secretary may determine individuals to be qualified for admission to the United States as refugees. Such determinations may be made by the Secretary of State in situations (defined by the Attorney General together with the Secretary of State) in which the Attorney General does not have immediate access to the individual under consideration for admission as a refugee and cannot expeditiously determine whether such individual is qualified for refugee admission.".

SEC. 105. CLARIFICATION OF CERTAIN GROUNDS FOR EXCLUSION AND DEPORTATION.

(a) EXCLUSION GROUNDS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)(A)(i)(I), by inserting "or an attempt or conspiracy to commit that crime" after "offense)",

(2) in subsection (a)(2)(A)(i)(II), by inserting "or attempt" after "conspiracy", and

(3) in the last sentence of subsection (h), by inserting ", or an attempt or conspiracy to commit murder or a criminal act involving torture" after "torture".

(b) DEPORTATION GROUNDS.—Section 241(a) of such Act (8 U.S.C. 1251(a)) is amended—

(1) in paragraph (2)(C)—

(A) by striking "in violation of any law," and inserting ", or of attempting or conspiring to purchase, sell, offer for sale, exchange, use own, possess, or carry,", and

(B) by inserting "in violation of any law" after "Code)"; and

(2) in paragraph (3)(B), by inserting "an attempt or" before "a conspiracy" each place it appears in clauses (ii) and (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act.

SEC. 106. LABOR MARKET INFORMATION PILOT PROGRAM FOR EMPLOYMENT-BASED IMMIGRANTS.

(a) PROGRAM MADE DISCRETIONARY.—Section 122(a)(1) of the Immigration Act of 1990 is amended by striking from the first sentence "shall" and inserting "may".

(b) CONFORMING AMENDMENT.—Section 122(a)(4) of such Act is amended by striking "By" and inserting "In the event a pilot program is established pursuant to this subsection, by".

SEC. 107. UNITED STATES CITIZENS ENTERING AND DEPARTING ON UNITED STATES PASSPORTS.

(a) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended by inserting "United States" after "valid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures and entries (and attempts thereof) occurring on or after the date of enactment of this Act.

SEC. 108. APPLICATIONS FOR VISAS.

(a) IN GENERAL.—The second sentence of section 222(a) of the Immigration and Nationality Act (8 U.S.C. 1202(a)) is amended—

(1) by striking "the immigrant" and inserting "the alien", and

(2) by striking "present address" and all that follows through "exempt from exclusion under the immigration laws;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications made on or after the date of the enactment of this Act.

SEC. 109. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

SEC. 110. FAMILY UNITY AND TEMPORARY PROTECTED STATUS.

(a) IN GENERAL.—Section 301(a) of the Immigration Act of 1990 is amended by inserting after "May 5, 1988" the following: "(in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

SEC. 111. ADJUSTMENT OF STATUS OF CERTAIN REPRESENTATIVES OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

Section 13(c) of the Act of September 11, 1957 (8 U.S.C. 1255b(c)) is amended—

(1) by striking the third sentence; and

(2) in the fourth sentence, by striking "If neither the Senate nor the House of Representatives passes such a resolution within the time above specified the" and inserting "The".

SEC. 112. PRIORITY DATES FOR ALIENS REGISTERED ON THE WESTERN HEMISPHERE WAITING LIST.

Section 9(b) of the Immigration and Nationality Act Amendments of 1976 (Public Law 94–571) is hereby repealed.

SEC. 113. OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS TO IMMIGRATION-RELATED PROVISIONS.

(a) Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by striking "and has" and inserting "or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has".

(b)(1) The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting "(and each child of the alien)" after "the alien".

(2) The second sentence of section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)) is amended—

(A) by inserting "spouse" after "alien", and

(B) by inserting "of the alien (and the alien's children)" after "for classification".

(c) Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by striking "TARGETTED", "TARGETTED", and "targetted" each place each appears and inserting "TARGETED", "TARGETED", and "targeted", respectively.

(d) Section 210(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(d)(3)) is amended by inserting "the" before "Service" the first place it appears.

(e) Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by striking "voluntary" and inserting "voluntarily".

(f) Section 217(e)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1187(e)(1)(A)) is amended by striking "(a)(1)(A)" and inserting "(a)(1)".

(g) Section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(c)) is amended by striking "or (3)(A) of subsection 241(a)" and inserting "and (3)(A) of subsection (a)".

(h) Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended by striking "Parole,," and inserting "Parole,".

(i) Section 242B(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1252b(c)(1)) is amended by striking the comma after "that".

(j) Section 244A(c)(2)(A)(iii)(III) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(A)(iii)(III)) is amended—

(1) by striking "Paragraphs" and inserting "paragraphs", and

(2) by striking "or (3)(E)" and inserting "and (3)(E)".

(k) Section 245(h)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(B)) is amended by striking "or (3)(E)" and inserting "and (3)(E)".

(l)(1) Subparagraph (C) of section 245A(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)), as added by Public Law 102–140, is amended—

(A) by indenting it 2 additional ems to the right; and

(B) by striking "subsection (B)" and inserting "subparagraph (B)".

(2) Section 610(b) of Public Law 102–140 is amended by striking "404(b)(2)(ii)" and "404(b)(2)(iii)" and inserting "404(b)(1)(A)(ii)" and "404(b)(2)(A)(iii)", respectively.

(m) Effective as of the date of the enactment of this Act, section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended by striking the first 3 sentences.

(n) Section 262(c) of the Immigration and Nationality Act (8 U.S.C. 1302(c)) is amended by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)".

(o) Section 272(a) of the Immigration and Nationality Act (8 U.S.C. 1322(a)) is amended by striking the comma after "so afflicted".

(p) The first sentence of section 273(b) of the Immigration and Nationality Act (8 U.S.C. 1323(b)) is amended by striking "collector of customs" and inserting "Commissioner".

(q) Section 274B(g)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(C)) is amended by striking "an administrative law judge" and inserting "the Special Counsel".

(r) Section 274C(b) of the Immigration and Nationality Act (8 U.S.C. 1324c(b)) is amended by striking "title V" and all that follows through "3481)" and inserting "chapter 224 of title 18, United States Code".

(s) Section 280(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1330(b)(1)(C)) is amended by striking "maintainance" and inserting "maintenance".

(t) Effective as if included in the enactment of Public Law 102–395, subsection (r) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 112 of such Public Law, is amended—

(1) in the subsection heading, by striking "Breached Bond/Detention Fund" and inserting "BREACHED BOND/DETENTION FUND";

(2) in paragraph (1), by striking "(hereafter referred to as the Fund)" and inserting "(in this subsection referred to as the 'Fund')";

(3) in paragraph (2), by striking "the Immigration and Nationality Act of 1952, as amended," and inserting "this Act";

(4) in paragraphs (4) and (6), by striking "the Breached Bond/Detention";

(5) in paragraph (4), by striking "of this Act" and inserting "of Public Law 102–395";

(6) in paragraph (5), by striking "account" and inserting "Fund"; and

(7) in paragraph (6), by striking "Breached Bond/Detention" each of the two places it appears.

(u) Section 310(b)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1421(b)(5)(A)) is amended by striking "District Court" and inserting "district court".

(v) Effective December 12, 1991, section 313(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1424(a)(2)) is amended by striking "and" before "(F)" and inserting "or".

(w) Section 333(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1444(b)(1)) is amended by striking "249(a)" and inserting "249".

(x) Section 412(e)(7)(D) of the Immigration and Nationality Act (8 U.S.C. 1522(e)(7)(D)) is amended by striking "paragraph (1) or (2) of".

(y) Section 302(c) of the Immigration Act of 1990 is amended by striking "effect" and inserting "affect".

(z) Effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991—

(1) section 303(a)(7)(B)(i) of such Act is amended by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)";

(2) section 304(b)(2) of such Act is amended by striking "paragraph (1)(B)" and inserting "subsection (c)(1)(B)";

(3) paragraph (1) of section 305(j) of such Act is repealed (and section 407(d)(16)(C) of the Immigration Act of 1990 shall read as if such paragraph had not been enacted);

(4) paragraph (2) of section 306(b) of such Act is amended to read as follows:

"(2) Section 538(a) of the Immigration Act of 1990 is amended by striking the comma after 'Service'.";

(5) section 307(a)(6) of such Act is amended by striking "immigrants" the first place it appears and inserting "immigrant aliens";

(6) section 309(a)(3) of such Act is amended by striking "paragraph (1) and (2)" and inserting "paragraphs (1)(A) and (1)(B)";

(7) section 309(b)(6)(F) of such Act is amended by striking "210(a)(1)(B)(1)(B)" and inserting "210(a)(B)(1)(B)";

(8) section 309(b)(8) of such Act is amended by striking "274A(g)" and inserting "274A(h)"; and

(9) section 310 of such Act is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and by striking "309(c)" and inserting "309(b)".

(aa) Effective as if included in section 4 of Public Law 102–110, section 161(c)(3) of the Immigration Act of 1990 is amended—

(1) by striking "alien described in section 203(a)(3) or 203(a)(6) of such Act" and inserting "alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date)"; and

(2) by striking "this section" and inserting "this title".

(bb) Section 599E(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "and subparagraphs" and inserting "or subparagraph".

(cc) Except as otherwise specifically provided in this section, the amendments made by this section shall be effective as if included in the enactment of the Immigration Act of 1990.

TITLE II—NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

SEC. 201. SHORT TITLE.

This title may be cited as the "Nationality and Naturalization Amendments of 1993".

SEC. 202. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP FOR CHILDREN BORN ABROAD.

(a) IN GENERAL.—Section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended—

(1) by striking the period at the end of paragraph (g) and inserting "; and", and

(2) by adding at the end the following new paragraph:

"(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.".

(b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) RETROACTIVE APPLICATION.—(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though the amendment made by subsection (a), and subsection (b), had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

SEC. 203. NATIONALS, BUT NOT CITIZENS, AT BIRTH BASED ON USE OF PHYSICAL PRESENCE INSTEAD OF RESIDENCE.

(a) IN GENERAL.—Section 308(2) of the Immigration and Nationality Act (8 U.S.C. 1408(2)) is amended by striking "have had a residence" and inserting "were physically present".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons born on or after the date of the enactment of this Act.

SEC. 204. CHILDREN BORN OUT OF WEDLOCK.

(a) IN GENERAL.—Section 309(c) of the Immigration and Nationality Act (8 U.S.C. 1409(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of satisfying the physical presence requirements of this subsection, the mother may include any period during which she is physically present abroad as the dependent unmarried daughter and a member of the household of a person—

"(A) honorably serving with the Armed Forces of the United States; or

"(B) employed by the United States Government or an international organization, as defined in section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to mothers of persons born on or after the date of the enactment of this Act.

SEC. 205. CHILD BORN OUTSIDE OF THE UNITED STATES OF AN ALIEN PARENT; CONDITIONS FOR AUTOMATIC CITIZENSHIP.

(a) IN GENERAL.—Section 321(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1432(a)(3)) is amended by inserting "sole or joint" before "legal custody of the child".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the awarding of custody before, on, or after the date of enactment of this Act.

SEC. 206. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.

(a) IN GENERAL.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follows:

"CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

"SEC. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

"(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

"(2) The child is physically present in the United States pursuant to a lawful admission.

"(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

"(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the citizen parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

"(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years—

"(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

"(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

"(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

"(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 341 of such Act (8 U.S.C. 1452) is repealed.

(c) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 322 is amended to read as follows:

"Sec. 322. Child born outside the United States; application for certificate of citizenship requirements.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 207. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end the following new subsection:

"(d)(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

"(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 208. INTENT TO RESIDE PERMANENTLY IN THE UNITED STATES AFTER NATURALIZATION.

(a) IN GENERAL.—Section 338 of the Immigration and Nationality Act (8 U.S.C. 1449) is amended by striking "intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title,".

(b) CONFORMING REPEAL.—Section 340(d) of such Act (8 U.S.C. 1451(d)) is repealed.

(c) CONFORMING REDESIGNATION.—Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively; and

(2) in subsection (d) (as redesignated), by striking "subsections (c) or (d)" and inserting "subsection (c)".

(d) CONFORMING AMENDMENT.—Section 405 of the Immigration Act of 1990 is amended by striking subsection (b).

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons admitted to citizenship on or after the date of enactment of this Act.

SEC. 209. TERMINOLOGY RELATING TO EXPATRIATION.

(a) IN GENERAL.—Section 351 of the Immigration and Nationality Act (8 U.S.C. 1483) is amended—

(1) in the heading, by striking "EXPATRIATION" and inserting "LOSS OF NATIONALITY";

(2) in subsection (a)—

(A) by striking "expatriate himself, or be expatriated" and inserting "can lose United States nationality", and

(B) by striking "expatriation" and inserting "loss of nationality"; and

(3) in subsection (b), by striking "expatriated himself" and inserting "lost United States nationality".

(b) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 351 is amended to read as follows:

"Sec. 351. Restrictions on loss of nationality.".

SEC. 210. ADMINISTRATIVE AND JUDICIAL DETERMINATIONS RELATING TO LOSS OF CITIZENSHIP.

(a) FINAL ADMINISTRATIVE DETERMINATIONS.—Section 358 of the Immigration and Nationality Act (8 U.S.C. 1501) is amended by adding at the end the following new sentence: "Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this Act, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 360.".

(b) JUDICIAL PROCEEDINGS.—Subsections (a) and (b) of section 360 of such Act (8 U.S.C. 1503) are each amended by inserting ", including approval of a certificate in accordance with section 358," after "official thereof,".

SEC. 211. CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH.

(a) IN GENERAL.—Title III of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH

"SEC. 361. (a) The Secretary of State is authorized to cancel any United States passport or Consular Report of Birth, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through illegality or fraud practiced upon, the Secretary. The person for or to whom such document has been issued or made shall be given at such person's last known address written notice of the intention to cancel such document, together with the reasons therefor, and shall be given at least 60 days in which to show, pursuant to such regulation as the Secretary may prescribe, why such document should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

"(b) For purposes of this section, the term 'Consular Report of Birth' refers to the report, designated as a 'Report of Birth Abroad of a Citizen of the United States', issued by a consular officer to document a citizen born abroad.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 360 the following new item:

"Sec. 361. Cancellation of United States passports and Consular Reports of Birth.".

SEC. 213. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

(1) The number of applications for citizenship filed.

(2) The number of applications approved.

(3) The number of applications denied.

(4) The number of applications pending.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SECRETARY OF STATE TO ISSUE UNITED STATES PASSPORTS TO UNITED STATES CITIZENS AND NATIONALS ONLY.

Section 2 of the Act of June 14, 1902 (32 Stat. 386; 22 U.S.C. 212) is amended by striking "for any other persons than those owing allegiance, whether citizens or not, to the United States" and inserting "for any person other than a citizen or national of the United States.".

SEC. 302. FRAUD AND MISUSE OF TRAVEL DOCUMENTS.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 911—

(A) by striking "not more than $1,000" and inserting "under this title"; and

(B) by striking "three years" and inserting "six years";

(2) in section 1001—

(A) by striking "not more than $10,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years";

(3) in section 1541—

(A) by striking "not more than $500" and inserting "under this title"; and

(B) by striking "one year" and inserting "ten years";

(4) in section 1542—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years";

(5) in section 1543—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years";

(6) in section 1544—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years"; and

(7) in section 1545—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "three years" and inserting "five years".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to offenses committed on or after the date of enactment of this Act.

SEC. 303. BORDER PATROL MUSEUM AND MEMORIAL LIBRARY FOUNDATION.

(a) AUTHORITY.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas—

(1) such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service, and

(2) such real property of the United States,

as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 304. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED ABROAD.

(a) IN GENERAL.—An alien lawfully admitted to the United States for permanent residence shall be considered, for purposes of section 101(a)(27)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(A)), to be temporarily visiting abroad during any period before, on, or after the date of enactment of this Act in which the alien is employed by the American University of Beirut or by Beirut University College.

(b) REPEAL.—Private Law 98-53 (8 U.S.C. 1101 note) is hereby repealed.

COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

DECONCINI (AND OTHERS) AMENDMENT NO. 1230

Mr. FORD (for Mr. DECONCINI for himself, Mr. HATCH, and Mr. COHEN) proposed an amendment to the bill (H.R. 2840) to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty Tribunal Reform Act of 1993".

SEC. 2. COPYRIGHT ARBITRATION ROYALTY PANELS.

(a) ESTABLISHMENT AND PURPOSE.—Section 801 of title 17, United States Code, is amended as follows:

(1) The section designation and heading are amended to read as follows:

"§ 801. Copyright arbitration royalty panels: Establishment and purpose".

(2) Subsection (a) is amended to read as follows:

"(a) ESTABLISHMENT.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, is authorized to appoint and convene copyright arbitration royalty panels.".

(3) Subsection (b) is amended—

(A) by inserting "PURPOSES.—" after "(b)";

(B) in the matter preceding paragraph (1), by striking "Tribunal" and inserting "copyright arbitration royalty panels";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "Commission" and inserting "copyright arbitration royalty panels";

(ii) in subparagraph (B), by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panels"; and

(iii) in subparagraph (D) by adding "and" after the semicolon;

(D) in paragraph (3)—

(i) by striking "and 119(b)," and inserting "119(b), and 1003,"; and

(ii) by striking the sentence beginning with "In determining" through "this title"; and

(E) by striking paragraph (4);

(4) by amending subsection (c) to read as follows:

"(c) RULINGS.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, may, before a copyright arbitration royalty panel is convened, make any necessary procedural or evidentiary rulings that would apply to the proceedings conducted by such panel."; and

(5) by adding at the end the following new subsection:

"(d) ADMINISTRATIVE SUPPORT OF COPYRIGHT ARBITRATION ROYALTY PANELS.—The Library of Congress, upon recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter.".

(b) MEMBERSHIP AND PROCEEDINGS.—Section 802 of title 17, United States Code, is amended to read as follows:

"§ 802. Membership and proceedings of copyright arbitration royalty panels

"(a) COMPOSITION OF COPYRIGHT ARBITRATION ROYALTY PANELS.—A copyright arbitration royalty panel shall consist of 3 arbitrators selected by the Librarian of Congress pursuant to subsection (b).

"(b) SELECTION OF ARBITRATION PANEL.—Not later than 10 days after publication of a notice in the Federal Register initiating an arbitration proceeding under section 803, and in accordance with procedures specified by the Register of Copyrights, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, select 2 arbitrators from lists provided by professional arbitration associations. Qualifications of the arbitrators shall include experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes, and any qualifications which the Librarian of Congress, upon recommendation of the Register of Copyrights, shall adopt by regulation. The 2 arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same lists, who shall serve as the chairperson of the arbitrators. If such 2 arbitrators fail to agree upon the selection of a third arbitrator, the Librarian of Congress shall promptly select the third arbitrator. The Librarian of Congress, upon recommendation of the Register of Copyrights, shall adopt regulations regarding standards of conduct which shall govern arbitrators and the proceedings under this chapter.

"(c) ARBITRATION PROCEEDINGS.—Copyright arbitration royalty panels shall conduct arbitration proceedings, subject to subchapter II of chapter 5 of title 5, United States Code, for the purpose of making their determinations in carrying out the purposes set forth in section 801. The arbitration panels shall act on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration panel determinations, and rulings by the Librarian of Congress under section 801(c). Any copyright owner who claims to be entitled to royalties under section 111, 116, or 119, or any interested copyright party who claims to be entitled to royalties under section 1006, may submit relevant information and proposals to the arbitration panels in proceedings applicable to such copyright owner or interested copyright party, and any other person participating in arbitration proceedings may submit such relevant information and proposals to the arbitration panel conducting the proceedings. In ratemaking proceedings, the parties to the proceedings shall bear the entire cost thereof in such manner and proportion as the arbitration panels shall direct. In distribution proceedings, the parties shall bear the cost in direct proportion to their share of the distribution.

"(d) PROCEDURES.—Effective on the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, the Librarian of Congress shall adopt the rules and regulations set forth in chapter 3 of title 37 of the Code of Federal Regulations to govern proceedings under this chapter. Such rules and regulations shall remain in effect unless and until the Librarian, upon recommendation of the Register of Copyrights, adopts supplemental or superseding regulations under subchapter II of chapter 5 of title 5, United States Code.

"(e) REPORT TO THE LIBRARIAN OF CONGRESS.—Not later than 180 days after publication of the notice in the Federal Register initiating an arbitration proceeding, the copyright arbitration royalty panel conducting the proceeding shall report to the Librarian of Congress its determination concerning the royalty fee or distribution of royalty fees, as the case may be. Such report shall be accompanied by the written record, and shall set forth the facts that the arbitration panel found relevant to its determination.

"(f) ACTION BY LIBRARIAN OF CONGRESS.—Within 60 days after receiving the report of a copyright arbitration royalty panel under subsection (e), the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt or reject the determination of the arbitration panel. The Librarian shall adopt the determination of the arbitration panel unless the Librarian finds that the determination is arbitrary or contrary to the applicable provisions of this title. If the Librarian rejects the determination of the arbitration panel, the Librarian shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be. The Librarian shall cause to be published in the Federal Register the determination of the arbitration panel, and the decision of the Librarian (including an order issued under the preceding sentence). The Librarian shall also publicize such determination and decision in such other manner as the Librarian considers appropriate. The Librarian shall also make the report of the arbitration panel and the accompanying record available for public inspection and copying.

"(g) JUDICIAL REVIEW.—Any decision of the Librarian of Congress under subsection (f) with respect to a determination of an arbitration panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. If no appeal is brought within such 30-day period, the decision of the Librarian is final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in the decision. The pendency of an appeal under this paragraph shall not relieve persons obligated to make royalty payments under sections 111, 115, 116, 118, 119, or 1003 who would be affected by the determination on appeal to deposit the statement of account and royalty fees specified in those sections. The court shall have jurisdiction to modify or vacate a decision of the Librarian only if it finds, on the basis of the record before the Librarian, that the Librarian acted in an arbitrary manner. If the court modifies the decision of the Librarian, the court shall have jurisdiction to enter its own determination with respect to the amount or distribution of royalty fees and costs, to order the repayment of any excess fees, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the arbitration panel and remand the case to the Librarian for arbitration proceedings in accordance with subsection (c).

"(h) ADMINISTRATIVE MATTERS.—

"(1) DEDUCTION OF COSTS FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. If no royalty pool exists from which their costs can be deducted, the Librarian of Congress and the Copyright Office may assess their reasonable costs directly to the parties to the most recent relevant arbitration proceeding.

"(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 115, 116, 118, or 119 or chapter 10.".

(c) PROCEDURES OF THE TRIBUNAL.—Section 803 of title 17, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 8 of such title, are repealed.

(d) INSTITUTION AND CONCLUSION OF PROCEEDINGS.—Section 804 of title 17, United States Code, is amended as follows:

(1) The section heading is amended to read as follows:

"§ 803. Institution and conclusion of proceedings".

(2) Subsection (a) is amended to read as follows:

"(a)(1) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under subparagraphs (A) and (D) of section 801(b)(2), during the calendar years specified in the schedule set forth in paragraphs (2), (3), and (4), any owner or user of a copyrighted work whose royalty rates are specified by this title, established by the Copyright Royalty Tribunal before the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, or established by a copyright arbitration royalty panel after such date of enactment, may file a petition with the Librarian of Congress declaring that the petitioner requests an adjustment of the rate. The Librarian of Congress shall, upon the recommendation of the Register of Copyrights, make a determination as to whether the petitioner has such a significant interest in the royalty rate in which an adjustment is requested. If the Librarian determines that the petitioner has such a significant interest, the Librarian shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter.

"(2) In proceedings under section 801(b)(2)(A) and (D), a petition described in paragraph (1) may be filed during 1995 and in each subsequent fifth calendar year.

"(3) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, a petition described in paragraph (1) may be filed in 1997 and in each subsequent tenth calendar year.

"(4)(A) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 116, a petition described in paragraph (1) may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Librarian of Congress shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, convene a copyright arbitration royalty panel. The arbitration panel shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of non-dramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the arbitration panel, in accordance with section 802, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).".

(3) Subsection (b) is amended—

(A) by striking "subclause" and inserting "subparagraph";

(B) by striking "Tribunal" the first place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress";

(C) by striking "Tribunal" the second and third places it appears and inserting "Librarian";

(D) by striking "Tribunal" the last place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress"; and

(E) by striking "(a)(2), above" and inserting "subsection (a) of this section".

(4) Subsection (c) is amended by striking "Tribunal" and inserting "Librarian of Congress".

(5) Subsection (d) is amended—

(A) by striking "Chairman of the Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "determination by the Tribunal" and inserting "a determination".

(6) Subsection (e) is stricken out.

(e) REPEAL.—Sections 805 through 810 of title 17, United States Code, are repealed.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 8 of title 17, United States Code, is amended to read as follows:

"CHAPTER 8—COPYRIGHT ROYALTY TRIBUNAL

"Sec.

"801. Copyright arbitration royalty panels: establishment and purpose.

"802. Membership and proceedings of copyright arbitration royalty panels.

"803. Institution and conclusion of proceedings.".

SEC. 3. JUKEBOX LICENSES.

(a) REPEAL OF COMPULSORY LICENSE.—Section 116 of title 17, United States Code, and the item relating to section 116 in the table of sections at the beginning of chapter 1 of such title, are repealed.

(b) NEGOTIATED LICENSES.—(1) Section 116A of title 17, United States Code, is amended—

(A) by redesignating such section as section 116;

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(C) in subsection (b)(2) (as so redesignated) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in subsection (c) (as so redesignated)—

(i) in the subsection caption by striking "ROYALTY TRIBUNAL" and inserting "ARBITRATION ROYALTY PANEL";

(ii) by striking "subsection (c)" and inserting "subsection (b)"; and

(iii) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(E) by striking subsections (e), (f), and (g).

(2) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by striking "116A" and inserting "116".

SEC. 4. PUBLIC BROADCASTING COMPULSORY LICENSE.

Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first 2 sentences;

(B) in the third sentence by striking "works specified by this subsection" and inserting "published nondramatic musical works and published pictorial, graphic, and sculptural works";

(C) in paragraph (1)—

(i) in the first sentence by striking ", within one hundred and twenty days after publication of the notice specified in this subsection,"; and

(ii) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in paragraph (2) by striking "Tribunal" and inserting "Librarian of Congress";

(E) in paragraph (3)—

(i) by striking the first sentence and inserting the following: "In the absence of license agreements negotiated under paragraph (2), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Librarian of Congress.";

(ii) in the second sentence—

(I) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel"; and

(II) by striking "clause (2) of this subsection" and inserting "paragraph (2)"; and

(iii) in the last sentence by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(F) by striking paragraph (4);

(2) in subsection (c)—

(A) by striking "1982" and inserting "1997"; and

(B) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(3) in subsection (d)—

(A) by striking "to the transitional provisions of subsection (b)(4), and";

(B) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(C) in paragraphs (2) and (3) by striking "clause" each place it appears and inserting "paragraph"; and

(4) in subsection (g) by striking "clause" and inserting "paragraph".

SEC. 5. SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking ", after consultation with the Copyright Royalty Tribunal," each place it appears;

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in paragraph (3) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(D) in paragraph (4)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in subparagraph (B) by striking "conduct a proceeding" in the last sentence and inserting "convene a copyright arbitration royalty panel"; and

(2) in subsection (c)—

(A) in the subsection caption by striking "DETERMINATION" and inserting "ADJUSTMENT";

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(II) by striking the last sentence and inserting the following: "Such arbitration proceeding shall be conducted under chapter 8.";

(ii) by striking subparagraphs (B) and (C);

(iii) in subparagraph (D)—

(I) by redesignating such subparagraph as subparagraph (B); and

(II) by striking "Arbitration Panel" and inserting "copyright arbitration royalty panel appointed under chapter 8";

(iv) by striking subparagraphs (E) and (F);

(v) by amending subparagraph (G) to read as follows:

"(C) PERIOD DURING WHICH DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN EFFECTIVE.—The obligation to pay the royalty fee established under a determination which—

"(i) is made by a copyright arbitration royalty panel in an arbitration proceeding under this paragraph and is adopted by the Librarian of Congress under section 802(e), or

"(ii) is established by the Librarian of Congress under section 802(e),

shall become effective as provided in section 802(f)."; and

(vi) in subparagraph (H)—

(I) by redesignating such subparagraph as subparagraph (D); and

(II) by striking "adopted or ordered under subparagraph (F)" and inserting "referred to in subparagraph (C)"; and

(D) by striking paragraph (4).

SEC. 6. CONFORMING AMENDMENTS.

(a) CABLE COMPULSORY LICENSE.—Section 111(d) of title 17, United States Code, is amended as follows:

(1) Paragraph (1) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(2) Paragraph (1)(A) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(3) Paragraph (2) is amended by striking the second and third sentences and by inserting the following: "All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Librarian of Congress in the event no controversy over distribution exists, or by a copyright arbitration royalty panel in the event a controversy over such distribution exists.".

(4) Paragraph (4)(A) is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(5) Paragraph (4)(B) is amended to read as follows:

"(B) After the first day of August of each year, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, determine whether there exists a controversy concerning the distribution of royalty fees. If the Librarian determines that no such controversy exists, the Librarian shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled to such fees, or to their designated agents. If the Librarian finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty fees.".

(6) Paragraph (4)(C) is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress".

(b) AUDIO HOME RECORDING ACT.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) of title 17, United States Code, is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(2) DEPOSIT OF ROYALTY PAYMENTS.—Section 1005 of title 17, United States Code, is amended by striking the last sentence.

(3) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) of title 17, United States Code, is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress shall convene a copyright arbitration royalty panel which".

(4) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 of title 17, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" and inserting "Librarian of Congress";

(B) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(C) in subsection (c)—

(i) by striking the first sentence and inserting "If the Librarian of Congress finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments.";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in the last sentence by striking "its reasonable administrative costs" and inserting "the reasonable administrative costs incurred by the Librarian".

(5) ARBITRATION OF CERTAIN DISPUTES.—Section 1010 of title 17, United States Code, is amended—

(A) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress";

(B) in subsection (e)—

(i) in the subsection caption by striking "COPYRIGHT ROYALTY TRIBUNAL" and inserting "LIBRARIAN OF CONGRESS"; and

(ii) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in subsection (f)—

(i) in the subsection caption by striking "COPYRIGHT ROYALTY TRIBUNAL" and inserting "LIBRARIAN OF CONGRESS";

(ii) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(iii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iv) in the third sentence by striking "its" and inserting "the Librarian's"; and

(D) in subsection (g)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(ii) by striking "Tribunal's decision" and inserting "decision of the Librarian of Congress"; and

(iii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress".

SEC. 7. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EFFECTIVENESS OF EXISTING RATES AND DISTRIBUTIONS.—All royalty rates and all determinations with respect to the proportionate division of compulsory license fees among copyright claimants, whether made by the Copyright Royalty Tribunal, or by voluntary agreement, before the effective date set forth in subsection (a) shall remain in effect until modified by voluntary agreement or pursuant to the amendments made by this Act.

(c) TRANSFER OF APPROPRIATIONS.—All unexpended balances of appropriations made to the Copyright Royalty Tribunal, as of the effective date of this Act, are transferred on such effective date to the Copyright Office for use by the Copyright Office for the purposes for which such appropriations were made.

At the end of the bill add the following new section:

SEC. 8. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7 miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

SEC. 111. NATIONALS, BUT NOT CITIZENS, AT BIRTH BASED ON USE OF PHYSICAL PRESENCE INSTEAD OF RESIDENCE.

(a) IN GENERAL.—Section 308(2) of the Immigration and Nationality Act (8 U.S.C. 1408(2)) is amended by striking "have had a residence" and inserting "were physically present".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons born on or after the date of the enactment of this Act.

SEC. 112. CHILDREN BORN OUT OF WEDLOCK.

(a) IN GENERAL.—Section 309(c) of the Immigration and Nationality Act (8 U.S.C. 1409(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end the following new paragraph:

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS

PRYOR AMENDMENT NO. 1231

Mr. FORD (for Mr. PRYOR) proposed an amendment to the bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes; as follows:

Between sections 2 and 3 of the Committee amendment, insert the following new section:

SEC. 3. RESEARCH.

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

In section 3 of the Committee amendment (relating to exempted producers), strike "SEC. 3" and insert "SEC. 4".

In section 4 of the Committee amendment (relating to amendments to the order), strike "SEC. 4" and insert "SEC. 5".

On page 9, line 20 of the committee reported bill, strike "90" and insert in lieu thereof "80."

On page 10, line 1 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

On page 10, line 6 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

LEAHY AMENDMENT NO. 1232

Mr. FORD (for Mr. LEAHY) proposed an amendment to the bill (S. 994) to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes; as follows:

In section 5, subsection (i), paragraph 5, delete all after the word "Act" through the word "referenda."

CHILD SAFETY PROTECTION ACT

BRYAN (AND OTHERS) AMENDMENT NO. 1233

Mr. FORD (for Mr. BRYAN, for himself and Mr. GORTON) proposed an amendment to the bill (S. 680) to provide for toy safety, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

"WARNING:

CHOKING HAZARD—Small parts. Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children ages 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Children under 8 yrs can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a marble. Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a marble. Not for children under 3 yrs.

"(c) GENERAL LABELING REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

"SAFETY WARNING

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

"WARNING—CHOKING HAZARD

"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".

(b) OTHER SMALL BALLS.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the "Commission") shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuances of regulations under this subsection.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995.

(e) PREEMPTION.—

(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

SEC. 102. REPORTING REQUIREMENTS.

(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—

(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1993".

SEC. 202. ESTABLISHMENT OF PROGRAM.

The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 203, make grants to States and nonprofit organizations for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

SEC. 203. PURPOSES FOR GRANTS.

A grant made under section 202 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

SEC. 204. STANDARDS.

(a) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) The American Society of Testing Materials standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection

(a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

For the National Highway Traffic Safety Administration to carry out the grant program authorized by this title, there are authorized to be appropriated $2,000,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $4,000,000 for fiscal year 1996.

SEC. 206. DEFINITION.

In this title, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 204(b), pending establishment of a final standard under section 204(c); and

(2) the final standard, once it is established under section 204(c).

TITLE III—BUCKET DROWNING PREVENTION

SEC. 301. LABELING STANDARD REQUIREMENTS.

On October 1, 1994, or 240 days after the date of the enactment of this title, whichever first occurs, there is established and effective a consumer product safety standard under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), to eliminate or reduce the risk of injury or death resulting from infants falling into 4-gallon to 6-gallon buckets containing liquid. Such standard, when established, shall require straight sided or slightly tapered, open head containers with a capacity of more than 4 gallons and less than 6 gallons (referred to in this title as a "bucket"), to bear one warning label in English and Spanish. The label shall meet the following requirements:

(1) The label shall be permanent so that such label cannot be removed, torn or defaced without the aid of tools or solvents.

(2) The label shall be at least 7 inches in height, and 3½ inches in width, or any larger size as the labeler may choose.

(3) The label shall be centered on one side of the bucket just below the point where the handle is inserted.

(4) The label shall have a border or other form of contrast around its edges to delineate it from any other information on the bucket.

(5) The label shall bear (A) the signal word "WARNING" in both English and Spanish, in bold uppercase lettering, and (B) in upper and lower case lettering the words "Children Can Fall Into Bucket and Drown. Keep Children Away From Buckets With Even a Small Amount of Liquid.", with an equivalent Spanish translation in at least the same type size as English. The signal word panel shall be preceded by a safety alert symbol consisting of an exclamation mark in a triangle.

(6) The label shall be clear and conspicuous and in contrasting colors.

(7) The label shall include a picture of a child falling into a bucket containing liquid. An encircled slash symbol shall be superimposed over, and surround the pictorial. The picture shall be positioned between the signal word panel and the message panel.

SEC. 302. CERTAIN BUCKETS NOT AFFECTED.

The standard established by section 301 applies only to buckets manufactured or imported on or after the effective date of such standard, and buckets manufactured or imported before such effective date may be sold without the warning label required by section 301 even though such sales occur after that date. The Consumer Product Safety Commission, by rule, shall prohibit a manufacturer, filler, distributor, and retailer from stockpiling buckets to which consumer product safety standards established by section 301 of this title would have applied but for the preceding sentence. For purposes of this section, the term "stockpiling" shall have the same meaning as that provided by section 9(g)(2) of the Consumer Product Safety Act.

SEC. 303. PROHIBITED ACTS.

(a) REMOVAL OF LABEL.—Once placed on a plastic bucket pursuant to the standard provided by section 301, it shall be a prohibited act under section 19 of the Consumer Product Safety Act for any person in the chain of distribution of the bucket to intentionally cover, obstruct, tear, deface or remove the label.

(b) CONSUMER PRODUCT SAFETY STANDARD.—The standard established by section 301 of this title shall be considered a consumer product safety standard established under the Consumer Product Safety Act.

SEC. 304. EXISTING LABELS.

Notwithstanding section 301, any bucket label in use on September 1, 1993, may, if such label is substantially in conformance with the requirements of paragraphs (3), (4), (5), and (6) of section 301, continue to be placed on buckets until 12 months after the date of the enactment of this title. Notwithstanding the preceding sentence, buckets subject to the provisions of this section must bear both an English and Spanish language label on and after the effective date of the standard established by section 301.

SEC. 305. AMENDMENTS.

Section 553 of title 5, United States Code, shall apply with respect to the Consumer Product Safety Commission's issuance of any amendments or changes to the bucket labeling standard established by section 301 of this title. Sections 7 and 9 of the Consumer Product Safety Act shall not apply to such amendments or changes.

SEC. 306. RESPONSIBILITY FOR LABELING.

(a) LABELING.—The standard established by section 301 requires the labeling of buckets covered by such standard to be the responsibility of the manufacturer of any such buckets, unless otherwise specified by contract between the manufacturer, and either the filler, distributor, or retailer of such buckets. Under no circumstances shall any such bucket enter the stream of commerce without such label.

(b) TIME FOR PLACING LABELS.—The required label must be on the bucket at the time it is sold or delivered to the end user of the bucket or its contents or, in the case of a bucket intended to be sold to the public in an empty state, at the time it is shipped to a retailer for sale to the public.

SEC. 307. PERFORMANCE STANDARD.

(a) PERFORMANCE STANDARD.—Within 30 days following the date of enactment of this title, the Consumer Product Safety Commission shall commence a proceeding under the Consumer Product Safety Act for the issuance of a performance standard for buckets to address the drowning hazard associated with this product. Such standard shall take effect at such time as may be prescribed by the Consumer Product Safety Commission, but in no event later than 15 months following the date of the enactment of this title. The Consumer Product Safety Commission shall consider any American Society for Testing and Materials voluntary performance standard in existence prior to such date of enactment.

(b) LABELING REQUIREMENTS.—The labeling requirements under section 101 shall not apply to buckets certified by the Consumer Product Safety Commission as meeting the performance standard in subsection (a).

SEC. 308. CONSULTATION.

To avoid duplicative and conflicting labeling, the Consumer Product Safety Commission shall complete a consultation with relevant Federal agencies within 30 days following the date of enactment of this Act.

SEC. 309. REQUIREMENT FOR COMMISSION STUDY.

(a) STUDY.—The Commission shall conduct a study to assess the frequency of deaths and injuries arising from drowning accidents in metal buckets, and the frequency and type of uses of 4-gallon to 6-gallon metal containers in the home, to determine whether special design and labeling standards are needed for such containers. The Commission shall report the results of the study to the Congress not later than one year after the date of enactment of this Act.

(b) EXEMPTION.—During the pendency of such study, metal containers which would otherwise be required to comply with the labeling requirements of section 301 are exempt from such requirements. Upon review of the results of the study, the Commission shall decide whether to continue this exemption, to require compliance by metal containers, or to consider further study in the future.

STEWART B. McKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1993

BOREN AMENDMENT NO. 1234

Mr. FORD (for Mr. BOREN) proposed an amendment to the bill (S. 1523) to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.
Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.
Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) by adding at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

SEC. 9. DEFINITION OF PRODUCER.

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(l) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

SEC. 10. AMENDMENT PROCEDURE.

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

"SEC. 1655. AMENDMENT PROCEDURE.

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

KENNEDY AMENDMENT NO. 1235

Mr. FORD (for Mr. KENNEDY) proposed an amendment to the bill (S. 778) to amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes; as follows:

In section 5(a) of the bill, strike "11422" and insert "11432".

In section 5(b) of the bill, strike paragraph (3) and insert the following:

(3) in paragraph (2)—

(A) by striking "(2)" and all that follows in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (A) through (O) as paragraphs (2) through (16), respectively; and

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following new paragraph:

"(1) the provision of tutoring, remedial education services, or other education services to homeless children or homeless youths;"; and

Strike section 6 of the bill and insert the following:

SEC. 6. JOB TRAINING FOR THE HOMELESS.

(a) REPORT.—Section 736(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11446(a)) is amended by striking "the termination date specified in section 741" and inserting "the end of the last fiscal year specified in section 739(a)."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of such Act (42 U.S.C. 11449(a)) is amended by inserting after paragraph (3), the following new paragraph:

"(4) Such sums as may be necessary for fiscal year 1994."

(c) REPEAL.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

ADDITIONAL STATEMENTS

YOUTH VIOLENCE: LISTENING TO CHILDREN'S VOICES

• Mr. DODD. Mr. President, 2 weeks ago I shared with my colleagues terrible news from New Britain, CT.

Miguel DeJesus, an 18-year-old senior at New Britain High School, was gunned down directly in front of the school as other students looked on. He died the next day.

Authorities suspect that the shooting was gang related. This murder has caused outrage and sadness all across Connecticut, but in New Britain the impact has been especially great.

The shooting of Miguel DeJesus moved more than 60 seventh-graders at Slade Middle School in New Britain to write to me about their feelings and their fears. These letters were intelligent, sensitive, and mature, and I was very impressed with what these young people had to say.

Certain themes came through in nearly every one of these letters. One was fear. These kids are afraid to do many of the things we took for granted when we were your young.

They are afraid to walk home from school. They are afraid to play pick-up football in their neighborhood. They are afraid to set foot outside after dark. They are afraid that if they do any of these things they might become victims of violence.

Another theme was frustration. These kids feel like the problems of gangs and violence have only grown worse and that the Government has not responded.

Finally, a great sense of sadness came through in these letters. Some of these kids knew Miguel DeJesus. Even those who did not know him grieved for his family and felt that a hole had been ripped into the fabric of their community by his death.

I think these kids' words demonstrate how important the crime legislation we have just passed is for the people we represent. For many of them, crime is their No. 1 concern, and they want to see more action, not more rhetoric.

I hope that the bill we passed here will do something to help these kids and those like them around the country. Putting more police on the beat should make a real difference. Expanding prison space to keep repeat offenders off the streets should make a real difference. But devoting resources to prevention activities that provide young people with alternatives to gangs may make the most difference.

I want these students at Slade Middle School in New Britain to know that I have heard their words, and I understand their fear and frustration.

So that my colleagues might also hear their words I ask unanimous consent that a sampling of these letters—without the students' names—appear in the RECORD at this point after correspondence from Gerri Brown-Springer, Slade's principal, and Gina Petruzzelli, the students' teacher.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Letters from Slade Middle School, New Britain, CT]

NOVEMBER 8, 1993.

DEAR SENATOR DODD: The students at Slade Middle School are feeling hopeless, afraid and powerless since the death of Miguel DeJesus on Thursday, November 4, 1993. In an effort to give them an opportunity to express themselves, a teacher, Ms. Gina Petruzzelli asked them to write their feelings and concerns regarding a fellow youth's death. They indicated that they need to write to someone who would listen. They chose you.

Enclosed is a series of letters where students have stated their fears, their concerns and their feelings of hopelessness regarding gangs and violence in their neighborhoods and school. They are asking that you do not ignore their concerns. Please write to them or when you are in Connecticut. Please come by to see them so that they will know that you support them.

As principal of Slade Middle School, I personally invite you to visit our school and especially the students who have poured out their hearts to you because they are afraid. I know that you will make every effort to visit us and talk with the students who have written letters. You are always welcome in our school.

Copies of the letters were also sent to Congresswoman Nancy Johnson.

I look forward to hear from you very soon.

Sincerely yours,

GERRI BROWN-SPRINGER,
Principal.

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I am a 7th grade teacher at Slade Middle School in New Britain, CT. As you are well aware of, 18 year old Miguel DeJesus, was shot outside of New Britain High School on November 4, 1993. It is said that this shooting is gang related.

As a teacher I am "unable" to teach my students today. When I say "unable" I mean that I cannot possibly stand in front of my students who are staring back at me with blank, expressionless faces or with red swollen eyes. The last thing they want to learn about as they await the announcement of Miguel's condition, is literature.

Working in an inner city school system is what I chose to dedicate my life to. I am determined to give these students hope, encouragement, and love. What I would like to know is how can I compete with a city of ruthless violence? How can I give my students hope when I myself am finding it hard to hold on to?

My students wrote the enclosed letters during the day today to ask for your help and suggestions about what to do about gangs. They are frightened, scared, ready to give up on their city and schools. Some do not even think writing these letters will help. If you can, please write or visit or send some type of message to my students to give them the hope they desperately need at this time. Let them know that someone in the United States Government knows how the students at Slade Middle School feel.

I was just informed that Miguel DeJesus died this afternoon. Now more than ever, we need your help, please.

A copy of my students letters were also sent to Congresswoman Nancy Johnson.

Sincerely,

GINA PETRUZZELLI.

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I'm a 7th grade student at Slade Middle School in New Britain I want to know what you are going to do about gang violence in Connecticut. I am very concerned because sometimes I am afraid to come to school knowing that I could be the next person to get shot at.

Yesterday, a Senior in New Britain High was shot 5 times. I want to know what are you going to do about that. You can't just have the police outside every school in New Britain it makes us kids feel like prisoners in our own school. Why should we come to school if we can't go like every one else. I am so sick of these people shooting each other because one day these people are going to mess up good. They will or may accidentally hit a innocent bystander or they could do more than they actually wanted to do.

I hope you are taking this seriously because this is no joke I am so scared that sometimes I am afraid to go outside of my house because I don't know what could be out there waiting for me outside so please try to help us because we need all the help that we can get to stop the gang violence.

Sincerely,

CONCERNED STUDENT.

P.S.—If you have time please write back to me.

DEAR SENATOR DODD: I am a 7th grade student at Slade Middle School. On November 4, 1993 a student at New Britain High School was shot 5 times. I am worried my school could be next. I live about 4 streets away from where this has happened. I have to walk home from school everyday. You never know when someone will drive by and start shooting a gun I don't want this to happen I am afraid that everyday my father may not be able to pick me up. I am afraid to walk home. I live so close to where this happened. I'm scared to walk home. I heard Lincoln Elementary has locked every single door, so no one can go in and no one can go out, because of fear something might happen here at Slade that is gang related. I feel a little bit safer with police cars checking in on us during the day, but if by some chance anything should happen anyone can be a victim just like Miguel DeJesus was. I just wish something could be done about this.

Sincerely,

——— ———.

P.S.—I would like to hear what you're going to do about this, please write back to me at Slade Middle School.

NOVEMBER 5, 1993.

DEAR SENATOR: I am a seventh grade student of New Britain Slade School. I am writing this letter because I am very concerned about the gang's in New Britain. What are the police going to do about keeping our schools from closing? What about the violence in NBHS2A senior, student was shot five times on Nov. 4, 1993, and a man was chased down Broad St. and stabbed to death by three people on Nov. 3, 1993 and it was right near the Boys and Girls Club. Now sometimes when my basketball team goes to play a game some of us are scared. Now some of the student's feel like prisoners in our own school. If we can't go to school like normal people why should we go at all? I am very angry and worried about "gang retaliation" in other NB schools. What are you going to do about it? Please Help US!

Sincerely,

——— ———.

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I'm a 7th grade Slade Middle School Student and I'm concerned about the people's safety in New Britain. Yesterday this guy was shot at New Britain High school like 5 times and I knew him and I feel real bad for his family. What are you going to do about gangs? I'm getting mad because everyone thinks I'm in the Latin Queens or in the Solidas but I'm not. I'm nervous because there is a Latin King that lives downstairs from me and the Solidas want to kill him so I don't even feel safe in my own house anymore. There is supposed to be a shoot out in front of my house. Anyway please try to do something about the gangs because the streets are getting worse everyday. People don't even feel safe in their own house now and days.

Sincerely,

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DEAR SENATOR DODD: I am a student at New Britain Slade Middle School. I think that all the violence is because of guns. If kids didn't have any guns this never would have happened. The kid that got shot five times was my cousin. I think they should keep many police men around the school so the kids can feel safe. I hope you help our school so we can be safe. Thanks for your cooperation senator.

Sincerely Yours,

——— ———.

NOVEMBER 5, 1993.

SENATOR DODD: I'm a 7th grade student writing about the gang violence in my city (New Britain). On Nov. 4 a boy was shot five times at New Britain High, and on Nov. 3 a boy was chased down Broad St. and was stabbed death next to the Boy's and Girl's Club. I know that many kids that go there are now scared to go, and many parents won't let their kids go. On Nov. 5 when I got off my school bus this morning the guards made us go inside and I saw some cop cars around the building. Now I feel like I'm going to prison instead of school. If things keep up like this how do we know if schools are going to be safe. Cause of what happened there are no more fun after school activities. When I go home I don't go outside and play football with my friends cause I'm scared something might happen.

Senator Dodd please send help.

———

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I have alot to say about what happened.

It's scary because its so close to my house. I'm in seventh grade at Slade Middle School in New Britain.

I never seen anybody get shot or killed so close to home. That's why it scares me even to go outside.

I didn't know the boy but I cried, he's like family because we live in the same city.

To stop all of this I think we have to work together and everybody has to help or it won't work.

You also have to come to schools to see how these kids are not just talk about. Come visit the schools and see.

Sincerely,

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NOVEMBER 5, 1993.

DEAR SENATOR DODD: I'm a 7th grade student in Slade Middle School in New Britain, CT. I'm very concerned about what is going on. Are you concerned? On Nov. 4th Miguel DeJesus was shot 5 times and now he is in critical condition. He has been my friend since I was a little girl. I have been hurt very deep. Before I had found out what had happened, I had come to school with police cars surrounding the school. At that moment I didn't feel like I was going in to school, I felt like I was entering a jail. Tell me, if it isn't safe to go to school and it isn't safe to walk in the streets or stay home, where is it safe? I am very scared to go out but it isn't going to stop me. I hope you understand everyone and how they feel.

Thank you.

Sincerely,

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DEAR SENATOR DODD: I am a 7th grade New Britain Slade Middle School student. Our city is being called one of the worst cities in Connecticut because of the shootings at New Britain High School yesterday morning. What will you do about it. I'm sure you're doing your best but it still is not enough. Now it is harder than ever to go to school without being afraid. I guess we'll just have to take it one day at a time, till the gang violence is all gone. Our teachers told us to go home and stay inside. Now what do you call that. Our neighborhoods are no longer safe to play in. I think that if the gangs want to kill each other they should do it on their own turf. They were thinking of canceling school because of the incident. I feel like a prisoner in school. I mean, I ate lunch today but it made me feel bad when I looked outside I saw cop cars on the lawn. I came in the parking lot this morning to see 4 cop cars. That is ridiculous. My big sister used to go to New Britain High. I imagine if she got shot, that would be the worst thing that could ever happen. If I have to go to school like this, it's even worth it if you're worrying that something may happen, if you cannot go to school safely why go at all. I am against all gangs and gang violence. I would not be able to think of what I would do if one of my family members got shot. Now I know how that kid's parents must feel. If this happens again I will not ever go to school or outside.

Sincerely,

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NOVEMBER 5, 1993.

DEAR SENATOR DODD: I am a 7th grade New Britain Middle School student. I'm very angry about gang retaliations. I hope people who are in gangs stop and think about what they're doing to us. Killing people for no reason, threats, why you ask? No one seems to know. I know it's probably going to be hard for you to do anything about gangs; but please try hard. I think the people who are in the gangs just need somebody to talk to. They're just taking their anger out on everyone else. Why can't people just sit and talk about their problems, or share their feelings. If people just would care about other people and care about themselves. I doubt anyone is going to listen when we tell them about peace and love for our fellow people. It's a shame. I hope you can do something about it.

Sincerely,

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• Mr. SIMPSON. Mr. President, I rise to join with my distinguished colleague from Iowa, Senator GRASSLEY, in opposition to this legislation. I have the greatest respect and admiration for the sponsor, Senator HOWELL HEFLIN and I know he is a most sincere and thoughtful legislator. However, I am convinced that this legislation, however well-intentioned, is not necessary.

The Administrative Procedures Act is the mechanism through which citizens appeal agency decisions that adversely affect them. Administrative law judges were created to be an integral part of the individual agencies precisely because the individual judges possess a level of expertise not otherwise expected of trial judges. As experts in their particular fields, the ALJ's bring with them the necessary technical background to expedite the hearing process. By creating a corps of generalists, in my view, we defeat a guiding principal of the Administrative Procedures Act.

I am aware of the criticisms that have been raised against ALJ's. I believe it very important that we acknowledge those criticisms. It is true that in some instances, it appears as though the independence and objectivity of a few ALJ's have been influenced by internal agency political pressures. However, Mr. President, I do not feel that is justification for this radical change in the entire system of agency appeals adjudications.

If it can be proven that an individual ALJ has demonstrated bias or was improperly influenced, there already exist procedures for that judge's discipline and removal. If an agency persists in trying to influence its ALJ's, then the problem we need to address is the management and administration of that particular agency, not the entire system. I believe we should consider alternatives to this legislation, rather than such a broad brush approach.

For those reasons, Mr. President, I will cast my vote against passage of this legislation.•

OBSTETRICIAN-GYNECOLOGISTS AS PRIMARY CARE PROVIDERS—S. RES. 170

• Mrs. BOXER. Mr. President, I rise today to join my colleague, Senator CHAFEE, in submitting a resolution expressing the sense of the Senate that obstetrician/gynecologists [ob-gyns] be designated primary care physicians under Federal health care programs.

The purpose of this resolution is to draw attention to the obvious. Obstetrician-gynecologists provide necessary health care services to women, and most women consider them to be their primary care physician.

According to a 1993 Gallup poll, women are more likely to have had a physical examination within the last 2 years from an ob-gyn than from any other type of doctor—72 percent versus 57 percent—and the majority of these women, 52 percent, consider their ob-gyn to be their primary care physician.

Many of us already recognize the important role that ob-gyns play in providing reproductive health services like prenatal care, family planning and screenings for sexually-transmitted diseases. We know that ob-gyns administer critical preventive health services such as pap smears and mammograms which can save countless lives. But, we may be less familiar with the primary care services they provide such as blood pressure checks, cholesterol screenings, and identification of domestic violence.

According to data from the National Center for Health Statistics, a general medical exam was the second most frequently cited purpose of patient visits to ob-gyns in 1989 and 1990, accounting for 7 million visits each year. A 1992 survey of ob-gyns by the American College of Obstetricians and Gynecologists for the Department of Health and Human Services' Office of Disease Prevention and Health Promotion, found that 71 percent routinely asked about smoking, 55 percent about alcohol use, 51 percent about diet, 48 percent about exercise, and 40 percent about emotional health.

Access to primary, preventive health care services is an important goal of health care reform, and critical to women's health. Obstetrician-gynecologists perform these services, but Federal law fails to recognize their contribution. This resolution encourages Congress to include them in Federal health care programs, like Medicaid and medical education programs, and during consideration of health care reform.

I am very pleased to join Senator CHAFEE in promoting this important issue for women. We have strong bipartisan support for the resolution and I urge my colleagues to support it.•

THREE YEARS LATER: REPORT CARD ON THE 1990 CLEAN AIR ACT AMENDMENTS

• Mr. BAUCUS. Mr. President, as you know, on November 15, 1990, President Bush signed into law one of the most ambitious domestic policies ever—the 1990 Clean Air Act Amendments. At the time, many called this a watershed event—a turning point in environmental policy.

Three years later, it was time to review how these amendments have worked in practice. So last Monday, on the third anniversary of the signing of the law, the leadership of the Environment and Public Works Committee issued a report card on EPA's implementation of the Clean Air Act. I have attached the report card, and a summary of the staff report documenting the reasons for the grades given, to this statement for inclusion in the RECORD.

DELAYS IN CLEAN AIR ACT IMPLEMENTATION

As you can see, the report card contains some high grades. EPA has been innovative in addressing acid rain, and a world leader in preserving the Earth's protective ozone layer.

But there are also disappointments. Three years after this bill was signed, according to EPA's own estimates, almost half of all Americans still breathe unsafe air: Smog still plagues every major American city; factories still spew toxic smoke; and emissions of soot increased last year.

In large part, the low grades that we gave EPA are a reflection of problems of the last several years. Dan Quayle's Competitiveness Council and George Bush's OMB debated and delayed almost all of EPA's best efforts to implement the Clean Air Act.

I am heartened by the Clinton administration's commitment to fixing these problems. Moreover, I am confident that Administrator Carol Browner, Assistant Administrator Mary Nichols, and their new team will be able to overcome the regulatory gridlock that has characterized the process until now.

THE GRADES

Overall, we gave EPA a B minus for its implementation of the act thus far. This is not a bad grade. But it includes two D's on programs that are central to the Clean Air Act's success. And the American people will not accept a D.

After closely examining EPA's progress, we concluded that despite some progress, something is clearly wrong. EPA has missed deadlines for 58 regulations required by the act. And the vast majority of the regulations have wound up in court. And now EPA faces charges of contempt if it does not fulfill its responsibilities.

With so many court-ordered deadlines, EPA is virtually in receivership. And the problem is getting worse. Too much of EPA's budget now goes to defending lawsuits instead of cleaning the air.

REPORT'S FINDINGS ON IMPLEMENTATION

The staff report examined the problems that have hampered EPA's implementation of the Clean Air Act, and suggests some solutions. We looked at specific parts of the act, like acid rain and toxic pollution, and searched for the larger lessons. In short, we tried to learn what works and what doesn't.

Some have concluded that EPA's poor track record can be blamed on not enough money, not enough staff.

There may be something to that. And I hope EPA and the Clinton administration will remember that most Americans still breathe dirty air the next time they sit down with the OMB budgetmakers.

However, in the big picture, what most clearly does not work is EPA's bloated bureaucratic process. One Example: EPA has worked on one single regulation)—the HON rule—for more than 10 years and still has not finished it.

So before we start throwing good money after bad, EPA must reinvent its internal regulatory process to make it more timely and more efficient.

Others have concluded that EPA's failures may have been the result of the act itself. There are hundreds of pages in the Clean Air Act, and it is always possible that Congress may have asked EPA to do too much.

But I don't believe the act itself is the problem. You need only to look at the act to see that certain provisions have work quite well.

For example, EPA's use of market forces has done a great deal to curb acid rain and ozone depletion—while giving businesses the flexibility to comply with the law in the most cost-effective way possible.

Another proven success are the act's performance standards. In the case of Clean Car program—the act requires the sale of cleaner running cars to be sold in California by 1996. These tough standards have forced automakers into higher gear to develop more efficient, smog-free cars.

NEXT STEPS ON CLEAN AIR

There are also broader lessons about our environmental laws. Before we begin to pass a whole new set of environmental laws, Congress and the administration should pay much more attention to making programs already on the books—like the Clean Air Act—work better.

I am convinced that in the future EPA can earn better grades by setting priorities and targeting the most serious problems first. And I am determined to see that they do all they can to make this law work.

CONCLUSION

The American people want clean air and a clean environment. In a recent survey by Money Magazine, clean air and clean water were readers top concerns, ranking higher than medical care, good schools, and low taxes.

So what we did in 1990 had a point. It was not simply to pass a complicated law. It was to clean up our air. That is a scared commitment we have made to the American people. I am determined to keep this commitment—and to see that EPA, the States, and everyone else involved remains equally committed to this important responsibility.

Finally, I want to thank Senators LIEBERMAN and CHAFEE for joining me on this report card. I know they share my commitment to vigilant oversight of this important environmental law. I also want to commend their staffs for their fine work in drafting the report. Finally, I would like to thank all those who wrote the committee or testified before it expressing their views about the act and its implementation.

Mr. President, I request the following material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Environment and Public Works Committee Leadership—Interim Report Card on EPA's Implementation of CAAA of 1990

Subject	*Grade*
Title I—State Implementation Plans	C
Title II—Section 177: California Low Emission Vehicle Program	D
Title III—Development of MACT Standards	D
Title IV—Acid Rain Allowance Trading Program	A
Title V—Section 507: Small Business Assistance Program	B−
Title VI—Stratospheric Ozone Protection	A
Average Grade	B−

Scale: A=Excellent; B=Good; C=Fair; D=Poor; F=Failure.

EXECUTIVE SUMMARY

During 1993, the Senate Committee on Environment and Public Works and its Subcommittee on Clean Air and Nuclear Regulation conducted extensive oversight of the implementation of the Clean Air Act Amendments of 1990. On this, the third anniversary of passage of that sweeping environmental legislation, it is time to assess how well the Environmental Protection Agency [EPA] is carrying out the act. This is a mid-term report card on implementation, not a final grade on EPA's performance. It is intended to highlight the subjects or provisions of the amendments in which EPA has excelled, and give warning in those areas where there are concerns about EPA's implementation.

There are some very high grades on this report card, and some low ones too. On average, however, EPA earned a B minus for its efforts.

These grades are an assessment both of the timeliness and the substantive content of each subject. However, they only cover a fraction of the amendments. For example, the grade for EPA's role in implementing section 177 of title II of the amendments is not intended as a grade for EPA's implementation of title II overall. Indeed, EPA has performed well in some areas under title II. Section 177 and the other subjects for this report were selected because they are representative of larger issues or lessons learned in implementation of the amendments.

This report details the specific reasons for the grade in each subject. In short, EPA received low marks for its work on State Implementation. Plans in title I and the development of the MACT standards in title III due to its tardiness in preparing important regulations, guidelines and approvals and the inadequacy of some of these measures. Delays by EPA and the States seriously jeopardize both of these important programs. On the other hand, EPA received A's for both the Acid Rain Allowance Trading Program and the Stratospheric Ozone Protection Program because of speed in implementation and effectiveness in eliminating the pollution problem at hand. The grades for section 177 and section 507 are poor and fair respectively because EPA has not been particularly aggressive in its implementation of either program—the difference in the grades results from the degree to which EPA has been inactive.

In addition, each chapter is more than just a narrow examination of one issue of provision of the amendments—it represents a broader theme or problem with implementation. These larger, cross-cutting issues are: (1) whether EPA gives the States sufficient guidance and support to carry out their extensive responsibilities under the act; (2) whether the EPA has an institutional problem with its regulatory process or just a mere lack of resources that results in excessive delays in implementation; (3) what type of technology standards embodied in the amendments are successful in spurring the development of new technological advances; (4) whether harnessing market forces can be effective in controlling pollution; and (5) whether any real progress has been made in reducing the health and environmental hazards associated with air pollution.

In sum, 3 years after enactment of the amendments, EPA needs to improve its performance in some critical areas. We have some concerns about EPA's implementation of the law thus far. In the report the committee has made specific recommendations to guide EPA toward what we believe to be successful implementation. The most important of these recommendations are summarized below.

1. EPA should prioritize better—EPA should react more quickly to changes in assumptions about health effects of pollutants (such as PM-10), reviewing the SIPs promptly, especially those submitted today, and the entire air toxics program. Administrator Browner has said on the record that resources are insufficient for the task, thus better prioritization of the tasks at hand will result in more effective implementation. EPA should maximize the effectiveness of its resources by focusing efforts on issues with the largest potential for reducing risk to public health and the environment.

2. EPA should provide greater leadership to the States—EPA should be more aggressive in its support for State activities that go beyond the minimum requirements of the law—because most States must do so in order to meet Federal health-based standards. On the other hand, EPA must be firm and fair with States in order to ensure that they meet the minimum standards. EPA should not micromanage or overly prescribe solutions to the States. In fact, many States complained that EPA did too much of both. Rather, by strictly enforcing the statutory requirements and issuing regulations promptly, and by aggressively assisting States that wish to or need to go beyond them, EPA will improve its relations with the States.

3. EPA must improve its regulatory process—The process by which EPA promulgates regulations is too bureaucratic. There are too many people at too many levels reviewing too many documents. All have the power to veto and delay. In addition, EPA must take a serious look at its resources and determine what its real needs are. If the Agency does not have enough money and people to do its job, then it must say so. If it has sufficient resources, then it must perform.

On the other hand, EPA's performance has been excellent in two areas that were catalysts for the amendments—the reduction of acid rain and the elimination of ozone-destroying compounds, including chlorofluorocarbons [CFC's]. Although the acid rain program has had some growing pains, indications are that it is reducing emissions of sulfur dioxide at a greater rate than expected and at lower cost. Similarly, the phaseout of the use of CFC's has gone extremely well, with both EPA and businesses rising to the challenge.

Finally, there are two important lessons learned from this review.

1. Market-based systems can work—As discussed above, the experiment with the acid rain allowance trading program seems to be a success. Using the market has made it easier and cheaper to comply. But market mechanisms may not be appropriate in all cases. We should continue to monitor this program, and others like it, to achieve greater understanding about how best to use market forces for environmental protection.

2. Bright line performance standards force rapid technology development—The phase out of CFC's and the California low emission vehicle program are two examples of bright line performance standards, which are based on environmental goals not preselected technologies that have produced tremendous results. Setting the standard, and then giving businesses the flexibility to achieve it in the most efficient way, has led to the development of technological advances under the amendments. Nevertheless, like market systems, these cannot be adopted in every case. The committee must continue to study when and how bright line performance standards can be used effectively.

The committee should look for appropriate opportunities to use these two policy options in its future reauthorizations and development of environmental legislation.•

IN HONOR OF ROBERT B. HAWKINS, JR.

• Mr. DURENBERGER. Mr. President, I rise today to congratulate and thank Robert B. Hawkins, Jr., for his tireless work and tremendous achievements as Chairman of the Advisory Commission on Intergovernmental Affairs [ACIR], and to wish him continued success as he moves on to other pursuits.

Bob was appointed by President Reagan in 1982. As only the fifth Chairman in the 34-year history of ACIR, his service over the last 12 years has made him the longest serving Chairman in the history of the organization.

He has led the Commission during a time of change in which the importance of the mission of ACIR has grown significantly. Cooperation between State Governments and the Federal Government is more important now than ever as budget constraints have created a need to redefine the purpose and role of Government.

I have been a member of the Commission longer than Bob. So together we have enjoyed lengthy conversations about what should be and what could be. Bob Hawkins has an entrepreneurial spirit about Government. He is ahead of his time. Washington and State capitals have yet to catch up. He was reinventing government before the author thought to write the book with that name.

Bob Hawkins has provided the forum through ACIR for this debate. The Commission has achieved the highest level of productivity in its history under the leadership of Bob Hawkins. Moreover, he has done this with 35 percent fewer resources. Appropriations for ACIR have decreased 35 percent since Bob assumed, but he has increased productivity nevertheless. He has shown a good example of what government can accomplish—better service for less cost.

ACIR can be held up as paradigm of government efficiency. The Commission's publication "Intergovernmental Perspective" is a quarterly magazine that is highly informative and beneficial for those across the country who are working to make government better. This magazine is a resource tool for tens of thousands of Americans and it provides a forum for stimulating the discussion of new ideas.

Bob Hawkins has brought ACIR to the forefront of the current debate on government reform. ACIR has played a crucial role as a resource to Vice President AL GORE'S effort to reinvent government. The National Performance Review has stressed the need for cooperative intergovernmental relations in the pursuit of better government, and held up ACIR an example of how best to work toward this goal. This has all been possible because of the leadership of Bob Hawkins.

Bob's personal commitment and management skill will be dearly missed, but he leaves a legacy of success and a Commission poised to lead the way toward government reform.

I thank him for his selfless commitment to public service, and for his foresight in stressing the importance of State, local and Federal Governments working together for the good of the country. We will miss him on the Commission, but wish him luck in his new pursuits.•

FORT PECK INDIAN TRIBE LEGISLATION

• Mr. BAUCUS. Mr. President, I would like to assert for the RECORD that it is my intent to introduce legislation to ratify the Fort Peck Indian Tribes-Montana Reserved Water Rights compact early next year.

This same legislation was reported out of the then Select Committee on Indian Affairs last year, but proceeded no further because of concerns raised regarding certain provisions of this compact with respect to the impact it could have in water flows in the Missouri River. Let me clearly state that it is my intent to move this legislation forward.

Let me also clearly state that it is my intent to work closely with the Fort Peck tribes, the distinguished chairman of the Indian Affairs Committee, the State of Montana, and my distinguished colleagues from downstream States to address those concerns in a manner that is mutually satisfactory. I do not anticipate that this will be easy, but it is essential.

We have delayed the implementation of the Fort Peck Indian Tribe-Montana compact for far too long. Although difficult issues remain, we cannot allow them to stand in the way of resolution. We must sit at the table together until we reach an accord. I am committed to that effort and look forward to the work that lies ahead.•

EQUITABLE ESCHEATMENT BILL

• Mr. SIMON. Mr. President, I rise today as a cosponsor of an important bill that is being introduced today—the Equitable Escheatment Act of 1993. I want to commend my colleagues from Texas and California for introducing this legislation and those Senators on the Banking Committee for their support.

Although the escheatment bill has an involved history, it can be summarized in the following way. This bill would allow owner-unknown interest and dividends on bonds and stocks to be claimed by, or escheat to, the States where the companies issuing the owner-unknown funds have their principal executive offices. This is a slightly different approach than letting the owner-unknown funds escheat to the State where the financial intermediaries are incorporated, but a very important distinction.

There are several compelling reasons to enact this legislation. First, this legislation is consistent with the conclusion reached by a grand master appointed by the Supreme Court. The grand master found that the funds should go to the States where the principal executive offices were located.

It is also a matter of simple fairness. We must protect the interests of our States' citizens, and no one or two States should be allowed to benefit solely from the fact that these funds have to pass through their States before being returned to their rightful owners.

And, Mr. President, this money should rightfully go to the States where the company distributing the funds has its principal executive office. This is what this bill calls for. Not the State of incorporation—but the State where the investors and the taxpayers reside. We protect the rights of those people who took the risk of investing and the rights of the companies that are responsibly paying their obligations. At least these citizens and companies will be able to benefit indirectly by having the funds return to the State where they can impact the original parties.

The funding we are talking about for many States is not insignificant. In Illinois alone, this bill would bring $60 million to the State treasury from unclaimed property in the first year. In years after, it is estimated that $6 to $9 million would be distributed annually to the Illinois State Treasury. That is $60 million that can be used for education programs, money for low-income housing programs, money for job training and for worker dislocation programs.

Illinois is not the only State that would benefit from this bill. In fact, 47 States have reasons to want this legislation to pass—not three.

Mr. President, I look forward to passage of this legislation because it is important to Illinois and every State in our Nation.•

DELINQUENCY PREVENTION COMMISSION OF SAN FRANCISCO

• Mrs. BOXER. Mr. President, next month, the City and County of San Francisco's Delinquency Prevention Commission will celebrate its 25th anniversary of service to the young people of San Francisco.

This commission, composed of 19 hardworking men, women, and youth from all walks of life of San Francisco, coordinates services and advocates for young people facing high risk situations. Without a budget to give grants on its own, the commission depends upon its good will, initiative, creativity, and persuasiveness to gain cooperation from over 200 private and public partners who have a vision for the city and a commitment to children and youth.

Mr. President, in my first year in this body, I have done what I can to support children and families and this body has successfully taken up family leave, health care and anticrime bills to meaningfully address these matters. Groups like the delinquency prevention commission take up where we leave off.

Just in the past year, the commission has been the principal convener of the Come into the Sun Coalition which has focused on mentoring young women at risk and other projects; established the Youth Employment Coalition of 55 agencies providing education, vocational training and job placement services for young people in every neighborhood of San Francisco; staffed the Gay Lesbian Youth Advocates of nearly 30 agency representatives for services throughout the city; and most recently started Kujichagulia, a coalition focusing on the needs of African-American young people.

The concerns of young people should be the concerns of everyone. I am pleased to commend the San Francisco Delinquency Prevention Commission for a quarter century of having a positive influence on San Francisco's youth. I can think of no greater cause than the legacy the commission leaves and the work it continues to do.•

MEDIA AND VALUES

• Mr. SIMON. Mr. President, Media & Values is a magazine published quarterly by the Center for Media and Values, a not-for-profit education membership organization dedicated to providing individuals with the tools to view the media critically. The summer issue of Media & Values addresses media violence. It provides a well-balanced look at this issue and is worth reading.

One of the articles entitled "Suggestions for Parents: Children Can Unlearn Violence," is of particular interest. Written by Judith Myers-Walls, an associate professor of child development at Purdue University, the article discusses what parents can do to help their children view television critically. I ask that a copy of this article be included at the end of my statement.

It is my understanding that the Center for Media and Values will publish a second magazine dedicated to television violence shortly. This issue will focus on creative options for changing the climate which promotes media violence. I look forward to reading this and commend the center for its outstanding work.

The article follows:

SUGGESTIONS FOR PARENTS: CHILDREN CAN UNLEARN VIOLENCE

(By Judith Myers-Walls)

As a child development professional with two school-age children, my primary concern regarding my children's exposure to television is the violence they see. Although there are some sexual themes on television that are too intense for them, and a steady diet of adult language is likely to lead to problems, it is the violence that bothers me the most.

Critics worry that children will imitate the violent acts they have seen, either as children or youth or as adults. I do not worry about that; my children are not likely to participate in criminal aggression. Minor aggression can be a problem, though. What parent has not had to control the children's karate chops after they watched the Teenage Mutant Ninja Turtles?

TRAUMATIZED BY TV VIOLENCE

A more realistic concern for me is that my children may be traumatized by televised violence. When the unthinkable is presented, not only does it become thinkable, but it may become haunting. A study in Kuwait after the Persian Gulf War found that some children who were nowhere near the violence showed more trauma symptoms than those who were—a result of being shown propaganda videos of torture and violence.

A diet of violent programming could teach my children that the world is a dangerous place. They could assume that murders, rapes and kidnappings take place in the real world at the same rate as on television, which, fortunately, is still far from true. They might become convinced that there are evil people everywhere who threaten the safety of good people. Most significantly, television teaches that the only way to deal with those people is by being violent yourself, because TV teaches that that is the only way to control evil people.

Like others their age, my children and their friends do their best to appear unaffected by the media violence they see, so they will not appear weak or prudish. With some children, it can become a contest. The quantity of violent media and the impersonal but graphic way violent content is presented can lead quickly to a tough, unaffected response. Such desensitized children learn to avoid taking responsibility for the violence around them; they may even be able to watch a real life violent event with no emotional response and no sense of personal obligation to react.

TOO MUCH VIOLENT FUN

Cartoons and other children's programming present their own problems. They may even contain more violent actions, but the real problem is their presentation of violence as fun and entertainment. Violent actions have no lasting consequences, and it is proper to laugh when a character gets hit in the head with a mallet or gets smashed flat. This may teach children to laugh when real people get hurt. Booby traps and falls become funny.

The Home Alone movies put that same consequence-free slapstick humor in a realistic setting. I watched my son and his friends sketch out and reenact that movie over and over. Finally, my son and another seven-year-old boy drove a nail through a board and left it point up on the other boy's basement stairs. The friend was surprised and sobered when his mother's foot bled after she stepped on it. "There wasn't any blood when they did it in the movie." he said.

Media critics call for voluntary restraint or regulation to reduce the amount of violence in the media. But that solution takes time. I cannot wait while the larger public policy issues are addressed.

MAKING CONNECTIONS AT HOME

A first step I take is to help my children recognize the difference between reality and fantasy. We work on media literacy skills so they can recognize special effects and understand when actors are pretending to hurt one another or be hurt. To avoid the trauma that may come from violence, I try to help them distance themselves from the images.

I monitor what my children are watching, and some programs are off limits. It is important to avoid making violent programming "tabu" and therefore desirable, however. I sometimes watch milder action programs or programs with a historical background with my children. This satisfies their curiosity, and my comments can help provide the right context. I explain how media producers use manipulative techniques and how children can be smarter than their manipulators by refusing to be pulled in.

Most important, I teach my children alternatives to violence. The trauma and desensitization of violent programming can affect all children. But children most at risk for imitation are those whose parents' attitudes and behavior either reinforce it or leave a violence vacuum with their own attitudes unstated. That's when children are apt to imitate violence they see and hear.

Simply telling children that violence is not the way to deal with problems is not enough; I discuss what should be done instead. Children have many models of violent response through the media. They need models and training in nonviolence to be able to resist those images.

Judith Myers-Walls, Ph.D., is an associate professor of child development at Purdue University in Lafayette, Indiana. She has two children, Aaron, 8 and Amanda, 12.•

INVESTMENT ADVISER OVERSIGHT ACT OF 1993

• Mr. D'AMATO. Mr. President, I am pleased that today the Senate has passed the Investment Adviser Oversight Act of 1993. Now more than ever, with individuals seeking investments that yield a higher rate of return than traditional bank instruments, individuals are relying on investment advisers to make their investment decisions. This bill will provide the SEC with additional funds to ensure adequate inspection of investment advisers and provides for an additional safeguard to further protect customers of registered investment advisers.

During the last Congress, the Securities Subcommittee held hearings regarding investment advisers and the need for increased regulation in this area. During these hearings, the committee members heard numerous horror stories from individuals who relied on the advice of their investment adviser and ended up losing their entire investment—which in most cases was money earmarked for retirement.

At one of these hearings, a surgeon testified that he had been bilked of $500,000 by his investment adviser. This man's adviser ended up fleeing to Taiwan with a total of $4.4 million of his client's money—in cash literally stuffed into a suitcase. Another witness testified about her adviser who convinced her and 1,000 other individuals who shared conservative investment goals to invest a total of $55 million in a leveraged rare coin portfolio and condominium.

These stories are real, and the victims of investment adviser fraud are left with no redress but the expense of a lawsuit to try and collect a portion of their original investment. Oftentimes there is nothing left to collect.

As these and other stories reveal, many individuals who are unsophisticated in matters involving investment alternatives rely on advisers to make their investment decisions. As a result, regulation of investment advisers must be sufficient to protect investors from unscrupulous operators entrusted with investor funds.

Althout the Investment Advisers Act of 1940 requires individuals who come within the definition of investment adviser or financial planner to register with the SEC, the SEC does not have sufficient resources to adequately regulate this industry. Indeed, in the words of the former head of the SEC, Chairman Breeden, the adviser regulatory program is "totally inadequate."

By 1981, there were 4,580 advisers registered with the SEC. At that time, 36 SEC examiners were able to make periodic inspections of these 4,580 investment advisers' books on an average of once every 12 years. In 10 years, the number of registered investment advisers nearly quadrupled to 17,500. The SEC examination staff, however, has only increased one quarter—to a total of 46 examiners.

The number of investment advisers has grown so rapidly that the SEC can now only inspect the books of most investment advisers once every 30 years—in most cases this amounts to no regulation at all.

The Investment Advisers Oversight Act of 1993 will fill this void in investment adviser regulation. Right now, investment advisers pay only a one time fee of $150 upon registration. This bill requires registered investment advisers to pay annual fees based on the dollar amount of the assets they manage. These fees will be used by the SEC to increase its examination staff so that advisers will be inspected every 3 to 5 years, depending on the size of assets under their management.

The Investment Adviser Oversight Act of 1993 also gives the SEC authority to require advisers to obtain fidelity bonds to protect investors who are the victim of theft or embezzlement.●

RECOGNITION OF JOHN KINCAID

● Mr. DURENBERGER. Mr. President, I rise today to thank Mr. John Kincaid, the Executive Director of the Advisory Commission on Intergovernmental Relations, for his service to our government.

ACIR was established by President Eisenhower in 1959 to foster closer working relations among Federal, State and local governments. It has 26 members, drawn from States, localities, Congress and the executive, all of whom meet regularly to discuss partnerships among the three levels of government. I am a long-time member of this Commission.

John has served as the Executive Director of the Commission for the past 7 years. He is on leave from the University of Northern Texas, and will now be returning to his home there.

John has been an effective and efficient administrator, and has overseen the smooth operation of the Commission. His dedication and organization have made it possible for ACIR to achieve the successes that it has enjoyed over the years.

The publications that ACIR produces, such as "Significant Features of Fiscal Federalism and Intergovernmental Perspective," are used by tens of thousands of people in and out of Government. John's skills in overseeing the publication process, while concurrently administering the agency and advising the Commissioners, is exemplary.

John's selfless service to Government and strong leadership skills have helped ACIR play an important role in assisting Vice President GORE's efforts to reinvent Government. The example of efficiency and cost-effectiveness as set by ACIR is a model for other Government agencies. John's leadership, even during a time of reduced budget for the agency, has made ACIR more efficient than any time in its history.

I thank him for his service and I congratulate him on the many achievements that occurred at ACIR during his tenure. I extend to him my best wishes for continued success in his return to academia.●

THE KERREY-BROWN DEFICIT REDUCTION PROPOSAL

● Mr. DURENBERGER. Mr. President, I rise to register my strong support for the deficit reduction plan that has been offered by my distinguished colleagues from Nebraska and Colorado.

As a cosponsor of this legislation, I must also express my deep disappointment that this body will not have an opportunity to formally consider such an important and needed proposal prior to our adjournment for this year.

I want to begin, Mr. President, by applauding the leadership on this issue exhibited by Senators KERREY, BROWN, and others in this body, as well as by Congressmen PENNY, KASICH, and their allies in the House.

Cutting spending is not something we do either willingly or well in this body. Politicians have never been very good at saying "no." It's much easier to promise and deliver new or bigger programs, or, even better, to make new financial commitments we do not even have to explicitly renew each year.

So, it is no wonder that our total national debt has now grown to 4.3 trillion. And, despite all the legislative arms we saw twisted and broken over this year's budget bill, that huge obligation being placed on future generations will grow by another trillion dollars in the next 5 years.

I should note, Mr. President, that those of us on this side of the aisle were not asked to help make that number smaller. And, when the budget bill came to the floor, we all voted "no."

A few brave colleagues on the other side voted with us and some, like our distinguished colleague from Nebraska, went along with the President's plan, but insisted that it not be the last chance we had this year to do even more.

DEFICIT REDUCTION AND POWERFUL SPECIAL INTERESTS

As the Kerrey-Brown proposal was circulated this week, Mr. President, one could quickly see why it is so difficult to take on the very tough job of reducing the Federal deficit.

Behind each of the dozens of programs being cut in this proposal is a long list of well-meaning interest groups, and powerful allies in the Congress and the administration. In fact, I could tell what programs were being cut just by looking at my incoming mail and the report my staff gives me each day on calls coming into my Washington and Minnesota offices.

AN IMPORTANT PLACE TO BEGIN TO MOVE AHEAD

Senators KERREY and BROWN have put together a $109 billion package of specific budget cuts. Sure, some are controversial, but the important thing is that Senators are willing to stand up and support a significant decrease in the deficit, despite all of the procedural and substantive reasons not to support this kind of proposal. There are specific cuts in this package that I would rather not have included, such as the cut in the Legal Services program.

However, Mr. President, all we need is an opportunity to consider this proposal. Then we can get down to the business of negotiating to achieve the best possible combination of cuts. The important thing is that a bipartisan group of Senators are committed to support $109 billion of additional cuts beyond what we have accomplished this year in the budget process and in addition to what will be submitted by the President in next year's budget request.

In my judgment, it is pure folly not to support this proposal just because there may be a few specific cuts that do not seem justifiable or which might be used as offsets for other proposals such as health care reform. The package can be adjusted as needed, as long as we stick to the $109 billion goal. The real challenge before us is to just find the opportunity to pursue this needed deficit reduction without the usual roadblocks.

FUTURE GENERATIONS ARE WATCHING AS WE REFUSE TO ACT

Unfortunately, Mr. President, future generations cannot vote and do not lobby. So, I have not heard from a lot of stakeholders that I should support deeper cuts in Federal spending. Certainly, no one is stepping forward and offering to give up their piece of the pie.

That means we need to look to the President and the Congress for leadership—to place the collective public interest above selfish individual interests that so often stifle real change.

But, how did we spend the bulk of our time this past week, Mr. President? If my memory serves me right, we debated and passed a crime bill.

I did not vote for that bill for a lot of reasons. But, one of the biggest was the way we so casually took $22 billion I thought was headed for deficit reduction and spent it instead on this week's highest national priority—new prisons and more cops.

Not that we do not need to be doing something as a nation to combat crime. I just find it incredibly ironic, Mr. President, that one more example of failure by my generation to take responsibility for its actions is being passed on—in so cavalier a manner—to our kids.

LESSONS NEED BE APPLIED FROM THE PAST

It was 15 years ago this month I was elected to this body on a wave of anger that started in places like Minnesota and that produced a Republican Senate and new Republican President 2 years later. Americans at that time were angry with a Government that cost too much and delivered too little.

And, we did deliver on at least half the assignment we were given. We cut taxes. We put more money in the hands and pockets of Americans. And, we produced the longest peacetime period of economic recovery in this Nation's history.

But, any child can understand that if you cut taxes, but do not cut spending, you only run up the deficit. And, that is exactly what we did.

It is not that some of us did not try to do otherwise. In fact, three of our colleagues became household words over a deficit reduction law that gave many Americans the impression we were cutting spending at the same time we were cutting their taxes.

But, even before there was Gramm-Rudman-Hollings, Mr. President, there was a little known piece of legislation called Durenberger-Gorton. It required the President to submit a balanced budget each year, alongside his usual unbalanced budget. That would at least force all of us—both Congress and the administration—to see the kind of tough choices that enacting a balanced budget would require.

THE DAWN OF A NEW NATIONAL MOVEMENT—GENERATIONAL EQUITY

Unfortunately, Durenberger-Gorton was never enacted. And, even through three or four incarnations of its more famous cousin, deficit reduction all through the 1980's did little more than place a small bandage on a deep wound in America's jugular. And, as life continued to drain from America's future, my generation continued to live for today.

I saw all that happening, Mr. President, at about the same time my own four sons were entering adulthood. So, this preoccupation with the intergenerational injustice going on was, for me, as real as watching my own children being handed a life that held much less promise than the opportunities I was handed by my parents just 30 years earlier.

My personal turning point in dealing with that injustice was a speech I gave in the spring of 1984 to graduating seniors—and their parents and grandparents—at St. Olaf College in Northfield, MN. That speech was about debt—personal debt, corporate debt, and national debt—and how it represented an incredible and unfair burden being shifted from one generation to another.

During the rest of that year, I launched a new national organization called Americans for Generational Equity [AGE]—an organization to educate my generation and to give some hope to the next.

Like a lot of good ideas, AGE had trouble in today's conflict-conscious society in communicating its purpose. Much of the media immediately saw AGE as a wedge designed to turn one generation against another. Some interest groups representing older Americans saw AGE as a threat to the gains their generation had made * * * a means to shift wealth from one generation to another in the increasingly zero sum mentality of the 1980's.

But, despite these obstacles, AGE did have some impact on our understanding of the deficit and its meaning to future generations. And, through speeches and publications and conferences, many of us saw the same intergenerational implications of decisions we make about our physical infrastructure, how well we take care of our environment, and what priority we place on investments—like prenatal care, child immunizations, Head Start, or WIC—that we make in our Nation's youngest citizens.

As I prepared for what I hoped would be a real Senate debate on the Kerrey-Brown proposal, Mr. President, I reviewed some of the speeches I gave during that period of the mid-1980's.

The only changes needed to use those speeches today are to double or triple the size of the numbers. And, therein lies the urgency of acting now—not next year or in some future year—to make the kind of real spending cuts that we as a nation must make.

In one of those speeches—a 1986 talk my staff still calls the "Fork in the Road Speech"—I warned of the evils of what was then a $2.1 trillion deficit and spoke optimistically of the new Gramm-Rudman-Hollings law that would bring the annual deficit down to zero by 1991.

I also suggested four important steps this Nation must take—beyond Gramm-Rudman—if that goal were to ever be realized.

First, stop pointing fingers up and down Pennsylvania Avenue; stop blaming past policies; and start aiming ourselves toward a better Government in the future.

Second, enact deeper spending cuts beyond Gramm-Rudman—including an immediate leveling off in our extraordinary defense build-up, and additional cuts and reforms or elimination of general government programs.

Third, reform our entitlement programs—including additional cuts or reforms in nonmeans tested programs like Medicare.

And, finally, I said, "there is simply no way we can get from a $220 billion deficit to zero without raising more revenue from tax reform than the President proposes."

That advice is just as valid today, Mr. President, as it was in January of 1986. And, the urgency of following that advice today is even greater.

REAL REFORM MEANS AGREEING ON NATIONAL PURPOSES

Gramm-Rudman-Hollings is not the only tool we have tried to use in reducing the deficit, Mr. President. We also tried—and failed—to pass a balanced budget amendment, a line-item veto, and many other approaches designed to institutionalize greater discipline and restraint in federal government spending.

And, many of us remember that dramatic evening in 1985 when the now-Governor of California was wheeled into this Chamber to cast the deciding vote on a truly courageous deficit reduction package I am proud that my party in the Senate was willing to put forward.

We lost that opportunity when the President and Speaker of the House cut us off at the knees. And, left politically exposed, enough of my Republican colleagues were turned out of office the next year to make a former federal judge from Maine the majority leader of the U.S. Senate.

One reason all these good faith efforts have failed, Mr. President, is that we have not collectively agreed on a meaningful set of national purposes that could be used as a guide.

Also in an earlier era—during the height of the Reagan revolution—I outlined my own guideposts for agreeing on national purposes.

"Just because potholes are a problem in every community in America," I was fond of saying in those days, "does not make 'pot hole filling' a national Government responsibility."

To decide what is, I suggested a series of guideposts that included:

"The national Government has the responsibility to secure the national rights and liberties guaranteed by the Constitution to all Americans."

"The national Government has the responsibility to defend American interests and conduct foreign relations in the community of nations."

"The national Government has the responsibility to promote economic growth and regulate interstate commerce."

"The national Government has a responsibility where significant savings can be realized by operating a central program."

"The national Government has a responsibility where significant benefits are realized by citizens in more than one State."

"The national Government has a responsibility when national decisions impose extraordinary costs on some States or regions of the country."

"The national Government has a responsibility when competition among the States keeps them from implementing programs that would make all better off."

"The national Government has a responsibility to ease the disparities in fiscal capacity among the States."

"And, the national Government has the responsibility to provide for the income security of all Americans."

This kind of a list—used to sort out responsibilities among various levels of government—is as needed today as it was a decade ago.

And, it is not just needed in cutting Federal spending or eliminating national Government programs.

Having a firm sense of national purposes must also be at the heart of any national program to reform health care, reform our Nation's welfare system, better prepare Americans for school or work, or any number of other proposals now on the Nation's political and legislative agenda.

LET US HAVE THE COURAGE TO MOVE FORWARD

I believe we can design a $109 billion deficit reduction package that is based on this proposal, Mr. President. I was prepared to move ahead this year. I regret that others in this body disagree.

I personally believe that deficit reduction is an issue on which the American people are way ahead of their politicians. Because of the kind of grass roots leadership and education being done by groups like the Concord Coalition, I believe there will be a political safety net out there for those of us willing to take the plunge.

I have just 1 more year to make good on that opportunity, Mr. President, an opportunity I saw a decade ago and an opportunity that our children must not let us ignore.

Let me conclude with a challenge I set down in a speech I gave to the Minnesota Jaycees annual convention in 1985.

"Dealing with generational equity," I told this group of young men and women, "will take the very patient bringing together of grandparents and grandchildren, the facing of the realities of what we are doing to each other in our desire to have without paying. It doesn't mean that we've got to do without grandfolks. It does mean that we have to plan now for the kind of future we have an obligation to pass on to the next generation.

"These are difficult problems requiring tough solutions. But, history tells us that the safest course at difficult times in our lives is to tackle our problems head on. In this nation, there are more than enough ideas, and more than enough determined individuals like yourselves to meet these difficult challenges.

"We who have lived with these problems desperately need you, who are unwilling to live with them, to show us the way."

We still face that difficult challenge in 1993, Mr. President. And, all of us need to be willing to pick up that challenge and to show the way.

Thank you, Mr. President. I yield the floor.•

THE CRIME BILL

• Mr. McCONNELL. Mr. President, for too long we have debated crime bills designed to protect politicians from defeat rather than to protect Americans from crime. We must do better this time. Those matters that we can quickly reach bipartisan consensus on—more prisons, stiffer sentences, more police officers—must be enacted. This Congress. This year.

The crime debate is replete with statistics. But raw numbers—crime rates, recidivism rates—do not present a complete portrayal of the crime problem. The increasingly vicious nature of crimes cannot be quantified. The cool detachment of criminal predators does not lend itself to statistical analysis. The almost palpable fear gripping many neighborhoods cannot be conveyed on a floor chart.

Mr. President, Americans do not need reports from the Bureau of Justice Statistics to know there is a serious problem. They do not need Congress to declare it. They do not need GAO to study it. They live it every day. They fear it every night. It is pervasive in millions of Americans' daily lives. Fear is present when they walk through the parking lot, drive on the streets and highways, and sleep in their homes. Americans fear for themselves and their loved ones. They feel for those they read about or see on the evening news—the statistics.

The floor statements over the last few days have forcefully and eloquently acknowledged the violent crime epidemic. It is difficult to put into words the rage, the frustration, which we all feel at the unending rampage of violence in this country. Conveying with words the brutality on our streets perhaps requires the literary skill of horror novelist Stephen King.

We have heard many horrendous events related on this floor. Some of us even have personal experiences, friends or family who have been victims. But I do not believe that most of us, Members or staff, can really understand the fear that grips the most dangerous neighborhoods. Can we truly imagine the terror that causes young children in urban war zones to sleep in the bathtub, so that spraying bullets will not strike them dead in their sleep? Have salesmen knocked on our doors to pitch life insurance policies in the event of our children's death?

Many of us, women particularly, probably have known the momentary terror of a strange noise in the dark. A menacing sound which make the heart pound out of fear and causes the mind to conjure up terrible images. Who has not wondered for a moment whether to alert the police when a loved one is late returning home? It is a new dimension of life in America. The constitutional promise of life, liberty and the pursuit of happiness has been violated by the fear of crime.

Fear, Mr. President. It's become an industry in America. Products such as "Charlie Bars," "double-keyed deadbolts," "motion-detectorlights," "Central-monitored alarm systems," "The Club," "pepper spray"—have become essential purchases for security conscious, law-abiding, fearful Americans.

Fear did not used to be so commonplace. Crime did not used to be so pervasive. So random. So senseless. So inexplicable. What has caused this violence? There are more questions than answers.

But most of the social scientists who have studied the rising crime rate, including noted criminologist James Q. Wilson, have concluded that the heart of the problem lies in an eroding moral base.

One thing is for certain, Mr. President, someone with a fundamental sense of right and wrong, a shred of regard for human beings, does not drive by playgrounds and spray children with bullets. They do not rob, rape, or mug people.

How do we instill a basic respect and regard for the lives of human beings? This crime bill won't do it. Gun control won't do it. The truth is that government can't do it. Family, church, and society can. They used to.

For those who lack the moral base which might keep them from a life of crime, we must provide incentives. Incentives through penalties. Simply put, we cannot allow crime to pay. Criminal acts must have legal consequences. Punishment must be swift, certain, and stiff. Even severe.

We need more police officers on patrol. We need to assure the police that they will not risk their lives only to see criminals turned loose. We need more prisons to hold the violent criminals that these police are going to arrest, if we are to make stiffer crime sentences a reality rather than a joke. These measures are essential. Are they the solution? Not entirely. But they are necessary to restore some semblance of order in our country.

Let me say, Mr. President, that I would like to commend the managers of the crime bill. Theirs is no easy task. Every Senator has strong personal views on the issue, many potential amendments, and constituents demanding action. The managers are trying to minimize partisan bickering, maneuvering, and amendments which would jeopardize passage of the crime package. I applaud their efforts.

Last week, unfortunately, the crime debate took a detour. A gun control detour.

However strongly the proponents of gun control may feel about their cause, they are aware that gun control amendments will, at the least, slow the anti-crime bill down. It could stop it altogether in the Senate. It certainly stopped it in its tracks last week.

There is no reason that gun control must be debated on this bill. The principal sponsors of the assault rifle ban amendment are members of the majority party. Their party controls the agenda. Their party controls the White House. Their party controls whether a single-issue gun control bill can be brought before the Senate.

Mr. President, the Chairman and Ranking Member of the Judiciary Committee rightly sought to debate gun control on a separate track from the crime bill. These two Senators may be on different sides of the issue, but they agreed that the contentious, emotional tenor of the gun control debate was best kept separate from the anti-crime measures.

In the interest of passing a crime bill with strong, bipartisan provisions on prisons, police officers, and tougher sentences, Republicans were even willing to handle habeas corpus on a different track rather than bog the Senate down in controversy—apparently to no avail. Gun control proponents seem to have decided that they just cannot wait. They have taken it upon themselves to jeopardize the entire crime bill.

Mr. President, with all due respect to the motivations of gun control proponents, if any members of the Crips and the Bloods gangs stumbled upon this gun control debate while they were flipping through channels on their stolen TVs—they'd HOWL with laughter!

These gang members who are doing the drive-by shootings, who are executing people for $20, or a sliver of urban territory, will not be impeded by this bill. This bill will merely add to the cost of conducting their sick business. It will drive up the cost of some guns, make them even more of a status symbol. Thugs will have to mug even more people so they can afford the guns whose price will be inflated by this bill. The newly contraband guns.

Let's be realistic, Mr. President: urban terrorists like the Crips and Bloods will not be deterred, nor impeded, by gun control. Criminal gangs, many of whom deal in illegal drugs, will have no difficulty getting access to illegal guns. The "deranged" individuals who were cited last week will accomplish their twisted objectives. Only law-abiding citizens will be denied the right to protect themselves by owning the gun of their choice.

We have heard a lot of heart-rending accounts of killings in the course of this debate. We all feel for the victims. The terror, pain, the trauma, is almost unimaginable. But no Senator, Mr. President, no Senator is unique in his or her outrage. Gun control proponents do not have a monopoly on compassion.

The truth is that the assault rifle ban passed because it was "PC." Clearly, "PC" does not stand for "political courage." "PC," as we have come to know it, stands for "politically correct." And in this instance, "politically convenient."

The assault rifle amendment offered by the Senator from California is interesting in the way it deals with the inconvenience of the Second Amendment. Proponents of an assault rifle ban have found that "assault rifle" is not definable as a category of weapons. Assault rifles cannot be banned as a class of weapons because they are not definable as a class. So this amendment bans brand names and model names.

What my colleagues should take note of, Mr. President, is "Appendix A" of the amendment. "Appendix A" lists the firearms that the Senate will graciously allow law-abiding Americans to own. As a sop to all those decent, taxpaying gun owners, the Amendment includes 13 pages listing the firearms that law-abiding citizens may own. A total of 650 weapons, we were told. How generous.

The Second Amendment of the United States Constitution has come down to this: 13 pages in a Senate amendment which few people have read that is supposed to appease those law-abiding Americans who have the audacity to feel they have a right to own guns. A right to defend themselves with firearms. A right to hunt. A right to target practice. A right to shoot beer cans, if they so choose. Beer cans—such an uncouth image that projects. Perhaps if more people used old Evian Water bottles for target practice, gun owners would get more respect around here.

And we are not talking about a privilege of citizenship here, or even a civil right; we are talking about constitutional right enshrined in one of mankind's most important documents by the Founders of this Nation. Yet with this amendment, we have reduced a constitutional right to a 13-page itemized shopping list. It certainly raises the question whether other portions of the Bill of Rights might be open to the same treatment.

Mr. President, assault rifles present sort of an "I-know-it-when-I-see-it" situation just like the pornography issue does. No one can define an assault rifle—but they know one when they see one. They are black and they have big banana clips. They are ugly and crude looking. Just by looking at them, you can tell they're not "nice" guns. Oh, and they are used a lot in the movies.

Speaking of the movies, Mr. President, a lot of people, including learned social scientists and Senators, think violence in the movies and television is a bigger problem than assault rifles. Using the Feinstein Amendment as a model, perhaps we can refine the First Amendment's free speech protections. After all, the Nation's Founders could not have conceived of movies or television when they wrote the First Amendment. They probably were not thinking about "The Terminator" or "Robocop 3." And there is no question they did not anticipate circa-1990s pornography when they penned the First Amendment of the Constitution.

So why don't we just ban pornography? Period. We can ban violence in the media. Period. We know it when we see it, but it is difficult to define, so we could just list the movies and shows to be banned. "The Taming of Rebecca" ought to be on that list; it's been implicated in several serial rape-murders in Delaware. But that task is cumbersome, so perhaps it would be easier to just list those TV shows and movies that we will generously allow Americans to view—such as "The Brady Bunch," "The Waltons," "The Sound of Music."

Speaking of music, we are all familiar with the controversy surrounding so-called "rap" music. Songs that advocate killing police officers, wholesale killing of citizens, riots. Perhaps we should carefully regulate what music citizens can produce and listen to—particularly young people.

Again using the Senator from California's amendment as a guide, we could ban music which advocates violent crime. We could ban music which applauds the murder of police officers or violence against women.

Using the assault rifle amendment rationale, we would seek to assure people they will have at least some music to listen to: Lawrence Welk, certainly. Anything by Frank Sinatra, except for "Guys and Dolls," which might promote street gangs. Classical music, of course; but not any of Verdi's operas: they're too violent.

Obviously, I am being facetious. But this is where we end up when we start reducing constitutional rights down to mere shopping lists. If we can whittle the right to bear arms down to a list of congressionally-approved guns, then surely we can whittle the right of free speech down to a list of congressionally-approved topics, and the right to freedom of worship down to a list of congressionally-approved religions.

The assault rifle amendment proposed by the Senator from California is a troubling constitutional precedent—one which fails to justify itself in terms of any realistic impact on deterring violent crime. For those reasons, I feel strongly compelled to oppose it.

Finally, Mr. President, we should maintain some perspective on just how much we can accomplish with any crime bill. Even with billions of dollars behind it, this crime package will not have any discernible effect on the crime rate any time soon.

When the President signs a crime bill at 1600 Pennsylvania Avenue Northwest, citizens at 1600 Pennsylvania Avenue Southeast may applaud, but they still will have to duck bullets for the foreseeable future. That is why it is imperative that a crime package pass as soon as possible so that prison construction can begin, police officers can be hired and trained, the criminal justice system can start using the tools we have provided, and citizens can have some hope that criminals will not have carte blanche in America.

We would greatly strengthen the U.S. Criminal Code with this bill, but our anticrime efforts must not end with this debate. As a nation, we must emphasize the "Moral Code" as well if we are to achieve and sustain any long-term victory in the war on crime. The U.S. Criminal Code tells what is illegal. A "Moral Code" should tell people what is right and wrong. The definitive answer to the crime problem cannot be found within the Senate. But we can get this country pointed in the right direction. And we can save some lives.●

● Mr. DOMENICI. Mr. President, November 11, 1993, marked the dedication of the Vietnam Women's Memorial in Washington, DC. It was a special day of healing for all veterans, most especially for the women veterans who served the United States in one of our Nation's most painful wars.

The women veterans of Vietnam were subjected to the same pain and sacrifice as were the men. They skillfully performed their duties with dedication and commitment. Some of them came home physically or psychologically maimed, some did not return alive, and some just never came home. Each of these women played a special role for their fellow soldiers and their country, with far too little recognition of their achievements. The Vietnam Women's Memorial is a fitting tribute to these sisters, mothers, wives, and friends who selflessly gave so much to so many.

Glenna Goodacre, from Santa Fe, NM, is the sculptor of this magnificent tribute to our women veterans. She has gained worldwide respect and fame for her many works of art, and we New Mexicans are particularly proud that one of our own was chosen to create this masterpiece. Its strength and vitality, as well as its softness and compassion, could only be crafted by one who understands deeply the multifaceted personal and professional characteristics of our women veterans. Glenna Goodacre has created a sculpture of extraordinary visual beauty—one that conveys more than 1,000 words on a piece of paper.

Ms. Goodacre will go on to create many other works of art, but I believe this memorial may be considered one of her most outstanding and crowning achievements. Her hands and her heart created a physical structure representing a Nation's silent but heartfelt "thank you."

I am honored to thank this artist for her extraordinary talents and her magnificent contribution to this memorial. With her help, America will not forget the sacrifices of the women veterans who served their country so valiantly. In behalf of my fellow New Mexicans, and all our citizens who worked so hard to see this memorial become a reality, I extend our deep and sincere appreciation to Glenna Goodacre, a woman who captured a piece of a country's past for the future.•

S. 1654, TECHNICAL CORRECTIONS

• Mr. BAUCUS. Mr. President, I rise today to express my strong support for S. 1654. This technical corrections legislation includes technical clarifications to the Northern Cheyenne Indian Water Rights Settlement Act of 1992 that are critical to implementation of the original act. The corrections reiterate that environmental compliance and mitigation are a responsibility of the United States. A typographical error is corrected so that moneys may be spent on environmental compliance immediately, while still requiring the entry of the compact in Montana's water rights adjudication system prior to the use of Federal money for actual construction.

The effect of this amendment is to ensure that $2,000,000 is placed into the Northern Cheyenne Tribal Development Fund. This would be as Congress intended and more importantly, as originally promised to the tribe. The State of Montana remains committed to providing its share of the compact implementation costs, $21,800,000, as indicated in the original act. A part of these costs are the costs associated with mine flooding and agricultural dewatering mitigation which are considered construction costs.

The Northern Cheyenne Settlement Act forged a new and constructive relationship between the State of Montana and the Northern Cheyenne people. We cannot allow this relationship to be jeopardized by simple technical errors. The negotiation of this compact and the resulting legislative ratification represent the tireless work of many committed people. It is imperative that Congress keep our promise to the Northern Cheyenne Nation and the State of Montana and allow the tribe to move forward with the beneficial use of their water.•

SUPPORT OF THE CALIFORNIA ELECTRIC CAR INDUSTRY

• Mrs. BOXER. Mr. President, today I would like to take a few moments to speak on the emerging renaissance in automobile design and engineering and the rebirth in advanced technology manufacturing in my home State of California.

Under the aegis of the Clean Air Act, California has developed strong new standards to combat air pollution. These include regulations requiring 2 percent of each major automobile manufacturer's sales be zero-emission vehicles each year beginning in 1998, and increasing to 5 percent at the turn of the century and 10 percent beginning in 2003.

The most practical technology currently available to achieve zero emission is the electric vehicle. The electric vehicle has no tailpipe emissions and can reduce major ozone-creating pollution emissions by 97 percent when compared to gasoline-powered vehicles.

The California standards mean that in less than 5 years about 40,000 electric vehicles must be sold in California, increasing to 200,000 a little after the turn of the century. These rules are an opportunity, not a threat. The electric vehicle industry could top $10 billion annually by the year 2005, creating hundreds of thousands of jobs in the United States.

In a major policy paper on electric vehicle manufacturing in California, the Lewis Center for Regional Policy Studies at UCLA reported a few months ago that with the zero-emission standard in place, Los Angeles could capture more than 24,000 jobs in producing components and assembling electric vehicles. Southern California is the world's largest center of automobile design. We have numerous plastics molding firms, foundries, machine shops, tool and die manufacturers and electronic components producers already located in the region. About 450 businesses, mostly small shops, are already involved in some way with the early development of electric vehicle technology. General Motors' Impact electric car was designed in the region.

The State's numerous strengths in engineering, high-technology research and production, early and sophisticated demand, extensive entrepreneurial activity, world class universities, expert skill base and advanced aeronautics and electronics industries create the potential for the State to capture a major share of new electric vehicle jobs, potentially 70,000 jobs in less than 20 years. We are making real progress in California in converting our defense-related industries to advanced transportation. Under the catalyst of Calstart, the advanced transportation manufacturing consortium, for example, hands that once expertly designed a cooling system for an infrared missile sensor now design a thermoelectric heating/cooling seat for electric vehicles and a company that manufactured military tank systems now turn out hybrid-electric vehicle power systems.

California could be the single largest market for electric vehicles in the world well into the 21st century. The California Council on Science and Technology estimates that the total worldwide demand for electric vehicles will reach nearly 2 million automobiles by 2007, yielding an industry with annual sales exceeding $25 billion. By the year 2005, hundreds of thousands of Americans will be employed in the electric vehicle industry across the country.

Early next year, the Nation's first electric-powered school buses will roll out in Santa Barbara, CA. These two 67-passenger school buses are being retrofitted in California. If only 25 percent of the Nation's new school buses were electric, we could generate $455 million in revenues, with retrofit sales totaling another $520 million. As many as 26,000 jobs could be created in this industry alone.

The driving force behind this industry is the California Air Resources Board's rules requiring manufacturers to offer zero emission vehicles by 1998. The Environmental Protection Agency has allowed California to move forward with these rules as its response to the Clean Air Act requirements.

Now, a dozen other States in the Northeast are considering the California rules as a way to meet their requirements under the act. Representatives of these States recently met as the Ozone Transport Commission to draft a formal petition to the EPA to ask it to enforce the California standard in the East. The adoption of these standards by California and the Northeast would provide a tremendous boost to the electric car industry—a market for more than 79,000 electric vehicles in 1998—and a chance for many Americans to breathe cleaner air.

U.S. automakers, however, are concerned that they will not be able to produce an electric vehicle that has a battery "with acceptable cost, range and life to power it." They are suggesting that these States drop efforts to adopt a zero emission requirement in exchange for the automakers accelerating the development of low-emission vehicles, such as natural gas vehicles. But they want 10 years to pursue that goal through the President's clean car initiative. This program, designed to harness the Federal Government's research and development capabilities with the automakers own programs, is a major boost in our efforts to develop the technology necessary to mass produce clean cars. But it should not be an opportunity to put our current progress on hold.

California already is forging ahead in developing the electric car. New developments are occurring rapidly. For example, we are on the verge of introducing a recharging unit that will fuel the vehicle within a matter of minutes instead of hours.

While it is true that we have not yet had the major technological breakthrough for a lighter, more powerful, advanced battery, experiments on a number of technologies, including the fuel cell, are promising. Electric vehicles are being produced and marketed today on a small scale using conventional batteries. Several small companies in California already build and market electric vehicles using the lead acid battery. Charging between $10,000 and $35,000 per vehicle today, even without mass production.

These are not your long distance touring cars; that's true. But what we need are commuter cars and fleet vehicles. Most people do not drive over 100 miles to work. There is no reason why anyone should be driving over 60 miles to work in our major smog-shrouded cities without having access to a charging station at home or at work.

Is this the best state we could be in? No, but Henry Ford did not wait for the development of the electronic ignition before he turned out the hand-cranked Model T.

Consumers will buy electric cars if we provide the right incentives. GM's own survey last year of 1,000 potential new car buyers in San Francisco and Los Angeles found that the number of people who would definitely or probably purchase an electric vehicle increased from 17 to 68 percent if provided a mix of price and ownership incentives totaling $7,000. These incentives include a federal income tax credit, reduced electric rates for home charging, or a free battery change after 30,000 miles.

The Internal Revenue Service is currently writing the rules to implement a Federal tax credit of up to 10 percent of the cost of an electric vehicle, up to a maximum of $4,000. Already Southern California Edison has proposed a comprehensive plan for promoting electric vehicle ownership, including: installation of recharging equipment in homes within 72 hours of an electric vehicle purchase, discount rates for charging electric vehicles overnight, up to $1,500 in incentives to buy or lease electric vehicles and prototype recharging stations in public and employee parking lots and other sites. The utility has requested a $190 million rate hike over 6 years to pay for the program, amounting to, at most, pennies a month on the average electric bill. The alternative vehicle consortium Calstart has installed about 90 recharging stations in the State and expects to achieve its goal of 143 by early 1994.

In no way do I suggest that we not simultaneously pursue production of low-emission vehicles, such as natural gas and the hybrid gasoline-electric vehicles, as well as incentives to junk gas-guzzlers. But neither should we ignore the opportunity to save nearly 1 million barrels of oil per day by replacing only 22 percent of the currently registered gasoline-powered vehicles with electric vehicles. We should not remove the catalyst that is propelling us into a new age of the automobile.

Recently, Thomas C. Jorling, Commissioner of New York State's Department of Environmental Conservation, called California's zero-emission requirement the air quality program's real genius. He said, "it significantly contributes to achievement and maintenance of the health standards. It sets forth real market share incentives and a timetable that permits technological development in a manner designed to stimulate the production of vehicles that are essential not only to the American future in the 21st century, but to the global future."

At long last we are actually cleaning up the atmosphere. Earlier this month the EPA announced major progress in the reduction of six major pollutants over the past 10 years, including a 21-percent reduction in smog and 34-percent drop in carbon monoxide. Despite this continuing progress in air quality nationwide, almost 45 million people still live in counties exceeding the smog standard, more than 14 million live in counties exceeding the carbon monoxide standard, and almost 26 million reside in areas violating the particulate standard. In my own State, nine regions are still listed as failing to achieve standards for ozone; three are in serious violation. The Los Angeles basin is still a serious carbon monoxide nonattainment area. But the most compelling statistic of all is this: Children in the Los Angeles air basin suffer a 15-percent reduction in lung function by age 12 because of exposure to smog.

But we cannot give in to doubt and fear. I agree with Transportation Secretary Pena when he said in California last May that the biggest obstacle to the success of electric cars is lack of faith. We have before us the technological equivalent of the race to the Moon. This time it is the race to build the Clean Car. Make no mistake. This is a race because the winner has a global market to exploit. The Japanese and the Germans are not shirking from the task. You only have to have seen the Tokyo Auto Show last month to see the latest electric vehicle on view.

I urge California Gov. Pete Wilson not to relax the California zero-emission rules. We have gone too far in our efforts to clean up the environment to delay now. At the same time, I urge Detroit to join hands with California and move forward to build the clean car of the future. We need your help to merge the high-tech component skills in my State with the mass production know-how of the traditional automaking States. We have a wonderful opportunity here to create a new mission to bring life to America's manufacturing base and provide cleaner air for all Americans.•

REVISING THE WAR POWERS RESOLUTION

• Mr. BIDEN. Mr. President, last month, the Senate engaged in an important debate about the use of American military power in the post-cold-war era. But the debate was not only about the ramification of United States military intervention in Bosnia, Haiti, and Somalia. It was about much more—the critical question of who decides to send forces into harm's way.

This is not merely a question of policy—about which branch of Government is the wiser judge of the use of American military power. It is a fundamental question about constitutional authority and constitutional duty—a question of how this Government proceeds in exercising its power in the most solemn decision that a nation can make: to send women and men to fight and die for their country.

Decades ago, a noted scholar, Edwin Corwin, characterized constitutional provisions regarding foreign policy as an "invitation to struggle." Professor Corwin's maxim accurately describes over 200 years of constitutional history—two centuries of tension between the executive and legislative branches regarding the war power.

But over the past four decades what was intended as a healthy struggle has become excessively divisive and chronically debilitating. We have experienced four decades of cold war during which vicious domestic battles have degenerated into what has amounted to trench warfare between the branches. The primary cause, in my view, is that Presidents have pushed the limits of executive prerogative. Their rationale has been the supposed burden of Presidential responsibility imposed by the stresses and dangers of the cold war.

The era began in 1950, when President Truman deployed forces to the defense of South Korea without congressional authorization. With elaborate legal argument, Truman asserted an inherent Presidential authority to act unilaterally to protect the "broad interests of American foreign policy." A nearly lone voice of concern, Senate minority leader Robert Taft—known as "Mr. Republican"—declared that the President had "usurped authority, in violation of the laws and the Constitution." But Taft's pronouncements availed him little, a fate that would often befall similar congressional attempts to restrain executive aggrandizement.

The dissenters were overwhelmed by the proponents of a thesis: the thesis that in the nuclear age—when the fate of the planet itself appeared to rest with two men thousands of miles apart, one in the White House and the other in the Kremlin—Congress had little choice, or so it was claimed, but to cede tremendous authority to the executive branch.

By the beginning of the 1970's, that thesis had become doctrine. In 1970, when President Nixon sent United States forces into Cambodia with neither congressional authorization nor even consultation, his accompanying assertions of autonomous Presidential power were so sweeping and so extreme that the Senate began a search—a search led by Republican Jacob Javits and strongly supported by Senator John Stennis—for some means of rectifying what was now perceived as a dangerous constitutional imbalance.

The result was the enactment, in 1973, of the War Powers Resolution—over a Presidential veto.

Today, 20 years later, few would dispute that the War Powers Resolution has failed to fulfill its intent—and has been, to state it simply, ineffective. In its two decades, a premise has gained wide acceptance that the War Powers Resolution is fatally flawed. Indeed, there are flaws in the resolution, but they need not have been fatal. For that law was designed—by legislators who were in fact statesmen of a markedly conservative stripe—to embody constitutional principles and to set forth practical procedures.

It is commonly said that every President has disputed the constitutionality of the War Powers Act. But that is not true. President Ford took no issue with the act while in office. And President Carter explicitly vowed to comply with its provisions, declaring that he would neither endorse nor challenge its constitutionality. Moreover, the Carter Justice Department conducted a detailed analysis of the resolution and declared, quite explicitly, that its most crucial mechanism—the timetable for congressional authorization of a use of force abroad—is fully and unambiguously constitutional.

Unfortunately, under the Ford and Carter administrations no body of practice under the resolution developed, because the only two military actions of that period—the "Mayaguez" incident under Ford and the "Desert One" incident under Carter—were over almost before they began. Then came Presidents Reagan and Bush, who dealt with the resolution pragmatically while declaring their blanket opposition to its provisions.

Perhaps now, however, we have reached a ripe moment for reconsideration of this issue. It took the arrival of a Democrat in the White House, but our friends on the other side of the aisle—who were for so many years attached to the monarchist concept of the war power—now seem prepared to take a new look at the Constitution and to remind themselves that Mr. Republican—Robert Taft—was right:

There is a fundamental constitutional role for Congress in the decision to engage this Nation in warfare. Our task today, if we will accept and seek to achieve it, is to overcome the flaws of existing law—ironically, a law designed to improve executive legislative branch comity on the war power that has instead contributed to frequent squabbles about the minutiae of the law's provisions.

No case better demonstrates the kind of problems we must overcome than that which occurred in 1987. For much of that year, Congress was involved in a seemingly endless debate about the application of the War Powers Resolution to the situation in the Persian Gulf. The dispute focused not on the policy of reflagging the Kuwaiti tankers, but about the procedures of the War Powers Resolution. These questions diverted Congress and the President from joining the debate about the central issue—about the ramifications of the reflagging itself—a high-risk undertaking not at all self-evident in its justification. Instead, the Congress and President dickered over numerous legalisms:

Did the circumstances fulfill the criterion of "hostilities or * * * imminent involvement in hostilities"?

If so, when did the 60-day time clock for congressional authorization begin to run?

Could Congress trigger the time clock in the absence of a Presidential report?

And so on.

In 1988, determining that a review of the War Powers Resolution was in order, the Foreign Relations Committee established a special subcommittee to assume the task. As chairman of the subcommittee, I conducted an exhaustive series of hearings, the most extensive hearings held in recent times on this subject. Over the course of 2 months, the subcommittee heard from many distinguished witnesses—former President Ford, former Secretaries of State and Defense, former Joint Chiefs of Staff, former Members of Congress who drafted the law, and many constitutional scholars.

At the end of that process, I produced a lengthy law review article describing how the War Powers Resolution might be thoroughly rewritten to overcome its actual and perceived liabilities. I envisaged its replacement by a new act entitled the "Use of Force Act"—which would aim to achieve, at long last, the goal of its predecessor: to restore the balance of power between the executive and legislative branches regarding the war power. Unfortunately, the election of another Republican President who persisted in seeking to expand Executive power assured that no useful progress could be made on such legislation.

Indeed, my worst fears about President Bush's "monarchist" views were confirmed during the gulf crisis, when the President petulantly declared that he didn't need permission "from some old goat in the Congress to kick Saddam Hussein out of Kuwait." Although Mr. Bush eventually sought congressional support in the gulf, he did do reluctantly, and continued to assert that he sought only support, refusing to concede that congressional authorization was a legal necessity.

That brings us to the present, where numerous foreign crises—and legitimate questions about U.S. involvement in multilateral actions—have combined to encourage our Republican colleagues to rediscover that Congress has a major role in the exercise of the war power. In recent weeks, we have witnessed one member after another achieving the equivalent of a conversion on the road to Damascus. Some may question their motivations. But for my part, I welcome their recognition—albeit belated—that Congress must have a voice in the decisions to deploy American forces into hostile situations.

But it is insufficient to say Congress must have a voice. The constitutional command is clear—only Congress can authorize the use of American military power abroad. The President, to be sure, is the Commander in Chief, and has the sole power to direct American military forces in a combat once that action has been authorized by Congress. But until that authority is granted, the President has no inherent power to send forces to war—except in certain situations, such as to repel sudden attacks or to protect the safety and security of Americans abroad.

These precepts—and these specific exceptions—are embodied in the "Use of Force Act," a legislative proposal that I have previously drafted that would revise the War Powers Resolution. I am now reviewing that draft, and hope that next year the Foreign Relations Committee will consider this and other proposals for reform.

Such a review has been requested by the majority leader, who on October 22 announced that the Foreign Relations Committee, the Armed Services Committee, and the Intelligence Committee would begin a comprehensive review of the use of force in the post-cold-war period. This review will encompass both the policy choices facing the United States, as well as the mechanisms for making decisions about the use of force.

I want to underscore for my friends on the other side of the aisle that this must not be an effort merely of Senate Democrats. We seek a dialog—with our Republican colleagues, with our colleagues in the other body, and with the President. We must not enact legislation of such import with a partisan vote or over a veto.

Our goal is a framework that will be used—not criticized, circumvented, and abused. To accomplish that goal will require that we persuade this President—against all the advice he will get from the traditionalist, cold war, monarchist lawyers—that getting Congress on board at the outset of any military involvement is not only the sound constitutional approach, but also the soundest approach politically and for an effective American foreign policy.

I have no illusions that enacting such legislation will be an easy task. The experience of the War Powers Resolution gives witness to the difficulty of finding the proper balance between the executive and legislative branches on war powers. Of course, a strong measure of tension between the Executive and Congress will always be present in a Government designed, as ours was, to avoid tyranny through a separation of powers.

But it is clear to me that we must try to prevent healthy tension from degenerating into chronic disease. The current institutional stalemate is unacceptable. As matters now stand, Congress is denied its proper role in sharing in the decision to commit American troops, and the President is deprived of the consensus to help carry this policy through.

Only by establishing an effective war powers mechanism can we ensure that both of these goals are met. More important, we will guarantee that the will of the American people will stand behind the commitment of American forces. To fulfill that goal is our solemn duty, and I for one will continue to pursue it.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

UNANIMOUS CONSENT ON TREATIES

Mr. FORD. I ask unanimous consent that the Senate proceed to executive session to consider the following treaties:

Calendar 10: Convention on the Marking of Plastic Explosives for Purposes of Detection;

Calendar 11: Convention on the Limitation Period in the International Sale of Goods, with Protocol;

Calendar 12: Income Tax Convention with the Russian Federation;

Calendar 13: Protocol amending the 1984 Income Tax Convention with Barbados;

Calendar 14: Tax Convention with the Kingdom of the Netherlands; and Protocol (Treaty Doc. 103–19) thereto;

Calendar 15: Income Tax Convention with Mexico, with Protocol;

Calendar 17: Income Tax Convention with the Czech Republic;

Calendar 18: Income Tax Convention with the Slovak Republic;

Calendar 19: Protocol to the International Convention for the Conservation of Atlantic Tuna, and

Calendar 20: Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification, that the committee recommended declarations, reservations, or understandings on Executive Calendars 10, 11, 13, and 18 be considered as having been adopted; that, with respect to Executive Calendar 15, the Committee recommended understanding be considered as having been adopted, the Committee recommended reservation be withdrawn and Executive Amendment 1228, introduced by Senator SARBANES, in the nature of an understanding be considered as having been adopted; that no additional amendments, conditions, declarations, provisos, understandings or reservations be in order; that any statements appear, as if read, in the RECORD, and that the Senate vote, with one vote to count as 10, on the resolutions of ratification without intervening action or debate; that after the vote the motion to reconsider the vote be tabled; that the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Executive Amendment No. 1228 was agreed to, as follows:

> "In lieu of the reservation proposed to be inserted by the Committee, insert the following:
>
> (a) Understanding: That the phrase "both Contracting States shall apply that lower rate" in paragraph 8(b) of the proposed protocol is understood to mean that both Contracting States agree to promptly amend the Convention to incorporate that lower rate; and".

The treaties are as follows:

Convention on the Marking of Plastic Explosives for the Purpose of Detection.

Convention on the Limitation Period in the International Sale of Goods, with Protocol.

Income Tax Convention with the Russian Federation.

Protocol Amending the 1984 Income Tax Convention with Barbados.

Tax Convention with the Kingdom of the Netherlands; and Protocol, (Treaty Doc. 103–19) thereto.

Income Tax Convention with Mexico, with Protocol.

Income Tax Convention with the Czech Republic.

Income Tax Convention with the Slovak Republic.

Protocol to the International Convention for the Conservation of Atlantic Tuna.

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

Mr. MITCHELL. Mr. President, on behalf of Senator DORGAN, I would like to make a statement and ask the distinguished Chairman of the Foreign Relations Committee a question regarding the pending tax treaties.

For decades, U.S. tax officials have wrestled with the problem of how to divide the total income of a firm doing business in many different jurisdictions. During this period, the federal taxing authorities have tried to deal with this problem on what is called a "separate accounting" basis, adjusting each transaction between related businesses to approximate what the transactions would be if the related businesses were dealing with each other at "arm's length." Unfortunately, this method provides substantial opportunities to avoid U.S. taxes.

A similar situation arises domestically when a company does business in several States within the United States. The State taxing authorities successfully have used a simple formula approach to allocate a multistate corporation's overall income among the States. The Supreme Court repeatedly has upheld the formula method as reasonable and fair.

Now, the pending treaties include a provision, common to most of our bilateral income tax treaties, that deals with transactions between "related" corporations.

Mr. President, my question to the distinguished chairman of the Foreign Relations Committee is: Do any of the pending United States tax treaties with the Netherlands, Mexico, Russia, Czech Republic, or Slovak Republic, prevent the treaty countries from using a formula method to apportion income between related entities?

Mr. PELL. Mr. President, the treaties do not prevent the appropriate use of a formula method by the treaty countries to apportion overall income among associated enterprises.

In fact, our Committee previously addressed a similar matter in its Executive Report No. 96-5 accompanying the Third Protocol to the 1975 Tax Convention with the United Kingdom. In connection with that treaty, we stated that both countries may apply apportionment formulas, including formulas that take into account attributes of related entities, to calculate the arm's length value of a transaction between related entities. We also made clear that apportionment formulas also may be used to apportion income of related entities to the extent that it is established that they are not dealing on an arm's length basis.

Mr. FORD. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division is requested. All those in favor of the resolutions of ratification stand and be counted. (After a pause.) All those opposed to the resolutions of ratification stand and be counted.

Two-thirds of those present having voted in the affirmative, the resolutions of ratification are agreed to.

So it was—

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Marking of Plastic Explosives for the Purpose of Detection, with Technical Annex, done at Montreal on March 1, 1991, subject to the following:

Declaration: The Senate's advice and consent is subject to the following declaration:

Pursuant to paragraph 2 of Article XIII of the Convention, the Government of the United States of America declares that it is a producer * * *

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Multilateral United Nations Convention on the Limitation Period in the International Sale of Goods, done at New York on June 14, 1974, together with the 1980 Protocol Amending that Convention, done at Vienna on April 11, 1980, subject to the following:

Declaration: The Senate's advice and consent is subject to the following declaration:

Pursuant to Article XII, the United States will not be bound by Article I of the Protocol.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Russian Federation for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Texas on Income and Capital, together with a related Protocol, signed at Washington on June 17, 1992 (Treaty Doc. 102-39).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed on December 31, 1984, which Protocol was signed at Washington on December 18, 1991 (Treaty Doc. 102-41), subject to the following reservation:

That the words "voting power or value" in Article III, paragraph 2 shall be construed to mean "voting power and value" for purposes of imposing the tax under section 531 of the Internal Revenue Code of 1986, as amended.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the Convention), signed at Washington on December 18, 1992 (Treaty Doc. 103-6); and the Protocol Amending the Convention signed at Washington on October 13, 1993 (Treaty Doc. 103-19).

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at Washington on September 18, 1992 (Treaty Doc. 103-7), subject to the following:

(a) Understanding: That the phrase "both Contracting States shall apply that lower rate" in paragraph 8(b) of the proposed protocol is understood to mean that both Contracting States agree to promptly amend the Convention to incorporate that lower rate; and

(b) Understanding: That, while Mexico imposes no excise tax on insurance premiums paid to foreign insurers and has no immediate plans to do so, should Mexico enact such a tax in the future, Mexico will waive such tax on insurance premiums paid to insurers resident in the United States.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Czech Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed in Prague on September 16, 1993 (Treaty Doc. 103-17).

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Slovak Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed in Bratislava on October 8, 1993 (Treaty Doc. 103-18), subject to the following understanding:

That the words "50 percent of property" in Article 13, paragraph 2 shall be construed to mean "50 percent of real property" for purposes of determining whether shares of stock of a company constitute "real property situated in the other Contracting State" under the treaty.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Adopted June 5, 1992, by the Conference of Plenipotentiaries of the Contracting Parties to the International Convention for the Conservation of Atlantic Tunas (ICCAT), Signed by the United States on October 22, 1992, to Amend Paragraph 2 of Article X of ICCAT.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at Copenhagen, November 23-25, 1992, by the Fourth Meeting of the Parties to the Montreal Protocol.

Mr. FORD. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of the following nominations and that the Senate proceed to their immediate consideration:

Einar V. Dyhrkopp, to be a Governor of the United States Postal Service;

Marian C. Bennett, to the inspector General, United States Information Agency;

Charles C. Masten, to be Inspector General, Department of Labor, and;

George W. Haley, to be a Commissioner of the Postal Rate Commission.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

Einar V. Dyhrkopp, to be a Governor of the United States Postal Service;

Marian C. Bennett, to the inspector General, United States Information Agency;

Charles C. Masten, to be Inspector General, Department of Labor, and;

George W. Haley, to be a Commissioner of the Postal Rate Commission.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported by the Committee on Commerce, Science, and Transportation:

Linda Hall Daschle, to be Deputy Administrator of the Federal Aviation Administration.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as read, that upon confirmation, the motion to reconsider be laid upon the table that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was confirmed.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported today by the Committee on Labor and Human Resources:

Jeanne Hurley Simon, to be a member of the National Commission on Libraries and Information Science.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motions to be reconsidered by laid upon the table, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed.

Mr. FORD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations and that the Senate proceed to their immediate consideration:

Nelson F. Sievering, Jr., to be the Representative of the United States of America to the International Atomic Energy Agency; and

John B. Ritch III, to be the Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, en bloc.

RETURN OF CERTAIN NOMINATIONS TO THE PRESIDENT

Mr. FORD. Mr. President, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of rule 31, paragraph 6, with the following exception:

Institute of American Indian and Alaskan Native Culture: Marion G. Chambers.

Department of Defense: Steven Muller, S. William Pattis, Richard F. Stolz, John P. Roche, and Morton H. Halperin.

Defense Base Closure and Realignment Commission: Thomas J. Downey.

Department of Commerce: Stephen T. Hart.

Corporation for Public Broadcasting: David P. Prosperi.

U.S./Canada International Joint Commission: Robert Goodwin.

Legal Services Corporation: Norman D. Shumway.

Department of Education: Ramon C. Cortines.

Administrative Conference of United States: Brian C. Griffin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations:

Calendar 518. Sue E. Eckert, to be an Assistant Secretary of Commerce;

Calendar 519. Martin A. Kamarck, to be First Vice President of the Export-Import Bank of the United States;

Calendar 520. Dwight P. Robinson, to be President, Governmental National Mortgage Association;

Calendar 522. Robert G. Houdek, to be Ambassador Extraordinary and Plenipotentiary of the USA to Eritrea;

Calendar 523. Mark G. Hambley, to be Ambassador Extraordinary and Plenipotentiary of the USA to the Republic of Lebanon;

Calendar 524. Leslie M. Alexander, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius, and to the Federal and Islamic Republic of Comoros;

Calendar 525. David P. Rawson, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda;

Calendar 526. Edward P. Djerejian, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel;

Calendar 527. Victor L. Tomseth, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic;

Calendar 528. Theodore E. Russell, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic;

Calendar 530. Nicholas A. Rey, to be Ambassador to the Republic of Poland;

Calendar 532. Edward E. Elson, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark;

Calendar 533. Marc Charles Ginsberg, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco;

Calendar 537. Martin L. Cheshes, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti;

Calendar 543. John F. Hicks, Sr., to be an Asst. Administrator of the Agency for International Development;

Calendar 551. Martha C. Daughtrey, to be U.S. Circuit Judge;

Calendar 552. Thomas M. Shanahan, to be U.S. District Judge;

Calendar 553. David G. Trager, to be U.S. District Judge;

Calendar 554. Lawrence L. Piersol, to be U.S. District Judge;

Calendar 555. Raymond A. Jackson, to be U.S. District Judge;

Calendar 556. Joanna Seybert, to be U.S. District Judge;

Calendar 557. David W. Hagen, to be U.S. District Judge;

Calendar 558. Claudia Wilken, to be U.S. District Judge;

Calendar 559. Gary L. Lancaster, to be U.S. District Judge;

Calendar 560. Donetta W. Ambrose, to be U.S. District Judge;

Calendar 561. Wilkie D. Ferguson, Jr., to be U.S. District Judge;

Calendar 562. Charles A. Shaw, to be U.S. District Judge;

Calendar 563. Harry F. Barnes, to be U.S. District Judge;

Calendar 565. Reginald C. Lindsay, to be U.S. District Judge;

Calendar 566. Patti B. Saris, to be U.S. District Judge;

Calendar 567. Allen G. Schwartz, to be U.S. District Judge;

Calendar 568. Richard G. Stearns, to be U.S. District Judge;

Calendar 569. Henry Lee Adams, Jr., to be U.S. District Judge;

Calendar 570. Susan C. Bucklew, to be U.S. District Judge.

Nominations placed on the Secretary's Desk in the Foreign Service on the list beginning with Curtis Kamman and on the list beginning with Bruno Cornelio.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF COMMERCE

Sue E. Eckert, of Rhode Island, to be an Assistant Secretary of Commerce.

EXPORT-IMPORT BANK OF THE UNITED STATES

Martin A. Kamarck, of Massachusetts, to be First Vice President of the Export-Import Bank of the United States for a term of four years expiring January 20, 1997.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Dwight P. Robinson, of Michigan, to be President, Government National Mortgage Association, vice Raoul Lord Carroll.

DEPARTMENT OF STATE

Robert Gordon Houdek, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Eritrea.

Mark Gregory Hambley, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Leslie M. Alexander, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

David P. Rawson, of Michigan, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Edward P. Djerejian, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Victor L. Tomseth, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

Theodore E. Russell, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

Robert S. Gelbard, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for International Narcotics Matters.

Nicholas Andrew Rey, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.

Edward Elliott Elson, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Marc Charles Ginsberg, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Martin L. Cheshes, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

John F. Hicks, Sr., of North Carolina, to be an Assistant Administrator of the Agency for International Development.

THE JUDICIARY

Martha Craig Daughtrey, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Thomas M. Shanahan, of Nebraska, to be United States District Judge of the District of Nebraska.

David G. Trager, of New York, to be United States District Judge for the Eastern District of New York.

Lawrence L. Piersol, of South Dakota, to be United States District Judge for the District of South Dakota.

Raymond A. Jackson, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Joanna Seybert, of New York, to be United States District Judge for the Eastern District of New York.

David W. Hagen, of Nevada, to be United States District Judge for the District of Nevada.

Claudia Wilken, of California, to be United States District Judge for the Northern District of California.

Gary L. Lancaster, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Donetta W. Ambrose, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Wilkie D. Ferguson, Jr., of Florida, to be United States District Judge for the Southern District of Florida.

Charles A. Shaw, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Harry F. Barnes, of Arkansas, to be United States District Judge for the Western District of Arkansas.

Reginald C. Lindsay, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Patti B. Saris, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Allen G. Schwartz, of New York, to be United States District Judge for the Southern District of New York.

Richard G. Stearns, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Henry Lee Adams, Jr., of Florida, to be United States District Judge for the Middle District of Florida.

Susan C. Bucklew, of Florida, to be United States District Judge for the Middle District of Florida.

STATEMENT ON THE NOMINATION OF JUDGE MARTHA CRAIG DAUGHTREY

Mr. DOLE. Mr. President, the Senate is now patting itself on the back for passing a $22 billion anticrime bill. If all goes well, this bill should take a bite out of crime by putting more police on the streets and building more prison space to keep hardened criminals behind bars where they belong.

But, Mr. President, our efforts to pass tough anticrime legislation these past 2 weeks will be wasted, if President Clinton doesn't back them up by appointing judges who are willing to enforce our criminal laws to their full extent and not find excuses to let vicious criminals escape punishment.

One judicial nominee who appears not to fit the "law-and-order" bill is Judge Martha Craig Daughtrey, who has been nominated to fill a vacancy on the sixth circuit court of appeals. The Judiciary Committee has reported Judge Daughtrey's nomination by a divided vote of 12 to 5.

Now, I will not stand in the way of the confirmation of Judge Daughtrey, but as I have indicated before on this floor, her record as a member of the Tennessee supreme court has caused me considerable concern.

It is my understanding that during her years on the Tennessee bench, Judge Daughtrey has not once voted to affirm a capital sentence on direct appeal. In fact, she joined a dissent from a landmark ruling declaring that the Tennessee statute imposing the death penalty for felony-murder was constitutional.

The dissent offered this textbook example of judicial activism: "Implicit in death penalty jurisprudence is the recognition that the standards of decency are not static but evolving, that society is not stale but maturing, and that the level of community morality will continue to rise until the reasoned moral response of the people of Tennessee will be * * * that the death penalty is cruel and unusual punishment."

Apparently, Judge Daughtrey believes that once the people of Tennessee grow up, they will come to see the error of their ways and oppose the death penalty.

Mr. President, I wish Judge Daughtrey the very best as she assumes her new responsibilities on the Federal bench. But it is my hope she will quickly learn that her job is not to impose her own policy judgments or value system, but rather to interpret the law in accordance with the intent of the law's drafters.

If we are to win the war against crime and criminals, we will need Federal judges who view law-and-order as something more than just a slogan.

Mr. SASSER. Mr. President, I rise today to commend the Senate for its confirmation of the nomination of Martha Craig Daughtrey to be United States Circuit Judge for the Sixth Circuit Court of Appeals.

Judge Daughtrey's list of accomplishments is long and impressive. After her graduation from Vanderbilt University and Vanderbilt Law School, she became a pioneer in the law in the State of Tennessee. She was the first woman to be a state prosecutor and the first woman to be a federal prosecutor in Tennessee. She was the first woman to be a full-time professor at Vanderbilt Law School. She was also the first woman elected to state-wide office in Tennessee—the Tennessee Court of Criminal Appeals.

After serving as an assistant United States Attorney in Nashville, she was assistant District Attorney in Davidson County from 1969 to 1972.

She was appointed an Associate Judge of the Tennessee Court of Criminal Appeals in 1975 and served there until her appointment as an Associate Justice of the Tennessee Supreme Court in 1990.

In all of these posts, she has distinguished herself in handling a wide variety of complex legal issues. She has extensive experience in criminal, civil, and regulatory law.

Judge Daughtrey has also taught extensively at Vanderbilt Law School in the areas of criminal constitutional law, federal and state constitutional law, and women's rights. In 1991, she was Distinguished Jurist in Residence at the Indiana University School of Law.

She has been for many years a faculty member of the Appellate Judges' Seminar at New York University. As my colleagues may know, such a position is highly respected in the legal profession.

She has also been active in the legal community, serving on the boards of numerous legal organizations. She is past President of both the National Association of Women Judges and the Middle Tennessee Lawyers' Association for Women.

Mr. President, I had the privilege of introducing Judge Daughtrey at her nomination hearing, and I listened to her testimony. I was extremely impressed with her knowledge of the law and her obvious regard for the special role of the judiciary. I left that hearing with even greater confidence that she would serve with great distinction on the federal bench.

I congratulate Judge Daughtrey, and I commend the Senate for acting quickly to approve this important nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

EARLY-OUT AUTHORITY FOR FOREST SERVICE EMPLOYEES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1761, relating to early-out authority for

Forest Service employees, introduced earlier today by Senators MURRAY and HATFIELD, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table, and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1761) was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

COMPLIANCE OF LIBYA WITH U.N. SECURITY COUNCIL RESOLUTIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 165, a resolution regarding the compliance of Libya with U.N. Security Council resolutions; that the resolution be agreed to, the motion to reconsider laid on the table, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 165) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

(The text of the resolution will be printed in a future edition of the RECORD.)

INVESTMENT ADVISER OVERSIGHT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 277, S. 423, the Investment Adviser Oversight Act of 1993.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, (S. 423) to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter in this Act referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected as specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	**Fee due:**
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000
$500,000,000 or more	$7,000.

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section (and the amendment made by this section) shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.**[**".**]**

"(4) The Commission shall not require investment advisers to obtain a fidelity bond if—

"(A) fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment advisers are located; or

"(B) the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment advisers' competitive positions.".

Mr. FORD. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc; that the bill, as amended, be deemed read a third time, passed, and the motion to reconsider laid upon the table; and that any statements on this measure appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 423), as amended, was deemed read a third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. DODD. Mr. President, I rise in support of S. 423, the Investment Adviser Oversight Act of 1993.

This bill, which I introduced earlier this year with Chairman RIEGLE and colleagues on the Banking Committee, addresses the critical shortage of Securities and Exchange Commission examiners for investment advisers. Investment advisers are professionals, such as financial planners, who give advise about securities. They are required to register with the SEC and must comply with SEC rules requiring them to disclose certain information to their clients, to keep certain books and records, and to make their records available to SEC examiners. But the inspection program at the SEC is woefully inadequate. The SEC inspects investment advisers, on average, only once every 28 years.

The problem here is simple. Over the past decade, the industry has grown dramatically but the SEC staff has not.

As the financial choices available to investors have become more complex over the past decade, many middle-class Americans have come to rely to a much greater extent on financial planners to assist them in organizing their financial lives.

Many of these investors are unsophisticated, and vulnerable to con artists and fraudulent financial planners, moreover, even a savvy and cautious investor may rely on the fact that a financial adviser is registered with the SEC, and may not realize how little that registration means when the adviser may have last been examined by the SEC decades ago, or perhaps never at all.

Because of the growing public demand for financial advice, the number of advisers registered with the SEC has exploded from 5,100 in 1981 to more than 19,000 today, and the assets under their management have soared during this period from $450 to $10 trillion.

However, the SEC's examiner staff has not kept up with the industry's growth. The SEC had 26 examiners in 1981, and has 48 examiners today. This means the SEC can inspect advisers, on average, only once every 28 years.

Without enough cops on the beat, investor confidence is needlessly at risk, and capital formation suffers.

This bill addresses this problem through increases in the fees paid by investment advisers. Advisers currently pay a one-time registration fee of $150, regardless of their size.

This bill requires investment advisers who register with the SEC to pay an annual fee based on the assets under their management—ranging from $300 for small advisers to $7,000 for the largest ones. Funds raised by these fees will be directed to the SEC Inspection Program. This will make it possible for the SEC to inspect advisers, on average, at least once every 3 to 5 years.

The industry supports this bill and has said it is willing to pay new fees. The industry understands that when investors are cheated by a few, unscrupulous advisers, the reputation of the entire industry suffers.

This bill also is supported by the SEC. Consumer groups wish it would go farther, with new regulation and new disclosure requirements. However, I believe the most important reform needed in this industry is, simply, to provide the resources for adequate oversight.

Some have argued that the SEC could properly fund its adviser inspection program if it moved the funds from its other areas of responsibility. However, virtually every SEC program is currently stretching available resources as a result of the explosion in market activity over the past decade.

For example, while more than $1 billion in new money from investors has flowed into mutual funds every single business day for the past 18 months, the SEC has only 260 staff to oversee mutual funds and other investment companies. Mutual funds are uninsured, but many people view them just like bank accounts.

In the enforcement area the SEC has acknowledged that in the past there have been cases it could not fully pursue, because it lacked the resources. The SEC's Division of Corporation Finance has the staff to review only a fraction of the public offering document, annual reports and other disclosure documents filed with the agency. We have examined each and every SEC program, but in the final analysis, we have concluded that it would not be wise to "rob from Peter to pay Paul."

In addition to the new fees, the bill also has a provision that will reduce costs to the industry by providing for a central registry of investment advisers—so they will not have to file State-by-State.

Finally, most competitors of advisers are required today by other laws to have fidelity bonds, but advisers are not. The bill extends this basic investor protection to investment advisers by giving the SEC authority to require certain advisers to obtain a fidelity bond as a protection against fraud.

Before exercising this authority, the SEC must consider several factors set out in the bill, including the results of a study addressing the availability of fidelity bonds and the impact of requiring fidelity bonds on the competitive position of small investment advisers. The study should consider, for example, whether there is a nationwide market for fidelity bonds. The study also should consider whether fidelity bonds are available outside urban areas and whether insurance companies offering those bonds underwrite on the basis of the rural or urban location of the adviser.

The bill restricts the SEC's ability to require advisers to obtain a fidelity bond if either of two conditions exist: (i) such bonds are not readily or reasonably available in the urban or rural areas in which such advisers are located; or (ii) the cost of obtaining a bond would have a substantial adverse impact on investment advisers' competitive positions. The intention here is not to impose a bonding requirement on certain groups of advisers, if there are any such groups that are unable to obtain bonds because of their geographic locations, or that would suffer a substantial adverse impact on their competitive positions. The SEC's study will examine these issues and should reveal whether fidelity bonds are available in urban and rural areas, and the competitive impact, if any, of requiring fidelity bonds. The results of the study therefore should be important in considering whether either of these two conditions exist.

Let me also say that this bill does not begin to address the over-all level of SEC resources—a matter Congress must address when it considers the SEC's appropriations next year. The SEC's resources across the board for years have not kept up with the growth in size and complexity of the markets that it oversees. I am very concerned about the adequacy of the SEC's resources, and I hope that Congress will act to ensure that the SEC gets the resources to continue providing the oversight which has given the United States the world's largest, most efficient and fair capital markets.

So, I would suggest that we ought to move forward on this, and move forward quickly. A number of Members and their staffs have worked long and hard to get the bill to this point. I would like to thank the cosponsors, Senator RIEGLE, Senator D'AMATO, Senator SHELBY, Senator KERRY, Senator BRYAN, Senator MURRAY, and their staffs for their support and assistance. I also want to thank the subcommittee staff for its hard work in developing the legislation and the hearing record. Finally, I want to thank Chairman Levitt and the superb staff of the SEC for their assistance in drafting the legislation and in helping to resolve a number of difficult issues.

TECHNICAL CHANGES TO IMMIGRATION AND NATIONALITY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 783, a bill making technical changes to the immigration and nationality, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The bill (H.R. 783) making technical changes to the laws relating to immigration and nationality.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1229

(Purpose: To make miscellaneous and technical corrections to the Immigration and Nationality Act, together with changes in the laws relating to nationality and naturalization)

Mr. FORD. Mr. President, on behalf of Senators KENNEDY and SIMPSON, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. KENNEDY], for himself, and Mr. SIMPSON proposes an amendment numbered 1229 in the nature of a substitute.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am offering today with my colleague on the Immigration Subcommittee, Senator SIMPSON, a substitute amendment to H.R. 783 to adopt the House provisions but add the text of S. 1197 which the Senate adopted last July 1st.

This legislation makes a series of technical adjustments to the Immigration and Nationality Act supported by the Administration and which have been pending before Congress for some time. They are remedial in nature, and non-controversial—but long overdue reform nonetheless. A section-by-section analysis of S. 1197 appears in the RECORD of July 1, 1993, on page S-8553, so I will not repeat it here. But I do want to mention some of the provisions contained in the House bill, which we incorporate in this substitute amendment.

Section 202 of the substitute amendment will correct an anomaly in current law that has permitted certain children of U.S. citizens to obtain derivative citizenship, but has denied this right to others. Prior to 1934, a child born abroad to an alien mother and a U.S. citizen father could become a U.S. citizen through his or her father. If, however, the father was an alien and the mother was a citizen, the child could not become a citizen through his mother.

In 1934, Congress revised that rule so that citizenship would be transmitted to the child, regardless of whether the citizen was the father or the mother. The 1934 law, however, was not retroactive. Thus, persons born abroad before noon on May 2, 1934, to a citizen mother and an alien father are not citizens of the U.S. This provision recently has been the subject of significant Constitutional concern, and has been found to be unlawful gender discrimination by the Ninth Circuit Court of Appeals in Wauchope v. United States Dept. of State, 985 F.2d 1407 (9th Cir. 1993).

Section 202 of the substitute amendment rights this situation, permitting persons born of either a U.S. citizen mother or father to acquire citizenship through that parent, regardless of when the person acquiring citizenship was born. The substitute amendment, however, contains one important limitation requested by the Department of Justice. The Department is concerned that the substitute amendment could bestow citizenship on persons who assisted or otherwise participated in Nazi-sponsored persecution on the basis of race, religion, national origin, or political opinion during World War II.

The substitute amendment thus excludes from acquired citizenship those persons born before 1934 of a U.S. citizen mother who have participated in such Nazi atrocities. It likewise would not affect the validity of any denaturalization, deportation, or exclusion proceedings against any person who would not have been eligible to immigrate to the United States by reason of participation in such persecution.

In doing so, the provision requested by the Justice Department would prevent the possible development of an anomalous situation: the conferring of citizenship on an individual whose wartime activities on behalf of the Nazis could be considered by a federal court to have resulted in his or her expatriation if he or she had been born in the United States, or born abroad of a U.S. citizen father. At least one federal court has found that participation in Nazi crimes may, in fact, be considered to be expatriating. United States v. Nikolas Schiffer, 1003 U.S. Dist. LEXIS 11982 (E.D. Pa. 1993).

In the Schiffer decision, the court found that the U.S. born individual had known he was a U.S. citizen when he participated in Nazi atrocities. Persons granted retroactive citizenship by the substitute amendment would not, of course, have known that they were U.S. citizens when they participated in Nazi crimes. Consequently, unless the substitute amendment excludes from retroactive application those who would otherwise be subject to expatriation, it would create a different type of gender-based discrimination: Specifically, some foreign-born children of U.S. citizen fathers will be subject to expatriation for their actions on behalf of the Nazis, but otherwise identically situated children of U.S. citizen mothers will not be.

Mr. President, it is our view that we should exercise discretion and caution in remedying discriminatory provisions of current law, and not take any action that would bestow citizenship on individuals who assisted the Nazi regime in its reign of terror.

Section 207 of the substitute bill would correct an anomaly in the Immigration and Nationality Act involving physical presence of certain persons who became U.S. citizens on the basis of their birth abroad to a U.S. citizen parent and an alien parent. Persons of this background who were born between 1934 and 1952 were required to spend specified periods of time residing in the United States. Failure to do so would, and did, result in the loss of U.S. citizenship. Although these citizenship "retention" laws were repealed in 1978, persons born between 1934 and 1952 who had lost their citizenship did not, under the terms of the 1978 law, have their citizenship restored.

An estimated 2,000 American teenagers and young adults living abroad were stripped of their U.S. citizenship solely because they did not meet the retention requirements. In all likelihood, only a relatively small number of those 2,000 persons would come forward now to be reinstated, were they permitted to do so. For that group, however, regaining their U.S. citizenship is, and has always been, a matter of great importance.

Mr. President, one provision of the House-passed version of this bill has not been included in the substitute amendment due to concerns expressed by Mr. SIMPSON. This provision would have exempted a small number of lawful permanent residents from the history and government knowledge tests currently required of all applicants for naturalization under Section 312 of the Immigration and Nationality Act, due to their physical disability, or age and long-term lawful permanent residence in the U.S.

The persons sought to be included in this exemption were lawful permanent residents over 50 years of age who have been permanent residents for at least 20 years, persons over 55 years of age with at least 15 years of permanent resident status in the U.S., and persons of any age who are "physically unable" to pass the test. The provision would have brought the requirements of the history and government knowledge tests into conformity with requirements of current law relating to knowledge of the English language.

Mr. President, I believe that all reasonable measures should be taken to encourage naturalization of productive and law-abiding permanent residents. Therefore, while I accede to Mr. Simpson's request to not include this provision in the substitute amendment, I wish to emphasize that Section 312 of the Immigration and Nationality Act, as currently in force, requires that applicants for naturalization demonstrate a basic understanding of the fundamentals of American history and our system of government. I am informed that the Immigration and Naturalization Service at times erroneously requires that applicants, including older, long-term permanent residents, demonstrate a sophisticated knowledge of these areas. This practice can only work to arbitrarily exclude deserving applicants from full participation in U.S. society, and therefore should, in my view, be discontinued.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1229) was agreed to.

The PRESIDING OFFICER. Without objection, the bill, as amended, is deemed read a third time and passed.

So the bill (H.R. 783), as amended, was deemed read a third time and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 241, H.R. 2840, a bill relating to copyright arbitration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2840) to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1230

(Purpose: To amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes)

Mr. FORD. Mr. President, on behalf of Senators DeConcini and Stevens, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. Ford] for Mr. DeConcini for himself and Mr. Stevens, proposes and amendment numbered 1230.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. DeCONCINI. Mr. President, I rise today in support of passage of the Senate amendment to H.R. 2840, the Copyright Royalty Tribunal Reform Act of 1993. The Senate amendment in the nature of a substitute to H.R. 2840 eliminates the Copyright Royalty Tribunal and replaces it with ad hoc arbitration panels that are to be convened by the Librarian of Congress as needed. Extinguishing the often contentious Copyright Royalty Tribunal returns the copyright royalty process to the Copyright Office and the Library of Congress, as was originally envisioned, while maintaining the constitutionally required oversight of an executive function. Consolidation of the process in the Copyright Office and Library, as administered by the arbitration panels, should better serve the modern government mandate of doing more with less.

Hearings were held on the Senate companion bill S. 1346, on October 5, 1993. The bill before the Senate today reflects changes made to incorporate suggestions made during deliberations on the legislation. However, the basic premise of this bill has remained intact throughout the process. Ratemakings and distributions of copyright royalties collected pursuant to the compulsory licenses are to be made by three member ad hoc arbitration panels convened by the Librarian of Congress. The Librarian, after consultation with the Register of Copyrights, selects the first two arbitrators from professional arbitration associations. The two so selected shall, within 10 days of their selection, choose the third arbitrator to serve as chairperson. If the two cannot reach agreement, the Librarian shall select the third.

Great care has been taken to assure the neutrality of the arbitrators, and the bill has been improved in this regard in several areas. First, the selection process has been revised. Originally, the bill directed the Librarian to select arbitrators from lists of persons provided by the participating parties, but it was felt that this would create a pool of arbitrators with bias toward the party or parties submitting their name. Simple selection by the Librarian of members of professional arbitration associations dramatically reduces the changes of any panel member having affiliation with the participating parties.

Second, the bill requires certain qualifications of the arbitrators. Each arbitrator must have "experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes," along with any additional qualifications that the Librarian may prescribe by regulation. This provision assures that the arbitrators will possess sufficient knowledge and ability not only to conduct arbitration proceedings, but to facilitate settlement among the parties as well.

Third, the bill directs the Librarian to adopt standards of conduct governing the arbitrators and proceedings. This injects the new system with a code of conduct not currently in existence in the Copyright Royalty Tribunal. The rules of conduct will include requirements of full disclosure by the arbitrators to prevent conflicts of interest, control of ex parte communications and avoidance of impropriety. This assures that the proceedings will be conducted in an ethical and professional manner.

Once an arbitration panel is formally convened, the panel is given 180 days to report its findings and conclusions to the Librarian of Congress. This is a deliberate expansion of the 60-day time period of the section 119 satellite carrier arbitration procedure, which many of the participating parties felt was too brief. The bill directs the panel to compile a fully documented written record, and any party to the proceeding may submit relevant information and proposals to the panel. The conduct of the proceeding is governed by the Administrative Procedure Act [APA], and the Librarian is directed to adopt the current rules and regulations of the Copyright Royalty Tribunal. These rules, however, may be supplemented and superseded by new rules adopted by the Librarian, so long as they conform with the APA. The bill also directs the panels to act in accordance with the APA, thereby governing situations and actions not specified by regulations.

Once an arbitration panel has completed its report and delivered it to the Librarian, the Librarian is given 60 days in which to review the decision. The Librarian, upon the recommendation of the Register of Copyrights, is directed to adopt the panel's report unless he/she finds that the determination is "arbitrary or contrary to the applicable provisions" of the Copyright Act. The zone of reasonableness to be accorded the panel's decision is, therefore, quite broad, which comports with federal circuit court precedent governing the Copyright Royalty Tribunal. If the Librarian does find the decision to be arbitrary or contrary to the Copyright Act, then the Librarian must, prior to the expiration of the 60-day review period, issue an order setting the applicable royalty rate or the distribution, whichever the case may be. The Librarian's decision, either to accept or reject the panel report, is to be published in the Federal Register and otherwise made available to the parties and the public, along with the arbitration panel report and the accompanying record of the proceedings.

Parties aggrieved and bound by the Librarian's decision are given 30 days in which to appeal the decision directly to the U.S. Court of Appeals for the District of Columbia Circuit. The appeals process mirrors that of the successful section 119 satellite carrier ratemaking procedure. The court is permitted to accept, modify, or vacate and remand the Librarian's decision for further arbitration proceedings.

The Copyright Royalty Tribunal Act of 1993 establishes the Library and the Copyright Office as administrative overseers of royalty ratemaking and distribution, thereby filling in the administrative gaps left by the dissolution of the Copyright Royalty Tribunal. On the front end of the arbitration process, the Library will continue to receive and process the royalty claims of copyright owners for fees collected pursuant to the compulsory licenses, as well as any petitions for changes in the royalty rates. The bill vests the Library with the additional authority to make any necessary procedural or evidentiary rulings prior to the convocation of an arbitration panel, which will assist the development and organization of the proceeding. Once the panels are convened, the bill directs the Library and Copyright Office to provide the necessary administrative assistance, such as technical, financial and clerical support. And as discussed above, the Librarian will participate in the tail end of the arbitration process by reviewing the decisions of the panels.

The issue of costs involved in the new system is also addressed. The original bill directed the arbitration panels to assess the costs of each proceeding directly to the participating parties. The Library expressed concerns in the hearing before this subcommittee regarding costs associated with its new responsibility, and the bill was amended to allow the Library to recover its full cost of implementation and execution through deduction of expenditures from the relevant royalty pools. In ratemaking proceedings where no royalty pool exists, the Library is allowed to assess the participating parties for its reasonable expenditures. The remaining appropriation for fiscal year 1994 for the Copyright Royalty Tribunal is transferred to the Library to ease the financial burden of transition. The sum of the amendments is to create a system that is fully funded by the participants, thereby eliminating the cost to the taxpayers for continued operation of the Copyright Royalty Tribunal.

This bill makes technical and conforming amendments within the compulsory licenses, sections 115 through 119 and chapter 10 of the Copyright Act. The most significant of these is repeal of the jukebox compulsory license, section 116, and its replacement with current section 116A, which provides for negotiated licenses. In the event the current negotiated license expires, the Librarian is directed to convene an arbitration panel to continue the expired agreement rates on an interim basis until replaced with new arbitrated rates or new negotiated licenses.

This bill will improve the process, eliminate an unnecessary agency, and insure that the costs of conducting ratemaking and distributions of fees under the copyright compulsory licenses will be fully funded by the parties involved.

Mr. FORD. Mr. President, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1230) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2840), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEASING OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3471, a bill to authorize the leasing of naval vessels to certain foreign countries, just received from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; that any statements relating to this measure be included in the Record at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3471) was deemed read three times and passed.

INTERNATIONAL PARENTAL KIDNAPING

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3378, a bill relating to international parental kidnaping, just received from the House, that the bill be read three times, passed and the motion to reconsider laid upon the table; that any statements relating thereto be placed in the Record at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3378) was deemed read three times and passed.

Mr. RIEGLE. Mr. President, I rise to thank my colleagues in both House and Senate for passing legislation that is very important to families torn apart by the crime of parental kidnaping. This legislation is called the International Parental Kidnaping Crime Act of 1993.

Each year hundreds of American children are kidnaped by a parent and held hostage overseas. As a result, the child's other parent is left to face the trauma of losing a son or daughter, with little recourse under the law to regain custody or even have contact with the child. Thousands of families have been torn apart in this manner. Since 1973 there have been nearly 4,000 reported cases of international child abduction, with more than 600 cases in 1992 alone.

A parent whose child is abducted must live with the nightmare of having a loved one stolen away with only a faint hope of seeing the child again. Moreover, the kidnaped children suffer the mental anguish of seeing their family split apart, and being taken against their will to live in a foreign country. The suffering that this crime causes to thousands of American families deserves greater public attention and these kidnapers must be dealt with effectively under the law.

One Michigan woman has helped bring attention to this problem. Betty Mahmoody of Alpena, MI, experienced this problem when her husband, Dr. Sayyed Bozorg Mahmoody, refused to allow their daughter, Mahtob, to leave Iran. Betty wrote a very moving book called "Not Without My Daughter," about her successful effort to bring Mahtob back to this country. Betty's story illustrates how current law is inadequate to help when this type of kidnaping occurs.

With the passage of this legislation, international parental kidnaping becomes a felony under Federal law, filling a gap in current law and greatly enhancing our efforts to prevent further acts of this type. Federal criminal charges will enable the United States Government to extradite many kidnapers from countries with whom we already have extradition treaties. This crime's status as a Federal offense will also strengthen the position of the State Department when negotiating for the return of American children. Moreover, this legislation will act as an effective deterrent to parental kidnapers and will send a strong signal that the United States considers international parental kidnaping to be a serious crime.

Mr. President, the Congress has tried since 1987 to pass this type of legislation. During that time hundreds more kidnapings have occurred and equally many families have suffered. I am pleased that we will finally succeed in enacting this legislation to prevent the future suffering of countless children and families across the country.

NATIONAL CRIMINAL BACKGROUND CHECK FOR CHILD CARE PROVIDERS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1237, a bill to establish procedures for a national criminal background check for child care providers, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1237) to establish procedures for a national criminal background check for child care providers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I rise in support of legislation to confront what I believe is one of the most threatening dangers confronting the Nation—the tragedy of child abuse.

The national extent of child abuse and neglect has grown to shocking epidemic proportions—more than 2½ million reports of child abuse and neglect are made each year.

Many abused children are victimized in their homes, but there is a large and growing number of children being victimized outside the home.

Today, about 6 million preschool children are in a day care program for some or all of their day. By 1995, at least 8 million preschoolers will be in day care.

This rapidly growing rise in children being cared for outside their homes must be met by an expanded national effort to protect these children. This is the goal of the National Child Protection Act I introduce today.

Just 2 years ago, the Senate Judiciary Committee convened a hearing to discuss this proposal—with television personality and child abuse activist Ms. Oprah Winfrey, and several child abuse experts. Ms. Winfrey brought to the committee a plan that was the foundation for the National Child Protection Act of 1993.

Since then, Ms. Winfrey has kept her commitment to this legislation and to the important cause of combating child abuse. And, her energy and devotion to this issue is the single-most important reason this legislation is about to become law.

The idea behind the National Child Protection Act of 1993 is clear: We must do everything we can to detect convicted criminals before they are hired as child care workers, not after another tragedy takes place.

If enacted, this act will help build the State and national systems necessary to prevent convicted criminals from being hired as child care workers. In 1991, similar systems in just six States identified more than 6,200 individuals—convicted of serious criminal offenses, such as sex offenses, child abuse, violent crimes, and felony drug charges—seeking jobs as child care providers.

How many children would have been put at risk if these convictions had not been detected? How many children are at risk today because they live in States without checks to identify convicted criminals? to both questions, of course, the answer is "Too many."

I would like to credit Senator DECONCINI, who in 1984, along with Congressman GEORGE MILLER, wrote the first law calling for national criminal background checks for child care workers. In addition, Senator SPECTER was also involved in developing such systems when he proposed the Juvenile Detention Employees Act of 1983.

The Crime Control Act of 1990—signed into law nearly 3 years ago—extended similar background check requirements for Federal day care services. Senator REID and I wrote this legislation, which is helping to protect the thousands of children served every day in Federal agencies' day care centers. Today, we must have such a system available to all.

In addition, Senator MCCONNELL has introduced background check legislation.

Senator DECONCINI, Senator SPECTER, Senator REID, Senator MCCONNELL, myself, several other Senators, and many Congressmen have devoted countless hours to this important issue. After all these efforts, we cannot delay any longer.

Today, I am pleased that the National Child Protection Act is about to become law. But, I would like to acknowledge the efforts of several Senators who have cosponsored this legislation—Senators HATCH, DECONCINI, THURMOND, SIMON, GRASSLEY, HEFLIN, METZENBAUM, and MCCONNELL.

And, again, I would point out that the real reason the National Child Protection Act is about to become law is the caring and committed heart of Ms. Oprah Winfrey.

The PRESIDING OFFICER. If there is no objection, the bill is considered to have been read three times and passed.

So the bill (H.R. 1237) was deemed read three times and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1993

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (H.R. 2632).

A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments: In lieu of the text proposed to be inserted by the Senate amendment, insert the following:

SEC. 5. INTERIM PATENT EXTENSIONS.

Section 156 of title 35, United States Code, is amended—

(1) in subsection (c)(4) by striking out "extended" and inserting "extended under subsection (e)(1)";

(2) in the second sentence of subsection (d)(1) by striking "Such" and inserting "Except as provided in paragraph (5), such"; and

(3) by adding at the end of subsection (d) the following new paragraph:

"(5)(A) If the owner of record of the patent or its agent reasonably expects that the applicable regulatory review period described in paragraph (1)(B)(ii), (2)(B)(ii), (3)(B)(ii), (4)(B)(ii), or (5)(B)(ii) of subsection (g) that began for a product that is the subject of such patent may extend beyond the expiration of the patent term in effect, the owner or its agent may submit an application to the Commissioner for an interim extension during the period beginning 6 months, and ending 15 days, before such term is due to expire. The application shall contain—

"(i) the identity of the product subject to regulatory review and the Federal statute under which such review is occurring;

"(ii) the identity of the patent for which interim extension is being sought and the identity of each claim of such patent which claims the product under regulatory review or a method of using or manufacturing the product;

"(iii) information to enable the Commissioner to determine under subsection (a)(1), (2), and (3) the eligibility of a patent for extension;

"(iv) a brief description of the activities undertaken by the applicant during the applicable regulatory review period to date with respect to the product under review and the significant dates applicable to such activities; and

"(v) such patent or other information as the Commissioner may require.

"(B) If the Commissioner determines that, except for permission to market or use the product commercially, the patent would be eligible for an extension of the patent term under this section, the Commissioner shall publish in the Federal Register a notice of such determination, including the identity of the product under regulatory review, and shall issue to the applicant a certificate of interim extension for a period of not more than 1 year.

"(C) The owner of record of a patent, or its agent, for which an interim extension has been granted under subparagraph (B), may apply for not more than 4 subsequent interim extensions under this paragraph, except that, in the case of a patent subject to subsection (g)(6)(C), the owner of record of the patent, or its agent, may apply for only 1 subsequent interim extension under this paragraph. Each such subsequent application shall be made during the period beginning 60 days before, and ending 30 days before, the expiration of the preceding interim extension.

"(D) Each certificate of interim extension under this paragraph shall be recorded in the official file of the patent and shall be considered part of the original patent.

"(E) Any interim extension granted under this paragraph shall terminate at the end of the 60-day period beginning on the date on which the product involved receives permission for commercial marketing or use, except that, if within that 60-day period the applicant notifies the Commissioner of such permission and submits any additional information under paragraph (1) of this subsection not previously contained in the application for interim extension, the patent

shall be further extended, in accordance with the provisions of this section—

"(i) for not to exceed 5 years from the date of expiration of the original patent term; or

"(ii) if the patent is subject to subsection (g)(6)(C), from the date on which the product involved receives approval for commercial marketing or use.

"(F) The rights derived from any patent the term of which is extended under this paragraph shall, during the period of interim extension—

"(i) in the case of a patent which claims a product, be limited to any use then under regulatory review;

"(ii) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent then under regulatory review; and

"(iii) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the product then under regulatory review.".

SEC. 6. CONFORMING AMENDMENTS.

Section 156 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(d)" and inserting "(d)(1)"; and

(B) in paragraph (3) by striking "subsection (d)" and inserting "paragraphs (1) through (4) of subsection (d)";

(2) in subsection (b) by striking "The rights" and inserting "Except as provided in subsection (d)(5)(F), the rights"; and

(3) in subsection (e)—

(A) in paragraph (1) by striking "subsection (d)" and inserting "paragraphs (1) through (4) of subsection (d)"; and

(B) in paragraph (2) by striking "(d)" and inserting "(d)(1)".

SEC. 7. PATENT TERM EXTENSIONS FOR AMERICAN LEGION.

(a) BADGE OF AMERICAN LEGION.—The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(b) BADGE OF AMERICAN LEGION WOMEN'S AUXILIARY.—The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(c) BADGE OF SONS OF THE AMERICAN LEGION.—The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

SEC. 8. INTERVENING RIGHTS.

The renewals and extensions of the patents under section 6 shall not result in infringement of any such patent on account of any use of the subject matter of the patent, or substantial preparation for such use, which began after the patent expired, but before the date of the enactment of this Act.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 319, S. 717, the Egg Research and Consumer Information Act Amendments of 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1993".

SEC. 2. ASSESSMENT RATE.

(a) IN GENERAL.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—

(1) by designating the first and second sentences as paragraph (1);

(2) by designating the fifth and sixth sentences as paragraph (3); and

(3) by striking the third and fourth sentences and inserting the following new paragraph:

"(2)(A) The assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

"(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).

"(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.".

(b) REFERENDUM.—Section 9 of such Act (7 U.S.C. 2708) is amended—

(1) by designating the first and second sentences as subsection (a);

(2) by designating the last sentence as subsection (c); and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following new subsection:

"(b)(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

"(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this Act who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

"(B) The change in the assessment rate shall become effective if the change is approved or favored by—

"(i) not less than two-thirds of the producers voting in the referendum; or

"(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

"(3)(A) In the case of the order in effect on the date of enactment of this subsection, the Egg Board shall determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2).

"(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

"(i) 120 days after receipt of the request from the Egg Board; or

"(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.".

SEC. 3. EXEMPTED PRODUCERS.

Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".

SEC. 4. AMENDMENT TO ORDER.

Notwithstanding any other provision of law:

(1) IN GENERAL.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. The amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to the order not later than 90 days after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by paragraph (1) shall become effective not later than—

(A) 30 days after the date of enactment of this Act; or

(B) if the Director of the Office of Management and Budget determines that the amendments are a significant action that requires review by the Director, 50 days after the date of enactment of this Act.

(3) REFERENDUM.—The amendments referred to in paragraph (2) shall not be subject to a referendum conducted under the Egg Research and Consumer Information Act.

AMENDMENT NO. 1231

(Purpose: To strengthen the research component of the egg research and promotion program)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. PRYOR proposes an amendment numbered 1231.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Between sections 2 and 3 of the Committee amendment, insert the following new section:

SEC. 3. RESEARCH.

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

In section 3 of the Committee amendment (relating to exempted producers), strike "SEC. 3" and insert "SEC. 4".

In section 4 of the Committee amendment (relating to amendments to the order), strike "SEC. 4" and insert "SEC. 5".

On page 9, line 20 of the Committee reported bill, strike "90" and insert in lieu thereof "80."

On page 10, line 1 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

On page 10, line 6 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1231) was agreed to.

The PRESIDING OFFICER. Without objection, the committee amendment, as amended, is agreed to.

The PRESIDING OFFICER. The bill is deemed to have been read three times and passed.

So the bill (S. 717), as amended, was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DIETARY SUPPLEMENTAL REGULATION MORATORIUM ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1762, introduced earlier today by Senators HATCH and KENNEDY, a bill to impose a moratorium with respect to the issuance of regulations on dietary supplements; that the bill be read a third time and passed; that the motion to reconsider be laid on the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1762) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. KENNEDY. Mr. President, I join Senator HATCH in introducing the Dietary Supplement Regulation Moratorium Act of 1993. The purpose of the bill is to add 4 months to the current moratorium on the regulation of dietary supplements, which is due to expire on December 31, 1993.

Last Congress, Senator HATCH and I sponsored the Dietary Supplement Act of 1992 which instituted a moratorium on the implementation of certain provisions of the Nutrition Labeling and Education Act of 1990 relating to dietary supplements, such as vitamins, minerals, herbs, and other similar nutritional substances. This bill extends the moratorium for 4 months and also delays the issuance of several final regulations relating to dietary supplements by the Department of Health and Human Services.

The original moratorium was intended to provide us with an opportunity to learn more about supplements and to ensure that any regulations would be appropriate. I believe the Congress and the public have clearly benefited from this time. Much work has been done, but it has not been completed.

Today, there is broad consensus that consumers should have access to all safe dietary supplements, and that the issue of safety for products currently on the market should be resolved by placing the burden of proof on the FDA to remove products from the market which are unsafe, rather than requiring manufacturers to prove that supplements are safe.

We all agree that there is no justification for fraudulent claims by dietary supplements or any other product. We must also ensure that consumers can benefit from the most up-to-date medical knowledge about the health benefits of supplements. It is essential that decisions on the validity of supplement health claims be based on a fair assessment of the available evidence. We must be certain that the decisions are unbiased, and are made in a timely manner.

All of us in Congress have received a large number of calls and letters from constituents concerned that the supplements they rely on may no longer be available. Millions of Americans use supplements. We have an important responsibility to ensure that safety and health claims have been established by responsible manufacturers working within a regulatory framework that is absolutely fair and unbiased.

In April, Senator HATCH introduced the Dietary Supplement Health and Education Act, which proposes a set of regulatory reforms. While Senator HATCH and I have worked with our colleagues throughout this session of Congress to reach an agreement, we have simply been unable to reach a compromise. I believe we have made significant progress, and though I regret we have not completed our work, I believe we are close to reaching an agreement.

It is very important that we resolve the outstanding issues in a timely fashion. There is no purpose served by delay. Ending the uncertainty surrounding dietary supplements must be our priority. An extension of the moratorium will give us time necessary to deal with the remaining important issues. However, Senator HATCH and I have decided to seek only a short moratorium to assure the public that Congress will focus on this issue immediately upon its return in January.

Mrs. KASSEBAUM. Mr. President, I am pleased to join Senators HATCH and KENNEDY in supporting the passage of the Dietary Supplement Regulation Moratorium Act of 1993. This legislation provides a 4-month extension, to April 15, 1994, of the current moratorium on the Nutrition Labeling and Education Act regulations' application to dietary supplements. Unless extended, the current moratorium will expire on December 15 of this year.

Many Americans who use dietary supplements and are convinced of their safety and efficacy are deeply concerned that the regulations the Food and Drug Administration [FDA] has proposed to implement the Nutrition Labeling and Education Act reflect an historic agency bias against these products and will limit access to and up-to-date, scientific information about the benefits of these products. I share these concerns.

The FDA's regulation of dietary supplements has long been controversial, but recent FDA actions have greatly heightened the public's alarm over the agency's intentions and its ability to reasonably and fairly regulate these products. In addition to conducting heavy-handed and seemingly capricious raids on some distributions, the FDA has not appeared to be responsive to a dialog on the issues surrounding the appropriate regulation of supplements.

For example, the agency initially proposed a very broad interpretation of what would be considered unapproved labeling. As my constituents and I read the proposed regulations, a retailer who made available to customers studies or news accounts of studies in dietary supplements published in respected scientific journals such as the "New England Journal of Medicine" would be guilty in the FDA's eyes of making unapproved health claims, and the products could be removed from the market.

Under the provisions of the current moratorium, the FDA was required to reissue its proposed regulations for dietary supplements in June. Instead of using this additional time to rethink its heavy-handed approach to protecting consumers against misleading claims and other controversial issues, the agency simply reissued the original regulations. At the same time, further fueling public alarm, the agency published the recommendations of an internal dietary supplement task force—the Dykstra report—and a notice of proposed rulemaking that, taken together, give very strong indications that the agency is bent on requiring prescriptions for some supplements and removing others from the market entirely.

Further heightening the public's concern that the FDA is biased against dietary supplements and incapable of fairly evaluating their potential or real contributions to health promotion and disease prevention is the agency's slowness to approve well-documented, legitimate claims. A case in point is the claim that folic acid helps to prevent birth defects. Over 2 years ago, the Centers for Disease Control and Prevention indicated that folic acid was effective in preventing birth defects and recommended that women in their childbearing years should supplement their diets. A year ago, the Public Health Service—the FDA's parent agency—made the same recommendation. Only within the past several weeks, however, has the FDA acted to approve this claim for folic acid as a dietary supplement.

In the past week, we made some encouraging progress toward resolving the many controversial issues surrounding the FDA's interpretation of the Nutrition Labeling and Education Act as it applies to dietary supplements, but several major issues remain to be resolved. I am hopeful that, with additional negotiating time, we will be able to reach consensus on an appropriate framework for safeguarding consumer health, protecting consumer choice, and ensuring that consumers have the information they need to take greater responsibility for their health through informed dietary choices.

I therefore encourage my colleagues to join me in supporting the Dietary Supplement Regulation Moratorium Act of 1993.

AMENDING THE ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of S. 1457, a bill to amend the Aleutian and Pribilof Islands Restitution Act; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this measure appear in the RECORD at appropriate place as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1457) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be added as an original cosponsor to S. 1457, the Aleutian and Pribilof Island Restitution Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 320, S. 994, the Fresh Cut Flower Promotion Act of 1993.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

A bill (S. 994) to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.
Sec. 4. Issuance of orders.
Sec. 5. Required terms in orders.
Sec. 6. Exclusion; determinations.
Sec. 7. Referenda.
Sec. 8. Petition and review.
Sec. 9. Enforcement.
Sec. 10. Investigations and power to subpoena.
Sec. 11. Confidentiality.
Sec. 12. Authority for Secretary to suspend or terminate order.
Sec. 13. Construction.
Sec. 14. Regulations.
Sec. 15. Authorization of appropriations.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;

(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and

(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;

(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—

(A) purchase most of the cut flowers and cut greens marketed by producers;

(B) prepare the cut flowers and cut greens for retail consumption;

(C) serve as an intermediary between the source of the product and the retailer;

(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and

(E) add efficiencies to the market process that ensure the availability of a much greater variety of the product to retailers and consumers;

(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;

(5)(A) cut flowers and cut greens move in interstate and foreign commerce; and

(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;

(6) the maintenance and expansion of markets in existence on the date of enactment of this Act, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;

(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;

(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on the date of enactment of this Act and the development of new markets for cut flowers and cut greens have been prevented;

(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information

program authorized by this Act in that the program will enhance the market development efforts of the programs for domestic producers;

(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and

(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.

(b) POLICY AND PURPOSE.—It is the policy of Congress that it is in the public interest, and it is the purpose of this Act, to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.

(2) CUT FLOWERS AND CUT GREENS.—

(A) IN GENERAL.—

(i) CUT FLOWERS.—The term "cut flowers" includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.

(ii) CUT GREENS.—The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.

(iii) EXCLUSIONS.—The terms "cut flowers" and "cut greens" do not include a foliage plant, floral supply, or flowering plant.

(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.

(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens from a handler to a retailer or exempt handler.

(4) HANDLER.—

(A) QUALIFIED HANDLER.—

(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—

(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and

(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.

(ii) INCLUSIONS AND EXCLUSIONS.—

(I) IN GENERAL.—The term "qualified handler" includes—

(aa) bouquet manufacturers (subject to paragraph (2)(B));

(bb) an auction house that clears the sale of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse; and

(cc) a distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales.

(II) TRANSFERS.—For the purpose of determining sales of cut flowers and cut greens to a retailer from a distribution center described in subclause (I)(cc), each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C).

(III) TRANSPORTATION OR DELIVERY.—The term "qualified handler" does not include a person who only physically transports or delivers cut flowers or cut greens.

(iii) CONSTRUCTION.—

(I) IN GENERAL.—The term "qualified handler" includes an importer or producer that sells cut flowers or cut greens that the importer or producer has imported into the United States or produced, respectively, directly to consumers and whose sales of the cut flowers and cut greens (as calculated under subparagraph (C)), together with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more.

(II) SALES.—Each direct sale to a consumer by a qualified handler described in subclause (I) shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in subparagraph (C).

(III) DEFINITIONS.—As used in this paragraph:

(aa) IMPORTER.—The term "importer" has the meaning provided in section 5(b)(2)(B)(i)(I).

(bb) PRODUCER.—The term "producer" has the meaning provided in section 5(b)(2)(B)(ii)(I).

(B) EXEMPT HANDLER.—The term "exempt handler" means a person who would otherwise be considered to be a qualified handler, except that the annual sales by the person of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.

(C) ANNUAL SALES DETERMINED.—

(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of the cut flowers and cut greens sold.

(ii) TRANSFERS.—

(I) NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (III), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center (as described in subparagraph (A)(ii)(II)), or a direct sale to a consumer by an importer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by an order to represent the mark-up of a wholesale handler on a sale to a retailer.

(II) DIRECT SALES BY PRODUCERS.—Subject to subclause (III), in the case of a direct sale to a consumer by a producer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by an order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(III) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (I) or (II) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(5) ORDER.—The term "order" means an order issued under this Act (other than sections 9, 10, and 12).

(6) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.

(7) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 5(b).

(8) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.

(9) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.

(10) RETAILER.—

(A) IN GENERAL.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller), as described in an order, that sells cut flowers or cut greens to consumers, and a distribution center described in subparagraph (B)(i).

(B) DISTRIBUTION CENTERS.—

(i) IN GENERAL.—The term "retailer" includes a distribution center that is—

(I) owned or controlled by a person described in subparagraph (A), or owned or controlled cooperatively by a group of the persons, if the predominant retail business activity of the person is not floral sales; or

(II) independently owned but operated primarily to provide food products to retail stores.

(ii) IMPORTERS AND PRODUCERS.—An independently owned distribution center described in clause (i)(II) that also is an importer or producer of cut flowers or cut greens shall be subject to the rules of construction specified in paragraph (4)(A)(iii) and, for the purpose of the rules of construction, be considered to be the seller of the articles directly to the consumer.

(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

(13) UNITED STATES.—The term "United States" means the States collectively.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—

(1) ISSUANCE.—To effectuate the policy of this Act specified in section 2(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to qualified handlers of cut flowers and cut greens.

(2) SCOPE.—Any order shall be national in scope.

(3) ONE ORDER.—Not more than 1 order shall be in effect at any 1 time.

(b) PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—

(A) SECRETARY.—The Secretary may propose the issuance of an order.

(B) OTHER PERSONS.—An industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person who will be affected by this Act, may request the issuance of, and submit a proposal for, an order.

(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—

(A) the date on which the Secretary proposes an order, as provided in paragraph (1)(A); and

(B) the date of the receipt by the Secretary of a proposal for an order, as provided in paragraph (1)(B).

(3) ISSUANCE OF ORDER.—

(A) IN GENERAL.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this Act.

(B) EFFECTIVE DATE.—The order shall be issued and become effective not later than 180 days after publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and provisions specified in this section.

(b) PROMOFLOR COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council, consisting of 25 members, to administer the order.

(B) MEMBERSHIP.—

(i) APPOINTMENT.—The order shall provide that members of the PromoFlor Council shall be appointed by the Secretary from nominations submitted as provided in paragraphs (2) and (3).

(ii) COMPOSITION.—The PromoFlor Council shall consist of—

(I) participating qualified handlers representing qualified wholesale handlers and producers and importers that are qualified handlers;

(II) representatives of traditional retailers; and

(III) representatives of persons who produce fresh cut flowers and fresh cut greens.

(2) DISTRIBUTION OF APPOINTMENTS.—

(A) IN GENERAL.—The order shall provide that the membership of the PromoFlor Council shall consist of—

(i) 14 members representing qualified wholesale handlers of domestic or imported cut flowers and cut greens;

(ii) 3 members representing producers that are qualified handlers of cut flowers and cut greens;

(iii) 3 members representing importers that are qualified handlers of cut flowers and cut greens;

(iv) 3 members representing traditional cut flowers and cut greens retailers; and

(v) 2 members representing persons who produce fresh cut flowers and fresh cut greens, of whom—

(I) 1 member shall represent persons who produce the flowers or greens in locations that are east of the Mississippi River; and

(II) 1 member shall represent persons who produce the flowers or greens in locations that are west of the Mississippi River.

(B) DEFINITIONS.—As used in this subsection:

(i) IMPORTER THAT IS A QUALIFIED HANDLER.—The term "importer that is a qualified handler" means an entity—

(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and

(II) that is subject to assessments as a qualified handler under the order.

(ii) PRODUCER THAT IS A QUALIFIED HANDLER.—The term "producer that is a qualified handler" means an entity that—

(I) is engaged—

(aa) in the domestic production, for sale in commerce, of cut flowers or cut greens and that owns or shares in the ownership and risk of loss of the cut flowers or cut greens; or

(bb) as a first processor of noncultivated cut greens, in receiving the cut greens from a person who gathers the cut greens for handling; and

(II) is subject to assessments as a qualified handler under the order.

(iii) QUALIFIED WHOLESALE HANDLER.—

(I) IN GENERAL.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier that is subject to assessments as a qualified handler under the order.

(II) DEFINITIONS.—As used in this clause:

(aa) FLORAL SUPPLIER.—The term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.

(bb) FLORAL WHOLESALE JOBBER.—The term "floral wholesale jobber" means a person who conducts a commission or other wholesale business in buying and selling cut flowers or cut greens.

(C) DISTRIBUTION OF QUALIFIED WHOLESALE HANDLER APPOINTMENTS.—The order shall provide that the appointments of qualified wholesale handlers to the PromoFlor Council made by the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States.

(3) NOMINATION PROCESS.—The order shall provide that—

(A) 2 nominees shall be submitted for each appointment to the PromoFlor Council;

(B) nominations for each appointment of a qualified wholesale handler, producer that is a qualified handler, or importer that is a qualified handler to the PromoFlor Council shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, respectively, through an election process, in accordance with regulations issued by the Secretary;

(C) nominations for—

(i) 1 of the retailer appointments shall be made by the American Floral Marketing Council or a successor entity; and

(ii) 2 of the retailer appointments shall be made by traditional retail florist organizations, in accordance with regulations issued by the Secretary;

(D) nominations for each appointment of a representative of persons who produce fresh cut flowers and fresh cut greens shall be made by the persons through an election process, in accordance with regulations issued by the Secretary; and

(E) in any case in which qualified wholesale handlers, producers that are qualified handlers, importers that are qualified handlers, persons who produce fresh cut flowers and fresh cut greens, or retailers fail to nominate individuals for an appointment to the PromoFlor Council, the Secretary may appoint an individual to fill the vacancy on a basis provided in the order or other regulations of the Secretary.

(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary in accordance with procedures specified in the order.

(5) TERMS; COMPENSATION.—The order shall provide that—

(A) each term of appointment to the PromoFlor Council shall be for 3 years, except that, of the initial appointments, 9 of the appointments shall be for 2-year terms, 8 of the appointments shall be for 3-year terms, and 8 of the appointments shall be for 4-year terms;

(B) no member of the PromoFlor Council may serve more than 2 consecutive terms of 3 years, except that any member serving an initial term of 4 years may serve an additional term of 3 years; and

(C) members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for the expenses of the members incurred in performing duties as members of the PromoFlor Council.

(6) EXECUTIVE COMMITTEE.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The order shall authorize the PromoFlor Council to appoint, from among the members of the Council, an executive committee of not more than 9 members.

(ii) INITIAL MEMBERSHIP.—The membership of the executive committee initially shall be composed of—

(I) 4 members representing qualified wholesale handlers;

(II) 2 members representing producers that are qualified handlers;

(III) 2 members representing importers that are qualified handlers; and

(IV) 1 member representing traditional retailers.

(iii) SUBSEQUENT MEMBERSHIP.—After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole.

(iv) TERMS.—Each initial appointment to the executive committee shall be for a term of 2 years. After the initial appointments, each appointment to the executive committee shall be for a term of 1 year.

(B) AUTHORITY.—The PromoFlor Council may delegate to the executive committee the authority of the PromoFlor Council under the order to hire and manage staff and conduct the routine business of the PromoFlor Council consistent with such policies as are determined by the PromoFlor Council.

(c) GENERAL RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—The order shall define the general responsibilities of the PromoFlor Council, which shall include the responsibility to—

(1) administer the order in accordance with the terms and provisions of the order;

(2) make rules and regulations to effectuate the terms and provisions of the order;

(3) appoint members of the PromoFlor Council to serve on an executive committee;

(4) employ such persons as the PromoFlor Council determines are necessary, and set the compensation and define the duties of the persons;

(5)(A) develop budgets for the implementation of the order and submit the budgets to the Secretary for approval under subsection (d); and

(B) propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval under subsection (d) plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(6)(A) implement plans and projects for cut flowers or cut greens promotion, consumer information, or related research, as provided in subsection (d); or

(B) contract or enter into agreements with appropriate persons to implement the plans and projects, as provided in subsection (e), and pay the costs of the implementation, or contracts and agreements, with funds received under the order;

(7) evaluate on-going and completed plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(8) receive, investigate, and report to the Secretary complaints of violations of the order;

(9) recommend to the Secretary amendments to the order;

(10) invest, pending disbursement under a plan or project, funds collected through assessments authorized under this Act only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used only for a purpose for which the invested funds may be used; and

(11) provide the Secretary such information as the Secretary may require.

(d) BUDGETS; PLANS AND PROJECTS.—

(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to submit to the Secretary for approval budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Council in the implementation of the order, including the projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.

(2) PLANS AND PROJECTS.—

(A) PROMOTION AND CONSUMER INFORMATION.—The order shall provide—

(i) for the establishment, implementation, administration, and evaluation of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens, and for the disbursement of necessary funds for the purposes described in this clause;

(ii) that any plan or project referred to in clause (i) shall be directed toward increasing the general demand for cut flowers or cut greens and may not make reference to a private brand or trade name, point of origin, or source of supply, except that this clause shall not preclude the PromoFlor Council from offering the plans and projects of the Council for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary; and

(iii) that no plan or project may make use of unfair or deceptive acts or practices with respect to quality or value.

(B) RESEARCH.—The order shall provide for—

(i) the establishment, implementation, administration, and evaluation of plans and projects for—

(I) market development research;

(II) research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens; and

(III) other research with respect to cut flowers or cut greens marketing, promotion, or consumer information;

(ii) the dissemination of the information acquired through the plans and projects; and

(iii) the disbursement of such funds as are necessary to carry out this subparagraph.

(C) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval a proposed plan or project for cut flowers or cut greens promotion, consumer information, or related research, as described in subparagraphs (A) and (B).

(3) APPROVAL BY SECRETARY.—A budget, or plan or project for cut flowers or cut greens promotion, consumer information, or related research may not be implemented prior to approval of the budget, plan, or project by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—

(A) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the PromoFlor Council, with the approval of the Secretary, may enter into a contract or an agreement for the implementation of a plan or project for promotion, consumer information, or related research with respect to cut flowers or cut greens, and for the payment of the cost of the contract or agreement with funds received by the PromoFlor Council under the order.

(B) REQUIREMENTS.—The order shall provide that any contract or agreement entered into under this paragraph shall provide that—

(i) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project, together with a budget that includes the estimated costs to be incurred for the plan or project;

(ii) the plan or project shall become effective on the approval of the Secretary; and

(iii) the contracting or agreeing party shall—

(I) keep accurate records of all of the transactions of the party;

(II) account for funds received and expended;

(III) make periodic reports to the PromoFlor Council of activities conducted; and

(IV) make such other reports as the PromoFlor Council or the Secretary may require.

(2) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council may enter into a contract or agreement for administrative services. Any contract or agreement entered into under this paragraph shall include provisions comparable to the provisions described in paragraph (1)(B).

(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—

(1) IN GENERAL.—The order shall require the PromoFlor Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may require; and

(C) account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.

(2) AUDITS.—The PromoFlor Council shall cause the books and records of the Council to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.

(g) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that the PromoFlor Council shall, as soon as practicable after the order becomes effective and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the PromoFlor Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order, and conduct, supervise, and evaluate plans and projects under the order.

(h) ASSESSMENTS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The order shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner provided in the order, an assessment on each sale of cut flowers or cut greens to a retailer or an exempt handler (including each transaction described in subparagraph (C)(ii)), except to the extent that the sale is excluded from assessments under section 6(a).

(B) PUBLISHED LISTS.—To facilitate the payment of assessments under this paragraph, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.

(C) MAKING DETERMINATIONS.—

(i) QUALIFIED HANDLER STATUS.—The order shall contain provisions regarding the determination of the status of a person as a qualified handler or exempt handler that include the rules and requirements specified in sections 3(4) and 6(b).

(ii) CERTAIN COVERED TRANSACTIONS.—

(I) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center (as described in section 3(4)(A)(ii)(II)), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or a producer (as described in section 3(4)(A)(iii)), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.

(II) AMOUNT OF SALE IN THE CASE OF NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (IV), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center, or a direct sale to a consumer by an importer, the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by the order to represent the mark-up of a wholesale handler on a sale to a retailer.

(III) DIRECT SALES BY PRODUCERS.—Subject to subclause (IV), in the case of a direct sale to a consumer by a producer, the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by the order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(IV) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (II) or (III) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(2) ASSESSMENT RATES.—With respect to assessment rates, the order shall contain the following terms:

(A) INITIAL RATE.—During the first 3 years the order is in effect, the rate of assessment on each sale or transfer of cut flowers or cut greens shall be ½ of 1 percent of—

(i) the gross sales price of the cut flowers or cut greens sold; or

(ii) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii).

(B) CHANGES IN THE RATE.—

(i) IN GENERAL.—After the first 3 years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—

(I) the gross sales price of a product sold; or

(II) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii),

except that the assessment rate may in no case exceed 1 percent of the gross sales price or 1 percent of the transaction amount.

(ii) REQUIREMENTS.—Any change in the rate of assessment under this subparagraph—

(I) may be made only if adopted by the PromoFlor Council by at least a 2/3 majority vote and approved by the Secretary as necessary to achieve the objectives of this Act (after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title);

(II) shall be announced by the PromoFlor Council not less than 30 days prior to going into effect; and

(III) shall not be subject to a vote in a referendum conducted under section 7.

(3) TIMING OF SUBMITTING ASSESSMENTS.—The order shall provide that each person required to pay assessments under this subsection shall remit, to the PromoFlor Council, the assessment due from each sale by the person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days after the end of the month in which the sale took place) as is specified in the order.

(4) REFUNDS FROM ESCROW ACCOUNT.—

(A) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—

(i) establish an escrow account to be used for assessment refunds, as needed; and

(ii) place into the account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order becomes effective, as provided in section 4(b)(3)(B), and ending on the date the initial referendum on the order under section 7(a) is completed.

(B) RIGHT TO RECEIVE REFUND.—

(i) IN GENERAL.—The order shall provide that, subject to subparagraph (C) and the conditions specified in clause (ii), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in subparagraph (A)(ii), if—

(I) the qualified handler is required to pay the assessments;

(II) the qualified handler does not support the program established under this Act;

(III) the qualified handler demands the refund prior to the conduct of the referendum on the order under section 7(a); and

(IV) the order is not approved by qualified handlers in the referendum.

(ii) CONDITIONS.—The right of a qualified handler to receive a refund under clause (i) shall be subject to the following conditions:

(I) The demand shall be made in accordance with regulations, on a form, and within a time period specified by the PromoFlor Council.

(II) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which the refund is demanded.

(III) If the amount in the escrow account required under subparagraph (A) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 7(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand the refund.

(C) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum conducted under section 7(a), there shall be no refunds made, and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.

(5) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (less any funds expended under the terms of the order required under paragraph (4)) shall be used for payment of costs incurred in implementing and administering the order, with provision for a reasonable reserve, and to cover the administrative costs incurred by the Secretary in implementing and administering this Act, except for the salaries of Federal Government employees incurred in conducting referenda.

(6) POSTPONEMENT OF COLLECTIONS.—

(A) AUTHORITY.—

(i) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of this Act, the PromoFlor Council may grant a postponement of the payment of an assessment under this subsection for any qualified handler that establishes that the handler is financially unable to make the payment.

(ii) REQUIREMENTS AND PROCEDURES.—A handler described in clause (i) shall establish that the handler is financially unable to make the payment in accordance with application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(B) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—The PromoFlor Council may grant a postponement under subparagraph (A) only if the handler demonstrates by the submission of an opinion of an independent certified public accountant, and by submission of other documentation required under the rules established under subparagraph (A)(ii), that the handler is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when otherwise due.

(C) PERIOD OF POSTPONEMENT.—

(i) IN GENERAL.—The time period of a postponement and the terms and conditions of the payment of each assessment that is postponed under this paragraph shall be established by the PromoFlor Council, in accordance with rules established under the procedures specified in subparagraph (A)(ii), so as to appropriately reflect the demonstrated needs of the qualified handler.

(ii) EXTENSIONS.—A postponement may be extended under rules established under the procedures specified in subparagraph (A)(ii) for the grant of initial postponements.

(i) PROHIBITION.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that the funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.

(j) BOOKS AND RECORDS; REPORTS.—

(1) IN GENERAL.—The order shall provide that each qualified handler shall maintain, and make available for inspection, such books and records as are required by the order and file reports at the time, in the manner, and having the content required by the order, to the end that such information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(2) CONFIDENTIALITY REQUIREMENT.—

(A) IN GENERAL.—Information obtained from books, records, or reports under paragraph (1) or subsection (h)(6), or from reports required under section 6(b)(3), shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council.

(B) SUITS AND HEARINGS.—Information described in subparagraph (A) may be disclosed to the public only—

(i) in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, involving the order; and

(ii) to the extent the Secretary considers the information relevant to the suit or hearing.

(C) GENERAL STATEMENTS AND PUBLICATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person who violates the order, together with a statement of the particular provisions of the order violated by the person.

(3) LISTS OF IMPORTERS.—

(A) REVIEW.—The order shall provide that the staff of the PromoFlor Council shall periodically review lists of importers of cut flowers and cut greens to determine whether persons on the lists are subject to the order.

(B) CUSTOMS SERVICE.—On the request of the PromoFlor Council, the Commissioner of the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.

(k) CONSULTATIONS WITH INDUSTRY EXPERTS.—

(1) IN GENERAL.—The order shall provide that the PromoFlor Council, from time to time, may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects.

(2) SPECIAL COMMITTEES.—

(A) IN GENERAL.—For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than PromoFlor Council members.

(B) CONSULTATION.—A committee appointed under subparagraph (A)—

(i) may not provide advice or recommendations to a representative of an agency, or an officer, of the Federal Government; and

(ii) shall consult directly with the PromoFlor Council.

(l) OTHER TERMS OF THE ORDER.—The order shall contain such other terms and provisions, consistent with this Act, as are necessary to carry out this Act (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) and for carrying out section 6).

SEC. 6. EXCLUSION; DETERMINATIONS.

(a) EXCLUSION.—An order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.

(b) MAKING DETERMINATIONS.—

(1) IN GENERAL.—For the purpose of applying the $750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler under section 3(4), or to a specific facility in order to determine the status of the facility as an eligible separate facility under section 7(b)(2), an order issued under this Act shall provide that—

(A) a determination of the annual sales volume of a person or facility shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year, except as provided in subparagraph (B); and

(B) in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor

Council, the determination may be made using an alternative time period or other alternative procedure specified in the order.

(2) RULE OF ATTRIBUTION.—

(A) IN GENERAL.—For the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—

(i) in the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;

(ii) in the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(iii) in the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and

(iv) in the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(B) STOCK AND OWNERSHIP INTEREST.—For the purpose of this paragraph, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(3) REPORTS.—For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.

SEC. 7. REFERENDA.

(a) REQUIREMENT FOR INITIAL REFERENDUM.—

(1) IN GENERAL.—Not later than 3 years after the issuance of an order under section 4(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether the order then in effect shall be continued.

(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).

(b) VOTES PERMITTED.—

(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).

(2) ELIGIBLE SEPARATE FACILITY.—For the purpose of paragraph (1):

(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of other facilities owned or operated by the qualified handler.

(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.

(C) ANNUAL SALES DETERMINED.—For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 3(4) shall apply.

(c) SUSPENSION OR TERMINATION REFERENDA.—If an order is approved in a referendum conducted under subsection (a), effective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order; and

(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order.

(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

SEC. 8. PETITION AND REVIEW.

(a) PETITION AND HEARING.—

(1) PETITION.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 10(b)(2) and be held within the United States judicial district in which the residence or principal place of business of the person is located.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed not later than 20 days after the date of the entry of the ruling by the Secretary.

(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMAND.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.

SEC. 9. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action brought under subsection (a) shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, or an order or regulation issued under this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—A person who violates a provision of this Act, or an order or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this Act, may be assessed by the Secretary—

(i) a civil penalty of not less than $500 nor more than $5,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSES.—Each violation shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this Act, or an order or regulation issued under this Act.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 10(b)(2) and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—

(A) IN GENERAL.—Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—

(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and

(ii) sending a copy of the notice by certified mail to the Secretary.

(B) COPY OF RECORD.—The Secretary shall promptly file in the court a certified copy of the

record on which the Secretary found that the person had committed a violation.

(2) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY AN ORDER.—

(1) IN GENERAL.—A person who fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d).

(2) SEPARATE VIOLATIONS.—Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.

(f) FAILURE TO PAY A PENALTY.—

(1) IN GENERAL.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.

(2) SCOPE OF REVIEW.—In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this Act shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 10. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this Act or any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) INVESTIGATIONS.—For the purpose of making an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or 9(c)(3), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).

(2) ORDER.—The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) FAILURE TO OBEY.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.

SEC. 11. CONFIDENTIALITY.

(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this Act shall be made public.

(b) PENALTY.—Any person who knowingly violates subsection (a) or the confidentiality terms of an order, as described in section 5(j)(2), shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.

(c) ADDITIONAL PROHIBITION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or an investigatory or enforcement action necessary for the implementation of this Act.

(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.

SEC. 12. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this Act specified in section 2(b), the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

SEC. 13. CONSTRUCTION.

(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this Act.

(b) PRODUCER RIGHTS.—This Act—

(1) may not be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens; and

(2) shall be construed to treat all persons producing cut flowers and cut greens fairly and to implement any order in an equitable manner.

(c) OTHER PROGRAMS.—Nothing in this Act may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or a State.

SEC. 14. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act and the powers vested in the Secretary by this Act, including regulations relating to the assessment of late payment charges and interest.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for the payment of the expenses or expenditures of the PromoFlor Council in administering a provision of an order.

AMENDMENT NO. 1232

(Purpose: To reduce expenditure in the floral promotion order)

Mr. FORD. Mr. President, I send a technical amendment to the desk on behalf of Senator LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky, [Mr. FORD], for Mr. LEAHY, proposes an amendment numbered 1232.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 5, subsection (i), paragraph 5, delete all after the word "Act" through the word "referenda."

This amends the Committee Report bill at page 100, line 11, by deleting ", except for the salaries of Federal Government employees incurred in conducting referenda."

With this change even the incidental costs of USDA employees in conducting the marketing order referenda will be paid for by the marketing order.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1232) was agreed to.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed.

The committee amendment, as amended, was agreed to.

So the bill (S. 994), as amended, was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HIGH RISK DRIVERS ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 326, S. 738, the High Risk Drivers Act of 1993; that the committee amendment be agreed to; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; and that any relevant statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 738) to promote the implementation of programs to improve the traffic safety performance of high risk drivers, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the "High Risk Drivers Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle

miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 4. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

TITLE I—YOUNG DRIVER PROGRAMS

SEC. 101. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Programs for young drivers.

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets four of the nine criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets five of such criteria;

"(iii) in the third year of receiving such grants, meets six of such criteria;

"(iv) in the fourth year of receiving such grants, meets seven of such criteria; and

"(v) in the fifth year of receiving such grants, meets seven of such criteria.

"(2) GRADUATED LICENSING PROGRAM.—(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The nine criteria referred to in paragraph (1)(B) are as follow:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under 21 years of age.

"(C) The State requires that all front seat and rear seat occupants of any motor vehicle shall use safety belts.

"(D) The State requires that the license of a driver under 21 years of age be suspended for a

period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(E) The State conducts your-oriented traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(F) The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.

"(G) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(H) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.

"(I) The State has a law or regulation that —

"(i) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;

"(ii) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;

"(iii) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and

"(iv) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner, or owner.

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) EXTENDED APPLICATION OF PROVISIONAL LICENSE REQUIREMENT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).

"(2) PROVISIONS OF INSURANCE INFORMATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(3) READILY DISTINGUISHABLE LICENSES FOR YOUNG DRIVERS—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that the provisional driver's license, or full driver's license, of any driver under 21 years of age be readily distinguishable from the licenses of drivers who are 21 years of age or older, through the use of special background, marking, profile, or any other features, consistent with any guidelines developed by the Secretary in cooperation with the American Association of Motor Vehicle Administrators; and

"(B) employs the Social Security number as a common identifier on every driver's license so as to facilitate the transfer of traffic records among States.

"(4) DRIVER TRAINING PREREQUISITE.—For purposes of this section, a State is eligible for a supplemental grant in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(5) REMEDIAL DRIVER EDUCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.

"(6) PROVISIONAL LICENSE REQUIREMENT AFTER LICENSE SUSPENSION OR REVOCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any driver whose driving privilege is restored after license suspension or revocation resulting from a traffic safety violation shall for at least 1 year be subject to the following:

"(A) The restored license shall be immediately suspended, for a period to be determined by the Secretary, upon the driver's conviction of any moving traffic safety violation, except that the Secretary may by regulation define limited circumstances under the State may waive this immediate suspension requirement.

"(B) A full driver's license shall be issued only after the driver has held a provisional license for at least 1 year with a clean driving record, as described in subsection (e)(2)(B).

"(C) The driver shall be—

"(i) deemed to be driving while intoxicated if the driver has a blood alcohol concentration of .02 percent or greater; or

"(ii) prohibited from operating a motor vehicle with such a blood alcohol concentration.

"(7) RECORD OF SERIOUS CONVICTIONS; HABITUAL OR REPEAT OFFENDER SANCTIONS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least 10 years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(8) OVERSIGHT OF ALCOHOL SALES TO UNDERAGE DRINKERS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount appropriated to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State exercises effective oversight of colleges and universities to ensure that colleges and universities do not provide, and do not allow the selling of, alcohol to individuals under 21 years of age.

"(g) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISION.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for

carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $18,000,000 for each of the fiscal years ending September 30, 1994, and September 30, 1995, $20,000,000 for the fiscal year ending September 30, 1996, and $22,000,000 for each of the fiscal years ending September 30, 1997, and September 30, 1998.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 102. PROGRAM EVALUATION.

(a) EVALUATION BY SECRETARY.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).

(b) REPORT TO CONGRESS.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (2) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

TITLE II—OLDER DRIVER PROGRAMS

SEC. 201. OLDER DRIVER SAFETY RESEARCH.

(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration Entitled "Addressing the Safety Issues Related to Younger and Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(3) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 2000, and $1,500,000 is authorized for each of the fiscal years 2001 through 2005, to support older driver programs described in subsections (a), (b), (c), (e), and (f).

TITLE III—HIGH RISK DRIVERS

SEC. 301. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and Driver License

Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 302. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.

So the bill (S. 738), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THE HIGH RISK DRIVERS ACT OF 1993

Mr. DANFORTH. Mr. President, I urge the Senate to pass the High Risk Drivers Act of 1993. I introduced this legislation with Senators EXON, LAUTENBERG, and MIKULSKI to reduce the disproportionate number of highway crashes involving younger drivers, older drivers and drivers with bad driving records.

Motor vehicle crashes exact a high cost on our country. Last October, the National Highway Traffic Safety Administration estimated that the costs of society from all U.S. motor vehicle crashes and injuries that occurred in 1990 were $137.5 billion. The estimate reflects the economic loss of crashes, including lost productivity, property damage, and health care costs. We must recognize, however, that the cost estimate fails to reflect the more devastating costs associated with crashes, the emotional costs of injuries and lost lives. If the current trends continue, over the next 10 years, an estimated 400,000 people will be killed and over 5 million will be hospitalized as a result of highway crashes. We can prevent a substantial portion of the loss by reducing the number of crashes experienced by high risk drivers.

In 1991, drivers under the age of 21 experienced the highest crash involvement rate per licensed driver. Nationally, although only 7.4 percent of licensed drivers are between the ages of 16 and 20, they account for 15.4 percent of all driver fatalities. A similar trend exists in my home State of Missouri. In Missouri drivers under the age of 21 account for 7.7 percent of licensed drivers, yet in 1991, they were involved in 29.5 percent of all traffic accidents and 26.4 percent of fatal accidents. In 1991, a total of 277 Missourians were killed and 21,171 injured in accidents involving young drivers. That translates to a young driver death or injury accident every 24.5 minutes.

This legislation is designed as a means of enhancing highway safety by first focusing on young drivers. It would accomplish this goal by establishing an incentive grant program. The grant program would in turn encourage States to institute and maintain programs to combat the causes of young driver crashes. The incentive grant program would be funded at a level of $100 million over 5 years. To qualify for grant funding, a State must comply both with a graduated licensing requirement and a specified number of grant criteria. States would have an opportunity to obtain additional funding by complying with supplemental criteria aimed at lowering the risk to high risk drivers.

More specifically, the graduated licensing requirements would compel drivers under 21 years of age to comply with a series of requirements before obtaining a full driver's license. During the elongated licensing process, the potential licensee would be subject to stricter driver control actions than a person holding a full license and would have to maintain a clean driving record before obtaining a full driving license. In addition to implementing a graduated license program, States would also have to comply with a number of grant criteria. The grant criteria include the following: a .02 percent blood alcohol content [BAC] maximum for minors; an open container prohibition; a minimum $500 penalty for selling alcohol to a minor; mandated belt use for front and rear passengers; a minimum six month license suspension for any minor convicted of an alcohol-related offense; a youth-oriented traffic safety enforcement, education, and training program for State officials and young drivers; substantial compliance with the drivers license compact to ensure the efficient interstate transfer of driver records; and a minimum $100 penalty for driving through a railroad crossing while the gate is closed or being opened or closed.

As a group, older drivers are also disproportionately involved in fatal accidents. According to a 1993 study, drivers 75 years and older were involved in 11.5 fatal crashes per 100 million miles driven, as compared to 2 fatal crashes per 100 million miles for drivers aged 35 to 59. It is estimated that by 2030, those 65 and older will represent 22 percent of the population. In light of the aging American population and the higher propensity of accidents, the concerns of older drivers need to be addressed.

This bill directs the Department of Transportation [DOT] to support a program of research, technical assistance, evaluation, and other appropriate activities designed to reduce the hazards involved with older drivers. The legislation ensures that there will be continued and dependable funding for the support of older driver programs. Specifically, the Secretary is directed to conduct research in areas including: identification of the factors that predict the ability of older drivers; proper training of examiners; development of counseling programs; promotion of alternative transportation; promotion of voluntary actions on the part of the older driver; development of means to encourage restricted license use as a way to preserve older driver mobility; and technology development to benefit older drivers.

Finally, the High Risk Drivers Act addresses a third problem. It focuses on other high risk drivers who are disproportionately represented in the crash rates. Drivers with repeated traffic violations and/or crashes in a given period are several times more likely than the general population of drivers to have subsequent accidents. Repeat drunk driving offenders are over-represented in crashes. 1992 figures supplied by Mothers Against Drunk Drivers [MADD] estimate that 17,699 people were killed in the United States in alcohol-related traffic accidents and 1.2 million suffered injuries in crashes where police or medical personnel reported a presence of alcohol. The dangers related to these high risk drivers must also be addressed.

In order to focus on drivers with repeated traffic violations, the bill mandates that within 1 year after enactment, the Secretary must conduct a study to determine whether additional federal activities are needed to improve driving records and control systems to identify high risk drivers more rapidly and ensure prompt intervention. The DOT would also work to encourage programs for high risk drivers on the State level.

Finally, the bill includes a provision aimed at toughening the stance against repeat drunk driving offenders. Mere removal of a drunk driver's license is insufficient because more than half of those whose licenses are suspended continue to drive and many of them drive drunk. To combat this problem a basic grant criterion was added to the grant program directed at young driver issues. The new basic criterion would be met if a state established a program for the seizure and forfeiture of automobiles from repeat drunk driving offenders and persons convicted of driving on a license which had been suspended for drunk driving. A similar forfeiture program in Portland, Oregon resulted in a 38 percent decrease in the number of fatal accidents involving alcohol and a 12 percent drop in the number of arrests for driving under the influence. It is our hope that this legislation would produce similar national results.

Mr. President, the High Risk Drivers Act of 1993 has the support of the American Association of Retired Persons, Mothers Against Drunk Driving, the American Insurance Association, and a number of Senators who have led the fight for transportation safety. Senator LAUTENBERG was the lead sponsor of legislation establishing a national uniform minimum drinking age of 21. Senators EXON and MIKULSKI have been strong supporters of transportation safety legislation, including the law requiring drug and alcohol testing of airline and rail crews and commercial drivers. With their support and the support of our colleagues, we can reduce these unnecessary motor vehicle accidents on our highways.

LOWER MISSISSIPPI DELTA INITIATIVES ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 307, S. 991, a bill to direct the Secretary of Energy to undertake initiatives to address certain needs in the lower Mississippi Delta; that the committee substitute amendment be agreed to; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so orded.

The Senate considered the bill (S. 991) to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the lower Mississippi Delta region, and for other purposes, which had been report from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

That this Act may be referred to as the "Lower Mississippi Delta Initiatives Act of 1993".

SEC 2. TABLE OF CONTENTS.—

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TITLE I—INITIATIVES WITHIN THE DEPARTMENT OF THE INTERIOR

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TITLE II—INITIATIVES WITHIN THE DEPARTMENT OF ENERGY

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Sec. 202. Delta Energy Technology and Business Development Center.
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Sec. 205. Integrated Biomass Energy Systems.
Sec. 206. Weatherization Assistance Program for the Delta Region.
Sec. 207. Renewable Energy Production Incentives.

SEC. 3. FINDINGS.—(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100–460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities in the areas of mathematics and science and technology transfer for Delta residents;

(4) the Delta Initiatives Report recommended:

(A) the implementation of pre-college education programs in mathematics and science as well as other initiatives to enhance the educational and technical capabilities of the Delta Region's workforce;

(B) that States and local school systems seek ways to expand the pool of qualified educators in mathematics and sciences;

(C) that institutions of higher education in the Delta Region work with local school districts to promote mathematics and science education;

(D) that Federal grant-making agencies target more research and development monies in selected areas to institutions of higher education in the Delta Region, including Historically Black Colleges and Universities;

(E) that institutions of higher education establish a regional consortium to provide technical assistance and training to increase international trade between businesses in the Delta Region and foreign countries;

(F) designating the Great River Road as a scenic byway, and designating other hiking and motorized trails throughout the Delta Region;

(G) that the Federal Government identify sites and structures of historic and prehistoric importance throughout the Delta Region;

(H) the further study of potential new units of the National Park System within the Delta Region;

(I) that the Federal Government should create economic incentives to encourage the location of value-added facilities for processing agricultural products within the Delta Region; and

(J) that Congress provide practical incentives to encourage the construction of alternative fuel production facilities in the Delta Region.

SEC. 4. DEFINITIONS.—As used in this Act, the term—

(1) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100–460;

(2) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream . Fulfilling the Potential";

(3) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this Act;

(4) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

(5) "minority college or university" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3)).

TITLE I—INITIATIVES WITHIN THE DEPARTMENT OF THE INTERIOR

SEC. 101. DEFINITIONS. As used in this title, the term—

(1) "Department" means the United States Department of the Interior, unless otherwise specifically stated; and

(2) "Secretary" means the Secretary of the Interior, unless otherwise specifically stated.

SEC. 102. NATURAL RESOURCES AND ENVIRONMENTAL EDUCATIONAL INITIATIVES.—(a) OFFICE OF EDUCATION.—(1) There shall be established within the Department an Office of Education to encourage, support, and coordinate education programs of the Department at the elementary, secondary, college and university, and graduate levels.

(2) The goals of the Office of Education shall be to:

(A) enhance the quality of education in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects;

(B) establish initiatives at minority colleges or universities;

(C) encourage the consideration of careers in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects;

(D) enhance teacher development and recruitment;

(E) increase research opportunities for teachers and students;

(F) enhance curriculum development; and

(G) improve laboratory instrumentation and equipment through purchase, loan, or other transfer mechanisms.

(b) DUTIES.—The duties of the Secretary, through the Office of Education, shall be to:

(1) coordinate the educational programs within the Department, including implementation of programs established under this title, in order to ensure the goals of the Office of Education are met; and

(2) inventory existing education programs within the Department.

(c) The Secretary shall report to Congress, within one year after the date of the enactment of this Act and annually thereafter, on an inventory of existing education programs of the Department, the status of such programs, and progress toward meeting the goals of the Office of Education as established in this Act.

(d) MINORITY COLLEGE AND UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary, through the Office of Education shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges or universities to participate in programs and activities carried out by the Department. The Secretary, through the Office of Education, shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department with respect to, or in conjunction with, minority colleges or universities in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subject;

(B) describe ongoing research, development or demonstration programs involving the Department and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) include specific proposals and recommendations for providing assistance to minority colleges and universities to enter into memoranda of understanding and other appropriate forms of agreement with the Department in order to plan and develop programs to foster greater involvement of these schools in the contract, research, education, training, and recruitment activities of the Department;

(E) address the need for, and potential role of, the Department in providing minority colleges or universities with the following:

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty development and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, through purchase, loan, or other transfer mechanisms;

(F) address the need for, and potential role of, the Department in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges or universities; and

(G) include specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department in order to assist minority colleges or universities in providing education and training in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects.

(2) The Secretary, through the Office of Education, shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges or universities directed at jointly planning and developing programs to foster greater involvement of minority colleges or universities in the research, education, training, and recruitment activities of the Department.

(e) SCHOLARSHIP PROGRAM.—The Secretary, through the Office of Education, shall establish a scholarship program for students pursuing undergraduate or graduate degrees in natural resource and environmental related fields including, but not limited to: biology, wildlife biology, forestry, botany, horticulture, historic preservation, cultural resource management, archeology, anthropology, aquaculture, geology, engineering, the environment, the sciences, and ecology at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance; and (2) academic potential in the particular area of study.

(f) PRE-COLLEGE EDUCATION.—The Secretary, through the Office of Education, shall undertake activities to encourage pre-college education programs in subjects relating to natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects, for students in the Delta Region. Such activities shall include, but not be limited to, the following:

(1) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students;

(2) cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs for elementary, middle, and secondary school students;

(3) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region in the development and use of curriculum and educational materials; and

(4) the establishment of education programs for elementary, middle, and secondary school teachers in the Delta Region at research facilities of the Department.

(g) VOLUNTEER PROGRAM.—The Secretary, through the Office of Education, shall establish and carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in educational enrichment programs relating to natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects, in cooperation with State departments of education and local school districts in the Delta Region.

(h) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary, through the Office of Education, shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(i) CENTER FOR ACQUACULTURE STUDIES.—The Secretary, through the Office of Education, shall establish a Center for Aquaculture Studies at the University of Arkansas at Pine Bluff, Arkansas, in cooperation with Southern University in Baton Rouge, Louisiana, and Alcorn State in Lorman, Mississippi, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the field of aquaculture. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and Alcorn State in Lorman, Mississippi, and other minority colleges or universities in the Delta region to carry out affiliated programs and coordinate program activities at such colleges or universities.

(j) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary, through the Office of Education, shall ensure that the programs authorized in this section are coordinated with, and complimentary to, educational assistance programs administered by other Federal agencies. These agencies include, but are not limited to, the Department of Energy, the Department of Agriculture, the Department of Education, the Department of Defense, the National Science Foundation, and the National Aeronautics and Space Administration.

SEC. 103. LOWER MISSISSIPPI DELTA REGION HERITAGE STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Lower Mississippi Delta Development Center, and other appropriate Delta Region institutions, is directed to prepare and transmit to the Congress within three years after the date of the enactment of this Act, a study of significant natural, recreational, historical or prehistorical, and cultural lands, waters, sites, and structures located within the Delta Region. This study shall take into consideration the research and inventory of resources conducted by the Mississippi River Heritage Corridor Study Commission.

(b) TRANSPORTATION ROUTES.—(1) The study shall include recommendations on appropriate designation and interpretation of historically significant roads, trails, byways, waterways, or other routes within the Delta Region.

(2) In order to provide for public appreciation, education, understanding, interpretation, and enjoyment of the significant sites identified pursuant to subsection (a), which are accessible by public roads, the Secretary shall recommend in the study vehicular tour routes along existing public roads linking such sites within the Delta Region.

(3) Such recommendations shall include an analysis of designating the Great River Road (as depicted on the map entitled "Proposed Delta Transportation Network" on pages 102–103 of the Delta Initiatives Report) and other sections of the Great River Road between Baton Rouge and New Orleans, Louisiana and an analysis of designating that portion of the Old Antonio Road and the Louisiana Natchez Trace which extends generally along Highway 84 from Vidalia, Louisiana, to Clarence, Louisiana, and Louisiana Highway 6 from Clarence, Louisiana, to the Toledo Bend Reservoir, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(4) The Secretary shall also recommend in the study an appropriate route along existing public roads to commemorate the importance of timber production and trade to the economic development of the Delta Region in the early twentieth century, and to highlight the continuing importance of timber production and trade to the economic life of the Delta Region. Recommendations shall include an analysis of designating that portion of US 165 which extends from Alexandria, Louisiana, to Monroe, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(5) The study shall also include a comprehensive recreation, interpretative, and visitor use plan for the routes described in the above paragraphs, including bicycle and hiking paths, and makes specific recommendations for the acquisition and construction of related interpretive and visitor information facilities at selected sites along such routes.

(6) The Secretary is authorized to make grants to States for work necessary to stabilize, maintain, and widen public roads to allow for adequate access to the nationally significant sites and structures identified by the study, to allow for proper use of the vehicular tour route, trails, byways, including the routes defined in paragraphs (3) and (4) or other public roads within the Delta Region and to implement the comprehensive recreation, interpretive, and visitor use plan required in paragraph (5).

(c) LISTING.—On the basis of the study, and in consultation with the National Trust for Historic Preservation, the Secretary shall inventory significant structures and sites in the Delta Region. The Secretary shall further recommend and encourage cooperative preservation and economic development efforts such as the establishment of preservation districts linking groups of contiguous counties or parishes, especially those that lie along the aforementioned designated routes. The Secretary shall prepare a list of the sites and structures for possible inclusion by the National Park Service as National Historic Landmarks or such other designation as the Secretary deems appropriate.

SEC. 104. DELTA REGION HERITAGE CORRIDORS AND HERITAGE AND CULTURAL CENTERS.—(a) FINDINGS. The Congress finds that—

(1) in 1990, the Congress authorized the Institute of Museum Services to prepare a report assessing the needs of small, emerging, minority,

and rural museums in order to identify the resources such museums needed to meet their educational mission, to identify the areas of museum operation in which the needs were greatest, and to make recommendations on how these needs could best be met;

(2) the Institute of Museum Services undertook a comprehensive eighteen month study of such needs with the assistance of two advisory groups, surveyed 524 museums from throughout the Nation, held discussion groups in which representatives of 25 museum groups participated, and conducted case studies of 12 museum facilities around the Nation;

(3) on the basis of this assessment, the Institute of Museum Services issued a report in September, 1992, entitled, "National Needs Assessment of Small, Emerging, Minority and Rural Museums in the United States" (hereinafter "National Needs Assessment") which found that small, emerging, minority, and rural museums provide valuable educational and cultural resources for their communities and contain a reservoir of the Nation's material, cultural and scientific heritage, but due to inadequate resources are unable to meet their full potential or the demands of the surrounding communities;

(4) the needs of these institutions are not being met through existing Federal programs;

(5) fewer than half of the participants in the survey had applied for Federal assistance in the past two years and that many small, emerging, minority and rural museums believe existing Federal programs do not meet their needs;

(6) based on the National Needs Assessment, that funding agencies should increase support available to small, emerging, minority, and rural museums and make specific recommendations for increasing technical assistance in order to identify such institutions and provide assistance to facilitate their participation in Federal programs;

(7) the Delta initiatives Report made specific recommendations for the creation and development of centers for the preservation of the cultural, historical, scientific and literary heritage of the Delta Region, including recommendations for the establishment of a Delta Region Native American Heritage and Cultural Center and a Delta Region African American Heritage and Cultural Center with additional satellite centers or museums linked throughout the Delta Region;

(8) the Delta Initiatives Report stated that new ways of coordinating, preserving, and promoting the Delta Region's literature, art, and music should be established including the creation of a network to promote the Delta Region's literary, artistic, and musical heritage; and

(9) wholesale destruction and attrition of archeological sites and structures has eliminated a significant portion of Native American heritage as well as the interpretive potential of the Delta Region's parks and museums. Furthermore, site and structure destruction is so severe that an ambitious program of site and structure acquisition in the Delta Region is necessary.

(b) GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Smithsonian Institution, the Lower Mississippi Delta Development Center, Historically Black Colleges and Universities, other Delta Regional educational institutions, and appropriate African American and Native American organizations in the Delta Region, is further directed to prepare and transmit to the Congress a plan outlining specific recommendations for necessary funding, for the establishment of a Delta Region Native American Heritage Corridor and Heritage and Cultural Center and a Delta Region African American Heritage Corridor and Heritage and Cultural Center with a network of satellite or cooperative units.

(c) DELTA REGION NATIVE AMERICAN HERITAGE CORRIDOR AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a network of parks, museums, and other centers to interpret Native American culture and heritage in the Delta Region, including a ten year development strategy for such a network.

(2) Such plan shall include specific proposals for the development of a Native American Heritage Corridor and Heritage and Cultural Center in the Delta Region, along with recommendations for the appropriate Federal role in such a center including matching grants, technical and interpretive assistance.

(3) Such plan shall be conducted in consultation with tribal leaders in the Delta Region.

(4) Such plan shall also include specific proposals for educational and training assistance for Delta Regional Native Americans to carry out the recommendations provided in the study.

(d) DELTA REGION AFRICAN AMERICAN HERITAGE CORRIDOR AND HERITAGE AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a heritage corridor or trail system, consisting of one or two major north-south routes and several east-west-spur loops to preserve, interpret and commemorate the African American heritage and culture in the Delta Region during all significant historical periods.

(2) Such plan shall make specific recommendations for representing all forms of expressive culture including the musical, folklore, literary, artistic, scientific, historical, educational, and political contributions and accomplishments of African Americans in the Delta Region.

(3) Such plan shall make specific recommendations for implementing the findings of the Delta Initiative Report with respect to establishing an African American Heritage Corridor and Heritage and Cultural Center and related satellite museums in the Delta Region, together with specific funding levels necessary to carry out these recommendations and shall also include recommendations for improving access of small, emerging, minority or rural museums to technical and financial assistance.

(4) Such plan shall be conducted in consultation with institutions of higher education in the Delta Region with expertise in African American studies, Southern studies, archeology, anthropology, history and other relevant fields.

(5) Such plan shall make specific recommendations for improving educational programs offered by existing cultural facilities and museums as well as establishing new outreach programs for elementary, middle and secondary schools, including summer programs for youth in the Delta Region.

(e)(1) In furtherance of the purposes of this section, the Secretary is authorized to make planning grants to State Humanities Councils in the Delta Region to assist small, emerging, minority and rural museums selected on a financial needs basis in the development of a comprehensive long term plan for these institutions. The Secretary is also authorized to make implementation grants to State Humanities Councils in the Delta Region who, in consultations with State Museum Associations, shall make grants to small, emerging, minority or rural museums for the purpose of carrying out an approved plan for training personnel, improving exhibits or other steps necessary to assure the integrity of collections in their facilities, for educational outreach programs, or for other activities the Secretary deems appropriate including the promotion of tourism in the region. Such institutions shall be selected competitively and on the basis of demonstrated financial need. The Secretary is also authorized to make grants to State Humanities Councils to update, simplify and coordinate the respective State Works Progress Administration guides and to develop a single comprehensive guide for the Delta Region.

(2) The Secretary is authorized to provide grants and other appropriate technical assistance to State Humanities Councils, State Museum Associations, and State Arts Councils in the Delta Region for the purpose of assessing the needs of such institutions. Such grants may be used by these institutions to undertake such an assessment and to provide other technical, administrative and planning assistance to small, emerging, minority or rural institutions seeking to preserve the Delta Region's literary, artistic, and musical heritage.

(f) MUSIC HERITAGE PROGRAM.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a Music Heritage Program, with specific emphasis on the Mississippi Delta Blues. The plan shall include specific recommendations for developing a network of heritage sites, structures, small museums, and festivals in the Delta Region.

(2) The plan shall include an economic strategy of the promotion of the Delta Region's music, through the participation of musicians, festival developers, museum operators, universities, and other relevant individuals and organizations.

(g) COMPLETION DATE.—The plan authorized in this section shall be completed not later than three years after the date funds are made available for such plan.

SEC. 105. HISTORIC AND PREHISTORIC STRUCTURES AND SITES SURVEY.—(a) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to historically Black Colleges and Universities to undertake a comprehensive survey of historic and prehistoric structures and sites located on their campuses, including recommendations as to the inclusion of appropriate structures and sites on the National Register of Historic Places, designation as National Historic Landmarks, or other appropriate designation as determined by the Secretary. The Secretary shall also make specific proposals and recommendations, together with estimates of necessary funding levels, for a Comprehensive Plan to be carried out by the Department to assist Historically Black Colleges and Universities in the preservation and interpretation of such sites and structures.

(b) GRANTS.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities for stabilization, preservation and interpretation of such sites and structures.

SEC. 106. DELTA ANTIQUITIES SURVEY.—(a) GENERAL.—(1) The Secretary is directed to prepare and transmit to the Congress, in cooperation with the States of the Delta Region, State Archaeological Surveys and Regional Archaeological Centers, a study of the feasibility of establishing a Delta Antiquities Trail or Delta Antiquities Heritage Corridor in the Delta Region.

(2) Such study shall, to the extent practicable, use non-intrusive methods of identifying, surveying, inventorying, and stabilizing ancient archaeological sites and structures.

(3) In undertaking this study, the Secretary is directed to enter into cooperative agreements with the States of the Delta Region, the State Archeological Surveys, and Regional Archeological Centers located in Delta Region institutions of higher education for on-site activities including surveys, inventories, and stabilization and other activities which the Secretary deems appropriate.

(4) In addition to the over 100 known ancient archeological sites located in the Delta Region including Watson's Brake, Frenchman's Bend,

Hedgepeth, Monte Sano, Banana Bayou, Hornsby, Parkin, Toltec, Menard-Hodges, Eaker, Blytheville Mound, Nodena, Taylor Mounds, DeSoto Mound and others, such study shall also employ every practical means possible, including assistance from the National Aeronautics and Space Administration, the Forest Service and Soil Conservation Service of the Department of Agriculture, the Army Corps of Engineers of the Department of Defense, and other appropriate Federal agencies, to locate and confirm the existence of a site known as Balbansha in southern Louisiana and a site known as Autiamque in Arkansas. The heads of these Federal agencies shall cooperate with the Secretary as the Secretary requires on a non-reimbursable basis.

(b) In furtherance of the purposes of this section, the Secretary is authorized to provide technical assistance and grants to private landowners for necessary stabilization activities of identified sites and for preparing recommendations for designating such sites as National Landmarks or other appropriate designations as the Secretary, with the concurrence of the landowners, determines to be appropriate.

(c) The Secretary is authorized to enter into cooperative agreements with the States, State Archeological Surveys, and Regional Archeological Centers of the Delta Region to develop a ten-year plan for the stabilization, preservation and interpretation of those sites and structures as may be identified by the Secretary.

SEC. 107. HISTORIC AND ARCHEOLOGICAL RESOURCES PROGRAM.—(a) PROGRAM.—The Secretary shall conduct a comprehensive program for the research, interpretation, and preservation of significant historic and Archeological resources in the Delta Region.

(b) ELEMENTS OF THE PROGRAM.—The program shall include, but not be limited to:

(1) identification of research projects related to historic and Archeological resources in the Delta Region and a proposal for the regular publication of related research materials and publications;

(2) the development of a survey program to investigate, inventory and further evaluate known historic and Archeological sites and structures and identify those sites and structures that require additional study;

(3) identification of a core system of interpretive sites and structures that would provide a comprehensive overview of historic and archeological resources of the Delta Region;

(4) preparation of educational materials to interpret the historical and archeological resources of the Delta Region;

(5) preparation of surveys and archeological and historical investigations of sites, structures, and artifacts relating to the Delta Region, including the preparation of reports, maps, and other related activities.

(c) GRANTS AND TECHNICAL ASSISTANCE.—(1) The Secretary is authorized to award grants to qualified tribal, governmental and non-governmental entities and individuals to assist the Secretary in carrying out those elements of the program which the Secretary deems appropriate.

(2) The Secretary is further authorized to award grants and provide other types of technical and financial assistance to such entities and individuals to conserve and protect historic and archeological sites and structures in the Delta Region identified in the program prepared pursuant to this section.

(d) The Secretary shall establish a national demonstration project for the conservation and curation of the archeological records and collections of Federal and State management agencies in the Delta Region.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—INITIATIVES WITHIN THE DEPARTMENT OF ENERGY

SEC. 201. DEFINITIONS.—As used in this title, the term—

(1) "Center" means the Delta Energy Technology and Business Development Center established under section 202 of this Act;

(2) "Department" means the United States Department of Energy, unless otherwise specifically stated;

(3) "departmental laboratory" means a facility operated by or on behalf of the Department of Energy that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(d)(2) or other laboratory or facility the Secretary designates;

(4) "persons in the Delta Region" means an entity primarily located in the Delta Region, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including;

(A) a for-profit entity;

(B) a private foundation or corporation exempt under Section 501(c)(3) of the Internal Revenue Code;

(C) a non-profit organization such as a public trust;

(D) a trade or professional society;

(E) a tribal government;

(F) institutions of higher education; or

(G) a unit of State or local government; and

(5) "Secretary" means the Secretary of Energy, unless otherwise specifically stated.

SEC. 202. DELTA ENERGY TECHNOLOGY AND BUSINESS DEVELOPMENT CENTER.—(a) ESTABLISHMENT.—The Secretary shall enter into an agreement with Louisiana State University in partnership with Southern University in Baton Rouge, Louisiana, to establish the Delta Energy Technology and Business Development Center. The agreement shall provide for cooperative agreements with the University of Arkansas at Pine Bluff, Arkansas, and Alcorn State University in Lorman, Mississippi, and other universities and institutions in the Delta Region, to carry out affiliated programs and coordinate program activities at such universities and institutions.

(b) PURPOSE.—The purpose of the Center shall be to:

(1) foster the creation and retention of energy resource and manufacturing and related energy service jobs in the Delta Region;

(2) encourage the export of energy resources and technologies, including services related thereto, from the Delta Region;

(3) develop markets for energy resources and technologies manufactured in the Delta Region for use in meeting the energy resource and technology needs of foreign countries;

(4) encourage the successful, long-term market penetration of energy resources and technologies manufactured in the Delta Region into foreign countries;

(5) encourage participation in energy-related projects in foreign countries by persons in the Delta Region as well as the utilization in such projects of energy resources and technologies significantly developed, demonstrated, or manufactured in the Delta Region; and

(6) assist in the establishment of technology transfer programs in cooperation with Federal laboratories to create businesses in energy resources and technology in the Delta Region.

(c) GENERAL.—The Center, in cooperation with participating universities and institutions in the Delta Region, shall—

(1) identify and foster the establishment of flexible manufacturing networks in consultation with the States of the Delta Region to promote the development of energy resources and technologies that have the potential to expand technology development and manufacturing in, and exports from, the Delta Region;

(2) provide technical, business, training, marketing, and other assistance to persons in the Delta Region;

(3) develop a comprehensive database and information dissemination system, that will provide detailed information on the specific energy resources and technologies of the Delta Region itself, as well as domestic and international market opportunities for businesses in the Delta Region, and electronically link the Center with other institutions of higher education in the Delta Region;

(4) establish a network of business and technology incubators to promote the design, manufacture, and sale of energy resources and technologies from the Delta Region;

(5) enter into contracts, cooperative agreements, and other arrangements with the Federal government, international development agencies, or persons in the Delta Region to carry out these objectives; and

(6) coordinate existing Department and other Federal programs having comparable goals and purposes.

(d) ASSISTANCE FROM THE SECRETARY.—The Secretary is authorized to provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center and affiliated participating universities and institutions to carry out its activities under this section.

(e) GRANTS.—The Secretary is authorized to provide grants and other forms of financial assistance to the Center for the Center and participating universities and institutions to (1) support the creation of flexible manufacturing networks as identified in subsection (c)(1); and (2) develop the comprehensive database described in paragraph (c)(3); and (3) support the training, marketing, and other related activities of the Center.

(f) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

(A) grants and donations from private individuals, groups, organizations, corporations, foundations, State and local governments, and other entities; and

(B) transfers of funds from other Federal agencies.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the programs under this section and for the establishment, operation, construction, and maintenance of the Center and facilities of participating universities and institutions.

"SEC. 203. INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION.—Title III of the Energy Policy and Conservation Act (42 U.S.C. §6371, et seq.) is amended by adding a new section 400K as follows:

"INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION

"SEC. 400K. (a) PURPOSE.—The purpose of this section is to encourage the use of energy conservation measures in the schools and hospitals of the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary is authorized to provide grants to schools or hospitals, or to consortiums consisting of a school or hospital and one or more of the following: State or unit of local government; local education agency; State hospital facilities agency; or State school facilities agency. Such grants shall be for purposes of conducting innovative energy conservation projects and providing Federal financing for energy conservation projects at schools and hospitals in the Delta Region.

"(c) APPLICATIONS.—(1) Applications of schools or hospitals for grants under this section shall be made not more than once for any fiscal *year. Such applications shall be submitted to the State energy agency, in consultation with the planning and Development Districts in the Delta Region, and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).*

"(2) Applications for grants shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing institutional conservation programs under this part; provided, however, that the Secretary shall encourage flexible and innovative approaches consistent with this Act.

"(d) SELECTION OF APPLICATIONS.—(1) Not later than six months after the receipt of applications under subsection (c), the Secretary shall select at least seven, but not more than 21, proposals for States to receive grants under subsection (b).

"(2) The Secretary may select more than 21 applications under this subsection, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

"(3) No one State shall receive less than one, or more than four, grants under subsection (b).

"(4) Such grants shall be in addition to such grants as would otherwise be provided under Part G of this Act.

"(5) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

"(1) the location of the grant recipient in the Delta Region;

"(2) the demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section;

"(3) the demonstrated or potential ability of the grant applicant to improve energy conservation measures in the designated school or hospital; and

"(4) such other criteria as the Secretary deems appropriate for carrying out the purposes of this section.

"(f) DEFINITION.—For purposes of this section, the term "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.".

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1995, and 1996, and 1997.".

SEC. 204. ENERGY RELATED EDUCATIONAL INITIATIVES.—(a) MINORITY COLLEGES OR UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department or the departmental laboratories with respect to, or in conjunction with, minority colleges or universities in the areas of mathematics, science, and engineering;

(B) describe ongoing research, development, demonstration, or commercial application activities involving the Department or the departmental laboratories and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) identify ways for the Department or the departmental laboratories to assist minority colleges or universities in providing education and training in the fields of mathematics, science, and engineering;

(E) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

(F) address the need for, and potential role of, the Department or the departmental laboratories in providing minority colleges or universities with the following:

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty development and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer mechanisms;

(G) address the need for, and potential role of, the Department or departmental laboratories in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges and universities; and

(H) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories in order to assist minority colleges or universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

(2) The Secretary shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges and universities directed at jointly planning and developing programs to foster greater involvement of minority colleges and universities in research, education, training, and recruitment activities of the Department.

(b) MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAMS FOR THE DELTA REGION.—The Secretary shall establish a scholarship program for students pursuing undergraduate or graduate degrees in energy-related scientific, mathematical, engineering, and technical disciplines at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study.

(c) PRE-COLLEGE EDUCATION.—The Secretary shall undertake activities to encourage pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for students in the Delta Region. Such activities shall include, but not be limited to the following:

(1) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students in energy-related scientific, mathematical, engineering, and technical disciplines;

(2) cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs in energy related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students;

(3) cooperation with, and assistance to, State departments of education and local school districts in the development and use of curriculum and educational materials in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary students; and

(4) the establishment of education programs in subjects relating to energy-related scientific, mathematical, engineering, and technical disciplines for elementary, middle, and secondary school teachers in the Delta Region.

(d) VOLUNTEER PROGRAM.—The Secretary shall carry out a program to encourage the involvement on a voluntary basis of qualified employees to the Department in educational program relating to energy-related scientific, mathematical, engineering, and technical disciplines, in cooperation with state departments of education and local school districts in the Delta Region.

(e) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences, mathematics, engineering and technical disciplines. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta, Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, education assistance programs administered by the Department and by other Federal agencies in the Delta Region. These agencies include, but are not limited to, the Department of the Interior, the Department of Agriculture, the Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 205 INTEGRATED BIOMAS ENERGY SYSTEMS.—(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a research, development and demonstration program to determine the economic viability of integrated biomass energy systems within the Delta Region.

(b) PROGRAM PLAN.—Not later than six months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a program plan to guide the activities under this section.

(c) SOLICITATION OF PROPOSALS.—Not later one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the program plan. Such activities shall include at least three demonstrations of integrated biomass energy systems that:

(1) involve the production of dedicated energy crops of not less than 25,000 acres per demonstration;

(2) include predominantly herbaceous energy corps;

(3) include predominantly short-rotation woody crops;

(4) demonstrate cost-effective methods for growing, harvesting, storing, transporting, and preparing energy crops for conversion to electricity or transportation fuel; and

(5) result in the conversion of such crops to electricity or transportation fuel by a non-Federal energy producer or the Tennessee Valley Authority.

(d) COST SHARING.—(1) For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.

(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this section if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1995, 1996, and 1997.

SEC. 206. WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION.—Title IV of the Energy Conservation and Production Act (42 U.S.C 6851, 6861–6846) is further amended by adding a new section 423 as follows:

"WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION

"SEC. 423. (a) PURPOSE.—The purpose of this section is to encourage the weatherization of low-income dwelling units in the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary shall make grants to (1) States, and (2) in accordance with the provisions of subsection (413)(d), to Indian tribal organizations to serve Native Americans in the Delta Region. Such grants shall be made for the purposes of providing financial assistance for the weatherization of low-income dwelling units.

"(c) APPLICATIONS.—(1) Applications of States or Indian tribal organizations for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State weatherization agency, in consultation with Community Action Agencies and Planning and Development Districts in the Delta Region, and the State weatherization agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants for energy conservation projects shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing weatherization assistance programs under this Part.

"(d) SELECTION OF APPLICATIONS.—(1) The Secretary shall select applications from States to receive grants under subsection (b).

"(2) Such grants shall be in addition to such grants as would otherwise be provided under section 414 of this Act.

"(3) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section in accordance with the requirements of sections 414(b) and 415 of this Act, and on the basis of the following criteria:

"(1) the location of the grant applicant in the Delta Region;

"(2) the demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section; and

"(3) the demonstrated or potential ability of the grant applicant to improve energy efficiency in low-income dwelling units.

"(f) COORDINATION WITH OTHER WEATHERIZATION ASSISTANCE PROGRAMS.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, Department weatherization assistance programs under sections 413, 414A and 414B of this Act.

"(g) DEFINITION.—For purposes of this section, the term "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.".

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1995, 1996, and 1997.".

SEC. 207. RENEWABLE ENERGY PRODUCTION INCENTIVES.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by inserting immediately after "foregoing," the following: "by the Tennessee Valley Authority,".

Mr. JOHNSTON. I am pleased to bring S. 991, the Lower Mississippi Delta Initiatives Act of 1993, for Senate consideration. This legislation is based on the findings and recommendations put forth by the Lower Mississippi Delta Development Commission—a group of individuals chosen for their particular expertise in the economic, social, and infrastructure problems of the lower Mississippi Delta region. The Commission spent almost 2 years analyzing both the problems and opportunities of the lower Mississippi Delta States—Missouri, Tennessee, Kentucky, Illinois, Arkansas, Mississippi, and my own State of Louisiana—and put together a comprehensive report outlining policies that if fully implemented could alleviate the poverty of much of the region. A number of these recommendations fall under the jurisdiction of the Department of Energy and the Department of the Interior and they are addressed in this legislation.

The delta region is not the only area of the United States with severe social and economic problems—many of our Nation's cities have similar difficulties maintaining high paid jobs, quality health care, and good schools. But a 1988 Congressional Research Service report entitled "The Economic Health of the Lower Mississippi River Valley," found that the 219 counties and parishes of the lower Mississippi Delta are among the poorest in the Nation. In fact, only three of the counties in the entire region do not fall well below national averages for all major poverty indices including unemployment and infant mortality. Research by the Delta Development Commission supports these grim statistics.

Ironically, the Commission found that the delta region has an abundance of natural and physical resources including timber, mineral, and agricultural resources. The delta region also has a rich heritage and significant archaeological and historical sites can be found throughout the seven State region. Clearly, there is a solid resource base for economic and cultural development that if used productively can provide jobs, income, and an increase in the standard of living for many of the region's 8.3 million residents.

I know I speak not only for myself, but for my fellow cosponsors—Senators BUMPERS, FORD, MATHEWS, CAMPBELL, SHELBY, and LOTT—when I say that we have an obligation to reach out to the people of the lower Mississippi Delta region. I believe that the Lower Mississippi Delta Initiatives Act of 1993 will provide vital assistance to the delta region's population by:

Providing increased opportunities for students in the region's colleges and universities to pursue careers in mathematics, the sciences, and the natural resources;

Establishing programs to preserve the cultural, natural and historic heritage of the delta region;

Establishing an Energy Technology and Business Development Center and network to provide technical assistance to small businesses in the delta region; and

Expanding existing Federal energy efficiency and renewable energy programs to better meet the needs of delta residents.

I urge my colleagues to join this bipartisan effort to support this important legislation.

Mr. BUMPERS. Mr. President, I rise today in support of S. 991, the Lower Mississippi Delta Initiatives Act of 1993. I am pleased that the Senate has today chosen to take the first step, in what I hope will be the journey toward economic development of the least advantaged region in the entire United States—the lower Mississippi Valley.

Located along one of the great rivers of the world, and including some of its finest farmland, this region has long surpassed every region of the country in terms of measurable poverty-numbers of poor counties, low per capita income, and unemployment. In short, Mr. President, there is more economic misery in the Mississippi Delta than any other region of the country.

The Lower Mississippi Delta Initiatives Act contains a number or provisions which emanate from recommendations made by the Lower Mississippi Delta Development Commission, which was chaired by President

Clinton when he was Governor of Arkansas. I am particularly pleased that this legislation would substantially increase educational opportunities in the region. Education may be the most important factor that could help residents in the area improve their lives as well as the lives of their children and grandchildren.

Mr. President, S. 991 will not, by itself, put an end to the poverty and misery in the Delta region. Much more needs to be done if we are to solve these problems. However, Senator JOHNSTON should be commended for leading this effort to begin the long climb back. I hope to work with the senior Senator from Louisiana in further endeavors concerning the lower Mississippi Delta.

I am delighted that the Senate has today chosen to pass S. 991. I urge the House of Representatives to act promptly and look forward to its speedy enactment.

So the bill (S. 991) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

LIBERTY SHIPS MEMORIAL ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1763, the Liberty Ships Memorial Act of 1993, introduced earlier today by Senator MIKULSKI; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1763) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

EXPRESSING THE SENSE OF THE CONGRESS THAT U.S. TRUCK SAFETY STANDARDS ARE OF PARAMOUNT IMPORTANCE TO THE IMPLEMENTATION OF NAFTA

Mr. FORD. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Con. Res. 36, a concurrent resolution expressing the sense of the Congress on the importance of truck safety standards to the implementation of NAFTA; that the concurrent resolution be adopted; that the motion to reconsider be laid upon the table; further, that the preamble be agreed to; and that any statements relating to the measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 36) was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

CHILD SAFETY PROTECTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 322, S. 680, the Child Safety Protection Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 680) to provide toy safety, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Protection Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) According to the Consumer Product Safety Commission (hereinafter referred to as the "Commission"), between January 1980 and July 1991, 284 children under the age of 10 years choked to death. Of these 284 deaths, 186 involved children's products, including balloons, marbles, balls, and other toys. Between January 1, 1992, and September 30, 1993, 30 children died from toy-related causes, with almost one-half of that number (14) from choking. In addition, the Commission estimates that in 1992 alone there were 177,200 toy-related injuries serious enough to be treated in United States hospital emergency rooms, with almost one-half of the injuries to children under 5 years of age.

(2) Currently, at the Federal level, there are no required warning labels for toys intended for children over 3 years of age, which may present hazards for children under this age. Although many toy manufacturers voluntarily place a label on such items that state "for ages three and up", consumers often misinterpret these age labels as developmental recommendations rather than safety warnings indicating a possible choking hazard.

(3) According to a study published in the June 5, 1991, issue of the Journal of the American Medical Association entitled, "The Impact of Specific Toy Warning Labels", current warning labels on toys may not be sufficiently explicit to alert buyers of toys with small parts to the potential choking hazard to children under 3 years of age. The study further concludes that more specific labeling might substantially reduce potentially hazardous toy purchases.

(4) Between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that required treatment in hospital emergency rooms. Deaths and injuries from bicycle accidents cost society $7.6 billion annually, and a child suffering from a severe head injury, on average, will cost society $4.5 million over that child's lifetime.

(5) Ninety percent of all injuries to the brain and 85 percent of all head injuries suffered by bicyclists could be prevented by using bicycle helmets. Universal use of bicycle helmets in the United States would have prevented 2,600 deaths from head injuries and 757,000 head injuries between 1984 and 1988.

SEC. 3. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

"WARNING:

CHOKING HAZARD—Small parts. Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(b) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Children under 8 yrs can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a small marble. Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a small marble. Not for children under 3 yrs.

"(c) General Labeling Requirements.—

"(1) In general.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) Exception for products manufactured outside United States.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material bears such statement.

"(3) Special rules for certain packages.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a) applies, the statement specified by this subparagraph is as follows:

"WARNING—SMALL PARTS.

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

"WARNING—CHOKING HAZARD.

"(iii) In the case of a product to which subsection (b)(2)(B) applies, the statement specified by this subparagraph is as follows:

"WARNING—SMALL BALL.

"(iv) In the case of a product to which subsection (b)(2)(C) applies, the statement specified by this subparagraph is as follows:

"WARNING—SMALL MARBLE.

"(v) In the case of a product to which subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

"WARNING—SMALL PARTS.

"(d) Treatment as Misbranded Hazardous Substance.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".

(b) Other Small Balls.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

(c) Regulations.—The Commission shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuance of regulations under this subsection.

(d) Effective Date; Applicability.—This section shall take effect January 1, 1995, and shall apply only to products entered into commerce on or after January 1, 1995.

(e) Preemption.—

(1) In general.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act.

(2) Exception.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

SEC. 4. REPORTING REQUIREMENTS.

(a) Reports to Consumer Product Safety Commission.—

(1) Requirement to report.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) Treatment under CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) Effect on liability.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) Report to Congress.—Upon written request of the Chairman or Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee of such committee, the Commission shall provide to the Chairman or Ranking Minority Member any information reported to the Commission under subsection (a) for purposes that are related to the jurisdiction of such committee or subcommittee. Such information shall be aggregated so as not to reveal the identity of the person that reported the information to the Commission.

(c) Confidentiality Protections.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsections (a) of this section.

SEC. 5. BICYCLE HELMETS.

(a) In General.—Bicycle helmets manufactured 9 months or more after the date of enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) Interim Standards.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.

(c) Final Standard.—Not later than 60 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056 and 2058) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) Failure To Meet Standards.—

(1) Failure to meet interim standard.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) Status of final standard.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

AMENDMENT NO. 1233

(Purpose: To make an amendment in the nature of a substitute)

Mr. FORD. Mr. President, on behalf of Senators BRYAN and GORTON, I send to the desk a substitute amendment and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BRYAN, for himself and Mr. GORTON, proposes an amendment numbered 1233.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

(a) Requirement Under Federal Hazardous Substances Act.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

"WARNING:

CHOKING HAZARD—Small parts. Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children ages 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Children under 8 yrs can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a marble. Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a marble. Not for children under 3 yrs.

"(c) GENERAL LABELING REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

"SAFETY WARNING

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

"WARNING—CHOKING HAZARD

"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".

(b) OTHER SMALL BALLS.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the "Commission") shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuances of regulations under this subsection.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995.

(e) PREEMPTION.—

(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

SEC. 102. REPORTING REQUIREMENTS.

(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—

(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1993".

SEC. 202. ESTABLISHMENT OF PROGRAM.

The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 203, make grants to States and nonprofit organizations for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

SEC. 203. PURPOSES FOR GRANTS.

A grant made under section 202 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

SEC. 204. STANDARDS.

(A) In General.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) Interim Standards.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4-1984".

(2) The Snell Memorial Foundation standard designated as "B-90".

(3) The American Society of Testing Materials standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) Final Standard.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate. Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 21058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) Failure To Meet Standards.—

(1) Failure to meet interim standard.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) Status of final standard.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

For the National Highway Traffic Safety Administration to carry out the grant program authorized by this title, there are authorized to be appropriated $2,000,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $4,000,000 for fiscal year 1996.

SEC. 206. DEFINITION.

In this title, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 204(b), pending establishment of a final standard under section 204(c); and

(2) the final standard, once it is established under section 204(c).

TITLE III—BUCKET DROWNING PREVENTION

SEC. 301. LABELING STANDARD REQUIREMENTS.

On October 1, 1994, or 240 days after the date of the enactment of this title, whichever first occurs, there is established and effective a consumer product safety standard under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), to eliminate or reduce the risk of injury or death resulting from infants falling into 4-gallon to 6-gallon buckets containing liquid. Such standard, when established, shall require straight sided or slightly tapered, open head containers with a capacity of more than 4 gallons and less than 6 gallons (referred to in this title as a "bucket"), to bear one warning label in English and Spanish. The label shall meet the following requirements:

(1) The label shall be permanent so that such label cannot be removed, torn or defaced without the aid of tools or solvents.

(2) The label shall be at least 7 inches in height, and 3½ inches in width, or any larger size as the labeler may choose.

(3) The label shall be centered on one side of the bucket just below the point where the handle is inserted.

(4) The label shall have a border or other form of contrast around its edges to delineate it from any other information on the bucket.

(5) The label shall bear (A) the signal word "WARNING" in both English and Spanish, in bold uppercase lettering, and (B) in upper and lower case lettering the words "Children Can Fall Into Bucket and Drown. Keep Children Away From Buckets With Even a Small Amount of Liquid.", with an equivalent Spanish translation in at least the same type size as English. The signal word panel shall be preceded by a safety alert symbol consisting of an exclamation mark in a triangle.

(6) The label shall be clear and conspicuous and in contrasting colors.

(7) The label shall include a picture of a child falling into a bucket containing liquid. An encircled slash symbol shall be superimposed over, and surround the pictorial. The picture shall be positioned between the signal word panel and the message panel.

SEC. 302. CERTAIN BUCKETS NOT AFFECTED.

The standard established by section 301 applies only to buckets manufactured or imported on or after the effective date of such standard, and buckets manufactured or imported before such effective date may be sold without the warning label required by section 301 even though such sales occur after that date. The Consumer Product Safety Commission, by rule, shall prohibit a manufacturer, filler, distributor, and retailer from stockpiling buckets to which consumer product safety standards established by section 301 of this title would have applied but for the preceding sentence. For purposes of this section, the term "stockpiling" shall have the same meaning as that provided by section 9(g)(2) of the Consumer Product Safety Act.

SEC. 303. PROHIBITED ACTS.

(a) Removal of Label.—Once placed on a plastic bucket pursuant to the standard provided by section 301, it shall be a prohibited act under section 19 of the Consumer Product Safety Act for any person in the chain of distribution of the bucket to intentionally cover, obstruct, tear, deface or remove the label.

(b) Consumer Product Safety Standard.—The standard established by section 301 of this title shall be considered a consumer product safety standard established under the Consumer Product Safety Act.

SEC. 304. EXISTING LABELS.

Notwithstanding section 301, any bucket label in use on September 1, 1993, may, if such label is substantially in conformance with the requirements of paragraphs (3), (4), (5), and (6) of section 301, continue to be placed on buckets until 12 months after the date of the enactment of this title. Notwithstanding the preceding sentence, buckets subject to the provisions of this section must bear both an English and Spanish language label on and after the effective date of the standard established by section 301.

SEC. 305. AMENDMENTS.

Section 553 of title 5, United States Code, shall apply with respect to the Consumer Product Safety Commission's issuance of any amendments or changes to the bucket labeling standard established by section 301 of this title. Sections 7 and 9 of the Consumer Product Safety Act shall not apply to such amendments or changes.

SEC. 306. RESPONSIBILITY FOR LABELING.

(a) Labeling.—The standard established by section 301 requires the labeling of buckets covered by such standard to be the responsibility of the manufacturer of any such buckets, unless otherwise specified by contract between the manufacturer, and either the filler, distributor, or retailer of such buckets. Under no circumstances shall any such bucket enter the stream of commerce without such label.

(b) Time for Placing Labels.—The required label must be on the bucket at the time it is sold or delivered to the end user of the bucket or its contents or, in the case of a bucket intended to be sold to the public in an empty state, at the time it is shipped to a retailer for sale to the public.

SEC. 307. PERFORMANCE STANDARD.

(a) Performance Standard.—Within 30 days following the date of enactment of this title, the Consumer Product Safety Commission shall commence a proceeding under the Consumer Product Safety Act for the issuance of a performance standard for buckets to address the drowning hazard associated with this product. Such standard shall take effect at such time as may be prescribed by the Consumer Product Safety Commission, but in no event later than 15 months following the date of the enactment of this title. The Consumer Product Safety Commission shall consider any American Society for Testing and Materials voluntary performance standard in existence prior to such date of enactment.

(b) Labeling Requirements.—The labeling requirements under section 101 shall not apply to buckets certified by the Consumer Product Safety Commission as meeting the performance standard in subsection (a).

SEC. 308. CONSULTATION.

To avoid duplicative and conflicting labeling, the Consumer Product Safety Commission shall complete a consultation with relevant Federal agencies within 30 days following the date of enactment of this Act.

SEC. 309. REQUIREMENT FOR COMMISSION STUDY.

(a) STUDY.—The Commission shall conduct a study to assess the frequency of deaths and injuries arising from drowning accidents in metal buckets, and the frequency and type of uses of 4-gallon to 6-gallon metal containers in the home, to determine whether special design and labeling standards are needed for such containers. The Commission shall report the results of the study to the Congress not later than one year after the date of enactment of this Act.

(b) EXEMPTION.—During the pendency of such study, metal containers which would otherwise be required to comply with the labeling requirements of section 301 are exempt from such requirements. Upon review of the results of the study, the Commission shall decide whether to continue this exemption, to require compliance by metal containers, or to consider further study in the future.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1233) was agreed to.

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee's Consumer Subcommittee, I rise today to urge my colleagues to support S. 680, The Child Safety Protection Act, legislation that will save children from needless deaths and injuries. I would like to commend Senator GORTON for introducing this important child safety measure and for his leadership in forging a workable compromise between advocates representing both sides of the issue. I would also like to thank Senators DODD and METZENBAUM for their efforts over the years to improve child safety, and, in particular, for their insights on this particular piece of legislation.

S. 680 was unanimously approved by the full Commerce Committee on November 9, 1993. The legislation we are considering today incorporates the provisions of S. 680 as reported, and incorporates provisions from S. 228, pertaining to bicycle helmet safety, which I introduced earlier this year along with my colleagues Senators DANFORTH and MCCAIN, and which was approved by the Commerce Committee on May 25, 1993. In addition, Senator METZENBAUM has offered additional provisions that require the Consumer Product Safety Commission (CPSC) to take action to prevent children from drowning in 5 gallon-type buckets. Thus, the amendment we are considering today would require the CPSC to, first, take action to make toys safer for children through the use of warning labels and other means; second, begin a rulemaking proceeding to establish a final safety standard for bicycle helmets; and third, promulgate labeling requirements and a performance standard to prevent bucket drownings. In addition, the bill establishes a safety grant program within the National Highway Traffic Safety Administration [NHTSA] to provide incentives for States to encourage the use of bicycle helmets by children.

Each year, approximately 30 children die from toy-related causes, and thousands more are injured. In 1992 alone, 177,200 children were treated in hospital emergency rooms for toy-related injuries. S. 680 attempts to remedy this situation by providing information to parents and others about possible hazards that certain toys may present to small children. The bill requires warning labels on certain toys that pose a choking hazard to children under 3 years of age. The legislation strikes a balance by warning parents of possible dangers in certain toys for very small children, but allowing such toys to be marketed and sold to older children.

The legislation also directs the CPSC to begin a rulemaking proceeding to establish a final safety standard for bicycle helmets. Each year in the United States, hundreds of bicyclists die from head injuries, and thousands more are seriously injured. A child who suffers a severe head injury, on average, will cost society $4.5 million over that child's lifetime. The legislation would replace the voluntary standards for bicycle helmets currently in existence with a single uniform safety standard approved by the CPSC. Under the rulemaking, the CPSC is specifically directed to address the risk of injury to children, among other issues. In addition, under the NHTSA safety grant program designed to encourage helmet use, recipients could qualify for funds in a variety of ways, including the adoption of a requirement that children wear bicycle helmets or the development of programs to educate children and their families on the importance of wearing helmets Thus, the legislation would not only promote helmet use by children to prevent injuries, but would also ensure that such helmets are indeed safe and effective for that purpose.

Finally, S. 680 requires labels on 5 gallon-type buckets to warn parents and other caretakers of the potential drowning hazards that such buckets may present. According to the CPSC, between January 1984 and June 1, 1993, 212 toddlers were reported to have drowned in 5 gallon-type buckets when they fell head first into a bucket containing water or other liquid. In addition, each year approximately 130 more toddlers are taken to hospital emergency rooms for treatment. Thus, in addition to warning labels, the legislation also directs the CPSC to develop a performance standard to change the design of these buckets to prevent infant drownings.

S. 680 is critically needed child safety legislation. The House has already passed a similar bill. I strongly urge my colleagues to support this measure, so that we can have this legislation on the President's desk before Thanksgiving. Enactment of this legislation will go a long way toward making children's lives safer, not only this Christmas, but every Christmas in the future.

Mr. GORTON. Mr. President, the best gift a man and a woman can ever receive is to be the parent of a healthy and safe child. As Congress adjourns for the year, and as our thoughts turn to the joy of the holidays, we have the opportunity to give parents the best present of all—a little more security, a little more protection, a chance that tragic accidents will be prevented, a chance that their child's life will be safer. We can do this by passing the Child Safety Protection Act.

In March of this year, I introduced the Child Safety Protection Act, an identical measure to the House-passed bill introduced by Congresswoman CARDISS COLLINS. The bill would mandate safety warning labels on certain toys that contain dangerous small parts, small balls, balloons and marbles so that parents would be aware that they should keep these toys away from children under the age of three. The bill also requires national mandatory performance standards for bicycle helmets.

According to the Consumer Product Safety Commission, between January 1980 and July 1991, 284 children under the age of 10 years choked to death. Of these deaths, 186 involved children's products, including balloons, marbles, small balls, and other toys. Between January 1, 1992 and September 30, 1993, 30 children died from toy-related causes, with almost half of that number (14) caused from choking. In addition, the Commission estimates that in 1992 alone, there were 177,200 toy-related injuries serious enough to be treated in hospital emergency rooms, with almost one-half of the injuries to children under 5 years old.

Bicycle related death and injuries are also a very serious problem. Between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that required treatment in hospital emergency rooms. Eighty-five percent of all head injuries suffered by bicyclists could be prevented by using bicycle helmets.

The bill that the Senate has before it today differs in some respects from my original legislation, from the bill that passed the House earlier this year, and from previous bills introduced in the Senate by my colleague, Senator DODD. It is a compromise measure that results from many hours of discussions that we have had with consumer groups and with toy manufacturers. I would like to thank my colleagues and their staffs who have been a part of these negotiations including the Chairman of the Consumer Subcommittee, Senator BRYAN, whom I have worked with on so many consumer protection measures, Senator ROCKEFELLER, Senator DANFORTH, Senator DODD and Senator LIEBERMAN. Throughout our discussions, we have held steadfast to our common goal of finding an effective, clear means to inform parents and other purchasers of toys of possible dangers certain toys may pose if given to a young child for whom they are not intended. I believe we have fulfilled that goal.

Our bill calls for a clear and conspicuous label to be placed on the principal display panel of toys that contain small parts and that are intended for a child between 3 and 6 years old. Our legislation specifies what that label will say so that parents will clearly understand that the toy poses a safety hazard for children under three years of age. The bill also provides for an exemption for certain boxes which are in three languages and which are 15 square inches or less. For those boxes, the bill specifies a shortened warning label which must be displayed on the principal display panel along with an arrow or other indicator which directs the consumer to the full warning. The legislation also specifies warning labels for balloons, for small balls and for marbles.

The legislation also increases the minimum size allowed for a small ball that is intended for a child under three from 1.25 inches to 1.75 inches. This will lessen the choking risk associated with small balls. The legislation also includes additional reporting requirements to the CPSC when a manufacturer, distributor, retailer, or importer learns of certain choking incidences that involve the products affected by this legislation. Additionally, the legislation because of unique circumstances which I intend to address in detail with my colleague, Senator BRYAN, in a colloquy provides for preemption of future toy labeling laws by States or political subdivisions. An exception is made until January 1, 1995 when the Federal law becomes effective, for a State which already has a law in effect on October 2, 1993. Connecticut is the only State which has such a law.

Mr. President, this bill is a fair and balanced measure. It will help make our world a little safer for our country's most vulnerable citizens—our children and grandchildren. I urge the Senate to adopt this important bill.

Mr. METZENBAUM. Mr. President, I rise in strong support of the child safety measures contained in this legislation. This measure will go a long way in protecting children from tragic accidents.

There is nothing worse that I can think of than the death of a child, especially when such a tragedy can be prevented. That is why I am such an ardent proponent of this legislative measure designed to protect children from unsafe toys, bike helmets and industrial-sized buckets.

I have long supported efforts to encourage bike helmet use by children as well as to require uniform Federal safety standards for adult and child-size bike helmets. In fact, I introduced a separate bill which is similar to the measure we are considering today.

And I feel just as strongly about the need to protect children from unsafe toys. I believe it is essential for this Congress to move expeditiously on toy labeling provisions that will help parents make wiser—and safer—toy purchases for their children.

As the principal sponsor of the Bucket Drowning Prevention Act, I am particularly gratified that an agreement has been worked out to include bucket labeling language in this legislation. This provision deals with the long ignored hazard of toddlers drowning in industrial-size 4- to 6-gallon buckets.

Since 1984, an estimated 400 children have died in their homes when they toppled head first into industrial-size plastic buckets, drowning in the liquid contents of these buckets. While we cannot bring these children back, we can help prevent such tragedies from occurring in the future.

The bill I introduced and whose provisions are included in the measure now before the Senate would require that warning labels be placed on these industrial-size buckets to avoid such tragedies.

Most people do not realize the threat that these 4- to 6-gallon buckets pose to toddlers. They appear innocuous enough. These buckets can be purchased new in stores for heavy-duty household chores. And millions of them are used each year by industry to transport commercial quantities of products such as food, paint or construction materials. When emptied of their original contents, these industrial containers can wind up in family homes.

The industrial buckets, when used in homes, present a very real danger to small children and infants. Tragic drowning accidents occur because of the limited physical capabilities of toddlers. Top-heavy when small, toddlers can fall head first into a bucket and not be able to get out of it or tip it over. Indeed, nearly 80 percent of all the reported drowning victims were between the ages of 8 to 13 months old.

Clearly, action needs to be taken in this area. Today, only a small percentage of the industry voluntarily labels its buckets to warn of the drowning hazard. While California has enacted a bucket labeling law, there are no existing national voluntary or Federal mandatory labeling standards. and despite Consumer Product Safety Commission staff recommendations to the contrary, the Commission has not moved forward to mandate warning labels or performance standards for these buckets.

The provision in the measure before us reflects agreement between consumer groups and industry. It will mandate that a clearly visible single warning label in both English and Spanish be placed on 4- to 6-gallon buckets. But it also requires the Consumer Product Safety Commission to promulgate a performance standard to ultimately change the design of these buckets so that drownings cannot occur.

Mr. President, as I said, consumer groups and industrial manufacturers and users of these buckets are supporting this provision. It is a balanced measure. It sets out uniform labeling standards which ease industrial compliance, while preventing needless and tragic childhood drownings in 4- to 6-gallon buckets. Along with the Bike Helmet Safety and Toy Safety provisions, this measure appears to be on the fast track to final congressional passage. That's great news for the Nation's families.

I urge adoption of the package.

Mr. DANFORTH. Mr. President, I am pleased to support S. 680, the Child Safety Protection Act. This is important safety legislation which will reduce the incidence of children under age 3 choking on toys, and I commend Senator GORTON for his leadership on this issue. In addition, this bill includes a title to promote bicycle helmet use by children. This title is based on S. 228, the Children's Bicycle Helmet Safety Act of 1993, which Senator BRYAN and I introduced on January 27, On May 25, the Commerce Committee reported this measure by voice vote.

The need to address bicycle safety is clear. A study conducted for the Centers for Disease Control [CDC], which was published in December 1991 in the Journal of the American Medical Association, provides revealing data about the magnitude and severity of head injuries suffered by cyclists. The study found that, between 1984 and 1988, nearly 3,000 people died from head injuries while cycling, and over 900,000 suffered head injuries. This represents 62 percent of all bicycling deaths, and 32 percent of bicycling injuries that required treatment in hospital emergency rooms. The Consumer Product Safety Commission [CPSC] estimates that bicycle-related deaths and injuries cost society $7.6 billion annually.

The statistics regarding children are even more compelling. The CDC study found that 41 percent of head injury deaths and 76 percent of total head injuries occurred among children under age 15. According to the National Head Injury Foundation, the cost of supporting a child who has suffered a severe head injury, on average, is $4.5 million over that individual's lifetime. For the family of a child killed or injured in a bicycle accident, the tragedy is immeasurable.

These losses are made more tragic by the fact that so many of them could have been prevented by taking one simple step: wearing a protective bicycle helmet. A 1989 study published in the New England Journal of Medicine found that use of a bicycle helmet reduces the risk of all head injuries by 85 percent and injuries to the brain by 90 percent. According to the CDC study, universal use of bicycle helmets would have prevented 2,600 deaths and 757,000 injuries between 1984 and 1988. Unfortunately, few riders wear helmets. In the case of children cyclists, it is a tragic fact that only 5 percent of these vulnerable riders wear helmets, according to the American Academy of Pediatrics.

Several local governments have taken steps to increase helmet use. For example, Howard and Montgomery Counties in suburban Maryland have enacted laws requiring children to wear bicycle helmets. I applaud their actions, but more needs to be done. This bill establishes a grant program within the National Highway traffic Safety Administration to promote helmet use. These grants could be used by state or local governments or nonprofit organizations in any of three ways. First, the grant could be used to assist those unable to afford a helmet, which costs about $40, to purchase one. In addition, it could be used for the creation of helmet "bank," which would allow parents of limited means to obtain helmets for their children and to exchange old helmets for those in a larger size as their children grow. Second, the funds could be used to educate children about the need to wear bicycle helmets. Finally, the grant could be used to assist in the enforcement of a mandatory bicycle helmet law for children. The bill specifically states that grantees are to be given broad discretion in establishing programs that effectively promote increased helmet use.

The bill also includes a provision requiring the CPSC to establish uniform safety standards for bicycle helmets. Included in these standards are provisions that address the risk of injury to children. The purpose of this requirement is to replace the existing voluntary standards with a single provision approved by the CPSC.

The failure to wear a bike helmet can have tragic results. The grant program established in this measure takes a reasonable approach by allowing state and local officials to decide how their communities can best address this problem. This proposal will bring together State and local governments, parents, teachers, and others responsible for children, to protect against injuries and to save lives. The total funding of $9 million over three years would be offset by preventing only a few serious head injuries per year. This bill will prevent hundreds of such tragedies. Moreover, since the grants come out of existing funds in NHTSA's budget, the bill will not add to the deficit. According to the National Safe Kids Campaign, an organization of health, consumer, educational, and law enforcement groups dedicated to improving child safety, this legislation will reduce substantially the leading cause of death for children 15 and under—accidential injury.

Last Congress I introduced S. 3096, a bill similar to S. 228. S. 3096 passed the Senate, but the House failed to act prior to adjournment. Mr. President, the need to enact this measure is clear, and the time to act is now. I urge my colleagues to support S. 680.

Mr. DODD. Mr. President, I am delighted today to lend my support to S. 680, the Child Safety Protection Act. Passage of this legislation will mark the culmination of several years of effort of my part to establish a Federal system of warning labels on children's toys.

The need for such legislation is great. All too many parents have experienced the horror of having their child choke on a toy or a game piece. In 1991, choking was the cause of death in 19 of the 37 toy-related deaths. Of the 19 children who died, 14 were under the age of three. From January 1991 to September 1992, at least 31 children died in toy-related accidents. Almost half of these deaths were caused by choking, and all the victims were under the age of three. These facts demonstrate the necessity of this legislation to prevent such senseless deaths.

Two years ago, in the 102d Congress, I first introduced the Toy Injury Reduction Act. This legislation was based upon a Connecticut statute—the only one of its kind in the nation—that had established a safety warning label system for any toys sold in Connecticut.

Earlier this year, my colleague from the State of Washington, SLADE GORTON—the ranking Republican on the Consumer Subcommittee—introduced his own toy safety legislation, which is the bill before us today.

The relatively short length of this legislation belies the amount of work that has gone into forging a compromise between my original legislation and that of Senator GORTON. For 8 months, we have engaged in lengthy and numerous meetings to try and strike a proper balance between the need to inform parents of safety considerations and the desire to set a standard that does not put unnecessary burden on toy manufacturers. This legislation meets that test.

There are many people who have made this possible. Consumer groups, toy manufacturers and the Consumer Products Safety Commission, but in particular I would like to mention the tireless work of 4 individuals—Terri Claffey of Senator GORTON's staff, Tiger Joyce of Senator DANFORTH's staff, Claudia Simons of Senator BRYAN's staff and Peter Arakas of LEGO Systems, Inc. of Enfield, CT. Without their diligence, this legislation never would have happened. They are, more than anyone else, the reason parents in this country will have a new tool to ensure that their kids are safe at play.

Mr. GORTON. This bill contains a preemption provision that is different from the general preemption provision in the Federal Hazardous Substances Act [FHSA]. The preemption provision in the bill is intended to address the unique circumstances of a particular case and is not to be interpreted as establishing a precedent for future legislation. Also, the provision in this bill does not imply that the existing FHSA preemption provision is inadequate.

Mr. BRYAN. That is correct. The preemption provision in the FHSA provides that when a labeling requirement is established under the statute, no state or political subdivision thereof may establish or continue in effect a cautionary labeling requirement applicable to a substance or its packaging and designed to protect against the same risk of illness or injury unless that cautionary labeling requirement is identical to the requirements under the FHSA. The statute has a similar preemptive effect when a banning requirement is established under the FHSA.

Mr. GORTON. My understanding is that there are three exceptions to the preemption provision in the FHSA. The first is that the Federal Government or the government of any State or a political subdivision may establish and continue in effect more stringent requirements for their own procurement purposes. Second, a State or political subdivision may apply to the Consumer Product Safety Commission [CPSC] to be exempted from preemption under certain conditions. Finally, States and political subdivisions may establish and continue in effect more stringent requirements applicable to fireworks.

Mr. BRYAN. The unique situation that the preemption provision in this bill addresses arises as a result of litigation involving a Connecticut State toy labeling law enacted in 1992 that applies to toys with small parts intended for children between the ages of three and seven. The Toy Manufacturers Association [TMA] challenged this law in Federal court alleging that such law was preempted by existing CPSC regulations issued under the FHSA that ban small parts intended for children under 3 years of age.

Mr. GORTON. In *Toy Manufacturers Association v. Blumenthal*, 986 F.2d 615 (2d Cir. 1993), the second circuit ruled that the Connecticut toy labeling law was not preempted by existing CPSC regulations. In its decision, the Court pointed out that, under the existing FHSA preemption provision, preemption applied only if a State regulates the same "substance" which is regulated under the FHSA. According to the court, since the existing CPSC regulations applied to toys with small parts intended for children under age three, and the Connecticut law applied to toys with small parts intended for children between the ages of 3 and 7, the substance being regulated under the two regulatory regimes was not the same. Therefore, preemption did not apply.

Mr. BRYAN. The legislation we are considering today requires labeling of certain toys and games intended for children who are at least three but not older than six—or such other upper age limit that the CPSC may determine is appropriate, but not less than five. My understanding is that TMA believes that there is a possibility, based on the precedent established by the second circuit, that, without specific preemption language in the bill, a State would not be preempted by the existing FHSA preemption provision from enacting toy labeling legislation for toys intended for children older than the age levels covered by this legislation.

Mr. GORTON. That is correct. Accordingly, this legislation contains a special preemption provision to ensure that it will be interpreted to preempt nonidentical State requirements—and those of political subdivisions thereof—relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children, and specifically including such labeling requirements for toys intended for children older than those covered by this legislation.

Mr. BRYAN. It is my understanding that there are a limited number of 5 gallon buckets with a permanently affixed lid, the design of which precludes the bucket from being an infant drowning hazard. The contents of these buckets are dispensed without removing the lid. The lid cannot be removed with normal prying tools—e.g. screwdrivers, pry bars, etc.; special tools not available to end-users of buckets are required. The opening in the lid for dispensing of contents does not exceed 70mm—less than 3 inches—in diameter, and these buckets and their contents are not sold to household consumers. It is the understanding of the Senator that buckets identical to, or substantially similar to, this description would be exempt from the labeling requirements of this Act?

Mr. METZENBAUM. That is my understanding.

Mr. BRYAN. Section 308 of the provision requires consultation between the Consumer Protection Safety Commission and relevant Federal agencies to consult within 30 days on any duplicative and conflicting labeling. Why is this necessary?

Mr. METZENBAUM. The action we are taking today will require a mandatory label to warn consumers and bucket users to beware of the potential drowning hazard and urge them to keep children away from buckets with even a small amount of liquid. Other Federal agencies, such as DOT and EPA, under different Federal statutes, have detailed and complex labeling requirements.

For example, DOT requires that huge warning labels be placed on packages to warn about corrosives, oxidizers or flammables. Under its pesticide program, EPA requires final approval of all labels, including the signal word of warning, environmental hazards, direction for use, storage, and disposal requirements, all of which must appear on the label.

It is important that changes to the labels are coordinated between various federal agencies. Section 308 requires that the Consumer Protection Safety Commission consult with DOT and EPA so as to avoid duplicative and conflicting labeling.

Mr. BRYAN. In section 301(6), the Senator makes reference to a pictorial of a child falling into a bucket. Is there any model for this pictorial?

Mr. METZENBAUM. Yes, I would refer people to figure 1 as pictured in the ASTM Emergency Labeling Standard for Buckets ES26-93 as the pictorial model favored by the Consumer Product Safety Commission.

Mr. BRYAN. What is the purpose of section 307 relative to the requirement of labeling as set forth in section 301?

Mr. METZENBAUM. The purpose is to acknowledge that various potential configurations of buckets and lids as well as potential end uses of such buckets and lids may obviate the need to comply with the labeling requirement because of a significant reduction in the potential hazard presented, either because of design or end use of the container.

Mr. BRYAN. What is meant by term "stream of commerce" in section 306(a)?

Mr. METZENBAUM. To avoid any confusion the definition of "stream of commerce" shall be defined by part (b) in this section exclusively.

Mr. BRYAN. Section 307 instructs the CPSC to develop performance standards for the buckets in question. Is it your intent that those standards would effectively ban these products from the marketplace?

Mr. METZENBAUM. Absolutely not.

Mr. BRYAN. Section 307 instructs the CPSC to develop performance standards. Could you give me some examples of what kind of criteria might be considered?

Mr. METZENBAUM. It is my understanding that ASTM—the American Society of Testing Materials—has been working on this for the last couple of months. Some of the proposed standards under discussion would exempt containers which pose no drowning hazard from labeling requirements. Still other standards under discussion might call for a change in the configuration of the bucket itself, including requiring restricters, smaller bucket openings, or different heights or widths. I understand that the following buckets might be deemed to meet a performance standard and could be exempt from labeling.

Buckets wherein Federal regulations require treatment or disposal techniques to be performed after the emptying of the contents such as to render the bucket ineffective or unavailable for use with liquid contents.

Buckets onto which the filler installs the covers such that said covers have no means of facilitating removal, wherein said covers cannot be removed without the use of tools, wherein the contents of said containers are decanted through a pour sprout, and wherein said covers are marked by engraving or otherwise "do not remove cover".

Buckets used to contain materials intended for combustion or incineration wherein said buckets are also combusted or incinerated simultaneously.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

So the committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 965, the House companion; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken; that the text of S. 680, as amended, be inserted in lieu thereof; and that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 965), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

MEASURE RETURNED TO THE CALENDAR—S. 680

Mr. FORD. Mr. President, I ask unanimous consent to return S. 680 to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO MAKE APPOINTMENTS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. Res. 172 submitted earlier today by the majority and the Republican leader, that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 172) was agreed to.

The resolution read as follows:

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committee, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of calendar 287 (S. 1059), a bill to include Alaska Natives on a program for Native program and arts development, that the committed amendment be agreed to, that the bill be read a third time, passed, the motion to reconsider laid upon the table, that any statements on this measure appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1059) as amended, was deemed read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

AMENDING THE THOMAS JEFFERSON COMMEMORATION COMMISSION ACT

DESIGNATING RELIGIOUS FREEDOM DAY

Mr. FORD. Mr. President, I ask unanimous consent the Judiciary Committee be discharged en bloc from, and the Senate proceed to the immediate consideration of S. 1716, and Senate Joint Resolution 154, that the bill and the joint resolution each be read a third time, passed, the preamble where appropriate be agreed to, that the motions to reconsider be laid upon the table en bloc, that the consideration of these items appear individually in the RECORD, and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (S. 1716) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

So the joint resolution (S.J. Res. 154) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

(The text of the joint resolution will be printed in a future edition of the RECORD.)

NATIONAL HOSPICE MONTH

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Joint Resolution 159 designating the month of November, 1993 and 1994, as the "National Hospice Month," just received from the House; that the joint resolution be read a third time, passed, the preamble be agreed to, that the motion to reconsider be laid upon the table, any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 159) was deemed read the third time and passed.

The preamble was agreed to.

EXTENDING THE AUTHORITY OF THE MARSHAL OF THE SUPREME COURT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 1764, a bill to provide for the extension of authority for the Marshall of the Supreme Court and Supreme Court police introduced earlier today by Senator BIDEN, the bill be read a third time and passed, the motion to reconsider be laid upon the table, any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1764) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

AIR FORCE MEMORIAL ESTABLISHMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 296, H.R. 898 a bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia, the bill be read three times, passed, the motion to reconsider be laid upon the table, that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 898) was deemed read three times and passed.

DANIEL WEBSTER SENATE PAGE RESIDENCE

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of S. 1765 relating to the Daniel Webster Senate Page Residence introduced earlier today by Senators MITCHELL and BAUCUS, that the bill be deemed read three times, passed, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1765) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, Senator Daniel Webster of Massachusetts, one of the five outstanding Senators memorialized in the Senate Reception Room, is best remembered by historians and congressional scholars as the Union's most articulate and passionate defender during the heated sectional controversy that culminated in the Compromise of 1850. His ringing plea for compromise and union, delivered on March 7, 1850, in the old Senate Chamber—crowded to capacity by Senators, Representatives, and members of the public anxious to hear the Senate's most accomplished orator argue his cause, "not as a Massachusetts man, nor as a northern man, but as an American and a Member of the Senate of the United States"—was a selfless and statesmanlike act that helped preserve the Nation for another decade.

Webster entered Congress in 1813, serving two terms as a Federalist representative from New Hampshire. He returned to the House in 1823, as a representative from his adopted State of Massachusetts, where he served until his election to the Senate. During his years in the Senate, from 1827 to 1841 and again from 1845 until he resigned to accept an appointment as Secretary of State in 1850, Webster was a spokesman for the New England wing of the Whig party. Webster and his colleagues, Senators Henry Clay of Kentucky and John C. Calhoun of South Carolina, were the giants of their era—the "Great Triumvirate" of the Senate's golden age.

One of Webster's lesser-known accomplishments, but one of great significance to the modern Senate, was the establishment of the Senate page system. During the late 1820's, Webster secured the appointment of nine-year-old Grafton Dulaney Hanson as the Senate's first page. In 1830, Senator Webster observed 11-year-old Isaac Bassett, on a visit to the Capitol with his father, "running about the Senate Chamber," and asked the youth whether he would like to be appointed a page. The proposal to hire a second page met with considerable opposition from several Senators who believed that one was enough, Bassett later recalled, but Webster's argument that "there should be a page for the Whig as well as the Democratic side of the Chamber" prevailed. Bassett was appointed the Senate's second page on December 5, 1831. From that time to the present, the Senate has continued to appoint pages to assist Senators on each side of the aisle, continuing in the tradition established by Daniel Webster.

FOR THE RELIEF OF NATHAN C. VANCE

Mr. FORD. Mr. President, I ask unanimous consent the Judiciary Committee be discharged and the Senate proceed to the immediate consideration of S. 871, a bill to provide for the relief of Nathan C. Vance, the bill be read the third time, passed, the motion to reconsider be laid upon the table, that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 871) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. SIMPSON. Mr. President, I will be very brief.

I want to thank my colleagues and offer my special appreciation to Senator HOWELL HEFLIN, chairman of the Courts Subcommittee of the Judiciary Committee, and the ranking member, Senator CHUCK GRASSLEY, for moving this legislation.

This legislation is identical to a bill I introduced late in the 102d Congress and which, because of the time constraints, was not reported from the Judiciary Committee.

The tragic Yellowstone forest fire of 1988 devastated Nathan Vance's outfitting business when it burned through his Teton wilderness camp. The fire destroyed essential outfitting equipment, and forced my fine constituent, Nate Vance, to suffer financial losses not only for the equipment, but for lost business. This legislation will partially compensate him for those equipment and other losses—as the Congress had intended to do with the original legislation we enacted following those tragic fires, public law 101-302. The forest fire was a devastating event in Mr. Vance's life—a tragedy compounded by insensitive government wrangling and delays.

The only reason Mr. Vance was not originally compensated for his $4,850 claim is that his application was received less than 24 hours after the cutoff period. But that was not his fault. It is reasonable to assume that it should not take 5 days for a letter to be received in Utah after being sent from Wyoming.

The compensation provided for in this legislation will prove that Congress can be compassionate to individual citizens and that we will not allow government to forget that we are here to serve the people, not to be unfair.

This legislation will require the Forest Service to pay him the appropriate funds now in the Forest Service regional fire budget for an amount representing only his equipment loss. This is only the amount that would have been sensibly approved if the Postal Service had taken 4 days, rather than 5, to deliver his claim from his Wyoming home to the Forest Service regional office in Utah.

Mr. Vance is a fine honest Wyoming citizen who is pursuing the American dream of owning and operating a business. I know Jim. I know his family. This is fair and good. He is entitled to relief and I thank my colleagues for your support in passing this legislation in the U.S. Senate.

I thank the chair.

WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent the Agriculture Committee be discharged from further consideration of S. 778, the Watermelon Research and Promotion Improvement Act of 1993, that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 778) to amend the Watermelon Research and Promotion Act to expand operation of that act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes.

AMENDMENT NO. 1234

(Purpose: To provide a substitute amendment)

Mr. FORD. Mr. President, on behalf of Senator BOREN I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for Mr. BOREN, proposes an amendment numbered 1234.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.
Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.
Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) by adding at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

SEC. 9. DEFINITION OF PRODUCER.

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(l) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

SEC. 10. AMENDMENT PROCEDURE.

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

"SEC. 1655. AMENDMENT PROCEDURE.

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1234) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 778), as amended, was passed as follows:

LIME RESEARCH ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of S. 1766, relating to the Lime Research, Promotion, and Consumer Information Improvement Act introduced earlier today by Senators GRAHAM and MACK, that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table, that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1766) was deemed read the third time and passed, as follows:

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 2330 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on H.R. 2330, the intelligence authorization bill; that the conference report be agreed to; that the motion to reconsider be laid upon the table; and that any statements therein appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

THE CONFERENCE REPORT ON THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. WARNER. Mr. President, I support adoption of the conference report on H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. I wish to commend Senators DECONCINI, NUNN, THURMOND, INOUYE, and STEVENS, whose mutual cooperation in leading the Intelligence Committee, the Armed Services Committee, and the Defense Appropriations Subcommittee ensured effective funding for U.S. intelligence activities for fiscal year 1994. We appreciate also the cooperation we received from our counterparts in the other body.

With the end of the cold war and the dissolution of the Soviet Union and its Warsaw Pact military alliance, the United States had hoped for a new world order with stable and steady progress toward greater democracy, freedom, and free enterprise. What the United States faces in the post-cold-war era, however, is a more chaotic environment with multiple challenges to U.S. interests around the globe.

In an unstable world of diverse and increasing challenges, the need for effective, reliable intelligence capabilities, especially to support our Armed Forces, has grown rather than diminished. Enactment of H.R. 2330 will help build and maintain the intelligence capabilities we need for the future.

For the reasons set forth in the minority views accompanying the intelligence committee report on the original Senate version of the fiscal year 1994 intelligence authorization bill (S. Report. 103-115), I would have preferred a level of funding for intelligence activities higher than the conference recommended. Among other things, such activities are an important force multiplier for our Armed Forces in meeting an increasing variety of challenges. Funding for the full range of Federal activities has grown extremely tight, especially in recent months as Congress has considered fiscal year 1994 funding bills, which is appropriate to protect American taxpayers' interests. It is in this context that I support adoption of the conference report on H.R. 2330.

Within the overall intelligence funding level to which the committee of conference agreed—which must, of course, remain secret—the conference has generally distributed the funding among the various intelligence programs effectively, to maximize the capability achieved from the given level of resources.

Sections 309 and 310 of the conference report on H.R. 2330 relate to section 504 of the National Security Act of 1947, which addresses obligation and expenditure of appropriated funds for intelligence and intelligence-related activities.

BACKGROUND ON SECTION 504 OF THE NATIONAL SECURITY ACT

Section 504 of the National Security Act of 1947 allows obligation and expenditure of appropriated funds for intelligence activities only in three situations. First, the appropriated funds may be used for an intelligence or intelligence-related activity when such use of the funds for the activity has been "specifically authorized by the Congress," a phrase defined in the statute. Second, the appropriated funds may be used for an intelligence or intelligence-related activity when the funds involved are funds appropriated for the CIA reserve for contingencies and the congressional Intelligence and Appropriations Committees have been notified. Third, the appropriated funds may be used for an intelligence or intelligence-related activity if they were specifically authorized by Congress for a different activity and the activity for which they are instead proposed to be used is of higher priority, is based on unforeseen requirements, and the congressional intelligence and appropriations committees have been notified.

The phrase "specifically authorized by the Congress" as defined and used in sections 504 (a)(1) and (a)(3), means specifically authorized by statute, a requirement that cannot be satisfied by notification to and concurrence by committees of Congress. That interpretation is mandated under the constitutional principles enunciated in *INS* v. *Chadha*, 462 U.S. 919 (1983), is supported by the text of the very legislative provision originally adding the provision to the National Security Act, is supported by the legislative history reflected in a statement on the House floor at the time of the adoption of the final version of the legislation in 1985, is supported by the consistent practice of the Congress since then in enacting waivers of section 504(a)(1) as part of appropriations continuing resolutions enacted at the close of fiscal years when the annual intelligence authorization bills had not yet been enacted, and is supported most recently by enactment of section 8152 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139). My statement upon introduction of the Intelligence Authorization Process Adjustment Act (S. 1578), printed in the CONGRESSIONAL RECORD of October 21, 1993, sets this matter forth in further detail.

Provisions of section 504 require notification to appropriate committees of Congress of certain proposed funding transactions. Those provisions were enacted with the understanding that, as a matter of comity between the executive and legislative branches, the concurrence of the committees will be obtained before certain proposed transactions go forward. The statutory requirements in section 504 for advance notification to the committees of Congress are consistent with the Constitution (see *Sibbach* v. *Wilson*, 312 U.S. 1, 24 (1941)). Any theory that a statutory requirement for notification of the congressional intelligence committees in advance of the use of funds for intelligence or intelligence-related activities could in any way be construed as an unconstitutional condition has been considered and is rejected. Such a theory was propounded in the erroneous and recently published July 31, 1989 advisory opinion, addressing never-enacted legislation, by the Assistant Attorney General of the Office of Legal Counsel concerning notification of the intelligence committees of use of funding for certain CIA activities.

I regret that the Intelligence Authorization Act for Fiscal Year 1994 does not include a needed amendment to section 504 of the National Security Act of 1947. The amendment the Senate Select Committee on Intelligence had intended to pursue, which I introduced recently as S. 1578, would have made it legally unnecessary to pursue supplemental intelligence authorization statutes in situations in which funds are appropriated for intelligence or intelligence-related activities in excess of, or in the absence, of authorization of appropriations for such activities.

The legislation I have introduced as S. 1578 to modify section 504 of the National Security Act should be enacted to, first, ensure compliance with the Constitution and laws of the United States in the funding and conduct of intelligence activities; second, preserve the Congress's power of the purse with respect to these sensitive activities; and third, ensure sufficient flexibility for the executive branch in the conduct of intelligence activities.

SECTION 309 OF THE CONFERENCE REPORT

Section 309 of the conference report on H.R. 2330 amends section 307 of the National Security Act of 1947. Section 307 of the National Security Act contains a general statement that there are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of the act. Such general language does not suffice to meet the requirements in section 504 of the National Security Act that, to obligate or expend funds for an intelligence or intelligence-related activity, such funds must be "specifically authorized by the Congress," which means that the amount of funds was authorized by statute to be appropriated for that activity. To make that point explicit in section 307 of the National Security Act, section 309 of the conference report on H.R. 2330 excludes from the scope of section 307 the intelligence provisions of the National Security Act of 1947.

SECTION 310 OF THE CONFERENCE REPORT

Section 310 of the conference report on H.R. 2330 ratifies a transaction proposed to the intelligence committees of Congress by the Director of Central Intelligence on August 16, 1993, relating to the accelerated architecture acquisition initiative of the plan to improve the imagery ground architecture. The Director proceeded with that funding transaction, which involved the transfer of funds. The funds proposed to be transferred had not been specifically authorized by the Congress for purposes of section 504(a)(3) of the National Security Act, because no statute had authorized appropriation of those funds for an activity. Section 310 of the conference report on H.R. 2330 is necessary to ratify that transaction, which otherwise would violate section 504 of the National Security Act.

Transactions prior to the August 16, 1993 transaction which were undertaken based on the mistaken, but good faith, belief that the phrase "specifically authorized by the Congress" in sections 504 (a)(1) and (a)(3) of the National Security Act could be satisfied by notification to and concurrence by committees of the Congress also are intended to be deemed ratified, which protects certifying and disbursing officers.

I urge adoption of the conference report on H.R. 2330.

Mr. DECONCINI. Mr. President, I am pleased to lay before the Senate the conference report on H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. This conference report authorizes appropriations for the intelligence and intelligence-related activities of the Federal Government for fiscal year 1994. These include not only the activities of the Central Intelligence Agency, but also the intelligence activities of the Department of Defense, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Departments of State, Treasury, and Energy, respectively.

Because we were unable to get our bill to the floor until last week, the conferees have had to compress a lot of work into a very short period in order to return this conference report to the floor before adjournment. I want to thank Chairman GLICKMAN, Congressman COMBEST, and the other conferees on the House side for their cooperation. I also want to thank my friend and colleague, Senator WARNER, the distinguished vice chairman of the committee, and the members of our own committee, for the hard work they have put in on this. And, of course, none of this could have been achieved without the extraordinary efforts of the very capable staffs of both authorizing committees.

I think this conference report represents a very solid piece of work. While the funding levels for intelligence are classified by the executive branch, suffice it to say that this year's bill represents a significant reduction in terms of what had been requested by the administration. Last year, Congress cut the intelligence budget by 10 percent. This year we are essentially holding the line at last year's level. We simply cannot continue to take such severe cuts without seriously damaging our capabilities. This conference report takes a sensible, moderate course, which leaves the intelligence community with sufficient resources to do its important work. I commend it to my colleagues.

SENATE ETHICS STUDY COMMISSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 173, a resolution to extend by 2 months the period by which the Senate Ethics Study Commission is to make recommendations to the Senate leadership, introduced earlier today by Senator MITCHELL and the Republican leader, Senator DOLE; that the resolution be agreed to; and that the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 173) was agreed to, as follows:

Resolved, That S. Res. 111, which was adopted May 21, 1993, is hereby amended by striking "December 31, 1993" each place it appears and inserting "March 1, 1994".

COMPREHENSIVE DRUG ABUSE PROGRAM

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1767, a bill to amend the Comprehensive Drug Abuse Program, introduced earlier today by Senators GORTON and LEVIN; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1767) was deemed read the third time and passed as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. LEVIN. Mr. President, today I am introducing legislation that will help curtail a new illegal drug sweeping across the Upper Peninsula of my home state of Michigan. The drug is called Methcathinone, commonly referred to as CAT.

CAT is a highly addictive drug and is a more potent stimulant than cocaine. CAT is made in illegal drug laboratories from ephedrine, an asthma medication that is available as a nonprescription over the counter drug. Other easily obtainable chemicals such as epsom salts, paint thinner, battery acid, and drain cleaner are part of the CAT production process.

The legislation I am introducing today, with my colleague Senator GORTON cosponsored by my colleague from Michigan and my two colleagues from Wisconsin, will stop the illegal use of ephedrine tablets in the production of CAT. It is important to note that this legislation has nationwide significance because ephedrine is also the primary drug used to produce methamphetamine, another potent illegal stimulant which is causing nationwide problems. Representative STUPAK recently introduced similar legislation in the House. The House is expected to vote on this legislation under the suspension calendar tomorrow.

Let me give you a little background on the problem. Michigan law enforcement officials believe the production of CAT first began in 1991. Since then, the problem has grown and is, unfortunately, highly concentrated in the Upper Peninsula. Seventy-five percent of the ephedrine sold in my home State goes to the sparsely populated Upper Peninsula. Since June 1991, 28 methcathinone laboratories have been seized. These labs were located in Illinois, Michigan, Washington, and Wisconsin. The Upper Peninsula Substance Enforcement Team [UPSET], a special unit which handles drug trafficking, has established a five-member unit which is solely dealing with the CAT problem. But even with this focused effort, CAT has begun to spread to Wisconsin and other States.

The Drug Enforcement Administration [DEA] is afraid CAT will spread like wildfire to other states since it is so easy to make and so addicting. We need to stop this drug before it spreads any further.

The main purpose of the legislation I am introducing is to reverse the "legal drug exemption" for ephedrine tablets. Because of a loophole in the Chemical Diversion and Trafficking Act of 1988, ephedrine tablets are exempt because they are an approved drug product under the Federal Food, Drug and Cosmetic Act. Ironically, ephedrine in powder form is not exempt from legal drug exemption and as a result is tightly regulated. My bill will mean ephedrine tablets will be treated in the same way ephedrine powder is treated.

My bill removes ephedrine products from the exemption and grants DEA the authority to remove the legal drug exemption from any other drug products which are diverted to use in the illicit production of controlled drugs. While ephedrine is the only current example of a legal drug being diverted for illicit purposes, if the bill only restricted ephedrine, drug manufacturers could simply combine ephedrine with other products to sidestep the new restrictions. To avoid additional future loopholes, this bill goes beyond restricting ephedrine and ephedrine combination products to ensure that other listed drugs contained in over-the-counter products do not quickly surface as a substitute for ephedrine to make the same type of illicit drug.

The bill also establishes a registration system for firms in the licit distribution chain for ephedrine and other listed chemicals that could be used in the production of illicit drugs to aid in the tracking of the sale of these products. The legislation establishes a registration system for distributors, importers, and exporters of listed chemicals, which are being diverted in the U.S. for the production of illicit drugs. Currently, there is a registration for firms distributing ephedrine powder over a certain threshold. Again, my bill aims to treat ephedrine tablets as ephedrine powder is treated. The registration system is modeled after the system that has been in use to register handlers of controlled substances for 20 years.

It is the DEA's position, with which I fully concur, that the Chemical Diversion and Trafficking Act of 1988 has demonstrated that chemical control and prevention are extremely effective methods of controlling illegal drugs in this country. This is why we must close the loophole for ephedrine tablets and modify the "legal drug exemption" of the Chemical Diversion and Trafficking Act which allows ephedrine tablets to be sold legally over the counter.

Although this type of prevention seems so simple, Congress has let a version of this bill die in the past because it was part of the larger crime bill that failed to pass last year. This year, Senator GORTON of Washington again introduced the Chemical Control Amendments Act, a more comprehensive bill that would control the diversion of a number of chemicals used in the illicit production of controlled substances, including ephedrine. Mr. President, as you know, it was again included as part of this years' crime bill.

That bill may again be delayed as part of the crime bill. But we cannot wait to deal with the CAT problem which is upon us now. We must pass this provision this year, as the House is doing, to move toward solving the ephedrine drug problem. I am introducing this bill to close the "legal drug exemption" loophole as it pertains to ephedrine tablets specifically—as well as other drugs which are illegally diverted for the Illicit production of contraband—because of the immediacy and urgency of the CAT problem.

I have a letter from the Administrator of the Drug Enforcement Administration supporting this legislation. It says "The Department [of Justice] and the DEA fully support your effort and will work with you to secure swift passage of this critical legislation during this Congress." I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER, with no objections, it is so ordered.

(See Exhibit 1)

Mr. LEVIN. We cannot stand idly by and let the restriction of ephedrine become bogged down in the debate over the crime bill. We must act quickly and address this problem head on. I am introducing this legislation in the hope that speedy passage will result in the cessation of the production of CAT which is particularly claiming victims in the Upper Peninsula of my home State of Michigan. Its poisonous effects will be felt throughout the country unless stopped now.

Mr. President, I urge my colleagues to join me in moving quickly to end this recent diversion of ephedrine to make illicit drugs. We need to stop this drug in its tracks.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, October 14, 1993.
Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I am aware of your concern about the illicit manufacture of methcathinone, ("cat" as it is called on the street), and the severe health consequences resulting from its abuse. Nowhere is this more true than in Michigan, especially on the Upper Peninsula.

Members of your staff have discussed how to address the "cat" problem with the Drug Enforcement Administration (DEA). The most effective method to lessen the supply of methcathinone is to sharply curtail the availability of ephedrine, a key chemical ingredient needed to manufacture the drug.

I understand that you will be proposing legislation that will address this issue. As you know, the Department of Justice supported a provision to this effect that was included in the Violent Crime Control and Law Enforcement Act of 1991. The Department and DEA fully support your efforts and will work with you to secure swift passage of this critical legislation during this Congress. I can also assure you that DEA will be working with the appropriate agencies to educate the public about the severe health effects caused by the abuse of methcathinone. Hopefully these efforts will reduce the demand for this illicit substance and will impact positively on the supply.

I look forward to working with you on this matter. I am confident that our efforts can successfully reduce the availability and abuse of methcathinone.

Very truly yours,

ROBERT C. BONNER,
Administrator of Drug Enforcement.

Mr. GORTON. Mr. President, I am delighted with tonight's passage of the Domestic Chemical Diversion Control Act of 1993 to control the diversion of certain chemicals used in the illicit production of controlled substances, and provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals. In short, this bill will provide law enforcement with the tools they need to combat the deadly spread of methamphetamine or "ice," and a relatively new illegal drug that is spreading called "cat" or methcathinone.

After years of effort, we have arrived at a noncontroversial proposal that is supported by Republicans and Democrats, chemical manufacturers, nonprescription drug manufacturers, the Drug Enforcement Administration, and local law enforcement agencies. Tonight's action could not have been possible without the bill's cosponsor, Senator LEVIN. Through his dedication to eradicate the vicious plague of methcathinone in Michigan's Upper Peninsula, we have expedited passage of this measure which is nearly identical to a measure which was incorporated into the crime bill which passed yesterday.

We are familiar with the devastating effect of crack cocaine on our society. Less known is the widespread use and destructive capability of "cat" and "ice"—which is to methamphetamine what crack is to cocaine. By many accounts, ice is far more devastating than crack and users are more violent. Users stay high for a longer period of time, usually from 16–18 hours, and sometimes for several days. Furthermore, "ice" can be produced almost anywhere, but most commonly in clandestine laboratories, known to many law enforcement officials as kitchens of death.

Over 80 percent of all clandestine laboratories seized involved the production of methamphetamine. The clandestine laboratory problem is one involving the production of synthetic drugs—that is, methamphetamine, amphetamine, LSD, PCP, et cetera—which are produced from precursor chemicals. A precursor chemical is one which is actually incorporated into the molecule of the final drug product. Ephedrine is a precursor for methamphetamine since it becomes part of the methamphetamine molecule and ephedrine is the most commonly used precursor used to produce methamphetamine.

From 1981 to 1988, the Drug Enforcement Administration reported a 400-percent increase in the number of seizures of clandestine labs. In late August 1989, the Chemical Diversion and Trafficking Act [CDTA] went into effect and this trend was immediately reversed. The Chemical Diversion and Trafficking Act of 1988 was the first comprehensive legislative effort by a major nation to control the diversion of chemicals as an element of its effort to deal with the illicit drug problem. The CDTA demonstrated that this is an effective approach to drug control which can be implemented with modest administrative burdens to Government and industry. Laboratory seizures declined to 521 in 1990 and to 375 in 1991. This decline has validated the effectiveness of chemical control as a law enforcement tool.

Two major weaknesses in the approach of the CDTA need to be remedied, however, if this success is to continue. The first is the legal drug exemption, set out at title 21, United States Code, section 802 (39)(A)(iv), which exempts a drug product which contains a listed chemical from the provisions of the act. The listed chemicals most affected by this provision are ephedrine, pseudoephedrine, and phenylpropanolamine, each of which is used in various over-the-counter [OTC] and prescription drug products.

Meanwhile, cooks, the operators of clandestine labs, continue to evade law enforcement and the spread of ice continues, particularly in the western United States. In their wake, these chemical drug lords leave destroyed lives, terrorized communities, and toxic remains. In fact, the health risks posed by the hazardous wastes of abandoned clandestine laboratories present nearly as serious a problem as the production of the drugs.

The plague of meth labs is due to the availability of legal chemicals that operators divert to produce illegal drugs. One option would be to treat these legal chemicals as controlled substances and forbid their production for any purpose. However, that would preclude the availability of the thousands of products that we take for granted every day. The challenge is to find a method to control the diversion of legal chemicals without affecting the commerce of valuable and legal over-the-counter products.

Specifically, the bill would provide for the following:

It eliminates the terms "precursor chemical" and "essential chemical" and replaces them with "list I chemical" and "list II chemical." This allows the DEA to focus control on the nature of the diversion and use of the chemical rather than its status as a precursor or essential chemical. It also allows the DEA to transfer chemicals between lists if circumstances warrant greater or lesser control. In addition, this section makes U.S. chemical control law consistent with international nomenclature, expands the definitions of "regulated person" and "regulated transaction" to include brokers and traders, and modifies exemption for chemical mixtures to be consistent with the 1988 U.N. Convention.

This bill also modifies the legal drug exemption. Specifically, it removes the exemption for products in which ephedrine is only active medicinal agreement in therapeutic amounts. The DEA may remove by regulation the exemption for other drugs containing listed chemicals if it is determined that they are being diverted. In addition, this section contains specific criteria for determining that a drug containing a listed chemical is being diverted. Finally, manufacturers may apply to retain exemption for specific drug products if they can demonstrate that the drug product is manufactured and distributed in a way which prevents diversion.

The measure provides for registration requirements for list I chemicals and applies to all distributors, importers, and exporters of list I chemicals. The requirements parallel those for registration to handle controlled substances. Those include the authority to revoke or deny based on public interest grounds as well as traditional grounds, immediate suspension in cases of imminent danger to the public health or safety, and criminal penalties for distribution, importation, or exportation without required registration. Registration is not required for distribution, importation, or exportation of drug products containing list I chemicals covered by the legal drug exemption.

It also provides for the reporting of listed chemical manufacturing. All manufacturers will be required to submit annual reports on the total quantity of listed chemicals produced during the year. This reporting requirement does not apply to the manufacture of drug products containing list I chemicals covered by the legal drug exemption.

In addition brokers and traders are required to have the same recordkeeping and reporting requirements for international transactions as exporters and subjects them to the same criminal sanctions.

This bill also allows DEA to apply a target approach to export controls. Exports of some chemicals to certain countries—such as cocaine processing chemicals to the Andean countries—may be subject to 15-day advance notice even if the shipment is destined for a regular customer. Exports of some chemicals to certain countries—such as solvents to Canada—would not require 15-day advance notice even if the customer is not a regular customer.

This section also authorizes the DEA to reduce controls on the importation of specified chemicals by modifying or eliminating the advance notice requirement. A specific criminal penalty is added for individuals who attempt to evade reporting requirements by falsely claiming that a shipment is destined for a country for which a waiver of this requirement has been established. A specific criminal penalty for smuggling of listed chemicals is added.

Another section provides for administrative inspections and authority. DEA's inspection authority is presently limited to places where records required under the CDTA are maintained. This will expand this authority so that DEA will have the same inspection authority for listed chemicals as it presently has for controlled substances.

Obviously, this legislation when enacted into law will have a dramatic effect on the pursuit of meth lab operators and the destruction of clandestine laboratories. Indeed, perhaps it should be referred to as the "Ice Breaker Act of 1993." It is the culmination of years of effort, patience, dedication, and hard work by the Drug Enforcement Administration, the Chemical Manufacturers Association, and the Nonprescription Drug Manufacturers, and I commend them for their commitment to good public policy.

STEWART B. MCKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 313, S. 1523, a bill to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1523) to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1235

(Purpose: To make technical amendments)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senators KENNEDY and KASSEBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) for Mr. KENNEDY, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 1235.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 5(a) of the bill, strike "11422" and insert "11432".

In section 5(b) of the bill, strike paragraph (3) and insert the following:

(3) in paragraph (2)—

(A) by striking "(2)" and all that follows in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (A) through (O) as paragraphs (2) through (16), respectively; and

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following new paragraph:

"(1) the provision of tutoring, remedial education services, or other education services to homeless children or homeless youths;"; and

Strike section 6 of the bill and insert the following:

SEC. 6. JOB TRAINING FOR THE HOMELESS.

(a) REPORT.—Section 736(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11446(a)) is amended by striking "the termination date specified in section 741" and inserting "the end of the last fiscal year specified in section 739(a)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of such Act (42 U.S.C. 11449(a)) is amended by inserting after paragraph (3), the following new paragraph:

"(4) Such sums as may be necessary for fiscal year 1994.".

(c) REPEAL.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1235) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOUTH AFRICAN DEMOCRATIC TRANSITION SUPPORT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3225, the South African Democratic Transition Support Act; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3225) was deemed read the third time and passed.

Mrs. KASSEBAUM. Mr. President, I rise today in strong support of H.R. 3225, the South African Democratic Transition Support Act. This legislation is nearly identical to a bill which passed the Senate on September 24, and I am pleased that the House of Representatives has acted on this important bill this session.

I would like particularly to commend Congressman JOHNSTON, chairman of the Africa Subcommittee, who sponsored H.R. 3225, as well as Congressman MFUME, chairman of the Congressional Black Caucus, who played an important and constructive role in drafting this legislation.

Mr. President, in 1986 Congress passed the Comprehensive Anti-Apartheid Act, overriding the veto of President Reagan. The debate over South African sanctions divided the Congress and much of the country. For many of us, the decision to impose sanctions was a difficult one. Sanctions are a blunt tool with questionable effects in most cases.

But I firmly believe that the situation in South Africa had reached the point where clear and firm international action was required. Attempts to influence the actions of the South African Government through diplomacy had had little impact. In fact, in late 1985 and early 1986, Pretoria appeared to be stepping up its policy of repression. At the time, I feared for the future of South Africa—which appeared on a path to civil war—and held little hope that lasting democratic change would come in my lifetime.

Yet, today South Africa stands on the brink of a new future. Nelson Mandela is free, leading the African National Congress in democratic elections planned for April 27. On Wednesday, South Africans finalized agreement on an interim constitution. This document will form the framework for a new South Africa, where basic human rights and liberties are guaranteed for all people—regardless of skin color.

Mr. President, the legislation we are passing today repeals all the remaining Federal economic sanctions against South Africa. It rescinds the Comprehensive Anti-Apartheid Act. It ends United States opposition to IMF loans for South Africa, removes restrictions on Export-Import Bank lending, and allows South Africa to apply for preferential trade benefits.

Today the Congress sends a signal to South Africans. We welcome you back into the international community. The days of isolation and sanctions are over, and we stand ready, as partners, to support your efforts to create a new, democratic and nonracial nation.

The coming months stand as a critical testing period for the future of South Africa. I look forward to working with the administration and other Members of Congress developing a bold and creative United States policy toward South Africa which supports the democratic transition, particularly in the important period after the elections.

Mr. President, on Wednesday the chair of the constitutional negotiations, Justice Ismail Mohamed, poignantly expressed the hopes of all South Africans:

> The dawn has finally begun to break for a nation which has for so long so painfully and torturously wrestled with its own soul. No force can now stop or even delay our emancipation from the pain and the shame of our racist past.

VEHICLE DAMAGE DISCLOSURE ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 324, S. 431, Vehicle Damage Disclosure and Consumer Protection Act of 1993; that the committee amendments be agreed to; that the bill, as amended, be read three times, passed; that the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any relevant statements appear in the RECORD appear as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 431) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. GORTON. Mr. President, I am pleased that the Senate has passed S. 431, the Vehicle Damage Disclosure Act. I sincerely appreciate Senator EXON's willingness to include several provisions of legislation I introduced in his bill. While Senator EXON's legislation addresses the problem of salvage fraud head on, we have worked together to include provisions of my legislation, S. 1232, which addresses the equally menacing problem of lemon fraud. Together, I believe that these measures will go a long way in protecting the interests of America's used car consumers.

Used car fraud occurs because of a lack of uniformity in State titling laws. States typically brand the titles of vehicles which have been salvaged, or which have been deemed lemons. However, current law does not require States to carry forward these title brands from one State to the next. Whether or not these cars have been adequately repaired, scheming individuals can move these cars to a different State and get a new title free of the salvage or lemon title brand. In too many cases, unknowing consumers end up driving a car that may have serious problems which may endanger their safety. To make matters worse, consumers also end up paying more for these cars than they were worth.

S. 431 corrects this problem by requiring States to carry forward other States' salvage on lemon title brands. It will close the loophole which is allowing used car fraud to occur. In addition, this legislation contains an important provision which will require the Department of Transportation to draft minimum uniform standards for titles of content. S. 431 also requires the Department of Transportation to conduct a study on how to provide expanded consumer disclosure of lemon vehicles.

Our greatest safeguard against consumer fraud is education. When people are able to make decisions with all the facts and pitfalls in clear view, they are no longer defenseless, and certainly less vulnerable. The Vehicle Damage Disclosure Act will allow consumers to make informed decisions about their used car purchases—and importantly, it will combat the deceptive and menacing problem of used car fraud. I applaud the Senate's willingness to adopt this important legislation.

Mr. PRESSLER. Mr. President, I rise to express my strong support for S. 431, the Vehicle Damage Disclosure and Consumer Protection Act of 1993.

Every day, Americans unknowingly purchase new or used automobiles that have previously sustained structural damage. If repaired improperly, the consumer faces the risks of serious injury, or even accidental death, as well as increased economic burdens for medical expenses, automobile repair costs, and even legal expenses. To prevent such consumer fraud and personal risk, the damage history of vehicles should be made available to prospective purchasers.

Currently, there is no uniform national law requiring disclosure of major automobile damage when the title is transferred. As a result, many consumers own vehicles with fraudulent titles—titles that have been cleaned up to falsely reflect damage history. This is known as automobile title washing.

Title washing costs consumers nearly $3 billion each year. The root of this problem is simple: Each State treats damaged vehicles differently. With diverse State laws, car owners or sellers can transfer old titles interstate. The interstate transfer acts as a cleanser on auto titles—it cleans the slate so that the title no longer reflects previous damage. These clean titles put devious car dealers at ease, but put the car buyer at risk. S. 431 is designed to alleviate such fraudulent actions.

Mr. President, I want to commend the senior Senator from Nebraska, Senator EXON, for his leadership on S. 431, the Vehicle Damage Disclosure and Consumer Protection Act. S. 431 would ensure that prospective purchasers know what they are purchasing.

S. 431 would instruct the Secretary of Transportation to develop rules for State certificates of title to be branded for 'salvage', 'junk', 'reconstructed', 'rebuilt' or 'flood'. Further, S. 431 contains several provisions that I offered during committee consideration.

First, the Secretary of Transportation would be instructed to study and develop recommendations concerning whether, in order to maximize consumer protection, a disclosure of the dollar value of damage to a motor vehicle should be included on the certificate of title. To clarify, the dollar-based damage disclosure would be considered for cases in which the vehicle has not been declared a total loss nor has the title been previously branded for damage.

This provision is based on South Dakota's damage disclosure law, one of the most comprehensive automobile damage disclosure laws in the Nation. While I would have preferred the Senate was acting on my bill, S. 485, the Automobile Damage Consumer Protection Act, which also is based on South Dakota's damage disclosure law, I am confident that Secretary Pena will realize the importance of dollar-based damage disclosure. In my judgement, dollar-based damage disclosure provides necessary consumer protection and information to would-be vehicle purchasers.

Second, S. 431 contains a provision that instructs the Secretary of Transportation to prescribe minimum standards and procedures relating to the disclosure by a State on a vehicle certificate of title that a vehicle has sustained severe damage. The intent of the provision is to ensure that the structural damage to a vehicle that could affect that vehicle's safety or mechanical soundness would be disclosed on the certificate of title. Also, by prescribing minimum standards, we are acknowledging that some states, such as the State of South Dakota, already have developed comprehensive automobile damage disclosure laws.

Mr. President, consumers should be aware of a vehicle's prior structural damage in order to be able to make an informed purchase. Damage disclosure is an important factor in evaluating the value and safety of a vehicle, as well as deterring vehicle theft. In short, S. 431 would promote the safety—both economic and physical—of our traveling public.

MEASURE READ FOR FIRST TIME—S. 1757

Mr. FORD. Mr. President, I understand that S. 1757 was introduced earlier today; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

bill (S. 1757) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

Mr. FORD. Mr. President, I ask that the bill be read a second time.

Mr. MURKOWSKI. Mr. President, the Senator from Alaska must object.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time on the next legislative day.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 102–521, appoints the following individuals to the Commission on Child and Family Welfare: James C. Dobson, of Colorado, Cynthia Gulley Wiedemann, of Texas.

ORDERS FOR MONDAY, NOVEMBER 22, 1993

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 4 p.m. Monday, November 22; that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date; that the call of the Calendar be waived and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that immediately following the announcement of the Chair, the Senate proceed to a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 22, 1993, AT 4 P.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand in adjournment until 4 p.m., Monday, November 22, as previously ordered.

The motion was agreed to, and at 10:04 p.m., the Senate adjourned until Monday, November 22, 1993, at 4 p.m.

NOMINATIONS

Executive nominations received by the Senate November 20, 1993:

DEPARTMENT OF ENERGY

CHARLES B. CURTIS, OF MARYLAND, TO BE UNDER SECRETARY OF ENERGY, VICE HUGO POMREHN, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM BOOTH GARDNER, OF WASHINGTON, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE MICHAEL H. MOSKOW, RESIGNED.

DEPARTMENT OF JUSTICE

JANICE MCKENZIE COLE, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS, VICE MARGARET P. CURRIN, RESIGNED.

JAMES HOWARD BENHAM, OF IDAHO, TO BE U.S. MARSHAL FOR THE DISTRICT OF IDAHO FOR THE TERM OF 4 YEARS, VICE MICHAEL L. JOHNSON.

MICHAEL HAYES DETTMER, OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS, VICE JOHN A. SMIETANKA.

SAUL A. GREEN, OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS, VICE STEPHEN J. MARKMAN, RESIGNED.

STEPHEN LAWRENCE HILL, OF MISSOURI, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF MISSOURI FOR THE TERM OF 4 YEARS, VICE JEAN PAUL BRADSHAW, II, RESIGNED.

ALAN D. LEWIS, OF PENNSYLVANIA, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF 4 YEARS, VICE THOMAS C. RAPONE.

RAIMON L. PATTON, OF TENNESSEE, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS, VICE CHARLES F. GOGGIN III.

JOHN MARSHALL ROBERTS, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS, VICE ERNEST W. WILLIAMS.

DEPARTMENT OF STATE

ESTHER PETERSON, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

U.S. INFORMATION AGENCY

JOHN P. LOIELLO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE DIRECTOR OF THE U.S. INFORMATION AGENCY, VICE WILLIAM P. GLADE, RESIGNED.

DEPARTMENT OF TRANSPORTATION

T.R. LAKSHMANAN, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION, FOR THE TERM OF 4 YEARS EXPIRING JUNE 14, 1996. (NEW POSITION.)

NATIONAL SCIENCE FOUNDATION

SHIRLEY MAHALEY MALCOM, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1998, VICE JAMES B. HOLDERMAN, RESIGNED.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

STUART E. WEISBERG, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 1999, VICE DONALD G. WISEMAN, TERM EXPIRED.

DEPARTMENT OF DEFENSE

STEPHEN C. JOSEPH, OF MINNESOTA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ENRIQUE MENDEZ, JR., RESIGNED.

JOSHUA GOTBAUM, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE LOUIS A. WILLIAMS, RESIGNED.

RICHARD F. KEEVEY, OF NEW JERSEY, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF DEFENSE, VICE SEAN C. O'KEEFE, RESIGNED.

STEPHEN M. RYAN, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, VICE SUSAN J. CRAWFORD.

DEPARTMENT OF THE TREASURY

MARY ELLEN WITHROW, OF OHIO, TO BE TREASURER OF THE UNITED STATES, VICE CATALINA VASQUEZ VILLALPANDO.

FEDERAL EMERGENCY MANAGEMENT AGENCY

CARRYE BURLEY BROWN, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION, VICE OLIN L. GREENE, JR., RESIGNED.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1994, VICE JAMES B. WERSON, TERM EXPIRED.

DANNY K. DAVIS, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1996, VICE JAMES C. KENNY, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

FRED W. GARCIA, OF COLORADO, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE HERBERT D. KLEBER, RESIGNED.

ROSE OCHI, OF CALIFORNIA, TO BE ASSOCIATE DIRECTOR FOR NATIONAL DRUG CONTROL POLICY, VICE KAY COLES JAMES, RESIGNED.

DEPARTMENT OF COMMERCE

PHILIP G. HAMPTON II, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS, VICE JEFFREY M. SAMUELS, RESIGNED.

SUSAN G. ESSERMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE ALAN M. DUNN, RESIGNED.

U.S. INTERNATIONAL TRADE COMMISSION

LYNN M. BRAGG, OF MARYLAND, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2002, VICE ANNE E. BRUNSDALE, TERM EXPIRED.

RESOLUTION THRIFT COMMISSION

ROBERT C. LARSON, OF MICHIGAN, TO BE A MEMBER OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD FOR A TERM OF 3 YEARS. (REAPPOINTMENT)

NATIONAL LABOR RELATIONS BOARD

FREDERICK L. FEINSTEIN, OF MARYLAND, TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD FOR A TERM OF 4 YEARS, VICE JERRY M. HUNTER.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 20, 1993:

DEPARTMENT OF STATE

ROBERT GORDON HOUDEK, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ERITREA.

MARK GREGORY HAMBLEY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

LESLIE M. ALEXANDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MAURITIUS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL AND ISLAMIC REPUBLIC OF THE COMOROS.

DAVID P. RAWSON, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

EDWARD P. DJEREJIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

VICTOR L. TOMSETH, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

THEODORE E. RUSSELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

NICHOLAS ANDREW REY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF

THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

EDWARD ELLIOTT ELSON, OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

MARC CHARLES GINSBERG, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

MARTIN L. CHESHES, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOHN F. HICKS, SR., OF NORTH CAROLINA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF COMMERCE

SUE E. ECKERT, OF RHODE ISLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

EXPORT-IMPORT BANK OF THE UNITED STATES

MARTIN A. KAMARCK, OF MASSACHUSETTS, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM OF 4 YEARS EXPIRING JANUARY 20, 1997.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DWIGHT P. ROBINSON, OF MICHIGAN, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JEANNE HURLEY SIMON, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997.

FEDERAL AVIATION ADMINISTRATION

LINDA HALL DASCHLE, OF SOUTH DAKOTA, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

MARTHA CRAIG DAUGHTREY, OF TENNESSEE, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

THOMAS M. SHANAHAN, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA.

DAVID G. TRAGER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

LAWRENCE L. PIERSOL, OF SOUTH DAKOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA.

DAVID W. HAGEN, OF NEVADA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.

CLAUDIA WILKEN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CALIFORNIA.

GARY L. LANCASTER, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

DONETTA W. AMBROSE, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

WILKIE D. FERGUSON, JR., OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

CHARLES A. SHAW, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

HARRY F. BARNES, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

REGINALD C. LINDSAY, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

PATTI B. SARIS, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

ALLEN G. SCHWARTZ, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

RICHARD G. STEARNS, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

RAYMOND A. JACKSON, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

JOANNA SEYBERT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

HENRY LEE ADAMS, JR., OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

SUSAN C. BUCKLEW, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

U.S. POSTAL SERVICE

EINAR V. DYHRKOPP, OF ILLINOIS, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2001.

U.S. INFORMATION AGENCY

MARIAN C. BENNETT, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, U.S. INFORMATION AGENCY

DEPARTMENT OF LABOR

CHARLES C. MASTEN, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR.

DEPARTMENT OF STATE

NELSON F. SIEVERING, JR., OF MARYLAND, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

JOHN B. RITCH III, OF THE DISTRICT OF COLUMBIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS AND DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

POSTAL RATE COMMISSION

GEORGE W. HALEY, OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING OCTOBER 14, 1998.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING CURTIS WARREN KAMMAN, AND ENDING THOMAS W. YUN, M.D., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 5, 1993.

FOREIGN SERVICE NOMINATIONS BEGINNING BRUNO J. CORNELIO, AND ENDING RICHARD R. RIES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 21, 1993.

HOUSE OF REPRESENTATIVES—*Saturday, November 20, 1993*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray for strength, O gracious God, strength to do our duty and to accomplish the works of justice and mercy. When we think of power we so quickly think of the power of the sword or the power of coercion or constraint. Remind us again and again, O God, of the power of the spirit, that spirit that allows people to stand above the common level of life, to walk through the valley of the shadow, to know and experience sacrifice and love, to forgive and be reconciled one with another. For the gift and the power of the spirit, we offer this prayer of thanksgiving and praise. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 914. An act to amend the Wild and Science Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes, and

H.R. 2650. An act to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the national wild and scenic rivers system.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 698. An act to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 24. An act to reauthorize the independent counsel law for an additional 5 years, and for other purposes;

S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes;

S. 1299. An act to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes;

S. 1670. An act to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes; and

S. 1685. An act to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority- and women-owned banks by the Bank Deposit Financial Assistance Program.

CLINTON HEALTH CARE PLAN

(Ms. ESHOO asked and was given permission to address the House for 1 minute.)

Ms. ESHOO. Mr. Speaker, I rise as a proud original cosponsor of the President's health care plan which is being introduced today.

Our health care system is clinging to a life support system and needs intensive care—not cosmetic surgery.

The President's plan is an excellent place to start this operation.

It is time to move away from the NAFTA war room and into the health care delivery room.

With this in mind, I urge all my colleagues who are serious about health care reform—no matter which plan they support—to vote against the Penny-Kasich amendment.

By claiming over $40 billion in potential Medicare savings for deficit reduction, this amendment seriously damages any effort to overhaul the health care system.

The President's plan, the Cooper plan, the Chafee plan, and the Gramm plan all rely on savings in Medicare to pay for health reform.

So those who truly want health care reform and plan to support the Penny-Kasich amendment had better be prepared to raise taxes to pay for it.

Mr. Speaker, I urge my colleagues to defeat this misguided proposal. It is a turkey and it is Penny wise and Kasich foolish.

AMERICAN AIRLINES FLIGHT ATTENDANT STRIKE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, American Airlines flight attendants are on strike. These flight attendants were told either take the deal or leave it. They were also told by American Airlines if you do not come back to work, and if you do not stop this strike you will lose your job and we will replace you. Understand?

Shame on Congress. Congress passes jobs bills for Mexico and unemployment bills for American workers. Congress passes free trade with Mexico and did not even address in that bill the striker replacement law that concerns the fears of the American workers. This is unbelievable.

Take it or leave it. That is the new workplace environment for the American worker.

Shame on Congress. Shame on the White House.

AN ODE TO THE FIRST SESSION OF THE 103D CONGRESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, in the spirit of the coming holidays, I would like to comment a little on where I think we are in the House.

Mr. Speaker, twas the weekend before recess, and all through the House
Not a reform was stirring, not even for the House.
The votes were hung by the well with care,
In hopes that Adjournment would soon be here.
We waited and worried, and wasted our time,
All with the expectation we'd do nothing on crime.
We ranted and raved and talked about cuts,
For we knew in the end, it would all be a bust.
On Kasich, On Penny, we heard on the air,
We need spending cuts, it would be only fair.
But the President and Speaker worked through the night,
The cuts must be stopped, for that they would fight.
And so in the end, as we all go on Vacation,
With the public quite tired of all our orations,
The question will be answered as it has in the past,
When it comes to cost cutting, the Majority does it last.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PENNY-KASICH NOT A GOOD DEAL

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, you know in my 19⅓ years I have been in the Congress, my greatest fear is the end of any session of Congress, because we do some of the dumbest things.

Now the Penny-Kasich bill sounds good because we are cutting, and we all want to cut. But it does some things that just do not make good sense.

For instance, we are going to again cut in the administration of the Social Security. We are not doing continuing disability reviews as it is throughout the country, so we are going to again cut, and we are going to have fewer people doing the continuing disability reviews, and we are losing over $1 billion now because there are people collecting disability that are not entitled to. And we do not have the personnel to reach them. So at the front end of the disability system we are not processing claims. People are dying before we reach them. And at the back end of the system we have people, unfortunately, who are collecting disability that are not entitled to disability.

We are also cutting COLA's for employees once again. After we have promised them pension and COLA's, we are going to cut, we are changing the rules in midstream.

Finally, we are going to put older Americans' programs together with children's programs. I say to my colleagues, we are going to have the young and the old fighting over food and other things. We are not doing a very good job in providing resources for either program now, but we are going to create more of an intergenerational fight by putting those together.

It does not make sense. Vote against Penny-Kasich. It is not good policy.

BRING PENNY-KASICH TO THE FLOOR

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I had a canned 1-minute I was going to read here this morning, but I don't think I will. I just want to say something to my good friend, the gentleman from New Jersey [Mr. HUGHES] whom I really respect. He said that everybody wants to cut the budget, but we cannot cut with Penny-Kasich because there are some bad things in that package.

But, Mr. Speaker, I will be leading a fight upstairs in the Rules Committee in about an hour to bring the Penny-Kasich bill down to the floor with an open rule. We Republicans want everybody to have their opportunity, including the gentleman from New Jersey, to take out of Penny-Kasich those cuts they do not like and put in other cuts they do like.

We all want to cut, the gentleman said, and I agree with him. And I know he is sincere. Let us bring Penny-Kasich down here under an open rule. We have nothing else to do today. We are going to sit around here treading water for about 8 hours doing nothing. We could really debate that bill, and we could have the House work its will and make some meaningful cuts.

A $250 billion tax hike was passed earlier this year, and now we evidently cannot cut spending by a measly $90 billion.

□ 1010

Something is wrong. Come on, join us. Let us bring it to the floor under an open rule, and let us debate it.

VOTE ON EMERGENCY UNEMPLOYMENT COMPENSATION BEFORE ADJOURNMENT

(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, I rise today to strongly urge this House to vote on the emergency unemployment compensation conference report, before we adjourn this year.

In our initial vote on extending benefits, we voted wisely and compassionately to provide strength and hope to more than 8½ million people who search for jobs. Over 1 million are directly affected by this bill. But we have delayed over 5 weeks on final passage of these benefits that are emergency benefits.

This demonstrates unconcern for the families who will be sustained by these benefits while searching for work, and that is unacceptable. Over the next 2 months, without this bill, over 500,000 individuals will lose their benefits.

If we ignore our responsibility to vote on this bill, we will abandon jobless families, while we escape for a holiday.

As each of us sit down to a holiday meal, there will be thousands of jobless families whose benefits ran out weeks ago.

Do not ignore the families depending upon us. Let us vote on unemployment benefits extension before we leave.

PENNY-KASICH

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, a vote on the Penny-Kasich amendment, which will cut $90 billion over 5 years, has been postponed until next Monday.

Apparently, the Democrat leadership is afraid this amendment might very well pass and be enacted into law. In fact, the White House is lobbying hard to defeat this amendment, which would cut only 1 cent on the dollar over the next 5 years.

Once again, the Democrats would rather cut spending last.

Well, Mr. Speaker, the American people are tired of business as usual. They want the Congress and the President to work together to cut Government spending first.

Unfortunately, the President would rather talk first, promise first, or spend first. He'd rather not cut spending first.

And now, the vote on the Penny-Kasich amendment is being delayed until the President can gear up his lobbying effort to derail this amendment.

Is this really what the American people want from their Government? I don't think so.

They want to cut Government spending first, not last.

BRADY BILL DERAILED AGAIN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the filibuster did it again. How tragic to open this morning's paper and find that one more time the Brady bill has been derailed.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman will state his parliamentary inquiry.

Mr. SENSENBRENNER. Is it in order to comment on proceedings in the other body?

The SPEAKER pro tempore. The gentleman's point is noted. Legislative proceedings can be referenced in this body about the Congress, but not characterizations of the other body.

The gentlewoman from Colorado may proceed.

Mrs. SCHROEDER. Mr. Speaker, this body took this issue on and realized how very important the waiting period really was. We sent it over, and we had hoped so much that that could happen.

I think it is very sad when we constantly see that you have to have a super-majority to get things through. There is no longer a regular majority that will do it.

That had been really part of the guts of what we were trying to do to get crime under control in this country, to put together this national network to be able to check people before they ran in and bought handguns.

Unfortunately, today we hear one more time that bill has been derailed.

THE TOP 10 LIST

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, from the home office in Ottawa, Canada, the top 10 reasons the President opposes the Kasich-Penny spending cuts amendment:

No. 10. Starve a cold, feed a deficit.

No. 9. The deficit not really a big problem.

No. 8. Can't decide if it's Kasick or Kasitch

No. 7. I'm sick and tired of this bipartisan stuff.

No. 6. Penny here and Penny there, and pretty soon your talking real money

No. 5. AL GORE, what a guy.

No. 4. Won't support any document taller than his Labor Secretary.

No. 3. Joey Buttafuco.

No. 2. You weren't serious about this spending cut thing, were you?

And the No. 1 reason the President opposes the Kasich-Penny Spending cut amendment is:

No. 1. We don't need no stinking spending cuts.

PASS THE BRADY BILL BEFORE THANKSGIVING

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, gun control and the Brady bill were mugged and assaulted last night. I am angry. I know that millions of Americans are just as angry.

In the dead of night, the NRA and their supporters have once again assaulted the will of millions of Americans; in the dead of night, filibustering the will of the American people; in the dead of night filibustering the safety of our children; in the dead of night, filibustering the wishes of our brave law-enforcement officers to be protected from the rampant guns that are throughout our society.

This is not a victory. This is a terrible defeat for our people, for our country, for our police, and the filibuster has prevented real votes from coming to the floor.

I would urge that this Congress stay in session until we can get a vote and send the Brady bill to the President's desk before Thanksgiving.

TARGET THE REVOLVING-DOOR CRIMINALS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, law-enforcement officials and the American public want effective control of the thug, the criminal—8 percent or 9 percent of the crimes in this country are committed time and time again by the same recidivist, repeat offenders, violent offenders.

That is what law-enforcement officials and the American public generally want to see targeted in this anxiety to control crime. What the American public hates to see is a convicted criminal in court let loose and out on the streets again on a technicality. What the American public and law-enforcment writhe in their seats to see happen is a death-row resident time and time again appealing and preventing the ultimate justice.

The people and the law-enforcement officials hate to see three-time felons receive a spanking rather than life imprisonment. These are what we have to dwell on.

We must target the recidivist, revolving-door criminals and put them away for a long time to come. That is what law-enforcement officials and the American public want.

PENNY-KASICH AMENDMENT IS UNFAIR

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, let us talk about hypocrisy and the Penny-Kasich amendment. Days after voting to spend tens of billions on the unfunded NAFTA agreement, and pledging to retrain workers who lose their jobs because of it, many NAFTA supporters are now calling for deficit reduction. They did not care to fund NAFTA; now they want to cut programs that help Americans. In the name of deficit reduction, they are willing to cut worker retraining programs by lowering the discretionary caps, and put the burden of that deficit reduction on the backs of working men and women.

We were told the Penny-Kasich cuts would reduce spending by over $100 billion: now we are told it is $90 billion. How did we get from $100 billion to $90 billion? I will tell you how, by playing the game the way its always been played in Washington. Things have not changed. They manipulated the numbers to gain public support, and cut deals to pull in votes. The result is unfair: when those deals were cut, they forgot the elderly, low-income families, and rural America. Once again, the average joe gets the short end of the stick, takes the hit from the cuts, and ends up paying more than his fair share.

CUTTING GOVERNMENT SPENDING

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, in a few short days, the first session of the 103d Congress will come to a close. And I cannot help but wonder if my colleagues in the House who voted for the President's $275 billion tax increase earlier this year, are prepared to leave here without getting what the President and their leadership promised them for that vote—a substantial, meaningful cut in Federal Government spending.

It seems like only yesterday that the President's plan eked through the House by a mere two votes, and was then saved from the jaws of death by the Vice President himself. I still remember the worried look on the faces of those Members whose arms were being twisted to support the largest tax increase in American history. Members of this House were afraid of the reaction from people back home if they supported that massive tax hike. But they held their noses, and they voted yes for taxes, on the promise that they would get to vote for cuts later.

Well, to my colleagues, I say that time is almost up. And we have but one chance to make the kind of cuts that will do something about the deficit. Are you ready to leave this place without getting what you were promised?

If not, I urge you to call in your IOU from the President and your leadership, and join me in calling for immediate consideration of the Penny-Kasich spending cut package. It is the right thing to do, and your constituents will thank you for it.

□ 1020

PENNY-KASICH: PASS REAL DEFICIT REDUCTION THIS YEAR

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, I will support Penny-Kasich when it comes to a vote. It is not all that I had hoped for, but it is this House's best chance to pass real deficit reduction this year. Its bipartisan approach to spending cuts will save the taxpayers more than $90 billion.

I am not prepared to stop with that; $90 billion is just a penny on the dollar and a small step toward solving our Nation's debt problem.

Mr. Speaker, that is why Congressman ROB ANDREWS and I are leading the bipartisan A to Z spending cut effort. When this House returns early next year, we intend to pursue a full-court press to make even more spending cuts; 234 Members joined in the A to Z effort by writing to the Speaker to ask for an open spending cut process this year. With the upcoming Penny-Kasich vote, we will at least be having another debate on spending cuts. But it will not be free, fair, and open debate on all spending cut proposals.

On Monday there will be 2 or 3 spending cut amendments permitted—even though more than 10 times that many amendments were submitted to the Rules Committee.

I ask all 234 of you who joined with me in the A to Z Spending Cut effort in August to come together once again to push the A to Z Spending Cut legislation to the floor early next year. The House must be held accountable for its actions so that real deficit reduction can happen.

Vote "yes" on Penny-Kasich. And cosponsor the A to Z plan now so that real deficit reduction will happen when we return.

Let us stop adding $1 billion per day to our debt. It is time that we are held accountable for our Nation's future.

SUPPORT PENNY-KASICH

(Mr. BUYER asked and was given permission to address the House for 1 minute.)

Mr. BUYER. Mr. Speaker, I rise here in support of the Penny-Kasich amendment and in great disappointment that we are not voting on it today but understandably, now, why. When everybody is out now sending out their mail to all of our offices, having the Department of Defense contact—having Jesse Brown of Veterans Affairs contact us and put in the scare and fear tactics now to different Members, saying it is going to be harmful to the Department of Defense, it will be harmful to veterans.

Well, I sit on the Committee on Armed Services and the Committee on Veterans' Affairs. Let me say unto Les Aspin: It is not harmful to the military, it does not wreck the military. "What you did earlier wrecked the military, $127 billion in cuts in the military without a risk assessment to national security; trying to put gays into the military; wrecking the operational tempo; sending our troops abroad in peacekeeping missions without proper support; that is what hurts the military, not the Penny-Kasich amendment." That is my strong message.

And to the veterans: We are answering the President's call for shared sacrifice, and I have not yet met a veteran who would not step forward and say, "I want to participate."

LET US DO PENNY-KASICH NOW

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, someone observing the House today might wonder why so many Democrats are coming to the floor speaking out against spending cuts in the Penny-Kasich bill. Well, the real reason is that their leadership is suddenly afraid that spending cuts might actually pass this Congress.

So they are doing everything possible to torpedo that effort.

Now, middle-class America knows what its priorities are. Middle-class America has figured out that Government is too big and spends too much, and it wants something done about it. Their priority is to cut spending. This Congress does not want to cut spending. So Democrats come to the floor and they talk time and time again about why we cannot do it here and why we cannot do it now.

But let us understand what we can do here and now. Today on our calendar, we are going to pass, at least take up, the Fountain Darter Captive Propagation Research Act. We can do that, but we cannot cut spending.

On the calendar today we are going to take up the Winnow Run Chinook Salmon Captive Broodstock Act of 1993. Good heavens, we can do that but we cannot do Penny-Kasich.

We are going to take up the Nationality and Naturalization Act. We cannot do Penny-Kasich, but we can do the, yes, the propagation bill, that is right. Penny-Kasich we cannot do, but we can do the Propagation Act.

Then we can do the National Oceanic and Atmospheric Administration atmosphere and satellite programs authorization—you cannot even get these things out of your mouth. We are going to be doing those out here today, but Penny-Kasich and cutting spending, boy, we cannot do those.

I would suggest that if Congress wants to do something that the American people think is important, well, if we really want to do something middle-class America wants, let us cut spending, let us not do this stuff.

WELFARE REFORM

(Mr. CASTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASTLE. Mr. Speaker, I have recently had the opportunity to be involved with an excellent group of Republican colleagues in preparing a comprehensive welfare reform proposal which 160 Republican Members have cosponsored. This bill defines welfare reform for the Nation as more work, less spending, dramatically greater flexibility for the States and restricted welfare for noncitizens.

While our bill is a logical extension of the family support act, it is in fact, and perhaps more importantly, an attempt to do nationally what has worked on the State level in Delaware. Just as Delaware's first step training program linked welfare assistance to academic, employment and life skills training, this bill requires the same and empowers individuals and families for that first step toward economic independence, and self-worth. More than 2,100 individuals have been able to use that experience as a foundation to greater self-reliance and self-esteem, 1,500 of whom have been able to leave welfare rolls entirely.

Our bill has other equally important provisions, from emphasizing the responsibility of fathers to support their children, to establishing tough new standards to combat illegitimate births, to ending welfare for most noncitizens and providing greater State control and flexibility. I look forward to working in the same bipartisan manner in which we dealt with NAFTA with my colleagues on the other side of the aisle and the administration on this crucial reform effort.

SPENDING CUTS? "DON'T BE FOOLED"

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, "don't be fooled." There are now plans under way to beef up the President's deficit spending reduction package. The President has submitted about $2 billion of spending rescissions, and while originally touted as a $10 billion Government reinventing proposal, it has now been scored at $300 million. It has been suggested that the personnel cuts which are in the Penny-Kasich deficit reduction plan are now going to be added to the President's package. That might bring the total cuts in that package to somewhere in excess of $25 billion.

The key difference is that none of the cuts in that package will reduce the deficit by one dime. The caps are not lowered by that package, and therefore any cuts are free to be spent somewhere else. The only package to be debated and voted on, on Monday that will actually reduce the deficit is the Penny-Kasich plan.

"Don't be fooled," you cannot cut the deficit without cutting the deficit. Spending cuts that are spent somewhere else do not reduce the red ink.

Vote for the Penny-Kasich plan.

WORLD AIDS DAY STAMP AT BRYANT COLLEGE

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, I rise today in recognition of Bryant College in Smithfield, RI. On December 1, 1993, World AIDS Day, Bryant will have the distinction of being the only site in Rhode Island, and the only college or university in the country to be designated an official U.S. Postal Station, for the purpose of issuing a special commemorative cancellation of the new AIDS Awareness Stamp.

The Centers for Disease Control [CDC] recently announced that AIDS is the leading cause of death among American men aged 25 to 44, and the fourth leading cause among American women of the same group.

In 1990 the CDC found that 1 out of every 500 students tested positive for the HIV virus. Just this year, CDC found that 1 out of every 250 students tested positive for the HIV virus.

To quote Bryant College President William E. Trueheart, "AIDS does not discriminate. The HIV-virus that causes AIDS can strike anyone, regardless of income, age, gender, race, or sexual orientation. Young people are especially vulnerable, and we need to help them understand that they are at risk, despite their youth, health, and vitality."

Mr. Speaker, on December 1, 1993, World AIDS Day, Bryant will be the first school to unveil the World AIDS Day Stamp. Classes on that day will be devoted to discussions on the medical, social, and financial impacts of the AIDS pandemic.

Bryant has long been recognized for its outstanding reputation, providing one of the finest business education programs in the country. They are also to be applauded for their provision of health education, for their efforts to heighten awareness of AIDS, and for leading the effort to protect the men and women who will lead this country well into the next century.

□ 1030

JAMES BROWN DAY

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, I rise and stand proudly today to recognize one of Georgia's 11th Congressional District's most celebrated and internationally enjoyed native sons, Mr. James Brown.

On Saturday, November 20, Mr. Brown will be honored in the bosom of his roots, on the streets where he once walked to school and shined shoes, with the naming of James Brown Boulevard in Augusta, GA.

This entertainment legend and soul singer has overcome diversity, seemingly insurmountable hardships, and is a crusader for pride across the world. As the hardest working man in show business, he has shed more than just flowing capes on stage and mesmerized audiences with fancy footwork.

Through a career that has spanned nearly five decades, Mr. Brown remains universal in his appeal and unequaled in his zeal. From humble beginnings he has defied the odds to reach the pinnacle of success. And because of him, everyone from little toddlers, to their grandmas, to Members of Congress—we can all say in the song titles of Mr. Brown, "I Feel Good," because "If You Open Up the Door I'll Get it Myself."

PROCLAMATION OF THE CITY OF AUGUSTA

Whereas, James Brown grew up and attended public schools in the City of Augusta, Georgia; and

Whereas, through his musical talent, James Brown has achieved national as well as international acclaim; and

Whereas, James Brown is an international celebrity known from Boston to Berlin; Augusta to Australia and Thomson to Tokyo; and

Whereas, James Brown is a musical phenomenon affectionately known as 'The Godfather of Soul'; and

Whereas, James Brown is one of our own and is proud to call Augusta his home, being involved in numerous community efforts; and

Whereas, we take great pleasure and pride in the renaming of Ninth Street to James Brown Boulevard.

Now, Therefore, I, Charles A. DeVaney, Mayor, City of Augusta, Georgia do hereby proclaim November 20, 1993 to be "James Brown Day" in the City of Augusta and urge all citizens to join in this observation and celebration.

In witness whereof, I have hereunto set my hand and caused the Seal of the City to be affixed this 19th day of November, 1993.

CHARLES A. DEVANEY,
Mayor, City of Augusta, Georgia.

WOMEN AND ALCOHOL RESEARCH EQUITY ACT OF 1993

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to introduce a bill to enable the National Institute on Alcohol Abuse and Alcoholism to increase their research on women and alcoholism.

Alcoholism is a disease with gender specific effects. Some of these effects on women include the following:

The combined effects of estrogen and alcohol augment liver damage.

The death rate for female alcoholics is 50 percent to 100 percent higher than for male alcoholics.

Heavy drinking contributes to menstrual disorders, fertility problems and premature menopause.

For these and other reasons, it is critical that the NIAAA conduct research focused on women.

Women are approximately 50 percent of the total alcohol and drug dependent population, yet only 8 percent of the fiscal year 1992 NIAAA budget is allocated for research on women. This proportion is far too low to address the health needs of women and it is this problem my bill seeks to correct.

The Women and Alcohol Research Equity Act of 1993 will add $23,250,000 to the budget of the NIAAA, to be used solely for research on women.

I ask my colleagues to join with me in supporting this long overdue effort for women's health.

DEFICIT REDUCTION HONESTY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, you have just to love, as my colleague, the gentleman from Ohio [Mr. STRICKLAND] said a moment ago, you have got to love the hypocrisy on Penny-Kasich.

Just this week, earlier in the week, three-fourths of the Republicans in this body said that we should agree to pass the North American Free-Trade Agreement with a price tag of $50 billion, tens of billions of dollars for border cleanup, environmental cleanup, all the restructuring at the border, all the investment at the border, $50 billion in unfunded NAFTA.

Now they want $100 billion cuts in the Penny-Kasich amendment.

I was speaking to a Republican right prior to the vote. I asked him how he was voting on NAFTA.

He said he was voting for it.

I said, "Are you going to vote for a $50 billion new Government program?"

He said, "Sure."

I said, "How are we going to fund it?"

He said, "That's your problem. You're in the Democratic majority."

That is the kind of hypocrisy that the Kasich-Penny amendment is. That is the kind of hypocrisy that voted for a $50 billion new Government program on NAFTA. That is the kind of hypocrisy that they brought to this Chamber.

Nothing has changed here in the last 8 months. This big freshmen class apparently did not make much difference.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman should refrain from such references to Members.

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. For what purpose does the gentleman from Pennsylvania rise?

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. The Clerk will report the words.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to withdraw the remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Reserving the right to object, Mr. Speaker, can we be certain—is the entire speech going to be withdrawn?

Mr. BROWN of Ohio. Only to delete the name of the Member. I stand by what I said. Everything else is hypocrisy.

Mr. WALKER. Well then, Mr. Speaker, I object.

The SPEAKER pro tempore. The Clerk will report the words.

□ 1040

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to withdraw my remarks about individual House Members using the word "hypocrisy."

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today, but not before 1 p.m.

COPYRIGHT REFORM ACT OF 1993

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 897) to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes, as amended.

The Clerk read as follows:

H.R. 897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Reform Act of 1993".

SEC. 2. DEPOSIT OF COPIES OR PHONORECORDS FOR LIBRARY OF CONGRESS.

Section 407 of title 17, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking "(a)" and all that follows through "publication—" and inserting the following:

"(a) REQUIRED DEPOSITS.—Except as provided in subsection (c), the owner of copyright in a work or of the exclusive right of publication of a work in the United States shall deposit, after the earliest date of such publication—".

(2) Subsection (b) is amended—

(A) by inserting "DEPOSIT IN COPYRIGHT OFFICE.—" after "(b)"; and

(B) by adding at the end the following: "A deposit made under this section may be used to satisfy the deposit requirements of section 408.".

(3) Subsection (c) is amended—

(A) by inserting "REGULATIONS.—" after "(c)"; and

(B) by striking "Register of Copyrights" and inserting "Librarian of Congress".

(4) Subsection (d) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by striking "(d) At any time after publication of a work as provided by subsection (a)" and inserting the following:

"(d) PROCEDURES.—(1) During November of each year, the Librarian of Congress shall publish in the Federal Register a statement of the categories of works of which the Library of Congress wishes to acquire copies or phonorecords under this section during the next calendar year. The Librarian shall review such statement annually in light of the changes in the Library's policies and procedures, changes in technology, and changes in patterns of publication. The statement shall also describe—

"(A) the types of works of which only one copy or phonorecord need be deposited;

"(B) the types of works for which the deposit requirements may be fulfilled by placing the Library of Congress on a subscription list; and

"(C) the categories of works which are exempt under subsection (c) from the deposit requirements.

"(2) At any time after publication in the United States of a work or body of works";

(C) by striking "Register of Copyrights" and inserting "Librarian of Congress";

(D) by inserting after the first sentence the following: "Such demand shall specify a date for compliance with the demand.";

(E) by inserting "in a civil action" after "are liable";

(F) in subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) by striking "cost of" and inserting "cost to";

(G) in subparagraph (C) (as redesignated by subparagraph (A) of this paragraph) by striking "clauses (1) and (2)" and inserting "subparagraphs (A) and (B)"; and

(H) by adding after subparagraph (C) (as so redesignated) the following:

"In addition to the penalties set forth in subparagraphs (A), (B), and (C), the person against whom an action is brought under this paragraph shall be liable in such action for all costs of the United States in pursuing the demand, including an amount equivalent to a reasonable attorney's fee.".

(5) Subsection (e) is amended—

(A) by inserting "TRANSMISSION PROGRAMS.—" after "(e)";

(B) by striking "Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials," and inserting "Librarian of Congress shall, after consulting with interested organizations and officials,"; and

(C) in paragraph (2) by striking "Register of Copyrights" and inserting "Librarian of Congress".

(6) Section 407 of title 17, United States Code, is further amended by adding at the end the following:

"(f) OBLIGATION TO MAKE DEPOSITS.—Immediately upon the publication in the United States of any work in which copyright subsists under this title, it shall be the obligation of the persons identified in subsection (a) with respect to that work, subject to the requirements and exceptions specified in this section, to deposit, for the use or disposition of the Library of Congress, the copies or phonorecords specified in such subsection. The obligation to make such deposit arises without any prior notification or demand for compliance with subsection (a).

"(g) RECORDS OF DEPOSITS.—The Librarian of Congress shall establish and maintain public records of the receipt of copies and phonorecords deposited under this section.

"(h) DATABASE OF DEPOSIT RECORDS.—The Librarian of Congress shall establish and maintain an electronic database containing its records of all deposits made under this section on and after October 1, 1995, and shall make such database available to the public through one or more international information networks.

"(i) DELEGATION AUTHORITY.—The Librarian of Congress may delegate to the Register of Copyrights or other officer or employee of the Library of Congress any of the Librarian's responsibilities under this section.".

SEC. 3. COPYRIGHT REGISTRATION IN GENERAL.

Section 408 of title 17, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (1) by adding at the end the following: "The Register is also authorized to specify by regulation classes of material in which registration may be made without deposit of any copy or phonorecord, in cases in which the Register determines that the purposes of examination, registration, and deposit can be adequately served by deposit of descriptive material only, or by a written obligation to deposit copies or phonorecords at a later date."; and

(B) in paragraph (2) by striking "periodicals, including newspapers" and all that follows through the end of subparagraph (B) and inserting "collective works, including periodicals, published within a 5-year period, on the basis of a single deposit and application and upon payment of any special registration fee imposed under section 708(a)(10), if the application identifies each work separately, including the collective work containing it and its date of first publication."; and

(2) by adding at the end the following:

"(f) COPYRIGHT OFFICE HEARINGS.—Not later than 1 year after the effective date of this subsection, and at 1-year intervals thereafter, the Register of Copyrights shall hold public hearings to consider proposals to amend the regulations and practices of the Copyright Office with respect to deposit of works in order to eliminate deposits that are unnecessary for copyright examination or the collections of the Library of Congress, and in order to simplify the registration procedures.".

SEC. 4. APPLICATION FOR COPYRIGHT REGISTRATION.

(a) APPLICATIONS.—Section 409 of title 17, United States Code, is amended—

(1) by striking "The application" and inserting "(a) CONTENTS OF APPLICATION.—The application";

(2) in paragraph (5) by inserting before the semicolon the following: ", and if the document by which ownership was obtained has been recorded in the Copyright Office, the volume and page number of such recordation";

(3) by striking paragraphs (9) and (10) and inserting the following:

"(9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is substantially based on or substantially incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

"(10) at the option of the applicant, names, addresses, and telephone numbers of persons or organizations that potential users of the work should contact concerning permissions or licenses to use the work, and any information with respect to the terms of such permissions or licenses; and"; and

(4) by adding at the end the following:

"(b) SHORT-FORM APPLICATION.—

"(1) USE OF SHORT-FORM.—The Register of Copyrights shall prescribe a short-form application which may be used whenever—

"(A) the work is by a living author;

"(B) the claimant is the author;

"(C) the work is not anonymous, pseudonymous, or made for hire; and

"(D) the work as a whole, or substantial portions of it, have not been previously published or registered.

"(2) CONTENTS OF SHORT-FORM.—The short-form application shall include—

"(A) the name and address of the author;

"(B) the title of the work;

"(C) the nationality or domicile of the author;

"(D) the year in which creation of the work was completed;

"(E) if the work has been published, the date and nation of its first publication;

"(F) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright; and

"(G) at the option of the applicant, names, addresses, and telephone numbers of persons or organizations that potential users of the work should contact concerning permissions or licenses to use the work, and any information with respect to the terms of such permissions or licenses.".

(b) EFFECTIVE DATE.—The amendments made by this section take effect 6 months after the date of the enactment of this Act.

SEC. 5. REGISTRATION OF CLAIM AND ISSUANCE OF CERTIFICATE.

(a) DETERMINATION OF REGISTRATION.—Section 410 of title 17, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

"(a) DETERMINATION OF REGISTER.—If, after examination, the Register of Copyrights determines, in accordance with the provisions of this title, that there is no reasonable possibility that a court would hold the work for which a deposit is made pursuant to section 408(c) to be copyrightable subject matter, or the Register determines that the claim is invalid for any other reason, the Register shall refuse registration and notify the applicant in writing of the reasons for such refusal. In all other cases, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. A certificate of registration issued under this section extends only to those component parts of the work that both are the subject matter of copyright and the copyright owner has the right to claim. The certificate shall contain the information set forth in the application, together with the number and effective date of the registration.

"(b) APPEALS PROCEDURE.—The Register of Copyrights shall establish, and publish in the Federal Register, a formal procedure by which appeals may be taken from refusals under subsection (a) to register claims to copyright. Such procedure shall include a final appeal to the Register.".

(b) JUDICIAL PROCEEDINGS.—Subsection (c) of section 410 of title 17, United States Code, is amended—

(1) by inserting "EVIDENTIARY WEIGHT OF CERTIFICATE.—" after "(c)"; and

(2) by adding at the end the following: "Any error or omission made in good faith or upon reasonable reliance on counsel shall not affect the validity of the registration. In no case shall an incorrect statement made in an application for copyright registration invalidate the copyright.".

(c) TECHNICAL AMENDMENT.—Subsection (d) of section 410 of title 17, United States Code, is amended by inserting "EFFECTIVE DATE OF REGISTRATION.—" after "(d)".

SEC. 6. COPYRIGHT REGISTRATION PROVISIONS.

(a) REGISTRATION AND INFRINGEMENT ACTIONS.—(1) Section 411 of title 17, United States Code, is amended—

(A) by amending the section caption to read as follows:

"§411. Registration and infringement actions for certain works";

(B) by striking subsection (a); and

(C) in subsection (b)—

(i) by striking "(b)"; and

(ii) by striking paragraphs (1) and (2) and inserting the following:

"(1) serves notice upon the infringer, not less than 10 or more than 30 days before such fixation, identifying the work and the specific time and source of its first transmission; and

"(2) submits an application for registration of the copyright claim in the work, in accordance with this title, within 3 months after the first transmission of the work.".

(2) The item relating to section 411 in the table of sections at the beginning of chapter 4 of title 17, United States Code, is amended to read as follows:

"411. Registration and infringement actions for certain works.".

(b) REGISTRATION AS PREREQUISITE TO CERTAIN REMEDIES FOR INFRINGEMENT.—Section 412 of title 17, United States Code, and the item relating to section 412 in the table of sections at the beginning of chapter 4 of title 17, United States Code, are repealed.

SEC. 7. REMEDIES FOR INFRINGEMENT.

Section 504(c)(2) of title 17, United States Code, is amended in the second sentence—

(1) by striking "court it" and inserting "court in";

(2) by inserting "or eliminate" after "reduce"; and

(3) by striking "to a sum of not less than $200".

SEC. 8. NOTIFICATION OF FILING AND DETERMINATION OF ACTIONS.

Section 508 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "and the party filing the action" after "United States"; and

(B) in the second sentence by inserting "and the party filing the action" after "clerk"; and

(2) in subsection (b) by inserting "and the party filing the action" after "clerk of the court".

SEC. 9. STUDY ON MANDATORY DEPOSIT.

(a) SUBJECT MATTER OF STUDY.—Upon the enactment of this Act, the Librarian of Congress shall conduct a study of the mandatory deposit provisions of section 407 of title 17, United States Code. Such study shall place particular emphasis on the implementation of section 407(e) of such title with respect to the deposit of transmission programs, as well as possible alternative methods of obtaining deposits if the mandatory deposit requirements of such section 407 are expanded to authorize the collection, archival preservation, and use by the Library of Congress of other publicly transmitted works, including unpublished works such as computer programs and online databases.

(b) CONDUCT OF STUDY.—The study under subsection (a) shall be conducted by the Register of Copyright, in consultation with any affected interests, and may include the voluntary establishment, in collaboration with representatives of such interests, of practical tests and pilot projects.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Librarian shall submit to the Congress a report on the results of the study conducted under this section, together with recommendations the Librarian has on—

(1) safeguarding the interests of copyright owners whose works are subject to the mandatory deposit provisions referred to in subsection (a);

(2) fulfilling the present and future needs of the Library of Congress with respect to archival and other collections development; and

(3) any legislation that may be necessary.

SEC. 10. STUDIES OF EFFECTS OF REGISTRATION AND DEPOSIT PROVISIONS.

Upon the enactment of this Act, the Librarian of Congress, after consultation with the Register of Copyrights and any affected interests, shall commence a study of the extent to which changes in the registration and deposit provisions of title 17, United States Code, that are made by this Act have affected the acquisitions of the Library of Congress and the operations of the copyright registration system, and any recommendations the Librarian may have with respect to such effects. Not later than 3 years after the date of the enactment of this Act, the Librarian shall submit to the Congress a report on such study. The Librarian may conduct further studies described in the first sentence, and report to the Congress on such studies.

SEC. 11. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking the definition of the "country of origin" of a Berne Convention work.

(b) INFRINGEMENT OF COPYRIGHT.—Section 501(b) of title 17, United States Code, is amended in the first sentence by striking ", subject to the requirements of section 411,".

(c) REMEDIES FOR INFRINGEMENT.—Section 504(a) of title 17, United States Code, is amended by striking "Except as otherwise provided by this title, an" and inserting "An".

SEC. 12. ADDITIONAL TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—Title 17, United States Code, is amended as follows:

(1) The definition of "publicly" contained in section 101 is amended—

(A) by striking "clause" and inserting "paragraph"; and

(B) by striking "processs" and inserting "process".

(2) The definition of "registration" contained in section 101 is amended by striking "412,".

(3) Section 108(e) is amended in the matter preceding paragraph (1) by striking "pair" and inserting "fair".

(4) Section 109(b)(2)(B) is amended by striking "Copyright" and inserting "Copyrights".

(5) Section 304(c) is amended in the matter preceding paragraph (1) by striking "the subsection (a)(1)(C) and inserting "subsection (a)(1)(C)".

(6) Section 405(b) is amended by striking "condition or" and inserting "condition for".

(7) The item relating to section 504 in the table of sections at the beginning of chapter 5 is amended by striking "Damage" and inserting "Damages".

(8) Section 501(a) is amended by striking "sections 106 through 118" and inserting "section 106".

(9) Section 509(b) is amended by striking "merchandise; and baggage" and inserting "merchandise, and baggage".

(10) Section 601 of title 17, United States Code, is amended—

(A) in subsection (a) by striking "nondramtic" and inserting "nondramatic"; and

(B) in subsection (b)(1) by striking "subsustantial" and inserting "substantial".

(11) Section 801(b)(4) of title 17, United States Code, is amended by adding a period after "chapter 10".

(12) The item relating to section 903 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"903. Ownership, transfer, licensing, and recordation.".

(13) Section 909(b)(1) is amended—

(A) by striking "force" and inserting "work"; and

(B) by striking "sumbol" and inserting "symbol".

(14) Section 910(a) is amended in the second sentence by striking "as used" and inserting "As used".

(15) Section 1006(b)(1) is amended by striking "Federation Television" and inserting "Federation of Television".

(16) Section 1007 is amended—

(A) in subsection (a)(1) by striking "the calendar year in which this chapter takes effect" and inserting "calendar year 1992"; and

(B) in subsection (b) by striking "the year in which this section takes effect" and inserting "1992".

(17) The table of chapters at the beginning of title 17, United States Code, is amended—

(A) by amending the item relating to chapter 6 to read as follows:

"6. Manufacturing Requirements and Importation .... 601";

(B) by amending the item relating to chapter 9 to read as follows:

"9. Protection of Semiconductor Chip Products .... 901";

and

(C) by adding at the end the following:

"10. Digital Audio Recording Devices and Media .... 1001".

(b) OTHER PROVISIONS OF LAW.—(1) Section 2319(b)(1) of title 18, United States Code, is amended by striking "at last" and inserting "at least".

(2) Section 1(a)(1) of the Act entitled "An Act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities", approved November 9, 1987 (17 U.S.C. 914 note), is amended by striking "orginating" and inserting "originating".

(3) Section 3(a)(1)(C) of the Audio Home Recording Act of 1992 is amended by striking "adding the following new paragraph at the end" and inserting "inserting after paragraph (3) the following new paragraph".

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 4(b), and subject to subsection (b) of this section, this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) PENDING ACTIONS.—The amendments and repeals made by section 6 shall not affect any action brought under title 17, United States Code, before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 897, the Copyright Reform Act of 1993.

H.R. 897 will bring much needed reforms in the copyright office's registration procedures. H.R. 897 will also strengthen the section 407 mandatory deposit provisions, which are an important source of copyrighted works for the Library of Congress.

The principal reform made by H.R. 897 is repeal of sections 411(a) and 412 of title 17, United States Code. Section 411(a) requires that United States authors, but not authors from countries that are members of the Berne Convention, register their works with the United States Copyright Office before bringing an infringement action. Section 412 conditions the award of statutory damages and attorney's fees on registration being obtained before an infringement occurs.

After 15 years experience with these two provisions, the Committee on the Judiciary concluded that they no longer represent good copyright policy. I agree.

Section 411(a) discriminates against United States authors, who unlike their foreign counterparts, have to go through the time and expense of preparing copyright registrations. In the case of software, a medium-sized software company may spend as much as $100,000 a year. This is wasted time and money. The section 408 deposit, typically the first and last 25 pages of redacted source code, is of no use as a record of the scope of the copyright owner's claim, and it is of no use to the Library of Congress, which wants the machine-readable version of the program.

Section 412, originally designed to provide an indirect way for the Library of Congress to receive deposits of copyrighted works, has been subverted into a defense raised by infringers in order to deprive copyright owners of what may be their only realistic economic relief, statutory damages and attorney's fees. In the words of the Association of American Publishers in a 1986 letter to the Register of Copyrights, section 412 has

> Become more of a shield for infringers than a benefit to anyone. Registration as a condition to statutory damages and attorney's fees in some cases, as one example, has become particularly problematic. Eligibility for such remedies has been an important ingredient in our copyright laws out of recognition that they may provide the only real hope of meaningful economic relief in infringement actions. A possible lack of eligibility for this relief has been the cornerstone of the tactics of even the most blatant infringers under the 1976 Copyright Act. Yet, the Copyright Office's proposed fee increase will undoubtedly force many authors and other copyright owners to forego regular registration, rendering their copyrights of little practical value against infringers who will be emboldened by the possibility that the infringed author or copyright owner will be unable to secure any real financial relief after engaging in expensive complaint, settlement, and litigation procedures. Particularly with the proposed fee increases, the 'inducements' will become obstacles to the protection of copyright.

The Committee on the Judiciary agreed with this assessment and so do I. H.R. 897 is designed to remedy the very real problems for copyright owners pointed out by the Association of American Publishers.

Repeal of sections 411(a) and 412 will also assist our trade negotiators as they attempt to discourage foreign governments from imposing formalities on U.S. works, formalities that may have the result of depriving U.S. authors of adequate and effective protection. H.R. 897 may be viewed as the "unfinished business" of Berne adherence, as it removes the last significant vestiges of formalities in our copyright law.

Technical measures like H.R. 897 may appear to be green eyeshade legislation to some, but this bill will have important, positive effects on our copyright industries. These industries form a vital part of our Nation's economic well-being. A report issued Monday by the International Intellectual Property Alliance indicates that in 1991 copyright industries accounted for $206.6 billion, about 3.6 percent of our gross domestic product, more than any other single manufacturing sector.

The annual growth rate of the copyright industries is more than twice the growth rate for the economy as a whole. The average annual rate of job growth in the copyright industries is more than three times that of the economy as a whole. Foreign sales of U.S. copyrighted goods are conservatively estimated at $36.2 billion, an amount that puts copyright industries third in exports, behind the aircraft and agricultural industries.

I would now like to discuss specific parts of the legislation, in addition to repeal of sections 411(a) and 412.

VOLUNTARY REGISTRATION WITH THE COPYRIGHT OFFICE

Section 408 of the Copyright Act currently provides for voluntary registration of a claim to copyright with the Copyright Office. Section 408 serves a number of purposes, two of which are related to the reforms proposed by H.R. 897.

One purpose of section 408 is to create a public record of claims of copyright and information regarding a copyrighted work, including its ownership and date of creation. Another purpose is to act as an indirect incentive to bring in deposits that the Library of Congress may wish to acquire. This indirect incentive is accomplished by various means, including giving a certificate of registration the status of prima facie evidence of the work's copyrightability and of the facts stated in the certificate; requiring registration in order to give a recorded transfer of copyright priority over subsequent, conflicting transfers; and the existence of section 412, which conditions the recovery of statutory damages and attorney's fees on registration prior to infringement.

The changes to the copyright Office's registration process include: First, a new short form application; second, a more liberal examination standard; third, alternative forms of deposit for copyright registration; fourth, a formal appeals process for refusals to register a claim to copyright; fifth, provisions clarifying when preexisting works have to be disclosed on the copyright application form in order to limit sharply the fraud on the Copyright Office defense; and, sixth, expansion of the group registration provisions.

OTHER COPYRIGHT OFFICE REFORMS

H.R. 897 also makes a number of changes designed to improve the Copyright Office registration system and the records of the Library of Congress. These include: First, amending section 410(a) to state explicitly that a certificate of registration only covers those parts of the work that are copyrightable and in which the copyright owner has a right to claim ownership and second, requiring the Register of Copyrights to hold annual public hearings on the section 408 deposit and registration requirements.

MANDATORY DEPOSIT WITH THE LIBRARY OF CONGRESS

The bill makes a number of changes to section 407 of title 17, United States Code, designed to strengthen and streamline mandatory deposit for the benefit of the Library of Congress. The changes include: First, clarifying that the obligation to deposit arises without any need for prior notification or demand; second, giving the Librarian rather than the Register of Copyrights authority over enforcement of the provision; third, permitting the Government to recover an amount equivalent to its attorney's fees if it has to bring suit to enforce its right to receive deposit copies; and, fourth, permitting section 407 mandatory Library of Congress deposits to be used to satisfy the deposit requirements of copyright registration under section 408.

The bill also directs the Librarian of Congress to publish an annual list of the types of works for which section 407 deposits will be sought and maintain a record and database of copies deposited under section 407. Finally, the Librarian is also directed to undertake a study to lay the foundation for the eventual expansion of section 407 to include works that are technically unpublished, but which are, nevertheless, publicly disseminated. In many cases, copyright owners do not retain this material and the Library of Congress will be the sole repository. The Copyright Act needs to be amended in order to ensure that the Library will receive these works. It is not feasible to do so immediately, though. There are many difficult issues to be resolved, some of which relate to the information superhighway and some of which relate to other concerns of copyright owners. These are real problems that cannot be solved overnight. They require study and experimentation.

MISCELLANEOUS ISSUES

H.R. 897 as reported by the Committee on the Judiciary deletes two provisions contained in the bill as introduced: First appointment of the Register of Copyrights by the President. This provision was in the bill in part because of a constitutional concern about the Register appointing and overseeing the arbitration panels, a concern which has been met by having the Librarian of Congress perform these duties; second, reversal of the National Peregrine decision has been dropped in order to study whether a single system of recordation of transfers applicable to copyrights, trademarks, and patents should be developed.

I urge my colleagues to support these needed reforms.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 897, the Copyright Reform Act of 1993.

This bill will bring needed reforms to the Copyright Office registration process while ensuring that the Library of Congress will continue to receive copyrighted works for its collections.

The copyright industries are the brightest of our domestic industries. American motion pictures, records, and computer programs are sought throughout the world. Over 5.5 million workers are employed by the copyright industries, or about 4.8 percent of the U.S. work force. Economists estimate that in 1992, foreign sales of copyrighted works were almost $40 billion dollars, an increase of 9 percent over 1991. We need to do all we can to encourage the growth of our copyright industries. H.R. 897 will help this growth by removing bureaucratic obstacles to the protection and enforcement of copyrights.

This bill is the product of the distinguished chairman of the subcommittee on Intellectual Property and Judicial Administration, the gentleman from New Jersey [Mr. HUGHES] as well as the gentleman from Massachusetts [Mr. FRANK] and the ranking Republican member of the subcommittee, Mr. MOORHEAD.

I commend the gentleman from New Jersey for his time in developing and perfecting this legislation and urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 897 and yield myself as much time as I may consume.

I want to thank the gentleman from Texas [Mr. BROOKS] for his support and scheduling H.R. 897, the Copyright Reform Act of 1993. I also want to express my appreciation to the gentleman from New Jersey for the time and consideration he gave the many concerns I had about this legislation and congratulate him on an excellent bill.

The most difficult concern I had related to the new, enhanced ability of photographers to sue if copyright registration is abolished. The subcommittee did hear during the second day of hearings complaints from photographers. Although the Copyright Office permit photographers to register 3,500 photos for one $20 registration fee, as a practical matter photographers don't usually register their photo. So if a family has its picture taken and the picture is copied by anyone other than the photographer who took the picture a copyright infringement suit could be filed by the photographers. That is the present law. However, as a practical matter most photos are not registered, therefore the photographers do not file suit against those people who have copies made of their photographs. Abolish registration and photographers would be more likely to file suit.

What I wanted to do to take care of this problem without taking away the copyright of the photographer would be to authorize the judge to reduce or remit the award of statutory damages and not permit any recovery of costs or attorneys fees.

Instead we are going to amend section 504 relating to the innocent infringers and permit the court to reduce the award of statutory damages to zero instead of "not less than $200." The gentleman from New Jersey [Mr. HUGHES] has agreed that strong report language on this issue is necessary so the parties and the court understand what our concerns are. And if it is abused by the photographers then we may need to correct it later.

Again I would like to commend the chairman for his hard work on this issue. I urge a favorable vote on H.R. 897 as reported by the committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I rise in support of H.R. 897, and would like to express my appreciation to the gentleman from New Jersey [Mr. HUGHES] and the gentleman from California [Mr. MOORHEAD] for their leadership and cooperation, and I was especially pleased what they did for the innocent infringer. I too, share a concern that we not unwittingly penalize innocent infringers. Thus, the committee's support for the amendment that removed a statutory minimum award in the case of infringement was a step in the right direction.

I offered an amendment in subcommittee which would have denied court costs and attorney fees in cases involving innocent infringement; however, I withdrew my amendment when the gentleman from New Jersey [Mr. HUGHES] assured me that the report language would reveal the committee was sympathetic to that position, and felt that section 505 presently gave the courts this option.

I raised my concern with innocent infringement by illustrating what could befall the photofinishing industry. Film processing companies as well as small independent photofinishers assure me that as a matter of policy, they honor copyrights and do not reproduce photos, slides, or other material which bears a copyright or studio name without the copyright owner's permission. Without some kind of marking, however, it is impossible for a photofinisher to know with certainty that a particular item is entitled to copyright protection.

That is why with the elimination of sections 411(a) and 412 and our earlier action to remove notice requirements, it is important that courts recognize their discretion to provide no statutory damages, costs, and attorney fees in appropriate cases. The report language can be found on page 10 of the report and reads as follows:

> Under this section, the courts already have the discretion to award an amount they believe appropriate, or no fees at all. Concern was expressed that with the repeal of Sections 411(a) and 412 of title 17, United States Code, litigation involving professional photographers may increase because of a failure to affix a copyright notice on the photograph, thus causing difficulties on the part

of individuals and photofinishers in determining copyright ownership. In cases where a court finds the defendant to be an innocent infringer, the Committee expects that the courts will not, in the usual case, award costs or attorney's fees.

I would like to again thank the gentleman from New Jersey and California for the guidance they provided, and I urge a "yes" vote on H.R. 897.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I would like to commend the Gentleman for his hard work and the diligence that he put into that report language and I want to him to know that I agree with what he has just said. We are concerned about similar problems. I am concerned about the consumer, the Mom and Pop, the little leaguer who may be an innocent infringer and you are concerned about them as well plus the small photofinisher who has no way of determining whether something he has been asked to reproduce is or is not copyrighted. I think what the gentleman has done will put the photographer on notice not to use this change in the law to harass these people and it will also assist the courts when they are asked to make a determination on the innocent infringer.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 897.

I too would like to commend the gentlemen from Texas [Mr. BROOKS] and New Jersey [Mr. HUGHES] and my good friend from California [Mr. MOORHEAD] and the gentleman from Massachusetts [Mr. FRANK] a cosponsor of the bill for their good work on this important legislation.

The main thrust of H.R. 897 is the abolition of the requirement in present copyright law which requires U.S. authors to register their work with the Copyright Office before they can institute an infringement action. This is considered a formality (registration) and inconsistent with the Berne Convention. We got around this formality in 1988 when we passed the implementing legislation for Berne by saying that foreign authors from Berne countries do not have to go through registration, only American authors need register. This obviously discriminates against U.S. authors, thereby placing them at a competitive disadvantage, with foreign authors who do not have to spend the resources to create deposits for Copyright Office examination purposes.

The Berne Convention implementing legislation became law in October 1988. That same year I had the honor of personally delivering those official papers to the Director General of the World Intellectual Property Organization Doctor Arpad Bogsch. The Copyright Subcommittee is presently working on the Madrid Protocol legislation H.R. 2129 that will create an international trademark registration system within the World Intellectual Property Association. Again, the individuals and businesses in the United States that rely on this type of protection for their creative works will reap substantial benefits as a result of having a new and stronger relationship with 95 additional countries. I hope we can move that legislation early next session.

I urge a favorable vote for H.R. 897.

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Again, Mr. Speaker, the individuals and businesses in the United States that rely on this type of protection for their creative works will reap substantial benefits as a result of having new and stronger relationships with the 95 additional countries. I hope we can move that legislation early in the next session.

Mr. Speaker, I urge a favorable vote on H.R. 897.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

I take this time just to say, Mr. Speaker, that we had a very productive session in the Subcommittee on Intellectual Property and Judicial Administration, and that would not have been possible without the gentleman from California [Mr. MOORHEAD], who is my ranking Republican and partner. I thank him for the bipartisan effort with which we have conducted business in that committee.

Also, I commend the gentleman from North Carolina [Mr. COBLE] for his work on innocent infringers in particular. He has done yeoman work, and he has been a very valuable member of that committee. I commend also the gentleman from Massachusetts [Mr. FRANK] who was very helpful in passing this particular piece of legislation.

Mr. Speaker, I would also thank the professional staff. They have done a very good job on this and on other legislation during this past year. I am talking about Hayden Gregory, the chief counsel, and Bill Patry, as well as Jarilyn Dupont and Ed O'Connell of the professional staff on the majority side; and Tom Mooney and Joe Wolfe on the minority side.

It has been a great effort, and we have produced a lot of legislation because we have worked in a bipartisan fashion.

Finally, I want to thank the chairman of the full committee, the gentleman from Texas [Mr. BROOKS], and the ranking Minority member of the full committee, the gentleman from New York [Mr. FISH] for their work in making possible many bills that I think will make a difference both in intellectual property as well as in the area of judicial administration.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I really want to congratulate the gentleman from New Jersey [Mr. HUGHES] for the job he has done on this Subcommittee on Intellectual Property and Judicial Administration. We have worked together very closely. We have gotten out a lot of excellent legislation. I think we have helped the people of the United States with the job that has been done.

I agree with the gentleman that we have an outstanding staff that makes that possible. The staff is able to work together for positive results with the members of our committee. The staff members of both political parties have worked well together.

So I think the product we have come up with is better than what we would have had if either party had been working alone. We have been working as a team, and the legislation that has come out is beneficial for all and not just from a narrow point of view. So I want to congratulate the gentleman again for his work.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 897, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 17, United States Code, to modify certain registration requirements, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on all the bills that will be coming up today from the Committee on the Judiciary to be considered under suspension of the rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

INTERNATIONAL PARENTAL KIDNAPING CRIME ACT OF 1993

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3378) to amend title 18, United States Code, with respect to parental kidnaping, and for other purposes.

The Clerk read as follows:

H.R. 3378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Parental Kidnapping Crime Act of 1993".

SEC. 2. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

SEC. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701-10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this bill. It fills a gap in our legal system that is causing torment for thousands of parents and innocent children.

Every parent knows the terror of not knowing where a child who is for even 5 minutes. Consider the thought of such a nightmare continuing for 5 months—or 5 years. That pain is beyond words.

Yet thousands of American parents are suffering that agony. They are partners in failed marriages who have legal custody rights to their children. But their former spouses have defied those rights, kidnaped their own children and taken them abroad.

Last year, more than 500 children were kidnaped from the United States and taken to foreign countries by parents who did not have the legal right to custody. The rate of these cases has increased in recent years. These kidnapings make life a living hell for the left-behind parent. They scar the kidnaped children for life.

Our State laws have proven to be all but useless in these cases. Most States punish parental kidnaping as a felony. But when kidnaping parents go overseas, they are virtually immune from domestic legal process. In practice, parent kidnapers who go overseas can thumb their noses at left-behind parents and at the separate State legal systems.

A Federal remedy is clearly needed. This bill provides that remedy. I commend the distinguished gentleman from Pennsylvania, Mr. GEKAS, for his persistent leadership in bringing this remedy before the House.

By creating a Federal felony offense, this bill will provide a strong Federal basis for the United States to request extradition of the kidnaping parent. It will deter kidnaping by making sure that parents who kidnap children and take them overseas will be pursued by the United States no matter where they go. And it will make clear to other nations that the United States considers parental kidnaping to a most serious offense.

I urge my colleagues to vote for this bill and help stop this horrendous practice.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes kidnaping of a child from his or her custodial parent, and then removing the child from the United States, a Federal felony.

More than 300 children are taken to live in foreign countries each year by a parent that does not have legal custody of the child. The State Department has recorded over 2,800 of these cases since 1975, but many experts believe that this figure is low. The actual number of cases may be closer to 10,000. The rate at which such kidnapings are increasing also provides cause for action. Since May 1983, the number of cases known to the State Department has jumped 84 percent. Both the parent deprived of custody and the abducted child suffer from the kidnaping. Some child psychologists believe that the trauma associated with an abduction of this kind, and the subsequent deprivation of one parent's love, is one of the most horrendous forms of child abuse.

Although the majority of the States punish this type of kidnaping as a felony, the Federal Government does not. The absence of Federal legislation denies the victim parent Federal assistance and allows the abductor to escape Federal prosecution.

Federal legislation is needed for at least four reasons. First, creating a Federal felony for this type of kidnaping should deter at least some parents contemplating abduction. Currently, the abducting parent can flee to safe havens around the world knowing that the United States will not pursue them.

Second, making these kidnapings a Federal crime allows the United States to request extradition of the kidnaping parent from those countries with which we have extradition treaties.

Third, Federal legislation strengthens the hand of the State Department when asking a foreign government to intervene and assist in the return of a child by arming U.S. Ambassadors with Federal warrants.

Finally, this legislation sends a strong message to the international community that the United States views child abduction as a serious crime that we will not tolerate.

In 1987, the U.S. State Department was little more than a legal referral service for parents whose children had been abducted. At that time the State Department would conduct a whereabouts and welfare search, and provide a list of attorneys working in the country to which the child had been taken. Victim parents could expect no additional help from the U.S. Government.

As the result of cooperation with a Congress increasingly sensitive to the cries of victim parents for help, the State Department implemented a number of significant improvements in the way it handles international parental child abduction cases. First, the Department established a unit within the consular affairs office to coordinate and direct action on these cases. Second, the Department assigned one person in each U.S. Mission around the world to be responsible for actively working on behalf of American parents to get these children back. This person maintains a list of the cases in the country. Further, every U.S. Ambassador has been instructed to use every legal and diplomatic avenue available to achieve the return of abducted children.

In 1988, Congress passed implementing legislation for the Hague Convention on International Parental Child Abduction. As a result of this convention, the signatories will recognize the custody decrees of the other signatories, thereby facilitating the return of abducted children. Most countries, however, are not signatories to the convention, leaving individual countries to take whatever unilateral action they can to return abducted children.

SECTION-BY-SECTION

Section 1. Short title: International Parental Kidnapping Crime Act of 1993.

Section 2. Section 2 amends chapter 55 of title 18 of the United States Code, which governs kidnapping, by adding at the end a new section, section 1204 (to be codified at 18 U.S.C. section 1204), entitled "International Parental Kidnapping." This new section 1204 provides for the imposition of title 18 fines and/or a prison term of not more than three years on anyone who removes a child from the United States, or retains in a foreign country a visiting child who should return to the United States, with the intent of obstructing the lawful exercise of parental rights. Section 1204(b)(2) defines "parental rights" as the right to the physical custody of a child, whether that right is held solely or jointly, and whether the right is held by operation of law, a court order, or a legally binding agreement of the parties. Section 1204(d) makes clear that nothing in this section is to be construed as detracting from any of the provisions of the Hague Convention on the Civil Aspects of International Parental Child Abduction. Section 1204(b)(1) defines a "child" as a person who is under the age of 16.

Subsection (c) provides for affirmative defenses: flight from domestic violence, court order, circumstances beyond control. This last affirmative defense was the subject of some controversy at crime bill negotiations last Congress, held by staff of the House and Senate.

Section 3. Section 3 authorizes $250,000 for national, regional, and in-State training and educational programs dealing with the criminal and civil aspects of interstate and international child abduction by parents. To be administered through the State Justice Institute Act of 1984.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding. I am most grateful to him personally for the review of the legislation which has just been accorded us by the minority, the gentleman from Wisconsin [Mr. SENSENBRENNER], and also prior to that by the gentleman from New York [Mr. SCHUMER].

Mr. Speaker, I also want to thank the gentleman from New York [Mr. SCHUMER] for living up to his pledge when, during a colloquy in the Committee of the Judiciary, I was concerned about the possibility of slipping over this particular legislation, simply because of the crowded agenda, where the gentleman personally and publicly stated that he would in good time call for passage of this legislation, which he did. That is what really has prompted the instant that we are now sharing in the passage of this legislation.

Mr. Speaker, this legislation has arisen because we have had many, many Members who have in one way or another suffered in their own districts the anguished cries of victims of international kidnapping. We have had instances just in the last 2 years arising in Illinois, Michigan, California, and New Jersey. By and large, the Members of Congress from those areas have converged over the last few years to help try to plug the loopholes, as the gentleman from Wisconsin [Mr. SENSENBRENNER] has articulated.

Mr. Speaker, we are here today, happy that at least the House will have completed its job in serving this particular need.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS], for yielding, and commend him for his leadership in bringing this bill to the floor at this time. This bill remedies some gaps in the United States Code pertaining to a tragic situation which too often occurs when a parent abducts and transports to another country his child or children, preventing the other parent from exercising the normal parental rights accorded by our courts. The removal of children to certain countries may even place them beyond the legal recourse afforded to them if the kidnaping were to occur within the United States.

Too often, we have found this problem to become a major, highly emotional burden to parents and to children.

Accordingly, we must make certain that penalties for this kind of crime adequately affect the degree of harm that is done to parents and to children. While it may be difficult to enforce the rightful custody over a child once he or she is abroad, I hope that the stiffer penalties this bill provides for anyone who attempts to flee this country with a child in an effort to abrogate the rights of the other parent, will help deter that kind of vicious act and avoid its tragic consequences.

Accordingly, I urge my colleagues to support the International Parental Kidnapping Crime Act, and help end this sad and tragic practice.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from New York [Mr. SCHUMER] and the ranking member, the gentleman from Wisconsin [Mr. SENSENBRENNER], of the Committee on the Judiciary for their outstanding work in bringing this measure back to the floor once again.

This is a measure that is long overdue and one that has given considerable problems to all of us throughout the Nation from time to time when there are spouses that run off with their children to foreign lands. This measure should help considerably to provide a proper remedy.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3378.

The question was taken.

Mr. SCHUMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

YOUTH HANDGUN SAFETY

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3098) to amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile, as amended.

The Clerk read as follows:

H.R. 3098

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, funds, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by

exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SEC. 2. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGRUN OR AMMUNITION TO, A JUVENILE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply—

"(A) to a temporary transfer of a handgun or ammunition to a juvenile, or to the possession or use of a handgun or ammunition by a juvenile, if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) with the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in subparagraph (A)(i) is to take place, and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor;

"(C) to a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(D) to a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(E) to the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph:

"(5)(A)(i) A juvenile who violates section 922(s) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(s)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(s) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(s)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) of the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(d) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such person of section 922(s)" before the period at the end.

(2) SECTION 5032.—Section of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (s)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(s) of this title," before "criminal prosecution on the basis".

(e) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(s) of title 18, United States Code, or a similar State law)".

(f) MODEL LAW.—The Attorney General, acting through the director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

This bill is about two shocking words—kids and handguns.

Kids and handguns. Just think of what those words mean.

The sound of them together is like a slap in the face. Kids and handguns. The image is obscene.

What business do kids—what business do children—have with handguns? What kind of society permits death by handgun to be the leading cause of death among its male teenagers?

I know what the answer is from Queens, from Brooklyn, and from all of New York. My constituents are shouting that answer.

Their answer is that children have no business with handguns. No business.

They have no business being shot down on the steps of schoolhouses with handguns. They have no business killing adults with handguns. They have no business growing up in fear that some other child will kill them with a handgun.

My neighbors in New York want this commerce in death among children stopped. And—make no mistake—they are not alone in their demands.

Mr. GLICKMAN's neighbors want it stopped. He heard their concerns, and I commend him for his leadership in bringing this important bill before us.

Your neighbors want it stopped, too.

And if you listen, you can hear a great balance turning in America. We in Congress had better understand that turning. A wave of anger and revulsion is building in every corner of America. When it reaches full tide, it will sweep over this Capitol and any party that stands in its way.

Because the American people are sick to death of violence. They are sick to death of seeing children kill and be killed with handguns. They are calling for an end to it.

This bill is one small, but important, answer to that call.

It closes a loophole in Federal law that permits the transfer of handguns to children, and the possession of handguns by children. At the same time, it permits a few carefully drawn exceptions that are seen to be necessary in some communities.

The wonder is not that this bill is before us. The wonder is that it has taken so long. The wonder is that anyone could vote against it.

I urge my colleagues to pass this bill unanimously and help end the long national nightmare of kids and handguns.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very historic moment in the House of Representatives that I hope no one will forget. The reason it is historic is that in this bill, both gun control groups and the National Rifle Association have come together to work out a bill that is very clearly in the public interest. I know of no other instance where there two groups, that have been at each other's throats on practically every other issue relating to firearms, are both on the same side. I think the reason for this is that there is a serious problem of guns with children, guns in schools, and guns being used by children to kill other children.

So what this bill does is it amends the Federal Criminal Code to prohibit two things: First, it prohibits the sale, delivery, or transfer to a juvenile of a handgun or ammunition that is suitable for use only in a handgun; and, second, the possession by a juvenile of a handgun or such ammunition.

There are some carefully crafted exemptions to this prohibition which include, first, when the handgun is used in target practice or in the course of employment, such as ranching or farming, hunting, or in the course of instructions under specified conditions, such a with the prior written consent of the juvenile's parents or guardian and with that consent in the juvenile's possession at all times and in accordance with State and local law.

Second, possession by a juvenile who is a member of the U.S. Armed Forces or the National Guard who possesses or is armed with a handgun in the line of duty.

Third, the transfer to a juvenile by inheritance of title.

Fourth, the transportation by the juvenile of an unloaded handgun under specified circumstances.

Fifth, self defense under specified circumstances.

Mr. Speaker, I think that these exemptions provide legal cover for the legitimate and lawful use of the handgun by the juvenile, while at the same time putting Federal criminal penalties on for use or possession outside of these exemptions.

I would like to commend specifically the gentleman from Kansas [Mr. GLICKMAN] for helping work out this compromise, as well as the senior Senator from my State of Wisconsin [Mr. KOHL] who worked on this issue in the other body.

This is responsible gun legislation, everybody says it is, and I would hope that this legislation would be speedily enacted into law.

Mr. Speaker, i reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN], the head sponsor of this bill.

Mr. GLICKMAN. Mr. Speaker, first of all I want to pay special tribute to the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for taking the leadership on this and other crime and firearms-related legislation. In particular, I want to also commend my colleague from Delaware [Mr. CASTLE], the former Governor of Delaware, who has, along with me, at nearly the same time, got interested in this particular issue. I think Wilmington, DE, and Wichita, KS, two "W" cities, had similar problems with youth gun violence. So we got involved in this issue of kids and handguns, and I am appreciative that we have worked out a bill.

Mr. Speaker, first of all, I want to just briefly state, as the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] have said, the bill prohibits the transfer or sale of a handgun to a person under the age of 18, and it prohibits the possession of a handgun by a person under the age of 18 in most circumstances.

The bill makes some exceptions to the prohibition, for the use of a handgun in hunting, and I want to make that clear, hunting, target shooting, or a course of instruction in the safe use of a handgun. It also exempts the use of a handgun in ranching or farming operations or in the course of employment, where that is permitted under State or local law. We do not want to hamper legitimate sporting activities or the ability of teenagers to work on ranches or large farms and protect themselves from rattlesnakes or other particular problems.

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With these limited exceptions, however, this bill does take care of a very serious problem of kids and guns. The gentleman from New York [Mr. SCHUMER] talked about these two awful words together, kids and handguns put together as a recipe, a chemistry for disaster. Let me add two more words to that list, "schools" and "gangs."

When we add kids, handguns, schools and gangs, we have a recipe for almost a revolution, automatic violence which is occurring in our society today. So we have put this bill together, along with a lot of organizations, as the gentleman from Wisconsin [Mr. SENSENBRENNER] said. Both the National Rifle Association and Handgun Control, the pro-gun groups and the anti-gun groups, got together because, in this case, we were dealing with a legitimate purpose to try to keep handguns out of the hands of kids, 13-, 14-, 15-year-old kids, who should not be possessing these things, who bring them to school in many cases. And right now there is a Federal law and most States do not have State laws governing this particular situation.

It truly is a matter of life and death to an entire generation that we begin to address the issue of kids and guns. Right now, the leading cause of death for both black and white teenage boys in America is gunshot wounds—more than car accidents, more than natural causes, more than anything else. Between 1985 and 1991 he arrest rate increased by 217 percent for 15-year-old males, and by 40 percent among 13- to 14-year-old males. We have got a crisis on our hands and it is time to work toward ending it.

Mr. Speaker, the Youth Handgun Safety Act of 1993 is designed to get the guns away from kids and the kids away from guns. It makes it a Federal crime to give or sell a youth under the age of 18 a handgun under most circumstances and it equally makes it a Federal crime for a youth under the age of 18 to possess a handgun under most circumstances. Right now, the Gun Control Act of 1968 only makes it illegal for a licensed gun dealer to give or sell a handgun to a minor. It totally ignores the very real situations where other people, like gang leaders, give or sell handguns to minors and where minors get hold of handguns. Well, I believe it is time we start addressing these situations, and that is what this bill does.

Kids are carrying guns in every city in this country. It transcends race, gender, and income level. Everyone sitting here today has a school or schools in their district where guns have been found or used. I asked the school principals in my district what their experience was with guns and violence in their schools. The response was unequivocal—violence has increased in the number of incidents and the level of aggression. One principal in the Wichita public schools detailed an incident where a 14-year-old student put a pistol up against the principal's forehead because the student was unhappy with a decision to punish the student. That same principal told of finding a 13-year-old girl with a gun in her book bag who told the principal she brought it for a party after school, because "everyone knows you don't go to a party without a gun."

This is borne out by the statistics. U.S. News and World Report found that 270,000 guns are being brought to school every day in this country. What happened to the days where students were most afraid of pop-quizzes or hard tests? Our kids are being faced with playground disputes being settled with hallway shootouts.

This bill says enough is enough. Enough guns in our schools, enough guns being used on our kids, enough guns being used by our kids, enough violence and death.

In the other body, this measure passed unanimously, 100 to 0. The version we passed out of the Committee on the Judiciary is virtually identical to the language of the other body.

I have made, along with the gentleman from New York [Mr. SCHUMER], the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from Delaware [Mr. CASTLE], and others only a few organizational and technical changes to clean up the language of the other body that was added at the last minute on the Senate floor. I certainly hope we can move as decisively as they did.

Again, I want to add my thanks, particularly to the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for their leadership on crime issues.

Mr. SCHUMER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I also thank the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from New York [Mr. SCHUMER] for their great work in guiding this bill through the Committee on the Judiciary. I particularly thank the gentleman from Kansas [Mr. GLICKMAN], who has done an outstanding job of monitoring this issue, of recognizing the need to fill a hole in our laws which, it is astounding to me, in retrospect, has not been filled before.

This is a piece of legislation which is literally agreed to by every group that I know of, including the police, the NRA and everybody else, particularly the people of the United States of America, who believe that children should not have access to guns and be able to carry guns openly. The time for this to pass is long past due.

There is a tremendous proliferation in our streets of young people with guns, for a whole series of reasons that are very difficult, that need to be wrestled with as well. But the truth of the matter is that in some States the laws are so weak that a child, a 12-year-old, could walk down the main street of a city brandishing a handgun.

There are a lot of ways in which this can come to evidence. We see the intentional act of young children, who are becoming adults, who carry guns to commit crimes intentionally. We see accidents, because kids get hold of guns either in their homes or somehow out on the street, and they start to play with them and accidents happen. And young people, obviously, are less knowledgeable about what to do with respect to a gun.

We see it in the area of suicide. Would it happen if the gun had not been available? And we see it, and we are starting to see it more and more, in the concept of being a big man in the school, the high school, the junior high school, whatever it may be, or the defense, because you are concerned about somebody else.

It is astounding to talk to the individuals running our schools, the principals and the teachers across the United States of America, and to see the concern that they have with weapons, particularly with handguns, which are being brought to schools across the United States of America.

The gentleman from Wisconsin called this a historical moment, and it is in that this piece of legislation is supported by a lot of different groups who normally have not been together with respect to gun control. Everybody realizes that very young people in the United States of America should not have guns.

Let me say that this is not the only solution which we need across the United States of America. We have violence in our culture, particularly at a young age, which we have never seen before. And we need to address that in many ways.

We have a breakdown of our families in different parts of the United States, generally across the United States, which needs to be addressed to make absolutely sure that young people are being given the best opportunity. And clearly, our police and our courts do not have sufficient resources to carry out the responsibility of enforcing the laws which are out there which let some people perhaps think they have a latitude to violate those laws.

For all of these reasons, this piece of legislation is one which should pass here in the House, as it has in the other body. It is a Youth Handgun Safety Act.

It is time. It is long past due to have passed. Hopefully, today we can cure that problem.

Mr. SCHUMER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me. I congratulate the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] and the members of the staff and all the members of the subcommittee, which is a splendid subcommittee of the House Committee on the Judiciary, for the work they do and have been doing on gun control.

We are inching forward, Mr. Speaker. We are moving, regardless of the opposition, regardless of the tragedy of last evening, where the National Rifle Association was able to kill, for the time being, the Brady bill in the other body.

But I think the message to Sarah and Jim Brady should be, and to all people in this country who care so deeply, that we are going to get that bill passed. And we are moving forward on gun control.

Last night I watched on TV a program of scholarly people in Seattle from Singapore and from Japan talking about human rights. And they pointed out that, yes, they perhaps do not have the same care for constitutional rights and human rights as we do insofar as the rights of voting and discrimination on the basis of race and so forth.

But they have better human rights in some ways, at least in the streets of Singapore, Taiwan, Yokohama, and Tokyo. Their citizens can walk around with perfect safety, and they can go to sleep at night in their homes. They do not have their children wandering the streets with guns. As a matter of fact, I go much further than this bill. I do not know why we should not have laws in this country like those countries have and practically all of the countries in Europe that have a much lower crime rate than we do. I do not know why I should have a gun. There is no reason for it.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, perhaps the streets of Singapore are safe because they have the death penalty for drug possession there. Would the gentleman think that might be helpful?

Mr. EDWARDS of California. Mr. Speaker, I think the gentleman has changed the subject to one of the things that he thinks will resolve all of the crime problems in this country. I strongly disagree with him. And all of these other countries, with the exception of Singapore, would disagree with him also.

But the gentleman from Kansas [Mr. GLICKMAN] deserves great credit. The gentleman from Delaware deserves great credit for this bill. We are moving forward. We must not drop the ball insofar as gun control and crime control in this country.

I would hope that after this Christmas recess that we could enact, with the cooperation of the other side of the aisle and our colleagues in the other body, a very progressive, strong crime bill that really can make some difference in this country, unlike the crime bills that we have enacted in the past.

□ 1120

With that I congratulate the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] again, and all of the members of the subcommittee. What they are doing today and have been trying to do the last few weeks is very commendable.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding the time.

Mr. Speaker, I too want to congratulate the gentleman from Kansas [Mr. GLICKMAN], the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for bringing this legislation to us.

This bill deals with the problem of kids and guns: kids having, possessing, and using guns, and the awful results that too often follow. Our citizens are horrified by the stories of the number of guns in schools.

The bill will generally make illegal the possession by or transfer to juveniles of a handgun or handgun ammunition, and it makes sensible exceptions, barring language passed in the other body. Target shooting, firearm instruction, self defense are exceptions under specified conditions.

This bill, Mr. Speaker, shows how Congress can act without gridlock and act to address a very serious problem felt by all of our citizens. Lunch boxes, Mr. Speaker, are for lunch, not handguns.

Mr. SCHUMER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would simply like to say that I also would like to thank in addition to the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Delaware, [Mr. CASTLE], who is a lead cosponsor of this bill, and has done an excellent job not only on this bill, but so many rational laws on guns. And I think our whole Chamber on both sides of the aisle appreciate his leadership.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I am listening to this debate, and it is interesting, and of course it is true. Children having access to guns ought to be anathema.

But what about switchblades? When the guns are not around, we certainly have not dried up narcotics around schools and on the streets. But we pass a plethora of laws, and the crime statistics keep mounting.

Maybe there is something more radically wrong. Maybe we ought to start thinking about how do we get kids and adults to start respecting each other as fellow members of the human family, how do we sensitize people that other people are not targets or expendable commodities?

Why do we tolerate the mindset that made a laughing stock of our former Vice President because he expressed concern about broken homes? What made that kid want to put a gun next to the teacher's forehead?

We can take the fun away, but have we taken away the animus, the hatred, the antisocial attitudes of that kid? We have got to go deeper than this, folks, and I hope some of the heavy thinkers in this Congress are thinking about it.

Mr. SKAGGS. Mr. Speaker, I'm pleased today to support the Youth Handgun Safety Act. I commend Representatives GLICKMAN and CASTLE for the work they've done, along with Senator KOHL, in introducing this important legislation and moving it forward to this point. This is a sensible measure to begin keeping dangerous weapons out of the hands of our children and stemming the flood of violence on our streets.

We all know that youth violence is increasing across the Nation. Every day tells another story of innocent people—often innocent children—dying at the hands of youngsters wielding handguns and other firearms.

One important thing we can do is keep guns away from teenagers and children. There is simply no reason why a child should be able to get a gun without parental consent. You only need to watch the evening news in any town across America to see the damage that results when kids have unsupervised access to firearms.

The problem is only getting worse. In just 3 short years, between 1988 to 1991, deaths by gunfire doubled, homicides of teenagers tripled, and gang-related murders quintupled, according to Colorado Center's for the Study and Prevention of Violence. One in twenty high school students nationwide carries a gun to school, according to the Centers for Disease Control. Three out of four murders committed by juveniles is by gunfire, according to the FBI.

We simply cannot accept this. We must act now to put a stop to this madness.

The bill before us today is an essential first step toward getting handguns out of the hands of children across the United States. By prohibiting the transfer of any handgun to a juvenile without parental consent and the possession of handguns by juveniles in most circumstances—with exceptions for such reasonable activities as hunting and target shooting—we begin getting dangerous weapons out of the hands of youngsters.

As I say, this bill is a crucial first step. Many of us want to go further. Just last month, I introduced a bill, which has already been cosponsored by 28 other Members, that is more far-reaching in one major way—it applies to all firearms, not just to handguns. If it were possible today to offer amendments to the Youth Handgun Safety Act, the bill now before us, I would offer an amendment so that its prohibitions apply to all firearms. If we don't want children to have pistols, why should we let them have shotguns, rifles, or Uzis?

I believe there would be very strong support in this Chamber for this amendment. I recognize, however, that with just 3 days left before the House adjourns for the year, the only way to get the Youth Handgun Safety Act passed this year is to bring it before the House under suspension-of-the-rules procedures, which doesn't allow amendments to be offered to it. Because I think it is important to do what we can, as soon as we can, to begin getting dangerous weapons out of the hands of children, I support consideration and passage of the Youth Handgun Safety Act under this procedure. There will be opportunities next year to work to broaden the coverage of the legislation, and I will do so then.

Gun control, of course, is not the only solution. We must strengthen law enforcement, reduce drug use, improve our schools, and create more economic opportunity and hope. But the fabric of our society is being torn by gunfire, and we must stop it. We must give law enforcement officers the authority to get guns out of the hands of children and to lock up those who make money off the blood of our children—the ones who are selling guns to them. Let's pass the Youth Handgun Safety Act today.

Mr. SANTORUM. Mr. Speaker, today I rise in strong support of H.R. 3098, the Youth Handgun Safety Act voted on today in the House of Representatives. This bill closes a loophole in our Federal law which allows for the possession of a handgun by a minor or the transfer or sale to a minor by an unlicensed dealer. Currently, Federal law only applies to licensed gun dealers who sell or deliver a handgun to someone under 21. It does not address unlicensed dealers who sell or deliver handguns to minors or address the possession of a handgun by a minor. While some States have recently passed laws regarding possession by a minor, most States, including my own home State of Pennsylvania, have not.

Yet, while this bill takes an important first step in solving this problem, I believe that we must go further in our efforts to combat the rising tide of violence and gun used by children. That is why I have introduced the Juvenile Handgun Control Act of 1993, which would impose stiffer penalties regarding the possession of a handgun by a minor, and most importantly, harshly punish the true criminals—the people who sell or give these guns to our children.

My legislation, like H.R. 3098, makes certain exceptions regarding possession by a minor, including hunting or parental consent, but it would go further by setting a three strike system. A first offense by a minor would be punishable by probation or detainment of not more than a year and a maximum fine of $10,000 or both. A second offense by a minor would be classified a juvenile felony and punishable by probation or detainment of 1 to 4 years or a maximum fine of $20,000 or both. Finally, the third offense would require that the minor be transferred to a district criminal court, tried as an adult and imprisoned for 1 to 4 years and fined a maximum of $50,000.

The bill I have introduced would also make it a Federal offense for a person to sell or transfer a handgun to a minor without the consent of the child's parent or legal guardian. It also calls for harsher penalties for someone who gives or sells a handgun to a minor who they know has been convicted of a crime of violence. This is the real problem that is plaguing our streets today, the accessibility of these guns for our children.

In order to make significant strides in making our streets safer, we must also punish the people who knowingly break the law and who are putting our children out on the streets and in our schools with deadly weapons. I am hopeful that in the second session of the 103d Congress, we will again address this important issue and work to secure stiffer legislation to protect our children.

Mr. HOAGLAND. Mr. Speaker, the level of violence on the streets of this country is intolerable. In my hometown of Omaha, people are dismayed by incident after incident of drive-by shootings, and children toting guns to school.

We are worried about our safety, and the safety of our kids.

One of the biggest problems in this escalating wave of crime and youth violence is the ready availability of handguns. We have got to get a handle on this problem now, or we risk letting it spin further out of control.

This bill will make it illegal under Federal law for a person under 18 years old to possess a handgun, and for anyone to knowingly transfer or sell a handgun to a juvenile. Our children should be involved in learning and growing, not fearing for their safety when they walk down the street or go to school.

I am pleased to say that this bill accomplishes the same purpose as H.R. 3406 which I introduced on October 28. At a news conference in Omaha, I expressed hope that this measure would pass the House this year; it now has done so.

As Attorney General Janet Reno said recently, there is no single answer to the problem of violence. It has to be a comprehensive effort. This bill, along with other measures that have passed the House this year like putting more police officers on the streets, and creating bootcamps for first-time offenders, are first steps.

I will continue working to rejuvenate a plan to make the areas in and around our schools gun-free school zones and to ban assault weapons so that our police officers are not outgunned on the street.

We all have to work together to get criminals off our streets and keep our neighborhoods safe.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3098, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

VACATING DEMAND FOR YEAS AND NAYS ON H.R. 3378, INTERNATIONAL PARENTAL KIDNAPING CRIME ACT OF 1993

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent to vacate the demand for the yeas and nays on the previous bill (H.R. 3378) to amend title 18, United States Code, with respect to parental kidnaping, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3378.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 324) to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision, as amended.

The Clerk read as follows:

H.R. 324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 2. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, or being placed on parole, supervised release, or probation.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(A) kidnaping of a minor, except by a parent;

(B) false imprisonment of a minor, except by a parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of a minor to engage in sexual conduct;

(E) use of a minor in a sexual performance;

(F) solicitation of a minor to practice prostitution;

(G) any conduct that by its nature is a sexual offense against a minor; or

(H) an attempt to commit an offense described in any of subparagraphs (A) through (G) of this paragraph, if the State—

(i) makes such an attempt a criminal offense; and

(ii) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following requirements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any changes of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the person of the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for investigative purposes or to government agencies conducting confidential background checks with fingerprints on applicants for child care positions or other positions involving contact with children.

(c) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which triggered registration in a State shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(d) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, or placed on parole, supervised release, or probation.

(e) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the guidelines issued under this section 3 years after the date of enactment of this Act may be reduced by 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield to myself such time as I may consume.

Mr. Speaker, a civilized nation has a duty to protect its children from those who would do them harm. They are our most precious yet vulnerable citizens.

This bill would require that persons convicted of certain criminal offenses against a child to register and maintain their address with law enforcement officials for 10 years after their release from prison. It is a helping hand to the States to aid them in preventing crimes against children.

I would like to thank my friend, the gentleman from Minnesota, Mr. JIM RAMSTAD, the author of this bill, for his diligent work on this issue. He has brought it to the attention of Congress and then doggedly pursued its passage here in the House, and has not let any obstacle overcome that. He deserves to be saluted, not only by the Members of this body, but by all of those parents of children who will be at less risk because this bill is passed. It is a matter of great importance to myself and to the gentleman from Minnesota, and to many of our colleagues in this House.

I would also like to thank Chairman BROOKS for his support in bringing this legislation to the floor today.

The only other point I would make, I would say to the gentleman from Illinois, Mr. HYDE, that I want to address just briefly something that he said, since this bill is sort of in that area. I think the gentleman is totally right, and I do not think we would find much disagreement from Members on this side of the aisle about the fact that families and family structure has been torn asunder in modern day America. We do not know all of the reasons why, and until family is somehow put back together we are going to continue to have these problems.

Our schools cannot teach us everything. Eighty percent or 90 percent of the useful knowledge I have received, and this is probably true of most of my colleagues, came from my two best teachers, my parents. These days we wonder if that is happening much in divided homes where we have so many children with no real family.

We have to work on it. The one problem, I would say to the gentleman from Illinois, is if we do not know what the solution is, and we really do not, because some say it is caused by affluence in our society, some say it is caused by a breakdown in values, but it is just very difficult to tell. But I would say to the gentleman that that does not mean that just as Members on that side of the aisle would criticize Members on this side of the aisle, we will not do tough laws until we get to the root of the cause of the problem, the same goes for gun laws and other things. Yes, there are serious problems as to why guns are used. That does not mean guns should be available in our society, and we cannot wait until we get to those root causes to say that children should not have guns, or that children should not be protected as in this bill that the gentleman from Minnesota has so wisely brought to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before arguing on why this bill should be passed, let me pay tribute to the gentleman from Minnesota [Mr. RAMSTAD], who has been single-minded in support of getting this bill through the numerous hurdles of congressional procedures set up. And the fact that this bill is on the floor today is tribute to his doggedness in identifying a problem that is of national scope, even though it arose as a result of a tragedy that occurred to one of his constituents, Jacob Wetterling, who was abducted and disappeared several years ago.

□ 1130

The reason this bill is so important is because of the high rate of recidivism in persons who have committed crimes against children, and it is not just sex crimes against children but all crimes against children. The recidivism rate is probably higher in this area of our criminal justice system or in violations of the criminal code.

So the first place that law enforcement looks when a child has been abducted or has been the victim of a crime which does not involve abduction is with the list of offenders that are within that community or within that area, and very often when a child is abducted, the person who has perpetrated this crime takes the child a far way away where law enforcement really do not know who is involved, so time is of the essence in law enforcement being able to track down known child offenders to see if they were involved in an abduction or another crime against a child.

Because there is not a national registry of people who have been convicted of a crime against a child and have served their prison time and have been paroled out, law enforcement really is not able to track down those who would be the prime suspect as quickly as possible. So that is why the Jacob Wetterling Crimes Against Children Registration Act is before us today.

This bill directs the Attorney General to establish guidelines for State programs requiring persons convicted of a criminal offense against a minor to register a current address with the designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release or probation. It sets forth guidelines for this. It also allows for fingerprints to be taken and the information being placed both in State computerized identification systems as well as the National Crime Information Center computer networks. It provides that information provided under this act is private and may be used only for law enforcement purposes including confidential background checks by child-care service providers, so that way one of these folks who is registered would not be working in a day-care center or in another child-care service.

The stick that is contained in this bill to make sure that those States that have not established this type of a list is the fact that if 3 years go by and a State does not have such a registry, their Bureau of Justice assistance grants funds are reduced by 10 percent and allocated to those States that have done this job.

So I would hope that this bill would be passed quickly, that these registries would be established. It would be a tremendous tool for law enforcement as well as the child-care service providers to protect children, who are the most vulnerable and the most innocent victims of the terrible things that have been going on in our society.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. RAMSTAD], who is the principal author of this bill.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today we have the opportunity to address a serious and tragic problem in our Nation. We are considering legislation to protect young people from child sex abusers and abductors and to aid in their investigation by law enforcement.

The namesake for this bill is Jacob Wetterling of Saint Joseph, MN, who was tragically abducted from his home 4 years ago. Neither Jacob nor his abductor has yet been found.

Next to me are two photographs, Mr. Speaker, of Jacob, which I hope the camera will capture. The photo on the right is a computer age-progressed image of Jacob which gives us an image of how Jacob would look today. That is the photo on the right. The image was produced by the National Center for Missing and Exploited Children and, Mr. Speaker, I hope if anyone watching recognizes Jacob they will call 1-800-843-5678.

After working on this legislation for nearly 3 years, I wanted my colleagues to see the young man who inspired this legislation. Mr. Speaker, briefly, this bill would require individuals, as the gentleman from Wisconsin [Mr. SENSENBRENNER] so eloquently explained, individuals who are convicted of certain crimes against children to register and maintain their addresses with law enforcement for a period of 10 years after being released from prison or probation.

Currently 24 States have such sex offender, child sex offender registration statutes, but the Wetterling bill is needed to prod all States to enact similar laws and to provide for a national registration system to handle offenders who move from one State to another.

We know that child sex offenders are repeat offenders. They are probably the most difficult classes of criminals, in addition, to rehabilitate. A study of imprisoned child sex offenders found that 74 percent had a previous conviction for another child sex offense. Child sex offenders repeat their crimes again and again and again to the point of compulsion.

Another study showed that the average child sex offender molests 117 children. Fully two-thirds of the nonfamily child abduction cases reported to policy involve sexual assaults.

Mr. Speaker, how many children are we talking about? according to the Justice Department, over 114,000 children in America were targets of attempted abductions in 1988. While fortunately most attempts were unsuccessful, 4,600 children like Jacob disappeared.

Mr. Speaker, this week another youth in my congressional district disappeared. Tragically just yesterday this ninth grader was found shot dead next to the man who admitted earlier in the month sexually abusing him. The man was out on bail and had been ordered to stay away from the boy. We do not know all the facts yet, but it appears this was a murder-suicide.

Mr. Speaker, this is the most horrible of all crimes, and it is certainly every parent's nightmare.

While the Wetterling bill will not completely stop these heinous crimes, it will deter them and give law enforcement a very, very important tool for investigating these crimes.

Why is a registration law useful? The 1990 case of Arizona versus Lammie, the Arizona Court of Appeals, in upholding that State's registration requirement, provided an excellent summary of the merits of such legislation. Let me quote from that court opinion:

> Registration * * * Places a defendant on notice that when subsequent sexual crimes are committed in the area where he lives, he may well be subject to investigation. This may well have a prophylactic effect, deterring him from future sexual crimes. Furthermore it is a proper tool to be given to police officers for use in investigating criminal offenses.

Mr. Speaker, in conclusion I want to thank the chairman of the Crime and Criminal Justice Committee, the gentleman from New York [Mr. SCHUMER], for his tremendous assistance in securing passage of this important bill. For without the assistance of the gentleman from New York [Mr. SCHUMER], this bill would not be here today. The gentleman from New York [Mr. SCHUMER] understands the need for this legislation and has been a solid supporter of this bill from day one. I want to thank the other Members also who have helped on this bill, especially the chairman, the gentleman from Texas [Mr. BROOKS], the ranking member, the gentleman from New York [Mr. FISH], the gentleman from California [Mr. EDWARDS], and the gentleman from Wisconsin [Mr. SENSENBRENNER], ranking member of the Crime and Criminal Justice Subcommittee. It is truly a bipartisan bill, and it shows that Congress can work.

We took off our Republican hats, we took off our Democrat hats, and crafted good legislation in a bipartisan, pragmatic way. I also deeply appreciate the support of the other members of the Committee on the Judiciary as well as the excellent staff work of the subcommittee member staff and full committee staff.

Most of all I want to thank, Mr. Speaker, Jacob Wetterling's mother, Patty Wetterling. She has turned a family tragedy into a legislative crusade, first in the Minnesota legislature, and then in Congress. Patty Wetterling deserves most of the credit for passing this bill. She has worked tirelessly on this legislation. She appeared at the House Crime and Criminal Justice Subcommittee, and all members were moved by the compelling story of her beloved Jacob, and certainly that underscored the need for this bill here today.

Mr. Speaker, I ask all Members to vote for H.R. 324, the Jacob Wetterling bill.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER], one of the distinguished House leaders, the chairman of the Democratic caucus on our side, and a respected lawyer who has been of great assistance for many years to the Committee on the Judiciary in all of our work.

☐ 1140

Mr. HOYER. I thank the distinguished gentleman from California particularly for his kind words. There is, as the gentleman knows and as Members on this House floor know, no Member that I respect more and have a greater affection for than the gentleman from California [Mr. EDWARDS]. He has always been a diligent fighter for the rights of all Americans. I thank him for his generous remarks.

Mr. Speaker, I am pleased to follow my friend from Minnesota Mr. RAMSTAD. I believe it is important for all Americans to know that this body does in fact respond to one individual who cares deeply and who has the best interests of our country at heart.

I congratulate Patty Wetterling of whom the gentleman spoke so eloquently for the efforts she has given.

In my own State of Maryland, you may have heard of Stephanie Roper. She was a young woman who was tortured, raped, and murdered. The Stephanie Roper Committee, founded by Roberta Roper, has been a major force and a strong advocate for the rights and concerns of crime victims.

Roberta has been one of the leaders in this effort and she wholeheartedly supports this legislation.

Mr. Speaker, I rise today in strong support of H.R. 324, the Jacob Wetterling Crimes Against Children Registration Act of 1993. Recently, Senator THURMOND and I cochaired the annual Boys and Girls Club breakfast. At that time, John Walsh, whom America knows as the host of "America's Most Wanted," spoke with me about this bill. He further stressed the need and importance of protecting our children. I am quite confident both Democrats and Republicans can agree this is a very important objective.

I commend Congressman RAMSTAD for introducing this legislation, which moves us in a positive direction toward eliminating abuse and exploitation of this Nation's children. I also, as he did, want to commend Chairman BROOKS and the gentleman from New York [Mr. SCHUMER], my good friend with whom I joined in the Class of 1980. I want to thank him for his leadership and tenacious fight to get this legislation out before we went home. He was instrumental in assuring this legislation made it to the House floor.

I also must recognize and commend HAMILTON FISH, and JIM SENSENBRENNER, who diligently worked to move this legislation forward.

Mr. Speaker, today we have the ability to do for our innocent children what the Brady bill does for innocent victims of gun violence. We can institute a background check on persons convicted of certain State criminal offenses against a victim who is a child.

Mr. Speaker, I speak as a father of three daughters and the grandfather of a 7-year-old grandchild. It is so important that we have a mechanism which allows us as parents, as grandparents, as guardians, and as friends of children, to immediately know about the people who are taking care of our children. We live in a society where parents are compelled, for economic reasons, to place their children in the hands of others.

We have heard many horror stories about day care providers and teachers sexually exploiting children. We have seen recent egregious examples of these unpleasant episodes in my own State of Maryland.

Perhaps some of these episodes could be avoided if employers had been given the opportunity to properly investigate the background of those who have the responsibility of caring for our children.

Mr. Speaker, this legislation can be used as a vehicle to begin the process of eliminating the exploitation of children. Because children are so very vulnerable in today's society, it is necessary to implement procedures which can adequately protect them. The statistics are frightening, and they must cause us all anguish and anger as we read about the incredible numbers of children abused daily in their homes, their schools, and social lives.

Mr. Speaker, we must do all we can to protect our children so that we can protect the America of tomorrow.

Once again, I want to congratulate Mr. RAMSTAD, the Judiciary Committee leadership, the committee members, and the staff for bringing this legislation forward. Finally, I want to thank John Walsh and the Stephanie Roper Foundation for bringing this matter to my personal attention.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to congratulate my colleague, the gentleman from Minnesota, on offering such an important and much-needed bill on child molestation.

All of us in Minnesota have been touched by the terrible tragedy of Jacob Wetterling, an 11-year-old boy who was abducted by gunpoint in St. Joseph, MN, over 4 years ago and has yet to be found.

Studies have shown that child sex offenders are some of the most notorious repeat offenders. By requiring child molesters who have been paroled or released from prison to register with State law enforcement officials, this bill gives society the right to know where these convicted offenders reside.

Mr. Speaker, registration is constitutional, has worked in many States, and will deter those who think about committing sexual crimes on our Nation's children.

This legislation is a necessary step in the right direction to reduce the crimes committed against innocent children like Jacob Wetterling. As the father of four children and the grandfather of three, I strongly support this legislation.

Mr. Speaker, I thank the gentleman again for yielding time to me.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH]

Mr. FISH. I thank my colleague for yielding this time to me.

Mr. Speaker, I find this a very moving debate. Truly, as Mr. RAMSTAD of Minnesota, its chief architect, has said, this, with which we are dealing here today, is every parent's nightmare. We need this bill because we know that child sex offenders, 74 percent of them have previous convictions for sexual offenses against a child. We know that fully two-thirds of nonfamily child-abduction cases reported to police involve sexual assault.

So what does this bill do? Well, in a nutshell, it requires individuals who have been convicted of certain crimes against children to register and maintain their address with law enforcement for a period of 10 years after they are released from prison or placed on probation.

Now, this information will be available to law enforcement and Government agencies conducting background checks on applicants for child-care positions.

It seems to me that this is a step that the Nation will applaud.

Mr. Speaker, the constitutionality of this matter was alluded to a moment ago, and I would just like to dwell on that a second because I believe this law is constitutional.

The courts have found either that registration is not punishment and therefore not subject to the eighth amendment or, if the courts do go through the eighth amendment analysis, that it was not considered cruel and unusual.

The courts have also rejected arguments based on due process, equal protection, privacy, and freedom to travel.

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Mr. Speaker, I hope that the gentleman from Minnesota [Mr. RAMSTAD] will get a call at 1-800-843-5678.

This is a long-overdue piece of legislation.

Mr. HOBSON. Mr. Speaker, I rise in strong support of H.R. 324, the Jacob Wetterling Crimes Against Children Registration Act, which is similar to legislation I introduced earlier this year as H.R. 515, the National Child Abuser Registration Act of 1993. I believe that children are our most valuable resource and must be protected. Far too often, children are the most vulnerable citizens in our criminal justice system. According to the National Committee for the Prevention of Child Abuse, there were 2.7 million reported cases of child abuse in 1991, up from 2.5 million in 1990. Of those 2.7 million, 15 percent, or 405,000 involved sexual abuse.

H.R. 324 is needed to protect our children and to combat the serious problem of child abuse. This legislation would require criminals convicted of an offense against a minor to register their address with a State law enforcement agency for 10 years after release from prison. Also, the bill includes mechanisms for reporting the State registration of convicted child abusers to the Federal Bureau of Investigation's National Crime Information Center. This would enable child care providers to conduct confidential background checks on potential employees and volunteers, thus protecting children from being abused and victimized. By creating a national capability for screening child care personnel, we can ensure the protection of our children against repeat and interstate offenders.

According to the National Institute of Mental Health, the typical child sexual offender acquires multiple child abuse convictions. Seventy-four percent of all convicted child abusers are repeat offenders. In addition, the average child sex offender will molest an average of 117 youngsters in his or her lifetime. The sad fact is that many children are abused by those they know and trust, including child day care workers, pediatricians, child psychologists, and other professionals. Therefore, it is imperative that this legislation be passed and signed into law, to prevent crimes against children.

Mr. Speaker, I again urge timely passage of this legislation. The time has come for Congress, and the Nation as a whole, to take action to stop these horrifying crimes against our Nation's youth. We must protect our children today and in the future.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 324, as amended.

The question was taken.

Mr. SCHUMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources;

H.R. 3318. An act to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles;

H.J. Res. 75. Joint resolution designating January 16, 1994; as "National Good Teen Day"; and

H.J. Res. 294. Joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2535. An act to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf War.

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1268) entitled "An Act to assist the development of tribal judicial systems, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 412. An act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

The message also announced that the Senate had passed bills, a joint resolution, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 1501. An act to repeal certain provisions of law relating to trading with Indians;

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes;

S. 1732. An act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes;

S.J. Res. 140. Joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day";

S. Con. Res. 44. Concurrent resolution to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples; and

S. Con. Res. 50. Concurrent resolution concerning the Arab League boycott of Israel.

NATIONAL CHILD PROTECTION ACT OF 1993

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1237) to establish procedures for national criminal background checks for child care providers, as amended.

The Clerk read as follows:

H.R. 1237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Child Protection Act of 1993".

SEC. 2. REPORTING CHILD ABUSE CRIME INFORMATION.

(a) IN GENERAL.—In each State, an authorized criminal justice agency of the State shall report child abuse crime information to, or index child abuse crime information in, the national criminal history background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL HISTORY BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall, subject to availability of appropriations—

(A) investigate the criminal history records system of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line basis through the national criminal history background check system;

(B) in consultation with State officials, establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of criminal history records and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of each State timetable that the State—

(A) by not later than the date that is 3 years after the date of enactment of this Act, have in a computerized criminal history file at least 80 percent of the final dispositions that have been rendered in all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain a reporting rate of at least 80 percent for final dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve 100 percent disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of child abuse crimes.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall, subject to the availability of appropriations, publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal history background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State; and

(C) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 3. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by State statute or regulation) that require qualified entities designated by the State to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon an individual's fitness to have responsibility for the safety and well-being of children.

(2) The authorized agency shall access and review State and Federal criminal history records through the national criminal history background check system and shall make reasonable efforts to respond to the inquiry within 15 business days.

(b) Guidelines.—The procedures established under subsection (a) shall require—

(1) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first provides a set of fingerprints and completes and signs a statement that—

(A) contains the name, address, and date of birth appearing on a valid identification document (as defined in section 1028 of title 18, United States Code) of the provider;

(B) the provider has not been convicted of a crime and, if the provider has been convicted of a crime, contains a description of the crime and the particulars of the conviction;

(C) notifies the provider that the entity may request a background check under subsection (a);

(D) notifies the provider of the provider's rights under paragraph (2); and

(E) notifies the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(2) that each provider who is the subject of a background check is entitled—

(A) to obtain a copy of any background check report; and

(B) to challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency;

(3) that an authorized agency, upon receipt of a background check report lacking disposition data, shall conduct research in whatever State and local recordkeeping systems are available in order to obtain complete data;

(4) that the authorized agency shall make a determination whether the provider has been convicted of, or is under pending indictment for, a crime that bears upon an individual's fitness to have responsibility for the safety and well-being of children and shall convey that determination to the qualified entity; and

(5) that any background check under subsection (a) and the results thereof shall be handled in accordance with the requirements of Public Law 92-544.

(c) Regulations.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

(d) Liability.—A qualified entity shall not be liable in an action for damages solely for failure to conduct a criminal background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity to take action adverse to a provider who was the subject of a background check.

(e) Fees.—In the case of a background check pursuant to a State requirement adopted after the date of the enactment of this Act conducted with fingerprints on a person who volunteers with a qualified entity, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed the actual cost of the background check conducted with fingerprints. The States shall establish fee systems that insure that fees to non-profit entities for background checks do not discourage volunteers from participating in child care programs.

SEC. 4. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) Use of Formula Grants for Improvements in State Records and Systems.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the child abuse crime records required under the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993.".

(b) Additional Funding Grants for the Improvement of Child Abuse Crime Information.—(1) The Attorney General shall, subject to appropriations and with preference to States that, as of the date of enactment of this Act, have in computerized criminal history files the lowest percentages of charges and dispositions of identifiable child abuse cases, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this Act;

(B) for the improvement of existing computerized criminal history files for the purposes of this Act;

(C) to improve accessibility to the national criminal history background check system for the purposes of this Act; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal history background check system for the purposes of this Act.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1994, 1995, 1996, and 1997.

(c) Withholding State Funds.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce, by up to 10 percent, the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 that is not in compliance with the requirements of this Act.

SEC. 5. DEFINITIONS.

For the purposes of this Act—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(3) the term "child abuse crime" means a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person;

(4) the term "child abuse crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the child abuse crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, or convicted of, a child abuse crime;

(5) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children by persons having unsupervised access to a child;

(6) the term "national criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(7) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(8) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services; and

(9) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. Edwards] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. Hyde] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Edwards].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this also is a bill that takes an important step forward in the protection of children.

The subcommittee held hearings on the issue.

The problem is that in child care providing centers there have been too many employees who have a criminal record, a criminal record for child abuse. It is very important that these records be available, and it is very important that the States pass laws requiring child care providers to check and find out before they hire someone as to whether or not this applicant for a job has a record of conviction for criminal activity. Lots of these people travel all over the country, and unless there is a systematic check made by these individual child care centers, or what ever it might be, one or more of these people could be employed and do great damage to innocent children.

The testimony that we heard was very disturbing. There is a real need.

I believe there are 30 or so States that already have systems set up. We want to encourage the other States, all States, to have systems so that these records are available to the child care providers.

We are very grateful to Ms. Oprah Winfrey, the celebrated artist that we see on television, for her enthusiasm about the bill. She did some lobbying here. It was very helpful, and of course, everybody else who worked so hard on the bill. The gentleman from Illinois [Mr. HYDE], was enormously helpful, and the author of the bill, the gentlewoman from Colorado [Mrs. SCHROEDER].

This bill will encourage the States to adopt laws requiring criminal history record checks for child care providers. We have looked into this very carefully. We have balanced the protection of children against the due process rights of individual job seekers. We made sure that it is a fair bill.

The bill includes timetables for the States to comply, and it provides authorization for funding to help States do the computerization and the necessary work to get ready for these records.

We worked closely with the gentleman from Florida [Mr. CANADY] who was very helpful.

We received the unanimous support of the subcommittee.

Mr. Speaker, I urge approval of the bill.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to extend firm and full congratulations to the subcommittee chairman, the gentleman from California [Mr. EDWARDS] for a bill like this, which indeed is a companion bill to the Ramstad bill which we just debated shortly ago and will pass later in the day.

Important legislation like this does not pass without a lot of work by staff and Members. The chairman has made this a particular interest of his, for which we are all grateful.

Numerous studies have shown that individuals who have sexually or physically abused children in the past are more likely to do so in the future. That is why it is important to make sure that adults who take care of children, including those who volunteer their time, do not have a record of child abuse or other crimes.

The purpose of the National Child Protection Act is to keep adults who have a record of child abuse from being put into a position of trust with children. It requires States to report information on child abuse to the Federal Bureau of Investigation and authorizes States to require qualified entities to perform a national background check to determine whether an individual has been convicted of a crime that bears upon an individual's fitness to have responsibility for the safety and well-being of children. The bill authorizes grant money to States to improve their criminal history records and provides due process protections to insure that any information obtained in the background check is accurate and complete.

I want to thank the chairman of the Judiciary Committee, Mr. BROOKS, and the chairman of the subcommittee, Mr. EDWARDS, for expeditiously bringing this legislation to the floor. In addition, appreciation should be expressed to Jim Dempsey, assistant counsel to the Subcommittee on Civil and Constitutional Rights and Keri Harrison, counsel to Mr. CANADY for working to get the bill into a form that we hope can be considered by the other body prior to adjournment.

I also want to thank an individual who is the motivating force behind this legislation, my fellow Chicagoan, Oprah Winfrey. Almost 2 years ago, she visited every member of the Committee on the Judiciary, urging us to enact legislation to protect children from predatory abusers. Unfortunately, the provision was held up in crime legislation that was stalled due to controversies on other issues. I know the process must have been frustrating to her, but I thank her for her persistence and am pleased that we are passing this legislation prior to adjournment.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the ranking Republican member on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding this time to me. I will be brief.

Mr. Speaker, we have a duty in this Nation to insure that the children who are put in the care of adults in schools, in Boy Scout troops or at day care centers will not become unwilling prey for child sexual abusers. The National Child Protections Act will keep adults who have a record of child abuse out of positions of care for our children.

The heart of the bill requires qualified entities to perform a national background check to determine whether an individual has been convicted of a crime that will affect an individual's fitness to take care of children.

Mandating registration by those convicted of child abuse will provide the data for the national background check. This is, therefore, a companion bill to the one we just recently considered here.

The bill, importantly also, authorizes grant money to the States to improve and update their criminal history information files.

Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from California [Mr. EDWARDS], and the ranking member, the gentleman from Illinois [Mr. HYDE] for their leadership on this issue.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. PETE GEREN].

Mr. PETE GEREN of Texas. Mr. Speaker, I thank the chairman for yielding this time to me. I appreciate it very much.

Mr. Speaker, I rise in strong support of the National Child Protection Act of 1993. It is a very important companion bill to the bill that was introduced by the gentleman from Minnesota [Mr. RAMSTAD].

I am sure that every Member of this Congress has a tragic story from his or her district in which a child was tragically abused, molested, or even murdered. The area that I represent is no different.

□ 1200

Recently, Mr. Speaker, a little girl in Plano, TX, was abducted from an athletic field, a soccer field, and murdered north of Dallas, TX. This little girl was whisked away somehow in the presence of many other children. Her body was found abused and murdered a couple of miles away. The person who has been arrested and charged with this murder had a long record of child molestation charges. As a youth he had committed rape and had gone to the youth detention center in our State. As an adult he had done the same and had served time. He was out on parole, and he committed this terrible murder.

Mr. Speaker, one of the discoveries that was made in the effort to try to identify who had committed this crime:

The police studied all of the videotapes that were taken by other parents that day of the playground, of the soccer field, and they looked and examined these in great detail, tried to identify everybody that was in this picture or in these pictures that they put together. Ironically and tragically they swept this crowd and identified many people who were in supervisory positions of children. They found a number of people who had been convicted of sex offenses against children who were in supervisory positions for children on that playground that day.

Mr. Speaker, I think that points up very dramatically the need for this particular bill. None of the people that they identified on that field were involved in this crime, but they found some suspects by surveying this field, people who this bill would have screened out, people who this bill would have kept from ever holding a supervisory position over children anywhere in this country, and I commend the chairman for this bill and for this work in putting it together.

Mr. Speaker, there are many people who have expressed concerns about perhaps a bill such as this violating the privacy of people who have been convicted of a crime such as this sort. I say the moment those people were convicted of a crime they have lost all their rights to privacy and the protection of our children becomes paramount, and this bill will go many steps forward in helping us to root out these people who should never ever be in a position of supervision over children in this country.

Mr. Speaker, I urge our colleagues to support this bill, I look forward to its passage and the implementation of the procedures called for, and I again thank the chairman for his diligent effort in helping to address this critical need in protecting our children.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER], the author and chief sponsor of the bill.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California [Mr. EDWARDS] for yielding this time to me, and I must say how very pleased I am this bill is finally here.

Mr. Speaker, when I first got elected, over 20 years ago, one of the first bills I introduced was dealing with child abuse, and from that day forward I have always been terribly concerned about how everything else in the society seems to have a much higher priority than children. We talk one way, but we act an entirely different way. We all say they are our treasures, we all say we are family oriented, child oriented, and yet, when we look at the laws on the books to protect automobiles, to protect anything we could think of, they are much tougher than those dealing with children.

This is one of the things I think will give many young working parents a tremendous amount of relief. They know now they have to be in the workplace, in many instances, in order to just keep up in this new global marketplace that we have, and yet trying to find a place where they feel secure in leaving their children is one of the most frightening things I think any young parent can face. There are horror stories that we have seen of people who have preyed on this situation and been able to move across State lines, get employment, and then do damage to children, and it is just something we have unbelievably tolerated all this time.

So, Mr. Speaker, I am very pleased today that this bill is coming to the floor, and I also want to say that all of us, I think, want to thank Oprah Winfrey because she has not only talked about this issue, but worked very hard on this bill, made all sorts of house calls trying to push on this bill, and she has not done the typical celebrity thing of just doing a glitzy show. She has really gone around talking to people one on one to get this bill where it is today which I think shows her dedication of trying to move this forward, too.

So, I think it is very apropos that we pass this right before the holiday period, and let us hope that everything that can possibly be done will be done to fast-forward this so that we finally begin to catch up in this tremendous gap on how we treat property versus how we treat children, and I think the gentleman from California [Mr. EDWARDS] for moving this to the floor, and I think all the other committee members who brought it up today.

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 1237, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization, as amended.

The Clerk read as follows:

H.R. 783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nationality and Naturalization Amendments of 1993".

SEC. 2. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP FOR CHILDREN BORN ABROAD.

(a) IN GENERAL.—Section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended—

(1) by striking the period at the end of paragraph (g) and inserting "; and", and

(2) by adding at the end the following new paragraph:

"(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United Sates of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.".

(b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) RETROACTIVE APPLICATION.—The immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though such amendment and such subsection had been in effect as of the date of their birth. However, the retroactive application of the amendment and provision shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934, 48 Stat. 797).

SEC. 3. EXPANDING WAIVER OF THE GOVERNMENT KNOWLEDGE, UNITED STATES HISTORY, AND ENGLISH LANGUAGE REQUIREMENTS FOR NATURALIZATION.

(A) IN GENERAL.—Section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended—

(1) by inserting "(a)" after "312.",

(2) by striking "this requirement" and all that follows through "That" the second place it appears,

(3) by striking "this section" and inserting "this paragraph", and

(4) by adding at the end the following new subsection:

"(b)(1) The requirements of subsection (a) shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

"(2) The requirement of subsection (a)(1) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, either—

"(A) is over fifty years of age and has been living in the United States for periods totalling at least twenty years subsequent to a lawful admission for permanent residence, or

"(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsection to a lawful admission for permanent residence.

"(3) The requirement of subsection (a)(2) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.".

(b) CONFORMING AMENDMENTS.—Section 245A(b)(1)(D) of such Act (8 U.S.C. 1254a(b)(1)(D)) is amended by striking "312" each place it appears and inserting "312(a)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.

SEC. 4. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.

(A) IN GENERAL.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follow:

"CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

"Sec. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled

"(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

"(2) The child is physically present in the United States pursuant to a lawful admission.

"(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

"(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

"(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totalling not less than five years, at least two of which were after attaining the age of fourteen years—

"(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

"(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

"(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

"(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 341 of such Act (8 U.S.C. 1452) is repealed.

(c) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 322 is amended to read as follows:

"Sec. 322. Child born outside the United States; application for certificate of citizenship requirements.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than one hundred twenty days after the date of the enactment of this Act.

SEC. 5. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end the following new subsection:

"(d)(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

"(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than one hundred twenty days after the date of the enactment of this Act.

SEC. 6. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

(1) The number of applications for citizenship filed.

(2) The number of applications approved.

(3) The number of applications denied.

(4) The number of applications pending.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 783, the bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 783.

This legislation makes it easier for persons, born to U.S. citizens living abroad, to claim U.S. citizenship or to reacquire citizenship where, under effect of laws now revised, such status was taken from them.

The first proposed revision corrects a problem in law dating from 1934. Prior to the 1934, only U.S. citizen men could confer citizenship on children born outside the United States.

The child of a U.S. citizen father and a noncitizen mother was a U.S. citizen. The child of a U.S. citizen mother and noncitizen father was not a U.S. citizen.

In 1934, Congress revised that clearly discriminatory rule. However, the 1934 Act was not made retroactive. Thus, persons born abroad before 1934 to U.S. citizen mothers and alien fathers are not citizens of the United States. H.R. 783 corrects that inequity.

H.R. 783 also enables children of U.S. citizens who live and work abroad for long periods of time to receive U.S. citizenship. Under current law, U.S. citizen parents are forced to return to the States for lengthy periods of residency to confer citizenship on their children born abroad. H.R. 783 makes it easier for U.S. citizen parents to pass on U.S. citizenship to their children born abroad.

Third, the bill makes available, with regard to the U.S. history and government knowledge portions of the naturalization test, an exemption similar to the one that is available now with regard to the English test. This exemption applies to persons over 65 years old who have been permanent residents for at least 20 years. The bill also provides a general waiver of all testing requirements for persons of any age who, because of physical or developmental disability or mental impairment, could not reasonably be expected to pass the test.

Fourth, the bill allows an individual who lost U.S. citizenship because of failure to meet the retention requirements of the law as they existed prior to repeal in 1978, to regain such citizenship upon application to the Attorney General and upon taking the oath of allegiance, provided such person meets the requirements of existing law.

The Subcommittee on International Law, Immigration, and Refugees held a hearing in the 102d Congress on H.R. 5599, legislation containing similar provisions. The subcommittee heard testimony from a variety of witnesses, including Representatives FRANK, MINETA and ALEXANDER, each of whom had introduced bills dealing with particular problems addressed by H.R. 5599. In addition, Representative LAMAR SMITH had introduced legislation dealing with issues included in H.R. 5599.

H.R. 5599 was ordered favorably reported to the full Judiciary Committee. However, no further action on the bill was taken during the 102d Congress.

In the 103d Congress, I reintroduced the previously approved provisions in my bill H.R. 783. A hearing on that legislation took place on March 10, 1993 with the following witnesses: Representatives PATSY MINK, BARNEY FRANK, and NORM MINETA, the Department of State, World Federation of Americans Abroad, Federated League of Americans Around the Globe, and the National Association of Latino Elected and Appointed Officials.

H.R. 783 was reported out of the subcommittee on May 19, 1993 by a voice vote.

The measure was approved by voice vote by the full Judiciary Committee on November 17, after certain minor amendments were adopted.

H.R. 783 corrects problems in current immigration law and provides the opportunity for relief to individuals, some of whom have grounds for relief dating back to the 1930's.

I urge my colleagues to support H.R. 783.

Mr. BROOKS. Mr. Speaker, H.R. 783 provides improvements to the immigration laws relating to naturalization and citizenship. It removes discriminatory barriers which have been in the law for decades and which treat women different from men for the purposes of transmitting citizenship. The Department of State, rightfully, no longer wishes to defend this distinction.

The bill also eases other restrictions and procedures which present overly restrictive barriers to individuals who are qualified to obtain U.S. citizenship.

I wish to thank Congressman ROMANO MAZZOLI, chairman of the Immigration Subcommittee, for his efforts on this legislation, and Congressman BILL MCCOLLUM, the ranking subcommittee member, for his support.

I urge the Members to support this bill.

Mr. MAZZOLI. Mr. Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 783. This bill is composed of several relatively narrow provisions relating to naturalization and the conveyance of U.S. citizenship. These provisions address discrete problems that have been brought to the attention of the Subcommittee on International Law, Immigration, and Refugees. It is not a far-reaching bill, but it is very important to those people whom it affects.

Section 2 of the bill corrects an inequity in current law that Congressmen LAMAR SMITH and NORMAN MINETA have worked for several years to eliminate. Children born abroad prior to 1934 to U.S. citizen mothers and alien fathers were not U.S. citizens at birth, while children born abroad to U.S. citizen fathers and alien mothers were U.S. citizens. This unequal treatment has been allowed to stand in the law for far too long. H.R. 783 puts an end to it.

Section 3 of the bill embodies a compromise worked out between Congressman BARNEY FRANK and me. Currently, applicants for naturalization must pass an English language test and a U.S. Government and history test. Age and disability waivers are available for the English test. H.R. 783 modifies the disability waiver and extends it to apply to the test on Government and history. The disability waiver, as newly formulated, is available to persons who are unable to take a particular test because of "physical or developmental disability or mental impairment." The new age based waiver of the Government and history test applies to persons who are over 65 and have lived in the United States for 20 or more years.

Sections 4 and 5 address concerns raised with the Subcommittee by the World Federation of Americans Abroad and the Federated League of Americans Around the Globe. Working closely with the World Federation, the State Department and the Immigration and Naturalization Service, I believe we have developed a fair and workable solution to naturalization problems faced by U.S. citizen parents living abroad.

U.S. citizen parents who adopt children abroad and continue to live abroad are unable to naturalize their adopted children under current law. Also, U.S. citizens who have not satisfied certain residency requirements and who are married to alien spouses cannot automatically transmit their U.S. citizenship to children born to them abroad. Section 4 provides a way to naturalize these children. Under this new provision, all administrative action should be able to be completed from abroad and a date set for the naturalization ceremony so that the parent and children can complete the naturalization on one trip to the United States.

Section 5 addresses another inequity in the Immigration and Nationality Act. From 1934 through 1978, U.S. citizens who were born abroad to a U.S. citizen parent and an alien parent were required to be physically present in the United States for a specified period of time in order to retain their U.S. citizenship. This residency requirement was repealed in 1978, but the repeal was not retroactive; as a result, persons who already had lost their citizenship did not benefit from the repeal. Section 5 of H.R. 783 provides a means for these persons to regain their U.S. citizenship.

The language in H.R. 783 has been worked out among various members of the subcommittee, past and present. I believe the resulting product is a very good piece of legislation, and I urge my colleagues to support it.

□ 1210

Mr. Speaker, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Speaker, let me yield myself such time as I may consume in order to respond to the gentleman from Florida [Mr. MCCOLLUM], who is the ranking member of our subcommittee and with whom I have had a very fond professional and personal relationship for many years. This is the reason why we can bring pieces of legislation like this out, and I hope that in the next session of Congress we will have opportunities to bring out other immigration issues which have been developed in our committee.

I want to thank our chairman for allowing us to bring this legislation forward. The gentleman from Florida mentioned that the gentleman from California [Mr. BERMAN] is involved in a part of this measure. The gentleman from California [Mr. MINETA], the gentleman from Texas [Mr. SMITH], and the gentleman from Massachusetts [Mr. FRANK] have also helped in these matters.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman from Kentucky for his hard work on this and on so many other matters. I am only coming down here because I used to be part of that subcommittee, and I know that it is one of the toughest and the most emotional and the least glamorous jobs around here. I think anybody who serves on that subcommittee on both sides of the aisle deserves some kind of an award. We do not want say that enough around here, but these are some of the toughest doggoned issues there are, and I think we all have the attitude that we do not want liberal immigration except for the people we know, and we think there ought to be laws to let them in. Everybody has 500 different twists to it, and I know you also have to sit there as judge and jury and do all sorts of things.

But I think everyone in this body ought to take more time and say that we realize we have in immigration probably one of the most thankless jobs around here, but it is terribly critical and terribly important. I thank the subcommittee for its work because I think it really has earned many, many stars for doing this job.

Mr. MAZZOLI. Mr. Speaker, I think it is most gracious of the gentlewoman from Colorado to say that. I do remember, of course, in an earlier year when the gentlewoman and I did serve together on the committee. We had a lot of fun, and I think we made some strides in the direction of making immigration more sensitive to the real, true needs of the people in this country and around the world, but at the same time making it a system that is a system, that is not just a system in complete chaos. To bring it together does take patience, and it does obviously take collaboration with Members like the gentleman from Florida [Mr. MCCOLLUM] and others. It takes the great help of the gentlewoman from Colorado [Mrs. SCHROEDER], such as that embodied in a bill that will come up momentarily, and that is, I believe, the bill involving violence against women. It also really takes the support of the entire House. The gentleman from Kentucky has been a beneficiary of a lot of that extraordinary assistance, and he appreciates it, and he very much thanks the gentlewoman.

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield further, I chickened out. As I say, I got very frustrated with trying to deal with the complexities of all those issues. There is no one out there who is really trying to lobby or help, and everybody would like to kind of have ad hoc system so they could wade through whatever they want.

So I thank the gentleman for staying with it and trying to work on those matters. I thank this committee, too, for helping us with the difficult domestic violence issues that rotate around these other issues. Any issue we deal with in this country, on crime, domestic violence, health care, or whatever, there is always an immigration component, because not everybody in this country is a citizen. So it really cuts across jurisdictions all across the border, and they are always coming at you and saying, "What about this?" and "What about that?" so I just want to take this time on this Saturday morning to say, "Thank you," because it has been a very fine subcommittee.

Mr. MAZZOLI. Mr. Speaker, the gentleman from Kentucky greatly appreciates the gentlewoman's comments and appreciates them both for himself and on behalf of the full subcommittee.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise today in strong support of H.R. 783, the Nationality and Naturalization Amendments of 1993.

I would like to express my deep thanks to my very good friends Mr. MAZZOLI, Mr. MCCOLLUM, and Mr. BERMAN for all of their hard work on this bill over the past 2 years. H.R. 783 is a testament to them, and the skill and dedication of their staffs.

In particular, I am pleased that the bill incorporates H.R. 283, the Equity in Citizenship Act, legislation I authored to remove a longstanding vestige of discrimination against women in our nationality laws.

Prior to 1934, our nationality laws allowed only men to transmit their American citizenship to their children born overseas.

Women who married foreign nationals, and whose children were born outside the United States, could not pass on their citizenship. Although women were finally granted the right to independently transmit their U.S. citizenship to their children in 1934, the Congress failed to make that reform retroactive.

As a result, people born overseas to American mothers and foreign national fathers before 1934 continue to be denied the U.S. citizenship that should be theirs by right.

By granting U.S. citizenship to these individuals, H.R. 783 will at long last correct that injustice. This reform is long overdue, and I urge my colleagues to join me in support of this important legislation.

I also wish to note, Mr. Speaker, that our fine colleague from Kentucky [Mr. MAZZOLI], has announced his intention to retire at the end of this Congress. All of us in this body are going to miss him, and I, especially, will miss working with the gentleman from Kentucky because of his knowledge of all issues that come before the Judiciary Committee and, especially, immigration and naturalization matters.

Mr. MAZZOLI. Mr. Speaker, Let me yield myself just 30 seconds in order to say that I appreciate the words of my friend, the gentleman from California, very much. It has been a great pleasure working with the gentleman.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of H.R. 783, the nationality and naturalization amendments. I would like to congratulate my colleague, Congressman MAZZOLI, for his leadership on this legislation. I also would like to commend Chairman BROOKS and members of the committee and subcommittee for their hard work and dedication which has resulted in H.R. 783 successfully reaching the floor of the House today.

Until now, the law prevented equitable treatment regarding the citizenship of people who are similarly situated but for the gender of their parent who was a U.S. citizen. This legislation signifies the resolve of Congress to eliminate gender bias wherever it might exist. Clearly, individuals who are covered by the provisions of this legislation are entitled to U.S. citizenship, and it is my hope that those who have suffered under the existing and unfair law will find some solace in the amendments I am certain we will pass today.

In addition to correcting an injustice which impeded the rightful claims of many individuals, this legislation brings into line another aspect of the laws of our land as we continue to eliminate all types of discrimination. Members of Congress are duty bound to uncover and rectify bias and intolerance in our laws, rules, and regulations. We must continue to root out bigotry and prejudice wherever it lies.

Mr. Speaker, I again congratulate Congressman MAZZOLI, Chairman BROOKS, and the members of the Judiciary Committee for their hard work and dedication, and I urge my colleagues to support this legislation.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 783, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HAZARD MITIGATION AND RELOCATION ASSISTANCE ACT OF 1993

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate provides (S. 1670) to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BOEHLERT. Mr. Speaker, reserving the right to object, I will not object, but I would take advantage of this time so that our colleague, the chairman of the subcommittee, can give us an explanation of his request.

Mr. APPLEGATE. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I certainly will yield to the gentleman from Ohio.

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Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding so that I may explain the bill.

Mr. Speaker, the Committee on Public Works and Transportation brings before the House important legislation to assist in the response to the Midwest floods of 1993. The bill provides immediate assistance to those people whose homes are in the floodplains and who are desirous of moving out of harm's way.

Mr. Speaker, S. 1670 is virtually identical to several sections of H.R. 3445 which passed the House on November 15, 1993, under suspension of the rules. Like H.R. 3445, S. 1670 increases the amount of funds available for hazard mitigation.

Also like H.R. 3445, S. 1670 clarifies the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as it applies to relocations carried out as part of the postdisaster response.

The Senate deleted language in H.R. 3445 that would have authorized two Corps of Engineers studies. However, pursuant to a resolution approved by the Committee on Public Works and Transportation, the studies of the Upper Mississippi and Lower Missouri River Basins, which are funded in fiscal year 1994, will be able to be initiated as soon as possible.

Mr. Speaker, this bill is desperately needed to provide timely assistance to the flood victims in the Midwest; it does not require any new appropriation of money; the House approved similar language just this week; and, the administration supports its enactment.

For these reasons, I urge adoption of this important and timely legislation.

Mr. Speaker, I would like to extend special thanks to our friend and colleague, the gentleman from Missouri [Mr. VOLKMER], for doggedly pursuing this and not letting it go until it got passed today.

Mr. BOEHLERT. Mr. Speaker, continuing my reservation of objection, I yield to the distinguished chairman of the full committee, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I stand in strong support of this legislation.

Mr. BOEHLERT. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. MINETA. Mr. Speaker, I want to commend the gentleman from Ohio [Mr. APPLEGATE] for his fine explanation of the bill, and I want to commend him and the Subcommittee on Water Resources and Environment's ranking Republican, Mr. BOEHLERT, for their leadership on this important bill. I also want to pay special recognition to the following Members who have labored long and hard on behalf of their constituents and the Nation on this important issue: Congressmen VOLKMER, DURBIN, GEPHARDT, EMERSON, COSTELLO, and SKELTON, and Congresswoman DANNER.

In the past, the Federal Emergency Management Agency has helped people who wanted to move out of harm's way. But the scale was very small. Today, as towns try to look to the future, many see more floods. Over 200 communities, many of which have been victims of numerous Floods during the last 20 years, have approached the Federal Government about relocation out of the flood plains to higher ground. The legislation before the House today will increase the availability of Federal assistance for relocations.

Mr. Speaker, I again wish to thank the leadership of the subcommittee, the chairman as well as the ranking Republican, and my fine colleague, the gentleman from Pennsylvania [Mr. SHUSTER], the ranking Republican on our committee, and urge the adoption of this very important legislation.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman for yielding, and I also wish to commend the gentleman from California [Mr. MINETA], the gentleman from Ohio [Mr. APPLEGATE], the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from New York [Mr. BOEHLERT] on this side, and also Senators HARKIN, BAUCUS, and CHAFEE, for assisting us in getting this legislation through, that is much needed by many people throughout the Midwest, and especially in my district, and even in my hometown. This will enable them to be able to accept buyouts and get out of the flood plain. They have been out of their homes since early July, and hopefully by Christmas they will be able to negotiate a buyout and be out of the flood plain and into new housing, and never have to worry about another flood.

Mr. Speaker, I want to thank everybody very, very much from the bottom of my heart.

Mr. BOEHLERT. Mr. Speaker, S. 1670 is a compromise based on H.R. 3445, the recent House-passed bill, addressing the Midwest flooding and improved floodplain management efforts. The compromise bill will help keep people and property out of harm's way. It makes sense to prevent future damages by encouraging floodplain protection and property relocations. Although less comprehensive than the earlier House bill, it is nonetheless, a greatly needed piece of legislation. It needs to get to the President's desk before the end of the year so that people can make more rational decisions about whether to relocate or rebuild flood damaged properties.

I congratulate the leadership of the House Public Works and Transportation Committee, Chairman MINETA, Mr. SHUSTER, and Chairman APPLEGATE, the primary sponsors of earlier House-passed legislation, Mr. VOLKMER and Mr. DURBIN, and key House and Senate Members from the region for their efforts in moving this consensus bill forward.

Mr. SHUSTER. Mr. Speaker, I rise in support of S. 1670, the Hazard Mitigation and Relocation Assistance Act of 1993. It provides a measured, helpful response to the Midwest flooding of 1993 as well as a way to reduce and prevent future flood damage and costly Government bailouts.

S. 1670 is a bipartisan, bicameral compromise, based on recent House-passed legislation. Senators HARKIN, DANFORTH, and others introduced the bill on November 18, 1993. It is a modified version of H.R. 3445, reported by the House Public Works and Transportation Committee on November 15, 1993, and passed by the House on the same day.

Our committee approved an earlier version of the legislation on November 9, 1993, after combining components of H.R. 3012, sponsored by Congressman HAROLD VOLKMER and others, and H.R. 2931, sponsored by Congressman RICHARD DURBIN and others, and adding a couple of amendments and various modifications.

Mr. Speaker, I would be remiss if I did not thank several key players in the two Chambers responsible for this legislation. First, let me commend the chairman of the Public Works and Transportation Committee, NORMAN MINETA, for his leadership and bipartisan cooperation. Chairman DOUGLAS APPLEGATE and ranking Republican SHERRY BOEHLERT of the Water Resources and Environment Subcommittee are also to be congratulated for their efforts.

Special thanks also go to committee members from Missouri and Illinois whose districts have been directly impacted by the Midwest flooding. Congressmen BILL EMERSON, GEORGE SANGMEISTER, GLENN POSHARD, and Congresswoman PAT DANNER, among others, have played key roles in the Federal Government's response to the flooding to date and have been instrumental in crafting our legislation. Obviously, Congressman VOLKMER and Congressman DURBIN, among others, have also been instrumental in writing and passing this consensus bill.

Thanks should also go to the leadership of the Senate Environment and Public Works Committee and key cosponsors of S. 1670.

Mr. Speaker, while S. 1670 will help to improve the Federal Emergency Management Agency's hazard mitigation program, it is less comprehensive than the House-passed bill. For example, S. 1670 omits provisions directing the Corps of Engineers to conduct comprehensive studies—both national and regional along the Upper Mississippi and Lower Missouri Rivers—to improve flood damage reduction and flood plain management. However, our committee has taken action to authorize a comprehensive study of the region's flood control needs by committee resolution. The bill also omits a provision allowing the corps to use Public Law 99 funds, at the request of local sponsor, to implement nonstructural measures.

I know several colleagues, particularly from the flood-ravaged Midwest States, had hoped this vehicle could have addressed a wider array of issues and needs. Some of these requests, however, may need to be addressed in other vehicles. For example, I am sure our committee will be looking in greater depth at a lot of flooding and water resources-related issues next session as we consider comprehensive legislation on the Corps of Engineers—the Emergency Management Agency.

In the meantime, S. 1670 represents a reasonable start in improving hazard mitigation and relocation assistance. Perhaps it can lead to better flood plain management that helps to avoid future bailouts by the Federal Government.

Mr. Speaker, I urge my colleagues to support the bill, allowing it to move forward expeditiously to the President for enactment into law.

Mr. BOEHLERT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

S. 1670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazard Mitigation and Relocation Assistance Act of 1993".

SEC. 2. HAZARD MITIGATION.

(a) FEDERAL SHARE AND TOTAL CONTRIBUTIONS.—Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) in the first sentence, by striking "50 percent" and inserting "75 percent"; and

(2) in the last sentence, by striking "10 percent" and all that follows through the end of the sentence and inserting "15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.".

(b) APPLICABILITY.—The amendments made by this section shall apply to any major disaster declared by the President pursuant to The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.

SEC. 3. PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.

Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The President"; and

(2) by adding at the end the following new subsection:

"(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

"(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

"(2) TERMS AND CONDITIONS.—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

"(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

"(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Director that provides assurances that—

"(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

"(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

"(I) a public facility that is open on all sides and functionally related to a designated open space;

"(II) a rest room; or

"(III) a structure that the Director approves in writing before the commencement of the construction of the structure; and

"(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

"(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

"(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

"(3) STATUTORY CONSTRUCTION.—Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.".

SEC. 4. TREATMENT OF REAL PROPERTY BUYOUT PROGRAMS.

(a) INAPPLICABILITY OF URA.—The purchase of any real property under a qualified buyout program shall not constitute the making of Federal financial assistance available to pay all or part of the cost of a program or project resulting in the acquisition of real property or in any owner of real property being a displaced person (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

(b) DEFINITION OF "QUALIFIED BUYOUT PROGRAM".—For purposes of this section, the term "qualified buyout program" means any program that—

(1) provides for the purchase of only property damaged by the major, widespread flooding in the Midwest during 1993;

(2) provides for such purchase solely as a result of such flooding;

(3) provides for such acquisition without the use of the power of eminent domain and notification to the seller that acquisition is without the use of such power;

(4) is carried out by or through a State or unit of general local government; and

(5) is being assisted with amounts made available for—

(A) disaster relief by the Federal Emergency Management Agency; or

(B) other Federal financial assistance programs.

GENERAL LEAVE

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 1670, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OMNIBUS AGRICULTURAL RESEARCH AND PROMOTION IMPROVEMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3515) to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these acts and to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Agricultural Research and Promotion Improvement Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—EGG RESEARCH AND CONSUMER INFORMATION

Sec. 101. Short title.
Sec. 102. Rate of assessment.
Sec. 103. Exempted egg producers.

TITLE II—WATERMELON RESEARCH AND PROMOTION

Sec. 201. Short title.
Sec. 202. Change to majority vote in referendum procedures.
Sec. 203. Expansion of watermelon plans to entire United States.
Sec. 204. Clarification of differences between producers and handlers.
Sec. 205. Clarification of collection of assessments by the Board.
Sec. 206. Changes to assessment rate not subject to formal rulemaking.
Sec. 207. Elimination of watermelon assessment refund.
Sec. 208. Equitable treatment of watermelon plans.
Sec. 209. Separate consideration of watermelon plan amendments.

TITLE III—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION

Sec. 301. Short title.
Sec. 302. Findings and declaration of policy.
Sec. 303. Definitions.
Sec. 304. Issuance of orders.
Sec. 305. Fresh Cut Flowers and Fresh Cut Greens Promotion Council (PromoFlor Council).
Sec. 306. Assessments.
Sec. 307. Miscellaneous requirements of order.
Sec. 308. Referenda.
Sec. 309. Petition and review.
Sec. 310. Enforcement.
Sec. 311. Investigations and power to subpoena.
Sec. 312. Confidentiality.
Sec. 313. Authority for Secretary to suspend or terminate order.
Sec. 314. Construction.
Sec. 315. Regulations.
Sec. 316. Authorization of appropriations.
Sec. 317. Separability.

TITLE IV—LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION

Sec. 401. Short title.
Sec. 402. Findings and purpose.
Sec. 403. Definition of lime.
Sec. 404. Required terms in orders.
Sec. 405. Initial referendum.

TITLE I—EGG RESEARCH AND CONSUMER INFORMATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Egg Research and Consumer Information Improvement Act".

SEC. 102. RATE OF ASSESSMENT.

(a) ASSESSMENT TERMS AND CONDITIONS IN ORDERS.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—

(1) by designating the first and second sentences as paragraph (1);

(2) by designating the fifth and sixth sentences as paragraph (3);

(3) by striking the third and fourth sentences and inserting the following new paragraph:

"(2)(A) The rate of assessment shall be prescribed by the order, except that the rate of assessment may not exceed 30 cents per case of commercial eggs or the equivalent thereof.

"(B) The Secretary may amend the order to increase the rate of assessment (subject to the limitation in subparagraph (A)) only if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).

"(C) The Secretary may amend the order to decrease the rate of assessment only if the decrease is recommended by the Egg Board. A decrease in the rate of assessment shall take effect only after the Secretary provides public notice and an opportunity for comment in accordance with section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to decreasing the rate of assessment."; and

(4) by conforming the margins of paragraphs (1) and (3) (as so designated) to the margin of paragraph (2).

(b) REFERENDUM REQUIREMENTS.—Section 9 of the Egg Research and Consumer Information Act (7 U.S.C. 2708) is amended—

(1) by designating the first two sentences as subsection (a);

(2) by designating the last sentence as subsection (c);

(3) by inserting after subsection (a) (as so designated) the following new subsection:

"(b)(1) Whenever the Egg Board determines, based on scientific studies, marketing analysis, or other similar competent evidence, that an increase in assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the declared policy of this Act, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

"(2) When requested by the Egg Board under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether such producers approve the increase in the assessment rate proposed by the Egg Board. The increase in the assessment rate shall take effect if approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority

of the producers voting in such referendum if such majority produced not less than two-thirds of all the commercial eggs produced by those voting during a representative period defined by the Secretary.

"(3) With respect to the order in effect on the date of the enactment of this subsection, the Egg Board shall undertake to determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2). If the Egg Board makes such a request on competent evidence, as provided in paragraph (1), the Secretary shall conduct such referendum as soon as practicable, but not later than 120 days after receipt of the request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, whenever an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum under this subsection, the Secretary shall amend the order as appropriate to reflect such vote of producers. The amendment to the order shall become effective on the date it is issued."; and

(4) by conforming the margins of subsections (a) and (c) (as so designated) to the margin of subsection (b).

SEC. 103. EXEMPTED EGG PRODUCERS.

(a) INCREASE IN EXEMPTION AMOUNT.—Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".

(b) ISSUANCE OF AMENDMENT TO ORDER.—To implement the amendment made by subsection (a) to the Egg Research and Consumer Information Act, the Secretary of Agriculture shall issue an amendment to the egg promotion and research order issued under such Act. The amendment to the order shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to the amendment to the order. The Secretary shall issue the proposed amendment to the order not later than 30 days after the date of the enactment of this title.

(c) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by subsection (b) shall become effective not later than 120 days after the date of the enactment of this Act. The amendment shall not be subject to a referendum under the Egg Research and Consumer Information Act.

TITLE II—WATERMELON RESEARCH AND PROMOTION

SEC. 201. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Watermelon Research and Promotion Improvement Act".

SEC. 202. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) inserting at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers if subject to the plan) voting in the referendum.".

SEC. 203. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902(3)) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

SEC. 204. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following:

"(3) If a producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production, the producer shall be eligible to serve on the Board only as a representative of handlers and not as a representative of producers. In addition, if the combined total volume of watermelons handled by a producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production, the producer shall be eligible to serve on the Board only as a representative of handlers and not as a representative of producers.".

SEC. 205. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board." and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" and inserting "received".

SEC. 206. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)), as amended by section 205(1), is further amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

SEC. 207. ELIMINATION OF WATERMELON ASSESSMENT REFUND.

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "The plan" in the first sentence and inserting "(1) Except as provided in paragraph (2), the plan"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act to eliminate such refund provision.

"(3) Notwithstanding paragraph (2), if importers are subject to the plan, the plan shall provide that importers of less than 75,000 pounds of watermelons per year shall be entitled to apply for a refund of the equivalent of the rate of assessment paid by domestic producers. The Secretary may adjust the weight exemption contained in this paragraph to reflect significant changes in the average yield per acre of watermelons in the United States for the 5-year period immediately preceding the year in which the adjustment is made. An adjustment in the weight exemption under this paragraph may be made only upon the recommendation of the Board and after the Secretary provides an opportunity for notice and comment on the proposed adjustment.".

SEC. 208. EQUITABLE TREATMENT OF WATERMELON PLANS.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 203(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 203(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 204, is further amended—

(1) by inserting "(1)" after "(c)";

(2) in the second sentence, by striking "producer and handler members" and inserting "other members"; and

(3) by adding at the end the following new paragraph:

"(2) If importers are subject to the plan, the Board shall also include one or more representatives of importers who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary. Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that there shall always be at least one representative of importers on the Board. If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers. Every 5 years, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the most recent 3-year period and adjust, to the extent possible, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)), as amended by section 205(2), is further amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by such importers. The rate of assessment for importers (if subject to the plan) shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 207, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer if subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessments to the Board, as the Board may direct. The assessment on imported watermelons shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States. Each such importer shall maintain a separate record specifying the total quantity of watermelons imported into the United States that are included under the terms of the plan, as well as those that are exempt under such plan, and containing such other information as may be prescribed by the Board. No more than one assessment shall be made on any imported watermelons.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" and inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer if subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Section 1653 of such Act (7 U.S.C. 4912), as amended by section 202, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers" and inserting ", handled by the handlers, and imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 203—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1), (2), (3), (4), and (5), by striking "the term" and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 205(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

SEC. 209. SEPARATE CONSIDERATION OF WATERMELON PLAN AMENDMENTS.

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended—

(1) by striking "The provisions" and inserting "(a) Except as provided in section 1647(f), the provisions"; and

(2) by adding at the end the following new subsections:

"(b) The amendments described in subsection (c) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(c) The amendments referred to in subsection (b) are those amendments required under—

"(1) section 207 of the Watermelon Research and Promotion Improvement Act relating to the elimination of the assessment refund; and

"(2) section 208 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(d) When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments are approved.".

TITLE III—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act".

SEC. 302. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds the following:

(1) Fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment.

(2) Cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses, and such production, handling, and marketing constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States.

(3) Handlers play a vital role in the marketing of cut flowers and cut greens in that they purchase most of the cut flowers and cut greens marketed by producers, prepare the cut flowers and cut greens for retail consumption, serve as intermediary between source of product and retailer, otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce, and add efficiencies to the market process that ensure the availability of a much greater variety of product to retailers and consumers.

(4) It is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to consumers in the United States.

(5) Cut flowers and cut greens move in interstate and foreign commerce, and cut flowers and cut greens that do not move in such channels of commerce, but only in intrastate commerce, directly affect interstate commerce in cut flowers and cut greens.

(6) The maintenance and expansion of existing markets and the development of new or improved markets or uses for cut flowers and cut greens are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry.

(7) Generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens marketed.

(8) Because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of existing markets and the development of new markets for cut flowers and cut greens have been prevented.

(9) There exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will be able to take advantage of the promotion and consumer information program authorized by this title to enhance their market development efforts for domestic producers.

(10) An effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for these articles.

(11) The most efficient method of financing a nationwide program of generic promotion and consumer information regarding cut flowers and

cut greens is to assess cut flowers and cut greens at the point they are sold by handlers into the retail market.

(b) POLICY AND PURPOSE.—It is declared to be the policy of Congress that it is in the public interest, and it is the purpose of this title, to authorize the establishment pursuant to this title of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

SEC. 303. DEFINITIONS.

For purposes of this title:

(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program to provide information to consumers and other persons regarding—

(A) appropriate uses of cut flowers or cut greens under varied circumstances; and

(B) the care and handling of cut flowers or cut greens.

(2) CUT FLOWERS AND CUT GREENS.—

(A) IN GENERAL.—The term "cut flowers" includes all flowers cut from growing plants and used as fresh-cut flowers, produced either under cover or in field operations. The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants and used as fresh-cut decorative foliage, produced either under cover or in field operations. The term "cut greens" does not include Christmas trees, and neither term includes foliage plants, floral supplies, or flowering plants.

(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article, such as a gift basket or similar presentation, for sale to retailers, the PromoFlor Council may determine, under procedures set out in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article. Based on such a determination, the article containing the cut flowers or cut greens shall not be treated as an article of cut flowers or cut greens for purposes of—

(i) determining the annual sales of cut flowers and cut greens of a handler under paragraph (4)(C); or

(ii) imposing an assessment under section 306.

(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens by a handler.

(4) HANDLER DEFINITIONS.—

(A) QUALIFIED HANDLER.—

(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens industry that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers and whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.

(ii) INCLUSIONS.—The term "qualified handler" includes the following:

(I) Bouquet manufacturers.

(II) Auction houses that clear sales of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse.

(III) Any distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales. For purposes of determining sales of cut flowers and cut greens to retailers from any such distribution center, each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C)(ii).

(iii) EXCLUSIONS.—The term "qualified handler" does not include a person who merely physically transports or delivers cut flowers or cut greens.

(iv) RULES OF CONSTRUCTION FOR DIRECT TO CONSUMER SALES.—The term "qualified handler" includes an importer that sells directly to consumers cut flowers or cut greens that it has imported into the United States and whose sales of such cut flowers or cut greens (as calculated under subparagraph (C)), along with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more. The term "qualified handler" also includes a producer that sells directly to consumers cut flowers or cut greens that it has produced and whose sales of such cut flowers or cut greens (as calculated under subparagraph (C)), along with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more. Each direct sale to consumers by an importer or producer described in this clause shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in clause (iii) or (iv) of subparagraph (C).

(B) EXEMPT HANDLER.—The term "exempt handler" means a person that would otherwise be considered to be a qualified handler, except that its annual sales of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.

(C) ANNUAL SALES DETERMINED.—

(i) IN GENERAL.—For purposes of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of product sold.

(ii) SPECIAL RULE FOR DISTRIBUTION CENTERS.—In the case of a non-sale transfer of cut flowers or cut greens from a distribution center, as described in subparagraph (A)(ii)(III), the amount of the sale shall be—

(I) the price paid by the distribution center to acquire the cut flowers or cut greens; plus

(II) an amount determined by multiplying the acquisition price determined under subclause (I) by a uniform percentage established by the order to represent a wholesale handler's markup on a sale to a retailer.

(iii) SPECIAL RULE FOR DIRECT SALES BY IMPORTERS.—In the case of a direct sale by an importer to a consumer, as described in subparagraph (A)(iv), the amount of the sale shall be—

(I) the price paid by the importer to acquire the cut flowers or cut greens; plus

(II) an amount determined by multiplying the acquisition price determined under subclause (I) by a uniform percentage established by the order to represent a wholesale handler's markup on a sale to a retailer.

(iv) SPECIAL RULE FOR DIRECT SALES BY PRODUCERS.—In the case of a direct sale by a producer to a consumer, as described in subparagraph (A)(iv), the amount of the sale shall be an amount determined by applying to the price paid by the consumer a uniform percentage established by the order to represent the cost of producing the article and a wholesale handler's mark-up on a sale to a retailer.

(D) REFERENCE TO OTHER DEFINITIONS.—For purposes of this paragraph, the term "producer" has the meaning given the term "producers that are qualified handlers" in section 305(a)(2)(D)(ii), and the term "importer" has the meaning given the term "importers that are qualified handlers" in section 305(a)(2)(D)(iii).

(5) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.

(6) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 305(a).

(7) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.

(8) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.

(9) RETAILER.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller as described in an order issued under this title) that sells cut flowers or cut greens to consumers. The term shall include any distribution center—

(A) owned or controlled by such person, or owned or controlled cooperatively by a group of such persons, if the predominant retail business activity of such person is not floral sales; or

(B) independently owned but operated primarily to provide food products to retail stores. An independently owned distribution center covered by subparagraph (B) that is also an importer or producer of cut flowers or cut greens shall be subject to the rules of construction set out in paragraph (4)(A)(iv) and, for such purposes only, shall be deemed to be the seller of cut flowers or cut greens directly to the consumer.

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(11) UNITED STATES; STATE.—The terms "United States" and "State" include the fifty States of the United States, the District of Columbia, and all the territories and possessions of the United States.

SEC. 304. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 302(b), the Secretary shall issue an order under this title applicable to qualified handlers of cut flowers and cut greens. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.

(b) PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—The Secretary may propose the issuance of an order under this title. In addition, an industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person that will be affected by this title, may request the issuance of, and submit a proposal for, such an order.

(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—

(A) the date on which the Secretary receives the proposal for the order from an industry group or interested person, as provided in paragraph (1); or

(B) the date on which the Secretary determines to propose the order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are provided, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this title. The order shall be issued and become effective not later than 180 days after publication of the proposed order.

(c) AMENDMENTS.—From time to time, the Secretary may amend an order issued under this title. The provisions of this title applicable to the issuance of an order shall be applicable to amendments to the order.

SEC. 305. FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION COUNCIL (PROMOFLOR COUNCIL).

(a) ESTABLISHMENT OF PROMOFLOR COUNCIL.—

(1) ESTABLISHMENT.—The order issued under this title shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council to administer the order. The Secretary shall appoint the members of the PromoFlor Council in the manner provided in paragraphs (2) and (3).

(2) APPOINTMENT OF MEMBERS.—

(A) DISTRIBUTION OF APPOINTMENTS.—The order shall provide that the membership of the PromoFlor Council shall consist of 23 members as follows:

(i) Fourteen members selected from among qualified wholesale handlers of domestic or imported cut flowers and cut greens.

(ii) Three members selected from among producers that are qualified handlers of cut flowers and cut greens.

(iii) Three members selected from among importers that are qualified handlers of cut flowers and cut greens.

(iv) One member selected from among retailers of cut flowers and cut greens.

(v) Two members selected from among producers of cut flowers and cut greens that are not qualified handlers or exempt handlers.

(B) APPOINTMENT FROM NOMINEES.—The Secretary shall appoint the producer members of the PromoFlor Council required by subparagraph (A)(v) from nominees submitted by producers of cut flowers and cut greens described in such paragraph. With respect to the other appointments to the PromoFlor Council required by subparagraph (A), two nominees shall be submitted for each appointment pursuant to the nomination process provided for in paragraph (3). If nominees are not submitted for an appointment, the Secretary may make the appointment on a basis to be provided in the order or other regulations of the Secretary.

(C) GEOGRAPHICAL CONSIDERATIONS.—In making appointments of qualified wholesale handlers to the PromoFlor Council under subparagraph (A)(i), the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States. In making appointments of producers of cut flowers and cut greens to the PromoFlor Council under subparagraph (A)(v), the Secretary shall ensure that one member is selected from among producers located east of the Mississippi River and one member is selected from among producers located west of the Mississippi River.

(D) DEFINITIONS.—For purposes of this subsection:

(i) QUALIFIED WHOLESALE HANDLERS.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier and that is subject to assessments as a qualified handler under the order. For purposes of this clause, the term "floral wholesale jobber" means a person that conducts a commission or other wholesale business in buying and selling cut flowers or cut greens, and the term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.

(ii) PRODUCERS THAT ARE QUALIFIED HANDLERS.—The term "producers that are qualified handlers" means those persons that are subject to assessments as a qualified handler under the order and are engaged—

(I) in the domestic production, for sale in commerce, of cut flowers or cut greens if the persons own or share in the ownership and risk of loss of the cut flowers or cut greens; or

(II) as a first processor of noncultivated cut greens, in receiving the cut greens from the persons that gather them for handling.

(iii) IMPORTERS THAT ARE QUALIFIED HANDLERS.—The term "importers that are qualified handlers" means those persons—

(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and

(II) that are subject to assessments as a qualified handler under the order.

(3) NOMINATION PROCESS.—

(A) QUALIFIED HANDLERS.—Nominations for the appointment to the PromoFlor Council of qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, whichever applies, through an election process under regulations prescribed by the Secretary;

(B) RETAILERS.—Nominations for the retailer appointment under paragraph (2)(A)(iv) shall be made by the American Floral Marketing Council, or successor entity.

(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary under procedures specified in the order.

(5) TERMS.—The order shall provide that each member of the PromoFlor Council shall serve a term of three years. However, of the initial appointments, seven members shall be appointed for a term of two years, eight members shall be appointed for a term of three years, and eight members shall be appointed for a term of four years, as designated by the Secretary at the time of appointment. No member of the PromoFlor Council may serve more than two consecutive terms of three years, except that any member serving an initial term of four years may serve an additional term of three years.

(6) COMPENSATION.—Members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for their expenses incurred in performing their duties as members of the PromoFlor Council.

(7) EXECUTIVE COMMITTEE.—

(A) ESTABLISHMENT.—The order shall authorize the PromoFlor Council to appoint from among its members an executive committee of not more than nine members. The membership of the executive committee initially shall be composed of four members appointed pursuant to clause (i) of subparagraph (2)(A), two members appointed pursuant to clause (ii) of such subparagraph, two members appointed pursuant to clause (iii) of such subparagraph, and one member appointed pursuant to clause (iv) of such subparagraph. Thereafter, appointments to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole. The initial appointments to the executive committee shall be for a term of two years. Thereafter, appointments to the executive committee shall be for a term of one year.

(B) DELEGATION OF AUTHORITY.—The PromoFlor Council may delegate to the executive committee its authority under the order to hire and manage staff and conduct the routine business of the PromoFlor Council within the policies determined by the PromoFlor Council.

(b) RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—

(1) IN GENERAL.—The order shall define the responsibilities of the PromoFlor Council, which shall include the general responsibilities described in this subsection.

(2) ADMINISTRATION.—The PromoFlor Council shall administer the order in accordance with its terms and provisions and may prescribe such rules and regulations to effectuate the terms and provisions of the order as the PromoFlor Council considers appropriate.

(3) STAFF.—The PromoFlor Council may employ such persons as the PromoFlor Council determines are necessary and set the compensation and define the duties of such persons.

(4) MISCELLANEOUS.—The PromoFlor Council may receive complaints regarding violations of the order and shall investigate and report to the Secretary regarding such complaints. The PromoFlor Council may recommend to the Secretary amendments to the order. The PromoFlor Council shall furnish the Secretary with such information as the Secretary may require.

(c) BUDGETS.—

(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to prepare and submit to the Secretary on a fiscal year basis a budget of the anticipated expenses and disbursements of the Board to implement the order. The budget shall include projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.

(2) APPROVAL BY SECRETARY REQUIRED.—The PromoFlor Council may not implement a budget submitted under paragraph (1) before the budget is approved by the Secretary.

(3) INVESTMENT AUTHORITY.—The order shall provide the PromoFlor Council with the authority to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this title. Income from invested funds shall be used only for a purpose for which the invested funds may be used. The investment of such funds shall be made only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(4) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that, as soon as practicable after the date the order becomes effective and after consultation with the Secretary and other appropriate persons, the PromoFlor Council shall implement a system of cost controls based on normally accepted business practices to ensure that the PromoFlor Council's annual budgets only include amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order and conduct, supervise, and evaluate plans and projects under the order.

(d) PLANS AND PROJECTS.—

(1) PROMOTION AND CONSUMER INFORMATION.—The order shall provide for the establishment, implementation, administration, and evaluation by the PromoFlor Council of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens. A plan or project under this paragraph shall be directed toward increasing the general demand for cut flowers or cut greens.

(2) RESEARCH.—The order shall provide for the establishment, implementation, administration, and evaluation by the PromoFlor Council of plans and projects for market development research, research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens, and other research with respect to cut flowers or cut greens marketing, promotion, or consumer information. The PromoFlor Council shall provide for the dissemination of information resulting from research plans and projects under this paragraph.

(3) DISBURSEMENT OF FUNDS.—The order shall also provide authority for the disbursement by the PromoFlor Council of necessary funds to carry out the plans and projects under this subsection.

(4) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval any proposed plan or project for cut flowers or cut

greens promotion, consumer information, or related research under this subsection.

(5) APPROVAL BY SECRETARY REQUIRED.—The PromoFlor Council may not implement a plan or project for cut flowers or cut greens promotion, consumer information, or related research before the plan or project is approved by the Secretary.

(6) LIMITATIONS.—A plan or project under this subsection may not make a reference to a private brand or trade name, point of origin, or source of supply, except that these limitations shall not preclude the PromoFlor Council from offering its plans and projects for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary. A plan or project may not make use of unfair or deceptive acts or practices with respect to quality or value.

(e) CONTRACTS AND AGREEMENTS.—

(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—To ensure the efficient use of funds, the order shall provide that, subject to the approval of the Secretary, the PromoFlor Council may—

(A) enter into contracts or agreements for the implementation of any plan or project under subsection (d) for promotion, consumer information, or related research with respect to cut flowers or cut greens; and

(B) pay costs related to the plan or project with funds received by the PromoFlor Council under the order.

(2) REQUIREMENTS OF CONTRACTS AND AGREEMENTS.—The order shall provide that any contract or agreement under paragraph (1) shall provide that—

(A) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred under the plan or project;

(B) the plan or project shall become effective only upon the approval of the Secretary; and

(C) the contracting or agreeing party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the PromoFlor Council of activities conducted, and make such other reports as the PromoFlor Council or the Secretary may require.

(3) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council also may enter into contracts or agreements for administrative services. Any such contract or agreement shall include provisions comparable to those provided in paragraph (2).

(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—

(1) IN GENERAL.—The order shall require the PromoFlor Council to maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe. The PromoFlor Council shall also prepare and submit to the Secretary such reports as the Secretary may require and account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.

(2) AUDITS.—The PromoFlor Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year. A report of each such audit shall be submitted to the Secretary.

(3) LISTS OF IMPORTERS.—The order shall require the staff of the PromoFlor Council to periodically review lists of importers of cut flowers and cut greens to determine whether persons included in the lists are subject to the order. At the request of the PromoFlor Council, the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.

(g) PROHIBITION ON LOBBYING.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.

(h) CONSULTATIONS WITH INDUSTRY EXPERTS.—The order shall provide that the PromoFlor Council may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects. For such purpose, the order also shall authorize the appointment of special committees composed of persons other than PromoFlor Council members. A committee appointed pursuant to the authority provided in this subsection may not provide advice or recommendations to an agency or officer of the Federal Government, but shall consult directly with the PromoFlor Council.

SEC. 306. ASSESSMENTS.

(a) AUTHORITY TO IMPOSE ASSESSMENT.—

(1) IN GENERAL.—An order issued under this title shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner prescribed by the order, an assessment on each sale of cut flowers or cut greens (other than a sale described in subsection (g)) to a retailer or an exempt handler. This assessment requirement shall also apply to each transaction described in paragraph (4).

(2) DETERMINATION OF QUALIFIED HANDLER OR EXEMPT HANDLER STATUS.—The order shall contain provisions regarding the making of determinations to determine status as a qualified handler or exempt handler that include the rules and requirements set out in section 303(4) and subsections (a) and (b) of section 307.

(3) PUBLISHED LISTS OF HANDLERS.—To facilitate the payment of assessments under this section, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.

(4) CERTAIN COVERED TRANSACTIONS.—

(A) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center, as described in section 303(4)(A)(ii)(III), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or producer, as described in section 303(4)(A)(iv), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.

(B) DETERMINATION OF SALE AMOUNT FOR DISTRIBUTION CENTERS.—In the case of a non-sale transfer of cut flowers or cut greens from a distribution center, the amount of the sale shall be considered to be—

(i) the price paid by the distribution center to acquire the cut flowers or cut greens; plus

(ii) an amount determined by multiplying acquisition price determined under clause (i) by a uniform percentage established by the order to represent a wholesale handler's mark-up on a sale to a retailer.

(C) DETERMINATION OF SALE AMOUNT FOR DIRECT SALES BY IMPORTERS.—In the case of a direct sale by an importer to a consumer, the amount of the sale shall be considered to be—

(i) the price paid by the importer to acquire the cut flowers or cut greens; plus

(ii) an amount determined by multiplying the acquisition price determined under clause (i) by a uniform percentage established by the order to represent a wholesale handler's mark-up on a sale to a retailer.

(D) DETERMINATION OF SALE AMOUNT FOR DIRECT SALES BY PRODUCERS.—In the case of a direct sale by a producer to a consumer, the amount of the sale shall be considered to be an amount determined by applying to the price paid by the consumer a uniform percentage established by the order to represent the cost of producing the article and a wholesale handler's mark-up on a sale to a retailer.

(E) ADJUSTMENT OF UNIFORM PERCENTAGE.—The PromoFlor Council may recommend to the Secretary changes to the uniform percentage established by the order and used to determine the amount of annual sales of handlers under section 303(4) and sale amounts under this paragraph. The Secretary may make a change in the uniform percentage based on such a recommendation only after providing an opportunity for notice and comment regarding the proposed change.

(b) ASSESSMENT RATES.—The order shall comply with the following assessment requirements:

(1) INITIAL ASSESSMENT RATE.—The rate of assessment on each sale or transfer of cut flowers or cut greens, for the first three years the order is in effect, shall be one-half of one percent of—

(A) the gross sales price of product sold; or

(B) in the case of transactions described in subsection (a)(4), the amount of the transaction calculated as provided in such subsection.

(2) CHANGES IN ASSESSMENT RATE.—

(A) AUTHORIZED AMOUNT OF CHANGE.—Subject to subparagraph (B), after the first three years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—

(i) the gross sales price of product sold; or

(ii) in the case of transactions described in subsection (a)(4), the amount of the transaction calculated as provided in such subsection.

(B) LIMITATION.—The assessment rate may not exceed one percent of gross sales price or transaction amount.

(C) METHOD OF CHANGING ASSESSMENT AMOUNT.—Any change in the rate of assessment may be made only if adopted by the PromoFlor Council by a two-thirds majority vote and approved by the Secretary as necessary to achieve the objectives of this title. The Secretary may make the change only after providing an opportunity for notice and comment regarding the proposed change, and the change in the rate of assessment shall be announced by the PromoFlor Council at least 30 days prior to going into effect. A change in the rate of assessment shall not be subject to a vote in a referendum under section 308.

(c) SUBMISSION OF ASSESSMENTS.—The order shall provide that each person required to pay assessments under this section shall remit, to the PromoFlor Council, the assessment due from each sale by that person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days from the end of the month in which the sale took place) as specified in the order.

(d) REFUNDS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—

(A) establish an escrow account to be used for assessment refunds as needed; and

(B) place into the escrow account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order goes into effect, as provided in section 304(b)(3), and ending on the date the initial referendum on the order provided for in section 308(a) is completed.

(2) RIGHT TO RECEIVE REFUND.—

(A) IN GENERAL.—The order shall provide that, subject to paragraph (3) and the conditions specified in subparagraph (B), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in paragraph (1)(B), if—

(i) the qualified handler is required to pay such assessments;

(ii) the qualified handler does not support the program established under this title;

(iii) the qualified handler demands a refund prior to the conduct of the referendum on the order under section 308(a); and

(iv) the order is not approved by qualified handlers in the referendum.

(B) CONDITIONS.—The right of any qualified handler to receive refunds under subparagraph (A) shall be subject to the following conditions:

(i) The demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the PromoFlor Council.

(ii) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which refund is demanded.

(iii) If the amount in the escrow account required under paragraph (1) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 308(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand a refund.

(3) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum under section 308(a), there shall be no refunds made and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.

(e) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (net of any refunds paid out under the terms of the order contained in subsection (d)) shall be used for payment of costs incurred in implementing and administering the order, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this title, except for the salaries of Government employees incurred in conducting referenda.

(f) POSTPONEMENT OF COLLECTIONS.—

(1) AUTHORITY.—Notwithstanding any other provision of this title, the PromoFlor Council may grant a postponement of the payment of assessments under this section for any qualified handler that establishes that it is financially unable to make the payment. The granting of such a postponement shall be considered under application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after providing public notice and an opportunity to comment on the proposed rules.

(2) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—To establish that it is financially unable to pay assessments, an applicant for a postponement shall demonstrate that it is insolvent and will be unable to continue to operate if it is required to pay assessments when they are otherwise due. As part of making such a demonstration, the applicant shall submit an opinion of an independent certified pubic accountant and any other documentation required under rules prescribed under paragraph (1). All books, records, and other documentation submitted by a qualified handler under this paragraph shall be subject to the confidentiality requirements of section 307(d).

(3) PERIOD OF POSTPONEMENT.—The time period of any postponement and the terms and conditions of payment of assessments that are postponed under this subsection shall be established by the PromoFlor Council, in accordance with rules prescribed under paragraph (1), so as to appropriately reflect the proven needs of the qualified handler. Postponements may be extended under the requirements and procedures established pursuant to paragraph (1) for the grant of initial postponements.

(g) EXCLUSION FROM ASSESSMENTS.—The order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.

SEC. 307. MISCELLANEOUS REQUIREMENTS OF ORDER.

(a) DETERMINATION OF ANNUAL SALES.—

(1) IN GENERAL.—For purposes of applying the $750,000 annual sales limitation to specific persons in order to determine status as a qualified handler or an exempt handler under section 303(4), or to specific facilities in order to determine status as an eligible separate facility under section 308(b)(2), any order issued under this title shall provide that a determination of a person's or facility's annual sales volume shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year.

(2) SPECIAL RULE FOR NEW BUSINESSES.—With respect to new businesses and other operations for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor Council, the determination under paragraph (1) may be made using an alternative time period or other alternative procedures specified in the order.

(3) REPORTS.—For purposes of this section, the order may require each person that sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person. A report under this subsection shall be subject to the confidentiality requirements provided in subsection (d).

(b) RULE OF ATTRIBUTION.—

(1) IN GENERAL.—For purposes of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—

(A) in those cases in which the person is an individual, sales attributable to such person's spouse, children, grandchildren, parents, and grandparents;

(B) in those cases in which the person is a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(C) for both individuals and partnerships, sales attributable to any corporation or other entity in which the person owns more than 50 percent of the stock or (if the entity is not a corporation) that the person controls; and

(D) in those cases in which the person is a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(2) TREATMENT OF CERTAIN STOCK AND OWNERSHIP INTERESTS.—For purposes of this subsection, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(c) BOOKS, RECORDS, AND REPORTS.—So that information is available to the Secretary and the PromoFlor Council for the administration and enforcement of this title, the order, or any regulation issued under this title, the order shall provide that each qualified handler shall—

(1) maintain, and make available for inspection, such books and records as may be required by the order; and

(2) file reports at the time, in the manner, and having the content prescribed by the order, to the end that information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this title, the order, or any regulation issued under this title.

(d) CONFIDENTIALITY REQUIRED.—

(1) IN GENERAL.—Information obtained by the PromoFlor Council from books, records, or reports required to be maintained under this section shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council. Such information may be disclosed to the public only in a suit or administrative hearing involving the order that is brought at the request of the Secretary (or to which the Secretary or any officer of the United States is a party), and then, only to the extent the Secretary considers relevant.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) prohibits—

(A) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by the person.

(e) OTHER TERMS OF ORDER.—The order shall contain such other terms and provisions, not inconsistent with this title, as are necessary to effectuate this title, including provision for the assessment of interest and a charge for each late payment of assessments under this section.

SEC. 308. REFERENDA.

(a) REQUIREMENT FOR INITIAL REFERENDUM.—

(1) CONDUCT.—Not later than 36 months after the issuance of an order under section 304(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order to ascertain whether or not the order then in effect shall be continued.

(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).

(b) VOTES PERMITTED.—

(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum under this section may cast one vote for each separate facility of the person that is an eligible separate facility, as determined under paragraph (2).

(2) ELIGIBLE SEPARATE FACILITY.—

(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered a separate facility if it is physically located away from other facilities of the qualified handler or its business function is substantially different than the functions of other facilities owned or operated by the qualified handler.

(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.

(C) ANNUAL SALES DETERMINED.—Subparagraphs (A) and (C) of section 303(4) shall apply for purposes of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B).

(c) SUSPENSION OR TERMINATION REFERENDA.—Effective beginning three years after the date on which an order issued under this title is approved in a referendum conducted under subsection (a), the Secretary—

(1) at the Secretary's discretion, may conduct at any time a referendum of qualified handlers required to pay assessments under the order to ascertain whether or not qualified handlers favor suspension or termination of the order; and

(2) whenever requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, shall conduct a referendum of all qualified handlers required to pay such assessments to ascertain whether or not qualified handlers favor suspension or termination of the order.

(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) within six months after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

SEC. 309. PETITION AND REVIEW.

(a) PETITION AND HEARING.—

(1) PETITION.—A person subject to an order issued under this title may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 311(b)(2) and be held within the United States judicial district in which the person's residence or principal place of business is located.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person that is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the Secretary's ruling on the person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling by the Secretary.

(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMAND.—If the court in a proceeding under this subsection determines that the Secretary's ruling on the person's petition is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) ENFORCEMENT UNDER SECTION 310.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 310.

SEC. 310. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this title or an order or regulation made or issued by the Secretary under this title.

(b) REFERRAL TO ATTORNEY GENERAL.—The Secretary shall refer to the Attorney General for appropriate action all cases of a violation of this title or an order or regulation made or issued by the Secretary under this title, except that the Secretary is not required to refer to the Attorney General such a violation if the Secretary believes that the administration and enforcement of this title would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person that violates a provision of this title, or an order or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under an order or regulation issued under this title, may be assessed by the Secretary—

(A) a civil penalty of not less than $500 nor more than $5,000 for each such violation; and

(B) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(2) TREATMENT AS SEPARATE OFFENSES.—Each violation described in paragraph (1) shall be treated as a separate offense.

(3) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this title or an order or regulation issued under this title.

(4) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. The hearing shall be conducted in accordance with section 311(b)(2) and be held within the United States judicial district in which the person's residence or principal place of business is located.

(5) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which the person resides or carries on business, or in the United States district court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) FILING OF RECORD.—Upon the filing of a notice of appeal under paragraph (1), the Secretary shall promptly file in the district court in which the notice of appeal is filed a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY AN ORDER.—A person that fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d). Each day during which the failure continues shall be considered as a separate violation of the order.

(f) FAILURE TO PAY A PENALTY.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or carries on business. In such action, the validity and appropriateness of the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this title shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 311. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this title, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this title, or any order or regulation issued under this title.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) INVESTIGATIONS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 309(a)(2) or 310(c)(4), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued under subsection (b). The court may issue an order requiring the person to comply with such a subpoena. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(2) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or carries on business or wherever the person may be found.

SEC. 312. CONFIDENTIALITY.

(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this title shall be made public.

(b) PENALTY.—Any person knowingly violating subsection (a) or the confidentiality terms of an order, as described in section 307(d), on conviction shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than one year, or both, and, if an officer or employee of the Department of Agriculture or the PromoFlor Council, shall be removed from office.

(c) ADDITIONAL PROHIBITION.—No information obtained under this title may be made available *to any agency or officer of the Federal Government for any purpose other than the implementation of this title and any investigatory or enforcement actions necessary for the implementation of this title.*

(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this title authorizes the withholding of information from Congress.

SEC. 313. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.

Whenever the Secretary finds that an order issued under this title, or any provision of the order, obstructs or does not tend to effectuate the declared policy of this title, the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines appropriate.

SEC. 314. CONSTRUCTION.

(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or any provision thereof, shall not be considered an order under the meaning of this title.

(b) PRODUCER RIGHTS.—Nothing in this title may be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens. This title seeks to treat all persons producing cut flowers and cut greens fairly and to implement any order established hereunder equitably in every respect.

(c) OTHER PROGRAMS.—Nothing in this title may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or any State.

SEC. 315. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title and the powers vested in the Secretary by this title, including regulations relating to the assessment of late payment charges and interest.

SEC. 316. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for payment of the expenses or expenditures of the PromoFlor Council in administering any provision of an order issued under this title.

SEC. 317. SEPARABILITY.

If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE IV—LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION

SEC. 401. SHORT TITLE.

This title may be cited as the "Lime Research, Promotion, and Consumer Information Improvement Act".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.) was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.

(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.

(3) Although the intent of such Act was to cover seedless limes, the definition of the term "lime" in section 1953(6) of such Act (7 U.S.C. 6202(6)) applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.

(4) Since the enactment of such Act, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the limes produced in the United States are produced in Florida.

(b) PURPOSES.—The purpose of this Act is to amend the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.)—

(1) to cover seedless rather than seeded limes;

(2) to increase the exemption level;

(3) to delay the initial referendum date; and

(4) to alter the composition of the Lime Board.

SEC. 403. DEFINITION OF LIME.

Section 1953(6) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6202(6)) is amended by striking "citrus aurantifolia" and inserting "citrus latifolia".

SEC. 404. REQUIRED TERMS IN ORDERS.

(a) COMPOSITION OF LIME BOARD.—Subsection (b) of section 1955 of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204) is amended—

(1) in paragraph (1)(A), by striking "7" and inserting "3";

(2) in paragraph (2)(B), by striking "7" and inserting "3"; and

(3) in paragraph (2)(F), by adding at the end the following new sentence: "The Secretary shall terminate the initial Board established under this subsection as soon as practicable after the date of the enactment of the Lime Research, Promotion, and Consumer Information Improvement Act.".

(b) ALLOCATION OF MEMBERS.—Subsection (b)(2) of such section is amended—

(1) in subparagraph (B) (as amended by subsection (a)(2)), by adding at the end the following new sentence: "Of these producer members, 2 members shall be appointed from the district east of the Mississippi River and 1 member shall be appointed from the district west of the Mississippi River."; and

(2) in subparagraph (C), by adding at the end the following new sentence: "Of these importer members, 1 member shall be appointed from the district east of the Mississippi River and 2 members shall be appointed from the district west of the Mississippi River.".

(c) TERMS OF MEMBERS.—Subsection (b)(4) of such section is amended—

(1) by striking "Members of" and all that follows through "appointed—" and inserting "The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—";

(2) in subparagraph (A), by striking "3" and inserting "2";

(3) in subparagraph (B), by striking "4" and inserting "2"; and

(4) in subparagraph (C), by striking "4" and inserting "3".

(d) DE MINIMIS EXCEPTION.—Subsection (d)(5) of such section is amended by striking "35,000" each place it appears and inserting "200,000".

SEC. 405. INITIAL REFERENDUM.

Section 1960(a) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6209(a)) is amended by striking "Not later than 2 years after the date on which the Secretary first issues an order under section 1954(a)," and inserting "Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 1955(d),".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for authorization language and legislative changes for four commodity research and promotion programs—what we commonly call commodity checkoff programs.

Three of the titles of H.R. 3515 make various changes in existing research and promotion programs—those for eggs, watermelons, and limes. Title III establishes a new checkoff program for the cut flower and cut greens industry.

The purpose of a checkoff program is to allow participants in an industry to join together to fund and operate national market and product development efforts for their commodity. Generally, the objective of these kind of industry-funded programs is to increase sales of the commodity through consumer education, product research and advertising and promotion activities.

H.R. 3115 was introduced by myself, Mr. ROBERTS of Kansas, Mr. STENHOLM of Texas, Mr. LEWIS of Florida, Mr. BOEHNER of Ohio, Mr. HOLDEN of Pennsylvania, and Mr. ENGLISH of Oklahoma. This bill bundles together, in amended form, four different bills that were introduced in this session of Congress. The committee met this week on H.R. 3515 and reported it out in amended form by voice vote. .

This legislation has broad support in the industries affected. However, we understand concerns have been raised in some quarters about certain details of the legislation.

Similar legislation is working its way through the other body. We would like to try to work with our colleagues to address any outstanding concerns before the commodity research and promotion legislation is sent to the President.

Mr. Speaker, let me briefly explain the provisions of H.R. 3515:

Title I.—Title I amends the current egg checkoff program. The changes will allow for an increase in the maximum assessment rate, subject to approval through a producer referendum. The bill exempts those egg producers who have 75,000 laying hens or less from the assessment.

Title II.—Title II makes a number of changes in the current watermelon checkoff program. The key changes are: It lowers the referendum threshold; and it eliminates the refund of assessments, except for those producers or importers who market less than 75,000 pounds of watermelons a year.

Title III.—Title III establishes a new industry-funded checkoff program that has been requested by the handlers of fresh cut flowers and cut greens. H.R. 3515 establishes a 23-member PromoFlor Council and an administrative structure similar to that used for other checkoff programs.

During the first 3 years the PromoFlor Program is in effect, the bill stipulates that the rate of assessment on each sale or transfer of cut flowers or cut greens will be one-half of 1 percent of the gross sales price of product sold. After the first 3 years the order is in effect, the uniform assessment rate could be increased or decreased annually by a limited amount, but in no case could the assessment rate be more than 1 percent of gross sales.

An industrywide referendum on continuing the assessment is required to occur not later than 3 years after the Secretary of Agriculture has established the order. Concern had been expressed by some growers about the financial hardship the assessment might cause. The committee bill allows postponement of assessment collections for those growers that the Secretary of Agriculture determines would be adversely affected.

Title IV.—Title IV amends the research and promotion program for limes that was approved by Congress in 1990. The bill would: First replace the scientific name used in the underlying law with the correct scientific name; second, increase the assessment exemption level from 35,000 pounds per year to 200,000 pounds; third, require the referendum no later than 30 months after assessments begin; and fourth, it would alter the board composition to more fairly reflect the structure of the lime industry.

Mr. Speaker, I urge my colleagues to support passage of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank Chairman DE LA GARZA for his leadership in passage of this important legislation concerning the cut flower, watermelon, egg and lime research and promotion orders.

Many of these issues were considered before the Subcommittee on Specialty Crops and Natural Resources this year. After extensive review and industry input, I am pleased to support passage of this omnibus legislation. I also want to commend members of the Agriculture staff for their efforts and especially Stacy Steintz in preparing this legislation. I would say to the chairman of the Committee, his effort and commitment to passage of H.R. 3515 is greatly appreciated.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank the distinguished gentleman from Florida [Mr. LEWIS]. The gentleman has been very active in this legislation, and specifically on the lime promotion that impacts Florida, Texas, and California. I wish to thank the gentleman for his cooperation and also his availability to work with us in areas such as this.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, ordinarily I would not trample around in legislation of this nature with my dress boots on, but this morning I felt a little bit compelled.

Since I did not want anybody to think that I had just come to town on the back of a melon truck, I thought I should speak. Yet I do not want anybody to think I am trying to steal the limelight.

Nevertheless, not wanting to get egg on my face, since we have not had a chance to organize resistance against this, I will not call a vote. I am sure that act of courtesy will be met by the chairman and the members of the committee by the facetious comment, "Pin a rose on you." Still, nevertheless, I did feel compelled to come down here.

Mr. Speaker, this seems like a relatively harmless piece of legislation. It is very much in the most ordinary sense of the word, business as usual with the Committee on Agriculture, and ought not to attract much attention or dissension. Still, nevertheless, that is exactly why I did feel compelled to come down here and speak today.

We are not spending much money in this bill, $150,000 of taxpayer money so the Department of Agriculture can manage the marketing of eggs, watermelons, fresh cut flowers and limes; or, if not manage that itself, manage the management of it.

It is not much money. Still, I have some serious questions about it. Why is it, for example, that an ordinary person in commerce, maybe a merchant on the street, who might want to get together with his fellow merchants and put together a marketing consortium, would naturally call the other merchants and say, "Hey, fellows, ladies and gentlemen, should we get together? If we are going to hold an election to see the extent to which we all want to get together, shouldn't we kick in a little bit of money to organize the election and see who will or will not participate?"

In that case, as the consortium, among themselves, unless the Federal Government were to hold an antitrust suit against this and call it collusion, they might organize themselves after the fashion of the National Federation of Independent Business, where those who chose to be independent and not associate with the consortium would be free not only of the association, but any assessments that the members of the association voluntarily voted on themselves.

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That is not quite the case here. In this case, the egg producers, the watermelon producers, the lime producers, the cut-flower producers did not call each other. They called their Congressman and they said, "Mr. Congressman, couldn't you get the Government to foot the bill to organize an election to see how many of us might want to voluntarily associate with one another to market our products?" And here we have, then, the taxpayers paying that bill.

Now, in this case, after the Government organizes the election and if the majority of the people involved vote to participate, those members that might, in fact, be called an independent producer, who do not want to participate, are not off the hook. The Government gives them an assessment.

Now, I can understand that if I voted yes and said I wanted to participate, that I might think that assessment of money, so many dollars, I think it is, in this case, for example, 30 cents per commercial case of eggs, I would see that as an assessment I voted unto myself for my right to participate in the program.

But what if I voted no and chose not to participate and got the assessment anyway? Would that not be a tax? Would we not be levying a tax and have the weight of the Federal Government compelling an independent egg producer to share the yoke of this burden and the yoke on their commercial enterprise? This is, of course, Norwegian for joke, but to share this burden.

My colleagues, this is not as benign as it appears. This is not a democratic support to the processes of commercial enterprise by free and independent men and women of agriculture. This is the heavy hand of Government managing the affairs of people in agriculture, whether they choose or not to be beneficiaries of this Government program.

This is truly a case for the truly independent love-the-earth farmer or rancher or flower cutter to look somebody in the face and say with disgust, again, "I don't believe it when you say, I am from the Government and I am here to help you."

This is coercion, perhaps in a mild form. What happens to that independent producer that chooses not to participate? Does that individual that believes himself free to be independent find himself prosecuted by the Federal Government because he did not pay his involuntary assessment or conform to the regulations of this democratic institution of agriculture policy?

I think we ought to think about these things a little more seriously.

Mr. LEWIS of Florida. Mr. Speaker, the gentleman's comment does not warrant a response.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

This is to assure the gentleman from Texas that we will look at these issues. We will continue looking at these issues.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 3515, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, ATMOSPHERIC AND SATELLITE PROGRAM AUTHORIZATION ACT OF 1993

Mr. HALL of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2811) to authorize certain atmospheric, weather, and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization Act of 1993".

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. NATIONAL WEATHER SERVICE.

(a) OPERATIONS AND RESEARCH.—There are authorized to be appropriated to the Secretary of Commerce (in this Act referred to as the "Secretary") to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service, $473,256,000 for fiscal year 1994 and $492,185,000 for fiscal year 1995. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) SYSTEMS ACQUISITION.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out the public warning and forecast systems duties of the National Weather Service, $76,299,000 for fiscal year 1994 and $14,600,000 for fiscal year 1995. Such duties include the development, acquisition, and implementation of major public warning and forecast systems. None of the funds authorized under this subsection shall be used for the purposes for which funds are authorized under section 102(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567). None of the funds authorized under this subsection for fiscal year 1995 shall be used for the purposes for which funds are authorized under subsections (c) and (d) of this section. No funds may be expended for Next Generation Doppler Weather Radar (NEXRAD) until the requirements of paragraph (2)(A) or (B) of such section 102(b) have been fulfilled by the Secretary. None of the funds authorized by such section 102(b) shall be expended for a particular NEXRAD installation unless—

(1) it is identified as a National Weather Service NEXRAD installation in the National Implementation Plan for modernization of the National Weather Service for fiscal year 1994, required under section 703 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567);

(2) the Secretary, in consultation with the Modernization Transition Committee established under section 707 of the National Oceanic and Atmospheric Administration Authorization Act of 1992, has made a determination of technical and programmatic necessity with respect to such installation and a period of 60 legislative days after the transmittal to the Congress of such determination, or the period between such transmittal and the next October 1, whichever period is longer, has passed; or

(3) it is to be used only for spare parts, not as an installation at a particular site.

For purposes of this subsection, the term "legislative day" means any day on which either House of Congress is in session.

(c) ASOS COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1994, an aggregate of $30,808,000, to remain available until expended, to complete the acquisition and deployment of—

(A) the Automated Surface Observing System and related systems, including multisensor and backup arrays for National Weather Service sites at airports; and

(B) Automated Meteorological Observing System and Remote Automated Meteorological Observing System replacement units,

and to cover all associated activities, including program management and operations and maintenance through September 30, 1996.

(2) No funds are authorized to be appropriated for any fiscal year under paragraph (1) unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary—

(A) certifies to the Congress that—

(i) the systems meet the technical performance specifications included in the system contract as in effect on February 20, 1991;

(ii) the systems can be fully deployed, sited, and operational without requiring further appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary does not foresee any delays in the systems deployment and operations schedule; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the systems deployment and operations schedule and systems coverage; and

(iv) a justification for proceeding with the program, if appropriate.

(d) AWIPS COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1994, an aggregate of $315,887,000, to remain available until expended, to complete the acquisition and deployment of the Advanced Weather Interactive Processing System and NOAA Port and to cover all associated activities, including program management and operations and maintenance through September 30, 1999.

(2) No funds are authorized to be appropriated for any fiscal year under paragraph (1) unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary—

(A) certifies to the Congress that—

(i) the systems meet the technical performance specifications included in the system contract as in effect on January 5, 1993;

(ii) the systems can be fully deployed, sited, and operational without requiring further appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary does not foresee any delays in the systems deployment and operations schedule; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the systems deployment and operations schedule and systems coverage; and

(iv) a justification for proceeding with the program, if appropriate.

(e) CONSTRUCTION OF WEATHER FORECAST OFFICES.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out construction, repair, and modification activities relating to new and existing weather forecast offices, $62,784,000 for fiscal year 1994 and $14,739,000 for fiscal year 1995. Such activities include planning, design, and land acquisition related to such offices.

SEC. 102. ATMOSPHERIC RESEARCH.

(a) CLIMATE AND AIR QUALITY RESEARCH.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research duties, $105,922,000 for fiscal year 1994 and $138,737,000 for fiscal year 1995. Such duties include interannual and seasonal climate research and long-term climate and air quality research.

(2) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under paragraph (1), $66,902,000 for fiscal year 1994 and $84,573,000 for fiscal year 1995 are authorized to be appropriated for the purposes of studying climate and global change, including global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, and fundamental research on oceanic and atmospheric processes critical to climate prediction and diagnostics.

(b) ATMOSPHERIC PROGRAMS.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties, $42,103,000 for fiscal year 1994 and $52,980,000 for fiscal year

1995. Such duties include research for developing improved prediction capabilities for atmospheric processes, as well as solar-terrestrial research and services.

SEC. 103. NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE.

(a) SATELLITE OBSERVING SYSTEMS.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties, $206,383,000 for fiscal year 1994 and $217,710,000 for fiscal year 1995, except that no funds may be expended for Geostationary Operational Environmental Satellite until the requirements of section 105(d)(2) (A) or (B) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567) have been fulfilled by the Secretary. Such duties include spacecraft procurement, launch, and associated ground station systems involving polar orbiting and geostationary environmental satellites, as well as the operation of such satellites. None of the funds authorized under this subsection shall be used for the purposes for which funds are authorized under section 105(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567). None of the funds authorized under this subsection for fiscal year 1995 shall be used for the purposes for which funds are authorized under subsection (b) of this section.

(b) POES COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1994, an aggregate of $196,343,000, to remain available until expended, to complete the procurement of Polar Orbiting Environmental Satellites J, K, L, and M, and the procurement of the launching and supporting ground systems of such satellites.

(2) No funds are authorized to be appropriated for any fiscal year under paragraph (1) unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary—

(A) certifies to the Congress that—

(i) the satellite instruments meet the technical performance specifications included in the satellite contracts as in effect on July 27, 1988;

(ii) the procurements can be completed without requiring further appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary does not foresee any gaps in two-satellite service operations resulting from nonperformance of the satellite contract; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the launch schedule and satellite coverage; and

(iv) a justification for proceeding with the program, if appropriate.

(3) No funds for Polar Orbiting Environmental Satellites, other than for Polar Orbiting Environmental Satellites J, K, L, and M, are authorized to be appropriated under subsection (a) unless the Director of the Office of Science and Technology Policy submits an implementation plan for a single operational polar environmental and weather satellite system and the policy for polar satellite system convergence with the European Organization for the Exploitation of Meteorological Satellites (EUMETSAT).

(c) ENVIRONMENTAL DATA AND INFORMATION SERVICES.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its environmental data and information services duties, $34,068,000 for fiscal year 1994 and $41,227,000 for fiscal year 1995. Such duties include climate data services, geophysical data services, and environmental assessment and information services.

SEC. 104. PROGRAM SUPPORT.

(a) ADMINISTRATION AND SERVICES.—There are authorized to be appropriated to the Secretary for Administration and Services, $73,319,000 for fiscal year 1994 and $76,252,000 for fiscal year 1995.

(b) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary for Aircraft Services and Aircraft Critical Safety and Instrumentation, $9,495,000 for fiscal year 1994 and $9,875,000 for fiscal year 1995.

SEC. 105. LIMITATION ON APPROPRIATIONS.

Notwithstanding any other provision of law, except as provided in section 101 (c) and (d) and section 103(b), no funds are authorized to be appropriated for any fiscal year after fiscal year 1995 for carrying out the programs for which funds are authorized by this Act. This section shall not apply to the programs described in section 102(a)(2) or section 104(a).

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. STRATEGIC PLAN FOR ENVIRONMENTAL RESEARCH LABORATORIES.

(a) ASSESSMENT.—The Secretary shall conduct an assessment of the long-term role and mission of the Environmental Research Laboratories of the National Oceanic and Atmospheric Administration and the relevance of the research conducted therein to issues of global and national importance. In conducting such assessment, the Secretary shall take into consideration—

(1) the adequacy of resources provided to support the missions of the Environmental Research Laboratories;

(2) the ability of the Environmental Research Laboratories to provide research support for the coastal and ocean management and regulatory responsibilities of the National Oceanic and Atmospheric Administration;

(3) the capacity of the Environmental Research Laboratories to process and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate Federal departments and agencies;

(4) the mission of the Environment Research Laboratories to provide solar-terrestrial services to the Nation;

(5) the ability of the Environmental Research Laboratories to provide continued support for the modernization of weather services;

(6) the responsibilities of the Environmental Research Laboratories to monitor, assess, and predict changes in the Earth's climate;

(7) the capability of the Environmental Research Laboratories to integrate and interpret scientific data in order to provide information useful to policy makers for responding to national and global environmental concerns;

(8) the operational efficiency and effectiveness of the Environmental Research Laboratories;

(9) the interaction of the Environmental Research Laboratories with the academic community, including Joint and Cooperative Institutes, and the ability of these interactions to improve the quality and effectiveness of research;

(10) the number, location, and geographic distribution of the Environmental Research Laboratories; and

(11) any other issues that the Secretary may identify.

(b) COMPREHENSIVE STRATEGIC PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology and the Committee on Merchant Marine and Fisheries of the House of Representatives a comprehensive strategic plan, based on the assessment conducted under subsection (a), to modernize and improve the role and mission of the Environmental Research Laboratories of the National Oceanic and Atmospheric Administration. The assessment conducted under subsection (a) shall be submitted along with such plan.

SEC. 202. HYDROLOGICAL RESEARCH AND FLOOD FORECAST MODERNIZATION REPORT.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report identifying the actions required to improve the hydrological research programs and to modernize the Flood Forecasting System of the National Weather Service.

(b) REPORT CONTENTS.—The report required under subsection (a) shall include consideration of—

(1) current, planned, and potential technological improvements in the collection of observational hydrological data;

(2) use of additional satellite remote-sensing data and airborne surveys, including those systems operated by other Federal agencies, for hydrological data collection;

(3) improvements in data analysis and computer modeling in support of flood forecasts and predictions; and

(4) full integration of the River Forecast Centers in the National Weather Service Modernization Plan.

SEC. 203. SENSE OF CONGRESS.

It is the sense of Congress that any transfers of National Weather Service employees from field offices necessitated by the National Implementation Plan for Modernization of the National Weather Service be carried out in a manner that will not result in the degradation of services in the service area of such field office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. HALL] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2811, the NOAA Atmospheric and Satellite Program Authorization Act of 1993.

I would like to thank my colleagues, the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology; Mr. WALKER, the ranking minority member of the committee; and Mr. SENSENBRENNER, the ranking minority member on the Subcommittee on Space, for their hard work and cooperation in bringing this bill to the floor today.

I would also like to thank the gentleman from Massachusetts [Mr. STUDDS], chairman of the Committee on Merchant Marine and Fisheries; the gentleman from Texas [Mr. FIELDS], the ranking member of the Merchant Marine and Fisheries Committee; Mr. ORTIZ and Mr. WELDON, the chairman and ranking member of the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf, for their efforts on this important legislation.

Mr. Speaker, H.R. 2811 authorizes $1.083 billion in fiscal year 1994, $1.161 billion in fiscal year 1995, and $543 million in fiscal years 1995-99 for the weather, satellite, and atmospheric research programs of the National Oceanic and Atmospheric Administration [NOAA].

The funding authorizations contained in H.R. 2811, coupled with the authorizations in Public Law 102-567, provide for the continued operation of all National Weather Service offices and for the procurement of new technology to modernize the National Weather Service. These programs include NEXRAD, the Next Generation Doppler Weather Radar Program, the Geostationary Operational Environmental Satellite Program [GOES], the Automated Surface Observing System [ASOS], the Advanced Weather Interactive Processing System [AWIPS], and others.

Funding authorizations are also provided for atmospheric and climate research activities, including NOAA's contribution to the U.S. Global Climate Change Research Program.

In addition to these authorizations, the bill also includes provisions dealing with assessments of NOAA's environmental research laboratories, and on improving the National Weather Services' flood forecasting system. With the serious flooding in the Midwest this summer, and the potential for additional flooding next spring, it is important that we take action to assess and improve our flood warning network.

Mr. Speaker, weather satellite images analyzed by the National Weather Service indicate that the soil in the Midwest is still very saturated. If we receive a heavy snowfall this winter, the probability of spring flooding will be very high. We should begin preparations for that possibility now. This legislation will help in that regard.

While the total funding authorization we are considering today is less than the administration's budget request, it will continue essential services and research activities during very difficult budgetary times.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Modernizing the National Weather Service will dramatically improve both the accuracy and timeliness of warnings which will save countless lives. The President's budget for fiscal year 1994 states: "Weather service modernization funding remains NOAA's highest priority * * *" H.R. 2811 fully authorizes the programs under the National Weather Service at the President's requested level.

NEXRAD, the advanced Doppler radar warning system, dramatically increases our ability to detect impending weather dangers such as thunderstorms, hail, strong winds, tornados, and wind shears. It will increase tornado warning lead times from the current average of 0-2 minutes to 20-30 minutes. With 0-2 minutes people have no time to react; with 20-30 minutes people will have adequate time to take cover in homes, schools, hospitals, and businesses. In the locations where NEXRAD's have been deployed and are being used by trained staff, the improvements in forecasting have been remarkable. The warning accuracy at these weather offices has jumped from 50 percent to 90 percent and the false warning rate has dropped from 80 percent to 20 percent.

ASOS, the automated surface observing system, will provide data on temperature, pressure, wind direction, wind speed, visibility, cloud ceiling heights, and the type and intensity of precipitation on a nearly continuous basis. This data will support aviation operations and weather forecasting operations. AWIPS, the advanced weather interactive processing system, is the central integrating point for the modernization effort. It will integrate all meteorological, satellite, and radar data at the National Weather Service field offices, in a rapid-response manner which will give meteorologists and hydrologists the ability to quickly prepare and disseminate warnings and forecasts.

H.R. 2811 authorizes Polar Orbiting Environmental Satellites [POES] J, K, L, and M through completion. No funds for the follow-on series of polar satellites are authorized until the Director of OSTP submits an implementation plan on convergence of the Nation's polar satellite systems—NOAA, DOD, NASA—and develops a policy for system convergence with the Europeans. Vice President Gore's National Performance Review estimates that the national convergence may save American taxpayers as much as $1.3 billion over the next 10 years.

The bill also contains complete program authorizations for both ASOS and AWIPS. The POES, ASOS, and AWIPS authorizations follow the same format as the complete program authorizations for NEXRAD and GOES, which were in last year's authorization (Public Law 102-567), signed into law by President Bush. Therefore all the technology efforts for systems acquisition and satellites have now been authorized through completion. We expect that costs will be contained within these authorized amounts and that the programs will be completed on time.

All of these complete program authorizations require an annual certification be submitted to Congress from the Secretary of Commerce certifying that the program: First, meets the technical performance specifications in the contract, second, does not require further appropriations, and third, is not expected to incur delays. If these requirements cannot be certified, the Secretary must submit a report to Congress detailing the reasons why a certification cannot be issued; what remedial actions may be taken; what the effect is on the program; and whether the program should proceed.

Numerous critical programs are authorized in this bill, and I urge my colleagues to support passage of H.R. 2811. I thank Chairman BROWN and Chairman HALL for their flexibility in including these complete project authorizations and caps in the bill.

☐ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from California, Mr. BROWN, chairman of the full Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank the gentleman for yielding, and I thank both him and the gentleman from Pennsylvania [Mr. WALKER] for their contributions to this legislation.

Mr. Speaker, I rise in support of H.R. 2811, the National Oceanic and Atmospheric Administration (NOAA) Atmospheric and Satellite Program Authorization Act of 1993.

H.R. 2811 provides the funding authorization for NOAA's atmospheric research, weather, and satellite programs. This includes the authorization for the operations of the National Weather Service, for NOAA's weather satellites, and for NOAA's global climate research activities.

Mr. Speaker, I would like to remind everyone about the critical importance of providing the funding authorizations for NOAA and the National Weather Service.

Many of our colleagues have seen firsthand the utter devastation brought on by the floods in the midwestern region of the United States. Last year we witnessed the brutality of Hurricanes Andrew and Iniki. Just last winter we saw the "storm of the century" pound the eastern half of the United States and disrupt air transportation throughout the Nation.

In spite of tremendous improvements in our ability to forecast severe weather, the technologies employed by the National Weather

Service continued to provide the most troublesome barrier to advancement.

The National Weather Service still relies on a number of vacuum tube radars installed around 1957. The communications and data processing equipment used by National Weather Service meteorologists is less capable than the current line of desk top computers. The last remaining U.S. Geostationary weather satellite is now operating beyond its 5-year designed lifetime. NOAA's Polar-Orbiting Weather Satellite Program suffered a setback this summer when the NOAA–13 satellite malfunctioned shortly after being placed in orbit.

Providing the funds necessary to modernize the National Weather Service clearly is an investment in America's future. It is an investment in life-saving equipment. It is also an economic investment.

In fact, a National Institute of Standards and Technology study conducted last year indicated that the economic benefits to the Nation are about eight times greater than the costs. The study also shows that, once the modernized weather system is in place, we will realize benefits of over $7 billion primarily through efficiency gains in key industrial sectors of the U.S. economy, such as commercial aviation, agriculture, construction, communications, electric power generation, and manufacturing.

The total funding authorization provided in this legislation is slightly less than the administration's budget request. However, it is sufficient to continue these essential life-saving services during very difficult budgetary times. I urge my colleagues to support this important legislation.

Mr. HALL of Texas. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS], who has made a major contribution to bringing this legislation to the floor and to the details within the legislation.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise in support of the National Oceanic and Atmospheric Administration authorization legislation, H.R. 2811, before the House.

The NOAA authorization that was enacted last year, Public Law 102-567, contained a provision on hurricane research. The legislation before the House today, includes funding for this and other hurricane research programs.

Several lessons were learned from hurricane Andrew that point out the need for more research.

For example, because of the lack of data on hurricane wind speeds near the surface, it was not predicted before it hit how strong Andrew's winds would be 20 or more miles inland.

This same situation could be repeated again in the future.

Prof. William Grey of Colorado State University, who has accurately predicted hurricane activity based on his research for several years, points out the lack of research funding.

He stated that hurricane research is viewed as a low priority within the agency and that more research money was available in 1957 than is available now.

The Science Committee and the House have been very supportive of increasing hurricane research at NOAA. Now, after Andrew, it is more important than ever before.

I want to thank Chairman BROWN and Ranking Member WALKER for their support of the hurricane research program contained in this legislation, as well as the chairman of the subcommittee, the gentleman from Texas [Mr. HALL], and the ranking Member, the gentleman from Wisconsin [Mr. SENSENBRENNER].

I also want to thank Curt Stanford of the majority staff and Shana Dale of the minority staff for their hard work on this bill.

Mr. WALKER. Mr. Speaker, I, too, want to add my thanks to the gentleman from Wisconsin [Mr. SENSENBRENNER], ranking Republican on the Subcommittee on Space, for his help in preparing this legislation.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. HALL] that the House suspend the rules and pass the bill, H.R. 2811, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HALL of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1993

Mr. VALENTINE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1994) to authorize appropriations for environmental research, development, and demonstration for fiscal years 1994, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1993".

SEC. 2. GENERAL AUTHORIZATION.

(a) ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") $475,400,000 for fiscal year 1994 for the Office of Research and Development for environmental research, development, and demonstration activities and program management and support.

(2) AUTHORIZATIONS OF PROGRAMS AND ACTIVITIES.—Of the amount authorized in paragraph (1) for fiscal year 1994 for such Office, there are authorized to be appropriated for such fiscal year the following:

(A) For air related research, $126,000,000.

(B) For water related research, $49,000,000.

(C) For toxic chemical related research, $76,000,000.

(D) For lab and field expenses, $49,000,000.

(E) For headquarters expenses of such Office, $5,400,000.

(F) For multimedia related research expenses, $163,000,000.

(G) For program management expenses, $7,000,000.

(3) EFFECT ON OTHER AUTHORIZATION.—

(A) SUPERFUND.—Nothing in this Act shall affect amounts authorized for fiscal year 1994 for Superfund research activities as authorized by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499; 100 Stat. 1613).

(B) OTHER EPA OFFICES.—Nothing in this Act shall affect research, testing, studies, or other activities of other offices within the Environmental Protection Agency.

(b) LIMITATION ON CLOSING OFFICES AND REDUCTIONS-IN-FORCE.—The Administrator shall not close any Office of Research and Development field station, regional office, laboratory, or other research center, or permit any Office of Research and Development reduction-in-force, and no closing or reduction shall be finalized, unless at least 30 days prior to the issuing of any general notice of such closing or reduction the Administrator informs the appropriate legislative and appropriations committees of the House of Representatives and the Senate in writing of the reasons for such closing or reduction, the impact of such closing or reduction on carrying out the provisions of this Act, the details of such reduction or closing, and other pertinent information.

(c) AVAILABILITY.—Appropriations made pursuant to this Act shall remain available for obligation or expenditure for such periods as may be specified in the Acts making such appropriations.

(d) LIMITATION ON APPROPRIATIONS.—Nothing in this Act authorizes appropriations for the research, development, and demonstration activities of the Office of Research and Development of the Environmental Protection Agency for any fiscal year after fiscal year 1994.

(e) REPORT ON UNAUTHORIZED APPROPRIATIONS.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall submit a report to Congress which specifies—

(1) the portion of such appropriations which are for programs, projects, or activities not specifically authorized under subsection (a), or which are in excess of amounts authorized for the relevant program, project, or activity under this Act; and

(2) the portion of such appropriations which are specifically authorized under this Act.

SEC. 3. FUNDAMENTAL RESEARCH PROGRAMS.

(a) ESTABLISHMENT.—In addition to providing research support for the regulatory needs of the program offices, the Administrator shall establish in the Office of Research and Development separately identified research programs consisting of fundamental research on ecology and environmental science and fundamental research on exposure to, and effects of, environmental contamination. Such research shall be undertaken for the purpose of generating fundamental knowledge necessary to support efforts to identify, assess, and mitigate serious environmental risks.

(b) AUTHORITY.—In carrying out programs under this section, the Administrator may support research on environmental processes and trends, identification and assessment of potential environmental risks, and approaches to prevent and reduce such risks. The Administrator is authorized to establish and maintain resources, expertise, and facilities necessary to the advancement of the fundamental research programs established in this section.

(c) REPORT OF THE ADMINISTRATOR.—The Administrator shall biennially prepare and submit to the Congress and the Science Advisory Board referred to in subsection (d) a report containing the Administrator's assessment of the programs established pursuant to subsection (a).

(d) SCIENCE ADVISORY BOARD.—The Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978 (hereafter in this Act referred to as the "Science Advisory Board"), or a designated subcommittee thereof, shall—

(1) review the activities undertaken under the programs established under subsection (a);

(2) make recommendations on the appropriate balance between the fundamental research and the programmatic research undertaken by the Environmental Protection Agency and update such recommendations at least every two years;

(3) make any recommendations with respect to the programs established under subsection (a) that the Science Advisory Board considers to be appropriate; and

(4) every two years beginning in March 1994, submit to the Administrator and the Congress a report containing—

(A) an assessment of the most recent report of the Administrator prepared pursuant to subsection (c);

(B) the results of a review undertaken pursuant to paragraph (1); and

(C) the recommendations (with any updates thereto) made pursuant to paragraphs (2) and (3).

(e) CONFORMING AMENDMENT.—Section 2 of the Environmental Research, Development, and Demonstration Authorization Act of 1981 is amended by striking subsection (f).

SEC. 4. ENVIRONMENTAL MONITORING AND ASSESSMENT PROGRAM.

(a) ESTABLISHMENT.—The Administrator shall establish an Environmental Monitoring and Assessment Program to conduct environmental research and development to design a long-term environmental monitoring program to determine the current condition of, and trends in, the ecological resources of the United States.

(b) COORDINATION.—The Administrator shall coordinate the Environmental Monitoring and Assessment Program activities, including activities under the National Coastal Monitoring Act (33 U.S.C. 2801 et seq.), with the heads of other Federal agencies in order to identify, integrate, and fully utilize results of related efforts undertaken by other agencies and minimize duplication of efforts.

(c) ANNUAL REPORT.—The Administrator shall publish an annual report identifying and assessing the performance of the activities undertaken under the Environmental Monitoring and Assessment Program, the effectiveness of interagency coordination, and the contributions of multiagency research to the advancement of research goals.

(d) PUBLIC DATA.—The Administrator shall periodically submit to Congress and make publicly available a compilation of statistical data summaries and interpretive reports on ecological status and trends developed as a result of the Environmental Monitoring and Assessment Program.

SEC. 5. MODERNIZATION PROGRAM.

(a) MODERNIZATION PROGRAM.—The Administrator shall establish, from funds authorized to be appropriated in section 2, a modernization program for laboratories of the Office of Research and Development of the Environmental Protection Agency that are designed to identify, acquire, and maintain modern buildings, facilities, supplies, and equipment to conduct high quality research. In carrying out this section, the Administrator shall ensure that such buildings, facilities, supplies, and equipment meet, at a minimum, the standards generally accepted by the scientific community as appropriate for conducting research, including research instrumentation replacement standards.

(b) STUDIES.—The Administrator shall conduct studies in the Office of Research and Development—

(1) to evaluate and determine the adequacy of current buildings, facilities, supplies, and equipment and identify future building, facility, supplies, equipment and research instrumentation needs; and

(2) to identify and assess future research personnel needs and make recommendations for attracting and retaining qualified scientists, engineers and other personnel to meet such needs.

(c) DEADLINE FOR SUBMISSION.—The studies required by this section shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate within one year after the date of the enactment of this Act.

SEC. 6. REPEAL OF 5-YEAR RESEARCH REPORT REQUIREMENT.

(a) REPEAL.—Section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1976 is repealed.

(b) AMENDMENTS TO THE ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978.—The Environmental Research, Development, and Demonstration Authorization Act of 1978 is amended as follows:

(1) Strike section 4.

(2) Strike "including those defined in the five-year research plan" at the end of section 7(a).

(3) Strike section 8(c).

(4) Strike "The Administrator shall include" and all that follows through the end of the subsection in section 9(a).

SEC. 7. SCIENCE ADVISORY BOARD.

(a) ANNUAL REPORT.—The Science Advisory Board shall submit to Congress and to the Administrator an annual report that contains the views of the Science Advisory Board on proposed research programs as described in the President's budget for research, development, and demonstration activities at the Environmental Protection Agency. Such report shall be submitted to Congress as soon as practicable after the submission of the President's budget to Congress. The Administrator shall cooperate with the Director of the Science Advisory Board, particularly with respect to the timely provision of budget information to the Science Advisory Board, to allow the Science Advisory Board to carry out its duties under this subsection.

(b) EVALUATION.—The Science Advisory Board shall conduct periodic evaluations of selected areas of the current and planned research, development, and demonstration activities of the Environmental Protection Agency. The areas of evaluation shall be selected by the Science Advisory Board in consultation with the Administrator, the Office of Research and Development, other Agency programs, and appropriate committees of the Congress. Reports containing the Science Advisory Board's evaluations and recommendations shall be filed with such committees and the Administrator. The Administrator shall provide to such committees a written response to the Science Advisory Board's evaluation and recommendations within 60 days after the Science Advisory Board's report has been submitted.

(c) REVIEW OF CERTAIN RESEARCH ACTIVITIES.—The Science Advisory Board shall annually review the research activities of the Environmental Protection Agency under section 14(b)(2) and shall include the results of such review in the annual report required by section 7.

(d) SUBMISSION TO CONGRESS.—The Administrator shall submit to the Congress any report required by law to be submitted to the Administrator by the Science Advisory Board. The Administrator shall make any such submission not later than 60 days after the Administrator receives the report from the Science Advisory Board.

SEC. 8. MISCELLANEOUS AUTHORIZATION FOR COOPERATIVE AGREEMENTS.

In reviewing research, development and demonstration grant, contract, and cooperative agreement applications, the Administrator may enter into cooperative agreements to conduct appropriate scientific and professional reviews of such applications and may use research funds authorized by this Act for such cooperative agreements.

SEC. 9. RESEARCH ACCOMPLISHMENTS REPORT.

The Administrator shall submit an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate setting out the accomplishments of the research, development, and demonstration programs for which funds are authorized by this Act for the Office of Research and Development of the Environmental Protection Agency and the significance of such accomplishments to the Environmental Protection Agency's mission.

SEC. 10. TECHNOLOGY TRANSFER AND INFORMATION EXCHANGE.

The Administrator shall carry out a program of environmental technology transfer and exchange of scientific and technical information designed to make full and effective use of the research, development, and demonstration efforts of the Office of Research and Development of the Environmental Protection Agency. The Administrator may establish and maintain resources necessary to advance such technology transfer and information exchange program in the Office of Research and Development.

SEC. 11. RESEARCH TO SUPPORT THE EVALUATION OF THE RISK OF ENVIRONMENTAL CONTAMINATION.

(a) ESTABLISHMENT.—The Administrator shall establish in the Office of Research and

Development a separately identified risk assessment research program designed to improve the capability of the Environmental Protection Agency to identify, assess, and compare risks resulting from contamination of the environment.

(b) OBJECTIVES.—Under the program authorized by subsection (a), the Administrator may conduct research to—

(1) develop and improve methodologies for the comparison of such risks that result from contamination of different environmental media;

(2) identify and develop protocols for monitoring of pollutants and contaminants discharged to the environment;

(3) identify and develop methodologies for assessing and reducing risks to natural ecosystems;

(4) develop and improve methodologies for the assessment of noncancer risks and the integrated assessment of cancer and noncancer risks; and

(5) develop improved methodologies for evaluating the benefits, both quantitatively and qualitatively, of environmental protection activities, including improved methods to account for long-term environmental effects in the Agency's economic analysis.

SEC. 12. LEAD RESEARCH PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to conduct research, including laboratory research in a controlled setting, on lead, in furtherance of laws regulating human exposure. The research shall also include the following:

(1) Research on state-of-the-art technologies for detecting and measuring lead levels in soil, dust, and other environmental media.

(2) Research on short-term and long-term cost-effective technologies for the removal of lead-based paint and in-place management techniques. Such research shall address the relative risk of, and the environmental protection afforded by, various options to remove or otherwise ameliorate the toxic effects of lead-based paint, including the potential adverse effects of removal, compared to other lead abatement methods.

(3) A long-term research study of environmentally compatible methods for, and costs of, permanent disposal, recycling, or recovery of lead in lead-contaminated soil, dust, or other environmental media.

(4) A long-term research study, in cooperation with other appropriate agencies, to examine the effectiveness of lead abatement activities.

(b) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Administrator shall consult with the heads of other appropriate Federal agencies with respect to the conduct of the research specified in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under section 2, there are authorized to be appropriated to the Administrator $2,400,000 to carry out activities under this section.

SEC. 13. RISK ASSESSMENT RESEARCH PRIORITIES.

(a) IDENTIFICATION OF PRIORITY RISK ASSESSMENT RESEARCH ISSUES.—

(1) REPORT.—Within six months after the date of the enactment of this Act, the Administrator shall submit to the Congress a report that identifies at least 10 environmental research issues—

(A) correlating to the environmental hazards which the Administrator estimates to be in the category of highest risk;

(B) regarding which there are, as determined by the Administrator, significant scientific uncertainties with respect to the assessment of such environmental risks; and

(C) with respect to which such uncertainties could be significantly reduced through research.

(2) CONTENTS OF REPORT.—In addition to the identification required by paragraph (1), the report referred to in such paragraph shall include—

(A) an assessment of the research that has been, or is being, conducted by the Environmental Protection Agency with respect to each issue identified under such paragraph;

(B) an identification, with respect to each such issue, of the significant scientific uncertainties that exist with respect to the assessment of the environmental risks posed by the issue;

(C) an identification of the research that needs to be conducted by the Environmental Protection Agency to reduce significantly such scientific uncertainties, the time it will take to conduct such research, and the cost of such research; and

(D) a list that identifies such issues in order of the priority in which such research should be conducted and includes the reasons for that priority.

(b) RESEARCH PROGRAM.—

(1) IN GENERAL.—The Administrator shall carry out a research program within the Office of Research and Development to reduce the scientific uncertainties with respect to the assessment of the environmental risks posed by the issues identified under subsection (a). In conducting the research, the Administrator shall consider the priority list referred to in subsection (a)(2)(D).

(2) ECONOMIC IMPACT ASSESSMENT.—As part of the research program conducted under paragraph (1), the Administrator shall conduct research to improve the methodologies used to assess the economic impact of technologies developed as a result of such research program.

(3) EFFECT ON OTHER AUTHORIZATION.—Nothing in this section shall affect amounts authorized for fiscal year 1994 for other research activities of the Environmental Protection Agency as authorized by any other law.

(c) BUDGET COORDINATION.—In the first budget submitted by the President to the Congress immediately following the submission required by subsection (a), and in the next four budgets submitted immediately after such budget, the Administrator shall include a report that identifies the research conducted by the Administrator in accordance with the priority list referred to in subsection (a)(2)(D).

SEC. 14. REPORT ON OPPORTUNITIES FOR DEFENSE TECHNOLOGY TRANSFER IN DEVELOPMENT OF ENVIRONMENTALLY SENSITIVE PRODUCTS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the Congress a report, prepared by the Office of Research and Development, that identifies opportunities for the technology transfer of defense-related research for environmental applications. The report shall include information on the development of environmentally sensitive products and processes that have dual-use or commercial application, such as—

(1) the reduced use of toxic, hazardous, and environmentally damaging substances;

(2) the development and employment of substitutes for such substances; and

(3) the reduction of emissions and waste generation in product design, manufacture, and maintenance in relevant areas of technology.

(b) CONSULTATION.—In preparing the report required under subsection (a), the Administrator shall consult with the heads of appropriate Federal agencies to identify the production and design capabilities that are applicable to the development of products and processes described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "defense-related research for environmental applications" means research funded by the Department of Defense to mitigate the environmental impact of activities carried out for military purposes.

SEC. 15. FINANCIAL ASSISTANCE FOR RESEARCH ON DRINKING WATER DISINFECTION.

(a) IN GENERAL.—Subject to subsection (b), the Administrator may enter into a cooperative agreement with a non-Government research foundation to conduct research on the disinfection of drinking water, including research on disinfection byproducts in drinking water. Of amounts authorized to be appropriated under section 2, there are authorized to be appropriated to the Administrator for fiscal year 1994 not more than $2,000,000 to carry out this section.

(b) FUNDING LIMITATION.—The research referred to in subsection (a) may not be conducted unless the Administrator receives from such foundation and provides for such research for fiscal year 1994 an amount that equals at least 50 percent of the total funding for the research.

SEC. 16. INVESTIGATION OF CONTRACT PRACTICES.

(a) IN GENERAL.—

(1) ARRANGEMENT FOR PREPARATION OF STUDY.—Not later than six months after the date of the enactment of this Act, the Administrator shall, consistent with applicable provisions of Federal procurement law, enter into an arrangement with a private entity to prepare a study on, and recommendations regarding, the acquisition and assistance management practices of the Office of Research and Development.

(2) CRITERIA FOR SELECTION OF ENTITY.—The private entity with which the Administrator enters into an arrangement under paragraph (1) is a business, legal, or environmental organization which, as determined by the Administrator—

(A) has substantial experience in Federal acquisition and assistance management procedures and regulations;

(B) has sufficient financial and labor capabilities to adequately carry out the duties of the entity under the arrangement referred to in paragraph (1); and

(C) is not subject to any conflicts of interest which would impair the ability of the entity to carry out its duties under such arrangement.

(b) CONTENTS OF STUDY.—The study prepared pursuant to subsection (a) shall include the following:

(1) A summary of the investigations and audits of the acquisition and assistance management practices of the Office of Research and Development conducted by the Office of the Inspector General of the Environmental Protection Agency since 1985.

(2) A summary of the policies and programs implemented by the Environmental Protection Agency since 1985 relating to acquisition and assistance management by the Office of Research and Development, with emphasis on any policy or program implemented in connection with, or as a result of, an investigation or audit by the Office of Inspector General of the Environmental Protection Agency or any other entity.

(3) An analysis of the acquisition and assistance management practices and procedures of the Office of Research and Development, including an analysis of the following:

(A) The adequacy of Office of Research and Development statements of work, assignments, technical directives, and similar control mechanisms, including the adequacy of the review of such statements and the amount of detail provided in such statements.

(B) The adequacy of the mechanisms for authorizing and reviewing contract charges and invoices, including mechanisms for independently verifying that such charges and invoices are reasonable and supportable.

(C) The level of actual competition in competitive bidding for contracts.

(D) The overall distribution of contracts by the Office of Research and Development and any reliance on particular contractors that may result from such distribution.

(E) The adequacy of the Office of Research and Development staffing qualifications and training with respect to acquisition and assistance management.

(F) Specific recommendations of the entity regarding management practices and internal controls to remedy problems in acquisition and assistance management practices of the Office of Research and Development exposed as a result of the study.

(G) An estimate of the cost and effectiveness of carrying out the recommendations provided in subparagraph (F).

(c) REPORTS.—

(1) REPORT TO THE ADMINISTRATOR.—Not later than one year after the date the Administrator enters into an arrangement with a private entity under subsection (a), the private entity shall submit to the Administrator the study prepared pursuant to such subsection.

(2) REPORT TO CONGRESS.—Not later than two weeks after the Administrator receives the study required to be submitted under paragraph (1), the Administrator shall submit the study to the Congress together with any comments of the Administrator with respect to the report.

(d) FUNDING.—Of amounts authorized to be appropriated under section 2, there are authorized to be appropriated to the Administrator not more than $500,000 to carry out this section.

SEC. 17. PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this Act, or under any amendment made by this Act, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this Act, or under any amendment made by this Act, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. VALENTINE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1994 authorizes the Environmental Protection Agency's Office of Research and Development for fiscal year 1994 at a level of $475,400,000. Specifically, the bill authorizes funding at the levels requested by the administration for research and development in support of the various regulatory statutes for which the Agency is responsible.

Mr. Speaker, H.R. 1994 directs the Administrator to establish a fundamental research program to improve our understanding of the functioning of the basic environmental systems upon which we depend and how human activities effect those systems. Other sections authorize the Environmental Monitoring and Assessment Program, the Science Advisory Board, a risk assessment research program, and a study to examine ORD's contract management practices.

I am pleased with the way the Democratic and Republican staffs of the Science Committee were able to work together to get this bill to the end of the session. This would have been impossible without the collegiality of the ranking member of the subcommittee, Mr. LEWIS, and the ranking member of the Science Committee, Mr. WALKER.

I would also like to thank our staff, Mark Harkins, Barry Gold, Jim Turner, and Michael Rodemeyer, for all their hard work on this bill, as well as to acknowledge the dedicated support they received from Paddy Link, Jim Greene, and Dave Clement.

Mr. Speaker, since the Science Committee ordered this bill reported on June 30, staff of our committee have been in extensive negotiations with staffs of the Merchant Marine and Fisheries and the Energy and Commerce Committees to create the consensus draft upon which we are voting on today. I appreciate the support that we have received from Chairman STUDDS and Chairman DINGELL which allows us to consider this bill under suspension today.

I believe this legislation gives necessary guidance to the Agency as to where the Congress believes resources should be concentrated. In addition, this bill promotes comprehensive and high-quality scientific research. This improved research effort is required as a foundation for informed decisionmaking to address the constantly changing environmental challenges facing the United States.

□ 1250

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House, the Environmental Research, Development, and Demonstration Authorization Act of 1993, H.R. 1994, is very important.

In order to protect the environment in a cost-effective manner, it is absolutely necessary that the policy be based on sound scientific data. H.R. 1994 directs EPA to undertake the research necessary to accomplish this goal.

Serious questions have been raised about the quality and quantity of research at EPA. At subcommittee hearings, we heard testimony that approximately 10 percent of the EPA R&D budget is actually spent on research. This trend must be reversed so that 90 percent is spent on research.

H.R. 1994 contains provisions calling for more basic science research.

Also during the hearings we heard testimony that many of EPA's regulations are based on incomplete scientific research.

Consequently, billions of dollars are spent with no benefit to human health. For example, the $20 billion mandated asbestos removal from public buildings program, has now been determined by EPA to have been a mistake. It created more health risk from asbestos dust than was caused by leaving it in place.

H.R. 1994, calls for more risk assessments and scientific review.

The bill before us is not perfect, but it is a good start toward improving the quality and quantity of EPA's research.

I want to thank subcommittee Chairman VALENTINE for his willingness to include provisions from minority Members in H.R. 1994 and for his efforts to work out any differences.

I also want to thank Chairman BROWN and ranking Member WALKER for their leadership in working out any differences in the legislation.

I also want to thank the staff who have worked on this bill—Mike Rodemeyer and Mark Harkins of the majority staff and Jim Greene and Paddy Link of the minority staff. Finally, I want to thank our staff assistants Karen Pearce and Kirstin Polhemus.

Mr. Speaker, I reserve the balance of my time.

Mr. VALENTINE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I will echo the remarks of appreciation to all of the people who cooperated so well in this in bringing this bill to the floor, including our colleagues in the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce and their respective chairmen.

If I may, I would express a special appreciation to the gentleman from Pennsylvania [Mr. WALKER] for his cooperation, without endangering his role as the firebrand of his party, I would like to say that. We managed to work together with the gentleman from Pennsylvania [Mr. WALKER] over a long period of time in constructive cooperation, and I hope we will be able to continue to do that.

Mr. Speaker, I would like to thank the gentleman for yielding time and I commend the chairman, Mr. VALENTINE, and the ranking member, Mr. LEWIS, of the Technology, Environment and Aviation Subcommittee of the Science Committee, for their hard work and cooperation in ensuring that this bill is before us for a vote today.

I particularly want to commend the ranking member of the full committee, Mr. WALKER, for his cooperation and contributions to the bill before us this morning. It is significant that the bill before us today represents a strong bipartisan consensus on the environmental research and development policies and priorities of the EPA.

In addition, I would like to echo the gentleman from North Carolina's comments concerning the work of our very able staff and the help our committee received from the Energy and Commerce and the Merchant Marine and Fisheries Committees in producing this amended text and for allowing it to be considered under suspension of the rules.

This bill, I believe, is an important step toward ensuring that EPA spend its limited research and development resources to produce a comprehensive and credible base of sound science. Sound science, with an increased emphasis on risk assessment, can help the agency to address the major environmental problems facing this country.

Passage of this legislation will confirm the House's desire to balance the applied research needed to support EPA's regulatory missions with the fundamental research needed to advance our basic scientific knowledge of the fate, transport, and effects of pollutants. Section 3 of the bill requires the administrator to support research programs consisting of fundamental research on ecology, and on exposure to, and the effects of, environmental contamination.

Section 7 of the bill specifies what the Congress expects from the Science Advisory Board, especially with regard to its review of the President's budget submissions for EPA and review of the overall management and direction for EPA's research programs. I will remind Members that we created this body, through legislation originating in the Science Committee, to do independent peer review of the science being conducted by the Agency.

Many times I have heard witnesses indicate that sound regulations can only be based on sound science. This bill demonstrates that the Congress is serious in meeting its obligation of ensuring that EPA produces credible science which in turn will lead to more precision and accuracy in EPA's regulatory programs.

While there is little of controversy in this legislation, I believe it is an important part of the House's agenda. The last time the House passed an authorization for EPA's Office of Research and Development was in the 101st Congress. I believe it is important for Congress to once again, on a regular basis, let EPA know its priorities for the investment of EPA research and development resources.

I encourage my colleagues to support the bill.

Mr. LEWIS of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the ranking member of the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I certainly wish to congratulate everyone for the extensive bipartisan negotiations which successfully conclude here with action on the floor today.

I agreed to bring this bill to the floor largely because of that, and I thank the gentleman from California for indicating that cooperative relationship on this and other things. I think it is nice that we are bringing H.R. 1994 to the floor as we close out the legislation session for 1993. Maybe this is a harbinger of cooperation for the upcoming year on many things.

I also wish to commend the chairman, the gentleman from California [Mr. BROWN], and the chairman, the gentleman from North Carolina [Mr. VALENTINE] for this, and my good friend, the gentleman from Florida [Mr. LEWIS]. I think the people who watch C-SPAN are going to come to the conclusion that he is the single hardest-working Member of Congress after being out here for an ag bill and two science bills and so on, and they would not be far wrong on that, by the way, but he is doing yeoman service out here, and I appreciate the work that he did on this measure.

While the funding level contained in this bill reflects the administration's budget request, it is a figure approximately $15 million to $16 million higher than the fiscal year 1994 enacted appropriations adopted by the Congress. I agreed to bring this bill to the floor with the higher figure so that EPA does have the flexibility to reprogram if necessary from funds already appropriated for other purposes.

Under no circumstances should EPA attempt to seek a future supplemental based upon the $475.4 million authorization contained in 1994, but they do gain flexibility out of this which hopefully will aid them in their administration and aid them in strengthening their programs.

During our consideration of this bill, several amendments were adopted. One offered by the gentleman from Minnesota [Mr. GRAMS] recommended a freeze level for the EPA's Office of Research and Development for fiscal year 1994. This amendment failed in committee on a 16 to 16 vote. Let me tell you why I think so many of us believe that this freeze may be a very reasonable course of action and why it would have been nice to include it in the bill.

First, the increase in H.R. 1994 represents a 14-percent increase over last year's appropriation. Few other agencies have seen such an increase in their budget. NASA's budget, for example, was increased a mere 1.9 percent over last year's figure.

Second, many increases sought by the administration in fiscal year 1994 are not for core research programs. Many of the increases requested by the administration will not remain in the Office of Research and Development but will pass through to other offices of EPA, to the Commerce Department, to the Office of Science and Technology Policy in the White House, among other agencies.

There are lots of us on both sides of the aisle, I think, who believe that if these funds are not to remain within the Office of Research and Development that then they will not be used to support the core research programs that are most in need of funding. I know that there is bipartisan concern within the committee which extends to the fact that we should exercise our oversight responsibility over the Office of Research and Development and ensure that the research mission is not hindered by passthroughs or other earmarked funds.

So as we approve this bill, I hope that we will also understand that the real desire of many members of the committee is to ensure that that core research gets done and that we do, as the gentleman from Florida [Mr. LEWIS] has described, provide the research based upon which good regulation can be built, and we do not make foolish environmental mistakes for lack of information.

I think that this particular funding and authorization can lead us in the right direction. That cannot happen if we continue to pull down that core program and pass the money through, and this bill gives EPA some flexibility and should be passed by the House of Representatives.

Mr. VALENTINE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON], a member of our subcommittee.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 1994, the Environmental Research, Development and Demonstration Authorization Act of 1993.

This bill represents several months of bipartisan work to create a framework to address fundamental research questions about the environment using long-term, innovative methodologies.

Authorizing over $400 million in programs, H.R. 1994 will provide for the establishment of an environmental monitoring and assessment program; expand biological diversity research, lead research and risk assessment research.

I support H.R. 1994 for another reason as well.

All too often, low-income communities are subjected to decades of toxic and hazardous waste dumping.

Even with the many advanced technologies that are available today, we do not have a very clear idea of how chronic exposure to hazardous chemicals affects residents' health.

Nor do we have much in the way of long-term solutions to abate these hazards. Traditional removal techniques which use moving soil from one low-income community to another are an unacceptable quick-fix.

H.R. 1994 takes strong steps toward developing the information necessary to clean up the many dangerous health and environmental hazards which exist today.

I would like to thank the chairman and the gentlewoman from Maryland for their leadership.

Mr. LEWIS of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. GRAMS], a valued member of our committee.

Mr. GRAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1994, the Environmental Research, Development and Demonstration Authorization Act and commend my chairman and ranking member on the Technology, Environment and Aviation Subcommittee as well as the leadership of the entire Science Committee. With their help, we were able to address a number of concerns which I had over the original bill, and bring this important piece of legislation up today before the House recesses.

The work of the EPA Office of Research and Development is extremely important to the environment, as well as to the individuals and businesses that find themselves regulated as a result of the environmental laws enacted by the Congress. This office is responsible for researching the environmental risks associated with a practice, and for developing technologies aimed at reducing those risks.

When H.R. 1994 came before the Science Committee for consideration, there was strong bipartisan support for this legislation. I was pleased that this bipartisan spirit carried over to support a number of amendments I offered to this bill.

Mr. Speaker, I would like to thank my colleagues on the Science Committee for supporting amendments to sunset the bill after the expiration of the authorization and just as importantly, by supporting an economic impact amendment to ensure that the research conducted, and the technologies developed by the EPA ORD include data on the relative impact on individuals and on businesses. I believe these provisions all represent important steps in ensuring the future health of our economy.

□ 1300

Mr. LEWIS of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. ZIMMER], another valued member of the committee.

Mr. ZIMMER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 1994. It is a good piece of legislation. I would like to discuss one specific section, which I sponsored, which is called the worst first provision.

You may be aware that a recent independent study of the EPA disclosed that fully 80 percent of the budget of the EPA has been spent on relatively low-priority risks. We just cannot afford to misallocate the resources of the Environmental Protection Agency in this way.

That is why I am delighted that as a first step we have mandated in this piece of legislation that the Office of Research and Development identify the research issues which relate to the areas of highest risk to human health and the environment and that the money spent by the Office of Research and Development be concentrated on those areas of highest risk.

We are too often flying blind when we make environmental policy decisions, and we often have the least information about the risks which pose the greatest threat to human health and the environment. That is why I am delighted that this provision has been included in the legislation and why I am hopeful that, when the legislation to make the EPA a Cabinet department is considered, we will adopt risk assessment provisions applicable to the new department so that we will be able to better address the hazards that pose the greatest risk to human health and the environment rather than becoming transfixed and obsessed with the "pollutant of the month."

Mr. VALENTINE. Mr. Speaker, I include in the RECORD committee correspondence relating to H.R. 1994.

COMMITTEE ON SCIENCE, SPACE,
AND TECHNOLOGY,
Washington, DC., November 16, 1993.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Science, Space, and Technology ordered reported H.R. 1994, the Environmental Research, Development, and Demonstration Authorization Act of 1993," on June 30, 1993. Subsequent to the Committee's action, the Committee on Energy and Commerce indicated substantive and jurisdictional concerns about the bill as ordered reported by the Committee. We refrained from filing the report on H.R. 1994 in order to give our staffs an opportunity to discuss those issues and determine whether they could be accommodated without the need for the Committee on Energy and Commerce to seek a sequential referral. We believe that we have reached a compromise text which addresses those concerns.

We hope to be able to bring this bill to the floor under suspension of the rules prior to the expected adjournment later this month. In return for an agreement by your Committee not to seek a sequential referral of H.R. 1994 as reported, I would agree to offer the attached compromise text as the Committee vehicle for consideration under suspension of the rules.

To expedite the bill's consideration, I agree to support your Committee's request for conferees on H.R. 1994, recognizing, of course, that the Speaker ultimately possesses the authority to make that determination. However, it should be understood that your Committee's decision not to seek a sequential referral, and our Committee's decision to support the appointment of Energy and Commerce conferees to H.R. 1994, would be without prejudice to any jurisdictional claims that either of our Committees may assert concerning H.R. 1994 or similar legislation in the future.

I appreciate the continuing efforts to work cooperatively on issues of mutual interest.

Sincerely,
GEORGE E. BROWN, Jr.,
Chairman.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, November 17, 1993.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of November 16, 1993, regarding H.R. 1994, the Environmental Research, Development, and Demonstration Authorization Act of 1993. As your letter notes, the Committee on Energy and Commerce believes that a number of the provisions in the bill as ordered reported by the Committee on Science, Space, and Technology are within the jurisdiction of this Committee. In view of your Committee's willingness to offer the amendments that we have jointly agreed to, however, and in view of your desire to move the bill on suspension prior to the impending adjournment, I would agree not to seek a sequential referral of H.R. 1994 with the further understanding that this waiver would be without prejudice to our jurisdictional claims over H.R. 1994 and similar bills that may be offered in the future and that this Committee's jurisdiction will be protected through the appointment of conferees should H.R. 1994 go to conference.

With those agreements, I would not object to the consideration of H.R. 1994, as amended, under suspension of the rules.

With every good wish.

Sincerely,
JOHN D. DINGELL,
Chairman.

COMMITTEE ON MERCHANT
MARINE AND FISHERIES,
Washington, DC, November 18, 1993.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Merchant Marine and Fisheries believes that a number of the provisions in H.R. 1994, the Environmental Research, Development, and Demonstration Authorization Act of 1993, as ordered reported by the Committee on Science, Space, and Technology, are within the jurisdiction of this Committee. The Committee on Merchant Marine and Fisheries has a particular interest in provisions relating to biodiversity and ecological research, and monitoring of ecological resources.

In view of your desire to take this bill before the House of Representatives under suspension of the rules prior to adjournment of this session, I would agree not to seek a sequential referral of H.R. 1994 under the following conditions: (1) that the Committee amendment to H.R. 1994 consist of the amendments to which we have jointly agreed; (2) that the Merchant Marine and Fisheries Committee's jurisdictional claims be protected through the appointment of conferees on appropriate provisions of the bill, at the discretion of the Speaker of the House, should the bill go to conference; and (3) that this Committee's decision not to seek sequential referral of H.R. 1994 be without prejudice to any jurisdictional claims over that bill or over similar legislation in the future.

With this understanding, I would have no objection to the consideration of H.R. 1994, as amended, under suspension of the rules.

With kind regards.

Sincerely,

GERRY E. STUDDS,
Chairman.

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, November 18, 1993.

Hon. GERRY E. STUDDS,
Chairman, Committee on Merchant Marine and Fisheries, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Science, Space, and Technology ordered reported H.R. 1994, the "Environmental Research, Development, and Demonstration Authorization Act of 1993," on June 30, 1993. Subsequent to the Committee's action, the Committee on Merchant Marine and Fisheries indicated substantive and jurisdictional concerns about the bill as ordered reported by the Committee. We refrained from filing the report on H.R. 1994 in order to give our staffs an opportunity to discuss those issues and determine whether they could be accommodated without the need for the Committee on Merchant Marine and Fisheries to seek a sequential referral. As per your letter of November 18, 1993, we believe that we have reached an agreement.

We hope to be able to bring this bill to the floor under suspension of the rules prior to the expected adjournment later this month. In return for an agreement by your Committee not to seek a sequential referral of H.R. 1994, I would agree to offer the attached compromise text as the Committee vehicle for consideration under suspension of the rules.

I further agree that your Committee's decision not to seek a sequential referral would be without prejudice to any jurisdictional claims over H.R. 1994 or similar legislation in the future that the Committee on Merchant Marine and Fisheries could make; and that I will not oppose your Committee's request for conferees on those provisions within your Committee's jurisdiction, recognizing, of course, that the Speaker ultimately possesses the authority to make that determination.

I appreciate the continuing efforts to work cooperatively on issues of mutual interest.

Sincerely,

GEORGE E. BROWN, JR.,
Chairman.

Mr. LEWIS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VALENTINE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from North Carolina [Mr. VALENTINE] that the House suspend the rules and pass the bill, H.R. 1994, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes.".

A motion to reconsider was laid on the table.

VIOLENCE AGAINST WOMEN ACT OF 1993

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1133) to combat violence and crimes against women, as amended.

The Clerk read as follows:

H.R. 1133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

SEC. 111. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, and other eligible entities to develop effective law enforcement and prosecution strategies to combat violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide funds for personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women to reduce the rate of violent crime against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors that specifically target violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, or services specifically devoted to the prevention of, identification of, and response to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or identifying and tracking arrests, protection orders, prosecutions, and convictions for the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence; and

"(6) aiding Indian tribe grantees, exclusively, in financing the payments required under sections 112 and 113 of the Violence Against Women Act of 1993.

"SEC. 1702. STATE GRANTS.

"(a) GENERAL GRANTS.—The Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, Indian tribes, units of local government, tribal organizations, and nonprofit nongovernmental victim services programs in the States or Indian country.

"(b) APPLICATION REQUIREMENTS.—Applications shall include—

"(1) documentation from prosecution, law enforcement, and victim services programs to be assisted that demonstrates—

"(A) the need for grant funds;

"(B) the intended use of grant funds; and

"(C) the expected results;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided pursuant to section 112 of the Violence Against Women Act of 1993, except that Indian tribes are exempt from such requirement; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases pursuant to section 113 of the Violence Against Women Act of 1993.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (b), an eligible entity shall be eligible for funds provided under this part by—

"(1) certifying that funds received under this part shall be used for the purposes outlined in section 1701(b); and

"(2) certifying that grantees shall develop a plan, implement such plan, and otherwise consult and coordinate with nonprofit nongovernmental domestic violence and sexual assault victim services programs, law enforcement officials, victim advocates, prosecutors, and defense attorneys;

"(3) providing documentation from the individuals and groups listed under paragraph (2) regarding their participation in development of a plan and involvement in the application process, as well as how such individuals and groups will be involved in implementation of the plan;

"(4) providing assurances that the plan developed under paragraph (2) shall meet the needs of racial, cultural, ethnic, and language minority populations;

"(5) providing assurances that prosecution, law enforcement, and nonprofit nongovernmental victim services programs in the community to be served by such plan each receive an equitable percentage of any funds allocated under this part; and

"(6) providing assurances that any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(d) DISBURSEMENT OF FUNDS.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Director shall either disburse the appropriate sums provided for under this part or shall inform the applicant regarding why the application does not conform to the requirements of this section.

"(2) RESPONSIBILITY OF DIRECTOR.—In disbursing funds under this part, the Director shall issue regulations—

"(A) to distribute funds equitably on a geographic basis, including nonurban and rural areas of varying geographic size; and

"(B) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas.

"(e) GRANTEE REPORTING.—(1) Not later than March 31 of each year during which funds are received under this part, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this part.

"(2) The grantee shall arrange for assessments of the grantee's program from all organizations and government entities that were involved in the design of the grant plan.

"(3) Such assessments must be sent directly to the Director by the assessing entity.

"(f) SUSPENSION OF FUNDING.—The Director shall suspend funding for an approved application if—

"(1) an applicant fails to submit an annual performance report;

"(2) funds provided under this part are expended for purposes other than those set forth under this part; or

"(3) grant reports or accompanying assessments demonstrate to the Director that the program is ineffective or financially unsound.

"SEC. 1703. GENERAL DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means crimes of violence committed against a victim by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who is cohabiting with or has cohabited with the victim as a spouse, an individual similarly situated to a spouse, or any other individual who is protected under domestic or family violence laws of the jurisdiction that receives a grant under this part;

"(2) the term 'eligible entity' means a State, unit of local government, Indian tribe, and a nonprofit, nongovernmental victims services program;

"(3) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians;

"(4) the term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code;

"(5) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(6) the term 'victim services program' means a nongovernmental nonprofit program that assists domestic violence or sexual assault victims, including nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, and other sexual assault and domestic violence programs, including nonprofit nongovernmental organizations assisting domestic violence and sexual assault victims through the legal process.

"SEC. 1704. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under section 1702, the Attorney General may request any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support State, tribal, and local assistance efforts under this part.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Congress a report that includes, for each State and Indian tribe—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated for each of the fiscal years 1994 and 1995, $200,000,000 to carry out the purposes of part Q, with not less than 8 percent of such appropriation allotted specifically for Indian tribes.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and O" and inserting "O, and Q"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "or O" and inserting "O, or Q".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—GRANT TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec.1701. Purpose of the program and grants.

"Sec.1702. State grants.

"Sec.1703. General definitions.

"Sec.1704. General terms and conditions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec.1801. Continuation of rules, authorities, and proceedings".

SEC. 112. RAPE EXAM PAYMENTS.

(a) RESTRICTION OF FUNDS.—No State is entitled to funds under this title unless the State incurs the full out of pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

(b) MEDICAL COSTS.—A State shall be deemed to incur the full out of pocket cost of forensic medical exams for victims of sexual assault if such State—

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams, if—

(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(B) the State permits victims to apply to the State for reimbursement for not less than one year from the date of the exam;

(C) the State provides reimbursement not later than 90 days after written notification of the victim's expense; and

(D) the State provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

SEC. 113. FILING COSTS FOR CRIMINAL CHARGES.

No State is entitled to funds under this title unless the State certifies that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

SEC. 114. EQUITABLE TREATMENT OF RAPE CASES.

No State is entitled to funds under this title unless the State can certify that its laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, social companions of, or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

Subtitle B—Rape Prevention Programs

CHAPTER 1—RAPE PREVENTION GRANTS

SEC. 121. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 111, is further amended by—

(1) redesignating part R as part S;

(2) redesignating section 1801 as section 1901;

and

(3) adding after part Q the following new part:

"PART R—RAPE PREVENTION PROGRAMS

"SEC. 1801. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') is authorized to make grants—

"(1) to provide educational seminars, particularly developed with emphasis on seminars for elementary and secondary school age children, designed to develop an awareness of what acts meet the legal definition of rape;

"(2) to provide programs for elementary and secondary school age children that teach nonviolent conflict resolution, self defense, or other relevant skills;

"(3) to operate telephone hotlines for callers with questions regarding sexual assault and rape;

"(4) to design and disseminate training programs for professionals, including the development and dissemination of protocols for the routine identification, treatment, and appropriate referral of victims of sexual assault by hospital emergency personnel and other professionals;

"(5) to develop treatment programs for convicted sex offenders and make such programs available to the local community and to Federal and State prisons;

"(6) to prepare and disseminate informational materials designed to educate the community regarding sexual assault and prevention; and

"(7) to develop other projects to increase awareness and prevention of sexual assault, including efforts to increase awareness of sexual assault prevention among racial, ethnic, cultural and language minorities.

"SEC. 1802. APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a duly authorized representative of an eligible entity shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) ASSURANCES.—Each application must contain an assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) REQUIRED PLAN.—Each application shall include a plan that contains—

"(1) a description of the projects to be developed;

"(2) a description of how funds would be spent;

"(3) a statement of staff qualifications and demonstrated expertise in the field of rape prevention and education; and

"(4) a statement regarding the ability to serve community needs and language minority populations in providing ethnically and culturally and linguistically appropriate programs where necessary.

"SEC. 1803. REPORTS.

"(a) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, each grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this subpart, the Director shall submit to the Congress a report that includes, for each grantee—

"(1) the amount of grants made under this subpart;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.

"SEC. 1804. DEFINITIONS.

"For purposes of this part—

"(1) the term 'eligible entity' means a nonprofit, nongovernmental organization that directly serves or provides advocacy on behalf of victims of rape or sexual assault; and

"(2) the term 'sexual assault prevention and education' means education and prevention efforts directed at reducing the number of sexual assaults.".

(b) AUTHORIZATION OF APPROPRIATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (11), as added by section 111 of this Act, the following:

"(12) There are authorized to be appropriated to carry out the purposes of part R, $60,000,000 for fiscal year 1994, $75,000,000 for fiscal year 1995, and $100,000,000 for fiscal year 1996.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 111 of this Act, is amended by striking "O, and Q" and inserting "O, Q, and R"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 111 of this Act, is amended by striking "O, or Q" and inserting "O, Q, or R".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 111, is amended by striking the matter relating to part R and inserting the following:

"PART R—RAPE PREVENTION PROGRAMS

"Sec. 1801. Grant authorization.
"Sec. 1802. Applications.
"Sec. 1803. Reports.
"Sec. 1804. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

CHAPTER 2—OFFENDER TRAINING AND INFORMATION PROGRAMS

SEC. 126. NATIONAL INSTITUTE OF JUSTICE TRAINING PROGRAMS.

(a) IN GENERAL.—The National Institute of Justice, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officer and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Director of the National Institute of Justice shall attempt, to the extent practicable, to make training programs developed under subsection (a) available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1994 and 1995 to carry out the provisions of this section.

SEC. 127. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18 of the United States Code or for the commission of a similar offense, including halfway houses and psychiatric institutions.

Subtitle C—Victim Compensation

SEC. 131. VICTIM COMPENSATION.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2246. Mandatory restitution for sex offenses

"(a) IN GENERAL.—Notwithstanding section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITIONS.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1) of this section, the United States Attorney (or delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"2246. Mandatory restitution for sex offenses.".

Subtitle D—Safe Campuses for Women

SEC. 141. CAMPUS SEXUAL ASSAULT STUDY.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of noncampus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits;

(6) an assessment of the policies and practices of educational institutions that are most effective in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Committees on Education and Labor and the Judiciary of the House of Representatives and the Committees on Labor and Human Resources and the Judiciary of the Senate not later than September 1, 1995.

(d) DEFINITION.—For purposes of this subtitle, "campus sexual assaults" means sexual assaults committed against or by students or employees of institutions of postsecondary education and occurring at such institutions or during activities connected with such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Violation of protection order.
"Sec. 2263. Pretrial release of defendant.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions for chapter.

"§ 2261. Interstate domestic violence

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to contact that person's spouse or intimate partner, and in the course of that contact intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

"§ 2262. Violation of protection order

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(1)(A) violates a protection order, any portion of which involves protection against credible threats of violence, repeated harassment, or bodily injury, to the person or persons for whom the protection order was issued, and—

"(B) violates that portion of such protection order; or

"(2) would violate paragraph (1) of this subsection if the conduct occurred in the jurisdiction in which such order was issued;

and does engage in such conduct shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) In General.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) Scope and Nature of Order.—

"(1) In general.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) Definition.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) Mandatory nature of order.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) Consideration of economic circumstances.—

"(A) In general.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) Lump-sum or partial payment.—An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) Setoff.—Any amount paid to a victim under this section shall be setoff against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) Proof of Claim.—

"(1) In general.—Within 60 days after conviction and, in any event, no later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of that affidavit.

"(2) Objections.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) Additional documentation or testimony.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) Final determination of losses.—In the event that the victim's losses are not ascertainable 10 days before sentencing as provided in paragraph (1) of this subsection, the United States Attorney (or such Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victims's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) Restitution and Criminal Penalties.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

"§ 2265. Full faith and credit given to protection orders

"(a) Full Faith and Credit.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) Protection Order.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) Cross or Counter Petition.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, a person who cohabits or has cohabited with the abuser as a spouse, and any other person similarly situated to a spouse; and

"(B) any other person, other than a minor child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse, former spouse, or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States;

"(4) the term 'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member;

"(5) the term 'bodily harm' means any act, except one done in self-defense, that results in physical injury or sexual abuse; and

"(6) the term 'Indian country' has the meaning given to such term by section 1151 of this title.".

(b) Table of Chapters.—The table of chapters at the beginning part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"**110A. Violence against spouses .... 2261.**".

Subtitle B—Arrest in Domestic Violence Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 121, is further amended by—

(1) redesignating part S as part T;

(2) redesignating section 1901 as section 2001; and

(3) adding after part R the following new part:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 1901. ARREST POLICIES.

"(a) General Program Purpose.—The purpose of this part is to encourage States, Indian tribes, and units of local government to treat domestic violence as a serious violation of criminal law. The Director of the Bureau of Justice Assistance may make grants to eligible States, Indian tribes, or units of local government for the following:

"(1) To implement mandatory arrest or proarrest programs, including mandatory arrest programs for protective order violations.

"(2) To develop policies, and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To strengthen legal advocacy service programs for victims of domestic violence.

"(5) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(b) Eligibility.—Eligible grantees are States, Indian tribes, or units of local government that—

"(1) certify that their laws or official policies—

"(A)(i) encourage or mandate arrest of domestic violence offenders based on probable cause that violence has been committed; or

"(ii) certify that all their law enforcement personnel have received domestic violence training conducted by a State Domestic Violence Coalition as defined in section 10410(b) of title 42, United States Code; and

"(B) mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices, and training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, and practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed finding of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;

"(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; and

"(5) certify that their laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, or social companions of or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

"SEC. 1902. APPLICATIONS.

"(a) Application.—An eligible grantee shall submit an application to the Director that shall—

"(1) describe plans to implement policies described in subsection (b);

"(2) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(3) include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) Priority.—In awarding grants under this part, the Director shall give priority to an applicant that—

"(1) does not currently provide for centralized handling of cases involving domestic violence by policy, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 1903. REPORTS.

"Each grantee receiving funds under this part shall submit a report to the Director evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Director may prescribe.

"SEC. 1904. DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means a crime of violence against a victim committed by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who cohabits with or has cohabited with the victim as a spouse, or any other individual similarly situated to a spouse, or any other person who is protected under the domestic or family violence laws of the eligible State, Indian tribe, municipality, or local government entity.

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence including temporary and final orders issued by civil and criminal courts (other than support or child custody provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) Authorization of Appropriations.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (12), as added by section 121 of this Act, the following:

"(13) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the purposes of part S.".

(c) Administrative Provisions.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 121 of this Act, is amended by striking "O, Q, and R" and inserting "O, Q, R, and S"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 121 of this Act, is amended by striking "O, Q, or R" and inserting "O, Q, R, or S".

(d) Effective Date.—The eligibility requirements provided in this section shall take effect 1 year after the date of enactment of this subtitle.

(e) Conforming Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 121, is further amended by striking the matter relating to part S and inserting the following:

"Part S—Grants to Encourage Arrest Policies

"Sec. 1901. Arrest policies.
"Sec. 1902. Applications.
"Sec. 1903. Reports.
"Sec. 1904. Definitions.

"Part T—Transition; Effective Date; Repealer

"Sec. 2001. Continuation of rules, authorities, and proceedings.".

Subtitle C—Domestic Violence

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Domestic Violence Firearm Prevention Act".

SEC. 232. FINDINGS.

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC. 233. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) Intimate Partner Defined.—Section 921(a) of title 18, United States Code, is amended by inserting at the end the following:

"(29) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) Prohibition Against Disposal of Firearms.—Section 922(d) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury, except that this paragraph shall only apply to a court order that (A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate, and (B) includes a finding that such person represents a credible threat to the physical safety of such intimate partner.".

(c) Prohibition Against Receipt of Firearms.—Section 922(g) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual or constructive notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury; and

"(C) includes a finding that such person represents a credible threat to the physical safety of such intimate partner,".

(d) STORAGE OF FIREARMS.—Section 926(a) of such title is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of such title is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

Subtitle D—Protection for Immigrant Women

SEC. 241. ALIEN SPOUSE PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clause:

"(iii) An alien who is the spouse of a citizen of the United States, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse, or

"(II) the alien is residing in the United States with the alien's spouse, the alien has been married to and residing with the spouse for a period of not less than 3 years, and the alien's spouse has failed to file a petition under clause (i) on behalf of the alien."; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that the conditions described in subclause (I) or (II) of subparagraph (A)(iii) are met with respect to the alien.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of such Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A), by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,", and

(B) in subparagraph (B), by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of such Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii)(I) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1994.

SEC. 242. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence submitted in support of the application (whether or not the evidence is supported by an evaluation of a licensed mental health professional). The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 243. SUSPENSION OF DEPORTATION.

Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) at the end of paragraph (1) by striking "or";

(2) at the end of paragraph (2) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); is physically present in the United States; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident; and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A—Reports

SEC. 301. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 302. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

Subtitle B—Justice Department Task Force on Violence Against Women

SEC. 311. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 312. GENERAL PURPOSES OF TASK FORCE.

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall review Federal, State, and local strategies for preventing and punishing violent crimes against women, including the enhancement and protection of the rights of the victims of such crimes, and make recommendations to improve the response to such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluating the adequacy of, and making recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of State and Federal rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending an effective Federal response to the problem;

(10) evaluating the adequacy of, and making recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(11) evaluating the treatment of women as victims of violent crime in the State and Federal criminal justice system, and making recommendations to improve such treatment; and

(12) assessing the problem of sexual exploitation of women and youths through prostitution and in the production of pornography, and recommending effective means of response to the problem.

SEC. 313. MEMBERSHIP.

(a) CHAIR; NUMBER AND APPOINTMENT.—The Task Force shall be chaired by the Attorney General (or designee). Not later than 60 days after the date of the enactment of this Act, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Housing and Urban Development, the Attorney General shall select up to 14 other members to serve on the Task Force.

(b) PARTICIPATION.—The Attorney General (or designee) shall select, without regard to political affiliation, members who are specially qualified to serve on the Task Force based on their involvement in efforts to combat violence against women, assistance or service to victims of such violence, or other pertinent experience or expertise. The Attorney General shall ensure that the Task Force includes a broad base of participation by including members with backgrounds in such areas as law enforcement, victim services and advocacy, legal defense and prosecution, judicial administration, medical services, and counseling.

(c) VACANCIES.—The Attorney General may fill any vacancy that occurs on the Task Force.

SEC. 314. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General (or designee), but shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General (or designee), but shall meet at least 6 times.

(b) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(c) PER DIEM.—Except as provided in subsection (b), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 315. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 313, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

SEC. 316. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Attorney General (or designee), with the approval of the Task Force.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 317. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purposes of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths for testimony before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Attorney General (or designee).

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 319. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 315.

Subtitle C—STD Testing

SEC. 321. PAYMENT OF COST OF STD TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for sexually transmitted diseases, including, but not limited to gonorrhea, herpes, chlamydia, syphilis, and HIV, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault.".

Subtitle D—Grant Programs

SEC. 331. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) FINDINGS.—Congress finds that—

(1) 4,000,000 women are battered by their partners each year, of which 4,000 die as a result of such abuse;

(2) victims of domestic violence need access to resources which will refer such victims and their children to safe homes and shelters; and

(3) there is a need for a national domestic violence hotline to provide information and assistance to victims of domestic violence because a privately funded national domestic violence hotline which handled more than 65,000 crisis calls annually no longer exists.

(b) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, shall provide a grant to a nonprofit private organization to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. A grant provided under this subsection may extend over a period of not more than 3 fiscal years and the provision of payments under such grant shall be subject to annual approval by the Attorney General and subject to the availability of appropriations for the fiscal year involved to make the payments.

(c) APPLICATION.—

(1) IN GENERAL.—The Attorney General may not provide a grant under subsection (b) unless an application that meets the requirements of paragraph (2) has been approved by the Attorney General.

(2) REQUIREMENTS.—An application meets the requirements of this paragraph if the application—

(A) contains such agreements, assurances, and information, and is in such form and submitted in such manner as the Attorney General shall prescribe through notice in the Federal Register;

(B) demonstrates that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including support from advocacy groups, particularly State coalitions and recognized national domestic violence groups;

(C) demonstrates that the applicant has a commitment to diversity, including the hiring of and provision of services to ethnic, racial, cultural, and non-English speaking minorities, in addition to older individuals and individuals with disabilities;

(D) demonstrates that the applicant has the ability to integrate the hotline into existing services provided by the applicant to victims of domestic violence;

(E) includes a complete description of the applicant's plan for the establishment and operation of the hotline, including a description of—

(i) the hiring criteria and training program for hotline personnel;

(ii) the methods for the creation, maintenance, and updating of a resource database for the hotline;

(iii) a plan for providing service on a 24-hour-a-day basis to non-English speaking callers, including hotline personnel who speak Spanish;

(iv) a plan for access to the hotline by individuals with hearing impairments; and

(v) a plan for publicizing the availability of the hotline; and

(F) contains such other information as the Attorney General may require.

(d) SELECTION.—The Attorney General shall select a nonprofit private organization to receive a grant under subsection (b) which has been in existence for at least 5 years from the date of submission of the application by the organization.

(e) USES.—A grant made under subsection (b) shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a nonprofit private organization shall—

(1) contract with a carrier for the use of a toll-free telephone line;

(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

(3) establish, maintain, and update a database of information relating to services for victims of domestic violence, including information on the availability of shelters that serve battered women; and

(4) publicize the hotline to potential users throughout the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1994 through 1996.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.

SEC. 332. GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 221 of this Act, is amended by—

(1) redesignating part T as part U;

(2) redesignating section 2001 as section 2101; and

(3) adding after part S the following new part:

“PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

“SEC. 2001. GRANT AUTHORITY.

“The Director shall provide grants to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

“SEC. 2002. APPLICATIONS.

“(a) IN GENERAL.—An organization that desires to receive a grant under this section shall submit to the Director an application, in such form and in such manner as the Director may reasonably require that—

“(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

“(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

“(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

“(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

“(B) the method for identification and selection of project staff and a project evaluator;

“(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

“(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

“(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

“(4) contains such other information, agreements, and assurances as the Director may require.

“(b) ELIGIBILITY.—To be eligible for a grant under this section, such application shall include—

“(1) an assurance that the applicant is a nonprofit private organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

“(2) an assurance that such nonprofit organization includes representation from pertinent sectors of the local community, including—

“(A) health care providers;

“(B) the education community;

“(C) the religious community;

“(D) the justice system;

“(E) domestic violence program advocates;

“(F) human service entities such as State child services divisions; and

“(G) business and civic leaders.

“SEC. 2003. AWARD OF GRANTS.

“(a) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

“(b) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

“(1) annual approval by the Director; and

“(2) availability of appropriations.

“(c) GEOGRAPHICAL DISPERSION.—The Director shall award grants under this section to organizations in communities geographically dispersed throughout the country.

“SEC. 2004. USES OF FUNDS.

“(a) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

“(b) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

“(1) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

“(2) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

“(3) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after paragraph (13), as added by section 221 of this Act, the following:

“(14) There are authorized to be appropriated to carry out part T $20,000,000 for fiscal year 1994 and such sums as are necessary for each of the fiscal years 1995, 1996, and 1997, to remain available until expended.”.

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 221 of this Act, is amended by striking “O, Q, R, and S” and inserting “O, Q, R, S, and T”; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 221 of this Act, is amended by striking “O, Q, R, or S” and inserting “O, Q, R, S, or T”.

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 221 of this Act, is amended by striking the matter relating to part T and inserting the following:

“PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

“Sec. 2001. Grant authority.
“Sec. 2002. Applications.
“Sec. 2003. Award of grants.
“Sec. 2004. Uses of funds.

“PART U—TRANSITION; EFFECTIVE DATE; REPEALER

“Sec. 2101. Continuation of rules, authorities, and proceedings.”.

TITLE IV—EQUAL JUSTICE FOR WOMEN IN THE COURTS

Subtitle A—Education and Training for Judge and Court Personnel in State Courts

SEC. 401. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by gender.

SEC. 402. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims or rape, sexual assault, domestic violence, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the negative implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant and should not be held in contempt;

(18) the need for orders of protection, and the negative implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 403. COOPERATION IN DEVELOPING PROGRAMS.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1994, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 411. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation, parole, and supervised release;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 402 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial Branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $600,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 411(a), to be available until expended through fiscal year 1996;

(2) $100,000 to the Federal Judicial Center to carry out section 411(c) and any activities designated by the Judicial Conference under section 411(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 411(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $100,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

Subtitle C—Evidentiary Rules

SEC. 421. EXPERT TESTIMONY OF DOMESTIC VIOLENCE.

(a) FINDINGS.—The Congress finds that—

(1) State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

(3) the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they terminate or attempt to terminate domestic relationships with their abuser;

(4) myths, misconceptions, and victim-blaming attitudes are often held not only by the average lay person but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

(5) specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

(6) although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

(7) a woman is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the executive branch, working through the State Justice Institute, should examine programs which would allow the States to consider—

(1) that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) that a witness be qualified to testify as an expert witness based upon her or his

knowledge, skill, experience, training, or education, and be permitted to testify in the form of an opinion or otherwise; and

(3) that expert testimony about a domestic relationship be admissible to include testimony of relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Violence Against Women Act represents landmark legislation on the rights of women. It is clearly one of the most consequential pieces of legislation aiding women to come to this floor since the adoption of what became the 19th amendment to the Constitution—providing women the right to vote.

This bill is a comprehensive, multifaceted, and long-overdue response to crimes of violence and abuse suffered by women across the country. It authorizes innovative programs to target violence against women in our streets, our campuses and our homes. It addresses the full range of the criminal justice system—education, prevention, treatment, enforcement, and punishment.

I want to commend the chairman of the Crime Subcommittee, Mr. SCHUMER, for his leadership on this issue, as well as the other subcommittee chairman and ranking members who contributed to the legislative product before us today.

I also want to congratulate the gentlewoman from Colorado [Mrs. SCHROEDER] for her unfailing devotion to the core principles underlying this legislation. She has worked diligently for many years to bring it forward.

I urge approval of the Violence Against Women Act.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Texas for yielding to me.

Mr. Speaker, I understand that there have been some modifications made to this bill between the time it was reported from committee and today, and I am wondering if the chairman would explain those modifications that have been made to the legislation.

Mr. BROOKS. The managers' amendment is at the desk. And may I give the gentleman the details in just a moment?

Mr. SENSENBRENNER. Of course.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the legislation and yield myself 2 minutes.

Mr. Speaker, this is important legislation, and I am glad the chairman has finally decided to bring this legislation up this afternoon.

Mr. Speaker, three of our women will be victims of at least one violent crime during their lifetime, according to Justice Department statistics. Every hour, 10 women are raped, 240 women are beaten by their husbands or boyfriends.

During the last 10 years, the rape rate has risen far more than 4 times as fast as the total crime rate.

The Surgeon General reports that domestic battery has become the single largest cause of bodily injury to American women. Yet violence against women is grossly underreported, whether on the campus or in the home. Some studies conclude that only 34 percent of stranger rapes and 13 percent of acquaintance rapes are reported to authorities. No more than half of the domestic battery victims go to the police. More than half of the women homicide victims are killed by their husbands, ex-husbands, or boyfriends. More than half of the rape victims experience physical injuries other than the rape itself. The injury is contagious: Rape survivors are also 9 times more likely than other women to attempt suicide.

This legislation establishes the Federal program to attempt to deal with this issue. I am saddened to say, however, that this is another unfunded authorization bill. The Congress has not appropriated any money to back up the promises that are contained in this legislation. But I am hopeful if it passes, this legislation will jump-start the Appropriations Committee in doing the right thing to fund the programs that are authorized under this bill.

Let me also say that I am a bit disappointed that this legislation is short of enforcement, but perhaps we can revisit that issue another day, since amendments are not permitted under the procedure by which we are dealing with this legislation today.

Mr. Speaker, I reserve the balance of my time.

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Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank my friend, the gentleman from Texas [Mr. BROOKS], the chairman of the committee, for allowing me to speak on this matter.

Mr. Speaker, I rise today in strong support for the Violence Against Women Act. The legislation would provide incentives for States to toughen penalties against offenders of crimes against women, and increase the protection for victims of domestic violence.

Women are increasingly becoming the victims of violent crime like assault and rape. They are losing their freedom to live their lives fully because of fear of being attacked. A recent study found that due to the fear of rape, women are eight times less likely than men to walk alone in their neighborhood. Most women won't use public transportation after dark out of fear of being assaulted. Their fears are well-substantiated. In 1990, there were more than 680,000 rapes. The number of sexual assaults increased four times as fast as the total crime rate. All too often, women are restricted from leading normal lives because of fear of violence.

The Violence Against Women Act is a bold new act that will make the streets safer for women. It creates programs to combat violent street crimes, develops education and rape awareness programs, and establishes training programs for individuals working with sexual offenders. Women feel unsafe in their own community, and up until this point we have failed to address these problems. The Violence Against Women Act will allay some of these fears.

While many women live in fear of walking alone after dark, even more women are victims of domestic violence. More than twice as many women are killed by their husbands or their boyfriends than by strangers. The majority of all rapes are committed by friends, family, or acquaintances. The number of domestic violence crimes is increasing in epidemic proportions. A recent report by the American Medical Association found that 3 to 4 million women are battered by their husbands or boyfriends each year, and 25 percent of all women are likely to be victims of domestic violence at some point in their lives.

Domestic violence crosses all cultural and socioeconomic levels. It occurs just as often in upper class families as it does among poor. Most of us don't like to believe that people we know are abused, but very often the victims are our families, our friends, and our neighbors. Last March, a 21-year-old neighbor of mine from south Boston was fatally stabbed, and her apartment was set afire by her estranged husband. Despite the fact that she had contacted the authorities and obtained a restraining order, the law was unable to protect her. She is survived by her parents and infant. The young woman, a college senior, was 1 of 24 women who have been killed by domestic violence in Massachusetts so far this year.

These statistics are particularly disturbing to me. The simple fact of the matter is violent crimes against women are increasing, and immediate action needs to be taken to reverse this trend. Women need to be able to turn to counselors, policemen, and judges who are trained to recognize domestic violence and deal with it appropriately. Domestic violence is no longer an issue that we, in society, can ignore or simply dismiss as a lover's quarrel. Domestic violence is a serious matter. One that needs a real solution.

I strongly support the Violence Against Women Act. Our streets should be safe enough for a women to walk home alone, and our homes should be equally safe so women do not live in fear of going home.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I want to thank the ranking member of the Judiciary Committee for yielding this time to me. I want to thank the chairman of the Judiciary Committee and the members of the committee for having this bill out on the floor of the House. It certainly has incredible support, and justifiably so.

Mr. Speaker, whether walking alone down city streets late at night, driving to work in quiet suburban neighborhoods, or even home alone with their loved ones, for women and girls in America, violence is an everyday fact of life.

In this country, every 5 minutes a woman is raped, every 15 seconds a woman is beaten by her husband or companion, and every year 4,000 women are killed by their abusers.

Street and domestic violence costs our Nation 5.3 billion health care dollars annually. More than 30 percent of women in emergency rooms are there because of domestic violence, and more than 60 percent of the women in mental health wards are there because of ongoing abuse.

Mr. Speaker, today, the House will consider the Violence Against Women Act (H.R. 1133), a bill that I have sponsored that is very important to me and to so many others who have worked long and hard to see this day finally come.

H.R. 1133 will:

Require all States to enforce orders of protection regardless of State of origin and to encourage mandatory arrest policies;

Provide grants for more effective law enforcement and prosecution strategies and for rape prevention programs and antiviolence curriculums for school-aged children;

Grant permission for battered immigrant women, the spouses of U.S. citizens or legal residents, to self-petition for legal status for themselves and their children; and

Provide training for judges and other court personnel about rape, sexual assault, and domestic violence.

I am pleased that the Judiciary Committee has added two of my domestic violence bills to H.R. 1133.

The National Domestic Violence Hotline Act (H.R. 522) will provide funding to reconnect the nationwide, toll-free, multilingual hotline for battered women and their families. This hotline will provide a lifeline to thousands of battered women helping them find emergency services, housing, counseling, and legal assistance. The domestic violence hotline is frontline prevention.

I am also pleased that H.R. 1133 also includes my resolution, House Concurrent Resolution 20, urging State courts to allow battered women to present evidence of past abuse in criminal trials and to allow expert testimony about the battered women's syndrome.

H.R. 1133 will have a real and immediate impact on the lives of every woman and girl in this country, regardless of their race, economic circumstances, education, or occupation.

For too long we have tolerated increasing levels of violence against women and girls. For too long we have tolerated the twin evils of violence and sexism in our society. Now, we say we have had enough.

It is time, Mr. Speaker, to pass the Violence Against Women Act.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the chairman for yielding this time to me. I certainly want to thank the chairman of the committee and the gentlewoman from Colorado [Mrs. SCHROEDER] for their very strong leadership on this issue.

Mr. Speaker, I rise today in strong support of the Violence Against Women Act of 1993. The passage of this legislation is long overdue. I would like to share with you a letter that was sent to me by a very courageous woman in western Massachusetts.

This is a disturbing and heart-rending account of 5 years of physical and psychological abuse that she has suffered at the hand of her husband. Among many other things, her husband shot a gun at her, shot arrows at her, set her hair on fire, and hit her with many objects including a hammer. When she had a job he called her at work and harassed her. He would not allow her to get an education because he believed she would cheat on him or run away when she went to classes. She says he caused her to have three miscarriages.

This woman has received 13 restraining orders and moved out of the State several times. But he always found her. She came close to prosecuting once. But between going to court and the time for his trial, he came to her house, forced her into his car and repeatedly hit her in the head until she was unconscious. This was one of several times she tried to send him to jail but was scared into backing off.

She continued to live in what only can be described as a nightmare because she was afraid of the harm her husband might bring to her daughter if she were to reach out for help. She finally prosecuted in May of this year when he took her daughter without her permission. When the police tried to stop his car, he took the police on a high-speed chase. This was the first time he actually endangered her daughter and she says she finally snapped and took him to court.

Without the help and support of the victim witness advocate the court provided her, she never would have made it through the judicial system. Her husband is finally in jail but could be out in 2 years on good behavior.

She is one of millions of women suffering abuse and pushed to inhuman limits before crying out for help. Some women never cry out. The Violence Against Women Act will not solve all of the unthinkable problems these women face, but it is an admirable beginning.

Mr. Speaker, I insert the following letter:

TURNERS FALLS, MA,
July 29, 1993.

Governor WILLIAM WELD,
Boston, MA.

In conjunction with my previous two letters I am writing in an effort to prove to you that your existing laws concerning battered women are looked upon as a joke and severely insufficient.

I, as an individual, feel the strong need to communicate with you my five year struggle as a battered woman and to plea for your support. I realize recently you have made an important step to freeing woman from an abusive situation, but this letter will hopefully suggest realization to the fact that we are not free and something more needs to be done.

For the past five years I can prove that my husband has physically, emotionally, mentally and financially abused me and stripped me of everything including my self confidence, my home, my friends, my family and the right to lead a normal life.

Five years ago until the current time he has:

1. Played Russian Roulette with bullets with my name on it.
2. Shot arrows at me.
3. Told me I was dressed like a whore and said "the devil likes whores" and shot at me.
4. He locked me outside the house in the middle of the winter with no clothes on.
5. On Main Street in Greenfield, MA., he jumped on my car and smashed all the windows.
6. In front of 15–20 people and in front of the Greenfield Court House, he jumped on my car.
7. He has set my hair on fire.
8. He has forced me to put my hand on a stove burner that was on high.
9. He has hit my head so hard he knocked me out for hours.
10. He broke glass over parts of my body.
11. Many, many times he has threatened to kill me and my family.
12. In or out of jail, he calls me repeatedly—20–30 times a day. I'll pick up the telephone and it is him and I then would hang up. With speed dialing he'd call back immediately, again and again. Most of the time I had to keep the phone off the hook for long periods of time.
13. Two days before my wedding day I was held at knife point until I said "I would marry him."
14. I can not hold a job for he harasses me at work. Therefore I am forced to stay on welfare.
15. I can not get an education for he feels that I would cheat on him or run away, therefore I can not complete any schooling I start.

16. I was not allowed to go places. For example, I could not go grocery shopping alone, because there were male baggers. Never mind having fun with family or friends. It's this obsession that is going to get me killed.

17. My daughter (which is not his) is staying back in kindergarten, because she missed so much school. If Peter did not want me to take her to school, I could not.

18. He has killed three children that I was pregnant with.

19. He has forced me to eat when I did not want to, saying "no one will look at you if you are fat." I am heavy now.

20. He has hit me with hammers, pans, glass and other objects. He has threatened me with guns, knives, and other instruments.

These first twenty explanations are only to name a few in a years time. These were witnessed incidents, never mind all those that went on behind closed doors.

His abuse does not stop with me:

1. He brags how many times he has hit police officers.

2. He brags how it took 6 court officers to put handcuffs on him in the courtroom.

3. He has been jailed six times with out any testimony on my part.

4. He has broken probation so many times, but yet they will not revoke his probation.

5. He has set a person's house on fire.

6. He tells my mother that he is going to blow her house up.

7. He has thrown Molotov cocktails at peoples' cars.

8. He has stolen money from people.

9. He threatens other people into not pressing charges. Those who do, get beaten up or tires slashed etc.

10. He has stolen from the state lottery.

He mocks the whole justice system by getting a slap on the wrist or 30 days in jail, which he says "I can do standing on my head." He runs peoples lives by telling someone what to do, or buys them off and/or just plain making them suffer.

I freely admit that I have not always pressed charges or not testified, but I had no choice. For instance:

Mr. Moon hit me with a glass bottle after I told him I went to the doctors after he told me not to. I laid in bed with glass in my arm, a fractured wrist and blood dripping all over. I could not sleep because I was afraid of him killing me and I also tried to figure out how I could get away. So, the next day while he took a shower, I grabbed my daughter and ran to a shelter. I had no money, no clothes, no nothing. There, I got cleaned up, went to a hospital and then to court. Well, from the time I left until the time of his trial he found me. He came by and forced me into the car and repeatedly hit me in the head, telling me "I am knocking sense into you." He did this until he knocked me out. Then when I awoke he had packed and told me we were leaving again. So off we went against my will to New Hampshire, where we slept in the car until I could get an apartment. When his trial date came, they asked me to testify to a charge that he would only get thirty days for. As the Judge asked me if I was freely refusing to testify, I was thinking, is this man going to help me get away before he gets out or will he wait until after Peter gets out to put me as a number in a morgue and say to my family, "I'm sorry." What was I to do? Was I to testify and become a statistic of being killed due to an abusive situation or was it just better to refuse to testify and stay alive. This was the beginning of five years to come of the same thing again and again.

All this time I stayed to protect my family, friends and other people because, you see, he is a good little boy when I do as he wants me to and I quietly take his constant abuse.

Through these years I have gotten 13 restraining orders, I have changed my name and I have moved out of state several times. I have tried to give my daughter the best life possible, but with him always finding us it is hard. We have had to leave friends, family, stability behind so many times. I have no future of education, a job, or a decent life. Even when he is put into jail for 30 days. I live looking behind me in fear and then he finds us and it starts again, worse than before. Making friends or keeping family is so difficult. It is embarrassing to tell the doctor you didn't forget the appointment, that you were locked in a room, so you lie and say you forgot. The courts begin not to take you serious, because you don't testify because just before you go in, he has a family member threaten you. You have to lie constantly to your family, so they don't know what is happening, because your abuser tells you that he will hurt them if they know. It is so hard for my daughter, when other children say "My mom said that your Dad was in court again." (Peter Moon is not my daughter's father or her Daddy)

I have tried to stay within the limits of the law and help myself, but he gets to me one way or the other. It's not fair, he is treated with more respect and more rights than I have.

He gets to walk free for 5 years, while I was in prison. He goes to appointments or his job without delay, while I have to do what he says and when he says to do it. He gets a fair hearing at his trial, while he threatens me right in the court room and gets off while I go home and get beat up. I even thought of buying a gun and if he broke into my home and hit me I could shoot him in self defense. Most people would think that I had done them a favor, but do you realize the law would put me in prison for attempted murder. Are you aware that sometimes this is the only way out? But yet for 5 years Peter Moon has slowly and painfully killed me. I don't even live anymore, I only exist. There is no doubt in my mind or any one else, that soon he will do that one last act of murder and I will be dead, and perhaps finally free. My daughter is the only thing that I have left. I try to live for her and only for her.

Peter feels he will always get away with it and he laughs and up until now he has been let off time and time again. Even when he goes to jail, they let him out, because he is so good. They never ever revoke his probation. Perhaps you will realize that the laws need to be changed more. I know that the big problem is space in the jails, but is this a valid reason?

This brings me to the present time. On April 8, 1993 Peter Moon hit me with a hammer. With no faith in the law, I called the police. With the new laws, they came and arrested him, which they have never done before, (in the past they just escorted him away and then he would just come back). He went to jail and got bailed. As usual I got a restraining order and he came back. Well, I put up with it as usual, because he threatened to take my daughter. On Mother's Day, May 9, 1993 he took my daughter over to my father's, against my consent. On the way, he got stopped by the police. He would not stop. He took the police on a high speed chase with her in the car. He got arrested when he did stop and went back to jail. That was it! Something snapped, as it was the first time that he had directly endangered my daughter. No one and I mean no one will ever do that to her. So, I went to court and there I found my saving angel. She was a victim witness advocate, she did not just half listen as all the others had, she really listened and heard me. I told her every thing from start to finish. No matter what I said or how many phone calls I made to her or how many tears I shed and had to stop talking, she wanted to know it all. This lady went way beyond her job, giving me courage and making me believe in myself as well as the court system. She sat and explained to me what I could do, how to do it and if I did not want to because I was scared, she still would stand by me. With that and the police taking action I did every thing that I could do to help them.

The first thing I did was violate his restraining order, and agree to do what ever was humanly possible to help the courts. Then there was a detention hearing to keep him in jail without bail, because of his threats to me and others. It was at this hearing that for the first time in five years, I got to say what I wanted. It felt so good. I had 23 minutes of happiness, because they made me feel that I mattered to them.

Thankfully, the judge held him on no bail. From this time until the day of his trial, he was in jail, but this did not matter, for the harassment continued (calls from jail—threats from his friends, etc.). When the trial came he pleaded guilty or submitted to: Assault and battery; assault and battery with a dangerous weapon; failure to stop for police; driving without a license; speeding; reckless driving; and possession of a firearm (2 guns were in the car and he does not have a F.I.D. card).

Not to mention, which he was never charged with: Kidnapping; running people off the road; all sorts of traffic violations—like not stopping for stop signs; failure to use directional; assault and battery on a police officer; and resisting arrest.

Also, from 4–93 to 6–93 he has not been charged with over 200 counts of violating a restraining order. He calls from jail 15–20 times a day. And after all of this he has not been charged with stalking, which I think applies.

The day of his trial they did not make me see him, and someone was always with me. He even threatened the District Attorney's Assistant in public. Then his three lawyers were kind enough to ask me to move, because they were bringing him out to go to the restroom and he had made it very clear that he would go for me, if given the chance.

To all these things he got 9 years concurrent to only serve 4 years, which with good behavior he could be out in 2 years. Everyone knows that he would be good in jail, so that he could get out and claim his property—me.

After the police, Victim Witness Advocate and the D.A. did all they could I went home. I need to mention that through these 5 years he has been ordered to attend a batterers' group and also to go to counseling. This has not helped one bit. He only goes when he first gets let out of jail to impress his Probation Officer, but he never goes long.

I went home with a feeling that is/was indescribable. After 5 years of abuse this man does a 2 year sentence at a campground type jail. After pouring my heart out, weeks of worry and fear and putting everything on the line, he only gets 2 years. I am happy that people are taking notice and finally realizing and understanding. The police, the judge, the witnesses, the Victim Witness Advocate and the Asst. District Attorney and others did their best—all for what? Two years—Peter

Moon is now appealing the decision, after he pleaded guilty. The end of my abuse—No, only the beginning again.

All this to find out his detention without bail only lasts 60 days, which means he can bail himself after 8–30–93 until his hearing 9–22–93.

Does anyone realize what this man can do in 30 days, walking free? He is coming after me to kill me. It's been a long time and I finally have courage to stand up for myself. Now that I know people have done something, I will do everything that I can to help. I have proven myself as such, the laws are behind me for once, but what's going to happen on 8–30–93 if they let him out on bail. In the past I have had thoughts (but not acted on them) in which I welcomed death for peace finally, but now I do not want to die. I want one chance. I want to start a new life. I now realize that I matter and that I am not his possession. I know now, that I am not just a case number, but a victim, with rights. I hope people come to realize that I am not a story on paper, but a person that needs a chance to live and not only exist. I know that this will follow me, because it happened to me, but it needs to be put to rest. The past is just that, "the past," putting it there is the hardest obstacle I have to face.

I want to do all I can and that is the reason for this letter. We abused women need governmental support. I am going to put an article in the paper, I hope to go on National T.V. to tell my story and use the media to help us all. Hopefully this will gain support from all sectors and give other women hope and courage to get away. I hope that the government and its laws will be for us and do their part to get stiffer laws enacted to take care of these situations of abuse, fear, and unjustice.

I hope you or someone can keep Peter Moon in jail long enough for me to relocate again, get my daughter in school, change my name again and get a normal life going. This is not going to happen if he gets bailed 8–30–93. To go to a shelter would keep my daughter out of school again. I long for a normal life for her and thought I could do it when I knew/or thought I knew that Peter would be in jail for 2 years. Now he has appealed and will be out. This alone is what I want and need. He has come close to physically and emotionally destroying me. Financially, will never be replaced. He has sold my furniture to buy himself things. My perfect credit will never be restored. He wrote bad checks from my account. All the money I had I used to go from place to place.

My family and friends have given me everything they possibly could that I will never be able to pay back. I have lost my furniture, clothes that he has burned, knick-knacks that meant so much to me smashed. No one can replace my pride, my dignity, my self worth. Please help me be able to have a brighter future for me and my precious daughter.

On 8–30–93 perhaps this letter will mean the difference between more abuse, death, or keep him in jail where he cannot get to me. I want the chance to get an education and a job, so that I can stand on my own two feet. Can you help me/will you help me? The children of these abusive situations need to know a better life, so that the cycle will stop.

I hope to be forming a day—12–31–93, that all people I reach with my efforts will take a stand and make a statement, in support of the laws being changed even more than they are now. These statements can be sent to "The New England Learning for Woman in Transition" along with one penny. These people will throw these pennies in a well, as a wish for a new beginning 31st, to recognize a new life in a New Year.

As you can see I need your help. All these facts can be backed with proof. I hope that you see how important it is to me and my daughter that I get support from the government. I appreciate the time and attention you have given this letter and hope that you can communicate with me about the issues. Anything that you can do to help me gain peace will be greatly appreciated by me, my family and especially to a five-year-old little girl who has no chance unless you can help. She does not deserve this, as she has done nothing wrong, but be born and even that was not her voice.

This case is pending in the Greenfield Court System—Greenfield, MA.

MARQUIS A. LOUD.

Mr. BROOKS. Mr. Speaker, I yield myself 1 minute to reply to my distinguished friend, the gentleman from Wisconsin, about the changes that have been made in the bill.

The only substantive change was to straighten out the new Federal offense created by the violation of the protection order in title 2 of the bill. The change reflects the discussion during the committee hearings and the markup session. The sponsors of the legislation, including its prime sponsor, the gentlewoman from Colorado [Mrs. SCHROEDER] are agreeable to it, as I understand it and to the technical changes made in title 221 of the bill dealing with the eligibility of grants to encourage arrest policies.

Mr. Speaker, I thank the gentleman for bringing that to my attention. I am glad we could make it a part of the RECORD.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, what the gentleman from Texas has said shows one of the things that is wrong with this Congress. The way the Judiciary Committee reported this bill out is that there was a mandatory minimum sentence of 3 months for someone who violated a protective order, crossing State lines.

Somewhere between the time this legislation was reported from the Judiciary Committee and this moment, that mandatory minimum has disappeared and now someone who is convicted of this crime will not have to serve any jail time at all.

Now, this denigrates the committee system, and because the gentleman from Texas who is the committee chairman is bringing this bill up under a procedure that does not allow any amendment, we have to swallow his demand of getting rid of the mandatory minimum penalty for violation of a protection order, or this whole bill goes down.

□ 1320

Now, whatever happened to majority rule in committees where we discussed this matter and we decided that a mandatory minimum penalty was in order for this type of an offense? That has gone out the window here, and it has gone out the window because somebody does not like mandatory minimums and will not bring the bill up that contains a mandatory minimum even though his own committee voted for a mandatory minimum.

Now I think that where there is a protective order issued there has already been violence. The person who has received the protective order knows what he or she cannot do, and, if they cross a State line to do it, I think 3 months in the slammer is certainly in order, and I am shocked that the gentleman from Texas would weaken the protections of this bill by taking the mandatory minimums out.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself another 30 seconds.

To my distinguished friend from Wisconsin:

Mandatory sentences are often not appropriate, not appropriate at all. Sometimes people should have a week. Sometimes people should have a month. Sometimes people should have 10 years, not just 3 months. The changes that were made strengthen the opportunities of women to be protected because on page 33 we pick up all of the normal punishments for violation of section 2262, which is the activating paragraph—we make them eligible for regular title 18 prosecution, which is for life or any terms of years if the offender murders the victim, or not more than 20 years if the offender causes serious bodily injury.

Mr. Speaker, this gives women considerably more rights than they did have, and it is an equitable and better way to operate. I had thought this had been cleared with the Republicans, that the agreement had been made, or I would not have made the change. I also probably would not have helped pass out the bill if we had not made some adjustments that gives women real rights instead of some 3 months for killing them. I ask, Is that all you want to give them?

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER], the chief sponsor of this bill who has worked long and hard for it.

Mrs. SCHROEDER. Mr. Speaker, I thank our chairman, the gentleman from Texas [Mr. BROOKS], for yielding this time to me, and I want to thank him, and the gentleman from New York [Mr. SCHUMER], and I want to thank the gentleman from Minnesota [Mr. RAMSTAD], the gentlewoman from New York [Ms. MOLINARI] and everyone who worked so hard on this, the gentlewoman from Maryland [Mrs. MORELLA], everybody.

Mr. Speaker, what we did was we took different bills that had come out that were really very similar about violence against women and put them all together in what we hoped would be noncontroversial so we could finally get this body acting on violence against women.

Mr. Speaker, this whole area, it has been called domestic violence. Somehow our society has pretended it is a much lesser violence. We are really eager to come to the floor to fight violence in the streets. We are really eager to fight violence in the schools, as well we should. But violence in the home we tiptoe around, and we find many creating that violence in the street.

So, Mr. Speaker, this does everything we know how to try and say to localities, You must start taking these crimes much more seriously.

It also deals with the rising toll of rape.

My colleagues have heard what has happened in this country. While violent crimes against men, once they get out of the younger age, is going down, violence against women is going up so that we now know three out of four women will probably be the target of a violent act before they die. That is absolutely unconscionable.

Mr. Speaker, this bill does everything it can to tighten things. It does say that there should be a much more tightened enforcing of protective orders across State lines. The way the bill was originally written, or at least one of them, it was either a fine or 3 months. They have now attempted to tighten that even tighter, but I think that is where we want to go. Basically we want this bill to come out.

Mr. Speaker, I am going to insert in the RECORD along with my statement statistics on violence against women and an article dealing with why we really should have made this a civil rights case. It is not in here because it was too controversial for some people. But I hope people will read the RECORD and understand why we think gender-based crime and those kinds of hate crimes are really targeting women more and more in this country, and we need to deal with that other twin pillar that the gentlewoman from Maryland [Mrs. MORELLA] talked about, and that is sexism that is driving some of this violence, and that is how we could do it. But it is not here yet. We were not ready as a body yet.

But I think this is as comprehensive, and as bipartisan and as agreeable as we can probably get, and I certainly hope we would pass this out so that we could get on to meeting with the Senate and finally doing something at the Federal level is long, long overdue.

Today we have the opportunity to vote on a comprehensive bill that makes the criminal justice system responsive to women—The Violence Against Women Act.

I salute all of your efforts to make this day happen.

When we pass this bill today, we will be sending an important signal to American women, that Congress understands the toll violence in the home and on the streets has had on our families.

Unless we take a serious stand against domestic violence, and sexual assault these crimes will continue to erode the stability of our nation and our families.

Domestic violence and sexual assault are not personal problems anymore. They are crimes. These are crime issues everyday Americans want us to deal with because these are the crimes that they face.

There are two remarkable things about the bills we are taking up today. First, this bill is the result of grassroots activists on the front lines speaking out. The people in our communities have been the primary lobbyists on this bill—not Washington lawyers.

We have 223 cosponsors on this bill. Why? Because members heard from the women in the battered shelters and the rape crisis centers. They met with women who had been stalked and emergency room nurses who had seen first-hand the effects of violence in the home.

Second, this bill has bi-partisan support. I salute Congresswomen SUSAN MOLINARI and CONNIE MORELLA, together with Congressman JIM RAMSTAD, Congressman SCHUMER, and others have all put their hearts and souls into reaching fair compromises. In fact, I would say that this bill is more nonpartisan than bipartisan.

I want to thank you for taking women and their fears about crime seriously and for moving this bill today.

DOMESTIC VIOLENCE AND GUNS

Violence is ripping up the fabric of who we are and women are leading the way of saying "Enough is Enough."

They are not only concerned about the safety of their homes and children, but also of their own personal safety. Violence determines many aspects of women's lives—where they work, where they live, and how they live. Some women won't work in downtown areas at night for fear of their safety. Some women won't go to suburban malls or grocery stores at night for fear of their safety.

It's the extent to which families, especially our children are experiencing violence in their everyday lives, however, which is prompting women's activism against violent crime and gun violence.

There are too many guns out there with so few limitations on who can own them. And it is hampering on our efforts to crack down on crime. Everywhere you turn in the debate on violence you run right smack into guns. The two go hand-in-hand. I see this connection with the issue of domestic violence. Individuals convicted of a crime can't purchase guns. But individuals with outstanding protection orders against them can obtain guns. This bill contains language that would limit access to guns for those convicted of domestic violence, or those that have outstanding protection orders against them. The Senate has this language. It's important and I urge my colleagues to keep this provision.

STATISTICS ON DOMESTIC VIOLENCE

Three out of four women will be victims of a violent crime during their lifetime.

Over the past decade the rape rate has risen four times as fast as the total crime rate.

A woman is 20 times more likely to be raped in the United States than in Japan; and the United States rape rate is 13 times higher than Great Britain's and four times higher than Germany's.

Violence will occur at least once in two-thirds of all marriages.

In the United States, a woman is more likely to be assaulted, injured, raped, or killed by a male partner than any other assailant.

Between 22 to 35 percent of women who visit the emergency rooms are there because of symptoms related to on-going abuse.

54 percent of domestic violence victims sustain injury, compared to 27 percent injured in cases of assault by non-intimates.

Less than 40 percent of reported rapes result in arrest.

The conviction rate for rape is only 3 percent; the conviction rate for robbery is 18 percent.

There are three times as many animal shelters in the United States as there are battered women shelters.

An estimated 2,000 to 4,000 women are beaten to death every year.

STATEMENT OF NOW LEGAL DEFENSE AND EDUCATION FUND ON THE VIOLENCE AGAINST WOMEN ACT, H.R. 1133 BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS; COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES

(By Sally Goldfarb, Senior Staff Attorney)

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you to discuss the Violence Against Women Act, H.R. 1133. I am Sally Goldfarb, Senior Staff Attorney of the NOW Legal Defense and Education Fund (NOW LDEF). NOW LDEF is an independent, nonprofit public interest legal organization dedicated to eliminating sex discrimination and securing equality for women and girls. Violence against women is one of NOW LDEF's chief concerns, and we have been working for several years to support the enactment of the Violence Against Women Act.

On behalf of NOW LDEF, I chair a national task force of almost one thousand organizations and individuals concerned about the epidemic of violence currently facing American women. The task force includes groups from the religious, labor, medical, mental health, aging, civil rights, women's, children's and victims' rights communities, all of which are united by a concern about the impact of violence on the ability of women and girls to participate as equals in our society. I am here today, however, to present the views of the NOW Legal Defense and Education Fund on this important legislation. NOW LDEF strongly endorses the Violence Against Women Act and urges you to support it. I will focus my remarks today on title III of the Act, which we view as a major step forward for women's equality.

THE EPIDEMIC OF VIOLENT CRIME AGAINST WOMEN

In America today, a woman faces a startlingly high likelihood of being the victim of a violent crime. Grim statistics reveal the thread of violence that runs through the lives of American women.

Every 15 seconds, a woman is beaten by her husband or boyfriend.[1]

Every 6 minutes, a woman is forcibly raped.[2]

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[1] Footnotes at end of article.

One fifth to one half of American women were sexually abused as children, most of them by an older male relative.[3]

One out of every eight adult women, or at least 12.1 million American women, has been the victim of forcible rape sometime in her lifetime.[4]

Women in all walks of life are are risk.

One out of every four female college students will be sexually attacked before graduating; one in seven will be raped.[5]

The murder rate for women aged 65 and older has climbed by 30 percent since 1974, while the murder rate for men in the same age group has dropped by 6 percent.[6]

African-American women are almost twice as likely to be raped as white women. Yet rapes of African-American women are less likely than rapes of white women to result in prosecution, conviction, and stern sentences.[7]

Domestic violence cuts across all racial, religious, ethnic and socioeconomic lines.[8]

GENDER-MOTIVATED VIOLENCE: AN ASSAULT ON WOMEN'S RIGHT TO EQUALITY

Women and girls are targets for many types of violence because of their sex. It is certainly true that many men are victims of crime, and this is a source of concern as well. However, women must fear not only the crimes that confront all members of our society, but also those that are inflicted exclusively or overwhelmingly on the female half of our population.

During the past decade, rape rates have risen nearly 4 times as fast as the total crime rate.[9]

Since 1974, the rates for assault and many other violent crimes against women have increased dramatically, while the rates for the same crimes against men have actually declined.[10]

Girls are estimated to be two to ten times more likely to suffer childhood sexual abuse than boys.[11]

When half the members of our society are at greater risk of terror, brutality, serious injury and even death even just because they are female, that is a form of discrimination. Moreover, violent attacks reinforce and maintain the disadvantaged status of women as a group.

Empirical studies of convicted rapists demonstrate that they hold extreme attitudes about men's right to dominate women and women's inherent inferiority.[12]

In December 1989, a man murdered fourteen female engineering students in Montreal after proclaiming his vicious hatred of all women and especially of "feminists."[13]

Much like racial attacks, attacks on individual women create a climate of terror that makes all women afraid to step "out of line." Pervasive fear of sexual assault and other crimes forces women to take elaborate precautions that limit their options for education, employment, travel, and other activities.

In recent years, we have made dramatic progress toward legal equality for women. But existing laws against discrimination are worth little if women must jeopardize their physical safety to seek out the opportunities that have been opened to them at home, work, school, and in the community.

THE VIOLENCE AGAINST WOMEN ACT'S CIVIL RIGHTS PROVISION

The versions of the Violence Against Women Act that are under consideration in the House (H.R. 1133) and the Senate (S. 11) both contain a civil rights provision in Title III. Both would declare that crimes of violence motivated by gender are discriminatory and violate the victim's civil rights under federal law. Both provide a civil cause of action for deprivation of this right. A person who proves that a crime of violence was motivated by gender is eligible to receive compensatory damages, punitive damages, injunctive relief and declaratory relief.

However, there are differences between the two bills. In May of this year, the Senate bill was narrowed in several significant ways in an effort to clarify and limit the cause of action provided. These changes were adopted after extensive discussions with federal judges, civil liberties groups, and others concerned about the scope of the proposed civil rights remedy. As a result, Title III of the Senate bill now provides that only crimes against a person, and crimes against property that pose a risk of physical injury to a person, are covered; deletes a presumption that rape and sexual assault are motivated by gender; and adds a requirement that, in order to meet the definition of "crime of violence motivated by gender," the plaintiff must prove that the crime was due, at least in part, to an animus based on gender.

The NOW Legal Defense and Education Fund strongly supports Title III of H.R. 1133 in its present form. We feel that the definition of "crime of violence motivated by gender" furnished in the bill is clear, workable, and sound public policy. However, we have also endorsed the Senate bill, S. 11. Therefore, if it is necessary to modify the House bill along the lines already adopted in the Senate, NOW LDEF will continue to support the legislation. If the term "animus" is adopted, it would be helpful to clarify that the term means simply intent or purpose, as it was originally used in the case Griffin v. Breckenridge, 403 U.S. 88 (1971).

Several important limitations already appear in both H.R. 1133 and S. 11. Both bills contain an explicit statement that the Violence Against Women Act does not confer jurisdiction on federal courts to decide divorce or domestic relations cases. In addition, the civil rights remedy extends only to acts that would rise to the level of a felony under state or federal law. It does not cover random acts of violence unrelated to gender. Thus, it is amply clear that not every crime against a women would qualify. Indeed, the civil rights remedy is gender-neutral and is available to male or female victims of serious gender-motivated crimes.

The burden rests on the plaintiff to prove by a preponderance of the evidence that the crime was motivated by gender. Proving that a crime was gender-motivated under the new law will presumably be analogous to proving that a crime was racially motivated under existing laws. Evidence typically presented in civil rights cases alleging racial violence include: racially derogatory epithets used by the assailant, membership of the victim in a different racial group than the assailant, a history of similar attacks by the assailant against other members of the victim's racial group, a pattern of attacks against victims of a certain race in a certain neighborhood and time period, lack of provocation, use of force that is excessive in light of the absence of other motivations, etc.[14] By substituting "gender" for "race" in the foregoing list, it becomes apparent that many—but not all—crimes against women will qualify as crimes of violence motivated by gender.

Recognizing the gender-discriminatory element in some violent crimes is not radical or unprecedented. Not only does federal law already contain civil remedies for racially-discriminatory violence, but the Hate Crimes Sentencing Enhancement Act of 1993 (H.R. 1152), which passed this House in September and is under consideration as part of the Senate crime bill, provides increased sentences for defendants convicted in federal court of having selected a victim because of gender. The Violence Against Women Act simply takes this principle and applies it to a civil, rather than criminal, remedy. Moreover, unlike the Hate Crimes Sentencing Enhancement Act, application of the Violence Against Women Act is not limited to crimes occurring on federal lands.

To the extent that questions remain about how this cause of action will work in practice, this is to be expected with any cutting-edge legislation. As Judge Stanley Marcus, chair of the U.S. Judicial Conference Ad Hoc Committee on Gender-Based Violence, has helpfully pointed out, it is inevitable that there are some questions about legislation that cannot be answered until cases are litigated and judges have the opportunity to apply the law to specific facts.[15]

WHAT TITLE III WILL ACCOMPLISH

Because of gender-based violence, American women and girls are relegated to a form of second-class citizenship. Just as a democratic society cannot tolerate violence motivated by the victim's membership in a minority racial group, and must pass special laws to combat such oppression, so too we need effective federal laws to combat violent crimes motivate by the victim's gender.

The enactment of civil rights legislation would convey a powerful message: that violence motivated by gender is not merely an individual crime or a personal injury, but is a form of discrimination, and assault on a publicly-shared ideal of equality. When half of our citizens are not safe at home or on the streets because of their sex, our entire society is diminished.

The impact of the legislation would not be purely symbolic, however. Federal recognition that gender-based violence is a form of discrimination is likely to alter the way both men and women regard sexual assault and domestic violence. The impact of this attitudinal change will be felt in homes, streets, and workplaces. It will also be felt in courtrooms. Currently, jury studies and research on gender bias in the judiciary have shown that the "boys will be boys"/"she must have asked for it" mentality that prevails in most sectors of our society has a direct, measurable effect on the outcome of cases involving sexual assault, domestic violence, and a host of other issues where men's violence toward women is directly or tangentially involved.[16] Thus, the educational power of the VAW Act is of immense practical importance to the development of American law.

In addition, many victims who are currently unable to succeed in state criminal and civil proceedings would, for the first time, have access to legal redress.

It is not true that all men who beat or rape women lack the resources to pay damages. In fact, violence against women is found at every socioeconomic level in America. For some victims, even a damages judgment that cannot be collected (or a judgment granting only declaratory or injunctive relief) will be seen as an immensely valuable vindication of their rights.

Enactment of the Violence Against Women Act will not eliminate rape, domestic violence, and other sex-based attacks on women, any more than passage of the civil rights legislation of the 19th century and the mid-20th century has eliminated racism. Nevertheless, the power of this proposed federal civil rights law to improve the prospects for social justice and equality are substantial.

STATE CRIMINAL AND CIVIL LAWS ARE NOT ADEQUATE TO PROTECT VICTIMS OF GENDER-MOTIVATED CRIME

The existence of state criminal and tort laws covering rape and domestic violence does not do away with the need for a federal civil rights remedy. First, a federal civil rights law would redress a different injury that the injuries that are at issue in state criminal and tort proceedings.[17]

In addition, gender-motivated crimes are currently not being adequately addressed in the state courts.

A woman is forcibly raped by her husband. In over half the states, he is immune from prosecution under many or most circumstances—for example, if the couple is living together and no divorce or separation papers have been filed.[18]

A young woman is sexually assaulted by her boyfriend. Several states have statutes exempting cohabitants and dating companions from sexual assault laws.[19]

A man brutally beats his wife, causing her severe injuries. Interspousal immunity doctrines in at least seven states prevent her from suing him to recover damages for her medical expenses and pain and suffering.[20]

A teenage girl is subjected to incestuous sexual abuse by her father. In some states, strict statutes of limitations require her to bring suit within a few years—which is virtually impossible for an emotionally and economically dependent young person—or else lose forever the chance to pursue a civil legal remedy.[21]

It was recently revealed that the Oakland, California, Police Department closed over 200 rape cases with little or no investigation in 1989 and 1990. The complaints involved rapes of prostitutes and drug users, as well as allegations of acquaintance rape.[22]

A recent Senate Judiciary Committee study showed that only one in 100 forcible rapes results in a sentence of more than one year in prison.[23]

State rape shield laws do not apply in civil cases. Thus women bringing tort actions for sexual assault are routinely subjected to intrusive questions about consensual sexual activity unrelated to the attack.[24]

The laws on the books are only part of the problem. In states throughout the country, prosecutors, juries, and judges routinely subject female victims of rape and domestic violence to a wide range of unfair and degrading treatment that contributes to the low rates of reporting and conviction that characterize these crimes.[25] Although federal courts are not immune from these problems, the fact that federal judges are not elected, are subjected to a more rigorous selection process, and typically exercise greater control over courtroom procedures such as jury voir dire help to minimize these problems.

Federal civil rights laws passed since the mid-19th century typically have prohibited acts that were already illegal under state law. The reason for this is that federal remedies are needed to reinforce state remedies and to provide a "back-up" when the state justice system is unable to protect victims' rights adequately. In an eloquent testimony to the need for federal intervention, 41 state attorneys general have signed a letter to members of this House urging passage of the Violence Against Women Act.

THE VIOLENCE AGAINST WOMEN ACT BUILDS ON AND COMPLEMENTS EXISTING FEDERAL CIVIL RIGHTS LAWS

Currently, American women are being attacked and killed because they are women. Over 100 years ago, following the Civil War, Congress responded to an epidemic of race-based violence by passing a series of federal laws to provide remedies against private individuals who deprive citizens of their civil rights. Similar legislation is needed today to protect citizens from an epidemic of gender-based violence.

Title III of the Violence Against Women Act is modeled on well-established federal civil rights laws. For example, the key phrase "because of * * * gender or on the basis of gender," which describes crimes of violence that are covered, is modeled on language found in Title VII of the Civil Rights Act of 1964, which is the leading federal statute prohibiting discrimination in employment.

Similarly, the basic concept of Title III resembles that of the Reconstruction-era civil rights laws. Like those earlier laws (42 U.S.C. §§1981, 1982, 1983, and 1985(3)), the Violence Against Women Act provides a federal civil remedy for deprivation of certain rights. The "animus" requirement, which has been added to S. 11, is derived from caselaw decided under 42 U.S.C. §1985(3).

Title III is not identical to its predecessors, however. Each law has different technical legal requirements. For example, unlike §1983, Title III does not require that the challenged actions were taken "under color of state law," and unlike §1985(3), it does not require more than one wrongdoer. While Title III is thus broader in some respects than other civil rights laws, it is far narrower in other respects: it protects only against gender-motivated crimes of violence that rise to the level of a felony, whereas 42 U.S.C. §§1983 and 1985(3) protect disadvantaged groups from virtually any deprivations of rights, privileges and immunities.

The differences between Title III of the Violence Against Women Act and the nineteenth-century federal civil rights laws are necessary because gender-based violence typically differs from the types of racial violence directed against men. For instance, §1985(3) was drafted to combat the Ku Klux Klan and similar conspiracies. The dangers confronting women of all races are often quite different. Conspiratorial group attacks on women are not the primary cause of gender violence. In fact, women are six times more likely than men to suffer a crime at the hands of someone they know.[26]

The Reconstruction-era civil rights laws were not designed with women in mind. For 120 years since they were passed, women of all races have lacked a meaningful civil rights remedy to protect them from pervasive anti-female violence. While §§1983 and 1985(3) fall short of providing ideal protection against discrimination based on race, religion, or national origin, they at least provide a meaningful remedy for a significant percentage of such cases. The fact that these two statutes require the plaintiff to prove conspiracy or color of state law virtually eliminates the possibility that women of any race can redress what is arguably the most common and most demanding form of gender discrimination: acts of gender-motivated violence committed by private individuals.

This defect in existing civil rights laws has meant, among other things, that rape by individual white men acting in a private capacity, which has historically been a widespread form of oppression of African-American women, has never been actionable under the civil rights laws ostensibly designed to protect all African-Americans from racial terrorism. In short, most of the victimization that women experience because of their gender alone, or because of their gender in combination with their race, remains ignored by the federal civil rights laws currently on the books.

It should be noted that NOW LDEF would support broadening Title III of the Violence Against Women Act to provide the same civil remedy for victims of violent crime motivated by race, color, religion, national origin, ethnicity, and sexual orientation. However, if this is not feasible, we view the current focus on gender-motivated violence as appropriate. It would be a tragedy to delay this long-overdue response to a significant social problem because of concerns that it does not adequately address a host of other social problems that are beyond its scope.

A question has been raised as to whether the Violence Against Women Act will have a negative effect on enforcement of existing civil rights laws. This always has been a primary consideration for the NOW Legal Defense and Education Fund. We have sought input from eminent scholars and civil rights experts throughout the country to ensure that this bill is drafted to create new rights without curtailing existing ones. No one has identified any way in which Title III of the Violence Against Women Act would have a damaging effect on the development of law under current civil rights statutes.

THE IMPACT OF TITLE III ON THE COURTS

Some observers have suggested that lawsuits brought under the Violence Against Women Act will overwhelm the federal courts. In fact, the legislation will provide a significant new remedy without generating a large number of new cases.

For example, sexual assault is a tort in every state, but a study by Jury Verdict Research, Inc. found only 255 civil jury trials in sex assault cases over a ten-year period.[27] The inhospitability of state courts to such claims (see above) is doubtless one reason why this figure is so low, but there are other reasons that would be equally applicable to cases brought under federal law. One fact that is not going to change is that rape and domestic violence are vastly underreported. The causes of this phenomenon are numerous and complex and include the severe stigma that still attaches to victims of these crimes. Women do not now, and will not in the future, rush to proclaim themselves as victims of sex crimes or of violence inflicted by family members.

Sexual harassment provides a useful analogy. A major study by the U.S. Merit Systems Protection Board found that 42% of women employed by the federal government had experienced sexual harassment, but despite the availability of legal remedies, only 5% of those who had been sexually harassed made any kind of formal complaint (including complaints in the workplace); an even smaller number actually filed a legal action.[28]

Moreover, a certain number of potential VAW Act defendants (though by no means all) are indigent, and many women and their attorneys may be unwilling to bring suit if there is no hope of collecting damages. And of course, a large number of violent gender-motivated crimes are committed by assailants who are never caught. As Prof. Cass Sunstein has pointed out, the fact that few cases will probably be filed under Title III of the VAW Act does not detract from its importance as an addition to the civil rights legal arsenal.[29]

The fact that a bill to enhance the rights of women is met with a concern for overloading the federal courts adds a disturbing note of sexism to the debate. In recent decades, when Congress was considering the Americans With Disabilities Act and other civil rights legislation that created private rights of action, this concern was heard only from staunch opponents of civil rights. In any event, the fact that violence against women is widespread would seem to argue in favor of, not against, passing legislation to remedy it.

The true burdens on the federal courts are a heavy criminal caseload, particularly drug-related cases, together with a large number of vacant judgeships. Keeping civil rights cases out of federal court will not solve these problems.

It should be noted that in March 1993, the U.S. Judicial Conference revoked its previous opposition to the Violence Against Women Act and specifically adopted a position of neutrality on this bill, with the exception that the organization now actively supports the portions of the bill regarding task forces on gender bias in the courts.[30] The National Association of Women Judges also supports the principles of Title III.[31] A recent Congressional Budget Office report estimates the cost of Title III to be far lower than previously projected.[32]

Finally, it has been suggested that money saved by not having federal courts hear civil rights cases could be redirected to battered women's shelters, local police departments, or other programs that serve victims of violence. There is no realistic likelihood that funds not spent by the federal courts would wind up in the budgets of such unrelated entitles. In any case, the Violence Against Women Act already contains grant programs designed to fund direct services. Furnishing civil rights redress for discrimination is a fundamentally different issue and should not be seen as a tradeoff against direct services to victims of violent crime.

CONGRESS HAS CONSTITUTIONAL AUTHORITY TO ENACT THIS LEGISLATION

Federal legislation to remedy gender-based crime is amply justified by Congress's obligation to advance principles of equal rights under section 5 of the Fourteenth Amendment. Constitutional authority to enact this legislation is also conferred by the Commerce Clause, due to the damaging impact of gender-based crime on the national economy.

On a national level, domestic violence costs employers 3 to 5 billion dollars annually due to worker absenteeism.[33]

30 percent of all women seeking treatment in hospital emergency rooms are victims of battering by a husband or boyfriend. Medical costs related to domestic abuse are estimated at $100 million a year.[34]

High rates of rape and other crimes deter women from taking many types of jobs, including high-paying night jobs that would require travel on unsafe streets and public transportation. For instance, one rape survivor reported in testimony to the U.S. Senate Judiciary Committee that she had to give up plans for a career in real estate sales because she was afraid to be alone in an empty house with a stranger.[35]

Homicide is the leading cause of death on the job for women. (For men, the leading cause is accidents.)[36]

More than half of all homeless women have lost their housing because they are fleeing domestic violence.[37]

Leading scholars of constitutional law have testified in support of Congressional power to enact the Violence Against Women Act.[38]

CONCLUSION

The Congress has a historic opportunity to play a crucial role in the effort to reduce crime and combat discrimination against women. This long overdue legislation will recognize that violence motivated by gender is a deprivation of civil rights. We urge you to support the Violence Against Women Act. Thank you.

FOOTNOTES

[1] "NCADV Statistics May 1988," National Coalition Against Domestic Violence Newsletter 1 (Feb. 1990), citing Bureau of Justice Statistics, Preventing Domestic Violence Against Women, Special Report (Aug. 1986).

[2] Federal Bureau of Investigation, Crime in the United States 66 (Aug. 5, 1990).

[3] Paula Hawkins, Children at Risk 58 (1986) (former Senator Hawkins summarizing testimony on child sexual abuse received by U.S. Senate Subcommittee on Children, Family, Drugs and Alcoholism); Diana Russell, Sexual Exploitation: Rape, Child Sexual Abuse, and Workplace Harassment 180–194 (1984); Roland Summit, "Recognition and Treatment of Child Sexual Abuse" at p. 117–18, in Coping With Pediatric Illness (C. Hollingsworth ed. 1983).

[4] National Victim Center and Crime Victims Research and Treatment Center, Rape in America: A Report to the Nation 3 (Apr. 23, 1992).

[5] Testimony of Mary P. Koss, Ph.D., on behalf of the American Psychological Association, before the U.S. Senate Judiciary Committee (Aug. 29, 1990).

[6] U.S. Senate Judiciary Committee, Ten Facts About Violence Against Women (June 18, 1990) (attachment).

[7] See, e.g., LaFree, Reskin and Visher, "Jurors' Response to Victims; Behavior and Legal Issues in Sexual Assault Trials," 32 Social Problems 389 (1985).

[8] See generally U.S. Commission on Civil Rights, Battered Women: Issues of Public Policy (1978).

[9] U.S. Senate Judiciary Committee, Ten Facts About Violence Against Women (June 18, 1990).

[10] Id.

[11] K. Swink and A. Leveille, "From Victim to Survivor: A New Look at the Issues and Recovery Process for Adult Incest Survivors," in The Dynamics of Feminist Therapy p. 119 (D. Howard ed. 1986).

[12] See, e.g., Timothy Beneke, Men on Rape (1982).

[13] Pitt, "Montreal Gunman Had Suicide Note," N.Y. Times, Dec. 8, 1989, at p. A9; "Gunman Kills 14 Women at Montreal University," N.Y. Times, Dec. 7, 1989, at p. A23.

[14] See generally Center for Women Policy Studies, Violence Against Women as Bias Motivated Hate Crime: Defining the Issues (1991).

[15] endnote to be added

[16] endnote to be added

[17] Only eight states (California, Connecticut, Iowa, Massachusetts, Michigan, New Jersey, Vermont and Washington) and the District of Columbia provide civil remedies for the discrimination inflicted by gender-based violence.

[18] National Center on Women and Family Law, Marital Rape Exemption (1988).

[19] See, e.g., Del. Code Ann. tit. 11, Sections 774, 775 (Supp. 1992).

[20] Leonard Karp and Cheryl Karp, Domestic Torts (1989; 1993 Supp.).

[21] See generally NOW Legal Defense and Education Fund, Legal Resource Kit On Incest and Child Sexual Abuse (1993).

[22] endnote to be added

[23] footnote to be added

[24] endnote to be added

[25] See generally Schafran, Overwhelming Evidence: Reports on Gender Bias in the Courts, Trial 28 (Feb. 1990).

[26] Lewin, In Crime, Too, Some Gender-Related Inequities, N.Y. Times, Jan. 20, 1991 (citing Bureau of Justice Statistics study).

[27] Senate Judiciary Committee Report, "The Violence Against Women Act of 1991," at 44 n. 43 (Oct. 22, 1991).

[28] U.S. Merit Systems Protection Board, "Sexual Harassment in the Federal Government: An Update" (June 1988).

[29] endnote to be added

[30] See Summary of the Report of the Judicial Conference Ad Hoc Committee on Gender-Based Violence (March 1993).

[31] See Judith Billings, "Violence Against Women Act," NAWJ Counterbalance at 2 (Summer 1993).

[32] Congressional Budget Office, Cost Estimate [for S.11] (June 30, 1993).

[33] Porter, "Help Is Available for Battered Women," Washington Star, Nov. 1, 1979.

[34] Id.

[35] Statement of Nancy Ziegenmeyer before the U.S. Senate Judiciary Committee (June 20, 1990).

[36] "High Murder Rate for Women on the Job," N.Y. Times, Oct. 3, 1993, p. 29, col. 1.

[37] U.S. Senate Judiciary Committee, Ten Facts About Domestic Violence Against Women, Dec. 11, 1990.

[38] Statements of Prof. Burt Neuborne and Prof. Cass Sunstein before the U.S. Senate Judiciary Committee (April 9, 1991).

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking member, for yielding this time to me.

We have heard the statistics. We have marveled at how little has been done. What we fail to concentrate on, however, as a country, are the names, and the faces, and the bodies, and the souls that are destroyed every 15 seconds in America, up until this point. Today we take a very important first step in acknowledging that domestic violence and sexual assault is, in fact, a crime in these United States.

The Violence Against Women Act, as passed by the Committee on the Judiciary, is the result of bipartisan effort. It combines provisions of the original Violence Against Women Act of the gentlewoman from Colorado [Mrs. SCHROEDER] with key portions of the Sexual Assault Prevention Act which was introduced 2 years ago by Senator DOLE and myself. The resulting package will help address violent crimes against women.

Several of the elements of the Sexual Assault Prevention Act included in this bill provide for free testing for sexually transmitted diseases including HIV testing for all victims of sexual assault. It provides for recognition and enforcement of protective orders issued in one State by the courts of all States. It directs the Justice Department to study and suggest strategies for combating and finding solutions for combating campus sexual assaults and for keeping confidential the addresses of victims of domestic violence who have fled their abusers and for helping States maintain better records of domestic violence. The bill also extends and strengthens restitution for victims of sexual assault.

I would like to join with my colleagues in thanking the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from Minnesota [Mr. RAMSTAD], the gentleman from New York [Mr. SCHUMER], the chairman, the gentleman from Texas [Mr. BROOKS], and of course the gentlewoman from Colorado [Mrs. SCHROEDER]. Together we must work every day in this body to raise the consciousness of crimes against all members of our society, but, when one particular group of our society has been neglected, it should be a higher calling.

Since I first introduced the provisions of the Sexual Assault Prevention Act in 1991, Mr. Speaker, over 300,000 forceable rapes have been reported, and missions of women have been abused by their spouses and partners. Today we do not find the ultimate solution to those crimes; we just join with our friends in America by saying, We care, and we will continue to work as a legislative body to find those solutions so that one day all women will be able to walk in the United States of America with a little less fear.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. SCHUMER], the distinguished chairman of the subcommittee.

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Mr. SCHUMER. Mr. Speaker, I could stand here and recite appalling fact after appalling fact. A woman is raped in America every 5 minutes. More than a third of the women in emergency rooms are put there by domestic violence. But these numbers do not begin to tell the whole story. That is because here is a dirty little secret hidden here, and that secret is that our legal system is all too indifferent to this violence.

Our legal system looks the other way, tolerating the daily battering and abuse of women. To really understand this, we have to listen to the stories of the victims themselves. The hearings on this bill which my subcommittee has conducted over the past several years have built an appalling record, and I wish that every Member in the Chamber could hear the stories firsthand.

A woman is raped; she goes to the police and is told, "You aren't really hurt. Just try and forget about it."

Another victim is told by the prosecutor, "I won't bring this case because you were wearing a short skirt."

A woman has her nose broken by her husband. When the police finally come, they say, "You two work out your problems together."

A woman goes before a judge asking a protection order from a husband she has tried to leave, and the judge says, "Why are you two wasting our time with marital squabbles?"

These are not apocryphal stories. they are real, and these attitudes are the residue of actual legal doctrines that for centuries treated woman as second-class citizens in the courts. These were doctrines like the English common law rule of thumb that said that a man was allowed to beat his wife with a stick so long as the stick was no thicker than his thumb, or like the rule in rape trials that said the victim's testimony could not be considered credible unless it was corroborated by another witness. Imagine, there would have to be another witness to watch the rape to corroborate it.

There were rules of evidence that allowed rape defendants to turn the trial into a question of whether the victim was loose.

Thankfully, these doctrines are gone for the most part, but the attitudes they engendered are still with us.

As a lead cosponsor of the bill, working with the gentlewoman from Colorado [Mrs. SCHROEDER], the gentlewoman from New York [Ms. SLAUGHTER], and my friends on the other side of the aisle, the gentlewoman from New York [Ms. MOLINARI] and the gentleman from Minnesota [Mr. RAMSTAD], let me state simply and clearly what this bill says. The bill says that the day is gone when violence against women is beneath the dignity of the legal system. Violence against women is not a private matter. It is not a behind-closed-doors issue. Rape and spouse abuse are violent crimes. They must be treated that way.

For many women, the fear of violence dictates decisions like where to walk or what time to go out or how to travel. Even employment decisions can be affected. Women in surveys say that they avoid jobs that require them to travel alone at night or to work in deserted buildings. Domestic violence robs women of security in the one place they are most entitled to it, in their own homes.

The bill will target resources to State and local law enforcement. The money will be used for policies that have proven effective like mandatory arrest of domestic violence offenders, and the bill will also make interstate domestic violence and interstate stalking Federal crimes. Local law enforcement has been particularly ineffective in cases where a woman leaves her husband or boy friend and moves to another State, but the batterer follows her.

Mr. Speaker, I want to thank the chairman of the committee and all those who worked so hard. This is truly an historic day. I look forward to moving this bill in conference with the Senate so we can gain final passage.

Mr. SENSENBRENNER. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come here again today just pleading with these committees to find some way to coordinate our efforts. There just has to be a better way to do it.

In this piece of legislation, under subtitle E, section 151, Campus Sexual Assault Study, you will discover that it is practically the same as appears in a law that was enacted in 1990 and was also updated in 1992. In other words, we are going to spend $200,000 to do a study that we are already doing. We are already collecting all this information, and I would hope that we could find some way to coordinate that, because that $200,000 could really go to doing something positively after we have those statistics which at the present time have to be reported.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman makes a good point. My understanding as to why this was put in here is this: We are very pleased that that happened, and what the gentleman is talking about is that schools are to be out keeping statistics on this and looking at how they are doing. This is asking Justice to try to coordinate an overview of how our schools are dealing with the enforcement and how widespread the problem is, and my hope is that it is more coordinated than the gentleman thinks. That is why we put it in.

Mr. GOODLING. But we have to coordinate it with the present legislation, because, as I said, in the legislation that is presently on the books they must not only give all those statistics to the students, to the parents, and all the employees, they must also tell what are the ideal ways of dealing with this problem. They also must report what it is they are doing on campus at the present time to prevent this.

This all happened when a beautiful girl was raped and murdered in her own dormitory more than 5 years ago, and her mother, instead of spending the rest of her time pining away, went to every State legislature to push this legislation and came to the Congress, and in 1990 we introduced this and enacted it, and in 1992 we updated it.

So what I am saying basically is, please let us coordinate this because otherwise we are wasting $200,000 that could be better used.

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield, that is what we are trying to do.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, as an original cosponsor of the Violence Against Women Act, I rise in strong support of the bill.

The time to pass this important legislation is now. The statistics, as we have heard this morning, are truly mind-boggling. If we look at the unreported rapes as well as the reported rapes, Justice estimates that as many as 12,000 women in America are raped every week. Every 15 seconds a woman is battered. No other civilized society in world history has ever tolerated this level of violence against women. That is why we are here today to pass the Violence Against Women Act before Congress adjourns.

We can no longer ignore the fact that violence against women has reached epidemic proportions, nor can we continue to ignore its devastating effect on women's lives and families and the civil rights of women. This much-needed legislation would attack this problem in a comprehensive way.

Mr. Speaker, I want to applaud the gentlewoman from Colorado [Mrs. SCHROEDER] for her leadership on this bill, reaching out to the ranking member, to the gentlewoman from New York [Ms. MOLINARI] and to me in a bipartisan way to craft this important legislation.

Congress should pass this bill without further delay, Mr. Speaker, because the women of America deserve nothing less.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of H.R. 1133, The Violence Against Women Act of 1993, and I would like to commend the gentlewoman from Colorado [Mrs. SCHROEDER], the gentlewoman from Maryland [Mrs. MORELLA], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from New York [Mr. SCHUMER], for their dedicated work on behalf of our Nation's women. I also command the distinguished chairman of the Judiciary Committee, the gentleman from Texas, [Mr. BROOKS] and the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking minority member of the Judiciary Committee for bringing this measure to the floor before we adjourn.

Mr. Speaker, every year hundreds of thousands of wives are abused by their husbands, and more than 1 million children suffer from physical, sexual, and emotional maltreatment. One in 12 women are beaten while they are pregnant, and approximately one-third of women killed are murdered by their boyfriends or spouses.

The crimes committed behind closed doors and beneath the shroud of family privacy are perhaps the most despicable in our society. There is a constant outcry from the American public for the Government to help make the streets safe—what we also desperately need are safe homes—for our women and for our children.

I firmly believe that, as a Nation, we must combat the violent crime that is aimed at women. Accordingly, I am proud to have cosponsored the Violence Against Women Act.

H.R. 1133, institutes Federal criminal penalties for offenders who travel across State lines to cause bodily harm to their spouse or intimate partner, or who violate protection orders. This legislation also provides mandatory restitution to the victim of such offense and allows the victim to testify in court regarding the danger posed by the defendant for the purpose of determining whether the defendant should be released pending trial. In addition, this measure requires States to enforce protection orders issued by the courts of other States.

While I believe the House must address a comprehensive crime package, including an intensive look at what is happening to our Nation's war on drugs, this legislation represents a vitally important step in the process of strengthening the protections for women. Accordingly, I urge my colleagues to fully support this important measure.

□ 1340

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, we have all heard the statistics regarding sexual and domestic violence and yet each time we hear them they are no less shocking. Violence is one of the most critical issues facing women in this country. During the 6 minutes it takes to deliver this statement, two women will be raped in the United States.

In my home State of Arizona, four women will be raped today. And, tomorrow there will be four more. In Phoenix alone last year, there were 476 rapes reported. The National Victim Center reports that one in eight women will be raped in her lifetime.

In 1992, Phoenix police responded to almost 33,000 domestic violence calls. Between 10 and 20 percent of all homicides in Phoenix are the result of domestic violence.

The bill under consideration today represents a first step toward educating the public about the horrific toll that sexual assault against women and children is taking on America. The bill under consideration takes the Sexual Assault Prevention Act [SAPA] and the Violence Against Women Act and merges noncontroversial sections of both bills.

Ten years ago, I helped found the Crime Victim Foundation, a nonprofit, victim assistance organization in Phoenix. The foundation is one of a handful of support groups that provide critical help to crime victims and their families. My work with this organization and my desire to making a real difference in this area has made passage of the Sexual Assault Prevention Act a high priority for me.

I am pleased that the compromise reached this week will include several of its provisions, including: Mandating financial restitution be paid to victims of Federal sex offenses, payment to victims of sexual assault for the cost of testing for sexually transmitted diseases, federal criminal penalties for interstate travel to commit spouse abuse or to violate a protective order, creation of a new offense for interstate stalking, a task force on violence against women, a study on sexual assault on college campuses, full faith and credit in protective orders, and a report on victim confidentiality.

To Representatives SUSAN MOLINARI, PAT SCHROEDER, and JIM RAMSTAD I would like to extend my appreciation for making it possible to bring these sexual assault initiatives to the House floor for a vote. And, I know that each of these members is committed to bringing other meaningful measures to protect and empower victims of sexual violence to the floor as quickly as possible when Congress reconvenes in January.

Although this legislation will provide a good base, a good beginning for reform of our sexual violence laws, there are critical omissions in this bill. I want to mention provisions of the Sexual Assault Prevention Act that were not included in the compromise today. These provisions would level the playing field in court and help to ameliorate the psychological damage a rape victim often experiences going through the judicial process.

The rules of evidence provisions of SAPA, for example, would broaden the admissibility of evidence in court that the accused sex offender had committed offenses of the same type on other occasions and would make it more difficult to admit evidence of past conduct of the victim if it has nothing to do with the issue of consent to act that is the subject of the prosecution.

In rape and child molestation cases, allowing the admission of evidence is critical to the integrity of the judicial process. In most rape cases, it is the word of the defendant against the word of the victim. If the defendant has committed similar acts in the past, the claims of the victim are more likely to be considered truthful if there is substantiation of other assaults.

It is also common in rape and child molestation cases that the victim is too traumatized, intimidated, or humiliated to file a complaint and go through the full course of proceedings of a criminal prosecution. Nevertheless, the victims in such cases are often willing to bear the burden of testifying when the find out that the person who marred their lives has also victimized others.

What we have here is an opportunity not only to change the Federal Rules of Evidence but to provide States with a model on which to base reforms of their rules of evidence.

Amendments allowing evidence of similar crimes of the accused and the inadmissibility of evidence to show provocation or invitation by victims in sex offense cases, as well as a number of other provisions from the Sexual Assault Prevention Act introduced by Senator DOLE, have been incorporated into the Senate crime bill.

Earlier in the year, I chaired a hearing on sexual violence and H.R. 688 as cochairman of the Republican Study Committee Women's Task Force. At that hearing, witnesses testified that the most important thing we can do to protect and empower our citizens from sexual and domestic violence is through a restructuring of our criminal justice system.

Some of the changes witnesses indicated strong support for included increasing authorized penalties for repeat sex offenders and child abusers, protecting the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and to the prosecution in felony cases, sentencing guideline increases for sex offenses, pretrial detention in serious sex offense and stalking cases, and increasing penalties for sex offenses against victims below the age of 16—all except pretrial detention passed as similar amendments to H.R. 3371, the Omnibus Crime Control Act of 1991.

Paul McNulty, former director of policy at the Department of Justice and witness at the task force hearing, said at the hearing, "Given what we know about the recidivist nature of sex offenders, you might think that the criminal justice system does all that it can to keep them in prison. Unfortunately, nothing could be further from the truth. The majority of those who are arrested for rape are not sentenced to prison. Only 33 percent of all such arrestees go to prison. For those who are sent to prison, only a fraction of their sentences are actually served. * * * It is, therefore, quite clear that the most effective way to prevent sexual assault is to punish violent criminals by removing them from the streets. * * * That is why we strongly endorse H.R. 688. * * * As Attorney General William Barr stated last year when discussing this bill, "It brings criminals to justice and justice to victims."

I rise in support of the legislation before us today. But, for the 6-year-old boy assaulted in Paradise Valley, AZ, the 32-year-old Hispanic woman beaten and raped by her husband in south Phoenix, AZ, the 67-year-old Phoenix woman terrorized in her own home by a stranger who simply knocked on the door, and for all the other victims, it is our responsibility to pass legislation to remove violent sex offenders from our streets and our communities and to increase the rights of the victim. It is time to pass the Sexual Assault Prevention Act in its entirety. I look forward to working next year toward passage of this important legislation, and in the meantime urge approval of the bill before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise today in support of the Violence Against Women Act of 1993. Each year, 3 to 4 million women are battered by their husbands or partners. This frightening statistic compels us to support this legislation. It is time to protect and empower the victims of sexual and domestic violence, prosecute their aggressors, and put an end to the pain and suffering caused by criminals who too often get away with murder.

This legislation provides badly needed funding to combat sexual violence and treat released offenders. In addition, the bill funds treatment programs for sex offenders, and community education and awareness programs.

In Florida's fourth congressional district, the Hubbard House provides an alternative for battered women. It is a full service domestic violence center which provides a safe, nonviolent place for women to plan their futures.

Our country needs more Hubbard Houses. The services this refuge provides are critical to empowering victims of domestic violence and rehabilitating their partners. Your support for the Violence Against Women Act of 1993 will give battered women the chance they deserve.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the charges that the Committee on the Judiciary has not acted on major legislation, I want to respond.

In a bipartisan manner, this House passed a crime bill and passed a conference report in the last Congress. They went to the other body, and the other body sat around over there and let the other party, the Republicans in that other body, stymie and kill and delay and stop that bill. That is what happened to the last big crime bill that we, the Democrats and Republicans in this body, tried to get through the House of Representatives.

This year already, this committee and this Congress has passed, generally with strong bipartisan support I might add, the DNA testing bill, the juvenile antigang and antidrug bill, the certainty of punishment, for Youthful Offenders Act, drug treatment for Federal prisoners, drug-free program for State prisons, cops on the beat, the Jacob Wetterling bill, to register convicted child abusers, the national child protection bill, the youth handgun safety bill, the international parental kidnapping bill, one which everybody understands, violence against women, which we are taking up now. We've passed bills to help States prosecute drunk drivers, to protect reproductive health services, and to allow FBI access to certain telephone subscriber information. The Brady bill, we passed in this House. It is over in the other body. We passed a good clean bill that I thought they would have adopted.

Mr. Speaker, I would say that the Committee on the Judiciary has tried in every way possible to meet the most emergent criminal problems that we have in this country. I will tell you right now that the Senate has passed a bill that has spent more money than they ever conceived of, $22 billion. I wonder where they are going to get it? They had a big smoke and mirrors act over there. But we do not have that kind of smoke and mirrors. The gentleman from Wisconsin [Mr. SENSENBRENNER] does not use those kinds of mirrors and smoke. I do not.

Mr. Speaker, we do not understand that. Where are you going to get another $6 billion for regional prisons and another $11 billion for the total? I think it is very difficult, and I do not see the point in passing a bunch of legislation if you are not ultimately going to have some promise of getting the appropriations to do that.

We just pass authorizations in this committee, I understand that, but I have the hope that we will get the funding on these bills that we have passed.

Mr. Speaker, I would say that I hope Members will appreciate that fact and will solidly support this Violence Against Women Act. It is long overdue. It certainly ought to be passed. I anticipate a solid vote for it on both sides, and I am delighted to be a part of it.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support for H.R. 1133.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, earlier in this debate the gentleman from Texas [Mr. BROOKS], in explaining the change in language relative to protective orders, gave the impression that if his language were not passed, there would be no Federal tools to prosecute those for murder or bodily injury committed in pursuance of violation of a protective order.

That is not the case. There are State and Federal laws on the books all over this country that allow for the prosecution of murder or bodily injury under whatever circumstances those crimes are committed.

What has happened here is that the Committee on the Judiciary, after a discussion, voted to continue the mandatory minimum imprisonment of not less than 3 months for interstate violation of a protective order. That mandatory minimum time in prison disappeared between the time the committee voted on this bill and the time it was brought up here under suspension of the rules, and that is a significant weakening of the tools that law enforcement have for those who cross State lines in violation of a protective order.

I think a 3-month mandatory minimum for someone who violates a protective order that was issued upon showing of a cause and where the person who would be charged with such a violation knew exactly what was in the protective order is reasonable.

When the Committee on the Judiciary debated the bill, an amendment striking the mandatory minimum was defeated and withdrawn when it did not have support in committee. After having been rejected in committee, something similar arises from the ashes, like a phoenix, and finds its way into this bill.

That is what is wrong with the procedure in Congress. We are going to have to bite our lips and accept that, whether we like it or not, because the consequences of taking this out would be defeat of the whole bill, which would be a tragedy.

Mr. Speaker, I support the bill, even though it got weakened unilaterally.

Ms. SNOWE. Mr. Speaker, I rise in support of the Violence Against Women Act of 1993. Every 15 seconds, a woman in the United States is battered, and every 6 minutes, a woman is raped. Nearly one-third of all women murdered in the United States in 1991 were murdered by boyfriends or husbands.

What does this mean? We know that battering and rape are under-reported crimes because of the heavy toll they take upon women's self-esteem in addition to the physical damage they cause women. Society still asks, "What did she do to deserve this?"

People need to think about violence against women in different terms. They need to view crimes against women as part of a gender gap, and to think of these acts of violence in terms of equality. They need to realize that these crimes are ones that women suffer and men do not.

What crimes are we talking about? A 1992 report of the Senate Judiciary Committee described 200 incidents from police blotters and battered-women's shelters for the first week in September. These crimes include scalding, burning with cigarettes, beating with fists, slamming against walls, hitting with hammers, pushing out of moving cars, sexual assault, strangling, stabbing, and shooting. Words cannot adequately describe the horror of these heinous crimes committed against women.

That is why I ask my colleagues to support the Violence Against Women Act. This bill addresses the severity of the problems with which States throughout the Nation have had to grapple. There is evidence that States have had their own enforcement revolution. In the last 2 years, 48 States have passed anti-stalking laws. In 15 states, arrest is mandatory for crimes of domestic violence, and in 19 States, it is mandatory for violating a protection order. Other States and local jurisdictions have stringent enforcement policies. However, many criminal justice experts say that police often hesitate to act because they do not want to interfere in domestic disputes.

The Violence Against Women Act addresses a broad range of problems, including making the streets safer, making homes more secure and providing equal justice for women in the courts. It provides for grants to States, local governments and nongovernmental victim service programs to develop effective strategies to combat violent crimes against women. It authorizes grants for rape awareness and prevention education and conflict resolution for school-aged children. It creates a training program for personnel working with sex offenders and requires compensation for certain expenses of victims of sex offenses. It authorizes the Attorney General to study the problem of sexual assault on college campuses and creates Federal penalties for anyone who travels across State lines to contact their spouse or intimate partner and harms them. It also authorizes funds for a private, nonprofit organization to establish and operate a national 1–800 hotline to provide information and assistance to victims of domestic abuse.

Continued violence against women can rapidly strike down any gains women make in the workplace, in health care reform and in Congress. The numbers do not lie. Violence occurs at least once in two-thirds of all marriages. Ninety-five percent of victims of domestic violence are women. It is estimated that 2,000 to 4,000 women are beaten to death each year. The Surgeon General says that battering "is the single largest cause of injury to women in the United States." Clearly, action is needed.

The Senate passed its own version of the Violence Against Women Act as part of the crime bill. This body can do no less. I urge my colleagues to vote for the Violence Against Women Act, and thereby end an era of inequity and begin a new national consensus that gender-based crimes will not be tolerated.

Ms. SLAUGHTER. Mr. Speaker, I rise in support of the Violence Against Women Act, a landmark measure to protect women from domestic abuse, rape, and other violent crimes.

Every 15 seconds a woman is beaten; every 46 seconds, a woman is forcibly raped in this country. It is imperative that we act to curb this spread of violence against women.

H.R. 1133 is the strong action we need. It provides funding for rape prevention efforts, and for expanded law enforcement and prosecution. It calls for a study of campus sexual assaults, and establishment of a National Board on Violent Crime to review and evaluate Federal programs and policies. The bill also provides training for law enforcement officials, including judges, to deal more effectively and compassionately with domestic violence cases. Each of these measures is long overdue, and I am pleased and proud that we have the opportunity to enact them here today.

I am also pleased that the Violence Against Women Act includes a provision entitled "Safe Homes for Immigrant Women."

For too long, immigrant women have been forced to remain in destructive marriages with husbands who beat and abuse them—because they are entirely dependent on that abusive spouse for their legal status.

This legislation will give abused immigrant wives the right to self-petition for legal status. In addition, it will also cover immigrant women whose children are being abused by the father.

I am proud to be a cosponsor of this landmark legislation, and I urge my colleagues to lend their strong support to ending violence against women in this country.

Ms. FURSE. Mr. Speaker, I rise today in support of the Violence Against Women Act, H.R. 1133. The Violence Against Women Act is a landmark bill which will truly help many women feel safer in their homes and on the streets. This legislation addresses gender inequities in the law, requires all States to enforce interstate restraining orders, encourages mandatory arrest policies, authorizes assistance to victims of rape, and provides education and training to law enforcement and judges on the issues of violent crimes against women.

I want to thank my colleagues, Mrs. SCHROEDER, Mr. RAMSTAD, and Crime Subcommittee Chair SCHUMER for making it possible for me to include in this bill legislation that I introduced in the House earlier this year. The Domestic Violence Community Initiatives Act, H.R. 3335, which I coauthored with Senator MARK HATFIELD, encourages police, victims' advocates, the courts, physicians and hospitals, churches, and other community organizations to work together to prevent and break this cycle of abuse.

In my district in Portland, OR, the police reports indicate that—just since January—18 women have died from injuries inflicted by their husbands or boyfriends. These tragic deaths outnumbered gang-related murders—or turf wars over drugs. This problem is deadly serious.

Because the problem of domestic violence is pervasive, only a coordinated approach which integrates the unique perspectives and assets of these interrelated sectors of society can produce truly effective solutions. Local domestic violence organizations often lack coordination with similar groups in their community, and H.R. 3335 contains a measure to improve and expand existing intervention and prevention strategies through increased communication. The Domestic Violence Community Initiatives Act, H.R. 3335, will promote a coordinated approach to this problem which I believe is the only way to solve it. I am pleased that the committee included a version of H.R. 3335 in the Violence Against Women Act.

This legislation is gravely needed in America. The Violence Against Women Act will allow us to address gender inequities in the law. It will help our communities prevent violence against women. It's time we take this issue seriously and ensure that the law protects women from violence in the house and on the streets.

Ms. ESHOO. Mr. Speaker, as a cosponsor of the Violence Against Women Act, I'm proud to vote for its passage today.

Violence against women is increasing at an alarming rate and affects women in all walks of life.

Every 15 seconds a woman is beaten by her husband or boyfriend and every 6 minutes a women is forcibly raped.

Since 1974, the rate of assaults against women aged 20–24 has increased almost 50 percent.

One out of every four female college students will be sexually attacked before graduating and one in seven will be raped.

African-American women are almost twice as likely to be raped as white women, yet these crimes are less likely to result in prosecution, conviction, and stern sentences.

The murder rate for women aged 65 and older has climbed by 30 percent since 1974, while the murder rate for men in the same age group has dropped by 6 percent.

Women who have not been victims are plagued by the constant fear of becoming one.

Mr. Speaker, is it fair that half of this country is terrorized by the fact that they are much more likely to be victims of brutality, serious injury and death?

Obviously not. And I believe that much of the violence aimed against women enforces and maintains the disadvantaged status of women as a group.

Mr. Speaker, the Violence Against Women Act is long overdue and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1133, as amended.

The question was taken.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1350

VACATING DEMAND FOR YEAS AND NAYS ON H.R. 324, JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to vacate the demand for the yeas and nays on the bill (H.R. 324) to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision, as amended.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 324, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title: (S. 1507) "An Act to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 473. An act to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes.

S. 486. An act to reorganize the Federal administrative law judiciary, and for other purposes.

CONFERENCE REPORT ON H.R. 2330, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, pursuant to the order of the House of Thursday, November 18, 1993, I call up the conference report on the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill. The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, November 18, 1993, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, November 18, 1993, at page 30070.)

The SPEAKER pro tempore. The gentleman from Kansas [Mr. GLICKMAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. COMBEST] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to offer special thanks to my ranking member, the gentleman from Texas [Mr. COMBEST]. We have been talking about bipartisanship here, and I must tell my colleagues, in all my years in the House I have never had the privilege to work in such an open, bipartisan spirit as I have with him, and with the other Republican and Democratic members of the committee.

It has been a joy to engage in genuine bipartisanship, not perfect unity on every issue, but for the most part in perfect harmony.

I also want to thank our staffs. We have extraordinary staffs on the Democratic and Republican side. Some of the best I have ever seen here, and they have done a splendid job in getting this bill to the floor on time.

I rise in support of the conference report on H.R. 2330, the fiscal year 1994 intelligence authorization bill. As is customary, the conference report contains both classified and unclassified elements. The funding levels agreed to by the conferees are set forth in a classified schedule of authorizations which is incorporated by reference in the conference report. A classified annex to the joint explanatory statement of the committee of conference provides a detailed description of the schedule of authorizations. I urge Members to take the time to review these classified documents in the offices of the Intelligence Committee.

This conference report is an installment in the committee's ongoing effort to properly size the intelligence community for its post-cold-war mission. Members of the committee are acutely aware of the important role played by intelligence in areas such as supporting military commanders when American forces are in conflict, and furthering U.S. policies designed to halt the proliferation of weapons of mass destruction and counter the efforts of terrorists to influence government policies by violence. They are also aware, however, that an intelligence community of the dimensions of the one which was maintained to counter the threat posed by the Soviet Union is simply not necessary in the post-cold-war world. In August, the committee brought to the floor a bill which made significant reductions in the President's budget request for national intelligence programs. In conference, we reduced the National Foreign Intelligence Budget by approximately $150 million.

Budget cuts can be a blunt instrument with which to affect change. In my view, however, the reductions in the conference report represent a measured approach which will encourage efforts to eliminate activities which are no longer needed, while promoting the development of new technologies and methods of operation which are better suited to the intelligence challenges of the future. In my judgment, the budget reductions contained in the conference report can be absorbed without damaging essential intelligence capabilities. They clearly reflect the committees' intention to continue to prod the community to reduce its size and reorient its activities.

To conduct effective oversight, particularly from a budgetary standpoint, it is important that Congress have a clear understanding of how the intelligence agencies intend to address their priority activities. Two of the legislative provisions in the conference report will particularly contribute to that result. One requires the submission to Congress by the Director of Central Intelligence of an annual unclassified report describing the significant successes and failures of the intelligence community during the preceding year, and the areas in which emphasis will need to be placed in the year to come. The second provision requires the Director of Central Intelligence and the Secretary of Defense to identify gaps between intelligence needs and intelligence collection capabilities. These reports will provide useful guidance to both the intelligence community and the Congress on how to better align available resources with essential tasks.

Two significant provisions in the Senate bill were not included in the conference report, and I want to make it clear that their omission was without prejudice to their substance. One of these provisions would have required Senate confirmation of the CIA's general counsel.

This provision was pushed very strongly by the Senator from Ohio [Mr. GLENN]. Currently, only the Director of Central Intelligence, the deputy director, and the CIA's inspector general are confirmed. No hearings have been held in the House Intelligence Committee on extending the confirmation requirement to other positions at CIA. At my request, the Senate receded on this item to give us a chance to examine it in detail next year. It may well be that the committee will conclude that additional positions throughout the intelligence community should be subject to confirmation, but that is a judgment that simply cannot be made without a full understanding of the arguments on both sides of the issue.

The second provision concerned the public disclosure of the aggregate intelligence budget figure.

This was an issue that was debated in the House in the amendment offered by the gentleman from Massachusetts [Mr. FRANK]. The Senate bill contained a provision expressing the sense of Congress that the aggregate amount should be disclosed. During the consideration of the authorization measure in the House, an amendment was offered to require disclosure. That amendment was defeated by a substantial margin. In light of the House vote, the House conferees did not believe that even a nonbinding sense-of-Congress resolution on this issue should be a part of the conference report.

I understand that there are strong feelings on both sides of this matter. I personally support disclosure of the budget totals. I do not believe that such disclosure in any way jeopardizes national security or that it would inevitably require the disclosure of the details of the intelligence budget. The committee will hold hearings on this issue early in the next session, and I intend for the judgments we make as a result of those hearings to be reflected in the intelligence authorization bill for fiscal year 1995.

Let me just finally mention something which I think is important. I recognize that when it comes to monitoring intelligence agencies like the CIA, the National Security Agency, and the Defense Intelligence Agency that the Permanent Select Committee on Intelligence is the agent or the trustee for the rest of the Members of the House and the public.

In years past, in the 1970's and, to some extent, in the 1980's the intelligence agencies of this Government often did not operate under the rule of law. That has changed, and it is partly because of the Committees on Intelligence in the other body and the House that it has changed. It will continue to change.

We recognize that notwithstanding efforts to open up the process so that more Members of Congress know what is going on and so that the public knows what is going on in intelligence, we need continued, effective committee oversight and review. In the past year, we have given special attention to the budget issues, how much we spend, special attention to proliferation of weapons, who has got what and who is selling what kind of weapons to whom in the world, special attention to terrorism, where it exists and who is funding it, and special attention to counternarcotics.

The committee intends to continue this oversight.

I would have to say, from a personal perspective, that all of these issues demand continued oversight to make sure the intelligence community is doing its job correctly, spending taxpayer dollars appropriately, and is not creating problems for us that we do not need in terms of trying to make sure that the world is safer and more peaceful.

Mr. Speaker, the conference report embodies difficult choices about the best ways to achieve a balance between the legitimate intelligence needs of policymakers and military commanders and fiscal realities. It deserves the support of the House and I urge that it be adopted.

I want to put the intelligence community on notice that the same kind of oversight which was conducted last year will continue next year. This committee and this Congress will do everything it can to make sure that the dollars being spent on intelligence are being spent correctly, in accordance with law and in accordance with the foreign policy objectives of the United States.

Mr. Speaker, I reserve the balance of my time.

☐ 1400

Mr. COMBEST. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I would first like to note that our committee chairman, Mr. GLICKMAN, has continued to lead our committee in a collegial manner, encouraging the honest sharing of views. Despite a wide variety of opinion on some matters on which our Members have felt strongly, he has successfully strived to keep the process open. I should also state that we found the conferees from the other body approached conference with a willingness to make reasonable compromises on several outstanding issues. I enjoy working with him very much.

I do rise in support of this conference report and urge Members to support its passage. Having said that, I and my colleagues from the minority are deeply disturbed by the cuts over and above those which were taken by the committee earlier in the authorization process. I fear these cuts compound the damage which has been done to our intelligence capabilities. Last year our committee made severe cuts totaling 5 percent to the intelligence budget. Even then-Chairman DAVID MCCURDY said the cuts were at "the outer limit," going beyond which would "risk severe damage to the ability of the community to provide intelligence necessary to the policymakers." His words were not heeded and the appropriations process essentially doubled those cuts. I and a great majority on our committee were appalled, yet here again we are making a cut of almost the same proportion.

In my statement supporting the authorization bill on the 3rd of August of this year, I outlined four of the major demands we make of our intelligence community: Preventing or, at the least, slowing the proliferation of weapons of mass destruction, countering terrorism, protecting American economic competitiveness, and supporting our military. I will not again discuss these in detail. I will tell you, however, that the last 3½ months have convinced me even more of the importance of intelligence in helping the President navigate the waters of foreign, diplomatic, economic, and military problems. I will simply say that from the vantage point of my position on the Intelligence Committee I have seen the wreckage that results when policy is made without good intelligence or with little attention paid to it, and I have on more than one occasion seen intelligence help the policymaker change course in the nick of time.

Let no one misunderstand my words. I do not believe that we can avoid some cuts to the intelligence budget. In an ideal world I would like to see the intelligence budget increased, because I know a dollar spent on good intelligence can save thousands spent in other ways—for example, on ill-advised or poorly prepared military actions; on unemployment and other benefits for American citizens whose jobs were literally stolen away by the illegal or unethical dealings of foreign companies or because of poorly negotiated or unenforced trade agreements; or on the defenses required to protect us because radical, aggressive regimes illegally procure the technologies for weapons of mass destruction. I also think of the lives saved by intelligence—of our soldiers and of our vulnerable overseas travelers, not to mention ordinary U.S. citizens going about their daily lives, commuting and working in structures vulnerable to terrorist attacks.

As I said, in an ideal world I could see increasing the money spent for intelligence to protect us. Yet, realistically, I know we must expect the intelligence community to share in reducing the Federal budget. For that reason, I support the 17½ percent cut of the intelligence work force over 5 years which has already been mandated. I also believe the President's election call for a $7 billion cut in the 1993–97 intelligence budgets was manageable. What we are actually legislating here, though, entails much more serious cuts which will put critical capabilities at far greater risk, and that inevitably involves greater risks to the important national interests these intelligence capabilities protect. I will leave this point by simply observing that I think those of us who have been selected to protect the interests of the American people by providing oversight of the intelligence community may sooner, rather than later, regret the stampede to pick some arbitrary bottom-line amount by which to cut the intelligence budget and then go shopping for specific areas to fill out that cut.

On a more positive note, I am pleased with the progress we have made in conference on refining the concept of the National Security Education Act of 1991. We reduced the trust fund supporting the act from $150 million to $120 million and have directed that it is to operate solely from the interest accrued on the fund's principal. This will help fund more focused programs and selected students in advanced language and area studies at universities. The specific areas of study will be based on an annual assessment of critically important regions and languages. The program is to help ensure our universities' steady production of a pool of young, internationally knowledgeable, and linguistically adept individuals from which the U.S. foreign affairs and security communities will be able to recruit needed new talent. Of course, we intend to continue to closely monitor this program's implementation.

In closing, I reiterate that, although I am concerned at the cuts which have been made to our intelligence programs, I stand in support of this conference report. While it will drastically reduce some intelligence capabilities, it manages to maintain some others, although scaled down. Those who would argue that it is still too much are simply in ignorance of the fact that what the intelligence budget buys our country's leadership is not cheap: Some peace of mind from a bewildering and growing variety of political, economic, and military problems.

Mr. Speaker, I reserve the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from El Paso, TX [Mr. COLEMAN] chairman of the Subcommittee on Legislation.

Mr. COLEMAN. Mr. Speaker, I thank the chairman of the committee for yielding the time.

Mr. Speaker, I rise in support of the conference report on the Intelligence Authorization Act for fiscal year 1994. On balance, we reached a good compromise on the many issues facing the intelligence committees and I urge my colleagues to vote in favor of the agreement.

First, I want to stress that we did not include certain provisions found in the Senate bill for which the House of Representatives, and its interested committees, have not had an adequate opportunity for hearings and consideration. Among these was the provision that would established a statutory General Counsel at the Central Intelligence Agency, nominated by the President and confirmed by the Senate. I, for one, am not all convinced that a Senate-confirmed General Counsel would prevent politicization of the Office of the General Counsel at CIA, or improve the quality of its management, and I firmly believe the current Director of Central Intelligence should have the opportunity to express his views on the issue. The Committee on Intelligence will hold hearings next year, and the matter will be part of the consideration of the intelligence authorization bill for fiscal year 1995.

In addition, the agreement does not include the Senate provision that would have amended the Fair Credit Reporting Act to grant the Federal Bureau of Investigation access to consumer credit records in counterintelligence investigations on the basis of a "national security letter." Expansion of this extraordinary authority raised serious concerns in a number of House committees, on both substantive and procedural grounds, and the Senate receded to provide further time for House consideration of the matter.

On the National Security Education Act, the conferees agreed to reduce the unappropriated balance in the program's trust fund to $120 million and limited authorizations in fiscal year 1995 and 1996 to the amount of interest generated by the trust fund during the previous year. The conferees also required an annual assessment of foreign language and area studies hiring needs from agencies such as Department of Defense, State, and CIA, which will form the basis for the award of scholarships and fellowships under the program.

Finally, the conference report includes the House provision that authorizes retirement annuities, survivors annuities, and access to health insurance benefits for certain ex-spouses of participants in the Central Intelligence Agency Retirement and Disability System. Congresswomen KENNELLY and several groups comprising the spouses and ex-spouses of foreign service and CIA employees have worked hard over several years to get this provision enacted, and they should be congratulated for their efforts.

The measure of a good compromise is that no one is completely satisfied with the end result—and this agreement is no exception. Nevertheless, I urge its passage. It represents months of vigorous oversight by the intelligence committees to ensure funding is well spent and programs are productive. Enactment will set congressional priorities in place for the coming year, and thus I urge a "yes" vote.

Mr. COMBEST. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER]. He and I joined the committee at the same time. I will say that there has been in my awareness a more studious Member, one who has attended more of the hearings, one who has dedicated more of his time, one who has brought more expertise and interest to this committee, and one that I wish his constituents in Nebraska would have had some awareness of the contribution the gentleman from Nebraska has made to this committee and to the protection of this country.

□ 1410

Mr. BEREUTER. Mr. Speaker, I rise in support of the conference report. I want to thank the gentleman from Texas, the distinguished ranking member of the Intelligence authorization committee, for yielding me this time, and to thank him for his very generous comments.

I believe the gentleman from Texas, the ranking member, and the gentleman from Kansas, the chairman, deserve extraordinary expressions of appreciation, compliments, and congratulations for the leadership that they have brought to the Intelligence Committee during the past year, and I do very sincerely extend those compliments to them.

I think they have expanded on the tradition of ensuring bipartisan sharing of information and effort as we conducted oversight and authorization activities for the intelligence community. It has been an outstanding effort on their part.

Mr. Speaker, this Member shares and would like to echo the budgetary comments by the gentleman from Texas [Mr. COMBEST]. At the beginning of the year, the Member request time formally registered serious concerns regarding the proposed reductions in the Intelligence budget. While I compliment the distinguished gentleman from Kansas [Mr. GLICKMAN] for his fair- and even-handed management of the committee, particularly with regard to program and budget issues, I feel that we cut the Intelligence Community budget authorizations too deeply. Only time will tell whether this Member's concerns are well-taken, but clearly the world in which we live is one where American's and, therefore, Congress, can ill afford to take chances with our national security. Our intelligence agencies are our first line of defense, the eyes and ears that find those smoldering issues and circumstances abroad that can quickly ignite into a major conflagration. In the coming year we will carefully watch how the intelligence community fares in the severely reduced budgetary environment in which it now must exist.

I must compliment the chairman, however, for his willingness to review and his supportive leadership on some budgetary issues late in this legislative season. In particular, one where enormous intelligence and foreign policy equities were at risk. At this point I must speak in generalities to protect classified material, but I can say and wish to note that the chairman, Mr. COMBEST and our colleagues joined me in the conference in insisting on our position, and as a result we have been able to save an opportunity to continue two small but very significant intelligence programs which also have very crucial foreign policy implications? On some other interrelated but distinct programs of tremendous intelligence potential, we—the House authorization conferees—have done what we can to limit the disruption, which will result from a hasty and probably ill-considered program consolidation suggested in classified portions of the appropriations act. Our action would encourage the intelligence community to determine carefully the optimal management structure for those programs as well as reaffirm the authorizing committees' legislative responsibilities. This Member still has great concerns about the direction of the Defense Appropriations Act on this classified subject, but I was not able to reverse their apparent direction.

Finally, I would like to offer a few comments on the recently authorized National Security Education Act, NSEA. At the time of passage 2 years ago, this and many other Members had grave doubts about the program. During our recent conference, I noted that if we were going to proceed with the program, which the previous Congress had authorized—if we are going to proceed with the program, we ought to impose necessary fiscal and programmatic restraints on NSEA in order to give us the very best product possible. One of those restrictions imposed limits expenditures solely to the interest earned on the principal of the trust fund. I am pleased to report that the conferees agreed to this limitation.

The conferees also agreed that the NSEA program shall only provide scholarships and fellowships in areas where there is a shortage of personnel with more esoteric language and area studies skills. The shortages will be determined based on an annual language assessment of future needs to be prepared by the Department of Defense from inputs from Federal agencies including the CIA that will employ the NSEA fellows. This annual language area studies assessment will be critical to determining new educational assistance for NSEA.

Our actions have tightened up this program significantly, and it will provide a direct benefit to the intelligence and foreign affairs community. As such, I believe that we have at least modified and directed a fledgling program in a manner that will better meet the needs of the Federal agencies which will be hiring these individuals. At the same time, providing educational opportunities to American students that are more likely to meet the actual needs of our intelligence and national security agencies.

Mr. Speaker, I would like now to engage in a brief colloquy with the ranking member of the committee related to the NSEA. I have a few brief points for him to consider, and I would ask his comments at the completion of this statement.

First, the Republican Members, it is my understanding, will continue to exercise full oversight over NSEA to ensure it is executed in accordance with the changes mandated by the conferees and hope to have the cooperation of our majority counterparts in that effort. Second, the chairman, Mr. GLICKMAN, at the conference stated a view, which you and I share, that the committee understands that future annual authorization actions are an essential element in effective oversight. And, third, over the next year, we the Republican minority would work to ensure that the HPSCI will hold hearings on NSEA to determine how the program is proceeding, in particular since this year will mark the award of the first scholarships and fellowships.

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the gentleman from Texas for any comment he may want to make.

Mr. COMBEST. Mr. Speaker, I say to the gentleman from Nebraska that I totally concur with his comments, and strongly support them, and as the gentleman will recall, our committee had basically ended the program, but in conference, as one does in many instances in an ability to reach a position in which we could move forward with the bill, which was important to the community, did make some agreement with the Senate that the program would continue but, as the gentleman has indicated, at a significantly changed and scaled-down version, and certainly limiting only the expenditure for the program to the amount of the interest on the trust fund which was established in last year's moneys out of intelligence. Because of that, I have always felt very strongly that the Intelligence Committee should be the oversight committee of that program as long as those funds actually came from the intelligence community, which they did, and, in fact, the intelligence community should benefit from them which we have established under this, but I would strongly concur with the statement of the gentleman from Nebraska and will do everything I possibly can to make certain those concerns he has are carried out in our committee as long as I am the ranking member.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Texas for that assurance, which I would have expected since he has been so active in this area. I thought it might be helpful to have it on the record.

I made a characterization of the chairman's view, and if it is inaccurate, please, correct me.

Mr. Speaker, I want to add a positive note on the NSEA. It would be worthwhile to highlight the very effective management that is being exercised by the new office director, Charlene King. NSEA was going nowhere until she was appointed in April, and now it appears to be tightly run and very responsive to meeting intelligence community personnel and area study requirements.

Mr. Speaker, in conclusion, I want to reiterate my thanks to the Chairman and the ranking Member for all of their support and courtesy throughout the Conference and earlier during committee markup on matters of interest to me. Without that assistance and attitude we could not have made the significant modifications to the House-passed bill and during the Conference. For that, I am grateful.

Mr. Speaker, moving to another point, if the gentleman from El Paso is in the room. Nevertheless, it might be good to put some comments on the RECORD since he brought up the discussion about the FBI and the possible amendments to the Fair Credit Reporting Act.

Yesterday, this gentleman, a member of the Consumer Affairs Subcommittee of the Committee on Banking, Finance and Urban Affairs, during a markup of a bill amending the Fair Credit Reporting Act authorization legislation, noted to members of that subcommittee that the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], and the chairman of the subcommittee, the gentleman from Massachusetts [Mr. KENNEDY], had asked that the Intelligence Committee, in a letter to Chairman GLICKMAN, not proceed with amendments to the FCRA or accept Senate language to amend the FCRA, since it was in the Banking Committee jurisdiction. And appropriately, of course, the HPSCI responded in acknowledging it was in the Banking Committee jurisdiction. We also received shortly thereafter a letter from the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], indicating that he would look to hearings and actions of the Committee on Banking, Finance and Urban Affairs on the issue of possible FBI-related amendments to the FCRA.

I referenced the Senate Intelligence Committee bill's relevant provisions on the FCRA yesterday for members of the House Banking Subcommittee to consider. I would say to my colleagues since there have been contacts from the FBI on several occasions with the House minority and majority staff of the Committee on Banking, Finance and Urban Affairs, we may yet have an opportunity to weigh in, in support of FBI-related amendments to the FCRA either during the FCRA markup of the full Committee on Banking, Finance and Urban Affairs or on the House floor on such legislation.

This member wanted to alert members there is a possibility yet for action in the next session of the 103d Congress on this front. So I would particularly invite future comments from the chairman of the Legislative Subcommittee, the gentleman from Texas [Mr. COLEMAN] on this subject.

As a final note, I want to mention that I think that the committee is extraordinarily well served by continuing to have what I consider to be the best staff to assist us that exists in the House of Representatives.

□ 1420

The majority and minority of HPSCI is, without exception, as outstanding a staff that has been assembled in the House. It continues the tradition of being the best staff effort in the House of Representatives.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. David Kalbaugh, one of his secretaries.

CONFERENCE REPORT ON H.R. 2330 INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I thank the gentleman for yielding this time to me.

As the House is well aware, this committee undertakes some extremely serious responsibilities in its work; in particular it acts as a surrogate for the general membership of the House in overseeing the intelligence community of the United States and the very sensitive work that it carries out.

I have been extremely impressed as a new member of the committee with the degree of professionalism and excellence that I think both the membership brings to this task and, as the gentleman from Nebraska [Mr. BEREUTER] just expressed, I wanted to express my great respect for the quality of the work that our staff does. I have not experienced anything in my time in this body that really matches the quality of work and professionalism of our staff.

This committee, more than any other in this body, deals with matters in secret. As we have responsibility because of that to keep those things secret which ought to be kept secret, I think we also carry a responsibility to examine the process and practices of the community so that matters which need not and ought not be kept secret are not.

So I want to express my thanks to my colleagues on the committee for undertaking in this bill to direct the intelligence community to begin a very thoroughgoing review of both the costs in monetary terms and in practical terms of the classification procedures of the U.S. Government. This will serve to push forward, I hope at a good and considered pace, the efforts that the administration has already started to review and reform the classification procedures of the Government.

It is important for a democracy that as much information as we possibly can have in the public domain about the operations of Government be there, and we are making an important step in that direction with this bill.

Mr. Speaker, memos on the movement of U.S. troops in Europe from 1917; 23,500 pages of documents dating from before World War II; documents concerning POW/MIA's in the Korean war—do these sound like secret documents that need to be kept under lock and key? They don't to me or to most sensible people, but these are among the millions of Government papers that are needlessly withheld from the public domain because of an outdated and burdensome system of classifying Government information.

Today, with the approval of the intelligence authorization bill, we begin to turn the tide on this sea of top secret paper. As a member of both the Permanent Select Committee on Intelligence and the Appropriations Committee, I've initiated a Government-wide cost accounting and expenditure-reduction effort involving all agencies that make up the intelligence community or are affected by classification rules and procedures.

Provisions I authored for the intelligence bill and all relevant fiscal year 1994 appropriations laws—Commerce, Justice, State and the Judiciary; Energy and Water; Treasury-Postal—require reports by next March detailing the cost and number of personnel involved in classifying and maintaining Government secrets. It also requires the agencies to come up with suggestions about how to cut spending on classification and secrecy for 1995. I decided to take this approach after finding out the agencies that deal with classified material couldn't even tell me roughly how much they are spending on document classification.

The problem is that despite sweeping changes in the international arena, the classification bureaucracy is stuck on autopilot, stamping top secret on nearly 7 million new documents each year. Ninety-five percent of these papers will be marked for indefinite restriction.

Over the years, this has led to the buildup of tens of millions of secret documents, some truly sensitive, some not. Remaining under wraps, for instance, is the radar equation, a standard law of physics that has been in textbooks since the 1940's as well as some 6,000 U.S. inventions, some dating from the 1940's, whose authors are forbidden to publish, patent, or even discuss their work.

The tremendous cost—borne by the U.S. taxpayer—for the personnel, processing and storage needed to handle all these classified documents is daunting enough. But we also need to consider that private American companies spend at least $14 billion a year to meet increasingly complex, overlapping, and sometimes contradictory controls on classified information.

While the dollar cost of overclassification is staggering, an even heavier price is levied on a Democratic, free society. The excessive classification under the current system diminishes open Government, individual liberty, and access to Government information that's essential to an informal electorate.

The great irony is that overclassification has not necessarily bought us better security. Excessive—often arbitrary—classification has led to an ossified secrecy system that is often unable to cope with the rapidly changing circumstances of the post cold-war world. Overdoing classification ultimately does a poor job of protecting legitimate national security information. When classified information becomes commonplace, it devalues the currency of the more important secrets; carelessness sets in and accountability declines.

The cost-accounting and expenditure reduction effort I've initiated is the first step in addressing these problems. Requiring reports detailing the cost and number of personnel involved in classifying information, and keeping information classified, will ensure that over classification is no longer simply built in to agency budgets. Agencies will have to address this problem explicitly and set cost-cutting goals for handling classified information in 1995.

The reports, due on March 31, 1994, will knock the system off autopilot. I'm hoping that by this time next year I'll be able to tell you about historic changes in the way information is handled by the national security community and about the savings the agencies plan to achieve.

The post-cold-war era presents both new threats and new opportunities. The intelligence and national security community, traditionally somewhat resistant to change in procedures, needs to adapt to the new international environment. Reforming classification policies and practices is a key place to prove that it can.

The Government doesn't often have the chance to cut costs and improve operations.

By reining in unnecessary classification, we can do both, all the while enhancing, not shorting, our real security objectives.

Mr. GLICKMAN. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I too, as the gentleman from Colorado [Mr. SKAGGS], am a new member of this committee. I would also like to compliment both sides, Republicans and Democrats, on the committee because we certainly worked in a bipartisan way to find a solution to the budgetary problems facing the Government and, in particular, the intelligence communities.

I think that Members who are watching in their offices or here on the floor should remember that from the President's request we cut over 5 percent before we brought it to the floor. On top of that, as the chairman and ranking minority member have stated, the conference has again cut it over $150 million. We have cut programs that are desirable, but we had to make choices to protect the intelligence-gathering ability of our security agencies at the same time that we had to make sure we came within the budgetary restraints as we felt were necessary in today's economy.

I feel this conference did a good job. We worked together.

One thing we were impressed with is the fact that the members were there. I serve on a number of committees. Many of us know that sometimes those committees sit with two or three Members. We had a vast amount of Members at every single meeting, and of course at every markup. That says a lot to the fact that maybe in full committee we should not have proxy voting. We do not have it in the Intelligence Committee, and it has worked very effectively.

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the chairman for yielding this time to me, and I commend him, the gentleman from Kansas [Mr. GLICKMAN], and the ranking member, the gentleman from Texas [Mr. COMBEST], for their leadership in forging this bipartisan legislation and guiding us through the conference with the Senate.

Mr. Speaker, I support the legislation, but I do want to say that as one who went to the committee to advocate more openness and streamlining of the budget as well as the declassification of documents, I see progress on the committee.

I am, however, disappointed that we are not able to go along with the Senate sense of the Congress that the total budget figure be made public. I am confident that the chairman of our committee, the gentleman from Kansas [Mr. GLICKMAN], will hold hearings next year about requiring the release of that figure. I commend him for that effort.

I think in the long run we will end up with a better product, with more openness in the intelligence process, and more confidence from the American people.

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY], who was a distinguished member of this committee for 6 years, I believe.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 2330, the intelligence authorization conference report.

I particularly want to again thank Mr. GLICKMAN and Mr. COMBEST, the chairman and ranking minority member of the full Intelligence Committee, and Mr. COLEMAN and Mr. GEKAS, the chairman and ranking minority member of the Subcommittee on Legislation for their assistance on providing survivor annuities, retirement annuities, and access to health insurance for certain ex-spouses of the Central Intelligence Agency retirement and disability system [CIARDS].

Throughout the 1980's Congress enacted legislation to provide greater retirement equity for the spouses of Federal Government employees. The CIA Spouses' Retirement Equity Act of 1982 provided that qualified former spouses of CIA officers would presumptively receive upon divorce a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of agency services prior to divorce. The qualified former spouses would also be awarded a similar share of the officer's survivorship benefits. These presumptive amounts could be adjusted by court order or spousal agreement.

This right, which is substantially the same as that provided to similarly situated former spouses of Foreign Service officers, has been extremely important for the financial security of older women facing divorce from clandestine officers of the CIA. We are all now well aware of how difficult it has been for women to secure an equitable divorce, and the financial deprivation that usually results. These difficulties were compounded for CIA spouses who were unable to reveal in open court basic details about their personal circumstances.

Under the 1982 law, unfortunately, in order to qualify as a CIA former spouse, and individual not only had to have been married to a CIA employee during at least 10 years of creditable service, but 5 years had to have been spent outside the United States by both marriage partners.

The Subcommittee on Legislation of the Permanent Select Committee on Intelligence, which I chaired in the last Congress, became aware that the 5-year overseas rule for the spouse disqualified from retirement and survivorship benefits many former spouses whose sacrifices for family and country had been as great as those of the former spouses who met the requirements of the rule. These women also provided great support to their husbands and to the Agency by maintaining cover, accepting frequent transfers, and participating in service-related activities. They bore all family responsibilities stateside alone while the officer served overseas, and agreed to the extra demands on family income of maintaining two households. Like other CIA spouses, they found employment opportunities, when not precluded by the nature of the officer's work, to be very limited, and they too experienced the stress of living with secrecy and the fear for the physical safety of their partners. The subcommittee found that these women were in some cases prevented from meeting the 5-year overseas rule by days because they were not allowed by the Agency to accompany the officers to war zone assignments or because they needed to bring a sick child back to the United States for medical care.

Congress in 1991 repealed the 5-year overseas qualifying rule for former spouses divorced after December 4, 1991. Section 203 addresses the plight of a relatively small number of individuals divorced before the repeal. It enables them to receive on a prospective basis retirement and survivor benefits equivalent to the amount they would have been presumptively awarded, provided they meet the other former spouse requirements. In addition, these individuals and those ex-spouses now receiving Federal insurance benefits will be allowed to receive Federal health insurance benefits in the future on the same terms available to other CIA former spouses.

Mr. Speaker, the tales of some of the women who will benefit from this legislation have been shared with the Subcommittee on Legislation, and they are heartrending. We are talking about people who were—and are—every bit as dedicated to the highest ideals of the Central Intelligence Agency as anyone employed there, but who have paid great costs financially and emotionally for their service.

Again, on behalf of the individuals who will benefit from this legislation, I thank the committee for its efforts.

Mr. COMBEST. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], a member of the committee.

Mr. GEKAS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report. As we near the end of the first year of the 103d Congress, I believe the American people can feel secure that the work and duty of their Intelligence Committee and the intelligence community at large has served the American public well. We have made some painful steps, and we have taken some gainful steps as well.

The painful steps, of course, are in the realm of retraction of resources and funding where we, many of us, feel might in the long run hurt our general capacity for intelligence. But we will work together to try to make sure that each dollar is spent wisely and prudently.

The gainful steps, of course, were made in the allusions already presented by the chairman of the committee and the ranking member. I join in the applause for those gainful steps.

To the gentleman from Texas [Mr. COLEMAN], I say I am eager to work with him even further in consolidation of some of the issues that have arisen during this first year and to do what we can to enhance the capacity of the intelligence community.

So, in closing, I endorse everything that has been said, commend the staff, commend our colleagues on the committee, and say to our people, "Sleep well, America; we are on top of things in the intelligence community."

Mr. GLICKMAN. Mr. Speaker, I yield 2½ minutes to my distinguished colleague, the gentleman from Washington State [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I thank the chairman for yielding this time to me, and I commend him, Congressman DAN GLICKMAN of Kansas, and the ranking member, the gentleman from Texas [Mr. COMBEST]. I am very pleased the committee operated this year on a very solid bipartisan basis. I also commend the staff of the committee.

Mr. Speaker, I have served in this Congress for 9 terms, I think the staff of this Intelligence Committee is one of our very best. I have enjoyed this year particularly, being one of four members from the Defense Appropriations Subcommittee, to work with the Intelligence Committee, as a member of the Intelligence Committee, to try to coordinate issues that in the past have caused us some difficulty.

☐ 1430

The one issue that sounds very, very trite is that sometimes we would appropriate money that was not authorized.

I know the chairman was very concerned about that. Last year it totaled nearly half-a-billion dollars. This year we were able to reduce that dramatically. It was one of the priorities of the gentleman from Kansas [Mr. GLICKMAN] that we do that, and the gentleman from Pennsylvania [Mr. MURTHA], the chairman of the Defense Subcommittee wanted it done. We were able by coordinating the staff members to make real progress in that area.

I also want to say that the new Director of the Central Intelligence Agency, Mr. Woolsey, has worked effectively with our committee. He had some very strong views on a number of issues, but he was willing to work with the committee.

I think overall we have developed a new architecture for our intelligence gathering capabilities that will serve the country well into the future.

We still have some issues that are going to have to be resolved in the years ahead, but I want to commend the chairman and the members of the committee for the good work that has been done.

I also want to make sure that everybody realizes that we cannot get into numbers here, but we have cut this budget again for the second year in a row very, very dramatically, much more than I think most Members recognize.

I know there were a number of amendments on the floor about cutting back on Intelligence, but I want everyone here to know, we are bringing down the Intelligence budget, and I think we are doing it in a way that is thoughtful, constructive and that will still allow us to have good human intelligence and the ability to modernize our satellite capability. So we listened to the House. We listened to the American people. I think we are moving ahead and I look forward again to working in the second session with the chairman and the ranking member and the members of the staff to see if we cannot even do better than we did this year.

Mr. Speaker, I certainly urge the House to support this bill.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Speaker, I want to express my support for the conference report and compliment the committee for its work.

Mr. COMBEST. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, there are a lot of congratulations going back and forth about the fine work done by this committee, and I would like to add my voice to that.

But there is something that strikes me as very important and that we may be overlooking here today, and that has to do with the oath of secrecy requirement that was left out of the conference report.

Mr. Speaker, every right carries with it responsibilities. Members of Congress, by virtue of their offices, are often privy to the Nation's most sensitive information if they want it—information that, if leaked, could have far-reaching implications. When bona fide classified information is compromised, national security is jeopardized; our ability to gather timely and accurate intelligence is crippled as a result, and the members of our intelligence services, who put themselves at risk to ensure that decisionmakers in the executive branch have the information they need, are further endangered. I call attention to this aspect of the intelligence authorization because it could easily be overlooked in the closing rush of legislation that is so common at the end of a session.

As my colleagues know, the intelligence authorization has emerged out of conference and onto the floor for consideration today. We have been debating it, but as I said, it comes back to the House without this oath of secrecy agreement. That amendment addresses the recurrent problem of willful and irresponsible disclosure of classified information by Members of Congress.

Now let us review the facts. On August 4, 341 Members of this body voted to add an amendment to the authorization to require that members who received classified information from the executive branch sign an oath of secrecy. If they are uncomfortable, they do not have to have the information.

Subsequently, a substitute passed with the strong support of the majority, and that is the measure that went forward in the conference.

I am going to withhold any objection to the conference report, because this is too important for our Nation. I agree there are questions about cutting too much. I agree with the questions about the proper classifications. I think work does need to be done there.

But I want to say that damaging leaks still happen. There is a need for this oath of security.

Witness the stories about Haiti. Sadly enough, it is another embarrassing, possibly dangerous and damaging revelation to our Intelligence gathering effort in a country that has been in the headlines. It is a very sad thing.

The amendment that we sent forth to the Senate included Senators. The Senate has their own rules, as everybody knows. I believe it is Senate rule 28.

People in the executive branch have the National Security Act. Only Members of Congress who are not on the Intelligence Committee in the House have no accountability when it comes to receiving classified information. It is a strange loophole we have, and that is what we are trying to close up. It is not a big deal to do. The majority has said we should do it, and the fact it has been dropped from conference, it seems to me that it will not necessarily go away.

I say that because I am now quoting from the New York Times from the 1st of November of this year. It says, and I will not name the specific Member, although he is named in the article, that a specific Member of the House Intelligence Committee and another committee, who confirmed that payments were made. This is speaking about CIA payments to specific people in a specific country where there are national security interests, and men and women in uniform potentially in the area of getting shot.

Now, that is just a circumstance where frankly we avoided a tragedy more by good luck than anything else, I suspect, than by policy; but the fact is that this is not the type of thing that a Member, whether he or she is on the Intelligence Committee or not, should be confirming to a newspaper. This is not business if it is classified, and this was classified. That is what I am trying to get at.

As I said, I do not think anybody likes to see the types of political cartoons that we saw in the Christian Science Monitor today that add ridicule to the efforts of the executive branch Agency that is responsible for gathering and analyzing out intelligence. It does not help. It does not help the credibility of Government, and frankly, most of this came from leaks, and we all know it.

I am sorry to say that the leaks may have come from Members of this body and Members of the other body, and if that is the case, we need to do something about it. The oath of secrecy is not particularly a harsh remedy. I just think it is a common sense one, because it gives us a chance to be accountable for our actions.

Could there be anything wrong with that?

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. GOSS. Surely, I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I want to say to the gentleman that I appreciate very much the fact that he has been such a strong supporter of this. No one can take a seat in front of the gentleman in an effort to move this legislation.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The time of the gentleman from Florida has expired.

Mr. COMBEST. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida [Mr. GOSS].

Mr. Speaker, will the gentleman yield further?

Mr. GOSS. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, they worked closely in the past on this regard. There is no one also who is more concerned about the potential and about the leaks that have occurred than I am.

I do not want the gentleman to think at all from the fact that the provision did not remain in the bill that this Member feels any less strongly about it. In fact, I think that part of it is as strongly needed as many parts of the bill.

In an effort to be able to get a bill and get it to the committee where we can get adequate funding for it this year, there was a strong objection by the conferees.

But I would say to the gentleman that I will be glad to work with him in any way that I can to try to make certain that this is something that moves forward, because as the gentleman has indicated, this House spoke very strongly in support of an oath of secrecy in a vote which we have during the authorization of this bill originally.

Mr. Speaker, I commend the gentleman, and I want him to know that I will do everything possible to work with him to try to make this something in the future which in fact does become a requirement that every Member who handles classified information in the House of Representatives has to take in advance.

Mr. GOSS. Mr. Speaker, I am grateful for those assurances.

Mr. GLICKMAN. Mr. Speaker, I yield myself 1 minute.

First of all, Mr. Speaker, I want to note for the gentleman from Florida that I take very seriously the safeguarding of classified information. I periodically remind committee members, as does the gentleman from Texas [Mr. COMBEST], of the requirements of the House and the committee rules which prohibit the unauthorized disclosure of classified information.

The record of the committee on not disclosing secrets has been excellent, far superior to the executive branch.

I would also point out for the gentleman's benefit that I made an inquiry about the article the gentleman talked about in the New York Times. The committee member in question has assured me that he did not disclose any classified information.

I accept the gentleman's concern about this particular issue and I will continue to remind Members of their serious obligations to keep classified information secret.

What I want to avoid is the adoption of any procedure which would single out Members of the House for special treatment when the question of secrecy arises.

The gentleman is not totally correct.

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. GLICKMAN. Mr. Speaker, I yield myself 1 additional minute.

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The executive branch is really not subject to any other set of rules than we are. We are both subject to the espionage statutes, which, of course, we take seriously, so they are not subject to any other particular rules, the general executive branch that are not subject to us, except people in the intelligence agencies of course. But any restrictions on access to classified information which go beyond those applicable to the Permanent Select Committee on Intelligence should play equally to the Senate, House and executive branch. That was the purpose of my amendment to the gentleman's amendment. Unfortunately, the Senate conferees would not accept that amendment.

But I do think that we need to make sure that we honor the secrecy of the information, and our committee does, in fact, do that, and I want to assure the gentleman that we will continue to monitor the situation.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Kansas [Mr. GLICKMAN] for yielding.

I think there are two points I would like to make. First of all, every member of the Permanent Select Committee on Intelligence in the executive branch does have to sign a secrecy oath. One cannot get employment in that area. That does not mean that all members. I agree with the gentleman that that may be an area where the gentleman's committee ought to look, and I would be very happy to support that.

The second thing that I think is worth noting is I do not believe that we would have been reading the flap about the CIA and Haiti had it not been for that briefing and the fact there was a leak from that briefing. I am drawing no conclusion, but that was a briefing of Members of Congress on either side, and the flap started shortly thereafter. I think a reasonable person would make the conclusion that there was a leak.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Speaker, as a new member of the committee I rise in strong support of this conference report. It is a bipartisan report. I congratulate the leadership on both sides of this committee.

Mr. COMBEST. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I rise in reluctant support today of the intelligence authorization bill, and I say "reluctantly" only for one reason, not because of what it accomplishes; I agree with that, but what it does not accomplish.

Originally, as the chairman and the ranking member know, I have offered an amendment to this bill which would establish a national task force on terrorism which would force this Government to prioritize and coordinate matters relating to counterterrorism in intelligence gathering, dissemination, and operations. This does not occur today, at least not in any effective form. I do want to thank the chairman and the ranking member for their support in this effort that I made, however, but what we get today, rather than that type of structured legislative product that I had hoped we would get, is a version of a committee report and a little bit of the bill that does state that the relevant agencies must give us the status report in about 6 months on the nature of our counterterrorism activities. But there is no mandated followup.

What concerns me and many other Members is a growing perception that, while lipservice is paid to fighting terrorism by the administration, no serious effort has been taken to fully assess and define the threat and develop the policies and resources to fight that threat. Staff of the Task Force on Terrorism that I head has spent many hours briefing local law enforcement agencies in New York and California on the nature and threat of terrorist organizations. Time after time they are told that they receive no such help from the Federal Government.

We need a comprehensive policy on counterterrorism. We do not get a start with that with this bill. What we do get, at least, is an urging of a report, and that is the extent of it.

Putting bureaucratic prerogatives before the lives of people who have suffered in the World Trade Center bombing or Pan Am 103 is incomprehensible to me. The Iranian Hezbollah is in Somalia and was involved in the death of Rangers of our United States Armed Forces. When is enough enough, and how many have to die before we get those policies we really need? Why must we legislate this? And frankly the simple answer to that is: because the administration so far has not addressed this problem adequately.

Mr Speaker, at this point I insert in the RECORD a copy of the speech of Dr. Yigal Carmon, the former counterterrorism adviser to Israel Prime Minister Shamir. This speech might alert a few people to why we really do need to address the seriousness of this problem:

CURRENT MIDEAST TERRORISM: THREATS AND RESPONSES

(By Dr. Yigal Carmon)

The current wave of MidEast terrorism differs from those of the 70s and 80s in that at its core lies militant Islam. This new characteristic does not belittle the role of state sponsorship, which has dominated MidEast terrorism for decades and still does. But militant Islam, now supported by states in the region, has given terrorism a new potency.

Militant Islam has four principal characteristics.

A. Unlike in the past, when Middle Eastern terrorists struck from their home bases, Militant Islamic movements today maintain expanding infrastructures in the growing Muslim immigrant communities in the West.

B. Militant Islam targets Western civilization in its entirety, as a concept and a system.

C. Religious fanaticism, guided as it is by the Deity, brings terrorist activity to new dimensions, allowing even for mass killing. Had the World Trade Center collapsed, it probably would have been the worst disaster in the last 50 years.

D. Religious terrorism cannot be placated or accommodated.

These elements made militant Islam increasingly the most alarming threat to the West today. Confrontation, therefore, sooner or later, may be unavoidable.

On February 26 of this year, at a meeting with my colleagues at SOLIC (DOD), I asserted that militant Islam poses an imminent threat to the United States. It was only a few hours later that the World Trade Center bombing took place.

The West is not prepared to meet this threat. Modern democracies are unwilling to engage in the type of religious conflict that characterized previous ages. Nor should they.

Observing militant Islam in faraway Afghanistan or in the Middle East, citizens of democracies do recognize the role of religion in the conflict. But when they view the same phenomenon within their own society—bound by western-democratic values and morals, as well as by their legal principles—they fail to understand the crux of the problem: Any religion, when abused by fundamentalists, may serve not only as a source but also as an organizational framework for violence and aggression in the name of God. This was the case with the aberrant Jewish militant group that engaged in violence in the territories in the early-'80s, and with the Branch-Davidian Christian fundamentalist cult. It is also the case with the more popular militant Islamic movements.

This failure to perceive correctly the nature of the conflict stems from the Western tendency to apply a Judeo-Christian frame of reference to Islam—a faulty application. Christianity and Judaism, in their history, have undergone reformation, separating church from state and giving up the use of violence in the name of God. Islam, by contrast, has not yet undergone the same evolution. In Islam there is no separation between church and state, between the realms of the sacred and the secular, between religion and politics. Rather, all of these are one and the same. Which means in practice that the militant Islamic cleric is also a military and political leader, and that his mosque may serve as a venue for his activities.

This grim reality, coupled with the expected cuts in the defense budgets of Western democracies, makes the problem even more acute and underlines the vital need for an appropriate and effective strategy.

This is a sensitive topic to discuss. Concern about militant Islam may be misunderstood or abused by bigots as an attack on religion as such, or as a danger to religious freedom and civil liberties.

Nevertheless, we face a real problem, which threatens human lives and institutions of society. Militant Islam inside the West is new to democratic societies. Western history, in recent centuries, offers us no direct guidance to deal with it.

Let it thus be clear that the concerns expressed in this paper are meant to reaffirm Western democratic values, particularly with respect to religious freedom and civil liberties. My purpose is protect these freedoms from those who would seek to undermine them.

THE NATURE OF THE THREAT

The rise of militant Islam in the last decade stems from two coinciding phenomena, one socioeconomic and the other demographic.

The first is a marked decline in the economies of Middle Eastern states, which has led to a major crisis of survival, especially among younger people.

The second is a marked rise in the number of Muslim immigrants from the Middle East, North Africa, and Asia, to the West. These immigrant communities, their economic success notwithstanding, have maintained many characteristics of their cultural background, which in many instances conflict directly with those of the Western society in which they live.

Against a backdrop of growing discontent among the masses, nostalgia for the Arab-Muslim grandeur of the past, and the momentum created by the Islamic takeover in Iran, Muslim fundamentalist leaders tried to foster the vision of an Islamic state that would rectify the people's grievances and also assuage their anger.

Prof. Martin Kramer, in his article "Islam vs. Democracy" (Commentary, January 1993), writes, "While regimes fumbled for solutions, the fundamentalists persuaded the growing numbers of the poor, young, and credulous that if they only returned to believe and implemented God's law, the fog of misery surrounding them would lift."

Prof. Bernard Lewis, in his landmark article, "The Roots of Muslim Rage" (Atlantic Monthly, September 1990), contends that Islamic fundamentalism has given a shape and objective to the otherwise undirected resentment and anger of the masses in the Middle East, following events which have devalued their traditional values and robbed them of their beliefs, their aspirations, and their dignity.

Afghanistan became the focal point of pan-Islamic "Jihad," much in the way that Spain during its civil war became the focal point for international communism.

But the response of the masses to the call of Islam did not alleviate their pain and frustration. Instead, it only intensified them. The leaders, unable to provide solutions to the very basic grievances and problems of daily living, used the religious fervor that was stirred up as a catalyst for radicalization and increased militancy.

Growing Muslim communities in Western countries have fared no better. Despite their relative economic success and improved lifestyles, the freedom and pluralism of the West has offered little comfort to these people. Rather, it has served to heighten their frustration. And here lies the core of the problem of militant Islam.

The fundamental tenets of Islamic theology demand confrontation with any non-Muslim or secular system until Islam supersedes it. Therefore, the more devout a Muslim living under a non-Muslim or secular regime becomes, the sharper the inner conflict he feels at being unable to change what is required of him by his creed.

The example of Christianity can help us understand this inner conflict in Islam:

Modern Christianity, for most of its adherents (and clearly there are exceptions), is primarily a religion of faith. Christians accept a set of general moral beliefs that do not dictate every aspect of their daily lives. Christians recognize the wider, secular nature of their collective existence and acknowledge the preeminence of secular authority.

Islam, by contrast, is primarily a religion of precepts and acts. There is a religious obligation for almost every act and almost every minute in the life of a believer—on both the individual and community levels. All his acts are meant to be conducted according to the same set of rules—the Islamic law, the Shari'ah.

The fundamental theology of Islam divides the world into two domains—"The Domain of Islam", where the law of Allah prevails, and "The Domain of War," where heresy prevails; and it is the duty of the believer to turn the "Domain of War" into the "Domain of Islam" through unyielding Jihad.

This is why militant Islam is inherently at odds with both the secular regimes in Arab countries and the multicultural Western states. Coexistence with any of these entails unacceptable, if not blasphemous, compromises.

What I present to you is not a theoretical exercise in comparative religion. Islamic fundamentalism has evoked a potential explosion in the hearts and minds of devout Muslims in non-Islamic countries and under secular Arab rule. They find themselves in a state of intense clash between their religious duties, norms, and values and the realities of their existence—a state described by psychologists as Cognitive Dissonance.

The psychological stress induced by the conflict leaves devout Muslims with three options:

A. They may endure what they regard as an imperfect and shameful situation, seeking escape by distancing themselves from religious life or by inventing a religious rationale to accommodate reality. This is the reaction of the overwhelming majority of Muslims today; or

B. They may deny the painful reality, as far as possible, by withdrawing into the limited confines of religious life (much in the way of Muhammad in his "Hijrah"—in the ancient history of Islam—when he was unable to overcome the powerful establishment of Mecca). Unfortunately, this path does not end in Hijrah. More often it leads to a regrouping of forces, a weeding out of the ranks, and ultimately, a more determined return to the struggle.

This path was taken, for example, by the Egyptian militant Islamic group called the "Jama'at al-Hijrah wa al-Takfir", which was responsible for the assassination of the late Anwar al-Sadat in October 1981; or

C. They may choose the path of permanent struggle against the secular/non-Muslim order, despite its overwhelming power. This pattern of reaction is reflected in the violent activities of the militant Islamic movements.

I wish to stress once more: the large majority of Muslims in the West are not militants. A small minority, however, is. And although this minority lives in an open, free and democratic society and enjoys its benefits, these Muslims nevertheless feel that they are under attack. Unjustified as these feelings are, we must not underestimate the strong motivations they create.

The World Trade Center bombing was no accident. Rather, it was a deliberate act of extreme violence, motivated by an ideology rooted in a dangerous social, religious, and political reality of which the American public is not sufficiently aware or cognizant.

Why is the public unaware of it? First, because of their faulty frame of reference, as we discussed earlier. Second, because we are dealing here with the inner world of the immigrant Muslim community, of which outsiders know very little. Immigrant Muslims, on the one hand, interact daily with the surrounding western society, according to Western rules; on the other hand, they maintain and perpetuate the characteristics of their original culture.

The traditions of the Muslim communities find their expression almost exclusively in the inner life of the community, in its language and in the codes ruling social conduct, which are very foreign to outsiders. Furthermore, since the basic and central element in this tradition is the religion, it is almost never known to or understood by non-Muslims.

Only rarely do we come across English-language expressions that provide a glimpse into the inner world of the Muslim immigrants in the West, revealing the conflict in which they live. One such example is a monthly magazine, "Khilafah", published in London and distributed in mosques in Britain and the United States.

The October 1991 issue carried an article entitled, "Capitalism: It's a Crime", condemning democracy, free spirit, and the Western way of life as the root of all evil. The article asserts that the Western ideal of freedom corrupts morality and leads to all the ills to which the West is prey. Western society is a "kufr system" ("system of heresy"), the article contends, and Muslims living in the West should "act as part of the global Muslim ummah (nation)".

Furthermore, according to the article, "The Muslim community must address this central issue in all their dealings as inhabitants of the West—in the schools, shops, colleges, workplaces, recreational centres, and media."

The magazine's perception of life in the West is best exemplified by its attitude to the Rushdie affair and the Gulf War, expressed this way:

"The authorities here showed the Muslim community that they will not tolerate concerted and united Muslim action on their lands during the Rushdie affair, when they ignored our grievances; and during the Gulf War, when they tried to scare the Muslims into silence and submission so that we would not express our support for the Muslims in the war * * * "

The underlying doctrine of this publication—as expressed in another article, "U.S. Bases"—is a total rejection of everything Western. The United States, Britain, and other European countries are "unbelieving countries," and Muslim countries are called on to ignore defense treaties and military pacts they have signed with the "unbelievers."

This is the background that has made the Muslim communities in the West in general, and in the United States in particular, an easily exploited source of support for militant groups.

Scores of such publications are distributed among the various immigrant communities, publications that foster identification with the plight of Muslims and Islam throughout the world, and with the struggle of militant movements.

The Muslim immigrant community in the United States today is served by about 1100 mosques and a multitude of community organizations. These organizations encourage the adoption of Muslim political and cultural values, as they have been established in the Middle East, Africa, and the Indian subcontinent for hundreds of years.

The Muslim immigrant communities in the West host annual conferences of militant Islamic groups from all over the world. Among the participants are often militant leaders wanted by law enforcement authorities in their own countries, usually for terrorist crimes. These leaders have found in the West a haven from which to conduct their activities.

Thus it should come as no surprise that the immigrant community serves not only as a source of financial support but also political and logistical support to the cadre of volunteers for the various Islamic fronts: Afghanistan, Sudan, Egypt, Algeria, etc. These militant volunteers are directed through the various community organizations, and through other working groups established especially for these purposes, such as Sheikh Abd al-Rahman's "Office of Jihad" in Brooklyn.

Often, the monies collected for a specific cause (Afghanistan, for example) are diverted to terrorist groups in Egypt. In the same way, monies collected for the welfare of the inhabitants of the Gaza Strip end up financing terrorist acts in Israel.

Activities on American soil (as well as the United Kingdom) include more than just incitement for violent action, like the call by Sheikh Rahman for the murder in Egypt of tourists, government and police officials, writers, artists, belly dancers, plastic surgeons, Jews, and Copts. They also include actual training for terrorist acts, along with specific instructions regarding acts of violence and terror, like the communication between the Hamas activists in the territories and their political leaders in the U.S. and U.K.

This is the dangerous reality from which the perpetrators of the World Trade Center bombing ventured forth. They also sent a letter to the New York Times before they were apprehended, threatening similar and more dangerous acts, including strikes on nuclear targets. After the arrests, too, their cohorts in Pakistan threatened action by "Al-Jama'ah al-Islamiya" and by Muslims the world over, if any harm came to Sheikh Umar.

These threats should not be underestimated.

Militant Islam sees the U.S. as an ideological enemy, regardless of the U.S.'s position toward it, (and despite any temporary alliance with the United States against a third party, like the former Soviet Union.) Therefore, official U.S. statements that the U.S. does not see Islam as its new enemy could not have saved American lives (nor will it), neither in faraway Cairo nor in the heart of Manhattan. Law enforcement agencies have done an outstanding job in apprehending the culprits in the World Trade Center bombing. But the root of the problem is still intact.

This predicament is all too familiar. France had a similar experience in 1985 and '86, when a militant Hizbullah group emerged from the Shi'ite immigrant community and committed 16 acts of terror, some in the very heart of Paris (at the Galeries Lafayette, the Eiffel Tower, the Place de l'Opera and the Champs Elysees, to name a few).

It should be kept in mind that Hizbullah continues to maintain a strong foothold and broad infrastructure within the Shi'ite communities of North America, Latin America, Central Africa and Europe.

We know for certain of attempts by Hizbullah to smuggle hundreds of kilograms of explosives into Europe, and may assume that this is true for other parts of the world as well. Members of the Hizbullah also serve as Iran's hit men in the campaign of assassination of Iranian opposition leaders in the West. Only recently, they murdered three Kurdish leaders in Germany.

ARAB RESPONSES TO THE THREAT

Briefly, these responses fall into four main categories:

The first is simply annihilation of the terrorists. There are no apparent terrorist activities in Syria, Iraq, and other states known to have committed mass killings of their own people, and who continue to assassinate their opponents on Western soil.

The second approach—"if you can't beat them, buy them" (or buy time)—is the worn-out Saudi approach toward all its adversaries. On the one hand, the Saudi regime does in fact apply the Shari'ah; on the other hand, it pays "protection money" to terrorist organizations (such as Hamas, or even F.I.S. in Algeria), as it used to do with hostile forces that surround it.

The problem with this approach is that it only strengthens the militants, materially and ideologically. It does not relieve the problem but rather exacerbates it.

The third approach—the Machiavellian attempt to pit one opposition group against the other in the hope that it they will weaken or destroy one another—has proved in the past to be very dangerous.

Sadat used this tactic when he freed Islamic militants arrested by Nasser to fight his war against the Left. This they did—they fought the communists—but then they killed Sadat.

The fourth approach, cooptation of the militant movements, was the great hope of countries like Algeria, Jordan, Egypt, and Tunisia. They tried to ride the tiger of Islam. They integrated the militant Islamic movements into the established political system in the hope that these groups would play according to the rules of the game.

But this strategy did not work either. In 1992 came the painful awakening: You can ride the tiger, but it still goes where it chooses. You can make militant Islamic movements lawful, but you cannot make them law-abiding.

It has also become apparent, contrary to the opinions of some Western commentators, that the mere diversity of the various Islamic organizations does not make them more moderate. For all share one common goal—to establish the rule of the Shari'ah.

In Jordan, for example, since the Islamic parties attained 30 of the 80 seats in parliament in 1989, 36 Islamic anti-democratic laws have been passed, including a law forbidding sanctions against Iraq.

The problem, however, lies not only in legislation. Arab regimes that chose the strategy of cooptation are now paying the price in blood. In Algeria and Egypt a life and death struggle is going on between the governments and the Islamic movements. The final outcome is hard to predict. Even in the U.S. there are those who do not expect the present regime in Algeria to last another two years.

The fortress-like building that houses the U.S. embassy in Jordan attests to the growing danger of militant Islam in that country too, as do the State Department advisories to tourists planning to visit Jordan.

Two Jordanian members of parliament belonging to militant Islamic organizations were discovered to be part of an armed conspiracy against the regime, supported by Iran. The Jordanians, who tolerated, albeit reluctantly, the existence on their soil of a terrorist infrastructure aimed at Israel, have discovered that the infrastructure has a boomerang effect, much in the way that the aid extended to the Muslim fighters in Afghanistan some years back may turn around and threaten the U.S. itself.

In the Arab world, some lessons have been heeded. Tunisian Foreign Minister Habib Bin-Yihya, speaking in Washington in June 1992, said: "We opened a dialogue with the fundamentalist leadership in 1987, in an attempt to lead them on a democratic path. Fundamentalist candidates ran as independents with the approval of the government. But then we learned that they were planning to take power by force. One has to be more careful. In an Islamic country, if you hold up a Koran and exploit a situation of poverty you are guaranteed an electoral majority."

Similarly, the Tunisian delegate to UNESCO, Abd al-Baqi Hermas, summing up a talk in Washington in Sept. 1992, said, "Moderate political Islam is dead. It has become radicalized. The question of integrating it into the political system is no longer relevant * * *"

Painfully but inevitably, Egypt and Algeria are reaching the same conclusion: confrontation is unavoidable. General Baha al-Din Ibrahim of the Egyptian Interior Ministry told Reuters (Oct. 18, '92), "We are determined to destroy them to the very base, because if they continue their activities, the country will collapse."

WHAT HAS BEEN DONE IN THE WEST?

The general picture is one of confusion. While sporadic steps have been taken, no criteria have been established to determine when an issue stops being a private religious matter and becomes a criminal matter—a question of public interest—that not only justifies but also demands intervention by the authorities.

In Europe some attempts have been made to address the issue on a cultural level. The French Ministry of Education banned the wearing of the traditional veil by Muslim schoolgirls in public schools. Some Common Market officials took to the barricades over the Iranian demand not to serve alcoholic beverages at meetings in which they participated.

More importantly, in 1988 in Koln, Germany, the police closed down an Islamic school, run by Sheikh Nuraddin Kaplan, nicknamed "The Khomeini of Koln" and known for its militant preaching and incitement. But the authorities hid behind administrative pretexts, skirting the fundamental issue. The municipality of Aachen in Germany revoked a building permit for a community center and mosque previously issued to the Syrian Muslim Brotherhood group, led by Issam al-Attar.

But direct confrontation on a political and ideological level does not occur. Tunisia and Algeria both implored France to take legal measures against F.I.S. and "Al-Nahda" supporters in their country, but to no avail. Militant Islam is on the rise in France. Militant Islamic preachers enjoy the freedom of France, just as Khomeini enjoyed political refugee status, until he overthrew the Shah and turned Iran into what it is today.

In no Western country is the Fatwa (religious decree) against Salman Rushdie, or its public endorsement, considered a criminal offense. Instead, it is treated as a private matter between an individual and his God. An appeal by friends of Salman Rushdie to the British authorities to prosecute the Islamic activists who endorsed the Fatwa was not heeded. The same is true for the Fatwa against foreign tourists in Egypt, even though American tourists have been killed there, and terrorists who have been arrested in Egypt maintain that they obey Sheikh Umar Abd al-Rahman, who issued the Fatwa.

RESPONSES TO THE THREATS

Terrorism is a strategic crime, combining elements of war and criminality. It must therefore be confronted strategically; conventional methods of crime solving will not suffice.

It is essential that we respond to these threats both at home and abroad. Each of these requires a different strategy:

The primary targets should be the states that sponsor terrorism. In dealing with these states, the west may restore its strategies for combatting communism.

First, containment, which may be applied in varying degrees from sanctions to an actual siege. Its effectiveness has been proved in the past. The economic and political sanctions applied against Syria in 1986 led to a significant decline in international terrorism in 1987. The number of casualties dropped from more than 100 to 14. As soon as the sanctions were lifted, however, the numbers rose again in 1988 to record heights.

It is also safe to assume that the steps taken over the past two years against Libya and Iraq have contributed to the decline in international terrorism during this period.

For the past six months, Egypt has been trying to establish an Arab bloc to oppose Iran's war of subversion throughout the Middle East. While this is not unimportant politically, we cannot depend on this initiative alone. It may prove unreliable at the most critical moments. Notwithstanding, the Egyptian effort is no substitute for what would be truly effective—an effort by the West to contain Iran.

Official White House statements may indicate that the U.S. has recognized the validity of this strategy and may shortly initiate a plan of "Dual Containment" against both Iran and Iraq. (Iran's oil exports constitute 90% of its foreign income.)

Second, deterrence, which although more limited in effect, still constitutes an important countermeasure. It is known today that the actions taken in April 1986 against Kadhafi deterred him, at least temporarily, from additional terrorist activity. This comes as no surprise. After all, even these despots are, in the final analysis, human beings. If you bomb them, they are deterred.

Third, preemption, the validity of which was proved not so long ago. On the eve of the Gulf War, Iraq threatened and made actual preparations for a massive campaign of terrorism against the West.

In response, Western states took steps that can be described as a "preemptive strike" on potential sources of danger in the West—namely, a crackdown on Iraqi and PLO delegations and on their supporters within the Arab immigrant communities.

The result of this concerted action was that between 15 January and 15 March 1991, the overwhelming majority of terrorist acts were perpetrated not in the West but in Third World countries, and the number of victims was less than 10.

These strategies, however, do not suffice. We need an additional new strategy, one that has a positive goal, a longterm solution, rather than just a better way of confrontation.

What I suggest is a strategy aimed at a longterm, multifaceted transformation of the Middle East (comparable to the changes we can expect in some of the former members of the Soviet bloc). This will require support from the West for every regional effort and force aspiring to:

A. Transformation of fanatical and militant Islam to a moderate (reformed) version, in a process similar to that which took place ages ago in other religions; and

B. Transformation from totalitarianism to democracy.

Note.—When I speak of transformation from totalitarianism to democracy it must be emphasized that democracy cannot be reduced to merely the technical formality of an election that would be no more than a one-time referendum of allegiance to Islam, as occurred in Algeria. Democracy in its true sense must include a clear commitment to pluralism and inalienable human rights.

Time and format do not permit me to elaborate on the ways these strategic principles will be translated from concepts to specific plans. Suffice to say that what I have in mind is not a theoretical exercise but an operational outline for action.

On the home front too, a proactive approach is required. The U.S does not have enough defensive preparedness built into its civilian infrastructure. Moreover, in a free and open society of a superpower such as the U.S., an approach relying only on strict defensive security measures may paralyze life completely.

Furthermore, in democracies, law enforcement agencies are relatively small in number when measured against defensive needs.

So the solution must indeed be proactive. Of course, the proactive approach is not free of dilemmas. It touches upon some of our most sacred values. But in view of the imminent threat to human lives, there is a vital need to find constitutionally allowable measures to counter the threat.

First, the rights to political asylum and relatively free entry into the U.S. must be reconsidered. When granted too freely, they backfire. In an interview in the New York Times, Oliver Revel of the F.B.I. said, "We are the only nation in the world that cannot uninvite people to our shores, even when we find that they are engaged in supporting terrorist groups involved in attacks on Americans."

A legal distinction must be drawn between those prospective immigrants who genuinely wish to integrate into American society, embracing its values and abiding by its rules—like most previous waves of immigrants to the U.S.—and those other immigrants who regard the U.S. as a haven to be abused and reject its values, seeking to undermine them.

Because this privilege is so basic a right, it must be based on criteria more objective than just the declaration of the petitioner.

Second, the freedom of religion espoused by the Founding Fathers could not in any way have tolerated Jihad. While it may have served us well in Afghanistan, Jihad cannot be tolerated when it wrecks the World Trade Center, and perhaps, if press reports are correct, also threatens St. Patrick's Cathedral, Saks Fifth Avenue and the Washington Monument.

Nor could the doctrine of freedom of religion, in a broader context, allow for the right to incite the killing of writers, artists, intellectuals, and leaders of other countries, and especially, not the right to incite the killing of tourists—like the Americans murdered in Egypt—even when these murders stem from religious decrees issued by a recognized cleric. This should not be taken as a private matter of religion between an individual and his God. It must be seen for what it is: a criminal act to be dealt with by law enforcement agencies and judicial authorities.

In a democracy, freedom of religion does not allow for the domination of one religion over others, and must certainly reject outright any religious doctrine that discriminates between members of different religions and between the sexes, etc.

The question is not whether this is true, original Islam, or a militant aberration. Just as we would not permit, in the name of freedom of religion, reestablishment of the Inquisition or a ritual of human sacrifice, so we must reject Jihad.

It is clear that in time, militant Islam is going to present a difficult question to the democratic world: When do theological tenets cross the line into illegal incitement to violence? Free societies need to review the constitutionally permissible means to combat a broad-based, ideological, violent threat to their citizens and to their social and political institutions.

Time and format do not permit me to elaborate on the ways in which these recommendations should be applied. But again, what I have in mind is not a mere academic exercise; it is a valid operational outline for action.

I realize that I'm raising grave and complex issues, deeply disturbing to all of us who cherish civil liberties and freedom of religion. But unlike some other tragic low-intensity conflicts in today's world, we are dealing here with a problem that affects the lives and interests of Western societies, both abroad and at home.

I'm also well aware of the fact that in democracies, as Ernest Bevin said, "nothing will change until there is a reasonable amount of bloodshed."

But it is our responsibility to issue an early warning. And if, as a result, the necessary debate begins, then we will have done our share.

Again, Mr. Speaker, I want to thank my colleagues for what is in the bill today, but it is only a tiny fraction of what is necessary. I hope that in the intervening year or the few months before that report comes that we are able to digest what is needed and that the administration really will act. So far it has not.

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman yielding, and I realize when the gentleman made his initial amendment on the floor that it was much more than just the sense of the Congress, which the gentleman was very conciliatory in finally adopting, but let me mention to the gentleman, as the sense of the Congress that the House passed, that was only a sense of the Congress. This report is required, and basically that requirement surrounds——

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

Mr. COMBEST. Mr. Speaker, I yield 30 additional seconds to the gentleman from Florida.

Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. COMBEST. The report is required, and primarily what we have outlined in that report that must come forward is pretty much basically what the gentleman's—what the sense of the Congress resolution was. So, I do want to again alert the Member that this is also not a matter which we take lightly, and that report is required to be filed, and I would suspect that from that report we will use that to take further actions in the future and would encourage, and not only encourage, but would enlist and beg of the gentleman that he would continue to be very involved in that area.

Mr. McCOLLUM. If I may respond, I appreciate what the gentleman from Texas [Mr. COMBEST] is saying very much, and I will recognize what is in here, and it is a major accomplishment. That is why I was thanking him. I do appreciate it. But we have a long way to go, and it does not do the trick yet.

Mr. COMBEST. I agree, and if the gentleman would continue to yield, we do have a long way to go, and I would like to walk hand in hand with the gentleman to make sure we get there.

Mr. McCOLLUM. Appreciate it.

The SPEAKER pro tempore. The time of the gentleman from Texas [Mr. COMBEST] has expired.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

NATIONAL ENVIRONMENTAL POLICY ACT ADMINISTRATIVE REORGANIZATION AMENDMENTS OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3512) to abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council.

The Clerk read as follows:

H.R. 3512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Environmental Policy Act Administrative Reorganization Amendments of 1993".

SEC. 2. ESTABLISHMENT OF OFFICE OF NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE.

Sections 201, 202, and 204 of title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) are redesignated and amended to read as follows:

"SEC. 201. (a) There is established in the Executive Office of the President the Office of National Environmental Policy Act Compliance. The Office may be referred to as the 'Office of NEPA Compliance'.

"(b) The head of the Office shall be the Director of the Office of National Environmental Policy Act Compliance, who shall be appointed by the President, by and with the advice and consent of the Senate. The compensation of the Director shall be at the rate of compensation payable to the Deputy Director of the Office of Management and Budget.

"SEC. 202. (a) The Director shall—

"(1) promulgate regulations governing the implementation of this Act by all Federal agencies (including independent regulatory commissions) which include provisions for public review and comment on the detailed statements required by section 102(2)(C) and, as appropriate, on other documents prepared pursuant to this Act;

"(2) mediate interagency disputes, including recommending to the President, as appropriate, resolutions of referrals of interagency disagreements under section 203; and

"(3) monitor Federal agency implementation of this Act and regulations issued under paragraph (1), including—

"(A) reviewing and approving regulations issued by other Federal agencies to implement this Act;

"(B) determining which Federal agency is the lead agency for purposes of compliance with this Act in cases in which Federal agencies do not agree on which is the lead agency;

"(C) developing alternative procedures for complying with this Act in cases in which emergency circumstances make it necessary for a Federal agency to take an action with significant environmental impact;

"(D) developing alternative procedures for complying with this Act, in cases in which a change in a proposed Federal agency action or new information relating to the environmental impacts of such an action makes it necessary to supplement existing analysis under this Act; and

"(E) developing and publishing guidance to Federal agencies regarding implementation of title I and regulations promulgated under paragraph (1).

"(b) Nothing in this Act shall be construed to affect, alter, or limit the independence of independent regulatory commissions under the laws establishing such commissions. The policies, practices, and interpretations under this Act and the Environmental Quality Improvement Act of 1970 and other laws applicable to, or adopted by, such commissions or the Council on Environmental Quality before the date of the enactment of the National Environmental Policy Act Administrative Reorganization Amendments of 1993 shall continue in effect to the extent they are consistent with such independence and carry out the purposes of such Acts.

"(c)(1) The Director, subject to paragraph (2), shall—

"(A) review and appraise the various programs and activities of the Federal Government in light of the policy set forth in title I for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy and make recommendations to the President with respect thereto;

"(B) coordinate or facilitate the development of recommendations to the President regarding national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation; and

"(C) coordinate or facilitate the development of such studies, reports thereon, and recommendations with respect to matters of policy and legislation, as the President may request.

"(2) The President may transfer to another official in the Executive Office of the President, by Executive order, any function of the Director under this subsection.

"(d)(1) The Director, subject to paragraph (2), shall—

"(A) assist Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by the Congress, which affect environmental quality; and

"(B) assist in coordinating among Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality.

"(2) The President may transfer to another official in the Executive Office of the President or to the head of any Federal agency, by Executive order, any function of the Director under this subsection.

"(e) The Director shall keep the appropriate Committees of the Senate and the House of Representatives informed of the actions, regulations, policies, and practices of the Office in carrying out the functions and other requirements of the Director and the Office under this Act (other than functions of the Director transferred in accordance with subsection (c)(2) or (d)(2)).

"SEC. 203. Referrals of interagency disagreements by the head of any Federal agency concerning proposed major Federal actions significantly affecting the quality of the human environment under section 102(2)(C) or concerning matters under section 309(b) of the Clean Air Act shall be made to the Office for mediation and, as appropriate, resolution by the President.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO NEPA.

Sections 203, 205, 207, and 208 of the National Environmental Policy Act of 1969, as in effect on the date of enactment of this Act, are redesignated in order as sections 204, 205, 206, and 207, respectively; such sections are each amended by striking "Council" and inserting "Office" each place it appears; and section 206 of such Act, as in effect on the day before the date of the enactment of this Act, is repealed.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS TO THE ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970.

The Environmental Quality Improvement Act of 1970 (42 U.S.C. 4372 et seq.) is amended—

(1) in section 202(c) by—

(A) striking "The purposes" and all that follows through "(1) to" and inserting "the purpose of this title is to"; and

(B) striking "; and" and all that follows through the end of the section and inserting a period;

(2) in section 203, by striking subsections (a) through (d) and the designation for subsection (e);

(3) by striking sections 204 and 205;

(4) in section 206(a), by striking "Office of Environmental Quality Management Fund" and inserting "Office of National Environmental Policy Act Compliance Management Fund";

(5) by redesignating section 206 as section 204; and

(6) by adding at the end the following:

"DEFINITIONS

"SEC. 205. In this title, each of the terms 'Director' and 'Office' has the meaning given that term in section 3 of the National Environmental Policy Act of 1969.".

SEC. 5. ASSISTANCE FOR OFFICE OF NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE.

The National Environmental Policy Act of 1969 (as amended by section 3) is amended by inserting after section 207 the following:

"SEC. 208. To assist in the timely performance of the functions of the Office, the Director may utilize personnel or otherwise obtain assistance from other entities in the Executive Office of the President or other Federal agencies, by mutual consent with the heads of those entities or agencies, to assist the Director in performing the functions of the Office.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 209 of the National Environmental Policy Act of 1969 is amended to read as follows:

"SEC. 209. (a) There are authorized to be appropriated to the Director to carry out the functions of the Director under this or any other Act—

"(1) $1,000,000 for fiscal year 1994;

"(2) $1,100,000 for fiscal year 1995;

"(3) $1,200,000 for fiscal year 1996; and

"(4) $1,400,000 for fiscal year 1997.

"(b) Amounts appropriated to, or available for the use of, the Office or the Director shall remain available until expended.".

SEC. 7. DEFINITIONS.

The National Environmental Policy Act of 1969 is amended by inserting after section 2 (42 U.S.C. 4321) the following:

"SEC. 3. In this Act:

"(1) The term 'Director' means the Director of the Office of National Environmental Policy Act Compliance appointed under section 201(b).

"(2) The term 'Fund' means the Office of National Environmental Policy Act Compliance Management Fund established by section 204 of the Environmental Quality Improvement Act of 1970.

"(3) The term 'Office' means the Office of National Environmental Policy Act Compliance established by section 201(a).".

SEC. 8. TRANSFER OF FUNCTIONS TO SECRETARY OF THE ENVIRONMENT.

(a) TRANSFERS.—There are transferred to the Secretary of the Environment—

(1) the functions of the Council on Environmental Quality under paragraphs (2), (5), (6), and (7) of section 204 of the National Environmental Policy Act of 1969, as in effect on the day before the date of the enactment of this Act; and

(2) the functions of the Chairman of the Council on Environmental Quality (as Director of the Office of Environmental Quality) under paragraphs (3), (4), (6), and (7) of section 203(d) of the Environmental Quality Improvement Act of 1970, as in effect on the day before the date of the enactment of this Act.

(b) CONSTRUCTION.—The functions transferred to the Secretary of the Environment by this section or pursuant to any executive order issued pursuant to amendments made by this Act shall not be construed by anyone to affect, alter, change, or amend any other law or regulation administered by the Secretary or his or her delegate.

(c) ACCOUNTABILITY.—The Secretary of the Environment shall be accountable to the appropriate committees of the Senate and House of Representatives for all functions described in subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary specifically to carry out the functions described in subsection (b) effectively and in a timely manner.

SEC. 9. TERMINATION OF COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY.

(a) TERMINATION.—The Council on Environmental Quality and the Office of Environmental Quality are terminated.

(b) REFERENCES.—Reference to the Council on Environmental Quality, the Office of Environmental Quality, or any officer or employee of that council or that office in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Council on Environmental Quality—

(1) with respect to functions that were vested in that council or office on the day before the date of the enactment of this Act and are vested in the Director of the Office of National Environmental Policy Act Compliance Office by section 202 of the National Environmental Policy Act of 1969, as amended by section 2 of this Act, is deemed to refer to the Director of the Office of National Environmental Policy Act Compliance or to such other official to whom such a function is transferred in accordance with section 202(c)(2) or (d)(2) of that Act, as appropriate; or

(2) with regard to disputes, disagreements, and matters described in sections 202(a)(2) and 203 of that Act, as amended by section 2 of this Act, is deemed to refer to the Director of the Office of National Environmental Policy Act Compliance or to that office, as appropriate.

(c) SAVINGS PROVISIONS.—

(1) CONTINUATION OF ORDERS, ETC.—All orders, determinations, rules, regulations, agreements, grants, contracts, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, the Council on Environmental Quality, or the Office of Environmental Quality, in the performance of functions of the Council on Environmental Quality or the Office of Environmental Quality, or by a court of competent jurisdiction with respect to those functions, and

(B) which are in effect on the date of the enactment of this Act, or were final before that date of enactment and are to become effective on or after that date of enactment,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Office of National Environmental Policy Act Compliance, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) CONTINUATION OF PROCEEDINGS AND APPLICATIONS.—The provisions of this Act shall not affect any proceedings pending before the Council on Environmental Quality on the date of the enactment of this Act, but such proceedings shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(4) SUITS INVOLVING COUNCIL OR OFFICE.—No suit, action, or other proceeding commenced by or against the Council on Environmental Quality or the Office of Environmental Quality, or by or against any individual in the official capacity of such individual as an officer or employee of the Council or that Office, shall abate by reason of the enactment of this Act.

(5) RULEMAKING.—Any administrative action relating to the preparation or promulgation of a regulation by the Council on Environmental Quality shall be continued by the Director of the Office of National Environmental Policy Act Compliance or the President with the same effect as if this Act had not been enacted.

(6) ASSETS AND INTERESTS.—The contracts, liabilities, records, property, and other assets and interests of the Council on Environmental Quality and the Office of Environmental Quality shall, on and after the date of the enactment of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Office of National Environmental Policy Act Compliance.

(d) CONTINUING AVAILABILITY OF AMOUNTS.—Amounts available to the Council on Environmental Quality on the date of the enactment of this Act shall be available for use by the Director of the Office of National Environmental Policy Act Compliance.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is amended—

(1) in section 2 (42 U.S.C. 4321)—

(A) by inserting "and" after "man;"; and

(B) by striking "Nation;" and all that follows through the end of the section and inserting "Nation.";

(2) by striking "Council on Environmental Quality" each place that term appears and inserting "Director";

(3) in section 102(2)(B) (42 U.S.C. 4332(2)(B)) by striking "established by title II of this Act";

(4) in section 102(2)(G) (42 U.S.C. 4332(2)(G)) by inserting "and" after the semicolon;

(5) in section 102(2)(H) (42 U.S.C. 4332(2)(H)) by striking "; and" and inserting a period;

(6) by striking section 102(2)(I) (42 U.S.C. 4332(2)(I));

(7) in section 205(1) (42 U.S.C. 4345(1)) by striking "the Citizen's" and all that follows through "and with"; and

(8) in section 205(2) (42 U.S.C. 4345(2)) by striking "the Council's" and inserting "the Office's".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognized the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just alert our colleagues that the gentleman from Texas [Mr. FIELDS] and myself have agreed to move with considerable speed here because of the time constraints on the House.

Mr. Speaker, H.R. 3512, reflects an agreement reached with the administration with respect to the issue of what institution will replace the Council on Environmental Quality [CEQ] and the Office on Environmental Quality to implement one of our more sacred environmental laws, the National Environmental Policy Act [NEPA] of 1969.

I should note that, in my discussions with the administration, I have been assisted by one of the ablest Members of the House. When he was a member of the Merchant Marine and Fisheries Committee and the chairman of the Fisheries and Wildlife Subcommittee our esteemed colleague, JOHN DINGELL, was responsible, along with Senator "Scoop" Jackson and others, for the enactment of NEPA and the establishment of CEQ. Chairman DINGELL has been extremely helpful in our negotiations with the administration and in reaching the agreement contained in this bill and I would like to take this opportunity to express my appreciation to him.

At the request of the administration, this agreement was going to be offered on the floor as an amendment to H.R. 3425, the EPA cabinet bill, and become part of the conference committee deliberations with the Senate on that legislation.

However, my amendment was determined to be nongermane to the EPA bill and the Rules Committee did not make it in order. When I was informed of that action by the Rules Committee, I decided that the CEQ bill should move under regular order and on an independent trade because we must resolve the issue of which institution is going to continue the implementation of NEPA. This bill was marked up and ordered reported on a voice vote, without amendment, by the committee 2 days ago and I am pleased to be able to bring it before the House today.

In a nutshell, this bill abolishes the CEQ and OEQ and replaces them with the substantially smaller Office of NEPA Compliance in the Executive Office of the President.

In part, this reduction in office size reflects the repeal of the requirement for the mammoth annual CEQ report, the transfer of a number of functions in existing law to the new Department of Environmental Protection—when that legislation is enacted—the opportunity for the President to assign even further environmental functions to other units in the Executive Office of the President, and the streamlining of the mission of the new office to fewer, but critically important, core NEPA functions.

I want to make it clear that we are not in any way expanding the existing NEPA-related authorities of CEQ by creating the new office and we are not amending title I of NEPA dealing with the content of, or the procedures to follow with respect to, environmental impact statements.

The responsibilities of the new office are based on the accepted and historical practice of CEQ in implementing NEPA. These include authority to promulgate NEPA regulations, oversee agency compliance with the act, and mediate interagency disputes. These functions are based on present authority in law, executive orders, existing

CEQ regulations, or by established CEQ practice.

As to the matters that are delegated to the EPA under the bill, I point out that the legislation makes it clear that this delegation is not designed to enhance in any way or change the various statutory authorities currently administered by the EPA. It does not give EPA new powers relative to those authorities, nor does it weaken those authorities. The EPA cannot use these delegations to expand their authorities. In short, the delegation is solely for the purposes of carrying out the specific requirements of NEPA in the 1970 legislation.

The legislation includes, at Mr. DINGELL's urging, provisions regarding independent regulatory agencies. These provisions are designed to ensure that we do not in any way change or affect the independence of these agencies under existing law. It is not to be used by the executive branch as a means or measure to control or affect these agencies under existing law.

This bill protects the integrity of NEPA, addresses the issues that Chairman DINGELL and I raised with the White House and, at the same time, provides the Administration with broad discretion for environmental policy development in the White House and a more tightly structured office to focus on NEPA compliance.

I urge the support of the House for this important legislation and I reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3512, the National Environmental Policy Act [NEPA] Administrative Reorganization Amendments of 1993.

The Council on Environmental Quality [CEQ], which was established in 1969, has provided valuable services to the Government. It has advised Presidents on environmental issues, and has coordinated environmental policy among various Federal agencies. I regretted to learn that President Clinton recommended the abolishment of the CEQ, and am pleased that we are acting today to adopt this legislation.

While the bill abolishes the Council on Environmental Quality, it transfers many of its duties and functions to a new office entitled the Office of NEPA Compliance. In addition, the bill gives the President the option of transferring certain of CEQ's functions to other Federal agencies.

Mr. Speaker, I believe that this bill will save money while at the same time ensuring that these responsibilities are carried out in a coordinated and efficient manner. I urge my colleagues to support this important bill.

Mr. STUDDS. Mr. Speaker, I have no requests for time.

Mr. FIELDS of Texas. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3512.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

FOUNTAIN DARTER CAPTIVE PROPAGATION RESEARCH ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3402) to establish a fountain darter captive propagation research program, as amended.

The Clerk read as follows:

H.R. 3402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Fountain Darter Captive Propagation Research Act of 1993".

SEC. 2. FOUNTAIN DARTER CAPTIVE PROPAGATION RESEARCH.

(a) ESTABLISHMENT—The Secretary of the Department of the Interior shall establish a fountain darter captive propagation research program.

(b) PROGRAM.—The Program shall—

(1) be operated in a manner that is consistent with the goals, priorities, and policies set forth in the San Marcos Recovery Plan for San Marcos River endangered and threatened species;

(2) conduct research to establish and maintain a fountain darter captive broodstock population at the San Marcos National Fish Hatchery and Technology Center for the propagation and production of offspring to be used in the recovery of this endangered species; and

(3) establish a cooperative research effort at Texas A&M University to assist in the recovery effort for this endangered species.

(c) AUTHORIZATION OF APPROPRIATIONS—There are authorized to be appropriated annually to the Secretary of the Department of the Interior $1 million to conduct the Program for a five-year period beginning in Fiscal Year 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3402, the Fountain Darter Captive Propagation Research Act of 1993, introduced by Mr. FIELDS, authorizes a captive breeding research program for the endangered fountain darter of the San Marcos River in Texas. The bill has been amended to ensure that the fountain darter program will be conducted consistent with the goals of the recovery plan developed by the Department of the Interior.

The bill, as reported by the Committee on Merchant Marine and Fisheries has strong bipartisan support, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3402. As the author of this legislation, I am pleased that we are acting on this bill to require the Secretary of Interior to conduct research to help save the fountain darter.

The purpose of this bill is threefold. First, it calls for a captive population of fountain darters, an endangered species, to be established, maintained, and propagated at the San Marcos National Fish Hatchery and Technology Center in San Marcos, TX. Second, it requires research, aimed at recovery of this species, to be undertaken cooperatively with Texas A&M University. And finally, it authorizes funds to the Department of the Interior to support this biological research program.

Mr. Speaker, I do not want to take a lot of time debating the merits of saving a 1-inch fish. The Committee on Merchant Marine and Fisheries has already discussed at great length the tremendous pressure, chaos, and economic uncertainty that the fountain darter has brought to millions of Texans in the San Antonio region. In fact, in July of this year, our committee conducted two oversight hearings in San Marcos and San Antonio, TX, on the Endangered Species Act. At that time, there was extensive testimony on the fountain darter and the need to develop a comprehensive plan to propagate this species.

In 1985, when the Fish and Wildlife Service published its recovery plan for the San Marcos River, it specifically called for the establishment of a captive group of fountain darters which could be reintroduced into either the San Marcos or Comal Springs should this habitat dry up in the future. The bill before us requires that this research effort will be operated in a manner consistent with the approved San Marcos River recovery plan.

Mr. Speaker, captive propagation is an innovative technique that has been successfully used in the recovery of other endangered species such as whooping cranes, California condors, and, most recently, the black-footed ferret.

The San Marcos National Fish Hatchery has the expertise to examine new research methods and techniques to help in the recovery of this endangered fish. Texas A&M University's fishery program is also ideally suited to assist in these recovery efforts to make the fountain darter one of the most prolific species on earth.

Mr. Speaker, this bill, which authorizes $1 million for the program for a 5-year period beginning in fiscal year 1994, is a modest attempt to address the problems of one of our endangered species. I would hope my colleagues would support this important legislation.

Mr. Speaker, I urge adoption of the bill.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1450

WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK PROGRAM ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2457) to direct the Secretary of the Interior to conduct a salmon captive broodstock program, as amended.

The Clerk read as follows:

H.R. 2457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Winter Run Chinook Salmon Captive Broodstock Act of 1993."

SEC. 2. ESTABLISHMENT OF SALMON CAPTIVE BROODSTOCK PROGRAM.

(a) IN GENERAL.—Subject to subsection (d), the Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall conduct in accordance with this section a salmon captive broodstock program (hereinafter in this section referred to as the "Program").

(b) PROGRAM.—The program shall be carried out in a manner that is consistent with the goals, priorities, and policies set forth in any recovery plan for winter run Chinook salmon in the Sacramento River developed by the National Marine Fisheries Service under the Endangered Species Act of 1973, and with findings of consultations regarding that population of salmon carried out pursuant to section 7 of that Act.

(c) CONSULTATION.—The Secretary shall consult with the Winter Run Chinook Salmon Captive Broodstock Committee (a committee identified in the document entitled "Biological Assessment on the Effects of Coleman National Fish Hatchery Operations on Winter Run Chinook Salmon", prepared by the United States Fish and Wildlife Service) in making management decisions regarding the Program.

(d) STATE MATCHING.—The Secretary may not implement this section unless not less than 20 percent of amounts necessary to conduct the Program are provided by non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to conduct the Program $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993, was introduced by Congresswoman NANCY PELOSI, and several of her California colleagues. Last year, the Committee on Merchant Marine and Fisheries worked with the Natural Resources Committee and the California delegation on the Central Valley Project Improvement Act. This bill will further those efforts to ensure the recovery of endangered salmon in California.

This bill authorizes the Secretary of the Interior to establish a captive broodstock program for the only chinook salmon stock that spawns in the winter on the west coast. The program must be consistent with the goals of the endangered species recovery plan for the winter run chinook and at least 20 percent of funds necessary to run it must come from non-Federal sources.

The administration had some concerns with the bill as introduced. The committee has addressed those issues and the bill now enjoys the support of the Interior Department and the fishing industry and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2457, a bill introduced by Congresswoman NANCY PELOSI of California. This bill would direct the Secretary of the Interior to conduct a captive broodstock program to help in the recovery of the endangered winter-run chinook salmon of the Sacramento River.

The National Marine Fisheries Service has been involved with this effort over the last 2 years, and this bill would provide additional assistance for that program.

The bill was amended by the Committee on Merchant Marine and Fisheries to require that the program be operated in a manner consistent with the goals, priorities, and policies set forth in the recovery plan currently being developed for the species.

Mr. Speaker, I support adoption of this bill because it provides an innovative approach to help increase the population of this important endangered species.

Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 15 seconds to the distinguished gentlewoman from California [Ms. PELOSI], the author of the bill.

Ms. PELOSI. Mr. Speaker, the chairman of the Merchant Marine and Fisheries Committee, Mr. STUDDS, has made it possible to bring H.R. 2457 to the floor in a timely manner and I appreciate his efforts and the work of the committee on behalf of preserving the winter run chinook salmon species.

I also appreciate the support of Representatives HAMBURG, MILLER, and FAZIO, who were early supporters of the initiative to protect this important west coast resource.

We have a serious problem in our region that encompasses the many different animals, plants, fish, rivers and streams that make up a complex, interdependent ecosystem throughout the bay-delta estuary. These problems need to be treated with a comprehensive, coordinated effort that aligns the policies of the various Federal and State agencies involved. The winter run chinook salmon captive broodstock program is an example of just such an effort.

The program outlined in H.R. 2457 will allow us to learn more about the science behind the winter run chinook salmon and to use the information in our future endeavors to preserve the species. Its purpose is to genetically preserve the species by supplementing the natural population, and as part of a comprehensive and cooperative effort, to restore water quality and a habitat that can support the natural wildlife of the region.

In 1969, this species numbered more than 100,000 fish and enjoyed spawning grounds far upstream and flourished in a relatively healthy ecosystem. This has all changed and the chinook spawning population declined to 191 fish in 1991. The 1992 count represents only 1 percent of the species level in 1969.

The captive salmon broodstock program is already underway. As of September 1992, 1,000 juvenile salmon are being raised in captivity for 3 years until maturity when they will be spawned and their progeny fish will then be returned to the wild. The program has a 10-year life span, hopefully, enough time so that habitat conditions can be sufficiently improved and the population can thrive once again.

H.R. 2457 provides for an initial 5-year program so that it can be reviewed at midpoint to determine its effectiveness. As the chairmen mentioned, the program is a cooperative effort, and is supported by the Department of the Interior, National Marine Fisheries Service, U.S. Fish and Wildlife Service, Pacific Coast Federation of Fishermen's Associations, California Department of Fish and Game, California Department of Natural Resources, U.S. Bureau of Reclamation, California Water Commission, Golden Gate Sportsfisherman's Association, University of California, and the California Academy of Sciences.

Certain modifications were made to H.R. 2457 during consideration by the committee, which reflect concerns raised by the administration. I will reemphasize for the record that this program is to be in conjunction and consistent with the overall recovery plan for the species.

Species protection must be a priority for all of us in a worldwide effort to maintain biodiversity. Habitat restoration and captive breeding programs are critical to achieving this priority. The winter run chinook salmon captive breeding program is one way to make a contribution to the preservation and restoration of this species in the San Francisco Bay-Delta region. It is a genetic insurance policy.

I urge my colleagues to support H.R. 2457 and to vote in favor of protecting this vanishing species.

Mr. STUDDS. Mr. Speaker, I yield 15 seconds to the gentleman from California [Mr. HAMBURG], the coauthor of the bill.

Mr. HAMBURG. Mr. Speaker, I rise in strong support of H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993.

The Sacramento River winter run chinook salmon is listed as threatened under the Endangered Species Act. Listing of the winter run and other Pacific salmon stocks have resulted in devastating impacts to the coastal economics of northern California and the Pacific Northwest.

This captive broodstock program is a preventive measure to help restore these fish so that further fisheries closures and damage to our economy can be avoided. However, captive rearing must never become a substitute for recovery of a species in the wild. Restoration of the decimated Sacramento River ecosystem so these fish can once again thrive in their natural environment must continue to be our highest priority and obligation.

The winter run is only one sad participant in a tragic procession of imperiled salmon. More than 100 stocks are already extinct; an additional 214 are at risk of extinction.

The salmon fishery is as threatened as the fish which are its lifeblood. This industry, once worth billions of dollars to northern California and the Pacific Northwest, has been decimated. Coastal communities and their people who have depended on these fish for generations, suffer devastating economic and social pain.

H.R. 2457 is just one of many steps we must take in developing a comprehensive national strategy to rebuild this vital natural resource. Salmon have provided human beings with spiritual and physical sustenance for 10,000 years. Our generation must not be the last to enjoy these gifts.

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act.

Mr. Speaker, with all the talk about the environmental trainwrecks associated with the Endangered Species Act, it is time for a much needed success story.

How do we define success under the Endangered Species Act? Quite simply, success is the recovery and delisting of the species.

When the winter run salmon was listed as a threatened species, the Federal Government immediately began the task of putting together a recovery plan to prevent the extinction of the species and the accompanying economic dislocation. The winter run recovery plan is a multifaceted program with both short-term and long-term goals.

The short-term goal is to stop the continued decline of the salmon runs. Toward that end, we have begun an aggressive recovery program that includes initiatives like the screening of water intake pipes and operating pumps to mitigate adverse impacts during critical salmon migration periods.

In looking to solve the long-term loss of the species, the recovery efforts also include initiatives like the Shasta Temperature Control device, a modification of an existing dam that allows for releases of colder water during critical periods in the life-cycle of the salmon. The winter run recovery plan includes upgrading facilities at existing fish hatcheries to improve artificial propagation of the species. These improvements in fish propagation are all part of a concerted, multi-faceted effort to bring back the winter run salmon.

The captive broodstock program is an important part of this overall, coordinated effort to finally have a successful recovery of a species listed as threatened under the Endangered Species Act. The legislation has been the focal point of an impressive and somewhat unexpected alliance made up of farmers, fishermen, environmentalists, and economists. This group has been brought together because they believe that the captive broodstock program will play a crucial role in bringing back the salmon.

At the most basic level, the broodstock project will serve as an insurance policy of sorts by protecting and preserving the genetic material of the winter run salmon in a captive setting. The captive salmon give our biologists a protected gene pool that is insulated from events that might affect the native river runs. The captive program will buy time to find solutions to reverse the loss the species.

Beyond the benefits of the captive program, the broodstock project will help supplement the native run by providing a source of eggs for fish hatcheries. We are looking to this program to provide us with answers about how we can augment and strengthen the wild run with artificial propagation of salmon. The answers we find by studying the captive salmon have the potential to help us with captive breeding programs for other threatened or endangered species.

This legislation is more than a symbolic effort to protect the species. The captive broodstock program is about preserving our options and maximizing the chances of full recovery of the winter run salmon. More importantly, the broodstock plan is part of our overall efforts to finally have that much-needs and far too elusive success story under the Endangered Species Act.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2457, as amended.

The question was taken.

Mr. STUDDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MERCHANT MARINE MEMORIAL ENHANCEMENT ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 58) to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations, as amended.

The Clerk read as follows:

H.R. 58

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Merchant Marine Memorial Enhancement Act of 1993".

SEC. 2. CONVEYANCE VESSELS.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in 2 vessels described in subsection (b) to any nonprofit organization which in operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

(b) VESSELS DESCRIBED.—Vessels which may be conveyed under subsection (a) are vessels which—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to scrapped.

(c) CONDITIONS OF CONVEYANCE.—As a condition of conveying any vessel to an organization under subsection (a), the Secretary shall require that before the date of the conveyance the organization enter into an agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purposes of refurbishing and making seaworthy a Liberty Ship or Victory Ship which the organization maintains as a memorial to merchant mariners, to enable the ship to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) which are not used in accordance with paragraph (2).

(d) DEPOSIT OF AMOUNTS RETURNED.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund created by the Act of June 2, 1951 (65 Stat. 59; 46 App. U.S.C. 1241a).

(e) DELIVERY OF VESSELS.—The Secretary shall deliver each vessel conveyed under this section —

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary;

(2) in its condition on that date; and

(3) without cost to the Government.

(f) EXPIRATION OF AUTHORITY TO CONVEY.—The authority of the Secretary under this section to convey vessels shall expire on the date that is 2 years after the date of the enactment of this Act.

SEC. 3. DOCUMENTATION OF VESSELS.

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the following vessels:

(1) ABORIGINAL (United States official number 942118).

(2) AFTERSAIL (United States official number 689427).

(3) ALEXANDRIA (United States official number 586490).

(4) AMANDA (Michigan registration number MC–1125–FR).

(5) ARBITRAGE II (United States official number 962861).

(6) ARIEL (United States official number 954762).

(7) BRANDARIS (former United States official number 263174).

(8) COMPASS ROSE (United States official number 695865).

(9) DIXIE (United States official number 513159).

(10) ELISSA (United States official number 697285).

(11) EMERALD PRINCESS (former United States official number 530095).

(12) ENTERPRISE (United States official number 692956).

(13) EUROPA STAR (former United States official number 588270).

(14) EUROPA SUN (former United States official number 596656).

(15) GAZELA OF PHILADELPHIA (Pennsylvania registration number PA–4339–AF).

(16) GRAY (Connecticut registration number CT–5944–AJ).

(17) GRIZZLY PROCESSOR (Canadian official number 369183).

(18) GUSTO (United States official number 624951).

(19) GYPSY COWBOY (United States official number 550771).

(20) IMPATIENT LADY (United States official number 553952).

(21) ISLAND GIRL (United States official number 674840).

(22) JULIET (Michigan registration number MC–1669–LM).

(23) KALENA (Hawaii registration number HA–1923–E).

(24) LAURISA (United States official number 924052).

(25) LIBBY ROSE (United States official number 236976).

(26) LISERON (United States official number 971339).

(27) MARINE STAR (United States official number 248329).

(28) MARINER (United States official number 285452).

(29) MARY B (Kentucky registration number KY–0098–HX).

(30) MOONSHINE (United States official number 974226).

(31) MYSTIQUE (United States official number 921194).

(32) NORTHERN LIGHT (United States official number 237510).

(33) PAI NUI (HAWAII registration number HA–6949–D).

(34) PANDACEA (United States official number 665892).

(35) PELICAN (United States official number 234959).

(36) PLAY PRETTY (United States official number 975346).

(37) PRINCE OF TIDES II (United States official number 903858).

(38) RBOAT (United States official number 563955).

(39) SABLE (Massachusetts registration number MS–1841–AM).

(40) SERENA (United States official number 965317).

(41) SHILOH (United States official number 902675).

(42) SIDEWINDER (United States official number 991719).

(43) SWELL DANCER (United States official number 622046).

(44) TESSA (United States official number 675130).

(45) TOP DUCK (United States official number 990973).

(46) VIKING (United States official number 286080).

(47) WHIT CON TIKI (United States official number 663923).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) or any other law restricting a foreign-flag vessel from operating in the coastwise trade, the foreign-flag vessel H851 may engage in the coastwise trade to transport an offshore drilling platform jacket from a place near Aransas Pass, Texas, to a site on the Outer Continental Shelf known as Viosca Knoll 989.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise and Great Lakes endorsement for the vessels LADY CHARL II (United States official number 541399) and LINETTE (United States official number 654318).

(d) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V TWIN DRILL (Panama official number 8536–PEXT–2) if—

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than 3 times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995;

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract, which vessel shall also be documented under chapter 121 of title 46, United States Code.

(e) Notwithstanding sections 12106 and 12108 of title 46, United States Code, the Act of June 19, 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation with a coastwise and fishery endorsement for the vessel REEL CLASS (Hawaii registration number HA–6566–E).

(f) Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a fishery endorsement for the vessel DA WARRIOR (United States official number 962231).

(g) Notwithstanding any other law or any agreement with the United States Government, the vessels UST ATLANTIC (United States official number 601437) and UST PACIFIC (United States official number 613131) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(h) Notwithstanding any other law, the vessel AMY CHOUEST (United States official number 995631) is deemed to be less than 500 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of the maritime laws of the United States.

SEC. 4. NAUTICAL CHARTING AND MARINE SAFETY IMPROVEMENTS.

No later than 180 days after the date of enactment of this Act, the Secretary of Commerce may deploy a Physical Ocean Real-Time System consisting, at a minimum, of current, wind, tide, salinity, and water level measuring devices and necessary computer links, in Galveston Bay and the Houston Ship Channel.

SEC. 5. PILOT PROGRAM ON SEALIFT TRAINING.

The Secretary of Transportation shall establish a 3-year pilot program for Sealift Training at the Massachusetts Maritime Academy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993, was introduced by the gentlewoman from Maryland [Mrs. BENTLEY] to require the transfer of six vessels in the National Defense Reserve Fleet to three nonprofit organizations. These organizations will scrap these vessels and use the proceeds to refurbish three merchant marine memorial ships so that they may take part in the ceremony commemorating the 50th anniversary of the invasion of Normandy on June 6, 1994.

Merchant marine veterans and volunteers have already spent a significant amount of time and effort readying the three memorial ships—the *Jeremiah O'Brien*, the *John W. Brown*, and the *Lane Victory*—for the trip. However, without some type of Government assistance, it is unlikely that these ships can be made seaworthy.

The U.S. merchant marine played a pivotal role in our victory in World War II; without it, there could not have been a successful invasion of Normandy. The contributions of our merchant mariners deserve recognition. This effort deserves our help.

In addition, Mr. Speaker, the committee amendment contains a number of private bills, including waivers of the Jones Act, which the committee believes merit these exemptions.

Finally, the committee's bill includes authorization for an innovative Sealift Training Program at the Massachusetts Maritime Academy, and a demonstration project for a real-time tidal datum system which will help prevent accidents in the busy Houston ship channel.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in strong support of H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993. As a cosponsor of this legislation, which was introduced by our colleague, the Honorable HELEN BENTLEY, it is an honor to join with the other members of the Merchant Marine and Fisheries Committee to bring this bill to the floor of the House of Representatives.

This legislation would transfer six obsolete Government-owned vessels to three merchant marine organizations, which will scrap them in order to obtain money to refurbish three World War II vintage cargo ships, the *S.S. John W. Brown*, the *S.S. Jeremiah O'Brien*, and the *S.S. Lane Victory*. These restored, surviving ships have been invited to represent the wartime American merchant marine at the 50th anniversary ceremonies on June 6, 1994 Commission, commemorating the Allied landing at the beaches of Normandy.

Some of our colleagues may not know that the *S.S. John W. Brown* was saved from the scrap heap as a result of legislation approved by Congress in 1983. That legislation, enacted as Public Law 98-133, was originally introduced by our former colleague, the Honorable Mario Biaggi.

Similarly, the *S.S. Lane Victory* was preserved as a result of legislation introduced by another former colleague, the Honorable Glenn Anderson, that was enacted as Private Law 100-21.

Thousands of hours of volunteer labor have gone into the renovation of the three ships, but the riveting, welding, and dry-dock work needed to assure the integrity of the vessels' hulls is beyond the ability of the volunteer workers. The money to be raised by the scrapping of the six older vessels is to be used to pay for this type of highly skilled and most demanding shipyard repair work.

H.R. 58 is a bill that the Members of the House can view as one small effort to contribute toward the national celebration of the 50th anniversary of the liberation of Europe. It can be our way of paying tribute to the thousands of American merchant seamen who ensured the ultimate victory in World War II through their heroic service as part of our sealift effort. As has been said many times, it was the performance of our merchant marine that contributed directly to the successful outcome of that war.

We know that 168,000 merchant seamen helped to deliver troops and war material to every Allied invasion site from Guadalcanal to Omaha Beach. Gen. Douglas MacArthur said that "the merchant seamen participating in the liberation of the Philippines shared the heaviest enemy fire. They contributed tremendously to our success."

The price our merchant marine paid to keep us free was heavy: 569 U.S. merchant ships were destroyed; 6,632 seamen were killed; and 609 merchant mariners were taken as prisoners of war.

Indeed, the casualty rate for merchant seamen was second only to that of the U.S. Marine Corps during World War II.

In recognition of their efforts, President Roosevelt noted that they were men who "returned to their jobs at sea again and again, because they realized that the lifelines to our battlefronts would be broken if they did not carry out their vital part in this global war." Despite President Eisenhower's stated hope that America's merchant mariners' efforts in the war would long be remembered, the contributions made to winning the war by these brave men was all too readily forgotten. We can help correct history with the passage of this legislation.

This bill needs to be enacted quickly to assure the renovation of these three ships in a timely fashion, so they may participate in next year's celebrations.

Mr. Speaker, this legislation also includes waivers of the Jones Act for a number of small vessels to allow the owners to use the boats in our domestic commercial trade. The Merchant Marine and Fisheries Committee has carefully scrutinized each application for a waiver and we are satisfied that they are justified.

Mr. Speaker, again, I want to compliment our distinguished colleague, HELEN BENTLEY, for her tireless commitment on behalf of the forgotten patriots of America's World War II merchant marine.

I urge the overwhelming adoption of this bill and reserve the balance of my time.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, H.R. 58 is a noncontroversial piece of legislation which is important to many American veterans across the country and I want to thank the Merchant Marine and Fisheries Committee leadership—Chairman STUDDS, Representatives FIELDS, LIPINSKI, and BATEMAN—for helping to bring this legislation to the floor. Merchant Marine and Fisheries Committee members and staff all share a cordial, bipartisan relationship which is unmatched in Congress.

Like the struggle to rid Europe of Nazi tyranny during the Second World War, the endeavor to guide H.R. 58 through this legislative maze we call the House of Representatives was an allied effort and I again thank the committee for their assistance and bipartisan team work.

Mr. Speaker, H.R. 58 is aimed at assisting three historic World War II *Liberty/Victory*-class ships—the SS *John W. Brown* of Baltimore, the SS *Jeremiah O'Brien* of San Francisco, and the SS *Lane Victory* of San Pedro, CA—to serve rightfully as the centerpiece of America's contribution to the magnificent commemorative celebration that will mark the 50th anniversary of "D-Day" at Normandy, France, on June 6, 1994.

It is only fitting, Mr. Speaker, that with the thousands of veterans in attendance, representatives of the once 3,300 strong *Liberty* and *Victory* class merchant fleet, built between 1941 to 1945, and which so proudly transported the fighting men of America to the beaches of northern France be included.

During World War II, the U.S. Merchant Marine suffered the greatest casualty rate, second only to the U.S. Marine Corps. More than 200 *Liberty* and *Victory* ships were sunk and hundreds of Merchant Mariners and Navy armed guard crewmen aboard were killed. In fact, without these *Liberty* and *Victory* ships, including those who served aboard them, there probably would have never been a Normandy invasion—nor a victory in World War II.

With this in mind, Mr. Speaker, H.R. 58 authorizes the transfer of two obsolete vessels in the National Defense Reserve Fleet [NDRF] to each organization which maintains and operates one of these World War II merchant ships. These organizations, in turn, will scrap and sell their NDRF ships and use the proceeds to refurbish each historic treasure in order that she will be made seaworthy for the trans-Atlantic voyage to Normandy. Each will be manned by crews of volunteers, many of whom have contributed tens of thousands of volunteer hours restoring the interiors of these vessels.

In conclusion, Mr. Speaker, let me stress that this is a superb way to pay homage to the millions of Americans who did their part for the liberation of Europe during the Second World War.

For the RECORD I include the following articles:

ACTION ON THE NORTH ATLANTIC—1994—THE NORMANDY CONVOY

D-DAY

The greatest armada in history was assembled by the Allies in June of 1944, as they breached Hitler's Atlantic Wall. Never again will the world see such a gathering of ships!

Soon in commemoration of the 50th Anniversary of this great Allied Victory, a magnificent celebration will be held on the beaches of Normandy.

As a part of that celebration, the volunteer crews of the three living, steaming, World War II Merchant Marine Memorials, S.S. JOHN W. BROWN, S.S. JEREMIAH O'BRIEN and S.S. LANE VICTORY, are planning a voyage, in convoy, to Europe and the invasion beaches.

This "Last World War II Convoy" will commemorate the vital role played by the United States in winning of the War and will help remind the people of Europe that the American Spirit that won the Second World War is still alive!

To help make this voyage a reality you can: Sign on as a volunteer crew member; Become a Corporate Sponsor, earning an opportunity to showcase your company's products aboard the vessels as they tour Europe after the Normandy Commemoration; Support the effort with your contribution.

THE NORMANDY COMMEMORATION

The activities surrounding the commemoration of D-Day are one of the most significant of the entire series of WW II 50th anniversary ceremonies. Thousands of people will be travelling to England and France to participate in these activities, including the heads of state from all the Allied countries. D-Day was the most important invasion of the entire war and the commemoration is being planned accordingly.

Hundreds of Liberty and Victory Ships participated in the Normandy Invasion and the build-up of supplies that led to it. Without the vast armada of merchant ships that carried the cargo across the Atlantic, there could have been no invasion. One of the three historic ships, JEREMIAH O'BRIEN, was herself a participant in the invasion. She made ten trips across the channel from England to France with thousands of tons of war supplies for American and British troops fighting their way inland.

Many merchant ships were sunk during and after the invasion. A number of damaged Liberty Ships were used to form the "Gooseberry" artificial breakwater that was built off Omaha Beach to shelter the discharging vessels.

The gathering of ships and men at Normandy is far more than a reunion of old sailors. It is a celebration of the American spirit, a demonstration of what Americans can do when the chips are down, proof that we can build things that last and a reminder to our Allies just who it was that won the Second World War.

This trip can focus the eyes of the world on an America in celebration, not a country whose guts are being torn out by drugs, by violence and by economic failure. When the Liberty Ships sailed, the American Spirit rode high. And we can do it again!

The Broomfield-Wyden Bill calling for the scrapping of WW II tonnage allows for the sinking of up to 15 of these ships as artificial fish reefs. The U. S. Treasury certainly nets nothing from the sinking of such ships. Far better to use the proceeds from the scrapping of six of them to enable our merchant marine memorials to represent America off the beaches of France in 1994. Remember that these ships are large, more than 400' long. They have ample display spaces in their 'tween decks that can be used for displays of all kinds. They can be floating goodwill ambassadors for America, promoting our country in any number of possible ways.

SS JOHN W. BROWN SCHEDULED TO MAKE '94 ATLANTIC VOYAGE

(By Paul W. Valentine)

BALTIMORE—The SS John W. Brown, a World War II Liberty ship, rests here, recovering from half a century of use and abuse while hundreds of volunteer workers race to ready it for a 1994 rendezvous with remembrance.

If all goes as organizers hope, the John W. Brown will sail under its own steam to France in spring 1994 to join other craft in observing the 50th anniversary of the Allied invasion of Europe at Normandy.

Dozens of Marylanders who are helping to restore the ship expect to be aboard.

"We're very optimistic we'll make it," said John W. Boylston, president of the Baltimore-based Project Liberty Ship.

Formidable hurdles remain, including raising $2.7 million to finish the restoration work and pay for fuel and food for the 1994 trip.

"This is a herculean feat," he said.

The John W. Brown, named after an early 20th century labor leader, is one of only two Liberty ships remaining from the 2,700-ship fleet of squat 10,500-ton-capacity cargo carriers that were mass-produced in Baltimore and other ports on a crash basis to ferry troops, supplies and equipment to Europe and the Pacific during World War II.

More than 200 were sunk by enemy bombs, mines and torpedoes. Hundreds of U.S. Merchant Marine seamen and Navy armed guard crewmen were killed aboard them.

After the war, most of the remaining Liberty ships were sold for scrap after being mothballed for years in Norfolk.

The other surviving Liberty ship is the SS Jeremiah O'Brien, which has been restored and is now anchored in San Francisco as a museum.

Organizers here have similar long-range plans for the John W. Brown, but for the moment all energies are directed at getting the ship to Europe in 1994.

Much has already been done. The 19-foot-high, 270,000-pound engine is in working order again. The bridge, crew's quarters, galley, gun turrets and other features are being restored to their original appearance.

About 2,000 rivets have been replaced in the Brown's steel bottom, where some corrosion had occurred. But 10,000 still have to be replaced in the 441-foot-long hull before the Brown can be certified by maritime regulators as "ocean-worthy," according to Boylston. It is an expensive task, he said, that requires putting the ship in dry dock.

The interior restoration work—wiring, carpentry, metal work, painting—is done largely by skilled volunteers who have put in more than 150,000 hours since Project Liberty Ship acquired the Brown for free from the Maritime Administration in 1988 after it had been used as a floating high school in New York for more than 30 years.

"I'm having a lot of fun," said Edwin Moran, 74, of Clinton, a retired carpenter who is building walls and oak bunks in the forecastle, where the Navy gunners' living quarters were. The bunks and several of the walls, called bulkheads, had been ripped when it was used as a school. Moran, going by original blueprints and using wood and bronze hardware cannibalized from a junked Liberty ship in Norfolk, is painstakingly restoring the forecastle to its former appearance.

"We're striving for authenticity," said Moran, a former Merchant Marine seaman who drives almost every Wednesday and Saturday from Prince George's County to work on the Brown, moored two miles east of Baltimore's Inner Harbor.

When the restoration is done, he said, the Brown, "will be a living, steaming memorial."

Another feature of the Brown will be an on-board library with more than 1,000 volumes on naval engineering, the Merchant Marine and "pretty much anything to do with World War II," said Dave Aldworth, 55, of Severna Park, a computer consultant and the Brown's librarian.

Boylston, 53, of Solomons, a naval architect, said Project Liberty Ship has about 2,500 members and supporters, of whom about 500 do most of the volunteer work on the ship. The project has raised $1.7 million, most of it in private contributions, since 1988 to help pay for sandblasting, dry dock work and other tasks beyond the ability of the volunteers.

In addition, he said, the project has received an estimated $2.5 million to $3.5 million in "in-kind donations" of engine parts, paint, rope (called "line" in Navy parlance) and other items.

Still, he said, the Brown needs $2.7 million to complete the restoration, meet seaworthiness standards and pay for fuel and food when the ship goes to Europe in 1994. He estimated that fuel alone will cost $7,000,000, noting that the Brown is scheduled to go not only to Normandy but to 42 other European ports in a series of goodwill calls.

In addition to private contributions, Boylston said, Rep. Helen Delich Bentley (R-Md.) is pushing legislation to have two mothballed cargo ships in Norfolk sold for scrap with the proceeds going to the Brown, as well as the Jeremiah O'Brien and a third World War II-vintage cargo craft, the SS Lane Victory, two other ships scheduled to make the 1994 transatlantic voyage.

The legislation not only would bring in an estimated $700,000 for the Brown, Boylston said, but would "give us more credibility" in soliciting loans and private contributions.

He said the project also plans to sell trade show space on board the Brown for U.S. companies to exhibit products as the ship stops at European ports of call after the Normandy observances.

"This is not going to be just an old sailors' romp," Boylston said. ". . . We want to remind the world of the U.S. contribution to the Allied victory in Europe."

HOW WARS ARE WON

(By Jack L. Levin)

On Baltimore's waterfront, the Fairfield section is very quiet now. You can almost hear the summer breeze blowing in from the Patapsco.

Fifty years ago, it was a round-the-clock, seven-days-a-week bedlam of riveting hammers pounding red-hot rivets into steel plates, a cacophony of mechanical hubbub, whistles, fog horns and the yelling and cursing of sweaty workers struggling with unaccustomed tasks—business and professional people developing blisters and callouses on soft, unskilled hands.

One distinctive sound in the din was the wailing ambulance siren as yet another hapless victim was rushed to the infirmary or hospital. Strange, heavy tools became deadly weapons in the clumsily clutches of eager amateurs. In the early days of the war, shipyard casualties rivaled those on the battlefield.

Out of this chaos, in the late fall of 1941, was born at last the first Liberty Ship, the Patrick Henry. It was Fairfield's first response to the arrogance and belligerence of the Axis powers. We who had slogged through a gray, grinding Depression felt our hearts pounding. Until then, our only patriotic excitement had been on the Fourth of July, celebrating the victories of earlier achievers. This was our victory!

This first launching of the ships that would carry the war to America's enemies, and help to finish what they had started, lighted our sky as no fireworks had ever done.

For many of us, the launching was the most memorable event of our routine lives. We wildly cheered the speeches of shipyard officials. We had goose bumps as the skids were knocked out, the first champagne bottle smashed against its bow and the Patrick Henry slid majestically down the greased ways. We forgot the gripes and the pain the rising at 4 a.m., the dashing half asleep to meet our rides, the lunching in the company of rats scurrying under the hulls, the aching joints and muscles, the interminable monotony of seven-day weeks of mind-numbing labor.

But the mounting frequency of exhilarating launchings made it all worthwhile.

Production revved up to overdrive after Pearl Harbor. President Franklin D. Roosevelt, who had called the slow-moving vessels "ugly ducklings," renamed them "Liberty Ships" because he pledged that they would "liberate the world." Our fighters did that job, of course, but our workers surely helped.

Great flocks of the ugly ducklings were born into the waters of the Patapsco. On Sept. 7, 1942, nine months to the day after Pearl Harbor, came the John Brown, which is now on display as a museum ship at a pier on Clinton Street. It was one of 384 Liberty Ships launched at Fairfield—more than any produced at any shipyard in the nation. Altogether, the yards turned out 3,710 ships. build and crewed by civilians, they carried two-thirds of all essential cargo to Allied forces. Nearly 200 were torpedoed by U-boats, but the Nazis could not sink them as fast as we could build them.

It took 42 days to build the John Brown, but by the end of the war Fairfield was mass-producing a ship a week. It was not only Fairfield workers and management who achieved this miracle of productivity; it was also the workers and management at all the industries which supplied the thousands of tons of materials used—from rivets, nuts, bolts and welding rods to heavy steel plates and huge ships' engines.

The only thing we nearly ran out of was names for the ships. John W. Brown was a little-known labor union leader; other uncelebrated civilians had to be dug out of obscurity for moments of glory. But nothing slowed the pace in the 18 yards producing Liberty Ships.

At shipyards like Bethlehem's, at airplane plants like Glenn Martin and in bustling factories from coast to coast, America praised the Lord and passed the ammunition to those fighting in the armies on two sides of the world.

Wages were adequate, not lavish. With shortages and rationing of many commodities, the standard of living was no consumer's paradise. But morale was high; no burnout, no malaise. We were confident of eventual victory. We gave it the highest priority and threw ourselves entirely into the task of waging the war as well on the home front as on the battlefront.

Today, too, as headlines and newscasts keep reminding us, we are at war—against drugs, poverty, hunger, crime, disease and pollution. These enemies lack the personified evil of Hitler, Hirohito and Mussolini, but their threats to our survival are as real. We are good at declaring these wars, but not very good at fighting them. Where are the emergency measures? The War Bonds? The planning of production? The rationing of resources? The setting of priorities in finance, labor and education to assure concentration on winning?

Counting all those, especially children, who are dying of malnutrition, drug overdoses, street violence, AIDS and gun slaughter, American losses in these wars must exceed those in the most destructive war in history.

We won that war by will, determination, steadfast commitment and readiness to pay the price of victory. Only by such unconditional, uncompromising effort can we triumph over present enemies.

In 1992 as in 1942, we can again dream of victory over formidable enemies which threaten not just "them" but also "us."

As Theodor Herzl, the founder of Zionism, said, "If you will, it is no dream."

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993 calls for the transfer of six National Defense Reserve Fleet vessels scheduled for scrapping to three nonprofit organizations which maintain maritime memorials.

The memorials are the *Jeremiah O'Brien,* San Francisco, CA; the *John W. Brown,* Baltimore, MD; and the *Lane Victory,* San Pedro, CA.

These memorial vessels are now being made seaworthy in order to take part in reenactment ceremonies to commemorate the 50th Anniversary of the Invasion of Normandy on June 6, 1994.

Thousands of hours of volunteer labor have gone into renovating the three ships.

But the riveting, welding, and dry-dock work needed to assure the vessels' integrity is beyond the volunteer workers ability.

The money to be raised by the scrapping of six NDRF vessels would be used to pay for this skilled repair work.

The bill requires that proceeds from scrapping the NDRF vessels be used for refurbishing the vessels and that unused proceeds be returned to the Federal Government.

It is important for these vessels to participate in the anniversary ceremonies.

The U.S. Merchant Marine played a pivotal role in our victory in World War II. Without the merchant marine, there could not have been an invasion of Normandy.

It is only fitting that these three memorials represent the hundreds of seamen who lost their lives in the fight for their country.

H.R. 58, as amended also contains several Jones Act waivers for private vessels.

Many of these waivers have already been passed by the House as part of other legislation.

For reasons of hardship or problems with the chain of title, these vessels need to be awarded waivers to operate in U.S. coastwise trade.

The Committee on Merchant Marine and Fisheries has reviewed these bills and reported them favorably.

I urge my colleagues to vote for this legislation.

Ms. HARMAN. Mr. Speaker, during this century's wars, our soldiers crossed the oceans to defend our country in times of need. They traveled those seas on ships operated by the brave civilians of the merchant marine, who often lost their lives on the dangerous oceans of war.

When we entered World War II, our country needed more ships, and we embarked on a magnificent effort to build thousands of vessels to carry materiel and troops to the theaters of war. They were known as liberty and victory ships.

In recent years, nonprofit associations have worked to save three of these ships as National Historical Landmarks so that their contribution to our Nation's history will be preserved. In my district, I am fortunate to have the SS *Lane Victory* built in 1945 and named for a college founded by a former slave in Tennessee. The *Lane Victory* served in W.W. II, then went on to play roles in the Korean and Vietnam wars. On December 5, 1950, the *Lane Victory* rescued over 7,000 Koreans, men, women, and children, from the horrors of war.

More than 100,000 hours have been devoted to restoring the *Lane Victory* by a dedicated group of veterans and enthusiasts. However, the tasks that remain cannot be done by volunteers. H.R. 58 will help these volunteers to restore the *Lane Victory,* the *Jeremiah O'Brien,* and the *John W. Brown,* without an appropriation and without any addition to the national debt. This bill authorizes the transfer of two obsolete vessels in the National Defense Reserve Force to the volunteer groups to be sold for scrap.

We must move quickly on this effort. On June 6, 1994, a multinational celebration of D-day will take place in Normandy, as a way to remember our past and honor those who served our nation in World War II. Our three liberty/victory ships will be the centerpiece of our contribution to that celebration. I urge my colleagues to support our participation in the commemoration of D-day, and to help keep open the liberty/victory ships as continuing memorials to the outstanding contributions made by our merchant marine.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 58, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1250) to amend the coastwise trade laws to clarify their application to certain passenger vessels as amended.

The Clerk read as follows:

H.R. 1250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Flag Passenger Vessel Act of 1993".

SEC. 2. COASTWISE TRANSPORTATION OF PASSENGERS.

(a) IN GENERAL.—Section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS

(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade; and

"(2) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'coastwise trade' includes—

"(A) transportation of a passenger from a place in any State or possession of the United States and returning to that place, if during that transportation no passenger departs from the vessel in a foreign country; and

"(B) transportation of a passenger between points in the United States, either directly or by way of a foreign port; and

"(2) the term 'passenger' does not include a travel agent on a voyage if—

"(A) the purpose of the voyage is to promote future trips on the vessel;

"(B) money is not paid to the vessel owner or charterer for the voyage; and

"(C) the voyage goes beyond the territorial sea of the United States.".

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), an ineligible vessel may engage in transport of passengers in coastwise trade (as those terms are defined in that amendment) on a trade route, if—

(A) The vessel engaged, in the period beginning January 1, 1990, and ending March 9, 1993, in transport of passengers in coastwise trade on that trade route; and

(B) within one year after the date of the enactment of this Act, the owner files with the Secretary of Transportation an affidavit certifying compliance with subparagraph (A) and listing each trade route on which the vessel engaged in transport of passengers in coastwise trade in the period described in subparagraph (A).

(2) SCHEDULED EXPIRATION OF EXCEPTION.—Paragraph (1) does not apply to an ineligible vessel after the later of—

(A) January 1, 2000,

(B) the date that is 15 years after the date of completion of construction of the vessel, or

(C) the date that is 15 years after the date of completion of any major conversion of the vessel that is begun before the date of the enactment of this Act.

(3) EXPIRATION OF EXCEPTION FOR FAILURE TO RECREW.—Paragraph (1) does not apply to an ineligible vessel after the date that is 5 years after the date of the enactment of this Act, unless—

(A) each individual employed on the vessel after the one-year period beginning on the date of the enactment of this Act is either a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

(B) not more than 25 percent of the total number of individuals employed on the vessel after the one-year period beginning on the date of the enactment of this Act are aliens lawfully admitted to the United States for permanent residence.

(4) TERMINATION OF EXCEPTION UPON ENTRY OF REPLACEMENT.—Paragraph (1) does not apply to an ineligible vessel with respect to a trade route after the date of the entry into service on that trade route of an eligible vessel, if—

(A) the eligible vessel has a passenger carrying capacity that is equal to at least 75 percent of the passenger carrying capacity of the ineligible vessel, as determined by the Secretary of the Department in which the Coast Guard is operating;

(B) the person that is the owner or charterer of the eligible vessel submits to the Secretary of Transportation, by not later than 270 days before the date of that entry into service—

(i) a notice of the intent of the person to enter into that service; and

(ii) such evidence as the Secretary may require that the person is offering and advertising that service;

(C) any individual employed on the ineligible vessel after the one-year period beginning on the date of the enactment of this Act—

(i) is not a citizen of the United States; and

(ii) is not an alien lawfully admitted to the United States for permanent residence; and

(D) more than 25 percent of the total number of individuals employed on the ineligible vessel after the one-year period beginning on the date of the enactment of this Act are aliens lawfully admitted to the United States for permanent residence.

(5) TERMINATION OF EXCEPTION UPON SALE OF VESSEL.—Paragraph (1) does not apply to an ineligible vessel after any date on which the vessel is sold after the date of the enactment of this Act.

(6) DEFINITIONS.—In this subsection—

(A) the term "eligible vessel" means a vessel that is eligible under chapter 121 of title 46, United States Code, for a certificate of documentation authorizing the vessel to engage in coastwise trade;

(B) the term "ineligible vessel" means a vessel that is not eligible under chapter 121 of title 46, United States Code, for a certificate of documentation authorizing the vessel to engage in coastwise trade; and

(C) the term "major conversion" has the meaning that term has under section 2101 of title 46, United States Code.

SEC. 3. DOCUMENTATION OF VESSELS.

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) Emerald Princess (former United States official number 530095).

(2) Europa Star (former United States official number 588270).

(3) Europa Sun (former United States official number 596656).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel M/V Helton Voyager (Spanish registration lista 2A-Folio-592) if—

(1) the person documenting the vessel entered a contract before May 21, 1992, to purchase the vessel;

(2) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard under a contract signed before January 1, 1994;

(3) the cost of the major conversion is more than the value of the vessel before the major conversion; and

(4) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before January 1, 1995.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade, for the vessel M/V Twin Drill (Panama official number 8536-PEXT-2) if—

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than 3 times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995; and

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater passenger capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract, which vessel shall also be documented under chapter 121 of title 46, United States Code.

(d)(1) The vessel Star of Texas (Lloyds register number L5103936) may engage in coastwise trade (as defined in section 8(c)(1)(A) of the Act of June 19, 1886, as amended by this Act) out of the Port of Galveston during the 5-year period beginning on the date of the enactment of this Act, if during the period beginning 30 days after that date of enactment and ending 5 years after that date of enactment—

(A) at least 60 employees engaged on the vessel are United States citizens;

(B) of the employees engaged on the vessel who are United States citizens, at least 60 are proficient in lifeboat training, firefighting, and vessel evacuation under standards certified by the United States Coast Guard;

(C) all repairs and alterations to the vessel are done in United States shipyards;

(D) the vessel is a United States documented vessel before the end of that period; and

(E) all other employees are instructed in basic safety techniques.

(2) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, and subject to paragraph (1), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade in the period described in paragraph (1) for a vessel described in that paragraph.

SEC. 4. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—A voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of, respectively, a segment—

"(i) that begins and ends in the same State or possession of the United States;

"(ii) that is part of a voyage to another State or possession of the United States or to a foreign country; and

"(iii) in which the vessel reaches the other State or possession of the United States or the foreign country within 3 days after leaving the State or possession of the United States in which the segment begins.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume. H.R. 1250, the United States-Flag Passenger Vessel Act of 1993 has one overriding purpose: to close a longstanding loophole in our coastwise trade laws. Under present law, a vessel that transports passengers between two points in the United States must fly the U.S. flag, be built in a U.S. shipyard, be owned by U.S. citizens, and be manned by U.S. personnel.

However, under an unusual interpretation by the Customs Service, if a vessel leaves a U.S. port, sails beyond the 3-mile territorial sea, and returns to the original port, then it can be foreign-flag, built in a subsidized foreign shipyard, owned by foreign citizens, and manned by low wage foreign personnel.

This is not only bizarre, but inherently unfair to American workers. The bill before us would make these so-called voyages-to-nowhere subject to our domestic shipping laws as are all other vessels that transport passengers in the United States.

The bill phases-out existing foreign-flag operations to mitigate the effect on the owners of these ships and on our ports which may have terminal agreements with these operators.

It allows certain foreign-flag vessels to reflag United States.

The bill means jobs for Americans—both on board ships and in our shipyards and I would like to thank the gentleman from Mississippi [Mr. TAYLOR] for his hard work on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 1250, the United States-Flag Passenger Vessel Act, introduced by Congressman GENE TAYLOR and cosponsored by several members of our committee.

This legislation is a revised version of a bill that was passed by the House of Representatives last year, but, due to matters beyond our control, was not enacted.

This bill represents a major step forward in providing American companies the opportunity to become involved in the extremely lucrative cruise-to-nowhere trade. These voyages, which are currently conducted exclusively by foreign-owned, foreign-flagged, and foreign-manned cruise ships, represent a significant economic growth potential for American maritime companies. As a result of administrative determinations—which the Members of the Merchant Marine and Fisheries Committee strenuously disagree with—the U.S. Customs Service has allowed these foreign ships to continue to operate.

We now have the ironic situation that if someone goes on a fishing trip out into the ocean, and returns to the port of departure, that fishing boat has to be U.S.-built and U.S.-owned. But if that same person gets on a cruise ship and spends the day eating, drinking, and gambling—rather than fishing—then the cruise ship can be foreign-built and foreign-owned.

Mr. Speaker, it is time for the Congress to eliminate this major loophole in our coastwise trade. H.R. 1250 would phase out foreign ships. It would allow the foreign-flag operators to continue to operate until January 1, 2000, or for 15 years after construction or a major conversion of a ship, if they place American merchant seamen onboard their ships. However, if they choose not to recrew the ships, their operations would have to cease after 5 years.

The bill would also allow a U.S. operator to enter a cruise-to-nowhere trade and bump out an existing foreign operator sooner than 5 years, if the foreign operator elects not to hire an American crew.

This bill also contains a provision allowing a company that signed a contract with a port in 1992 and has an existing vessel to operate cruise-to-nowhere trips for 5 years if the company agrees to certain manning and operating conditions.

In addition, H.R. 1250 would restore Jones Act privileges to several U.S.-built vessels that previously reflagged foreign in order to provide gambling to their passengers. Now that the Gambling Devices Act has been changed to allow gambling on U.S. ships, the owners of these ships want to return to the U.S. flag. In order for them to do so, we have to pass legislation allowing it.

I am aware that there is still some concern among the members of the Florida delegation that this bill is too restrictive and would eliminate foreign vessels before U.S. operators are ready to move into this trade. They are concerned that the economic impact on communities in south Florida could be severe. However, I believe the phaseout scheduled, coupled with the other provisions of the bill, should minimize the possibility of any major dislocations.

Mr. STUDDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I rise in support of H.R. 1250.

Mr. Speaker, this bill resolves a problem resulting from the passage last year of Public Law 102–251. That legislation permitted gambling aboard U.S.-flag cruise vessels. Unfortunately, an unintended consequence of that law is a potential disastrous loss of business for the cruise industry in California.

Many California cruises embark from one port and then stop at one or two other cities in the State on their way to a final destination in Mexico, Canada, or Alaska. California's legislature became concerned that allowing gaming on these cruises might result in the State being forced to also allow gaming under the Federal Indian gaming law. Consequently, the State assembly took advantage of their right under Public Law 102–251 to prohibit gambling on the intrastate segments of these cruises and did so.

As a result, many California cruise ship companies have bypassed—or are threatening to bypass—second and third ports of call within California. For instance, ships which once departed Los Angeles and called at Catalina or San Diego on their way to Mexico would no longer visit Catalina and San Diego. Mr. Speaker, while I served on the San Diego Port Commission, the port authority spent $5 million upgrading a cargo pier to a state-of-the-art cruise ship terminal. San Diegans are afraid that without this legislation we will see ships sailing past our port.

H.R. 1250 alleviates California's concerns with cruise ship gambling and the effects of the Indian gaming law and will allow our west coast cruise industry to thrive by establishing Federal regulation of these intrastate voyage segments. This bill will allow gambling in international waters when a ship will ultimately arrive at a foreign or out-of-state port within 72 hours. This will permit a California cruise vessel to make one or two ports of call within the State.

Mr. Speaker, this legislation was developed with the support and assistance of the Governor and the attorney general of California, and a resolution of support sponsored by San Diego Assemblywoman Dede Alpert is currently pending in the California General Assembly.

Mr. Speaker, I urge support of H.R. 1250.

Mr. LIPINSKI. Mr. Speaker, H.R. 1250, the United States-Flag Passenger Vessel Act of 1993, as amended, will close a loophole in our maritime laws.

Our coastwise trade laws require that all merchandise and passengers transported between two points in the United States be carried on vessels that are U.S.-flagged, U.S.-owned, and U.S.-built.

Presently, foreign-flagged and crewed vessels are sailing out of U.S. ports beyond the 3 mile international limit, and back to the same ports.

This is a clear violation of the intent of our coastwise trade laws.

This legislation will classify these voyages as coastwise trade and subject them to U.S.-built, -owned, and -crewed requirements.

As amended, the bill grants coastwise privileges to several vessels which were built or converted in the United States or have agreed to hire U.S. citizens to crew their vessel.

Mr. Speaker, United States-flag cruise operations cannot compete with foreign-flag operations as long as they are not required to meet American standards for safety and wages.

Foreign operations do not have to comply with strict U.S. regulations for construction standards, operating safety, environmental constraints, and, perhaps most importantly, crew wages and conditions.

Foreign lines can pay third world labor third world wages, undercutting U.S. operations which must meet minimum wage standards.

Mr. Speaker, I urge my colleagues to close this loophole being exploited by the foreign-flag cruise industry and pass this bill.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 1250, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 51, NEW COLUMBIA ADMISSION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendment made in order by this resolution and shall not exceed three hours equally divided and controlled by the chairman and ranking minority member of the Committee on the District of Columbia. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the District of Columbia now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. No amendment to the committee amendment in the nature of a substitute, as modified, and no other amendment to the bill shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. For purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 316 is a rule providing for the consideration of the bill H.R. 51, the New Columbia Admission Act. This resolution provides 3 hours of general debate to be equally divided between the chairman and ranking minority member of the District of Columbia Committee.

Mr. Speaker, under this rule no amendments to the bill are in order and after general debate expires Members will be able to vote up or down on the issue of statehood for the District of Columbia. This was the request of both Chairman STARK and the ranking member of the committee, Mr. BLILEY.

Mr. Speaker, never before has the issue of statehood for the District of Columbia been debated on this floor.

Admitting a new State into the union is a serious matter which should be debated in a thorough and thoughtful manner.

There are good arguments both for and against admitting the State of New Columbia into the Union, and under this rule Members will have adequate time to put forth their concerns.

Mr. Speaker, with the adoption of this resolution the House will enter into a historic debate.

I urge adoption of this resolution so that the House can proceed to debate on admitting New Columbia as our country's 51st State.

Mr. Speaker, at this time I yield for the purposes of debate only to the gentleman from Tennessee [Mr. QUILLEN.]

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I submit with my statement a comparative chart of open versus restrictive rules covering the 95th through the 102d Congresses and a separate chart of open versus restrictive rules for the 103d Congress.

As the gentleman from Massachusetts has explained, this is a closed rule. I am against it, and I am against the bill. Mr. Speaker, as we all know, statehood is a very serious matter and in fairness to all Members it should be considered under an open rule. In the Rules Committee last night, I offered a motion to provide for an open rule and it was defeated by a 6 to 4 party-line vote. As some of my colleagues will point out, there are many objections to this bill, and a closed rule does not provide for full consideration of those objections.

H.R. 51 creates a new State. It provides that the Federal Government continue to pay the District money that no other States receive, many of which have more land owned by the Federal Government than the District does. As my colleagues will bring to light, H.R. 51 also changes and violates several sections of our Constitution. Mr. Speaker, it remains a fact that the Founders of our country created the District of Columbia to be a Federal city, not a separate State.

Mr. Speaker, I rise in strong opposition to this rule, and I urge its defeat. I also urge defeat of the bill, and I reserve the balance of my time.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	51	12	24	39	76

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 19, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 51, NEW COLUMBIA ADMISSION ACT

1. Open rule—This amendment to the proposed rule provides for a 3-hour, open rule for the consideration of H.R. 51, the "New Columbia Admission Act," and makes the District Committee's amendment in the nature of a substitute in order as an original bill for the purpose of amendment under the five-minute rule. All points of order against the substitute are waived.

Vote (Defeated 4–6): Yeas—Solomon, Quillen, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not voting: Bonior, Hall, Gordon.

2. Adoption of rule—

Vote (Adopted 6–4): Yeas—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter; Nays—Solomon, Quillen, Dreier, Goss. Not voting: Bonior, Hall, Gordon.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Tennessee for yielding time to me, and I rise in strong opposition to this unjustified closed rule.

Let me just say this: When the House gets so close to adjournment that we can count the hours, we better keep a sharp eye out for all sorts of far-out legislation.

This D.C. statehood is one example of that kind of legislation. And this rule, I am afraid, makes a bad bill even worse.

Each time a closed rule is foisted on the House, Members of Congress are denied the opportunity to represent their constituents. It is ironic that a bill which, proponents argue, seeks to provide representation to citizens of the District, is being considered in a manner which disenfranchises all the citizens of the United States.

Mr. Speaker, under House rules, a D.C. statehood bill does not even need a rule. District business, according to clause 8 of rule 14, is privileged on the second and fourth Mondays of each month. The House, under this procedure, could resolve itself into the Committee of the Whole, and proceed with general debate.

Then the bill would be open to amendment under the 5-minute rule. That is by the rules of the House. That is the way it should be. But what is happening today is something entirely different. D.C. statehood proponents have stampeded this bill here to the floor on short notice and they have gagged the opposition in the process. This rule provides for only 3 hours of debate and no amendments.

Can Members believe it? The House is going to vote on whether to provide statehood for the District of Columbia without any real debate and no amendment process? That is unbelievable.

Furthermore, this rule contains a self-executing provision which strikes the provisions in the bill, listen to this, providing for expedited procedures in the House to repeal the 23d amendment to the Constitution.

We're talking about amending the Constitution here with no debate. Where is the deliberation, the discussion, and the careful debate on this? It has been drowned out by the protestors' chants.

Mr. Speaker, the Committee on Rules should assert its jurisdiction. It should have held hearings on this important matter. A self-executing rule is not the answer.

Mr. Speaker, let me just sum up by saying that I've served in the House for 15 years and the number of closed rules on important pieces of legislation has skyrocketed in the last 3 years. Let me just inform the Members of some history on how D.C. statehood, business has been considered by the House—before my time.

The special rule that provided for consideration of a D.C. home rule bill in 1973 was an open rule with 4 hours of general debate. Four significant substitute amendments were made in order, and amendments to the substitute were not precluded. What a difference that was from the rule before us now.

Mr. Speaker, the House also considered statehood bills for Alaska and Hawaii under open amendment procedures, with lengthy debate. Why then should the House turn its back on these precedents, especially when there are so many constitutional questions raised by the notion of the District becoming a state?

Mr. Speaker, taking into consideration the rules of the House and the historical facts involved, the arguments for a closed rule on this bill do not hold up.

Mr. Speaker, I urge Members to defeat this rule and let the Rules Committee take it back. If there is merit to D.C. statehood, let those merits be expressed in open hearings and under an open amendment process on the floor.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York is right. This bill does not provide for any amendments, but no one appeared before the authorizing committee or the Committee on Rules to ask for any amendments so it appears that no one wants any amendments.

Under the rules of the House special days are provided for the consideration of District of Columbia business. These days, known as D.C. days, are available on the second and fourth Mondays of each month.

The reason this bill is not being considered under such a procedure is simply a matter of timing. On the second Monday of this month this bill had not yet been reported by the District of Columbia Committee.

The fourth Monday of this month is this coming Monday when the House will be close to adjourning this session and we have quite a full plate of business. The House is scheduled to debate campaign finance reform, lobbying reform, reinventing government legislation and a recessions package.

In the interest of completing all of this business before the Thanksgiving holiday I believe that bringing up this bill today is the wisest course of action. Bringing it up on Monday will only further delay Members from being with their families over Thanksgiving.

Section 208 of H.R. 51, as reported by the District of Columbia Committee, contains expedited procedures in both the House and Senate for the repeal of the 23d amendment. This section clearly falls under the jurisdiction of the Rules Committee.

However, the committee was not given a sequential referral of the bill.

As the session comes to a close in the next few days we all know that floor time becomes very tight.

Therefore, rather than request a referral from the Speaker which would certainly hold this bill up another day, the committee adopted a resolution which self-executes an amendment eliminating these procedures in the House. The amendment does not affect the procedures in the Senate.

If the repeal of the 23d amendment becomes necessary at a future date, the committee of jurisdiction can seek a rule from the Rules Committee to debate and vote on the procedure for its repeal.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY]

□ 1510

Mr. BLILEY. Mr. Speaker, I support this request for a rule with 3 hours of debate. This is no usual piece of legislation, it is a bill to admit 95 percent of the Nation's capital as a State.

I oppose H.R. 51. I believe that a State cannot be created out of the Nation's capital without amending the Constitution. Statehood advocates are simply wrong in their analysis. No State has faced the impediments of three provisions in the Constitution. The other 37 States were admitted under article four of the Constitution. The District of Columbia is the only article one territory in the United States. There is no precedent which applies to the admission of the District of Columbia as a State through simple legislation. Thirty years ago today, Attorney General Robert Kennedy told the House Committee on the District of Columbia that the status of the Nation's capital can be changed only through a constitutional amendment. For 30 years, through Democratic and Republican administrations alike, that position has not changed, even under the new administration.

I believe that the bill itself is fatally flawed in many ways and cannot be corrected. Republicans offered a number of amendments in subcommittee and full committee markups. But frankly, there are so many problems with the bill, it makes little sense to try to amend the bill in just a few areas now in the last hours of this session.

H.R. 51 is not the vehicle to address Congress's concerns about crime, or poor schools, or poor management in the District. Such amendments would not be germane. Moreover, amendments which place conditions on admission are unconstitutional under the 1910 Supreme Court decision, Coyle versus Smith. Amendments seeking to put conditions on New Columbia are ultimately unenforceable.

I believe that statehood proponents have failed to provide for a coequal State and that is one of the many reasons for my opposition. H.R. 51 contains provisions which are unconstitutional such as the taking of a scenic easement over the entire State. This provision would be struck down but would not invalidate New Columbia's admission. Correcting flaws such as this will not make the bill acceptable.

Let me also say that this rule is to consider a bill, not a nonbinding resolution. There is a lot of talking going around that the vote on H.R. 51 is only endorsing a principle. That is nonsense. The Committee on the District of Columbia has worked on statehood legislation for 10 years. We are not voting on a goal or a principle. This is not a resolution which would have no force of law. We are voting on a 38-page bill. If you vote for this bill, you will be voting for everything that is in it. And if you will listen to the debate on the bill, you will be shocked by some of the things that are in it. We are here to legislate, not to act on meaningless gestures.

For years, statehood advocates have been saying that admitting a State is an easy and simple matter. Don't be fooled. This is not like any other statehood matter.

This chart explains why. It details information about the borders of Washington, DC which proponents do not want you to know. This is one of the reasons why they are now saying this is a vote only on principle. It is because after 10 years of work, they cannot defend the bill before us.

Statehood advocates have said that they are merely reducing the size of the Nation's capital. The Delegate from the District of Columbia has stood on this floor and told this House and all Americans that, "only the neighborhoods would become a part of New Columbia." This simply is not true.

On November 3, the committee adopted an amendment which has drastically altered this legislation and its effects on the Federal Government. I believe that it has been altered so drastically that the most ardent supporter of statehood cannot vote for this bill.

This amendment, offered without benefit of a full committee hearing, removed the bill's references to the National Capital Service Area and the inclusion of Federal property and buildings within the new seat of government those properties which are "affronting or abutting" the redefined District of Columbia. Delegate Norton explained that the previous provision in the bill would—and these are her words—"take the Federal enclave much deeper into the state than anyone could reasonably argue that those boundaries should go." This was presented as a reasonable amendment to ensure that the capital of the United States contains no "more area in the Federal enclave than is intended or necessary."

Twenty years ago, the 1973 Home Rule Act incorporated the boundary for the National Capital Service Area directly from the 1963 language. The Home Rule Act includes a more inclusive definition of the Federal enclave and a provision which says that "any Federal real property affronting or abutting * * * shall be deemed to be within such area." Since the first statehood bill was introduced in 1983, all statehood bills contained an inclusive reference to the National Capital Service Area and the "affronting or abutting" language.

When the committee considered statehood legislation in 1987, the National Capital Planning Commission informed us that the "affronting and abutting" language was ambiguous and needed further work. Over the next 6 years, nothing was done, and identical language—both as to the border of the new District of Columbia and that any Federal real property affronting or abutting was to be included in the Nation's Capital—continued to be included in statehood bills. When it was introduced in January of this year, H.R. 51 included this language also.

The majority's last-minute, purported solution to this was to remove the references to the National Capital Service Area and the "affronting or abutting" language from the bill entirely.

The capital of the United States is thus wholly contained within the boundaries specified in section 112(b) of the legislation without exception. As amended, H.R. 51 now does far more than shrink the seat of Government of the United States to less than one-tenth the size of Dulles Airport. H.R. 51 now hijacks part of all three branches of the Federal Government into the State of New Columbia and kidnaps thousands of Federal employees into the State.

This map shows the border as mandated by H.R. 51, as amended. The pages from the bill describing this boundary are attached at the bottom of the map. I will not take the time to read the entire description, but I urge all of my colleagues to examine this map.

I have traced the boundaries between Washington, DC and New Columbia. Beginning just west of the Kennedy Center, anything south of this line is in the seat of government; anything north of its is in New Columbia. Let us take a look at the map and see what happens. The General Services Administration is on the north side of E Street and hence is in New Columbia now. As we make our way over to the White House, we find the National Science Foundation, the International Monetary Fund, the Organization of American States, and the International Bank for Reconstruction and Development—all in New Columbia.

Going up and around 17th Street we see that on the west side, and, therefore in New Columbia are the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Labor Relations Board. The border runs along Pennsylvania Avenue and the north around Lafayette Park. Notice that the New Executive Office Building has been neatly hijacked into New Columbia. White House employees who work there will not only have to cross State lines to speak with their boss, but they will be subject to a New Columbia commuter tax while their fellow White House employees in the District of Columbia are not.

North and east of Lafayette Park—in New Columbia—are the United States Court of Claims—part of the Judicial Branch of the Federal Government—and the Department of Veteran's Affairs and the Treasury Department Annex. These Federal executive and judicial branch employees will be treated differently for tax purposes under H.R. 51 than their fellow employees across the street because they will now be in another State and not in the District of Columbia.

Proceeding southeast on Pennsylvania Avenue, we find that the Federal Bureau of Investigation building is now in New Columbia. New Columbia would be compensated for the presence of the FBI in the Payment-in-Lieu-of-Taxes program of section 203 of this bill while, at the same time, New Columbia would derive significant revenues from its imposition of a commuter tax on all of the FBI's employees who would then begin working in New Columbia.

Now the border becomes truly arcane. Page 11, line 17 says: "thence east on C Street Northwest to Third street Northwest; thence north on Third Street Northwest to D Street Northwest; thence east on D Street Northwest to Second Street Northwest; thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest. * * *" What we have just done is dissect the department of Labor into three parts, with the center in Washington, D.C., but with the wings in New Columbia. I am not making this up. So now you have people in the same building, in adjoining offices, who will have to cross a State line to meet their office mates or to go to the bathroom. The person on the District of Columbia side of the office will not be subject to New Columbia commuter taxes, but the person in the next desk will be.

Picking up H.R. 51 again on page 12, line 1: "thence northeast on Louisiana Avenue Northwest to North Capitol Street; thence north on North Capitol Street to Massachusetts Avenue Northwest; thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square. * * *" Here we lose the Government Printing Office, the Federal Energy Regulatory Commission, and Union Station to New Columbia.

From the Union Station Plaza, we proceed "South on Second Street northeast to D Street northeast; thence west on D Street Northeast to First Street Northeast; thence south on First Street Northeast to Maryland Avenue Northeast. * * *" We have just severed the Hart and Dirksen Senate Office Buildings from the District of Columbia. Two-thirds of the Senate and all staff housed in those buildings will be in New Columbia and not in the seat of government at all.

I will not bother my colleagues with more border description language, but here is a list of some of the Federal office buildings and national treasures which will be in New Columbia rather than Washington, DC:

Ford's Theater
The National Museum of Art
The National Portrait Gallery
The Library of Congress Annex
The O'Neill House Office Building
The Capitol Power Plant
The Department of Transportation
The Department of Housing and Urban Development are all in New Columbia.

The employees in those buildings will be subject to New Columbia taxes. To add insult to injury, the Federal Government will be paying New Columbia taxes on those buildings under the Payment-in-Lieu-of-Taxes provision of section 203.

The new seat of Government—the residual District of Columbia created by the legislation before us today—is completely developed and has no room in it to create even one new Federal building to house future departments or meet any needs for expansion of the Federal Government. There will be no room for any new museums or monuments to honor future heros and leaders. For the supporters of this legislation to claim that New Columbia is made up only of the neighborhoods is outrageous. Such a statement is patently false.

Reducing the Nation's capital to less than 3,000 acres is not merely inconvenient, it is unconstitutional. Thirty years ago, Attorney General Robert Kennedy told the House Committee on the District of Columbia that such a small sliver of land would not meet the intent of the Founding Fathers:

> Reduction of the District to [a] small strip of territory occupied almost wholly by Federal buildings is thus clearly inconsistent with the concept of the Federal city held by the framers. The inadequacy of the small area . . . to meet the objectives of the framers and the inherent needs of our Federal system is apparent.

The District's substantial population is not, as some have contended, an unintentional mistake. As Kennedy pointed out:

> The plan for the city, executed by [Pierre] L'Enfant and submitted by President Washington to Congress on December 13, 1791, was at that time the most comprehensive plan ever designed for a city. . . . The 'seat of government' contemplated by the framers included extensive residential areas. . . . L'Enfant's plan, as originally drawn, was designed for a city of 800,000, the size of Paris at the time.

Attorney General Kennedy concluded that:

> A persuasive argument can be made that article I, section 8, clause 17 of the Constitution established, as a permanent part of our constitutional system, a Federal district constituting the seat of the government, having a substantial area and population.

Statehood proponents are disguising a wide variety of complex issues with slogans and oversimplification. Even before the outrageous change in the boundary, H.R. 51 would deprive the seat of government of the "indispensably necessary" land and population as envisioned by Washington, Jefferson, and Madison.

H.R. 51 requires us to relinquish two-thirds of the Senate, a number of House staff, several Federal courts, five cabinet departments, the FBI, and part of the White House staff to the state of New Columbia.

The bill reported by the committee provides privileges which no other state enjoys. Let us present the whole package so that the American people clearly understand that statehood advocates want a special relationship with the Federal Government for their State.

Let us see who will vote for a bill which does not admit the State on a coequal basis with the other 50 States.

Let us vote on a bill which has such drastic consequences for our Nation's capital.

Let us vote on this bill to see who will stand up for the rights of 250 million Americans who have the right to participate in the democratic process of amending their Constitution.

If the rule is defeated, we will lose the opportunity to clearly record our opposition to this assault on the Constitution. Do not be afraid to defend the Constitution. Do not let political slogans and falsehoods intimidate you from upholding your oath of office.

Vote for this rule. The bill is the product of the Democratic majority. It is the product of 10 years of committee consideration and work. It is too late to tell the committee to go back and fix it. It is their bill. This what the statehood advocates are demanding.

I urge my colleagues to vote for this rule.

Then let us reject this piece of legislation.

Mr. Speaker, I thank the gentleman for yielding me the time.

□ 1520

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. PETE STARK].

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding. I would like to engage for just a moment my distinguished colleague from Virginia for a question. I am concerned as to what difference it makes. It is my understanding that the Pentagon and the CIA are in Virginia, that the Social Security Administration and the NIH are in Maryland. It is somehow a matter of indifference, it would seem to me, whether the Capitol power plan is in the District of Columbia or in the new State. Could the gentleman enlighten me?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am happy to yield to the gentleman from Virginia to tell me what difference it makes.

Mr. BLILEY. Mr. Speaker, for example, in the charter of the Department of Transportation and in the charter of the Department of Housing and Urban Development it specifically states that they will be in the Capital. And if we adopt this bill, they will be in another State.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am glad to yield to my distinguished friend, the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, charters are amended, and I wonder if the gentleman from Virginia would explain to us why it is essential to the Nation that the Department of Transportation be in the Capital, but the Pentagon and the CIA can be in Virginia? I have never heard an argument with less force in all of the years that I have been here.

Mr. BLILEY. If the gentleman will yield, I would say the same, is it necessary for the Hart and the Dirksen Buildings to be in the Federal enclave?

Mr. STARK. If I may reclaim my time, the bill clearly states that the legislative buildings adjacent to the Capitol will stay in the District complex.

Mr. BLILEY. Not according to the map.

Mr. FRANK of Massachusetts. If the gentleman from California will yield, let me say I have never been a strong defender of the Pentagon and the CIA, but if we had to choose between dispensing with the Dirksen and the Hart Buildings for the national interest or dispensing with the Pentagon and the CIA, I think I would get rid of the Dirksen and the Hart Buildings and hold onto the Pentagon and the CIA.

Mr. STARK. Mr. Speaker, I wanted to urge my colleagues to support the closed rule, which my distinguished colleague from Virginia, the ranking member of the Committee on the District of Columbia agreed we should seek, and to have 3 hours of debate. Indeed, the 3 hours will give us plenty of time to discuss the issue of disenfranchised residents of the District of Columbia, and indeed to discuss the considerable technical details that would be necessary in forming the new State of Columbia. These are issues that should be debated.

There was no request or no demand for an open rule. There were no amendments that were asked to be placed in order.

The issue here is that we have come with the great good cooperation of the minority and the majority on the District of Columbia Committee, and the staff on both sides have worked with great cooperation. Many Members have a deep concern over the issue of self-determination, of statehood, a concern for the neighboring States. And it is with that in mind that I think the people in this District of Columbia are entitled to have the issue debated, and to have the vote brought to the House for their determination.

There will be many differences of opinion over many issues in this bill. But the key should not be to deny. We already deny these people full representation. We should not deny them the opportunity to have their future and their destiny debated.

I urge the passage and the adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS], a very valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman emeritus for yielding me the time.

Mr. Speaker, the issue of statehood for the District of Columbia is a matter of great concern to all Americans. It directly affects the integrity of our Constitution; the future of our Capital

City and our national self image. It is not something to be taken lightly; nor should its careful consideration be rushed, distorted or otherwise demeaned by short-term political maneuvering. I know statehood advocates, led by their able delegate, Ms. NORTON, are sincere in their efforts to represent their constituents. I know they are in this struggle for the long-haul. But I worry that the contortions we have seen to bring us to this point today reflect a detour from that noble commitment, into the realm of political grandstanding and photo ops. We are less than 3 days from the sine die adjournment of the first session of this Congress. We are putting in extra long hours, through the weekend, in an effort to pass legislation that the Democrat majority has deemed a priority. Yet, today, during a rare Saturday session expected to carry into an even more unusual Sunday schedule, we are switching gears to debate and defeat legislation for D.C. statehood. Every one in this Chamber—including D.C.'s most ardent supporters—admit that this bill will be soundly defeated. I even read it on the front page of the Washington Post this morning. But I don't understand why the Democrat leadership has allowed itself and this House to become a back drop for special interest political theater over this weekend. It's one thing for statehood promoters to cause inconvenience and waste time blocking traffic illegally; it's another thing to cause inconvenience and waste precious legislative time unnecessarily on our tight legislative schedule. Americans are asking for tough anticrime measures, real deficit reduction and meaningful campaign reform—but these measures have been pushed aside for a high visibility political gambit. Finally, I must remind my colleagues that this rule is a completely closed rule—which is an insult to every Member and our constituents who care about this issue and who wish to participate in the process and give it a fair deliberation. I strongly urge defeat of the rule and a no vote on statehood.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to remind the gentleman at the microphone that both sides, the ranking minority and the majority, asked for a closed rule and said that they had no requests for amendments. So it was nothing that the Rules Committee did. We just complied with the desire of the Chair.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I would love to yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, that is a true statement. Of course, the distinguished chairman is correct.

That does not mean that there are not some of us who felt that we should not have a closed rule, and that is what I was trying to portray. And I thank the gentleman for yielding.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, before I begin my own remarks, let me refer the ranking member of the committee to section 112(a) on page 10 of the bill which indicates that the Federal, executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building will be in Washington, DC; the Federal sector.

Let me also indicate that a Republican member of the committee offered an amendment to which I agreed that would prescribe a technical survey of the metes and bounds of the District of Columbia after statehood, on the theory that Congress, of course, is in no position to do that kind of technical survey now, and it is most often done after admission in order to get the exact contours of the State.

Mr. Speaker, this is a historic day in this Chamber. To debate the admission of any territory into the Union of the United States of America is historic.

But history will particularly remember what Members say today and how they vote tomorrow, for we are not debating the admission of a unique parcel of land known as the District of Columbia or Washington, DC. We shall be debating what might have been thought to be an American truism beyond debate: whether at least to grant full citizenship rights to a group of Americans on whom this Nation has always imposed every single citizenship responsibility.

□ 1530

Thirty-seven of the States have entered the Union since it was formed. We would enter, Mr. Speaker, already paying Federal taxes.

This Nation was formed precisely because Americans paid taxes to a sovereign who afforded them no representation. The animating principle of American democracy has been no taxation without representation.

Mr. Speaker, I represent the only Americans who pay taxes without full representation in this House, and with no representation whatever in the Senate. This is but one of the badges of unequal citizenship Washingtonians wear.

In and of itself, however, taxing people while giving them no say in how their taxes are spent is such a profound and unprincipled contradiction in this country that it deserves special emphasis all by itself today. Surely no Member can, and I trust will, try to defend this notion in today's antitax atmosphere. The insult to democracy and to the people of the District of Columbia is compounded by the fact that my constituents are third per capita in taxes paid to the Federal Treasury; not only taxed, Mr. Speaker, but so highly taxed that we pay more per person than almost all who are, indeed, represented here.

The four territories, American Samoa, Guam, Puerto Rico, and the Virgin Islands, pay no taxes to the Federal Treasury nor should they since they have not sought statehood. Thus, the original American promise has been kept as to the territories and as to all other Americans but not the citizens of the District of Columbia.

Further, our country justly and correctly has afforded full self-governance rights to the four territories, while the District is forced to accept undemocratic usurpation of its laws by this body at its whim and will. Despite the passage of the Home Rule Act 20 years ago, the House and the Senate violate the letter and the spirit of the act every single year. Yet, the first civics lesson children learn in school is no taxation without representation.

Some do not know the words of "My Country 'Tis of Thee"; some lose their way before they come to the wonderful flourishes and complicated crescendos of "The Star-Spangled Banner," but go to any elementary school in the rich suburbs of McLean, VA, or Potomac, MD, or go to the poorest wards across the river in my district, schoolchildren, wealthy and poor, know it like they know their nursery rhymes, "no taxation without representation."

But, Mr. Speaker, I ask sincerely this afternoon, do my colleagues know this most American of self-governing principles? Do my colleagues remember "no taxation without representation" from their own school days? Indeed, Mr. Speaker, do my colleagues recall their own anguish over taxes in the debates that ring through this Chamber every day?

If "no taxation without representation" has lost its power as a freedom principle and become nothing more than stale rhetoric, then let us this day send it to the Smithsonian with the rest of our Americana and tell our children and our people that this is what we used to believe.

What we see on the floor today and how we vote on statehood for the District of Columbia will avoid the taxing principle on which our country was founded only by taking a detour into hypocrisy.

Mr. Speaker, we do not pretend that the District will win statehood today. However, we are very encouraged by the number of Members who have told the Leadership Conference on Civil Rights or a colleague during the whip count or me personally that they will vote for the rule and/or for final passage. The number who have committed to vote for statehood itself is impressive.

I ask you, my colleagues, to hold fast with us. I hope that my colleagues will vote for statehood if only as a symbol of respect for the citizens I represent.

At the very least, I ask you not to deny us the right to debate this issue with our opponents. We are not afraid. We trust they are not. At the very least, I ask you to vote "aye" on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to point out to my chairman and to the Delegate from the District of Columbia that their reading of the border language is mistaken. The bill does clearly state that the District of Columbia shall include the principal Federal monuments, the White House, the Capitol Building, the U.S. Supreme Court Building, and the Federal, executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

That may have been the intent behind the amendment offered by the Delegate from the District of Columbia in committee, but the fact is as I have described it.

You quoted from section 112(a), but you began after the operative language. Let me quote the overriding parts of the bill, page 9, line 17, section 112(a): "Subject to the succeeding provisions of this section." Then comes the language you quoted. So the listing of the buildings you quoted is conditional not absolute, and then it goes on, and I thank the gentleman for the time.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker I rise in strong support of the rule for H.R. 51, the New Columbia Admission Act, which would grant statehood to the District of Columbia.

Statehood for the District of Columbia is a matter of fairness. Like other Americans, residents of the District pay Federal income taxes and serve in the U.S. military. The Vietnam war death toll among District residents was higher than it was among the residents of 10 of our States, and the District had a higher Persian Gulf war participation rate than 46 States

Yet, in spite of being called upon to meet the full responsibilities of American citizenship, because they live in the Nation's Capital, District residents do not enjoy the full privileges of citizenship that their fellow Americans do. The residents of the District of Columbia, which has a population greater than either Alaska, Wyoming or Vermont, have been locked out of the American democratic process. Although they can vote in Presidential election, they have virtually no Federal representation—effectively no voting representation here in the House, and no representation whatsoever in the Senate.

True, the District does have home rule, but it is limited home rule— independence that is crippled by the fact that Congress has both budgetary and legislative control over the District's day-to-day business. Local laws are all subject to congressional review—a review process that incorporates a period of up to 2 months during which District bills remain in limbo awaiting possible congressional disapproval. The District's legislative process essentially grinds to a halt when Congress adjourns. As a member of the Appropriations Committee participating in the full committee markup of the District of Columbia appropriations bill, I have listened to my colleagues debate over and over issues that have already been decided by, and are well within the jurisdiction and responsibility of, the District of Columbia City Council. This congressional oversight is costly, inefficient and completely unfair.

The New Columbia Admission Act would change this basic unfairness. It would not impinge upon or threaten our present seat of government. What we have come to think of as our Nation's Capitol—the Capitol, the White House, the Federal buildings, our monuments and even certain military sites—remains as it is now, under complete and exclusive control of the Federal Government. That part of the District that we have come to regard as our Capitol will remain intact. We are just reducing the size of the seat of government, as we have already done on two previous occasions.

The Americans who live in the District of Columbia are locked out of our democratic process. As Americans, they have the right to vote on matters that affect them, and to expect that those decisions are implemented. How can we as true Americans, as representatives of the people, continue to deny these citizens the right that lies at the heart of our democratic system—their right to equal representation here in our seat of government?

The arguments that we are hearing now and are going to hear during the remainder of this debate are virtually the same arguments that were put forward every time that the issue of statehood has been raised—whether it is Colorado, Alaska, Hawaii, or the District of Columbia. That is why I am hoping that we will be able to set aside some of these more short-sighted arguments and instead focus on the bigger issue—the right of these disenfranchised citizens to fully participate in the American democratic process. I urge my colleagues, on both sides of the aisle, to support both the rule and final passage for the admission of New Columbia into the Union.

States have been admitted to the Union without any limitation. Every one since 1850, we do not need any pernicious amendments. Let us vote up or down.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, today we debate whether or not the District of Columbia should be admitted as the 51st State of the Union. The District's government believes that statehood would significantly improve the District's ability to meet the needs of its citizens, to plan and adopt budgets, and to defend itself in the halls of Congress.

Let me begin by pointing out that I served on the House Appropriations subcommittee on the District of Columbia for many years because I care about this city, its children, its integrity, its safety, and because this city should represent the best our Nation has to offer. It is the home of our capital, the home of our Founders, and the home of just under 600,000 people.

If the point of the statehood legislation is to provide for voting representation for the residents of the District of Columbia and to provide autonomy and self-reliance, then I do not see why an alternative suggestion that accomplishes these same goals should not also be considered. My purpose today is to call attention to an alternative to statehood, as provided in H.R. 1205.

Simply stated, I support making the District a city in Maryland instead of a State—this idea is called "retrocession" because we would be returning the land given by Maryland to Maryland.

The land that now comprises the District of Columbia once belonged to Maryland and it makes sense to return the District to the State of Maryland, minus a reduced Federal enclave made up of the Federal buildings, just as the western portion of the District was returned to Virginia in 1846. The Federal enclave would be administered by Congress, as the U.S. Constitution requires.

Current D.C. residents would become citizens of Maryland, with full voting representation. And retrocession would preserve Maryland's intent that the land it gave be the seat of government.

Ten ways the District benefits from retrocession:

First, DC residents could run for and vote for at least one voting member in the House, two Senators, and a Governor.

Second, D.C. residents could run for and vote for dozens of State senators and delegates to represent Washington in Annapolis;

Third, the District could use the Maryland State prisons, and law enforcement officers could pursue interjurisdictional drug problems;

Fourth, the education system would have the same opportunities and taxing authority that Maryland's system enjoys;

Fifth, Retrocession would expand the local economic base beyond its limited boundaries without the added bureaucracy of a State government;

Sixth, most importantly, the residents of D.C. would have voting representation in a way more likely to be accepted by Congress than statehood;

Seventh, D.C. residents could tap into transportation services as well as those relating to crime prevention and drug enforcement, economic development, health, and the judicial system;

Eighth, the District would no longer be able to justify, or pay for, the excessive DC payroll by saying that extra people are needed to fulfill State-like functions;

Ninth, the District's political candidates would be able to run for statewide offices in Maryland, which would open up the political system to newcomers with fresh ideas; and

Tenth, local laws would no longer be subject to congressional review.

How do we know that retrocession would work?

Every other democratically based nation throughout the world provides for voting representation in its national legislature for citizens residing in its capital area.

Canada offers a prime example of how this proposal could, and does, work. Ottawa lies in Ontario and sends representatives to the provincial parliament in Toronto and to the federal parliament as part of the Ontario delegation.

It will be said that those of us who are opposed to statehood do not have the best interest of the District citizens at heart. Well, I introduced legislation to allow the District to tax income earned by non-residents, which represents about 60 percent of total income earned in the District.

Finally, let me say that the first reaction I get to my proposal from D.C. politicians is outrage because they say the people of the District would never support becoming a city in Maryland. However, after I introduced retrocession legislation, I received several hundred phone calls and letters from D.C. residents who support my proposal. I would argue that many residents of DC would prefer retrocession.

The question of voter representation for the residents of the District of Columbia is an involved, serious one, but we do a disservice to the people of the District if we limit the debate to only one option. To establish a city-state would be a first and undoubtedly would result in many other cities asking for the same treatment.

☐ 1540

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, it is not enough that D.C. has more citizens than three States in the Union; it is not enough that D.C. citizens have died in foreign wars; it is not enough that DC citizens pay the same Federal taxes. The killer is it is OK for D.C. citizens to be denied the right to representative government.

Shame, Congress, shame.

A Congress that condemns human rights violations and promotes democracy overseas but turns its back on 600,000 Americans crying out for representative participatory government is unbelievable, unacceptable, and un-American.

In fact, there are at least 51 other reasons for the State of New Columbia.

You know what, Congress, I do not want to hear that Founding Fathers rap. When the Founders were here, Crystal City was a pasture. I think it is time for a little Jeffersonian "founders and keepers."

The Constitution did the founding, the State of New Columbia should do the keeping. Think about it.

I support the 51st and I want to wish the gentlewoman the very best, the great lady from the new State, New Columbia.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise for the first time in my memory to support a closed rule. The reason is simple: I do not believe that H.R. 51 can be made palatable by any amendments I can envision. H.R. 51 is ill-conceived and unconstitutional. Article 1 of section 8, clause 17 of the Constitution establishes the District of Columbia. I do not believe the nature of it can be modified by legislation in the absence of an amendment to the Constitution. By any other attempt, it will point us down the path of endless litigation, calling everything in question from the local ordinance to the election procedures in this body.

The delegate from the District of Columbia said that she thought this was a historic day, that the consideration of bringing a territory into statehood puts it into that category. It is historic in that we are clearly calling an unconstitutional issue to the floor for demonstration. This should never happen. If supporters were really interested in change, they would go the route of a constitutional amendment.

Someone mentioned the fact that Wyoming was smaller in population. Statehood is not a product of population. Wyoming went through the constitutional process to become a State, and that is what should be done here as well.

Mr. Speaker, as a true American, I am concerned about the participation of DC residents in the Federal election process. I suggest that we pursue the retrocession to the State of Maryland. While I oppose H.R. 51, I will support this as an alternative.

Mr. Speaker, we will hear from a long line of speakers this afternoon outlining in more detail that I have time to do the Constitution on the practical problems which I believe are fatal to this bill.

I urge my colleagues to listen carefully and not be swayed by emotional and yet illogical arguments by the bill's proponents.

I urge swift passage of the rule and equally swift defeat of H.R. 51.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding for a brief question. Mr. Speaker, I say to the gentleman, Did not Wyoming go through the same process that we are going through today?

Mr. THOMAS of Wyoming. Wyoming was not the seat of the Federal Government and did not require a constitutional amendment as this requires.

Mr. STARK. Beg pardon? Wyoming went through the same process we are going through today?

Mr. THOMAS of Wyoming. Wyoming was not the seat of the Federal Government prior to asking for statehood. Does the gentleman have any further questions? Very well.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to my dear friend, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Speaker, I must say I have never heard such a relentless effort to trivialize a matter of great principle as we heard from our friend from Virginia. He continues to obsess about the map as if he were on the zoning board.

The fact is that the Social Security Administration is in Maryland, the NIH is in Maryland, the Pentagon is in Virginia, the CIA is in Virginia. And it is not relevant at all, it has never been considered relevant. People said, "Well, the Hart and Dirksen Buildings will not be covered." I do have to say, as I said before, the Pentagon is outside, and if I had to choose, I would point this out: The people who work in the Pentagon never filibustered to death the Brady bill and the people who work in the Pentagon never had extended debate to keep grazing fees up. So, if I had to choose, that is how I would choose.

But the point is we all know it is irrelevant. Why does a thoughtful individual like the gentleman from Virginia avoid the main issue? Because it is not comfortable in the Congress of the United States to deny people their democratic rights.

We have not heard from the opponents a head-on joinder of the issue. The issue is this: Should people who live in America and are subjected to every responsibility, every single responsibility of American citizenship, who fulfill every duty an American citizen has to fulfill, should they be denied the right of both self-government and representation in Congress? Because this Congress has, ever since I got here and from long before, consistently interfered, sometimes for merely its own convenience, in the right of the people to self-government and has denied them the right of participation in Congress.

□ 1550

Mr. Speaker, let me point out if anyone thinks we are getting a partisan advantage here, we are not. The way the Senate works, it takes 60 votes to pass anything today because they always have a filibuster. Now, if you add two, you would still need the same number to pass a bill, that is 41 can filibuster a bill to where it cannot pass today and 41 could filibuster it if you add two. You can do your arithmetic while you are doing your geography, but some of us would rather talk about constitutional principle.

The principle is very simple. Should American citizens who live in America and pay taxes and fight and do everything else be allowed to govern themselves and be allowed in fact to have representation?

The notation that because the Constitution says you may have a seat of government, therefore you may not change its boundaries is nonsensical. Nothing in the Constitution says that the seat of government, having once been established, the boundaries cannot be cut.

Now, it is touching that my friends have found one thing in Robert Kennedy's career for which they are grateful. I am glad to hear them talk about it, but I must say that the overriding point is that the Constitution empowers us as the Congress to create a seat of government. It does not disempower us from changing its boundaries, even if the Department of Transportation, potentially putting the Nation in peril, might be outside those boundaries, we can still meet the Democratic initiative of self-government.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the central issue in this issue has been addressed. My friend, the gentleman from Massachusetts, may try to ignore that, but we have been offered an alternative to take care of the civil rights issue, to take care of the voting rights of the people of this area so they will have representation in the Senate and in the House.

The reason why we are rejecting the statehood solution is that it does not work and it is not fair. It does not work, as it demonstrated by the fact that some people who work in a building will have certain tax obligations if their desks are in one part of the building and different tax obligation if their desks are in the other part of the building.

So it does not work on the face of it due to the geography. It does not work right now. This area does not even work as a city, much less a State, but it also is not fair.

If you are looking for a solution for the 600,000 people of this area to be given the right to vote for two U.S. Senators and a voting Member of Congress, it is not fair to provide them, just like it would be unfair to provide the citizens of any other city two U.S. Senators.

You can make it a part of Maryland. They will have the same right to vote for U.S. Senators, but you will not consider that option because it does not give the Democratic Party control of two U.S. Senators.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair would remind visitors in the gallery that they are guests of the House and they should make no manifestation for or against the proceedings on the floor.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I take the floor today to speak about democracy and about simple justice.

Mr. Speaker, this aspect of the debate is about the rule. Will this body allow this bill to be debated without an attempt to distort, malign or marginalize an attempt to bring democracy to the District of Columbia.

I ask my colleagues to support a closed rule. Let us not clutter this debate with extraneous amendments.

Mr. Speaker, today, 600,000 U.S. citizens in the District of Columbia are denied the small full representation accorded to other U.S. citizens.

Citizens from the District pay taxes to the Federal Government at the fourth highest per capita rate in the Nation. Only Connecticut, New York, and New Jersey pay higher per capita taxes.

District residents have fought and died in every war since the American Revolution. During the Vietnam conflict, the District of Columbia had more of its residents killed than all but 10 other States and more killed per capita than 47 other States. During the gulf war, only four States had more citizens in service than the District.

District residents have proven their willingness to contribute to our Nation's coffers and serve in our Nation's wars. Now those residents—our fellow citizens—are asking us to admit New Columbia as the 51st State in the Union. We should not let race or partisan policies, ideology or attitudes toward the current District Government distract us from the real issues at hand

What is at stake here is our commitment to full Democratic rights for District residents. District residents are petitioning us for the full representation and self-government that come with statehood. They are asking for justice. "Democracy" and "justice" are words that ring throughout this Chamber with some regularity. If those words are to mean anything, we should vote today to admit New Columbia as the 51st State of the United States.

Mr. Speaker, I urge the adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, as we cast our votes for or against H.R. 51, the New Columbia Act, we should remember that casting a "yes" vote for the bill would not simply admit the 51st State into the Union.

Enactment of H.R. 51 would violate our Constitution, and it would create a State with special rights and privileges that no other State enjoys.

For 30 years, since Attorney General Robert Kennedy testified on statehood before the House Committee on the District of Columbia, the Justice Department, through Democratic and Republican administrations alike, has consistently advised that statehood for the District would require a constitutional amendment.

In bypassing the proper constitutional process and admitting New Columbia into the Union merely by congressional act, Congress would be seizing power from our 50 States and American citizens.

The question of statehood should be put directly to the people of our 50 States, not Congress.

The District of Columbia is merely a city. That is all it is. The District has none of the traits we associate with statehood—farms, factories, manufacturers, wide-open spaces.

This synthetic State of New Columbia would only have two industries, government and tourism—no manufacturing, no agriculture.

For these reasons, the viability of New Columbia would continue to depend upon generous Federal Government payments in lieu of local taxes.

H.R. 51 would diminish the Nation's Capital to a tiny and completely dependent annex of the State of New Columbia.

Our Founders created the District of Columbia to be a separate, 100-mile region under the exclusive control of Congress as the seat of the Federal Government for a good reason—they realized that the Federal Government must not be dependent upon, nor subject to, the influence of any single State.

James Madison expressed strong concerns that if the seat of the Federal Government were placed in a State, it would be subject to entanglement in local politics and could be coerced by the State into providing costly goods and services.

This situation has not changed in 200 years.

H.R. 51 would place New Columbia in a position where it could coerce the Federal Government into granting the State additional benefits.

For example, New Columbia might threaten to set up toll booths or refuse to repair roads in order to receive increased payments or benefits from the Federal Government. No other State in our Nation is in such a position to inflence the Federal Government.

Proponents of H.R. 51 argue that citizens of the District deserve statehood because they pay more to the Federal Treasury per capita than all but two States.

But we should consider not only what the District residents pay to the Federal Government, but also what they receive from it.

In 1990, the Federal Government spent $28,592 per capita in the District, more than seven times the total U.S. spending per capita.

In additional, the District receives $4.72 in Federal funds for every $1 paid in Federal texas. Connecticut, with the highest per capita tax burden, receives only 67 cents for every $1 paid in Federal taxes.

Residents of the city of Washington, DC, have but one grievance that matters: They have no vote in Congress.

Taxation without representation is tyranny, they claim. These "oppressed" citizens of Washington demand one seat in the House and two in the Senate, all of which would be forever held by Democrats.

We can address this problem without granting statehood to the District.

In 1788, when the Founders created the District of Columbia, it contained 100 square miles that were carved out of Maryland and Virginia.

Thirty-one of these square miles were returned to Virginia in 1846, leaving the 69 that had once belonged to Maryland.

Perhaps Maryland could be persuaded to take back most of its 69 square miles. Its Governor has already endorsed the idea.

Under this solution, residents would be full-fledged citizens of the sovereign State of Maryland, entitled to vote for Maryland's Governor and Members of Congress. Maryland would also gain a seat in the House.

In short, the enactment of H.R. 51 would seize power from American citizens, grant unequal, additional privileges to New Columbia, and place the Federal Government in a position where it could be negatively influenced by one particular State.

For these reasons, I urge my colleagues to vote "no" on H.R. 51 and consider the alternatives instead.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I have several what I feel are compelling reasons why I will be voting against this bill and urging other to do so as well.

I had planned to offer an amendment to the rule. I withdrew that for a couple reasons, one after talking with the gentleman from California [Mr. STARK] and the gentleman from Virginia [MR. BLILEY], it became clear that the majority and minority were in agreement that it ought to be a closed rule. Generally when that is the case, it is a done deal.

But second, why spend a lot of time trying to patch up the victim if it is about to die away? I am sure there are more delicate ways of phrasing that, but the analogy is clear.

The reason why I wanted to amend this rule deals with the fact that this bill would put under the effective control of the State of New Columbia 2,000 acres within my congressional district, within the Commonwealth of Virginia, 2,000 acres that currently house the Lorton Prison.

Clearly, there is no precedent, nor should there be, for one sovereign State to house its prisoners in another State.

Maybe at this point I could ask my good friend, the gentlewoman from the District of Columbia [Ms. NORTON] if she would agree that no State should be housing its prisoners in another State and that this is at least one aspect that can and should be rectified.

Ms. NORTON. Mr. Speaker, if the gentleman will yield, in fairness, I say to my good friend, the gentleman from Virginia, I do not believe that a sovereign State can or should house its prisoners within the borders of another State without the host State's permission. During the markup of this bill, the Committee on the District of Columbia adopted an amendment I offered to section 303 which recognizes the gentleman's concern regarding the future of the Lorton complex. My amendment would require that the Statehood Transition Commission identify specific options that may include any or all of the following: the construction of prison facilities within the State of New Columbia; the development of agreements with Virginia as well as other States to house prisoners; and the development of a plan to close the Lorton complex, no later than the year 2010, absent an agreement with Virginia to keep the complex open. The Lorton issue would require study and planning because such a large facility could not be closed overnight, but my amendment is very specific, including a time certain to resolve the issue.

I think that by putting this language in the bill and not merely in the committee report, I have made a detailed and good faith effort to assure that New Columbia would enter the union with neither prejudice or favor.

If the District of Columbia wants to be a State, it must accept all of the responsibilities of a State. One of these responsibilities is providing for the custody of District prisoners within the District's own borders, should it become necessary.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the chairman of the Rules Committee for yielding this time to me.

Mr. Speaker, I appreciate the fact that the gentlewoman from the District of Columbia [Ms. NORTON] would agree that we cannot have a sovereign State housing its prisoners within the confines of another State.

I do think that 17 years to rectify that situation is a bit long.

My amendment would have given 2 years, so we obviously have some disagreement on the timeframe; but I am glad that we do not have any disagreement on the principle that both the prison for residents of the State of New Columbia would have to be housed within the boundaries of the State of New Columbia and that we need to go about that immediately, if this bill were to pass.

Mr. Speaker, I appreciate the gentlewoman's remarks.

□ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the honorable gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, it is with some regret that I rise to oppose the distinguished gentlewoman from Washington, DC [Ms. NORTON] on whether or not this should become the 51st State.

George Santayana said that he who does not learn from history is doomed to repeat it.

In the days just previous to the adoption of the Constitution of the United States, Mr. Speaker, the Congress of the United States was physically driven from Philadelphia, which was then the capital, and since that time the Congress of the United States has sat in no less than 11 places where we have tried to serve as the government of all the people of the United States.

We have before us a closed rule which would essentially authorize substantial change in major constitutional law and raise constitutional questions.

The law is very simple. The Congress, under article I of the Constitution, has the full right and prerogative to legislate in this city, in this area, and that has been so since the Constitution was adopted. There is no need to change it.

I have heard many sad complaints about how Washington pays taxes and gets nothing back. I say to my colleagues, don't believe it. For every dollar in Federal taxes that is paid by Washington, DC, Mr. Speaker, this city gets back $4.92. The Congress and the Government provide a police force, the park system, most or many of the roads and highways. We afford rights to vote in the Presidential election. We have an elected form of government here, and there is an elected school board. All rights, save the right to exercise jurisdiction as a State or city over the business of the Federal Government, is afforded to the citizens here.

I have heard many, many complaints about people being denied constitutional rights. There is no constitutional right whatsoever that is being denied to the citizens here. If they do not like the way the government is run, they can pick up and move out. Many do. Many move in; many move out.

The proponents of this legislation have said that this legislation has no chance of passing. I concede that that is so. I concede that that is wise. I say, let us have a vote on this question, and let us vote the rule down. It is a closed rule. It is a foolish act by this Congress to waste the time of the American people on this kind of trivia. Regret the rule, and let us go about more important business.

Mr. QUILLEN. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I do not normally disagree very often with the chairman of the Committee on Energy and Commerce, on which I serve, but I do think I support this rule, and it is a closed rule, and it is closed principally, as far as I am concerned, because of the Smith case, Coyne versus Smith, 1911, which said in effect, "You cannot bring in a State with different conditions than you bring in any other or brought in any other State," and that is why I have to disagree with my good friend, the gentleman from Virginia [Mr. MORAN] who represents Alexandria, because, true, no other State has a prison in another State, but I do not think Congress ever addressed that question on the admission of a State.

So Mr. Speaker, I thank the gentleman for having yielded me all of the time.

Mr. QUILLEN. Mr. Speaker I urge the defeat of this rule and the bill when it is on the House floor, should it ever reach there.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for the purpose of closing debate, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, the gentleman from Michigan [Mr. DINGELL] made an outrageously false statement, the $4.72 for every dollar statement. That figure includes all civilian payroll checks or lump sum payments issued by any Federal agency in the District of Columbia, including checks written to Members of the House and the Senate. It is not a valid figure.

I say to my colleagues, be prepared, my friends, for just that kind of argument. This afternoon you will hear high rhetoric designed to justify low practices. Some will wrap themselves in the Constitution sending shudders through the dust of the dry bones of the framers as the founding document is used to justify suppression of a will of a people. You will hear disingenuous alternatives to statehood offered. Retrocession to Maryland will be touted in violation of the Constitution which requires consent of both parties. Moreover, only seven of Maryland's State legislators favor retrocession, and District residents have voted only for statehood. You will hear that thousands of petitions against statehood have been signed. What you will not hear is that these petitions do not come from mainstream America, but from followers of Floyd Brown whom the Washington Post Sunday Magazine describes as "the creator of the infamous Willie Horton ad." The magazine reports that the petitions are "part of a fundraising appeal to those who share Mr. Brown's latest conservative nightmare." Floyd Brown has apparently moved on from his Willie Horton days to D.C. statehood by forming "an offshoot of his Citizens United conservative fundraising and advocacy organization." According to the article, Brown's mail comes from people whose opposition to statehood is based on "open political loathing of liberals, Democrats and a majority State of so-called minority citizens. Petitions from such a source and rooted in such sentiments are so far from the American mainstream that they are unworthy of consideration by a respectable legislative body."

Finally, Mr. Speaker, I say to my colleagues, you will hear from Members who cannot wait to come to the floor to take their turn at yet another round of District bashing. They will castigate the District for the very problems shared by the large cities in their home States and districts.

Mr. Speaker, I ask my colleagues to vote for this rule and give us at least the right to debate this question.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. QUILLEN. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the time for recorded votes on motions to suspend the rules on which proceedings were postponed earlier today may be reduced to a minimum of 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This vote will be followed by several other 5-minute votes.

The vote was taken by electronic device, and there were—yeas 252, nays 172, not voting 9, as follows:

[Roll No. 591]

YEAS—252

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Hoyer
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Levin
Levy
Lewis (GA)
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McDade
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Portman
Price (NC)
Rangel
Reed
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Slaughter
Smith (MI)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams

Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NAYS—172

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Blute
Boehner
Bonilla
Brewster
Brooks
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Danner
Darden
de la Garza
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Fields (TX)
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Geren
Gilchrest
Gillmor
Goodlatte
Goss
Grams
Green
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kanjorski
Kasich
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Leach
Lehman
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shuster
Skelton
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Volkmer
Weldon
Wilson
Wise
Wolf
Zeliff
Zimmer

NOT VOTING—9

Clinger
Hall (OH)
Johnson (GA)
Matsui
McDermott
Reynolds
Roukema
Slattery
Washington

☐ 1629

Messrs. PAXON, INGLIS, ARMEY, BACHUS of Alabama, BARTLETT of Maryland, LEHMAN, and BRYANT changed their vote from "yea" to "nay."

Mrs. LLOYD changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DUNN. Mr. Speaker, on rollcall vote No. 591 (H. Res. 316) providing for the consideration of the New Columbia Admission Act, I inadvertently voted "yea." My intent was to vote "no" on this bill as I am adamantly opposed to all closed rules in the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3098, by the yeas and nays;
H.R. 1133, by the yeas and nays;
H.R. 2457, by the yeas and nays.

YOUTH HANDGUN SAFETY ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3098, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3098, as amended, on which the yeas and nays are ordered.

Pursuant to the previous order the House Members will have 5 minutes to record their votes. This is a 5 minute vote. Members are asked to remain in the Chamber. There will be two additional 5 minute votes.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 592]

YEAS—422

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns

Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Chapman
Clinger
Hall (OH)
Johnson (GA)
Matsui
McDermott
Reynolds
Ridge
Roukema
Slattery
Washington

□ 1638

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VIOLENCE AGAINST WOMEN ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1133, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1133, as amended, on which the yeas and nays are ordered.

The Chair will announce that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 593]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Clinger
Hall (OH)
Johnson (GA)
Lowey
Margolies-Mezvinsky
Matsui
McDermott
Reynolds
Ridge
Roukema
Slattery
Washington

□ 1645

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF MEETING OF DEMOCRATIC CAUCUS

Mr. HOYER. Mr. Speaker, I would like to announce to the Democratic Members of the House that there will be a caucus tomorrow at 1:45 p.m. in HC-5. That is at 1:45 p.m. in HC-5 tomorrow.

WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK ACT OF 1993

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The pending business is the question of suspending the rules and passing the bill, H.R. 2457, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2457, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 335, nays 85, not voting 13, as follows:

[Roll No. 594]

YEAS—335

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Baesler
Baker (CA)
Baker (LA)
Barcia
Barlow
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Calvert
Camp
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dunn
Durbin
Edwards (CA)

Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
Gunderson
Gutierrez
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutto
Hyde
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—85

Allard
Armey
Bacchus (FL)
Bachus (AL)
Ballenger
Barca
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Boehner
Bonilla
Bunning
Burton
Buyer
Byrne
Callahan
Canady
Carr
Coble
Collins (GA)
Combest
Cox
Crane
DeLay
Dickey
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fowler
Goodlatte
Grams
Grandy
Hall (TX)
Hancock
Hoke
Hutchinson
Inglis
Inhofe
Johnson, Sam
Kasich
Kim
King
Klug
Kyl
Levy
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCollum
Mica
Michel
Minge
Nussle
Oxley
Paxon
Penny
Petri
Poshard
Pryce (OH)
Ramstad
Roberts
Rogers
Rohrabacher
Royce
Santorum
Sarpalius
Sensenbrenner
Smith (MI)
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (WY)
Vucanovich
Walker
Zeliff

NOT VOTING—13

Bryant
Clinger
Gekas
Hall (OH)
Johnson (GA)
Matsui
McDermott
Reynolds
Ridge
Roukema
Slattery
Torricelli
Washington

□ 1656

Mr. KIM changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXCHANGE OF SPECIAL ORDER TIME

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that I may proceed for 30 minutes under the special order in the time allotted to the gentleman from Ohio [Mr. BOEHNER] who has agreed to this exchange of time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 2202, PREVENTIVE HEALTH AMENDMENTS OF 1993

Mr. DINGELL submitted the following conference report and statement on the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer:

CONFERNECE REPORT (H. REPT. 103-397)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202), to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Preventive Health Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BREAST AND CERVICAL CANCER

Sec. 101. Revisions in program of State grants regarding breast and cervical cancer.
Sec. 102. Establishment of demonstration program of grants for additional preventive health services for women.
Sec. 103. Funding for general program.
Sec. 104. Breast and cervical cancer information.

TITLE II—INJURY PREVENTION AND CONTROL

Sec. 201. Establishment of requirements with respect to interpersonal violence within families and among acquaintances.
Sec. 202. Advisory committee; reports.
Sec. 203. Technical corrections.
Sec. 204. Authorization of appropriations.

TITLE III—TUBERCULOSIS

Sec. 301. Preventive health services regarding tuberculosis.
Sec. 302. Research through national institute of allergy and infectious diseases.
Sec. 303. Research through the food and drug administration.

TITLE IV—SEXUALLY TRANSMITTED DISEASES

Sec. 401. Extension of program of grants regarding prevention and control of sexually transmitted diseases.
Sec. 402. Extension of program regarding preventable cases of infertility arising as result of sexually transmitted diseases.

TITLE V—NATIONAL CENTER FOR HEALTH STATISTICS

Sec. 501. Revision and extension of programs.

TITLE VI—TRAUMA CARE SYSTEMS

Sec. 601. Revisions in programs relating to trauma care.
Sec. 602. Authorization of appropriations.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Evaluations.
Sec. 702. Federal benefits for overseas assignees.
Sec. 703. Loan repayment program.
Sec. 704. Establishment of requirement of biennial report on nutrition and health.
Sec. 705. Alignment of current centers for disease control and prevention reauthorization schedule.
Sec. 706. Miscellaneous payment provisions
Sec. 707. Interim final regulations.
Sec. 708. Simplification of vaccine information materials.

TITLE I—BREAST AND CERVICAL CANCER

SEC. 101. REVISIONS IN PROGRAM OF STATE GRANTS REGARDING BREAST AND CERVICAL CANCER.

(a) LIMITED AUTHORITY REGARDING FOR-PROFIT ENTITIES.—Section 1501(b) of the Public Health Service Act (42 U.S.C. 300k(b)), as amended by section 2008(c)(1) of Public Law 103–43 (107 Stat. 211), is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by striking paragraph (2) and inserting the following paragraphs:

"(2) Limited authority regarding other entities.—In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) through entering into contracts with private entities that are not nonprofit entities.

"(3) Payments for screenings.—The amount paid by a State to an entity under this subsection for a screening procedure under subsection (a)(1) may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act if payment were made under such part for furnishing the procedure to a woman enrolled under such part.".

(b) Special Consideration.—Section 1501 of the Public Health Service Act (42 U.S.C. 300k) is amended by adding at the end the following subsection:

"(c) Special Consideration for Certain States.—In making grants under subsection (a) to States whose initial grants under such subsection are made for fiscal year 1995 or any subsequent fiscal year, the Secretary shall give special consideration to any State whose proposal for carrying out programs under such subsection—

"(1) has been approved through a process of peer review; and

"(2) is made with respect to geographic areas in which there is—

"(A) a substantial rate of mortality from breast or cervical cancer; or

"(B) a substantial incidence of either of such cancers.".

(c) Quality Assurance Regarding Screening Procedures.—

(1) In general.—Section 1503 of the Public Health Service Act (42 U.S.C. 300m) is amended by striking subsections (c) through (e) and inserting the following:

"(c) Quality Assurance Regarding Screening Procedures.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to such section.".

(2) Transition rule regarding mammographies.—With respect to the screening procedure for breast cancer known as a mammography, the requirements in effect on the day before the date of the enactment of this Act under section 1503(c) of the Public Health Service Act remain in effect (for an individual or facility conducting such procedures pursuant to a grant to a State under section 1501 of such Act) until there is in effect for the facility a certificate (or provisional certificate) issued under section 354 of such Act.

(d) Statewide Provision of Services.—Section 1504(c) of the Public Health Service Act (42 U.S.C. 300n(c)) is amended by adding at the end the following paragraph:

"(3) Grants to tribes and tribal organizations.—

"(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to tribes and tribal organizations (as such terms are used in paragraph (1)) for the purpose of carrying out programs described in section 1501(a). This title applies to such a grant (in relation to the jurisdiction of the tribe or organization) to the same extent and in the same manner as such title applies to a grant to a State under section 1501 (in relation to the jurisdiction of the State).

"(B) If a tribe or tribal organization is receiving a grant under subparagraph (A) and the State in which the tribe or organization is located is receiving a grant under section 1501, the requirement established in paragraph (1) for the State regarding the tribe or organization is deemed to have been waived under paragraph (2).".

(e) Evaluations and Reports.—Section 1508 of the Public Health Service Act (42 U.S.C. 300n-4) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 1501(a)(2) and with section 1504(c)."; and

(2) in subsection (b), by inserting before the period the following: ", including recommendations regarding compliance by the States with section 1501(a)(2) and with section 1504(c)".

(f) Establishment of Coordinating Committee.—Section 1501 of the Public Health Service Act (42 U.S.C. 300k) is amended by adding at the end the following subsection:

"(c) Coordinating Committee Regarding Year 2000 Health Objectives.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a committee to coordinate the activities of the agencies of the Public Health Service (and other appropriate Federal agencies) that are carried out toward achieving the objectives established by the Secretary for reductions in the rate of mortality from breast and cervical cancer in the United States by the year 2000. Such committee shall be comprised of Federal officers or employees designated by the heads of the agencies involved to serve on the committee as representatives of the agencies, and such representatives from other public or private entities as the Secretary determines to be appropriate.".

(g) Technical Corrections.—Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended—

(1) in section 1501(a), in the matter preceding paragraph (1), by striking "Control," and inserting "Control and Prevention,"; and

(2) in section 1505—

(A) in paragraph (3) (as amended by section 2008(c)(2) of Public Law 103-43 (107 Stat. 211)), by striking "public" and all that follows and inserting "public and nonprofit private entities; and"; and

(B) in paragraph (4), by inserting "will" before "be used".

SEC. 102. ESTABLISHMENT OF DEMONSTRATION PROGRAM OF GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES FOR WOMEN.

(a) In General.—Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended—

(1) by redesignating section 1509 as section 1510; and

(2) by inserting after section 1508 the following section:

"SEC. 1509. SUPPLEMENTAL GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES.

"(a) Demonstration Projects.—In the case of States receiving grants under section 1501, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to not more than 3 such States to carry out demonstration projects for the purpose of—

"(1) providing preventive health services in addition to the services authorized in such section, including screenings regarding blood pressure and cholesterol, and including health education;

"(2) providing appropriate referrals for medical treatment of women receiving services pursuant to paragraph (1) and ensuring, to the extent practicable, the provision of appropriate follow-up services; and

"(3) evaluating activities conducted under paragraphs (1) and (2) through appropriate surveillance or program-monitoring activities.

"(b) Status as Participant in Program Regarding Breast and Cervical Cancer.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that services under the grant will be provided only through entities that are screening women for breast or cervical cancer pursuant to a grant under section 1501.

"(c) Applicability of Provisions of General Program.—This title applies to a grant under subsection (a) to the same extent and in the same manner as such title applies to a grant under section 1501.

"(d) Funding.—

"(1) In general.—Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(2) Limitation regarding funding with respect to breast and cervical cancer.—The authorization of appropriations established in paragraph (1) is not effective for a fiscal year unless the amount appropriated under section 1510(a) for the fiscal year is equal to or greater than $100,000,000.".

(b) Conforming Amendment.—Section 1510(a) of the Public Health Service Act, as redesignated by subsection (a)(1) of this section, is amended in the heading for the section by striking "**FUNDING.**" and inserting "**FUNDING FOR GENERAL PROGRAM.**".

SEC. 103. FUNDING FOR GENERAL PROGRAM.

Section 1510(a) of the Public Health Service Act, as redesignated by section 102(a)(1) of this Act, is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

SEC. 104. BREAST AND CERVICAL CANCER INFORMATION.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.), as amended by section 2008(i)(2)(A) of Public Law 103-43 (107 Stat. 213), is amended by adding at the end the following new section:

"BREAST AND CERVICAL CANCER INFORMATION

"Sec. 340D. (a) In General.—As a condition of receiving grants, cooperative agreements, or contracts under this Act, each of the entities specified in subsection (c) shall, to the extent determined to be appropriate by the Secretary, make available information concerning breast and cervical cancer.

"(b) Certain Authorities.—In carrying out subsection (a), an entity specified in subsection (c)—

"(1) may make the information involved available to such individuals as the entity determines appropriate;

'(2) may, as appropriate, provide information under subsection (a) on the need for self-examination of the breasts and on the skills for such self-examinations;

"(3) shall provide information under subsection (a) in the language and cultural context most appropriate to the individuals to whom the information is provided; and

"(4) shall refer such clients as the entities determine appropriate for breast and cervical cancer screening, treatment, or other appropriate services.

"(c) Relevant Entities.—The entities specified in this subsection are the following:

"(1) Entities receiving assistance under section 317E (relating to tuberculosis).

"(2) Entities receiving assistance under section 318 (relating to sexually transmitted diseases).

"(3) Migrant health centers receiving assistance under section 329.

"(4) Community health centers receiving assistance under section 330.

"(5) Entities receiving assistance under section 340 (relating to homeless individuals).

"(6) Entities receiving assistance under section 340A (relating to health services for residents of public housing).

"(7) Entities providing services with assistance under title V or title XIX.

"(8) Entities receives assistance under section 1001 (relating to family planning).

"(9) Entities receiving assistance under title XXVI (relating to services with respect to acquired immune deficiency syndrome).

"(10) Non-Federal entities authorized under the Indian Self-Determination Act.".

TITLE II—INJURY PREVENTION AND CONTROL

SEC. 201. ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO INTERPERSONAL VIOLENCE WITHIN FAMILIES AND AMONG ACQUAINTANCES.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.), as redesignated by section 2008(i)(2)(B)(i) of Public Law 103–43 (107 Stat. 213), is amended—

(1) by redesignating sections 393 and 394 as sections 394 and 394A, respectively; and

(2) by inserting after section 392 the following section:

"INTERPERSONAL VIOLENCE WITHIN FAMILIES AND AMONG ACQUAINTANCES

"SEC. 393. (a) With respect to activities that are authorized in sections 391 and 392, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out such activities with respect to interpersonal violence within families and among acquaintances. Activities authorized in the preceding sentence include the following:

"(1) Collecting data relating to the incidence of such violence.

"(2) Making grants to public and nonprofit private entities for the evaluation of programs whose purpose is to prevent such violence, including the evaluation of demonstration projects under paragraph (6).

"(3) Making grants to public and nonprofit private entities for the conduct of research on identifying effective strategies for preventing such violence.

"(4) Providing to the public information and education on such violence, including information and education to increase awareness of the public health consequences of such violence.

"(5) Training health care providers as follows:

"(A) To identify individuals whose medical conditions or statements indicate that the individuals are victims of such violence.

"(B) To routinely determine, in examining patients, whether the medical conditions or statements of the patients so indicate.

"(C) To refer individuals so identified to entities that provide services regarding such violence, including referrals for counseling, housing, legal services, and services of community organizations.

"(6) Making grants to public and nonprofit private entities for demonstration projects with respect to such violence, including with respect to prevention.

"(b) For purposes of this part, the term 'interpersonal violence within families and among acquaintances' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, elder abuse, and acquaintance rape.".

SEC. 202. ADVISORY COMMITTEE; REPORTS.

Section 394 of the Public Health Service Act, as redesignated by section 201(1) of this Act, is amended to read as follows:

"GENERAL PROVISIONS

"SEC. 394. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish an advisory committee to advise the Secretary and such Director with respect to the prevention and control of injuries.

"(b) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may provide technical assistance to public and nonprofit private entities with respect to the planning, development, and operation of any program or service carried out pursuant to this part. The Secretary may provide such technical assistance directly or through grants or contracts.

"(c) Not later than February 1 of 1995 and of every second year thereafter, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this part during the preceding 2 fiscal years. Such report shall include a description of such activities that were carried out with respect to interpersonal violence within families and among acquaintances and with respect to rural areas.".

SEC. 203. TECHNICAL CORRECTIONS.

(a) TERMINOLOGY.—Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.), as redesignated by section 2008(i)(2)(B)(i) of Public Law 103–43 (107 Stat. 213), is amended—

(1) in the heading for such part, by striking "INJURY CONTROL" and inserting "PREVENTION AND CONTROL OF INJURIES"; and

(2) in section 392—

(A) in the heading for such section, by inserting "PREVENTION AND" before "CONTROL ACTIVITIES";

(B) in subsection (a)(1), by inserting "and control" after "prevention"; and

(C) in subsection (b)(1), by striking "injuries and injury control" and inserting "the prevention and control of injuries".

(b) PROVISIONS RELATING TO PUBLIC LAW 102–531.—Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.), as amended by section 301 of Public Law 102–531 (106 Stat. 3482) and as redesignated by section 2008(i)(2)(B)(i) of Public Law 103–43 (107 Stat. 213), is amended—

(1) in section 392(b)(2), by striking "to promote injury control" and all that follows and inserting "to promote activities regarding the prevention and control of injuries; and"; and

(2) in section 391(b), by adding at the end the following sentence: "In carrying out the preceding sentence, the Secretary shall disseminate such information to the public, including through elementary and secondary schools.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 394A of the Public Health Service Act, as redesignated by section 201(1) of this Act, is amended by striking "To carry out" and all that follows and inserting the following: "For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

TITLE III—TUBERCULOSIS

SEC. 301. PREVENTIVE HEALTH SERVICES REGARDING TUBERCULOSIS.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 242 et seq.), as amended by section 308 of Public Law 102–531 (106 Stat. 3495), is amended by inserting after section 317D the following section:

"PREVENTIVE HEALTH SERVICES REGARDING TUBERCULOSIS

"SEC. 317E. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, political subdivisions, and other public entities for preventive health service programs for the prevention, control, and elimination of tuberculosis.

"(b) RESEARCH, DEMONSTRATION PROJECTS, EDUCATION, AND TRAINING.—With respect to the prevention, control, and elimination of tuberculosis, the Secretary may, directly or through grants to public or nonprofit private entities, carry out the following:

"(1) Research, with priority given to research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations.

"(2) Demonstration projects.

"(3) Public information and education programs.

"(4) Education, training, and clinical skills improvement activities for health professionals, including allied health personnel and emergency response employees.

"(5) Support of centers to carry out activities under paragraphs (1) through (4).

"(6) Collaboration with international organizations and foreign countries in carrying out such activities.

"(c) COOPERATION WITH PROVIDERS OF PRIMARY HEALTH SERVICES.—The Secretary may make a grant under subsection (a) or (b) only if the applicant for the grant agrees that, in carrying out activities under the grant, the applicant will cooperate with public and nonprofit private providers of primary health services or substance abuse services, including entities receiving assistance under section 329, 330, 340, or 340A or under title V or XIX.

"(d) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) or (b) only if an application for the grant is submitted to the Secretary and the application, subject to paragraph (2), is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the subsection involved.

"(2) PLAN FOR PREVENTION, CONTROL, AND ELIMINATION.—The Secretary may make a grant under subsection (a) only if the application under paragraph (1) contains a plan regarding the prevention, control, and elimination of tuberculosis in the geographic area with respect to which the grant is sought.

"(e) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—Upon the request of a grantee under subsection (a) or (b), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out the subsection involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(f) ADVISORY COUNCIL.—

"(1) IN GENERAL.—The Secretary shall establish an advisory council to be known as the Advisory Council for the Elimination of Tuberculosis (in this subsection referred to as the "Council").

"(2) GENERAL DUTIES.—The Council shall provide advice and recommendations regarding the elimination of tuberculosis to the Secretary, the Assistant Secretary for Health, and the Director of the Centers for Disease Control and Prevention.

"(3) CERTAIN ACTIVITIES.—With respect to the elimination of tuberculosis, the Council shall—

"(A) in making recommendations under paragraph (2), make recommendations regarding policies, strategies, objectives, and priorities;

"(B) address the development and application of new technologies; and

"(C) review the extent to which progress has been made toward eliminating tuberculosis.

"(4) COMPOSITION.—The Secretary shall determine the size and composition of the Council, and the frequency and scope of official meetings of the Council.

"(5) STAFF, INFORMATION, AND OTHER ASSISTANCE.—The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

"(g) FUNDING.—

"(1) IN GENERAL; ALLOCATION FOR EMERGENCY GRANTS.—

"(A) For the purpose of making grants under subsection (a), there are authorized to be appropriated $200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(B) Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary may reserve not more than $50,000,000 for emergency grants under subsection (a) for any geographic area in which there is, relative to other areas, a substantial number of cases of tuberculosis or a substantial rate of increase in such cases.

"(2) RESEARCH, DEMONSTRATION PROJECTS, EDUCATION, AND TRAINING.—For the purpose of making grants under subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1998.".

(b) CONFORMING AMENDMENTS.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended—

(1) in subsection (j)—

(A) by striking paragraph (2);

(B) by striking "(j)(1)(A)" and inserting "(j)(1)";

(C) by striking "(B) For grants" and inserting "(2) For grants"; and

(D) in paragraph (1) (as so redesignated), by striking "established in subparagraph (B)" and inserting "established in paragraph (2)";

(2) in subsection (k)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(C) in paragraph (4) (as so redesignated), by striking "of section 317" each place such term appears; and

(3) by striking subsection (l).

SEC. 302. RESEARCH THROUGH NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.

(a) CERTAIN DUTIES.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f) is amended by inserting after section 446 the following section:

"RESEARCH AND RESEARCH TRAINING REGARDING TUBERCULOSIS

"SEC. 447. (a) In carrying out section 446, the Director of the Institute shall conduct or support research and research training regarding the cause, diagnosis, early detection, prevention and treatment of tuberculosis.

"(b) For the purpose of carrying out subsection (a), there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998. Such authorization is in addition to any other authorization of appropriations that is available for such purpose.".

SEC. 303. RESEARCH THROUGH THE FOOD AND DRUG ADMINISTRATION.

The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall implement a tuberculosis drug and device research program under which the Commissioner may—

(1) provide assistance to other Federal agencies for the development of tuberculosis protocols;

(2) review and evaluate medical devices designed for the diagnosis and control of airborne tuberculosis; and

(3) conduct research concerning drugs or devices to be used in diagnosing, controlling and preventing tuberculosis.

TITLE IV—SEXUALLY TRANSMITTED DISEASES

SEC. 401. EXTENSION OF PROGRAM OF GRANTS REGARDING PREVENTION AND CONTROL OF SEXUALLY TRANSMITTED DISEASES.

(a) INNOVATIVE, INTERDISCIPLINARY APPROACHES.—Section 318 of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following subsection:

"(d) The Secretary may make grants to States and political subdivisions of States for the development, implementation, and evaluation of innovative, interdisciplinary approaches to the prevention and control of sexually transmitted diseases.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 318(e) of the Public Health Service Act, as redesignated by subsection (a)(1) of this section, is amended by amending paragraph (1) to read as follows: "(1) For the purpose of making grants under subsections (b) through (d), there are authorized to be appropriated $85,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

(c) TECHNICAL CORRECTIONS.—Section 318 of the Public Health Service Act, as amended by subsection (a) of this section, is amended—

(1) in subsection (b)(3), by striking ", and" and inserting "; and";

(2) in subsection (c)(3), by striking ", and" and inserting "; and"; and

(3) in subsection (d)(5)—

(A) in subparagraph (A), by striking "form, or" and inserting "form; or"; and

(B) in subparagraph (B), by striking "purposes," and inserting "purposes;".

SEC. 402. EXTENSION OF PROGRAM REGARDING PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

(a) TECHNICAL CORRECTIONS.—Section 318A of the Public Health Service Act (42 U.S.C. 247c–1), as added by section 304 of Public Law 102–531 (106 Stat. 3490), is amended in subsection (o)(2) by striking "subsection (s)" and inserting "subsection (q)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 318A of the Public Health Service Act (42 U.S.C. 247c–1), as added by section 304 of Public Law 102–531 (106 Stat. 3490), is amended—

(1) in subsection (q), by striking "and 1995" and inserting "through 1998"; and

(2) in subsection (r)(2), by striking "through 1995" and inserting "through 1998".

TITLE V—NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 501. REVISION AND EXTENSION OF PROGRAMS.

(a) IN GENERAL.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (c), by striking "Committee on Human Resources" and inserting "Committee on Labor and Human Resources";

(2) in subsection (g), by striking "data which shall be published" and all that follows and inserting "data.";

(3) in subsection (i), by striking "engaged in health planning activities";

(4) in subsection (k)(2)—

(A) in subparagraph (A), in the last sentence, by striking "Except" and all that follows through "members" and inserting "Members";

(B) by striking subparagraph (B); and

(C) by striking the remaining subparagraph designation; and

(5)(A) by striking subsection (l);

(B) by redesignating subsections (m) through (o) as subsections (l) through (n), respectively;

(C) in subsection (l) (as so redesignated), in the last sentence, by striking "(n)" and inserting "(m)"; and

(D) in subsection (n) (as so redesignated)—

(i) in paragraph (1), by striking "(m)" and inserting "(l)"; and

(ii) in paragraph (2)—

(I) by striking "(n)" and inserting "(m)"; and

(II) by striking "(n)(2)" and inserting "(m)(2)".

(b) GENERAL AUTHORITY RESPECTING RESEARCH, EVALUATIONS, AND DEMONSTRATIONS.—Section 304 of the Public Health Service Act (42 U.S.C. 242b) is amended by striking subsection (d).

(c) GENERAL PROVISIONS RESPECTING EFFECTIVENESS, EFFICIENCY, AND QUALITY OF HEALTH SERVICES.—Section 308 of the Public Health Service Act (42 U.S.C. 242m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively; and

(B) in paragraph (2), by striking "reports required by subparagraphs" and all that follows through "Center" and inserting the following: "reports required in paragraph (1) shall be prepared through the National Center";

(2)(A) by striking subsection (c);

(B) by transferring paragraph (2) of subsection (g) from the current location of the paragraph;

(C) by redesignating such paragraph as subsection (c);

(D) by inserting subsection (c) (as so redesignated) after subsection (b); and

(E) by striking the remainder of subsection (g);

(3) in subsection (c) (as so redesignated)—

(A) by striking "shall (A) take" and inserting "shall take"; and

(B) by striking "and (B) publish" and inserting "and shall publish";

(4) in subsection (f), by striking "sections 3648" and all that follows and inserting the following: "section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5)."; and

(5) by striking subsection (h).

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 306(n) of the Public Health Service Act, as redesignated by subsection (a)(5)(B), is amended—

(1) in paragraph (1), by striking "through 1993" and inserting "through 1998"; and

(2) in paragraph (2), in the first sentence—

(A) by striking "and" after "1992,"; and

(B) by inserting before the period the following: ", and $10,000,000 for each of the fiscal years 1994 through 1998".

TITLE VI—TRAUMA CARE SYSTEMS

SEC. 601. REVISIONS IN PROGRAMS RELATING TO TRAUMA CARE.

(a) GENERAL AUTHORITY.—Section 1201 of the Public Health Service Act (42 U.S.C. 300d) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting after "Secretary" the following: ", acting through the Administrator of the Health Resources and Services Administration,"; and

(2) by adding at the end the following subsection:

"(c) ADMINISTRATION.—The Administrator of the Health Resources and Services Administration shall ensure that this title is administered by the Division of Trauma and Emergency Medical Systems within such Administration. Such Division shall be headed by a director appointed by the Secretary from among individuals who are knowledgeable by training or experience in the development and operation of trauma and emergency medical systems.".

(b) ADVISORY COUNCIL.—Section 1201 of the Public Health Service Act (42 U.S.C. 300d) is amended—

(1) by striking section 1202; and

(2) by redesignating sections 1203 and 1204 as sections 1202 and 1202, respectively;

(c) REPORTS BY STATES; EVALUATIONS BY COMPTROLLER GENERAL.—Section 1216(c) of the Public Health Service Act (42 U.S.C. 300d–16) is amended by striking "1993" and inserting "1994".

(d) REPORT BY SECRETARY.—Section 1222 of the Public Health Service Act (42 U.S.C. 300d–22) is amended—

(1) in the first sentence, by striking "1992" and inserting "1995"; and

(2) by inserting after the first sentence the following sentence: "Such report shall include an assessment of the extent to which Federal and State efforts to develop systems of trauma care and to designate trauma centers have reduced the incidence of mortality, and the incidence of permanent disability, resulting from trauma.".

(e) WAIVER REGARDING PURPOSE OF GRANTS.—Section 1233 of the Public Health Service Act (42 U.S.C. 300d–33) is repealed.

(f) TECHNICAL CORRECTIONS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(1) in section 1204(c), by inserting before the period the following: "determines to be necessary to carry out this section";

(2) in section 1212(a)(2)(A), by striking "1211(c)" and inserting "1211(b)";

(3) in section 1213(a)—

(A) in paragraph (4), by striking "Act" and inserting "Act)";

(B) in paragraphs (8) and (9), by striking "to provide" each place such term appears and inserting "provides for"; and

(C) in paragraph (10), by striking "to conduct" and inserting "conducts"; and

(4) in section 1231(3), by striking "Rico;" and inserting "Rico,".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

Section 1232(a) of the Public Health Service Act (42 U.S.C. 300d–32(a)) is amended by striking "for the purpose" and all that follows and inserting the following: "For the purpose of carrying out parts A and B, there are authorized to be appropriated $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. EVALUATIONS.

Effective October 1, 1994, section 241 of the Public Health Service Act (42 U.S.C. 238j), as transferred and redesignated by section 2010(a) of Public Law 103–43 (107 Stat. 213)), is amended to read as follows:

"EVALUATION OF PROGRAMS

"SEC. 241. (a) IN GENERAL.—Such portion as the Secretary shall determine, but not less than 0.2 percent nor more than 1 percent, of any amounts appropriated for programs authorized under this Act shall be made available for the evaluation (directly, or by grants of contracts) of the implementation and effectiveness of such programs.

"(b) REPORT ON EVALUATIONS.—Not later than February 1 of each year, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the findings of the evaluations conducted under subsection (a).".

SEC. 702. FEDERAL BENEFITS FOR OVERSEAS ASSIGNEES.

Section 307 of the Public Health Service Act (42 U.S.C. 242l) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may provide to personnel appointed or assigned by the Secretary to serve abroad, allowances and benefits similar to those provided under chapter 9 of title I of the Foreign Service Act of 1990 (22 U.S.C. 4081 et seq.). Leaves of absence for personnel under this subsection shall be on the same basis as that provided under subchapter I of chapter 63 of title 5, United States Code to individuals serving in the Foreign Service.".

SEC. 703. LOAN REPAYMENT PROGRAM.

Part B of title III of the Public Health Service Act, as amended by section 301 of this Act, is amended by inserting after section 317E the following section:

"LOAN REPAYMENT PROGRAM

"SEC. 317F. (a) IN GENERAL.—

"(1) AUTHORITY.—Subject to paragraph (2), the Secretary may carry out a program of entering into contracts with appropriately qualified health professionals under which such health professionals agree to conduct prevention activities, as employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B) agrees to serve as an employee of the Centers for Disease Control and Prevention or the Agency for Toxic Substances and Disease Registry for purposes of paragraph (1) for a period of not less than 3 years.

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III of this Act, the provisions of such subpart shall, except as inconsistent with subsection (a), apply to the program established in this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

SEC. 704. ESTABLISHMENT OF REQUIREMENT OF BIENNIAL REPORT ON NUTRITION AND HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.), as amended by section 302 of Public Law 102–531 (106 Stat. 3483), is amended by adding at the end the following section:

"BIENNIAL REPORT REGARDING NUTRITION AND HEALTH

"SEC. 1709. (a) BIENNIAL REPORT.—The Secretary shall require the Surgeon General of the Public Health Service to prepare biennial reports on the relationship between nutrition and health. Such reports may, with respect to such relationship, include any recommendations of the Secretary and the Surgeon General.

"(b) SUBMISSION TO CONGRESS.—The Secretary shall ensure that, not later than February 1 of 1995 and of every second year thereafter, a report under subsection (a) is submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

SEC. 705. ALIGNMENT OF CURRENT CENTERS FOR DISEASE CONTROL AND PREVENTION REAUTHORIZATION SCHEDULE.

(a) SCREENINGS, EDUCATION, AND REFERRALS REGARDING LEAD POISONING.—Section 317A(l)(1) of the Public Health Service Act (42 U.S.C. 247b–1(l)(1)) is amended by striking "through 1997" and inserting "through 1998".

(b) PROSTATE CANCER PREVENTION.—Section 317D(l)(1) of the Public Health Service Act (42 U.S.C. 247b–5(l)(1)) is amended by striking "through 1996" and inserting "through 1998".

(c) CANCER REGISTRIES.—Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e–4(a)) (as amended by section 2003(1) of Public Law 103–43) is amended by striking "through 1996" and inserting "through 1998".

(d) HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH AND DEMONSTRATION CENTERS.—Section 1706(e) of the Public Health Service Act (42 U.S.C. 300u–5(e)) is amended by striking "through 1996" and inserting "through 1998".

(e) TITLE XIX PROGRAM.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "through 1997" and inserting "through 1998".

(f) SENSE OF CONGRESS REGARDING SCHEDULE FOR LEGISLATION.—It is the sense of the Congress that, during the fiscal years 1994 through 1997, authorizations of appropriations for the programs of the Centers for Disease Control and Prevention should be provided only through fiscal year 1998, and that for fiscal year 1999 and subsequent fiscal years such programs, when considered by the Congress through legislation providing further authorizations of appropriations, should be so considered during a single year.

SEC. 706. MISCELLANEOUS PAYMENT PROVISIONS

(a) PAYMENT OF CERTAIN JUDGMENTS.—Section 224(k)(2) of the Public Health Service Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

(b) COMPENSATION REGARDING CERTAIN ADVISORY COUNCIL.—Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2) is amended—

(1) by inserting before "the daily equivalent" the following: "compensation at a rate fixed by the Secretary (but not to exceed"; and

(2) by striking "Schedule;" and inserting "Schedule);".

SEC. 707. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services is authorized to issue interim final regulations—

(1) under which the Secretary may approve accreditation bodies under section 354(e) of the Public Health Service Act (42 U.S.C. 263b(e)); and

(2) establishing quality standards under section 354(f) of the Public Health Service Act (42 U.S.C. 263b(f)).

SEC. 708. SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.

(a) INFORMATION.—Section 2126(b) of the Public Health Service Act (42 U.S.C. 300aa–26(b)) is amended—

(1) by striking "by rule" in the matter preceding paragraph (1); and

(2) by striking, in paragraph (1), ", opportunity for a public hearing, and 90" and inserting "and 60".

(b) REQUIREMENTS.—Section 2126(c) of the Public Health Service Act (42 U.S.C. 300aa–26(c)) is amended—

(1) by inserting "shall be based on available data and information," after "such materials" in the matter preceding paragraph (1); and

(2) by striking paragraphs (1) through (10) and inserting the following:

"(1) a concise description of the benefits of the vaccine,

"(2) a concise description of the risks associated with the vaccine,

"(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

"(4) such other relevant information as may be determined by the Secretary.".

(c) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 of the Public Health Service Act (42 U.S.C. 300aa–26) are each amended by inserting "or to any other individual" after "to the legal representatives of any child".

(d) PROVIDERS DUTIES.—Subsection (d) of section 2126 of the Public Health Service Act (42 U.S.C. 300aa–26) is amended—

(1) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases."; and

(2) by striking "or other information" in the last sentence.

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE KREIDLER,
CARLOS J. MOORHEAD,
TOM BLILEY,
Managers on the part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
NANCY LANDON KASSEBAUM,
ORRIN HATCH,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I.—BREAST AND CERVICAL CANCER

Both House and Senate provisions, as well as the combination of provisions in the conference agreement, reflect the concern of the Congress about the alarming rates of morbidity and mortality from breast and cervical cancer. Both of these women's diseases can be much more effectively treated and controlled with early diagnosis. The conferees wish to emphasize that the public health programs authorized by this legislation must do more to provide for effective education about the need for routine preventive health care, including self-examination for breast cancer and regular medical evaluation for early diagnosis of cervical and breast cancer.

TITLE II.—INJURY PREVENTION AND CONTROL

The programs of the CDC related to prevention of injuries focus on a wide variety of sources of injury, including violence. The provisions of this legislation emphasize the need for greater focus on domestic violence, including sexual assault and other violence against women.

TITLE III.—TUBERCULOSIS

The conference agreement adopts Senate provisions authorizing additional resources and establishing new programs for a frontal assault on the extraordinary increase in cases of tuberculosis, a disease that only a few years ago was believed to be under control. In addition to their direct effects, the HIV epidemic and the problem of homelessness have had a devastating impact through sequelae such as tuberculosis. TB has reached near-epidemic proportions in certain parts of the country, its treatment has become increasingly difficult as the organism causing the disease has become resistant to available treatment, and it has spread at an alarming rate in crowded cities and institutions such as prisons. The conference agreement authorizes additional research in causes, prevention, and treatment of TB, including establishment of a new research emphasis at the Food and Drug Administration focusing on the development of diagnostic devices and drugs to treat drug-resistant strains of TB.

TITLE IV.—SEXUALLY TRANSMITTED DISEASES

The conferees note the importance of existing STD prevention programs, and the need for area- and state-specific approaches to control of these diseases. Thus, the reauthorization of the CDC state grant program is crucial to the success of efforts to control STDs, which are reaching seriously high rates among adolescents and young adults. These diseases have particular consequences for women and infants, and are especially serious among minority populations. The conferees agree that the Senate provision, which establishes an accelerated prevention program, is critical to allow CDC to assist in enhancing and providing for the adoption of innovative approaches to education, prevention, and control of STDs.

TITLE V.—NATIONAL CENTER FOR HEALTH STATISTICS

The conference agreement reauthorizes NCHS programs.

TITLE VI.—TRAUMA CARE SYSTEMS

In reauthorizing the trauma care program, the conferees have included a provision that retains the current administrative locus of the trauma care program at the Health Resources and Services Administration. The legislation also requires that the Secretary will appoint a director for the program, which is to be operated as a separate and distinct division. The conferees expect that this appointment will be made at the earliest possible time.

TITLE VII.—MISCELLANEOUS PROVISIONS

Among a variety of technical and minor amendments to the Public Health Service Act, the conferees adopted an amendment that affects the ability of the Secretary to implement the Mammography Quality Standards Act (MQSA).

The conferees believe that the public health need to set federal standards for mammography requires immediate action. The statute, therefore, is being amended to provide HHS with the authority to issue temporary, but immediately enforceable, interim regulations setting forth accrediting body and quality standards for mammography under subsections (e) and (f) of the MQSA.

The conferees find that existing standards, established by HDFA, private voluntary accrediting bodies, and some states, should serve as the models for these initial standards issued under this abbreviated process. Further, the conferees believe that the full consultation on these standards with the new Mammography Quality Assurance Advisory Committee required by the MQSA may be dispensed with for preliminary rulemaking only. The conferees intend that, following issuance of initial standards, the Secretary will proceed with the more extensive rulemaking and standard-setting envisioned by the MQSA, including consultation with the Advisory Committee.

The interim regulations authority provided by this conference report will permit the Secretary to expedite establishment of legally binding initial accreditation and quality standards, based on currently known and used standards, as rapidly as feasible. These initial standards can then be used to accredit and certify facilities before the October 1, 1994, deadline, while the Secretary can simultaneously continue to evaluate and develop the final regulations in consultation with the Advisory Committee, to be final by October 1, 1995.

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE KREIDLER,
CARLOS J. MOORHEAD,
TOM BLILEY,
Managers on the part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
NANCY LANDON KASSEBAUM,
ORRIN HATCH,
Managers on the part of the Senate.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I ask for this time for the purposes of ascertaining from the majority leader the schedule for the rest of today and tomorrow, and I will be happy to yield to the majority leader.

Mr. GEPHARDT. I thank the gentleman for yielding.

It might be well to give Members a sense of the schedule.

On tomorrow, the House will meet at 2 o'clock. We will have suspensions to begin the day which obviously will be approved and consulted, in consultation with the minority. Probably those suspensions will go to a period of around 4 o'clock.

The votes, if there are any, will be rolled or postponed until that time. So Members could expect votes starting in the 4 o'clock neighborhood and then we will do the remaining 30 minutes of debate on D.C. statehood, and then there

will be a vote on D.C. statehood, and then there may be some additional votes on suspensions.

Actually we will have the votes, I am now seeing here, after the D.C. vote, so at about 4 o'clock we will do the remaining 30 minutes on D.C. statehood, and then do D.C. statehood, and then have the votes that are left from the suspensions that started at 2 o'clock, and then we will go to the campaign reform rule and bill.

Mr. WALKER. If I understand now, we probably then would not get to voting until about 4:30 at the earliest?

Mr. GEPHARDT. That is about right.

Mr. WALKER. Suspensions would go for the first 2 hours, and then we would have a half-hour on D.C., and then the vote on the D.C. bill, and then any votes left over from suspensions?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. The suspensions list is the one that we have before us that has been cleared; it includes bills left over from today plus several more that were scheduled that are on the list for Sunday? Is that correct?

Mr. GEPHARDT. That is correct.

Mr. WALKER. And the other thing we are concerned about is we have seen some indication that there is a concern about the fact that there has not been adequate time to review the Penny-Kasich proposal, and yet our understanding is that we still have not seen any language for the leadership proposal that would be at the base of the Penny-Kasich proposal. Can the gentleman give us some idea as to when the Members might have an opportunity to look at that base bill since that may be coming up as soon as Monday?

□ 1700

Mr. GEPHARDT. If the gentleman will yield, it is our intent to file the rule today, which would obviously contain the language on all the matters in the bill, our reference.

Mr. WALKER. That rule will be filed later on tonight.

Mr. GEPHARDT. That is correct.

Mr. WALKER. And that will contain all of the language that would be included in the base bill to which the Penny-Kasich proposal would be attached.

Mr. GEPHARDT. That is correct.

Mr. WALKER. I thank the majority leader, and I yield to the gentleman from California.

Mr. COX. I thank the gentleman for yielding.

I wonder if I might ask the majority leader how Members might get a copy of that bill.

Mr. WALKER. I yield to the majority leader.

Mr. GEPHARDT. The rule will reference the text of the base bill and then all amendments.

Mr. COX. And therefore might we this evening get a copy from the Rules Committee?

Mr. GEPHARDT. The Rules Committee staff should be able to give you the actual words.

Mr. COX. I appreciate that.

Mr. WALKER. In other words, that text will be available to the Members as of tomorrow, the text of the base bill will be in the Members' hands as of tomorrow.

Mr. GEPHARDT. Yes, sir.

Mr. WALKER. And that would include all the language with regard to further rescissions and cuts and all of that.

Mr. GEPHARDT. Right.

Mr. WALKER. I thank the majority leader.

Mr. GEPHARDT. I failed to say, but I should have said, there are no more votes today.

Mr. WALKER. I think that is something the membership wanted to know as well.

I thank the majority leader and yield back the balance of my time.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 118

Mr. FILNER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 118.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER ON SUNDAY, NOVEMBER 21, 1993, VARIOUS MOTIONS TO SUSPEND THE RULES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order tomorrow, Sunday, November 21, 1993, for the Speaker to entertain motions to suspend the rules pursuant to clause 1 of rule XXVII and to pass the following bills:

H.R. 3474, Community Development Banking;

H.R. 2960, Amendments to Competitiveness Policy Council Act;

H.R. 3548, Miscellaneous Coin Bill;

H.R. 1926, National Narcotics Leadership Act;

H.R. 2202, Preventive Health Amendments;

H.R. 3505, Developmental Disabilities Reauthorization;

H.R. 3216, Domestic Chemical Diversion Control Act;

H.R. 2178, Hazardous Materials Transportation Act;

H. Con. Res. 131, Regarding Sudan;

H. Con. Res. 175, Anti-Boycott Resolution;

H.R. 3106, Thomas Jefferson Commemorative Commission;

H.R. 1645, Poverty Data Improvement Act; and

H. Res. 285, FBI to Cooperate with U.S. Postal Service to Disseminate Information Re: Polly Klaas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HIGHER EDUCATIONAL TECHNICAL AMENDMENTS OF 1993

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1507) to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes and concur in the Senate amendment to the House amendments thereto.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments of 1993".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

SEC. 2. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLES I, II, AND III OF THE ACT.—Titles I, II, and III of the Act (20 U.S.C. 1001 et seq., 1021 et seq., 1051 et seq.) are amended—

(1) in section 103(b)(2), by increasing the indentation of subparagraphs (A) through (E) by two em spaces;

(2) in section 104(b)(5)(C), by striking "subpart" and inserting "part";

(3) in section 241(a)(2)(B), by striking "information service" and inserting "information science";

(4) in section 301(a)(2), by striking the comma after "planning";

(5) in section 312(c)(2), by inserting "the" before "second fiscal year" the second place it appears;

(6) in section 313(b), by inserting ", except that for the purpose of this subsection a grant under section 354(a)(1) shall not be considered a grant under this part" before the period.

(7) in section 316(c), by striking "Such programs may include—" and inserting the following:

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—";

(8) by reducing by two em spaces the indentation of each of the following provisions: sections 323(b)(3), 331(a)(2)(D), and 331(b)(5);

(9) in section 326(e)(2)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(10) in section 331(b)(2), by reducing the indentation of subparagraphs (B) and (C) by four em spaces; and

(11) in section 331(b)(5), by striking "an endowment" and inserting "An endowment".

(b) AMENDMENTS TO PART A OF TITLE IV OF THE ACT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended—

(1) in section 401(a)(1), by inserting ", except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment" before the period at the end of the second sentence;

(2) in section 401(b)(6), in the matter preceding subparagraph (A), by striking "single 12-month period" and inserting "single award year";

(3) in section 401(b)(6)(A), by striking "a baccalaureate" and inserting "an associate or baccalaureate";

(4) in section 401(b)(6)(B), by striking "a bachelor's" and inserting "an associate or baccalaureate";

(5) in section 401(i), by striking "part D of title V" and inserting "subtitle D of title V";

(6) in section 402A(b), by striking paragraph (2) and inserting the following:

"(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 4 years, except that—

"(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year; and

"(B) grants made under section 402G shall be awarded for a period of 2 years.";

(7) in the second sentence of section 402A(c)(1), by inserting before the period the following ", except that in the case of the programs authorized in sections 402E and 402G, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this chapter";

(8) in section 402A(c)(2)(A), by inserting "with respect to grants made under section 402G, and" after "Except";

(9) in section 402A, by amending subsection (e) to read as follows:

"(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—(1) Except in the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

"(A) a signed statement from the individual's parent or legal guardian;

"(B) verification from another governmental source;

"(C) a signed financial aid application; or

"(D) a signed United States or Puerto Rico income tax return.

"(2) In the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

"(A) a signed statement from the individual;

"(B) verification from another governmental source;

"(C) a signed financial aid application; or

"(D) a signed United States or Puerto Rico income tax return.";

(10) in section 402C(c), by striking "and foreign" and inserting "foreign";

(11) in section 402D(c)(2), by striking "either";

(12) in section 404A(1), by striking "high-school" and inserting "high school";

(13) in section 404B(a)(1)—

(A) by striking "section 403C" and inserting "section 404D"; and

(B) by striking "section 403D" and inserting "section 404C";

(14) in section 404B(a)(2), by inserting "shall" after "paragraph (1)";

(15) in section 404C(b)(3)(A), by striking "grades 12" and inserting "grade 12";

(16) in section 404C(b)(3)(D)(i), by striking "section 401D of this subpart" and inserting "section 402D";

(17) in section 404C(b)(3)(D)(ii), by striking "section 401D of this part" and inserting "section 402D";

(18) in section 404D(d)(3), by striking "program of instruction" and inserting "program of undergraduate instruction";

(19) in section 404D(d)(4), by striking "the" the first place it appears;

(20) in section 404E(c), by striking "tuition" and inserting "financial";

(21) in section 404F(a), by striking "under this section shall biannually" and inserting "under this chapter shall biennially";

(22) in section 404F(c), by striking "biannually" and inserting "biennially";

(23) in section 404G—

(A) by striking "an appropriation" and inserting "to be appropriated"; and

(B) by striking the second sentence and inserting the following: "For any fiscal year for which funds are authorized to be appropriated to carry out subpart 4 of part A of this title, no amount may be expended to carry out the provisions of this chapter unless the amount appropriated for such fiscal year to carry out such subpart 4 exceed $60,000,000.";

(24) in section 409A(1), by striking "private financial" and inserting "private student financial";

(25) in section 413C(d)—

(A) by striking ", a reasonable proportion of the institution's allocation shall be made available to such students, except that" and inserting "and"; and

(B) by striking "5 percent of the need" and inserting "5 percent of the total financial need";

(26) in section 413D(d)(3)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(27) in section 415C(b)(7), by striking the period at the end and inserting a semicolon;

(28) in section 419C(b)—

(A) by striking "for a period of not more than 4 years for the first 4 years of study" and inserting "for a period of not less than 1 or more than 4 years during the first 4 years of study"; and

(B) by adding at the end the following:

"The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

"(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess;

"(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years."; and

(29) in section 419D, by adding at the end the following new subsection:

"(d) CONSOLIDATION BY INSULAR AREAS PROHIBITED.—Notwithstanding section 501 of Public Law 95–1134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government."; and

(30) in section 419G(b), by striking "the District of Columbia, the Commonwealth of Puerto Rico," and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands,".

(c) AMENDMENTS TO PART B OF TITLE IV OF THE ACT.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended—

(1) in section 422(c)(7), by striking the semicolon at the end of subparagraph (B) and inserting a period;

(2) in section 425(a)(1)(A)—

(A) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;" and

(B) by striking the semicolon at the end of clause (iv) and inserting a period;

(3) in section 425(a)(1), by inserting at the end thereof the following:

"(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";

(4) in the matter following subclause (II) of section 427(a)(2)(C)(i), by inserting "section" before "428B or 428C";

(5) in section 427A(e)(1), by striking "under this part," and inserting "under section 427, 428, or 428H of this part,";

(6) in section 427A(i)(1), by amending subparagraph (B) to read as follows:

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.";

(7) in section 427A(i)(2)(B)—

(A) by striking "outstanding principal balance" and inserting "average daily principal balance"; and

(B) by striking "at the end of" and inserting "during";

(8) in section 427A(i)(4)(B)—

(A) by striking "outstanding principal balance" and inserting "average daily principal balance"; and

(B) by striking "at the end of" and inserting "during";

(9) in section 427A(i)(5)—

(A) in the first sentence—

(i) by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

(ii) by striking "principle" and inserting "principal"; and

(B) in the second sentence by inserting before the period at the end the following: ", but the excess interest shall be calculated and credited to the Secretary";

(10) in section 427A(i), by adding at the end the following new paragraph:

"(7) CONVERSION TO VARIABLE RATE.—(A) Subject to subparagraphs (C) and (D), a lender *or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).*

"(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

"(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 433(b) if such disclosure has not been previously made.

"(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

"(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.";

(11) in section 428(a)(2)(C)(i), by striking the period at the end and inserting "; and";

(12) in section 428(a)(2)(E), by inserting "or 428H" after "428A";

(13) in section 428(b)(1)(A)—

(A) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following:

"(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree; and";

(14) in section 428(b)(1)(B), by striking the matter following clause (ii) and inserting the following:

"except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;";

(15) in section 428(b)(1), by amending subparagraph (N) to read as follows:

"(N) provides that funds borrowed by a student—

"(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;";

(16) in section 428(b)(1)(U)—

(A) by striking "this clause;" and inserting "this clause"; and

(B) by inserting a comma after "emergency action" each place it appears;

(17) in section 428(b)(1)—

(A) by striking subparagraphs (V) and (W); and

(B) by redesignating subparagraphs (X), (Y), and (Z) as subparagraphs (V), (W,) and (X), respectively;

(18) in section 428(b)(2)(F)(i), by striking "each to provide a separate notice" and inserting "either jointly or separately to provide a notice";

(19) in section 428(b)(2)(F)(ii), by striking "transferor" and inserting "transferee";

(20) in section 428(b)(2)(F)(ii)(I), by striking "to another holder";

(21) in section 428(b)(2)(F)(ii)(II), by striking "such other" and inserting "the new";

(22) in section 428(b), by amending paragraph (7) to read as follows:

"(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

"(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

"(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

"(B) In the case of a loan made under section 428H, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

"(C) In the case of a loan made under section 428A, 428B, or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.";

(23) in section 428(b), by adding at the end thereof the following new paragraph:

"(8) MEANS OF DISBURSEMENT OF LOAN PROCEEDS.—Nothing in this title shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.";

(24) in section 428(c)(1)(A), by striking the last sentence and inserting the following: "A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.";

(25) in section 428(c)(2)(G), by striking "demonstrates" and inserting "certifies";

(26) in section 428(c)(3) by striking subparagraph (A) and inserting the following:

"(A) shall contain provisions providing that—

"(i) upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

"(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 427(a)(2)(C)(vii) or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 427(a)(2)(C) or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

"(II) has a debt burden under this title that equals or exceeds 20 percent of income; or

"(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) the length of the forbearance granted by the lender—

"(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

"(II) under clause (i)(II) shall not exceed 3 years; or

"(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

"(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;";

(27) in section 428(e)(2)(A)—

(A) by striking "(i)";

(B) by striking "(I)" and inserting "(i)"; and

(C) by striking "(II)" and inserting "(ii)";

(28) in section 428(j)(2), in the matter preceding subparagraph (A), by striking "lender of last resort" and inserting "lender-of-last-resort";

(29) in section 428A(b)(1), by striking subparagraph (B) and inserting the following:

"(B) In the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000; or

"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year.";

(30) in section 428A(b)(1)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) For the purposes of this paragraph, the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";

(31) in section 428A(b)(3)(B)(i), by striking "section 428" and inserting "sections 428 and 428H";

(32) in section 428A(c)(1), by striking "sections 427 or 428(b)" and inserting "section 427 or 428(b)";

(33) in section 428C(a)(3)(A), by striking "delinquent or defaulted borrower who will reenter repayment through loan consolidation" and inserting "defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans";

(34) in section 428C(a)(4)(A), by striking ", except for loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986";

(35) in section 428C(a)(4)(C), by striking "part C" and inserting "part A";

(36) in section 428C(c)(2)(A)(vi), by inserting a period after "30 years";

(37) in section 428C(c)(3)(A), by inserting "be an amount" before "equal to";

(38) in section 428F(a)(2)—

(A) by striking "this paragraph" and inserting "paragraph (1) of this subsection"; and

(B) by striking "this section" and inserting "this subsection";

(39) in section 428F(a)(4), by striking "this paragraph" and inserting "paragraph (1) of this subsection";

(40) in section 428F(b), by adding at the end thereof the following new sentence: "A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.";

(41) in section 428G(c)(3), by striking "disbursed" and inserting "disbursed by the lender";

(42) in section 428H(d)(2), by amending subparagraph (B) to read as follows:

"(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000; or

"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";

(43) in section 428H(e)(1)—

(A) by striking "shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution." and inserting "shall begin at the beginning of the repayment period described in section 428(b)(7).";

(B) by adding at the end thereof the following new sentence: "Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.";

(44) in section 428H(e)(4), by striking "427A(e)" and inserting "427A";

(45) in section 428H, by redesignating subsection (l) as subsection (h);

(46) in section 428I(g), by striking "the Federal False Claims Act" and inserting "section 3729 of title 31, United States Code,";

(47) in section 428J(b)(1), by striking "sections 428A, 428B, or 428C" and inserting "section 428A, 428B, or 428C";

(48) in section 428J(b)(1)(B), by striking "agrees in writing to volunteer for service" and inserting "serves as a full-time volunteer";

(49) in section 428J(c)(1), by striking "academic year" each place it appears and inserting "year of service";

(50) in the heading for section 428J(d), by striking "OF ELIGIBILITY" and inserting "TO ELIGIBLE";

(51) in section 428J, by amending subsection (e) to read as follows:

"(e) APPLICATION FOR REPAYMENT.—

"(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

"(2) CONDITIONS.—An eligible individual may apply for repayment after completing each year of qualifying service. The borrower shall receive forbearance while engaged in qualifying service unless the borrower is in deferment while so engaged.";

(52) in section 430A(f)(1), by striking the comma at the end and inserting a semicolon;

(53) in the matter preceding paragraph (1) of section 433(b), by striking "60 days" and inserting "30 days";

(54) in section 433(e), by striking "section 428A, 428B," and inserting "sections 428A, 428B,";

(55) in section 435(a), by inserting after paragraph (2) the following new paragraph:

"(3) APPEALS BASED UPON ALLEGATIONS OF IMPROPER LOAN SERVICING.—An institution that—

"(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

"(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 428A(a)(2); or

"(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B).";

(56) in section 435(d)(2)(D), by striking "lender; and" and inserting "lender;";

(57) in section 435(d)(2), by increasing the indentation of the matter following subparagraph (F) by two em spaces;

(58) in section 435(d)(3), by striking "435(o)" and inserting "435(m)";

(59) in section 435(m)(1)(A), by striking "428 or 428A" and inserting "428, 428A, or 428H,";

(60) in section 435(m)—

(A) by inserting at the end of paragraph (1)(A) the following new sentence: "The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.";

(B) in paragraph (1)(B), by striking "and, in calculating" and all that follows through the period at the end thereof and inserting the following: "and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.";

(61) in section 435(m)(2)(D)—

(A) by inserting "(or the portion of a loan made under section 428C that is used to repay a loan made under section 428A)" after "section 428A" the first place it appears; and

(B) by inserting "(or a loan made under section 428C a portion of which is used to repay a loan made under section 428A)" after "section 428A" the second place it appears;

(62) in section 435(m), by adding at the end thereof the following new paragraph:

"(4) COLLECTION AND REPORTING OF COHORT DEFAULT RATES.—(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.

"(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

"(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.";

(63) in section 437, by amending subsection (b) to read as follows:

"(b) PAYMENT OF CLAIMS ON LOANS IN BANKRUPTCY.—The Secretary shall pay to the holder of a loan described in section 428(a)(1)(A) or (B), 428A, 428B, 428C, or 428H, the amount of the unpaid balance of principal and interest owed on such loan—

"(1) when the borrower files for relief under chapter 12 or 13 of title 11, United States Code;

"(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

"(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.";

(64) in section 437(c)(1)—

(A) by striking "If a student borrower" and inserting "If a borrower";

(B) by striking "under this part is unable" and inserting "under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable"; and

(C) by striking "in which the borrower is enrolled" and inserting "in which such student is enrolled"; and

(65) in section 437(c)(4), by adding at the end the following new sentence: "The amount discharged under this subsection shall be treated the same as loans under section 465(a)(5) of this title.";

(66) in the matter preceding paragraph (1) of section 437A(a), by striking "under subsection (d)";

(67) in section 437A(c)(2), by inserting a period at the end;

(68) in section 437A, by striking subsection (e); and

(69) in section 439(r)(12), by striking "section 522" and inserting "section 552".

(d) AMENDMENT TO PART C OF TITLE IV OF THE ACT.—Part C of title IV of the Act (42 U.S.C. 2751 et seq.) is amended—

(1) in section 442(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(2) in section 442(e)—

(A) by inserting "(1)" before "If"; and

(B) by adding at the end the following new paragraph:

"(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.";

(3) in section 443(b)(2)(A), by striking "institution;" and inserting "institution; and";

(4) in section 443(b), by amending paragraph (5) to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that the Federal share may exceed such amounts of compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;"; and

(5) in section 443(b)(8), by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) that are only on campus and that—

"(i) to the maximum extent practicable, complement and reinforce the education programs or vocational goals of such students; and

"(ii) furnish student services that are directly related to the student's education, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; or

"(B) in community service in accordance with paragraph (2)(A) of this subsection;".

(e) AMENDMENT TO PART D OF TITLE IV OF THE ACT.—Section 453(b)(2)(B) of the Act (20 U.S.C. 1087c(b)(2)(B)) is amended to read as follows:

"(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.".

(f) AMENDMENTS TO PART E OF TITLE IV OF THE ACT.—Part E of title IV of the Act (20 U.S.C. 1087aa et seq.) is amended—

(1) in subsections (a)(1) and (a)(2)(D) of section 462, by striking "if the institution which has" each place it appears and inserting "if the institution has";

(2) in section 462(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(3) in section 462(e), by reducing the indentation of paragraph (2) by two em spaces;

(4) in section 462(h)(4), by reducing the indentation of subparagraph (B) by two em spaces;

(5) in section 463(a)(2)(B)(i)(II), by striking "7.5 percent" and inserting "7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year";

(6) in section 463(c)(4), by striking "shall disclose" and inserting "shall disclose at least annually";

(7) in section 463, by adding at the end the following new subsections:

"(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

"(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.";

(8) in section 463A, by striking subsections (d) and (e);

(9) in section 464(c)(2)(B) by striking "repayment or" and inserting "repayment of";

(10) in section 464(c)(6), by striking "Fullbright" and inserting "Fulbright";

(11) in section 464(e), by striking "principle" and inserting "principal";

(12) in section 465(a)(2)(D), by striking "services" and inserting "service";

(13) in section 465(a)(2)(F), by striking "or" after the semicolon;

(14) in section 465(a), by reducing the indentation of paragraph (6) by 2 em spaces; and

(15) in section 466(c), by reducing the indentation of paragraph (2) by two em spaces.

(g) AMENDMENTS TO PART F OF TITLE IV OF THE ACT.—Part F of title IV of the Act (20 U.S.C. 1087kk et seq.) is amended—

(1) in section 472—

(A) in paragraph (10), by striking "and" after the semicolon;

(B) in paragraph (11), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.";

(2) in the table contained in sections 475(c)(4) and 477(b)(4), by inserting "$" before "9,510";

(3) in section 475(f)(3)—

(A) by striking "Income in the case of a parent" and inserting "If a parent";

(B) by striking "(1) of this subsection, or a parent" and inserting "(1) of this subsection, or if a parent"; and

(C) by striking "is determined as follows: The income" and inserting "the income";

(4) in section 475(g)(1)(B), by inserting a close parentheses after "paragraph (2)";

(5) in the table contained in section 475(g)(3), by adding a last row that is identical to the last row of the table contained in section 476(b)(2);

(6) in section 476, by adding at the end thereof the following new subsection:

"(d) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.";

(7) in section 477 by adding at the end thereof the following new subsection:

"(e) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.";

(8) in section 478—

(A) by striking "1992–1993" each place it appears and inserting "1993–1994"; and

(B) in subsection (c)(1), by inserting "December" before "1992";

(9) in section 478(h), by striking "Bureau of Labor Standards" and inserting "Bureau of Labor Statistics";

(10) in section 479(a)(1), by inserting "of" after "(c)";

(11) in section 479(b)(1)(B)(i)—

(A) by inserting "(and the student's spouse, if any)" after "student" each time it appears; and

(B) by striking "such";

(12) in section 479(b)(2), by striking "five elements" and inserting "six elements";

(13) in section 479(b)(2)(E), by striking the semicolon and inserting a comma;

(14) in section 479(b)(3)—

(A) in subparagraph (A), by inserting "(including any prepared or electronic version of such form)" before "required"; and

(B) in subparagraph (B), by inserting "(including any prepared or electronic version of such return)" before "required";

(15) in section 479(c)—

(A) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) the student's parents were not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and";

(B) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and"; and

(C) in subparagraph (B) of paragraphs (1) and (2), by inserting "in 1992 or the current year, whichever is higher," after "that may be earned"; and

(16) in section 479A, by adding at the end the following new subsection:

"(c) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—

"(1) IN GENERAL.—A student financial aid administrator shall be considered to be making an adjustment for special circumstances in accordance with subsection (a) if—

"(A) in the case of a dependent student—

"(i) such student received a Federal Pell Grant as a dependent student in academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992; and

"(B) in the case of a single independent student—

"(i) such student received a Federal Pell Grant as a single independent student in academic year 1992–1993 and qualified as an independent student in accordance with section 480(d) for academic year 1993–1994, and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992.

"(2) AMOUNT.—A financial aid administrator shall not make an adjustment for special circumstances pursuant to this subsection in an amount that exceeds one-half of the difference between the amount of a student's Federal Pell Grant for academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994.

"(3) ACADEMIC YEAR LIMITATION.—A financial aid administrator shall make adjustments under this subsection only for Federal Pell Grants awarded for academic years 1993–1994, 1994–1995, and 1995–1996.

"(4) SPECIAL RULE.—Adjustments under this subsection shall be made in any fiscal year only if an Act that contains an appropriation for such fiscal year to carry out this subsection is enacted on or after the date of enactment of the Higher Education Technical Amendments of 1993.

"(5) LIMITATION.—Adjustments under this subsection shall not be available for any academic year to any student who, on the basis of the financial circumstances of the student for the current academic year, would not have been eligible for a grant under this section in academic year 1992–1993.";

(17) in section 480(c)(2), by striking "Title" each place it appears and inserting "United States Code, title";

(18) in section 480(d)(2), by inserting "or was a ward of the court until the individual reached the age of 18" before the semicolon;

(19) in section 480(j), by reducing the indentation of paragraph (3) by 2 em spaces; and

(20) in section 480, by adding at the end the following new subsections:

"(k) DEPENDENTS.—(1) Except as otherwise provided, the term 'dependent of the parent' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

"(2) Except as otherwise provided, the term 'dependent of the student' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

"(l) FAMILY SIZE.—(1) In determining family size in the case of a dependent student—

"(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

"(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

"(2) In determining family size in the case of an independent student—

"(A) family members include the student, the student's spouse, and the dependents of the student; and

"(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(m) BUSINESS ASSETS.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.".

(h) AMENDMENTS TO PART G OF TITLE IV OF THE ACT.—Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended—

(1) in section 481(a)(3)(B), by inserting before the semicolon the following: ", except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree";

(2) in section 481(a)(3)(D)—

(A) by striking "are admitted pursuant to section 484(d)" and inserting "do not have a high school diploma or its recognized equivalent"; and

(B) by inserting before the period the following: ", except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent";

(3) in section 481(a)(4), by amending subparagraph (A) to read as follows:

"(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy; or";

(4) in section 481(d), by amending paragraph (2) to read as follows:

"(2) For the purpose of any program under this title, the term 'academic year' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.";

(5) in section 481(e) by striking paragraph (2) and inserting the following:

"(2)(A) A program is an eligible program for purposes of part B of this title if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

"(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

"(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

"(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

"(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.";

(6) in section 481(f), by striking "State" and inserting "individual, or any State,";

(7) in section 482(c), by adding at the end the following new sentence: "For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting parts B, G, and H of this title that are published in final form by May 1, 1994.";

(8) in section 483(a)(1), by striking "section 411(d)" and inserting "section 401(d)";

(9) in section 483(a)(2), by inserting at the end the following new sentence: "No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).";

(10) in section 483(a)(3), by inserting at the end the following sentence: "Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.";

(11) in section 483(f), by striking "address, social security number," and inserting "address or employer's address, social security number or employer identification number,";

(12) in section 483, by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively;

(13) in section 484(a)(4)(B), by inserting after "number" the following: ", except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau";

(14) in section 484(a)(5), by striking "in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident" and inserting "able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident";

(15) in section 484(b)(2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) has applied for a loan under section 428H, if such student is eligible to apply for such a loan.";

(16) in the matter following subparagraph (B) of section 484(b)(3), by striking "part B" and inserting "part B or D";

(17) in section 484, by striking subsection (f);

(18) in section 484(g), by inserting a comma after "Part D" each place it appears;

(19) in the matter preceding clause (i) of section 484(h)(4)(B), by striking "constitutes" and inserting "constitute";

(20) in section 484(i)(2)—

(A) by striking "(h)(4)(A)(ii)" and inserting "(h)(4)(A)(i)"; and

(B) by striking "documentation," and inserting "documentation, or";

(21) in section 484(i)(3)—

(A) by striking "(h)(4)(B)(ii)" and inserting "(h)(4)(B)(i)"; and

(B) by striking ", or" and inserting a period;

(22) in section 484(i), by striking paragraph (4);

(23) in section 484(n), by striking "part B, C," and inserting "parts B, C,";

(24) in section 484(q)(2), by striking "a correct social security number" and inserting "documented evidence of a social security number that is determined by the institution to be correct";

(25) in section 484, by redesignating subsections (g) through (q) as subsections (f) through (p), respectively;

(26) in section 484B(a), by striking "grant, loan, or work assistance" and inserting "grant or loan assistance";

(27) in section 484B(b)(3), by striking "subsection (d)" and inserting "subsection (c)";

(28) in clauses (i), (ii), and (iii) of section 485(a)(1)(F), by inserting before the comma at the end of each such clause the following: "for the period of enrollment for which a refund is required";

(29) in section 485(a)(1)(F)(iv), by inserting "under" after "awards";

(30) in section 485(a)(1)(F)(vii), by striking "provided under this title";

(31) in section 485(a)(1)(F)(viii), by striking the period;

(32) in section 485(a)(1)(F), by striking clause (vi) and redesignating clauses (vii) and (viii) as clauses (vi) and (vii), respectively;

(33) in section 485(a)(1)(L), by inserting a comma after "full-time";

(34) in section 485(a)(3), by amending subparagraph (A) to read as follows:

"(A) shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and";

(35) in paragraphs (1)(A) and (2)(A) of section 485(b), by striking "under parts" and inserting "under part";

(36) in section 485(d), by inserting a period at the end of the penultimate sentence;

(37) in section 485(e), by adding at the end the following new paragraph:

"(9) This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending June 30 of the preceding year.";

(38) in section 485B(a)—

(A) by striking "part E" and inserting "parts D and E"; and

(B) by striking the second period at the end of the third sentence;

(39) in section 485B(a)(4), by striking "part E" and inserting "parts D and E";

(40) in section 485B(c), by striking "part B or part E" and inserting "part B, D, or E";

(41) in section 485B(e), by striking "under this part" each place it appears and inserting "under this title";

(42) in section 487(a)(2), by striking ", or for completing or handling the Federal Student Assistance Report";

(43) in section 487(c)(1)(F), by striking "eligibility for any program under this title of any otherwise eligible institution," and inserting "participation in any program under this title of an eligible institution,";

(44) in section 489(a), by striking "484(c)" and inserting "484(h)";

(45) in section 491(d)(1), by striking "sections 411A through 411E and"; and

(46) in section 491(h)(1), by striking "subtitle III" and inserting "subchapter III".

(i) AMENDMENTS TO PART H OF TITLE IV OF THE ACT.—Part H of title IV of the Act (20 U.S.C. 1099a et seq.) is amended—

(1) in section 494C(a), by striking the first and second sentences and inserting the following: "The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b). If any such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d). The Secretary may determine that a State need not review an institution if such institution meets the criterion in subsection (b)(10) only, such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d).";

(2) in section 494C(i), by striking "sections 428 or 487" and inserting "section 428 or 487";

(3) in section 496(a)(2)(A)(i), by inserting "of institutions of higher education" after "membership";

(4) in section 496(a)(3)(A), by striking "subparagraph (A)" and inserting "subparagraph (A)(i)";

(5) in section 496(a)(5)—

(A) by striking the period at the end of subparagraph (L) and inserting a semicolon; and

(B) by inserting after subparagraph (L) the following:

"except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;";

(6) in the matter preceding paragraph (1) of section 496(c), by striking "for the purpose of this title" and inserting "as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title";

(7) in section 496(l)(2)—

(A) by striking "institutution" and inserting "institution"; and

(B) by striking "association leading to the suspension" and inserting "association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension";

(8) in section 496(n)(1), by amending subparagraph (B) to read as follows:

"(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.";

(9) in section 498(c)—

(A) in paragraph (2), by adding at the end the following new sentences: "Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.";

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "may determine" and inserting "shall determine";

(C) by amending subparagraph (C) of paragraph (3) to read as follows:

"(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or";

(D) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the ratio of current assets to current liabilities imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

"(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

"(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

"(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the current operating ratio requirement.";

(10) in section 498(f), by inserting after the second sentence the following: "The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.";

(11) in section 498(h)(1)(B), by amending clause (iii) to read as follows:

"(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.";

(12) in section 498, by amending subsection (i)(1) to read as follows:

"(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this title after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 481 (other than the requirements in subsections (b)(5) and (c)(3)) and this section after such change in control.";

(13) in section 498(i)(3), by amending subparagraph (A) to read as follows:

"(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or";

(14) in section 498, by amending subsection (j)(1) to read as follows:

"(j) TREATMENT OF BRANCHES.—(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this title, except that such branch shall not be required to meet the requirements of sections 481(b)(5) and 481(c)(3) prior to seeking such certification. Such branch is required to be in existence at least 2 years prior to seeking certification as a main campus or free-standing institution."; and

(15) in section 498A(e), by striking "Act," and inserting "Act".

(j) AMENDMENTS TO TITLES V THROUGH XII OF THE ACT.—Titles V through XII of the Act (20 U.S.C. 1101 et seq.) are amended—

(1) in section 505(b)(2)(D)(iii), by striking the period and inserting a semicolon;

(2) in section 525, by amending subsection (c) to read as follows:

"(c) WAIVERS.—For purposes of giving special consideration under section 523(d), a State may waive the criteria contained in the first sentence of subsection (b) for not more than 25 percent of individuals receiving Paul Douglas Teacher Scholarships on or after July 1, 1993.";

(3) in the first sentence of section 530A by striking "elementary and secondary school teachers" each place it appears and inserting "preschool, elementary, and secondary school teachers";

(4) in section 535(b)(1)(C), by striking the semicolon and inserting a period;

(5) in section 537(a), by inserting "IN" before "GENERAL";

(6) in section 545(d), by striking "parts B, D," and inserting "part B, D,";

(7) in section 580B, by striking "(a) AUTHORIZATION.—";

(8) in section 581(b)(2), by striking "402A(g)(2)" and inserting "402A(g)";

(9) in section 597(d)(1), by striking "Development and" and inserting "and Development";

(10) in section 602(a)(3), by striking "(1)(A)" and inserting "(1)";

(11) in section 602(a)(4), by striking "(1)(A)" and inserting "(1)";

(12) in the heading of subsection (a) of section 603, by striking "RESOURCES" and inserting "RESOURCE";

(13) in section 607(c), by redesignating the second paragraph (2) as paragraph (3);

(14) in section 714, by striking "(a) IN GENERAL.—";

(15) in section 715(b)—

(A) by striking "(1) STATE GRANTS.—";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2);

(C) in paragraph (2) (as so redesignated) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively; and

(D) by reducing the indentation of such paragraphs (1) and (2) (as so redesignated) by two em spaces;

(16) in section 725—

(A) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) shall require that the first loans for capital projects authorized under section 723 be made no later than March 31, 1994;";

(17) in section 726, by inserting a period after "title" the first time it appears and striking the remainder of the sentence;

(18) in section 731(a), by striking "faculties," and inserting "faculty,";

(19) in section 731(c), by striking "enactment of";

(20) in section 734(e)—

(A) by striking "FACULTIES" and inserting "FACULTY"; and

(B) by striking "faculties" and inserting "faculty";

(21) in section 781(b), by striking "Education Amendments of 1992," and inserting "Education Amendments of 1992";

(22) in section 782(1)(A), by striking "outpatient care of student" and inserting "outpatient care of students";

(23) in section 783—

(A) in subsection (a)(2), by inserting "on all such loans owed by such institution" after "outstanding indebtedness"; and

(B) by adding at the end thereof the following new subsection:

"(d) REDUCTION OF AMOUNTS OWED TO TREASURER.—If the Secretary forgives all or part of a loan described in subsection (a), the outstanding balance remaining on the notes of the Secretary that were issued to the Secretary of the Treasury under section 761(d) as in effect prior to the enactment of the Higher Education Amendments of 1992, or under any provision of this title as in effect at the time such note was issued, shall be reduced by such amount forgiven.";

(24) in the matter preceding paragraph (1) of section 802(b), by inserting after "fiscal year" the following: "the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on the date of enactment of the Higher Education Amendments of 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before such date of enactment. Of the remainder of the amount appropriated in such fiscal year";

(25) in section 803(b)(6)(A), by striking "data";

(26) in section 803(e)(2)—

(A) by striking "Mexican American" and inserting "Mexican-American"; and

(B) by striking "Mariana" and inserting "Marianian";

(27) in section 901(b)(2), by striking "such part" and inserting "such title";

(28) in section 922, by amending subsection (f) to read as follows:

"(f) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(i) $9,000 for the academic year 1993–1994; and

"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(29) in the second sentence of section 923(b)(1), by striking "granting of such fellowships" and all that follows through "set forth in this section," and inserting "granting of such fellowships for an additional period of study not to exceed one 12-month period,";

(30) in section 923(b)(2), by striking out the second and third sentences and inserting the following: "Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work, provided that the student has attained satisfactory progress prior to the dissertation stage, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient. The institution shall provide 2 years of support for each student following the years of Federal predissertation support under this part. Any student receiving an award for graduate study leading to a doctoral degree shall receive at least 1 year of supervised training in instruction during such student's doctoral program.";

(31) in section 923(b), by adding at the end the following new paragraph:

"(3) CONTINUATION OF AWARDS UNDER PRIOR LAW.—Notwithstanding any other provision of law, in the case of an individual who was awarded a multiyear fellowship under this part before the date of enactment of the Higher Education Amendments of 1992, awards to such individual for the remainder of such fellowship may, at the discretion of the institution of higher education attended by such individual, be subject to the requirements of this subsection as in effect prior to such date of enactment. The institution shall be required to exercise such discretion at the time that its application to the Secretary for a grant under this part, and the amount of any such grant, are being considerea by the Secretary.";

(32) in section 924, by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 923(b)(3) to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.";

(33) in section 931(a), by inserting after the first sentence the following new sentence: "These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution.";

(34) in the third sentence of section 932(a)(1), by striking "doctoral" and inserting "graduate";

(35) in section 932(c), by striking "doctoral" and inserting "graduate";

(36) in section 933(b), by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be—

"(i) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(ii) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(I) $9,000 for the academic year 1993–1994; and

"(II) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of

Labor's Consumer Price Index for the previous calendar year.

"(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(37) in section 941, by striking "the part" and inserting "this part";

(38) in section 943(b), by striking "foreign languages or area studies" and inserting "foreign languages and area studies";

(39) in section 945, by amending subsection (c) to read as follows:

"(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this part in amounts that exceed the institutional payments made by the Secretary pursuant to section 946(a) may count such payments toward the amounts the institution is required to provide pursuant to section 944(b)(2).";

(40) in section 946, by amending subsection (a) to read as follows:

"(a) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(i) $9,000 for the academic year 1993–1994; and

"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(41) in the matter preceding paragraph (1) of section 951(a), by inserting "Pacific Islanders," after "Native Americans,";

(42) in section 1004(a), by striking "part" and inserting "subpart";

(43) in section 1011(d), by striking "part" and inserting "subpart";

(44) in part D of title X, by redesignating section 1181 as section 1081;

(45) in section 1081(d) (as so redesignated) by inserting a comma after "this title)" and after "such institutions";

(46) in section 1106(a), by striking "may receive a grant" and inserting "may receive such a grant";

(47) in section 1142(d)(2), by inserting "program" after "literacy corps";

(48) in the last sentence of section 1201(a), by striking "subpart 3 of part H," and inserting "subpart 2 of part H of title IV of this Act,";

(49) by amending section 1204 to read as follows:

"TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

"SEC. 1204. (a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated states.

"(b) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV of this Act.";

*(50) in section 1205, in the section heading, by inserting "**NATIONAL ADVISORY**" before "**COMMITTEE**";*

(51) in section 1205(a), by inserting "National Advisory" before "Committee" the first place it appears;

(52) in paragraphs (1) and (6) of section 1205(c), by inserting "of title IV of this Act" after "part H";

(53) in section 1205(f), by striking "Accreditation and Institutional Eligibility" and inserting "Institutional Quality and Integrity";

(54) in section 1209(f)(1), by striking "the Act" and inserting "this Act";

(55) in title XII, by redesignating section 1211 (as added by section 6231 of the Omnibus Trade and Competitiveness Act of 1988) as section 1212; and

(56) in section 1212(e)(2) (as so redesignated), by inserting close quotation marks after "facilities" the first place it appears.

(k) AMENDMENTS TO THE 1992 AMENDMENTS.—The Higher Education Amendments of 1992 (Public Law 102–325; 106 Stat. 459) is amended—

(1) in section 401(d)(2)(A), by inserting "the first place it appears" before "the following:";

(2) in section 425(d)(1)—

(A) by inserting "the second sentence of" after "(1) in"; and

(B) by striking "in the second sentence";

(3) in section 425(d)(4)—

(A) by inserting "the second sentence of" after "(4) in"; and

(B) by striking "in the second sentence";

(4) in section 426(c), by striking "new subsections" and inserting "new subsection";

(5) in section 432(a)(3), by striking "427(a)(2)(C) and 428(b)(1)(M)" and inserting "427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1)";

(6) in section 446, by striking subsection (c);

(7) in section 465(a), by amending paragraph (1) to read as follows:

"(1) in subparagraph (A), by striking 'and such determination' and all that follows through 'such chapter 1';";

(8) in section 484, by inserting after subsection (h) the following new subsection:

"(i) EFFECTIVE DATE.—The amendments made by subsection (g) with respect to the addition of subsection (n) shall be effective on and after December 1, 1987.";

(9) in section 486(a)(3), by striking "section 1" and inserting "section 103";

(10) in section 1409(b)(1), by striking "the Asbestos Hazard Emergency Response Act" and inserting "section 202 of the Toxic Substances Control Act (15 U.S.C. 2642)";

(11) in section 1422(9), by striking "has placed" and inserting "have placed";

(12) in section 1442(c), by striking "Chairman" and inserting "Chairperson";

(13) in section 1541(g), by striking "educational" and inserting "education"; and

(14) in the subsection (a)(1) amended by section 1554(a), by striking "4" and inserting "6".

(l) AMENDMENT TO THE 1986 AMENDMENT.—Section 1507(a)(12) of the Higher Education Amendments of 1986 (20 U.S.C. 4414(a)(12)) is amended by striking the period and inserting a semicolon.

(m) STYLISTIC CONSISTENCY.—The Act is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section.

(n) ACCREDITATION THROUGH TRANSFER OF CREDIT.—(1) An institution of higher education which satisfied the requirements of section 1201(a)(5)(B) of the Act prior to the enactment of the Higher Education Amendments of 1992, shall be considered to meet the requirements of section 1201(a)(5) of the Act if—

(A) within 60 days after the date of enactment of the Higher Education Technical Amendments of 1993, such institution has applied for accreditation by a nationally recognized accrediting agency or association which the Secretary determines, pursuant to subpart 2 of part H of title IV of the Act, to be a reliable authority as to the quality of education or training offered;

(B) within 2 years of the date of enactment of the Higher Education Technical Amendments of 1993, such institution is accredited by such an accrediting agency or association or, if not so accredited, has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time; and

(C) such institution is legally authorized within a State to provide education beyond secondary education.

(2) The Secretary shall determine whether to recertify any institution that meets the requirements of paragraph (1) within 2 years after the date of enactment of this Act.

(3) Paragraph (1) of this subsection shall be effective on and after July 23, 1992.

SEC. 3. PACIFIC REGIONAL EDUCATIONAL LABORATORY.

Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a) is amended—

(1) in the matter preceding paragraph (1) of subsection (b)—

(A) by striking "Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii"; and

(B) by inserting "or provide direct services regarding" after "grants for"; and

(2) in subsection (c), by striking "Center for the Advancement of Pacific Education" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii,".

SEC. 4. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

Section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by inserting "(1)" before "Except"; and

(ii) by inserting "or consortia thereof" before "within"; and

(B) in the second sentence—

(i) by inserting "or consortium" before "shall"; and

(ii) by inserting "or consortium" before "in the preceding";

(C) by adding at the end the following new paragraph:

"(2) In order for a consortium of eligible institutions described in paragraph (1) to receive assistance pursuant to such paragraph such consortium shall operate joint projects that—

"(A) provide services to all postsecondary institutions participating in the consortium; and

"(B) are of sufficient size, scope and quality as to be effective.";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or consortia" after "institutions"; and

(B) in the matter preceding subparagraph (A) of paragraph (2), by inserting "or consortia" after "institutions"; and

(3) in subsection (c)—

(A) in paragraph (1), by inserting "or consortium" after "institution"; and

(B) in paragraph (2), by inserting "or consortia" after "institutions".

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102–325), except that section 492 of the Act shall not apply to the amendments made by this Act.

(b) EXCEPTIONS.—

(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40).

(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62).

(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act: (c)(19), (c)(20), (c)(21), (c)(59).

(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act: (c)(31) and (c)(53).

(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act shall be effective on and after April 1, 1994.

(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29).

(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) shall be effective on and after October 1, 1994.

(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection (a)(3) and (m)(1)(B) of section 435 of this Act shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlemen from Michigan?

Mr. GOODLING. Mr. Speaker, reserving the right to object, and I will not object, but I would yield to the chairman for an explanation of his unanimous consent request.

Mr. FORD of Michigan. I thank the gentlemen for yielding to me and for his cooperation, under his leadership, of the members of his party in bringing this technical amendments bill quickly to the House and Senate and through a conference so that we can assure that people who are waiting for student loan assistance will not be harmed by oversights made in the reenactment of the Higher Education Act in 1992 and in the 1993 amendments.

These amendments would make technical and clarifying changes to the Higher Education Act. We do not change the substance of any of the provisions of the act away from that which was passed by the House and Senate. I again want to thank the gentleman from Pennsylvania [Mr. GOODLING], and all the members on both sides of the aisle on the committee, the gentleman from Wisconsin, Congressman PETRI, the ranking member on the Postsecondary Education Subcommittee, for helping us to expedite these changes.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, and I will not object, but I would like the gentleman from Michigan to explain his unanimous-consent request.

I support S. 1507, legislation making technical corrections to the Higher Education Act. Chairman FORD and I have stood by our agreement to bring a bill back to the House which is purely technical, making only grammatical corrections and clarifying original Congressional intent to the 1992 Higher Education Act Amendments.

During consideration of the 1992 Higher Education Act Amendments, I sought to ensure that quality programs providing short-term education and training would retain eligibility for the Federal Family Education Loan Program [FFELP]. This was achieved by amending section 481(e) to require that programs of less than 600 clock hours would have to demonstrate verifiable completion and job placement rates of at least 70 percent. Congressional intent was to preserve eligibility of all short-term programs until regulations detailing these new requirements were promulgated. While legislative language clarifying this policy is not included in S. 1507, Secretary Riley has assured me that the Department of Education will extend the eligibility of short-term programs until the necessary regulations are promulgated.

S. 1507 also clarifies congressional intent with regard to different loan limits for students based upon the year in which they were enrolled in school. Since enactment of the 1992 Higher Education Act Amendments, questions have arisen as to whether undergraduate students who are enrolled in programs requiring an associate's degree for admission are entitled to third or first year loan limits. This bill clarifies that such students are eligible to borrow as third year undergraduates for both Stafford and SLS loans if they have successfully completed 2 years of any postsecondary program and the prerequisites for admission to the new program include at least 2 years of prior postsecondary education. If the prerequisite is a baccalaureate degree, then the new program is considered a fifth year undergraduate program for guaranteed student loan purposes. S. 1507 allows students enrolled at institutions which require an associate or baccalaureate degree to remain eligible for the higher loan limits.

I would also like to point out two additional provisions which I know are of interest to many members. First of all, at the request of Congressman BART GORDON, this bill includes a provision clarifying the intent of Congress that the Secretary of Education is allowed to only conscript institutions of higher education to participate in the Federal Direct Student Loan Program in order to obtain a representative cross section of participating institutions. This provision corrects the perception that the Secretary could force colleges and universities into the program against their will for reasons other than obtaining a cross sample.

The other provision concerns the Department of Education's cohort default legislation. This bill makes major improvements to the Department's bill. For the first time, institutions will have access to the data Guaranty Agencies send to the U.S. Department of Education, commonly called tape dumps, which are used to determine their default rates. These institutions would thus be able to work out data discrepancies before the Department publishes its rates. In addition, this legislation also sets a precedent in ensuring that most institutions that wish to contest their default rates have a guaranteed right of access to an appropriate sample of the loan servicing and collection information from the guaranty agencies. If errors are found that resulted in an inaccurate calculation of their default rate, then these rates will be revised to reflect this miscalculation. It is our hope that this provision will help resolve many of the court cases that are currently ongoing between the Department of Education and various institutions regarding these important issues.

In my view, Mr. Speaker, this provision strikes an ideal balance of the rights of institutions to have access to this important data, while giving the Department full authority to implement the default rate provisions in the Higher Education Act.

In conclusion, I support passage of S. 1507 so that provisions in the 1992 Higher Education Act Amendments are clarified and corrected to ensure that Congressional intent is clear. I urge my colleagues to support this bill.

Mr. PETRI. Mr. Speaker, I rise today in support of S. 1507, the higher education technical amendments.

S. 1507 as passed by the other body, represents true agreement between the committees of jurisdiction in both bodies with respect to needed technical changes to this Nation's higher education law. It is a noncontroversial bill, making purely technical corrections to the Higher Education Act of 1965, which were necessitated by changes made during the 1992 reauthorization.

These changes fall into one of two categories. They are either corrections in punctuation, grammar, spelling, cross-references, and typographical errors; or they are clarifications of congressional intent. For instance, S. 1507 makes a clarification to changes in the

Byrd Scholarship program brought to the committee's attention by my colleague from Wisconsin, Mr. KLUG, in instances when appropriations are insufficient to fund these scholarships for four years.

It makes an important clarification with respect to different loan limits for students, based upon the year in which they were enrolled in school, and it clarifies that students enrolled in less than 600-clock-hour programs are eligible for students loans if the institutions they attend maintain a 70-percent graduation rate and a 70-percent placement rate, ensuring that quality short-term training programs will continue to exist.

The committee has been working for a year on these corrections, and the legislation before us today is the result of the input received from a bipartisan group including Members of Congress, both on and off the committee, the education community, and the Department of Education. This bill is strictly technical in nature and is noncontroversial, and I urge my colleagues to support its passage.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NEW COLUMBIA ADMISSION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 316 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 51.

For what purpose does the gentleman from New York [Mr. SOLOMON] rise?

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, at this point I would make a point of order against the consideration of H.R. 51 on the grounds that it is in violation of House rule XIII, clause 7, as well as section 308(a) of the Budget Act, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The gentleman may state his point of order.

Mr. SOLOMON. Mr. Speaker, House Rule XIII, clause 7(a) requires that the committee report to accompany any bill and I quote—

> Shall contain an estimate made by such committee of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the 5 fiscal years following such fiscal year

And clause 7(b) of that rule says, and I quote,

> It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

Mr. Speaker, the report to accompany H.R. 51, House Report 103–371, at page 22, notes that a CBO cost estimate, and I quote, "was not received by the Committee from the Director of the Congressional Office prior to the filing of this report."

The report goes on to state that, "pursuant to clause 7 of rule XIII, the Committee notes that the provisions of H.R. 51 impacting on revenues and expenditures do not differ markedly from those of H.R. 4718 in the 102nd Congress."

And the report goes on to incorporate that 1992 cost estimate as the committee cost estimate at pages 22 through page 26.

However, Mr. Speaker, this does not satisfy the requirements of clause 7(a) of rule XIII since the CBO cost estimate does not contain the required cost of the bill for the fiscal year in which it has been reported—fiscal year 1994—and in each of the 5 fiscal years following such fiscal year . . . .

For the report to be in compliance with the requirements of clause 7(a) of rule XIII, there must be a clearly delineated breakdown of the estimated costs for each of the fiscal years 1994 through 1999.

Nowhere in this report is there such a breakdown.

Mr. Speaker, since the rule providing for the consideration of the bill does not waive points of order anywhere in this rule, in its consideration, this point of order is in order pursuant to clause 7(b) of rule XIII; and, Mr. Speaker, I also make a point of order that the report violates section 308(a), as I mentioned earlier, of the Budget Act, which requires certain cost estimates, including section 402 to be direct spending costs. The CBO report, at page 26, only contains the PAYGO estimates through fiscal year 1995. But this year we extended the requirements of PAYGO through fiscal year 2002.

I therefore urge that my point of order be sustained, Mr. Speaker.

□ 1710

The SPEAKER pro tempore. Does the gentleman from California wish to be heard on the point of order?

Mr. STARK. Mr. Speaker, I rise in opposition to the point of order.

A review of the full text of the CBO estimate on page 22 to 26 of House Report 103-371 clearly indicates that it covers the five years required by the rule, and much beyond.

For example, on page 22, the cost to the Federal Government of administering the federal enclave is $40 million annually; that is an indefinite period extending beyond the five years of the rule.

Similarly, Mr. Speaker, other estimates are recurring, as follows:

Congressional representation is $3 million a year, page 23.

Justice services, $45 million a year.

Finally, Mr. Speaker, if you look at the chart on page 26 of the report, you will note that the net cost to the government for every year is zero—costs are offset by savings.

Thus, the committee report complies fully with the rule.

Mr. SOLOMON. Mr. Speaker, the gentleman clearly has not disputed the fact that the cost estimates are not accurate; but nevertheless, I would stand by the ruling of the Chair.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair is prepared to rule.

Clause 7 of rule XIII requires that the report of the Committee on the District of Columbia on H.R. 51 contain the committee's estimate of the costs which would be incurred in carrying out the bill in the fiscal year in which it is reported and in each of the 5 ensuing fiscal years.

On page 22 of House Report 103–371, the Committee on the District of Columbia notes, pursuant to clause 7 of rule XIII, that the provisions of the bill affecting revenues and expenditures are similar to those in an earlier bill, and includes the full text of the Congressional Budget Office cost estimated, dated April 30, 1992, on that earlier form of the bill.

The CBO cost estimate estimates costs and savings as recurring annually and indefinitely.

For example, it estimates the costs of providing services, within and administering the National Capital Service Area as being at least $40 million annually.

It estimates the costs of additional congressional representation as being "$3 million a year", it estimates the cost for the Statehood Transition Commission at less then $ million, and it estimates the savings from the discontinuation of Federal support for local administration of justice and resulting court services as $45 million a year.

In addition, clause 7(d) of rule XIII expressly acknowledges the fundamental accuracy of the CBO cost estimates.

The Chair also notes in response to the point of order under section 308 of the Budget Act that the cost of the new Senators salary as stated in the CBO report would result in a direct Federal spending of $0.3 million annually. Thus the CBO report identifiers new spending authority provided in the bill.

The Chair holds that the committee cost estimate on the bill is not deficient for its being based on the CBO cost estimate where the latter estimate has examined the same subject on an indefinite basis.

The Chair overrules the point of order.

Mr. SOLOMON. Mr. Speaker, I respectfully disagree with the findings of the Chair, but I would not object.

The SPEAKER pro tempore. The Chair overrules the point of order.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentlemen from California [Mr. STARK] will be recognized for 1 hour and 30 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 1 hour and 30 minutes.

Mr. Chair recognizes the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask unanimous consent that at the conclusion of my summary remarks, the delegate from the District of Columbia [Ms. NORTON] may control the time on the majority side.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, H.R. 51 provides for the admission of New Columbia as the 51st State of the Union.

This is a historic moment for the House of Representatives and for the country, and I trust that we will continue both as members of the committee and staff on both sides of the District of Columbia to debate and work with this issue in the utmost seriousness and dedication to the precepts of the Constitution to bring full citizenship to the 600,000 residents of the District of Columbia.

Passage of the bill before us today will rectify the embarrassment to democracy we perpetuate by denying full representation to 600,000 residents of the District. Passage of this bill is a matter of simple justice.

Title I of the bill provides procedures for admission, describes the territory of New Columbia, and contains various provisions relating to the laws of the new State. Title II of the bill delineates the responsibilities and interests of the Federal Government and its relationship with the new State concerning such matters as payments in lieu of tax and scenic easements. The second title also provides a mechanism for expedited repeal of the 23d amendment. Title III includes operative definitions and describes the composition and responsibilities of the Statehood Transition Commission.

Mr. Chairman, Passage of the bill before us today is a matter of simple justice. Bills to admit Washington, DC. as the 51st State have been introduced in Congress since 1965. Now, 28 years later, we have arrived at a defining moment in the struggle for D.C. statehood with this most historic debate and vote on the floor of the House of Representatives.

Throughout this debate, statehood opponents will complain that the bill is fatally flawed. I assure you, the Committee on the District of Columbia has gone to great lengths to craft a bill which is constitutionally sound and addresses legitimate, practical, and legal considerations. This year alone, a dozen amendments were adopted by the committee to this bill. Passage of this bill is a matter of simple justice.

Mr. Chairman, not many days ago in this Chamber we debated whether or not democracy was to be denied to citizens of Mexico, with more fervor and more concern than we have shown to 600,000 American citizens who are denied full participatory democracy.

The passage of this bill is a matter of simple justice.

Mr. Chairman, you may hear this bill trivialized by zoning requirements and map boundaries, trivialized by issues of the complications of statehood. But I ask each Member, do these trivial objections overcome or justify the continued denial of democracy to 600,000 American citizens? Would you deny democracy to the citizens of Alaska, Wyoming, or Vermont, each of which those States have fewer residents than the District of Columbia?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The gentleman will suspend for just a moment.

The Sergeant at Arms will instruct those Members in the cloakroom to control their noise, that we might be able to continue. That noise is making its way on to the floor of the House of Representatives.

Mr. STARK. Mr. Chairman, with each objection, I hope that you can ask yourselves this question. Does that objection justify saying to American citizens here in the Nation's Capital that you must bear the burdens of Americans' citizenship, send your sons and daughters to fight and die for your country, pay Federal taxes, comply with other Federal laws; but does it justify them saying no, you do not deserve the right to choose your leaders in the House and in the Senate, you are not entitled to full democracy?

I think very clearly the answer to each of those objections is no, it does not. It is indeed again a matter of simple justice.

Mr. Chairman, as we prepare to celebrate Thanksgiving in a few days, let us right this terrible wrong and bestow a feast of democracy and self-determination on the residents of this great city. Approve DC statehood. Stand up for simple justice.

□ 1720

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the bill before us today, H.R. 51. The proponents of this bill will present a very emotional plea on behalf of the citizens of the District of Columbia. My colleague from the District will argue that statehood is a matter of civil rights. But as a number of legal scholars have pointed out, voting representation can be achieved through means other than statehood. So this is not a civil rights issue.

Statehood supporters will argue that this is a test of whether we believe in democracy. I submit that it is a test of whether we believe the right to participate in the democratic process belongs only to a few or to everyone. Statehood proponents intend to deny 250 million Americans, who are also citizens of the Nation's capital, the right to participate in the democratic process of amending their constitution. All Americans should have the right to choose whether they want to give 95 percent of their capital away.

There are three constitutional impediments to the admission of New Columbia through simple legislation which will be discussed during the debate. For 30 years, the Department of Justice, under Democratic and Republican Administrations alike, has consistently maintained that the status of the District can be changed only through a constitutional amendment. I want to note that this position has not changed even with the change in administrations.

We will also discuss New Columbia's inability to meet the traditional statehood requirement of economic viability. And we will discuss the substantial problems of the bill itself.

Other than to defend some of the special privileges placed in the bill to create a special and unprecedented relationship between the Federal Government and a State, statehood proponents will not talk much about the bill itself. Let me warn Members. Even if you favor statehood, this bill is full of serious flaws. It does not admit a coequal State into the Union. Parts of this bill are so alarming, you may tend not to believe them. But what we will be describing about the boundaries, about the failure to provide for the needs of the Nation's capital, about the failure to present the State constitution to the voters, and about the dangerous precedents this legislation sets are indeed true.

Here we are in the last hours of this session of Congress. But do not believe for a moment that a vote on H.R. 51 will be lost in the avalanche of NAFTA, the various crime bills, unemployment compensation, and so forth. This is a vote that will come back to haunt you if you do not understand precisely what you are supporting. The picture painted by statehood advocates that the Federal Government will be cleanly separated from the city in which it resides is distorted. Do not be misled by the slogans and oversimplifications. Please stay tuned for the facts.

Some of the Federal building in New Columbia by H.R. 51: General Services Administration; Federal Deposit Insurance Corporation; Federal Home Loan Bank Board; New Executive Office Building; U.S. Court of Claims; Department of the Treasury Annex; Department of Veterans Affairs; FBI; U.S. Tax Court; Department of Labor [part]; Government Printing Office [GPO]; Federal Energy Regulatory Commission [FERC]; Union Station; Dirksen Senate Office Building; Hart Senate Office Building; Library of Congress Annex; Capitol Power Plant; O'Neill House Office Building; Department of Housing and Urban Development; and Department of Transportation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would note that the distinguished gentlewoman from the District of Columbia [Ms. NORTON] now controls the time of the gentleman from California [Mr. STARK].

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the residents of the District of Columbia seek passage of H.R. 51 and admission to the Union as the State of New Columbia, the only full remedy for their untenable status. Embarrassed to come to the well to argue against democracy and self-government, the opponents will crawl into a tent and on the outside scrawl in graffiti letters the words "U.S. Constitution." Shame on you. They will raise every other argument as well. They will argue that the District is so small that it should not have two Senators, even though the District is larger than three States that already have their two, and the District is the only jurisdiction that pays Federal taxes but lacks representation of any kind in the Senate. The framers, of course, intended the proportionate representation in the House to be balanced by equal representation in the Senate regardless of size. Opponents will argue that the Congress cannot change the size of the District even though it has done so twice, once to preserve slavery for the former Virginia portion of the District. Should we not then, Mr. Chairman, reduce the size once again, this time for freedom, not for slavery's sake? Should we not reduce the size so that the neighborhoods of the eight wards which have no relevance to the Federal presence can be granted equal representation and full self-government?

I especially hope that my colleagues will not succumb to the counterfeit constitutional arguments they will hear. These are unconstitutional arguments, my colleagues. Some would require the District to take a route to statehood using a constitutional amendment, although no other State has ever entered the Union in this way. Most States had such trouble getting into the Union that indeed they could not have entered at all if they had to meet the constitutional requirements of two-thirds of the House and the Senate and three-quarters of the States.

Opponents want to make sure that the odds are stacked against us as they were not stacked against their own States when they came into the Union. Anti-statehood advocates ground their case not on the weight of opinions of constitutional scholars, almost all of whom argue that statehood is constitutional, but on old Justice Department opinions. The opinions of the Robert Kennedy Justice Department and some views from the Carter administration indeed discussed statehood but were, in fact, directed at other issues. Statehood had not been pursued and had not even been requested by the District at that time. The only complete Justice Department opinions were written during the Reagan and Bush years under Presidents who were outspoken opponents of statehood for the District of Columbia. I do regret that we have no current Justice Department opinion and that the review I have requested is still at Justice.

However, we could not wait. We had to go forward when the opportunity was available in any case. It is clear that court precedent allowing the District size to be reduced once before and the overwhelming weight of constitutional scholarship, that the 23d amendment is no bar, make the constitutional arguments mere pretexts for political concerns. Constitutional issues are raised every day in this Chamber, Mr. Chairman. They do not keep Members from doing what is right. Rather, Members argue that this is not the branch of Government that decides constitutional issues. They are right. This is the branch of Government that decides whether States shall be admitted to the Union.

Mr. Chairman, my colleagues may say what they will about admission of the State of New Columbia. But I ask them not to hide behind the framers' document or obvious arguments designed to cover partisan opposition. Rather I ask my colleagues to join the impressive number who have already committed to vote "yes" on the admission of New Columbia to the Union.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. RANGEL]

Mr. RANGEL. Mr. Chairman and my colleagues, we will hear a lot of constitutional laws discussed here today. I hope one day we will have the honesty to shatter the hypocrisy that is involved as we discuss whether we are going to treat all Americans as equal Americans.

☐ 1730

We would find it very difficult to go into some Communist nation or some nation that did not allow all of its citizens to enjoy democracy as we know it. And yet right here in the United States, we have citizens, many of them whose forefathers came here before anyone except the Indians. We have had generations of people that have fought and died for this country. There have been more deaths per capita in Vietnam than 47 States, and more deaths in the Persian Gulf. They have paid their taxes. They have paid their dues in this society. But, for some reason, we are taking about the Constitution.

I think it goes deeper than this. I think there are reasons that other Americans might feel uncomfortable. But I will tell you this: When our country is being challenged, no one feels uncomfortable with the background of that American that is in that foxhole with them.

Mr. Chairman, I ask us to get above our biases, our prejudice, and do what is right for America, so that when we go into Latin America, when we go into Asia, when we go into Africa, we can allow them to believe that this democracy that we love, this democracy that we cherish, that we are not willing to deny people who love this country, who have fought for this country, who died for this country, to play according to a different set of rules.

I think for those who talk about a day haunting us, it is a day that stains our beloved Constitution and everything that we are willing to fight and die for. If you deny it to one, you are really denying it to yourself and your dear country.

Mr. BLILEY. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. BALLENGER], a member of the committee.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 51, a bill to grant statehood to the District of Columbia. One of the traditional statehood requirements which must be met is that the proposed new State has sufficient population and resources to support State government and to provide its share of the cost of the Federal Government. It is highly doubtful whether New Columbia can meet this requirement.

In 1970, the District ranked ahead of 10 States in terms of population. But since then, the District has declined by 168,000 people or more than 22 percent of its population. The District now ranks ahead of just three States and will likely be passed by at least one of those by the end of this year. If the trend of the past three decades continues, the District's population will be less than 500,000 by the year 2010, not merely making it the smallest State, but also shrinking it below the size of a congressional district and threatening its economic life.

Throughout the summer, the local press was filled with concern and doubt about the city's finances. In June, the Washington Post ran an article entitled, "Local Executives See District in Peril." In that article, the District was described as "sitting atop a financial sinkhole, its future threatened by steadily dwindling tax revenue, declining public service, and a growing exodus of jobs and taxpayers to the suburbs." The economic future is so bleak that the President of the Greater Washington Board of Trade was quoted as saying, "We're not going to be talking about statehood or no statehood. We're going to be setting back the whole notion of home rule."

In September, the Post ran an editorial which stated, "independence—in the sense of having resources large enough to stand alone without special federal support—isn't realistic."

The Washington Post, in this instance, is in a particularly noteworthy position to understand the District's economic situation. As you can see by this chart of the top 10 private employers in the District, the Post ranks first with 3,687 employees. McDonald's ranks within the top 10 employers.

The District presently survives with this economic base because of the presence of the Federal Government. The District government receives 20 percent of its budget from the Federal payment and another 16 percent from other Federal grants and reimbursements. It is difficult to imagine that the state can survive on an economic base dependent upon the local newspaper, the regional power company, grocery stores, and a chain of fast food restaurants.

Mr. Chairman, the trail to statehood ends right here until economic independence is secure.

Mr. Chairman, I include the chart referred to for the RECORD.

Top Ten Private Employers in the District, January 1992

Business:	*Employees*
The Washington Post	3,687
C&P Telephone Company	3,196
Potomac Electric Power Co.	3,124
General Maintenance Service Co.	2,250
J.W. Marriott Corporation	1,920
Riggs National Bank	1,803
Federal National Mortgage Assoc.	1,726
Hyatt Hotels	1,589
Safeway Stores, Inc.	1,576
McDonald's Restaurants (Exact figure unknown)	

Ms. NORTON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to rebut the remarks of the gentleman who preceded me, who implied that the District of Columbia, because it was dependent on the Federal Government, could not survive.

Eleven States raise fewer local government revenues than the District of Columbia. I would like to call that roll, if I might, Mr. Chairman: Delaware, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming.

If these States can support themselves, I submit, Mr. Chairman, then so can the District of Columbia when it becomes the State of New Columbia.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. ROHRABACHER], a member of the committee.

Mr. ROHRABACHER. Mr. Chairman, I thank the distinguished ranking Republican member for yielding time to me.

Mr. Chairman, I rise in opposition to this bill. The gentleman from Virginia has ably explained some of the many serious problems in this bill, and he is absolutely correct when he says that anyone who votes for this bill is voting not just for the principle of statehood for Washington, DC, but for a specific bill with several horrible provisions. I will be spending some time later in this debate to discuss two of these in particular, which together would likely cost the Federal Government billions of dollars. But for now, I would like to explain for my colleagues why it is not just the bill that is flawed, but the concept of D.C. statehood, as well.

Advocates of statehood for the city of Washington, DC, do have a valid point when they complain about their lack of voting representation in the House and Senate. In fact, I agree that citizens of our Nation's Capital should have the same rights as their neighbors across Eastern Avenue, or the citizens of any other city, to be represented by voting members of the House and Senate.

If local statehood advocates would only agree that residents of Washington should have the same rights to legislative representation as residents of other cities, this problem could be solved in short order, with a broad bipartisan majority of both Houses of Congress.

Unfortunately, these statehood advocates won't accept equal rights. They insist instead on having superior rights. They insist on having rights that residents of no other city in this country would dream of asking for. They want to be able to elect two U.S. Senators, and a State government, all by themselves.

Statehood advocates seem to think that this city is somehow especially deserving in that 3 years ago, it was larger in population than 3 States, and that even in the next census 7 years from now it will still be larger than 1 State—Wyoming.

I have to tell you, there is nothing unique in this. Los Angeles County, which until this year constituted half of my district, is larger than 42 States. Orange County, where my district is entirely located now, is larger than 18 States. Even just the city of Los Angeles has more people by itself than half the States in this country. These numbers will only grow by the next census.

Each of these jurisdictions pays far more Federal taxes than Washington, DC, has sent more of its sons to Vietnam and the Persian Gulf, and is far larger in area, as well. If we are going to start handing out two U.S. Senators to cities and counties that are larger than three States, Los Angeles and Orange Counties deserve to be way ahead of Washington, DC, in line.

Yet it appears that statehood advocates are so attached to the overrepresentation they want, that they would rather keep the status quo than accept fair and equal representation.

The fair and equal representation of cities being parts of States, rather than entire States themselves, is, of course, taken for granted in the rest of the country. However, it is also how we have dealt with earlier, similar complaints from residents of the Federal district. The District of Columbia was formed from land belonging to two States, Maryland and Virginia. When I am working here in Congress, I reside in the part of Virginia that was ceded to the Federal Government. Does that mean my neighbors in Arlington have no voting representation in Congress? No, their problem was taken care of many years ago, when their part of the District of Columbia was returned to Virginia. There's no reason why the same solution won't work for those who live in the Maryland part of the District of Columbia.

Returning the city of Washington to Maryland would hardly be overwhelming to Maryland. The city's population would be about one-ninth of the total State. Washington would become the fifth largest jurisdiction in Maryland, after Montgomery County, Prince Georges County, Baltimore County, and Baltimore City.

Under this scenario, residents of Washington would have the same rights as other citizens of States to vote for their State's U.S. Senators (or be elected to the Senate) and to vote for State legislators.

I believe that turning Washington, DC, into Washington, MD, would receive substantial support from Republican Members of Congress, even though it would result in the election of an additional liberal Democrat to the House, and even though it would make it more difficult to elect a Republican Senator from Maryland.

While many assume that Maryland would reject this return of their territory on fiscal grounds, I have no doubt that retrocession could be accomplished on financial terms that would be attractive to Maryland.

For example, instead of bearing the brunt of a new commuter tax that a separate "State of New Columbia" would impose, Maryland would be able to reap the benefits of taxing Virginia commuters. Certainly, there would be economic benefits from having the Nation's Capital within the state's borders, economic benefits the states competed strongly for 200 years ago. Maryland's Governor Schaefer has with good reason put out the welcome mat, stating that if Washington, DC does not become a state on its own, it would be welcome to rejoin Maryland.

For those who believe that there is simply no way that retrocession could be structured to avoid being a financial drain on Maryland, even after gaining economies of scale for the city's state functions, and restricting the city's other expenditures, I would simply ask: "How then can you think that the State of New Columbia can stand on its own with no one to drain from?"

The answer, of course, is "They can't". The proposed State of New Columbia is nowhere close to being financially viable as a state on an equal footing with the other states of the Union. Even now, as a city, its government is on the verge of bankruptcy.

As a state, the situation would be worse. Under any fair admission bill, the $650 million annual federal payment would be gone, since the justification of aiding the National Capital would be gone. New Columbia would merely be one of the States bordering the capital, not the capital itself.

A new commuter tax could not compensate for that loss. If it could, the city would have accepted my offer to trade the Federal payment for commuter tax authority. In fact, the reality with statehood would be worse. A city commuter tax, which is what I offered in trade, would apply to all the Federal employees who commute to Washington. A State commuter tax would not apply to anyone who works in the Capitol Building, the White House, or anywhere else in the shrunken Federal district left by the statehood bill, so it would bring in even less money.

On top of that loss, the new State would have to spend an extra $50 million per year for a new criminal prosecutor's office, not to mention the extra legislators, and new municipal governments. Also consider how the new State would keep its tax base. Even now, there is a steady loss of businesses, associations and government offices to nearby States. That outflow has limits because the prestige of being in the Nation's Capital will always keep a certain number here. But what happens when Crystal City, VA, is competing, not with Washington, DC but with Farragut Square, New Columbia, for example? The prestige will be gone, and so will the businesses and associations. It would not take long for downtown New Columbia to become a ghost town. Even with casino gambling, the State could not make it to its first birthday without having to declare bankruptcy.

To sum up, D.C. statehood does not meet the requirements of either simple justice or fiscal solvency. Retrocession, on the other hand, puts the residents of this city on an equal footing with residents of other cities, and provides an opportunity for a change that would benefit both the District and Maryland.

I ask my colleagues to join with me to overwhelmingly reject the fantasy of statehood for one city, so that we can move on to a solution that makes sense for both the residents of this city and the rest of the country.

□ 1740

Ms. NORTON. Mr. Chairman, I yield myself 30 seconds.

I want to remind the gentleman from California that every city and every jurisdiction in the United States that pays Federal taxes already has 2 Senators in the Senate of the United States.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Chairman, I rise in support of H.R. 51.

Ms. NORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise in full support of this legislation. I pay tribute to the gentlewoman from the District of Columbia on her efforts to bring statehood to the District of Columbia.

I have cosponsored this bill because I believe statehood is the remedy for the incomplete democracy that exists in this city * * * in fact the phrase is an oxymoron.

The District of Columbia is a city that cannot act like a city. City officials are denied final word on their budgets, they are denied the ability to appoint their own prosecutors and judges and the ability to develop strategic taxing plans with local jurisdictions.

Having served in local government for 10 years I can tell you that these powers are the bare minimum for effective local government.

There is also the issue of taxation without representation.

Eighty-seven percent of the District of Columbia's budget comes from locally raised taxes. Yet the Congress and the President control 100 percent of the District's budget and have the right to repeal any of its laws and statutes.

Moreover, District of Columbia residents pay the third highest income tax rate in the country but do not have full representation in Congress.

Mr. Chairman, our forefathers' dedication to the idea of no taxation without representation was not a passing fashion. This remains a central tenet of our society and cannot be ignored.

The residents of the District live under an anachronistic colonial rule which must end. We should uphold the democratic prerogatives of self-government available to all Americans and free D.C. residents from the whims of Congress.

I urge Members of this body to ensure that the fundamental concept of self-government is not lost. Let's pass the New Columbia Admission Act.

I also submit for the RECORD Assembly Joint Resolution No. 3 from the California legislature in favor of statehood.

CALIFORNIA LEGISLATURE,
CHIEF CLERK OF THE ASSEMBLY,
Sacramento, CA, November 15, 1993.

Hon. ANNA ESHOO,
Member of Congress,
Washington, DC.

DEAR CONGRESSWOMAN ESHOO: I have been directed to invite your attention to Assembly Joint Resolution No. 3, relative to extending statehood to Washington, DC.

Accordingly, a copy of this resolution is enclosed for your information.

Very truly yours,
E. DOTSON WILSON,
Chief Clerk.

Enclosure.

ASSEMBLY JOINT RESOLUTION NO. 3—
RESOLUTION CHAPTER 87

Assembly Joint Resolution No. 3—Relative to extending statehood to Washington, DC.

(Filed with Secretary of State September 14, 1993.)

LEGISLATIVE COUNSEL'S DIGEST

AJR 3, McDonald. United States: statehood: Washington, D.C.

This measure would memorialize the President and the Congress of the United States to extend statehood to Washington, D.C.

Whereas, The American Revolution and War for Independence was ultimately declared citing the principle "taxation without representation is tyranny," and there are nearly 650,000 taxpaying American citizens in the District of Columbia who have no federal voting representation in Congress; and

Whereas, Of the 117 countries in the world with elected national legislatures, the United States stands alone in depriving the residents of its capital a voice and a vote in our national legislative body; and

Whereas, District of Columbia residents pay more federal income tax per capita than the residents of 48 states, and more in local taxes than the residents of any state in the country; and

Whereas, The District of Columbia's per capita income is $32,000, exceeding the national average by 42 percent and is well positioned for growth as a leader in a number of service industries, for example, law, business services, communications, and tourism; and

Whereas, District of Columbia residents serve disproportionately in the military; have served in all wars since the War for Independence and during the Vietnam War, has more casualties than 10 states and more casualties per capita than 47 states; and

Whereas, The District of Columbia sent more soldiers to the Persian Gulf than 20 states (more per capita than all but four states), and yet had no voting representation on the floor of the House of Representatives or Senate when Congress approved military involvement; and

Whereas, There is no constitutional prohibition against creating the State of New Columbia out of nonfederal parts of the District of Columbia, and the District of Columbia meets all statehood requirements traditionally imposed by Congress; and

Whereas, The District of Columbia has 639,000 residents, nearly as many or more residents than six states: Wyoming (465,000), Alaska (552,000), Vermont (565,000), North Dakota (641,000), Delaware (669,000), and South Dakota (699,000) with each state possessing two Senators; and

Whereas, Historically, statehood has been granted when three criteria were met: (1) the people, through some democratic process, express their desire to become a state; (2) the people accept the republican form of government required by the United States Constitution and practiced in the United States; and (3) there are sufficient people and economic resources to support a state; and

Whereas, District of Columbia residents have democratically expressed their desire to become a state through passage of a statehood referendum (November 1980); approval of a Constitution by district delegates (May 1982); transmittal of the Constitution and a petition for statehood (September 1983) to Congress; and in the tradition of Tennessee in 1796, election of their own statehood delegation to appeal to Congress to accept their petition for admission to the Union as the 51st state; and

Whereas, Statehood will provide District of Columbia residents with federal voting representation, as well as local legislative, budgetary, and judicial autonomy; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to extend statehood to Washington, D.C.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

Ms. NORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise in support of H.R. 51, providing for the admission of New Columbia as the fifty-first State in the Union.

Statehood for the residents of the present District of Columbia is a matter of fundamental civil rights. For too long, those who live in our capital city have paid Federal taxes and fought and died in wars without the basic right of full representation in Congress. With a greater population than some States and with a large and diverse economy, the present District of Columbia is still treated like a colony, with the most routine actions of the local government subjected to a Congressional override.

Mr. Chairman, it is shameful that the citizens of the city which is a symbol of democracy throughout the world do not have the basic right of full representation in the national legislature. Our country was founded on the principle of no taxation without representation, and yet the residents of the District of Columbia have no final voice in the Federal laws that they must live by.

This bill would preserve the intent of the Founding Fathers that territory be set aside as the seat of the Federal Government. Under the legislation, the Mall and Monument areas and most Federal buildings will continue to be administered by Congress. The city's residential neighborhoods, however, where 600,000 people live, will finally have the same kind of local autonomy and Congressional representation that every other American enjoys.

The Constitution specifies that the Federal seal of Government is not to exceed 10 square miles. The Constitution does not prohibit Congress from reducing the size of the Federal capital, and in fact Congress has already done so. In 1846, Congress returned Alexandria to the State of Virginia so that Alexandrians could continue the practice of slavery. If territory could be retroceded in order to keep people enslaved, how much more appropriate is it to admit New Columbia as a State in order to give its citizens all the civil rights of a democratic country.

The residents of the District of Columbia were originally denied representation in Congress because of the assumption that people would only live here temporarily while the Congress was in session. At the end of the eighteenth century, few could probably imagine how this city would grow and diversify. No longer is the Federal Government the only employer in this city. The major part of the economy is made up of businesses, large and small, that are unrelated to the Federal Government. It is incongruous that all of the residents of the District of Columbia, most of whom do not work for the Government, should be barred from Congressional representation while Congressional and Federal employees who live in the Maryland and Virginia suburbs are able to vote for Senators and Members of Congress.

Opponents of this measure dwell on local problems such as crime and budgetary difficulties. These arguments are completely beside the point. Most large cities in this country, unfortunately, have problems with violent crime. One of our largest cities, New York, almost went bankrupt and had to be bailed out by the Federal Government. None of these communities lost their representation in Congress because of these local problems. It is up to the citizens of this city to solve their own problems, and they should be given the same freedom to do so that the residents of every other American city have.

Mr. Chairman, the proposed admission of a new State has frequently caused controversy. Objections were raised against the admission of my own State of Texas because at the time it was a separate republic. The admission of California was controversial because its territory was not contiguous with any existing State. In retrospect, these objections certainly sound frivolous at best. Similarly, it is to be hoped that future generations will find it incredible that the citizens of the greatest democracy on earth were not represented in that country's capitol. I urge my colleagues to join me in passing this vital civil rights measure.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise to strongly support this proposal—for the obvious and important reasons.

That the District of Columbia pays per capita higher taxes than all but two States in this country. And yet they have no voice in writing the tax laws they live by.

The important and serious reasons that these citizens are asked to lay down their lives for their country like all the other citizens and yet they cannot vote.

A less important but certainly amazing and disturbing reason. The United States of America, the oldest democracy in the world, is the only democracy in the world that does not allow the citizens of their capital to vote.

But my real reason for supporting this proposal is the issue of fairness. The root of our democracy. Is it fair to let a woman of the caliber of Delegate NORTON to work so hard for her constituency and not at the end of the day, when the tally is being taken, not to have a vote as the decisions are being made?

Is it fair that each year when the D.C. appropriations comes up, it is held up and held up, for reason after reason. It is used as a vehicle to argue other issues and questions. Is this fair to try to micromanage an area that really comes up to importance of attention only after other things are addressed. How difficult and unfair to the people of the District and their Representative.

These are all good reasons, but ultimately what they boil down to is fairness, the simple fairness that is at the root of our democracy. I do not believe it is fair for the U.S. Congress to micromanage the District's affairs, or to exercise control over the District's revenues.

Mr. Speaker, this is a matter of fairness in another way. The citizens of the District and their elected officials have shown that they want statehood, that they are prepared to make decisions about their destiny, and are ready to move forward with this effort. It is not fair that we should deny the basic guarantee of a democracy—the right to be represented—to people who have been insisting on it and fighting for it for years.

One of the first lessons all of us learned about democracy was the concept of one man, one vote. But for the District today, the rule is many men and women, and no vote—no vote for House, no vote for Senate.

Mr. Speaker, I believe the time has come to end this unfair treatment of the District of Columbia, and I urge my colleagues to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. SAXTON], a member of the committee.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 51. I would like to say to the Delegate from D.C. that like her, I want every American to have the opportunity to participate in democracy.

Like her, I also stood in this Hall and raised my hand last January and swore to defend the Constitution and to protect the Constitution of the United States.

As a member of the Committee on the District of Columbia and being responsible to a large degree for my vote to make sure that in my view it is constitutional, I would just like to inform her and the other Members here that my opposition to H.R. 51 is not to try to keep someone from voting. On the contrary, I have spent a large part of my life defending democracy and promoting democracy, not only in this country but around the world.

But when I read the words in the Constitution, the document that she and I swore to defend, and the gentleman from Illinois [Mr. HYDE] is much more eloquent on this issue than I, and he will have more to say about it later, but in article I, section 8, the Constitution says very clearly, for all Americans to understand, it says, if I can just quote a few sentences:

"The Congress shall have the power to lay and collect taxes, to borrow money, to establish rules of naturalization, to coin money," and 18 other things here, powers, in all, "to constitute tribunals, the Supreme Court, to declare war, to support armies, the Navy, the Militia."

And when we get to clause number 17, it says very clearly, "To exercise exclusive Legislation in all Cases whatsoever, over the District as may be by Cession of particular States, and accepted by the Congress to be the Seat of Government of the United States of America."

□ 1750

That is very clear to me. That is our U.S. Capitol, and the Constitution, not a statute, gives us the control over the District.

So I agree with the gentlewoman, and I will work with the gentlewoman to find a way to give the citizens of the District of Columbia the right to vote, and in my view, that way is to amend the Constitution, not just have a statute which, I believe, flies in the face of the constitutionality as expressed by the words I just read.

It seems very clear to me that this is an issue that goes beyond what we are constitutionally capable of dealing with here today in H.R. 51.

I would just like to make one other point. That is that there have been a number of other issues that have been and will be addressed by Members of the House here this afternoon, tonight, and tomorrow. One of those issues has to do with something that was brought up by the gentlewoman from the District of Columbia [Ms. NORTON] during debate on the rule. That has to do with the per capita burden of citizens of the District of Columbia.

It is true that it is a relatively heavy burden, third behind only the first two States, Connecticut and New Jersey, which is my home State, of course, where we can see here in column one that Connecticut, the per capita tax raised is about $6,600, almost $6,700. In New Jersey, it is about $6,200. In the District of Columbia it is about $5,700.

When one works all this out to see what it is that the three top States get back in terms of Federal support, we can see also that there is a disparity; that the State of Connecticut gets back 67 cents on every dollar that is sent to Washington.

In the case of New Jersey, we get back 58 cents for every dollar. In the District of Columbia, the number is, for every dollar that the District of Columbia residents send to the Federal capital, they get back $4.92.

I know the gentlewoman is rising to try to explain that is because so many people get paid in Washington, DC. For the purposes of this calculation, not only did we use the total amount of wages paid in Washington, DC, but the total amount of taxes collected on those wages. So if the gentlewoman wants to exclude those two items and divide one by the other, it still comes out to the same number, $4.92.

The chart referred to is as follows:

FEDERAL TAX BURDEN ON HIGHEST PER CAPITA STATES

[Taxes paid and expenditures in millions]

State	Federal per capita tax burden	Total taxes paid	1990 Federal expenditures	Amount received in Federal expenditures for $1 paid in taxes
Connecticut	$6,678	$22,070	$14,739	$0.67
New Jersey	6,239	48,676	28,322	.58
District of Columbia	5,770	3,530	17,353	4.92
Massachusetts	5,577	33,024	29,778	.92
New York	5,178	93,103	70,493	.76
Maryland	5,046	23,809	27,118	1.14
New Hampshire	5,014	5,648	3,559	.63
Delaware	4,953	3,348	2,149	.64
Alaska	4,891	2,724	3,227	1.18
Illinois	4,738	55,198	36,696	.66

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman is a member of the Committee on the District of Columbia, and he says he would like to work with me in order to assure that the District of Columbia has its right.

Mr. Chairman, I would ask the gentleman, would the gentleman be willing to work for budget autonomy to the District of Columbia? That is a measure short of statehood.

Mr. SAXTON. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, the gentleman will be more than happy to work with the gentlewoman to pursue whatever policies may be in the benefit of the District of Columbia and the rest of the citizens of the state that fall within the bounds and the realm of the Constitution which I referred to.

Ms. NORTON. That certainly does, because it is under our home-rule authority.

I would ask the gentleman, would he be willing to vote to eliminate the 30-day layover and 60-day layover period for bills passed exclusively in the District of Columbia?

Mr. SAXTON. Mr. Chairman, if the gentlewoman will continue to yield, the answer is the same. The gentleman will be pleased to cooperate with the gentlewoman on any issues and discuss any issues and pursue any issues that fall within the realm of the Constitution.

I again repeat that H.R. 51, in this gentleman's view, is not one of those issues.

Ms. NORTON. The gentleman would be willing to pursue issues, but not vote for issues, even to increase home rule for the District of Columbia.

Reclaiming my time, Mr. Chairman, I yield 4 minutes and 30 seconds to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman for her generosity in yielding time to me.

In 1971, Mr. Chairman, I had the very high honor and distinct privilege of being sworn into the 92d Congress. Shortly thereafter, I was appointed to the Committee on the District of Columbia. July 6th of that year I introduced a bill, H.R. 9599, to bring statehood to the District of Columbia, so I have waited patiently for 23 years for this moment to come. This is indeed a high honor and an opportunity for us to debate and discuss a very significant issue.

Mr. Chairman, in the remainder of the time I would like to first say what I think this debate is not about, Mr. Chairman.

Clearly it cannot be about taxation without representation. This country fought a war over that issue. We would be clearly hypocritical and contradictory if that was what this debate were about.

Clearly this debate cannot be about enfranchising the residents of the District of Columbia. We have advocated free elections in Central America, South America, Southeast Asia, Southwest Asia, South Africa, Haiti, Angola, Nigeria. To do anything less would be hypocritical, so clearly this discussion is not about that.

This debate cannot be about providing democratic rights for people in the District of Columbia. We have sent some of our finest to fight and die and spill their blood on foreign soil to maintain the integrity of democracy, and to advance the cause of democracy and the right of people to have control over their own destiny through the political process. To stand here and debate in any other fashion, Mr. Chairman, would be totally hypocritical.

The debate is not about these fundamental ideas. That is ostensibly what this country is about. So what is this debate about? It is about how best to provide those rights to people in the District of Columbia. There have been three options: home rule, retrocession, and statehood. Let us look at them each.

Home rule. We all know that home rule is flawed. We have operated here on the floor of Congress as the supermayor of the super city council. We have operated as the police chief, the fire department, when we should be addressing the national issues of our time. I have always seen, Mr. Chairman, home rule as the beginning of the quest of the residents of the District of Columbia's rights and privileges, not the end; flawed.

Retrocession. Retrocession is simply a word. It is not reality. We all know that Maryland and Virginia no way, no time soon, would ever be interested in this. The District of Columbia would radically alter the politics of both of those States, so the reality is that we are not there.

Finally, by the process of elimination, Mr. Chairman, we come to statehood. The residents of the District of Columbia meet the criteria for statehood. They are committed to democracy. So is their constitution. They have the economic viability and the resources to be a State. That is unequivocal. They meet the test, Mr. Chairman.

The residents have strongly expressed their support for statehood, so they meet all the tests.

Statehood. Home rule, out the window; retrocession, not a reality. We come to statehood by the simple process of elimination. What this debate is about is whether or not 600,000 human beings shall have the right that we have sent people to fight and die over. It is the height of hypocrisy and contradiction, I would suggest to the chairman and Members, to do anything less for the residents of the District of Columbia.

The final comment I would make, this is not a local issue. This should not be in the Metro section of the newspaper. This is a national issue. All America should be outraged that 600,000 people are not provided those legitimate rights.

I would hope at the end of this day, this one opportunity we have, that 218 of our colleagues will see the wisdom of providing the residents of the District of Columbia with the simple right and prerogative that every other citizen has.

Everywhere we go in this country, when we ask a person, "How many Representatives do you have?" they say, "Three: One Member in the House of Representatives, two in the United States Senate." To the District of Columbia, "How many Representatives do you have?" "One," and there is a distorted vote, because every time the gentlewoman from the District of Columbia [Ms. NORTON] chooses to vote, someone gets up and makes us vote twice, an absurd practice, because of the incredible violent reaction to these people having the right to vote.

My hope is that at the end of the day that we will have done our job and made the District of Columbia the 51st State, and I have waited 23 years for this moment. They have waited eons of time.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just want to point out that 37 of the States that have been admitted, all the States that have been admitted, were article 4 territories. The District of Columbia is unique. It is the only article 1 territory. There is a vast difference.

Also, I do not feel apologetic for talking about the Constitution, although perhaps I should. I listened to the gentlewoman from the District of Columbia. [Ms. NORTON] and I wrote down her words. I hope I took them wrong. She said, "Constitutional issues are raised every day in here, but they don't keep people from doing what is right."

□ 1800

Now that is an insouciant, careless attitude toward the Constitution it seem to me, that document that we are sworn to uphold when we are sworn in. The Constitution is not something to be put up on a shelf, I should think. God knows during the Iran contra hearings all we heard about was shredding the Constitution. It became a document of great sanctity, and so it should.

And so it seems to me in discussing creating a new State out of the District of Columbia, we cannot just brush aside constitutional questions. There are some serious constitutional questions, and these are not redneck conservatives and people who resist change.

Certainly Robert Kennedy was not one such, even though the gentleman from Massachusetts said, "Well, you have found one thing you liked about him." How about Patricia Wald, who is now a judge in the U.S. Court of Appeals? When she testified as Assistant Attorney General in 1977, she said it can only be done by the Constitution, a constitutional amendment.

So I think we are in good company, those of us who take the Constitution a little more seriously.

In 1978 there was a constitutional amendment to make a State out of the District of Columbia. They went that route, and only 16 States ratified it. So that route is suddenly in disfavor, and we do not do that anymore. We try to do it by statute. And I just suggest that there are serious constitutional problems with doing it by statute.

We have the 23d amendment, adopted April 3, 1961, which provides that the residents of the District of Columbia will have three electoral votes. When we get through with H.R. 51 we are going to have 75 people or so, certainly the President, his wife, and his daughter, at least that family, having three electoral votes.

I wonder what some of the other States are going to think about equal protection of the law, about due process of the law.

There are serious constitutional questions involved.

Article 1, section 8, clause 17 says Congress has the power to exercise exclusive legislation in all cases whatsoever over such district as may by cession become the seat of Government.

Now, the imaginative District of Columbia lobby says OK, if Congress has the exclusive power, they can do anything they want with the District, including turn it into a State. There are serious problems there because there may be a reversion to Maryland if that happens because the land was given to the Federal City, and perhaps when we no longer use it it goes back to Maryland. If so, the consent of Maryland is necessary.

This is not a question to be brushed off.

But in addition, if we go for H.R. 51, then what do we do with article 1, section 8, clause 17? We still maintain the exclusive power over the new State. You just cannot brush those things aside. We need to amend the Constitution.

Ms. NORTON. Mr. Chairman, I yield myself 30 seconds to respond to the gentleman's notion that I trivialize the constitutional questions involved. I do not. I regard the constitutional arguments as counterfeit, and I said that this body has the right to decide for itself that this is a constitutional bill, and to go ahead and leave it to a court if it is to be overruled.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, on October 30, 1993, the New York Times editorial said it all and it answered a log of the previous speakers when it said it is hypocrisy, it is hypocrisy that America champions democracy abroad while refusing fair political treatment to the citizens of its own capital.

Before that, on July 21, 1992, the New York Times said the remedy to this hypocrisy, the remedy is to admit the District as the 51st State, as called for in the Democratic platform.

Every school child in America will agree with the New York Times. The gentlewoman from Washington stated it earlier. Every school child in America knows at a very early age that taxation without representation is a slogan on which this country was built. They know that those very proper gentlemen who dressed up as Indians and staged the Boston Tea Party, the first radicals, the first direct action people in America, that they were seeking representation. They did not want taxation without representation. School children in modern times know that the United Nations and the United States offer as a solution to most of the international problems in the world a referendum, a vote. They demand that people have free elections. They demanded it in Cambodia, they demanded it in Haiti, in El Salvador, free elections, enfranchisement of people. Even in countries where people were not literate, and had to vote for a symbol rather than for a word, we demanded it, and we got elections in India and a number of other places, free elections, enfranchisement.

Thomas Jefferson certainly did not mean to disenfranchise 600,000 people, and certainly John Adams and the other framers of the Constitution did not foresee the disenfranchisement of 600,000 people, 600,000 people who deserve the right to vote. We must abide by the spirit of the Constitution, and we all know what the spirit of the framers stated. That is that everybody, every American citizen should have the right to vote. To do it any other way is hypocrisy.

Mr. BLILEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I could hardly believe what I thought I heard from my colleague and friend, the delegate from the District of Columbia, saying that the Constitution should be only decided in the court. Does she mean we should write laws without respect to the Constitution? I do not think so. I think we should use good judgment and be governed by that Constitution.

To the gentleman who just spoke in the well, I would like to remind him that there are some local officials telling the citizens of the District that statehood will bring lower taxes. And how they intend to keep that promise, of course, is to tax those people who do not live here, but who reside in other States.

Mr. Speaker, I yield 5½ minutes to the gentleman from the Eighth District of Virginia, the gentleman from Alexandria, VA [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my colleague from the Commonwealth of Virginia for yielding the time.

Let me begin by making it very clear that I have the highest respect for the gentlewoman from the District of Columbia. She is an untiring and unmatched champion for her constituents. She represents them with a mix of aggressiveness, intelligence and great capability. The people of the District of Columbia could not have a better voice in Congress than ELEANOR HOLMES NORTON.

And I also respect the supporters of this bill, but I know this bill is certainly not in the interest of my congressional district, or of my State, nor in the interest of this Nation as a whole.

In their wisdom, our Founding Fathers created a Capital City. It was to be independent from the sovereign States and linked to the Federal Government through a special bond. And in the past 200 years, that relationship may have been strained or strengthened at different times, but the constitutional relationship still remains.

The city houses the Federal Government. It provides emergency services, it paves the streets, it protects its employees.

The Federal Government, in recognizing its concomitant responsibility to the city, employs its residents, contributes a very substantial Federal payment, and houses its correctional facilities on Federal land in outlying States.

The supporters of this new legislation want to create a new State out of the District of Columbia. But the State they would create would be unique unto itself, and much different, much different from the other 50 States.

The State of New Columbia would be about 60 square miles and have a population of about 589,000 people. It has been mentioned that the next smallest State, Rhode Island, has a land area over 1,000 square miles compared to 60 square miles in the District of Columbia.

□ 1810

And granted, Wyoming, the least-populous State, does have somewhat less people, 466,000, than the State of New Columbia would have, but Wyoming has over 97,000 square miles. The State of New Columbia does not have the land area to sustain a State, and that land area is important, because every State in the Union, from the richest to the poorest, from the smallest to the largest, has an independent and diverse private economic base. They each have a tax base that they can independently sustain the expenditures of their State. The District does not.

Almost 40 percent of the District's gross State product comes from government employment. The District receives more than $17 billion from the Federal Government. That amount of Federal money comes out to about $34,000 Federal taxpayer dollars for every man, woman, and child who lives in the District of Columbia.

If the District becomes a State, they will be forced to rely on a continued Federal payment from the United States Government, a privilege which is not granted to any other State, and on an excessive commuter tax on the suburban residents of Maryland and Virginia.

Let us be candid, the ability to impose a commuter tax is the driving force behind the push for statehood. The mayor of the District has claimed that she would immediately impose a commuter tax on Virginia residents if the District became a State. These are taxes levied on nonresidents. They are a fee for working within a certain jurisdiction. The taxes collected would be reduced from the State taxes paid by the nonresident. Mayor Kelly has said she wanted to impose a commuter tax in which nonresidents are taxed as high as District residents. Why? Nonresidents, or as the mayor refers to them, day residents, do not use the schools, do not use the social services, trash collection, or, for the most part, police or fire departments. Why should they pay the same taxes as District residents?

The District's tax rate is 9½ percent for people earning more than $20,000. Virginia's highest rate is 5¾ percent, about half that amount.

The State of New Columbia would gain $1 billion, and that is according to the mayor of the District of Columbia, $1 billion from commuters through these taxes. Virginia would lose over $300 million, money that cannot be spent to educate their children or protect their families.

With this legislation, we are creating a State dependent on Federal assistance and taxes on commuters and incapable of being financially independent or secure.

There is one other issue that I would like to mention in the 30 seconds left, and although my colleague has said that she agrees that no State should house its prisoners in another State, the fact is the New Columbia Act gives control from the Federal Government to the State of New Columbia of about 2,000 acres in another sovereign State, in my congressional district, and that is the Lorton prison.

Now, it is one thing for the District to have to dump its trash in the landfill in Virginia, but to give over the effective control of 2,000 acres of one State into another State has no precedent and should not be any precedent.

I urge my colleagues to vote against this legislation.

Ms. NORTON. Mr. Chairman, I yield myself 30 seconds.

The gentleman has said that the mayor has said she would impose a tax on the commuters to the District of Columbia. May I remind the gentleman that the Mayor cannot impose anything by herself, that the majority of the city council has agreed that we would sit down with our neighbors before attempting to impose any tax. That is not a danger that should cause anybody not to vote for this bill.

Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise today with great honor to support the admission into the Union of the 51st State, the State of New Columbia.

I want to open my remarks by complimenting the gentlewoman from the District of Columbia for her outstanding leadership and advocacy on this issue.

Mr. Chairman, I would like to comment for a few moments about the various reasons why the District of Columbia should be admitted as our 51st State. As has been mentioned, it has over 600,000 residents. It is greater in size than three States, Alaska, Vermont, and Wyoming.

Let us talk about taxes. Its citizens pay more Federal taxes per capita than 48 States. They add $1 billion to the Treasury. The District is the only jurisdiction that pays taxes without having representation in Congress, and that, ladies and gentlemen, is the foundation of this country, that we should not have taxation without representation, but yet we continue to do just that to the District of Columbia. Last year District citizens paid more Federal tax than residents of seven States. The U.S. Capital is the only capital city in the world among democratic countries without representation in its national assembly.

Let me mention that those who argue retrocession concede that taxation without representation is wrong. I will talk about why retrocession is wrong as well.

Not only is this the case, but Congress has absolute control over the District's decisions, so we find ourselves debating parks and the height of buildings, sound control, zoning issues.

As was commented, we should not be a super-city council.

The District contributes to our security. They have, their residents, have fought and died in every U.S. war. They rank fourth per capita among States in the number of soldiers who participated in the Persian Gulf war and fourth in the number of deaths for the Vietnam war.

Let me comment, though, about the remarks made by my colleague from Virginia, and with all due respect, let us not be afraid of the so-called commuter tax.

I represent the Fourth District of Maryland, and I will be our new State's closest neighbor, and so will my constituents.

I do not believe, as a Representative from Maryland, that we will have a commuter tax. I believe that the reality is that if the District of Columbia attempted to impose such a commuter tax there would be such a business exodus that it would not be feasible for the District of Columbia to pursue this route.

So I hope that people will not be scared into saying we should not have a new State because of a commuter tax. That is not going to happen in terms of the political realities.

Finally, let me say something about retrocession. I have been a State senator in the State, for the State of Maryland, and we have voted on this issue. We respect the wishes of the citizens of the District of Columbia. We do not want them to be citizens of Maryland. We want them to have the opportunity to be citizens of a new State, the State of New Columbia.

Mr. BLILEY. Mr. Chairman, I yield 10 minutes to the gentleman from Roanoke, VA [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise in strong opposition to this legislation. The District of Columbia constitutes the seat of Government of the United States. It was never intended that the District act as a State. Rather the intention of our Forefathers was to make it a Federal City.

I believe this legislation is unconstitutional. The District of Columbia is an article I territory, established in the Constitution to serve as the seat of the Nation's Government and consequently, the Federal City of every American. The New Columbia Admission Act does more than simply create a new State, it dramatically alters the nature, size, and efficacy of the seat of the Government.

H.R. 51 reserves the National Capital Service Area—a narrow strip of land roughly extending from the Kennedy Center east to the Supreme Court Building and south along the waterfront to Bolling Airforce Base, as the Nation's Capital. Our Nation's Capital would be reduced to a strip of land one-tenth the size of Dulles International Airport.

No previous admission act has ever sought to change the Constitution by simple majorities of both Houses of Congress and a Presidential signature. The right of the American people is being usurped today. The power to change the status of the Nation's Capital is reserved to the people in their right to amend their Constitution.

But this legislation is fatally flawed for another very important reason. H.R. 51 strips the newly configured Nation's Capital of local laws and local courts.

In reconfiguring the Nation's Capital, H.R. 51 fails to provide:

Any judicial system to adjudicate crimes or civil disputes within the Nation's Capital;

Any regulatory agencies for such basic matters as licensing professions, or businesses operating within the Nation's Capital;

Any regulatory scheme under which churches and synagogs located within the Nation's Capital may perform marriages; and

Most importantly, may even fail to provide any code of local criminal and civil law governing the Nation's Capital.

Simply put—under H.R. 51 there would be no local laws prohibiting crimes such as murder, rape, and robbery; no local laws creating tort liability arising from traffic accidents or negligence; no laws or courts regulating marriages and divorces; no local laws creating remedies for breach of contract or providing for the ownership and transfer of real and personal property.

Even if the bill can be read to leave current law in effect in the Nation's Capital—which is doubtful—there would be no courts with jurisdiction to hear cases arising under those laws.

Section 122(a) of H.R. 51 provides that "the admission of the State into the Union shall not affect the applicability to the State of any laws in effect in the District of Columbia as of the date of admission, except as modified or changed by this act or by the State constitution."

Nowhere in the bill is any provision made for any law to remain in effect within the National Capital Service Area, newly designated under section 111(B) of the bills as the District of Columbia and explicitly not included within the territory of the State of New Columbia. The sole exception that the bill provides to the rule that current local law will remain in force within the new State is where that law is modified or changed by the bill itself, or by the new State constitution.

It can hardly be contended that the current D.C. Code would remain fully in effect within the Nation's Capital since most of its provisions would apply to matters outside of the territory of the National Capital Service Area and fall under the jurisdiction of enforcement agencies no longer having jurisdiction within the Nation's Capital.

For example, laws administered and enforced by the currently existing D.C. building and land regulation administration, business regulation administration, housing and environmental regulation administration, insurance administration and occupational and professional licensure administration would, even if technically in force within the Nation's Capital, become dead-letters after statehood. The jurisdiction of those and many other agencies would be limited to territory within the new State. Of course, the Metropolitan Police Force would no longer have jurisdiction within the Nation's Capital.

Nor would Federal laws currently in effect within the special territorial jurisdiction of the United States be in effect within the new District of Columbia. In Johnson verses United States, the Supreme Court ruled that the District of Columbia was not within the territorial jurisdiction of the United States as defined in section 7 of the title 18 of the United States code. Murder, manslaughter, attempted homicide, aggravated and simple assault, rape, and robbery—although expressly prohibited in Federal lands throughout the Nation—would not be prohibited within the newly configured Nation's Capital under this legislation.

Moreover, since the District of Columbia as newly configured under H.R. 51 is not situated within any State, the Assimilative Crimes Act would not be applicable.

While some provisions of local law currently in effect in the District of Columbia could conceivably remain in force within the newly configured Nation's Capital, whether any particular provision of the D.C. Code remains in force would ultimately be a matter for judicial determination.

Here, too, however, there exists an overwhelming obstacle: H.R. 51 does not provide any local judiciary within the newly configured Capital City. Even if parts of the current D.C. Code could be interpreted as remaining in force within the Capital City, there is no court of competent jurisdiction to provide this interpretation.

Section 12(2) of H.R. 51 provides that "The appropriate courts of the State shall be the successors of the courts of the District of Columbia." Section 103(E) of the bill specifically provides that, "upon admission of the State into the Union members of executive and judicial offices of the District of Columbia shall be deemed members of the respective executive and judicial offices of the State."

So while the local courts and the judges serving in them would continue to exist, they would have no authority over territory or laws outside New Columbia's territory.

And the Federal judiciary will not have jurisdiction over cases involving local crimes or civil suits in the newly configured District of Columbia. Section 1363 of title 38 of the United States Code expressly excludes from the Federal question jurisdiction of Federal courts, cases arising under "laws applicable exclusively to the District of Columbia." If any provisions of the current D.C. Code would remain in force within the National Capital Service Area after statehood, they would be laws exclusively applicable to the District. As such, Federal courts would lack jurisdiction to hear cases arising under them.

At this point my colleagues may question the necessity of courts and prosecutors in the Nation's Capital—after all, this will be a very narrow strip of land. Between October 1, 1991 and September 30, 1992, the U.S. Capitol Police made 1,070 arrests; 222 of those arrests were felony arrests. The Uniform Division of the Secret Service, which police the White House, foreign missions and embassies made 772 arrests in this same period. Arguably, some of these arrests were made outside of the area which will be included in the new District of Columbia, but these statistics do not even include the arrests made by the United States Park Police which also have jurisdiction over the area.

Under H.R. 51 there would be no prosecutors to prosecute these cases and no courts in which to try them.

Another problem with H.R. 51 is that besides making no provision for funding, administering or governing the reconfigured District of Columbia, and providing no laws or courts of proper jurisdiction; H.R. 51 grants judicial jurisdiction to the New Columbia State courts over crimes committed outside of its territory.

Section 123(A) (1) and (2) of the legislation provides for the continuation of all judicial proceedings in the District of Columbia courts on the day of admission in the courts of New Columbia in spite of the fact that so many of those proceedings may well involve matters that took place on territory that is not part of New Columbia—for example all those crimes committed in the National Capital Service Area.

There is serious question as to whether Congress possesses the power to give State courts jurisdiction over crimes not committed within the State's boundaries.

An even more questionable provision is section 123(B) which grants New Columbia jurisdiction over crimes committed in the District of Columbia—both the old District and the new one—but for which no writ, action, indictment, or proceeding is filed before admission.

Here you have a situation where the New Columbia prosecutor would be charged with filing charges and pursuing the case of a mugging that took place on the steps of the Capitol Building under laws that may no longer even exist, before New Columbia judges, in New Columbia courts.

The questions about competent jurisdiction, applicability of laws and a host of other matters that would be raised by a defense attorney under such circumstances lead one to conclude that H.R. 51 is seriously flawed in the way it deals with the reconfigured District of Columbia—the Nation's Capital.

Whether anyone committing a crime in the territory that will become the new District shortly before admission or in the District of Columbia after admission could be successfully prosecuted is very much subject to doubt.

Congress cannot seriously consider legislation which potentially leaves its National Capital without laws, certainly leave it without local courts and transfers jurisdiction over civil and criminal cases to State courts whose competent jurisdiction does not encompass the place where the actions originated.

I urge my colleagues to oppose this bill.

□ 1820

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, I rise today in strong support of H.R. 51, the New Columbia Admission Act.

Mr. Chairman, I would first like to say that this debate is a tribute to the gentlewoman from the District of Columbia [Ms. NORTON]. I consider it a great privilege to serve with her on the Committee on Public Works and Transportation. I can truthfully say that, in all my years in the House, I have never known a more talented, principled, and effective legislator.

Mr. Chairman, the people of the District of Columbia are American citizens. They pay Federal taxes, and they have fought and died to defend this country. No less than any other American, they share a dedication to the principles of justice and equality that have made this the greatest Nation on earth.

More than 200 years ago, we fought a revolution over those ideals. We fought against taxation without representation. We fought against the tyranny of laws passed by a legislative body in which we had no voice and no vote. That revolution changed this Nation and the world.

Yet today, this Congress regularly subjects one group of Americans to those same indignities—simply because they make their homes in the Capital City of the world's greatest democracy.

Mr. Chairman, it is time for this House to resolve to bring that injustice to an end.

This Nation is based on the principle that free men and women are capable of governing themselves—and that they have the inalienable right to do so. How can we continue to preach that message to the worldwhile ignoring it only blocks away from our own Capitol?

At the close of this debate, the House of Representatives will vote. Each of us will be accountable to our constituents for that vote. Yet of the 434 Representatives who will cast that vote, not one of us will be accountable to the people most affected—the people of the District of Columbia.

For my part, I can do nothing less than vigorously support their right to a full and equal place in the life of this Nation, and I urge my colleagues to join me in voting to pass H.R. 51.

□ 1830

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from North Carolina [Mrs. CLAYTON], the president of the Freshman Class.

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for allowing me to participate.

Mr. Chairman, I rise today in support of House Resolution 51, the New Columbia Admission Act. All representative democracies world-wide ensure the participation of the citizens of the Nation's Capital during the election of representatives to their national legislature—except the United States. Our Nation, the protector of democracy across the globe, still denies some of its own the freedom it has championed at almost any cost—the right to have a voice in government. All Americans enjoy the liberty of electing representatives to the governing bodies of our Nation—except those Americans that live within the District of Columbia. The time has come to rectify this sad truth.

The battle cry during the Revolutionary War was "No taxation without representation"—and much blood was shed in the pursuit of that end. However, the startling fact remains that the 600,000 residents of the District of Columbia are taxed without proper representation. The District of Columbia paid over $3.1 billion dollars in Federal taxes—more than 8 other States—do the citizens of the District of Columbia not deserve the same rights as all other citizens of the United States?

The history surrounding this issue illustrates the necessity of statehood for the District of Columbia. Washingtonians were denied the right to participate in Presidential elections until 1964—only 28 years ago. Only with the passage of the Home Rule Act in 1973 did citizens of the District of Columbia have the ability to choose their mayor and city council; up to that time, those municipal officials had been appointed for them. It is ironic that we, Members of the United States House of Representatives, freely elected by our constituences—willfully deny such an opportunity to the residents of the District of Columbia. It is the proper and just thing to do—so when the time comes—vote in favor of H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I am sorry to disagree with my colleagues who have spoken very eloquently on the need for full representation of the District of Columbia in this body.

I have a great feeling for what they are saying. My great-grandfather came to this city in the late 1830's. My grandmother was born here in 1860. My Mother was born here in 1894. When I went here for my junior year in high school, my grandmother, recalled very vividly Lincoln's assassination, and the pride she had as a young girl when her father, my great-grandfather, had a chance for a brief period to vote in local elections in the 1870's in the District of Columbia.

There is no question that we have had a major problem with the voting rights of citizens of the District, and we still do. Home rule should have occurred a century or so earlier. It did not. It is slowly occurring.

Mr. Chairman, there is a solution to having a Representative in Congress with full voting power, but the solution is not this legislation. The comments made by the various gentlemen on both sides of the aisle from Virginia and the gentleman from Illinois [Mr. HYDE], cannot be swept under the rug.

This legislation is clearly unconstitutional. It does not take a law degree and a court to decide if that is what it is, and we did take an oath to live by the Constitution.

Mr. Chairman, the simple solution is what has been suggested many times. As we gave the Virginia portion of the District of Columbia back to the State of Virginia in 1846, we should give with the exception of a small Federal core of the major buildings and monuments of this city the District of Columbia portion what was ceded to form that District from Maryland back to the State of Maryland.

States are not artificial creations. Whether they evolved as colonies, whether they evolved as territories, they had natural boundaries in their mountains and their rivers. They had an economy. They had a culture. They had a series of aspects that made them states with identity. Marylanders were different than Virginians.

From time to time, my own State of California has wanted to divide into two or three states. I am opposed to that, just as I am opposed to this legislation which seeks to create a State out of an artificial construct known as the District of Columbia.

Again, the solution is let the citizens who are legal residents of the District of Columbia vote in the State of Maryland. They will have an opportunity to elect their own Members of the House and they can help participate in the election of two Senators from the State of Maryland.

Then there will be full representation in accord with the Constitution.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise today to speak in favor of D.C. statehood.

As a resident of both Los Angeles and Washington, DC, I am acutely aware that my neighbors in both cities have strong national and local concerns. The difference is, however, that while my Los Angeles neighbors elect Members of Congress who, through the power of their vote, can determine and protect their personal interests and future quality of life, my D.C. neighbors are currently being denied that basic right of full representation.

As a result, D.C. residents find that they must abide by national and even local policies which have ultimately been decided by those other than themselves. Every law and budget, for example, approved by the District must survive the over-riding veto power of a U.S. Congress composed of voting Members from everywhere else in the United States but Washington, DC.

The situation is so absurd that the District cannot even reschedule its own garbage collection without having to ask the U.S. Congress for permission to do so.

It is patently unfair for Congress to micro-manage District affairs, denying true and full voting District representation. I wonder how many of us in Congress would appreciate having to live under the situation with which the residents of DC must function daily.

I suspect few of us would willingly embrace such an unfair concept. Why then do we expect the residents of the District to continue to remain powerless?

Mr. Chairman, the matter of the State of New Columbia is one of fairness and equal representation. The time has come to recognize the citizens of the District by providing them the full voting representation afforded by statehood in our great Nation. I urge my colleagues to vote "yes" on H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I rise today in opposition to H.R. 51. Article I, section 8, clause 17 of the U.S. Constitution designates a seat of Government under the exclusive control of the Federal Government, outside the boundaries of any State. The intent of the Framers of our Nation's Constitution was to establish a Federal city independent from the control or undue influence of any individual State. They did this because of their experiences with the problems of having the seat of Government under the jurisdiction of an existing State. Our Founding Fathers, specifically James Madison, knew of the overriding necessity for national deliberations and policies to be made free and without influence from a provincial tincture.

This is clearly written into the U.S. Constitution. The only way to change this is through a constitutional amendment which must be ratified by three-fourths of the States, not through a statutory change from Congress.

It is inexplicable to think that Members of this body would seek to circumvent the same system which gives this body its power.

There are several practical things wrong with this legislation. The advocates of D.C. statehood argue that they pay taxes to a Federal Government in which they are not represented. I know of no other city or district in this Nation which has a Delegate Representative, a full House committee and a full Senate subcommittee assigned to address its particular interests.

The District of Columbia, in addition to the Federal payment, receives funding under many other Government programs. The District of Columbia receives $4.92 in Federal resources for every $1 its residents pay in Federal taxes making the District of Columbia a donee entity. Indiana receives 82 cents for every $1 Hoosiers pay to the Federal Government, making Indiana a donor State.

And let us not forget, a requirement of a State is that it must have sufficient population and resources to support State government and to provide its share of the cost of the Federal Government. Authors of this bill have creatively come up with provisions to ensure that the State of New Columbia indefinitely receives subsidies from American taxpayers. We would literally be paying New Columbia for the privilege of becoming the 51st State.

The District of Columbia lacks the fundamental characteristics of a State. New Columbia would lack sufficient economic resources independent of the Federal Government. The District's largest private employer is the Washington Post. The 50 States share a diversity of industry which sustains their economies. They are all encompassing of both urban and rural economies, farms, office workers, manufacturing, and service industries, each with room for expansion in terms of land, population, and economic base. The District of Columbia lacks such characteristics.

Mr. Chairman, I think it is clear that not only is this bad legislation, legislation which is clearly against the intent of our Founding Fathers and circumvents the U.S. Constitution. I urge my colleagues to stand up for the intent of our Founding Fathers and the interests of their constituents and preserve the Nation as set out in the Constitution by voting against this bill.

☐ 1840

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of civil rights for all Americans, and I rise in favor of statehood of the District of Columbia.

There is no disputing that this is a civil rights issue. If people in the District of Columbia want nondiscrimination policy in employment and housing, they should have it. If they want to enact a law to allow gay and lesbian couples to adopt, they should have it. If they want a domestic partnership law, they absolutely should have it. Mr. Chairman, it is a violation of the rights of gays and lesbians who live here for the Federal Government to treat them differently than other American citizens. Mr. Chairman, it is a violation of a D.C. woman's right to reproductive choice for the Federal Government to extend its hand into her private life. It is a violation of the civil rights of over 600,000 people to deny them a Governor; to deny them full representation in the Senate and the House of Representatives; and to prevent them from governing themselves.

Mr. Chairman, I urge my colleagues to cast their vote for civil rights tomorrow. I urge them to vote for D.C. statehood.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Puerto Rico [Mr. ROMERO-BARCELO].

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ROMERO-BARCELO. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. Mr. Chairman, I rise this afternoon in strong support of H.R. 51, the New Columbia Admission Act. Mr. Speaker, today's vote in support of H.R. 51 is another in a series of Congress' gradual extension of full citizenship to various segments of this society. With each vote, Congress has moved closer to the More Perfect Union envisioned by the Framers of the Constitution. Chief Supreme Court Justice Warren Burger wrote that this Constitution is not perfect today, even with its amendments. Nonetheless, it was designed to satisfy the peoples' yearning to be free.

The people in the District of Columbia have sent a clear message to this body that they are yearning for freedom. They deserve freedom, today, my colleagues, we must pass H.R. 51 and give them that freedom.

In 1978, Congress granted the District of Columbia voting rights. Only 6 years earlier, the equal rights amendment passed the Congress, which would have eliminated gender as a basis for any decisions made by a State in the United States.

Unfortunately, the States did not ratify the equal rights amendment, but it has become the basis underlying many statutes and court decisions.

One year before, Congress allowed 18-year-old citizens the opportunity to vote. Congress proposed this extension of citizenship in March 1971 and it was ratified by the States in July 1971.

An important and highly debated extension of full citizenship was proposed by Congress in August 1962 and was ratified in January 1964. The 24th amendment eliminated the poll tax, abolishing the most repugnant tool of the racist South that prevented poor and African American citizens their most important right—the right to vote.

Two years before Congress proposed the act of citizenship for African Americans, it proposed to all D.C. residents another indicia of full citizenship, the right to vote for President.

Women in this Nation were extended full citizenship in August 1920, 1 year after Congress proposed the 19th amendment, mandating that the Government grant women the right to vote as a full citizen should.

In a measure that allowed the Nation to become full partners in the election of its leader, Congress proposes popular election of Senators in 1912, and ratified the measure in April 1913.

Mr. Chairman, our former colleague, D.C. Delegate Walter Fauntroy said that D.C. statehood is the unfinished agenda in the drafting of the Constitution of the United States.

Today, I urge my colleagues to finish the job. Our Declaration of Independence says "to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

Admitting the State of New Columbia into the Union proves that we really believe in Government with the consent of the governed.

Mr. ROMERO-BARCELO. Mr. Chairman, every day when I walk into this hall I live the frustration of disenfranchisement. I am not able to vote. I represent 3½ million citizens in Puerto Rico.

Today I heard arguments, many of them technical, other legal, and other constitutional, and I would like to step aside from those arguments and address the issue and not the details, and the issue here is:

Can the United States, can this Nation, which is the example and the inspiration of democracy throughout the world, which inspired the revolt in Tiananmen Square in China, which inspired all nations in Eastern Europe to revolt against the tyranny of Communism and Russia itself, can this Nation allow a situation where 600,000 of its citizens are disenfranchised, denied the right to vote and their representation?

The issue has been discussed from the point of view of no taxation without representation, and that is a very, very valid argument, but there is an even more valid argument. It goes right to the basis and the definition of democracy itself. Six hundred thousand U.S. citizens are being governed without their consent, and that is a gross violation of the most fundament tenet of democracy. The definition of democracy itself is government with the consent of the governed, and how can there be a democracy where the governed have not consented to be governed? And this happens in the Nation's Capital. Can Congress refuse to seriously address this issue?

This is why we ask for a vote in favor of H.R. 51: a vote for H.R. 51 is a vote for democracy, and, if for some reason there were not to be a favorable vote tomorrow, then let us determine that this is not the end of the issue, but the beginning.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, the absurdity in this debate shines through by virtue of the fact that the gentlewoman from the District of Columbia [Ms. NORTON] that is managing the time, when we resolve out of the Committee of the Whole, will not even have a vote on whether or not the District of Columbia should become a State.

I have sat through all the debate this evening and countless other debates over the years regarding D.C. statehood. One of the things that is argued is that there is no economic viability here. Well, that is just absurd. Among other things there is economic viability in the hotel and lodging industry, there is economic viability in the number of individuals in this city who earn $488 per week, there is economic viability in the 20 million tourists that come to this city.

Now I have heard arguments, which I conceive as specious, that we should retrocede. Well, let me ask my colleagues, if we make a city a State, there are those who propose that we should retrocede into Maryland. Can we not then, as a Congress, make that same city into a State as we are requesting here? I find it more than absurd that we see these specious arguments over, and over, and over again regarding retrocession.

Mr. Chairman, the people of the District of Columbia pay taxes to the Federal Government but receive none of the benefits of Federal representation. Its citizens are the only people in the United States who pay taxes but are denied full representation in Congress. It is contrary to the beliefs upon which this great Union was created that one group of people is expected to contribute to the Union, but then are not given the same benefits as the other members of the Union, and there is absolutely no justification for the disgusting budget display that the non-voting Representative of the District of Columbia must undergo every fiscal year.

□ 1850

While the constituents of the gentlewoman from the District of Columbia [Ms. NORTON] are forced to pay taxes, she must grovel in Congress to have even a small voice in deciding how those very few funds are spent. And I am referring to funds raised directly from her constituents, not the meager Federal supplement that the city receives to compensate for costs of providing security services for Federal representatives, foreign dignitaries, and government officials.

This is surely a giant miscalculation of how the framers of this Union viewed the seat of Government. There are 546,000 citizens of the United States who are not represented, and it is overdue time that we make the District of Columbia the 51st State of the United States.

Mr. Chairman. I rise today to express my support for H.R. 51, Congresswoman NORTON'S legislation to give statehood to the District of Columbia. I advanced support of statehood for the District in my campaign for Congress, and, I promised the people of the District. I would support same.

H.R. 51 reduces the Federal seat of Government to include the area around the Monuments, the White House, most Government buildings and the Capitol itself. Under H.R. 51, this area would become Washington, DC and will remain the Nation's Capital under exclusive jurisdiction of the Federal Government. The remaining neighborhoods, wards 1–8, will constitute a new State.

Mr. Chairman, the people of the District of Columbia pay taxes to the Federal Government but receive none of the benefits of Federal representation. Its citizens are the only people in the United States who pay taxes but are denied full representation in Congress. The people of the District of Columbia are as deserving of the same representation as every other citizen of the United States!

It is contrary to the beliefs upon which this Union was created that one group of people is expected to contribute to the Union but then are not given the same benefits as the other members of the Union.

And there is absolutely no justification for the disgusting budget display that the non-voting Representative of DC must undergo every fiscal year. While Congresswoman NORTON's constituents are forced to pay taxes, she must grovel in Congress to have even a small voice in deciding how those very funds are spent. And I am referring to funds raised directly from her constituents—not the meager Federal Supplement that the city receives to compensate for the cost of providing security services for Federal Representatives, foreign dignitaries, and Government officials.

The sight, during each debate, of Members from across the country who can't even begin to understand what it means to live in a major city, seeing them dictate to the voters of DC how they may and may not spend their own money, strikes me as patently unfair.

This is surely a giant miscalculation of how the Framers of this Union viewed the seat of Government. There are 546,000 citizens of the United States who are not represented. I find that unpalatable and hope that all of my colleagues will join me in rectifying this gross abuse by passing H.R. 51.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, as a new Member of Congress, I seldom rise to speak on matters, preferring instead to observe and learn the ways of this body. I have no illusions as I stand here today that I will affect the outcome of this debate. But on occasion, I am outraged by attitudes and positions that seem unjust to me.

For 22 years I practiced law, trying to stand up for people's rights to participate and be involved in a democracy. And here we have in this situation 600,000 people who are citizens of this country, with no representation in this country. We can fight and cajole other nations about the democratic principles for which our Nation stands and our Constitution stands and how we believe in justice and the right to vote, and yet deny our own people their legitimate right, right here in this country. Not only in this country, but right under the seat of this country's government.

District residents pay Federal taxes. They have an economy that is larger than 19 States. Yet we say to them, you are not citizens for the purpose of the right to vote.

Mr. Chairman, I ask for support for D.C. statehood.

Mr. Chairman, I rise in support of H.R. 51 and I rise in support of statehood for the District of Columbia.

The facts are abundantly clear. District residents pay Federal taxes at a higher rate than all but three States; yet they are denied full representation in the Congress.

The District of Columbia has an economy larger than that of 19 States; yet its residents are denied the basic American right of self-government.

This Congress, the entire Federal Government and indeed, this Nation, reap the benefits of the use of the District's land and profit from the abundant tax revenue, talent and productivity of its residents.

Perhaps opponents of D.C. statehood find this situation convenient; but it is also unjust. It is a vestige of institutionalized second-class citizenship and I urge my colleagues to join with me in removing it from our Nation's capital.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK. Mr. Chairman, I rise today in support H.R. 51, the New Columbia Admission Act. During the past week we have heard numerous members of this body rail away at other members involved in political wheeling and dealing. Well now, those who cried foul are choosing to ignore this, that act seeks to redress the fundamental inequity of a 200 year old political deal.

A deal which has resulted in the more than 600,000 citizens living in our Nation's capital to suffer taxation without representation.

A deal which will continue to deny citizens of our Nation's capital what has been entitled to them since birth.

A deal which compromises the most basic rights under which our Nation was founded.

A deal that is now supported by some in the House, not for constitutional purposes, but rather selfish, beliefs.

The debate on D.C. statehood is about the civil rights, indeed the human rights, of American citizens. In October, the Statehood Solidarity Committee petitioned the Organization of American States [OAS]. That petition charges this House of Representatives, the Senate, and the Executive with denying Washingtonians the human right to participate in national government through duly elected representatives.

Mr. Chairman, that human rights violation would also be a violation of the OAS Charter. The OAS Charter, to which the United States is a signatory, states, "Every person having legal capacity is entitled to participate in the government of his country, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free."

Mr. Chairman, I believe in democracy. I do not believe in democracy with exceptions. Some of my colleagues have approached me to say that "statehood for the citizens of the District of Columbia is a good idea, but * * *" And then they go on to explain that it would violate the original conception of the Founding Fathers. There are an abundance of explanations and excuses that follow the word "but." In that dependent clause preceded by the word "but" they defend democracy with exceptions. I say to them, the day of exceptions is gone.

Mr. Chairman, the Founding Fathers had no conception that African-Americans would one day be full-fledged citizens. The Constitution expressly provided that they were to be deemed three-fifths of a man. We African-American citizens know that constitutional conception and implementation are two different things. The founders of this Nation did not contemplate the disenfranchisement of 600,000 American citizens.

This House is at center stage. Do we believe in democracy with exceptions, with excuses, with dependent clauses that contain any old explanation or excuse? Or do we believe that all American citizens are entitled to full representation in this body and in the Senate? The test of that conviction will determine our vote.

Mr. Chairman, all over the world, we are a force for democracy—except in our own capital. I find that ironic. Among the great triumphs of this decade we celebrate progress toward enfranchisement for Africans in South Africa, Palestinians on the East Bank. Amongst the setbacks of everything we hold dear has been the rebuff of our attempts to restore Aristides to his duly-elected position and our inability to get China moving toward some recognition of basic human rights. We know what we stand for as a nation. Why do we have so much difficulty with that when it comes to 600,000 citizens in our Nation's capital.

I know there is a reason. Finally, the District is our play toy. Let's play local government we say, and some of us get a bizarre gratification from being able to play super-Mayor. We get the chance to be the legislators for a town where we live, but don't have to stand for election. We get a sense of importance because people in the District have to treat us like local gods when no one else does, certainly not our own constituents. What it boils down to is this: we would deny fellow ctizens the vote, because we prefer the zone system for taxis, and the perks that come from disenfranchising others. District voters have sent us a message—they will not be held hostage; they are not on a plantation.

Mr. Chairman, I am calling on my colleagues in this House to please vote to support New Columbia. It is a new day.

The CHAIRMAN. The Chair would advise Members controlling debate time that the gentleman from Virginia [Mr. BLILEY] has 47 minutes remaining, and the gentlewoman from the District of Columbia [Ms. NORTON] has 45 minutes remaining.

Mr. BLILEY. Mr. Chairman I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, statehood will not work, and it is not fair. It will not work constitutionally. Today, we have not heard one rebuttal for the impressive constitutional arguments that have been offered.

It will not work economically. This area cannot even function as a city without the $620 million Federal payment, and that is acknowledged by the fact that the plan that is being presented to us is dependent on the Federal payment being continued.

It will not work practically. An area like this cannot ask to have the National Guard patrol its streets one week, and then expect that a call for statehood will be taken seriously a week later. It just will not be taken seriously, because it is not practical. The area is not even functioning as a city.

This plan that we have been offered does not even function well and will not even function at all. The boundaries make it so that if the new State of Columbia would depend on a commuter tax; a person that worked in a building, if his desk was in one part of the building, he would be liable to pay the commuter tax; if his desk was in another part of the building, he would not be liable to pay the commuter tax.

The plan that has been presented is not practical, it will not work, but it is not fair either. Statehood is not fair. Statehood as a solution to the equal representation problem is not fair to the rest of the people of the United States. The people of my State have over 50 times the population of the people of this area, and they are represented by two U.S. Senators. If the District of Columbia gets two U.S. Senators, Orange County should get eight U.S. Senators, because we have over four times the population of this area.

No, the fact is, statehood is being presented not to solve the equal representation problem, and that really is an issue that should touch people's hearts.

□ 1900

Statehood is being suggested as a solution to this problem in very emotional terms, as if this is our only alternative other than to deny equal rights to 600,000 Americans that live here, because this is part of a power grab to provide two U.S. Senators to the Democratic Party. That is what this is all about. That is why retrocession, which we have offered as an alternative, just like the constitutional argument, is being just totally dismissed without any real look at it or discussion as an alternative.

Retrocession offers to us a chance to give these people their civil rights, people who deserve to have equal representation in Congress. And it is fair to the rest of the country, and it is constitutional, because that is what the Founders took, that property, originally from the State of Maryland. They took it from Virginia. We gave that back to Virginia.

If people think that the representation of these people is a meaningful issue, they should look at retrocession seriously rather than dismissing it.

Ms. NORTON. Mr. Chairman, I yield myself 10 seconds.

I say to the gentleman from California that Orange County already has 2 Senators. Their names are Senator FEINSTEIN and Senator BOXER.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I am not one to make predictions, but it was ironic that I hear from my good friend, the gentleman from California, remarks that this whole issue is somewhat politically motivated to provide two additional Senators in our Democratic ranks. Interestingly enough, historically that was also the concern politically as some of the people thought that giving the State of Hawaii statehood was that it was going to provide 2 Republican Senators. And exactly the reverse of that happened to the State of Alaska, when it became a State.

I just want to make that as an observation. We do not know what the predictions are going to be in terms of political affiliations. I think we ought not to make those kinds of predictions.

Mr. Chairman, I rise today in strong support of H.R. 51, a bill which will being the process to create the 51st State of the United States, the State of New Columbia.

The gentlewoman from Washington, DC, Ms. NORTON, is absolutely correct in her assertion that the federal government treats Washington, DC, like a plantation. Since the United States moved its Capital here in 1800, the taxpaying residents of Washington, DC, have been denied full representation in Congress and have been treated in a subservient manner reminiscent of a day long ago when slavery was still institutionally acceptable.

The issue here today is the same issue faced by our Nation's Founding Fathers who so bravely fought against the forces of imperialism, dictatorship, oppression, and the forces that, to this day, perpetuate the notion that taxation without representation is acceptable—as long as its practiced on someone else. I do not believe that anyone in this Chamber today would tolerate this situation if taxpaying citizens of your State were subject to the same conditions we impose on U.S. citizens of Washington, DC.

Washingtonians have long been denied constitutional rights that citizens from the several States of our Nation at times take for granted. United States citizens from Washington, DC, were not allowed to vote in Presidential elections until 1964. And it was not until the home rule law of 1973 that they could elect a mayor and establish an elected city council. I can appreciate what it means to be governed by appointed officials. Sometimes such political appointments are familiar with your needs, and sometimes you get appointees who have no knowledge or appreciation of your needs—and that hurts.

Some oppose DC statehood on the grounds of the Constitution. As required by the Constitution, this bill retains the existence and independence of Washington, DC—but reduces it only to those areas required by the Federal Government to function effectively. This includes the areas surrounding the Capitol, the White House, and most government buildings. This will become Washington, DC, and will remain the Nation's Capital, under the exclusive jurisdiction of the Federal Government, as constitutionally mandated. The neighborhoods of the District which are not related to the Federal presence, will constitute the new State of New Columbia.

There is nothing new about this. Twice before in our history, Congress has changed the size of Washington, DC. In 1791, Congress increased the size of the original area with no objection from the 20 framers of the Constitution, among them, James Madison, who served as a Member of Congress. Then in 1846, Congress reduced the size of the Capital by one-third when it ceded that part to the State of Virginia.

I have heard some argue that we should just return the District back to Maryland. This is a ridiculous argument. To return the District to Maryland would require Maryland's consent and recent polls have shown that only 7 of 189 Maryland State legislators support retrocession. In addition, DC residents voted only for statehood, and retrocession would violate their right to self-determination.

Mr. Chairman, some have even argued that DC is too small to be a state. Constitutional qualification has never been based on the size of the territory, but that population is an essential factor. Today, the District of Columbia has more people than three States—Alaska, Wyoming, and Vermont. When Alaska was admitted as a State, it had a population of only 206,000. The District's population today stands at more than 600,000.

Mr. Chairman, what about taxes? This is one of the focal points of this debate. In 1991–92 the District of Columbia paid approximately $4 billion in Federal income taxes. This is more Federal taxes than those paid by residents of Alaska, Delaware, Idaho, Montana, North Dakota, South Dakota, Vermont, and Wyoming.

Mr. Chairman, taxation without representation was the cry that was heard throughout the world and which started the revolution that formed a great Nation. It is the height of hypocrisy for us to claim to be the champions of democracy when we deny 600,000 U.S. citizens who reside in the District of Columbia meaningful and full representation which is currently absent in the Senate and in the U.S. House of Representatives.

Mr. Chairman, I am reminded of a statement made by the late Martin Luther King, Jr., when he said, and I quote, "* * * cowardice asks the question, is it expedient? And then expedience comes along and asks the question—is it political? Vanity asks the question—is it popular? Conscience asks the question—is it right?"

Mr. Chairman, let us do the right thing today. Give our fellow U.S. citizens from the District of Columbia full representation in the Congress by establishing the State of New Columbia.

Mr. Chairman, I urge my colleagues to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Chairman, I thank the gentleman for yielding time to me.

Our fellow citizens of the District of Columbia deserve voting representation in the House of Representatives and in the U.S. Senate. But making the small city of Washington, DC, into a State is the wrong way to do that. I oppose making this small city a State, not only because, as my colleague, the gentleman from Illinois [Mr. HYDE] has so eloquently described, it would be unconstitutional to do so by statute. I do so not only because it has no industrial base, a shrinking population, no tax base, and no significant territory and, thus, fails the test for becoming a State. I do so also because giving two Senators to a city with a population one-fifth the size of my county, which is itself a suburb of Los Angeles would do great violence to the principle of one person one vote.

We have heard tonight that the principles of democracy suggest that this small city should itself be made into a State. In fact, democracy would be insulted by so disenfranchising the people of California, whose 31 million people must share about two Senators. By the likes of the D.C. statehood advocates, who claim to support one person-one vote, California should be entitled, therefore, to more than 50 Senators.

We are long passed the 18th century exigency that gave rise to the great compromise of our Constitution, whereby popular democracy was sacrificed in order to induce 13 independent States to give up their sovereignty and sign a Federal compact. Even then, in 1787, our Founding Fathers were aware that giving each State two votes in the Senate would violate our first fundamental principles and our beliefs in representative democracy, because small States would gain as much power as large and heavily populated States.

That is why many of them, even then, in 1787, opposed it.

In his scholarly book on the Constitutional Convention, the Washington Post Supreme Court correspondent, Fred Barbish, notes that James Madison was intense on this subject. Madison believed that denying popular representation in Congress was impure.

If America's was to be a government by the people, then the people, not the States, should be represented. Madison believed that it would be unjust to let States rather than people vote.

Why should, he asked, the power of 700,000 people, which was the 18th century population of Virginia, equal the strength of 59,000 people, which was then the population of Delaware? This, he believed, and he was right, was antidemocratic. It was a fundamental violation of the principle of one man-one vote.

But there would have been no Constitution without compromise, even if the compromise meant compromising away our democratic principles. And so on a hot Monday in June 1787, the Constitutional Convention in Philadelphia voted on a motion to give each State, rather than people, one vote in the Senate.

Then six States voted aye; six States voted no; and the 13th State, Georgia, split. One of the Georgia delegates, Mr. Baldwin, voted aye. The other, Mr. Houston, voted no. The Convention was deadlocked.

To break the deadlock, a committee of compromise was formed, men like George Mason of Virginia, Elbridge Gerry from Massachusetts, and John Rutledge of South Carolina worked over the Fourth of July while the Constitutional Convention adjourned.

Finally, this committee of compromise composed what we today know as our bicameral legislature, in which we have proportional representation in this House, the House of Representatives, and State representation in the Senate.

The Senate half of this arrangement was, of course, antidemocratic. But the delegates to the Constitutional Convention were certain that it was necessary in order to win agreement from sovereign States to give up their powers to a Federal Government. But because letting States vote violated Democratic principles, this compromise did not go down easily.

Madison and many other of the delegates opposed it bitterly. According to Barbish, Madison was still concerned about it more than a year later when he wrote in the Federalist Papers that the Constitutional Convention was "compelled to sacrifice theoretical propriety to the force of extraneous considerations."

□ 1910

So it is that today this antidemocratic feature remains in our Constitution. In 1787 it was a necessary compromise against our commitment to the principle of one person-one vote, but today, in 1993, there is no longer a need to do violence to our democratic principles. There is no longer a need today, as there was in the 18th century, to do violence to our democratic principles in order to extend the franchise and in order to extend representation in this House and in the Senate to the people of the District of Columbia.

Those who believe in one person-one vote cannot, and importantly, need not in the 20th century seriously dilute the votes of Americans in the 50 States. To paraphrase James Madison, why should 600,000 people in the District of Columbia have the power of 31 people in California? Why should this tiny enclave of DC rank with New York, Pennsylvania, Ohio, Texas, and California?

Mr. Speaker, on July 9, 1846, Congress gave the southern portion of the District of Columbia back to the State of Virginia, from whence it came. Mr. Speaker, this Congress should return the residential northern portions of the District of Columbia to Maryland, from whence they came. That will give the American citizens in the District of Columbia proportionate representation in this House. That will give them two votes in the Senate. It will do so without violating our sacred principle of the one person one vote.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, our country was founded on the principle that government should be representative. At the beginning, that principle was observed in an incomplete way. Most Americans were excluded from representation then; many people in this Chamber today would not have met the Constitution's qualifications for representation. But we have grown as a nation since then. We have learned that we cannot say we honor the principles of representative government unless we extend representation to everyone.

No one here today would say that the Constitution was right to exclude women from representation; no one would say it was right to exclude people on the basis of their race or status. I find it sad and disturbing that this body has still not seen fit to acknowledge that it is equally wrong to deny our fellow citizens their right to participate in representative government because of the place of their residence.

Some of the arguments we are hearing against statehood strike me as remarkably thin. We have heard that we must preserve a seat of government that is free from the institution of democracy. But this statehood bill does preserve that independent zone. The Constitution does not say that that zone must include Georgetown or Deanwood or Congress Heights. It does not say that the residents of Chevy Chase north of Western Avenue must be represented, while their neighbors to the south must not.

The proposal to solve the dilemma by ceding part of the District back to Maryland at least acknowledges that the citizens of the District are being wronged, but ultimately, it is just as unfair and just as undemocratic as continued denial of representation. Maryland and the District have been separate from each other longer than most of the States. When the District was split from Maryland, Ohio was still joined with several other future States in the Northwest Territories. The western States were all still foreign territory. Would we suggest that some of those States should be forced back together against their will? Would we say that now that the Civil War has ended, it is time for West Virginia to come back to Virginia? If the people of the District want representation, they deserve the same representation that the residents of much newer territories were given.

I ask my colleagues today: If you truly believe that all Americans deserve representation, how can you continue to justify denying it to the citizens of the District? If you truly believe the citizens of the District deserve representation, how can you deny them full representation in both the House and the Senate? Do not tell us that intellectual and historical dilemmas must continue to stand in the way of representation. It is time that we complete our process of growth, and extend representative government to all Americans. I ask that you support the bill.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise in support of the final passage of H.R. 51, the New Columbia Admission Act, which would provide for admission of the State of New Columbia into the Union as the 51st State.

The 600,000 Americans residing in the District of Columbia are denied the right to send people to Congress who can vote on taxes or decide questions of war and peace, while at the same time expecting them to shoulder the burdens of citizenship, including the obligation to pay taxes and to fight and die for their country. Mr. Chairman, this is un-American.

Disenfranchisement is not in keeping with a representative democracy which is what the United States of America is supposed to be. No other democracy in the world denies voting representation to the citizens of its capital.

I am asking my colleagues to rise above politics and imagine yourself a citizen of the District, with limited voting representative in Congress, watching as Congressmen questioned not just the vote you had cast in your city, but your entitlement to tax dollars that you had paid to local government for local use. How angry would you be at this second-class citizenship? Let us vote for H.R. 51 and statehood for the District of Columbia.

In closing, let me commend Delegate ELEANOR HOLMES NORTON for her work on behalf of the District. ELEANOR, you have done a wonderful job for your constituents, and they are lucky to have you.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I am enormously proud to represent the very great State of Vermont—a State which has a magnificent history and which, today, is making a major contribution to the well-being of this country in so many respects. And we are doing all of that, and more, with a population of less than 600,000—a population smaller than Washington, DC's.

Mr. Chairman, how can I in good conscience say that it is appropriate for Vermont to have two seats in the U.S. Senate, a Congressman who can vote on all the issues, a governor and legislature with full decision making power for the people and then say that the people of the District of Columbia, with a population larger than Vermont's, should not be able to enjoy those same rights.

Mr. Chairman, this debate is about one thing, and one thing alone. And that is whether the people of Washington, DC, are entitled to be full citizens of this country or whether they are not entitled to be full citizens. To me the answer is obvious and I intend to vote "yes" for statehood for the District of Columbia.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, this area cannot be admitted to the Union as a State unless it does so on an equal footing to all other States.

Mr. Chairman, the delegate from the District of Columbia has insisted that the State of New Columbia desires only equal treatment, not special treatment. As she said in a floor speech on October 13:

> We do not want to admit the District of Columbia as New Columbia without according it what is available to every other State, a payment in lieu of taxes that meets certain qualifications. That is all that we would expect.

However, section 203 of this bill provides New Columbia a special payment "in order to compensate the State for unavailable tax revenues and other effects on the revenues of the State resulting from the significant presence of the Federal Government within and nearby the State." That is language that sets up a special payment available to no other State, just like the current Federal payment.

I offered an amendment in committee to strike this special payment provision, and to insert its place language clarifying that the State is entitled to payments in lieu of taxes on the same basis as every other State, and nothing more, thus carrying out the stated purpose of the delegate. However, that amendment was defeated on a 4-7 party line vote, with the opposition led by the delegate from the District of Columbia.

In case any Member might think the State of New Columbia should be entitled to something special, let me reiterate that no other State gets a payment in lieu of taxes for Federal buildings, even though they provide police and fire protection for them.

Mr. Chairman, I include this chart, which sets forth the proportion of Federal ownership of land:

Federal ownership of land; States with higher Federal ownership than proposed New Columbia

	Percent
Nevada	82.27
Alaska	67.80
Utah	63.78
Idaho	62.57
California	60.92
Wyoming	48.77
Oregon	48.17
Arizona	43.32
Colorado	34.06
New Mexico	33.11
Washington	28.98
Montana	27.73
Louisiana	22.65
New Columbia (proposed)	21.8

Source: "Public Land Statistics 1990," U.S. Department of the Interior, Bureau of Land Management, table 4, pg. 5.

New States are supposed to be admitted on an equal footing with all the other States. Equal means equal, and not a special payment no other State can qualify for. None of our States gets a payment for Federal buildings within its boundaries, much less nearby its boundaries, as is provided for in this bill. Even those in favor of statehood should be embarrassed about voting for a statehood bill that provides such blatant favoritism for another State over their own State. Section 203 is reason enough for any Member to vote against H.R. 51.

□ 1920

Ms. NORTON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to read into the RECORD some of the organizations who have passed resolutions in support of the District of Columbia: the entire Leadership Conference on Civil Rights, which has designated D.C. statehood its No. 1 legislative priority for the 103d Congress, the American Baptist Churches, the AFL-CIO, the Philip Randolph Institute, the American Jewish Congress, the Church of the Brethren, Conference of United States Women, Common Cause, and the criminal law and individual rights section of the D.C. bar. I will read in other names at a later time.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, let me begin first by commending the gentlewoman from the District of Columbia for her tireless struggle to fully and finally enfranchise the residents of the future State of New Columbia. Several of my colleagues from the State of California have spoken against H.R. 51. Let me also now speak as a colleague from the State of California.

My State is this Nation's largest State by population, by economy, and by diversity, and one of the largest States in this Nation by land mass. It has 52 of the 435 Representatives in this House, yet only 2 Members in the Senate.

Yet I will tell Members right now that I welcome with open arms the one Representative and the two Senators from the State of New Columbia. I do so because the issue here is not merely size or wealth. The real issue boils down to participation and representation for all Americans.

We as Americans have no right to deprive any fellow American of equal rights when we demand of them equal responsibilities. The gentlewoman's struggle, our struggle is just, it is constitutional, and perhaps most importantly, my friends, it is time.

I urge all of my colleagues to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to revisit an item that I brought up during the course of the debate on the rule, and that has to do with borders of the State of New Columbia and what would be the Federal enclave.

My chairman said, and the gentlemen from Massachusetts earlier said, what difference does it make. Well, it makes every difference. I mean, if you are not going to respect a Federal enclave, why have any of it? Just put it all in the State of New Columbia. If you are going to recognize the Federal interest, you should be consistent and recognize all of it.

Now how did this come about? It came about because first, in 1986, one of the previous times that we considered statehood in the committee, the National Capital Planning Commission said we should do a survey. Well, 7 years have passed by and there has been no survey.

And on November 3, in committee, the amendment was offered and adopted that deleted the words "affronting and abutting," and then proceeded in this legislation to name the street that it goes up and down and around and across throughout the city. And what we end up with is a hodgepodge and a lot of omissions.

GSA, the new Federal Executive Office Building. People say what is the difference. Well, it means that these people would be subject to taxes in New Columbia. These people working over here for the same White House will not be subject to those taxes.

The Veterans' Administration, courts, and Members see the list over here. The FBI. And the most egregious of all you have here, the Department of Labor, in which it goes this wing is in New Columbia, the middle is in the Federal enclave, and the other wing is in New Columbia.

And then we zigzag around, and we are coming up over here beside the Russell Building, and we manage to put Dirksen and Hart both in New Columbia.

That is ridiculous, and for that reason alone, not even counting constitutional questions and the financial questions, for that reason alone H.R. 51 is fatally flawed. It ought to be voted down and sent back to the committee.

Mr. Chairman, I reserve the balance of my time.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman from the District of Columbia for yielding me the time, and also for her leadership in bringing H.R. 51, the New Columbia Admissions Act, to the floor. I am proud to rise as a cosponsor of the legislation, and as an advocate for self-determination for the people of the District.

Mr. Chairman, I serve as a member of the D.C. Appropriations Subcommittee, and I have seen firsthand both Representative NORTON's leadership and talent, but also the interest and enthusiasm among the District residents for statehood. The time has come for us to grant those people the right to determine their future and to address the challenges of the future as the 51st State of the Union.

□ 1930

Mr. Chairman, earlier I was dismayed to hear one of our colleagues say that the District of Columbia did not have the resources to become a State. I was dismayed, and I respectfully disagree. These citizens and their local government pay the fourth highest per capita tax rate in the Nation and are responsible for over $3 billion in revenue to the U.S. Treasury, speaking from a financial standpoint.

From a governmental standpoint, the District has a representative form of government. The District has the resources to support a State government, and most importantly, Mr. Chairman, the people of the District of Columbia are its greatest resource in reaching statehood.

They want that freedom. Let us give them the respect they deserve.

I commend the gentlewoman from the District of Columbia [Ms. NORTON] for her leadership and her tireless work on behalf of statehood for the District.

I hope our colleagues will support her and the residents of the District by voting yes on H.R. 51.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, at this time I certainly want to commend my colleague, the gentlewoman from the District of Columbia, for the magnificent representation that she affords her constituents, the way that she has brought this issue to the floor so that it could be debated before the American people and, in fact, before the world.

Let me say, Mr. Chairman, that I found the remarks of the gentleman from Vermont very interesting. I thought that they knocked down a lot of the statements that had been made on the other side. The only thing I have a concern is that I certainly hope it does not begin a movement for a constitutional amendment to remove Vermont from the Union based on population.

Let me say that we have heard all of the excuses and all of the obstacles that have prevented the residents of the District of Columbia from achieving their goal of first-class citizenship presented again here today.

As the leader of the free world, we have to do better by 600,000 U.S. citizens living in the District of Columbia. Disenfranchisement is not in keeping with a representative democracy.

The District's locally generated revenues exceed those of 20 other States, but taxation without representation at the present time is alive and well in our Nation's Capital.

The District has a viable economy that enables it to meet and sustain the full force of self-government for the past 30 years. Federal payments have amounted to less than 20 percent of the city's budget.

What further commitment to democracy does the Congress require of the District?

My colleagues, since 1871, Congress has wrestled with the issue of status for the District of Columbia. As with all disenfranchised people, there comes a time when the chains of oppression must be broken. The residents of the District of Columbia are U.S. citizens who are entitled to enjoy the fruits of full participation in democracy. The residents of the District pay Federal taxes, and they pay local taxes. They vote in Presidential elections. They elect a mayor and a council and they fight and die for our country under the Commander in Chief in times of war.

My colleagues, there is nothing in the Constitution that bars a State from existing within the District. We have the authority from the Constitution to create any democratic form of government that we so choose so long as a Federal enclave remains.

The overall objective of statehood for the District is, as stated by the President, to control one's destiny. As a Delegate from the Virgin Islands, I can certainly empathize. To be denied a voting Representative in the body that rules on one's affairs is, to the very least, a handicap.

I urge my colleagues tomorrow on this issue to vote a resounding "yes" for H.R. 51.

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, proponents of statehood knew that they would lose hands-down if they did not maintain some sort of Federal control on the height of buildings here in Washington, DC, in this area in the Nation's Capital. Thus, we have section 205 of this bill which creates a new mechanism to regulate building height in which the Federal Government would take an easement over the entire State of New Columbia.

There are at least three flaws with the scenic easement proposal each of which are, in my judgment, fatal. That these flaws exist is not just my opinion, but the opinion of Prof. Richard Epstein, who is regarded as one of the nation's premier authorities on takings law.

First, the scenic easement attempts to accomplish indirectly what everyone agrees Congress cannot accomplish directly, namely, to deprive the State of New Columbia of the sovereign power to regulate building heights. If the Federal Government cannot do this directly by passing a statute, then I fail to see how it can do so by acquiring a property right. Either way, the sovereign power of the new State is intentionally impaired, again, not entering under equal footing, which is what every State must enter the Union, on equal footing.

Even if this proposal did pass constitutional muster, however, its cost to the Federal Government could be staggering. Section 205 delegates to the Secretary of the Interior the power to develop procedures for determining the extent to which private landowners would be compensated for the scenic easement that is being taken by the Federal Government.

Our committee received testimony that private owners would be entitled to no compensation, but it is hard to see how a property right can be of value to the Federal Government, but be of no value to owners from which it is taken. The argument that the Federal Government has always prohibited high buildings will help, because everyone understands that statehood changes the rules of the game.

In fact, by giving the Secretary the power to compensate landowners, the bill effectively abandons the no compensation theory. Can anyone seriously doubt that the right to vertical development in the District would be a very valuable commodity indeed, a very valuable right?

But supposing that the easement is constitutional and that the Secretary, somehow, finds that no compensation is warranted, H.R. 51 would set a precedent that would allow the Federal Government to take property rights in cities like San Francisco or Seattle without compensating private owners. I would think that any Member who is concerned at all about the encroachment of Federal power on their States and localities would want to do everything they could to avoid endorsing such a precedent for such vastly expanded Federal power.

Mr. Chairman, the horrible implications for the Constitution, the Federal Treasury, and for State and local rights of section 205 should be sufficient for any Member to vote "no" on H.R. 51.

Again, statehood does not work; statehood is not fair; this bill does not cut it.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Chairman, today I rise to proudly voice my support for H.R. 51, the New Columbia Admission Act.

Since 1800, the residents of Washington, DC, have been the only taxpaying U.S. citizens denied equal representation in Congress. Denying the residents of the District of Columbia to send representatives to Congress who can vote on taxes or decide questions of war and peace while at the same time expecting them to shoulder the burdens of citizenship—including the obligation to pay taxes and to fight and die for their country—is wrong.

Many statehood opponents argue that the voteless status of the District descends directly from the intent of the Framers of the Constitution. Unfortunately, there are a number of things for which the Framers of our Constitution did not provide. Such as, African-Americans having citizenship in this country, let alone the right to vote and certainly did not provide for me, a 30-year-old African-American and other African-Americans ever being a Member of Congress.

It is hypocritical to call for the spread of democracy throughout the world, yet refuse to extend it to the citizens at home of the District of Columbia. It is a question of fairness and equal protection under the Constitution. There is no Member of this body who can truthfully provide a legitimate argument to deny statehood to the District of Columbia, not one.

Initially, many of my colleagues put forth the argument that the District did not have enough residents and it was too small. Well, the fact of the matter is, the Constitution does not provide that the size of a territory is a criterion for statehood. The District of Columbia has more residents than three States, Alaska, Wyoming, and Vermont. Those States combined have nine Representatives in Congress. While the District of Columbia has only one nonvoting Member, that is unfair, unequal, and unconscionable, to say the least.

I charge each Member to look to the instrument which we all hold so dear and one which we frequently refer to and see if there's any language that would deny the District of Columbia statehood. Furthermore, no constitutional amendment is necessary to enact this legislation. History provides that only the approval of Congress and the signature of the President is necessary. Our President has had the courage to support this legislation and now it is incumbent upon us to support this extremely important legislation as well. I urge you to vote "yes" on H.R. 51, the New Columbia Admission Act.

The citizens of the District of Columbia are not on trial tonight. The conscience of this Congress is on trial and its interpretation, including fair play and substantial justice.

□ 1940

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I rise in strong support of H.R. 51. Is it not ironic that the citizens who live closest to the capital and whose lives are most directly affected by what occurs in this building have no voting representation here.

Mr. Chairman, the cornerstone of the principles of representative democracy is to not only participate in democratic elections in order to select representatives but to have this representation matter. When we elect representatives, these representatives have the capacity to represent, to consider, to weigh, to make a decision over legislation which affects them.

Mr. Chairman, this is what Congress is charged with today, and this is what the people of the District seek: full representation and participation in this body as well as the other.

I urge Members of this body to acknowledge and respect the overwhelming desire of the people of the District of Columbia to participate in the Nation's affairs in the same way their neighbors do, their fellow U.S. citizens, and indeed the desires of all the territories far beyond this continent's shores should also be considered when forms of self-government are being discussed and analyzed.

Mr. Chairman, it is unfortunate that many arguments against the District of Columbia statehood focus on financial arrangements and Federal benefits because if so-called self-sufficiency were the real issue, we should apply this standard to the entire country and determine which States should have their representation limited, modified, or altered based on their financial condition, based on their ability to pay.

Mr. Chairman, it is demeaning of U.S. citizenship nearest to this building, for the residents of the District, that is at stake, that is the essence of this legislation; not financial relationships, not the size of your wallet, but it is the heart of our citizenship that is under discussion. The Congress must help resolve the question of citizenship in its remaining territories, and I believe it is Congress' responsibility to guarantee this process for the District of Columbia now and grant the District of Columbia full citizenship and participation in national affairs through the State of New Columbia. How can we be a democracy if we do not allow all citizens of the United States, all people under the sovereignty of that flag, to practice the inalienable right to self-determination.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, we have heard a great deal over the past couple of hours about this issue of taxation without representation, and there are many local officials here who have been telling residents of the District of Columbia that we are going to see lower taxes if statehood is brought about. And, Mr. Chairman, I respond by asking do these people know how they intend to keep their promise? Quite frankly, they insist that the people who live here will have lower taxes because they will tax people who do not live here and who will not be represented in the State legislation of New Columbia.

Mr. Chairman, the point has been made that citizens in the District pay federal taxes but that citizens in other territories do not. Do citizens in the other territories cast any electoral votes for President? No, they do not. Does the right to cast those electoral votes provide some representation in the federal government? Yes, of course it does.

We are all aware that the House has a Committee on the District of Columbia and a subcommittee in the Senate which has the responsibility for District matters. When this very bill was reported out of the District of Columbia Subcommittee, do you know who chaired that subcommittee mark-up, who voted, and who voted the proxies of other members? The Delegate from the District of Columbia.

So the proponents must concede that the District does have representation in its national government. The question is whether the District is entitled to the same representation as are the 50 states, and then, how that representation can be achieved through constitutional means.

The issue immediately before us is a bill which seeks to vault over three constitutional impediments through simple legislation. We are not voting on a "principle" or a "concept" about representation. We are voting on a bill which has been before the Congress for 10 years.

If you truly want to grant full representation in the House and give this city with a population of less than 600,000 people two U.S. Senators, let's defeat this awful bill now and let the advocates get to work on building a consensus method of achieving it.

The CHAIRMAN. The Chair wishes to advise Members controlling the debate time that the gentlewoman from the District of Columbia [Ms. NORTON] has 24½ minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 25 minutes remaining.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 51, the D.C. Statehood bill.

The people of Washington, D.C. are no different than the people from any other State, yet, for purposes of citizenship, they are treated differently.

They must bear the burdens of citizenship, but they do not fully enjoy the benefits of citizenship.

Like all other citizens, they fight and die on foreign soil, in defense of this Nation. They pay Federal and local taxes to support the District and U.S. governments. And, they are subject to the laws which govern us.

Unlike all other citizens, however, the people of Washington, D.C. cannot vote for Representatives in the House nor Senators in the Senate. They are different. They are denied the most basic right of this country.

Mr. Chairman, I would ask Members to consider how they would feel and what they would do if the citizens from their districts were in the position of the citizens from Washington, D.C. Such could very well have been the case.

When we transcend the muddy waters of history, we are reminded that generous offers came from all the original States to have the seat of government located on their land.

Indeed, for a 10-year period, from 1790 to 1800, the seat of Government was temporarily located in the city I represent, Philadelphia, PA.

If land from Maryland and Virginia had not been accepted by the founding fathers as the permanent seat of Government, citizens who today live on Market or Walnut Street in Philadelphia would be up in that gallery.

If our first President, George Washington, had not surveyed the property situated on the Potomac River, the citizens of Richmond, VA, well represented by Mr. BLILEY, could be up in that gallery today.

Instead, because of historical coincidence and Government oversight, the people of Washington, DC are forced to assemble up there and appeal to the Members of Congress for rights that all others take for granted.

Dr. Martin Luther King, Jr., on one occasion reminded us that, "injustice anywhere is a threat to justice everywhere."

If we allow the injustice of second-class citizenship to continue in the Nation's Capital, we imperil the very democracy many have given much for.

Some who have all their rights and are complete citizens will suggest to the Members of this House that the Constitution of the United States denies D.C. residents those same rights.

It is paradoxical to argue that the very document that gives us rights, somehow takes rights away from others. The Constitution is not exclusive. It is inclusive. D.C. statehood fits within its principles.

There were dark days in this Nation's history when African-Americans were considered less than whole citizens. We corrected that. Women were not equal. We fixed that.

Each time the Constitution was expanded to include those previously left out. It is a living, breathing document. It tolerates change and rejects clinging to the past when fundamental rights are at stake. Some who have full citizenship rights will say, "give the District back to Maryland." Again, the Constitution reflects wisdom.

Returning the District to Maryland, or retrocession as it is called, can not be accomplished, according to article 4 of the Constitution, without the consent of Maryland, and Maryland will not consent.

Some who are complete citizens will say, "The District is too small to be a State." The genius of the Constitution, again, is instructive. Small States are afforded the same rights as big States.

Washington, DC is larger than three of the current small States—Alaska, Wyoming, and Vermont—and when Alaska was admitted, its population was only ⅓ the size of the District of Columbia's population.

Some, whose rights are fully protected by the Constitution, will argue that the 23d amendment somehow stands in the way of D.C. statehood. That argument has been soundly dismissed by a parade of constitutional scholars.

Mr. Chairman, I urge my colleagues to rebuff phobia and embrace faith. D.C. statehood will not destroy this Nation, it will help to rebuild it. As full citizens, District residents will display pride and honor.

The people of Washington, DC. now pay more in Federal taxes, per person, than all but two States. They feed the Federal Treasury in excess of a billion dollars a year.

Young men and women from Washington, DC have been present with our forces in Vietnam, the Persian Gulf, Somalia, and off the shores of Haiti.

In fact, whenever we send troops to protect democracy around the world, the District of Columbia is represented, and, very often, disproportionately.

D.C. statehood does not mean the end of the District of Columbia. The new, smaller enclave will continue to serve the needs of the Federal Government. The Constitution permits a smaller Capital for this Nation.

The people of Washington, DC, unlike the narrow majority in Puerto Rico, want statehood status. And, most Americans, Democrats and Republicans, want D.C. citizens to be treated the same as anyone else.

Mr. Chairman, a noted Justice of the U.S. Supreme Court once warned us, "Thou shalt not ration justice." If we fail to pass this bill, we will maintain a system of partial rights for some.

Justice should not be for some and not for others. The Constitution does not permit that. The word justice does not mean "just us" in the 50 States. Justice means equity, fairness, right, truth.

Justice demands that we pass this bill. The Constitution will endure nothing less. Mr. Chairman, but for the grace of God and an aberration of history, you or I or any of us could be in that gallery today.

□ 1950

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I rise today as a strong supporter of H.R. 51, the New Columbia Admissions Act. I want to commend my colleague, the distinguished gentlewoman from the District of Columbia for her unwavering dedication and steadfastness on this issue.

As a cosponsor of this legislation, I am proud that we have arrived at this historic moment. There is perhaps no single issue involving democratic rights facing this Nation today which is more important than statehood for the District of Columbia.

Of the 115 nations with elected national legislatures, only the United States and South Africa deny representation in the legislature to citizens of their Capital City.

Since 1800, residents of the District have been denied their proper representation in Congress. Mr. Chairman, 193 years later, the residents of the District of Columbia are still not free.

How can we champion democracy abroad, when we deny the most basic of rights to the 600,000 citizens of our Nation's Capital.

The residents of the District are only seeking what each and every one of us already have and maybe sometimes take for granted—the right to self-determination.

Mr. Chairman, I urge my colleagues to support equality in our Nation's Capital, support self-determination in our Nation's Capital. Support H.R. 51, the New Columbia Admissions Act.

Mr. BLILEY. Mr. Chairman, I am going to close for this side for this evening, with the understanding that 15 minutes will be reserved for tomorrow, as was explained by the Majority Leader tonight.

The SPEAKER pro tempore (Mr. MFUME). So then the gentleman is yielding back his time?

Mr. BLILEY. No, Mr. Chairman, I am going to use some of this time, but do not let me go beyond.

The SPEAKER pro tempore. The Chair will advise the gentleman when he gets to 15 minutes remaining in order that we might be able to stay in compliance with the agreement.

Mr. BLILEY. Mr. Chairman, H.R. 51 has been praised as a great exercise in democracy. But it is a blow to democracy. The rights of 250 million Americans to participate in the process of amending their constitution is being denied. Congress is usurping power it does not have. The power to change the status of the Nation's Capital is reserved to the people in their right to amend their constitution.

The blow to democracy is felt in the District as well. Prior to the introduction of statehood legislation, the citizens drafted and ratified their own constitution to live under as citizens of the new State. But the right to determine their own constitution has been taken away from them under H.R. 51.

On October 13, in a lengthy statement on the House floor, the Delegate from the District of Columbia responded to public statements by the Washington Post that New Columbia would not be economically independent. Despite her eloquent challenge to that conclusion, the city's budget crisis and the continuing decline in population speak louder than her words.

In her October 13 Special Order, the Delegate from the District also stated that, "* * * half of us would drop off the statehood bandwagon * * *" if New Columbia could exceed the current building height limitations. The District Delegate claims to have resolved this problem by having the Federal Government take a property interest in every parcel of land in New Columbia the day before its admission. The Delegate further claims this taking can be done at no cost because such property is essentially worthless. I have grave doubts that a court would find that such property had no value. Since there is no hold harmless provision in this legislation, the United States could be on the hook for millions, if not billions, of dollars, of compensation to New Columbia's property owners.

Even more importantly, I believe that this scenic easement amounts to no less than an unconstitutional condition on the admission of New Columbia and that it would be removed from the law by the courts. Ultimately, there would be no restrictions on building heights and there would be no legal method whereby Congress could impose one. Moreover, the taking provision sets a dangerous precedent which would set off lawsuits which could rage well into the 21st century. If the Federal Government can take property in New Columbia without compensation, it may take it elsewhere. States as well as private citizens should be alarmed at this sneak attack on property rights.

On the question of a taxpayer subsidy to New Columbia, the legislation continues to insist on special treatment. This bill authorizes a wholly new and unique Payment-in-Lieu-of-Taxes to New Columbia. Not only does this new PILOT pay New Columbia for Federal land not even in the State; but, it does so to the exclusion of any other State-including Virginia and Maryland which are just as "nearby" Washington, DC as is New Columbia. The District Delegate says that the Federal payment has been abolished—that is not true, it has simply changed its name. A separate and special payment to New Columbia is provided for in this bill. I must continue to object to such special treatment for New Columbia.

For several years, I have pointed out the flaws in this bill, but none of them compare with the outrageous manner in which the boundaries were redrawn just earlier this month. If you did not hear about this in my previous remarks, you had better come look at the map of what is left of Washington, DC. New Columbia has hijacked two-thirds of the Senate Office Buildings, the O'Neill House Office Building, the Capitol Power Plant, the New Executive Office Building, five cabinet level departments and the FBI building. The boundary of New Columbia literally runs through the Department of Labor. New Columbia has stolen the national treasures of Fords Theater, the National Portrait Gallery, and the National Museum of American Art. New Columbia has kidnapped tens of thousands of Federal employees. This is not an accident. In offering the amendment in Committee, the Delegate stated that under the previous language, there was "more area in the Federal enclave than is intended or necessary." Do not be fooled by the simplistic explanation that Washington, DC has merely been shrunk in size.

IT HAS BEEN DESTROYED

The boundaries in this bill make a mockery of what our nation's capital is meant to be. We have just returned the Statue of Freedom to her place on top of this Capitol building. If H.R. 51 passes, she will have her back turned to the Nation's capital and she will be overlooking only one State rather than the symbolic place where all 50 have come together.

Reducing the Nation's Capital to 3,000 acres, one-tenth the size of Dulles International Airport, is not merely inconvenient, it is unconstitutional.

Mr. Chairman, for 30 years, the Justice Department, through Democratic and Republican administrations alike, has consistently maintained that the status of the Nation's Capital can only be changed through a constitutional amendment. Statehood advocates have not been able to refute the works of Robert Kennedy, Patricia Wald, and all of the others.

I oppose this legislation for its unconstitutional method of admitting part of the Nation's Capital as a State and for its failure to create a State of equal stature and sovereignty with the other States. I urge its defeat.

□ 2000

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] has yielded back all but 15 minutes of his time; is that correct?

Mr. BLILEY. Correct.

The CHAIRMAN. The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON] and advises her that she has 19½ minutes remaining.

Ms. NORTON. Mr. Chairman, I yield myself all but 15 minutes which I would reserve until tomorrow.

The CHAIRMAN. The gentlewoman is recognized for 4½ minutes.

Ms. NORTON. Mr. Chairman, the ranking member continues, like a broken record, to protest that the boundaries would be irrational when he knows full well that a bipartisan amendment in committee calls for the drawing of the boundaries by a special study after passage.

Moreover, Mr. Chairman, the Constitution is raised time and time again for this constitutional scholar to hear.

It is interesting to note that the opposition invokes the power of the Constitution to strike down any and every law of the District of Columbia to usurp its budget, to rearrange its life in any way it sees fit, but believes that the Congress cannot reduce the size of the District of Columbia, can do everything to the residents but not reduce the size of the District of Columbia.

I commend the gentleman from Virginia [Mr. BLILEY] to the words of the Constitution, and the plain meaning of the document reserves exclusive legislation in all cases whatsoever, and every constitutional scholar which has looked at this language has indicated that of course it would not take a constitutional amendment for the Congress, for example, to move the District of Columbia, if there were more, to someplace else, to reduce its size, as it has already done.

Moreover, beware, Mr. Speaker, that the Members on the other side of the aisle who say they want to find some democracy for the District of Columbia have, each and every one of them, opposed increasing home rule for the District of Columbia. I could not get the Member, when I questioned him in a colloquy, to say that he would support giving to the District of Columbia the right to have final say over his own budget, and each and every one of them have voted against this in committee before, and they have not, and they have not indicated, and they have always voted against giving the District of Columbia the power to have final say over its own laws.

These Members not only opposed statehood, Mr. Chairman, they oppose democracy in the District of Columbia.

Mr. Chairman, I have had to sit here and hear these Members who come from States that pay less taxes per capita than we do, assert that we could not support ourselves. The chart, the chart here, indicates precisely who we are. Fifty-one point nine percent of the residents over 25 years of age have college and higher education. Twenty-four thousand dollars and some is the 1991 per capita. That is 28 percent higher than the national average. The 1991 average of wages and salaries of employed persons in the District was 10,000 and some greater than the national average. Sixty-six point three percent of District residents aged 16 years or over are in the labor force. I defy the opposition to show me better statistics than that in their own districts.

I say to my colleagues, "I have heard all you have had to say, my friends, and so has this Chamber in years gone by."

When Alaska sought to come into the Union, Senator Bush said that he opposed it because Alaska citizens would be empowered to elect two Senators whose votes would well decide an issue of crucial importance to the future of the United States. We have heard it all, my colleagues. When Colorado came into the Union, it was opposed by a Senator from California who said it was a weak sister that is proposed to be added to the American Union. They do not have a very large population. Let us be light in our burdens laid on them, and let us pay all of their expenses and give them a good sendoff. When Alaska came into the Union, Senator Russell of Georgia said he was opposed to statehood for Alaska for the simple reason that in his own conscience he did not believe that that territory was prepared economically for statehood or that it can support a State government. When Arizona sought admission, Mr. Burnham of New Hampshire spoke for 3 days against statehood criticizing the wide usage of the Spanish language in those States.

Oh, we have heard it in one form or fashion, and we have heard it, as well, this evening in this Chamber. But I believe that the good people of the United States do not support the present condition of the residents of the District of Columbia. I believe they would want us to vote as I am asking my colleagues to vote this evening, to make the District of Columbia the 51st State of the United States of America.

Mr. MFUME. Mr. Chairman, I rise today in support of the bill H.R. 51 and urge my colleagues to vote in favor of it.

This legislation gives the people of the District of Columbia the rights that they deserve as American citizens. These people are not asking for any special privileges. Rather they are asking for the opportunity to enjoy the rights that many Americans today take for granted; the right to congressional representation and the right to live under the laws that the majority of the people have enacted without outside interference.

The residents of the District of Columbia are entitled to the same standards of citizenship enjoyed by every other American. More than 100 countries worldwide afford residents of their capital cities voting representation in the national legislature; we are the only Nation in the world with a representative, democratic Constitution that denies the basic right to its citizens.

The abuse of taxation without representation sparked the revolution that created this Nation. Now, 200 years later, the citizens of the District of Columbia are still being subjected to this same abuse. The District pays taxes to the Federal Government at the fourth highest per capita rate in the country, providing over $3 billion annually to the Treasury. Yet DC residents have absolutely no say in how these funds are used.

As we all know, the area that now comprises the District of Columbia was originally part of Maryland; Maryland ceded the land so that the Nation could have a capital in 1801.

As a lifelong resident of Maryland, and as a Member of the Maryland delegation to Congress for the last 7 years, I have long been an observer of District politics. While I have not always agreed with the positions endorsed by the District's City Council or by the electorate, I have been impressed nonetheless with the manner in which the people of the District have conducted themselves.

Perhaps more than any other group in the Nation, the people of the District of Columbia have the opportunity to stay informed of current events and of the issues that are important to this Nation and to the world. It is also true that the majority of the people of the District are reminded daily of the importance of the Constitution, the Bill of Rights, and of the political history that has helped to make this Nation great.

As a Member of the Maryland delegation and as a Representative from Baltimore, which is linked to the District by more than proximity, I would like to make it clear to my colleagues that I have no fears or trepidations about what the people of the District will do if they are granted statehood.

Rather, as I said earlier, I support their request for the right to congressional representation and to direct their own policies and budget. The bill before us, H.R. 51, is fair to all involved. The bill contains language that ensures that the State of New Columbia will enter the union on equal footing with other States and will be afforded equal treatment as well. The payment in lieu of taxes provisions in this bill are no different than those already available to other States, as well as local jurisdictions.

The issue at hand, really, is whether or not we are going to allow political fears and paranoia of a few Members to stand in the way of the civil rights of approximately 600,000 American citizens.

The population of the District of Columbia exceeds that of three other States in the Union; the people pay higher Federal taxes per capita than 48 of the 50 States. The District has a productive economy which will enable it to meet the costs of full self government. Citizens of the District of Columbia serve in the armed services in proportionally sizable amounts, and all of the constitutional requirements of statehood are currently being met.

Congress clearly has the authority to admit States through simple legislation, as it has done with 37 other States, and to enact a bill reducing the size of the Federal district over which the Constitution gives Congress control.

Admitting the State of New Columbia is the only means available to us to fully right the terrible wrong this Nation has perpetrated against 600,000 of its citizens. Contrary to what statehood opponents claim, retrocession of part of the District of Columbia to Maryland is a wholly impracticable option. A recent survey of the Maryland legislature showed that only a tiny handful of the members of that body would support retrocession.

Mr. Chairman, colleagues, the people of the District of Columbia deserve statehood. I am confident that they will not abuse this right nor will they use it to the detriment of others. It is not fair for others to deny the people of the District their civil right because they have chosen to prejudge them in a critical manner. A vote for statehood will give the Nation's Capital full self-government, and ensure for all its citizens the democratic rights our Constitution guarantees.

Mr. Chairman, I urge my colleagues to support H.R. 51 and to support the people of the District of Columbia.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 51, the New Columbia Admission Act. I would like to commend my distinguished colleague from the District of Columbia, ELEANOR HOLMES NORTON for her efforts in bringing this legislation to the floor and addressing the critical issue of statehood for the District of Columbia.

H.R. 51 would admit into the Union as the 51st State, the territory now known as the District of Columbia under the name of New Columbia. In addition, it will provide for the election of one Member to the U.S. House of Representatives and two Members to the U.S. Senate. Under current laws governing the District of Columbia, its residents bear all of the responsibilities of citizenship including payment of taxes and military service. However, they do not share its most cherished right, full representation in Congress.

Mr. Chairman, with 600,000 residents, the population of the District of Columbia is larger than the States of Wyoming, Vermont, and three times that of Alaska. Residents of the District pay higher Federal tax than residents in all except 4 of our 50 States. Of the 115 nations in the world with elected national legislatures, the United States stands alone in denying representation to residents of its Capital. In addition, residents of the District of Columbia have served in all American wars and have ranked 5th per capita in the Persian Gulf and 4th per capita in casualties in the Vietnam war. This political inequity is inexcusable.

Opponents argue that the State of New Columbia would be at a financial disadvantage without Federal payments. However, for the past 30 years, the Federal payment has never exceeded 20 percent of the city's budget. Moreover, Washington, DC's economy enables it to meet the costs of self-government. The business services are competitive with the rest of the United States. Legal services rank higher than 41 States, and finance, insurance, and real estate rank higher than 14 States. With 20 million tourists visiting the District each year, tourism is also a great source of revenue.

Mr. Chairman, the District meets the traditional three-part congressional test for statehood—residents have expressed their desire for statehood, accepted a representative form of government and possess sufficient population and resources to support a State. Granting statehood to the District of Columbia is simply a matter of fairness. Without statehood, the residents are denied their fundamental rights as American citizens.

By fulfilling all of the obligations of citizenship, District residents should be allowed the same rights enjoyed by all other Americans. The New Columbia Admission Act would grant residents these rights and I strongly urge my colleagues to support H.R. 51.

Ms. VUCANOVICH. Mr. Chairman, I rise in opposition to H.R. 51, as reported by the Committee on the District of Columbia. Let me say at the outset that my opposition to this bill stems from the special treatment that would be accorded the State of New Columbia and its residents, rather than from any partisan desire to squelch legitimate claims for representation.

But, my colleagues, H.R. 51 is viewed from the hinterlands, beyond the beltway, as an improper way to achieve congressional representation at the expense of the Federal taxpayer. Let me tell you about my State of Nevada. The rich silver veins discovered in 1859 on the eastern flank of Mount Davidson, known as the Comstock Lode, fueled an influx of miners and prospectors into the Nevada Territory. Soon businesses followed, sprouting up to support the needs of the burgeoning population of the territory. The silver produced from the Comstock's mines was an important contribution to the young United States, then gripped in the throes of a great Civil War.

President Lincoln was seeking a second term in 1864 and reelection was by no means assured as a war-weary Nation approached the November election date. On All Hallow's Eve, October 31st, 1864 Nevada was admitted into the Union, and in January 1865 its three electoral votes were counted in President Lincoln's favor. So, yes, one might argue Nevada was brought into the Union on behalf of a political goal—helping to assure that the Nation would stay intact under the enlightened leadership of Abraham Lincoln. We're proud of it. Our State's motto is "Battle Born."

But remember, Nevada's industries, in particular metal mining, was contributing new wealth to the Nation. Nevadans produced something the rest of the country, and indeed the world, wanted and would pay for. Like all of our 50 States, from the most urban to the most rural, Nevada has natural resources worthy of exploitation for the benefit of our country. We have a bumper sticker in Nevada that says: "If it isn't grown, it has to be mined." While Congress often seems to forget the need to foster and develop basic industries in this country, we have not forgotten this need in the West. Sure, there is a place for service sector jobs but they cannot alone carry a State or Nation that seeks to maintain the standard of living we enjoy.

Mr. Chairman, like it or not, the Federal Government is a service. It takes money from citizens, it doesn't make money for citizens. Where is the productive labor and natural resource base upon which to underpin the economy of New Columbia? There is little or none, of course, so the supporters of statehood for the District propose to continue the heavy subsidy that exists today, but call it a special Federal payment-in-lieu-of-taxes program made necessary by the large continuing presence the Federal Government would have in New Columbia.

My colleagues, I represent the congressional district with the largest percentage of Federal land ownership in the entire United States. The chart shown earlier lists Nevada as 82.77 percent federally owned. If lands held in trust for Indian tribes were included, the Federal ownership figure is about 87 percent, and my district covers 99.7 percent of Nevada. In other words, my constituents know something about living with a landowner that doesn't pay local or state taxes. Yes, we receive PILT payments each year thru the appropriations process, but it is a far cry from having lands on the county assessor's tax rolls. *Public Land Statistics 1991* reports Nevada received just over $6.7 million for the Federal lands within its borders, about 11.6 cents per acre. That same year the District of Columbia received PILT money at the rate of 48.6 cents per acre to defray lost tax revenues. Of course, the D.C. appropriations bill handed the District's government many more Federal Dollars on top of the meager PILT reimbursement, because the District is a Federal enclave.

Well, I stand here today to say that my State feels as if it is such an enclave itself. When we seek to put the land within our borders to productive use, the Federal Government always has a big role to play. And all too often this body acts to say no to grazing, mining, timber cutting, oil drilling, and other productive uses of our land. On the other hand, when the Nation needed a place to study for deep geologic disposal of nuclear waste where did it look? You got it—the Great Basin of Nevada, among the most seismically active zones in the country. Good science? Of course not. But we have only four votes out of 535 in Congress. An easy slam dunk in 1987 and again in last year's Energy Policy Act.

What am I trying to say to supporters of statehood for the District? Well, basically, it's this. Nevadans have little sympathy for the plight of a new State that would be less than 22% federally owned. We are not asking for a Federal handout on the basis of a federal taking of a scenic easement over the State of Nevada, albeit that is basically what Federal land management policies now dictate. We see no reason to grant New Columbia such special status, when we know better than any the trials of dealing with a Federal landlord. Therefore, I urge the citizens of the District of Columbia to seek an alternative route to Congressional representation. I urge a No vote tomorrow on H.R. 51.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today completely in support of the rule on H.R. 51, the New Columbia Admission Act. One need only watch this body debate the local affairs of the District of Columbia to understand the need for D.C. Statehood. I am sure that the residents of my State of Illinois would find it difficult to stand by and watch as others who have no allegiance to their community decide the laws that govern their actions and the distribution of their tax dollars. I personally find it difficult to watch deliberations on District of Columbia local affairs knowing that not only do the citizens directly affected by our actions not have a say in these discussions but that any decisions that have been made by their elected officials can be instantly reversed.

President Clinton stated it best, he said;

> The District of Columbia now has more people than 5 States, pays more taxes than 10 other States, and sent more soldiers to fight in the Persian Gulf than 20 other States. And yet every time they turn around, Congress can overturn anything they do through their elected officials.

I believe that our Founding Fathers would be appalled to know that nearly 607,000 taxpaying American citizens are without full voting representation in the United States House of Representatives and Senate.

Some who do not support Statehood for the District suggest that perhaps we can just allow residents of this city some limited representation without statehood. They argue that we should retrocede the District of Columbia to Maryland. Although that would give District residents a vote it would certainly dilute the vote of the citizens of Maryland who are used to electing their own Senators to articulate their specific concerns. In addition, the citizens of the District of Columbia like the citizens of other States, have a unique history and sense of community. It seems unnecessary to erase a community's identity when there is a better way to accomplish the goal of providing voting representation.

With all due respect to the great state of Indiana, I know for a fact that the citizens of my State would rise up if the Congress suggested that they be suddenly merged into Indiana. After all, they are strongly attached to their identity as residents of Illinois.

Mr. Chairman, on April the 15th of every year when the rest of the country is called upon to pay its Federal taxes, the residents of the District of Columbia must comply. At this time they are treated with equity. On January 15th in 1991 when this Congress decided to go to war in the Persian Gulf as on other dates when this country has declared war, the young people of this city were treated as equals. For the life of me I cannot understand why on the first Tuesday in November every year when other citizens of this country elect their representatives and Senators, residents of the District of Columbia are treated unequally.

Mr. Chairman, the request of the citizens of the District of Columbia is reasonable, fair and squarely in the democratic traditions of our Nation. We should vote yes on H.R. 51 and give these Americans their rightful representation in this government. I urge my colleagues to end the last vestiges and to do the democratic thing. Vote yes on the rule.

Mr. PORTER. Mr. Chairman, in order to ensure the independence of the new central government from undue state influence or control, the Constitution included a provision to create a district outside of any State and under the exclusive control of Congress as the seat of the new government.

The framers of the constitution did not envision a large population living in this district, however, over the last two hundred years, the district has changed dramatically. Approximately 589,000 people reside in D.C., which is more than in most congressional districts and more than in several entire States. These residents pay over $1 billion annually to the Federal treasury yet have only one nonvoting delegate to the House of Representatives. Their lack of representation should be addressed. But not by this legislation. Rather, we ought to consider retroceding the land to Maryland.

In 1990, Congress introduced the idea of rejoining D.C. with Maryland, except for a small Federal enclave made up of only major Federal buildings. Congress took this very same action in 1846 in returning the western portion of the District of Columbia to Virginia.

As Maryland's second largest city, the District would have at least one voting representative in the House and representation by the State's two Senators. The city would also benefit by participation in the Maryland educational system. At the time retrocession was proposed in 1990, the Governor of Maryland William Donald Schaeffer endorsed the proposal and agreed to assume responsibility for the District.

I am cosponsor of legislation introduced by my colleague, RALPH REGULA of Ohio, which would adopt the retrocession solution. His bill should have been allowed as a substitute for the Norton bill. Unfortunately, the Rules Committee allowed no amendments to the Norton bill and foreclosed the sensible Regula amendment.

Miss COLLINS of Michigan. Mr. Chairman, I am proud to support H.R. 51, the New Columbia Admission Act of 1993. I support statehood for the District of Columbia because I support granting full rights of citizenship to all Americans.

We are today debating basic rights of a class of Americans, a class that we have treated as separate and unequal. We are endowed by our creator with certain inalienable rights. These rights must apply to all Americans, regardless of where we live.

No good reason has been put forth to reject this legislation. Our great nation was created on the principles of personal liberty and self-determination, and in 1993, 206 years after our nation's Constitution was ratified, it is disgraceful that this group of people do not have their full rights of citizenship.

Citizens of the District of Columbia live with the whims of a majority of legislators with whom they have no true voice. Not only are they subjected to taxation without representation, they are subjected to legislation without consultation. The United States is the only Nation in the world with a representative, democratic Constitution that denies voting representation in the nation legislature to citizens of the capital.

Meanwhile Congress retains veto power over laws passed by the District and its budget. Citizens of the District are the only Americans forced to live under this paternalistic federalism. D.C. residents are not provided the rights guaranteed all Americans in the 10th amendment, which reserves all power not granted by the Constitution to the States and, more importantly, to the people.

Let's stop treating the citizens of the District of Columbia like people who do not know what is best for them. Let's end the double standard. Let's end congressional supervision and meddling in D.C.'s affairs. Let's give the people their full rights and responsibilities as citizens of this democratic land. Let's pass H.R. 51.

Mr. BONILLA. Mr. Chairman, just a few short months ago all of us took an oath of office to uphold the Constitution. Today we have before us a bill which stands in violation of that oath. The Constitution clearly states that "no new State shall be formed or erected within the jurisdiction of another State" and the District of Columbia stands on land ceded to the Federal Government by Maryland.

Not only is this bill unconstitutional, it is unwise. Washington, D.C. is a city, not a State. Providing statehood for the District devalues the vote of each and every American outside of Washington, D.C. How can it be right for the City of Washington, D.C. to have the same number of Senators as the State of Texas. Clearly, it is not right. How can it be right for the American people to lose control of the governance of their national capital. Clearly, it is not right.

Today's debate is missing the most fundamental question—the rights of the 250 million Americans who live outside Washington, D.C. The rights of all Americans to know that their capital reflects the moral values which built this Nation. Make no mistake about it, if statehood is granted there will be no means to protect the integrity of the Nation's capital as a symbol of our democracy.

The threat posed is real, not rhetorical. The city's highest elected official has already called for legalized gambling in Washington, D.C. Who is to say that there won't be a call for legalized prostitution in the future. Does any member truly believe that the American people want to see casinos across the street from the Supreme Court, slot machines across the street from the Vietnam Memorial and brothels across the street from the White House. The American people deserve better than this and want us to stop it. But make no mistake about it. If statehood is adopted we will not be able to stop this defacement of our democratic institutions.

Today, let us remember our responsibility to safeguard the integrity of democracy's capital. The Constitution provides that the Congress shall have the power "to exercise exclusive legislation in all cases whatsoever, over such district" referring to Washington, D.C. My colleagues, join me today in upholding the Constitution and protecting the rights of the 250 million Americans outside of Washington, D.C. Vote no and reject D.C. statehood.

Ms. NORTON. Mr. Chairman, I reserve the final 15 minutes of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RUSH) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3, CAMPAIGN FINANCE REFORM

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-402) on the resolution (H. Res. 319) providing for consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3400, GOVERNMENT REFORM AND SAVINGS ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-403) on the resolution (H. Res. 310) providing for consideration of the bill (H.R. 3400) to provide a more effective, efficient, and responsive government, which was referred to the House Calendar and ordered to be printed.

HEALTH SECURITY ACT OF 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Ways and Means, the Committee on Education and Labor, the Committee on Armed Services, the Committee on Veterans' Affairs, the Committee on Post Office and Civil Service, the Committee on Natural Resources, the Committee on the Judiciary, the Committee on Rules, and the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today to the Congress the "Health Security Act of 1993."

This legislation holds the promise of a new era of security for every American—an era in which our Nation finally guarantees its citizens comprehensive health care benefits that can never be taken away.

Today, America boasts the world's best health care professionals, the finest medical schools and hospitals, the most advanced research, and the most sophisticated technology. No other health care system in the world exceeds ours in the level of scientific knowledge, skill, and technical resources.

And yet, the American health care system is badly broken. Its hallmarks are insecurity and dangerously rising costs.

For most Americans the fear of losing health benefits at some time has become very real. Our current health insurance system offers no protection for people who lose their jobs, move, decide to change jobs, get sick, or have a family member with an illness. One out of four Americans is expected to lose insurance coverage in the next 2 years, many never to be protected again. Altogether, more than 37 million Americans have no insurance and another 25 million have inadequate health coverage.

Rising health care costs are threatening our standard of living. The average American worker would be making $1,000 a year more today if health care accounted for the same proportion of wages and benefits as in 1975. Unless we act, health care costs will lower real wages by almost $600 per year by the end of the decade and nearly $1 in every $5 Americans spend will go to health care.

Small businesses create most of the new jobs in America and while most want to cover their employees, more and more cannot. Under the current health care system, cost pressures are forcing a growing number of small business owners to scale back or drop health insurance for their employees. Small businesses spend 40 cents of every health insurance dollar for administration—eight times as much as large companies. And only 1 in every 3 companies with fewer than 500 workers today offers its employees a choice of health plan.

Our health care system frustrates those who deliver care. Doctors and nurses are drowning in paperwork, and hospitals are hiring administrators at 4 times the rate of health care professionals. The system places decisions that doctors should be making in the hands of distant bureaucrats. Its incentives are upside down; it focuses on treating people only after they get sick, and does not reward prevention.

Clearly, our challenges are great. This legislation is sweeping in its ambition and simple in its intent: to preserve and strengthen what is right about our health care system and fix what is wrong.

Our needs are now urgent. A Nation blessed with so much should not leave so many without health security.

This legislation draws upon history. It reflects the best ideas distilled from decades of debate and experience.

It reflects the sense of responsibility that President Franklin Roosevelt called for when he launched the Social Security program in 1933 and recommended that health care be included.

It reflects the vision of President Harry Truman, who in 1946 became the first President to introduce a plan for national health reform.

It reflects the pragmatism of President Richard Nixon, who in 1972 asked all American employers to take responsibility and contribute to their workers' health care.

And it reflects the ideas and commitment of generations of Congressional leaders who have fought to build a health care system that honors our Nation's commitments to all its citizens.

Today America stands ready for reform. For the first time, members of both parties have agreed that every American must be guaranteed health care. An opportunity has been placed before us. We must not let it pass us by.

This legislation builds on what's best about the American health care system. It maintains and strengthens America's private health care. It extends the current system of employer-based coverage that works so well for so many. It protects our cherished right to choose how we are cared for and who provides that care. It invests in improving the quality of our care.

This legislation recognizes that America cannot, and need not, adopt one model of health care reform. It allows each State to tailor health reform to its unique needs and characteristics, as long as it meets national guarantees for comprehensive benefits, affordability, and quality standards. It establishes a national framework for reform, but leaves the decisions about care where they belong—between patients and the health care professionals they trust.

Under this legislation, every citizen and legal resident will receive a Health Security Card that guarantees the comprehensive benefits package. People will be able to follow their doctor into a traditional fee-for-service plan, join a network of doctors and hospitals, or become members of a Health Maintenance Organization. Like today, almost everyone will be able to sign up for a health plan where they work. Unlike today, changes in employment or family status will not necessarily force a change in health coverage.

The self-employed and the unemployed will receive their health coverage through the regional health alliance, a group run by consumers and business leaders, that will contract with and pay health plans, provide information to help consumers choose plans, and collect premiums. The largest corporations—those employing 5,000 workers or more—will have the option of continuing to self-insure their employees or joining a regional alliance.

The legislation is financed by three sources: requiring every employer and individual to contribute to paying the cost of health care; raising excise taxes on tobacco and requiring small contributions from large corporations, which form their own health alliance; and slowing the growth in spending on Federal health care programs. Enormous efforts have been made to ensure that the financing is sound and responsible.

The Health Security Act is based upon six principles: security, simplicity, savings, quality, choice, and responsibility.

Security. First and foremost, this legislation guarantees security by providing every American and legal resident with a comprehensive package of health care benefits that can never be taken away. That package of benefits, defined by law, includes a new emphasis on preventive care and offers all Americans prescription drug benefits.

Under this legislation, insurers will no longer be able to deny anyone coverage, impose lifetime limits, or charge people based on their health status or age. The legislation also limits annual increases in health care premiums, and sets maximum amounts that families will spend out-of-pocket each year, regardless of how much or how often they receive medical care.

The legislation will preserve and strengthen Medicare, adding new coverage for prescription drugs. To meet the growing needs of older Americans and people with disabilities, a new long-term care initiative will expand coverage of home and community-based care.

The legislation also provides residents of underserved rural and urban areas with better access to quality care. It also offers incentives for health professionals to practice in these areas, builds urban-rural health care networks, and protects those doctors, hospitals, clinics, and others who care for people in underserved areas.

Simplicity. To relieve consumers, business and health professionals of the burdens of excess paperwork and bureaucracy, this legislation simplifies our health care system. It requires all health plans to adopt a standard claim form; creates a uniform, comprehensive benefits package; and standardizes billing and coding procedures.

Savings. The legislation promotes true competition in the health care marketplace. It increases the buying power of consumers and businesses by bringing them together in health alliances. Health plans will no longer succeed by trying to pick only healthy people to insure; they will have to compete on price and quality. This competition will be backed up by enforceable premium caps.

This legislation also criminalizes health fraud, imposing stiff penalties on those who cheat the system. And it takes steps to reduce "defensive medicine" and discourage frivolous medical malpractice lawsuits by requiring patients and doctors to try to settle disputes before they end up in court, and by limiting lawyers' fees.

Quality. The legislation empowers consumers and health care professionals by providing information on quality standards and treatment results. It calls for new investments in medical research, including heart disease, bone and joint disease, Alzheimer's disease, cancer, AIDS, birth defects, mental disorders, substance abuse, and nutrition. To help keep people healthy, rather than only treating them after they get sick, the legislation pays fully for a wide range of preventive services and offers new incentives to educate primary care doctors, nurses, and other family practitioners.

Choice. Through comprehensive reform, the legislation gives Americans a new level of control over their health care choices. It ensures that people can follow their doctor and his or her team into any plan they choose to join. It transfers the choice of health plan from the employer to the individual, and guarantees a choice of health plans, including at least one traditional fee-for-service plan. Doctors and health professionals may participate in multiple health plans if they wish.

Responsibility. Under this legislation, every employer and individual will be required to pay for health coverage, even if that contribution is small. It extends the current employer-based system for financing health coverage—a system that now serves 9 of every 10 Americans who now have health insurance. To ensure affordability, small businesses, low-wage employers, and low-income individuals and families will get substantial discounts.

This legislation will strengthen our economy. Our current system is so much more costly than any other system in the world, and the American people should not be asked to pay huge new taxes in order to afford health care reform. This plan raises no new broad-based taxes, but spends our health care dollars more wisely. It levels the playing field for small businesses, making it possible for them to insure their families and employees. It eases the tremendous burden of rising health costs on big business, helping them to compete for global markets. And by bringing the explosive growth in health costs under control, it sets us in the right direction of reducing our national debt.

The legislation restores common sense to American health care. It borrows from what works today, letting us phase in change at a reasonable pace and adjust our course if needed. It builds on what works best—and makes it work for everyone. Our task now is to work together, to leave behind decades of false starts and agree on health care reform that guarantees true security. The time for action is now. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 20, 1993.*

PERMISSION FOR INCLUSION OF EXTRANEOUS MATERIAL IN EXTENSION OF REMARKS SECTION OF THE RECORD FOR THE REMAINDER OF THE FIRST SESSION OF THE 103D CONGRESS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that for the remainder of the first session of the one hundred and third Congress all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 2010

THREE STEPS TO PROTECT THE DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, a November 18 memorandum attached to a letter concerning the recent so-called Penny-Kasich budget amendment, signed by the Chairman of the Joint Chiefs of Staff, Gen. John M. Shalikashvili, and the Secretary of Defense, Les Aspin, states the following:

The Department of Defense:

Must base the budget on national security requirements;

Must be able to count on a level of resources that will not be disrupted by a dramatic shift in the economy;

Should maintain readiness when the national security is in danger, despite concern over the deficit; and

Should not make ill-advised cuts that will reduce our ability to respond to challenges to that security.

To this, I say hallelujah, as this is an apparent reversal of the administration's previous position concerning the Defense budget, as set forth in a statement by Vice President AL GORE in his National Performance Review, "Defense had launched a Bottom-Up Review to meet the President's 1994–97 spending reduction strategy."

In all of this budget discussion, Congress and the Administration can get bogged down in numbers and miss sight of the purpose of our national security structure—to defend the interests of our Nation. Sure, there are budgetary constraints, but the budget should not be the driving force, and this Pentagon memorandum reflects new thinking concerning the defense of our country.

In June, President Clinton told the West Point cadets that the military had been cut as much as it should be. I agree, and I have been critical of the so-called Bottom-Up Review issued by the Pentagon concerning force structure earlier this year. This review can in no way fulfill the national security strategy of being able to successfully fight two major regional contingencies. This Bottom-Up Review is as useful to our national security as wings would be as useful to a pig. The peace-keeping efforts piled thereon further throw the national strategy out of balance.

Thus, the national defense budget must be leveled out—no more real cuts, or else we will have a truly hollow Armed Services. Our Nation, the bastion of freedom in this world, must ever be prepared to fulfill the role assigned to us in this world, and, if need be, to be successful in our national security strategy.

Thus, I suggest that we in this body take steps to protect the Defense Budget from the pressures and assaults and keep our guard up—else we will regret not doing so at some future date. It was Disraeli who once said "expect the unexpected."

Therefore, three steps should be undertaken to protect the ability of our Armed Services to provide the necessary defense.

First, the Defense Budget should be stabilized. The Defense portion of the overall budget should be treated the same as the domestic portions—the base line should include an inflation factor to keep the purchasing power the same.

Second, the integrity of the defense budget should be preserved. This must be done by providing firewalls around the defense part of the budget and not allow defense dollars to become part of the trading game.

Third, there should be an end to imposing the costs of domestic programs upon the defense budget. Defense funds are wrongfully diverted to, among other areas, the FAA, the Coast Guard, NASA, conversion, and foreign aid [Russia]. This is an improper internal erosion of the funds for our soldiers, sailors, airmen and marines—going to nondefense programs.

Therefore, our country, both the administration and the Congress, should get rid of this Bottom-Up Review plan and adequately provide funds for our national security. For my part, I will do my best to follow through with what is right and necessary for the men and women who wear the American uniforms—they are our sons and daughters, our nieces and nephews, our grandsons and granddaughters. They deserve the best we can give them. When they are needed, we expect them to perform their duties as professionals and we expect them to be successful. We should stand behind them and properly fund their efforts.

IN DEFENSE OF THE NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I have taken this special order out this evening, and I underscore to the wonderful staff here that it is a 5-minute and not a 60-minute special order. I should first say that we have spent the last 6, 8, or 10 months, and possibly even longer than that—actually for me it goes back several years—taking time in the evening to talk to our colleagues and the American people about the North American Free-Trade Agreement. I am happy to say, as we are here on the last Saturday of the 1st session of the 103d Congress, that we are not going to be talking as much about the North American Free-Trade Agreement as we have in the past. But I want to express my appreciation to all of the wonderful people who are sitting behind me, and people who are downstairs, and the people who work in the cloakrooms, who have stuck with us through all of those.

I would like to take just a couple of minutes, Mr. Speaker, to respond to a couple of items that were raised this morning during the 1-minutes on the North American Free-Trade Agreement. There were a couple of our colleagues on the other side of the aisle who were strong opponents of the North American Free-Trade Agreement who stood here in the well and started talking about those of us who were supporting measures which we are going to be considering in the next couple of days to bring about major spending cuts, and they tried to claim that those of us who supported the North American Free-Trade Agreement in fact are not interested in how we pay for things, how we bring about the responsible effort to cover the costs that will be imposed. And that clearly was a fallacious argument. Because those of us who were strong proponents of NAFTA did so for many reasons. But one of them is the fact that we are going to be able to see economic growth create a situation which will actually increase revenues to the Federal treasury.

Now, while some opponents of the North American Free-Trade Agreement tried to claim that there would be a tremendous tax increase in the NAFTA, they were wrong. Anyone who voted against the North American Free-Trade Agreement actually voted against a $1.5 billion tax cut. Why? Because while there were an additional $1.08 billion in customs fees, as the gentleman from Texas [Mr. PICKLE] knows, they came out of his committee, and airline fees, the tariffs, which are a tax, are going to be reduced by $2.5 billion over a 5-year period.

Mr. Speaker, those fees, as the gentleman from Texas [Mr. PICKLE] knows, are temporary, and we will actually see a net, because we have the $1 billion in those fees and $2.5 billion in tariffs or taxes that will be reduced, a net tax cut of $1.5 billion over that 5-year period.

At the same time, there are many who talked about the cost of cleaning up the border, as if the border problem had something to do with the North American Free-Trade Agreement. The problem that exists there exists there today, and it has nothing to do with the NAFTA. So there is going to be a cost in cleaning that up.

But the Congressional Budget Office provided an assessment of what we will see in increased economic growth in the United States, and they have projected that there will be an increased growth of $72.5 billion in the gross domestic product here in the United States. As such, with that increase in the GNP, we are going to see, over a 5-year period, based on the Congressional Budget Office projection, an increase in revenues to the Federal treasury of $13.59 billion. Why? Because of the expanded economic growth, which is going to be creating jobs and putting these people who may not be working today onto the tax rolls, paying taxes, which will be coming to the Federal Treasury.

□ 2020

So I believe that it was very disingenuous for those who said that some of us who want to bring about meaningful spending cuts only talk about it now but do not want to be fiscally responsible as it relates to the North American Free-Trade Agreement. We all know that the NAFTA is not going to create a tremendous surge in jobs overnight. It is not going to create a situation which is going to have this great benefit immediately. But clearly, we are going to see steady economic growth as a byproduct of this job creation.

I would also like to say, Mr. Speaker, that we demonstrated, with the vote on the North American Free-Trade Agreement, 75 percent of the Republicans, 40 percent of the Democrat Members of this House joined together in a bipartisan way. I believe we Republicans showed that a program which was envisioned by Ronald Reagan, negotiated by George Bush and supported by President Clinton, we can provide bipartisan support and we can avoid gridlock on our side.

President Clinton has campaigned, talked about a number of other items which I hope very much we can put into place in a bipartisan fashion here in the House. Line item veto authority was, of course, one of his key items. Congressional reform, which I happen to be working very closely with my colleagues on. We are going to be going into our markup on that tomorrow afternoon.

Welfare reform, dealing with banking regulations, which have held up the small business expansion that is necessary, and capital gains tax reduction.

I hope very much, Mr. Speaker, that we can deal with these items in a bipartisan way.

THE SOCIAL SECURITY ENTITLEMENT REFORM AMENDMENTS OF 1993

The SPEAKER pro tempore (Mr. RUSH). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 30 minutes.

Mr. PICKLE. Mr. Speaker, it is my belief that all Federal entitlement programs need to be re-examined in light of the promises that they are making to today's workers and the financial burden that these programs may impose on their children when they become workers. I do not feel that across-the-board spending caps are the best way to go—that path is much too arbitrary for me—but I will not pretend that I have a prescription for how to deal with each entitlement program. As a former chairman of the Social Security Subcommittee in the House, my approach is to start with what I know something about, namely social security. I strongly believe that no effort to realistically address the future burden of entitlement promises will produce meaningful results unless social security is on the table. I, therefore, have introduced legislation today to restrain the long-range cost of social security with the hope that it will start people thinking about how to alter the full spectrum of our entitlement promises.

The major provisions in this H.R. 3585, legislation would:

1. Raise the age for receipt of full social security benefits to 70, while retaining age 62 as the first age at which retirement benefits can be received. This would be phased in over 24 years, beginning in 2006;
2. Provide cost-of-living adjustments every 2 years, based on 2 years' worth of inflation, except when inflation exceeds 4 percent per year. This would be effective beginning in the year 2000;
3. Liberalize benefits for widows, widowers, and other recipients, age 80 and older. This would be phased in, beginning in the year 2000; and,
4. Lower the age for receipt of Supplemental Security Income [SSI] benefits from 65 to 62. This would be phased in over 12 years, beginning in the year 2000.

There will be those who will say that my timing is wrong, that there already is too much on the legislative table, and that we can wait until early in the next century to consider whether there even is a problem with Social Security. In 1983, in the midst of almost overwhelming political chaos and with the prospect that full Social Security checks would stop going out within a few months, we passed major amendments in the Social Security program to restore the system to a sound financial footing. In 1979 and 1980, shortly after I become Chairman of the Social Security Subcommittee, our committee began holding hearings to examine the system's problems. We were told then that we were moving too soon, that things could get better, and that we were creating a problem rather than solving one. We felt then that time was not an ally, and that those telling us that we were moving too soon were really telling me not to rock the boat. Well, I will probably be told that again, but I think it is time to face the social security dilemma once more.

So that no one misinterprets my intention, I will state again, as I have many times in the past, that I am committed to the basic principles of Social Security and to the system's preservation. However, I break with conventional wisdom in that I do not believe that preserving the current status quo a hundred percent is the way to meet those commitments.

The promises made by entitlement programs will be difficult to honor in the future.

Let me say first that I still feel good about what we did in 1983 to restore Social Security to a sound financial footing. The Social Security Amendments of 1983 were absolutely necessary. The system was in big trouble, and we made enormous changes. It was not easy or all that politically popular, but it had to be done, and for 10 years now the system has been not only financially secure but has been building up a huge surplus. And it may be that those changes will carry us for many more years. That is what many Social Security actuaries tell us anyway. We may need a reallocation to the disability fund in the near future, and we may need to alter how we administer that program, but the actuaries project that the Social Security system overall will be solvent for more than 4 decades. Possibly until 2036.

So why am I not content? Why do I think things need to be changed?

The reason is that I do not think the Social Security skies ahead are all that clear. Admittedly, there is no emergency. Insolvency is not looming over the system as it was in 1981, in 1982, and again in 1983. In each of those years we had to take steps to keep the checks flowing. We had a need, a cause, something to push us. Today we don't, at least not one that is apparent, and the fact that we don't may be unfortunate in that it leaves us without a vehicle to make changes we need to make for the long run. The way I see it, the cost of Social Security will rise substantially beginning with the retirement of the post World War II baby-boom generation in 2008. That is only 15 years away! This rising cost, along with that of other entitlement programs, is likely to impose a large tax burden on the children of the boomers. Regardless of whatever balances the actuaries say the Social Security system will have out there, the cost of the system will have to be paid for with resources extracted from the economy. The system may appear on paper to be solvent until 2036, but it cannot stand alone and be removed from the economic hurdles that must be overcome to assure our well being. Social Security is not some independent spaceship floating freely in the economy. Its viability, like that of the Government generally, depends on the vitality of the economy.

A realistic assessment of every entitlement program is necessary.

While the public's focus of concern is now rightfully on the rising cost of health care and on how it is driving up Federal health expenditures, the fact is that Social Security is the largest form of Federal expenditure—our largest entitlement program—and Social Security cannot be ignored. Even if President Clinton, and we here in the Congress, can successfully confront the Nation's health insurance dilemma and curb the excessive spiral in health care costs, we will still be left with an enormous burden in sustaining our entitlement programs arising out of the demographic changes that will befall us within two decades. Because of their numbers, when the baby boomers become retirees they will greatly raise the cost of all the benefits promised by the multitude of entitlement programs we have put in place. Unless we openly and candidly face up to the dimension of the future promises that the entitlement programs represent, these programs will sap and erode the vitality of our economy.

At some point we must face up to this fact: that if these promises are to be kept in the fashion now contemplated under current laws, the tax burden on the children of the baby boomers—my grandchildren—will be untenable. Curbing health cost inflation will not do the job alone. It is a much bigger task. It will require a realistic re-assessment of every entitlement program, and that will not occur unless it first happens with the sacred cow of all entitlement programs: namely Social Security.

Means-testing Social Security is not an answer.

Means-testing seems to be the popular sound bite today. It's very appealing in its message that if we just limit what we pay to rich people, the problem will be solved. While I can certainly see the lure, I'm not one who favors it, at least with respect to Social Security. I believe it misses a much bigger point—that Social Security has survived and been successful because it is not means-tested. Support for the system requires that people feel they earned a fair stake in it, rich and poor alike. Means-testing would kill it. It may sound good at the moment, but it will leave a bad ring in the ears of the American public when they are told that, in order to get something they paid for, they must now show they need it.

I ask any of those who advocate a means test how they actually would do it. Are we going to march 43 million people into Government offices twice a year and ask them to divulge their financial worth to some bureaucrat? Are we going to ask them to bring in their tax returns and their bank statements? Are we going to ask them how many cars they own, what kind of gifts they made to their kids, what kind of trusts they have set up, who they received gifts from, what their jewelry is worth and so on? Is this really a practical way to deal with people who have worked and paid taxes under this system all their lives? What fragment of evidence is there that leads us to think that means testing Social Security will be acceptable with our constituents? If our retirees today cannot live with a Social Security earnings test that affects only 3 million of them, what will 43 million of them say when we tell them that all their income is going to be taken into account? And their assets too?

No, I don't think the American public is ready for means testing of their Social Security benefits.

However, future Social Security costs do need to be restrained.

I do think we need to bring down the future cost of the Social Security system.

Under current projections, the system's cost will rise from about 11.6 percent of payroll today to 15.4 percent of payroll in 2025, and then to 16.6 percent in 2035. In today's dollars, this would amount to $140 billion annually. Medicare could rise from 5 percent today to 20 percent in 2035. Medicaid will also grow as the baby boomers' need for nursing home care goes up as they age. Interest on the public debt, civil service and military retirement, veteran benefits, Supplemental Security Income, and a whole host of smaller entitlements will add to the levy. When all are considered, their toll could consume more than half of every dollar earned by our future workers—the children of the baby boomers.

Scaling back Social Security in the future is necessary but the changes should not impact current recipients.

I don't think we can change Social Security as rapidly as some would have us do. I think cutting benefits for today's retirees, which would be the only way to bring about large immediate savings, is unfair and politically untenable. And turning Social Security into a privatized system is not in the cards. I question whether it would be all that desirable in any event. But I do think that taking steps to moderately scale back the promised benefits of the next century is practical and necessary. And we cannot wait until then. We cannot wait until 2008, when the first baby boomers reach the entry point for social security to tell them that society cannot afford to pay them the benefits they were promised. People have to know what's coming; they have to be able to plan ahead. Uncertainty leads to distrust, and distrust leads to chaos. So, I believe we must start today. If we do, we can give those baby boomers 15 years notice. If we do, the change can be gradual. If we do, we can demonstrate our ability to govern for the long run. If it turns out we are wrong and have the good fortune to prosper beyond what we can reasonably expect today, some future Congress can always reverse what we do. There should be little doubt that it is easier to give people something than to take it away.

This bill is a wake up call to those wishing to preserve the system.

I have no illusions about the immediate prospects of my bill. I know it will not fare well with the advocates. They may criticize it and stomp on it simply because it reduces benefits in the long run. I see this bill as a wake up call, because I think eventually it or something like it will be acceptable with their constituencies, who are our peers. Our peers, despite the overtures that their representatives make to us, are concerned about the future of their children and grandchildren, and they do not want these enormous entitlement programs to choke off their future well being.

But, Social Security needs to be changed even if viewed in isolation from other entitlements.

While the bill I have introduced is motivated by this concern about entitlements generally, it also is directed at solving the specific long-range problems of the Social Security system.

The latest forecast, made by the Social Security trustees last April, shows that the system has an actuarial shortfall of 1.46 percent of taxable payroll over the next 75 years as a whole. In simple words, it has a shortfall equal to 10 percent of its cost. This is bigger than the Congress and the trustees have traditionally viewed as prudent. It falls outside of the bounds of what is considered to be a reasonable deviation from actuarial balance. While the trustees recently have employed a more refined test of whether the system is in a favorable or unfavorable condition, generally speaking if its projected outgo is more than 105 percent of its projected income, it is not considered to be financially sound. Because of the size of the imbalance projected in their latest report i.e., the system's costs are 110 percent of its income, the Social Security's own Board of Trustees concluded that "appropriate options to strengthen the long-range financing of these funds should be developed."

The Social Security Amendments of 1983 improved the system's financial condition, but the economy and birth rates have not kept up with expectations.

Ten years ago when we passed the Social Security Amendments of 1983, the trustees and actuaries told us that the system was in long-run balance and would be solvent until at least 2060. I believed that then—it was a fair projection—however, many things have changed, and we should face up to them. Foremost among them are changes that have taken place in the economy. At the time of enactment, and based on the performance of the economy over the preceding 30 years, average wages were assumed to grow annually by 1.5 percentage points more than prices. Wages are important to the system because the revenue to finance social security is taken from them. Price growth-inflation—is similarly important because it heavily influences the spending side of the system. Simply put, the more that wages grow faster than prices the better off Social Security will be. Today, based on experience of the 1970s and 1980s, the trustees are assuming that wages will grow by only 1.1 percentage points more than prices each year, which largely reflects the drop in productivity that has occurred over the past few decades. This change has had an adverse impact on the actuaries' projections.

Another important change adversely affecting the outlook is in the Nation's birth rate. Generally speaking, the higher the future birth rate, the more workers there will be to support the system. Although the Nation's birth rate dropped sharply after the baby boom subsided in the mid 1960s, in 1983 the actuaries were assuming that it would rise again over the following decades and eventually reach a point where the average number of births per woman would be 2.1. However, experience over the past two decades now suggests that this assumption also was too optimistic. Today, the long-range assumption is that an average women will experience 1.9 births.

Yet another important change occurred in the assumptions made about the prevalence of disability. Over the past decade, the number of people filing for and receiving social security disability benefits has substantially exceeded the projections made in 1983—to the point now where the disability fund is likely to become insolvent within a year or two. While this can be dealt with through a small reallocation of retirement taxes to disability, the higher incidence of disability over the past decade has prompted the actuaries to raise the projected future cost of disability accordingly.

These three changes and numerous other smaller ones, all taken together, have gradually altered the long-run outlook for the system since we fixed it in 1983. They present us today with a picture of potential insolvency—for the retirement and disability parts of the program combined—occurring in 2036 and an average deficit—10 percent of the cost of the system—that is too large to ignore.

This bill would eliminate the long-range deficit largely by raising the age for full benefits to 70.

The bill I am introducing would deal with the problem by raising the so-called "social security retirement age" to 70. This does not mean I expect people to wait until age 70 to receive benefits. As under current law, people would still be able to collect retirement benefits at age 62 and aged widows' and widowers' benefits at age 60. The legislation simply raises the age at which "full" benefits can be paid. In view of the improvements in life expectancy that have occurred since the program was enacted in 1935, and which are projected to continue into the future, I believe that asking people to wait a few years longer to receive full benefits is sound and reasonable policy in light of the financial burden that the continuation of current law would impose. For those who cannot do so, because of poor health, job loss, or job burn out, the program will still be there at younger ages, but only at slightly lower levels as benefits are actuarially reduced for earlier retirement. At age 62, a worker retiring in 2030 would get 60 percent of his or her full benefit, in contrast to 70 percent under current law.

One important aspect of the bill reflects my belief that people retiring in the next 10 to 12 years should not have their retirement plans disrupted, so I would not change the "retirement age" provisions of current law until 2006. Under current law, a worker reaching age 62 in 2006 would not be able to collect full benefits until age 66, and that age would prevail as the "full benefit age" for the next 12 years. In 2017, the age for full benefits is scheduled to begin rising again until it reaches age 67 for those reaching age 62 in 2022. The bill would do away with the 12-year hiatus period where the full benefit age stays at 66, and would continue the gradual increase in the age that starts in the year 2000 (under current law) until it reaches age 70. The full benefit age would reach 67 for those who become eligible in the year 2011, 68 for those becoming eligible in 2017, 69 for those becoming eligible in 2029.

Changing the basic disability benefit level goes hand in hand with raising the age for full retirement benefits.

This bill also would alter social security disability benefits. Under current law, disability benefits are awarded up to age 65. People who become disabled after that point must take retirement or survivor benefits—the underlying assumption being that they are already at a point in their lives when one might reasonably assume that retirement would have taken place. The social security program does not pay disability benefits as an indemnity simply because an impairment exists. The premise always has been that disability benefits are a replacement of earnings lost due to the onset of a disabling condition. However, when disability is alleged or occurs between the ages of 62 and 64, the assumption that the benefits are replacing earnings lost due to the disability becomes more difficult to support. Many workers, who have impairments but not severe enough to qualify for disability, leave the workforce and begin collecting social security as early retirees. Others simply retire because they have no job or they are "burnt out." Some 60 percent of retirement benefits taken each year are from people who are age 62, and people who collect at that age must take an "early-retirement" reduction. A person found disabled at age 62, on the other hand, will get full benefits, which effectively gives them a 25-percent higher benefit than the early retirees. This difference can potentially follow them for the rest of their lives.

Under current law, when the age at which full benefits reaches 67, an age-62 retiree will collect 70 percent of the full benefit, while the worker disabled at that age will collect the full amount. What this means is that the age-62 disabled worker would get 43 percent higher monthly benefits (30/70=43 percent) than the age-62 retiree. I believe this is unfair and will create an enormous incentive for early retirees to file for disability when they file for retirement even if their chances of getting it are remote.

The disability program today already is overburdened and ready to burst because of the large number of claims being filed and the complex process through which disability decisions are reached. If the age for receipt of full benefits were raised to 70, workers retiring at age 62 would take an even larger reduction than under current law because they retired "early," whereas the disabled worker would take *no reduction at all*. The advantage in obtaining disability benefits at age 62 would be 67 percent.

Permitting this situation to occur, or even permitting the potential 43 percent differential under current law to occur, would be unfair to those early retirees who cannot meet social security's criteria for disability, and it would create an administrative monster for the Social Security Administration and the State agencies responsible for making disability decisions. The possibility that the vast majority of workers retiring before age 70 would simultaneously file for disability cannot be dismissed. Therefore, the bill I have proposed would preclude disability benefits from being awarded at age 65 or later (as is the case today) and would peg the basic level of disability benefits to that which would be payable to a worker retiring at age 65. What this means is that, as the age for full benefits rises above 65, the basic level of disability benefits would decline as a percent of full benefits. Eventually, when the age for full benefits reaches 70, disabled workers would receive 71 percent of the full benefit amount, the same amount a worker who elects retirement benefits at age 65 would receive. This will result in a maximum difference in benefits between disabled workers and age-62 retirees of only 18 percent, which would be much smaller than the 25-percent difference that occurs today and the 43-percent difference that would occur in the future under current law.

To offset some of the adverse impact that this change would have on younger disabled workers, whose earnings potential might have been cut short by their disability, the bill would eliminate the provision enacted in 1980 that reduces the number of low years of earnings that a disabled worker under age 47 can drop. What this means is that all disabled workers could get a full 5 years of low or no earnings dropped from the computation of their benefits, regardless of their age. For younger disabled workers, this means their benefits would be derived from a higher level of "average earnings" than is permitted today, which would partially or substantially offset the impact of pegging the basic disability benefit level to the reduced age-65 retirement benefit.

Moreover, the bill would not change the benefits provided to a young family of a disabled worker since in the aggregate the same maximum family benefits would be paid. The disabled worker's own benefit might be reduced, but those paid to the worker's spouse and child would be increased accordingly, leaving them in the same position as current law.

The delayed retirement credit would be frozen at the 1994/95 level.

The bill also would alter the so-called delayed retirement credit. Today, workers who delay receiving social security until after age 65 can receive an increase in their eventual benefits of as much as 4 percent a year for each year that they wait past age 65 (up to age 70). If they wait until age 70, this credit can effectively raise their eventual benefits by 20 percent. Under current law, the credit will grow gradually to 8 percent per year over the next 14 years. When the full benefit age reaches age 67 in 2027, a worker waiting until age 70 will be eligible for a delayed retirement credit of 24 percent (3 years' worth at 8 percent per year). However, because the transition to the larger credit was not coordinated with the increase in the full benefit age to 67 when these measures were drafted in 1983, the credit payable at age 70 will actually peak at 132⅔ percent for someone who attains age 70 in 2009. In effect, under current law there will be a "windfall" for some future workers that will arise because of the manner in which the larger credit is being phased in.

The bill I have proposed would implicitly phase out the credit as the age for full benefits rises to 70. At that point the scale of benefits for retirement from ages 62 to 70 would produce an actuarially fair increase for waiting until age 70 to collect, which is in fact the ultimate goal of phasing in a larger delayed retirement credit under current law. In addition, the bill would freeze the credit at 4.5 percent a year (i.e., the level scheduled to take effect in the 1994–95 period) to minimize the potential windfall effect of the uncoordinated phase in enacted in 1983.

Beginning in the year 2000, cost-of-living adjustments (COLA's) would be given on a biennial basis, except when inflation exceeds 4 percent a year.

COLA's are a vital and unique part of the social security system. However, they are also an expensive feature. In concert with raising the full benefit age, the bill would attempt to reduce future social security costs by providing COLA's on a biennial basis, rather than every year, beginning in the year 2000. The COLA provision was not designed to guarantee an annual benefit increase. The fact that we have permitted the system to do so since 1984 has caused people to lose sight of the COLA's basic purpose, which is to assure that social security benefits are not eroded over time by inflation. It also should be recognized that the COLA provision was not even enacted until 1972, some 37 years after the original Social Security Act was passed in 1935. In prior periods, benefit increases could come 5 or 6 years apart. In the 1940s, recipients went 10 years before benefits were increased (inflation of 75 percent or so was matched by a benefit increase of 77 percent in 1950). The point is that it is the amount of inflation that is most important, not the frequency of adjustment.

It is my feeling that the current policy of annual adjustments is too generous for the long run. It affords a COLA even if the inflation rate is as low as one-tenth of one percent. My bill would alter the current practice by providing COLA's every other year based on a two-year period of inflation. If, for instance, the cost-of-living rose by 3 percent a year, a COLA of 6 percent would be provided every other year. In effect, the bill does not skip or ignore inflation, it simply adjusts benefits less frequently for it. The only exception I would make is if inflation heated up to a level of more than 4 percent a year, in which case I would provide the COLA annually as is done today. In order to avoid any sudden changes in the expectation of recipients, this provision would not take effect until the year 2000. I realize that many recipients on the rolls today would be affected eventually, since they will still be recipients in the year 2000. But the delay should give them time to prepare.

The bill contains other measures to mitigate its impact on poverty-prone recipients.

I recognize that these changes could be painful prescriptions for some older people. We know that the least well-off segments of the social security population are surviving spouses, particularly widows, people age 80 and older, the never married, and to some extent, those who retire early because of job loss or partial disability. Married recipients and people who continue to work to advanced ages tend to be among the more fortunate. The bill would make a number of changes in an attempt to mitigate the impact of the retirement age and COLA changes on those groups with higher poverty rates. Two improvements would be made for surviving spouses. One would eliminate the reduction a widow or widower must take because his or her deceased spouse had retired early on social security. This reduction can be as much as 18.5 percent today. A second measure would lessen the amount of the reduction that a widow or widower must take because he or she filed for benefits early. Today, this reduction could be as much as 28.5 percent (for someone who files at age 60), and under the age-related provisions of the bill, it could be as much as 40 percent. Under this second measure, the maximum reduction an age-80 or older widow or widower would take would be scaled back and eventually limited to 10 percent. This would done over a 25-year period beginning in the year 2000.

In addition to those receiving widows' and widowers' benefits, many older social security recipients are poverty-prone singles living on their own social security benefit—they have lost their spouses but their own benefits are higher than what they would get as a survivor, or they have never married or are divorced. As a means of helping them, the bill provides a general 5 percent increase to all recipients who attain age 80.

Most important for the poverty-prone early retirees, the bill would reduce that age at which SSI "aged" benefits could be paid from 65 to 62. This would be phased in over 12 years beginning in the year 2000, with the first age of eligibility dropping by 6 months every two years (i.e., in the year 2000, SSI benefits could be paid at 64½; in 2002, they could be paid at age 64; and so on).

The bill is intended to restore confidence among the baby boomers by making promises to them.

The change contemplated under the bill are based on the premise that the tax burden on future generations cannot rise to the level that the current promises of entitlement programs would create. This bill is based on the premise that the children of the baby boomers should not have to shoulder a level of taxation that we ourselves are not willing to pay today. Thus, the changes it would make are designed with the purpose of sustaining the social security system, and restoring actuarial balance, but with the level of social security taxes currently scheduled in the law. Confidence in the future of social security and other entitlement programs can only come from making realistic promises to the baby boomers and their children.

This bill also is premised on the belief that year-to-year changes to entitlement programs through the budget process is a bad way to make policy. It is too short sighted. By definition, it ignores the long view. Piecemeal changes will only erode public confidence.

But the bill does require a bold and politically painful leap today. It says that we cannot wait until 2008 or 2010 to make changes. Waiting until then would lead to abrupt changes. It would mean pulling the rug out from under people and disrupting their lives. We have time to prepare the baby boomers, and for them to prepare themselves, if we legislate today. If we do, we can avoid having to make changes under duress or in a crisis atmosphere. If we wait until 2010, we may be caught between two age groups already pitted against one another. I believe that taking the leap proposed in this bill would show that we can govern, and not just to meet next year's deficit target, or to meet deficit targets for the next 5 years. Planning for the future means that we have to look out a generation's worth to truly understand what we need to do.

□ 2040

PROBLEMS IN THE AMERICAN ECONOMY

The SPEAKER pro tempore (Mr. RUSH). Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, what I would like to do is yield to the gentleman from New York State [Mr. HINCHEY], and afterwards I will say a few words, and then we will participate in a dialogue.

Mr. HINCHEY. Mr. Speaker, I thank my colleague from Vermont, [Mr. SANDERS] for yielding me this time.

Mr. Speaker, I would like to take this time to discuss some problems in our economy and some of the things that we might do to address those problems in terms of needed investment.

I would like to introduce that by observing that at the turn of the last century, the Parisian born Italian economist Vilfredo Pareto, recognized in his field for the contribution he made in applying mathematics in economic theory, earned his greatest reputation, not for that contribution but for his magnum opus Mind and Society, an extraordinary work in sociology. Perhaps the most impressive lesson of that 4-volume work was his devastating delineation of the strong component of the nonrational in all our institutions.

Not only did he identify the irrational in economic institutions but in the activities of government as well. Looking at the present state of affairs, here and abroad, I think that both economists and those involved in government would agree that the situation has not changed much in the hundred years that have passed.

Professional economists tend to work strictly within the limits of their own specific scientific discipline; we, as legislators, must measure an issue by many criteria, sometimes involving several fields of science, frequently without being expert in any. We come to our job with certain preconceptions as to what Government can and should accomplish. That the preconceptions of officeholders have no necessary connection with scientific validity was demonstrated by former President Reagan on more than one occasion during his 8 years in office.

Someone has defined politics as the art of the possible, but often, to judge by the pace of results, it might be redefined as the art of making the possible impossible. Certainly there would be some justification for so characterizing the budget debate of 1993, which saw laudable goals for reinvestment whittled down to insignificance.

On November 5, in the business section of the New York Times, there was an article announcing "Market Plunge Threatens Yearlong Rally." I will quote from two paragraphs that were of particular interest to me:

> The first problem for the traders and investors in the last several weeks has been the fear of rising economic growth. Without looking at longer-term trends, traders and investors often instinctively interpret growth as a threat of rising inflation, which erodes the fixed returns in the bond market.
>
> That fear has increased with reports showing stronger growth in the third quarter and auto sales data indicating more growth in the fourth quarter.

There is nothing unusual in finding this kind of statement in a business publication. It is a description of the marketplace at work, as seen by investors and traders. Somehow or other, however, it has a disturbing quality in that it seems to imply that investors and traders are afraid of economic growth. I am referring to the words, "traders often instinctively interpret growth as a threat of rising inflation, which erodes the fixed returns in the bond market."

This is an over simplification of their position, of course, and they would say that what they are really concerned about are the dangerous side effects that can occur when economic growth becomes too rapid.

In so doing, however, they are conceding that in some circumstances, they can be adversely affected by a growing economy. And an argument can be made—and has been made—that much of recent monetary policy was designed to protect their interests at the expense of an increase in the Nation's productivity.

I respectfully suggest that it is not the welfare of the top 5 percent of the families in this country that is threatened by economic stagnation. It is the rest of us who cannot afford to buy the tax exempt bonds that pay for America's indebtedness.

According to the Congressional Budget Office, between 1977 and 1988, the poorest 10 percent of our population had a tax increase of some 20 percent while the top 10 percent had an overall decrease of 5 percent. The very wealthiest 1 percent had a decrease of nearly 20 percent. During the same period that same very wealthiest group had a 50-percent increase in income, and the top 10 percent an increase in income of about 17 percent. On the other hand, the lowest 10 percent of families had 13-percent decline in income and the second, third, fourth, fifth, sixth, seventh, and eighth deciles also had declines in income of between 2 and 8 percent.

Another study by the United Nations Development Program looking at the top 21 industrialized nations found that only Australia has a higher rate of income inequality than the United States.

That such figures do not speak well for the American economy is obvious.

It is imperative that we recognize the importance of this factor as we seek to increase the Nation's productivity. The disparity in income between those at the top and those at the bottom of the ladder is a cancer that will ultimately sap the vitality of our economic system exacerbating the social problems that are already plaguing our society.

Those of us in Government have a responsibility to the total electorate not just the top of the pyramid. The top cannot long exist without a solid base.

It is as clear today as it was in 1932 that industry itself is not in a position to pull itself up by its own bootstraps. It is still burdened by the excessive, speculative investments of the 1980's. The malaise has become deep rooted. It needs more than over-the-counter medication. Elected officials can no longer afford to ignore the growing consensus that exists among economists that a massive infusion of investment capital is needed not only to increase productivity but to restore existing facilities and upgrade the quality of our work force. As in 1932, this is a role that only Government can do in an organized and effective way.

President Clinton in his 1992 campaign identified the need for public investment, and included provisions for this in his budget proposal. Unfortunately, largely for political reasons, that part of his proposal was emasculated, although the equally laudable effort at deficit reduction was more successful.

A group of over 300 American economists in 1989 issued a statement in which they pointed out that:

> Just as business must continually reinvest in order to prosper, so must a nation. Higher productivity—the key to higher living standards—is a function of public, as well as private, investment. If America is to succeed in an increasingly competitive world, we must expand efforts to equip our children with a better education and our workers with more advanced skills. We must assure that disadvantaged children arrive at school age healthy and alert. We must prevent drug abuse and dropping out among teenagers. We must fix our bridges and expand our airports. We must accelerate the diffusion of technology to small and medium sized business.

At the beginning of 1993 it was estimated that domestic spending must be increased by a minimum of $60 billion—more than 1 percent of the gross national product that year—just to keep from widening the investment deficit further. That $60 billion increase was not presented as an optimum figure but reflected the general perception as to what was politically credible in a voter climate that had become hostile to anything that seemed to suggest higher government spending.

The governments in competitor nations have already invested more in their futures, despite their own economic problems. The United States has been investing less, setting the stage for further declines in living standards and competitiveness. For the period 1980–1989, the United States public sector, Federal State and local, invested 1.6 percent of the Nation's economic output in physical capital. Japan invested 6.3 percent and Germany 4.4. This represented a widening of the gap between ourselves and those competitors as compared with early post-war periods. Closing that gap is of crucial importance.

Investment did increase substantially during the Bush administration but failed to reach levels that had been achieved prior to the cuts that came during the Reagan years. While the fiscal year 1994 investment level will represent only a small decrease since fiscal year 1993, we can only express disappointment that there was no increase.

The administration must redress this problem by developing a more aggressive public investment program, and in a timely fashion.

Now we have finally reached a national consensus on the need for deficit reduction, and are committed to a specific deficit reduction plan. With this sea-change in the Nation's fiscal policy, there should be greater receptivity to a well conceived public investment program. This is particularly important because there is a consensus among economists that deficit reduction alone will contract, not expand, the economy, at least in the near future. The CBO estimates that eliminating the deficit over a 5- to 10-year period would slow growth by about 0.5 percent and rob the economy of 500,000 new jobs each year. Two private forecasting companies, DRI/McGraw Hill and the WEFA group, recently reached similarly bleak conclusions. The University of Michigan and the Economic Policy Institute also reached the same pessimistic conclusion. Therefore, we must go further than simply saying that this is a propitious time for undertaking a public investment program. It is imperative that we do so if we expect to bring about an early improvement in the Nation's economic growth. Moreover, I think there is agreement that Federal investment can be undertaken in a way that does not require a significant impact on the budget.

There still are those who resist the idea of the government taking on the role of shaping the direction of investment and usurping the function that they feel belongs to the private sector. The truth of the mater is that the private sector has rarely been willing to accept the risks or expend its limited resources in the kind of research and development in which the government has had the foresight to invest. Whole industries owe their existence to the willingness of the government to invest huge sums in projects that otherwise would never have got off the ground. The nuclear energy industry, with its spinoffs, is probably the most recognized if unfortunate example. The computer industry also owes an enormous debt to governmental support. Earlier the Tennessee Valley Authority and other New Deal pubic projects for roads and bridges provided the infrastructure so essential to the growth of our automobile, electrical, and rail and truck transportation industries. And today, global communications networks and satellite systems owe their existence and rapid growth to the kind of pioneering work done in space by NASA. Government programs in health, research, in oceanography, in demography and cartography, and in other areas, have been put to use by the very business community that too often likes to complain about the intrusion of the government into private sector affairs.

America's infrastructure has been neglected for a generation now, and the Competitive Policy Council's Subcouncil on the Infrastructure, in its August 1993 report, has pointed out that:

> * * * maintaining a viable infrastructure is essential for the country to retain current levels of business development and attract new business. The congested and deteriorated highways and inadequate links from truck to rail or rail to marine terminals reduce productivity and drive up the cost of goods and services. The real issue is not just fixing up potholes; it is competitiveness.

The right mix of public investment outlays can start to pump money into the economy almost immediately. Road and bridge maintenance projects, for example, could put 25,000 people to work on jobs that require a relatively low level of skills, but the multiplier effect of those jobs could be more beneficial to the economy than what might be accomplished through new construction work. Such jobs are particularly important because our less skilled workers are most vulnerable in the transition that is taking place in industry throughout the industrialized world today.

Other areas where public investment can bring long term rewards are in research and development of new processes involving high technology, where each breakthrough can spawn not one but sometimes several industries.

Possibly even more important is a substantial investment in human capital. Not only are we confronted with the task of upgrading the skills of American workers and improving their educational level so that we are more competitive on the world market, but we have the larger task of reversing such problems as youthful delinquency and crime, drug addiction, and a breakdown of normal behavioral patterns—problems that are not only graphically recorded in our movies but that those movies have in some instances contributed to. The end of World War I brought with it sweeping changes in the way society behaved, but not so sweeping as those set in motion by World War II. Perhaps the most profound change was brought about by the entrance of women into the labor force in ever-increasing numbers. Both parents in most families now must work to support the home. Family life, as it was known at the beginning of the century, has all but disappeared. The problem is compounded by the growing prevalence of single-parent families. There is a great need for innovative governmental programs that will provide a mechanism for ensuring that tomorrow's work force is not crippled even before it reaches the age for formal education.

One proposal already put forth would assign the following outlays over a 5 year period:

1. It would assign outlays of $25 billion for highways and bridges, transit, rail, airports, water treatment facilities, environmental cleanup, and next generation infrastructure. All these are areas which have obviously direct bearing on the productivity of our economy. That America's infrastructure is badly in need of upgrading requires no great professional acumen. We are all aware of it.

2. It would assign another $15 billion annually for children's programs, a national training system, aid to poor school districts and dislocated worker training.

3. It would assign $30 billion annually for revenue sharing, payroll tax cuts, and a homebuyer tax credit.

4. It would also assign an amount equal to additional defense cuts to civilian R&D, worker adjustment, aid to communities, and market creation.

Such a program is designed to create 5.7 million job-years over the 5-year period; increase in GDP by $345 billion; increase real wages by $207 billion; and reduce the deficit by $26 billion.

There will be some who will consider such a program too modest to meet the urgency of the need; others, who will consider it too problematic in its benefits. Nevertheless it is proposals such as this that must be studied and debated in Congress, without becoming bogged down by ideological roadblocks that are so frequently erected whenever new ideas are broached.

We in Congress must be receptive to proposals that are put forth and not dismiss them summarily simply because they are new and untried or seem at first view not to accord with our own preconceptions.

For example, another proposal that impressed me was prepared for the Jerome Levy Institute by Edward V. Regan, "Investment and Economic Growth," in which the institute recommends a major maintenance renovation program with the Federal share of the costs spread over the useful life of the renovations. This would involve a 2-year, $80 billion, one-time program to provide a major upgrading of State and local roads and bridges. The effect either of the financing plans outlined in the document would have on the Federal budget would be quite modest, and the plan would create useful long-term national assets of the type that spur private sector investment.

As David and Jay Levy have written,

> In the present era of inevitably large government deficits and a widespread reluctance to borrow more than necessary, the inability to distinguish between investments and expenses leads to gross distortions of national priorities. * * * Government denies the economy needed fiscal stimulus; too much of the stimulus it does provide is consumed without creating assets of lasting value; and public infrastructure and other long term interests are neglected. One way or another, policy makers will ultimately have to recognize that investment is investment, not expense * * * a proposed system of National Accounts will separate the federal government's investment in structures and durable goods from its expenses.

This is a lesson that more and more of us are learning to understand. The fact that the deficit spending of the Reagan years saddles us with a national debt that will require a whole generation to pay off is only half of the story. The harder part of the lesson is that paying off the debt will not in itself bring us prosperity. We must have the courage to reinvest in America at the same time that we pay off that debt. That will require a partnership between business, labor, and government. Each group will have to recognize the rightful role of the others and recognize also the obligations and limits of its own role. Let me suggest that the mood of the country today makes it transparently clear that all eyes today are looking towards Washington to provide the vision, the courage, and leadership that is needed.

□ 2100

Mr. SANDERS. I thank the gentleman for his comments.

Mr. Speaker, I want to take this opportunity to congratulate the gentleman from New York [Mr. HINCHEY] for his remarks.

Mr. Speaker, the Progressive Caucus, of which Mr. HINCHEY and I are members, is working hard to develop a major jobs bill. Mr. HINCHEY is playing a leadership role in that effort.

Clearly, at a time when the standard of living of the average working American continues to decline, when our manufacturing base continues to shed jobs as companies downsize or as companies move to Mexico or Latin America or Asia for cheap labor, it is absolutely imperative that the Federal Government invest in our future—that is, our infrastructure, mass transportation, schools, libraries, affordable housing, environmental protection—and so with decent wages.

I look forward to working with Mr. HINCHEY and others in that effort.

Last year well over half of the new jobs that were created in this country were part-time, temporary jobs with limited benefits. And that cannot be allowed to be the economic future for the United States of America. That is why we need a real jobs bill that puts millions of people back to work rebuilding this country at decent wages and giving hope to people who today have lost hope.

Mr. Speaker, mostly what I want to touch upon tonight in my remarks is something that is very, very rarely touched upon on the floor of this House.

We talk about many things, but I believe that sometimes we have a tendency to run away from the most important issues, the issues that are affecting the hearts and souls and the feelings of the American people.

I think one of those issues that we do not talk about is my belief that this great country of ours is moving very rapidly in the direction of oligarchy.

Oligarchy, as you know, is a form of government in which a small number of very wealthy people exercise enormous influence over the economic and political life of a nation. And when I was in elementary school and in high school, I am sure, for millions of other Americans, what we talked about when we talked about oligarchy, what we often were referring to were the banana republics of Latin America. We were told how a handful of very, very wealthy families controlled the economic and political life of this or that country in Central America or Latin America.

Well, Mr. Speaker, it seems to me that to a large degree that is precisely what is happening in our country except it is a lot harder to see it happen in our own country than it was to see it happen in small countries around the world.

Let me just very briefly touch upon some of the trends which lead me to that conclusion and then to suggest some of the directions that I think our country might go to once again open up the economic and political life of this country so that we begin to deal with the problems facing ordinary people rather than just the wealthy and the powerful.

What is in fact going on economically in this country today? Well Mr. HINCHEY in fact touched upon some of those points. But let me just reiterate it and add something to that. Mr. Speaker, 20 years ago the United States of America led the world in terms of the wages and benefits that we provided our workers. We were No. 1. That is what we were. And throughout all of my life, what I had heard and everyone else heard was that the United States was leader of the world in terms of the standard of living of its people.

Well, very tragically, very sadly, that is no longer the case. Today, in fact, the United States finds itself in terms of wages and benefits for its average workers in 13th place behind a number of other countries in Western

Europe and in Scandinavia. The gap between those countries and the United States is growing wider.

Mr. Speaker, you will have noticed recently that automobile companies in Germany are moving toward the United States, are coming into some of our States. Why are they coming here? Well, the answer is obvious: They are coming to the United States of America for cheap labor.

□ 2110

I think that many people who hear that shake their heads in disbelief. They say, "I can't believe it."

Companies from other countries are coming into the United States for the same reason that American companies are going to Mexico, for cheap labor. In my own State of Vermont we have highly-skilled intelligent hard-working people who work for $7, $8, $9 an hour without benefits.

Do you know why? You cannot get those workers in Europe or Scandinavia for those wages. That is why many companies are moving to the United States of America.

That is a disgrace. Something has happened in this country. We should be looking at the roles of the Democratic and Republican Parties and the people who own this country to explain why we are now in 13th place, when we used to be in first place.

And what about benefits, not just wages? How about health care? As I think most Americans understand, the United States today, along with South Africa, remains the only industrialized nation on Earth that does not have a national health care program which guarantees health care to all our people, that sees health care as a right of citizenship for all people, rather than just a privilege for the wealthy.

So when we compare ourselves to our European friends, our Scandinavian friends, they shake their heads literally in disbelief to understand that in the United States we have 37 million with no health insurance, 50 million Americans who are under-insured, that people die because they do not have the money to go into a doctor's office or a hospital. People look at this country from Europe, from Scandinavia, and they wonder what in God's name is going on in this country.

What about paid vacation days? We do not talk about this too often. How many of the viewers know that the United States today, compared to other major industrialized nations, has fewer paid vacation days for its workers than any other country?

Talk to German workers. They have 25 to 30 days of paid vacation. We, if my memory is correct, average about 10 days, and in fact, as the standard of living for the average American worker declines, our working people are working longer and longer hours. It is not uncommon in my State, and I believe in the other states, to find workers working 50, 60, 70 hours a week at one job, two jobs, three jobs, in order to bring home the bacon to keep their families going. We are working longer hours for lower wages. That is what is going on in this country.

In general, the real wages of American production workers have decline by 20 percent since 1973, and the standard of living for four out of five American families went down during the 1980's.

So the challenge of what the gentleman from New York [Mr. HINCHEY] and many of us are talking about is how do we reverse that trend so that once again this Nation is No. 1 in the world in terms of the standard of living, the wages, the benefits, the educational opportunities and health care that the people of this country receive. That must be our vision. That must be what we are fighting for, not to see us continue to decline.

On the other side, however, there is something else going on. While ordinary working people are facing more and more problems, living under more and more stress, something else is going on. That is the wealthiest people of this country are seeing an increase in their percentage of the wealth that they own, and increase in their incomes. So what is going on in fact is that the rich are getting richer, and in many instances very much richer. The middle-class is shrinking and the people down at the very bottom are in worse economic straits than at any time since the Great Depression of the 1930's.

According to a 1992 Federal Reserve study, the wealthiest 1 percent of our population now owns 37 percent of the wealth. I know people get very bored by statistics, but let me mention it once again. The richest 1 percent now own over 37 percent of our wealth, while the bottom 90 percent owns only 31 percent of the wealth. That means that the wealthiest 1 percent of our population own more wealth than the bottom 90 percent. That, my friends, is what oligarchy is all about.

So what we are looking at is a Nation in which some people have billions of dollars and their incomes are soaring, and we are also looking at a Nation in which today 5 million of our children are going hungry, close to 5 million of our senior citizens are fearful about hunger, and we are seeing a growing gap between the rich and the poor.

Now, when I grew up, that was not what America was supposed to be about. Men and women fought and died and put their lives on the line in wars in order to make us a democracy, and a democracy does not simply mean the right to vote once every 4 years for the lesser of two evils. What a democracy means also are basic economic rights. What we are seeing now more and more is the tremendous pressure that the average working person in this country is being forced to live under.

What about the future of the economy? How is it going? My friends, please do not believe the statistics that you see at the end of every month when they talk about unemployment rates going down or whatever. Those statistics are only telling half of the story.

For example, the 6.7 or 6.8 percent unemployment rate does not count many people who have given up looking for work. So the unemployment rate in fact is much higher than the official statistics indicate.

But more importantly, what those unemployment rates also ignore is the fact that millions of Americans who want to work 40 hours a week for a full-time job for decent wages, they are not finding those jobs. They are working at part-time jobs, temporary jobs.

Yes, they are employed. Yes, they are bringing in some money, but they are not bringing in, in many instances, enough money to adequately take care of their families. They want full-time jobs at decent wages with decent benefits and they most certainly do not have that.

When we talk about oligarchy and what is happening to working people and other trends in this country, it is important to point out that last year the CEO's, the chief executive officers of the major corporations in America saw a 56-percent increase in their incomes, 56 percent while the incomes of their employees remained stagnant.

I think most dramatically, and this tells you something about the mentality of the people who own America and the mentality of the people who have a lot of power in America, the study found—and this was Business Week, it was not some kind of radical magazine that brought forth this information—Business Week found out having done a survey that the CEO's, the chief executive officers of the major corporations in America, now earn 157 times what their employees earn, 157 times.

Now, we can all understand the employer, the boss, makes more money than the worker. That is not a very shocking reality, but to know that the gap is 157 to 1 is I think shocking, and I believe is unacceptable. In Japan I believe it is 32 to 1 and in other countries the ratio is far lower. That is the greatest gap in the world.

Mr. Speaker, I think that it is about time and long overdue that the working people of America, that the low-income people of America, that the senior citizens who tonight are unable to afford the prescription drugs that they need to ease their pain, that they begin to stand up and begin to fight back against a Congress, against a corporately controlled economy which is not responsive to their needs.

Now, if the people do not want to fight back, then I can only predict to them that as bad as things are now, they will probably get worse, because the way the Congress operates, the way politics operates is everything being equal, we can listen, we can expect that the Congress and the President will pay a lot of attention to the people who have the money, who make the campaign contributions and will ignore the needs of working people and poor people.

I think one of the sad aspects of what is going on in our economy and in our political life today is that we have by far the lowest voter turnout in elections of any major country on Earth. My guess is that in the next election, for example, 50 percent of the people will not vote. In fact, it could well be 60 percent of the people who will not vote. The poor people in this country do not vote.

So when we often talk about South Africa and we say how terrible it is that black people in South Africa cannot vote, we should understand that in this country so many people, poor people and working people, have given up on the political process. They have given up. They say, "Hey, why should I waste 5 minutes and go out and vote? Doesn't matter who I vote for, Democrat or Republican. It doesn't matter. My economic problems are only going to get worse. The rich are going to get richer. Why should I bother to participate?"

That has a Catch-22 aspect about it, because if poor people and working people do not get involved and they do not vote, then this Congress and the President become even less responsive to their needs.

□ 2120

So, I think we should hope, I hope, and would very much urge people, to get involved in the political process, to stand up and fight for a progressive agenda. Let me very briefly touch on four or five ideas that I have and that many of us, or at least some of us; I do not want to go too far and say many of us, but some of us here, often in the Progressive Caucus, have as to how we might proceed to turn things around in this country.

First, the gentleman from New York [Mr. HINCHEY] has already gone into excellent detail on the issue, and that is that we need a major jobs program to rebuild America. Our infrastructure in every State of this country faces enormous problems. We should rebuild that infrastructure, and at the same time we put our people to work at decent wages. That, I think, is very important. I will not go into it at great length because the gentleman from New York [Mr. HINCHEY] has already done that.

Second, it is imperative that we protect the needs of our low-income workers. In fact, President Clinton has already made an important step forward in that direction by expanding the income tax credit, and that will help many low-income workers, but we have got to go further in that area. My hope is that the legislation which I have introduced, which would raise the minimum wage in this country to $5.50 an hour, will become law.

Since 1980, Mr. Speaker, the purchasing power of minimum wage workers has declined by 23 percent. In other words, in 1980 minimum wage workers were much better off than they are today because during the period of Reaganomics the minimum wage was not raised. So, I think what we have to say is that every person in this country who works is entitled to lift themselves out of poverty. It does not make a whole lot of sense to be working for 40 hours a week and then finding themselves more deeply in debt than before the week began. So, we have got to protect the needs of our low-income workers.

Third, Mr. Speaker, we must deal, of course boldly, with the health care crisis in this country. We hear a whole lot of talk about health care, but I think, if we are to move forward with a universal health care program protecting every man, woman and child in this country, if it is going to be comprehensive, which means that all of our health care needs are going to be taken care of, and if it is going to be cost-effective, the only program that has been introduced in the House and in the Congress that will do that is a single-payer, Canadian styled health care system. That is cost-effective because it does away with billions and billions of dollars of administrative waste which is inherent in our current system which has 1500 private insurance companies which are driving everybody crazy. They are driving the doctors crazy, they are driving patients crazy, they are driving hospital administrators crazy. The GAO last year estimated that we could save 10 percent of our health care costs by moving toward a single-payer system. That would be $90 billion. We could use that money to provide for the uninsured and the underinsured. The Canadian styled single-payer system will provide quality care to every man, woman and child in this country without enabling us to spend one penny more than the 900-plus billion dollars that we are currently spending, but in order to bring that about the people are going to have to stand up and take on the very powerful insurance companies who obviously are fighting for their own profits. We are going to have to take on the AMA. We are going to have to take on the pharmaceutical companies who are charging our people today far higher prices for the same prescription drugs that are sold in Europe, or in Canada or in Mexico.

So, we got a whole lot of people who are part of what we call the medical-industrial complex. They like the system very much because they are making billions and billions of dollars in profit off of it. But I think clearly we, as Americans, are going to have to rise up and fight for a single-payer, Canadian-style national health care system.

Fourth, and very importantly, and we are seeing it right now interestingly all over this country in terms of the strike against American Airlines; here we have working people who are standing up for their rights, and what their employer is threatening them with is, "If you stand up for your rights, you're going to be fired."

Now I did not know that is what America was about. I did not know if American workers stood up and went on strike that it was acceptable for a company to say, "Good-bye, you're fired. I can bring in all of the new employees that I want at lower wages than you're receiving today." Is that what America is really about? Have we reached that level?

Clearly, Mr. Speaker, not only do we have to pass the striker rights legislation, which in fact passed this body, but is being hung up in the Senate because of fears of a filibuster, but we have got to go further, and what we have got to do is rebuild the labor movement, the Unions in this country, and I know from many people that unions are a dirty word, but, as my colleagues know, it is a funny thing. The American Medical Association is a union of doctors fighting for their rights. The American Bar Association is a union of lawyers fighting for their rights. The American Bankers Association is a union of bankers. The American Manufacturers Association is a union of the people who are heads of the large corporations in America. If it is OK for those people to come together, as it is, to fight for their rights, why is it so terrible or bad that janitors come together, and people who come to work in factories come together, or airline attendants come together, to fight for their rights?

Right now in this country our labor law is very, very primitive. It makes it very, very hard for the people who want to form a union to, in fact, be able to do that, and I will, in fact, be introducing legislation which will radically change labor law in this country and make it far easier for workers to come together into unions to fight for their rights, and we need that because, if we do not have strong unions fighting for the working people in this country, who do we think is going to be protecting the interests of the working people in this country? I ask my colleagues, Do you think it's going to be General Electric? Do you think it's going to be General Motors? Do you think it's going to be the leadership of the two parties? I do not think so. Working people together have got to stand up and fight for their rights, and that is what a strong trade union movement can do.

And the last point that I would make is that we must continue the effort toward serious tax reform, and the gentleman from New York [Mr. HINCHEY] also touched upon that earlier. What we know in terms of what has happened in the last 10 years:

The wealthiest people have become wealthier. Their tax burden has declined. But if we look at the combined tax burden of American workers in terms of Federal tax, State tax and local taxes, their tax burden has gone up. The rich get richer, see a decline in their tax burden, and the middle income and working people become poorer and see an increase in their tax burden. The good news is that in fact the Clinton budget began to address that problem. We did raise taxes on the rich. We did, by expanding the earned income tax credit, lower tax, in effect, for the working poor. That was a good start. We have got to continue that effort.

So, those are just a few of the points that I wanted to make, and I wanted to mention that there are a number of us in this Congress who, in fact, are trying to fight hard for the interests of ordinary working people, and some of us have come together in a group called the Progressive Caucus, and what I would just like to do is to yield some time to the gentleman from New York State who is playing an active role in that effort and maybe just ask him how he perceives Congress reacting to the needs of the people from his own district.

Mr. HINCHEY. First, Mr. Speaker, let me inquire as to the time. How much time do we have left?

The SPEAKER pro tempore (Mr. RUSH). The gentleman has 17 minutes remaining.

Mr. HINCHEY. Well, I think so far that the things we have done here have not responded adequately to the problems that affect my district. These are problems that are traceable back to the wounds that were inflicted upon this country, our society generally throughout the decade of the 1980's, where we had wild speculation and investments, and now we are seeing a decline in productivity, a decline in manufacturing and an inward drawing down of the size of major manufacturing companies, and, as a result of that, more and more people are being put out of work. The unemployment rate is going up. Layoffs are increasing. Manufacturers and other industrialists are trying to find ways to contract, to cut down on their costs, and frequently the way that they are doing that most aggressively is by cutting back on the number of people that they have working in these manufacturing establishments.

Mr. SANDERS. That is the so-called downsizing phenomenon; yes?

Mr. HINCHEY. That is the so-called downsizing phenomenon, yes, and it is a very injurious phenomenon. It is injurious obviously to the people who are affected who will lose their jobs. It is injurious to their families. It is also injurious to our Nation because it exacerbates the kind of problems that the gentleman was just talking about, he and I were just talking about, over the course of this last hour, about the fact that people are facing a serious decline in their incomes. More and more families are requiring two incomes just to keep pace, and frequently, even with two incomes, they are not keeping pace.

□ 2130

With those declines in income, they are facing a reduced standard of living. And that reduced standard of living, which is becoming increasingly characteristic in many places across the country, more severe in some than it is in others, but increasingly characteristic across the country, is causing a decline in our economy.

This situation is one that feeds upon itself. It is almost self-perpetuating. If there is no intrusion from without, if there is no program to bring about investment of a program that is designed to improve economic conditions and raise the standard of living and raise people's economies, raise their job prospects and raise their hope, if that does not happen, then the condition that I just described is going to continue and feed upon itself, and conditions are only going to get worse.

That is why I believe so strongly that what we need to do as a Nation, what this Congress needs to do and what the administration needs to do, is to provide a substantial amount of public investment to improve our very seriously deteriorating infrastructure, our roads and bridges, our rail systems, our mass transit systems, and to invest in those existing systems, as well as in systems of the future, high speed rail, advanced electronics.

Mr. SANDERS. If I could interrupt the gentleman, he knows that several weeks ago in Canada there was somewhat of a political revolution of the conservatives being swept out of office and the liberals coming in. One of the planks that the liberals ran on, and I expect they will be implementing, is a major jobs program calling for the rebuilding of the Canadian infrastructure. I think they talked about for Canada a $6 billion program, which, compared to our economy, would be somewhat equal to a $60 billion jobs program in this country.

As I think the gentleman mentioned earlier, Japan has recently done the same thing. So I think we are not unique internationally in saying it makes a great deal of sense to put people back to work in investing in our infrastructure.

The fact of the matter is we are going to have to deal with deteriorating bridges, streets, inadequate transportation, a lack of affordable housing, schools that are crumbling, libraries that are crumbling. We are going to have to deal with it.

Now is not only as good a time as any, it is a better time than any. Interest rates are low. It will cost us less money to make that investment. The longer we wait, the more that investment will cost.

Mr. HINCHEY. Unquestionably, now is the time to do it. We need to plan I think for the future. We need to plan for the next generation. What kind of jobs are going to be available for people getting out of college? What kind of jobs are going to be available for people getting out of high school, those who are unable or do not wish to go on to college? What kind of job opportunities are we are going to attempt to provide for the next generation of our citizens?

It is the young, particularly people in the age group, say, between 18 and 24 years of age, particularly in the inner cities, that are experiencing so many very serious problems. Those are serious problems that afflict not only them, but afflict our society as a whole and cause us to expend enormous amounts of tax revenues in order to attempt to deal with those problems once they get to a level where they become so serious.

Mr. SANDERS. I could not agree with you more. There are millions of young people in this country who will never have a full-time job in their life. The hopelessness that those young people feel is such, and I think Jesse Jackson made this point during the Democratic Convention, I believe, that for some of these people, going to jail is a step up the economic ladder. Because at least in the wintertime it provides them with a bed and three meals a day, which is a lot more than they are getting right now. And given the life that they are living, not that one wants to defend the actions anyone takes, the hopelessness, the understanding that many of their friends have already been shot down or die from drug overdoses, many of these young people see no future. That is a very sad, sad story for the young people of this country.

Mr. HINCHEY. The truth of it is that there are things we can do about it. There are solutions to these problems. I think we are in danger of allowing the problems to look so huge that we seem to be overwhelmed. But the fact of the matter is that this society, with a $6 trillion economy, is still the strongest economy in the world.

Part of the problem in some sense, perhaps one of the most serious aspects of the problem, is the dislocation in those resources, the concentration of wealth in fewer and fewer hands, and the disaffection of larger and larger numbers of people, lower income people, and increasingly people in the middle income range as well, the disaffection from the economy. It is the inability to take part in the economy in a meaningful and effective way.

Mr. SANDERS. I was the mayor for 8 years of the largest city in the State of Vermont, the city of Burlington. During that time we spent a great deal of effort to get people in the low income communities involved. And we had some success. But it left a lasting impression on just the enormous stress that low income people are living under right now.

Their struggle every day is to see that their kids have enough food to eat, that there is clothing on their backs, on the backs of the kids going out to school, that their daughters are not pregnant, the boys are not in jail, and so forth and so on. And I do not know how it is in your district, but certainly the pressure on low income people is so great that it just is very, very difficult for them to look at politics and government as a way out of addressing those problems that are so far removed. If you are struggling and figuring out how you are going to survive, the idea of looking at elections a year from now or political programs just seems like out of this world. Does that sound familiar?

Mr. HINCHEY. It seems very foreign, absolutely. It seems very remote. Also it is difficult to relate to it in any way, because it does not seem that the people who are running for office frequently are addressing these problems and talking about them. So there is little reason for people sometimes to believe that people who are aspiring to public office have any sense of their problems, any sense of their needs, or, least of all, any attempt to solve them.

Mr. SANDERS. Or they talk about them during the election and forget it the day after the election as often as not.

One of the points I would like to make is if a young person breaks into a grocery store tonight and robs several hundred dollars of groceries or something, that is considered to be a crime, and it should be a crime. It is a crime. Yet I find it so interesting that when large multinational corporations decide to leave this country and head for Mexico or head for Asia in search of, in some cases, starvation labor, and in the process throw American workers out on the street, many of whom might have worked for those companies for 20 or 30 years and invested their entire life in those companies, and when the CEOs decide to move away and leave these people with nothing and these communities with nothing, no one has much to say about that. We do not consider that a moral crime.

I always get a kick out of the word "patriotism." The right wing in this country has done a good job in capturing patriotism. At the end of the war these big corporations put full page ads in the newspapers and said how much they loved the country, and thank you to the men and women who fought for the country.

The next day they are going to close a plant that may well be profitable and move to Asia or Mexico and throw our people out on the street. So I would hope that some of these CEOs, who claim to be great and patriotic Americans, will understand that patriotism is more than just putting a full page ad in the newspaper thanking the Armed Forces; that patriotism means you do not turn your back on American workers, that you reinvest in this country and give our working people the tools and the equipment in order to be productive workers in the international economy. But I am always amazed how little we address that issue.

Mr. HINCHEY. It is also true, I think, that Congress has to not turn its back on the American working people. The Congress and the administration have got to deal with these problems much more aggressively and effectively than they have been dealt with over the course of the last two decades.

There was a time here when people in this room talked about such things as full employment; when they talked about Humphrey-Hawkins; when they talked about taking initiatives to see that every person who wanted a job in this country had a job, a job that would meet the needs of the country generally as well as the needs of themselves and their families.

☐ 2140

I think that is what we need to get back to. This Congress has got to address itself to that question. The opportunity for full employment, the opportunity to create good jobs, the opportunity for individuals and families so that the standard of living here can be increasing, can be growing, so that we can create opportunities for people. And we need to devote ourselves also, I think, to our educational system, which we have neglected, particularly to our elementary and secondary schools which are deteriorating in terms of their own buildings as well as the quality of education that is available increasingly in elementary and secondary schools in many parts of our country.

These are the issues that this Congress has got to address itself to: upgrading educational standards, improving the quality of education, educating people for future job opportunities, and then doing what needs to be done to ensure that those opportunities for jobs exist here in this country and not someplace else in the world.

Mr. SANDERS. I could not agree with you more.

It is a funny thing. If you read Harry Truman's biography, Harry Truman, who in his time in the late 1940's was, I would say, a moderate Democrat, was not on the progressive wing of his party. He was a moderate Democrat.

He, in this Congress today, would be perceived as a raving radical. That is really true, because of his identification with the working class and the middle income people of his time and his willingness to stand up to the big money interests.

And the degree to which this country has moved to the right is that you have, of course, we saw this during the recent NAFTA thing, where you have a Democratic President, you have people who are working with the big money interests in this country and are ignoring the needs of ordinary working people.

It goes two ways. Clearly, this Congress, in my view, is way out of touch with the needs of ordinary Americans. But similarly, the people who are watching this at home, the people who are hurting, the elderly people, who today are spending more out-of-pocket money for health care today than they did before Medicare, those people who are not getting a fair shake from the Congress, from the President, have got to begin to stand up and make their voices heard.

The Congress of the United States will not be responding to your needs unless you demand that your Member of Congress does it for you. Because everything being equal, and we saw this just so extraordinarily last week, when corporate America speaks, the government listens very clearly.

They hear Merrill Lynch, and they hear Wall Street. They hear the stock brokerage firms saying, we want NAFTA. But somehow or another, when the hungry children say, "Help us," we seem not to be able to find the revenue to do that. And when the elderly people say, "We need help in terms of health care," somehow or another we find it hard to find the revenue to help them.

In fact, what you are hearing is discussions about how we can cut more and more in Medicare, more and more in Medicaid. So I think it is a two-way street.

Clearly, this Congress is not responsive to the needs of the working people, elderly people and poor people. But I can assure you that the Congress will never be responsive until people begin to stand up and fight back and say, guess what, if you want to know what unemployment is about, Mr. or Mrs. Congressperson, we are going to teach you that lesson pretty quickly, because we are not going to reelect you unless you begin to represent our interests.

So it is a two-way street. Certainly, we inside this building have got to begin to articulate programs that are going to work well for ordinary Americans on the other side of the equation. The working people, the elderly, the poor of this country are going to have to stand up politically and demand that Washington respond to the needs of the people.

Mr. HINCHEY. These are the real problems, I think, that we face currently. These are the problems that are faced by individuals, by families and, by extension, by our country. The need to provide job opportunities for people who are unemployed and also better job opportunities for people who are under-employed, and to ensure that job opportunities are going to exist for people who are being educated today in our high schools and colleges and universities, this is the issue to which this Congress has to address itself. And this is the issue, I think, that people across this country have to pay more attention to, because not enough is being done on their behalf by their Government.

Not enough is being done on their behalf by the major institutions of this country, including the corporate institutions. This has got to change, and the only way it will change is, as you indicate, when people express themselves, when people regain their voice and begin, once again, to speak out about these problems and do so individually, addressed to Members, their Representatives in Congress, and also collectively through their institutions, through their churches, through their clubs, through their unions, through other societies. This is the way this country is going to begin to move forward again.

We have the strengths, we have the resources, we have the capacity to do it. What we currently lack is the political will, political will and political leadership to lead us off in the right direction to provide those opportunities for the larger good and the larger number of people in our country.

People in this Congress need to provide that leadership, and people outside need to provide that leadership as well.

Mr. SANDERS. I think we are running out of time. I would just like to conclude by thanking you, Mr. HINCHEY, for your excellent presentation, for your work on this important jobs bill that we will be bringing before the Congress, and to just remind the American people and to beg of them, this is your country. This is a democracy.

We have had an extraordinary history. This government is supposed to represent the needs of ordinary people and not just the rich and the powerful. And the challenge of our time is for all of us to begin to stand up and to fight back so that we can create a bright vision for all Americans rather than seeing a decline in the standard of living for so many.

I thank people for watching this dialog and look forward to working with Mr. HINCHEY again.

WE NEED HEROES AS BADLY AS IN WORLD WAR II

The SPEAKER pro tempore (Mr. RUSH). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, I enjoyed very much listening to the colloquy and the prior remarks of my colleagues from the Northeast. And all I would say at this point is, as bad as some of America's economic problems are, and although I am a conservative and one of them is a proud liberal, another a proud Socialist, I certainly agree that the runaway salaries of the chief executive officers of many of America's corporations, I find it not only obscene and antibiblical, but I find it counterproductive.

I think it feeds an anger at the business community of this country and that it creates the sort of hostility that we see, that I find with my own family tonight, wondering how I am going to replace six family tickets to bring our whole family together for the first time in several years at Thanksgiving time. And relying on my favorite airline, I find it cruel that any labor union would strike a few days before Thanksgiving and think that it was going to create good will for its workers.

What I wanted to do, in a series of special orders, this may be the last one tonight, depending on what happens at the end of the work day tomorrow, I want to break it into three parts again: the culture war, which is certainly a real war, and then anti-heroes, and heroes.

I did not use that title "Anti-heroes" last night, but this country certainly has plenty of anti-heroes.

In my mailbox this morning came a book, edited with commentary by William J. Bennett, President Bush's Director of the Office of National Drug Control Policy, of the media, called the Drug Czar, and before that, Secretary of Education and Chairman of the National Endowment for the Humanities under President Reagan.

Bill Bennett is certainly one of the more delightful thinkers and speakers, communicators on television and radio today.

His book, I said a few weeks ago on the floor of this House, just by hearing the titles of his chapters, has got to be the family book of the year, probably of the decade. It is called the "Book of Virtues." And it is a compilation of wisdom, including children's stories, that goes back for centuries.

Listen to these titles, by William J. Bennett, "A Treasury of Great Moral Stories, the Book of Virtues."

Chapter 1, Self Discipline; Chapter 2, Compassion; Chapter 3, Responsibility; Chapter 4, Friendship; Chapter 5, Work; Chapter 6, Courage; and sometimes friendship in Chapter 4 ends up with giving your life in an act of courage, in the fulfillment of what St. John the Evangelist said in 15.13, "Greater love than this has no man that he give up his life for another."

□ 2150

I will come back to that as I talk about the heroes of 50 years ago. Today is the 50th anniversary of the invasion of the Gilbert Islands. The Army, in landing in Makin Island, the U.S. Marine Corps in Tarawa, 50 years ago this morning they landed, and by night there were 100 dead in Makin and 700 or 800 dead on Tarawa, driving toward that final death total of 1,123 more young Americans, pro-rated to the number of forces involved in the conflict, died on the island of Tarawa than any combat up to that point, including Antietam and Gettysburg in the Civil War, where both sides of the casualties were American.

So Chapter 6, Courage. Chapter 7, Perseverance. Chapter 8, Honesty. Chapter 9, Loyalty. and 10, Faith. What a treasury. I said on the House floor the other day, I wonder if Bill Bennett is going to have Pinocchio. He does. It includes from Pinocchio the story, the great Italian classic fable by Lorenzini, it uses the part where Pinocchio's nose grows with each lie that he tells.

Mr. Speaker, in this cultural war I referred to yesterday's newspaper, the Washington Times, the front page right under the fold, "Clinton Aide Blamed for Pornography Law Proposal," it has a picture of the Deputy Solicitor General, Paul Bender, and says that he was the one who has long sought liberalization of all of our pornography laws, including child pornography.

The 1988 race, even though Michael Dukakis, with some good nature, and factually, said he was a card-carrying member of the ACLU, he departed from the ACLU, Governor Dukakis did, he would not have had a prayer of getting the nomination if he had not, when he said that child pornography, once produced, is still slime and should be considered contraband.

The ACLU has always, to my knowledge, held a position that it is illegal to produce it, it is ghastly for a parent to sell their child into evil pornography, but once produced, it has all the protection of free speech and you can traffic in it. This is what is tearing the beautiful little Scandinavian nation of Denmark literally apart.

Guess who Deputy Solicitor General Paul Bender was back in 1970? Twenty-three years ago he was the chief counsel for the few years before that of the commission that President Lyndon Baines Johnson had created to do something about pornography that was exploding across this country.

It was being sowed into the minds of our kids, and look at the evil harvest we have reaped at this point in the sexual revolution, so-called, that made pornography a joke. As a matter of fact, the first time I ever heard of Pat Buchanan was, he was working for Richard Nixon as a young writer, when Nixon had taken the presidency and was sworn in in 1969 to the Johnson-created Commission on Pornography with this Paul Bender, who is on the Federal payroll over at Justice now as its chief counsel.

He came out with its report that said it should all be liberalized, that there should be no laws against pornography, not even child pornography, and the U.S. Senate went berserk, not quite as tough as the other day, when they passed, in a rare 100-to-nothing vote, a criticism, a rebuke of President Clinton's Attorney General and the Justice Department, and they didn't know this gentleman was over there at the time, in detail, and a rebuke of Paul Bender that we not reduce the toughness of the child pornography laws in this country, 100-to-1.

I spoke on it on the House floor that same week, as did several of my colleagues. Patrick Buchanan wrote for President Nixon the rebuttal of the report that was rejected by Nixon as morally corrupt, and rejected by the Senate, with the same strong type of language. Buchanan wrote, "This report," from Bender's commission, "is the Magna Carta for pornographers." And it was the Magna Carta. Unfortunately, Bender, then selected out of the far left of this country's legal community, a professor, I think, when he got his appointment, and now sits over at the Justice Department while Bill Clinton postures with this letter to Janet Reno that says, "I agree with you that there was something wrong with the law. Let's get a tough law." There is nothing wrong with the laws.

As everybody has said, and all the Senators have said on the other side, certainly the Republican ones, just keep enforcing the law as it is, but as with every other case, as with the murder in the post-World War II period's longest firefight in Mogadishu, Somalia, no heads rolled. Nobody is replaced, but it looks like Morton Halperin is going down.

In today's newspaper, listen to this, Mr. Speaker: "Halperin concedes he acted improperly while a nominee." I have done several special orders on this leftover from the radical foreign policy revolution that was going on at the same time as the sexual revolution.

Listen to this: "Having spent more than 30 years," this is Halperin speaking, "thinking, teaching and writing about the use of force, I believe that I have the qualifications and experience to do this job."

This was a created Under Secretary post at the Pentagon called the Under Secretary for Democracy and Peacekeeping. What an unbelievable choice to fill for the first time this created seat. He may have thought and taught and wrote about the use of force, but he has never worn his nation's uniform and he has never had himself or anybody in his family go in harm's way, so he can deny that he was part of the decision to jerk out the AC–130s, the Spectre gunships, two days before our Rangers and Delta guys arrived there.

I don't believe that for a minute, because in a second I am going to tell Members that he admits he lied, but he does say that he was a big part of the decision to push in the face of the U.S. military homosexuals, declared and practicing, no matter what the line enlisted men, line NCOs, warrant officers, line officers, or even the Joint Chiefs of Staff said.

Mr. Halperin in the Senate, in Senate testimony, yesterday said that he did write memoranda improperly offering his views on policy, even though TRENT LOTT, or after TRENT LOTT held up an April 2 memorandum labeled "Subject: Personnel Action" signed by Mr. Halperin, and he had been telling the press and the world and his boss-to-be, once he was confirmed by the Senate, Les Aspin, our former colleague, and I guess all the way up to the President, saying that he never did that, and now he has to admit that he lied in front of the U.S. Senate.

Still he arrogantly says, "I have the qualifications and experience to do this job." He admits that he participated in interagency policy meetings, wrong, for anybody not confirmed; that he did take part in personnel actions; that he represented the Pentagon in talks with the Justice Department, probably in talks with this guy, Paul Bender, about lifting the ban on all homosexuals, lesbians, and bisexuals, that was the new twist this year.

He says, "I want to apologize to this committee for my actions. I can only assure you they were done without any intention of presuming on the Senate's right to confirm nominees."

Does he actually think that an apology is going to carry him into a confirmation process? I think if the Senate goes out tomorrow and he is left hanging, I don't think, I predict his nomination will be withdrawn, because President Clinton is on his new morality kick about young people in America, and he is enjoying his image as the presidential fighter for NAFTA, the North America Free-Trade Agreement.

He may enjoy being this new kind of Democrat that he has not been for 10 months, but that he promised he was going to be during the campaign of 1992.

There was one more thing I wanted to catch here. Senator STROM THURMOND of South Carolina, the senior Senator, and I think the senior Senator for any length of time that anybody has ever served in the 217 years of our Nation, he says, "Mr. Halperin is unsuited for any position in the Pentagon. He has a distorted view of the nature of conflict and international affairs, and has taken irresponsible positions well outside the mainstream of defense thinking.

I will put some of these in again tonight. I have mentioned them many, many times on this floor in the last two months. Let me give one more little close here, Mr. Speaker. Again, remember, as the cameras pan the House, that there are 1,300,000, 1,300,000 people watching. Maybe on a Saturday night it is down to just 1 million of our 260 million fellow citizens.

□ 2200

JOSEPH LIEBERMAN, moderate to liberal Democrat, good man, asked Mr. Halperin how he expected to be effective in light of the opposition to him by the military personnel. And I have been over to the Pentagon, and I can tell you that it is palpable. He said well, that is a good question. He says it is one that has troubled him, but he attributed the vehement opposition to his confirmation "to people who don't know me."

But here is what he had to deny, imagine what he had to deny, and I do not believe half of this. He says he did not take part in a decision to send armor to Somalia, a mistake that contributed to the deaths of 18 U.S. soldiers on October 3 and 4, 15- to 17-hour firefight in Mogadishu. He did not order a U.S. military commander to terminate a military exercise in Central America. He did not advocate supporting U.S. military forces to the United Nations. Wow. Let me come back to that one.

He did not oppose every counterintelligence operation. Wrong. He did not aid in the disclosure of the Pentagon papers. Well, all I know is his name was used all of the time in the stories, and that Secretary Kissinger put a phone tap on his house, not a nice thing to do. He should have fired him. Neither of them brought glory on themselves during that period.

He did not aid CIA Agent Philip Agee publicize the names publicly of our CIA personnel around the world.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RUSH). The Chair would caution all Members against commenting on nominations pending before the Senate.

Mr. DORNAN. Mr. Speaker, I am glad I reached the end. Yet this is so key to the security of the Untied States that I do not apologize for what the jury may have heard up to this point. I cannot, I just cannot. But I will not do it again, although I will probably go over to the Senate, if they are still in tonight, Mr. Speaker, and talk to some people over there.

Yesterday I talked about the 130th anniversary of the Gettysburg Address. I said it was over 260 words. There is a little question before George Will and my count. I counted this three times again today, 271 words, but I will go with George Will's great articles on the Gettysburg Address this year that it was 272. And my good high school teacher, Brother Richard, says it was 271. He also goes with George Will.

In those 272 words, the key words are in Lincoln's close when he said, "From these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom."

One of the writers of the time noted that it was not in the script of what people called Lincoln's silly little speech, a speech that will echo down through all of the history of this country, maybe the history of all English speaking nations and other nations who love freedom. But he did add those words, "under God," not as an afterthought, but, as I said last night, as someone who attributed anything he ever achieved, and any beauty, poetry, or greatness in his word or thought to his constant reading of the holy scripture of the Bible, and for rhythm to his reading of Shakespeare.

When Lincoln said those words this country was a little over 32½ million people. We were not counting the hardworking Americans of African American heritage who came here against their own will, so let us call it 35 million people, 35 million citizens.

Mr. Speaker, when my dad was born in 1892, the country had grown to just over 64 million. I remember telling George Bush that the country had more than doubled when he was Vice President from his birth year, 1924, which was only 114 million. When I was born it hit 125 million on the nose. We are way past, double that in just my lifetime.

So in my aging in this country we are two Americas, twice as big as the one when I was born. And in 1933 there were 125 million Americans.

Here is the point that I want to make that I have researched with our statistical abstracts. In 1941 when Pearl Harbor was hit, if you extrapolate half way between the two figures that the Census Department gave me, we were a good 134 million plus. Now we are not quite double that.

But here is the point about Lincoln's quote, "those who have given the last full measure of devotion—their lives for their country, its freedom and its causes," by the time all Americans had come home from overseas, and the Census figures are all hard to interpret during the war, because we did not in those days even count any American overseas, even a serviceman dying on the beaches of Normandy, or dying 50 years ago today in a triple cross-fire because they misread the tides on the little atoll of Tarawa. By the time everybody was home, or most were home, and we left hundreds of thousands in Europe and have ever since, and we still have over 200,000 in Europe, in 1946 our population was 140.7 million. Let us call it 141 million. And that means the country grew 7 million people during the period of the Second World War during which period 312,000, 312,000 died. But if we grew by 7 million, was the country going to miss the sweat of their brow, the manpower which some of those young Gold Star mothers grieved for for the rest of their lives, of course, but would the country be crippled the way Paraguay was crippled, or the way European nations were crippled after the Hundred Years War, which was actually about 130-some years?

No, we were growing, expanding. All of those 12 million to 14 million men, depending on our counter, who came home, they started families. The Nation went into a great expansion period.

But in my generation we did not forget the 300,000, even though we picked up 7 million during those years. When I was married in 1955 in the Air Force, just a brand new second lieutenant with shiny new silver wings, we were at the 166 million. Before this century is out, we are going to have double that into a whole new America. More than half of this country is below 30 years of age.

Day after tomorrow we celebrate the heartbreaking murder, assassination of John F. Kennedy, our youngest elected President. I was reading this evening in the U.S. News & World Report, "The Lost World of JFK." I read in the opening paragraphs that "30 years after his death, John F. Kennedy is fading from focus. Once all Americans could remember where they were when they heard the awful news on Friday, November 22, 1963."

For me it was 10:30 in the morning. I know right where I was, in St. Paul the Apostle's Church, when a priest came up to me and told me.

Most Americans, the majority of Americans have no memory of 1963 at all, and Kennedy remains still the most admired President. The family is still at the center of politics, even more than the Adamses or any Roosevelt family. Yet today, Kennedy's magic, or the era he inhabited are difficult to recall.

Well that painfully makes me think of President Ronald Reagan's last words to this Nation, a good distance from President Bush's inaugural day. He wanted the focus to go to President Bush. But he took his goodbye on January 11, 1989, and President Reagan, almost as an afterthought at the end of the speech, but that is when he was most effective, is when he looked into the camera and was speaking from his heart, and he said, "Is America forgetting to teach its children its history?"

Well, if we were only 35 million people when Lincoln spoke that Gettysburg Address 130 years ago, are we teaching that part of our history? Yet there was not a single memorial ceremony in this Chamber or the other Chamber, the U.S. Senate, during all of this year commemorating any of the events of 1943, the 50th anniversary, and nothing for the 70th anniversary of my father's war, World War I. And he was in the trenches when that ended. The President mentioned it on Veterans Day, but I did not hear any speeches in this House, except mine.

By the time this decade is over, I guess there will not be any World War II veterans in this House, so there will be nobody to remember the 55th, or the 60th, or the 75th anniversary of World War II.

□ 2210

When President Reagan was inaugurated, there were 228 million Americans, so now we have 230, 240, 250, 260, and we are not teaching these children anything about what made our country what it is, the good, the bad, and the beautiful, and some of the ugly. What a tragedy. What a hard thing to get Members in my own party, let alone the other party, upset about this report in the paper this week that I mentioned several times this week, a government report, and here it is. I have got it, and I promise you, Mr. Speaker, and anyone else listening to the proceedings in this Chamber that when we come back in January that I will have absorbed this report word for word, will have probably gone to the Soviet Union myself, and if I cannot go with Malcolm Toon, because this so-called commission does not want a Member of the House, elected eight times, who has worked on this for almost all of my adult life since I left the Air Force in 1958.

I have done nothing but think at least once a week daily about my friend David Hurd, like I lost in Laos, but this is about several hundred U.S. prisoners left behind in Korea.

Listen to this, "The transfer of U.S. Korean war POW's to the Soviet Union, Joint Commission Support Branch, Research and Analysis Division, 26 August," and I only find out about the last week. It was kept quiet all of this time. This study was prepared by Dr. Peter G. Tsouras, with a "T" like Tsongas, Major Werner Hindrichs, Master Sergeant Danz F.H. Blasser, with the assistance of 2nd Lieutenant Timothy R. Lewis, good work for a 2nd lieutenant, Mr. Paul H. Vivian, Staff Sergeant Linda R.H. Pierce, Sergeant Gregory N. Vukin, probably of Russian or Ukrainian heritage, and listen to the executive summary, Mr. Speaker: "We believe that U.S. Korean War POW's were transferred to the Soviet Union and never repatriated. This transfer was a highly secret MGB," and that was the name of the KGB after it was the Cheka and the NKVD, then the

MGB and now the KGB and still functioning as the KGB, although it is split into an internal and an external secretariats, "by the inner circle of the Stalinist leadership. The rationale for taking selected prisoners to the U.S.S.R. was to exploit and counter U.S. aircraft technologies, to use them for general intelligence purposes, and it is possible that Stalin, given his positive experience with Axis POW's, viewed U.S. POW's as potentially lucrative hostages, given his positive experience with keeping," you know, thousands and thousands of German and even prisoners of people who helped them in the war. "The range of eyewitness testimony as to the presence of U.S. Korean POW's in the gulag is so broad and so convincing we just cannot dismiss it. The Soviets' 64th Fighter Aviation Corps which supported the North Korean and Chinese forces in the war and flew combat missions had an important intelligence collection mission that included collection, selection, and interrogation of POW's. A general staff-based analytical group was assigned to the Far East Military District and conducted extensive interrogations of U.S. and other U.N. POW's in Khabarovsk. This was confirmed by a distinguished retired Soviet officer, Colonel Gavriil Korotkov, who participated in this operation. No prisoners were ever repatriated who related such an experience. Prisoners were moved by various modes of transportation. Large shipments moved through Manchouli and Pos-yet. Khabarovsk was the hub of a major interrogation operation", and now that is a city, "and against U.S. POW's from Korea. Khabarovsk was a temporary holding and transshipment point for U.S. prisoners. The MGB controlled these prisoners but the GRU," and that is the Soviet Military intelligence exactly equivalent to our DIA, "was allowed to interrogate them. Irkutsk and Novosibirsk were transshipment points. But the Komi A.S.S.R. and the Perm oblast were the final destinations of many POW's".

Let me jump forward: "POW transfers also included thousands of South Koreans, a fact confirmed by the Soviet general officer Khan San Kho who served as the Deputy Chief of the North Korean MVD, their KGB."

Now, listen to this, and I read this with an angry, angry disposition, because I flew F–86's in peacetime. I was inspired to go in the Air Force by our F–86 pilots over the Yalu River with a 13-to-1, certainly an 8-to-1 victory rate, and this could be JOHN GLENN I would be reading about, and JOHN GLENN would never have set a transcontinental speed record, never have been the first American to orbit the globe in 1961, and never would have served in the U.S. Senate if he would have disappeared into the mist of the ugly gulag Stalinist camps if he had ever been shot down. He shot down three MiG's in Korea. They would have loved to have gotten their hands on that proud son of Ohio.

Listen to this: "The most highly sought after POW's for exploitation were F–86 Sabrejet pilots and others knowledgeable of new technologies. Living U.S. witnesses have testified that captured U.S. pilots were on occasion taken directly to Soviet staff interrogation centers. A former Chinese officer stated that he turned U.S. pilot POW's directly over to the Soviets as a matter of policy. Missing F–86 pilots, of 60 that were seen with good chutes, 10 went into captivity, 50 were never heard from again."

Mr. Speaker, "Their captivity was never acknowledged by the Chinese in Korea. They were identified in recent interviews with former Soviet intelligence officers who served in Korea. Captured F–86 aircraft were taken to at least three aircraft design bureaus for exploitation, and the pilots accompanied the aircraft to the Soviet Union to enrich and accelerate the exploitation process."

Were they executed? Were they broken by the viciously hard work in the gulag camps? May I repeat Lincoln again? "We have to take increased devotion to the cause for which they gave the last full measure of devotion that we here highly resolve these dead shall not have died in vain and that this Nation, under God, shall have a new birth of freedom."

Mr. Speaker, yesterday I spent a lot of time talking about a great hero. I am going to put this article in the RECORD, too, from the same U.S. News and World Report with John F. Kennedy on it, on the cover, "Troubling evidence on Vietnam POW's." How are we going to solve Vietnam if we left 389 prisoners behind who were known to be alive in camp, no amputations, no head wounds, no amoebic dysentery, no diarrhea, good, functioning, skinny, but functioning healthy 389 what we call Class A prisoners, and they say to their bunkmate, "Jim, if you make it, call my mother." "Johnny, if I make it, you call my young wife and my baby and tell them that I am going to try and get out of here. Let us cover one another." One man shows up on the other side of Freedom Bridge and the other never is heard of again. Unbelievable.

We have been in a standoff with the North Koreans since July 27, 1953 saying that we will only deal through the U.N., and they say, "You deal with us directly," and on that diplomatic technicality, 8,100-and-some Americans remain missing in action.

Yesterday I mentioned Jimmy Doolittle's book, and I misstated the title. It is, "I Could Never Be So Lucky Again," and autobiography by General James H., Jimmy Doolittle with Carroll Glines.

I wanted to put in one quote that I left out from his son who had a great career in the Air Force on his own. His son said, "Dad served his country very well and his family beautifully. He was successful in business. If you want one word to define him that word is integrity," his son said.

A man of this integrity should have been put on the case of our POW's from Korea and left on it and given the money to run a commission and track this down like a bulldog, but, no, something went wrong even in the administration of a war hero named Ike Eisenhower.

Listen to this part that I did not talk about Doolittle after the war, "He refused to fade away, becoming an outspoken proponent for air power, pushing for a separate Air Force in the Department of Defense, and leaving America a legacy of air superiority enjoyed to this day, confident, an adviser to Presidents, a leader in business and industry, winner of virtually every medal his country had to offer, Doolittle remained active long after most men would retire, supported by his 71-year-old marriage to his one and only sweetheart, the loving, understanding Jo who stood by his side through it all," Josephine Daniels.

□ 2220

Doolittle tells the story of success, triumph and tragedy of a true American hero, a far-seeing leader whose courage, devotion and daring changed the course of modern history and continues to make his influence felt to this day.

Why do not some of our high school teachers go ask the children to take out a book like this out of the library and do a report on it over Thanksgiving or Christmas? I could never be so lucky again, faith in God. This book of Bill Bennett's ought to become a textbook. One of the liberal writers in Newsweek says this probably is going to give a leg up on the Presidential nomination come 1996.

Now, a lot of you have kindly written to my office and asked me how did God given me this incredible memory that every day I will get up on the floor and mention if I get a chance something that happened years ago. Yesterday I forgot to mention that that was the anniversary, in 1969, of Alan Bean and Charles Conrad walking on the Moon, our 3rd and 4th men, still on the Moon. That was today, 1969, 24 years ago.

They were on the moon and our President was on his way over to England to demonstrate against this country and ruin his change for ever getting a secret clearance or even a confidential clearance in any branch of this Nation's Government unless she got elected here or to the Senate or the No. 1 spot itself.

But I want to tell you that I do not remember all this from World War II. I said on the floor last year and the year before I started doing this in 1941.

I have a British book here published by Dorsett Press, simply titled "World War II, Day by Day." One of my colleagues in Indiana got it and said that he is now emulating what I do, opening it up every morning to think about what our young guys around the world were doing 50 years ago.

Listen to this from "Today"—well, let me back up yesterday, 19 November, Central Pacific, United States air carried raid at Mele, Tarawa, Macon, Naharu, which is by itself the smallest nation that has a vote in the General Assembly of the U.N.

Preparation for coming landings, 4 carrier groups from Admiral Pownar's task force 50, which includes 11 carriers. Now, how did American industry do that? We were down to 2 aircraft carriers when I was discussing on the floor here where we were in the spring of 1942, 1½ years ago. 11 carriers, 5 battleships, 8 battleships, all of them were sunk in Pearl Harbor. 3 or 4 of them were already back on the line in the Gilbert Islands, less than 2 years later. 5 battleships and 6 cruisers. On the other side of the world, Italy, the Germans withdraw the last of their forces north of the Sangro River. Although the British 8th Army also had troops north, they could hold very little ground and a major formal attack would be necessary in order to expand their tiny enclave.

The eastern front: Germans move in to take Zitomeier, as the Soviets realize their danger and pull back. The Germans still had some fight left in them, although their highwater mark was Stalingrad.

Now comes "Today," 50 years ago today—I told you yesterday that this is the 2nd day at the Battle of Berlin by Sir Arthur Baumer, nicknamed "Harris," would lose 600 planes between now and March. All of these guys bailing out into the winter night over a snow-covered European landscape. Americans starting to get in on these missions but taking it on the chin in the daytime, some of them being pitchforked to death. Most of them ended up in gulag camps, where they got better care out of the Nazis than we got out of the Japanese warlords, and yet we had more war trials for the Germans than we did for the Japanese. Figure that one out. And yet people say there was a racist edge to the war. What baloney.

Gilbert Islands: "Today," 50 years ago, American landing operations begin. There were United States landings on Tarawa atoll. General K.C. Smith leads 18,600 men from the 2d Marine division, escorted by Admiral Hill's task force 58 with a bombardment group of 3 battleships, 4 cruisers and an air support of 4 escort carriers.

The Japanese garrison comprises 4,800 men led by Admiral Shibasaki. They had 50 artillery weapons, 7 light tanks. And I will put this in the RECORD. They threaten us and said, "No amount of force is ever going to dislodge them."

And then our great on-the-ground commander Colonel Shoup at one point says, "The issue is in doubt," or words to that effect. The Marines, by the way, were relieved at one point by the Army in some of these battles—I had said the Army is going. Let me read a Medal of Honor award to a young private, a young kid, 19 or 20.

"In the limited engagement elements of the 3d division"—now, this is up in Bougainville at the exact same time on this week. It shows the fighting was not all in the Gilberts but in the West Pacific and the south and were also taking it on the chin.

The elements of the United States 3d division, they are now over in Germany to this day, offer firm resistance, then mount a counterattack. Private 1st Class Floyd K. Lindstrom's platoon gives cover fire to a rifle company's advance when the enemy assault occurs. However—if I gave this as the Southwest Pacific, Bougainville, that is up above, and I will put that in too. This is now in Italy.

Presser had been forced to withdraw by the Americans, leaving Private Lindstrom's unit outnumbered 5 to 1. Lindstrom advanced with his machinegun to find incessant fire, he gains a position 10 yards from the Germans. Unable to score a kill, he intensifies his effort and charges over rocks and then kills 2 men with his pistol, confiscates their German machinegun and returns to his own men. Still defying danger, he again returns to his enemy position and transports 2 boxes of ammunition back to his lines and begins firing his own machinegun in a fantastic display of dare that virtually breaks up the assault of the overwhelming German forces 5 to 1.

Up in Bougainville Marines hold the junction, that is this week, of the mission at Numa-Numa trails after their successful drive which kills about 550 Japanese. The Marines 3d division are ordered by the general to drive in two directions, east and west, simultaneously to secure and hold an airfield site. Additional contingent of the 21st Marines arrive. The Japanese suffer more damage to their ailing fleet at Sansung Harbor in New Britain. So here is a Marine 3rd division doing battle on Guadalcanal, the United States Army 3rd division battling in the mud in one of the worst winters of Italian history, and here is the 2d Marine division landing on Tarawa. Now back to Tarawa: Landings are made on Betio Island—and I repeat that I walked all of this with our former colleague, Steven Solarz, back in 1989—which is a little more than 2 miles long and nowhere more than half a mile wide and nowhere 3 or 4 feet above sea level. I think the highest point was 9.

The preliminary bombardment is massive but not precision enough. The supporting warships fire more than 3,000 tons of shells. Let me jump ahead. Of the 5,000 who attempt to land, 1,500 become casualties. Owing to the state of the tide and utter, unknown confusion in the chain of command, reserves are never sent at first and cannot eventually ever be sent this first day. At nightfall, 50 years ago tonight, the outcome of the battle is still in doubt. During the night the Japanese undertake infiltrations, but because of the bombardment, are not able to organize an attack. There are also United States Army landings on Makin Atoll. The attack force here is drawn from General R.C. Smith's 27th infantry division, shut down here recently. Their support was supplied by Admiral Turner's task force 52. The landings on Betio Atari are fairly successful despite the energetic defense and inexperience of the attackers. The carrier Independence, from the main carrier task force, is hit by a submarine torpedo and tomorrow we lose an escort carrier and 600 Americans drown at sea. That is not part of that 1,123 that die in the attack.

Then I had forgotten in that figure, I hope it is rolled into that, because 84 men disappeared, probably carried out by the tides of the sea, of the invading force, young Marines.

When I was 10 years of age and newly arrived in California, my uncle, Jack Haley, had a small cattle ranch down near San Pasquale, south of Escondido in California. To get down there, there was only one way to get there, and that was to drive the coast road.

☐ 2230

There was no big Route 495 in those days, and we drive slowly through Camp Pendleton. Sometimes my uncle would stop there to do a show for these young kids, and when we see them practicing on the beaches of Southern California, as they still do today and have for 50 years, and I look at these kids and think they were big grown up men. Now I have to look back and realize some of them had barely started to shave, and they turned this history.

Mr. Speaker, for any Americans interested in this, there is going to be an awful lot in the CONGRESSIONAL RECORD tonight. If you want to do some of this reading over the holidays, we are going to be out of here by Monday for 2½ months.

The Clinton battlefield is all his for moving American stories, but ask your Congressman to send you the CONGRESSIONAL RECORD of 20 November, 1993, and you will see some of these stories.

I am going to put in some material in here from what took place this whole month of the almost 5,000 Japanese who defended the Island, and only 17 survived. That is how they would fight to the death.

"Do you have enough men to take the Island?"

Colonel Shoup of the Marines responds semi-ambiguously, "Situation does not look good."

Americans went to sleep not knowing how many of their sons were dying there.

Here is an article I want to put in called, "Let's Remember What Veterans Did In The Wars." Emma Pollack, it is a beautiful little article. Her husband fought in two wars, received this care in VA hospitals. Her father fought in three wars and died in a VA hospital. Beautiful article. I do not have time to read it.

I may put in some more of it. Well, I asked permission to put this in a few weeks ago. I will put in some more things on what is happening over at the Pentagon.

Now I want to jump forward here to Somalia and our troops over there, who are not going to get any visits from any important Americans, I guess, for Thanksgiving or Christmas. They are still hunkered down in their mini-little strategic hamlets. They are in garrison over there, although they were talking about coming out for the last 10 or 15 days.

I will tell you who came out, the warlord killer of 30 Americans, Mohamed Farah Aideed. He is out at a huge rally the other day, thousands of people rallying around him, all carrying their AK-47's and their RPG grenade launchers. They are all rocket-propelled launchers. They are all out in this big parade. He has won big time.

How do you explain that to the mothers and wives who have never gotten a call from any high-ranking American? They got form letters, though.

Somebody called my office last night and said, "Well, you are unkind. President Clinton did visit the wounded at Walter Reed Hospital, and on Veterans Day he went up to a veterans' hospital in West Virginia."

Yes, that it true, but as one of the people in there told me, with pins sticking through the flesh of his leg ripped in half by an AK-47, "Well, it was a nice gesture for him to come here, but he really didn't know what to say to us." That is the problem we have with this hostility to the military culture.

Here is an article that I want to put in—no, I think I put it in yesterday. I do not have to put it in again.

"Clinton assailed for not naming vets to key post, broken promises."

"Washington. A prominent Vietnam veteran, West Point graduate, who supported Clinton in 1992 is urging his fellow veterans to vote against him in 1996. At issue is the administration's alleged practice of discriminating against veterans," said John Wheeler, an attorney who graduated from the Military Academy at West Point in 1966 and went right to Vietnam. His class I think took the most casualties, his class of 1965.

"In this administration, veterans are second-class citizens," said Wheeler, an Army officer in Vietnam for 2 years, 1969 and 1970. He made the comments at a November 9 news conference sponsored by the Vietnam Veterans Institute, a nonprofit organization.

He points out that of the 60 million Americans who reached adulthood during the Vietnam war, only 10 million served in the military.

See that factor of one out of six, what they owe, what Lincoln is talking about, our memory, our collective national memory on this?

By his estimates, then he goes on to say that only 3 million of the 10 million who served in the Vietnam era—I am both a Vietnam era Reservist and a Korean war aero vet, because I was in pilot training when the Korean war ended. Some of my colleagues love to bring it up in campaigns, as though I was not anxious to go to Korea. I only joined at 19. I am sorry I did not join at 17 and forge my parents' signatures, but I wanted to be an F-86 pilot, and thank God President Eisenhower, a five-star general, was President then, so I never had to hurt another mother's son or break my mother's heart and never meet my Sallie Hansen and bring my five kids and nine grandkids into the world.

Anyway, Capt. John Wheeler goes on to say that with 3 million serving in the war, by his estimates, one-third of all Presidential appointment should go to veterans and one-tenth of such appointments should go to Vietnam veterans, on an average, he is saying, does not want a quota system. He calculated that of 92 White House staff appointments, only 3 served in Vietnam. He thinks there should at least be 7 out of 92.

No, there is a hostility over there that unfortunately is frightening.

Look at this. In that article about the confirmation process that I will no longer speak about, there is another article about Hillary's visit to the Pentagon. Les Aspin let her try out the so-called hot line to Moscow. Did he actually use it? He later quipped that Hillary started the war, ha ha.

Now, this is certainly reminiscent, is it not, of the Reagan remark to begin bombing in 5 minutes, kidding around with the soundmen, not knowing it was on, and all the liberal-dominated media culture troops just went berserk.

Well, I guess when a conservative says something like that, Mr. Speaker, it is a serious gaffe, but when a liberal Secretary of Defense says it, it is merely a quip.

Now, look at this in today's paper on the President himself and our desire in this Congress. There he is, sick and tired of the liberal press. He does not know they saved him over and over, particularly in New Hampshire and during the campaign, as every damaging story popped up they would spike it, suppress it.

I am looking for a story where he says he does not care what we believe in Congress about putting troops under the U.N. command. He is going to do exactly what he feels like.

Now, technically he has a right to protect the Commander In Chief's status and defend it, but the idea is here that a Republican President would not even find himself in that position.

I missed it. Let me try it again. This is too wonderful to miss on this next-to-the last day before we go out.

Mr. President—I cannot address the President, it is against the rules; but Mr. Speaker, what are we going to do about this? Here is an Associated Press story off the wires 2 days ago.

> The quality of men and women who are recruited to join the military services declined in the last year, Pentagon statistics reveal. The report is seen by military analysts as a critical indicator for the ability of the military services to entice high-quality men and women into our military. The Defense Department uses several measurements to determine the quality of its newest forces, the proportion of high school graduates, the share of recruits who score in the upper half of their enlistment test and the proportion of recruits who are both, both a high school graduate and an upper half scorer.

Of the 206,927 young men and women who were brought in during the fiscal year, the drop is not significant, but in the case of the Army, 4 or 5 percent, and the case of the Navy 7 percent in that category, bringing it down to the lowest of the four services, that double category of those who have passed both tests.

Well, I know that article is in here because I am trying to do it up on my feet. I guess I am going to miss it.

What the President says is that he is going to ignore—this is the headline—ignore the wishes of the Congress on whether or not troops are going to be put under U.N. command. He says he will do it, put them under foreign commanders, although he will always make sure that there is a U.S. commander in the chain of command.

Well, I think we are in for a rocky rough road the next 3 years, Mr. Speaker, if we think that—well, that is why I am not finding it, because it is not in yesterday's paper. It is in today's paper and I have already sent that up to the desk. Here it is.

I want to be sure I get this right, Mr. Speaker. Let me read from today's paper. There is Halperin on the cover, there is the Hillary story, and here it is.

□ 2240

Clinton says he will ignore Hill wishes on foreign command of U.S. troops. Clinton will not let an act of Congress stop him from placing U.S. combat troops under the control of a foreign commander in future international peacekeeping operations. In a statement released yesterday, the 19th, Mr. Clinton said he would disregard congressional restrictions in the defense appropriations bill against allowing foreign commanders control of U.S. forces. Then he signed the bill into law. I construe it as not restricting my congressional responsibility and authority as commander in chief, including my ability to place U.S. Combat Forces under the tactical control of a foreign commander where to do otherwise would jeopardize the safety of U.S. Combat Forces.

Well, that is cleverly constructed. He said this in a statement dated on Veterans Day.

Such U.S. combat forces shall, however, remain under the operational command and control of U.S. commanders at all times.

Now I have been calling for an investigation of what happened in Somalia, what happened out there, the whole month of October, what happened after an 8-day warning that they could shoot a Black Hawk H-60 helicopter out of skies with a rocket propelled grenade, and I have a statement here from one of the officers that says if would not have significantly changed the firefight.

Now what does the word "significantly" mean if it is put in terms of the last full measure of devotion and blood? Does it mean one, or two, or three, or four American lives could have been saved?

I found a Henry Hyde article from last week that said there were 13 young widows who their whole lives were ruptured and changed as dramatically as any life can be changed, 13 widows and 17 children who did not have their daddies on Halloween. Even if they had been over there, they would have known their dad's presence was there for them to go out and enjoy with their moms and other military families and other fathers supervising that had not been called off to Somalia, but what is really going to hurt is next week at Thanksgiving. For the first time daddy does not even have a letter there when the families come together.

Christmas; no daddy on Christmas.

Well, let us talk about armor. The two men of the Tenth Mountain Division who died at the K-4 circle, those two men certainly would be alive because they would have had Abrams tanks and M-2 Bradley vehicles blasting through those roadblocks.

What about one of the Ranger commanders, Danny McKnight, said, that young Smith, 21 years of age whose father was a veteran, a retired lieutenant colonel, that he—I am sorry; that is Joyce. This one, Smith, I believe his father lost a leg in Vietnam. He was killed at 3 or 4 o'clock in the morning when an RPG hit the wall opposite of where he was hiding out in a room where the floor was slick with blood of our Rangers.

You know what I have just discovered in the last week? It has been under my nose the whole time. I read an article in the Army Times that says a hundred men were wounded and 18 killed. Another killed and 12 more wounded 3 days later when they mortared the exact front door of the Ranger and Special Forces living quarters. A hundred? I have been saying "70" here, and then it suddenly hit me.

"I am going to come in here on Thanksgiving with two of my grandchildren, Kevin and Colin, 10 and 8. I hope they remember this the way I remember the heroic period of World War II. We are going up on the roof to help some of our good staffers who agreed to do this for these courageous families of the wounded men and the killed in action, and we are going to run up there 30 flags for all the families who have had someone killed in Somalia, and then we are going to run up a hundred flags for all the wounded.

Do you know that I cannot get the names of 30 of the wounded, and that is understandable, but I am going to meet these people in person when I go down to Fort Bragg and pass out these flags. Most of them are so tough that they are already back on active duty, but there it is right in front of me. The figures I get are 70 and 30. That is a hundred wounded.

Now how many of those hundred wounded were wounded at the K-4 circle because we did not have armor? How many of the Rangers were killed because we did not have an AC-130 gunship overhead spraying the neighbor with fire, holding back the crowds of crazed people with AK-47's that eventually beat to death some of our men and dragged their bodies through the streets cutting off arms and legs? Where is the decision for an investigation in this Chamber?

Well, Mr. Speaker, not all is lost. SAM NUNN is going to have an investigation. He has already had several hearings, called the four star, excellent Marine four star, from Cencom into a closed door session. They are going to have other hearings, maybe even next month while the Congress is adjourned until the second session starts in January. There will be more hearings on the Senate side in January. I hope to heaven's name we can have hearings on this side to get to the bottom of this and to find out if people who have not yet been confirmed have been part of these decisions.

I say, "Don't tell me that we couldn't have relieved some of the injuries of these men and prevented at least Private Smith's death, and the death of Jimmy Martin, Jr., and the young soldier that died in great pain 3 days later up at Ramstein Air Force Base at Landsthul Hospital."

My time is up, Mr. Speaker, and I thank you for the 1 minute warning.

Those two mountain soldiers could have possibly been saved up there, so, in closing let me put in again for anybody who wants to get these remarks, another anniversary 28 years ago, the Ia Drang Valley and the lessons we should have learned. I ask to put the Ia Drang story of our first major battle, 301 killed in action in Vietnam, and I thank you, Mr. Speaker, and our great staff for allowing me to do this special order.

[From the Army Times, Nov. 15, 1993]

LET'S REMEMBER WHAT VETERANS DID IN THE WARS

(By Emma Pollack)

First, you see the wheelchairs. Some of these chairs are a style propelled by the hand of the occupant. A few have electric motors and are easily set in motion. Others have an electronic device and can be operated with pressure from the chin or mouth. Several chairs are not self-propelled but must be pushed by another human being.

Why this concentration on wheelchairs? Because it is much easier than looking at the people. However, eventually in this outpatient clinic, the veterans take the forefront.

Almost any weekday there are hundreds of people waiting in this large room. They surround you, and the time comes when you cannot blind your eyes nor your mind to their existence. These men and women waiting here for medical treatment are a diverse group from all walks of life—various ages, sizes, races.

Soon you can no longer see them as a mass; your eyes begin to focus on the individual. You discover what they have in common, a certain look. A look that asks: "Why? What has brought me to this place in my life?"

And what is this place? It is a modern hospital for veterans that is staffed with dedicated nurses and doctors—though far too few. This is also a teaching hospital and a nursing home.

An attempt has been made to create an attractive decor, a cheerful atmosphere. Ironically, the color orange has been applied generously to walls, floors, furniture and fixtures. Most of the visible activity takes place in the outpatient clinic. This is where the veterans sit and wait, and wait and wait.

On this particular morning, my husband is here for a series of tests, and I am prepared to spend the day. Although it is not yet 7 a.m., a long line has formed at the check-in counter. The first person in line is an elderly man with sunken eyes, unshaved, frail. His clothes are much too large for his thin body. His hand trembles as he gives his card to the clerk. Briskly, she recites a series of instructions and tells him to sit down. The man takes the seat beside me. He stares helplessly at his appointment card, and I know he is confused.

"Could I be of any help to you?" I explain that I have been here many times. He eagerly hands me his appointment card.

"Shortly, they'll call your name on the loud speaker and give your doctor's room number.' He still seems nervous, uncertain.

"I'll be glad to show you the room . . . this big place can be so confusing." Now, he smiles and begins to relax.

And so the day goes on. I look at these sick, miserable people, so tired of waiting and so often bewildered. My thoughts go back in time.

The year is 1942, and the place is Washington. The streets are filled with the human machinery of war: soldiers, sailors, Coast Guard personnel and Marines. They, like me, are very young. They are looking sharp, bright-eyed and ready for action. Without complaint, many will soon leave for the fight zones—on the ground, in the air, at sea. These youthful warriors are prepared to fight, to suffer pain and loneliness, and ready to die if need be.

My mind plays tricks on me. The fighting men and women of wars past are moving about in the waiting area. A tall, broad-shouldered Marine is standing beside a wheelchair. The man in the chair has no legs. A sailor in a white, crisp uniform is sitting in the place where, only seconds before, sat a man whose records were lost. The veteran to whom I had offered my help was no longer there. In his place sat a young man in a blue uniform, a pair of silver wings above his heart.

My vision clears, and I see once again the pain and helplessness of those around me. But now, I see so much more.

I see a room filled with heroes.

So often, after the shooting stops, these wartime heroes become little more that an unnecessary expense. The veterans must now pass a means test, must prove their financial need.

The people waiting in this outpatient clinic for medical care are not poor folks asking for a handout—although, indeed, many are poor. When they were young and healthy, they answered the call of their country. Flags waved, bands marched and promises were made. Promises that must not be forgotten.

What do veterans really want? More than anything else, they would like to be treated with dignity and respect. They want the American people to remember what they did in the wars—and why.

This day in the life of these veterans is coming to a close. But tomorrow, the line forms again and the waiting room will be filled once more. I stand still a moment and take one last look around. A voice speaks to me, a call from long ago. "To you from failing hands we throw the torch; be yours to hold it high."

We must keep faith with those who fought to preserve the freedom so cherished by all the world.

(Emma Pollack is recently widowed. Her husband fought in two wars and received his care in VA hospitals. Her father fought in three wars and died in a VA hospital.)

[From U.S. News & World Reports, Nov. 22, 1993]

TROUBLING EVIDENCE ON VIETNAM POWs

Late on a crisp Washington afternoon, exactly one week before Veterans Day, an unlikely trio stepped into the carpeted White House office of Anthony Lake, President Clinton's national security adviser. One was Carol Hrdlicka, just in from Kansas, the wife of an Air Force pilot who was shot down over Laos in 1965. Next was Barry Toll, a highly decorated Vietnam veteran and former Army intelligence officer. Last was George Carver. A quintessential Washington insider, the 63-year-old Carver had served three directors of the Central Intelligence Agency from 1966 to 1973 as special assistant for Vietnamese affairs.

The group handed Lake a packet of intelligence documents, then sat down to talk. They had a plan endorsed by several veterans groups, the three told Lake, a plan to heal the 20-year-old wounds of the Vietnam War. The evidence they had was from U.S. intelligence files and Soviet archives. It showed, they said, that Vietnam never returned a large number of American prisoners of war—a fact, they insisted, that *both* countries knew at the time. In the packet given to Lake was everything he needed to get the evidence for himself: The U.S. files were identified not just by agency but by room number, file-cabinet serial numbers and drawer numbers. Lake was joined by Kent Wiedemann, the National Security Council officer for Asian affairs. The two made no promises, but they asked good questions. The trio pressed on: The president should appoint a commission to study the evidence from the U.S. and Soviet files and get the Vietnamese to admit to their deeds without recriminations. Only then could there be a final accounting of the prisoners and the missing from the Vietnam conflict. Only then could there be normal relations between the two countries.

Unanswered questions. If Vietnam did hold large numbers of unreturned prisoners, it would be a stunning revelation. The Vietnamese returned 591 American prisoners in Operation Homecoming in the spring of 1973. Since then U.S. official have pretty much agreed with the Nixon administration's contentions that all of the boys had come home. "The U.S. government is confident that the 591 POWs and 30-something bodies of men who died in captivity were all the prisoners held in North Vietnam," says Edward Ross, chief of the Defense Department's office for POW/MIA affairs. Vietnam says the same thing. Separately, the Senate Select Committee on POW/MIA Affairs concluded that there is "no compelling evidence" of live American POWs in Indochina. The panel suggested that if men had been left behind, the numbers were small. Washington has presented Vietnam with a list of 135 cases of missing American servicemen whose fate the Vietnamese should know. With Vietnam's help, that list has been reduced to only 80 unresolved cases.

In the past few months, however, an extraordinary body of evidence has emerged to throw into question all previous estimates of unresolved POW cases from the Vietnam War. The evidence is purely circumstantial, but it has created a burning new argument for families of the missing, while stoking their opposition to Clinton's plan for rapprochement with Vietnam. The developments include the following:

A top-secret document discovered in January in Soviet military archives by Harvard researcher Stephen Morris. The document appears to be a report from a Soviet agent about a 1972 speech before the North Vietnamese Politburo in which a general reveals that North Vietnam is holding 1,205 American prisoners. Since the Vietnamese returned 591 American POWs in 1973—and 109 of them came from South Vietnamese prisons—the document suggests that North Vietnam never returned some 700 American prisoners.

A top-secret report from the Soviet military intelligence agency GRU that was released in September in Russia. In this document, a central committee secretary tells the Vietnam Workers' Party in late 1970 or early 1971 that while "we have published the names of 386" POWs [this was correct], the "total number of American aviator POWs . . . is 735."

A U.S. intelligence report from a high-ranking North Vietnamese official named Tranh Minh Duc, who was a spy for the United States. In his report, Tranh says that shortly after the alleged "1,205 POWs" speech in 1972, the North Vietnamese Politburo decided to detain a number of prisoners to use later as bargainning chips with Washington. Recently, a cable surfaced from old State Department files that tends to support the "1,205" document. The cable refers to a British Labor Party leader named Clive Jenkins, who returned from a visit to Hanoi in October 1970. Vietnamese officials gave Jenkins the "impression" that there were about 900 American POWs in Vietnamese prisons, the State Department cable says.

U.S. News has learned that intelligence files contain references to four other cases in which sources in Indochina reported as many as 800 U.S. prisoners not accounted for in other estimates. One of these sources was a Japanese Buddhist monk who said he had shared a cell with three American servicemen in the mid-1980's. "I called them 'America,' they called me 'Jap,'" the monk said. He added that a Vietnamese security official told him there were 700 to 800 more Americans incarcerated.

Still more evidence tends to suggest that the number of American prisoners was higher than has been acknowledged. To Vietnamese defectors well known to the U.S. intelligence community spoke of large numbers of POWs. One of the defectors, a North Vietnamese army doctor named Dang Tan, was trotted out by the CIA in 1971 to talk of torture of American prisoners. In passing, he mentioned that he believed there were about 800 prisoners held by North Vietnam as long ago as 1967. In 1979, a second defector, a man named Le Dinh, told the U.S. government officials in Paris that while he worked for Vietnamese intelligence he heard at staff meetings that 700 Americans remained incarcerated in Vietnam after the war. Last week, a former North Vietnamese intelligence officer confirmed that number in an interview with U.S. News. He said the prisoners were separated into four groups. There was a large group of disabled prisoners and others approved for release, 11 U.S. intelligence operatives who were to be held for eventual trades for Soviet spies, an underter mined number of men who were to be ransomed for money or used to exert political influence and 33 "progressives," some of whom were given training to operate in the United States as double agents. Six actually undertook such missions, the former intelligence officer says.

Numbers game. Could such stories be true? The answer may lie partly in the Pentagon's counting of the missing. After Vietnam returned the 591 American servicemen in Operation Homecoming, the Pentagon continued to list 2,421 men missing in Indochina. Of those, 1,118 had been declared killed in action during the war. That left 1,303 unaccounted for. About these men, the Pentagon said, it "had no information to show conclusively they are alive or dead." Some believe the survival rate of those 1,303 could have been as high as 50 percent. If the estimate is roughly accurate, it could mean that as many as 650 American servicemen survived the war but remain unaccounted for. The Pentagon's Ed Ross contends that every single case of the missing has been reexamined. That there were large numbers of POWs, he says is impossible.

Air Force Lt. Gen. Eugene Tighe, who ran the Defense Intelligence Agency after the Vietnam War, is not so dismissive. The DIA is the lead government agency on the POW issue. In an interview, Tighe said that many servicemen were listed as killed in action on the flimsiest of evidence. If the evidence was wrong, Tighe said, "you can go through the total number of missing through the whole war and come up with some fairly large numbers" of survivors.

Why might the Vietnamese have detained so many more Americans? Le Quang Khai is an 11-year veteran of Vietnam's foreign ministry who defected to the United States last year. During the Paris peace talks in 1973, Khai says, political opinion was split in Vietnam on what to do with American prisoners of war. Hard-liners wanted to hold them all until their demands for war reparations were satisfied; liberals wanted to release them to improve Vietnam's image. A compromise was reached to release some POWs—591 turned out to be the number, Khai says. The rest were detained, Khai says, because Vietnam believed that the Paris peace talks marked the beginning—not the end—of negotiations with Washington.

The negotiations went nowhere. President Nixon resigned in 1974, his administration stating that it had "no indication at this moment that there are any Americans alive in Indochina." Concludes Khai: "With no negotiations, there was no framework to return the POWs." Some, Khai says, were given to Hanoi's allies: "It is a fact that some [Americans] were sent to Russia, China and other countries." Some intelligence analysts question Khai's bona fides, but they say his story could be accurate. Says General Tighe: "The Vietnamese, the Russians and Chinese . . . were intensely interested in getting hold of American prisoners."

The evidence that would support such a theory remains elusive. Barry Toll says that from 1973 to 1975 he had access to top-secret messages concerning POWs. Toll says he saw cables concerning the transfer by diplomatic aircraft of 10 to 20 American POWs to the Soviet Union from Hanoi. He says, another message that was "seared in his memory" reported on 290 to 340 American servicemen the Pentagon had identified as prisoners in Laos. This cable, Toll says, concluded that the men had to be abandoned: Washington could not admit to their existence because the Nixon administration had conducted a secret and illegal war there. Toll says he resigned from his Pentagon post in 1975 to protest this abandonment. Investigators on the Senate Select Committee on POW/MIA Affairs say they confirmed Barry Toll's military record and duties as an intelligence officer but were unable to corroborate the specific message traffic.

Proving the case. Others insist the evidence exits. George Carver, who accompanied Toll to the White House meeting with Anthony Lake earlier this month, says that while he was at the CIA, he saw evidence that led him to believe the Vietnamese and Laotians were holding more U.S. prisoners than they admitted. Carver believes the document obtained from the Soviet archives mentioning 1,205 prisoners is authentic. Based on other intelligence Carver has seen, however, he believes there were only about 300 unreturned American prisoners. "I think the case for 300," Carver says, "is almost presentable to a jury."

To prove that case, however, solid evidence is needed to show that the unreturned POW's were held separately from the 591 who were returned. Critics of this "theory of a separate prison system" argue that no one has furnished such proof. John McCain is one skeptic. Now a Republican senator from Arizona, he was a prisoner in Vietnam for 5½ years and heard nothing about separate prison systems. Former Rep. William "billy" Hendon disagrees. A POW activist, Hendon has maps and satellite photos that he says prove several Vietnamese prison camps held large numbers of Americans. No men came back from those camps. Senator BOB SMITH, a New Hampshire Republican who has visited Vietnamese prisons where intelligence reports say Americans were held, agrees with Hendon. "I don't know if anyone is alive today, but I do know that we don't have all the facts." Concludes George Carver: "I want to hope and pray that there are some left alive, that's what my heart tells me. But my head tells me to be cautious. For [the Vietnamese], it might be far better to dispose of the evidence."

Mr. Speaker, November 14 was the anniversary of the beginning of the Ia Drang Campaign where 301 of our men were killed in action.

Many of the issues in the "We Were Soldiers Once . . . and Young" are also relevant to Somalia: Low wages but high risk; Value of airpower/close air support; Value of fire support/artillery; Accounting for all casualties/MIAs on the battlefield; Policy problems in Washington hunting troops in field; and Need for clear military objectives.

Mr. Speaker, here are some important excerpts:

WE WERE SOLDIERS ONCE * * * AND YOUNG

(By Lt. Gen. Harold G. Moore, USA (Ret.) and Joseph L. Galloway)

We went to war because our country asked us to go, because our new President, Lyndon B. Johnson, ordered us to go, but more importantly because we saw it as our duty to go.

Leading us were the sons of West Point and the young ROTC lieutenants from Rutgers and The Citadel and, yes, even Yale University, who had heard Kennedy's call and answered it. There were also the young enlisted men and NCOs who passed through Officer Candidate School and emerged newly minted officers and gentlemen. All laughed nervously when confronted with the cold statistics that measured a second lieutenant's combat life expectancy in minutes and seconds, not hours. Our second lieutenants were paid $241.20 per month.

Many of our countrymen came to hate the war we fought. Those who hated it the most—the professionally sensitive—were not, in the end, sensitive enough to differentiate between the war and the soldiers who had been ordered to fight it. They hated us as well, and we went to ground in the cross fire, as we had learned in the jungles.

This story, then, is our testament, and our tribute to 234 young Americans who died beside us during four days in Landing Zone X-Ray and Landing Zone Albany in the Valley of Death, 1965. That is more Americans than were killed in any regiment, North or South, at the Battle of Gettysburg, and far more than were killed in combat in the entire Persian Gulf War. Seventy more of our comrades died in the Ia Drang in desperate skirmishes before and after the big battles at X-Ray and Albany. All the names, 305 of them including one Air Force pilot, are engraved on the third panel to the right of the apex, Panel 3-East, of the Vietnam Veterans Memorial in Washington, D.C., and on our hearts. This is also the story of the suffering of families whose lives were forever shattered by the death of a father, a son, a husband, a brother in that Valley.

Air Force Captain Bruce Wallace and his fellow A-1E Skyraider pilots, as well as jet fighter-bombers from all three services, helped provide that edge, flying fifty sorties in close air support that Sunday afternoon. Says Wallace, "The importance of airplanes in a vulgar brawl is to be down among the palm trees with the troops, putting ordnance on the ground at the exact time and in the precise place that the ground command needs it."

"It is always an experience for an Air Force pilot to watch a gaggle of Hueys attack a target. We pride ourselves on flexibility of thought, quick response time, ability to react to ever-changing situations, but we are committed to a somewhat linear thought process. In the attack the target is always directly in front of us. Not so with a Huey. To watch four or eight of them at a time maneuvering up and down and laterally and even backward boggles a fighter pilot's mind. Those guys swarm a target like bees over honey. I had to hand it to those Huey guys. They really got down there in the trees with the troops."

The brave cannon-cockers in LZ Falcon went without sleep for three days and nights to help keep us surrounded by a wall of steel. Those two batteries, twelve guns, fired more than four thousand rounds of high-explosive shells on the first day alone. Says Barker, "On the first afternoon both batteries fired for effect [directly on target] for five straight hours." One of Bruce Crandall's Huey slick pilots, Captain Paul Winkel, touched down at Falcon briefly that first after and was astounded by what he saw: "There were stacks of shell casings, one at least 10 feet high, and exhausted gun crews. They had fired for effect for three straight hours by then, without even pausing to level the bubbles. One tube was burned out, two had busted hydraulics. That's some shooting!"

Aside from wanting to make certain that Diduryk and his men did a clean, safe job, I had one other reason for joining the final assault personally. Rick Rescorla watched. "Colonel Moore, in our sector, was rushing up to clumps of bodies, pulling them apart. 'What the hell is the colonel doing up here?' Sergeant Thompson asked. I shook my head. Later we saw him coming back at the head of men carrying ponchos. By 10:30 a.m. Colonel Moore had found what he was looking for. Three dead American troops were no longer missing in action; now they were on their way home to their loved ones."

Among the American advisers on the ground with the South Vietnamese Airborne task force in the Ia Drang Valley that day was a big, burly American major, H. Norman Schwarzkopf, West Point class of 1956. Schwarzkopf remembers that the sudden appearance of the South Vietnamese troops on the North Vietnamese route of withdrawal shocked the enemy battalion.

Major Norm Schwarzkopf watched them go and was disgusted with the U.S. policy that permitted the creation of North Vietnamese sanctuaries across the border in supposedly neutral Cambodia. He was not the only military man in the field who was angered by a policy that tied the hands of the American and South Vietnamese forces.

Major General Harry Kinnard and his boss, Lieutenant General Stanley (Swede) Larsen, both appealed to General Westmoreland and U.S. ambassador Henry Cabot Lodge to do everything in their power to persuade Washington to review and revoke the restrictions on American freedom of action along and across the border.

Both Lodge and Westmoreland requested that review in November 1965; they got back a cable from William Bundy, under secretary for East Asian affairs at the State Department.

Will Bundy's cable said: "This will include authority to U.S./Government of Vietnam units to return fire, to eliminate fire coming from Cambodia and to maneuver into Cambodian territory as necessary to defend selves while actively engaged in contact with PAVN/VC units. It excludes authority to engage Cambodian forces if encountered, except in self-defense, to conduct tactical air or artillery operations against populated Cambodian areas, or to attack Cambodian base areas."

General Kinnard and the 1st Calvary commanders said even this slight relaxation of the restrictions on hot pursuit into Cambodia was not communicated or explained to them in time to be utilized during the Ia Drang Valley campaign.

Not long after this, orders came down to all the 1st Cavalry Division brigade and battalion commanders that we were never to speculate or suggest to any reporter that the North Vietnamese were using Cambodia as a sanctuary or that they were passing through Cambodia on their way to South Vietnam. This refusal to admit what we knew was true, and what even the newest reporter knew was true, struck all of us as dishonest and hypocritical.

General Kinnard says this was the point at which, under political direction, the American military surrendered the initiative to North Vietnam. What it said to Harry Kinnard was that this war would never end in an American victory. Initiative had been sacrificed to the polite diplomatic fiction that Cambodia was sovereign and neutral and in control of its territory.

"Only the dead have seen the end of war."—Plato.

But on November 18, 1965, in the sleepy southern town of Columbus, Georgia, half a world away from Vietnam, the first of the telegrams that would shatter the lives of the innocents were already arriving from Washington. The war was so new and the casualties to date so few that the Army had not even considered establishing the casualty-notification teams that later in the war would personally deliver the bad news and stay to comfort a young widow or elderly parents until friends and relatives could arrive. In Columbus, in November and December 1965, Western Union simply handed the telegrams over to Yellow Cab drivers to deliver.

There was one man in a position of power in Washington that fall who knew that the name of the game had changed in Vietnam. Secretary of Defense McNamara was on a trip to Europe when President Johnson asked him to return home by way of Saigon for first-hand briefings on the Ia Drang battles. McNamara talked with Ambassador Lodge and General Westmoreland in Saigon, and then flew to the An Khe base camp for briefings by General Harry Kinnard and myself.

In mid-December, President Johnson convened a White House meeting of his top advisers. Will Bundy says that McNamara's option number one—get the hell out of Vietnam now, while the getting is good—was never seriously considered nor was it pressed by McNamara. Option number two—the huge buildup of American combat and support troops—was readily approved by all, including McNamara. Ever the numbers cruncher, McNamara told the gathering, "The military solution to the problem is not certain; [the odds of success are] one out of three, or one in two." McNamara did push for a bombing pause to prepare U.S. public opinion for the coming escalation.

Those of us who commanded American soldiers in the opening days had already undergone one crisis of confidence in the political leadership's commitment to the struggle when President Johnson refused to extend enlistments and sent us off to war sadly understrength and minus many of our best-trained men. Now, in the wake of the Ia Drang, American political determination was tested again, and again found waiting.

General Kinnard says: "I was always taught as an officer that in a pursuit situation you continue to pursue until you either kill the enemy or he surrenders. I saw the Ia Drang as a definite pursuit situation and I wanted to keep after them. Not to follow them into Cambodia violated every principle of warfare. I was supported in this by both the military and civilian leaders in Saigon. But the decision was made back there, at the White House, that we would not be permitted to pursue into Cambodia. It became perfectly clear to the North Vietnamese that they then had sanctuary; they could come when they were ready to fight and leave when they were ready to quit."

Will Bundy was then assistant secretary of state. Of that period and that decision, he says, "I suppose from a strictly military point of view, going into Cambodia would have been a net plus. But there was a good deal more at stake. We were trying to preserve a facade of Cambodian neutrality.

A lovely six-year-old girl was bloody from a shrapnel wound. She was the same age as my daughter Cecile, back home. I summoned the medics, but I left there heartsick. None of us had joined the Army to hurt children and frighten peaceful farm families.

One more fatal flaw in American policy soon began to bite hard. Largely in order to pacify the public and to demonstrate that so powerful a nation as the United States was hardly troubled by this distant police action, the Johnson administration decreed that the tour of duty for American troops would be twelve months (thirteen for the hard-luck Marines). No citizen-soldier would have to stay in Vietnam a day longer. Those who had survived and learned how to fight in this difficult environment began going home in the summer of 1966; with them went all their experience and expertise. Replacing them was an army of new draftees, which in due course would be replaced by newer draftees. The level of training drifted ever lower as the demand for bodies grew.

Some of us learned that Clausewitz had it right 150 years earlier when he wrote these words:

"No one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war and how he intends to conduct it."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 60 minutes, today.

Mr. HORN, for 60 minutes each day, on November 20, 21, and 22.

Mr. KASICH, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Mr. SKELTON, for 5 minutes each day, on November 21 and 22.

Mr. FALEOMAVAEGA, for 60 minutes, on November 21.

Mr. HOYER, for 30 minutes, on November 21.

Mr. PICKLE, for 30 minutes each day, on November 21 and 22.

Mr. POSHARD, for 60 minutes, on November 21.

SENATE BILLS, A JOINT RESOLUTION, AND CONCURRENT RESOLUTIONS REFERRED

Bills, a joint resolution and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 486. An act to reorganize the Federal administrative law judiciary, and for other purposes, to the Committee on the Judiciary.

S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes, to the Committee on Government Operations and House Administration.

S. 1501. An act to repeal certain provisions of law relating to trading with Indians, to the Committee on the Judiciary.

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, for other purposes, to the Committee on Foreign Affairs.

S. 1732. An act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes, to the Committee on the Judiciary.

S.J. Res. 140. Joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day" to the Committee on Post Office and Civil Service.

S. Con. Res. 44. Concurrent resolution to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples, to the Committee on Foreign Affairs.

S. Con. Res. 50. Concurrent resolution concerning Arab League boycott of Israel, to the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 941. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 3161. An act to make technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolution of the Senate of the following title:

S. 433. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes.

S. 1667. An act to extend authorities under the Middle East Peace Facilitation Act of 1993 by 6 months.

S.J. Res. 55. Joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

S.J. Res. 75. Joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

S.J. Res. 122. Joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the house do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Sunday, November 21, 1993, at 2 p.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 783. A bill to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; with an amendment (Rept. 103–387). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 897. A bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; with amendments (Rept. 103–388). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3098. A bill to amend title 18, United States Code, to prohibit the possession of a handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile; with an amendment (Rept. 103–389). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3378. A bill to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes (Rept. 103–390). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2144. A bill to provide for the transfer of excess land to the Government of Guam, and for other purposes; with an amendment (Rept. 103–391, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 324. A bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision; with an amendment (Rept. 103–392). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1237. A bill to establish procedures for national criminal background checks for child care providers; with an amendment (Rept. 103–393). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3515. A bill to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these Acts and to authorize the establishment of a fresh-cut flowers and fresh-cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes; with an amendment (Rept. 103–394). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1133. A bill to combat violence and crimes against women; with an amendment (Rept. 103–395). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAMILTON: Committee on Foreign Affairs. H.R. 3221. A bill to provide for the adjudication of certain claims against the Government of Iraq; with an amendment (Rept. 103–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of conference. Conference report on H.R. 2202. A bill to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer (Rept. 103–397). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2921. A bill to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities; with an amendment (Rept. 103–398). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 486. A bill to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri; with an amendment (Rept. 103–399). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2947. A bill to extend for an additional 2 years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial; with amendments (Rept. 103–400). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 1645. A bill to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States; with an amendment (Rept. 103–401). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 319. Resolution providing for consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes (Rept. 103–402). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 320. Resolution providing for consideration of the bill (H.R. 3400) to provide a more effective, efficient, and responsive government (Rept. 103–403). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KILDEE (for himself and Mr. GOODLING):

H.R. 3580. A bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes; to the Committee on Education and Labor.

By Mr. SAWYER:

H.R. 3581. A bill to amend the Child Nutrition Act of 1966 to improve, promote, and expand the school breakfast program under that act; to the Committee on Education and Labor.

By Ms. WOOLSEY:

H.R. 3582. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve and expand the school lunch and related programs under those acts; to the Committee on Education and Labor.

By Ms. DANNER (for herself, Mr. EMERSON, Mr. VOLKMER, Mr. SKELTON, and Mr. COSTELLO):

H.R. 3583. A bill to make certain non-Federal levees eligible for assistance under the Federal levee rehabilitation program, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CHAPMAN (for himself, Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. GEKAS, and Mr. BREWSTER):

H.R. 3584. A bill to encourage each State to adopt truth-in-sentencing laws and to help fund additional spaces in the State correctional programs as needed; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. PICKLE:

H.R. 3585. A bill to amend title II of the Social Security Act to assure that the Social Security System remains viable for the baby boom generation and that the level of Social Security taxation remains affordable for their children; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 3586. A bill to amend laws relating to defense acquisition, including provisions relating to the formation of contracts, contract administration and major system management, procurement of information management systems and commercial activity contracting, the small purchase threshold, intellectual property rights, defense trade and cooperation, and the acquisition of commercial items; jointly, to the Committees on Armed Services, Government Operations, and Small Business.

By Mr. DOOLITTLE (for himself, Mr. CHAPMAN, and Mr. GUNDERSON):

H.R. 3587. A bill to require the Federal Communications Commission to amend the program exclusivity and nonduplication rules relating to cable television system blackouts to permit carriage of network programming from broadcasts within the same State; to the Committee on Energy and Commerce.

By Mr. GOODLING:

H.R. 3588. A bill to amend the Child Abuse Prevention and Treatment Act to require a

State, in order to be eligible for a grant for child abuse and neglect prevention and treatment programs, to have in effect a State law providing for the prosecution of a person who makes a report of child abuse or neglect without having a reasonable belief that the report is true, and for other purposes; to the Committee on Education and Labor.

By Mr. McCRERY (for himself, Mr. Livingston, Mr. Tauzin, Mr. Baker of Louisiana, Mr. Hayes, and Mr. Jefferson):

H.R. 3589. A bill to designate the lock and dam numbered 4 on the Red River Waterway in Louisiana as the "Russell B. Long Lock and Dam"; to the Committee on Public Works and Transportation.

By Mrs. MORELLA:

H.R. 3590. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980; jointly, to the Committees on Science, Space, and Technology and the Judiciary.

By Mr. PENNY:

H.R. 3591. A bill to amend title II of the Social Security Act to provide for a gradual increase by the year 2030 in the normal retirement age and the early retirement age to ages 70 and 67, respectively; to the Committee on Ways and Means.

H.R. 3592. A bill to amend title II of the Social Security Act to provide for cost-of-living increases based solely on the percentage increase in the Consumer Price Index and for the establishment of a single annual cost-of-living increase in primary insurance amounts at a uniform flat rate; jointly, to the Committees on Ways and Means, Veterans' Affairs, and Energy and Commerce.

By Mr. REGULA (for himself, Mr. Sawyer, Mr. Stokes, Mr. Hobson, Mr. Gillmor, Mr. Brown of Ohio, Mr. Hoke, Mr. Hall of Ohio, Mr. Fingerhut, Mr. Applegate, Mr. Traficant, Ms. Kaptur, Ms. Pryce of Ohio, Mr. Portman, and Mr. Oxley):

H.R. 3593. A bill to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio as an affiliated area of the National Park System; to the Committee on Natural Resources.

By Mr. SANGMEISTER:

H.R. 3594. A bill to prohibit direct Federal financial benefits and unemployment benefits to illegal aliens; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. SANTORUM:

H.R. 3595. A bill to prohibit the possession of a handgun by, and the transfer of a handgun to, a minor, with certain exceptions; to the Committee on the Judiciary.

By Mr. SAXTON (for himself and Mr. Cardin):

H.R. 3596. A bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health of research centers regarding movement disorders; to the Committee on Energy and Commerce.

By Mr. SAXTON:

H.R. 3597. A bill to conduct a demonstration project which permits traditional wildlife-related uses on lands acquired for the Edwin B. Forsythe Wildlife Refuge until a public use management plan for those lands is adopted; to the Committee on Merchant Marine and Fisheries.

By Ms. SCHENK:

H.R. 3598. A bill to amend the South Pacific Tuna Act of 1988 to provide for duty-free treatment of canned tuna imported into the United States that was caught by certain vessels and processed in certain facilities; to the Committee on Ways and Means.

H.R. 3599. A bill to provide for the transfer of certain tuna fishing vessels documented in the United States to foreign registry; to the Committee on Merchant Marine and Fisheries.

By Mr. GEPHARDT (for himself, Mr. Bonior, Mr. Hoyer, Mr. Fazio, Mrs. Kennelly, Mr. Lewis of Georgia, Mr. Richardson, Mr. Dingell, Mr. Rostenkowski, Mr. Ford of Michigan, Mr. Waxman, Mrs. Collins of Illinois, Mr. Stark, Mr. Williams, Mr. Clay, Mr. Brooks, Mr. Moakley, Mr. Abercrombie, Mr. Ackerman, Mr. Andrews of Maine, Mr. Barrett of Wisconsin, Mr. Berman, Mr. Bilbray, Mr. Blackwell, Mr. Borski, Mr. Brown of California, Ms. Brown of Florida, Mr. Cardin, Mr. Clyburn, Mr. Coyne, Mr. de Lugo, Ms. DeLauro, Mr. Deutsch, Mr. Dicks, Mr. Dixon, Mr. Durbin, Mr. Edwards of California, Mr. Engel, Ms. English of Arizona, Ms. Eshoo, Mr. Faleomavaega, Mr. Filner, Mr. Flake, Mr. Foglietta, Mr. Frank of Massachusetts, Mr. Gejdenson, Mr. Gibbons, Mr. Hastings, Mr. Hilliard, Mr. Hinchey, Ms. Eddie Bernice Johnson of Texas, Mr. Johnston of Florida, Mr. Kanjorski, Mr. Kreidler, Mr. LaFalce, Mr. Lantos, Mr. Levin, Ms. Long, Mr. Martinez, Mr. Matsui, Ms. McKinney, Mrs. Meek, Mr. Minge, Mrs. Mink, Mr. Murphy, Mr. Murtha, Ms. Norton, Mr. Oberstar, Mr. Obey, Mr. Owens, Mr. Pastor, Mr. Payne of New Jersey, Mr. Rahall, Mr. Rangel, Mr. Reynolds, Mr. Romero-Barcelo, Mr. Rush, Mr. Sabo, Mr. Sawyer, Mr. Scott, Mr. Serrano, Ms. Sheperd, Mr. Skaggs, Ms. Slaughter, Mr. Smith of Iowa, Mr. Stokes, Mr. Strickland, Mr. Studds, Mr. Swift, Mr. Synar, Mr. Thornton, Mrs. Thurman, Mr. Traficant, Mr. Underwood, Mrs. Unsoeld, Mr. Vento, Mr. Watt, Mr. Wheat, Mr. Wise, and Mr. Yates):

H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; jointly, to the Committee on Energy and Commerce, to the Committee on Ways and Means, and to the Committee on Education and Labor for consideration of such provisions in titles I, III, VI, VII, X, and XI as fall within its jurisdiction pursuant to clause 1(g) of rule X; and concurrently, for a period ending not later than two weeks after all three committees of joint referral report to the House (or a later time if the Speaker so designates), to the Committee on Armed Services for consideration of subtitle A of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(c) of rule X, to the Committee on Veterans' Affairs for consideration of subtitle B of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(u) of rule X, to the Committee on Post Office and Civil Service for consideration of subtitle C of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(o) of rule X, to the Committee on Natural Resources for consideration of subtitle D of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(n) of rule X, to the Committee on the Judiciary for consideration of subtitles C through F of title V and such other provisions as fall within its jurisdiction pursuant to clause 1(l) of rule X, to the Committee on Rules for consideration of sections 1432(d), 6006(f), and 9102(e)(5), and to the Committee on Government Operations for consideration of subtitle B of title V and section 5401.

By Ms. SCHENK:

H.R. 3601. A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to issue a discharge permit that modifies the total suspended solids and biochemical oxygen demand requirements with respect to the discharge of waste water effluent into the ocean from certain publicly owned treatment works if a water reclamation program is being implemented, and for other purposes; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. BUNNING (for himself, Mr. Hutto, Mr. Montgomery, Mr. Emerson, Mr. Wolf, Ms. Snowe, Mr. McCloskey, Mr. Chapman, Mr. Spratt, and Mr. Hilliard):

H. Con. Res. 185. Concurrent resolution expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay round multilateral trade negotiations and that the imposition of quotas by Canada on United States processed chicken violates article XI of the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. Jacobs introduced a bill (H.R. 3602) for the relief of Sara Lou Hendricks; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. Andrews of Maine.

H.R. 44: Mr. Franks of Connecticut.

H.R. 93: Mr. Bereuter, Mr. Condit, and Mr. Matsui.

H.R. 324: Mr. Pomeroy and Mr. Strickland.

H.R. 515: Ms. Margolies-Mezvinsky.

H.R. 794: Mr. Livingston.

H.R. 899: Mr. Parker.

H.R. 1015: Mr. Romero-Barcelo.

H.R. 1056: Mr. Coleman, Mr. Crapo, Mr. Pomeroy, and Mr. Johnston of Florida.

H.R. 1122: Mrs. Fowler.

H.R. 1126: Mr. Goodlatte and Mrs. Fowler.

H.R. 1130: Mr. Goodlatte and Mrs. Fowler.

H.R. 1133: Mr. Quinn.

H.R. 1349: Mr. Hutchinson, Mr. Blute, Mr. Saxton, and Mr. Quinn.

H.R. 1392: Mr. Linder.

H.R. 1455: Mr. Studds.

H.R. 1518: Mr. Goodlatte.

H.R. 1605: Mr. Linder.

H.R. 1606: Mr. Linder.

H.R. 1608: Mr. Richardson.

H.R. 1738: Ms. Long and Mr. Brewster.

H.R. 1785: Mr. Stearns.

H.R. 2019: Ms. Furse.

H.R. 2031: Mr. Williams.

H.R. 2035: Mr. Zimmer.

H.R. 2036: Mr. ZIMMER and Mr. KLUG.

H.R. 2037: Mr. ZIMMER and Mr. KLUG.

H.R. 2259: Mr. HERGER of California.

H.R. 2365: Mr. FINGERHUT, Mr. KLUG, and Mr. MINGE.

H.R. 2488: Mr. KOPETSKI.

H.R. 2572: Ms. MCKINNEY.

H.R. 2600: Mr. GEJDENSON.

H.R. 2641: Mr. FILNER, Mr. BERMAN, and Mr. GENE GREEN of Texas.

H.R. 3030: Mr. ARMEY.

H.R. 3098: Mr. HASTERT.

H.R. 3182: Mr. LEVIN.

H.R. 3235: Mr. WYNN, Mr. TORRES, and Mr. MINGE.

H.R. 3328: Mrs. MORELLA.

H.R. 3342: Mr. GENE GREEN of Texas, Mr. DEFAZIO, Mr. UPTON, Mr. SCHUMER, Mr. GUTIERREZ, Mr. GEPHARDT, Mr. BREWSTER, Mr. FAZIO, Mr. GINGRICH, Mr. DOOLITTLE, Mr. KINGSTON, Mr. SENSENBRENNER, Mr. PETRI, Mr. BACHUS of Alabama, Mr. GILLMOR, Ms. LONG, Mr. PETE GEREN of Texas, Mr. RANGEL, Ms. SCHENK, Mr. ANDREWS of Maine, Mr. ABERCROMBIE, Mr. INSLEE, Mr. EDWARDS of Texas, Mr. SMITH of Texas, Mr. CRANE, Mr. EMERSON, Mr. DIAZ-BALART, Mr. BILIRAKIS, Mrs. ROUKEMA, Mr. SPRATT, Mr. THOMAS of California, Mr. POSHARD, Mr. WYNN, Ms. ROS-LEHTINEN, Mr. CHAPMAN, Mr. JOHNSON of South Dakota, Mr. STUDDS, Mr. DELLUMS, Mr. SWETT, Mr. WHEAT, Ms. PRYCE of Ohio, Mr. FARR, Mr. TAUZIN, Mr. REYNOLDS, Mrs. KENNELLY, Mr. ROSE, Mr. HOKE, Mr. LINDER, Mr. WATT, Mr. ZIMMER, Mr. BRYANT, Mr. BONIOR, Mr. RUSH, Mr. PALLONE, Mr. WAXMAN, Mr. KENNEDY, Mr. KING, Mr. REED, and Mr. KILDEE.

H.R. 3360; Mr. QUINN, Mr. HOEKSTRA, Mr. DELLUMS, Mr. UPTON, Mr. VENTO, and Mr. HUGHES,

H.R. 3393: Mr. FRANK of Massachusetts, Mr. BACHUS of Alabama, Mr. BLUTE, Mr. JACOBS, and Mrs. SCHROEDER.

H.R. 3429: Mr. EWING.

H.R. 3431: Mr. SWETT, Mr. MATSUI, and Mr. BALLENGER.

H.R. 3435: Ms. SHEPHERD, Ms. FURSE, and Mr. ROMERÓ-BARCELÓ.

H.R. 3449: Mr. FISH.

H.R. 3457: Mr. HINCHEY, Mr. SHAYS, and Mrs. MALONEY.

H.R. 3472: Mrs. THURMAN, Mr. FISH, Mr. SAXTON, Mr. MICA, Mr. TRAFICANT, and Mr. GILLMOR.

H.R. 3474: Mr. POMEROY and Mr. STRICKLAND.

H.R. 3490: Mr. TOWNS.

H.R. 3546: Mr. RICHARDSON and Mr. WHITTEN.

H.J. Res. 90: Mr. ENGEL.

H.J. Res. 113: Mr. GILMOR and Mr. SMITH of New Jersey.

H. Con. Res. 148: Mr. LANCASTER.

H. Res. 234: Mrs. MORELLA, Mr. CHAPMAN, and Mr. SKEEN.

H. Res. 266: Mr. LIGHTFOOT, Mr. QUINN, Mr. GREENWOOD, Mrs. MEYERS of Kansas, Mr. STENHOLM, Mr. SCHIFF, and Mr. BALLENGER.

H. Res. 308: Mr. GOSS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 118: Mr. FILNER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3400

By Mr. PENNY of Minnesota:

—Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Common Cents Deficit Reduction Act of 1993".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—NATIONAL SECURITY

Sec. 101. Sense of Congress on increased burden sharing by allies of the United States.
Sec. 102. Streamlining and reorganization of Corps of Engineers.
Sec. 103. Rescission of certain defense add-ons.
Sec. 104. Rescission of funds for MK–19 grenade launcher program.
Sec. 105. Termination of C–26 aircraft program.
Sec. 106. Termination of mobile in-shore undersea warfare vans program.
Sec. 107. Rescission of certain defense operation and maintenance funds.
Sec. 108. Reduction in Public Law 480 Food for Peace Program.
Sec. 109. Rescission of funds for World Bank.
Sec. 110. Reduction in funding for International Development Association.
Sec. 111. Rescission of funds for foreign military financing.
Sec. 112. Rescission of funds for Agency for International Development, Department of state, and United States Information Agency.

TITLE II—PHYSICAL CAPITAL, NATURAL RESOURCES, AND SCIENCE

Sec. 201. Termination of spacelifter program.
Sec. 202. Department of Science, Space, Energy and Technology.
Sec. 203. Elimination of funding for MagLev prototype development program.
Sec. 204. Rescission of funds for federally sponsored university research and development.
Sec. 205. Recoupment of certain grants.
Sec. 206. Coverage of federally funded research and development centers by Competition in Contracting Act.
Sec. 207. Termination of modular high temperature gas reactor project.
Sec. 208. Department of Energy Facilities Closure and Reconfiguration Commission.
Sec. 209. Rescission of funds for fusion energy research and development.
Sec. 210. Rescission of funds for fossil energy research and development.
Sec. 211. Alaska Power Administration sale.
Sec. 212. Federal-private cogeneration of electricity.
Sec. 213. Termination of clean coal technology program.
Sec. 214. Rescission of funds from SPR petroleum account.
Sec. 215. Study of termination of helium subsidy.
Sec. 216. Rescission of funds for low-priority water projects.
Sec. 217. Preference for interim measures in Superfund response actions.
Sec. 218. Reservation of funds for disaster relief.
Sec. 219. Elimination of Weather Office closure certification procedures.
Sec. 220. Rescission of funds for NOAA research fleet.
Sec. 221. Rescission of funds for NOAA add-ons.
Sec. 222. Study concerning merger of Bureau of Reclamation and United States Army Corps of Engineers.
Sec. 223. Rescission of funds for agriculture building and facilities account.
Sec. 224. Repeal of authorizations for the airway science program, collegiate training initiative, and air carrier maintenance technician training facility grant program.
Sec. 225. Repeal of national recreational trails program.
Sec. 226. Rescission of funds for EDA.
Sec. 227. Elimination of funding for public telecommunications facilities.
Sec. 228. Moratorium on construction and acquisition of new Federal buildings.

TITLE III—GOVERNMENT MANAGEMENT

Sec. 301. Government information dissemination and printing improvement.
Sec. 302. Sense of Congress regarding reorganization of Bureau of Indian Affairs.
Sec. 303. Rescission of funds for printing and reproduction and for supplies and materials.
Sec. 304. Streamlining of Department of Housing and Urban Development.
Sec. 305. Termination of Interstate Commerce Commission.
Sec. 306. Rescission of funds from Tennessee Valley Authority Fund.
Sec. 307. Rescission of funds for Appalachian Regional Commission.
Sec. 308. Improvements to managment of veterans' hospitals.
Sec. 309. Rescission of funds for Legal Services Corporation.
Sec. 310. Termination State Justice Institute.
Sec. 311. Improvement of U.S. Marshals Service.
Sec. 312. Rescission of funds for BATF.
Sec. 313. Rescission of funds for construction of new Federal offices and courthouses.
Sec. 314. Limitation on office equipment and furnishings purchases by departing Members of House of Representatives.
Sec. 315. Rescission of funds for Executive Office of the President.
Sec. 316. Rescission of funds for Legislative Branch.
Sec. 317. Rescission of funds for House franking.
Sec. 318. Provisions relating to annual pay adjustments for Members of Congress.
Sec. 319. SES annual leave accumulation.
Sec. 320. Reduction of Federal full-time equivalent positions.
Sec. 321. Rescission of funds for travel accounts.
Sec. 322. Termination of Federal advisory committees.
Sec. 323. Increase in threshold for application of Davis-Bacon Act.
Sec. 324. Elimination of certain reports required on contracts covered by Davis-Bacon Act.
Sec. 325. Fees for applications for alcohol labeling and formula reviews.
Sec. 326. Increase in SEC registration fees.
Sec. 327. Travel, tourism, and export promotion fees.

TITLE IV—HUMAN RESOURCES

Sec. 401. Reduction in funding for arts and humanities programs.

Sec. 402. Elimination of operating subsidies for vacant public housing.
Sec. 403. Substitution of voucher assistance for public housing new construction.
Sec. 404. Reform of HUD multifamily property disposition.
Sec. 405. Termination of annual direct grant assistance.

TITLE V—SOCIAL SERVICES AND RETIREMENT

Sec. 501. Increase in retirement age under FERS to 65.
Sec. 502. Provision relating to Government contributions to the Thrift Savings Plan.
Sec. 503. Deferral until age 62 of cost-of-living adjustments for military retirees who first entered military service on or after January 1, 1994.
Sec. 504. Consolidation of certain social services programs into a single block grant program.
Sec. 505. Awards of Pell grants to prisoners prohibited.
Sec. 506. Elimination of education programs that have largely achieved their purpose.

TITLE VI—AGRICULTURE AND HEALTH CARE

Sec. 601. Department of Agriculture reorganization.
Sec. 602. Reduction in triple base for deficiency payments for basic agricultural commodities under agriculture programs.
Sec. 603. Imposition of 20 percent coinsurance on clinical laboratory services under Medicare.
Sec. 604. Imposition of 20 percent coinsurance on home health services under Medicare.
Sec. 605. Relating Medicare part B premium to income for certain high income individuals.
Sec. 606. Increase in Medicare hospital insurance deductible for certain high-income individuals.
Sec. 607. Establishment of standard payment rates for home health services.
Sec. 608. Eliminating Federal support for honey.

TITLE VII—ENFORCEMENT

Sec. 701. Dedication of savings to deficit reduction.

TITLE I—NATIONAL SECURITY

SEC. 101. SENSE OF CONGRESS ON INCREASED BURDEN SHARING BY ALLIES OF THE UNITED STATES.

(a) DEFENSE COST-SHARING AGREEMENTS.—It is the sense of Congress that the President should enter into negotiations with each foreign nation referred to in subsection (b)(1) that is not excluded by subsection (b)(2) to seek to conclude an agreement that provides for such nation to pay at least 50 percent of the overseas basing costs that are incurred for the stationing of members of the Armed Forces of the United States and related civilian employees of the Department of Defense in that nation as a result of the implementation of a bilateral or multilateral defense agreement with that nation.

(b) COVERED FOREIGN NATIONS.—(1) Except as provided in paragraph (2), subsection (a) applies with respect to the following foreign nations:

(A) Each member nation of the North Atlantic Treaty Organization (other than the United States).

(B) Every other foreign nation with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty ashore in that nation.

(2) Subsection (a) does not apply with respect to any foreign nation—

(A) that receives assistance or financing under—

(i) section 23 of the Arms Export Control Act (22 U.S.C. 2763), relating to the foreign military financing program; or

(ii) the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

(B) in which not more than 1,000 members of the Armed Forces of the United States and related civilian employees of the Department of Defense are assigned to permanent duty ashore as a result of the implementation of a bilateral or multilateral defense agreement; or

(C) that has agreed to assume, not later than January 1, 1995, at least 50 percent of the overseas basing costs of the United States in that nation.

(c) USE OF FUNDS FOR PAYING OVERSEAS BASING COSTS.—(1) It is the sense of Congress that funds should not be expended to pay more than the allowable percent of the overseas basing costs that are incurred during a fiscal year referred to in paragraph (2) for the stationing of members of the Armed Forces of the United States and related civilian employees of the Department of Defense in a nation referred to in subsection (a) as a result of the implementation of a bilateral or multilateral defense agreement with that nation.

(2) For purposes of paragraph (1), the allowable percent for a fiscal year is as follows:

(A) For fiscal year 1995, 84 percent.

(B) For fiscal year 1996, 75 percent.

(C) For fiscal year 1997, 60 percent.

(D) For each fiscal year that begins after September 30, 1997, 50 percent.

(d) OVERSEAS BASING COSTS DEFINED.—In this section, the term "overseas basing costs" means all costs related to the operation of installations in foreign countries at which forces of the Armed Forces of the United States are based, as determined by the Secretary of Defense using the methodology used in preparing the "Fiscal Year 1994 Budget Estimate, Department of Defense", dated April 1993, and the "Report on Allied Contributions to the Common Defense", dated May 1993. The term—

(1) includes, among other costs—

(A) pay for foreign nationals;

(B) costs of utilities;

(C) costs of local services;

(D) costs of military construction projects;

(E) costs of real property maintenance;

(F) costs of environmental restoration;

(G) leasing costs;

(H) taxes;

(I) user fees;

(J) tolls; and

(K) import duties;

(2) does not include—

(A) the rent value of land or facilities provided to the United States by foreign nations covered by this section in excess of amounts actually paid by such nations to private owners of such land or facilities; and

(B) revenue foregone by foreign nations covered by this section in providing rent-free land or facilities to the United States; and

(3) does not include the pay and allowances of members of the Armed Forces of the United States and civilian employees of the Department of Defense.

SEC. 102. STREAMLINING AND REORGANIZATION OF CORPS OF ENGINEERS.

The Secretary of the Army shall reorganize the United States Army Corps of Engineers by reorganizing the headquarters offices, reducing the number of division offices from 11 to not more than 6, and restructuring the district functions so as to increase the efficiency of the United States Army Corps of Engineers and reduce staff and costs, to achieve at least $50,000,000 in net annual savings by fiscal year 1998.

SEC. 103. RESCISSION OF CERTAIN DEFENSE ADD-ONS.

(a) MILITARY CONSTRUCTION.—Of the funds made available under the heading "Military Construction, Army Reserve" in the Military Construction Appropriations Act, 1994 (Pub. L. 103–110), $15,000,000 is rescinded, to be derived from the Georgia-Fort McPherson Command Headquarters, Phase I, project.

(b) DEFENSE PROCUREMENT.—Of the funds made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), the following amounts are rescinded from the following accounts and programs:

(1) "Other Procurement, Army", $15,000,000, to be derived from common hardware and software.

(2) "Other Procurement, Navy", $30,000,000, to be derived from spare and repair parts.

(3) "Other Procurement, Navy", $12,000,000, to be derived from weapons range support equipment.

(4) "Other Procurement, Army", $10,000,000, to be derived from tactical trailers/dolly sets.

(5) "Shipbuilding and Conversion, Navy", $50,000,000, to be derived from advance procurement of LHD–7.

SEC. 104. RESCISSION OF FUNDS FOR MK–19 GRENADE LAUNCHER PROGRAM.

Of the funds made available under the heading "Procurement of Weapons and Tracked Combat Vehicles, Army" in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), $15,000,000 is rescinded, to be derived from the MK–19 automatic grenade launcher program.

SEC. 105. TERMINATION OF C–26 AIRCRAFT PROGRAM.

The Secretary of Defense shall cancel the C–26 aircraft program. Funds appropriated for the Department of Defense may not be obligated after the date of the enactment of this Act for procurement of new aircraft under that program other than for contract termination or cancellation costs.

SEC. 106. TERMINATION OF MOBILE IN-SHORE UNDERSEA WARFARE VANS PROGRAM.

The Secretary of Defense shall cancel the Mobile In-Shore Undersea Warfare Vans program. Funds appropriated for the Department of Defense may not be obligated after the date of the enactment of this Act for procurement under that program other than for contract termination or cancellation costs.

SEC. 107. RESCISSION OF CERTAIN DEFENSE OPERATION AND MAINTENANCE FUNDS.

Of the funds made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), the following amounts are rescinded from the following accounts:

(1) "Operation and Maintenance, Army", $88,020,000 to be derived from general reduction DBOF, and $15,180,000 to be derived from inventories.

(2) "Operation and Maintenance, Navy", $109,270,000 to be derived from general reduction DBOF, and $27,555,000 to be derived from inventories.

(3) "Operation and Maintenance, Air Force", $94,140,000 to be derived from general

reduction DBOF, and $12,265,000 to be derived from inventories.

SEC. 108. REDUCTION IN PUBLIC LAW 480 FOOD FOR PEACE PROGRAM.

(a) In General.—Section 103 of title I of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end the following:

"(f) Modification of Terms and Conditions During Certain Years.—The Secretary shall set the terms and conditions of agreements entered into under this title after the date of the enactment of this subsection so that—

"(1) the length of the loan does not exceed 20 years;

"(2) the length of the grace period does not exceed 5 years;

"(3) the interest rate during the grace period is not less than 3 percent; and

"(4) the interest rate during the payback period is not less than 5 percent.".

(b) Rescission of Funds.—Of the funds made available under the heading "Public Law 480 Program Account" in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–111)—

(1) $69,378,000 is rescinded from the amounts provided for programs under title I of the Agricultural Trade Development and Assistance Act of 1954 and the Food for Progress Act of 1985; and

(2) $56,017,000 is rescinded from the amount provided for commodities supplied in connection with dispositions abroad pursuant to title III of the Agricultural Trade Development and Assistance Act of 1954.

SEC. 109. RESCISSION OF FUNDS FOR WORLD BANK.

Of the funds made available under the heading "Contribution to the International Bank for Reconstruction and Development" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87)—

(1) $27,910,500 provided for paid-in capital is rescinded; and

(2) $902,439,500 provided for callable capital is rescinded.

SEC. 110. REDUCTION IN FUNDING FOR INTERNATIONAL DEVELOPMENT ASSOCIATION.

(a) In General.—Section 526 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) is amended by inserting before the period at the end ", of which not more than $957,142,857 shall be available for fiscal year 1994, and not more than $957,142,857 shall be available for fiscal year 1995".

(b) Rescission of Funds.—Of the funds made available under the heading "Contribution to the International Development Association" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87), $67,189,143 is rescinded.

SEC. 111. RESCISSION OF FUNDS FOR FOREIGN MILITARY FINANCING.

Of the funds made available under the heading "Foreign Military Financing Program" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87), $25,721,000 is rescinded, to be derived from grants.

SEC. 112. RESCISSION OF FUNDS FOR AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE, AND UNITED STATES INFORMATION AGENCY.

(a) AID.—Of the funds made available under the heading "Agency for International Development—Development Assistance Fund" in appropriations Acts for fiscal year 1994 and prior fiscal years to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $160,000,000 is rescinded.

(b) Department of State.—Of the funds made available under the heading "Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $600,000 is rescinded.

(c) USIA.—

(1) Salaries and expenses.—Of the funds made available under the heading "United States Information Agency—Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $3,000,000 is rescinded.

(2) North/south center.—Of the funds made available under the heading "United States Information Agency—North/South Center" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $8,700,000 is rescinded.

TITLE II—PHYSICAL CAPITAL, NATURAL RESOURCES, AND SCIENCE

SEC. 201. TERMINATION OF SPACELIFTER PROGRAM.

(a) In General.—The United States shall not obligate any funds for the acquisition or operation of any space launch system not in operation as of the date of enactment of this Act.

(b) Rescission of Funds.—Of the funds made available under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), $10,000,000 is rescinded, to be derived from the new medium lift vehicle (Spacelifter) program.

SEC. 202. DEPARTMENT OF SCIENCE, SPACE, ENERGY AND TECHNOLOGY.

(a) Short Title.—This section may be cited as the "Department of Science, Space, Energy, and Technology Organization Act of 1993".

(b) General Provisions.—

(1) Findings.—The Congress finds that—

(A) the advancement of science and technology is a vital national goal which is essential for the continued economic well being of the United States;

(B) the creation of new scientific information and technological development are generators of new wealth and jobs;

(C) consolidation of the Federal agencies which conduct and support science and technology activities will focus the resources of the Federal Government and will lead to better coordination of the overall effort of those agencies to carry out the research and development objectives of the United States;

(D) the elimination of duplication of functions within the scientific and technical agencies of the Federal Government will lead to cost savings for the Government; and

(E) the creation of the Department of Science, Space, Energy, and Technology will increase the dissemination of technology through the improved coordination of technology transfer from the Federal Government to the private sector.

(2) Definitions.—As used in this section, unless otherwise provided or indicated by the context—

(A) the term "Department" means the Department of Science, Space, Energy, and Technology;

(B) the term "Secretary" means the Secretary of Science, Space, Energy, and Technology;

(C) the term "Deputy Secretary" means the Deputy Secretary of Science, Space, Energy, and Technology;

(D) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(E) the term "office" includes any office, institute, council, unit, or organizational entity, or any component thereof.

(c) Establishment of the Department.—

(1) Establishment.—There is authorized an executive department to be known as the Department of Science, Space, Energy, and Technology. The Department shall be administered, in accordance with the provisions of this section, under the supervision and direction of a Secretary of Science, Space, Energy, and Technology. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall receive basic pay at the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code.

(2) Principal Officers.—

(A) Deputy secretary.—(i) There shall be in the Department a Deputy Secretary of Science, Space, Energy, and Technology who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices. The Deputy Secretary shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(ii) The Deputy Secretary shall perform such other duties and exercise such powers as the Secretary may from time to time prescribe.

(B) Under secretaries.—(i) There shall be in the Department—

(I) an Under Secretary of Research who shall, on the transfer of functions and offices under subsection (d), serve as the Director of the National Science Foundation;

(II) an Under Secretary of Technology who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Institute of Standards and Technology, the National Technical Information Service, the National Telecommunications and Information Administration, and the Patent and Trademark Office;

(III) an Under Secretary of Energy who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Energy Administration;

(IV) an Under Secretary of Space who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Aeronautics and Space Administration; and

(V) an Under Secretary of Oceanic and Atmospheric Affairs who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Oceanic and Atmospheric Administration.

(ii) Each of the Under Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. The Under

Secretaries shall receive basic pay at the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) ASSISTANT SECRETARIES.—(i) There shall be as many as 20 Assistant Secretaries in the Department. Among the Assistant Secretaries shall be—

(I) an Assistant Secretary for Administration who shall serve as the Chief Financial Officer of the Department;

(II) an Assistant Secretary for Policy and Budget;

(III) an Assistant Secretary for Congressional and Intergovernmental Affairs;

(IV) an Assistant Secretary for Technology Transfer and Commercial Programs; and

(V) an Assistant Secretary for International Programs.

(ii) Each of the Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(D) GENERAL COUNSEL.—There shall be in the Department a General Counsel who shall administer the Office of General Counsel. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(E) INSPECTOR GENERAL.—There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978. The Inspector General shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(F) ADDITIONAL OFFICERS.—In addition to the officers specified in subparagraphs (A) through (E) and the 24 members of the Board of Directors of the National Science Foundation, there shall be in the Department not more than 10 additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subparagraph shall perform such functions as the Secretary shall prescribe.

(G) SPECIFICATION OF FUNCTIONS.—Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this paragraph, the President shall state the particular functions of the Department such individual will exercise upon taking office, consistent with the requirements of this section.

(H) LINE OF AUTHORITY; ADDITIONAL FUNCTIONS.—Each officer of the Department referred to in subparagraphs (A) through (F) shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(d) TRANSFERS OF FUNCTIONS AND OFFICES.—

(1) TRANSFER OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There is transferred to the Department the National Aeronautics and Space Administration, along with all of its functions and offices.

(2) TRANSFER OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is transferred to the Department the National Institute of Standards and Technology, along with all of its functions and offices.

(3) TRANSFER OF THE NATIONAL SCIENCE FOUNDATION.—There is transferred to the Department the National Science Foundation, along with all of its functions and offices.

(4) TRANSFER OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There is transferred to the Department the National Oceanic and Atmospheric Administration, along with all of its functions and offices.

(5) TRANSFER OF THE NATIONAL TECHNICAL INFORMATION SERVICE.—There is transferred to the Department the National Technical Information Service, along with all of its functions and offices.

(6) TRANSFER OF THE PATENT AND TRADEMARK OFFICE.—There is transferred to the Department the Patent and Trademark Office, along with all of its functions and offices.

(7) TRANSFER OF THE DEPARTMENT OF ENERGY.—There is transferred to the Department the Department of Energy, which shall be renamed the National Energy Administration, along with all of its functions and offices, except for the following facilities, which shall be transferred to the Department of Defense:

(A) The Feed Materials Production Center at Fernald, Ohio.

(B) The Extrusion Plant at Ashtabula, Ohio.

(C) The Savannah River Plant, including the Savannah River Weapons Facility, at Aiken, South Carolina.

(D) The Hanford Production Operations at Richland, Washington.

(E) The Nevada Test Site.

(F) The Kansas City Plant at Kansas City, Missouri.

(G) The Rocky Flats Plant located between Golden and Boulder, Colorado.

(H) The Pantex Plant located near Amarillo, Texas.

(I) The Pinellas Plant at St. Petersburg, Florida.

(J) The Mound Facility at Miamisburg, Ohio.

(K) The Y-12 Plant at Oak Ridge, Tennessee.

(8) TRANSFER OF THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION.—There is transferred to the Department the National Telecommunications and Information Administration, along with all of its functions and offices.

(9) EFFECTIVE DATE.—This subsection shall take effect—

(A) 180 days after the first Secretary takes office under subsection (c)(1); or

(B) on any date earlier than the date described in subparagraph (A), but later than September 30, 1994, that the President designates through publication in the Federal Register.

(e) ADMINISTRATIVE PROVISIONS.—

(1) PERSONNEL PROVISIONS.—

(A) OFFICERS AND EMPLOYEES.—

(i) GENERAL AUTHORITY.—The Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(ii) TEMPORARY SUPER GRADE AND TECHNICAL POSITIONS.—(I)(aa) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under subsection (d) and which were assigned and filled on the day before such transfer.

(bb) Appointments to positions provided for under this subclause may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under subsection (d) and, on the day before such transfer, holds a position and has duties comparable to those of the position to which appointed hereunder.

(II) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Department of a number of scientific and professional positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under subsection (d) and which were assigned and filled on the day before such transfer.

(III) The authority under this clause with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(IV) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this clause shall be deemed to occupy the same position as the individual occupied on the day before the transfer of functions and offices under subsection (d).

(iii) TRANSITIONAL SENIOR EXECUTIVE SERVICE POSITIONS.—Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 5 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire on the later of 3 years after the date of the transfer of functions and offices under subsection (d) or 3 years after the initial appointment to each position. Positions in effect under this clause shall be taken into account in applying the limitation on positions prescribed under section 3134(e) and section 5108 of such title.

(B) EXPERTS AND CONSULTANTS.—The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under subchapter III of chapter 53 of such title.

(C) PERSONNEL REDUCTION.—

(i) FULL-TIME EMPLOYEE LIMITATIONS.—Not later than the end of the first fiscal year beginning after the date of the transfer of functions and offices under subsection (d), the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department under such subsection shall be reduced by not less than 350.

(ii) COMPUTATIONS.—Computations required to be made for purposes of this subparagraph shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5, United States Code, and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(iii) REPORT TO CONGRESS.—The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the date of the transfer of functions and offices under subsection (d), prepare and transmit to the Congress a report on the effects on employees of the reorganization under this section, which shall include—

(I) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this section;

(II) a statement of the number of employees entitled to grade or pay retention under subchapter VI of chapter 53 of title 5, United States Code, by reason of the reorganization under this section;

(III) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(IV) an estimate of the personnel costs associated with such reorganization;

(V) the effects of such reorganization on labor management relations; and

(VI) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(2) GENERAL ADMINISTRATIVE PROVISIONS.—

(A) GENERAL AUTHORITY.—In carrying out any function transferred by this section, the Secretary, or any officer or employee of the Department, may exercise any authority available by law with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(B) DELEGATION.—Except as otherwise provided in this section, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this subparagraph or under any other provision of this section shall relieve the Secretary of responsibility for the administration of such functions.

(C) REORGANIZATION.—

(i) AUTHORITY OF SECRETARY.—Except as provided in clause (ii), the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or abolish such offices or positions within the Department as may be necessary or appropriate.

(ii) AUTHORITY WITH RESPECT TO STATUTORY ENTITIES.—The Secretary may not—

(I) abolish any office or position transferred to the Department and established by statute, or any function vested by statute in such an office or an officer of such an office;

(II) abolish any office or position established by this section; or

(III) alter the delegation of functions to any specific office or position required by this section,

unless a period of 90 days has passed after the receipt by the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this clause and the facts and circumstances relied upon in support of such proposed action.

(D) REGULATIONS.—The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department, in accordance with chapter 5 of title 5, United States Code.

(E) CONTRACTS.—

(i) IN GENERAL.—Subject to the Federal Property and Administrative Services Act of 1949 and other applicable Federal law, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(ii) APPROPRIATION AUTHORITY REQUIRED.—No authority to enter into contracts or to make payments under this section shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subparagraph (J).

(F) REGIONAL AND FIELD OFFICES.—The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(G) ACQUISITION AND MAINTENANCE OF PROPERTY.—

(i) AUTHORITY OF SECRETARY.—To the extent necessary to carry out functions under this and any other Act, the Secretary is authorized to provide appropriate facilities and services necessary for carrying out such functions or necessary for the health and welfare of the Department's employees, including—

(I) to acquire (by purchase, lease, condemnation, contract, or otherwise), construct, improve, repair, operate, maintain, and provide transportation to—

(aa) schools and related facilities;

(bb) laboratories;

(cc) research and testing sites and facilities;

(dd) quarters and related accommodations, including eating facilities, for employees and dependents of employees of the Department; and

(ee) personal property (including patents), or any interest therein; and

(II) to provide reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(ii) LIMITATION.—The authority granted by clause (i) shall be available only with respect to facilities of a special purpose nature or at a remote location that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(H) USE OF FACILITIES.—

(i) AUTHORITY TO USE.—With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(ii) AUTHORITY TO PERMIT USE.—The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed 5 years. The Secretary may require permittees under this subparagraph to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This clause shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(iii) CREDITING OF REIMBURSEMENTS.—Proceeds from reimbursements under this subparagraph shall be deposited in a separate fund which shall be available to the Secretary without appropriation or fiscal year limitation, for carrying out the functions of the Secretary under this or any other Act.

(iv) INTERESTS IN REAL PROPERTY.—Any interest in real property acquired pursuant to this section shall be acquired in the name of the United States Government.

(I) COPYRIGHTS AND PATENTS.—

(i) ACQUISITION OF RIGHTS.—The Secretary is authorized to acquire any of the following described rights if the rights acquired thereby are for use by or for, or useful to, the Department:

(I) Copyrights, patents, designs, processes, and manufacturing data.

(II) Licenses in connection with copyrights and patents.

(III) Releases for past infringement of patents or copyrights.

(ii) DISPOSITION.—Notwithstanding clause (i), the disposition of all copyrights and patents and other intellectual property owned or developed for the Department shall be governed by chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)), the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.), or the National Competitiveness Technology Transfer Act of 1989, as appropriate.

(J) GIFTS AND BEQUESTS.—The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money, and proceeds from sales of other property received as gifts, bequests, or devises, shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(K) TECHNICAL ADVICE.—

(i) AUTHORITY TO PROVIDE.—The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(ii) CONSOLIDATION OF APPLICATIONS.—The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

(L) WORKING CAPITAL FUND.—

(i) ESTABLISHMENT AND USE.—The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund (in this subparagraph referred to as the "fund"), to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of an administrative services office to provide such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(I) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its offices;

(II) central messenger, mail, telephone, and other communications services;

(III) office space, and central services for document reproduction, for graphics, and for visual aids; and

(IV) a central library service.

(ii) OPERATION OF FUND.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the administrative services office, less the related liabilities and unpaid obligations. There shall be transferred to the administrative services office the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed. Administrative supplies and services provided by such office shall be paid for in advance from available funds of agencies and offices in the Department, or from other sources, at rates that will approximate the expense of operation. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property.

(M) FUNDS TRANSFER.—The Secretary may, when authorized in an appropriation Act for any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriations for any fiscal year shall be either increased or decreased pursuant to this subparagraph by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(N) SEAL OF DEPARTMENT.—The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(O) ANNUAL REPORT.—

(i) IN GENERAL.—The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year.

(ii) CONTRACTING-OUT REPORT.—The report required by clause (i) shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under subparagraph (E) or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(f) TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS.—

(1) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—

(A) TRANSFER TO SECRETARY.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with, the functions and offices, or portions thereof, transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subparagraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(B) EFFECT OF TERMINATIONS.—Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this section, personnel occupying those positions on the date of such transfer, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule under section 5315 or 5316 of title 5, United States Code, on the date of such transfer, shall be subject to paragraph (3) of this subsection.

(2) EFFECT ON PERSONNEL.—

(A) PRESERVATION OF GRADE AND COMPENSATION FOR 1 YEAR.—Except as otherwise provided in this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(B) PRESERVATION OF COMPENSATION FOR EXECUTIVE SCHEDULE APPOINTEES.—Any person who, on the day preceding the date of the transfer of functions and offices under subsection (d), held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

(3) AGENCY TERMINATIONS.—

(A) TERMINATIONS.—On the date of the transfer of functions and offices under subsection (d), the following entities shall terminate:

(i) The Office of the Secretary of Commerce.

(ii) The Office of the Deputy Secretary of Commerce.

(iii) The Office of the General Counsel of the Department of Commerce.

(iv) The Office of the Secretary of Energy.

(v) The Office of Deputy Secretary of Energy.

(vi) The Office of the Under Secretary of Commerce for Technology.

(vii) The Office of the Assistant Secretary of Commerce for Technology Policy.

(viii) The Office of Science and Technology Policy in the Executive Office of the President.

(B) TERMINATION OF EXECUTIVE SCHEDULE POSITIONS.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section shall also terminate.

(4) ADDITIONAL TRANSFERS.—

(A) IN GENERAL.—The Director of the Office of Management and Budget, in conjunction with the Secretary, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this section. The Director shall provide for the termination of the affairs of all entities terminated by this section and, in conjunction with the Secretary, for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(B) ALLOCATION OF SES POSITIONS.—After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this section.

(C) MISCELLANEOUS FUNCTIONS.—(i) The Economics and Statistics Administration, including the Bureau of Census and the Bureau of Economic Analysis, and the Bureau of Export Administration shall be transferred to the Department of the Treasury.

(ii) The Economic Development Administration shall be transferred to the Department of Housing and Urban Development.

(iii) The International Trade Administration and the United States Travel and Tourism Administration shall be transferred to the Office of the United States Trade Representative.

(iv) The Minority Business Development Administration shall be transferred to the Small Business Administration.

(5) SAVINGS PROVISIONS.—

(A) CONTINUITY OF LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(i) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this section to the Secretary or the Department; and

(ii) which are in effect at the time of such transfer,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, or the authorized official, a court of competent jurisdiction, or by operation of law.

(B) PENDING PROCEEDINGS.—(i) This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of the transfer of functions and offices under subsection (d) before any department, agency, commission, or component thereof, functions of which are transferred by this section. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued, except as provided in clause (iii).

(ii) Orders may be issued in such proceedings, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subparagraph to the Department.

(C) NO EFFECT ON JUDICIAL PROCEEDINGS.—Except as provided in subparagraph (E)—

(i) the transfer of functions and offices under subsection (d) shall not affect suits commenced prior to the date of such transfer; and

(ii) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(D) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against any department or agency, functions of which are transferred by this section, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this section.

(E) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the date of the transfer of functions and offices under subsection (d), any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this section any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(F) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Secretary.

(6) REFERENCE.—With respect to any function transferred by this section and exercised on or after the date of such transfer, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this section transfers such functions.

(7) AMENDMENTS.—

(A) DEPARTMENT OF ENERGY ORGANIZATION ACT.—Sections 201 through 203 of the Department of Energy Organization Act (42 U.S.C. 7131–7133) are repealed.

(B) INSPECTOR GENERAL ACT OF 1978.—THE INSPECTOR GENERAL ACT OF 1978 IS AMENDED—

(i) in section 8E(a)(2), by striking "the National Science Foundation,";

(ii) in section 8E(a)(4), by striking ", except that with respect to the National Science Foundation, such term means the National Science Board";

(iii) in section 11(1)—

(I) by striking "Commerce,";

(II) by striking "Energy,";

(III) by inserting "Science, Space, Energy, and Technology," after "the Interior, Labor,"; and

(IV) by striking "National Aeronautics and Space,"; and

(iv) in section 11(2)—

(I) by striking "Commerce,";

(II) by striking "Energy,";

(III) by inserting "Science, Space, Energy, and Technology," after "Justice, Labor,"; and

(IV) by striking "the National Aeronautics and Space Administration,".

(C) NATIONAL AERONAUTICS AND SPACE ACT OF 1958.—Section 207 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476a) is repealed.

(8) TRANSITION.—

(A) USE OF FUNDS.—Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this section, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this section and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

(B) USE OF PERSONNEL.—With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(9) INTERIM APPOINTMENTS.—

(A) AUTHORITY TO APPOINT.—Notwithstanding any other provision of law, in the event that one or more officers required by this section to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the date of the transfer of functions and offices under subsection (d), the President may designate an officer in the executive branch to act in such office for 120 days or until the office is filled as provided in this section, whichever occurs first.

(B) COMPENSATION.—Any officer acting in an office in the Department pursuant to the provisions of subparagraph (A) shall receive compensation at the rate prescribed for such office under this section.

(g) RELATION TO OTHER PROVISIONS.—

(1) MODIFICATIONS IN AUTHORITY.—If any other section of this Act increases, restricts, or otherwise modifies any authority (including the authority to assess or collect fees) with respect to any function or office, or portion thereof, transferred by this section, the authority transferred by this section shall be the authority as so modified.

(2) RESCISSIONS.—If any other section of this Act rescinds funds that are to be transferred pursuant to this section, such rescission shall be made prior to such transfer.

SEC. 203. ELIMINATION OF FUNDING FOR MAGLEV PROTOTYPE DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Section 1036(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. 309 note; 105 Stat. 1986) is amended—

(1) in paragraph (1) by striking "the following" and all that follows through "DEMONSTRATION PROGRAM.—For" and inserting "for"; and

(2) in paragraph (2) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "Federal Railroad Administration—Railroad Research and Development" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103–122), $20,000,000 is rescinded, to be derived from magnetic levitation research and analysis activities.

SEC. 204. RESCISSION OF FUNDS FOR FEDERALLY SPONSORED UNIVERSITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Of the aggregate funds made available for the accounts specified in subsection (b), $220,000,000 is rescinded, to be derived from university research and development programs. The Director of the Office of Management and Budget shall allocate such rescission among such accounts, and shall submit to the Congress a report setting forth such allocation.

(b) AFFECTED ACCOUNTS.—The funds subject to the rescission made by subsection (a) are the following:

(1) NATIONAL INSTITUTES OF HEALTH.—The amounts made available under the heading "Department of Health and Human Services—National Institutes of Health" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–112), for the following accounts:

(A) "National Cancer Institute".

(B) "National Heart, Lung, and Blood Institute".

(C) "National Institute of Dental Research".

(D) "National Institute of Diabetes and Digestive and Kidney Diseases".

(E) "National Institute of Neurological Disorders and Stroke".

(F) "National Institute of Allergy and Infectious Diseases".

(G) "National Institute of General Medical Sciences".

(H) "National Institute of Child Health and Human Development".

(I) "National Eye Institute".

(J) "National Institute of Environmental Health Sciences".

(K) "National Institute on Aging".

(L) "National Institute of Arthritis and Musculoskeletal and Skin Diseases".

(M) "National Institute on Deafness and Other Communication Disorders".

(N) "National Institute of Nursing Research".

(O) "National Institute on Alcohol Abuse and Alcoholism".

(P) "National Institute on Drug Abuse".

(Q) "National Institute of Mental Health".

(R) "National Center for Research Resources".

(S) "National Center for Human Genome Research".

(T) "John E. Fogarty International Center".

(U) "National Library of Medicine".

(V) "Office of the Director".

(2) INDEPENDENT AGENCIES.—The amounts made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), for the following accounts:

(A) "National Science Foundation—Research and Related Activities".

(B) "National Aeronautics and Space Administration—Research and Development".

(3) DEPARTMENT OF DEFENSE.—The amounts made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139), for the following accounts:

(A) "Research, Development, Test and Evaluation, Army".

(B) "Research, Development, Test and Evaluation, Navy".

(C) "Research, Development, Test and Evaluation, Air Force".

(D) "Research, Development, Test and Evaluation, Defense-Wide".

SEC. 205. RECOUPMENT OF CERTAIN GRANTS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Commerce shall establish procedures and criteria for the recoupment of the Federal share of all cost shared research, development, demonstration, and commercial application projects undertaken by such Departments. If required, such recoupment shall occur within a reasonable period of time following the date of completion of a project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(1) the commercial competitiveness of the entity carrying out the project;

(2) the profitability of the project; and

(3) the commercial viability of the technology utilized.

The Secretary of Energy and the Secretary of Commerce may require recoupment under this section as appropriate.

SEC. 206. COVERAGE OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS BY COMPETITION IN CONTRACTING ACT.

(a) CONTRACTS WITH EXECUTIVE AGENCIES.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended in subsection (b)(1)(C) and in subsection (c)(3) by striking out "or a federally funded research and development center" each place it appears.

(b) CONTRACTS WITH DEPARTMENT OF DEFENSE.—Section 2304 of title 10, United States Code, is amended in subsection (b)(1)(C) and in subsection (c)(3) by striking out "or a federally funded research and development center" each place it appears.

SEC. 207. TERMINATION OF MODULAR HIGH-TEMPERATURE GAS-COOLED REACTOR PROJECT.

(a) IN GENERAL.—The United States shall not obligate any funds for the Modular High-Temperature Gas-Cooled Reactor program.

(b) AMENDMENTS.—Section 2122(b) of the Energy Policy Act of 1992 (42 U.S.C. 13492(b)) is amended—

(1) in paragraph (1)(B), by striking "the modular high-temperature gas-cooled reactor technology and"; and

(2) in paragraph (2)(C)—

(A) by striking "high-temperature gas-cooled reactor technology and"; and

(B) by striking "one or both of those technologies" and inserting in lieu thereof "that technology".

(c) RESCISSION OF FUNDS.—Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $12,000,000 is rescinded, to be derived from the gas turbine-modular helium reactor program.

SEC. 208. DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION.

(a) DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION.—

(1) ESTABLISHMENT.—There is established an independent commission to be known as the "Department of Energy Facilities Closure and Reconfiguration Commission".

(2) DUTIES.—The Commission shall carry out the duties specified for the Commission in this section.

(3) APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President, by and with the advise and consent of the Senate. The President shall transmit to the Senate the nominations for appointment to the Commission not later than 3 months after the date of the enactment of this Act.

(B) CONSULTATION.—In selecting individuals for nominations for appointments to the Commission, the President should consult with—

(i) the Speaker of the House of Representatives concerning the appointment of 1 member;

(ii) the majority leader of the Senate concerning the appointment of 1 member;

(iii) the minority leader of the House of Representatives concerning the appointment of 1 member; and

(iv) the minority leader of the Senate concerning the appointment of 1 member.

(C) CHAIRPERSON.—At the time the President nominates individuals for appointment to the Commission, the President shall designate one such individual who shall serve as Chairperson of the Commission.

(4) TERMS.—Each member of the Commission shall serve until the termination of the Commission under paragraph (12).

(5) MEETINGS.—Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(7) PAY AND TRAVEL EXPENSES.—

(A) IN GENERAL.—

(i) BASIC PAY.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(ii) PAY OF CHAIRPERSON.—The Chairperson shall be paid for each day referred to in clause (i) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(8) DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served as a civilian employee of the Department of Energy during the one-year period preceding the date of such appointment.

(B) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(9) STAFF.—

(A) APPOINTMENT BY DIRECTOR.—Subject to subparagraphs (B) and (C), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(C) LIMITATION.—Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Energy.

(D) SUPPORT FROM OTHER AGENCIES.—Upon request of the Director, the head of a Federal agency may detail any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(E) SUPPORT FROM COMPTROLLER GENERAL.—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(10) OTHER AUTHORITY.—

(A) TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) AUTHORITY TO LEASE SPACE AND ACQUIRE CERTAIN PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available. To the extent practicable, the Commission shall use suitable real property available under the most recent inventory of real property assets published by the Resolution Trust Corporation under section 21A(b)(11)(F) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)(F)).

(11) FUNDING.—There is appropriated for fiscal year 1994, out of any money in the Treasury not otherwise appropriated, $1,000,000 to the Commission to carry out its duties under this section. Such funds shall remain available until expended.

(12) TERMINATION.—The Commission shall terminate not later than 20 months after the date of the enactment of this Act.

(b) PROCEDURE FOR MAKING RECOMMENDATIONS FOR CLOSURE AND RECONFIGURATION OF FACILITIES.—

(1) SELECTION CRITERIA.—

(A) IN GENERAL.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Energy shall publish in the Federal Register and transmit to the congressional energy committees the criteria proposed to be used by the Secretary in making recommendations for the closure or reconfiguration of Department of Energy facilities resulting in an overall budget for such facilities for a fiscal year in an amount equal to the amount appropriated for such facilities for the previous fiscal year reduced by 25 percent. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under this paragraph. In developing the criteria, the Secretary shall consider—

(i) the program costs and program distributions on a State and county basis, including real and personal property costs associated with each Department of Energy facility considered;

(ii) the number of participants in programs conducted through a Department of Energy facility and staff resources involved;

(iii) duplication of effort by Department of Energy facilities and overhead costs as a proportion of program benefits distributed through a Department of Energy facility; and

(iv) cost savings and increases that would accrue through the reconfiguration of Department of Energy facilities.

(B) FINAL CRITERIA.—Not later than 5 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register and transmit to the congressional energy committees the final criteria to be used in making recommendations for the closure or reconfiguration of Department of Energy facilities under this section.

(2) SECRETARY'S RECOMMENDATIONS.—

(A) PUBLICATION IN FEDERAL REGISTER.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register and transmit to the congressional energy committees and to the Commission a list of the Department of Energy facilities that the Secretary recommends for closure or reconfiguration on the basis of the final criteria referred to in paragraph (1).

(B) SUMMARY OF SELECTION PROCESS.—The Secretary shall include, with the list of recommendations published and transmitted pursuant to subparagraph (A), a summary of the selection process that resulted in the recommendation for each Department of Energy facility, including a justification for each recommendation.

(C) EQUAL CONSIDERATION OF FACILITIES.—In considering Department of Energy facilities for closure or reconfiguration, the Secretary shall consider all such facilities equally without regard to whether a facility has been previously considered or proposed for closure or reconfiguration by the Secretary.

(D) AVAILABILITY OF INFORMATION.—The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Secretary in making recommendations to the Commission for closures and reconfiguration.

(3) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—

(A) PUBLIC HEARINGS.—After receiving the recommendations from the Secretary pursuant to paragraph (2), the Commission shall conduct public hearings on the recommendations.

(B) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Commission shall transmit to the President and the congressional energy committees a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and reconfigurations of Department of Energy facilities.

(C) DEVIATION FROM SECRETARY'S RECOMMENDATIONS.—In making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the final criteria referred to in paragraph (1) in making recommendations. The Commission shall explain and justify in the report any recommendation made by the Commission that is different from the recommendations made by the Secretary.

(D) PROVISION OF CERTAIN INFORMATION.—After transmitting the report, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(4) ASSISTANCE FROM COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to paragraph (2); and

(B) not later than 12 months after the date of the enactment of this Act, transmit to the congressional energy committees and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

(5) REVIEW BY THE PRESIDENT.—

(A) IN GENERAL.—Not later than 16 months after the date of the enactment of this Act, the President shall transmit to the Commission and to the congressional energy committees a report containing the President's approval or disapproval of the Commission's recommendations.

(B) PRESIDENTIAL APPROVAL.—If the President approves all of the recommendations of the Commission, the President shall transmit a copy of such recommendations to the congressional energy committees together with a certification of such approval.

(C) PRESIDENTIAL DISAPPROVAL.—If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the congressional energy committees the reasons for that disapproval. The Commission shall then transmit to the President, not later than 17 months after the date of the enactment of this Act, a revised list of recommendations for the closure and reconfiguration of Department of Energy facilities resulting in an overall budget for such facilities for a fiscal year in an amount equal to the amount appropriated for such facilities for the previous fiscal year reduced by 25 percent.

(D) CERTIFICATION.—If the President approves all of the revised recommendations of the Commission transmitted to the President under subparagraph (C), the President shall transmit a copy of such revised recommendations to the congressional energy committees, together with a certification of such approval.

(E) FAILURE TO CERTIFY.—If the President does not transmit to the congressional energy committees an approval and certification described in subparagraph (B) or (D) by 18 months after the date of the enactment of this Act, the process by which Department of Energy facilities may be selected for closure or reconfiguration under this section shall be terminated.

(c) CLOSURE AND RECONFIGURATION OF DEPARTMENT OF ENERGY FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall—

(A) close all Department of Energy facilities recommended for closure by the Commission in the report transmitted to the congressional energy committees by the President pursuant to subsection (b)(5);

(B) reconfigure all such facilities recommended for reconfiguration by the Commission in the report; and

(C) complete the closures and reconfigurations not later than the end of the 6-year period beginning on the date on which the President transmits the report pursuant to subsection (b)(5).

(2) CONGRESSIONAL DISAPPROVAL.—

(A) IN GENERAL.—The Secretary may not carry out any closure or reconfiguration of a facility recommended by the Commission in the report transmitted from the President pursuant to subsection (b)(5) if a joint resolution is enacted, in accordance with the provisions of subsection (g), disapproving the recommendations of the Commission before the earlier of—

(i) the end of the 45-day period beginning on the date on which the President transmits the report; or

(ii) the adjournment of Congress sine die for the session during which the report is transmitted.

(B) For purposes of subparagraph (A) of this paragraph and paragraphs (1) and (3) of subsection (g), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(d) IMPLEMENTATION OF CLOSURE AND RECONFIGURATION ACTIONS.—

(1) ACTIONS OF THE SECRETARY.—In closing or reconfiguring a Department of Energy facility under this section, the Secretary shall—

(A) take such actions as may be necessary to close or reconfigure the facility;

(B) provide outplacement assistance to any employees employed by the Department of Energy at the office whose employment is being terminated, and may use for such purpose funds in the Account or funds appropriated to the Department of Energy for outplacement assistance to employees;

(C) take such steps as may be necessary to ensure the safe keeping of all records stored at the facility; and

(D) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or reconfiguration, and may use for such purpose funds in the Account or funds appropriated to the Department of Energy and available for such purpose.

(2) MANAGEMENT AND DISPOSAL OF PROPERTY.—

(A) IN GENERAL.—The Administrator of General Services shall delegate to the Secretary of Energy, with respect to excess and surplus real property and facilities located at a Department of Energy facility closed or reconfigured under this section—

(i) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(ii) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(iii) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)); and

(iv) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(B) EXERCISE OF AUTHORITY.—

(i) IN GENERAL.—Subject to clause (iii), the Secretary shall exercise the authority delegated to the Secretary pursuant to subparagraph (A) in accordance with—

(I) all regulations in effect on the date of the enactment of this Act governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(II) all regulations in effect on the date of the enactment of this Act governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(ii) REGULATIONS.—The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by subparagraph (A).

(iii) LIMITATION.—The authority required to be delegated by subparagraph (A) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(3) WAIVER.—The Secretary may close or reconfigure Department of Energy facilities under this section without regard to any provision of law restricting the use of funds for closing or reconfiguring such facilities included in any appropriations or authorization Act.

(e) ACCOUNT.—

(1) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the "Department of Energy Facility Closure Account" which shall be administered by the Secretary as a single account.

(2) CONTENT OF ACCOUNT.—There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Energy for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional energy committees; and

(C) proceeds received from the transfer or disposal of any property at an office closed or reconfigured under this section.

(3) USE OF FUNDS.—The Secretary may use the funds in the Account only for the purposes described in subsection (d)(1).

(4) REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit a report to the congressional energy committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to subsection (d)(1) during such fiscal year.

(B) UNOBLIGATED FUNDS.—Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional energy committees receive the report transmitted under subparagraph (C).

(C) ACCOUNTING REPORT.—Not later than 60 days after the termination of the Commission, the Secretary shall transmit to the congressional energy committees a report containing an accounting of—

(i) all the funds deposited into and expended from the Account or otherwise expended under this section; and

(ii) any amount remaining in the Account.

(f) REPORTS ON IMPLEMENTATION.—As part of the budget request for each fiscal year in which the Secretary will carry out activities under this section, the Secretary shall transmit to the congressional energy committees—

(1) a schedule of the closure and reconfiguration actions to be carried out under this section in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and reconfiguration and of the time period in which these savings are to be achieved in each case; and

(2) a description of the Department of Energy facilities, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and reconfigurations.

(g) CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.—

(1) TERMS OF THE RESOLUTION.—For purposes of subsection (c)(2), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under subsection (b)(5), and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Department of Energy Facilities Closure and Reconfiguration Commission as submitted by the President on _____", the blank space being filled in with the appropriate date; and

(C) the title of which is as follows: "Joint resolution disapproving the recommendations of the Department of Energy Facilities Closure and Reconfiguration Commission.".

(2) REFERRAL.—A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services and the Committee on Science, Space, and Technology of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate.

(3) DISCHARGE.—If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under subsection (b)(5), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(4) CONSIDERATION.—

(A) IN GENERAL.—On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) QUORUM CALL.—Immediately following the conclusion of the debate on a resolution described in paragraph (1) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) APPEALS FROM DECISION OF CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—

(A) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in clause (ii)(II).

(ii) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) CONSIDERATION AFTER DISPOSITION BY OTHER HOUSE.—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(6) RULES OF THE SENATE AND HOUSE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Account" means the Department of Energy Facility Closure Account established in subsection (e)(1).

(2) The term "Commission" means the Department of Energy Facilities Closure and Reconfiguration Commission.

(4) The term "congressional energy committees" means the Committees on Armed Services of the Senate and House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.

(5) The term "Secretary" means the Secretary of Energy.

SEC. 209. RESCISSION OF FUNDS FOR FUSION ENERGY RESEARCH AND DEVELOPMENT.

Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $70,000,000 is rescinded, to be derived from the fusion energy program.

SEC. 210. RESCISSION OF FUNDS FOR FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

Of the funds made available under the heading "Department of Energy—Fossil Energy Research and Development" in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103–138), $54,007,000 is rescinded.

SEC. 211. ALASKA POWER ADMINISTRATION SALE.

(a) SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.—(1) The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this section as "Snettisham") to the State of Alaska Power Authority (now known as the Alaska Industrial Development and Export Authority, and referred to in this section as the "Authority"), or its successor, in accordance with the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Authority.

(2) The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this section as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this section as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(3) The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this Act.

(4) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(5) There are authorized to be appropriated such sums as are necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(6) No later than one year after both of the sales authorized in this subsection have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(A) complete the business of, and close out, the Alaska Power Administration; and

(B) prepare and submit to Congress a report documenting the sales.

(b) ASSESSMENT OF ALTERNATIVE OPTIONS.—Before taking any action authorized in subsection (a), the Secretary shall assess the feasibility of alternative options for maximizing the return to the Treasury from the sale of the Alaska Power Marketing Administration.

SEC. 212. FEDERAL-PRIVATE COGENERATION OF ELECTRICITY.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities".

SEC. 213. TERMINATION OF CLEAN COAL TECHNOLOGY PROGRAM.

(a) IN GENERAL.—The United States shall not obligate any funds for the Clean Coal Technology program.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the matter under the heading "DEPARTMENT OF ENERGY, CLEAN COAL TECHNOLOGY" in the Act entitled "An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1986, and for other purposes" enacted by section 101(d) of the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes" (Public Law 99–190; 99 Stat. 1251) is repealed.

(2) EXCEPTION.—The authority provided in the matter repealed by paragraph (1) of this subsection shall be preserved to the extent necessary to carry out obligations of the United States with respect to clean coal technology projects selected by the Secretary of Energy pursuant to the fifth general request for proposals issued by the Secretary under such section 101(d) (and pursuant to any such general request issued before the fifth general request).

SEC. 214. RESCISSION OF FUNDS FROM SPR PETROLEUM ACCOUNT.

The unobligated balance of the funds in the SPR petroleum account on the date of the enactment of this Act is rescinded.

SEC. 215. STUDY OF TERMINATION OF HELIUM SUBSIDY.

(a) FINDINGS.—The Congress finds that—

(1) the United States Government's helium recovery program was instituted in 1925, when helium conservation was deemed to be a matter of national security and no private sector helium recovery industry existed;

(2) today, as compared to 1925, there is little likelihood that the United States will have to field a fleet of blimps on an emergency basis;

(3) private sources of helium are more than adequate for serving existing and foreseeable future national needs;

(4) since 1925, there has been a dramatic increase in private industry's involvement in helium recovery, as a result of the free market discovery of numerous commercial uses for helium;

(5) currently, private industry accounts for 90 percent of all helium extraction and consumption;

(6) the Government's helium recovery program currently owes the Department of the Treasury $1,400,000,000 and loses an additional $120,000,000 yearly on interest alone, and there is no prospect for repayment of this debt without significant reform; and

(7) with combined public and private helium reserves considerably in excess of foreseeable national helium needs, there is no longer any need for the Federal Government to own and operate a helium refining and marketing program.

(b) STUDY.—(1) The Secretary of the Interior, in consultation with private industry, shall conduct a study to determine how best to—

(A) sell or otherwise dispose of, at the best possible terms available to the United States, all facilities, equipment, and other real or personal property, or rights thereto, held by the United States in connection with activities carried out under the Helium Act, unless such facilities, equipment, or other real or personal property, or rights thereto, are required for other Federal purposes;

(B) sell or otherwise dispose of, at the best possible terms available to the United States, the helium reserves held by the United States other than amounts required for the specific immediate needs of the Federal Government, in a manner consistent with the orderly conduct of commercial helium markets; and

(C) ensure the full repayment of loans made under section 12 of the Helium Act.

(2) The Secretary of the Interior shall transmit to the Congress within one year after the date of enactment of this Act a report containing the results of the study conducted under paragraph (1).

SEC. 216. RESCISSION OF FUNDS FOR LOW-PRIORITY WATER PROJECTS.

(a) CORPS OF ENGINEERS GENERAL INVESTIGATIONS.—Of the funds made available under the heading "Corps of Engineers-Civil—General Investigations" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $24,970,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) are not economically justified, or environmentally beneficial in a manner commensurate with costs;

(3) are not environmentally acceptable;

(4) are not in compliance with standard cost sharing;

(5) do not have available the necessary non-Federal sponsorship and funding;

(6) represent a Federal assumption of traditionally non-Federal responsibility; or

(7) have not completed normal executive branch project review requirements.

(b) CORPS OF ENGINEERS CONSTRUCTION.—Of the funds made available under the heading "Corps of Engineers-Civil—Construction, General" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $97,319,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) are not economically justified, or environmentally beneficial in a manner commensurate with costs;

(3) are not environmentally acceptable;

(4) are not in compliance with standard cost sharing;

(5) do not have available the necessary non-Federal sponsorship and funding;

(6) represent a Federal assumption of traditionally non-Federal responsibility; or

(7) have not completed normal executive branch project review requirements.

(c) BUREAU OF RECLAMATION.—Of the funds made available under the heading "Department of the Interior—Bureau of Reclamation—Construction Program" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $16,000,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) in the case of new projects, are inconsistent with the priorities of the Secretary of the Interior;

(3) are not environmentally beneficial in a manner commensurate with costs; or

(4) do not have available the necessary non-Federal cost sharing.

SEC. 217. PREFERENCE FOR INTERIM MEASURES IN SUPERFUND RESPONSE ACTIONS.

(a) AMENDMENT OF CERCLA.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, in selecting appropriate remedial actions in any record of decision issued on or after October 1, 1994, the President shall give a preference to the use of institutional controls (such as deed and access restrictions, monitoring, and provision of alternate water supplies), containment methods (including caps, slurry walls, and surface water diversion), and other interim measures, rather than permanent treatment technologies, if such measures are sufficient to assure the protection of human health and the environment.".

(b) CLEANUP STANDARDS.—Section 121(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)) shall not apply to any remedial action described in the amendment made by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 517(b) of the Superfund Amendments and Reauthorization Act of 1986 is amended by striking "and" at the end of paragraph (8), by striking paragraph (9) and by inserting the following after paragraph (8):

"(9) 1995, $1,065,536,000,

"(10) 1996, $1,100,198,000,

"(11) 1997, $1,254,824,000, and

"(12) 1998, $1,321,018,000,".

(2) Section 9507(c) of the Internal Revenue Code of 1986 is amended by adding the following new paragraph at the end thereof:

"(3) LIMITATION ON APPROPRIATIONS FROM FUND.—For fiscal years 1995, 1996, 1997, and 1998, the total of all amounts authorized to be appropriated from the Superfund shall not exceed the amounts specified in paragraphs (9) through (12) of the Superfund Amendments and Reauthorization Act of 1986.".

(d) REPORT REQUIREMENT.—(1) The President shall submit to Congress a report, during each of the 5 years listed in paragraph (2), on the use of measures under the last sentence of section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621), as required by the amendment made by subsection (a). The report shall cover the preceding fiscal year and shall include the estimated savings resulting from the use of such measures in comparison to using permanent treatment technologies.

(2) The President shall submit the report required by paragraph (1) by December 1 of 1995, 1996, 1997, 1998, and 1999.

SEC. 218. RESERVATION OF FUNDS FOR DISASTER RELIEF.

(a) ESTABLISHMENT OF DISASTER RELIEF ACCOUNT.—On the date of the enactment of this Act the Secretary of the Treasury shall establish a Disaster Relief Account within the Office of the Secretary of the Treasury.

(b) RESERVATION OF FUNDS.—For each domestic discretionary spending account, the head of each Federal agency shall transfer 1 percent of all funds appropriated for each fiscal year beginning after September 30, 1993, to the account established under subsection (a) upon enactment of the appropriations Act for the agency for the fiscal year.

(c) TRANSFER OF FUNDS.—Upon enactment of an emergency disaster supplemental appropriations Act, the Secretary of the Treasury shall transfer such sums as are specified in such Act with respect to a disater declared by the President from the Disaster Relief Account to the accounts specified by such Act.

(d) USE OF DISASTER RELIEF ACCOUNT PRIOR TO PROVISION OF EMERGENCY FUNDS IN EXCESS OF CAPS.—All funds in the Disaster Relief Account established under subsection (a) shall be exhausted before any funds shall be made available pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) RELEASE OF FUNDS.—Any funds reserved under subsection (b) for a fiscal year which have not been transferred under subsection (c) by August 1 of such fiscal year shall after that date be returned to the account from which they were reserved in an amount proportionate to the amount originally reserved under subsection (b) if no emergency disaster supplemental appropriations bill has been reported from a committee of, or passed by, the House of Representatives or the Senate. If such a bill has been so reported or passed by August 1, such funds as may be required by such bill shall be retained in the Disaster Relief Account established under subsection (a) until transferred under subsection (c). Any funds in excess of those required for such bill shall be returned to the accounts from which they were reserved in an amount proportionate to the amount originally reserved under subsection (b) upon enactment of such bill as law.

(f) DEFINITION.—For purposes of this section, the term "domestic discretionary spending account" means each budget account that was for purposes of section 601(a) of the Congressional Budget Act of 1974 considered to be with respect to fiscal year 1993 within the domestic discretionary category, and each new account not classified as within function 050 or 150.

(g) RESCISSION OF FUNDS.—Of the funds made available under the heading "Federal Emergency Management Agency—Disaster Relief" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), $15,000,000 is rescinded.

SEC. 219. ELIMINATION OF WEATHER OFFICE CLOSURE CERTIFICATION PROCEDURES.

(a) IN GENERAL.—Title VII of the National Oceanic and Atmospheric Administration Authorization Act of 1992 is repealed.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the repeal made by subsection (a) will not result in a degradation of weather forecasting service.

(c) RESCISSION OF FUNDS.—Of the funds made available under the heading "National Oceanic And Atmospheric Administration—Operations, Research, and Facilities" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $20,000,000 is rescinded, to be derived from the National Weather Service.

SEC. 220. RESCISSION OF FUNDS FOR NOAA RESEARCH FLEET.

Of the funds made available under the heading "National Oceanic And Atmospheric Administration—Fleet Modernization, Shipbuilding and Conversion" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $77,064,000 is rescinded.

SEC. 221. RESCISSION OF FUNDS FOR NOAA ADD-ONS.

Of the funds made available under the heading "National Oceanic And Atmospheric Administration" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), there are rescinded the following amounts from the following accounts:

(1) "Operations, Research, and Facilities", $71,298,000.

(2) "Construction", $29,840,000.

(3) "Aircraft Procurement and Modernization", $43,000,000.

SEC. 222. STUDY CONCERNING MERGER OF BUREAU OF RECLAMATION AND UNITED STATES ARMY CORPS OF ENGINEERS.

(a) FINDING.—The Congress finds—

(1) that similar functions should be administered in the same agency;

(2) that the Bureau of Reclamation is currently reevaluating its mission; and

(3) now is the proper time for the Bureau of Reclamation and the Corps of Engineers to evaluate the feasibility of a merger.

(b) STUDY.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior, acting through the Commissioner of Reclamation, and the Secretary of the Army, acting through the Chief of Engineers, shall jointly conduct a study and submit a report to the Congress on merging the Bureau of Reclamation with the Corps of Engineers. The study shall include an examination of the administrative efficiencies that could be achieved in addition to the change and reorganization referred to in subsection (a), including—

(1) a the financial savings through administrative efficiency that would be obtained through such a merger; and

(2) the realignment of water projects such that similar projects are treated in a similar manner.

SEC. 223. RESCISSION OF FUNDS FOR AGRICULTURE BUILDING AND FACILITIES ACCOUNT.

Of the funds made available under the heading "Cooperative State Research Service—Buildings and Facilities" in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–111), $56,874,000 is rescinded.

SEC. 224. REPEAL OF AUTHORIZATIONS FOR THE AIRWAY SCIENCE PROGRAM, COLLEGIATE TRAINING INITIATIVE, AND AIR CARRIER MAINTENANCE TECHNICIAN TRAINING FACILITY GRANT PROGRAM.

(a) AIRWAY SCIENCE PROGRAM.—All authority for—

(1) the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration for conducting demonstration projects with respect to the development, advancement, and expansion of airway science programs, and

(2) the Federal Aviation Administration to enter into competitive grant agreements with institutions of higher education having airway science curricula,

and all authorizations to appropriate funds for such purposes, including all authorizations for which funds were appropriated for such purposes under the heading "Federal Aviation Administration, Facilities and Equipment" in the Department of Transportation and Related Agencies Appropriations Acts, 1994 are repealed.

(b) COLLEGIATE TRAINING INITIATIVE.—Section 362 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1560) is repealed. Notwithstanding such repeal, the Administrator of the Federal Aviation Administration may continue to convert appointment of persons who have been appointed pursuant to such section prior to the effective date of this Act from the excepted service to a career conditional or career appointment in the competitive civil service, pursuant to subsection (c) of such section.

(c) AIR CARRIER MAINTENANCE TECHNICIAN TRAINING FACILITY GRANT PROGRAM.—Section 119 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (49 U.S.C. App. 1354 note; 106 Stat. 4883-4884) is repealed.

(d) RESCISSION OF FUNDS.—

(1) FAA OPERATIONS.—Of the funds made available under the heading "Federal Aviation Administration—Operations" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103-122), $2,750,000 is rescinded, to be derived from grants to the Mid-American Aviation Resource Consortium and vocational technical institutions.

(2) FAA FACILITIES AND EQUIPMENT.—Of the unobligated balance of funds made available under the heading "Federal Aviation Administration—Facilities and Equipment" in appropriations Acts for fiscal year 1994 and prior fiscal years, $40,257,111 is rescinded, to be derived from the airway science program.

SEC. 225. REPEAL OF NATIONAL RECREATIONAL TRAILS PROGRAM.

The Symms National Recreational Trails Act of 1991 (16 U.S.C. 1261-1262; 105 Stat. 2064-2069) is repealed.

SEC. 226. RESCISSION OF FUNDS FOR EDA.

Of the funds made available under the heading "Economic Development Administration—Economic Development Assistance Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $159,892,000 is rescinded.

SEC. 227. ELIMINATION OF FUNDING FOR PUBLIC TELECOMMUNICATIONS FACILITIES.

(a) REPEAL OF AUTHORIZATION OF APPROPRIATIONS.—Subpart A of Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390-393a) is repealed.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "National Telecommunications and Information Administration—Public Telecommunications Facilities, Planning and Construction" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $24,000,000 is rescinded.

SEC. 228. MORATORIUM ON CONSTRUCTION AND ACQUISITION OF NEW FEDERAL BUILDINGS.

(a) GENERAL RULE.—After the date of the enactment of this Act and before October 1, 1998, the Administrator of General Services may not obligate any funds for construction or acquisition of any public building under the authority of the Public Buildings Act of 1959 or any other provision of law (other than a public building under construction or under contract for acquisition on such date of enactment).

(b) PUBLIC BUILDING DEFINED.—In this section, the term "public building" has the meaning such term has under the Public Buildings Act of 1959.

TITLE III—GOVERNMENT MANAGEMENT

SEC. 301. GOVERNMENT INFORMATION DISSEMINATION AND PRINTING IMPROVEMENT.

(a) TRANSFER OF FUNCTIONS.—

(1) PUBLIC PRINTER.—The position of Public Printer and all functions of the position of Public Printer (other than functions of the Superintendent of Documents) under title 44, United States Code, or any other provision of law are transferred from the legislative branch of the Government to the executive branch of the Government.

(2) SUPERINTENDENT OF DOCUMENTS.—The position of Superintendent of Documents and all functions of the position of Superintendent of Documents under title 44, United States Code, or any other provision of law are transferred to the Library of Congress and shall be carried out by the Superintendent of Documents under the direction of the Librarian of Congress. The Superintendent of Documents shall be appointed by, and serve at the pleasure of, the Librarian of Congress.

(3) REVOCATION OF CHARTERS.—All printing plant charters authorized under section 501 of title 44, United States Code, are revoked.

(4) EFFECTIVE DATE.—The transfer under paragraph (1) and the revocation under paragraph (3) shall each take effect 2 years after the date of the enactment of this Act. The transfer under paragraph (2) shall take effect one year after the date of the enactment of this Act.

(b) GOVERNMENT PUBLICATIONS TO BE AVAILABLE THROUGHOUT THE GOVERNMENT.—All Government publications shall be available throughout the Government to any department, agency, or entity of the Government for use or redissemination.

(c) INVENTORY AND FURNISHING OF GOVERNMENT PUBLICATIONS.—Each department, agency, and other entity of the Government shall—

(1) establish and maintain a comprehensive inventory of its Government publications;

(2) make such inventory available through the electronic directory under chapter 41 of title 44, United States Code; and

(3) in the form and manner prescribed by the Superintendent of Documents, furnish its Government publications to the Superintendent of Documents.

(d) ADDITIONAL RESPONSIBILITIES OF THE PUBLIC PRINTER.—

(1) IN GENERAL.—The Public Printer shall, with respect to the executive branch of the Government and the judicial branch of the Government—

(A) use all necessary measures to remedy neglect, delay, duplication, and waste in the public printing and binding of Government publications, including the reduction and elimination of internal printing and high-speed duplicating capacities of departments, agencies, and entities;

(B) prescribe Government publishing standards, which, to the greatest extent practicable, shall be consistent with the United States Government Printing Office Style Manual;

(C) prescribe Government procurement and manufacturing requirements for printing paper and writing paper, which, to the greatest extent practicable, shall be consistent with Government Paper Specification Standards;

(D) authorize the acquisition and transfer of equipment requisitioned by publishing facilities authorized under section 501 of title 44, United States Code;

(E) authorize the disposal of such equipment pursuant to section 312 of title 44, United States Code; and

(F) establish policy for the acquisition of printing, which, to the greatest extent practicable, shall be consistent with (i) Printing Procurement Regulation (GPO Publication 305.3), (ii) Government Printing and Binding Regulations (JCP No. 26), and (ii) Printing Procurement Department Instruction (PP304.1B).

(2) POLICY STANDARDS.—The policy referred to in paragraph (1)(F) shall be formulated to maximize competitive procurement from the private sector. Government in-house printing and duplicating operations authorized under section 501 of title 44, United States Code, or otherwise authorized by law, may be used if they provide printing at the lowest cost to the Government, taking into consideration the total expense of production, materials, labor, equipment, and general and administrative expense, including all levels of overhead.

(e) ADDITIONAL RESPONSIBILITIES OF THE SUPERINTENDENT OF DOCUMENTS.—

(1) GOVERNMENT PUBLICATIONS TO BE FURNISHED TO THE SUPERINTENDENT OF DOCUMENTS.—If a department, agency, or other entity of the Government publishes a Government publication, the head of the department, agency, or entity shall furnish the Government publication to the Superintendent of Documents not later than the date of release of the material to the public.

(2) DISSEMINATION OR REPUBLICATION.—In addition to any other dissemination provided for by law, the Superintendent of Documents shall disseminate or republish Government publications, if, as determined by the Superintendent, the dissemination by the department, agency, or entity of the Government is inadequate. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under paragraph (1), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(3) COST.—The cost charged to the public by the superintendent of documents under paragraph (2) for any government publication (whether such government publication is made available to the public by a department, agency, or entity of the government, or by the superintendent of documents) may include the incremental cost of dissemination, but may not include any profit.

(f) DEPOSITORY LIBRARIES.—In addition to any other distribution provided for by law, the Superintendent of Documents shall make Government publications available to designated depository libraries and State libraries. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under subsection (e)(1), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(g) DEFINITIONS.—As used in this section—

(1) the term "Government publication" means any informational matter that is published at Government expense, or as required by law; and

(2) the term "publish" means, with respect to informational matter, make available for dissemination.

SEC. 302. SENSE OF CONGRESS REGARDING REORGANIZATION OF BUREAU OF INDIAN AFFAIRS.

It is the sense of the Congress that—

(1) the Bureau of Indian Affairs should be reorganized, with special attention given to the reorganizing the Bureau's 12 area offices into not more than 5 regional service centers and 2 special service offices; and

(2) such reorganization should be pursued in coordination with the Task Force on Bureau of Indian Affairs reorganization, as provided in the Department of the Interior and

Related Agencies Appropriations Act, 1994 (Pub. L. 103-138).

SEC. 303. RESCISSION OF FUNDS FOR PRINTING AND REPRODUCTION AND FOR SUPPLIES AND MATERIALS.

(a) IN GENERAL.—Of the funds made available in appropriations Acts for fiscal year 1994 to the following agencies for printing and reproduction and for supplies and materials, the following amounts are rescinded:

(1) Department of Agriculture, $186,000,000.

(2) Department of Commerce, $6,000,000.

(3) Department of Health and Human Services, $22,400,000.

(4) Department of the Interior, $14,400,000.

(5) Department of Justice, $15,600,000.

(6) Department of Labor, $2,000,000.

(7) Department of State, $4,400,000.

(8) Department of the Treasury, $13,200,000.

(9) Department of Education, $400,000.

(10) Department of Energy, $2,800,000.

(11) Environmental Protection Agency, $11,200,000.

(12) Department of Transportation, $33,200,000.

(13) Department of Housing and Urban Development $240,000.

(14) Department of Veterans Affairs, $97,200,000.

(b) ALLOCATION.—The Director of the Office of Management and Budget shall allocate the rescissions made by subsection (a) among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 304. STREAMLINING OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall streamline the headquarters, regional, and field office structure of the Department of Housing and Urban Development by consolidating various of such offices and reducing the size of the Department, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

(b) WORKFORCE REDUCTIONS.—In carrying out subsection (a), during the period referred to in such subsection, the Secretary of Housing and Urban Development shall eliminate not less than 1,500 full-time employment positions in the Department of Housing and Urban Development.

SEC. 305. TERMINATION OF INTERSTATE COMMERCE COMMISSION.

(a) IN GENERAL.—There are transferred to the Secretary, effective January 1, 1994, all functions of the Commission.

(b) AUTHORITY OF OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget, in consultation with the Commission and the Secretary, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of assets, liabilities, contracts, property, and records, as may be necessary to carry out the provisions of this section. The unobligated funds of the Commission shall not be transferred to the Department of Transportation in order to carry out the transfer of functions under this section, and the number of fulltime employee positions within the Department of Transportation shall not be increased as a result of such transfer of functions.

(c) JOINT PLANNING FOR TRANSFER.—The Chairman of the Commission and the Secretary shall, beginning as soon as practicable after the date of enactment of this section, jointly plan for the orderly transfer of functions under this section.

(d) INTERIM USE OF INTERSTATE COMMERCE COMMISSION PERSONNEL.—Prior to January 1, 1994, and with the consent of the Commission, the Secretary may use the services of officers, employees, and other personnel of the Commission under such terms and conditions as will reasonably facilitate the orderly transfer of functions under this section.

(e) SAVINGS PROVISIONS.—

(1) IN GENERAL.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(A) which have been issued, made, granted, or allowed to become effective by any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by this section to the Secretary from the Commission; and

(B) which are in effect immediately before the transfer of functions by this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary or any other duly authorized official, by any court of competent jurisdiction, or by operation of law.

(2) CONTINUATION OF PROCEEDINGS.—The transfer of functions by this section shall not affect any proceedings, including rulemaking proceedings, or any application for any license, permit, or certificate, pending before the Commission immediately before the transfer takes effect. Such proceedings and applications shall be continued at the Department of Transportation. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Transportation, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) EFFECT ON PENDING CIVIL ACTIONS.—Except as provided in paragraph (5)—

(A) the transfer of any function under this section shall not affect any civil action relating to such function which is commenced prior to the date the transfer takes effect; and

(B) in all such actions, proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No action or other proceeding commenced by or against any officer in that officer's official capacity as an officer of the Commission shall abate by reason of the transfer of any function under this section. No cause of action by or against the Commission, or by or against any officer thereof in that officer's official capacity, shall abate by reason of the transfer of any function under this section.

(5) JUDICIAL ADMINISTRATIVE PROVISION.—If immediately before the transfer of functions by this section the Commission or any officer thereof in that officer's official capacity is a party to an action relating to a function transfer by this section, then such action shall be continued with the Secretary or other appropriate official of the Department of Transportation substituted or added as a party.

(6) REFERENCES.—With respect to any function transferred by this section and performed on or after the effective date of the transfer, reference in any Federal law to the Interstate Commerce Commission or the Commission (insofar as such term refers to the Interstate Commerce Commission), or to any officer or office thereof, shall be deemed to refer to the Department of Transportation, or other official or component of the Department of Transportation in which such function vests.

(7) EXERCISE OF FUNCTIONS BY SECRETARY.—In the exercise of any function transferred by this section, the Secretary shall have the same authority as that vested in the Commission with respect to such function immediately preceding its transfer, and actions of the Secretary shall have the same force and effect as when exercised by the Commission. Orders and actions of the Secretary in the exercise of the functions transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Commission in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this section shall apply to the exercise of such functions by the Secretary.

(f) REPORTS.—No later than July 1, 1994, the Secretary shall submit to the appropriate committees of Congress a report on the functions transferred from the Commission to the Department of Transportation under this section. The report shall include—

(1) an assessment of benefits compared to costs associated with each of these functions, both with respect to persons affected directly and to the public generally;

(2) recommendations for the elimination of functions identified as redundant, or substantially the same as functions or services which are performed by the Department of Transportation or other public or private organizations prior to the transfer of functions under this section; and

(3) recommendations to modify or eliminate those functions that do not provide substantial economic or safety benefits to the general public.

(g) CONFORMING AMENDMENTS.—

(1) EXECUTIVE LEVEL PAY RATES.—

(A) Section 5314 of title 5, United States Code, is amended by striking "Chairman, Interstate Commerce Commission.".

(B) Section 5315 of title 5, United States Code, is amended by striking "Members, Interstate Commerce Commission.".

(2) TERMINATION OF COMMISSION.—Sections 10301 through 10308 of title 49, United States Code, are repealed.

(3) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994.

(h) DEFINITIONS.—In this section—

(1) the term "Commission" means the Interstate Commerce Commission;

(2) the term "function" means a function, power, or duty; and

(3) the term "Secretary" means the Secretary of Transportation.

(i) RESCISSION AND TRANSFER OF FUNDS.—Of the funds made available under the heading "Interstate Commerce Commission—Salaries and Expenses" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103-122)—

(1) $18,000,000 is rescinded; and

(2) $15,000,000 shall be transferred to and merged with the appropriation in such Act for "DEPARTMENT OF TRANSPORTATION—OFFICE OF THE SECRETARY—Immediate Office of the Secretary".

SEC. 306. RESCISSION OF FUNDS FROM TENNESSEE VALLEY AUTHORITY FUND.

Of the funds in the Area and Regional Account of the Tennessee Valley Authority Fund, $23,000,000 is rescinded.

SEC. 307. RESCISSION OF FUNDS FOR APPALACHIAN REGIONAL COMMISSION.

Of the funds made available under the heading "Appalachian Regional Commission" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $59,000,000 is rescinded.

SEC. 308. IMPROVEMENTS TO MANAGEMENT OF VETERANS' HOSPITALS.

The Secretary of Veterans Affairs, in consultation with the Secretary of Health and Human Services, shall implement for the Veterans Health Administration a financing system known as a "Prospective Payment System". In implementing such a system, the Secretary shall classify each individual receiving health care and services under chapter 17 of title 38, United States Code, in a Diagnosis-Related Group (DRG). The Prospective Payment System implemented by the Secretary shall be modeled as closely as is practicable on the Prospective Payment System in use for the Medicare program under title XVIII of the Social Security Act. The Secretary may, to the extent necessary to implement this section, waive any provisions of law inconsistent with this section. In implementing this section, it shall be a goal of the Secretary to achieve savings in outlays for the Department of Veterans Affairs medical system of not less than $1,000,000,000 over the five-year period of fiscal years 1994 through 1998.

SEC. 309. RESCISSION OF FUNDS FOR LEGAL SERVICES CORPORATION.

Of the funds made available under the heading "Legal Services Corporation—Payment to the Legal Services Corporation" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $20,000,000 is rescinded.

SEC. 310. TERMINATION OF STATE JUSTICE INSTITUTE.

(a) IN GENERAL.—The State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) is repealed.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "State Justice Institute—Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $6,775,000 is rescinded.

SEC. 311. IMPROVEMENT OF U.S. MARSHALS SERVICE.

(a) PHASING OUT OF POLITICAL APPOINTEES.—

(1) UNCONFIRMED APPOINTEES.—Any individual serving as a United States marshal to whose appointment to such office the Senate has not given its advice and consent as of the date of the enactment of this Act, may no longer serve in such position on or after such date of enactment, except pursuant to appointment by the Attorney General under the amendments made by this section. The Attorney General shall, before appointing any other individual to such vacated position, offer such vacated position to the individual then serving as deputy marshal in that office of United States marshal. The individual appointed to fill such vacated position shall be appointed for the remainder of the unexpired term of his or her predecessor.

(2) CONFIRMED APPOINTEES.—Any individual who, on the date of the enactment of this Act, is a United States marshal to whose appointment the Senate has given its advice and consent, may not serve in such position on or after December 31, 1994, except pursuant to appointment by the Attorney General under the amendments made by this section. The Attorney General shall, before appointing any other individual to such vacated position, offer such vacated position to the individual then serving as deputy marshal in that office of United States marshal. The individual appointed to fill such vacated position shall be appointed for the remainder of the unexpired term of his or her predecessor.

(b) APPOINTMENT OF UNITED STATES MARSHALS.—Section 561 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "The President shall appoint, by and with the advice and consent of the Senate," and inserting "The Attorney General shall appoint"; and

(2) in subsection (d) by striking "President" and inserting "Attorney General".

(c) OVERALL REDUCTION IN NUMBER OF POSITIONS.—

(1) ELIMINATION OF POSITIONS OF DEPUTY MARSHAL.—The position of deputy marshal in the 70 judicial districts having the least population of all judicial districts shall be abolished, as of—

(A) the date of the enactment of this Act, in a case in which subsection (a)(1) applies; or

(B) the date on which the United States marshal leaves office under the first sentence of subsection (a)(2), in a case in which such subsection applies;

and no equivalent position in such districts shall thereafter be created.

(2) OVERALL REDUCTION.—The number of full-time equivalent positions in the United States Marshals Service as of January 1, 1995, may not exceed the number of full-time equivalent positions in the United States Marshals Service on the date of the enactment of this Act, minus 70.

(d) CONFORMING AMENDMENTS.—(1) Section 562 of title 28, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 37 of such title, are repealed.

(2) Section 569 of such title is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

SEC. 312. RESCISSION OF FUNDS FOR BATF.

Of the funds made available under the heading "Bureau of Alcohol, Tobacco and Firearms—Salaries and Expenses" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103–123), $2,000,000 is rescinded.

SEC. 313. RESCISSION OF FUNDS FOR CONSTRUCTION OF NEW FEDERAL OFFICES AND COURTHOUSES.

Of the funds made available under the heading "General Services Administration—Federal Buildings Fund" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103–123), $288,000,000 is rescinded.

SEC. 314. LIMITATION ON OFFICE EQUIPMENT AND FURNISHINGS PURCHASES BY DEPARTING MEMBERS OF THE HOUSE OF REPRESENTATIVES.

The first section of the Act entitled "An Act to authorize the disposition of certain office equipment and furnishings, and for other purposes", enacted October 20, 1974 (2 U.S.C. 59a) is repealed.

SEC. 315. RESCISSION OF FUNDS FOR EXECUTIVE OFFICE OF THE PRESIDENT.

(a) IN GENERAL.—Of the funds made available for each account under the heading "Executive Office of the President and Funds Appropriated to the President" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103–123), there is rescinded an amount equal to 5 percent of such funds.

(b) ADDITIONAL OFFICES.—Of the funds made available for each account under the heading "Executive Office of the President" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), there is rescinded an amount equal to 5 percent of such funds.

SEC. 316. RESCISSION OF FUNDS FOR LEGISLATIVE BRANCH.

(a) IN GENERAL.—Of the funds made available for each account in the Legislative Branch Appropriations Act, 1994 (Pub. L. 103–69), there is rescinded an amount equal to 7.5 percent of such funds.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) funds made available under the heading "Congressional Operations—Senate"; or

(2) funds for which amounts are rescinded by section 317.

SEC. 317. RESCISSION OF FUNDS FOR HOUSE FRANKING.

Of the funds made available under the heading "House of Representatives—Salaries and Expenses" in the Legislative Branch Appropriations Act, 1994 (Pub. L. 103–69), $12,000,000 is rescinded, to be derived from "Official Mail Costs".

SEC. 318. PROVISIONS RELATING TO ANNUAL PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) CALENDAR YEAR 1994.—Notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), the cost of living adjustment (relating to pay for Members of Congress) which would become effective under such provision of law during calendar year 1994 shall not take effect.

(b) LIMITATION ON FUTURE ADJUSTMENTS.—Effective as of December 31, 1994, paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 is amended—

(1) by striking "(2) Effective" and inserting "(2)(A) Subject to subparagraph (B), effective"; and

(2) by adding at the end the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.".

SEC. 319. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the last day of the last applicable pay period beginning in calendar year 1993, subsection (f) of section 6304 of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304, such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

(c) CONFORMING AMENDMENT.—Section 6304(a) of title 5, United States Code, is amended by striking "(e), (f), and (g)" and inserting "(e) and (g)", effective as of the effective date of subsection (a).

(d) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of payments for accrued leave upon termination of employment, $2,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 320. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) Definition.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) Limitations on Full-Time Equivalent Positions.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,053,600 during fiscal year 1994;

(2) 1,999,600 during fiscal year 1995;

(3) 1,945,600 during fiscal year 1996;

(4) 1,895,600 during fiscal year 1997; and

(5) 1,851,600 during fiscal year 1998.

(c) Monitoring and Notification.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) Compliance.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) Waiver.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

(f) Rescission of Funds.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of employee compensation, $2,122,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 321. RESCISSION OF FUNDS FOR TRAVEL ACCOUNTS.

(a) In General.—Of the funds made available in any appropriations Act for fiscal year 1994 to any executive department or agency, or any entity in the legislative branch, for purposes of official travel, 15 percent is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

(b) Exceptions.—Subsection (a) shall not apply to—

(1) the Department of Defense, the Department of Justice, the Department of State, the Department of the Treasury, the Department of Veterans Affairs, or any agency or office within any such department; or

(2) the Office of Personnel Management in carrying out its responsibilities under the Voting Rights Act of 1965.

SEC. 322. TERMINATION OF FEDERAL ADVISORY COMMITTEES.

(a) Termination.—The entities described in subsection (b) are terminated.

(b) Entities Described.—The entities referred to in subsection (a) are the following:

(1) Preservation of Jazz Advisory Commission.

(2) Mt. Saint Helen's Scientific Advisory Board.

(3) Advisory Panel for the Dictionary of Occupational Titles.

(4) U.S. Army Medical Research and Development Advisory Board.

(5) Secretary of the Navy's Advisory Committee on Naval History.

(6) Scientific Advisory Committee on Effects.

(7) Advisory Committee on Publications Subvention.

(8) National Advisory Council on Educational Research and Improvement.

(9) Advisory Panel for the Decontamination of TMI-2.

(10) Technical Advisory Group on Cigarette Fire Safety.

(11) Advisory Commission of Swine Health Protection.

(c) Savings Provisions.—

(1) Continuation of agreements, grants, contracts, privileges, and other administrative actions.—All agreements, grants, contracts, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by an entity described in subsection (b) in the performance of its functions or by a court of competent jurisdiction with respect to those functions, and

(B) which are in effect on the date of the enactment of this Act, or were final before that date of enactment and are to become effective on or after that date of enactment,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) Suits not affected.—The provisions of this section shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(3) Suits involving council or office.—No suit, action, or other proceeding commenced by or against an entity described in subsection (b), or by or against any individual in the official capacity of such individual as an officer or employee of such an entity, shall abate by reason of the enactment of this section.

SEC. 323. INCREASE IN THRESHOLD FOR APPLICATION OF DAVIS-BACON ACT.

(a) In General.—Subsection (a) of the first section of the Act of March 3, 1931 (40 U.S.C. 276a et seq.) (known as the "Davis-Bacon Act") is amended by striking "$2,000" and inserting "$100,000".

(b) Rescission of Funds.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of construction activities under the Act of March 3, 1931 (40 U.S.C. 276a et seq.) (known as the "Davis-Bacon Act") or similar prevailing wage requirements applicable to projects assisted by Federal funds, $62,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 324. ELIMINATION OF CERTAIN REPORTS REQUIRED ON CONTRACTS COVERED BY DAVIS-BACON ACT.

(a) In General.—The first sentence of section 2 of the Act of June 13, 1934, entitled "An Act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes" (40 U.S.C. 276c) (known as the "Copeland Act") is amended by striking "shall furnish weekly a statement with respect to the wages paid each employee during the preceding week" and inserting "shall furnish, at least once per month, a statement of compliance with the labor standards provisions of applicable law, certifying the payroll with respect to the wages paid employees during the preceding period for which the statement is furnished, covering each week any contract work is performed".

(b) Rescission of Funds.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of construction activities submitted under section 2 of the Act of June 13, 1934 (40 U.S.C. 276c) (known as the "Copeland Act"), $55,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 325. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.

(a) In General.—The Secretary of the Treasury or his delegate (in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) Program Criteria.—

(1) In general.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) Minimum fees.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) Application of Section.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) Deposit and Credit as Offsetting Receipts.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 326. INCREASE IN SEC REGISTRATION FEES.

(a) SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking "one-fiftieth of 1 per centum" and inserting "1/29 of 1 percent".

(b) SECURITIES EXCHANGE ACT OF 1934.—Sections 13(e)(3) and 14(g)(1)(A)(i) of the Securities Exchange Act of 1934 (47 U.S.C. 78m(e)(3), 78n(g)(1)(A)(i)) are each amended by striking "1/50 of 1 per centum" and inserting "1/29 of 1 percent".

(c) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected under the provisions amended by this section shall be deposited into the Treasury as offsetting receipts and ascribed to the salaries and expenses account of the Securities and Exchange Commission.

(d) APPLICABILITY.—The amendments made by subsections (a) and (b) shall not apply after September 30, 1998.

SEC. 327. TRAVEL, TOURISM, AND EXPORT PROMOTION FEES.

(a) TRAVEL AND TOURISM FEES.—

(1) IN GENERAL.—Each State that participates in marketing activities or tourism promotion abroad through the United States Travel and Tourism Administration shall pay a fee in an amount determined by such Administration so that the total receipts from such fees shall equal the budget of such Administration.

(2) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected under this subsection shall be deposited into the Treasury as offsetting receipts and ascribed to the salaries and expenses account of the United States Travel and Tourism Administration.

(b) EXPORT PROMOTION FEES.—

(1) IN GENERAL.—The Secretary of Commerce or his delegate (in this subsection referred to as the "Secretary") shall establish a program requiring the payment of user fees for all services provided to all entities outside the Federal Government by the International Trade Administration in carrying out its export promotion programs.

(2) SETTING OF FEES.—The fees charged under the program required by paragraph (1) shall be determined such that the Secretary estimates that the aggregate of such fees received during the following fiscal years will equal the following amounts:

(A) $100,000,000 during fiscal year 1994.

(B) $212,154,000 during fiscal year 1995.

(C) $224,821,000 during fiscal year 1996.

(D) $237,830,000 during fiscal year 1997.

(E) $251,648,000 during fiscal year 1998.

(3) APPLICATION OF SECTION.—Paragraph (1) shall apply to services provided on or after the 90th day after the date of the enactment of this Act.

(4) DEFINITION.—As used in this subsection, the term "export promotion program" has the meaning given that term in section 201(d) of the export administration amendments act of 1985 (15 U.S.C. 4051(d)) and includes—

(A) the provision of information and technical assistance; and

(B) any form of assistance in the marketing of goods and services.

(5) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by paragraph (1) (to the extent such amounts do not exceed the amounts specified in paragraph (2)) shall be deposited into the Treasury as offsetting receipts and ascribed to the operations and administrations account of the International Trade Administration.

TITLE IV—HUMAN RESOURCES

SEC. 401. REDUCTION IN FUNDING FOR ARTS AND HUMANITIES PROGRAMS.

(a) NATIONAL ENDOWMENT FOR THE ARTS.—Section 11(d)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)(1)) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) for fiscal year 1994, $166,823,000,

"(B) for fiscal year 1995, $163,487,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1994 to carry out the activities of the Endowment, whichever is less,

"(C) for fiscal year 1996, $160,217,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1995 to carry out the activities of the Endowment, whichever is less,

"(D) for fiscal year 1997, $157,012,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1996 to carry out the activities of the Endowment, whichever is less, and

"(E) for fiscal year 1998, $153,872,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1997 to carry out the activities of the Endowment, whichever is less.".

(b) NATIONAL ENDOWMENT FOR THE HUMANITIES.—Section 11(d)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)(2)) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) for fiscal year 1994, $173,941,000,

"(B) for fiscal year 1995, $170,462,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1994 to carry out the activities of the Endowment, whichever is less,

"(C) for fiscal year 1996, $167,053,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1995 to carry out the activities of the Endowment, whichever is less,

"(D) for fiscal year 1997, $163,712,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1996 to carry out the activities of the Endowment, whichever is less, and

"(E) for fiscal year 1998, $160,438,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1997 to carry out the activities of the Endowment, whichever is less.".

(c) SMITHSONIAN INSTITUTION.—Notwithstanding any other law, the funds appropriated for the Smithsonian Institution for fiscal year 1994, 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(d) NATIONAL GALLERY OF ART.—Notwithstanding any other law, the funds appropriated for the National Gallery of Art for fiscal year 1994, 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(e) CORPORATION FOR PUBLIC BROADCASTING.—Notwithstanding any other law, the funds appropriated for the Corporation for Public Broadcasting for fiscal year 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(f) RESCISSION OF FUNDS.—Of the funds made available under each of the headings "National Endowment for the Arts", "National Endowment for the Humanities", "Smithsonian Institution", and "National Gallery of Art" in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103-138), 2 percent is rescinded.

SEC. 402. ELIMINATION OF OPERATING SUBSIDIES FOR VACANT PUBLIC HOUSING.

(a) IN GENERAL.—Section 9(a)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(B)) is amended—

(1) in clause (iv), by striking "and" at the end;

(2) in clause (v), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(vi) no payment may be provided under this section for any dwelling unit that has been vacant for a period of 180 days or more unless such unit is vacant because of comprehensive modernization, major reconstruction, demolition, or disposition activities that have been funded or approved.".

(b) ELIMINATION OF ANNUAL CONTRIBUTION RESERVE.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended by striking paragraph (3).

(c) RECAPTURE OF ANNUAL CONTRIBUTION RESERVE.—The Secretary of Housing and Urban Development shall recapture any amounts reserved from annual contributions for public housing agencies and deposited in accounts established on behalf of the agencies pursuant to paragraph (3) of section 14(p) of the United States Housing Act of 1937 (as in effect immediately before the date of the enactment of this Act).

(d) RESCISSION OF FUNDS.—Of the funds made available under the heading "Department of Housing and Urban Development—Housing Programs—Payments for Operation of Low-Income Housing Projects" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), $54,000,000 is rescinded.

SEC. 403. SUBSTITUTION OF VOUCHER ASSISTANCE FOR PUBLIC HOUSING NEW CONSTRUCTION.

(a) TERMINATION OF ASSISTANCE FOR CONSTRUCTION OF PUBLIC HOUSING.—

(1) LOAN AUTHORITY.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may not enter into any new commitment to make loans under section 4 of the United States Housing Act of 1937 to public housing agencies for the development or acquisition of public housing projects by such agencies.

(2) CONTRIBUTION AUTHORITY.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may not enter into any new contract to make contributions under section 5 of the United States Housing Act of 1937 to public housing agencies for the development or acquisition of public housing projects by such agencies.

(3) EXISTING COMMITMENTS.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may make contributions and loans for the development or acquisition of public housing projects only pursuant to legally binding commitments to make such loans or contracts for such contributions entered into on or before the date of the enactment of this Act.

(4) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply to public housing developed pursuant to a contract between the Secretary of Housing

and Urban Development and an Indian housing authority.

(5) DEFINITIONS.—For purposes of this section, the terms "Indian housing authority", "project", "public housing", and "public housing agency" have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

(b) PERMISSIBLE USES.—Vouchers for rental assistance provided with the amounts made available under this section may be used for the rental of dwelling units or costs of residency, as determined by qualified voucher recipients.

(c) RESCISSION AND TRANSFER OF FUNDS.—Of the funds made available under the heading "Department of Housing and Urban Development—Housing Programs—Annual Contributions for Assisted Housing" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124)—

(1) $367,000,000 is rescinded from the total amount under such heading and from the amount specified under such heading for the development or acquisition cost of public housing; and

(2) $230,701,000 of the amount specified under such heading for the development or acquisition cost of public housing shall be reallocated to and merged with the amount specified under such heading for the housing voucher program under section 8(o) of the United States Housing Act of 1937.

SEC. 404. REFORM OF HUD MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iii) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational staff and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goal specified in subsection (a)(3)(A), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraphs (A) through (C) of subsection (b)(2) that does not otherwise receive project-based assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining affordability, as defined in paragraph (3)(B).

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) with at least an equivalent increase in units made affordable to very low-income persons within unsubsidized projects;

"(ii) low-income tenants residing in units otherwise requiring project-based assistance under subparagraph (A) or (B) upon disposition receive section 8 tenant-based assistance; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in unsubsidized projects, the contract shall at least be sufficient to provide—

"(i) project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for low-income families. Actions taken pursuant to this paragraph may be taken in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary annually.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms which will ensure that—

"(i) at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions authorized by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—In connection with projects referred to in subsection (e), make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall make available tenant-based rental assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A), and the Secretary shall take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance.

"(g) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(h) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—Notwithstanding subparagraph (A), to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area (as determined by the Secretary under section 8(c) of the United States Housing Act of 1937) as the Secretary may prescribe.

"(B) UP-FRONT GRANTS AND LOANS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to—

"(i) provide project-based section 8 rental assistance; and

"(ii)(I) provide up-front grants for the necessary cost of rehabilitation; or

"(II) pay for any cost to the Government, as defined in section 502 of the Congressional Budget Act, for loans made pursuant to subsection (f)(1).

"(i) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities which represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) USE OF FUNDS.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly, and to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section for the provision of technical assistance under this section.

"(ii) SOURCE OF FUNDS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(j) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a project, the Secretary shall notify the unit of general local government and the State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B), and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for a project, shall notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan and give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—Where the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e). If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(k) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(l) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, which report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after enactment of the Housing and Community Development Act of 1993 and actions taken in years prior to such enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments, and the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 405. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE.

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1993.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94-241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1993.

TITLE V—SOCIAL SERVICES AND RETIREMENT

SEC. 501. INCREASE IN RETIREMENT AGE UNDER FERS TO 65.

(a) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VIII—SPECIAL RULES FOR CERTAIN POST-1993 NEW EMPLOYEES AND MEMBERS

"§ 8481. Applicability

"(a) This subchapter sets forth special rules in conformance with which this chapter shall be applied with respect to any employee who first becomes an employee subject to this chapter, or who is first elected as a Member, after December 31, 1993.

"(b) Nothing in this subchapter shall be considered to apply with respect to any employee or Member not described in subsection (a) or to have any effect except for the purpose referred to in such subsection.

"§ 8482. Immediate retirement

"Deem section 8412 to be amended as follows:

"(1) Subsection (c) is amended by striking '62' and inserting '65'.

"(2) Subsections (a), (b), (f), and (g) are repealed.

"§ 8483. Deferred retirement

"Deem section 8413 to be amended as follows:

"(1) Subsection (a) is amended by striking '62' and inserting '65'.

"(2) Subsection (b) is repealed.

"§ 8484. References to age 62

"(a) Deem section 8415 to be amended as follows:

"(1) Subsection (f) is repealed.

"(2) Subsection (g)(2)(B) is amended by striking 'is at least 62 years of age and'.

"(b) Deem section 8442 to be amended in subsections (c)(2)(B) and (g)(2)(B) by striking '62' each place it appears and inserting '65'.

"(c) Deem section 8452(b)(1) to be amended by striking 'sixty-second' and inserting 'sixty-fifth'.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"SPECIAL RULES FOR CERTAIN POST-1993 NEW EMPLOYEES AND MEMBERS

"8481. Applicability.
"8482. Immediate retirement.
"8483. Deferred retirement.
"8484. References to age 62.".

SEC. 502. PROVISION RELATING TO GOVERNMENT CONTRIBUTIONS TO THE THRIFT SAVINGS PLAN.

Section 8432(c)(2)(B) of title 5, United States Code, is amended by adding at the end the following:

"Clause (ii) shall not apply with respect to any employee or Member described in section 8481(a).".

SEC. 503. DEFERRAL UNTIL AGE 62 OF COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES WHO FIRST ENTERED MILITARY SERVICE ON OR AFTER JANUARY 1, 1994.

Section 1401a(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of a member or former member under age 62 (other than a member retired under chapter 61 of this title) who first became a member on or after January 1, 1994, such increase shall not become payable as part of the retired pay of the member or former member until the month in which the member or former member becomes 62 years of age.".

SEC. 504. CONSOLIDATION OF CERTAIN SOCIAL SERVICES PROGRAMS INTO A SINGLE BLOCK GRANT PROGRAM.

(a) AT-RISK CHILD CARE PROGRAM MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.—

(1) CONSOLIDATION OF SERVICES.—Section 2002(a)(2)(A) of the Social Security Act (42 U.S.C. 1397a(a)(2)(A)) is amended by inserting "(including services that could have been provided under section 402(i), as in effect immediately before the effective date of section 504 of the Common Cents Deficit Reduction Act of 1993)" after "child care services".

(2) CONSOLIDATION OF FUNDING.—Section 2003(c) of such Act (42 U.S.C. 1397b(c)) is amended—

(A) in paragraph (4), by striking "and";

(B) in paragraph (5), by striking "each fiscal year after fiscal year 1989." and inserting "the fiscal years 1990, 1991, 1992, 1993, and 1994; and"; and

(C) by adding at the end the following:

"(6) $2,976,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(b) CERTAIN DISCRETIONARY SOCIAL SERVICES PROGRAMS MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES BUT LEFT DISCRETIONARY.—

(1) CONSOLIDATION OF SERVICES.—Section 2002 of such Act (42 U.S.C. 1397a) is amended—

(A) in subsection (a), by adding at the end the following:

"(3) In addition to payments pursuant to paragraph (1), the Secretary may make payments to a State under this title for a fiscal year in an amount equal to its additional allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

"(4) For purposes of paragraph (3)—

"(A) services which are directed at the goals set forth in section 2001 include services that could have been provided under—

"(i) the Community Services Block Grant Act;

"(ii) the Child Care and Development Block Grant Act of 1990;

"(iii) title III or VII of the Older Americans Act of 1965; or

"(iv) the State Dependent Care Development Grants Act,

as in effect immediately before the effective date of section 504 of the Common Cents Deficit Reduction Act of 1993; and

"(B) expenditures for such services may include expenditures described in paragraph (2)(B)."; and

(B) in each of subsections (b), (c), and (d), by inserting "or additional allotment" after "allotment" each place such term appears.

(2) CONSOLIDATION OF FUNDING.—Section 2003 of such Act (42 U.S.C. 1397b) is amended by adding at the end the following:

"(d) The additional allotment for any fiscal year to each State shall be determined in the same manner in which the allotment for the fiscal year is determined for the State under the preceding subsections of this section, except that, in making such determination the following amounts shall be used in lieu of the amount specified in subsection (c):

"(1) $2,301,000,000 for the fiscal year 1995;

"(2) $2,359,000,000 for the fiscal year 1996;

"(3) $2,419,000,000 for the fiscal year 1997; and

"(4) $2,478,000,000 for the fiscal year 1998.".

(c) CONFORMING AMENDMENTS AND REPEALS.—

(1) COMMUNITY SERVICES BLOCK GRANT ACT.—The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is hereby repealed.

(2) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(3) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by striking titles III and VII.

(4) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is hereby repealed.

(5) AT-RISK CHILD CARE PROGRAM.—

(A) PROGRAM AUTHORITY.—Section 402 of the Social Security Act (42 U.S.C. 602) is amended—

(i) in subsection (g)(7), by striking "and subsection (i)"; and

(ii) by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by striking subsection (n).

(d) EFFECTIVE DATE.—The amendments and repeals made by this section shall take effect on October 1, 1994.

SEC. 505. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

(a) IN GENERAL.—Section 401(b)(8) the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

SEC. 506. ELIMINATION OF EDUCATION PROGRAMS THAT HAVE LARGELY ACHIEVED THEIR PURPOSE.

(a) PUBLIC LIBRARY CONSTRUCTION.—

(1) REPEAL.—Title II of the Library Services and Construction Act (20 U.S.C. 355a et seq.) is repealed.

(2) CONFORMING AMENDMENT.—Section 4(a)(2) of such Act (20 U.S.C. 351b(a)(2)) is repealed.

(b) FOLLOW THROUGH PROGRAM.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(c) LAW-RELATED EDUCATION.—Section 1565 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2965) is repealed.

(d) LAW SCHOOL CLINICAL EXPERIENCE PROGRAM.—Part G of title IX of the Higher Education Act of 1965 (20 U.S.C. 1132u et seq.) is repealed.

(e) RESCISSION OF FUNDS.—

(1) LIBRARY CONSTRUCTION.—Of the funds made available under the heading "Department of Education—Libraries" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–112), $17,792,000 is rescinded, to be derived from public library construction.

(2) SCHOOL IMPROVEMENT PROGRAMS.—Of the funds made available under the heading "Department of Education—School Improvement Programs" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–112)—

(A) $8,478,000 is rescinded, to be derived from the follow through program; and

(B) $5,952,000 is rescinded, to be derived from the law-related education program.

(3) LAW SCHOOL CLINICAL EXPERIENCE.—Of the funds made available under the heading "Department of Education—Higher Education" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–112), $14,920,000 is rescinded, to be derived from the law school clinical experience program.

TITLE VI—AGRICULTURE AND HEALTH CARE

SEC. 601. DEPARTMENT OF AGRICULTURE REORGANIZATION.

(a) CLOSURE AND CONSOLIDATION OF OFFICES.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the Secretary of Agriculture shall close or consolidate not less than 1,200 field offices of the agencies of the Department of Agriculture described in subsection (d).

(b) PURPOSE OF CLOSURE AND CONSOLIDATION.—In addition to reducing expenditures of the Department of Agriculture, the closure and consolidation of field offices pursuant to this section is intended to improve services provided to agricultural producers in the United States through the greater use of multipurpose field offices combining the services of more than one of the agencies described in subsection (d).

(c) CORRESPONDING REDUCTIONS AND REORGANIZATION.—As part of the closure and consolidation of field offices under subsection (a), the Secretary of Agriculture shall—

(1) eliminate not less than 7,500 full-time employment positions in the Department of Agriculture; and

(2) reorganize the headquarters corresponding to the agencies described in subsection (d).

(d) FIELD OFFICES DESCRIBED.—The field offices to be closed and consolidated under this section shall be selected from among the field offices of the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation.

(e) RESCISSION OF FUNDS.—Of the funds made available for the Department of Agriculture in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–111), $13,000,000 is rescinded. The Secretary of Agriculture shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 602. REDUCTION IN TRIPLE BASE FOR DEFICIENCY PAYMENTS FOR BASIC AGRICULTURAL COMMODITIES UNDER AGRICULTURE PROGRAMS.

(a) WHEAT.—Section 107B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-

3a(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(b) FEED GRAINS.—Section 105B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1444f(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(c) UPLAND COTTON.—Section 103B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1444-2(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(d) RICE.—Section 101B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

SEC. 603. IMPOSITION OF 20 PERCENT COINSURANCE ON CLINICAL LABORATORY SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1994.

SEC. 604. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES UNDER MEDICARE.

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all the per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(2) PART B.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(F) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less a copayment amount equal to 20 percent of the average of all per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year);".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of such Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) COVERAGE OF COST SHARING UNDER THE QUALIFIED MEDICARE BENEFICIARY PROGRAM FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF POVERTY.—Section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking "and" at the end of clause (ii), and

(2) by adding at the end the following new clause:

"(iv) for making medical assistance available for the medicare cost-sharing consisting of the coinsurance applicable to home health services under sections 1813(a)(5) and 1833(a)(2)(F) for individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved; and".

(c) EFFECTIVE DATES.—

(1) MEDICARE.—The amendments made by subsection (a) shall apply to home health services furnished on or after January 1, 1994.

(2) MEDICAID.—The amendments made by subsection (b) shall apply to calendar quarters beginning on or after January 1, 1994, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 605. RELATING MEDICARE PART B PREMIUM TO INCOME FOR CERTAIN HIGH INCOME INDIVIDUALS.

(a) INCREASE IN PREMIUM.—

(1) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following:

"(g)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) is equal to or exceeds the sum of the threshold amount described in paragraph (4) and $25,000, the amount of the monthly premium for the calendar year shall be increased by an amount such that the total monthly premium (determined without regard to subsection (b)) is equal to 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) Notwithstanding the previous subsections of this section, in the case of an individual not described in paragraph (1) whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) exceeds the threshold amount described in paragraph (4), the amount of the monthly premium for the calendar year shall be increased by an amount which bears the same ratio to the amount of the increase determined under paragraph (1) as such excess bears to $25,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(3) Using information provided by the Secretary of the Treasury under section 6103(l)(14) of the Internal Revenue Code of 1986, the Secretary shall determine the actual modified adjusted gross income of individuals enrolled in this part during a taxable year and adjust the monthly premium applicable to an individual during a calendar year to take into account any overpayments or underpayments in the premium during the previous calendar year resulting from the application of this subsection.

"(4) In this subsection and section 1813(c), the term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $70,000,

"(B) $90,000 in the case of an individual who files a joint return under section 6013 of the Internal Revenue Code of 1986, and

"(C) zero in the case of an individual who—

"(i) is married at the close of the taxable year (as determined under section 7703 of the Internal Revenue Code of 1986) but does not file a joint return for such year, and

"(ii) does not live apart from the individual's spouse at all times during the taxable year.".

(2) CONFORMING AMENDMENT.—Section 1839(f) of such Act (42 U.S.C. 1395r(f)) is amended by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (g))".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning after February 1994 in taxable years beginning after December 31, 1993.

(b) REPORTING REQUIREMENT FOR BENEFICIARIES.—Title XVIII of the Social Security Act is amended by adding at the end the following:

"REPORT TO SECRETARY ON ESTIMATED MODIFIED ADJUSTED GROSS INCOME

"SEC. 1893. (a) IN GENERAL.—

"(1) INDIVIDUALS COVERED THROUGHOUT YEAR.—Not later than November 1 of each year (beginning with 1994), each individual enrolled under part B shall submit to the Secretary (in such form and manner as the Secretary may require, in consultation with the Secretary of the Treasury) an estimate of the individual's modified adjusted gross income anticipated for the taxable year ending with or within the following calendar year, to be used (subject to section 1839(g)(3)) to determine whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) for such following calendar year.

"(2) SPECIAL RULE FOR FIRST YEAR OF COVERAGE.—For the first year in which an individual is enrolled under part B, the individual shall submit to the Secretary (at such time and in such form and manner as the Secretary may require, in consultation with the Secretary of the Treasury) an estimate of the individual's modified adjusted gross income anticipated for the taxable year ending with December 31 of such year, to be used to determine whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) for such year.

"(b) SPECIAL RULE FOR 1994.—Not later than 60 days after the date of the enactment of this section, each individual described in subsection (a) shall submit to the Secretary an estimate of the individual's modified adjusted gross income for the taxable year ending December 1993, to be used to determine (subject to section 1839(g)(3)) whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) during 1994.

"(c) MODIFIED ADJUSTED GROSS INCOME DEFINED.—In subsection (a), the term 'modified adjusted gross income' means, with respect to an individual for a taxable year, the individual's adjusted gross income under the Internal Revenue Code of 1986, determined without regard to sections 931 or 933 of such Code.".

(c) DISCLOSURE OF CERTAIN TAX INFORMATION BY SECRETARY OF TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(14) DISCLOSURE OF RETURN INFORMATION TO MEANS-TEST MEDICARE.—

"(A) IN GENERAL.—The Secretary shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the officers and employees of such Administration return information necessary to determine the modified adjusted gross income (as defined in section 1893(c) of the Social Security Act) of any medicare beneficiary (as defined in paragraph (12)(E)), to be used to determine whether the beneficiary is to be subject to an increase in the monthly part B premium under section 1839(g) of such Act.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officer or employee of the Health Care Financing Administration receiving return information under subparagraph (A) shall use such information only for purposes of, and to the extent necessary in, establishing the modified adjusted gross income (as so defined) of any medicare beneficiary (as so defined)."

(2) CONFORMING AMENDMENTS.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (13)" each place it appears and inserting "(13), or (14)".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to information for taxable years beginning after December 31, 1993.

SEC. 606. INCREASE IN MEDICARE HOSPITAL INSURANCE DEDUCTIBLE FOR CERTAIN HIGH-INCOME INDIVIDUALS.

(a) INCREASE IN DEDUCTIBLE.—

(1) IN GENERAL.—Section 1813 of the Social Security Act (42 U.S.C. 1395e) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) exceeds the threshold amount (described in section 1839(g)(4)), the inpatient hospital deductible otherwise applicable with respect to an individual for a spell of illness that begins during such year shall be increased—

"(i) in the case of an individual whose modified adjusted gross income exceeds such threshold amount by less than $5,000, by 33 percent of such deductible; or

"(ii) in the case of any other such individual, by 33 percent of such deductible for each $5,000 by which the individual's modified adjusted gross income exceeds such threshold amount.

"(B) Notwithstanding subparagraph (A), the total inpatient hospital deductible applicable to an individual for a spell of illness may not exceed—

"(i) for 1994, $2,000; and

"(ii) for any succeeding year, the amount described in this subparagraph for the preceding calendar year, changed and adjusted in the same manner as the inpatient hospital deductible is changed and adjusted under subsection (b)(1).

"(2) Using information provided by the Secretary of the Treasury under 6103(l)(14), the Secretary shall determine the actual modified adjusted gross income of individuals enrolled in this part during a taxable year and apply the following rules:

"(A) In the case of an individual subject to an increase in the inpatient hospital deductible under paragraph (1) during a year whose modified adjusted gross income did not exceed the threshold amount (described in section 1839(g)(4)) for such year, the Secretary shall refund to the individual the amount of such increase.

"(B) In the case of an individual to which the inpatient hospital deductible applied for inpatient hospital services furnished in a year and whose actual modified adjusted gross income exceeded the threshold amount (described in section 1839(g)(4)) for such year, if such individual was not subject to an increase in such deductible during the year under paragraph (1)—

"(i) the Secretary shall collect the amount by which the deductible would have been increased if the modified adjusted gross income reported by the individual under section 1893(a) was equal to the individual's actual modified adjusted gross income from the hospital that furnished the inpatient hospital services (either directly or through reductions in payments to the hospital for subsequently furnished services); and

"(ii) the individual shall be liable to the hospital for payment of such amount.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to inpatient hospital services for which a spell of illness (as defined in section 1861(a) of the Social Security Act) begins after February 1994 in taxable years beginning after December 31, 1993.

(b) CONFORMING AMENDMENT TO REPORTING REQUIREMENT FOR BENEFICIARIES.—Section 1893 of such Act, as added by section 605(b), is amended—

(1) in subsection (a), by striking "part B" each place it appears in paragraphs (1) and (2) and inserting "part B or entitled to benefits under part A"; and

(2) by striking "1839(g)" each place it appears in subsections (a) and (b) and inserting the following: " 1839(g) or an increase in the inpatient hospital deductible under section 1813(c)".

(c) CONFORMING AMENDMENT TO DISCLOSURE REQUIREMENT FOR SECRETARY OF THE TREASURY.—Section 6103(l)(14)(A) of the Internal Revenue Code of 1986, as added by section 605(c), is amended by striking "1839(g)" and inserting the following: " 1839(g) or an increase in the inpatient hospital deductible under section 1813(c)".

SEC. 607. ESTABLISHMENT OF STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—

(1) STANDARD PAYMENT RATES DESCRIBED.—Title XVIII of the Social Security Act is amended by inserting after section 1889 the following new section:

"STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES

"SEC. 1890. (a) IN GENERAL.—Notwithstanding section 1814(b)(1), section 1833(a)(2)(A), or any other provision of this title, the amount of payment made under this title for home health services furnished by a home health agency on or after January 1, 1994, shall equal the adjusted standard per visit payment rate determined under subsection (b) for the category of home health services involved (as defined in subsection (d)(1)) for the fiscal year during which the services are furnished.

"(b) DETERMINATION OF ADJUSTED STANDARD PER VISIT PAYMENT RATES.—

"(1) IN GENERAL.—The adjusted standard per visit payment rate for home health services furnished in a fiscal year is equal to—

"(A) the base per visit rate for the category of home health services involved for the fiscal year determined under paragraph (2), adjusted for area wage differences under paragraph (3); and

"(B) in the case of home health services in the category of services described in subsection (d)(1)(A) that involve the furnishing of non-routine medical supplies directly identifiable as services for an individual patient (but not including durable medical equipment, prosthetic devices, or orthotics and prosthetics), the amount described in subparagraph (A) increased by the medical supply add-on described in paragraph (4).

"(2) BASE PER VISIT RATE.—

"(A) INITIAL RATE.—The base per visit rate for a category of home health services furnished by a home health agency in fiscal year 1994 shall be an amount equal to 93 percent of the mean of the labor-related and nonlabor costs for that category of services utilized for purposes of computing limits under section 1861(v)(1)(L) for cost reporting periods beginning on or after July 1, 1993, and before July 1, 1994, increased by the cost reporting period adjustment factor for January 1994 (as specified in the regulation setting forth such limits).

"(B) SUBSEQUENT YEARS.—The base per visit rate for a category of home health services furnished by a home health agency in a fiscal year beginning on or after October 1, 1994 is the base per visit rate for that category of services for the preceding fiscal year increased by the home health market basket percentage increase (as defined in subsection (d)(2)) for such fiscal year.

"(3) ADJUSTING FOR AREA WAGE LEVELS.—The Secretary shall adjust the base per visit rate determined under paragraph (2) for home health services furnished by a home health agency for a fiscal year by utilizing the area wage index applicable during the fiscal year under section 1886(d)(3)(E) to hospitals located in the geographic area in which the agency is located (determined without regard to whether such hospitals have been reclassified to a new geographic area pursuant to section 1886(d)(8)(B), a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10)).

"(4) MEDICAL SUPPLY ADD-ON DESCRIBED.—The medical supply add-on described in this paragraph is equal to—

"(A) for fiscal year 1994, the estimated national average cost of non-routine medical supplies directly identifiable as services for an individual patient (but not including durable medical equipment, prosthetic devices, or orthotics and prosthetics) associated with a home health visit, as estimated by the Secretary based upon the best data available and updated through fiscal year 1994 by the Secretary's estimate of the increase in the medical equipment and supplies component of the supplies and rental consumer price index for all urban consumers (U.S. city average), from the end of the period from which the data was drawn through fiscal year 1994; and

"(B) for a subsequent fiscal year, the add-on for the preceding fiscal year increased by the Secretary's estimate of the percentage increase in the index referred to in subparagraph (A) for the fiscal year involved.

"(c) COST REPORTING REQUIREMENTS.—

"(1) IN GENERAL.— Not later than January 1, 1994, the Secretary shall implement a system under which a random sample of home health agencies shall submit cost reports. Cost reports submitted under such system shall be used solely for purposes of comparing the costs of home health agencies with the adjusted standard payment rates established under subsection (b).

"(2) SYSTEM DESCRIBED.—The system developed under paragraph (1) shall—

"(A) utilize a different random sample of agencies for each 12-month period,

"(B) include in such random sample 5 percent of all home health agencies, and

"(C) to the greatest extent practicable and consistent with the preceding provisions of this paragraph, avoid requiring a home health agency to submit a cost report pursuant to paragraph (1) more than once in any 5-year period.

"(3) REPORTS OF ADDITIONAL AGENCIES.—Any home health agency that is not required to submit a cost report pursuant to paragraph (1) for a cost reporting period may be required by the Secretary to submit a simplified cost report for such period, in accordance with regulations issued by the Secretary. The Secretary may use such reports solely for the purposes described in such paragraph.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'category of home health services' means any one of the following home health services:

"(A) Skilled nursing services.

"(B) Physical therapy services.

"(C) Occupational therapy services.

"(D) Speech therapy services.

"(E) Medical social services.

"(F) Home health aide services.

"(2) The term 'home health market basket percentage increase' means, with respect to a fiscal year, the percentage by which the cost of the mix of goods and services comprising home health services will exceed the cost of such mix of goods and services for the preceding fiscal year, as estimated by the Secretary before the fiscal year begins.".

(2) EXCEPTIONS AND ADJUSTMENTS FOR COSTS SIGNIFICANTLY IN EXCESS OF PAYMENTS.—The Secretary of Health and Human Services shall provide by regulation for such exceptions and adjustments to the payment amounts established for home health services under section 1890(a) of the Social Security Act (as added by paragraph (1)) as the Secretary deems appropriate for services for which a home health agency incurs costs that significantly exceed such payment amounts for reasons beyond the agency's control, subject to any limits the Secretary may establish to ensure that such an exception or adjustment does not result in the reimbursement of any costs that the Secretary does not find to be reasonable.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO PART A.—(A) Section 1814(b) of such Act (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, and 1890".

(B) Section 1813(a)(5) of such Act, as added by section 604(a)(1), is amended by striking "the average of all the per visit costs" and all that follows and inserting "the payment amount determined for such services under section 1890(a).".

(2) AMENDMENTS RELATING TO PART B.—(A) Section 1832(a)(2)(F) of such Act, as added by section 604(a)(2), is amended—

(i) by amending clause (i) to read as follows:

"(i) the payment amount determined for such service under section 1890(a), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A);"; and

(ii) in the matter following clause (iii), by striking "the average of all the per visit costs" and all that follows and inserting "the payment amount determined for such services under section 1890(a).".

(B) Section 1861(v)(l)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) Clauses (i), (ii), and (iii) shall not apply to any services furnished on or after January 1, 1994.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during cost reporting periods beginning on or after January 1, 1994.

SEC. 608. ELIMINATING FEDERAL SUPPORT FOR HONEY.

(a) Section 207(a) of the Agricultural Act of 1949 is amended to read as follows:

"(a) IN GENERAL.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations, except that for the 1994 and 1995 crops, the price of honey shall be supported through recourse loans.

"(1) For the 1991 through 1993 crop years, the rate of support shall be not less than 53.8 cents per pound.

"(2) For the 1994 and 1995 crop years, the Secretary shall provide recourse loans to producers at such a rate that minimizes costs and forfeitures, except that such rate shall not be less than 44 cents a pound. Section 407 shall not be applicable to honey forfeited to the Commodity Credit Corporation under loans made under this paragraph.

"(3) A producer who fails to repay a loan made under paragraph (2) by the end of the crop year following the crop year for which such loan was made shall be ineligible for a loan under this section for subsequent crop years, except that the Secretary may waive this provision in any case where in which the Secretary determines that the failure to repay the loan was due to hardship conditions or circumstances beyond the control of the producer.".

(b) Section 207(b) of the Agricultural Act of 1949 is amended by striking "for a crop" and inserting "for the 1991 through 1993 crops".

(c) Section 207(c) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1993".

(d) Section 207(e) of the Agricultural Act of 1949 is amended by—

(1) striking subparagraphs (D) through (G);

(2) inserting "and" after the semicolon following subparagraph (B); and

(3) changing the semicolon following subparagraph (C) to a period.

(e) Section 207(j) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1995".

(f) Section 405(a) of the Agricultural Act of 1949 is amended by striking in the first sentence "section 405A" and inserting "sections 207 and 405A".

(g) Section 405A(a) of the Agricultural Act of 1949 is amended by striking all that follows "1992 crop year," and inserting "and $150,000 in the 1993 crop year.".

(h) A provision of this section may not affect the liability of any person under any provision of law as in effect before the effective date of the provision.

TITLE VII—ENFORCEMENT

SEC. 701. DEDICATION OF SAVINGS TO DEFICIT REDUCTION.

(a) DIRECT SPENDING.—None of the changes in direct spending and receipts resulting from this Act shall be reflected in estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) DISCRETIONARY SPENDING.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays), as adjusted, set forth in 601(a)(2) of the Congressional Budget Act of 1974 for each of fiscal years 1994 through 1998 as follows:

(1) For fiscal year 1994, reduce new budget authority by $5,477,000,000 and reduce outlays by $2,987,000,000.

(2) For fiscal year 1995, reduce new budget authority by $8,198,000,000 and reduce outlays by $6,967,000,000.

(3) For fiscal year 1996, reduce new budget authority by $9,546,000,000 and reduce outlays by $9,372,000,000.

(4) For fiscal year 1997, reduce new budget authority by $10,376,000,000 and reduce outlays by $11,080,000,000.

(5) For fiscal year 1998, reduce new budget authority by $11,211,000,000 and reduce outlays by $12,113,000,000.

(c) SECTION 602 ALLOCATIONS.—

(1) HOUSE APPROPRIATIONS COMMITTEE.—The allocations in effect under section 602(a)(1) of the Congressional Budget Act of 1974 for fiscal year 1994 for the Committee on Appropriations of the House of Representatives are reduced by $5,477,000,000 in outlays and by $3,056,000,000 in budget authority.

(2) SENATE APPROPRIATIONS COMMITTEE.—The allocations in effect under section 602(a)(2) of the Congressional Budget Act of 1974 for fiscal year 1994 for the Committee on Appropriations of the Senate are reduced by $5,477,000,000 in outlays and by $3,056,000,000 in budget authority.

(3) SUBALLOCATIONS.—Each Committee on Appropriations is authorized and directed to immediately adjust its suballocations among its subcommittees for fiscal year 1994 to reflect the lower allocations provided by subsection (a) in a manner that accurately reflects the changes in law made by this Act and to promptly report to its House of Congress suballocations revised under this subsection.

(4) EFFECT.—The allocations and suballocations as adjusted by this section shall be deemed to be allocations made under section 602(a)(1) and suballocations made under section 602(b)(1) of the Congressional Budget Act of 1974.

(5) SECTION 601.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "or as adjusted pursuant to section 701(b) of the Common Cents Deficit Reduction Act of 1993" before the period at the end.

EXTENSIONS OF REMARKS

ENVIRONMENTAL TECHNOLOGIES ACT OF 1993

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. BROWN of California. Mr. Speaker, today, we are introducing the Environmental Technologies Act of 1993, a bill designed to promote the development of technologies that are more environmentally sound and that will contribute to the long-term economic growth of the Nation. There are 21 of us joining in this effort today, along with Representatives ESHOO, KLEIN, MINGE, MORELLA, and SWETT who have dropped in separate environmental technology legislation over the past few days. Together, we represent a significant part of the membership of the House Science, Space, and Technology Committee who will be working on this issue in the second session of the 103d Congress.

This bill joins other legislative proposals in the House and Senate on this topic. Mr. STUDDS' legislation on environmental technologies exports has been reported from the Merchant Marine and Fisheries Committee. Senator BAUCUS is moving legislation on environmental technologies in the Senate. Other Members in the House, Mr. FINGERHUT, Mr. HOCHBRUECKNER, and Mr. KENNEDY to name a few, have interesting legislative proposals pending. It is my hope that the introduction of this bill will help spur Congress into acting on a comprehensive environmental technologies bill next year.

Our bill presents a comprehensive approach toward achieving the twin goals of environmental quality and economic opportunity. It proposes the improved coordination and use of Federal resources, and the mitigation of market externalities that would otherwise tend to reduce the benefits achievable through the implementation of environmental technologies. The provisions of the legislation address five areas in which science and technology policy improvements can make important contributions toward achieving environmentally sound, long-term economic growth. The proposed science and technology policy initiatives are: First, improved coordination and management of Federal programs that contribute to the development of environmental technologies; second, improved risk-sharing associated with environmental technology development and deployment; third, greater national awareness of the benefits associated with the use of environmental technologies; fourth, increased access to international markets for U.S.-developed environmental technologies; and fifth, improved Government incentives for enhanced environmental technology development.

This legislation uses the term "environmental technologies" to refer to the following: First, technologies that address pollution control and cleanup; second, pollution prevention technologies; and third, technologies, products, and processes which offer significant efficiency improvements in the use of energy and/or materials and are economically viable.

To improve existing Federal programs that contribute to the development of environmental technologies, the legislation calls for the Office of Science and Technology Policy to promote interagency coordination of activities involving environmental technologies, and also amends various science and technology statutes to provide clear authority for engaging in this activity. In addition, the legislation requires the coordination and networking of live cycle assessment activities to facilitate the availability of life cycle assessment methodologies and data.

To help share the risks associated with the development of technologies which contribute substantially to the public as well as the private good, the legislation proposes means for promoting the development and/or demonstration of environmental technologies, for rewarding organizations which have exhibited exceptional performance in developing and using environmental technologies and practices, and for rewarding individuals who develop highly innovative environmental technologies.

To enhance national awareness of the benefits to the public and private sectors associated with environmental technologies, the legislation calls for measures to improve the availability of relevant information, performance data and standards, and educational materials. Provisions in the legislation include the following: Developing an electronic clearinghouse network that would provide more efficient access to information about new environmental technologies, potential markets, and export opportunities; allowing the use of Federal facilities for environmental technology development and demonstration; supporting the development of performance standards for environmental technologies; directing the National Science Foundation to support the development of curricula that would promote environmentally sound engineering across all undergraduate technical disciplines; and, developing public education materials to improve the public's understanding of the relationships between technology and the environment.

To enhance the international use of environmental technologies developed and manufactured in the United States, the legislation encourages existing technology transfer and export assistance centers to provide environmental technology export assistance. The export assistance is to be achieved by the distribution to potential overseas customers of information about the likely benefits due to the implementation of these technologies, by the dissemination of relevant data about international markets to existing and potential exporters in the United States, and by the establishment of a revolving loan and loan guarantee program to promote exports of environmental technologies in coordination with existing export promotion and aid programs.

Finally, the legislation has provisions that call for the Government to establish a strategy for evaluating and purchasing environmental technologies; to study the impacts of environmental regulations on effective environmental technology development; and, to study the impacts of environmental tax incentives and penalties on environmental technology development and deployment.

This legislation attempts to join the public interest in maintaining environmental quality, taking advantage of new economic opportunities, and in helping our private sector acquire more efficient processes and new markets. The green technology market is a large and growing global economic opportunity. Current estimates place the global market at $200 billion 1990, with a growth to $300 billion in the year 2000. Studies estimate that the largest percentage growth will be in environmental services, with the largest total market in pollution control equipment. Many other countries are developing strategic business plans to take advantage of this growing market area.

The private environmental technology sector in the United States is just not getting organized. Many State and local governments have launched initiatives in this area. Federal Government programs are being initiated and expanded. This legislative push comes at a very critical time and will serve to help focus and enhance these separate efforts.

This legislation is the result of many months of work and many days of hearings. Earlier drafts of this bill were reviewed by Federal agencies, State and local government, the private sector, public interest groups, and the academic community. We plan to move briskly on this legislation early in the next session and hope to be in conference with our Senate colleagues as soon as possible after that.

I urge my colleagues to take a careful look at this proposal and join with us in this effort.

SECTION BY SECTION

TITLE I—GENERAL PROVISIONS

Sec. 101. Short Title: "Environmental Technologies Act of 1993;" table of contents.

Sec. 102. Findings.

Sec. 103. Purposes.

Sec. 104. Definitions.

TITLE II—POLICY COORDINATION AND TECHNOLOGY PROGRAMS

SUBTITLE A—POLICY COORDINATION AND PROGRAM PLANNING

Sec. 201. Coordination of Environmental Technology Research and Development Program.—Directs the Director of the Office of Science and Technology Policy to develop mechanisms to assure the coordination of Federal environmental technologies research and development and to develop Federal priorities. In executing these activities, the Administration shall establish mechanisms to ensure participation of non-Federal entities, State and local governments, United States industry, institutions of higher education,

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

worker organizations, professional organizations, and nonprofit organizations.

Sec. 202. Life Cycle Assessments.—Directs the Director of the Office of Science and Technology Policy, as part of activities carried out in Section 201, to coordinate ongoing Federal activities in life-cycle assessment to facilitate the development and utilization of life-cycle data and methods for greater environmental sustainability and industrial efficiency. To the extent feasible, this program shall draw on existing resources and focus on disseminating information through electronic networks.

Sec 203. Environmental Technologies in Ongoing Programs.—Amends selected statutes in science and technology to explicitly provide the authority to conduct research and development in environmental technologies.

SUBTITLE B—ENVIRONMENTAL TECHNOLOGY

Sec. 211. Environmental Technologies Development and Integration Program.—Establishes a program to promote the development of technologies that enhance economic growth and the more environmentally sustainable use of materials and energy through cost-shared research, development and demonstration of advanced technologies, and the innovative integration of technologies and materials flows. Encourages the Administrator to cooperate with other agencies that have appropriate technical expertise in executing this program.

Sec. 212. Environmental Remediation and Monitoring Technologies.—Directs the Administrator, the Secretary of Energy, the Secretary of Defense and other heads of agencies that the President deems appropriate to, within one year, jointly submit to Congress a plan for the timely development, demonstration, and deployment of innovative pollution control, remediation, and monitoring technologies.

Sec. 213. President's Total Environmental Quality Award and National Environmentally Sound Technology Award.—Amends the Stevenson-Wydler Technology Innovation Act of 1980 to establish an award, modeled on the Malcolm Baldridge Award and using to the fullest extent practicable Malcolm Baldridge Award procedures and facilities, recognizing organizations that have made exceptional progress in the research, development and use of environmental products, processes or service. Also provides authority to grant National Environmentally Sound Technology Awards to individuals for outstanding environmentally sound technology innovations.

Sec. 214. Incorporation of Information on Environmental Technologies into Existing Networks.—directs the Administrator, in cooperation with the Department of Commerce and heads of other appropriate agencies to use existing electronic information network capabilities of the Federal government to provide access to data on environmental technologies developed, tested, or vertified in this Act and other appropriate Federal and non-Federal sources. Authorizes the Administrator to engage in partnerships with State and local governments or existing technical information outreach services such as manufacturing extension programs to facilitate the transfer of technology.

Sec. 215. Use of Federal Facilities for Environmental Technology Demonstration.—Establishes a program to authorize the use of Federal facilities to demonstrate innovative environmental technologies, and to develop data that would clarify the performance characteristics of those technologies.

Sec. 216. Federal Acquisition and Use of Environmentally Efficient Building Materials.—Directs the Administrator to establish a three-year pilot program to promote research on, and development of, environmentally efficient building materials in the construction of new Federal facilities and buildings and in existing Federal facilities and buildings.

TITLE III—EDUCATION

Sec. 301. Environmentally Advanced Education.—Directs the National Science Foundation to provide assistance to colleges and universities for enhancing technical curricula to incorporate environmental sustainability and total cost accounting principles.

Sec. 302. General Education in Environmental Technologies.—Directs the Director of the Office of Research and Development in cooperation with the Director of the National Science Foundation and State and local governments to develop curricula, materials, and training and information dissemination programs to provide greater understanding of the relationships between technology and the environment for technical schools, and primary and secondary education.

TITLE IV—STANDARDS

Sec. 401. Performance Standards.—Authorizes the Secretary of Commerce, in cooperation with the Administrator and other Federal and non-Federal entities, to establish a program to support the clarification of standards of performance for environmental technologies, particularly those directed toward ensuring quality, performance, and substitutability for conventional products, and to support international harmonization activities.

Sec. 402. Verification of Environmental Technologies.—Authorizes the Administration to enter into joint agreements with State and local government organizations and private entities to operate centers that would verify, evaluate, and disseminate performance and cost information on environmental technologies appropriate for meeting the performance criteria of various regulations.

Sec. 403. Consumer Claims on Environmental Technologies.—Directs the Federal Trade Commission to conduct a study of scientific and technological information needed for the fair evaluation of commercial performance claims regarding environmental technologies, and to develop and implement a plan for the close collaboration with Federal agencies and Departments that have expertise in environmental technologies to assure the use of the best available information.

TITLE V—INTERNATIONAL PROGRAMS

Sec. 501. Findings.

Sec. 502. International Environmental Technology Demonstration.—The Administrator, in cooperation with the Secretaries of Commerce and Energy, to the maximum extent practicable using existing programs, is authorized to support international environmental technology demonstrations for the purpose of promoting U.S. exports and the contribution of U.S. environmental technologies to sound international economic development through the provision of data and information on U.S. technologies and services. These activities would be conducted in regions of the world that are determined to have the largest environmental needs and which represent major opportunities for the contribution of U.S. technology and services.

Sec. 503. Promotion of Environmental Technology Exports.—Directs the Secretary of Commerce, in consultation with the Administrator and the heads of other appropriate agencies, using to the maximum extent practicable existing programs of the Federal and State governments, to provide information that would enhance the export of environmental technologies manufactured by U.S. firms by making more accessible information regarding international markets and regulations, and export financing opportunities.

Sec. 504. Financial Assistance for Technology Adaptation to Promote Exports.—Establishes the Environmental Technology Export Revolving Fund to provide financial assistance, in the form of loans and loan guarantees, for the modification and demonstration of environmental technologies manufactured by U.S. companies to meet the requirements of major export markets and enhance worldwide environmental sustainability.

TITLE VI—FINANCIAL AND REGULATORY INCENTIVES

Sec. 601. Use of Environmental Technology Products by the Federal Government.—Directs the President to establish a program for evaluating and approving the purchase of environmental technology products.

Sec. 602. Study of Regulatory Influences on Innovation in Environmental Technologies.—Directs the Administrator to undertake a review of current environmental regulations and their effect upon innovation in environmental technologies. Requires a report to Congress within one year of the enactment of the Act.

Sec. 603. Study of the Impact of Tax Incentives on Innovation in Environmental Technologies.—Directs the President to review existing tax incentives and potential tax incentives to encourage innovation in environmental technologies, and to report to Congress.

TRIBUTE TO RED HALL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a very special man who is a native of the Fourth Congressional District of Texas, Mr. Red Hall.

Although Mr. Hall and I share the same last name, unfortunately, I cannot claim any relation to him. However, I would like to relate to this body his story.

Red Hall was born in Farmersville, TX—a small town in Collin County north of Dallas. Interestingly, this is the home town of another famous individual—Audie Murphy, the most decorated veteran of World War II.

Like Audie Murphy, Red Hall served his country in World War II. Following that, he owned and operated the Oklahoma City Bottling Co. for 27 years. And, my colleagues from my neighboring State of Oklahoma will certainly be familiar with Mr. Hall's son, David, who served that State as Governor during the 1970's.

However, despite this illustrious record as a patriot Air Force captain, successful businessman, and proud father, the reason I rise today is to recognize Red Hall's more recent accomplishment.

At the National Senior Olympics held in June at Baton Rouge, LA, Red set a world record for his age division. He ran 1,500 meters in 17 minutes and 22.26 seconds. That may not seem very fast until you know that his age bracket is 90 to 94. You see, Mr. Speaker, world record-holder Red Hall is 92 years old. And not only did he set this new record, but he won a silver medal for the 100 meter dash.

When asked about his accomplishments, Red said, "If I can influence [people] to take care of themselves, I think I'm doing them a favor."

Mr. Speaker, as we adjourn today I suggest we do ourselves a favor and adjourn in honor of the influence of Red Hall and his accomplishments.

GREG WYATT HONORED FOR TREMENDOUS ACHIEVEMENTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of Mr. Greg Wyatt, the sculptor-in-residence at Cathedral Church of St. John the Divine in New York, a long-term appointment to a Renaissance studio within the crypt of the world's largest Gothic cathedral. Mr. Wyatt resides in Manhattan where earlier this year, borough president Ruth W. Messinger proclaimed Wednesday, May 26, 1993, Greg Wyatt Day.

Mr. Wyatt is president of the Fantasy Foundation Fund, incorporated in 1984 as a not for profit corporation to cultivate, promote, and sponsor the understanding and study of the fine arts, especially but not limited to the art of sculpturing. The fund holds competitions and exhibits and engages in other artistic activities related to the advancement of the fine arts. Their apprenticeship program is a prototype for the national arts organization. The fund boasts a decade of accomplishments and has encouraged apprentices beginning at the elementary level through college. In doing so, it provides a rare opportunity for apprentices to gain further insight into the Renaissance craft tradition.

Mr. Wyatt's works are found in private and corporate collections throughout the country. He has completed commissions for J.C. Penney Co., Inc.; American Broadcasting Co.; Sports Illustrated; Macy's, Princeton University; the National Arts Club and the Newington-Cropsey Foundation among many others. Following his outstanding exhibition at the Metropolitan Museum of Art, Greg Wyatt was invited recently by Dudley House Graduate Student Center of Harvard College to place three heroic-scale works on the brick pavement in front of Lehman Hall in Harvard as part of a major sculpture exhibition.

Currently, he is building a 17-ft. bronze monument, "Soul of the Arts," for the new museum of the Newington-Cropsey Foundation, Hastings-on-Hudson, New York. A homage to the Hudson River School of Painting, it contains images that beckon a spiritual and artistic Renaissance. It will be placed within the small pond directly in front of the Academy of Art of which he has been named director.

His work has also been exhibited in the rotunda of the Cannon House Office building in 1992 and in mid-September 1993 in the rotunda of the Russell Senate Office building. It was an exhibit created by Mr. Wyatt and his apprentices to demonstrate the teaching and creative processes of his studio. The exhibit featured two- and three-dimensional models of monuments, plexiglass architectural models, and numerous computer rendered images, bas-relief sketches and anatomical studies.

His apprentices participated in a youth symposium, "Excellence in Education Beyond the Classroom," moderated by Mr. Wyatt, and discussed the values of art apprenticeship programs. That important decision on the need for apprenticeship education in America was held in conjunction with Mr. Wyatt's, "Birth-By-Fire: A Renaissance in Bronze," exhibit.

Participants in a panel discussion on "Creating An Art Renaissance in America" included: Thomas J. Polecki, principle of the South Bronx's renowned St. Augustine School of the Arts; Carrie Rebora, director of the Henry R. Luce Center at the Metropolitan Museum of Art; Ivonne A-Baki, artist-in-residence at Dudley House on the Harvard campus; and David W. Heleniak, immediate past president of the MacDowell Colony, Inc., an artist colony in Peterborough, NH.

Finally, the exhibit here last September was specially created for the Washington, DC, community to demonstrate how students' potential for learning can be enhanced through creative apprenticeship educational programs, and the role these programs play in developing higher levels of professional achievement.

Because of his tremendous achievements, I hope my colleagues will join with me today in honoring Greg Wyatt for his work and wish him the best in the future for his art and his apprenticeship program.

INTRODUCTION OF NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT OF 1966 AMENDMENTS OF 1993

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. KILDEE. Mr. Speaker, BILL GOODLING and I are today introducing a bill containing amendments to the National School Lunch Act and Child Nutrition Act of 1966.

These amendments propose changes in a number of the areas that need to be addressed in the 1994 child nutrition reauthorization, and we welcome comment on the amendments and broader reauthorization issues in the months ahead.

The child nutrition programs are an essential tool for ensuring that our youth have a chance to reach their potentials and become productive citizens. In the next several months the Congress will put a lot of time and energy into reforming health care and elementary and secondary education, but good nutrition is the cornerstone of good health and the prevention of disease, and hungry children cannot learn.

We cannot expect to curb costs in health care if we do not focus on prevention, and we cannot expect children to take advantage of new reforms in the classroom if they are tired, distracted, and irritable because they have not been fed.

The amendments that we are proposing today would provide greater access for needy children to the National School Lunch and Summer Food Programs and provides the first steps toward simplifying program administration.

We are pleased to be joined today by our colleagues LYNN WOOLSEY and TOM SAWYER, who are introducing bills concerning the Child and Adult Care Food Program and School Breakfast Program, respectively.

We look forward to working with them and the rest of our colleagues in the months ahead to craft a child nutrition reauthorization bill that provides greater access to meals, improves their nutritional content, and streamlines the administration of these important programs.

TRIBUTE TO DR. HELEN S. FAISON

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. COYNE. Mr. Speaker, I want to salute today Dr. Helen S. Faison, an outstanding educator in the city of Pittsburgh who retired recently after 43 years of service in the public schools of Pittsburgh.

It is fitting that the U.S. House of Representatives should pay tribute to Dr. Helen S. Faison. This woman has embodied the ideals of educational excellence throughout her career. She has served the public schools of Pittsburgh in a number of positions, including teacher, activities director, counselor, vice principal, principal, and assistant superintendent, office of school management. At the time of her retirement, Dr. Faison was the deputy superintendent for school management.

Dr. Faison has been a pioneer in opening doors of opportunity for educators in the public schools of Pittsburgh. She was herself a trailblazer when she became the first female and the first African-American principal of a secondary school in the Pittsburgh public school system. She has also given her strong support to professional organizations including the American Association of University Women, Administrative Women in Education, Pi Lambda Theta, the National Council of Negro Women and the Greater Pittsburgh Alliance of Black School Educators.

Numerous civic organizations have benefited from her leadership roles. She served as chairman of the board of directors of the Negro Educational Emergency Drive. She has also been a member of the board of directors for Children's Hospital of Pittsburgh, television station WQED, and Health America. She is also member emerita, board of trustees for the University of Pittsburgh. In addition, she has been an advisory board member of the Pitt Engineering Impact Program and the Three Rivers Shakespeare Festival, and she has also been a member of the Harriet Tubman Guild, the Young Women's Christian Association, and the George Washington Carver Commemorative Committee. Finally, Dr. Faison is proud to be a life member of the National Association for the Advancement of Colored People.

Over the years, Dr. Helen S. Faison has gained stature and great respect in the city of Pittsburgh and the Nation for her work as an educator. She has been awarded numerous awards and honors, including the Outstanding Educator Award of Hand-in-Hand, Inc.; the University of Pittsburgh Alumnae Award; Election to the "Executive Educator 100" list; appointment to the Superinendent's Work Conference held at Teachers College, Columbia University and participation in the First Leadership Training Conference for Women conducted by the American Association of School Administrators.

Dr. Faison has brought to her work as an educator a dedication to serving others that has been rooted in her love for her family, especially her husband, George, and her commitment to her church.

Mr. Speaker, the city of Pittsburgh is proud to have had Dr. Helen S. Faison serve in a position of leadership at the public schools of Pittsburgh. She deserves the thanks of her community and of the Nation for working so hard over 43 years to prepare future generations of Americans for the challenges that they may face in the future.

MINING LAW REFORM COSPONSORS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. RAHALL. Mr. Speaker, Thursday by an overwhelming majority, the House approved legislation to reform the Mining Law of 1872, H.R. 322. I would like to thank all of the Members who voted for this bill, and in particular, the bill's cosponsors.

In this regard, when the committee report accompanying H.R. 322 was filed we were precluded from being able to add any additional cosponsors to the bill. At the time, four Members had wished to be added to the list of cosponsors. Since we were not able to officially add their names, I would like to take this opportunity to recognize them. The Members are MARTIN SABO of Minnesota, TOM ANDREWS of Maine, MAURICE HINCHEY of New York, and GARY ACKERMAN of New York.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

AFFIDAVIT

SOURCE A

c. The source alleged that the setup conspiracy was facilitated through fabricated civil rights and embezzlement allegations by complainant Jose Liberato. In addition, Mr. Liberato recently made similar allegations against a New York Sanitation Official.

d. The source alleged that complainant Rene Suarez knowingly perjured himself at trial relative to his involvement in criminal activity and prior criminal record. The source alleged Mr. Suarez using an alias was previously arrested in New York City and is reputed to be a kingpin of a major Cuban gambling operation, which operates an unlicensed casino.

e. The source alleged complainant Richard Kinipping is a co-conspirator in a large scale loan sharking operation involving New York City bodegas. It should be noted officer Occhipinti was initially indicted for an unlawful search at Mr. Kinipping supermarket, however, that count was dismissed by the prosecution.

f. Source "A" was immediately referred to various law enforcement organizations in order to document these allegations. He was interviewed by the FBI and Detectives of the Bergen County Sheriffs Department. The source agreed to work with law enforcement in order to infiltrate the Federation and expose the setup conspiracy.

g. The source was debriefed by members of Staten Island President Guy Molinari's staff. The interview was tape recorded.

SOURCE B

a. The source confirms the testimony provided by Source A relative to the alleged setup conspiracy and involvement in suspected criminal activity by certain members of the Federation.

b. The source alleged that he spoke to a board member of the Federation, who stated that the Federation's name was being misused by persons attempting to stop officer Occhipinti's activities in the community. The Board member postulated that the entire matter smelled of a set up.

c. The source alleged that the principal Coconspirator in the set-up conspiracy were complainant Jose Liberato and Federation President Simon Diaz.

d. The source alleged that he was told by several members of the Federation that they had received calls from Mr. Liberato and/or Mr. Diaz urging them to falsely testify against officer Occhipinti regarding searches and seizures conducted at their businesses.

e. The source alleged that one of the complainants had told the source on two occasions that officer Occhipinti conducted a lawful search of his place of business and that complainant Reymundo Tejada knowingly perjured himself in the Grand Jury regarding the civil rights violations.

f. The source stated that complainant Nurys Brito admitted to the source that the search at her travel agency was lawful. In a consentually monitored conversation, Ms. Brito confirmed the above. Ms. Brito alleged that the US Attorney translator most probably misinterpreted what she declared.

g. On December 12th, 1991 the source executed an affidavit attesting to the above. Exhibit "G".

h. During the period of December 1991 until present, the source had numerous consentually monitored conversations with the individuals enumerated above. In those conversations said individuals corroborated what the source alleged in the affidavit.

i. The Source was debriefed by members of Staten Island Borough President Guy Molinari's office, relative to the above testimony.

SOURCE C

a. The source is an Executive Board Member of the Federation who has served since the early eighties, and knows all it's members on a personal level.

b. The source said that he received a call from Federation President Simon Diaz warning him of an impending investigation of Federation members and an article to be released by the Post attacking the Federation. The source stated that he was concerned with having his name used by complainant Liberato in his activities against Occhipinti.

c. The source admitted that he knew that the Federation was involved in the loan business and that some of it's members ran the loan process of Capital National Bank. Capital National Bank's top officials were indicted and implicated in a series of irregularities including money laundering and illegal wire transfer activities.

d. The source confirmed what I learned in a personal conversation with Federation Vice President Erasmo Taveras. In that conversation, Mr. Taveras revealed that complainant Liberato did not sneeze without first consulting with Federation President Simon Diaz. Mr. Traveraz was recently convicted of illegal money wire transfers involving over $70 million dollars.

The source stated that Federation President Diaz and complainant Liberato served as officers of a failed banking institution. The Dominican Hispanic Bank, Inc., as it was called, was closed because of alleged criminal activity. The source stated that he was scared and that he did not want Diaz nor Liberato to know of his cooperation. Exhibit "H".

SOURCE D

a. The source is a housewife who resides in the Washington Heights section of Manhattan.

b. The source in a sworn affidavit stated that while food shopping at Mr. Liberato's bodega, the source overheard Mr. Liberato boasting that "he was going to find people to make declarations against the federal agent that had gone to his business.

TRIBUTE TO MEYLING LY FOR HER WINNING ESSAY ON PREVENTING DRUG ABUSE

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. HALL of Texas. Mr. Speaker, it is a pleasure to recognize today Meyling Ly, a seventh grade student at O.P. Norman Junior High School in Kaufman, who was recently awarded a $50 U.S. savings bond for her prize-winning essay in the fifth annual Kaufman County Red Ribbon Campaign for the prevention of drug abuse.

Miss Ly received the award on October 23, 1993, at Mulberry Park in Forney during kickoff activities for the drug awareness campaign October 23–31 In her essay, she pointed to the need to begin education at home and also for a "united, close community." She called for an organized crime watch program as well as increased police patrols.

Her essay reads in part, "Striving to eliminate and terminate drug use can't be done alone. We need cooperation from parents at home, educators, churches, law enforcement agencies, just about everyone to join together."

I commend Miss Ly and all those who participated in the red ribbon campaign for their efforts to increase public awareness of the drug abuse problem in our society and their suggestions for how to combat it. The red ribbon campaign was sponsored by the Kaufman County Drug Abuse Prevention Committee and the Texas Agricultural Extension Service. Rita M. Winton, county extension agent, and Sylvie Millson, chairperson of the committee, were instrumental in making this event a success.

Other members of the Drug Abuse Prevention Committee include Edna Beltz, secretary; Pat Adams, treasurer; Albert Davis, Rhitt Jackson, Rita Kent, Don Legg, Mary Lyons, Jack Millson, and Inez Williams. Also contributing to the event were Kaufman PALS—Peer Assistance Leaders, Kemp PALS and Crandall PALS.

Miss Ly is the daughter of Mr. Kein Augly and Ms. Heng Muy Soang. The theme of the campaign was "No Excuse . . . For Drug Abuse." I was pleased to participate in the day's events, which featured a family fun run/walk, speeches, performances by bands, cheerleaders, and drill teams. During the week participants wore red ribbons and T-shirts, attended educational programs, and held a red balloon release.

The red ribbon campaign was established when Federal agent Enrique Camarena was murdered by drug traffickers in 1985. The red ribbon became the symbol to reduce the demand for drugs. Kaufman County began participating in the event in 1989.

Mr. Speaker, in addition to honoring Miss Ly for her outstanding essay, I wish to recognize the contributions of Ms. Winton, Ms. Millson, and all those who are dedicated to drug prevention and public awareness in Kaufman County.

TRIBUTE TO ELEANOR KAHLE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Ms. KAPTUR. Mr. Speaker, I rise today to recognize an outstanding citizen in my community. Eleanor Kahle has been a sterling voice for seniors in northwest Ohio and our Nation. As she retires this week from her duties as executive director of the West Toledo Senior Center, we wish to recognize her for a lifetime of selfless service.

In the late 1970's, Eleanor Kahle organized West Toledo area seniors into a strong coalition which was able to bring forth the West Toledo Senior Center in 1979. Today over 15,000 members strong, the West Toledo Senior Center is widely regarded as the most vocal, well-informed, and active group of seniors in our community. Its members proudly call themselves the swingingest senior center in the city of Toledo, and continuously live up to that ideal. Although no one individual can take credit for the center's success, Eleanor Kahle has been the seniors' guiding light since the center's inception. It is she who has shaped it into the prominent local force it has become.

In 1981, Eleanor Kahle was a delegate to the White House Conference on Aging. She was a leading voice for seniors as the coming decade's policies were formulated. When I began my term in Congress in 1983, Eleanor Kahle served as my special assistant for senior citizen concerns, providing me with invaluable assistance as the Congress deliberated Social Security reform that year. Since that time, I have looked to her for learned advice and counsel on issues as they relate to senior citizens.

At the age of 77, Eleanor Kahle serves on Toledo's City Council and is the city's current vice mayor. First elected to Toledo City Council in 1987, Eleanor Kahle has recently been reelected to another term. Throughout her tenure on the council, she has been a tireless advocate for our city's seniors, with a particular emphasis on issues of housing. Yet in spite of her unwavering advocacy for Toledo's seniors, she is a responsible representative for all Toledoans. She has also been a tireless promoter of our city, forging sister city relationships with cities in Hungary, Poland, and China.

Prior to her career in public service, Eleanor Kahle was an integral part of her parish, St. Clement's Catholic Church, breaking new ground for women when she served as a pastoral associate—a position she developed beyond what the parish initially envisioned. While a pastoral associate—the highest ranking female in the church—Eleanor Kahle provided pastoral ministry to seniors, served as outreach for the sick and shut-in, acted as a counselor to those in need, supervised rectory and sacristy staff, coordinated parish activities, and served as communications director through the organization and distribution of the parish newsletter. Although her prominence as a woman made it difficult for her at times, Eleanor Kahle's devotion to her ministry won her the respect of the church leadership, and enabled her to play a vital role in a growing and prosperous church. While serving as a pastoral associate at St. Clement's, it was one of the largest churches in its diocese with more than 2,300 families. She has also served as president for the Toledo Diocesan Council of Catholic Women and Church Women United of Toledo. Eleanor Kahle was a trailblazer for women in the Catholic church through the 1970's, and continues to promote prominent roles for women in the Catholic church today.

Eleanor Kahle has worked hard on behalf of our community for decades, but she will tell you that her proudest achievement is her family. Widowed with six young sons, she raised them all into successful adults who have given her sixteen grandchildren and two great-grandchildren.

A lifetime of awards have been bestowed upon this ordinary woman who has quietly attained greatness. A few of these include the President's Award—of the NWO Area Office on Aging, the Mother Adelaide Award, WIC's Women of Achievement, Ohio BPW's Woman of the Year Award, Ohio's Senior Citizen Hall of Fame Award, and the city of Sylvania's Hall of Fame Award.

She may be stepping down as executive director of the West Toledo Senior Center, but Eleanor Kahle remains active in a number of other community ventures. In addition to her city council service, she has been a part of the Center for Women's Concerns, Zonta, the Toledo Council of Senior Citizens, Ohio Gerontological Association, National Council on Aging, Toledo Metro Churches United, Business and Professional Women's Club, Community Relations Commission of St. Clement's Parish, Church Women United of Toledo, the Diocesan Council of Catholic Woman, Diocesan Commission on Aging, AARP, and the Older Women's League.

We in Toledo are profoundly grateful to this genteel and unassuming lady who has devoted herself to the betterment of all of us, even as she concentrated her efforts on women and seniors. No stronger advocate for our community exists than Eleanor Kahle, and as we take the time to recognize her on her retirement from the West Toledo Senior Center, we offer a collective and heartfelt thank you.

TRIBUTE TO CECIL K. WATKINS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. TOWNS. Mr. Speaker, I rise today to salute Mr. Cecil K. Watkins, president and CEO, National Pro-Am City Leagues Association Inc. He was born and raised in New York City. He attended John Adams High School where he played varsity basketball and baseball. Cecil continued his sports interests at Adelphi University where he earned his bachelor of arts and masters degree in sports administration.

Cecil Watkins worked for the New York Park and Recreation Department and the Board of Education for 20 years. He retired from his position as a teacher and director of community recreation. Throughout his professional career Cecil was involved in a number of prominent sports programs including: the Harlem Tennis Center, U.S. Youth Games, Ray Felix Tournaments, NBA/Pro-Am Basketball League, and the ELMCOR Youth & Adult Activities Inc., of which he is the founder and former executive director.

Among his other achievements, for 18 years Cecil Watkins was employed by the National Basketball Association as director of community and special programs. He also served as referee development administrator in charge of development and recruiting programs and worked as an NBA observer-scout for 5 years prior to joining the staff full-time as the assistant supervisor of officials. For four seasons he assigned and supervised the Continental Basketball Association's referee staff and coordinated 26 NBA/Pro-Am city leagues.

In addition to coordinating programs, Cecil has been instrumental in acquiring more than 1,600 scholarships over the past 30 years for student athletes from the Metropolitan New York area. Cecil Watkins is acknowledged as a pioneer in sports recreation and development programs in New York. His efforts have been largely responsible for providing countless inner city youths with positive outlets to express themselves and grow through their participation in sports. It is my honor and pleasure to highlight the vast accomplishments of Cecil K. Watkins.

INTRODUCTION OF THE HEALTH SECURITY ACT OF 1993

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. GEPHARDT. Mr. Speaker, today I am proud to join with 99 of my colleagues in introducing the Health Security Act of 1993. The bill we are introducing is President Clinton's health care reform proposal, and represents a historic commitment by the Clinton administration and the Congress to provide to the American people the security of guaranteed, affordable coverage for high quality health care.

The President's proposal, as embodied in this legislation, is by far the most thorough and comprehensive legislative proposal to achieve health care reform in the history of our Nation. The bill we are introducing today is the result of a process of development that was in itself historic in its scope and depth. I salute President Clinton, First Lady Hillary Rodham Clinton, the President's Cabinet, and many other members of the Clinton administration for their dedication and hard work in producing this proposal.

The most important goal of the Health Security Act of 1993 is to do away—forever—with the anxiety too many Americans feel today about their health insurance: that it will cost more than they can afford; that they can't get coverage or will lose it; that it won't cover what they need.

The introduction today of the Health Security Act demonstrates in concrete form the dedication of the Clinton administration and the cosponsors, who include the House Democratic leadership and the Chairs of the major committees and subcommittees of jurisdiction, to ensure that every American has health insurance. Their names on this legislation signal our shared commitment to pass a bill that halts the devastating spiral of health care costs and preserves and enhances the high quality of American health care we all value so highly.

Today's introduction also marks the beginning of another historic process: full congressional deliberation of truly comprehensive health care reform. The congressional experts in all of the committees of jurisdiction will hold numerous and thorough hearings on every aspect of the proposal. We will examine every issue and listen to every perspective. We will work closely with outside experts and the administration to bring forward a vote on a bill that has the support of the American people and a majority of their representatives in the House.

I want to take this opportunity to comment on the legislation that the committees will be receiving. Every effort has been expended to make this a high-quality document that they can work effectively with. I believe that these efforts have been successful, and I want to acknowledge and thank the Office of the Legislative Counsel, David Meade, for their major contribution. Wade Ballou, Douglass Bellis, John Buckley, Bob Cover, Susan Fleishman, Peter Goodloe, Stan Grimm, Jean Harmann, Larry Johnston, Greg Kostka, Ed Leong, Noah Wofsy, and especially Ed Grossman devoted long hours of hard work, as well as their expertise and talent, and have served the House and the American people well in getting us off to a solid start.

I look forward with great anticipation to working with the President and my dedicated colleagues in Congress to give the American people what they expect and deserve: the security of guaranteed, affordable access to the best health care in the world.

DEMETRIS KASTANAS HONORED FOR TREMENDOUS ACHIEVEMENTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the tremendous achievements of an important member of the Astoria community in Queens, NY, Mr. Demetris Kastanas.

On February 18, 1968, Demetris Kastanas came to this country from his homeland of Greece like so many before him looking for a better life and future in this country. After working in a number of different jobs, including pumping gas and selling insurance, Mr. Kastanas managed to save enough money to open his first restaurant. A second restaurant soon followed.

As a successful businessman in his adopted country, Mr. Kastanas felt that he had to give something back to the community and his Hellenic heritage. On September 25, 1975, Mr. Kastanas began producing a weekly Greek television program which was broadcast in the New York metropolitan area. In July 1983, Mr. Kastanas expanded to the Chicago area. And in 1987, Mr. Kastanas began producing the Greek Channel on the Time-Warner Cable system in Queens and Brooklyn. This channel is the first and only Greek cable channel in the United States.

Mr. Kastanas was also not satisfied with contributing in just the television medium. That's why he also founded a Greek-American magazine entitled "Eseis." This name was chosen because it is the plural form of "you" in Greek, underlying that the magazine addresses itself to the needs and views of the Greek-American community.

Through his television programs, cable channel, and magazine, Demetris Kastanas has given Greece and Greek-Americans a voice in the United States that might otherwise not have been heard. His tremendous leadership has been evident in organizing rallies and demonstrations on the Cyprus issue which have communicated clearly the Greek-American community's strong feelings on this subject.

Mr. Kastanas' work has provided Greek-Americans with a link to their homeland, producing articles and programs which portray Greek news, folklore, music, and more. But his contribution has also been to help other Greek immigrants to assimilate into life in the United States by creating a vital source of support for the community.

Because of his tremendous contributions on behalf of his homeland and his adopted country, I hope my colleagues will join with me in saluting Demetris Kastanas for his accomplishments.

THE HEALTH SECURITY ACT OF 1993

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. FORD of Michigan. Mr. Speaker, I am pleased today to sponsor the introduction of President Clinton's health care reform bill, the Health Security Act of 1993.

As we all know, the President has made reform of a troubled health care system the top priority of his administration. It was the primary plank of his Presidential campaign platform, and after the inauguration, President Clinton put in charge of developing a reform plan a person in whom he had the greatest confidence, First Lady Hillary Rodham Clinton.

I must, say, Mr. Speaker, the First Lady has confirmed to us the President's confidence, having produced—with the contributions of hundreds of administration officials, congressional staff and consultants from all sectors of society—a sweeping reform plan that retains aspects of the health care system that do work, while targeting for change elements that have proven inefficent and unfair.

We must have health care reform. While Americans who have adequate health insurance are satisfied with the care they receive from their doctors, all of us are burdened by a system that in many ways is broken.

I want to outline some of the problems we have. Health care and insurance costs are skyrocketing. Every year, insurance premiums, whether paid by individuals or their employers, are rising well above the general inflation rate.

The health care choices many of us have taken for granted are diminishing. Faced with increasing costs, many employers offer a single insurance plan, often with skimpy benefits. And every year, thousands of businesses, faced with rising costs, drop coverage for their employees.

Cost-shifting grows. People without insurance end up in the emergency room—and the bills they cannot pay result in higher premiums for those of us who still have it.

The stacks of paperwork related to each patient's care have turned into a mountain. Doctors and nurses spend more time filling out forms and less time taking care of their patients. The ranks of hospital administrators are growing four times faster than that of doctors. We're paying for all that paper.

The cost of prescription drugs is forcing many of our senior citizens to choose between food and medicine.

The challenge, Mr. Speaker, is daunting. That is why, whatever each of us may think of the particulars of this bill, we applaud the President for presenting a comprehensive solution.

The Health Security Act would guarantee comprehensive health care benefits to every American as a right of citizenship. These benefits would be available regardless of any preexisting condition, regardless of employment status. It would preserve choice, allowing Americans to keep the doctors they have. In fact, many Americans would have more choice than they have now.

We have no doubt that the President's proposal will be changed as it makes its way through Congress. Every significant Presidential proposal I have been involved with, dating back to Lyndon Johnson's ambitious Great Society initiatives, has been modified on Capitol Hill. That will certainly be the case with a proposal that promises to alter almost one-seventh of our economy and to touch the life of every single American.

Over the next several months, the various committees of jurisdiction in the House, including the Committee on Education and Labor, will hold hearings, debate provisions and finally report a bill to the floor for a vote. As we formally begin this process, I am confident that we will enact, before the end of this Congress, comprehensive health care reform.

Mr. Speaker, we must do no less.

ENHANCING TECHNOLOGY TRANSFER FROM FEDERAL LABORATORIES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mrs. MORELLA. Mr. Speaker, in the 102d Congress, I introduced H.R. 191, the Technology Transfer Improvements Act of 1991. The bill sought to bolster our Nation's international competitiveness by encouraging the continued collaboration of Government and private industry. Specifically, H.R. 191 would have amended the Stevenson-Wydler Technology Innovation Act of 1980, in order to promote technology transfer for works prepared under certain cooperative research and development agreements [CRADA's] between Federal laboratories and private industry. My distinguished West Virginia colleague from the other body, Senator ROCKEFELLER, introduced S. 1581, the Senate companion bill.

In the previous Congress, four hearings in the House and Senate were held on both H.R. 191 and S. 1581. The bills received strong support from the administration and a series of Federal agency officials, as well as a broad spectrum of academicians and industry association representatives. The hearings sparked a very beneficial debate on the current role of our Federal laboratories in our Nation's global competitiveness.

Ultimately, H.R. 191 was reported out of the House Science, Space, and Technology Committee and was passed by the House as an amendment to the American Technology Preeminence Act. S. 1581 was reported out of the Senate Commerce, Science, and Transportation Committee but was not passed by the Senate.

In order to further continue the debate which we began in the previous Congress, I am very pleased to, once again, be joining forces with Senator ROCKEFELLER, the distinguished chairman of the Senate Science, Technology, and Space Subcommittee. Today, I am introducing the House companion bill to S. 1537, a bill which Senator ROCKEFELLER had previously introduced in the Senate on October 7. I look forward to holding hearings in the House Science, Space, and Technology Committee on this bill during the next session, hearing of potential concerns from interested parties, and working with Senator ROCKEFELLER to enact this important legislation.

Mr. Speaker, there is no doubt that Congress is concerned about America's competitive position. To affirm this point, we need only to have listened to yesterday's debate on the North American Free-Trade Agreement [NAFTA]. I believe the economic advances of the 21st century are rooted in the research and development performed in laboratories around the world today. Therefore, our future well-being as a nation becomes dependent upon the continuous transfer of basic science and technology from the laboratories to commercial goods and services.

Congress has long tried to encourage the transfer of technology and collaboration between the labs and industry. The 1980 Stevenson-Wydler Technology Innovation Act was Congress' first significant measure to foster technology transfer from Federal labs to the private sector. that landmark legislation was expanded considerably in 1986 with the Federal Technology Transfer Act, and again in 1989, with the National Competitiveness Technology Transfer Act. These laws explicitly instruct the Federal labs to seek commercial opportunities for their technologies and to make technology transfer a job responsibility of every Federal scientist and engineer.

This is eminently logical since Federal laboratories are one of our Nation's greatest assets. Yet they are also a largely untapped resource of technical expertise. There are over 700 Federal laboratories throughout the Nation, occupying one-fifth of the country's lab and equipment capabilities, and employing one of every six scientists in the United States. Representing Montgomery County, MD, I am fully aware of the high-quality work and the vital role which Federal laboratories play in our Nation's research and development. Our Nation's future economic well-being is too important to exclude the resources and abilities of our Nation's Federal scientists.

Mr. Speaker, the text of the Technology Transfer Improvements Act of 1993 follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Transfer Improvements Act of 1993".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The commercialization of technology and industrial innovation are central to the economic, environmental, and socal well-being of citizens of the United States.

SEC. 3. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended as follows:

(1) In the text of subsection (b) immediately preceding paragraph (1), strike "Government-operated Federal laboratory, and to the extent provided in an agency-approved joint work statement, a Government-owned contractor-operated laboratory, may" and insert "Federal laboratory shall ensure that title to any intellectual property arising from the agreement, except intellectual property developed in whole by a laboratory employee, is assigned to the collaborating party or parties to the agreement in exchange for reasonable compensation to the laboratory, and may".

(2) In subsection (b)(2), strike "or in part".

(3) Amend subsection (b)(3) to read as follows:

"(3) retain a nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party or parties for any intellectual property arising from the agreement, and have such license practiced throughout the world by or on behalf of the Government, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license;".

(4) Amend subsection(b)(4) to read as follows:

"(4) retain the right, in accordance with procedures provided in regulations promulgated under this section, to require a collaborating party to grant to a responsible applicant or applicants a nonexclusive, partially exclusive, or exclusive license to use the subject intellectual property in any field of use, on terms that are reasonable under the circumstances, or if the collaborating party fails to grant such a license, to grant the license itself if the laboratory finds that—

"(A) the collaborating party has not taken, and is not expected to take within a reasonable time, effective steps to achieve practical application of the subject intellectual property in the field of use;

"(B) such action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

"(C) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the collaborating party; or

"(D) the collaborating party has not entered into or is in breach of an agreement made pursuant to subsection (c)(4)(B).".

(5) In subsection (d)(2), strike "and" at the end;

(6) In subsection (d)(3), strike the period at the end and insert "; and".

(7) At the end of subsection (d), insert the following new paragraph:

"(4) the term "intellectual property rights' means—

"(A) in the case of government-owned, government-operated Federal laboratories, patents; and

"(B) in the case of government-owned, contractor-operated Federal laboratories, patents, copyrights, and computer chip mask work registrations.".

SEC. 4. DISTRIBUTION ON INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended to read as follows:

"SEC. 14. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL AGENCIES OR LABORATORIES.

"(a) IN GENERAL.—

"(1) Except as provided in paragraphs (2) and (4), any income received by a Federal agency or laboratory from the licensing or assignment of intellectual property under agreements entered into by Federal laboratories under section 12, and intellectual property of Federal agencies or laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency or laboratory and shall be disposed of as follows:

"(A)(i) The head of the agency or laboratory or his designee shall pay to the laboratory employee or employees who have assigned their rights in the intellectual property to the United States, to the laboratory operator, or to a collaborating party or parties to a research agreement an amount equal to the sum of—

"(I) the first $10,000 received by the agency or laboratory from the intellectual property; and

"(II) 15 percent of any income received by the agency or laboratory from the intellectual property in excess of the sum of the amount paid pursuant to item (I) and the value of unreimbursed research and development resources provided by the laboratory under the terms of the agreement.

"(ii) An agency or laboratory may provide appropriate incentives from royalties to laboratory employees who contribute substantially to the technical development of licensed or assigned intellectual property between the time that the intellectual property rights are legally asserted and the time of the licensing or assigning of the intellectual property rights.

"(iii) The agency or laboratory shall retain the income from intellectual property until the agency or laboratory makes payments to laboratory employees under clause (i) or (ii).

"(B) The balance of the income shall be transferred to the agency's laboratories, with the majority share of the royalties or other income going to the laboratory where the intellectual property originated, and the income so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which it is received or during the succeeding fiscal year—

"(i) for payment of not more than 15 percent of such income for expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to intellectual property which originated at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(iii) to further scientific exchange among the laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency.

All income retained by the agency or laboratory after payments have been made pursuant to subparagraph (A) and (B) that is unobligated and unexpended at the end of the fiscal year succeeding the fiscal year in which the income was received shall be paid into the United States Treasury.

"(2) If, after payments to employees under paragraph (1), the intellectual property income received by an agency and its laboratories in any fiscal year exceeds 5 percent of the budget of the laboratories of the agency for that year, 75 percent of such excess shall be paid to the United States Treasury and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any income not so used or obligated shall be paid into the United States Treasury.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible, or limit the amount thereof. Any payment made under this section to any employee shall continue after the employee leaves the employment of the laboratory or agency.

"(4) A Federal agency receiving income as a result of intellectual property management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, may retain such income to the extent required to offset the payment of income from intellectual property under paragraph (1)(A)(i), and costs and expenses incurred under paragraph (1)(B)(i), including the cost of foreign protection of the intellectual property of the other agency. All income remaining after payment of the income, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the intellectual property from which the income is derived was assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency; or

"(2) by an employee of the agency who was not working in the laboratory at the time the intellectual property was originated;

"the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—

"(1) In making its annual submission to the Congress, each Federal agency shall submit, to the appropriate authorization and appropriations committee of both Houses of the Congress, a summary of the amount of income received from intellectual property and expenditures made (including employee awards) under this section.

"(2) Not later than October 1, 1996, the Comptroller General shall review the effectiveness of the various income-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, the Comptroller General's findings, conclusions, and recommendations for improvements in such programs.".

SEC. 5. AMENDMENT TO BAYH-FOLE ACT.

Section 210(e) of title 35, United States Code, is amended by inserting "and the Technology Commercialization Act of 1993" after "Federal Technology Transfer Act of 1986".

TRIBUTE TO MELINA LHOTAN FOR HER WINNING ESSAY ON WHAT WE CAN DO TO STOP DRUGS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. HALL of Texas. Mr. Speaker, I am pleased today to recognize Melina Lhotan, a seventh grade student at Forney Middle School who was a recent winner in the fifth annual Kaufman County Red Ribbon Campaign for her essay on what we can do to stop drugs.

The campaign, held October 23–31, 1993, was sponsored by the Kaufman County Drug Abuse Prevention Committee and the Texas Agricultural Extension Service. I had the pleasure of meeting Miss Lhotan October 23 at Mulberry Park in Forney during the kickoff event.

Miss Lhotan pointed to the need for families to discuss the problems and dangers of using drugs and the importance of education through school programs. Her essay reads in part, "Everyone will know someone in their life that will start doing drugs, and I hope that our education will help us to help them. Talk to your little brothers and little sisters and help the future."

"My mother says 'Educate, Communicate, Graduate and Stay Straight.' I like that," Miss Lhotan concluded.

I like that philosophy, too, and I commend this young person for her commitment to education. She is the daughter of Mr. Richard Lhotan and Mr. and Mrs. James and Danice Gibson. I also want to acknowledge all those in Kaufman County who contributed to the success of this red ribbon campaign.

Rita M. Winton, county extension agent, and Sylvie Millson, chairperson of the County Drug Abuse Prevention Committee, devoted many hours to this event. Other committee members include Edna Beltz, secretary; Pat Adams, treasurer; Albert Davis, Rhitt Jackson, Rita Kent, Don Legg, Mary Lyons, Jack Millson, and Inez Williams.

Also contributing were Kaufman PALS, Peer Assistance Leaders, Kemp PALS, and Crandall PALS. The theme of the campaign was "No Excuse . . . For Drug Abuse." The day's events featured a family fun run/walk, speeches, performances by bands, cheerleaders, and drill teams. Activities for the week included displaying red ribbons, wearing the red ribbon T-shirt, education programs, a red balloon release, and other school-related programs. As an essay contest winner, Miss Lhotan received a $50 U.S. savings bond.

The red ribbon campaign originated when Federal agent Enrique Camarena was murdered by drug traffickers in 1985. The red ribbon became the symbol to reduce the demand for drugs. Kaufman County participated for the first time in 1989.

Mr. Speaker, in addition to congratulating Miss Lhotan for her excellent essay, I wish to recognize Ms. Winton, Ms. Millson, and the many others who have devoted much time and effort to drug prevention in Kaufman County.

THE PENNY-KASICH AMENDMENT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. ROSTENKOWSKI. Mr. Speaker and my colleagues, you are by now well aware of my reservations about H.R. 3400. It is a combination of bad policy, poor timing, and good intentions. In my view, it would be best if we simply adjourned for the year without further budget debates, knowing full well that we will face these debates—and real discussion about further reducing our deficit—again next year. We have already approved nearly $500 billion in deficit reduction this year. We are unlikely to accomplish any more real progress this year. Let us admit it.

Today, however, in keeping with the commitment I made at the Whip meeting and to several of my colleagues, I want to share with you my even more serious reservations about the Penny-Kasich substitute to H.R. 3400.

At first blush, many of you may find Penny-Kasich appealing. After all, its proponents promise more than $100 billion in deficit reduction through what they would have you believe are easy, even painless, cuts. Be careful, my friends. They are promising you more than they can deliver. The cupboard is bare. There are no more easy and painless cuts to be had.

The cuts included in this amendment are by no means painless. Think about it. I do not consider $34 billion in Medicare cuts directed at senior citizens to be painless. Do you? And I think we are kidding ourselves if we think we can further reduce discretionary spending below the hard freeze we adopted as part of this year's budget process. There is real pain in that freeze; do we really have the stomach for more?

The Penny-Kasich amendment also includes the usual assortment of recycled budget proposals—things that have been rejected as unworkable, bad policy, or inappropriate on numerous occasions. But they get included in proposals like this to make it look like it is easy to achieve big savings. The reality is we will not enact these proposals. Let us not kid ourselves.

Let us not kid ourselves either about the proposal to further consolidate social services funding. It makes no sense at a time of rising demands in our cities—and elsewhere—for social services. If Members truly are concerned about the growing number of families who must rely on welfare, they will see the Penny-Kasich proposal on social services for what it is: A step backward in our efforts to end welfare as we know it.

I am most bothered, however, by the $34 billion in Medicare cuts proposed in the Penny-Kasich amendment. Remember, these cuts are on top of the $56 billion in Medicare savings that we approved as part of OBRA 1993 just this past August. And, in OBRA we were able to shield beneficiaries from experiencing much pain by targeting our reductions on providers. This proposal would impose significant, new, out-of-pocket expenses on senior citizens who already spend three times more for health care than the under-65 population.

For those of you worried about efficiency and Government bureaucracy, I urge you to keep your eye on Penny-Kasich. Our Federal bureaucracy is likely to mushroom if this amendment becomes law. IRS will become an even bigger brother, developing income data on millions of Medicare beneficiaries so that another Federal agency—HHS—can match that information with the records for upward to $11 million hospital stays. That is a computer nightmare. Do you really think that this confidential information should be so widely available? And is it appropriate for hospitals—who ultimately charge patients for their services—to have access to the patient's private income information? Under Penny-Kasich, the hospital will need it. Do not underestimate the havoc that these new policies will wreak with Medigap insurance either.

The proposal for a 20-percent coinsurance on home health services is equally troubling. It will impose a big, new, regressive burden on some of the oldest and frailest of our elderly citizens. Is that what we were sent here to do?

Finally, consider the implications of your vote on Penny-Kasich for next year's health care reform debate. Not only is that the more appropriate forum for discussing these health issues, but those savings—if we choose to make them—are integral to financing health reform. Paying for health reform won't be easy, my friends.

Here is the bottom line on the Medicare cuts in Penny-Kasich: We should not ask Medicare beneficiaries to contribute $34 billion to a deficit reduction plan that does not ask other American citizens to make a comparable contribution. That's just not fair.

For the benefit of Members, below is a detailed analysis of the provisions of the Penny-Kasich amendment that fall within the jurisdiction of the Committee on Ways and Means. Again, I urge you to read this carefully, and to think about the implications of your vote on this amendment. The Penny-Kasich amendment is a disaster waiting to happen:

THE PENNY/KASICH AMENDMENT—ANALYSIS OF PROVISIONS

Fees for applications for alcohol labeling and formula reviews (section 325).—The Penny-Kasich plan would impose a fee intended to cover part of the cost of approving all alcoholic beverage labels and of performing laboratory analyses to determine if beverage content is in compliance with Federal law.

Analysis: Congress recently evaluated this proposal and rejected it in the context of budget reconciliation. The proposal is troublesome and short-sighted because the costs of collecting the labeling fee could well outweigh the amounts collected. (The Administration made a similar argument with respect to the special occupational tax in its REGO proposals.)

Increase in SEC registration fees (section 326).—The Penny-Kasich plan would increase certain registration fees paid by corporation to the Securities Exchange Commission ("SEC") in order to offset costs of the SEC. This increase would be in effect through September 30, 1998. (H.R. 2519, the recently-enacted legislation providing appropriations for the SEC, included a similar increase in a more limited category of SEC fees; however, this was a temporary, one-year, measure pending the anticipated enactment of a revamped fee system next year.)

Analysis: The SEC already collects far more in fees than is needed to cover the costs of its regulatory activities. Therefore, the proposed increase in registration fees is not needed to offset the SEC's costs. Instead, it is a tax on corporations that register securities. There simply is no justification for singling out corporations which are registering their securities to bear the burden of a tax increase.

Travel, tourism, and export promotion fees (section 327).—The Penny-Kasich plan would require each State that "participates in marketing activities or tourism promotion abroad thought the U.S. Travel and Tourism Administration" to pay a fee "in an amount determined by such Administration so that the total receipts from such fees shall equal the budget of such Administration."

Analysis: This proposed fee raises serious concerns. It would push the financing of the United States Travel and Tourism Administration ("USTTA") onto the States, which themselves are struggling with serious fiscal difficulties. Moreover, it is inconceivable that the USTTA could establish a fee structure that would raise enough money to cover its budget without asking some "participating" States to pay for more than the benefits they actually receive. Instead, it is likely that some States would end up paying more than their fair share to the Federal government—which obviously raises serious constitutional issues.

Consolidation of certain social services programs into a single block grant program (section 504).—This proposal would merge two broad block grants to the States with several targeted programs to form a single block grant for social services. Funding under the block grant would equal 4 percent less than combined funding under the original programs.

According to preliminary documents, the programs affected include three programs over which the Committee on Ways and Means has full or shared jurisdiction: the social services block grant, which is Title XX of the Social Security Act, and two new child care grant programs established by Congress in the 1990 budget bill (the "At-Risk" Child Care Program under the AFDC statute, and the Child Care and Development Block Grant). Also included in the combined grant would be the community services block grant, services and meals for the aging, and dependent care planning and development grants. These latter programs are under the jurisdiction of the Committee on Education and Labor.

Analysis: This proposal not only threatens critical social services funding, but, if enacted, also would undermine Congress' recent attempts to reduce welfare receipt and encourage self-sufficiency among low-income families.

In justifying this savings proposal, proponents argue that it would eliminate duplicate services and allow services to be provided more efficiently, thereby reducing administrative costs. However, there is no evidence regarding the level of administrative savings, if any, that would result from consolidating these programs, and the proposal could reduce the availability of social services to low-income individuals and families. In fact, the Congressional Budget Office, which included a similar provision in its yearly compilation of deficit reduction options, acknowledges this risk: "Despite improved administrative efficiency, a 5 percent cut in funding [the CBO option] could lead to a reduction in services."

Furthermore, of even greater concern is the high likelihood that Federal funding to States for social services will erode considerably over the long haul under a consolidated grant, relative to current program structures. This will occur for several reasons, including that Congress will be unable to define Federal priorities and that little information will be available to Congress on the use and value of the funds. The history of Title XX social services block grant demonstrates this result. Since various social services funding streams were fully consolidated into the Title XX grant in 1981, funding for the grant program has eroded by over 40 percent after adjusting for inflation.

Finally, in deciding to spend scarce Federal dollars on social services activities, the

Federal government has a legitimate interest in the use of the funds to achieve national objectives, and a legitimate concern that certain groups that are not politically powerful—such as children—benefit from the funds. Thus, while maintaining a flexible Title XX grant program, Congress in recent years has directed new Federal funding at issues that are priority areas for the nation, but often undervalued by State and local taxpayers. Most notable among these efforts is welfare reform, and it is at this effort that the At-Risk Child Care program and the Child Care and Development Block Grant are targeted.

Congress in recent legislation has recognized that the key to reforming welfare is to expand opportunities and obligations for parents receiving welfare to secure and keep meaningful jobs. The 1990 child care legislation, following on the welfare reform legislation enacted in 1988, is an important element of this strategy to ensure that low-income families who work are better off than they would be on welfare. Under this legislation, Congress expanded the earned income tax credit substantially, and targeted child care funding at low- and moderate-income families through two grant programs. These child care grant programs are helping thousands of families participate in work-related activities. More important, they are helping to support the work effort of thousands of families who, without such support, would be at-risk of falling onto the welfare rolls.

If Members are concerned about the growing demands in their communities for social services, and the growing number of families who are relying on income from welfare programs, they should be concerned about the Penny/Kasich proposal to consolidate social services funding. This proposal is shortsighted and will undermine the efforts this Congress already has made to reform welfare in this country, and it will make "ending welfare as we know it" even more difficult next year.

One version of this proposal also would have converted what are predominantly entitlement funds for social services to a discretionary status. Adopting such an approach would further and seriously jeopardize Federal funds to States for social services.

Medicare (sections 603–607).—The Penny/Kasich amendment would reduce Medicare spending through five proposals that would increase beneficiary contributions. Three of these proposals have been put forward by previous Administrations, and have been rejected by the Congress. The fourth proposal, to means-test the hospital deductible paid by Medicare beneficiaries, was included in the Republican budget package earlier this year, and was rejected. A fifth provision would establish a prospective payment system for home health services under Medicare.

According to summary documents provided by Penny/Kasich, the proposal would achieve over $34 billion in Medicare savings from beneficiaries. The Congress just enacted $56 billion in Medicare savings as part of the Omnibus Budget Reconciliation Act of 1993.

Analysis: Enacted apart from broad health care reform, the Medicare proposals in the Penny-Kasich amendment would be financially burdensome to Medicare beneficiaries and would undermine future efforts to achieve health care reform.

Keep in mind that seniors already spend more out-of-pocket for health care than the under-65 population. Seniors spent slightly more than 3-times as much per person out-of-pocket than those who are younger than age 65, according to the Congressional Budget Office. The Penny/Kasich amendment would widen this disparity in benefits, and do so with a regressive policy that targets the most physically impaired senior citizens.

1. *Means-Test Inpatient Hospital Deductible.*—The amendment would establish a new, means-tested deductible of up to $2,000 for a hospital stay for individuals with adjusted gross incomes of $70,000 or more, and married couples with adjusted gross incomes of $90,000 or above beginning in 1994. The deductible would be computed on a sliding-sale basis. For each $5,000 increment above the $70,000 or $90,000 threshold, the deductible would increase by 33 percent. Under current law, the inpatient hospital deductible is not means-tested; it will be $696 in 1994, and is indexed annually.

For married individuals who do not file a joint tax return, the amendment sets a threshold amount of zero if the individuals do not live apart for the entire year. Such individuals would thus be subject to the increased deductible no matter how low their incomes.

Within 60 days after enactment of the Penny-Kasich amendment (and by November 1st of each subsequent year), each Medicare beneficiary would be required to provide to the Secretary of HHS an estimate of their modified adjusted gross income for the year. Using this information, the Secretary would determine an applicable inpatient hospital deductible for each hospital admission.

Upon request, the Secretary of the Treasury would provide to the Health Care Financing Administration the taxpayer information needed to determine the modified adjusted gross income of any Medicare beneficiary for the purpose of determining the appropriate inpatient hospital deductible.

The Secretary of HHS would use the Treasury information to reconcile IRS information with the self-reported income for each Medicare beneficiary that had an inpatient hospital stay. In the case of an individual who had been charged a deductible that was inappropriately high, Medicare would refund the difference to the beneficiary. If, however, the deductible that was charged turned out to be too low, Medicare would recoup the difference from the hospital. The beneficiary would be liable for payment to the hospital.

Analysis: This proposal would force 35 million elderly and disabled Medicare beneficiaries to report their expected income to the Secretary of HHS each year. This is likely to generate anxiety and confusion for beneficiaries since no such reporting requirement currently exists. It is also likely to result in erroneous reports unless HHS functions as a "shadow IRS" and instructs individuals how to estimate their modified adjusted gross income.

This provision would also create an administrative burden for the Department of Health and Human Services, and the Internal Revenue Service (IRS). The IRS would be required to create a new data file with the names, taxpayer identification numbers and adjusted gross income for each Medicare beneficiary whose income exceeded the defined threshold amount in the most recent tax year. HHS would have to match as many as 11 million Medicare hospital stays against the IRS-provided income file to determine appropriate payment amounts for hospitals on a case-by-case basis.

While the bill assumes implementation in 1994, it is questionable whether the IRS could prepare the necessary data file in time for such immediate implementation. In addition, HHS does not have the resources to implement this entirely new and complex function.

The proposal raises concerns regarding the disclosure of confidential taxpayer information as well. Under current law, the IRS is authorized to disclose tax information to HHS only for purposes of verifying the employment status and group health plan coverage of Medicare beneficiaries and their spouses; no income information is generally disclosed for such purposes. By contrast, under the Penny-Kasich amendment, specific income information on millions of taxpayers would be disclosed to employees of HHS and, at least indirectly, to thousands of hospitals and their employees. Disclosure of this type and magnitude could have a significant adverse effect on the voluntary tax system.

This proposal also would wreak havoc with Medigap insurance and would drive up premiums. Most Medicare beneficiaries, particularly those with higher incomes, have private Medicare supplemental ('Medigap') insurance that covers the inpatient hospital deductible. If this proposal is implemented, Medigap insurers would be required to pay the higher deductible amount for some beneficiaries and would therefore need to determine the incomes of policy-holders in order to predict their liability and set premiums.

In addition, hospitals should also expect new administrative burdens under the Penny/Kasich amendment, hospitals would pursue beneficiaries or their Medigap insurers to collect, if Medicare applied an inappropriately low deductible. Hospitals would need to know the income of beneficiaries in order to anticipate cash flow from Medicare, Medigap insurers, and beneficiaries. Most troubling, hospitals would be able to derive the confidential income of individual Medicare beneficiaries by reviewing those that were subject to the higher deductible.

Note also that the current Medicare hospital deductible is much higher than deductibles imposed by most private insurance. For example, even under the highest cost sharing benefit package proposed in the Clinton health care reform plan, the annual deductible for an individual would be $200, covering both inpatient hospital and outpatient services. By contrast, Medicare requires a $100 deductible for outpatient services in addition to the $696 hospital stay deductible. Moreover, the inpatient hospital deductible can be charged multiple times each year for Medicare beneficiaries with multiple hospital stays.

It is hard to justify a policy that widens the current disparity between deductibles incurred by senior citizens, relative to the deductibles typically paid by the general population.

2. *Income-Relate the Part B Premium.*—The amendment would, for the first time, income-relate the Medicare part B premium. The premium would increase at least threefold for individuals with incomes in excess of $70,000 and couples with incomes in excess of $90,000. For individuals with incomes in excess of $95,000 and couples with incomes in excess of $115,000, the premium would quadruple. The amount of the premium increases for beneficiaries with incomes in between these amounts would be determined on a sliding scale basis.

Using the expected income information provided by Medicare beneficiaries described earlier, the Secretary of HHS would determine the appropriate part B premium amount to be deducted from each beneficiary's monthly Social Security check.

The Secretary of HHS would reconcile IRS information with the self-reported income for each Medicare beneficiary. Any discrepancy would be corrected through the part B premium deductions applied to future monthly Social Security payments.

Analysis: This proposal has been considered and rejected a number of times in recent years. The Administration has included a proposal that resembles this provision in its health reform plan; however, the Administration's policy is proposed within the larger context of health care reform, which provides substantial new benefits to senior citizens covered under the Medicare program in exchange for higher payments. Moreover, the Administration plan would be administered directly through the IRS and would not generate new annual income reporting requirements by beneficiaries. Finally, the Penny/Kasich proposal would income-relate the premium at a substantially lower income threshold than the Administration proposes, which could be considered a "middle class tax".

3. *Coinsurance on Home Health Services.*—The amendment would require Medicare beneficiaries to pay a 20 percent coinsurance on all home health services. For individuals with incomes at or below 150 percent of poverty, the coinsurance would be paid under the Qualified Medicare Beneficiaries program. Under current law, home health services are not subject to coinsurance. In addition, the amendment would establish a prospective payment system for home health services, effective on January 1, 1994.

Analysis: This proposal would impose a significant, new financial burden on Medicare beneficiaries who use home health services. The average home health user would be required by this proposal to pay close to $650 for home health services in 1993, and typically, beneficiaries would incur these new costs after paying the inpatient hospital deductible, which will be $696 in 1994. Older patients, who are relatively high users of home health services, would pay substantially more than the average.

This proposal also would require the Department of Health and Human Services to monitor the income of senior citizens, in order to implement the offsets for individuals with incomes below the 150 percent of poverty level. This raises the same administrative problems noted in the analysis of the means-tested deductible, in that HHS does not currently keep track of beneficiaries with incomes up to 150 percent of poverty.

Further, the proposal is a highly regressive tax on the oldest and most frail segment of the elderly population. If this amendment is adopted, seniors who are near-poor, with an income just above 150 percent of the poverty level (about $11,000 for an individual) will be billed hundreds, if not thousands, of dollars for home health services.

Under the Penny/Kasich amendment, a typical senior citizen with medical needs requiring home health services would pay about $800 in current deductibles plus $650 for the new home health coinsurance. These individuals would also be required to pay for other medical expenses that are not covered under Medicare, including the entire cost of their outpatient prescription drugs. Drug costs alone can reach thousands of dollars for a chronically-ill senior citizen.

Of course, those who are sickest, with the greatest need for extensive home health care services, will pay even more than these averages—in part because Medicare, unlike most employer-sponsored health plans, does not include a cap on out-of-pocket expenditures.

The Administration's health reform plan also includes a home health proposal but it differs in significant ways from the Penny/Kasich amendment. It is less onerous for beneficiaries, more easily administered, and is part of a broader health care reform which includes an expansion of home care benefits for beneficiaries. Further, the Penny/Kasich amendment would impose a 20 percent coinsurance on home health visits, rather than the 10 percent proposed under the President's plan. And, unlike the Administration's proposal, the Penny/Kasich amendment requires a coinsurance on visits that occur within 30-days after discharge from a hospital.

4. *Coinsurance on Clinical Laboratory Service.*—The amendment would require Medicare beneficiaries to pay 20 percent coinsurance on clinical laboratory services.

Analysis: This proposal would impose a new administrative burden on clinical laboratories. Because many laboratory claims are small, the administrative costs of collecting the 20 percent coinsurance amount would exceed the amount collected in many cases.

Coinsurance on laboratory services was eliminated in 1984 as part of a restructuring of clinical laboratory reimbursement. That restructuring also included a reduction in the fees paid for laboratory services and a requirement that all laboratories accept Medicare payment in full rather than billing beneficiaries for excess amounts.

CHILD ABUSE AND NEGLECT ACCOUNTABILITY ACT OF 1993

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. GOODLING. Mr. Speaker, today I am introducing the "Child Abuse and Neglect Accountability Act of 1993."

Mr. Speaker, child abuse or neglect is one of the most reprehensible forms of crime that I can think of, because it is perpetrated upon innocent and defenseless children. But there is another activity that I think is just as heinous; and that is making false accusations of child abuse or neglect. False reports of child abuse or neglect lead to unjustified and debilitating invasions into the privacy and sanctity of the family, and often lead to the break up of the very family that the current laws are designed to protect.

Under the current Federal law regarding child abuse and neglect, the States are required to provide total immunity for anyone who makes a report of child abuse or neglect. Now, I understand the intent behind this is to encourage people to report child abuse or neglect when they see it, but unfortunately this provision is short-sighted. This well intentioned provision has a glaring loophole—total immunity for any report of abuse or neglect means that even people who make reports of abuse or neglect when they know it is not true are immune from prosecution. But in the mean time, because of other statutory requirement, the police and child welfare workers must investigate the report. These investigations often take months or longer, and lead sometimes to the child, or children, being removed from their parents for the duration of the investigation. Even if the children are not removed, false reporting still stigmatizes the family, and can lead to huge legal expenses just to clear themselves.

You know it used to be the case that if someone got into an argument with you over something you did, they would threaten to sue you; well today they don't even make the threat of litigation, instead they can just make an anonymous false accusation of child abuse against you, and they will be totally immune from prosecution. Unfortunately, false reporting is being used these days, as well, by estranged spouses trying to gain an upper hand in a divorce proceeding.

A recent report by the State child welfare office in Pennsylvania shows that of all the reports of child abuse or neglect in 1992, fully two-thirds were unsubstantiated. Two-thirds, Mr. Speaker.

My bill would instill some accountability into this whole system, in order to reduce some of those unsubstantiated, yet damaging reports. Under my bill, anyone who makes a report of child abuse or neglect, or persuades a child to make such an accusation, without reasonably believing it to be true, would be subject to prosecution. In addition, if such a report was done with the intent to subject someone to criminal investigation, to gain an advantage in a civil proceeding, or to otherwise subject that person to public humiliation, then the penalties would be increased.

Again Mr. Speaker, I want to stress that child abuse and neglect is a horrible crime and any instance of it should be prosecuted with all due speed and to the maximum extent possible. However, I feel very strongly that in our efforts to protect children from this crime, that we have gone too far and in the process created a system that allows for abuse of another kind—abuse of the parents. My bill, the "Child Abuse and Neglect Accountability Act of 1993," will bring back some accountability to the system for false reports, in order to prevent this other type of abuse.

TRIBUTE TO THE LATE DIONISIO GARCIA

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. GONZALEZ. Mr. Speaker, I am sure that everyone of us who serve in an office of public trust sometimes realizes there are some fellow citizens or friends who because of unique and singular and great character and personality traits stand out consciously. Perhaps, because they live and work in private endeavor and not in a public or political capacity, their values are relegated to relative obscurity. But among the segments of community and social activity in which they work quietly, but creatively and constructively, they are noted and honored.

One such San Antonian and American was my great and good friend of many years, in fact, going back to my high school and college years 60 years ago, Dionisio ("Nicho") or "Don" Garcia.

Nicho and I first met when I was in high school, and subsequently he was one of seven of us from San Antonio of Mexican descent (we were called Latin Americana there) that went to the great University of Texas in

Austin in September of 1937. It was the first time that that many entered college at the University.

We were all wallowing in the hard times of the depression. Nicho studied pharmacy and eventually earned his degree in that profession and became a pharmacist for over 50 years.

But he joined the Army when the war broke out in 1941 and served in Belgium and France.

Nicho stood out as a gregorious, happy, always smiling and very devout church going individual.

He married and formed a beautiful family to whom he was totally devoted until his death on October 8, 1993.

In fact, one of his children is a priest, Rev. Fr. David Garcia, who has given us an outline and short biography of his father, and which I ask be placed in the RECORD at this point.

NEWSPAPER OBITUARY FOR DIONISIO GARCIA

Dionisio (Don) Garcia, beloved husband, father, grandfather, brother, uncle, and friend entered into eternal rest at a local hospital on October 8, 1993, at the age of 77. Born August 12, 1916, in Roma, Texas, he was from one of the original Tejano families which still hold title to a land grant near Falcon, Texas given in 1750 by the King of Spain. He is survived by his wife of 50 years, Emma, and children Becky and Phillip De Leon of San Antonio; Anna and Robert Elizondo of Duluth, Georgia; Virginia and Art De Los Santos of Fairfax, Virginia; Father David Garcia of San Antonio; Letty and Tom Nolan of Aurora, Illinois; and Sylvia Garcia of San Antonio; Mr. Garcia also leaves 11 grandchildren: Phillip and wife Barbara of Berthoud, Colorado, Mark, David and Dulcie De Leon of San Antonio; Chuck and Steve Elizondo of San Diego, California; Mike Elizondo of Duluth, Georgia; Mike, Lucia and Christina De Los Santos of Fairfax, Virginia; and Jennifer Nolan of Aurora, Illinois. In addition, he is survived by three sisters: Anita Sandoval, Cata Gomez and Sarah Mayen of San Antonio, countless cousins, nieces, nephews, and world of friends. He was an extraordinary individual who was warm and generous, and touched the lives of hundreds. He took great pride in his children and grandchildren, and followed their achievements.

After graduation from high school in San Antonio, he graduated from the University of Texas at Austin, earning his pharmacy degree. He and Emma Vela were married on January 3, 1943, in Port Lavaca, Texas, and celebrated 50 years of marriage last January with a renewal of vows and a reception for family and friends. He joined the Army during World War II, and was stationed in Belgium and France. He practiced pharmacy for over 50 years and was the owner of Trinity Hospital on Buena Vista Street until his retirement. He continued in pharmacy part-time at the Stella Maris Clinic. He also earned his real estate license. He loved to paint, sculpture, and play the piano, harmonica, drums and trumpet. He was the life of every party. He brought a positive attitude to his everyday activities and had a wonderful sense of humor.

An active member and daily Mass attendant at St. Luke's Catholic, Church, he is the father of Rev. David Garcia, Vocation Director for the Archdiocese of San Antonio. "He was the eternal optimist—he never gave up. Dad always had a future project or goal he wanted to accomplish, and he instilled religious values and a strong work ethic in all his children," his son states. His daughter, Becky De Leon, adds "My father was the patriarch of our family, and lived a blessed life. He was the richest person I know—not so much in material goods, but in love of life, his humor, positive attitude, up-beat spirit and pride in his close-knit family. He was a very loving and generous father. We thank God for lending him to us. He was always an inspiration to us, and his rich qualities are treasured memories and the legacy he leaves behind. We will miss him tremendously. He died peacefully with faith, courage and dignity—just as he lived his life." Two highlights of his life included a general audience and Mass celebrated by Pope Paul VI in Rome, Italy, and meeting and shaking hands with Pope John Paul II during the Pontiff's San Antonio visit.

[From Today's Catholic]

MAY THEY REST IN PEACE

DIONISIO GARCIA

Dionisio (Don) Garcia died on Oct. 8, 1993, at the age of 77.

Born on Aug. 12, 1916, in Roma, Texas, he was from one of the original Tejano families which still hold title to a land grant near Falcon, Texas, given in 1750 by the king of Spain.

After graduating from high school in San Antonio, he graduated from the University of Texas at Austin, earning his pharmacy degree. He married Emma Vela on Jan. 3, 1943, in Port Lavaca. He and Emma celebrated 50 years of marriage last January with a renewal of vows and a reception for family and friends.

Dionisio joined the United States Army during World War II. He practiced pharmacy for over 50 years and was the owner of Trinity Hospital on Buena Vista Street until his retirement when he began working part-time at the Stella Maris Clinic. He also earned his real estate license. His love of painting, sculpture and music—he played the piano, harmonica, drums and trumpet—made him the life of every party.

An active member of St. Luke's Church, he was the father of Father David Garcia, vocation director for the Archdiocese of San Antonio.

"He was the eternal optimist—he never gave up. He instilled religious values and strong work ethic in all his children," Father David says of his father.

Dionisio Garcia is survived by his wife, Emma; six children; 11 grandchildren; three sisters; and many cousins, nieces and nephews.

A rosary and prayer service was offered at St. Luke's Church on Oct. 11. Following a Funeral Mass on Oct. 12 in the same church, interment took place at San Fernando cemetery #2.

GARCIA OWNED TRINITY HOSPITAL

Dionisio "Don" Garcia was a pharmacist more than 50 years.

He owned Trinity Hospital on Buena Vista Street until he retired in 1991.

Garcia, 77, died Friday at a local hospital.

He was born Aug. 12, 1916, in Roma. His family still holds the title to a land grant near Falcon, given to them in 1750 by the King of Spain, said his son, the Rev. David Garcia of San Antonio.

Garcia graduated from Old Main High School in 1934 and attended the University of Texas at Austin. Garcia became a practicing pharmacist in 1941.

On Jan. 3, 1943, he married Emma Vela in Port Lavaca. They had six children.

Garcia joined the Army and was stationed in France and Belgium during World War II, his son said.

Upon his return, Garcia began working at the Saenz Clinic. About four years later, Dr. Daniel Saenz sold the clinic to Garcia and it became the Trinity Clinic, a 20-bed hospital. The name later was changed to the Trinity Hospital, his son said.

He retired in 1991 and concentrated on his craft projects, his son said.

Garcia was an amateur painter and sculptor, and played several musical instruments.

"Dad always had a future project or goal he wanted to accomplish," his son said. "He loved music and art."

Garcia attended daily Masses at St. Luke's Catholic Church, his son said.

"He instilled strong religious values and a strong work ethic in all his children," he said.

Garcia also met Pope John Paul II when he visited San Antonio in 1987.

Additional survivors include his wife; five daughters, Becky De Leon and Sylvia Garcia of San Antonio, Anna Elizondo of Duluth, Ga., Virginia De Los Santos of Fairfax, Va., and Letty Nolan of Aurora, Ill.; three sisters, Anita Sandoval, Cata Gomez and Sarah Mayen, all of San Antonio; and 11 grandchildren.

WHERE ARE THE "NEW" DEMOCRATS?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the November 19, 1993, edition of the Omaha World-Herald.

WHERE ARE THE 'NEW' DEMOCRATS?

The U.S. House vote on the North American Free Trade Agreement provided a revealing look at the political party that is now in control of the government.

President Clinton worked hard to get the measure approved. His fellow Democrats deserted him in droves. A total of 156 House Democrats voted to reject the agreement with only 102 voting for it. The 234–200 victory was possible only because 132 of the 175 Republicans came to the side of the president.

It should not be forgotten, moreover, that Republican Ronald Reagan proposed the agreement Nov. 13, 1979, when announcing his presidential candidacy. Nor that Republican George Bush negotiated the agreement, which was signed by his trade representative Aug. 12, 1992.

Nonetheless, it was a triumph for the Clinton administration. Clinton and Vice President Gore deserve credit for turning the issue around.

But whatever became of the "new Democrats" who urged the voters last fall, with considerable success, to send them to Washington?

New Democrats said they rejected the old doctrine that a Democrat must always vote pro-union, pro-entitlement, pro-big government. They promised a new age of realism in the Democratic Party, with moderation and fiscal responsibility. Above all, new Democrats claimed to understand how the economy works, how jobs are created. They would improve commerce and bring more prosperity.

The Clinton-Gore position of freer trade and enhanced regional economic ties was the logical stance for such Democrats.

But the union bosses snapped their fingers. Congressmen heard from Ralph Nader lobbyists, whose crabbed view of American life is rooted in anti-business philosophies. Greenpeace, the Sierra Club and other environmental groups applied pressure. There was even a feminist-driven effort to defeat NAFTA.

And old Democrats materialized by the dozens.

We commend Midlands Democrats who added pro-NAFTA votes.

But it's hard to be upbeat about the performance of many of their colleagues in the Democratic Party—people who are new Democrats only until big labor and the other mainstays of the old Democratic Party cash in their political IOUs.

LEGISLATION TO AMEND OUR FEDERAL CHILD NUTRITION PROGRAM

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 20, 1993

Mr. GOODLING. Mr. Speaker, today I join Congressman DALE KILDEE, the chairman of the Subcommittee on Elementary, Secondary and Vocational Education in cosponsoring legislation outlining proposed changes in many of our Nation's child nutrition programs.

As a former educator I realized very early in my career the connection between educational achievement and child nutrition programs. Children who came to school without breakfast did not have the same energy as their peers who had eaten before they came to school. They did not focus their attention on their studies; they were hungry and it was a distraction. For these children, their school lunch was the only good meal they had each day—and I dread to think what they had to eat over the weekend.

We have made progress in our country. Many schools now have a school breakfast program to insure our Nation's children are starting each school day with the energy they need to be active participants in the educational process. More and more women are receiving nutrition supplements through the WIC program and producing healthier babies.

But our programs are not perfect. A recent study has indicated that our school lunch and breakfast programs are providing students with meals that our too high in their fat and sodium content. This certainly in an area which needs to be addressed. We need to improve the nutritional quality of the commodities we are providing to schools through our commodity distribution program. We also need to give our school food service workers assistance in developing meals which students will not only eat, but which are of high nutritional value as well.

Mr. Speaker, the legislation we are introducing today outlines some of the changes we are considering to our current child nutrition programs. I do not agree with all of the proposals contained in this legislation and am concerned about some of the funding increases which will be required to make some of the changes. As this bill works its way through the legislative process, I am committed to work to insure that these funds are spent in the best interests of the taxpayer. It is my intention to work with Chairman KILDEE throughout the reauthorization of the child nutrition programs to address these and my other concerns with this legislation. I thought, however, it was important for me to indicate my support for making changes which will improve the ability of our Nation's child nutrition programs to provide participants with healthy, nutritious meals.

HOUSE OF REPRESENTATIVES—*Sunday, November 21, 1993*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the rising of the Sun until the going down of the same, we are grateful, O God, for the gift of life. As the scriptures have foretold, there are seasons of change—a time to plant and a time to reap, a time to weep and a time to laugh, a time to keep silence and a time to speak, a time to be born and a time to die. We pray, O God, that as we move through these seasons of life, we will be faithful and steadfast in our responsibilities and with joy and gladness, celebrate the blessings of each day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. SMITH] come forward and lead the House in the Pledge of Allegiance.

Mr. SMITH of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3450. An act to implement the North American Free-Trade Agreement.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 783. An act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization;

H.R. 965. An act to provide for toy safety and for other purposes; and

H.R. 1025. An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1025) "An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. HATCH, and Mr. CRAIG, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167) "An act to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 714) "An act to provide funding for the resolution of failed savings associations, and for other purposes."

The message also announced that the Senate had passed bills, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 423. An act to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes;

S. 431. An act to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection;

S. 717. An act to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes;

S. 738. An act to promote the implementation of programs to improve the traffic safety performance of high risk drivers;

S. 778. An act to amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes;

S. 871. An act for the relief of Nathan C. Vance, and for other purposes;

S. 991. An act to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes;

S. 994. An act to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes;

S. 1059. An act to include Alaska Natives in a program for native culture and arts development;

S. 1457. An act to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II;

S. 1523. An act to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes;

S. 1716. An act to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports;

S. 1761. An act to provide early out authority for Forest Service employees;

S. 1762. An act to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements;

S. 1763. An act to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations;

S. 1764. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police;

S. 1765. An act to designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes;

S. 1766. An act to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes;

S. 1767. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes;

S.J. Res. 154. Joint Resolution designating January 16, 1994, as "Religious Freedom Day"; and

S. Con. Res. 36. Concurrent resolution expressing the sense of Congress that United States truck safety standards are of paramount importance to the implementation of the North American Free Trade Agreement.

ADMINISTRATION AND REGULATORY RELIEF

(Mr. BACCHUS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACCHUS of Florida. Mr. Speaker, in just a few minutes the House will consider H.R. 3474, the community development bill offered by the President of the United States and revised by the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Committee on Banking, Finance and Urban Affairs on which I have the privilege to serve.

Mr. Speaker, I would like my colleagues in the House to know that this bill also includes the essence of H.R. 962. This is the regulatory relief bill that my friend and colleague, the gentleman from Nebraska [Mr. BEREUTER] from the other side of the aisle and I have introduced that has 272 cosponsors in this House.

President Clinton has made extraordinary advances in terms of administrative and regulatory relief in the first few months of his term. This has helped move a lot of needed credit into the private sector and created a lot of jobs. Our bipartisan effort in moving H.R. 962 through the committee on Banking, Finance and Urban Affairs and to the floor of this House and into law will do even more to add to the advances of the President.

We are very proud of this effort by our Committee on Banking, Finance and Urban Affairs. I am very grateful to the leadership of the committee for its support, and I urge my colleagues to support this bill which will do a lot to help improve our economy, create economic growth, and preserve and create jobs.

TWAS THE RECESS BEFORE CHRISTMAS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker—

Twas the recess before Christmas, and all through the House,
Clinton's spending cut bill, was the size of a mouse.
The White House had filled, their package with air,
In hopes that the taxpayers, just wouldn't care.
The White House was, all snuggled in bed,
While dreams of new spending danced in their heads.
When outside the beltway, there arose such a clatter,
They ran to the window, to see what was the matter.
Over the hills, the taxpayers they came,
And they shouted and cursed them, and called them by name.
Up Penny, Up Kasich, Down Clinton, Down Gore,
Tax less, spend less, cut more and cut more.
And what to Clinton's, overspent eyes should appear,
But a real spending cut bill, looming so near.
The White House couldn't believe, what they were hearing,
The cut bill they'd promised, could pass they were fearing.
They called on special interests, so sprightly and quick,
Because they knew the time, was so close to the nick.
Penny-Kasich cut 90 billion, this everyone knew,
Clinton only wanted a fraction, so what could he do?
He called off the vote, he chose for delay,
And hoped this silly cut-spending idea, would just go away.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following conference report and statement on the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–404)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167), to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 2, insert the following:

SEC. 9. EFFECTIVE DATES.

(a) REPEAL OF DISREGARD OF RIGHTS TO REGULAR COMPENSATION.—Notwithstanding the provisions of section 3(b) of this Act, the repeal made by section 3(a) of this Act shall apply to weeks of unemployment beginning after October 2, 1993, except that such repeal shall not apply in determining eligibility for emergency unemployment compensation from an account established before October 3, 1993.

(b) RAILROAD WORKERS.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 501(b) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended), as amended by section 8(a)(1) of this Act, are each amended by striking "January 1, 1994" and inserting "February 5, 1994".

(2) CONFORMING AMENDMENT.—Section 501(a) of such Emergency Unemployment Compensation Act of 1991, as amended by section 8(a)(2) of this Act, is amended by striking "January 1994" and inserting "February 1994".

(3) TERMINATION OF BENEFITS.—Section 501(e) of such Emergency Unemployment Compensation Act of 1991, as amended by section 8(c) of this Act, is amended—

(A) by striking "January 1, 1994" and inserting "February 5, 1994", and

(B) by striking "March 26, 1994" and inserting "April 30, 1994".

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of Senate amendment numbered 2, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,

From the Committee on Post Office and Civil Service, for consideration of Senate amendment numbered 1, and modifications committed to conference:

BILL CLAY,
FRANK MCCLOSKEY,
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167), to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment numbered 1 added a provision relating to the reduction of Federal full-time equivalent positions.

The Senate recedes from its amendment numbered 1.

The Senate amendment numbered 2 added a provision relating to limitation in eligibility for emergency unemployment compensation.

The House recedes from its disagreement to the amendment of the Senate numbered 2 with an amendment which is a substitute for the Senate amendment. The differences between the House bill and the Senate amendment, and the substitute amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993 H.R. 3167

I. EMERGENCY UNEMPLOYMENT COMPENSATION (EUC) PROGRAM

Present law

The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and extended most recently by P.L. 103–6 on March 4, 1993. The EUC program, which expired on October 2, provides workers who have exhausted their regular State unemployment benefits (and who began receiving EUC benefits on or before October 2) with 15 weeks of benefits in States with the highest unemployment and 10 weeks of benefits in all other States. States with adjusted insured unemployment rates (the average of the current week and the preceding 12 weeks) of at least 5 percent, or total unemployment rates (6-month moving average) of at least 9 percent, are eligible to pay the higher number of weeks of benefits. At present, only four States (Alaska, California, Rhode Island, and West Virginia) are eligible to provide 15 weeks of benefits.

The statute provides for a decline to 13 and 7 weeks of benefits if the national unemployment rate falls below 6.8 percent for two consecutive months. The rate for the months of August and September was 6.7 percent.

The EUC program expired on October 2. Unless the program is extended, workers who exhaust their regular State benefits after that date will be ineligible for EUC benefits. Workers who began receiving EUC benefits on or before October 2 will be entitled to the full number of weeks of benefits for which they were found eligible. However, no benefits are payable after January 15, 1994.

Individuals who have exhausted their rights to regular State benefits either because their benefit year has expired or because they have received all of the benefits to which they are entitled, may elect to receive either EUC benefits or regular State benefits under any new benefit year that has been established.

House bill

The EUC program is extended through February 5, 1994. Workers who have exhausted or will exhaust their regular State benefits after October 2 will be eligible for up to 13 weeks of benefits in States with the highest unemployment. In all other States they will be eligible for up to 7 weeks of benefits. Workers who exhaust their regular State benefits after February 5 will not be eligible for EUC benefits. Workers who begin receiving EUC benefits on or before that date will be entitled to the full number of weeks of benefits for which they were found eligible. However, no EUC benefits will be payable after April 30, 1994.

The provision giving individuals the option to choose between EUC benefits and regular State benefits is repealed. After the date of enactment, no new EUC options will be exercised. However, individuals who began or continued EUC based on an option exercised before October 2, 1993, may continue to receive EUC until exhaustion of their EUC account.

Senate amendment

Same as House bill.

Conference agreement

The Conference agreement follows the House bill and the Senate amendment, modified to provide that no new EUC options may be exercised after October 2, 1993.

II. ADDITIONAL UNEMPLOYMENT COMPENSATION FOR RAILROAD WORKERS

Present law

Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under regular State unemployment compensation programs. Railroad workers with under 10 years of railroad service are not eligible for extended benefits. The UC law temporarily provides extended benefits to railroad workers with under 10 years of service and additional weeks of extended benefits to other qualifying railroad workers in order to maintain comparability with the EUC benefits provided to workers in other industries.

House bill

Eligible railroad workers will continue to receive the additional benefits provided under the EUC law for other workers through January 1, 1994.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment and conforms the expiration dates for the authorization of new claims and continued claims for railroad workers to that for other workers, which are February 5, 1993, and April 30, 1994, respectively.

III. WORKER PROFILING AND REEMPLOYMENT ASSISTANCE

Present law

P.L. 103-6, enacted March 4, 1993, directs the Secretary of Labor to establish a program for encouraging the adoption and implementation of State systems of profiling all new claimants for regular unemployment compensation. These systems are to be used to determine which claimants might be most likely to exhaust their regular unemployment compensation benefits and might need reemployment assistance services to make a successful transition to new employment.

House bill

Each State's unemployment agency is required to establish a profiling system as described above, and to refer claimants identified as needing services to reemployment services available under any State or Federal law. The State agency is also required to collect follow-up information relating to the services received by claimants and the employment outcomes for such claimants subsequent to receiving services, and to use this information in making identifications under the profiling system. States that fail to comply substantially with these requirements may be subject to withholding of administrative funds until the Secretary is satisfied that there is no longer any such failure.

In addition, the bill provides that as a condition of eligibility for unemployment compensation benefits, a claimant who has been referred to reemployment services pursuant to the profiling system must participate in these or similar services unless the State agency determines that the claimant has completed such services, or there is justifiable cause for failure to participate.

Reemployment services will include job search assistance and job placement services, such as counseling, testing, and providing occupational and labor market, information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

The Secretary of Labor is directed to provide technical assistance and advice to assist the States in implementing the profiling system, including the development and identification of model profiling systems.

Not later than three years after the date of enactment, the Secretary of Labor is required to report to the Congress on the operation and effectiveness of the profiling system and the participation requirement, with such recommendations as the Secretary determines to be appropriate.

Effective date.—The profiling requirement is effective one year after the date of enactment.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

IV. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND

Present law

The Emergency Unemployment Compensation Act, as amended inadvertently included language amending section 905(b)(1) of the Social Security Act. The language assumes enactment of a provision that had been proposed, but never enacted.

House bill

The bill restores language in section 905(b)(1) of the Social Security Act that was inadvertently changed by P.L. 102-318. This section provides for the transfer of funds to the State administration accounts.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

V. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL

Present law

P.L. 102-164, the Emergency Unemployment Compensation Amendments of 1991, provided for the establishment of a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. The first report is due by February 1, 1994.

House bill

The due date for the first report would be delayed for one year. Subsequent reports would be due the third year following the establishing of the council, rather than the second year.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

VI. INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM

Present law

The SSI program provides Federal benefits to aged, blind, and disabled individuals whose income and resources are below specified amounts. To be eligible, an individual must be either a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Under current law, the income and resources of an alien's sponsor are considered in determining the alien's eligibility for SSI benefits. A sponsor is an individual who has signed an affidavit of support as a condition of the alien's admission for permanent residence in the United States. This "deeming" of income and resources applies for 3 years after the alien's entry into the United States. After the 3 years, the alien's eligibility for SSI is determined without regard to the income and resources of the sponsor. The "deeming" requirement does not apply with respect to an individual who becomes disabled or blind after entering the United States.

House bill

The period during which the sponsor's income and resources would be "deemed" to the alien would be extended from 3 to 5 years.

Effective date.—The provision would be effective January 1, 1994 through fiscal year 1996. The provision would not apply in the case of individuals who are eligible for SSI for December 1993 (or whose eligibility is suspended but not terminated) and whose 3-year deeming period ended prior to January 1994. Thus, individuals who apply for SSI benefits on or after January 1, 1994, and individuals on the SSI rolls (because their sponsors' deemed income and resources do not make them ineligible) whose 3-year deeming period has not ended by January 1, 1994, would come under the 5-year rule.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

VII. INCOME LIMIT FOR RECIPIENTS OF EUC BENEFITS

Present law

Under the permanent Federal-State unemployment insurance program, unemployed individuals who meet eligibility requirements may receive up to 26 weeks of State unemployment benefits without regard to their taxable income. Those individuals who exhaust their regular State benefits, but continue to be unemployed, are eligible to receive additional weeks of benefits under the temporary emergency unemployment compensation (EUC) program, also without regard to their taxable income.

House bill

No provision.

Senate amendment

Benefits under the emergency unemployment compensation program may not be paid to any individual whose taxable income for 1992 exceeds $120,000.

Conference agreement

The conference agreement follows the House bill, i.e., no provision.

VIII. LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS

Present law

The President and the Congress, through the enactment of appropriation legislation, determine the number of full-time equivalent positions that may be employed by each agency of the Government. In February 1993, the President, by Executive Order, mandated that employment levels be reduced by 100,000 full-time equivalent positions over 3 years. In September 1993, Vice President Gore's National Performance Review recommended that the Federal workforce be reduced by 252,000 full-time equivalent positions.

House bill

No provision.

Senate amendment

The President, through the Office of Management and Budget, shall ensure that the total number of full-time equivalent positions in all agencies of the Government shall not exceed 2,095,182 such positions during fiscal year 1994; 2,044,100 positions during fiscal year 1995; 2,003,846 during fiscal year 1996; 1,963,593 during fiscal year 1997; 1,923,339 during fiscal year 1998; and 1,883,086 during fiscal year 1999.

The Office of Management and Budget, after consultation with the Office of Personnel Management, shall continuously monitor all agencies and determine, on the first date of each quarter of each applicable fiscal year, whether the required limitation on full-time equivalent positions has been met, and shall notify the President and the Congress of any determination that such limitation has been exceeded.

If the Office of Management and Budget determines that the applicable limitation on full-time equivalent positions for any fiscal year has been exceeded, no agency may hire any employee for any position until the total number of full-time equivalent positions for all agencies equals or is less than the applicable limitation.

Any of the provisions in the bill may be waived upon a determination by the President of the existence of war or a national security requirement, or the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

Conference agreement

The conference agreement follows the House bill, i.e., no provision.

From the Committee on Ways and Means, for consideration of Senate amendment numbered 2, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,

From the Committee on Post Office and Civil Service, for consideration of Senate amendment numbered 1, and modifications committed to conference:

BILL CLAY,
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Managers on the Part of the House.

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MAX BAUCUS,
BOB PACKWOOD,
Managers on the Part of the Senate.

NO MORE SUMMITS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is another year, it is another trade summit with Japan and China. What will they say this time? More sidebar deals, more assurances, more apologies, more promises? Think about it.

The American worker is tired of their promises, and tired of the summits. We have had more summits than Vesuvius. The American worker wants Congress to enforce the trade laws, and these people that are ripping us off.

It is not summits, Congress, it is enforcement of the laws we pass and brag about to our working constituents.

ODE TO THE DEMOCRATIC CAMPAIGN FINANCE PLAN

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I also am going to be poetic today. I have an ode to the Democratic campaign finance plan.

Rube Goldberg-esque, convoluted
Special interest PAC-polluted
Under-the-table sleight-of-hand
Enactment waits in no-man's land
Until they find a funding source
With taxpayers as the gift horse
Spending limits are a sham
Which contradict Supreme Court's ban
Loopholes you can drive a truck through
While wackos get our tax funds, too.

Let's kill this monster of a plan,
Pass real reform: I know we can.

PENNY-KASICH IS CONGRESS' ONLY OPPORTUNITY TO VOTE ON REAL SPENDING CUTS

(Mr. LAROCCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAROCCO. Mr. Speaker, there is one thing that the good people of the First District of Idaho know. They know that we can cut spending in the Federal budget. They know that we should reduce the deficit. They know that there is waste. And they think we ought to do it now. And you know what, I agree with my constituents.

When I came back from a very tough vote on the budget, I went to work with TIM PENNY and JOHN KASICH to do just that, to reduce the deficit, truly reduce the deficit, to cut spending, and to cut waste out of Government. And I am proud to be a part of that bipartisan team. And I want to tell my colleagues that this is going to be the only chance we have between now and the next cycle of the election to vote for true deficit reductions.

Of the plans we have before us, there is only one that is true deficit reduction, the Penny-Kasich bill, and it is just going to slip through our fingers, and the opportunity to really respond to what Americans want, to cut Government, cut spending, reduce Government, will be gone.

Vote "yes" on Penny-Kasich.

□ 1410

DELAY AND CONQUER

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, the Democratic leadership has employed a new strategy to kill Penny-Kasich, and that is the amendment that would slice $90 billion in Federal spending. It is called delay and conquer.

By delaying a vote on the consideration of this amendment, the Democrat leadership and the President hope to lobby enough in their party to conquer at least one last attempt at deficit reduction. In exchange for the vote on the largest tax increase in history, the President promised to vote on the deficit package. Of course, his rescission package is a joke which will actually cost the taxpayers a billion dollars.

The only real deficit-cutting alternative that has bipartisan support is Penny-Kasich. This plan will cut one penny on the dollar of Federal spending over 5 years. Let me say that again: 1 penny on every $1 of spending over 5 years. In 5 years we will cut $90 billion out of almost $8 trillion in expenditures. If we cannot do that, my friends on the majority side, then quit talking about controlling spending and just talk about raising taxes, because that is the alternative.

IMMIGRATION POLICY

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, we are a nation of immigrants, and I am the daughter of immigrants who came to America seeking peace and prosperity and found both. Immigrants built our cities, settled the West, defined our culture and created a nation that values individual freedom and security above all else. Our strength as a country derives, in part, from our diversity.

But our Nation, States, and communities are burdened with an onslaught of illegal immigration that undercuts our struggling economy and drains vital public resources. It is estimated that 1,000,000 illegal immigrants and their children live in Los Angeles. Governor Pete Wilson estimates that medical, K-12 educational, and law enforcement costs for California's illegal immigrants total nearly $2 billion annually, and that figure is rising. Currently, two-thirds of all the babies born in Los Angeles County public hospitals are born to undocumented immigrants.

My priority in the Congress is to retain and build high-skill, high-wage jobs in the South Bay. I firmly believe that the onslaught of illegal immigration that burdens our community is destructive to our ability to generate those jobs, and the opportunity for all who live in the South Bay—regardless of race or economic circumstance—to fill those jobs.

I believe that to combat the illegal immigration problems that face California and the Nation, we must carry out a three-pronged strategy. We must strengthen our control of our borders, increase enforcement of the laws against employing undocumented workers, and relieve the tremendous burden that illegal immigration imposes on our local, State, and Federal treasuries.

STRENGTHENING BORDER ENFORCEMENT

Our border control problem is more complex than our inability to regulate our shared border with Mexico. Illegal immigrants cross borders into America on the north as well as the south, and arrive by ship and air from all parts of the world at numerous ports and airports.

More than undocumented human beings come to America. In 1990, over 1.5 billion dollars' worth of marijuana and cocaine was seized by the INS, U.S. Customs, and the DEA. Beyond these confiscated quantities, there is no telling how many tons of illegal narcotics escaped detection and made it into the country.

If we are going to enforce the border laws that we have on the books, we must invest in enhanced border enforcement.

That is why I have:

Fought, along with Representatives DUNCAN HUNTER, Republican of California and LYNN SCHENK, Democrat of California, for an extra $60 million to increase the number of border guards to patrol our borders and enforce our customs laws;

Cosponsored legislation with Representative ELTON GALLEGLY, Republican of California, to authorize 2,500 more border agents and to encourage their recruitment from redundant military personnel dislocated due to the downsizing of our Defense budget;

Cosponsored legislation with Representative GALLEGLY to cut off Federal assistance to local governments that refuse to cooperate with the INS in the arrest and deportation of illegal aliens;

Cosponsored legislation with Representative GALLEGLY to upgrade and improve the equipment and training that the INS and the border patrol need to detect and detain illegal immigrants; and

Vowed to use my position on the Armed Services Committee to work with Governor Wilson and Senator BARBARA BOXER to use the California National Guard in any border patrol assignment that would be within the Guard's mission.

ENHANCING WORKPLACE LAWS

Simply enhancing our border patrol is not sufficient. Illegal immigration stems from economic problems. The lure of employment draws undocumented workers to seek employment in our job market. Once employed, these undocumented workers are easy victims for exploitation and often depress wages for all workers. They have an especially negative impact on minorities in the job market who must fight the stigmatization that undocumented workers can bring to every worker of color.

The INS must have the tools and facilities to battle this problem at the workplace. Employers must have the ability to determine which workers are documented so that ignorance cannot be an excuse.

That is why I have:

Cosponsored legislation with Representative GALLEGLY to have the INS issue tamper-proof ID cards to all legal residents eligible to work;

Cosponsored legislation with Representative GALLEGLY to increase the penalties on those who harbor and employ illegal aliens; and

Cosponsored legislation with Representative GALLEGLY to make it a Federal crime to transport illegal immigrants to a job site. The bill authorizes the impoundment of vehicles used for such purposes.

RELIEVING THE FISCAL BURDEN

Our National, State, and city budgets bear a tremendous burden because of our illegal immigration problem. Nowhere is this problem more acute than in California, particularly in Los Angeles.

As of January 1922, the illegal immigrant population in Los Angeles County, nearly 1,000,000 people, is larger than the entire population of Washington, DC. California and Los Angeles County must incur approximately 1.75 billion dollars' worth of costs tending to illegal immigrants' health needs in public hospitals and education needs in public schools. Additionally, the State and county must incur over $300 million processing and incarcerating illegal immigrants in our criminal justice system.

The Federal Government bears responsibility for the illegal immigration problem, and I believe must be liable for the costs.

That is why I have:

Worked with a bipartisan coalition for $487 million in SLIAG funds from the Clinton administration to help California offset the tremendous fiscal burden that immigration has imposed on the State;

Vowed to work with Governor Pete Wilson and the rest of the California delegation on additional Federal assistance to help California offset the burdensome costs that illegal immigration places upon our schools and prisons;

Cosponsored legislation with Representative GALLEGLY to stop the payment of Federal welfare and unemployment benefits to undocumented workers;

Opposed inclusion of illegal aliens in the basic coverage package of any possible health care plan, excluding emergency health services, considered by the Congress; and

Supported the Justice Department's initiative to work with President Salinas of Mexico and other foreign leaders to develop a system so that illegal immigrants who are convicted of felonies in America will serve their sentence in the country where they are a citizen.

Illegal immigration is a problem that both Democrats and Republicans must solve together. In this regard, I salute the very creative work of my California colleagues, including Gov. Pete Wilson, Senators DIANNE FEINSTEIN and BARBARA BOXER and Representatives ELTON GALLEGLY, DUNCAN HUNTER, and LYNN SCHENK.

I especially commend ELTON GALLEGLY, who has developed and put forward many thoughtful proposals before it was popular to do so. California's political leaders have much to contribute to a humane and effective solution to a major human, social, and economic problem affecting our State.

I urge the Congress to act on this important issue when we reconvene in January.

DEL RIO, TX: A GREAT AMERICAN COMMUNITY

(Mr. BONILLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONILLA. Mr. Speaker, I rise today to recognize a great American event occurring at this very moment in Del Rio, TX. It is the first annual Thanksgiving dinner for the entire community.

Right now at the civic center, volunteers are serving food donated by H.E.B. Food Stores to thousands of people less fortunate. This includes the elderly, homebound, and the lonely. Were it not for this event today these people would have had no place to enjoy a meal this Thanksgiving week.

This is happening because of the good hearts, the generosity, and the willingness to take action by the people of Del Rio.

I wish I could be with you today in Del Rio to share this wonderful experience. But since I cannot, I want you to know your spirit is being felt here in Washington today.

God bless you, Del Rio. Once again you are demonstrating why you are a great American community.

A STERN WARNING TO THE EUROPEAN COMMUNITY

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, this weekend Secretary of State Christopher issued a stern warning to the European Community that the United States will not renegotiate the previously agreed-upon agriculture accord, the Blair House accord, under the Uruguay round of the GATT talks which have a December 15 deadline. That was the right message and the appropriate doctrine from which to deliver those comments, because the passage of NAFTA plus the APEC conference in Seattle, I should think, would contribute an important and effective warning to France and the European Community.

The United States will not back off from the Blair House accord and the developing communities of the World want us to hold fast. We will not not permit them to blackmail us to renege on their promises by holding the rest of the world hostage to the antics of French farmers.

Half of the world's economy exists today among the APEC countries. If the European Community, bowing to French concerns, wants to stand in the way of the passage of the most important stimulus for the world economy, the Uruguay round, let the damage to the world's economy fall squarely on their shoulders. The European Community will find itself high and dry when the rest of the world expands their trade and as the American focus on trade and international affairs is pushed by European intransigence even more strongly toward the Asian-Pacific region.

REQUESTING FEDERAL INVESTIGATION OF STATE SENTORIAL ELECTION IN PENNSYLVANIA

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, the silence is deafening. Jesse Jackson, Al Sharpton, and the Democratic National Committee and, yes, even President Bill Clinton all came out to condemn the allegations that Ed Rollins had somehow held down black votes in the New Jersey gubernatorial election.

Let us look at what really happened in the senatorial election in Philadelphia which controlled the State senate in our Commonwealth.

The Philadelphia Inquirer, in a 4-part series, including today, has outlined deliberate attempts to distort Latino and Hispanic votes in the city of Philadelphia that actually stole that election and the control of the State senate.

Where is Jesse Jackson? Where is Al Sharpton? And where is Bill Clinton?

Wrong is wrong, only in this case we have evidence. We have hard proof.

I urge my colleagues to join with me in requesting a Federal investigation of the third senatorial district that stole control of the State senate in the Commonwealth of Pennsylvania this past November.

NOTRE DAME WILL RISE AGAIN

(Mr. KING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KING. Mr. Speaker, with all the events of the last week, NAFTA, the Brady bill, D.C. statehood, allegations of stolen elections, I think it is important we focus on one of the most momentous tragedies of our time, and that was Notre Dame's loss to Boston College yesterday.

As an alumnus of Notre Dame, it pains me to extend congratulations to Congressman BLUTE and Congressman MARKEY for proving that, unfortunately, in this instance God was on the side of Catholic Boston College as opposed to Catholic Notre Dame.

But I wanted to tell them on behalf of my colleagues, Mr. ROEMER, Mr. MAZZOLI, and Mr. MCDADE, that our day will come, and the good Catholics will finally emerge over those of Boston College, and Notre Dame will rise again.

VOTING IRREGULARITIES ALLEGED IN PHILADELPHIA

(Mr. GINGRICH asked and was given permission to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, there has been a lot of talk about stolen votes and voting irregularities in New Jersey, yet we have facts, absolute facts, that there was vote theft in Philadelphia.

Let me point out this morning's Philadelphia Inquirer, on page 1, "Voters say ballots were forged." "'That is not my handwriting,' say some Second District residents," because in Philadelphia the Democratic machine stole a State senate seat which led to control of the State senate by having the absentee ballots stolen.

I call on the Attorney General to pick up the President's commitment to honest elections and to initiate an investigation into voter fraud in Philadelphia and to recognize that the Philadelphia Inquirer, I think this is its fourth story, is documenting name by name vote theft by the Democratic machine designed to keep control of the Pennsylvania State Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today, but no earlier than 4 p.m.

REGULATORY REFORM ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REGULATORY REFORM

SEC. 100. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the "Regulatory Reform Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—REGULATORY REFORM

Sec. 100. Short title; table of sections.

Subtitle A—Amendments Relating to the Federal Deposit Insurance Corporation Improvement Act of 1991

Sec. 101. Audit costs.
Sec. 102. 18-month examination rule for certain small institutions.
Sec. 103. Standards for safety and soundness.
Sec. 104. Clarifying amendment relating to data collection.

Subtitle B—General Regulatory Reform

Sec. 111. State regulation of real estate appraisals.
Sec. 112. Collateralization of public deposits.
Sec. 113. Bank Deposit Financial Assistance Program.
Sec. 114. Coordinated and unified examinations.
Sec. 115. Coordination of Federal and State reporting requirements to reduce duplicative efforts.
Sec. 116. Limiting potential liability on foreign accounts.
Sec. 117. Expedited procedures for forming a bank holding company.
Sec. 118. Flexibility in choosing boards of directors.
Sec. 119. Repeal of obsolete requirements for national banks.
Sec. 120. Limited exemption authority.

Subtitle C—Other Regulatory Reform

Sec. 121. Elimination of duplicative disclosures for home equity loans.

Sec. 122. Alternative dispute resolutions.
Sec. 123. Clarification of RESPA disclosure requirements.
Sec. 124. Exemption of business loans from RESPA requirements.
Sec. 125. Expedited procedures for bank holding companies to seek approval to engage in certain activities.
Sec. 126. Waiver of right of rescission for certain refinancing transactions.
Sec. 127. Simplified disclosure for existing depositors.
Sec. 128. Deposit broker registration.
Sec. 129. Agency ombudsman.
Sec. 130. Alternative rules for disclosures for radio advertising of credit transactions, deposit accounts, and consumer leases.

Subtitle D—Reports, Studies, Streamlined Regulatory Requirements

Sec. 131. Study on capital standards and their impact on the economy.
Sec. 132. Study of the consumer credit system.
Sec. 133. Studies on the impact of the payment of interest on reserves.
Sec. 134. Streamlining of regulatory requirements.
Sec. 135. Call report simplification.
Sec. 136. Administrative consideration of burden with new regulations.
Sec. 137. Elimination of duplicative filings.
Sec. 138. Recourse agreements.
Sec. 139. Antitrust reports in connection with merger transactions.
Sec. 140. Bankers' banks.
Sec. 141. Due process protections relating to attachment of assets.
Sec. 142. Time limit on agency consideration of completed applications.
Sec. 143. Timely completion of CRA review.
Sec. 144. Revisions of standards.
Sec. 145. Feasibility study of data bank.

Subtitle A—Amendments Relating to the Federal Deposit Insurance Corporation Improvement Act of 1991

SEC. 101. AUDIT COSTS.

(a) Holding Company Audit Requirements.—Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2) and inserting the following:

"(2) the institution is described in 1 of the following subparagraphs:

"(A) The institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000.

"(B) The institution has—

"(i) total assets, as of the beginning of such fiscal year, of $5,000,000,000 or more and less than $9,000,000,000; and

"(ii) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(C) The institution—

"(i) has—

"(I) total assets, as of the beginning of such fiscal year, of $9,000,000,000 or more; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency; and

"(ii) in the case of an institution which has a CAMEL composite rating of 2, is in compliance with the requirements of subsection (b) (without regard to any exemption such institution may otherwise have under this subsection from the requirements of subsection (b)).

Notwithstanding paragraph (2), the audit committee of the holding company of an insured depository institution that the Corporation determines to be a large institution shall not include any large customers of the institution.".

(b) Written Notice of Requirement for Audit of Quarterly Reports.—Section 36(g)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(2)) is amended by adding at the end the following new subparagraph:

"(D) Notice to institution.—The Corporation shall promptly notify an insured depository institution, in writing, of a determination pursuant to subparagraph (A) to require a review of such institution's quarterly financial reports.".

SEC. 102. 18-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

(a) In General.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

(b) Guidelines Required.—

(1) In general.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(6) Standards for determining adequacy of state examinations.—The Financial Institutions Examination Council shall prescribe guidelines establishing standards for determining whether a State examination carries out the purposes of this subsection for purposes of paragraph (3).".

(2) Effective date of initial guidelines.—The initial guidelines required to be issued pursuant to the amendment made by subsection (a) shall be issued and shall take effect before the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 103. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) Elimination of Stock Valuation Provision.—Section 39(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(b)(1)) is amended—

(1) in subparagraph (A), by adding "and" at the end; and

(2) by striking subparagraph (C).

(b) Holding Companies Excluded From Scope of Standards.—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1) is amended—

(1) in subsections (a) and (b), by striking "and depository institution holding companies";

(2) in paragraphs (1)(A) and (2) of subsection (e), by striking "or depository institution holding company"; and

(3) in subsection (e), by striking "or company" each place such term appears.

(c) Establishing Standards in Guidelines.—

(1) In general.—Section 39(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(d)(1)) is amended—

(A) in the 1st sentence, by inserting "or guideline" before the period; and

(B) in the 2d sentence, by inserting "or guidelines" after "Such regulations".

(2) Clerical amendment.—The heading for section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(d)) is amended by striking "by Regulation".

(d) Effective Date.—The amendments made by subsection (a) to section 39 of the Federal Deposit Insurance Act shall take effect as if such amendments had been included in such section as of the effective date of the section.

SEC. 104. CLARIFYING AMENDMENT RELATING TO DATA COLLECTION.

Section 7(a)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(9)) is amended by adding at the end the following new sentence: "In prescribing reporting and other requirements for the collection of actual and accurate information pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution.".

Subtitle B—General Regulatory Reform

SEC. 111. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) Reciprocity.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize an appraiser who—

"(1) is licensed or certified in 1 State; and

"(2) is in good standing with the State appraiser certifying or licensing agency in such State,

to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(B) by striking "Practice.—A State" and inserting "Practice.—

"(1) In general.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) Fees for temporary practice.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 112. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) by striking "Corporation.—No agreement" and inserting "Corporation.—

"(1) In general.—No agreement"; and

(3) by adding at the end the following new paragraph:

"(2) Public deposits.—An agreement to provide for the lawful collateralization of—

"(A) deposits of a Federal, State, or local governmental entity or any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345 of title 11, United States Code; or

"(C) extensions of credit from any Federal reserve bank or Federal home loan bank,

shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with changes in the collateral made in accordance with such agreement.".

SEC. 113. BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Effective December 19, 1993, section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.—Notwithstanding paragraph (1), funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy shall be separately insured in an amount not to exceed $100,000 for each insured depository institution depositing such funds.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(C)) is amended by striking "section 7(i)(1)" and inserting "paragraph (1) or (2) of section 7(i) or any funds described in section 7(i)(3)".

SEC. 114. COORDINATED AND UNIFIED EXAMINATIONS.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by inserting after paragraph (6) (as added by section 102(b) of this Act) the following new paragraphs:

"(7) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions, each Federal banking agency shall, to the extent practicable and consistent with safety and soundness principles and the public interest—

"(A) coordinate examinations to be conducted by that agency at an insured depository institution and any affiliate of such institution;

"(B) coordinate with the other Federal banking agencies in the conduct of such examinations;

"(C) work to coordinate the conduct of all examinations made pursuant to this subsection with the appropriate State bank supervisor; and

"(D) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor.

"(8) SAFETY AND SOUNDNESS EXAMS.—Notwithstanding any provision of paragraph (7) or any system established pursuant to such paragraph, any appropriate Federal banking agency may conduct a separate examination of an insured depository institution at any time for safety and soundness purposes.".

SEC. 115. COORDINATION OF FEDERAL AND STATE REPORTING REQUIREMENTS TO REDUCE DUPLICATIVE EFFORTS.

(a) STATE ACCESS TO FEDERAL AGENCY REPORTS.—The 1st sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "and, with respect to any State depository institution, any appropriate State bank supervisor for such institution" after "The Corporation".

(b) STATE COORDINATION WITH FEDERAL REPORTING REQUIREMENTS.—The Federal banking agencies and State bank supervisors shall, to the greatest extent practicable—

(1) coordinate the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions and the type and amount of information required to be included in such reports; and

(2) use copies of reports of condition and other reports submitted by such institutions to any such agency or supervisor.

SEC. 116. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"(a) IN GENERAL.—A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances.

"(b) REGULATIONS.—The Board may prescribe such regulations as the Board may determine to be necessary to carry out this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would have been payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action (to which such section would otherwise apply) which arises from events or circumstances that occurred before the date of enactment of this Act.

SEC. 117. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

The 2d sentence of section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking "or (B)" and inserting "(B)"; and

(2) by inserting before the period the following: "; or (C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition—

"(I) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; and

"(II) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act);

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization;

"(iii) the company provides 30 days prior notice to the Board and the Board does not object to such transaction during such 30-day period; and

"(iv) the holding company will not acquire control of any additional bank as a result of the reorganization.".

SEC. 118. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

SEC. 119. REPEAL OF OBSOLETE REQUIREMENTS FOR NATIONAL BANKS.

(a) REPEAL OF PROVISIONS IN THE REVISED STATUTES.—The following sections of the Revised Statutes are hereby repealed:

(1) Section 5170 (12 U.S.C. 28).
(2) Section 5203 (12 U.S.C. 87).
(3) Section 5206 (12 U.S.C. 88).
(4) Section 5196 (12 U.S.C. 89).
(5) Section 5158 (12 U.S.C. 102).
(6) Section 5159 (12 U.S.C. 101a).
(7) Section 5172 (12 U.S.C. 104).
(8) Section 5173 (12 U.S.C. 107).
(9) Section 5174 (12 U.S.C. 108).
(10) Section 5182 (12 U.S.C. 109).
(11) Section 5183 (12 U.S.C. 110).
(12) Section 5195 (12 U.S.C. 123).
(13) Section 5184 (12 U.S.C. 124).
(14) Section 5226 (12 U.S.C. 131).
(15) Section 5227 (12 U.S.C. 132).
(16) Section 5228 (12 U.S.C. 133).
(17) Section 5229 (12 U.S.C. 134).
(18) Section 5230 (12 U.S.C. 137).
(19) Section 5231 (12 U.S.C. 138).
(20) Section 5232 (12 U.S.C. 135).
(21) Section 5233 (12 U.S.C. 136).
(22) Section 5185 (12 U.S.C. 151).
(23) Section 5186 (12 U.S.C. 152).
(24) Section 5160 (12 U.S.C. 168).
(25) Section 5161 (12 U.S.C. 169).
(26) Section 5162 (12 U.S.C. 170).
(27) Section 5163 (12 U.S.C. 171).
(28) Section 5164 (12 U.S.C. 172).
(29) Section 5165 (12 U.S.C. 173).
(30) Section 5166 (12 U.S.C. 174).
(31) Section 5167 (12 U.S.C. 175).
(32) Section 5222 (12 U.S.C. 183).
(33) Section 5223 (12 U.S.C. 184).
(34) Section 5224 (12 U.S.C. 185).
(35) Section 5225 (12 U.S.C. 186).
(36) Section 5237 (12 U.S.C. 195).

(b) REPEAL OF OTHER OBSOLETE PROVISIONS IN BANKING LAWS.—The following provisions of law are hereby repealed:

(1) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c).

(2) Section 12 of the Act entitled "An Act To define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes." and approved March 14, 1900 (12 U.S.C. 101).

(3) Section 3 of the Act entitled "An Act To amend the laws relating to the denominations of circulating notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(4) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(A) Section 5 (12 U.S.C. 105).

(B) Section 3 (12 U.S.C. 121).

(C) Section 8 (12 U.S.C. 126).

(D) Section 4 (12 U.S.C. 176).

(5) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(A) Section 8 (12 U.S.C. 177).

(B) Section 9 (12 U.S.C. 178).

(6) The Act entitled "An Act to amend the national bank act in providing for the redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125).

(7) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153).

(8) The 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418) is amended by striking "the Comptroller of the Currency shall under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall".

(9) The 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419) is amended to read as follows:

"When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.".

(10) The 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420) is amended—

(A) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System".

(11) The 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421) is amended to read as follows:

"The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.".

(c) AMENDMENTS TO OTHER LAWS.—

(1) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve bank notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(A) in the 1st section (12 U.S.C. 121a)—

(i) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(ii) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(B) in section 2 (12 U.S.C. 122a)—

(i) by striking "National-bank notes and"; and

(ii) by striking "national-bank notes and".

(2) The 1st section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875, is amended in the 1st paragraph which appears under the heading "NATIONAL CURRENCY" by striking "Secretary of the Treasury: *Provided*, That" and all that follows through the period and inserting "Secretary of the Treasury.".

(3) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "That the cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(4) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(5) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association".

(6) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the 1st sentence.

(d) AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.—

(1) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(A) in the 2d sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(B) by striking the 3d sentence.

(2) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(A) in the 1st sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b),";

(B) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(C) by striking subsection (c).

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5156 the following new item:

"5156A. Mergers, consolidations, and other acquisitions authorized."; and

(B) by striking the items relating to sections 5141 and 5151.

(2) The table of sections for chapter 2 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5158.
(B) Section 5159.
(C) Section 5160.
(D) Section 5161.
(E) Section 5162.
(F) Section 5163.
(G) Section 5164.
(H) Section 5165.
(I) Section 5166.
(J) Section 5167.
(K) Section 5170.
(L) Section 5171.
(M) Section 5172.
(N) Section 5173.
(O) Section 5174.
(P) Section 5175.
(Q) Section 5176.
(R) Section 5177.
(S) Section 5178.
(T) Section 5179.
(U) Section 5180.
(V) Section 5181.
(W) Section 5182.
(X) Section 5183.
(Y) Section 5184.
(Z) Section 5185.
(AA) Section 5186.
(BB) Section 5187.
(CC) Section 5188.
(DD) Section 5189.

(3) The table of sections for chapter 3 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5193.
(B) Section 5194.
(C) Section 5195.
(D) Section 5196.
(E) Section 5202.
(F) Section 5203.
(G) Section 5206.
(H) Section 5209.
(I) Section 5212.

(3) The table of sections for chapter 4 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5239 the following new item:

"5239A. Regulatory authority."; and

(B) by striking the items relating to the following sections:

(i) Section 5222.
(ii) Section 5223.
(iii) Section 5224.
(iv) Section 5225.
(v) Section 5226.
(vi) Section 5227.
(vii) Section 5228.
(viii) Section 5229.
(ix) Section 5230.
(x) Section 5231.
(xi) Section 5232.
(xii) Section 5233.
(xiii) Section 5237.
(xiv) Section 5243.

SEC. 120. LIMITED EXEMPTION AUTHORITY.

Section 22(h)(5)(C) of the Federal Reserve Act (12 U.S.C. 375b(5)(C)) is amended by striking "subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board" and inserting "subparagraph (A) for—

"(i) member banks with less than $100,000,000 in deposits; and

"(ii) member banks which have—

"(I) total deposits of $100,000,000 or more and less than $250,000,000; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such institution by the Federal Deposit Insurance Corporation or the appropriate Federal banking agency,

if the Board".

Subtitle C—Other Regulatory Reform

SEC. 121. ELIMINATION OF DUPLICATIVE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4(a) of the Real Estate Settlement Procedures Act (12 U.S.C. 2603(a)) is amended by adding at the end the following: "In the case of a federally related mortgage loan extended under an open end credit plan (as defined in section 103(i) of the Truth in Lending Act), disclosures made under section 127A(a) of the Truth in Lending Act may be used in lieu of the disclosures required under this section if—

"(1) the disclosures made pursuant to such section 127A(a) contain all of the information that is required under this section; and

"(2) the information is disclosed in a manner that is no less conspicuous than is required under this section.".

SEC. 122. ALTERNATIVE DISPUTE RESOLUTIONS.

(a) IN GENERAL.—Each Federal banking agency shall develop and implement a program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the "alternative dispute resolution program") if the parties to the dispute, including the agency, agree to such proceeding.

(b) STANDARDS.—Alternative dispute resolution programs shall—

(1) be fair to all interested parties to a dispute;

(2) resolve disputes expeditiously; and

(3) be less costly than traditional means of dispute resolution, including litigation.

(c) IMPLEMENTATION OF PROGRAM.—Each Federal banking agency shall—

(1) within 18 months of the date of the enactment of this Act, establish a pilot alternative dispute resolution program which is consistent with the requirements of the subchapter IV of chapter 5 of title 5, United States Code;

(2) within 24 months of such date, make a written evaluation of the pilot program on the basis of subsection (b); and

(3) within 30 months of such date, implement an alternative dispute resolution program throughout the agency, taking into account the results of the evaluation made pursuant to paragraph (2).

(d) INDEPENDENT EVALUATION.—Before the end of the 30-month period beginning on the date of the enactment of this Act, the Administrative Conference of the United States shall submit to the Congress a report containing—

(1) an evaluation of the pilot programs established under subsection (c)(1);

(2) the extent to which the pilot programs meet the standards established under subsection (b);

(3) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and

(4) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies.

(e) COORDINATION WITH EXISTING AGENCY ADR PROGRAMS.—

(1) EVALUATION REQUIRED.—Any Federal banking agency which, as of the date of the enactment of this Act, maintains an alternative dispute resolution program under any other provision of law shall include such program in the evaluation conducted under subsection (c)(2).

(2) MULTIPLE ADR PROGRAMS.—No provision of this section shall be construed as precluding any Federal banking agency from establishing more than 1 alternative means of dispute resolution.

(f) DEFINITIONS.—For purposes of this section—

(1) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—The term "alternative means of dispute resolution" has the meaning given to such term in section 571 of title 5, United States Code.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency"—

(A) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration.

(3) ISSUES IN CONTROVERSY.—The term "issues in controversy" means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver;

(B) any final action taken by an agency in the agency's capacity as conservator or receiver for an insured depository institution or insured credit union; and

(C) any other issue for which the appropriate Federal banking agency determines that alternative means of dispute resolution would be appropriate.

SEC. 123. CLARIFICATION OF RESPA DISCLOSURE REQUIREMENTS.

Section 6(a)(1)(B) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)(1)(B)) is amended—

(1) by striking "(B) for each of the most recent" and inserting "(B) at the choice of the person making a federally related mortgage loan—

"(i) for each of the most recent";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the left margin of such subclauses (as so redesignated) 2 ems to the right;

(3) by striking "and" at the end of subclause (II) (as so redesignated by paragraph (2) of this section) and inserting "or"; and

(4) by inserting after clause (i) (as so designated by paragraph (1) of this section) the following new clause:

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

SEC. 124. EXEMPTION OF BUSINESS LOANS FROM RESPA REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This Act shall not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 125. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN CERTAIN ACTIVITIES.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(j) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No bank holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in activities described in subsection (c)(8) without providing the Board with written notice of the proposed transaction or activity at least 60 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 60-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 60-day period referred to in clause (i) for an additional 30 days.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for no notice under this paragraph or for a shorter notice period with respect to particular activities or transactions.

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire cr retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) that has not been previously approved by order or regulation, the Board may extend the notice period under this subsection for an additional 90 days.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board may consider the following criteria:

"(i) The managerial resources of the companies involved.

"(ii) The adequacy of the companies financial resources, including capital, giving consideration to the financial resources and capital of others engaged in similar activities.

"(iii) Any material adverse effect on the safety and soundness or financial condition of any insured depository institution affiliate.

"(iv) Whether, performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) REQUIREMENTS FOR DISAPPROVAL.—The Board shall not approve any proposed transaction under this subsection if the Board determines that any insured depository institution subsidiary of the bank holding company is engaging in any unsafe and unsound practice or is in an unsafe and unsound condition.

"(3) PUBLIC NOTICE RELATING TO NEW ACTIVITIES.—

"(A) PUBLICATION AND OPPORTUNITY FOR COMMENT.—The Board shall—

"(i) publish in the Federal Register a notice of the receipt by the Board of a notice under paragraph (1) involving insurance or any other nonbanking activity which has not previously been determined by the Board (by regulation or order) to be closely related to banking as to be a proper incident thereto; and

"(ii) provide a reasonable period for public comment.

"(B) NOTICE OF APPROVAL BEFORE COMMENCEMENT OF ACTIVITY.—The Board shall issue an order with respect to any such notice before the commencement of the proposed insurance activity or the other new activity.".

SEC. 126. WAIVER OF RIGHT OF RESCISSION FOR CERTAIN REFINANCING TRANSACTIONS.

The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, shall, within 6 months of the date of the enactment of this Act, submit recommendations to the Congress regarding whether a waiver or modification, at the option of a consumer, of the right of rescission under section 125 of the Truth in Lending Act with respect to transactions which constitute a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by a different creditor secured by an interest in the same property would benefit consumers more than existing law.

SEC. 127. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.—

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail within 90 days after June 19, 1994.

"(II) SECOND NOTICE.—Make a 2d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a 3d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.".

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 128. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized" after "includes any insured depository institution";

(2) by inserting "such" after "any employee of any"; and

(3) by striking "having the same type of charter".

SEC. 129. AGENCY OMBUDSMAN.

(a) ESTABLISHMENT REQUIRED.—Not later than 180-days after the date of the enactment of this Act, each Federal banking agency and the National Credit Union Administration shall appoint an ombudsman.

(b) DUTIES OF OMBUDSMAN.—The ombudsman for any agency shall—

(1) act as a liaison between the agency and any party with respect to the accuracy, consistency, or quality of any examination or regulatory activity of the agency that results in a material supervisory or agency determination rendered by the agency, or may result in an enforcement action by the agency, with respect to such party;

(2) act as a liaison between the agency and any party with respect to any problem such party may have in dealing with the agency; and

(3) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(c) DEFINITIONS.—For purposes of this section—

(1) AGENCY.—The term "agency" means a Federal banking agency or the National Credit Union Administration.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning given to such term in section 3(z) of the Federal Deposit Insurance Act.

(3) MATERIAL SUPERVISORY DETERMINATION.—The term "material supervisory determination"—

(A) means a supervisory determination relating to an insured depository institution that the Federal banking agency has determined to be material under guidelines which the agency shall issue; and

(B) does not include a determination by a Federal banking agency to appoint a conservator or receiver for an insured depository institution or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act.

SEC. 130. ALTERNATIVE RULES FOR DISCLOSURES FOR RADIO ADVERTISING OF CREDIT TRANSACTIONS, DEPOSIT ACCOUNTS, AND CONSUMER LEASES.

(a) OPEN END CREDIT PLANS.—Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended—

(1) by striking "No advertisement" and inserting "(a) IN GENERAL.—No advertisement"; and

(2) by adding at the end the following new subsections:

"(b) RADIO ADVERTISEMENTS.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (a) at the option of a creditor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, the extension of consumer credit under an open end credit plan shall be deemed to meet the requirements of subsection (a) if the advertisement, clearly and conspicuously—

"(1) states any periodic rate that may be applied under the plan, expressed as an annual percentage rate;

"(2) states that a variable periodic rate applies under the plan, if such a rate applies; and

"(3) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain the information required under subsection (a) in accordance with subsection (c); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (a); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.

"(c) ESTABLISHMENT OF TOLL-FREE TELEPHONE NUMBER.—

"(1) IN GENERAL.—In the case of an advertisement described in subsection (b) or section 144(e) or 147(b) which includes a referral to a toll-free telephone number in accordance with such subsection or section, a creditor that offers the credit which such advertisement aids, supports, or assists shall—

"(A) establish the telephone number by not later than the date on which any advertisement is broadcast which includes a referral to the number; and

"(B) maintain the telephone number at least until the end of the 7-day period beginning on the date of any such broadcast.

"(2) AVAILABILITY OF INFORMATION.—

"(A) IN GENERAL.—The creditor referred to in paragraph (1) shall provide the information required under subsection (a) with respect to the open end credit plan for which the toll-free telephone line is established to any person who calls such number in response to an advertisement by radio broadcast.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A) may be provided orally or by offering to mail a written copy of such information to such person.".

(b) CREDIT OTHER THAN UNDER OPEN END CREDIT PLANS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended—

(1) in subsection (a) by inserting "APPLICATION GENERALLY.—" before "Except as provided";

(2) in subsection (b) by inserting "LIMITATION ON APPLICATION.—" before "The provisions";

(3) in subsection (c) by inserting "DISCLOSURES REGARDING FINANCE CHARGES.—" before "If any";

(4) in subsection (d) by inserting "OTHER REQUIRED DISCLOSURES.—" before "If any advertisement"; and

(5) by adding at the end the following new subsection:

"(e) RADIO ADVERTISEMENTS.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (d) at the option of the creditor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer credit sale, loan, or other extension of credit subject to this title, other than an open end consumer credit plan, shall be deemed to meet the requirements of subsection (d) if the advertisement, clearly and conspicuously—

"(1) states the rate of the finance charge, expressed as an annual percentage rate;

"(2) states that the rate of finance charge may be increased after the date on which credit is extended, if such an increase is authorized under the terms of the extension of credit to which the advertisement relates; and

"(3) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain, in accordance with section 143(c), the information required under subsection (d); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (d); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.".

(c) Credit Plans Secured by Consumer's Principal Dwelling.—Section 147 of the Truth in Lending Act (15 U.S.C. 1665b) is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Radio Advertisements.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (a) at the option of a creditor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, the extension of consumer credit under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling shall be deemed to meet the requirements of subsection (a) if the advertisement, clearly and conspicuously—

"(1) contains the information described in paragraphs (2) and (3) of subsection (a); and

"(2) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain the information required under subsection (a) in accordance with section 143(c); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (a); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.".

(d) Deposits Subject to Truth in Savings.—Section 263(b) of the Truth in Savings Act (12 U.S.C. 4302(b)) is amended—

(1) by striking "Exception.—The Board may—" and inserting "Exception.—

"(1) In general.—The Board may"; and

(2) by adding at the end the following new paragraph:

"(2) Radio advertisements.—Paragraphs (4), (5), and (6) of subsection (a) shall not apply with respect to an advertisement, announcement, or solicitation (which is otherwise subject to such subsection) by radio broadcast.".

(e) Consumer Leases.—Section 184 of the Truth in Leasing Act is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsections:

"(b) Radio Advertisements.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (a) at the option of a lessor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to meet the requirements of subsection (a) if the advertisement, clearly and conspicuously—

"(1) states the information described in paragraphs (1) and (2) of subsection (a);

"(2) states the total amount of all payments required under the lease; and

"(3) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain the information required under subsection (a) in accordance with subsection (c); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (a); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.

"(c) Establishment of Toll-Free Telephone Number.—

"(1) In general.—In the case of an advertisement described in subsection (b) which includes a referral to a toll-free telephone number in accordance with such subsection, a lessor who offers the consumer lease which such advertisement aids, supports, or assists shall—

"(A) establish the telephone number by not later than the date on which an advertisement is broadcast which includes a referral to the number; and

"(B) maintain the telephone number at least until the end of the 7-day period beginning on the date of any such broadcast.

"(2) Availability of information.—

"(A) In general.—The lessor referred to in paragraph (1) shall provide the information required under subsection (a) with respect to the consumer lease for which the toll-free telephone line is established to any person who calls such number in response to an advertisement by radio broadcast.

"(B) Form of information.—The information required to be provided under subparagraph (A) may be provided orally or by offering to mail a written copy of such information to such person.".

Subtitle D—Reports, Studies, Streamlined Regulatory Requirements

SEC. 131. STUDY ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) In General.—The Secretary of the Treasury, in consultation with the Federal banking agencies, shall conduct a study of the effect that the implementation of risk-based capital standards, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions;

(2) the availability of credit, particularly to individuals and small businesses; and

(3) economic growth.

(b) Report.—

(1) In general.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) Recommendations.—The report shall contain any recommendations with respect to capital standards that the Secretary of the Treasury may determine to be appropriate.

(c) Definitions.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

SEC. 132. STUDY OF THE CONSUMER CREDIT SYSTEM.

(a) In General.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, the Administrator of the Small Business Administration, the Secretary of Housing and Urban Development, and the other Federal banking agencies, shall conduct a study of the manner in which and the extent to which credit is made available for consumers and small businesses in order to identify procedures which have the effect of—

(1) reducing the amount of credit available for such purposes or the number of persons eligible for such credit; and

(2) increasing the level of consumer inconvenience, cost, and time delays in connection with the extension of consumer and small business credit without any corresponding benefit with respect to the protection of consumers or small businesses or the safety and soundness of insured depository institutions.

(b) Report.—

(1) In general.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) Recommendations.—The report shall contain any recommendations for administrative action that the Secretary of the Treasury may determine to be appropriate.

(c) Definitions.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

SEC. 133. STUDIES ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) Federal Reserve Study.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation and the National Credit Union Administration, shall conduct a study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability

of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) Budgetary Impact Study.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall each conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

(c) Insured Depository Institution Defined.—For purposes of this section, the term "insured depository institution"—

(1) has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act; and

(2) includes an insured credit union (as defined in section 101 of the Federal Credit Union Act).

SEC. 134. STREAMLINING OF REGULATORY REQUIREMENTS.

(a) Review of Regulations; Regulatory Uniformity.—During the 2-year period beginning on the date of the enactment of this Act, each Federal banking agency shall, consistent with principles of safety and soundness and the public interest—

(1) conduct a review of the regulations and written policies of that agency to—

(A) streamline those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act, consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) review what information is collected under the fair housing data system, from which institutions the information is collected, how the information collected is used, and how that information compares with information collected under the Home Mortgage Disclosure Act of 1975.

(b) Review of Disclosures.—The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, shall—

(1) review the regulations and written policies of the Board with respect to disclosures pursuant to the Truth in Lending Act with regard to variable-rate mortgages in order to simplify the disclosures and make the disclosures more meaningful for consumers; and

(2) implement any regulatory changes, if appropriate, consistent with applicable law.

(c) Report to Congress.—The Federal banking agencies shall submit a joint report to the Congress annually for 3 years following the date of the enactment of this Act detailing the progress of the agencies in carrying out the requirements of subsection (a).

SEC. 135. CALL REPORT SIMPLIFICATION.

(a) Modernization of Call Report Filing and Disclosure System.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of the enactment of this Act, submit a report to the Congress containing recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) Uniform Reports and Simplification of Instructions.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly to—

(1) adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a);

(2) simplify instructions accompanying such reports and statements; and

(3) provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) Review of Call Report Schedule.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 136. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

(a) In General.—In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions; and

(2) the benefits of such regulations.

(b) Adequate Transition Period for New Regulations.—

(1) In general.—New regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the 1st day of the calendar quarter which begins at or after the end of the 90-day period beginning on the date the regulations are published in final form unless—

(A) the agency makes a finding that—

(i) an emergency exists which requires the regulation to take effect before the 1st day of such calendar quarter; or

(ii) a delay would have a substantial impact upon the safety and soundness of insured depository institutions;

(B) the regulation is issued by the Board of Governors of the Federal Reserve System in connection with the implementation of monetary policy; or

(C) the regulation is required to take effect on a date other than the date determined under this paragraph pursuant to any other Act of Congress.

(2) Early compliance.—Any person who is subject to a regulation described in paragraph (1) may comply with the regulation before the effective date of the regulation.

SEC. 137. ELIMINATION OF DUPLICATIVE FILINGS.

The Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act) shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 138. RECOURSE AGREEMENTS.

The Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act) shall jointly—

(1) review the manner in which loans sold with recourse by insured depository institutions are treated under capital standards and other accounting principles applicable with respect to such insured depository institutions; and

(2) revise any such standard or principle in accordance with the findings and conclusions of the agencies pursuant to such review before the end of the 1-year period beginning on the date of the enactment of this Act, except the revision may not be less stringent than generally accepted accounting principles.

SEC. 139. ANTITRUST REPORTS IN CONNECTION WITH MERGER TRANSACTIONS.

(a) Banking Agency Reports.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, a banking agency shall not be required to file a report requested by the responsible agency under this paragraph if the other banking agency advises the responsible agency by the applicable date under the preceding sentence that the report is not necessary because none of the effects described in paragraph (5) is likely to occur as a result of the transaction.".

(b) Limitation on Delay of Consummation of Transaction.—The last sentence of section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end the following :", unless the agency is advised by the other 2 banking agencies before such date that the reports required under paragraph (4) on the anticompetitive effects of the transaction are not necessary because none of the effects described in paragraph (5) is likely to occur as a result of the transaction".

SEC. 140. BANKERS' BANKS.

(a) Ownership by Depository Institution Holding Companies.—

(1) Provision relating to national bank investments.—The 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by inserting "or by depository institution holding companies (as defined in section 3(w) of the Federal Deposit Insurance Act)" after "is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions".

(2) Provision relating to national bank charters.—Section 5169(b)(1) of the Revised Statutes of the United States (12 U.S.C. 27(b)(1)) is amended by inserting "or by depository institution holding companies (as defined in section 3(w) of the Federal Deposit Insurance Act)" after "is owned exclusively

(except to the extent directors' qualifying shares are required by law) by other depository institutions''.

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase, for the association's own account, shares of stock of a bankers' bank or holding company described in the 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States or section 5169(b) of such Revised Statutes on the same terms and conditions a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the second sentence.

(2) DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT AMENDMENT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" the 1st place such term appears and all that follows through "the surplus of such other bank; or" and inserting "which is a bankers' bank described in the 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States; or".

(d) SERVICES.—

(1) PROVISION RELATING TO NATIONAL BANK INVESTMENTS.—The 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking "engaged exclusively in providing services for other depository institutions and their officers, directors and employees" and inserting "engaged exclusively in providing services to or for other depository institutions and their officers, directors and employees and providing correspondent banking services at the request of other depository institutions (any such bank or company is commonly referred to as a 'bankers' bank')".

(2) PROVISION RELATING TO NATIONAL BANK CHARTERS.—Section 5169(b)(1) of the Revised Statutes of the United States (12 U.S.C. 27(b)(1)) is amended by striking "engage exclusively in providing services for other depository institutions and their officers, directors and employees" and inserting "engage exclusively in providing services to or for other depository institutions and their officers, directors and employees and providing correspondent banking services at the request of other depository institutions (any such association is commonly referred to as a 'bankers' bank')".

SEC. 141. DUE PROCESS PROTECTIONS RELATING TO ATTACHMENT OF ASSETS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking subsection (i)(4)(B) and inserting the following new subparagraph:

"(B) STANDARD.—

"(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (A) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought under subparagraph (A) may be requested under the laws of such State."; and

(2) in subsection (b), by adding the following new paragraph:

"(9) STANDARD FOR CERTAIN ORDERS.—No authority under this subsection or subsection (c) to prohibit any institution-affiliated party from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property may be exercised unless the agency meets the standards of Rule 65 of the Federal Rules of Civil Procedure without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.".

SEC. 142. TIME LIMIT ON AGENCY CONSIDERATION OF COMPLETED APPLICATIONS.

(a) IN GENERAL.—Each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall take final action on any application to the agency before the end of the 1-year period beginning on the date a completed application is received by the agency.

(b) WAIVER BY APPLICANT AUTHORIZED.—Any person submitting an application to a Federal banking agency may waive the applicability of subsection (a) with respect to such application at any time.

SEC. 143. TIMELY COMPLETION OF CRA REVIEW.

The comprehensive regulatory review of the Community Reinvestment Act of 1977 that, as of the date of the enactment of this Act, is being conducted by the Federal banking agencies, shall be completed before the end of the 6-month period beginning on such date of enactment.

SEC. 144. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) ensure that such revisions take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 145. FEASIBILITY STUDY OF DATA BANK.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Financial Institutions Examination Council shall study the feasibility, including the costs and benefits to insured depository institutions, of establishing and maintaining a data bank for reports submitted by any depository institution to a Federal banking agency and report the results of such study to the Congress.

(b) ADDITIONAL FACTORS.—The study under subsection (a) shall consider the feasibility of—

(1) permitting depository institutions to file reports directly with the data bank; and

(2) permitting Federal banking agencies, State bank supervisors, and the public to obtain access to any appropriate report on file with the data bank which such agency or supervisor or the public is otherwise authorized to receive.

TITLE II—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Community Development Banking and Financial Institutions Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE II—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

Sec. 201. Short title; table of contents.
Sec. 202. Findings and purpose.
Sec. 203. Definitions.
Sec. 204. Establishment of National Fund for Community Development Banking.
Sec. 205. Applications for assistance.
Sec. 206. Community development partnerships.
Sec. 207. Selection of institutions.
Sec. 208. Assistance provided by the Fund.
Sec. 209. Capitalization assistance to enhance liquidity.
Sec. 210. Encouragement of private entities.
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Sec. 212. Training assistance for organizing and operating community development financial institutions.
Sec. 213. Recordkeeping, reports, and audits.
Sec. 214. Investment of receipts and proceeds.
Sec. 215. Enforcement provisions.
Sec. 216. Authorization of appropriations.
Sec. 217. Conforming amendment.
Sec. 218. Appointment of Community Enterprise Assessment Credit Board.
Sec. 219. Community development credit union assistance.
Sec. 220. Insured community development financial institution access to Federal home loan bank advances.
Sec. 221. Community investment program incentives.
Sec. 222. 30 percent lending cap increased.

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban and rural communities and Indian reservations face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to capital and credit for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community;

(3) in many urban and rural communities, low- and moderate-income neighborhoods, and Indian reservations, there is a shortage of capital and credit for business and affordable housing;

(4) access to capital and credit is essential to unleash the untapped entrepreneurial energy of America's poorest communities and to empower individuals and communities to become self-sufficient; and

(5) community development financial institutions have proven their ability to identify and respond to community needs for capital, credit, and development services in the absence of, or as a complement to, services provided by other lenders.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To create a Community Development Banking and Financial Institutions Fund that will support a program for making investments in and providing assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

(2) To enable the Community Development Banking and Financial Institutions Fund to—

(A) provide financial and technical assistance, including training, to community development financial institutions;

(B) serve as a national information clearinghouse; and

(C) be an institutional voice for community development.

(3) To provide for the establishment of, or qualification of existing financial institutions as, community development financial institutions that, with the support of the Community Development Banking and Financial Institutions Fund, will provide capital, credit, and development services to targeted investment areas or populations, and will promote economic revitalization and community development.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) Affiliate.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.

(2) Appropriate Federal banking agency.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(3) Community development financial institution.—

(A) In general.—The term "community development financial institution" means any bank, savings association, depository institution holding company (subject to section 205(d)), credit union, microenterprise loan fund, community development corporation, community development revolving loan fund, minority-owned or other insured depository institution, or nondepository organization that—

(i) has as the institution's primary mission the promotion of community development through the provision of capital, credit, or development services, directly, through an affiliate, or through a community development partner, in the institution's investment areas or to targeted populations; and

(ii) encourages, through representation on the institution's governing board or otherwise, the input of residents in the investment areas or the targeted populations.

(B) Government agencies excluded.—The term "community development financial institution" does not include any agency or instrumentality of the United States or any agency or instrumentality of any State or of any political subdivision of any State.

(4) Community development partner.—The term "community development partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(5) Community development partnership.—The term "community development partnership" means an agreement between a community development financial institution and a community development partner to provide development services and loans or equity investments to an investment area or targeted population.

(6) Depository institution holding company.—The term "depository institution holding company" has the meaning given to such term in section 3(w) of the Federal Deposit Insurance Act.

(7) Development services.—The term "development services" means activities conducted by a community development financial institution or community development partner that promote community development by developing, supporting, and strengthening the lending, investment, and capacity-building activities undertaken by institutions, including—

(A) business planning services;

(B) financial and credit counseling services;

(C) marketing and management assistance; and

(D) administrative activities associated with lending or investment.

(8) Indian reservation.—The term "Indian reservation" includes public domain Indian allotments, former Indian reservations in the State of Oklahoma, land held by incorporated Native groups, regional corporations and village corporations (as defined in or established pursuant to the Alaska Native Claims Settlement Act), and dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory of the United States and whether within or without the borders of a State.

(9) Indian tribe.—The term "Indian tribe" means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) Insured community development financial institution.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(11) Insured credit union.—The term "insured credit union" has the meaning given to such term in section 101(7) of the Federal Credit Union Act.

(12) Insured depository institution.—The term "insured depository institution" has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act.

(13) Investment area.—The term "investment area" means an identifiable community, including an Indian reservation, or identifiable communities that—

(A) meet objective criteria of distress, including the number of low-income families, the extent of poverty, the extent of unemployment, the extent of unmet credit needs, the degree of availability of basic financial services, the degree of limited access to capital and credit provided by existing financial institutions, and other factors that the Fund determines to be appropriate; or

(B) are located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

(14) Qualified community development financial institution.—The term "qualified community development financial institution" means a community development financial institution that meets the requirements of paragraphs (2) through (8) of section 205(b).

(15) State.—The term "State" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

(16) Subsidiary.—The term "subsidiary" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act, except that a community development institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or bank holding company that controls less than 25 percent of the voting shares of the corporation.

(17) Targeted population.—The term "targeted population" means an identifiable group or identifiable groups of low-income or disadvantaged persons that are underserved by existing financial institutions, including an Indian tribe.

SEC. 204. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) Establishment.—

(1) In general.—There is hereby established a corporation to be known as the Community Development Banking and Financial Institutions Fund (hereafter in this title referred to as the "Fund") that shall have the powers and responsibilities specified by this Act.

(2) Succession.—The Fund shall have succession until dissolved.

(3) Reservation of power of the Congress.—The charter of the Fund may be revised, amended, or modified by Congress at any time.

(4) Offices.—The offices of the Fund shall be in Washington, D.C.

(b) Board of Directors.—

(1) In general.—The powers and management of the Fund shall be vested in a Board of Directors (hereafter referred to in this title as the "Board"), which shall have 15 members.

(2) Members.—The members of the Board shall consist of the following:

(A) The Secretary of Agriculture.

(B) The Secretary of Commerce.

(C) The Secretary of Housing and Urban Development.

(D) The Secretary of the Interior.

(E) The Secretary of the Treasury.

(F) The Administrator of the Small Business Administration.

(G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and gender diversity, and shall consist of the following individuals:

(i) 2 individuals who are officers of existing community development financial institutions.

(ii) 2 individuals who are officers of insured depository institutions (as such term is defined in section 3 of the Federal Deposit Insurance Act).

(iii) 2 individuals who are officers of national consumer or public interest organizations.

(iv) 2 individuals who have expertise in community development.

(v) 1 individual who has personal experience and specialized expertise in the unique lending and community development issues confronted by Indian tribes on Indian reservations.

(3) Chairperson.—The President shall appoint from among the members of the Board specified in paragraph (2)(G) a chairperson of the Board, who shall serve at the pleasure of the President for a term of 2 years.

(4) Vice-chairperson.—The President shall appoint from among the members specified in paragraph (2) a vice-chairperson who will serve as chairperson in the absence, disability, or recusal of the chairperson. The vice-chairperson shall serve at the pleasure of the President for a term of 2 years.

(5) Terms of appointed members.—

(A) In general.—Each member appointed pursuant to paragraph (2)(G) shall serve at the pleasure of the President for a term of 4 years, except as provided in subparagraph (C).

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Appointed members may continue to serve following the expiration of their terms until a successor is appointed and qualified.

(C) TERMS.—The terms of the initial appointed members shall be for 4 years and shall begin on the date each member is appointed, except that 2 of the members initially appointed pursuant to paragraph (2)(G) shall be designated to serve at the pleasure of the President for 5 years.

(6) ACTING OFFICIALS.—In the event of a vacancy or absence of the individual in any of the offices described in subparagraphs (A) through (F) of paragraph (2), the official acting in that office shall be a member of the Board.

(7) AUTHORITY TO DELEGATE.—Each member of the Board specified in subparagraphs (A) through (F) of paragraph (2) may designate another official who has been appointed by the President with the advice and consent of the Senate within the same agency to serve as a member in his or her stead.

(8) COMPENSATION.—

(A) GOVERNMENT OFFICERS OR EMPLOYEES.—Members of the Board who are otherwise officers or employees of the United States shall serve without additional compensation for their duties as members, but shall be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with sections 5702 and 5703 of title 5, United States Code.

(B) APPOINTED MEMBERS.—The appointed members of the Board shall be entitled to receive compensation at the daily equivalent of the rate for a position under Level IV of the Executive Schedule under section 5315 of title 5, United States Code, and shall be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with sections 5702 and 5703 of title 5, United States Code.

(9) MEETINGS.—The Board shall hold meetings at least quarterly. Special meetings of the Board may be called by the Chairperson or on the written request of 3 members of the Board. A majority of the members of the Board in office shall constitute a quorum.

(c) OFFICERS AND EMPLOYEES.—

(1) CHIEF EXECUTIVE OFFICER.—The Board shall appoint a chief executive officer who shall be responsible for the management of the Fund and such other duties deemed appropriate by the Board.

(2) CHIEF FINANCIAL OFFICER.—The Board shall appoint a chief financial officer who shall oversee all of the financial management activities of the Fund.

(3) INSPECTOR GENERAL.—The Board shall also appoint an inspector general.

(4) OTHER OFFICERS AND EMPLOYEES.—The Board may appoint such other officers and employees of the Fund as the Board determines to be necessary or appropriate.

(5) APPOINTMENT PROVISION AND RATES OF PAY.—The chief executive officer, chief financial officer, and up to 3 other officers of the Fund may be—

(A) appointed without regard to the provisions of title 5 of the United States Code, governing appointments in the Federal service; and

(B) subject to paragraph (6), compensated without regard to chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

(6) MAXIMUM RATES OF PAY.—The rate of pay for the chief executive officer shall not exceed the rate for a position under Level II of the Executive Schedule under section 5313 of title 5 of the United States Code and the rate of pay for the remaining 4 officers shall not exceed the rate for a position under Level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(d) GENERAL POWERS.—In carrying out the Fund's powers and duties, the Fund—

(1) shall have all necessary and proper powers to carry out the Fund's authority under this title;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may sue and be sued in the Fund's corporate name and complain and defend in any court of competent jurisdiction;

(4) may adopt, amend, and repeal bylaws and regulations governing the manner in which the Fund's business may be conducted and shall have power to make such rules and regulations as may be necessary or appropriate to implement the provisions of this title;

(5) may enter into and perform such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this title;

(6) may determine the character of and necessity for its expenditures and the manner in which they shall be incurred, allowed, and paid;

(7) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(8) may execute all instruments necessary or appropriate in the exercise of any of the Fund's functions under this title and may delegate to the members of the Board, to the chief executive officer, or the officers of the Fund such of the Fund's powers and responsibilities as it deems necessary or appropriate for the administration of the Fund.

(e) WHOLLY-OWNED GOVERNMENT CORPORATION.—

(1) IN GENERAL.—The Fund shall be a wholly-owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except to the extent this title provides otherwise.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 9101(3) of title 31, United States Code, is amended—

(A) by redesignating paragraphs (B) through (M) as paragraphs (C) through (N), respectively; and

(B) by inserting after paragraph (A) the following:

"(B) the Community Development Banking and Financial Institutions Fund.".

(3) Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 207.

(f) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and of the United States Government arising out of any investment in a community development financial institution in accordance with this title shall be limited to the amount of the investment and the Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State. A community development financial institution that receives assistance pursuant to this title shall not be deemed to be an agency, department, or instrumentality of the United States.

(g) PROHIBITION OF ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

SEC. 205. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—

(1) IN GENERAL.—An application for assistance under this title shall be submitted by an applicant in such form and in accordance with such procedures as the Board shall establish.

(2) REGULATIONS.—The Board shall publish regulations with respect to application requirements and procedures not later than 210 days after enactment of this title.

(b) MINIMUM REQUIREMENTS.—Except as provided in section 209, the Board shall require that the application—

(1) demonstrate to the satisfaction of the Board that the applicant is, or upon the receipt of a charter will be, a community development financial institution;

(2) demonstrate that the applicant will serve—

(A) a targeted population; or

(B) an area which is an investment area;

(3) in the case of an applicant that has previously received assistance under this title, demonstrate that the applicant—

(A) has successfully carried out its responsibilities under this title;

(B) has become or is about to become an entity that will not be dependent upon assistance from the Fund for continued viability; and

(C) will expand its operations into a new investment area, offer new services, or will increase the volume of its current business;

(4) in the case of a community development financial institution with existing operations, demonstrate a record of success of serving investment areas or targeted populations;

(5) include a detailed and comprehensive strategic plan for the organization that contains—

(A) a business plan of at least 5 years that demonstrates the applicant is properly managed and has the capacity to form and operate a community development financial institution that is, or will become, an entity that will not be dependent upon assistance from the Fund for continued viability;

(B) a statement that the applicant has, or will have, in its charter or other governing documents a primary commitment to community development, or other evidence of a prior history and a continuing affirmation of a primary commitment to community development;

(C) an analysis of the needs of the investment areas or targeted populations and a strategy for how the applicant will attempt to meet those needs;

(D) a plan to coordinate use of assistance from the Fund with existing assistance programs of the Federal Government, State and local governments, Indian tribes, and government-sponsored enterprises and with private sector financial services;

(E) a statement that the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to the investment areas;

(F) a description of how the applicant will affiliate, network, or otherwise coordinate with a full range of community organizations and financial institutions which provide, or will provide, capital, credit, or secondary markets in order to assure that banking, economic development, investment, affordable housing, and other related services will be available within the investment areas or to targeted populations; and

(G) such other information as the Board deems appropriate for inclusion in the strategic plan;

(6) demonstrate that the applicant will carry on its activities consistent with the purposes of this title within an investment area or with respect to a targeted population;

(7) include a detailed and specific statement of applicant's plans and likely sources of funds to match the amount of assistance from the Fund with funds from private sources in accordance with the requirements of section 208(e); and

(8) include such other information as the Board may require.

(c) PRE-APPLICATION OUTREACH PROGRAM.—The Fund shall provide for an outreach program to identify and provide information to potential applicants and to increase the capacity of potential applicants to meet the application and other requirements of this title.

(d) CONDITIONS FOR QUALIFICATION OF HOLDING COMPANIES.—

(1) CONSOLIDATED TREATMENT.—A depository institution holding company may qualify as a community development financial institution only if the holding company and the holding company's subsidiaries collectively satisfy the requirements of clauses (i) and (ii) of subparagraph (A) of section 203(3)(A).

(2) EXCLUSION OF SUBSIDIARY FOR FAILURE TO MEET CONSOLIDATED TREATMENT RULE.—No subsidiary of a depository institution holding company may qualify as a community development financial institution if the holding company and the company's subsidiaries collectively do not meet the requirements of clauses (i) and (ii) of subparagraph (A) of section 203(3)(A).

SEC. 206. COMMUNITY DEVELOPMENT PARTNERSHIPS.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community development partner to carry out a community development partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community development partnership application to—

(1) meet the minimum requirements established for community development financial institutions under section 205(b), except that the criteria specified in paragraph (1) and subparagraphs (A) and (B) of paragraph (5) of such section shall not apply to the community development partner;

(2) describe how each coapplicant will participate in carrying out the community development partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) demonstrate that the community development partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community development partnership application based on the selection criteria set out in section 207, except that the criterion specified in subparagraphs (A) and (L) of subsection (a)(2) of such section shall not apply to the community development partner.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community development partner or an affiliate of the partner.

(e) PERFORMANCE GOALS.—The Fund shall negotiate performance goals for each community development partnership in the manner provided in section 208(f)(3)(B). Such performance goals shall be incorporated into the performance goals of the community development financial institution coapplicant.

(f) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community development partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community development partnerships.

SEC. 207. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—

(1) IN GENERAL.—Except as provided in section 209, the Board shall, in the Board's discretion, select applications that meet the requirements of section 205 and award assistance from the Fund in accordance with section 208.

(2) FACTORS TO BE CONSIDERED.—In selecting applications, the Board shall consider applications based on the following factors and such other factors as the Board may determine to be appropriate:

(A) The likelihood of success of the applicant in forming and operating a community development financial institution.

(B) The range and comprehensiveness of the capital, credit, and development services to be provided by the applicant.

(C) The extent of the need, as measured by objective criteria of distress, within the investment areas or targeted populations for the types of activities proposed by the applicant.

(D) The likelihood that the proposed activities will benefit a significant portion of the investment areas or targeted populations or, in the case of a community development financial institution with existing operations, evidence of a record of success in serving investment areas or targeted populations.

(E) The extent to which the applicant will concentrate its activities on serving low and very low-income families.

(F) The evidence of the extent of a broad cross-section of support from the investment areas or targeted populations.

(G) The experience and background of the proposed management team.

(H) The amount of legally enforceable commitments available at the time of application to meet or exceed the matching requirements under section 208(e) and the strength of the plan for raising the balance of the match.

(I) In the case of applicants that have previously received assistance pursuant to this title, the extent to which they have met or exceeded the performance goals established in connection with such assistance.

(J) The extent to which the proposed activities will expand the employment base within the investment areas or the targeted populations.

(K) The extent to which the applicant is, or will be, community-owned or community-governed.

(L) Whether the applicant is, or will become, an insured community development financial institution.

(M) Whether the applicant is, or will be located, in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986 or a rural or urban area which is not an empowerment zone or enterprise community and which has a median income of 80 percent or less of the national median income.

(N) In the case of an institution that is not an insured community development financial institution, the extent to which the institution has or will have the ability to increase its resources through affiliation with a secondary market, insured depository institution, or other financial intermediary in order to multiply the amount of capital or credit available for community development.

(O) In the case of an insured depository institution or insured credit union applicant, whether the institution—

(i) has or will have a substantial affiliation with an entity or network of entities that are community development financial institutions; and

(ii) has a comprehensive plan for providing meaningful financial assistance to such an entity or network of entities.

(b) GEOGRAPHIC DIVERSITY.—

(1) IN GENERAL.—In addition to the above, in making its selections the Board shall seek to fund a geographically diverse group of applicants, which shall include applicants from nonmetropolitan and rural areas and small cities.

(2) GOAL FOR FUNDING.—The Board should seek to provide funding for applicants which are serving nonmetropolitan and rural areas and small cities with no less than one quarter of the funds available to the Board in any year.

(c) PUBLICATION REQUIREMENT.—The Board shall publish regulations with respect to its selection criteria not later than 210 days after the date of the enactment of this title.

SEC. 208. ASSISTANCE PROVIDED BY THE FUND.

(a) PURPOSE OF ASSISTANCE.—

(1) GENERAL PURPOSES.—The Fund shall work to promote an environment hospitable to business formation, economic growth, community development, and affordable housing in distressed communities.

(2) COORDINATION WITH OTHER AGENCIES AND PROGRAMS.—The Fund shall coordinate the Fund's activities with existing Federal and other community and economic development programs.

(3) ASSISTANCE TO INSTITUTIONS AND PARTNERSHIPS.—Assistance may be provided to an existing qualified community development financial institution or community development partnership to—

(A) expand the institution's or partnership's activities in order to serve investment areas or targeted populations not currently served by another qualified community development financial institution or community development partnership receiving assistance under this section;

(B) expand the volume of the institution's or partnership's activities consistent with the purposes of this title;

(C) form a new entity to undertake activities consistent with the purposes of this title; or

(D) assist an existing entity to modify the institution's or partnership's structure or activities in order to undertake activities consistent with the purposes of this title.

(b) TYPES OF ASSISTANCE.—

(1) FINANCIAL ASSISTANCE.—The Fund may provide financial assistance, and make commitments to provide financial assistance, to qualified community development financial institutions or community development

partnerships through equity investments, loans, deposits, membership shares, and grants.

(2) TECHNICAL ASSISTANCE.—The Fund may also provide technical assistance, including training, and grants for technical assistance to qualified community development financial institutions or community development partnerships.

(3) ALLOCATION.—The allocation of awards of assistance between insured and uninsured community development financial institutions shall be in the discretion of the Board.

(4) RULES RELATING TO EQUITY INVESTMENTS.—

(A) LIMITATION ON EQUITY INVESTMENT.—The Fund shall structure financial assistance to a qualified community development financial institution in such a manner that the provision of such assistance does not result in the Fund's—

(i) ownership of more than 50 percent of the equity of such institution; or

(ii) control of the operations of such institution.

(B) FUND DEEMED NOT TO CONTROL.—Notwithstanding any other provision of law, the Fund shall not be deemed to control a qualified community development financial institution by reason of any assistance provided under this title for the purpose of any other applicable law to the extent the Fund complies with paragraph (1).

(C) FORM OF INVESTMENT.—With respect to equity investments, the Fund shall hold only transferable, nonvoting investments, except that such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(5) DEPOSITS NOT SUBJECT TO COLLATERAL OR SECURITY REQUIREMENTS.—Notwithstanding any other provision of law, deposits made pursuant to this section in qualified insured community development financial institutions shall not be subject to any requirement for collateral or security.

(6) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred only to the extent that appropriations of budget authority to cover their costs, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(c) PURPOSE OF FINANCIAL ASSISTANCE.—Financial assistance made available under this title may be used by assisted institutions to develop or support—

(1) commercial facilities that enhance revitalization, community stability, or job creation and retention efforts;

(2) business creation and expansion efforts that—

(A) create or retain jobs for low-income people;

(B) enhance the availability of products and services to low-income people; or

(C) create or facilitate the retention of businesses owned by low-income people or residents of a targeted area;

(3) community facilities that provide benefits to low-income people or enhance community stability;

(4) the provision of basic financial services to low-income people or residents of a targeted area;

(5) the provision of development services;

(6) home ownership opportunities that are affordable to low-income households;

(7) rental housing that is principally affordable to low-income households; and

(8) other activities determined to be appropriate by the Fund.

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Fund may provide—

(A) not to exceed $5,000,000 of assistance per application to any 1 qualified insured community development financial institution, including such institution's affiliate or community development partnership; and

(B) not to exceed $2,000,000 per application to any other qualified community development financial institution, including such institution's affiliate or community development partnership.

(2) EXCEPTION.—In the case of an existing community development financial institution that proposes to serve an investment area or targeted population outside of any State or metropolitan area presently served by the institution, the Fund shall have the discretion to provide assistance in an amount exceeding the maximum amount established in paragraph (1) if—

(A) the additional amount is used to establish affiliates to serve such investment area or targeted population;

(B) the existing community development financial institution is located in a State other than that of the new affiliate; and

(C) no other application for assistance has been submitted to the Board under which the needs of the target community could be met.

(3) AUTHORITY TO SET MINIMUM AMOUNTS OF ASSISTANCE.—The Fund shall have the authority to set minimum amounts of assistance per institution.

(e) MATCHING REQUIREMENTS.—

(1) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS OR PARTNERSHIPS.—Subject to paragraph (3), the Fund may provide no assistance to qualified insured community development financial institutions or community development partnerships unless each dollar provided by the Fund is matched by no less than 1 dollar of equity, deposits or membership shares.

(2) OTHER MATCHING REQUIREMENTS.—Subject to paragraph (3), the Fund shall require a match for all other assistance, the amount and form of which shall be in the discretion of the Fund.

(3) NO MATCHING REQUIREMENTS FOR CERTAIN TYPES OF ASSISTANCE.—The Fund may not establish matching requirements with respect to assistance provided in the form of deposits or membership shares of $100,000 or less, technical assistance, or grants for technical assistance.

(4) LEGALLY ENFORCIBLE COMMITMENTS REQUIRED.—

(A) IN GENERAL.—The Fund shall provide no assistance except technical assistance or grants for technical assistance until a qualified community development financial institution or community development partnership has secured legally enforceable commitments for the entire match required.

(B) COORDINATION WITH FUND AUTHORITY TO MAKE COMMITMENTS.—Subparagraph (A) shall not restrict the authority of the Fund under subsection (b)(1) to make a commitment to provide financial assistance to a qualified community development financial institution or community development partnership to the extent such commitment is contingent on the institution or partnership meeting the requirements of this subsection.

(5) FORM OF PAYMENTS.—Assistance may be provided in 1 lump sum, or over a period of time, as determined by the Fund.

(6) OTHER FEDERAL ASSISTANCE MAY NOT BE TREATED AS MATCHING FUNDS.—No funds or assistance provided to any qualified community development financial institution or community development partnership by any agency or instrumentality of the Federal Government may be taken into account or otherwise treated as matching funds for purposes of this subsection.

(f) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The Fund shall provide assistance authorized under this title in such form and subject to such restrictions as are necessary to ensure that, to the maximum extent practicable—

(A) all assistance granted is used by the qualified community development financial institution or community development partnership in a manner consistent with the purposes of this title;

(B) qualified community development financial institutions or community development partnerships receiving assistance that are not otherwise regulated by the Federal Government or by a State government are financially and managerially sound;

(C) assistance results in a net increase in capital, credit, and development services, both nationally and in the local communities in which assistance is provided; and

(D) assistance is provided in a manner that encourages affiliations and partnerships between insured depository institutions, secondary markets or other sources of credit or leverage and local organizations dedicated to community development.

(2) CONSULTATION WITH BANKING REGULATORS.—Before providing assistance to a qualified insured community development financial institution, the Board shall consult with the appropriate Federal banking agency or, in the case of an insured credit union, the National Credit Union Administration.

(3) ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—The Board shall impose restrictions on the use of assistance through a stock purchase agreement, share purchase agreement, or through a contract entered into in consideration for the provision of assistance.

(B) PERFORMANCE GOALS.—

(i) REQUIRED.—Any agreement or contract referred to in subparagraph (A) shall require institutions assisted under this title to comply with performance goals.

(ii) NEGOTIATION OF GOALS.—The performance goals shall be negotiated between the Board and each qualified community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 205(b)(5).

(iii) RENEGOTIATION.—The performance goals may be renegotiated jointly as necessary or appropriate, subject to subparagraph (C) of this section.

(iv) CONSULTATION WITH BANKING AGENCIES.—Activity levels for insured community development financial institutions shall be determined by the Board in consultation with the appropriate Federal banking agency or, in the case of an insured credit union, with the National Credit Union Administration.

(C) CONTRACT SANCTIONS.—

(i) IN GENERAL.—Any agreement or contract referred to in subparagraph (A) shall specify sanctions available to the Board, in the Board's discretion, in the event of noncompliance with the purposes of this title or the terms of the agreement or contract.

(ii) CERTAIN SANCTIONS AVAILABLE.—The sanctions may include revocation of approval of the application, terminating or reducing future assistance, requiring repayment of assistance, and requiring changes to the performance goals imposed pursuant to subparagraph (B) or to the strategic plan submitted pursuant to section 205(b)(5).

(iii) CONSULTATION WITH BANKING AGENCIES.—In the case of an insured community development financial institution, the Board shall consult with the appropriate Federal banking agency or, in the case of an insured credit union, the National Credit Union Administration, before imposing sanctions pursuant to this paragraph.

(4) REVIEW.—

(A) IN GENERAL.—At least annually, the Fund shall review the performance of each assisted qualified community development financial institution or community development partnership in carrying out the institution's or partnership's strategic plan and performance goals.

(B) CONSULTATION WITH TRIBAL GOVERNMENTS.—In reviewing the performance of any assisted qualified community development financial institution whose investment area includes an Indian reservation, the Board shall consult with, and seek input from, any appropriate tribal government.

(5) REPORTING.—The Board shall require each qualified community development financial institution receiving assistance to submit an annual report to the Fund on the institution's activities and financial condition, the institution's success in meeting performance goals, and the institution's compliance with the other requirements of this title.

(g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Board shall have the authority at any time to sell its investments and loans and may, in its discretion, retain the power to enforce limitations on assistance entered into in accordance with the requirements of this title.

(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.—No provision of this title shall affect any authority of the appropriate Federal banking agency or, in the case of an insured credit union, the National Credit Union Administration, to supervise and regulate an insured community development financial institution.

SEC. 209. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding the provisions of section 208, the Fund may provide assistance for the purpose of providing capital to organizations that will purchase loans or otherwise enhance the liquidity of community development financial institutions if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than $1 for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization which receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 205(b) and 207, as appropriate.

(c) AMOUNT OF ASSISTANCE.—

(1) MAXIMUM AMOUNT LIMITATION.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization under this section during any 3-year period.

(2) FORM OF PAYMENT.—Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—

(1) IN GENERAL.—Organizations that receive assistance from the Fund in accordance with this section shall—

(A) submit to the Fund not less than once in every 18-month period, financial statements audited by an independent certified public accountant;

(B) submit an annual report on its activities; and

(C) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(2) ACCESS.—The Fund shall have access, on demand and for the purposes of determining compliance with this section, to any records of such organizations.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liability that may be imposed on controlling or principal shareholders by any Federal law or the law of any State.

(2) LIABILITY OF GOVERNMENT.—

(A) NO OBLIGATION TO PROVIDE FUNDS.—This section shall not be construed as obliging the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization.

(B) NO FULL FAITH AND CREDIT.—This section shall not be construed to imply that any such organization or any obligation or security of any such organization is backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans to an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 210. ENCOURAGEMENT OF PRIVATE ENTITIES.

The Board may cause to be incorporated, or encourage the incorporation of, private nonprofit and for-profit entities that will complement the activities of the Fund in carrying out the purposes of this title. The purposes of any such entities shall be limited to investing in and assisting community development financial institutions in a manner similar to the activities of the Fund under this title. Any such entities shall be managed exclusively by private individuals who are selected in accordance with the laws of the jurisdiction of incorporation.

SEC. 211. CLEARINGHOUSE FUNCTION.

The Fund shall establish and maintain an information clearinghouse in coordination with the Departments of Agriculture, Commerce, and Housing and Urban Development, the Small Business Administration, other Federal agencies, and community development financial institutions—

(1) to cause to be collected, compiled, and analyzed information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving these institutions; and

(2) to cause to be established a service center for comprehensive information on financial, technical, and management assistance, case studies of the activities of community development financial institutions, regulations, and other information that may promote the purposes of this title.

SEC. 212. TRAINING ASSISTANCE FOR ORGANIZING AND OPERATING COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

(a) ASSISTANCE TO ESTABLISH AND OPERATE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The Fund shall carry out a program under this subsection to provide training assistance in establishing and operating community development financial institutions, which shall include the following activities:

(1) Educating organizations, financial institutions, and other entities and persons in low-income neighborhoods and elsewhere regarding the need for, and the capabilities, functions, and organization of, community development financial institutions.

(2) Educating and training organizations, depository and other financial institutions, and other entities and persons in organizing community development financial institutions.

(3) Recruiting, and assisting organizations, and other entities and persons to recruit existing organizations, depository and other financial institutions, and other entities and persons to establish community development financial institutions.

(4) Assisting entities and persons interested in establishing qualified community development financial institutions in identifying community lending needs.

(5) Educating and training regarding management and operation of community development financial institutions, including—

(A) designing and utilizing lending practices to target credit to low-income families and neighborhoods;

(B) complying with requirements regarding financial and managerial soundness pursuant to section 208(f)(1)(B) and any recordkeeping requirements pursuant to section 213(a)(1).

(C) Implementing effective asset management and fund development techniques; and

(6) Collecting and disseminating information from various qualified community development financial institutions regarding successful management and operation techniques, lending practices, and lending activities.

(b) PROVISION OF ASSISTANCE.—The Fund may provide training assistance under this section directly or through public or private organizations pursuant to contracts with such organizations.

(c) ADMINISTRATION.—The Fund may require—

(1) that training assistance provided under this section to qualified community development lenders and other applicants that receive assistance under section 208 be made available pursuant to a request for such assistance in an application under section 205;

(2) the selection of the application for the award of assistance; and

(3) the inclusion of terms in the agreement or contract for assistance under section 208(f)(3).

SEC. 213. RECORDKEEPING, REPORTS, AND AUDITS.

(a) RECORDKEEPING.—

(1) MAINTENANCE BY INSTITUTION.—A qualified community development financial institution receiving assistance from the Fund shall keep such records as may be reasonably necessary to disclose the disposition of any assistance under this title and to ensure compliance with the requirements of this title.

(2) FUND ACCESS TO RECORDS.—The Fund shall have access, for the purpose of determining compliance with this title, to any books, documents, papers, and records of a qualified community development financial

institution receiving assistance from the Fund that are pertinent to assistance received under this title.

(b) REPORTS.—

(1) ANNUAL REPORT.—The Fund shall conduct an annual evaluation of the activities carried out pursuant to this title and shall submit a report on the Fund's findings to the President within 120 days of the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (c).

(2) INSTITUTIONAL VOICE FOR COMMUNITY DEVELOPMENT.—

(A) ONGOING STUDY.—The Fund shall conduct, or cause to be conducted, an ongoing study to identify and evaluate the most effective and financially sound policies and practices for encouraging investment in distressed communities, including small business and commercial lending, business formation and expansion, community and economic development, commercial real estate and multi-family housing, and home mortgages.

(B) ADDITIONAL FACTORS.—In addition to the factors described in subparagraph (A), the Fund may study, or cause to be studied, (in connection with the study conducted pursuant to such subparagraph) related matters, such as identification of sources of and access to capital and loans for community investment, development of secondary markets for economic and community development, small business and commercial loans, and home mortgage loans and investments, and methods to involve all segments of the financial services industry in community development.

(C) STUDY OF BANKING PRACTICES ON INDIAN RESERVATIONS.—In addition to the study required under subparagraph (A), the Fund shall conduct a separate and thorough study of banking practices on Indian reservations that specifically addresses the unique lending issues with respect to Indian reservations such as lending with respect to trust lands, Indian headrights, or other trust property, availability of collateral, and related issues.

(D) CONSULTATION.—In the conduct of the studies required under subparagraphs (A) and (C), the Fund shall consult, or cause consultation with, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Farm Credit Administration, the Director of the Office of Thrift Supervision, the National Credit Union Administration, Indian tribal governments, community reinvestment, civil rights, consumer and financial organizations, and such representatives of agencies or other persons as the Fund may determine.

(E) REPORTS.—

(i) PRELIMINARY REPORT.—Within 270 days after the date of the enactment of this title, the Fund shall submit a report to the President containing the Fund's initial findings and recommendations regarding the matters set forth in subparagraphs (A) and (C).

(ii) SUBSEQUENT REPORTS.—The Fund shall submit an annual report to the President containing the Fund's findings and recommendations regarding the matters set forth in subparagraph (A) with the annual report required by subsection (b)(1).

(3) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—

(A) STUDY REQUIRED.—Before the end of the 6-year period beginning on the date of the enactment of this title, the Fund, in accordance with the procedures described in subparagraphs (A) and (B) of paragraph (2), shall conduct a study evaluating the structure, governance, and performance of the Fund.

(B) REPORT.—A report on the study conducted pursuant to subparagraph (A) shall be submitted to the President.

(C) EVALUATION AND RECOMMENDATIONS.—The report submitted pursuant to subparagraph (B) shall include—

(i) an evaluation of the overall performance of the Fund in meeting the purposes of this title;

(ii) any recommendation of the Fund for—

(I) restructuring the Board:

(II) altering procedures under which the Fund is governed; or

(III) the future role of the Fund in addressing community development; and

(iii) an assessment of the ability of the Fund to become a private, self-sustaining entity capable of fulfilling the purposes of this title.

(c) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in accordance with section 9105 of title 31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 214. INVESTMENT OF RECEIPTS AND PROCEEDS.

Any dividends on equity investments and proceeds from the disposition of investments, deposits, or membership shares that are received by the Fund as a result of assistance provided pursuant to section 208 or 209 shall be deposited and accredited, subject to amounts approved in appropriation Acts, to an account of the Fund established to carry out the authorized purposes of this title. Upon request of the chief executive officer, the Secretary of the Treasury shall invest amounts deposited in such account in public debt securities with maturities suitable to the needs of the Fund, as determined by the chief executive officer, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

SEC. 215. ENFORCEMENT PROVISIONS.

(a) REGULATIONS.—

(1) IN GENERAL.—The Board shall prescribe such regulations as may be necessary to carry out the requirements of this Act.

(2) REGULATIONS REQUIRED.—The regulations prescribed under paragraph (1) shall include regulations to—

(A) prevent conflicts of interest on the part of directors, officers, and employees of qualified community development financial institutions as the Board determines to be appropriate; and

(B) establish such standards with respect to loans by a qualified community development institution to any director, officer, or employee of such institution as the Board determines to be appropriate, including loan amount limitations.

(b) ADMINISTRATIVE ENFORCEMENT.—

(1) IN GENERAL.—The provisions of this Act, and regulations prescribed under and agreements entered into under this Act, shall be enforced under section 8 of the Federal Deposit Insurance Act by—

(A) the appropriate Federal banking agency, in the case of an insured community development financial institution; and

(B) the Board, in the case of a community development financial institution which is not an insured community development financial institution.

(2) APPLICABILITY OF SECTION 8 TO BOARD.—For purposes of applying section 8 of the Federal Deposit Insurance Act to the provisions of this Act in accordance with paragraph (1)—

(A) a violation of this Act, or any regulation prescribed under or any agreement entered into under this Act, shall be treated as a violation of the Federal Deposit Insurance Act; and

(B) the Board shall be treated as an appropriate Federal banking agency.

(c) CRIMINAL PROVISION.—Section 657 of title 18, United States Code, is amended by inserting "or any qualified community development financial institution receiving financial assistance under the Community Development Banking and Financial Institutions Act of 1993," after "small business investment company,".

SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Fund, to remain available until expended, $60,000,000 for fiscal year 1994, $104,000,000 for fiscal year 1995, $107,000,000 for fiscal year 1996, and $111,000,000 for fiscal year 1997, or such greater sums as may be appropriated, to carry out the purposes of the title.

(b) AVAILABILITY FOR FUNDING BEA.—Not less than 33⅓ percent of the amounts appropriated to the Fund for any fiscal year pursuant to the authorization in subsection (a) shall be available for use in carrying out sections 232 and 233 of the Bank Enterprise Act and the amendments made by such sections to other provisions of law.

(c) ADMINISTRATIVE EXPENSES.—The Fund may set aside up to $10,000,000 each fiscal year to pay administrative costs and expenses.

(d) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under subsection (a) may be used as provided in section 209.

SEC. 217. CONFORMING AMENDMENT.

Section 8F(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App. 8F(a)(2)) is amended by inserting "the Community Development Banking and Financial Institutions Fund," immediately following "the Commodity Futures Trading Commission,".

SEC. 218. APPOINTMENT OF COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.

The President shall appoint the members of the Community Enterprise Assessment Credit Board described in section 233(d)(2)(D) of the Bank Enterprise Act before the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 219. COMMUNITY DEVELOPMENT CREDIT UNION ASSISTANCE.

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—In addition to the amounts appropriated to the Community Development Credit Union Revolving Loan Fund pursuant to section 101(j) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes" and approved October 12, 1979, there is authorized to be appropriated to the National Credit Union Administration Board for purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $3,000,000 for fiscal year 1994;

(2) $4,000,000 for fiscal year 1995;

(3) $4,000,000 for fiscal year 1996; and

(4) $4,000,000 for fiscal year 1997.

(b) INVESTMENT OF FUNDS.—The National Credit Union Administration Board may invest any moneys in the Community Development Credit Union Revolving Loan Fund which are not needed for current expenditures in United States Treasury securities.

Any interest accrued on such securities shall, subject to amounts approved in appropriation Acts, be deposited into and accredited to the Fund.

(c) AUTHORITY.—Notwithstanding any other provision of law, the National Credit Union Administration Board may exercise the authority granted to the Board by the Community Development Credit Union Revolving Fund Transfer Act, including any additional appropriations made and earnings accrued, subject only to this section and to regulations prescribed by the Board.

SEC. 220. INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION ACCESS TO FEDERAL HOME LOAN BANK ADVANCES.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end the following new subsection:

"(k) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION ACCESS TO ADVANCES.—Any insured community development financial institution (as defined in section 3(e) of the Community Development Banking and Financial Institutions Act of 1993) which meets the requirements of subparagraphs (A) and (B) of section 4(a)(1) may obtain advances from the appropriate Federal home loan bank in accordance with this section in the same manner and to the same extent as members of such bank without regard to any stock purchase requirement imposed on members under this Act.".

SEC. 221. COMMUNITY INVESTMENT PROGRAM INCENTIVES.

(a) ASSETS DERIVED FROM CIP ADVANCES INCLUDIBLE WITHOUT LIMITATION FOR PURPOSES OF QTL TEST.—Section 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the end the following new subclause:

"(VII) Loan assets derived from the proceeds of an advance made to the savings association from a Federal home loan bank under the community investment program of such bank.".

(b) AUTHORITY TO WAIVE FHLB STOCK PURCHASE REQUIREMENT IN CONNECTION WITH A CIP ADVANCE.—Section 6(b) of the Federal Home Loan Bank Act (12 U.S.C. 1426(b)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CIP ADVANCES.—A Federal home loan bank may waive the requirement that advances to such member from the bank's community investment program be taken into account in determining the amount of aggregate outstanding advances to the member from the bank for purposes of this subsection.".

(c) TREATMENT OF ECONOMIC DEVELOPMENT LOANS AND ASSETS DERIVED FROM CIP ADVANCES AS COLLATERAL FOR ADDITIONAL FHLB ADVANCES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraph (5) as paragraph (6);

(2) in paragraph (6) (as so redesignated), by striking "(1) through (4)" and inserting "(1) through (5)"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) Economic development loans derived from the proceeds of an advance made to a member from a Federal home loan bank under the community investment program of such bank.".

SEC. 222. 30 PERCENT LENDING CAP INCREASED.

Paragraph (2) of the 1st subsection (e) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking "30 percent" and inserting "40 percent".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

□ 1420

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many Members of this House are familiar with community development banks, the thousands of organizations that build affordable housing, help small businesses get off the ground and provide essential basic financial services to distressed neighborhoods across our country.

Right here in Northeast Washington, for example, the Marshall Heights Community Development Organization is trying to bring its neighborhood back from fleeing homeowners, deteriorating buildings and rising crime. The group bought and refurbished the largest strip shopping center in ward 7. Through their work, the center both turns a profit and is nearly 100 percent leased. Marshall Heights also runs a small business center to help community entrepreneurs with office overhead costs, business assistance and small loans to cultivate new enterprises.

CDFI's like Marshall Heights achieve miraculous results on shoestring budgets because most are run by knowledgeable, qualified managers. They make loans based on hardnosed estimates of the borrowers' likelihood of repayment. And they fill real needs for financial and development services in areas that other banks pay little attention to, or completely ignore. Imagine, Mr. Speaker, what CDFI's could do with a few more resources. The bill before us today takes a small step to provide that support.

By itself, H.R. 3474 certainly cannot solve the pressing problems confronting our cities. With more funding, the program could help more CDFI's. With more support from the banking industry, communities could access all the credit and financial services they need. Nevertheless, this program shows promise. So I urge my colleagues to pass this legislation and try it out.

In addition to the President's community development bank proposal, this legislation contains a package of regulatory reforms that should eliminate some needless paperwork for sound, well-run institutions. It does so while preserving crucial protections enacted in the Federal Deposit Insurance Corporation Improvement Act of 1991, and without attacking any of the protections consumers now enjoy. The principal sponsors of H.R. 962, Congressman LEACH, Chairman NEAL and I worked diligently to craft these changes. The provisions of this title represent balanced approach to streamlining regulation, and merit approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself 15 seconds in order to simply thank the chairman, the gentleman from Texas [Mr. GONZALEZ] for his leadership on this issue and express appreciation on behalf of the minority for allowing so many minority amendments to be considered in this bill.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER] who has led this Congress in deregulation efforts in the banking area.

Mr. BEREUTER. I thank the gentleman for yielding this time to me and for his comments.

Mr. Speaker, this Member rises in support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993 and urges its adoption.

This Member would like to sincerely thank the chairman of the Banking Committee, the chairman of the Financial Institutions Subcommittee, and their staff, for their willingness and assistance in adding a regulatory relief title to H.R. 3474, and bringing the measure to the floor today.

In addition, this Member would like to especially thank, for his especially strong support and assistance, the ranking member of the committee, the distinguished gentleman from Iowa [Mr. LEACH] and agreement from the ranking member of the Financial Institutions Subcommittee, the distinguished gentleman from Florida [Mr. MCCOLLUM], and their staff, for their cooperation and work to produce a meaningful regulatory relief title.

Finally, in a list of compliments, I must express sincere appreciation for my cohort in the battle against undue regulatory burdens, the distinguished gentleman from Florida [Mr. BACCHUS], for his absolutely crucial role in our joint effort on bringing a regulatory burden-relief bill to the House floor today.

At the beginning of this session, this Member introduced two comprehensive bills to reduce regulatory burdens on financial institutions:

H.R. 59, the Depository Institution Burden-Relief Act of 1993; and

H.R. 962, the Economic Growth and Financial Institutions Regulatory Paperwork Reduction Act of 1993, introduced February 18, along with my colleague, JIM BACCHUS of Florida.

This Member is pleased to say that H.R. 962 had 272 cosponsors.

This Member has sought a legislative remedy based on two principles: First, to provide regulatory relief only for those institutions which are—according to accepted and existing criteria—safe, financially sound, and prudently managed; and second, to require the regulators to discard obsolete or unnecessary regulations, but of course in a manner that does not affect bank regulators' authority to ensure that a financial institution is operating in a sound and lawful manner.

REGULATION VERSUS STATUTORY CHANGE

This Member, along with a great many of the other 272 cosponsors of H.R. 962, I believe it is fair to say, are skeptical that the administrative and regulatory steps announced over the last several months will have the actual desired impact on bank examiners in the field.

Changes are proposed by the regulatory agency leadership in Washington, DC, but frequently they are intentionally ignored or inadequately implemented by examiners and other regulators in the field. Now, this Member, assuredly, is aware that examiners are often put into difficult positions. When they use discretion or common sense, they are making themselves vulnerable to criticism by the many people looking over their shoulders. Therefore, it is usually the statutes under which the examiners operate that must be changed in order to actually get the results Congress, and our constituents, both want to reduce the costs of unnecessary or inappropriate regulation—in other words, to achieve regulatory burden relief.

It is apparent that the small amount of leeway granted by the administration's regulatory efforts will be small comfort to the banker in California who has experienced examiners that all too often have replaced a banker's credit judgment with disclosure requirements, ratios, and formulas. This will be small comfort to the banker in Nebraska, in a very small, homogeneous community. That bank, to use a real example, has only $16 million in defaults, but it was subjected to a week-long CRA examination with six examiners. This will be small comfort to bankers around the country that are now spending money on hiring compliance officers rather than hiring new loan officers and other truly necessary employees.

It is time for statutory changes to reduce the mounting regulatory burdens which also are having a negative impact on bank customers—both businesses and individual borrowers. The impact on consumers or large customers comes in several forms, either: Additional—and often confusing paperwork—which they must complete; a reduction in the types of bank services offered; or higher fees for the services.

In March, Federal Reserve Chairman Alan Greenspan, testifying before the Small Business Committee indicated that "the scale and sheer detail of * * * recent legislation have, I believe, played an important role in constraining small business credit flows."

The regulators have even testified that in our effort to regulate financial institutions, we may have gone too far in the other extreme—we are now seeing that regulators no longer examine the financial condition of the institution, but are now directed by regulation or driven by zeal to examine a bank's basic, day-to-day business decisions. The bureaucratic over-reach has resulted in tons of needless paperwork for banks, and thousands of wasted hours for banks and their employees each year. Small banks, in particular, simply can't afford to hire the employees necessary to meet the unnecessary paperwork burden.

Poorly conceived statutory requirements, often resulting in unnecessarily burdensome regulation, impose a very high price in all financial institutions and the people who would use their services and loan funds. It diminishes earnings and lending capacity, impairs the ability of banks to raise capital, impedes product innovation, and makes it harder for them to attract and retain competent directors. It also reduces the responsiveness of the banking industry to meet changing customer needs. To date, 17 separate organizations representing a variety of businesses that rely on bank credit—manufacturers, builders, convenience store operators—supported legislation, like H.R. 962, and therefore title I of this legislation, to eliminate regulatory roadblocks to increased lending.

Title I of H.R. 3474 is regulatory relief, not deregulation.

The regulatory relief title found in H.R. 3474 will not deregulate the financial industry or to accord depository institutions special privileges. The bill specifically calls for retaining all regulations that ensure consumer protection, proper law enforcement and to assist in monitoring domestic monetary policy.

Nor does the bill water down the relevant portions of the 1991 banking bill, the Federal Deposit Insurance Corporation Improvement Act [FDICIA], which established a number of regulatory reforms to ensure adequate supervision of financial institutions, such as: risk-based insurance premiums for banks; continued annual supervisory examinations for troubled institutions; strong capital requirements; continued annual audits for institutions subject to the requirement; additional authority to close or restrict the activities of troubled institutions; and the 1991 bank bill's [FDICIA] strong supervisory sanctions.

MEANINGFUL REGULATORY RELIEF

In addition to a number of studies and directives to reduce regulation, title I of H.R. 3474 includes specific provisions, originally found in H.R. 962. These threshold provisions are important to any meaningful regulatory burden reduction. With the addition of these provisions, the bill goes farther than the regulatory relief measure reported out of the Banking Committee in the other body.

The most significant aspects of the regulatory relief title include the following:

Streamline regulatory requirements: Federal regulators are required to conduct a review of the agency's regulations and written policies and report to Congress on their progress annually, for 3 years. Must also review real estate loan standards and review what information is collected under the fair housing data system. The Federal Reserve Board must review disclosures for adjustable rate mortgages required by regulation for the purpose of making them more meaningful and simpler. Directs the regulators to implement any regulatory changes, if appropriate.

Reducing audit costs: The fundamental purpose of the proposed change is simple; it is meant to provide some flexibility for institutions, particularly in those rural areas, in meeting audit requirements, which include finding qualified persons to serve on audit committees.

Reinstating due process protections: Affords greater protection for individuals relating to attachment of assets.

Establishing regulatory appeals process and agency ombusdsmen: establishes an office of the ombudsman within each agency to examine complaints and disputes and also requires each regulator to implement a program for using alternative means of dispute resolution of issues if the parties agree.

Changing aggregate limits on insider lending: Increases the level for Federal Reserve exemption from aggregate lending limits of $250 million/CAMEL 1 and 2 rated institutions. Aggregate loans to insiders are limited to 2 times capital.

Removal of regulatory micromanagement: Exempts bank holding companies from section 132 of FDICIA—section 39 of FDIAct—which requires the regulators to set specific standards for banks. Repeals the requirement that regulators set stock value standards. Allows the regulators to issue guidelines, instead of regulations, to implement section 39.

Assurance of adequate transition period for new regulations: Establishes timeframe for new regulations that impose major disclosure requirements on banks. Regulators also require to take into consideration administrative burdens and benefits.

Requirement of more cooperation of examinations and providing examination relief for small banks: Allows an 18-month examination schedule for banks under $250 million. Also requires State regulators to issue guidelines and establish a certification process which would set standards for a suitable State examination which could be used by Federal agencies.

Establishment of expedited procedures for bank holding companies: Allows for expedited procedures of banks into bank holding companies with certain conditions. Also allows expedited approval for banks seeking to engage in new permissible activities.

Setting a deadline on regulators' reports on proposals to reform CRA—due 6 months after date of enactment.

Mr. Speaker, this Member urges passage H.R. 3474, and for the record, this Member would include for the RECORD a more detailed list of the regulatory provisions found in H.R. 3474 as follows:

The summary of the major provisions of the bill is as follows:

SUMMARY OF MAJOR PROVISIONS OF THE GONZALEZ-BEREUTER REGULATORY REFORM ACT OF 1993

1. Audits: relaxes independent audit requirements imposed by the 1991 banking bill, the Federal Deposit Insurance Corporation Enhancement Act (FDICIA).

2. Examination: allows an 18-month examination schedule for banks under $250 million. Also requires state regulators to issue guidelines and establish a certification process which would set standards for a suitable state examination which could be used by Federal agencies.

3. Eliminates Micro-management: exempts bank holding companies from Section 132 of FDICIA (Section 39 of FDIAct) which requires the regulators to set specific standards for banks. Repeals the requirement that regulators set stock value standards. Allows the regulators to issue guidelines, instead of regulations, to implement section 39.

4. Minimize CALL Report Changes: requires the FDIC to minimize the regulatory burden on insured depository institutions making statement of condition (CALL) reports to the agencies. FDIC must consider the benefits of continually changing the required information.

5. Real Estate Appraisals: encourages states to develop reciprocity agreements and generally prohibits state licensing agencies from imposing excessive fees or burdensome requirements for temporary practice.

6. Coordinated Examinations: directs each Federal regulator, to the extent possible, to coordinate state and Federal examinations. Agencies are permitted to conduct separate exams if necessary for safety and soundness purposes.

7. Reduce Regulatory Burdens: provides state bank regulators with access to Federal exams for use as substitutes; requires state-Federal regulatory agency coordination in the types of reports they require of institutions.

8. Expedited BHC Procedures: allows for expedited procedures of banks into bank holding companies with certain conditions. Also allows expedited approval for banks seeking to engage in new permissible activities.

9. Flexibility in Choosing Boards of Directors: reduces to one-half the number of members of the board of directors, of a national bank, which need to be residents of the state in which the bank is located.

10. Repeal Obsolete Laws: repeals obsolete laws applicable to national banks.

11. Aggregate Limits on Insider Lending: increases the level for Federal Reserve exemption from aggregate lending limits to $250 million/CAMEL 1 and 2 rated institutions. Aggregate loans to insiders are limited to 2 times capital.

12. Elimination of duplicative disclosures for home equity loans.

13. Establishes an office of the ombudsman within each agency to examine complaints and disputes and also requires each Federal banking agency to implement a program for using alternative means of dispute resolution of issues if the parties agree.

14. Clarifies RESPA disclosure requirements—permits a lender to provide a statement that the lender has previously assigned or transferred the servicing of loans instead of providing the schedule.

15. Exempts from RESPA business, commercial and agricultural loans and loans to government or government agencies.

16. Requires the Federal Reserve Board to submit recommendations to the Congress regarding whether an optional waiver of the right of rescission when refinancing a home mortgage, where no advances are being made, would be of benefit to consumers.

17. Simplifies disclosures for deposits that are not Federally-insured for existing depositors.

18. Brokered deposit rule clarification: exempts well-capitalized institutions from requirement that they register as deposit brokers since such institutions are permitted to solicit brokered deposits under current law. For purposes of determining whether an institution is soliciting brokered deposits, the regulators should look at prevailing rates offered by other institutions (not just those of the same charter) in the market area.

19. Amends Truth-in-Savings, Truth-in-Lending and Consumer Leasing Acts to modify disclosure requirements for radio broadcasts.

20. Studies: (1) on capital standards and their impact on the economy; (2) on credit availability for consumers and small businesses in order to identify those procedures which have become impediments to making credit available; (3) on the impact of the payment of interest on sterile reserves.

21. Streamline Regulatory Requirements: Federal regulators are required to conduct a review of the agency's regulations and written policies and report to Congress on their progress annually, for 3 years. Must also review real estate loan standards and review what information is collected under the fair housing data system. The Federal Reserve Board must review disclosures for adjustable rate mortgages required by regulation for the purpose of making them more meaningful and simpler. Directs the regulators to implement any regulatory changes, if appropriate.

22. CALL Report simplification: agencies must: (1) jointly develop a system to permit institutions to file CALL reports electronically and make such reports available to the public, electronically; (2) adopt a single form for filing core information; and (3) review the information required to be filed to eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

23. Establishes timeframe for new regulations that impose major disclosure requirements on banks. Regulators also required to take into consideration administrative burdens and benefits.

24. Recourse Agreements: agencies to jointly review the amount of capital, that insured depository institutions must hold against loans sold with recourse, and issue any appropriate revisions within 365 days.

25. Due Process Protections: Affords greater protection for individuals relating to attachment of assets.

26. Timely Completion of CRA Review: directs the regulators to complete their comprehensive review of CRA within 6 months after enactment.

27. Provides that revisions to risk-based capital standards must take into account the size and activities of the institutions and the reporting burdens.

28. The Federal Financial Institutions Examination Council must study the feasibility of establishing a data bank for reports submitted by institutions to a Federal banking agency.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER], the distinguished chairman of the Democratic caucus.

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Mr. HOYER. Mr. Speaker, I thank the committee chairman for yielding me this time. I am now chairing a caucus and I appreciate the gentleman allowing me to go ahead.

I want to congratulate the chairman of the subcommittee, the gentleman from North Carolina [Mr. NEAL] and the gentleman from Iowa [Mr. LEACH] as well for bringing this legislation to the floor.

Mr. Speaker, I rise in strong support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993. I am very pleased to see that nearly 28 of the 38 provisions in H.R. 962—which provides regulatory relief to the banking industry—were included in title 1 of H.R. 3474.

For the past 2 years, all of us in Congress have spoken to businesses in our districts who complained about the credit crunch. They have been unable to secure the loans they needed to keep their businesses afloat and their employees employed.

There were many factors contributing to the credit crunch, including: the Federal Reserve's conservative monetary policy, the downturn in our business cycle, and overly strict bank regulation.

However, in the past year we have seen monetary policy loosen up, and we are currently witnessing what we all hope is the beginning of an upturn in our business cycle as several of our leading economic indicators nose up. However, up until now, we still have not provided the banking industry the regulatory relief they need to fuel the engine of our economy: small business.

In fact, Alan Greenspan, the Federal Reserve Board Chairman, stated that American banks still find themselves in a regulatory straitjacket. The inflexibility of current banking regulations and the demands of regulatory agencies have made lending institutions averse to business loans, or buried too deep in paperwork to help their local communities.

Today we start to change that. From lengthening examination periods to removing statutory micromanagement, H.R. 3474 helps our banks get back into the business of banking. I urge my colleagues to support this bill and to help bring financial opportunity back to their communities. Let us pass H.R. 3474.

Mr. LEACH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. RIDGE], who has led this body in so many ways on inner-city economic growth issues.

Mr. RIDGE. Mr. Speaker, this bill is the result of broad agreement among Democrats and Republicans on two important banking matters.

First, we have agreed to remove regulatory constraints that neither improve the soundness of banks nor protect consumers. All these provisions have done is contribute to the recent job-killing credit crunch.

The doomsday predictions that the banking world would collapse have not come to pass. Fortunately, the banks never did need the standby taxpayer moneys provided by the 1991 bank bill. While all is not well in the banking industry—market share continues to decline as competitors grab more opportunities away from banks—short-term profits have restored and the bank insurance fund and protected taxpayers. So we should continue to monitor closely the weakest banks, but allow healthy banks to manage their own affairs as they know best.

Again, the regulations we are removing in this bill have succeeded in just one area: preventing small business and other borrowers from expanding and creating jobs for Pennsylvania's families.

Second, the bill incorporates the President's community development banking legislation, as amended by FLOYD FLAKE, JIM LEACH, and others in committee. By a vote of 36 to 14, the committee decided that one-third of the funds should go to implement the Bank Enterprise Act, a law on the books since 1991.

Let me till you what the Bank Enterprise Act does. It will provide incentives for mainstream banks to send more capital to community development lenders. In other words, we will be encouraging the private sector to evaluate the risk of specialty lenders, and capitalize those which possess a good track record. Under the Bank Enterprise Act, Washington's role will be to provide a helping hand, using public dollars to leverage private investment, to spur more private lending and job-creation activity in our distressed urban and rural neighborhoods.

The bill also provides incentives for mainstream banks to increase their direct lending to impoverished areas. Federal policy here currently relies exclusively on mandates, and a largely punitive approach as with the Community Reinvestment Act. A bipartisan coalition has voted overwhelmingly to try a set of incentives to pursue the goal or more bank lending.

This incentive approach avoids the centralized, top-down methods so often associated with past Federal efforts. When Government becomes too directly involved in problem-solving, often its heavy foot deadens initiative for both financial firms and the people who badly need job creation and neighborhood redevelopment.

But under the Bank Enterprise Act, the best minds in the private sector will find ways to empower people who are ready and willing, if only given the chance, to better their lives by their own hands.

This is my vision for the Bank Enterprise Act and this community development bill: new businesses nourished with private capital in North Philadelphia; rural homes rebuilt to keep out the rain in the Pennsylvania hill countries of Washington and Greene; working capital loans to expand startup plastics firms in Erie. In Hazleton, PA, a multibank community lending corporation will have more capital to continue renovating a downtown struggling to be reborn, and in Pittsburgh, our growing banks will search for new local partnerships to complete a transition from the days of steel to high-technology manufacturing.

The Bank Enterprise Act will do this not by asking the Federal Government to send us lots of money and bureaucrats, but by leveraging the will, talent, and financial resources of private mainstream banks, local residents, and the specialized lenders advocated by the President. My partner, FLOYD FLAKE, and I have pursued this new method for two years, and I thank him for his friendship and compliment him for his hard work and dedication.

The Bank Enterprise Act is supported by Chicago activist Gail Cincotta and her Neighborhoods First organization. The Consumer Federation of America worked on behalf of its initial authorization, and has backed it since 1991. It is supported by the Consumer Bankers' Association. It is also endorsed by the National Association of Homebuilders.

Mr. Speaker, I urge support for this bill.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. NEAL], ranking majority member of the Committee on Banking, Finance and Urban Affairs.

Mr. NEAL of North Carolina. Mr. Speaker, I rise today in strong support of the community development and regulatory reform legislation now before the House.

First let me compliment the chairman and the ranking member of the Banking Committee, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Iowa [Mr. LEACH], for their leadership on these issues. I would also like to salute the gentleman from New York [Mr. FLAKE] for his work on the community development component of this legislation, and the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Florida [Mr. BACCHUS] for their efforts on the regulatory reform issue.

Mr. Speaker, if we are to rebuild our cities and other communities throughout the country, we must channel more capital into those areas. Without capital, businesses can neither open their doors nor expand, and so cannot create the jobs needed to reinject a sense of hope into downtrodden areas in America.

The community development component of this legislation makes modest but important headway in this direction. It creates a community development fund to provide loans, grants, and technical assistance to community development organizations dedicated to developing low-income and disadvantaged communities.

It is fiscally responsible, leveraging scarce Federal dollars by requiring other sources to match Federal contributions dollar for dollar.

Significantly, this bill also seeks to harness the expertise and resources of banks and other financial institutions for community development purposes.

Under an amendment I offered during committee action, partnerships between banks and other financial institutions on the one hand and community development agencies on the other would be eligible to receive grants from the newly established community development fund.

In addition, thanks to the work of Mr. FLAKE and Mr. RIDGE, one-third of the money authorized by this bill will be used to carry out the Bank Enterprise Act, which provides banks with incentives to make more loans in low-income and other underserved areas.

Mr. Speaker, the regulatory reform provisions of this bill are equally important. Two months ago, the administration unveiled its proposals for reinventing Government, with the goal of reshaping the Federal Government to make it more effective yet less burdensome on those it regulates.

Today's legislation applies the spirit of that initiative to Federal regulation of insured depository institutions. It also incorporates several regulatory reform proposals that grew out of hearings the Subcommittee on Financial Institutions, which I chair, held earlier this year on these issues.

Most important, it seems to me, it reduces the paperwork burden on banks, customers, regulators and reduces duplication in regulation and supervision. Mr. Speaker, we have all heard horror stories about burdensome and useless paperwork—paperwork no one reads. This bill will reduce it.

The bill also requires the regulators to establish alternative dispute resolution systems to streamline procedures for dealing with disputes over regulatory decisions. It also requires ombudsmen in the agencies, to give bankers and the general public someone at the agencies to handle complaints.

The bill includes a provision to make most changes in banking regulations effective on one of four days throughout the year, to simplify the task of bankers trying to stay abreast of changes in compliance requirements. Though there is much more that needs to be done in this area of regulatory reform, this legislation is a good early step and deserves our support.

Mr. Speaker, taken together, the two main components of this bill will increase the flow of credit to businesses across the country. The community development component of this bill will help ensure that Americans in downtrodden communities have access to more of the opportunities the rest of us take for granted. The regulatory reform provisions will ensure that bankers can spend less time completing regulatory paperwork and more time making loans. These are important changes, and I encourage all Members to join with me in supporting this bill.

Mr. LEACH. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. McCOLLUM], one of the distinguished leaders of the minority.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding this time to me.

First of all, I want to pay tribute and thanks to the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Florida [Mr. BACCHUS] for their efforts to put together the regulatory burden relief that is in this bill. It is very positive. It is something that is long overdue. It is something that I think will be of great help to our banking community in establishing their better ability to operate and to relieve them of a lot of the burdens that have been discussed already by some of my colleagues out here today.

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However, I have some very grave misgivings about the bill as a whole. This regulatory burden relief was tied on as the honey of the sweetener to a community development bank bill which, although improved considerably by the amendment offered by the gentleman from Pennsylvania [Mr. RIDGE], which I am very appreciative of—and I also wish to compliment the gentleman from Pennsylvania for that—this basic concept I have trouble with, and I certainly do not think it was structured, even in the final product that is out here today, in the way that was most efficient and best to provide the kind of services to the low-income areas of our country that really need to be served by this.

Let me, first of all, say that it seems to me that to set up a new agency at all is unnecessary, that to use any taxpayer dollars, and there are $382 million in this bill, is unnecessary to accomplish the objectives of providing relief in the banking area to the low-income areas of the United States, and especially in our urban areas.

What really needs to be provided is not in this bill, is an incentive for the existing traditional banking institutions to go out and invest in those low-income areas, an incentive that is lacking and could have been there had we only been willing to use the already existing Community Reinvestment Act laws in order to say, "OK, if you as a banker wish to provide x amount of capital into that area to either fund existing community development banks or to start new ones, or do certain other things, then you are going to get, if not a safe harbor for CRA, you are at least going to get a credit for the Community Reinvestment Act." That does not exist in this bill, and I think that it is an unfortunate feature that today we are called upon, under a suspension of the rules provision, to vote on a bill that does not provide the methodology that would be most efficient for the American taxpayer to get this job done.

Consequently, I have very grave difficulty in voting for this, but I would also like to make a couple of other points. Had we gone the other route, had we gone the route of trying to provide these incentives, I think we could have raised a lot more capital, maybe $5 to $12 billion in capital through the process of incentives instead of the relatively small and meager amount this bill is going to actually produce for the low-income families and the low-income communities that are there.

Let me jump for a minute to the regulatory burden area that is in the bill that I do like. It is fine. It is just not all that should be out here. There are two major areas of reform and regulatory burden relief that are not addressed, two really major areas, and I know that the gentlemen who authored the regulatory area of relief both consider these things important, but they were not able to accomplish them in the negotiations with the majority working on this who are leading this charge.

One of them is the very thing that I have been talking about. We need some further relief in the Community Reinvestment Act. That is the most singularly burdensome thing on commercial banks today, all the paperwork that they have to do, all the little technicalities they have to follow to comply.

There is no CRA relief in this bill today, not any incentive for community development investment and not any relief in the CRA area, and second, what is missing from this regulatory burden relief that is very important is relief for officers and directors for liability. Today we have gone with the pendulum and swing it too far over after the advent of the savings and loan crisis, and we have lots of officers and directors today who are afraid to make character loans, who are afraid to take the risk that normal bankers should be taking in order to finance the community interests we have around the country.

What we need to do is to set up a series of affirmative defenses that clearly set forth those cases where they exercise prudent business judgment where they are relieved from that responsibility for simple negligence of making judgment calls that do not pan out down the road where they really were not grossly negligent, really were not at fault, really did not make any underhanded secondary dealings of some sort. That is not in here.

I am going to offer a bill in the next few days that will relieve that area. But in the meantime I am disappointed in this, but I am happy with the regulatory relief portion that is in this bill.

Mr. Speaker, I thank the gentleman for having yielded to me.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I rise in strong support of the legislation.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise today in support of H.R. 3474, legislation to establish a community development financial institution.

Now we hear an awful lot of speeches made on the House floor about supports we must provide to the inner city people of color and the poor of America. But the fact is what the people of this country need and want are good jobs. They want to be able to own assets. Right now it is very difficult for someone in the inner city, someone, a person of color, to be able to own an asset, to be able to own their own home and go out and purchase their own small business simply because there are no financial institutions that exist in those communities.

I say to my colleagues, "You don't need a social studies program to be able to understand it. All you have to do is get in your car, and drive through any urban ghetto of America, and find that there is one thing that is missing in every one of them, and that's a bank, and what this legislation does is say that the Federal Government is going to support the efforts of financial institutions to go into those communities and make loans available to people of color, make loans available to the poor of America, so that they, too, can go out and have the opportunity of home ownership, and they, too, can go out and have the opportunity to establish small businesses which will allow them to grow and prosper, and allow this country to relieve some of the burdens that this place puts on them."

Mr. Speaker, I rise in support of H.R. 3474, legislation to establish community development financial institutions, and to institute regulatory reforms for banks. I want to congratulate Chairman GONZALEZ for putting together a good bill that deserves bipartisan support.

In January of this year, the Subcommittee on Consumer Credit and Insurance, which I am privileged to chair, held the first hearing in the Congress on community development banking. The legislation we consider today represents the combined efforts of the subcommittee, the administration, and others who know only too well that community development lenders are key components of any strategy to revitalize our cities and poor rural areas. I want to particularly recognize the contributions of Mr. FLAKE, who sits on the subcommittee and chairs the oversight subcommittee, Mr. RUSH, Ms. WATERS, and Ms. VELAZQUEZ.

This legislation is modest in size but ambitious in concept. It recognizes that the promise of capitalism remains elusive for millions of Americans who live in our cities, on our Indian reservations, and in our rural communities. The banking system of this country has a proven record of neglecting the needs of people who live in these areas. They have closed branches, and ignored the demand for banking services. As a result, millions of hard-working men and women can't get the credit they need to start a business, buy a home, or send a child to college. The American dream has drifted further and further from their reach.

In a number of communities, home-grown lending institutions have sprouted up and try to fill the gap left by mainstream lenders. They can't do it entirely, but they have succeeded beyond anyone's expectations. I need only point to the record of Chicago's Shorebank, which has helped to revitalize a community that many had written off as hopelessly blighted. The same quiet revolution of hope is taking place in neighborhoods and villages throughout the country.

The organizations dedicated to community development need our help, and this legislation gives it to them. By providing funds for technical assistance, capital, and other purposes, it will help leverage hundreds of millions of dollars of affordable home and business loans to poor and working families.

This is the best kind of new government program. It is cost-effective. It is creative. And, most importantly, it rewards the energy and initiative of men and women who are succeeding against tremendous odds.

H.R. 3474 also takes steps to reduce any excessive regulatory burdens on mainstream banks. I have long supported reasonable reform that will help to alleviate the credit crunch, which has hit especially hard on my home State of Massachusetts. Banks are the engines of our economy, and too many of them are stalled. They're buying T-bills instead of making loans to home buyers and entrepreneurs.

Several of the provisions of H.R. 3474 will help banks get back into the banking business. Several, however, will not. For instance, the bill loosens the restrictions on insider lending, despite the fact that insider lending is a proven cause of bank instability and failure. That's a reform that lenders want; but it's not one that they need, or that taxpayers can afford. Nevertheless, Chairman GONZALEZ has succeeded in crafting bipartisan legislation that will stop lenders from stream rolling important safety and soundness protections. His efforts deserve our support, and I urge passage of this bill.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. BAKER].

Mr. BAKER of Louisiana. Mr. Speaker, I thank the gentleman from Iowa [Mr. LEACH] for yielding this time to me.

Mr. Speaker, there are many achievements contained in this legislation, and I certainly have enjoyed the opportunity of working with the leadership on both sides with important reform. I wish to address only one narrow element of the bill before us relating to the enhancement of the Federal home loan bank system. That bank system incorporates $100 billion in assets nationally in extending credit to many in rural and inner-city communities. The provision included in this particular legislation enables the bank participants in that system, as well as thrift members, to engage even more actively in lending for those inner-city and rural needs.

To put this in proper perspective, the legislation before us will create a community development bank system, on the one hand a government agency which will have about $40 million only in this bill in the current coming year, and the Bank Enterprise Act, which is the Flake-Ridge proposal, which will have only about $20 million in it for the coming year. By comparison, the Federal home loan bank system last year extended through its community investment program over $100 million—excuse me; $1.2 billion—in community investment loans across the Nation. So, by comparison the Federal home loan bank system is engaged in dramatic enhancements in community development lending. It is an important step. I hope we do more in the next session to make a good system work better.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 3474. I would like to commend Chairman GONZALEZ for bringing this legislation to the floor today.

Passage of this legislation fulfills one of President Clinton's most promising campaign pledges.

Our communities cry out for opportunity. Inner-city and poor rural areas are desperate for change. This legislation offers them hope.

As the author of one of the first community development banking bills in this Congress, I have been following this legislation for some time. I worked closely with the Clinton administration to fashion this proposal and am generally pleased with this bill.

I would be remiss, however, if I did not express regret at the funding restrictions of this program. There have been very few economic development initiatives this year. The community development banking program is one that has great promise. Capital formation in low-income areas may be the greatest single antipoverty program there is.

Unfortunately, due to budget constraints—constraints that are crippling this Congress' ability to make real strides anywhere in the economy—this bill only authorizes $360 million over the next 4 years.

I hope this program can be greatly expanded. There are creative forces out there waiting for just a nudge.

Hundreds of entrepreneurs in low-income areas could benefit from a program like the one we will pass today. It must be our goal to empower all those who are prepared to contribute to the rebuilding of this country's economic backbone. I urge support for this legislation.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I rise today in support of H.R. 3474, the Community Development Banking and Financial Institutions Act and to take note of two critical components of this legislation. I also commend the gentlemen, Mr. LEACH, Mr. BEREUTER, Mr. RIDGE, and Mr. FLAKE, who worked so diligently to make a number of substantial improvements to this legislation.

H.R. 3474 makes a number of significant regulatory reforms that will cut redtape and administrative burdens in the banking industry. These reforms will not mitigate safety in the banking industry. These reforms will not mitigate safety and soundness in the banking industry. Rather, they will help bankers cut their overhead costs which will ultimately enable bankers to strengthen their capital position which will strengthen the safety and soundness of the system and potentially make more capital available to the bank's community.

For example, H.R. 3474 calls for Federal and State banking regulators to coordinate their examinations and reporting requirements, which will help to minimize the interruptions and costs of bank examinations. Additionally, this legislation eliminates the duplicative disclosures for home equity loans. Having recently gone through this process with my local banker, I can safely say that the paperwork requirements involved with these transactions are great.

Additionally, Congressmen RIDGE, FLAKE, and LEACH were successful in adding a provision to this legislation that will allow one-third of the funds authorized in this legislation to leverage capital in the private sector for community development activities. The so-called Flake-Ridge-Leach provision will enable existing financial institutions to stretch the funds authorized in this legislation making more capital available in economically distressed areas which will result in greater economic development and growth.

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Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Speaker, they said it could not be done, but we did it.

Today, the House will vote on H.R. 3474, a bill that includes not only President Clinton's proposal for community development financial institutions, but also a substantial set of regulatory burden relief measures that will help all financial institutions squander less time, waste less paper, and loan more money to families and small businesses.

These provisions of the Regulatory Reform Act of 1993, were carefully crafted to draw a distinction between burdensome paperwork and legitimate safety and soundness issues.

No one wants to put the taxpayers at risk for a bailout of the bank insurance fund. On the other hand, stacks of forms are not always the best defense against bad banking practices.

In the 102d Congress, the Banking Committee made substantial progress in protecting taxpayers by instituting risk-based bank insurance fund premiums and revising requirements for reserve capital.

As Members know, it is a bank's own reserved capital that forms the first line of defense against taxpayer bailouts. Capital is formed when banks are allowed to make money.

By contrast, capital reserves are reduced when banks are forced to waste money complying with ill-conceived paperwork requirements.

The House Banking Committee has taken a good bite out of some bad regulations.

There are a few more regulatory issues that I believe deserve scrutiny, and I am sure that the committee will take an equally open-minded look at additional regulatory burden issues in 1994.

Mr. Speaker, in conclusion, I would like to express my thanks to the prudent bankers of Idaho for helping educate me on these issues, and to my chairman, Mr. GONZALEZ, and my colleagues Mr. BACCHUS, Mr. BEREUTER, and Mr. LEACH for their hard work on this legislation.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate the gentleman's yielding me the time.

Mr. Speaker, I rise in support of the bill because it provides much needed regulatory reform that will serve to strengthen our economy. But this bill has some elements of a troubling trend developing in this Congress, and we need to talk about that.

We need to have a discussion about what we think the banking industry will look like over the next 10 to 20 years. Do we want a competitive private sector system, or do we want a Federal system of government-sponsored banks? Do we want banks to continue to be in the private sector, or do we want them to become another type of Federal agency?

This bill is an example of a more federalized system. Nobody argues against the aim, of course, of this legislation, but we can accomplish these goals entirely within the private sector at reduced cost to the taxpayer and with better results.

It is vital to reduce the regulatory burden, and this bill takes a significant step in that direction. I am pleased about that and will vote for the bill, but I do hope that we will have a dialog in this Congress about the future shape of the banking industry and how it fits in the private sector.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the committee chairman for yielding this time to me, and I want to compliment all of my colleagues for their work on this bill, including the chairman of the committee and the head of the subcommittee. The gentleman from New York [Mr. FLAKE] worked very hard and made good additions to the bill, and overall I am supportive of the bill and will vote for it because we do need funds going into the inner city. I do want to make the one comment about this: There is a part of the bill that troubles me, and I am hopeful we can look at this in conference. That is the so-called regulatory relief package. The regulatory relief undoes some of the provisions in FIRREA. Some of them I could live with, although I do not like undoing very many of them. But some are pretty severe, and I would point out one in particular to my colleagues—the insider lending restrictions.

Lending money to people on the boards of the banks is one of the things that caused many of the problems during the S&L crisis. There has been a rule that you could do it up to your capital, so a bank was trading its own capital. I even thought that was too lenient. Then we are going to say that the bank has no capital for any failure that is not insider trading. But this bill doubles it for small institutions between $100 and $250 million.

Mr. Speaker, that is a mistake. I hope it will come out. We will regret the day that we passed something like this.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in support of H.R. 3474.

I support this measure because it provides much-needed relief from the regulatory burden currently facing our Nation's lenders and borrowers. By incorporating large parts of H.R. 962, introduced this year by my friend, DOUG BEREUTER, H.R. 3474 will help reverse the credit crunch caused by Congress when it passed the 1989 FIRREA and 1991 FDICIA legislation.

And during the disastrous flooding in the Midwest, I worked with Chairman GONZALEZ and DOUG BEREUTER to pass DIDRA'93, which provided regulatory relief in federally declared disaster areas. Today, I'm proud to vote for legislation which will extend additional relief to lenders and borrowers throughout the country.

I do not, however, support this bill unconditionally. For example, I believe that community development lending can be better enhanced through market incentives rather than through Federal programs. And I hope in the future, Congress will address those provisions of H.R. 962 which were not included in today's bill.

These objections notwithstanding, I congratulate Chairman GONZALEZ, DOUG BEREUTER, JIM LEACH, and all those who have worked so hard to make regulatory relief a reality, and I urge my colleagues to support this legislation.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Mr. Speaker, I rise in strong support of this legislation.

By far, the best way possible to create economic growth and thereby create jobs is to get credit out into the private sector for purposes of investment and free private enterprise. This bill helps to do that.

I strongly support the President's proposal for Community Development Financial Institutions. Moreover, I want to echo the words of my colleague and friend, the gentleman from Nebraska [Mr. BEREUTER], in reminding our colleagues that this bill includes the vast majority of our bill, H.R. 962, providing for regulatory relief. I want to thank the gentleman from Nebraska [Mr. BEREUTER] for his stalwart companionship throughout this ordeal, and I look forward to our next future endeavor.

I also want to thank the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from Iowa [Mr. LEACH], and especially the committee chairman, the gentleman from Texas [Mr. GONZALEZ], for their strong support. This is an excellent piece of legislation. I especially want to thank the 270 Republicans and Democrats in the House who cosponsored H.R. 962 and made it possible for us to have this great victory for the American people and American jobs and American economic growth.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 3474, the Community Development and Financial Institutions Act. As my colleagues know, this legislation represents a number of compromises that have enabled the Banking Committee to advance the President's proposal to create community development banks, and to provide regulatory relief desparately needed by existing financial institutions. The bill contains most of the provisions of H.R. 962, Congressman BEREUTER's excellent bank regulatory relief bill. This legislation is strongly supported by the banking community in my State of Delaware.

While I have reservations over the community development bank proposal to authorize $382 million in Federal funding for new community development banks, this legislation has been improved by the inclusion of the bank enterprise provisions offered by my colleagues FLOYD FLAKE, TOM RIDGE, and JIM LEACH. I congratulate them on their good work.

I want to thank the chairman and Congressman LEACH for agreeing to include the Radio Consumer Information Act as part of H.R. 3474 in addition to the Community Development Banks and regulatory aspects. The Radio Consumer Information Act, H.R. 3102, was introduced by Congressman LAROCCO and me in an effort to address a problem which has been unfairly damaging radio broadcasters' ability to compete for advertising for automobiles and other consumer products involving loans and leases.

The Radio Consumer Information Act will modify the Truth in Lending and Consumer Leasing Acts to allow radio stations to provide more effective consumer leasing and loan advertisements. Under current law, radio cannot compete with television or print publications for ads that require extensive disclosure of loan and lease terms.

Our legislation will allow radio to provide loan and lease information through a toll-free number or other means prior to the sale. The Federal Reserve will establish reasonable regulations for this procedure.

The legislation will protect the consumers right to complete information on the terms of a loan or lease before agreeing to a purchase.

H.R. 3474 represents the type of workable compromise which can enable our committee to improve the banking laws of this Nation and I recommend its passage.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELAZQUEZ. Mr. Speaker, I rise today in strong support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993. This landmark legislation addresses one of the most vital issues determining the future of our inner cities and the future of poor urban communities—economic empowerment. This legislation will greatly improve access to credit and capital for poor communities and people of color that have been undeserved by the existing financial services industry. By doing so, H.R. 3474 offers a hand up instead of a hand out to these communities.

Of the approximately $4 trillion circulating through commercial lending institutions in this country, very little seems to trickle down to our poor and minority communities. This lack of credit and capital has impeded these communities' ability to create business ventures, finance affordable housing, and provide basic lending and savings services for consumers.

President Clinton and I, along with many of my colleagues in the Congress, believe that one of the solutions to this complex problem rests in the creation and evolution of institutions whose sole mission is to serve needy communities. We already have many shining examples of these institutions. In my home city of New York, the Community Capital Bank of Brooklyn and the recently established Central Brooklyn Federal Credit Union have been paving the way. I also wish to acknowledge the great work of the National Federation of Community Development Credit Unions, and in particular thank the federation for its technical assistance and support to the Lower East Side People's Federal Credit Union, located in my congressional district. But these existing and prospering institutions need assistance with raising capital and we must replicate their success in many more neighborhoods. The legislation before us today plants the seeds which will blossom in new and energized community development lending institutions throughout the country.

H.R. 3474, establishes a fund, called the Community Development Banking and Financial Institutions Fund, to provide technical and financial assistance to community development financial institutions, also known as CDF's. The fund will be a wholly-owned government corporation, governed by a board of directors which will include representatives from the executive agencies and private citizens. The selection of these citizens will take into account geographic representation as well as diversity of race, ethnicity, and gender. The bill authorizes $382 million for the fund for the years 1994 through 1997, with $60 million in authority for fiscal year 1994.

Organizations that have community development as their goal will be eligible for participation. Other organizations could participate through a community partnership, or joint venture, in applying for assistance. The bill specifies that financial assistance would be used for commercial facilities that enhance community revitalization or stability, business creation and expansion, community facilities, home ownership opportunities for low-income households, and low-income rental housing. The fund could provide assistance to community institutions in the form of equity capital, loans, deposits, membership shares, grants, and other forms.

During Banking Committee consideration of this bill, an amendment was offered and approved directing one-third of the funds appropriated to the CDFI Fund to be diverted, in accordance with the Bank Enterprise Act, to give conventional financial institutions discounts on their deposit insurance premiums for providing banking services in distressed neighborhoods.

I must state my strong opposition to this provision. First, I regret that any of the few funds authorized for the CDFI's will be diverted to other institutions. Second, I believe that conventional financial institutions should not be granted the incentives provided in this provision for doing merely what they should be doing under existing law. Under the Community Reinvestment Act, banks are already required to invest back into those communities from which they draw funds. Third, the original bill created the fund to provide seed capital to CDFI's because these institutions face difficulties raising these essential funds. However, to suggest, as this provision does, that large, healthy, conventional banks should receive Federal funds to raise capital defies logic. These institutions have much capital at their disposal and can raise capital at the drop of a hat. They do not need Uncle Sam and taxpayers to assist them with raising money. However, this provision is now part of the legislation so we must live with these requirements.

The legislation before us also makes several changes in banking and financial regulations in order to reduce paperwork. It coordinates Federal and State reporting requirements and examinations, and repeals numerous obsolete requirements in banking law.

Mr. Speaker, this legislation will help shatter the chains of economic disenfranchisement which bind our poor communities. This legislation will provide long overdue economic empowerment to these communities. This legislation deserves the overwhelming support of this Congress. I urge my colleagues to approve H.R. 3474.

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Mr. GONZALEZ. Mr. Speaker, I yield I minute to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Speaker, I rise today to offer my strong support for the bill now before the House, H.R. 3474, the Community Development Banking/

Regulatory Reform bill. This important legislation has been received with overwhelming support from community development leaders and organizations across the Nation. It represents one of President Clinton's leading priorities toward the reinvestment in our Nation's inner-city communities.

I would like to take this opportunity to express my sincere gratitude to the chairman of the full Banking Committee, Mr. GONZALEZ, and to others on the committee from both sides of the aisle who have offered their support to this bill.

I believe that by passing this bill, we in the Congress can begin the process of reinvesting in our cities by providing much-needed capital for credit-starved communities like Illinois First Congressional District. These communities have been unduly overlooked in the past, and I welcome this administration's willingness to correct this unfairness.

Mr. Speaker, I strongly urge my colleagues on both sides to vote for this important bill.

Mr. LEACH. Mr. Speaker, I yield 1 minute to my thoughtful colleague, the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend, the gentleman from Iowa, for yielding.

Mr. Speaker, I am very much in favor of this legislation, and I congratulate the chairman of this committee and the ranking member and the members of the Committee on Banking, Finance and Urban Affairs for their insight.

This is not only a bill that is going to reduce regulation, but it is going to save some $10 billion for consumers and for people in the industry. So I congratulate the people who had the foresight to bring this legislation before us.

Mr. Speaker, when we debated NAFTA, and we are going to have a debate here in a short while on competitiveness, what really makes our business and industry noncompetitive is all these Lilliputians, these regulations, holding down our Gulliver, our strong economy. And rather than say that this is going to be a panacea, which it is not, this should just be the first step in cutting back the size of our regulations.

It is going to help our banks, especially our smaller banks, be more competitive. It is going to help in the area of real estate appraisals. It is going to help in the area of closings. If you have ever been to a real estate closing when you buy a house, all of you have had that experience, you see nothing but a lot of forms.

Mr. Speaker, what I want to just quickly add is this: that today we are correcting the mistakes that this Congress made in the past by putting on all these regulations. Today we are taking some of these regulations off. This should be a metaphor for things to come, if we want to have a strong competitive economy.

Mr. LEACH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first let me just say I would be remiss in particular if I did not thank, on the majority side, the gentleman from New York [Mr. FLAKE] and the gentlewoman from California [Ms. WATERS] for their efforts in community development banking, and the gentleman from Florida [Mr. BACCHUS] for his leadership on deregulation.

Mr. Speaker, while the country's economy is slowly improving, pockets of America are islands of hopelessness which society ignores at its peril. This bill is designed to target aid, and most of all hope, to these areas. In addition to unequal economic opportunities, the Nation's banking infrastructure has been suffering from unnecessary micro regulation. An increase in burdensome regulation appears to have caused a counterproductive effect on the economy. Having gone from a period in which a yellow light on safety and soundness concerns has led to a redlight on lending, the primary financial challenge of the next decade is to give our institutions in the finance area a green light to lend.

Mr. Speaker, this bill is designed to unleash private sector capital so the economy can continue to grow, and at the same time ensure that all Americans are given a fair and equal chance at the American dream. I urge its adoption.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from the great State of Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, they say politics is the art of compromise, and this bill is the result of the skillful leadership of the chairman and ranking minority member in bringing about a balance between those who want banks to extend their capital and their risk into neighborhoods that need it the most, and those who firmly believe that banks cannot profitably operate in the regulatory environment in which they are thrust today, primarily by FIREA legislation.

I agree very strongly that banks suffer from overregulation today, that there is no way that they can compete with the other financial institutions and financial instruments that take people's money and lend it out without anywhere near the kind of regulatory requirements that banks must exist under today.

This goes part of the way to enabling them to play on a more level playing field with other financial institutions and financial instruments. Just the fact that you do not have to duplicate the regulation between States and the Federal Government goes a long way. I hope we will go further in the year ahead.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of this legislation and commend the chairman for bringing it to the floor today.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it only remains for me to thank all of my colleagues and persons like the gentleman from the State of Virginia [Mr. MORAN] who were formerly members of the Committee on Banking, Finance and Urban Affairs, and were very strong participants in the deliberations of the committee for their support.

Mr. Speaker, I urge my colleagues to approve this measure, H.R. 3474.

Mr. Speaker, I yield back the balance of my time.

Mr. ORTON. Mr. Speaker, as a member of the House Banking Committee, I am very pleased to see the House acting today on H.R. 3474, the community development banking and regulatory relief bill.

I believe this bill is good for the country and good for my home State of Utah. By eliminating a number of senseless regulatory burdens on insured financial institutions, more financial resources should be available for loans to consumers, businesses, and affordable housing. By enacting these community development banking provisions, new resources should be made available to those people who lenders sometimes ignore—women, minorities, and the poor.

Two years ago, practically to this day, we enacted FDICIA, a comprehensive bank reform bill designed to meet the crisis of a bank insurance fund potentially running out of money. Some of the reforms we enacted were sensible—including higher capital standards and prompt corrective action. However, in the rush to pass legislation, we added on many provisions which serve no purpose—either for safety and soundness or for consumer protection. Today we are recognizing that we went too far 2 years ago and are restoring balance to the process of bank regulation. For example, a more balanced approach will be taken with respect to exam schedules, aggregate limits on insider loans, brokered deposits, and audits. We are also reducing unnecessary paperwork, in such areas as call reports, RESPA requirements, and duplicative disclosures for home equity loans.

Enactment of regulatory reform measures represents a hard-fought victory for those of us who have been working for sensible reform of our banking laws. There are many in the House who have forcefully opposed any changes in our regulations, warning in apocalyptic terms of a new round of banking solvency problems. In contrast, there are many more who are probably disappointed today that we did not achieve more.

I believe that the results we have achieved today, though not as extensive as I might have preferred, represent a great improvement. In fact, we have worked through a process that I have strongly advocated since the beginning of year—recognizing that it was not realistic to pass all of H.R. 962, prioritizing those regulatory relief provisions that are most important, and working diligently of their enactment.

The result, I believe, is not just a victory for banks and other regulated financial institutions, but for the economy as a whole. As we have struggled through a sluggish economy for many years, it is clear that a lack of credit availability has been a significant factor in slowing down our growth. While the changes we are making today are not a panacea, they clearly ought to improve credit availability.

This is important for everyone—for borrowers, for the economy, and ultimately for the taxpayer. As we struggle this weekend with spending cut proposals, we should not forget that the most important step we can take to close the deficit is to improve economic growth. Every new job means more tax revenues, fewer Federal support payments, and ultimately a smaller deficit. That is why I hope we can move quickly to a conference and final enactment of this bill.

The other major part of the legislation we are voting on today is the administration's community development bank legislation. I commend the administration for addressing the issue of credit availability for those in our society who don't enjoy the same access to our traditional lending institutions. A few months ago, a subcommittee field hearing was held in my congressional district on the subject of credit availability. At this hearing, we received testimony clearly indicating that women, minorities, and lower-income individuals feel there is a void in lending sources available to them.

The bill we are voting on today—while not perfect—offers a number of different ways to address this problem. The main feature, the administration's funding proposal for community development banks, certainly deserves the chance to succeed. However, in the Banking Committee, we added two alternative methods which I believe should also be given a chance.

The first is the Bank Enterprise Act approach, so ably advanced by Representatives FLAKE, RIDGE, and LEACH. This approach recognizes the value of working more with traditional financial institutions, through incentives which could provide great leverage for new community lending. The other approach involves an increase in the funding levels for the Community Development Credit Union Revolving Loan Fund—an amendment I was proud to have successfully offered.

Of course, we must recognize that the House bill we are voting on today differs from the Senate bill in many respects. Much work lies ahead in conference to agree upon a mutually acceptable bill.

For example, while there is much overlap in the regulatory provisions of the two bills, they are not identical. Without addressing the specifics of these proposals, I feel very strongly that the conferees should not reduce the level of regulatory relief from the provisions currently found in both the House and Senate bills. The record clearly indicates that a substantial majority of both Houses want meaningful regulatory relief.

Second, I believe that the two additional community development provisions that we added in the House Banking Committee should be included in a final bill. It is my belief that alternative approaches should be given an opportunity to succeed, so that we can later adjust funding to promote those approaches that are doing the best job.

Finally, I would like to point out that unlike the Senate banking bill, the House bill does not include changes to promote secondary markets. This does not mean that no such proposal exists in the House. In fact, under the capable leadership of Representative PAUL KANJORSKI, the House Economic Growth and Credit Formation Subcommittee passed a good secondary market bill. Even though the bill we are considering today does not contain the secondary market provisions, and the Senate bill does, there is one major imperfection in the Senate-passed bill. The Kanjorski bill contains secondary market provisions for commercial real estate, including affordable rental housing, which the Senate bill does not incorporate.

It is my hope that the conference committee can agree on a secondary market provision which include both (small) business loans, multifamily housing loans, and commercial real estate. I believe this represents a dynamic long-term opportunity to increase credit availability to important sectors of our economy.

In conclusion, I would like to acknowledge the hard work of the many individuals who contributed to the passage of H.R. 3474 together. Everyone worked together to pass a sensible bill. We in the House should do the same today.

Mr. POMEROY. Mr. Speaker, I rise today in strong support of the community development legislation before the House. This bill is critical for a number of reasons. But most importantly, it included provisions that provide regulatory relief for banks.

I firmly believe regulations have overburdened sound, safe, and properly managed banks. I have spent time at banks to see firsthand how employees and consumers must wade through stacks of paperwork and unnecessary Government redtape. At one of the banks I visited a customer informed me that while refinancing his home he made between 8 and 10 trips to the bank to sign at least 39 forms.

Bankers and consumers are justifiably frustrated by the excessive Government redtape they must wade through on a daily basis to conduct business. I believe, as do many of my colleagues, that burdensome bank regulations have severely restricted small business loans and impeded our country's progress toward economic recovery. I became a cosponsor of H.R. 962, the Economic Growth and Financial Institutions Regulatory Paperwork Reduction Act of 1993, because I believe sound and stable banks should be relieved from these overburdensome and unnecessary regulations.

I have been active in the fight to bring about this much needed regulatory relief to banks. Along with over 20 of my freshman Democratic colleagues, I sent a letter to the chief sponsor of H.R. 962, Mr. BACCHUS, offering him our support in bringing this legislation to the floor before the end of the year.

Mr. BACCHUS should be commended for his hard work on this matter. Much of what we hoped to accomplish with H.R. 962 can be done with the regulatory relief provisions included in H.R. 3474. I am pleased that we were able to help him in this regard. I urge my colleagues to support this legislation.

Ms. FURSE. Mr. Speaker, I rise before you today in support of H.R. 3474, and to bring to the attention of my colleagues certain provisions of the Community Development Banking and Financial Institutions Act of 1993 that will assist American Indian tribes in fostering desperately needed economic development on Indian reservations. I am proud to say that this legislation will bring an infusion of scarce capital, credit, and technical assistance to many underserved communities throughout the United States, including Indian country. For too long, Federal economic initiatives have excluded America's poorest rural communities—the American Indian population. The average unemployment rate on Indian reservations stands at 56 percent as compared to 7 percent for the rest of the country. Per capita income ranks the lowest for American Indians as compared to the rest of the U.S. population. In addition, the lack of financial infrastructure and even basic banking services make it virtually impossible for tribes to create new jobs, revitalize their communities, and enhance local business development.

For example, the Navajo Nation, the largest American Indian tribe in the United States, with a land base approximately the size of West Virginia, has only three banks operating to serve reservation residents. One of the primary reasons for this lack of investment is that banks are reluctant to grant loans to reservation residents and businesses because reservation lands are held in trust by the U.S. Government. Because of this, these dismal conditions are likely to continue unless we provide the leadership and assistance to reverse these trends.

I am pleased to say that such assistance, while not the cure, is made available through components of the bill we are considering today. First, the legislation includes Indian reservations as a targeted investment area. This will enable financial institutions, primarily serving American Indian communities, to become eligible for financial services provided by the Community Development Financial Institutions Fund. Second, the bill provides for greater input and involvement of tribal governments in establishing attainable lending goals of the Community Development Financial Institutions Fund. This will ensure that financial institutions, located on or near Indian lands, will coordinate with tribal governments and that these institutions will extend their services to these communities. Third, the measure states that the fund will provide for a comprehensive study of the unique lending issues in Indian country. The House Subcommittee on Consumer Credit and Insurance of the Committee on Banking, Finance and Urban Affairs heard testimony from the Navajo Nation about the reticence of lending institutions to lend in Indian country. This study will provide for more insight and knowledge that should help diminish fears of lending in Indian communities. Finally, the legislation also provides that an individual with expertise in banking practices of Indian reservations will be appointed as one of the private citizens of the Board of Directors of the Community Financial Institutions Fund.

The intent is to ensure that the views of those doing business on, or knowledgeable about, Indian reservations are included.

Finally, I would like to emphasize that this legislation will benefit all Indian tribes. I encourage my colleagues to help enact this much needed legislation into law.

Mr. SAM JOHNSON of Texas. Mr. Speaker, first, I must say that I fully support the regulatory relief provisions contained in this bill.

However, I must express my disgust with the way in which this measure was brought to the floor.

Bringing this measure to the floor under suspension of the rules violates long-standing Democratic caucus rules. If there is a rule that prohibits consideration of bills under suspension with costs over $100 million, then we should abide by it.

The leadership of both parties should be ashamed that they have accepted this path and totally disregarded the spirit of this long-standing rule.

I understand that we are trying to pass as many bills as possible before the recess, but that is not an excuse to break rules—especially ones that ultimately hurt the taxpayers. And this bill will cost the taxpayers $382 million in new borrowed money. Instead of decreasing the deficit, this bill increases the Federal debt.

I oppose the way this bill has been maneuvered through the process and hope that in the future both sides will stand up for what is right and defend the integrity of adopted rules.

Mr. FINGERHUT. Mr. Speaker, I rise in support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993 and urge its adoption.

I commend my colleagues on the Banking Committee for their hard work on this legislation. I am especially pleased that the provisions of a bill I cosponsored, H.R. 962, the Economic Growth and Financial Institutions Regulatory Paperwork. Reduction Act of 1993, were included in H.R. 3474. This bill provides regulatory relief for financial institutions that are financially sound, and it requires regulators to discard obsolete or superfluous regulations. Over the past several months, many of my constituents have brought to my attention on very dramatic ways the unacceptable amount of paperwork that banks are required to generate in order to comply with unnecessary regulations. This bill will ease their burden, and therefore make capital more affordable and available to foster economic growth.

This bill also includes the President's community development bank legislation, as amended by my colleagues FLOYD FLAKE and JIM LEACH. I commend them for the substantial improvements they made to the bill—improvements that I supported in the Banking Committee. The Flake-Ridge-Leach provision will enable existing financial institutions to use the funds authorized in this legislation making more capital available in economically distressed areas which will result in greater economic development and growth.

I am pleased to be able to support this bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 3474, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3474, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENTS TO THE COMPETITIVENESS POLICY COUNCIL ACT

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2960) to amend the Competitiveness Policy Council Act to provide for reauthorization, to rename the Council, and for other purposes.

The Clerk read as follows:

H.R. 2960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION.

Section 5209 of the Competitiveness Policy Council Act (15 U.S.C. 4808) is amended—

(1) by striking "1991 and 1992" and inserting "1993, 1994, 1995, and 1996"; and

(2) by striking "$5,000,000" and inserting "$2,500,000".

SEC. 2. RENAMING OF COUNCIL.

The Competitiveness Policy Council Act (15 U.S.C. 4801 et seq.) is amended as follows:

(1) In the subtitle heading—

(A) insert "National" before "Competitiveness"; and

(B) strike "Policy Council" and insert "Commission".

(2) In section 5201—

(A) insert "National" before "Competitiveness"; and

(B) strike "Policy Council" and insert "Commission".

(3) In section 5202(b)(2)—

(A) insert "National" before "Competitiveness"; and

(B) strike "Policy Council" and insert "Commission".

(4) In section 5203—

(A) in the section caption, strike "COUNCIL" and insert "COMMISSION";

(B) insert "National" before "Competitiveness";

(C) strike "Policy"; and

(D) strike "Council" each place it appears and insert "Commission".

(5) In section 5204—

(A) in the section caption, strike "COUNCIL" and insert "COMMISSION"; and

(B) strike "Council" and insert "Commission".

(6) In sections 5205 through 5208, strike "Council" each place such term appears and insert "Commission".

(7) In section 5207, in the section caption, strike "COUNCIL" and insert "COMMISSION".

(8) In section 5210—

(A) in paragraph (1)—

(i) insert "National" before "Competitiveness";

(ii) strike "Policy"; and

(iii) strike "Council" each place it appears and insert "Commission"; and

(B) in paragraph (2)—

(i) insert "National" before "Competitiveness"; and

(ii) strike "Policy Council" and insert "Commission".

SEC. 3. DUTIES OF THE COMMISSION.

Section 5204 of the National Competitiveness Commission Act (15 U.S.C. 4803) is amended by striking paragraphs (11) and (12) and inserting the following:

"(11) prepare, publish, and distribute reports that—

"(A) contain the analysis and recommendations of the Commission; and

"(B) comment on the overall competitiveness of the United States economy, including the report described in section 5208; and

"(12) submit an annual report to the President and to the Congress on the activities of the Commission."

SEC. 4. EXECUTIVE DIRECTOR AND STAFF OF COMMISSION.

Section 5206 of the National Competitiveness Commission Act (15 U.S.C. 4805) is amended—

(1) in subsection (a)(1), by striking "GS-18 of the General Schedule" and inserting "the maximum rate payable under section 5376 of title 5, United States Code";

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting before paragraph (3), as redesignated, the following:

"(1) FULL-TIME STAFF.—The Executive Director may appoint such officers and employees as may be necessary to carry out the functions of the Commission in accordance with the Federal civil service and classification laws, and fix compensation in accordance with the provisions of title 5, United States Code.

"(2) TEMPORARY STAFF.—The Executive Director may appoint such employees as may be necessary to carry out the functions of the Commission for a period of not more than 1 year, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, at rates not to exceed the maximum rate payable under section 5376 of title 5, United States Code."; and

(3) in subsection (c), by striking "GS-16 of the General Schedule" and inserting "the maximum rate payable under section 5376 of title 5, United States Code.".

SEC. 5. POWERS OF THE COMMISSION.

Section 5207 of the National Competitiveness Commission Act (15 U.S.C. 4806) is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

"(g) CONTRACTING AUTHORITY.—Within the limitation of appropriations to the Commission, the Commission may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of carrying out its duties under this subtitle.".

SEC. 6. REPORTING REQUIREMENTS.

Section 5208 of the National Competitiveness Commission Act (15 U.S.C. 4807) is amended—

(1) by striking the caption and inserting the following:

"SEC. 5208. ANNUAL PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.";

(2) in subsection (a)—

(A) by striking the subsection heading and inserting "(a) PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.—; and

(B) by striking "on" and inserting "not later than"; and

(3) by adding at the end the following:

"(d) OTHER REPORTS.—The Commission may submit to the President and the Congress such other reports containing analyses and recommendations as the Commission deems necessary.".

SEC. 7. REFERENCES IN FEDERAL LAW.

(a) COMPETITIVENESS POLICY COUNCIL.—Any reference in Federal law to the Competitiveness Policy Council shall be construed to be a reference to the National Competitiveness Commission.

(b) COMPETITIVENESS POLICY COUNCIL ACT.—Any reference in Federal law to the Competitiveness Policy Council Act shall be construed to be a reference to the National Competitiveness Commission Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Competitiveness Policy Council was created in the Omnibus Trade and Competitiveness Act of 1988. The Competitiveness Policy Council was founded in 1991 and is charged with recommending policies to restore U.S. competitiveness in the world economy.

The Competitiveness Policy Council is a bipartisan group of 12 high-caliber and nationally recognized professionals organized to resolve one of the most serious problems plaguing our country today. These professionals share the common goal of helping the United States return to preeminence as a world economic power. The Council members are chosen by the administration and the bipartisan leadership of the Congress, and they represent equally the viewpoints of business, Government, labor, and the public interest.

The Competitiveness Policy Council has formed eight subcouncils, or task forces, to specifically examine what is needed to return the United States to a nation of strength in the global market. These subcouncils investigate areas such as the Nation's education system, training resources, critical technologies, corporate governance and financial markets, trade policy, manufacturing, public infrastructure, and capital formation.

In just the past 2 years, the Education Subcouncil has issued recommendations for building a standards-based school system in the United States; the Training Subcouncil has drafted a list of suggestions for creating high-performance workplaces and considered strategies for improving school and work integration; the Critical Technologies Subcouncil has written a report detailing their view of the need for national investment in civilian and dual-use research and development, as well as the need for commercialization of strategic technology; and the Subcouncil on Corporate Governance and Financial Markets has advocated that the focus of corporate boards of directors, shareholders, and managers alike in this country needs to be on long-term corporate performance.

The Trade Policy Subcouncil has published a report listing 10 points to be used for making a trade policy for a more competitive America; the Manufacturing Subcouncil, in addition to its regular meetings, has sponsored a workshop on removing barriers to effective defense-commercial industrial transition; the Public Infrastructure Subcouncil has issued recommendations for improving our national transportation system and has considered what the future of telecommunications may mean for U.S. competitiveness; and the Capital Formation Subcouncil has examined the link between productivity and capital investment, as well as the link between capital investment and national saving, and has set a national capital formation agenda.

Although the Competitiveness Policy Council has been in existence for only 2 years, already the recommendations made by the Manufacturing Subcouncil have been adopted by President Clinton in policies he has articulated for a more competitive America. It should be noted that the Chair of the President's Council of Economic Advisors, Laura D'Andrea Tyson, is a member of the Manufacturing Subcouncil.

I would like to commend the gentleman from New York, Chairman LAFALCE, for his excellent foresight in recognizing the need for an intellectual body such as the Competitiveness Policy Council. Chairman LAFALCE is the author of the original enacting legislation responsible for the creation of this Council, and is also the sponsor of H.R. 2960.

It is clear that the work of the Competitiveness Policy Council has just begun. On November 9, 1993, my Subcommittee on Economic Growth and Credit Formation received testimony from Dr. C. Fred Bergsten, chairman of the Competitiveness Policy Council, at a hearing I held on the reauthorization of funds for the Council. I was very impressed by the ground that they have covered in 2 short years. It is a credit to the Council that their authorization bill passed out of subcommittee unanimously and without amendment. Authorizing funds to facilitate the Council's effort is clearly a sound and low-cost investment in America's future.

I urge my colleagues to support passage of H.R. 2960, the authorization of the Competitiveness Policy Council for fiscal years 1994, 1995, and 1996.

Mr. Speaker, I reserve the balance of my time.

Mr. RIDGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. RIDGE. Mr. Speaker, I am pleased to support H.R. 2960, which reauthorizes and renames the Competitiveness Policy Council. This legislation, originally sponsored by Representative LAFALCE, was passed as part of the Omnibus Trade and Competitiveness Act of 1988, with the Council beginning operations in 1991.

The Council is charged with investigating the state of our manufacturing competitiveness and recommending ways to improve it. My understanding is that the Council has done its work well, and some of the Councils' recommendations have been endorsed by the current President, such as placing greater emphasis on dual-use research and development for defense spending, and having a permanent R&D tax credit that I recommended to my colleagues. The Council continues to advocate a compelling idea that I recommend to my colleagues. Our overweight Federal budget ought to be divided into an investment side and a consumption side. In this manner Congress and the voters could evaluate our national priorities between spending for ourselves versus investing for our children.

This bill would cut authorizations in half, from $5 million annually to $2.5 million annually; it would reauthorized the Council for 4 years, and it would rename it the National Competitiveness Commission.

I am pleased to support this measure, and I urge its passage.

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Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE], the original author of this legislation.

Mr. LAFALCE. Mr. Speaker, I rise in strong support of this bill. I am very, very proud of the work that the Competitiveness Policy Council has done, and I look forward to its continued great work so that we can, in fact, enhance the industrial competitiveness of all American industries.

Mr. Speaker, I rise to strongly endorse H.R. 2960, a bill to reauthorize the Competitiveness Policy Council [CPC] and amend the Competitiveness Policy Council Act. As author of the legislation that created the Council, I am proud to urge its continuation.

This Council and its efforts on behalf of U.S. competitiveness are the culmination of over a decade's efforts by me and others who have long urged pushing the competitiveness issue to the front of our national agenda. Now that we have finally made a start, it is essential that we keep pushing forward.

I have been gratified by the aggressive approach the Council has taken in analyzing the competitiveness challenges facing the United States and recommending policies to meet those challenges. However, there remains much to do, and the task ahead has been magnified by the many years preceding formation of the Council in which we had no competitiveness strategy.

A decade ago, in 1983, as chairman of the Banking Subcommittee on Economic Stabilization, I held an extensive series of hearings on the competitiveness problems facing the United States. At that time, I said, "America's predominant economic position in the world is in jeopardy, and the consequences of continued decline in our industrial competitiveness will mean a permanently dislocated work force and reduced standard of living for most Americans." I also noted then that "the last decade has sent an unmistakable message. It is now time—in fact, past time—to respond. If we sit back and do little but rely on truisms that ignore the current realities of global competition, then foreign industries and workers will continue to enjoy a critical advantage."

The result of those hearing was a report entitled "Forging an Industrial Competitiveness Strategy" that included in its recommendations establishment of a Council on Industrial Competitiveness. In 1984, the Industrial Competitiveness Act included as title I a Council on Industrial Competitiveness. The legacy of these early efforts is today's Competitiveness Policy Council.

The statements I made in those early hearings ring as true today as they did 10 years ago. In fact, the message today is even more urgent as we see restructuring and downsizing of our prominent corporations, persistent unemployment, and conversion of our defense industries to operations appropriate for a non-cold-war environment.

We waited too long to develop a strategy that could have produced a strong growth-oriented economy. For too long, policymakers refused to tackle our competitive problems for fear of being labeled advocates of industrial policy, engaged in picking winners and losers. As a result, we are now in the unenviable position of having to turn around our economy, halt the downward slide of our manufacturing base, and pull our economy back to an upward, productive path.

When I held the hearings on U.S. competitiveness 10 years ago, there was a core group of people who were worried, as I was, about the economic direction of the United States. They testified before my committee. They included then-Gov. Bill Clinton, Laura D'Andrea Tyson, Robert Reich, Ira Magaziner, and Lester Thurow. These same people are now actively shaping a real competitiveness strategy for this country, and the CPC is a central part of that effort. It is a testament to the administration's commitment to such a strategy that it has offered its full support to reauthorization of the Council.

The Council began its operations in June 1991. Since then, it has issued three reports to the President and the Congress. "Building a Competitive America" diagnosed the underlying causes of America's competitiveness problem and identified six priority issues on which policymakers should focus: Savings and investment; education; technology; corporate governance and financial markets; health care costs; and trade policy. For action based on a strategy that would address the underlying weaknesses in the economy, while at the same time promoting short-term recovery.

The Council's second report to the President and Congress, "A Competitiveness Strategy for America," reported the recommendations of eight subcouncils of public and private leaders who analyzed the competitiveness issues identified in the first report. These subcouncils—Manufacturing, of which I was a member; Critical Technologies; Education; Training; Capital Formation; Public Infrastructure; Trade Policy; and Corporate Governance—developed specific recommendations intended to turn around U.S. performance in these areas.

I am pleased to note that many of the Manufacturing Subcouncil's recommendations already have been incorporated into President Clinton's announced policies for a more competitive America. Such ideas as a permanent research and experimentation tax credit, a national network of manufacturing extension centers, greater emphasis on dual-use research and development for military/civilian technology, and a shift in the ratio of Federal funding between military and civilian/dual use research to 50:50 all were proposed by our subcouncil and were adopted by President Clinton.

The Council's third report, "Enhancing American Competitiveness," assessed the progress in implementing its recommendations as well as other administration competitiveness efforts. The Council also is beginning to examine new issues—creating high-performance workplaces, capital allocation, tort reform, and social problems.

It is clear that the Council's work is far from complete. It is also clear that Council recommendations are helping to shape new policies that can move our economy forward. This Nation has made only a dent in correcting the fundamental problems that continue to erode our economic competitiveness and pull down our living standards and productivity. We must continue to forge ahead guided by the expertise and advice from the Competitiveness Policy Council. That is why I introduced H.R. 2960, to reauthorize the Council and allow it to continue the excellent work it has begun.

First, the bill reauthorizes the Council for 4 years rather than the original 2. Second, it changes the Council's name to National Competitiveness Commission. This change is primarily intended to prevent confusion with past and present competitiveness councils. Third, the bill reduces the original annual authorization funding from $5 million to $2.5 million in line with a recommendation made by the administration and Senate last year. Finally, various technical amendments clarify the Council's authority with respect to specific activities.

Mr. Speaker, I have no doubt that continuation of the Competitiveness Policy Council is in the best interests of the United States. The Council should be allowed to maintain the momentum it has developed in encouraging public debate, dialog, and understanding of the economic challenges we face, and in devising new policies to meet those challenges. It is the Council's job to keep our eye on the ball, to keep us focused, and to guide us as we define our policy goals.

I urge the Congress to act favorably on H.R. 2960 and to give the Competitiveness Policy Council the authority to carry on the important work of making this country competitive again.

Mr. KANJORSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding time to me. I wanted to commend him on his leadership of this subcommittee, together with our ranking member, my neighbor from just across the border, the gentleman from Pennsylvania [Mr. RIDGE], and particularly the author of the legislation that created this body and, of course, the author of this reauthorizing legislation, the gentleman from New York [Mr. LAFALCE], whose farsighted leadership on this issue is critical.

Mr. Speaker, when those of us who are new to this body were running for office, we envisioned that the Congress would be a place where we would debate the critical issues facing the economic future of our constituents. Those critical issues, I think we would all agree, are: How can we enact those public policies that will build upon and maintain our competitiveness in the world and to, frankly, understand and experience those policies, evaluate those policies that we currently pursue, and reject those that are not adding to our competitiveness and implement those new that should be?

It is in the subcommittee, Mr. Speaker, and to a great extent in the work of this Competitiveness Council that I have had the chance to pursue these issues more than any other place in this Congress. I thank the gentleman and I commend him for that.

In the testimony by the Competitiveness Council in support of this reauthorization, I had the chance to review their work and to debate, in fact, with them to some great extent these issues. I would like to say what an addition, a very positive addition to this national dialog this Commission is.

Therefore, I strongly support its reauthorization. I wanted to make reference to the same issue that the gentleman from Pennsylvania [Mr. RIDGE] identified. That is the very strong recommendation of the Competitiveness Council to separate out our Federal budgeting between those items that would be identified as consumption for today's use and those items that would be identified as investment for the future. I would like to particularly stress the fact that in the dialog that we had with them, they indicated their willingness to evaluate specific proposals that are before the Congress on how to proceed to make this distinction in our Federal budgeting and then also their further willingness to help us evaluate which efforts, which items of our Federal budget should properly be placed in each category.

I simply want to say today, in the course of reauthorizing, that we encourage those efforts. I would like to add that the chairman and I have authored a letter together to the chairman of the Competitiveness Council asking that they do, in fact, follow up on this issue that we have raised.

Again, I thank the chairman for his interest in this issue. It has really been an outstanding experience to serve on this committee and discuss these issues. I thank the gentleman from New York [Mr. LAFALCE] for his interest in this issue and also my neighbor, the gentleman from Pennsylvania [Mr. RIDGE].

Mr. Speaker, I include for the RECORD the letter to which I referred.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 19, 1993.

Dr. C. FRED BERGSTEN,
Chairman, Competitiveness Policy Council, Washington, DC.

DEAR DR. BERGSTEN: We would like to commend you for the excellent testimony you provided to the subcommittee last week during consideration of the reauthorization of the Competitiveness Policy Council. Your presentation was quite interesting on several levels, and prompted some serious thinking on our parts about the direction of the Competitiveness Policy Council.

We support strongly the work of the Competitiveness Policy Council. You will recall that during the hearing, you stated that the Congress is ill-served because there is no agreed-upon distinction between two fundamental components of economic activity—consumption and investment. Thus, it is difficult for us to make judgments as to what share of total government spending can and does go for long-term investment purposes.

First, we need to agree upon some definitions and decide which categories of spending go under consumption and which under investment. Then, once we agree upon some explicit definitions, we need your guidance and expertise in identifying those elements of federal spending which we could cut without damaging our competitive status or our own economy and potential for future growth.

We were interested to note that the Council has previously reviewed specific revenue measures and their impact upon U.S. competitiveness. It would be useful for the Council also to consider making recommendations for legislative or administrative actions that would bring about federal budgetary savings in such a way as to not reduce the competitiveness of U.S. industries. We feel that this is well within your charter as you are charged with developing long-range strategies to address economic problems inhibiting the competitiveness of U.S. agriculture, business and industry.

Thank you for your assistance in this undertaking. We will welcome the opportunity to discuss the possible scope of such a Council undertaking once you have reviewed other analyses which have been made by other organizations in this area.

Sincerely yours,

ERIC D. FINGERHUT,
Member of Congress.
PAUL E. KANJORSKI,
Member of Congress.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

I would like to compliment our last speaker and member of my subcommittee, the gentleman from Ohio [Mr. FINGERHUT]. He has been an outstanding contributor in this particular area of competitiveness and economic growth generally.

He has been just faithful to the subcommittee hearings and meetings. He has helped us have some of those around the country. If he is representative of the new class of Members that have come to this House, I can think, indeed, his constituents and the citizens of the United States can be, indeed, proud of the new class of Members of Congress that have started in the 103d Congress.

Also I would be remiss if I did not compliment my friend, the gentleman from Pennsylvania [Mr. RIDGE]. He has been an outstanding ranking member of my subcommittee. I have had just such an enjoyable time over the last year working with him. He has been a great contributor. Always out there is the forethought of economic development and growth for the United States.

I look forward to continuing our fine relationship, at least to the end of this Congress, because I know the talents of the gentleman from Pennsylvania [Mr. RIDGE] may go to higher and more important areas. But his work with us has been really most rewarding, and I think his presence on the committee has proven that there is not any gridlock in the Congress of the United States across the aisles. We can work together for economic growth in America. I thank him for his efforts in this effort.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RIDGE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KANJORSKI] that the House suspend the rules and pass the bill, H.R. 2960.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

Mr. KENNEDY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3548) to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the memorial, and the Women in Military Service for America Memorial, and for other purposes.

The Clerk read as follows:

H.R. 3548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—THOMAS JEFFERSON COMMEMORATIVE COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Jefferson Commemorative Coin Act of 1993".

SEC. 102. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 600,000 one-dollar coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the coins issued under this title shall be emblematic of a profile of Thomas Jefferson and a frontal view of his home Monticello. On each coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 104. SELECTION OF DESIGN.

Subject to section 102(a)(2), the design for the coins authorized by this title shall be—

(1) selected by the Secretary after consultation with the Executive Director of the Thomas Jefferson Memorial Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Advisory Committee.

SEC. 105. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this title shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this title.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this title during the period beginning on May 1, 1994, and ending on April 30, 1995.

SEC. 106. SALE OF COINS.

(a) SALE PRICE.—The coins authorized under this title shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (c) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins authorized under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(c) Surcharges.—All sales shall include a surcharge of $10 per coin.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary—

(1) in the case of surcharges received in connection with the sale of the first 500,000 coins issued, to the Jefferson Endowment Fund, to be used—

(A) to establish and maintain an endowment to be a permanent source of support for Monticello and its historic furnishings; and

(B) for the Jefferson Endowment Fund's educational programs, including the International Center for Jefferson Studies; and

(2) in the case of surcharges received in connection with the sale of all other such coins, to the Corporation for Jefferson's Poplar Forest, to be used for the restoration and maintenance of Poplar Forest.

SEC. 109. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 108, as may be related to the expenditures of amounts paid under section 108.

SEC. 110. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE II—U.S. VETERANS COMMEMORATIVE COINS

SEC. 201. SHORT TITLE.

This title may be cited as the "United States Veterans Commemorative Coin Act of 1993".

SEC. 202. COIN SPECIFICATIONS.

(a) One-Dollar Silver Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue one-dollar coins of 3 different designs, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) Designation of value and inscriptions.—On each coin there shall be a designation of the value of the coin, an inscription of the year "1994", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(3) Design of 3 coins.—

(A) Prisoner-of-war commemorative coin.—1 type of coin issued under this title shall be a prisoner-of-war commemorative coin the design of which shall be emblematic of the experience of Americans who have been prisoners-of-war.

(B) Vietnam veterans memorial commemorative coin.—1 type of coin issued under this title shall be a Vietnam Veterans Memorial commemorative coin the design of which shall be emblematic of the Vietnam Veterans Memorial.

(C) Women in military service for America memorial commemorative coin.—1 type of coin issued under this title shall be Women in Military Service for America Memorial commemorative coin the design of which shall be symbolic of women's service in the Armed Forces of the United States.

(4) Maximum number for coins of each design.—The Secretary shall issue no more than 500,000 coins of each design.

(b) Legal Tender.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 203. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 204. SELECTION OF DESIGN.

Subject to section 202(a)(3), the design for the coins authorized by this title shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts and—

(A) in the case of the coin described in section 202(a)(3)(B), the Vietnam Veterans Memorial Fund; and

(B) in the case of the coin described in section 202(a)(3)(C), the Women in Military Service for America Memorial Foundation, Incorporated; and

(2) reviewed by the Citizens Commemorative Advisory Committee.

SEC. 205. SALE OF COINS.

(a) Sale Price.—The coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in subsection (d).

(b) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins issued under this title before the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) Surcharges.—All sales of coins issued under this title shall include a surcharge of $10 per coin.

SEC. 206. ISSUANCE OF THE COINS.

(a) Commencement of Issuance.—The coins minted under this title may be issued beginning May 1, 1994.

(b) Termination of Authority.—The coins authorized under this title may not be minted after April 30, 1995.

(c) Proof and Uncirculated Coins.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(d) 3-Coin Sets.—

(1) In general.—In addition to any other manner and form of sales of coins minted under this title, the Secretary shall make a portion of such coins available for sale in 3-coin sets containing 1 of each of the 3 designs of coins required pursuant to section 202(a)(3).

(2) Number of sets.—The number of 3-coin sets made available pursuant to paragraph (1) shall be at the discretion of the Secretary.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) Prisoner-of-War Commemorative Coins.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of prisoner-of-war commemorative coins described in section 202(a)(3)(A) shall be promptly paid by the Secretary in the order that follows:

(1) Amounts to be made available for construction of museum.—The Secretary of the Treasury shall make available to the Secretary of the Interior the first $3,000,000 of such surcharges for the construction of the Andersonville Prisoner-of-War Museum in Andersonville, Georgia.

(2) Amounts to be paid to endowment fund.—After payment of the amount required by paragraph (1), the Secretary of the Treasury shall pay 50 percent of the remaining surcharges to the endowment fund established pursuant to section 209(a).

(3) Amounts to be paid to maintain national cemeteries.—After payment of the amount required by paragraph (1), the Secretary shall pay 50 percent of the remaining surcharges to the Secretary of Veterans Affairs for purposes of maintaining national cemeteries pursuant to chapter 24 of title 38, United States Code.

(b) Vietnam Veterans Memorial Commemorative Coins.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of Vietnam Veterans Memorial commemorative coins described in section 202(a)(3)(B) shall be promptly paid by the Secretary to the Vietnam Veterans Memorial Fund to assist the Fund's efforts to raise an endowment to be a permanent source of support for the repair, maintenance, and addition of names to the Vietnam Veterans Memorial.

(c) Women in Military Service for America Memorial Commemorative Coins.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of Women in Military Service for America Memorial commemorative coins described in section 202(a)(3)(C) shall be promptly paid by the Secretary to the Women in Military Service for America Memorial Foundation, Inc., for the purpose of creating, endowing, and dedicating the Women in Military Service for America Memorial.

(d) Surcharges From 3-Coin Sets.—In the case of surcharges derived from the sale of 3-coin sets pursuant to section 206(d)—

(1) ⅓ of such amount shall be distributed as provided in subsection (a);

(2) ⅓ shall be distributed as provided in subsection (b); and

(3) ⅓ shall be distributed as provided in subsection (c).

SEC. 209. ANDERSONVILLE PRISONER-OF-WAR MUSEUM ENDOWMENT FUND.

(a) ESTABLISHMENT.—There is hereby established in the Department of the Interior an endowment fund (hereinafter in this section referred to as the "fund") to be administered by the Secretary of the Interior and to consist of the amounts deposited under subsection (b).

(b) DEPOSIT INTO FUND.—

(1) DEPOSIT FROM SURCHARGES.—There shall be deposited into the fund such amounts that are paid by the Secretary under section 208(a)(2).

(2) INVESTMENT.—The Secretary of the Interior shall have the authority to invest the portion of the fund that is not, in the determination of such Secretary, required to meet the current needs of the fund, in obligations of the United States or in obligations guaranteed as to the principal and interest by the United States. In making such investments, the Secretary of the Interior shall select obligations having maturities suitable to the needs of the fund.

(c) EXPENDITURES.—The Secretary of the Interior may use the amounts deposited in the fund under this title to pay for the maintenance of the Andersonville Prisoner-of-War Museum in Andersonville, Georgia.

SEC. 210. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 208, as may be related to the expenditures of amounts paid under section 208.

SEC. 211. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE III—REFORM OF COMMEMORATIVE COIN PROGRAMS

SEC. 301. SENSE OF CONGRESS RESOLUTION.

(A) FINDINGS.—The Congress hereby makes the following findings:

(1) Congress has authorized 18 commemorative coin programs in the 9 years since 1984.

(2) There are more meritorious causes, events, and people worthy of commemoration than can be honored with commemorative coinage.

(3) Commemorative coin legislation has increased at a pace beyond that which the numismatic community can reasonably be expected to absorb.

(4) It is in the interests of all Members of Congress that a policy be established to control the flow of commemorative coin legislation.

(b) DECLARATION.—It is the sense of the Congress that the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate should not report or otherwise clear for consideration by the House of Representatives or the Senate legislation providing for more than 2 commemorative coin programs for any year, unless the committee determines, on the basis of a recommendation by the Citizens Commemorative Coin Advisory Committee, that extraordinary merit exists for an additional commemorative coin program.

SEC. 302. REPORTS BY RECIPIENTS OF COMMEMORATIVE COIN SURCHARGES.

(a) QUARTERLY FINANCIAL REPORT.—

(1) IN GENERAL.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a quarterly financial report to the Director of the United States Mint and the Comptroller General of the United States describing in detail the expenditures made by such person from the proceeds of the surcharge.

(2) INFORMATION TO BE INCLUDED.—The report under paragraph (1) shall include information on the proportion of the surcharges received during the period covered by the report to the total revenue of such person during such period, expressed as a percentage, and the percentage of total revenue during such period which was spent on administrative expenses (including salaries, travel, overhead, and fund raising).

(3) DUE DATES.—Quarterly reports under this subsection shall be due at the end of the 30-day period beginning on the last day of any calendar quarter during which any surcharge derived from the sale of commemorative coins is received by any person.

(b) FINAL REPORT.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a final report on the expenditures made by such person from the proceeds of all surcharges received by such person, including information described in subsection (a)(2), before the end of the 1-year period beginning on the last day on which sales of such coins may be made.

SEC. 303. GAO REPORTS TO CONGRESS.

Before the end of the 1-year period beginning on the last day on which sales of commemorative coins may be made under the Act of Congress which authorized such coins, the Comptroller General of the United States shall submit a financial accounting statement to the Congress on the payment of any surcharges derived from the sale of such coins and the use and expenditure of the proceeds of such surcharges by any recipient (other than a recipient which is an agency or department of the Federal Government) based on the reports filed by such recipient with the Comptroller General in accordance with section 302 and any audit of such recipient which is conducted by the Comptroller General with respect to the use and expenditure of such proceeds.

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). Pursuant to the rule, the gentleman from Massachusetts [Mr. KENNEDY] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am honored to offer H.R. 3548 with some of the most distinguished Members of this House: the gentleman from Texas [Mr. GONZALEZ], the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Michigan [Mr. BONIOR], the gentleman from Florida [Mr. PETERSON], the gentleman from Virginia [Mr. PAYNE], the gentlewoman from California [Ms. WATERS], and the gentleman from Pennsylvania [Mr. RIDGE].

I also wanted to thank in particular the gentleman from California [Mr. MCCANDLESS] for all of the help and support that he has been and the tremendous leadership that he has shown on the Subcommittee on Consumer Credit and Insurance of the Committee on Banking, Finance and Urban Affairs. I want to thank him very much for all the support that he has provided us over the last several months on a number of different issues.

Mr. Speaker, this carefully crafted piece of legislation authorizes the minting of coins to honor the men and women who have valiantly served our country in times of war, and to commemorate the achievements of Thomas Jefferson. It also institutes several much-needed reforms in the way that commemorative coin programs are currently conducted. I will leave it to other speakers to describe the important causes this bill serves.

The four commemorative programs contained in this legislation were introduced earlier in this session as separate bills. Each received well in excess of the 218 signatures needed for consideration by the Subcommittee on Consumer Credit and Insurance, which I chair. A hearing on the bills was held earlier this month.

Let me briefly describe this legislation in more detail. First, it commemorates the heroic sacrifices made by our Nation's prisoners of war by allowing the proceeds of coin sales to be used to build and maintain a Prisoner-of-War Museum in Andersonville, GA. I want to acknowledge the efforts and vision of Mr. PETERSON to bring this legislation before the House today. He has distinguished himself not only as a Member of Congress, but as a decorated veteran and former prisoner of war.

Second, it brings some much-deserved and long-overdue recognition to the 1.8 million women veterans of America. It is an unfortunate fact of our Nation's history that the achievements of women veterans are only now beginning to get the recognition they deserve. This legislation will take a small but important step toward correcting the historical record. Coin sale proceeds will be used to help build a women's veterans memorial in Arlington National Cemetery, so that this and future generations will recall the contributions made by women to protecting our democratic way of life. I want to express my thanks to Chairman MONTGOMERY, who is the principal sponsor of this legislation. I also want to commend Ms. WATERS, who has been a passionate advocate for this memorial on the Banking Committee.

Third, this bill helps to preserve and maintain the Vietnam Veterans Memorial. This memorial is the single most visited monument in Washington. It is an extraordinary place of remembrance, where the people our Nation come to recall and come to terms with the pain and loss of the Vietnam war. The memorial is in serious need of repair, and this legislation will raise funds needed to preserve the power of its impact for decades to come. I want to offer thanks to Mr. BONIOR and Mr. RIDGE for their efforts to preserve this important symbol of our Nation's history.

Fourth, H.R. 3548 commemorates the achievements of the genius of our democracy, Thomas Jefferson. Funds raised will help restore and preserve Monticello, Jefferson's home located in Charlottesville, VA. This building is the only home in America ever named to UNESCO's World Heritage List, which includes such treasures as the Taj Mahal, Versailles, and the Great Wall of China. It is a priceless piece of our heritage, and H.R. 3548 will ensure that it is preserved for generations to come.

Mr. Speaker, during my brief service as chairman of the subcommittee that is responsible for coinage matters, I have learned more than I ever thought there was to learn about coins. Thanks to the efforts of the coin collecting community, I have become aware of the need to reform the commemorative coin process. This legislation attempts to respond to their concerns. It expresses the sense of the Congress that no more than two coin programs should be enacted in any one year. This limit will help to ensure that the coin market does not become saturated, so that coins like the ones we are voting on today will continue to be bought by coin collectors, who purchase an average of 90 percent of all commemorative coins. In addition, the bill requires organizations receiving the proceeds of coin sales to submit quarterly financial reports to the mint and the General Accounting Office, and to submit themselves to GAO audits. These organizations are currently subject to little, if any, Government oversight. Recent news reports have revealed that one foundation—established to build a memorial to the Battle of Normandy—has spent 90 percent of its money on travel, entertainment, fundraising, and personal expenses. At this point, it may never build the Normandy Memorial. H.R. 3548 will prevent this kind of abuse, and ensure that the money raised from coins is used for the purposes intended. I want to particularly thank Mr. MCCANDLESS, the ranking member of the Consumer Subcommittee, for his input into these reform provisions.

In closing, let me say that this legislation will not cost taxpayers a dime. In fact, I expect that the coins will sell out completely, in which case a share of the profits will go toward reducing the national debt. I urge my colleagues to support this legislation.

□ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. MCCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking Republican member of the Subcommittee on Consumer Credit and Insurance, which has jurisdiction over commemorative coinage issues, I would like to say a few words about the Commemorative Coin Act of 1993.

I will not use my time to comment on titles I and II of the bill other than to say that they authorize the mint to strike four commemorative coins:

A coin to commemorate the 250th anniversary of the birth of Thomas Jefferson;

A coin to commemorate Americans who have been prisoners of war;

A coin to commemorate the 10th anniversary of the Vietnam Veterans Memorial; and

A coin to commemorate the Women in Military Service for America Memorial.

Since I know that my colleagues will address the specifics of each of the four commemorative coins, I will limit my remarks to title III of the bill.

The provisions of title III are absolutely essential to ensuring the continued success of commemorative coin programs.

First, title III includes a sense of the Congress resolution that Congress should not pass enabling legislation for more than two commemorative coin programs per year unless otherwise advised by the Citizens Commemorative Coin Advisory Committee. The committee was established in the 102d Congress to comment on the selection of subjects and designs for commemorative coins. This provision recognizes the limited manufacturing capability of the mint and the limited purchasing power of those who are interested and purchase commemorative coins.

Second, title III of the bill will require those organizations who benefit from the sale of commemorative coins to submit quarterly financial statements and a final report to the mint. This provision will ensure that the purposes for which enabling legislation is passed are realized.

Finally, title III will require the General Accounting Office to submit to Congress a final review of a recipient organization's financial activities. Like the one to require quarterly financial statements, this provision is necessary to ensure that moneys generated through the sale of commemorative coins are not squandered.

Mr. Speaker, I know that some of my colleagues are anxious to talk about the merit of the four commemorative coins that this bill authorizes.

Mr. Speaker, I reserve the balance of my time.

Mr. KENNEDY. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. MONTGOMERY], to talk about the Women's Memorial. I just want to say to the gentleman from Mississippi how much we appreciate all of his help and hard work and that of his staff in helping to put this memorial together. I also want to say to the gentleman how much we appreciate the contributions of Gen. Wilma Vaught, who has been so tremendously helpful in bringing this issue before the Congress of the United States.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentleman from Massachusetts for his kind remarks.

Mr. Speaker, I rise in strong support of H.R. 3548. I want to thank my friend, the gentleman from Massachusetts [Mr. KENNEDY] chairman of the Subcommittee on Consumer Credit and Insurance, for his role in getting this important measure to the floor. Joe is also a member of the Veterans' Affairs Committee and a strong advocate for veterans and their families. I also want to thank the gentleman from California [Mr. MCCANDLESS], ranking minority member, for his support.

I am especially pleased that Mr. KENNEDY'S bill, of which I am a proud cosponsor, includes several provisions which authorize the minting of coins in commemoration of the deeds of U.S. veterans. The bill contains a measure I introduced which would direct the Secretary of the Treasury to issue coins symbolic of women's service in the Armed Forces. The sale of these coins will be crucial in the effort to raise funds to build a long overdue memorial to all women who have served America in uniform.

Mr. Speaker, the Women in Military Service for America Memorial, which will be constructed at the main gate of Arlington National Cemetery and dedicated in 1996, will recognize the patriotism and courage of the 1.8 million women who have served our country in Somalia, the Persian Gulf, Vietnam, Korea, World Wars I and II, and United States conflicts dating back to the American Revolution, as well as those who have served in peacetime.

The Congress authorized the memorial in 1986 in Public Law 99-610, and the Women in Military Service for America Memorial Foundation was designated as administrator of this project. Under the outstanding leadership of Gen. Wilma Vaught, the foundation has been working to educate the public about the role of women in the military and has taken actions necessary to construct the memorial. The Federal approval agencies have all unanimously and enthusiastically approved the design. The proceeds from the sale of these coins will help assure funding to construct the memorial.

Both the memorial and the coins will be tangible reminders to this and future generations of the contributions that women have made in defending and serving our country. Women have served the cause of freedom under difficult and dangerous circumstances as nurses, scouts, couriers, switchboard operators, stenographers, translators, pilots, and gunner's mates. A number have been highly decorated, including combat-related awards, some were prisoners of war, and some remain buried in U.S. cemeteries overseas. They all have been important to both wartime and peacetime efforts. We owe them a great debt for their contributions. The women who have served in our Armed Forces have earned a special place of distinction in our history and our hearts. I urge favorable consideration of H.R. 3548, to commemorate the proud tradition of service rendered by women in the military.

I also want to express my support for the other veteran-related coin provisions in this bill. I commend the distinguished gentleman from Florida [Mr. PETERSON], for his efforts to commemorate the experiences of Americans who have been prisoners of war. Having been a prisoner of war in Vietnam for 6½ years, PETE understands, all too well, the sacrifices these courageous individuals have made in service to their country.

I am also pleased to see in this bill a provision authorizing the minting of a coin in observance of the 10th anniversary of the Vietnam Veterans' Memorial. As you know, Mr. Speaker, the Vietnam Veterans' Memorial, often referred to as the wall, is the most visited monument in Washington, with more than 2.5 million visitors annually. The wall has had a profound effect in healing the wounds of controversy and bitterness caused by the Vietnam war.

Mr. Speaker, I commend the gentleman from Massachusetts [Mr. KENNEDY], the Banking Committee, and the authors of these coin provisions.

I urge my colleagues to support the bill's passage.

Mr. MCCANDLESS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 3548. I would like to commend JOE KENNEDY and AL MCCANDLESS, respectively the chairman and ranking minority member of the Subcommittee on Consumer Credit and Insurance, for moving this bill so expeditiously.

This bill authorizes the Secretary of the Treasury to establish two commemorative coin programs. One that would honor Thomas Jefferson and the second to recognize three deserving veterans' groups—former prisoners of war, Vietnam veterans, and women who have served in military service. All those that this legislation commemorates are in one way or another representative of the principles that this country was not only founded upon, but continues to promote.

No one in this body has to be reminded of the contributions that Thomas Jefferson made in creating America's democratic system of government. His ideals and beliefs have reached far beyond America's border, even before we had a free-trade agreement with our neighbors.

But the beliefs and values that Thomas Jefferson promoted could not have continued to grow and flourish in this country and throughout the world, as they have, if it was not for those Americans that serve in this country's military. The provision regarding the Vietnam Veterans Memorial, in this bill, is the same as the language of H.R. 1608, the 1994 Vietnam Veterans Memorial Commemorative Coin Act, which DAVID BONIOR and I introduced earlier this year.

I strongly believe that the Vietnam Veterans Memorial, commonly known as the Wall, is deserving of such commemoration. Vietnam was the longest war in the history of our Nation, lasting from July 1957 to May 1975. Each of the 2.5 million men and women who served in the military in Vietnam endured a unique experience and each remembers in an individual and personal way that experience 20 years later—myself included.

The wall welds these experiences together to remind all Americans of who can be lost when a country goes to war. It allows all Americans to remember and pay their respects to over 58,000 men and women that died in service to their country. It is also a reminder to us that there are still 2,266 persons listed as mission in action.

A coin commemorating the Vietnam Veterans Memorial will once again recognize these brave soldiers and the ultimate sacrifice they have made for their country. This legislation will also be an opportunity for the United States Government to pay special tribute to those that wore the country's uniform during the Vietnam-era.

The wall is the most visited memorial in the United States. Many of these visitors leave personal mementos at the base of the memorial in remembrance of those who were killed in the war. In this way, the Wall helps to heal the wounds caused by the Vietnam war. Now it is time for us to help the Vietnam Veterans Memorial.

The wall was built by Vietnam veterans who raised the funds entirely from private sources. Current expenses for the Memorial's upkeep continue to be the responsibility of the Vietnam Veterans Memorial Fund [VVMF]. In 1992 alone, the VVMF spent $200,000 to repair the memorial. H.R. 3548 would raise private money for this purpose and permanently endows a trust to do so.

Mr. Speaker, I once again would like to thank Chairman KENNEDY for bringing this bill to the floor today. Not only because of recognition it gives to Vietnam veterans, but also because it honors Thomas Jefferson, it honors the brave Americans that are former prisoners of war, and it honors the women that have contributed to and sacrificed for our country through their service in the Armed Forces.

I urge all of my colleagues to support this bill.

☐ 1530

Mr. KENNEDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to say on behalf of all of those who worked so hard on behalf of this coin, as the gentleman from Michigan [Mr. BONIOR] is well aware, Jan Scruggs deserves a great deal of credit for the steadfast commitment that he has shown to Vietnam veterans throughout the last dozen years of his life and particularly for the fine job he has done in making the memorial a reality. We very much appreciated his efforts.

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. I certainly wanted to be associated in a public way with the gentleman's recognition of Jan's efforts, not only in founding and getting the coalition together to create the memorial but his continuing effort to see that we can maintain it.

I thank the gentleman.

Mr. KENNEDY. He is a terrific fellow.

Mr. Speaker, I yield 3½ minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Pennsylvania [Mr. RIDGE] for all of the diligence and effort on behalf of the Commemorative Coins Act and particularly the legislation that deals with the Vietnam Veterans Memorial.

Mr. Speaker, I rise in strong support of the Commemorative Coins Act.

This legislation directs the Secretary of the Treasury to mint four coins to commemorate Vietnam veterans, women in military service, prisoners-of-war, and Thomas Jefferson.

It also follows the Mint's recommendation that the three coins honoring military service, prisoners-of-war, and Thomas Jefferson.

It also follows the Mint's recommendation that the three coins honoring military service be marketed together as a three coin set, but allows them to be sold individually.

I believe this is a reasonable approach and commend Chairman KENNEDY and ranking member MCCANDLESS for their leadership.

Each of these commemorative coin bills benefits a project that is in urgent need of assistance. We must pass this legislation through both chambers this year to ensure a minting date of 1994.

While each project is worthwhile and stands on its own merits, I would like to speak briefly about the Vietnam Veterans Memorial.

When I first came to Congress in 1977, I joined with several of my colleagues in founding the Vietnam-era veterans in Congress.

We believed that we must heal the wounds of the Vietnam war and bring torn generations together.

We were dedicated to building a memorial in the Nation's Capital for Vietnam veterans. Today, the Vietnam Veterans Memorial, built and maintained by private donations, is the most visited memorial in the country. Every person who visits the wall, young or old, leaves with an awareness that history books can never teach.

Most importantly, the wall was built to heal.

Mr. Speaker, I had the honor of participating in the Memorial Day services at the wall this year. I heard nurse Janis Nark struggle to hold back the tears as she told of how the memorial helped her get over the painful wounds of war.

I heard all-pro football player Derek Thomas who did not want to leave the podium on this, his first visit to the wall talk proudly of his father whose name is engraved there.

Through the years we have seen the memorial help do what we set out to do—help to heal the wounds of a divisive war.

Now the wall needs our help. A June 1990 report by Carla Corbin of the American Institute of Architects identified cracks on 19 of the panels, chips on four panels, and many other panels nicked and permanently scratched.

Mr. Speaker, the Vietnam Veterans Memorial Coin Act will provide a permanent maintenance endowment for the memorial to ensure that the wall will be standing for generations to come.

More importantly, the coin itself will help in the healing process. While many coin collectors will purchase the coin, the market is much larger. Think of the Vietnam veterans, their friends and families who will buy these coins to support the wall, and help them ensure that their children and grandchildren never forget the Vietnam war.

The remarkable men and women who served our country can teach each of us about bravery, sacrifice, and courage. We must make sure that our children and our Nation always remember them, because, in the end, that is the highest tribute we can pay.

And that is why, Mr. Speaker, 321 of my colleagues in the House and 71 Members of the Senate support a commemorative coin for the Vietnam Veterans Memorial. I urge my colleagues in both bodies to pass this bill before we adjourn this first session of Congress, and give the wall that heals the help it needs.

Mr. Speaker, again, I thank my friend, the gentleman from Massachusetts [Mr. KENNEDY], and the gentleman from California [Mr. MCCANDLESS], the gentleman from Pennsylvania [Mr. RIDGE], Jan Scruggs, and the gentleman from Florida [Mr. PETERSON], and all the people who participated for their help in this endeavor.

Mr. MCCANDLESS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me rise in strong support of H.R. 3548, and let me take this opportunity to commend the chairman of the subcommittee, the ranking member, the chairman of the V.A. Committee, the gentleman from Florida [Mr. PETERSON], for the hard work they put into this legislation. Let me also thank a lot of other individuals who have contributed greatly to this, the veterans' service organizations from across this country, and many, many veterans have worked hard to see that our prisoners of war are given an appropriate museum commemorating all of the prisoners of war in this country's history.

One of the groups that is selected to be honored through this commemorative resolution are the POW's at the Andersonville POW Museum in Andersonville, GA.

I want to thank the Chamber of Commerce of Americus and Sumter Counties, and I would like to thank all of the veterans' service organizations who have contributed so much.

The Aviation Museum at Warner Robins, the Infantry Museum at Fort Benning, GA, will now be joined by the Andersonville POW Museum in Andersonville, Ga.

We want to thank all of those who have helped, and we certainly urge all of our colleagues to support this legislation.

Mr. KENNEDY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. PETERSON].

Mr. Speaker, I just want to say to the gentleman from Florida [Mr. PETERSON] how delighted I was to work with Bill and Ethel Bearisto of Massachusetts who have done yeoman's work in advocating for this coin, and I should acknowledge the efforts of the gentleman from Florida [Mr. PETERSON] and the gentleman from Georgia [Mr. BISHOP] in being very, very strong advocates of pursuing this coin. I thank them very much for their help.

Mr. PETERSON of Florida. Mr. Speaker, I rise today in strong support of H.R. 3548. I would like to thank the chairman of the Committee on Banking, Housing and Urban Affairs, Mr. GONZALEZ, ranking member Mr. MCCANDLESS, and the chairman of the Subcommittee on Consumer Credit and Insurance, Mr. KENNEDY for working so hard to bring this legislation to the floor today.

I introduced the Prisoner of War [POW] Commemorative Coin Act in the 102d and 103d Congresses on behalf of our Nation's POW's of all wars. It was my intent to create a permanent physical symbol in honor of these brave men and women who served their Nation under severe duress and pain.

It is unusual for our Nation to not adequately acknowledge the sacrifices of these heroes in a permanent symbolic manner. My bill will correct that oversight and recognize the sacrifices of those Americans who survived the ordeal of captivity in a foreign prison and those who died there giving of themselves the supreme sacrifice in the defense of their country.

While the primary purpose of the POW coin is to serve as the Nation's symbol of gratitude to our POW's; proceeds from its sale will also serve as a funding vehicle to complete construction on the National POW Museum located at the Andersonville National Historic Site in Georgia. The completion of this museum will allow all Americans to better understand the sacrifices of our POW's and provide a depository for historical data related to their experience.

Because there have been several coins introduced this year honoring military service, Chairman KENNEDY in coordination with the U.S. Mint has determined that it would be best to combine the three veterans coins—the Prisoner of War commemorative coin, the Vietnam Veterans Memorial commemorative coin, and the Women In Military Service For America Memorial commemorative coin—together as a three-coin set. By marketing the coins as a set, we will prevent a glut of coins into the market at one time. The legislation also allows each coin to be sold individually, permitting individual organizations to purchase, in quantity, the coin that represents their special interest. The Thomas Jefferson commemorative coin, which is also included in this bill, will be marketed separately.

My POW coin which has 253 cosponsors has strong bipartisan support in both bodies as well as the public support of the American Ex-Prisoners of War, Defenders of Bataan and Corregidor, Korean Ex-Prisoners of War, NAM-POWs, League of Families, and other individual unit organizations.

Mr. Speaker, although each coin was originally introduced as separate legislation, I believe combining the coins into one bill is an excellent compromise. I urge my colleagues to vote "yes" on this important legislation today.

□ 1540

Mr. MCCANDLESS. Mr. Speaker, I reserve the balance of my time.

Mr. KENNEDY. Mr. Speaker, I yield 2 minutes to the gentleman from the great State of Virginia [Mr. PAYNE]. I also want to thank Mr. PAYNE for bringing in a fine individual, Dan Jordan, from Monticello, who has been doing tremendous work on behalf of the Thomas Jefferson Memorial.

Mr. PAYNE of Virginia. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of H.R. 3548. Mr. Speaker, I want to give special thanks to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. KENNEDY], whose efforts have made this coin bill a reality.

I also want to thank the gentleman from California [Mr. MCCANDLESS] for his fine work on this bill.

Mr. Speaker, I am particularly pleased to endorse title I of the bill, which was originally introduced as H.R. 789, and authorizes the minting of a coin commemorating 1993 as the 250th anniversary of Thomas Jefferson's birth.

H.R. 789 was carefully drafted to ensure a successful sales program at no cost to the U.S. Treasury. Proceeds from the $10 surcharge per coin will be used to support two important Jeffersonian properties, Monticello and Poplar Forest.

Monticello is the only American home ever named to UNESCO's World Heritage List. Monticello's share of the proceeds will fund its first general endowment and advance its primary mission of education and preservation. The endowment will support structural repairs to the property itself, acquisition of Jefferson's personal possessions and educational scholarships.

Poplar Forest was designed and built by Thomas Jefferson as his personal retreat. It was struck twice by fire and underwent renovations that changed its style and appearance. Painstaking research was required to establish exactly what the House looked like in Jefferson's time. Now supporters are in a race against time to proceed with restoration before the building suffers irreparable structural damage. The proceeds from the sale of this coin will provide an invaluable boost to the private fundraising effort supporting this project.

Mr. Speaker, Mr. Jefferson's monumental achievements are well known to all of us here. Fifty years ago when this Nation commemorated the 200th anniversary of Thomas Jefferson's birth, Congress passed legislation authorizing the construction of the Jefferson Memorial here in Washington. I believe authorizing the minting of a commemorative coin in his honor, whose proceeds will help restore and preserve the homes he designed and treasured, is an appropriate way for Congress to honor the 250th anniversary of his birth.

I urge my colleagues to support this legislation.

Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. KENNEDY. Mr. Speaker, I yield the final 2 minutes to a gentlewoman who always speaks with a strong mind and a strong voice, the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 3548, the Commemorative Coins Act. I congratulate the chairman of the Veterans Affairs Committee, Mr. MONTGOMERY, as well as the chairman of the Subcommittee on Consumer Credit and Insurance, Mr. KENNEDY, for bringing this legislation to the floor.

All of the projects supported by these coins; are special and important—however, I would like to focus my comments on one particular coin—the Women in Military Service Commemorative Coin—that is authorized by this legislation. In 1986, Congress passed legislation authorizing the construction of a monument in honor of all women who have served in the military—from the time of the Revolutionary War to the days of Desert Storm. Fourteen million dollars is needed before the ground can be broken for the memorial. So far only $1.5 million has been raised.

The surcharge from the sale of these commemorative coins will go to the Women's Memorial Building Fund. An enormous amount of work has gone into raising funds for the memorial, as well as collecting signatures in support of the coin. It is crucial that the memorial receive the moneys which will be generated by the sale of these coins this year so that construction of the memorial can begin on time.

Mr. Speaker, this memorial will not be an ordinary one. It will tell the story of what these brave women have done. The memorial will house an educational center with a computer containing a register—complete with the pictures and stories of women who have served the U.S. Military. To date, nearly 100,000 women veterans have come forward to share their stories and memories for inclusion in the memorial's computer data base.

There are currently 1.2 million living women veterans and 400,000 women on active duty in the Guard and the Reserves. An estimated 100,000 to 200,000 women have died for this country since the Revolutionary War. For too long we have ignored their legacy and their example. It is long past time that they stand recognized alongside their brothers-in-arm.

Mr. Speaker, I urge my colleagues to join me in honoring the service of these brave women and to preserve their legacy by voting to pass H.R. 3548, the Commemorative Coins Act.

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from Massachusetts [Mr. KENNEDY] has expired.

The question is on the motion offered by the gentleman from Massachusetts [Mr. KENNEDY] that the House suspend the rules and pass the bill, H.R. 3548.

The question was taken.

Mr. KENNEDY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1550

NATIONAL NARCOTICS LEADERSHIP ACT AMENDMENTS OF 1993

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1926) to amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy as amended.

The Clerk read as follows:

H.R. 1926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Narcotics Leadership Act Amendments of 1993".

SEC. 2. IMPLEMENTATION OF NATIONAL DRUG CONTROL STRATEGY.

Section 1003(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)) is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) The Director may require the inclusion, in the budget submission to the Office of Management and Budget by any National Drug Control Program agency, of funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and certifications made pursuant to paragraph (3).".

SEC. 3. REPORT ON REPROGRAMMING; OFFICE PERSONNEL RESTRICTION.

(a) REPORT ON REPROGRAMMING.—Section 1003(c)(7) of the National Narcotics Leadership Act of 1988, as redesignated by section 2(1) of this Act, is amended to read as follows:

"(7) The Director shall report to the Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated funds in an amount greater than $5,000,000 for National Drug Control Program activities.".

(b) OFFICE PERSONNEL RESTRICTION.—Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended by adding at the end the following:

"(f) PROHIBITION ON POLITICAL CAMPAIGNING.—A Federal officer in the Office of National Drug Control Policy who is appointed by the

President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such an official is not prohibited by this subsection from making contributions to individual candidates.".

SEC. 4. NATIONAL DRUG CONTROL STRATEGY OUTCOME MEASURES.

Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended—

(1) in paragraph (2)(A) by inserting "and the consequences of drug abuse" after "drug abuse"; and

(2) by amending paragraph (4) to read as follows:

"(4) The Director shall include with each National Drug Control Strategy an evaluation of the effectiveness of Federal drug control during the preceding year. The evaluation shall include an assessment of Federal drug control efforts, including—

"(A) assessment of the reduction of drug use, including estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(i) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, and probationers, and juvenile delinquents; and

"(ii) drug use in the workplace and the productivity lost by such use;

"(B) assessment of the reduction of drug availability, as measured by—

"(i) the quantities of cocaine, heroin, and marijuana available for consumption in the United States;

"(ii) the amount of cocaine and heroin entering the United States;

"(iii) the number of hectares of poppy and coca cultivated and destroyed;

"(iv) the number of metric tons of heroin and cocaine seized;

"(v) the number of cocaine processing labs destroyed;

"(vi) changes in the price and purity of heroin and cocaine;

"(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(viii) the effectiveness of Federal technology programs at improving drug detection capabilities at United States ports of entry;

"(C) assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(i) burdens drug users placed on hospital emergency rooms in the United States, such as the quantity of drug-related services provided;

"(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other communicable diseases as a result of drug use;

"(iii) the extent of drug-related crime and criminal activity; and

"(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States; and

"(D) determination of the status of drug treatment in the United States, by assessing—

"(i) public and private treatment capacity within each State, including information on the number of treatment slots available in relation to the number actually used, including data on intravenous drug users and pregnant women;

"(ii) the extent, within each State, to which treatment is available, on demand, to intravenous drug users and pregnant women;

"(iii) the number of drug users the Director estimates could benefit from treatment; and

"(iv) the success of drug treatment programs, including an assessment of the effectiveness of the mechanisms in place federally, and within each State, to determine the relative quality of substance abuse treatment programs, the qualifications of treatment personnel, and the mechanism by which patients are admitted to the most appropriate and cost effective treatment setting.

"(5) The Director shall include with the National Drug Control Strategy required to be submitted not later than February 1, 1994, and with every second such strategy submitted thereafter—

"(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at-risk for drug use;

"(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B); and

"(D) identification of the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals.

"(6) Federal agencies responsible for the collection or estimation of drug-related information required by the Director shall cooperate with the Director, to the fullest extent possible, to enable the Director to satisfy the requirements of sections 4 and 5.

"(7) By June 1, 1994, and with each National Drug Control Strategy submitted thereafter, the Director shall report to the President and the Congress on the Director's assessment of drug use and availability in the United States, including an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect in the preceding year in reducing drug use and availability.".

SEC. 5. DIRECTOR AS A MEMBER OF THE NATIONAL SECURITY COUNCIL.

Section 402(a)(7) of title 50, United States Code, is amended by—

(1) striking "and" after the semicolon in paragraph (6);

(2) redesignating paragraph (7) as paragraph (8); and

(3) inserting after paragraph (6) the following:

"(7) the Director of the Office of National Drug Control Policy; and".

SEC. 6. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) DRUG ABUSE ADDICTION AND REHABILITATION CENTER.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a(c)(1)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) identify and support, through interagency agreements or grants that are subjected to peer review by independent advisory boards, the application of technology to expanding the effectiveness or availability of drug treatment;".

(b) ASSISTANCE FROM THE ADVANCED RESEARCH PROJECT AGENCY.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a) is amended by adding at the end the following:

"(f) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Director of the Advanced Research Project Agency shall, to the fullest extent possible, render assistance and support to the Office of National Drug Control Policy and its Director.".

(c) REPEAL AND REDESIGNATION.—The National Narcotics Leadership Act of 1988 is amended by—

(1) repealing section 1008 (21 U.S.C. 1505), as in effect on the date of the enactment of this Act;

(2) redesignating section 1003A, as amended by subsection (b) of this section, as section 1008; and

(3) moving such section, as redesignated, so as to follow section 1007.

SEC. 7. PAYING CERTAIN NECESSARY EXPENSES FOR STRATEGY CONSULTATION.

Section 1005(a)(3) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)(3)) is amended by adding at the end the following:

"(C) The Director may pay for the necessary and appropriate expenses for assemblages of individuals providing consultation to the Director in developing the National Drug Control Strategy.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking "$3,500,000" and all that follows through "years," and inserting "such sums as may be necessary for fiscal year 1994,".

SEC. 9. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1994".

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1926 reauthorizes the Office of National Drug Control Policy for fiscal year 1994, and in addition makes several substantive changes to the authorities and responsibilities of that office.

The Committee on Government Operations has conducted extensive oversight of ONDCP and how it has operated during the 5 years since it was created. That oversight has raised important questions about the ability of the office to direct the Nation's Federal counternarcotics efforts.

H.R. 1926 addresses many of these questions. It makes several changes that will strengthen the Director of National Drug Control Policy in his ability to provide effective leadership, while requiring greater accountability for counternarcotics programs.

The bill authorizes ONDCP to require agencies to include specific initiatives consistent with the National Drug Control Strategy in their budget proposals to OMB. Such authority will help ensure that all Federal agencies are working with, and not counter, to that strategy.

H.R. 1926 also requires the thorough evaluation of all domestic and international counternarcotics programs. These evaluations will provide crucial information about the programs that we fund. Previous evaluations of our counternarcotics efforts have focused on casual drug use, amounts of drugs seized, and other measures that do not go to the heart of hardcore drug use. These requirements will finally provide meaningful information on how effective we have been in reducing drug use, in reducing the availability of drugs, and in developing successful drug treatment programs.

In addition, H.R. 1926 makes the Director a member of the National Security Council. This will enhance the Director's ability to develop national and international efforts to counter the drug threat.

I would like to thank the ranking Republican on the Legislation and National Security Subcommittee, the gentleman from California [Mr. MCCANDLESS], for his hard work on this legislation. I would also like to thank the ranking Republican of the full committee, the gentleman from Pennsylvania [Mr. CLINGER], for his assistance, and wish him well in recovering from surgery.

Mr. MCCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Government Operations recently completed a series of hearings on reauthorization of the Office of National Drug Control Policy. Those hearings supplement dozens of similar oversight hearings held by the committee to discuss national drug policy. The recurring message heard throughout our hearings was that ONDCP is broken, and that it needs to be fixed.

Government officials, outside auditors, independent reviewers, and knowledgeable citizens all spoke of an office with high hopes, but limited effectiveness. It was even clearer that an office somewhat weak during previous administrations has suffered enormous setbacks under the Clinton Presidency. Witness after witness testified to a lack of commitment on the part of this administration to tackling the tough issues involving illegal substance abuse. Examples of recent actions which indicate this administration's lack of commitment to ONDCP include: the President's reduction of office staffing from 147 employees to a mere 25, and the demotion of the war on drugs from among the top three issues on the National Security Council's priority list to number 29 on a list of 29. In fact, Chairman CONYERS and I have had numerous discussions on whether or not the office should even be saved.

After careful consultation with both the members of my committee and with ONDCP Director Lee Brown himself, I have decided to support H.R. 1926, even recognizing its weaknesses. Following the enactment of this single year reauthorization, the drug czar will still lack the authority to direct Federal agencies to include drug-related initiatives in their OMB submissions. He will still lack the authority to require ONDCP sign-off of an agency's drug-related legislative, regulatory, or policy proposals. And he will still lack the authority to prohibit agency heads from changing drug control programs without prior ONDCP approval.

Yet the bill does provide modest improvements to ONDCP's existing powers. It will give the Director the authority to reconfigure intra-agency drug budget submissions. It will make the Director a member of the National Security Council. And together with the new Executive orders, it will provide the Director with greater leverage in resolving interagency disputes.

For these reasons, I will support this 1-year reauthorization, with the following caveat. If, at the end of this trial year, we have not seen a marked change in this administration's attitude toward national drug policy, and a substantial improvement in the workings of ONDCP, I will vote to eliminate the office. While I believe that drug abuse remains a top national concern deserving of concentrated high-level attention, I will not provide indefinite cover to a policy devoid of substance, and an office lacking in credibility.

With those words of caution, Mr. Speaker, I support adoption of this bill.

Mr. MCCANDLESS. Mr. Speaker I yield 5½ minutes to the gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise in reluctant support of H.R. 1926, the National Narcotics Leadership Act of 1993, and I commend the gentleman from Michigan [Mr. CONYERS], the distinguished chairman of the Committee on Government Operations; the gentleman from Michigan [Mr. CONYERS], and the distinguished ranking member of the Committee on Government Operations, the gentleman from California [Mr. MCCANDLESS] for their efforts in bringing this measure to the floor before adjournment.

Having long been involved in our Nation's narcotics problem and the need for strong U.S. leadership in dealing with the scourge of narcotics, it is extremely important that we reauthorize the Office of National Drug Control Policy [ONDCP].

My concern, however, is the level at which this appropriations committee has funded that office. From a budget level of nearly $100 million, we are now providing this vital office with only $11.6 million.

This cut in ONDCP follows earlier reductions this year in international narcotics control programs administered by the State Department, the Drug Enforcement Administration's budget, and funds available for domestic treatment programs.

I am concerned with the negative signals that these cuts are sending both at home and abroad with regard to our commitment to continue the struggle against illegal drugs.

Cuts in both domestic and international programs during this year's appropriations process have lead our allies to believe—mistakenly, in my opinion—that we no longer care about drugs. While cutting the drug control program budgets, the administration has also significantly reduced the staff of the Office of National Drug Control Policy.

Consistently and constantly, I have voiced opposition to either budget or staff cuts in our drug control efforts. The only winners in such reductions are the drug traffickers.

Over the past few months, I have heard from several of our overseas allies in the fight against narcotics of their concern about our lack of commitment, particularly at a time we have engaged them in a common counternarcotics struggle.

Enactment of the National Narcotics Leadership Act clearly states that we are not ending either our efforts or our leadership. This should reassure our allies and continue to put the traffickers on notice that we remain serious in reducing and, ultimately, in eliminating their insidious trade.

H.R. 1926 also sends an important signal to the American people. President Clinton, as with President Bush before him, has defined the narcotics threat as an essential element of our national security strategy. Accordingly, I firmly support making the Director of the Office of National Drug Control Policy a member of the National Security Council.

I am concerned, however, that while we are elevating this important office and its responsibilities, we are acquiescing in its staff reductions. How do we expect the office and its Director, Dr. Lee Brown, to do more and more, when we are authorizing fewer and fewer resources? If drugs is a national security priority—and I know my colleagues believe it is—then let's provide an authorization that reflects that view.

Mr. Speaker, I have been critical of both the administration's and Congress' apparent lack of interest in continuing an aggressive and comprehensive counternarcotics programs. This act is not a solution; but it is a step in the right direction. I hope that with ONDCP's reauthorization, we can now turn to giving ONDCP Director Lee Brown the staff and tools he needs to perform his job.

I commend the distinguished chairman and ranking Republican member of the Government Operations Committee for moving this bill before we adjourn. I encourage our Government Operations Committee to provide oversight during the next session to see that the drug czar's office has the resources to perform its job effectively. If that office needs more, many of my colleagues are ready to work with them to see that those resources will be made available.

Given the importance of the Office of National Drug Control Policy to our overall counternarcotics efforts, I urge my colleagues to support this measure.

□ 1600

Mr. McCANDLESS. Mr. Speaker, we have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 1926, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS OF 1993

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2178) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, as amended.

The Clerk read as follows:

H.R. 2178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1993".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hazardous Materials Transportation Act.

SEC. 2. REGISTRATION.

Section 106(c) (49 U.S.C. App. 1805(c)) is amended by adding at the end the following:

"(16) AUTHORITY OF SECRETARY TO WAIVE MANDATORY FILING REQUIREMENT.—The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.".

SEC. 3. TIME FOR SECRETARIAL ACTION.

(a) SECTION 107.—Section 107(a) (49 U.S.C. App. 1806(a)) is amended by inserting at the end the following: "The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days of the first day of the month following the date of the filing of such application or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the exemption is delayed with an estimate of the additional time necessary before the decision is made."

(b) SECTION 112.—Section 112(c)(1) (49 U.S.C. App. 1811(c)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a decision on an application for a determination within 180 days of the date of the publication of the notice of having received such application or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed with an estimate of the additional time necessary before the decision is made."

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 115(a) (49 U.S.C. App. 1812(a)) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated for carrying out this title (other than sections 117, 117A, 118, and 121) not to exceed $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997.".

SEC. 5. TRAINING.

(a) SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.—Section 117A (49 U.S.C. App. 1815) is amended by adding at the end the following:

"(j) SUPPLEMENTAL TRAINING GRANTS.—

"(1) IN GENERAL.—In order to further the purposes of subsection (b), relating to training public sector employees to respond to accidents and incidents involving hazardous materials, the Secretary shall make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

"(2) USE OF FUNDS.—Funds granted to an organization under this subsection may be used—

"(A) to identify regions or locations in which fire departments are in need of hazardous materials training;

"(B) to prioritize such needs and develop a means for evaluating specific training needs;

"(C) to train instructors to conduct hazardous materials response training programs and evaluate the efficacy of such training programs;

"(D) to purchase training equipment for such training programs; and

"(E) to disseminate on a nationwide basis the data developed, and the findings derived from projects carried out, under this subsection.

"(3) USE OF TRAINING COURSES.—The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to use in such fiscal year—

"(A) a course or courses developed or identified under section 117A(g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials.

"(4) TERMS AND CONDITIONS.—The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

"(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal years 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 118 for fiscal years 1995 and 1996. Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of employees trained under the grant programs, and an evaluation of the efficacy of training programs carried out.".

(b) FUNDING.—Section 117A(i)(2) is amended—

(1) by inserting "(A) GENERAL PROGRAM.—" before "There";

(2) by indenting subparagraph (A), as so designated, and moving subparagraph (A) 2 ems to the right; and

(3) by adding at the end the following new subparagraph:

"(B) SUPPLEMENTAL PROGRAM.—

"(i) FROM FEES.—There shall be available to the Secretary for carrying out subsection (j), from amounts in the account established pursuant to subsection (h), $250,000 per fiscal year for each of fiscal years 1995, 1996, 1997, and 1998.

"(ii) FROM GENERAL REVENUES.—In addition to amounts made available under clause (i), there is authorized to be appropriated to the Secretary for carrying out subsection (j) $1,000,000 per fiscal year for each of fiscal years 1995, 1996, 1997, and 1998.".

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—Section 118 is amended—

(1) in subsection (a) by striking "may" and inserting "shall, subject to the availability of funds under subsection (d),";

(2) in subsection (b) by striking "National" and all that follows through "Labor" and inserting "Secretary";

(3) in subsection (c) by inserting "hazmat employee" after "nonprofit"; and

(4) by striking subsection (d) and inserting the following:

"(d) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $3,000,000 per fiscal year for each of fiscal years 1995, 1996, 1997, and 1998.".

(d) CONFORMING AMENDMENTS.—Section 117A(h) is amended—

(1) in paragraph (2)(H) by striking "and section 118";

(2) in paragraph (6)(B)(i) by striking "and section 118"; and

(3) in paragraph (6)(B)(iii) by striking "and section 118".

SEC. 6. COMPUTERIZED TELECOMMUNICATION DATA CENTER PILOT PROJECTS.

(a) GRANTS.—The Secretary of Transportation may make grants to 1 or more persons, including a State or local government or department, agency, or instrumentality thereof, to carry out a pilot project to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies that are used—

(1) to identify the contents of shipments of hazardous materials transported by motor carriers;

(2) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(3) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(4) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(b) Selection of Carriers.—The pilot project to be carried out under this section must involve 2 or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less than truck-load shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(c) Terms and Conditions.—The Secretary may impose such terms and conditions on grants to be made under this section as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this section.

(d) Coordination.—To the maximum extent practicable, the Secretary of Transportation shall coordinate a pilot project to be carried out under this section with any existing Federal, State, and local government projects and private projects which are similar to the pilot project to be carried out under this section. The Secretary may require that a pilot project under this section be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

(e) Federal Share.—The Federal share of the cost of a pilot project carried out under this section shall be 100 percent, unless the grantee selected to carry out such project agrees to a lower Federal share.

(f) Report.—Not later than December 31, 1997, the Secretary of Transportation shall transmit to Congress a report on the results of pilot projects carried out under this section.

(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1995 and 1996. Such sums shall remain available until expended.

SEC. 7. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS.

(a) Study.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary's recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 8. USE OF FIBER DRUM PACKAGING.

(a) Initiation of Rulemaking Proceeding.—Not later than the 60th day following the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 105(a) of the Hazardous Materials Transportation Act as they pertain to openhead fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) Issuance of Standards.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

(c) Completion of Rulemaking Proceeding.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) Limitations.—

(1) Limitation on applicability.—The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under the Hazardous Materials Transportation Act.

(2) Limitation of statutory construction.—Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

SEC. 9. BUY AMERICA.

(a) Compliance With Buy American Act.—None of the funds made available under this Act may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) Sense of Congress; Requirement Regarding Notice.—

(1) Purchase of American-made equipment and products.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) Notice to recipients of assistance.—In providing financial assistance under this Act, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) Prohibition of Contracts.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made In America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) Reciprocity.—

(1) General rule.—Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this Act to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2) Exceptions.—

(A) Waiver authority.—The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

(B) Limitation on applicability.—Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

SEC. 10. TECHNICAL AMENDMENTS.

(a) Packaging.—

(1) Sections 103(5)(B), 103(6)(A)(iii), and 109(c) (49 U.S.C. App. 1802(5)(B), 1802(6)(A)(iii), 1808(c)) are each amended by striking "packages" and inserting "packaging".

(2) Sections 105(a)(3), 105(a)(4)(B)(v), 110(a)(1), and 120 (49 U.S.C. App. 1804(a)(3), 1804(a)(4)(B)(v), 1809(a)(1), 1818) are each amended by striking "a package or container" and inserting "packaging and a container".

(3) Section 106(c)(1)(B) (49 U.S.C. App. 1805(c)(1)(B)) is amended by striking "a bulk package" and inserting "bulk packaging" and by striking "the package" and inserting "the bulk packaging".

(b) Other.—Section 105(a)(3) (49 U.S.C. App. 1804(a)(3)) is amended by inserting "hazardous materials" after "shipped" and section 105(e)(1) (49 U.S.C App. 1804(e)(1)) is amended by inserting ", or a component of a container or package," after "package".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. Rahall] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. Petri] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. Rahall].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to express my appreciation to the Committee on Energy and Commerce which shares jurisdiction with the Committee on Public Works and Transportation over this legislation.

The two committees reported out different versions of legislation to reauthorize the Hazardous Materials Transportation Act, and I am pleased to note that we have managed to reconcile the measures and that the product we bring to the floor today has the bipartisan support of the leadership of both committees.

The Hazardous Materials Transportation Act provides the Secretary of Transportation with the regulatory and enforcement authority to protect the Nation against the risk to life and property that is inherent in the transportation of hazardous materials.

In light of the fact that 3 years ago Congress passed the first major rewrite of the act since it was first enacted in 1975, the primary purpose of the pending bill is to reauthorize the act through fiscal year 1997. The bill also makes a number of technical and conforming amendments requested by the Transportation Department.

In addition, the bill contains four other initiatives that were advanced by the Committee on Public Works and Transportation.

First, it modifies the training grant programs of the act. Currently, the act provides for two types of training grants: Under section 117A for training public sector hazmat employees like firefighters and police through grants to the States, and under section 118 for training private sector hazmat employees, such as truckers.

With respect to the section 117A State grant program, the committee has received testimony that these grants are of an insufficient amount to provide for adequate training, and, that they are not always used by the States to train the public sector employee group that is in the front line in responding to hazardous material incidents: firefighters.

For this reason, the bill proposes a supplemental program under which the Secretary may make grants to organizations engaged solely in fighting fires for the purpose of training fire fighting personnel to respond to hazardous materials accidents and incidents.

Further, the bill would expand the current authorization for the section 118 grants used for training of hazmat employees engaged in the loading, unloading, handing, storage, and transportation of hazardous materials and emergency response.

In my view, the existing authorization is simply inadequate to provide proper training for the thousands upon thousands of employees involved with hazardous materials in the motor carrier, railroad, airline, and maritime industries.

Second, the bill contains what I will term the "Applegate provision" after the gentleman from Ohio who has been the leader in drawing the committee's attention to the need to consider automated information and tracking systems for hazardous materials in transportation.

Under the bill, a pilot project would be authorized to demonstrate the feasibility of establishing such a system using at least two motor carriers.

Third, the bill contains a provision sponsored by Representative CLINGER directing the DOT to conduct a study on the safety considerations of transporting hazardous materials by motor carrier in close proximity to Federal prisons.

And fourth, the bill would require the DOT initiate a rulemaking to examine whether fibre drums for the domestic transportation of liquid hazardous materials can comply with statutory safety standards, and provide an equal or greater level of safety, than the regulations promulgated by DOT which take effect on October 1, 1996.

Finally, the bill contains a highly commendable provision advanced by the Committee on Energy and Commerce that provides time frames for Secretarial action on exemption applications.

Mr. Speaker, I would note that the pending bill does not contain two provisions that were originally approved by the Committee on Public Works and Transportation.

The two excluded provisions related to clarifying congressional intent in enacting the scenic byways program as part of the Intermodal Surface Transportation Efficiency Act of 1991; and a study on radio and microwave technologies.

These provisions have been excluded without prejudice, and are absent from this measure due to jurisdictional concerns raised by the Committee on Energy and Commerce.

With respect to the scenic byways program provision in particular, while it is not in the pending legislation, this should not be construed in any way as diminishing my commitment to gaining its enactment in the future.

For this reason, by way of background, I would note that ISTEA added a provision to the Highway Beautification Act, codified in section 131 of title 23, United States Code, that provides for the control of outdoor advertising which generally prohibits the erection of new billboards along scenic byways.

Recently, however, some question has been raised as to whether this provision overrides other provisions of the Highway Beautification Act for the control of billboards that permit the erection of billboards in commercial and industrial areas. The confusion over this matter is due to what can only be called faulty drafting of the ISTEA provision.

While each State has the authority to designate scenic byways, it was never intended, nor was the possibility ever discussed during consideration of the legislation that was enacted as ISTEA, that a State could designate a scenic byway through a nonscenic area—in other words, a commercial or industrial area—and thereby prohibit new billboards where billboards have always been allowed under the act subject to State discretion.

The provision in the bill that would have clarified this situation by permitting States to allow billboards to be erected in commercial and industrial areas, as provided by the Highway Beautification Act, that may be part of a scenic byway.

At the same time, the State would still have the option to pass legislation or utilize zoning ordinances to prohibit billboards in these areas.

I would note that even the author of the scenic byways provision in ISTEA, the distinguished gentleman from Minnesota [Mr. OBERSTAR] agrees with the clarifying language that the committee has sought to advance. In addition, the committee's strong position on this matter is reflected by the fact that an amendment to delete the provision offered during committee consideration was defeated by a vote of 50 to 14.

In this matter, let me be crystal clear that this legislation would not have allowed new billboards to be erected on scenic portions of State designated scenic byways, and in this regard, I am disappointed that groups like Scenic America have chosen to advertise it as doing so.

They have alleged that this legislation would have allowed billboards to be erected anywhere on a scenic byway, that this legislation guts the act, and that simply is not true.

So I would say to my friends in the environmental community, and they are my friends, that if you want to debate this matter, then let us debate the issue and not engage in the type of emotional rhetoric that I have seen reflected in mailings on this matter in recent days.

In fact, in response to one of these ill-advised tactics, on November 12, 1993, the Deputy State Historic Preservation Officer of the State of West Virginia wrote a letter to the executive director of the National Conference of State Historic Preservation Officers in which he stated with respect to the legislation:

> In my view this moves the signage issue into a workable compromise. My office opposes billboards along scenic and historic routes. I do feel, however, that a local Dairy Queen should be able to advertise its existence to potential customers lured by the scenic quality of the area.

In response to the type of rhetoric the organization Scenic America was apparently using, the Deputy State Historic Preservation Officer concluded this letter as follows:

> Lastly, I am growing a bit apprehensive about the use of the term outraged.' Folks need to get some perspective and should also be careful about word hierarchies. I get outraged about things like the holocaust and murder in the streets. Billboard amendments and TV preachers are further down the scale.

Mr. Speaker, the bottom line is that the legislation would have made it clear that, pursuant to the Highway Beautification Act, billboards could only be erected in commercial or industrial areas that a State may designate as part of a scenic byway.

Further, nothing in the legislation would prevent a State from prohibiting new billboards in these areas, either by State law or through zoning.

This gentleman from West Virginia has a long history of support in preserving the scenic areas of this Nation. I vote for every wilderness bill, every park bill, every wild and scenic river bill that comes before the Natural Resources Committee and that comes before the House.

I am a leader in preservation matters in my own State as well, having authored the legislation that created just about every unit of the National Park System in West Virginia.

My preservation credentials, my voting record on these matters, are one of the best in the House.

And so I would say to my friends who support scenic byways, that I am a proponent of this program as well.

But I would also say that the economic benefits of designating scenic byways, of providing for a more diversified economy through tourism in many rural and depressed areas, will not occur if we do not allow businesses in commercial and industrial areas to advertise themselves.

For these reasons, I would urge the proponents of the Scenic Byways Program to work in good faith with the committee to resolve this issue, because while it remains outstanding, I find that my enthusiasm for considering any legislation they may advance in the future involving this program will be greatly diminished.

That concludes my explanation of the pending matter.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2178, as amended, will provide for a 4-year reauthorization of the Hazardous Materials Transportation Act. This is a relatively simple reauthorization, with no extensive or comprehensive policy changes or initiatives included in the bill.

H.R. 2178 clarifies the use of the term "packaging" under the act, provides timeframes for Secretarial action on certain exemption applications, and provides the Secretary with the discretion to waive filing requirements for foreign shippers if the shipper's country does not impose such requirements on U.S. shippers.

Section 5 of H.R. 2178 expands current employee training programs by creating a supplemental grant for firefighters under the section 117-A public sector grant program and expands the current section 118 training grants for private sector employees.

I want to thank the gentleman from West Virginia [Mr. RAHALL] for agreeing to my request to include reporting requirements in regard to the use and effectiveness of these training grants.

Also included in the bill is a small-scale pilot project to determine the feasibility of establishing a tracking system for motor carrier shipments.

I want to make it clear that the Public Works Committee is not endorsing any particular technology and intends to give the Secretary wide latitude in carrying out this section. A similar rail project is now underway in Houston, and a motor carrier pilot project has been recommended in a recently submitted report by the National Academy of Sciences.

Finally, two other provisions provide for a study on the transportation of hazardous materials near prisons and a review of the use of open head fiber drums for domestic shipments of certain hazardous materials.

I want to commend Chairman RAHALL, along with full committee Chair MINETA and ranking Republican member BUD SHUSTER, for moving this legislation through the Public Works Committee. I also want to recognize the cooperation of our colleagues on the Energy and Commerce Committee which was necessary in order to bring H.R. 2178 before the House today.

Mr. Speaker, we have an outstanding safety record in regard to hazardous materials transportation and passage of H.R. 2178 will allow us to continue to safely transport hazardous materials in the United States.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of this legislation to amend the Hazardous Materials Transportation Act to authorize appropriations through fiscal year 1997. This legislation is the result of successful and amicable negotiations between the Energy and Commerce and the Public Works and Transportation Committees. I want to especially thank Chairman MINETA, Chairman SWIFT, Chairman RAHALL, and their excellent staffs as well. I would also like to thank Mr. MOORHEAD, Mr. OXLEY, Mr. SHUSTER, and Mr. PETRI. I appreciate the opportunity for us to work out our differences in a constructive and fruitful manner.

The transportation of hazardous materials is a matter of great public concern. Because of the serious threat presented to the public, property, and the environment, there is an increasing awareness of the legal and regulatory issues relating to the transportation of hazardous materials. The Department of Transportation estimates that over 500,000 movements of hazardous materials occur each day in the United States, with over 4 billion tons moving each year.

This is a good bill and it begins to address some problems which earlier legislation did not. We look forward to working with the Public Works Committee in the future to deal with these and other issues.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, this hazardous materials transportation bill has been an excellent example of how this place should work. Everyone involved in this should be very proud of their work, and I thank the gentleman from Michigan [Mr. DINGELL] for having yielded to me.

Mr. Speaker, this hazardous materials transportation bill is a compromise package put together by the Energy and Commerce Committee and the Public Works Committee. As we worked on this reauthorization, I think both committees discovered that the major changes we made in this legislation 3 years ago are being implemented very successfully. The brevity of this reauthorization legislation is a testament to that success and an acknowledgment that relatively few changes need be made at this time. In the end, we will move a step closer in protecting our workers and our communities from the dangers of hazardous materials transportation.

As I have mentioned, this bill makes only a few substantive changes, each of which will serve to build on the solid foundation that is already in place. I will mention only those within Energy and Commerce's rail jurisdiction, leaving the motor carrier provisions to the Public Works Committee.

First, this bill establishes important programs for the training of both hazardous materials employees and the emergency responders that handle the unfortunate aftermath of accidents.

Next, it allows the Secretary of Transportation to exempt foreign offerors of hazardous materials from the registration requirements under the act. This was in response to concerns expressed by the administration that foreign governments would begin to impose registration requirements on U.S. companies that offer hazmat shipments overseas that might be far more expensive and cumbersome than our own. This could significantly hamper U.S. participation in foreign markets. In addition, the beneficiaries of this program—that is, the States, Indian Tribes, and local governments—are already exempted from these fees. It would be inequitable to require foreign governments to register when the beneficiaries of the program do not have to. Take note that foreign carriers operating in the United States will still have to register.

Next, this legislation establishes time limits for the administration to respond to requests for preemption determinations and exemption applications. Until now, no limits have been in place and there has been concern that these administrative determinations were not being considered in a timely fashion.

Finally, this legislation asks the Department of Transportation to determine if open-head fiber drums can be safely used for domestic transport of liquid hazmat. I am confident that the solution in this bill does not undermine the Department's significant move toward performance standards, yet will help to determine if a product is being unfairly kept out of the hazmat transportation market.

In processing the 1990 hazmat legislation, this committee developed an excellent working relationship with Public Works. I am extremely pleased that this relationship continued this time around. Their subcommittee chairman, Mr. RAHALL, and their full committee chairman, Mr. MINETA, dealt with Energy and Commerce in a spirit of cooperation that was greatly appreciated. In addition, I greatly appreciate the input and cooperation of the minority on both committees in crafting this legislation and bringing it to the floor. In the end, I believe we produced an excellent product that will help us move closer to the safe transportation of hazardous materials.

Mr. RAHALL. Mr. Speaker, I thank the distinguished gentleman from Washington [Mr. SWIFT] for his comments and wish to commend him, as well, for his help on this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 2178, a bill to amend the Hazardous Materials Transportation Act to provide for authorizations for fiscal years 1994 through 1997.

The Congress last dealt with the transportation of hazardous materials in 1990, when it adopted the most comprehensive revision of the act since it was first enacted in 1974. That revision, known as the Hazardous Materials Transportation Uniform Safety Act of 1990, made many important regulatory changes, including a number of them in the area of training. The provisions of those 1990 amendments are in various stages of implementation at the Department of Transportation.

H.R. 2178 includes several provisions for fine tuning of the act. It also adds several program changes which add more strength to the act's training programs for both public sector emergency responders and for transportation employees of private business concerns who handle hazardous materials and who respond to incidents or accidents involving the transportation of hazardous materials.

I want to thank our subcommittee chairman, NICK RAHALL, the ranking member of our committee, Congressman SHUSTER, and the ranking subcommittee member, Mr. PETRI, for the fine work they performed on this legislation. I also want to thank Chairman DINGELL, Chairman SWIFT, and Congressmen MOORHEAD and OXLEY for their cooperation and leadership in bringing this bill to the floor.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in strong support of this legislation to reauthorize the hazardous materials safety activities of the Department of Transportation. This bill represents a strong bipartisan effort of the two committees of jurisdiction—Energy and Commerce, and Public Works and Transportation. The final version we are considering today is in essence a combination of the reauthorization bills approved by these two committees.

We could not have achieved this strong bipartisan consensus without the very diligent efforts of the leaders on both committees. I want to recognize specifically the efforts of Mr. MINETA, the Public Works chairman, Mr. SHUSTER, the ranking member of Public Works, Mr. RAHALL, the Surface Transportation Subcommittee chairman, and Mr. PETRI, the ranking member of that subcommittee. On the Energy and Commerce side, I commend Chairman DINGELL, our ranking member, Mr. MOORHEAD, and our Transportation Subcommittee chairman, Mr. SWIFT.

H.R. 2178 is in effect a renewal with minor midcourse corrections of the hazardous materials legislation approved in 1990. At that time, the Congress substantially revised and strengthened almost all major aspects of DOT's hazardous materials safety programs. The rulemakings, studies, and other efforts to implement the 1990 legislation are just now being completed. As a result, today's bill makes only relatively small changes in the existing laws to clarify certain points and eliminate ambiguities that have arisen since 1990. I strongly commend both committees for maintaining their focus on this important but limited purpose of the legislation.

All Americans have a stake in the safe transportation of hazardous materials. We use products every day that require hazardous materials ingredients. We live and work near factories and transportation facilities that send, use, and receive shipments of hazardous materials. Thus, the very existence of our modern civilization exposes us to potential hazardous materials accidents, and gives us a vital stake in successful safety programs. I am glad to be a part of this legislation to renew and strengthen those programs.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 2178, with amendments, the Hazardous Materials Transportation Act Reauthorization Amendments of 1993. This bill reauthorizes the Hazardous Materials Transportation Act and makes certain additional, necessary changes to the existing bill.

I want to congratulate my colleagues from the Public Works and Transportation Committee, Chairman MINETA, Surface Transportation Subcommittee Chairman RAHALL, and ranking member Mr. PETRI for their hard work on this important bill. I also want to thank Energy and Commerce Committee Chairman DINGELL and ranking member MOORHEAD for their hard work and cooperation in producing this legislation.

Our two committees worked hard together to enact a law in 1990 that made major changes to the Hazardous Materials Transportation Act [HMTA] which governs the transportation of hazardous materials in this country. Because the 1990 law was so comprehensive and has been so successful, the reauthorization bill this year is straightforward and does not make any major changes to the HMTA.

Hazardous materials transportation in this country has never been safer. We enjoy a tremendous safety record while transporting over one-half million shipments per day of hazardous materials—materials necessary for our industries and from which we all benefit. Our two committees' stringent oversight of the program has helped to achieve that safety record and I am sure that our actions today will serve to continue our enviable record.

H.R. 2178, as amended, reauthorizes the Hazardous Materials Transportation Act for 4 years, makes some technical clarifications, imposes a reciprocal registration fee waiver to foreign shippers and provides for certain training and studies for hazardous material related issues. I urge my colleagues to support H.R. 2178.

I also want to note that a provision to clarify a section of the Highway Beautification Act was dropped out of H.R. 3460, the bill reported by the Public Works and Transportation Committee, due to a jurisdictional conflict with the Energy and Commerce Committee. I have a commitment that this issue will be dealt with at the first appropriate opportunity.

The provision in question is section 13 of H.R. 3460 as reported by the Public Works and Transportation Committee. This provision made a technical correction to section 131(s) of the Highway Beautification Act, as added by the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], that prohibits new billboards on scenic byways.

The purpose of the ISTEA provision was to protect truly scenic areas. All discussion of that provision related to scenic values, and the understanding of the Members during consideration of that provision was that it related solely to roads in scenic areas.

The Federal Highway Administration interpreted that provision to override other provisions of the Highway Beautification Act that permit the erection of billboards in commercial and industrial areas. Under the FHWA interpretation, the new ISTEA provision applies to commercial and industrial areas that may be designated as part of a scenic byway, for the purposes of connecting scenic areas.

A State that has a scenic byway program will in most cases want to designate continuous scenic byway routes. That is, a scenic route that traverses mostly rural areas may pass through towns and cities. The advantages of continuous scenic byways are numerous, particularly concerning mapping and notice to motorists.

What the FHWA interpretation means is that if a State designates a segment of road that runs through a commercial and industrial area as part of a scenic byway for the purpose of connectivity, that segment of road would be subject to the new billboard prohibition—no matter how urban or blighted that commercial or industrial area might be, and even if the State does not want to change its billboard regulation in commercial and industrial areas.

The Public Works and Transportation Committee believes that the FHWA interpretation of section 131(s) is not the best reading of the section. The last sentence of section 131(s) reads as follows: "Control of any sign, display, or device on such a highway shall be in accordance with this Section." This section includes subsection (d), the commercial and industrial exemption. The Congress intended by this sentence that the scenic byway provisions would be subject to all the other provisions of the Highway Beautification Act.

In addition, if Congress had intended to override other longstanding provisions of the act, it would have explicitly done so. A basic feature of the Beautification Act is to permit States to allow billboards to remain in industrial and commercial areas. Congress would not have relied on inference to make such a drastic change in the law. Indeed, the conferees on ISTEA never discussed the possibility of overturning the commercial and industrial exemption.

The anomaly of the FHWA interpretation is that it preempts States in an area where they have never been preempted under the Highway Beautification Act. Under the act, a State may ban new billboards anywhere in the State, including commercial and industrial zones. The State may also choose to continue the Federal commercial and industrial exemption. The FHWA interpretation tells the State that if it designates a continuous scenic byway, it may not—as a matter of Federal law—continue the commercial and industrial exemption even in the most blighted areas.

The FHWA interpretation may have the perverse result of providing a disincentive to the designation of scenic byways. A State that wants to designate a continuous route, but does not want to change billboard regulation in commercial and industrial areas, is prevented from doing so.

Again, it is very important to emphasize that States have complete authority to ban new billboards and that authority would have continued under section 13 of H.R. 3460 as reported by the Public Works and Transportation Committee. The purpose of the technical amendment in section 13 of H.R. 3460 was to ensure that the designation of a scenic byway does not, by itself, change billboard regulation in commercial and industrial areas. States should continue to have the discretion as to whether or not to ban billboards in commercial and industrial areas.

I would simply note in conclusion that a great deal of misinformation has been disseminated with regard to this provision. The opponents have led people to believe that it would allow billboards to be placed anywhere on scenic byways. This is simply untrue. We will continue our efforts to make sure that this technical amendment is passed.

Mr. MOORHEAD. Mr. Speaker, I strongly support this bipartisan legislation to reauthorize the hazardous materials transportation programs of the Department of Transportation. Those of us in California have become even more conscious of the importance of safe practices in the transportation of hazardous materials, in the wake of some major accidents of this type in the last several years.

The bill we are considering today is basically a fine tuning of the comprehensive revision of the Hazardous Materials Transportation Act enacted in 1990. For that reason, H.R. 2178 is deliberately and appropriately limited in scope. It is oriented primarily toward clarifying and correcting some minor problems and ambiguities that have arisen since the enactment of the 1990 law.

We could not have produced such a constructive bill without the diligent bipartisan efforts of both of the committees involved. On the Public Works and Transportation Committee, I want to note the outstanding efforts of Chairman MINETA, ranking member SHUSTER, Surface Transportation Subcommittee Chairman RAHALL, and ranking subcommittee member PETRI. On our own Energy and Commerce Committee, I commend our chairman, JOHN DINGELL, our subcommittee chairman, AL SWIFT, and our ranking subcommittee member, MIKE OXLEY. Without the efforts of all of these gentlemen, we could not have produced a timely bill of this quality. I urge its approval by the House. Thank you, Mr. Speaker.

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise in support of H.R. 2178, the hazardous materials transportation authorization. Although there are many important changes contained in this legislation, I would like to bring to my colleagues attention one provision of particular importance to my home State of New Jersey.

This provision addresses the problem created by the Department of Transportation rule HM–181 regarding open-head fibre drums. Simply put, this provision would allow the continued authorization of open-head fibre drums for the domestic transportation of a limited number of materials. Furthermore, this provision only allows such authorization pending further examination by the Research and Special Programs Administration [RSPA]. Considering the excellent safety record of fibre drums, I believe that putting a brake on RSPA's regulatory zeal by giving that agency time to review this matter is a reasonable solution. Additionally, this provision will save jobs by allowing fibre drums to continue to be used by industry. Sonoco Products of Carteret, NJ, estimates that it would have to lay off up to 100 workers if this provision is not passed.

As a member of the House Public Works and Transportation Committee, I was pleased to play a role in ensuring that this provision was included as part of the final bill. Mr. Speaker, I urge a "yea" vote on H.R. 2178.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2178, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997 and for other purposes.".

A motion to reconsider was laid on the table.

DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3216) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes as amended.

The Clerk read as follows:

H.R. 3216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Chemical Diversion Control Act of 1993".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33), by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters," before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified"; and

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38), by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v), by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title III based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40), by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(42) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(43) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.".

(b) Removal of Exemption of Certain Drugs.—

(1) Procedure.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"Sec. 204. (a) Removal of Exemption.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) Factors To Be Considered.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) Specificity of Designation.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) Reinstatement of Exemption With Respect to Particular Drug Products.—

"(1) Reinstatement.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) Factors to be considered.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) Status pending application for reinstatement.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) Amendment and modification.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) Clerical amendment.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of that portion relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) Regulation of Listed Chemicals.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B), by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D), by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) Rules and Regulations.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) Persons Required To Register Under Section 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1), by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e), by inserting "or list I chemicals" after "controlled substances".

(c) Registration Requirements Under Section 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State, and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) Denial, Revocation, or Suspension of Registration.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b), by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f), by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Persons Required To Register Under Section 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2), by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2), by inserting "or list I chemicals" after "controlled substances".

(f) Registration Requirements Under Section 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3), by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6), by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e), by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h), by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) Prohibited Acts C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by amending paragraphs (6) and (7) to read as follows:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III;

"(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III or, in the case of an exportation, in violation of this title or title III or of the laws of the country to which it is exported;";

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) to distribute, import, or export a list I chemical without the registration required by this title or title III.".

SEC. 4. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Notification, Suspension of Shipment, and Penalties With Respect to Importation and Exportation of Listed Chemicals.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) Prohibited Acts A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported, shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 5. EXEMPTION AUTHORITY; ANTI-SMUGGLING PROVISION.

(a) Notification Requirement.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1505(a) of this Act, is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Prohibited Acts A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 4(b) of this Act, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 6. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B), by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C), by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 7. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 8. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 9. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Definition.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Notification.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 10. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out to the Members that H.R. 3216 makes important changes in the Controlled Substances Act and in the Controlled Substances Import and Export Act.

Mr. Speaker, the purpose of H.R. 3216 is to assist the Drug Enforcement Administration in the identification of manufacturers of ephedrine that may be supplying illicit drug traffickers in Michigan and surrounding States. Ephedrine is the key ingredient used in production of a powerful and illicit stimulant known as CAT. The legislation before us closes a dangerous loophole in the Controlled Substances Act that provides an unlimited exemption from record keeping requirements for manufacturers of FDA approved drugs sold over-the-counter.

The legislation enjoys the strong support of the Drug Enforcement Administration. In a letter to the committee the DEA indicated that passage of H.R. 3216 will be critical to strengthening Federal chemical control law. The agency writes:

> This legislation will greatly increase our ability to deny clandestine laboratory operators access to the chemicals which they need to synthesize illicit controlled substances.

Mr. Speaker, this legislation would not have been possible without the leadership of the bill's able author, the gentleman from Michigan Mr. STUPAK. It is no easy task to expedite passage of legislation late in the session. The gentleman saw a serious drug abuse crisis emerging in his district and worked with DEA and the committee to develop a solution. I commend him for this effort and initiative.

I urge support for the legislation.

□ 1610

Mr. Speaker, I want to congratulate the author of this bill, the gentleman from Michigan [Mr. STUPAK], and thank him for his help on this much needed legislation. I yield 1 minute to the gentleman from Michigan.

Mr. STUPAK. Mr. Speaker, the legislation before us, the Domestic Chemical Diversion Act of 1993, is much needed legislation to help stop the spread of CAT, a highly addictive stimulant that is reaching epidemic proportions in Michigan's upper peninsula.

Methcathinone, or CAT, is spreading across northern Michigan and has recently penetrated, Wisconsin, Illinois, and Indiana. CAT is easily made in a laboratory, garage, basement, apartment, or back woods. CAT, resembles crack cocaine in appearance but is even more potent than crack. CAT is easily made in crude laboratories by combining household ingredients such as drain cleaner, epsom salts, battery acid, with ephedrine. Each ingredient, individually, is legal to possess and obtain. When combined, however, these ingredients produce the illegal substance CAT.

CAT is spreading rapidly from Michigan's upper peninsula across this Nation—CAT laboratories have been seized as far away as Indianapolis, Seattle, and Los Angeles. Two weeks ago, a CAT lab exploded and injured five people in Craig, CO. Each CAT lab seizure has a tie back to northern Michigan. While this drug is still regional, it promises to plague this Nation.

The key ingredient in making CAT is ephedrine, which can be obtained over the counter in tablet form. This legislation gives the Drug Enforcement Agency the tools it needs to identify manufacturers of ephedrine who may be supplying illicit drug traffickers. This legislation will close a loophole in the Controlled Substances Act that exempts ephedrine from recordkeeping requirements of the Food, Drug, and Cosmetic Act.

This legislation also allows the Attorney General, on a case-by-case basis, to remove exemptions for other chemicals beyond ephedrine that are being used in the production of illicit drugs like CAT.

Additionally, I want to note that this legislation will be helpful in preventing the spread of methamphetamine, or speed which is rampant in parts of California.

I want to thank Chairman DINGELL, Chairman WAXMAN, Chairman BROOKS, Mr. MOORHEAD, Mr. BLILEY and Mr. UPTON for their hard work on this legislation. By Passing this bill, the House will take an important step in stopping a looming CAT epidemic.

I urge swift passage of H.R. 3216.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, ephedrine is the active ingredient in multiple over-the-counter [OTC] drugs, used primarily for the treatment of asthma. Ephedrine is also the primary precursor used in the clandestine production of methamphetamine, commonly known as speed, and methcathinone, commonly known as CAT, in the United States.

Ephedrine has been a listed chemical under the provisions of the Chemical Diversion and Trafficking Act [CDTA] since 1988. The CDTA provides the Drug Enforcement Administration [DEA] with a system of recordkeeping and reporting requirements to track the domestic and international movement of listed chemicals. However, the CDTA does not regulate ephedrine in tablet form or when combined with another substance as an FDA approved product.

The purpose of H.R. 3216 is to subject FDA approved products to these recordkeeping and reporting requirements when the Attorney General has evidence that the product is being diverted for use in the production of illegal controlled substances.

It is important to point out that the exemption for combination ephedrine products is retained. These widely advertised, brand name products have not been associated with the diversion of listed chemicals. Therefore, no drug control purpose is served by requiring the manufacturers of such products to maintain extensive records. The bill does provide the Attorney General the authority to remove the exemption if there is evidence that an exempt product is being diverted for use in the illegal production of a controlled substance.

Mr. Speaker, very similar provisions have been included in the crime bill since 1991 and have passed the House twice. The DEA has been seeking this legislation since 1991 in order to obtain another weapon that it can use in the fight against illegal drug abuse.

I urge my colleagues to join me in supporting this legislation.

Mr. DINGELL. Mr. Speaker, H.R. 3216 makes important changes in the Controlled Substances Act and in the Controlled Substances Import and Export Act. These changes will allow the Drug Enforcement Administration to identify unscrupulous manufacturer who are supplying illicit drug traffickers with legal products that are then being converted into dangerous illegal drugs.

The legislation is needed because of a loophole in current law which essentially allows this practice to continue without appropriate law enforcement recourse. This loophole provides an unlimited exemption from recordkeeping and reporting requirements for manufacturers of over-the-counter drugs manufactured according to Food and Drug Administration requirements.

I want to commend my colleague from Michigan, Mr. STUPAK, for his recognition of the tragic effects of this despicable activity in the State of Michigan.

The legislation particularly deals with the control of the chemical ephedrine, the key ingredient in a powerful illegal stimulant called methcathinone, or cat. The sale and abuse of cat, a substance similar to methamphetamine, has reached literally epidemic proportions on the Upper Peninsula of Michigan. The tragic impact of this drug abuse is especially seen in populations of vulnerable young people.

My able colleague from Michigan, Mr. STUPAK, identified this problem and immediately went to work on a solution. This legislation would not have been possible without his efforts, and his close work with the DEA in developing an appropriate legislative solution.

The DEA strongly supports this legislation. In a letter to the committee, DEA indicated that enactment of H.R. 3216 is critical to strengthening Federal chemical control law. The agency stated:

> This legislation will greatly increase our ability to deny clandestine laboratory operators access to the chemicals which they need to synthesize illicit controlled substances.

Mr. Speaker, I want particularly to acknowledge the cooperation and good will of the Judiciary Committee, which worked closely with us on this legislation. Without the assistance and commitment of both the gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice, and the gentleman from Texas [Mr. BROOKS], chairman of the committee, we would not have been able to bring this significant and important bill to the House floor.

I want to thank my colleagues from the Judiciary Committee for their cooperation, and for the hard and cooperative efforts of their staff, especially Marie McGlone.

Mr. ROTH. Mr. Speaker, I rise in support of this legislation. It is desperately needed to curtail the availability of a new and dangerous drug sweeping the Midwest—a drug known as cat.

Several years ago police, health officials, and the media were warning America about a dangerous new drug. This new drug could be manufactured easily from cocaine and sold cheaply and at a high profit. It was so addictive that users would kill and rob to support their habit.

Tragically, we were unsuccessful in stopping this new drug known as crack. Everyone knows the devastating result. Crack has destroyed the lives of thousands of Americans.

Mr. Speaker, today we are seeing history repeat itself. A new drug, cat, has taken hold in the Upper Peninsula of Michigan and is spreading to northeast Wisconsin, Minnesota, and other States in the Midwest. Cat is a highly addictive stimulant and is very dangerous.

Moreover, just as with crack cocaine, when cat moves from one community to the next, a wave of crime follows. In their desperation to support an expensive habit, people who are addicted to this new drug cat, steal to buy their daily fix. We must stop this new drug epidemic now, in its early stages, before we face another nightmare as dangerous as crack.

This bill will give law enforcement the tools they need to shut down the cat trade. It will cut off the availability of ephedrine, cat's key ingredient, now easily available in over-the-counter diet pills. By limiting the amount of ephedrine that can be purchased over the counter, this bill gives law enforcement officials the ability to shut down cat laboratories.

Mr. Speaker, I am pleased that Congress is acting on this bill before adjournment. Every day we delay allows the menace of cat to spread and destroy more lives. I urge the immediate adoption of this legislation.

Mr. MOORHEAD. Mr. Speaker, although ephedrine and the illegal production of methcathinone, or CAT, is a serious problem in the Midwest and particularly in Michigan, the use of ephedrine and the illegal production of methamphetamine, or speed, is an equally serious problem in California.

California has passed legislation to try to control this problem. However, the creativity of drug dealers in devising a means to circumvent the State law, demonstrates the need for Federal legislation.

California passed a law which became effective January 1, 1993, which controls the solid dosage form of ephedrine where ephedrine is the only active ingredient. If there is another active ingredient in the product, it is not controlled and can still be sold over the counter. Under this law, single-entity ephedrine products can not be distributed without a State registration and distributors must submit a report to the California Department of Justice.

Since the passage of this legislation, however, tablets containing ephedrine and guafenesin have emerged in an effort to circumvent the single-entity product distribution restrictions.

H.R. 3216 would provide for regulations of this new product. I urge my colleagues to join me in supporting this bill.

Mr. BLILEY. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3216, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1993

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3505) to amend the Developmental Disabilities Assistance and Bill of Rights Act to modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993".

SEC. 2. TITLE AND PART HEADINGS.

(a) TITLE.—The heading of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended to read as follows:

"PART A—GENERAL PROVISIONS".

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in critical areas;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports; and

"(9) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society;

in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities and capabilities of each individual.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy (consistent with section 101(c)(2)), a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection, and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and the provision of services, supports and other assistance can improve such individuals' ability to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged and any assistance should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;

"(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) communities accept and support individuals with developmental disabilities and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(6) individuals with developmental disabilities have opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 4. TECHNICAL AMENDMENTS.

(a) PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—The heading of part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) SYSTEM REQUIRED.—Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042) is amended by adding at the end the following subsection:

"(i) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report. The results of such reviews shall be distributed to the Governor of the State and to other interested public and private parties.".

(c) DEFINITION REGARDING UNIVERSITY AFFILIATED PROGRAMS.—The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended—

(1) in section 102(1)—

(A) by inserting ", except as provided in section 155," before "includes"; and

(B) by inserting "the Commonwealth of" before "Puerto Rico"; and

(2) by adding at the end of part D the following section:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.".

SEC. 5. AUTHORIZATIONS OF APPROPRIATIONS.

(a) PLANNING OF PRIORITY AREA ACTIVITIES.—Section 130 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6030) is amended by striking "$77,400,000" and all that follows and inserting the following: "$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(b) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 143 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6043) is amended by striking "$24,200,000" and all that follows and inserting the following: "$24,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(c) UNIVERSITY AFFILIATED PROGRAM.— Section 154 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making grants under subsections (a) through (e) of section 152, there are authorized to be appropriated $19,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(d) PROJECTS OF NATIONAL SIGNIFICANCE.—Section 163(a) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6083(a)) is amended by striking "$3,650,000" and all that follows and inserting the following: "$4,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative day in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3505 reauthorizes the Development Disabilities and Bill of Rights Act. The DD Act authorizes a number of programs that help people with development disabilities live safe and productive lives in both communities and institutions. These programs include the State Developmental Disabilities Councils, the Protection and Advocacy Programs, the University Affiliated Programs, and the Project of National Significance.

The legislation updates the findings and purposes sections of the act, makes several technical changes, and reauthorizes the programs for 3 years. The programs are authorized at $117 million for fiscal year 1994, which is the amount of appropriations for this year.

This legislation reflects the concerns of parents of children residing in institutions and contains language that was developed together with the Voice of the Retarded. The minority has participated in this process, and I know of no objections to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3505 reauthorizes the Development Disabilities Assistance and Bill of Rights Act. It makes minor modifications. Specifically, the bill updates the findings, purposes, and policies section.

Mr. Speaker, I yield such time as he may consume to the ranking member of the Committee on Energy and Commerce, the gentleman from California [Mr. MOORHEAD]

Mr. MOORHEAD. Mr. Speaker, I am very pleased that H.R. 3505 includes language responsive to the concerns of the Voice of the Retarded. I am also pleased that the committee report explicitly states that in passing this legislation, it is not the intent of Congress to eliminate the option of institutional care for severely disabled individuals.

The Voice of the Retarded is a national, nonprofit organization representing the families of mentally retarded persons. Their concerns involve the Senate-passed bill, S. 1284, and are related primarily to maintaining the involvement of parents and retaining the option of institutionalization in addition to community living arrangements for severely disabled individuals.

A key provision of H.R. 3505, section 101(c) highlight that the unique capabilities of individuals and their families need to be recognized in providing assistance, and that individuals and their families are the primary decisionmakers regarding the services their family receives.

In preliminary discussions with the Senate, they have expressed a willingness to agree to this language. I intend to closely follow this bill to ensure that the language added to address the concerns of the V-O-R does in fact remain through conference.

Mr. BLILEY. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the very distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, H.R. 3505 reauthorizes programs under the Developmental Disabilities Assistance and Bill of Rights Act. They include State development disabilities councils, protection and advocacy programs, university affiliated programs, and projects of national significance.

I am certain all of my colleagues in the House are well aware that these programs provide significant support and assistance to individuals with developmental disabilities, and to their families, as they work to achieve their maximum potential and to live safely, productively, and happily.

I have heard loudly and clearly from the programs in my own State of Michigan that this reauthorization is critically important so that they can continue and enhance services and support to individuals with disabilities and to their families and other caregivers.

H.R. 3505 updates the findings and purposes sections of the act, makes several technical changes, and reauthorizes the programs for 3 years.

For fiscal year 1994, the authorization levels are consistent with current appropriations for the programs, a total of $117 million.

This bill reflects concerns expressed to us by parents of children living in institutions. In particular, the bill includes language that was developed together with the Voice of the Retarded.

We have worked closely with the Republican members of the Energy and Commerce Committee and its Health Subcommittee on this legislation. I want to thank my colleagues Mr. MOORHEAD and Mr. BLILEY for their assistance and that of their extremely able staff.

I addition, I want to thank the gentleman from Michigan [Mr. FORD], chairman of the Education and Labor Committee, and the gentleman from New York [Mr. OWENS], chairman of the Subcommittee on Select Education and Civil Rights, for their cooperation in arranging for the re-referral of the counterpart Senate bill, S. 1284.

Mr. Speaker, I know of no objections to this bill.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3505, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1284) to amend the Development Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. Title and part headings.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Federal share.
Sec. 105. Records and audits.
Sec. 106. Recovery.
Sec. 107. State control of operations.
Sec. 108. Reports.
Sec. 109. Responsibilities of the Secretary.
Sec. 110. Employment of handicapped individuals.
Sec. 111. Rights of the developmentally disabled.

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 201. Part heading.
Sec. 202. Purpose.
Sec. 203. State plans.
Sec. 204. Habilitation plans.
Sec. 205. Councils.
Sec. 206. State allotments.
Sec. 207. Federal share and non-Federal share.
Sec. 208. Payments to the States for planning, administration, and services.
Sec. 209. Withholding of payments for planning, administration, and services.
Sec. 210. Nonduplication.
Sec. 211. Appeals by States.
Sec. 212. Authorization of appropriations.
Sec. 213. Review, analysis, and report.

TITLE III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Sec. 301. Part heading.
Sec. 302. Purpose.
Sec. 303. System required.
Sec. 304. Authorization of appropriations.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Sec. 401. Part heading.
Sec. 402. Purpose.
Sec. 403. Grant authority.
Sec. 404. Applications.
Sec. 405. Grant awards.
Sec. 406. Authorization of appropriations and definition.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

Sec. 501. Part heading.
Sec. 502. Purpose.
Sec. 503. Grant authority.
Sec. 504. Authorization of appropriations.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. TITLE AND PART HEADINGS.

(a) TITLE.—The heading of title I of the Act is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS".

SEC. 102. FINDINGS AND PURPOSES.

Section 101 (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals with developmental disabilities to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities and their families often require specialized lifelong assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play a central role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports; and

"(9) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the cpportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy, a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection, and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and the provision of services, supports and other assistance can improve such individuals' ability to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(3) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) communities accept and support individuals with developmental disabilities and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(6) individuals with developmental disabilities have opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 103. DEFINITIONS.

Section 102 (42 U.S.C. 6001) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"For purposes of this title:

"(1) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian Consortium' means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

"(2) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

"(3) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of such individual in such individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, the family of an individual with a developmental disability; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

"(4) CHILD DEVELOPMENT ACTIVITIES.—The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(5) COMMUNITY LIVING ACTIVITIES.—The term 'community living activities' means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

"(6) COMMUNITY SUPPORTS.—The term 'community supports' means activities, services, supports, and other assistance designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

"(B) develop local networks that can provide informal support; and

"(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(7) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the individual attains age 22;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity—

"(i) self-care;

"(ii) receptive and expressive language;

"(iii) learning;

"(iv) mobility;

"(v) self-direction;

"(vi) capacity for independent living; and

"(vii) economic self-sufficiency; and

"(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that are of lifelong or extended duration and are individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

"(8) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means services provided to infants, toddlers, young children, and their families to—

"(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

"(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

"(9) EMPLOYMENT ACTIVITIES.—The term 'employment activities' means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

"(10) FAMILY SUPPORT SERVICE.—The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

"(11) FEDERAL PRIORITY AREAS.—The term 'Federal priority areas' means community living activities, employment activities, child development activities, and system coordination and community education activities.

"(12) INDEPENDENCE.—The term 'independence' means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

"(13) INDIVIDUAL SUPPORTS.—The term 'individual supports' means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

"(A) enable such individual to control such individual's environment, permitting the most independent life possible;

"(B) prevent placement into a more restrictive living arrangement than is necessary; and

"(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

"(14) INTEGRATION AND INCLUSION.—The term 'integration and inclusion', with respect to individuals with developmental disabilities, means—

"(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

"(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

"(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

"(D) having friendships and relationships with individuals and families of their own choosing.

"(15) NONPROFIT.—The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(16) OTHER ORGANIZATIONS.—The term 'other organizations' means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

"(17) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

"(18) PREVENTION.—The term 'prevention' means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

"(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

"(19) PRODUCTIVITY.—The term 'productivity' means—

"(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

"(B) engagement in work that contributes to a household or community.

"(20) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.

"(21) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(22) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(23) SERVICE COORDINATION ACTIVITIES.—The term 'service coordination activities' (also referred to as 'case management activities') means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

"(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

"(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

"(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

"(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

"(24) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

"(25) STATE DEVELOPMENTAL DISABILITIES COUNCIL.—The term 'State Developmental Disabilities Council' means a Council established under section 124.

"(26) STATE PRIORITY AREA.—The term 'State priority area' means priority area activities in an area considered essential by the State Developmental Disabilities Council.

"(27) SUPPORTED EMPLOYMENT.—The term 'supported employment' means competitive work in integrated work settings for individuals with developmental disabilities—

"(A)(i) for whom competitive employment has not traditionally occurred; or

"(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(28) SYSTEM COORDINATION AND COMMUNITY EDUCATION ACTIVITIES.—The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

"(C) enhance individual, family, and citizen participation and involvement; and

"(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

"(29) SYSTEMIC ADVOCACY.—The term 'systemic advocacy' means activities that identify, support, and recommend improvements in the planning, design, redesign, structure, delivery, or funding of generic or specialized services and supports.

"(30) UNIVERSITY AFFILIATED PROGRAM.—The term 'university affiliated program' means a university affiliated program established under section 152.".

SEC. 104. FEDERAL SHARE.

Section 103 (42 U.S.C. 6002) is repealed.

SEC. 105. RECORDS AND AUDITS.

(a) SECTION HEADING.—Section 104 (42 U.S.C. 6003) is amended—

(1) by striking "SEC. 104."; and

(2) in the section heading, by striking "RECORDS AND AUDIT" and inserting the following new section heading:

"SEC. 104. RECORDS AND AUDITS.".

(b) RECORDS AND AUDITS.—Section 104 (42 U.S.C. 6003) is amended—

(1) in subsection (a)—

(A) by striking "Each" and inserting "RECORDS.—Each";

(B) by striking "including" and inserting "including—";

(C) by realigning the margins of subparagraphs (A), (B), and (C) of paragraph (1) so as to align with the margins of subparagraphs (A) and (B) of paragraph (27) of section 102;

(D) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (30) of section 102;

(E) in paragraph (1), by striking "disclose" and inserting "disclose—"; and

(F) by striking the comma each place such appears and inserting a semicolon; and

(2) in subsection (b), by striking "The Secretary" and inserting "ACCESS.—The Secretary".

SEC. 106. RECOVERY.

Section 105 (42 U.S.C. 6004) is repealed.

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 106 (42 U.S.C. 6005) is amended—

(1) by striking "SEC. 106.";

(2) in the section heading, by striking "STATE CONTROL OF OPERATIONS" and inserting the following new section heading:

"SEC. 106. STATE CONTROL OF OPERATIONS."; and

(3) by striking "facility for persons" and inserting "programs, services, and supports for individuals".

SEC. 108. REPORTS.

(a) SECTION HEADING.—Section 107 (42 U.S.C. 6006) is amended—

(1) by striking "SEC. 107."; and

(2) in the section heading, by striking "REPORTS" and inserting the following new section heading:

"SEC. 107. REPORTS.".

(b) REPORTS.—Section 107 (42 U.S.C. 6006) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking, "By January" and inserting "DEVELOPMENTAL DISABILITIES COUNCIL REPORTS.—By January";

(ii) by striking "the State Planning Council of each State" and inserting "each State Developmental Disabilities Council";

(iii) by striking "a report concerning" and inserting "a report of"; and

(iv) by striking "such report" and inserting "report";

(B) in paragraph (1), by striking "of such activities" and all that follows through "from such activities" and inserting "of activities and accomplishments";

(C) in paragraph (2)—

(i) by striking "such accomplishments" and inserting "accomplishments"; and

(ii) by striking "by the State";

(D) in paragraph (4)—

(i) by striking "Planning" and inserting "Developmental Disabilities";

(ii) by striking "each" each place such term appears;

(iii) by striking "report" and inserting "reports";

(iv) by striking "1902(a)(31)(C)" and inserting "1902(a)(31)";

(v) by striking "plan" and inserting "plans"; and

(vi) by striking "; and" and inserting a semicolon;

(E) by striking paragraph (5); and

(F) by adding at the end the following new paragraphs:

"(5) a description of—

"(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, including individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(C) a summary of actions taken to improve access and services for unserved and underserved groups;

"(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

"(7) a description of the method by which the State Developmental Disabilities Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.";

(2) in subsection (b)—

(A) by striking "By January" and inserting "PROTECTION AND ADVOCACY SYSTEM REPORTS.—By January"; and

(B) by inserting before the period ", including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used"; and

(3) in subsection (c)—

(A) by realigning the margins of subparagraphs (A) and (B) of paragraph (1) so as to align with the margins of subparagraph (C) of such paragraph;

(B) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (1) of subsection (a);

(C) by striking "(c)" and inserting "(c) SECRETARY REPORTS.—";

(D) by striking "(1) By" and inserting the following:

"(1) IN GENERAL.—By";

(E) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "integration" each place such term appears and inserting "integration and inclusion"; and

(II) by striking "persons" and inserting "individuals";

(ii) by striking subparagraph (C) and inserting the following new subparagraph:

"(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, including individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(iii) a summary of actions taken to improve access and services for unserved and underserved groups;"; and

(iii) in subparagraph (D), by striking "persons" and inserting "individuals"; and

(F) in paragraph (2)—

(i) by striking "use and include" and inserting "include and analyze"; and

(ii) by striking "to the Secretary".

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

(a) SECTION HEADING.—Section 108 (42 U.S.C. 6007) is amended—

(1) by striking "SEC. 108."; and

(2) in the section heading, by striking "RESPONSIBILITIES OF THE SECRETARY" and inserting the following new section heading:

"SEC. 108. RESPONSIBILITIES OF THE SECRETARY.".

(b) RESPONSIBILITIES.—Section 108 (42 U.S.C. 6007) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "REGULATIONS.—The Secretary"; and

(2) in subsection (b)—

(A) by striking "Within ninety" and inserting "INTERAGENCY COMMITTEE.—Within 90"; and

(B) by striking "Administration for Developmental Disabilities" and inserting "Administration on Developmental Disabilities,".

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

(a) SECTION HEADING.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "SEC. 109."; and

(2) in the section heading, by striking "EMPLOYMENT OF HANDICAPPED INDIVIDUALS" and inserting the following new section heading:

"SEC. 109. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.".

(b) EMPLOYMENT.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "handicapped individuals" and inserting "individuals with disabilities";

(2) by striking "Act of" and inserting "Act of 1973"; and

(3) by striking "which govern" and all that follows through "subcontracts." and inserting the following: "that govern employment—

"(1) by State rehabilitation agencies and community rehabilitation programs; and

"(2) under Federal contracts and subcontracts.".

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

(a) SECTION HEADING.—Section 110 (42 U.S.C. 6009) is amended—

(1) by striking "SEC. 110."; and

(2) in the section heading, by striking "RIGHTS OF THE DEVELOPMENTALLY DISABLED" and inserting the following new section heading:

"SEC. 110. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.".

(b) RIGHTS.—Section 110 (42 U.S.C. 6009) is amended—

(1) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(2) in paragraph (1), by striking "Persons" and inserting "Individuals";

(3) in paragraph (2)—

(A) by striking "a person" and inserting "an individual";

(B) by striking "the person" and inserting "the individual"; and

(C) by striking "the person's" and inserting "the individual's";

(4) in paragraph (3), by striking "persons" each place such term appears and inserting "individuals";

(5) in paragraph (4), by striking "persons" each place such term appears and inserting "individuals"; and

(6) in the matter after subparagraph (C), by striking "persons" each place such term appears and inserting "individuals".

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. PART HEADING.

The heading of Part B of title I of the Act is amended to read as follows:

"PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS".

SEC. 202. PURPOSE.

Section 121 (42 U.S.C. 6021) is amended to read as follows:

"SEC. 121. PURPOSE.

"The purpose of this part is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy, the development of a consumer and family-centered, comprehensive system and a coordinated array of services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.".

SEC. 203. STATE PLANS.

Section 122 (42 U.S.C. 6022) is amended to read as follows:

"SEC. 122. STATE PLAN.

"(a) In General.—Any State desiring to take advantage of this part shall have a State plan submitted to, and approved by, the Secretary under this section.

"(b) Planning Cycle.—The plan under subsection (a) shall be reviewed annually and revised at least once every 3 years.

"(c) State Plan Requirements.—In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

"(1) State council.—The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 124 and describe the membership of such Council.

"(2) Designated state agency.—The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 124(d).

"(3) Comprehensive review and analysis.—The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

"(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

"(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

"(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

"(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

"(iii) consideration of the report conducted pursuant to section 124(e);

"(iv) consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act;

"(v) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

"(vi) an analysis of existing and projected fiscal resources;

"(vii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

"(viii) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (v) for all subpopulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

"(4) Plan objectives.—The plan shall—

"(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

"(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy agenda in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

"(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

"(5) Assurances.—The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

"(A) Use of funds.—With respect to the funds paid to the State under section 125, the plan shall provide assurances that—

"(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

"(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

"(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

"(iv) part of such funds will be made available by the State to public or private entities;

"(v) not more than 25 percent of such funds will be allocated to the agency designated under section 124(d) for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

"(vi) not less than 65 percent of the amount available to the State under section 125 shall be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area; and

"(vii) the remainder of the amount available to the State from allotments under section 125 (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 124(c).

"(B) State financial participation.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

"(C) Conflict of interest.—The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

"(D) Urban and rural poverty areas.—The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

"(E) Program standards.—The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

"(F) Individualized services.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities and capabilities of an individual.

"(G) Human rights.—The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 110 (relating to rights of individuals with developmental disabilities).

"(H) Minority participation.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

"(I) Intermediate care facility for the mentally retarded survey reports.—The plan shall provide assurances that the State will provide the State Developmental Disabilities Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

"(J) Volunteers.—The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(K) Employee protections.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(L) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State.

"(M) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council.

"(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(d) PUBLIC REVIEW, SUBMISSION, AND APPROVAL.—

"(1) PUBLIC REVIEW.—The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation.

"(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

"(3) PLAN APPROVAL.—The Secretary shall approve any State plan and annual updates of such plan that comply with the provisions of subsections (a), (b), and (c). The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State.".

SEC. 204. HABILITATION PLANS.

Section 123 (42 U.S.C. 6023) is repealed.

SEC. 205. COUNCILS.

Section 124 (42 U.S.C. 6024) is amended to read as follows:

"SEC. 124. STATE DEVELOPMENTAL DISABILITIES COUNCILS AND DESIGNATED STATE AGENCIES.

"(a) IN GENERAL.—Each State that receives assistance under this part shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the 'Council') to conduct systemic change, capacity building, and advocacy activities on behalf of all individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c).

"(b) COUNCIL MEMBERSHIP.—

"(1) COUNCIL APPOINTMENTS.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council shall coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

"(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor and the Secretary, and the Secretary shall contact the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

"(3) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D, the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

"(A) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

"(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 122(c)(5)(C).

"(4) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 50 percent of the membership of each Council shall consist of individuals who are—

"(A)(i) individuals with developmental disabilities;

"(ii) parents or guardians of children with developmental disabilities; or

"(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

"(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under this part.

"(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (4)—

"(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

"(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), or immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

"(C) one-third shall be a combination of individuals described in paragraph (4)(A).

"(6) INSTITUTIONALIZED INDIVIDUALS.—Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

"(c) COUNCIL RESPONSIBILITIES.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

"(1) SYSTEMIC CHANGE, CAPACITY BUILDING, AND ADVOCACY.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 121.

"(2) EXAMINATION OF PRIORITY AREAS.—Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families, pursuant to section 122.

"(3) STATE PLAN DEVELOPMENT.—The Council shall develop and submit to the Secretary the State plan required under section 122 after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

"(4) STATE PLAN IMPLEMENTATION.—The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 102, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

"(A) DEMONSTRATION OF NEW APPROACHES.—The Council may conduct, on a time-limited basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this part, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

"(B) OUTREACH.—The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

"(C) TRAINING.—The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

"(D) SUPPORTING COMMUNITIES.—The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals and their families access, resources, and opportunities.

"(E) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

"(F) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may conduct activities to enhance coordination with—

"(i) other councils or committees, authorized by Federal or State statute, concerning such individuals with disabilities (such as the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973, the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act and other similar councils or committees);

"(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

"(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

"(G) BARRIER ELIMINATION, SYSTEMS DESIGN, AND CITIZEN PARTICIPATION.—The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

"(H) PUBLIC EDUCATION AND COALITION DEVELOPMENT.—The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

"(I) INFORMING POLICYMAKERS.—The Council may provide information to Federal, State, and local policymakers, including the Congress, the Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

"(J) PREVENTION.—The Council may conduct prevention activities as defined in section 102.

"(K) OTHER ACTIVITIES.—The Council may conduct other systemic change, capacity building, and advocacy activities to expand and enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

"(5) STATE PLAN MONITORING.—Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

"(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the appropriateness of the designated State agency and make any recommendations for change to the Governor.

"(7) REPORTS.—The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities under this part including—

"(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

"(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies that negatively affect the provision of staff support of the Council; and

"(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

"(9) STAFF HIRING AND SUPERVISION.—A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be for cause only, based on documented performance evaluations and consistent with State law and personnel policies. Council directors and staff who are exempt from State personnel policies may be dismissed based only on documented performance criteria.

"(10) STAFF ASSIGNMENTS.—The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

"(11) CONSTRUCTION.—Nothing in this part shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

"(d) DESIGNATED STATE AGENCY.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall designate the State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993, any designation of a State agency shall be made in accordance with the requirements of this subsection.

"(2) DESIGNATION.—

"(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

"(i) the Council if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

"(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

"(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination at the discretion of the Governor (or legislature as the case may be) shall consider the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an advocate for individuals with developmental disabilities.

"(C) REVIEW OF DESIGNATION.—After October 1, 1993, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

"(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

"(3) RESPONSIBILITIES.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (A) through (F).

"(A) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

"(B) FISCAL RESPONSIBILITIES.—The designated State agency shall—

"(i) receive, account for, and disperse funds under this part based on the State plan required in section 122; and

"(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper dispersement of, and accounting for, funds paid to the State under this part.

"(C) RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

"(D) NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 125A(c).

"(E) ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

"(F) MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

"(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

"(A) NECESSARY EXPENDITURES OF STATE DESIGNATED AGENCY.—At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

"(B) CONDITION FOR FEDERAL FUNDING.—Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

"(C) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

"(e) 1990 REPORT.—Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

"(1) COMPREHENSIVE REVIEW AND ANALYSIS.—Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) CONSUMER SATISFACTION.—Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individual's families.

"(3) PUBLIC REVIEW AND COMMENT.—Each Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) BASIS FOR STATE PLAN.—Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 206. STATE ALLOTMENTS.

(a) SECTION HEADING.—Section 125 (42 U.S.C. 6025) is amended—

(1) by striking "SEC. 125."; and

(2) in the section heading, by striking "STATE ALLOTMENTS" and inserting the following:

"SEC. 125. STATE ALLOTMENTS.".

(b) ALLOTMENTS.—Section 125 (42 U.S.C. 6025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A), (B), and (C) so as to align with the margin of subparagraph (A) of paragraph (4); and

(ii) by realigning the margin of the matter following subparagraph (C) so as to align with the margin of paragraph (3);

(B) by striking "(a)(1) For" and inserting the following:

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—For";

(C) in paragraph (2)—

(i) by striking "(2) Adjustments" and inserting the following:

"(2) ADJUSTMENTS.—Adjustments";

(ii) by striking "may be" and inserting "shall be"; and

(iii) by striking "not less" and inserting "and the percentage of the total appropriation for each State not less";

(D) in paragraph (3)—

(i) by striking "(3)(A) Except" and all that follows through "September 30, 1990." and inserting the following:

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $210,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i), may not be less than the greater of—

"(I) $400,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).''; and

(ii) by striking "(B) Notwithstanding" and inserting the following:

"(B) REDUCTION OF ALLOTMENT.—Notwithstanding";

(E) in paragraph (4), to read as follows:

"(4) MAXIMUM ALLOTMENT.—

"(A) IN GENERAL.—In any case in which amounts appropriated under section 130 for a fiscal year exceeds $75,000,000, the allotment under this section for such fiscal year—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $220,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i) may not be less than the greater of—

"(I) $450,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).

"(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).";

(F) in paragraph (5)—

(i) by striking "In determining" and inserting "STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining"; and

(ii) by striking, "section 122(b)(2)(C)" and inserting "section 122(c)(3)(A)"; and

(G) in paragraph (6), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(2) in subsection (b), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(3) in subsection (c), by striking "Whenever" and inserting "COOPERATIVE EFFORTS BETWEEN STATES.—Whenever"; and

(4) in subsection (d), by striking "The amount" and inserting "REALLOTMENTS.—The amount".

SEC. 207. FEDERAL SHARE AND NON-FEDERAL SHARE.

Part B of title I of the Act is amended by inserting after section 125 (42 U.S.C. 6025) the following new section:

"SEC. 125A. FEDERAL AND NON-FEDERAL SHARE.

"(a) AGGREGATE COSTS.—The Federal share of all projects in a State supported by an allotment to the State under this part may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

"(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

"(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

"(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 122, the Secretary shall not consider—

"(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 125; and

"(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(c) NON-FEDERAL SHARE.—

"(1) IN KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project assisted by a grant or an allotment under this part may be provided in kind.

"(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS, PUBLIC, OR PRIVATE ENTITIES.—

"(A) IN GENERAL.—Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this part.

"(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 124(d)(4), may be counted as part of such State's non-Federal share of allotments under this part.

"(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required on a grant-by-grant basis may vary.".

SEC. 208. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 126 (42 U.S.C. 6026) is amended—

(1) by striking "SEC. 126." and inserting "(a) STATE PLAN EXPENDITURES.—";

(2) in the section heading, by striking "PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following:

"SEC. 126. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) by adding at the end the following new subsection:

"(b) SUPPORT SERVICES.—Payments to States for support services provided by the designated State agency pursuant to section 124(d)(4) may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.".

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 127 (42 U.S.C. 6027) is amended—

(1) in the matter preceding paragraph (1), by striking "SEC. 127.";

(2) in the section heading by striking "WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following:

"SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) in paragraph (1), by striking "sections" and inserting "section".

SEC. 210. NONDUPLICATION.

Section 128 (42 U.S.C. 6028) is repealed.

SEC. 211. APPEALS BY STATES.

Section 129 (42 U.S.C. 6029) is amended—

(1) by striking "SEC. 129."; and

(2) in the section heading, by striking "APPEALS BY STATES" and inserting the following:

"SEC. 129. APPEALS BY STATES.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

Section 130 (42 U.S.C. 6030) is amended—

(1) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(2) by striking "years 1992 and 1993" and inserting "years 1995 and 1996".

SEC. 213. REVIEW, ANALYSIS, AND REPORT.

(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental Disabilities Assistance and Bill of Rights Act prior to the date of enactment of this Act, including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act.

(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act.

(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

TITLE III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 301. PART HEADING.

The heading of part C of title I of the Act is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 141 (42 U.S.C. 6041) is amended—

(1) by striking "SEC. 141.";

(2) in the section heading, by striking "PURPOSE" and inserting the following:

"SEC. 141. PURPOSE.";

(3) by striking "system" and inserting "Protection and Advocacy system (hereafter referred to in this part as the 'system')"; and

(4) by striking "persons" and inserting "individuals".

SEC. 303. SYSTEM REQUIRED.

(a) SECTION HEADING.—Section 142 (42 U.S.C. 6042) is amended—

(1) by striking "SEC. 142."; and

(2) in the section heading, by striking "SYSTEM REQUIRED" and inserting the following:

"SEC. 142. SYSTEM REQUIRED.".

(b) SYSTEM.—Section 142 (42 U.S.C. 6042) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "SYSTEM REQUIRED.—In order";

(B) in paragraph (1), by striking "persons" and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) in subparagraph (A), by striking "minority" and inserting "underserved geographical areas and ethnic and racial minority";

(iii) by striking subparagraph (C);

(iv) in subparagraph (E), by striking "Planning Council" and inserting "Developmental Disabilities Council authorized under part B";

(v) in subparagraph (F), by striking "and" at the end thereof; and

(vi) in subparagraph (G)—

(I) in clause (i), by striking "person" each place such term appears and inserting "individual";

(II) in the matter preceding subclause (I) of clause (ii), by striking "person" and inserting "individual";

(III) in clause (ii)(I), by striking "by reason of the mental or physical condition of such person" and inserting "by reason of such individual's mental or physical condition";

(IV) in clause (ii)(III), by striking "person" and inserting "individual";

(V) in clause (iii), by realigning the margins of subclauses (I), (II), and (III) so as to align with the margins of subclauses (I), (II), and (III) of clause (ii);

(VI) in clause (iii), by striking "(iii) any" and inserting the following:

"(iii) any"; and

(VII) in clause (iii)(III), by striking "person" and inserting "individual";

(D) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (I), respectively;

(E) by inserting after subparagraph (B) the following new subparagraphs:

"(C) on an annual basis, develop a statement of objectives and priorities for the system's activities; and

"(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—

"(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and

"(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and with other related programs, including the Parent Training and Information Centers, education ombudsman programs and assistive technology projects;";

(F) by inserting after subparagraph (G), as so redesignated in subparagraph (D), the following new subparagraph:

"(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident;";

(G) by adding at the end the following new subparagraphs:

"(J) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such State shall not apply hiring freezes, reductions in force, or other policies that negatively affect the provision of staff support to the system, or restrict travel to training and technical assistance activities funded under this Act;

"(K) have the authority to educate policymakers; and

"(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;"

(H) by striking paragraphs (3) and (5);

(I) in paragraph (4)—

(i) by striking "the State" and all that follows through "provided with" and inserting "the State must provide to the system";

(ii) by striking "1902(a)(31)(B)" and inserting "1902(a)(31)"; and

(iii) by redesignating such paragraph as paragraph (3); and

(J) by adding at the end the following new paragraph:

"(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.";

(2) in subsection (b)—

(A) by striking "(b)(1) To" and inserting the following:

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—To";

(B) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A) and (B) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(ii) in subparagraph (A), to read as follows:

"(A) the total amount appropriated under section 143 for a fiscal year is at least $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $107,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $200,000; or

"(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d))."; and

(iii) in subparagraph (B), to read as follows:

"(B) the total amount appropriated under section 143 for a fiscal year is less than $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $80,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $150,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(C) by realigning the margins of subparagraphs (A) and (B) of paragraph (2) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(D) by realigning the margins of paragraphs (2) through (4) so as to align with paragraph (4) of subsection (a);

(E) in paragraph (2), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(F) in paragraph (3), by striking "A State" and inserting "MONITORING THE ADMINISTRATION OF THE SYSTEM.—A State";

(G) in paragraph (4), by striking "Notwithstanding" and inserting "REDUCTION OF ALLOTMENT.—Notwithstanding"; and

(H) by inserting at the end the following new paragraph:

"(5) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which amounts appropriated under section 143 for a fiscal year exceeds $24,500,000, the Secretary shall—

"(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach $24,500,000) to eligible systems with respect to activities carried out under this title; and

"(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortiums to provide protection and advocacy services.";

(3) in subsection (c), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "In States" and inserting "GOVERNING BOARD.—In States";

(B) in paragraph (1), by inserting before the semicolon "and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals"; and

(C) by adding at the end the following new paragraph:

"(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—

"(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

"(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals.";

(5) in subsection (e) by striking "As used" and inserting "RECORDS.—As used";

(6) in subsection (f)—

(A) by striking "If the" and inserting "ACCESS TO RECORDS.—If the"; and

(B) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(7) in subsection (g)—

(A) by striking "(g)(1) Nothing" and inserting the following:

"(g) LEGAL ACTION.—

"(1) IN GENERAL.—Nothing";

(B) in paragraph (1), by striking "persons" and inserting "individuals"; and

(C) in paragraph (2), by striking "(2) Amounts" and inserting the following:

"(2) USE OF AMOUNTS FROM JUDGMENT.—Amounts";

(8) in subsection (h), by striking "Notwithstanding" and inserting "PAYMENT TO SYSTEMS.—Notwithstanding";

(9) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(10) by inserting after subsection (a) the following new subsection:

"(b) AMERICAN INDIAN CONSORTIUM.—Upon application to the Secretary, an American Indian consortium, as defined in section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium shall coordinate activities with existing systems."; and

(11) by adding at the end the following new subsections:

"(j) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this Act, the Secretary shall not require a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(k) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 143 (42 U.S.C. 6043) is amended—

(1) by striking "SEC. 143.";

(2) in the section heading, by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting the following:

"SEC. 143. AUTHORIZATION OF APPROPRIATIONS.";

(3) by striking "$24,200,000 for fiscal year 1991" and inserting "$29,000,000 for fiscal year 1994"; and

(4) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

SEC. 401. PART HEADING.

The heading of part D of title I of the Act is amended to reads as follows:

"PART D—UNIVERSITY AFFILIATED PROGRAMS".

SEC. 402. PURPOSE.

Section 151 (42 U.S.C. 6061) is amended to read as follows:

"SEC. 151. PURPOSE AND SCOPE OF ACTIVITIES.

"The purpose of this part is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities through the provision of the following activities:

"(1) Interdisciplinary preservice preparation of students and fellows, including the preparation of leadership personnel.

"(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

"(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities.".

SEC. 403. GRANT AUTHORITY.

(a) Section Heading.—Section 152 (42 U.S.C. 6062) is amended—

(1) by striking "Sec. 152."; and

(2) in the section heading, by striking "Grant Authority" and inserting the following:

"SEC. 152. GRANT AUTHORITY.".

(b) Authority.—Section 152 (42 U.S.C. 6062) is amended—

(1) in subsection (a)—

(A) by striking "From appropriations" and inserting "Administration and Operation.—From appropriations"; and

(B) by striking "102(18)." and inserting "151. Grants may be awarded for a period not to exceed 5 years.";

(2) in subsection (b), to read as follows:

"(b) Training Projects.—

"(1) In general.—From amounts appropriated under section 156(a), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

"(2) Eligibility limitations.—A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

"(A) such program has operated for at least 1 year; or

"(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

"(3) Areas of focus.—Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging national significance described in subparagraphs (A) through (G).

"(A) Early intervention.—Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

"(B) Aging.—Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

"(C) Community services.—Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community members, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

"(D) Positive behavioral supports.—Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

"(i) address ethical and legal principles and standards, including the role of personal values in designing assessments and interventions;

"(ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;

"(iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;

"(iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;

"(v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;

"(vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and

"(vii) address techniques for evaluating the outcomes of interventions.

"(E) Assistive technology services.—Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(F) Americans with Disabilities Act.—Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

"(G) Other areas.—Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

"(4) Courses, traineeships and fellowships.—Grants under this subsection may be used by university affiliated programs to—

"(A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and

"(B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(5) Prohibited activities.—Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a).

"(6) Criteria.—Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

"(A) Application.—An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

"(i) competency and value based;

"(ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

"(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

"(B) General project requirements.—Training projects under this subsection shall—

"(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(ii) be conducted in consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(iii) be integrated into the appropriate university affiliated program and university curriculum;

"(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(v) to the extent practical, be conducted in environments where services are actually delivered;

"(vi) to the extent possible, be interdisciplinary in nature; and

"(vii) to the extent possible, address the unique needs of individuals with developmental disabilities from ethnic, cultural, and linguistic minority backgrounds.";

(3) in subsection (c)—

(A) by striking "From amounts appropriated under section 154(b)" and inserting "SUPPLEMENTAL AWARDS.—From amounts appropriated under section 156(a)";

(B) in paragraph (1)—

(i) by striking "service-related training to persons" and inserting "interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals";

(ii) by striking "integration into the community of persons with developmental disabilities" and inserting "integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b)"; and

(iii) by striking "persons" each place such term appears and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "(A) the" and inserting "the";

(ii) by striking "persons" and inserting "individuals";

(iii) by striking "(B) the" and inserting "the"; and

(iv) by striking "parents" and inserting "family members";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "(e) From amounts appropriated under section 154(a)" and inserting "(d) FEASIBILITY STUDIES.—From amounts appropriated under section 156(a)"; and

(B) by striking "or a satellite center" each place such term appears; and

(6) by striking subsections (f) and (g).

SEC. 404. APPLICATIONS.

(a) SECTION HEADING.—Section 153 (42 U.S.C. 6063) is amended—

(1) by striking "SEC. 153."; and

(2) in the section heading, by striking "APPLICATIONS" and inserting the following:

"SEC. 153. APPLICATIONS.".

(b) APPLICATIONS.—Section 153 (42 U.S.C. 6063) is amended—

(1) in subsection (a)—

(A) by striking "Not later than six" and inserting: "STANDARDS.—Not later than 12";

(B) by striking "Act of 1984" and inserting "Assistance and Bill of Rights Act Amendments of 1993";

(C) by striking "persons" and inserting "individuals"; and

(D) by striking "section 102(18)" and inserting "section 151";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "No grants" and all that follows through "Such an application" and inserting "ASSURANCES.—The application under subsection (a)";

(B) in paragraph (1), by striking "grant will" and all that follows through "level of such funds;" and inserting the following: "grant will—

"(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

"(B) be used to supplement and, to the extent practicable, increase the level of such funds;";

(C) in paragraph (2), by striking "subsection (a)" each place such term appears and inserting "subsection (b)";

(D) in paragraph (3)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) by striking "treatment, services, or habilitation" and inserting "services"; and

(iii) by striking "the developmentally disabled" and inserting "individuals with developmental disabilities"; and

(E) in paragraph (5)—

(i) by striking "Planning" and inserting "Developmental Disabilities"; and

(ii) by striking "or the satellite center is or will be located";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (a), (b), and (e) as subsections (b), (c), and (f), respectively;

(5) by inserting after the section heading the following new subsection:

"(a) IN GENERAL.—No grants may be made under section 152(a) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.";

(6) by inserting after subsection (c), as so redesignated by paragraph (4), the following new subsections:

"(d) CONSUMER ADVISORY COMMITTEE.—The Secretary shall only make grants under section 152(a) to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of any project to be provided through grants under this part may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

"(2) PROJECT EXPENDITURES.—For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this part.";

(7) in subsection (f), as so redesignated by paragraph (4)—

(A) by striking "(f)(1) The Secretary" and inserting the following:

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary";

(B) in paragraph (1), by striking "Such peer review" and all that follows through "152(b)(1)(D)";

(C) in paragraph (2)—

(i) by striking "(2) Regulations" and inserting the following:

"(2) REGULATIONS.—Regulations"; and

(ii) by striking "experience or training" and inserting "experience and training";

(D) in paragraph (3), to read as follows:

"(3) APPROVAL.—

"(A) IN GENERAL.—The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) APPLICABILITY.—This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.";

(E) in paragraph (4)—

(i) by striking "(4) The Secretary" and inserting the following:

"(4) ESTABLISHMENT OF PEER REVIEW GROUPS.—The Secretary"; and

(ii) by realigning the margins of subparagraphs (A) and (B) so as to align with the margin of subparagraph (A) of paragraph (3); and

(F) in paragraph (5), by striking "(5) The Secretary" and inserting the following:

"(5) WAIVERS OF APPROVAL.—The Secretary"; and

(8) by adding at the end the following new subsection:

"(g) REVIEW BY OTHER FEDERAL AGENCIES.—The Secretary shall establish such a process for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.".

SEC. 405. GRANT AWARDS.

Section 154 (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. PRIORITY FOR GRANT AWARDS.

"(a) IN GENERAL.—In awarding and distributing grant funds under this part, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

"(1) EXISTING STATE UNIVERSITY AFFILIATED PROGRAMS.—First priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to an existing State university affiliated program that meets the requirements under section 153.

"(2) UNSERVED STATES.—Second priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to a university or public or nonprofit entity associated with a college or university that desires to establish a university affiliated program in a State that is unserved by a university affiliated program as of the date of enactment of the Developmental Assistance and Bill of Rights Act Amendments of 1993.

"(3) TRAINING PROJECTS IN ALL UNIVERSITY AFFILIATED PROGRAMS.—Third priority shall be given, with respect to the provision of grant awards, to each university affiliated program that receives funding under section 152(a) and that meets the eligibility limitations under section 152(b) to the establishment of training projects under section 152(b) in the amount of $90,000 in each such program.

"(4) INCREASED FUNDING FOR TRAINING PROJECTS.—Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 152(b) to $100,000.

"(5) INCREASED FUNDING FOR UNIVERSITY AFFILIATED PROGRAMS.—Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university affiliated program grant award under section 152(a) to $250,000.

"(6) ADDITIONAL TRAINING.—Sixth priority shall be given, with respect to the provision of grant awards, to an existing university affiliated program in a State that is served by such program under section 152(a) to provide additional training under subsection (b) or (c) of section 152 within such State or other geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university affiliated program within such State under section 152(a). All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university affiliated program in the State (if applicable) and in consultation with the State Developmental Disabilities Council.

"(b) Additional Programs.—For purposes of making grants under subsection (a)(6), the Secretary shall consider applications for grants for university affiliated programs—

"(1) for States that are currently underserved by a university affiliated program; and

"(2) that are in addition to the total number of university affiliated programs receiving grants under this subsection for the preceding fiscal year.

"(c) Single Application.—When every State is served by a university affiliated program under section 152(a) in the amount of $200,000 and every such program has been awarded a training grant under section 152(b) in the amount of $90,000, the Secretary may accept applications under such sections in a single application.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Part D of title I (42 U.S.C. 151 et seq.) is amended by adding at the end the following new sections:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"SEC. 156. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—For the purpose of making grants under subsections (a), (b), (c), and (d) of section 152, there are authorized to be appropriated $21,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Limitation.—With respect to peer review or other activities directly related to peer review, the Secretary may not use—

"(1) for fiscal year 1994, more than $300,000 of the funds made available under subsection (a) for such review or such other activities;

"(2) for any succeeding fiscal year, more than the amount of the funds made availabe under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities.".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

The heading of part E of title I of the Act is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

SEC. 502. PURPOSE.

Section 161 (42 U.S.C. 6081) is amended to read as follows:

"SEC. 161. PURPOSE.

"The purpose of this part is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

"(1) data collection and analysis;

"(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

"(A) technical assistance for the development of information and referral systems;

"(B) educating policymakers;

"(C) Federal interagency initiatives;

"(D) the enhancement of minority participation in public and private sector initiatives in developmental disabilities; and

"(E) special pilots and evaluation studies to explore the expansion of programs under part B to individuals with severe disabilities other than developmental disabilities.".

SEC. 503. GRANT AUTHORITY.

(a) Section Heading.—Section 162 (42 U.S.C. 6082) is amended—

(1) by striking "Sec. 162."; and

(2) in the section heading, by striking "Grant Authority" and inserting the following:

"SEC. 162. GRANT AUTHORITY.".

(b) Authority.—Section 162 (42 U.S.C. 6082) is amended—

(1) in subsection (a), to read as follows:

"(a) In General.—The Secretary—

"(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

"(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of State Developmental Disabilities Councils under part B, protection and advocacy systems under part C, and university affiliated programs under part D, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under parts B, C, and D; and

"(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

"(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families and improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

"(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

"(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families; and

"(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are traditionally unserved or underserved (including individuals of ethnic and racial minority groups, and individuals from underserved geographical areas) including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under parts B, C, and D, and increase the involvement of students and professionals of such groups in the provision of services to, supports to, and advocacy for, individuals with developmental disabilities.";

(2) in subsection (b), to read as follows:

"(b) Application and Other Grant Requirements.—No grant may be made under subsection (a) unless—

"(1) an application has been submitted to the Secretary in such form, in such manner, and containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

"(2) each State in which the applicant's project will be conducted has a State plan approved under section 122;

"(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this part will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities); and

"(4) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application.";

(3) in subsection (c), by striking "Not later" and inserting "Priorities for Grants.—Not later";

(4) in subsection (d)—

(A) by striking "Payments under" and inserting "Grant Payments.—Payments under"; and

(B) by inserting before the period in the second sentence ", except as otherwise provided under section 163";

(5) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(6) by inserting after subsection (a) the following new subsection:

"(b) Investigations.—

"(1) In general.—Not later than October 1, 1993, there shall be a special initiative to support grants to investigate the expansion of part B activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

"(A) A national study of State Developmental Disabilities Councils that are currently mandated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

"(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers, opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

"(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

"(2) Application.—No grant may be made under this subsection unless an applicant submits to the Secretary an application, and meets the additional application requirements, under subsection (c).''; and

(7) by adding at the end thereof the following new subsection:

''(f) LIST OF RECIPIENTS.—Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b), including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.''.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 163(a) (42 U.S.C. 6083(a)) is amended—

(1) by striking ''$3,650,000'' and inserting ''$4,000,000'';

(2) by striking ''fiscal year 1991'' and inserting ''fiscal year 1994''; and

(3) by striking ''fiscal years 1992 and 1993'' and inserting ''fiscal years 1995 and 1996''.

(b) LIMITATIONS.—Section 163(b) (42 U.S.C. 6083(b)) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) PROJECTS OF NATIONAL SIGNIFICANCE.—At least 8 percent, but in no event less than $300,000, of the amounts appropriated pursuant to subsection (a) shall be used to carry out the provisions of section 162(a)(1)(B).

''(2) INVESTIGATIONS.—

''(A) IN GENERAL.—The additional authority to fund projects under section 162(b) shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

''(B) TIME LINE FOR FUNDING.—If amounts are available to carry out subparagraphs (A), (B), and (C) of section 162(b)(1), the Administration shall provide funding to carry out such paragraphs not later than May 1 of the fiscal year in which such funds become available.

''(3) PROGRAMMATIC REVIEWS OR OTHER ADMINISTRATIVE ACTIVITIES.—The Secretary may not use the funds made available under subsection (a) for programmatic reviews as prescribed by regulation or other administrative activities under parts B, C, and D.

''(4) TECHNICAL ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—If technical assistance to improve the effectiveness of protection and advocacy systems under part C is provided under section 142(c)(5)—

''(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this part; and

''(B) the amount set aside for technical assistance under section 162(a)(1)(B) shall be proportionally reduced.''.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike all after the enacting clause of the Senate bill, S. 1284, and to insert in lieu thereof the provisions of H.R. 3505, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read:

A bill to amend the Development Disabilities Assistance and Bill of Rights Act to modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3505) was laid on the table.

NEW COLUMBIA ADMISSION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 316 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 51.

□ 1618

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, with Mr. MFUME in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Saturday, November 20, 1993, the gentlewomen from the District of Columbia [Ms. NORTON] had 15 minutes of debate remaining, and the gentleman from Virginia [Mr. BLILEY] had 15 minutes of debate remaining.

The Chair recognizes the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, my hometown is San Jose, CA. It's a little larger in population than Washington, DC, and I know how my people in San Jose would feel if they weren't allowed to send voting representatives to the House of Representatives and the Senate.

When I was sworn in in January 1963, the people of Washington, DC, referred to their city as a plantation. It was run by the chairman of the House District of Columbia Committee, Chairman, JOHN MCMILLAN.

Since then Washington has come a long way as Congress grudgingly gave them home rule.

The right to vote is an important civil right. The people of Washington, DC, are denied that civil right when they are not allowed to vote to send fully empowered representatives to the House of Representatives and the Senate.

Mr. Chairman, it's time to get rid of the last remnants of the plantation.

Vote "yes" for statehood.

□ 1620

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, today I rise in support of District of Columbia statehood and in support of this bill. I rise in support of what is fair, what makes sense, and what is right.

Almost 30 years ago on a Sunday afternoon just like today, in a little town called Selma in the heart of the Black Belt of Alabama, some of us were beaten with billy clubs and bullwhips, bloodied and trampled upon by horses. We wanted to march across the Edmund Pettus Bridge, the Alabama River, on our way to Montgomery. We wanted to dramatize to the Nation that people of color could not register and vote. We had one simple message: one man, one vote.

What happened that bloody Sunday was shown on televisions all over the world. Our Nation was shocked, embarrassed, moved.

A few days later, President Johnson went on national television and said that what had happened in Selma was wrong.

He announced that he would push for voting rights legislation; and he did. the result was the Voting Rights Act of 1965.

What people all over this country are seeing on television today ought to embarrass us, ought to move us. It is not right that we have to be here in 1993 debating whether to give American citizens living right here in the shadow of the Capitol the right to be represented in Congress. It is not right. You know it. And, I know it.

It is not right that there are still Americans for whom one-man, one-vote is still a dream. It is not right that there are still Americans for whom democracy is not a reality. It is not right that there are still Americans who face taxation without representation.

Many of us have risen on this floor to speak in support of these principles—in Russia, Haiti, China, Somalia, and South Africa. We have cast dozens of votes supporting democracy in other countries.

The time is long overdue to extend these same principles to the people of the District of Columbia. The time is now to do what is fair, what is right and what is just. I urge you to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I have heard a great deal of talk about civil rights. I have supported every single civil rights measure that has passed this Congress since 1955, and I was a cosponsor of almost all of them. I believe very strongly in civil rights. But I think we need to look at the situation before us.

The Congress of the United States was driven out of Philadelphia just prior to the time that the Constitution was adopted. As a result of that, to protect the Congress and the interests and the concerns of all the people, the Congress was given plenary legislative jurisdiction in article I of the U.S. Constitution over the seat of Government, the District of Columbia. That is to protect the Congress in its deliberations. It is to protect all of the people of the United States.

The citizens of the District of Columbia have all rights of any other citizen. They are assured of protection of each and every constitutional right. There is only one which they complain they do not have, and that is the right to vote for a Member of Congress or for a Member of the Senate.

Residents of the District of Columbia, by the Constitution, have the right to vote for the President of the United States. And, indeed, if this legislation passes, we will give them two votes for the President of the United States, not one, because of the 23d amendment. Imagine then a State which is going to have not one, but two votes for the President of the United States, as opposed to what every other State has.

Mr. Chairman, this is a blessed place. The District of Columbia knows very little hardship. The District of Columbia has $4.92 returned to it for every $1 that is paid in taxes to the Federal Government. This is not an area which is hurting. The principal industries are provided by the Federal Government: government, lobbying, entertainment, and tourism. These enterprises provide prosperity and security for all of the people of Washington, DC.

There is no citizen in Washington who is chained to the pillars of the Capitol or the Washington Monument. They can leave any time they are so minded. I urge Members to reject this legislation.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE], the last State to be admitted to the Union.

Mr. ABERCROMBIE. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, as a Representative from the last State to be admitted into the Union, in 1959, I want to point out what happened with some of the other States. Alaska; the arguments against were the population was too small for statehood, resources of revenue uncertain, 99 percent of the land federally owned. Arizona; violence, territory lacks resources to sustain a State government. Colorado: State had a disproportionate share of influence in the Congress and the population of the territory was not stable. Florida; population too small. We get to Hawaii, we get to South Dakota, the territories had a disproportionate share of influence in the Congress and the populations were not large enough.

These are the kinds of arguments that are being brought up today. This is the kind of prejudice that was held. Violence and racism was at the root of trying to stop almost every bid for statehood from every State that has existed. New Mexico, Arizona, all the western States.

Mr. Chairman, what we ask for today is the justice for the people of the District of Columbia that you gave to us in Hawaii.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I am happy to join my colleague. There is absolutely no reason on Earth that the citizens of the District of Columbia cannot be given the same privileges of every other citizen in this Nation. They can vote for the President. There is no reason why they cannot have full recognition in the Congress of the United States. To afford them that, they must become a State.

All the arguments that were used to prevent statehood for Hawaii have been used against the people of the District of Columbia. It is time to make history today. Vote for the bill, H.R. 51, and make the District of Columbia the 51st State in the Nation.

Mr. BLILEY. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in strong opposition to statehood for the District of Columbia. We ought to be debating on this floor whether we ought to be taking home rule away from the District and take over the city.

In my opinion, the District has not even shown the ability to govern itself as a city, much less a State. The District's hug-a-thug attitude on violent crime and the continued misuse of the city's police department is one example that clearly demonstrates the fact that the District is not a State and should not be considered for statehood.

What is a hug-a-thug attitude? The Wall Street Journal reported earlier this month that Washington has more police per capita than any other city in America.

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However, qualification requirements for D.C. cops are lax. In May 1985, a recruit to the police academy could be expelled for failing two exams; 7 months later the same recruit had to fail six exams to be sent packing. Finally, in 1988, after 40 percent of graduating recruits failed the final comprehensive exam, the police academy abolished the test. Did this have an impact on District cops? You bet it did. Mike Hubbard, a detective who spend 5 years training recruits states, "I saw people who were practically illiterate. I have seen people diagnosed as borderline-retarded graduate from the police academy." This is absurd. Is this an indication that the District is ready for statehood?

Wait, there is more.

Former Washington cop Montague Holmes states that because of the lax hiring procedures "a lot of people who were in the drug rackets joined the police department. Some of them went straight when they joined the department, some of them didn't." The Journal reports that last year, 36 officers were indicted on charges such as dope dealing, sexual assault, murder, sodomy, and kidnaping. In another incident, thousands of confiscated weapons being stolen from a police warehouse by employees. At least one of these weapons was later used in a murder. Finally, just last Friday, the D.C. corrections chief stated that 1,530 halfway house residents escaped and over 900 are still at large.

Folks, let us get one thing straight. The District, a liberal bastion of corruption and crime has yet to come even close, in this Member's eyes, to deserving the awesome privilege and responsibility of statehood.

This House would be better off considering a provision I and many of my colleagues support, the repeal of home rule. The Constitution dictates that we have a Federal City. Let us take it back and clean it up.

The CHAIRMAN. The Chair wishes to advise those Members controlling debate time that the gentlewoman from the District of Columbia [Ms. NORTON] has 11 minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 10 minutes remaining.

Ms. NORTON. Mr. Chairman, I ask that in light of the remarks just made that this vote be decided on the basis of democratic principles and not District bashing.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. STARK], chairman of the Committee on the District of Columbia.

Mr. STARK. Mr. Chairman, the action of the House this weekend is the culmination of a process that began long ago. It would be impossible to thank all of those who have contributed to the statehood debate. I particularly want to recognize the commitment of the many citizens, organizations, and public officials to this issue. My thanks to the committee staff—both current employees and those who served under my predecessor as chairman, RON DELLUMS—who have worked diligently to help us arrive at this defining moment.

I would be remiss if I did not acknowledge my colleagues on the Committee on the District of Columbia, including those on the minority side. Although the minority members oppose statehood, I commend them, particularly the ranking member on the committee, TOM BLILEY, for their thoughtful and respectful approach to this issue.

Mr. Chairman, as I indicated in my opening statement yesterday, Congress has considered D.C. statehood legislation for nearly 30 years. This is the first time the measure has been brought to a vote on the floor of this great Chamber. I want to express my utmost admiration to my colleague, ELEANOR HOLMES NORTON, a respected member of our committee and this House, for living up to her commitment to advance consideration of statehood to this point.

As the debate proceeded yesterday, I asked my colleagues to consider whether any objection raised by statehood opponents was significant enough to continue denying democracy to 600,000 American citizens. Nothing we heard yesterday justifies continuing this insult to freedom and justice.

Mr. Chairman, my colleague from Virginia, Mr. BLILEY, kept claiming yesterday that the bill before us is fatally flawed. He kept pointing to an elaborate street map, and complaining that certain Senate office buildings would be located in the State of New Columbia. Well, my colleagues, I submit to you that the only map that really matters in this debate is this one: the United States Constitution. In its Preamble it states quite eloquently:

> We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

My colleagues, the real fatal flaw in this debate is our failure to follow this map; to follow these basic constitutional principles; to follow the direction of the Declaration of Independence that governments derive their just powers from the consent of the governed.

I say to my colleagues, let us not be detoured from the road to democracy. Vote for justice. Vote for D.C. statehood.

PARLIAMENTARY INQUIRY

Mr. BLILEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BLILEY. Mr. Chairman, who has the right to close?

The CHAIRMAN. The right to close debate is reserved by the committee. That time is controlled by the gentlewoman from the District of Columbia [Ms. NORTON].

Mr. BLILEY. I thank the Chair.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. SAXTON], a member of the committee.

Mr. SAXTON. Mr. Chairman, it has been said here many times that two of the main questions which must be answered for the District of Columbia to achieve statehood are: First, is it within the realm of reason, given the provisions of the U.S. Constitution, for the District of Columbia to become a State, and, second, is it reasonable to expect that the new State would be able to manage its affairs as a State, financial and otherwise.

The answer to the constitutional question is clearly expressed in article I, section 8, clause 17:

> Congress shall have the power to exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States * * *.

We all know that we cannot change that language in the Constitution with H.R. 51.

And, the answer to the second question pertaining to D.C.'s ability to manage its own affairs is, at best, in great question.

I today renew my pledge and my commitment to the gentlewoman and her constituents to work with her to achieve our shared goal, an improved position relative to representation for those who live in the world's seat of democracy, Washington, DC.

Ms. NORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, today we are faced with making a decision that requires us to choose among two alternatives, neither of which is perfect. We can vote to grant, or to deny, statehood to the District of Columbia.

We have never had city-States in our country. In the 200 years of our Nation's history, we have never granted statehood to a city. To vote to do so today might appear to set a bad precedent, to be irresponsible, to be frivolous.

But, as a democracy that stands for all that we stand for in the United States, we cannot continue to deny the full rights of citizenship to the more than 600,000 people who reside in the District of Columbia. Thousands of men and women have died to preserve and protect our constitutional liberties. And many of those who have given their lives have come from the District of Columbia. In fact, the District of Columbia ranks third among the States in military service to our Country. Men and women from the District of Columbia have given their lives to protect liberties they themselves have never been granted.

Even so, it can be convincingly argued that there are other ways to grant those liberties. The city of the District of Columbia could be given back to the State of Maryland. But, that will not happen; only 7 of the 189 legislators in the State of Maryland support retrocession.

The people of the District of Columbia pay more Federal taxes per person than the people of 48 States, including my home State of Indiana. If we do not choose to grant statehood to the District of Columbia, then we choose to continue to deny full rights to the people who live there. We choose to continue to subject them to taxation without representation. And we choose to tell them "they may not enjoy the same constitutional rights as the rest of us."

It may not seem right to grant statehood to a city. Making a city a State is not a perfect solution. But it is the only viable solution. And it is a solution that reflects the rights and liberties that are the foundation of our great Nation.

Ms. NORTON Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. EVANS.]

Mr. EVANS. Mr. Chairman, I also rise in strong support of this resolution.

Mr. Chairman, I can think of 56,700 reasons why the District of Columbia should become a State: 56,700 represents 52,900 veterans who live in the District and 3,800 D.C. residents who have died in foreign wars in this century.

The 56,700 also incorporates the 3,100 District citizens who served us so well in the Persian Gulf war. The District sent proportionately more troops off to that war than many States. Yet, when Congress debated sending troops off to the gulf, the District had no vote in the House or the Senate. With its 600,000 residents, it has a larger population than three States.

Vote to give the District statehood so it can have a vote in such important matters; 56,700 reasons compel us to do so.

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Ms. NORTON. Mr. Chairman, I appreciate the groundbreaking opportunity that was granted to the people of the District of Columbia yesterday afternoon and today. For the first time in more than 200 years, the House considered the civic and political status of the District of Columbia.

I appreciate the strong support the Committee on the District of Columbia chairman, the gentleman from California [Mr. STARK], has given to H.R. 51 and to me throughout this process.

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I appreciate as well the work of the gentleman from California [Mr. DELLUMS], whose valiant work for almost 15 years as chairman of the Committee on the District of Columbia helped prepare for this day.

I thank the House leadership for the respect they have shown to District residents, the only Federal taxpaying Americans without full representation in this body. I thank the many Members who spoke for the District yesterday, despite the long wait, and the many others who submitted statements for the RECORD.

I thank my opponents, led by my friend and colleague, the gentleman from Virginia, TOM BLILEY, the ranking member of the Committee on the District of Columbia. The gentleman from Virginia [Mr. BLILEY] and his colleagues deserve credit for the seriousness and respect with which they have conducted their opposition in committee and pursued debate on the floor yesterday.

Finally, I thank the President of the United States, who worked with me in an effort to rally Members and committed his top staff as well. I remind

Members that in a recent letter to Members, President Clinton said, "I urge Members to vote in favor of H.R. 51 as a matter of principle," and I ask that that letter and editorials as well in support be included for the RECORD.

The letter referred to follows:

THE WHITE HOUSE,
Washington, November 18, 1993.
Hon. ELEANOR HOLMES NORTON,
House of Representatives, Washington, DC.

DEAR ELEANOR: I understand that the House will soon consider H.R. 51 to give statehood to the District of Columbia. I urge members to vote in favor of H.R. 51 as a matter of principle.

As you know, I strongly support statehood for the District of Columbia. It is fundamentally unfair that the residents of the District are denied full representation and participation in our national life. It is equally unfair that they are denied the self-government enjoyed by the fifty states and four territories. The residents of the District have long served this country in many ways, including defending the United States and its democratic values with honor, valor, and sacrifice. Justice demands that the people of the District at long last be accorded full political equality.

I am deeply committed to the goal of statehood for the District of Columbia. I urge Congress to recognize that fairness and democracy require this goal and to take all necessary steps to achieve it.

Sincerely,
BILL.

Ms. NORTON. Mr. Chairman, I, too, ask for the Members' vote as a matter of principle. This is what this vote is about this afternoon. It is not about the themes of the opposition. Their argument that H.R. 51 is unconstitutional has already been laid to rest by this body and the courts. The Congress may reduce the size of the District, as it has done twice before, once to preserve the institution of slavery in Virginia. This action was tested in the courts and the Supreme Court allowed it to stand.

Our opponents claim that the District clause in the Constitution allows them to do as they please with the people of the District. Precedents in the House and the Senate and the courts make clear that they can do the same with the lands that form the District.

H.R. 51 may be unusual, it is surely unprecedented, but my colleagues, it is not unconstitutional. H.R. 51 is about the basics of democracy.

This bill is about this chart entitled "D.C.'s Total Tax Burden for 1992." The bars of this graph depicting eight States rise until they reach the District of Columbia. Our tax burden is greater than Wyoming, North Dakota, South Dakota, Vermont, Montana, Alaska, and Idaho. Except for counterfeit constitutional arguments, our opponents have not taken on the basics because there are no acceptable responses. Instead, they have trivialized statehood by pretending that the boundaries will produce absurd results. Yet, they can find no fault with the language of the bill on boundaries, and the bill provides for the specifications to be drawn and corrected, as is typically done in statehood admission bills.

Our opponents have raised chicken little arguments as well, but Mr. Chairman, the sky will not fall if the District becomes a State. The argument that there will be no law and no police was particularly absurd. I will detail a response in extended remarks in the RECORD.

Make no mistake, Mr. Chairman, our chief opponents do not oppose statehood. They oppose greater self-government, and have so voted on every measure that has come before the Committee on the District of Columbia.

Our opponents have opposed home rule for the same reasons they oppose statehood. They want the right to overturn District law and attach amendments to its budget.

Mr. Chairman, Members will shortly be summoned to the floor for a historic vote. Out of respect for the only Americans who live in our country but outside of its democratic protections, I ask Members to vote aye. I have asked my colleagues to vote with us, regardless of their prognosis for passage. Many have in fact committed to do so. Their constituents will understand that their vote was but a symbol of respect for the only Americans to whom the slogan "no taxation without representation" still applies.

Under the terms that H.R. 51 has come to the floor, the Members' vote will be a vote for the principle of self-government and representative democracy. Please join the many who have already committed. Please vote aye on H.R. 51.

Mr. Speaker, I include for the RECORD articles and editorials from newspapers and periodicals regarding the question of statehood for residents of the District of Columbia:

[From the Washington Post, Nov. 20, 1993]

THE D.C. STATEHOOD VOTE

Today the House of Representatives begins debate on whether the District of Columbia should become a state. The deliberation is historic, as will be the vote expected to follow this weekend. The issue is not the fate of statehood legislation this year: Supporters concede they have little chance of winning. It is whether a lopsided defeat will ultimately cost or break political ground for statehood. D.C. Delegate Eleanor Holmes Norton contends that even in defeat, a vote "would give the undemocratic treatment of the District the serious national attention it would never attract in any other way." If that is the outcome, the statehood debate will be a milestone.

There is, after all, a historic wrong to be set right. The tax-paying, war-fighting citizens of the District, unlike citizens in the 50 states, have no control over their own governmental affairs. As residents of the nation's capital, they are denied voting representation in the Congress, final word on the budgets and laws they enact, the ability to appoint their own prosecutors and judges and the ability to work out reciprocal taxing arrangements with neighboring jurisdictions. They are at all times subject to the whims of Congress.

We had hoped a way could be found for citizens here to enjoy the full political participation that is their due and still have their city remain the seat of the national government. But the defeat of a proposed constitutional amendment that would have given the District full congressional representation, and congressional inaction on other political reforms, made that outcome impossible. It became apparent that these goals could only be achieved in the context of statehood—but statehood that fulfilled certain clearly understood conditions.

As we said earlier this year, there are critical issues to be faced to make statehood feasible and desirable. We refer to a prenegotiated agreement or understanding with suburban representatives for a limited commuter tax, resolution of the congressionally created unfunded pension liability problem that threatens the District's financial solvency and a predictable, stable and guaranteed payment to the new state.

Of the three issues, today's statehood proposal addresses only the payment question. It eliminates the federal payment and replaces it with a payment in lieu of taxes arrangement that mirrors the funding scheme for other states with federal property within their borders. The merits of that alternative, as well as Congress's role in addressing the other issues that could threaten the new state's fragile viability, ought to receive a thorough airing this weekend. If a consensus can be reached on how best to approach those outstanding issues, this unprecedented debate, whatever the vote, will take statehood to a new and better place.

[From the Washington Post, Jan. 13, 1993]

D.C. STATEHOOD

"It is time to right a great historic wrong. Since 1800, the residents of Washington, D.C., have been the only tax paying U.S. citizens denied representation in Congress. With the election of Bill Clinton, it has become politically possible to give them the status that is their due. We believe now is the time to begin defining and then putting in place an arrangement that puts District residents on an equal footing with all Americans.

"It has long been our preference to have this city remain the seat of the national government with increased municipal powers, which, taken as whole, would give residents the same democratic rights enjoyed by other citizens. The goals have included full voting representation in the House and the Senate, complete independence from Congress on budget and legislative matters, control over the local court system including the appointment of judges, an automatic and predictable federal payment formula and the ability to negotiate reciprocal income tax arrangements with neighboring jurisdictions. Achieving each, as a strategy was far more important than what the final package ended up being called. As a step toward that end, Congress passed a proposed constitutional amendment 15 years ago that would have given the city full congressional representation. Only 16 of the required 38 states ratified the proposal, mostly for partisan reasons. Republican lawmakers wanted no more democrats in Congress (and, as some suspect, many legislators wanted no more blacks there as well). The only achievable alternative, if citizens here are to enjoy the full political participation that is there due, is statehood. * * *

"Denying District residents the right to send people to Congress who can vote on taxes or decide questions of war and peace while at the same time expecting them to shoulder the burdens of citizenship—including the obligation to pay taxes and to fight and die for their country—is wrong. Forcing local officials to perform their duties under today's restrictive conditions is no better.

* * *

"Congress at its whim passes laws regulating purely local matters, including the spending of local tax money. Even the city's own elected delegate to the House of Representatives can't vote on final passage of any legislation, including District-only matters. * * *

"Statehood opponents argue that the voteless status of the District descends directly from the intent of the Framers of the Constitution-from Washington, Madison and their peers. True, the constitution calls for a federal district (and the statehood proposal allows for one, leaving the "federal seat of government" to consist of the mall, monuments and principal U.S. government buildings). At the same time the government of the United States moved here in 1800, the largest city, New York, had a population of little more than 60,000. What would Washington and Madison say about a voteless city 10 times larger than that? We know what they said in 1776 in behalf of a colonist population only four times larger that today's Washington, D.C. They wanted to be among those who governed themselves. So do the citizens of Washington today. * * *

[From the New York Times, Oct. 30, 1993]

TAX FAIRNESS FOR D.C.

With a population of nearly 600,000, the District of Columbia has more people than Vermont, Wyoming or Alaska. Yet its Mayor and City Council have limited power. And the District is denied a voting representative in the same Congress that rules on its affairs.

The colonial character of this arrangement was underscored this week when Congress voted on the Washington D.C. budget, and grandstanding politicians from other places tried to deny its citizens the right to spend their own money as they see fit.

The District's budget totaled $3.7 billion. The $3 billion came from District citizens in taxes; all but a tiny fraction of the rest is what the Federal Government pays for occupying 41 percent of the District's land, on which it pays no taxes. The Federal payment is a miserly sum, given that the Government presence costs the District $2 billion a year in lost tax revenues.

Still, many in government see the District as a pawn in a political game. George Bush once vetoed the city budget, forcing the District to ban the use of even locally raised tax revenues to furnish abortions for impoverished women. C-Span's broadcast of the District's budget vote showed the latest act in this political amateur hour.

Representative Dan Burton, Republican of Indiana, seemed not to have read the budget bill but that didn't deter him. He questioned the salaries of the District's City Council members, and condemned District voters who chose to return the former Mayor to office as a Councilman. He picked out random lines in the budget and asked the sponsors to explain them. This nitpicking came at the end of a tortuous 18-month process that the District suffers to get its budget.

Congress as usual? Perhaps. But imagine yourself a citizen of the District, with no voting representative in Congress, watching as Congressmen questioned not just the vote you had cast in your city, but your entitlement to tax dollars that you had paid to local government for local use. How angry would you be?

Mr. Burton rationalized his antics by contending that Federal tax dollars were at stake. But the bulk of the budget is D.C. tax money. The Federal payment that makes up the rest is rent, and skimpy rent at that. Congress oversteps in trying to control how its bargain-basement rent is spent. Mr. Burton was performing for the people back home. But what people in Indiana need to see is that their Congressman is trampling on the rights of citizens just like them, all for a little time on camera. No wonder Congress was besieged by District demonstrators agitating for statehood.

It's hypocrisy that America champions democracy abroad while refusing fair political treatment to the citizens of its own capital.

[From the New York Times, July 21, 1992]

THE STATE OF MISGOVERNMENT

Representative Eleanor Holmes Norton's speech to the Democratic Convention gave fresh evidence of how the Federal Government treats Washington, D.C.: like a plantation.

The District's elected officials have only token power. They can't pass a budget or even reschedule garbage collection without groveling before Congress. The District has 608,000 people, more than Alaska, Wyoming or Vermont. Yet Representative Norton is denied a vote in the Congress that runs her city. As she told the Democrats, "It is too late in the century for Americans to accept colonial rule at the very seat of government."

The remedy is to admit the District as the 51st state, as called for in the Democratic platform. Congress can do its part by passing the New Columbia Statehood Admission Act, which Ms. Norton introduced more than a year ago.

The hardships the District of Columbia endures are evident in the annual budget process. Congress can prevent the District from spending even locally raised revenues in ways that citizens see fit. During budget hearings, members of Congress grandstand on municipal issues and meddle with the city's finances on behalf of special interests. Extortionate threats to hold up budget passage are common.

The need for autonomy was highlighted in a recent encounter between Mayor Sharon Pratt Kelly and Representative Thomas J. Bliley of Virginia, the ranking Republican on the House committee that supervises the District. Mr. Bliley berated Mayor Kelly for what he said was foot-dragging on crime.

He is in no position to criticize. He is currently in court challenging a District law intended to reduce the number of weapons on the streets. The law imposes "strict liability" for semiautomatic rifles and pistols, allowing victims to recover damages from manufacturers and dealers even though they had nothing to do with gun crimes.

Assault weapons are sold legally in Mr. Bliley's state. And Virginia is a main source of origin for guns confiscated in the District. Mr. Bliley forced the District's City Council to repeal the law by threatening to block Federal aid. When voters reinstated the law, Mr. Bliley brought his suit. The suit was dismissed; Mr. Bliley has appealed. In essence, this suit argues that Congress's control supersedes the right to self-government.

The citizens of Washington, D.C., deserve relief from this kind of imperial arrogance. Statehood is the way to provide it.

[From the New York Times, Nov. 25, 1991]

THE D.C. PLANTATION: FREEDOM SOON?

The effort to grant statehood to Washington, D.C., could well become a campaign issue in 1992.

A bill that would admit the District to the Union as New Columbia, the 51st state, was introduced in the Senate on Thursday. And hearings on the House version of the bill saw a welcome burst of enthusiasm. Three Democratic Presidential candidates testified in favor of statehood and others sent messages of support.

That's as it should be. The District's treatment is a scandal, albeit one with a long history. The Federal Government runs the city like a plantation, denying it a voting representative in Congress, forbidding it even rudimentary self-rule and limiting severely its ability to raise revenue.

President Bush favors keeping the District on its knees. But Gov. Bill Clinton of Arkansas, Gov. Douglas Wilder of Virginia and Senator Tom Harkin of Iowa testified before Congress that the District deserved to become a full partner in the Union. The three were on the mark.

Washingtonians have long been denied rights that the rest of us take for granted. They weren't allowed to vote in Presidential elections until 1964. And it was not until the Home Rule Act of 1973 that they could elect a mayor and city council; both had previously been appointed.

The Home Rule Act left the Federal Government's dictatorial powers intact. Congress can overturn any law the District council passes. A powerful senator can throw some cash to friends by attaching amendments to the city's budget bill. And one meddlesome Congressman can by himself trigger bearings on any law by simply raising an objection to it.

The Federal Government is not above extortion. Mr. Bush recently vetoed the city budget, forcing the District to ban the use of locally raised tax revenues to furnish abortions for impoverished women. And Congress used similar blackmail to force repeal of a law that made gun dealers and manufacturers liable for injuries from assault weapons. The citizens have reinstated the measure; gun-lobbying senators may yet thwart it. The District's non-voting representative, Eleanor Holmes Norton, spends much of her time fending off odious infringements like these.

Fiscal restrictions abound. The Federal Government's real estate is exempt from taxation; the city is forbidden to tax the earnings of commuters, most of whom are Federal employees. District officials say these restrictions cause the city to forgo $1.9 billion in revenues per year. Last year the Federal Government paid a paltry $430 million in return. Denied sources of revenue, the city levies some of the highest taxes in the nation.

Those who oppose statehood typically offer weak constitutional arguments against it. It seems fairly clear, however, that Republicans who oppose statehood do so because the District would send two more Democrats to the Senate.

But most Americans understand democracy well. The issue of statehood for the District raises an obvious question: How can we justify championing democracy abroad while inflicting second-class citizenship in the nation's capital? The answer is obvious, too: We can't.

[From the New York Times, Oct. 6, 1991]

FREE THE GOVERNMENT'S PLANTATION

Washington, D.C., with a population of 607,000, has more people than Alaska, Wyoming or Vermont. But its elected officials have no real power and the city is denied a voting representative in Congress. The Federal Government treats the District as a colony, controlling local policy on issues ranging from sanitation to abortion and undermining the city's ability to raise revenues.

Washingtonians deserve self-government no less than other Americans. A bill pending in Congress, H.R. 2482, would admit Washington to the union as New Columbia, the 51st state. The bill deserves attention and a vote of approval in the House. But that won't happen until languid Democrats schedule hearings. The legislators need to provide more than lip service they've given to statehood in recent years. Even if statehood fails, debate could suggest intermediate solutions. The current arrangement is more suited to a dictatorship than a democracy.

Washingtonians have suffered long under second-class citizenship. They were first allowed to vote in Presidential elections in 1964. Permission to elect local officials followed slowly: in 1968, the school board; in 1971, a non-voting delegate to the House of Representatives; and in 1973, the mayor and the city council.

The Home Rule Act of 1973, which granted limited self-rule, contained dictatorial restrictions. The city cannot so much as reschedule garbage collection without groveling before Congress, which has 30 days in which to disapprove. Nor can the city determine its own budget or set independent policies. President George Bush recently forced the District to disallow the use of *local tax revenues* to furnish abortions for impoverished women. His weapon: vetoing the city budget. Impoverished victims of rape and incest will be denied a choice available to American women elsewhere.

The Federal presence harms the city fiscally. The District is forbidden to tax nonresidents, many of them Federal workers, who comprise about 60 percent of the work force. Federal properties are also exempt from real estate taxes. The city calculates that all taxing restrictions combined cost it $1.9 billion a year in revenues.

An ill-informed Mr. Bush said last year that he opposed statehood because the city's funds "come almost exclusively from the Government." That's wrong. The Federal contribution at that time was about 14 percent of the city budget, the Government gave a paltry $430 million in lieu of lost tax revenues. The cost of municipal services provided to the Government is difficult to calculate but potentially worrisome.

Those who oppose statehood often claim that the Constitution forbids creation of a state in the District. That claim is without merit. The Constitution says only that Congress will exercise exclusive legislative control over a seat of Government that does not exceed 10 miles square. A state could be created that reduce the size of the Federal enclave but not eliminate it.

The real objections to statehood are political. When Mr. Bush opposes statehood, he is opposing the creation of two additional Democratic Senators, one of whom would surely be Jesse Jackson, now an unpaid lobbyist, or "shadow senator," who represents Washington in the Senate. The Democrats also have acted spinelessly, giving statehood little more than token support.

How can the United States champion democracy abroad while it disenfranchises District citizens who die in wars and pay taxes the same way other Americans do? There is every reason for Democrats to gather courage, convene hearings and then bring the issue to the floor. Sooner or later, Congress will realize it has more important tasks than overseeing schedules for garbage collection.

[From the Boston Globe, Dec. 2, 1992]

STATEHOOD FOR THE DISTRICT OF COLUMBIA

It has a larger population than three states and is nearly as large as three more. Its citizens pay among the highest federal income taxes in all states. It has no power to tax those who work within its borders but take their pay home to states with which it has no reciprocal tax agreements. It is subject to the legislative-decisions of a body on which it has no voting representation.

It is the nation's capital, and its citizens want and deserve a better break, one possible only through direct participation in federal government. As the most outspoken champion of statehood for Washington, D.C., Rev. Jesse Jackson plans to hold President-elect Clinton to his promise to make it a state, because only with that status can the district end the worst anomalies of its politically segregated condition.

When the Constitution provided for a federal district, it assigned full legislative control to Congress when few envisioned the capital becoming a major city with a population larger than that of any state at the time.

Congress has long kept the city in a degree of thralldom that suited the convenience of representatives and senators, who legislate matters as trivial as taxicab rules. The problem was exacerbated by longtime bigotry against the city's large black population from a Congress often dominated by members from the Old South.

Congress has partly acknowledged the inequity by granting citizens of the district a nonvoting member of the House and by allowing D.C. residents to vote in presidential elections. The district has three electoral votes—exactly what it would have if it were a full-fledged state with two senators and a member of the House.

The political question of D.C. statehood has been complicated by its predominantly Democratic voter registration, making the matter unpalatable for Republicans when the balance of power could hinge on just a few votes. That is a weak excuse for perpetuating political inequity in a country launched on a cry of "no taxation without representation." Make the district a state.

[From the Oregonian, Apr. 15, 1992]

GRANT D.C. RESIDENTS FULL RIGHTS

Congress can right an old and grievous wrong in coming weeks. It should pass the District of Columbia statehood bill to grant district residents the same citizenship rights enjoyed by all other Americans.

The measure to create the state of New Columbia recently passed the House District of Columbia Committee. The bill should reach the House floor by late May or June.

While the new state would be—unlike any other—entirely a city, the continued subjugation of district residents to a paternalistic Congress is a travesty of democratic justice.

Eleanor Holmes Norton, the district's nonvoting representative, points out that Washingtonians not only have fewer rights than those in the 50 states, but fewer rights than those in the territories of Guam, Puerto Rico, the Virgin Islands and American Samoa, which at least have local self-governance.

Limited home rule has been a hollow promise. All laws passed by the district's city council must be approved by Congress. An assault-weapons referendum overwhelmingly approved by city residents is being challenged by Rep. Dana Rohrabacher, R-Calif. The district can't even change garbage-collection days without clearance on the Hill.

D.C. residents pay U.S. taxes without representation and serve in the military with no voice in choosing those who put their lives at risk.

The unique creation of a city-state has led some opponents to suggest joining most of the district to neighboring Maryland. That, however, runs counter to the will of district residents and those of Maryland.

The district meets three traditional statehood tests: Statehood reflects the will of the people; they have agreed to adhere to a representative form of government; and there are enough people and resources to ensure economic viability.

The district's 608,000 residents outnumber the populations of three states. D.C. households have an average income of $32,106. The district raises 84 percent of its $3.8 billion budget through income, property and sales taxes.

No compelling argument against statehood has been advanced, and no acceptable alternative has been offered. To continue second-class citizenship for D.C. residents is inconsistent with and offensive to democratic principles. It is unworthy of this republic.

[From the Minneapolis Star and Tribune, June 27, 1987]

STATEHOOD FOR THE DISTRICT OF COLUMBIA

Walter Fauntroy, nonvoting delegate who represents Washington, D.C., in the House, seeks to transform the District of Columbia into the state of New Columbia. Fauntroy's quest is a long shot, despite support from such prominent Democrats as House Speaker Jim Wright and Majority Leader Tom Foley. Yet he deserves to succeed because his cause is just.

In the past two decades, district residents have been granted home rule and the right to vote in presidential elections. But they still lack representation in Congress. In 1978, Congress offered for ratification a constitutional amendment that would have provided congressional representation but stopped short of statehood. When the seven-year limit on ratification expired in 1985, only a few states had approved the amendment. Minnesota was one of them. With the failure of the 1978 amendment, Fauntroy offered his statehood proposal, which requires only congressional approval and presidential signature.

Like all other U.S. citizens, district residents honor U.S. laws, pay U.S. taxes and serve in the U.S. military. Unlike other U.S. citizens, they have no direct say in what laws Congress will pass, what taxes Congress will impose and what wars Congress will declare. Fauntroy seeks to redress that fundamental unfairness.

There are also practical reasons for granting statehood. Like many core urban areas, the district has suffered a declining population, loss of commercial and industrial tax base to surrounding suburbs and increased poverty. Costs grow faster than city resources. Most states, recognizing the vital role central cities play in metropolitan economies, respond with urban aid raised by taxing suburbs—or by giving core cities the power to impose a payroll tax on suburban commuters.

But Washington has no state government to help out; its suburbs are in Virginia and Maryland. And the district charter prohibits a payroll tax. Which leaves only Congress to finance the rising cost of district Government. And that means Minnesota taxpayers shoulder as much of the district's financial burden as those in Virginia and Maryland, who benefit directly from the district's government-dominated economy.

Federal support will always be appropriate, given the government's enormous tax-exempt holdings in the district. But statehood would allow Washington to tax commuters or work out other arrangements requiring Virginia and Maryland to bear a larger share of the district's burdens.

Fauntroy's bill is likely to come to the House floor this fall. Because the district is Democratic, urban and black, it faces opposition from Republicans, rural legislators and bigots. None relish adding district representatives to Congress. Such crass partisanship and bigotry should not be allowed to subvert the drive for statehood. To ease the district's financial burden and to erase an embarrassing political injustice, Congress should pass the statehood bill and welcome New Columbia to the Union.

[From the Seattle Times, May 11, 1987]

WHY NOT STATEHOOD FOR D.C. CITIZENS?

The path is strewn with all sorts of political and legal obstacles, but the District of Columbia is pressing ahead on a campaign that could give it full statehood—a 51st state to be called New Columbia.

And why not? Despite its place as the seat of national power, the district long has been a governmental orphan whose residents have second-class political status. It elects a mayor and City Council, but local decisions are liable to congressional veto. Residents can vote in presidential elections, but their representation in Congress is limited to a single nonvoting delegate.

In 1978 Congress proposed a constitutional amendment to give D.C. full voting representation—two senators and at least one representative—but only 16 of a required 38 states had approved it before the ratification period ran out three years ago.

Now advocates of full statehood are saying there's no need to pursue the tortuous constitutional-amendment process. Congress, they say, could establish New Columbia simply by enacting a law, and a bill to do that is working its way through the House.

Citing various legal authorities, opponents disagree and promise a court battle if Congress approves the statehood measure.

The Reagan administration also is resisting the statehood proposal, partly because of expectations that the members of Congress elected from New Columbia would be liberal Democrats.

Still, the case for statehood remains strong, if only as a matter of simple fairness. The district's population at last count stood at some 637,000—far more than in Alaska, Delaware, Vermont or Wyoming.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will kindly remind all persons in the gallery that they are here as guests of the House of Representatives, and that any manifestation of approval or disapproval of the proceedings on the House floor is strictly prohibited.

Ms. NORTON. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentlewoman from the District of Columbia [Ms. NORTON] has 3 minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 9 minutes remaining.

Mr. BLILEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, as I said yesterday, I have great respect for the Delegate of the District of Columbia and for the residents of the District of Columbia. I do support home rule and greater autonomy, but I certainly do not support D.C. statehood.

The District of Columbia was never intended to be a State, and it is not just because it is only 60 square miles, while the smallest State in the Union is over 1,000 square miles. The principal reason is, it is not economically self-sufficient. Forty percent of the District's State product is attributable to public employment.

That is what this is all about. It is an attempt to get the kind of revenue that the District needs to hire the police and the teachers that it desperately needs, but to get that revenue from the suburbs. The Mayor herself has said, "D.C. statehood means $1 billion from a commuter tax that D.C. statehood will allow us to impose."

The District of Columbia, if it was allowed to become a State, will impose nearly a 10-percent income tax on everyone living in the suburbs and working in the District. We cannot allow that. What this will do is to take hundreds of millions of dollars from my constituents, from constituents in Maryland, from all the suburbs that contribute workers into the District of Columbia, take hundreds of millions of dollars from them that cannot be used to educate their children, to protect their families, but will be spent within the State of New Columbia. That is not the way to deal with a desperate financial situation. There are other ways, and we will cooperate in those ways, but I urge my colleagues do not support this bill.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER], a member of the committee.

Mr. ROHRABACHER. Mr. Chairman, statehood does not work and statehood is not fair. Statehood does not work constitutionally, and we have not seen an answer to any of the arguments that we have given as to why a constitutional amendment would be required for statehood, rather than just congressional action.

It does not work economically. We can see this. There is an admission in the bill itself that proves that this will not work economically, because the statehood bill insists on a continued Federal payment, which is in itself stating that this area cannot work in itself as a State. In fact, this area is not functioning well, is not working as a city, much less as a State. All of us know it. They cannot ask to have troops come out and patrol the streets 1 week and then ask for statehood the next week, and expect that that would be taken seriously. It is a flawed plan that we have been presented. It does not work economically or constitutionally, and it is not fair.

The people in the rest of the country will not be applauding to give the District of Columbia two U.S. Senators. My State has 50 times the population of this area, and it is not fair to them to give the District of Columbia two U.S. Senators.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] is recognized for 6½ minutes.

Mr. BLILEY. Mr. Chairman, H.R. 51 has been praised as a great exercise in democracy. But it is a blow to democracy. The rights of 250 million Americans to participate in the process of amending their Constitution is being denied. Congress is usurping power it does not have. The power to change the status of the Nation's Capital is reserved to the people in their right to amend their Constitution.

Statehood advocates are simply wrong in their analysis. No State has faced the impediments of three provisions in the Constitution. The other 37 States were admitted under article IV of the Constitution. The District of Columbia is the only article I territory in the United States. There is no precedent which applies to the admission of the District of Columbia through simple legislation. The status of the seat of government can be changed only through constitutional amendment. I will submit for the RECORD a letter signed by former Solicitor Generals who conclude:

> Since the early days of our Republic, concern has been voiced that the residents of our Nation's Capital lack voting rights in Federal elections and lack full representation in Congress. In recent years, Congress has taken action to partially address that concern by giving District residents the right to vote in Presidential elections as provided in the Twenty-third Amendment and by creating the office of Delegate from the District of Columbia to the House of Representatives. District residents, however, still lack full representation. We understand their sense of frustration. We simply point out, however, that any effort to grant District residents full representation that does not comport with the Constitution is a self-defeating proposition.
>
> For thirty years, through both Republican and Democrat Administrations, the Department of Justice has steadfastly warned that admission of the District of Columbia to the Union through simple legislation would raise substantial constitutional questions of the first order.

I want to also point out that even with the change in administrations, the position of the Justice Department has not been changed.

The blow to democracy is felt in the District as well. Prior to the introduction of statehood legislation, the citizens drafted and ratified their own constitution to live under as citizens of the New State. But the right to determine their own constitution has been taken away from them under H.R. 51.

Let me also remind my colleagues that this vote is on a bill, not a nonbinding resolution. There is a lot of talk that the vote on H.R. 51 is only endorsing a principle. That is nonsense. The Committee on the District of Columbia has developed this legislation over a period of 10 years. We are not voting on a goal or principle. We are voting on a 38-page bill. If you vote for this bill, you are voting for everything in it. Statehood advocates have not talked much about the bill itself. But if you have listened to the debate, you have heard some shocking facts. For example, last night, Representative GOODLATTE explained that H.R. 51 will leave the seat of government without a judicial system. If H.R. 51 passes, there will be no civil court to appeal to for injuries suffered in Washington, DC. Think of it, 20 million visitors who come to Washington, DC, will have no civil protection here. There will be no criminal court to adjudicate the hundreds of crimes that are committed with the Federal enclave each year. In short, the place where our Nation's laws are forged will itself be lawless. If you vote for H.R. 51, you will be voting for just such a situation.

You will be voting for a State which is demanding special treatment for itself. Under H.R. 51, New Columbia will be guaranteed the right to control land in Maryland and Virginia. These two States will be forced to be the dumping grounds for New Columbia's trash and criminals.

For several years, I have pointed out the flaws in this bill, but none of them compare with the outrageous manner in which the boundaries were redrawn just earlier this month. If you did not hear about this in my previous remarks, you had better come look at the map of what is left of Washington, DC. New Columbia has hijacked two-thirds of the Senate Office Buildings, the O'Neill House Office Building, the Capitol Power Plant, the New Executive Office Building, five Cabinet-level departments, and the FBI building. The boundary of New Columbia literally runs through the Department of Labor. New Columbia has stolen the national treasures of Fords Theater, the National Portrait Gallery, and the National Museum of America Art. New Columbia has kidnapped tens of thousands of Federal employees for purposes of taxing them. This is clearly unequal treatment.

Some of my colleagues on the other side of the aisle have suggested that these boundaries are a trivial matter. They are irrational, but not trivial. If boundaries have no significance, why not let New Columbia take over everything? We all know that the American people would not stand for that even if it were constitutional. The Delegate from the District has stood in this House and told us that H.R. 51 only creates a State from the neighborhoods and that the Federal presence is in no way affected. This simply is not true. It is clearly ridiculous to restructure the Nation's Capital in a way that excludes parts of the White House and Capitol complexes.

Six years ago, the National Capital Planning Commission told us that a technical survey of the National Capital Service Area needed to be performed. No survey was done. When the bill was amended in committee, all references to the National Capital Service Area and Federal properties which were affronting and abutting the boundary were deleted. Proponents now claim that a survey conducted after the enactment of H.R. 51 will set right what this bill does wrong. Nonsense. Any survey must follow the boundary as described in the bill. A survey cannot recapture Federal departments and agencies which will be exiled if H.R. 51 is enacted.

On October 13, in a lengthy statement on the House floor, the Delegate from the District of Columbia responded to public statements by the Washington Post that New Columbia would not be economically independent. Despite her eloquent challenge to that conclusion, the city's budget crisis and the continuing decline in population speak louder than her words.

In her October 13 special order, the Delegate from the District also stated that, "* * * half of us would drop off the statehood bandwagon * * *" if New Columbia could exceed the current building height limitations. But any condition on the admission of New Columbia would be removed from the law by the courts. Ultimately, there would be no restrictions on building heights and there would be no legal method whereby Congress could impose one. Moreover, the taking provision sets a dangerous precedent which would set off lawsuits which could rage well into the 21st century. If the Federal Government can take property in New Columbia without compensation, it may take it elsewhere. States as well as private citizens should be alarmed at this sneak attack on property rights.

On the question of a taxpayer subsidy to New Columbia, the legislation continues to insist on special treatment. This bill authorizes a wholly new and unique payment-in-lieu-of-taxes to New Columbia. Not only does this new PILOT pay New Columbia for Federal land not even in the State; but, it does so to the exclusion of any other State—including Virginia and Maryland which are just as nearby Washington, DC, as is New Columbia. The District Delegate says that the Federal payment has been abolished—that is not true, it has simply changed its name. A separate and special payment to New Columbia is provided for in this bill.

Do not be fooled by the simplistic explanation that Washington, DC, has merely been shrunk in size.

IT HAS BEEN DESTROYED

The boundaries in this bill make a mockery of what our Nation's Capital is meant to be. We have just returned the Statue of Freedom to her place on top of this Capitol building. If H.R. 51 passes, she will have her back turned to the Nation's Capital and she will be overlooking only 1 State rather than the symbolic place where all 50 have come together. If we pass H.R. 51, we will give a new meaning on our national motto, One out of many.

Reducing the Nation's Capital to one-tenth the size of Dulles International Airport, is not merely inconvenient, it is unconstitutional. As Attorney General Kennedy told the House Committee on the District of Columbia 30 years ago,

> Reduction of the District to a small strip of territory occupied almost wholly by Federal buildings is thus clearly inconsistent with the concept of the Federal city held by the framers. The inadequacy of the small area * * * to meet the objectives of the framers and the inherent needs of our Federal system is apparent.

Statehood lobbyists are disguising a wide variety of complex issues with slogans and oversimplifications. Even before the outrageous change in the boundary, H.R. 51 would deprive the seat of government of the indispensably necessary land and population as envisioned by Washington, Jefferson, and Madison. Statehood advocates have not been able to refute the works of Robert Kennedy, Patricia Wald, and all of the others.

I oppose this legislation for its unconstitutional method of admitting part of the Nation's Capital as a State and for its failure to create a State of equal stature and sovereignty with the other States. I urge its defeat.

□ 1650

The CHAIRMAN. All time of the gentleman from Virginia [Mr. BLILEY] has expired.

Ms. NORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR] who has been with us and tirelessly.

Mr. BONIOR. Mr. Chairman, tell me if this sounds like it's what the Framers of our Constitution had in mind.

Today, the District of Columbia has more people than three other States. Yet it has no vote in Congress.

It pays higher Federal taxes per capita than 48 of the 50 States. Yet it has no voice in how those taxes are spent.

It sent more soldiers to the Persian Gulf war per capita than 45 other States. Yet, it has no say in deciding where or when our troops are put at risk.

The District's mayor and city council are elected by the people who live here. Yet, it cannot pass any laws unless they are approved by Congress first.

It raises 85 percent of its revenue from local residents and businesses. Yet, any Member of Congress can deny local residents from spending their own money as they see fit.

Mr. Chairman, does this sound like democracy to you? Is this what James Madison and Thomas Jefferson had in mind? Is this what the Founders of our country fought and died for 200 years ago?

"No taxation without representation" is not just a slogan for our history books. It's the fundamental principle on which this country was built. And until the citizens of the District of Columbia have the same voice and the same vote as citizens from every other State, America will never be a great nation.

Mr. Chairman, we have rightfully come to this floor week after week the past few years to champion democracy in China, democracy in Eastern Europe, and democracy in Russia.

We fought and won the cold war to advance the cause of human rights and democracy around the world.

But it's the height of hypocrisy to champion democracy around the world while denying it in our own neighborhood.

Mr. Chairman, this bill will put the residents of the District of Columbia on equal footing with the rest of America.

It will give 600,000 District residents a voice and a vote in Congress for the first time. And it will give the District residents the right to run their home as they see fit.

As it stands now, the D.C. government can't do anything without our approval. If they want to pass a budget, they have to come to us. If they want to pass a new law, they have to come to us. If they want to set new hours for garbage collection, they have to check with us first.

Mr. Speaker, the U.S. Congress has bigger concerns than whether the District's garbage is picked up on Tuesday or Thursday.

We're responsible for a $1.5 trillion national budget. Why are we spending so much time managing a $3.2 billion District budget?

Just because we pay rent—and a very skimpy rent—for the Federal land does not give us the right to act like a feudal overlord with District residents.

I say it is time to give the residents of the District of Columbia the right to pass their own laws, to set their own budgets, and to manage their own affairs without interference from Congress. And this bill will do just that.

Those who oppose statehood often claim that the Constitution forbids the creation of a State in the District. Nothing could be further from the truth. All the Constitution says is that Congress must control a seat for the Government which is 10 square miles or less. And this bill meets that requirement.

In fact, the District has met all three traditional statehood tests. First, it reflects the will of the people. Second, they've agreed to a representative form of government. And third, there are enough people and resources to ensure economic viability.

The fact that District residents are treated as second-class citizens is a stain on our national fabric. It's not what our democracy is about, and it's not what the Framers of our Constitution envisioned.

I urge my colleagues: Say "no" to taxation without representation. Say "no" to colonialism. Say "no" to political inequality.

Say "yes" to D.C. statehood.

Ms. NORTON. Mr. Chairman, I am happy to yield such time as he may consume to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I rise in support of H.R. 51, legislation which would provide full voting representation in Congress for residents in what is now the District of Columbia.

This Nation has spent trillions of dollars around the world throughout our history in order to bring representative democracy to people in other lands. We sent our men and women in harm's way during two world wars in this century in order to maintain the rule of law for most of the world. Today, we have men and women on foreign soil to bring freedom and the right to have self-determination by their government.

We, the people of the United States utilize our wealth of skilled diplomats to end human rights abuse in other lands, be they democracies or totalitarian rule. The Federal Government as well as State and local governments refused to invest its public moneys in companies doing business in South Africa unless and until finally that Nation changed its Constitution and gave full citizenship status to all its people.

Yet, today, in America, there remains a pocket of representative deficiency. The people of the District of Columbia, American citizens, are denied their due representation in their Federal Government.

This is wrong. Our Constitution says so, our heritage and history state thus. Today we can and should right this wrong. We do this by passing H.R. 51.

Ms. NORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in strong support of D.C. statehood.

Ms. NORTON. Mr. Chairman, it is with great pleasure that I yield 3 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, there has been a lot of debate in this debate about the Constitution and what it says about the area surrounding the seat of government deemed the District of Columbia. To their credit, Members have engaged in constitutional discourse that would make Oliver Wendell Holmes proud.

But I submit that this debate is not about debating, and it is not about scoring points in debates. The question before us today involves more than maps and surveys. It goes beyond tax bases and future payments.

The issue before Members today is one of fundamental fairness. Should Americans who live in this 70-square-mile area enjoy the same benefits of citizenship as the residents of my district in Missouri, or everybody else's district in the 50 States? As we consider this question today in this House, where every other American is represented, the answer must be yes.

More than 200 years into the life of this democracy, none among us, none among us should be disenfranchised. Whether we are citizens of St. Louis, or Selma, Seattle, or Southeast DC, each and every one of us should be able to share in the core privilege of democracy: one person, one vote. Not half a vote, not a quarter of a vote, not a diluted vote, but one person, one vote.

☐ 1700

That vote should not depend on the location of the soil underneath your feet. It should not depend on the size of the area or the number of citizens in the community. It should not depend on your partisan leanings, and it should not depend on another's judgment of how that vote should be exercised.

Today we have the opportunity and the obligation to extend the constitutional right of full representation in this Congress to the 600,000 human beings who reside in the District of Columbia.

Washingtonians pay taxes with us, and they serve in wars with us. They even die with our young people in war. Joan Thomas, a resident of the District today, could tell you about it. She sent her son Edwin and two nephews to Vietnam. They served their country with honor, and they have Purple Hearts to show for it, Purple Hearts from their country, but no representation here and no representation on the other side of this building.

Ask Walter Winder about it. His oldest son, Walter, Jr., gave his life in Vietnam to honor the principles of democracy, but today democracy dishonors his legacy as his father is still disenfranchised.

And when we voted 2 years ago to send our young people to war in the Persian Gulf, I wondered to myself what it would feel like to be a father here in the District of Columbia and have my son or daughter go and have no vote on the floor of this House.

Vote yes on H.R. 51, and end this travesty of justice in this capital of the United States. Vote yes and give true meaning to democracy. Grant statehood to the citizens of the District of Columbia. It is the right thing to do.

Mr. STENHOLM. Mr. Chairman, I wish to take this opportunity to rise in strong opposition to H.R. 51, the New Columbia Admission Act. It has been said that those who oppose this legislation are doing so solely for political reasons. I am here to say that simply is not true.

Recently, I claimed on the floor of this House that I am not wise enough to understand all the nuances of constitutional law. But when the Constitution states that "Congress shall have power to exercise exclusive jurisdiction in all cases whatsoever over such District as may by cession of particular states, and acceptance of Congress, become the Seat of the Government of the United States * * *", it seems pretty clear to me that any congressional action granting DC statehood that bypasses the States violates both the letter and the spirit of the law.

If, as statehood proponents contend, the Founders would not condone the current situation, and that this begs a new interpretation of the Constitution, could it not also be claimed that circumstances have changed so much since the Founders wrote the document that they would argue for a reinterpretation of the requirements for admitting new States as well?

Despite the length of time it took each of the States to gain statehood or the procedures they went through to achieve statehood, they were not as well-established, or as deeply entrenched, in the kind of fiscal and social turmoil as the District of Columbia is. Perhaps this should be considered.

But in addition to the issue of constitutionality, the District of Columbia does not have the confidence of the rest of the Nation. In my home State, for example, on which the DC Delegate recently commented, "What could be more American than Texas today?", my constituents speak with one voice in their opposition to DC statehood.

With last year's $100 million payment to help the city make ends meet and the recent decision to allow the Capitol Police to assist District law enforcement officials in their dangerous tasks, it is clear that the District government cannot meet the obligations it has to its citizens. With the reputation of the District the subject of derision and laughter, the Nation is not ready for DC statehood. It is not a question of DC joining the United States as an equal; it is a question of whether the other States want DC to be an equal. More importantly, it is not a question of doing what is desirable; it is a question of what the Constitution allows.

Mr. Chairman, as a Democrat, it would be reasonable for me to want additional representatives from my party in Congress. I am opposed to this legislation, however, because like my constituents, I do not believe it can be defended constitutionally. I ask my colleagues to vote against this bill.

Mr. CRANE. Mr. Chairman, I rise to oppose H.R. 51, the New Columbia Admission Act. The drafters of the Constitution clearly intended the seat of the government of the United States to maintain an exclusive status separate from the States. The Founding Fathers defined Washington, DC, as a "Federal City." To change the status of the Nation's Capital requires amending the Constitution, not simply passage and enactment of H.R. 51. For this Congress to attempt to change the status of DC through the passage of this bill is totally irresponsible.

Since the District of Columbia was created by the Constitution on land ceded by Virginia and Maryland, the most sensible proposal to provide DC residents with full Federal representation would be to return the land to Maryland. This would give the residents of Washington a voting Member of the House and two existing Senators. In fact, retrocession has a precedent. In 1846, Congress returned a portion of the District, Alexandria County, to the Commonwealth of Virginia. The District is now solely made up of land formerly held by Maryland.

Although those seeking statehood claim their primary objective is to provide DC residents with full representation in Congress, they have rebuffed past proposals that would do just that. DC statehood proponents rejected legislation that would rejoin the District with the State of Maryland, thus providing Washington with at least one voting representative in the House and representation by the State's two Senators. They are obviously after more than just congressional representation.

Mr. Speaker, I oppose H.R. 51, and urge my colleagues to do the same.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the bill, H.R. 51, granting statehood to the District of Columbia. I believe it is important to grant full voting representation to the Delegate from the District of Columbia, and I have consistently supported the District's home rule charter. I am not convinced, however, that becoming a State will address the many problems that have been brought about by its unique status.

The State of New Columbia, with no more than 57 square miles, would be the most densely populated State in the Union. This urban State would have no industry and no agriculture. New Columbia would receive a special Federal subsidy, not available to any other State. It would have jurisdiction over a major prison located in an adjacent State, without that State's permission. The State of New Columbia would operate juvenile facilities—Oak Hill and Cedar Knoll which was closed, but the land is still under the jurisdiction of the District—in the State of Maryland, which is unprecedented.

In my judgment, statehood would raise contentious issues of constitutionality and federalism. Washington is the Nation's Capital. It does not belong to only a few of our residents, but to all of our citizens as the seat of our National Government. The District was created by our Founding Fathers out of land given up by Maryland and Virginia. The Founding Fathers envisioned their Federal City as a safe haven for Congress and the Federal Government.

Statehood would allow the District to levy some form of reciprocal nonresident tax on suburbanites who work in the city. The mayor of the District has made it clear that she believes a commuter tax is critical to the District's financial survival. This tax would bring millions of dollars to the city's strained coffers, but would negatively impact the residents of Maryland and Virginia.

Mr. Chairman, I am staunchly opposed to a commuter tax on the residents of Maryland and Virginia that would most certainly accompany statehood for the District of Columbia. Most of the 400,000 State income tax payers in Montgomery County who work in DC would be required to file a State income tax return in the District. This would direct most of their State income taxes away from Maryland. Under law, Maryland would have to grant credit to taxpayers who pay the commuter tax. This would result in a huge loss of revenue to the State of Maryland and negatively impact the services afforded Montgomery County. In addition, approximately 300,000 residents of Prince George's County work in the District. Marylanders who work in the District already contribute millions of dollars in various taxes and fees and are an economic boon to the city.

For the reasons that I have just expressed, I urge my colleagues to defeat H.R. 51.

Mr. LEWIS of Florida. Mr. Chairman, I rise in opposition to H.R. 51, the New Columbia Admission Act.

For 30 years, the Department of Justice has consistently stated the status of the District of Columbia can only be changed with an amendment to the Constitution. Even were this to happen, the 23d amendment, granting electoral votes to DC residents, would also have to be repealed.

Like the bill's constitutionality, I also take issue with its practicality. The District government receives 20 percent of its budget from the Federal Government, and another 16 percent from other Federal grants and reimbursements. As much as I would like to eliminate these payments the Federal Government annually doles out to the District of Columbia, DC doesn't have the economic resources necessary to survive as a State or to cover its share of the cost of the Federal Government.

Last, since even the bill's strongest supporters admit it has little chance of passing, I resent the fact that the House is spending valuable hours before the winter break debating this issue while postponing for several months important issues like crime control. We should be spending this valuable time providing relief for Americans, not a political soapbox.

Mr. LEVIN. Mr. Chairman, I voted for the rule yesterday on H.R. 51, the New Columbia Admission Act, and I will support this legislation today on final passage.

It is clear that there are not enough votes to pass this bill today. Opponents of H.R. 51 say that statehood for the District is not the answer. They raise a variety of objections to this legislation, ranging from constitutional difficulties, to boundary disputes, to doubts concerning the economic viability of the proposed State of New Columbia.

I do believe that we should take seriously shortcomings in H.R. 51. I am particularly concerned that the fiscal arrangements necessary to ensure the long-term economic viability of New Columbia are not adequately spelled out by this legislation.

But I am also troubled by the status-quo. My vote today is grounded in the inescapable fact that some 600,000 District residents lack representation in the House and Senate. They pay Federal taxes. Their sons and daughters fight and die for their country in time of war. Residents of the District are entitled to the same standards of citizenship enjoyed by every other American.

It is clear that this House will revisit this issue. The votes for passage are not here today. If there are alternatives to H.R. 51—alternatives that provide for full congressional representation for the 600,000 residents of the District of Columbia—I hope we will consider them in the near future. Inaction is not an option.

Mr. SKAGGS. Mr. Chairman, the 600,000 citizens of the District of Columbia deserve a better deal than they've gotten. They pay taxes and send their sons and daughters to war, and they aren't fully represented in the legislative body that levies those taxes and authorizes the wars. Their status is at odds with fundamental precepts of this democracy; they deserve full and equitable voice in Congress.

But H.R. 51 is not the way to give them that voice. The ultimate goal of this bill is right; the method of achieving it is not. It fails, in my opinion, to pass constitutional or practical muster. If the people of the District of Columbia want to pursue statehood by statute, they have the burden of proof of showing that H.R. 51 overcomes the constitutional obstacles presented by article 1, section 8, clause 17—the D.C. clause, amendment XXIII, and the logical interplay among those and other constitutional provisions. I conclude they have not and can not meet that burden. In my judgment, as in the judgment of a bipartisan succession of Attorneys General, this matter can only be addressed through amendment to the Constitution.

If equity and justice were our only considerations, H.R. 51 would face much smoother sailing. But we can not let our concern for equity and justice wash away the responsibility the Constitution imposes on us. The District of Columbia has existed as the "seat of government of the United States," with clear constitutional dimensions under the D.C. clause, for 200 years. I do not believe Congress can abrogate that status through legislation; if it wants to do so, it must amend the Constitution.

To be honest, I find it very difficult to square the proposition of transforming the city of Washington into the State of New Columbia with my gut sense of what constitutes a "State." Perhaps the ideal solution to the D.C. voting rights problem would be retrocession of most of the District to Maryland. New Columbia would become the newest city—and the Ninth Congressional District—in Maryland. It would be ably represented in the other body by two distinguished Senators, and governed by an executive branch and legislature in Annapolis. Its Mayor would still be Mayor, and its city council's authority would remain intact.

If a constitutional amendment to grant statehood were presented to the House, I would vote for it. The several States would then have the proper opportunity to address the anomaly of over a half-million disenfranchised Americans. H.R. 51 is not that amendment. It is a well-intentioned example of putting our heart before our head, and I must oppose it.

Finally, I want to recognize the frustration felt by the citizens of the District caused by the shameless way Congress continues to interfere with their local affairs. Having granted home rule to the District in 1974, Congress still can't resist the temptation to meddle in ways that contradict home rule. Yes, Congress has the constitutional right to interfere under the D.C. clause. But that interference abuses the legitimate expectations, if not the rights, of D.C.'s citizens nonetheless. So as I vote "no" on H.R. 51, I want to emphasize that I have consistently voted to respect the rights of the people of the District to manage their own affairs under home rule, and I will continue to do so.

Mr. HILLIARD. Mr. Chairman, I rise today to offer the strongest possible support for the passage of H.R. 51, which would allow the District of Columbia to become the 51st State in the Nation. Recently there has been an outcry from the public for change. In campaigns across the country candidates have run on this issue of change. Now is a time where we have the opportunity to look to the future and offer the citizens of Washington, DC a chance at full participation as Americans.

Many things have changed since the creation of the original 13 colonies, the days when our Founding Fathers first formulated our country's Constitution. Since then we have seen a great Civil War which brought our people together to create the greatest Nation in world history. We have witnessed an end to the horrible system of slavery and equal rights for women. However, separation of the North and South, slavery, and second-class citizenship for women were all part of the status quo during the days of the lives of our Founding Fathers.

These great men would have never imagined a day when this most-powerful Nation would include 50 States and 3 territories, African-American Governors, mayors, Congressmen, and Senators or women holding these same political positions.

As America has changed in these ways, the District has also changed. The original purpose for creating of the District of Columbia was for it to serve as an enclave of buildings, to have no residential population. That is why constitutional safeguards were put in place to separate the District from the other colonies to act as the Government's place of business. Contrary to this original purpose, the District of Columbia now has a residential population of over 600,000 citizens—more than four States—a diverse industrial sector, a $3.2 billion budget, a significant number of war veterans—higher than most States—and a per capita tax payment that is higher than that of 49 other States ($500 per person over the national average).

People, it is definitely time for change. The creation of New Columbia should be a part of America's change. It is time to extend to the people of D.C. the same constitutional rights that all other Americans share; the right to have voting representation in Congress, the right to control it's own finances, the right to make it's own laws without having the Federal Government peeking over their shoulders telling them that "you are not good as other citizens in this Nation."

We are definitely stepping beyond our constitutional authority by tying the hands of the District Government and it's people. I come before this body today to urge support for continued change, complete freedom, and basic rights guaranteed by law for the people of D.C.

I ask you to join me in making New Columbia our 51st State by voting yes on H.R. 51.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 51, a bill to provide for the admission of the State of New Columbia into the Union as our 51st State.

Washington, DC is unique area in many ways. Not only is this our Nation's capital, the site of many magnificent monuments to democracy, but it is also the only jurisdiction in the United States where 600,000 American citizens are effectively, systematically disenfranchised from participating in our democratic republic by lack of voting representation in Congress. In fact, even today more people live in the District of Columbia than in three other States—Alaska, Vermont, and Wyoming. While the District's Delegate to Congress has a vote in the Committee of the Whole, the Delegate does not have a vote in the House of Representatives, and, of course, there are no voting Senators representing the District in the other body. The United States is the only Nation in the world with a representative, democratic Constitution that denies full voting representation in the national legislature to the citizens of its capital area.

As if this circumstance was not onerous enough, Congress can and has occasionally decided to override laws passed by the elected city council and signed into law by the elected Mayor of the District of Columbia.

Mr. Chairman, over 200 years ago, the cry of "no taxation without representation" was one of the rallying points of the American Revolution. Today, District residents pay over $3 billion annually in Federal taxes at the fourth highest per capita rate in the Nation without full democratic representation.

Some critics have questioned whether the District of Columbia would be economically viable if it became a State. The answer is unequivocally affirmative. Locally generated revenues exceed those of 22 States. Local funding provides $5 out of every $6 for the District budget. In 1989, the gross product of the District was more than $39 billion; greater than the comparable figure for 19 States. Certainly the District of Columbia or New Columbia as a State would be a vibrant economic unit, working with other States and nations, it has a very bright future.

H.R. 51 specifically provides for the termination of the annual Federal payment in lieu of taxes, which has been inadequate as a measure of the true taxable value of Federal property holdings within the District. This legislation redefines the Federal enclave, including Federal buildings and national monuments, which will remain under Federal control and appropriate as an enclave. Congress previously reduced the size of the Federal District when it ceded what is now Arlington County, VA back to Virginia in the 1840's in the belief that the Federal Government would never need so much territory and, frankly, they were correct. Today the national Government is mature, the Washington, DC area has grown into a 600,000 populated area that needs the same status accorded other States within delegated powers.

Finally, Mr. Speaker, few political jurisdictions in our Nation have shown as much commitment to democracy and defending democracy as the people of the District of Columbia. District residents have fought and died in every war since the Revolution. They deserve to be represented and vote in congressional decisions of war and peace. The District of Columbia sustained more casualties during the Vietnam War than 10 States and more killed in action per capita than 47 States. An incredible testament to their interest, and this is no accident of history, more District residents per capita fought in the Persian Gulf war than 46 other States.

H.R. 51 establishes a Statehood Transition Commission to provide advice on the procedures for the orderly transition to statehood. The Commission would exist for 2 years following enactment of the bill and would provide advisory assistance to the District on numerous important public policy questions.

Mr. Chairman, some have said that Congress should now cede the District to the State of Maryland rather than grant statehood to the District. Yet it is clear from recent polls that the people of Maryland do not wish to assume responsibility for the people of the District, nor do the people of the District as a distinct political entity necessarily wish now to become a part of Maryland. Under H.R. 51, the State of New Columbia would still have three Presidential electors, but they would also have two live voting Senators and a full-voting Representative in the House of Representatives.

The people of the District of Columbia have waited long enough. It is time to do what is right for the residents of our Nation's capital. It is time to bring democracy right to the doorsteps of the Capitol. I urge my colleagues to join me in voting for H.R. 51.

Mr. CARDIN, I vote in favor of statehood for the District of Columbia with mixed emotions.

Throughout my career in public office I have been a friend of the District and its residents. In 1980, as speaker of the Maryland House of Delegates, I helped Maryland become one of only 16 States that ratified an amendment to the Constitution to provide District residents with voting representation in the U.S. Congress. I feel strongly that citizens of D.C. deserve this right that is guaranteed to every other American.

I hesitate, however, to offer my unconditional support for D.C. statehood. If the legislation before us today had a realistic chance of passage my vote might have been different because the leadership of the District has not been willing to resolve the issues of a commuter tax and the Federal payment.

Mayor Kelly has openly supported imposing a commuter tax on Maryland residents working in the District of Columbia. Statehood for the District would empower her to do so. As a representative of many Marylanders who work in D.C., I will not support statehood until the District and Maryland resolve this conflict.

Legislation granting statehood should also re-evaluate the need for a Federal payment to the District of Columbia. As a State, D.C. should receive no special treatment from the Federal Government. After all, many other States have significant Federal facilities for which they receive no compensation.

Mr. Chairman, while my vote is accompanied by important caveats, I am pleased to have the opportunity today to express my support for voting representation in Congress for the District of Columbia. For too long District residents have been subject to Federal policies formulated by a Congress in which they are not fairly represented. I offer my sincere hope that we can resolve the issues of commuter taxes and Federal payments so that I can offer my unconditional support to the fine work of Representative NORTON on behalf of statehood for the District of Columbia.

Mr. SYNAR. Mr. Chairman, I rise today in support of H.R. 51, the New Columbia Admission Act.

Our Founding Fathers, with the best of intentions, established the District of Columbia as the home of our Nation's Capital. It is important to understand the historical context of that decision. In the early days of our Nation, we were more of loose confederation than a strong Union. The location of the Capital was a subject of intense disagreement, particularly between the North and South. Each felt locating the Capital in the other region would adversely affect them. Our fledgling Nation's leaders took note and were therefore concerned about subjecting the Capital City to State and local pressures. The only way to avoid this, they believed, was to create an autonomous district whose running was solely under the purview of the Federal Government. And so after much discussion and compromise, the District of Columbia was created.

In the 200 years or so since that act, the circumstances that inspired our Founding Fathers to create the District of Columbia changed. Moreover, the District itself changed from an area of vast fields interspersed by public buildings to a populous cosmopolitan city. The District of Columbia now has a population greater than that of three States. Further, it pays taxes to the Federal Government at the fourth highest per capita rate in the country, and has a productive economy. By all indications, the District of Columbia is a rich community that is both competent and resourceful in the conduct of its affairs. Yet the residents of the District are disenfranchised.

District residents are not allowed to have representation in Congress. Yet every act of the city's government is subject to congressional scrutiny. The District pays over $3 billion annually to the Treasury, yet its residents have no say in how that money is spent. The District ranked fourth per capita among States in the number of its citizens who served in the Persian Gulf, yet District residents had no voice in Congress when the vote was cast to enter that conflict.

The residents of the District of Columbia have petitioned for statehood for years. And for years they have been denied. We are the only Nation in the world with a representative, democratic Constitution that denies representation to the citizens of its Capital City. The only one. We are the leaders of the free world, the spreaders of democracy, the revolters against taxation without representation, yet we arbitrarily deny representation to 600,000 of our citizens. This is wrong.

The people of the District of Columbia deserve selfgovernment. Support D.C. statehood.

Mr. HEFLEY. Mr. Chairman, we have heard all about what the residents of the District of Columbia do not have. They do not have a governor, they do not have any Senators, and they do not have voting Representatives. In a word, the residents of the District of Columbia do not have some rights that others in the United States have.

Apparently, they also do not have a copy of the Constitution. What does it say?

> The Congress shall have power to * * * exercise exclusive legislation in all cases whatsoever over such District * * * as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States * * *

Washington, DC, is a special city which gets special funding and control from Congress, but it is not and never should be a State with two Senators and a Representative.

But then, statehood advocates are quick to point out, D.C. residents will never get to vote for a Senator, their House Delegate will never become a House Representative, and D.C. taxpayers will continue to suffer from taxation without representation. The District is not represented on Capitol Hill, and it just is not fair.

Which is all beside the point. If voting rights and representation were the real issue, District residents should take the logical step and ask to reincorporate back into Maryland—that is what the Virginia side of the District of Columbia did. Then the residents could vote for Maryland's Senators and they'd have their own Representative.

Of course, Maryland might have something to say about the matter. As perhaps the most poorly run city in the country, the District is not an attractive catch. On the other hand, if the District of Columbia could clean up its act, annexation into Maryland is the most direct path toward gaining voting rights and representation in Congress.

But let's not kid ourselves. Statehood for the District of Columbia is not about rights or representation—it is about money and power. The leaders behind the statehood movement are not as concerned about taxation without representation as they are about their own political futures. The city, on the other hand, wants a commuter tax that the Mayor says will bring $1 billion a year to the District.

Over the past 20 years, the "Self-Rule" experiment in the District of Columbia has gone from bad to worse. So, in the tried and true tradition of Mario Cuomo and Bill Clinton, the District is attempting to turn a record of failure and misery into a political advance.

Well, it is not going to happen. Statehood for the District of Columbia is a bad—no, stupid—idea which would contribute to the eroding the influence of the other 50 States. That is why the movement continues to flounder, and that is why I oppose statehood for the District of Columbia.

Mr. ACKERMAN. Mr. Speaker, I rise today to further explain my opposition to H.R. 51, a bill that would have admitted the State of New Columbia into the Union. H.R. 51, as did its predecessors, would not have simply admitted another State into the Union. It would have destroyed the vision hundreds of millions of Americans have shared for more than 200 years about what our Nation's Capital is and what it should be. H.R. 51 would have created a dramatically diminished Nation's Capital that would have reduced Washington, DC, to a strip of land one-tenth the size of Dulles International Airport.

The reduction in the Nation's Capital through H.R. 51 would have violated article I, section 8, clause 17 of the Constitution, the District clause. The bill sought to render inoperative the 23d amendment to the Constitution by simply repealing its implementing legislation rather than through the constitutional process of repealing the amendment. The bill also put Congress in the unprecedented position of choosing between two competing, and very different, versions of the constitution of the proposed State. H.R. 51 would have also not admitted a State on an equal footing with the other States as its enabling language claims. Rather, H.R. 51 would have created a State unlike any other in the Union.

Statehood proponents gave new meaning to article I, section 8, clause 17, the District clause, contenting that because Congress has power to exercise exclusive legislation for the District, it can do anything it wishes, including making the District a State. Of course, this is not what exclusive legislation means. It would have been a great shock to have interpreted this phrase to have meant that Congress, through simple legislation, could have repealed the 23d amendment or suspended the Bill of Rights in the District. In a 1953 District lawsuit, Justice William O. Douglas reiterated that the phrase means that no State can have authority over the seat of Government.

Combined with the 23d amendment, H.R. 51 would have provided the residents of the District of Columbia not only with the three votes in the electoral college but it also would retain a separate seat of the Federal Government with its own electoral votes. To prevent the first family and a handful of others from controlling three electoral votes, the 23d amendment would have been either amended or repealed. Statehood advocates dismiss this constitutional conflict, alleging that upon admission the 23d Amendment would be an absurdity, and consequently, a dead letter. Congress, however, should not be in the business of reducing provisions of the Constitution to absurdities.

H.R. 51 sought not equal treatment for the new State, but special treatment. While the campaign on Capital Hill focused on simple justice, local officials are telling District residents that statehood means lower taxes and more revenue for them. The campaign for statehood would not have told you that the average family with an income of $50,000 in at least 12 other cities pay higher State and local taxes than does a comparable family in the district. Statehood advocates will not tell you that the Federal Government already spends $33,951 per capita in the district which is more than seven times the national per capita amount. Obviously, lower taxes and more revenue for the district means higher taxes for others. Statehood advocates refused to give up the special benefits the district now enjoys and refused to take on all of the burdens of statehood.

Statehood proponents claimed that statehood is a civil rights issue. However, voting representation and statehood are not synonymous. Retrocession to Maryland, and a constitutional amendment, are among some of the options which could equally provide voting representation.

H.R. 51 was fatally flawed and failed, in part, because of its geographical impact on the remaining District of Columbia. Many important Federal buildings, national treasures, and foreign embassies, along with the Vice President's house, Washington Cathedral, and the National Zoo would not have been located in Washington, DC. When one eliminates the rivers from the Federal enclave, only approximately 3,000 acres of land will remain in Washington, DC. The remainder of the capitol area is not only small, but its borders are irrational, twisting and turning in and out of the proposed new State.

I continue to support full voting rights for residents of the District of Columbia, but I continue to wait for a more appropriate vehicle than statehood proposed by H.R. 51.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute, modified by the amendments printed in part 1 of House Report 103-384, shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute, modified by the amendments printed in part 1 of House Report 103-384, is as follows:

H.R. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "New Columbia Admission Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATE OF NEW COLUMBIA

Subtitle A—Procedures for Admission

Sec. 101. Admission into the union.
Sec. 102. Process for admission.
Sec. 103. Election of officials of State.
Sec. 104. Issuance of presidential proclamation.

Subtitle B—Description of New Columbia Territory

Sec. 111. Territories and boundaries of New Columbia.
Sec. 112. Description of District of Columbia after admission of State.
Sec. 113. Continuation of title to lands and property.

Subtitle C—General Provisions Relating to Laws of New Columbia

Sec. 121. Limitation on authority of State to tax Federal property.
Sec. 122. Effect of admission of State on current laws.
Sec. 123. Continuation of judicial proceedings.
Sec. 124. United States nationality.

TITLE II—RESPONSIBILITIES AND INTERESTS OF FEDERAL GOVERNMENT

Sec. 201. Continuation of revised District of Columbia as seat of Federal government.
Sec. 202. Treatment of military lands.
Sec. 203. Payment to State in lieu of tax.
Sec. 204. Waiver of claims to Federal lands and property.
Sec. 205. Preservation of scenic vistas.
Sec. 206. Permitting individuals residing in new seat of government to vote in Federal elections in State of most recent domicile.
Sec. 207. Repeal of law providing for participation of District of Columbia in election of President and Vice-President.
Sec. 208. Expedited consideration of constitutional amendment.

TITLE III—GENERAL PROVISIONS

Sec. 301. General definitions.
Sec. 302. Certification of enactment by president.
Sec. 303. Statehood Transition Commission.

TITLE I—STATE OF NEW COLUMBIA

Subtitle A—Procedures for Admission

SEC. 101. ADMISSION INTO THE UNION.

(a) IN GENERAL.—Subject to the provisions of this Act, upon issuance of the proclamation required by section 104(b), the State of New Columbia is declared to be a State of the United States of America, and is declared admitted into the Union on an equal footing with the other States in all respects whatever.

(b) CONSTITUTION OF STATE.—The State Constitution shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

SEC. 102. PROCESS FOR ADMISSION.

(a) APPROVAL OF ADMISSION BY VOTERS OF DISTRICT OF COLUMBIA.—

(1) ELECTION PROCEDURES.—At an election designated by proclamation of the Mayor, which may be the primary or the general election held pursuant to section 103(a), a general election, or a special election, there shall be submitted to the electors qualified to vote in such election the following propositions for adoption or rejection:

"(A) New Columbia shall immediately be admitted into the Union as a State.

"(B) The proposed Constitution for the State of New Columbia, as adopted by the Council of the District of Columbia pursuant to the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Law 7-8), shall be deemed ratified and shall replace the Constitution for the State of New Columbia ratified on November 2, 1982.

"(C) The boundaries of the State of New Columbia shall be as prescribed in the New Columbia Admission Act.

"(D) All provisions of the New Columbia Admission Act, including provisions reserving rights or powers to the United States and provisions prescribing the terms or conditions of the grants of lands or other property made to the State of New Columbia, are consented to fully by the State and its people.".

(2) RESPONSIBILITIES OF MAYOR.—The Mayor of the District of Columbia is authorized and directed to take such action as may be necessary or appropriate to ensure the submission of such propositions to the people. The return of the votes cast on such propositions shall be made by the election officers directly to the Board of Elections of the District of Columbia, which shall certify the results of the submission to the Mayor. The Mayor shall certify the results of such submission to the President of the United States.

(b) EFFECT OF VOTE.—

(1) ADOPTION OF PROPOSITIONS.—In the event the propositions described in subsection (a) are adopted in an election under such subsection by a majority of the legal votes cast on such submission—

(A) the State Constitution shall be deemed ratified; and

(B) the President shall issue a proclamation pursuant to section 104.

(2) REJECTION OF PROPOSITION.—In the event any one of the propositions described in subsection (a) is not adopted in an election under such subsection by a majority of the legal votes cast on such submission, the provisions of this Act shall cease to be effective.

SEC. 103. ELECTION OF OFFICIALS OF STATE.

(a) ISSUANCE OF PROCLAMATION.—

(1) IN GENERAL.—Not more than 30 days after receiving certification of the enactment of this Act from the President pursuant to section 302, the Mayor of the District of Columbia shall issue a proclamation for the first elections, subject to the provisions of this section, for two Senators and one Representative in Congress.

(2) SPECIAL RULE FOR ELECTION OF SENATORS.—In the election of Senators from the State pursuant to paragraph (1), the 2 Senate offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the offices shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) RULES FOR CONDUCTING ELECTION.—

(1) IN GENERAL.—The proclamation of the Mayor issued under subsection (a) shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in subsection

(a) shall be chosen by the qualified electors of the District of Columbia in the manner required by law.

(2) CERTIFICATION OF RETURNS.—Election returns shall be made and certified in the manner required by law, except that the Mayor shall also certify the results of such elections to the President of the United States.

(c) ASSUMPTION OF DUTIES.—Upon the admission of the State into the Union, the Senators and Representative elected at the election described in subsection (a) shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

(d) TRANSFER OF OFFICES OF MAYOR AND MEMBERS AND CHAIR OF COUNCIL.—Upon the admission of the State into the Union, the Mayor, members of the Council, and the Chair of the Council at the time of admission shall be deemed the Governor, members of the House of Delegates, and the President of the House of Delegates of the State, respectively, as provided by the State Constitution and the laws of the State.

(e) CONTINUATION OF AUTHORITY AND DUTIES AND JUDICIAL AND EXECUTIVE OFFICERS.—Upon the admission of the State into the Union, members of executive and judicial offices of the District of Columbia shall be deemed members of the respective executive and judicial offices of the State, as provided by the State Constitution and the laws of the State.

(f) SPECIAL RULE FOR HOUSE OF REPRESENTATIVES MEMBERSHIP.—The State upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law, except that such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives or affect the basis of apportionment for the Congress.

SEC. 104. ISSUANCE OF PRESIDENTIAL PROCLAMATION.

(a) IN GENERAL.—If the President finds that the propositions set forth in section 102(a) have been duly adopted by the people of the State, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 103(a), shall, not later than 90 days after receiving such certification, issue a proclamation announcing the results of such elections as so ascertained.

(b) ADMISSION OF STATE UPON ISSUANCE OF PROCLAMATION.—Upon the issuance of the proclamation by the President under subsection (a), the State shall be deemed admitted into the Union as provided in section 101.

Subtitle B—Description of New Columbia Territory

SEC. 111. TERRITORIES AND BOUNDARIES OF NEW COLUMBIA.

(a) IN GENERAL.—Except as provided in subsection (b), the State shall consist of all of the territory of the District of Columbia as of the date of the enactment of this Act, subject to the results of the technical survey conducted under subsection (c).

(b) EXCLUSION OF PORTION OF DISTRICT OF COLUMBIA REMAINING AS NATIONAL CAPITAL.—The territory of the State shall not include the area described in section 112, which shall remain as the District of Columbia for purposes of serving as the seat of the government of the United States.

(c) TECHNICAL SURVEY.—Not later than 6 months after the date of the enactment of this Act, the President (in consultation with the Chair of the National Capital Planning Commission) shall conduct a technical survey of the metes and bounds of the District of Columbia and of the territory described in section 112(b).

SEC. 112. DESCRIPTION OF DISTRICT OF COLUMBIA AFTER ADMISSION OF STATE.

(a) IN GENERAL.—Subject to the succeeding provisions of this section, after the admission of the State into the Union, the District of Columbia shall consist of the property described in subsection (b) and shall include the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the Federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

(b) SPECIFIC DESCRIPTION OF METES AND BOUNDS.—After the admission of the State into the Union, the specific metes and bounds of the District of Columbia shall be as follows:

Beginning at the point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east of the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the north side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;

thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;

thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;

thence north on John Marshall Place Northwest to C Street Northwest;

thence east on C Street Northwest to Third Street Northwest;

thence north on Third Street Northwest to D Street Northwest;

thence east on D Street Northwest to Second Street Northwest;

thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;

thence northeast on Louisiana Avenue Northwest to North Capitol Street;

thence north on North Capitol Street to Massachusetts Avenue Northwest;

thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;

thence following Union Square to F Street Northeast;

thence east on F Street Northeast to Second Street Northeast;

thence south on Second Street Northeast to D Street Northeast;

thence west on D Street Northeast to First Street Northeast;

thence south on First Street Northeast to Maryland Avenue Northeast;

thence generally north and east on Maryland Avenue to Second Street Northeast;

thence south on Second Street Northeast to C Street Southeast;

thence west on C Street Southeast to New Jersey Avenue Southeast;

thence south on New Jersey Avenue Southeast to D Street Southeast;

thence west on D Street Southeast to Washington Avenue Southwest;

thence southeast on Washington Avenue Southwest to E Street Southeast;

thence west on E Street Southeast to the intersection of Washington Avenue Southwest and South Capitol Street;

thence northwest on Washington Avenue Southwest to Second Street Southwest;

thence south on Second Street Southwest to Virginia Avenue Southwest;

thence generally west on Virginia Avenue to Third Street Southwest;

thence north on Third Street Southwest to C Street Southwest;

thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;

thence west on Independence Avenue to Twelfth Street Southwest;

thence south on Twelfth Street Southwest to D Street Southwest;

thence west on D Street Southwest to Fourteenth Street Southwest;

thence south on Fourteenth Street Southwest to the middle of the Washington Channel;

thence generally south and east along the midchannel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;

thence due east to the side of the Washington Channel;

thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northernmost point of the Eleventh Street Bridge;

thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;

thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;

thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;

thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary; and

thence generally north and west up the Potomac River along the present Virginia-District of Columbia boundary to the point of beginning.

(c) TREATMENT OF CERTAIN PROPERTY.—

(1) STREETS AND SIDEWALKS BOUNDING AREA.—After the admission of the State into the Union, the District of Columbia shall be deemed to include any street (together with any sidewalk thereof) bounding the District of Columbia.

(2) EXCLUSION OF DISTRICT BUILDING.—Notwithstanding any other provision of this section, the District of Columbia shall not be considered to include the District Building after the admission of the State into the Union.

(3) INCLUSION OF CERTAIN MILITARY PROPERTY.—After the admission of the State into the Union, the District of Columbia shall be deemed to include Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory.

SEC. 113. CONTINUATION OF TITLE TO LANDS AND PROPERTY.

(a) CONTINUATION OF TITLE TO LANDS OF DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The State and its political subdivisions shall have and retain title or jurisdiction for purposes of administration and

maintenance to all property, real and personal, with respect to which title or jurisdiction for purposes of administration and maintenance is held by the territory of the District of Columbia on the day before the State is admitted into the Union.

(2) CONVEYANCE OF INTEREST IN CERTAIN BRIDGES AND TUNNELS.—On the day before the State is admitted into the Union, the District of Columbia shall convey to the United States any and all interest of the District of Columbia in any bridge or tunnel that will connect the Commonwealth of Virginia with the District of Columbia after the admission of the State into the Union.

(b) CONTINUATION OF FEDERAL TITLE TO PROPERTY IN STATE.—The United States shall have and retain title or jurisdiction for purposes of administration and maintenance to all property in the State with respect to which the United States holds title or jurisdiction on the day before the State is admitted into the Union, including the scenic easement taken by the Secretary of the Interior under section 205.

Subtitle C—General Provisions Relating to Laws of New Columbia

SEC. 121. LIMITATION ON AUTHORITY OF STATE TO TAX FEDERAL PROPERTY.

The State may not impose any taxes upon any lands or other property owned or acquired by the United States, except to the extent as Congress may permit.

SEC. 122. EFFECT OF ADMISSION OF STATE ON CURRENT LAWS.

(a) IN GENERAL.—The admission of the State into the Union shall not be construed to affect the applicability to the State of any laws in effect in the District of Columbia as of the date of admission, except as modified or changed by this Act or by the State Constitution.

(b) TREATMENT OF FEDERAL LAWS.—All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States, except as such laws may otherwise provide.

SEC. 123. CONTINUATION OF JUDICIAL PROCEEDINGS.

(a) PENDING PROCEEDINGS.—

(1) IN GENERAL.—No writ, action, indictment, cause, or proceeding pending in any court of the District of Columbia or in the United States District Court for the District of Columbia shall abate by reason of the admission of the State into the Union, but shall be transferred and shall proceed within such appropriate State courts as shall be established under the State Constitution, or shall continue in the United States District Court for the District of Columbia, as the nature of the case may require.

(2) SUCCESSION OF COURTS.—The appropriate courts of the State shall be the successors of the courts of the District of Columbia as to all cases arising within the limits embraced within the jurisdiction of such courts, with full power to proceed with such cases, and award mesne or final process therein, and all files, records, indictments, and proceedings relating to any such writ, action, indictment, cause, or proceeding shall be transferred to such appropriate State courts and shall be proceeded with therein in due course of law.

(b) UNFILED PROCEEDINGS BASED ON ACTIONS PRIOR TO ADMISSION.—All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of the State into the Union, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Columbia in like manner, to the same extent, and with like right of appellate review, as if the State had been admitted and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses.

(c) MAINTENANCE OF RIGHTS TO AND JURISDICTION OVER APPEALS.—

(1) CASES DECIDED PRIOR TO ADMISSION.—Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Columbia or the District of Columbia Court of Appeals in any case finally decided prior to the admission of the State into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union.

(2) CASES DECIDED AFTER ADMISSION.—Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Columbia and of the highest court of the State, as successor to the District of Columbia Court of Appeals, in any case pending at the time of admission of the State into the Union, and the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

(3) ISSUANCE OF SUBSEQUENT MANDATES.—Any mandate issued subsequent to the admission of the State shall be to the United States District Court for the District of Columbia or a court of the State, as appropriate.

(d) CONFORMING AMENDMENTS RELATING TO FEDERAL COURTS.—Effective upon the admission of the State into the Union—

(1) section 41 of title 28, United States Code, is amended in the second column by inserting ", New Columbia" after "District of Columbia"; and

(2) the first paragraph of section 88 of title 28, United States Code, is amended to read as follows:

"The District of Columbia and the State of New Columbia comprise one judicial district.".

SEC. 124. UNITED STATES NATIONALITY.

No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

TITLE II—RESPONSIBILITIES AND INTERESTS OF FEDERAL GOVERNMENT

SEC. 201. CONTINUATION OF REVISED DISTRICT OF COLUMBIA AS SEAT OF FEDERAL GOVERNMENT.

After the admission of the State into the Union, the seat of the Government of the United States shall be the District of Columbia as described in section 112 (also known as "Washington, D.C.").

SEC. 202. TREATMENT OF MILITARY LANDS.

(a) RESERVATION OF FEDERAL AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (b) and notwithstanding the admission of the State into the Union, authority is reserved in the United States for the exercise by Congress of the power of exclusive legislation in all cases whatsoever over such tracts or parcels of land located within the State that, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(2) LIMITATION ON AUTHORITY.—The power of exclusive legislation described in paragraph (1) shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes.

(b) AUTHORITY OF STATE.—

(1) IN GENERAL.—The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over military lands under subsection (a) shall not operate to prevent such lands from being a part of the State, or to prevent the State from exercising over or upon such lands, concurrently with the United States, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by Congress pursuant to such reservation of authority.

(2) SERVICE OF PROCESS.—The State shall have the right to serve civil or criminal process within such tracts or parcels of land in which the authority of the United States is reserved under subsection (a) in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

SEC. 203. PAYMENT TO STATE IN LIEU OF TAX.

In order to compensate the State for unavailable tax revenues and other effects on the revenues of the State resulting from the significant presence of the Federal Government within and nearby the State, the United States shall make a payment to the State for each fiscal year in such amount and under such schedule as Congress may determine (taking into account the recommendations of the Statehood Transition Commission under section 303).

SEC. 204. WAIVER OF CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) IN GENERAL.—As a compact with the United States, the State and its people disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or subject to disposition by the United States.

(b) EFFECT ON CLAIMS AGAINST UNITED STATES.—

(1) IN GENERAL.—Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) RULE OF CONSTRUCTION.—Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any claim referred to in paragraph (1), and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act.

SEC. 205. PRESERVATION OF SCENIC VISTAS.

(a) SCENIC EASEMENT.—The Secretary of the Interior shall take a scenic easement in the space above all lots within the State (in accordance with such terms and procedures as the Secretary of the Interior may establish, including terms and procedures relating to the payment of compensation towards the value of the easement taken), and such scenic easement shall be reserved by the United States. The scenic easement is described as follows:

(1) GENERAL RULE.—Except as otherwise provided in this subsection, the scenic easement shall be in all space above a lot beginning at a height equal to the sum of—

(A) the width of the street, avenue, or highway in front of the lot; and

(B) 20 feet.

(2) PROPERTY ON COMMERCIAL STREET.—With respect to a lot on a business street, avenue, or highway, the scenic easement shall be in all space above the lot beginning at a height equal to 130 feet above the sidewalk of the street, avenue, or highway (or, in the case of property on the north side of Pennsylvania Avenue between

1st and 15th Streets Northwest, beginning 160 feet above the sidewalk).

(3) PROPERTY ON RESIDENTIAL STREET.—With respect to a lot on a residential street, avenue, or highway, the scenic easement shall be in all space above the lot beginning—

(A) in the case of a lot on a street, avenue, or highway 60 feet wide or less, at a height equal to the width of the street, avenue, or highway;

(B) in the case of a lot on a street, avenue, or highway more than 60 feet but less than 65 feet wide, at a height equal to 60 feet; and

(C) in the case of a lot on any other street, avenue, or highway, at a height equal to the lower of—

(i) the width of the street, avenue, or highway reduced by 10 feet, or

(ii) 90 feet.

(4) TREATMENT OF SPACE OVER CHURCHES.—With respect to any lot on a residence street, avenue, or highway upon which a church is located (other than a church whose construction had not been undertaken prior to June 1, 1910), the scenic easement shall be in all space above the lot beginning at a height equal to 95 feet above the level of the adjacent curb.

(5) TREATMENT OF PLAZA OF UNION STATION.—With respect to any portion of any lot affronting or abutting the plaza in front of Union Station upon which a building is located (other than a building erected prior to June 1, 1910), the scenic easement shall be in all space above the lot beginning at a height equal to 80 feet above the plaza.

(b) EFFECT OF SCENIC EASEMENT.—

(1) NO PHYSICAL STRUCTURES PERMITTED.—Except as provided in paragraph (2), no person may encroach upon any space in which the United States has reserved a scenic easement pursuant to subsection (a) with a physical structure.

(2) PERMISSIBLE ENCROACHMENT BY CERTAIN STRUCTURES.—Notwithstanding paragraph (1), a person may encroach upon a space in which the United States has reserved a scenic easement pursuant to subsection (a) with any of the following:

(A) A physical structure in existence on the date on which the Secretary of the Interior takes the easement.

(B) A spire, tower, dome, minaret, or pinnacle serving as an architectural embellishment.

(C) A penthouse over an elevator shaft, ventilation shaft, chimney, smokestack, or fire sprinkler tank, but only if—

(i) the structure is not used for human occupancy; and

(ii) the structure is set back from the exterior walls of the building upon which it is located at a distance equal to its height above the building's roof.

(D) An antenna.

(E) Construction equipment.

(F) A flagpole.

(c) RULES FOR INTERPRETING HEIGHTS.—In determining the point at which a scenic easement in a lot begins for purposes of subsection (a), the following rules shall apply:

(1) Height shall be measured from the level of the sidewalk opposite the middle of the front of the lot.

(2) Any height otherwise determined under such subsection to be not greater than 60 feet may be increased by the distance between the highest point of any building located on the lot and the portion of any parapet wall or balustrade of the building that extends over such highest point, but in no case may any height be increased pursuant to this paragraph by more than 4 feet.

(3) If a lot (including a corner lot) fronts an intersection of 2 or more streets, avenues, or highways, a height shall be determined by using the width of the widest street, avenue, or highway involved.

(4) In the case of a lot on a street less than 90 feet wide on which building lines have been established, the width of the street shall be deemed to be the distance between the lines.

(d) AUTHORITY OF STATE TO DESIGNATE STREETS.—Nothing in this section shall be construed to affect the authority of the State to designate streets, avenues, or highways as commercial or residential.

(e) EFFECTIVE DATE.—The Secretary of the Interior shall take the scenic easement described in this section on the day before the State is admitted into the Union. The scenic easement shall be reserved by the United States on the date on which the State is admitted into the Union.

SEC. 206. PERMITTING INDIVIDUALS RESIDING IN NEW SEAT OF GOVERNMENT TO VOTE IN FEDERAL ELECTIONS IN STATE OF MOST RECENT DOMICILE.

(a) REQUIREMENT FOR STATES TO PERMIT INDIVIDUALS TO VOTE BY ABSENTEE BALLOT.—

(1) IN GENERAL.—Each State shall—

(A) permit absent District of Columbia voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office; and

(B) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent District of Columbia voter, if the application is received by the appropriate State election official not less than 30 days before the election.

(2) ABSENT DISTRICT OF COLUMBIA VOTER DEFINED.—In this section, the term "absent District of Columbia voter" means, with respect to a State—

(A) a person who resides in the District of Columbia after the admission of the State into the Union and is qualified to vote in the State, but only if the State is the last place in which the person was domiciled before residing in the District of Columbia; or

(B) a person who resides in the District of Columbia after the admission of the State into the Union and (but for such residence) would be qualified to vote in the State, but only if the State is the last place in which the person was domiciled before residing in the District of Columbia.

(3) STATE DEFINED.—In this section, the term "State" means each of the several States, including the State of New Columbia.

(b) RECOMMENDATIONS TO STATES TO MAXIMIZE ACCESS TO POLLS BY ABSENT DISTRICT OF COLUMBIA VOTERS.—To afford maximum access to the polls by absent District of Columbia voters, it is recommended that the States—

(1) waive registration requirements for absent District of Columbia voters who, by reason of residence in the District of Columbia, do not have an opportunity to register;

(2) expedite processing of balloting materials with respect to such individuals; and

(3) assure that absentee ballots are mailed to such individuals at the earliest opportunity.

(c) ENFORCEMENT.—The Attorney General may bring a civil action in appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this section.

(d) EFFECT ON CERTAIN OTHER LAWS.—The exercise of any right under this section shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

(e) EFFECTIVE DATE.—This section shall take effect upon the date of the admission of the State into the Union, and shall apply with respect to elections for Federal office taking place on or after such date.

SEC. 207. REPEAL OF LAW PROVIDING FOR PARTICIPATION OF DISTRICT OF COLUMBIA IN ELECTION OF PRESIDENT AND VICE-PRESIDENT.

(a) IN GENERAL.—Title 3, United States Code, is amended by striking section 21.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the date of the admission of the State into the Union, and shall apply to any election of the President and Vice-President of the United States taking place on or after such date.

SEC. 208. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) EXERCISE OF RULEMAKING AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such these provisions are deemed as part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution described in subsection (b), and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rule (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(b) EXPEDITED CONSIDERATION OF REPEAL OF 23RD AMENDMENT.—

(1) MOTION MADE IN ORDER.—At any time after the date of the enactment of this Act, it shall be in order in the Senate to offer a motion to proceed to the consideration of a joint resolution proposing an amendment to the Constitution of the United States repealing the 23rd article of amendment to the Constitution.

(2) PROCEDURES RELATING TO MOTION.—With respect to the motion described in paragraph (1), the following rules shall apply:

(A) The motion is highly privileged and is not debatable.

(B) An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) A motion to postpone shall be decided without debate.

TITLE III—GENERAL PROVISIONS

SEC. 301. GENERAL DEFINITIONS.

In this Act, the following definitions shall apply:

(1) The term "Commission" means the Statehood Transition Commission established under section 303.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Governor" means the Governor of the State of New Columbia.

(4) The term "Mayor" means the Mayor of the District of Columbia.

(5) The term "State Constitution" means the constitution of the State of New Columbia, as adopted by the Council of the District of Columbia in the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Law 7–8).

(6) The term "State" means the State of New Columbia.

SEC. 302. CERTIFICATION OF ENACTMENT BY PRESIDENT.

Not more than 60 days after the date of enactment of this Act, the President shall certify such enactment to the Mayor of the District of Columbia.

SEC. 303. STATEHOOD TRANSITION COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Statehood Transition Commission.

(b) COMPOSITION.—The Commission shall be composed of 17 members appointed as follows:

(1) 3 members appointed by the President.

(2) 2 members appointed by the Speaker of the House.

(3) 2 members appointed by the Minority Leader of the House of Representatives.

(4) 2 members appointed by the President Pro Tempore of the Senate.

(5) 2 members appointed by the Minority Leader of the Senate.

(6) 3 members appointed by the Mayor of the District of Columbia.

(7) 3 members appointed by the Council of the District of Columbia.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall advise the President, the Congress, the Mayor (or, upon the admission of the State into the Union, the Governor), and the Council (or, upon the admission of the State into the Union, the House of Delegates for the State of New Columbia) concerning necessary procedures to effect an orderly transition to statehood for the District of Columbia and other matters relating to the assumption of the property, functions, and activities of the District of Columbia by the State during the first 2 years of the State's existence.

(2) RECOMMENDATIONS REGARDING APPLICABILITY OF LAWS TO NEW SEAT OF GOVERNMENT.—In carrying out its duties under paragraph (1), the Commission shall analyze the laws of the United States that will apply to the District of Columbia after the admission of the State into the Union, and shall make recommendations to Congress regarding whether any of these laws should continue to apply to the District of Columbia after the admission of the State.

(3) RECOMMENDATIONS REGARDING ANNUAL PAYMENT IN LIEU OF TAX.—In addition to any of its other duties under paragraph (1), not later than 1 year after the date of the enactment of this Act, the Commission shall develop and recommend to Congress a methodology for determining the amount of and schedule for the annual payment to the State required under section 203, and shall base such methodology upon the methodologies used to determine the amount of other payments in lieu of taxes made by the United States to States and units of local government as compensation for the presence of Federal property which may not be taxed by such States and units of local government.

(4) RECOMMENDATIONS REGARDING LORTON CORRECTIONAL COMPLEX.—In addition to any of its other duties under paragraph (1), not later than 2 years after the date of the enactment of this Act, the Commission shall identify and recommend options to Congress, the Mayor of the District of Columbia (or, if the options are recommended after the admission of the State into the Union, the Governor of the State), and the Governor of Virginia regarding the incarceration of individuals convicted of crimes in the State, including options relating to—

(A) the construction of additional prison facilities within the State;

(B) agreements between the State and the Commonwealth of Virginia with respect to the Lorton Correctional Complex, or agreements with other jurisdictions under which such individuals may be incarcerated at facilities located in such other jurisdictions; and

(C) the development of a comprehensive plan for closing the Lorton Correctional Complex by 2010 and relocating inmates to other facilities.

(d) REPORTS.—The Commission shall submit such reports as the Commission considers appropriate or as may be requested.

(e) TERMINATION.—The Commission shall cease to exist 2 years after the date of the admission of the State into the Union.

The CHAIRMAN. No amendment to the substitute, as modified, and no other amendment to the bill is in order.

The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read a third time.

□ 1720

MOTION TO RECOMMIT OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BLILEY. Yes, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BLILEY moves to recommit the bill, H.R. 51, to the Committee on the District of Columbia.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 153, noes 277, not voting 4, as follows:

[Roll No. 595]

AYES—153

Abercrombie
Andrews (ME)
Andrews (NJ)
Bacchus (FL)
Barca
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Durbin
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Green
Gutierrez
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Inslee
Jacobs
Jefferson
Johnson, E. B.
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
Lantos
Levin
Lewis (GA)
Long
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
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Mink
Moakley
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Pickle
Rangel
Reynolds
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Slattery
Slaughter
Stark
Stokes
Studds
Swett
Swift
Synar
Tejeda
Thompson
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Woolsey
Wyden
Wynn
Yates

NOES—277

Ackerman
Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Boucher
Brewster
Brooks
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Clement
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Derrick
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (AZ)
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Mann
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers

Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Clinger
Hall (OH)
Kyl
Washington

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would remind visitors in the gallery that they are here as guests of the House and they should not approve or disapprove of what happens on the House floor.

□ 1724

Mr. BOEHLERT and Mr. KINGSTON changed their vote from "aye" to "no."

Mr. KENNEDY changed his vote from "no" to "aye."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3080

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that my name be removed as an original cosponsor of H.R. 3080. My name was inadvertently added to this list of cosponsors.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 268

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 268. It was inadvertently added.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

The SPEAKER. The pending business is the question of suspending the rules and passing the bill, H.R. 3548.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from Massachusetts [Mr. KENNEDY] that the House suspend the rules and pass the bill (H.R. 3548) to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the memorial, and the Women in Military Service for American Memorial, and for other purposes, on which the yeas and nays are ordered.

The vote as taken by electronic device, and there were—yeas 428, nays 0, not voting 5, as follows:

[Roll No. 596]

YEAS—428

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
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Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Clinger
Hall (OH)
Kyl
Sundquist
Washington

□ 1749

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1750

THOMAS JEFFERSON COMMEMORATION COMMISSION ACT

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1716) to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports.

The Clerk read as follows:

S. 1716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTS FROM THE COMMISSION.

Section 9 of the Thomas Jefferson Commemoration Commission Act (36 U.S.C. 149 note) is amended—

(1) in subsection (a), by striking "December 31, 1992" and inserting "March 15, 1994"; and

(2) in subsection (b), by striking "December 31, 1993" and inserting "December 31, 1994".

SEC. 2. AUDIT OF FINANCIAL TRANSACTIONS.

Section 10(b) of the Thomas Jefferson Commemoration Commission Act (36 U.S.C. 149 note) is amended—

(1) by striking "December 31, 1992" each place it appears and inserting "March 15, 1994";

(2) by striking "March 4, 1994" and inserting "March 3, 1995"; and

(3) by striking "1993" and inserting "1994".

The SPEAKER pro tempore (Mr. LAROCCO). Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include therein extraneous matter, on the Senate bill, S. 1716, now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

S. 1716 would extend the life of the Thomas Jefferson Commemoration Commission for 1 year, without authorizing any additional funds.

The Jefferson Commission was established by Congress in August 1992, to commemorate the 250th anniversary of the birth of the author of the Declaration of Independence through various national education programs, scholarships, and celebrations.

Unfortunately, the Commission was not fully appointed and operational until June 1993, due to the lateness of its enactment and the changing of administrations. Therefore, the work that it was authorized to perform cannot reasonably be accomplished by December 31, 1993, the date of termination under current law.

S. 1716 would extend the life of the Jefferson Commission until December 31, 1994. The bill does not contain any additional funding for the Commission's activities, either for fiscal year 1994 or the first quarter of fiscal year 1995.

I believe that we ought to give the Jefferson Commission time to carry out its work. The delayed appointment of Commissioners simply precluded the opportunity for any meaningful programs this year. But I know that the fine individuals who are serving on the Commission are eager to share the unsurpassed legacy of Thomas Jefferson with our Nation and the world.

The Commission has initiated several useful projects. They include:

A conference assessing Jefferson's contribution to the development of the American West;

An international symposium in Washington, DC, to increase knowledge of Jefferson worldwide;

An educational project aimed at expanding knowledge of Jefferson in our schools; and

A series of discussion for public radio or television.

All of these activities will add measurably to our understanding of the democratic ideals that have made our Nation what we are—and that can be applied to emerging nations around the world. At no cost to the taxpayer, we can afford to honor and recognize Thomas Jefferson into the 251st anniversary of his birth, instead of just the 250th.

Congressman L.F. PAYNE, in whose district the home of Thomas Jefferson is located, has worked hard to ensure a meaningful tribute to our third President. I urge my colleagues to support his efforts.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 1716. There was a counterpart here in the House, of course. This is a Senate bill, but I commend and thank the gentleman for bringing this up to us today.

As has already been explained by our chairman, this legislation does not have any money attached to it. In fact, it is the American way. It is somewhat helped by Federal contributions, but a large, significant amount of money has been raised by local contributions. And the significance of some of the programs it has already sponsored and paid for means a lot.

We have a lot of our ancestors and people who made our country great, Thomas Jefferson being one of the great ones. It is more than fitting that we do appropriately recognize the service and the contribution toward our life of a great many, including Thomas Jefferson.

I rise in support of this Commission.

Mr. Speaker, I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE], the sponsor of the House version of the legislation before us today.

Mr. PAYNE of Virginia. Mr. Speaker, I want to thank the gentleman from Ohio [Mr. SAWYER] for the work that he has done on this, and I also thank the ranking minority member, the gentleman from Indiana [Mr. MYERS] for the work that he has done on this legislation. I urge my colleagues to support this measure.

Mr. Speaker, I rise in strong support of S. 1716, a bill to extend the authorization of the Thomas Jefferson Commemoration Commission for an additional year. Mr. Speaker, although the original legislation authorizing this Commission was enacted on August 17, 1992, and was supported by a bipartisan majority of the Members of Congress, unforseen circumstances delayed the appointment of the Commission members until June 1993.

Since its appointment, the Commission has initiated several major projects. These include a conference assessing Jefferson's contribution to the development of the American West; an international symposium in Washington, DC similar to those recently held in Tokyo and Buenos Aires, intended to increase knowledge of Jefferson worldwide; an educational project aimed at expanding the knowledge of Jefferson in our schools; and a series of discussions for public radio and television.

It is quite clear that the work this Commission was authorized to perform cannot possibly be accomplished in the few weeks that remain of the original authorization.

I believe the projects designed by the Commission will provide an important contribution to the existing scholarly research on Jefferson and our democratic system of government. I also believe that the interest in this subject that has been generated by the yearlong celebration of the 250th anniversary of Thomas Jefferson's birth clearly justifies allowing this dialog to continue.

There is no Federal funding included in the bill; the work that will be done by the Commission during the additional year will be supported by private contributions. There is also no intention to request additional time after this extension is over; 1 year will be sufficient to allow the planned projects to be completed.

The Thomas Jefferson Commemoration Commission is a nonpartisan group of individuals linked by their interest in Jeffersonian scholarship and their dedication to expanding the knowledge of Jefferson's ideals to the next generation. I believe Congress should support them in this effort.

I urge my colleagues to support S. 1716.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Let me just pay parting tribute to the work of the gentleman from Virginia. He has undertaken the work that was begun by others and has sustained it through a time of critical importance to the work of the Commission. He is to be commended for his efforts in that regard.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the Senate bill, S. 1716.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

POVERTY DATA IMPROVEMENT ACT OF 1993

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1645) to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States, as amended.

The Clerk read as follows:

H.R. 1645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Poverty Data Improvement Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) more than $20,000,000,000 is provided to State and local governments each year, under various Federal programs, based on data relating to income and poverty status;

(2) the infrequency with which such data are collected diminishes their reliability and usefulness for public policy purposes;

(3) the relative lack of intercensal data can prevent Federal funds from reaching those populations that are in greatest need, as reflected in the dramatic and often unforeseen shifts in the way Federal funds are reallocated following each decennial census;

(4) the more frequent collection of data relating to income and poverty status would allow policymakers to target scarce program funds more effectively and in a more timely fashion; and

(5) the cost of producing the data needed to achieve the ends described in paragraph (4) would be small compared to the amounts that are distributed based on such data.

SEC. 3. REQUIREMENT.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 13, United States Code, is amended by inserting after section 181 the following:

"§ 181a. Data relating to poverty

"(a) The Secretary, to the extent feasible, shall produce and publish for each State, county, and local unit of general purpose government for which data are compiled in the most recent census of population taken under section 141(a), and for each school district, data relating to the incidence of poverty. Such data may be produced by means of sampling, estimation, or any other method that the Secretary determines will produce current, comprehensive, and reliable data.

"(b) Data under this section—

"(1) shall include—

"(A) for each school district, the number of children age 5 to 17, inclusive, in families below the poverty level; and

"(B) for each State and county referred to in subsection (a), the number of individuals age 65 or over below the poverty level; and

"(2) shall be published in 1996 and at least every second year thereafter.

"(c)(1) If reliable data could not otherwise be produced, the Secretary may, for purposes of subsection (b)(1)(A), aggregate school districts, but only to the extent necessary to achieve reliability.

"(2) Any data produced under this subsection shall be appropriately identified and shall be accompanied by a detailed explanation as to how and why aggregation was used (including the measures taken to minimize any such aggregation).

"(d) If the Secretary is unable to produce and publish the data required under this section for any State, county, local unit of general purpose government, or school district in any year specified in subsection (b)(2), a report shall be submitted by the Secretary to the President of the Senate and the Speaker of the House of Representatives, not later than 90 days before the commencement of the following year, enumerating each government or school district excluded and giving the reasons for the exclusion.

"(e) In carrying out this section, the Secretary shall use the same criteria relating to poverty as were used in compiling the then most recent census of population taken under section 141(a) (subject to such periodic adjustments as may be necessary to compensate for inflation and other similar factors).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 13, United States Code, is amended by inserting after the item relating to section 181 the following:

"181a. Data relating to poverty.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 1645, as amended, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1645 is the product of more than 1 year of research and consultation with a wide range of experts in the statistical and demographic communities.

I believe it will help Congress target more than $20 billion annually in Federal program funds to populations most in need. Among the programs that rely on poverty data either exclusively, or in combination with other population numbers, are chapter 1 of the Elementary and Secondary Education Act, the Job Training Partnership Act, community development block grants, and rural housing programs.

The bill would require the Census Bureau to produce and publish poverty data for States, counties, cities, and school districts, every 2 years.

Right now, we only get reliable poverty estimates below the national level from the decennial census once every 10 years. That means that by the time we're done using those data for policy and program purposes, they're some 13 or more years old.

For example, the 1980 census collected data on 1979 income. That data was used to distribute chapter 1 education funds through this past spring, when the 1990 census poverty estimates became available.

Yet, during the 1980's, the number of poor school-age children increased by as much as 67 percent in some States, and decreased by as much as 34 percent in others. And it is likely that the disparity within some States is even greater than that.

In this past year, we were distributing billions of program dollars based on 1979 economic conditions. That's simply unwise and unsound policy. We can't have any real confidence in programs administered on the basis of that kind of data.

When we first used 1990 census poverty data—reflecting 1989 income—this year, it was already 4 years old. Furthermore, income data from 1989 failed to capture the effects of the recession that hit the Eastern States in the spring of 1990.

This is a time rapid demographic change. What that means is this: Census data may look precise by virtue of its geographic detail. But it is not enough for the data to look precise. If the numbers are not timely, they are not accurate.

Change is a dominant demographic characteristic. The census occurs only once a decade. I think we are failing to measure what is most important—change itself.

The availability of more frequent, and therefore more accurate, measurements of poverty below the national level will greatly improve our ability to assess need and to target program dollars more effectively.

H.R. 1645 would require the publication of poverty numbers below the national level, every 2 years, beginning in 1996. The Census Bureau will have ample time to research and develop the methodology for an intercensal poverty estimates program.

The bill allows the Bureau to use appropriate methods, including sampling and estimation techniques, that will produce reliable and comprehensive data on poverty. It also allows the Bureau to aggregate less populous school districts, in order to develop accurate data for those areas.

It is important to give the Bureau this scientific flexibility. Producing demographic information between censuses for small geographic areas is not easy. We may not get separate figures for every community in the country. But we will get data that covers virtually all of the population, and that is far more accurate because it will be timely.

To its credit, the Census Bureau began developing a methodology last year to produce more frequent poverty numbers. The estimated annual cost of such a project is between $1 and $1.2 million.

Adding a requirement for data on the number of poor school-age children by school district has increased the cost of this program somewhat from its early estimates—but the difference is insignificant compared to the program dollars at stake. Unfortunately, school district boundaries often do not conform to governmental jurisdictions such as counties or cities. For that reason, it is more difficult to develop data by school district. Let me add: The bill also includes a requirement for data on older Americans living in poverty. Although, this added a modest amount to the original cost estimate the usefulness of the data is self-evident. Clearly this small expenditure will begin in saving dollars immediately. For example, plotting and updating school district boundaries in the Census Bureau's automated geographic mapping system will save both time and money following the next census. For the 1990 census, it cost several million dollars to develop accurate district maps that could be used to produce poverty data for those areas.

Mr. Speaker, H.R. 1645 addresses one important element of a growing debate about the accuracy of data we use for Federal program purposes. That element is the question of timeliness.

The bill does not address broader—and very legitimate—concerns about the definition of poverty in the United States.

Today, we are measuring poverty using definitions that were developed nearly 30 years ago by Mollie Orshansky, an employee of the Department of Health, Education and Welfare. Working closely with then-assistant Secretary of Labor DANIEL PATRICK MOYNIHAN.

Fortunately, the Committee on National Statistics of the National Academy of Sciences is conducting a comprehensive review of the definition of poverty. That study includes a review of consumption patterns, differences in cost of living across geography, and the effect of non-cash benefits of living standards the Academy's findings and recommendations are due next summer.

I hope that other interested committees will join the Subcommittee on Census, Statistics and Postal Personnel in thoroughly reviewing the Academy's report and identifying appropriate ways to measure what it means to be poor in today's society.

Finally, Mr. Speaker, I want to acknowledge the valuable work of Congressman TOM PETRI, who helped make the development of this legislation a truly bipartisan effort.

My thanks also to the chairman and ranking minority member of the Committee on Post Office and Civil Service—Congressman BILL CLAY and Congressman JOHN MYERS—whose support made it possible to move this bill quickly.

□ 1800

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, I commend the gentleman from Ohio [Mr. SAWYER], our chairman, and my colleague, the gentleman from Wisconsin [Mr. Petri] for the hard work they have put forth in bringing this legislation to the floor today.

As our chairman has explained here, a great many programs that we authorized and appropriated here depend upon data from the Census Bureau, including poverty figures. Particularly this year, when earlier in the year we had a conflict, there was a lot of disagreement about whether census figures were accurate, whether they properly reflect, because so many funds did come back to communities because of those figures, and there was criticism that the Census Bureau had not done a good job. This was directed to hopefully, in the future, make sure that does not happen.

Mr. Speaker, we had hearings, both in the subcommittee and in the full committee, to find out if there really was a disagreement. We knew there was disagreement, but was there reason to have disparity in the figures presented by the Census Bureau? This legislation is necessary to correct that problem.

Mr. Speaker, I commend everyone who worked on this program, and I hope all Members will vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in strong support of H.R. 1645, the Poverty Data Improvement Act and I commend Congressman SAWYER for his efforts in drafting this legislation and bringing it before the House today.

I have spent a great deal of time working on this issue during my short time here in Washington and I believe that this bill will go a long way in addressing the problems we experience after each 10-year census. Currently, the census results in massive shifts of funding due to the changing demographics of our country and causes a great deal of contention in this body due to regional shifts in population.

By collecting poverty statistics every 2 years we can lessen the impact of population shifts which will help our State and local governments plan more effectively and will allocate Federal funds based far more accurately on the true needs of States.

The Federal Government currently distributes over $60 billion per year based on poverty figures from each 10-year census. The chapter 1 education program represents a good example of how this practice can result in funding disparities. In Texas, over the last 10-year, we have gained a larger percentage of the national average for children living in poverty, yet due to the 10-year update cycle, we did not receive an increase in funding until this year. This delay resulted in thousands of children being underserved in a program that is designed for early intervention.

The current 10-year cycle of updates hurts high growth States such as Texas and strains the ability of State governments to meet growing needs. This past March, I introduced H.R. 1453, the Equal Education Funding Act which incorporated more frequent updates in poverty figures as a means to increase the equal funding of Federal education funds. This is an idea whose time has come and I am pleased that it is before the House today.

I urge my colleagues to vote in favor of this bill as a matter of basic fairness. This bill will allow our Government to do a better job and will be of immediate benefit to States struggling with high population growth and increased demand for social services. There are those who argue that these estimates might not be precise but I would like my colleagues to know that they will be far better than what we have today.

Mr. SAWYER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. LAROCCO). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 1645, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

SENSE OF THE HOUSE THAT THE ATTORNEY GENERAL AND THE FBI SHOULD COOPERATE TO DISSEMINATE INFORMATION REGARDING KIDNAPING OF POLLY KLAAS

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 285) expressing the sense of the House of Representatives that the Attorney General and the Director of the Federal Bureau of Investigation should cooperate with the U.S. Postal Service and the Polly Klaas Search Center to disseminate information regarding the kidnaping of Polly Klaas.

The Clerk read as follows:

H. RES. 285

Whereas Polly Klaas was abducted at knifepoint by a stranger who entered in her home in Petaluma, California, late at night on October 1, 1993, while her mother was sleeping in the adjacent room;

Whereas hundreds of generous volunteers have donated their time, energy, and funds to the search for Polly by establishing the Polly Klaas Search Center, which has distributed over 7,000,000 flyers with pictures of Polly and her suspected abductor nationwide;

Whereas the Federal Bureau of Investigation and the Petaluma Police Department have also dedicated substantial resources and worked tirelessly on the search for Polly;

Whereas despite the continuing work of the community and law enforcement agencies, efforts to locate Polly have not yet succeeded;

Whereas abducted children are often recovered as a direct result of photographs that are distributed nationwide;

Whereas the United States Postal Service is not permitted to offer free postage for mailings concerning kidnapped children; and

Where the Polly Klaas Search Center is currently facing severe financial difficulties due to the high cost of postage: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Attorney General and the Director of the Federal Bureau of Investigation should cooperate with the United States Postal Service and the Polly Klaas Search Center to use nationwide mailings to disseminate as quickly as possible information concerning the kidnapping of Polly Klaas.

SEC. 2. The community of Petaluma, California, the Petaluma Police Department, and the Federal Bureau of Investigation are commended for their hard work on the Polly Klaas kidnapping case.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution expresses the sense of this House that the Attorney General and U.S. Postal Service cooperate to the fullest extent to disseminate information on the kidnaping of Polly Klaas.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. WOOLSEY], the author of this measure, to explain it in the detail that only she can bring to this discussion.

Ms. WOOLSEY. Mr. Speaker, it is crucial that the House of Representatives pass House Resolution 285 today because this could mean the difference in the search for a missing child named Polly Klaas.

Mr. Speaker, I would like to express my gratitude to my colleagues who worked with me to bring this resolution to the floor. I offer my sincere thanks to Chairman CLAY and Congressman MYERS of the Post Office and Civil Service Committee, as well as to Representative SAWYER and the rest of the committee. I would also like to thank Chairman BROOKS of the Judiciary Committee, Representative FISH, and, my good friend, Chairman EDWARDS. Without the efforts and consideration of the chairs and ranking minority members of both committees, Polly and her family would not be able to receive the help provided by this resolution that they so desperately need.

As many people throughout the Nation already know, 12-year-old Polly Klaas was kidnaped at knifepoint from her home in Petaluma, CA, the night of October 1, 1993, while her mother slept in a nearby room. Since the night of Polly's disappearance, her family, the Petaluma Police Department, the FBI, and hundreds of volunteers have been working nonstop to find Polly. Despite their tireless efforts, Polly Klaas has not yet been found.

Mr. Speaker, this tragedy has grabbed the attention of the national media. Stories about Polly have appeared on "America's Most Wanted," "CBS This Morning," and CNN, as well as, in the Washington Post, the New York Times, and People magazine. It is clear that this real life nightmare has sent shock waves through America.

Mr. Speaker, this case is important not only to the Klaas family, but to every family in this Nation. Parents in communities across the country are wondering if it's possible that their children could be stolen from them by a stranger. America's families are frightened, and they are looking to us to do everything in our power to find Polly, and prevent this incident from happening in the future.

Mr. Speaker, we cannot sit idly by and watch our Nation's families be consumed by fear. We must act, and we must act now.

House Resolution 285 urges the Attorney General and the Director of the FBI to coordinate with the U.S. Postal Service to disseminate information nationwide about the abduction of Polly Klaas. The widespread distribution of Polly's picture and the sketch of her suspected abductor could mean the difference in the search for Polly, because kidnaped children oftentimes are recovered as a direct result of the circulation of photographs. With additional information disseminated nationwide, someone may recognize Polly from her picture, and be able to provide the information that leads to her safe return.

This resolution also commends the numerous volunteers for all their hard work to help locate Polly. Practically overnight, the people of Petaluma transformed an empty storefront into a sophisticated search operation. Hundreds of generous volunteers have donated their time, energy, and money to find Polly. As a result of their kind donations, over 7 million flyers with Polly's picture, and the picture of her suspected abductor, have been distributed around the country.

The major problem the Klaas family has encountered as they work to find Polly is the high cost of postage. The U.S. Postal Service is prohibited by law from offering free postage, except to military personnel in times of war. Well, Mr. Chairman, I believe that this is a war—a war against our children, and one that we cannot afford to lose.

Polly's parents, Eve Nichol and Mark Klaas, told me that they believe this resolution is important to their battle to bring Polly home. Mark and Eve have sent a letter to all the Members of Congress asking them to support this resolution for the sake of their daughter. I would like to read part of their letter.

> From the moment the town heard about this unspeakable horror, they mounted an unprecedented volunteer effort. A Polly Klaas Center was set up, and thousands of people from all over have joined the effort to search for her and distribute fliers throughout the country. Local companies have donated $1 million worth of paper, printing, and supplies. But to date, we have spent in excess of $200,000 for stamps, and we continue to spend thousands more each day, just for postage * * * Our ultimate goal is that families in this situation in the future won't have to lose precious time raising funds for postage * * * Today we ask you to help in our effort to find Polly now. Please help us.

Mr. Speaker, I urge my colleagues to show American families that we, in the House of Representatives, won't let their concerns go unnoticed. By passing this important resolution we show that the Federal Government can, and will, mobilize and do its part to help a family, and an entire community, fight back against one of the most hurtful and tragic crimes imaginable—the kidnaping of a young child.

In closing, again, I would like to thank my colleagues and distinguished leaders of the House, Chairman CLAY, Chairman BROOKS, and Chairman EDWARDS, for their commendable efforts. I am very grateful for their willingness to provide vital help in an urgent situation. Finally, I would like to thank the nearly 100 Members who supported the resolution as cosponsors.

Mr. Speaker, by passing House Resolution 285, the House of Representatives will have helped to bring Polly home.

Mr. SAWYER. Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to commend and thank the gentlewoman from California [Ms. WOOLSEY] for introducing this legislation. In fact, several weeks ago I received a call from my cousin in California, living, I think, in the gentlewoman's district, Tim Rebert, who was familiar with the Klass family. He told me about the seriousness and about what happened here. We also read about it. Most of us are parents, many of us are grandparents, and even some are great-grandparents. It comes much closer when we think of a child like this, an innocent child being abducted, sleeping in her room and then to have someone come into the house like this.

I can recall as a child the Lindbergh case. It became so violent at that time, the kidnapping, that we made it a Federal offense, so what is happening in this country today, abducting children, terrorism, we have to look at it on a national basis, using all of the efforts here to give assistance to the local police and local authorities to do their job. That is exactly what we should be doing.

Of course, it is not going to cost any money, we have been sure of that, but at least we are going to give all the efforts of the Attorney General, the Post Office, and anyone else who can give any aid to finding the person responsible for this terrible crime.

□ 1810

So, I commend them and the gentlewoman from California [Ms. WOOLSEY, for bringing this legislation to the floor and hope it will be successful.

Mr. Speaker, I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is clear that this kidnaping has affected the entire community at Petaluma, CA, and the hundreds and hundreds of citizens who have volunteered their precious time to help find this child. The gentlewoman from California [Ms. WOOLSEY] has done great service in calling on our Government to cooperate with these volunteers to assist to the fullest extent legally permissible. But she has done more than that. She has brought hope to the many parents across this Nation who have lost children in similar ways, who struggle with the heartache of not knowing, and in some cases the heartbreak of knowing a tragic truth.

In that sense she speaks for all parents who are grateful never to have had to endure this, and all who have.

I would urge my colleagues to join with the gentlewoman from California and support this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and agree to the resolution, (H. Res. 285).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS WITH RESPECT TO SITUATION IN SUDAN

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 131) expressing the sense of the Congress with respect to the situation in Sudan, as amended.

The Clerk read as follows:

H. CON. RES. 131

Whereas the war-induced famine in southern Sudan is threatening the lives of an estimated 4,000,000 people, and an estimated 80 percent of children in some areas of southern Sudan are reportedly malnourished;

Whereas the civil war between the Government of Sudan and the factions of the Sudanese People's Liberation Army, as well as fighting within the Sudanese People's Liberation Army, have resulted in the displacement of millions of civilians;

Whereas the United States Government provided over $85,000,000 in humanitarian assistance to Sudan in fiscal year 1993;

Whereas access for humanitarian relief organizations has been inconsistent and subject to the military and political objectives of the Government of Sudan and Sudanese People's Liberation Army factions;

Whereas a human rights group reported in early 1993 that the Government of Sudan is engaged in a program of military action which appears to amount to "ethnic cleansing" in the Nuba Mountains and that it continues to torture political prisoners;

Whereas an estimated 500 unarmed civilians were reportedly executed by security forces on suspicion that they had collaborated with the Sudanese People's Liberation Army after its incursions into Juba in June and July of 1992;

Whereas the Government of Sudan executed Andrew Tombe and Baudoin Talley (foreign national employees of the United States Government) and Mark Laboke Jenner (an employee of the European Community) in Juba in mid-August 1992;

Whereas all factions of the Sudanese People's Liberation Army also are reportedly responsible for serious abuses of human rights, including the killing in September 1992 of 4 foreign citizens, the killing of 87 civilians by the Nasir faction of the Sudanese People's Liberation Army in January 1992 in Pagarau, and the killing of 200 "deserters" by the Torit group near Tonj in Bahr al-Ghazal;

Whereas the government of General Omar Hassan al-Bashir, which came to power by overthrowing the democratically elected civilian government on June 30, 1989, formed a 15-member Revolutionary Command Council, abolished the constitution, the National Assembly, political parties, and trade unions, and declared a state of emergency;

Whereas the political, religious, and military policies of the Bashir government have heightened political and religious tensions in the country;

Whereas the government in Khartoum has become a threat to regional stability in part because of its reported activities in neighboring countries and its relations with known terrorist and political extremist groups;

Whereas the conflict in southern Sudan, which has dragged on for over 3 decades, is the result of decades of political, religious, and economic discrimination against the people of southern Sudan by successive governments in the north;

Whereas the people of southern Sudan have not exercised their political rights freely, except for a brief period after the Addis Ababa agreement, and the lack of serious efforts by successive governments in Khartoum has resulted in deep mistrust;

Whereas the 1991 division of the Sudanese People's Liberation Army into factions has resulted in untold suffering for the people of southern Sudan;

Whereas the Government of Sudan continues its indiscriminate aerial bombardment of civilians in southern Sudan;

Whereas the factions of the Sudanese People's Liberation Army agreed on an 8 point peace plan, including an immediate cessation of hostilities, at a peace conference in Washington in October 1993; and

Whereas the resolution of the conflict in southern Sudan will not guarantee respect for human rights and political freedom in other regions of the country: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) strongly condemns the Government of Sudan for its severe human rights abuses, and calls upon that government to improve human rights conditions throughout the country;

(2) deplores the internecine fighting among the Sudanese People's Liberation Army factions which has caused untold suffering for the people of southern Sudan;

(3) calls on the Government of Sudan and all factions of the Sudanese People's Liberation Army to cease hostilities and resolve their differences through peaceful means;

(4) urges the Government of Sudan and all factions of the Sudanese People's Liberation Army to provide full access for and to cooperate with relief organizations;

(5) encourages the Government of Sudan to hand over political power to an elected civilian government as soon as possible;

(6) urges the Government of Sudan to lift the press ban which was imposed after it took power in June 1989;

(7) recognizes the right of the people of southern Sudan to self-determination;

(8) urges the Government of Sudan and all factions of the Sudanese People's Liberation Army to allow free access to human rights organizations;

(9) commends the Clinton Administration for placing Sudan on the list of states having a government that has repeatedly provided support for acts of international terrorism;

(10) commends the Government of Kenya, the Government of Nigeria, the Government of Uganda, and the Organization of African Unity for their mediation efforts;

(11) calls upon the President—

(A) to appoint a special representative for mediation, reconciliation, and peace in Sudan;

(B) to increase the level of humanitarian assistance for Sudan that is provided through nongovernmental organizations, including local church groups; and

(C) to explore other means necessary to force the Government of Sudan to halt its war policies should the humanitarian conditions further deteriorate and the Government of Sudan continue to impede relief efforts; and

(12) further calls upon the President—

(A) to urge the United Nations to exert all efforts to bring an early end to the conflict in Sudan;

(B) to urge that the situation in Sudan be brought to the attention of the United Nations Security Council; and

(C) to urge the United Nations Security Council—

(i) to consider the creation of demilitarized zones for war and famine victims in southern Sudan that would be off limits to all warring factions;

(ii) to consider the creation of safe havens for war and famine victims should the warring factions reject the creation of demilitarized zones;

(iii) to facilitate safe passage for war and famine victims to and from conflict zones; and

(iv) to impose an arms embargo on Sudan.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 131, as amended, expresses the concern of the Congress with one of the great unpublicized tragedies of our time—the brutal civil war and famine in southern Sudan.

Four million people are directly at risk in southern Sudan.

This resolution condemns the Government of Sudan for its severe abuse of human rights.

It applauds the recent decision by the Clinton administration to place the Sudan Government on the list of regimes supporting international terrorism.

The resolution calls upon the factions of the Sudanese Peoples Liberation Army to resolve their differences through peaceful means.

It urges a more active United States policy both to address humanitarian issues in Sudan and to resolve that country's political conflicts.

I also would note that this resolution comes to the floor with strong bipartisan support. And I would like to thank Chairman GONZALEZ and the ranking member, Mr. LEACH, of the Committee on Banking, Finance, and Urban Affairs for their willingness to waive the Banking Committee's consideration of House Concurrent Resolution 131, without prejudice to its jurisdiction.

I strongly urge Members to support this resolution, as amended.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, for some months now, along with a number of our colleagues, I have been trying to call attention to the disaster taking place in southern Sudan. This resolution focuses public and international attention on the plight of the people there.

By its abuses, acts of violence, and efforts to create a famine in the south, the Khartoum government has made itself a pariah in the eyes of the international community.

Some 4 million people in the region are estimated to be at risk. They face death by starvation and daily acts of violence by the Khartoum regime.

It is long past time for that government to stop this reign of terror against its own people.

Relief and human rights organizations should be granted free access to southern Sudan, and the people there should have the opportunity to decide their own fate and form of government.

The administration and, in particular, those United States officials on the ground in the Sudan, have labored to send this message to the Khartoum regime while sending out signals of hope to the people of southern Sudan.

This resolution is intended to remind Khartoum, the southern Sudanese, and the international community just where the United States stands.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida [Mr. JOHNSTON], chairman of the Subcommittee on Africa.

Mr. JOHNSTON of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 131 concerning the situation in Sudan.

Mr. Speaker, an entire generation of southern Sudanese is dying in one of the world's most neglected civil wars. Children and women, trapped by a bloody civil war and famine, are dying by the hundreds each day in part because of the indifference of the international community. Mr. Speaker, more people have died in southern Sudan over the past 2 years than in Somalia and the former Yugoslavia combined. Yet one rarely finds an article in our major newspapers about the suffering in southern Sudan.

The combined effects of war and famine have been devastating, and there seems to be no end in sight. The radical National Islamic Front Government in Khartoum continues its indiscriminate aerial bombardment of famine victims in the south. Khartoum's naked aggression against the civilian population has in recent months forced over 50,000 southern Sudanese to refugee camps in Uganda. Unfortunately, the Government of Sudan has rejected all calls to end this war and engage in a constructive dialog with opposition forces in the south.

Mr. Speaker, the suffering in Sudan is compounded by factional fighting in the south which has resulted in the death of thousands of civilians. In an effort to address the southern conflict, the Subcommittee on Africa, with the assistance of the Africa Bureau of the State Department, brought the two warring factions of the Sudan People's Liberation Army [SPLA] to Washington last month.

The leaders of the factions, who met for the first time in over 2 years, surprisingly agreed on a wide range of issues, including an immediate cessation of hostilities and international monitoring of the ceasefire. They also agreed to a follow-up meeting in Nairobi, a meeting which will build on the agreement reached in Washington. Most importantly, Mr. Speaker, soon after the agreement, the parties did in fact implement a ceasefire which is still in effect.

But this is just the first step. The peace process in Sudan will be difficult and is still far from resolution. Unfortunately, even if reconciliation is achieved among the southern factions, the north-south conflict is yet to be tackled. The radical National Islamic Front Government in Khartoum remains intransigent and continues its policies of aggression against much of the Sudanese population.

The people of Sudan deserve better. This resolution will send a very strong signal of support of the suffering people of Sudan.

In summary, Mr. Speaker:

House Concurrent Resolution 131 condemns the Government of Sudan and all factions of the SPLA for their human rights abuses and calls on all sides to improve human rights conditions. The resolution calls on the Government of Sudan and all factions of the SPLA to resolve these differences through peaceful means and urges all parties to provide full access for and to cooperate with relief organizations.

House Concurrent Resolution 131 calls on the President to appoint a special envoy for peace, mediation, and reconciliation and urges continued American humanitarian support for war and famine victims.

The resolution commends the Clinton administration for placing Sudan on the list of states that sponsor terrorism.

Mr. Speaker, what we do here today could have a significant impact on the situation on the ground. This resolution could save thousands of lives. I strongly urge all my colleagues to support this resolution.

☐ 1820

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS], a senior member of our Committee on Foreign Affairs.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of House Concurrent Resolution 131. The situation in Sudan is one of the greatest humanitarian nightmares in the world. The Four Horsemen of the Apocalypse are riding through that shattered country daily.

The civil war between the Sudanese Peoples Liberation Army and the Government of Sudan has been one of the most savage in history. The country is divided between the Arab, Moslem north, and the African, Christian south. The Moslem military government is attempting to impose sharia, Islamic religious law over the entire country, including the large proportion of non-Moslem people.

One of the most oppressed sections of Sudanese society is women. Over 90 percent of northern Sudanese women have been subjected to genital mutilation. It is usually performed on girls between the ages 4 and 7. The operation is done in unsanitary conditions with severe pain and trauma to the child. The resulting infections lead to lifetime afflictions and often death. Things are so bad for women in that country that it would be an advance if they were to attain second-class status.

The primary differences in the human conditions between Sudan and Somalia are that the violence is more organized, and that the international media and humanitarian groups are prevented by the Khartoum government from entering the country and documenting the horror to the world.

This resolution must be passed to increase the awareness of the world to this tragic situation.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], another distinguished member of our Committee on Foreign Affairs.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there has been a real tragedy going on in the Sudan for some time. The world has seen the problems in Somalia, they have seen the horrible problems that took place in Ethiopia during the great famine there, and the repression of the Mengistu regime, we have seen the problems in Bosnia, but there are certain parts of the world where the American people do not know what is going on. Kashmir and Punjab in northwestern India is one of those areas, because we cannot get television cameras in, International Red Cross or humanitarian groups in there, and another area that is just despicable what is going on is in the Sudan.

Hundreds of thousands of people are in danger of being killed or dying of starvation as we speak. Children like we have seen on television in Somalia and Ethiopia, their bellies are bloated, are dying daily, and the Sudanese Government is using their military power to strafe from the air innocent women and children. There is no cover. There is no protection for them. So they are dying from starvation. They are dying from exposure. And they are dying from attacks. They have no way to defend themselves.

The gentleman from Virginia [Mr. WOLF] has gone to the Sudan many times. My colleague has taken it upon himself to bring to the attention of this body these horrible atrocities taking place, and he is to be commended for that.

All of us ought to do everything in our power to put pressure on the Sudanese Government to change its policies. For God's sake, we ought to do that.

Mr. Speaker, this resolution is a step in that direction. It leaves open what we, as a nation, might do to try to rectify this situation, and during the committee hearings some people said, "Does that mean sending troops to the Sudan? Does that mean getting involved militarily?" And my answer to that is that we should let the Sudanese Government think about that, think about what the rest of the world might or might not do to deal with that horrible tragedy that is taking place because of their actions.

I say that this resolution is a good resolution. It is one that I hope the entire Congress will embrace unanimously, and it is one that I hope the media will take a look at, and I hope the message will go across the world loudly and clearly to the Sudanese Government that these atrocities must stop. We want human rights. We want democracy. We want these people over there to live at least a decent life without fear of being killed in their beds or killed on the plains of Sudan by a repressive government.

So I would like to thank my colleague, the gentleman from New York [Mr. GILMAN], for yielding me this time, and I would like to say to my colleagues here that there should not be one dissenting vote on this.

The Sudanese Embassy and the Sudanese Government, I hope they are listening tonight, and I hope they are paying attention, because the world now knows what you are doing.

Although we are very late in the session, it is fitting that we are making this legislation a priority. I would like to express my appreciation to our colleagues from both sides of the aisle who worked so hard to bring this resolution to the floor.

I want to once again pay special tribute in this regard to the gentleman from Virginia [FRANK WOLF] whose dedication and commitment to saving lives in Sudan, and elsewhere, are truly an inspiration to all of us.

Mr. Speaker, the tragedy of Sudan is perhaps the single worst humanitarian disaster in the world today. Over the past 10 years, over 1 million people have died as a result of civil war and the atrocities committed by the Sudanese Government. The rebel groups in the south have also committed atrocities.

Mr. Speaker, this carnage must stop.

It will not stop if we continue to stand by and watch. Our Bible commands us very clearly: "thou shalt not stand idly by over the blood of thy brother."

This resolution has the potential of saving lives. It says very clearly to the dictatorship in Khartoum that we will not ignore the murder and torture they commit daily.

This resolution tells Khartoum, in a strong, bipartisan fashion, that we are keeping a close watch on their activities, and we reserve the right to respond accordingly.

It calls much needed attention to the atrocities being committed against the people of southern Sudan, and in reality, in all of Sudan.

I urge unanimous support for this extremely urgent legislation.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. WOLF], who has played such a significant role in bringing this issue to the attention of the entire Congress.

Mr. WOLF. Mr. Speaker, I rise in strong support of House Concurrent Resolution 131. I am very grateful to Chairman JOHNSTON and the Africa Subcommittee for moving this crucial legislation forward and—for the first time—placing the House on record as clearly stating to the international community that the United States can no longer stand idly by as whole generations of Sudanese are wiped away in one of the most tragic situations in any nation today.

I have deeply appreciated the subcommittee's emphasis on Sudan through the October conference sponsored in coordination with the United States Peace Institute. And I applaud Mr. JOHNSTON's recent negotiations with rebel leaders toward a cease-fire between warring factions in southern Sudan—a crucial break for the flow of aid to the south and a necessary first-step toward peace.

The conference was called Sudan: The Forgotten Tragedy, but even this title does not capture the true nature of our long silence and inaction on Sudan. Like Pharoah, the world has deadened its ears and hardened its heart against the cries of a suffering people. Incredibly, until only recently we seem to have ignored the lessons of the 20th century: that crimes against humanity stop only when we address them, and not when we ignore them.

This resolution is an encouraging sign that we as a Congress will no longer ignore the mounting evidence of genocide and ethnic cleansing in Sudan. Doctors Without Borders, a medical relief organization, just issued an important report stating that:

> The people of Sudan are suffering one of the gravest and most enduring human crises in the world—the result of a ruthless dictatorship that violates every human right in the book, and the international community's lack of interest and political resolve.

Mr. Speaker, I have gone there three times. I even viewed the results of the high-altitude bombing of the Government during my stay in southern Sudan in February when I saw conditions much worse than I encountered in my first two trips. I flew into the south with the Norwegian People's Aid organization, one of only two relief organizations still operating at that time in southern Sudan shortly after the murder of four relief workers. I visited two of three main refugee camps located close to the road bisecting Sudan on which hundreds of thousands of refugees make their way southward, driven by the relentless and unforgiving Sudanese Army. People are without food, without medicine, without clothing, and, worst of all, without hope. These are the people who would surely perish without the bare subsistence provided by the Norwegian People's Aid and Catholic Relief Services.

In these camps, I listened to the people. I heard Rebekka, a woman from the Dinka Tribe who was angry and upset. She had lost her husband and three children. She told me three things which were echoed again and again throughout the region.

First, she said that the world is silent to the suffering in southern Sudan because, she thought, the victims are black. The reluctance to act, in her view and others, was a matter of race discrimination that would not be tolerated in any other part of the globe. The second point is, she felt, that they were being persecuted, starved, bombed, and killed because they were Christians. The last point on which there is near universal agreement by the southern Sudanese refugees is that humanitarian groups such as World Vision and others, which do a wonderful job, should return to help with their lifegiving assistance.

I also met with representatives of the SPLA, the Sudan Relief and Rehabilitation Association [SRRA], with Catholic priests, local officials, and a number of old hands in Sudan. I visited several hospitals, including one exclusively for those with tuberculosis. I saw first hand recent damage in the town of Kajo Kefi on the western bank of the Nile where the Government's bombers attacked the crowded town market square, killing and injuring many in this city with no military significance. I visited what was termed a hospital, but what was in reality a filthy place where the injured were gathered. One woman, injured in the air raid, had shrapnel still in her head. She had no hope and little chance for tomorrow. When it seemed conditions were as bad as they could be in the late 1980's, they got worse.

But I want to highlight the most defenseless victims, yet most affected innocents of this war: the children. Children are not responsible for this war; they do not understand religious intolerance or ethnic hatred. They are simply caught in the crossfire of civil war and the toll on them is unbelievable. In the feeding camps I visited, children—too weak to walk—huddled next to their mothers, starving to death and falling victim to fatal diseases. Not only will these children never attend school; never learning to read or to write, but they will never have a chance to dream and hope.

Basketball player Manute Bol, who has consistently worked on behalf of his people, tells of the tens of thousands of orphaned children in southern Sudan who roam from refugee camp to camp, many so weakened that they die along the way and are left to be eaten by wild animals.

The fate of those children who flee Sudan is no better. It is estimated that about 11,000 children, most orphaned, are now living as refugees in Kenya. Many walk up to 900 miles to reach refugee camps. Many then vanish and are believed to be recruited to fight in the civil war with the opposition Sudanese People's Liberation Army.

For those who do not die of starvation or who are not killed in the civil war, the future remains equally bleak. Traditional occupations are no longer readily available; there are no livestock to herd and no crops to cultivate. A decade of civil war and famine continues to wipe out whole generations of Sudanese.

In human terms, this tragedy is a larger crisis than we have seen in either Ethiopia or Somalia. During the height of the Ethiopian famine, 500,000 people died. In Sudan, conservative estimates report 2.5 million are now in need of disaster relief, 1.5 million in the south, with 1.3 million having died during the course of the decade-long war.

But sadly, the starvation is not the only commonplace threat to the southern Sudanese. They also face three unique dangers that make their everyday life even more frightening: slavery, religious persecution, and terrorism.

The first is present-day slavery in Sudan. Last spring I released a declassified report from the United States Embassy in Khartoum detailing the atrocity of slave trade in Sudan where "some women and girls are kept as wives; the others are shipped north where they perform forced labor, or are exported, notably to Libya." A recent Washington Post article reported about the active bartering of black children—especially from villages in the Nuba Mountains and the Bahr-el-Ghazal—to Arabs for "less than the cost of an international postage stamp." The story of one of these children just came across my desk last week in a News Network International report:

> There are unknown victims of jihad, like Tong. An illiterate runaway slave, Tong might be 10 years old, or perhaps 11. He has no idea who his parents were, or which village of Bahr al-Ghazal he was born in. He only knows that he was orphaned as an infant, when Arab militias swept through the area on jihad against his Christian Dinka tribe.
>
> From his earliest memory, his Muslim masters had one standard epithet for him: "You dirty Dinka slave!" Beaten nearly every day of his life, Tong has a pattern of scars across his closely cropped head and thin back and legs to prove it.
>
> The worst beatings, he recalled, came when he ventured to ask about his parents or village. "My master became furious. He would hang me by my arms, and beat me until I fainted."
>
> After escaping from herding goats and cows for his slavemaster, Tong wandered from one town and village to the next. Had a Christian tailor and his family not learned his story and taken him into their home in June, he would still be a homeless fugitive. Or, like hundreds of thousands of other Black orphans, he would have been forcibly converted to Islam in the notorious "displaced" camps dotting the provinces of Darfur and Kordofan, and surrounding the capital city of Khartoum.

The second oppression in Sudan is pervasive religious persecution and brutality by militias hired by the Islamic government against the Christian and Animist African population. Non-Islamic religious activities in the north are severely restricted and penalties severe. Farther south the reports of atrocities related to faith are more terrifying. Amnesty International recently documented a Nuba village assault wherein: "The priest, Matti al-Nur, was captured at prayer in his grass-roofed church. The deacon and over 20 members of the congregation were locked with the priest in the church, which was set alight. All were killed." Relief and mission workers confirm reports of Christian pastors and even entire villages in the Nuba Mountains suffering martyrs' deaths of crucifixion at the hands of government-armed militias. The religious campaign of the Sudanese Government is true genocide personified.

Finally, the Sudanese people's tribulations are compounded by yet a third affliction: The government of Khartoum is actively sponsoring and exporting terrorism worldwide. This alarming security threat is one we cannot ignore as terrorist support for Somali warlord Gen. Muhammad Farah Aideed via Khartoum is increasingly clear. Their reach extends even to our shores, as evidenced by the recent indictment of five Sudanese nationals in the World Trade Center bombing.

What can the United States do at this juncture? In spite of the long silence, some positive steps have been taken lately on the Hill and from the administration. Our Government has placed Sudan on the list of nations exporting terrorism. It has also appointed a special envoy for humanitarian affairs, Ambassador John Burroughs, who knows the region well after heading up the U.S. Embassy in Kapala, Uganda for 3 years.

But more must be done. This resolution urges some crucial next steps for the Clinton administration. First, the mandate of Ambassador Burroughs must be extended to peace brokering, or the administration must appoint a new special envoy with a strong mission to continue the negotiations toward peace that began in Washington. Second, our Government must press for the U.N. Security Council to create both demilitarized zones and safe havens with international observation to ensure the free flow of aid to the starving people of southern Sudan.

The pressure this resolution places on the United Nations is vital and long overdue. The chapter on Sudan in the new "Doctors With Borders" report contains a stinging, detailed indictment of U.N. capitulation to Khartoum for the entire decade of the crisis, citing "Sudan as one of the most serious failures of the United Nations in defending human rights and mass starvation." After making little protest in 1986 when U.N. Development Program head Winston Prattley was ousted from Sudan for demanding accountability for relief efforts, the United Nations sat idly by for 2 years while almost no food moved. The chapter also chronicles the self-imposed impotence of the United Nations during the mass deportation of hundreds of thousands of Sudanese during 1991 and 1992. The General Assembly vote of December 1992, to ensure Sudan and the new special rapporteur for Sudan have been positive recent steps. But—as the largest single donor to U.N. coffers—the United States must press the United Nations to implement safe havens and demilitarized zones for true accountability in aid distribution.

In spite of the temptation to succumb to the current political distaste for intervention, we now have the responsibility to continue to demand justice in Sudan because we can no longer say that we don't know.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Speaker, I thank the chairman so very much for the opportunity to rise and speak on House Concurrent Resolution 131. I am more than pleased that this is a bipartisan effort.

Mr. Speaker, I salute my colleagues on the Republican side, particularly the ranking member and the gentleman from Virginia [Mr. WOLF] for all the extraordinary work they have done in this regard.

□ 1830

I speak with conviction, Mr. Speaker, because in the month of July Chairman HARRY JOHNSTON of the Subcommittee on Africa and my colleague, Donald Tate, and I traveled to Sudan. We were met there by children who were happy to see us, but their bellies were distended; by mothers who were happy to see us and danced, but yet they knew that their children would die. But we went from the Ugandan border into Sudan. We knew we were in danger at that time, but we knew, more importantly, that the people there were in danger. And we knew that they would see us watch them as they starved.

Mr. Speaker, we went into a hospital where we saw an open appendectomy done with the light being hung down over the open wound of the individual, and there was very little in the way of anesthesia that was being administered. We went into areas where there were tuberculin patients and AIDS patients that disturbed everyone. We must support H.R. 131.

The question, in the final analysis, is not just the starving in southern Sudan or in the Nuga Mountains. The question for us is how long will we permit Khartoum to be a terrorist breeding ground? How long will we permit starvation and killing in Sudan to continue?

Countless Sudanese asked us to do something. This resolution does something, and we must do more.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution (House Concurrent Resolution 131) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 131, the concurrent resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANTI-BOYCOTT RESOLUTION OF 1993

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 50) concerning the Arab League boycott of Israel.

The Clerk read as follows:

S. CON. RES. 50

Whereas the signing on September 13, 1993, of the Declaration of Principles between the Palestine Liberation Organization and the Government of Israel signals a new era of cooperation in the Middle East;

Whereas a true peace in the Middle East can only be established and remain in effect if there is economic stability and cooperation in the region;

Whereas adherence to the Arab League boycott of Israel is a source of economic instability in the Middle East;

Whereas the members of the Arab League instituted a primary boycott against Israel in 1948;

Whereas in the early 1950's the Arab states instituted a secondary and tertiary boycott against United States and other firms because of their commercial ties to Israel;

Whereas the boycott attempts to use economic blackmail to force United States firms to comply with boycott regulation;

Whereas the boycott was cited by the United States Trade Representative in the 1992 National Trade Estimate Report on Foreign Trade Barriers as an "additional legal restraint to United States trade in the region";

Whereas hundreds of United States firms have been blacklisted and barred from doing business with members of the Arab League under the secondary and tertiary boycott;

Whereas the total damage caused by the boycott is unknown because the number of United States firms that conduct business with Israel have not attempted commercial transactions with members of the Arab League due to the boycott is uncertain; and

Whereas the United States has a policy of prohibiting United States firms from providing Arab States with the requested information about compliance to boycott regulation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring).

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Anti-Boycott Resolution of 1993".

SEC. 2. EXPRESSION OF CONGRESSIONAL VIEWS.

The Congress—

(1) believes the continuation of the Arab League boycott of Israel will be a severe impediment to the economic prosperity of all participating nations and to the establishment of a lasting peace and prosperity in the Middle East;

(2) believes the secondary and tertiary boycott cause substantial economic losses to United States firms;

(3) welcomes the actions by those members of the Arab League that have begun dismantling the secondary and tertiary boycott, and urges them to continue their efforts until a complete dissolution of the primary, secondary, and tertiary boycott is achieved;

(4) hopes that the indefinite postponement of the October 24, 1993, meeting of the Central Boycott Committee signals an end to the placement of more United States firms on the boycott list and a willingness to dismantle the boycott in its entirety;

(5) urges those states that have begun to or are considering dismantling all forms of the boycott to proceed promptly with such dismantlement;

(6) urges those states that are still enforcing the boycott to dismantle the boycott in all its forms and to issue the necessary laws, rules, and regulations to ensure that United States firms have free and open access to Arab markets regardless of their business relationships with Israel;

(7) urges those states, in addition, to cease enforcing and requiring participation in the boycott in its primary, secondary, and tertiary forms;

(8) urges the United States Government to continue to raise the boycott as an unfair trade practice in every appropriate international trade forum; and

(9) expresses the sense of the Congress that the end of the Arab League boycott of Israel is of great urgency to the United States Government and will continue to be a priority issue in all bilateral relations with participating states until its complete dissolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain briefly what this resolution is about and why, in my view, it is important.

WHAT THE RESOLUTION DOES

Senate Concurrent Resolution 50 expresses the sense of the Congress that the end of the Arab League boycott of Israel is a priority issue for the United States. It calls for the dismantling of all forms of the Arab boycott of Israel—primary, secondary, and tertiary.

WHY THIS RESOLUTION IS IMPORTANT

The Arab League boycott affects Israel and third country firms that do business in Israel.

It is an unnecessary obstacle to a comprehensive peace in the Middle East.

In the aftermath of the Israeli-PLO Declaration of Principles: The continuation of the boycott is an anachronism and it stands as a threat to the spirit of increased cooperation and tolerance emerging in the region.

Economic stability and cooperation are critical to the establishment of durable peace and prosperity in this troubled region.

All parties stand to gain from the removal of the boycott and the start of active trade throughout the Middle East.

WHY THE UNITED STATES HAS AN INTEREST

The United States has a particularly strong interest in seeing the secondary and tertiary boycotts lifted because they directly punish: American firms that conduct business with Israel; and American firms that wish to pursue business elsewhere in the Arab world.

Therefore, I ask my colleagues to support Concurrent Resolution 50 calling for an end to the Arab boycott.

I urge the House to suspend the rules and pass Senate Concurrent Resolution 50.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for the legislation pending before us. Senate Concurrent Resolution 50 is yet another indication of the high priority Congress has placed on dismantling the decades-long abomination known as the Arab boycott of Israel. I also wish to commend the gentleman from Florida [Mr. DEUTSCH] for sponsoring this measure, and I thank the distinguished chairman of our House Foreign Affairs Committee, the gentleman from Indiana [Mr. HAMILTON] for moving this legislation through our committee so expeditiously and bringing it to the floor prior to our adjournment.

The Congress, the United States, and the American people have made their distaste for this Arab boycott known on many occasions to the Arab League States that participate in this blackmail. These nations are well aware that the boycott, whether in its primary, secondary or tertiary form, is anathema to us, and therefore one of the major obstacles to improved bilateral and multilateral relations.

Instigated by the Arab League after the founding of the state of Israel in 1948, the Arab boycott has attempted, in vain, to isolate and impoverish the State of Israel, resulting ultimately in its demise. In so doing, despite its failure to eradicate the State of Israel, American firms have been among those blacklisted by Arab States. Untold billions of dollars have been lost by American firms because of their willingness to do business with the State of Israel.

Having made recent inroads, the ongoing search for peace in the Middle East impels us to redouble our efforts for a dissolution of the Arab boycott. The boycott in all its forms must end. We are on the verge of a new era in the Middle East, and economic blackmail cannot be allowed to continue.

Senate Concurrent Resolution 50 recognizes that continued adherence to the boycott by Arab League States is a source of economic instability in the Middle East, yet acknowledges some small changes that a few of the Arab nations have made, including the postponement of the October 24th meeting of the Arab League in Damascus. Yet the bill correctly urges all the Members of the Arab League to respond positively to the changes that are taking place in the region today, by dismantling and ceasing the enforcement of this form of economic blackmail.

Continuation of the Arab boycott is a severe impediment to the establishment of a lasting peace in the Middle East. The substantial and untold losses to American firms deserve and require a strong response by the United States. Such an unfair trade practice cannot be permitted to continue, and accordingly, the legislation requires our Nation to raise this vital matter in every appropriate forum.

Mr. Speaker, as a sponsor of this legislation, I join our colleagues in strongly endorsing this measure. It sends a strong signal to the members of the Arab League that continuing the boycott against Israel and American firms is unacceptable and must be condemned. Peace cannot flourish in this atmosphere of economic blackmail. Accordingly, I urge unanimous support for Senate Concurrent Resolution 50.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Florida [Mr. DEUTSCH], principal sponsor of the resolution, without whose work this resolution would not have come forward.

Mr. DEUTSCH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to thank the chairman, the gentleman from Indiana [Mr. HAMILTON] and also thank the gentleman from Connecticut [Mr. GEJDENSON], chairman of the subcommittee, for their help in getting this resolution and the companion resolution to the floor at this time.

Mr. Speaker, since 1948, the nations of the Arab League have engaged in economic warfare against Israel through an economic boycott. This economic warfare does not use physically lethal weapons, but it is equally threatening to the security of Israel. We once believed that an agreement like the Declaration of Principles would end the Arab boycott of Israel. However, the nations of the Arab League have now unscrupulously upped the ante. They now demand movement on the Syrian and Lebanese negotiations and settlement of the Jerusalem issue.

For true peace to exist in the Middle East, economic warfare must end. The Arab refusal to lift barriers to trade can be given only one interpretation; the Arab League wants to capsize the peace agreement. Autonomy for the Palestinians is irrelevant if the standard of living in the West Bank and Gaza is not improved.

It is ironic, that the major trading partner of the West Bank and Gaza Strip is Israel. The West Bank and Gaza's mainly Palestinian residents survive on an economy whose lifeline is the nation which the Arab League seeks to isolate. If the nations of the Arab League continue their boycott of Israel, they place the economic prosperity of the West Bank and Gaza in severe jeopardy, thus destroying the effectiveness of the peace agreement.

The United States has already solidified its commitment to peace by hosting the donors conference and by pledging $500 million in aid to the Palestine Liberation Organization. Certainly, if the new commitments to cooperation and peace are sincere, they must be extended to encompass trade relationships. It is now time for the United States to definitively and unequivocally ask the nations of the Arab League to demonstrate their support for peace by lifting the economic boycott of Israel. Without this cooperation, the risks and investments that the Israelis, Palestinians, and Americans have undertaken for peace will be wasted.

Recently, U.S. Trade Representative [USTR] Mickey Kantor announced that his office was undertaking a year long study of the effects of the Arab boycott on the U.S. economy. Under boycott provisions, those nations that do business with Israel or firms that associate with companies who do business with Israel are blacklisted. The 1992 national trade estimate report on foreign trade barriers cites the boycott as an additional legal restraint to U.S. trade in the region. This secondary and tertiary boycott began in the early 1950's and has since excluded more than 400 United States companies from trading with the Arab League. It is my sincere hope that the nations of the Arab League will allow the USTR to spend its resources on reviewing other trade barriers.

The nations of the Arab League must understand that the United States will no longer tolerate a boycott of U.S. firms, that is nothing more than economic warfare against the peace process. Regardless of our feelings about the peace accord, its failure would be extraordinarily detrimental to Israel and the United States. Thus, I introduced House Concurrent Resolution 175, calling on the Arab nations to immediately end their economic boycott. It is time that the Arab nations put their money where their mouths are. The U.S. Congress is prepared to make this an issue in all bilateral relations. There is now a diplomatic price to pay for enforcing this anachronistic and unjust boycott. I ask my colleagues to join me in supporting House Concurrent Resolution 175 and the companion Senate Concurrent Resolution 50.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], a distinguished member of our Committee on Foreign Affairs.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of House Concurrent Resolution 175. It is past time for Congress to speak out against the Arab boycott, especially the secondary and tertiary boycott directed against American companies.

The Arab boycott of Israel is a deliberate attempt to isolate that country. Now, as long as a formal state of war exists between countries a primary boycott is understandable. A nation very rarely maintains formal commercial relations with a nation with which it is at war. But as peaceful relations develop between Israel and her Arab neighbors, the economic boycott should be lifted very quickly.

But the secondary and tertiary boycott should be lifted immediately, and I am surprised that America has not pushed more forcefully to get it lifted. For the secondary boycott is economic warfare directed squarely against American companies. It is a deliberate attempt to coerce American citizens from trading with whom they wish.

When the United States imposes economic embargoes on foreign countries, we do not impose a secondary boycott against foreign firms that trade with those countries. When we were engaged in a total war against Germany and Japan, we did not boycott firms in neutral countries that also traded with those countries. The United States should act strongly against countries that boycott American companies. I ask my colleagues to strongly support passage of this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. FINGERHUT], who is also a cosponsor of the resolution.

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding this time to me and for his leadership on this issue, as well as my good friend and colleague, the gentleman from Florida [Mr. DEUTSCH].

Mr. Speaker, the chairman, the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Florida [Mr. DEUTSCH] have dealt very well with the economic issues at stake here.

The boycott, by hurting Israel's economic ability to provide for its own people, puts pressure on the economy, particularly given the cost of the massive immigration they have absorbed over the last 2 years and their high defense costs. It puts pressure on American firms that want to do business over there, thereby hurting our economy, and it puts the peace process in jeopardy, because as we know, peace can only succeed if they see the results on the ground and if economic prosperity follows for the people who have been suffering for so long.

I just want to make the point about the morality of this issue. We are familiar with economic boycotts in this country. Economic boycotts are pursued when a party who you wish to target has done something wrong, but as the gentleman from Florida [Mr. DEUTSCH] has pointed out, this boycott has been in effect since 1948 and it is there simply because Israel exists, not because of anything they have done, but because they have dared to exist in the Middle East. It is high time that we say to everyone who can listen far and wide that the American Government will stand up to those who put this onerous burden on America's democratic ally in the Middle East and on a country that is taking daily risks for peace far beyond anything that any of us have ever expected and hoped that they would do.

Mr. Speaker, I urge support for this resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. LEVY], another distinguished member of our Committee on Foreign Affairs.

Mr. LEVY. Mr. Speaker, I rise in support of Senate Concurrent Resolution 50 and also to commend the gentleman from Florida [Mr. DEUTSCH] for his commitment to this issue.

It is an understatement to say that, over the last few months, the State of Israel has taken serious risks for peace, and many have asked what America's role should be in the peace process.

At a minimum, Mr. Speaker, as an absolute minimum, as we seek to end the physical violence that has marked events in the Middle East, this Nation ought to put itself on record as being against continued economic warfare against Israel. That is what this resolution seeks to do and we should support it.

Our Israeli friends have always sought to live in peace with their Arab neighbors, but they have always defined peace, not as being limited to an absence of war, but as including full diplomatic and economic relations with their former enemies. By adopting Senate Concurrent Resolution 50 we place this Congress on record as supporting Israel's desire in this regard.

I salute Chairman HAMILTON of the Foreign Affairs Committee and our ranking Member, the gentleman from New York [Mr. GILMAN] for their work to bring this bill so promptly before the full House and I call on my colleagues to support this resolution, not by the necessary two-thirds because we are operating under a suspension, but unanimously tonight.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH], another distinguished senior member of our Committee on Foreign Affairs.

Mr. ROTH. Mr. Speaker, I thank my friend, the gentleman from New York [Mr. GILMAN] for yielding this time to me.

Mr. Speaker, I rise in strong support of this resolution.

Our subcommittee has reviewed this resolution. We have had hearings on it, and it is a good resolution.

With this resolution, we are saying to the Arab League that the time has come for an end to the boycott of Israel.

We have seen a breakthrough in the long effort to find a basis for peace between Israel and the PLO.

At long last there is a real chance for peace. But the Arab League's boycott is an obstacle in the path of lasting peace in the Middle East. On a bipartisan basis, our subcommittee has for years strongly opposed the boycott. Today, at this critical juncture in the peace talks, we are restating our belief that ending the boycott is an essential step toward peace.

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Therefore, Mr. Speaker, I urge all Members to join in this resolution, in sending a strong message to those who are standing in the way of resolving this conflict in the Middle East. Actually our subcommittee found that all countries involved would economically benefit from lifting the boycott, and this is an enlightened resolution, and I congratulate all those who worked on this resolution, especially its author, the gentleman from Florida [Mr. DEUTSCH], and all the people who have helped in bringing this resolution to the floor.

I ask everyone strongly to support this resolution as a strong step and a big step toward getting peace in the Middle East.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the ranking member, the gentleman from New York [Mr. GILMAN], for yielding this time to me, and I would like to add my commendation to the chairman of the committee, the gentleman from Indiana [Mr. HAMILTON], for the quick and efficient job in reporting this bill from committee, and I would also like to say that I know how hard the gentleman from Florida [Mr. DEUTSCH] has worked to bring this resolution to us, and it is certainly through his very determined efforts that we are here tonight talking about what I believe is a very important issue.

Mr. Speaker, some Arab countries have moved beyond the denial of the existence of Israel, a major step in itself. Israeli and Arab leaders have met publicly. Private, secret negotiations have taken place with some success, and Yasser Arafat even appeared at the White House with Prime Minister Rabin. Certainly things that we could not have dreamt could have happened not long ago.

Today, to continue the Arab boycott, which accompanied the denial of Israel itself, to me seems to be impractical and immoral. The Arab boycott of Israel not only hurts Israel's American companies, but it sends a strong message to the Arab world that it is not yet ready to face the responsibility of true peace in the Middle East.

This resolution calls on all nations participating in the boycott to contribute to the peace process by permanently throwing off antiquated cold war policy. Complete recognition by withdrawal of the boycott is crucial to healing the wounds of generations of economic and political warfare.

Furthermore, it is in the Arab world's best interest to join in cooperation with the vital and enterprising Jewish State. The Middle East is ripe with opportunity, but all hope of advancement will be lost if Arab nations continue to delude themselves with expressions of hatred and intolerance.

The Israeli people have recently taken tremendous risks for peace and are considering other moves as well, not only with the Palestinians, but with major powers in the Arab world such as Jordan, Syria, and Egypt as well. It is time that these nations and their brothers in the Arab League respond in kind.

It is also important to keep in mind that Israel is not the only victim of this policy. American companies have been blacklisted, as has been pointed out by previous speakers, since the early 1950's because they hold commercial ties with Israel. American companies are affected. Americans are losing jobs. Americans are losing money. So, this is not just an Israeli problem; it is our problem as well.

Mr. Speaker, this resolution calls on the Arab League to being anew their relations with Israel and their relations with the United States, join in the spirit of cooperation and show the rest of the world that peace and economic cooperation are our common goals.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. HASTINGS], a member of the committee.

Mr. HASTINGS. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON]. I appreciate very much his efforts in this regard, as well as the efforts of the ranking member, and I appreciate my colleague, the gentleman from Florida [Mr. DEUTSCH], for all of the efforts that he has put forth. As a cosponsor of this measure, I rise proudly to support it, and I ask all of our Members to do likewise.

On the bright day that Israel and the PLO stood and cast their actions toward accord, looming in the shadows was the Arab boycott.

Every day we move closer to peace in the Middle East. One more step in that direction would be the lifting of the Arab boycott of Israel.

Some have argued that the boycott is not working in most Arab countries. If that is so, then why have the boycott at all? As we move globally toward open trade, we must not allow barriers and boycotts to prevail.

I say to my colleagues, "Lift the boycott now, and catalyze peace and security for the Middle East."

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, the Arab boycott cannot any longer be tolerated by this Nation. It is simply shameful for Arab nations, supposedly friendly to the United States of America, to impact employment in this country because American firms are also doing business with the State of Israel which is one of our most reliable and strongest allies. The end of the Arab boycott should not be a bargaining chip in either the Middle East peace negotiations or any bilateral negotiations between this country and an Arab nation. The Arab boycott should simply be ended by any nation that wants to have good faith, equal trading relations with this country.

Who can doubt but that this boycott, over the years and at the present time, has impacted employment decisions in American companies doing business in the Middle East? I doubt if one of Jewish heritage and faith believes that there has been no impact. There obviously has been such an impact. Such a discriminatory impact is wrong.

The Arab boycott must end. It is shameful. It is intolerable. This Congress should judge our relations with Arab nations by how fast they end the nonsense of this economic boycott against our citizens and our businesses.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I want to thank the gentleman from Florida [Mr. DEUTSCH], the chief sponsor of this legislation, for his initiative and leadership to bring this issue as a matter of public debate and understanding of this long-standing policy that Arab countries have had since the establishment of the State of Israel some 45 years ago.

Mr. Speaker, it is time that the Arab nations stop this ridiculous practice of preventing American companies from doing business amongst Arab countries if those companies are known to conduct business in Israel.

Mr. Speaker, what would it be like if our Nation were to advocate a policy of a boycott against exports from Arab countries to our country? You establish a chain reaction to something like this and end up with none of the countries would benefit from such actions.

I submit, Mr. Speaker, we are witnessing a most historical event whereby the leaders of the Palestinian people and the borders of Israel are working tirelessly to bring about a peaceful solution to the current problems affecting the Middle East.

Mr. Speaker, I commend our friends among the Arab nations that have initiated plans to rescind such boycott conditions and urge the Central Boycott Committee of the Arab nations to terminate not only the activities of the committee but the committee itself.

Mr. Speaker, I commend our distinguished chairman of the House Foreign Affairs Committee, the gentleman from Indiana [Mr. HAMILTON] and our ranking minority leader on the committee, the gentleman from New York [Mr. GILMAN] for their support and leadership by bringing this legislation to the floor, and I urge my colleagues to support House Concurrent Resolution 175.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN], a member of the Committee on Foreign Affairs.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to rise in support of this resolution which addresses the critical issue of the Arab boycott of Israel. In spite of all the lofty speeches and the hardy handshakes on the White House lawn, we must recognize that Israel is still subject to a systematic campaign against her.

Mr. Speaker, the Arab boycott has a chilling effect on all companies which are seeking to establish a positive business relationship with the only democratic ally in the Middle East for the United States, and that is our friend, Israel. Many leaders of that region deny that such a boycott exists. They practically laugh derisively when a Member of Congress states that the country should publicly renounce their allegiance to such a boycott. Egypt's leader told the members of the Committee on Foreign Affairs just weeks ago, "Boycott; what boycott? No one has a boycott against Israel."

Were it only so. We believe that a boycott does exist against Israel, and it is the proper United States role to further ensure the economic stability of this thriving and peace-seeking nation.

I commend the gentleman from Florida [Mr. DEUTSCH], my dear colleague, for spearheading this very worthy and noble cause.

☐ 1900

As we enter a new phase in Middle East relations, let us not pretend that all is well. Let us be ever vigilant about abuses, and let us do our best to monitor the economic boycott against Israel.

This resolution seeks only economic justice and a fair playing field for Israel so that full prosperity can finally take place in the troubled Middle East region.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Speaker, I rise in strong support of the resolution. Recently on the White House lawn we witnessed two old warriors shake hands and end the hostilities that have plagued these two great peoples. Here at home we see harmonious relationships between Arab-Americans and Jewish-Americans. Only in one area do we see the hypocritical relations of the Arab politicians who wish to continue a boycott that hurts Israel, that hurts America, and hurts the Arab people.

It is time, Mr. Speaker, to end this situation that has existed for far too long. Let us make this world a better world, and let us send out a strong message to Arab leaders that we will not tolerate the continuation of this boycott.

Mr. GILMAN. Mr. Speaker, as our final speaker on this issue, I am pleased to yield such time as he may consume to the distinguished gentleman from California [Mr. ROHRABACHER], a member of the Committee on Foreign Affairs.

Mr. ROHRABACHER. Mr. Speaker, I rise to ask all Members of the Arab League, especially America's friends in Saudi Arabia and Kuwait, to end the boycott against Israel. Now is the time to build a new world, a more peaceful world, a world of commerce, of cooperation, of technological progress beyond the wildest dreams of just a few years ago.

We can see this world developing before our eyes in Eastern Europe and the Soviet Union, in countries that used to be our enemies; in South Africa, where enemies are coming together and democracy is beginning to bloom; and in Central America, where just a few short years ago the battles in Central America divided this body and resulted in the deaths of tens of thousands of people. We can even see this new world emerging in our relations with Mexico, which to our southern border in the past was governed by people who spread anti-American hatred, and today reaches out for cooperation, economic cooperation, as never before with the United States.

Either the Arab peoples will be part of this new historic movement and the new world being built, or they will be left behind. In the past I have said to countries and Arab leaders that one does not have to be a friend of Israel to be a friend of the United States, but a country cannot be an enemy of peace and be a friend of the United States.

As the world now moves toward this historic movement toward a more peaceful reality, those people who are not helping build the world, if those people are trying to set up roadblocks to the transition, whether it is in the Middle East or elsewhere, those people and those leaders are not friends of the United States. Those who have been our friends cannot remain so if they remain belligerent in a world that is rejecting belligerancy.

Mr. Speaker, I call on the leaders, especially of those Arab states that have considered themselves friends of the United States, who we have considered our friends, especially in Saudi Arabia and Kuwait, where we allied in that great battle just a few years ago, to end the boycott against Israel. Join with us in building a new and more peaceful world.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise to support Senate Concurrent Resolution 50 which calls on the Arab League to lift all forms of the Arab boycott against Israel.

Frankly, I think it is both disturbing and disheartening that we still have to urge a reluctant Arab world to end their illegal boycott of Israel and of companies that do business with Israel.

One would have thought that after Israel recognized the PLO and agreed to full autonomy in the West Bank and Gaza that the Arab States would drop their 40-year-old boycott of Israel, a boycott that has cost Israel some $40 billion in business since the early 1950's.

Continuing the boycott is not only contrary to the spirit of reconciliation that led to the Israeli-Palestinian breakthrough in September but it also defies common sense.

Today, as Israelis and Palestinians work together to build a cooperative future, boycotting Israel harms Palestinians as it harms Israelis. Blocking a business venture in Jerusalem weakens the Palestinian economy as it weakens the Israeli economy. This means jobs for Palestinians as it means jobs for Israelis.

The Arab boycott of Israel is now an Arab boycott of Israelis and Palestinians and Jordanians, too.

That is why this legislation is an important step.

It sends a signal to the Arab world that the United States Congress wants this boycott to end and end now. And it sends a warning as well. The Arab world should not expect a normalization of relations with the United States until it ends the boycott. We are not interested in rhetoric or rationalizations. We want action. End the boycott now.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Speaker, the Arab League economic boycott of Israel has been a tool of economic warfare directed at that nation since its birth in 1948. Today I stand in strong conviction to call an end to this belligerency and urge all of my colleagues to join me and the other sponsors of House Concurrent Resolution 175 in passing this important piece of legislation.

The Arab League boycott seeks to isolate the Israeli economy through primary, secondary, and tertiary boycotts. The damage to Israel's economy caused by this boycott is incalculable, but the cost is substantial. While the primary level of the boycott prohibits import of Israeli-origin goods and services into boycotting countries, the boycott has been applied at secondary and tertiary levels, which acts as a barrier to United States exports. Even Kuwait, where we risked and lost American lives during the Persian Gulf war, has not lifted its application of the boycott.

Mr. Speaker, this far-reaching effect has hurt Americans. In trying to destroy Israel's economic and military viability, the Arab League also directs its boycott at any company that has business contacts with Israel. American companies, forced to choose between doing business solely with Israel or with the Arab countries, have suffered indeterminate loss of opportunity and potential employability of Americans. United States companies consistently have felt the economic hardship of this secondary and tertiary level of boycott, with over 400 American firms believed to be on an Arab blacklist.

The signing of the Declaration of Principles between the Israeli Government and the Palestine Liberation Organization and the ongoing peace talks between these two principals and other Arab countries signals a new era of cooperation in the Middle East. The climate surrounding these events makes this an opportune time to call on the Arab countries to lift the economic boycott against Israel as a tangible symbol of their intention to keep the commitment they have made to establish a just and lasting peace in this region.

True peace in the Middle East can only be established and endure if there is economic cooperation in the region. This new cooperation must be extended to include trade relationships. Currently, the West Bank and Gaza survive solely on Israel's economy, the only nation that trades with this area and, ironically, the country which the Arab League seeks to isolate. The continuation of this economic warfare will be a severe impediment to the prosperity of the region.

So far, the Arab response to a call for ending the boycott has been less than favorable, ranging from Syria's call for an expansion of the Arab blacklist to statements by the PLO that the boycott cannot be lifted without a unanimous vote by the Arab League. This Arab entrenchment makes one question the sincerity of their peace commitment.

Mr. Speaker, Israel has taken substantial risks in pursuit of peace, and it has assumed those risks, in no small part, because of its confidence in the unwavering support of the United States. To fortify this commitment, I urge all of my colleagues to join me tonight in supporting this legislation and demand an immediate end to this economic warfare. I also urge that in every appropriate international trade forum the U.S. Government continue to raise the boycott as an unfair trade practice.

Now is the time to take advantage of the recent advances toward peace and bring a long overdue end to this unfair practice. Ending the Arab economic boycott against Israel must be a top priority of Congress and the administration to secure peace in this region. I urge all of my colleagues to vote in support of House Concurrent Resolution 175.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. ENGEL], a member of the Committee on Foreign Affairs.

Mr. ENGEL. Mr. Speaker, I rise in strong support of the resolution today. What I have said many, many times before, what is really annoying is not only is there an Arab boycott against the State of Israel, but the United States of America went to war in the Persian Gulf and prevented Saudi Arabia and Kuwait from becoming the 19th and 20th provinces of Iraq. Yet here it is, several years later. American boys fought and died on that soil, and these countries are still participating in secondary and tertiary boycotts against American companies that they say are doing business with Israel.

Mr. Speaker, can you imagine; American blood was spilled saving those countries, preventing those countries from being swallowed up by Iraq, and today they are still boycotting American companies.

Mr. Speaker, that is not something that we in the United States should stand for. Nor should we just stand idly by while our staunchest ally in the Middle East, Israel, still is having itself boycotted, even though Israel has made tremendous strides and steps in being flexible in terms of negotiating peace with its Arab neighbors.

So I strongly support the resolution. We need in every instance to call attention to the Arab boycott, and we need to make sure that the Arab boycott is ended as soon as possible against Israel and against American companies.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Florida [Mr. DIAZ-BALART], a member of the Committee on Foreign Affairs.

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Mr. DIAZ-BALART. I thank the distinguished ranking member for yielding time to me.

I am a proud cosponsor of this resolution by the gentleman from Florida [Mr. DEUTSCH], because I think it is extremely timely and necessary to point out that we are not only looking anymore for private assurances that economic aggression against Israel is going to be something of the past, we want public assurances. We want to make sure that the international community, the members who have participated in this tertiary and secondary and primary boycott of Israel renounce that and accept the reality of the new world and the fact there is not a better friend and no better ally to the United States and better member of the democratic community of nations than the State of Israel.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Speaker, I add my strong support to this resolution.

Mr. Speaker, the historic accord between Israel and the Palestine Liberation Organization give us new opportunities for peace in the Middle East.

The recent accord between Israel and the PLO stated that cooperation in the region might be encouraged by expanded trade relations.

Unfortunately, since the founding of Israel in 1948, most Arab League nations have sustained an economic and diplomatic boycott of the Jewish state. In addition, since the early 1950's, the same nations have extended this boycott to include firms throughout the world with commercial ties to Israel, including many companies from the United States.

In light of the immense progress toward peace in the Middle East, it would be a timely and appropriate gesture on the part of the Arab League countries to end both the boycott of Israel and the boycott of the firms with commercial ties to Israel.

Some Arab nations have recently begun to move in the direction of ending the boycott of firms, and we should encourage their actions.

I strongly support this resolution and I urge all Members to vote for this resolution which expresses the sense of Congress that the Arab League boycott of Israel and the boycott of companies doing business with Israel should end.

Thank you Mr. Speaker.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I rise in strong support of this resolution which calls on the Arab League to end their economic boycott of Israel and the secondary boycott against companies that do business with Israel.

The Arab boycott, which was designed to strangle Israel economically, is a morally offensive tool of economic warfare that was misguided at its inception, and, like many bad ideas, has unfortunately stood the test of time.

While we are all hopeful that the recent breakthrough between Israel and the PLO will bring a strong and lasting peace in the Mideast, we should all be disturbed and puzzled that the Arab boycott not only continues but is actually growing stronger.

In fact, the Commerce Department, which tracks illegal boycott requests to United States companies, reports that illegal boycott requests by Saudi Arabia are up by an alarming 25 percent over the same period last year.

While boycott activity is on the rise, Arab leaders are giving top administration officials assurances that they are no longer firmly enforcing the secondary boycott of United States companies.

This rhetoric is not nearly good enough, and the administration should continue to be outspoken in its insistence on ending the Arab League's primary and secondary boycott.

In closing, I would like to take this opportunity to correct the public record. Administration officials and editorial writers have recently referred to the boycott as an anachronism. I must point out that an anachronism is something that once had a proper role and legitimate purpose. The boycott is a form of invidious discrimination that never had a legitimate purpose and never had a proper role.

The boycott was and is a patently offensive practice.

The Arab nations, many of which relied on United States support to defeat Saddam, should take the next step toward comprehensive Mideast peace. Words are fine and they are an important start, but deeds are better. If Arab leaders truly want a lasting peace, it is time for them to put their money where their mouth is and end the economic boycott of Israel.

Peace is not simply the absence of war. Peace is at minimum the absence of hostilities. The Arab boycott of Israel is an overtly hostile act, the continuation of which is the single greatest barrier to peace in the Mideast today.

I commend Chairman HAMILTON and ranking member GILMAN for bringing this important resolution to the floor. And I offer special thanks to the bill's author, Mr. DEUTSCH of Florida, who has quickly and ably established himself as a positive force for peace in the Mideast.

Mr. GRAMS. Mr. Speaker, I rise in support of House Concurrent Resolution 175, the Anti-Boycott Resolution of 1993. I firmly believe the dismantling of the Arab economic boycott against Israel is critical to ensuring success in achieving peace within the Middle East.

Having had the rare opportunity to witness the historic signing of the Peace Accord between the Israelis and the Palestinians this past September, we must remember our work has just begun. The accord will have no impact if we do not support efforts to continue the momentum. Enactment of House Concurrent Resolution 175 represents an important step.

The Israeli people continue to face new challenges as a result of their quest for peace in the region. Nearly each evening, I can turn on the news and see the gruesome results of violence being conducted to undermine the peace process. Yet the commitment of the Israeli Government and the Israeli people remains as strong as ever.

Mr. Speaker, Israel has long been a friend to the United States—and now, that friendship is more important than ever. The United States must bring pressure to bear against the Arab boycott. If we are unsuccessful in ending the boycott, I fear we will surely witness the demise of peace within the region. Therefore, I urge my colleagues to join me in reiterating your support for the people of Israel by supporting the passage of this resolution. Thank you.

Mr. HAMILTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 50.

The question was taken.

Mr. DEUTSCH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 8, as follows:

[Roll No. 597]

YEAS—425

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—1

Rahall

NOT VOTING—8

Brown (CA)
Clinger
Dingell
Hall (OH)
Kyl
Serrano
Sundquist
Washington

□ 1932

Mr. DUNCAN and Mr. TORRES changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. Con. Res. 50, the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore (Mr. LAROCCO). Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 2202, PREVENTIVE HEALTH CARE AMENDMENTS OF 1993

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer.

The Clerk read the title of the bill.

(For conference report and statement, see Proceedings of the House of Saturday, November 20, 1993, at page 31338.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

This legislation includes reauthorizations of a number of important public health and primary care programs administered by the Centers for Disease Control and Prevention.

The first title of the bill reauthorizes the Breast and Cervical Cancer Screening program. This program provides mammograms and pap smears to thousands of women who have no other source of payment.

The second title of the bill reauthorizes the CDC injury prevention program and creates new authority for the CDC to work to study and develop interventions for domestic violence and sexual assault. Such violence should be viewed as a public health issue as well as a criminal issue, and I want to take special note of the leadership of the gentleman from Washington [Mr. KREIDLER] in putting this legislation together and in making these programs possible.

The third title codifies the tuberculosis programs of the CDC. TB is growing at epidemic rates in much of the country, and it is vital that we redouble our efforts to control this controllable disease.

The fourth title reauthorizes the program of grants to States for sexually transmitted disease control. These diseases, some of which have grown dramatically in recent years, pose particular risk for women and infants.

The fifth title reauthorizes the National Center for Health Statistics, a public health agency whose ongoing work will be vital during the times of health reform.

The sixth title reauthorizes the program of assistance for trauma care systems.

These programs have broad support. I want to give special thanks to my colleague from Virginia, Mr. BLILEY, and to the minority staff for the diligent and expeditious work they have put into this report to ensure that these vital programs can proceed uninterrupted.

I urge Members to support the conference report.

Mr. Speaker, I reserve the balance of my time.

☐ 1940

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 2202 includes the provisions of several bills which previously passed the House. The conference agreement reauthorizes several programs administered by the Centers for Disease Control and Prevention including the Breast and Cervical Cancer Program, the Injury Prevention and Control Program, the Sexually Transmitted Diseases Program, and the National Center for Health Statistics. The conference agreement also includes Senate provisions which authorize additional resources and establish new programs for the control of tuberculosis. Finally, the conference agreement reauthorizes the Trauma Care Program administered by the Health Resources and Services Administration.

I urge my colleagues to join me in supporting this conference report.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the measure. Health prevention goes a long way toward cost containment.

I ask for support for the measure.

Mr. Speaker, I rise today in support of the conference report on H.R. 2202, preventive health amendments. I would like to commend the gentleman from California [Mr. WAXMAN], the distinguished chairman of the Health Subcommittee and the ranking minority member, the gentleman from California [Mr. MOORHEAD], for both introducing the Breast and Cervical Cancer Amendments of 1993, and bringing it to the floor in such an expeditious manner.

In 1992, there were over 180,000 new cases of breast cancer among women in the United States. Approximately 1 of every 9 women will develop breast cancer during her lifetime. Additionally, in 1992, 13,500 cases of cancer of the cervix were detected. These two horrible diseases can be detected early by having two tests performed: Mammogram and Pap smear.

H.R. 2202, established grant programs for breast and cervical cancer screening, as well as initiating health education programs. As many of my colleagues know, I have long advocated the need to include disease prevention and health promotion in every health insurance plan. I have introduced H.R. 4094, the Comprehensive Preventive Health and Promotion Act of 1993, which will require comprehensive periodic health exams, screenings, immunization, counseling, and health promotion. I am pleased that H.R. 2202 focuses on prevention.

Additionally, I am pleased that the conference report on H.R. 2202 includes tuberculosis [TB] prevention. Mr. Speaker, just 8 years ago, the United States had the lowest TB rate in modern history. In 1985, TB incidence started rising and has continued to rise. By 1990, Americans were suffering 16 percent more TB than in 1984, and nearly 40 percent more than previous trends would have predicted. Currently, in my home State of New York, TB has risen to over 30 percent. TB was once considered a disease of the past, and has now re-emerged as a global health crisis.

Disease prevention and health promotion is the key to improving the health of our Nation. Accordingly, I fully support H.R. 2202, and urge all of my colleagues to vote in favor of it.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. KREIDLER], the author of a very important section of this legislation.

Mr. KREIDLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this conference report, and I commend Chairman WAXMAN for his outstanding leadership on preventive health issues. I am especially grateful to Chairman WAXMAN for his help on reauthorization of the injury prevention and control program. This year we are establishing a new program to identify and treat injuries to women from domestic violence and sexual assault.

This program will be administered through the Centers for Disease Control and Prevention. It will increase our knowledge of the types of injuries that women sustain from domestic violence and sexual assault, which affect millions of women each year. This legislation also provides for training of health care providers so that they might better identify the injuries that occur as a result of domestic violence, and held these women get the help they need.

All too frequently women reporting for emergency care treatment are inappropriately identified as to the cause of the injury that they have received. Very frequently health care providers do not identify them as the result of domestic violence and do not refer the women, when these cases arise, to the appropriate kinds of follow-up care that would be appropriate under the circumstances. More than 1 million women each year seek medical treatment as a result of domestic violence, and it is the leading cause of injury to women. More than 1 in 6 pregnant women are battered, and such violence can lead to miscarriages, stillbirth, and low birth weight babies. Yet one study indicated that fewer than 5 percent of victims of domestic violence were correctly identified by health care professionals.

Health care providers must do a better job so that, these women receive the treatment they need to stop the cycle of violence, which too often escalates in severity and ends in death. Health care professionals can play a critical role in helping break the conspiracy of silence that surrounds issues of abuse.

This legislation will go a long way toward helping to train health care providers, establish a data collection system with the CDC, and develop intervention programs to deal with the crisis of violence against women.

I commend this legislation to you, Mr. Speaker, and to this body for its endorsement.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and agree to the conference report on the bill, H.R. 2202.

The question was taken.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 598]

YEAS—420

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bateman
Brown (CA)
Clinger
Dingell
Edwards (CA)
Foglietta
Ford (MI)
Hall (OH)
Harman
Kyl
Richardson
Sundquist
Washington

□ 2002

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3, CAMPAIGN FINANCE REFORM ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 319 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H.R. 319

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order except the amendment printed in part 2 of the report of the Committee on Rules, which may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit, which may not include instructions. After passage of H.R. 3, it shall be in order to take from the Speaker's table the bill S. 3 and to consider the Senate bill in the House. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 3 as passed by the House. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move the House insist on its amendments to S. 3 and request a conference with the Senate thereon.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I make a point of order against consideration of this rule on the ground that it is in violation of clause 4(b) of House rule XI, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. SOLOMON. Clause 4(b) of House rule XI provides that, and I quote:

> The Committee on Rules shall not report any rule or order of business which * * * would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

If anyone wants to look at clause 4 of rule XVI, you are welcome to.

And clause 4 of rule XVI provides, and again I quote:

> After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order—not may, but shall be in order—and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, those two clauses were adopted as amendments to House rules on March 15, 1909, when the minority party Democrats—let me repeat that, the minority party Democrats—joined with a group of insurgent Republicans to guarantee greater minority rights.

Did you hear that, Mr. Speaker? I said Republicans who were in the majority—it does not happen very often around here—joined with minority Democrats to guarantee greater rights for the Democrats, when they were in the minority. What has happened since then?

Prior to this rules revision, the motion to recommit was controlled by the majority party. This change was instituted for the specific purpose of giving the minority a final vote on its alternative legislative proposal through a motion to recommit with instructions.

House Resolution 319, that we are considering right now, on the other hand, provides that the motion to recommit, and I quote: "may not contain instructions."

That is a renege on the promises of the Democrat leadership. It is therefore in direct violation of this rule which was purposely designed to guarantee the minority a vote on its alternative by way of instructions.

Mr. Speaker, in support of this argument—I hate to take up the time of the body, but you know, you have got to be fair—I quote first from the author of clause 4(b) of rule XI and clause 4 of rule XVI on the day he offered the amendment.

It is a very famous name, John Fitzgerald Kennedy, a Democrat from New York. He is a good man. I knew John Fitzgerald Kennedy.

In his words:

> Under our present practice, if a Member desires to move to recommit with instructions, the Speaker, instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit, and upon that motion demands the previous question is ordered, the motion to recommit is voted down.

And he went on: "Under our practice the motion to recommit might better be eliminated from the rules altogether."

The subsequent rulings of Speakers confirm that the whole purpose of the new rule was to permit the minority a chance to offer a final amendment in a motion to recommit with instructions.

Speaker Champ Clark ruled on May 14, 1912, 3 years later, and I quote:

> It is not necessary to go into the history of how this particular rule came to be adopted, but that it was intended that the right to make the motion to recommit should be preserved inviolate the Chair has no doubt whatever.

That was Champ Clark back in 1912, Mr. Speaker.

□ 2010

That is from a precedent found in volume 8 of Cannon's Precedents at section 2757. From that same volume at section 2727 is found a precedent from October 7, 1919. Former Speaker Crisp is quoted as follows:

> The object of the motion to recommit is clearly to give the minority of the House * * * a chance affirmatively to go on record as to what they think this legislation should be, and if a motion to recommit does not permit that, then the motion is futile.

Speaker Gillett, in deciding the point of order on that occasion said, and I quote:

> The fact is that a motion to recommit is intended to give the minority one chance to fully express their views so long as they are germane. * * * The whole purpose of this motion to recommit is to have a record vote on the program of the minority. That is the main purpose of the motion to recommit, * * *

And it goes on, and on, and on, and on. I could cite these precedents for hours standing here.

Speaker Bankhead, in a 1939 ruling, found in volume 7 of Deschler's Precedents, chapter 23, section 26.1, said of this rule and I quote:

> The purpose of the motion to recommit * * * is to give Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition.

Republican or Democrat, if they are in opposition, they ought to have that chance, he is saying.

Mr. Speaker, the whole key to this point of order and the underlying rules at issue here is what is meant in clause 4(b) of rule XI when it prohibits the Rules Committee from reporting a rule which denies the motion to recommit "as provided in clause 4 of rule XVI."

It is not sufficient for the Rules Committee simply to permit a straight motion to recommit, as they are doing in this rule, which prohibits instructions, since the authors of the 1909 rule provided for more than that. They have to be fair. What they clearly had in mind was to provide the minority an opportunity to get a final vote on their position if they wished, through amendatory recommittal instructions.

Indeed, in Deschler's Precedents, volume 7, chapter 23, section 25, this is made abundantly clear, and I qoute:

> There are in the rules of the House four motions to refer: the ordinary motion provided for in the first sentence of clause 4, rule XVI when a question is "under debate;" the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage provided in the second sentence of clause 4, rule XVI * * *.

Mr. Speaker, that second sentence of clause 4 of rule XVI is the 1909 rule that is at issue in this point of order, and while it does not specifically mention instructions, it is clear from the legislative history behind the rule as well as this recent interpretation from Deschler's that the right of the minority to offer instructions in a motion to recommit is not only implied by the rule but is the whole reason for the adoption of the rule in the first place.

Mr. Speaker, the only precedent contradicting this interpretation was a 1934 ruling by the chair that a rule prohibiting certain amendments during consideration of a bill did not violate rule XI, clause 4(b) even though it restricted the minority's right to offer amendatory instructions.

Mr. Speaker, I say, only during your tenure; not you because you're the acting Speaker, but only during the present Speaker's tenure here has the Chair relied on that one precedent alone to uphold the rule which has completely blocked all instructions in a motion to recommit.

Mr. Speaker, it should be obvious that the 1934 precedent allowing for restricting amendatory instructions was wrongly decided because it led to the situation which allows for denying any motion to recommit which contains amendments and that is clearly violative of the intent behind the 1909 rule that is currently the law and the rule of this House. To allow that precedent to stand is to render the rule and the minority right it was intended to guarantee back in those days, the Democrat minority, to render it null and void. It is not only a violation of the spirit of this rule, but it is a violation of the literal essence of the rule as well, and my colleagues all know it.

I therefore urge that the Chair reverse the 1934 precedent and recent rulings based on it by sustaining my point of order for the sake of upholding the tradition, the spirit, and the letter of the rule in question.

Mr. Speaker, I will ask for a ruling.

Mr. DERRICK. Mr. Speaker, I wish to be heard on the point of order.

The gentleman from New York [Mr. SOLOMON] makes the point of order that the rule limits the motion to recommit and therefore, according to the minority, the rule violates clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree.

Rule XI prohibits the Rules Committee from reporting a rule that: "Would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Clause 4 of rule XVI addresses only the simple motion to recommit and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure.

Nowhere are instructions mentioned. Mr. Speaker, so long as the minority's right to offer a simple motion to recommit is protected, a rule does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." This is a well-established parliamentary point.

I will not rehearse the precedents and history of this point. Suffice it to say that Speaker Rainey, on January 11, 1934, so ruled and was sustained on appeal.

The parliamentary point has been reaffirmed several times in the last few years, by ruling of the Chair, and when the ruling was challenged, it has been sustained on appeal.

The precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to recommit, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI. Mr. Speaker, I urge that the point of order be overruled.

Mr. SOLOMON. Mr. Speaker, I am sure that the gentleman from South Carolina [Mr. DERRICK] has done nothing to sway you from being the Speaker of the House representing the entire House, and I ask for a ruling.

The SPEAKER pro tempore (Mr. LAROCCO). Based upon the precedents cited in section 729c of the House Rules and Manual, the point of order is overruled.

Mr. SOLOMON. Mr. Speaker, I respectfully appeal to the Chair to reconsider its ruling.

The SPEAKER pro tempore. Is the gentleman appealing the ruling of the Chair?

Mr. SOLOMON. No, sir. I respectfully appeal to the Chair to reconsider its ruling.

The SPEAKER pro tempore. The Chair has ruled on the gentleman's point of order.

The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 319 provides for the consideration of H.R. 3, the House Campaign Spending Limit and Election Reform Act of 1993. The rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. The rule makes in order the House Administration Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of the report to accompanying the rule, as an original bill for the purpose of amendment.

The substitute, as modified, shall be considered as read. The rule makes in order only the amendment printed in part 2 of the report to be offered by the gentleman from Illinois [Mr. MICHEL] or his designee. The amendment is not subject to amendment and is debatable for 1 hour. The rule further provides for one motion to recommit which may not contain instructions.

Finally, the rule makes it in order, after passage of H.R. 3, to take S. 3 from the Speaker's table and to move to strike all after the enacting clause and insert the text of the House-passed H.R. 3. If that motion is adopted, the rule makes in order a motion to insist on the House amendments and request a conference with the Senate.

Mr. Speaker, H.R. 3 is the House Campaign Spending Limit and Election Reform Act. The bill establishes voluntary campaign spending limits for House elections with higher limits for candidates with closely contested primaries. The bill also establishes aggregate limits on the contributions candidates may accept from Political Action Committees [PACs] and large donors while providing greater incentives for candidates to seek small contributions from individuals. Under the bill individual contributions of $200 or less could be matched with voter communication vouchers which would be redeemable for television, radio, print advertisements, voter contact materials, and postage expenditures.

The bill further imposes fines and penalties on candidates who exceed spending limits after they have agreed to participate in the system and strengthens the reporting requirements on individual contributions. Finally, the bill closes a variety of campaign loopholes dealing with independent expenditures, bundling and soft money.

Mr. Speaker, House Resolution 319 is a fair rule that will expedite consideration of this legislation. I urge my colleagues to support the rule and I reserve the balance of my time.

□ 2020

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since today is Sunday, I think it is only appropriate that I look to the scriptures for inspiration on this rule and the so-called campaign reform bill it makes in order. So let me quote from Exodus 20, verses 8 through 10.

> Remember the sabbath day to keep it holy. Six days shalt thou labour, and do all thy work: But the seventh day * * * thou shalt not do any work * * *.

Mr. Speaker, by forcing us to consider this rule and the campaign reform bill it makes in order on the Sabbath, the leadership is either admitting to breaking one of the Ten Commandants or is admitting that it does not consider this exercise to involve any real work.

Since House rules prevent me from casting moral aspersions on any of my colleagues, I must take the more charitable view that we are not really working here today. Instead, the leadership must think we are merely engaging in some form of folly, frolic or frivolity with this campaign reform bill.

I guess we must be playing some sort of a political game here. But is anyone really having any fun yet?

Mr. Speaker, this is not a serious exercise. The rule before us is not a serious attempt at deliberative democracy; and the bill it makes in order is certainly not a shining example of legislative perfection.

So while we may not be breaking one of the Ten Commandants today, what we are doing is still sinful in a secular sense.

At this eleventh hour of the seventh day of this first session we are simply going through the motions of considering something called a campaign spending and election reform act of 1993. This bill is of such an emergency nature that we must be here on the Sabbath to consider it, when in fact it would not even take effect until the 1996 elections, 3 years from now. That's sinful.

Moreover, we are considering a campaign reform bill that promises public financing if Members agree to certain voluntary spending limits, and yet the bill does not provide the funding for those benefits.

Instead, its effectiveness is contingent on the enactment of some future bill that provides the taxpayer financing. Now that's sinful, if not downright deceitful.

The leadership has kept us here on a weekend to pass an emergency election reform bill that won't take effect until 1996 and won't take effect until another bill is enacted to pay for it.

Somehow, I guess, the leadership is hoping the public will be fooled into thinking we have really accomplished something if we just take action today on a half-passed, half-baked reform proposal. That's sinful.

We are considering this important measure under just 1 hour of general debate time, followed by the consideration of just one substitute amendment subject to another hour of debate, followed by a motion to recommit which may not contain instructions. That's sinful.

Why was the minority denied its traditional right to offer a final amendment in the motion to recommit? Well, we are told that since the minority already can offer a substitute amendment, giving it a motion to recommit with instructions would be a second bite at the apple.

As I pointed out in the Rules Committee last night, I don't know where it is written that you should only take one bite out of an apple. Where I come from in New York State, where we have the finest apples in all the land, apples are for eating in their entirety. And, when I came to the Congress, I used to think that bills were to be amended in their entirety, by any Member who wished to offer an amendment. And that's the way it used to be.

Mr. Speaker, yesterday the majority defended a closed rule on the DC statehood bill on grounds that no one appeared before the Rules Committee to ask for an amendment. I have not heard that justification for this gag rule today. Why? Because on this bill some 17 Members submitted a total of 35 amendments—6 by Democrats and 29 by Republicans.

And, as was pointed out in our hearing, many of those amendments had bipartisan support in the House Administration Committee.

Three significant substitutes were presented to the Rules Committee—a bipartisan substitute by Representatives SYNAR, MINGE, GUNDERSON, and UPTON. A Republican freshman substitute presented by Representatives FOWLER, BUYER, and TORKILDSEN. And an honest public financing bill that actually had the financing in it by Representative OBEY.

Many serious individual amendments were offered and turned down by the Rules Committee—almost all on party-line votes. These included:

An amendment by Representative THOMAS of California to ban taxpayer financing of campaigns;

By Representative LIVINGSTON to ban political action committees, ban bundling by PAC's and lobbyists;

By Representative BOEHNER to ban franked mass mailings in election years;

By Representative GOSS to prohibit lobbyist paid travel for Members of Congress; and

By Representative HOKE to require that a majority of a candidate's funds be raised from within the district.

I could go on and on, Mr. Speaker, about other noteworthy and worthwhile amendments presented to the Rules Committee that were dismissed out of hand and therefore cannot be offered on this floor today. That is sinful.

Mr. Speaker, I am always amazed that whenever it comes to debating a civil rights bill or a campaign or election reform bill, this body is prevented from exercising its own democratic rights to fully and freely represent the people that sent us here.

We are being denied our rights in the name of reform. That's sinful. It's not the kind of reform and change the people want.

In summary, Mr. Speaker, this rule makes a mockery of our democracy on a bill that purportedly would strengthen our democracy. There is only one way to respond to this cavalier treatment of the Members of this House and the constituents they represent who are also being disenfranchised by this process, and that is to defeat this rule.

If you want to strike a real blow for democracy and deliberative process, vote down this sinful rule and force the leadership to get real and bring us a serious bill that we can seriously consider under an open amendment process. Then, and only then, we might get a campaign reform bill that will make the people proud of us, and us once again proud of this Congress.

Mr. Speaker, for the RECORD I include a list of the rollcall votes in the Committee on Rules on amendments to the proposed rule on H.R. 3.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 3, THE CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

1. Open rule.—This amendment to the proposed rule provides for an open rule with one hour of general debate to be equally divided between the Chairman and Ranking Minority Member of the Committees on House Administration. It also makes in order the House Administration Committee amendment in the nature of a substitute as an original bill for the purpose of amendment under the five-minute rule. The Michel substitute is made in order as the first amendment under the rule.

Vote (Defeated 3-8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

2. Allow motion to recommit with instructions—

Vote (Defeated 4-7): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

3. Thomas (CA)—(A) Strike the increase in the spending limit for a contested primary.

Vote (Defeated 4-6): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

4. Thomas (CA)—(B) Strike the 10% exemption from the spending limit for spending on fundraising and overhead costs.

Vote (Defeated 3-7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

5. Thomas (CA)—(C) Ban on Taxpayer Financing. Deletes sections providing for candidate benefits and adds ban on taxpayer subsidies to campaigns.

Vote (Defeated 4-6): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

6. Livingston (LA)—(D) Strike the exemptions and loopholes from the spending limit that increase the limit from $600,000 to about $1,000,000.

Vote (Defeated 3-7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

7. Boehner (OH)—An amendment to ban unsolicited franked mass mailing in general election years.

Vote (Defeated 3-7): Yes—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

8. En Bloc—

Livingston (LA)—(A) Ban all PACS (If a ban on non-connected PACs is determined to be unconstitutional, the allowable non-connected PAC contribution would be reduced to $1,000); (B) Ban "Bundling" by PACs and Lobbyists; (C) Require disclosure of spending by unions, corporation, and non-profits on political activities undertaken to influence federal elections.

Goss (FL)—(A) Sense of the Congress that no person may serve more than four consecutive terms as Representative or two consecutive terms as Senator; (B) Reductions of Members' franking allowance by 50%; (C) Prohibit lobbyist paid travel for Members or their staff.

Delay (TX)—Text of H.R. 2307—The Workers Political Rights Act, which seeks to codify the 1988 U.S. Supreme Court Decision in *Beck v. Communication Workers of America.* The amendment calls for full disclosure of political funding to workers. Unions may still conduct political activities with funds voluntarily contributed to a segregated fund.

Santorum (PA)—(A) To reduce the public funds available to an incumbent by the amount of funds used from an official mail account on unsolicited mailings of greater than 200 pieces in the election year, the exception of town meetings; (B) To allow candidates to qualify for public matching funds only if 50% or more of the individual contributions are made by individuals residing within the congressional district of the legally filed candidate; (C) To require candidates who qualify for and accept public funds to debate other candidates who qualify for public funds; (D) Restrictions of Franking—prohibition of all photographs in mass mailings/newsletters with the exception of one portrait photo; reduction of personal references from 32 to 16; restriction of newsletter content to legislation introduced by incumbent or other legislative activity; elimination of all personal references in type size above 14-point, except in the masthead.

Fowler (FL)—Text of H.R. 3196—Freshman Republican package. Among other things, the bill includes the following provisions; Eliminate PAC contributions from one PAC to another; Prohibit funding while allowing nationally solicited direct contributions (i.e., WISH, EMILY'S List); Require lobbyists to declare their lobbyist status on contributions and to file a report of all political contributions with the FEC; Increase limit on total individual contributions to all campaigns over an election cycle from $25,000 to $50,000 per cycle.

Hoekstra (MI)—Strikes the title relating to "Ballot Initiative Committees".

Hoke (OH)—(A) An amendment to prohibit political action committee contributions to candidates running for the House of Representatives or for the Senate; further stipulates that in the event this ban on PAC contributions is ruled unconstitutional by the Supreme Court, PACs will be limited to contributions not to exceed $1,000 per candidate; (B) To require that a majority of all contributions to candidates for the House of Representatives be raised from within their own districts; (C) Makes all provisions of H.R. 3 effective upon the date of enactment.

Horn (CA)—(A) Bans contributions to a Member's campaign by the spouses of the

Member's staff and spouses of the Member's assigned committee staff; (B) Bans Members' staff from contributing time and money to the Member's campaign while on payroll or within 3 months of leaving the payroll; (C) Bans congressional and committee staff from being on split payrolls between the Member's staff and the Member's campaign; (D) Bans Members' Washington staff travelling to the Member's district at government 60 days before an election; (E) An amendment providing that the government would pay for a booklet providing voter information on each congressional candidate.

Vote (Defeated 3-7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

9. Adoption of rule—

Vote (Adopted 7-3-1): Yeas: Moakley, Derrick, Beilenson, Bonior, Wheat, Gordon, Slaughter; Nays: Solomon, Dreier, Goss. Voting Present: Frost. Not Voting: Quillen, Hall.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	53	12	23	41	77

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 20, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I reserve the balance of my time.

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Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON], who has spent so much time working on this bill, and we are real proud of him.

Mr. GEJDENSON. Mr. Speaker, I would like to ask my colleagues to recognize that we come here with a bit of history.

In 1974, a Democratic-led Congress made important changes in the way campaigns were to be run. The Supreme Court undid much of that in a Supreme Court decision called Buckley versus Valeo, where they said we were not able to simply limit spending, that there were other provisions in that bill that they claimed to be unconstitutional.

So we come here today in a system that is somewhat complex. Why is it complex? Because the Supreme Court has said that money is equal to speech and we simply cannot limit it. So we have to have a process that restricts it, but we cannot just outright limit it.

So then we end up with some choices before us. We have a choice presented by the minority that will rig the system for wealthy individuals. It is my assessment that wealthy people in

America already have adequate power, already have adequate access to Congress. And it is poor people, it is individuals of small means that need to get some protection in this system.

If Members look at the proposal made by the minority and, frankly, the proposal that comes from my colleague, the gentleman from Oklahoma [Mr. SYNAR], it is modeled after a small number of people who get large numbers of large contributions. And frankly, under either proposal, one could raise tens of millions of dollars from individuals or from political action committees.

What is our goal here today? Well, we have mixed goals. Some Members are frankly against changing the present system. I think that is not an unreasonable position. But the problem that happens on the floor of the House is sometimes Members are not direct in their actions.

Three years ago, when my good friend, the gentleman from Oklahoma [Mr. SYNAR], offered an amendment for public financing, a large number of Republicans abstained. And suddenly, an amendment was going to pass because only the Democrats on the floor were voting or primarily the Democrats on the floor were voting. And by abstaining, they would have an amendment win that they knew did not have a majority of the House.

I believe, if my memory serves me correctly, the gentleman from Oklahoma [Mr. SYNAR] had to come to the floor and work against his own amendment, not because it was a simple straight up or down vote in the House, but because of the craftiness of the Republicans deciding to abstain on a particular vote and, thereby, creating a situation where they could kill the bill at the end of the day.

I submit to Members that that is their goal here today. It is not simply to defeat the rule so they can get two bites of the apple. We give them, the minority, an alternative, an alternative that protects the wealthy, that protects their ability to raise unlimited funds from political action committees and from individuals.

They would like to have another alternative, the alternative of the gentleman from Oklahoma [Mr. SYNAR], which would do essentially the same thing, allow one to raise unlimited amounts of money from individuals and political action committees.

What does our bill do? Our bill does what is important and what is needed. It first of all limits spending. Is there a magic number on what spending ought to be limited to? I do not think so.

What we want to make sure is there is enough money to have a debate, but we do not want to have so much money or unlimited money so that we end up in nothing but a race to get additional dollars. That is why the first premise of our bill is to limit spending, and we do that in the bill that comes before us from the Democrats.

The second provision is, the public is concerned that a predominance of political action committees is influencing the Congress. Under the Republican bill, one can get unlimited PAC money. Under our bill, one is limited to a percentage that is roughly one-third of the bill for political action committee money.

If we limit political action committee money, we also have to limit large contributions from individuals. So under our bill, that is limited as well.

Mr. HOKE. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, the gentleman said that under the Republican bill we would have unlimited PAC money.

Mr. GEJDENSON. Mr. Speaker, yes.

Mr. HOKE. Mr. Speaker, if the gentleman will continue to yield, that is completely untrue. There is no PAC contribution under the Republican bill, none.

Mr. GEJDENSON. Mr. Speaker, reclaiming my time, I will be happy to engage the gentleman later.

It is clear that backup position, which is if the Court rules that banning PAC's is unconstitutional, the $1,000 limit then becomes an unlimited ticket to get PAC money. So what we have here is a real choice: One bill that really limits spending, that really limits political action committee money, that gives everybody a chance to run for Congress, that gives people that come from poor rural districts, that gives people who come from minority districts a chance to be able to have the money to enter the debate.

There is a choice here, whether we are going to give a political system that we live in a fair chance for all citizens to participate, or do we want to rig the political process to that only wealthy individuals and those with access to wealth can enter the political process.

I want to, last, thank the leadership of this House for putting the effort into today to get a bill passed and to get it to the floor.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise to oppose in the strongest possible terms the rule.

Mr. Speaker, I rise to oppose in the strongest possible terms the rule on campaign finance reform.

Perhaps no issue hits at public skepticism of Congress as much as the current ways Members raise the money they rely on to win reelection over and over again.

Particularly troubling for many Americans is that, through Political Action Committees [PACs], it appears that some Members accept large sums of money from complete strangers, and pretend that it has absolutely no effect whatsoever on how they act.

Today we have the opportunity to make major changes in campaign financing, but only if this restrictive rule is defeated. It is essential that this rule be replaced with another rule that will allow a wide variety of amendments dealing with reducing PAC contributions, prohibiting bundling, reducing the amount of time incumbents have to send out free franked mail, forcing lobbyist disclosure of contributions, protecting State term limitation efforts, and making other significant reforms. Only if these changes are allowed to come before all Members of the House for debate and a vote will we be able to increase some measure of public confidence in Washington.

One package the freshman Republicans advanced would achieve several of these reforms. Another package, led by the gentleman from Oklahoma, would also substantially reduce PAC contributions. Still another change proposed by the gentleman from Michigan would protect State groups that are seeking to advance ballot questions limiting terms of State and Federal officials.

Yet the Members of Congress will not have the opportunity to vote on these and other significant proposals if the proposed restrictive rule is adopted.

I strongly urge each of my colleagues, no matter what your inclination on the leadership bill, to vote against this crazy rule that limits the ability of each and every Member to propose amendments, and limits the right of Members to vote on the various proposals to reduce PAC influence, and make other necessary changes in how Members of Congress raise campaign contributions.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the very distinguished gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Republican Task Force on Campaign Finance Reform.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Between the full committee and the Committee on Rules, we offered some 35 amendments, as the gentleman from New York pointed out. We really wanted an open rule, and this is a totally closed rule. The process is wrong, and the process is rigged on a very important issue.

Campaign finance law sets the tone and the rule and the process for all of the U.S. elections held in this country. It is imperative that the process be fair and simple and believable. And the bill proferred by the gentleman that just spoke in the well, the gentleman from Connecticut [Mr. GEJDENSON], is none of those.

There are lots of ideas available, proferred by Republicans and Democrats. The gentleman from Oklahoma [Mr. SYNAR] had some great ideas to improve current law, and those ideas should be explored. Some of the ideas we have might be good; some might be bad. But they each should be debated and evaluated and considered. Each should be voted on. But this rule stifles debate. It restricts options. It eliminates dissent, Worse, it foists the Gejdenson bill, a horrible plan, on the American election process without adequate consideration or debate.

It forces a choice between only two bills, two plans. And the majority has the votes, and they will probably vote for theirs and against ours. But frankly, that is not the way this process should work. We should be taking the best ideas and hashing them out and coming to a consensus as to what really is reform. But they are not interested in it.

I personally believe public financing, which is the core, the centerpiece of their plan, is welfare for the politicians. It forces support by an unwitting public for candidates they might despise and would never support if given a voice.

Even under existing law, there is a public financing scheme for the Presidents of the United States. And do Members know that Lyndon LaRouche, from his jail cell qualified for over $1 million in public financing, and that is the kind of activity that the Gejdenson bill will encourage. $1 million from his jail cell.

The Gejdenson bill invokes public financing, and it hides public financing under the name of "communications vouchers," which will be paid by the Treasury of the United States.

□ 2040

The bill creates a fund, taxes to be implied later under some surreptitiously hidden omnibus tax bill months from now, when nobody is paying attention, it creates a fund, but it does not include those taxes in this bill. Hence, the bill is not believable, and neither is it fair, and neither is it simple.

In fact, the bill is unconstitutional on at least five grounds. It is incredibly complex, $600,000 in spending limits the gentleman would impose for the entire election process, under Federal law, but that $600,000 spending limit is riddled with exemptions, loopholes, waivers, ad indexing, and the total really comes out to well over $1 million.

The loopholes include exemptions for bundling. It prohibits bundling from some folks but not for others. It provides soft money for some folks but not for others. Their bill even exceeds Federal jurisdiction. For my friends that might be in State legislatures all over this country, we will be shocked and appalled to learn that the ballot initiative for like term limit in the States would be outlawed, or, excuse me, they would not be outlawed, they would be forced to abide by these complex, complex rules and regulations.

Mr. Speaker, this bill discourages challengers, will guarantee that law-abiding candidates will run afoul of the law, will do nothing to discourage cheaters, and it will not be enforced, because they do not even give the resources to the Federal Election Commission to enforce it.

It deprives the American voter of the right to support or deny support or even oppose the candidate of his or her choice.

Mr. Speaker, I urge the defeat of this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, tonight we can signal to the American public that we are serious about reform. As the law governing campaign spending, campaign finance reform is of great importance to each of us. Our ability to pass reform legislation speaks directly to our sensitivity to the American public's outcry for change, their call for responsible and accountable government, and our ability to meet that demand.

To the American people campaign reform is a defining issue. It is an issue by which they will measure our commitment to change, our commitment to cleaning up government, our ability to regulate our own activity, and most importantly, our commitment to acting on the message sent so loudly in the last national elections.

Mr. Speaker, the people are watching closely tonight. They are watching to see if the House is capable of disciplining itself. If we do not act tonight, voters will certainly react in 1994.

The campaign finance reform bill which the rule will allow is a serious attempt at campaign finance reform. It is not perfect. No law intimately affecting each Member so closely will ever be regarded as such. But this legislation tackles some of the most difficult problems with our current system:

It limits the influence of political action committees.

It limits the influence of wealthy contributors.

It limits overall spending, doing away with a system which has seen campaign spending swell into the millions of dollars.

For the first time it empowers low donors, giving average Americans a greater impact in political campaigns—making their support a critical component to the success of a candidate.

This bill in the best tradition of this House strives to be fair to all those who must operate under its rules. It is fair to Democrats, it is fair to Republicans. It is fair to Members who represent minority districts and women candidates—groups that have been often left struggling on the political sidelines under our current campaign financing system.

But most importantly Mr. Speaker, this bill is fair to the American people. It demonstrates that the Congress is listening to the call for reform, that we hear the cry for change.

Alternative proposals which have been suggested do not represent a similar attempt to be fair. In fact, they limit the ability of minority members and women to run for office—candidates who cannot tap into the same sources of funding available to the majority of this body.

This legislation is not new to this body. It was passed in the last Congress when a veto was certain. To deny the opportunity to pass it this year, when the changes for enactment under a Democratic administration are greater is a disingenuous course at best. Voters will not allow us to get away with that double standard.

Mr. Speaker, for the integrity of this institution we can not allow ourselves to be dragged kicking and screaming to the table of reform. Instead it is time for us to lead the way. To accept the responsibility, to act. We must pass this rule, and we must pass campaign finance reform.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA], a freshman Member of this House who has become, in just 10 months, a leading force as far as the initiative on referendum is concerned.

Mr. HOEKSTRA. Mr. Speaker, yesterday, I once again had a real eye-opener that I want to share.

The Rules Committee meeting was embarrassing. I watched my colleague from Ohio, a Democrat, offer a commonsense amendment which would have attached franking budget reforms with campaign reform. He was thanked for his time and excused, just like a little schoolboy asking Mommy for a cookie, and then being politely dismissed to go outside and play. I thought it was kind of funny, but the same thing happened to me when I offered an amendment that would have stopped the Federal Elections Commission from getting involved in State ballot issues. What a joke.

So why did I bother? Why does anyone ever bother?

Why? Because we all represent people who are sick and tired of the nonsense that goes on in this city.

Mr. Speaker, my constituents are fed up. They are angry. They do not trust Congress. They do not like Congress.

They love our country, but they have serious doubts about the future. Yesterday's Rules Committee is a case in point: Little deliberation; little discussion; some polite winks and nods; and even a staffer to open and close the door.

Let me come to the floor and make the case on behalf of millions of Americans involved in State initiatives and referenda.

Let me explain how Congress is trying to thwart the will of the people and preserve the status quo. It is unbelievable to me to be hearing my Democratic colleagues talking about rigging the process.

Let us reject this outrageous rule. We have all been insulted long enough. Vote "no" on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I rise to urge my colleagues to support this rule, and to support this campaign finance reform bill. It is real reform.

Mr. Speaker, if we do not vote to change the way we finance our campaigns, we will again break faith with our fellow Americans.

The American people will once again see that the Members of this body are more concerned with politics as usual than meaningful reform. What hypocrisy to say it does not go far enough. So let us do nothing.

We cannot afford such a breach of faith with the people who sent us here.

The American people have demanded this campaign reform, as they have demanded lobbying reform and a ban on gifts and perks.

Let us give the people what they want. Support this rule, and support the passage of H.R. 3.

Mr. GOSS. Mr. Speaker, it gives me great pleasure to yield 1 minute to my distinguished colleague, the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in opposition to the closed rule on campaign finance reform. Because the freshmen Republicans do not believe H.R. 3 is real reform, we submitted an alternative bill which, like many other good reform amendments, was not allowed. Because I do not support H.R. 3, and because only one amendment was allowed, I will vote against the closed rule.

However, those who support H.R. 3 and also claim to support term limits should join me in opposing this rule. That is right, hidden in H.R. 3 is a provision that would require new Federal regulation and interference in State ballot initiatives. The National Taxpayers Union calls the provision "a mean-spirited and misguided effort to harass State supporters of congressional term limits."

Every Member of this House who supports term limits should vote against this rule. Regardless of what you think about everything else in H.R. 3, you cannot support the term limits movement and vote for a restrictive rule that protects this antiterm limits provision.

I say to those who support H.R. 3, vote "no" on the closed rule and go back to the committee and get them to remove the provision which has nothing to do with campaign finance and everything to do with incumbency protection.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to participate.

Mr. Speaker, the time has come for this body to seriously respond to the expectations from Americans clamoring for real and meaningful campaign reform. This reform of Government starts with us. It is clear that Congress must change its way of doing business. There is a rising call for action to make Congress more accountable in the minds of those who elected us. No longer can we explain or justify special privileges in a time when Congress is under such public scrutiny. The demand for campaign reform is now and should not be delayed until a perfect bill is crafted. This is the right step at this time.

Some will seek to defeat the rule in order to craft a perfect bill. I would urge my colleagues to vote for the rule. The bill as crafted by the gentleman from Connecticut [Mr. GEDJENSEN] is fair, to nonwealthy, minorities, women, and consistent with the freshman class recommendations and the President's proposal.

We need to make sure that the appearance of special interest is reduced, and we must establish reasonable spending limits. The outrageous cost of running a campaign must come under control. We can no longer wait; the call for action is upon us, and this body must respond by acting now. The American people are demanding real change.

I urge the passage of the rule and the passage of H.R. 3.

□ 2050

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOKE], who brought three specific amendments to H.R. 3 forward.

Mr. HOKE. Mr. Speaker, this House, the people's House, has been for sale for too long, far too long. Tonight we can tear down this sign if we defeat this rule.

Mr. Speaker, I rise tonight to express my disgust with the grotesque abuse of power which has been committed by the Rules Committee at the expense of the American people and at the expense of the Members of Congress and to the discredit and disgrace of this institution.

Campaign finance reform captures the imagination and interest of the American public for the same reason that it animates the intellect and incites the passions of Members here. It is because we understand that there is a fundamental relationship between how we get here and how we serve here. The fact is that to a great extent how we get here is how we serve here.

And how should we serve here? Independently, in the public interest, not for the special interests, beholden to no person or group save two, the constituents of the district that we have the honor to represent, and our own conscience.

If that is how we should serve here, then should we not get here the same way? Independently, belonging only to ourselves and our constituents? Of course we should. Which is why I offered several amendments to this bill: First, to ban special interest campaign contributions. Second, to require that 51 percent of a candidate's contributions come from within the district that he or she wants to represent. And third, that the bill apply now, not in 1996, but now.

The ban on special interest PAC contributions is something that the Senate has already passed, the public wants overwhelmingly, the President campaigned for, and the House Republican conference has adopted as its position. In fact, the only ones opposed to it at this point are House Democrats, and maybe not all of them. But that is something we will never find out if this rule passes, because the Rules Committee on a straight party line vote has refused to even allow this House to consider these amendments.

In order to reveal this chicanery to the American people, C-Span should be at the Rules Committee, because that is where the tyranny of the majority takes place. That is where the American people and their elected Representatives are squelched, and muzzled, and that is where we are trying to make a meaningful attempt to reform this people's House.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I thank the gentleman for yielding me the time.

I wish I could support this rule, because I recognize that we may not get another chance to vote on campaign finance reform in this Congress. Under the circumstances, though, I think that we should reject the two bad choices before us and insist on a real alternative when we come back in January.

Voting to exclude any alternative only allows both parties to go through the motions of voting for reform without actually curbing the influence of special interests and the advantages of incumbents. I think we should avoid the temptation to take the easy way out.

The Democratic package would be a slight improvement over the present system—if we could pass a financing mechanism to make it work—but at best, it offers incremental changes when what we need is a drastic overhaul.

My biggest concern is that it doesn't include a $1,000 limit on each PAC contribution. Any campaign finance bill that doesn't drastically curb PAC contributions is more cosmetic than substantive. I am especially disappointed that President Clinton did not propose to reduce PAC's from their current $5,000 limit after having campaigned on a specific promise to do so.

PAC's give an average of $228,000 more to incumbents than challengers. Without PAC limits, the influence of special interests will go unchecked. I can't buy it, and neither will the public. Real campaign finance reform—with PAC limits as well as tougher overall spending caps—is the only way to make elections competitive.

I support public matching funds in exchange for agreeing to spending limits, but there's no money for matching funds in this bill and the limits are so full of holes that candidates will be able to spend upwards of a million dollars and still meet the cap.

The Republican leadership, on the other hand, wants to kill PAC's while preserving the power of wealthy individuals and ignoring the need to limit spending. They want to cut the influence of special interests unless the special interests are the kinds of people who can give $1,000 to a congressional campaign.

Congressional candidates spent a total of $66 million during the 1972 elections. In 1992, they spent $504 million. By failing to rein in spending, the Republican alternative perpetuates the corruption inherent in a system where million-dollar races are becoming the norm and any candidate who can't raise at least half that amount has little hope of being heard, let alone winning.

The Democrats are trying to protect incumbents, and the Republicans are trying to protect the rich. We should quite posturing and pass real, bipartisan reform that cuts the influence of special interests and makes races competitive.

I think the Synar-Upton alternative is a good start. Of course, it doesn't have either the public financing or the overall spending limits necessary to fix the fundamental problems with the way campaigns are funded. In a way, though, that's its strength: It would improve the system by lowering both PAC and individual contribution levels while not pretending to be the definitive solution to every problem.

If the rule passes, I will hold my nose and vote for the Democratic bill. But I cannot in good conscience vote to limit debate to these two alternatives, so I must oppose the rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON], from the land of football and who is part of the bipartisan coalition to bring forward an alternative.

Mr. GUNDERSON. Mr. Speaker, it is Sunday night. The Senate has gone home and we are in session. Why?

We are here because the leadership says we have to enact a reform before we can adjourn for the year. But what we are doing tonight is not reform at all. It is a fraud, and we ought to understand it as such and call it that.

We talk about campaign reform. This is not campaign reform. It is spending caps of $1 million.

They talk about campaign reform, but what do they do? Put it in effect after the next election, not in 1994, but 1996.

They talk about public financing, but they do not provide the mechanism to fund it.

They talk about limits on PAC's up to $200,000 grand total. And they talk about limiting bundling unless it depends on who is bundling the money.

That is their definition of campaign reform.

So what happens? The Rules Committee comes here and says we are going to bring up the Incumbents Protection Act, better known as the Democratic bill. But we are not going to allow amendments offered by Members to make that particular Incumbents Protection Act work. We are not going to allow amendments to fully debate the whole concept of campaign finance reform. And we are not going to allow amendments that would bring together in a bipartisan effort the only option we have in terms of trying to enact something in terms of real campaign reform in this Congress.

I think what we are doing tonight is a fraud, and I think anybody who has the gall to vote for this rule knows it is a fraud, and they are going to have to find a way to defend that in their district, and I do not think they are going to be able to. Your constituents can see through this.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I rise in strong support of the rule on H.R. 3.

For two decades, as a State legislator and in my time in Congress, I have supported and fought for tough campaign reform to limit the influence of big money in the political process.

Some of us—myself included—would prefer something tougher than H.R. 3. I am disappointed that H.R. 3 does not include a funding mechanism for its campaign finance provisions. I would support lower PAC limits and spending limits than are contained in H.R. 3.

But this is a good bill and furthermore the best bill we will get this year. Opponents of the rule say they are advocates of what they call real reform. They call for delay.

But their proposal imposes no spending limit. Their proposal contains no public finance provisions.

That is not my notion of real reform.

H.R. 3 is a comprehensive campaign finance reform bill that imposes a voluntary $600,000 spending limit on congressional races. H.R. 3 limits each candidate to $200,000 in PAC contributions and $200,000 in large individual contributions. H.R. 3 provides communications vouchers to correct the most significant inequity in modern elections: the ability to buy time on television.

H.R. 3 is very similar to the bill passed last year when we had a President who was passionately opposed to campaign finance reform. We can finally enact real reform if we pass H.R. 3.

Mr. Speaker, I urge Members to support the rule so we do not miss our only real chance to pass genuine campaign reform this year.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, I take this matter very personally, because in my campaign for this House I spent $250,000. My incumbent opponent spent over $800,000, and he had the advantage of a special interest independent expenditure as well as spending over a quarter of a million dollars of tax dollars to send out self-promoting newsletters. And I won.

Let me tell Members three people who helped me win. An elderly woman who wanted to come to a $5 fund raiser and asked if she could come on credit until she got her Social Security check. A couple who reserved two $15 tickets, and when they came to pick up their tickets said you keep the tickets because we cannot come. And when I asked why, she said, "Because I don't have the kind of clothes that I need to wear to an event like that." It was in a picnic shelter behind a truck stop.

□ 2100

These little people that I represent have a right to combine their money into a PAC to make a significant gift. We need to reform the way we do our business here, but, for goodness sakes, let us not cut out the little people who give in Appalachia, OH.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Speaker, in a last-minute effort to derail campaign finance reform, some Members of this body are arguing today that a vote for the rule on H.R. 3 is a vote against term limits. This is simply not the case.

As many of you know, I am a supporter of term limits. I have introduced a constitutional amendment to limit terms; I have pledged to serve no more than 12 years in this body; and I played an instrumental role in securing the first hearings on term limits that the House of Representatives has ever held. I would not take an action that would undercut the national drive for term limits. And I fully intend to vote for this rule.

A registration requirement for State ballot committees is not central to the campaign finance reform initiative we are finally about to pass. But any effort to characterize such an innocuous registration requirement as a reason not to vote for the reform is an effort forwarded by people looking for reasons to avoid reform.

Mr. Speaker, this is a debate about campaign finance reform, not about term limits legislation. I ask the other Members of this body who, like me, support term limits, to join in support of this rule. Public advocacy groups across the Nation support this bill. Let us not be distracted by a last-minute effort to derail this critical and long-overdue campaign finance reform effort.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise today in support of the rule for H.R. 3. Only one bill, H.R. 3, has all the principles necessary for legitimate campaign finance reform. That is why H.R. 3, the Gejdenson bill, has been endorsed by major newspapers across this country, by the good-government groups Common Cause and Public Advocate, and endorsed by the Democratic freshman class.

Some Members want to defeat the rule so other proposals can be brought forward, proposals that obscure the real issues of campaign finance reform. These proposals do not set a spending limit, do not provide for all the alternative resources, and make the reduction of PAC's the main focus of their reform.

To use my own race last year is a good example of how these proposals would result in no reform. I ran against two multimillionaires, both of whom spent hundreds of thousands of dollars of their own money. They outspent me 5 to 1. One spent $1.3 million. I challenged them to spending limits, $500,000, $1 million. They said no.

Proposals that simply focus on PAC contributions without addressing the need of overall spending limits do not make our elections more competitive, and they do not present the voters with real and meaningful choices.

We need to hold the elections not auctions. H.R. 3 is the only bill that will show the American people that this Government is not for sale.

Vote for the rule and real campaign finance reform.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, I rise in strong support of this rule on campaign finance reform. Today, every Member of this House sends a clear message to his or her district and the Nation—either you support reform or you believe in business-as-usual.

This bill on campaign-finance reform will limit total campaign spending, limit the amount of money candidates may accept from political action committees and make future political races more competitive—and more fair.

The freshman Democrats have made campaign finance reform our No. 1 reform priority. By passing this bill today we will not only honor our commitment to improve America's electoral process, we will also improve the legislative process and our ability to govern.

This rule and this bill are a rare opportunity for real change.

Tomorrow we will consider legislation to reinvent government. Let us take the first step today, lead by example and reinvent congressional campaigns. The time for reform is now.

Mr. Speaker, I urge my colleagues to vote "yes" on this rule and "yes" on campaign finance reform. It is time to stop skyrocketing campaign costs.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, I rise in opposition to the proposal on the floor.

While I do not support the proposals on the floor today, I want to make clear that I do support campaign finance reform. I am proud to be a cosponsor of the proposals initiated by the Republican freshman, H.R. 3196. In particular, I want to express my appreciation to Congresswoman FOWLER and Congressman TORKILDSEN for their hard work in crafting our reform legislation. Unfortunately, the Rules Committee has deemed it unworthy of consideration by this body.

I do not support H.R. 3. It is nothing but an incumbent protection bill. First, it limits what challengers and incumbents alike can spend. Challengers are disadvantaged to overcome the greater name recognition that incumbents usually enjoy. Second, this bill does nothing to address the advantages that incumbents do enjoy, especially the use of the congressional frank.

Third, while the bill purports to limit spending, it is in fact riddled with loopholes. For example, the limit does not apply if one's opponent spends more than $50,000 of his own money. There are no limits on political action committee money held over from a previous election. No limits on political action committee money to pay for legal and tax expenses. It is clear that this provision was added because the burdensomeness of this proposal will cause a tremendous rise in legal expenses just for compliance.

Fourth, this bill provides $200,000 in federally-funded communication vouchers for candidates who agree to spending limits. This is simply welfare for politicians. Let's put disclosures on yard signs and television ads—your tax dollars at work. Creative taxing strategies, as yet unknown, are going to be developed to rob some people of their money so politicians can pay for television time. Some unsuspecting soul is going to have their money snatched to pay for Speaker FOLEY'S television ads.

The ironic thing here, is that this bill is null and void until some financing is developed. This is no reform at all if it can't be paid for.

Finally, the bill attempts to limit the rights of citizens to participate in the electoral process. Citizens who want to mount an independent expenditure campaign either for or against a candidate will be effectively prohibited from doing so. The bill also places a dagger at the heart of the term limit movement by requiring those citizens who work on term limit initiatives to comply with the FEC fundraising guidelines.

Incumbents are protected. Citizens are muzzled. This bill is not reform.

Regretfully, I also have to take issue with my good colleagues on this side of the aisle on the Republican proposal for campaign finance reform. I respect their initiative. They have attempted to address the true need of campaign finance reform. But they have been unrealistic in two respects:

First, they ban contributions from political action committees. This proposal, I feel, is unconstitutional. The proponents of this proposal must feel so as well, or why otherwise include a fallback provision. I do support limiting PAC's to $1000.

Second, this proposal requires a majority of funds to come from within district. I think this is unworkable and places an undue burden on candidates from districts of modest means. In my district, the per capita income is a little over $12,000 per year. Furthermore, this proposal does not address how redistricting affects fundraising. I'm sure all Members have experienced what I have in that the post office cannot precisely deliver mail from constituents, yet this proposal would require us to precisely know the status of all contributors. I do support requring a majority of contributions to come from within one's home State. I think this is much more workable and much more fair to candidates.

Let me address one additional issue. This is the definition of "clean public resources." In 1992, I signed a pledge as did many other Members that was sponsored by Common Cause supporting the use of "clean public resources" for campaign funding.

I'll admit to being new to Washington ways, being a freshman Member. Let me explain the views of this Hoosier in support of clean public resources by examining each word. Clean means to be washed or unblemished or untarnished, in this case by corruption or the perceived buying of influence. Public means the people, individuals, as in public parking, public restrooms, or public parks—open to all the people. Resources could mean time, money or effort. I support individuals being able to give of their time, money and efforts to support candidates who share the beliefs they hold.

Lo and behold, upon coming to Washington I immediately learned that there is a different dictionary here than the ones we used in Indiana. This dictionary defines

"Washingtonspeak." Here, inside the beltway, "clean public resources" means taxpayers' dollars. Tax dollars have no business funding political campaigns. With billions of dollars in deficit spending a year, taxpayers should not be forced to make contributions to fund political campaigns.

Immediately upon learning the true "Washingtonspeak" meaning of "clean public resources," I wrote a letter to the president of Common Cause, Mr. Wertheimer, disavowing their view. I have yet to receive a response. I repudiate the ambiguous and misleading language and deceitful tactics they have used to solicit signatures to the pledge. I ask unanimous consent to include my letter to Mr. Wertheimer in the RECORD following my remarks.

I oppose the legislation on the floor today. But I do support campaign finance reform. Regrettably, we will see no real reform legislation from this body today.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
May 4, 1993.

Mr. FRED WERTHEIMER,
President, Common Cause, Washington, DC.

DEAR MR. WERTHEIMER. I am writing regarding the Common Cause "Anti-corruption Campaign" pledge which I signed during my campaign.

I certainly believe that campaign finance reform is critical to increase the competitiveness of Congressional elections. That is why I support proposals to limit PAC contribution amounts, eliminate "soft" money, and require most of a campaign's funding to come from within the congressional district's State.

Like you, I support the ability of the people, individual citizens, to participate fully in our republic and to contribute, within bounds, to the campaigns of their choice. This is what I interpreted as the meaning of "clean public resources" when I signed your pledge.

Unfortunately, I have now learned that Common Cause interprets that phrase to mean congressional elections financed with taxpayer's dollars. This will not make elections more competitive—it is another incumbent protection perk to Congress. I do not support nor do my constituents support the diversion of tax dollars to pay for partisan campaigns. I am very disappointed you used ambiguous and misleading language to obtain signatures to your pledge without clearly defining exactly what you meant. Thomas Jefferson said that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." I agree with him.

I regret this misunderstanding regarding taxpayer funded elections, but I am pleased that we share a desire to reform and improve our system of government.

Best regards,

STEVE BUYER,
Member of Congress.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. THOMAS], the ranking member of the Committee on House Administration.

Mr. THOMAS of California. Mr. Speaker, perhaps I am confused here. I have heard freshman after freshman on the Democratic side come down here and talk about "vote in favor of this rule and the bill for campaign finance reform."

Perhaps our leadership has not told them that the financing portion of the bill is gone. There is nothing there for public financing. They could not put it in.

The gentleman from Connecticut talked about the craftiness of Republicans last year. Do you know what we had the audacity to do? The gentleman from Oklahoma had a real public financing bill. It was brought up on the Committee of the Whole. Republicans refused to defeat it. And, guess what, the Democrats had to vote it down in the full House. That was the craftiness of the Republicans.

Let me assure you that was a real public financing bill. This one is not.

Please, do not come down here and say you are supporting a public financing bill. Nothing will happen, no limits, no controls, unless a financing package is passed. Go home and tell your folks that.

I do not have to tell the Republicans why they should vote against this rule. The gentleman from New York clearly spelled it. If you are a Republican, you cannot support the kind of procedural moves made by the Democrats.

Now, let me tell you, when I came to the Committee on Rules to ask for amendments to be made in order, I brought only those amendments that got Democratic votes in the Committee on House Administration. I did not have a laundry list. We did that in committee. In front of the Committee on Rules I wanted to offer only those amendments that got Democratic support. One of them was, look, you have taken out all the financing stuff; why do we not be honest, why do we not talk about taking out all of the mechanics and simply say this is a spending limitation bill? It has been 20 years since Buckley versus Valeo. There are seven new Members on the Supreme Court. Why do we not be honest about what we are going to do? Pass a spending limit bill, and let us see if the Court declares it unconstitutional 20 years later with all the knowledge that we have now, with seven new members of the Court. That is at least honest.

It got Democratic votes on the Committee on Rules, but it is not made in order.

Now, let me tell you, someone just said that this is a whole lot like the bill from last year. Let me tell you, it is not. Last year was a sham. You knew you did not have to live with it. This year you have to live with it. What happens? A closely contested primary last year was 10 percent difference in the vote. A closely contested primary this year, 20 percent, double the amount. You got $150,000 last year if it was a close primary. This year it is $200,000. Limits on carryover? Oh, yes, last year there were limits. This year, no carryover. Audit? Last year you wanted to audit 10 percent of the candidates? This year we only want to audit 5 percent of the candidates. Last year you bragged about how you were banning leadership PAC's, a business where Members who are incumbents give money to other Members who are incumbents to promote their ability inside the ballgame. You banned that last year. Where is it in the bill this year? Nowhere to be found. You do not touch leadership PAC's in this bill.

Last year you said no Government aircraft to be used for political purposes. This year, I looked in vain in the bill. Nowhere do you say you are going to ban the use of Government aircraft for political purposes. Is that not interesting?

CBO estimates that if you put the money in the bill, $180 million. CBO estimates about $5 million for the Federal Election Commission. The Federal Election Commission itself says it cannot do the job for less than $20 million.

But the irony of the debate over the rule tonight is that everyone of you will stand up and say the world needs campaign finance reform. It is not in your bill

Look, it is embarrassing enough what you are trying to do. At least be honest about it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. SYNAR] is recognized for 4 minutes.

Mr. MCCURDY. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I am happy to yield to the gentleman from Oklahoma.

Mr. MCCURDY. Mr. Speaker, I want to support my colleague, the gentleman from Oklahoma, in opposition to this rule.

Mr. SYNAR. Mr. Speaker, almost 16 years ago I walked in on this Chamber at the ripe old age of 28 with all the excitement and enthusiasm that a freshman Congressman has.

In those 16 years that have followed, I have grown up, and I have also learned a lot about campaign reform.

Defining campaign reform may be the hardest part. To editorial boards, it is clean up the system regardless of the consequences or the Constitution.

To my Democratic Party it is, "Clean up the system, but don't you dare jeopardize the majority which we so enjoy."

To the Republican Party it is, "Clean up the system, but don't touch our large donors, because that will help us become the majority party."

□ 2110

I would suggest that all those definitions are simply wrong. The American public defines true campaign finance reform very simply: Does it make these congressional races more competitive; second, does it improve the debate during the campaigns?

The two bills that we consider tonight do not meet that simple definition. Neither bill qualifies as true campaign reform. Not one congressional race will be any cheaper or any fairer if either one of these bills passes.

Both bills are so clearly unconstitutional that it begs the question of sincerity by either party about reform. You know, the Democratic plan could be better described as the incumbent protection plan; the Republican plan could be better titled the fat cat enhancement act.

True campaign reform means leveling the playing field, not for Democrats and Republicans but for challengers and incumbents regardless of party.

You know, over the last 16 years I have learned one other important principle; that is, how we get here is how we serve. Let us not forget that as we vote tonight.

Let us remember it for ourselves as well as those who would seek this office to serve this great country.

My colleagues, we can do better, we should do better, we must do better. I respectfully submit that you should vote against the rule so that we can do it right.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HORN], a distinguished freshman Member of the House from California who was denied five amendments to this bill.

Mr. HORN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I completely agree with the eloquent words of the gentleman from Oklahoma [Mr. SYNAR]. There is one bipartisan bill which should be before this House. That is the Synar-Livingston bill. It could be before this House if we vote down this arrogant and atrocious and awful rule which is before us.

I oppose this rule because on this weekend, when the country is fed with bread and circuses of the football teams of intercollegiate athletics, the pro teams and everything else, the majority party is trying to sneak over on the American people a horrible measure in the guise of campaign finance reform.

There are people in both parties who want real reform. When I went to the Committee on Rules yesterday, I went to advocate a voter booklet that could go into every home in America where there is a registered voter. Every candidate running for Federal office could have a page for a 500-word statement. The opponents could rebut that statement if they could agree on one 500-word statement. The candidate could have a rebuttal of their rebuttal. That booklet and process would assure some leveling of the playing field between incumbent and challengers. However, that sensible proposal was turned down.

I also advocated banning Federal, taxpayer-paid congressional committee and office staff from participating in political campaigns within 60 days of the primary or general election. The fact is the U.S. attorney for the central district of California in Los Angeles has handed down one indictment recently on that very problem. This Chamber ought to have the guts to ban federally paid congressional staff from going to the district of their Member and campaigning for their Member of Congress. Congressional staff should stay out of direct partisan politics in a campaign.

I feel compelled to mention one other thing: For three decades I have agreed with Common Cause in its drive for campaign reform. And now I must say I am sadly disappointed that they have swallowed whole the Democratic proposal, which is not campaign reform. The Democratic bill does not ban political action committees. It does not end the use of soft money. It does not require a candidate to raise over half the money for his or her campaign in the congressional district. I am disappointed that Common Cause has been a lap dog for advocates of the Democratic bill as long as anything seems to resemble public finance.

What is needed is a lid on what we spend in campaigns and a leveling of the playing field. All I can say to Common Cause is: Oh, John Gardner, your founder, where are you when we need you? Ladies and gentlemen, what we have here is one of the most flawed bills that ever came before this House. And if you believe anything in our elections will be reformed with its passage, then you must also believe that an idiot can become a winner of the Nobel prize.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. Mr. Speaker, I rise in support of my colleague, the gentleman from Oklahoma, in opposition to the rule.

Mr. DERRICK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, campaign finance reform is one of the most difficult problems the Congress will ever deal with. I suppose the reason for that is because it is such a personal thing. It affects everyone and everyone's situation is different.

I am sure that we could bring 435 different campaign finance reform bills to this floor very easily. We have in this rule, I think, given both parties, Democrats and Republicans a chance to put their thoughts forward on campaign finance reform, with the Democratic bill being, of course, the basic text, with a Republican amendment, and they will have an opportunity to put all of those things in their amendment that they believe should be included in finance reform.

I believe it is a fair rule, I believe it is a rule that we should pass, and I think we should move on and pass campaign finance reform before we break for Thanksgiving.

I think the American people expect it, they deserve it. Now is the time. We can talk about putting it off until later, but now is the time. We will be faced with the same situation, that same choices a month from now, 2 months from now, a year from now or 2 years from now.

So I suggest that we pass this rule, which is a fair rule, and move ahead with campaign finance reform.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], a distinguished member of the Committee on Rules, who was denied three very, very good amendments.

Mr. GOSS. Mr. Speaker, I rise in the strongest opposition to this rule.

Mr. Speaker, when Americans cite their frustrations with Congress—they often point to the arrogance of power by which Members seem more interested in serving themselves than serving the country. Polls show most people do not trust Congress—and they have come to expect obfuscation, misinformation, and smoke-and-mirrors gimmicks when Congress is faced with tough decisions, especially those involving our own well-being. Our credibility rating hovers dangerously low—well below 30 percent—and we have an obligation to this institution to reverse that negative image. With campaign reform, we might have had a chance to move in that direction. After all, campaigning is the lifeblood of politicians—and it directly affects each and every Member of this House. If we could implement meaningful campaign reform, allowing all Members to participate in developing the best possible package of changes—it would send a strong signal to Americans that Congress is willing to clean up its act; that we are capable of getting tough on ourselves. But the majority leadership nipped that in the bud with today's outrageously dictatorial rule. Never mind that, for 5 hours yesterday, members of the Rules Committee heard testimony from a bipartisan contingent of Members with solid proposals for campaign reform. Never mind that there are serious constitutional questions about infringements on free speech caused by spending limits in H.R. 3, and never mind that the majority's bill establishes an enormous taxpayer liability to finance political campaigns—without specifying a mechanism to pay for them. Because of this contrived rule we will not be discussing term limits, or restrictions on Members' free mail and some of the other advantages of incumbency. Tell me there is not election year abuse of the frank. We will not be zeroing in on problems with lobbyists and the way campaign funds are bundled together to beat the rules. We will not be tackling the desperate need for increased disclosure of how unions, corporations and not-for-profit organizations seek to influence elections. I ask my colleagues, how dare we pretend this is campaign reform? How dare we call it campaign reform? We ask the American people to believe we are working toward opening up the political process—while at the same time we acquiesce to shutting down deliberative democracy on the floor of this House? I am deeply saddened that, instead of seizing upon this opportunity to do something real, this whole procedure has become a political hoax, a sham, a pretense. This rule even denies the traditional right of the minority for a motion to recommit with instructions. But forget fair play—vote "no" because this rule does not get us on the road to reform—neither does H.R. 3. Vote down this rule.

Mr. SOLOMON. Mr. Speaker, to sum up for the Republicans and Democrats opposed to taxpayer financing of congressional campaigns I yield the balance of our time to the gentleman from Illinois [Mr. MICHEL], one of the most outstanding leaders of the Republican Party this House has ever known.

Mr. MICHEL. Might I initially compliment the very distinguished gentleman from New York [Mr. SOLOMON] for making the point of order on the motion to recommit with the citations of prior speakers of the House of Representatives. It is the time-honored tradition to give or to award to the minority an opportunity for one last say with respect to their position. It just really rankles me no end that a majority with an 83-vote majority—this really ought to be considered under an open rule, controversial as the issue is and the difference of opinion on both sides of the aisle.

But in the absence of an open rule, at least then an opportunity for a motion to recommit with instructions that places in opposition to whatever the majority position is our package of amendments.

On my side of the aisle we spent hundreds of hours over the last Congresses on campaign reform. I am proud of where we are today; especially compared to where we were when we started, with a weak effort brought forth by the majority.

I want to publicly thank the gentleman from Louisiana [Mr. LIVINGSTON], specifically, who headed up our task force and did an outstanding job leading our troops and crafting the alternate. Also, the gentleman from California [Mr. THOMAS], who dedicated so much of his career to this issue and brought much intellectual thought to the issue.

And when we get to the debate, if the rule does not go down, I am sure you will have it laid out there for you by both of these gentleman in spades.

□ 2120

Let us look just very briefly then in summary at the fruits of our respective labors.

House Republicans ban political action committees; the Democrats do not.

I was here when the only political action committees were those formed by labor unions. Business and industry had no opportunity.

Actually PAC's were born of reform. I do not know whether that $5,000 limit out there was the best thing to do or the worst thing to do, but today if it ought to be reduced to $1,000, we are prepared to do that but even more so if it is so onerous, and the reason we justified thousand dollar PAC's on our side, if an individual can give $1,000, what is wrong with 300 or 400 people getting together and offering the same $1,000? Who has got the most influence, for Heaven's sake? The individual.

That is really a phony argument altogether; but if that is the way you want to play it, we will eliminate PAC's altogether. Then House Republicans prohibit soft money. Oh, and this is doozey, I will tell you. We can live without it, but you cannot, and that is why you will not put it in your reform bill.

House Republicans say half of a candidate's money must come from the district from which he or she hopes to represent. What is wrong with that? If it is a rich district like New York or Hollywood or Palm Beach or whatever, and a poor district like Peoria or North Dakota or South Dakota, both sides are affected the same way. If you got half the contributions at least coming from your home district, that is a great equalizer, for my money.

Well, we House Republicans build up political parties. We think that is very important in our process. We respect you Democrats for having your party. You ought to want to build up your party, just as we do.

House Republicans reject public financing of campaigns. We just think frankly in this day and age we will have Penny-Kasich tomorrow, I suppose, another effort to cut Federal spending, and here we are thinking in terms of some form of Federal financing, when all we are trying to do is cut Federal expenditures.

Then as the gentleman from California pointed out, there is no mechanism anywhere even for that Federal financing. It is a sham.

House Republicans apply our reforms immediately. If they are really good, why not? That is the reason I suppose we are meeting tonight before the session ends. Get it all wrapped up, because we have to have it real quick like. Must be for this next election. We do, but you do not.

I think, by glory, you ought to vote down this rule and give us all an opportunity to do this thing right. If we do not get it done by the end of this session, let us take the next session to do it and do it up right.

Mr. SOLOMON. Mr. Speaker, I ask for a "no" vote on this rule, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I certainly agree with the distinguished bill manager on the Republican side, the gentleman from New York [Mr. SOLOMON], that the gentleman from Illinois [Mr. MICHEL] is one of the greatest leaders we have ever had in the House in either party. We are all going to be poorer when he leaves, but that is not soon, so we still have the pleasure of agreeing on some issues and disagreeing on others.

I could not quite understand, while the distinguished Republican leader was speaking, what was wrong with doing the rule. He says they have a very fine bill on the Republican side.

I am not, at this point, going to dispute the Republican bill, but if it is in order, as it is, and every Member of Congress, Republican and Democrat, has an opportunity to consider it, and it is the sum and substance of their best thinking on the Republican side concerning campaign reform, why should we wait? The rule is fair. The rule makes in order the Republican substitute by the gentleman from Illinois [Mr. MICHEL]. The rule gives every Member a chance to vote on those things that are in the rule that the distinguished minority leader says are so good.

Why, at the same time, is he arguing for the adoption of the Republican bill and against the rule?

Why if we are going to do these things should we wait, and not do them now?

We have promised to deal with this issue this year. We should deal with it this year. We have the time and the opportunity to decide on campaign reform in this session of the Congress. Let us do it. Let us pass this rule and go to the debate tomorrow, and decide this issue.

Now, as far as a lot of other amendments are concerned, as the distinguished gentleman from South Carolina [Mr. DERRICK], who is managing this bill on our side said, we could probably have 500 different types of campaign reform, at least 435, because every Member has a feeling that he or she has the best idea of what campaign reform is all about.

But the fact of the matter is that we need to bring two well-thought out, well-presented proposals to give Members an opportunity to vote for proposals that hang together in some logical way and are not just a patchwork of various ideas.

I could get into a dispute here with my distinguished friend, the gentleman from Illinois [Mr. MICHEL], about whether some of the provisions that they have in their bill are a good idea, such as no campaign spending limits. We think campaign spending has grown too much, that it has out-paced the level of inflation, that there is no excuse for it, and that Members are spending more and more time raising money.

We do not bar political action committees, because they have been an opportunity for people who are not rich and able to give large contributions to participate in the political process; but we would limit how much they can give as a percentage of a total campaign.

We also limit the percentage of very large contributions.

We could go back and forth and debate the merits of each bill, and we will do that, but first we have to adopt the rule. First we have to put these two proposals, one Democratic, one Republican, before the House and decide.

If we fail to pass the rule tonight, it will be seen in some quarters as a rejection of all reform, of all opportunity to deal with this system and make the system fairer, more equitable, and a better reflection of what the American people want when they select their Representatives.

Let us not make that mistake. Let us not put off this issue that we have rightly brought before the House tonight. Let us vote for this rule.

Mr. PORTER. Mr. Speaker, this rule is not worthy of being passed, nor is the legislation, H.R. 3, reported by the Committee on House Administration.

Mr. Speaker, campaign finance reform is a real necessity—the current system is a disgrace and it does need to be fixed. We stand at a time in our history when the American people hold this institution and its Members in extreme disregard. How else does one explain the momentum for term limits, the calls for a third political party, and the turnout of Members at the polls in the last election?

The handwriting on the wall is easy to read, but as a body we refuse to interpret it. Once again—as in each of the last several Congresses—the majority party brings before this body legislation which makes a mockery of the need to reform our campaigns and elections system. This legislation is, simply, unhelpful.

Unlike some of my Republican colleagues, I am not philosophically averse to the use of incentives to encourage compliance with spending limits. Indeed, I strongly support spending limits which would squeeze the political professionals out of the elections business, and return us to campaigns characterized by attention to the issues and grassroots participation. Unless we get away from combat politics—from campaigns premised on smear, scandal, and innuendo—we cannot hope to help the American people regain confidence in their institutions of Government and their elected officials. Because of the Supreme Court's Buckley decision—wrong though it may be—there is simply no way to control spending without an incentive system.

But the outrage of H.R. 3 is not its use of incentives, but the extremely high level at which the spending caps are set. It is patently ridiculous that we should legislate a $600,000 basic limit, augment it with $150,000 for a close primary, exempt fundraising, legal fees, taxes, accounting costs, 10 percent of all overhead from the limit, allow continued $10,000 PAC contributions, index this entire package for inflation, and call this spending control.

This is not spending control. Quite to the contrary, it is a scheme to lock in our current system of elections, to continue the status quo forever—a status quo that features significant reliance on special interest moneys, huge amounts of spending, and payments to media gurus who counsel in the art of destroying the integrity of one's opponent, not fostering enlightened debate on the issues.

It is coldly cynical to bring this package before the body and claim with a straight face that it comprises reform. Such cynicism is what has gotten this body in trouble with the American people so often in the past, and is truly disappointing to see it happen again.

There are men and women of good faith on both sides of the aisle who are trying to break this gridlock. Mr. BEILENSON and Mr. LEACH have worked together on a sensible reform proposal. Mr. SYNAR and Mr. UPTON have cooperated on a limited approach that would make some steps in the right direction. These Members have worked hard and diligently to try to achieve workable and fair solutions to the campaign reform dilemma.

I think a reasonable compromise on this issue could be achieved. If we set much lower spending limits—lower than the ones in H.R. 3, ones which would only, possibly, affect a few congressional races—we could accomplish a number of goals. First, we could help challengers who are underfunded. Second, we could really limit campaign spending. Third, we could hold down the cost of taxpayers. I suggest that such an approach is worth considering and that the approach contained in H.R. 3 is completely unworthy of consideration on the floor of this House.

Mr. ROSTENKOWSKI. Mr. Speaker, I have grave reservations about the rule and the underlying legislation.

I must express great concerns about the pubic financing provisions contained in the task force proposal.

Further, the bill fails to pay for the public financing. The Committee on Ways and Means is prepared to conduct full, open and fair deliberations on methods to finance this bill. But I must warn the membership, such funding will not be easy.

It is my understanding that the task force's preferred method for financing this legislation is a voluntary taxpayer checkoff on tax returns. Although revenue estimates are subject to change, based upon the estimates available to me today, this proposal would finance approximately one-fifth of the cost of the legislation—I repeat, about 20 percent.

Even if all the other task force ideas for financing were implemented, including having candidates pay for their opponents' matching funds, the estimates available to me today indicate a substantial shortfall.

I have great fear that the eventual burden for funding this legislation may rest on some broad cross-section of the American taxpaying public. I find it unacceptable that the American taxpayer would pay for congressional elections.

I am supportive of reasonable and fair campaign finance reform. Although the task force proposal is the least flawed of the current proposals under discussion, in my opinion, it is unfair to Members who have tough primaries and tough general elections. It is unfair to Members who reside in expensive media markets. And, it favors wealthy candidates.

In closing, Mr. Speaker, let me say that I fully support reasonable reform. However, taxpayers should not have to pay us to run our campaigns. If this rule passes, I would hope that the task force bill could be perfected in conference. If this rule fails, I hope the Congress can enact fair and appropriate campaign reform legislation.

Mr. KIM. Mr. Speaker, I rise in opposition to both the rule and to H.R. 3, the so-called campaign spending limit reform bill.

I strongly oppose the wasteful public financing of political campaigns, and H.R. 3 provides up to $200,000 in deficit-financed, taxpayer dollars to politicians for their campaigns.

I am very disturbed that in an effort to railroad through this controversial legislation in the 11th hour, this rule, once again, virtually prohibits us from offering any amendments to fix this flawed bill.

It is ironic that we are considering legislation to make campaigns more open and fair in a most undemocratic, closed and unfair way. That is not reform, it is politics as usual.

H.R. 3 is biased against congressional term limits. A provision in the bill would require State ballot committees to register with and report to the Federal Elections Commission.

The National Taxpayers Union calls this a mean-spirited and misguided effort to harass State supporters of term limits. They are right and the American people will agree. State term limits are a State issue.

Along with 70 percent of Californians, I voted in favor of congressional term limits. H.R. 3 adds new obstacles to those who want to do what California has done, and it gives the perception that campaign reform advocates oppose term limits. We certainly do not. If we had a less dictatorial rule, we could offer an amendment to strike this antiterm limits provision.

I urge my colleagues to defeat this rule and vote against H.R. 3. The title may sound good, but the provisions are wasteful and misguided. We need real campaign finance reform.

Ms. BROWN of Florida. Mr. Speaker, I rise in support of the rule, and final passage of H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act.

My colleagues, I am not convinced that we need to change a system that has resulted in the 103d Congress being the most diverse in history with 24 new women, 16 new African-Americans, and 8 new Hispanics. In fact, I have shared my concerns with many of you because the last time a campaign finance reform bill became law, the number of women and minorities in Congress decreased.

We will vote on a campaign finance reform bill today because many Americans believe that too much money is spent on House races and that there are too many loopholes in the present system. The Democratic version of H.R. 3 addresses these concerns. It is better than any of the other alternatives.

The bill establishes a voluntary spending limit of $600,000 per election cycle while allowing Members who have close primaries or runoffs to spend additional funds. It provides incentives for Members to abide by the spending limits through the establishment of voter communication vouchers which will allow candidates to reach out and touch their voters through television, radio, newspaper, or direct mail. It curbs negative independent expenditures which have gotten out of control. It also prohibits bundling while allowing groups such as Emily's List to continue to assist women candidates for office. Most importantly, it increases campaign disclosure which is the most important issue for Americans.

I urge my colleagues to pass the rule and the Democratic version of H.R. 3.

Mr. DEAL. Mr. Speaker, I rise in opposition to this rule and in strong support of my colleague from Oklahoma, Mr. SYNAR.

A vote against this rule does not mean that I am against campaign finance reform. In fact, the opposite is true. A vote against this rule signals a rejection of the idea that only the Democratic bill and the Republican bill represent meaningful reform.

The Democratic proposal spending limits are too high. While the Republican proposal makes no provisions for spending limits and does not reduce the amount that individuals can contribute. Neither represent true reform.

I strongly support campaign finance reform and I am an original cosponsor of H.R. 2469 the Congressional Campaign and Election Reform Act of 1993. This legislation reduces the amount of money political action committees and individuals can give, closes soft money loopholes, applies to the next election cycle, and contains no public financing. H.R. 2469 is not perfect reform, but it will put real reforms in place right now.

H.R. 2469 along with more than 30 other proposals, by both Democrats and Republicans, were denied consideration by the Rules Committee. This practice I feel must stop. It is time that the Rules Committee allow House Members to fully debate issues like campaign finance reform, to make the best legislation possible. The American people deserve no less.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 207, not voting 7, as follows:

[Roll No. 599]

YEAS—220

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tejeda
Thompson
Thornton
Thurman
Torres
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—207

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kopetski
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Myers
Nussle
Oxley
Packard
Paxon
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Towns
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Bunning
Clinger
Ford (MI)
Hall (OH)
Kyl
Sundquist
Washington

□ 2145

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAROCCA). Without objection, a motion to reconsider is laid on the table.

Mr. THOMAS of California. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, are we going to consider this bill all together, as the rule indicated, or are we going to divide it up and do the general debate, so that when we point out the problems in the bill, no one will be here, but we will vote the substitute tomorrow?

The SPEAKER pro tempore. The Chair is aware that the majority leadership is willing to discuss this issue with the minority.

Mr. THOMAS of California. Mr. Speaker, I appreciate that. But if I give up my request, I lose any opportunity. So I would reserve my right to object until I get an answer.

Mr. Speaker, I object to the motion to reconsider. That will give them time to work it out.

The SPEAKER pro tempore. Objection is heard.

Mr. MOAKLEY. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. THOMAS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 161, answered "present" 1, not voting 21, as follows:

[Roll No. 600]

AYES—250

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—161

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Herger
Hobson
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Morella
Myers
Nussle
Oxley
Packard
Paxon
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Hoke

NOT VOTING—21

Abercrombie
Berman
Bunning
Clinger
Combest
Conyers
Dicks
Hall (OH)
Johnson (CT)
Kasich
Kyl
Lloyd
Moorhead
Shuster
Sisisky
Smith (OR)
Sundquist
Thomas (WY)
Washington
Waters
Yates

□ 2204

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 319, the resolution just considered and adopted.

The SPEAKER pro tempore (Mr. LAROCCO). Is there objection to the request of the gentleman from Massachusetts? There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-405) on the resolution (H. Res. 321) waiving points of order against the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AGREEING TO THE REQUEST OF THE SENATE FOR A CONFERENCE ON H.R. 1025, THE BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-406) on the resolution (H. Res. 322) agreeing to the request of the Senate for a conference on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearms; and waiving a requirement of clause 4(b) of rule XI with respect to the consideration of a resolution reported from the Committee on Rules on the legislative day of November 22, 1993, providing for the consideration or disposition of a conference report to accompany that bill which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I rise to inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], how the program will now unfold for tomorrow.

Mr. GEPHARDT. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, there will not be further votes tonight. We will ask unanimous consent in a moment for the

House to meet tomorrow at 9 a.m. I would expect there would be an immediate Journal vote. We would then go to the campaign finance general debate and final passage. There would be a Michel amendment after the general debate, then the vote right after that on final passage.

We would go to the rule to go to conference on the Brady bill second. Then we would go the reinventing government bill, which has a number of amendments in it.

It is then possible that at the end of that we would go to unemployment conference, rule, 1 hour of debate. There is possibility that before that, if it is available and possible, we might do the RTC conference rule, 1 hour of debate then.

Then there is the possibility that the Brady conference may come back, and interspersed in this, if there is a lull, there may be some suspensions which we have given you a list of.

Mr. MICHEL. I thank the gentleman.

HOUR OF MEETING ON MONDAY, NOVEMBER 22, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, Monday, November 22, 1993.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LECHUGUILLA CAVE PROTECTION ACT OF 1993

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lechuguilla Cave Protection Act of 1993".

SEC. 2. FINDING.

Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

SEC. 3. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled "Lechuguilla Cave Protection Area" numbered 130/80,055 and dated April 1993.

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever occurs first.

(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

(b) NO EFFECT ON PIPELINES.—Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act: *Provided*, That no funds shall be made available except to the extent, or in such amounts as are provided in advance in appropriation Acts.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, H.R. 698 is a bill I introduced earlier this year. Its purpose is to provide additional protection for Lechuguilla Cave and other resources and values of Carlsbad Caverns National Park, in New Mexico, and some adjacent public lands.

Lechuguilla is the deepest cave in the United States. It is also very large, extending for more than 60 miles—exceeding Carlsbad Cavern itself—with the possibility that this is only a small percentage of its full size. It also contains many unusual features, such as gypsum chandeliers described by experts as the best examples of such formations in the world.

The bill responds to serious concerns about possible effects of oil and gas drilling on Lechuguilla and other cave resources. These concerns have heightened as there has been increased mineral exploration activity in the general area.

H.R. 698 would withdraw from future development the most critical lands adjacent to the northern boundary of Carlsbad Caverns National Park. It also would address possible development of already-existing mineral leases in that same area, where drilling or other activities could present a risk to Lechuguilla or other significant cave resources.

With the assistance of the gentleman from New Mexico [Mr. SKEEN], in whose district the affected lands are located, the Natural Resources Committee was able to reach an agreement on a revised version of the bill, which the House passed on suspension back on May 11 with bipartisan support.

The Senate has now returned the bill to the House with some revisions. The revisions are consistent with the purposes of the bill as passed by the House, and I am seeking to have the House concur in those changes and send the bill to President Clinton for signature into law.

Mr. Speaker, I want to commend the Senator from New Mexico [Mr. BINGAMAN] for the leadership he has displayed on this issue. Thanks to his efforts, with full cooperation of Senators BUMPERS, JOHNSTON, and DOMENICI, we can now take the final legislative step to provide needed protection of a unique, world-class national asset—Lechuguilla cave—and other priceless resources in the adjacent area.

Mr. Speaker, the bill as passed by the Senate is not significantly different from the version passed by the House earlier this year. It retains the provisions of the House-passed bill related to withdrawal of the cave protection area and the requirement that the Secretary not permit any new drilling on any existing Federal mineral or geothermal lease within that area for 1 year after enactment of the date of BLM's record of decision on pending applications for drilling, whichever comes first.

It includes a provision that the withdrawal of the cave protection area from mineral development will have no effect on any existing rights-of-way or on any facilities located in such rights-of-way, such as gas pipelines, or on the future renewal of such rights-of-way. In my opinion, this merely makes explicit the intent and effect of the bill as passed by the House, and so is acceptable.

Similarly, the bill as amended by the Senate includes language concerning the authority of the Secretary of the Interior to cancel any existing Federal mineral or geothermal lease in the cave protection area. My understanding is that the administration believes an explicit provision is desirable in order to remove any doubts about the Secretary's authority to take such an action. Under the bill as passed by the Senate, no such cancellation could occur prior to the effective date of the BLM record of decision, which is reasonable and acceptable.

The bill as amended by the Senate also provides that as of that same date the Secretary would be authorized to enter into negotiations with a leaseholder to seek to determine to what extent compensation would be appropriate for complete or partial termination of such a lease, while retaining the provisions of the House bill that ensure there will be no effect on the ability of any party to seek compensation through other means, such as a suit in the claims court, under other, existing law.

The Senate also retained the House's bill provisions that will give the Bureau of Land Management additional authority to limit or prohibit public access to or across Federal lands in order to protect Lechuguilla Cave or the Federal lands within the cave protection area, so long as existing access to private lands within that area are not affected, and to prohibit the removal of mineral, geological, or cave resources from the Federal lands within the cave protection area. These provisions were requested by the administration, and I am glad to note that they have been retained.

The Senate dropped from the bill a requirement that the Secretary, in the absence of agreement with holders of existing leases, take whatever steps the Secretary deems appropriate in order to protect Lechuguilla Cave and other resources of the protection area. That provision of the House bill did not provide new authority, because the Secretary has ample authority to act with respect to those leases. In concurring with this change, we are not saying that the Secretary should not act—rather, we fully expect that all appropriate steps to protect Lechuguilla Cave and other resources will be taken.

Both the House and Senate bills would establish a cave protection area where Federal lands would be closed to mineral development. The House bill included a provision under which the Secretary, to the extend deemed desirable, would seek the cooperation of other parties owning land in that area—especially the State of New Mexico—toward furthering the protection of Lechuguilla Cave and other resources. That provision was dropped in the Senate, but of course the Secretary already has the authority to seek such cooperation, and it is our expectation that he will do so.

Similarly, the Senate dropped an explicit requirement that the Secretary inform the Congress if the Secretary determines that existing law, including this bill, did not provide sufficient authority to enable the Secretary to take appropriate steps to protect Lechuguilla Cave or other resources. Certainly, the Secretary can at any time inform Congress about whatever deficiencies there may be in existing law—and I strongly encourage Secretary Babbitt to do just that, so that if it is necessary for Congress again to act to protect Lechuguilla Cave or the cave protection area, we can do so without unnecessary delay.

Mr. Speaker, it gives me great personal satisfaction to be able to have this important bill cleared for the President's signature. I want to again express my thanks to the gentleman from New Mexico [Mr. SKEEN] for his assistance and cooperation, and to all the others on that side of the aisle who have played a role in connection with this matter.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

□ 2210

WAR IN THE PACIFIC NATIONAL HISTORICAL PARK

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1944) to provide for additional development at War in the Pacific National Historical Park, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which United States forces captured the Japanese islands of Saipan and Tinian and liberated the United States Territory of Guam from Japan;

(2) an attack during this campaign by the Japanese combined fleet, aimed at annihilating the United States forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied by the enemy during World War II and restored United States Government to more than 20,000 native Guamanians;

(4) units of the United States Army, Navy, Marine Corps, and Coast Guard fought with great bravery and sacrifice, suffering casualties of approximately 5,700 killed and missing and 21,900 wounded in action;

(5) United States forces succeeded in destroying all Japanese garrisons in Saipan, Tinian, and Guam, which resulted in Japanese military casualties of 54,000 dead and 21,900 taken prisoner;

(6) Guamanians, notably members of the Navy Insular Force Guard and volunteer militia, bravely resisted the invasion and occupation of their island, and ultimately assisted in the expulsion of Japanese forces from Guam;

(7) at the hands of the Japanese, the people of Guam—

(A) were forcibly removed from their homes;

(B) were relocated to remote sections of the island;

(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

(D) were eventually placed in concentration camps and subjected to retribution when the liberation of their island became apparent to the Japanese;

(8) the seizure of the Mariana Islands severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Mariana Islands and in the South Pacific as well;

(9) the Mariana Islands provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan, and the south China

coast, and ultimately against the Japanese home islands;

(10) the Mariana Islands provided, for the first time during the war, island air bases from which United States land-based airpower could reach Japan itself; and

(11) the air offensive staged from the Mariana Islands against Japanese cities and economic infrastructure helped shorten the war and vitiate the need for the invasion and capture of the Japanese home islands.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned; and

(2) the Secretary of the Interior should take all necessary steps to ensure that two visitors centers to provide appropriate facilities for the interpretation of the events described in section 1 are completed, one at the War in the Pacific National Historical Park and one at the American Memorial Park, before June 15, 1994, the beginning of the 50th anniversary of the campaign.

SEC. 3. WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.

Section 6(k) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 493; 16 U.S.C. 410 dd(k)), is amended by striking "$500,000" and inserting in lieu thereof "$8,000,000".

SEC. 4. AMERICAN MEMORIAL PARK.

Section 5(g) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by striking "$3,000,000" and inserting in lieu thereof "$8,000,000".

House amendment to Senate amendment: In lieu of the matter inserted by the Senate amendment, insert the following:

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which American forces captured the islands of Saipan and Tinian in the Northern Marianas and liberated the United States Territory of Guam from Japanese occupation;

(2) an attack during this campaign by the Japanese Imperial fleet, aimed at countering the American forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied for two and one-half years by the enemy during World War II and restored freedom to the indigenous Chamorros on Guam who suffered as a result of the Japanese occupation;

(4) Army, Navy, Marine Corps, and Coast Guard units distinguished themselves with their heroic bravery and sacrifice;

(5) the Guam Insular Force Guard, the Guam militia, and the people of Guam earned the highest respect for their defense of the island during the Japanese invasion and their resistance during the occupation; their assistance to the American forces as scouts for the American invasion was invaluable; and their role, as members of the Guam Combat Patrol, was instrumental in seeking out the remaining Japanese forces and restoring peace to the island;

(6) during the occupation, the people of Guam—

(A) were forcibly removed from their homes;

(B) were relocated to remote sections of the island;

(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

(D) were placed in concentration camps when the American invasion became imminent and were brutalized by their occupiers when the liberation of Guam became apparent to the Japanese;

(7) the liberation of the Mariana Islands marked a pivotal point in the Pacific war and led to the American victories at Iwo Jima, Okinawa, the Philippines, Taiwan, and the south China coast, and ultimately against the Japanese home islands;

(8) the Mariana Islands of Guam, Saipan, and Tinian provided, for the first time during the war, air bases which allowed land-based American bombers to reach strategic targets in Japan; and

(9) the air offensive conducted from the Marianas against the Japanese war-making capability helped shorten the war and ultimately reduced the toll of lives to secure peace in the Pacific.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned by the United States in conjunction with the Government of Guam and the Government of the Commonwealth of the Northern Mariana Islands;

(2) the Secretary of the Interior should take all necessary steps to ensure that appropriate visitor facilities at War in the Pacific National Historical Park on Guam are expeditiously developed and constructed; and

(3) the Secretary of the Interior should take all necessary steps to ensure that the monument referenced in section 3(b) is completed before July 21, 1994, for the 50th anniversary commemoration, to provide adequate historical interpretation of the events described in section 1.

SEC. 3. WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (k) of section 6 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 493; 16 U.S.C. 410dd) is amended by striking "$500,000" and inserting "$8,000,000".

(b) DEVELOPMENT.—Section 6 is further amended by adding at the end the following subsections:

"(l) Within the boundaries of the park, the Secretary is authorized to construct a monument which shall commemorate the loyalty of the people of Guam and the heroism of the American forces that liberated Guam.

"(m) Within the boundaries of the park, the Secretary is authorized to implement programs to interpret experiences of the people of Guam during World War II, including, but not limited to, oral histories of those people of Guam who experienced the occupation.

"(n) Within six months after the date of enactment of this subsection, the Secretary, through the Director of the National Park Service, shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing updated cost estimates for the development of the park. Further, this report shall contain a general plan to implement subsections (l) and (m), including, at a minimum, cost estimates for the design and construction of the monument authorized in section (l).

"(o) The Secretary may take such steps as may be necessary to preserve and protect various World War II vintage weapons and fortifications which exist within the boundaries of the park".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. LAROCCO). Is there objection to the request of the gentleman from Minnesota?

Mr. HANSEN. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Minnesota [Mr. VENTO] to explain the legislation.

Mr. VENTO. Mr. Speaker, H.R. 1994 provides for additional development at War in the Pacific National Historical Park. The legislation originally passed the House on June 21, 1993. On July 21, 1993, the Senate returned the bill to the House with amendments. After subsequent discussion among the bill's sponsor, Mr. UNDERWOOD, the Senate and the House, an agreement has been reached with the Senate Members. We are seeking to return the bill to the Senate with the changes that have been agreed to by the principles in the Senate.

War in the Pacific National Historical Park was authorized by Congress in 1978, to "commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater of World War II and to conserve and interpret outstanding natural, scenic, and historic values and objects on the island of Guam." The park includes seven units, each providing a different insight into the Pacific war. These sites contain both Japanese and American artifacts and interpret military aspects of the war in the Pacific on Guam. No park site interprets the story of the people of Guam in this conflict.

At the May 27th hearing on this legislation, the Subcommittee on National Parks, Forests and Public Lands received moving and eloquent testimony about the atrocities suffered by the people of Guam during Japanese occupation of the Island and about the lack of appropriate recognition for the sacrifices made by the people of Guam to protect American interests in the Pacific during World War II. The 50th anniversary of the liberation of the Mariana Islands will be commemorated next year. It is time to acknowledge this heritage and recognize appropriately the loyalty of the people of Guam.

H.R. 1944, as passed by the House in June, expressed the sense of Congress that an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned, that the Secretary of the Interior should take all necessary steps to ensure that visitor facilities at War in the Pacific National Historical Park on Guam are expeditiously developed and constructed, and that a monument to the people of Guam should be completed before July 21, 1994, the 50th anniversary commemoration.

The House-passed bill also increased the development ceiling for War in the Pacific National Historical Park from $500,000 to $8 million and authorized the construction of a monument within the park to the people of Guam who suffered personal injury, forced labor, forced marches, internment, or death as a result of enemy occupation during World War II. The Secretary was also authorized to implement programs to interpret the experiences of the people of Guam during World War II.

The bill as it is presented to the House today changes the previous House-passed legislation by substituting language describing the monument. Rather than a monument which commemorates, by individual name, the people of Guam who suffered during the occupation, the amended bill specifies a monument to commemorate the loyalty of the people of Guam and the heroism of the American forces that liberated Guam. The section calling for the transmittal of the names as required under the previous House-passed version has been deleted.

While War in the Pacific National Historical Park interprets World War II military events on Guam, the story of the people of Guam and their experiences during the war have not been fully recognized. The people of Guam suffered great hardship as the result of Japanese occupation, yet no monument to their contribution and sacrifice has been constructed. This legislation provides for the development of an appropriate monument which will recognize both the people of Guam who suffered and the American forces involved in their liberation.

This monument is intended to make the war interpretation on Guam complete and will complement the plans to honor the American Armed Forces who died in the liberation of Guam. This is a long-overdue improvement to the park and I urge my colleagues' support.

Mr. Speaker, I want to thank the gentleman from Utah for his cooperation and patience today in dealing with us, and I commend the gentleman from Guam [Mr. UNDERWOOD] and all who were involved, especially Senator AKAKA for his interest and work on this important park.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. SKEEN. Mr. Speaker, reserving the right to object, I will not object, but I do want to thank the chairman and the ranking member on the Lechuguilla Cave legislation for the accommodation. Great job, and I appreciate it very much.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to reverse and extend their remarks the amendments to H.R. 1944.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, to explain the details of the Egg Checkoff Reform Act.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 717 is analogous to title I of H.R. 3515 that was passed under suspension by the House on Friday.

S. 717, like the House-passed bill, makes a number of changes in the current egg checkoff program. The changes will allow for an increase in the maximum assessment rate, subject to approval through a producer referendum. The bill exempts those egg producers who have 75,000 laying hens or less from the assessment.

S. 717 allows for an assessment rate increase up to only 20 cents. The House bill would have allowed the assessment rate to be increased from the current 10 cents per case to up to 30 cents.

Section 3 of the Senate bill requires that in future years, the Egg Board allocate a proportion of funds for research comparable to the proportion for research funded in fiscal year 1993. The House bill had no similar provision. It is not intended that this language be a rigid formula and the language specifically provides that this is to be done only "to the maximum extent practicable." The Subcommittee on Livestock of the Committee has not had hearings on this provision, and we may find it necessary to revisit this provision.

Mr. Speaker, I would like to clarify a provision in the bill. Section 5 states that the amendments to the egg research and promotion order necessary to implement all of the amendments made by the bill would be subject to informal rulemaking and not subject to a referendum. Under the amendments made to the Egg Research and Consumer Information Act, any increases in the assessment rate would, of course, be subject to a referendum. Decreases in the assessment rate, the change in the producer exemption, and the research provision are not subject to a referendum. Too, the Secretary may find it appropriate in amending the outstanding order under the basic act to incorporate the change in the producer exemption, the research provision, and the maximum level of assessment without notice and comment. Of course, with respect to amendments to the order to increase the operative assessment or other items, the Secretary could determine that, in addition to notice and comment, hearings would be appropriate.

Mr. Speaker, the passage and enactment of S. 717 before the end of the year would allow USDA to initiate these changes in an expeditious manner. I urge the passage of the legislation.

Mr. ROBERTS. Mr. Speaker, I thank the chairman for his explanation and thank him for his leadership in hatching this bill to its final conclusion.

Mr. Speaker, I withdraw my reservation of objection

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1993".

SEC. 2. ASSESSMENT RATE.

(a) IN GENERAL.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—

(1) by designating the first and second sentences as paragraph (1);

(2) by designating the fifth and sixth sentences as paragraph (3); and

(3) by striking the third and fourth sentences and inserting the following new paragraph:

"(2)(A) The Assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

"(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).

"(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.".

(B) REFERENDUM.—Section 9 of such Act (7 U.S.C. 2708) is amended—

(1) by designating the first and second sentences as subsection (a);

(2) by designating the last sentence as subsection (c); and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following new subsection:

"(b)(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2, the Egg Board may request that the Secretary conduct a referendum as provided in paragraph (2).

"(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this Act who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

"(B) The change in the assessment rate shall become effective if the change is approved or favored by—

"(i) not less than two-thirds of the producers voting in the referendum; or

"(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

"(3)(A) In the case of the order in effect on the date of enactment of this subsection, the Egg Board shall determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2).

"(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

"(i) 120 days after receipt of the request from the Egg Board; or

"(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.".

SEC. 3. RESEARCH.

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

SEC. 4. EXEMPTED PROCEDURES.

Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".

SEC. 5. AMENDMENT TO ORDER.

Notwithstanding any other provision of law:

(1) IN GENERAL.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. The amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to the order not later than 80 days after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by paragraph (1) shall become effective not later than—

(A) 30 days after the proposed amendments are issued; or

(B) if the Director of the Office of Management and Budget determines that the amendments are a significant action that requires review by the Director, 50 days after the proposed amendments are issued.

(3) REFERENDUM.—The amendments referred to in paragraph (2) shall not be subject to a referendum conducted under the Egg Research and Consumer Information Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 778) to amend the Watermelon Research and Promotion Act to expand operation of the act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the chairman of the Committee on Agriculture, the distinguished gentleman from Texas [Mr. DE LA GARZA], to fully explain to the House the details of the Watermelon Research and Promotion Reform Program.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 778 makes various changes in the current watermelon research and promotion program, and it is comparable to title II of H.R. 3515 which passed the House under suspension on Friday.

Like H.R. 3515, S. 778 lowers the referendum threshold. There are, however, four differences between the House-passed bill and what is here in the Senate bill that I want to point out. We are agreeable to accepting S. 778 on this side.

S. 778 increases the assessment exemption for importers to those importing less than 150,000 pounds a year, as compared to the House bill which said less than 75,000 pounds a year.

S. 778 does not include the House language providing for a 5-year base period for establishing the average yield per acre.

Currently, the watermelon assessment is collected from all domestic producers with 5 acres or more. S. 778 increases the assessment exemption threshold to 10 acres.

Finally, S. 778 deletes the requirement for formal hearings to amend the plan, and requires informal rulemaking and referenda to amend the plan. The House bill had no similar provision.

Mr. Speaker, the Senate language is acceptable. I urge my colleagues to support passage of the legislation.

Mr. ROBERTS. I thank the chairman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.
Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.

Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) by adding at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

SEC. 9. DEFINITION OF PRODUCER.

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(l) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

SEC. 10. AMENDMENT PROCEDURE.

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

"SEC. 1655. AMENDMENT PROCEDURE.

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 994) to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Texas [Mr. DE LA GARZA] chairman of the Committee on Agriculture, to explain to the House the PromoFlor Checkoff Program.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 994 provides legislative authorization for the establishment of a new industry-funded checkoff program for the cut flower and cut greens industry.

Basically, the provisions of S. 994 are similar to title III of H.R. 3515. The legislation establishes a checkoff program with administrative procedures and structure similar to that used for other industry-funded research and promotion programs.

The Senate version does have two differences compared to the House-passed bill that I want to highlight. After reviewing these differences, we are agreeable to accepting the Senate version.

The House bill would place one retailer on the PromoFlor Council. Some concern has been expressed within the cut flower industry that a greater retailer presence is needed. S. 994 adds two more retailers to the board, thus increasing the size of the Council to 25 members.

In addition, S. 994 will require the use of the assessments collected from the industry to cover the full costs of USDA in conducting referenda and administering the order issued under the legislation, with no exception for the salaries of USDA employees. We believe the Senate language improves the legislation.

I urge passage of the legislation.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for his explanation and for his leadership in reforming the cut flower and cut greens industry.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.

Sec. 4. Issuance of orders.
Sec. 5. Required terms in orders.
Sec. 6. Exclusion; determinations.
Sec. 7. Referenda.
Sec. 8. Petition and review.
Sec. 9. Enforcement.
Sec. 10. Investigations and power to subpoena.
Sec. 11. Confidentiality.
Sec. 12. Authority for Secretary to suspend or terminate order.
Sec. 13. Construction.
Sec. 14. Regulations.
Sec. 15. Authorization of appropriations.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;

(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and

(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;

(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—

(A) purchase most of the cut flowers and cut greens marketed by producers;

(B) prepare the cut flowers and cut greens for retail consumption;

(C) serve as an intermediary between the source of the product and the retailer;

(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and

(E) add efficiencies to the market process that ensure the availability of a much greater variety of the product to retailers and consumers;

(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;

(5)(A) cut flowers and cut greens move in interstate and foreign commerce; and

(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;

(6) the maintenance and expansion of markets in existence on the date of enactment of this Act, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;

(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;

(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on the date of enactment of this Act and the development of new markets for cut flowers and cut greens have been prevented;

(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information program authorized by this Act in that the program will enhance the market development efforts of the programs for domestic producers;

(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and

(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.

(b) POLICY AND PURPOSE.—It is the policy of Congress that it is in the public interest, and it is the purpose of this Act, to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.

(2) CUT FLOWERS AND CUT GREENS.—

(A) IN GENERAL.—

(i) CUT FLOWERS.—The term "cut flowers" includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.

(ii) CUT GREENS.—The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.

(iii) EXCLUSIONS.—The terms "cut flowers" and "cut greens" do not include a foliage plant, floral supply, or flowering plant.

(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.

(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens from a handler to a retailer or exempt handler.

(4) HANDLER.—

(A) QUALIFIED HANDLER.—

(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—

(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and

(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.

(ii) INCLUSIONS AND EXCLUSIONS.—

(I) IN GENERAL.—The term "qualified handler" includes—

(aa) bouquet manufacturers (subject to paragraph (2)(B));

(bb) an auction house that clears the sale of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse; and

(cc) a distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales.

(II) TRANSFERS.—For the purpose of determining sales of cut flowers and cut greens to a retailer from a distribution center described in subclause (I)(cc), each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C).

(III) TRANSPORTATION OR DELIVERY.—The term "qualified handler" does not include a person who only physically transports or delivers cut flowers or cut greens.

(iii) CONSTRUCTION.—

(I) IN GENERAL.—The term "qualified handler" includes an importer or producer that sells cut flowers or cut greens that the importer or producer has imported into the United States or produced, respectively, directly to consumers and whose sales of the cut flowers and cut greens (as calculated under subparagraph (C)), together with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more.

(II) SALES.—Each direct sale to a consumer by a qualified handler described in subclause (I) shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in subparagraph (C).

(III) DEFINITIONS.—As used in this paragraph:

(aa) IMPORTER.—The term "importer" has the meaning provided in section 5(b)(2)(B)(i)(I).

(bb) PRODUCER.—The term "producer" has the meaning provided in section 5(b)(2)(B)(ii)(I).

(B) EXEMPT HANDLER.—The term "exempt handler" means a person who would otherwise be considered to be a qualified handler, except that the annual sales by the person of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.

(C) ANNUAL SALES DETERMINED.—

(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of the cut flowers and cut greens sold.

(ii) TRANSFERS.—

(I) NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (III), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center (as described in subparagraph (A)(ii)(II)), or a direct sale to a consumer by an importer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by an order to represent the mark-up of a wholesale handler on a sale to a retailer.

(II) DIRECT SALES BY PRODUCERS.—Subject to subclause (III), in the case of a direct sale to a consumer by a producer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by an order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(III) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (I) or (II) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(5) ORDER.—The term "order" means an order issued under this Act (other than sections 9, 10, and 12).

(6) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.

(7) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 5(b).

(8) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.

(9) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.

(10) RETAILER.—

(A) IN GENERAL.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller), as described in an order, that sells cut flowers or cut greens to consumers, and a distribution center described in subparagraph (B)(i).

(B) DISTRIBUTION CENTERS.—

(i) IN GENERAL.—The term "retailer" includes a distribution center that is—

(I) owned or controlled by a person described in subparagraph (A), or owned or controlled cooperatively by a group of the persons, if the predominant retail business activity of the person is not floral sales; or

(II) independently owned but operated primarily to provide food products to retail stores.

(ii) IMPORTERS AND PRODUCERS.—An independently owned distribution center described in clause (i)(II) that also is an importer or producer of cut flowers or cut greens shall be subject to the rules of construction specified in paragraph (4)(A)(iii) and, for the purpose of the rules of construction, be considered to be the seller of the articles directly to the consumer.

(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

(13) UNITED STATES.—The term "United States" means the States collectively.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—

(1) ISSUANCE.—To effectuate the policy of this Act specified in section 2(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to qualified handlers of cut flowers and cut greens.

(2) SCOPE.—Any order shall be national in scope.

(3) ONE ORDER.—Not more than 1 order shall be in effect at any 1 time.

(b) PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—

(A) SECRETARY.—The Secretary may propose the issuance of an order.

(B) OTHER PERSONS.—An industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person who will be affected by this Act, may request the issuance of, and submit a proposal for, an order.

(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—

(A) the date on which the Secretary proposes an order, as provided in paragraph (1)(A); and

(B) the date of the receipt by the Secretary of a proposal for an order, as provided in paragraph (1)(B).

(3) ISSUANCE OF ORDER.—

(A) IN GENERAL.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this Act.

(B) EFFECTIVE DATE.—The order shall be issued and become effective not later than 180 days after publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and provisions specified in this section.

(b) PROMOFLOR COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council, consisting of 25 members, to administer the order.

(B) MEMBERSHIP.—

(i) APPOINTMENT.—The order shall provide that members of the PromoFlor Council shall be appointed by the Secretary from nominations submitted as provided in paragraphs (2) and (3).

(ii) COMPOSITION.—The PromoFlor Council shall consist of—

(I) participating qualified handlers representing qualified wholesale handlers and producers and importers that are qualified handlers;

(II) representatives of traditional retailers; and

(III) representatives of persons who produce fresh cut flowers and fresh cut greens.

(2) DISTRIBUTION OF APPOINTMENTS.—

(A) IN GENERAL.—The order shall provide that the membership of the PromoFlor Council shall consist of—

(i) 14 members representing qualified wholesale handlers of domestic or imported cut flowers and cut greens;

(ii) 3 members representing producers that are qualified handlers of cut flowers and cut greens;

(iii) 3 members representing importers that are qualified handlers of cut flowers and cut greens;

(iv) 3 members representing traditional cut flowers and cut greens retailers; and

(v) 2 members representing persons who produce fresh cut flowers and fresh cut greens, of whom—

(I) 1 member shall represent persons who produce the flowers or greens in locations that are east of the Mississippi River; and

(II) 1 member shall represent persons who produce the flowers or greens in locations that are west of the Mississippi River.

(B) DEFINITIONS.—As used in this subsection:

(i) IMPORTER THAT IS A QUALIFIED HANDLER.—The term "importer that is a qualified handler" means an entity—

(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and

(II) that is subject to assessments as a qualified handler under the order.

(ii) PRODUCER THAT IS A QUALIFIED HANDLER.—The term "producer that is a qualified handler" means an entity that—

(I) is engaged—

(aa) in the domestic production, for sale in commerce, of cut flowers or cut greens and that owns or shares in the ownership and risk of loss of the cut flowers or cut greens; or

(bb) as a first processor of noncultivated cut greens, in receiving the cut greens from a person who gathers the cut greens for handling; and

(II) is subject to assessments as a qualified handler under the order.

(iii) QUALIFIED WHOLESALE HANDLER.—

(I) IN GENERAL.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier that is subject to assessments as a qualified handler under the order.

(II) DEFINITIONS.—As used in this clause:

(aa) FLORAL SUPPLIER.—The term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.

(bb) FLORAL WHOLESALE JOBBER.—The term "floral wholesale jobber" means a person who conducts a commission or other wholesale business in buying and selling cut flowers or cut greens.

(C) DISTRIBUTION OF QUALIFIED WHOLESALE HANDLER APPOINTMENTS.—The order shall provide that the appointments of qualified wholesale handlers to the PromoFlor Council made by the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States.

(3) NOMINATION PROCESS.—The order shall provide that—

(A) 2 nominees shall be submitted for each appointment to the PromoFlor Council;

(B) nominations for each appointment of a qualified wholesale handler, producer that is a qualified handler, or importer that is a qualified handler to the PromoFlor Council shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, respectively, through an election process, in accordance with regulations issued by the Secretary;

(C) nominations for—

(i) 1 of the retailer appointments shall be made by the American Floral Marketing Council or a successor entity; and

(ii) 2 of the retailer appointments shall be made by traditional retail florist organizations, in accordance with regulations issued by the Secretary;

(D) nominations for each appointment of a representative of persons who produce fresh cut flowers and fresh cut greens shall be made by the persons through an election process, in accordance with regulations issued by the Secretary; and

(E) in any case in which qualified wholesale handlers, producers that are qualified handlers, importers that are qualified handlers, persons who produce fresh cut flowers and fresh cut greens, or retailers fail to nominate individuals for an appointment to the PromoFlor Council, the Secretary may appoint an individual to fill the vacancy on a basis provided in the order or other regulations of the Secretary.

(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary in accordance with procedures specified in the order.

(5) TERMS; COMPENSATION.—The order shall provide that—

(A) each term of appointment to the PromoFlor Council shall be for 3 years, except that, of the initial appointments, 9 of the appointments shall be for 2-year terms, 8 of the appointments shall be for 3-year terms, and 8 of the appointments shall be for 4-year terms;

(B) no member of the PromoFlor Council may serve more than 2 consecutive terms of 3 years, except that any member serving an initial term of 4 years may serve an additional term of 3 years; and

(C) members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for the expenses of the members incurred in performing duties as members of the PromoFlor Council.

(6) EXECUTIVE COMMITTEE.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The order shall authorize the PromoFlor Council to appoint, from among the members of the Council, an executive committee of not more than 9 members.

(ii) INITIAL MEMBERSHIP.—The membership of the executive committee initially shall be composed of—

(I) 4 members representing qualified wholesale handlers;

(II) 2 members representing producers that are qualified handlers;

(III) 2 members representing importers that are qualified handlers; and

(IV) 1 member representing traditional retailers.

(iii) SUBSEQUENT MEMBERSHIP.—After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole.

(iv) TERMS.—Each initial appointment to the executive committee shall be for a term of 2 years. After the initial appointments, each appointment to the executive committee shall be for a term of 1 year.

(B) AUTHORITY.—The PromoFlor Council may delegate to the executive committee the authority of the PromoFlor Council under the order to hire and manage staff and conduct the routine business of the PromoFlor Council consistent with such policies as are determined by the PromoFlor Council.

(c) GENERAL RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—The order shall define the general responsibilities of the PromoFlor Council, which shall include the responsibility to—

(1) administer the order in accordance with the terms and provisions of the order;

(2) make rules and regulations to effectuate the terms and provisions of the order;

(3) appoint members of the PromoFlor Council to serve on an executive committee;

(4) employ such persons as the PromoFlor Council determines are necessary, and set the compensation and define the duties of the persons;

(5)(A) develop budgets for the implementation of the order and submit the budgets to the Secretary for approval under subsection (d); and

(B) propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval under subsection (d) plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(6)(A) implement plans and projects for cut flowers or cut greens promotion, consumer information, or related research, as provided in subsection (d); or

(B) contract or enter into agreements with appropriate persons to implement the plans and projects, as provided in subsection (e), and pay the costs of the implementation, or contracts and agreements, with funds received under the order;

(7) evaluate on-going and completed plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(8) receive, investigate, and report to the Secretary complaints of violations of the order;

(9) recommend to the Secretary amendments to the order;

(10) invest, pending disbursement under a plan or project, funds collected through assessments authorized under this Act only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used only for a purpose for which the invested funds may be used; and

(11) provide the Secretary such information as the Secretary may require.

(d) BUDGETS; PLANS AND PROJECTS.—

(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to submit to the Secretary for approval budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Council in the implementation of the order, including the projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.

(2) PLANS AND PROJECTS.—

(A) PROMOTION AND CONSUMER INFORMATION.—The order shall provide—

(i) for the establishment, implementation, administration, and evaluation of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens, and for the disbursement of necessary funds for the purposes described in this clause;

(ii) that any plan or project referred to in clause (i) shall be directed toward increasing the general demand for cut flowers or cut greens and may not make reference to a private brand or trade name, point of origin, or source of supply, except that this clause shall not preclude the PromoFlor Council from offering the plans and projects of the Council for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary; and

(iii) that no plan or project may make use of unfair or deceptive acts or practices with respect to quality or value.

(B) RESEARCH.—The order shall provide for—

(i) the establishment, implementation, administration, and evaluation of plans and projects for—

(I) market development research;

(II) research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens; and

(III) other research with respect to cut flowers or cut greens marketing, promotion, or consumer information;

(ii) the dissemination of the information acquired through the plans and projects; and

(iii) the disbursement of such funds as are necessary to carry out this subparagraph.

(C) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval a proposed plan or project for cut flowers or cut greens promotion, consumer information, or related research, as described in subparagraphs (A) and (B).

(3) APPROVAL BY SECRETARY.—A budget, or plan or project for cut flowers or cut greens promotion, consumer information, or related research may not be implemented prior to approval of the budget, plan, or project by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—

(A) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the PromoFlor Council, with the approval of the Secretary, may enter into a contract or an agreement for the implementation of a plan or project for promotion, consumer information, or related research with respect to cut flowers or cut greens, and for the payment of the cost of the contract or agreement with funds received by the PromoFlor Council under the order.

(B) REQUIREMENTS.—The order shall provide that any contract or agreement entered into under this paragraph shall provide that—

(i) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project, together with a budget that includes the estimated costs to be incurred for the plan or project;

(ii) the plan or project shall become effective on the approval of the Secretary; and

(iii) the contracting or agreeing party shall—

(I) keep accurate records of all of the transactions of the party;

(II) account for funds received and expended;

(III) make periodic reports to the PromoFlor Council of activities conducted; and

(IV) make such other reports as the PromoFlor Council or the Secretary may require.

(2) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council may enter into a contract or agreement for administrative services. Any contract or agreement entered into under this paragraph shall include provisions comparable to the provisions described in paragraph (1)(B).

(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—

(1) IN GENERAL.—The order shall require the PromoFlor Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may require; and

(C) account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.

(2) AUDITS.—The PromoFlor Council shall cause the books and records of the Council to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.

(g) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that the PromoFlor Council shall, as soon as practicable after the order becomes effective and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the PromoFlor Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order, and conduct, supervise, and evaluate plans and projects under the order.

(h) ASSESSMENTS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The order shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner provided in the order, an assessment on each sale of cut flowers or cut greens to a retailer or an exempt handler (including each transaction described in subparagraph (C)(ii)), except to the extent that the sale is excluded from assessments under section 6(a).

(B) PUBLISHED LISTS.—To facilitate the payment of assessments under this paragraph, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.

(C) MAKING DETERMINATIONS.—

(i) QUALIFIED HANDLER STATUS.—The order shall contain provisions regarding the determination of the status of a person as a qualified handler or exempt handler that include the rules and requirements specified in sections 3(4) and 6(b).

(ii) CERTAIN COVERED TRANSACTIONS.—

(I) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center (as described in section 3(4)(A)(ii)(II)), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or a producer (as described in section 3(4)(A)(iii)), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.

(II) AMOUNT OF SALE IN THE CASE OF NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (IV), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center, or a direct sale to a consumer by an importer, the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by the order to represent the mark-up of a wholesale handler on a sale to a retailer.

(III) DIRECT SALES BY PRODUCERS.—Subject to subclause (IV), in the case of a direct sale to a consumer by a producer, the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by the order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(IV) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (II) or (III) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(2) ASSESSMENT RATES.—With respect to assessment rates, the order shall contain the following terms:

(A) INITIAL RATE.—During the first 3 years the order is in effect, the rate of assessment on each sale or transfer of cut flowers or cut greens shall be ½ of 1 percent of—

(i) the gross sales price of the cut flowers or cut greens sold; or

(ii) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii).

(B) CHANGES IN THE RATE.—

(i) IN GENERAL.—After the first 3 years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—

(I) the gross sales price of a product sold; or

(II) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii),

except that the assessment rate may in no case exceed 1 percent of the gross sales price or 1 percent of the transaction amount.

(ii) REQUIREMENTS.—Any change in the rate of assessment under this subparagraph—

(I) may be made only if adopted by the PromoFlor Council by at least a ⅔ majority vote and approved by the Secretary as necessary to achieve the objectives of this Act (after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title);

(II) shall be announced by the PromoFlor Council not less than 30 days prior to going into effect; and

(III) shall not be subject to a vote in a referendum conducted under section 7.

(3) TIMING OF SUBMITTING ASSESSMENTS.—The order shall provide that each person required to pay assessments under this subsection shall remit, to the PromoFlor Council, the assessment due from each sale by the person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days after the end of the month in which the sale took place) as is specified in the order.

(4) REFUNDS FROM ESCROW ACCOUNT.—

(A) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—

(i) establish an escrow account to be used for assessment refunds, as needed; and

(ii) place into the account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order becomes effective, as provided in section 4(b)(3)(B), and ending on the date the initial referendum on the order under section 7(a) is completed.

(B) RIGHT TO RECEIVE REFUND.—

(i) IN GENERAL.—The order shall provide that, subject to subparagraph (C) and the conditions specified in clause (ii), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in subparagraph (A)(ii), if—

(I) the qualified handler is required to pay the assessments;

(II) the qualified handler does not support the program established under this Act;

(III) the qualified handler demands the refund prior to the conduct of the referendum on the order under section 7(a); and

(IV) the order is not approved by qualified handlers in the referendum.

(ii) CONDITIONS.—The right of a qualified handler to receive a refund under clause (i) shall be subject to the following conditions:

(I) The demand shall be made in accordance with regulations, on a form, and within a time period specified by the PromoFlor Council.

(II) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which the refund is demanded.

(III) If the amount in the escrow account required under subparagraph (A) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 7(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand the refund.

(C) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum conducted under section 7(a), there shall be no refunds made, and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.

(5) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (less any refunds expended under the terms of the order required under paragraph (4)) shall be used for payment of costs incurred in implementing and administering the order, with

provision for a reasonable reserve, and to cover the administrative costs incurred by the Secretary in implementing and administering this Act.

(6) POSTPONEMENT OF COLLECTIONS.—

(A) AUTHORITY.—

(i) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of this Act, the PromoFlor Council may grant a postponement of the payment of an assessment under this subsection for any qualified handler that establishes that the handler is financially unable to make the payment.

(ii) REQUIREMENTS AND PROCEDURES.—A handler described in clause (i) shall establish that the handler is financially unable to make the payment in accordance with application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(B) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—The PromoFlor Council may grant a postponement under subparagraph (A) only if the handler demonstrates by the submission of an opinion of an independent certified public accountant, and by submission of other documentation required under the rules established under subparagraph (A)(ii), that the handler is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when otherwise due.

(C) PERIOD OF POSTPONEMENT.—

(i) IN GENERAL.—The time period of a postponement and the terms and conditions of the payment of each assessment that is postponed under this paragraph shall be established by the PromoFlor Council, in accordance with rules established under the procedures specified in subparagraph (A)(ii), so as to appropriately reflect the demonstrated needs of the qualified handler.

(ii) EXTENSIONS.—A postponement may be extended under rules established under the procedures specified in subparagraph (A)(ii) for the grant of initial postponements.

(i) PROHIBITION.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that the funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.

(j) BOOKS AND RECORDS; REPORTS.—

(1) IN GENERAL.—The order shall provide that each qualified handler shall maintain, and make available for inspection, such books and records as are required by the order and file reports at the time, in the manner, and having the content required by the order, to the end that such information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(2) CONFIDENTIALITY REQUIREMENT.—

(A) IN GENERAL.—Information obtained from books, records, or reports under paragraph (1) or subsection (h)(6), or from reports required under section 6(b)(3), shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council.

(B) SUITS AND HEARINGS.—Information described in subparagraph (A) may be disclosed to the public only—

(i) in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, involving the order; and

(ii) to the extent the Secretary considers the information relevant to the suit or hearing.

(C) GENERAL STATEMENTS AND PUBLICATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person who violates the order, together with a statement of the particular provisions of the order violated by the person.

(3) LISTS OF IMPORTERS.—

(A) REVIEW.—The order shall provide that the staff of the PromoFlor Council shall periodically review lists of importers of cut flowers and cut greens to determine whether persons on the lists are subject to the order.

(B) CUSTOMS SERVICE.—On the request of the PromoFlor Council, the Commissioner of the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.

(k) CONSULTATIONS WITH INDUSTRY EXPERTS.—

(1) IN GENERAL.—The order shall provide that the PromoFlor Council, from time to time, may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects.

(2) SPECIAL COMMITTEES.—

(A) IN GENERAL.—For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than PromoFlor Council members.

(B) CONSULTATION.—A committee appointed under subparagraph (A)—

(i) may not provide advice or recommendations to a representative of an agency, or an officer, of the Federal Government; and

(ii) shall consult directly with the PromoFlor Council.

(l) OTHER TERMS OF THE ORDER.—The order shall contain such other terms and provisions, consistent with this Act, as are necessary to carry out this Act (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) and for carrying out section 6).

SEC. 6. EXCLUSION; DETERMINATIONS.

(a) EXCLUSION.—An order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.

(b) MAKING DETERMINATIONS.—

(1) IN GENERAL.—For the purpose of applying the $750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler under section 3(4), or to a specific facility in order to determine the status of the facility as an eligible separate facility under section 7(b)(2), an order issued under this Act shall provide that—

(A) a determination of the annual sales volume of a person or facility shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year, except as provided in subparagraph (B); and

(B) in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor Council, the determination may be made using an alternative time period or other alternative procedure specified in the order.

(2) RULE OF ATTRIBUTION.—

(A) IN GENERAL.—For the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—

(i) in the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;

(ii) in the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(iii) in the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and

(iv) in the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(B) STOCK AND OWNERSHIP INTEREST.—For the purpose of this paragraph, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(3) REPORTS.—For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.

SEC. 7. REFERENDA.

(a) REQUIREMENT FOR INITIAL REFERENDUM.—

(1) IN GENERAL.—Not later than 3 years after the issuance of an order under section 4(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether the order then in effect shall be continued.

(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).

(b) VOTES PERMITTED.—

(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).

(2) ELIGIBLE SEPARATE FACILITY.—For the purpose of paragraph (1):

(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of other facilities owned or operated by the qualified handler.

(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.

(C) ANNUAL SALES DETERMINED.—For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 3(4) shall apply.

(c) SUSPENSION OR TERMINATION REFERENDA.—If an order is approved in a referendum conducted under subsection (a), effective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order; and

(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order.

(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

SEC. 8. PETITION AND REVIEW.

(a) PETITION AND HEARING.—

(1) PETITION.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 10(b)(2) and be held within the United States judicial district in which the residence or principal place of business of the person is located.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed not later than 20 days after the date of the entry of the ruling by the Secretary.

(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMAND.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.

SEC. 9. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action brought under subsection (a) shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, or an order or regulation issued under this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—A person who violates a provision of this Act, or an order or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this Act, may be assessed by the Secretary—

(i) a civil penalty of not less than $500 nor more than $5,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSES.—Each violation shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this Act, or an order or regulation issued under this Act.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 10(b)(2) and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—

(A) IN GENERAL.—Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—

(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and

(ii) sending a copy of the notice by certified mail to the Secretary.

(B) COPY OF RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person had committed a violation.

(2) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY AN ORDER.—

(1) IN GENERAL.—A person who fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d).

(2) SEPARATE VIOLATIONS.—Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.

(f) FAILURE TO PAY A PENALTY.—

(1) IN GENERAL.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.

(2) SCOPE OF REVIEW.—In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this Act shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 10. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this Act or any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) INVESTIGATIONS.—For the purpose of making an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the

records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or 9(c)(3), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).

(2) ORDER.—The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) FAILURE TO OBEY.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.

SEC. 11. CONFIDENTIALITY.

(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this Act shall be made public.

(b) PENALTY.—Any person who knowingly violates subsection (a) or the confidentiality terms of an order, as described in section 5(j)(2), shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.

(c) ADDITIONAL PROHIBITION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or an investigatory or enforcement action necessary for the implementation of this Act.

(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.

SEC. 12. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this Act specified in section 2(b), the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

SEC. 13. CONSTRUCTION.

(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this Act.

(b) PRODUCER RIGHTS.—This Act—

(1) may not be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens; and

(2) shall be construed to treat all persons producing cut flowers and cut greens fairly and to implement any order in an equitable manner.

(c) OTHER PROGRAMS.—Nothing in this Act may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or a State.

SEC. 14. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act and the powers vested in the Secretary by this Act, including regulations relating to the assessment of late payment charges and interest.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for the payment of the expenses or expenditures of the PromoFlor Council in administering a provision of an order.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION IMPROVEMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, and a leader in the seedless lime reform effort, to fully explain this bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 1766 provides for legislative changes in the current research and promotion program for limes that was established by Congress in 1990. This bill is similar to title IV of H.R. 3515 which the House passed under suspension on Friday.

Both bills would: First, replace the scientific name used in the underlying law with the correct scientific name; second, increase the assessment exemption level from 35,000 pounds per year to 200,000 pounds; third, require the referendum no later than 30 months after assessments begin; and fourth, alter the board composition to more fairly reflect the structure of the lime industry.

Mr. Speaker, I support approval of S. 1766 so that our Nation's lime industry can move forward in restructuring its research and promotion board consistent with these legislative changes. I urge passage of the legislation.

Mr. ROBERTS. Mr. Speaker, I wish to thank the chairman for his leadership and staunch work for the four reform bills that we have passed in regard to these promotion efforts, and I wish the House to know that the gentleman is truly a reformer in this area.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lime Research, Promotion, and Consumer Information Improvement Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Lime Research, Promotion, and Consumer Information Act of 1990 was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.

(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.

(3) Although the intent of such Act was to cover seedless limes, the definition of the term "lime" in section 1953(6) of such Act applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.

(4) Since the enactment of the Lime Research, Promotion, and Consumer Information Act of 1990, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the United States production of limes is in Florida.

(b) PURPOSES.—The purpose of this Act is—

(1) to revise the definition of the term "lime" in order to cover seedless and not seeded limes;

(2) to increase the exemption level;

(3) to delay the initial referendum date; and

(4) to alter the composition of the Lime Board.

SEC. 3. DEFINITION OF LIME.

Section 1953(6) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6202(6)) is amended by striking "citrus aurantifolia" and inserting "citrus latifolia".

SEC. 4. REQUIRED TERMS IN ORDERS.

(a) COMPOSITION OF LIME BOARD.—Subsection (b) of section 1955 of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204) is amended—

(1) in paragraph (1)(A), by striking "7" and inserting "3";

(2) in paragraph (2)(B), by striking "7" and inserting "3";

(3) in paragraph (2)(F), by adding at the end the following new sentence: "The Secretary shall terminate the initial Board established under this subsection as soon as practicable after the date of the enactment of the Lime Research, Promotion, and Consumer Information Improvement Act."; and

(4) by inserting after paragraph (2)(F) the following new paragraph:

"(G) BOARD ALLOCATION.—The producer and importer representation on the Board shall be allocated on the basis of 2 producer members and 1 importer member from the district east of the Mississippi River and 1 producer member and 2 importer members from the district west of the Mississippi River.".

(b) TERMS OF MEMBERS.—Subsection (b)(4) of such section is amended—

(1) by striking "The Secretary" and all that follows through "shall—" and inserting "The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—";

(2) in subparagraph (A), by striking "3" and inserting "2";

(3) in subparagraph (B), by striking "4" and inserting "2"; and

(4) in subparagraph (C), by striking "4" and inserting "3".

(c) DE MINIMIS EXCEPTION.—Subsection (d)(5) of such section is amended by striking "35,000" each place it appears and inserting "200,000".

SEC. 5. INITIAL REFERENDUM.

Section 1960(a) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6209(a)) is amended by striking "Not later than 2 years after the date on which the Secretary first issues an order under section 1954(a)," and inserting "Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 1955(d),".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 717, S. 778, S. 994, and S. 1766, the four Senate bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL FIREFIGHTERS DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 272) designating October 29, 1993, as "National Firefighters Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. GILMAN. Mr. Speaker, reserving the right to object, under my reservation of objection I yield to the gentleman from Maryland [Mr. HOYER], who is the chief sponsor of H.J. Res. 272, to explain the legislation.

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Mr. HOYER. Mr. Speaker, I thank my good friend, the gentleman from New York [Mr. GILMAN], and the ranking member of this committee, for yielding to me.

As chairman of the Congressional Fire Services Caucus, I am very pleased that this bill has been brought to the floor in a timely fashion by my colleague and good friend, the distinguished gentleman from Maryland [Mr. WYNN], a former leader in the State senate and now a distinguished Member of this body, and my good friend, the gentleman from New York [Mr. GILMAN].

Mr. Speaker, I would like to thank Chairman CLAY and his staff for their hard work on this resolution.

Our country's 2 million firefighters risk their lives to preserve the safety and livelihood of family, friend, and neighbor. The National Fire Administration estimates that about 100 firefighters die in the line of duty each year. While this number is very high, it does not address the true effect each of these deaths has on the family, fire house, and community of the deceased firefighter.

I was honored to participate this year in the National Fallen Firefighters Memorial Service in Emittsburg, MD. This memorial service not only paid tribute to the heroic service of those firefighters killed in the line of duty, but it provided grief seminars and support groups to reach out to the friends and family of those firefighters.

National Firefighters Day pays tribute to those firefighters who died protecting us and our community, and recognizes the tremendous efforts of every firefighter in our country who works each day to make our communities safer.

This year alone, we have all witnessed some very high-profile efforts made by our firefighters. In New York City during the bombing of the Twin Towers, it was the quick response of firefighters there which helped prevent an even greater tragedy from occurring. In the Midwest we saw fire department after fire department engage in the emergency management effort to stem the Mississippi from flooding their communities, and to rescue people caught up in the muddy torrents. And finally, in southern California, we have witnessed thousands of firefighters literally battle mountains of flame which destroyed lives, homes, and communities.

If not for the courage and effort of our country's firefighters, each of these disasters would have been much worse. Our country owes a tremendous debt of gratitude to our domestic defenders, and I am proud to join the Members of this House to recognize them by designating December 15 as National Firefighters Day.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of House Joint Resolution 272, which would recognize the dedication and sacrifices of our Nation's firefighters by designating October 29, 1993, as National Firefighters Day.

Our fire departments are one of the most crucial of all public services, but in many ways fire departments are among the most forgotten. Perhaps this is so because they are not consistently visible such as our police and postmen.

Yet the statistics disclose, that in the United States, a higher percentage of firefighters are killed or injured in the line of duty than are workers in any other occupation.

It is therefore appropriate that there be a national day to honor the many sacrifices of our firefighters, especially the firefighters who die in the line of duty each year, and our deepest sympathies go out to those families who have suffered such tragic losses.

Accordingly, Mr. Speaker, I urge my colleagues to support this important measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LAROCCO). Is there objection to the request of the gentleman from Maryland.

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 272

Whereas there are over 2,000,000 firefighters in the United States;

Whereas firefighters respond to more than 2,300,000 fires and 8,700,000 emergencies other than fires each year;

Whereas fires annually cause nearly 6,000 deaths and $10,000,000,000 in property damages;

Whereas firefighters have given their lives and risked injury to preserve the lives and protect the property of others;

Whereas the contributions and sacrifices of valiant firefighters often go unreported and are inadequately recognized by the public; and

Whereas the work of firefighters deserves the attention and gratitude of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1993, is designated as "National Firefighters Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. WYNN

Mr. WYNN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYNN: Page 2, line 3, strike "October 29, 1993," and insert "December 15, 1993,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland [Mr. WYNN].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. WYNN

Mr. WYNN. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. WYNN: Amend the title so as to read: "Joint resolution designating November 22, 1993, as 'National Firefighters Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

RELIGIOUS FREEDOM DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 154) designating January 16, 1994, as "Religious Freedom Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now before the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 154

Whereas the first amendment to the Constitution of the United States guarantees religious liberty to the people of the United States;

Whereas millions of people from all parts of the world have come to the United States fleeing religious persecution and seeking to worship;

Whereas in 1777 Thomas Jefferson wrote the bill entitled "A Bill for Establishing Religious Freedom in Virginia" to guarantee freedom of conscience and separation of church and state;

Whereas in 1786, through the devotion of Virginians such as George Mason and James Madison, the General Assembly of Virginia passed such bill;

Whereas the Statute of Virginia for Religious Freedom inspired and shaped the guarantee of religious freedom in the first amendment;

Whereas the Supreme Court of the United States has recognized repeatedly that the Statute of Virginia for Religious Freedom was an important influence in the development of the Bill of Rights;

Whereas scholars across the United States have proclaimed the vital importance of such statute and leader in fields such as law and religion have devoted time, energy and resources to celebrating its contribution to international freedom; and

Whereas America's First Freedom Center, located in Richmond, Virginia, plans a permanent monument to the Statute of Religious Freedom, accompanied by educational programs and commemorative activities for visitors from around the world: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1994, is designated as "Religious Freedom Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to join together to celebrate their religious freedom and to observe the day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

A CONTINUED COMMITMENT FOR A FULL ACCOUNTING OF MIA'S AND POW'S IN SOUTHEAST ASIA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, before this session of Congress ends, let the Record indicate our continued commitment to achieve a full accounting of our MIA's and POW's in Southeast Asia.

Next month our Joint Task Force—Full Accounting will conduct one of its largest operations ever in Cambodia to locate our MIA's and POW's or to uncover more information about their status. I am planning to take part, as an observer, in some of those operations.

I am convinced that the Vietnamese regime holds the answers to many of the questions which linger from the Vietnam war. We should expect more from the Vietnamese regime about our MIA's and POW's and we should expect more from them in terms of respecting the human rights of their own people before we lift our trade embargo.

We should also have the opportunity to question Commerce Secretary Ron Brown to clarify the charges that he lied about an alleged bribe offer and contradictions about his role in easing the embargo against the Communist Vietnamese.

Mr. Speaker, I would like to insert in the RECORD at this point a letter I received from the American Legion concerning their efforts to find more information concerning our MIA's and POW's by interviewing those who returned during Operation Homecoming.

THE AMERICAN LEGION,
Washington, DC, November 17, 1993.

Hon. DANA ROHRABACHER,
House Foreign Affairs Committee, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE ROHRABACHER: The American Legion continues to have an active interest in achieving a full and complete accounting of American servicemen missing in Southeast Asia. The Legion has also been undaunted in exploring any credible new clue or initiative that may lead to a breakthrough in recovering information or remains of Americans believed to have been captured and incarcerated as POWs by any Southeast Asian nations.

The most recent activity in which the Legion has been involved is the completion of a survey of 500 former prisoners of the Vietnam War who were repatriated during Operation Homecoming in 1973. Our survey was an effort to seek additional information about missing U.S servicemen in Southeast Asia that was previously unknown or has been denied to all earlier requests for information. The results of our survey have revealed findings that were both informative and helpful.

We took this survey action because the Select Committee had been unable to gain access to the debriefing transcripts, which could logically be expected to provide some useful information in searching for prisoners of war. The Department of Defense denied access to the debriefing transcripts on the basis of confidentiality pledges made in 1973 to the returnees. This refusal occurred despite the fact the 285 returnees had granted permission to the Select Committee to review their debriefings. The Department of Defense did allow the Select Committee's Chairman and Vice Chairman access to the debriefings, but they did not have time to review them thoroughly. Consequently, in its final report, the Select Committee urged DoD to conduct a full, independent review to clarify this issue for the public. It was recommended that the review be undertaken by DoD staff and not assigned to the DIA, and that the results be provided to the appropriate oversight committees of Congress and made public.

We received 237 responses to queries sent to these former POWs. Of that number, 27 said they had firsthand information on other American POWs who did not return; 30 said they had reason to believe there were other Vietnamese prisons that held Americans who did not return; and 36 said they had reasons to believe certain American POWs who had technical or intelligence knowledge were transferred to other countries.

We believe the high response rate received and the significant portion of "Yes" answers substantiates our presumption that the returnee debriefing transcripts could prove to be a useful source of information in helping to resolve the fate of American POW/MIAs and possibly provide clues in the hunt for any live Americans still held in captivity. Therefore, we have urged President Clinton to instruct the Department of Defense to proceed immediately with the independent review recommended by the former Senate Select Committee on POW/MIA Affairs.

Sincerely,

BRUCE THIESEN,
National Commander.

ORDER OF BUSINESS

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the 30-minute special order on today for the gentleman from Texas [Mr. PICKLE] be changed to a 5-minute special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

TAX-EXEMPT ORGANIZATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, the Subcommittee on Oversight of the Committee on Ways and Means is currently reviewing the Federal tax laws applicable to tax-exempt charities under Internal Revenue Code section 501(c)(3). The subcommittee's review encompassed a broad range of organizations, including hospitals, colleges and universities, radio and television evangelists, various groups organized to help the needy, and many other types of charities.

Specifically, the subcommittee has been discussing why the IRS needs tools to identify and sanction acts of inurement, and why the public needs better information about public charities' activities and related IRS enforcement efforts. These issues are particularly important since contributions to 501(c)(3) charities are tax-deductible and, in making such donations, the public assumes that these charities were granted Federal tax exemption because they are serving legitimate charitable purposes. Unfortunately, this is not the case in all situations. It is my goal to move forward reforms that have teeth in them. Such reforms will benefit the vast majority of charities that are complying with the law, and put the bad apples out of business.

The tax laws require, among other things, that no part of a 501(c)(3) organization's net earnings inure to the benefit of any private shareholder or individual. Where a tax-exempt organization has violated this requirement, IRS can revoke the organization's tax-exemption. However, this is rarely done. In 1991 and 1992, IRS has revoked an organization's exemption for inurement only 20 times. I should note that 16 of these cases involved personal expenses being paid with charity funds.

The subcommittee held hearings on tax-exempt organizations most recently in June and August of this year. The official hearing record of these hearings is being printed and will be available to the public in early December. I urge each of you to read this record. Outside groups can obtain a copy by calling the Government Printing Office at (202) 783-3238. I think you will be shocked about what the subcommittee learned and agree, without hesitation, that the IRS needs an interim sanction, something short of revocation, as a tool to punish those individuals who misuse a charity's name and assets. Also, I think that you will agree that the public needs more and better information about charities' activities and what the IRS is or isn't doing to stop violations of the law.

Over the next 3 months, the subcommittee will complete its review and analysis of the hearing record and other information obtained by the subcommittee. Also, we will continue to work closely with the Department of the Treasury and IRS to develop a comprehensive package of meaningful reforms. I expect that the subcommittee will complete its work early next session by submitting a report to the full committee with both administrative and legislative recommendations.

Today, I want to take a few minutes to share with you some of the data, facts, and testimony the subcommittee has received during the course of its investigation. I must mention before I proceed that my intent in providing numerous examples of situations that cause the IRS and this subcommittee concern, is not to imply that all or most charities are acting in violation of the public trust or in violation of the Federal tax laws. They are not. Rather, my intent is to lay out the facts, with the hope that you will feel an urgency for enacting reforms to deal with inurement and public disclosure. Many, many tax exempt organizations have told me that something needs to be done and they support the subcommittee's efforts to provide IRS with the tools it needs to clean out those intent on abusing the public trust. It is with their support and encouragement, and to their benefit, that the subcommittee will proceed.

At the end of 1992, there were over a million organizations exempt from taxation under section 501(c). This does not include an estimated 340,000 churches. Approximately 489,000 of these tax-exempt organizations filed annual information returns with IRS in 1992, as required by law.

There were nearly 44,000 new organizations for which IRS approved applications for tax exemption in 1992. As of May 1993, there were approximately 473,000 public charities exempt from taxation under section 501(c)(3). In 1990, public charities had revenues of $406 billion—7.4 percent of the gross domestic product—and total assets of $674 billion. In that year, a total of $80 billion was contributed to charities in the form of gifts, grants, and bequests. I think that all will agree that this is Big Business and the opportunities for abuse are great.

IRS's overall budget for exempt organization activities has increased in the last 4 years by 15 percent, to an estimated $55 million in fiscal year 1993. Exempt organization technical staffing for examinations and determinations of tax exemption has remained relatively constant over the past 4 years, at about 500 employees.

In 1992, IRS examined only 5,132 tax-exempt organizations. This was less than 0.5 percent of all tax-exempt organizations and well below the number of organizations examined in prior years. A subcommittee survey in 1991 revealed that there were over 800 cases in inventories awaiting examination at IRS's 7 exempt organization key districts.

In 1992, IRS assessed penalties in 45,000 cases—totaling $56 million—for failure to file or fully complete the form 990. Since 1989, IRS assessed a penalty for failure to make the form 990 available for public inspection in only one occasion. This is of particular concern to the subcommittee since we routinely received complaints that form 990's are not being made available to the public, and often organizations are making it very difficult for the public to inspect their returns as provided for under law.

On June 15, 1993, the subcommittee held a hearing to receive testimony from IRS on activities the agency is conducting with regard to public charities and the issue of private inurement. The subcommittee requested that IRS provide testimony on: difficulties in administering the current tax rules applicable to public charities; the nature and extent of tax law noncompliance; the adequacy of current law sanctions; and the sufficiency of information provided to the public and IRS by charitable organizations for purposes of monitoring overall charitable activities, spending, and tax compliance.

The IRS Commissioner's testimony provided background on the prohibition against inurement and private benefit. She described the prohibition against inurement as applying to insiders or individuals who have an opportunity to control or influence the activities of an organization, such as trustees, directors, officers, managers, and large donors. The Commissioner noted that "inurement arises whenever a financial benefit represents a transfer of resources to an individual solely by virtue of the individual's relationship with the organization, without regard to accomplishing its exempt purposes." Typically, private benefit results where the organization acts for the benefit of someone not within a charitable group.

The Commissioner testified that only providing IRS with the sanction of revocation "makes enforcement of the charitable organization provisions difficult. The Commissioner reported that "lack of a sanction short of revocation in cases in which an organization violated the inurement standards or one of the other standards for exemption causes the Service significant enforcement difficulties. Revocation of an exemption is a severe sanction that may be greatly disproportional to the violation in issue." The Commissioner concluded that these enforcement "difficulties suggest it would be useful to provide the Service with a sanction short of revocation to address violations of these standards."

The Commissioner provided the subcommittee with an example of a case where IRS would be faced with the difficult choice of revocation or no enforcement action. Assume that an examination of a large university reveals that the university is providing its president with inappropriate benefits, such as a salary that appears excessive, a substantial interest-free loan, and costly and luxurious amenities in the official residence. While each of these facts raise serious inurement questions, revocation would adversely affect an entire university community and the president could retain the inappropriate benefits.

In addressing enforcement, the Commissioner testified that increasing the number of audits, taxpayer education, and taxpayer assistance provide opportunities to improve compliance. The Commissioner reported that a Coordinated Examination Program has been initiated for exempt organizations. Also, IRS has established examination priorities for issues that IRS believes to have the greatest effect on society: charitable fundraising, tax-exempt bond issuances, unrelated business activity, media evangelists, and political activities. There were 21 media evangelist cases, 21 hospital cases, and 10 university cases under examination at the time of the hearing.

The Commissioner indicated that in recent examinations of large public charities IRS has been finding patterns of abuse which cause concern. Further, IRS has found a number of cases of inurement and significant private benefit with potentially excessive compensation. This is an area of particular concern.

The Commissioner's testimony noted that improved examination efforts have identified other significant income tax issues with respect to the individuals. These include organizations not reporting compensation on forms W-2 or 1099, individuals failing to report income, and a few cases involving individuals failing to file tax returns at all. Further, IRS has found disguised compensation and amounts not fully reported on the form 990. The Commissioner noted that IRS examinations routinely turn up circumstances where compensation is not properly reflected on a form 990 or not properly characterized as compensation by the organization.

With regard to reforms, the Commissioner indicated that IRS believes: It is useful to have sanctions targeted against specific abuses and against those individuals responsible for any misconduct; it would be helpful to allow disclosure of IRS enforcement actions; and, it would be beneficial to the public and appropriate if IRS could publicly announce reasons for revocation of tax-exempt status.

On August 2, 1993, the subcommittee held a second hearing to review IRS's and certain States' compliance activities involving public charities, and to examine the adequacy of current law reporting on the form 990 and related disclosure requirements. Specifically, the subcommittee discussed IRS's audits conducted pursuant to the Coordinated Examination Program [CEP], situations involving inurement and private benefit, the extent to which employees of public charities are reporting benefits on their individual tax returns, and efforts by State charity officials to eliminate abusive practices by public charities.

IRS's Director of Exempt Organizations Technical Division reported that there were 52 open cases in IRS's CEP Program. Of these cases, 28 involved hospitals or health care organizations, 11 involved colleges and universities, 7 involved media evangelists, and 6 involved other organizations. With regard to issues under examination in these cases, IRS reported that inurement is an issue in eight hospital cases, five media evangelist cases, and three other cases, and private benefit is an issue in nine hospital cases, five college cases, and two media evangelist cases.

With regard to the form 990, IRS's Special Assistant for Exempt Organization Matters identified areas of the form that could be changed to improve the public accountability of charities. Specifically, IRS discussed the need for: (1) a separate listing of cash and noncash contributions; (2) a separate listing of cash and noncash functional expenses; (3) a schedule setting forth additional information on professional fundraising fees; (4) the reporting of certain listed employees on the schedule A who receive aggregated compensation in excess of $100,000; and (5) the reporting of whether certain activities of the organization involved key employees or members of their families.

The assistant attorney general [AG] of the State of Connecticut testified that (1) tax exempt status is obtained too easily; (2) professional solicitors in his State turned over an average of only 30 percent of the money raised to the organizations that hired them and the national scope of fundraisers' activities requires a Federal presence; (3) the quality and reliability of the 990 data is poor; (4) the error rate for completing the form 990 is high; (5) little attention is being paid by the States or IRS to the way charities complete the form 990; (6) some charities exist more for the benefit of officers and fundraisers than the public; and (7) some organizations are exaggerating their accomplishments and the need for their services.

With regard to reform, the assistant AG suggested: (1) allowing IRS to share investigatory information with appropriate State charity officials; (2) providing IRS with the resources needed to conduct periodic reviews to determine if an organization continues to perform public service; (3) the possibility of a minimum pay-out requirement for public charities similar to the requirement for private foundations; (4) prohibiting charities from claiming as program service costs on their forms 990 more than a certain percentage of fundraising or management expenses; (5) reporting on the form 990 of excise tax assessments for violations of the 501(c)(3) rules; and (6) changing the form 990 to better identify in-kind contributions and fundraising contracts.

The AG of the State of Texas provided testimony indicating that, while a vast majority of charities operate within the law, the following abusive practices have been found: (1) ineffective or nonfunctioning boards of directors; (2) self-dealing by members of boards of directors and employees; (3) failure to fulfill the charitable purpose for which the charity was established; (4) hiding behind church status to avoid responsibility for public accountability; and, (5) deceptive fundraising practices. In the area of inurement, the AG noted that under the Texas Non-Profit Corporation Act loans to directors are prohibited.

During the course of the subcommittee's hearings, the Commissioner's testimony provided the following additional examples of abusive transactions by charities for the benefit of insiders. They included the following: (1) an organization purchased a 42-foot boat for an insider's personal use and leased land, buildings, and properties to an insider without charging rent; (2) a hospital was sold to a for-profit corporation controlled by the hospital's board at less than fair-market-value; and (3) a church paid the private expenses of its founders, including jewelry and clothing in excess of $30,000 per year and five luxury cars, and none of these benefits were reported as personal income to the founders. In addition, public charities were used to benefit an individual's private interests as follows:

(1) an organization paid substantially all of its expenses to a for-profit consulting firm with minimal amounts of educational material being produced; and (2) an organization received only three percent of the amount collected by a professional fundraiser.

Review of the most recent forms 990 filed by the top 250 charities indicate the following: (1) of the 2,000 top executives, 64 were paid between $300,000 to $400,000 and 38 were paid more than $400,000; (2) the president of a school received a salary of $365,000 and had a 50-year, interest-free loan of $1 million to purchase and renovate his residence; (3) a hospital had $1.5 million in loans to officers, directors and employees outstanding; (4) the director of surgery had a hospital loan for $845,000 outstanding which was secured by his home; (5) a hospital was lending funds to doctors so that the doctors could set up private practices; (6) four trustees of an educational assistance charity were each paid almost $700,000; (7) the head of a public charity was paid $1 million a year; (8) an arts charity had income and assets rise by $110 million in 1 year, but only spent $3 million that year; and, (9) an organization simply stated on their form 990, instead of listing amounts paid for expenses, that the "information is available in the taxpayer's personnel file." While these practices may be completely legal under current law, I am told by IRS that this is not necessarily so. I think that it's important that we all remember that the issue is both legal compliance and the public's perception of abuse and their public trust.

In addition, IRS field agents provided a wealth of information to the Subcommittee in closed executive session regarding on-going cases under examination involving inurement. A publicly disclosable discussion of these cases follows:

A health care organization, in a clinic-type setting, controlled by a CEO and small board—all of whom have substantial business dealings with the CEO and the organization—paid the CEO more than $1 million including a substantial distribution from an executive compensation plan and premium payments on several hundreds of thousands of dollars in life insurance. The organization made substantial credit card payments and cash disbursements for personal expenses. The organization sold the charitable assets and began purchasing physicians' private practices in excess of fair market value and the physicians and their staffs became employees of the organization.

A large health care institution paid its CEO extraordinary compensation including salary, substantial bonuses, and generous perks and fringe benefits. The bonuses and benefits were shown as expenses on the form 990 and were not reported as compensation to the officer involved. The physicians on staff were paid a base salary and a percentage of fees without any cap, along with housing.

An educational service organization provided its CEO with a residence including maid service and a significant compensation package including salary, deferred compensation, expense accounts, and several loans, one of which was no interest.

An organization serving the poor, which was under the control of the officer and relatives, used organization funds to pay for their personal expenses, such as leasing vehicles, educational expenses, vacations, home improvements, and rental of resort property. The minutes of the board meetings were falsified.

A televangelist used the organization's funds to pay for an extravagant reception and island vacation, a large downpayment on a home, and second resort vacation. A substantial amount of compensation was not reported on the televangelist's individual tax return. Further, the organization acquired agricultural supplies for which the sale date had expired and then donated them to another charity claiming program service activity on the form 990 in excess of $1 million. One transaction involved dozens of tax-exempt organizations declaring the same supplies as in-kind contributions and program service expenditures.

A television ministry paid personal expenses for the minister including a home mortgage, household expenses, country club membership dues, additional homes, and a house for a member of the minister's family.

A media evangelist raised large sums of money through fraudulent or misleading fundraising and only a small part of the fundraising is used for charitable purposes.

A number of organizations exclusively contracted with a for-profit fundraising organization. Nearly all of the organizations were viable organizations with ongoing charitable programs, however, virtually all of the money collected was absorbed by fundraiser fees with very little money being available for the exempt organizations' charitable programs. The true fundraising costs were not discernible from looking at the form 990 because a substantial portion of the costs were allocated to and reported as program services rather than fundraising costs.

The Connecticut assistant AG reported that the State has sued: (1) an organization formed for brain tumor research which raised $500,000 over 2 years and spent $5,000 for research, the rest of the money having been used for fundraising polo matches and certain overhead; (2) an organization set up to grant the last wishes of dying children spent only 4 percent of funds for dying children and used the remainder to support the activities of the officers and directors, including personal travel; and (3) a charity that underreported amounts paid to a professional fundraiser on the form 990.

Finally, the Texas AG cited a number of cases evidencing abuses including: (1) a board member of a children's organ transplant organization who diverted $400,000 of the organization's funds leaving the patients' families with nothing; (2) a hospital which had an admission policy excluding uninsured nonemergency individuals unless they paid a deposit equal to the entire cost of care and devoted less than 1 percent of its gross patient revenue to charity care; and (3) a televangelist, who raised $65 million in revenue in 1991, and refused to disclose financial records to the State of Texas on the grounds that the disclosure infringes upon the principle of separation of church and state.

In conclusion, I hope that you will support the subcommittee's efforts over the next several months to address acts of inurement and public disclosure. I will be pleased to provide your office with a copy of the subcommittee's hearing record and report when it is issued, and of course answer any questions you may have.

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So that over the next 3 months the subcommittee will complete its review and analysis of the hearing record and other information to be obtained by the subcommittee. Also we will come to work closely with the Department of the Treasury and the IRS to develop a comprehensive package of meaningful reforms. I expect that the subcommittee will complete its work early next session by submitting a report to the full committee with both administrative and legislative recommendations.

I am going to include in the RECORD some of the facts that we have brought out in our committee hearing which show the apparent abuse of some of the privileges that these organizations practice just because they are 501(c) organizations, such tax-exempt organizations.

It is alarming, perhaps, for some Members to realize that today we have over 1 million 501(c) organizations on the books. They get on the books, they never go off the books.

Last year alone we had over 44,000 501(c)s approved. They are put on the books again.

There is very little audit. In the last year or two they audited maybe 5,000 out of the 1 million, and that 1 million does not include the 350,000 churches.

I am going to put in the RECORD a lot of these abuses, some of the recommendations we are making, and the quotations from the IRS that they need this extra tool. I hope the Members will become familiar with this proposed regulation.

KUDOS TO HON. J.J. PICKLE

The SPEAKER pro tempore (Mr. FILNER). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, first I would like to yield for a commercial to the fighting Congressman from Ohio.

Mr. KASICH. Mr. Speaker, we are going to be talking about Penny-Kasich in a minute here. I wanted to say something about Mr. PICKLE here for just a moment. JAKE PICKLE is doing now a number of special orders that are very interesting, and he just did a special order on charitable deductibility. The gentleman needs to be listened to in this area. I am going to tell you right now he does not get paid extra for what he is saying takes guts to talk about.

I just wanted to take a second to compliment the gentleman from Texas for trying to shed light on some subjects here that people need to talk about. So what I would say to the gentleman from California is that I thank him for yielding, and I say to the gentleman from Texas [Mr. PICKLE], I think some of his most valuable work and valuable contributions lie ahead of him in terms of informing this U.S. Congress about some of the things we need to focus our attention on.

I want to thank the gentleman for being here at 10:35 at night. He has had a career that spans all the way from Lyndon Johnson, and he is still doing special orders, trying to contribute to his country.

Mr. DORNAN. Reclaiming my time, I say ditto. I am proud to serve with that hero from Texas.

I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I appreciate the comments of both of these gentlemen. Mr. KASICH has been here only some 10 or 12 years, but very few Members have been more diligent in pursuing changes and improvements for this institution. The gentleman from Ohio has been equally efficient. We are all doing what we can in the public interest, and I thank the gentlemen for their comments.

Mr. DORNAN. The gentleman from Ohio has been here 11 years. The gentleman from Minnesota has been here 11 years. We have two 11-year guys. Now I have been here 17, and that is why I am taking what remains of my dynamic 5 minutes to do some cleanup work here.

CULTURE WARS, ANTIHEROES, AND HEROES

Mr. DORNAN. In this culture war I came across an article by Anne Roche Muggeridge, Canadian correspondent for the best Roman Catholic newsletter in America, called the Catholic Guide. She of course wrote the books "Gates of Hell," "Desolate City: Revolution in the Catholic Church." This one is a defense of John Paul II's long-awaited encyclical on morality and a more beautiful apologia and defense of truth and decency and purity, something that now everybody in America is talking about, family values. I would like to submit that for the RECORD.

Then I would put an article in the area of antiheroes, called "McNamara's Ghost," about how the whiz kids, among them a second lieutenant called Les Aspin, back in the 1960's, using McNamara's systems analysis to just about destroy the Pentagon. Les was then in civilian clothes, and that is all he served as a second lieutenant in the Reservcs. He was a civilian whiz kid over there.

Then I want to put in an article when we come to the part about heroes, one of my heroes, Frank J. Gaffney, Jr. Last night I could not discuss the nomination, in fullness, of Morton Halperin to the newly created undersecretary position in the Defense Department. But lo and behold I can discuss it tonight because it has been sent back to the White House. That is in the form of a senatorial pocket veto on a confirmation. So I doubt it is going to see the light of day in the Senate again when we come back in January.

Let me put in an article of Mr. Gaffney's from the Wall Street Journal on November 2, "Wrong Way to Face the Future Nuclear Threat." I will submit that article and the fascinating article by another of my heroes, Reid Irvine, and Jay Goulden on "Covert Halperin Helper," one of the guys working for Time magazine, how he tried to dynamite Mr. Gaffney's lead that was picked up by several courageous Senators to stop the appointment of what I think is the worst appointment in the Defense Department I have ever seen in my life. So I will put in that article by Reid Irvine and Jay Goulden.

Mr. Speaker, here are some notable quotes on selected topics; let us call it "Halperin on Halperin." All of this thanks to the superb scholarship, again, of Frank J. Gaffney, Jr.

So here we go with pages of quotes. Let me guess that this is probably going to cost about $2,000. So I would ask unanimous consent in advance that I am willing to stand by that, it is a bargain at any cost, at any cost, if we can get Americans who love the proceedings of this House, Mr. Speaker, who, believe it or not, I found out again this week, actually go out of their way to write their Congressman or Senator, get the CONGRESSIONAL RECORD, curl up in front of a fireplace and read it and actually learn something from it. I submit these 33 pages of scholarship on Mr. Gaffney and thank the Speaker and yield back the 2 seconds of my time to the dynamos, PENNY and KASICH.

The articles referred to are as follows:

[From the Catholic Eye, Oct. 29, 1993]

COMMENTARY

(By Anne Roche Muggeridge)

"Pope John Paul II's long-awaited encyclical on morality," said the Washington Post, "contains a sweeping reaffirmation of traditional teaching on sexual issues, strongly criticizing contraception, abortion, premarital sex and homosexual relations." "No quarter is given to those who would moderate the Church's hostility to homosexuality, abortion and artificial contraception," the London Times lamented. The Economist devoted its entire coverage to a condemnation of the Church's teaching against artificial birth control: "Deaf to the complaints of married Catholics and apparently blind to the struggles of the third-world poor, this church [The Economist's lower case] persists in a teaching that is not only harmful but, even by its own lights, illogical and inconsistent." The Washington Times headlined: "Don't bother to ask: Pope's still against it." But the things that you're liable to read in the papers, they ain't necessarily so. The overwhelming impression created by the various media was that the forthcoming encyclical was preoccupied with sexual behaviour. "Pope's Sex Stand Has 'Em Hot & Bothered," blared the New York Post. Nothing could be further from the truth.

In the 183 pages of Veritatis Splendor (Édicions Paulines, Vatican translation), the word contraception appears only once, in the course of one sentence (in section 47) that mentions kinds of sexual behaviour that "certain theologians" claim the Church has mistakenly condemned. In fact, the encyclical does not concern itself with specific moral or immoral actions.

In the brief Introduction, the Pope states the reasons for his letter to all the Bishops of the Catholic Church. The Christian community, he says, is in a new situation. The Church's moral teaching is being widely rejected by its own theologians and pastors. "It is no longer a matter of limited and occasional dissent, but of an overall and systematic calling into question of traditional moral doctrine, on the basis of certain anthropological and ethical presuppositions."

This process ends in the detaching of human freedom from eternal truth. Even seminaries and faculties of theology, he writes, publicly doubt the universally binding nature of God's Commandments, and suggest that belief can be separated from practice. Therefore, his "specific purpose" is to "set forth, with regard to the problems being discussed, the principles of a moral teaching based on Sacred Scripture and the living Apostolic Tradition, and at the same time to shed light on the presuppositions and consequences of the dissent which that teaching has met."

It took me some time to get used to Pope John Paul's leisurely style, his unique method of exposition, the way in which his poetic apprehension of Biblical truth inflames and colours his teaching, adding feeling to intellect. It was his wonderful many-layered work "On The Original Unity of Man And Woman" that first won me, heart, mind and soul.

"The Splendour of Truth" is equally powerful and moving. The Pope talks of persons, not of terms. In Chapter One, he answers "the question about morality"—What is good? What is evil? What must I do?—with an extended meditation about the rich young man who asked Our Lord, "What must I do to gain eternal life?" and got the answer, "Keep the Commandments," which are "the beginning of freedom," and the basis of moral life. "Jesus' conversation with the rich young man continues," the Pope says, "in every period of history, including our own."

Chapter Two discusses "certain tendencies in present-day moral theology." Though they were intended for the Bishops, this layman is glad to have the good, clear, succinct critiques of the fundamental option, of proportionalism and of consequentialism. The faithful, and we are still many, have felt helpless, abandoned by our shepherds, despised and rejected like the Christ we love and serve, for a very long time now.

Near the end of his letter, the Pope praises martyrdom. It "rejects as false and illusory whatever 'human meaning' one might claim to attribute, even in exceptional circumstances, to an act morally wrong." Faithful Catholics share in the "consistent witness which all Christians must daily be ready to make, even at the cost of suffering and daily sacrifice" and "heroic commitment." Laypeople who have taken a sizeable family through "Catholic" schools, colleges and parish churches during the past thirty years know what martyrdom means.

Just before his conclusion, the Pope reminds the Bishops of their duty "to be vigilant that the word of God is faithfully taught," and to guard the faithful "from every doctrine and theory contrary to it," to make sure that "sound doctrine" is taught in their dioceses, and to remove the title "Catholic" from their schools, universities, hospitals, et cetera, "in cases of a serious failure to live up to that title."

"Dear Brothers in the Episcopate," the Pope says to our Bishops, "we must not be content merely to warn the faithful about the errors and dangers of certain ethical theories. We must first of all show the inviting splendour of the truth which is Jesus Christ Himself."

Won't that be splendid.

[From the Baltimore Sun, Sept. 29, 1993]

MCNAMARA'S GHOST

(By Robert J. Hanks)

When Robert L. McNamara—formerly assistant professor at Harvard University, later head of Ford Motor Company—became Secretary of Defense in 1961, he brought to the Pentagon a host of bright young assistants and a determination to establish firm civilian control over the U.S. armed forces. With assistance from those youthful but militarily inexperienced executives (the so-called "Whiz Kids"), he succeeded.

He also brought a briefcase full of management techniques he had employed at Ford. Mr. McNamara seemed convinced that these procedures—used to produce automobiles—could be applied across the board to national defense. Among them, he placed infinite reliance on a management tool he had wielded in Dearborn: systems analysis.

Mr. McNamara entrenched an office—Systems Analysis—in the Pentagon, not only to analyze service programs but to originate them. One bright, young analyst during the latter McNamara years, Les Aspin, is now Secretary of Defense.

Then a newly commissioned Army Reserve second lieutenant, Mr. Aspin served his active duty obligation in Systems Analysis, wearing civilian clothes. He worked with computer models of military issues, many of whose solutions ultimately bore scant resemblance to battlefield realities in South Vietnam or to other military uncertainties then confronting the nation.

"McNamara's Band"—as Systems Analysis quickly became known throughout the Pentagon—sought to "quantify" everything. The underlying assumption held that computers, fed "quantified" inputs, could produce solutions to every problem; professional experience didn't matter.

Enemy "body counts" became a progress yardstick in Vietnam. Computer loved the numbers. Similar methodology spawned an "electronic fence," touted as the answer to North Vietnamese infiltration into the southern part of that tortured country. It wasn't, of course. Similar analytical failures abounded. One of the more senseless fixations involved development of a fighter aircraft for the Air Force and Navy. It typified Systems Analysis solutions' faults when applied to real-world problems.

SA combined diverse requirements of the two services—many incompatible—and established essential characteristics of one aircraft, the TFX, for Tactical Fighter Experimental, to meet the disparate Navy and Air Force needs. The "Whiz Kids" didn't realize that this would inevitably produce a plane whose every component had been reduced to the lowest common denominator. While Systems Analysis rammed the TFX concept through the Pentagon, a far better approach already lay at hand.

At that time, the F-4 Phantom reigned as the premier fighter aircraft in the world; produced by McDonnell Aircraft, it strained the boundaries of technology. It proved eminently suited to carrier operations.

The Air Force simply took that plane and removed characteristics it didn't need: wing-folding mechanisms (for carrier operations) heavy landing gear for landing on pitching decks, reinforced tail structure to withstand enormous forces generated by arrested landings, etc. When the Air Force finished modifying the Navy version of the Phantom, it was a much lighter aircraft boasting significantly improved combat capabilities. It subsequently proved to be mainstay of the Air Force, particularly in Vietnam.

For years, the F-4, based afloat and ashore, ruled international skies while both services sought replacements for the aging plane. Each could have acquired a new aircraft, tailored to specific needs, far sooner and at less cost, had the Defense Department learned the lesson of the F-4. Instead, the Air Force had to buy several hundred F-111s (TFXs), those now still in service being used primarily as bombers rather than fighters.

With the nation's armed forces currently "downsizing," every defense dollar must be spent as wisely as possible. The country simply cannot afford to waste money applying theoretical solutions like the TFX to military problems.

One must hope that Secretary Aspin is not still wedded to his systems-analysis background, that he will use it as an analytical tool to examine service proposals—in the context of the experience accumulated on the battlefield by this nation's military professionals. America's shrinking armed forces cannot survive another McNamara-type reign over the Pentagon.

COVERT HALPERIN HELPER

Did a Time magazine correspondent use his press credentials to spy on opponents of controversial Defense Department nominee Morton Halperin? Or did a lapse of journalistic ethics permit a former Halperin associate to research a story on his old boss?

Whatever the explanation, Frank Gaffney, a high Pentagon official in the Reagan years, is upset about his encounter with Time's Jay Peterzell, who subjected him to a "highly aggressive interview" in late August. Mr. Gaffney got the impression Mr. Peterzell was primarily interested in the lines of attack Mr. Gaffney was using to block Mr. Halperin's nomination as assistant secretary of defense for democracy and peacekeeping.

Mr. Gaffney finally became so suspicious of Mr. Peterzell during the interview that he asked point-blank whether he was working on a story for Time, and if so, when it would run. By Mr. Gaffney's account, Mr. Peterzell was "uncertain whether the article would run in the edition then in preparation, or in the following one." But there was "no question that he was going to file a story for the magazine about the coming confirmation battle at some point."

Then something peculiar happened: Mr. Peterzell asked about a conversation Mr. Gaffney had had only a few hours earlier in which a mutual friend had asked whether he would be willing to meet with Mr. Halperin. The conversation was known only to Mr. Halperin and one other person besides Mr. Gaffney. Mr. Gaffney concluded that he was not dealing with a journalist, but someone who was scouting for Mr. Halperin.

Several days later, Mr. Gaffney discovered something else about Mr. Peterzell: that before joining Time, he had worked for Mr. Halperin's CNSS. Mr. Peterzell took the harsh antimilitary-anti-intelligence posture of his boss, writing articles for the CNSS newsletter echoing Mr. Halperin's themes that U.S. intelligence regularly duped the public and Congress.

Mr. Gaffney complained to Time assistant managing editor Walter Isaacson. According to Mr. Gaffney's notes, Mr. Isaacson said he "thought [Mr. Gaffney] was right, personally" in calling attention to the conflict of interest. But Mr. Isaacson had a change of heart overnight. He wrote Mr. Gaffney on Sept. 8, "I understand the concerns you raise." He continued: "Jay Peterzell was looking into a possible story for Time. But he was not—and would not—be assigned to write any story on this issue. In response to your specific questions, I can assure you that he was acting on behalf of Time and not Mr. Halperin."

Mr. Isaacson's answer doesn't make sense to use. Why should a reporter who would not be permitted to "write any story on this issue" be assigned to do interviews "on behalf of Time"? The Time editorial system is collective, with a writer melding the research of other persons into a story. Mr. Gaffney found this answer "entirely unsatisfactory," writing Mr. Isaacson, "The statement * * * that 'he was not looking into a possible story for Time' but not under assignment sounds, quite frankly, like a cover-up."

The next Time "explanation" came from deputy managing editor John F. Stacks. He wrote that Mr. Peterzell was aware of the rising controversy about Mr. Halperin and "not surprisingly since it falls on his beat, decided to look into elements of that controversy. As a result of his inquiries, including his conversations with you and Mr. Halperin, he proposed that Time do a story. In that suggestion, he forthrightly reminded us of his former association with Mr. Halperin." Mr. Stacks said he directed that Mr. Peterzell was not to "report" the story because of the conflict.

Mr. Peterzell denied any shenanigans on behalf of Mr. Halperin, or any conflict, given that their association ended seven years ago. Contradicting Mr. Stack's statement, he denied talking to Mr. Halperin, but said he "talked to both sides, as any reporter would do." He declined to say where he learned of Mr. Gaffney's private conversation concerning Mr. Halperin. He said he indeed told Mr.

Gaffney he was working on the Halperin story but didn't say he was writing it, because he wasn't. (No Time story ever appeared.)

As Mr. Gaffney wrote Mr. Stacks, "It would seem to me that Time would not want someone whose longstanding personal relationship with the subject of a possible story and whose considerable, direct involvement with some of the subject's most controversial publications might skew even his looking into a possible story."

[From the Wall Street Journal, Nov. 2, 1993]

WRONG WAY TO FACE THE FUTURE NUCLEAR THREAT

(By Frank J. Gaffney, Jr.)

The Defense Department's major review of U.S. nuclear weapons policy, announced on Friday 29 Oct. 1993 with a suspicious lack of fanfare, is supposed to be a "bottom up" analysis of all aspects of the U.S. nuclear deterrent posture. To judge by Friday's muted press conference and the outlook of many Clinton defense officials, however, the study is likely to be an exercise in rationalization that bears no resemblance to a genuinely fresh look at the vexing questions of nuclear policy.

In particular, three urgent problems seem likely to be neglected:

The U.S. is going out of the nuclear weapons business.

At the press conference, Assistant Secretary of Defense Ashton Carter noted the long-term nature of the study: "We're going to be looking at what might evolve in the next 10 to 20 years because the force structure we determine today is the one we'll be living with 10 to 20 years from now." This is true enough, as far as it goes. But it assumes that the U.S. will be able to field effective nuclear weapons a decade or two from now—an assumption worth examining carefully.

Several key policy decisions by the Bush and Clinton administrations have amounted to a unilateral nuclear freeze. They include: declaring an open-ended cessation of nuclear testing; suspending the production of nuclear weapons; closing key facilities in the industrial infrastructure; and allowing the hemorrhage of skilled personnel from the energy Department's laboratories and weapons complex. Perhaps most important, the Defense Department has failed to ensure a steady domestic supply of the radioactive gas tritium. Unless new sources for tritium are found within the next decade, there will be no U.S. viable nuclear weapons in the force structure "10 to 20 years from now."

The future nuclear threat is not confined to the many dangerous actors around the world that are "going nuclear" or acquiring new, less costly, weapons of mass destruction: Russia continues to pose a serious threat.

Announcing the nuclear study, Defense Secretary Les Aspin spoke rather wistfully of "the old Soviet threat," contending that, "while very dangerous, [it] had developed a certain comfort level." But no one should take any comfort from the status of the former Soviet nuclear arsenal today.

The Russians continue to manufacture nuclear weapons and weapons-related material (notably plutonium, tritium and highly enriched uranium). The continue to develop new generations of offensive nuclear delivery systems, including mobile intercontinental ballistic missiles. And they continue to conduct exercises involving massive nuclear attacks against the U.S.

Moreover, according to the head of the Russian Ministry of Atomic Energy, Viktor Mikhailov, the Russians possess far larger stocks of nuclear weapons than has been assumed by Western intelligence. They also reportedly continue to operate a "Doomsday machine" capable of automatically launching attacks if fallible sensors suggest that nuclear weapons have been used against Russia.

There is precious little "comfort" to be taken from these facts, especially in the face of enormous uncertainty about the exact status of former Soviet nuclear arms and about the reliability of the command and control arrangements that govern them. It would be reckless indeed if the Pentagon's nuclear strategy review were to focus on emerging nuclear threats and ignore the abiding Russian threat because it may be politically inconvenient or "incorrect."

The U.S. is essentially eliminating the option of strategic defense.

It seems unlikely that Mr. Aspin's review will acknowledge the enormous contribution that strategic defenses could make to U.S. security. Even before Mr. Aspin's "bottom up" budget review earlier this year, the Clinton administration had decided to eliminate work on a territorial defense against missile attack. And its blind ideological attachment to the 1972 Anti-Ballistic Missile Treaty seem to ensure that the U.S. will not be fielding missile defenses any time soon. In sum, the administration is ignoring technologies that might reduce the risks of U.S. unilateral nuclear disarmament just at the time other nations are aggressively pursuing nuclear options.

Instead of addressing these problems, the Aspin study seems likely to be preoccupied with secondary issues. Most of these are hobbyhorses of Clinton political appointees—policies that were rejected in the past by both Republican and Democratic administrations but that now will be given a new lease on life.

Such second-order—and second-rate—notions include: adopting a "no first use" policy concerning nuclear weapons; enacting a permanent comprehensive test ban; declaring a formalized nuclear freeze affecting not only testing but production and at least some related research and development; instituting wholesale cuts in U.S. nuclear forces; keeping a large percentage of U.S. ballistic missile submarines in port while confining those at sea to negotiated "sanctuaries"; and separating land-based warheads from their missiles. If adopted, these steps would unquestionably further reduce the readiness, reliability and credibility of the American nuclear deterrent.

There is an urgent need for a truly "bottom up" review of U.S. nuclear policy. Unlike the one announced on Friday, however, such a review would explicitly address whether the U.S. will continue to need a nuclear deterrent for the foreseeable future and, if so, whether we are taking all necessary steps to maintain it, while also ensuring the means of defending against missile attacks should deterrence fail.

In view of the prejudices of at least some of those involved in the Aspin study, an independent examination of these issues seems in order. A blue-ribbon, bipartisan panel should be commissioned and given access to the relevant intelligence and operational data. It might provide a "second opinion" on U.S. nuclear forces before any dramatic redirection is ordered.

(Mr. Gaffney was responsible for nuclear forces policy in the Reagan Defense Department. He is currently director of the Center for Security Policy in Washington.)

Mr. Speaker, here are some notable Halperin quotes on selected topics. Let's call it Halperin on Halperin. All of this thanks to the superb scholarship of Frank J. Gaffey, Jr. Here we go:

ON THE FUNDAMENTAL NATURE OF THE COLD WAR

"The Soviet Union apparently never even contemplated the overt use of military force against Western Europe. . . . The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one. The positioning of Soviet ground forces in Eastern Europe and the limited logistical capability of these forces suggests an orientation primarily toward defense against a Western attack." (Defense Strategies for the Seventies, 1971, p. 60)

". . . Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law. The Cubans have come in only when invited by a government and have remained only at their request. . . . The American public needs to understand that Soviet conduct in Africa violates no Soviet-American agreements nor any accepted principles of international behavior. It reflects simply a different Soviet estimate of what should happen in the African continent and a genuine conflict between the United States and the Soviet Union." ("American Military Intervention: Is It Ever Justified?", The Nation, June 9, 1979, p. 668)

ON U.S. INTERNATIONAL COMMITMENTS

"One of the great disappointments of the Carter Administration is that it has failed to give any systematic reconsideration to the security commitments of the United States. [For example, President Carter's] decision to withdraw [U.S. ground forces from Korea] was accompanied by a commitment to keep air and naval units in and around Korea—a strong reaffirmation by the United States of its security commitment to Korea. This action prevented a careful consideration of whether the United States wished to remain committed to the security of Korea. . . . Even if a commitment is maintained, a request for American military intervention should not be routinely honored." (The Nation, June 9, 1979, p. 670)

ON THE USE OF U.S. MILITARY POWER ABROAD

"All of the genuine security needs of United States can be met by a simple rule which permits us to intervene [only] when invited to do so by a foreign government. . . . The principle of proportion would require that American intervention be no greater than the intervention by other outside powers in the local conflict. We should not assume that once we intervene we are free to commit whatever destruction is necessary in order to secure our objectives." (The Nation, June 9, 1979, p. 670)

"The United States should explicitly surrender the right to intervene unilaterally in the internal affairs of other countries by overt military means or by covert operations. Such self restraint would bar interventions like those in Grenada and Panama, unless the United States first gained the explicit consent of the international community acting through the Security Council or a regional organization. The United States would, however, retain the right granted under Article 51 of the U.N. Charter to act unilaterally if necessary to meet threats to international peace and security involving aggression across borders (such as those in Kuwait and in Bosnia-Herzegovina.) ("Guaranteeing Democracy, Summer 1993 Foreign Policy, p. 120)

"President George Bush's act of putting U.S. troops in a position where conflict could erupt at any moment (Operation Desert Shield), violated an unambiguous constitutional principle. . . " (Co-authored with Jeanne Wood, "Ending The Cold War At Home," Foreign Policy, Winter 1990–91)

ON THE U.S. DEFENSE ESTABLISHMENT

Referring to the Reagan defense buildup: "Are we now buying the forces to meet the real threats to our security? Unfortunately, there is little reason to be confident that we are." (New York Times, June 7, 1981, p. 1)

"In the name of protecting liberty from communism, a massive undemocratic national security structure was erected during the Cold War, which continues to exist even though the Cold War is over. Now, with the Gulf War having commenced, we are seeing further unjustified limitations of constitutional rights using the powers granted to the executive branch during the Cold War." (United Press International, January 28, 1991)

"The military should have no role in the surveillance of American citizens." ("Controlling the Intelligence Agencies," Center for National Security Studies newsletter First Principles, October 1975, p. 16.)—N.B. Halperin's prospective responsibilities would include oversight of drug policy in the Pentagon including the U.S. military's activities in the area of drug surveillance and interdiction operations.

ON THE U.S. INTELLIGENCE ESTABLISHMENT

"Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients. The intent is therapeutic, but in the long run the cure is more deadly than the disease. Secret intelligence agencies are designed to act routinely in ways that violate the laws or standards of society." (Co-authored with Jerry Berman, Robert Borosage and Christine Marwick, The Lawless State: The Crimes of the U.S. Intelligence Agencies, Center for National Security Studies, Washington, D.C., 1976, p. 5)

"You can never preclude abuses by intelligence agencies and, therefore, that is a risk that you run if you decide to have intelligence agencies. I think there is a very real tension between a clandestine intelligence agency and a free society. I think we accepted it for the first time during the Cold War period and I think in light of the end of the Cold War we need to assess a variety of things at home, including secret intelligence agencies, and make sure that we end the Cold War at home as we end it abroad." (MacNeil/Lehrer Newshour, July 23, 1991)

"* * * The intelligence [service's] * * * monastic training prepared officials not for saintliness, but for crime, for acts transgressing the limits of accepted law and morality * * * The abuses of the intelligence agencies are one of the symptoms of the amassing of power in the postwar presidency; the only way to safeguard against future crimes is to alter that balance of power. * * *

"Clandestine government means that Americans give up something for nothing—they give up their right to participation in the political process and to informed consent in exchange for grave assaults on basic rights and a long record of serious policy failures abroad." (The Lawless State, pp. 222–57)

"Secrecy * * * does not serve national security. * * * Covert operations are incompatible with constitutional government and should be abolished." ("Just Say No: The Case Against Covert Action," The Nation, March 21, 1987, p. 363)

"[T]he primary function of the [intelligence] agencies is to undertake disreputable activities that presidents do not wish to reveal to the public or expose to congressional debate." (The Lawless State, p. 221)

"CIA defenders offer us the specter of Soviet power, the KGB, and the Chinese hordes. What they fail to mention is more significant: they have never been able successfully to use espionage or covert action techniques against the USSR or China, which are the only two nations that could conceivably threaten the United States. * * * The 'successes' of covert action and espionage, of which the CIA is so proud, have taken place in countries that are no threat to the security of the United States." (The Lawless State, p. 262)

"Spies and covert action are counterproductive as tools in international relations. The costs are too high; the returns too meager. Covert action and spies should be banned and the CIA's Clandestine Services Branch disbanded." (The Lawless State, p. 263)

"* * * Covert intervention, whether through the CIA or any other agency, should be absolutely prohibited. * * *" ("American Military Intervention: Is It Ever Justified?" The Nation, 9 June 1979, p. 670)

"We need to create a legislated structure of safeguards which clearly delineate the functions of the intelligence community while holding them to the laws of the land and the Constitution. The first step in creating such a structure should be to decide that the basic facts about each agency—its existence, its charter and its budget—must be made public . . .

"The budgets of most intelligence agencies remain secret. Such secrecy is not part of any legitimate national security purpose. . . . The CIA should be limited to collating and evaluating intelligence information, and its only activities in the United States should be openly acknowledged actions in support of this mission. The agency's clandestine service should be abolished." ("Controlling the Intelligence Agencies," First Principles, October 1975, p. 16)

"The Campaign for Political Rights is a coalition of over 80 civil liberties [and other] groups . . . committed to an end to covert operations abroad." (Flyer produced by the Campaign for Political Rights which was founded and organized by Morton Halperin in 1977 under the original name of the Campaign to Stop Government Spying)

"It may be true that other nations have, and will continue to engage in covert action. But this is far from proper justification for its use by the U.S. Indeed, few nations in the world have used covert action as aggressively and comprehensively as the U.S. And in no other country does the use of covert action conflict so violently with the guiding principles of a nation's constitution and the desires of its people.

"Covert action violates international law." ("The CIA and Covert Action," a June 1982 report produced by the Campaign for Political Rights)

"The ACLU believes, and I believe that the United States should not conduct covert operations. . . . The record now before this committee and the nation demonstrate that covert operations are fundamentally incompatible with a democratic society." (Testimony provided by Halperin before the House Select committee on Intelligence regarding Prior Notice of Covert Actions to the Congress, April 1 and 8, 1987 and June 10, 1987, pp. 90 and 96 of the hearing record)

"Perhaps the most entrenched legacy of the Cold War is a carefully structured system of government information controls—a system steeped in secrecy: Secret agencies, secret budgets, secret documents, and secret decisions affecting issues of life and death, war and peace. . . . There are intelligence agencies whose very existence is secret, whose charters and budgets are secret, and whose activities include secret paramilitary operations abroad.

"And millions of government documents on critical policy matters are needlessly classified, preventing essential information on foreign policy from reaching the public domain, even though disclosure would cause no appreciable harm to the national security. Such a system runs counter to the constitutional design for an open and accountable government." ("Ending the Cold War at Home," Foreign Policy, Winter 1990–1991, p. 129)

"The FBI should be limited to the investigation of crime; it should be prohibited from conducting 'intelligence' investigations on groups or individuals not suspected of crimes." ("Controlling the Intelligence Agencies," First Principles, October 1975)

"The National Security Agency should monitor international communications in a way that avoids recording of the communications of Americans." ("Controlling the Intelligence Agencies," First Principles, October 1975, p. 16)

"It should be made a crime for any official of an intelligence organization to knowingly violate and/or to order or request an action which would violate the congressional limitations or public regulations concerning the activities of the agencies. Failing to report such violations should also have criminal sanctions. * * *

"The policing of the crimes of the intelligence [agencies] should be in the hands of a single official. . . . He or she should have access to all intelligence community files and should be empowered to release any information necessary to prosecute a criminal offense. . . . Civil remedies patterned after those now available for illegal wiretaps should back up these criminal penalties by allowing anyone whose rights have been violated by the intelligence organizations to sue. Such penalties should be set out in a statute and there should be no need to prove actual damage." ("Controlling the Intelligence Agencies," First Principles, October 1975, p. 15)

Halperin favorably reviewed Philip Agee's book Inside the Company: CIA Diary saying that in it "we learn in devastating detail what is done in the name of the United States." The review made no mention of the fact that the book contained some thirty pages of names of U.S. covert operatives overseas or that the author acknowledges in his preface the help he received from the Cuban Communist Party.

Halperin concluded the review by pronouncing: "The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing and allied nations." (First Principles, September 1975, p. 13)

[The following excerpts are taken from a pamphlet published by the Center for National Security Studies in 1976 and entitled "CIA Covert Action: Threat to the Constitution." Morton Halperin is listed as a "participant" in the Center's activities; at the time he was also the Chief Editorial Writer for the CNSS' publication, First Principles. Subsequently, Halperin became the organization's deputy director and then served from 1984 to 1992 as its director.]

"In the wake of Vietnam and Watergate, the question must be faced: Should the U.S. government continue to engage in clandestine operations? We at the Center for National Security Studies believe that the answer is 'No'; that the CIA's covert action programs should be ended immediately. The risks and costs of maintaining a clandestine underworld are too great, and covert action cannot be justified on either pragmatic or moral grounds."

"Defenders of the CIA argue that the Agency's covert actions protect the 'national security.' Yet historically, covert action has had little, if anything, to do with the reasonable defense of the country. * * * Morton Halperin * * * has stated that he knows of no program of covert action which was necessary to the national security."

"* * * [Covert operations] make us an object of suspicion and hatred throughout the world. Indeed, by practicing subversion and terror, we only encourage others to adopt the same tactics."

"A bureaucracy trained in the nefarious tactics of espionage and of covert action is a constant threat in an open society."

"A bureaucracy skilled in deceit is suspect in any government, but it is particularly destructive to a republic."

"In the final analysis, covert actions by the CIA undermine our democracy because they are an inherently criminal enterprise."

"* * * even if covert action is not 'misused,' it still corrodes our constitutional order."

"As Morton Halperin * * * states, 'If there were a successful operation that we did not know about, that proved the case for covert action, the temptation to make that public would have long ago overcome any inhibitions against leaking information. So this notion that there is something that none of us know about that is so important and so great that it justifies all the fiascoes and failures, and crimes, I take with a grain of salt.'"

"Covert operations involve breaking the laws of other nations, and those who conduct them come to believe that they can also break U.S. law and get away with it. * * * Covert operations breed a disrespect for the truth." ("Just Say No: The Case Against Covert Action" The Nation, March 21, 1987)

"Restoring Congress's constitutional role demands that Congress activate its full share of authority over paramilitary operations by taking the 'covert' out of covert action."

"The only way to stop this pattern [of abuse] is to impose an absolute requirement of public approval to bar paramilitary operations that are covert." (Lawful Wars," Foreign Policy, Fall 1988)

From an interview with Ben Wattenberg which appeared as part of the 1978 Public Broadcasting Service series "In Search of the Reach America":

WATTENBERG: "Don't we need a strong and vigorous intelligence service with tools at its command that every other major intelligence service in this world has?"

HALPERIN: "Well, I think that's the issue. I think we certainly need to know about the Soviet Union."

WATTENBERG: "What about other nation?"

HALPERIN: "Other nation—I think it's much more questionable as to whether we need that information and whether the price for it is worth paying." ("Two Cheers for the CIA," broadcast 15 June 1978)

ON BEHALF OF EXTREME INTERPRETATIONS OF THE FIRST AMENDMENT

"Under the First Amendment, Americans have every right to seek to 'impede or impair' the functions of any federal agency, whether it is the FTC or the CIA, by pushing information acquired from unclassified sources." ("The CIA's Distemper: How Can We Unleash the Agency When It Hasn't Yet Been Leased?", The New Republic, February 9, 1980, p. 23)

"Lawful dissent and opposition to a government should not call down upon an individual any surveillance at all and certainly not surveillance as intrusive as a wiretap." ("National Security and Civil Liberties," Foreign Policy, Winter 1975–76, p. 151)

In opposition to draft legislation setting heavy criminal penalties for Americans who deliberately identify undercover U.S. intelligence agents: "[Such legislation] will chill public debate on important intelligence issues and is unconstitutional. * * * What we have is a bill which is merely symbolic in its protection of agents but which does violence to the principles of the First Amendment." (UPI, April 8, 1981)

In criticizing scientists who "refused to help the lawyers representing The Progressive and its editors" in fighting government efforts to halt the magazine's publication of detailed information about the design and manufacturing of nuclear weapons: "They failed to understand that the question of whether publishing the 'secret of the H-bomb' would help or hinder non-proliferation efforts was beside the point. The real question was whether the government had the right to decide what information should be published. If the government could stop publication of [this] article, it could, in theory, prevent publication of any other material that it thought would stimulate proliferation." ("Secrecy and National Security," The Bulletin of the Atomic Scientists, August 1985, p. 116)

In response to government attempts to close down the Washington offices of the PLO: "It is clearly a violation of the rights of free speech and association to bar American citizens from acting as agents seeking to advance the political ideology of any organization, even if that organization is based abroad. Notwithstanding criminal acts in which the PLO may have been involved, a ban on advocacy of all components of the PLO's efforts will not withstand constitutional scrutiny." (The Nation, October 10, 1987)

In arguing that the random use of polygraph tests to find spies was unconstitutional: "Congress should strip these measures from the bill and start attacking the genuine problems, such as over-classification of information." (Associated Press, July 8, 1985)

"Having had administrative responsibility for the production of the [Pentagon] Papers, I knew they contained nothing which would cause serious injury to national security. I watched with amazement as the Justice Department, without knowing what was in the study, sought to persuade court after court that they should be suppressed ("Where I'm At," First Principles, September 1975, p. 16).—N.B. The so-called Pentagon Papers—a 2.5 million word compilation of classified documents concerning the U.S. role in Vietnam—were officially categorized as "Top Secret/Sensitive." Halperin, together with his deputy, Leslie Gelb, gave Daniel Ellsberg access to these papers which Ellsberg subsequently provided to the New York Times. Halperin reportedly served as chief of staff for a team of 35 defense attorneys and testified on behalf of Ellsberg in the subsequent trial. One can only speculate upon the myriad sensitive documents to which Halperin currently has access in the Defense Department and from other agencies that he might similarly view as excessively classified and whether he might choose to grant access to such information to others who may, in turn, elect to make such documents public. (For additional discussion of this issue, see pp. 26–31)

"The constitutional rights of Americans have also been major casualties in the 'war on drugs' . . . Gross invasions of privacy such as urine testing, excessive property forfeitures and seizures without due process of law, the circulation of extensive government files on suspected drug offenders, and border patrols and checkpoints that inhibit free travel, all are among the draconian actions deemed necessary to wage the war on drugs." ("Ending The Cold War At Home", Foreign Policy, Winter 1990–91 (with Jeanne Wood)

"International terrorism is rapidly supplanting the communist threat as the primary justification for wholesale deprivations of civil liberties and distortions of the democratic process." ("Ending The Cold War At Home", *Foreign Policy*, Winter 1990–91 (with Jeanne Wood)

"The Federal Bureau of Investigation's counter-intelligence program (COINTELPRO), for example, was as serious a threat to individual freedom in the United States as one can imagine." ("We Need New Intelligence Charters," the Center [for National Security Studies] Magazine, May/June 1985)

ON U.S. AID TO FOREIGN PRO-DEMOCRATIC MOVEMENTS

Regarding President Reagan's veto of a bill tying U.S. military aid to El Salvador to improved human rights, "[This action] makes clear that the administration has reconciled itself to unqualified support for those engaged in the systematic practice of political murder." (Washington Post, 1 December 1983, p. 1)

Halperin called U.S. aid to the pro-democracy Contra rebels "ineffective and immoral." (Associated Press, 2 October 1983)

ON NUCLEAR STRATEGY AND ARMS CONTROL

As reported by the New York Times on November 23, 1983 (p. 7): "Mr. Halperin said the most important contribution American officials could make to stability would be 'to renounce the notion that nuclear weapons can be used for any other purpose than to deter nuclear attack.' He also argued that the United States should abandon plans to attack Soviet missile silos in responding to a nuclear attack. For one thing, he said, a high degree of accuracy would be required."

As reported by the Chicago Tribune on December 21, 1987: "Halperin explained the NATO deterrent strategy known as coupling, whereby a Soviet conventional attack in Europe would be met with Allied tactical, and if the Soviets persisted, strategic nuclear weapons, in this way: 'First, we fight conventionally until we're losing. Then we fight with tactical nuclear weapons until we're losing; then we blow up the world.'"

Referring to the Nuclear Freeze proposal: "Sounds like good arms control to me." (Bulletin of the Atomic Scientists, March 1983, p. 3)

"* * * I suggest * * * that the United States be prohibited from being the first to use nuclear weapons. In my judgment, there are no circumstances that would justify the United States using nuclear weapons unless those weapons were used first by an opposing power." ("American Military Intervention: Is It Ever Justified?" The Nation, 9 June 1979, p. 670)

ON CLASSIFICATION OF SENSITIVE INFORMATION

"While the most flagrant abuses of the rights of Americans associated with the Cold War are thankfully gone from the scene, we have been left behind with a legacy of secrecy that continues to undermine democratic principles." (Boston Globe, 26 July 1992, p. 57)

Halperin called the government's prosecution of Samuel Loring Morison, who was convicted of disclosing classified satellite photos of a Soviet aircraft carrier under construction "an extraordinary threat to the First Amendment." (Washington Post, October 8, 1985, p. A9)

"Generally, secrecy has been used more to disguise government policy from American citizens than to protect information from the prying eyes of the KGB. * * * U.S. government officials admit that experts in the Soviet Union know more about American policies abroad than American citizens do." (The Lawless State, p. 258)

ON SECURITY CLEARANCES

"Standard Form 86 (questionnaire for applicants to sensitive or critical government positions) ask intrusive and irrelevant questions regarding Communist party membership, prior arrests (whether or not they resulted in a conviction), drug and alcohol abuse, and private medical information, including mental health history." (Co-authored with Jeanne Wood "Ending The Cold War At Home," Foreign Policy, Winter 1990–91)

Mr. Speaker, here is how Halperin's defense was rebutted by Frank Gaffney:

THE HALPERIN DEFENSE CONCERNING CLANDESTINE INTELLIGENCE AND COVERT OPERATIONS

"He does not oppose all intelligence operations—He supports clandestine collections by human and technical means, counter-intelligence activities, and 'covert' operations in support of the public policies of the United States. He opposes covert activities which contravene those policies."

"Halperin has, in testimony on behalf of the ACLU and in his writings, expressed opposition to covert operations designed to influence the activities of foreign governments. He has not opposed clandestine intelligence collection by human or technical means or counter-intelligence operations. With regard to covert operations, Halperin in his writings and testimony has made clear that his objection is to operations which are not consistent with the public policy of the United States. Thus, he would support the operations carried on—covertly—in aid of the Afghan rebels because they were conducted pursuant to a congressional resolution and would support activities designed to aid the opposition in Iraq because they are consistent with the public policies of the government."

"In his writings and testimony, Halperin has explained that he would not rule out activities conducted in secret provided that they are in support of a publicly announced and approved policy of the United States. Thus, for example, in an article now in press [apparently part of a volume entitled The U.S. Constitution and the Power to Go to War: Historical and Current Perspectives, edited with Gary M. Stern (Westport: Greenwood Press, anticipated publication date November 1993)] * * * Halperin wrote that his proposed requirement for 'congressional approval in the substantive objectives' of a proposed covert operation, 'would not prevent the President from conducting paramilitary operations whose operational details need to be kept secret.'

"* * * Halperin went on to write that the recent operations in Afghanistan, Angola and Nicaragua were conducted consistent with his proposal. * * * Other covert operations such as aid to the Iraqi opposition would be justified because they are consistent with the public policies of the United States."

"Halperin has continued to oppose covert operations, but he has explained that he would not rule out activities conducted in secret provided that they are in support of a publicly announced and approved policy of the United States.

THE TRUTH

There are several types of activity discussed in the above excerpts. One is counterintelligence. Halperin has consistently advocated severe limitations on this type of activity on civil liberties grounds. The record on this score is not in dispute.

An illustrative example of Halperin's extreme opposition to government operations aimed at defeating terrorists, foreign intelligence services and other potential threats can be found in his April 1976 testimony before the House Judiciary Subcommittee on Civil Liberties:

"The right of the government to wiretap American citizens—if it exists at all—should be limited to situations in which there is probably cause to believe that a crime has been committed. Any other standard is simply open to abuse and provides no effective check on agency discretion." (Washington Post, 13 April 1976)

Steadfast Opposition To "Special Activities":

There is also clandestine collection of intelligence information by human or technical means and covert action sometimes called "special activities." This refers to activities to influence foreign governments or other foreign entities without showing the hand of the United States.

Regarding such "special activities," Halperin testified before the Church Committee on 5 December 1975:

"Mr. Chairman, my view is really very simple. I believe that the United States should no longer maintain the career service for the purpose of conducting covert operations or covert intelligence collection by human beings. I also believe that the United States should outlaw as a matter of national policy the conduct of covert operations, and I think this prohibition should be in law [in addition to] the assassination statute that the committee has already proposed.

"Now, I do not put forward these proposals because I believe that there never would be a situation in which the United States might want to conduct a covert operation or indeed, that there might not be a situation where that would seem important to people. I do so because I believe that the evil of having capability for covert actions, the harm that has come to our society and to the world from the existence of that capability, and the [? in] the President for using that capability far outweighs the possible potential benefits in a few situations of using covert means. And I believe that in such situations the United States will have to use other means to promote its interest." ("Intelligence Activities, Senate Resolution 21," Hearings Before the Select Committee to Study Governmental Operations with Respect to Intelligence Activities of the United States Senate, Volume 7, 5 December 1975, p. 60)

In his prepared statement before the Senate Intelligence Committee on June 15, 1978, Halperin reiterated his belief that all covert action should be abolished. ("National Intelligence Reorganization and Reform Act of 1978," Hearings before the Select Committee on Intelligence of the United States Senate, 15 June 1978, p. 324)

A joint statement of ACLU and the Center for National Security Studies was placed into the record of the hearing. It urged Congress to "prohibit covert action abroad" and to "prohibit espionage in peacetime." (Ibid., pp. 579–581)

Introducing Halperin's 'Brierpatch' Strategem:

In 1980 hearings before the House Intelligence Committee, Congressman John Ashbrook challenged Halperin on his 1978 testimony. Halperin first tried to deny that he opposed clandestine intelligence collection, until Ashbrook pointed to the record. Ashbrook said:

"Well, Mr. Halperin, let's go to your statement that was I guess a joint statement by the ACLU and the CNSS to the Senate Intelligence Committee. It's on page 580 and 581.

Mr. HALPERIN. "You have the advantage on us. I don't have a copy in front of me but that's all right."

Mr. BERMAN [of the ACLU]. "Are we talking about 1978?"

Mr. ASHBROOK. "[Here] is prohibitions on clandestine intelligence collection abroad in peacetime, covert actions and you want to say—

Mr. HALPERIN. "Clandestine activity, not collection."

Mr. ASHBROOK. "And then you go on to say, in fact, you argue against any—you would prohibit any espionage by the United States in peacetime. You just flat out say that on pages 580 and 581. And that's why I think it's kind of a game to say you want all these restrictions when the bottom line is you don't want any intelligence, I mean, at least we can be honest with each other. You don't want intelligence operations by this country in peacetime. I don't think you say you don't want them in wartime but you say: 'We oppose section 111(a), authorization of clandestine collection abroad absent any congressional declaration of war.' And then within the United States you say there shouldn't be any in peacetime.

"Now I guess I have to look at everything you favor and try the old brierpatch philosophy. If you create a brierpatch, the result of it is you're not going to have any collection, you're not going to have any real intelligence activity. But you oppose all electronic surveillance, all covert action. You oppose all physical searches, all mail openings, all disruption, all anti-leak legislation, all efforts of the Government to protect legitimate intelligence secrets. And then you say let's get a bill that accomplishes intelligence objectives." (H.R. 658, "The National Intelligence Act of 1980," Hearings before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, House of Representatives, 27 March 1980, p. 147)

In testimony before the House Intelligence Committee on 8 April 1987, Halperin continued his opposition to covert action. In his testimony he said, "I want to say first that the ACLU believes, and I believe, that the United States should not conduct covert operations. I believe Mr. Hyde knows, and we have discussed it in the past, that this is our view. I would hope that at an appropriate time the Committee would hold hearings on that more fundamental question, and we would welcome an opportunity to discuss that.

"But as I have done on a number of occasions when I have appeared before this committee * * * I want to accept the terms in which the committee is conducting this discussion, and try to be helpful to the committee in discussing how to improve the oversight process and covert operations on the assumption that the question of whether they should be conducted is not now on the table." ("H.R. 1013, H.R. 1371, and Other Proposals Which Address the Issue of Affording Prior Notice of Covert Actions to the Congress," Hearings before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, House of Representatives, 8 April 1987, p. 90)

In his prepared statement at the same hearing, Halperin said, "The record now before this committee and the nation demonstrates, that covert operations are fundamentally incompatible with a democratic society. The ACLU has held that position for a number of years, and I have had the privilege of presenting it to this committee on more than one occasion. The basic argument is that covert operations are used by our Presidents to avoid the public and congressional debate mandated by the Constitution, a debate which is particularly crucial when questions of war and peace are at stake." (Ibid., p. 96)

A Genuine 'Change of Mind' or Just Tactical Shifts?

During the hearing, Congressman Henry Hyde confronted Halperin with his 1975 views. Congressman Hyde said:

"Now, I know Mr. Halperin opposed covert action. As a matter of fact, Mr. Halperin goes even further than that, just quoting from your testimony, December 5, 1975 before the Church Committee, I believe, you said, 'I believe that the United States should no longer maintain a career service for the purpose of conducting covert operations and covert intelligence collection by human means. I believe also that the United States should eschew as a matter of national policy the conduct of covert operations.'

"So you do not believe, do you, Mr. Halperin, we even should have a capability of collecting intelligence covertly? That was your position then.

"Mr. HALPERIN. That was my position then. That is not my position now."

"Mr. HYDE. You have changed your mind since then?"

"Mr. HALPERIN. Yes, sir. I think we are all open to changing our minds." (Ibid., pp. 117–8)

Halperin did not, however, explain what caused him to change his mind about clandestine collection by human sources. Perhaps the reason was, as Halperin complained in the CNSS publication First Principles of October 1980, "The widespread acceptance of the view that the 1980s pose a great danger to the nation's survival makes it a less than auspicious time to seek to put restrictions on the activities of the CIA." Halperin continued, nonetheless, to argue against covert action.

A Confirmation Conversion?

Halperin's defense now claims that he supports covert actions such as those that were conducted recently in Afghanistan, Angola and Nicaragua. However, in 1982 when the Nicaragua operation was being conducted, Halperin publicly opposed it. On 27 May 1982, he spoke at a public forum on covert operations against Nicaragua organized by the Campaign for Political Rights which he headed. He also signed a "Statement in Opposition to Covert Intervention in Nicaragua" circulated by the same group. This statement said in part, "* * * We call upon the President to abandon the U.S. plan for covert destabilization of Nicaragua and upon the Congress to repudiate this plan and provide for full and public debate of U.S. policy in Central America."—The signers of the statement against U.S. policy in Nicaragua included a number of groups on the legitimate left. It also included, however, a large number of fringe groups, including: The Center for Constitutional Rights (a front for the American Communist Party); the Christic Institute; the Church of Scientology; the Committee in Solidarity with the People of El Salvador; Counterspy magazine; the International Longshoremen and Warehouseman's Union (a communist-controlled union); the Middle East Research and Information Project; the Mobilization for Survival; the Nation Institute; the National Alliance Against Racist and Political Repression (a front for the American Communist party); the National Lawyers Guild; the North American Congress of Latin America; the Palestine Human Rights Campaign; Stop the Pentagon/Serve the People; United Electrical Workers (communist-controlled); U.S. Peace Council (a front for the American Communist Party) and Women for Racial and Economic Equality (a front for the American Communist Party).

As the covert action in Nicaragua was consistent with U.S. policy to prevent the Sandinista dictatorship from continuing to supply arms to terrorists and insurgents in nearby countries, Halperin under his new criteria should have supported it. His current claim that he would have supported it is utterly disingenuous.

THE HALPERIN DEFENSE ABOUT HIS HELP TO PHILIP AGEE AND HIS ROLE IN RELATED LEGISLATION

"[Halperin] did not aid and abet Philip Agee in his campaign to expose the identities of CIA agents overseas. He supported criminal penalties for such activities and negotiated an agreement with the CIA which led to the passage of the Intelligence Identities Protection Act." (p. A1)

"Halperin did nothing to aid and abet Philip Agee and others in their efforts to reveal the identities of covert agents. He expressed opposition to 'naming names' and support for legislation to make such actions criminal. He did testify at a hearing related to the effort of the British government to deport Agee from England. This testimony was limited to urging the citizen panel to look beyond the government's assertion of harm to national security if Agee was (sic) allowed to remain in England, in order to determine what the actual reasons were. Halperin indicated that the U.K. government would have the right to deport Agee if his actions were in fact harming British security. He did not discuss or defend Agee's current or past actions.

"When the government sought to criminalize the revealing of the names of covert agents, Halperin, on behalf of the ACLU, did not oppose the section of the bill relating to former government officials [Hearings, Senate Judiciary Committee, 8 May 1981, p. 74]. Halperin for the ACLU, along with a range of news organizations, did oppose the section of the bill which applied to people who had never been in the government.

"In his testimony Halperin stated, 'We do not condone the practice of naming names and we fully understand Congress' desire to do what it can to provide meaningful protection to those intelligence agents serving abroad, often in situation of danger.' [Hearings, Senate Judiciary Committee, 8 May 1981, p. 73.]" (p. B2)

THE TRUTH

On "Aiding and Abetting Philip Agee"

Halperin claims that his trip to England in defense of Agee was not to support Agee's activities but only to urge the court to "look beyond the government's assertion of harm to national security if Agee were allowed to remain in England. * * *" It is difficult to comprehend this statement. If the purpose behind Halperin's appeal were not to defend Agee, what was it?

The lack of judgment Halperin evinced in mounting such a defense of Philip Agee is made clear by the U.S. Supreme Court findings in a suit Agee brought to block the State Department from revoking his American passport. The court determined that:

"Not only has Agee jeopardized the security of the United States, but he has endangered the interests of countries other than the United States—thereby creating serious problems for American foreign relations and foreign policy. Restricting Agee's foreign travel, although perhaps not certain to prevent all of Agee's harmful activities, is the only avenue open to the Government to limit these activities. * * * (Supreme Court of the United States in Haig, Secretary of State, v. Agee, 29 June 1981—majority opinion delivered by Chief Justice Burger, joined by Justices Stewart, White, Blackmun, Powell, Rehnquist and Stevens.)

The Court also found that:

"Agee's disclosures, among other things, have the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel. They are clearly not protected by the Constitution. The mere fact that Agee is also engaged in criticism of the Government does not render his conduct beyond the reach of the law.

"[Agee] recruits collaborators and trains them in clandestine techniques designed to expose the 'cover' of CIA employees and sources. Agee and his collaborators have repeatedly and publicly identified individuals and organizations located in foreign countries as undercover CIA agents, employees, or sources." (Ibid.)

Halperin also provided aid and comfort to Agee by muddying the water following then-CIA Director William Colby's assertion that Agee's CounterSpy Magazine bore responsibility for the murder of the Agency's Athens station chief, Richard Welch. Halperin did so by advancing the argument that the Central Intelligence Agency had expressed concern about Welch's safety and residence even before CounterSpy published his name and address. He also advanced the line that the Agency was responsible for engaging in "news management" and "disinformation" in the aftermath of Welch's murder.

"The point * * * is not whether the assassins learned of Welch's identity because of the CounterSpy article or his choice of residence—it is well known that in most capitals, particularly in Western countries, anyone who really wants to learn the CIA chief's name can do so. The point is rather that the CIA engaged in news management immediately after his death to make a political point." (Washington Post, 23 January 1977, p. C–3)

Where Halperin Really Stood on Legislative Efforts to Protect Covert Agents' Identities:

In January 1980, Halperin testified before the House Intelligence Committee and argued that the Identities Protection Bill should penalize only former government officials who learned the names of agents in their official capacity. He argued against penalizing those who had not been in the government but engaged in a pattern of activity to identify American agents. ("Proposals to Criminalize the Unauthorized Disclosure of the Identities of Undercover United States Intelligence Officers and Agents," Hearings Before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence House of Representatives, 30 January 1980, P. 66).

When asked by Congressman Bill Young Specifically about Agee, Halperin responded:

"Mr. Chairman, we are here representing the American Civil Liberties Union, and I have to say that the American Civil Liberties Union I think represents Mr. Agee, or has represented him in the past, and therefore I think it is not appropriate for us to make comments about whether any of us individually would approve or disapprove of any of the things that he might have done."

Even Halperin's averred interest in "drafting a constitutional statute which would punish Mr. Agee's conduct in revealing the names of agents," (Ibid.) rings hollow. After all, Agee had already named anyone he knew. The problem, as the Supreme Court pointed out, was that Agee had trained others to identify the agents and carry on his work. Halperin was recommending amendments that would effectively have prevented the bill from covering Agee's trainees.

In June of 1980, moreover, Halperin complained in testimony before the Senate Intelligence Committee, about the language in the identities protection bill that was then being considered by the Senate. He said:

"Most of the problems that we have identified could be eliminated by returning to language similar to that contained in S. 2525 which would have provided criminal penalties only for the release of names in a situation where the release was done deliberately for the purpose of placing the life of the individual in jeopardy and where the release-of the name did, in fact, have that result. Any bill which goes beyond that would go too far in chilling important public debate and therefore should be rejected.

"We also must note, Mr. Chairman, that no bill which is conceivably constitutional can, in fact, prevent the publication by the Covert Action Information Bulletin, or by other publications in the United States or abroad of the names of CIA officers who are assigned to positions in American embassies. ("Intelligence Identities Protection Legislation," Hearings Before the Select Committee on Intelligence of the United States Senate, 25 June 1980, p. 94)

Halperin said he would accept—but did not support—even this narrowly drawn language. In the same hearing, he said in discussing his preferred approach:

"As an alternative, that such a disclosure is made either with the intent or with reckless disregard of the fact that it placed a human life in jeopardy. In other words, I think the Government can constitutionally punish it, although I would not advocate it, either if the disclosure is based on classified information or if the disclosure places a life in jeopardy, assuming all the other points, of the intent and the pattern of activities and so on; either one of those alternative with the other material would, I think, produce a statute which, although I would not advocate it, I think would be constitutional." (Ibid., p. 114)

Nearly a year later, Halperin again testified against draft legislation that would in the words of the Washington Post, "impose heavy criminal penalties on Americans who deliberately identify U.S. undercover intelligence agents":

"There is no practical or constitutional way to accomplish the objectives of this legislation. Thus, what we have is a bill which is merely symbolic in its protection of agents but which does violence to the principles of the First Amendment." (Washington Post, 9 April 1981)

No Credit Where It Is Not Due:

Halperin's defenders claim that he "negotiated an agreement with the CIA which led to the passage of the intelligence Identities Protection Act." In fact, Halperin was approximately as responsible for the enactment of this legislation as Erich Honecker was for the reunification of Germany.

As The Nation magazine—a publication squarely in Halperin's camp—ruefully reported:

"During the debate in Congress, an effort was made by the American Civil Liberties Union [under the leadership of Morton Halperin] and others to limit the bill's scope, so that to prosecute an offender, the government would have to demonstrate 'intent to impair or impede the foreign intelligence activities of the United States.' Such proposed language was overridden by an amendment offered by the late Republican congressman John M. Ashbrook of Ohio. . . . Ashbrook's language substituted 'reason to believe' for 'intent to impair,' thus widening the bill's reach. . . . Ashbrook's amendment prevailed. . . ." (The Nation, 11 May 1982, p. 18)

Indeed, Rep. John Ashbrook's amendment was of pivotal importance: It made possible the enforcement of the law. After all, the "intent" provision promoted by Halperin could never be proved. For example, Agee and his associates claimed that they were helping the United States by their actions. Ashbrook explained the purpose of his amendment to his colleagues:

"Mr. Chairman, a few minutes ago my friend and colleague, the gentleman from California (Mr. Rousselot) said, "Give me a very brief description of why you are offering your amendments and the difference with the Committee version." My response to him was the difference is that my amendment would knock out . . . the American Civil Liberties Union compromise in the language of this bill. It is just that simple." (Congressional Record, 23 September 1981, p. H6511)

Ashbrook's amendment passed handily, by a vote of 226 to 181 and the House approved the amended bill overwhelmingly, 354 to 56.

The result of the House vote was salutary, as reported by the United Press International 5 November 1981: "Covert Action Information Bulletin said today it will no longer publish the identities and posts of CIA agents working abroad until proposed legislation forbidding such practice is resolved in the courts."

Mort Halperin remained adamant in his opposition to the Intelligence Identities Protection Act, announcing upon the bill's signature into law by President Reagan, that the ACLU would provide legal assistance to "those whose ability to speak or write is threatened by this legislation or effort[s] to enforce it by the Justice Department." (Washington Post, 24 June 1982, p. A3)

Conclusion

As Congressman Ashbrook pointed out in the hearing of 27 March 1980 cited above, during the darkest days of the Cold War, Halperin opposed all human intelligence collection and covert action. Only when that position became politically untenable did he resort to proposals that amounted to a network of "brierpatches" whose clear effect—if not their intent—would be to impede the ability of the U.S. intelligence agencies to carry out critical missions. Sometimes Halperin's suggestions succeeded; fortunately, they often failed. Still, to suggest that Halperin was attempting to facilitate the work of our intelligence agencies is absurd on its face.

THE HALPERIN DEFENSE CONCERNING THE CLASSIFICATION OF DOCUMENTS

"[Halperin] does not oppose all government classification. He supports balancing the need for security against the public right to know." (p. A1)

". . . Halperin made [statements] in the early 1980s in response to a Reagan Administration effort to require all former senior officials to submit for prior review all of their writings on national security matters. This proposal was objected to by many former officials as well as by groups concerned about nuclear war. It was ultimately withdrawn when it became clear that bipartisan majorities in both Houses of Congress would move to block its implementation. As the quote itself indicates, Halperin was warning against greater security and draconian measures such as prior restraint on the writings of former officials. He has consistently supported the need for classifying information, including information about the manufacture of nuclear weapons.

"Moreover, Halperin has consistently stated that neither current or former government officials have the right to decide on their own to release classified information. thus, in his testimony objecting to the Reagan order, Halperin stated:

"The obligation not to reveal classified information even when one leaves the government exists now and would not be effected by the implementation of these new rules. Perhaps it would be wise to systematically remind senior officials of this obligation when they leave the government and urge them to voluntarily submit material if they have any doubt as to whether it is classified." (Testimony, Hearings, House Post Office and Civil Service Committee, Subcommittee on Civil Service, 29 February 1984, p. 140.) (p. B7)

"Halperin has never 'held forth about the need to end all government security classification.' In fact, in his writings and testimony over the past 20 years, Halperin has consistently argued for a reduction in government secrecy while supporting the administrative sanctions and criminal penalties for government officials or who disclose classified information learned as a result of official duties.

"Halperin first wrote about the issue of government security in a book published in 1977 (with Daniel Hoffman Top Secret: National Security and the Right to Know, Washington: New Republic Books, 1977). In that book, he laid out a proposal for classification which he has consistently supported. The proposal suggests dividing information into "three broad categories: (1) automatically released, (2) presumptively classified and (3) requiring the exercise of discretion, with explicit consideration of the information's value for enlightened public debate." (Top Secret, p. 57)

"The first category includes 'information necessary to congressional exercise of its constitutional powers to declare war, to raise armies, to regulate the armed forces, to ratify treaties, and to approve official appointments.'" (Top Secret, p. 57)

"The second category 'entitled to a heavy presumption against public disclosure,' includes: weapons systems, plans for military operations, diplomatic negotiations and intelligence methods. (Top Secret, p. 58)

"For all other information there must be a balancing of the costs to national security of disclosure against the value of the information for public debate." (Top Secret, p. 58)

"Halperin presented this basic approach to the Congress on a number of occasions, most recently on March 18, 1992 when he testified on behalf of the ACLU before the House Committee on Government Operations (Testimony, Hearings, House Committee on Government, Subcommittee on National Security and Legislation, 18 March 1992). In that testimony, *he argued that information that was not automatically released or presumptively withheld could be classified if its release would reasonably be expected to cause serious identifiable harm to the national security and the harm outweighs the public interest in disclosure.* As the testimony noted, this proposal closely paralleled the Carter Executive Order on Classification.

"Halperin has also supported administrative sanctions for those who leak classified information. He has also testified that criminal laws penalizing disclosure of information which are 'narrowly drawn' and 'which apply to Executive Branch officials are appropriate.' (Testimony, Hearings, House Intelligence Committee, 8 April 1987, p. 110)" [Emphasis added.] (pp. C1-2)

THE TRUTH

In fact, the totality of Morton Halperin's writings and public statements reflects a consistent attitude of hostility toward—if not outright contempt for—secrecy in government. His acceptance of the need for some classification, reflected in statements like the foregoing, is at best a sometime thing.

Halperin's Public Record on Secrecy:

Halperin's defense certainly flies in the face of his relentless assault on the legitimacy, constitutionality and morality of governmental secrecy. This assault by Halperin—and those organizations like the Center for National Security Studies, the Campaign to Stop Government Spying/the Campaign for Political Rights and the American Civil Liberties Union with which he has held leadership positions for years—has had, as a practical matter, the effect of undermining public support for the classification of any information—even that Halperin ostensibly accepts should be kept secret. The following statements appear more accurately to reflect Halperin's public record on secrecy in the U.S. government than do those selections from that record being cited in his defense:

"Secrecy . . . does not serve national security. . . . ("Just Say No: The Case Against Covert Action," The Nation, March 21, 1987, p. 363)

"Secret operations are anathema to democracy." (Top Secret)

"Perhaps the most entrenched legacy of the Cold War is a carefully structured system of government information controls—a system steeped in secrecy: Secret agencies, secret budgets, secret documents, and secret decisions affecting issues of life and death, war and peace. . . . There are intelligence agencies whose very existence is secret, whose charters and budgets are secret, and whose activities include secret paramilitary operations abroad.

"And millions of government documents on critical policy matters are needlessly classified, preventing essential information on foreign policy from reaching the public domain, even though disclosure would cause no appreciable harm to the national security. Such a system runs counter to the constitutional design for an open and accountable government." ("Ending the Cold War at Home," Foreign Policy, Winter 1990-1991, p. 129)

"Clandestine government means that Americans give up something for nothing—they give up their right to participation in the political process and to informed consent in exchange for grave assaults on basic rights and a long record of serious policy failures abroad." (The Lawless State: The Crimes of the U.S. Intelligence Agencies, 1976)

"While the most flagrant abuses of the rights of Americans associated with the Cold War are thankfully gone from the scene, we have been left behind with a legacy of secrecy that continues to undermine democratic principles." (Boston Globe, 26 July 1992, p. 57)

Halperin's "Brierpatch" Stratagem Toward Secrecy:

As with his long-running campaigns against covert operations, clandestine intelligence collection and the protection of agents' identities, Halperin's general opposition to secrecy in government periodically had to be tempered by political realities. On such occasions, he would employ the "brierpatch" approach criticized above by Rep. John Ashbrook by seeking to impede—or at least seriously to encumber—the activities he opposed where they could not be banned outright.

For example, in the March/April 1992 edition of the Center for National Security Studies' newsletter First Principles, Halperin and Leslie Harris urged in an article entitled "Classification System Under Fire as Cold War Ends":

"[Congress should] provide penalties for willful classification and overclassification of documents that do not meet standards of statute in order to conceal incompetence, wrongdoing, error, avoid embarrassment, circumvent laws or otherwise prevent release of information that does not bear on the national defense or conduct of foreign affairs or does not meet the standards of classification."

Obviously, the effect of such penalties would be to oblige officials to err on the side of disclosure of sensitive information, encouraging them to place personal considerations—like the risk of prosecution for "over-classification of documents"—over concerns about the risks to the national security of under-classification.

Irresponsible Views on What Should Be Classified:

Even in those instances where Halperin has, for tactical (or other) reasons, acknowledged the necessity for classification, he has exhibited the same poor judgment that characterizes many of his recommendations in other national security areas. For example, in testimony before the House Government Operations Committee in 1974 he recommended that the following types of sensitive information should be declassified:

"Commitments to employ American forces; American combat advisors; American civilians or foreign mercenaries in combat or as combat advisors; financing of combat operations; U.S. troops abroad; nuclear weapons abroad; military assistance programs; research on a new weapon system; current and estimated costs of weapon systems; diplomatic negotiations; existence, budgets and authorized functions of intelligence organizations; and executive branch financing or ownership of private organizations." (Testimony, Hearings on "Security Classification Reform," House Committee on Government Operations, 11, 25 July and 1 August 1974, p. 276)

Halperin subsequently backed-and-filled on what should be considered "legitimate secrets," for example writing in a January 1975 article in Playboy Magazine that these include "details of military plans, of technical means of intelligence gathering, of weapons design * * *." In this article, however, he reaffirmed his position on the need to publicize sensitive information concerning the deployment of U.S. forces, among other things: "Never again should the Executive be able to urge war, provide military aid, make commitments or deploy troops without making its actions public." ("Removing Kissinger's Cover," Playboy, January 1975, p. 45)

What is more, with regard even to what Halperin apparently now accepts as legitimately classified information—namely "technical means of intelligence gathering," his recommendations are problematic. For example, in the March/April 1992 edition of First Principles, Halperin recommended that Congress "provide that intelligence sources and methods should be treated no differently from other national security information." Such a proposal suggests a degree of unconcern about the fragility of intelligence collection operations that is consistent with Halperin's longstanding opposition to the use of clandestine sources but inconsistent with prudent policy; if adopted, it could jeopardize such sources and methods with serious consequences for U.S. intelligence.

Looking to the Future:

It is particularly striking that Halperin, who claims to have "new ideas for the post-Cold War period," is so entrenched in his thinking about the U.S. government's intelligence collection and classification activities that he refuses to acknowledge the need for such activities to adapt to the emerging challenges of this period. Notably, in the same First Principles article, he warns ominously:

"National security agencies would prefer to expand their domains to cover such matters as international crime, international economic problems, overpopulation, AIDS, global hunger and the environment. Congress must understand, therefore, that unless it enacts a classification statute that explicitly excludes such information from the national security secrecy system, there is a substantial danger that the intelligence agencies, the President and ultimately the courts will treat these issues by the same unaccountable standards as they now treat national security matters.

"Whatever is to remain of the secrecy system after the Cold War, it must not be permitted to expand into new areas outside of its narrow domain." (First Principles, March/April 1992, p. 6)

THE HALPERIN DEFENSE CONCERNING HIS ROLE IN THE RELEASE OF THE CLASSIFIED PENTAGON PAPERS

"Halperin actually left the government in September 1969, long before the unauthorized publication of the Pentagon papers. He had responsibility for the production of the Pentagon Papers while serving as a Deputy Assistant Secretary of Defense. He played no role in the disclosure of the Pentagon Papers. There is nothing in any record to suggest that he did." (p. C1)

In a letter being circulated on Halperin's behalf—and, evidently, with his authorization—by Jeremy Stone, Alton Frye and Arnold Kanter, an even more categorical defense is offered on this score: "There is nothing in any record to suggest Halperin contributed in any way to the disclosure of the

[Pentagon] Papers." For the full text of this letter, see the Center for Security Policy's Decision Brief entitled, Civics 101: Halperin Nomination Won't Be Saved by Amateurish Write-in Campaign, (No. 93-D 74, 1 September 1993). Copies may be obtained by contacting the Center.

THE TRUTH

While Halperin did resign from his position on the National Security Council staff in September 1969, he remained associated with the government as a consultant to the NSC until May 1970. In this capacity, he wrote two studies concerning Vietnam. (Washington Post, 12 May 1970.)

Interestingly, Halperin found it expedient on 6 May 1970 to emphasize the fact that his tie to the Nixon Administration had continued beyond his departure from its full-time personnel rolls (and, therefore, "into the early 1970s"): On that date, several days after the U.S. incursion into Cambodia, he formally and with considerable fanfare severed his consulting relationship with the NSC in protest of President Nixon's continuing efforts to "escalate the war." (Ibid.)

What the Record Says About Halperin's Actual Role in the Pentagon Papers Affair:

Assertions that "[Halperin] played no role in the disclosure of" the thousands of pages of highly classified documents that came to be known as the Pentagon Papers appear highly misleading. Consider the following documented aspects of Halperin's involvement in this illegal release of sensitive national security information:

Item: Halperin Was Directly Involved in Giving Daniel Ellsberg Access to the McNamara Study on U.S. Involvement in Vietnam:

While a Deputy Assistant Secretary of Defense, Halperin not only "had responsibility for the production of the Pentagon Papers"; along with his deputy at the Pentagon, Leslie Gelb, Halperin had organizational responsibility for deciding who was brought in to participate in the preparation of this study and who would have access to its products. Gelb, with Halperin's knowledge and assent, in late 1967 asked Daniel Ellsberg—once a colleague of Halperin's at Harvard—to work on part of the study. Numerous books have documented Ellsberg's involvement in the drafting of the Pentagon Papers and in their ultimate, unauthorized release. For example, see Harrison Salisbury's Without Fear or Favor: An Uncompromising Look at the New York Times (Ballantine Books, New York, 1980) and Sanford J. Ungar's The Papers and The Papers: An Account of the Legal and Political Battle Over the Pentagon Papers (Columbia University Press, New York, 1972 and 1989).

According to Ellsberg, Gelb and Halperin's boss, then-Assistant Secretary of Defense Paul Warnke, gave Ellsberg a commitment "that [he] would be able to read this thing [the full compilation] ultimately. No other researcher got that commitment on the study. * * * I was authorized by the Assistant Secretary of Defense to have personal access to the entire study." (Interview in Look Magazine as cited by Ungar, The Papers and the Papers, p. 56.) If true, Halperin presumably, would have been privy to—if not directly involved in—such a decision by his superior and his subordinate.

Item: Halperin Had Reason to Believe That Ellsberg Was a Bad Security Risk

Interestingly, Halperin's organization granted that access to this highly classified ("top-secret/sensitive") study even though, as Gelb subsequently testified, he had denied Ellsberg's request for access on two occasions in the Spring of 1969. (Sworn testimony by Leslie Gelb in the course of criminal proceedings against Ellsberg in connection with his release of the Pentagon Papers to the New York Times, as reported in the Washington Post, 21 April 1973.) According to Gelb, Ellsberg had told him six months before Ellsberg had photocopied the documents that "[Ellsberg] thought they were of great importance and should be in the public domain."

Halperin was clearly aware of what Gelb knew about Ellsberg's attitude. After all, Halperin told FBI agent Earl C. Revels in an October 1971 interview that he had thought that Ellsberg might be "indiscreet" in handling the documents (Washington Post, 25 April 1973). Such indiscretion was particularly likely given Ellsberg's known—and ever more vehement—opposition to the Vietnam War. Indeed, on 8 October 1969, Ellsberg signed an open letter with five other RAND employees denouncing the war and calling for "the United States to decide now to end its participation in the Vietnam War, completing the total withdrawal of [U.S.] forces within one year at the most." (Originally publicized in a New York Times article on 9 October 1969 and subsequently published in full in the Washington Post three days later.) At best, granting an individual with such views access to extremely sensitive classified documents was an official act of gross negligence; at worst, it was tantamount to inviting their unauthorized disclosure.

Item: Ellsberg And Halperin Were in Close Contact During Period When Portions of the Pentagon Papers Were Being Illegally Copied, Stored

Halperin's involvement with the Pentagon Papers affair does not end there, however. For a number of months during 1969 and 1970—as Halperin was himself becoming an outspoken critic of the war—Ellsberg actually lived in Halperin's home. It was apparently about this time that Ellsberg made what New York Times journalist Harrison Salisbury (no friend of either the Pentagon or the Vietnam War) described as "a selection of his documents [i.e., the Pentagon Papers he had illegally expropriated] principally of the years 1962–64, available late in 1969 to the anti-war Institute for Policy Studies [an organization with which Halperin had numerous associations] for use by Ralph Stavins, Richard J. Barnet and Marcus G. Raskin in a study of Vietnam was decision making . . ." (Without Fear or Favor, p. 74.) At the same time, Ellsberg was assiduously, but ultimately unsuccessfully, trying to recruit a Member of Congress who would be willing to exploit his legislative immunity to release these classified documents.

Item: Halperin Was Aware That Ellsberg Was Making Unauthorized Revelations About the Pentagon Papers Prior to Their Publication by the New York Times

In September 1970, Halperin participated in a major IPS conference on "U.S. Strategy in Asia" together with Daniel Ellsberg, Les Gelb and a number of other former or serving government officials. Not surprisingly—given the sponsoring organization and the participants—this conference amounted to a diatribe against the Vietnam War. Inevitably, the participation of those working at the Institute for Policy Studies was informed by their unauthorized access, thanks to Daniel Ellsberg, to the Pentagon Papers. This fact may have been evident to others, like Ellsberg—or Halperin, familiar with those documents.

Such a distinct possibility follows from a passage in Salisbury's book, Without Fear or Favor:

"There had been a disagreement between Ellsberg and his friends at the Institute for Policy Studies because of what Ellsberg thought was their carelessness in allowing access to the papers that he had given them. Ellsberg was concerned lest the FBI get on the track and he finally compelled [IPS cofounder and longtimer leader Marc] Raskin to return the documents." (p. 75)

Evidently, IPS elected to follow Ellsberg's led, however, and made its own copies of the Pentagon Pages it had illegally harbored for him. In any event, according to FBI records, when Ellsberg subsequently decided in March 1971 to turn the Papers directly over to the New York Times, he stayed at Washington's Hotel Dupont Plaza, near IPS headquarters. The Bureau suspected that Ellsberg may have done so in order to "obtain the remainder of the study from IPS for [New York Times correspondent Neil] Sheehan to xerox in the early part of April 1971." (FBI Bureau file WFO #100-447935, 5 November 1971, p. 4) Given his close associations with many of the IPS principals, his intimate ties to Ellsberg and his great sympathy for the Institute's efforts—and those of other, like-minded organizations aimed at ending the Vietnam War—it is far from clear and appears unlikely that Halperin was entirely ignorant of these activities.

It is, moreover, unquestionably true that Halperin was aware that Ellsberg was disclosing classified information about the Pentagon Papers before they were published by the New York Times. According to Salisbury (who clearly had talked to Halperin at length):

"*Halperin was delighted with inquiries* [being made in early 1971 by Tom Oliphant, a reporter with the Boston Glove, after a series of conversations between Oliphant and Daniel Ellsberg] *and helped him with the story* but Gelb was horrified and wanted no part of it. Oliphant got the impression that the Papers must be a kind of magical potion, something out of a story by the Brothers Grimm. If you read them, you were instantly turned violently against the war. Out of that came his story. It was published on page one of the Boston Globe March 7, 1971, under the headline 'Only Three Have Read Secret Indochina Report: All Urge Swift Pullout.'" (Emphasis added.) (Without Fear or Favor, p. 98)

The three individuals named in the Globe story were Morton Halperin, Leslie Gelb and Daniel Ellsberg. It is inconceivable that Halperin did not know who had given Oliphant the scoop on the existence of what "Ellsberg referred to [as] the Pentagon Papers." (Ibid.) And yet, there is no evidence that Halperin took steps to prevent further disclosure of these documents; if anything, his behavior bespeaks a desire to see such disclosures proceed. Whatever his intentions, the practical effect of Halperin's behavior was the same: It helped Daniel Ellsberg pursue his efforts to publish the highly classified Pentagon Papers.

Item: Halperin Defended Daniel Ellsberg

Finally, Halperin played a central role in mounting Ellsberg's legal defense when Ellsberg was subsequently prosecuted for criminal conspiracy, violation of the espionage act and the theft of government classified documents. As Halperin himself recounts:

"The Nixon Administration's attempt to prevent the publication of the Pentagon papers and then to put Daniel Ellsberg and Anthony Russo in jail was the first episode that threw me actively into this arena. Having had administrative responsibility for the production of the Papers, I knew they contained nothing which would cause serious injury to national security. I watched with amazement as the Justice Department, without knowing what was in the study, sought to persuade court after court that they should be suppressed.

"When the Supreme Court refused to enjoin publication and the case moved into a criminal phase, I found myself more and more actively involved as a consultant to Ellsberg's defense lawyers. I ended up spending some five months in Los Angeles at the trial getting my first exposure to a court of law and at the same time coming to understand how dangerous it would be to permit the government to monopolize all of the 'national security' expertise in a case involving a clash of interests." ("Where I'm At," First Principles, September 1975, p. 15) In fact, according to some accounts, a more accurate description of Halperin's role in the Ellsberg defense would be that of Chief of Staff, rather than a mere technical "consultant."

In this context, at least, Halperin seems to be justifying his activities on behalf of a confessed leaker of classified information by asserting, on the basis of his own judgment, that the leaked documents "contained nothing which would cause serious injury to national security." This view speaks volumes about Halperin's past attitude toward classified information (see the discussion of Issue #3 above): If a self-appointed individual determines classified information would not, if divulged, "cause injury to national security," it should not be deemed legitimately classified. Needless to say, if adopted as policy, such an attitude would make it impossible to maintain the security of any information held by the U.S. government or to prosecute anyone who chose to violate U.S. security laws.

Conclusion

The Center for Security Policy believes that—given the many serious questions raised by the foregoing review of the real record of Mort Halperin's involvement with the Pentagon Papers affair, questions that certainly raise fundamental doubts about Halperin's flat assertion of having "no role in the disclosure of the Pentagon Papers"—the Senate Armed Services Committee must examine this area of Morton Halperin's record with special care.

Not the least reason for such a review is that Halperin is today in a Pentagon position of trust with daily access to highly classified information, some of which may involve issues or policies with which he is not in agreement. The Committee, the Senate and the American people are entitled to know the full truth about this nominee's previous conduct—both with respect to the Pentagon Papers and with regard to any other instances in which Halperin was investigated for improper disclosure of sensitive national security information—if only to permit an informed evaluation of his ability to safeguard information to which he is now, or will in the future be, gaining access.

In light of Halperin's declared commitment to the "automatic release" of "information necessary to congressional exercise of its constitutional powers . . . to approve official appointments" (see Issue #3 above in which Halperin lays out his defense of his record on government classification policy and in particular the reference to his recommendations published in Top Secret: National Security and the Right to Know, p. 57), the Center for Security Policy cannot imagine that any objection to the immediate public release of all such information would now be heard from the nominee.

COMPARATIVE BIOGRAPHIES

The Halperin Biography Being Made Available by the Defense Department:

"Morton Halperin is currently a Senior Associate of the Carnegie Endowment for International Peace and Baker Professor of International Affairs at George Washington University. He was previously Washington Office Director for the American Civil Liberties Union and Director of the Center for National Security Studies. He has taught and conducted research on nuclear strategy and arms control issues at a number of universities, including Columbia, Harvard, M.I.T., and Yale. From 1966–1969, he served in government as Deputy Assistant Secretary of Defense for International Security Affairs and as a Senior Staff member of the National Security Council staff. Halperin, the author, co-author, or editor of more than a dozen books, holds a B.A. from Columbia College and a Ph.D. from Yale University."

An Annotated Biography Compiled From Unofficial, Publicly Available Information:

November 1992–Present: Within days of the 1992 presidential election, Halperin began working essentially full-time in the Pentagon as a "consultant." On 31 March 1993, the White House announced the President's intention to nominate Halperin to the newly created position of Assistant Secretary of Defense for Democracy and Human Rights. His activities prior to his nomination raise questions as to whether he conformed with limitations on the roles consultants are permitted to play.

What is more, following the announcement of President Clinton's intention to nominate him to this senior post, Halperin appears to have exceeded congressional and departmental restrictions on the involvement of nominees in policy-making prior to their confirmation. Mr. Clinton did not formally nominate Halperin until 29 July.

1 November 1992–Present: Halperin is, as noted in the "official" biography above, formally still a Senior Associate at the Carnegie Endowment for International Peace and Baker Professor at George Washington University's Elliott School of International Affairs. Although he left his position as Director of the Center for National Security Studies last November, he has remained as the Chairman of the CNSS Advisory Committee.

1988: Halperin, together with Richard Barnet and a number of other individuals long associated with the radical left Institute for Policy Studies (IPS), was identified in press reports as a member of presidential candidate Jesse Jackson's "brain trust."

August 1985–1992: Halperin served as Director of the Washington Office of the American Civil Liberties Union with responsibility for the national legislative program of the ACLU.

1984–31 October 1992: Halperin served as the Director of the Center for National Security Studies (CNSS). This organization was the lineal descendent of the Project for National Security launched in 1972 by the institute for Policy Studies under the direction of its top personnel including Robert Borosage and Marc Raskin. In 1974, the Project was spun off to become a nominally independent entity funded by the Fund for Peace (a major source of financial support for IPS) and the ACLU Foundation. When Halperin moved to the ACLU, CNSS moved with him. CNSS' declared mandate is concern for the "alarming growth of state power in the name of 'state security.'" It works "to inform Americans about the dangers of the CIA's covert action programs."

1977–1984: Halperin served as CNSS' Deputy Director under Robert Borosage

"Late 70's–Early 80's": Halperin asserts that his only connection with the Institute for Policy Studies was teaching he did during this period at the IPS "university."

1977: Halperin was one of the founders and the director of the Campaign to Stop Government Spying, an umbrella group for anti-intelligence agitation which changed its name the following year to the more benign sounding Campaign for Political Rights. The Campaign's member groups included such dubious organizations as the National Committee Against Repressive Legislation (reportedly a Communist Party front), the National Lawyers Guild, the National Emergency Civil Liberties Committee and Philip Agee's CounterSpy Magazine.

Also in 1977, while serving as the deputy director of the Center for National Security Studies, Halperin went to London to help in the defense of Philip Agee. At the time, Agee was in the process of being deported from Great Britain as a security risk for collaborating with Cuban and Soviet intelligence.

1975: Chief Editorial Writer of First Principles, a monthly publication of the Center for National Security Studies.

1973: Begins work with the Center for National Security Studies.

1972: Political consultant to presidential candidate George McGovern

1970–1973: Senior Fellow, Foreign Policy Division of the Brookings Institution and aide to Sen. Edmund Muskie and consultant to the Senate Government Operations Subcommittee on Intergovernmental Relations

1970: Served on the Executive Council of the Committee for Public Justice created by the ACLU in 1970, an organization aimed at curbing the intelligence operations of the FBI and Justice Department

September 1969–May 1970: Consultant to the National Security Council, Southeast Asia specialist.

January–September 1969: Member of senior staff of the National Security Council during the Nixon Administration with responsibility for program analysis and planning. During this period, the information concerning secret U.S. bombings of targets in Cambodia was leaked to the New York Times. Then-NSC Advisor Henry Kissinger suspected Halperin and colleague Anthony Lake of the leak and authorized FBI wiretaps on their office and home phones.

1967–1968: Deputy Assistant Secretary of Defense for Plans and Arms Control under Assistant Secretary for International Security Affairs Paul Warnke

1967: Special Assistant to Asst. Secretary of Defense for International Security Affairs Warnke

1961–1967: Assistant Professor, Harvard University and Associate with the Harvard Center for International Affairs

1961: Ph.D. International Affairs, Yale University

1959: M.A., Yale University

1958: B.A., Columbia College

Mr. Speaker, in fairness for self-research here is a list of relevant publications by Morton Halperin:

BOOKS

A Proposal for a Ban on the Use of Nuclear Weapons, Special Studies Group, Study Memorandum Number 4, Washington, 1961.

Strategy and Arms Control, with Thomas C. Schelling, The Twentieth Century Fund, New York, 1961.

Limited War: An Essay on the Development of the Theory, Center for International Affairs, Harvard University, Cambridge, 1962.

China and the Bomb, Frederick A. Praeger Publishers, Washington, 1965.

Communist China and Arms Control, with Dwight H. Perkins, East Asian Research Center—Center for International Affairs, Harvard University, Cambridge, 1965.

Is China Turning In? Center for International Affairs, Harvard University, Cambridge, 1965.

China and Nuclear Proliferation, Center for Policy Studies, University of Chicago, Chicago, 1966.

Contemporary Military Strategy, Little, Brown and Company, Boston, 1967.

Defense Strategies for the Seventies, University Press of America, Washington, 1971.

The Lawless State: The Crimes of the U.S. Intelligence Agencies, with Jerry J. Berman, Robert L. Borosage and Christine M. Marwick, Center for National Security Studies, Washington, 1976.

Freedom Versus National Security, with Daniel N. Hoffman, Chelsea House Publishers, New York, 1977

Top Secret: National Security and the Right to Know, with Daniel N. Hoffman, New Republic Books, Washington 1977.

Nuclear Fallacy: Dispelling the Myth of Nuclear Strategy, Ballinger Publishing Company, Cambridge, 1987.

Self-Determination in the New World Order, with David J. Scheffer and Patricia L. Small, Carnegie Endowment for International Peace, Washington, 1992.

ARTICLES

"Nuclear Weapons and Limited War," *Journal of Conflict Resolution*, June 1961.

"On Resuming Tests: Lessons the Moratorium Should Have Taught Us," *The New Republic*, April 30, 1962

"The President and the Military," *Foreign Affairs*, January 1972

"Led Astray by the CIA," *The New Republic*, June 28, 1975

"The Most Secret Agents," *The New Republic*, July 26, 1975.

"CIA: Denying What's Not in Writing," *The New Republic*, October 4, 1975.

"The Cult of Incompetence," *The New Republic*, November 8, 1975.

"National Security and Civil Liberties," *Foreign Policy*, Winter 1975–1976.

"Secrecy and the Right to Know," with Daniel N. Hoffman, *Law and Contemporary Problems*, Summer 1976.

"Oversight is Irrelevant if CIA Director Can Waive the Rules," *The Center [for National Security Studies] Magazine*, March/April 1979.

"American Military Intervention: Is It Ever Justified," *The Nation*, June 9, 1979.

"The CIA's Distemper," *The New Republic*, February 9, 1980.

"NATO and the TNF Controversy: Threats to the Alliance," *Orbis*, Spring 1982.

"The Freeze is Arms Control," *Bulletin of the Atomic Scientists*, March 1983.

"The Key West Key," with David Halperin, *Foreign Policy*, Winter 1983–1984.

"We Need New Intelligence Charters," *The Center [for National Security Studies] Magazine*, May/June 1985.

"Secrecy and National Security," *Bulletin of the Atomic Scientists*, August 1985.

"The Case Against Covert Action," *The Nation*, March 2, 1987.

"The Nuclear Fallacy," *Bulletin of the Atomic Scientists*, January/February 1988.

"Lawful Wars," with Gary M. Stein, *Foreign Policy*, Fall 1988.

"Ending the Cold War at Home," with Jeanne M. Woods, *Foreign Policy*, Winter 1990–1991.

"Guaranteeing Democracy," *Foreign Policy*, Summer 1993.

□ 2240

THE PENNY-KASICH DEFICIT REDUCTION AMENDMENT

The SPEAKER pro tempore (Mr. FILNER). Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 60 minutes.

Mr. KASICH. Mr. Speaker, I would like to claim the 60 minutes to talk about what it is like to fight the Washington establishment. While at first we were under the Penny-Kasich amendment, which by the way cuts the gigantic sum of a penny out of a dollar over a period of the next 5 years to reduce the Federal operating deficit by about $90 billion, you would think from being here within the beltway that we were planning to knock down the Washington Monument, shut down the Lincoln Memorial, board up Jefferson, head over to the White House and tell them they have got to move to Camp David or back to Arkansas, or wherever they want to go, of course close down the Capitol, except for the Appropriations Committee.

I would say to the gentleman from Minnesota, I am going to ask unanimous consent to reduce the postage available to the Appropriations Committee for these letters that they have sent out to our Members indicating that they would lose their projects if they happen to vote for this proposal; but you were living in Washington, DC, and you heard about this Penny-Kasich proposal that cuts this one penny on the dollar, $90 billion, and here we are going to increase the national debt by about $2 trillion over the next 5 years, and all we are trying to do is reduce the operating budget by $90 billion, think about it. That is barely a spit in the ocean when you are comparing $90 billion to a $2 trillion increase. Of course, that is added on to a $4½ trillion national debt.

Of course, the American people, Mr. Speaker, want the budget deficit to be cut. They want the budget to be balanced. They want fiscal sanity restored to the U.S. Government, and yet in this modest effort to reduce this penny on the dollar, we have been charged by the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of the Treasury, the Librarian of the Library of Congress, the Vice President of the United States, the First Lady of the United States, and the President himself of wanting to decimate, shut Washington, DC down and change civilization as we know it.

Now this cabal of opponents to change in Washington have been joined by both the majority and minority members of the subcommittees of the Appropriations Committee who have seen fit to send out letters to Members of this Congress telling them that if they would dare to vote for the Penny-Kasich budget amendment that cuts a penny out of a dollar over 5 years for a total of $90 billion, that if they dare vote for it that projects in their districts that the appropriators have control on would be yanked out of their districts. That is what we are facing, Mr. Speaker.

This is the kind of crude politics that drives the American people to demand term limits, it is the kind of crude politics that gets our folks around this country to support the anti-government campaign of Mr. Perot. It is the kind of crude politics that creates Rush Limbaugh to be the No. 1 political commentator in this country, because he rails against the Washington establishment and the status quo.

When are we ever going to learn in this town that if we do not change business as usual, if we are not willing to make some change in the way this establishment works, we are going to hand future generations a bankrupt, weakened United States of America.

Now, as I said about the gentleman from Texas [Mr. PICKLE], he did not get paid any extra for taking these special orders. The gentleman from Minnesota [Mr. PENNY] and I do not get paid any extra for offering this amendment, with the gentleman from Ohio [Mr. FINGERHUT], the gentleman from Connecticut [Mr. SHAYS], and a group of five partisan Republicans and Democrats who wanted to make a contribution to solving the fiscal problems of this country, a first step in just solving the fiscal problems of this country, and now we have to come to the floor and have our colleagues come to us, some of whom are shaken by the idea that their vote in favor of this penny on a dollar over the next 5 years, $90 billion in controlling Federal spending, if they vote for this, it may result in their projects being devastated in their districts. We cannot have that here anymore, I say, Mr. Speaker.

We have got to have some real change.

The reason why the President, the Vice President, the Cabinet, and members of the Appropriations Committee are fighting to defeat Penny-Kasich is for one basic reason, because we threaten the status quo and we threaten the Washington establishment and they are afraid of change. That is why the American people have to call tomorrow their Members of Congress and say, "We support change. We don't like business as usual. We don't like the threats. We don't like the special interest groups dominating the agenda in Washington, DC."

It is up to the American people, Mr. Speaker, as to whether we can pass this and override the special interest groups and the crude politics of this House at times.

Let us get started on a real change agenda that serves the people of this country.

Mr. Speaker, I am glad to yield to my colleague, the very distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding to me. I thank the gentleman from Ohio [Mr. KASICH] for his outstanding leadership on this issue.

This budget reduction plan does fundamentally challenge the status quo here in Washington, DC.

I did not expect committee chairmen to be excited about these budget cuts, because of course they were responsible for creating many of the programs that would be reduced if this amendment is adopted.

I did not expect the White House to be enthusiastic about the budget cuts, because clearly they had trouble identifying enough budget cuts to reduce the deficit by a larger amount over the next few years.

I did not expect special interest groups who benefit from public expenditures to get excited about these budget cuts, because this tells those groups that they have contributed to the Federal deficit and must now share part of the burden of reducing this national debt.

But while I expect some degree of opposition from all those parties and others, I did not expect this kind of overkill.

I believe the reason we have seen over-statements, I believe the reason we have seen this kind of atomic bomb dropped on the Penny-Kasich package is because of what we do to the heart of the power structure here in Washington, DC.

We challenge the spenders by suggesting that all of our cuts go to deficit reduction, not to new spending initiatives.

We challenge the interest groups who are only concerned about their own piece of the pie and never think about the bottom line.

We challenge committee chairmen who for years and years have presided over policies that have led to this sort of deficit spending, and consequently the reaction to the Penny-Kasich budget reduction plan has been a fire storm of resistance, a fire storm of resistance from the White House, from the administration, from the special interest groups and from the leaders here on Capitol Hill.

This sort of resistance to spending reductions is exactly why we have $300 billion worth of red ink, when the leaders of my own party call together special interest advocacy groups and urge them, in fact request of them that they send mailings to their membership all across America, mailings which misstate and overstate the implications of these budget cuts, mailings which then instruct those special interest groups, those individuals who are members of those special interest groups, to write to Washington, DC, or to call Washington, DC, in opposition to these cuts, that sort of collusion is really uncalled for.

□ 2250

It would be bad enough if we were dealing with the facts, if they simply shared with these interest groups the basic facts about what is in our bill, but the overstatements and exaggerations about the cuts in our package are what make this sort of collaborative effort between the Democrat Party leadership and these interest groups so unconscionable.

People are calling to oppose cuts that are not even in our package, and in a sense they are being enlisted in a campaign to keep up the deficit spending. That is what it boils down to, innocent Americans who in good conscience join a variety of interest groups, are now being used by those who are opposed to deficit reduction, and those calls are designed to get Members to vote against Penny-Kasich which results in continued deficit spending.

Here on Capitol Hill committee chairmen have been less than subtle in the sorts of letters they have sent around to members of both the Democratic and Republican caucuses suggesting that, if we would have the audacity to vote for Penny-Kasich, certain projects in their State or in their district might be jeopardized. Now they do not have to be explicit. They do not have to say, "We are going to knock out your project if you vote for Penny-Kasich." The implication is there, it is clear, it is intimidation. If this were the private sector, it would be a crime.

This kind of pressure against Members of Congress is irresponsible. It is the sort of pressure that emanates from a fear of change, and yet the gentleman from Ohio [Mr. KASICH], and I and our allies have proposed less change than is actually required. Imagine, imagine the reaction if we proposed a budget reduction package that would actually balance the budget within the next 5 years instead of simply taking $100 billion off the deficit over the next 5 years. If we get this much resistance to this small increment of change, I shudder to think what would happen within Washington, DC if we pursued a more aggressive budget reduction agenda.

Mr. Speaker, this package of cuts moves us one step closer to fiscal responsibility and a balanced budget. It is not the end of the debate, and those who have pulled out all the stops to defeat Penny-Kasich have to take full responsibility for the deficit that faces this Nation. A vote against Penny-Kasich is the vote for the status quo. A vote for Penny-Kasich is a vote against business as usual.

Tomorrow we do more than reduce the deficit if Penny-Kasich passes. We change the way Washington operates, and that is the significance of this vote.

Mr. KASICH. Mr. Speaker, let me ask the gentleman a question. I want to ask the gentleman what he would think about somebody who would vote for a balanced budget amendment that calls for $700 to $800 billion over the next 5 years in spending cuts, but votes against the $90 billion proposal in the Penny-Kasich task force proposal.

Mr. PENNY. Well, clearly it is an example of supporting deficit reduction in the abstract but not having the willingness, or the courage, to vote for the specific and painful choices that are required to get to that balanced budget, and I do not think it is very consistent.

I have two colleagues on the Democrat side that have done yeoman's work in putting this package together and rounding up votes.

Mr. KASICH. Mr. Speaker, I yield to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from Ohio [Mr. KASICH] for yielding to me, and I would simply state my admiration for both my friends, JOHN KASICH and TIM PENNY, for leading this fight.

I want to talk a minute about the campaign against Penny-Kasich because I am a new Member of this House, and I have to say that, even though I have been involved in politics at the local level and, obviously, in my own campaign for Congress, that I still am shocked by what I have seen and what I have heard over these last few days. In fact, I say to the gentleman from Ohio, "Mr. KASICH, you said that there are Members who are shaken by the charges that have been made about what will happen to them if this amendment were to pass," and I would say that tonight I am a little shaken myself about some of the things that have been said and done in the name of opposing this amendment.

We all know that any package of spending cuts is not going to be perfect, that certainly an amendment put together by two gentleman like this who do not have the resources of the whole White House, and do not have the resources of the Office of Management and Budget, and do not have the resources of the majority leadership of this House, that there is going to be something here or there, a comma misplaced, a decimal point out of place, and certainly we are willing and able to make any changes that are necessary. But I remember very clearly when the President's budget was before the House for the first time, and I remember when they called me and asked me for my vote.

Mr. Speaker, I told them that there were problems with the budget, that I did not think that this issue or that item was correctly addressed, and they said to me, "Congressman, this is just a first step. We need to keep this process going forward. If we're going to have significant deficit reduction, we need to move on to the Senate. We have got time to fix things. Nothing is ever going to be perfect." They said "Congressman FINGERHUT, you have got to understand that if we want to do this, we have got to be willing to accept some things that we don't like," and I went along with them, and now, when we have this amendment that cuts $100 billion, $90 billion now in spending from the Federal budget, they come to me and say:

"But we can't pass this because this isn't perfect; this item, and this item, and that item isn't perfect."

And when I asked them what happened to the philosophy that says we have got time, we will work through this, you work with us, we will make the changes, they said, "That doesn't apply anymore."

And then they accused the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] of double counting. Essentially they accused them of being dishonest. They said that the Penny-Kasich proposal includes things that we have already counted in other areas. Particularly they mentioned the personnel reduction, the 250,000 person reduction in the Federal work force that is included in the Penny-Kasich amendment.

They said, "We have already counted that other places."

Well guess what happened this week? Now that the leadership wants to propose an alternative that will at least give Members some cover; they are looking for cover, to vote for some deficit reduction, and all of a sudden it is not double counting anymore, and now they have included in their alternative; have they not, Mr. KASICH, the same personnel reductions that are in the Penny-Kasich proposal, the same personnel reductions that were criticized as being double counting a week or so ago? Is that not right?

Mr. PENNY. Mr. Speaker, if the gentleman from Ohio [Mr. KASICH] would yield, if I might take the time, if ours was a double count, then their use of these same personnel reductions in their budget plan must be a triple count.

Mr. KASICH. I just want to compliment the gentleman from Ohio [Mr. FINGERHUT]. That is about as astute an observation as can be made. I say to the gentleman, "Can you imagine that Mr. PENNY and I go to the budget Committee and have the chairman of the House Budget Committee accuse us of double counting and saying our numbers are not right? And then turn around and take our proposal and claim it as his?"

Mr. FINGERHUT. I could not agree more, and I just have to say what bothers me about that the most is the charge of double counting is essentially a charge that we have in some way been dishonest or misleading, and in fact I think that has been overwhelmingly disproven, and then the next argument came on the subject of health care, and here again I have to say I do not blame people for disagreeing with us. There are reasons to disagree with us. But I have to say how shocked I am at the method in which this argument has gone forward.

The first argument that came on the subject of health care was, if we were to pass the reductions in health care that are proposed in this plan, that we would be using and taking some of the reductions that the administration had planned on using in their health care reform for savings.

□ 2300

They said we need to save and preserve those efforts that we are going to make for the health care reform debate. That appeared to me to be at least a logical argument.

But now the calls I am getting and the comments I am hearing from the Director of the Office of Management and Budget, for whom I have so much respect that I cannot express how much my disappointment is in these comments, and the comments we are getting back from the interest groups that the gentleman from Minnesota [Mr. PENNY] is referring to, that have been called by the insiders here in Washington, are "that these cuts are immoral. They are going to hurt people."

Well, how can they be the same cuts that are proposed by the administration that we should enact next year? They are not immoral next year, but they are immoral this year.

Mr. KASICH. You know, I have got to just reclaim my time for a second. I mean, we are being told that the provisions that eliminate the Federal subsidy for wealthy people on Medicare part B are immoral to the tune of $35 billion, but their cut of $124 billion, that is moral? I mean, it is just incomprehensible to me they can even make that argument, even in this town.

Mr. FINGERHUT. I appreciate that. And I just have one more point, because there are others that want to speak. Because finally, the last argument that I have been getting now from outside Washington, that is coming clearly from inside this institution and being spread out to call back to us, is that somehow this program threatens the essential benefits for people, like the Head Start Program, like the WIC Program, which I know, because I was in that room, that we specifically protected from being proposed for cuts in all these.

When you ask them why is it that these proposals would hurt those programs, even though we specifically exempted them, they say, "Well, if you lower the budget caps, then we obviously have to make some cuts. If we make some cuts, then we are obviously going to have to affect these programs for the least among us in our society."

I think that making that kind of extenuated argument to scare people, people who are in need and people who we help, is really wrong.

Finally, you all have referred to the letters that we are now receiving from the chairpeople and the ranking minority members of the Appropriations Committee. And I have received two of those letters myself. I have only had time to check out one of them, and I can tell you that the project referred to in one of them is dead wrong, unless they intend to go back to my predecessor's ability to secure funding for an essential project and go back into previous years and wring that out. But I know that those are efforts to scare people. Frankly, it is just blackmail of another term.

My friends who are here to support this effort, I want to yield back so everyone else can respond. But I have to say that this is precisely the kind of vote that we are going to take tomorrow, that I knew and I expected that I would have to take as a Member of Congress. Because I knew that when I was elected to Congress, at a time of a $4 trillion national debt and an annual deficit built in, unless we took action, of $250, $400, $500 billion, whatever the real number is, nobody quite knows, that I would have to look some of my constituents in the eye and tell them that there are going to have to be changes that affect them and that hurt them. I know this day would come.

What I did not know was that when that day came, that we would not be standing together telling the people what they need to hear, but rather the people inside this institution would be reaching outside to have them call back to us to defeat us.

Now, I am not going to let it happen. I do not think the American people will let it happen. And I thank everybody here who is here to join this effort.

Mr. KASICH. I want to compliment the gentleman from Ohio on an outstanding statement and outstanding contribution to this process. I would say to the gentleman, do not let the calls fool you. You see, the calls come from the special interests, as the gentleman from Minnesota [Mr. PENNY] so articulately and accurately pointed out. This is not from the people. These calls do not come from the public. They come from the orchestrated special interest groups who stand to lose under this proposal.

I want to yield now to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Thank you very much for yielding.

Tomorrow we are going to have an opportunity to see whether the Members of this House understand two propositions that I think the vast majority of the American public understands very well. The first proposition is that what has gone on here for a long time, by Republicans and Democrats, in this House and in the other body, under Republican Presidents and Democratic Presidents, is posturing, puff, and rhetoric. Every Member of this House, Mr. Speaker, has a speech that he or she goes home and gives to the Rotary Club, or to the chamber of commerce, or to local high school graduations, about the danger of the deficit. Everyone here is against the deficit, in theory. And very, very few people here are willing to go home and say they are ready to vote to take dollars out of their own district and their own State. It is hard to do.

But our constituents want it done. And tomorrow we have a chance to do that.

The other proposition that the American public understands very well, if tonight we were to go to a fire hall, or a diner, or a restaurant, or a senior citizen's home across this country, urban, rural, or suburban, and ask this question, I think we know what the answer would be.

The question is, do you think the Federal Government could get along just fine with 95 cents of every dollar that it is spending right now? Do you think that we could just take 95 cents out of your pocket instead of a dollar and still make the trains run on time, and still defend the borders, and still inspect the meat, and still light the Washington Monument at night?

People know there would be some sacrifice, they know there would be some real change. They understand that it is not all $500 toilet seats and mohair subsidies. But they understand it could be done. It has been done, by city governments across America, by corporations, by churches, by universities, by synagogues, by institutions across this country. People have understood that they can make do with just a little less.

Now, the proposal offered by my friends, Mr. KASICH and Mr. PENNY, does not do that. It does not do nearly that much. Because they had to bend for practical purposes to what might get past this House, and they are very, very close to getting this proposal past this House. They are not saying let us get by on 95 cents out of the dollar. They are saying let us get by on 99 cents out of a dollar.

The people in this Capitol, Mr. Speaker, plan over the next 5 years to spend $10 trillion of the public's money—$10 trillion.

This plan says let us try to spend just 1 percent less than that over the next 5 years. What a radical, earthshaking, unbelievable idea that is. One penny. One percent off of that.

And do you know what this plan does, Mr. Speaker? It starts with us. It says let us cut the funding for the President by 5 percent. Let us cut the funding for this Congress by 7.5 percent. Let us cut the franking privilege, the rule that says that we can send free mail to our constituents, by 20 percent. Let us start here.

It cancels weapons systems. It gets the Government out of businesses it should not be in. It terminates 11 boards and commissions. It is just a start. It is just a start. And we are so close to accomplishing what it is that we want to accomplish.

Mr. Speaker, before I finish tonight, I would ask each of our colleagues to think about the thought process they went through last August as the whole country watched this Chamber and the President's economic plan teetered on the brink, one vote away from success or failure. Our colleagues should ask themselves tomorrow, or tomorrow in the middle of the night when I suspect that we will be voting on this proposal, they should ask themselves this: How many of our colleagues said "I voted with President Clinton's plan, for President Clinton's plan, because it is a good start to cut the deficit, but we must do more"? How many people went home to the Rotary Club, or the high school graduation, or the chamber of commerce, or the editorial board, and said that? We must do more.

Then how many people are like me, who stood up and said, "I don't think raising taxes is the solution to our problem. I think it is our problem, and we should cut spending first."

How many of us said that before we cast a "no" vote last August? Mr. Speaker, I would submit to all of our colleagues, if they made either of those arguments, tomorrow is the time to stand and deliver. Tomorrow is the time to move beyond the happy rhetoric at the Rotary Club about balanced budget amendments and reducing spending, and it is the time to act.

□ 2310

It is the time to do what city governments and churches and synagogues and small businesses and universities and hospitals across this country have done. Look in the mirror, look at the bottom line and make some hard decisions.

Mr. Speaker, we are very close to passing this bill, very, very close. And its future hangs in the balance, and it sits in the hands of those who are willing to be consistent and principled about their rhetoric.

If in August, Mr. Speaker, a Member said, "I am with the President, but we have to go further," then tomorrow go further. If a Member said in August, "I am not with the President, because I want to cut first and tax later," then tomorrow is the time to cut.

I thank my colleagues. I offer my hand of support, and I hope we win tomorrow.

Mr. KASICH. I just want to say that whenever a team gets ahead about 14 nothing and a guy gets up and hits his third home run, they say, how about saving a little for the next time. I hope you did not use yourself up here tonight, because I must tell the gentleman that this is the first time I have had an opportunity to really sit back and listen to him speak.

I am always going down to Mr. SHAYS' office saying, "What the heck am I doing this for? Are we not getting anywhere? Look at how they are bashing us."

He always is the one to say, "JOHN, the glass is three-quarters full, not a quarter empty."

We have tonight three Democrats, three Republicans singing from the same song sheet. I say to my colleague from Minnesota, who has bashed his head many times up against the wall as I have, maybe we are making some progress here. Maybe we really are gaining. That is what the gentleman from Connecticut always says to me.

I want to compliment the gentleman and hope he will be with us tomorrow.

I yield to my dear friend, the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. I have to tell you, this is a very special time to be participating with three of my colleagues on the other side of the aisle and two on this side of the aisle, to just be talking in simple terms about what is so essential.

The only reason why we deserve to be here is to do the right thing. And I looked at what would happen if President Clinton's package had not passed and we just continued with what seems to be happening. Spending would have gone up 27 percent. The national debt would go up 48 percent. But with his package, spending still goes up 23 percent, and the national debt still will go up 40 percent.

And the administration, and I say this not being critical of a Democrat versus a Republican, I say this by the mere fact that the administration seems content with this 40-percent increase in the national debt. They have to be content with it, because you have a good faith effort on the part of Democrats and Republicans to reduce this deficit more. And I feel like this is a group that should be nurtured. I think there should be press just doing everything they can to get this story out.

We need the American people to know that there is a bipartisan effort to cut this national deficit so we just do not keep adding to the national debt. Forty-percent increase in the national debt. People say that is a smaller increase than in past years. It is, but it is on such a higher base. The absolute increase in the national debt is $1.6 trillion in the next 5 years.

One reason I am not discouraged, JOHN, when you do come to my office—sometimes I am discouraged when you are not around—but you have given me a tremendous feeling of participating in something that is so important, and you, TIM PENNY. I am as grateful as I can be for the both of you. You have helped lead a coalition of Republicans and Democrats. If you were not there, we would not have that kind of leadership. We would all be frustrated in our own way.

We are a force, a smaller force now. But the reason I know we will gain in momentum is, the problem is not going away. That is the thing. The problem is still there. It is getting worse.

I had a meeting with a high administration official. And since it was a one-on-one meeting, I will just say it was someone very high up. I went to plead with that individual that they at least, if they cannot support the Penny-Kasich deficit reduction plan, do not oppose it. Let the House argue on it. Because if the administration were just neutral, this would pass.

What we are dealing with right now is a concerted effort to kill and destroy and stamp down on something that is starting to grow that could help the administration.

I consider my three colleagues on the Democratic side the best friends the administration has. And the sad thing is, they do not seem to know it. I think we are the best friends they could have, because the problem does not go away.

I went to this high Government official. I said, "The national debt is 4 trillion now. In 5 years it is going to be 6 trillion. Interest on the national debt is going up 27 percent in the next 5 years.

I am thinking that is money we could be spending on programs, and we would not be just spending it on interest on the national debt. More than 50 percent of our personal income goes to pay interest on the national debt. It blows my mind. When I am paying all my taxes and you are paying all your taxes, 50 percent of it is going to pay interest on the national debt.

You know what I do when I have people come and complain about the Penny-Kasich plan? I say, "I'm going to spend as much time as you want to talk about it, but first I want to tell you something. I want to tell you that the national debt is going up 40 percent, that it is going up $1.6 trillion, and that we are going to be spending $250 billion on interest on the National Debt in the fifth year that could be going for other programs $250 billion, not $250 million, $250 billion interest on the national debt. That is why I am voting for the Penny-Kasich plan."

And one of these groups said to me, "But, wait a second, there is $100 million of real good programs in here."

I said "You are right. There is $100 million of real good programs. In fact, there are even some more that I like. But I am supposed to vote against the Penny-Kasich plan because there is $100 million that I like and yet this cuts $90 billion? So I am going to prevent us from cutting $90 billion, because I want to save $100 or $200 million?"

I said, "Is that not the reason why we are in this mess?"

The one thing that I remember, and I will conclude this way, I remember when President Jimmy Carter talked about his daughter and he, talking to his daughter about national defense. And we all laughed. But there are times you look at your daughter or your child or your children's friends and you say, when they ask me what did I do, was I part of the problem or part of the solution. I want to tell them, I was part of the solution.

I will conclude by saying this: I am absolutely convinced that whether or not Penny-Kasich passes, and I pray on bended knee it passes, but if it does not, this is the beginning. Because we are not going to go away. We are not going to give up. We are tough enough to deal with this.

These letters that we are getting from chairmen that are saying, if you vote against us, you are going to lose out, you know, they are one kind of view. They are the old kind of view. But they have no impact, ultimately, because the problem is not going away. And we are going to have to deal with it now or later.

The only problem is, if we wait later, the medicine may almost kill the patient. We have to act now, as soon as possible.

I wanted to conclude and say, Praise the Lord for Members on both sides of the aisle, you, Mr. PENNY, and Mr. FINGERHUT and Mr. ANDREWS and your colleagues that are with you, you are doing the right thing. It is really an honor, a privilege to be part of this with you. You helped restore my faith that what we are doing means something.

Mr. FINGERHUT. I know I am speaking out of turn here. Mr. CASTLE is next. But I just want to say two very brief things. One is that back during the Budget debate, as a new Member, some of us were frustrated about the fact that this place had broken down into a partisan debate. And frankly, that the warfare was escalating. There were a few of us on this side and a few on the other side who tried to get a dialog going, a dialog that I believe in many ways has come to fruition because you, JOHN KASICH, and you, TIM PENNY, are willing to be our leaders.

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There were a number of freshmen, and the gentleman from Delaware [Mr. CASTLE] was one of them, who came and tried to talk this particular thing through. There were not a whole lot more senior Members, however, who were willing to come sit with us and hold our hands and guide us. The gentleman from Connecticut [Mr. SHAYS] was one of them who consistently came and talked with us and taught us and tried to help.

I just wanted to say that his leadership and that of the gentleman from Minnesota [Mr. PENNY] were very much appreciated.

I wanted to say one other thing to something that the gentleman from Connecticut [Mr. SHAYS] said. He talked about the support of the administration and how we were their supporters, and the gentleman is so right. I was elected with this President. I support this administration. I know the kinds of programs and policies that they want to adopt to help people. Many of them are things that you and I, even though on opposite sides of the aisle, agree on.

However, how are we ever going to help people if 20 cents of every dollar has to go to pay interest on the debt? How are we ever going to help people if every dollar, practically, of income tax we collect from people has to go to pay interest on the previous debt? So the gentleman is right, we are helping people by getting this debt and deficit under control. I thank the gentleman from all his efforts. I will not interrupt any more.

Mr. KASICH. I yield to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. If I might, Mr. Speaker, follow on as well to a remark made by the gentleman from Connecticut [Mr. SHAYS], it is not just interest groups that might call saying they object to some small cut in this $90 billion package, and therefore they want Members to vote against the entire package because of that small item.

We have Members of Congress that shy away, if not run away, from a tough vote like this for that very same reason. Someone chairs a subcommittee, and maybe one project under that subcommittee's jurisdiction is nicked 5 or 10 percent by this package of cuts.

Forgetting about the deficit, that subcommittee chairman, out of the pride of ownership or turf protection, whatever it might be, announces to those of us that are advocating this package of cuts that he or she cannot support our plan because it affects a program in their jurisdiction.

Or someone gets a letter from the chairman of a subcommittee on the Committee on Appropriations saying, "Even though Penny-Kasich does not cut this particular Federal facility in our district, or this particular project in our State, if we have to face cuts like Penny-Kasich, we are going to have to look again at projects like those in your back yard."

As a consequence of that threat, and there is no better word to use, Members say, "How can I jeopardize some little project, a few hundred thousand, perhaps, a few hundred thousand dollars only, that is sort of important, not critical, certainly, but sort of important to my constituents in either my district or my State? How can I jeopardize that by voting for Penny-Kasich?

The challenge we have to pose to these special interest advocates, the challenge we have to pose to our own constituents who may have some interest in some part of this package that causes them a little pain, the challenge we have to pose to our colleagues here on Capitol Hill, who either have a chairmanship with jurisdiction over an issue, or a project that is threatened by some other chairman who implies that they will withhold that project if they vote for this plan, the challenge we have to pose to all of these individuals is to look at the big picture.

We cannot rid this country of $250 billion worth of red ink annually if we run away from the tough choices and use these small little excuses. That is what gave us this mountain of red ink. It is that kind of thinking that has to change, and tomorrow, within this institution, we need to challenge our colleagues to rise to a higher standard and cast the right vote.

Mr. KASICH. Mr. Speaker, I yield to the gentleman from Delaware [Mr. CASTLE], former Governor of the State of Delaware, but I want to just comment briefly on what the gentleman just said.

It is our watch. It is our watch, isn't it, now, and what happens in this country—see, we are going to have to answer to people for what we did on our watch.

If we sit at a sentry post and the enemy comes in, they say, "Did this happen on your watch?" And some day, we are the sentries, in a sense, for our country. This is our watch. Some day these kids who get brought on this floor, little kids, two, three years old, they come on, the sons and daughters of Members, grandchildren of Members, they are going to grow up and they are going to become members of this third millennium group, a group that is starting to say, "Wait a minute. What are you doing to my future?" They are going to take a look at us and they are going to say, "What did you do on your watch?"

Now tell me, and you know, we can let out all the rhetoric as a Member of Congress, and I loved the statement made by the gentleman from New Jersey about the happy speech over at the Rotary Club, but inside your gut, inside your gut you cannot run away from your record on your watch. You cannot run away from it.

People have to take this opportunity to serve in Congress, to serve this country. They have got to take this seriously. It is not somebody else's job, man, it is not somebody else's job, it is our job.

I had a Member tell me tonight, "I can't vote for this. I might have a courthouse affected in my district." I mean, a courthouse affected in their district, and they have got to vote against only $90 billion, I say to that Member, "What is going to happen when we actually have a vote to try to get us to a balanced budget? What are you going to do, run, hide? Hide in the cloakroom?"

We called it, "the frog pond," didn't we, back in the legislature? You would say to the gentleman from Ohio, "Just go back there, run away." Is that what they are going to do? No, we cannot do that here in this House. This is our chance and our opportunity. It is our watch.

Mr. Speaker, now we have this guy, he has to be pinching himself every day that he is here, the former Governor of the State of Delaware. He had to run a State, he had to balance books. He was the chief executive of the State of Delaware. I do not know why he would even want to stay here now, because he sees how difficult it is.

Yet the gentleman comes to these meetings. Governors do not go to meetings unless they get, you know, golden invitations. He went to the task force. He participated like a normal person. This is incredible. I cannot wait to hear what he has to say.

I yield to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I feel like a prizefighter, pumped up. I thank the gentleman for yielding to me.

Mr. Speaker, I would just like to say, when the gentleman from Ohio [Mr. KASICH] asks you to come to a meeting the way he just said when he said that, you go to the meeting, you don't ask any questions about that, so that is relatively simple.

I cannot, Mr. Speaker, thank the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] enough for what they have done to really in my judgment, and I think in the judgment of all six of us who are handling this debate tonight, to energize this particular issue for true cuts in Washington, DC.

Every single one of us in this building goes home, and when we go home we see the individuals who have lost their jobs or those who have had to cut back on their expenditures because they did not have enough money, or their spouse lost a job, or a child is sick, or whatever it may be, we have seen businesses which are not making it for various reasons, and some drop by the wayside, they go into bankruptcy, and they have to go on and do something else, but they have to pay their bills. They know that eventually they are going to have to pay the piper in some way or another, and they are going to have to somehow or another be able to earn the money in order to do that.

We see our local governments, we see our city governments, we see our county governments, and we see our State governments. They are doing the same thing. They are fighting like heck to balance their budgets. As a matter of fact, practically every State in the United States of America has now adopted a balanced budget amendment, I think all but one at this point have done it, because they understand and the people have stressed the importance of balancing that budget.

We ran for office and then we go out there and we talk about the Federal Government. I will guarantee that those same Rotary meetings that the gentleman from New Jersey [Mr. ANDREWS] referred to, that people raise their hands and say, "Why can't the Federal Government balance its budget? Why does the Federal Government have so many programs? Why does the Federal Government spend so much money?"

There were, I guess, about 30 of us that the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] brought together for the idea of talking about can we make a difference as far as this is concerned. It was a group of individuals who care a great deal about this country, about their President and about what is happening in the United States of America.

We sat down and talked about the issues. We broke up into little groups and we figured out what we could really do that would make true budget cuts in the United States of America, but would not harm people or programs in such a way that they could not function in the future.

We went over this. We went over this. We went over it at different levels. We eventually debated it. It got done. I believe every single program that is included in there is something that can indeed handle the reductions which have been proposed.

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And where is the opposition coming from? It is coming from the White House, it is certainly coming from within this building, it is coming from the appropriators. And we all have our letters threatening various projects that may not get renewed if indeed we try to cut this particular money and vote the wrong way tomorrow. It comes from the interest groups. And I do not know how extensive they are, but I know of one union in my home which wrote and said, "Gee, we don't want you to cut back on the cost of living increases and raise retirement ages." And then when we took some of that out, because there was so much opposition to it, they indicated that they did not want to be in a union with other people who were going to have their retirement ages raised, even if they were not, which is an incredible rationale when you get right down to it.

Are the arguments we are hearing really sound? Would it destroy changing health care? I do not think so. Would it really depress the economy? You heard the figures, and I think the gentleman from Ohio [Mr. FINGERHUT] used some of the figures, as did others, and it is a very slight reduction.

As far as economic progress of the United States is concerned, will it destroy Government programs? That has got to be a joke. I do not know how small cuts such as this could possibly destroy any Government programs, most of which are already overfunded.

Will it decimate our defense beyond repair? Again, that is just beyond reason to be able to make that representation.

But the real issue is maybe not what is happening at the White House, and not what the appropriators and the chairs of the committees think that we work with, or even what these interest groups that have contacted us think. The real issue is what do the people of the United States think. What about that 99.-some percent that we have not heard from at all? Where are they tonight? What are they thinking? If they are smart, they are home in bed asleep. But what are they thinking at this point?

I would suggest that they are thinking why can we not live here in Congress the way they live at home, with those businesses that are trying to make it, with the accountants at home where it is a struggle to meet the bills each week and each month. Why can we not eliminate the waste we have heard so much about, and clearly is there? Why can we not sunset outdated programs? Why cannot the Government run more efficiently? Why cannot runaway government be checked in some way or another?

What should we do about it as Members of Congress? I have a lot of ideas. I personally think we should pass line-item veto. We got within 21 votes this year. We should have a balanced budget amendment in the United States, and that is going to be difficult to do because it would have to be done in the future. We should sunset some programs. We probably should go to 2-year budgeting. I am not sure I understand that concept, but it seems to make sense from what I have read about it.

But the truth of the matter is we are going to have one real great opportunity before we go home this year, before we go home to the chamber of commerce to give the speech in the editorial board to say what we are doing to cut expenditures in the U.S. Government, to make Congress balance its budget, and we are going to have that chance tomorrow when we look at the Penny-Kasich bill, and we make our decision if we are going to vote yes or no. More or less in the range of 218 of us are going to have to vote yes on that particular very significant piece of legislation. We are going to have to cast aside the special interests and those who feel their oxes being gored, and we are going to have to think about the people of the United States of America, and what they really want, and where we can really begin this process.

And it is only a beginning. There is a tremendous amount more that we have to do if we are really going to deal with the concepts of balancing budgets and making government programs funded in such a way that they are streamlined, and they meet the methodologies of going ahead that we should follow in this country. But this is the opportunity. This is the time for Republicans, this is the time for Democrats to stand up and to cast their votes in what is going to be in my view the most significant vote we are going to cast in the Congress this year.

I hope the whole country is looking at that vote tomorrow, and I hope when that vote is called for that we deliver the majority needed in order to have a real victory before this year is out.

And I thank the gentleman for yielding.

Mr. KASICH. Mr. Speaker, I want to yield to the gentleman from New Jersey, and then I want to spend just a few minutes talking about the phony alternative to the Penny-Kasich amendment, and the gentleman from Connecticut [Mr. SHAYS] has a little bit more time. He has time coming, so we are not in a hurry. We need to spend a little bit of time talking about that phony-baloney proposal.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I thank the gentleman for yielding. I wanted to pick up on one of the points the gentleman from Delaware [Mr. CASTLE] made about the incredibly specious argument that the economic recovery that some people think we are in—I cannot find many people outside of here who think we are in one, but the economic recovery some people think we are in will somehow be jeopardized by the notion of the Federal Government spending, really borrowing $1 billion less over the next 5 years.

It is important to point out the reasons why that argument is wrong, as my friend from Delaware just did. We are being told that if the Federal Government does not spend and borrow this $100 billion over the next 5 years that the recovery will screech to a halt.

Let us think about what will happen if we do not spend and borrow that $100 billion. If we do not borrow it from domestic capital markets, that means that $100 billion that people here would decide how to spend will be spent by someone else, by loan officers at the banks, by credit managers at the consumer credit companies, by people in the private sector who will make that capital available to business people across this country, who will take risks, expand their business and hire people.

If it is not drawn from the foreign capital markets, it will have the consequence of not adding to the imbalance that has been created with the influx of private foreign investment in this country. So the argument that somehow or another slowing the pace of growth of Federal spending is going to reduce economic growth is the most bizarre twist on Keynesian economics I have ever heard, and the administration people making that argument really need to go back to the graduate school they came from if they believe that.

The second point I would make very quickly is about the impact on health care. I have had a number of Members tell me, Mr. Speaker, the last couple of days that they are worried that if the Penny-Kasich plan would go through it will severely impinge on the administration's ability to change the national health system. I believe that the administration is already, as the gentleman from Ohio [Mr. KASICH] said, taking greater Medicare savings and putting them toward deficit reduction anyway. If anybody is double counting here, it is them.

But let us take their argument at face value for a moment, and let us assume that money that we are talking about from the slowdown in the rate of growth of Medicare, let me repeat that nobody's Medicare benefits are being taken away, we are slowing down the rate of growth of Medicare spending. Let us assume for a moment that we are taking that away from the administration's health care plans. Let us quantify it for just a moment.

Medicare is presently growing at a rate of about 15 percent per year. The administration's health care plan assumes they can slow that rate of growth to 6 percent per year, and they want to take that 9 percent difference and plug it into subsidizing care for uninsured people. Nine percent of this year's Medicare program is about $9.6 billion. The $9.6 billion is less than 2 percent of all of the revenue that will flow into the administration's health care proposal, so even if they are right, and I do not think they are, but even if you take their argument at face value, the maximum impact of this proposal on their health care plan would be to take away 2 percent of their revenues 6 or 7 years from now, maybe, maybe. And I would challenge, Mr. Speaker, anyone who disagrees with that assertion from the administration, or their advocates in this Congress, to tell me why I am wrong, because I cannot see why I am wrong.

Mr. KASICH. If the gentleman will yield, just keeping hanging out with us and you are going to get a thousand reasons why they think you are wrong, none of them will be right, but you will get a thousand different reasons.

Mr. ANDREWS of New Jersey. If we are being told that a vote for Penny-Kasich is a vote for slowdown and no economic growth, that is the strangest economics. That is not trickle-down, that is being trickled on, frankly, and if we are being told that passing Penny-Kasich is going to cripple the administration's health care initiative, if you cripple something by taking away less than 2 percent of its revenues, it is not in very good health to begin with.

Mr. FINGERHUT. If the gentleman will yield at that point, I will argue, and I have argued to Members of this House, that not only does this not jeopardize the health care reform effort, but it actually assists, because if the reaction from your constituents is anything like mine, and I have been going home every weekend as I know you do, and I have been holding townhall meetings solely dedicated to the subject of health care reform. And we put up the charts, and we lay out what all of the proposals are. And frankly, virtually every proposal, whether it is Republican or Democratic proposal, relies on significant reductions in the rate of growth in the Medicare and Medicaid programs.

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Without any question, the first reaction from my constituents in every meeting is, "How can we believe that you are going to make any of those savings from those programs? And should I not assume that what is going to happen if you will not make those changes, but you will add: You will not make those savings, but you will add the new benefits, and we will end up with an even bigger deficit than you had before?"

So I would argue if we can show the courage to make the cuts in the growth of the Medicare program and Medicaid program that is proposed here which is a tiny amount as you have indicated and is the same as that proposed by the administration for their health care reform program, as we talked about before, that we would strengthen the credibility of this House and of this Government with respect to the furtherance of health care reform.

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. FILNER). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

THE PENNY-KASICH AMENDMENT CONTINUED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ANDREWS] for his observations. I have been really enjoying listening to him.

Mr. ANDREWS of New Jersey. I would like to make a very brief point before I yield back in that it is very, very important that we not leave this debate tonight or tomorrow with the lingering impression that we are taking money away from Medicare recipients, because that kind of demagogery is being thrown around this country. Let us set forth once and for all the facts.

Under present law we can anticipate, without changes, that the taxpayers of this country over the next 5 years will pay something in the order of magnitude of $1 trillion for Medicare unless we change something. The change that we are proposing would have us spend about $35 billion less than that $1 trillion, about 3.5 percent less.

So we are saying this: Let us take a program that is growing at 15 percent per year, and let us slow down the rate of growth of that just a little bit so that we spend about 96 percent of what we are going to spend on that program over the next 5 years.

I will tell you what, if that is a cut, then everybody in America should hope their pay gets cut the same way, because what it is is a slowdown in the rate of growth by about 4 percent per year. That is it. For people to talk about demagogery about Medicare cuts is unconscionable.

For people to talk about taking away from seniors and children is unconscionable.

The people who would be called to accountability are not the children receiving child care, not the senior citizens receiving meals. It is the people sitting at desks writing memos, filling out forms, generating red tape. And those are the ones being put on the firing line by this proposal. And those are the ones, I say to the gentleman from Connecticut [Mr. SHAYS], we are hearing from, and I am sure that you are going to refute for us tonight.

Mr. SHAYS. If I could, I would just like to read just a few passages from some of the groups that have endorsed this plan, and, you know, kind of give you a little bit of faith that people are listening.

One is the Citizens for a Sound Economy. They say that citizens for a sound economy hopes this initiative will help make cutting spending as routine an exercise on Capitol Hill as the appropriations process. The Penny-Kasich commonsense plan was formulated by bipartisan working groups committed to follow through on the President's promise to enact spending cuts following the passage of the budget reconciliation package this summer. They go on and say the Penny-Kasich plan would make about $90 billion in program cuts in personnel reforms over a 5-year period through more than 80 deficit-reducing proposals. It would shave nearly 1 cent from every Federal dollar expected to be spent over the next 5 years.

Just a few more, the National Taxpayers' Union, the Penny-Kasich plan is an important step forward on the long road to deficit reduction. The upcoming House vote on the Penny-Kasich package will be one of the most important, if not the most important, spending-cut votes in 1993. The Penny-Kasich package is made up of sensible spending cuts that should appeal to both sides of the aisle.

Let me read more: The Financial Executive Institute, the Penny-Kasich plan does what the President's proposal fails to do, significantly reduce the budget deficit over the next 5 years. The Penny-Kasich plan achieves real deficit reduction by making the difficult choices and then they go on to say that, "We favor the Penny-Kasich plan because it is a truly bipartisan effort. It represents a broad cross-section of House Members from both sides of the aisle that put aside their personal preferences to develop a package of spending cuts which affect their constituents which is necessary for the long-term health of the economy."

You know, they go on. I mean, we have groups like the Institute for Research on Economics of Taxation, the Concord Coalition, just pointing out that the Penny-Kasich amendment is bipartisan; it cuts $90 billion, major addressing for the first time entitlement problems that are realistic and credible as a solution; the Responsible Budget Action Group, the Third Millennium, the NFIB, and it goes on and they just keep coming in. These are groups that are even seeing cuts to programs that they may like, but they realize that this is a group that should be nurtured. This is a group that should be encouraged not discouraged, and I just say that we are not going to be discouraged. We are going to keep after this.

If we have colleagues like the gentleman from New Jersey [Mr. ANDREWS] who is not even part of this group be so articulate and so knowledgeable about the problem and obviously, as he has been working on so many other areas, I mean, if there are more like you out there, I say to the gentleman from New Jersey [Mr. ANDREWS], we are going to win by an overwhelming majority.

I yield to my friend, the gentleman from Ohio [Mr. KASICH].

It is kind of fun for me to have power here. I can take it away at any time, and I can shut you up at any time I want.

Mr. KASICH. I just want to take a few minutes to talk about the phoney baloney amendment, and I would like the gentleman from Minnesota to participate if he could in this.

I mean, the problem that we are going to have tomorrow is that we are going to have a phoney baloney amendment come to the floor. This amendment is going to be designed to have a reshuffling of the dollars that flow through our budgets.

Now, the gentleman from Minnesota, the chairman of the Committee on the Budget, will have an amendment that will not apply any of the proposed cuts that he will make to reducing the deficit. Any of the changes that he makes in his proposal are being used to shuffle out the new programs and more spending, and so tomorrow we are going to have a good opportunity to reject a phoney proposal that gives us zero deficit reduction versus the Penny-Kasich proposal where all 90 billion dollars' worth of change goes to reduce the operating deficit of this country, and so there should not be any confusion tomorrow, Mr. Speaker, when our Members are watching the debate here.

Some may get for a moment confused about, well, what is the difference, what is the impact. Well, the impact of the Sabo proposal will be zero, but the impact of Penny-Kasich would be a $90 billion cut in the operating budget of this country.

I yield back to the gentleman from Connecticut.

Mr. SHAYS. And I will yield to just allow the gentleman from Minnesota [Mr. PENNY] to respond.

Mr. PENNY. I thank the gentleman.

I, too, want to weigh in on this particular issue.

We should be somewhat flattered, I say to the gentleman from Ohio [Mr. KASICH], that the leadership of this institution which originally trashed our proposal for spending cuts now has developed a plan with remarkable similarities to our package. Clearly we still have the advantage here, because our plan cuts $90 billion over 5 years, while the leadership plan cuts roughly $37 billion over 5 years, and as the gentleman mentioned just a minute ago, our plan reduces the deficit. Their plan does not.

We lower the spending caps so that the deficit goes down. We do not spend these cuts in some other area.

They make these cuts only to spend the money somewhere else. So in that sense it is a phoney sort of game. It is the sort of thing that happens here in Congress all too often.

The attitude goes like this: Let us give Members that want to pretend that they are against the deficit a vote that pretends to cut spending. That is what is going on tomorrow with the Sabo amendment.

Mr. KASICH. If the gentleman will yield for a second, I guess then tomorrow we should think of this as, and the gentleman hit on something here, that it seems to me as though we ought to refer to that amendment as the great pretender.

Mr. PENNY. It pretends to cut spending, but when you allow that money to be shifted to other programs, it does not reduce the deficit, and we know better than that in Washington, but the leadership, by proposing this package of cuts, is counting on the fact that the public will not know the difference.

□ 2350

And so they are going to give some legislators a vote to cut and they are going to guarantee that those cuts do not do one thing to reduce the deficit. But, again, we should be flattered that we have even driven them to this degree because just a short time ago, as the gentleman from Ohio and I were called before the House Committee on the Budget, the chairman of that committee criticized virtually every specific item in our spending reduction package. Now, here just a week and a half later we are looking at a package developed by Chairman SABO which has a remarkable amount of overlap with the Penny-Kasich plan. In the area of agriculture they call for the reorganization of the department and the downsizing of the field offices; that is in the Penny-Kasich plan. They call for elimination of the honey support program; that is in the Penny-Kasich plan. They call for eliminating or merging the polar satellite program; that is in the Penny-Kasich plan. They call for reorganizing the Army Corps of Engineers and downsizing the number of field offices; that is in the Penny-Kasich plan.

They call for selling the Alaska Power administration, and that is in the Penny-Kasich plan. We could go item by item by item, and most of what they have proposed as their alternative tomorrow is in the Penny-Kasich package.

They take the 250,000 Federal workforce reduction and count it one more time. It is in the Penny-Kasich plan.

It is now in the Sabo Democratic alternative. So we should be flattered that they found all of a sudden that they found some items in our package of cuts that are acceptable, but they are being too cute by suggesting that they will take these cuts as long as they do not reduce the deficit. And that remains the key distinction between the Penny-Kasich package and all other alternatives. When we vote tomorrow, you will have three amendments that deal with spending cuts: the Penny-Kasich package, the Sabo Democratic alternative, and the Frank-Shays amendment. Only Penny-Kasich reduces the deficit.

We are flattered that they have picked up on some of our items, but if you do not reduce the deficit, it is simply a charade, and we hope our colleagues know better tomorrow and cast a vote accordingly.

Mr. SHAYS. Reclaiming my time and inviting JAY DICKEY to participate, who came in here—I do not know what brought JAY into this room; he was probably watching his television and said to himself, these guys need help.

I want to emphasize a point that the gentleman has made, that is, the gentleman from Minnesota. It is not the issue of pride of authorship, and if the administration took this entire package and adopted it as its own, we would all be grateful.

The Penny-Kasich plan actually reduces the deficits further, whereas by capturing some of their cuts but not lowering the caps, may not in essence reduce the deficit at all. It may or may not.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. FINGERHUT. I thank the gentleman for yielding.

I just want to respond also to the gentleman from Minnesota's comments because it really does go to the core of the matter and it goes to the core of what is going to happen tomorrow.

As new Members of this body, as JAY DICKEY, Governor CASTLE, and I are, all freshmen, you sometimes learn as you go. I see them shaking their heads, they know what I mean. I remember earlier in the year when a number of us who believed that there was room to cut in the budget, we started asking our more senior colleagues, wondering how does this work, when do you get a chance to propose spending cuts? I dare say in every one of our campaigns we each walked around with a list of cuts that we supported, and probably took it, as the gentleman, Mr. ANDREWS suggested, before the Rotary Clubs and the Chambers of Commerce. The answer was, "Well, during the appropriations process, the bills come to the floor, they always, almost always, come to the floor with open rules, which means you will have a chance to offer any amendments you want. And that is the time we can vote for cuts."

Indeed, there were a number of amendments that were offered this year, and we did vote to make cuts in some of the appropriations bills that came out of the committees. But what we did not know at the beginning but what we understand now is that none of those cuts that we voted on, that every one of us is going to go out and highlight to our constituents, none of those cuts went to reduce the deficit. Unless those amendments explicitly said, which none of them do because that rider was not allowed because it was always considered not to be germane—though I cannot imagine how reducing the deficit is not germane to cutting appropriations—but unless you explicitly say that this money, if saved, will go to the deficit, then it simply goes back into the general pool of funds that can be used for any other purpose.

So the point that Mr. PENNY makes is so important because we will hear a lot of talk about cuts tomorrow, but there will be only one amendment on he floor that has as part of the language of the amendment the stipulation that if we make the cuts, it goes to reduce the deficit.

So let us not be fooled again that votes to cut spending are always votes to reduce the deficit. They are not, unless it explicitly says so.

Only one amendment tomorrow explicitly says so, and that is Penny/Kasich.

Mr. SHAYS. I thank the gentleman, and I invite Mr. DICKEY to explain why he came here at 11:55. Was it a siren call and the gentleman felt he just had to come to the floor? I yield to the gentleman.

Mr. DICKEY. The gentleman is fishing for a compliment, and I will give it to him.

Mr. SHAYS. No, no.

Mr. DICKEY. I will give it to you.

Mr. SHAYS. It is great having you here.

Mr. DICKEY. I know you mean that. And I thank you for the time.

I got one of the letters that specified that two of my projects would be in jeopardy if I voted for this Penny/Kasich bill.

I got upset, but now I am thankful that I got it, and I wanted to share with you all as to why I felt this way.

I am a freshman, of course, and I have my concerns about how I am representing my people. But what that letter does is it implies that the most important thing that I have for me is reelection and that I should guide what I do and how I vote based on whether or not I am reelected. The second thing it says is that these two projects that I have worked hard to get are in fact my route to reelection and it is what my people in the Fourth District of Arkansas really want.

Well, I am going back in my mind, when we had the tax bill, what the people of the Fourth District wanted when they said cut spending first. It did not make any difference what was said, how it was said, it was cut spending first.

So what I have come to conclude in listening to this debate—and I am certainly identifying with it—is that my reelection is up to the people of the Fourth District. What I have got to do is obey what they say. I cannot listen to the chairman of this committee or that committee coming around and saying, "We do not do things that way. We do things this way. You will never get reelected if you do not do that." Reelection is not as important to me as being responsive to the people of the Fourth District. It is up to them to reelect me. It is their problem as to whether to reelect me. I have got to do what I think is right inside and what I was assigned to do when I got voted into this particular office at this particular time.

I am for cutting spending first. The people of the Fourth District and I are not going to change, and I do not care who threatens me with anything other than my own integrity.

Mr. SHAYS. Praise the Lord for that statement.

Gentlemen, I am in control here. You all will have to be patient. I will yield to the gentleman from Ohio [Mr. KASICH] but he is going to have to wait.

I yield to the gentleman from Minnesota.

Mr. PENNY. I know plodding after those remarks does not do justice to that statement because there are so few of us here. But I do hope that some people across America are staying up late tonight and listening to this debate because you hit right to the heart of what is wrong on Capitol Hill: Too often we end up voting for or against a measure because some caucus leader or some committee chairman puts the arm on us or threatens our future in this institution or a project in our district. It has to end, it has to end. We have mountains of red ink because Members are too often talked out of doing the right thing because of these kinds of threats.

The implication of the letter sent around today is quite clear. It may not have been stated in blatant terms, but the implication is there that the subject is in jeopardy if you vote for these spending cuts. That is what we are fighting against tomorrow on this vote as much as anything else.

Having complimented Mr. DICKEY, I also want to compliment Mr. SHAYS because there will be another amendment tomorrow dealing with a variety of spending reductions, many items that have come very close to being approved on a vote earlier this year in this House. He has identified with that amendment. It is the Frank-Shays amendment.

□ 0000

I believe that it is meritorious and I intend to support it.

Mr. SHAYS. It has merit, but reclaiming my time, Mr. Speaker, it has to be pointed out, it may or it may not reduce the deficit, depending on when we cut out those programs and what Congress decides to do.

Mr. Speaker, I notice Mr. KASICH wants to talk, and I know I am in trouble if I do not yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I will tell the gentleman, Mr. Speaker, if he does not give me some time, I am going to tackle him.

I have to tell these gentlemen something.

The gentleman from Minnesota [Mr. PENNY] is leaving because he is frustrated. I do not know how long you can keep coming at it like crazy and trying to do the right thing, but I have got to say, what the gentleman from Arkansas [Mr. DICKEY] said here tonight has made every bit of what I have done here with my colleagues worth every second of it, to have him here.

I want to say to the gentleman from Arkansas, we were together not long ago helping out another colleague, he was saying, "You know, what is the best thing to do and how do you do it? How do you know where to go?"

Do you know what it is? It is all about your heart. That is what it is all about in this place. It is what made the gentleman a great basketball player. You get the ball and you know you are going to go to the hole, not the opposition, not the coach, not the fans, nobody was going to keep you from doing what you wanted to do. That is what makes a Member of Congress. It is the passion to do what they think is right. That is what the public wants.

They want you to do what you believe is right in your heart. I think that is what John Kennedy wrote about. How appropriate. We missed it by a few minutes, but that is what John Kennedy wrote about in "Profiles in Courage". You do what you believe is right inside and you can never, ever, lose.

I just want to thank the gentleman from Arkansas. He represents the President's home district. They can cut him up in tiny pieces if they want to, and he comes to this floor tonight at 10 minutes to 12.

Mr. SHAYS. You know, we have another gentleman who has joined us. I would love to recognize the gentleman from North Carolina [Mr. TAYLOR].

What makes his presence so unique is that he is also a member of the Appropriations Committee. He spends the money. It is just really a pleasure to have such a distinguished Member of this House here, and it is nice to greet him at 12 midnight.

Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Well, Mr. Speaker, I wish we were doing it earlier when more people could see it, but we have to speak when we can.

I appreciate the gentleman taking the time to do this with the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] in their stands.

You know, I took the President at his word both during the campaign and in his State of the Union Message when he pointed out how important cutting spending was and balancing the budget was. Certainly the people in my district felt that way overwhelmingly.

So when I was selected to serve on the Appropriations Committee and the two subcommittees that I sat on, it was my task to cut.

It is not a question of not meeting national needs or not spending money. We took in, counting Social Security, almost $1.4 trillion in revenue. Our problem is, we are spending somewhere close to $1.7 trillion, if you take the Social Security and so forth involved.

What I am saying is that had we spent the over $1 trillion and met needs, we could have balanced the budget. It is a question of selecting priorities.

There is always another item out there that we can spend money on, but what the people want us to do is to spend that money we are taking in on the best priorities possible, and that ought to be what we are struggling to do. That is what I wanted to do.

In the first subcommittee on the legislative branch, we went through the hearings and then put together over 25 percent of very low priority items that we thought we could cut, consolidating, not a meat-ax approach, not across the board, that sort of thing, but a consolidation, a real business effort toward that.

We wrote the President and asked him since he publicly began making these statements to join in. We were ready to sign on for budget cutting.

He replied, and in his first paragraph he said:

> DEAR REPRESENTATIVE TAYLOR: Thank you for your letter expressing support for my efforts to reduce the federal deficit. I am glad to know that you and other Members of Congress are ready to help in cutting wasteful government spending.

Then he tells me he is unable to help, but he says:

> But I urge you to pursue your efforts as a member of the Subcommittee on Legislative Appropriations to achieve other meaningful Congressional spending cuts.

Now, what he has said publicly and what he has said by this letter I am trying to do. I think the Members who have spoken here tonight are trying to do that.

Unless he has changed his attitude or his written word and his spoken word, then he should be on the phone, not cajoling people to go the other way, but to get behind these cuts, because many of these cuts he made himself.

I serve on the Subcommittee on Commerce, Justice and State, and in his budget report he had a $20 million reduction in there for the Justice Institute.

The gentlemen that put this report together have a $20 million reduction for the Justice Institute, exactly as the President recommended, and yet in committee when I made that motion, I could not get but a few dollars cut from the Criminal Justice Institute.

Now, I wanted the gentlemen here, both Democrats and Republicans who put together the Penny-Kasich amendment, the President says he wants it. Why do we have opposition now with both parties and the President of our country wanting the same thing? How can we propose this and not be terribly hypocritical in the eyes of the public?

Mr. SHAYS. Mr. Speaker, I just want to say, this is one of our quandaries, where we are feeling this effort should be something the President nurtures and encourages a continued effort on. Remember early on the President said, "If you have suggested cuts, tell me where."

He was partly responsible for unleashing this effort. He encouraged people like the gentleman from Ohio [Mr. KASICH] and others to seek other ways to cut.

What makes the gentleman's remarks so appreciated is that he is really right in the center of this as a Member of the Appropriations Committee. The gentleman has been such a force for trying to control growth and spending as a member of that committee. That is what to me is extraordinarily important about the gentleman's message and appreciated.

Mr. TAYLOR of North Carolina. Well, I think it is extremely important that the public know, unless someone is being hypocritical, unless someone has withdrawn all the statements, unless the administration has withdrawn all its recommendations, part of the cuts that the Penny-Kasich bill outlines, such as the one in Commerce and Justice with $20 million for the Criminal Justice Institute, is a recommendation the President made, a recommendation the gentleman made, a recommendation I made and failed to get any response inside the committee.

So why can we not make it?

I think unless there is a formal withdrawal by the President saying, "I was wrong last spring. I really didn't want to cut the deficit. I really don't want these items I listed taken out of the budget," then I see no reason why we should not, because both parties and the President seem to be heading the same way, or wanted to at that time.

Mr. SHAYS. Mr. Speaker, I really thank the gentleman.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I want to tell the gentleman, we ought to start all special orders at 10 minutes to 12 from here on out, because the testimony of the gentleman from Arkansas [Mr. DICKEY] and the gentleman from North Carolina [Mr. TAYLOR], you know this guy is on the Appropriations Committee, I say to the gentleman from Minnesota. I do not know if they got any special clubs or wherever the heck they hang out. I do not know whether he will get in the inner sanctum.

But do you know what? This is what leadership is all about.

I just say to the two gentlemen who came here tonight, will not quit my efforts. I think we just become a stronger team. This is what the gentleman from Connecticut [Mr. SHAYS] has been telling me. We just become a stronger team for doing what is right.

What choice do we have? You might as well quit if we are not going to do what is right.

Mr. TAYLOR of North Carolina. I would say as a member of the Appropriations Committee, if the gentleman will allow me, I did not sign on to the Penny-Kasich amendment when it first came out, because I had not had time to focus on it. I have not had time to look at it.

I spent time looking at it, and I can tell the gentleman, if I drew it there might be an item here or an item there that I might add to or change, but they are not Draconian measures. The measure in the area of Medicare, I have one of the largest districts because of a lot of retirement and elderly people in my district and I watch very closely what we do in that area, those are reasonable recommendations. They are recommendations that I can support and go home and talk to my folks.

We held 17 town meetings last fall in August and September.

□ 0010

We hold 17 in the spring, and that is as many as I am sure as are held anywhere, and we have large crowds of people. People come in and are very active, and by and large they are all saying exactly what the gentleman from Arkansas [Mr. DICKEY] said, "Let's cut spending first. Let's do something. I'm ready to make the sacrifice on my part. I'm ready to do something."

And the people are way ahead of where we are right now, and I think, if those Members tomorrow who vote on this will show that courage, I think they will find that they are rewarded by the people, not the politicians. They will be rewarded by the people in their districts for having the courage to take those stands. I am prepared to do it, and I can tell my colleagues, as a member of the Committee on Appropriations, that these cuts are justified. I would love to go further; I think we all would. But I think this is certainly an excellent start, and it is an indication to people all over this country whether or not we are even the least bit serious about heading in the right direction.

I appreciate the item from the gentleman.

Mr. SHAYS. I say to the gentleman from North Carolina, "You made our day," because I so appreciate that a member of the Committee on Appropriations would come here at 10 minutes after 12 to take the kind of stand he has taken, which he has taken for a long time, and I also say to the gentleman, "It is great you have shared with us your feelings."

And the gentleman from Ohio [Mr. FINGERHUT] has been very patient, unlike my colleague [Mr. KASICH].

Mr. FINGERHUT. I thank the gentleman from Connecticut [Mr. SHAYS] and say, "I actually have taken more than my fair share of time, but, you know, Mr. KASICH, you said something that got me thinking a moment ago. You pointed to the clock, and you mentioned the day. It's now 10 after 12, which means it's Monday. It's November 22. It's the 30th anniversary of the day that President Kennedy was killed. And each one of us has our own personal reasons for being in this business. I know sometimes it seems glamorous, but we all know that it has its moments when it is not, and I believe that we are all here because we're committed to public service."

I have been reading the recent biography of President Kennedy's administration by Richard Reeves in my spare time, carrying it on the plane with me back and forth, and a couple of things really struck me when JOHN made that reference. First, on a personal level it is because of the call to public service that President Kennedy and Robert Kennedy were known for that I was inspired to try and do this myself.

Mr. SHAYS. I say to the gentleman, "You must have been a very small little kid."

Mr. FINGERHUT. I was very small, but I read a lot of history books, and there is a point that was made in that book that also relates to something else that CHRIS said. He talked about how it was President Kennedy's rhetoric, the statements that he made on the subject of civil rights, which I know the gentleman in the chair, the gentleman from California [Mr. FILNER] was so personally involved in, that unleashed the movements all around the country, and sometimes it went even faster than the President wanted, and sometimes it went beyond his control a little bit. But every time he would say, "Why are they doing these things out there?", Richard Reeves reports in his book the response back to the President was, "Because they are listening to you, Mr. President, they are listening to you, Mr. President."

And I would submit what the gentleman said was absolutely right, and there is an historical analogy on this day. President Clinton came here, and I was on my feet cheering because I was so excited about it. He came here—

Mr. SHAYS. Those guys had us stand up 15 times when he spoke.

Mr. FINGERHUT. It was the beginning of his administration, and he called for change, which I support. He called for fiscal responsibility, which I support. He submitted a list of spending cuts and, yes, some tax increases, which I supported because it called for sacrificing the American people, and then he called on anybody else who agreed or disagreed with his plan to put their own plan forward and to say that, "If you want to share in this sacrifice, if you want that, "If you want to share in this sacrifice, if you want to share in this time of national renewal, join in," and I think the part of what is happening on the floor today is that we are responding in that way, maybe faster than he would personally like, and maybe we are going a little beyond what he would personally like at this moment, but the answer, Mr. President, and I hope that he is listening because he knows that I support him and admire him; I do hope he is listening; the answer, Mr. President, is:

"We are here tonight, and we are going to be voting on Penny-Kasich tomorrow because we listened to your words, and we are following your lead, and we are going, maybe, farther down the hill faster than you would like, whatever the sports analogy is tonight, but we are listening and following."

It is that same spirit of leadership, and I know it is corny, but remember what it was that President Kennedy said that made him so famous in his inaugural address? He said, "Ask not what the country can do for you, ask what you can do for your country."

Tomorrow, and I did not even think about it when we got this voting date, but maybe it was better that it was pushed off from Saturday to Monday because tomorrow, on the 30th anniversary of the day President Kennedy was slain, we have a chance to do what is right for our country and to say to our constituents, "It's not time now to ask what our country can do for us, but the other way around."

Mr. SHAYS. Mr. Speaker, I thank the gentleman from Ohio [Mr. FINGERHUT], and it is just so important that the American people call tomorrow and encourage their legislators to do the responsible thing and vote for the Penny-Kasich plan.

I see the gentleman from Arkansas [Mr. DICKEY] has been very patient, and that must be his southern way, and I appreciate it and yield the floor to him.

Mr. DICKEY. Mr. Speaker, I thank my friend, the gentleman from Connecticut [Mr. SHAYS].

I think the other mention of midnight should be this, that so much of the time that we, as politicians, are up at midnight trying to plan things is when that might be against the will of the people. I think that tonight we ought to hand it to the people and say, "Get in on this conversation with us. That is not a conversation where lobbyists are coming to elected officials and saying, 'We want to keep you here, we want to keep you here, and this is the way we can keep you, if you vote this way, and this way, and this way. Then you will get this project and this project.' It's not the conversation where it's just between an elected official and some committee official where they say, 'We can get you elected.' "

Mr. Speaker, what we want is for the American people to get in the conversation, to come and discuss it with us, and to know what is happening, and to know what is going on right now. There is this very significant vote tomorrow. We want the American people in the conversation. We want to use midnight to bring sunlight to the discussion, and I say, "You all are the only sunlight. The voters are the only sunlight. We want to respond to you. If you want us reelected, we want you to reelect us."

If someone else comes to us and says, "This is the way. You don't understand. Things work around here another way," we are saying, "We don't want to understand."

We want to understand what our constituents have for us, and I say to them, "You're the sunlight."

Mr. SHAYS. Reclaiming my time, and we can wrap this up and allow the very hard-working people who work in the Congress to go home and get some sleep before a very long 24 hours tomorrow, but when I was first a legislator in 1974, there was a lot of pressure to vote a particular way on the part of the leadership. That next morning I went to the hall of the house in Hartford and sat down in the chamber, and there was no one else there. I was the only person there, and I looked around and said, "You know, my leaders aren't going to be with me when I go back to my constituency and tell them why I did what I did. They are not going to be there, and I can't say, 'Well, I did it because my leaders made me,' or 'My leaders told me to,' or so on." The bottom line was I had to defend my vote to my constituents, and I think that is the point.

The bottom line is we represent a constituency, and we may differ on how we feel about an issue based on our views and also the views of our constituency, and I say to my colleagues, "Your constituency is different from mine, but I bet on one thing they agree, that they agree that we need to cut spending and put our financial house in order, and they expect us to do what we think is right in our hearts, and, if all the Members of Congress voted what they felt was right in their hearts, we would not be having a long debate on Penny-Kasich. It would just pass by acclamation.

I just give the opportunity to any of my colleagues to kind of make some closing comments, or we can just kind of end it.

Mr. Speaker, I will just thank my colleagues for coming. I thank the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] for their great leadership, and the gentleman from Delaware [Mr. CASTLE] for coming. It is really a privilege to have a Governor who has had to balance budgets here on this opportunity, and the gentleman from Ohio [Mr. FINGERHUT], Mr. ANDREWS, Mr. TAYLOR, and Mr. DICKEY, it has been a great evening for me.

I guess we owe an apology to people we have kept up late, but this was important for us.

The SPEAKER pro tempore (Mr. FILNER). The Chair thanks the gentleman from Connecticut [Mr. SHAYS] for his respect for the employees and for the Chair.

□ 0020

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 60 minutes, today.

Mr. SHAYS, for 60 minutes, today.

Mr. KINGSTON, for 60 minutes, today.

Mr. DORNAN, for 5 minutes today, in lieu of 60 minutes.

(The following Member (at the request of Mr. WYNN) to revise and extend his remarks and to include extraneous material:)

Mr. PENNY, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TRAFICANT, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,938.

SENATE BILLS, A JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills and a joint resolution and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 423. An act to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes; to the Committee on Energy and Commerce.

S. 431. An act to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection; to the Committee on Energy and Commerce.

S. 738. An act to promote the implementation of programs to improve the traffic safety performance of high risk drivers; to the Committee on Public Works and Transportation.

S. 871. An act for the relief of Nathan C. Vance, and for other purposes; to the Committee on the Judiciary.

S. 1059. An act to include Alaska Natives in a program for native culture and arts development; to the Committee on Education and Labor.

S. 1457. An act to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II, to the Committee on the Judiciary.

S. 1762. An act to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements, to the Committee on Energy and Commerce.

S. 1765. An act to designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes; to the Committee on Public Works and Transportation.

S.J. Res. 154. Joint resolution designating January 16, 1994, as "Religious Freedom Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 36. Concurrent resolution expressing the sense of Congress that United States truck safety standards are of paramount importance to the implementation of the North American Free-Trade Agreement; to the Committee on Public Works and Transportation.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1268. An act to assist the development of tribal judicial systems, and for other purposes.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 20 minutes a.m.) under its previous order, the House adjourned until today, Monday, November 22, 1993, at 9 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSI: Committee of conference. Conference report on H.R. 3167. A bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes (Rept. 103–404). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 321. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes (Rept. 103–405). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 322. Resolution agreeing to the request of the Senate for a conference on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearms; and waiving a requirement of clause 4(b) of rule XI with respect to the consideration of a resolution reported from the Committee of Rules on the legislative day of November 22, 1993, providing for the consideration or disposition of a conference report to accompany that bill (Rept. 103–406). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California (for himself, Mr. VALENTINE, Mr. MINETA, Mrs. LLOYD, Mr. BOEHLERT, Mr. SWETT, Mr. KLEIN, Ms. ESHOO, Mr. TRAFICANT, Mr. TANNER, Mr. BACCHUS of Florida, Mr. BARCIA of Michigan, Mr. FINGERHUT, Ms. HARMAN, Mr. JOHNSON of Georgia, Mr. COPPERSMITH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MINGE, Mr. DEAL, Mr. SCOTT, Mr. BECERRA, and Mr. RUSH):

H.R. 3603. A bill to promote the research and development of environmental technologies; jointly, to the Committees on Science, Space, and Technology, the Judiciary, Education and Labor, Banking, Finance and Urban Affairs, Public Works and Transportation, Energy and Commerce, and Government Operations.

By Mr. HILLIARD:

H.R. 3604. A bill to establish the Birmingham National Industrial Heritage District in the State of Alabama, and for other purposes; to the Committee on Natural Resources.

H.R. 3605. A bill to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama; to the Committee on Natural Resources.

By Mr. ORTON:

H.R. 3606. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide an exemption from funding limitations for multijurisdictional gang task forces and child abuse response programs; to the Committee on the Judiciary.

By Mr. SLATTERY:

H.R. 3607. A bill to revive and extend until December 31, 1996, the suspension of duty on certain chemicals, and for other purposes; to the Committee on Ways and Means.

H.R. 3608. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Ways and Means.

H.R. 3609. A bill to improve the competitiveness of American industry in the markets for telecommunications equipment and customer premises equipment, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Ms. SLAUGHTER:

H.R. 3610. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from a controlled foreign corporation to a U.S. shareholder shall be excluded from gross income if at least a portion of the distribution is invested in certain property located in the United States and in the employment of new employees in the United States; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. DELLUMS, Ms. PELOSI, Mr. HORN of California, Mr. MATSUI, Mr. LANTOS, Ms. WOOLSEY, Mr. HAMBURG, Ms. ESHOO, Mr. MILLER of California, Mr. FAZIO, Mr. GALLEGLY, and Mr. MINETA):

H.R. 3611. A bill to establish the California Urban Environmental Research and Education Center; jointly, to the Committees on Science, Space, and Technology and Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 3612. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Natural Resources.

H.R. 3613. A bill entitled, "The Kenai Natives Association Equity Act"; jointly, to the Committees on Natural Resources and Merchant Marine and Fisheries.

By Mr. HILLIARD:

H.J. Res. 299. Joint resolution designating May 1, 1994, as "National Youth Day"; to the Committee on Post Office and Civil Service.

By Mrs. MALONEY (for herself, Mr. Bilirakis, Mr. Engel, and Mr. Porter):

H. Con. Res. 186. Concurrent resolution in support of the United National Secretary General's current efforts regarding Cyprus; to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H. Con. Res. 187. Concurrent resolution relating to the December 1993 Presidential election in Gabon; to the Committee on Foreign Affairs.

By Mr. PALLONE (for himsef, Ms. Lowey, Mr. Schumer, Mr. Frank of Massachusetts, Mr. Menendez, Mr. Lantos, Mr. Zimmer, and Mr. Berman):

H. Res. 323. Resolution relating to the treatment of Hugo Princz, a United States citizen, by the Federal Republic of Germany; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 465: Mr. Goodlatte.

H.R. 466: Ms. Kaptur and Ms. Danner.

H.R. 507: Mr. Santorum.

H.R. 723: Mrs. Vucanovich and Mr. Royce.

H.R. 739: Mr. Goodlatte.

H.R. 823: Ms. Long, Mr. Fingerhut, and Ms. Shepherd.

H.R. 1483: Mr. Goodlatte.

H.R. 1487: Mr. Goodlatte.

H.R. 1860: Mr. Zimmer.

H.R. 1887: Ms. McKinney and Mr. Quinn.

H.R. 2569: Mr. Zeliff.

H.R. 2735: Ms. DeLauro.

H.R. 3023: Mr. Fazio, Mr. Everett, Mr. Young of Florida, and Mr. Hefley.

H.R. 3080: Mr. Saxton.

H.R. 3128: Mr. Miller of California, Mr. Synar, Ms. Byrne, Mr. Evans, Mr. Klug, and Ms. Furse.

H.R. 3203: Mr. Hilliard, Mr. Hughes, and Ms. Furse.

H.R. 3349: Mr. Kasich, Mr. Strickland, Mr. Gillmor, Mr. Hobson, Mr. Boehner, Ms. Pryce of Ohio, Mr. Fingerhut, Mr. Portman, and Mr. Regula.

H.R. 3367: Mr. Armey, Mr. DeLay, Ms. Pryce of Ohio, Mr. Royce, and Mr. Ewing.

H.R. 3477: Mr. Oberstar.

H.J. Res. 230: Mr. Ackerman, Mr. Andrews of New Jersey, Mr. Barrett of Wisconsin, Mr. Bliley, Mr. Bonior, Ms. Byrne, Mr. Callahan, Mr. Cardin, Mr. Castle, Mr. Clement, Mr. Walsh, Mr. McDermott, Mr. McNulty, Mr. Inslee, Mr. Jefferson, Mr. Cramer, Mr. Deutsch, Ms. Eshoo, Mr. Edwards of Texas, Mr. Engel, Mr. Fazio, Mr. Underwood, Mr. Frost, and Mr. Abercrombie.

H.J. Res. 272: Mr. Baesler, Mrs. Mink, and Mr. Mann.

H.Con. Res. 90: Mr. Klug.

H.Con. Res. 100: Mr. Hamburg.

H.Con. Res. 122: Mr. Horn of California, Mr. Yates, and Ms. Furse.

H.Res. 281: Mr. Huffington, Mr. McHugh, Mr. Gilman, Mr. Condit, Mr. Lancaster, Ms. Cantwell, Mr. Roberts, Mr. Istook, Mr. Pomeroy, Mr. Hall of Ohio, Mr. Sharp, Mr. Tejeda, Mr. Taylor of Mississippi, Mr. Barlow, Mr. Houghton, Mr. Frost, Mr. Duncan, Mr. Rohrabacher, Mrs. Bentley, Mr. Greenwood, Mr. Miller of Florida, Mr. Portman, Mr. Shays, Mr. Thomas of California, Mr. Franks of New Jersey, Mr. Penny, Mr. Gunderson, and Mr. Ortiz.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3080: Mr. Burton of Indiana.

H.J. Res. 268: Mr. Manzullo.

EXTENSIONS OF REMARKS

KENAI NATIVES ASSOCIATION EQUITY ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today to correct a significant inequity in Federal law respecting land uses of property conveyed to the Kenai Natives Association, Inc. [KNA]. The legislation, which will mark a final outcome of a process begun nearly 14 years ago and which was the subject of a congressional hearing last year and the enactment of one interim law, would correct the land entitlement inequities of KNA by authorizing and directing the completion of a land exchange and acquisition package. The legislation will allow KNA for the first time to make economic use of the majority of lands conveyed to the corporation under the Alaska Native Claims Settlement Act of 1971.

During the last Congress, we began the final stage in this process by directing, through enactment of Public Law 102–458, an expedited negotiation of a land acquisition package between the Fish and Wildlife Service and KNA. Over the past year, negotiations were completed, resulting in a package which is identical to the elements of the legislation I am introducing today.

It is my understanding that a final review of this package is being undertaken by the Office of Management and Budget. This review is not likely to be completed prior to the end of the first session of this Congress. While I am confident that the review will be positive, I believe it is important to proceed to introduction of this legislation so that the acquisition and land components of the legislation are understood.

I am pleased with the effort by KNA, its President Katherine Boling, and Board of Directors as well as the U.S. Fish and Wildlife Service to finalize this acquisition. Setting aside past differences, KNA and the Fish and Wildlife Service set about earlier this year to meet the objectives of Public Law 102–458 and to finally resolve the land use disagreement which has prevented KNA from using most of its lands conveyed under ANCSA. At the same time, another purpose of Public Law 102–458 and, a Federal goal, was acquiring for public ownership a key land acquisition along the Kenai River. These missions would be accomplished by the legislation I am introducing today.

The Service has completed all the necessary negotiations on land acquisitions and exchange components and completed the necessary public review and legal reviews required for exchanges in Alaska. I commend the Service for their effort to acquire a key parcel of land along the Kenai River, inside the boundaries of the Kenai National Wildlife Refuge, for public use. This acquisition is the crucial component of this legislation. Just as crucial is the need to allow KNA to make economic use of lands conveyed to the corporation to settle Native land claims. It is wrong under any sense of fairness or the law to convey lands to Native corporations in settlement of recognized land claims yet at the same time prohibit the use of those lands.

The key components of the bill are as follows:

Sections 1 and 2 contain the short title and findings and purposes of the legislation.

Section 3 contains the definitions for the terms of the bill.

Section 4 provides for the exchange and acquisition terms, including lands to be exchanged, lands to be acquired by the Federal Government through the Land and Water Conservation Fund and provides for the general provisions applicable to the acquisition and exchange. Included is the removal of KNA lands from the Refuge.

Section 5 provides for the necessary boundary adjustments and status adjustments to the federally-owned lands.

Section 6 provides for the creation of a surplus property account in the amount determined by Congress using existing appraisals to be necessary to equalize values of the exchange.

Section 7 provides for the authorization of appropriations to carry out the purposes of the act.

Mr. Speaker, we will need innovative measures to resolve land use conflicts in Alaska. Secretary Babbitt has noted the need for innovative exchanges throughout the Nation to properly manage Federal lands. This legislation represents a fine example of an exchange which resolves a longstanding land dispute on a voluntary basis.

I believe we can and should resolve this dispute on a voluntary basis. If we fail to do so, the result will only be ill-will, an extreme inequity to the Alaska Natives of KNA, litigation and the loss of an important opportunity to acquire in public ownership riverfront lands along the Kenai River. Further, there will remain a significant doubt that any land use conflict involving Federal lands in Alaska can be resolved in a cooperative fashion.

Mr. Speaker, I have worked closely with the distinguished chairman of the Natural Resources Committee, Mr. MILLER on this matter, stretching back several years. I believe we are at the finish line and we have an unequaled opportunity to correct an inequity, acquire valuable habitat and show that innovative answers to land use problems will work in Alaska. I look forward to moving forward on this legislation or agreed-upon substitute legislation which resolves this matter on a voluntary, willing seller basis early next year.

HOLY COW! THE SCOOTER'S NOT IN THE HALL?

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. BOEHLERT. Mr. Speaker, "I think that my head shrinks a little in this indoor stadium," laments Phil Rizzuto as he settles down behind the microphone to call another game for Yankee fans. He's having trouble adjusting to the unfriendly environs of the Metrodome, "The mike is getting bigger. And I have to tighten it." A man who has lived and breathed baseball for every single one of his 75 years just can't reconcile himself to the monstrous steel edifice the Yankees are playing in this night.

Alternately displaying a tremendous command of the absurd and the dazzling, Rizzuto has thrilled New Yorkers for years with such commentary as this, from a 1991 Yanks-Jays game:

> Fly ball, right field. It's gonna drop in! No, it's not gonna drop in. Happy 46th wedding anniversary, Thomas and Mary Anne Clearwater. That's it. The last 3, 6, 9, 12 Yankees went down in order. So that's it. The game is over.

Commenting on his style of announcing, Rizzuto declared, "If ever I tried to analyze what I do, I'd be a professional. And I'd be out of work. I'm a fan. I get excited, I get mad, just the way a fan would."

But before he was the prolific voice of Yankee baseball and spokesman for a certain currency store, Phil Rizzuto was a great baseball player, and a key member of the tremendous Yankee dynasty of the 1940's and 1950's. During those years, Rizzuto helped lead the Yankees to 10 pennant championships and 9 World Series appearances, winning 7.

Scooter grew up playing stick ball in the streets of Brooklyn, dreaming of one day making it as a professional baseball player. Standing only 5′6″, however, he was too small to play in the big leagues, or so he was told. But he persevered, developing a deft touch in the field and craftiness at the plate.

He broke into the Yankee line-up in 1941. In that inaugural season, the young Rizzuto batted an impressive .307 and earned a permanent place on the team. That also happened to be the year that Joe DiMaggio set baseball's immortal record, hitting in 56 straight contests, and the Yankees went on to beat the Brooklyn Dodgers in the World Series.

During a game early on in that season, Rizzuto was called to the mound by the Yankee ace Lefty Gomez. "Kid, is your mother in the stands?" Lefty inquired. "Yes, sir, Mr. Gomez," Phil replied. "Well stay here and talk to me a little; she'll think your giving advice to the great Lefty Gomez." Later that day Rizzuto hit his first home run.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Unfortunately, on December 7, 1941, the Japanese bombed Pearl Harbor and Rizzuto was called to serve his country. However, Rizzuto went on to play 13 seasons for the Bronx Bombers.

There is no doubt in anyone's mind that Rizzuto was an outstanding ball player. But sharing the field with the likes of DiMaggio, Mantle, Berra—it is understandable why many have overlooked his great accomplishments. Perhaps his greatest season was in 1950. That year he led all American League shortstops with an incredible .982 fielding percentage. He also batted .324, higher than any shortstop in Yankee history, and was the league MVP.

But what sets Rizzuto apart is his unadultered enthusiasm for America's favorite pastime. Mel Allen once proclaimed, "His Value transcends statistics, Rizzuto was the heart and guts of the ball club." While he didn't hit many home runs, his tenacious competitiveness was displayed in other, less assuming ways. Rizzuto was especially renowned for his bunting ability and his tenacity on the bases, talents that don't generate headlines.

But for decades now, Rizzuto has been denied baseball's ultimate honor, induction into the National Baseball Hall of Fame in Cooperstown, NY. I can only hope that the Baseball Hall of Fame Committee on Baseball Veterans sees its way clear to correcting this oversight, by recognizing the outstanding achievements of a man who has dedicated his life to baseball, the greatest fan in the world, Philip Francis Rizzuto.

SPEECH BY EDWARD YAMBRUSIC

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. TRAFICANT. Mr. Speaker, last Thursday night I had the honor and privilege to attend an awards dinner given by the National Confederation of American Ethnic Groups, Inc., here in the Capitol. At this time, I would like to insert into the RECORD the very moving and insightful remarks made by the confederation's president, Dr. Edward Slavko Yambrusic:

SPEECH BY DR. EDWARD SLAVKO YAMBRUSIC

Today, it is fitting and proper to recall the noble aims and purposes of the National Confederation of American Ethnic Groups (N.C.A.E.G.), most important among them are:

1. Unite its collective and individual members for a greater American unity and democracy.
2. Develop pride in and love for our system of Government and its institutions.
3. Oppose Communist conspiracy at home and abroad, work toward the liberation of all enslaved nations and individuals, support the American principles of liberation, self-determination and full sovereignty for all peoples and nations, and oppose unprincipled expediency.
4. Oppose fascism and other totalitarian movements, teachings, and ideas which are contrary to our basic American concepts of freedom, democracy, social equality, and justice.
5. Eradicate discrimination based on race, religion, and national origin.
6. Uphold the rights of minorities in their freedom to speak, write, and worship; and encourage the ethnic groups to make a fuller more vigorous contribution to the American way of life.
7. Enable the ethnic groups to share fully in the rights and privileges, as well as the responsibilities, of citizenship, to which they are entitled under the constitution. This includes full and fair representation in the higher courts, in Congress, and in all policy making bodies of Government.

As you can see, we are an organization of idealists. Established in the 1950's, at the peak of the cold war, we were often dismissed by the Washington pundits, and the so-called "experts of the region" or the area "specialists"—as sentimentalists whom time has passed by, evicted from the "global village."

They had pretty much written off the aspirations of our people for self-determination in spite, of their schizophrenic existence under the various versions of Communism—from the one with the so-called "human countenance" generally attributed to Marshall Tito, to the hard core of Stalinism and Maoism. To our people this was distinction without a difference, insofar as their quality of life was concerned as individuals and members of a community of nations deeply rooted in their histories, traditions and general western orientation.

We have kept the faith for them, though mostly ignored by the media, we faithfully commemorated "The Captive Nations Week" year after year, until it suddenly happened—the wall of the "Iron Curtain" literally and figuratively crumbled—shell-shocking the liberal establishment and their "think tanks".

As our ancestral lands—one by one—began courageously declaring political independence and national sovereignty, one of the most noble purposes of the Confederation has been fulfilled. The historic nations—Armenia, Croatia, Slovenia, Slovakia, Ukraine, Belorus, the Baltic States of Lithuania, Latvia, and Estonia, and other peoples of the former Soviet empire—have raised their flags of freedom and democracy, discovering once again after decades, even centuries of neglect the beauty of their national heritage.

So, as a Croatian American, it gives me a great deal of pleasure, personal pride and satisfaction to have with us this evening his excellency, Dr. Peter Sarcevic, the Ambassador from the Republic of Croatia to the United States. His presence this evening has, you might say, fulfilled my dream and in some way completed my task in the Confederation. So it is true with my colleagues: Dr. Szaz for Hungary, Dr. Genys for Lithuania, Commissioner Maleski for Slovakia, Mr. Swider and Mr. Plonski for Poland, Dr. Dobrianski for Ukraine, and Judge Stocker for all of the above. Indeed, each of our members has carried in his or her heart a special place for the country of his or her roots.

So, let us celebrate tonight and give special honor and recognition to those distinguished Americans that have believed in the rightousness of our cause, the moral and spiritual strength of our people, and helped us to see the day of the emancipation of our people from the shackles of Communism and various shades of its hegemony.

We are neither separatists nor nationalists—we are freedom fighters—dedicated to the principles of self-determination of peoples, ordered liberty and democracy.

Today we have new challenge in the helping of our people as they go through a difficult period of transition from dictatorship, planned economy and such euphemisms as "self management" to democracy and free market economy. In this new struggle, we especially must not forget the people of Croatia and Bosnia and Hercegovina who have been exposed to the vestiges of barbaric Communism, chauvinist Serbian ultra-nationalism, and neo-fascism predicated on the arrogance of prejudice and hatred carried out in the most abhorrent systematic, calculated, policies of "ethnic cleansing" national and cultural genocide, rape, carnage, and destruction of irreplaceable cultural monuments, churches, mosques, and Jewish cemeteries, unprecedented in the history of mankind.

This indeed is the most bizarre conflict wherein a Serbian minority in Croatia-eleven percent—and in Bosnia and Hercegovina—thirty three percent—is destroying majority under the hypocritical pretext that the international community through the United Nations protective forces—unprofor—is protecting the belligerent minority from the destroyed majority that declared itself for a democratic system of government.

The clear undisputable acts of Serbian aggression and war crimes must not and cannot, as some have tried, unfortunately with some success, be equated with the victims and their occasional excesses, regrettable and reprehensible as they are, committed at the moment of desperation knowing that the free world, especially their ideal—the United States of America—does not care. But I do not accept the general alibi that the United States people does not care. The current U.S. establishment does not care. For Americans are compassionate people. We, as Americans do care and are totally disappointed with the current U.S. foreign policy without vision and moral considerations. For once we do agree with the Washington Post that the "line up" should be changed, but the roll call starts from the top.

So, on this auspicious occasion, we must urge and plead with President Clinton, his administration, Members of Congress, and, indeed, the whole civilized world, do not betray the sacred trust of western civilization. Do not permit any longer the destruction and holocaust of the very people that throughout history stood gallantly on the frontiers of western civilization defending and preserving the very shared values that have made this country the great Nation that it is.

If Western Europe—that benefited the most—has now abdicated its international responsibility—we, in the United States and you Mr. President, cannot and must not, because the faith and indeed the responsibility for ensuring the fundamental minimum standards of civilized behaviour is in your confidence and trust. The vital national interests of the United States are different from those of the now second rate powers that justify and hide their cowardliness and latent prejudice against Croatian people in the inaction and impotence of the still underdeveloped international organizations and institutions.

Yes, we are at the threshold of a new era of historic challenges and opportunities to shape and guide mankind to a new world order through law that reflects the commonality of what is good in the civilized heritage of man as a rational human being. In this effort, we must be willing to exert our highly superior military strength, and show decisively the moral and political resolve of the most powerful Nation in the world.

Barbarism in the heart of Europe must be stopped and those responsible for it must be punished in accordance with the normative standards of international law and order. Your's is the awesome responsibility Mr. President. You are the Commander-in-Chief. You must lead and show the way. If Nato is an American driven alliance, as the Europeans seem to perceive it and are waiting for a signal from the United States to go ahead then, Mr. President, give the command to stop this unparalleled human suffering and despair in the heart of Europe.

History shall not judge those who are no longer making history. The history will judge and hold us accountable—yes—the United States of America—entrusted in this period of human development with the protection of the innocent and helpless aganist the tide of brutal aggression. The noble values of our western heritage must not be betrayed less the manifest destiny become an empty phrase of a nation that has failed to answer the call at the pinnacle of its greatness.

If we are a nation of brave men, as I believe we are, we must not leave unanswered the desperate cries of innocence and human suffering. The occasional stretching out of the hand of humanitarian aid is not the answer to these outbursts of pleas to human decency and our humanity. The peacekeepers of the illusory nonexistent peace must be replaced with the peacemakers of the peace based on justice, equality, and human dignity. Thank you.

DRUG POLICY REPORT

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. OXLEY. Mr. Speaker, in the weeks and months leading up to House approval of the North American Free-Trade Agreement Wednesday night, critics of the agreement forecast any number of cataclysmic scenarios which would follow if NAFTA were enacted. Among these was the assertion, dubious in my opinion, that we would see a dramatic increase in drug trafficking across the United States-Mexican border.

In light of these statements, I wish to bring the following drug policy newsletter to the attention of the House. This is the preview issue of "Drug Policy Report," edited by Richard J. Baum, formerly of the staff of the House Select Committee on Narcotics Abuse and Control. "Drug Policy Report" promises to be an excellent resource for drug control policymakers. I recommend it to the attention of my colleagues.

[From the Drug Policy Report, Nov. 17, 1993]

DRUG EXPERTS FAVOR NAFTA—ANTIDRUG COOPERATION AT RISK WITH REJECTION, 70 PERCENT SAY

The vast majority of drug experts favor NAFTA, according to a national survey conducted by Drug Policy Report. Over 70% of those responding said NAFTA's rejection would severely harm U.S./Mexican antidrug cooperation. John Walters, Former Acting Director of the Office of National Drug Control Policy, said that because NAFTA "brings the U.S. and Mexico closer as neighbors it strengthens our anti-drug efforts, not harms them."

Robert C. Bonner, DEA Administrator until his resignation last month, said in a written response to the survey, that "[a] rejection of NAFTA is likely to adversely affect our overall bilateral relationship with Mexico," and "that it could also reduce the level of cooperation between the U.S. and Mexico in counter-narcotics matters."

Mexico seized almost 40 metric tons of cocaine last year, second only to the U.S. in worldwide seizures. Mexico has also cut its harvestable poppy production by 50%, its marijuana production by two-thirds, stepped up its air interdiction program, fired 3,000 Customs Police for corruption, and extensively deployed its military and police in drug control operations. It is estimated that 50-70% of cocaine entering the United States crosses the 2,000-mile-wide U.S./Mexico border.

Survey participants soundly rejected the contention of Ross Perot, that NAFTA would increase drug trafficking. In our survey 66% said it would make no difference, while 33% claimed that it would.

Rensselaer Lee, President of Global Advisory Services, said NAFTA would make trafficking "somewhat easier." William von Raab, who served as Customs Commissioner under President Ronald Reagan, told us that "NAFTA will worsen the narcotics situation" because of the increased pressure Customs officials would be under to keep border traffic moving.

New York based drug policy expert Dr. Rachel Ehrenfeld, stated that NAFTA will not only make trafficking drugs easier, it will also make money laundering easier. She further noted that businesses in Canada, America, and Mexico were "turning a blind eye" to money laundering. She is not against NAFTA, but suggests that as a condition of NAFTA the U.S. demand Mexico's full compliance with all American money laundering laws.

Most experts, however, said that NAFTA would not make any difference. Typical was the response of Bonner, who said that the implementation of NAFTA, would "* * * not significantly affect the flow of illegal drugs from Mexico to the U.S.," since the "vast majority of all illegal drugs seized at the border result not from random searches but from prior investigation and resulting intelligence information."

Former Customs Commissioner Carol Hallett, who served under President Bush believes that law enforcement agencies on both sides of the border are ready to handle any increase in trade. Hallett told Drug Policy Report of the extensive preparations that Mexico has gone through in anticipation of NAFTA.

Two years ago Mexican Customs Policy secretly trained "1200 new Customs Inspectors for the border and gave notice to 3000 Customs inspectors" suspected of corruption. Currently Mexican Customs officials are moved every 6 weeks to different places on the border so they don't become "too chummy," with individuals in any specific area. They are also subject to annual lie detector tests. Hallett stressed the "outstanding relationship" between U.S. and Mexican Customs, saying "If we don't have good cooperation, we can't deal with problems that will arise." She added that the U.S. has boosted its Customs Service, adding 1,000 new inspectors along the border (to a total of 3,000) and spending $350 million on site improvements and equipment to enable the inspectors to more effectively search vehicles and cargo containers.

Survey participants repeatedly pointed out how critical NAFTA was for the overall U.S./Mexico relationship. Former Deputy Assistant Secretary of State for International Narcotics Matters (INM), Bill Olson says "NAFTA marks an important breakthrough. Its rejection will "poison our ability to cooperate on a whole range of issues" and "set back relations a generation."

Ann Wrobleski, former Assistant Secretary of State for INM adds that NAFTA's rejection will reverberate throughout Latin America and "bodes disastrously for everyone with whom we cooperate on narcotics." She also praised the Mexicans for taking over the costs of their antidrug program, which was once funded primarily through U.S. aid.

Stephen Flynn, Co-Director of the Brookings Global Addiction Project, predicts NAFTA's rejection will significantly damage U.S./Mexican relations and result in the revival of Mexican sovereignty concerns. Previous Mexican Administrations have rejected antidrug surveillance activities on sovereignty grounds.

Two well known academic experts told Drug Policy Report that the NAFTA/drug linkage had been oversold. Harvard's Mark Kleiman said that NAFTA "will not have any impact" on cocaine traffic. Rand's Peter Reuter called the connection a "damn red herring," explaining that NAFTA would not affect border drug trafficking.

Former DEA Administrator Jack Lawn raised the analogy of intra-border changes in the European Community, which is something U.S. law enforcement has been concerned about for a number of years. However, Lawn said the situation with Mexico differs because neither the U.S. nor Mexico intend to eliminate border inspections as has been done in the EC.

Drug Policy Report's NAFTA survey adds weight to the argument that NAFTA's rejection would make drug control harder by damaging the cooperative counter-narcotics relationship that has been established between Mexican and American authorities. The survey offers Members of Congress concerned about drug trafficking some clear advice on NAFTA along the lines of the Hippocratic oath—first do no harm. Rejecting NAFTA would surely damage U.S./Mexican relations and thus seriously harm border drug control.

NO SURRENDER IN DRUG WAR

Welcome to Drug Policy Report. In the months and years ahead we will be investigating and reporting on all aspects of the struggle against illegal drugs around the world. We hope you will join us as charter subscriber.

This brief special preview issue focuses on the NAFTA/drug issue, but future issues will be much more comprehensive. Each month we will report on the activities of U.S. Drug Agencies, both in Washington and around the world. We will also use our expertise, and that of our many friends in Washington and abroad, to analyze what the news means and to predict where it will lead.

Every issue will open with an original piece of investigative journalism, examining important narcotics issues that have yet to be sufficiently covered by the mainstream media. Every regular edition will also include an opinion column from a distinguished expert in the antinarcotics field.

This newsletter is designed to serve as the voice of the international narcotics control community. We are looking forward to giving those of you knowledgeable about drug policy a forum to express your views. Starting next month we will also include your letters.

As many of you know, some of the key people behind this newsletter used to work for the House Select Committee on Narcotics Abuse and Control, which was eliminated in May as a budget savings measure. Fortunately, the Committee has been revived as a Legislative Service Organization led by former Select Committee leaders Charles Rangel (D-NY) and Mike Oxley (OH). Drug Policy Report will follow their activities closely.

However, the elimination of the Narcotics Committee was only the first of many recent setbacks for antidrug efforts. The Clinton Administration has lowered the priority of drug control and severely weakened the Office of National Drug Control Policy through staff and budget cuts. Resources for both international narcotics control and interdiction programs have also been reduced. Most importantly, the U.S. has surrendered moral leadership of the international drug war by failing to press the issue with our allies.

However, it is not too late to turn things around. Those assuming key narcotics jobs in the State Department have long experience with drug issues and could provide a needed boost to antidrug efforts.

Our recommendation: President Clinton should schedule the next drug summit. Of course, he should consult privately with the Andean Governments on the details, but Clinton has to take the initiative. The Administration might even consider making this summit inclusive of the entire Western Hemisphere. Such an event would get the Administration and the world to focus on the challenges posed by the burgeoning global narcotics trade.

In the words of Brookings narcotics expert Stephen Flynn "a national war on drugs makes as much sense as a national war on ozone depletion." Every government, including America's, must find the will and the resources to combat both the foreign and domestic elements of the drug problem.

AUTHORIZING A CALIFORNIA URBAN ENVIRONMENTAL RESEARCH CENTER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. STARK. Mr. Speaker, today I am introducing legislation to authorize the Environmental Protection Agency [EPA] to establish a California Urban Environmental Research and Education Center.

I am honored to be joined in this effort by twelve, bipartisan, California colleagues: Mr. DELLUMS, Ms. PELOSI, Mr. HORN, Mr. LANTOS, Mr. MATSUI, Mr. MILLER, Mr. HAMBURG, Mr. GALLEGLY, Mr. FAZIO, Ms. WOOLSEY, Mr. MINETA, and Ms. ESHOO.

This center would bring the considerable research and technical expertise of California's universities to bear on the employment and environmental challenges of California's base closures and defense conversion. Among other activities, the center would:

Seek alternative uses for closed military installations and facilities;

Encourage the transfer of Government technology to the private sector;

Coordinate CSU and UC research on California's environment;

Assist small businesses in meeting environmental regulations;

Foster public-private partnerships to solve environmental problems;

Hold conferences on defense conversion, ecology, and economic development;

Develop educational curricula, fellowships, and grant programs for colleges and universities; and

Advise State and Federal policymakers on the economic and environmental implications of development.

The program would be initially managed by representatives from five California State University [CSU] campuses—Hayward, Sacramento, San Francisco, Sonoma, and San Jose. Within 2 years it would expand to include all public and private universities interested in participating. Each member university would have representation on the governing board. The center priorities will include involving the University of California and CSU campuses throughout California.

The center's initial office will be located in northern California, near the five campuses which have already committed to the effort. However, the center's work will be statewide from the start, and the board of governors are directed to establish within 2 years an office in southern California, convenient to the member universities.

This bill authorizes $2.5 million for 1995 and such sums as necessary for 1996–99; it does not require new appropriations. This funding could come from the EPA's Office of Research Development which received a 4.9 percent—$15 million—budget increase this year. The ORD already funds nine other research centers, none of which have this distinctive, defense conversion focus, and none of which are located in California, which bore 40 percent of the recent defense cutbacks and base closures.

CSU, Hayward will act as the initial fiscal agent and will guarantee a 20-percent match of the Federal funds provided. The center is required to leverage additional contributions from the State government, the private sector, and the member universities.

I hope my colleagues will help California with its defense conversion by becoming an original cosponsor of this important legislation.

INTRODUCTION OF H.R. 3599

HON. LYNN SCHENK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Ms. SCHENK. Mr. Speaker, I rise today to inform my colleagues about a piece of legislation which I have introduced, H.R. 3599. As we all know, recent and necessary regulation to protect dolphins has placed a burden and responsibility on the U.S. tuna fishing industry. This regulation has been successful in protecting marine mammals, and the U.S. industry has worked hard to comply. This compliance has, of course, come at a price.

In the other body, Senator JOHN BREAUX of Louisiana has taken notice of the industry's difficulty and introduced legislation which will help U.S. tuna vessels to leave the eastern Pacific and fish in other waters where tuna and dolphins do not swim in tandem. H.R. 3599 is a companion bill to Senator BREAUX's bill, and I am happy to follow the Senator's lead by introducing this bill in the House.

One of the difficulties an American tuna fisherman confronts when trying to move operations to a new fishery is that many of those fisheries are in the waters of other Nations, and their laws prohibit fishing by foreign flagged vessels. This legislation allows the U.S. owner of a U.S.-registered tuna fishing vessel acquired, constructed, or reconstructed with money from that person's capital construction fund account to transfer the registry of the vessel to a foreign flag without the tax liability the owner would normally incur. The vessel must continue to be owned and operated, directly or indirectly, by an American. The vessel must be operated in compliance with the Marine Mammal Protection Act, and the vessel would be required to comply with all other requirements of participation in the capital construction fund.

This legislation helps to strike an appropriate balance between the conservation of precious natural resources and maintaining an important fishing industry.

Again, I want to commend Senator BREAUX for his hard work and leadership on this issue. I ask unanimous consent that the text of H.R. 3599 be included in the RECORD immediately after this statement, and I urge my colleagues' support for this bill.

H.R. 3599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF REGISTRY FOR CERTAIN FISHING VESSELS.

(a) IN GENERAL.—The transfer of registry of a tuna fishing vessel which is an agreement vessel documented under the laws of the United States to foreign registry shall not be treated, for purposes of the Merchant Marine Act, 1936, or any other law of the United States, as—

(1) a disposition of such vessel, or

(2) a failure to meet any substantial obligation under an agreement entered into between the owner or operator of the vessel and the Secretary,

if the vessel continues to be owned, directly or indirectly, by a United States person and to be operated in compliance with the first section 307 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1417).

(b) DEFINITIONS.—For purposes of this section—

(1) any term defined in section 607(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177(k)) that is used in this section shall have the meaning given that term in that section; and

(2) the term "United States person" has the meaning given that term in section 7701(a)(30) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)(30)).

(c) EFFECTIVE DATE.—This section shall apply to any transfer of registry effected before January 1, 1996.

A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, AND FOR OTHER PURPOSES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce a bill to amend the Alaska Native Claims Settlement Act of 1971 at the request of the Alaska Federation of Natives. This bill is the result of the work of the Legislative Council of the Alaska Federation of Natives to correct existing technical problems with the Alaska Native Claims Settlement Act [ANCSA] and the Alaska National Interest Lands Conservation Act [ANILCA]. I am introducing the bill at the end of this session to start the review process by, and to receive the input of, the State of Alaska, various Federal agencies, Native entities and individuals affected by this bill. It is important that all interested parties understand that this is a beginning point for this process. I fully expect the input process to refine and expand the legislation, and invite such input.

I have discussed this bill briefly with Chairman MILLER of the Natural Resources Committee and he has expressed his interest in working with me, the Alaska Federation of Natives, the State of Alaska, Departments of Agriculture and Interior and other agencies affected by this bill to resolve any differences we may have with specific provisions in the bill. Further, we look forward to receiving further suggestions for additions to this package and working with Alaska Senators TED STEVENS and FRANK MURKOWSKI to perfect the package. Ultimately, it is our intention to investigate and resolve controversial provisions which would prevent final passage of this bill.

This bill makes a number of technical changes to ANCSA and ANILCA. It also makes a number of substantive additions which address issues not anticipated at the time of passage of ANCSA. Because of Alaska's relative youth as a State of the Union and the unprecedented amount of Alaska-specific Federal legislation passed since statehood, it is imperative that we respond to occasional oversights and/or quirks in the overlapping laws to ensure that unintended consequences do not occur. This effort is designed to rectify such instances.

As the legislation is designed to resolve specific problems, it contains many individual provisions, and will probably contain more as a result of the hearing and input process. To offer a flavor of the nature of the legislation, a few illustrations are in order.

For example, the bill would make it possible for the Caswell and Montana Creek Native groups to receive approximately 11,520 acres of land pursuant to a February 3, 1976, agreement and subsequent March 26, 1992, letter of agreement with Cook Inlet Region Inc. [CIRI]. This will fulfill their land entitlement from CIRI under the ANCSA.

Another provision would relieve ANCSA corporations of liability for hazardous wastes or contaminants left in, or on, ANCSA lands prior to their conveyance to Native corporations. It also directs the Secretary of the Interior to remove all contaminants left by the United States, an agent of the United States, or lessees prior to conveyance of these lands to the Native corporations. In some instances, the Government has conveyed lands and property interests to Alaska Natives which have been rendered valueless because of such contamination. It was clearly not the intention of ANCSA to extinguish Native claims by conveying contaminated property to recipients.

The Chugach Alaska Kageet Point land selection provision would allow Chugach Alaska Native Corp. to select a specific tract of land at the edge of its own current boundaries.

Mr. Speaker, I offer this bill at this time to begin the process of reviewing each of these important provisions and others which affect Alaskans. I welcome input to add to, subtract from, and amend this proposal so that a noncontroversial substitute may be offered next year.

SOLAR CAR CONTINUES TO PROVE ITSELF

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. KIM. Mr. Speaker, I would like to bring to my colleagues' attention the continuing accomplishments of the Cal Poly Pomona's solar energy team.

Despite very difficult conditions, including 4 grueling days in Australia's outback, Cal Poly Pomona's solar car, the Intrepid, finished the World Solar Challenge as the best car in North America and the top United States car.

Clearly, Cal Poly is proving that harnessing solar energy, even for transportation, is not only possible but efficient and practical. The Intrepid completed the 1,900-mile course with a personal best of 47.4 hours at an average speed of 63.64 kilometers per hour, placing it eighth overall. That's ahead of all other American teams. And, while others like Japan's Honda Dream may have finished ahead of Intrepid, they also spent a great deal more money. Cal Poly Pomona's certainly got more mileage for the money.

The student-built and operated Intrepid is a quality demonstrator that continues to push the limits of current solar technology. The efforts of these pioneers are to be recognized and commended.

I know that we can expect even greater future accomplishments from Pomona's solar energy team, and I look forward to their next important milestone in developing new alternative forms of transportation.

HAPPY 80TH BIRTHDAY TO FORMER CONGRESSMAN PAUL A. FINO

HON. DAVID A. LEVY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. LEVY. Mr. Speaker, it is with great pride and pleasure that I rise today to honor a former Member of this body on the occasion of his 80th birthday.

Mr. Speaker, my constituent, former Congressman Paul A. Fino, has dedicated his life to public service in a career which spanned four decades. From his election to the New York State Senate in 1944, his tenure as Civil Service Commissioner of the city of New York, his service as a distinguished member of this body, to his appointment as a justice of the New York State Supreme Court, Congressman Fino consistently demonstrated the fundamental qualities of a true leader: Hard work, honesty, a commitment to integrity and a willingness to make tough political choices.

Throughout his years in the House of Representatives where he served as chairman of the New York State Republican delegation, Congressman Fino was widely known as a tireless advocate of the little guy. Despite his prominence in this body and on the national and State political scenes, Congressman Fino never strayed from his roots. Known as the Bronx's Mr. Republican, Congressman Fino always remembered and fought for the issues that were important to those to whom he dedicated his career and, throughout the years, Congressman Fino managed to touch the lives of many of the people of New York's 25th Congressional District.

Somewhere in this great Nation there walk 150 middle-aged men who can cite one of many examples of how Congressman Fino touched the lives of his constituents. You see, these middle-aged men many years ago, as boys, played little league baseball in the Bronx. But in 1955 when these young boys of the Bronx were 10 years old and eager to partake in America's beloved pastime, they were told that there would be no baseball in the Bronx that summer because the city of New York was unable to provide a field on which to play. Congressman Fino refused to allow a part of the childhood of each of these boys to be taken from them. So with his usual vigor and tenacity, Congressman Fino marched up to the powers that be in New York and less than a month later, a baseball diamond was installed at Pelham Bay Park. One small gesture yes, but surely a feat of magnanimous proportion to those 10-year-old boys of the Bronx and the men they have become. This is but one of the hundreds, probably thousands, of examples of the importance Congressman Fino placed on the needs of his constituents, even those too young to vote.

During his time in the House, Congressman Fino's political skills were unquestioned. Election after election he surmounted incredible odds and won reelection to the House. Congressman Fino was elected to the House eight times despite the fact that voter registration in his district was 3 to 1 against him. After 16 years in the House, Congressman Fino retired in 1968 to become a justice of New York's Supreme Court. Upon his retirement, then minority leader, Gerald Ford, remarked: "Above all, Paul Fino has been an advocate of the little people-working man, the civil servant and the elderly. He can look back with satisfaction on his eight terms in the House of Representatives for his has been a strong record in the civil service, labor, and housing field." Ford went on to add "* * * the House of Representatives will lose some of its spark and fire with the departure of Paul Fino, a stand-up political fighter, a real sock-it-to-'em guy."

Today, Congressman Fino resides in Atlantic Beach, Long Island, a small town in the western portion of my district. Although he is now retired from public service, he continues to be active in many local civic and charitable organizations. He has been a devoted husband to his wife Esther for over 50 years and he is proud father of two and grandfather of five. Mr. Speaker, it is truly a privilege and an honor to wish Congressman Fino a very happy and healthy 80th birthday.

CONGRATULATIONS TO BELLA VISTA LODGE FOR 25 YEARS OF COMMUNITY SERVICE

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. SANTORUM. Mr. Speaker, it is a great pleasure, and an honor, as an Italian-American to take this opportunity to pay tribute to a most deserving community group on the occasion of its 25th year of service.

On December 1, 1968, James D. Trovato, Domenic Ross, along with Alvina Trovato and Sandra Collura, received a charter to form one of the most energetic and spirited lodges of the Italian Sons and Daughters of America. It is a lodge of which I am proud to be a member.

Bella Vista Lodge #253 is a Fraternal order which actively celebrates its Italian heritage. Jim Trovato has served as president and Sandra Collura as financial secretary for 25 years. Beginning with 100 members and growing to over 350 members to date, lodge members participate in many philanthropic works. For example, the lodge's program of adopting a seniors residence in Brookline, PA, is one of the finest examples of community outreach to be found anywhere. Lodge members make seasonal visitations to seniors, bringing small gifts and welcoming the residents to be guests of the lodge for their dinner meetings.

The lodge works to help friends and relatives in their time of need, whether that need be financial or emotional. The lodge has also created a scholarship program for all youth members attending college. During Christmas time, members entertain the children, and if a member is sick or hospitalized, the lodge is there to help with greetings and a gift.

As our Bella Vista Lodge celebrates its 25th year of service to the community and preservation of Italian heritage, I congratulate its members for their past achievements, and encourage a continued dedication to community service, and honor for the Italian-American cultural identity.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

KEY DOCUMENTS

SOURCE E

a. The source is an executive board member of the Federation who was previously arrested and convicted through the enforcement efforts of officer Occhipinti. The source confirmed in a consentually monitored conversation that based on personal knowledge, it was Simon Diaz who formulated the case against officer Occhipinti.

NEW YORK POST INVESTIGATION

a. I read articles published in the New York Post by investigative reporter Mike McAllary in which he conducted an in depth investigation into officer Occhipinti's case. Mr. McAllary confirmed the Federation set up conspiracy. The investigation alleged that the Federation used its political influence within the Dinkins Administration to have officer Occhipinti selectively prosecuted. The investigation implicated Federation Vice President Erasmo Taveras in the set-up conspiracy. Mr. Taveras, the owner of many currency exchange houses in the Dominican Republic and New York City, was recently convicted in the State of New York for the illegal wire transfers of 70 million Dollars. According to the Post and New York Times the New York State Attorney General also implicated Mr. Taveras in loan sharking activity. Exhibit "J"

JOURNALIST TEO RODRIGUEZ

a. Mr. Rodriguez, an independent Hispanic journalist covering officer Occhipinti's trial, admitted to me that his sources have confirmed the existence of the Federations set up conspiracy. Moreover, one of his sources confirm that complainant Jose Liberato is the reputed drug lord of the CIBAO DRUG CARTEL, which allegedly uses juveniles in his drug trafficking activity.

b. Mr. Rodriguez' sources confirm that complainant Rene Suarez, is the kingpin of a major Cuban gambling operation. In fact, when Mr. Suarez testified at trial he was accompanied by a major Cuban organized crime figure.

c. Mr. Rodriguez stated that due to the political and economic power of the Federation, he was stopped from publishing his article which was favorable to officer Occhipinti.

d. Mr. Rodriguez stated that he saw first hand many of the prosecutorial abuses in the court room.

e. Mr. Rodriguez stated that his sources are afraid of testifying to the above in fear of retaliation.

JOURNALIST MANUEL DE DIOS

a. Mr. De Dios, a spanish journalist with an expertise in Dominican organized crime admitted that his investigation and source interviews confirmed the existence of the "set-up" conspiracy and the Federation involvement in criminal activity.

b. Mr. De Dios stated that after he had published his newspaper articles which exposed the set up conspiracy and the Federations involvement in criminal activities, he received death threats. In addition, he alleges that the Federation attempted to put him out of business via a boycott of his newspapers by Federation merchants. It should be noted that the Federation conducted a similar boycott against the New York Post in retaliation of the McAllary articles.

c. Mr. De Dios alleged that one of his sources is a Dominican merchant heavily indebted to complainant Jose Liberato, a known loan shark. The source has allegedly defaulted on the loan and is in fear of assassination. Exhibit "K"

d. Mr. De Dios alleged that he has evidence that many of the staff members of the El Diario Newspaper are allegedly involved with Drug trafficking activity with the Federation. It should be noted that El Diario publicly claimed credit for officer Occhipinti's conviction since it was their articles that exposed the Federations allegations.

e. Mr. De Dios agreed to cooperate with any Justice Department and/or Congressional investigation.

CONFIDENTIAL POLICE SOURCE

a. In a transcript of a consentually monitored conversation, I read an exchange between a confidential police official and officer Occhipinti. The police officer confirmed through the intelligence community that officer Occhipinti was intentionally set up through the efforts of certain Dominican organized crime figures. The source alleged the principal co-conspirator was Pedro Alegria, the former Minister of Tourism to the Dominican Republic. The source alleges Mr. Alegria has reputed ties to the Colombian drugs cartel and the Federation. The source alleged that officer Occhipinti was set up because his enforcement activities was hurting Dominican organized crime operations. The source also alleged that the same cartel was successful in 1988 in closing down a major US Customs drug trafficking and money laundering investigation.

The Customs case number for this investigation was NY02AR8NY003. It should be noted that this case was allegedly implicated in the failed BCCI bank scandal.

CONCLUSION

It would be criminal to allow the system and those who misuse its processes to convict with impunity a law enforcement officer with the brilliant record of officer Occhipinti. It is clear from the voluminous pieces of materials and newly developed evidence of the conspiracy described herein, that the appropriate legal investigatory bodies conduct an immediate investigation. This investigation was requested by over 300 major police organizations, civil rights organizations and elected officials nationwide, however, was callously denied by the Justice Department. It is speculated that the Justice Department's decision was based upon erroneous conclusions drawn from the Southern District of New York, where we allege prosecutorial misconduct.

It is my duty as an officer of the court to respectfully request that a hearing be ordered by the Second Circuit Court of Appeals into this matter. Secondly I urge the Congress of the United States and the United States Senate conduct an appropriate investigation into this travesty of justice.

ANGEL NUNEZ, Esq.

STATE OF NEW YORK,
County of New York, ss:

Richard L. Callaghan being duly sworn deposes and says:

1. I currently reside at * * *

2. I am presently the President of the Federal Agents Policemen's Benevolent Association (PBA) Local 121, a fraternal police association representing Federal Agents in the New Jersey Tri-State area. I am a retired federal agent and senior criminal investigator.

3. On May 20, 1992 at approximately 4:20 PM I interviewed Jaime Caba, the owner of The

Broadway Deli located at 3750 Broadway, New York, New York. I identified myself as working for Joseph Occhipinti and specifically not for the government.

4. During the interview he acknowledged that on March 27, 1990 at approximately 4:10 PM he was interviewed by Joseph Occhipinti regarding the fact that he had been in a travel agency operated by Reymundo Tejeda, A26-164-013. While Agent Occhipinti and Agent Williams were in the Uptown travel agency seizing various pieces of fraudulent documents Caba was observed in the travel agency. Occhipinti and Williams subsequently interviewed Caba on March 27, 1990 at his deli.

5. Mr. Caba advised me that Agent Occhipinti identified himself and asked for documentation. At the time he asked for the identification, Agent Occhipinti secured the front door. Caba said he was courteous at all times, that Agent Occhipinti asked and received a consent of search.

6. He stated to me that there were large sums of money on the premises that were for cash payments for deliveries of Pepsi Cola and other goods. Agent Occhipinti was courteous and made no attempt to seize any money. No contraband was found.

7. Mr. Caba is a former police officer in the Dominican Republic and fully understood what Agent Occhipinti was doing and was more than willing to cooperate. Although he was annoyed that the front door was locked, he, being a former police officer, understood that it was proper procedure to lock the door.

8. He stated to me that at no time did he complain to anyone that his civil rights had been violated. He was interviewed by investigators and an attorney from the Southern District of New York. He refused to press charges and he refused to go to the Southern District to testify. He also indicated to me that he would be more than happy to testify on Agent Occhipinti's behalf.

RICHARD L. CALLAGHAN.

STATE OF NEW YORK,
County of New York, ss:

Richard L. Callaghan being duly sworn deposes and says:

1. I currently reside at * * *

2. I am presently the President of the Federal Agents Policemen's Benevolent Association (PBA) Local 121, a fraternal police association representing Federal Agents in the New Jersey Tri-State area. I am a retired federal agent and senior criminal investigator.

3. May 20, 1992 at approximately 3:00 PM I interviewed Yehye Abuzaid, legal permanent resident, no. A 382131351. I identified myself as working specifically for Mr. Occhipinti and not the Government. Mr. Abuzaid is the owner of the Uptown Deli and Grocery located at 82 West 125th Street, New York, New York.

4. In reference to an interview by former Agent Joseph Occhipinti on March 28, 1989 at 6:55 PM subject acknowledged the interview of March 28, 1989. He stated that Agent Occhipinti, accompanied by two other agents, identified themselves and asked if he had his Immigration Identification. He indicated that he did not. Mr. Abuzaid was handcuffed until the agents could verify that he was a legal alien.

5. The agents requested and received a consent to search the premises for illegal aliens and contraband. They located a locked safe in the back store room. Mr. Abuzaid indicated that the safe was not his and that he had no idea what was inside the safe. He gave permission to Agent Occhipinti to obtain assistance in opening the safe. Agent Occhipinti contacted NYCPD Emergency Service who arrived at the location, verified with the subject that the safe was not his and that they had permission to open it which they did. The safe was empty.

6. The Government alleges that two agents accompanying Agent Occhipinti left the premises rather than witness the opening of the safe. The two agents subsequently allege that they located the business that they were looking for at 290 Malcolm X Boulevard on their own. I asked Mr. Abuzaid if that were true. Mr. Abuzaid indicated to me that he advised the agents that he was the owner of the location of 290 Malcolm X Boulevard and that he told the two accompanying agents the location. He further advised the agents that he had sold the premises and that he was aware there was illegal activity taking place on that premises.

7. When questioning Mr. Abuzaid as to whether he felt his civil rights were violated, he answered in the negative. He stated that he had voluntarily signed a consent to search form prior to any search conducted by Agent Occhipinti.

8. He also stated that the United States Attorneys Office contacted him to give statements and testimony on two different occasions. He indicated that he refused both requests.

RICHARD L. CALLAGHAN.

AFFIDAVIT

STATE OF NEW YORK,
County of Richmond, ss:

Ray Hagemann, being duly sworn, deposes and states:

1. I am presently employed by Staten Island Borough President Guy V. Molinari. On or about October 1991 I was designated as one of three chief investigators in order to investigate the prosecution and conviction of former Federal Agent Joseph Occhipinti for civil rights and related violations. The purpose of the investigation was to ascertain if Mr. Occhipinti's conviction was the result of a well orchestrated conspiracy by the Dominican drug lords he was investigating. Moreover, to ascertain if any prosecutorial, political or judicial misconduct occurred during his prosecution that prevented Mr. Occhipinti from receiving a fair trial.

2. I was designated as a chief investigator because of my prior training, experience and employment as a Federal Agent for the United States Departments of Justice and the Treasury and U.S. Small Business Administration.

3. My (post conviction) investigation clearly disclosed overwhelming, credible and undisputed evidence and witnesses providing the alleged drug cartel conspiracy. In addition, the cartel peddled it's political influence to have Mr. Occhipinti selectively prosecuted through the efforts of New York City Mayor Dinkins and others. During the prosecution, there were numerous, well documented instances of prosecutorial and judicial misconduct which were referred to the United States Department of Justice, Office of Professional Responsibility. Investigation further disclosed evidence that the majority of the Governments' chief witnesses (Dominican merchants) who were portrayed as *"law abiding"* are in fact involved in ongoing, organized crime activity. This evidence was referred to the U.S. Department of Justice, but unfortunately, as part of a cover-up they blatantly refused to investigate the allegations. In view of these alleged improprieties, the Office of Special Counsel has agreed to conduct a preliminary investigation into the alleged conspiracy and cover-up by the Justice Department. Investigation also disclosed the real possibility that the foregoing witnesses and informants may be in imminent danger of assassination due to their cooperation and potential court testimony.

(1) As part of my investigation I interviewed potential witnesses, and others who had information that was not available to the defendant, Joe Occhipinti at or before his trail.

(2) I discovered that S.D.N.Y. Prosecutors filed one original and two superseding indictments. The reason for the second superseding indictment was that prosecutors discovered that a witness against Joe Occhipinti committed perjury. This count was dropped and prosecutors took no action against the individual who committed perjury (Richard Knniping). I discovered that David Lawrence Deputy Chief of Criminal Division SDNY had encouraged Joe Occhipinti to actually commit civil rights violations in Project Red Eye which preceded Project Bodega (summer 1989). My memo dated 12/27/91.

(3) In early 1992 I became acquainted with a C.I. who informed me that he had personal contact and dealings with Jose Liberato, Elias Taveras, Leonides Liberator, Jose Prado and Altagracia Crucey who were chief prosecution witnesses against Joe Occhipinti. At my direction this C.I. initiated a series of undercover discussions with Elias Taveras and Joe Prado to learn if they testified truthfully against Joe Occhipinti. This C.I. was able to record certain conversations with Elias Taveras and Jose Prado in spanish. These conversations indicated that Mr. Taveras and Mr. Prado lied in the Grand Jury and Trial. Affidavits dated 4/21/92 and 6/1/92.

(4) In order to verify the authenticity of one of the taped conversations between C.I. #1 and Mr. Taveras I engaged the services of a voice analysis expert, Tom Owen and under scientifically controlled conditions Mr. Owen stated "similarities do exist between the voice on the unknown tape and the voices on control 1 & 2. Pitch, quality, mannerisms and accent are similar." C.I. #1 also provided me with a tape of a conversation he had with Jose Prado in which Mr Prado admitted he received $35,000 to falsely testify against Joe Occhipinti. Mr. Prado also implicated Jose Liberato, Altagracia Crucey, Rhadames Liberato and "a few others" in giving false testimony at the trial of Joe Occhipinti. C.I #1 also related in affidavit form a conversation with Jose Liberato in which Mr. Liberato admitted he falsely testified against Jose Occhipinti in court. The affidavit is dated April 21, 1992.

(5) I also interviewed other people who gave affidavits that either directly or indirectly confirm the fact that Jose Occhipinti was convicted of civil rights charges based on perjurious testimony by many of the chief prosecution witnesses. I have attached these affidavits to my affirmation.

DEFENSE WITNESSES AND INFORMANTS WHO EXECUTED AFFIDAVITS

1. Dr. Angel Nunez, Attorney at Law. Evidence of drug cartel conspiracy.

2. Manuel De Dios, Journalist. Evidence of drug cartel conspiracy Affiant was assassinated by reputed drug lords.

3. Richard Callaghan (Former Federal Agent). Evidence that complainant Rene Suarez submitted to the court forged documents & committed perjury.

4. Source A (HR). Evidence that the majority of the complainants are involved in ongoing organized crime activity (confirms motive for conspiracy & trial perjury.

5. Source B (AC). Evidence of conspiracy implicating the law offices of Aranda & Guttlein. Evidence of prosecutorial misconduct (failure to turn over exculpatory evidence.

6. Source C (RA). Evidence of the conspiracy & prosecutorial misconduct.

7. Source D (HN). Evidence of conspiracy.

8. Source E (PN). Evidence of conspiracy & perjury implicating complainants Reymundo Tejeda, Nury Brito & others, supported by consensually monitored tapes.

9. Source F (VL). Evidence of prosecutorial misconduct (supported by consensually monitored tapes). Evidence of conspiracy implicating complainants Jose Liberato.

DEFENSE WITNESSES AND INFORMANTS

1. Lenny Lemer: An independent DEA Task Force investigation by this source uncovered documentary evidence of the conspiracy, S/A Jarret (FBI) and AUSA Valerie Cabroni (EDNY) debriefed the source.

2. Lou DellaPizzi: An investigation by the Manhattan District Attorney disclosed that Attorney Aranda attempted to frame the source on fabricated civil rights charges (similar to the Occhipinti case. (An indictment is expected).

3. Source L (CB): Evidence of conspiracy implicating complainant Jose Liberato.

Evidence of ongoing organized activity implicating complainants. A video statement was taken from the source. The source was debriefed by FBI S/A Lionel Baron, and other law enforcement agencies.

4. Source M (C): An Internal Affairs undercover bribery corruption investigation has implicated complainant Leonidas Liberato-Checo (Medina Grocery) for bribery of public officials. The bribes were intended for police protection of the Liberato-Checo gambling operation. Mr. Occhipinti has assisted the Checo crime syndicate. Criminal arrests are expected. The IAD investigation proves the conspiracy motives to frame Occhipinti after he turned down attempted bribes and continued in his enforcement efforts.

5. S/A Lionel Baron: This FBI Agent has interviewed sources relative to the Occhipinti conspiracy, in addition, He recruited confidential informants to do continued undercover work for the FBI, which never materialized. The agent formally advised me that it was paramount for the defense to get access to his investigative files under FOIA. We are formally refused by the FBI access to S/A Baron's reports, which we know contain exculpatory evidence of Mr. Occhipinti's innocence.

6. S/A John McAllister: This agent provided testimony that government witness S/A Ng gave perjured testimony against Mr. Occhipinti. Moreover, he reported the perjury to the U.S. Attorney who failed to investigate it or notify the defense.

7. Source G: There are two consensually monitored taped conversations where complainants Jose Prado & Elias Taveras admitted bribes were paid by complainant Liberato to certain prosecution witnesses to provide perjured testimony. Attached as exhibits "V" and "W" are copies of the transcript. In addition, attached as exhibit "X" is an independent forensic expert report confirming the voice authenticity on one of the tapes.

8. James Fox, Asst. Dir.: Mr. Fox has publicly confirmed that an FBI investigation had uncovered a exculpatory evidence that may prove Mr. Occhipinti's innocence. Moreover, he publicly told certain law enforcement sources that Mr. Occhipinti deserves a new trial.

On April 30, 1992 I participated in a video taped debriefing of Alma Camerena, a former employee of the said firm of Aranda & Guttlein. This debriefing indicated the beginning of a conspiracy by these attorneys to frame Joe Occhipinti on false charges because he was a problem to several of their clients. I also participated in video taped debriefing of other witnesses who provided evidence of a conspiracy to file false charges against Joe Occhipinti (a list is attached).

In spring 1992 I worked with a team of investigative reporters from the T.V. show "Inside Edition". This work was incorporated into a ½ hour show shown nationally. The highlight of the show was Mr. Taveras admission on camera, that he gave false testimony against Joe Occhipinti. I interviewed FBI Lional Baron by telephone as to his role in investigating the Joe Occhipinti case. I asked Mr. Baron if he ever "unofficially" investigated the case because it was my information that the FBI *did not* investigate this case until the summer of 1992 after Joe Occhipinti was in prison. Mr. Baron indicated he did investigate this matter and stated that he "was not allowed as an FBI agent to unofficially investigate these matters". He strongly urged me to seek FBI records through the F.O.I. Act method. To my knowledge the FBI has never released any information to anyone about the Joe Occhipinti case in spite of the fact that they may have information directly relevant to the proof of Mr. Occhipinti's innocence.

I also interviewed FBI agent Ron Davis in early 1992 regarding prosecution witness Raymundo Tejada. Mr. Davis confirmed to me that Mr. Tejada a major prosecution witness against Joe Occhipinti, is now a fugitive from federal prosecution for crimes committed by him out of his travel agency before, during and after the trial of Joe Occhipinti. Mr. Tejada was given immunity from prosecution for his testimony at the trial of Joe Occhipinti.

The FBI was directed by the Justice Department to investigate the Occhipinti case in the summer of 1992 after Mr. Occhipinti was imprisoned. The FBI investigation was flawed in many ways including the administration of Lie Detector Tests to confidential informants working with me. On August 4, 1992 I personally delivered C.I. #1 to the FBI for a lie detector test and was subsequently informed that the C.I. failed this test. I have an affidavit (attached) from the C.I. dated 8/11/92 that indicates the test was improperly administered and the result is invalid. In May of 1993 I was informed by N.Y.C. Police Department Internal Affairs officers that they were involved in an investigation that involved Bodegas and witnesses in the Joe Occhipinti case. I was informed that bribes had been paid to undercover police officers in order to protect illegal activities at 1502 St. Nicholas Avenue and other locations. This verifies Mr. Occhipinti's original claim that these Bodegas were involved in illegal activity. This investigation is ongoing.

The source confirmed that Mr. Occhipinti's trial Attorney had visible psychiatric and suicidal tendencies one week prior to the Occhipinti trial. That testimony was corroborated by ADA. We also possess hospitalization and police reports to confirm the same. Clearly, that documentary evidence confirmed the fact Mr. Occhipinti never received a fair trial and draws to light alleged prosecutorial and judicial misconduct.

Miscellaneous evidence uncovered by the investigation

(1) The reinvestigation of the Occhipinti prosecution by the FBI intentionally stonewalled credible exculpatory witnesses and evidence. That matter has been referred to appropriate investigative and Congressional bodies.

(2) Investigation clearly disclosed overwhelming evidence that Mr. Occhipinti had at trial ineffective assistance to counsel.

(3) To be prepared.

In conclusion. The investigation clearly disclosed credible undisputed and compelling evidence of the drug cartel conspiracy against Mr. Occhipinti. Moreover evidence of an alleged Justice Department coverup of the evidence and prosecutorial "criminal" misconduct.

RAY HAGEMANN.

SALUTING JUNIOR ACHIEVEMENT OF DECATUR

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. POSHARD. Mr. Speaker, I rise today to draw the attention of my colleagues to some special students from Macon County, IL.

In 2 weeks, students from 10 different Macon County high schools will spend the day preparing for the future. These students have been selected by Junior Achievement of Decatur to participate in a special program called Running the U.S. Economy. Divided into teams and using a sophisticated computer system, the students will compete at balancing the budget by controlling Government spending, the money supply and tax rates—while limiting the impact of their policy decisions.

Sponsored by Illinois Power and Decatur Advantage, the competition is a unique way to orient students to elements of our national economy; to increase their understanding of inflation, unemployment, interest rates, consumer spending, the balance of trade, and Government taxing policy.

Mr. Speaker, these are issues we strive every day to wisely address. I am proud that students from the 19th Congressional District are preparing now for the day when they will be called upon to confront these challenges as leaders in our communities.

I extend my best wishes to the participating students and teachers of Mt. Zion, Blue Mound, Decatur Eisenhower, Decatur MacArthur, Stephen Decatur, Macon, Maroa-Forsyth, Niantic-Harristown, St. Theresa, and Warrensburg-Latham.

VOTE "NO" ON PENNY-KASICH

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. SABO. Mr. Speaker, the Budget Committee has already received letters of opposition to the Penny-Kasich amendment from 138 groups. The diversity of letters is striking. We have heard from veterans groups, major health organizations, State and local government, elderly groups, labor, university and other education and research organizations, child welfare advocates, arts and humanity organizations, and many more.

These letters again and again underscore the same negative features of the Penny-Kasich amendment which are:

The amendment proposes $34 billion in new Medicare cuts which threaten the President's health care reform proposals and which represent a piecemeal approach to health reform. The proposals are unfair to elderly and disabled Medicare recipients. These cuts have been proposed through an ad hoc procedure, without the intense scrutiny and debate necessary for such far-reaching legislative changes.

Discretionary spending is not the cause of our deficit problem. Under current law it is subjected to an unprecedented hard outlay freeze through 1998.

The amendment reduces the discretionary caps by an additional $42.5 billion and could harm priority education, health, research and development, physical investment, basic Government operations, social services, and State and local assistance programs.

These reductions below the existing caps may also compromise forthcoming welfare reform, job training expansion, anticrime legislation, and other key investment proposals.

The amendment proposes significant policy changes which simply have not been subjected to vigorous analysis and debate. Examples abound, from the $34 billion in Medicare cuts, to the creation of a new Department of Science, to the termination of the Department of Commerce.

There are probably many citizens and public interest groups who wonder if anyone ever listens to them or reads the letters they send. I want to cite some of the important issues raised by the 138 organizations who have contacted us.

Medicare: The equity and efficacy of the Medicare cuts are questioned over and over again. These cuts would come on top of the $56 billion in Medicare cuts in OBRA 1993 and the $43 billion in 1990. Last summer when we approved the latest round of Medicare reductions, we agreed to forestall even deeper cuts because they would be needed to help pay for whatever health care reform plan that is enacted next year. Use of these savings for deficit reduction now sabotages chances for health reform. This truly is ironic because health care spending is what is driving our long-term deficit, and without comprehensive health reform we will never be able to bring that deficit under control.

Furthermore, the Medicare reductions are unfair and inequitable to senior citizens. The Penny-Kasich proposal to relate Medicare premiums to income would require some seniors and disabled persons to pay more in premiums than the cost of the services that they receive. Can this be fair? The Penny-Kasich plan proposes that Medicare beneficiaries in over 96 percent of the counties in this country pay a nationally determined premium that exceeds the cost of care in their local areas.

Health programs: Lowering the discretionary caps would impact adversely on important discretionary public health programs including biomedical and behavioral research, prevention and treatment of diseases like aids, tuberculosis and heart disease, health professions training, and the delivery of health services to some of our Nation's most vulnerable populations—NORA coalition.

Veterans programs: The Disabled American Veterans and the American Legion both object to the amendment. The Legion's letter points out that the use of a prospective payment system was tried before and failed and would likely "* * * endanger the quality of patient care given to Veterans."

Retirement: The American Legion and the Military Coalition—24 organizations—have informed us that they agree with Secretary of Defense Aspin that the military retirement COLA proposal "would have immense implications for recruiting, retention and morale."

Labor groups have pointed out that raising the retirement age to 65 for new civilian hires is totally out of line with practice in the private sector where 98 percent allow pre-age 65 retirement.

Head start: The National Head Start Association states, "this legislation will have an extremely negative impact on the efforts to further Head Start expansion (National Head Start Association)."

Education: Education groups have highlighted the threat to chapter 1, the President's Goals 2000 program, Pell grants, and reauthorization of the Elementary and Secondary Education Act. For example, it is estimated that "* * * Over 3 million children who are eligible for chapter 1 services do not receive the supplemental instruction (International Reading Association)." It was pointed out that student loans were reduced by $4.3 billion in OBRA 1993—Council of Chief State School Officers.

Science programs: A multitude of letters object to creating a new Department of Science through consolidating the functions of the Departments of Commerce and Energy, NSF, NASA, and the EPA without appropriate analysis and debate. Other letters cited that the proposal to cap the indirect cost reimbursements for research does not reflect the reforms that have been accomplished in this area.

State and local governments and unfunded mandates: As stated by the National League of Cities, the amendment would have the net result of further reducing "* * * the proportion of Federal mandates for which the Federal Government bears any liability or share."

Low-income housing: It is argued that proposals to move to an all-voucher program would actually be more expensive in the long run. Additional refutation is raised regarding the termination of operating subsidies for vacant units. This type of information underscores the need for full and indepth analysis of these proposals—not a rush to judgment in the name of deficit reduction.

These letters present overwhelming objections to both the substance and process involved in a great many of the Penny-Kasich proposals and collectively they urge a no vote on Penny-Kasich. Following is the list of organizations we have heard from.

THE 138 GROUPS OPPOSING PENNY-KASICH

AIDS Action Council.
Alliance for Aging Research.
American Academy of Medicine and Rehabilitation.
American Arts Alliance.
American Association for Clinical Chemistry.
American Association of Bioanalysts.
American Association of Classified School Employees.
American Association of Colleges for Teacher Education.
American Association of Community Colleges.
American Association of Dental Schools.
American Association of Retired Persons.
American Association of School Administrators.
American Association of State Colleges and Universities.
American Association of University Affiliated Programs for the Developmentally Disabled.
American Association of University Professors.
American Clinical Laboratory Association.
American College of Rheumatology.
American Congress of Rehabilitation Medicine.
American Council on Education.
American Counseling Association.
American Federation of Government Employees.
American Federation of Labor & Congress of Industrial Organizations (AFL–CIO).
American Federation of School Administrators, AFL–CIO.
American Federation of State, County, and Municipal Employees.
American Federation of Teachers, AFL–CIO.
American Foreign Service Association.
American Friends Service Committee.
American Heart Association.
American Legion.
American Library Association.
American Medical Technology.
American Network of Community Option and Resource.
American Nurses Association.
American Planning Association.
American Psychological Association.
American Public Health Association.
American Society for Clinical Laboratory Science.
American Society of Clinical Pathologists.
American State of the Art Prosthetic Association.
American Symphony Orchestra League.
American Vocational Association.
Amputee Coalition of America.
Arts Action Coalition.
Association of Academic Psychiatrists.
Association of Art Museum Directors.
Association of Community College Trustees.
Association of Maternal and Child Health Programs.
Association of Performing Arts Presenters.
Association of Schools of Public Health.
Bread for the World.
California State University.
Career College Association.
Center for Law and Social Policy.
Center on Budget and Policy Priorities.
Center for Women Policy Studies.
Child Welfare League of America.
Children's Defense Fund.
Church Women United.
Clinical Laboratory Management Association.
Coalition on Human Needs.
Coalition for Recreational Trails.
Committee for Education Funding.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of Graduate Schools.
Disabled American Veterans.
Environmental Action.
Epilepsy Foundation of America.
Families USA.
Family Service America.
Food Research & Action Center.
International Reading Association.

International Society of Clinical Laboratory Technicians.
International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL-CIO (IUE).
March of Dimes Birth Defects Foundation.
Military Coalition.
Mon-Valley Unemployed Committee.
National Alliance to End Homelessness.
National Association of Children's Hospitals and Related Institutions.
National Association of College Admission Counselors.
National Association of Community Health Centers.
National Association of Developmental Disabilities Councils.
National Association of Elementary School Principals.
National Association of Federally Impacted Schools.
National Association of Independent Colleges and Universities.
National Association of Protection and Advocacy Systems.
National Association of Rehabilitation Facilities.
National Association of Rehabilitation Research and Training Centers.
National Association of Secondary School Principals.
National Association of School Psychologists.
National Association of State Boards of Education.
National Association of Social Workers.
National Association of Private Schools for Exceptional Children.
National Coalition for the Homeless.
National Community Action Foundation.
National Community Development Association.
National Community Mental Healthcare Council.
National Council of Teachers of Mathematics.
National Easter Seal Society.
National Education Association.
National Family Planning and Reproductive Health Association.
National Farmers Union.
National Mental Health Association.
National Neighborhood Coalition.
National Rural Letter Carriers Association.
National School Boards Association.
National Treasury Employees Union.
National Urban League.
National Women's Law Center.
NETWORK: A Catholic Social Justice Lobby.
New York State Board of Regents.
New York State Education Department.
Nichols Institute.
Office of Federal and National Education Issues Advocacy.
Office of Superintendent of Public Instruction, Washington State.
Opera America.
Parent Action.
People for the American Way Action Fund.
Professional Management Associates Inc.
Public Employee Department, AFL-CIO.
Puerto Rico Lab Owners Association.
Service Employees International Union.
The Arc.
The College Board.
The Human Rights Campaign Fund.
The Learning Disabilities Association.
The Pauline Oliverous Foundation Inc.
The Retired Officers Association.
Theater Communication Group.
United Cerebral Palsy Association Inc.
US Catholic Conference.
US Conference of Mayors.
United States Steelworkers.
United States Student Association.
University of California.
Washington State Office of Public Instruction.
Women Strike for Peace.
YWCA of the USA.

TRIBUTE TO MRS. LILLIE BROWN CROWDER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to one of South Carolina's outstanding natives, Mrs. Lillie Brown Crowder.

As a young woman, Lillie Crowder left her home in Georgetown, SC, to attend South Carolina State University where she received a bachelor of science degree in architectural engineering in 1958. Armed with the tools and the knowledge of her trade, she returned to Georgetown to teach mechanical drawing at Chopee High School. After 2 years, Lillie's quest for excellence led her to New York City, where she currently resides.

During her tenure at Wilbur Smith & Associates Consulting Engineers, Lillie served as chief draftsman and later garnered the title of junior project engineer. In 1967, she joined the New York City Board of Education school planning and research division as an assistant architect and held various administrative positions at the board through the years. In 1991, she assumed her present position as senior project liaison in the Office of Capital Administration, at the division of school facilities. Currently, Lillie supervises a team of assistant architects and assistant mechanical engineers in developing programs and monitoring the planning phases for the modernization of existing schools and construction of new schools.

In 1982, Lillie received her master of arts degree in urban education/planning from Long Island University. She is certified to teach vocational education and architectural drafting and is licensed to teach architectural drafting in New York City.

The list of her accomplishments and services is long and impressive. As one of the founding members of the Association of Black Women Architects, to her work as a volunteer in emergency admittance at Harlem Hospital, Lillie displays a commitment witnessed by many. It is only appropriate that November 28, has been proclaimed Lillie Brown Crowder Day by the City Council of New York, the borough president of Queens, and the Black American Heritage Foundation.

On behalf of the State of South Carolina, it is indeed an honor to celebrate the achievements of one of our own—Mrs. Lillie Brown Crowder.

STEPHEN E. HIGGINS HONORED FOR 32 YEARS OF SERVICE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. HOYER. Mr. Speaker, it is with great pleasure that I rise today to give tribute to the accomplishments of a friend in the law enforcement community, Stephen E. Higgins.

Steve was the Director of the Bureau of Alcohol, Tobacco and Firearms from March 1983 until October 31, 1993. When Steve took the reigns as Director, actions to abolish ATF were being contemplated. Morale was at an all-time low, as employees prepared to either be laid off or split between other Treasury Department agencies. Steve inspired ATF's employees by formulating progressive plans to lead the agency into its future—a future that has been punctuated with remarkable accomplishments.

Steve began his Federal career in 1961, as an inspector in Omaha, NE, for ATF's predecessor agency. Recognized for his intelligence and leadership abilities, Steve rapidly rose through the ranks of ATF in various management positions.

Throughout his career, Steve has been recognized by the U.S. Government and the law enforcement community for his leadership abilities and impeccable reputation.

Steve has twice been recognized for his leadership, in 1980 and 1985, as a recipient of the Meritorious Executive Award. In 1988, the President presented Steve with the highest award in the Senior Executive Service, the Distinguished Executive Rank Award. In presenting the award, President Reagan cited Steve as a front-line commander in the fight against armed career criminals and armed drug traffickers, as well as for pioneering the use of firearms laws against drug cartels.

Steve was a recipient of the National Sheriffs' Association 1985 President's Award; the 1990 Roger W. Jones Award for Executive Leadership, which is granted annually by the American University to recognize Federal career executives for excellence in leadership; and the 1991 U.S. marshals America's Star Award for lifetime achievement in criminal justice and law enforcement.

In 1992, Steve was named a fellow in the National Academy of Public Administration, an organization chartered by Congress to stimulate improvements in managing the Federal work force.

Mr. Speaker, as you can see, Steve Higgins is someone who is deserving of recognition for his accomplishments as a dedicated and caring Federal employee and senior executive. I thank you for taking this time to recognize such a distinguished member of the Senior Executive Service upon his retirement after 32 years of service to a grateful Nation.

SENATE—*Monday, November 22, 1993*

The Senate met at 4 p.m. and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *except the Lord keep the city, the watchman waketh but in vain.*—Psalm 127:1.

Eternal God, the minds and hearts of a nation are recalling, with sadness, the tragedy that took place in Dallas, TX, 30 years ago. May we hear the words with which President Kennedy intended to close a speech that day:

> We in this country, in this generation, are—by destiny rather than choice—the watchmen on the walls of world freedom. We ask, therefore, that we may be worthy of our power and responsibility, that we may exercise our strength with wisdom and restraint, and that we may achieve, in our time and for all time, the ancient vision of peace on Earth, good will toward men. That must always be our goal * * *. For as was written long ago, "Except the Lord keep the city, the watchman waketh but in vain."

Mighty God, we pray that such a tragedy will never happen again. We ask for your protection for the President, the Vice President, Members of Congress and the Supreme Court, and for all who bear public responsibility. And we pray for a fresh visitation of the Spirit of God upon our Nation which will restore our sanity and peace.

In the name of Him who is the Prince of Peace. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 22, 1993.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MATHEWS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

EXPRESSION OF GRATITUDE TO THE SENATE CHAPLAIN

Mr. MITCHELL. Mr. President, I know that I speak on behalf of every Member of the Senate when I express my gratitude to our beloved Chaplain, Reverend Halverson, for his remarks today and every day, and for his spiritual efforts in our behalf. His has been a difficult and often lonely task, one which has not received the recognition and gratitude which is earned and deserved, and therefore I wish to take this occasion to thank Reverend Halverson from the bottom of my heart on behalf of all Members of the Senate.

We thank you for your service to the institution and to the individual Members here.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, let me join in the remarks of the majority leader, and let me also suggest that as I look at Dr. Halverson, he is getting stronger and stronger each day. He tells me he is feeling better, and that is even more important. So we wish him and his family happy Thanksgiving; that he will enjoy his holiday season.

EXECUTIVE SESSION

NOMINATION OF NORMAN E. D'AMOURS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nomination:

Calendar No. 517, Norman E. D'Amours, to be a member of the National Credit Union Administration Board.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that upon confirmation, a motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The nomination was considered and confirmed.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business during which Senators be permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAKING OF CLASSIFIED INFORMATION

Mr. MITCHELL. Mr. President, last month, several newspaper articles were published which contained classified and sensitive information which was leaked from a briefing given to Senators and staff by the Central Intelligence Agency. It is disheartening to have to remind the members of the Senate and the staff who serve us that leaks of classified information are shortsighted, destructive, and illegal. Nonetheless, one or more individuals deliberately disclosed classified information from a Senate briefing, and those individuals may have been Senators or Senate employees. An investigation of those leaks is underway; however, given the nature of leaks to the media, it will be difficult to identify with certainty the guilty party or parties.

As I have stated before, I will not tolerate leaks of classified or confidential Senate business in my office. I consider it the responsibility of every Senator to do the same in his or her office. The Republican leader and I recently sent a letter to all Senators regarding leaks, and I would like to read from that letter now, for the benefit of those Senators and staff who have not yet seen it.

> Simply put, there is no justification whatever for any Member or employee of the Senate to disclose classified information to the media or to the public. Unauthorized disclosure of classified information is a violation of Senate security regulations, the Standing Rules of the Senate, and of Title 18 of the U.S. Code. There is no exception to these restrictions for furthering or undermining policy goals, however, noble the intentions of the leaker. The unauthorized disclosure of classified information can cost money, security and, sometimes, human life.
>
> In addition to the disclosure of classified information, we also are concerned about the disclosure of the confidential business or proceedings of the Senate. Senate Rule XXIX

> was amended just last year to stiffen the penalties for disclosure of such information. Senate Rule XXIX, paragraph 5, states:
>
> "Any Senator, officer or employee of the Senate who shall disclose the secret or confidential business or proceedings of the Senate, including the business and proceedings of the committees, subcommittees, and offices of the Senate, shall be liable, if a Senator, to suffer expulsion from the body; and if an officer or employee, to dismissal from the service of the Senate, and to punishment for contempt."
>
> We will seek punishment under Rule XXIX for any Senator, officer, or employee of the Senate found to have leaked classified or confidential information. Our own staff are aware that we will not tolerate such leaks under any circumstances. We ask that you make your staff aware of your own commitment to this principle.
>
> Various Executive Branch departments and agencies regularly share with Members and employees of the Senate classified information of great sensitivity. It would not be possible for Senators to make well-informed decisions on matters of national security in the absence of such information. However, absent some assurance that classified information will be afforded appropriate protection by the Senate, Executive agencies will become more hesitant to share with us the most sensitive information. If we are to continue receiving such information, we must demonstrate that we can be entrusted with it.
>
> Also of vital importance to the Senate and to the national security is the free exchange of views between the Senate and the Executive Branch, and candid discussions among Senators on issues of national security. The Senate is, of right and necessity, a partner in the information of U.S. national security policy. It is in the interest of the Senate and of the President—any President—that there be an appropriate, private forum for the free and candid exchange of ideas, opinions and differences. During classified briefings, many Senators, and Executive branch officials, make candid remarks which contribute to policy discussions and are not intended for public disclosure. When such remarks, even when unclassified, are leaked to the media, the result can be a stifling of debate and the exchange of views. This benefits neither the Senate nor the national security.
>
> It is our view that such discussion is protected by Rule XXIX, and therefore should not be publicly disclosed without leave of the Senate.
>
> We sincerely hope that you will help us to ensure that the classified and confidential business of the Senate is afforded the protection required by Senate Rules and federal statutes.

Mr. President, that is the conclusion of the letter sent to all Senators, and signed by myself and Senator DOLE.

Mr. President, I conclude by reiterating that disclosure of classified information is a criminal act. Violations of Senate rule XXIX will be pursued aggressively by the leadership, and evidence of criminal activity will be referred for prosecution.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, Harry Truman once said that "If you want a friend in Washington, DC, buy a dog." Well, as anyone who served in the House of Representatives in the 1960's or 1970's could tell you, if you wanted a friend in Washington, all you had to do was to know Ernest Petinaud.

Ernie passed away on November 4, and I just wanted to take a minute of the Senate's time to remember this remarkable gentleman.

Ernie saw a lot of history in his time. He was born in Panama in 1905, and came to Washington, DC in the mid-1920's, where he found work in the House of Representatives dining room.

From 1930 to 1938, Ernie served as a steward on ships sailing the St. Lawrence River and the Great Lakes. He then returned to the House of Representatives as a waiter, was made maitre'd in 1962, and served in that position until his retirement in 1973.

Ernie came into contact with Congressmen, Senators, and Presidents during his career, and a lot of good people all over America, and all regarded him as a friend. I remember that President Bush was a special friend of Ernie's, and took great care to remain in contact with him.

Upon his retirement, Ernie was honored with the designation of the "Petinaud Room" in the Capitol, and a plaque in his honor was placed in the Hall of Fame in the Capitol.

Ernie was very involved in the community through his membership in the Masons, the Shriners, and his work on behalf of the Plymouth Congregational United Church of Christ.

Ernie's funeral services were held in that church this past Saturday, where I joined many others such as former Speaker O'Neill, Congressman STOKES, former Congressman Clarence Bud Brown, Cokie Roberts—whose father and mother served in Congress—all of whom were very close friends of Ernie Petinaud.

We were all there along with dozens and dozens of others to remember a man we were all fortunate and proud to call our friend.

TRIBUTE TO OFFICER LEON MONROE

Mr. DOLE. Mr. President, when Congress returns in January, the U.S. Capitol will be a very different place. It will be different because Officer Leon Monroe will not be at his post.

Officer Monroe has served as a member of the U.S. Capitol Police since January 7, 1974, and will retire upon his 20th anniversary in the Capitol.

Officer Monroe has been recognized time and again for his diligence and professionalism. I am told his personnel file is full of letters from citizens and Members of the House and Senate, complimenting the superb manner in which he carries out his duties.

He has also shown concern for his coworkers by donating his leave to those who have experienced extended absences because of illness or injury.

Officer Monroe also served his Nation for many years in the U.S. Air Force. He and his family are very deserving of retirement years rich in health and happiness.

I know I speak for all of my colleagues who see Officer Monroe every time they leave the Capitol, every night they leave the Capitol. We wish him a very happy and well deserved retirement.

Mr. BUMPERS. Mr. President, will the minority leader yield?

Mr. DOLE. I am happy to yield to the Senator, Senator BUMPERS.

Mr. BUMPERS. Mr. President, I want to echo what the distinguished minority leader has said about Officer Monroe. Certainly he has been on that front door, I think, ever since I came to the Senate. He has shown unbelievable patience with Senators. He is consistently friendly, always courteous, polite, and helpful, not only to Senators but to all people. In all candor, I cannot say that about every member of the Capitol Police. But he is one of the very best people I have known since I have been in Washington.

And I am very happy to be able to extend my best wishes to him in his retirement, along with those of the minority leader.

Mr. DECONCINI. Mr. President, will the minority leader yield?

Mr. DOLE. Yes.

Mr. DECONCINI. Mr. President, I want to also add my congratulations to Officer Monroe, and to the Capitol Police, for the fine job so many of them do in our behalf, in behalf of our safety and security, and that of the public as well.

Officer Monroe has been here longer than I have. That is 17 years. He always has a smile on his face. I do not care how tired he is, or even when he has been under the weather with ill health or a cold, or something. He is always there to assist Members, spouses and families, and constituents.

I thank the minority leader for bringing it to the attention of the Senate, and I wish him every success in his retirement. It is well deserved.

Mr. DOLE. Mr. President, I thank my colleagues from Arkansas and Arizona. And many of my colleagues will join in making statements or extending their best wishes.

Officer Monroe even puts up with my dog.

So he is an outstanding officer, and we will miss him.

HEALTH CARE REFORM

Mr. DOLE. Mr. President, as the end of the first session of the 103d Congress comes to a close, I am pleased to be a cosponsor of two major pieces of health legislation—one introduced by Senator JOHN CHAFEE of Rhode Island and one introduced by Senator DON NICKLES of Oklahoma.

The purpose of my cosponsorship of more than one piece of legislation is not to add confusion to an already very complex issue, but rather to underscore the basic principles that I believe are essential to real health care reform.

Mr. President, by cosponsoring both plans, I want to encourage the creativity that will be essential to expanding coverage, restraining runaway health care costs, and preserving quality, choice, and jobs.

I have always said that there are a lot of good ideas out there on health care reform for a long time.

They were expressed last year, the year before that, the year before that, and now they are being expressed—yes. By the President and Mrs. Clinton; yes, by Members of the House, Republicans and Democrats, and in some cases bipartisan efforts in the House; and, yes, by a number of our colleagues on both sides of the aisle in the Senate.

Mr. President, while there are some differences between different pieces of legislation, and some difference between these two pieces of legislation, Senator CHAFEE and Senator NICKLES, I join in cosponsoring both because I believe that at this early stage in the debate we cannot afford to take any promising approaches off the table.

They ought be on the table. It is going to be a long, long debate. In my view, the American people may have been a little bit confused and may still be a little bit confused. We just assigned the bill, I guess to the Finance Committee—I hope that is the committee it was assigned to—on Saturday evening.

So the hearings will start in January in earnest. And there will be months and months and months of hearings before we even vote.

So I guess one thing I would caution the American people on is that it is not going to be a vote next week or next month. There may be a vote next year. So we have a long, long way to go.

The Chafee-Dole plan contains a lot of good ideas. There is no doubt about it, no one on our side of the aisle has worked harder on health care than JOHN CHAFEE.

The Nickles bill is another shot in the arm to the national health care dialog, and it shares a lot of common ground with the Chafee plan—in particular, one principle I believe is paramount to health care reform, and that is individual responsibility.

The President talked about individual responsibility when he addressed the Nation on health care. It was the last of six points on his list. In my view, it should have been up a little higher.

In addition, neither bill has employer mandates or price controls, but both reform the insurance market so that health insurance is more accessible, more affordable and more secure for many more Americans. Both bills contain costs through malpractice and antitrust reform, as well as through the simplification of paperwork.

No doubt about it, a lot of good ideas have been put forward. The alternatives by Senator GRAMM, Senator BREAUX, Congressman COOPER, and the House Republican leadership, as I indicated before, have also been constructive additions to the discussion.

Now that these plans, as well as the administration's plan, are in written text and we finally have the language, we look forward to receiving some very valuable feedback from people all across America—doctors, nurses, hospital administrators, insurance people, consumers, senior citizens, workers, whatever—because this is a very important piece of legislation. We hope we will receive a lot of information from across America and from our own States during the congressional recess.

We are in the very early stages of this health care debate. It seems to me that the number of the plans that are floating around underscore just how important this issue is. Everybody has some ideas. Some may be good, and some may not be good at all.

However, it is my belief that after we sample all of the proposed cures, speaking now for the Republicans, I think we hope to come together on our side to unite around one prescription for reform and, hopefully, we can do that by February, March, or April, so that we will have a prominent role to play in the health care debate. That will include doses of many of the plans which have been proposed to date and will help ensure that Republicans will have a strong voice in whatever reform package ultimately becomes law.

I would like to submit for the RECORD a brief description of the similarities between the two bills that I mentioned—that is, the Chafee bill and the Nickles-Mack-Chafee-Dole proposal.

I ask unanimous consent that that description be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS OF NICKLES/MACK

1. No employer mandate to pay (same as Chafee/Dole).

2. Individual Mandates: All heads of households required to purchase at least a catastrophic benefit package. (Similar to Chefee/Dole.)

3. Medical Savings Accounts permitted and contributions given preferential tax treatment (treated as tax credit). (Similar in intention to Chafee/Dole.)

4. Small Market Insurance Reforms (virtually identical to Chafee/Dole).

5. Malpractice Reforms: (Differs from Chafee/Dole in that there is no mandated alternative despite resolution provisions.)

6. Administrative Simplicity: (virtually identical to Chafee/Dole).

7. Purchasing Co-Ops—allows them to be formed voluntarily. (Chafee/Dole more structured, has more state involvement.)

8. Benefits Package: Defines a *minimum* package of benefits that everyone must have (unlike Chafee/Dole, does not create a benefits commission to make decisions on inclusion of new benefits or changes).

9. Medicaid: Caps Federal expenditures for medicaid acute care services and capitates in the future. (Chafee/Dole liberalizes the managed care provisions—but applies *no* cap on expenditures.)

10. Low Income Subsidies: Creates refundable tax credits and additional subsidies to low-income people who are not eligible for Medicaid. (Chafee/Dole provides vouchers to those below 240% of poverty line.)

11. Price Controls: None—(identical to Chafee/Dole).

12. Tax Changes: Replaces the existing exclusion from income of employer provided health insurance with a new refundable tax credit for individuals and families for health insurance premiums and out-of-pocket costs.

13. Financing: Assumes medicare and medicaid cuts. (Similar in intention to Chafee/Dole.)

THE BRADY BILL

Mr. DOLE. Mr. President, I hope there is some resolution of the so-called Brady bill. I am not certain that will happen. It was made more difficult by the remarks of the chairman of the Judiciary Committee the other night. I thought he made an inappropriate remark. Now the rumor is that he even wants to change the Senate version further. I hope that as the chairman of the committee, and a member of the conference, he will uphold the Senate's position. That is how we got this far. That is why the Brady bill passed the Senate after everybody thought it had been consigned to the ash heap until next year. It was done in good faith, and we expect good faith from the conference. We expect good faith from our conferees.

You always learn something when you agree to something like this, and somebody pops up and makes a statement that undercuts somebody's good faith—in this case mine. I expect better from my colleagues on both sides of the aisle. We do not have much around here but our word. If our word is no good, then I do not think we can do business with each other in the future.

I yield the floor.

Mr. DECONCINI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

COMPLIMENTING REPUBLICAN LEADER ON HEALTH CARE COMMENTS

Mr. DECONCINI. Mr. President, I want to particularly compliment the minority leader for his comments regarding national health insurance. I noticed his statements a number of times about concurring with what the President has said, that it must be a bipartisan effort, and that is not always the case around here on the jobs bills and reconciliation bills and what have you.

I realize that the temptation to make health care partisan is great and demanding. I compliment the minority leader for a number of his statements, including one over the weekend on national television, and for his continued strong effort to keep it that way.

I assure him that the President and the administration is going to do their utmost to do it that way. But it is not going to happen if Democrats and Republicans cannot put the country first, and that means compromise on all sides.

A LEAK OF CLASSIFIED INFORMATION

Mr. DECONCINI. Mr. President, I want to comment for one moment about the statement regarding the reading of the letter from the majority leader and the minority leader a number of Senators regarding a leak of classified information that came out of a session held here in the Capitol regarding Haiti and the significance of that. The Intelligence Committee is the vanguard or protector of this information on behalf of the Senate, although it is available to any Senator, and that is true of all of the information that we have. We guard it very carefully in the offices in the Hart Building, and we take special precautions on security and monitoring our Members and our staffs almost on a daily basis.

I think it is regrettable that either a Member or a staff member would leak some information from that hearing. It is unfortunate and a discredit to all of us. I think it certainly should be sought out. I know how leaks, even if they are confirmed, or slightly confirmed here, rarely are dealt with. So I am not optimistic. It is only through the good will of the Members that we can keep these things in the national security interest.

IT IS TIME TO PROSECUTE YUGOSLAV WAR CRIMINALS

Mr. DECONCINI. Mr. President, as early as the fall of 1991, while Croatia was being invaded by Serbia, the world was becoming informed about atrocities being committed by Serb aggressors. At this time, the international community first called for those responsible to be held accountable for their gross violations of international law. One year later, in the fall of 1992, the world was becoming all too familiar with the grisly details of these atrocities as they moved to Bosnia-Herzegovina.

Even worse, the systematic nature by which many of these many horrible acts were being carried out made it clear that they were more than atrocities; they were part of a genocidal effort to ethnically cleanse areas of Bosnia-Herzegovina and Croatia.

The world was shocked by pictures of rape camps and gaunt men who spoke of horrors so terrible that Hitler-like ghosts came back to haunt us. It is now the fall of 1993, however, some 2 years later, and not one person has been found guilty, or even indicted, for war crimes committed in Bosnia-Herzegovina or in Croatia. In the meantime, war crimes continue to be committed.

Fortunately, however, an international war crimes tribunal has been established by the United Nations, with 11 judges, which is convening for the first time today in The Hague. A Venezuelan, Ramon Escovar Salom, has been appointed chief prosecutor, and Cherif Bassiouni, who now heads the U.N. War Crimes Commission, has organized a data base filled with information on specific criminal incidents, frequently including the names of victims and of the alleged perpetrators.

Let me highlight their cases here briefly, some based on Helsinki Watch reports, particularly the September 1993 report "Prosecute Now!," others on New York Times and other newspapers, the recent book of Pulitzer Prize-winning Newsday correspondent Roy Gutman entitled "A Witness to Genocide," and, finally, from an April 1993 video report entitled "A Town Called Kozarac" produced for the British television program, "Dispatches."

ZELJKO RAZNJATOVIC

Mr. Raznjatovic, popularly known as Arkan, is already an international criminal. He robbed banks in Belgium and the Netherlands, for which he was imprisoned, and committed several burglaries in Sweden and Germany. He was even imprisoned for a time in Croatia in 1990. When the war in Croatia broke out in 1991, he appeared as the commander of the Serbian Volunteer Guard, a paramilitary group. In early 1992, his group was responsible for a major massacre of Moslems in the town of Bijeljina and elsewhere in Bosnia-Herzegovina. He has since been elected to the Serbian Parliament by the Serbs in Kosovo, where he and his followers harass the local Albanian population.

With this machinery in place, we now must begin to name names, Mr. President; we must begin to investigate individuals more closely and issue warrants for their arrest if the information available suggests they are responsible for war crimes.

I have pictures here today of some of the people who seem deserving of immediate attention, ranging from political leaders to camp guards.

OMARSKA CAMP GUARDS

Omarska was a Serb-run detention camp for mostly Moslem civilians in northwestern Bosnia. According to Helsinki Watch, the camp was:

> * * * The scene of some of the most brutal atrocities committed in detention camps in the Balkan conflict, as Serbian soldiers and prison guards raped, castrated and brutally beat their prisoners. * * * Every night guards beat to death 5 to 15 men inside a white house used for interrogations. The guards left heaps of bodies lying in front of the building throughout the next day.

Mr. President, one of the most emotional experiences I have had as a Senator was meeting, in a refugee camp in Croatia, some of the survivors of Omarska who had only been released by the Bosnian Serb militants a few days before. Their tales of executions and torture were almost impossible to believe, but you could see in their faces that the horrors they were recalling were true.

ZELJKO MEJAKIC

This man, Mr. Mejakic, was commander of the camp guards. The smaller, black and white photo is from Roy Gutman's book, and shows his face slightly better. He had to have known what was going on, and, in all likelihood, he actually ordered such acts and perhaps even participated in some of them.

MLADO KRKAN

Here is Mr. Krkan, a guard who was known to be particularly brutal and is implicated in the murder of two prisoners. Surviving prisoners in one British documentary on Omarska said that most of the atrocities occurred during his shift.

MILOMIR STAKIC

Here, the new local mayor, Mr. Stakic, denies abuse during a British media interview. According to prisoners interviewed by Newsday correspondent Roy Gutman, however, well over 1,000 were killed at Omarska, and perhaps the same number disappeared without a trace when international attention forced the Serbs to close the camp.

RATKO MLADIC

Perhaps the most powerful Serb in Bosnia and Herzegovina is this man, General Mladic, who commands the Bosnian Serb forces. According to the New York Times, he is often called the ethnic cleanser in chief. Before moving to the Bosnian front, Mladic was commander of the Yugoslav army forces in the Serb-controlled Krajina region of Croatia, where he earned the additional title of "butcher of Knin." The troops under his control are responsible for many of the atrocities we hear about in Bosnia and Herzegovina, including the continuing siege of Sarajevo which isolates and strangles the city's more than 300,000 remaining residents.

RADOVAN KARADZIC

This familiar face from television and newspaper coverage of the Geneva negotiations is that of Mr. Karadzic, the political leader of the Bosnian Serb militants. He seems to agree to everything at the negotiating table, while his people on the ground do the opposite. Along with Mladic, he is perhaps the person most responsible for ordering the atrocities that have been committed, a fact made all the more chilling because he is a psychiatrist by training.

SLOBODAN MILOSEVIC

Mr. Milosevic is the President of Serbia. He has stayed far away from the fighting, and denies any responsibility on his part or Serbia's. Yet, he is the conductor of this demonic orchestra, the one who developed the policy of achieving a Greater Serbia. That policy, which also keeps him in power, is one of repression, aggression and discrimination against non-Serbs. As it was implemented in Bosnia and Herzegovina, with the setting up of camps, the mass executions, the ordered rapes and forced impregnations, the forced displacements, all combined to spell genocide. He has encouraged the perpetrators of these crimes.

The people about whom I have spoken, Mr. President, are all Serbs. It has been primarily the Serbs who initiated the conflict and are responsible for most of the atrocities. That is not to say that Croats or Moslems, both of whom are increasingly responsible for atrocities against civilians, should not similarly be held responsible for their actions.

In late October, for example, there was a massacre at Stupni Do, where 15 bodies were found, many burned beyond recognition, one with her throat slit and two others shot in the face. A group of about 120 villagers were taken away.

The one U.N. personnel on the scene identified the commander of the local Croat Bobavac Brigade, Kresimir Bozic, as being responsible. And just last week, Croat forces destroyed the beautiful Ottoman bridge at Mostar, which dated back to the 16th century. How Croats, who rightly agonized over the Serb shelling of the cultural treasure of Dubrovnik in 1991, could then destroy such a landmark as this bridge is a question I cannot answer. I am sure that many Croats cannot answer this question either and hope that they will support prosecuting those Croat forces responsible for this and for the reprehensible isolation of tens of thousands of starving Moslems in Mostar with war crimes.

Investigations of Mate Boban, the Bosnian Croat leader, and perhaps Croatian Government officials who may have been involved in the decisionmaking leading to these incidents, may well be warranted.

Originally the victims of aggression and atrocities, some Moslems are desperate enough to fight fire with fire. In September 1993, for example, special Bosnian units attacked the village of Uzdol and killed dozens of civilians, and destroyed property and livestock. Some survivors recognized some of the attackers as Moslems from a neighboring village. If true, these people must be brought to justice as well.

To conclude, Mr. President, we have names, we have incidents, and, in many cases, we have surviving victims and eye witnesses. We don't yet have indictments, we don't yet have apprehensions, we don't yet have trials for war crimes. With the framework for a tribunal now in place, it is time that we put that framework and the information available to use and prosecute the war criminals of the former Yugoslavia.

This will not happen, however, unless the President of the United States makes it happen. In my view, history will already judge Europe and the United States harshly for allowing the Balkan conflict to reach its current level of madness.

To date, it has been the United States which has kept it alive, but unless our leaders act more forcefully on this, we will not move forward to the prosecution of individuals. Amnesties may be given, formally or informally, as part of a politically expedient settlement of territorial disputes. If this happens, Mr. President, it will be a travesty of the highest order.

In conclusion, Mr. President, I would like to introduce, for the record, a biographical account of this man, Arkan, and the Second Interim Report of the United Nations War Crimes Commission of Experts, which was released on October 5.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.N. SECURITY COUNCIL,
October 6, 1993.

LETTER DATED 5 OCTOBER 1993 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

By a letter of 9 February 1993 (S/25274), I forwarded to the President of the Security Council an interim report of the Commission of Experts established pursuant to Security Council resolution 780 (1992).

On 6 September 1993, the Acting Chairman of the Commission forwarded to me a second interim report, which describes the work of the Commission in the intervening seven months and outlines its projected future programme, which will enable the Commission to provide me with its final conclusions. The report is accompanied by several documents prepared by or under the supervision of the members of the Commission. Citing the preliminary nature and volume of these documents, the Commission has suggested that, rather than being annexed to the report, they should be made available for consultation by the members of the Security Council.

On 31 August 1993, during my recent visit to Geneva, I took the opportunity to meet with the members of the commission. This enabled me to learn at first hand of the nature of their work and to discuss with them their future programme and the relation of their work to that of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which is in the process of being established. The members of the Commission expressed keen interest in assisting the Tribunal to the greatest extent possible.

I must also, with deep regret, inform you that the Acting Chairman of the Commission, Professor Torkel Opsahl of Norway, died in Geneva on 16 September 1992. Professor Opsahl had only recently agreed to assume the functions of Chairman of the Commission in place of Professor Frits Kalshoven of the Netherlands, who is on indefinite leave for medical reasons. Professor Opsahl had made an important contribution to the work of the Commission and his untimely death is a tragedy for his family and friends and a great loss to the Commission, to the United Nations and to the international legal community. In the light of these developments, I propose to appoint one of the remaining members of the Commission, Mr. Bassiouni, as the new Chairman of the Commission, and I have formally requested that the Netherlands and Norway provide me with the names of suitable replacements, giving preference to women, in place of the late Professor Opsahl and Professor Kalshoven. I shall inform the Council in due course of the results of the proposed changes.

BOUTROS BOUTROS-GHALI.

ANNEX—SECOND INTERIM REPORT OF THE COMMISSION OF EXPERTS ESTABLISHED PURSUANT TO SECURITY COUNCIL RESOLUTION 780 (1992)

INTRODUCTION

1. While the first interim report of the Commission of Experts[1] covered the period from November 1992 to January 1993, the present second interim report covers the period from February to August 1993. It describes the steps the Commission has taken towards the implementation of the programme of work outlined in the earlier report, and the progress achieved.[2]

2. It also sets forth how the Commission plans to pursue the implementation of its programme of work, in accordance with its mandate as defined in paragraph 2 of Security Council resolution 780 (1992),[3] and paying due heed to the last preambular paragraph of Security Council resolution 827 (1993), specifying that, pending the appointment of the Prosecutor of the International Tribunal established by that resolution for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, the Commission should continue on an urgent basis the collection of information relating to evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law as proposed in its first interim report.

3. During the period covered by the present report, the Commission, whose composition remained unchanged,[4] held four sessions: its fourth, fifth, sixth and seventh sessions, held on 1 to 3 March, 24 and 25 May, 13 and 14 July and 30 and 31 August 1993 respectively. The Commission continued to discuss various substantive, organizational and methodological issues related to its mandate. At its seventh session, the Commission also discussed and approved the present interim report.

4. The Commission continued to attach considerable importance to the coordination of its efforts with those of other United Nations bodies and intergovernmental organizations concerned with the situation in the territory of the former Yugoslavia. It has maintained regular working cooperation with the Commission on Human Rights and its Special Rapporteur, Mr. Tadeusz

Mazowiecki. The said Commission, in paragraphs 20 and 22 of its resolution 1993/7, requested the Special Rapporteur, States, United Nations bodies, including the United Nations Protection Force (UNPROFOR), United Nations treaty bodies and specialized agencies as well as international humanitarian organizations to submit to the Commission of Experts all pertinent information which they might possess and urged States to provide to it resources, personnel and assistance in order to fulfill its mandate.[5]

5. The Commission has continued to be in touch with the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia through one of them who is also the Special Representative of the Secretary-General coordinating all the United Nations activities in that area.

6. Close cooperation has been maintained with UNPROFOR. The Commission wishes to place on record its gratitude for the assistance provided by UNPROFOR with its on-site investigations in the territory of the former Yugoslavia, both at the preparatory stage as well as once in the area.

7. The Commission has also maintained contacts with the representatives of a number of Permanent Missions to the United Nations Office at Geneva for the purpose of soliciting their support and cooperation as regards the Commission's plan of work.

8. The Commission has continued to maintain contacts with the United Nations High Commissioner for Refugees and with the International Committee of the Red Cross (ICRC). The Commission, furthermore, has established contacts with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and Amnesty International as well as with the European Community Monitoring Mission (ECCM). This latter organization has prepared briefings and provided invaluable assistance to the Commission with certain exploratory missions, such as the one to Dubrovnik (20–22 May 1993) undertaken by the Rapporteur for on-site investigations.

I. IMPLEMENTATION OF THE COMMISSION'S PROJECTED PLAN OF WORK

9. As indicated in paragraphs 65 and 66 of the first interim report, the Commission's plan of work includes, besides an updating of its database, selective in-depth investigations in the following areas:

(a) Mass killings and destruction of property;

(b) Treatment of prisoners and detainees;

(c) Systematic sexual assaults;

(d) "Ethnic cleansing".

10. Paragraph 67 of the same report outlines as short-term objectives of the Commission:

(a) To conduct further investigations into mass killings and destruction of property in the Vukovar area by expanding the scope of the various investigations conducted by forensic experts from Physicians for Human Rights and by deploying a team of military lawyers, police investigators and necessary support personnel in the Vukovar area;

(b) To conduct an on-site investigation into the treatment of prisoners and detainees at two or more camps or detention centres at places in Bosnia and Herzegovina yet to be specified;

(c) To study all available reports on systematic sexual assaults and determine as soon as possible the most effective way to approach the problem and whether on-site investigations should be undertaken;

(d) To study all available reports on "ethnic cleansing" and determine as soon as possible the most effective way to approach the problem and whether on-site investigations should be undertaken.

11. To implement this plan of work, which was endorsed by the Secretary-General in his letter dated 9 February 1993 addressed to the President of the Security council,[6] the Commission continued the work on the database. It also undertook a number of projects specifically designed to obtain further information and to test methods of investigation and verification of allegations.

A. Activities related to the plan of work as a whole

12. It followed from the nature of the projected plan of work that the Commission would be able to implement it only with the cooperation of Governments and local authorities that actually controlled the respective parts of the territory of the former Yugoslavia. The Commission therefore made special efforts to obtain such cooperation.

1. Mission to Zagreb, Belgrade, Sarajevo and Ljubljana

13. From 18 to 29 April 1993, the Commission sent a delegation to Zagreb, Belgrade, Saravejo and Ljubljana.[7] The delegation was composed of the Chairman and the two rapporteurs, accompanied by the Assistant Secretary of the Commission. It held talks with representatives of the Governments in these capitals, including Deputy Prime Ministers and Ministers for Foreign Affairs, Defense and Justice. It also had meetings with officials representing State commissions for war crimes, involved with legal aspects of war crimes documentation or investigation in the respective capitals.

14. During all the meetings, the delegation stressed the impartial nature of the Commission and its methods of work. It explained the Commission's mandate and provided information on its computer database, its short-term objectives and its long-term plan of work.

15. The authorities in Zagreb, Belgrade and Sarajevo assured the delegation of their support for the Commission's plan of work and promised their cooperation in the implementation of specific projects of the Commission in the territories under their control.

16. At the meetings with representatives of State commissions for war crimes in the four capitals, the delegation underscored the importance for the Commission to receive reports relating to violations of international humanitarian law, particularly of the 1949 Geneva Conventions and the two 1977 Additional Protocols, so as to assist the Commission to fulfill its mandate. It received promises of cooperation from all these commissions. It also offered them technical help and provided them with forms for the collection of such information.

2. Mission to Knin

17. Given the fact that one of the mass grave sites (Ovcara), the excavation of which is included in the Commission's plan of work, is situated in the territory under control of the self-proclaimed Serb administration in Knin, the Commission took steps to ensure the cooperation of that administration in the implementation of this project. During the visit to Belgrade in April, the delegation briefly discussed the matter with a representative of that administration. Subsequently, the Rapporteur for on-site investigations, on behalf of the Commission, went to Knin from 17 to 19 May 1993 and met with the Prime Minister of the Knin administration and his advisers. On that occasion the Rapporteur obtained a promise of cooperation also from this administration.

18. On the same occasion, the Rapporteur met with the local officials responsible for collecting information and evidence of war crimes and, on behalf of the Commission, urged them to send their reports to the Commission.

B. Activities related to information-gathering and to the database

19. In the period covered by the present interim report, the Commission, pursuant to the requests contained in Security Council resolutions 771 (1992) and 780 (1992), has again received thousands of pages of documentation as well as video information containing allegations of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. In addition, the Commission has solicited documentation and supplemental information from various sources relating to the situation in the territory of the former Yugoslavia. The Commission has also requested and received information during its investigative missions in the territory of the former Yugoslavia.

1. Sources of information before the Commission

20. As of 31 August 1993, reports containing allegations of grave breaches of the Geneva Conventions and other violations of international humanitarian law have been submitted by the Governments of Austria, Bosnia and Herzegovina, Canada, Croatia, Denmark, Germany, Slovenia, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Federal Republic of Yugoslavia (Serbia and Montenegro).

21. The Commission has also continued to receive reports from United Nations bodies, intergovernmental organizations, international non-governmental organizations (NGOs), various national organizations and private sources.

22. The United Nations bodies and authorities in question include the Special Rapporteur appointed under resolution 1992/S–1/1 of the Commission on Human Rights to investigate first hand the human rights situation in the territory of the former Yugoslavia, the Commission on Human Rights and the United Nations High Commissioner for Refugees.

23. In addition, the Conference on Security and Cooperation in Europe (CSCE), the Council of Europe and ECMM have submitted reports or documentation to the Commission.

24. During the period concerned, the Commission has received reports or documentation in the public domain from a number of international NGOs: Amnesty International, ICRC, Medecins sans frontieres, Helsinki Watch, Humanitarian Law Fund, International Human Rights Law Group and Danish Helsinki Committee.

2. Requests by the Commission for information from specific sources

25. The Commission has requested information provided to the competent national authorities by refugees and other persons having left the war zones and now residing in Austria, Denmark, Germany, the Netherlands, Sweden, Switzerland and the United Kingdom. Information of this kind has begun to come to the Commission from the Governments of Austria, Denmark and Germany. The Government of the United Kingdom informed the Commission in March 1993 that it was in the process of collecting that type of information.

26. The Commission has also solicited, through the Governments of the United Kingdom, Austria, Germany and the Netherlands, video information from the respective

television companies concerning alleged violations of international humanitarian law in the territory of the former Yugoslavia. The British Broadcasting Corporation (BBC) has already submitted video information to the Commission. Moreover, footage of published television reports from all of the major networks in the United States (American Broadcasting Company (ABC), National Broadcasting Corporation (NBC), Columbia Broadcasting System (CBS) and Cable News Network (CNN)) as well as Independent Television News (ITN) and from TRV Belgrade and Television Tuzla has been obtained. The Austrian broadcasting company has indicated that it intends to provide video information to the Commission. To demonstrate how video footage can supplement the written record and assist in identifying persons and places. The Rapporteur for the gathering and analysis of facts has edited some of the footage in the Commission's possession and prepared a 60-minute video tape for use by the Commission.

27. Moreover, the Commission has contacted international NGOs, human rights organizations and private experts in North America and Europe. The Commission has thus received information from Helsinki Watch, the American Jewish Congress, the Women's Coalition Against Ethnic Cleansing, the Zenica Centre for Investigation of War Crimes and Crimes of Genocide on Muslims (Bosnia and Herzegovina), the Croatia Documentation Centre and State commissions on war crimes (in Belgrade, Sarajevo and Zagreb). Likewise, the Commission has been gathering valuable information from print and electronic media. Minnesota Advocates for Human Rights is assisting the Commission's Rapporteur on the gathering and analysis of facts to compile and analyse published articles relating to alleged violations.

3. Processing of information

28. As mentioned in paragraphs 22 et. seq. of its first interim report, the Commission has set up a database designed to provide a comprehensive, consistent and manageable record of all reported alleged grave breaches of the Geneva Conventions and other violations of international humanitarian law being committed in the former Yugoslavia. The inputting of information into the database is being effected in the International Human Rights Law Institute of DePaul University (Chicago, United States) under the supervision of the Rapporteur on the gathering and analysis of facts, who is also the President of the Institute. The offices where the database has been set up are protected by an electronic security system. Originals and photocopied documents are kept in locked filing cabinets. At the end of June 1993, the Chairman went to Chicago to observe the work on the database.

29. As of 31 August 1993, the database contained over 3,000 "cases", representing thousands of alleged violations and incidents of victimization. The database operates on several levels and manages multiple categories and subcategories of information, such as the violations alleged; victim, perpetrator and witness identification; source; location; evidence; and military affiliation data.

30. Information, either received directly by the Rapporteur or forwarded to him from the Commission secretariat at the United Nations Office at Geneva, is entered into the database by analysts with legal and/or human rights experience. Prior to data entry, the analysts review documents and identify information in the light of the categories and subcategories contained in the database. The information is then entered into the appropriate categories. A narrative description of each report that captures every important item of information relating to a particular incident is also entered.

31. Apart from storing information in an organized manner, the database is capable of performing a number of functions that will prove particularly useful to the Commission's work, such as generating reports by category, conducting context-sensitive searches, assembling information into case files and creating graphs that demonstrate trends in the data.

4. Examination and analysis of information

32. The cases already entered into the database reveal that alleged violations of international humanitarian law, mostly against the civilian population, have affected thousands of individuals on all sides of the conflicts in the territory of the former Yugoslavia. The majority of reported violations concern killings, torture, kidnapping/hostage-taking, forced eviction and imprisonment. A large number of alleged rapes have also been reported.

33. The database can only be as useful and comprehensive as the information and reports upon which it is based. Since the Commission began compiling information in November 1992, the character and quality of the information submitted by the various sources has changed little. Many of the reports lack sufficient detail about the reported event, i.e. information relating to the identify of victims, perpetrators, witnesses, etc. Only limited information on "order of battle" and the location of military units at a given time is presently available. This information is critical in order to identify military units and to establish "command responsibility". Finally, the actual sources upon which reports are based are not verifiable at this time. Many reports do not disclose original sources, nor do they state whether any original evidence may be available (e.g. affidavits of victims, witnesses or perpetrators; photographs; medical reports, autopsy reports). It could be that those who prepared the reports may have relied on diplomatic correspondence or intelligence sources and may not be able to reveal the information needed. Other sources for these reports may be the media, which would not be useful unless the original media source could be verified.

34. Thus, most of the reports received are, by themselves, of qualified evidentiary value. However, supplemented with other information, these reports form a substantial basis for further investigative work, which might lead to prosecution.

35. While continuing to enter new information into its database, the Commission has recently started the analytical phase of the work. In this connection, the Rapporteur has prepared "test" analyses of four incidents/locations relating to serious violations of international humanitarian law. Preliminary reports have been submitted to the Committee on the following:

(a) the abduction of civilians and military personnel from the Vukovar Hospital and the execution and mass grave at Ovcara;

(b) Detention centres and violations alleged to have been committed in and around the town of Brcko (including the Luka camp);

(c) Incidents relating to "ethnic cleansing" and detention centres in the area between Prijedor and Banja Luka (including the mass execution of prisoners at Keraterm and the alleged violations at the Omarska iron mine);

(d) Allegations of mass killings and "ethnic cleansing" perpetrated by both Bosnian Serbs and Bosnian Muslims in the Bratunac/Srebrenica region.

36. Likewise, a day-to-day chronological analysis has been prepared of the 17-month siege of Sarajevo (April 1992–August 1993). The study should enable investigative teams in Sarajevo better to identify incidents that require further investigation. The study also concentrates on important political developments associated with an increase or decrease of military activity in and around the city.

37. Lastly, two databases have been established to catalogue information pertaining to 353 reported detention centres (e.g., dates of operation, number of prisoners, prisoner exchange data) and over 200 reported mass graves[8] (e.g., location of the grave, number of persons reported buried, ethnicity of persons in the grave).

5. Computer linkage between the database and the Commission secretariat in Geneva

38. The Commission has ordered computer equipment for its secretariat in Geneva. The equipment, which is now being delivered, will provide direct computer linkage between the database in Chicago and the computers at the Commission secretariat. The computer equipment will have a read-out capability. The Commission therefore will know at all times the type of information that has been inputted into the database by access to the Internet network through the International Computing Centre at the United Nations Office at Geneva. Data entry will continue to be effected under the supervision of the Rapporteur on the gathering and analysis of facts.

C. Activities related to in-depth investigations

39. In order to verify allegations of grave breaches and other violations of international humanitarian law contained in the numerous reports received by the Commission, several investigative missions were undertaken. Whenever possible, these missions were preceded by a careful analysis of alleged facts available in the database and by the gathering of such further corroborative evidence as could be obtained from credible sources.

1. Reconnaissance mission to Vukovar

40. From 5 to 16 March 1993, the Commission sent a reconnaissance mission to the Vukovar area. The mission, led by the Rapporteur for on-site investigations, visited Vukovar and the mass grave site at Ovcara, as well as some other regions of the former Yugoslavia. The Rapporteur was accompanied by two members of a team of military lawyers and police investigators placed at the Commission's disposal by the Government of Canada and by two representatives of Physicians for Human Rights, the Boston-based NGO that has undertaken to help the Commission with exhumations of mass graves.[9]

41. The purpose of the mission was to prepare for the excavation of the mass grave at Ovcara and to work out methodological and practical recommendations for other investigations into mass killings and destruction of property, treatment of prisoners and detainees and systematic sexual assaults and "ethic cleansing". On the basis of its findings, the Commission arrived at the following conclusions.

42. The deteriorating conditions in various areas of the territory of the former Yugoslavia made some adjustments necessary both in the Commission's plan of work and in the timetable and the methods of its implementation.

43. With regard to the excavation of the mass graves at Ovcara and at another site in

UNPA Sector West in particular, it was accepted that this would require a great deal more resources than originally envisaged by the Commission of Physicians for Human Rights. The additional requirements included the services of a self-sustaining military engineering unit (40–50 persons) for the total period of the two excavations, estimated at 8 to 10 weeks. Since UNPROFOR was unable to provide such a unit, it would have to be made available by Governments of States Members of the United Nations.

44. Another additional requirement for this mission would be the availability of digging equipment, means of transportation of the remains for medico-legal examination, container and refrigeration units, water pumps, an electric generator, housing units, etc.

45. As regards the investigation of events in prison camps and other places of detention, the deployment of investigative teams in conditions of adequate security to existing camps where major violations of international humanitarian law were actually occurring would require the acquiescence of the detaining authorities. In the alternative, teams would have to confine their investigations to interviews of witnesses and the gathering of documentation away from the camp site.

2. Reconnaissance mission to Dubronik

46. From 20 to 22 May 1993, the Commission sent its Rapporteur for on-site investigation to Dubrovnik to explore the possibility of an on-site investigation into targeting, indiscriminate attacks, destruction of cultural property and "ethnic cleansing" in the area.

47. On the basis of his findings, the Commission concluded that a useful on-site investigation into these matters could be conducted in the Dubrovnik area. Focusing primarily on the question of responsibility for these acts, it might take the shape of an order-of-battle and chain-of-command study to be done by a small team of military law-of-war experts, rather than by criminal investigators.

3. Mission to Sarajevo

48. From 20 June to 9 July 1993, the Commission sent an investigative mission to Sarajevo to undertake three studies: a pilot study on systematic rape, a law-of-war study of a specific incident in the battle of Sarajevo and an analytical law-of-war survey of the battle of Sarajevo. The mission was led by the Rapporteur for on-site investigations, who was assisted by a group of Canadian military lawyers and police investigators and by the Deputy Secretary of the Commission.[10]

49. So far as the pilot study on the issue of systematic rape is concerned, the Commission obtained from the Bosnian War Crimes Commission all their information identified as relating to this issue (listing 126 victims, 113 incidents, 252 alleged perpetrators, 73 witnesses and 100 documents). The Commission has also received copies of all the files in the possession of the local authorities and identified as relating to rape.[11] The information contained in the files is being entered into the database of the Commission of Experts.

50. The lessons learned as a result of this study are:

(a) To collect evidence that would be accepted by courts, there should be direct and continuous coordination with the Bosnian War Crimes Commission and other organizations involved in collecting information, in order to encourage the development of standards of collection which will facilitate the completion of formal investigations and the establishment of prima facie cases;

(b) In order to achieve that goal, dedicated personnel, most effectively those with police investigative and law-of-armed-conflict backgrounds should be deployed as soon as possible in a pre-prosecution investigatory phase;

(c) As the experience in the field showed, the victims of rape had as a rule left their homes and were likely to be found either in refugee camps or to have moved to resettlement. Under these circumstances, small teams, including a high proportion of female personnel, deployed for extended periods of time in those locations would be the most effective means of gathering such information. Cooperation of the Governments providing refugee camps or resettlement for people from the former Yugoslavia is essential for this investigation.

51. The objective of the specific incident study was to prepare a report analysing in depth a specific incident in the siege of Sarajevo to identify specific violations of the law of war, particularly violations in which civilian casualties have occurred, to analyse the circumstances of the incident and to assess the feasibility of identifying and prosecuting alleged offenders, particularly the military commanders.

52. The incident selected for in-depth investigation was the mortar shelling of a soccer game in the Dobrinja suburb of Sarajevo on 1 June 1993 in which 13 persons were killed and 133 were injured. The investigators interviewed several witnesses on the Bosnian side and also reviewed the crater analysis produced by artillery experts. Investigators were unable to interview witnesses on the Serbian side.

53. On the basis of the investigation it is reasonable to conclude that a prima facie case exists, that persons on the Serbian side deliberately attacked civilians and, therefore, committed a war crime. With the information available, it is not possible to identify the alleged offender at present.

54. Another study based on the mission and entitled "The battle of Sarajevo and the law of armed conflict" focuses on combat-related offences, unlawful targeting and the use of unlawful means and methods of warfare. It will be continued during a further mission. The preliminary results show that most of the war crimes committed in Sarajevo have involved attacks on civilian persons and objects. It will be difficult, but not impossible, to compile a reasonably accurate list of persons killed or seriously injured during the siege of Sarajevo, to determine if they were combatants and to determine when, where and how they were killed or injured. Whether or not it is possible to determine which individuals or which units caused civilian casualties, it will certainly be possible to establish that a large number of casualties have been caused by the Bosnian Serb Army forces surrounding Sarajevo during a specific period of time. It will probably also be possible to determine roughly how many of the civilian casualties were caused by some form of sniper fire. It is reasonable to presume that civilian casualties caused by sniper fire are the result of deliberate attacks on civilians, not the result of indiscriminate attacks.

55. The compilation of a chronological and quantitative survey of damage to civilian objects in Sarajevo is more difficult. It would be possible to focus on certain types of objects, e.g., religious, cultural and medical buildings, and determine if there appeared to have been a deliberate attempt to target objects of these types. For example, a detailed study of the shelling of the Sarajevo University Clinical Centre or of the National Library would probably indicate these objects had been deliberately targeted. It may also be possible to establish that a deliberate effort has been made to target religious facilities. The tendency of Bosnia and Herzegovina forces to conceal its resources among civilian objects would probably result in some of the damage to civilian objects caused by Bosnian Serb Army projectiles constituting legitimate collateral damage. There is enough apparent damage to civilian objects in Sarajevo to justify an in-depth study of such damage. For security reasons this type of a study, which would require unimpeded movement for extended periods of time through Sarajevo, was not practicable at the time of the mission.

56. The Commission notes that it will probably be difficult to link specific individuals or specific units to specific incidents in which civilians or civilian objects have been deliberately attacked or subjected to indiscriminate attacks. Whether or not it is possible to develop a firm case against individual soldiers or unit commanding officers, it should be quite practicable to develop a prima facie case against the officer or officers responsible.[12]

4. Preparations for investigations of mass grave sites at Ovcara and in Sector West

57. It became clear from the very beginning that an excavation project for mass graves on this scale would take more time and human and material resources than any other on the Commission's programme of work.

58. Physicians for Human Rights set up a 20-member international forensic team that has been prepared since January 1993 to start work with six weeks' notice.

59. However, after the reconnaissance mission in March 1993 [13] it became evident that there were two preconditions for performing this investigation: the cooperation of the local authorities having control over both sites and the availability of a self-sustaining military engineering unit and of specialized technical equipment needed for the job.

60. While by May 1993 the Commission had been able to receive general oral promises of cooperation in both cases from the local administration,[14] obtaining a military engineering unit (40–50 people) proved to be a time-consuming problem.

61. However, in September 1993, after consultations in the Security Council,[15] the Government of the Netherlands, responding to the Commission's request, decided to provide such a unit and started training it with a view of making it available for the Commission in October 1993.

62. As to the equipment, the United States Government has pledged to provide a considerable part of it; another part will be provided by the Government of the Netherlands. The remaining equipment will have to be bought or rented by the United Nations.

5. Interviews with alleged war criminals

63. The Commission sent one of its members, accompanied by two assistants, to Zagreb from 11 to 14 August 1993, to interview five prisoners of war (POWs) who had been charged by the Croatian authorities with having committed war crimes on imprisonment. Four of them had been charged with war crimes committed in the Vukovar area, and the fifth in the Pakrac area.

64. As required under Croatian law the five prisoners were visited and heard in the presence of a judge from the Zagreb District Court. Also present was a member of the Croatian Commission for War Crimes committed in the territory of Croatia. Police and

court files were made available. The judge assisting at the hearing provided copies of essential documents.

65. Several of the prisoners who had allegedly admitted to Croatian authorities committing very serious offences on a large scale modified these statements during the interviews, alleging that their original admissions had been extracted under duress. Some expressed fear of the consequences of speaking to the Commissioner. Assurances about the safety of these alleged perpetrators were received by the Commission from the Croatian authorities in writing.

66. In this connection, at its seventh session, the Commission decided to work out guidelines for future interviews of witnesses and for the hearing of testimonies of alleged war criminals.

6. Rape investigations

67. At its sixth session, the Commission decided that further planning for the rape investigation would be done on the basis of the study on systematic sexual assault,[16] which has since been provided by the Rapporteur on the gathering and analysis of facts. In the meantime, the Commission will proceed with the formation of female investigative teams. The Commission will also determine the most effective way for carrying out such investigation, depending on the location of victims.

68. It is important to note that rape has been reported to have been committed by all sides to the conflict. However, out of 330 reported cases reviewed in the study, the largest number of victims have been Bosnian Muslims and the largest number of alleged perpetrators have been Bosnian Serbs. These alleged perpetrators include military personnel, special forces (some of whom are from outside Bosnia and Herzegovina), local police and civilians.

69. Some of the rape cases are clearly the result of individual or small group conduct without evidence of command direction or of it being part of an overall policy. Others may be a part of an overall pattern. Because of a variety of factors, such a pattern may lead to the conclusion that a systematic rape policy existed but this remains to be proved. Among these factors is the coincidence in time between military action designed to displace civilian populations and widespread rape of the same populations. Group involvement of the members of the same military units in rape suggests command responsibility by commission or omission; in this respect, the manner in which this type of rape was conducted in multiple locations and within a fairly close period of time (mostly between May and December 1992) is also a significant factor. Another factor in this connection is the contemporaneous existence of other violations of international humanitarian law in a given region occurring simultaneously in prison camps, in the battlefield and in the civilian regions of occupied areas.

70. If further investigations prove that a nexus exists between these activities and the policy of "ethnic cleansing", then it could be argued that rape has been used as an instrument of war and carried out in a manner designed to instill terror, shame and other psychological consequences in a given population group to coerce their removal and prevent their return. However, the consequences and conclusions of such practices have yet to be determined more fully by comprehensive investigations.

II. NEXT PROJECTS TO BE UNDERTAKEN BY THE COMMISSION

71. In implementation of its programme of work and with due regard to the request from the Security Council that, pending the appointment of the Prosecutor of the International Tribunal established for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, "the Commission should continue on an urgent basis the collection of information relating to evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law",[17] the plan of work of the Commission for the coming months includes the following:

A. Next stage of work on the database

72. The Commission will continue to analyse, catalogue and enter into the database the allegations of violations of international humanitarian law contained in reports from various sources.

73. As mentioned above,[18] the Commission is continuing several ongoing studies relating to detention centres, mass graves and mass killings, "ethnic cleansing", allegations of systematic rape and the military and political chronology of the siege of Sarajevo and a study of the activities of the special forces operating in the area.

B. Investigative missions to Sarajevo and some other regions of the former Yugoslavia

74. The Commission, at its sixth session, decided to send the two rapporteurs accompanied by the Assistant Secretary to the Commission and the Personal Assistant of the Chairman on another mission to Sarajevo from 1 to 10 September 1993. In addition to Sarajevo, the team also intends to visit Zagreb, Knin, Zadar, Pale, Zenica and Belgrade. The purpose of the mission is to collect data, to update the draft study on the battle and siege of Sarajevo, to develop further contacts with national war crimes commissions and to plan future selected on-site investigations/inspections of mass graves. The delegation will seek to confirm the pledge of cooperation from the local authorities with the Commission, primarily for the mass graves investigations.

75. The Commission will send missions to Vukovar and Dubrovnik to conduct battle studies in those areas, to investigate targeting practices, indiscriminate attacks against and mass killings of civilian population and damage to cultural property and to attempt to impute responsibility for prohibited acts. The Commission is also planning to send a mission to Ahmici-Vitez and other areas at a later stage.

C. Investigations of mass graves

76. The database study[19] contains allegations of over 200 mass graves in Bosnia and Herzegovina and Croatia. However, because of multiple-sources reporting, with duplication of information as a result, the database analysis suggests a lower figure, namely 98 mass graves as a more correct one at this stage. The number of persons reportedly buried in these graves ranges from 3 to as many as 4,000. Most of the reported graves contain either Serbian or Croatian victims. It should be noted, however, that the existence of a mass grave does not necessarily indicate the existence of violations of international humanitarian law, as the grave may have been created to bury those that died under legitimate circumstances.

77. The Commission has undertaken a more detailed analysis of the available information concerning two reported mass graves in Bratunac and Ovcara.[20] In Bratunac, a grave containing 39 Bosnian Serbs was reported to have been discovered after Bosnian Serbs recaptured the village from Bosnian-Muslim forces. Those buried in the grave were reported to be mostly women, children and the elderly, victims of a Bosnian-Muslim attack on 7 January 1993. A report alleged that some of the dead had limbs severed or were otherwise tortured before they died. The oldest victim was reported to be an 82-year-old man. However, the Commission has not been able to verify this information as yet.

78. The grave in Ovcara is thought to contain as many as 200 Croatian civilians and soldiers reportedly abducted from the Vukovar Hospital and then executed at the grave site by Yugoslav army and Serbian paramilitary units. A preliminary inspection of the area by the Commission revealed a 10-metre-by-30-metre area of recently disturbed earth; three young adult male skeletons lay partially exposed, one had an exit wound from a gunshot on the left temple. A surface survey yielded a large number of spent 7.62-millimetre cartridges in the bushes north-west of the grave site and bullet scoring on trees to the south-west of the grave site. A test trench was dug that exposed 9 corpses, which would indicate a grave containing as many as 200 persons.

79. For the time being, the Commission is proceeding with preparations of large-scale investigation of two mass graves—in Ovcara (Sector East), referred to above[21] and the other in sector West. The preconditions for the operation, which is tentatively scheduled to begin in October 1993, are that the Netherlands military engineering unit remains available, that the local authorities do not withdraw their support and that the security situation in both areas does not deteriorate.

80. While proceeding with the preparations for the exhumation of the remains from the two mass graves, the Commission is preparing at the same time a contingency plan in case any of the preconditions mentioned above are not met. In this case, one or more small investigative teams (three to five persons), including forensic experts and lawyers, will visit an area that would be selected on the basis of information available in the database and which would presumably contain a number of mass graves. These teams will go to sites of mass graves to make a determination of their existence and to observe and record whatever pertinent facts may be discoverable without a large-scale exhumation within a relatively short period of time.

D. Investigations of systematic rape

81. The Commission is working out the modalities for the purpose of carrying out investigations into systematic rape. In this regard, the assistance of a number of Member States is deemed indispensable.

82. Therefore, the secretariat is requesting those Member States that have received rape victims from the former Yugoslavia to communicate their whereabouts. The Commission has also established contacts with the local commissions on war crimes operating in Sarajevo, Belgrade, Zagreb and Zenica.

83. It is expected that the formation of female teams for the investigations will be completed in September. The final plan of action will be worked out on the basis of the study on systematic sexual assaults, mentioned above.[22]

E. Investigations of detention centres and prison camps

84. Reports from Governments, NGOs and individuals describe widespread abuses of human rights in detention facilities in the former Yugoslavia, and especially in Bosnia and Herzegovina. Torture, rape and other forms of physical and psychological mistreatment are reported to have taken place

on a large scale. The information catalogued to date[23] indicates the existence of 393 reported detention facilities, of which 158 are (or if closed, have been) controlled by Serb forces, 64 by Muslim forces and 30 by Croat forces. One hundred forty-one detention facilities alleged to exist have not yet been tied to a specific faction. For instance, a Bosnian government report alleging the existence of a large number of camps does not identify whether they are operated by Serbs or Croats.

85. Notwithstanding the greater reported number of Serb-operated camps, and a greater number of alleged violations there, the reports ascribe grave abuses to all factions. Mass killings, rapes, beatings and torture have reportedly been widespread. Beatings are the most commonly cited form of physical abuse, with many cases reported of prisoners being beaten to death or left to die from injuries sustained during beatings. Conditions of detention have been particularly bad in many camps, with crowded and unfit living quarters, an absence of medical treatment and in some cases the near-starvation of prisoners.

86. On the basis of information available, the Commission would identify those camps to which it would endeavour to send its representatives, and submit appropriate requests to the authorities under whose control the camps are. However, since the majority of camps and detention centres are now closed, and in case there are complications with visits to the existing camps, the Commission will endeavour to get in touch with witnesses who have been detained in the camps. Since those witnesses may now be either in refugee camps or have moved on to resettlement, the success of such investigations will to a great degree depend on the cooperation of the Governments of those countries that have provided refugee camps or resettlement for people from the former Yugoslavia.

III. RESOURCE AND BUDGETARY REQUIREMENTS

87. The resources available to the Commission are being provided from the regular budget to cover remuneration and travel of its members and the secretariat, and from the Trust Fund set up by the Secretary-General in February 1993 mostly to finance investigatory activities.

A. Regular budget

88. As mentioned in its first interim report, the Commission has been provided with a regular budget for a period of nine months as from 1 December 1992. At its seventh session, the Commission was informed that additional funds will be allocated to cover its activities until the end of 1993.

B. Trust Fund

89. As indicated in the Secretary-General's letter of 10 February 1993 to the President of the Security Council, pursuant to the request of the Commission[24] and in order to make available to the Commission adequate funds to allow it to implement its plan of work, the Secretary-General set in motion the necessary administrative steps for the establishment of a trust fund.

90. On 24 May 1993 the Secretary-General sent a letter to the heads of Permanent Mission in New York requesting their Governments to consider a contribution in terms of financial resources or personnel to assist the Commission in its investigative work.

91. As indicated in the letter, financial contributions should be made to account No. 015–004473, United Nations General Trust Fund Account, Chemical Bank, United Nations Branch, New York, N.Y. 10017.

92. In response to the Secretary-General's appeal, a number of Governments have transferred or pledged their contributions to the Trust Fund:[25]

	US$
Austria	20,000.00
Canada	237,868.70
Denmark	15,201.07
Federated States of Micronesia	300.00
Liechtenstein	3,184.00
Netherlands[1]	259,067.36
New Zealand	27,583.15
Norway	49,978.00
Sweden	99,132.00
Switzerland	50,000.00
United States[2]	500,000.00

[1] The contribution of the Netherlands was designated for systematic rape investigations.

[2] In addition to its financial contribution, the United States has also pledged to donate a significant part of the equipment needed for the mass grave investigations (see para. 62 above).

c. Human resources of the Commission: secretariat staff, investigative teams and support personnel

93. The Commission continues to be serviced by a small staff which includes three Professional staff members provided by the Office of Legal Affairs and two secretaries.

94. In addition to the secretariat staff funded from the regular budget, a number of legal, medical or other specialists provided by Governments or NGOs have been assisting the Commission in its work.

95. About 30 assistants work on the database under the supervision of the Commission's Rapporteur for gathering and analysis of facts in the International Human Rights Law Institute at DePaul University, Chicago, at no cost to the United Nations. They include four salaried attorneys, eight volunteer attorneys, seven paid student assistants, two computer programmers, one documentarian, a media source analyst, a researcher and five other volunteers. All of them have signed undertakings of confidentiality regarding their work on the database. The costs for the operation of the database from December 1992 to December 1993 ($480,000 in direct costs and $250,000 in indirect costs, total $730,000) are covered by a grant from the Souros Foundation and in-kind contributions of the Institute obtained by the Commission through its Rapporteur.

96. A team of forensic experts (up to 20 specialists) has been provided by Physicians for Human Rights to assist the Commission, at no cost to the United Nations, with investigations of mass graves. Physicians for Human Rights have been able to obtain grants and in-kind contributions for this operation from private sources. The team provides assistance to the Commission under the cooperation service agreement signed with the United Nations on 11 December 1992.

97. A team of military lawyers and police investigators (eight persons) has been provided to the Commission by the Government of Canada. With the exception of salaries, other mission-related expenses of the team are to be paid by the United Nations. The team provides assistance to the Commission under the cooperation service agreement signed on 16 June 1993.

98. The Government of Norway has pledged to provide the Commission with six specialists (forensic experts, military lawyers and police investigators). The specialists, who will assist the Commission under an agreement to be signed between the United Nations and the Government of Norway, will be provided at no cost to the United Nations.

99. The Government of Austria has also indicated that it is considering the possibility of providing three experts on forensic medicine and damage to cultural property and historic monuments to the Commission.

100. The Government of the Netherlands has decided to provide a self-sustaining military engineering unit (up to 50 persons) to assist the Commission with mass grave investigations. An appropriate agreement is to be signed between the United Nations and the Netherlands.

101. In addition, the Commission intends to use for its investigative missions the personal assistance of Mr. Kalshoven and Mr. Opsahl (at no cost to the United Nations) on the basis of agreements to be signed with the authorities of the Netherlands and Norway, respectively.

102. The Commission would like to put on record its appreciation to all Governments and organizations for providing financial and human resources to assist it in its work.

IV. CONCLUDING REMARKS

103. The Commission was mandated by the Security Council to examine and analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission might obtain through its own investigations or efforts of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. In May 1993, the Security Council, in its resolution 827 (1993), encouraged the Commission to continue its activities on an urgent basis, pending the appointment of the Prosecutor of the International Tribunal established to prosecute persons responsible for above violations.

104. The activities undertaken by the Commission in the implementation of its mandate over the seven months that have elapsed since its first interim report was submitted, fall basically into two parts: (a) collecting, evaluating and analyzing information with the help of the database and (b) sending investigative missions to the former Yugoslavia to collect and verify the information, to investigate specific incidents as well as to obtain testimonies, to interview victims and witnesses and to hear alleged perpetrators.

105. So far as the database progress is concerned, thousands of pages of information have been gathered and processed and are being analyzed on the issues of mass killings and destruction of property, treatment of prisoners and detainees, systematic sexual assaults and "ethnic cleansing". The first preliminary studies, as indicated in note 2, accompany the present interim report. Notwithstanding the qualified evidentiary value of the information contained in the database as such, the database has already proved to be of great assistance to the Commission as a basis and support for its specific missions and investigations. It is also already obvious that, when completed, the results of the database information analysis will provide valuable help to the office of the Prosecutor of the International Tribunal established by the Security Council.

106. During the period under review the Commission has sent five investigative missions to the territory of the former Yugoslavia to collect and verify information on the issues mentioned above. The reports of one of these missions (Sarajevo) accompany the present interim report as indicated in note 2.

107. However, the Commission had to postpone or to limit the scale and scope of its investigative missions and major projects,

owing to both the volatile military and political situation in the former Yugoslavia and to the fact that the voluntary contributions of financial and human resources on which the investigative work of the commission is dependent did not start to come in on a sufficient scale until July-August 1993. However, the resources now at the disposal of the Commission should enable it to enter into a period of intensified verification work, provided that the overall military and political situation in the former Yugoslavia does not present new complications.

108. The programme of work of the Commission for the coming months includes the continuation of ongoing investigative missions to Zagreb, Sarajevo, Knin, Zadar, Pale, Zenica, Belgrade, Ahmici-Vitez, Dubrovnik, etc. The Commission also will send specialized teams of experts to investigate mass graves, systematic rape, detention centres and prison camps.

109. In light of the results of the Commission's work so far and of its projected plans and continued activities, the Commission remains ready and willing to proceed with its work in fulfillment of its broad mandate as set out by Security Council resolution 780 (1992) and in support of the International Tribunal and in particular of its Prosecutor.

NOTES

[1] S/25274, annex I.

[2] The present report is accompanied by the following documents: report on mass graves with analysis of Bratunac and Ovcara (Vukovar); report on camps and detention facilities; study of Sarajevo battle and siege and its appendices; draft preliminary summary and analysis of allegations of systematic rape in the former Yugoslavia; rape pilot study on Bosnia and Herzegovina; report on mortar shelling Dobrinja district of Sarajevo; report on the battle of Sarajevo and the law of armed conflict. Owing to the preliminary character of these reports, and to their volume, the Commission decided to transmit them to the Secretary-General for information.

[3] The Commission's mandate is to examine the analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission may obtain through its own investigations or efforts of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.

[4] Professor Frits Kalshoven (Chairman), Professor Mr. Cherif Bassiouni, Mr. William Fenrick, Judge Kéba Mbaye and Professor Torkel Opsahi. The members of the Commission sit in their personal capacity. Mr. Bassiouni acts as Rapporteur on the gathering and analysis of facts, and Mr. Fenrick acts as Rapporteur for on-site investigations as well as Rapporteur on issues of law.

[5] *Official Records of the Economic and Social Council, 1993, Supplement No. 3* (E/1993/23–E/CN.4/1993/122).

[6] S/25274.

[7] The delegation as a whole visited Zagreb and Belgrade. Thereafter, the Chairman went to Ljubljana, while the two rapporteurs went to Sarajevo.

[8] See also para. 76 below.

[9] See also S/25274, annex I, para. 61 and 62.

[10] The original decision of the Commission at its fifth session was to send an investigative mission to the Ahmci-Vitez area (Bosnia and Herzegovina). However, owing to the rapidly deteriorating security situation in that area and on the advice of UNPROFOR, 10 days before the departure of the mission the Commission had to postpone it and to send the team to Sarajevo instead.

[11] The team also interviewed one rape victim, a 13-year-old girl who was kept captive for 10 days in July 1992 and was a victim of multiple rape.

[12] In addition to the information obtained during the missions to Sarajevo, a large amount of documentation from other sources has been examined by the Rapporteur on the gathering and analysis of facts, resulting in a comprehensive Study of Sarajevo battle and siege (see also para. 36 and note 2 above). This is a day-by-day chronological analysis of 17 months. It indicates that the battle and siege have taken a significant toll on the city and its inhabitants. It is estimated that close to 9,000 Sarajevo inhabitants, including 1,500 children were killed or are missing, and that approximately 53,000 people have been wounded, of whom 14,000 are children. Many of these casualties are the result of sniper fire. Nearly all mosques, Catholic churches and hospitals and numerous other protected targets as well as major commercial buildings and facilities in the centre of the city have been destroyed and, with them, a part of the city's cultural and historical heritage. Furthermore, the shelling has destroyed more than 10,000 and damaged over 100,000 apartments. The city now has fewer than 300,000 residents, down from 600,000 before the war.

[13] See paras. 40–44 above.

[14] See paras. 15 and 17 above. The Commission, however, intends to obtain a written confirmation of these promises before the investigations actually take place.

[15] S/26373 and S/26374.

[16] Draft preliminary summary and analysis of allegations of systematic rape in the former Yugoslavia (see note 2 above).

[17] S/25826.

[18] See paras. 35 and 36 above.

[19] *Report on mass graves with analysis of Bratunac and Ovcara (Vukovar) (see note 2 above).*

[20] See note 2 above.

[21] See also paras. 57–62 above.

[22] See para. 67 and note 2 above.

[23] The report on camps and detention facilities (see note 2) analyses more closely the available information on the following camps: Keraterm, Omarska, Trnopolje, Manjaca, Stajicevo, Foca Prison, Foca School and Partizan Sports Hall, Luka, Doboj, Zenica, Mostar and Lora.

[24] S/25274 and annex I, para. 71.

[25] Less the expenses already incurred, the balance of the Trust Fund, as of 31 August 1993, amounts to approximately $730,000 in cash and over $380,000 in pledges.

[From Belgrad Duga, Jan. 30–Feb. 12, 1993]

BIOGRAPHIC DATA ON SERBIAN FIGHTER ARKAN

(By Dada Vujasinovic)

For socialist and divine Serbia, no one is ever, under any circumstances, irrevocably lost. That is why at its most difficult moments the fatherland always has plenty of true sons who will fight and struggle, with self-sacrifice and without giving quarter, for its freedom, reputation, heritage, prosperity, and future in the world community of civilized nations.

The celebrated commander of the Serbian Volunteer Guard [SDG], former legend of the Belgrade underworld, pastry shop owner, and dealer, Zeljko Raznjatovic Arkan, by the will of the Serbian voters of Kosovo, has become a people's deputy. One of the 250 people's representatives to the Serbian parliament before which the reelected president of the republic, Slobodan Milosevic, will take his oath, among other things.

During the preelection campaign, Raznjatovic spent a few days strolling around Kosovo, where without exaggerated eloquence while addressing the popular masses, with the experience gained at Zvezda "North," he repeated the slogans about the "holy Serbian land" and the "heart of Serbia." As a hardened warrior for a United Serbian State, he came to the very place where he himself says that he first fell in love with Sloba, in order to repeat all the same promises already made to the local people by the current government, albeit with a somewhat more elevated tone and racy vocabulary. Milosevic promised the people that no one will be allowed to beat up on them, while Arkan announced that he would beat up on everyone who is disobedient.

Judging from the ambitious job that he has set out to do as deputy, including the absolute introduction of order to Kosovo and a definitive showdown with traitors to Serbhood of any color and shape, Arkan will certainly heat up the deputy's bench, firmly believing in his own authority, which he has demonstrated in the past as one of the leaders of the underworld, a fan leader, and a commander of volunteers. Unfortunately, if we are lucky and the sanctions are lifted, Raznjatovic will not have the opportunity to participate personally in a delegation of Serbian members of parliament visiting their foreign colleagues, because he could experience unpleasantries on the way due to mistakes made in his youth. But at least he has seen enough of the wide world not to be upset that he is now unable to represent his fatherland, in a way different from the way to which he was previously accustomed. After all, even from here he can be loud enough in replying to Lawrence Eagleburger, who considers him a war criminal, by saying that that pretentious American is "one of Tito's Pioneers," and to Clinton by saying that "he should not interfere in our elections, because we do not interfere in theirs."

No one has the right to be angry that times have arrived in which people like Arkan thrive. Today, his name is uttered in a semi-whisper, with awe. He was a legend with an inaccessible biography, and history teaches us that precisely this sort of person becomes very problematic when he begins dabbling in politics.

NEIGHBORHOOD LEADER IN GAME OF "COPS AND ROBBERS"

Zeljko Raznjatovic Arkan had all the predispositions for growing up to be a dangerous young man. A Montenegrin by origin, an only son, the fourth long-awaited child of an officer, he rebelled against conventional norms of conduct even in his early youth. He himself says that he was driven to the streets by the typically Montenegrin type of upbringing that his father tried to apply to him. So it was not long after he wrested free from his father's control that he was calling certain other people "dad," including Stanko Colak, a high-ranking official in the then-powerful federal SUP [Secretariat of Internal Affairs]. Like the thousands of petty Arkans whom the streets bring forth in every generation, Zeljko too began with theft and burglary, and in this way soon ended up at the juvenile delinquency division of the city SUP. The inspectors who had dealings with him at the time (and these are people who followed his entire developmental course by moving around within the service, only to witness his departure for the front as retirees) say that he was unusually strong for his age and as agile as a top, never dirty or slovenly, always clean and properly dressed. In their first encounters, he confused them. During one of the first arrests, at the age of 14 or 15, two inspectors found him in a Cubura pastry shop. Without enough experience, they thought that taking this boy in would be a routine matter. But the boy resisted stubbornly, slipped away, and deftly escaped until the policemen realized that in his case they would have to apply treatment intended for much older delinquents.

"If he had gone out for any sport, he certainly would have achieved extraordinary results. That was just the way he was—capable of anything," one of the doyens of the Belgrade police, a man who followed Arkan's course of development from childhood, said many years later.

Thus, early on Arkan ended up at the Krusevac house of correction, but soon thereafter he went abroad. First to London, and then one place after another. On the rare occasions when he has been willing to talk publicly about his past, about which he says that it is exclusively his own business and that he is not ashamed of it, he has interpreted his leaving the country as the desire to expand his horizons, to escape the local stifling hellhole. From the dispatches that the local police began receiving very soon after his departure from Yugoslavia, it became clear that Arkan abroad was continuing to improve on what he had begun in Belgrade. Generally, the Belgrade police simply added these dispatches to his file, if necessary notifying foreign colleagues that this is a documented delinquent. When Arkan matured into an exceptional criminal, domestic prosecutor were simply glad that he was wandering around abroad and that they learned of his activities in a purely informational sense from those dispatches. The rule was that they dealt with what was happening on the streets of Belgrade, and as long as Raznjatovic was elsewhere, he was not their concern.

BANKS TREATED LIKE SELF-SERVICE STORES

Information on Arkan's record as a robber is incomplete. One of the few people to comment publicly on Zeljko's skill and to testify that Arkan robbed more European banks than any other Serb was Goran Vukovic, the murderer of Ljuba Zemunac, a man who thus far has escaped repeated murder attempts:

"Of all of us, Arkan robbed the most banks: He walked into them almost like they were self-service stores. No one can quarrel with that fact about him. I don't know about politics, but as far as robbery is concerned, he was really unsurpassed. That is all he has done his entire life. Banks were his specialty, as well as spectacular escapes from prison. He managed to escape from the same prison two or three times. He even escaped from the Germans. He liked to act like the boss, although there was no way he could measure up to Giska. If he is a killer, then a killer is what he is: skilled and competent. However, Giska was incomparably more intelligent, cultured, and honest. He did not allow any power to manipulate him, while Arkan was simply forced to accept many unpleasant things," Vukovic said.

Ever since Arkan emerged full force as a public figure, there have been many attempts to reliably reconstruct his past as recorded in numerous police files scattered all over the world. Plenty of Arkan's "biographers" have been taken in by intentionally distributed false information and facts. Some have unnecessarily added fabricated chapters to his already profuse career. It is utterly incontrovertible that several so-called red Interpol circulars have been posted for him, which expire only after twice as much time as the punishment provided for the committed criminal act has passed. As far as these circulars are concerned, Arkan is completely safe here, because no country is obligated to extradite its citizen to another on that basis. War crimes, however, are a different matter entirely, and in the meantime Arkan has acquired that reputation in the world as well.

INTERNATIONAL FAME FROM PERIOD OF TEMPORARY WORK ABROAD

What is utterly reliable in Arkan's "bibliography" can be read in Case XII K. No. 851/86, First Opstina Court of Belgrade, where Raznjatovic was last sentenced some seven years ago. That record states that "Zeljko Raznjatovic, aka 'Arkan,' father Veljko and mother Slavka nee Josifovic, born on 17 April 1952 in Brezice, SO Brezice, living at Ulica Ljutice Bogdana No. 3 in Belgrade, Montenegrin, citizen of the SFRY, worker, working under contract part-time at the 'Amadeus' club in Belgrade, married, the father of three underage children, completed Advanced Hotel and Catering School, did not serve in the military, listed in the VZ [Community Council of the Municipal Assembly] of SO Palilula, sentenced by verdict of the Fifth Opstina Court in Belgrade K. 1510/72 to a prison sentence of six months for the criminal act of theft based on Article 249, paragraph 1 of the Penal Code, also sentenced as a minor by verdict of the Okrug Court in Belgrade Kz. No. 135/69 to serve a three-year term in juvenile prison based on Article 69 of the Penal Code, sentenced by a court in Brussels, Belgium by a verdict of 18 December 1975 to 10 years in prison for armed robbery, and sentenced by a court in Amsterdam, the Netherlands by a verdict of 7 May 1980 to seven years in prison based on the criminal act of robbery in connection with banditry."

In the meantime, some of the cited facts from 1986 have changed, but the facts cited in the file are eternal and indelible. Also in circulation is information to the effect that Arkan moved around the world under pseudonyms and with forged identity papers. Reportedly his identity was concealed under the names Betega. Valentini, Djordje Rolovic, Marko Vukotic, and others. Aside from the noted robberies in Belgium and the Netherlands, there are also the burglaries in Sweden, where he and his group broke into banks and apartments. It is known that he was a smooth operator in escaping from prison. After robbing the "Lambert" bank in Brussels, he was sentenced to hard labor, but he very quickly granted himself a pardon by escaping. He reportedly spent some time in the Dubrovnik area, and then set out on new raids in Sweden, the Netherlands, and Germany. He was arrested while robbing a jeweler in downtown Frankfurt in 1981, and he ended up in the hospital because of an injury inflicted on him by a German agent through a blow to the head, which resulted in a brain concussion, but he soon escaped from there as well. Mention is also made of a spectacular showdown with Swedish police in 1984 and his accidental capture at the Austrian-German border a couple of months later at the end of 1986, which is notable as the year of Raznjatovic's final "retreat from temporary work abroad."

Stories of Arkan's spectacular escapes from the most secure prisons have been retold around Belgrade. It is known, however, that such a thing cannot be executed without outside help, regardless of how good a shape the prisoner is in. Reliable sources, former UDBA [State Security Administration] officials, told me that a working mechanism exists for springing their people once the news has come that one of them has "fallen." Most of all, money is essential.

MUSTAFA GOLUBIC AMONG SERBS FOR SECOND TIME

It is assumed that Raznjatovic began working for the SSUP [Federal Secretariat for Internal Affiars] early on. Stories have been circulated to the effect that his father got him that job by asking Stane Dolanc to "join" him in order that his unruly son expend his surplus of energy, skill, and intelligence usefully. However, insiders say that Veljko Raznjatovic, a retired air force colonel and veteran of the First Proletarian, gave up on Zeljko early on, and that he even divorced his wife because of his son's mischief. Nevertheless, Arkan had close relations with certain of Tito's generals, including Jovo Popovic, with whose son Misko he was good friends. Many people believe that the then-powerful Gen. Jovo Popovic is largely responsible for Arkan's physical and mental condition.

Whatever the case, Arkan turned up in Belgrade at some point with much more self-confidence than he had when he had crossed the border as a boy. He wore a white suit, was a passionate frequenter of gambling houses, disco clubs, and night spots, trying to present himself as a new Mustafa Golubic. One could only speculate about his merits. But he also behaved like a responsible citizen of Belgrade. He was the terror of gambling houses of that time. When he won, he demanded that the money be paid to him. When he lost, he showed the croupiers his pistol instead of his chips. With time, thanks to him, a complete ritual in relations between the Belgrade and federal police emerged, consisting of the following: When the Belgrade police took Arkan in, they counted the minutes that went by until the SSUP intervened, and guessed at who would come "get" him this time. Most often it was Srdan Andrejevic and Stanko Colak. It is known, however, that Stane Dolanc himself did not shun this task either.

TWO PARKING TICKETS AND VISIONARY PROPHESY

This happened in the early 1980's. Arkan was once taken in by the city SUP because he had arrogantly parked his car right in front of the entrance to the used-car market at Bubanj Potok. He sat in the car and did not pay the least bit of attention to the warning by traffic policemen to move the car. Instead, the patrol was attacked by two companions who were with him in the car, who used their pistols. They fled, but Raznjatovic was taken to the SUP, although he showed identification from Montenegrin DB [State Security], for the purpose of determining the identity of the assailants. The Belgrade police say that Arkan was the epitome of civility whenever he was taken in. He always willingly agreed to this game, only occasionally warning that "dad" would bring charges against them, although there was no need for that, because "dad" always found out about everything in time. Morever, Arkan always responded to every invitation by inspectors to come in for an "information talk." During that time, the chief of the criminal investigation department was Tomislav Jeremic, while the chiefs of the operative divisions wee Mele Jovanovic, Spiro Otesevic, and Petko Zoric, with their also well-known colleagues, Nocovic, Bizic, Andjic, Rade Markovic, and others. All one had to do was to leave a message that he come to his mother's house, and he would obediently appear. The inspectors with whom he cooperated and who over the course of time developed a proper relationship with him say, however, that he was never really that useful to them. He never agreed to inform on anyone else, nor was he willing to recall to them events where he was present as a witness. That was the case this time as well. In vain the chief of the city SUP at the time, Merle Jovanovic, asked him to say who the two men were who had attacked the patrol. Very soon, the telephone rang and a policeman from the main entrance informed Jovanovic that Stane Dolanc, at the time the newly appointed federal secretary for internal affiars, had just entered the building. Jovanovic said something to him about getting better eyeglasses, accusing him of hallucinating. But then the phone rang again. This time it was the city secretary, informing him that Dolanc had come personally to take Arkan home. At that time, it was more than adequate for Dolanc to intervene by telephone. His personal appearance indicated major services or major sympathy, or perhaps both.

Another time, Arkan parked a car right at the entrance to the "Metropol" and left to gamble in the company of Gen. Kapicic. A security officer asked him to move the car, but Arkan scornfully chased him from the table. Then the chief of the city SUP firmly ordered that this be done immediately, because otherwise he would personally come and teach him a lesson. Arkan obeyed, but at the hotel exit he embraced the officer who had brought him the message and said, literally, "Why are you all so committed to that chief? Don't be surprised when I become a national hero one day." The dilemma remained—was Arkan clairvoyant, or was he thinking of his prior merits?

PROMOTION FROM FEDERAL TO CITY SUP

Among the hard-working people of the Belgrade underworld, he was renowned as the boss with a refined sense of justice. In their quarrels, it is said, he always passed judgment impartially. Aside from his occasional tendency to fleece some of them for money when he lost at gambling, after which it did not occur to him to return the debt, he liked to play the role of protector. In late 1981, for example, the police arrested Miroslav Djordjevic Bombona and Slobodan Kostovski at the Belgrade airport as they, accompanied by a UDBA agent, attempted to fly to Frankfurt. At the time, Bombona was wanted by the city SUP, so that a local search had been announced. After a couple of hours, the phone rang in the apartment of Chief Mele Jovanovic, who was resting after a sleepless night. From the other end of the line, the flustered voice of the officer on duty at the airport police station awoke the chief, explaining that a colleague was anxious to talk to him concerning an important matter. The chief was dressed down at the other end of the line by Arkan himself, who insisted that his two "colleagues" who had been taken in be released, because they had urgent and pressing business abroad. The on-duty policeman was severely rebuked, even though he justified his actions by saying that Arkan had shown him identity papers from the federal SUP. However, Arkan was then taken in as well.

Policemen from the city SUP at the time contend that despite the efforts that he made, Arkan clearly did not attain the type of position that he had at the federal SUP. "Dad" Stanko Colak went to then-city secretary Mile Rajkovic to complain about the chief and his service, who were "mistreating" his protege by repeatedly taking him in. The secretary rejected the charge at the time. All indications are that Arkan was taken in only by Miroslav Bizic, and it is also said that he was the only one who beat him. When Bizic was later forced out of the police and opened a private agency. Arkan slandered him all over town by saying that he [Bizic] himself was organizing car thefts in order to find them later and charge a hefty fee for the service. Lately however, rumor has it that customers with references from Arkan have been turning up at Bizic's agency, which indicates an unexpected turn of events. Unless there is no connection with the story that Bizic is returning to the police.

Much has changed since the period when Arkan was treated by the city SUP like all the others of his kind, because Belgrade policemen of that time contend that they were not very impressed by stories of their federal colleagues who openly admired him and loudly praised his loyalty, confidentiality, talent, and accuracy, judging from some indications. Eyewitnesses say that now Arkan enters the city SUP building as if it were his own pastry shop.

ACQUISITION OF NECESSARY SPOTS ON SSUP HOUSING LIST

Besides the noted cases of arrogant behavior on the streets of the city, Arkan committed only two major excesses in Belgrade. The first happened in early November 1983, when he wounded, in his apartment, two policemen who had come to take him in. Raznjatovic had moved into the apartment a year earlier. This was a three-room apartment that he got, according to Decision No. 46482/1 of 22 November 1982, on the basis of Article 40 of the regulation on Resolving the Housing Needs of SSUP Workers signed by then-assistant secretary Mirko Bunevski. The justification for the decision states that "in deciding on the allocation of housing to the person in question, consideration was given to all facts and circumstances affecting the allocation of housing, especially the republic that he represents and the personnel needs of the SSUP."

The two policemen set out to get Arkan in a manner that turned out later to be rather clumsy and naive for a criminal of his stature. Arkan contended that he had no idea that they were policemen and that from their faces it seemed to him that they might be Albanians,with whom he has a bad reputation. However, experienced policemen think that these two served only as practice for him, because if he had really suspected that that kind of danger awaited him, they would have had no chance of getting out of it alive. This time as well, the SSUP intervened. It was necessary to somehow convince the families of the wounded policemen not to press charges. One father agreed readily, but the other would not even consider not pressing charges against the assailant who had crippled his son. When everything got to court, the verdict was putative self-defense.

When Arkan and his family moved to a house near the "Zvezda" stadium in mid-1985 that was bought in his wife's name under unusually accessible conditions, thanks to a favorable loan from Beobank, it became clear that Arkan's price was rising. The liquidation of Stjepan Djurekovic is attributed to Arkan, and this untrue rumor provided Raznajatovic with a cover for a large number of things. Foreign police files could only state that there is a well-founded suspicion that he, under orders from the then-powerful Yugoslav UDBA, did this or that, but not that this is clearly established. Whatever Arkan has done around the world, it is a fact that he has received much more credit than others have.

1986 HOUSE INVENTORY

In early 1986, Arkan beat up a certain Predrag Djajic in an elevator. It turned out that he was nervous because he had lost a lot of money gambling that evening. Once again the federal SUP did everything it could to clear Arkan of responsibility, while the city police tried to get as harsh a punishment as possible for Raznjatovic. The court decided on a middle variation: He was given nine months in Padinska Skela prison. After appeal, the sentence was reduced to eight months, but the court denied a demand for special mitigation of the sentence in which it was alleged that Arkan was taking care of his seriously ill father and that his wife had fallen into a deep depression following his arrest. The court ruled that "the social danger of the criminal act" did not allow mitigation of the sentence that was handed down. During a search of his house, an entire arsenal of weapons was found—hunting rifles, automatic rifles with sniper-copes, two Magnums, hand grenades, ammunition, and gun licenses issued by the Cetinje SUP. Also found were various identification cards issued in France and Italy, foreign driver's licenses, 11 passports from nearly every European country, including a U.S. one, a diplomatic passport, and six press passes. Some gold and foreign exchange was found, as were seals with the signature "Casino Sveti Stefan, Raznjatovic Zeljko, director." At his trial, Raznjatovic said openly that he worked for the SSUP and that he had gotten the weapons for 13 May, Security Day, but that "the reason is not important." According to the Regulation on SUP Employment, however, a policeman cannot become a person sentenced for criminal acts, but Arkan did not fit into this category. He was simply an employee of the service. By definition, an employee is a person who performs the job assigned to him conscientiously, in accordance with the functions of the service, and on his own initiative.

The arrival of the multiparty system to the Serbian political scene divided the underworld as well. Criminals too were divided into position and opposition. Arkan leaned toward the former. In an analysis of his actions from Slobodan Milosevic's assumption of power to the present day, there is too much support of or loyalty to the regime, demonstrated in one way or another, for it to be a mere coincidence. He himself has acknowledged that he was a regular attendee of all of Sloba's rallies. He has said that he was even arrested at the big popular demonstration before the SFRY Assembly when Sloba promised that Vllasi would be arrested, because people from security thought he was suspicious. Arkan was also known early on as an ardent "Zvezda" fan, but as fate would have it, he became a real leader of troops a little before the first elections in Serbia. One day he appeared on the reserve players bench. Legend has it that here, under the "Zvezda" roof, he met then-Serbian police minister Radmilo Bogdanovic, who was a member of the club's management. Although the two of them disavowed any closer contact, it is known that Arkan quite openly and amicably offered to Bogdanovic his services in dispersing the first opposition demonstrations on television in June 1990. Bogdanovic reportedly thanked him for the offer, but Arkan is seen, together with members of the MUP [Ministry of Internal Affairs], attacking demonstrators. It is also known that the then-Serbian police minister complained openly during the 9 March demonstrations about how Arkan was "in a Croat prison."

Arkan performed his first assignment irreproachably: to dispel party leaders, especially Duke Voja, who was launching a serious assault in Marakan. It all began when Seselj, with a group of similarly minded people, tried to attend a "Zvezda" match, but was prevented from doing so by security. A number of fans then left the stands in protest. That was when loud calls such as "out with management" began, with special reference to Radmilo Bogdanovic, who was indirectly accused of expelling Seselj, but also to other national leaders. At the time, all the parties were very much interested in gaining the fans' sympathies, either because of the good advertising that would be heard from the stands or because of the considerable number of votes in the hands of soccer fans.

However, Arkan intervened resolutely, ostensibly justifying this by the fact that having politics at the stadium would divide the fans. Eyewitnesses say that during a meeting between him and Seselj at the "Ruski Car" cafe, the dialogue went as follows:

"Do you know who I am? Do you know how many people I have killed for the fatherland?" Arkan asked.

"No. I don't. I have not killed a single one, but I will begin with you. I will strangle you with my bare hands," Seselj responded.

The quarrel over fans left behind serious consequences for their interpersonal relations, although they later made up over the grave of a dead soldier. As things stand now, Arkan—because of pangs of conscience due to his previous wrong assessment—has presumably taken the initiative in the game of ingratiating himself with Seselj, taking advantage of every opportunity to express his admiration for this confirmed "patriot" and to set some ministerial post aside for him, while Seselj, when asked about Arkan, remains rather reserved and at a distance. Eyewitnesses even say that the duke is not the least bit enthusiastic when the commander visits him. The duke is probably very vengeful.

FIRST PATRIOTIC IMPRISONMENT

After successfully performing his test job and establishing order at Zvezda "North," Arkan was given more serious assignments. Suddenly, in late August 1990, Zeljko Raznjatovic, together with five friends or acquaintances, was arrested in Dvor na Uni. They had the "honor" of being condemned as a terrorist group for attempting to overthrow the SFRY, and especially the newly enthroned, young Croatian democracy under the freshly written Croatian criminal code. Initially characterized as the main terrorist and organizer, Arkan was treated in the indictment as the number four defendant. After six months' imprisonment in "Remetinac," Artukovic's former prison, following a ruling in which he was sentenced to 20 months in prison, Arkan was released. He was personally escorted from the prison by the warden, even though it was his day off and Arkan was to return to Belgrade in a private, rented airplane accompanied by friends. It is said in Belgrade that he was freed from prison by Mossad.

Arkan said nothing in his defense at the trial, because that is what his lawyers advised. At the inquiry, however, he said that he met the first defendant, Milos Bandic, in Belgrade at his bar, where the latter was gathering aid for TV Knin. According to Arkan's admission, Bandic bragged about how he was a Chetnik duke, and Arkan agreed to go with him purely for the adventure. Afterwards, Bandic informed him that one could not get to Knin unarmed, and that Vuk's and Seselj's people had previously threatened to kill him because of the clash over the soccer fans, so for that reason he bought a pistol and submachine gun from an unknown person for 3,500 marks. Arkan also said that Bandic had told him that they were going to Knin for a meeting of some sort of war council, that he had offered his traveling companions black knit caps with some sort of emblems, and that in the car he wanted to hear Chetnik songs, which Raznjatovic would not allow. Arkan also described the meeting of the war council and the discussion concerning lifting the barricades at Dvor na Uni, denied that he was asked to take his "troops" to those barricades, and explained that up to the time when they were arrested, he had not been involved in any of the first defendant's business. Upon release from prison, he said that everyone treated him decently there. He then promised publicly to withdraw to a peaceful life, to his family and business. That was mid-1991.

It was not long before Arkan was at the front in eastern Slavonia, in the role of commander of the Serbian Volunteer Guard. Referring to his days in prison in Zagreb, he asserted that the Croats released him because they had no idea whom they had their hands on, because even at that time he had a sizable guard force and was unselfishly helping the people at Krajina. Intelligence officers who have returned from Croatia in the meantime have testified, however, that the local authorities knew very well who Arkan was. Prior to Arkan's volunteers, the first to show up at the eastern Slavonian front were Jovic's fighters from the former "Dusan the Great" detachment. Then Giska and his guard tried to cross the Danube, but they were turned back by Serbian police. Arkan was released, but afterwards he bad-mouthed Giska for waging war around Kosutnjak. Arkan was in Tenja for a short time, on the front line toward Osijek, only to transfer to the former territorial defense headquarters in Erdut, which at the beginning of the war had been used by members of the ZNG [Croatian National Guard Corps] until the JNA [Yugoslav People's Army] drove them out in early August. Unlike the majority of the fighters, typical chubby Slavonians who melted away at the front, it appears that being in fresh air and in war suited Arkan so much that he gained quite a bit of weight. Running headquarters at Erdut together with him was Radovan Stojcic, aka Badza, who is now the deputy republican minister of internal affairs. Unlike Badza, who always stayed on the sidelines, Arkan beat the drum for every campaign and move. However, eyewitnesses say that the two of them were often in the office of the then-commander of the Novi Sad Corps, the late Gen. Bratic, and that they acted submissive toward him.

His fighters were irreproachable in posing for the numerous journalists hanging around. Arkan did not even shrink from organizing the delivery of cakes from his pastry shop to the front in order to brag to everyone about how much the people in Slavonia love them, and thus to plot against them. Everyone was very pleased by his joke that he would open a pastry shop on Jelacic Square in Zagreb, and it was quoted ad nauseam. Suddenly realizing that he was no longer obligated to hide and remain silent about the new types of patriotic undertakings, Arkan talked, explained, threatened, and bragged like a mute man who gains the power of speech over night. He explained that Serbia is not some sort of Santa Claus with presents to give anyone, that Zadar, Split, and Sibenik are Serbian cities that were forcibly settled with a Catholic population. . . . Not waiting for court directors to come film new versions of "Sutjeska" and "Neretva," Arkan shot a propaganda film about himself after only a few months at the front, alleging that it was an authentic combat film. Those better informed about military skills assert, however, that it contains plenty of staged celebrating and posing. Nevertheless, they are full of understanding for this need of Arkan for self-praise. Only a few people, if any, knew about his services for the former homeland, and one of the main witnesses is now a citizen of a foreign state, and is moreover somewhat senile. Arkan has never dared whisper a word about these exploits, but it is certain that he has wanted to on countless occasions. No matter what the cost, he was not willing to miss the opportunity offered to him this time to publicly depict all his fearlessness and bravery, to get it through everyone's head even before it found its way into the history books.

ATANASIJE'S VOICE IN THE WILDERNESS

Arkan did well with the job entrusted to him in Slavonia. He simply had to play the honest, well-groomed and perfumed, brave, clever, and courageous Serbian fighter, who will constantly tweak the nose of the unreliable and clumsy JNA, but all for the purpose of improving the combat morale of the same. He drove crazy ideas out of their heads, to the effect that they "were not ready for civil war" and "did not know how to fight part of their own misguided people," while his continuous name-calling and insults regarding their incompetence finally roused enough vanity among the officers for them to suddenly begin fighting like men. As Gen Vasiljevic has testified, Raznjatovic arrogantly entered the SSNO [Federal Secretariat for National Defense] building, armed to the teeth. All the officers, including even the head of the KOS [Counterintelligence Service] were obligated to show their pass and weapon to the on-duty officer at the entrance, but that did not apply to Arkan. Only once did the on-duty officer try to stop him, whereupon Raznjatovic showed him his fist and explained that that was his pass. When visiting some Syrmian cities, he traveled by military helicopter, setting down in the very center of town.

Even before he achieved wartime glory, Arkan was trying to influence public opinion about himself. Thus, on one occasion he stormed into the editorial office of NIN, which had published some article about him that was not to his liking, and severely warned those present not to repeat that sort of thing. The alibi that he acquired at the front, however, allowed him to do much more later on. Last year, on a special Studio B broadcast "From Gossip to the Truth," some "nonpatriot" asked whether it was true that the police had closed off the street in front of Arkan's house for security reasons. It did not take long for Arkan to call in from Erdut. He was not interested in hearing any explanation; he simply said that his mother had told him that he was being spat at on Studio B. "If my mother tells me one more time that you are teasing me, then you will have me to deal with. Have you no shame? While I am bleeding at the front, you are fabricating lies."

Trying to adopt the image of the ideal Serb—a patriarchal family father, successful businessman, patriot, and purebred Orthodox, Arkan launched a merciless assault on the Patriarchate. Aggressively flirting with religion, he first conquered the Slavonian eparchy and became the great protector of Bishop Lukijan of Osijek-Baranja. Last year on Christmas Eve, he appeared in the role of bodyguard for Amfilohije in Cetinje. Amfilohije later explained that the church is obligated to receive anyone who comes to Christmas Eve, and that Arkan is a native of Cetinje. As the self-proclaimed protector of Orthodoxy, however, Arkan went even further, and on 9 March of last year appeared before the Patriarchate with the intention of becoming the personal bodyguard of the patriarch himself. Atanasije's reaction was resolute: He asked Arkan to leave, explaining that the latter "cannot be the emblem under which the Serbian patriarch goes to St. Sava's Church." After a big stink was raised about this, Atanasije repeated his position in a later clarification of his reaction: "My remark was clear—Arkan cannot be the patriarch's patron and his emblem. I never questioned the fact that Arkan is defending Serbs, but he is not the only one. Arkan is a fighter where that is needed, but Stanoje Glavas was also a hero, and when they wanted to elect him leader of the rebellion he said, 'Not me, I am a guerrilla fighter.' And they elected Karadjordje."

FROM BLACK LEGEND TO PARLIAMENTARY IMMUNITY

In fact, Arkan is only seeking his rehabilitation, and his desire to push the past aside and create for himself a new image is so insatiable that it cannot be moderated. It is not easy for him. He used to get money for the job he did, but now he wants respect and admiration. If not by grace, then by force. He thinks that if he succeeded in establishing order at Zvezda "North," then he can do the same with the disobedient Serbian people. With patriots he will personally pin the Obilic Medal to their chests, while with traitors he will whip their behinds.

In early April 1992, Arkan and all his fighters were in Bijeljina, and immediately thereafter all leading world newspapers published a photograph of soldiers with the SDG emblem killing and kicking the corpses, and the whole world raised an outcry about how Serbian para-military units were carrying out aggression against Bosnia-Hercegovina. The Serbian leadership justified itself, and Dragoslav Bokan, the leader of the "White Eagles," was arrested, but Arkan disappeared from public view for a certain time.

Indeed, the "cleansing" campaign, which is the SDG specialty, presupposes "combing through" every house in an inhabited place, whereby it is not unusual for innocent civilians to suffer as well. The rule, more or less, is to shoot first and then see who is who, whether they are armed and, whose uniform they are wearing.

Be that as it may, after a certain time Arkan, with a boyishly innocent face, turned up at an auction in the "Metropol" hotel, organized to help the families of all fallen fighters. On that occasion, he acknowledged that he has no intention of justifying himself to anyone, nor does he fear anything, with the exception of his wife, who is his only boss. With the people, things are reversed. Many serious and influential people asked me not to link them with Arkan in any context, generally explaining that they have children, a family, and that they do not want any problems. Especially now that he has become a respected member of the establishment. He has a pastry shop, he has opened a currency exchange office, a private detective agency * * *

A pity, I think. He had the chance to become a legend. He readily agreed to trade in the image of a fearless robber of extraordinary caliber, the terror of every police force in the world, the big boss of the underworld who always knew how to take as much as he needed, honorably, with a revolver in his hand, in favor of the image of sycophant to figures under whose patronage he can flourish without risk. In this exchange, he has lost out twice.

[From Belgrade Vecernje Novosti, Nov. 22, 1993]

ARKAN VIEWS PRESENT SITUATION, OPTIONS IN PROVINCE

(By M. Kikovic)

"The people cannot stand the growing gap between them and the war profiteers any longer. They are getting impatient, and this is the last chance for political institutions to avoid their disappointment. Fraud has to be stamped out, otherwise everyone will take up arms." This is how Zeljko Raznjatovic Arkan, a member of the Serbian parliament, representing a group of citizens from Kosmet [Kosovo and Metohije], characterizes the present situation in Kosmet. He says that up to now only tolerance and incapability have been shown toward Kosmet.

He has also made the following statement: "Temporarily the Albanians do not have the right to govern Kosmet because they almost seized it and proclaimed its independence, but this has not thwarted their intentions concerning their independence and a greater—Albania. Having foreign support, they are now creating their own state in our presence, under our wing, and we are still behaving helplessly. We are still courting the hostile international community in order not to be condemned by it. At the same time its spies and warmongers, assuming the form of delegations, keep on visiting Kosmet, thus undermining the country. In contrast to the past, enemy services can now easily perform their tasks, for which they had to pay a lot of money before. We must not behave masochistically any longer, the defense system has to start functioning. According to the plans of mighty international factors Kosmet is coming next, but we shall not allow the scenario from Bosnia to be repeated."

According to Arkan's opinion the system of parallel leadership can be controlled by a strong policy, judiciary and financial institutions, which will enable the constitutional state to function. One has to be especially careful with Albanians, who not only disrespect the country, but are also trying to destroy it.

"They have to comprehend that their future is Serbia, in which they will have all civil rights. They have to comprehend that Rugova and other Albanian political leaders are pushing them toward disaster. The Serbs do not want a war, but they are forced to be ready for it. Rugova does not even deny that he is an Albanian citizen. Therefore the Yugoslav passport should be taken away from him. It is better for us all to direct our eyes to Belgrade than to Tirana. If there are people who do not share this opinion, we shall open the borders, and they can look for their future in Albania," Arkan says.

Arkan maintains that paramilitary forces are active in Kosmet. They consist of Albanians trained in Albania and Germany. They are sent to Croatian battlefields, they even get help from Turkey and Bulgaria. In this way their morale for the first strike on "the southern front" is being raised.

"A large number of Albanians are being trained now to be sent to the war [in former Yugoslavia]. These people should be forbidden to come back to Kosovo. We have to reinforce the police force in Kosmet, especially along the borders, they should be given wider powers. * * * The Serbian people have to be prepared to defend their homes. A large number of Serbian volunteers from Kosovo have participated in the war already, more and more young people are registering for military training at the Serbian Volunteer Guard Center. They do not want a war, but they want to be organized and prepared to defend their homes. Foreign and domestic enemies should be aware of this fact. There are no teeth, no backbone, and no tank treads that would not break in Kosovo. The people are on the alert, they have been trained to fight, every Serbian place is a defense center," the commander of the Serbian Volunteer Guard says.

Arkan thinks that the army should be transformed quickly and efficiently. He supports the creation of a strong professional Serbian army that would be a guarantee of peace. That is why he is proposing that military units be transferred to critical points, to secure the borders, to locate a part of the military industry to Kosmet.

"The Serbs must grow wiser. There must be no treason, beginning from the parliament down to the smallest village. Things must no longer be kept under the veil in the parliament. We gained the confidence of the people, but we can also lose it if we betray their expectations. It is my task to enable the children in Kosmet to live as peacefully as other children in Serbia," Arkan says.

Mr. DECONCINI. Mr. President, United States policy for the past 3 years has been to let European leaders set the terms of our response to the conflict. I will not go into my views on that policy now, but I do wish to say emphatically that we can have no justifiable excuse for hiding behind the Europeans when it comes to the war crimes issue. We must take the lead. We must be willing to demand that those responsible for war crimes be held accountable.

I urge President Clinton to begin speaking out persistently on this matter. The Europeans would like to delay action on this matter but, for the sake of justice, for the sake of peace and stability, America cannot and must not let the issue die.

THE CONTINUING CONFLICT IN NAGORNO-KARABAKH

Mr. DECONCINI. Mr. President, the Nagorno-Karabakh conflict continues, though it receives little press coverage these days. Those praying for a cease-fire and the beginning of serious negotiations are deeply disappointed by the ongoing hostilities and the lack of progress. This past summer, the prospects for peace seemed better. For the first time, a cease-fire was arranged by agreement between the Nagorno-Karabakh Armenians and representatives of the Government of Azerbaijan. The cease-fire was extended several times in this manner, though small-scale fighting persists. These contacts between Baku and Stepanakert offered grounds to hope that direct talks might begin on issues larger than a cessation of hostilities.

Unfortunately, these hopes have not been realized. Apart from the launching of direct contacts between Karabakh Armenians and Azerbaijan's Government, there have been no basic changes or advances in the conflict or in mediation efforts. The most important development in the last half year has been the outcome of the fighting on the ground, in which Armenian forces have been extremely successful. Today they not only control Nagorno-Karabakh itself, but a substantial swath of surrounding territory. The Armenian capture of these areas has resulted in scores of thousands of new Azerbaijani refugees, many of whom have fled—or tried to flee—to Iran. According to newswire reports, many have died in the effort. Official Azerbaijani figures now estimate that 1.1 million of Azerbaijan's population of over 7 million are refugees. Camps have been set up for those made refugees most recently, but probably not enough to meet the need, and with winter coming on, these people face death from illness and exposure.

Armenia itself is in deep trouble, even though Karabakh military forces have been triumphant. Azerbaijan continues to keep fuel and other commodities from reaching Armenia, and pipelines through Georgia are unreliable because of the chaos in that country. Without steady access to energy supplies, Armenia's inhabitants—which include hundreds of thousands of Armenian refugees from Azerbaijan and people still homeless since the December 1988, earthquake—confront another terrible, freezing, and dark winter.

Clearly, a political solution is urgently needed. With thousands of Azerbaijani refugees trying to reach Iran, Teheran—to judge by official statements—is growing increasingly concerned about the conflict on its borders and now frequently issues warnings about the possible consequences. Russia and Turkey, of course, also have interests in the conflict and the region, and the danger of larger regional hostilities persists.

In the meantime, Mr. President, the sanctions imposed on Azerbaijan by the Freedom Support Act of last year prevent any United States Government assistance to Azerbaijan through government channels, including humanitarian aid. But in view of the humanitarian needs of the large numbers of Azerbaijani refugees, we should consider whether this course—which I initially supported—is the wisest and fairest course of action. The Nagorno-Karabakh conflict has created hundreds of thousands of refugees on both sides, and refugees are deserving of humanitarian assistance, whether they are Armenian or Azerbaijani.

All the parties to the conflict are supposed to respond to the latest CSCE plan for a ceasefire timetable by November 22. Until now, the Azerbaijani side has been demanding that Armenian forces withdraw from captured territories, while the Karabakh Armenians insist on security guarantees. Perhaps this time, they will agree that enough blood has been shed, and meaningful talks about a peaceful resolution can begin. We must continue to urge all the sides to go to the negotiating table and launch the process of normalizing relations between peoples whom fate and geography have made neighbors.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE, Mr. BOND, Mr. COHEN, Mr. HATFIELD, Mr. PACKWOOD, and Mr. DOMENICI, pertaining to the introduction of S. 1770 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

CRISIS ON THE KOREAN PENINSULA

Mr. BOND. Mr. President, I want to turn to a totally different subject, a very serious crisis that I think is something we should be concerned about and that every American should be concerned about. I refer to the simmering crisis on the Korean Peninsula. I do not believe it has yet received adequate attention from the news media or from the administration until the past few days when the APEC conference in Seattle focused the spotlight on it.

North Korea's effort to design and build nuclear weapons is a threat not only to South Korea and the tens of thousands of United States troops defending that country; it is also a threat to international stability. I, for one, am concerned that the Clinton administration has failed to respond adequately to this threat and that, by its actions, is setting the stage for a much more dangerous confrontation down the road.

Rather than taking a tough stand against the North Koreans, this administration seems determined to be manipulated by that country. Instead of taking a tough stand, assembling an international coalition to oppose North Korea, and forcing them to submit to international inspection of their nuclear facilities, the administration is offering great concessions in exchange for mere promises. It appears, I am afraid, that the administration is looking to get an agreement—even a bad one—simply for the sake of agreement.

According to this morning's press accounts, the administration is ready to offer a deal in which we will cancel our annual Team Spirit exercise next year and offer future concessions in exchange for a resumption of regular IAEA inspections and a resumption of North-South talks on nuclear disarmament.

In my view, such a deal would be worthwhile only if it were coupled with a nonnegotiable, short-term deadline under which the North Koreans agree to allow special inspections—inspections on a random basis—of all nuclear facilities.

Short of that, the deal will amount to nothing more than an opportunity for the North Koreans to talk endlessly while they finish building their nuclear weapons. If the offer does not carry a term requiring the North to accept special inspection within a matter of weeks, then it will do no good. We should not make significant concessions, such as cancellation of Team Spirit exercises or promises of recognition in exchange for mere promises. North Korea is not a country that has a good record of keeping its promises, and we have no reason to believe that they have changed in this case.

Nothing short of unrestricted international inspection will ensure that the North Koreans are keeping their word. The President needs to take a strong stand to ensure that outcome.

The dangers posed by North Korea's threat to withdraw from the Nuclear Non-Proliferation Treaty and to go forward with the development of nuclear weapons are many.

The most obvious danger is to South Korea whose capital, Seoul, lies less than 30 miles from the million-man army deployed on the northern border. Conventional artillery alone is a huge threat to the South. The addition of ballistic missiles topped with nuclear warheads would make that threat skyrocket. Just as important, 36,000 Americans stand between the border and Seoul.

Second, we know that the North Koreans have tested ballistic missiles with significant ranges, including the Nodong I, which has the ability to hit several countries, including most of Japan. These countries have to feel threatened already. Knowing that North Korea possessed nuclear weapons, as well as missiles, would likely force them to respond by developing their own nuclear weapons.

There is no doubt that the Japanese have the technology to develop nuclear warheads in short order, and there is little doubt that South Korea could quickly follow. Such a nuclearization of Southeast Asia could only raise tensions among neighboring countries, including China and Russia, which already possess nuclear weapons. The result would be that an area of the world that is about to explode with the greatest spurt of economic growth in history could instead explode into deadly nuclear warfare.

A third threat we face from a decision to allow North Korea to get away with its attempt to blackmail the world into allowing it to have nuclear weapons is the precedent it would set. A decision by the Clinton administration and the rest of the world to allow the North to get away with its noncompliance with the Nuclear Non-Proliferation Treaty would say to other nations on the brink of nuclearization: "Go for it. If you want something from the United States, simply threaten to develop nuclear weapons and we'll open this door for you."

Mr. President, we would face that scenario again and again. I urge that we abandon the effort to coddle the North Koreans and instead start negotiating like the superpower that we are. The President should go to our allies in the region who face the most direct threat from a nuclear North—Japan, South Korea, Russia and, yes, even China—and get them to sign up to the concept of international economic sanctions should the North Koreans refuse to back down. Although economic sanctions in many cases do not work, they can in this case because the North is so completely isolated from the rest of the world. Cutting off their oil supply, for example, could effectively curtail their military mobility and is a strategy that we definitely should consider unless they change their ways.

Certainly such a strategy carries a risk. There is great danger in backing into a corner an isolated country, led by an aging dictator and his reportedly unstable son. The threat of inaction, however, is even greater. A nuclear North able to threaten nations throughout Asia, a new nuclear arms race which would threaten not only the stability of the region but the rest of the world as well, and most important, a message to all future Kim Il Sungs around the world that the way to get what you want from the United States is to build nuclear weapons so you can hold us hostage.

I am encouraged that the administration finally appears to be taking this matter seriously, late as it may be. I encourage the President to make this issue a major topic of discussion in his talks with South Korean President Kim Young-sam tomorrow, and I urge him in the strongest terms to ensure that any offer we make to the North Koreans contains real teeth. This is not a time for continued talk. This is a time for strong action if we are to avoid the dangers that I have listed above.

Mr. President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

MEMORIALS

Mr. BUMPERS. Mr. President, I rise to discuss a bill which I assume is going to shortly receive unanimous-consent approval to be passed through the Senate. The bill is S. 1672, which has been reported out of the Foreign Relations Committee. It repeals several laws that were passed back during the height of the cold war, but it also provides for a memorial. The memorial would be authorized to be built someplace in the District of Columbia. The bill sets out that an organization called the National Captive Nations Committee, Inc., would be authorized to construct, maintain, and operate an appropriate international memorial to honor the victims of communism.

Mr. President, I rise today to voice two concerns: the propriety of such a memorial and, more importantly, the proliferation of memorials in general. As the chairman of the Subcommittee on Public Lands, National Parks and Forests of the Energy Committee—I have held hundreds of hearings on memorials that have been proposed for construction in the District. One of the most controversial was the memorial for the women who served in Vietnam, not because just of the propriety of separating men and women in combat, but because of the design and the location, and so on. I think everybody generally agreed that that was an appropriate memorial.

But one of the reasons it is essential that the authorizing committee pass on these things is because not only do we have original jurisdiction over memorials in the District but space on the Mall and other places on Federal lands owned by the National Park Service and the General Services Administration is running out.

In the past few years, there has been a headlong dash, almost willy-nilly, to build more and more memorials in the District and we are about to run out of land. As far as I am concerned, some memorials ought to take precedence over others.

In 1986, Congress passed a law that was called the Commemorative Works Act. The Commemorative Works Act sets up a National Capital Memorial Commission. The way the law reads, if you want a memorial, you first have to get it authorized by law. Then once you name the corporation or the person in charge of that memorial, they must consult with the National Capital Memorial Commission and they must also submit a site and design after consulting with this Commission to the Commission of Fine Arts and the National Capital Planning Commission.

Then once all of this is done, presumably those organizations will sign off on it and it can go forward. It has been fairly customary in the past for those organizations to come in and testify before our committee before we authorize it.

What we are doing in this bill is authorizing a memorial to the victims of communism before anybody has held a hearing on it, before the National Capital Memorial Commission knows anything about it, before the Commission on Fine Arts knows anything about it, before the Capital Planning Commission knows anything about it. None of them have a clue as to what this is all about and are in no position at this point to come in and testify before my subcommittee as to the site, the design, or even the desirability of such a monument.

If we are going to allow every Member of Congress the right to put an amendment in any bill coming through here to put a memorial in for any old purpose he chooses, we are going to run out of space on the Mall in a hurry. I have a few I would like to establish.

If you are especially going to start building memorials to the victims of this, that and the other, do not stop with communism. Include fascism, include the victims of apartheid, include the victims of the Khmer Rouge, include the victims in this country of 300 years of racism. You might even want to include people who have died of cancer from smoking, victims of smoking.

There is an ad infinitum list of victims that we might want to memorialize. I am not saying that all of this should not be done. I am just simply saying we have a procedure for these things.

Mr. President, the White House called me about a week ago, and they did not think much of this memorial. They want the bill passed because President Clinton wants to go to Moscow in January and the bill repeals a lot of the old cold war relic statutes that we put on the books back when the cold war was at its height.

That is fine. But then the administration wanted the bill so badly they were willing to even take the monument in order to get it. I do not want to cause the President any problems. I do not want to cause anybody over there any problems. I said I am going to go ahead and hold a hearing after we come back in January, February, somewhere along in there, on this particular memorial, and if the Capital Planning Commission and the Commission on Fine Arts and the National Capital Memorial Commission think this is a good idea and they approve the site and design, and so on, then that is the time to authorize it and we can do that. But we are getting the cart before the horse.

Now, the other night, Saturday evening, when we were here, some people brought in some compromise language to me. I looked at it, and I thought probably this is better than just letting the bill go through with no comment being made on it. But my staff, after reviewing the compromise language, decided that it was worse than the original language. So I have asked the majority leader to forget the compromise and just let the bill go through here if that is the only way it can go through. I do not like sending a bill through here with a memorial like that on it that has had no consideration whatever from the committee of jurisdiction.

Now, I am not one of those people who runs over here every time somebody mentions a national park or a national forest or public lands over which we have jurisdiction. But I am just simply saying, if we start down this road, there is not going to be any end to it.

Mr. President, listen to this. Here are the memorials we already have authorized, some of which have not been fully signed off on, or at least construction has not begun on, and some of them I do not think have sites selected yet: The FDR Memorial, American Armed Forces Armored Units Memorial, Black Revolutionary War Patriots Memorial, Francis Scott Key Memorial, George

Mason Memorial, Korean War Veterans Memorial, Peace Garden, Vietnam Women's Memorial, Women in the Armed Forces Memorial, African-American Civil War Soldiers Memorial, Thomas Payne Memorial, World War II Memorial, Japanese-American War Veterans Memorial, and the Air Force Memorial.

Every memorial we build provokes an idea in somebody else's mind on another memorial.

Mr. President, I would be remiss if I did not say this memorial business and building memorials on sites on Park Service lands or general service land in this city is getting out of control. I am willing to provide a fair hearing and allow everybody who wants to come in and testify on this. I am willing to take my hold off this bill to accommodate the President so he can go to Moscow and say to the President of Russia that we have repealed all those old, cold war relic laws. I would not think this memorial being in there would necessarily warm the cockles of Boris Yeltsin's heart, but if the administration wants it, it is OK. But I am here to serve warning today. If I can help it, we are not going to go down this road with this memorial or any other until a hearing has been held in the appropriate committee of jurisdiction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

HEALTH CARE REFORM

Mr. BREAUX. Mr. President, earlier this afternoon, our colleague from Rhode Island, Senator CHAFEE, was in the Chamber to introduce his version of a health care reform bill, which is sponsored by a number of his Republican colleagues.

I wish to start by congratulating Senator CHAFEE and his colleagues for the good work they have done and are continuing to do to bring about a consensus on the issue of health reform, which I think is the most important issue all of us as Senators are going to face in this Congress. It is an issue that is important to every American because it affects every American, unlike many of the other things we do in Congress.

I think Senator CHAFEE has done a good job in bringing forth a proposal to the Senate for consideration. I want all of our colleagues to know we have been working with Senator CHAFEE in a bipartisan fashion, including Members of the House as well as the Senate, both Republicans and Democrats, to try to get a grip on this very difficult subject of how we solve the health care problems facing our country.

Some may say, "Why is the President and Congress so worried about health care reform?" It is simply a question we must deal with. In 1970, Mr. President, we spent about the same amount of money on health care in America as we spent on all of education. In 1992, just a relatively short 22 years later, we spent on health care what we spent on all of education, plus all of national defense, plus running all of the prisons in America, plus all of the foreign aid programs, plus all of the food stamp costs in America, plus all of the foreign aid costs.

In a relatively short period of time, we have increased annual health care spending to a total of about $900 billion each year. Yet, we still have large numbers of Americans who do not have any health insurance at all and many others who have less than adequate health insurance.

So the question is not whether we should address the question of health reform, but really why it has taken so long for the issue to become a priority, and how we are going to solve the problem in this Congress.

So I congratulate our colleague, Senator CHAFEE, for the work that he and his colleagues have done in bringing their bill to the floor.

In many ways, Mr. President, the Chafee approach is very similar to the bill that has been introduced and is now pending before the Senate Finance Committee known as the Breaux-Durenberger approach, which referred to as the concept of managed competition.

I would also point out that the Clinton proposal is also very similar to the Breaux-Durenberger approach, and I think also to the Chafee approach. While we have a lot of argument and debate going on in this country now about the different approaches to health care, the similarity of the various proposals is something that I think has gone unnoticed.

If you look at the proposal that I have introduced, that of Senator CHAFEE, and the proposal by the administration, I think you will find that there are more similarities than there are differences. Essentially the bills use the same type of approach toward reaching the goal of health reform, which is to provide secure, affordable insurance to all Americans.

The approach that I have introduced known as managed competition would reform the way the private sector delivers health care as opposed to increasing the Government's role in running the health care system.

Our approach says that we are for markets, not mandates. Our approach says that we are for competition, not more government. Our approach says that we are for incentives and not more regulation.

I think if you look at the things that all of these proposals have in common, you will find that there is a great deal of similarity. All of the bills that are out there that I am aware of, for instance, establish purchasing pools where individuals can group together to buy health insurance in larger numbers. It is clear that an individual who buys insurance by themselves or for a small office or firm of three, four, five employees is at a real economic disadvantage because they do not have the same purchasing power as if they were General Motors or Xerox or IBM or some other large multinational company or corporation.

So the concept of creating purchase pools so that people can buy health insurance as part of a large group would give each person greater purchasing clout and therefore allows that purchaser to get a better deal. Forcing insurance companies to compete for individuals through purchasing cooperatives will also bring about large savings.

The three major proposals also all provide for essential insurance reform which I think is so important. All three versions of health reform would guarantee open enrollment. They would bar any discrimination on the basis of preexisting conditions, which is so very important because too many people cannot buy health insurance because they have an existing medical condition. Also, all these plans would prevent anyone from having their insurance canceled because they got sick, which is the purpose of having insurance in the first place. This is called "guaranteed renewability." Finally, all three plans would institute some version of community rating. All of these common provisions really should be part of the final package.

All of the bills also would address existing inequities in the Tax Code for employer-provided health benefits especially for individual purchases and the self-employed. The Breaux-Durenberger bill encourages employers, in addition, to buy the least costly plans by limiting the amount of deduction that an employer can take to an average of at least the cost of the plan, as opposed to allowing an employer to deduct 100 percent of the premium costs for any plan the Nation buys no matter how costly it is. We think competition and wiser shopping on behalf of the insurance purchasers is essential, and that this feature in fact would encourage that.

All of the plans also would require that health plans publish essential information on price and quality of the outcomes and consumer satisfaction as to the type of plans they use.

It is very important that any reform help consumers to be smarter purchasers. It is clear that today many people who purchase health insurance do not have much of an informed choice. They do not have all of the information on the success of the plans that they are shopping among, and all of the reforms that I am aware of would, in fact, provide this type of information and thereby make consumers wiser purchasers of health insurance than they have been in the past.

In addition, the major plans also would expand support for low-income families. Our legislation, as an example, would provide assistance for people who are at 100 percent of the poverty line by paying 100 percent of their premiums and by subsidizing insurance premiums for people with incomes up to 200 percent of the poverty line. So no one in America would have to say "I am too poor to provide health insurance for myself and my family." That is a feature in the Clinton plan. It is in the Breaux-Durenberger plan. It is also in the plan that was introduced today by Senator CHAFEE.

In addition, all of the plans address the question of medical malpractice reform in a way that continues to protect individuals' rights to seek judicial assistance for injuries that they may have received through malpractice. At the same time all attempt to reform the system so that doctors would not be practicing defensive medicine and doing eight tests when only two are necessary to properly diagnose a patient's illness.

I think malpractice reform can be done in a way that is fair, and that protects the rights of everyone involved, yet bring some real reform to this very difficult issue. All bills would also provide for reform of antitrust laws that might hamper hospitals and providers from being able to talk to each other where appropriate.

In many small towns around this country, we see two or three hospitals in a community all trying to do the same type of work, all trying to specialize in open heart surgery, all trying to specialize with CAT scans, MRI equipment, all trying to specialize in kidney dialysis or some other exotic type of medical procedure or equipment that costs a great deal of money, when in truth it may be that only one hospital in the community needs to specialize in one particular area. But because of existing law, hospitals and suppliers cannot be sure if they can even talk to each other about, "we will specialize in this area if you specialize in this area."

If they were able to do that, Mr. President, I think that we could reduce costs by eliminating duplication of efforts and overlapping services which are not necessary and this would be a major improvement if the reform, in fact, were to be adopted.

Mr. President, the point I am making in commending my colleague from Rhode Island for the work that he has done is to point out that all three of the plans that I have mentioned are really very close. We are much more similar than we are different. I think this is good. I think the coalition of the various sponsors can come together sometime in the early part of next year to bring about a health reform bill that really meets the requirements of the American people.

We talk about universal coverage for all Americans. I certainly share the goal that all Americans should have health insurance coverage. I do not think anyone would have any problem with that. My concern right now is that the administration bill tries to provide that type of coverage before we reform the system.

I think it is wrong to mandate something before we reform the package. Therefore, I think we should have more time to try to allow managed competition to allow the marketplace to work, to try to bring down the costs, and bring in greater competition among the suppliers of health care services so that we will have a system that everybody can participate in. We will not solve the health problem in this country merely by mandating that everybody has to have insurance unless we first reform the product. Let us put in the reforms. Let us reform the marketplace. Let us get rid of those impediments to real competition that currently exist, and then we can talk about achieving universal coverage for everybody with a product that has truly been reformed and is truly working in a way that would make all of this sustainable.

It does not do us any good to adopt a program or a plan that does not include the reforms that we all agree are so essential. I think that we are much more similar than we are different, and I think today's introduction by Senator CHAFEE, joining the Breaux-Durenberger approach, is a very good start toward coming together with a package that we can use to sit down with the administration and negotiate a compromise on that would truly meet the goals that we all share.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Senator STEVENS and Senator KEMPTHORNE be added as conferees to H.R. 1025, the Brady bill, in lieu of Senators HATCH and CRAIG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak as though in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JEAN-BERTRAND ARISTIDE

Mr. GRAHAM. Mr. President, 23 days have passed since Jean-Bertrand Aristide was to have returned to Haiti as President under the Governor's Island Accord. Over 2 years have passed since President Aristide's democratically elected Government was overthrown in September 1991.

Those in Haiti who continue to block President Aristide's return may be confident today that they have prevailed.

That President Aristide will never return. That the international community will back down. That a return to the days of Duvalier and the terrorist tactics of Ton Ton Macoute is within reach.

That they can continue to intimidate the overwhelming number of Haitians who support democracy, back President Aristide and simply want to live in freedom and peace.

Mr. President, the thugs now roaming the street of Port au Prince would be wrong to think so. Tragically wrong.

We are not going to turn our back on Haiti. We can't. Morality and national interests won't let us.

We cannot—will not—forget the hundreds perhaps thousands of Haitians who have been shot down in cold blood since the 1991 coup.

Nor can we overlook our obvious national interest in a democratically stable Haiti.

Absent democracy's restoration, we face the potential for a growing wave of refugees and increased drug trafficking. We also signal that we are unwilling to defend democratic government. This at the very time when emerging civilian-controlled democratic governments in this Hemisphere are working hard to consolidate their positions and the very time when the elements of reactionaries in the hemisphere are attempting to roll the clock back to the era that was.

President Aristide is the legitimate leader of Haiti, freely, fairly, and overwhelmingly elected. Those who would criticize him should concentrate more on the growing body count in the streets of Port au Prince and rural Haiti, more on the increase in drugs flowing through Haiti to the streets of America, and more on the consequences of a ravaging of democracy in Haiti to all of the Americas.

Our policy toward Haiti should include the following:

Strong support for Prime Minister Robert Malval, who represents in every way the democratic center in Haiti.

Continued sanctions. These sanctions are the most effective option available to convince the military of our seriousness in supporting democracy.

Continued support for an international aid package once democracy is restored to Haiti.

Maintaining the option to use force.

Mr. President, the Congress will recess within the next few hours. Let us all hope that between now and the end of the year, cooler heads in the Haitian military will prevail.

Let us hope that those elements of the military who truly care about the future of their country—and there are those elements—will recommit themselves to agreements already made to restore democracy to Haiti.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Friday, November 19, the Federal debt stood at $4,469,104,230,006.99, meaning that on a per capita basis, every man, woman, and child in America owes $17,399.06 as his or her share of that debt.

MANAGED COMPETITION WORKS

Mr. DURENBERGER. Mr. President, during a Senate Labor and Human Resources Committee hearing last month entitled "The Health Security Act: American Businesses and Workers Respond," my colleagues on the committee were extremely fortunate to hear how managed competition can work and, indeed, is working in parts of Minnesota.

Michael Peel, senior vice president of personnel for General Mills in Minneapolis, MN told the committee about General Mills' success in Minnesota and Florida in holding down health care costs and making quality health care available to its employees through managed competition.

As a result of innovative and aggressive management of health care costs, General Mills is currently spending only 5.6 percent of payroll in its consumer foods business and 4.3 percent of payroll in its restaurant business on health coverage. The company's per capita health expense grew only 1.6 percent from 1991 to 1992, and actually fell from 1992 to 1993. As a result, General Mills is able to make health coverage available to all of its 126,000 plus employees—both full and part-time.

General Mills has been successful in containing health care costs largely through its heavy use of managed care networks and its emphasis on wellness and preventive care. One of the major reasons for General Mills' success in Minnesota is the company's leadership in establishing the Business Health Care Action Group—perhaps the most developed model of managed competition in the country.

The success of General Mills and other companies doesn't mean that our Nation's current health care system is free from problems. It is not. But the experience of these companies in making markets work in Minnesota points the way toward real national reform.

Mr. President, I ask unanimous consent that a copy of Mr. Peel's testimony be placed in the RECORD. I hope all my colleagues benefit from this eloquent description of how managed competition can restore the market forces necessary to control health care costs and speed delivery of health care coverage to all Americans.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF MICHAEL A. PEEL

I appreciate the opportunity to testify today. My testimony will cover the two key issues in the health care debate: universal access and cost containment.

Our views on this subject are formed by our experience as a large and rapidly growing corporation headquartered in Minneapolis, which as you know, has long been a center of innovative approaches to health care.

UNIVERSAL ACCESS

We believe that health care should be available to every American. Furthermore, no American should lose their coverage when they change or lose their jobs, divorce, or become sick. Pre-existing conditions should not prevent any American from getting health care coverage at the same cost as other Americans in their geographic area.

There are, obviously, a number of different ways that the objective of universal access to health care can be met. While legislation is needed to provide universal access to health care, common benefits, portability, and assistance for low income families, we must avoid mandates which will eliminate incentives for corporations and individuals to control health care costs.

The Administration has been most articulate on the problems of lack of health care access. All of these issues can be addressed with very straightforward legislation. Universal access does not require a highly regulatory and mandate-oriented program.

MANDATES DESTROY INCENTIVES

Unfortunately, the Administration's plan achieves universal access to health care via a mandated approach that sets health care costs at a flat percentage of payroll, thereby eliminating all incentives for corporations and individuals to reduce health care costs. Furthermore, the Administration's plan, with its state and federal regulators, global budgets, and payroll taxes on employers will drive health care costs to unprecedented levels or result in rationed care. Mandates are the major problem with the Administration's plan.

COST CONTAINMENT

By contrast, the current market-oriented approaches are beginning to result in substantial cost containment. for instance, CalPERS has told 18 managed care companies that it expects 5% roll-back in health care premiums next year.

At General Mills, we are having excellent cost experience in managing health care. We obviously have a major incentive to deal with this problem since success directly affects our productivity and competitiveness. Here is some background on the company and our approach to health care. With more than 126,000 employees, General Mills is one of the 25 largest employers in the United States. Unlike many major U.S. corporations, our employment is growing sharply as we added 19,000 new jobs in the past year alone and more than 60,000 new jobs since 1988.

Approximately two-thirds of our sales are in the consumer foods business, while the other one-third is in the sit-down restaurant business. Thus, we are both a major manufacturer as well as a significant participant in the rapidly growing service economy.

As a result of innovative and aggressive management of health care costs, health care is currently costing 5.6% of payroll in our consumer foods business and 4.3% of payroll in our restaurant business. Our per capita health expense grew only 1.6% from 1991 to 1992 and actually fell from 1992 to 1993.

The strategies we have employed to contain our health care costs have emphasized heavy use of managed care networks and a strong emphasis on wellness and preventive care.

In Minnesota, where our consumer foods operations are headquartered, we helped found the Business Health Care Action Group which is perhaps the most-developed model of managed competition currently operating in the nation.

In Florida, where our restaurant business is headquartered, we helped establish the Employers Purchasing Alliance with other larger purchasers of care. This Alliance has actually led to health care cost reductions for the entire community in the Orlando area in each of the last two years.

General Mills employees also have a range of financial incentives to help control health plan expenses. The amount of money that employees contribute for their medical coverage is based upon their fitness and lifestyle, as well as their actual year-to-year utilization of the medical programs.

We believe that similar competitive pressures for productivity improvement will drive most American companies to do an increasingly better job of managing their health care costs.

Our "hands-on" health care reform experience in Minnesota and Florida have led us to have fairly strong opinions about what actually works and what won't.

REGULATION INSTEAD OF COMPETITION

One of the major problems with the Administration proposal is that it has the potential to reduce competition among health care providers, not increase it. Each of the 50 states has the option of creating a single payer plan. This would resulting in no competition and either a dramatic escalation in cost or health care rationing.

Furthermore, we believe most corporations will not form corporate alliances.

Despite claims to the contrary, the plan prescribes a government-run, regulation-based system instead of relying on competition and market forces. Long-term, this plan would result in a single payer system in each state.

The plan relies on the existence of corporate alliances to provide competition for the regional health alliances, yet the plan's various provisions, taken together, make it unlikely that many large employers will set up corporate alliances. The potential costs and restrictions the plan imposes for doing so make that a poor economic choice. Without corporate alliances, there is not competition—only large government-run regional alliances with dubious prospects for hope of controlling the costs of a huge new government entitlement program.

Our current analysis is that we would not form a corporate alliance at General Mills. Many large companies, service and industrial, are reaching similar conclusions as they absorb the full implications of the Administration's plan. Let me list the reasons why.

First, the Administration would impose a new tax, rumored to be at least 1% of payroll, on any corporate alliance. This tax would likely consume much of the "savings" a corporate alliance might generate. And, because the revenue is being counted on to fund the remaining portions of the Administration plan, there is a strong likelihood the "price of the privilege" will only increase over time.

Second, states are also granted unrestricted authority to tax corporate alliances further to pay for providing coverage. Since states are financially strapped, yet bear the responsibility under the plan for assuring universal coverage, it would be naive to think that corporate alliances would not be hit with additional state taxes for the privilege of remaining independent.

Third, the Administration plan would eliminate the ability of an employer to join with other employers to manage costs. The driving force behind the best efforts to reform our health care delivery system, initiatives like the Business Health Care Action Group in Minnesota and the Employers Purchasing Alliance in Florida, would be outlawed.

Fourth, because any individual employer would be small in comparison to the regional health alliance, costs could be "shifted" from the alliance to that employer, particularly when health alliance premiums are "capped."

Fifth, employers would be forced to deal with various rules and regulations in each state in which they operate. States could even compel employers to join mandatory single-payer systems. It will inevitably be easier and cheaper administratively to just send off a payroll-based premium to the health alliance.

Finally, employers opting for corporate alliances would forego the government guarantee of a fixed percentage of payroll for health care costs. Moreover, large employers with part-time workers, whom the plan requires to be covered by regional alliances, will forfeit the right to cap those premium expenses at 7.9% of payroll if they opt to cover their other workers in a corporate alliance. This means that for low-income employees, employers could easily pay 90% of wages in the case of a part-time worker receiving family coverage from a regional alliance.

WINNERS AND LOSERS

Fixing health care costs at a certain percentage of payroll for all employers would change the relative cost structures of every employer in the country. It would also create winners and losers within and among industries.

Large manufacturers, rust-belt industries, companies with aging workforces, Fortune 500 companies offering very generous benefit plans—would likely benefit inordinately as the government assumes significant portions of their huge health care liabilities.

Many manufacturers, with older, skilled or unionized employees, pay 15% or more of payroll for health care benefits today. Under the Administration plan, that employer would see its costs reduced and capped at 7.9% of payroll annually. Who would pay the difference between the current cost and the new maximum payroll percentage? Other companies who have done a good job of health care cost containment and taxpayers.

Other industries would lose. They include almost every low-wage sector of the economy, like domestic workers, child care providers and semi-skilled laborers. The entire service sector, the only part of the economy still reliably creating new jobs, could stall.

Industries in which low-wage, seasonal, or part-time jobs are common—agriculture, forestry, fisheries, foodservice, hospitality, amusement parks, construction, retail trade, business and personal services, have higher-than-average numbers of uninsured workers. They would be hit hard.

Those who should benefit from health care reform may pay the ultimate price for universal coverage—they could lose their job. While those who should benefit the least—large manufacturers and employees with overly generous benefit plans—will receive sizable, guaranteed, government hand-outs.

PART-TIME EMPLOYEES

Large employers of part-time workers are seriously disadvantaged by the Clinton Plan. Part-timers are 19% of the U.S. workforce—a significant segment. Most part-timers want part-time work. They are students, young parents, second earners or older workers who want or need flexible schedules.

Part-time jobs also offer opportunity and upward mobility. In the restaurant industry, 30% of restaurant management comes from the ranks of hourly employees, 70% of restaurant supervisors are women, and 20% are African American or Hispanic. One of General Mills' Vice Chairmen started as an hourly worker in one of our restaurants, as did the president of our Olive Garden chain, a $1 billion business.

A part-time job is the first exposure to the workplace for many Americans. Such positions offer entry-level employment and training to those whose education and skill levels do not qualify them for other work. The food service sector alone employs over 9 million people.

Service businesses employing part-time labor have low margins, and profits per employee are also low. The problem from a business perspective is weighing the economic value of a job to an enterprise versus the cost of providing that job. If the cost exceeds the value, the job is no longer sustainable.

Restaurant sales per full-time equivalent are only $47,300 per year, while manufacturing sales per full-time employee are $157,000 per year. Profits per service sector job are $500 versus $3500 in manufacturing.

Lowering direct wages to offset increased benefit costs in order to preserve the cost/value relationship is not an option with workers whose wages are already low. Price advances, which is the other option for covering increased costs, are difficult in today's economic climate and, under the Clinton Plan, virtually impossible because of the lower cost structure the plan gives smaller competitors.

PREMIUM CAPS

We also have serious doubts that the premium caps—which, we might add, do not take full effect for 8 years and are not available to us if we maintain a corporate alliance—can remain at the level that has been proposed for very long and may even be breached immediately by the states. If Germans pay a 13% payroll tax to finance a health care system that consumes 8% of their GDP, it defies logic that premium caps at 3.5%-7.9% of wages can pay for a U.S. system that consumes 14% of GDP.

Our major recourse for dealing with the business economics that the plan dictates is to eliminate or consolidate jobs. Here's an example from a business perspective.

The proposed plan requires businesses to pay for part-time workers on a pro-rated basis. At ten hours per week, businesses would pay one-third of the 80% share. At 20 hours per week, businesses would pay two-thirds of the cost. At 30 hours or more per week, the employer would pay the full 80% share of premium costs.

An employer with two employees working 20 hours per week, would pay two-thirds of the 80% employer-mandate for each employee—or four-thirds. Common sense tells you that the employer will try to eliminate both part-time jobs and create one 40 hour per week job and cut his health care costs by 25%.

Estimates of job loss in the service sector range from the high hundreds of thousands to 3.1 million. Studies are studies, and people will disagree about their conclusions, so I suggest you look at it this way: There are 375,000 eating and dining establishments in the U.S. and about another million retail establishments. If each one of them eliminated just one job, that would mean that 1.4 million jobs would be lost.

HOW TO ACHIEVE FULL ACCESS AND COST CONTAINMENT

Every American should have access to high-quality, affordable health care coverage. To achieve that goal, we favor careful reform of our health care system.

Universal access and cost containment do not require public price setting or excessive government intervention. With the right incentives to encourage competition on quality and value, the marketplace is much more likely than government budgets, caps or controls to deliver the highest quality health care at the lowest possible price.

Bureaucratic mechanisms that set prices and allocate resources are simply not effective in regulating dynamic markets. If they were, Medicare—already a price-controlled system—would have controlled health care costs in the Medicare system. It has not.

The formation of cooperative, actively-managed, member-controlled, nongovernment purchasing pools, or health alliances, should restore legitimate market forces in health care. These purchasing cooperatives should ensure open enrollment, measure quality, streamline administration and maintain consumer choice.

The purchasing cooperatives would negotiate with health plans to offer clear, understandable, competitive choices for consumers, who would retain the power to choose their own health plan.

The formerly uninsured and all government-subsidized purchasers should be required to join, with risk-adjustment mechanisms developed to balance any negative selection. Individual purchasers and most small groups would probably join immediately. They won't need to be coerced.

Each member of the HIPC would receive the same comprehensive benefit package, making it easier to compare price and value, with consumers, not employers, choosing annually among competing plans.

Employer contributions toward that premium would be tax-exempt to the employee, and tax-deductible for the employer, up to the level of the lowest-cost plan in the HIPC.

Premium payments should be 100% deductible for all individuals, including the self-employed, up to that same amount.

Health benefits or premium payments above that amount would be neither tax-exempt, nor tax-deductible.

Consumers who choose high-cost plans over cheaper ones should be willing to pay the difference with their own money—without tax subsidies. Eliminating the tax subsidy for overly generous health care benefits will help fund coverage for the uninsured, while creating cost-consciousness to hold down the cost of health care.

Statutes should outlaw pre-existing condition exclusions and other discriminatory rating practices. Portability and renewability should be guaranteed. Each of us is only an illness away from being sick instead of well. Health alliances should be community-rated, with some variations for age and utilization.

Subsidies should be directed to individuals, based on income, not to employers based on size or wage-rates, with full subsidies for those below 100% of federal poverty guidelines and sliding scale subsidies for those below 200%.

If additional subsidies are necessary on grounds of equity, access and social responsibility, tax revenues—not mandated employer financing—should be raised to fund them.

Managed competition would restore a functioning health care marketplace, weed out low-value health care spending, restore responsibility, and establish competition based on the cost and value of care consumed.

CONCLUSION

A regulatory, government-dominated approach is neither the best nor the only approach. Managed competition, in our opinion, would effectively restore the market forces necessary to control health care costs—and should form the basis for an emerging, workable, bipartisan approach to health care reform.

Mr. PRESSLER. Mr. President, I wish to clarify my vote in support of the Stevens amendment to strike the side agreements from the implementing legislation for NAFTA. I continue to have serious reservations regarding the impact of the side agreements to NAFTA and the commissions and committees that the side agreements will create. These commissions and committees will have broad authority and not be answerable to the American public. I also am concerned over the money that may be required to fund these entities. While I supported efforts to delete the side agreements from the implementing legislation, their being part of this bill should not have defeated the agreement.

I applaud the administration in vigorously pursuing passage of NAFTA this year. Approval of NAFTA, and having it operative next year, opens the door to further gains in world-trade negotiations for a new GATT. The defeat of NAFTA would have placed unnecessary roadblocks to completing the Uruguay round. Enactment of NAFTA implementing legislation should prevent this from happening.

I look forward to NAFTA becoming operative. I intend to work with the administration to pursue even more trade opportunities for the United States under a new GATT Agreement.

Why do I take such strong interest in NAFTA and GATT? Because agriculture is my State's No. 1 industry, contributing nearly $14 billion to its economy. Growth in the agricultural sector is essential to South Dakota's future. Exports are crucial to that growth. In 1992, South Dakota's agricultural exports totaled nearly $900 million. Many of these exports are going to our foreign neighbors to the north and south. As much as 65 percent of South Dakota's wheat production is exported overseas. Maintaining and expanding foreign market opportunities are vital to the economic growth of South Dakota farmers and ranchers.

Many small businesses in South Dakota also stand to make significant gains from NAFTA. These range from mining operations, clothiers, manufacturers, electronics, bakeries, financial institutions, computers, service industries—almost all of whom support NAFTA.

A bright economic future for South Dakota depends on first, increasing exports of U.S. agricultural and small business products; second, eliminating nontariff trade barriers and significantly reducing the use of unfair export subsidies; and third, a level playing field in the world-trade arena.

History has taught us that economic growth is attained through freer trade. The United States stands to gain significantly from NAFTA.

THE LIBERTY SHIPS MEMORIAL ACT OF 1993

Ms. MIKULSKI. Mr. President, I rise today on behalf of myself and Senators Feinstein and Boxer from California, to commend the Senate for its action in passing S. 1763, the Liberty Ships Memorial Act on Saturday. This bill will assist in the refurbishment of two merchant marine Liberty ships and one Victory ship so they can serve as the centerpiece of America's contribution to the ceremonies commemorating the 50th anniversary of the invasion of Normandy on June 6, 1994.

The bill requires the Secretary of Transportation to transfer six vessels in the National Defense Reserve Fleet to three nonprofit organizations. The organizations will scrap these vessels and use the proceeds to refurbish three merchant marine memorial ships. One of these ships, the *John W. Brown*, is docked in my neighborhood of Fell's Point, Baltimore, a mile away from my house.

Merchant marine veterans and volunteers have already spent a significant amount of time and effort readying the *John W. Brown* and the other two ships, the *Jeremiah O'Brien* and the *Lane Victory* for the trip to Normandy. We now have the opportunity to help ensure these efforts will not be wasted.

I feel it is extremely fitting that the merchant marine be included and duly recognized in this memorial ceremony. During World War II, it was the men of the merchant marine going on Liberty ships across the cruel waters of the North Atlantic, the Japanese submarine-laden waters of the South Pacific, carrying the kinds of supplies needed so that we could win the war. President Roosevelt called our merchant marine then the heroes in dungarees for their courage and their valiant service during the Second World War.

Most recently, whether it has been in Korea, Vietnam, and now most recently in Desert Storm, one of the most important backups that our American military had was the merchant marine.

Mr. President, the 50th anniversary of the invasion of Normandy is just 7 months away. The three ships to be repaired must be drydocked as soon as possible to allow for the required repairs. I urge my colleagues to pass this piece of legislation in an expeditious manner.

Mr. President, I ask unanimous consent that the text of the legislation appear in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Liberty Ships Memorial Act of 1993."

SEC. 2. CONVEYANCE OF VESSELS.

(a) Authority to Convey.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in 2 vessels described in subsection (b) to any nonprofit organization which operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

(b) Vessels Described.—Vessels which may be conveyed under subsection (a) are vessels which—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to be scrapped.

(c) Conditions of Conveyance.—As a condition of conveying any vessel to an organization under subsection (a), the Secretary shall require that before the date of the conveyance the organization enter into an agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purpose of refurbishing and making seaworthy a Liberty Ship or Victory Ship which the organization maintains as a memorial to merchant mariners, to enable the ship to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) which are not used in accordance with paragraph (2).

(d) Deposit of Amounts Returned.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund created by the Act of June 2, 1951 (65 Stat. 59; 46 App. U.S.C. 1241a).

(e) DELIVERY OF VESSELS.—The Secretary shall deliver each vessel conveyed under this section—

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary;

(2) in its condition on that date; and

(3) without cost to the Government.

(f) EXPIRATION OF AUTHORITY TO CONVEY.—The authority of the Secretary under this section to convey vessels shall expire on the date that is 2 years after the date of the enactment of this Act.

THE FUTURE OF HELICOPTER PROCUREMENT FOR THE DEPARTMENT OF DEFENSE

Mr. DODD. Mr. President, I rise today to express my deep concern about the lack of a long-term strategy for helicopter acquisition by the Department of Defense. The reality of reduced defense spending is upon us, and yet I fear that rapid decisions to terminate entire programs may well endanger the future of helicopter production in this country.

The issue here is how best to proceed with long-term acquisition of rotary aircraft for the Department of Defense, while recognizing the budget reality of reduced procurement. On the surface, the answer would seem rather simple: Cut current procurement funding and wait until later budgets permit a return to production. With an adequate number of prime contractors and a diversified supplier base, that option might be possible. Unfortunately, that simply is not the case.

Of the four remaining contractors now producing rotary aircraft in the United States, only one remains as the lead design and production center for U.S. Army helicopter airframes. To further complicate this situation, that contractor is also the lead designer of the next generation aircraft for the U.S. Army—the Comanche. With that level of investment at risk, does it really make sense to completely eliminate future funding for helicopter production?

The U.S. Army has a standing commitment for more than 200 UH-60 Black Hawk helicopters under the terms of a 5-year, multiyear contract. As a direct result of cost savings incurred from this contract, the Department of Defense is able to seek other contracts for modified airframes for the Navy, the Marines, and the Coast Guard. In essence, the economies of scale help benefit multiple service needs while keeping overall costs to a minimum. Unfortunately, that situation may come to an end.

It would appear that the U.S. Army is preparing to forego funding for the standing requirement of all UH-60 Black Hawk helicopters in the forthcoming 5-year defense plan [FYDP]. While cost concerns are clearly driving this decision, it must be made absolutely clear that a decision made by one service—the Army—will have grave implications for the future production rates and costs of airframes for the other services.

Of even greater concern is the long-term implication of this type of action. With the termination of the Black Hawk production line, all investment in the next generation Army airframe will be lost. Considering this airframe has been touted as the Army's most important modernization program by the Chief of Staff of the Army, it makes absolutely no sense to abandon the very production line that will produce that airframe.

Difficult budget decisions must be made. A decreasing defense budget is fiscal reality. Each service must examine the best possible course to reach levels of readiness to perform their missions. However, the complete nonfunding of a weapon system by a single service does not seem prudent without congressional review or input. Furthermore, the multiservice implications of such an action would seem to require—if not demand—some sort of review by the Secretary of Defense. This must be the case to ensure the decision does not cripple the needs of the other services.

The Department of Defense should review the 1995 Army budget submission and scrutinize the Black Hawk funding decision. Without serious review today, the helicopter procurement needs of tomorrow may never become reality. The Army budget submission must be carefully weighed against the future needs of all services and should take into account the repercussions to the helicopter industrial base.

Without some sort of rational plan for noninterrupted helicopter production, the tooling, suppliers, and the skilled craftsmen to bring about the next generation of Army aviation may no longer be in existence. That is a situation that must not occur. The Black Hawk decision clearly demands further review.

TRIBUTE TO B'NAI B'RITH

Mrs. MURRAY. Mr. President, this year marks the 150th anniversary of B'nai B'rith. I would like to join in saluting this organization for its years of service to the international community. The oldest organization of its kind in the United States, B'nai B'rith transcends economic spheres, national borders, and religious diversities in its commitment to helping others.

I am especially proud to join in this tribute to B'nai B'rith, because it gives me an opportunity to honor Mr. Jack Spitzer of Seattle for his outstanding leadership as a past international president of B'nai B'rith and as the general chairman of B'nai B'rith's 150th anniversary committee. Jack Spitzer's many achievements are inspiring, and I congratulate him for all that he has accomplished in his lifetime of service to others, here in the United States and throughout the world.

Originally established in 1843 to address the needs of the Jewish people, B'nai B'rith has expanded its agenda to include education, social service, and countless other projects which benefit the community at large. Through the Senior Citizens Housing Program, B'nai B'rith has helped provide affordable housing and social services for the elderly and their families. Through their efforts, more than 3,000 apartments have been established across this country.

While never losing sight of its original purpose, B'nai B'rith has played and continues to play a pivotal role in fighting religious persecution, intolerance and discrimination. Since its establishment, B'nai B'rith has always held an open door to the disadvantaged and downrodden. In response to the floods of new immigrants to this country in the late 19th century, B'nai B'rith opened the first free employment bureau, as well as manual and technical schools. After World War I, B'nai B'rith fed, clothed, and educated 600 orphaned European children until they were able to support themselves.

Through a century and a half of service, B'nai B'rith has repeatedly shown its ability to respond to the needs of the community—both in the United States and abroad. In 1868, B'nai B'rith successfully organized the first disaster relief campaign in the United States for victims of a Baltimore flood. More recently, B'nai B'rith provided relief for victims of Hurricane Andrew and those caught in the crossfire in the former Yugoslavia.

As a pioneer in the field of youth services, B'nai B'rith addresses the needs of our world's teenagers and college students. The B'nai B'rith Youth Organization offers teens throughout the world opportunities to cultivate leadership skills, a positive Jewish identity, and a solid commitment to community service. The B'nai B'rith Hillel Foundation has chapters in over 400 universities around the world. Hillel focuses much of its energy on addressing social ills, promoting Holocaust awareness, and expanding interfaith dialog.

B'nai B'rith has raised awareness and pride in the Jewish heritage, while making a real difference in the lives of countless numbers of people—Jews and non-Jews alike. I congratulate them on their accomplishments.

UNITED STATES RANGERS IN SOMALIA

Mr. HATCH. Mr. President, I wish to take a moment today to honor some valiant men who fought for the United States as part of the Rangers and other special operations forces in Somalia.

There has been a great deal of criticism of the conduct of United States policy in Somalia, and I believe that at the political level our policy there was tragically flawed. However, my differences with the political direction of our policy in Somalia does not imply any criticism of the way our troops carried out the mission they were given.

In this respect, I would like to quote briefly from a statement by Gen. William F. Garrison, commanding general of Joint Special Operations at Fort Bragg, that highlights the courage with which the Rangers and other special operations forces undertook their difficult operation on October 3, when their units were caught in a deadly ambush:

> We accomplished our mission on October 3. We captured 20 of these people that had been killing U.N. troops, their leadership * * *. We got them out of there, and we tried to defend our men that were trapped in that helicopter. We simply got ourselves in a hell of a firefight, and we won, too. About 400 Somalis learned that Americans know how to defend themselves, even when they are trapped, pinned down, and you are sniping at them.

I do not wish to debate anew the wisdom of the policy that led to the loss of American lives in Somalia. But I do wish to take a moment to honor our fallen troops. They were put into an impossible and dangerous situation. Yet, they never abandoned their comrades and never abandoned the mission. As always, U.S. Rangers and other special operations forces acquitted themselves with unquestioned courage and dignity. They have the heartfelt gratitude of this Senator and, I believe, all the American people.

HEALTH CARE REFORM

Mr. PACKWOOD. Mr. President, I rise today to congratulate Senator CHAFEE on the introduction of the Health Equity and Access Reform Today Act of 1993. Senator CHAFEE has demonstrated exceptional leadership on this complex issue. More than 3 years ago he began leading a Republican task force on health care reform. Under his capable direction, the Republican health task force has been studying the health care system in this country, analyzing its strengths and its weaknesses. The bill that is being introduced is a culmination of these efforts and represents a cautious and sensible approach to reforming our health care system.

Health care reform will be one of the most important issues that we will debate next year. It is an issue of monumental importance to every citizen of this country. I am confident that with the continued leadership of people with the abilities and knowledge of Senator CHAFEE we will succeed in this most difficult task.

TAIWAN'S DESIRE FOR U.N. MEMBERSHIP

Mr. SASSER. Mr. President, I rise today to bring to the attention of Senators an important contribution to the ongoing debate regarding Taiwan's desire to be represented in the United Nations. President Lee Teng-hui of the Republic of China on Taiwan has recently written an article, entitled "The ROC's Right to Participate in the United Nations," in which he details the case for representation, noting Taiwan's formidable economic power and her progress in human rights and democracy. President Lee's argument for international support in Taiwan's bid for membership in the United Nations is worthy of our careful attention. I, therefore, ask permission that President Lee's article in the October 18, 1993, issue of Forbes magazine be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ROC'S RIGHT TO PARTICIPATE IN THE UNITED NATIONS

(By H.E. Lee Teng-hui, President, Republic of China)

Twenty-two years have passed since the Republic of China (ROC) on Taiwan was deprived of its membership in the United Nations in 1971. Since then, many people have claimed that the issue of "China representation" has been resolved. But what about the 21 million Chinese of the Republic of China on Taiwan? Have they been abandoned by the United Nations? Though the Chinese Communist regime now controls the mainland and rules the 1.1 billion people there, it cannot represent the Chinese living in the islands of Taiwan, Penghu, Kinmen, and Matsu because it has never ruled these places. Neglecting this population and its government is a gross violation of the human rights and universality of membership principles which the United Nations upholds.

The current population and economic power of the Republic of China on Taiwan clearly qualify us for a place within the global context. Demographically, our population of 21 million is greater than that of two-thirds of the current U.N. member nations. In terms of economic performance and financial capability, the ROC has the second largest foreign exchange reserve holdings in the world, is the 14th largest trading nation, and ranks ninth in total overseas investment. These statistics represent an economic power to be reckoned with in the international economic system. Moreover, the ROC is fact approaching the world's advanced nations in the field of political democratization and also plays a constructive role in the promotion of humanitarian, economic and technical assistance to developing nations. Such activities contribute significantly to world peace and prosperity.

Formerly, East Germany and West Germany were both members of the United Nations; today, both North Korea and South Korea are seated in the world body. Now that Germany has become whole again, no one can say that parallel representation for a divided nation will hinder its reunification. If the United Nations can accommodate the wishes of the people in these two divided nations, why should it turn a deaf ear to the aspirations of the 21 million residents of the Republic of China on Taiwan? Until the Republic of China on Taiwan is given a seat, the U.N. cannot claim to be abiding by the principle of universality of membership enshrined in its charter.

Western nations have long praised the ROC's progress in human rights and democracy. Today, the people of the Republic of China on Taiwan have expressed, through the process of democratization, their strong longing for fair and just treatment on the world scene, including an equal opportunity of joining in international activities to reciprocate for the assistance she has received from other countries. We earnestly hope that all countries that cherish human rights, freedom, and democracy will support the Republic of China on Taiwan in her bid for membership in the United Nations. Let's work together for the cause of world peace and prosperity.

TIME FOR HEALING

Mr. ROCKEFELLER. Mr. President, I want to take just a couple of minutes of my colleagues' time to share some observations that come from my concern about the disagreement over the North American Free-Trade Agreement.

I want to urge NAFTA's supporters and opponents to put this battle behind us, mend the wounds, and get back on the field to fight for the numerous and pressing goals we have in common.

Lane Kirkland, the president of the AFL–CIO, is a friend of mine—a leader of working people, including thousands in my State of West Virginia, and a man whom I respect and deeply admire. But with respect, I think we have to keep perspective on the President's motives for promoting NAFTA and his overall agenda for this country and its working people.

I happen to be someone who voted against NAFTA. That's because the President, and his side of this issue, and I had a difference of opinion—over whether this is the time to take this step, and what the results will be if we take it.

But it seems pretty obvious that President Clinton has an absolute, genuine belief that he led a fight for this country and American workers and their families. He looks into his crystal ball on NAFTA, and predicts more jobs for Americans. I also concede that he is right to point out that America's long-term economic interests lie in liberalizing trade and integrating our economy with our neighbors. Again, the difference is over when to do it and how to do it. My own view is we need do a lot more first to be sure we are creating good-paying jobs for Americans, so we have a stronger foundation on which to build the future of more open trade in this region.

I am convinced the scenarios painted by both sides on NAFTA were exaggerated ones—as though NAFTA could be today's Armageddon. It just isn't, and that leads me back to my point.

There is no reason for the fight over NAFTA to burn bridges that will hurt all of us. I say this to everyone—to the Democrats who fought Democrats, to anyone who tried or may try to make this a partisan issue, to labor that fought against NAFTA and to the industries that supported NAFTA, to the President and his administration.

Reflect on President Clinton's commitment to working people and their families. Just think about this incredible first year of his Presidency, and the agenda that this President has put forward—and thrown all of his might into. Family leave for working parents signed into law. The ability of Federal employees to exercise more of their rights as citizens signed into law. A bold plan to reduce the deficit, asking those who have the most to once again do the most, signed into law. A historic, comprehensive plan to reform our broken health care system, and offer security to all Americans and their families—prepared and submitted with more commitment and energy than any other President has ever invested and will ever invest. An all-out effort to pass a stimulus package for job creation that was blocked by the other party. Consistent support for protecting the health benefits of retired coal miners. A promise to sign legislation to prohibit permanent striker replacements.

I want to be sure none of us lose perspective over NAFTA and incur damage that does not do anyone any good.

We are deeply fortunate to have a President who wants to put America on track. We are fortunate to have a labor movement that remains dedicated to protecting workers and their jobs. But there will be disagreements over how to reach the same goals. NAFTA is one of them. It is not an issue or fight that earns the right to divide us from what we have in common. We must not allow NAFTA to weaken our ability—and our ties—to go on. The American people are anxiously waiting for this Congress, this President, labor and industry to reform our health care system, free them of their terror over crime, get our schools in working order, and do what a great country must do to be economically strong and decent. Now that the NAFTA vote is behind us, as the dust clears, we must still stand together to move forward.

KASHMIR: THE TIME TO TALK IS NOW

Mr. DECONCINI. Mr. President, with the focus of the world's attention on the escalating tension between the two Korea's, the last thing that this administration, indeed the world, needs is to ignore the other potential nuclear flashpoint—the India-Pakistan border and the festering dispute over Kashmir.

As these two nations have already fought three wars since Pakistan obtained independence, there is always the likelihood of an additional bloody and senseless conflict. The situation in Kashmir flared anew when Kashmiri Islamic militants holed themselves up within the Hazaratbal mosque, thus directly confronting Indian military troops stationed in the capital of Kashmir, Srinagar.

The turbulent history of this region has been often reported on the floor of the Senate. I will not attempt, at this point, to recount the tortured history of relations between India and Pakistan. Instead, I shall speak briefly about the future opportunities which have presented themselves to the peoples of the Indian subcontinent.

With the standoff at the mosque finally ending this past week, there is now the opportunity for a confidence-building dialog among representatives of the Kashmiri people, and the Indian and Pakistani Governments. The successful conclusion of the freest elections yet held in Pakistan also could assist in producing some healthy movement toward listening to the varied concerns of the participants.

None of the parties come into these talks without sharing a portion of the blame for the continued violence. Pakistan has armed and encouraged Kashmiri militants as proxies to take often violent action against Indian troops. India has altered the basic rules under which it obtained control of Kashmir and many have argued that the tactics of Indian troops have only encouraged more violence in Srinagar and elsewhere. For their part, the Kashmiris have often changed their allegiances, maneuvering to obtain what they perceive to be the best deal for their side at any given moment.

As Sumit Ganguly succinctly argued in a commentary in the Christian Science Monitor last week, some basic steps could be taken "to defuse the insurgency in Kashmir," and smooth the path to a meaningful dialog. Now is the time to lay aside past differences and opposing interpretations of history and engage in talks—if not for the sake of individual national pride, then at least for the lives which will otherwise be lost if the cycle of violence is allowed to escalate.

I ask unanimous consent that the article by Mr. Ganguly be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ROUTE TO PEACE IN KASHMIR

(By Sumit Gauguly)

The standoff, finally ended, between India's security forces and certain Kashmiri Islamic militants at the Hazaratbal mosque in Srinagar, the capital of Kashmir, presents an interesting irony.

In December 1964 miscreants broke into the same mosque and stole the Mo-e-Mogdas, a relic of the Prophet Muhammad. Yet though riots followed in Srinagar and elsewhere in northern India in the wake of the theft, Kashmiris remained loyal Indian citizens. Pakistan's efforts to woo them failed miserably. Today, however, Islamic militants holed up in the mosque have significant support among Kashmiris; indeed autonomist and even separatist sentiments are widespread in the Kashmir Valley.

It is imperative that Indians, Pakistanis, and the Kashmiri militants open talks about fashioning medium- to long-term strategies to end seemingly endemic conflict. Failure to do so will result in the loss of more blood and treasure, perhaps leading to another Indo-Pakistani conflict over Kashmir.

The 1964 events at the Hazaratbal mosque contain lessons for the current crisis. Agents of the Indian Intelligence Bureau, in cooperation with the local Kashmiri police, were able to track down the perpetrators and restore the holy relic to the shrine. Meanwhile, riots broke out throughout the valley, as well as in a number of India's cities. On the other side of the Kashmir border, President Ayub Khan and other leaders of the Pakistani military mistakenly construed the disturbances in Kashmir as indicating support for Pakistani intervention. Accordingly, in the summer of 1965, they sent lightly armed Pakistani troops disguised as local tribesmen to wreak havoc in the valley.

Although some Kashmiris may have been disaffected with Indian rule, most remained loyal Indian citizens and turned in the infiltrators to the authorities. Despite the failure of this plan, war erupted between Indian and Pakistan in September 1965. The limitations of firepower, a US arms embargo, and Soviet mediation helped to end this conflict.

Today neither Indians nor Pakistani actively contemplate starting another war. Nevertheless, two factors increase the threat of conflict. First, segments of the Kashmiri militants, particularly the Hezb-ul-Mujahideen, have strong allegiance to Pakistan. Second, considerable uncertainty exists about military doctrines in India and Pakistan. Cut off from their cold-war patrons, the military machines of both sides are in a state of flux. The situation in the region is uncertain.

Before the larger issue of Indo-Pakistani relations can be addressed, certain steps need to be taken to defuse the insurgency in Kashmir.

The Indian government needs to significantly alter its current counter-insurgency operations. The harsh "mailed fist" strategy that it adopted in dealing with the militants in the Punjab is inapplicable to Kashmir. In Punjab, deep-seated disaffection with Indian rule and support for an independent state of Khalistan was limited to a minority of the Sikh population. In the Kashmir Valley, however, the vast majority of people have some grievances against the Indian state. Unbridled police brutality only adds to the reservoir of disenchantment.

Persistent charges of torture and other human rights violations on the part of security forces need to be investigated and acted upon.

The government should consider offering an unconditional amnesty to the militants in exchange for a cease-fire for a specified period of time. During the cease-fire, serious negotiations can be started with the militants.

The government should move to restore Article 370 of the Indian Constitution to its original strength. Among other matters, Article 370 prohibits non-Kashmiris from purchasing land in Kashmir. Any restoration effort will generate considerable hostility on the part of the militant Hindu Bharatiya Janata Party. Nevertheless, their claim that the Muslims of Kashmir have been "pampered" is essentially without merit.

India should offer to hold an election in Kashmir in the presence of international observers. Nongovernmental organizations from the United States and other nations can make a useful contribution to this end.

India needs to take advantage of the opportunity provided by the change in government in Islamabad to renew talks with Pakistan. In this regard, too, the US can play a useful role. It can continue its pressure on Pakistan to cease support to the insurgents. Simultaneously, it can prod India to investigate charges of human rights violations and begin a meaningful set of negotiations with the militants.

None of these actions will be easy or popular for the weak regime of Indian Prime Minister P.V. Narasimha Rao. But maintaining the current strategy in Kashmir will restore neither law nor order. Instead, at best, India will continue to lurch from one crisis to another. At worst, the subcontinent may witness yet another costly war over Kashmir.

THE NOMINATION OF MORTON HALPERIN

Mr. LEVIN. Mr. President, last Friday the Senate Armed Services Committee held a hearing on the nomination of Dr. Morton Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping. It was a long hearing, well into the evening, at which Dr. Halperin was able to address most of the attacks and distortions which have been made against him over the last year. Since this nomination has been the subject of so much attention, I thought my colleagues should be aware of the remarks made by our colleagues—Senators BOREN and BIDEN—who appeared at the hearing to introduce Mort Halperin, and of Senator MOYNIHAN, who was scheduled to appear but could not and submitted his statement for the record. I will also include Dr. Halperin's opening statement at the end of my remarks, and note that his nomination is strongly supported by a wide range of distinguished professionals in national security affairs, including five former Secretaries of State or Defense and two former Directors of the Central Intelligence Agency. Although there is not sufficient time for the committee or the Senate to act on this nomination before the end of the first session, I fully expect it to be high on our agenda for the second session.

I ask unanimous consent that Dr. Halperin's opening statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

TESTIMONY OF SENATOR DAVID L. BOREN

Mr. Chairman, I appear before you today on behalf of Dr. Morton H. Halperin, the President's nominee to be Assistant Secretary of Defense for Democracy and Peacekeeping.

Based on my experience with Dr. Halperin during my time as Chairman of the Senate Committee on Intelligence, I support his nomination.

I believe the creation of the new position of Assistant Secretary of Defense for Democracy and Peacekeeping was a wise initiative on the part of the Secretary of Defense. The end of the Cold War has brought great hope and opportunities, but it has also brought new dangers and risks. In my view, we need an official at the Assistant Secretary level who can carefully evaluate the policy risks and benefits of using our armed forces in the non-traditional roles that they are increasingly called on to perform, such as peacekeeping, provision of humanitarian assistance, refugee activities, and promotion of democracy and human rights.

During my tenure as Chairman of the Senate Intelligence Committee, Dr. Halperin worked closely with our Committee and its staff. We found him to be a dedicated individual who could solve challenging problems in a manner that was fair to all sides. He was always aware of the importance of individual liberty, but he carefully balanced these concerns with his understanding of the necessities of national security.

Dr. Halperin has worked with the intelligence oversight committees and with Republican and Democratic administrations in support of numerous critical pieces of intelligence legislation, including legislation aimed at making our counter-espionage programs more efficient and laws governing the use of covert operation to further our national security objectives. in every case, Dr. Halperin helped craft legislation that was ultimately supported by both the intelligence community and defenders of individual rights. His work earned him the respect of the members of the intelligence committee and of the many Executive branch officials with whom he worked.

In all of my dealings with Dr. Halperin, he worked with me in a constructive and straight-forward manner. I have never known him to seek to water down or reduce efforts to strengthen the nation's intelligence capabilities. Instead, he supported our efforts while also ensuring that our methods were consistent with the fundamental rights of American citizens. His suggestions were practical and realistic. They were never ideologically rigid.

Dr. Halperin's background has prepared him well to meet the demands of the important position of Assistant Secretary of Defense for Democracy and Peacekeeping.

Dr. Halperin is currently a senior associate at the Carnegie Endowment for International Peace. Formerly, he was an official at the Defense Department and the National Security Council. As you may know, Dr. Halperin served many years with the American Civil Liberties Union, working on national security matters that implicated civil liberties.

Dr. Halperin has had a distinguished career in academia. He has taught at Columbia College, Yale University, Harvard, MIT, and the George Washington University.

Mr. Chairman, despite the outstanding qualifications of Dr. Halperin, there have been many unfair accusations about Dr. Halperin's views and character. I commend the Chairman and this committee for providing an appropriate forum that will allow Dr. Halperin to directly respond to any questions and concerns members may have.

I have always believed that all nominees are entitled to a fair hearing. I have tried to follow this principle when judging controversial nominees in the past—whether they be conservatives, moderates, or liberals; and without regard to whether they have been nominated by Democratic or Republican Administrations. It is a matter of principle and a matter of fairness that people who are nominated be granted the right to defend themselves before the Senate—and I applaud this committee and its Chairman for holding this hearing.

Over the last 20 years, Dr. Halperin has taken some controversial stands, but I am confident that his motivation has never been hostile toward or a desire to weaken this country. In fact, the opposite is true. His motivation has been his patriotic devotion to our most basic and most cherished constitutional principles: protection of individual rights and preservation of democracy. It is these very principles that separated us from the Soviet Union in the Cold War. It is these very principles that have made this country the inspiration for people all over the world seeking to free themselves from tyranny.

Dr. Halperin's work has gained him the endorsement of a large number of distinguished individuals in the defense and foreign affairs community including two Secretaries of State, Cyrus Vance and Edmund Muskie; three Secretaries of Defense, Robert McNamara, Clark Clifford, and Elliot Richardson; and two Directors of Central Intelligence, William Colby and Stansfield Turner.

In fact, former Secretaries of Defense McNamara and Richardson recently published an op-ed piece in the Washington Post in support of Dr. Halperin's nomination. They defended him, stating that the "case" against Dr. Halperin is "nothing more than a collection of false rumors, misapprehensions and distorted quotations." They further wrote that "Dr. Halperin is a highly intelligent, capable and moral man," and that "he has served the national interest for more than 30 years in Democratic and Republican administrations * * *"

I believe this committee will find Dr. Halperin possesses the gift of a keen mind, while also possessing unwavering integrity. Based on my experience in working with Dr. Halperin, I believe he would be nonideological in his decision-making and bring new ideas to defense policy issues. I believe our nation would be fortunate to have Dr. Halperin as the Assistant Secretary of Defense for Democracy and Peacekeeping.

STATEMENT BY U.S. SENATOR JOSEPH R. BIDEN, JR.

Mr. Chairman, Senator Thurmond and Members of the Committee, at one time or another all of us have come before a committee of the Senate to endorse a presidential nomination of a person whom we believe to possess extraordinary qualifications, or of a person whom we believe to have rendered outstanding and appropriate prior service to the United States, or simply of a friend. It is my pleasure and my privilege today to recommend for your approval a man I would place in all three of those categories.

It would be hard, in my view, to imagine a nominee better qualified than Morton H. Halperin—my friend, Mort Halperin—to serve as Assistant Secretary of Defense for Democracy and Peacekeeping. Mort Halperin has dedicated his entire career to the causes of peace and democracy. He has served this country with great distinction for more than 30 years. He is widely and justly admired as a bright, principled and patriotic public official.

By ability, character, temperament and long experience, Mort Halperin is especially well suited to the new position to which he has been nominated, a position I believe essential to reformulating and managing the role of the United States and its armed forces in the post-Cold War world. Peacekeeping operations hold out promise for creating a more just and peaceful world, but the risks and challenges are immense. The Continued expansion of democracy and human rights around the world can not be achieved without the contribution of a Department of Defense guided by policies carefully adapted to both the opportunities and the obstacles confronting those values. Mort Halperin, in my judgment, is uniquely qualified to take on such a task.

In making this nomination, President Clinton has joined both Democratic and Republican presidents in recognizing and taking significant advantage of Mort Halperin's energy and imagination. He was a Yale Ph.D. and a consultant to the Kennedy Administration at an age younger than many people when they graduate from college. He became a Harvard professor soon after that. He was a Deputy Assistant Secretary of Defense in the Johnson Administration at the age of 29. He was a senior staff member on the National Security Council in the Nixon Administration.

For 18 years, he served as an official of the American Civil Liberties Union, working with principled effectiveness on issues ranging from national security to the Constitutional rights of Americans. He won one of those MacArthur Foundation "Genius Grants" in recognition of his outstanding abilities and contributions. He is now a senior associate at the Carnegie endowment for International Peace and Baker Professor at the Elliot School of International Affairs at George Washington University.

Mr. Chairman, as we all know, time marches on and I understand that this onetime whiz kid is now, at the age of 55, a grandfather. But Mort Halperin hasn't run out of energy or of ideas. And, most importantly, he has never abandoned his principles, the principles that compelled him to, and have sustained him in, a life of public service, even though the talents that have made him so valuable in that realm would certainly have fetched a much higher price in the private sector. But mere personal gain has never motivated Mort Halperin.

That's why, in large measure, the growing roster of his supporters are a virtual Who's Who of distinguished Americans: Former Secretaries of Defense McNamara, Clifford, Brown and Richardson. Former Secretaries of State Vance and Muskie. Former Directors of Central Intelligence Colby and Turner. Paul Nitze, a top arms-control advisor and negotiator for President Reagan. McGeorge Bundy, who was President Kennedy's National Security Advisor. Arnold Kanter, who was Under Secretary of State under President Bush. And retired Admiral Bobby Inman, the widely respected former Deputy Director of Central Intelligence, who says that he does not endorse candidates, but that he has seen no basis to oppose Mort Halperin—and if you know Bobby Inman, you know that says a lot.

Why do these former officials, all men of great distinction themselves, Republicans as well as Democrats, think Mort Halperin should get this job? Because they have worked with the man. They know him, and they know him to be an extremely capable and conscientious man, a man who can make a strong contribution at the Department of Defense. They do not rely on rumors and innuendo, and neither, members of the Committee, should we.

I have said that Mr. Halperin's critics appear to be trying to settle old scores left over from the Cold War, that they refuse to acknowledge that the Cold War is over. But I think, Mr. Chairman, that it would be useful for me to revisit the Cold War for a few moments.

The Cold War was not just a stubborn and dangerous test of wills between two giant superpowers—it was about something. It was about the struggle between freedom and oppression. It was about the struggle between democracy and tyranny. The very principles that our country stands for—democracy, individual liberty, freedom of expression, and fundamental fairness—are precisely what separated the United States, starkly and irrevocably, from the Soviet Union. Protecting these principles, and the security of the nation that sustained them through the Cold War, was and still is the mission of our armed forces. And defining that mission, in many ways more complicated today in the chaotic wake of the Cold War, requires leadership familiar both with the capabilities of our defense establishment and with the means by which the principles of peace and democracy can best be sustained and extended.

I submit, Mr. Chairman, that the nominee before you today has done as much to support and advance those principles as any American of his generation. His record is clear and unimpeachable, and it is a terrible irony that some of his most patriotic acts—by which I mean the actions he took to defend these basic American values—have been distorted into charges against him.

Let me give you some examples. When Mort Halperin expressed grave concerns about covert action—the use of the CIA and other agencies to secretly influence events abroad—it was not because he disrespected the women and men of the CIA or their contributions to our security. It was because the revelations of the early 1970s showed what could be wrong when is hidden from the American people and from the Congress that represents them—attempts to assassinate foreign leaders, efforts to overthrow elected governments. And more recent history, the Iran-Contra scandal, has shown us again what disastrous consequences can occur when basic foreign-policy decisions are hidden from the people and from Congress.

We were faced with a choice during the Cold War. We could emulate our enemy and, like the Soviet Union, hide our policies and their consequences from our own people, or we could trust the rightness of our own principles. Mort Halperin, because of the responsibilities he bore, realized better than most of us that sometimes covert action had to be considered. But he worked for 15 years to see passage of a law that ensures that if we do engage in covert action, it will be consistent with our stated policies and Congress will be informed about it. As I know well from my years on the Senate Intelligence Committee, Mort Halperin worked to make sure we struck a proper balance between the needs of our national security and the right of the people in a democracy to know the facts and make informed decisions.

When Mort Halperin pressed for reform of our nation's intelligence activities, both at home and abroad, he was not trying to undermine our society, but to strengthen it. We know now what happened right here at home when our intelligence agencies ran unchecked—spying on lawful domestic political activity, opening citizens' mail and taps on their phones without court orders, testing the effects of dangerous drugs on unsuspecting citizens, even efforts to get Martin Luther King to commit suicide. Mort Halperin didn't invent these misdeeds—the Church Committee in the Senate, the Pike Committee in the House and a Commission under Vice President Rockefeller, in a bipartisan manner, exposed them. Dedicated men and women in the Department of Justice, the Department of Defense, the CIA and the Congress have worked ever since to create rules and regulations that allow effective intelligence collection while protecting the rights of Americans and defending American principles. And those involved in this effort will tell you who, so many times, developed workable compromises to resolve seemingly intractable clashes between national security and civil liberties—Mort Halperin.

Sure, Mort Halperin defended or testified as the trials of controversial figures accused of disclosing government information, but not because he thought the information should have been released. It was again because of his commitment to the basic Constitutional values that differentiate us from totalitarian societies: criminal laws, especially those that affect, speech may not be excessively vague; government restraints on publication of materials by private citizens must meet a heavy burden; an accused person is entitled to a fair trial. No doubt some of those he defended deserved condemnation; Mort Halperin himself said so. If you sacrifice basic freedoms for some, you threaten them for all; if you pick and choose who gets justice, you threaten injustice for all. Our Founding Fathers understood these verities and enshrined them timelessly in our Constitution and Bill of Rights. If we forget these values, if we criticize those among us who defend them, we dishonor a priceless heritage.

Mort Halperin has never failed to honor those values. Even when he later defended people like John Poindexter, Oliver North, Lyn Nofzinger and Dartmouth students accused of racist speech, it was not because he had shifted from left to right. It was, instead, because he was constant—constant, in his defense of Constitutional values like freedom of speech and due process of law; constant, even though he knew that voices on the left would criticize him, just as voices on the right have done and continue to do today. But still, constant, because he recognized and still recognizes that the fight for freedom can not be a popularity contest, that patriotism can never be reduced merely to a difference between "us" and "them."

It was after all, Mr. Chairman, our character as a nation, our ultimate fidelity to the principles Mort Halperin has defended throughout his public life, that enabled us to outlast the Soviet Union in the Cold War and that will enable us to lead the world toward peace and democracy. To depart from those principles today, to impeach our character as a Senate and as a nation, would pose a very real and present threat to the national security Mort Halperin's critics profess to defend.

Let me take a minute to two to examine some of the charges made against Mort Halperin in an ill-conceived, last-ditch effort to derail his nomination. Each collapses like a house of cards as soon as you touch it.

Critics have implied again and again that he is a security risk. Well, folks, we have a careful process for making such decisions; it's called the "security clearance process." And this very year, Mort Halperin received a very high security for his work as a Pentagon consultant—long before President Clinton nominated him for the Assistant Secretary job. Years ago, at a time when he knew plenty of classified information, the Nixon Administration illegally tapped his home telephone for 21 long months. Is there any evidence from the wiretap logs that he never made an unauthorized disclosure or otherwise behaved improperly? None—none at all! In fact, his former boss, Henry Kissinger, apologized for the tap and said there was never anything that cast the slightest doubt on Mort Halperin's loyalty.

But his critics are not interested in evidence. They pass along a rumor that Mort Halperin rejected a general's request. But that is a falsehood. Secretary Aspin says Mr. Halperin did not participate in the decision, and a departmental investigation found that he didn't even know of the request for tanks.

The critics whisper that he attempted to order another general to halt a military exercise in Guatemala. Mort Halperin says he did no such thing. More to the point, the general says he doesn't remember even discussing this operation with Halperin. And think about that, my friends, in the light of your experience with military affairs—is it likely a general would forget a consultant who tried to give him an order? I don't think so!

Someone apparently claimed once seeing a secret document linking Mort Halperin to some sort of shady meetings in a foreign country. This matter got raised in public, as is too often the case, before the evidence was examined. When the CIA finally located the document and showed it to the accuser, guess what? That's the document, sure enough—but it doesn't have anything to do with Mort Halperin.

Critics also like to misquote and distort pieces of Mort Halperin's voluminous writings. Well, the record is out there, as a friend of mine says, "in front of God and everybody." Mort Halperin is not ashamed of what he has written, nor should he be. But those who have cut and pasted his words, outrageously, out of context, misleading Senators and others, should be ashamed.

Mr. Chairman, Mort Halperin's record of distinguished public service and scrupulous stewardship over our national security has been unblemished for three turbulent decades. He has remained true to his principles, to our principles as a people, and he has left the political air fresher everywhere he has passed.

That is the Mort Halperin I know, and I believe all the Senators who have worked with him over the years know the same Mort Halperin—a tireless worker, a principled advocate, a brilliant thinker, a genuine leader. He is also a decent, compassionate, highly moral man I am proud to call my friend.

Reject him, and you deprive our government of a valuable asset that answers to a critical need. Reject him, and you reject the very principles that keep our people free and make our country great. Reject him, and you will make any talented young person think twice before he or she takes a principled but perhaps controversial stand—precisely the kind of stand which our Constitution defends and on which our democracy depends—for fear that on some later day that person will be subjected to the kind of unwarranted attacks Mort Halperin has bravely shouldered for the past year.

Instead, I urge you to look at the facts. Look at the man. Search your own conscience and make your own judgment. Mort Halperin is a first-class nominee, an outstanding choice by President Clinton. I am honored to present him to you.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

Mr. Chairman and members of the Armed Services Committee, I am pleased to appear before you today to introduce a fellow New Yorker, Morton H. Halperin, who has been nominated by President Clinton to be Assistant Secretary of Defense for Democracy and Peacekeeping.

I congratulate you, Mr. Chairman, for holding this hearing so that Mr. Halperin can directly address concerns that have been raised by some members of the Committee. Mr. Halperin has had a varied career of outstanding public service. I am confident that a full and public hearing will demonstrate that he is a dedicated, energetic, intelligent public servant committed to promoting the security of the United States. And to doing so in a manner which is consistent with our own best traditions and the requirements of the constitution.

Mort Halperin has had a distinguished career in government, in academia and in service with non-profit organizations. He is a prolific author. But I would like to focus on a particular aspect of his work—his efforts to help adjust our policies and, importantly, our way of thinking, to the post-cold war would. I think it is fair to say that Mort Halperin has been at the forefront of the effort to keep the United States from drifting from the cold war era into the next without thoroughly examining our way of doing business. The losers have no choice but to radically change their behavior. For the victors, however, the need is less obvious. But no less important. The cold war changed us. We came to accept behavior and strictures that would have been unthinkable to earlier generations of Americans. Mort Halperin has worked—not to sweep aside our institutions wholesale—but to carefully and thoughtfully examine each of our foreign policy institutions and practices to see whether or not they are truly suited to pursuing the best interests of the American people in a new era. In this, he has performed an important service to the nation.

Make no mistake. Mr. Halperin is not one who spins elegant theories that bear little relation to the real world. He has government experience. He knows that the world is a dangerous place. And believes that it is the quintessential obligation of the United States Government to maintain the security of the people of the United States. I believe that this will be apparent from his testimony.

In the course of a varied and energetic career, Mr. Halperin has made statements with which some senators strongly disagree. That, I think, is the inevitable result of holding strong views and expressing them vigorously. I believe that he will welcome the opportunity to address these issues directly.

But I would simply add that no member of the Senate need accept every view Mr. Halperin has ever adopted—nor every opinion of any other nominee for that matter—to be fully convinced that President Clinton is entitled to have the Senate confirm Mr. Halperin as his choice for Assistant Secretary of Defense. Moreover, I am not aware of any statement or position taken by Mr. Halperin which would disqualify him from serving this President with distinction. I am confident that this hearing will make that abundantly clear.

OPENING STATEMENT OF MORTON H. HALPERIN

Mr. Chairman, I welcome the opportunity to appear here today and to be able at last to describe in my own words who I am, what I believe, and what I would hope to accomplish if confirmed as the Assistant Secretary of Defense for Democracy and Peacekeeping. I also welcome the opportunity to respond to questions from all members of the Committee.

Mr. Chairman, some of my earliest memories are of my desire to serve the nation abroad as a foreign service officer. I remember thinking how lucky I was to be an American so that I could represent the only nation in the world whose diplomats were not sent abroad to lie. My patriotism stemmed from my confidence that the United States was different, that we had no desire to conquer or to exploit others, and that we wanted only to live in a world in which all peoples shared our right to liberty and opportunity.

I still believe that. I still believe that there is no higher calling than to serve this nation, to defend its interests, and to promote its ideals.

I believe, as Lincoln said, that this nation is the last great hope of humankind. I believe that the values embodied in our great documents—the Declaration of Independence, the Constitution, and the Bill of Rights—reflect and embody universal norms to which all people aspire.

The wise leaders who founded our nation understood that to remain free a nation had to be ready to use force in its defense. But they also understood that efforts to protect the nation from threats from abroad could undermine the very liberty at home that our military forces were designed to protect.

They left us the great legacy of our Constitution. The founders carefully crafted a system based on the separation of powers. Their goal was to insure that the nation, led by the President, could react with secrecy, vigor and dispatch when that was necessary, but also to insure that the nation did not lightly send its young to war.

It is not an act of patriotism to suggest that the requirements of the Constitution must give way when the talisman of national security is invoked. The genius of the Constitution is that its provisions ensure that we as a nation can pursue our interests abroad while protecting our values at home.

The collapse of the Soviet empire was a great triumph for those ideals. It opened new possibilities for us to help others to establish and nurture democratic regimes. We have an interest in doing so not only because we feel better if others are free, but because, as the founders of this nation recognized, our security is more easily protected if our nation resides in a sea of democratic states.

The end of the cold war was not, however, the end of history or of international politics. The new world is full of dangers as well as opportunities to advance our interests.

Force will still be the ultimate arbiter of international disputes. The United States must be ready to use force—alone if we must, in concert with others if we can—when our interests are threatened.

Before we commit ourselves to using force, we must be sure that the problem can be solved by armed force. We must be sure that our military goals are clear. We must deploy forces sufficient to insure quick and decisive victory. We must have a plan to terminate the use of force and then to involve our diplomats.

Over the past several years, with the end of the cold war, the Congress and our Presidents have begun to turn to the armed forces to perform new tasks, or, rather, to devote significant additional resources to activities which previously had been no more than incidental. These tasks include: participation in the effort against illegal drugs; provision of assistance to those who are the victims of natural disasters; provision of humanitarian assistance to those facing starvation and other deprivations, the result of manmade disasters; efforts to moderate or end ethnic or other civil strife; and efforts to assist nations struggling to create military forces and structures suitable for a democracy.

When this administration came into office it found the armed forces deeply involved in many of these tasks ranging from the war on drugs, to assistance to victims of natural disasters, to a peace enforcement operation in Somalia, to Operation Provide Comfort in Iraq to support for the UNPROFOR effort in the former Yugoslavia, to military contact efforts in Eastern Europe.

Some of these activities were mandated by Congress. Others were the result of Presidential directives, but they were taking up a growing portion of a shrinking budget and lacked any single focus within the Office of the Under Secretary of Defense for Policy. Believing that these activities would need careful monitoring from a policy perspective, Secretary Aspin decided to use his existing authority to create the new office of the Assistant Secretary of Defense for Democracy and Peacekeeping. Upon the Secretary's recommendation, the President did me the great honor of nominating me for that new position.

Let me try to explain why the Secretary thought the office was needed by discussing with you the challenges I believe I will face if confirmed.

The primary mission of our armed forces is, and must remain, the conduct of combat operations. We must seek to deter aggression and be ready to fight and win wars. We cannot assume that events like Pearl Harbor, Korea, or the Iraqi invasion of Kuwait will not occur again. We size and equip our forces to fight such wars and we must not permit new functions to detract us from that goal.

As the members of this Committee know, Secretary Aspin dedicated himself and the Department of Defense to doing whatever needs to be done to insure the readiness of our forces for combat. The greatest and most important challenge of the Office of Democracy and Peacekeeping is to advise the Secretary as to what needs to be done to ensure that as our armed forces perform these new missions, they do so in a way, and only to the extent, that they do not adversely affect our readiness for armed combat.

This objective requires that we make sure that only a small portion of our forces are at any time committed to these new missions. Training and exercises for these purposes must complement and support our training for war. We also need budget mechanisms to ensure that our services and commands are not forced to absorb the cost of conducting new missions from Operations and Maintenance funds needed to maintain readiness.

Another challenge for the office of the Assistant Secretary of Defense for Democracy and Peacekeeping is to guard against the tendency to see our armed forces as the solution to every problem and every crisis of the post-Cold War world. Because the armed forces exist, because they have highly skilled and capable people and because the Department of Defense is perceived as having a large budget, there is a tendency to want to send in the Marines or the Army to deal with every problem. We must resist that.

I do not see this office as being a cheerleader for peacekeeping or any of the other new missions. On the contrary, I see a key part of the job to be warning of the dangers and resisting an easy resort to the armed forces of the United States for these purposes. We must insist that the Joint Staff, the relevant command, and others in the Executive Branch make a careful evaluation of any proposal to perform such missions. We must know precisely what the military task is and be confident that we can perform it. We must know how we will get out as well as how we plan to go in.

As the authorization bill just approved by the Conference Committee makes clear, Congress is likely to continue to authorize funds and programs for these new missions. Presidents will direct the Department to act. Thus, another challenge of the job is to make recommendations to the Secretary of Defense on how to get ready to perform these tasks in a more efficient and effective way.

This means hard thinking about doctrine and strategy. It means thinking about what training and equipment our forces should have for these missions. It means developing better methods of interagency coordination.

These are the tasks of the new office of the Assistant Secretary of Defense for Democracy and Peacekeeping. They are tasks that must be performed within the Department of Defense. The office would not usurp the authority of the Secretary of State or perform functions that belong in the State Department.

Having spent more than 30 years thinking, teaching and writing about the use of force, having thought hard and written about the security threats of the post-Cold War period, having worked to reconcile claims of national security and civil liberties in our nation, I believe that I have the qualifications and experience to do this job in a way that will enhance our security and advance our ideals. I am greatly honored that the President and the Secretary believe that I am the right person for this position. I hope that when the committee completes its consideration of my nomination it will agree that I am qualified to fill it.

Mr. Chairman, over the past several months, in an effort to suggest that I am not the right person for this position, a number of charges have been made about my beliefs and activities which are simply false. They are, in some cases, made up out of whole cloth; in others, they result from wrenching sentences out of context and building tales around them. I would be pleased to respond to questions about each of these and to provide more details, but I felt that I should, in my opening statement, briefly try to set the record straight:

I have been accused of advising the Secretary of Defense not to send armor to Somalia. That is false. I had no knowledge of any request for armor until I read about it in the newspaper after the fact.

I have been accused of ordering a regional Commander to terminate an exercise. That is false. I called General Joulwan only to obtain information, not to intrude into the chain of command.

I have been accused of believing that the United States should subordinate its interest to the United Nations, never using force without its consent, and putting American forces at its disposal. That is false. I have never advocated these positions.

I have been accused of believing that government officials have the right to disclose classified information. That is false. I have consistently stated that the government has the right to fire anyone who does and to impose criminal penalties for the disclosure of such information.

I have been accused of opposing all counter-intelligence operations. That is false. I have supported effective counter-intelligence measures designed to protect sensitive information.

I have been accused of aiding Daniel Ellsberg in the disclosure of the Pentagon Papers. That is false. I did not assist in, and had no knowledge of, his disclosure of the Pentagon Papers.

I have been accused of aiding Philip Agee in the disclosure of the identities of intelligence agents and advocating the disclosure of such identities. That is false. I never assisted Philip Agee in those efforts, and I have condemned such action by him and others. (I did testify at his deportation hearing in England—a matter I would be glad to discuss with the Committee.)

Most recently, I have been accused of traveling abroad for secret meetings with terrorists. That is false. I have had no such meetings, and to my knowledge there are no CIA documents suggesting that I have.

Mr. Chairman, I have also been accused of undergoing a "confirmation conversion". That is also false. I have changed none of my views since I was nominated, indeed, since President Clinton was elected, and I stand by my recent statements and writings.

If the charge against me is espousing pointed and provocative views, I have no quarrel with that description. But I resist any suggestion that I have done anything which compromises our nation's security or weakens our defenses. Indeed, the goal of my work has always been to strengthen our national security and to strengthen the freedoms of all Americans.

It is true, that on some subjects my views have matured over time. In particular, I expect to be asked about a number of statements I made in the first half of the 1970s about American intelligence operations. I regret making certain of those statements. Some of the views I expressed then I have long since abandoned. Others have become irrelevant as the government, with my strong support and active involvement, has altered the process by which intelligence agencies function and are monitored to bring them under effective control.

In order to put those statements into context, Mr. Chairman, I would like to recall for the committee the situation we were in at that time. We had learned of serious abuses of our intelligence agencies. There were reports—and eventually solid evidence—of unlawful surveillance of Americans, or manipulation of our political process. The CIA had tried to assassinate foreign leaders and to overthrow democratically elected governments. These are the facts.

Many thoughtful Americans had to comfort the question of what to do. The new President appointed a special commission to study the activities of the CIA in the United States. The Senate established a special committee to investigate intelligence abuses, as did the House.

I was surprised, anguished, and angered by these revelations as were so many others. I began to think, and perhaps too soon to write, about what I thought should be done. I believed that we had tarnished the image of the United States and damaged the ideals for which we stood in the world. We had learned that institutions set up to protect our liberties could undermine freedom at home and hinder our efforts abroad.

One of the suggestions I put forward in 1974—to abolish the covert operations side of the CIA—I abandoned in 1976. I advocated then, and consistently since 1976, that the CIA be divided into two organizations—an analytic agency to prepare intelligence analysis, and an operations agency to conduct clandestine intelligence collection and operations. In other respects my views have evolved over time as the intelligence agencies have come to operate under a regime of law and effective congressional oversight.

Finally, Mr. Chairman, I wanted to make a statement about my activities in the Department of Defense over the past months. As the committee knows, during the first months of the administration, I and my colleagues in the Office of Policy, engaged in practices which we later learned were inappropriate.

As my colleagues have done, I want to apologize to the committee for my actions. I can only assure you that it was not done with any intention of presuming on the Senate's right to confirm nominees. We were all eager to begin to do what the Secretary of Defense wanted done, and we failed to brief ourselves fully about the committee's expectations.

Since May, I have been scrupulous in following the expanded guidelines provided by the General Counsel of the Department. I have great respect for the Senate and its constitutional powers over confirmation and for this committee. Nothing that I did was intended in any way to express disrespect for those rights and expectations. I regret that my behavior did not in the early months live up to the standard that it should.

Mr. Chairman, I appreciate the indulgence of the committee in permitting me to present this somewhat lengthy statement. I felt that the committee would want to hear my responses to some of the issues that have been raised. I am sure that I have not answered all of them and look forward to responding to your questions.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

GUN AMMUNITION

Mr. MOYNIHAN. Mr. President, I rise to announce to the Senate the important development that the Winchester Ammunition Co. has withdrawn the Black Talon handgun ammunition from sale to the public.

This comes in the aftermath of hearings by the Finance Committee in which we described this particular round which has as its function a ripping activity within the body once it has entered. The round splits open into six prongs which spin and which are specifically destructive of organs in the area of the body that they will have entered.

I would like to say that the Winchester Co. has shown good judgment and good grace in this regard and ought to be commended.

We have been talking now on this subject for a number of years, and we have been legislating. In 1982, I believe, I introduced legislation to ban the so-called cop-killer bullet, the Teflon-coated round of greenish hue, what is known as the green hornet, which being designed as a penetrating round would have the capacity to penetrate the body armor that police officers were beginning to wear, the cloth armor from the waist to the shoulders which is now standard issue in most metropolitan police departments, if not indeed all, such being the state of handgun violence on our streets.

It took 4 years to enact that, but we did. President Reagan signed the bill. Senator THURMOND from South Carolina was very active in supporting it, and it became the first round of ammunition to be outlawed.

On Saturday in the crime bill we outlawed yet another round, in this case a new class of thick, steel-jacketed handgun ammunition, the M39B Parabellum—bellum is Latin for war—developed in Sweden, which again has the armor-piercing qualities. We had the definition of the Teflon-coated round in statute. We simply described the new round on Saturday in the crime bill. We made a generic description of a round which we will not have manufactured, sold, or imported into the United States.

Can I say that at the time we outlawed the cop-killer bullet, as it has come to be called, no American firm was manufacturing it. They were made in Czechoslovakia and brought into the United States. They were not being manufactured because their purpose could be nothing more than activities such as killing police officers.

Now on the question of continuing this sequence of statutes, I proposed outlawing the manufacture or sale of .25-caliber and .32-caliber rounds. These are rounds that only are used in what is called Saturday night specials, but those small, cheap handguns are no longer anything like the consequence they were. What we now have are 9-millimeter clip-loaded rounds which in the 9-millimeter mode of the Black Talon could be devastatingly destructive if a schoolyard were sprayed, or simply in the kind of general use we see regularly or currently on our streets.

I would make the point, Mr. President, that we have been trying to bring the analytic technique of public health to this subject. We have been trying to say now, how would an epidemiologist look at this epidemic? And one of the first things that leaped out at you is the fact that, to use the paraphrase, guns don't kill people; bullets do.

Some 15 years ago in the North Carolina Medical Journal a small article appeared. The bullet is the weak link in the epidemiological triad, as it is called, in which you have the host, the agent, and the environment. The agent is the bullet. The host is the individual. The environment is wherever guns are being fired.

It happens that this same approach was used with respect to the problem of automobile crashes. Automobile mortality and morbidity became a great national issue in the 1950's. After World War II, the number of automobiles manufactured grew enormously. The driving population grew enormously, and so did the deaths and injuries associated with crashes.

It was observed that the automobile crashes then were the largest cause of death from persons aged 1 to about age 37 in the United States in the 1950's. And we began the effort to introduce epidemiological models. We would say when a car hits a tree, no one is injured. It is not until a person inside the car hits the car. Therefore, you think of restraining techniques. Seatbelts were an obvious transfer from aviation, cleaning up dashboards, and putting padding on, and now air bags, and generally using passive devices. It was clear with respect to the automobile design that it was much easier to influence the behavior of 5 automobile companies, 3 major ones, than 90 million drivers.

The automobile industry had a very great difficulty understanding this. They resisted it. They did not really understand what was being said, were not certain of the motives of those who were saying it even though they were eminently respected and respectable physicians.

In the end it took national legislation. We had to establish the National Highway Safety Transportation Administration. Dr. William Haddon was its first head, who had helped to begin this work in Albany, in the administration of Averill Harriman in which I was also involved.

Today it is commonplace to watch advertising for new cars. I believe it is the case, I have read it, that in advertising the judgment is that the first thing you sell is the style of the vehicle, and the second thing is the safety. We are used to now seeing facsimile collisions with airbags opening, the designs of scenes of dummies in collisions, and how they behave. And often it is quite different than we would expect such physics, travel of speed, and collision and such like.

I think it was costly to the automobile companies that they resisted this so. I think it put them in a state of mind that it was not alert to other possibilities, other needs, and we went through a very difficult time with the automobile industry itself.

I would hope we might be seeing here understanding on the part of ammunition makers that they can cooperate in this public health problem, the problem the President of the United States addresses regularly.

We start with the fact that since 1918, we have taxed the manufacturers of ammunition. The Revenue Act of 1918 was in response to the costs of World War I. Since 1938 the Bureau of Alcohol, Tobacco and Firearms in the Treasury Department of the U.S. Government has required a license to manufacture.

There are a fair number of these licenses out. They cost $10 a year. But the actual quantity manufacture of ammunition is concentrated in about 10 firms, Winchester possibly being the largest and being a branch of the Olin Corp.

I have said I think the case could be made that we have a 2-century supply of handguns, but only a 4-year supply of ammunition; so again, obviously, we should move in the direction of ammunition, the only function of which is to kill or injure a human being.

A Senate version of the case in point might be made that in the Brady bill there is some concern that antique weapons have been redefined as up to the year of manufacture of the year 1918. I simply note that those who are concerned have a point, since one of the most widely available and widely used handguns in our country is the Colt Model 1911.A1 .45-caliber clip-loaded pistol. It was first rated in 1911, and it is the standard handgun of the armed services. Almost 50 years ago in the Navy, I remember carrying one of those handguns, as the officer of the deck has a handgun. And they are still being used today.

The armed services are moving over to the 9-millimeter caliber Baretta, I believe, but the 1911.A1 service pistol is entirely serviceable, perfectly functional, as long as you have ammunition to use that side arm, making the point that the life of a handgun seems to be measured in decades, generations, even centuries. Ammunition is a different matter. As we begin to think of it in these terms, I hope we will have a better outcome than the necessary efforts to control the access to handguns, but realizing that we have 50 million in the United States. Police Commissioner Raymond Kelly of New York City, one of our distinguished police officers, when the issue of the Black Talon was raised 3 weeks ago, commented that in the city of New York there are somewhere between 1 million and 1.7 million handguns, and they are not going to go away.

So that addressing the question of the ammunition they use is possibly a rewarding one. I think it is, and I think that the action of Winchester Ammunition in withdrawing the Black Talon handgun ammunition from sale to the general public is, again, an act of good judgment and good grace. I make the point that they will continue to be available to the police. We have no intention in any way of restricting that kind of availability.

I ask unanimous consent that the press release regarding Winchester be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Winchester Ammunition Press Release, Nov. 22, 1993]

WINCHESTER WITHDRAWS BLACK TALON HANDGUN AMMUNITION FROM SALE TO PUBLIC

EAST ALTON, IL.—Winchester Ammunition today announced it is withdrawing Black Talon handgun ammunition from sale to the general public.

"This action is being taken because Black Talon ammunition is becoming a focal point for broader issues that are well beyond the control of Winchester Ammunition. The controversy also threatens the good name of Winchester, which has stood for the safe and responsible use of ammunition and firearms for 125 years; and our reputation as the leading supplier of quality ammunition for the sporting public, law enforcement agencies, the United States military, and private citizens who believe as firmly as we do that there is a place for the safe, legal and responsible use of firearms," according to company spokesman Mike Jordan.

Distribution of the ammunition will now be limited strictly to law enforcement agencies, the company said. The superior ballistics performance of Black Talon has made it the standard issue for more than 400 law enforcement agencies across the United States.

Winchester will continue to offer a full line of ammunition to meet the needs of the military, law enforcement, recreational marksmen and the hunting community.

Mr. MOYNIHAN. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I will yield for a moment to the majority leader before I speak.

STAR PRINT—S. 1757

Mr. MITCHELL. I ask unanimous consent that S. 1757 be star printed to reflect the changes now at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993

Mr. STEVENS. Mr. President, the Health Equity and Access Reform Today Act of 1993 is the culmination of a great deal of hard work and effort on the part of a number of Republican Senators who have worked together almost weekly for 3 years to examine the issues related to health reform.

Senator CHAFEE deserves a great deal of credit for being responsive to the needs of rural populations and those States with low population density, and in promoting a maximum of State flexibility. He has been our leader in holding these meetings over these past 3 years.

I would like to see a consensus position develop and, therefore, I have cosponsored this bill today with Senator CHAFEE and also Senator NICKLES' consumer choice bill in hopes that we will see the best parts of each of these bill figure in a final bill on health care reform.

The Health Equity and Access Today Act, which is known as the HEART Act, promotes development of health infrastructure where there is none today. We often see high costs of health care being portrayed as too much infrastructure and not enough money to pay for that infrastructure.

In Alaska, most communities are not accessible easily by road, and in many cases not accessible by water, but only by air, year-round. That is a situation where meaningful access is not a provision in an insurance policy.

Access, to us, means getting patients living in remote areas to health care providers in the cities and regional hubs.

Alaska, like many States, has much to do to prepare for health care reform. I have worked on this bill, both of these bills, to maintain Alaska's ability to make choices among a wide range of options, because there is not yet a consensus in our State on which model of reform might work best in Alaska.

Alaska's health care needs require development of an infrastructure of training and extension of preventive care to inaccessible areas. It is my judgment that this HEART bill Senator CHAFEE introduced could do this, through the development of rural health networks, and by allowing our State to design our own approach to health care reform.

Alaska needs a maximum of State flexibility because our issues in the north country are different. We are, after all, one-fifth the size of the United States. We have half the coast line of the United States, and over 176 of our villages and cities can be reached only by air. While long-term care is a priority for Alaskans, we are also interested in improving our sanitation conditions, where there is no running water and in obtaining treatment for alcohol and drug abuse where alcoholism is very high—probably the highest rates in the world occur in our State.

Alaska has a relatively young population. It has a high birth rate. We want the flexibility to use our resources in the prevention of infant mortality and in the expansion of telehealth networks. This HEART bill of Senator CHAFEE's offers us this flexibility.

We may want to try mobile prevention centers that would be involved in the use of aircraft or even on our State ferries, so that mammography or eye care services could be extended everywhere, even into the remote Eskimo villages, or to the most distant islands of the Aleutian chain.

It is my belief that Alaska's small businessmen and women are better served by an approach that gives them the assistance to obtain health coverage through small business purchasing groups, without taking from the funds they need to expand their companies and create their jobs. This bill does not include an employer mandate.

I yield the floor.

KASHMIR

Mr. WALLOP. Mr. President, today, the standoff at the Hazratbal Mosque in Kashmir has ended but the tensions between India and Pakistan remain high. India and Pakistan have had disputes over Kashmir since 1947 when British colonial rule ended. During this time two wars have been waged, costing thousands of lives and dividing the two countries even more.

Another war between these governments would be devastating, especially since it is believed that both Pakistan and India can produce and deliver nuclear weapons. Measures must be taken to mediate these countries in this time of uncertainty before our worst nightmare comes true.

With the end of the cold war, the time is ripe for talks to begin. It has become the official U.S. view that outside involvement in this matter will only disrupt the hopes of a peaceful settlement. This is unfortunate.

Reports of widespread human rights violations by the Indian Government will make the path to peace a difficult one. The tensions in Kashmir remain at perhaps their highest level ever due to those human rights abuses. As long as injustices like these persist there can be no hopes to ending the conflict between India and her people, much less India and Pakistan.

There have been statements given on the floor by my esteemed colleagues previous to this one concerning Kashmir. I ask, much like those proceeding me, that the Indian Government take steps to settle the situation. There can be no lasting peace in the region and no hopes of diplomatic relations between our two countries until these violations are resolved.

DR. SEYMOUR LACHMAN CELEBRATES HIS 60TH BIRTHDAY

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Dr. Seymour Lachman who will be celebrating his 60th birthday on December 12, 1993. Dr. Lachman is an eminent author and scholar, prominent educator, and a forceful advocate of humanitarian causes. He is currently serving with distinction as dean for community development, City University of New York and as a professor of history at the Baruch Graduate School.

Dr. Lachman served as president of the New York City Board of Education during a turbulent period of change in the 1970's. He led one of the world's largest school systems through difficult adjustments related to decentralization. Dr. Lachman's unstinting and creative efforts on behalf of all of New York City's children are a credit to his energy and idealism. These efforts shall long be remembered by the people of New York.

Nothing reveals Dr. Lachman's commitment to humanitarian causes more than his commitment to the cause of Soviet Jewry, during a period when they suffered severe discrimination. As chairman of the Greater New York Conference on Soviet Jewry, he not only fought tenaciously against Soviet mistreatment of Jews and to allow unrestricted emigration of Soviet Jewry, but also worked arduously to smooth the adjustment of life in the United States for the many Soviet Jews who emigrated to the New York area.

Dr. Lachman recently coauthored "One Nation Under God," a seminal and imaginative study of American attitudes toward religion. The book has already received wide acclaim. It is a perceptive analysis and well-researched work based on extensive polling throughout the United States. Dr. Lachman is a talented American historian and teacher who has done excellent scholarly work both in the fields of education and religion.

As he commemorates this significant milestone it is indeed an honor for me to join with Dr. Lachman's family, many friends and colleagues in conveying my warmest birthday wishes to a remarkable and distinguished American. Seymour has my heartiest personal congratulations. May he have good health, success and happiness in the coming years.

REGARDING S. 1607, THE CRIME BILL

Mr. CHAFEE. Mr. President, I would like to take a moment to express my concerns about the direction that this crime bill has taken in recent days. In our zeal to prove just how tough on crime we are, we have approved amendments which simply do not stand up to careful scrutiny, and, in my view, will be terribly damaging to our Federal justice system if enacted into law.

I would point to two amendments approved yesterday by substantial margins. Each represents a sweeping change in the way we fight crime in this country and a radical departure from our long-accepted understanding of the appropriate duties of the Federal and State governments.

The first amendment was presented as a tough anti-gang amendment. That sounds very appealing. Who could possibly oppose an amendment intended to deal with gangs and the terror which they inflict upon our society? But listen for a moment to what this amendment does. It makes it a Federal criminal offense to commit a predicate gang crime, with the intent to promote or further a criminal street gang. It makes it a Federal crime to participate in, or conspire to participate in a criminal street gang or to induce others to join the gang. Furthermore, it establishes mandatory minimum sentences for the commission of gang crimes.

The second amendment attempts to deal primarily with the terrible problem of gun violence. Simply put, this amendment federalizes and establishes mandatory minimum sentences for all violent crimes committed with a firearm. Let me repeat—all violent crimes committed with a firearm; not just those which occur within Federal jurisdiction. In addition, the amendment sets forth the following mandatory minimum sentences—10 years for possessing a firearm during the commission of the crime, 20 years if the criminal discharges the firearm, 30 years if a machinegun or a silencer is used, and the death penalty if a death results.

I have no objection to exacting swift and certain punishment on violent criminals. As has been pointed out numerous times during this debate, in some of our states, the sentences actually served by convicted violent offenders make a mockery of our criminal justice system. Murderers are sometimes paroled from prison in a few years which is nothing short of a travesty. Understandably, we are all terribly frustrated by this sad state of affairs and want desperately to do something about it.

But I think it is time that we in the Senate step back and reflect upon what our appropriate role should be and what the limits are of the Federal Government's jurisdiction. Do we really want the U.S. Department of Justice to have jurisdiction over all gang-related offenses and every violent crime involving a firearm? We are talking about hundreds of thousands, if not millions of crimes. Not only would this place an enormous burden upon our Federal courts, but it makes no sense from a public policy point of view. It is the local and State law enforcement agencies that are best equipped to address the crime in our streets. But listening to the debate on this bill, you would think that they don't exist. Clearly, those agencies are having a difficult time. They need help, and that is precisely what we are providing in this bill—$21 billion and 100,000 new police officers to walk the streets. But it is one thing to help the States do their job better and quite another to do their job for them.

I do not think that most members would favor the establishment of a centralized, national police department anymore than they would support the Federal Government usurping local control of our Nation's schools. But if we continue down this path of federalizing crime after crime, I feel that that is exactly where we are headed.

One of the supposed virtues of the Senate is that through thoughtful, careful deliberation, we are able to set aside the passions which surround emotional issues like crime control and arrive at sensible, reasonable solutions. Regrettably, as in years past, this debate often has been devoid of any rational discussion.

Rather than continue to allow this debate to focus solely upon who is tough and who is not, I think we need to start asking ourselves some basic questions when we are asked to vote on these amendments: "Does this really make sense? Do we fully understand the implications of this proposal?" It seems to me that by ignoring these questions and looking only at which is politically attractive, we do a real disservice to this body and run the risk of doing very serious harm.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate on November 22, 1993, received message from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

The nominations received on November 22, 1993 are shown in today's RECORD at the end of the Senate proceedings.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate on November 22, 1993, during the adjournment of the Senate, received message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3225. An act to support the transition to nonracial democracy in South Africa.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE U.S. RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT—PM 75

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1992, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 22, 1993.*

MESSAGES FROM THE HOUSE

At 4:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1645. An act to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States.

H.R. 1926. An act to amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy, and for other purposes.

H.R. 2178. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes.

H.R. 2960. An act to amend the Competitiveness Policy Council Act to provide for reauthorization, to rename the Council, and for other purposes.

H.R. 3216. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes.

H.R. 3474. An act to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes.

H.R. 3548. An act to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the Memorial, and the Women in Military Service for America Memorial, and for other purposes.

H.J. Res. 272. Joint resolution designating December 15, 1993, as "National Firefighters Day."

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 3. An act entitled the "Congressional Spending Limit and Election Reform Act of 1993".

S. 1284. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, and agrees to the conference asked by the Senate on the disagreeing votes to the two House amendments thereon; and it appoints Mr. BROOKS, Mr. HUGHES, Mr. SCHUMER, Mr. SENSENBRENNER, and Mr. GEKAS, as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1944) to provide for additional development at War in the Pacific National Historical Park, and for other purposes, with an amendment.

The message also announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2535) to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 131. Concurrent resolution expressing the sense of the Congress with respect to the situation in Sudan.

The message further announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 50. Concurrent resolution concerning the Arab League boycott of Israel.

The message also announced that the House has passed the following bills and joint resolution, without amendment:

S. 717. An act to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes.

S. 778. An act to amend the Watermelon Research and Promotion Act to expand operation of the act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes.

S. 994. An act to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1716. An act to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the lime board, and for other purposes.

S.J. Res. 154. Joint resolution designating January 16, 1994, as "Religious Freedom Day".

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 1268. An act to assist the development of tribal judicial systems, and for other purposes.

MEASURES REFERRED

The following measures were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1133. An act to combat violence and crimes against women; to the Committee on the Judiciary.

H.R. 3098. An act to amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of handgun or handgun ammunition to, a juvenile; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 1757. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

H.R. 881. An act to prohibit smoking in Federal buildings.

H.R. 334. An act to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 798. A bill to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes (Rept. No. 103–204).

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment:

S. 1618. A bill to establish Tribal Self-Governance, and for other purposes (Rept. No. 103–205).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1769. A bill to make a technical correction, and for other purposes; considered and passed.

By Mr. CHAFEE (for himself, Mr. DOLE, Mr. BOND, Mr. HATFIELD, Mr. BENNETT, Mr. HATCH, Mr. DANFORTH, Mr. BROWN, Mr. GORTON, Mr. SIMPSON, Mr. STEVENS, Mr. COHEN, Mrs. KASSEBAUM, Mr. WARNER, Mr. SPECTER, Mr. FAIRCLOTH, Mr. DOMENICI, Mr. LUGAR, Mr. GRASSLEY, and Mr. DURENBERGER):

S. 1770. A bill to provide comprehensive reform of the health care system of the United States, and for other purposes; read the first time.

By Mr. DECONCINI:

S. 1771. A bill to amend provisions of title 28, United States Code, to provide for the payment of attorney fees to a prevailing defendant in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMM:

S. 1772. A bill to reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review; to the Committee on Governmental Affairs.

By Mr. SIMON (for himself, Mr. WOFFORD, Mr. ROBB, and Mr. ROCKEFELLER):

S. 1773. A bill to make improvements in the Black Lung Benefits Act, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S. 1774. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; considered and passed.

By Mr. MOYNIHAN:

S. 1775. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care for all Americans; read the first time.

By Mr. METZENBAUM (for himself, Mr. FEINGOLD, Mr. WOFFORD, Mrs. MURRAY, and Mr. SIMON):

S. 1776. A bill to amend the Revised Statutes to restore standards for proving intentional discrimination; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 1777. A bill to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes; considered and passed.

By Mr. MOYNIHAN:

S. 1778. A bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of cooperative housing corporations; to the Committee on Finance.

By Mr. KENNEDY:

S. 1779. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

By Mr. DODD (for himself, Mr. COATS, and Mr. DURENBERGER):

S.J. Res. 159. A joint resolution to designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week"; to the Committee on the Judiciary.

By Mr. RIEGLE:

S.J. Res. 160. A joint resolution to designate the month of April 1994, as "National Sudden Infant Death Syndrome Awareness Month", and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN:

S. Res. 174. A resolution to express the sense of the Senate concerning the expeditious resolution of the dispute concerning sales of commercial grade uranium between the United States and Russia; to the Committee on Foreign Relations.

By Mr. MOYNIHAN:

S. Res. 175. A resolution to authorize the termination of the 1903 lease on Guantanamo Bay, as a gesture of good will, at such time as democracy is achieved in Cuba; to the Committee on Armed Services.

By Mr. LEAHY:

S. Con. Res. 56. A concurrent resolution to authorize corrections in the enrollment of S. 1766; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. DOLE, Mr. BOND, Mr. HATFIELD, Mr. BENNETT, Mr. HATCH, Mr. DANFORTH, Mr. BROWN, Mr. GORTON, Mr. SIMPSON, Mr. STEVENS, Mr. COHEN, Mrs. KASSEBAUM, Mr. WARNER, Mr. SPECTER, Mr. FAIRCLOTH, Mr. DOMENICI, Mr. LUGAR, Mr. GRASSLEY, and Mr. DURENBERGER):

S. 1770. A bill to provide comprehensive reform of the health care system of the United States, and for other purposes.

HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993

Mr. CHAFEE. Mr. President, I am very pleased today to join with 19 of my colleagues in introducing the Health Equity and Access Reform Today Act of 1993.

This is our health care bill, Mr. President, presented on behalf of the Republican Senators' health care task force. The cosponsors of this legislation are Senators DOLE, BOND, HATFIELD, BENNETT, HATCH, DANFORTH, BROWN, GORTON, SIMPSON, STEVENS, COHEN, KASSEBAUM, WARNER, SPECTER, FAIRCLOTH, DOMENICI, LUGAR, GRASSLEY, and DURENBERGER.

Mr. President, Representative BILL THOMAS is introducing the HEART plan companion bill in the House of Representatives and has made a solid contribution to the development of this proposal, for which I am very grateful.

I also want to thank Representative NANCY JOHNSON, of Connecticut, for her help in developing the provisions dealing with voluntary purchasing groups.

To start with, Mr. President, I want to thank the distinguished Republican leader, Senator DOLE, for his vision in directing the establishment of a Senate Republican health care task force in 1990. Think of it: Over 3 years ago, Senator DOLE set up this Republican health care task force. His support and encouragement of our efforts have brought us here today. I am particularly indebted to him for that.

In addition, I personally want to thank and commend the cosponsors of this proposal for their commitment to the task force effort and for their many fine contributions. As I say, these are the individuals that I previously listed as cosponsors.

Mr. President, as we set about the difficult task of developing this health care task force proposal, named HEART, we had three objectives. I do not suggest that these three objectives are unique to us, but they were extremely important as our goals went.

First, we wanted to ensure coverage of affordable health insurance for all our citizens. That was the first goal.

Second, we wanted to bring down the explosive increase in health care costs.

So, first, we wanted coverage for everybody. Second, we wanted to deal with the explosive increase in cost.

Third, we wanted to preserve the choice and quality that have distinguished American health care.

Now, while this bill is not perfect, I believe it satisfies these important goals.

Let me briefly give an overview.

First, HEART will guarantee universal coverage by making health care insurance more accessible and affordable, and by helping low-income Americans purchase coverage through a Federal voucher program. The voucher will be financed through reductions in the rate of growth in Federal health care entitlement programs, Medicare and Medicaid. We believe we can restrain the rate of growth of these programs. The voucher program for low-income Americans is going to be phased in under our proposal, starting in 1997, at 90 percent of the poverty level, reaching 240 percent of the poverty level by the year 2005.

Now, that does not mean, at 240 percent of the poverty level the entire cost of the health premium will be paid for by the taxpayers. No, we have a phaseout schedule starting at, as I recall, 100 percent of poverty and then scaling down, reaching total elimination at 240 percent of poverty.

This is done, as I say, on a sliding scale, so that those at or below 100 percent of poverty would have the full cost of their insurance paid with a phaseout, as I mentioned, going on upward. As we wrestled with the options, this pay-as-you-save approach was the most responsible way to proceed, in our judgment.

HEART will guarantee health security for all Americans by fundamentally reforming the standards governing the health insurance industry. In order for health plans to be qualified for tax-favored treatment, they will have to guarantee eligibility for all applicants. In other words, no more of this cherry picking. And the insurance companies will be prohibited from discriminating based upon the health of the applicant or from denying coverage because of a preexisting condition. If somebody comes with a preexisting condition—heart problems, whatever it might be—they still have to be covered.

HEART will also improve competition in the marketplace, ensuring the best service, quality, and price for consumers. By facilitating the establishment of voluntary purchasing groups, it gives small businesses and individuals the same leverage that is currently enjoyed by large employers. Members will be able to pick from a wide range of qualified health plans which compete for their business, such as fee-for-service, health maintenance organizations, or preferred provider plans.

Under HEART, qualified health plans will be required to offer a standard or catastrophic benefit package. These benefits will emphasize primary and preventive care, and will be adjusted periodically by a Benefits Commission. The Congress will consider submissions from the commission on an up or down basis. The commission will come forward with a suggestion dealing with the basic benefits package, for example. That can be approved and accepted by Congress or it can be rejected, but it cannot be amended. The vote will be yes or no, similar to the base closure package We do this in order to prevent the politicizing of the benefits package.

HEART provides significant reforms for the tax treatment of health care premiums to encourage cost control, and to help make more affordable. Premiums paid by employers, as well as individuals, would be fully deductible up to an amount equal to the average of the lowest one-half of the plan premiums offered in a health care coverage area.

Employer premiums in excess of the cap would become taxable income to the employee. We also make long-term care insurance premiums deductible, payments from such plans nontaxable to the recipients, and other reforms to encourage long-term care insurance.

HEART also provides for a number of other critical reforms, including antitrust reforms to provide safe harbors for medical providers to share expensive medical equipment without fear of prosecution. We encourage cooperation among hospitals; medical malpractice reforms to encourage mediation before litigation, and to limit attorneys' fees; administrative reforms to establish a health care data interchange system and to reduce paperwork costs—now estimated at 17 cents on the health care dollar.

I particularly want to pay tribute to Senator BOND for his work in connection with administrative reforms. He has worked very hard in this area, and very effectively, and made a wonderful contribution to the final legislation we produced.

We have incentives to encourage doctors, nurses, and other health care professionals to practice in rural and inner-city areas, and increased Federal assistance to train more primary care physicians, nurse practitioners, and physician assistants.

Capitation of Medicaid payments to States, and added state flexibility to move Medicaid beneficiaries into managed care programs.

The option for Medicare and Medicaid beneficiaries to receive the standard benefit package—including prescription drug coverage—if they enroll in a qualified health plan.

In summary, Mr. President, the cosponsors of the HEART bill stand ready to work toward the enactment of responsible health care reform legislation next year. Several of us have already begun a dialogue with Congressmen COOPER and GRANDY, and with Senators BREAUX, BOREN, NUNN, and others aimed at forging a solid centrist coalition. Our bills and principles are quite similar, and there is a strong interest in both camps to forge ahead.

We have also begun to work with the administration, and I wish to commend President and Mrs. Clinton for the tremendous effort they have made in developing their bill. While we have clear differences over the degree of regulation, the employer mandate, the structure of the regional alliances, and the potential costs of the Clinton legislation—there is also much common ground from which to begin the process early next year.

Christine Ferguson of my staff and Sheila Burke of Senator DOLE's staff have been absolutely essential in preparing this legislation. Without their knowledge and drive and energy, we would not have this bill today.

In addition, I want to thank my entire personal staff for ably assisting me in putting together this proposal, and note the specific contributions of Bob Greenawalt, David Sloane, Katherine Hayes, Doug Guerdat, Catherine Taylor, and Kathy Bell. Also, the help of Ann LaBelle of the Ways and Means

Committee staff was instrumental in getting this proposal drafted.

Finally, I want to thank the staff from other Senate and House offices who assisted in putting this bill together, including: Bill Hoagland, Priscilla Hanley, Peter Leibold, Laura Steeves, Susan Foote, Jim Capretta, Mark Hayes, Andrew Patzman, Julie James, Ed Mihalski, Lindy Paull, Roy Ramthun, Susan Nestor, Peg Walker-Brown, Jane Rosenquist, Sue Pihlstrom, Karen Mattson, Elise Gemeinhardt, Sharon Helfant, Tim Hanford, Vicki Hart, Nina Ovieda, Remmel Dickinson, and Patricia Knight.

You might say that is a lot of people. This bill is 600 pages long and it took the administration with everything it had, the entire administration behind it, 9 months to produce their bill. We just had this staff that I mentioned to produce this 600 pages.

In addition, we had the help of Mark Mathiesen, Ed Grossman, and William Baird and Julie Simon of Senate Legislative Counsel and House Legislative Counsel as well were wonderful in helping to put this complex proposal together, as were their colleagues: Susan Fauver, Susan Fleishman, Lawrence Johnston, Noah Wofsy, and James Fransen.

So, it is with considerable pride, representing all the Senators on the task force and of course especially those who joined as cosponsors, that we submit this legislation today. I thank the Chair and I thank the others for letting me proceed.

I ask unanimous consent a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993 [HEART]

The "Health Equity and Access Reform Today Act of 1993" guarantees every individual access to affordable and secure health coverage through substantial health insurance market reforms. Low income individuals will receive government vouchers to help purchase insurance. The vouchers are phased in through 2005 as savings in current government health programs are realized. The legislation will constrain the growth of health care costs through structural reforms and other savings.

HEART makes important changes in the tax treatment of health insurance that will make it easier to obtain coverage. The proposal also creates equity in the tax code. Individuals and the self-employed will be able to deduct all of their reasonable health insurance expenses. Tax code clarification will also help make long-term care insurance more affordable.

In addition, special assistance is provided for medically underserved, frontier, rural, and inner-city areas. "HEART" also contains important administrative, antitrust, medical fraud, malpractice, and quality assurance initiatives.

SECURE AND EQUITABLE HEALTH INSURANCE COVERAGE

Insurance and consumer protection reforms

To be fully tax deductible, an insurance plan must be certified by the state as a "qualified health plan" following federal benefit and other standards. All qualified health insurance plans must meet the following requirements:

Guarantee eligibility to all applicants;

Prohibit discrimination based on illness or preexisting conditions;

Guarantee renewal;

Ensure delivery of services throughout the entire geographic area (or Health Care Coverage Area) in which they are offered;

Offer either a standard or catastrophic/medical savings account benefit package (or both);

Encourage formation of purchasing groups for individuals and small businesses (100 or fewer employees);

Comply with administrative reforms, meet quality assurance and solvency standards, participate in risk-adjustment programs among insurers, and implement requirements to reach the medically underserved.

Individual and small business purchasing groups

To provide some of the same market advantages large businesses enjoy, and to disseminate better consumer information, purchasing groups may be established through which individuals and small businesses may choose from among several qualified health plans. States will establish geographic areas called Health Care Coverage Areas (HCCAs) in which one or more purchasing groups may compete for members. An HCCA may also be formed by interstate agreement to cover more than one state.

Vouchers to assist low income purchasers

Starting in 1997, those with incomes below 905 of the poverty level (and who are not eligible for Medicaid) will receive vouchers to buy insurance through purchasing groups. Voucher assistance will expand annually up to 240% of the poverty line in the year 2005.

Uniform benefits package

The standard benefit package includes medical and surgical services and equipment, prescription drugs, preventive services, rehabilitation home health services for acute care, hospice care, and some mental health services—all of which are based on a medically necessary or appropriate standard. Copayments and deductibles may apply to all but preventive services. An alternative catastrophic benefit plan can also serve as qualified coverage.

A Benefits Commission, appointed by the President and Congressional leadership, will report to Congress on any needed clarifications of the benefit plan. Annually, the Commission may recommend benefit changes for the approval of the Congress and President.

UNIVERSAL COVERAGE: INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

Individual Responsibility for Health Care Coverage

All individuals must obtain health insurance coverage by 2005. The requirement is phased in based upon an individual's ability to purchase the standard plan and will be tied to the gradual expansion of federal assistance for low-income uninsured individuals. Individuals who enter the health care system uninsured will pay a penalty equal to the average yearly premium of the local area plus 20%.

Employer responsibility for health care coverage

Small Employers (those with 100 employees or less) must offer (but need not pay for) a standard benefit package or alternative catastrophic insurance obtained from a qualified health plan. Employees of small businesses may choose not to join any of the plans offered by their employer. They may, instead, purchase insurance through a different group or qualified health plan.

Large Employers (those with more than 100 employees) must offer both a standard and catastrophic benefit package to all employees. The employer may form a purchasing group, purchase from a qualified health plan, or self-insure for the purpose of providing insurance; however, its plan must comply with all consumer protection and insurance reforms.

TAX TREATMENT OF HEALTH CARE COVERAGE

Individual and employer tax provisions

All purchasers of qualified health plans will receive favorable tax treatment up to the "applicable dollar limit." Employees with employer paid insurance will not count the premium payments as income when the premiums do not exceed this amount; premiums in excess of the cap will be taxable to the employee as income. The health insurance deduction for self-employed persons is extended permanently and increased to cover 100% of the cost of qualified health plans, up to the "applicable dollar limit." The medical expense deduction for health insurance premiums of other taxpayers would be expanded to permit the deduction of 100% of the cost of qualified health plans (up to the amount discussed above), even for individuals who do not itemize deductions.

MEDICAL SAVINGS ACCOUNTS (MSA'S)

Medical Savings Accounts can be part of any qualified catastrophic benefit plan. Contributions to an MSA will be fully deductible up to the applicable dollar limit. If the employer makes the contribution, the amount contributed is excluded from the employee's income. These accounts are available to pay the cost sharing requirement of the catastrophic health plan and may also be used to purchase long-term care.

FEATURES TO IMPROVE THE CURRENT HEALTH CARE SYSTEM

ADMINISTRATIVE REFORMS

Standard information and means for communicating information on health insurance claims for filing, processing, and payment will be established. Privacy and confidentiality for health information will be protected by strong penalties for unauthorized access.

Quality assurance and medical research

All health plans must have a quality assurance program consistent with federal guidelines. Federal research on effectiveness outcomes will be expanded, and a clearinghouse and other registries on clinical trials research will be developed. A Medical Research Trust Fund is established to guarantee funding for research.

Assistance to underserved areas and provider incentives

Health plans may be required to provide additional benefits to special needs populations in defined geographic regions. Plans will be compensated for such care through grants or enhanced reimbursement.

In order to increase the number of primary care providers, the National Health Service Corps and other health profession funding would be increased. States may apply for Medicare graduate medical education demonstration authority to experiment with methods of changing physician specialties.

JUDICIAL REFORMS

Malpractice reforms

To lower health care costs, parties in malpractice suits must participate in alternative dispute resolution systems before entering regular litigation procedures. Noneconomic damages are capped at $250,000, and liability for such damages shall be based on proportion of fault. Providers following practice guidelines approved by the Agency for Health Care Policy and Research (AHCPR) shall have a presumptive defense against malpractice claims.

Anti-fraud and abuse control program

The bill establishes a national health care fraud prevention program. It increases and applies civil penalties for Medicare and Medicaid fraud to all health care programs. Providers convicted of fraud will be excluded from the Medicare program.

Antitrust reforms

The Attorney General, along with HHS and FTC, shall establish competition guidelines for approved providers, health care plans, and purchasing groups. Justice, HHS and the FTC will establish expedited waiver procedures from antitrust laws. Cooperative ventures shall be subject to the "rule of reason analysis."

"HEART" FINANCING GUARANTEES NO INCREASE IN FEDERAL HEALTH COSTS

Reductions in Medicare/Medicaid programs

Savings in Medicare and Medicaid finance fully the low income voucher program. Savings arise from means testing the Medicare Part B premiums, phasing out payments to hospitals for uncompensated care and for enrollee bad debt, and instituting a managed care program in Medicaid.

Budget procedures to protect against cost overruns

The voucher program expansion proceeds only after certification by OMB that savings are occurring as scheduled. In the event that savings occur more rapidly, the phase-in will be accelerated. In the case of a savings shortfall, it will be decelerated. The Benefits Commission may make recommendations to Congress to reduce the deficit amount by restructuring benefits or restructuring health care entitlements. If Congress enacts such recommendations, the deceleration in voucher coverage will be appropriately adjusted.

Mr. BOND. Mr. President, first, I am here to commend Senator CHAFEE and his very able staff for the excellent leadership that they have given the Republican Health Care Task Force for the more than 3 years we have labored on the questions of health care. As I had told many groups to whom I have spoken, it took us the first 9 months just to figure out all the questions involved in health care. It was under JOHN CHAFEE's able leadership we were able to dissect those problems and I think come up with a workable solution.

We have made a great deal of effort to talk with people in our own States. I have had the privilege to visit other States—to share our concerns about health care and to hear what others have suggested to us. We have talked to consumers who have suffered outrageous examples of loss of insurance when they became sick. We talked with people who have been concerned about the administrative headache. We have talked with experts who said we could do so much more in health care if we had a good electronic information system that would enable us to collect information on health care treatment and the effect of it. All of these matters are addressed in this measure that we have presented today.

We presented it today knowing full well with the coming months there will be opportunity for every interested citizen, everyone who has knowledge and interest and a commitment to health care reform to give us their views, to help us develop what we think can and must be a good mainstream bipartisan coalition to pass health care reform.

We have the finest health care system in the world today, as I have stated many times before on this floor, but there are some problems. We need to deal with the problems but we also believe, "If it ain't broke, don't fix it."

Our effort in the HEART measure is to fix what is broken and to protect the strengths, including the choice by consumers, including responsible financing, including insurance market, administrative, and malpractice reform that we believe are essential.

I add to the compliments Senator CHAFEE has paid to the many staff. My particular thanks to Mark Hayes of the famous Hayes team, Mark being my health care legislative assistant, who has worked many 80- and 90-hour weeks to contribute to this plan.

Mr. DOMENICI. Mr. President, I am pleased to be an original cosponsor of the health care reform bill introduced today by Senator CHAFEE and a number of Senators who have been part of the Senate Republican health care task force. This has been led by Senator CHAFEE. This task force has been committed for more than 3 years to reforming our health care system, has met innumerable times, and I believe they have conducted themselves such that it is clear they are committed, each and every one, to reforming the system.

We worked very hard to understand the complex problems plaguing our health care system, and this bill is a product of a year-long effort to formulate a solution. Although I am a cosponsor and I support much of what is in this bill, I must begin by stating one major reservation. Incidentally, I believe the reservation is of interest to the occupant of the chair, knowing of his concern for what is going to happen to the deficit and unfunded, open-ended entitlements in the future.

This bill, like all others that are major in this field, does not achieve significant deficit reduction but uses up most, if not all, of what we currently spend for Medicare and Medicaid to help pay for the new system.

Instead of offering us some deficit reduction that is significant, this bill devotes most, if not all, as I indicated, of the savings from controlling current health care entitlements to expanding new health care programs needed as part of reform.

Unfortunately, we cannot afford our current health care entitlements. And that is interesting. Everybody says you cannot fix the Federal deficit without getting the current health care entitlements under control. The President must have said it during his campaign 50 times if he said it once. After he was in office and submitted his own plan he said, as for deficit reduction, we will never control it unless we get health care entitlements under control. If you look at the submissions the President made to the Congress, it is obvious that unless some of that health care entitlement explosion of costs over the next decade goes to deficit reduction, the deficit will grow until it is totally out of control.

Even after the biggest tax increase in history, the Congressional Budget Office and our experts say the deficit will exceed $360 billion by the end of the decade—largely because Medicare and Medicaid spending will triple during that time. Insisting on deficit reduction will clearly complicate our desire to expand health insurance coverage. But I believe very strongly that if we do not attend to our fiscal health and adopt policies that promote economic growth, we will not be able to afford the kind of health system that keeps us as healthy physically as we would like.

Nonetheless, this legislation does at least recognize that we cannot add to the deficit with uncontrolled and open-ended health care entitlements. -In this bill we make sure that the Federal Government's health expenditures are at most what we currently project for Medicare and Medicaid. If spending were to exceed those levels, the bill provides for slowing down the phase-in in new subsidies, scaling back the costs of the standard benefit package, or making other adjustments to keep total Federal health spending in check.

Although I would prefer some deficit reduction, I am very pleased that this bill includes this kind of spending control mechanism. We are beginning to call it "pay as you save," which is absolutely essential for fiscal responsibility; as you save within the Medicare and Medicaid system by reform, then apply that to spending. Pay for things as you save.

Other provisions in this package, I believe are the very best. Some concerns that I have about fiscal policy are clearly of concern. But I believe this bill is the most sound of all health care reforms and the various plans that are before the Congress.

First, it does not burden small business with new mandates;

Second, it does not create a government-run health care system;

Third, it provides coverage for all Americans without over promising benefits; and, Fourth, it controls health care costs through managed competition, not price controls or other arbitrary Government regulations.

So I conclude that in a bill of this size, with so many authors, there are going to be provisions that I am not totally comfortable with, or less comfortable with than others. But that is fine, because this is not our last word on health care reform. Rather, it is our first step. We are all still learning about this complex system. As we learn more, I am sure we will revise our plans. Moreover, we hope this bill will give us an opportunity to get more input from the American people about what they want in a health care reform package so we can improve the product and move toward a national consensus.

I repeat, from the standpoint of the future of our economy, controlling the budget deficit, so-called fiscal probems of our Nation, I believe this is the best bill that has been introduced on either side, Senate or House, including the bill introduced recently in behalf of the President of the United States. I remain convinced that we must inject into this debate the future deficit of the United States, for it will to some extent, and I think a large extent, determine our economic future, our jobs future, and whether we can pay for any major health care program on a sustained basis.

So while I today reflect my concerns, I am also very pleased to state that in most respects, this is the best bill that has been introduced and referred to committees in the U.S. Senate or House, in my opinion.

Mr. HATFIELD. Mr. President, today 3 years of hard work culminates with the introduction of the Health Equity and Access Reform Today [HEART] Act of 1993. I would like to take this opportunity to thank Senator CHAFEE for his outstanding leadership of the Senate Republican Health Care Task Force. He and his staff have labored diligently to educate Republican Senators and their staffs about health care reform. And, the bill that we are introducing today is a reflection of the compromise and consensus cultivated by their efforts.

I am pleased to join my colleagues on the Task Force as an original cosponsor of this legislation. This legislation represents a responsible approach to a complex problem and it sets the stage for further bipartisan discussions on health care reform as we move into the second session of the 103d Congress. And, although I am not convinced that Congress will pass comprehensive health care reform legislation next year, I believe the Health Equity and Access Reform Today Act lays out a number of areas of agreement that will facilitate the ensuring health care reform debate.

I would like to take a comment to highlight the bill's treatment of several issues of importance to me. The first issue is financing. I am encouraged by the approach taken in this legislation with regard to financing. Our basic premise is "pay-as-you-save". We have committed to universal access through an individual mandate but have said that coverage of the uninsured will be phased in as the savings from the structural reforms in the bill are realized. The bill provides for an extension of the phase-in if savings are not realized as quickly as we hope. In addition, this legislation will finance reforms through changes in the deductibility of employer provided insurance and restraints on the growth of Medicare and Medicaid. Due to our checkered past with regard to accurate cost estimates and expected savings, I believe the approach taken in this bill is a sound one.

The second issue is the provision of health care services in rural and underserved areas. It is essential that we develop the infrastructure needed to assure that health care services are adequately delivered in rural and underserved areas. I support the provisions in this legislation that provide for grants to States to facilitate the creation of community-based primary health care systems in medically underserved areas, and the creation of demonstration projects to help States evaluate innovative approaches to improving access to primary care providers. I also support the incentives, such as tax incentives, National Health Service Corps loan repayment income exclusions and student loan repayment deductions, to primary care providers to practice in underserved areas.

The third issue I would like to highlight is medical research and its role in long term cost containment. I firmly believe that any comprehensive reform plan must include medical research as a central mechanism for controlling the cost of health care in this country. After all, a cure is the ultimate in cost control. It is a key link in our strategy to find treatments and remedies which will finally drive down costs. The lack of debate surrounding this issue has distressed me—it illustrates an apparent disconnectedness between medical research and true health care reform. Reformers are missing the point: Health care reform will not be complete without a research component.

The United States has built an impressive biomedical research enterprise since the inception of the Marine Hospital Service over 200 years ago. Today, dramatic developments in genetics and gene therapy offer new hope to many suffering from disorders such as cystic fibrosis, sleep apnea, breast and prostate cancer, diabetes and Alzheimer's Disease. Yet, our commitment to continue our disease defense buildup is threatened by our fiscal crisis—as we head into a 5-year freeze on discretionary spending, I fear the instability and unpredictability of providing increased Federal funds for research.

As a member of the Appropriations Committee for over 20 years, I am convinced that the stability necessary cannot be accomplished simply through the appropriations process. A dedicated funding source to augment annual appropriations is essential if we are to fulfill the hopes of millions of Americans suffering from disease and disability and achieve effective long-term health care cost control.

For this reason, my colleague from Iowa, Senator HARKIN, and I unveiled earlier this year our proposal to establish a medical research trust fund as part of any package which is billed as comprehensive health care reform. I am delighted that the HEART legislation includes our proposal for a National Fund for Medical Research. This fund is created and financed outside of the Federal budget process, by relying on a variety of funding sources. In this bill, we generate funds from two sources: First, the revenue raised from a voluntary Federal income tax check-off, and second, income generated from the application of civil penalties under the Employee Retirement Income Security Act and the HEART proposal itself. We estimate that these sources will generate over $500 million in new revenue to be devoted to the research agenda of the National Institutes of Health.

This proposal is a starting point. I am hopeful that we will be able to find other creative financing options which are stable and adequate to fund the potential of biomedical research in this country. We are not alone in this task. Public opinion polls have shown massive public support for making health research the number one Federal science priority. Polls have shown that Americans favor an investment in medical research by a 30 to 1 ratio when compared to weapons research. I believe we owe it to the American people to create a vehicle whereby this interest can be mobilized to achieve a critical purpose.

The final issue that I would like to raise is the ability of States to act as laboratories for reform by enacting their own approaches to health care reform. As you know, Oregon is in the process of implementing a major reform plan which will extend health care to all Oregonians. The Medicaid portion of this plan, which will eventually extend Medicaid coverage to an additional 120,000 Oregonians, will go into effect in February. I believe that as we develop comprehensive national reform, we must also allow several States to continue their reforms in order to test and develop a database that can be used to refine national reform. The bill we are introducing today does not allow a full opt out for States, except in extraordinary circumstances, although it does allow states to apply for waivers to try different approaches within a market system. This provision would allow States like Oregon to continue their innovative programs. In the end, I believe our national reform efforts will be strengthened by the data that is gathered by these States.

While I believe we have a long way to go before enacting comprehensive health care reform, I am pleased that we have been able to bring the ideas of the Task Force together in legislative form. I look forward to working with my colleagues in Congress and the administration as we proceed with this debate.

Mr. COHEN. Mr. President, I am pleased to join with Senator CHAFEE in introducing the Health Equity and Access Reform Today Act, which is the product of 3 years of study, negotiation, and just plain hard work by the Republican Health Care Task Force. The legislation—dubbed HEART—is a comprehensive initiative, which incorporates many of the principles outlined in my own health care reform bill, which I introduced last January.

First, it guarantees universal access to a standard benefit package emphasizing primary and preventive care and ensures that all Americans have health care coverage. It also provides for fairer and more equitable tax treatment of health care benefits, and includes insurance market reforms to ensure that individuals will not lose their coverage if they become ill, change jobs, become unemployed, or have a chronic health condition. Health plans will have to compete on the basis of price and the quality of the services they provide, rather than on their ability to exclude sick people from coverage.

The plan emphasizes the principles of individual responsibility and consumer choice. Individuals and small businesses will have the option of joining health insurance purchasing cooperatives, which will give them more buying power and access to better, more affordable coverage. Low-income and unemployed persons could also purchase insurance through these cooperatives, with their premiums subsidized by vouchers.

The plan also takes a number of important steps to contain health care costs.

Administrative costs would be reduced by as much as $100 billion a year by replacing the more than 1,100 insurance forms that clog the system with a simplified, standardized claims processing system. Increased outcomes research will help to establish the circumstances under which certain drugs and procedures are most effective, which will help reduce the costly practice of defensive medicine. And a measure of antitrust relief will be provided to enable hospitals and other providers to share costly high-tech equipment and services.

With health care costs approaching $1 trillion a year, health care fraud and abuse is one of the fastest growing law enforcement challenges facing our Nation. In fact, the General Accounting Office estimates that by 1995 fraud and abuse in our Nation's health care system could cost taxpayers as much as $100 billion a year.

Consumers and businesses are paying dearly for these health care rip-offs in the form of higher taxes and skyrocketing insurance premiums. Therefore, any health care reform plan must address the issue of health care fraud. I am particularly pleased that the HEART bill includes provisions of an antifraud bill I introduced earlier this year, the National Health Care Anti-Fraud and Abuse Act, which would strengthen the Federal Government's efforts to combat fraud and abuse.

The HEART bill also places a greater emphasis on prevention. George Bernard Shaw once asked why we pay doctors to take a leg off, but we don't pay them to keep a leg on. We spend billions of dollars on elaborate equipment and services once serious illness or injury occurs. Yet we scrimp on the preventive services that could have helped us avoid such situations all together. Health care reform presents us with a real opportunity to shift our emphasis from curing to preventing.

And finally, health care coverage won't do you much good if health services aren't available in your community. Therefore, our plan takes steps to increase the number of providers in rural areas in order to expand access to care for the millions of Americans who live in these underserved areas.

President Clinton's health care plan is expected to be introduced formally before Congress adjourns for the year. While there are many areas of agreement, there remain a number of significant differences which we will seek to resolve in the coming months.

For instance, I am concerned that the Clinton plan calls for too much government control at the expense of individual choice. It establishes dozens of new Federal Government agencies and commissions and turns substantial new regulatory power over health care services to the Federal Government. Further, it requires all businesses with fewer than 5,000 employees to purchase insurance through monolithic regional health alliances, many of which are likely to be government-run. In my home State of Maine, for instance, where only one business—Bath Iron Works—employs more than 5,000 people, virtually every business and every individual in the State would be forced to purchase their insurance through the health alliance. Not only is this likely to eliminate choice for dissatisfied customers, but it also will involve the heavy hand of government too intimately in personal health decisions.

The plan we are introducing today would allow more than one purchasing cooperative to compete for businesses in a region. It also allows consumers to purchase insurance outside the alliances, which, under our plan, would be member-run rather than government-run. The health alliances would therefore have to compete on the basis of price and the quality of their services in order to attract customers. If consumers are able to get a better deal or better service elsewhere, they will be free to do so.

President Clinton has also proposed that all employers pay 80 percent of the cost of their employees' health insurance premiums. Even if you only employ a part-time babysitter, you will still be required to contribute to their health coverage. Such a mandate is the equivalent of a tax on jobs—a dangerous thing to do in our current economy. Employers will not bear the cost of the insurance—workers will in the form of lower wages or lost jobs. In fact, the Employee Benefit Research Institute estimates that as many as 1.2 million jobs could be lost as a result of the mandate.

And finally, I am concerned that the President does not have a realistic financing plan, and that he may be promising more than the taxpayer can deliver. Too often, government tries to do too much, too quickly, at too great a cost to the taxpayers. Therefore, in our plan we have proposed financing health care reform on a "pay as you save" basis. As our reforms cut health care costs, we can afford to expand coverage and phase in new benefits.

Health care reform is an extremely complex issue. It will alter the lives of millions of people and make far-reaching changes in an industry that makes up one-seventh of our Nation's economy. Therefore, we must move forward with great caution and great care.

But move forward we must—we cannot afford to allow this opportunity to pass. The issue is simply too important and the need too compelling. We believe that the plan we are introducing today lays the foundation for a new approach to health care, and we look forward to working together with the President and our colleagues next year in an effort that is not just bipartisan, but nonpartisan.

Mr. DURENBERGER. Mr. President, I am pleased to be an original sponsor of the S. 1770, the HEART proposal that is being introduced today.

During the last 3 years, I have been pleased to work with my distinguished colleague from Rhode Island, JOHN CHAFEE, and other Republican members in the Republican Health Care Task Force. Our goal was to develop greater understanding of the health care marketplace and to propose responsible reforms.

I have been a supporter of market-based health reform principles throughout my entire career in the U.S. Senate. In 1979, I introduced the Health Incentives Reform Act to encourage competition and consumer choice that is now a mainstay of the Minnesota health care marketplace.

I applaud the Clinton administration for putting health reform on the national agenda. I have personally pledged to the President and to the First Lady that I will work tirelessly to accomplish health reform in the 103d Congress.

I firmly believe that the only way to accomplish our goals in health care reform is through markets not regulation. I am the lead Republican cosponsor of S. 1579, the Breaux-Durenberger Managed Competition Act, which reflects my commitment to a competitive health care marketplace.

While I do not agree with every provision in the HEART bill we are introducing today, I support this effort to move toward functioning health care markets.

I applaud the President for rejecting Government-run health care reform. I will support President Clinton's bill when it removes all the regulatory provisions that I believe will impede the development of medical markets.

When we speak about health reform, we really mean three different components: system reform, coverage reform, and health reform.

System reform requires that we fundamentally change the way medical markets work. System reform requires informed buyers exercising choices among accountable health plans. The Government's role is to facilitate markets by setting the rules of the road for competitors.

The Managed Competition Act has the clearest set of national rules for local markets and the most effective set of institutional arrangements to achieve functioning medical markets.

The HEART bill also comes close in many important ways. I have concerns about the voluntary purchasing cooperative arrangement. I have much greater confidence in a system of exclusive, non-profit, consumer run cooperatives embodied in the Managed Competition Act.

However, I think the HEART bill does a better job constructing the tax cap premiums. While the Managed Competition Act ties the cap to employer deductions only, the Republican Task Force caps both the employee exclusion and the employer deduction. In order to encourage responsible purchasing, employees and employers both must feel the bite. The government should not subsidize over-consumption of extravagant health plans.

While I have much respect for my distinguished colleague from Oklahoma, DON NICKLES, I cannot support his proposal, S. 1743, which was introduced last week. It doesn't accomplish the essential reforms to make markets work. We must fundamentally change the way medicine is organized and delivered in order to get lower costs and increase quality.

The Clinton proposal includes many necessary market reforms. However, medical markets are constrained by regulation—including government imposed premium caps, State-by-State budgets, and highly bureaucratized purchasing alliances. States will have the discretion to interfere in the markets which traditionally have not conformed to arbitrary state boundaries.

President Clinton's much touted State flexibility will lead to 51 different health care financing and delivery systems that disrupt interstate commerce. This State authority will burden buyers who do business in more than one State as well as provider networks that cross State lines. This approach will add unnecessary inefficiency and involve States in activities for which they have little capacity and no expertise. Congress must design national rules and then let local markets work.

In addition to reforming the delivery system, all the bills deal in some form with coverage reform. Much of the recent debate has centered around which reform plan offers universal coverage. The Truth is that we all share in a common goal to extend coverage to every American.

But, Mr. President, the promise of universal coverage without the financing to pay for it is an empty one. The President's bill does not pay for the promises that it makes. It promises universal coverage but does not deliver on that promise.

The HEART proposal promises universal coverage through an individual mandate, but that promise warrants a closer look. The requirement for universal coverage is conditioned on the achievement of real savings. If the requite savings in the public expenditures do not accrue, the phase-in of the subsidies will not occur. This amounts to a commitment to move toward universal coverage, but it is no guarantee.

The Breaux-Durenberger bill does not make false promises of universal coverage. It shares with Clinton and CHAFEE reform of the insurance industry to remove barriers to obtaining coverage. It shares with Clinton and CHAFEE the assumption that Government has an obligation to help low-income individuals pay for health care. But, once the barriers are lifted, Breaux-Durenberger assumes that the decision to buy coverage is an individual responsibility not a new entitlement.

In my view, the promise of universal coverage, particularly when it is financed on the back of Medicare and Medicaid and not on new revenue sources, cannot occur without major restructuring of those publicly-financed programs. Without Medicare and Medicaid, no promise of coverage reform can truly occur.

Breaux-Durenberger restructures Medicaid, the program for low-income individuals. That is an important step.

The Managed Competition Act moves aggressively to reform Medicaid, by federalizing its source of funds, eliminating its tie to welfare, and substituting a low income voucher program. Thus, low income people will be "Mainstreamed" into the accountable health plans along with all other employed individuals.

Unfortunately, the bill as introduced does not address the Medicare program. I plan to introduce a separate proposal that will restructure Medicare through the application of managed competition principles.

Specifically, my legislation will provide Medicare beneficiaries with an annual enrollment period in which to select among competing health plans, employer-sponsored coverage, or the current federally administered fee-for-service program. When the elderly see the additional benefits and reduced costs that will be available through accountable health plans, they will willingly abandon the Medicare system as they now know it.

The HEART proposal takes some very small steps in the direction of managed care for low income individuals and for Medicare.

None of the health reform bills introduced to date deal with health in its broadest context. Health is more than a plastic card that promises access to doctors and hospitals. Health is what we read about in the newspapers every day—its the deterioration of our communities, it's children having children, it's violence and substance abuse, it's poverty and despair. We cannot improve our health outcomes if we ignore the social conditions in which people live.

All the plans that have been introduced fail to deal with health reform in its broadest context. I plan to introduce a bill in January that addresses these pressing issues.

In brief, the Responsible Federalism Act will encourage States to assume responsibility for what are now federal categorical grant programs in return for the Federal Government assuming responsibility for the costs of acute medical care for low income individuals. States, freed from dependence on rigid Federal grant programs, can return to their traditional responsibilities to protect the public health.

Mr. President, now the President's bill, and the HEART bill by the Republican Task Force join the Breaux-Durenberger Managed Competition Act. Despite many differences in detail, these three bills are premised on making medical markets work. In the next few months, the Congress will embark on the difficult task of reconciling our differences in order to hammer out a credible reform package that the American people will embrace.

I believe that a bipartisan consensus can be developed as long as it is premised on market reform. I believe that consensus will be based on the best provisions in these three bills. I look forward to the opportunity to work with my colleagues on both sides of the aisle to make health reform a reality in the 103d Congress.

By Mr. DeCONCINI:

S. 1771. A bill to amend provisions of title 28, United States Code, to provide for the payment of attorney fees to a prevailing defendant in civil actions, and for other purposes; to the Committee on the Judiciary.

ATTORNEY ACCOUNTABILITY ACT OF 1993

Mr. DECONCINI. Mr. President, today I am reintroducing the Attorney Accountability Act, a bill to provide for the payment of reasonable attorney fees to prevailing defendants in Federal court actions. This legislation is meant to address the inequity that arises when an individual is forced to defend a lawsuit where he has done nothing wrong. As we all know, the costs of litigation can be enormous. This legislation allows defendants who prevail to be reimbursed for legal fees incurred in defending themselves.

Last year when I introduced this legislation, I heard from a large number of small business owners who strongly supported the bill. They recalled their experiences with lawsuits that threatened their businesses. Many were hit with frivolous lawsuits that they felt compelled to settle in order to avoid the legal fees involved.

I believe there needs to be greater accountability on the part of individuals and their lawyers. Making plaintiffs and their lawyers, in certain situations, responsible for the legal fees of winning defendants is necessary to bring about much needed reform in our civil justice system.

Under the provisions of this bill, fee awards to prevailing defendants can be waived by the court if such an award would be against equity and good conscience. This waiver is intended to allow the court the discretion not to impose fees on the poor or others for whom to do so would be unjust.

The bill clarifies that plaintiffs who are required to pay defendants' attorney fees will be reimbursed by their attorney if the court finds rule 11 of the Code of Civil Procedure was violated. Rule 11 provides that attorneys must certify that every pleading, motion or other paper filed is, to the best of his knowledge, "well grounded in fact and is warranted by existing law * * * and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Although rule 11 already allows reimbursement for attorney fees, this bill ties the two together and gives the losing plaintiff recourse to recover fees paid.

This legislation places part of the burden of paying fees on attorneys who take cases on a contingency basis. Attorneys working on a contingency basis will be held responsible for a proportionate share of any attorney fee award equal to the percentage of their contingency fee. Concerns have been raised that contingency fee arrangements contribute to the litigation explosion. My bill seeks to impose accountability on the part of lawyers who take cases on a contingency fee basis by requiring that they share not only in the possible rewards of filing suit but also in the potential risks.

The bill does not intend to preempt other existing Federal statutes dealing with fee shifting, unless they are inconsistent. There are already a number of Federal statutes which provide for the award of attorney fees to prevailing parties. There is nothing in this bill that would prohibit prevailing plaintiffs in civil actions brought under statutes with fee shifting mechanisms from recovering their attorney fees. Finally, the bill does not apply to pending cases or to class actions.

Tort reform has been the subject of heated debate over the past decade. Concerns have been raised about the problems resulting from the high cost of liability insurance, the expense of litigation and the tremendous backlog in our courts. When I introduced the Attorney Accountability Act last Congress, I received strong support for the legislation from small businesses and the National Federation of Independent Business [NFIB] which endorsed the bill. The threat of litigation and its associated costs are major impediments to starting a small business. The Small Business Administration has estimated that the threat of malpractice suits adds an alarming $4 billion to the cost of health care each year and that defensive actions on the part of doctors costs $100,000 per year per physician.

Filing suit, no matter how baseless the charge, requires both parties to hire an attorney. Everyone knows that the cost of defending a lawsuit is skyrocketing; defending an employment discrimination suit has been estimated to cost over $60,000. Faced with the prospect of defending a lawsuit and paying the lawyers' fees, many defendants conclude they should settle. Even if they do proceed and win, their costs generally cannot be recovered and they are never made whole.

Fee shifting is an issue that generates much debate. The American legal system generally requires both parties to pay their own legal costs. The reason behind the so called "American rule" is the belief that such a system enhances access to the courts. The "English rule" is used virtually everywhere except the United States. Its goal is to reduce the number of cases filed and to eliminate frivolous cases. Critics of the English rule, however, argue that the loser-pays rule discourages the average citizen from filing suit because of the threat of huge legal fees.

I recognize that this bill could have the effect of discouraging litigation. However, plaintiffs who have valid, meritorious claims have little to fear, since they will not have to pay. What this bill will do is discourage claims initiated with the goal of settlement, claims without merit, and defendant shopping.

I have serious concerns about so-called "defendant shopping," a practice that is ripe for reform. In a personal injury suit, injured plaintiffs are looking for compensation, the "deep pocket." Therefore, in many cases suit is filed against any number of possibly negligent parties in order to seek out the best chance for recovery. For example, in an automobile accident claims may be filed against the person who caused the accident, the brake manufacturer, the car manufacturer, the mechanic, the driver's employer, etc. The list is nearly endless. Today there is little risk in such an approach. If the plaintiff knew that he could be responsible for each of these defendant's legal fees he might reconsider his strategy. This would reduce the workload in the courts, cut costs and reduce the time necessary to resolve such suits.

We don't sufficiently understand the incentives and deterrents in filing lawsuits and whether the benefits outweigh the costs of our current system for reimbursement of attorney fees. I am not confident that a major overhaul of our Nation's tort system of justice is necessary or advisable. This bill is my attempt to continue the debate on this most serious issue. I welcome comments, suggestions, and recommendations from my colleagues and other interested parties. I believe there are any number of ways that we can help restore some accountability in the court system, and I hope this will stimulate additional thoughts on this issue.

Mr. President, I ask unanimous consent that the full text of the Attorney Accountability Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Attorney Accountability Act of 1993".

SEC. 2. AWARD OF ATTORNEY FEES TO PREVAILING DEFENDANT.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1931 the following new section:

"§ 1932. Award of attorney fees to prevailing defendant

"(a)(1) Except as otherwise provided in this section, in each court of the United States, the court shall award reasonable attorney fees to a prevailing defendant from the plaintiff after the entry of final judgment in any civil action.

"(2) In an action involving multiple parties, the court may apportion the payment of attorney fees under paragraph (1) between or among plaintiffs to defendant or defendants at the court's discretion.

"(3) The provisions of this section shall not apply to any class action suit.

"(b) The court may waive the provisions of subsection (a) in exceptional cases in which the application of such subsection would be against equity and good conscience.

"(c) In any case in which the provisions of subsection (a) apply and the court finds that the attorney for a plaintiff has violated rule 11 of the Federal Rules of Civil Procedure, the court shall order such attorney to reimburse the plaintiff for the amount awarded under subsection (a).

"(d) In any case in which the provisions of subsection (a) apply and the attorney for the plaintiff has a contingency fee agreement with the plaintiff, the court shall order such attorney to pay a portion of the fees awarded under subsection (a). Such payment shall equal the amount of the total fees awarded to the prevailing defendant under subsection (a) multiplied by the contingency fee percentage under such agreement.

"(e) The provisions of this section shall preempt and supersede any other Federal law relating to attorney fees to the extent such law is inconsistent with this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 123 of title 28, United States Code, is amended by adding after the item relating to section 1931 the following:

"1932. Award of attorney fees to prevailing defendants.".

(c) EFFECTIVE DATE.—The provisions of this Act and amendments made by this Act shall be effective on and after the date of the enactment of this Act and shall apply only to civil actions filed on and after such date.

By Mr. SIMON (for himself, Mr. WOFFORD, Mr. ROBB, and Mr. ROCKEFELLER):

S. 1773. A bill to make improvements in the Black Lung Benefits Act, and for other purposes; to the Committee on Finance.

BLACK LUNG BENEFITS RESTORATION ACT

• Mr. SIMON. Mr. President, I am introducing the Black Lung Benefits Restoration Act today with my colleagues: from Pennsylvania, Senator HARRIS WOFFORD; from Virginia, Senator CHUCK ROBB; and from West Virginia, Senator ROCKEFELLER.

The Black Lung Benefits Restoration Act should not just be of interest to those from coal producing States. The Black Lung Benefits Restoration Act should be of interest to anyone interested in equity and fairness.

BACKGROUND

Mr. President, as you know, Title V of the Federal Coal Mine Health and Safety Act of 1969 established a program of monthly cash payments to eligible coal miners totally disabled by coal workers' pneumoconiosis, or black lung disease, and their survivors. Amendments in 1972 and 1977 made changes to the program's eligibility so that more claimants would qualify for black lung benefits.

The Black Lung Program has two components—part B and part C. Under part B, cash benefits are awarded for miners disabled by black lung, and their dependents and survivors. The beneficiaries are paid from annually appropriated general revenues by the Social Security Administration. Benefits under part B are only paid to claims filed before July 1, 1973—for some survivors the deadline was December 1973. when the period of Federal responsibility for claims filed under part B ends, claims are to be paid under part C by the responsible coal operator. If no such operator can be found, then claims are to be paid by the coal industry as a whole through the Black Lung Disability Trust Fund. The trust fund, financed by an excise tax on coal, is to pay benefits when either no responsible coal operator can be identified, or if the operator is in default, or if the claim is based on coal mine employment that ended before January 1, 1970.

The trust fund has had a deficit since it was created. In 1981, Congress enacted legislation to eliminate the deficit and debt by increasing the excise tax on coal and strictly limiting eligibility for black lung benefits for future claimants. The debt is estimated to reach $4 billion by the end of this year.

Mr. President, the changes to the act made through the 1980's are not and will not eliminate the deficit or the debt, and the limits on eligibility are not equitable.

Mr. President, the purpose of the Black Lung Benefits Restoration Act is to establish a more objective and equitable process for determining black lung benefits and to work toward the solvency of the trust fund.

Let me share with you and my colleagues three stories about mining families from my State of Illinois.

CASE STUDIES

On June 4, 1993, Lyndell Laird called my Carbondale office to tell me what is happening to his mother, Sophie Laird, and her husband, Elmer's, black lung case. I had first been contacted by the Laird family in regard to Elmer's case 10 years ago.

Mr. President, let me take a moment and tell you about Elmer Laird. Elmer mined coal underground for 46 years. In 1973, the Department of Labor came to where he worked to take chest x rays of the miners to determine if any of the miners had black lung. Elmer took the test and was told by the Department that he had the disease. In 1973, however, Elmer was only aged 63; and therefore worked until retirement at age 67. He then applied for black lung benefits. Elmer was awarded benefits, but the decision was appealed. While the case was on appeal, interim benefits were started in 1976.

Elmer's son, Lydell, called to tell me that his mother had received a letter from the U.S. Department of Labor stating that she must pay back $59,210.60 within 30 days. Fifty-nine thousand, two hundred ten dollars and sixty cents is 17 years of interim black lung benefits that had been paid to Elmer. Elmer died April 2, 1993, His black lung case is still being appealed.

Under current law—because Elmer Laird's case was not final, and it cannot be proved that he died of black lung—his widow must return the $59,210.60 and is not eligible for survivor benefits.

Fortunately, Mrs. Laird and her husband were frugal and left the interim benefit money in a bank drawing interest. However, most cannot afford to leave the benefit money in a bank. Most need the benefits for their day-to-day needs and medical expenses.

The Black Lung Benefits Restoration Act would help Mrs. Laird, and others like her in similar situations. Under my legislation, Mrs. Laird would not have to return the 17 years worth of benefits, she would be eligible for spousal benefits, and it won't take almost 20 years to determine whether or not someone is eligible.

On September 13, 1993, the children of Joan Durbin wrote to me about the difficulty their mother was facing regarding her late husband's black lung benefits. I ask unanimous consent that the letter the Durbin children wrote to me be inserted into the RECORD. For 18 years Joan, her late husband, Ronald Durbin, and their eight children have been caught in the unrelenting cycle of the Black Lung Benefits Program. They were awarded benefits, only then to be denied. Some of the things the Durbins had to go through include: being told in 1985 that they would have to repay 10 years of benefits which came to $53,000; for 18 years Ronald having to undergo numerous medical examinations and court battles to prove his claim, which were paid for at his and his family's expense; and the emotional toll the disability and unending benefits battle took on his family. As the letter says, "Because of this on-again off-again black lung claim, over the years, our parents had to mortgage the house they owned for 35 years, cash in various life insurance policies, and have to do without many things.* * *" Even after Ronald's death in 1992 and an autopsy confirming a diagnosis of black lung, his widow is still fighting.

Joan was awarded survivor benefits in January 1993, only to be denied benefits the following July.

Under the Black Lung Benefits Restoration Act the Durbins would not have had to wait 18 years for a decision. Moreover, Joan would be eligible for benefits as his widow.

BLACK LUNG BENEFITS RESTORATION ACT

Benefit overpayment. Under current law, if a miner receives an interim ruling from the Department of Labor's Deputy Commissioner that he is entitled to benefits, and it is later determined by an Administrative Law Judge that the miner is not entitled to benefits, then the miner must refund all interim benefits received.

There is a significant delay between the Deputy Commissioner's ruling and the Administrative Law Judges ruling. According to a General Accounting Office report, the Deputy Commissioner's decision takes an average of 2 to 3 years. In addition, the Administrative Law Judge ruling could take an additional 2 to 3 years. By this time, the miner has usually spent the interim benefit. Furthermore, the system is currently weighted in favor of the coal operators.

The Restoration Act would not require the miner, who through no fraud or deception, is awarded benefits prior to the final adjudication of their claim, to return any of the interim benefits if it is later determined that the miner is not entitled to benefits.

In addition, before the final adjudication of a claim, if a miner through no fraud or deception, received an interim benefit and has repaid the interim benefit to the trust fund, then the trust fund is to refund the repayment to the miner.

If a miner receives interim benefits from an operator, and is later found to be ineligible, the trust fund will reimburse the operator.

Lastly, if the Secretary of Labor makes an initial determination of eligibility, or that particular medical benefits are payable, or an award of benefits are made, then the responsible operator, within 30 days of such determination or award, is to begin payment of monthly benefits. If an operator fails to make any payment required by an initial determination or award in a timely manner, such determiantion or award shall be considered final as of the date of its issuance.

Evidence to determine benefit eligibility. Under current law, the miner and the opposing party—either the responsible coal operator or the trust fund—can require any number of medical examinations and present any number of medical experts as evidence to determine a miner's eligibility for benefits.

The problem is one of David versus Goliath. The coal miner is pitted against resources of the coal operators-industry or the Federal Government. More often than not, the coal miner is barely able to scrape together enough money to pay for one medical examination.

During the course of all proceedings on a claim, the Restoration Act would limit the number of medical examinations and chest x rays the miner can use as evidence to support eligibility to three each. In addition, during the course of all proceedings on a claim, the responsible operator or the trust fund may require that the miner undergo certain medical examinations, but the responsible coal operator or trust fund may not submit or require any more medical examinations than are conducted and submitted during the course of all proceedings by the miner, and may offer into evidence the set results of one chest x ray for each set offered into evidence by the miner. However, a complete pulmonary evaluation provided each miner, any evaluation developed by the District Director, any record of hospitalization or medical treatment for pulmonary or related disease, and a biopsy or an autopsy, shall be received into evidence without regard to the previous limitations.

Also, in addition to the above medical examinations, each party may submit not more than one interpretive medical opinion. Such an opinion may review other evidence derived from chest x rays, blood gas studies, or pulmonary function studies contained in the reports offered into evidence.

An Administrative Law Judge may require the miner to submit to a medical examination by a physician assigned by the District Director if the Administrative Law Judge determines that, at any time, there is good cause for requiring such an examination. Good cause shall exist only when the Administrative Law Judge is unable to determine from existing evidence whether the claimant is entitled to benefits.

A request of modification of a denied claim under section 22 of the Longshore and Harbor Workers' Compensation Act shall be considered as if it were a new claim for the purpose of applying the limitations on the number of medical examinations.

The opinion of the miner's treating physician is to be given substantial weight over other physicians in determining eligibility for benefits, if the treating physician is board certified in a specialty relevant to the diagnosis of total disability or death due to black lung.

Survivor benefits. Under the current law, a widow(er) cannot receive survivor benefits unless it is proven that the coal miner died from black lung.

Proving that the cause of death was black lung is extremely difficult. In addition, the widow(er) is usually a senior citizen who is left with limited or no means of support.

The Restoration Act would provide that if an eligible survivor files a claim for benefits and the miner was receiving benefits before the final adjudication, or was totally disabled with black lung at the time of death, it is presumed that he died from black lung—thus entitling the widow(er) to survivor benefits. However, if the miner's death was the result of an event that had no medical connection with black lung, then the widow would not be entitled to benefits. For example, the miner was killed in a car accident.

In addition, a widow(er) who was married to the miner for less than nine months prior to the miner's death is not eligible for survivor benefits, unless children were born as a result of the marriage.

The widow(er) of a miner may not receive survivor benefits if they remarry before attaining the age of 50. In addition, the widow(er) may not receive an augmentation of benefits on any basis arising out of the result of a remarriage.

Responsible operator. Under current law, the Department of Labor designates a parade of possible responsible operators.

The numerous designated operators all must incur considerable expense defending themselves against such claims. This process is also time consuming.

The Restoration Act would require the Secretary of Labor, prior to issuing an initial determination of eligibility and after investigation, notice, and a hearing, to determine whether an operator meets the Secretary's criteria for liability as a responsible operator. If a hearing concerning the question of liability is requested in a timely manner, then the decision of the Administrative Law Judge conducting the hearing shall be issued no later than 120 days after such request and is not subject to further appellate review.

If the Administrative Law Judge determines that an operator's request for a hearing on the question of liability was made without reasonable grounds, the Administrative Law Judge may access the operator for the costs of the proceeding, not to exceed $750.

Attorney fees. It is often difficult to get a lawyer to take on black lung cases are often difficult, expensive, and time consuming. You'll recall that Mr. Laird came to me with his case 10 years ago.

Under the Restoration Act, if a miner is to be awarded benefits, the miner is entitled to reasonable attorney's fees and expert witness fees that are to be paid by the responsible operator or if there is no responsible operator, then by the trust fund. However, the determination of what is reasonable must be made within 60 days of the miner submitting a petition outlining the costs. Furthermore, the attorneys must be paid within 45 days of the notice of determination, unless a motion to reconsider the amounts or the liability is pending. If the claim is denied, and the miner is not to be awarded benefits, the trust fund will pay the responsible operator's reasonable attorney's fees.

The awarding of reasonable attorney's fees shall apply only to those claims that are filed for the first time after the date of enactment of this act.

Appeals. Under the Restoration Act, no appeal of an order in a proceeding under the Black Lung Benefits Act may be made by a miner or responsible operator to the Benefits Review Board unless such order has been made by an Administrative Law Judge.

In addition, the Secretary of Labor may not delegate the authority to refuse to acquiesce in a decision of a Federal court.

Refiling. The Restoration Act would allow any claim that was filed under the Black Lung Benefits Act after January 1, 1982, but before the date of enactment of the Black Lung Restoration Act, to be refiled for a de novo review on the merits.

Definition. Coke ovens are included to be covered by this act.

Benefits Review Board and Employee Compensation Appeals Board. At the request of the administration, the Black Lung Benefits Restoration Act would allow the Secretary of Labor to appoint and fix the compensation of the Benefits Review Board and Employee Compensation Appeals Board members, but the rate of compensation shall not exceed the daily equivalent of the maximum rate specified in section 5376 of title 5, United States Code.

Black Lung Disability Trust Fund. Mr. President, as I stated before—the Black Lung Disability Trust Fund is in trouble. It has been operating with a deficit since its creation and is accumulating a substantial debt. Moreover, the gradual build up of funds generated by the 1986 amendments providing for an increase in the excise tax on coal and the gradual reduction in benefit outlays due to beneficiaries deaths and the limits on eligibility is dwarfed by the dramatic increase in interest charges from the deficit. According to the Department of Labor, 10 years ago, interest charges equaled only 30 percent of benefit outlays. Today, interest charges will equal 64 percent of benefit outlays. Absent any legislative changes, interest charges will actually exceed benefit outlays in the year 1999 and for subsequent years.

The debt has been financed with advances from the general revenues of the U.S. Treasury. These advances must be repaid from future trust fund revenues.

Through fiscal year 1985, interest on the cumulative advances to the trust fund was also due. However, Public Law 99-272 forgave trust fund interest payments for fiscal years 1986-90. This, along with the increase in tax rates and reduced benefit spending, substantially reduced the trust fund's borrowing from the general revenue beginning in fiscal year 1986; however, with the beginning of the payment on the interest as of 1991, substantial borrowing has resumed.

The first interest payment on the debt in the amount of $323.6 million was made on September 30, 1991. This payment accounts for the entire increase, $315 million, over fiscal year 1990 obligations.

According to the report by the Department of Labor on the status of the Black Lung Benefits Act submitted to Congress last year, without an unexpectedly large increases in coal production and/or sale prices to increase revenue, there is no realistic prospect at this time that the trust fund will achieve solvency under current tax law.

The Black Lung Benefits Restoration Act works toward restoring solvency to the trust fund.

Reduction of tax rate only when trust fund is solvent. The current excise tax on coal operators for underground mines is $1.10 per ton of coal or 4.4 percent of the price for which the coal was sold, whichever is less and for surface mines $0.55 per ton of coal or 4.4 percent of the price for which the coal was sold, whichever is less. The current excise tax is for the period between October 1, 1985, through December 31, 2013, after which the rates are to return to their original levels in 1977. The 1977 rate for underground mines was $0.50 per ton of coal or 2 percent of the price for which the coal was sold, whichever is less and for surface mines $0.25 per ton of coal or 2 percent of the price for which the coal was sold, whichever is less. The date was included in the statutory language because it was thought that the trust fund would have been solvent at that time. All estimates show that the trust fund will not be solvent by this date.

The legislation introduced today will remove the specific date and allow the excise tax rates to revert back to the 1977 levels when the trust fund is solvent, which means that there is no balance of repayable advances made to the trust fund and there is no unpaid interest on such advances.

Rate of interest of repayable advances. In an effort to advance the time when the trust fund becomes solvent, the legislation would also allow that the interest on any advances made to the trust fund be at the Federal long-term rate as determined by the Secretary of the Treasury for the month in which such advance occurs.

Refinancing of accumulated advances. In addition, the legislation would allow the trust fund to refinance its old debt to a more favorable current long-term rate. The average interest rate on the old or accumulated debt is at 10 percent. A current rate would be at about 6 percent.

Mr. President, I urge my colleagues to join me, Senator WOFFORD, Senator ROBB, and Senator ROCKEFELLER, in restoring equity and solvency to the Black Lung Program through cosponsorship and support of the Black Lung Benefits Restoration Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Black Lung Benefits Restoration Act".

(b) REFERENCE.—Whenever in this Act (other than section 9(a)(1), 10, 11, or 12) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

SEC. 2. BENEFIT OVERPAYMENT.

Part C is amended by adding at the end the following:

"SEC. 436 (a) The repayment of benefits paid on a claim filed under this part before the final adjudication of the claim shall not be required if the claim was finally denied, unless fraud or deception was used to procure the payment of such benefits.

"(b) The trust fund shall refund any payments made to it as a reimbursement of benefits paid on a claim filed under this part before the final adjudication of the claim, unless fraud or deception was used to procure the payment of such benefits.

"(c) The trust fund shall reimburse an operator for any benefits paid on a claim filed under this part before the final adjudication of the claim if the claim was finally denied.

"(d) If on a claim for benefits filed under this part—

"(1) the Secretary makes an initial determination—

"(A) of eligibility; or

"(B) that particular medical benefits are payable; or

"(2) an award of benefits is made,

the operator found to be the responsible operator under section 422(h) shall, within 30 days of the date of such determination or award, commence the payment of monthly benefits accruing thereafter and of medical benefits that have been found payable. If an operator fails to timely make any payment required by an initial determination or by an award, such determination or award shall be considered final as of the date of its issuance.".

SEC. 3. EVIDENCE.

Section 422 (30 U.S.C. 932) is amended by adding at the end the following:

"(m)(1)(A) During the course of all proceedings on a claim for benefits under this part, the results of not more than 3 medical examinations and 3 interpretations of chest roentgenograms offered by the claimant may be received as evidence to support eligibility for benefits.

"(B) During the course of all proceedings on a claim for benefits under this part, the responsible operator or the trust fund—

"(i) may require, at no expense to the claimant, that the claimant undergo certain medical examinations, but the responsible operator or trust fund may not submit or require more medical examinations than are conducted and submitted during the course of all proceedings by the claimant; and

"(ii) may offer into evidence the set of results of one chest roentgenogram for each set of chest roentgenogram results that are offered into evidence by the claimant.

"(C) An administrative law judge may require the miner to submit to a medical examination by a physician assigned by the District Director if the administrative law judge determines that, at any time, there is good cause for requiring such examination. For purposes of this subparagraph, good cause shall exist only when the administrative law judge is unable to determine from existing evidence whether the claimant is entitled to benefits.

"(D) The complete pulmonary evaluation provided each miner under section 413(b) and any consultative evaluation developed by the District Director shall be received into evidence notwithstanding subparagraph (A) or (B).

"(E) Any record of—

"(i) hospitalization for a pulmonary or related disease;

"(ii) medical treatment for a pulmonary or related disease; and

"(iii) a biopsy or an autopsy,

may be received into evidence notwithstanding subparagraph (A) or (B).

"(2) In addition to the medical examinations authorized by paragraph (1), each party may submit not more than one interpretive medical opinion whether presented as documentary evidence or in oral testimony. Such medical opinion may review other evidence derived from chest roentgenograms, blood gas studies, or pulmonary function studies contained in the reports offered under this subsection.

"(3) A request for modification of a denied claim under section 22 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, shall be considered as if it were a new claim for the purpose of applying the limitations prescribed by paragraphs (1) and (2).

"(4) The opinion of a miner's treating physician, if offered in accordance with paragraph (1)(A), shall be given substantial weight over the opinion of other physicians in determining the claimant's eligibility for benefits if the treating physician is board-certified in a specialty relevant to the diagnosis of total disability or death due to pneumoconiosis.

"(5) For purposes of this subsection, a medical examination consists of a physical examination and all appropriate clinical studies (not including a biopsy or an autopsy) related to the diagnosis of total disability or death due to pneumoconiosis.".

SEC. 4. SURVIVOR BENEFITS.

(a) DEATH.—Section 422 (30 U.S.C. 932), as amended by section 3, is amended by adding at the end the following:

"(n) If an eligible survivor files a claim for benefits under this part and if the miner—

"(1) was receiving benefits for pneumoconiosis pursuant to a final adjudication under this part; or

"(2) was totally disabled by pneumoconiosis at the time of the miner's death,

the miner's death shall be considered to have occurred as a result of the pneumoconiosis, unless the miner's death was the result of an event that had no medical connection with the pneumoconiosis.".

(b) RULES FOR WIDOWS AND WIDOWERS.—Section 422 (30 U.S.C. 932), as amended by subsection (a), is amended by adding at the end the following:

"(o)(1) A widow or widower of a miner who was married to the miner for less than 9 months at any time preceding the miner's death is not qualified to receive survivor benefits under this part unless the widow or widower was the natural or adoptive parent of the miner's child.

"(2) The widow or widower of a miner is disqualified to receive survivor benefits under this part if the widow or widower remarries before attaining the age of 50.

"(3) A widow or widower may not receive an augmentation in survivor benefits on any basis arising out of a remarriage of the widow or widower.".

SEC. 5. RESPONSIBLE OPERATOR.

Section 422(h) (30 U.S.C. 932(h)) is amended by inserting "(1)" after "(h)" and by adding at the end the following:

"(2)(A) Prior to issuing an initial determination of eligibility, the Secretary shall, after investigation, notice, and a hearing as provided in section 19 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, determine whether any operator meets the Secretary's criteria for liability as a responsible operator under this Act. If a hearing is timely requested on the liability issue, the decision of the administrative law judge conducting the hearing shall be issued not later than 120 days after such request and shall not be subject to further appellate review.

"(B) If the administrative law judge determines that an operator's request for a hearing on the liability issue was made without reasonable grounds, the administrative law judge may assess the operator for the costs of the proceeding (not to exceed $750).".

SEC. 6. ATTORNEY FEES.

(a) ELIGIBILITY FOR FEES.—Section 422 (30 U.S.C. 932), as amended by section 4(b), is amended by adding at the end the following:

"(p)(1) If in any administrative or judicial proceeding on a claim for benefits a determination is made that a claimant is entitled to such benefits, the claimant shall be entitled to receive all reasonable costs and expenses (including expert witness and attorney's fees) incurred by the claimant in such proceeding and in any other administrative or judicial proceeding on such claim occurring before such proceeding.

"(2) In the case of a proceeding held with respect to such claim—

"(A) the person or Board that made the determination that the claimant is entitled to benefits in an administrative proceeding and any other person or Board that made a prior determination in an administrative proceeding on such claim; or

"(B) the court in the case of a judicial proceeding,

shall determine the amount of all costs and expenses (including expert witness and attorney's fees) incurred by the claimant in connection with any such proceeding and shall assess the operator responsible to the claimant for such costs and expenses that are reasonable or if there is not an operator responsible to the claimant, shall assess the fund for such costs and expenses.

"(3) The determination of such costs and expenses shall be made within 60 days of the date the claimant submits a petition for the payment of such costs and expenses to a person, the Board, or court that made a determination on the claimant's claim. The person, Board, or court receiving such petition shall take such action as may be necessary to assure that such costs and expenses are paid within 45 days of the date of the determination of such costs and expenses unless a motion to reconsider—

"(A) the amount of such costs and expenses; or

"(B) the person liable for the payment of such amount,

is pending.

"(4) If an operator pays costs and expenses assessed under paragraph (1) and if the claimant for whom such costs and expenses were paid is determined in a later proceeding not to be eligible for benefits under this part, the fund shall pay the operator the amount paid for such costs and expenses.

"(5) Section 28(e) of the Longshore and Harbor Workers' Compensation Act shall apply with respect to any person who receives costs and expenses that are paid under this subsection on account of services rendered a claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to claims that are filed for the first time after the date of the enactment of this Act and shall not apply with respect to any claim that is filed before such date and that is refiled under section 8 of this Act after such date.

SEC. 7. ADMINISTRATION.

(a) APPEALS TO THE BENEFITS REVIEW BOARD.—No appeal of an order in a proceeding under the Black Lung Benefits Act may be made by a claimant or respondent to the Benefits Review Board unless such order has been made by an administrative law judge.

(b) ACQUIESCENCE.—The Secretary of Labor may not delegate to the Benefits Review Board the authority to refuse to acquiesce in a decision of a Federal court.

SEC. 8. REFILING.

Any claim filed under the Black Lung Benefits Act after January 1, 1982, but before the date of the enactment of this Act, may be refiled under such Act after the date of the enactment of this Act for a de novo review on the merits.

SEC. 9. DEFINITIONS.

(a) COKE OVENS.—

(1) FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.—Section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802) is amended—

(A) in subsection (d), by inserting before the semicolon the following: "or who operates a coke oven or any machine shop or other operation reasonably related to the coke oven";

(B) in subsection (g), by inserting before the semicolon the following: "or working at a coke oven or in any other operation reasonably related to the operation of a coke oven"; and

(C) in subsection (h)(2), by inserting before the semicolon the following: "and includes a coke oven and any operation, structure, or area of land reasonably related to the operation of a coke oven".

(2) BLACK LUNG BENEFITS ACT.—The first sentence of section 402(d) (30 U.S.C. 902(d)) is amended by inserting before the period the following: "or who works or has worked at a coke oven or in any other operation reasonably related to the operation of a coke oven".

(b) PNEUMOCONIOSIS.—Section 402(b) (30 U.S.C. 902(b)) is amended—

(1) by adding after "sequelae" the following: "which disease or sequelae is restrictive or obstructive or both"; and

(2) by striking out "coal mine" and inserting in lieu thereof "coal mine or coke oven".

SEC. 10. BENEFITS REVIEW BOARD.

Section 21(b)(1) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921(b)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: "The Secretary shall appoint and fix the compensation of the Benefits Review Board members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, relating to classification and the General Schedule pay rates, and without regard to chapter 75, relating to adverse actions.";

(2) in paragraph (5), by striking the sixth sentence; and

(3) by adding at the end thereof the following new paragraph:

"(6) The rate of compensation for members of the Board shall not exceed the daily equivalent of the maximum rate specified in section 5376 of title 5, United States Code.".

SEC. 11. COMPENSATION FOR WORK INJURIES REGULATIONS.

Section 8149 of title 5, United States Code, is amended—

(1) in the second sentence by striking "designated or"; and

(2) by inserting after the second sentence the following new sentences: "The Secretary shall appoint and fix the compensation of the Employee's Compensation Appeals Board members without regard to the provisions of this title, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53, relating to classification and the General Schedule pay rates, and without regard to chapter 75, relating to adverse actions. The rate of compensation for members of the Board shall not exceed the daily equivalent of the maximum rate specified in section 5376.".

SEC. 12. BLACK LUNG DISABILITY TRUST FUND.

(a) REDUCTION IN TAX RATE ONLY WHEN TRUST FUND IS SOLVENT.—Paragraph (2) of section 4121(e) of the Internal Revenue Code of 1986 (relating to reduction in amount of tax) is amended to read as follows:

"(2) TEMPORARY INCREASE TERMINATION DATE.—For purposes of paragraph (1), the temporary increase termination date is the first January 1 after 1981 as of which there is—

"(A) no balance of repayable advances made to the Black Lung Disability Trust Fund, and

"(B) no unpaid interest on such advances."

(b) RATE OF INTEREST ON REPAYABLE ADVANCES.—Paragraph (3) of section 9501(c) of the Internal Revenue Code of 1986 (relating to repayable advances) is amended to read as follows:

"(3) RATE OF INTEREST.—Interest on any advance made pursuant to this subsection shall be at the Federal long-term rate determined by the Secretary of the Treasury under section 1274(d)(1)(C)(ii) for the month in which such advance occurs."

(c) REFINANCING OF ACCUMULATED ADVANCES.—Notwithstanding section 9501(d)(3) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)), in the case of any repayable advance made on or before the date of the enactment of this Act, interest on such advance for any period after such date shall be computed by using the Federal long-term rate determined by the Secretary of the Treasury under section 1274(d)(1)(C)(ii) of the Internal Revenue Code of 1986 for the month in which such date occurs.•

• Mr. WOFFORD. Mr. President, I join with my colleagues, Senator SIMON, Sentor ROBB, and Senator ROCKEFELLER, today in introducing legislation to provide fairness for black lung claimants. During the past several years court decisions and the administrative process have made it increasingly difficult for coal miners or their surviving spouses and dependents to obtain black lung benefits.

This legislation restores fairness to the black lung claims system. Currently, claimants must wait far too long for decisions. I have heard these same problems from claimants throughout Pennsylvania. The claims process is often bogged down with too many requests for medical examinations which may never allow for a hearing and decision on the claim. Sadly, a miner's claim becomes a widow's claim in many cases.

I am joining my colleagues, Senators SIMON, ROBB, and ROCKEFELLER, in introducing legislation that will streamline the process for adjudicating black lung claims. This bill stops the endless number of physical examinations claimants may be forced to undergo. A party's rights are preserved but needless delay is stopped. Survivors benefits are classified as well as the rules for attorneys fees. The current system discourages lawyers from taking a claimant's case, which further stacks the deck against the miner.

Mr. President, the time has come to give black lung claimants a fair shake. As a member of the Committee on Labor and Human Resources, I look forward to working for enactment of legislation that will restore fairness to the black lung claims system.•

• Mr. ROBB. Mr. President, I join my colleagues from Illinois, Pennsylvania, and West Virginia, Senators SIMON, WOFFORD, and ROCKEFELLER, in introducing the Black Lung Benefits Restoration Act. Our chief patron, Senator SIMON, has worked tirelessly to craft this legislation and I sincerely commend his dedication to this important issue.

As you know, Mr. President, the Commonwealth of Virginia has vast natural resources and enormous economic diversity. We have large urban metropolitan centers and sprawling farmlands; 100 miles of coastal land along the Atlantic Ocean and magnificent mountain ranges. We have the busiest port on the east coast—and in the largely rural southwest, we have coal mines.

With limited employment options, working the mines has put bread on the table for generations of southwest Virginia families. Fathers and sons—now mothers and daughters—can spend decades working in the mines.

My support for this legislation stems from one simple premise. Our country needs coal both as a source of energy and for national security purposes. And Virginians who provide that coal and become sick, or even die, as a consequence, deserve better for themselves and their families than a 4 percent national approval rating for black lung benefits.

I believe this bill will bring some much-needed equity back into the system.

This is not an ambitious expansion of the current program, Mr. President. Rather, it is a collection of reasonable modifications to allow for a more level playing field and a more rational, streamlined administrative process for all parties involved. Since my colleague from Illinois has described the bill in detail, I will briefly highlight some of the most important provisions.

First, the bill allows claimants to keep interim benefits received between filing and adjudication if a negative determination is made and the claim is filed without fraud or deception. It requires the black lung trust fund to repay coal miners for interim benefits it has collected for denied claims not yet finally adjudicated and requires the fund to repay coal operators for interim benefits paid for claims that have not been finally adjudicated but are ultimately denied.

Second, the legislation allows coal operators to offer into evidence only one medical examination and one chest roentgenogram interpretation for each medical examination and chest roentgenogram offered by the miner, with a maximum of three each, unless an administrative judge requests a fourth based on a good cause standard. In addition, each side is limited to one interpretive medical opinion. A pulmonary evaluation, a consultative evaluation produced by the District Director, hospital and treatment records for pulmonary related disorders, biopsies, or an autopsy, however, are permitted notwithstanding these limits.

In deciding eligibility for benefits, the opinion of the miner's physician, if he is certified in a pneumoconiosis specialty, is given substantial weight over the medical opinion offered in opposition to the claim.

The evidentiary section is extremely important, Mr. President, since medical evidence offered by miners—which can be expensive to obtain—can be completely overshadowed by the sheet volume of evidence offered by the other side.

A constituent of mine from Buchanan County submitted four claimant readings to support his eligibility for black lung benefits, while his employer submitted 64 readings in opposition to the claim. Another constituent, also from Buchanan County, submitted 8 claimant readings supporting his case, while his employer submitted 96 in opposition.

This is not a level playing field, Mr. President.

Third, the bill allows eligible spouses to receive survivor benefits if a miner is receiving black lung benefits at the time of his death, or if it is determined after his death that he was disabled from black lung. This presumption of eligibility does not apply if the cause of death is clearly unrelated to black lung.

The legislation also directs the Department of Labor to designate responsible operators in black lung cases within 120 days, establishes a timeframe for the payment of attorneys and expert witness fees, and allows claims filed since January 1, 1982 to be filed for a de novo review.

Finally, Mr. President, the bill tackles the $4 billion deficit currently in the Black Lung Trust Fund. It does so by refinancing the debt at today's lower interest rates, allowing the fund to receive future advances at the Federal long-term interest rate, and extending the coal excise tax earmarked for the fund—which is scheduled to end in the year 2013—until the trust fund is solvent.

Mr. President, we will continue to fine-tune the financing provisions during committee consideration of the bill. We are committed to both paying for the extra benefits authorized in the bill, as well as addressing the current debt in the trust fund.•

• Mr. ROCKEFELLER. Mr. President, today I join my colleagues in introducing the Black Lung Benefits Restoration Act of 1993. I congratulate Senators SIMON and WOFFORD, the chief sponsors of this legislation, for the hard work committed to developing this important effort to repair and rebuild the Federal Black Lung Program.

Our legislation has two important objectives: First to establish a more objective, and fairer, process for determining black lung benefits for disabled miners and widows, and second, to work toward shoring up the Black Lung Disability Trust Fund. It will help the Government fulfill the commitment that was made to miners disabled by pneumoconiosis, and their widows, when the Black Lung Program was begun in 1969.

I am an original sponsor of this legislation because it will help the people of my State who deserve a black lung program that responds to their needs. For nearly a decade, I have heard the heart-wrenching stories of disabled miners and widows from Bluefield, Oak Hill, and Jackson, West Virginia, from coal mining communities across my State, describe the incredibly frustrating, unjust, and seemingly interminable process that they have had to suffer through in order to get the black lung benefits that Congress promised would be available to them.

Ever since I came to the Senate, I have tried to deal with these problems. Several years ago, I focused on the delays in the review stage of the application process, and fought for additional judges and resources needed to speed up the time when decisions were made appeals from miners and families.

But much more remains to be done. This legislation tries to address many of the problems that I have heard about over the years, as well as some of the fundamental flaws that legislative hearings and oversight have demonstrated are commonplace in the operation of the Federal Black Lung Program. It will give miners and widows a fair chance to prove that they are eligible for benefits. At the same time, it does not take any appropriate rights from responsible coal operators.

This legislation intends to level the playing field so that an individual miner will have a fighting chance to prove that he should rightfully be a recipient of black lung benefits. It gives him an opportunity to prove his eligibility. For example, the Black Lung Benefits Restoration Act would limit the number of medical examinations and chest x-rays that miners and companies can use as evidence to support or refute eligibility to three each. In addition, each party can submit no more than one interpretive medical opinion. An administrative law judge can require a miner to submit to a medical exam by a physician that he/she assigns if there is a good cause. But the opinion of a miner's physician is to be given substantial weight over other physicians in determining eligibility for benefits. These changes should dramatically improve, and help to shorten the process that is currently used to determine eligibility.

The legislation also makes it a legal presumption that a miner who dies before final adjudication of his black lung claim, or who was totally disabled at the time of his death, died from black lung. This entitles his widow and children to black lung survivors benefits. Today, it is very, very difficult for a widow, or survivors to win a claim once a miner dies. Exceptions to this presumption are made if a miner dies as a result of a medical event that had no connection with black lung, such as a car accident.

Another provision of this legislation will mean that miners will no longer be required, after years of delay, to pay back interim final benefits if an administrative law judge ultimately rules that the miner is not entitled to benefits, as long as the interim benefits were not awarded as a result of fraud or deception. The stories of miners, or their widows, being badgered to repay large lump sums to the Department of Labor because ultimately their claim was rejected, are among the most harrowing that I have heard. Disabled miners and their families should not have to mortgage or sell their homes, or hock all their worldly goods, so that they can repay benefits that they used to buy food for their families or pay medical bills. Especially when they honestly believe that these benefits were rightfully awarded to them and their claim would be accepted.

Miners in West Virginia have also often told me how difficult it is to get a lawyer to take their black lung cases. These cases can take years to resolve. They are very complicated and expensive. So while we are doing what we can to speed up the process for making determinations, this bill allows a miner to recover reasonable attorney's fees, as well as expert witness fees, from either the responsible operator or the Trust Fund if he is awarded benefits.

There are some important administrative changes in the operation of the black lung program that will occur as a result of this legislation, too, which I think are key to improving the program.

Mr. President, for the victims of black lung disease, the 1980s will be remembered as a sad decade when the Executive branch of their Federal Government waged a relentless war aimed at tying the black lung program into knots. That Administration tried their utmost—and partly succeeded—to prevent deserving men and women from obtaining desperately needed compensation for a painful disease. A disease is the price for working years and sometimes decades to produce the coal that has made this country an industrial might.

That's why in the Black Lung Restoration Act, miners who filed a claim after January 1, 1982, but before enactment of this bill, would be allowed to refile their claims for a de novo review.

Finally, to help finance this legislation, this bill would extend the current excise tax on coal until the Black Lung Disability Trust Fund is solvent. The Fund will be able to refinance its old debt to a more favorable long term rate.

The black lung program may seem unimportant to Members who do not represent coal producing states, and therefore, coalminers and their families, but I would argue that it is an example of the government living up to its word. People who have worked hard for their entire lives, in the most dangerous occupation in this country, are entitled to our helping hand if as a result their health is devastated by what we call black lung disease. These miners have done the back-breaking, health-endangering, work of digging coal out of the earth so that we, Americans, can heat our homes, power our machines, and build the most powerful and just democratic society in the world. These miners and their families deserve a program that provides the help they need when they need it most. It is my sincere hope that we will enact the Black Lung Benefits Restoration Act and improve that program, and provide that help.•

By Mr. METZENBAUM (for himself, Mr. FEINGOLD, Mr. WOFFORD, Mrs. MURRAY, and Mr. SIMON):

S. 1776. A bill to amend the Revised Statutes to restore standards for proving intentional discrimination; to the Committee on Labor and Human Resources.

CIVIL RIGHTS STANDARDS RESTORATION ACT

• Mr. METZENBAUM. Mr. President, I introduce the Civil Rights Standards Restoration Act, with a strong sense of deja vu. It was just 2 years ago that Congress overturned eight Supreme Court decisions which had dramatically narrowed the rights and remedies available to victims of employment discrimination. The Civil Rights Act of 1991 sent a strong signal to the Court that the people of this country would not tolerate a retreat from the freedoms they fought so hard for during the 1950's and 1960's.

Well, Mr. President, the Supreme Court is at it again. Last summer, in *St. Mary's Honor Center* v. *Hicks*, No. 902-602 (6/25/93), a bare 5-4 majority of the Supreme Court made it substantially harder for victims of intentional discrimination to enforce their rights. The Court abandoned a three-step legal framework Federal courts have used for 20 years to resolve claims of intentional discrimination filed under Federal civil rights laws. Instead, as Justice Souter wrote in dissent, the Court adopted "a scheme that will be unfair to plaintiffs, unworkable in practice, and inexplicable in forgiving employers who present false evidence in court." Notably, the Court's ruling cast aside the position taken by the Reagan administration, the Bush administration, the Clinton administration, and a majority of the Federal courts of appeals. The Civil Rights Standards Restoration Act restores this longstanding legal framework for proving intentional discrimination.

Let me explain what the law was for 20 years before the Hicks decision. In 1973, in McDonnell Douglas Corporation versus Green, the Supreme Court articulated a method for proving intentional discrimination using a three-part analytical framework. Notably, although this framework allocates between the parties the burden of producing evidence, the plaintiff retains the ultimate burden of proving unlawful discrimination.

Under the McDonnell Douglas framework, the plaintiff must first establish a "prima facie" case of unlawful discrimination—evidence strong enough to warrant a judgment for the plaintiff if the defendant offers no evidence of its own. Once the plaintiff has made such a showing, it is then fair to ask the defendant to explain its reasons for the challenged conduct. At this point, the defendant must simply articulate, through the introduction of admissible evidence, a legitimate, nondiscriminatory explanation for its decision.

Once the defendant meets this burden of producing evidence, the plaintiff must then prove that the defendant's explanation is, in reality, a pretext for discrimination. As the Supreme Court made clear in 1981 in Texas Dep't of Community Affairs versus Burdine, the plaintiff could meet this burden "either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence."

Mr. President, this is the critical point. Before Hicks, plaintiffs could prove intentional discrimination by establishing a prima facie case and disproving the employer's explanation for its conduct. This framework serves to narrow the issues in these cases, and enables victims of intentional discrimination to enforce their rights without having "smoking gun" evidence of the employer's intent. As Attorney General Reno recently wrote, this approach "most fairly and efficiently balances the interests of employers and employees, while advancing the national interest in eliminating unlawful discrimination from the workplace." While this framework is not the only means of proving unlawful intentional discrimination, Federal courts have applied it in thousands of civil rights cases brought under a broad range of Federal laws.

Then came the Hicks decision. Melvin Hicks was an African-American corrections supervisor employed at a Missouri corrections facility. In 1981, the State conducted a study of the facility's management structure. The study concluded that "ethnic differences can be seen—or imagined—as a potential for organizational disruption." The study concluded that "Whites control only 38 percent of the decision making power" and that the number of African-Americans in supervisory positions created "the potential for subversion of the [white] Superintendent's power."

The facility's management was changed in January 1984, and three of five African-American supervisors were terminated and replaced by whites. The racial make-up of supervisors changed from one white and five African-Americans to four whites and two African-Americans—including Hicks. In the ensuing months, the facility demoted, suspended and finally terminated Hicks. Hicks sued the facility, alleging that he had been discharged because of his race.

Six months after the trial, the district court found that Hicks had established a prima facie case of intentional race discrimination. The court rejected the corrections facility's explanation for firing Hicks—that he had violated work rules—because the facility had disciplined Mr. Hicks much more harshly than his white coworkers, and had "manufactured [a] confrontation * * * in order to terminate him"

Even though Hicks had established a prima facie case of discrimination, and had disproved the employer's explanation for firing him, the court inexplicably rendered judgment for the employer. The court concluded that Hicks was terminated because of his supervisor's personal animosity toward him—an explanation with no evidence in the record to support it. Hicks' employer had never offered this explanation at trial, and Hicks had never had an opportunity to rebut it.

The Eighth Circuit Court of Appeals reserved, holding that "it was improper for the district court to assume—without evidence to support the assumption—that [the employer's] actions were somehow 'personally motivated.'" The court concluded—based on McDonnell Douglas, Burdine, and a clear majority of Federal courts of appeals—that the plaintiff should prevail as a matter of law where he proves a prima facie case of intentional discrimination and disproves the nondiscriminatory reasons offered by the employer to explain the challenged action.

The Supreme Court reversed the eight circuit's decision and upheld the district court's judgment for the employer. In an opinion by Justice Scalia, the Court abandoned the 20-year-old McDonnell-Douglas framework, holding that the plaintiff was not entitled to a judgment even though he had proved a prima facie case of discrimination and disproved the employer's only proffered reason for its conduct. Instead, the Court held that plaintiffs may be required not just to prove that the reasons offered by the employer were pretextual, but also to "disprove all other reasons suggested, no matter how vaguely, in the record." Justice Scalia acknowledged that the majority's decision places an employer who lies in a better position than one who says nothing.

Incredibly, the Hicks majority ignored 20 years of precedent, and rejected the position of the Reagan, Bush, and Clinton administrations as well as a majority of the Federal circuit courts. In a dissenting opinion—joined by Justices Blackmun, White, and Stevens—Justice Souter charged that the majority's decision "stems from a flat misreading of Burdine and ignores the central purpose of the McDonnell Douglas framework." "The Court is throwing out the rule," Justice Souter asserted, "for the benefit of employers who have been found to have given false evidence in a court of law." Justice Souter expressed particular concern that the decision "provides [the plaintiff] with no opportunity to produce evidence showing that the district court's hypothesized explanation, first articulated six months after trial, is unworthy of credence."

The Hicks decision turned the McDonnell Douglas framework—used in thousands of civil rights cases—on its head. First, as the Clinton EEOC has recognized, Hicks makes the plaintiff's task "much more onerous." A plaintiff must disprove not just the nondiscriminatory reasons offered by the employer but, as the Court explained, "all other reasons suggested, no matter how vaguely, in the record." In an earlier brief to the eighth circuit, the Bush administration argued that this approach "makes no sense as a matter of logic or policy" because a plaintiff "cannot be expected to eliminate every possible reason for an employer's action," particularly "a reason that is never proffered."

Second, Justice Souter rightly concluded that by requiring plaintiffs to disprove all conceivable reasons for the defendant's actions, Hicks "will promote longer trials and more pretrial discovery, threatening increased expense and delay in title VII litigation for both plaintiffs and defendants, and increased burdens on the judiciary." The Clinton EEOC agreed: "Hicks will most likely drive the cost of litigating employment discrimination claims—for the [EEOC], private plaintiffs, and employes—even higher."

Third, the Hicks decision actually places the defendant who fabricates a nondiscriminatory explanation for its action in a better position than the defendant who remains silent. In its 1988 Supreme Court brief in Harbison-Walker Refractories versus Brieck, the Reagan administration—in the context of an ADEA suit—explained the absurdity of this approach:

> Evidence establishing a prima facie case, if unrebutted by the defendant, entitles the plaintiff to summary judgment; if the plaintiff can show that the defendant's proffered explanation is unbelievable, he should be left, at the very least, in the same position that he would have been in had his prima facie case not been rebutted in the first place. Indeed, a showing of pretext should, if anything, strengthen the plaintiff's case.

Conversely, a defendant whose false explanation is rejected by a factfinder should not be in a better position than one who remains silent. By encouraging defendants to offer false explanations, Hicks undermines the very principles of our civil justice system.

Fourth, as Justice Souter recognized, the need to allow plaintiffs to prove their cases based on circumstantial evidence is "crucial to the success of most Title VII claims, for the simple reason that employers who discriminate are not likely to announce their discriminatory motive." Normally, as the Reagan administration argued in Harbison-Walker, direct evidence is unnecessary "because such a link is already forged by the establishment of a prima facie case." But as the Clinton EEOC rightly concluded, in the wake of Hicks "it may be impossible to prove discrimination in the absence of direct evidence."

The lower Federal courts are, in fact, already imposing this most onerous requirement on victims of intentional discrimination. For example, last month a Federal court in Massachusetts, relying on Hicks, dismissed a claim for intentional race discrimination. *Woods* v. *Friction Materials, Inc.*, No. 90-11389-WF (D. Ma. 10/1/93). The court held that even if the plaintiff proved a prima facie case, and disproved the employer's explanation for its conduct, he would not be entitled to judgment unless he proved something more—specifically, that his employer acted with an illegal motive. Similarly, a Federal court in Louisiana recently overturned, on the same basis, a jury verdict finding intentional age discrimination, *EEOC* v. *Louisiana Department of Social Services*, No. 91-4369 (D. La. 10/4/93). The message in these and other cases is clear: if the plaintiff offers no "smoking gun," the case is dismissed.

Two days after the Hicks decision, a New York Times editorial noted that the Supreme court "is back in the business of loading up job discrimination cases with extra burdens for those claiming bias." by making intentional discrimination substantially more difficult to prove, Hicks will discourage discrimination victims from suing to enforce their rights, thus frustrating title VII's purposes. After reviewing the decision, the Clinton EEOC concluded that Hicks "will have a negative effect on enforcement efforts and therefore should be overridden, by appropriate legislation."

The Civil Rights Standards Restoration Act will overturn Hicks and restore the legal framework Federal courts have used in thousands of cases to resolve claims of intentional discrimination. Notably, the text of the bill is drawn directly from the language of the Supreme Court's *McDonnell Douglas* and *Burdine* decisions.

The bill reestablishes the principle that a victim of intentional discrimination is entitled to prevail when he or she proves a prima facie case and disproves the defendant's explanation. The bill makes clear that plaintiffs need not present "smoking gun" evidence, or disprove all possible explanations for the defendant's conduct, in order to prevail. Thus, the bill codifies the position taken by the Reagan, Bush, and Clinton administrations, as well as a majority of the Federal courts of appeals.

Finally, the bill makes clear that the restored standards should apply in any court case or administrative proceeding in which the McDonnell Douglas framework is used. These include claims brought under employment statutes such as title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, as well as broader civil rights statutes such as section 1981—banning discrimination in the making of contracts—the Fair Housing Act, and the Employee Credit Opportunity Act. Notably, the bill recognizes the McDonnell Douglas framework is not the exclusive method by which a plaintiff may prove intentional discrimination, and it does not disturb those other existing methods.

Today, I urge my colleagues to cosponsor this restorative legislation. A companion bill will be introduced today by Congressman MAJOR OWENS. Clearly, on the issue of civil rights, the Supreme Court remains out of touch with the American people, the executive and legislative branches of our Federal Government, and most of the Federal judiciary. We must make our intent clear on this issue, and once again remind the court of its mandate, inscribed on the facade of the Supreme Court building: "Equal Justice Under Law." Mr. President, I ask unanimous consent that the New York Times editorial and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Standards Restoration Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Supreme Court enunciated a method of proving intentional discrimination under Federal law in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981);

(2) such method has been applied to establish intentional discrimination in cases and proceedings under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and other Federal laws; and

(3) the standards established in St. Mary's Honor Center v. Hicks, No. 92-602 (1993), regarding the effect of a finding of pretext on proof of unlawful intentional discrimination, are contrary to—

(A) such method established by the Supreme Court in McDonnell Douglas Corp. v. Green and Texas Department of Community Affairs v. Burdine; and

(B) congressional intent regarding such Federal laws.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to restore the standards (regarding the effect of a finding of pretext on proof of unlawful intentional discrimination) enunciated by the Supreme Court in McDonnell Douglas Corp. v. Green and Texas Department of Community Affairs v. Burdine as part of a method of proving intentional discrimination; and

(2) to ensure the application of such restored standards in all cases and proceedings under Federal law (including title VII of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, the Age Discrimination in Employment Act of 1967, and other Federal laws) to which such method applies.

SEC. 4. STANDARDS FOR PROVING INTENTIONAL DISCRIMINATION IN CERTAIN CIRCUMSTANCES.

The Revised Statutes are amended by inserting after section 1979 (42 U.S.C. 1983) the following new section:

"SEC. 1979A. STANDARDS FOR PROVING INTENTIONAL DISCRIMINATION IN CERTAIN CIRCUMSTANCES.

"(a) STANDARDS.—In a case or proceeding brought under Federal law in which a complaining party meets its burden of proving a prima facie case of unlawful intentional discrimination and the respondent meets its burden of clearly and specifically articulating a legitimate, nondiscriminatory explanation for the conduct at issue through the introduction of admissible evidence, unlawful intentional discrimination shall be established where the complaining party persuades a trier of fact, by a preponderance of the evidence, that—

"(1) a discriminatory reason more likely motivated the respondent; or

"(2) the respondent's proffered explanation is unworthy of credence.

"(b) Rule of Construction.—This section shall apply only to those cases and proceedings in which the method of proof articulated in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981), applies and shall not be construed "to specify the exclusive means by which the complaining party may establish unlawful intentional discrimination under Federal law.".

More Burdens From the Rehnquist Court

Unchastened by Congress's rebukes for misinterpreting civil rights laws, the Supreme Court is back in the business of loading up job discrimination cases with extra burdens for those claiming bias. On Friday the Court ruled that an employer could give the false explanations for firing a black employee—yet still prevail in a lawsuit.

Over the years the courts have worked out procedures and burdens of proof that were fair to both employees and employers. A plaintiff's plausible claim of discriminatory firing put the onus on the employer to provide a nonracial reason or lose the case. One would think that a phony or incredible explanation would be worse than none at all. Not according to the 5-to-4 majority.

Lawyers for Melvin Hicks, a black prison supervisor in St. Louise, demolished his employer's excuse for firing him, purportedly a series of rules infractions and a threat against his white superior. They showed that white corrections workers were not disciplined for similar or more serious infractions and that Mr. Hick's boss manufactured the verbal confrontation.

Still, a Federal judge ruled that Mr. Hicks failed to prove racial motive. He said Mr. Hicks hadn't disproved the possibility of personal rather than racial animosity—although prison officials never raised such a defense. Justice Antonin Scalia's majority said the trial judge was right.

Does this reward lying in court, as Justice David Souter argued in a biting dissent? No, said Justice Scalia. "The books are full of procedural rules that place the perjurer (initially, at least) in a better position than the truthful litigant who makes no response at all.

Perhaps, but in civil rights cases Congress and the courts have understood the special needs of plaintiffs. Biased employers no longer telegraph their motives; victims are entitled to rely on the inferences that flow from unbelievable excuses.

Four years ago the Court led by Chief Justice William Rehnquist, handed down a string of similarly grudging, burdensome misreadings of the 1964 Civil Rights Act. These rulings provoked a wholesale correction in the form of the Civil Rights Restoration Act of 1991.

This latest decision, in which the Court is again forcing victims of discrimination to refight and rewin old battles, invites another lesson from Congress in legal interpretation and fairness.•

By Mr. MOYNIHAN:

S. 1778. A bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of cooperative housing corporations; to the Committee on Finance.

Tax Treatment of Cooperative Housing Corporations

• Mr. MOYNIHAN. Mr. President, I rise today to reintroduce legislation designed to resolve, once and for all, the confusion surrounding the proper tax treatment of cooperative housing corporations. The bill I introduced today is identical to a bill I introduced last year. Companion bills have been introduced in the House of Representatives.

Mr. President, I am taking this action today in light of the IRS' persistence in applying section 277 of the Internal Revenue Code to housing cooperatives. As my statement introducing an identical bill last year makes clear, section 277 was enacted in 1969 to tax the nonmembership income of membership organizations like country clubs. Contrary to clear congressional intent, the IRS has been applying the law to residential cooperatives, assessing back taxes and interest, and in some cases penalties. This position has resulted in unwarranted tax problems for thousands of mostly low- and moderate-income families living in New York and elsewhere, many of whom are on fixed incomes.

Earlier this year I brought this matter to the attention of the Internal Revenue Service. In correspondence with the Commissioner of the IRS, I argued that the IRS' position applying section 277 was simply contrary to the legislative intent behind section 277. I noted that continuation of this position would only result in more taxpayer confusion, challenges and litigation. I was gratified when Commissioner Richardson responded to my letter by instructing the IRS field offices to suspend audits of cases applying section 277 of the Internal Revenue Code to housing cooperatives.

However, it has now come to my attention, on the eve of the congressional recess for this year, that the IRS is once again asserting its position on examinations of cooperatives' returns that section 277 applies to housing cooperatives. As a result, various revenues of housing cooperatives, including laundry and parking facilities—even when available only to residents of the building—are subject to taxation under section 277, regardless of the fact that such housing cooperatives have no net income when the expenses of operating the cooperatives are taken into account. I understand that the IRS' position includes an attempt to collect taxes retroactively as far back as 1981 even though the burden of these liabilities will often fall on tenant shareholders without ready means to pay.

This bill makes clear that section 277 was never intended to apply to housing cooperatives—as defined in section 216 of the Internal Revenue Code. Instead, the provisions of subchapter T of the Internal Revenue Code should control. This bill makes additional clarifying changes to Subchapter T for purposes of housing cooperatives. To prevent the IRS from retroactively punishing cooperatives which have been applying Subchapter T correctly all along, this bill allows those cooperatives to elect Subchapter T treatment of all open years.

Mr. President, I hope and expect that the IRS will not ignore congressional intent in this important area of the law and will desist from retroactively taxing tenant shareholders of housing cooperatives under section 277 of the Internal Revenue Code.

Mr. President, I ask unanimous consent that the text of the legislation appear in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) Section 277 Not To Apply to Cooperative Housing Corporations.—Section 277(b) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E)."

(b) Application of Rules Relating to Tax Treatment of Corporatives.—

(1) Patronage earning may be offset only by patronage losses.—Section 1388(a) of such Code is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings.

(2) Patronage earnings and losses of cooperative housing corporations.—Section 1388 of such Code is amended by adding at the end the following new subsections:

"(k) Patronage Earnings or Losses Defined.—For purposes of this section—

"(1) In general.—The terms 'patronage earnings' and patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) Special rules for cooperative housing corporation.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year, rental income from other than tenant-stockholder to the extent attributable to any project operated by the corporation.

"(3) Definitions.—For purposes of paragraph (2)—

"(A) Cooperative housing corporation.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENTS.—Section 1388(j) of such Code is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY RETROACTIVELY.—Any corporation which is a cooperative housing corporation as of the 1st day of the 1st taxable year beginning after the date of the enactment of this Act may elect to have the amendments made by this section apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.•

By Mr. KENNEDY:

S. 1779. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

HEALTH SECURITY ACT

• Mr. KENNEDY. Mr. President, the strong support for comprehensive health care reform that has been expressed on the floor today by Members on both sides of the aisle is heartening. For health care reform to succeed, support must be bipartisan—and I believe Democrats and Republicans alike now agree that action is essential.

Just as cooperation among the two parties is essential, cooperation among all the committees of the Congress with an interest in this issue is also necessary. The Health Security Act that President Clinton has submitted to Congress and that Majority Leader Mitchell introduced in the Senate on Saturday is one of the most sweeping proposals ever introduced in the Congress. It touches the expertise and responsibility of many committees. We must all work together if we are to produce the best possible health reform for the American people.

When President Clinton's Health Security Act was initially presented to Congress last month, the Senate Paliamentarian conducted a thorough review of the President's bill, based on Senate rules and precedents, to determine which committees would have jurisdiction over its various components. The Parliamentarian's conclusions form a workable procedure for moving this measure through the legislative process in an expeditious way. A similar procedure has been adopted by the House of Representatives for action on the bill by various House committees.

Today, I am introducing a bill containing all of the provisions of the President's bill that the Parliamentarian has determined to be within the jurisdiction of the Labor and Human Resources Committee.

Of course, other committees also have important roles to play. The Finance Committee has jurisdiction over major and essential portions of the legislation, including matters pertaining to Medicaid, Medicare, and taxes. I look forward to working closely with the distinguished chairman of the Finance Committee to coordinate consideration of the matters within the Finance Committee's jurisdiction and the matters within the Labor Committee's jurisdiction.

In addition, a number of other provisions in the bill are within the jurisdiction of other Senate committees, including the Agriculture, Armed Services, Commerce, Governmental Affairs, Indian Affairs, Judiciary, and Veterans' Affairs Committees.

Let me briefly outline the provisions of the President's bill that the Parliamentarian has determined should be considered by the Labor and Human Resources Committee and that are in the bill I am introducing.

The sections of the President's Health Security Act contained in this bill include the portions of the President's program guaranteeing health security for all Americans and controlling health care costs, as well as those providing long-term care for the Nation's senior citizens and improving health care quality.

The legislation includes Title I of the President's bill, which provides the guarantee of universal coverage, defines the benefits to which all citizens are entitled, regulates health plans and health alliances, establishes employer responsibilities and lays out the division of responsibility between the Federal Government and the States.

The legislation also includes major portions of Subtitle B of Title II, which provide for a new program of home care and community-based care for senior citizens and other disabled Americans, and which regulate the sale of private long-term care insurance.

Next, the bill contains the public health initiatives in Title III, including programs for an appropriate supply of health professionals, expanded health research, preventive health programs, comprehensive school health initiatives, and other steps that will help make the health security card a true ticket to essential and effective health care for millions of Americans.

Key provisions of Title V on quality of care and consumer protection are part of the bill, including the subtitles dealing with quality management and improvement, information systems, privacy, an administrative simplification. These provisions are designed to assure high quality care for all Americans and cut through the massive red tape that is adding to health care costs and burdening doctors and patients alike.

The bill also includes Title VI of the President's bill, which establishes the premium obligations for businesses and individuals and provides discounts to enable low-income citizens and vulnerable small businesses to afford the cost of coverage.

In addition, the bill includes the portion of Title IX which establishes the obligation of the Federal Government to contribute to the cost of the premium reductions in the President's bill and sets the limits on that obligation.

Finally, the bill includes transitional insurance reform and reform of workers' compensation.

The introduction of the legislation today is another milestone on the road to comprehensive reform. The Labor and Human Resources Committee has already held extensive hearings on the legislation, and I look forward to working with all members of the Senate to expedite our consideration of the President's proposal.

Few, if any, other issues will affect the lives of more Americans. The need for action is obvious and urgent. The President has done his job. Now it is up to the Congress to respond.•

By Mr. DODD (for himself, Mr. COATS and Mr. DURENBERGER):

S.J. Res. 159. A joint resolution to designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week"; to the Committee on the Judiciary.

CHILDREN OF ALCOHOLICS WEEK

• Mr. DODD. Mr. President, I introduce a joint resolution to commemorate the week of February 14 through 20 as "Children of Alcoholics Week." I am joined in this effort by my distinguished colleague from Indiana, Senator COATS.

In the Subcommittee on Children, Family, Drugs and Alcoholism, we have focused a great deal on policies to strengthen and preserve families. Of central concern are the stresses faced by today's families. Many of these stresses are external—poverty, tension between work and family, and teenage pregnancy.

Alcoholism, however, is a force that destroys families from within. Sometimes this force is explosive; often it is quite and insidious. It is perhaps a truism to say that alcoholism is a family disease. But there is no question that the entire family is caught in its web. It shapes their lives and, in many cases, the lives of future generations.

Like the addicted person, other family members may deny the problem.

They may become part of a conspiracy of silence that prevents them from seeking help. Yet, it is not a happy silence. The atmosphere within the family is often negative, full of stress and conflict. The rituals that help define a family—for example, birthdays and religious holidays—may not be observed, a fact that has been linked to the transmission of alcoholism.

As always, the most vulnerable family members are the children. It is estimated there are nearly 27 million children of alcoholics in this country, almost 7 million of whom are under age 18. Children of alcoholics are at risk for a host of psychological and physical harms, not least of which is the greater likelihood that they, too, will become substance abusers. Children of alcoholics are two to four times more likely than others to become alcoholics. Moreover, daughters of alcoholics are more likely than others to marry alcoholic men, increasing the likelihood of perpetuating the cycle.

Children of alcoholics also tend to have more health problems than others. A study by the Children of Alcoholics Foundation found that children of alcoholics are admitted to hospitals, use hospital days, and incur hospital charges at rates much greater than those experienced by other persons. This pattern results in additional costs for hospital care of $1 billion a year, a figure the foundation considers quite conservative.

Children of alcoholics may blame themselves for the parent's problem and feel unloved and rejected. They may not reach out for help because they do not realize they are not alone. They may be vulnerable to abuse and neglect. Yet, some children show remarkable resiliency. Certainly, to be the child of an alcoholic is not to be doomed to a life of failure, filled with insurmountable problems.

It is with the intent to draw attention to the needs of children of alcoholics that we introduce this resolution today. The subcommittee has heard witnesses at our hearing describe in very moving terms how to be the child of an alcoholic is to feel totally alone, since it seems inconceivable that others could be in the same situation. We hope that by designating a week to focus on this group, we will let children who may now feel isolated and afraid know that they are not alone.

There is one special group of children of alcoholics who face a more severe challenge. These are children who are exposed to alcohol prenatally, those with symptoms of Fetal Alcohol Syndrome or Fetal Alcohol Effect. These symptoms can include a range of physical problems evident at birth. As these children grow, they may find themselves falling farther and farther behind in school. The tragedy of Fetal Alcohol Syndrome is two-fold. First, it is entirely preventable. Second, it results in a huge loss of human potential. In his book, "The Broken Cord," Michael Dorris writes poignantly about the limitations of his adopted son Adam, an FAS victim:

> My son will forever travel through a moonless night with only the roar of the wind for company. Don't talk to him of mountains, of tropical beaches. Don't ask him to swoon at sunrises or marvel at the filter of light through leaves. He's never had time for such things, and he does not believe in them. * * * He doesn't wonder where he came from, where he's going. He doesn't ask who he is, or why. Questions are a luxury.

Well, for us, questions are a necessity. We must ask ourselves whether we cannot do better for these children.

One of the gaps existing in this area is the need for more public awareness, on the part of professionals, community members, and affected children themselves, that children in alcoholic families are at risk. They need treatment themselves, but may not be able to bring themselves to ask for help. They may not even fully understand that the problem is not them, but their parents' drinking. They may need someone to reach out to them. A greater understanding of the dangers these children face is a first step toward seeing that outreach occurs and treatment becomes more widely available.

Mr. President, in listening to the stories of recovering alcoholics and children of alcoholics, I am struck by the difficulty of pinpointing the beginning of alcoholism in individual families. Often, you cannot say "Here is the parent with an alcohol problem, and here is the child of the alcoholic." The parent also may be the child of an alcoholic, caught in a cycle perpetuated for generations. But if we cannot find the beginning of the cycle, we surely can find a way to break it.

Before we can do that, however, we must have a broader awareness of how that cycle is continued from one generation to another. We must make sure that community members understand why we must reach out to the children who are caught up in their families' alcoholism. Children of Alcoholics Week will help spread that awareness and understanding. I urge my colleagues to join us in making that possible.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD following my statement.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

To designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week".

Whereas it is estimated that there are nearly 27,000,000 children of alcoholics in the United States, of whom 6,600,000 are under the age of 18;

Whereas there is strong scientific evidence that alcoholism runs in families with children of alcoholics being 2 to 4 times more likely to develop alcoholism than children of nonalcoholics;

Whereas parental alcoholism has a significant impact on the health of children and on the health care system, with children of alcoholics being admitted to hospitals at a 24 percent greater rate, using hospital days at a 62 percent greater rate, incurring hospital charges at a 36 percent greater rate, and incurring total health care charges at a 32 percent greater rate, than other children;

Whereas parental alcohol abuse is a significant factor in a large proportion of child abuse and neglect cases;

Whereas young children of alcoholics exhibit symptoms of depression and anxiety to a greater extent than children of nonalcoholics;

Whereas young children of alcoholics often have difficulty in school and are more likely to be truant, drop out of school, repeat grades, or be referred to a school counselor or psychologist;

Whereas children with Fetal Alcohol Syndrome suffer from a range of deficits that include dysmorphic facial features, growth retardation, intellectual impairment, and disruptive behavior patterns and children with Fetal Alcohol Effect suffer from significant, although less severe, deficits;

Whereas children of alcoholics, with the interest and help of family, friends, health professionals, teachers, clergy, and others, can avoid the negative effects of familial alcoholism;

Whereas this resolution seeks to raise the level of public and professional awareness on behalf of the families and children affected by alcohol addiction;

Whereas by bringing attention to the plight of the children of alcoholics, the Congress will be offering hope and encouragement for these innocent victims and will be taking a significant step forward toward ending the generational cycle of addiction;

Whereas a national week of recognition would give individuals and local, State, and national organizations the opportunity to break the silence often surrounding familial alcoholism; and

Whereas in recognition of the Tenth Anniversary of the establishment of the National Association for Children of Alcoholics: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on February 14, 1994, and ending on February 20, 1994, is designated as "Children of Alcoholics Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, programs, and activities.●

By Mr. RIEGLE:

S.J. Res. 160. A joint resolution to designate the month of April 1994, as "National Sudden Infant Death Syndrome Awareness Month", and for other purposes; to the Committee on the Judiciary.

SIDS AWARENESS WEEK

● Mr. RIEGLE. Mr. President, I rise today to introduce legislation to designate the month of April 1994, as Sudden Infant Death Syndrome Awareness Month. Sudden Infant Death Syndrome [SIDS] is a fatal disorder which kills thousands of infants in the United States each year.

SIDS is one of the leading causes of death in the United States for infants 1-week to 1-year old, claiming the lives of over 7,000 babies in America each year. That is one of every 500 live births, or nearly one baby every hour of every day. More children die of SIDS in one year then all infants who die of cancer, heart disease, pneumonia, child abuse, AIDS, cystic fibrosis, and muscular dystrophy combined. SIDS takes the lives of infants from all areas of America, all cultures and all socio-economic backgrounds. It is a major contributor to the high rate of infant mortality in the United States.

SIDS comes as a tragic surprise. An apparently healthy infant is put to bed without any indication that is anything is wrong. Later, the infant is found dead. Nothing in the infant's medical history, postmortem examination or examination of the scene of death provides any immediate answers to why the infant died.

The National Institute of Child Health and Human Development is currently conducting a 5 year research plan to understand the causes of SIDS and to develop a cure. Researchers at the National Institute of Child Health and Human Development have identified potential risk factors involved in SIDS including exposure to tobacco smoke, sleeping in the prone position, and kidney abnormalities. It is important that the National Institute of Child Health and Human Development continue to investigate these promising leads.

Mr. President, parents, relatives, and friends of victims have also been active in combating SIDS. In Michigan and all across America, people have united to bring attention to SIDS and to mobilize community and scientific resources to find answers to the pain, loss and suffering caused by this devastating syndrome. In April, communities across America will participate in Red Nose Day USA. This name comes from Bozo the Clown, who is spokesperson for Red Nose Day to fight SIDS. To show support for research and public awareness about SIDS, people across the Nation will wear the red clown nose. The goal is to make the problem of SIDS as plain as the nose on your face.

Mr. President, I encourage my colleagues in the Senate to join me in combating SIDS by supporting the joint resolution to designate April as Sudden Infant Death Syndrome Month.●

ADDITIONAL COSPONSORS

S. 154

At the request of Mr. GRAMM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 154, a bill to insure that any peace dividend is invested in America's families and deficit reduction.

S. 377

At the request of Mr. GRAMM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 377, a bill to require a balanced Federal budget by fiscal year 2000 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1994 through 2000, and to enforce those requirements through a budget process involving the President and Congress and sequestration.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 377, supra.

S. 449

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 449, a bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated.

S. 462

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 462, a bill to prohibit the expenditure of appropriated funds on the United States International Space Station Freedom program.

S. 477

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 477, a bill to eliminate the price support program for wool and mohair, and for other purposes.

S. 517

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 517, a bill to reduce the deficit in the Federal budget for fiscal year 1994 by limiting to $2,000,000,000 the amount that may be appropriated for the Strategic Defense Initiative.

S. 519

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 519, a bill to reduce Federal budget deficits by prohibiting further funding of the Trident II ballistic missile program.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 519, supra.

S. 563

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 563, a bill to require CBO analysis of each bill or joint resolution reported in the Senate or House of Representatives to determine the impact of any Federal mandates in the bill or joint resolution.

S. 652

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 652, a bill to eliminate the price support and production adjustment programs for tobacco, and for other purposes.

S. 689

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 689, a bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes.

S. 798

At the request of Mr. BRYAN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 798, a bill to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 798, supra.

S. 916

At the request of Mr. HELMS, his name was added as a cosponsor of S. 916, a bill to amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, and for other purposes.

S. 946

At the request of Mr. BROWN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 946, a bill to reduce the legislative branch budget by 25 percent.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 946, supra.

S. 1004

At the request of Mr. BROWN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1004, a bill to limit amounts expended by certain government entities for overhead expenses.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 1004, supra.

S. 1015

At the request of Mr. DORGAN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1015, a bill to establish a 2-year moratorium on construction and leasing of space by the Federal Government, and for other purposes.

S. 1063

At the request of Mr. HATCH, the names of the Senator from Florida [Mr. GRAHAM], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1087

At the request of Mr. KOHL, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1180

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to encourage the production and use of wind energy.

S. 1247

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1247, a bill to terminate the Extremely Low Frequency Communication System of the Navy.

S. 1275

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1275, a bill to facilitate the establishment of community development financial institutions.

S. 1351

At the request of Mr. REID, the names of the Senator from Nebraska [Mr. EXON] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1351, a bill to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

S. 1361

At the request of Mr. SIMON, the name of the Senator from West Virginia [Mr. ROCKFELLER was added as a cosponsor of S. 1361, a bill to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

S. 1371

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1371, a bill to terminate the Ground-Wave Emergency Network (GWEN) program.

S. 1372

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1372, a bill to eliminate the price support and production adjustment programs for tobacco, and for other purposes.

S. 1376

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1376, a bill to repeal the Helium Act, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 1406

At the request of Mr. KERREY, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1406, a bill to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

S. 1447

At the request of Mr. BRYAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1516

At the request of Mr. COVERDELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1516, a bill to limit the use of funds for deployment of the Armed Forces of the United States outside the United States under United Nations command.

S. 1521

At the request of Mr. SHELBY, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1521, a bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of the programs of such Act for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing such Act, to provide for equitable treatment of non-Federal persons and Federal agencies under such Act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes.

S. 1548

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1548, a bill to amend the National Wool Act of 1954 to reduce the subsidies that wool and mohair producers receive for the 1994 and 1995 marketing years and to eliminate the wool and mohair programs for the 1996 and subsequent marketing years, and for other purposes.

S. 1550

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1550, a bill to make systematic and comprehensive reductions in Federal spending and eliminate wasteful spending while preserving the ability of the Federal Government to meet its responsibilities.

S. 1560

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1560, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 1604

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1604, a bill to provide for greater regulatory flexibility for small governments, lessen compliance burdens on small governments, test innovative regulatory methods, and for other purposes.

S. 1715

At the request of Mrs. HUTCHISON, the names of the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

S. 1757

At the request of Mr. METZENBAUM, his name was added as a cosponsor of S. 1757, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day".

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the names of the Senator from Nebraska [Mr. KERREY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Ohio [Mr. GLENN], the Senator from Delaware [Mr. ROTH], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

AMENDMENT NO. 1168

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 1168 proposed to S.

1607, a bill to control and prevent crime.

SENATE CONCURRENT RESOLUTION 56—RELATING TO CORRECTIONS IN THE ENROLLMENT OF S. 1766

Mr. LEAHY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the text of the bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, the Secretary of the Senate shall make the following corrections:

In section 4(b)(1)—

(1) strike "'The Secretary'" and insert "'Members'"; and

SENATE RESOLUTION 174—RELATIVE TO SALES OF RUSSIAN COMMERCIAL GRADE URANIUM

Mr. BROWN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 174

SECTION 1. CONGRESSIONAL FINDINGS.

The Senate finds that—

(1) The United States has a stake in the effort of the people of Russia to build democracy and market economies;

(2) Post-Communist reform is a long-term proposition, requiring a long view and steadiness on the part of the United States;

(3) The building of democracy and a market economy in Russia is in the interest of the United States;

(4) The building of democracy and a market economy is one of the most important foreign policy challenges of our time;

(5) In helping Russia build a market economy, the United States and its allies must work to integrate Russia into the world trading system;

(6) This means removing barriers to trade and investment for their goods and services to be sold in Western markets and for Western goods and services to be sold in Russia; and

(7) A special effort to resolve this issue should be made during the upcoming high level visits between the United States and Russia.

SEC. 2. SENSE OF THE SENATE.

Therefore, it is the sense of the Senate that—

(1) It is imperative that the dispute concerning sales of commercial grade uranium by Russia be promptly resolved:

(2) As part of its ongoing management of U.S.-Russia policy, the Clinton Administration's Steering Group on policy toward the New Independent States should immediately conduct a nuclear policy review involving high-level officials from relevant U.S.G. Departments and Agencies concerning the U.S.-Russia agreement on sales of commercial grade uranium;

(3) The review should recommend administrative methods and procedures for achieving access to U.S. markets for Russian commercial grade uranium in a manner that is consistent with U.S. trade law;

(4) Based on this review, the Policy Steering Group should propose recommendations for expeditiously resolving the dispute through government-to-government agreements in the context of the U.S.-Russia summit in January 1994;

(5) To the extent that the dispute remains unresolved, the President should provide a report to the appropriate committees of Congress within 90 days of enactment of this Act, detailing findings of the policy Steering Group review and its recommendations for expedited administrative procedures to resolve the dispute.

SEC. 3. APPROPRIATE COMMITTEES OF CONGRESS.

For purpose of this section the "appropriate committees of Congress" shall include the Senate Foreign Relations Committee, the House Foreign Affairs Committee, the Senate Finance Committee, the House Ways and Means Committee, the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce.

• Mr. BROWN. Mr. President, I am submitting a resolution expressing the sense of the Senate that the ongoing dispute concerning sales of commercial grade uranium between the United States and Russia should be resolved expeditiously.

Russia inherited from the former Soviet Union an economy in shambles. It also inherited an antidumping action initiated under United States trade law against Soviet Union commercial grade uranium. The case itself is unprecedented. Never before has the subject country dissolved during the course of an antidumping investigation. These unique circumstances forced the emerging government of the Russian Federation to respond to a highly complex investigation under adverse circumstances.

When the dust settled, it became clear that the resulting agreement did not perform as originally intended. Initially, it was designed to limit Russian sales of uranium into the United States market through a price-tied quota. The agreement, however, has effectively prohibited virtually all sales of Russian commercial uranium in the United States market, while permitting other countries to dominate it. The result for Russia has been the loss of a tremendous amount of much-needed hard currency at a critical time. Even worse, the unreasonable agreement has proven to be a continuing irritant in United States relations with Russia. For a fledgling free market economy, being completely shut-out of the world's largest marketplace is disastrous.

Worse yet, this "suspension agreement" has not reinvigorated the domestic uranium industry where employment and production continue to decrease. Instead, the agreement only protects other foreign producers who have carved up the American market amongst themselves.

No wonder the Russians have put the resolution of this dispute at the top of their list of impediments to progress in the United States-Russia relationship. Reportedly, President Yeltsin raised this issue with President Clinton during the Vancouver summit, and Prime Minister Chermyrodin raised it again with Vice President Gore during their meetings in August.

From the United States perspective, this policy just does not make sense. An inequitable trade policy may be counterproductive to the development of a democratic, free Russia. The objective of United States policy should be to give each country selling into our market equitable treatment. At present, we have a double standard: one for Russia and one for the rest of the world.

The United States would be better served by a uranium trade agreement which allows reasonable participation by Russia in the United States market while simultaneously encouraging United States uranium production, in accordance with United States trade laws.

Because of the Senate Foreign Relations Committee's concerns that many nuclear policy issues between the United States and Russia were not being given the centralized, high-level consideration they warrant, the Committee passed a resolution urging the establishment of a nuclear policy review group chaired by the National Security Advisor and composed of high-level officials from relevant agencies. The purpose of this group was to accomplish an expeditious, focused review of these nuclear issues between our two countries, an important one of which was access to United States markets for Russian commercial grade uranium.

Many concerns were expressed by the administration about the resolution, Senate Resolution 169, but after discussions with the Vice President and his agreement to look at the issue, we began to make significant progress. Today, I am submitting a more limited resolution that focuses solely on the problem of providing market access for Russian commercial grade uranium. The resolution has been agreed to by the State Department and cleared by the White House.

It is my hope that the introduction of this resolution will serve as a catalyst for action on the issue. Although the Senate will adjourn before passage of this resolution is possible, it is my hope that this will act as a gameplan for the administration to address this as expeditiously as possible. In fact, the resolution expresses the sense of the Senate that the Clinton administration's Steering Group on policy toward the NIS should immediately conduct a review of the United States-Russia agreement on sales of commercial grade uranium. Based on this review, the Policy Steering Group is urged to propose recommendations for expeditions resolution of the dispute through government-to-government agreements to conclude prior to the United States-Russia summit in January 1994.

In addition, I have received assurances that in the coming month, the State Department will be working closely with my office both as the weapons grade uranium agreement is resolved and as the dispute concerning commercial grade uranium is concluded.

I know that Senator BENNETT JOHNSTON is supportive of a resolution of the existing suspension agreement dispute. I look forward to working with him and his Energy Committee staff early in the coming year to ensure there is fast work on an effective solution.

In addition, to gain some momentum for a solution, Senator SIMPSON and I have agreed to send a joint letter to the administration urging that they hold a meeting before the first of January, 1994, for all American uranium producers. It is my hope that the meeting will occur quickly and contribute to a speedy implementation of a solution to the problem—one that provides American jobs and also permits Russia to gain access to our market. I look forward to working closely with my colleague from Wyoming on this issue.

Mr. President, an expeditious resolution of the existing restrictions on Russia's sale of commercial grade uranium to the United States is essential. I look forward to working closely with my colleagues on this issue.•

SENATE RESOLUTION 175—RELATIVE TO GUANTANAMO BAY

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Armed Services:

S. Res. 175

Whereas, the Cuban people have suffered more than three decades of dictatorial government under Fidel Castro;

Whereas, the end of the cold war has brought freedom and democracy to many formerly totalitarian states around the world;

Whereas, the United States has had a long and close association and friendship with the people of Cuba;

Now, therefore, be it hereby *Resolved*, That it is the sense of the Senate that—when freedom and democracy are achieved in Cuba, the United States of America should unilaterally terminate the 1903 lease on its facilities at Guantánamo Bay, Cuba as a gesture of goodwill toward the people of Cuba.

• Mr. MOYNIHAN. Mr. President, I submit Senate Resolution 175, concerning the future of Cuba.

In 1903, the United States signed a treaty with Cuba leasing Guantánamo Bay and giving the United States the authority to establish a permanent military base there. Originally the lease was for $2,000 per year, the current payment is $4,085. The United States still pays its rent, although I am told that Fidel Castro has not cashed the checks since 1962.

The relationship between the people of the United States and the people of Cuba has been interrupted now for almost 35 years. The situation in Cuba is not a happy one. The economy is in ruin. Cubans continue to flee the harsh oppression and human rights abuses, there.

But the world is a changed place. The Soviet Union has dissolved and democracy is replacing totalitarianism in Eastern Europe. I am convinced that it will not be long before the winds of democracy sweeping the globe will reach the shores of Cuba. The resolution states that when this occurs, it would be fitting for the United States to unilaterally terminate its lease on Guantánamo Bay, as a gesture of goodwill toward the people of Cuba.•

AMENDMENTS SUBMITTED

TECHNICAL CORRECTION ACT

WOFFORD (AND SPECTER) AMENDMENT NO. 1236

Mr. BIDEN (for Mr. WOFFORD for himself and Mr. SPECTER) proposed an amendment to the bill (S. 1769) to make a technical correction, and for other purposes; as folllows:

At the appropriate place insert the following:

INCREASE OF CDBG PUBLIC SERVICES CAP.

(A) In General.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

RIEGLE AMENDMENT NO. 1237

Mr. BIDEN (for Mr. RIEGLE) proposed an amendment to the bill S. 1769, supra; as follows:

At the appropriate place insert the following:

SECTION 23 CONVERSION PROJECTS.

(a) Section 23 Conversion.—

(1) Authorization.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) Repayment required.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

D'AMATO AMENDMENT NO. 1238

Mr. BIDEN (for Mr. D'AMATO) proposed an amendment to the bill S. 1769, supra; as follows:

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT REORGANIZATION ACT OF 1993

GLENN AMENDMENT NO. 1239

Mr. BIDEN (for Mr. GLENN) proposed an amendment to the bill (H.R. 2876) to promote and support management reorganization of the National Aeronautics and Space Administration; as follows:

In section 2(b) of the bill, insert ", subject to the availability of appropriations provided in advance for this purpose," before "may be offered".

COAST GUARD AUTHORIZATION ACT OF 1993, PASSENGER VESSEL SAFETY ACT OF 1993

HOLLINGS (AND STEVENS) AMENDMENT NO. 1240

Mr. BIDEN (for Mr. HOLLINGS for himself and Mr. STEVENS) proposed an amendment to the bill (S. 1052) to authorize appropriations for fiscal years 1994 and 1995 for the Coast Guard, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the Committee amendment in the nature of a substitute, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,612,552,200, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund, and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $417,996,500, to remain available until expended, of which $23,030,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to

navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, and defense readiness, $25,000,000, to remain available until expended, of which $4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $548,774,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation associated with the Bridge Alteration Program, $12,940,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $23,057,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—For fiscal year 1994, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,986 student years.

(2) For flight training, 114 student years.

(3) For professional training in military and civilian institutions, 338 student years.

(4) For officer acquisition, 955 student years.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. CEILING ON OFFICER CORPS.

Subsection (a) of section 42 of title 14, United States Code, is amended by striking "6,000" and inserting "6,200".

SEC. 202. VOLUNTEER SERVICES.

Section 93 of title 14, United States Code, is amended by—

(1) striking "and" at the end of paragraph (r);

(2) striking the period at the end of paragraph (s) and inserting a comma; and

(3) adding at the end of the following new subsection:

"(t) notwithstanding any other law, enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

"(1) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

"(2) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and".

SEC. 203. RESERVE RETENTION BOARDS.

Section 741 of title 14, United States Code, is amended—

(1) in subsection (a) in the first sentence by striking "and are not on active duty and not on an approved list of selectees for promotion to the next higher grade" and inserting the following' ", except those officers who—

"(1) are on extended active duty;

"(2) are on a list of selectees for promotion;

"(3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or

"(4) have reached age 59 by the date on which the retention board is convened';

(2) in subsection (a) by moving the second sentence so as to begin—

(A) immediately below paragraph (4) (as added by paragraph (1) of this section); and

(B) flush with the left margin of the material preceding paragraph (1);

(3) by designating the third sentence of subsection (a) as subsection (b) by—

(A) inserting "(b)" before "This board shall—"; and

(B) moving the third sentence so as to begin immediately below the second sentence of subsection (a); and

(4) by redesignating the last 2 subsections as subsections (c) and (d), respectively.

SEC. 204. CONTINUITY OF GRADE OF ADMIRALS AND VICE ADMIRALS.

(a) Section 46(a) of title 14, United States Code, is amended to read as follows:

"(a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in subsection 51(d) of this title.".

(b)(1) Section 47 of title 14, United States Code, is amended—

(A) in the heading by striking "; retirement";

(B) in subsection (a) by—

(i) striking "(A)" at the beginning thereof, and

(ii) striking the last sentence and inserting the following: "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title."; and

(C) by striking subsections (b), (c), and (d).

(2) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended by striking the item relating to section 47 and inserting the following:

"47. Vice Commandant: assignment.".

(c) Section 50(b) of title 14, United States Code, is amended by striking the last sentence and inserting "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title.".

(d) Section 51 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

"(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

"(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.".

SEC. 205. CHIEF OF STAFF.

(a) Section 41a(b) of title 14, United States Code, is amended by striking ", except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay" at the end of the second sentence.

(b)(1) Title 14, United States Code, is amended by inserting after section 50 the following new section:

"§ 50a. Chief of Staff.

"(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform duties as prescribed by the Commandant. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for the appointment.

"(b) The Chief of Staff shall have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended by inserting after the item relating to section 50 the following:

"50a. Chief of Staff.".

(c) Section 51 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "as Commander, Atlantic Area, or Commander, Pacific Area" and inserting "in the grade of vice admiral"; and

(2) in subsection (b) by striking "as Commander, Atlantic Area, or Commander, Pacific Area" and inserting "in the grade of vice admiral".

(d) Section 290 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "or in the position of Chief of Staff" in the second sentence;

(2) in subsection (f)(1) by striking "Chief of Staff or"; and

(3) in subsection (f)(2) by striking "Chief of Staff or".

TITLE III—MISCELLANEOUS COAST GUARD PROVISIONS

SEC. 301. NORTH ATLANTIC ROUTES.

Sections 3 and 5 of the Act of June 25, 1936 (49 Stat. 1922, 46 App. U.S.C. 738b and 738d), are repealed.

SEC. 302. COAST GUARD FAMILY HOUSING.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 670. Procurement authority for family housing

"(a) The Secretary is authorized—

"(1) to acquire, subject to the availability of appropriations sufficient to cover its full obligations, real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium-related fees; and

"(2) to dispose of by sale, lease, or otherwise, any real property or interest therein used for Coast Guard family housing units for adequate consideration.

"(b)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for at least one, but not more than 5, fiscal years.

"(2) The Secretary may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

"(B) there are realistic estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.

"(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by adding at the end the following:

"670. Procurement authority for family housing.".

SEC. 303. AIR STATION CAPE COD IMPROVEMENTS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding after section 670 (as added by section 302 of this Act) the following new section:

"§ 671. Air Station Cape Cod improvements

"The Secretary may expend funds for the repair, improvement, restoration, or replacement of those federally or nonfederally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by adding after the item relating to section 670 (as added by section 302 of this Act) the following:

"671. Air Station Cape Cod improvements.".

SEC. 304. LONG-TERM LEASE AUTHORITY FOR AIDS TO NAVIGATION.

(a) Chapter 17 of title 14, United States Code, is amended by adding after section 671 (as added by section 303 of this Act) the following new section:

"§ 672. Long-term lease authority for navigation and communications systems sites

"(a) The Secretary is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for aids to navigation (hereafter in this section referred to as 'ATON') sites, vessel traffic service (hereafter in this section referred to as 'VTS') sensor sites, or National Distress System (hereafter in this section referred to as 'NDS') high level antenna sites. These lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. These lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

"(b) The Secretary may enter into multiyear lease agreements under subsection (a) of this section whenever the Secretary finds that—

"(1) the use of such a lease agreement will promote the efficiency of the ATON, VTS, or NDS programs and will result in reduced total costs under the agreement;

"(2) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

"(3) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.".

(b) The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 671 (as added by section 303 of this Act) the following:

"672. Long-term lease authority for navigation and communications systems sites.".

SEC. 305. AUTHORITY FOR EDUCATIONAL RESEARCH GRANTS.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section.

"§ 196. Participation in Federal, State, or other educational research grants

"Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

"(1) No award may be accepted for the acquisition or construction of facilities.

"(2) No award may be accepted for the routine functions of the Academy.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of title 14, United States Code, is amended by adding at the end the following:

"196. Participation in Federal, State, or other educational research grants.".

SEC. 306. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

The Secretary of Transportation is authorized to expend out of amounts appropriated for acquisition, construction, and improvement for fiscal year 1994—

(1) $890,000 to acquire and preposition oil spill response equipment at Port Arthur, Texas, and

(2) $890,000 to acquire and preposition oil spill response equipment at Helena, Arkansas, subject to the Secretary determining that adequate storage and maintenance facilities are available.

SEC. 307. SHORE FACILITIES IMPROVEMENTS AT COAST GUARD STATION LITTLE CREEK, VIRGINIA.

(a) The Secretary of Transportation, subject to the availability of appropriations, may at Coast Guard Station Little Creek, Virginia—

(1) construct a 2-story station building with operational, administrative, and living spaces;

(2) construct a 180-foot-long pier for Coast Guard patrol boats;

(3) construct a boat ramp; and

(4) strengthen a waterfront bulkhead.

(b) Funds necessary to carry out this section are authorized to be appropriated for fiscal year 1994.

SEC. 308. OIL SPILL TRAINING SIMULATOR.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for acquisition, construction, and improvement not more than $1,250,000 to the Maritime College of the State of New York to purchase a marine oil spill management simulator.

SEC. 309. TECHNICAL CLARIFICATION.

Section 4283B of the Revised Statutes (46 App. U.S.C. 183c) is amended by striking "any court" in clause (2) and inserting in lieu thereof "court".

SEC. 310. OIL SPILL PREVENTION AND RESPONSE TECHNOLOGY TEST AND EVALUATION PROGRAM.

(a) Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall establish a program to evaluate the technological feasibility and environmental benefits of having tank vessels carry oil spill prevention and response technology. To implement the program the Secretary shall—

(1) publish in the Federal Register an invitation for submission of proposals including plans and procedures for testing; and

(2) review and evaluate technology using, to the maximum extent possible, existing evaluation and performance standards.

(b) The Secretary shall, to the maximum extent possible, incorporate in the program established in subsection (a), the results of existing studies and evaluations of oil spill prevention and response technology carried on tank vessels.

(c) Not later than 2 years after the date of the enactment of this Act, the Secretary shall evaluate the results of the program established in subsection (a) and submit a report to Congress with recommendations on the feasibility and environmental benefits of, and appropriate equipment and utilization standards for, requiring tank vessels to carry oil spill prevention and response equipment.

(d) Not later than 6 months after the date of the enactment of this Act, the Secretary shall evaluate and report to the Congress on the feasibility of using segregated ballast tanks for emergency transfer of cargo and storage of recovered oil.

SEC. 311. UNMANNED SEAGOING BARGES.

Section 3302 of title 46, United States Code, is amended by adding at the end the following:

"(m) A seagoing barge is not subject to inspection under section 3301(6) of this title if the vessel is unmanned and does not carry—

"(1) a hazardous material as cargo; or

"(2) a flammable or combustible liquid, including oil, in bulk.".

SEC. 312. PROHIBITION ON DECOMMISSIONING ICEBREAKER MACKINAW.

(a) The Secretary of Transportation may not decommission the Coast Guard cutter MACKINAW before December 31, 1994.

(b) There is authorized to be appropriated to the Secretary of Transportation $1,600,000 for fiscal year 1994, to remain available until expended, for operations and maintenance of the Coast Guard cutter MACKINAW.

SEC. 313. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1994 not more than $421,700, and for fiscal year 1995 not more than $358,300, for the lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 314. CASS RIVER.

Subtitle II of title 46, United States Code, relating only to vessel inspection and manning, shall not apply to a vessel operating on the date of enactment of this Act on the Cass River above the dam at Frankenmuth, Michigan (locally known as the Hubinger Dam) which is inspected and licensed by the State of Michigan to carry passengers.

SEC. 315. SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard, the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

SEC. 316. COOPERATIVE AGREEMENT AUTHORITY.

Section 93 of title 14, United States Code, as amended by section 202 of this Act, is further amended by adding at the end the following new subsection:

"(u) enter into cooperative agreements with other Government agencies and the National Academy of Sciences.".

SEC. 317. REGIONAL FISHERIES LAW ENFORCEMENT TRAINING CENTERS.

(a) GULF OF MEXICO.—The Coast Guard shall establish a Gulf of Mexico Regional Fisheries Law Enforcement Training Center in the Eighth Coast Guard District in Southeastern Louisiana.

(b) SOUTHEAST ATLANTIC.—The Coast Guard shall establish a Southeast Regional Fisheries Law Enforcement Training Center in the Seventh Coast Guard District in Charleston, South Carolina.

(c) PURPOSE.—The purpose of the regional fisheries law enforcement training centers shall be to increase the skills and training of Coast Guard fisheries law enforcement personnel and to ensure that such training considers and meets the unique and complex needs and demands of the fisheries of the Gulf of Mexico and the Southeast United States.

SEC. 318. NATIONAL SAFE BOATING WEEK.

(a) The Act of June 4, 1958 (36 U.S.C. 161) is amended by striking "week commencing on the first Sunday in June" and inserting "the seven day period ending on the last Friday before Memorial Day".

(b) This section is effective January 1, 1995.

SEC. 319. LOS ANGELES-LONG BEACH VESSEL TRAFFIC SERVICE.

The Coast Guard is authorized to provide personnel support for the interim vessel traffic information service in the Ports of Los Angeles and Long Beach operated on behalf of the State of California by the Marine Exchange of Los Angeles-Long Beach Harbors, Inc., a California nonprofit corporation (hereinafter referred to as "Marine Exchange"). The Coast Guard shall be reimbursed for all costs associated with providing such personnel in accordance with a reimbursable agreement between the Coast Guard and the State of California. Amounts received by the Coast Guard as reimbursements for its costs shall be credited to the appropriation for operating expenses of the Coast Guard. The United States Government assumes no liability for any act or omission of any officer, director, employee, or representative of the Marine Exchange or of the State of California, arising out of the operation of the vessel traffic information service by the Marine Exchange, and the Coast Guard shall have the same protections and limitations on such liability as are afforded to the Marine Exchange under California law.

SEC. 320. FINANCIAL RESPONSIBILITY FOR NONPERFORMANCE.

Section 3(b) of Public Law 89-777 (46 App. U.S.C. 817e(b)) is amended by striking "and such bond or other security shall be in an amount paid equal to the estimated total revenue for the particular transportation." and inserting a period.

SEC. 321. FISHING AND FISH TENDER VESSELS.

(a) In this section, "fish tender vessel", "fishing vessel", and "tank vessel" have the meanings given those terms under section 2101 of title 46, Under States Code.

(b) A fishing vessel or fish tender vessel of not more than 750 gross tons, when engaged only in the fishing industry, shall not be deemed to be a tank vessel for the purposes of any law.

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 45, United States Code, as provided in the Aleutian Trade Act of 1990 (Pub. L. 101-595).

SEC. 322. OIL SPILL RECOVERY OPERATIONS.

(a) Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by striking "a vessel used only to respond to a discharge of oil or a hazardous substance,"; and

(2) by adding a new subsection to read as follows:

"(p) On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.".

(b) Section 8301 of title 46, United States Code, is amended by adding a new subsection to read as follows:

"(e) A vessel used only to respond to a discharge of oil or a hazardous substance shall have—

"(1) two licensed mates when the vessel is engaged in an operation over 12 hours in duration;

"(2) one licensed mate when the vessel is engaged in an operation less than 12 hours in duration; and

"(3) if the vessel is more than 200 gross tons, a licensed engineer when the vessel is operating.".

SEC. 323. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (d)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

SEC. 324. CAPE COD LIGHTHOUSE PLANNING AND DESIGN STUDIES.

(a) COMPLETION OF STUDIES.—

(1) PLANNING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Interior shall complete the necessary planning studies, including selection of a relocation site, identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse (popularly known as the "Highland Light Station"), located in North Truro, Massachusetts.

(2) DESIGN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete the design studies identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse.

(b) USE OF AMOUNTS FOR STUDIES.—Of amounts appropriated under the authority of this Act for acquisition, construction, rebuilding, and improvement, the Secretary of transportation may use up to $600,000 for conducting the studies required under subsection (a).

SEC. 325. WASHINGTON STATE LIGHTHOUSES.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary may convey by any appropriate means to the Washington State Parks and Recreation Commission all right, title, and interest of the United States in and to property comprising 1 or more of the Cape Disappointment Lighthouse, North Head Lighthouse, and Point Wilson Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Cape Disappointment Lighthouse, North Head Lighthouse, or Point Wilson Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a center for public benefit for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Washington State Parks and Recreation Commission may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property; and

(F) the property shall be rehabilitated and maintained by the owner in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(4) MAINTENANCE OF CERTAIN EQUIPMENT NOT REQUIRED.—The Washington State Parks and Recreation Commission shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "Cape Disappointment Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard; and

(B) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of the maritime history;

(2) "North Head Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history;

(3) "Point Wilson Lighthouse" means the Coast Guard lighthouse located at Fort Worden State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) 2 ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history; and

(4) "Secretary" means the Secretary of Transportation.

SEC. 326. HERON NECK LIGHTHOUSE.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary of Transportation shall convey by any appropriate means to the Island Institute, Rockland, Maine, all right, title, and interest of the United States in and to property comprising the Heron Neck Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this subsection.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) USE OF PROPERTY.—The property conveyed pursuant to subsection (a) may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Revisionary interest.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Heron Neck Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a nonprofit center for educational, historic, recreational, and cultural programs open to and for the benefit of the general public;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (U.S.C. 470 et seq.).

(3) Required Conditions.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Island Institute may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or made any changes on any property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) Maintenance Obligation.—The Island Institute shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to subsection (a).

(c) Property to be Maintained in Accordance With Certain Laws.—The Island Institute shall maintain the Heron Neck Lighthouse in accordance with the Provisions of the National Historic Preservation Act of 1966 (16 U.S.C. et seq.) and other applicable laws.

(d) Definitions.—For purposes of this section, the term "Heron Neck Lighthouse" means the Coast Guard lighthouse located on Green Island, Vinalhaven, Maine, including—

(1) the attached keeper's dwelling, ancillary buildings, and associated fog signal, and boat ramp; and

(2) such land as may be necessary to enable the Island Institute to operate at that lighthouse a nonprofit center for public benefit.

SEC. 327. BURNT COAT HARBOR LIGHTHOUSE.

(a) Authority to Transfer.—

(1) In General.—The Secretary of Transportation shall convey by any appropriate means to the Town of Swan's Island, Swans Island, Maine, all right, title, and interest of the United States in and to property comprising the Burnt Coat Harbor Lighthouse.

(2) Identification of Property.—The Secretary may identify, describe, and determine property conveyed pursuant to this subsection.

(b) Terms and Conditions.—

(1) In General.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) Use of Property.—The property conveyed pursuant to subsection (a) may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Reversionary Interest.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Heron Neck Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of the State of Maine;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (U.S.C. 470 et seq.).

(4) Required Conditions.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Town of Swan's Island may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make changes on any property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) Maintenance Obligation.—The town of Swan's Island shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to subsection (a).

(c) Property to be Maintained in Accordance with Certain Laws.—The Town of Swan's Island shall maintain the Burnt Coat Harbor Lighthouse in accordance with the Provisions of the National Historic Preservation Act of 1966 (16 U.S.C. et seq.) and other applicable laws.

(d) Definitions.—For purposes of this section, the term "Burnt Coat Harbor Lighthouse" means the Coast Guard lighthouse located on Swans Island, Maine, including the keeper's dwelling, oil house, bell tower and such lands as may be necessary to enable the Swan's Island Educational Society to operate at the lighthouse a nonprofit center for public benefit.

TITLE IV—EMPLOYMENT AND DISCHARGE

SEC. 401. SHIPPING ARTICLES AGREEMENTS.

Section 10302 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment."; and

(2) by adding at the end the following new subsections:

"(c) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator, and by each seaman employed.

"(d) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.".

SEC. 402. FORM OF AGREEMENTS.

Section 10304 of title 46, United States Code, is amended by striking "Shipping commissioner's signature or initials" from the form.

SEC. 403. MANNER OF SIGNING AGREEMENTS.

Section 10305 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by striking "a shipping commissioner" and inserting in lieu thereof "the master or individual in charge";

(2) by striking "(a)"; and

(2) by striking subsections (b) and (c).

SEC. 404. EXHIBITING MERCHANT MARINERS' DOCUMENTS.

Section 10306 of title 46, United States Code, is amended by striking "shipping commissioner" and inserting in lieu thereof "master or individual in charge".

SEC. 405. REPEAL OF PENALTY FOR FAILURE TO POST AGREEMENT.

Section 10307 of title 46, United States Code, is amended by striking the last sentence.

SEC. 406. REPEAL OF PENALTY RELATING TO ENGAGING SEAMEN OUTSIDE UNITED STATES.

Section 10308 of title 46, United States Code, is amended by striking "(a)" and by striking subsection (b).

SEC. 407. REPEAL OF PENALTY RELATING TO ENGAGING REPLACEMENT SEAMEN; APPLICATION OF REQUIREMENTS.

Section 10309 of title 46, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 408. ACCOUNTING OF WAGES AND DEDUCTIONS AT PAYOFF OR DISCHARGE.

Section 10310 of title 46, United States Code, is amended by striking "or a shipping commissioner" in the first sentence and by striking the last sentence.

SEC. 409. CERTIFICATES OF DISCHARGE.

Section 10311 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "shipping commissioner" and inserting in lieu thereof "master or individual in charge";

(2) in subsection (b), by striking the last sentence and inserting in lieu thereof "The certificate shall be signed by the master and the seaman.";

(3) in subsection (d)(1), by striking "Secretary" and inserting in lieu thereof "owner, charterer, managing operator, master, or individual in charge"; and

(4) in subsection (d)(2), by striking "at a cost prescribed by regulation" and inserting in lieu thereof "at the request of the seaman".

SEC. 410. SETTLEMENTS ON DISCHARGE.

Section 10312 of title 46, United States Code, is amended to read as follows:

"§ 10312. Settlements on discharge

"When discharge and settlement are completed, the master, individual in charge, or owner and each seaman shall sign the agreement required by section 10302 of this title.".

SEC. 411. RECORDS OF SEAMEN.

Section 10320 of title 46, United States Code, is amended to read as follows:

"§ 10320. Records of seamen

"The Secretary shall prescribe regulations requiring vessel owners to maintain records of seamen on matters of engagement, discharge, and service. A vessel owner shall make these records available to the seamen and the Coast Guard on request.".

SEC. 412. GENERAL PENALTY.

Section 10321 of title 46, United States Code, is amended to read as follows:

"10321. General penalty

"(a) A person violating any provision of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.

"(b) The vessel is liable in rem for any penalty assessed under this section.".

SEC. 413. SHIPPING ARTICLES AGREEMENTS.

Section 10502 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment.".

(2) by adding at the end the following new subsections:

"(d) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator, and by each seaman employed.

"(e) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.

"(f) The Secretary shall prescribe regulations requiring shipping companies to maintain records of seamen on matters of engagement, discharge, and service. The shipping companies shall make these records available to the seaman and the Coast Guard on request.".

SEC. 414. ADVANCES.

Section 10505 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by striking "$100" and inserting in lieu thereof "$5,000"; and

(2) in subsection (b), by striking "$500" and inserting in lieu thereof "$5,000".

SEC. 415. DUTIES OF SHIPPING COMMISSIONERS.

(a) REPEAL.—Section 10507 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 105 of title 46, United States Code, is amended by striking the item relating to section 10507.

SEC. 416. GENERAL PENALTIES.

Section 10508(b) is amended by striking "$20" and inserting in lieu thereof "not more than $5,000".

SEC. 417. GENERAL REPORT REQUIREMENT.

Section 10103(a) of title 46, United States Code, is amended—

(1) by striking "without a shipping commissioner being present"; and

(2) by inserting "to the vessel owner" immediately after "shall submit reports".

SEC. 418. PROCEDURES OF MASTERS REGARDING SEAMAN'S EFFECTS.

Section 10703 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "by regulations prescribed by the Secretary" and inserting in lieu thereof "in section 10706 of this title";

(2) in subsection (b), by striking "as prescribed by regulations" and inserting in lieu thereof "to a district court of the United States"; and

(3) in subsection (c), by striking "subsection (a) of this section" and inserting in lieu thereof "section 10706 of this title".

SEC. 419. SEAMEN DYING IN THE UNITED STATES.

Section 10706 of title 46, United States Code, is amended by striking at the end "as provided by regulations prescribed by the Secretary." and inserting in lieu thereof "to a district court of the United States within one week of the seaman's death. If the seaman's death occurs at sea, such money, property, or wages shall be delivered to a district court or a consular officer within one week of the vessel's arrival at the first port call after the seaman's death.".

SEC. 420. DELIVERY TO DISTRICT COURT.

(a) REPEAL.—Section 10707 of title 46, United States Code, is repealed.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The analysis at the beginning of chapter 107 of title 46, United States Code, is amended by striking the item relating to section 10707.

SEC. 421. DISPOSAL OF FORFEITURES.

Section 11505 of title 46, United States Code, is amended—

(1) in subsection (a), by striking the last sentence and inserting in lieu thereof "The balance shall be transferred to the appropriate district court of the United States when the voyage is completed."; and

(2) in subsection (b), by striking the first sentence.

SEC. 422. CONFORMING AMENDMENTS.

(a) DUTIES OF MASTERS.—Section 10702(b) of title 46, United States Code, is amended by striking "a shipping commissioner" and inserting in lieu thereof "the consular officer or court clerk".

(b) COMPLAINTS OF UNFITNESS.—Section 10902(b) of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Secretary," immediately after "The complaint may be made to the";

(B) by striking "Coast Guard shipping commissioner,"; and

(2) in paragraphs (2) and (3), by striking "The officer, commissioner," each place it appears and inserting in lieu thereof "The Secretary, officer,".

(c) SHIPPING COMMISSIONER DESIGNATIONS AND DUTIES.—(1) Section 10102 of title 46, United States Code, is repealed.

(2) The analysis at the beginning of chapter 101 is amended by striking the item relating to section 10102.

TITLE V—PASSENGER VESSEL SAFETY

SEC. 501. SHORT TITLE.

This title may be cited as the "Passenger Vessel Safety Act of 1993".

SEC. 501. PASSENGER.

Section 2101(21) of title 46, United States Code, is amended to read as follows:

"(21) 'passenger'—

"(A) means an individual carried on the vessel except—

"(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

"(ii) the master; or

"(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services.

"(B) on an offshore supply vessel, means an individual carried on vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.

"(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) a managing operator;

"(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(v) an observer or sea sampler on board the vessel pursuant to a requirement of State or Federal law.

"(D) on a sailing school vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

"(iv) a sailing school instructor or sailing school student.".

SEC. 503. PASSENGER VESSEL.

Section 2101(22) of title 46, United States Code, is amended to read as follows:

"(22) 'passenger vessel' means a vessel of at least 100 gross tons—

"(A) carrying more than 12 passengers, including at least one passenger for hire;

"(B) that is chartered and carrying more than 12 passengers; or

"(C) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 504. SMALL PASSENGER VESSEL.

Section 2101(35) of title 46, United States Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons—

"(A) carrying more than 6 passengers, including at least one passenger for hire;

"(B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

"(C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or

"(D) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 505. UNINSPECTED PASSENGER VESSEL.

Section 2101(42) of title 46, United States Code, is amended to read as follows:

"(42) 'uninspected passenger vessel' means an uninspected vessel—

"(A) of at least 100 gross tons—

"(i) carrying not more than 12 passengers, including at least one passenger for hire; or

"(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

"(B) of less than 100 gross tons—

"(i) carrying not more than 6 passengers, including at least one passenger for hire; or

"(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.".

SEC. 506. PASSENGER FOR HIRE.

Section 2101 of title 46, United States Code, is amended by inserting between paragraphs (21) and (22) a new paragraph (21a) to read as follows:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.".

SEC. 507. CONSIDERATION.

Section 2101 of title 46, United States Code, is amended by inserting between paragraph (5) and (6) a new paragraph (5a) to read as follows:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.'.

SEC. 508. OFFSHORE SUPPLY VESSEL.

Section 2101(19) of title 46, United States Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking everything after "resources" to the period at the end.

SEC. 509. SAILING SCHOOL VESSEL.

Section 2101(30) of title 46, United States Code, is amended in subparagraph (B) by striking "at least 6" and substituting "more than 6".

SEC. 510. SUBMERSIBLE VESSEL.

Section 2101 of title 46, United States Code, is amended by inserting between paragraph (37) and (38) a new paragraph (37a) to read as follows:

"37a) 'submersible vessel' means a vessel that is capable of operating below the surface of the water.".

SEC. 511. GENERAL PROVISION.

(a) Section 2113 of title 46, United States Code, is amended to read as follows:

§2113. Authority to exempt certain vessels

"If the Secretary decides that the applicant of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

"(1) for a vessel, issue a special permit specifying the conditions of operation and equipment;

"(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify;

"(3) establish different operating and equipment requirements for vessels defined in section 2101(42)(A) of this title;

"(4) establish different structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons carrying not more than 150 passengers on domestic voyages if the owner of the vessel—

"(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

"(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act; and

"(5) establish different structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons, carrying not more than 150 passengers on domestic voyages, if the owner of the vessel—

"(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

"(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act.".

(b) Section 4105 of title 46, United States Code, is amended—

(1) by inserting "(a)" before the text; and

(2) by adding a new subsection (b) to read as follows:

"(b) Within twenty-four months of the date of enactment of this subsection, the Secretary shall, by regulation, require certain additional equipment which may include liferafts or other lifesaving equipment, construction, standards, or specify additional operating standards for those uninspected passenger vessels defined in section 2101(42)(A) of this title.".

SEC. 512. EQUIPMENT AND STANDARDS FOR CERTAIN PASSENGER VESSELS.

(a) Section 3306 of title 46, United States Code, is amended by adding at the end of the following new subsections:

"(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less that 300 gross tons carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

"(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title."

(b) The Secretary of Transportation shall, within twenty-four months of the date of enactment of this Act, prescribe regulations establishing the structural fire protection, manning, operating, and equipment requirements for vessals which meet the requirements of subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act.

(c) Before the Secretary of Transportation prescribes regulations under subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act, the Secretary may prescribe the route, service, manning, and equipment for those vessels based on existing passenger vessel and small passenger vessel regulations.

SEC. 513. APPLICABILITY DATE FOR REVISED REGULATIONS.

(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels (as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act) shall not, before the date that is 6 months after the date of enactment of this Act, apply to such vessels when chartered with no crew provided.

(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating shall extend for up to 30 additional months or until issuance of a certificate of inspection, whichever occurs first, the period of inapplicability specified in subsection (a) if the owner of the vessel concerned carries out the provisions of subsection (c) to the satisfaction of the Secretary.

(c) CONDITIONS FOR EXTENSION.—To receive an extension authorized by subsection (b), the owner of the vessel shall—

(1) make application for inspection with the Coast Guard within 6 months after the date of enactment of this Act;

(2) make the vessel available for examination by the Coast Guard prior to the carriage of passengers;

(3)(A) correct especially any hazardous conditions involving the vessel's structure, electrical system, and machinery installation, such as (i) grossly inadequate, missing, unsound, or severely deteriorated frames or major structural members; (ii) wiring systems or electrical appliances without proper grounding or overcurrent protection; and (iii) significant fuel or exhaust system leaks;

(B) equip the vessel with lifesaving and fire fighting equipment, or the portable equivalent, required for the route and number of persons carried; and

(C) verify through stability tests, calculations, or other practical means (which may include a history of safe operations) that the vessel's stability is satisfactory for the size, route, and number of passengers; and

(4) develop a work plan approved by the Coast Guard to complete in a good faith effort all requirements necessary for issuance of a certificate of inspection as soon as practicable.

(d) OPERATION OF VESSEL DURING EXTENSION PERIOD.—The owner of a vessel receiving an extension under this section shall operate the vessel under the conditions of route, service, number of passengers, manning, and equipment as may be prescribed by the Coast Guard for the extension period.

TITLE VI—DOCUMENTATION OF VESSELS

SEC. 601. DOCUMENTATION OF VESSELS

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the following vessels:

(1) ABORIGINAL (United States official number 942118).

(2) AFTERSAIL (United States official number 689427).

(3) ALEXANDRIA (United States official number 586490).

(4) AMANDA (Michigan registration number MC-1125-FR).

(5) ARBITRAGE II (United States official number 962861).

(6) ARIEL (United States official number 954762).

(7) BRANDARIS (former United States official number 263174).

(8) COMPASS ROSE (United States official number 695865).

(9) DIXIE (United States official number 513159).

(10) ELISSA (United States official number 697285).

(11) EMERALD PRINCESS (former United States official number 530095).

(12) ENTERPRISE (United States official number 692956).

(13) EUROPA STAR (former United States official number 588270).

(14) EUROPA SUN (former United States official number 596656).

(15) GAZELA OF PHILADELPHIA (Pennsylvania registration number PA-4339-AF).

(16) GUSTO (United States official number 624951).

(17) GRAY (Connecticut registration number CT-5944-AJ).

(18) GRIZZLY PROCESSOR (Canadian official number 369183).

(19) GYPSY COWBOY (United States official number 550771).

(20) IMPATIENT LADY (United States official number 553952).

(21) INTREPID DRAGON II (United States official number 548109).

(22) ISLAND GIRL (United States official number 674840).

(23) JULIET (Michigan registration number MC-1669-LM).

(24) KALENA (Hawaii registration number HA-1923-E).

(25) LAURISA (United States official number 924052).

(26) LIBBY ROSE (United States official number 236976).

(27) LISERON (United States official number 971339).

(28) MARINE STAR (United States official number 248329).

(29) MARINER (United States official number 285452).

(30) MARY B (Kentucky registration number KY-0098-HX).

(31) MOONSHINE (United States official number 974226).

(32) MYSTIQUE (United States official number 921194).

(33) NORTHERN LIGHT (United States official number 237510).

(34) PAI NUI (Hawaii registration number HA-6949-D).

(35) PANDACEA (United States official number 665892).

(36) PELICAN (United States official number 234959).

(37) PLAY PRETTY (United States official number 975346).

(38) PRINCE OF TIDES II (United States official number 903858).

(39) RANGOON RUBY (Hawaii registration number HA-5635-B).

(40) RBOAT (United States official number 563955).

(41) SABLE (Massachusetts registration number MS-1841-AM).

(42) SERENA (United States official number 965317).

(43) SHILOH (United States official number 902675).

(44) SIDEWINDER (United States official number 991719).

(45) SWELL DANCER (United States official number 622046).

(46) TESSA (United States official number 675130).

(47) TOP DUCK (United States official number 990973).

(48) VIKING (United States official number 286080).

(49) WHIT CON TIKI (United States official number 663823).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (466 App. U.S.C. 883) or any other law restricting a foreign-flag vessel from operating in the coastwise trade, the foreign-flag vessel H851 may engage in the coastwise trade to transport an offshore drilling platform jacket from a place near Aransas Pass, Texas, to a site on the Outer Continental Shelf known as Viosca Knoll 989.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise and Great Lakes endorsement for the vessels LADY CHARL II (United States official number 541399) and LINETTE (United States official number 654318).

(d) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V TWIN DRILL (Panama official number 8536-PEXT-2) if—

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than three times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995;

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract; and

(5) the additional vessel is documented under chapter 121 of title 46, United States Code immediately after it is constructed.

(e) Notwithstanding sections 12106 and 12108 of title 46, United States Code, the Act of June 19, 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation with a coastwise and fishery endorsement for the vessel REEL CLASS (Hawaii registration number HA-6566-E).

(f) Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a fishery endorsement for the vessel DA WARRIOR (United States official number 962231).

(g) Notwithstanding any other law or any agreement with the United States Government, the vessels UST ATLANTIC (United States official number 601437) and UST PACIFIC (United States official number 613131) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(h) Notwithstanding any other law, the vessel AMY CHOUEST (United States official number 995631) is deemed to be less than 500 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of the maritime laws of the United States.

(i) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) PRINCESS XANADU OF MONACO (United States official number 660847).

(2) INSPIRATION (United States official number 277099).

(3) VENUS (United States official number 547419).

(4) LATER (United States official number 615732).

(5) MATCH MAKER (United States official number 908725).

TITLE VII—MISCELLANEOUS FISHERY PROVISIONS

SEC. 701. GOVERNING INTERNATIONAL FISHERIES AGREEMENT.

The Agreement between the Government of the United States of America and the Government of the Russian Federation on Mutual Fisheries Relations which was entered into on May 31, 1988, and which expired by its terms on October 28, 1993, may be brought into force again for the United States through an exchange of notes between the United States of America and the Russian Federation and may remain in force and effect on the part of the United States until May 1, 1994, and may be amended or extended by a subsequent agreement to which section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823) applies.

SEC. 702. SHRIMP TRAWL FISHERY.

Section 304(g)(6)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)(6)(B)) is amended by striking "January 1, 1994" and inserting "April 1, 1994".

SEC. 703. INTERNATIONAL FISHERY CONSERVATION IN THE CENTRAL BERING SEA.

It is the sense of the Congress that—

(1) the United States should take appropriate measures to conserve the resources of the Doughnut Hole, a small enclave of international waters in the central Bering Sea, encircled by the Exclusive Economic Zones of the United States and the Russian Federation;

(2) the United States should continue its pursuit of an international agreement, consistent with its rights as a coastal state, to ensure proper management for future commercial viability of these natural resources;

(3) the United States, working closely with the Russian Federation should, in accordance with international law and through multilateral consultations or through other means, promote effective international programs for the implementation and enforcement of regulations of the fisheries by those nations that fish in the Doughnut Hole;

(4) the United States nonetheless should be mindful of its management responsibility in this regard and of its rights in accordance with international law to fully utilize the stock within its own exclusive economic zone;

(5) the United States should accept as an urgent duty the need to conserve for future generations the Aleutian Basin pollock stock and should carry out that duty by taking all necessary measures, in accordance with international law; and

(6) the United States should foster further multilateral cooperation leading to international consensus on management of the Doughnut Hole resources through the fullest use of diplomatic channels and appropriate domestic and international law and should explore all other available options and means for conservation and management of these living marine resources.

SEC. 704. NOAA FACILITIES IN KODIAK.

(a) Notwithstanding any other provision of law, the Secretary of Commerce may enter into an agreement with the University of Alaska under which the University may contract the engineering and design specifications of a facility on * * * Island in Kodiak, Alaska, that meets the long-term space needed by National Oceanic and Atmospheric Administration personnel currently in Alaska.

(b) The Secretary may transfer available funds to the University of Alaska to pay for such engineering and design if additional funds in an equal or greater amount are made available from non-federal sources for such work.

TITLE VIII—ATLANTIC COASTAL FISHERIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Atlantic Coastal Fisheries Cooperative Management Act".

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

(2) Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

(5) The failure by one or more Atlantic States to fully implement a coastal fishery management plan can affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

(6) It is in the national interest to provide for more effective Atlantic State fishery resource conservation and management.

(b) PURPOSE.—The purpose of this title is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources.

SEC. 803. DEFINITIONS.

In this title, the following definitions apply:

(1) The term "coastal fishery management plan" means a plan for managing a coastal fishery resource, or an amendment to such plan, prepared and adopted by the Commission, that—

(A) contains information regarding the status of the resource and related fisheries;

(B) specifies conservation and management actions to be taken by the States; and

(C) recommends actions to be taken by the Secretary in the exclusive economic zone to conserve and manage the fishery.

(2) The term "coastal fishery resource" means any fishery, any species of fish, or any stock of fish that moves among, or is broadly distributed across, waters under the jurisdiction of two or more States or waters under the jurisdiction of one or more States and the exclusive economic zone.

(3) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(4) The term "conservation" means the restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.

(5) The term "Councils" means Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852).

(6) The term "exclusive economic zone" means the exclusive economic zone of the United States established by Proclamation Number 5030, dated March 10, 1983. For the purposes of this title, the inner boundary of that zone is a line coterminus with the seaward boundary of each of the coastal States, and the outer boundary of that zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(7) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds.

(8) The term "fishery" means—

(A) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(B) any fishing for such stocks.

(9) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity that can be reasonably expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity or the catching, taking, or harvesting of fish in an aquaculture operation.

(10) The term "implement and enforce" means to enact and implement laws or regulations as required to conform with the provisions of a coastal fishery management plan and to assure compliance with such laws or regulations by persons participating in a fishery that is subject to such plan.

(11) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "State" means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission.

SEC. 804. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERY MANAGEMENT.

(a) FEDERAL SUPPORT FOR STATE COASTAL FISHERIES PROGRAMS.—The Secretary in cooperation with the Secretary of the Interior shall develop and implement a program to support the interstate fishery management efforts of the Commission. The program shall include activities to support and enhance State cooperation in collection, management, and analysis of fishery data; law enforcement; habitat conservation; fishery research, including biological and socioeconomic research; and fishery management planning.

(b) FEDERAL REGULATION IN EXCLUSIVE ECONOMIC ZONE.—In the absence of an approved and implemented fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are—

(A) necessary to support the effective implementation of a coastal fishery management plan; and

(B) consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851).

The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2) The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 805. STATE IMPLEMENTATION OF COASTAL FISHERY MANAGEMENT PLANS.

(a) COASTAL FISHERY MANAGEMENT PLANS.—(1) The Commission shall prepare and adopt coastal fishery management plans to provide for the conservation of coastal fishery resources. In preparing a coastal fishery management plan for a fishery that is located in both State waters and the exclusive economic zone, the Commission shall consult with appropriate Councils to determine areas where such coastal fishery management plan may complement Council fishery management plans. The coastal fishery management plan shall specify the requirements necessary for States to be in compliance with the plan. Upon adoption of a coastal fishery management plan, the Commission shall identify each State that is required to implement and enforce that plan.

(2) Within 1 year after the date of enactment of this Act, the Commission shall establish standards and procedures to govern the preparation of coastal fishery management plans under this title, including standards and procedures to ensure that—

(A) such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available; and

(B) the Commission provides adequate opportunity for public participation in the plan preparation process, including at least four public hearings and procedures for the submission of written comments to the Commission.

(b) State Implementation and Enforcement.—(1) Each State identified under subsection (a) with respect to a coastal fishery management plan shall implement and enforce the measures of such plan within the time frame established in the plan.

(2) Within 90 days after the date of enactment of this Act, the Commission shall establish a schedule of time frames within which States shall implement and enforce the measures of coastal fishery management plans in existence before such date of enactment. No such time frame shall exceed 12 months after the date on which the schedule is adopted.

(c) Commission Monitoring of State Implementation and Enforcement.—The Commission shall, at least annually, review each State's implementation and enforcement of coastal fishery management plans for the purpose of determining whether such State is effectively implementing and enforcing each such plan. Upon completion of such reviews, the Commission shall report the results of the reviews to the Secretaries.

SEC. 806. STATE NONCOMPLIANCE WITH COASTAL FISHERY MANAGEMENT PLANS.

(a) Noncompliance Determination.—The Commission shall determine that a State is not in compliance with the provisions of a coastal fishery management plan if it finds that the State has not implemented and enforced such plan within the time frames established under the plan or under section 805.

(b) Notification.—Upon making any determination under subsection (a), the Commission shall within 10 working days notify the Secretaries of such determination. Such notification shall include the reasons for making the determination and an explicit list of actions that the affected State must take to comply with the coastal fishery management plan. The Commission shall provide a copy of the notification to the affected State.

(c) Withdrawal of Noncompliance Determination.—After making a determination under subsection (a), the Commission shall continue to monitor State implementation and enforcement. Upon finding that a State has complied with the actions required under subsection (b), the Commission shall immediately withdraw its determination of noncompliance. The Commission shall promptly notify the Secretaries of such withdrawal.

SEC. 807. SECRETARIAL ACTION.

(a) Secretarial Review of Commission Determination of Noncompliance.—Within 30 days after receiving a notification from the Commission under section 806(b) and after review of the Commission's determination of noncompliance, the Secretary shall make a finding on—

(1) whether the State in question has failed to carry out its responsibility under section 805; and

(2) if so, whether the measures that the State has failed to implement and enforce are necessary for the conservation of the fishery in question.

(b) Consideration of Comments.—In making a finding under subsection (a), the Secretary shall—

(A) give careful consideration to the comments of the State that the Commission has determined under section 806(a) is not in compliance with a coastal fishery management plan, and provide such State, upon request, with the opportunity to meet with and present its comments directly to the Secretary; and

(B) solicit and consider the comments of the Commission and the appropriate Councils.

(c) Moratorium.—(1) Upon making a finding under subsection (a) that a State has failed to carry out its responsibility under section 805 and that the measures it failed to implement and enforce are necessary for conservation, the Secretary shall declare a moratorium on fishing in the fishery in question within the waters of the noncomplying State. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium.

(2) If after a moratorium is declared under paragraph (1) the Secretary is notified by the Commission that the Commission is withdrawing under section 806(c) the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If so, the moratorium shall be terminated.

(d) Implementing Regulations.—The Secretary may issue regulations necessary to implement this section. Such regulations—

(1) may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(2) shall allow for retention of fish that are subject to a moratorium declared under this section and unavoidably taken as incidental catch in fisheries directed toward menhaden if—

(A) discarding the retained fish is impracticable;

(B) the retained fish do not constitute a significant portion of the catch of the vessel; and

(C) retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(e) Prohibited Acts During Moratorium.—During the time in which a moratorium under this section is in effect, it is unlawful for any person to—

(1) violate the terms of the moratorium or of any implementing regulation issued under subsection (d);

(2) engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d);

(4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d);

(5) refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this title;

(7) resist a lawful arrest for any act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this title; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(f) Civil and Criminal Penalties.—(1) Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

(g) Civil Forfeitures.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (e), shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

(h) Enforcement.—A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

SEC 808. FINANCIAL ASSISTANCE.

The Secretary and the Secretary of the Interior may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this title, including—

(1) the preparation, implementation, and enforcement of coastal fishery management plans; and

(2) State activities that are specifically required within such plans.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

To carry out the provisions of this title, there are authorized to be appropriated $3,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.

SEC. 810. ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is repealed.

SEC. 811. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) is amended by inserting ", and $600,000 for each of the fiscal years 1994 and 1995," immediately after "and 1993".

TITLE IX—LIBERTY MEMORIAL

SEC. 901. SHORT TITLE.

This title may be cited as the "Liberty Memorial Act of 1993".

SEC. 902. CONVEYANCE VESSELS.

(a) Authority to Convey.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in two vessels described in subsection (b) to any nonprofit organization that operates and maintains a Liberty ship or Victory ship as a memorial to merchant mariners.

(b) VESSELS DESCRIBED.—Vessels that may be conveyed under subsection (a) are vessels that—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to be scrapped.

(c) CONDITIONS OF CONVEYANCE.—As a condition of conveying any vessel to any organization under subsection (a), the Secretary of Transportation shall require that before the date of the conveyance, the organization shall enter into an agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purpose of refurbishing and making seaworthy a Liberty ship or Victory ship that the organization maintains as a memorial to merchant mariners, to enable the vessel to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) that are not used in accordance with paragraph (2).

(d) DEPOSIT OF AMOUNTS RETURNED.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund established under the Act of June 2, 1951 (46 U.S.C. 1241a).

(e) DELIVERY OF VESSELS.—The Secretary of Transportation shall deliver each vessel conveyed under this section—

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary of Transportation;

(2) in its condition on that date; and

(3) without cost to the Government.

(f) EXPIRATION OF AUTHORITY TO CONVEY.—The authority of the Secretary of Transportation under this section to convey vessels shall expire on the date that is 2 years after the date of enactment of this Act.

GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

DODD (AND GRAMM) AMENDMENT NO. 1241

Mr. BIDEN (for Mr. DODD, for himself, and Mr. GRAMM) proposed an amendment to the bill (S. 422), a bill to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the government securities market, in order to protect investors and facilitate government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of government securities; as follows:

In lieu of the amendment of the House, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 101. Findings.
Sec. 102. Extension of government securities rulemaking authority.
Sec. 103. Transaction records.
Sec. 104. Large position reporting.
Sec. 105. Authority of the Commission to regulate transactions in exempted securities.
Sec. 106. Sales practice rulemaking authority.
Sec. 107. Market information.
Sec. 108. Disclosure by government securities brokers and government securities dealers whose accounts are not insured by the Securities Investor Protection Corporation.
Sec. 109. Technical amendments.
Sec. 110. Offerings of certain government securities.
Sec. 111. Rule of construction.
Sec. 112. Study of regulatory system for government securities.

TITLE II—REPORTS ON PUBLIC DEBT

Sec. 201. Annual report on public debt.
Sec. 202. Treasury auction reforms.
Sec. 203. Notice on Treasury modifications to auction process.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

Sec. 301. Short title.
Sec. 302. Revision of proxy solicitation rules with respect to limited partnership rollup transactions.
Sec. 303. Rules of fair practice in rollup transactions.
Sec. 304. Effective date; effect on existing authority.

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 101. FINDINGS.

The Congress finds that—

(1) the liquid and efficient operation of the government securities market is essential to facilitate government borrowing at the lowest possible cost to taxpayers;

(2) the fair and honest treatment of investors will strengthen the integrity and liquidity of the government securities market;

(3) rules promulgated by the Secretary of the Treasury pursuant to the Government Securities Act of 1986 have worked well to protect investors from unregulated dealers and maintain the efficiency of the government securities market; and

(4) extending the authority of the Secretary and providing new authority will ensure the continued strength of the government securities market.

SEC. 102. EXTENSION OF GOVERNMENT SECURITIES RULEMAKING AUTHORITY.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by striking subsection (g).

SEC. 103. TRANSACTION RECORDS.

(a) AMENDMENT.—Section 15C(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(d)) is amended by adding at the end the following new paragraph:

"(3) GOVERNMENT SECURITIES TRADE RECONSTRUCTION.—

"(A) FURNISHING RECORDS.—Every government securities broker and government securities dealer shall furnish to the Commission on request such records of government securities transactions, including records of the date and time of execution of trades, as the Commission may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the Commission for enforcement or surveillance purposes. In requiring information pursuant to this paragraph, the Commission shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission, to the Federal Reserve Bank of New York, or to an appropriate regulatory agency or self-regulatory organization with responsibility for examining the government securities broker or government securities dealer. The Commission may require that such information be furnished in machine readable form notwithstanding any limitation in subparagraph (B). In utilizing its authority to require information in machine readable form, the Commission shall minimize the burden such requirement may place on small government securities brokers and dealers.

"(B) LIMITATION; CONSTRUCTION.—The Commission shall not utilize its authority under this paragraph to develop regular reporting requirements, except that the Commission may require information to be furnished under this paragraph as frequently as necessary for particular inquiries or investigations for enforcement or surveillance purposes. This paragraph shall not be construed as requiring, or as authorizing the Commission to require, any government securities broker or government securities dealer to obtain or maintain any information for purposes of this paragraph which is not otherwise maintained by such broker or dealer in accordance with any other provision of law or usual and customary business practice. The Commission shall, where feasible, avoid requiring any information to be furnished under this paragraph that the Commission may obtain from the Federal Reserve Bank of New York.

"(C) PROCEDURES FOR REQUIRING INFORMATION.—At the time the Commission requests any information pursuant to subparagraph (A) with respect to any government securities broker or government securities dealer for which the Commission is not the appropriate regulatory agency, the Commission shall notify the appropriate regulatory agency for such government securities broker or government securities dealer and, upon request, furnish to the appropriate regulatory agency any information supplied to the Commission.

"(D) CONSULTATION.—Within 90 days after the date of enactment of this paragraph, and annually thereafter, or upon the request of any other appropriate regulatory agency, the Commission shall consult with the other appropriate regulatory agencies to determine the availability of records that may be required to be furnished under this paragraph and, for those records available directly from the other appropriate regulatory agencies, to develop a procedure for furnishing such records expeditiously upon the Commission's request.

"(E) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this paragraph shall be construed so as to permit the Commission to require any government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any appropriate regulatory agency other than the Commission or any supervisory recommendations or analysis contained in any such examination report.

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission and the appropriate regulatory agencies shall not be compelled to disclose any information required or obtained under this paragraph. Nothing in this paragraph shall authorize the Commission or any appropriate regulatory agency to withhold information from Congress, or prevent the Commission or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Commission, or the appropriate regulatory agency. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.”.

(b) Conforming Amendments.—(1) Section 15C(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(4)) is amended by inserting “, other than subsection (d)(3),” after “subsection (a), (b), or (d) of this section”.

(2) Section 15C(f)(2) of such Act is amended—

(A) in the first sentence, by inserting “, other than subsection (d)(3)”, after “threatened violation of the provisions of this section”; and

(B) in the second sentence, by inserting “(except subsection (d)(3))” after “other than this section”.

SEC. 104. LARGE POSITION REPORTING.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

“(f) Large Position Reporting.—

“(1) Reporting requirements.—The Secretary may adopt rules to require specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file such reports regarding such positions as the Secretary determines to be necessary and appropriate for the purpose of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and for the purpose of otherwise assisting the Commission in the enforcement of this title, taking into account any impact of such rules on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt. Unless otherwise specified by the Secretary, reports required under this subsection shall be filed with the Federal Reserve Bank of New York, acting as agent for the Secretary. Such reports shall, on a timely basis, be provided directly to the Commission by the person with whom they are filed.

“(2) Recordkeeping requirements.—Rules under this subsection may require persons holding, maintaining, or controlling large positions in Treasury securities to make and keep for prescribed periods such records as the Secretary determines are necessary or appropriate to ensure that such persons can comply with reporting requirements under this subsection.

“(3) Aggregation rules.—Rules under this subsection—

“(A) may prescribe the manner in which positions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control; and

“(B) may define which persons (individually or as a group) hold, maintain, or control large positions.

“(4) Definitional authority; determination of reporting threshold.—

“(A) In prescribing rules under this subsection, the Secretary may, consistent with the purpose of this subsection, define terms used in this subsection that are not otherwise defined in section 3 of this title.

“(B) Rules under this subsection shall specify—

“(i) the minimum size of positions subject to reporting under this subsection, which shall be no less than the size that provides the potential for manipulation or control of the supply or price, or the cost of financing arrangements, of an issue or the portion thereof that is available for trading;

“(ii) the types of positions (which may include financing arrangements) to be reported;

“(iii) the securities to be covered; and

“(iv) the form and manner in which reports shall be transmitted, which may include transmission in machine readable form.

“(5) Exemptions.—Consistent with the public interest and the protection of investors, the Secretary by rule or order may exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection.

“(6) Limitation on disclosure of information.—Notwithstanding any other provision of law, the Secretary and the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Secretary or the Commission to withhold information from Congress, or prevent the Secretary or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Secretary, or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.”.

SEC. 105. AUTHORITY OF THE COMMISSION TO REGULATE TRANSACTIONS IN EXEMPTED SECURITIES.

(a) Prevention of Fraudulent and Manipulative Acts and Practices.—Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(2)) is amended—

(1) by inserting “(A)” after “(2)”;

(2) by striking “fictitious quotation, and no municipal securities dealer” and inserting the following:

“fictitious quotation.

“(B) No municipal securities dealer”;

(3) by striking “fictitious quotation. The Commission shall” and inserting the following:

“fictitious quotation.

“(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security in connection with which such government securities broker or government securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation.

“(D) The Commission shall”; and

(4) by adding at the end the following:

“(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.”.

(b) Fraudulent and Manipulative Devices and Contrivances.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended—

(1) by inserting “(A)” after “(c)(1)”;

(2) by striking “contrivance, and no municipal securities dealer” and inserting the following:

“contrivance.

“(B) No municipal securities dealer”;

(3) by striking “contrivance. The Commission shall” and inserting the following:

“contrivance.

“(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

“(D) The Commission shall”; and

(4) by adding at the end the following:

“(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.”.

SEC. 106. SALES PRACTICE RULEMAKING AUTHORITY.

(a) Rules for Financial Institutions.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b)) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3)(A) With respect to any financial institution that has filed notice as a government securities broker or government securities dealer or that is required to file notice under subsection (a)(1)(B), the appropriate regulatory agency for such government securities broker or government securities dealer may issue such rules and regulations with respect to transactions in government securities as may be necessary to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. If the Secretary of the Treasury determines, and notifies the appropriate regulatory agency, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the appropriate regulatory agency shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(B) The appropriate regulatory agency shall consult with and consider the views of the Secretary prior to approving or amending a rule or regulation under this paragraph, except where the appropriate regulatory agency determines that an emergency exists requiring expeditious and summary action and publishes its reasons therefor. If the Secretary comments in writing to the appropriate regulatory agency on a proposed rule or regulation that has been published for comment, the appropriate regulatory agency shall respond in writing to such written comment before approving the proposed rule or regulation.

"(C) In promulgating rules under this section, the appropriate regulatory agency shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers.".

(b) Rules by Registered Securities Associations.—

(1) Removal of limitations on authority.—(A) Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended—

(i) by striking subsections (f)(1) and (f)(2); and

(ii) by redesignating subsection (f)(3) as subsection (f).

(B) Section 15A(g) of such Act is amended—

(i) by striking "exempted securities" in paragraph (3)(D) and inserting "municipal securities";

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4).

(2) Conforming amendment.—

(A) Section 3(a)(12)(B)(ii) of such Act (15 U.S.C. 78c(a)(12)(B)(ii)) is amended by striking "15, 15A (other than subsection (g)(3)), and 17A" and inserting "15 and 17A".

(B) Section 15(b)(7) of such Act (15 U.S.C. 78o(b)(7)) is amended by inserting "or government securities broker or government securities dealer registered (or required to register) under section 15C(a)(1)(A)" after "No registered broker or dealer".

(c) Oversight of Registered Securities Associations.—Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(1) in subsection (b), by adding at the end the following new paragraphs:

"(5) The Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary of the Treasury comments in writing to the Commission on a proposed rule that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule, find that such rule is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(6) In approving rules described in paragraph (5), the Commission shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers."; and

(2) in subsection (c), by adding at the end the following new paragraph:

"(5) With respect to rules described in subsection (b)(5), the Commission shall consult with and consider the views of the Secretary of the Treasury before abrogating, adding to, and deleting from such rules, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor.".

SEC. 107. MARKET INFORMATION.

Section 23(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking subparagraphs (C), (D), and (H);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (C), (D), and (E), respectively;

(3) by redesignating subparagraphs (I), (J), and (K) as subparagraphs (F), (G), and (H), respectively;

(4) by striking "and" at the end of such redesignated subparagraph (G);

(5) by striking the period at the end of such redesignated subparagraph (H) and inserting "; and"; and

(6) by inserting after such redesignated subparagraph (H) the following new subparagraph:

"(I) the steps that have been taken and the progress that has been made in promoting the timely public dissemination and availability for analytical purposes (on a fair, reasonable, and nondiscriminatory basis) of information concerning government securities transactions and quotations, and its recommendations, if any, for legislation to assure timely dissemination of (i) information on transactions in regularly traded government securities sufficient to permit the determination of the prevailing market price for such securities, and (ii) reports of the highest published bids and lowest published offers for government securities (including the size at which persons are willing to trade with respect to such bids and offers).".

SEC. 108. DISCLOSURE BY GOVERNMENT SECURITIES BROKERS AND GOVERNMENT SECURITIES DEALERS WHOSE ACCOUNTS ARE NOT INSURED BY THE SECURITIES INVESTOR PROTECTION CORPORATION.

Section 15C(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

"(4) No government securities broker or government securities dealer that is required to register under paragraph (1)(A) and that is not a member of the Securities Investor Protection Corporation shall effect any transaction in any security in contravention of such rules as the Commission shall prescribe pursuant to this subsection to assure that its customers receive complete, accurate, and timely disclosure of the inapplicability of Securities Investor Protection Corporation coverage to their accounts.".

SEC. 109. TECHNICAL AMENDMENTS.

(a) Amendments to Definitions.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (34)(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by amending paragraph (46) (relating to the definition of financial institution) to read as follows:

"(46) The term 'financial institution' means—

"(A) a bank (as defined in paragraph (6) of this subsection);

"(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

"(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(3) by redesignating paragraph (51) (as added by section 204 of the International Securities Enforcement Cooperation Act of 1990) as paragraph (52).

(b) Effective Date of Broker/Dealer Registration.—

(1) Government securities brokers and dealers.—Section 15C(a)(2)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(a)(2)(ii)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.".

(2) OTHER BROKERS AND DEALERS.—Section 15(b)(1)(B) of such Act (15 U.S.C. 78o(b)(1)(B)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.".

(c) INFORMATION SHARING.—Section 15C(d)(2) of such Act is amended to read as follows:

"(2) Information received by an appropriate regulatory agency, the Secretary, or the Commission from or with respect to any government securities broker, government securities dealer, any person associated with a government securities broker or government securities dealer, or any other person subject to this section or rules promulgated thereunder, may be made available by the Secretary or the recipient agency to the Commission, the Secretary, the Department of Justice, the Commodity Futures Trading Commission, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank.".

SEC. 110. OFFERINGS OF CERTAIN GOVERNMENT SECURITIES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading.".

SEC. 111. RULE OF CONSTRUCTION.

(a) IN GENERAL.—No provision of, or amendment made by, this title may be construed—

(1) to govern the initial issuance of any public debt obligation, or

(2) to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization—

(A) to prescribe any procedure, term, or condition of such initial issuance,

(B) to promulgate any rule or regulation governing such initial issuance, or

(C) to otherwise regulate in any manner such initial issuance.

(b) EXCEPTION.—Subsection (a) of this section shall not apply to the amendment made by section 110 of this Act.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means an obligation subject to the public debt limit established in section 3101 of title 31, United States Code.

SEC. 112. STUDY OF REGULATORY SYSTEM FOR GOVERNMENT SECURITIES.

(a) JOINT STUDY.—The Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System shall—

(1) with respect to any rules promulgated or amended after October 1, 1991, pursuant to section 15C of the Securities Exchange Act of 1934 or any amendment made by this title, and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991—

(A) evaluate the effectiveness of such rules in carrying out the purposes of such Act; and

(B) evaluate the impact of any such rules on the efficiency and liquidity of the government securities market and the cost of funding the Federal debt;

(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of the availability of automated, time-sequenced records of essential information pertaining to trades in such securities; and

(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

(A) the regulation of government securities brokers and government securities dealers;

(B) the dissemination of information concerning quotations for and transactions in government securities;

(C) the prevention of sales practice abuses in connection with transactions in government securities; and

(D) such other matters as they consider appropriate.

(b) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

(1) conduct a study of—

(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934; and

(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

(2) submit to the Congress, not later than 18 months after the date of enactment of this Act, the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.

TITLE II—REPORTS ON PUBLIC DEBT

SEC. 201. ANNUAL REPORT ON PUBLIC DEBT.

(a) GENERAL RULE.—Subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3130. Annual public debt report

"(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

"(1) the Treasury's public debt activities, and

"(2) the operations of the Federal Financing Bank.

"(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

"(1) A table showing the following information with respect to the total public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(2) A table showing the following information with respect to the net public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations, including a discussion of the projections and assumptions with respect to the structure of interest rates for the current fiscal year and for the succeeding 5 fiscal years.

"(4) A table showing the following information as of the time the report is submitted and for prior years:

"(A) A description of the various categories of the holders of public debt obligations.

"(B) The portions of the total public debt held by each of such categories.

"(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

"(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

"(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

"(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CURRENT FISCAL YEAR.—The term 'current fiscal year' means the fiscal year ending in the calendar year in which the report is submitted.

"(2) TOTAL PUBLIC DEBT.—The term 'total public debt' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

"(3) NET PUBLIC DEBT.—The term 'net public debt' means the portion of the total public debt which is held by the public.

"(4) DEBT TO GDP RATIO.—The term 'debt to GDP ratio' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

"(5) INTEREST COST TO OUTLAY RATIO.—The term 'interest cost to outlay ratio' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year.".

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new item:

"3130. Annual public debt report.".

SEC. 202. TREASURY AUCTION REFORMS.

(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

(1) meets the minimum creditworthiness standard established by the Secretary; and

(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

(b) PROHIBITION ON FAVORED PLAYERS.—

(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

(ii) the grant of the exception is designed to minimize any anticompetitive effect.

(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) OPEN MEETINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the "advisory committee"), or any successor to the advisory committee, shall be open to the public.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

(ii) makes recommendations to the Secretary.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

(i) another member of the advisory committee who is present at the meeting; or

(ii) an officer or employee of the Department of the Treasury.

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 5-year period beginning on the date of such removal.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

(B) A brief description of the nature of the violations.

(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act).

(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.

SEC. 203. NOTICE ON TREASURY MODIFICATIONS TO AUCTION PROCESS.

The Secretary of the Treasury shall notify the Congress of any significant modifications to the auction process for issuing United States Treasury obligations at the time such modifications are implemented.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

SEC. 301. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1993".

SEC. 302. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under subsections (a) and (d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed limited partnership rollup transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that—

"(i) nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title; and

"(ii) any holder of not less than 5 percent of the outstanding securities that are the subject of the proposed limited partnership rollup transaction who engages in the business of buying and selling limited partnership interests in the secondary market shall be required to disclose such ownership interests and any potential conflicts of interests in such preliminary communications;

"(B) require the issuer to provide to holders of the securities that are the subject of the limited partnership rollup transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a limited partnership rollup transaction—

"(i) on the basis of whether the solicited proxy, consent, or authorization either approves or disapproves the proposed limited partnership rollup transaction; or

"(ii) contingent on the approval, disapproval, or completion of the limited partnership rollup transaction;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest, or the compensation of the general partner in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of the interests of the limited partners to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the limited partnership rollup transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the limited partnership rollup transaction with less than all limited partnerships;

"(vi) the statement by the general partner required under subparagraph (E);

"(vii) such other matters deemed necessary or appropriate by the Commission;

"(E) require a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and an evaluation and a description by the general partner of alternatives to the limited partnership rollup transaction, such as liquidation;

"(F) provide that, if the general partner or sponsor has obtained any opinion (other than an opinion of counsel), appraisal, or report that is prepared by an outside party and that is materially related to the limited partnership rollup transaction, such soliciting materials shall contain or be accompanied by clear, concise, and comprehensible disclosure with respect to—

"(i) the analysis of the transaction, scope of review, preparation of the opinion, and basis for and methods of arriving at conclusions, and any representations and undertakings with respect thereto;

"(ii) the identity and qualifications of the person who prepared the opinion, the method of selection of such person, and any material past, existing, or contemplated relationships between the person or any of its affiliates and the general partner, sponsor, successor, or any other affiliate;

"(iii) any compensation of the preparer of such opinion, appraisal, or report that is contingent on the transaction's approval or completion; and

"(iv) any limitations imposed by the issuer on the access afforded to such preparer to the issuer's personnel, premises, and relevant books and records;

"(G) provide that, if the general partner or sponsor has obtained any opinion, appraisal, or report as described in subparagraph (F) from any person whose compensation is contingent on the transaction's approval or completion or who has not been given access by the issuer to its personnel and premises and relevant books and records, the general partner or sponsor shall state the reasons therefor;

"(H) provide that, if the general partner or sponsor has not obtained any opinion on the fairness of the proposed limited partnership rollup transaction to investors in each of the affected partnerships, such soliciting materials shall contain or be accompanied by a statement of such partner's or sponsor's reasons for concluding that such an opinion is not necessary in order to permit the limited partners to make an informed decision on the proposed transaction;

"(I) require that the soliciting material include a clear, concise, and comprehensible summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of subparagraph (D) and a summary of the matter referred to in subparagraphs (F), (G), and (H)), with the risks of the limited partnership rollup transaction set forth prominently in the fore part thereof;

"(J) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(K) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this title, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION OF LIMITED PARTNERSHIP ROLLUP TRANSACTION.—Except as provided in paragraph (5), as used in this subsection, the term 'limited partnership rollup transaction' means a transaction involving the combination or reorganization of one or more limited partnerships, directly or indirectly, in which—

"(A) some or all of the investors in any of such limited partnerships will receive new securities, or securities in another entity, that will be reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(B) any of the investors' limited partnership securities are not, as of the date of filing, reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(C) investors in any of the limited partnerships involved in the transaction are subject to a significant adverse change with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(D) any of such investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSIONS FROM DEFINITION.—Notwithstanding paragraph (4), the term 'limited partnership rollup transaction' does not include—

"(A) a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate;

"(B) a transaction involving only limited partnerships wherein the interests of the limited partners are repurchased, recalled, or exchanged in accordance with the terms of the preexisting limited partnership agreements for securities in an operating company specifically identified at the time of the formation of the original limited partnership;

"(C) a transaction in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(D) a transaction that involves only issuers that are not required to register or report under section 12, both before and after the transaction;

"(E) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, involving the combination or reorganization of one or more limited partnerships in which a non-affiliated party succeeds to the interests of a general partner or sponsor, if—

"(i) such action is approved by not less than 66⅔ percent of the outstanding units of each of the participating limited partnerships; and

"(ii) as a result of the transaction, the existing general partners will receive only compensation to which they are entitled as expressly provided for in the preexisting limited partnership agreements; or

"(F) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, in which the securities offered to investors are securities of another entity that are reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A, if—

"(i) such other entity was formed, and such class of securities was reported and regularly traded, not less than 12 months before the date on which soliciting material is mailed to investors; and

"(ii) the securities of that entity issued to investors in the transaction do not exceed 20 percent of the total outstanding securities of the entity, exclusive of any securities of such class held by or for the account of the entity or a subsidiary of the entity.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a), and such regulations shall become effective not later than 12 months after the date of enactment of this Act.

(c) EVALUATION OF FAIRNESS OPINION PREPARATION, DISCLOSURE, AND USE.—

(1) EVALUATION REQUIRED.—The Comptroller General of the United States shall, within 18 months after the date of enactment of this Act, conduct a study of—

(A) the use of fairness opinions in limited partnership rollup transactions;

(B) the standards which preparers use in making determinations of fairness;

(C) the scope of review, quality of analysis, qualifications and methods of selection of preparers, costs of preparation, and any limitations imposed by issuers on such preparers;

(D) the nature and quality of disclosures provided with respect to such opinions;

(E) any conflicts of interest with respect to the preparation of such opinions; and

(F) the usefulness of such opinions to limited partners.

(2) REPORT REQUIRED.—Not later than the end of the 18-month period referred to in paragraph (1), the Comptroller General of the United States shall submit to the Congress a report on the evaluation required by paragraph (1).

SEC. 303. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the association and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the association during the period in which the offer is outstanding.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee of limited partners that is independent, as determined in accordance with rules prescribed by the exchange, of the general partner or sponsor, that has been approved by a majority of the outstanding units of each of the participating limited partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the exchange and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the exchange during the period during which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the association and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the association during the period during which the offer is outstanding.".

SEC. 304. EFFECTIVE DATE; EFFECT ON EXISTING AUTHORITY.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by section 303 shall become effective 12 months after the date of enactment of this Act.

(2) RULEMAKING AUTHORITY.—Notwithstanding paragraph (1), the authority of the Securities and Exchange Commission, a registered securities association, and a national securities exchange to commence rulemaking proceedings for the purpose of issuing rules pursuant to the amendments made by section 303 is effective on the date of enactment of this Act.

(3) REVIEW OF FILINGS PRIOR TO EFFECTIVE DATE.—Prior to the effective date of regulations promulgated pursuant to this title, the Securities and Exchange Commission shall continue to review and declare effective registration statements and amendments thereto relating to limited partnership rollup transactions in accordance with applicable regulations then in effect.

(b) EFFECT ON EXISTING AUTHORITY.—The amendments made by this title shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

ADDITIONAL STATEMENTS

CELEBRATING THE 75TH ANNIVERSARY OF LATVIAN INDEPENDENCE

• Mr. RIEGLE. Mr. President, this week the Latvian people marked the 75th anniversary of the birth of their nation. Three quarters of a century ago, the Republic of Latvia was born from the ashes of the First World War. Despite the unjust persecution and oppression which has marred Latvia's history, the triumph of the Latvian spirit has enabled the Latvian people to celebrate their diamond anniversary in a free and independent country. Although over 50 years of Soviet occupation weighed heavily on the hearts of the Latvian people, the Latvian consciousness survived and their cultural values have been preserved.

As World War I came to a close, Latvia and her fellow Baltic States, Lithuania and Estonia, gained independence for the first time. During the interwar period, Latvia was an active participant in international affairs and established productive relations with many nations around the globe. With the arrival of World War II, Latvia lost the freedom which it had cherished for a brief 22 years. In 1939, Nazi Germany and the U.S.S.R. conspired through a secret Molotov-Ribbentrop pact to relegate control of the three Baltic States, including Latvia, to the Soviet Union's sphere of influence.

Soviet forces marched into Latvia, illegally occupying it in June 1940, and pro-Soviet governments were quickly erected to puppet the rhetoric of Moscow's leaders.

What followed is considered to have been the bleakest era in Latvia's history. Stalin and his successors implemented repressive and colonial policies to achieve the Sovietization and Russification of Latvia. Tens of thousands of Latvian men, women, and children were executed, imprisoned, and exiled to the frozen wasteland of Siberia. Simultaneously, large numbers of ethnic Russians poured into Latvia, almost relegating the native Latvian population to minority status. Although these measures were insufficient to stamp out the Latvian spirit, the Soviet Union did manage to cause severe environmental damage with its anachronistic industrial policies, and establish Russian as the dominant language.

Through this difficult period many nations continued to recognize Latvia's legal status as a separate state even though it lost its sovereignty to an illegal Soviet occupation. The Latvian-American community, which has over 4,000 members in my home State of Michigan, also struggled hard, from across the Atlantic, to bring an end to the Soviet occupation. Latvian cultural values and traditions were promoted and preserved in this country to prepare a new generation for a free Latvia where they could achieve free expression.

Thus, Western pressure, the determination of the Latvian people, and the assistance of the Latvian-American community, enabled Latvians to capitalize on a window of opportunity in August 1991 and declare their independence.

In its new era of independence, Latvia is finally able to move forward. As Latvia moves once again down the path toward complete economic and political freedom, we must assure that it remains independent and stable. Guntis Ulmanis, the President of Latvia, speaking before the United Nations General Assembly, stressed that Latvia was adamant that no foreign troops remain on Latvian soil. Given the historic relations between Russia and the Baltic States it is clear why the Latvian people perceive the Russian troops as occupiers. We must ensure that the unilateral withdrawal of Russian forces from Latvia occur promptly and immediately.

As a leader of the decade long effort to support Baltic independence I once again salute the Latvian people on the 75th anniversary of the birth of their nation. I look forward to continuing to work closely with the Latvian-American community in the United States in promoting greater economic and political cooperation between our nation and the Republic of Latvia.•

NORTH AMERICAN FREE-TRADE AGREEMENT

• Mr. D'AMATO. Mr. President, a few days ago the House of Representatives voted to pass the North American Free-Trade Agreement. There was passion and conviction in the arguments both for and against the agreement as there has been here in the Senate. At the heart of the debate is whether NAFTA will mean job creation or job loss.

In my mind there is no question that NAFTA will result in short-term job losses. This job loss is especially serious in the Northeast and other areas where thousands of people have already lost jobs and businesses are treading water as they wait for the economy's heartbeat to pick up. People who actually are employed lack job security because the threat of layoffs is still commonplace. Employers are facing increased taxes under the Clinton economic plan, ever increasing regulation from the administration and the threat of increased mandates under the Clinton health care plan.

The downsizing of corporations, the reduction in defense workers and the lingering stagnant economy continue to erode our industrial base. Given this scenario, it is the wrong time to ask hard working middle-class workers to jeopardize their jobs today so that someone else may get a job 10 years from now. That is why I cannot support this NAFTA.

There is no question that additional jobs will move to Mexico due to NAFTA, and the lower wages and poorer working conditions in that country. Importantly, I note that U.S. workers have also lost jobs as a result of poor enforcement of our own U.S. fair trade laws. I am gravely concerned that foreign countries outside the NAFTA will find it very inviting to use Mexico as a platform in order to circumvent United States trade laws and export freely into the United States. By producing parts in home countries and setting up low-wage assembly plants in Mexico, foreign companies will be able to send products into the United States either with low or no duty.

Over the past few years I have become all too familiar with the problem of circumvention in our dumping laws. I have also become all too familiar with the politics of status quo when it comes to trying to enforce and strengthen these laws so that U.S. companies and U.S. workers can compete on a level playing field with foreign companies. As a consequence, this status quo has meant people who had jobs in my State last year, do not have jobs this year.

There are 875 unemployed Smith Corona workers in Cortland, NY, who are testimony to that point. Smith Corona fought for 12 years to get the U.S. to enforce our trade laws and stop circumvention. They were unable to get relief from either the executive branch or the legislative branch even though the evidence was clear that a Japanese company had been dumping in the United States and undercutting their ability to compete in a truly competitive market. Eventually, Smith Corona was forced to leave the United States and set up operations in Mexico in order to survive.

So, I ask: Does NAFTA do anything to strengthen or close loopholes in our fair trade laws? No. NAFTA will operate under the currently flawed antidumping [AD] and countervailing duty

[CVD] laws which allow foreign companies to circumvent our fair trade laws. NAFTA further weakens our enforcement efforts by vesting the power to interpret U.S. trade law in a 5-member binational dispute resolution panel which makes U.S. agency administrative decisions subject to a single binding decision by this panel. American business forfeits its access to the Court of International Trade [CIT], the U.S. Court of Appeals for the Federal Circuit, and the Supreme Court. Instead of pursuing judicial review in domestic courts, parties must submit challenges to the 5-member ad-hoc committee.

Cheap labor and foreign companies outside the NAFTA that use Mexico to cheat in trade leaves jobs vulnerable nationwide, especially our manufacturing jobs which in large part rely on labor intensive production. At least 6 percent of New York's manufacturing job base—403,000 jobs, according to the Economic Policy Institute—is estimated to be vulnerable under NAFTA. Nationwide, manufacturing jobs continue to decline from a high of 21 million workers in 1979 to 18 million workers in 1992. In New York, manufacturing employment has gone from 1.5 million in 1978 to 1 million in 1991.

Since 1970, New York has lost approximately 1,107,000 jobs in the following fields: 813,000 manufacturing; 145,000 apparel and textile; 60,000 industrial machinery; 53,000 primary metals; 25,000 steel; and 11,000 electric lighting and wiring. Between 1990 and 1992, approximately 300,000 were lost including 115,000 in manufacturing. NAFTA will only further erode New York's manufacturing base.

The importance of manufacturing employment to the economy is vitally clear when you consider the multiplier effect of secondary employment associated with each manufacturing job, both in supplier industries and in sectors where workers spend their paychecks. The average manufacturing job generates four and a half times as many secondary jobs as does the average retail job and almost three times as many secondary jobs as a job in the personal and business service sector. This fact speaks for itself as to the importance of manufacturing jobs to our economy.

For U.S. workers who do not lose their jobs NAFTA offers something different—higher taxes. NAFTA offers a spending program that will cost taxpayers billions of dollars. Spending costs of NAFTA will include: budget offsets that must be found in order to replace lost tariff revenues; training and income support for dislocated workers; environmental and infrastructure costs; and, the proposed U.S. contribution to the new North American Development Bank [NADBank].

The Joint Economic Committee warns that NAFTA could cost $20 billion over the next 10 years. The direct costs of implementing NAFTA over the next 5 years could be 30 percent higher than the $2.7 billion administration estimate for the first 5 years due to understated lost revenue and uncounted payments to fund the NADBank. The JEC cites that their estimates are conservative and do not reflect additional State or local spending, the total social and economic costs or the ripple effects on workers and communities indirectly affected by NAFTA and the potential downward pressure on U.S. wages.

The choice between no job or a job with higher taxes is not what American workers want. Today, our economy is still in the dumps and jobs are the No. 1 concern. This NAFTA continues the threat against our workers that their jobs are not secure. This NAFTA does not provide assurances for strengthened fair trade, it simply applies currently flawed fair trade laws to a new situation. Cheating by foreign companies goes on right here in our own back yard. Under NAFTA our back yard is even bigger. Offering more opportunity to undercut American companies and put Americans out of work is not something that I can support.

I believe NAFTA will hurt the working men and women of New York. I sincerely hope that I am wrong, but I remain convinced that in the foreseeable future, NAFTA is not good for the people I represent, and I will vote against it.•

DR. HAROLD ELIOT VARMUS, DIRECTOR, NATIONAL INSTITUTES OF HEALTH

• Mr. DURENBERGER. Mr. President, I rise in support of Dr. Harold Eliot Varmus as the Director of the National Institutes of Health. Dr. Varmus is an accomplished scientist and modern day "renaissance man." His knowledge will be put to good use at the NIH.

As the Director of the NIH, Dr. Varmus will be taking the helm of an organization with a nearly $11 billion budget. The NIH is the centerpiece for biomedical research in this country. NIH's grants to researchers in academia and industry, and its own cadre of top-flight scientists, have greatly contributed to American leadership in basic research.

But it is also because of this leadership that I do not believe the NIH should stand on the sidelines of the health care reform debate. I would go as far as to say it cannot. The quality of medical care patients receive is irreversibly linked to the successes of our basic medical research.

The purpose of scientific research conducted at the NIH is to benefit patient care and human health. Biomedical research should never lose sight of that goal. But health care reform is also teaching us that human health demands much more than basic biomedical or biochemical science.

As the NIH Director, Dr. Varmus will face the challenge of the current health care policy environment to determine innovative, effective, and appropriate patient treatments. The challenge requires a visionary strategic plan—a recommendation that his predecessor, Dr. Healy, took up, but a recommendation that has never been followed through at the NIH.

That strategic planning should include nurturing of the highly innovative and rapidly growing field of biomedical engineering research. Biomedical engineering has contributed to the development of new medical devices that have revolutionized patient care. I requested that a study on the status of biomedical engineering be conducted by the NIH because of the fundamental importance of this field in our basic science arsenal.

The NIH seems to shy away from research on treatment outcomes. Maybe part of a strategic plan should include development of these research capabilities? I believe that with impending health care reform, the NIH cannot afford to ignore this critical area. At the least, the NIH should try to coordinate its basic research with outcomes measurements conducted by other agencies in the Department of Health and Human Services.

In the complex organization of the NIH, Dr. Varmus also will be faced with continuing problems of morale of senior Government scientists, potential and real conflicts of interest between publicly funded research and private industry, appropriate participation in clinical trials, and issues of fair allocation of NIH resources among many competing constituencies. And in recent years, there have been allegations of scientific and sexual misconduct and racial prejudice. These problems demand sensitivity and deft managerial skills. The NIH cannot risk the appearance of a damaged institution if it is to continue to be a leader in basic research.

The NIH directorship—as I am sure Dr. Varmus is aware—carries an enormous responsibility. That role is even greater because of the times. I encourage Dr. Varmus in his new role to define the NIH's role in health care reform and not to lose sight of creativity in research. NIH has made the United States a leader in basic research. Let NIH be the building block for the higher quality health care we all seek.•

A SALUTE TO SESAME STREET

• Mr. SIMON. Mr. President: Today is indeed a special day: the beginning of the 25th birthday season featuring the longest street in the world. I am talking about "Sesame Street", the well-loved and most widely viewed children's program in the world. This week, Sesame Street and the Children's Television Workshop [CTW] begin marking a quarter century of entertaining and educating young children all over the world.

Sesame Street began as an experiment in educational programming. Part of the reason why the show has been so successful has been its ability to change. CTW has added new characters and expanded the series' curriculum goals to meet the changing needs of children growing up in our fast-moving society. One of the series' really creative and exciting components is its race-relations curriculum, now in its fourth year: this year the emphasis is on Asian-American culture.

One thing that hasn't changed over the years is the basic mission of CTW. Like Sesame Street itself, CTW has only expanded. The Workshop began by experimenting with the use of television to help educate children, particularly those children who were from more disadvantaged backgrounds. Now the workshop uses other media, including print, software, and outreach programs, to add to the effectiveness of Sesame Street and its other educational theories, and to reach children wherever they are found, in and outside the classroom.

In fact, in my own State of Illinois, the Sesame Street Preschool Education Program, or Sesame Street PEP, is reaching thousands of preschoolers, introducing them to a lifelong love of learning.

As parents, grandparents, aunts, uncles, and legislators, we owe a round of applause and our deepest gratitude to Sesame Street and the Children's Television Workshop for showing our kids, and ourselves, that learning can be fun and relevant to kids all over the world and that television is a wonderfully powerful medium for doing good.

Mr. President, in addition to my own statement, I would like to have printed in full in the Record the following articles from today's New York Times and USA Today.

The articles follow:

[From the USA Today, Nov. 22, 1993]

Making Kids and Learning Feel at Home

(By Donna Gable)

The safest street in the world stretches from the inner cities of the USA across the ocean on the Middle East and beyond.

It's not on any map, but you can get there from here. And no matter the name—Sasamstrasse in Germany; Plaza Sesamo in Latin America; Rechov Sumsum in Israel; of Iftah Ya Simsim in Kuwait—Sesame Street has always been a protected place for kids to play and learn. From the early days when it taught tots their ABCs and 1-2-3s, to today's life lesson in race relations, Sesame Street is a reflection of our times for the eyes of children.

Today, the Emmy-winning PBS children's series turns a corner, metophorically and physically, as it begins its 25th season. But the Street is not just growing up, it's growing out. For the first time, we get to see what's "Around the Corner" from the familar brownstone and Mr. Hooper's Store.

Executive producer Michael Lorman says the set was designed as a cuddly S-shaped cul-de-sac "so there are no streets to cross." There's a dance studio, a thrift shop, a playground, a home care center, and The Furry Arms, a Muppet hotel "where everyone stays when they're in town."

And while there are newcomers—including Zoe, "a bright orange 3-year-old monster girl that smiles from ear to ear"—they're all old friends on the Street.

Dr. Valerie Lovelace, assistant vice president/director of research, says the new set is "a way through which we can show the contributions that families make to children's success in school and life."

Three fresh faces—Angela (Angel Jemmott) and Jamal (Jou Jou Papailler), a black couple, and their 6-month-old, Kayla—are related to series regulars Susan and Gordon.

"We want to show the family as a socializing agent, the most important part of a child's life." Lovelace says. The knowledge gained from the show's race relations curriculum "will guide our thinking on families, in terms of looking at their diversity."

Through Celina (*Miss Salgon's* Annette Calud), an Asian-American dance instructor, the show will explore issues like exclusion and name-calling.

Today's season opener is a backdrop for the myriad Muppets and others who parade down the lane. First lady Hillary Rodham Clinton stops by to christen the new season and inspire Cookie Monster to rap about the importance of eating more than cookies to stay healthy.

Upcoming celebrity guests who will stay at The Furry Arms include poet Maya Angelou, singer Garth Brooks and actress/comedian Lily Tomlin.

"These celebrities have helped draw the parent to the child's side . . . and they sit and watch Sesame Street together," says Peggy Charren, founder of Action for Children's Television. "Research shows when children and parents watch together they learn more."

Ruth Buzzi—who joins the cast as Ruthie, the offbeat owner of Finders Keepers, which offers such collectibles as Cinderella's glass slippers and Jack and Jill's legendary pail—credits the show's stable of "creative, ingenious and nutty writers" for the show's longevity.

"Writing comedy every day, day in day out, is not all laughs," says Buzzi, who compares the cadre of scriptmeisters with those of her *Rowan & Martin's Laugh-In* days. "After a while your brain dies out. The only way to keep the momentum going and keep it fresh is to have a LOT of writers."

Charren says the program "could've been a wonderful model for the people in the commercial broadcast world. We'd hoped it would send a message to them: that you can do it right and still win. But what was their response? 'Let PBS do it.'"

The *Street* has always been safe but it hasn't been a blind alley or a dead end. Since 1969, it's evolved from an experimental educational program for preschoolers to a multimedia educational institution seen in 90 countries.

And even though the conventional wisdom is that *Barney* has taken the spotlight, the word on the *Street*—from the top down—is "there's room for everybody."

It doesn't matter whether kids tune in to a big yellow bird or a purple dino, says Loman, "as long as they're learning and having fun."

We don't look at Barney as being in competition with us because we're both on PBS," he says. Besides, "We'd rather have them watch Barney than a violent or nonsensical cartoon on another channel."

Sonia Manzano, who has played Maria on the show since its third season, agrees. "Kids have the right to have more than one show to choose from. Adults have lots of choices . . . and still complain there's nothing on."

Besides, the show has more important things than Barney's bite to focus on, such as continuing its 25-year legacy.

And everyone agrees, the days have been a little less sunny without Jim Henson, the mastermind behind the Muppet menagerie, who died suddenly in 1990.

And in strolling down the Street, you cannot overlook his touch. Puppeteer Kevin Clash, who won an Emmy for breathing life into a fuzzy, red Muppet named Elmo, says Henson's death "was a difficult loss."

"Jim loved coming to Sesame Street and putting on Ernie and Kermit. I miss that immensely," says Clash, who grew up watching Sesame Street and "dreamt of working" with the brilliant Muppet-making man-boy.

"The love that's behind the scenes and comes across on camera—that's Jim. And some days when something goes really right. Jim's there. You can feel it."

Clash—who also portrays Baby Sinclair, the tiny dino on ABC's sitcom Dinosaurs—hope his 11-month-old daughter, Shannon, will someday don a fuzzy alter-ago.

"I'm envious of Elmo. I'd love to keep that positive. But when you become an adult, sometimes things can get you down," he says. "It's great to be able to cover yourself with these characters and become young again."

The most important lesson, he says, may be "how to find your way back" to the Sesame Street inside us all.

Manzano says she's looking forward to the next 25 years.

"If this show is the only thing I ever do in my career, that's not a bad credit," she says. "When I looked back at my life I could say, 'I lived a good a life. I lived on a nice street.'"

[From the New York Times, Nov. 22, 1993]

It's 25 and Still Thinking Like a Child

(By John J. O'Connor)

Known as the longest street in the world, stretching in one form or another around the globe, "Sesame Street" celebrates its 25th birthday today with a characteristic eye on the future and a meandering stroll to a new playground that it calls "just around the corner." The Children's Television Workshop's pioneering blend of carefully researched education and quality entertainment has lost none of its imaginative freshness. Hillary Rodham Clinton, flanked by Big Bird and Rosita, drops by today in a gesture of richly deserved tribute.

The survival of "Sesame Street" has involved struggle and occasional controversy. In the 1970's, the BBC rejected the program, ostensibly because of its ultra-American, hard-sell teaching techniques: Britons were later allowed to watch the series, seemingly without ill effect. When the project was conceived in the 1960's by Joan Ganz Cooney and Lloyd Morrisset, children's television was a generally sorry affair, with cartoons at one end and dull instructional classes at the other. The Children's Television Workshop created something entirely new: an education program that was great fun to watch.

The program is aimed at all preschoolers, but is especially eager to reach disadvantaged children whose early exposure to school-related skills might be limited. The underlying theory is that more than half of a child's lifetime intellectual abilities are formed by the age of 5. Lessons are delivered, for the most part, by showing, not by lecturing. In the show's multicultural society, children of all sorts mix easily with one another and, of course, with furry creatures representing all colors of the rainbow. The memorable duet of Ray Charles and Kermit the Frog on "Bein' Green" was anything but an accident.

So today, as Big Bird leads a parade of youngsters and Muppets to the new playground, it's hardly surprising to discover that the new faces in the crowd look like an illustration for a United Nations brochure. Tarah (Tarah Lynne Schaeffer) is a 9-year-old whose physical disability keeps her in a wheelchair. All of the newcomers are being introduced this week, and will be developed more fully in future episodes.

Meanwhile, the scene on Sesame Street is punctuated with brief taped segments that might offer a lesson on a letter or number, an illustration of concepts (Zero Mostel's take on "Big" and "Little" is a series classic), or a vignette with an understated point. Today, for instance, two girls are found waking up in a bedroom that is obviously middle-class comfortable. One girl is black, the other is white. The white girl is the visitor. This season, Asian-American cultures are being highlighted. Among the scheduled guests: the tennis star Michael Chang.

When Children's Television Workshop researchers went to day-care centers and asked children what they would like to see on the show, the most frequent answer was a place to play. The new playground, which required moving the production to the larger quarters of the Kaufman Studios in Astoria, Queens, should satisfy the most demanding of young viewers. In the course of the hour, the First Lady urges those watching to eat fruits and vegetables, get plenty of exercise and rest. In a rap song, Cookie Monster admits that nobody should eat just cookies. And the show ends with an announcement that this edition of "Sesame Street" was brought to you by the letters C and O, and by the number 3. Talk about enlightened sponsorship.

The Children's Television Workshop has moved well beyond "Sesame Street" as seeking feasible ways to support its many activities, it has branched into television specials, videos, books and even items like a Cookie Monster cookie jar. There have been critics of this commercialization inside and outside the organization. David V.B. Britt, its president, disagrees, though he says perhaps the name should be changed to the Children's Media Workshop.

Sadly, as one of the brightest jewels in public television's now lopsided crown, "Sesame Street" has failed in one crucial sense, one that is beyond its control. Despite its demonstrable success, television executives and politicians have largely failed to follow up with adequately financed projects of similar caliber for young audiences. the level of education in the nation today is abysmal. All those preschoolers so lovingly prepared are being betrayed by schools impoverished on just about every level. "Sesame Street" has shown how to proceed with intelligence and style. Perhaps some day. . . .

Meanwhile, let's get on with the next 25 years.•

COMMENDING TRIO PROGRAMS

• Mr. WOFFORD. Mr. President, I would like to draw my colleagues' attention to five extraordinary Pennsylvania students who have recently received special recognition awards from the Pennsylvania Association of Educational Opportunity Programs. This organization represents the over 100 Pennsylvania TRIO programs. As my colleagues all know, TRIO programs provide services to traditionally underrepresented students. In Pennsylvania and across the country, TRIO programs enable students to reach their fullest potential.

Doris Goodman is a senior psychology student at Clarion University. Doris is a returning adult student with a disability. She is also the mother of two teenage children. Despite her many challenges she is a member of the several student organizations and served as cochair of a regional conference on adult learners—all while maintaining a 3.95 grade point average.

Monique Henderson was a member of the first Upward Bound class at Harcum Junior College. She participated throughout her 4 years of high school. Monique was honored as the outstanding Upward Bound student in 1992. This spring she will be a freshman at Howard University.

Cheryl Honick is a nontraditional student who returned to school after 14 years. She is married and the mother of five children under the age of 12. Cheryl is a third-year student at California University of Pennsylvania, where she has been an active participant in the Student Support Services Program.

Albert Prado participated in the Upward Bound Program at Wilkes University for 3 years while he was a student at Coughlin High School. He was an honor student, served as cocaptain of the soccer and volleyball teams and was president of the Spanish Club. Albert is currently a freshman at East Stroudsburg University.

Daniel Uribe is a junior at the University of Pennsylvania, where he participates in the Student Support Services Program. Daniel is a representative to the United Minority Council, where he serves as the students' voice to the administration of the university on various issues related to minority students.

Mr. President, the TRIO Program enables students to reach their fullest potential. I ask my colleagues to join me in congratulating each of these extraordinary Pennsylvanians for their accomplishments. We should expect great things from them in the future.•

VIETNAM WOMEN'S MEMORIAL

• Mr. DURENBERGER. Mr. President, earlier this month we celebrated the culmination of a decade's worth of effort to honor the courage and excellence of the American women who served our country in Vietnam. We unveiled the Vietnam Women's Memorial here in Washington, DC.

It is well known that Vietnam marked a turning point in the history of the United States. What is less well known—and therefore stands in special need of commemoration—is that America's women played a very important role in the Vietnam conflict.

A Minneapolis lawyer named Donna Marie Boulay—a Vietnam veteran who served back in 1967–68—contacted me about her project to honor these underrecognized women of courage who helped defend our country in the Vietnam era.

In 1987, I introduced a resolution in the Senate to create a memorial to these 10,000 American women. With the strong advocacy of D.M. Boulay, and the cooperation of Senator ALAN CRANSTON of California and others—we were able to get the project on track.

After I became involved in the project, I started receiving mail from Vietnam veterans all over America who supported the idea. Many who wrote expressed a theme that I found especially compelling—they said that they would not be here today if it were not for the women who served so ably in Vietnam.

Now, 6 years later, we have inaugurated the completed monument—a sculpture depicting three servicewomen caring for a wounded GI.

The unveiling of this memorial ought to be a source of inspiration and pride in all our American servicewomen. It is America's way of saying thank you to the women who laid down their lives for us in Vietnam, and continue to do so much in order that we might enjoy the blessings of liberty.•

SENATOR KASTEN'S ANALYSIS OF PRESIDENT CLINTON'S HEALTH CARE NUMBERS

• Mr. MACK. Mr. President, earlier today Senator NICKLES and I introduced The Consumer Choice and Health Care Security Act of 1993. This bill would achieve health care reform in a far superior fashion than the plan recommended by President Clinton.

The flaws in the President's plan are numerous. One of those flaws is its claimed effect on the deficit. In a recent oped appearing in the San Diego Union-Tribune, our former colleague from Wisconsin, Senator Robert Kasten, concludes that "Clinton's health care figures don't compute." This article is well worth the attention of Senators, and I ask that it be printed in the CONGRESSIONAL RECORD in its entirety.

The article follows:

CLINTON'S HEALTH CARE FIGURES DON'T COMPUTE

(By Robert W. Kasten and Cesar V. Conda)

On Oct. 1, the American middle-class was introduced to the first major installment of "Clintonomics." The federal gasoline tax was increased by 4.3 cents per gallon as part of the president's deficit-cutting plan (the so-called "rich" have already paid their "fair share" in taxes because Clinton retroactively raised the top tax rates effective last Jan. 1). And now, the Clintons have proposed a substantial increase in "sin taxes" and employer insurance mandates to finance a federal takeover/overhaul of the nation's health care system.

Unfortunately, both the Clinton budget and health care reform plans are built on a foundation of quicksand. By imposing harmful disincentives and higher costs on the economy, the tax financing mechanisms will raise less additional tax revenue than the administration estimates—and in some cases, actually reduce net tax revenue—leaving a multibillion dollar deficit hole in the federal budget.

Furthermore, given Clinton's proclivity to raise taxes before cutting spending, he may well opt to implement a more dangerous tax to fill these financial gaps—the value added tax (VAT).

The reason budget projections rarely hold up is because the government's estimators and accountants live in the fantasy world of static revenue analysis. Their economic models rarely account for the real world impact that higher taxes and other government-imposed burdens have on human behavior and economic activity—and as a result, their revenue estimates often miss the mark.

For example, in the case of the recent gas tax increase, the government estimators totally ignored the fact that higher gasoline taxes would raise costs at all stages of production for businesses, thereby reducing economic growth. The Institute for the Research on the Economics of Taxation estimated the 4.3-cent gas tax hike will reduce gross domestic product by some $16 billion and jobs by 110,000 by 1998. The result is that only $5 billion will be raised in net additional tax revenue over five years instead of the $24 billion estimated.

Also during the budget debate, Harvard economist Martin Feldstein argued forcefully that the sharp jump in marginal tax rates in the Clinton budget would collect only one-fourth of the projected $100-plus billion five-year revenue gain. That's because high-income individuals would work fewer hours and load their portfolios with tax-exempt municipal bonds in order to reduce their taxable incomes and avoid the higher marginal tax rates.

Congress should have learned its lesson when it imposed a 10 percent excise tax on expensive boats in 1990, only to destroy thousands of boat manufacturing jobs and actually reduce net tax revenues for the government. As Jack Kemp, former congressman and Cabinet member, cogently put it, "Virtually every time the government has raised tax rates, the federal deficit has grown even larger."

As with its budget plan, the Clinton administration has disregarded the dampening effect of its health care proposal on the economy and tax revenues. Consequently, the financing mechanisms, to borrow the words of Sen. Daniel P. Moynihan, D-NY., "are a fantasy."

First of all, the proposed tax increase of 75 cents a pack on cigarettes would raise less than half of the $15 billion revenue pickup estimated by the administration, according to professor Robert D. Tollison of George Mason University. Tobacco makes up about 2 percent of the Consumer Price Index and a large tax increase on cigarettes would increase the index by as much as 1 percentage point. This in turn would increase government spending on inflation-adjusted programs such as Social Security and foods stamps, and cut tax revenue collected from the standard deduction for federal income taxes.

The employer mandates also would end up depressing the economy and tax revenue. Under the plan, employers would pay for an employee's health insurance equal to 3.5 percent of payroll for businesses with less than 50 employees and 7.9 percent for all others. Businesses would be forced to pass along the added costs to consumers and workers through higher prices, lower wages, and fewer jobs.

Hillary Rodham Clinton recently said that she can't "save every undercapitalized small business in America." But the employer mandates in her health plan would make it more difficult for viable, capitalized small businesses to keep their doors open.

The plan also contains another anti-job provision: In order to qualify for the federal government subsidies that would keep mandated costs to no more than 3.5 percent of payroll, small businesses would limit their size to no more than 50 workers. Employers at or near the threshold would be induced to shed full-time jobs.

The International Mass Retail Association sponsored a recent nationwide survey which found that any employer mandate would put 1.9 million jobs at risk of being eliminated. Other reputable studies predict job losses as high as 3.1 million. Even Laura Tyson, the chairwoman of the president's Council of Economic Advisors, now admits that the burdensome employer mandates in the Clinton health plan could cost as many as 600,000 jobs in its early years.

Fewer people working in taxpaying jobs and more people on unemployment compensation programs mean less tax revenue, more government spending and bigger deficits. According to economist Feldstein, the Clinton health plan as it now stands would probably reduce tax revenues by at least $50 billion per year.

To fill these gaping financing holes, President Clinton is likely to resurrect the idea of a valued added tax. Such a tax has long been attractive to politicians because of its ability to generate sizable tax revenues. But as the European experience has shown, it could be a fatal attraction; a VAT tends to hide the true cost of government, and eventually lead to high and oppressive levels of taxation and spending over time. As former Treasury Secretary William Simon put it, a VAT "would rob us blind."

Instead of new and higher taxes, Congress should support the bipartisan efforts of legislators such as Sen. Bob Kerrey, D-Neb., Rep. Bob Andrews, D-N.J., and Rep. Bill Zeliff, R-N.H., to advance additional spending reductions to cut the deficit. This effort must include a serious effort to reform entitlement programs. Before proceeding with health care reform, Congress should demand realistic cost estimates that factor in the negative impact of the Clinton health plan's taxes and mandates on the economy.

As the old saying goes, "there's no free lunch." The American public must be made aware of the real economic costs of the Clinton agenda.•

REPEAL OF SANCTIONS AGAINST SOUTH AFRICA

• Mr. SIMON. Mr. President, I am pleased to report, along with Senator KASSEBAUM, that both the Senate and the House have now acted to pass H.R. 3225, the South African Democratic Transition Support Act.

Passage of this bill sends a crucial message of support for the democratic transition in South Africa. It is a direct response to Nelson Mandela's call for the international community to lift the remaining economic sanctions against South Africa, so that a newly elected majority government will be able to run the country in a climate of growing economic prosperity. This bill completes the process of sanctions repeal begun under President Bush.

South Africa needs this bill. It paves the way for lending from international financial institutions for critical social infrastructure projects, which will help narrow the gap in the standard of living between whites and blacks in South Africa.

This bill also helps South Africa begin the process of re-engaging in global trade, by encouraging the United States Government to expand its trade relations. And it gives U.S. businesses the green light to consider reinvesting in South Africa—investment that is essential to the survival of a truly democratic South Africa. United States companies will now be able to compete with the Europeans, Japanese and others who have already removed their sanctions.

This bill recognizes the fact that both black and white leaders have shown that the democratic transition in South Africa is irreversible. Negotiators have approved an interim constitution that supports a majority-led government and includes bill of rights protections for all South Africans. Preparations are underway for general elections in April 1994. Change is underway, and South Africa is entering a new era—an era that will reap benefits for the South African people and to the entire sub-Saharan region.

I urge President Clinton to move quickly to sign this bill into law. I also urge those State and local entities with remaining sanctions legislation to move quickly toward repeal. South Africa is changing for the better, but we must assist that change as best and as promptly as we can.•

RESTRICTING GIFTS, MEALS, AND TRAVEL PROVIDED TO MEMBERS OF CONGRESS

• Mr. LAUTENBERG. Mr. President, on May 5 of this year, I offered an amendment to the lobby disclosure bill which was adopted 98 to 1. Ninety-eight of our colleagues voted for an amendment which expressed our sense that the Senate should limit the acceptance of gifts, meals, and travel by Members and staff in a manner substantially similar to the restrictions applicable to executive branch officials. These 98 said we should do that as soon as possible but certainly not later than the end of this year's session.

Well, Mr. President, that was 6 months ago. And while hearings were held in July, there has been no concrete action taken to move this matter forward in the Senate.

That does not surprise me, Mr. President. But it does make me very frustrated. And I suspect it frustrates the American people.

Let me make clear, Mr. President, that I am not here to place blame. All I want is what the public wants—action!

There is an impression that some are quietly resisting this reform, and don't want change. But there are others who support reform. In particular, I would like to take the opportunity to thank Senator LEVIN for holding this hearing in July, and for his cosponsorship of my gift ban bill. I appreciate it.

But, Mr. President, we do need to act! Americans are demanding a stop to business as usual here in Washington. And part of the business they want to see gone is the coziness of special interest influence on legislators. The free tickets to shows or sporting events. The lavish dinners at expensive restaurants. The free trips to expensive luxury resorts around the world.

It is clear, Mr. President, that the Senate rules on the acceptance of gifts, meals, and travel are, to put it mildly, far too lax. We do have a limit—but it is virtually meaningless. We say that Senators can only accept gifts worth up to $250 from any person. However, gifts worth less than $100 are exempted from that limit and do not even have to be disclosed. And some gifts—like meals—are not counted at all, no matter how much they cost. So, essentially, there is not a real limit.

It does not have to be that way. And it is not that way in the executive branch. Those officials, in general, may not accept gifts from anyone who does business with the official's agency, nor from anyone who has interests that may be substantially affected by the performance of the employee's official duties.

Those rules have not caused a collapse of government. The executive branch has not ceased functioning. Such rules help. They do not hurt. And they ought to be in place in the Senate.

First, there is a need to respond to public cynicism and restore the people's trust in the Congress. Second, there is a need to reduce the power of special interests, and to make government more responsive to the needs of ordinary Americans.

Let me address the perception problem first.

Mr. President, Americans today distrust government, and are angry! They think that Members are captives of the wealthy and powerful, and not really concerned about ordinary people. In their view, Congress is out of touch in part because Members enjoy an assortment of special perks and privileges that are unavailable to the general public, and that appear to influence policy.

That view is understandable.

Consider this analogy. Let us say you are a baseball fan. You pay hundreds of dollars to fly to the World Series to see your favorite team compete. And then you find out that the umpires just came back from a luxury trip to the Caribbean—paid for by the opposing team.

Now, those umpires might insist that their free trip will not influence their work. They may claim to be fine, ethical people who care about the good of the game. They may say that their judgments will not be colored by the gifts they received.

And not a fan in the country would believe them.

Well, Mr. President, that's how most Americans feel when they see special interest lobbysts winning and dining Members of Congress. They think the deck is stacked against them. They do not think it is fair. And they do not respect a system which operates that way.

Mr. President, fair or not, as long as the public believes that Congress is beholden to special interests, our credibility, and our ability to lead, is undercut.

Mr. President, democracy cannot function in an atmosphere of distrust. But that is the environment which surrounds us. It is an atmosphere polluted by perceptions of misused power and abused perks. It is losing the faith of the American people and interfering with our ability to govern.

That brings me to the next point.

The need to reform our rules on gifts, meals, and travel goes beyond a perception problem. This is not just a figment of the public's imagination. It's real. And it has to be addressed.

When I was a CEO in the private sector, I had a rule. Purchasing agents could not accept gifts from suppliers. It was not an unusual rule. Lots of companies have it. They have it because gifts create a potential for undue influence.

Gifts influence behavior in the private sector. And they can influence behavior in Congress as well.

Now I know many of my colleagues do not believe that. Members, they say, are not selling their votes for the price of a meal, or a trip to Barbados.

They are probably right. But that is just not the point.

The point is this: when lobbyists take a Senator to dinner, they are not buying a vote—but they are not just buying a meal. They are buying access. And access is power.

Ordinary citizens do not have that access. They cannot just take their Senator to a quiet dinner at an expensive restaurant and explain what it is like to be unemployed and out of unemployment compensation benefits. They cannot take their Congressman to a ballgame to discuss the problems they have making ends meet or educating their kids. And they certainly cannot spend a relaxing weekend at a tropical resort, playing golf with key legislators while discussing a complicated provision in a tax bill.

Mr. President, after you have been in Congress for a while, it is easy to forget how hard it is to get access to Members. But we have a whole industry here in Washington that exists largely to give its clients that kind of access. Many lobbyists get paid huge salaries not because of their policy expertise, but because they can get people in high places to return their phone calls, and listen to what they have to say.

Mr. President, corporations do not spend thousands of dollars so that Members of Congress can play golf in the Caribbean because they think the world will be a safer place if Members can practice sinking putts from 30 feet. They think the world will be a safer place if Members of Congress agree with them on issues. And they want to talk to Members about those issues. They do that at dinner, on golf courses, at sporting events. They are paying for access. They are paying for clout.

The current system of influence peddling creates a bias in the political system as a whole. A bias against the interest of ordinary Americans, and in favor of narrow special interests who are represented by lobbyists here in Washington. And that is what needs to change.

Mr. President, the restrictions I have proposed are hardly radical—executive branch employees already live under similar rules. Under my proposal, there is no limit on the number of meals or trips that Members can take with lobbyists—they just have to pay their own way.

Obviously, Mr. President, we need to do more than limit gifts, meals, and travel. We need to overhaul our campaign finance laws, toughen regulation of lobbyists, close the revolving door, and fundamentally change the policymaking environment here on Capitol Hill. But we need to start.

Mr. President, we cannot put this issue off forever. The Senate has committed itself to acting promptly. We said we would act this year. But we have not. That is one reason people don't trust us, do not believe us, often do not respect us. And that is one reason I am not going to let this issue go away. We have to act, and soon.•

TRIBUTE TO ZORADER CURRENCE

• Mr. METZENBAUM. Mr. President, I rise today to pay tribute to a remarkable woman. Ms. Zorader Currence of Canton, OH.

Ms. Currence was recently honored by Maxwell House as a real hero; a select group of individuals—only 50 from across the country—who selflessly donate their time making others' lives better.

Mr. President, this woman is a tribute to the human spirit, and a reminder that so many of us fall short in our individual efforts to aid those less fortunate than we. Many of us contribute to a cause, or volunteer an hour here or an hour there, or do what we can on the issues that concern us most.

Zorader Currence has made helping others the work of her life. In her youth, Zorader struggled as a single parent to raise 10 children and made certain that every one of those children graduated from high school.

When those children had been educated and instilled with the values taught by their mother's example, Zorader turned her attention to the larger community in which she lived.

Today, at the age of 83, Zorader Currence remains a vibrant member of her community. She participates in the Meals on Wheels Program, delivering hot meals to house-ridden individuals. She spends hours cheering up the lonely in nursing homes, and she is a mother mentor, a model parent for a 15-year-old mother.

She also drives to the Stark County jail to visit female inmates.

For one inmate's family, she provides Sunday dinners and looks after the children.

I am proud to know Zorader Currence, and I trust that her example will inspire many to reach out to those in need.

I ask that an article recently published by the Akron Beacon Journal be submitted into the RECORD.

I urge everyone to read it, and I hope many will be inspired by her example.

The article follows:

[From the Akron Beacon Journal]

WOMAN, 83, KEEPS ON GIVING

(By Lisa Biank-Fasig)

CANTON—About 25 years ago, Zorader Currence picked up a stranded woman in California and took her home—to Ohio.

She worked and worked, and when she made enough money she gave it to the woman so she could return to her home, in New York.

That's just the way Currence is.

In fact, she said, she's always been that way.

"I've always wanted to be a missionary, from a child," she said. "But my mother died when I was 11 and I never saw my dad," who died when she was an infant. One of 14 children, she married as soon as she was old enough. "Got married like somebody crazy," she said. "And had 10 children."

But she and her husband separated, and for more than 15 years she had to raise her children alone.

"But the Lord let me live long enough to do some of the things that I really wanted to do." And she started doing them as soon as she could, when she was about 78.

Today, Zorader Currence, 83, is on a mission. From a mauve armchair in her living room, embraced by dozens of framed family photographs, she counts off various activities, and thinks of more as she describes each.

She is involved with Meals on Wheels, visits female inmates at the Stark County Jail once a week, stops at two area nursing homes to talk with the folks, is a "Mother Mentor"—a role model for a 15-year-old mother—and on Sundays takes children to and from Bible school.

She wants to visit Africa and see the people. She is especially interested in the elderly and children.

Also, she cares for the young family of one of the inmates she met at the prison. She takes them meals on Sundays, takes the children to Sunday school and drives the husband to visit his wife.

She also persuaded him to join the church and be baptized, she said.

"She's a very nice girl," she said of the inmate. "I told her, 'We've all made mistakes.'"

The inmate's mistake, Currence said, was "smoking that stuff."

Of all her activities, Currence likes visiting the nursing homes best, something she does not do through the church or an organization, but on her own.

"There's a lot of lonely people in there. They need somebody to talk to."

She has made friends on her Meals on Wheels route as well.

"It's fun. A lot of them are just waiting for that meal."

Suzanne DeHoff of Meals on Wheels, Stark and Wayne counties, called Currence a "people-helping individual that stops at little."

"It's like the mail, almost," she said, meaning Currence delivers in any weather. "She has a bond with these people, a commitment."

The Rev. Edward E. Kirtdoll, of Canton's Jerusalem Baptist Church, has known Currence as a member for eight years.

"She's an excellent, outstanding woman," he said. "She's a tremendous stabilizer. She's had that kind of an influence in my life as a pastor."

"She's an encourager" who has led young women prisoners to go to church. "She's also a giver. Most people are receivers. (But) she's constantly looking for people she can give things to."

Currence's heart is full. She said this is the best time of her life.

"I've always wanted to do what I'm doing. It's just given me joy that I'm able to make somebody else smile."

Not that her family accomplishments aren't rewarding. She's proud to say that she never went on welfare while raising her children, who all graduated from high school.●

SEVEN ETHNIC ALBANIANS ARRESTED FOR TEACHING SCHOOL

● Mr. RIEGLE. Mr. President, recent events in the former Yugoslavia have shocked Americans throughout this country, and rightly so. Ongoing human rights abuses in Kosovo contradict the dangerous and misguided notion that the carnage will begin and end in Bosnia. Left unchecked, the consequences of this spreading conflict for the United States, Europe, and the entire Balkan region will be catastrophic. Thus, we must closely monitor the situation in order to try to prevent the further spread of war.

Our first test may lie in the Kosovo region where ethnic Albanians compose over 90 percent of the population but Serbia claims long-time historical ties. Already, the violence has begun. A potent example of the rising tension in the Kosovar region of the former Yugoslavia occurred last month. On October 18 and 19, Serbian police forces arrested seven ethnic Albanians who were providing private Albanian language lessons to their school-aged children. These men are well respected doctors, professors, priests, and contributing members of their community: Father Ambroz Ukaj; Prof. Pal Sokoli; Prof. Gjergj Sokoli; Prof. Gjon Komoni; Prof. Luz Berisha; Dr. Tome Komoni; Mr. Hazry Proshi.

All were arrested and taken to the Gjakova police station where they were subjected to 3 days of severe mental and physical abuse. They have since been taken to the prison in Pec where they are still being detained. Although they have not been formally charged with any crime, they are allegedly accused of violating article 116 of the Penal Code of the Federal Republic of Yugoslavia—threatening the territorial integrity of the country.

The Serbian notion that giving lessons is somehow subversive and indicative of secessionist activity demonstrates flawed logic. Indeed, according to Helsinki Watch the vast majority of ethnic Albanians do not attend public schools because they provide only segregated, second-rate education. Private school education has been forced underground. Lashing out against private schoolteachers only serves to foster feelings of fear and oppression which may well create a more viable secessionist movement if Serbia does not allow its ethnic Albanian community to live with dignity.

The October arrests are but one example of the worsening situation in Kosovo. Human rights monitors from the Conference on Security and Cooperation in Europe [CSCE], were forced to leave Kosovo in July of this year and Amnesty International observers were recently barred from entering. Denying access to international human rights observers has cleared the way for heightened repression, and has provoked fears that Kosovo Albanians will be the next target of Serbia's ethnic cleansing.

If we are to have any impact in stemming the increasing violence in the Balkans we must make a firm stand against the human rights abuses currently occurring in Kosovo. The full range of rights which Serbs enjoy must also be extended to the ethnic Albanian community, and our Government must do all it can to ensure that that occurs.●

THE FOOD STAMP PROGRAM ON INDIAN RESERVATIONS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to proceed to S. 1777, introduced by Senator PRESSLER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1777) to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I rise today to offer legislation that would further delay implementation of two provisions in the law that address State administration of the Food Stamp Program. Specifically, the provisions that would be delayed were enacted as part of the 1990 farm bill. The first would require States to stagger food stamp issuance for families living on reservations. This provision has never been implemented. Originally, this provision would have gone into effect January 31, 1994. The legislation I am offering today would delay implementation until March 15, 1994, and enable current practices to be maintained.

The second provision would exempt reservation households from the Food Stamp Program's State option of monthly income reporting. Again, this provision was to have been implemented after January 31, 1994. This legislation also would delay implementation until March 15, 1994.

Finally, this bill would continue the eligibility of certain retail stores until March 15, 1994. It is my understanding that without this legislation, approximately 26,000 stores would be disqualified from participating in the Food Stamp Program. This extension is important for those retailers in South Dakota that would be affected otherwise.

Frankly, Mr. Chairman, I am disappointed that I have to offer yet another extension. This is the second time this year that I have had to settle for an extension rather than resolve this issue for those affected by the Food Stamp Program. We were so close to an agreement this evening, but it was not to be.

Two provisions that were placed in the 1990 Farm bill at the 11th hour, with no hearings or Committee deliberations have been researched by the General Accounting Office, and a Joint Hearing by the Committee on Indian Affairs and Agriculture has been held. This has led to some positive changes being made in the Food Stamp Program. I am optimistic that further discussions will lead to continued improvement in Federal food programs for all recipients, including those living on Indian reservations.

I will continue to work with my colleagues, including my friend from Vermont, the chairman of the Agricultural Committee, Senator LEAHY, on legislation to resolve the issue for all parties concerned.

Mr. President, I understand this has been cleared on both sides of the aisle, and therefore, urge its immediate adoption. It is my hope the House will act expeditiously on this legislation and send it to the President for signature.

The PRESIDING OFFICER. Without objection, the bill is deemed having been read the third time, and passed.

So the bill (S. 1777) was deemed read the third time, and passed, as follows:

S. 1777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTING AND STAGGERED ISSUANCE FOR HOUSEHOLDS ON RESERVATIONS.

Section 908(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 7 U.S.C. 2015 note and 7 U.S.C. 2016 note) is amended by striking "January 31, 1994" both places it appears and inserting "March 15, 1994".

SEC. 2. CONTINUING ELIGIBILITY OF CERTAIN RETAIL FOOD STORES.

Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on March 15, 1994, an establishment or house-to-house trade route that is otherwise authorized to accept and redeem coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) on the date of enactment of this Act may not be disqualified from participation in the food stamp program solely because the establishment or trade route does not meet the definition of "retail food store" under section 3(k)(1) of such Act (7 U.S.C. 2012(k)(1)).

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I understand that S. 1770 was introduced earlier today; is that correct?

The PRESIDING OFFICER. The Senator is correct.

MEASURE READ FOR THE FIRST TIME—S. 1770

Mr. BIDEN. Mr. President, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1770) to provide comprehensive reform of the health care system of the United States, and for other purposes.

Mr. BIDEN. Mr. President, I ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

Mr. BIDEN. Mr. President, I understand that S. 1775 was introduced earlier today; is that correct?

The PRESIDING OFFICER. Yes.

MEASURE READ FOR THE FIRST TIME—S. 1775

Mr. BIDEN. I ask that the bill be read for the first time.

The legislative clerk read as follows:

A bill (S. 1775) to ensure individual and family security through health care coverage for all Americans.

Mr. BIDEN. Mr. President, I ask for its second reading.

The PRESIDING OFFICER. Is there objection.

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

AMENDING THE CLAYTON ACT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 664, a bill to change the date the FTC must publish the monetary reporting thresholds being held at the desk; that the bill be read the third time, and passed; that the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 664) was deemed read the third time, and passed, as follows:

S. 664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENT OF THE CLAYTON ACT.

Section 8(a)(5) of the Clayton Act (15 U.S.C. 19(a)(5)) is amended by striking "October 30" and inserting "January 31".

MEASURE INDEFINITELY POSTPONED—S. 1627

Mr. BIDEN. Mr. President, I ask unanimous consent that calendar No. 309, S. 1627, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Mr. BIDEN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3321, a bill to provide flexibility to States in carrying out low-income home energy assistance program, just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider laid on the table and that any statements relating there to be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3321) was deemed read the third time, and passed.

Mr. SARBANES. Mr. President, I rise in support of H.R. 3321, increased State flexibility in the Low-Income Home Energy Assistance Program. This bill would improve the workings of a program that provides help with utility bills to many low-income families living in federally assisted housing.

A measure was included in the Housing and Community Development Act of 1992 which was intended to improve access to State-run energy assistance programs for residents of public and federally assisted housing. The legislation generally prohibits State programs from discriminating against tenants in assisted housing who receive energy assistance in the form of utility allowances rather than Low-Income Home Energy Assistance Program [LIHEAP] grants. It also prohibits these programs from denying assistance to otherwise eligible tenants in public and assisted housing.

In implementing the provision with respect to a Federal program, Low-Income Home Energy Assistance [LIHEAP], some States have run into problems. They have interpreted it to require them to provide large grants to assisted housing tenants, even if they already receive adequate utility allowances through other sources. This interpretation results in some tenants receiving over-generous subsidies, while others are denied assistance altogether due to inadequacy of funds.

In other cases, tenants have been disadvantaged by the LIHEAP rules. Many States supplement LIHEAP benefits through other programs. Some means-tested programs use receipts of LIHEAP benefits to determine eligibility. Tenants who receive their energy assistance through utility allowances, rather than LIHEAP, are sometimes unable to access these programs or receive reduced benefits even though their needs and circumstances are the same.

The bill fixes these problems by clarifying that States have the authority to tailor LIHEAP grant amounts to the needs of the recipient families. At the same time, it retains the general prohibition against discrimination against qualified tenants of assisted housing for the purposes of other means-tested programs. This is to ensure that any special program rules or supplemental benefits available to LIHEAP recipients will be available to assisted housing residents, even if their energy assistance is provided through utility allowances rather than LIHEAP grants.

Mr. BOND. Mr. President, I urge my colleagues to support H.R. 3321, a bill to provide increased flexibility to states in carrying out the Low-Income Home Energy Assistance Program [LIHEAP]. This bill contains a provision which is identical to a provision I helped to include in S. 1299, the Housing and Community Development Act of 1993, which passed the Senate on November 18, 1993. It is important legislation that makes needed reforms to LIHEAP to ensure that low-income families receive the appropriate and necessary amount of assistance for the payment of utility costs.

This bill corrects an unintended consequence of a provision contained in the Housing and Community Development Act of 1992. The 1992 provision generally prohibits state programs from discriminating against tenants in assisted housing who receive utility assistance rather than LIHEAP assistance. In implementing this requirement, some States have determined that they must provide grants to assisted housing tenants, even where these tenants already receive adequate utility assistance. This has resulted in some tenants receiving "double-dipping" of assistance, while other eligible low-income tenants receive no LIHEAP assistance because of a lack of funding. This bill addresses this problem by clarifying that States may provide LIHEAP assistance according to the needs of the eligible low-income families.

COMMUNITY DEVELOPMENT OBJECTIVES FOR THE CITY OF SLIDELL, LA

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1769, a bill introduced earlier today by Senators JOHNSTON and BREAUX relating to a statement of community development objectives for the city of Slidell, LA.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1769) to make a technical amendment, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I ask unanimous consent that it be in order to send three amendments to the desk and they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1236

AMENDMENT NO. 1237

AMENDMENT NO. 1238

Mr. BIDEN. Mr. President, I send three amendments to the desk and ask for their immediate consideration, en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. WOFFORD and Mr. SPECTER, Mr. RIEGLE, and Mr. D'AMATO, proposes respectively amendments numbered 1236, 1237, and 1238, en bloc.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1236

At the appropriate place insert the following:

INCREASE OF CDBG PUBLIC SERVICES CAP

(A) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

AMENDMENT NO. 1237

At the appropriate place insert the following:

SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by Reason of the project.

AMENDMENT NO. 1238

At the appropriate place insert the following:

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(for equivalent level of safety)" after "system".

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 1236, 1237, and 1238) were agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (S. 1769) was deemed read for the third time and passed, as follows:

(The bill, S. 1769, will appear in a subsequent issue of the RECORD.)

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 1687

Mr. BIDEN. Mr. President, I ask unanimous consent that a star print be made of S. 1687, the Environmental Flexible Funding Act of 1993, to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENTIVE HEALTH AMENDMENTS OF 1993

Mr. BIDEN. Mr. President, I submit a report of the committee of conference on H.R. 2202, the preventive health amendments of 1993 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes for the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, having met, after full and free conference, have agreed to recommend and do recommend to their respective House this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 20, 1993.)

Mr. KENNEDY. Mr. President, I urge the Senate to approve the conference report on H.R. 2202, the Preventive Health Amendments of 1993. Its purpose is to reauthorize vital public health programs and launch needed new preventive health initiatives.

This legislation reaffirms our strong support for the early detection and disease prevention activities of the Centers for Disease Control and Prevention. It is designed to achieve a healthier America as we move toward the 21st century.

The rise of tuberculosis in recent years is placing a heavy and unexpected additional burden on the health care system. Thirty thousand new active cases are reported each year in the United States, with over 1,700 deaths, up from 22,000 in 1985. The most ominous development is the alarming increase in drug-resistant highly infectious strains of the disease that have caught the country unprepared.

This legislation supports preventive health services for the prevention, control, and elimination of tuberculosis. It will support development of an improved diagnostic test for TB. It will upgrade the capability of TB laboratories, ensure that TB services are provided to needy populations, and maintain effective TB public health, treatment compliance, follow-up and evaluation activities. It will establish a TB drug and device research program at the FDA.

For fiscal year 1994, the bill authorizes $200 million for the TB Control and Treatment Program and $50 million for basic research activities at NIH. These authorizations represent an investment in our efforts to prevent and eliminate tuberculosis in the United States. The legislation will help State and major city health departments to identify persons with TB and those at highest risk of acquiring the disease. Programs will be better targeted for treatment and prevention, and their effectiveness will be evaluated.

This legislation authorizes $50 million for the Injury Prevention and Control Program of the Centers for Disease Control and Prevention. This measure will support research and other programs on injuries resulting from motor vehicle accidents, falls, poisonings, burns, drownings, and causes of violence, including homicide and suicide. These funds will establish a family and interpersonal violence prevention program and identify effective strategies to prevent violence within the family and among acquaintances.

This bill will also support a national campaign to prevent violence against women. It will build upon existing efforts by the CDC to create a comprehensive violence prevention program. This campaign will be a vital step toward reducing violence targeted at women by demonstrating and evaluating promising intervention strategies, by conducting a nationwide education, training, and public awareness effort, and by expanding our knowledge base through data collection and research.

This bill authorizes $150 million for the early detection of breast and cervical cancer. The funds will enable States to provide life-saving breast and cervical cancer screening services for women at risk, particularly low-income, the elderly, and minority women. In addition, this measure will establish mechanisms through which the States can monitor the quality and interpretation of screening procedures. The bill establishes a women's preventive health service demonstration project.

This legislation also authorizes $85 million for the CDC's Sexually Transmitted Diseases Program. This measure will strengthen the quality of STD services, prevent the complications from the disease and help reduce the rising rates of STD.

Other important provisions in the bill include the reauthorization of the special population program at the National Center of Health Statistics, extension of the trauma care systems program at the Health Services and Resource Administration, and issuance of a biennial Surgeon General report on nutrition and health.

Each of these measures is justified by sound public health considerations. Early detection and prevention of injury and illness can play a vital role in improving public health, especially the health of women. In cases of violence against women, injury, TB, and sexually transmitted diseases, prevention is a key component of any successful health care strategy. The early detection and treatment of breast and cervical cancer saves lives.

The CDC has been and continues to be the Nation's wisest disease prevention investment. With the passage of this measure, we will recognize the vital importance of prevention to the Nation's health. I urge the Senate to approve this essential bipartisan legislation.

Mr. HATCH. Mr. President, at a time when the Congress and the Nation are focusing attention on health care reform, it is important that we move ahead with real programs that actually help people. For that reason, I believe it is significant that we are acting on this important reauthorization at this time.

This bill is important because H.R. 2202 addresses several health challenges facing both Utah and the United States, including the ongoing tragedy of breast and cervical cancer and the growing crisis of tuberculosis.

It is significant because it shows the Congress' commitment to practical, tangible programs that can significantly benefit those suffering from these diseases.

Each year in Utah, 18 out of every 100,000 women dies due to breast cancer. By adopting language I introduced to the Senate in S. 1317, the Breast and Cervical Cancer Information Act of 1993, this legislation provides a needed focus on measures designed to recognize and treat cancers unique to women. Coupled with the heightened research emphasis by NIH on women's health concerns that I and my colleagues have called for, we are finally beginning to target these diseases in an appropriate manner.

I am also pleased that the language I authored to increase tuberculosis services has been incorporated into this legislation. Utah, like the rest of our Nation, is facing a potential epidemic of new tuberculosis cases. Only by aggressively targeting this diseases now can we hope to avert a potential future crisis. This legislation is an important step toward treating and containing tuberculosis.

While I regret that my provision to provide a small authorization for renovation of tuberculosis treatment facilities was dropped from the final report, I nevertheless recognize it is not a reflection on the merits of the proposal, but rather is an inevitable result of our constrained resources.

Mr. President, in conclusion, all of us have already heard a great deal of rhetoric regarding health care reform This legislation takes us past the speeches and gives us an opportunity to implement basic, proven, preventive programs that are the foundation of reform. I urge my colleagues to support this important reauthorization.

Mr. BIDEN. Mr. President, I ask unanimous consent that the conference report be agreed to; the motion to reconsider be laid upon the table; and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

CLARIFICATION OF REGULATORY OVERSIGHT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3514, a bill to clarify the regulatory oversight exercises by the REA with respect to certain electric borrowers, just received from the House, that the bill be read three times, passed and the motion to reconsider laid upon the table; that any statements relating thereto be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3514) was deemed read three times and passed.

NATIONAL FIREFIGHTERS DAY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 272, a joint resolution designating October 29 as National Firefighters Day, just received from the House; that the resolution be read three times, passed, that the preamble be agreed to; that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 272) was deemed read three times and passed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MANAGEMENT REORGANIZATION ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2876, the National Aeronautics and Space Administration Management Reorganization Act of 1993, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read as follows:

A bill (H.R. 2876) to promote and support management reorganization of the National Aeronautics and Space Administration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1239

(Purpose: To make a perfecting amendment)

Mr. BIDEN. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1239) was agreed to, as follows:

In section 2(b) of the bill, insert ", subject to the availability of appropriations provided in advance for this purpose," before "may be offered".

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2876), as amended, was passed.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE COURT ANNEXED ARBITRATION BILL

Mr. BIDEN. Mr. President, I ask unanimous consent that Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill S. 1732, the court annexed arbitration bill, and that upon the return of the papers the following amendment to the bill be agreed to and the motion to reconsider be laid upon the table without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the following amendment was agreed to.

Add the following after section 1:

SEC. 2. TREATMENT OF EXPIRED PROVISIONS.

Chapter 44 of title 28, United States Code, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, shall be effective on or after the date of the enactment of this Act as if such chapter and item had not been repealed by section 906 of the Judicial Improvements and Access to Justice Act, as such section was in effect on the day before the date of the enactment of this Act.

MINERAL EXPLORATION ACT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 322, the Mineral Exploration Act, just received from the House, that all after the enacting clause be stricken and the text of S. 775, as passed the Senate be inserted in lieu thereof, that the bill be read a third time, passed; that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 322) was deemed read a third time and passed.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed Mr. JOHNSTON, Mr. BUMPERS, Mr. AKAKA, Mr. BRADLEY, Mr. WALLOP, Mr. MURKOWSKI, and Mr. CRAIG conferees on the part of the Senate.

BONE MARROW DONOR PROGRAM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 1774, introduced earlier today by Senators KENNEDY and KASSEBAUM relative to the Bone Marrow Donor Program; that the bill be read a third time and passed; the motion to reconsider laid on the table; and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1774) was deemed read a third time and passed, as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bone Marrow Donor Program Reauthorization Act of 1993".

SEC. 2. REAUTHORIZATION.

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended by adding at the end thereof the following: "With respect to the board of directors—

"(1) each member of the board shall serve for a term of 5 years, except that the terms of each member who is serving on the date of enactment of the Bone Marrow Donor Program Reauthorization Act of 1993 shall expire at times determined by the Secretary, in consultation with the board;

"(2) a member of the board may continue to serve after the expiration of the term of such member until a successor is appointed; and

"(3) to ensure the continuity of the board, not more than one-fifth of the board shall be composed of newly appointed members each year.".

(b) Program for Recruitment of Donors.—Section 379(b) of such Act (42 U.S.C. 274k(b)) is amended—

(1) in paragraph (5) to read as follows:

"(5) establish a program for the recruitment of bone marrow donors that includes the compilation and distribution of informational materials and processes to educate and update potential donors;";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5), the following new paragraph:

"(6) regularly update the Registry to account for changes in potential donor status;".

(c) Information and Education Program.—Section 379 of such Act (42 U.S.C. 274k) is amended—

(1) by redesignating subsection (j) as subsection (k);

(2) by inserting after subsection (i), the following new subsection:

"(j) Information and Education Program.—

"(1) In general.—The Secretary may award grants to, and enter into contracts with, public or nonprofit private entities for the purpose of increasing bone marrow donation by enabling such entities to—

"(A) plan and conduct programs to provide information and education to the public on the need for donations of bone marrow;

"(B) train individuals in requesting such donations; and

"(C) test and enroll marrow donors.

"(2) Priorities.—In awarding grants and contracts under paragraph (1), the Secretary shall give priority to carrying out the purposes described in such paragraph with respect to minority populations."; and

(3) in subsection (k) (as so redesignated), by striking "1991" and all that follows and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(d) Patient Advocacy and Case Management.—

(1) In general.—Section 379 of such Act (42 U.S.C. 274k), as amended by subsection (c), is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j), the following new subsection:

"(k) Patient Advocacy and Case Management.—

"(1) Establishment.—The Secretary shall by grant or contract establish and maintain an office of patient advocacy and case management that meets the requirements of this subsection.

"(2) Provisions relating to grants and contracts.—

"(A) Application.—To be eligible for a grant or contract under this subsection an entity shall prepare and submit to the Secretary for approval an application that shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(B) Limitations.—A grant or contract under this subsection shall be for a period of 3 years. No grant or contract may exceed $500,000 for any such year.

"(3) Functions.—The office established under paragraph (1) shall—

"(A) be headed by a director who shall serve as an advocate on behalf of—

"(i) individuals who are registered with the Registry to search for a biologically unrelated bone marrow donor; and

"(ii) the physicians involved;

"(B) establish and maintain a system for patient advocacy that directly assists patients, their families, and their physicians in a search for an unrelated donor;

"(C) provide individual case management services to directly assist individuals and physicians referred to in subparagraph (A), including—

"(i) individualized case assessment, tracking of preliminary search through activation, and follow up when the search process is interrupted or discontinued;

"(ii) informing individuals and physicians of progress made in searching for appropriate donors; and

"(iii) identifying and resolving individual search problems or concerns;

"(D) collect and analyze data concerning the number and percentage of individuals proceeding from preliminary to formal search and the number and percentage of patients unable to complete the search process; and

"(E) survey patients to evaluate how well such patients are being served and make recommendations for streamlining the search process.

"(4) Evaluation.—

"(A) In general.—The Secretary shall evaluate the system established under paragraph (1) and make recommendations to Congress concerning the success or failure of such system in improving patient satisfaction, and any impact the system has had on assisting individuals in proceeding to transplant.

"(B) Report.—Not later than April 1, 1996, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the evaluation conducted under subparagraph (A), including the recommendations developed under such subparagraph.".

(2) Registry functions.—Section 379(b)(2) of such Act (42 U.S.C. 274k(b)(2)) is amended by striking "establish" and all that follows through "directly assists" and inserting "cooperate with the patient advocacy and case management office established under subsection (j) and make available information on (A) the resources available through the National Bone Marrow Donor Program, (B) the comparative costs incurred by patients prior to transplant, and (C) the marrow donor registries that meet the standards described in subsection (c)(3) and (d)(1), to assist".

(3) Effective date.—The amendments made by this subsection shall take effect on April 1, 1995.

Mr. KENNEDY. Mr. President, S. 1595 reauthorizes the National Bone Marrow Donor Registry. For persons suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life and death.

But finding a suitable bone marrow donor is far more difficult than matching blood types. In the past, it was virtually impossible to find a suitable match if none was available in the patient's family. But all that has changed in recent years. In 1988, Congress passed the Health Omnibus Program Extension Act, requiring the Secretary of the Department of Health and Human Services [HHS] to establish a national registry of volunteer bone marrow donors. Over 1 million potential donors are now listed on the registry, and the prospect of finding suitable matches has been dramatically increased.

This bill builds on that success. It will establish a program to recruit more bone marrow donors through the distribution of information and educational materials. The Secretary of HHS may award grants or contract with organizations to increase donations. Priority will be given to education and training for minorities and other populations which have the greatest difficulty in finding matches in the current registry. The number of minority donors on the registry has increased substantially in recent years, but a large disparity still exists.

To assist patients, families, and their physicians in seeking a donor, the Secretary will establish, by grant or contract, an office of patient advocacy and case management. This grant or contract may be awarded as of April 1, 1995. The services provided by the office will include reviewing individual cases, tracking preliminary searches, informing patients and physicians of progress locating appropriate donors, and identifying and resolving individual search problems and concerns.

The tragic deaths of William Gold, Allison Atlas, and Joanne Johnson have reminded us again how important these services are. Dr. Gold testified before the House of Representatives this year, and eloquently urged us to do more to put the patient's interests first. Allison's father and Joanne's mother brought their concerns to the Senate Labor and Human Resources Committee in 1990 about the need to strengthen the donor program. We mourn their loss, and we hope this bill will accomplish its life-saving goal of improving the current system.

I particularly commend the leadership of Senator Kassebaum on this legislation. She has worked with great skill and dedication in developing this measure, and I look forward to the passage of this bill by the Senate.

I ask unanimous consent that a summary of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

SUMMARY OF THE BILL

S. 1774 extends for three years the National Bone Marrow Donor Registry, a registry of volunteer donors administered by the Department of Health and Human Services to help patients find unrelated donors for bone marrow transplants. Under this bill, $15 million is authorized for the National Registry during fiscal year 1994, and such funding as may be necessary in fiscal years 1995 and 1996.

In addition to extending appropriations authority, the legislation makes the following changes to the Bone Marrow Donor Program:

Limits the terms of National Bone Marrow Donor Registry board members to five years. The Secretary shall consult with the board to determine the expiration cycle of current board member terms.

Requires the Secretary to establish and maintain by separate grant or contract an office of patient advocacy, as of April 1, 1995 to be headed by a director who will advocate on behalf of patients seeking an unrelated bone marrow donor, and their physicians.

Expands the responsibilities of the patient advocacy office to provide individual case management services, inform patients and physicians of the status of the search progress, and to identify and resolve search problems.

Requires the Secretary to assess this patient advocacy office and report by April 1, 1996, to the House Committee on Energy and Commerce and to the Senate Committee on Labor and Human Resources.

Require the Registry to establish a bone marrow donor recruitment program, including creating informational materials and procedures to educate and update potential donors.

Require the Registry to be updated regularly to account for changes in donor status.

Enable the Secretary to award grants or contracts to public or nonprofit organizations to increase bone marrow donation. These contracts may include programs to provide public information and education on the need for bone marrow donation, training people to requests donation, and testing and enrolling bone marrow donors. The Secretary shall give priority to programs for increasing donors among minority populations.

BACKGROUND AND NEED

For people suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life or death. In contrast to matching blood types, finding a suitable donor for a bone marrow donor is much more difficult. The first place to look is in the patient's family, where matches are found 20 percent of the time. If no suitable donor is found, the only hope is to find a compatible donor from the public at large.

The National Organ Transplant Act of 1984 (P.L. 98-507) required the Secretary to study the feasibility of establishing a national registry of voluntary bone marrow donors and included the authority to establish such a registry. The Health Omnibus Program Extension Act of 1988 required the establishment in the Department of Health and Human Services of a national registry of voluntary bone marrow donors.

The Transplant Amendments of 1990 extended for three years the program of the National Bone Marrow Donor Registry. The Registry was required to maintain a system for patient advocacy to directly assist patients and their families and physicians. During hearings on the bone marrow donor program the Committee learned that the lack of patient advocacy services was a serious problem. The Committee considers patient advocacy to be an essential component of Registry activities, and is concerned to hear continuing complaints in this area.

The bill further strengthens the patient advocacy responsibilities of the National Registry and requires the Secretary to maintain by separate grant or contract this expanded office of patient advocacy, as of April 1, 1995. The Committee strongly supports the importance of patient advocacy to meet the needs of patients in search of a bone marrow transplant and believes that a separate competitive bid process will provide the best services for patients in search of a transplant. Increasing the number and diversity of donors on the national registry is the most direct way to improve patients' chances of a successful bone marrow transplant. However, for a patient and their family, the system can sometimes be complex to navigate alone as they wait for news of a potential bone marrow donor.

It concerns the Committee that some patients may not fully utilize the resources of the entire bone marrow transplant system due to lack of understanding of the resources and assistance available. The bill will expand the patient advocacy office to provide patients and their physicians with individual case management services, to inform them of the status of their search progress, and to identify and resolve search problems. The Committee understands and supports the need for confidentiality of potential donors, but the Registry must also provide patients awaiting transplants, their families, and physicians, access of a responsive advocate to turn to when a problem or concern arises.

In addition, the Committee is concerned that some potential bone marrow donors may not fully understand the procedures and implications of agreeing to be a bone marrow donor. This bill will require the Registry to establish a bone marrow donor recruitment program, including creating informational materials and procedures to educate and update potential donors. It will also require the Registry to be updated regularly to account for changes in donor status.

Unlike other Public Health Service Advisory Boards, the Bone Marrow Donor Registry has routinely reappointed, rather than alternating, membership on its Board of Directors. As a means of bringing new members and different opinions to the board, this bill sets the term of board members on the Bone Marrow Donor Registry at five years and requires the Secretary to establish staggered terms to assure that one-fifth of the Board members are replaced each year through election. Current Board members may continue until a successor has been appointed.

LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT OF 1990

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 56, a concurrent resolution to make corrections in the enrollment of S. 1766, the Lime Research, Promotion, and Consumer Information Act of 1990, submitted earlier today by Senator LEAHY; that the concurrent resolution be agreed to and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 56) was agreed to, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the text of the bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, the Secretary of the Senate shall make the following corrections.

In section 4(b)(1)—

(1) strike "'The Secretary'" and insert "'Members'"; and

(2) strike "'shall—'" and insert "'appointed—'".

ARSON PREVENTION ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 331, S. 798, the arson prevention bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 798) to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 1727, the House companion, and that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 798, be inserted in lieu thereof, that the bill be advanced to third reading, passed, and the motion to reconsider laid upon the table; that upon disposition of H.R. 1727, the Senate measure be returned to the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1727), as amended, was deemed read a third time and passed.

Mr. GORTON. Mr. President, I am pleased to join with my colleague, Senator RICHARD BRYAN, in urging passage of the Arson Prevention Act of 1993. As chairman, and ranking Republican of the Consumer Subcommittee, Senator BRYAN and I have worked on a number of initiatives to address the Nation's fire problems. Once again, the ferocity of the recent fires in California demonstrate the terrible destruction that fire causes.

The United States has one of the worst fire records of any country in the industrialized world. More than 2.4 million fires are reported every year and millions more go unreported. Fires result in over 6,000 deaths annually, 30,000 injuries, and billions of dollars of property losses. The Nation's fire service is comprised of approximately 1.2 million professional and volunteer firefighters. These dedicated men and women have one of the most important, yet one of the most hazardous, jobs in our country today.

The Arson Prevention Act will provide for the development of advanced courses on arson prevention. The bill allows for the expansion of arson investigator training programs at the National Fire Academy and the Federal Law Enforcement Training Center. It establishes a demonstration program of 10 competitive grant awards to States or consortiums of States to improve training of police and fire fighters to combat arson. At least 25 percent of the grant must be funded by a non-Federal source. The act authorizes $4 million in fiscal year [FY] 1994 and 1995 for grants, It also authorizes $2 million in fiscal year 1995 for an expansion of the arson investigator training programs at the Federal Law Enforcement Training Center.

Washington State has known the destruction of fire, both in our forests and in our urban areas. This year, the outbreak of arson fires in north King and south Snohomish county in my State has focused our attention on the need for expanded arson investigator training and support of arson fire tracking systems. Families and individuals deserve to feel safe and secure in their neighborhoods. Arson fires not only threaten lives, but devastate local communities. This legislation is a positive move to expand coordinated efforts between law enforcement agencies to prevent future arson fires.

I urge the Senate to adopt this important measure before adjourning for the year.

Mr. BRYAN. Mr. President, I am proud to present today, for consideration by the full Senate S. 798, the Arson Prevention Act of 1993.

Senator GORTON and I introduced this legislation on April 20 of this year. On November 9, the Commerce Committee voted unanimously to have the legislation reported. A similar bill, introduced by Congressman BOUCHER, already has been passed by the House.

This legislation establishes a grant program to assist States in their efforts to combat arson. According to reports by the U.S. Fire Administration, arson is responsible for 25 percent of the estimated 2.4 million fires in the United States each year, and the leading cause of fire deaths. During the Consumer Subcommittee's hearing on this issue on November 18, fire experts and Federal law enforcement authorities stated that one of the most effective ways to combat arson is through improved arson research and training programs. They indicated their full support for S. 798.

I am glad that the full Senate is considering this legislation, and urge all of my colleagues to vote in support of this bill.

COAST GUARD AUTHORIZATION ACT OF 1993, PASSENGER VESSEL SAFETY ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 325, S. 1052, the Coast Guard authorization.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1052) to authorize for appropriations for fiscal year 1994 for the Coast Guard, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1994.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,609,747,000, of which—

(A) $25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $32,250,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $414,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $25,000,000, to remain available until expended, of which $4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $548,774,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,940,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $23,057,000, to remain available until expended.

(b) FISCAL YEAR 1995.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,711,762,000, of which—

(A) $26,000,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $33,500,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $596,000,000, to remain available until expended, of which $20,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $25,750,000, to remain available until expended, of which $4,600,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $579,500,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $13,289,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard Facilities, $23,749,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994 (of which not more than 6,400 shall be commissioned officers), and 39,138 as of September 30, 1995 (of which not more than 6,400 shall be commissioned officers). The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,986 student years for fiscal year 1994 and 1,986 student years for fiscal year 1995.

(2) For flight training, 114 student years for fiscal year 1994 and 114 student years for fiscal year 1995.

(3) For professional training in military and civilian institutions, 338 student years for fiscal year 1994 and 338 student years for fiscal year 1995.

(4) For officer acquisition, 955 student years for fiscal year 1994 and 955 student years for fiscal year 1995.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. ELIMINATION OF PERMANENT CEILING ON NUMBER OF COMMISSIONED OFFICERS.

(a) ELIMINATION OF CEILING.—Section 42 of title 14, United States Code, is amended by striking subsection (a), and by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 42(d) of title 14, United States Code, as redesignated by subsection (a) of this section, is amended by striking "subsection (c)" and inserting in lieu thereof "subsection (b)".

*(2) The section heading for section 42 of title 14, United States Code, is amended by striking "**Number and distribution**" and inserting in lieu thereof "**Distribution**".*

*(3) In the analysis for chapter 3 of title 14, United States Code, the item relating to section 42 is amended by striking "**Number and distribution**" and inserting in lieu thereof "**Distribution**".*

SEC. 202. INCREASED GRADE FOR CHIEF OF STAFF.

(a) AUTHORITY FOR GRADE OF VICE ADMIRAL.—(1) Chapter 3 of title 14, United States Code, is amended by inserting immediately after section 50 the following new section:

"§50a. Chief of Staff

"(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform such duties as the Commandant may prescribe. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointment.

"(b) The Chief of Staff shall, while so serving, have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The analysis for chapter 3 of title 14, United States Code, is amended by inserting immediately after the item relating to section 50 the following new item:

"50a. Chief of Staff.".

(b) ELIMINATION OF UNNECESSARY SENIORITY EXCEPTION.—Section 41a(b) of title 14, United States Code, is amended by striking ", except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay".

(c) CLERICAL AMENDMENTS.—Section 41a of title 14, United States Code, is amended—

(1) in subsection (c), by striking "his" and inserting in lieu thereof "that person's"; and

(2) in subsection (d), by striking "he" and inserting in lieu thereof "that officer", and by striking "his" and inserting in lieu thereof "that officer's".

SEC. 203. CONTINUITY OF GRADE OF ADMIRALS AND VICE ADMIRALS.

(a) RETIREMENT.—(1) Section 51 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

"(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

"(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.".

(2) Section 51 of title 14, United States Code, is further amended—

(a) in subsections (a) and (b), by striking "as Commander, Atlantic Area, or Commander, Pacific Area" each place it appears and inserting in lieu thereof "in the grade of vice admiral"; and

(b) in subsection (c), by striking "his" and inserting in lieu thereof "that officer's".

(b) ELIMINATION OF UNNECESSARY PROVISION FOR CHIEF OF STAFF.—Section 290 of title 14, United States Code, is amended—

(1) in subsection (a), by striking "or in the position of Chief of Staff" in the second sentence; and

(2) in subsection (f), by striking "Chief of Staff or" each place it appears.

(c) CONFORMING AMENDMENT RELATING TO RETIREMENT OF COMMANDANT.—Section 46(a) of title 14, United States Code, is amended by striking "shall, at the expiration of his term, be retired with the grade of admiral." and inserting in lieu thereof "shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in section 51(d) of this title.".

(d) CONFORMING AMENDMENTS RELATING TO RETIREMENT OF VICE COMMANDANT.—(1) Section 47 of title 14, United States Code, is amended—

(A) by striking subsections (b), (c), and (d); and

(B) in subsection (a)—

(i) by striking "(a)" at the beginning; and

(ii) by striking the last sentence and inserting in lieu thereof "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The section heading for section 47 of title 47, United States Code, is amended by striking "**; retirement**".

(3) The item relating to section 47 in the analysis for chapter 3 of title 14, United States Code, is amended by striking "; **retirement**".

(e) CONFORMING AMENDMENTS RELATING TO AREA COMMANDERS.—Section 50 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "his" and inserting in lieu thereof "that area commander's"; and

(2) in subsection (b) by striking the last sentence and inserting in lieu thereof "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

SEC. 204. VOLUNTEER SERVICES.

Section 93 of title 14, United States Code, is amended—

(1) by striking "and" at the end of subsection (r);

(2) by striking the period at the end of subsection (s) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subsection:

"(t) enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, and accept and utilize voluntary services, notwithstanding section 1342 of title 31, United States Code, to provide for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

"(1) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and

"(2) a cooperative agreement under this subsection shall provide for the Commandant and the other party or parties to the agreement to—

"(A) contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement; or

"(B) furnish services on a matching basis to carry out such programs, projects, and activities; or

"(C) both contribute funds as described in subparagraph (A) and furnish services as described in subparagraph (B); and".

SEC. 205. RESERVE RETENTION BOARDS.

Section 741(a) of title 14, United States Code, is amended by striking "and are not on active duty and not on an approved list of selectees for promotion to the next higher grade" and inserting in lieu thereof "except those officers who are on extended active duty, are on a list of selectees for promotion, will complete 30 years' total commissioned service by 30 June next following the date on which the retention board is convened, or have reached age 59 by the date on which the retention board is convened".

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICE MANAGEMENT

SEC. 301. NORTH ATLANTIC ROUTES.

Sections 3 and 5 of the Act of June 25, 1936 (46 U.S.C. App. 738b and 738d), are repealed.

SEC. 302. TECHNICAL AMENDMENT FOR BOAT SAFETY ACCOUNT.

Section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)(A)(ii)) is amended—

(1) by striking "No" at the beginning of subclause (II) and inserting in lieu thereof "Subject to subclause (III), no"; and

(2) by adding at the end the following new subclause:

"(III) CALCULATION OF AMOUNT IN ACCOUNT.—Amounts previously appropriated from the Aquatic Resources Trust Fund for carrying out the purposes of section 13106 of title 46, United States Code, but not distributed, shall not be included when calculating whether the Boat Safety Account exceeds the limit established in subclause (II).".

SEC. 303. UNMANNED SEAGOING BARGES.

Section 3302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(m) A seagoing barge is not subject to inspection under section 3301 of this title if the vessel is—

"(1) unmanned; and

"(2) does not carry oil in bulk or a reportable or harmful quantity of a hazardous material.".

TITLE IV—ENGINEERING AND DEVELOPMENT AMENDMENTS

SEC. 401. COAST GUARD FAMILY HOUSING.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§670. Procurement authority for family housing

"(a) The Coast Guard, on behalf of the United States, is authorized, where appropriate—

"(1) subject to the availability of appropriations sufficient to cover its full obligations, to acquire real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium related fees; and

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real property or interest therein used for Coast Guard family housing units; except that such disposition shall be made by the General Services Administration in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(b) In procuring real property and interests therein under subsection (a) of this section, the Coast Guard may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(c)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for more than 1, but not more than 5, fiscal years.

"(2) The Coast Guard may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of such a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

"(B) the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to *be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.".*

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"670. Procurement authority for family housing.".

SEC. 402. AIR STATION CAPE COD IMPROVEMENTS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new section:

"§671. Air Station Cape Cod improvements

"The Coast Guard may spend or obligate appropriated funds for the repair, improvement, restoration, or replacement of those federally or non-federally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"671. Air Station Cape Cod improvements.".

SEC. 403. LONG-TERM LEASE AUTHORITY FOR AIDS TO NAVIGATION.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new section:

"§672. Long-term lease authority for navigation and communications systems sites

"(a) The Coast Guard, on behalf of the United States, is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for aids-to-navigation sites, vessel traffic service sensor sites, or National Distress System high level antenna sites. The lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. The lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

"(b) In procuring real property and interests therein under subsection (a) of this section, the Coast Guard may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(c)(1) The Coast Guard may enter into multiyear lease agreements under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of such a lease agreement will promote the efficiency of the aids-to-navigation program, vessel traffic service program, or National Distress System program and will result in reduced total costs under the agreement;

"(B) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

"(C) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, as amended by this title, is further amended by adding at the end the following new item:

"672. Long term lease authority for navigation and communications system sites.".

TITLE V—RESEARCH

SEC. 501. AUTHORITY FOR EDUCATIONAL RESEARCH GRANTS.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

"§196. Participation in Federal, State, or other educational research grants

"Notwithstanding any other provision of law, the Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, except that no such award may be accepted for the acquisition or construction of facilities, or for the routine functions of the Academy.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 9 of title 14, United States Code, is amended by adding at the end the following new item:

"196. Participation in Federal, State, or other educational research grants.".

SEC. 502. COOPERATIVE AGREEMENT AUTHORITY.

Section 93 of title 14, United States Code, as amended by section 204 of this Act, is further amended by adding at the end the following new subsection:

"(u) enter into cooperative agreements with other Government agencies for purposes of contracting with the National Academy of Sciences.".

TITLE VI—PASSENGER VESSEL SAFETY

SEC. 601. SHORT TITLE.

This title may be cited as the "Passenger Vessel Safety Act of 1993".

SEC. 602. DEFINITION OF PASSENGER.

Section 2101(21) of title 46, United States Code, is amended to read as follows:

"(21) 'passenger'—

"(A) on a vessel, other than a vessel referred to in subclause (B), (C), or (D) of this clause, means an individual carried on the vessel except—

"(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

"(ii) the master; or

"(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

"(B) on an offshore supply vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel;

"(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) a managing operator;

"(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner; or

"(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; and

"(D) on a sailing school vessel, means an individual carried on the vessel except—

"(i) an individual as described in subclause (A)(i), (A)(ii), or (A)(iii) of this clause;

"(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

"(iv) a sailing school instructor or sailing school student.".

SEC. 603. DEFINITION OF PASSENGER VESSEL.

Section 2101(22) of title 46, United States Code, is amended to read as follows:

"(22) 'passenger vessel' means a vessel of at least 100 gross tons—

"(A) that is carrying more than 12 passengers, including at least one passenger for hire;

"(B) that is chartered and carrying more than 12 passengers; or

"(C) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 604. DEFINITION OF SMALL PASSENGER VESSEL.

Section 2101(35) of title 46, United States Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons—

"(A) that is carrying more than 6 passengers, including at least one passenger for hire;

"(B) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying more than 6 passengers;

"(C) that is chartered, with no crew provided or specified by the owner or the owner's representative, and carrying more than 12 passengers; or

"(D) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 605. DEFINITION OF UNINSPECTED PASSENGER VESSEL.

Section 2101(42) of title 46, United States Code, is amended to read as follows:

"(42) 'uninspected passenger vessel' means an uninspected vessel—

"(A) of at least 100 gross tons—

"(i) that is carrying not more than 12 passengers, including at least one passenger for hire; or

"(ii) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying not more than 12 passengers; or

"(B) of less than 100 gross tons—

"(i) that is carrying not more than 6 passengers, including at least one passenger for hire; or

"(ii) that is chartered, with the crew provided or specified by the owner or the owner's representative, and carrying not more than 6 passengers.".

SEC. 606. DEFINITION OF PASSENGER FOR HIRE.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (21) the following new clause:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.".

SEC. 607. DEFINITION OF CONSIDERATION.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (5) the following new clause:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit, including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage by monetary contribution or donation of fuel, food, beverage, or other supplies.".

SEC. 608. DEFINITION OF OFFSHORE SUPPLY VESSEL.

Section 2101(19) of title 46, United States Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking "and is not a small passenger vessel".

SEC. 609. DEFINITION OF SAILING SCHOOL VESSEL.

Section 2101(30)(B) of title 46, United States Code, is amended by striking "at least 6" and inserting in lieu thereof "more than 6".

SEC. 610. DEFINITION OF SUBMERSIBLE VESSEL.

Section 2101 of title 46, United States Code, is amended by inserting immediately after clause (37) the following new clause:

"(37a) 'submersible vessel' means a vessel that is capable of operating below the surface of the water.".

SEC. 611. EXEMPTION AUTHORITY.

Section 2113 of title 46, United States Code, is amended to read as follows:

"§2113. Authority to exempt certain vessels

"If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of certain vessels engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

"(1) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment;

"(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify; and

"(3) establish different operating and equipment requirements for uninspected passenger vessels described in section 2101(42)(A) of this title.".

SEC. 612. EQUIPMENT AND STANDARDS FOR UNINSPECTED PASSENGER VESSELS.

Section 4105 of title 46, United States Code, is amended—

(1) by redesignating the existing text as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Within 24 months after the date of enactment of this subsection, the Secretary shall, by regulation, require certain additional equipment (including liferafts or other lifesaving equipment), or establish construction standards or additional operating standards, for the uninspected passenger vessels described in section 2101(42)(A) of this title.".

SEC. 613. APPLICABILITY DATE FOR REVISED REGULATIONS.

(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels (as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act) shall not, before the date that is 6 months after the date of enactment of this Act, apply to such vessels when chartered with no crew provided.

(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating shall extend for up to 30 additional months or until issuance of a certificate of inspection, whichever occurs first, the period of inapplicability specified in subsection (a) if the owner of the vessel concerned carries out the provisions of subsection (c) to the satisfaction of the Secretary.

(c) CONDITIONS FOR EXTENSION.—To receive an extension authorized by subsection (b), the owner of the vessel shall—

(1) make application for inspection with the Coast Guard within 6 months after the date of enactment of this Act;

(2) make the vessel available for examination by the Coast Guard prior to the carriage of passengers;

(3)(A) correct especially any hazardous conditions involving the vessel's structure, electrical system, and machinery installation, such as (i) grossly inadequate, missing, unsound, or severely deteriorated frames or major structural members; (ii) wiring systems or electrical appliances without proper grounding or overcurrent protection; and (iii) significant fuel or exhaust system leaks;

(B) equip the vessel with lifesaving and fire fighting equipment, or the portable equivalent, required for the route and number of persons carried; and

(C) verify through stability tests, calculations, or other practical means (which may include a history of safe operations) that the vessel's stability is satisfactory for the size, route, and number of passengers; and

(4) develop a work plan approved by the Coast Guard to complete in a good faith effort all requirements necessary for issuance of a certificate of inspection as soon as practicable.

(d) OPERATION OF VESSEL DURING EXTENSION PERIOD.—The owner of a vessel receiving an extension under this section shall operate the vessel under the conditions of route, service, number of passengers, manning, and equipment as may be prescribed by the Coast Guard for the extension period.

SEC. 614. CERTIFICATE OF DOCUMENTATION FOR THE VESSEL LISERON.

(a) AUTHORITY TO ISSUE CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, section 8 of the Passenger Vessel Act of 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel LISERON, United States official number 971339.

(b) SPECIAL RULE.—Solely for the application of regulations promulgated under part B of subtitle II of title 46, United States Code, the Secretary of Transportation shall deem the vessel LISERON, United States official number 971339, to measure less than 100 gross tons, if and only if the vessel—

(1) does not undergo a major conversion as defined in section 2101(14a) of title 46, United States Code, subsequent to the date of enactment of this Act; and

(2) does not engage in the carriage of passengers on an international voyage.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. HERON NECK LIGHTHOUSE.

(a) AUTHORITY TO CONVEY.—(1) The Secretary of the department in which the Coast Guard is operating (hereafter in this title referred to as the "Secretary") shall convey to the Island Institute, Rockland, Maine, by an appropriate means of conveyance, all right, title, and interest of the United States Government in and to property comprising the Heron Neck Lighthouse; except that the Coast Guard shall retain all right, title, or interest in any historical artifacts, such as any lens or lantern, on the property conveyed pursuant to this section.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) CONDITIONS.—(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) The property conveyed pursuant to this section may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such additional conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Island Institute may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States Government;

(C) there is reserved to the United States Government the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States Government shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigational aids; and

(E) the United States Government shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Island Institute shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The Island Institute shall maintain the Heron Neck Lighthouse in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and other applicable laws.

(d) DEFINITION.—For purposes of this section, the term "Heron Neck Lighthouse" means the Coast Guard lighthouse located on Green Island, Vinalhaven, Maine, including—

(1) the attached keeper's dwelling, ancillary buildings, the associated fog signal, and boat ramp; and

(2) such land as may be necessary to enable the Island Institute to operate at that lighthouse a nonprofit center for public benefit.

SEC. 702. CAPE COD LIGHTHOUSE PLANNING AND DESIGN STUDIES.

(a) COMPLETION OF STUDIES.—(1) Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall complete the necessary planning studies, including selection of a relocation site, identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse (popularly known as the "Highland Light Station"), located in North Truro, Massachusetts.

(2) Not later than 18 months after the date of enactment of this Act, the Secretary shall complete the design studies identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse.

(b) USE OF AMOUNTS FOR STUDIES.—Of amounts appropriated under the authority of this Act for acquisition, construction, rebuilding, and improvement, the Secretary may use up to $600,000 for conducting the studies required under subsection (a).

SEC. 703. TRANSFER OF LIGHTHOUSES.

(a) AUTHORITY TO TRANSFER.—(1) The Secretary may convey by any appropriate means to the Washington State Parks and Recreation Commission all right, title, and interest of the United States Government in and to property comprising one or more of the Cape Disappointment Lighthouse, North Head Lighthouse, and Point Wilson Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Cape Disappointment Lighthouse, North Head Lighthouse, or Point Wilson Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States Government if the property, or any part thereof—

(A) ceases to be used as a center for public benefit for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government;

(B) the Washington State Parks and Recreation Commission may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States Government the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States Government shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation;

(E) the United States Government shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property; and

(F) the property shall be rehabilitated and maintained by the owner in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(4) The Washington State Parks and Recreation Commission shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "Cape Disappointment Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard; and

(B) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of the maritime history;

(2) "North Head Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history; and

(3) "Point Wilson Lighthouse" means the Coast Guard lighthouse located at Fort Worden State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) two ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history.

SEC. 704. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1994 not more than $421,700 and for fiscal year 1995 not more than $358,300, for the lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 705. SOUTHEAST REGIONAL FISHERIES LAW ENFORCEMENT TRAINING CENTER.

The Coast Guard shall establish the Southeastern Regional Fisheries Law Enforcement Training Center in the Seventh Coast Guard District in Charleston, South Carolina. The purpose of the Southeastern Regional Fisheries Law Enforcement Training Center shall be to increase the skills and training of Coast Guard fisheries law enforcement personnel and to ensure that such skills and training address the unique characteristics and complex management requirements of the fisheries of the Southeastern United States.

SEC. 706. FISHING AND FISH TENDER VESSELS.

Section 5209(b)(2) of the Oceans Act of 1992 (46 U.S.C. 2101 note) is amended by striking "without charge" and "owned by the same person".

SEC. 707. NATIONAL SAFE BOATING WEEK.

The Act of June 4, 1958 (36 U.S.C. 161), is amended by striking "week commencing on the first Sunday in June" and inserting in lieu thereof "week ending on the last Saturday before Memorial Day".

SEC. 708. OUTER CONTINENTAL SHELF CIVIL PENALTIES.

Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If a person fails to comply with or violates a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating, that person is liable, without regard to the requirement of the expiration of a period allowed for corrective action, to the United States Government for a civil penalty of not more than the amount provided in paragraph (1) for each day of the continuance of that failure or violation.

"(B) The Secretary of the department in which the Coast Guard is operating is authorized to assess the amount of the civil penalty for which a person is liable for failure to comply with or for violating a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating. The assessment of the civil penalty shall be by written notice and after an opportunity for a hearing.

"(C) In determining the amount of the penalty, the Secretary of the department in which the Coast Guard is operating shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

"(D) The Secretary of the department in which the Coast Guard is operating may compromise, modify, or remit, with or without consideration, a civil penalty under this Act until referring the assessment to the Attorney General.

"(E) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary of the department in which the Coast Guard is operating may refer the matter to the Attorney General for collection in an appropriate district court of the United States.".

SEC. 709. WATCHSTANDING ON CERTAIN VESSELS.

Section 8301(b) of title 46, United States Code, is amended by inserting ", or a vessel used only to respond to a discharge of oil or a hazardous substance," immediately after "offshore supply vessel" each place it appears.

SEC. 710. LOS ANGELES-LONG BEACH VESSEL TRAFFIC SERVICE.

The Coast Guard is authorized to provide personnel support for the interim vessel traffic information service in the Ports of Los Angeles and Long Beach operated on behalf of the State of California by the Marine Exchange of Los Angeles-Long Beach Harbors, Inc., a California nonprofit corporation (hereinafter referred to as "Marine Exchange"). The Coast Guard shall be reimbursed for all costs associated with providing such personnel in accordance with a reimbursable agreement between the Coast Guard and the State of California. Amounts received by the Coast Guard as reimbursements for its costs shall be credited to the appropriation for operating expenses of the Coast Guard. The United States Government assumes no liability for any act or omission of any officer, director, employee, or representative of the Marine Exchange or of the State of California, arising out of the operation of the vessel traffic information service by the Marine Exchange, and the Coast Guard shall have the same protections and limitations on such liability as are afforded to the Marine Exchange under California law.

AMENDMENT NO. 1240

(Purpose: To make an amendment in the nature of a substitute)

Mr. BIDEN. Mr. President, I send to the desk a Hollings-Stevens substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for Mr. HOLLINGS and Mr. STEVENS proposes an amendment numbered 1240.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HOLLINGS. Mr. President, today I rise in support of the Coast Guard Authorization Act of 1993. This legislation provides the core authorization for the Coast Guard for fiscal year (FY) 1994. The authorization is consistent with the administration's budget request of $3.812 billion for FY 1994, and represents approximately a four percent overall increase from the level appropriated in FY 1993. As in previous years, the Coast Guard budget does not fully reflect the magnitude of duties performed by this branch of the Armed Services. The funding levels authorized will require the Coast Guard to continue running a tight ship, particularly given its numerous responsibilities. As I have started before, when the Coast Guard was first established in 1790, its mission was straightforward—to prevent smuggling and collect tax revenues. Since that time, its responsibilities have been expanded significantly to include search and rescue, fisheries law enforcement, drug interdiction, aids to navigation, marine safety, and marine environmental protection. The proposed funding levels in the legislation before us today are the minimum needed by the Coast Guard to carry out its many missions.

Mr. President, today the Senate is considering an amendment in the nature of a substitute for S. 1052. Let me provide a summary of the provisions in this substitute. Title I provides authorizations of appropriations for the Coast Guard. Funding levels for FY 1994 are as follows:

[In millions of dollars]

	Enacted fiscal year 1993	Authorization fiscal year 1994
Operating expenses	$2,558	$2,612
Acquisition, construction, and improvement	340	418
Environmental compliance	22	23
Research and development	28	25
Retired pay	520	549
Alteration of bridges	13	13

Over two-thirds of the Coast Guard's budget supports operating expenses. This account provides for the operation and maintenance of the multi-purpose vessels, aircraft, and shore vessels used to carry out the Coast Guard's missions.

The authorization for capital improvements in this substitute will be used for major improvements such as vessel and aircraft acquisition and rehabilitation, information management, and construction and improvement at shore and offshore facilities. Some major initiatives continuing through the next year are replacement of seagoing and coastal buoy tenders, motor lifeboats, and the icebreaker. Also included is funding for the vessel traffic services (VTS) system, a modern part surveillance system that reduces the risk of collisions and groundings. The funding for VTS responds to a 1992 "Port Needs Study" released by the Coast Guard, which identified high-risk ports that would benefit from VTS implementation.

The substitute contains $549 million in FY 1994 for payments to the retired military personnel of the Coast Guard, Coast Guard Reserve, and former Lighthouse Service members. Other funding authorizations in the legislation include environmental compliance and restoration, research and development, Coast Guard facility improvements, navigation and rescue support, and bridge alteration. Spending for environmental compliance is needed to bring current and former Coast Guard facilities into conformance with national environmental standards. Title I also contains the Coast Guard's authorized military strength levels.

Title II of the substitute authorizes personnel management improvements such as the elimination of the permanent ceiling on commissioned officers, brings Coast Guard flag officer personnel management into conformance with other branches of the uniformed services, raises the rank of the Vice Commandant, and allows volunteer organizations to help to maintain the historic value of Coast Guard facilities such as lighthouses.

Title III of the substitute authorizes long-term lease authority of housing or condominiums for personnel, and of navigation and communications systems sites. The substitute authorizes improvements to Coast Guard Air Station Cape Cod, allows the Coast Guard Academy to compete for educational research grants, authorizes acquisition of and improvements in oil spill response equipment, authorizes changes to the definition of unmanned seagoing barges, allows the Coast Guard to enter into cooperative agreements with other government agencies and the National Academy of Sciences, authorizes the establishment of a Coast Guard Fisheries Law Enforcement Training Center in the Southeast Atlantic region and in the Gulf of Mexico region, and improves the manning efficiency of oil spill recovery operations. This title provides an exemption to the Immigration and Nationality Act, under certain circumstances in Alaska. This exemption is necessary because of the isolated location of many Alaskan fishing communities and the frequent nonavailability of United States longshore workers. This title provides authority to the Coast Guard to transfer lighthouses in Washington State and Maine to state or local interests. This title also authorizes the Coast Guard and the Secretary of the Interior to complete a planning study for the relocation of the Cape Code Lighthouse.

Title IV of the substitute permits the Coast Guard to improve employment documentation procedures of merchant seaman.

Title V of the substitute is the Passenger Vessel Safety Act of 1993. Under current law, Coast Guard regulations require documented vessels carrying six or more passengers-for-hire to meet safety standards and to be inspected. By contrast, safety standards for private recreational vessels are lower, and no inspection is required. Passenger vessel requirements do not apply to boats chartered without a crew, referred to as bare-boat charters, because the charterer is acting in the capacity of owner. Now, short-term charters, such as a dinner cruise for 100–200 people, are being offered as "bare-boat" charters, and as a result, inspection and safety requirements are not implicated. This title corrects that potentially dangerous situation.

Title VI of the substitute permits the Secretary of Transportation to issue Jones Act exemption certificates of documentation for 53 vessels, and limited waivers for several others.

Title VII of the substitute authorizes renewal, until May 1, 1994, of the Agreement between the Government of the United States and the Government of the Russian Federation on Mutual Fisheries Relations. This agreement expired on October 28, 1993. This title also expresses the sense of the Congress that the United States should take appropriate measures to conserve the resources of the "Doughnut Hole" of the Bering Sea.

Title VIII of the substitute authorizes the Atlantic Coastal Fisheries Cooperative Management Act. The purpose of this title is to conserve Atlantic coastal fisheries by strengthening federal-state partnerships. The substitute provides federal and state managers with the tools needed to accomplish that goal. It provides that the Secretary of Commerce develop and implement a program to support the interstate fishery management efforts of the Atlantic State Marine Fisheries Commission's (Commission). In addition, the Secretary of Commerce would be authorized to impose necessary restrictions on fishing in federal waters. The substitute authorizes federal assistance to support the Commission and the states in carrying out their respective responsibilities. It provides for appropriations of $3 million for fiscal year 1994, $5 million for fiscal year 1995, and $7 million for fiscal year 1996. In addition, the legislation amends the Interjurisdictional Fisheries Act to authorize funding for the interstate fisheries commissions through fiscal year 1995. Finally, the legislation extends indefinitely the provisions of the Atlantic Striped Bass Conservation Act.

Title IX of the substitute permits the Secretary of Transportation to convey two vessels from the National Defense Reserve Fleet to any nonprofit organization that operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

Mr. President, I commend the Coast Guard for the manner in which it performs its missions. In time or war or peace, the Coast Guard is called upon to defend and promote this country's interests at sea. As we saw during this past summer's river floods, the Coast Guard also conducts search and rescue operations and provides disaster relief even into the heartland of America. I ask my colleagues to recognize this service by joining me in supporting Coast Guard authorization legislation.

Mr. CHAFEE. Mr. President, I would like to direct two questions to the distinguished chairman of the Commerce, Science, and Transportation Committee. My first question is whether the passage of this Act in any way affects the jurisdiction of the Environment and Public Works Committee with respect to the Atlantic Striped Bass Conservation Act?

Mr. HOLLINGS. Nothing in this Act would affect the shared jurisdiction of the Environment Committee and the Commerce Committee over the Atlantic Striped Bass Conservation Act.

Mr. CHAFEE. My second question is whether anything in this Act—other than the provision repealing the sunset of the moratorium authority—amends or otherwise affects the provisions of the Atlantic Striped Bass Conservation Act?

Mr. HOLLINGS. Nothing in this Act, other than the provision you have mentioned, affects the Atlantic Striped Bass Act.

Mr. CHAFEE. I yield to my colleague, the distinguished Chairman of the Environment and Public Works Committee.

Mr. BAUCUS. I would like to direct another question to the distinguished Chairman of the Commerce Committee. Is it the Senator's understanding that nothing in this Act impedes, limits, or otherwise affects the existing authorities or responsibilities of the U.S. Fish and Wildlife Service with respect to U.S. fisheries, particularly anadromous fish species?

Mr. HOLLINGS. Yes, that is correct, nothing in this Act would change the existing authorities or responsibilities of the Fish and Wildlife Service. In addition, it is my understanding that the National Marine Fisheries Service and the Fish and Wildlife Service currently have a close working relationship regarding issues affecting coastal fishery resources. This bill should encourage ongoing cooperative efforts and improve coordination between the two federal agencies, as well as with the States.

Mr. BAUCUS. I thank the Senator for the clarification.

The PRESIDING OFFICER. Without objection, the substitute amendment is agreed to.

So the amendment (No. 1240) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2150, the House companion, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 1052, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2150), as amended, was deemed read a third time and passed.

Mr. BIDEN. Mr. President, I ask unanimous consent that S. 1052 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR IN THE PACIFIC NATIONAL HISTORICAL PARK ACT OF 1993

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (H.R. 1944) a bill to provide for additional development at War in the Pacific National Historical Park, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1944) entitled "An Act to provide for additional development at War in the Pacific National Historical Park, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which American forces captured the islands of Saipan and Tinian in the Northern Marianas and liberated the United States Territory of Guam from Japanese occupation;

Mr. AKAKA. Would the Senator from Wyoming yield for a question.

Mr. WALLOP. I would be pleased to yield to my friend from Hawaii.

Mr. AKAKA. The other body removed section 3(B)(o) from the legislation which required the Secretary to submit a list of names to the appropriate committees which are to appear on the monument authorized in subsection (1). My question to the ranking member of the Committee on Energy and Natural Resources is will this action taken by the other body preclude the National Park Service from constructing a monument listing by individual name, those people of Guam, living and dead, who suffered personal injury, forced labor, forced marches, internment or death incident to enemy occupation of Guam between December 8, 1941 and August 10, 1944.

Mr. WALLOP. It is my understanding that the National Park Service already has a design to accomplish what the Senator has just described. The provisions in this legislation would not preclude or deny the Service from utilizing this design or registry to honor the loyalty of the people of Guam as well as the heroism of the American forces that liberated Guam. I believe that my friend from Hawaii shares my view that the Park Service should move forward with an appropriate monument to these heroes. It is long overdue.

Mr. AKAKA. I do share the Senator's views on this matter and I thank the Senator from Wyoming for his response.

Mr. KEMPTHORNE. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL READ THE FIRST TIME—S. 1779

Mr. BIDEN. Mr. President, I understand that S. 1779 was introduced earlier today; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1779) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice health care, and to ensure and protect the health care of all Americans.

Mr. BIDEN. Mr. President, I ask for second reading.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

BILLS READ FOR A SECOND TIME—H.R. 334, H.R. 881, AND S. 1751

The PRESIDING OFFICER. The clerk will read those bills which have been read a first time a second time.

The assistant legislative clerk read as follows:

A bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes.

A bill (H.R. 881) to prohibit smoking in Federal buildings.

A bill (S. 1751) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

Mr. KEMPTHORNE. Mr. President, I object to any further consideration of those measures.

The PRESIDING OFFICER. Objection is heard.

Those three bills will be placed on the calender under rule XIV.

UNANIMOUS-CONSENT REQUEST—H.R. 1025

Mr. BIDEN. Mr. President, I now ask unanimous consent that, when the Senate receives the conference report on H.R. 1025, the Brady handgun bill, it be immediately considered and agreed to and the motion to reconsider be laid upon the table, with the preceding all occurring without any intervening action or debate.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Is the conference report before the Senate?

The PRESIDING OFFICER. It is not before the Senate.

Mr. DOLE. So we are asked to deem it passed when it arrives, is that the shorthand?

Mr. BIDEN. If the Senator will yield, Mr. President; yes.

Mr. DOLE. On behalf of myself, Senators BOND, COCHRAN, COVERDELL, CRAIG, D'AMATO, DOMENICI, FAIRCLOTH, HELMS, HUTCHISON, KEMPTHORNE, NICKLES, PRESSLER, SIMPSON, SMITH, STEVENS, WALLOP, GRAMM, BREAUX, and SHELBY, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, parliamentary inquiry. I assume, when the conference report gets here, the majority leader or his designee can move to take up the conference report, is that right?

The PRESIDING OFFICER. The motion to proceed to consideration of the conference report would be in order.

Mr. DOLE. You could have the yeas and nays on that, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Will that motion be made this evening?

The PRESIDING OFFICER. The Chair has no way of knowing that.

Mr. BIDEN. Mr. President, speaking on behalf of the majority leader, I do not think it is the intention of the majority leader, if that comes back tonight, to make that motion tonight.

As I understand, there is going to be a request that when we adjourn, we adjourn until 10 tomorrow morning. I expect, if and when the report comes back, that the majority leader would make that motion.

He has further indicated to me that if there is objection at that time, after your having seen the conference report, that he would then not ask the Senate to proceed to adjourn sine die and that he would file a cloture motion and would ask us to come back next week to seek to end what would then be a filibuster on the—may or may not be a filibuster on the conference report to the Brady bill.

Mr. DOLE. Mr. President, I do not see how it could be a filibuster if you do not vote on cloture.

Mr. BIDEN. Mr. President, that is why I corrected myself—may or may not be.

Mr. DOLE. The press is very eager to accuse Republicans of filibustering. I wish they were just as eager to get the conferees to support the Senate's position.

There are seven major changes made in the conference, not one of them in accordance with the Senate bill. The bill is now worse than either the House-passed bill or the Senate-passed bill.

Republicans were never consulted. We proceeded to act in good faith and permitted the bill to come up the other night. The reward we got was—zero.

Mr. BIDEN. Mr. President, the Senator, the Republican leader, was understandably necessarily not present at that conference. Let me tell him what finally did happen.

The distinguished and very knowledgeable and articulate Senator from Alaska, Senator STEVENS, indicated that he would not agree to what the House had proposed as it related to changes in the sunsetting provision or any other provision relating to standards; that he would consider the possibility of changing some provisions that related to the second title which had to do with transfer of control over the sale of antique weapons, face-to-face sales, and a few other things.

I then asked the Senator was that—the only Republican there, the only Republican Senator there—whether or not there was any ability to compromise on the major two points, that is sunsetting and the standards? He said there was no possibility; zero. It was a nonnegotiable position.

At which time I indicated that I thought we should just go ahead and vote. The House offered a compromise, the entire—I offered a motion that was different than the House had proposed. The House rejected it. The House then offered a position. The Senate Democrats and Republicans objected to it.

Then the distinguished Congressman from New Jersey, Representative HUGHES, offered another proposal whichall Republicans and Democrats on the House side accepted and the three Democratic conferees accepted and both Republican Senators at that time present objected to.

The distinguished spokesperson for the Republicans at the conference indicated that if there were any changes at all along the lines the House wanted on the two most important provisions, that there would be no bill. He made it clear from the very beginning when we sat down before any motion was made. And it was a position that all of the members of the House conference, Republican and Democrat, rejected, and 3 of the 5 conferees, the 3 Democrats, objected to.

That is how we got to this point.

The PRESIDING OFFICER (Mr. GRAHAM). The minority leader.

Mr. DOLE. It is not precisely the way I heard it. I might ask the Senator from Delaware, what was the waiting period in the House bill before the instant check?

Mr. BIDEN. The sunset provision? Five years.

Mr. DOLE. No, the waiting period before the instant check. Was it not 30 months, then it was 24 months, and in the Senate bill you came back with 5 years, outside the scope of the conference? You, in effect, did away with the instant check for 5 years so the 18 million people out there, felons and others, are going to acquire guns because we are postponing the waiting period for 5 years. Somebody is going to be a victim because the conferees just changed the whole law—they changed everything.

Mr. BIDEN. The Senator is correct. The House bill originally had 30 months. The Senate bill, I believe, had 24 months.

Mr. DOLE. How do you get 60 when you have 30 and 24? You would think you would maybe get 27.

Mr. BIDEN. Because that is what the House offered, that is what the entire House voted for, and we supported that in order to get the Brady bill out of conference.

Mr. DOLE. I must say we can argue this in the morning but it seems to me we spent a lot of time, 4 or 5 days, and I thought in good faith on both sides. Apparently you learn a lot around here if you stay long enough, and I learned a lot in the past 48 hours. That will not happen again. But we thought we had been in good faith. We thought we had negotiated all these things, the Senator from Delaware, the Senator from Ohio, the majority leader, and any other Senator over there who had a problem. Now we find out that the 5 provisions we thought we had agreed on in the Senate were taken out plus the sunset, which the chairman announced even before the conference—but after the agreement—that he would not stick with 30 seconds. And now we have, in effect, done away with the instant check for 5 years.

So we are sort of back just to a waiting period, which was the original Brady bill, which was introduced several years ago. So I must say I do not believe under these conditions cloture will be invoked this year or next year, if that is what the Democrats insist upon. If they want an issue—we thought they wanted a bill, so we relented Saturday evening. We thought our conferees—the conference did not last but a few minutes, 30, 40 minutes. There was not much of a struggle, as I understand, in the conference.

But we will see what happens tomorrow when the majority leader moves to take up the conference report and the yeas and nays are ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, there were a number of other provisions in the Senate bill that were not in the House bill in title II. Three out of the five were taken out. Two of them remain. And the provision on the 5-year sunsetting, which is what originally a majority of the Senate voted for, and then the Republicans filibustered and then we reached the compromise—and I wanted to be real clear before we went because I did not want to be put in the position that the leader is attempting to put me in now, suggesting that a majority of the Senate really was committed to that provision. It was a way to get it out of here. Everybody knew that. That is why I said it before the vote, so no one would have any misunderstanding about it. And, so the one change that did take place was the change relative to the standards.

It was offered and rejected by the Republicans at the conference as well, that there be a compromise on the Senate language on the standards.

Senator STEVENS indicated that he would not, the Republicans would not countenance any change at all whatsoever on the standards, period.

So the first offer of the House to change the standards, to cut it in half, as you would say "to split the difference," was rejected. Then the House came back with a second proposal which was to eliminate the standards along the lines the Senator said, and that was unanimously agreed to by the Republicans in the House and the Democrats in the House and we accepted it. We did not have the votes for anything else.

Mr. DOLE. We will squabble about this later but I already had a call from one Republican conferee who had been through the Brady bill forever but thought we were rather shabbily treated in the conference.

Mr. BIDEN. If the Senator will yield, I wish that gentleman had spoken up. If I am not mistaken, he signed the conference report. I was told in the conference all the members of the conference were to sign that; that there was no dissent whatsoever in the conference. Maybe they did or did not sign it, but no one on the Republican side—when I asked whether or not was the House in agreement with the proposal they were making, the chairman and the ranking Republican indicated that they were.

I am not a mind reader. If one of the Senators—one of the House Members, Republican House Members, thought they were being treated shabbily, I have never known a House Member who would not speak up at a conference.

Mr. DOLE. This reminds me of the 1991 crime bill where the Democrats called everybody together on Sunday afternoon and in 2 hours stripped every Republican amendment and ended up with a Democratic bill.

We have the same thing tonight. If that is what the chairman wishes, that is what he has. He will have to get cloture. Maybe it can be done. If the majority leader wants to bring back the Senate that is up to him.

We thought we acted in good faith. We gave in on Saturday night; we said, OK, let us go. We took a lot of criticism from some of my colleagues on this side.

We had not had a filibuster—they keep using the word. Everything was done by agreement around here all week but there have been filibusters in some of the papers. It was all done by agreement. All done after hours and hours and days and days of negotiations, on both sides of the aisle, which we thought would produce a pretty good bill.

I regret that we have what we have before us. I have been around here all day. I have been fairly actively involved in all this. Nobody contacted me, except the Senator from Ohio, Senator METZENBAUM, said he was going to a press conference this morning. He called to tell me that. That is the only contact I had.

We feel there has been no effort to contact Republicans prior to the conference; that the Democrats went there, as did the chairman, with a proposal. Nobody contacted us. We are trying to accommodate the majority. I think, as I have said, the longer you are here the more you learn, and I have learned a great deal.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am learning a great deal here, too. I thought the people I was supposed to contact were the people in the conference. I did not know what the House was going to propose. I thought the House's offer was going to be different from what they originally sent to us in the conference. I did not contact the majority leader nor the Republican leader, nor would I have any reason to.

I did contact and did speak to and did accommodate and did talk throughout the conference with the senior Republican Member, Senator STEVENS, whom I have never known not to be able to take care of himself and the issue. The Senator from Alaska made it clear that unless we accept precisely what the Senate language was with regard to sunsetting and with regard to standards which the House made clear they would not accept, including the Republicans on the House conference, that there would be no bill. That is what the Senator said. I will be happy to get him a transcript. I assume there is a transcript of the conference. If there is not, I am sure his staff can relay that to him. That is exactly what happened.

And this is like what happened in the crime bill in this one respect: We went to the 1991 crime bill. It had the Brady bill in it, and my Republican friends and the then ranking member said if the Brady bill survives, if the Brady bill is going to be in the crime bill, there will be no crime bill.

It is somewhat interesting to me that—was it the assault weapons or the Brady bill? I think it was Brady. It becomes very clear. We are talking about good faith here. The good faith was that you had 57 U.S. Senators voting for a position that 43 did not like. I respect that. It is true, there was no official filibuster, but it was made clear we would not be able to vote up or down unless we negotiated an agreement and/or got 60 votes.

We voted twice to try to get 60 votes to break the filibuster. Our Republican colleagues were kind enough to allow us to vote those votes twice in one day rather than over a 4-day period. That was an accommodation. We appreciate it very much. But the bottom line was the same. Forty-three Members of the Senate concluded they did not like what a majority of the House had done and what a majority of the Senate had done. That is their right.

We got to conference. The same thing prevailed. There was clearly going to have to be an accommodation beyond the Senate position because 43 Members of the Senate concluded that in order to allow us to even get to conference we would have to change the bill the way they wanted it, which was their right.

To then suggest that because 435 Members of the House, represented by a conference, do not accept the position of a minority in the Senate, that that somehow is dealing in bad faith is beyond me. It is also beyond me that we are in a position now, after 5 years—I said 5, someone corrected me, 7 years—we are still debating the Brady bill.

So I acknowledge my Republican friends are totally within their rights not to let us proceed to a conference report.

Let me put it this way: Why do we not just proceed to the conference report and determine whether or not the entirety of the U.S. Senate thinks we acted in bad faith? If they did, then 51 Senators will vote that way.

Mr. DOLE. You do not have a conference report. It is not here.

Mr. BIDEN. When we get a conference report. Let us proceed and if, in fact, the majority of the Senate thinks that is not what they want, then fine, we will go back to conference again, obviously. If the House passes it—and they may not; they may not pass the conference report. Let us find out.

But this notion that, when someone disagrees with a minority point of view around here, they are operating in bad faith is a novel notion to the Senator from Delaware as well.

So let us lay it where it is: When the conference report comes back, if the Republican leader and/or his designee or anyone objects to proceeding to the conference report, they are fully within their rights, and I respect that. But that does not mean anything other than a minority of 535 people in the Congress do not want to proceed. That is all it means. It does not mean anything else. It does not mean anything more. It does not mean anything less. So that is what it is. Nothing more, nothing less. I respect them to do it. It is their right to do that when the conference report comes back, if a conference report comes back. But as the Republican leader said, we will have plenty of time to debate that when it comes back, if it comes back.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to make something very clear, and I appreciate what the distinguished chairman has said, but as the other Republican conferee, not only did I vote against the measure that was adopted, but I have not and will not sign the conference report. Neither did the Senator from Alaska.

Now it is no secret I do not support the Brady bill. What took place in the conference, which will be seen once the conference report arrives here in the Senate, is that there have been sweeping changes in what was adopted by the U.S. Senate. There is no way I can, nor will I, abide by any unanimous consent agreement to accept the conference report. I believe the Senators must vote again on that conference report.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think the Senator has stated it accurately, but let us just restate it in another way, in everyday language.

Both the Senator from Alaska and the distinguished acting leader were conferees, both voted against the Senate bill, both voted against the Senate position, and one of the two spoke up in the conference and said they could not vote for anything anyway, period, no matter what the conference did. They were not going to vote for it.

So the Senator from Delaware is a little bit confused because, if both representatives of the Republican Party at the conference indicated that no matter what we agreed to—at least one of them, let me be precise—one of them said he would not vote for anything that the conference came forward with and then went forward and said, but others may as long as we adhere to the Senate position on the first part on title I.

They did not sign the conference report because they do not like what was agreed to in the conference by Republicans and Democrats on the House side and Democrats on the Senate side. Does that mean they would have signed the conference report had we agreed to a position that was closer to their position? Or would they only sign a conference report if it eliminated the Brady bill? This is a little unusual to have—the Republican leader is accurately pointing out that I said before the fact that I would not attempt to hold the 4 years plus 1 year extension by the Attorney General as a sunsetting provision because I did not want anyone to operate under any disillusionment about that. He suggests that is bad faith.

Well, if that is bad faith, what is it to have the Republican spokesperson in the conference saying there is nothing, under any circumstances, would he agree to; nothing.

I see staff saying "not true." Let me amend that. I recall his saying that he was not for the Brady bill, he was for an instant check provision like the one he offered 5 years earlier. If we accepted what he offered 5 years earlier, presumably that would have been acceptable to him. But it was neither reflected in the Senate version nor in the House version.

I will point out that I asked the Senator, the Republican leader of the conference, would there be any agreement at all, is there any compromise he can accommodate with regard to standards in sunsetting? And let the RECORD be corrected if I am wrong, but my recollection is what I heard. He said no, no.

So it was a take-it-or-leave-it position on the two most important provisions that were in disagreement, both of which provisions the House disagreed with the Senate provision and both Republicans and Democrats in the House disagreed with the Republican position.

Again, I respect the Senator from Alaska. He has been an old and personal friend for 20 years. And I also know him never to bluff, not in my experience. So when he said that, we all took him very seriously.

I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I know that nothing will be accomplished tonight by continuing this exchange as to what may have taken place at the conference. I wish the Senator from Alaska were here so that he could certainly speak on his own behalf as to what he was saying.

But I know very clearly he took the document and he separated it and he held in one hand title I, which is the Brady bill, which is the bill that was passed by the Senate, and I believe his point was that this is what the Senate passed, and if this is what is agreed to, then in all likelihood, this is what will become the law.

Then he held up the rest of it and said, "There is no compromise here."

So whether or not the Senator from Alaska was stating about how he might personally vote, I think he was making it very clear that there was the Senate position, the Senate measure that had been adopted. Now, at the appropriate time, when the Senators return to vote on this, if that in fact is what is going to take place, then I think the Senator can make that clear.

Mr. BIDEN. Mr. President, I agree it does not make a lot of sense to prolong it, and in fairness to the acting leader, he was not able to be there in the very beginning of the conference, and so I do not say this to correct him in terms of debate. I say this to ask him to inquire of staff and other Republicans who were there.

What the Senator did, precisely, as I recall it, was he took the bill and he pulled title I and title II apart. This is toward the end of the conference. He, Senator STEVENS from Alaska, held up title I, the Senate version of the Brady bill, as he referred to it. He said there can be no compromise on this at all, period. Take it or leave it. He implied, as the Senator suggested, that he would not vote even for that but that he thought maybe Republican Senators would vote for that. You could get a bill. That he would not be for that, but he thought—he thought—that that could pass.

Then he held up title II, the 7 provisions that the Republicans and Democrats negotiated, and he said we can reach some compromise on these pieces.

Now, we did reach some compromise on those pieces, maybe not to his liking. We eliminated 3 provisions in title II essentially and kept 2, roughly. You can argue whether there is 5 or 7 and whether funding was part of it and the rest. But we did agree on that.

The House said, Senator—and as a matter of fact, the distinguished Congressman from New York said at the outset when the Senator from Alaska said a similar thing, he said, Senator, we are tired of the Senate coming dictating to us and saying something's not negotiable. And all his colleagues agreed with that.

So title I, that is the Brady bill, title I, the Republican spokesman at the conference said, is not negotiable, and title I, the House members said, that is not acceptable. And they made two offers. The first offer they made, all the Senate rejected it, Republicans and Democrats.

They made a second offer with regard to title I. The Democrats accepted it. All the House Members accepted it. To the best of anyone's knowledge—and the room was loaded with press and loaded with observers. Maybe they saw something I did not see, some body language, but there was no verbal utterance by anyone. That is what we accepted.

Now, where I come from, that means the majority will prevailed after a give and take, when one person says there will be no give, only take. That is what the Senator from Alaska said, and I respect his position. But let us understand what it was. Title I, he said, no, we will take it as is: Senate version, no changes, not negotiable. The house said thank you very much, Senator from Alaska, we are not buying it. That is what happened.

So I say again, we will have plenty of time to debate this, and I suspect we may debate it and debate it and debate it and be back on this Brady bill next year, unfortunately. But that remains to be seen. We will see what the House does, and then obviously it will be up to the majority leader and Republican leader to decide how to proceed from there.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I am not going to prolong this. I cannot talk as long as the Senator from Delaware. But I would just say that it is unfortunate because this does dim the chances of passing the Brady bill this year.

I think what people forgot in the conference was those who supported the Brady bill and those who permitted it to come to a vote. It does not make any difference that we had conferees who were opposed to the bill. So what. There were other people involved. Everybody knew they were involved. They voted against cloture, voted for the bill. There were 7 Republicans. So there certainly was awareness of other interests that were not even consulted.

But we can argue that all night long. The point is I could not, there is no way I could consent to deem the conference report passed. There is no way I could consent tomorrow to let the majority leader move to consideration of the conference report, I do not think, without the yeas and nays. And I am not certain how many Senators are in town tomorrow. So we will see what happens tomorrow.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRIENDSHIP ACT

Mr. BIDEN. Mr. President, I ask unanimous consent the Senate turn to consideration of Calendar No. 229, S. 1672, a bill to revise the obsolete laws related to the cold war; that the bill be read a third time; that the Senate then turn to the consideration of the House companion, H.R. 3000; that all after the enacting clause be stricken and the text of S. 1672 be substituted in lieu thereof; the bill read a third time and passed; the motion to reconsider laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read, and that Calendar No. 299 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the bill (H.R. 3000), as amended, was passed.

Mr. PELL. Mr. President today, the Senate is considering a bill to revise obsolete provisions enacted during the cold war. The bill was reported favorably by the Foreign Relations Committee on Thursday, November 18.

The purpose of this bill is not to rewrite history, but rather to amend or repeal laws that impede our relations with Russia, Ukraine, and the other countries of the former Soviet Union. I believe that it is important to demonstrate to the New Independent States our willingness to update our laws to reflect new international realities, and to demonstrate our continuing support for the reform process.

President Clinton has placed a high priority on doing just that, and I believe that we must do our part to ensure that when the President travels to Moscow in January, he will be able to tell President Yeltsin that our laws are up to date.

In many instances, the Friendship Act amends provisions of law to reflect the fact that the Soviet Union has dissolved. In other cases, the bill repeals provisions of law that are no longer relevant. It also contains a section which lists statutes that still remain in force, but which should not be construed as connoting an adversarial relationship between the United States and the New Independent States.

The text we are considering is fully supported by the administration. It has undergone a very thorough review, conducted under the leadership of Senators MITCHELL and DOLE, with the participation of all Senate committees with an interest in legislation affected by the bill. That consultation process began last spring, and in preparing this legislation, we have taken into account the suggestions and concerns of all the relevant committees. I am hopeful that we can move quickly to adopt this legislation.

I would add that this bill includes a provision offered by Senator HELMS and accepted by the Foreign Relations Committee, to authorize a privately funded memorial to honor the victims of communism. As we remove the relics of the cold war from our legislation, I would like to make clear that the intent of this memorial is not to single out any particular country as the perpetrator of crimes, but rather to honor all the victims of international communism.

I ask unanimous consent that a section-by-section analysis of the bill as well as the text of the underlying laws repealed or amended by this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLES

Section 1 provides short titles of the "Act for Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine and the Other New Independent States" or the "FRIENDSHIP Act" for purposes of this legislation.

SECTION 2—TABLE OF CONTENTS

Section 2 provides a table of contents for this act.

SECTION 3—DEFINITION

Section 3 provides that the terms "independent states of the former Soviet Union" and "independent states" have the same meaning as those contained in section 3 of the FREEDOM Support Act of 1992, i.e. Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

SECTION 101—PURPOSE

Section 101 sets out the purpose of the bill, which is to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and Russia, Ukraine, and the other independent states of the former Soviet Union, and to demonstrate for reformers and democrats in those new states that the people of the United States support the process of reform. It stipulates that all of the provisions subject to revision or repeal were appropriate at the time of passage, and that it is not the purpose of the bill to re-write or erase history or to forget those who suffered under communist repression.

SECTION 102—FINDINGS

Section 102 sets forth a series of findings regarding the new spirit of cooperation and partnership between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union. These findings emphasize the importance of U.S. cooperation with these countries. The findings note that many Cold War statutes remain in force, and that the repeal or revision of these provisions can play an important role in fostering and strengthening the bonds of trust and friendship as well as mutually beneficial trade and economic relations, between the United States and the independent states.

SECTION 103—STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION

Section 103 notes the fundamental changes that have taken place since the enactment of many of the statutes that still remain in force regarding the Soviet Union, some of which do not refer specifically to the Soviet Union. Several such statutes are not repealed or revised by this legislation. Section 103(c) stipulates that such provisions should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and those states, or signifying or implying in any manner unfriendliness toward these countries. These statutes include: section 216 of the State Department Basic Authorities Act of 1956 (concerning travel restrictions on personnel of certain countries and organizations), section 136 of the Foreign Reauthorization Act, Fiscal Years 1986 and 1987 (concerning Soviet Employees at U.S. diplomatic and consular missions in the Soviet Union), section 804 of that Act (concerning policy toward the application of the Yalta Agreement), section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (concerning U.S. policy on Angola), the Multilateral Export Control Enhancement Amendments Act, the "Captive Nations Week" resolution, the Communist Control Act of 1954, provisions in the Immigration and Nationality Act, section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East," and section 43 of the Bretton Woods Agreement.

TITLE II—TRADE AND BUSINESS RELATIONS

SECTION 201—POLICY UNDER THE EXPORT ADMINISTRATION ACT

Section 201 repeals congressional findings contained in section 2(11) of the Export Administration Act, regarding acquisition by the Soviet Union of national security sensitive goods, while leaving intact language in the other paragraphs of section 2 that sets forth the importance of considering the contribution certain exports can have to the military potential of foreign countries. Section 201 also sets out findings regarding the shootdown of Korean Airlines Flight 7, including that the Export Administration Act continues to carry language indicating that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the "no exceptions" policy was rescinded by President Bush in 1990. This section also repeals section 3(15) of the Export Administration Act, which states that it is the policy of the United States to continue to object to exceptions to the International Control List for the Soviet Union. The United States is currently engaged in discussions on how best to reform the COCOM export control regime in light of the new relationship with the independent states. Because the COCOM regime is multilateral, reform in this area must focus on diplomatic rather than legislative efforts.

SECTION 202—REPRESENTATION OF COUNTRIES OF EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION IN LEGAL COMMERCIAL TRANSACTIONS

Section 202 amends section 951 of title 18 of the U.S. Code to eliminate country-specific exceptions for the independent states of the former Soviet Union, as well as Hungary, Poland and the Czech and Slovak Republics. Section 951 of title 18 requires agents of foreign governments, acting in the United States, to notify the Attorney General of their agency relationship. Failure to do so is subject to a criminal penalty. The statute makes exceptions from this registration requirement for accredited diplomats and other officially acknowledged government representatives, and members of their staffs who are not United States citizens and makes exceptions for persons engaged in legal commercial transactions. Under section 203, the President shall determine, in light of changing relationships, which countries pose threats to the national security interests of the United States that require application of the notification provisions of section 951 to commercial representatives of foreign governments.

SECTION 203—PROCEDURES REGARDING TRANSFERS OF CERTAIN DEPARTMENT DEFENSE-FUNDED ITEMS

Section 203(a) repeals section 223 of the National Defense Authorization Act for Fiscal Years 1988 and 1989, which prohibits the transfer of military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative unless the president makes a determination regarding the transfer and the Congress approves such a transfer.

Section 203(b) repeals section 709 of the Department of Defense Appropriations Authorization Act, 1975, which subjects exports to controlled countries of goods, technology, and industrial techniques developed as a result of certain research and development programs to special review procedures.

SECTION 204—SOVIET SLAVE LABOR

Section 204 repeals section 1906 of the Omnibus Trade and Competitiveness Act of 1988, which expresses the sense of Congress that the President should express to the Soviet Union the moral opposition of the United States to the slave labor policies of the Soviet Union.

TITLE III—CULTURAL, EDUCATIONAL AND EXCHANGE PROGRAMS

SECTION 301—MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961

Section 301 amends the Mutual Educational and Cultural Exchange Act of 1961 to reflect the fact that the Soviet Union has dissolved.

SECTION 302—SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

Section 302 amends the Soviet-Eastern European Research and Training of 1983 to redesignate the Soviet-Eastern European Studies Advisory Committee as the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, and to reflect the fact that the Soviet Union has dissolved.

SECTION 303—FASCELL FELLOWSHIP ACT

Section 303 amends the title heading of section 1002 of the Fascell Fellowship Act to reflect the fact that the Soviet Union has dissolved.

SECTION 304—BOARD FOR INTERNATIONAL BROADCASTING

Section 304(a) repeals section 307 of the Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985, regarding the establishment of a separate Baltic Division of Radio Free Europe/Radio Liberty.

Section 304(b) amends section 308 of that Act regarding the jamming of Voice of America and Radio Free Europe/Radio Liberty broadcasts to include more general language objecting to the jamming of broadcasts by all countries.

SECTION 305—SCHOLARSHIP PROGRAMS FOR DEVELOPING COUNTRIES

Section 305 repeals sections 602(6) and (7) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, which describe the risk that scholarship programs by Soviet-bloc governments entail in increasing the likelihood that potential future leaders of the developing world will be educated in Soviet-bloc countries.

SECTION 306—REPORT ON SOVIET PARTICIPANTS IN CERTAIN EXCHANGE PROGRAMS

Section 306 repeals section 126 of the Department of State Authorization Act, Fiscal Years 1982 and 1983, under which the Secretary of State is required to submit annually to Congress a list of Soviet nationals participating during the upcoming year in certain exchanges, and to include a determination that these programs will not jeopardize U.S. national security interests.

TITLE IV—ARMS CONTROL

SECTION 401—ARMS CONTROL AND DISARMAMENT ACT

Section 401 amends various provisions of the Arms Control and Disarmament Act to reflect the fact that the Soviet Union has dissolved.

SECTION 402—ARMS EXPORT CONTROL ACT

Section 402 amends sections 94(b)(3)(B) and 95(5) of the Arms Export Control Act related to transfers of certain limited equipment under the Conventional Forces in Europe (CFE) Treaty to NATO members by replacing references to the Warsaw Pact countries with references to the countries of the Eastern Group of States Parties to the CFE Treaty.

SECTION 403—ANNUAL REPORTS ON ARMS CONTROL MATTERS

Section 403 repeals the reporting requirements contained in section 1002 of the Department of Defense Authorization Act, 1986 and sections 906 and 907 of the National Defense Authorization Act, Fiscal Year 1989.

SECTION 404—JOINT RESOLUTION ON U.S.-SOVIET DIRECT COMMUNICATION LINK

Section 404 amends Public Law 99-85 to reflect the fact that the direct communication link is now with Russia.

TITLE V—PROVISIONS RELATED TO DIPLOMATIC RELATIONS

SECTION 501—PERSONNEL LEVELS AND LIMITATIONS

Section 501 repeals various provisions relating to levels of and limitations on Soviet personnel at diplomatic facilities in the United States.

Section 501(a) repeals a provision of the Intelligence Authorization Act for Fiscal Year 1990 which expresses the sense of Congress that the reciprocal ceilings on U.S. and Soviet personnel should not be increased unless it was essential for the functioning of the U.S. mission in the Soviet Union.

Section 501(b) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 which requires a report on whether the number of personnel of Soviet state trading companies should be reduced.

Section 501(c) repeals a provision of the Intelligence Authorization Act, Fiscal Year 1988 which requires a report regarding the admission of any Soviet national employed at a foreign mission or international organization over the objections of the FBI.

Section 501(d) repeals a provision of the Intelligence Authorization Act, Fiscal Year 1987 which requires a semiannual report on personnel levels at the Soviet mission to the United Nations.

Section 501(e) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 regarding diplomatic reciprocity and equivalence of personnel at U.S. and Soviet diplomatic missions.

SECTION 502—OTHER PROVISIONS RELATED TO OPERATION OF EMBASSIES AND CONSULATES

Section 502 repeals or amends various provisions related to the operation of embassies and consulates in the United States by the Soviet Union.

Section 502(a) amends amending provisions of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, including the repeal of the requirement to submit a comprehensive plan setting forth current and future space requirements for the U.S. mission in Moscow and the repeal of a requirement to submit a report on the extent to which U.S. assets were compromised in the March, 1991 fire at the U.S. Embassy in Moscow.

Section 502(b) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 requiring a report on the extent to which U.S. security may have been breached by Soviet firefighters in the March 1991 fire at the U.S. embassy complex.

Section 502(c) repeals a provision of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 which allows the Soviet mission to the United States to occupy, on the basis of reciprocity, a consulate facility in the United States.

Section 502(d) repeals a provision of the National Defense Authorization Act, Fiscal Year 1989 which requires an additional report on the capabilities of the Soviet Government to intercept U.S. communications from facilities on Mount Alto.

Section 502(e) repeals provisions of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 regarding restrictions on the use by the Soviet Government of the consulate on Mount Alto.

Section 502(f) repeals provisions of the National Defense Authorization Act, Fiscal Years 1988 and 1989 which requires a report on the present and future capabilities of the Soviet Government to intercept U.S. communications from facilities on Mount Alto.

Section 502(f) repeals a provision of the National Defense Authorization Act, Fiscal Year 1987 which requires a report on the effect of espionage activities in the United States conducted by the Soviet Union.

SECTION 503—FOREIGN SERVICE BUILDINGS ACT

Section 503 repeals section 4(j) of the Foreign Service Buildings Act, 1926 which authorizes $30 million, which is available until expended, for activities in the Soviet Union.

TITLE VI—PROVISIONS RELATED TO OCEANS AND ENVIRONMENT

SECTION 601—ARCTIC RESEARCH AND POLICY ACT

Section 601 amends the Arctic Research and Policy Act of 1984 to eliminate congressional findings referring to the Soviet Union, including language that tied the importance of the Arctic to its critical role in national defense as the only common border with the Soviet Union.

SECTION 602—FUR SEAL MANAGEMENT

Section 602 amends section 102 of the Fur Seal Act of 1966 to reflect the fact that the Soviet Union has dissolved.

SECTION 603—GLOBAL CLIMATE PROTECTION

Section 603 amends section 1106 of the Global Climate Protection Act of 1987, which states that, in light of the leadership roles of the United States and the Soviet Union in this area, the President should accord climate protection a high priority on the U.S. bilateral agenda with the Soviet Union. Section 603 changes the reference to indicate that climate protection should be accorded a high priority on the U.S. agenda with each of the independent states of the former Soviet Union.

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

SECTION 701—UNITED NATIONS ASSESSMENTS

Section 701 amends the congressional findings contained in section 717 of the International Security and Development Cooperation Act of 1981, which call for the President to undertake a diplomatic initiative to obtain payment by the Soviet Union of all its outstanding financial obligations to the United Nations. Section 701 includes more general language which calls for appropriate diplomatic initiatives to ensure that all members make payments of all their outstanding financial obligations to the United Nations

SECTION 702—AFGHANISTAN

Section 702 repeals section 1241 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 regarding Afghanistan and the Soviet role in that country.

SECTION 703—ANGOLA

Section 703 repeals section 405 of the International Security Assistance and Arms Export Control Act of 1976 regarding Angola and the Soviet role in that country.

SECTION 704—SELF DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES

Section 704 amends section 1206(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, relating to self-determination for Latvia, Lithuania, and Estonia, to delete a reference to the Soviet Union.

SECTION 705—OBSOLETE REFERENCES IN FOREIGN ASSISTANCE ACT

Section 705(1) replaces the references in the policy language of section 501 of the Foreign Assistance Act to "international communism and the countries it controls," the need to "defeat Communist or Communist-supported aggression," and the importance of giving priority to the needs of countries in danger of "becoming victims of active Communist or Communist-inspired aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion." General references to hostile countries are substituted.

Section 705(2) replaces the reference in section 614 of the Foreign Assistance Act to victims of "active Communist or communist-supported aggression" with a reference to "active aggression."

Section 705(3) revises section 620(h) of the Foreign Assistance Act, which, as amended by this section, calls upon the President to adopt regulations and establish procedures to insure that the United States foreign aid is not used in a manner that promotes the foreign aid projects or activities of countries listed in section 620(f) of the Foreign Assistance Act.

SECTION 706—REVIEW OF POLICY TOWARD THE SOVIET UNION

Section 706 repeals section 24 of the International Security Assistance Act of 1978, which expresses the sense of Congress that the President should make a full review of policy toward the Soviet Union.

TITLE VIII—INTERNAL SECURITY PROVISIONS; WORLDWIDE COMMUNIST CONSPIRACY

SECTION 801—CIVIL DEFENSE

Section 801(a) amends section 501(b)(2) of the Federal Civil Defense Act of 1950 to delete references to the Soviet Union.

Section 801(b) contains an exception stating that the amendment made by subsection (a) shall not apply if, before the date of enactment of this Act, title V of the Federal Civil Defense Act of 1950 has been repealed.

SECTION 802—REPORT ON SOVIET PRESS MANIPULATION IN THE UNITED STATES

Section 802 repeals section 147 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, which requires an unclassified report to Congress on Soviet and communist misinformation and press manipulation in the United States.

SECTION 803—SUBVERSIVE ACTIVITIES CONTROL ACT

Section 803 repeals most of the provisions of title I of the Internal Security Act of 1950, as amended, In this Act Congress found, for example, that "there exists a world Communist movement which, in its origins, its development, and its present practice, is a worldwide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (government and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a worldwide Communist organization". This and related findings are repealed.

The Internal Security Act imposed a variety of restrictions on Communist and Communist-front organizations, and created the Subversive Activities Control Board. Many of these provisions have already lapsed or been ruled to have various constitutional infirmities. The criminal provisions prohibiting disclosure of classified information by government officials to agents of foreign governments would be retained, with confirming changes to reflect other modifications contained in this section. In addition, the general provision allowing the Secretary of Defense and military commanders to impose security restrictions on military facilities also would be retained.

SECTION 804—REPORT ON SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR

This section repeals Section 155 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 which required the Secretary of State to prepare a report on the advisability of establishing a permanent office in the Department of State to study Soviet and international Communist behavior.

TITLE IX—MISCELLANEOUS

SECTION 901—BALLISTIC MISSILE TESTS NEAR HAWAII

Section 901 repeals section 1201 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which expresses the sense of Congress regarding tests of intercontinental ballistic missiles near the Hawaiian Islands by the Soviet Union during 1986.

SECTION 902—NONDELIVERY OF INTERNATIONAL MAIL

Section 902 repeals section 1203 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989, which expresses the sense of Congress regarding the systematic nondelivery of international mail by the Government of the Soviet Union.

SECTION 903—STATE-SPONSORED HARASSMENT OF RELIGIOUS GROUPS

Section 903(a) amends section 1204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which expresses the sense of Congress regarding the harassment of Christians and other religious believers in the Soviet Union and Eastern Europe to state that the United States should oppose harassment of all religious groups in all countries.

Section 903(b) repeals section 1202 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which expresses the sense of Congress on Soviet restrictions on emigration, religion, and the exercise of cultural rights.

Section 903(c) repeals section 805 of the Foreign Relations Authorization Act, Fiscal years 1986 and 1987, which expresses the sense of Congress regarding the violation of the human rights of Pentecostals in the Soviet Union.

SECTION 904—MURDER OF MAJOR ARTHUR NICHOLSON

Section 904 repeals section 148 of the Foreign Relations Authorization Act, Fiscal years 1986 and 1987, which expresses the sense of Congress that the United States should declare one or more senior Soviet defense attaches in the United States persona non grata unless the Soviet Union has formally apologized for the murder of Major Arthur Nicholson, Jr.

SECTION 905—MONUMENT TO HONOR VICTIMS OF COMMUNISM

Section 905 authorizes the creation of a memorial in the District of Columbia of an appropriate international memorial to honor victims of communism.

Section 905(a) sets out findings, including that international communist regimes have brutally suppressed the human rights and freedom of more than 40 captive nations and been responsible for the deaths of more than 100 million victims.

Section 905(b) authorizes the National Captive Nations Committee, Inc. to construct, maintain, and operate in the District of Columbia an appropriate international memorial to honor victims of communism. It encourages the National Captive Nations Committee, Inc. to create an independent entity to construct, maintain, and operate the memorial, and to include as active participants organizations representing all groups that have suffered under communism. This section states that the design, location, inscription, and construction of the memorial shall be subject to the requirements of "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its enfirons, and for other purposes."

Section 905(c) stipulates that no Federal funds may be used to pay any expense of the establishment of the memorial.

Section 905(d) directs that excess funds received for the establishment of the memorial shall be transmitted to the Secretary of the Treasury.

CHANGES IN EXISTING LAW

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

Existing laws referenced in this title are not amended or repealed. Several laws are cited under the finding that they "should not be construed as being directed against * * * the independent states of the former Soviet Union, connoting an adversarial relationship * * * or signifying or implying in any manner unfriendliness * * *" These laws are attached.

APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS

SEC. 216.[132] (a) REQUIREMENT FOR RESTRICTIONS.—The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

[132] 22 U.S.C. 4316. Sec. 216 was added by sec. 162(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1357). Sec. 162(b) of the same Act made subsec. (a) of sec. 216 effective 90 days after enactment.

(b) INDIVIDUALS SUBJECT TO RESTRICTIONS.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

(c) WAIVERS.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "generally applicable restrictions" means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.[133]

(2) the term "international organization" means an organization described in section 208(b)(1); and

(3) the term "personnel" includes—

(A) officers, employees, and any other staff member, and

(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employ, or other staff member.

SEC. 136.[21] SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.

[21] 22 U.S.C. 3943 note. In a memorandum to the Secretary of State on October 24, 1991, the President determined "that implementation of section 136(a) of the [Foreign Relations Authorization] Act [, Fiscal Years 1986 and 1987] poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State." (Presidential Determination 92-4 of October 24, 1991; 56 F.R. 56567, November 6, 1991).

The Secretary of State, in Department of State Public Notice 1531 of December 2, 1991 (Delegation of Authority No. 191; 56 F.R. 64830), delegated to the Deputy Secretary of State the reporting function requested in sec. 136(b).

[22] 22 U.S.C. 3904.

[23] 22 U.S.C. 3927.

(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

TITLE VII—ARMS CONTROL AND DISARMAMENT[43]

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TITLE VIII—MISCELLANEOUS PROVISIONS[44]

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SEC. 804. POLICY TOWARD APPLICATION OF THE YALTA AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) during World War II, representatives of the United States, Britain, and the Soviet Union took part in agreements and understandings concerning other peoples and nations in Europe;

(2) the Soviet Union has not adhered to its obligation undertaken in the 1945 Yalta agreement to guarantee free elections in the countries involved, specifically the pledge for the "earliest possible establishment of free election of governmental responsive to the wills of the people and to facilitate where necessary the holding of such elections";

(3) the strong desire of the people of Central and Eastern Europe to exercise their national sovereignty and self-determination and to resist Soviet domination has been demonstrated on many occasions since 1945, including armed resistance to the forcible Soviet takeover of the Baltic Republics and resistance in the Ukraine as well as in the German Democratic Republic in 1953, in Hungary in 1956, in Czechoslovakia in 1968, and in Poland in 1956, 1970, and since 1980;

[43] Title VII contained amendments to the Arms Control and Disarmament Act. For freestanding provisions of this title, see page 1122.

[44] Title VIII amended the National Emergencies Act, the Trading With the Enemy Act, and the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act. Freestanding provisions are presented below, together with sec. 803, which amended sec. 39 of the Trading With the Enemy Act. Sec. 39 of the amended Act does not appear elsewhere in this volume.

(4) it is appropriate that the United States express the hopes of the people of the United States that the people of Central and Eastern Europe be permitted to exercise their national sovereignty and self-determination free from soviet interference; and

(5) it is appropriate for the United States to reject any interpretation or application that, as a result of the signing of the 1945 Yalta executive agreements, the United States accepts and recognizes in any way Soviet hegemony over the countries of Eastern Europe.

(b) POLICY.—The United States does not recognize as legitimate any spheres of influence in Europe and it reaffirms its refusal to recognize such spheres in the present or in the future, by repudiating any attempts to legitimize the domination of East European nations by the Soviet Union through the Yalta executive agreement.

(2) The United States proclaims the hope that the people of Eastern Europe shall again enjoy the right to self-determination within a framework that will sustain peace, that they shall again have the right to choose a form of government under which they shall live, and that the sovereign rights of self-determination shall be restored to them in accordance with the pledge of the Atlantic Charter and with provisions of the United Nations Charter[46] and the Helsinki Final Act of the Conference on Security and Cooperation in Europe;[47]

SEC. 1222. UNITED STATES POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvement in Soviet-American relations;

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South African forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the MPLA regime;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

SEC. 2441.[82] SHORT TITLE.

This part may be cited as the "Multilateral Export Control Enhancement Amendments Act".

SEC. 2442.[83] FINDINGS.

The Congress makes the following findings:

(1) The diversion of advanced milling machinery to the Soviet Union by the Toshiba Machine Company and Kongsberg Trading Company has had a serious impact on United States and Western security interests.

(2) United States and Western security is undermined without the cooperation of the governments and nationals of all countries participating in the group known as the coordinating Committee (hereafter in this part referred to as "COCOM") in enforcing the COCOM agreement.

(3) It is the responsibility of all governments participating in COCOM to place in effect strong national security export control laws, to license strategic exports carefully, and to enforce those export control laws strictly, since the COCOM system is only as strong as the national laws and enforcement on which it is based.

(4) It is also important for corporations to implement effective internal control systems to ensure compliance with export control laws.

(5) In order to protect United States national security, the United States must take steps to ensure the compliance of foreign companies with COCOM controls, including, where necessary conditions have been met, the imposition of sanctions against violators of controls commensurate with the severity of the violation.

SEC. 2443.[83, 84] MANDATORY SANCTIONS AGAINST TOSHIBA AND KONGSBERG.

(a) SANCTIONS AGAINST TOSHIBA MACHINE COMPANY, KONGSBERG TRADING COMPANY, AND CERTAIN OTHER FOREIGN PERSONS.—(1) The President shall impose, for a period of 3 years—

(1) a prohibition on contracting with, and procurement of products and services from—

(A) Toshiba Machine Company and Kongsberg Trading Company, and

(B) any other foreign person whom the President finds to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union, by any department, agency, or instrumentality of the United States Government; and

(2) a prohibition on the importation into the United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any foreign person described in paragraph (1)(B).

(b) SANCTIONS AGAINST TOSHIBA CORPORATION AND KONGSBERG VAAPENFABRIKK.—The President shall impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Vaapenfabrikk, by any department, agency, or instrumentality of the United States Government.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the company or foreign person to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense co-production agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before June 30, 1987;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "component part" means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term "finished product" means any article which is usable for its intended functions without being imbedded in or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term "sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed under subsection (a) or (b).

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[45] 98 Stat. 2649.

[46] 55 Stat. 1600.

[47] 59 Stat. 1031.

[82] 50 U.S.C. app. 2401 note.

[83] 50 U.S.C. app. 2401a note.

[84] Sanctions were imposed by Executive Order 12661 of December 27, 1988 (see page 763), and expired on December 28, 1991.

CAPTIVE NATIONS WEEK

PUBLIC LAW 86-90: 73 STAT. 212

[S.J. Res. 111]

Joint Resolution providing for the designation of the third week of July as "Captive Nations Week".

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependence of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefor, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

Approved July 17, 1959.

§841. Findings and declarations of fact

The Congress finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the World Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitation upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and it dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

(Aug. 24, 1954, c. 886, §2, 68 Stat. 775.)

§842. Proscription of Communist Party, its successors, and subsidiary organizations

The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are terminated: *Provided, however,* That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended.

§843. Application of Internal Security Act of 1950 to members of Communist Party and other subversive organizations; "Communist Party" defined

[1] Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control[2] conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the purpose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended [50 U.S.C.A. §781 et seq.], as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

(Aug. 24, 1954, c. 886, §4, 68 Stat. 776.)

[1] So in original. Section enacted without a subsection (a) designation.

[2] So in original. A comma should probably appear at this point.

§844. Determination by jury of membership in Communist Party, participation, or knowledge of purpose

In determining membership or participation in the Communist Party of any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person:

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;

(3) Has made himself subject to the discipline of the organization in any form whatsoever;

(4) Has executed orders, plans, or directives of any kind of the organization;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization;

(10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

(Aug. 24, 1954, c. 886, §5, 68 Stat. 776.)

SUBCHAPTER V—REGISTRATION OF CERTAIN PERSONS TRAINED IN FOREIGN ESPIONAGE SYSTEMS

§851. Registration of certain persons; filing statement; regulations

Except as provided in section 582 of this title, every person who has knowledge of, or has received instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, shall register with the Attorney General by filing with the Attorney General a registration statement in duplicate, under oath, prepared and filed in such manner and form, and containing such statements, information, or documents pertinent to the purposes and objectives of this subchapter as the attorney General, having due regard for the national security and the public interest, by regulations prescribes.

(Aug. 1, 1956, c. 849, §2, 70 Stat. 899.)

§852. Exemption from registration

The registration requirements of section 851 of this title do not apply to any person—

(a) who has obtained knowledge of or received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party by reason of civilian, military, or police service or employment with the United States Government, the governments of the several States, their political subdivisions, the District of Columbia, the Territories or the Canal Zone;

(b) who has obtained such knowledge solely by reason of academic or personal interest not under the supervision of or in preparation for service with the government of a foreign country or a foreign political party;

(c) who has made full disclosure of such knowledge, instruction, or assignment to officials within an agency of the United States Government having responsibilities in the field of intelligence, which disclosure has been made a matter of record in the files of such agency, and concerning whom a written determination has been made by the Attorney General or the Director of Central Intelligence that registration would not be in the interest of national security;

(d) whose knowledge of, or receipt of instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, is a matter or record in the files of an agency of the United States Government having responsibilities in the field of intelligence and concerning whom a written determination is made by the Attorney General or the Director of Central Intelligence, based on all information available, that registration would not be in the interest of national security;

(e) who is a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State, while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer, and any member of his immediate family who resides with him;

(f) who is an official of a foreign government recognized by the United States, whose name and status and the character of whose duties as such official are of record in the Department of State, and while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official, and any member of his immediate family who resides with him;

(g) who is a member of the staff of or employed by a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, and whose name and status and the character of whose duties as such member or employee are a matter of record in the Department of State, while he is engaged exclusively in the performance of activities recognized by the Department of State as being within the scope of the functions of such member or employee;

(h) Who is an officially acknowledged and sponsored representative of a foreign government and is in the United States on an official mission for the purpose of conferring or otherwise cooperating the United States intelligence or security personnel;

(i) who is a civilian or one of the military personnel of a foreign armed service coming to the United States pursuant to arrangements made under a mutual defense treaty or agreement, or who has been invited to the United States at the request of an agency of the United States Government; or

(j) who is a person designed by a foreign government to serve as its representative in or to an international organization in which the United States participated or is an officer or employee of such an organization or who is a member of the immediate family of, and resides with, such a representative, officer, or employee.

(Aug. 1, 1956, c. 849, §3, 70 Stat. 899.)

[1] So in original. Probably should not be capitalized.

§853. Retention of registration statements; public examination; withdrawal

The Attorney General shall retain in permanent form one copy of all registration statements filed under this subchapter. They shall be public records and open to public examination at such reasonable hours and under such regulations as the Attorney General prescribes, except that the Attorney General, having due regard for the national security and public interest, may withdraw any registration statement from public examination.

(Aug. 1, 1956, c. 849, §4, 70 Stat. 900.)

§854. Rules, regulations, and forms

The Attorney General may at any time, make, prescribe, amend, and rescind such rules, regulations, and forms as he deems necessary to carry out the provisions of this subchapter.

(Aug. 1, 1956, c. 849, §5, 70 Stat. 900.)

§855. Violations; penalties; deportation

(a) Whoever willfully violates any provision of this subchapter or any regulation thereunder, or in any registration statement willfully make[1] a false statement of a material fact or willfully omits any material fact, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) Any alien convicted of a violation of this subchapter or any regulation thereunder is subject to deportation in the manner provided by part V of subchapter II of chapter 12 of Title 8.

(Aug. 1, 1956, c. 849, §6, 70 Stat. 900.)

[1] So in original. Probably should be "makes".

§856. Continuing offense

Failure to file a registration statement as required by this subchapter is a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

(Aug. 1, 1956, c. 849, §7, 70 Stat. 900.)

§857. Compliance with other registration statutes

Compliance with the registration provisions of this subchapter does not relieve any person from compliance with any other applicable registration statute.

(Aug. 1, 1956, c. 849, §8, 70 Stat. 900.)

3. Middle East Resolutions and Related Material[1]

a. Resolution to Promote Peace and Stability in the Middle East

Public Law 85–7 [H.J. Res. 117], 71 Stat. 5, approved March 9, 1957; as amended by Public Law 87–195 [Foreign Assistance Act of 1961, S. 1983], 75 Stat. 424, approved September 4, 1961

JOINT RESOLUTION To promote peace and stability in the Middle East

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

SEC. 2.[2] The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

SEC. 3.[3] The President is hereby authorized to use during the balance of fiscal year 1957 for economic and military assistance under this joint resolution not to exceed $200,000,000 from any appropriation now available for carrying out the provisions of the Mutual Security Act of 1954, as amended, in accord with the provisions of such Act: *Provided*, That, whenever the President determines it to be important to the security of the United States, such use may be under the authority of section 401(a) of the Mutual Security Act of 1954, as amended (except that the provisions of section 105(a) thereof shall not be waived), and without regard to the provisions of section 105 of the Mutual Security Appropriation Act, 1957: *Provided further*, That obligations incurred in carrying out the purposes of the first sentence of section 2 of this joint resolution shall be paid only out of appropriations for military assistance, and obligations incurred in carrying out the purposes of the first section of this joint resolution shall be paid only out of appropriations other than those for military assistance. This authorization is in addition to other existing authorizations with respect to the use of such appropriations. None of the additional authorizations contained in this section shall be used until fifteen days after the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committees on Appropriations of the Senate and the

House of Representatives and, when military assistance is involved, the Committees on Armed Services of the Senate and the House of Representatives have been furnished a report showing the object of the proposed use, the country for the benefit of which such use is intended, and the particular appropriation or appropriations for carrying out the provisions of the Mutual Security Act of 1954, as amended, from which the funds are proposed to be derived: *Provided*, That funds available under this section during the balance of fiscal year 1957 shall, in the case of any such report submitted during the last 15 days of the fiscal year, remain available for use under this section for the purposes stated in such report for a period of twenty days following the date of submission of such report. Nothing contained in this joint resolution shall be construed as itself authorizing the appropriations of additional funds for the purpose of carrying out the provisions of the first section or of the first sentence of section 2 of this joint resolution.

[1] See also legislation under War Powers, beginning at page 1205.

[2] 22 U.S.C. 1961.

[3] 22 U.S.C. 1962.

SEC. 4.[4] The President should continue to furnish facilities and military assistance, within the provisions of applicable law and establish policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

SEC. 5.[5] The President shall whenever appropriate[6] report to the Congress his action hereunder.

SEC. 6.[7] This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

[4] 22 U.S.C. 1963.

[5] 22 U.S.C. 1964.

[6] Sec. 705 of the Foreign Assistance of 19611 (Public Law 87-195) inserted "whenever appropriate" in lieu of "within the months of January and July of each year".

[7] U.S.C. 1965.

INSTRUCTIONS TO THE UNITED STATES EXECUTIVE DIRECTOR

SEC. 43.[71] (a) The Congress hereby finds that Communist dictatorships result in severe constraints on labor and capital mobility and other highly inefficient labor and capital supply rigidities which contribute to balance-of-payments deficits in direct contradiction of the goals of the International Monetary Fund. Therefore, the Secretary of the Treasury shall instruct the United States Executive Director of the Fund to actively oppose any facility involving use of Fund credit by any Communist dictatorship, unless the Secretary of the Treasury certifies and documents in writing upon request and so notifies and appears, if requested, before the Foreign Relations and Banking, Housing and Urban Affairs Committees of the Senate and the Banking, Finance and Urban Affairs Committee of the House of Representatives, at least twenty-one days in advance of any vote on such drawing that such drawing:

(1) provides the basis for correcting the balance of payments difficulties and restoring a sustainable balance of payments position:

(2) would reduce the severe constraints on labor and capital mobility or other highly inefficient labor and capital supply rigidities and advances market-oriented forces in that country; and

(3) is in the best economic interest of the majority of the people in that country.

Should the Secretary not meet a request to appear before the aforementioned Committees at least twenty-one days in advance of any vote on any facility involving use of Fund credit by any communist dictatorship and certify and document in writing that these three conditions have been met, the United States Executive Director shall vote against such program.

(b) The Congress hereby find that the practice of apartheid results in severe constraints on labor and capital mobility and other highly inefficient labor and capital supply rigidities which contribute to balance of payments deficits in direct contradiction of the goals of the International Monetary Fund. Therefore, the President shall instruct the United States Executive Director of the Fund to actively oppose any facility involving use of Fund credit by any country which practices apartheid unless the Secretary of the Treasury certifies and documents in writing, upon request, and so notifies and appears, if requested, before the Foreign Relations and Banking, Housing and Urban Affairs Committees of the Senate and the Banking, Finance and Urban Affairs Committee of the House of Representatives, at least twenty-one days in advance of any vote on such drawing, that such drawing: (1) would reduce the severe constraints on labor and capital mobility, through such means as increasing access to education by workers and reducing artificial constraints on worker mobility and substantial reduction of racially-based restrictions on the geographical mobility of labor; (2) would reduce other highly inefficient labor and capital supply rigidities; (3) would benefit economically the majority of the people of any country which practices apartheid; (4) is suffering from a genuine balance of payments imbalance that cannot be met by recourse to private capital markets. Should the Secretary not meet a request to appear before the aforementioned Committee at least twenty-one days in advance of any vote on any facility involving use of Fund credit by any country practicing apartheid and certify and document in writing that these four conditions have been met, the United States Executive Director shall vote against such program.

TITLE II—TRADE AND BUSINESS RELATIONS

Sec. 201. Policy Under Export Administration Act

FINDINGS

SEC. 2. The Congress makes the following findings:

* * * * * * *

[(11) The acquisition of national security sensitive goods and technology by the Soviet Union and other countries the actions of policies of which run counter to the national security interests of the United States, has led to the significant enhancement of Soviet block military-industrial capabilities. This enhancement poses a threat to the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States.]

[(12)] *(11)* Availability to controlled countries of goods and technology from foreign sources is a fundamental concern of the United States and should be eliminated through negotiations and other appropriate means whenever possible.

[(13)] *(12)* Excessive dependence of the United States, its allies, or countries sharing common strategic objectives with the United States, on energy and other critical resources from potential adversaries can be harmful to the mutual and individual security of all those countries.

SEC. 3. The Congress makes the following declarations:

(1) * * *

* * * * * * *

[(15) It is the policy of the United States, particularly in light of the Soviet measure of innocent men, women, and children aboard Korean Air Lines flight 7, to continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics, subject to periodic review by the President.]

* * * * * * *

Sec. 202. Representation of Countries of Eastern Europe and the Independent States of the Former Soviet Union in Legal Commercial Transactions

Section 951 of Title 18, United States Code

(a) * * *

(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

(2) such person—

(A) is an agent of [the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba] *Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section*, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States requires that the provisions of this section do not apply in specific circumstances to agents of such country; or

* * * * *

Section 203. Procedures Regarding Transfers of Certain Department of Defense-Funded Items

(a) * * *

[SEC. 223. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION.

[Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to be Soviet Union by the United States (or with the consent of the United States) unless—

[(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

[(2) Congress approves that determination by a joint resolution.]

SEC. 223. LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to

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[71] 22 U.S.C. 286aa. Sec. 43 was added by sec. 804 of Public Law 98-181 (97 Stat. 12701.

Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.

* * * * *

(b) * * *

Section 709 of the Department of Defense Appropriations Authorization Act, 1975.

[Sec. 709. (a) The Congress finds that the defense posture of the United States may be seriously compromised if goods, technology, and industrial techniques which have been developed in whole or in part as a direct or indirect result of research and development programs or procurement programs financed in whole or in part with funds authorized by this or any other Act authorizing funds for the Department of Defense are exported to a controlled country without an adequate and knowledgeable assessment having been made to determine whether the export of such goods, technology, and techniques will significantly increase the present or potential military capability of any such country. It is the purpose of this section, therefore, to provide for such an assessment, to insure notice of proposed exports to the Secretary of Defense, and to authorize the Secretary of Defense to review the proposed export of goods, technology, or industrial techniques to any such country whenever he has reason to believe that the export of such goods, technology, or techniques will significantly increase the military capability of such country.

[(b) Effective upon enactment of this section, any application for the export of any goods, technology, or industrial techniques described in subsection (a) shall, before being eligible for export to a controlled country, be reviewed and assessed by the Secretary of Defense for the purpose of determining whether the export of such goods, technology or techniques will significantly increase the present or potential military capability of such country.

[(c) If the Secretary of Defense determines, after his review and assessment, that the export of such goods, technology or industrial techniques will in his judgment significantly increase the present or potential military capability of any controlled country, he shall recommend to the President that the application for export be disapproved. In any case in which the President disagrees with a recommendation made by the Secretary of Defense to prohibit the export of such goods, technology, or techniques to a controlled country, the President shall submit to the Congress a statement indicating his disagreement with the Secretary of Defense together with the recommendation of the Secretary of Defense. The application for the export of any such goods, technology, or techniques may be approved after submission by the President of his statement and the recommendation of the Secretary of Defense to the Congress and 60 days of continuous session of the Congress has elapsed following such submission unless within such 60 day period Congress has adopted a concurrent resolution disapproving the application for the export of such goods, technology, or techniques.

[(d) As used in this section (1) the term "controlled country" means the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechoslovakia, the German Democratic Republic (East Germany), and such other countries as may be designated by the Secretary of Defense, and (2) the term "days of continuous session of the Congress" shall not include days on which either House of Congress is not in session because of an adjournment of more than three days.

[(e) The Secretary of Defense shall submit to the Congress a written report on his implementation of this section not later than 30 days after the close of each quarter of each fiscal year. Each such report shall, among other things, identify each instance in which the Secretary recommended to the President that exports be disapproved and the action finally taken by the executive branch on the matter.]

Section 204. Soviet Slave Labor

[SEC. 1906. SENSE OF CONGRESS REQUESTING THE PRESIDENT TO INSTRUCT THE SECRETARY OF THE TREASURY TO ENFORCE SECTION 307 OF THE TARIFF ACT OF 1930 WITHOUT DELAY.

[(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

[(1) its February 1983 report to the Congress on forced labor in the Union of Soviet Socialist Republics, the Department of State confirmed that Soviet forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets", and that such labor is used as an integral part of Soviet national economy;

[(2) the Central Intelligence Agency has compiled a list of over three dozen products made by Soviet forced labor and imported by the United States, and that items on the September 27, 1983 list include chemicals, gold, uranium, aluminum, wood products and glassware;

[(3) the International Commission on Human Rights has concluded that the Soviet Union "continues the deplorable practice of forced labor in manufacturing and construction projects" and that prisoners "are forced to work under conditions of extreme hardship including malnutrition, inadequate shelter and clothing, and severe discipline";

[(4) the Congress is on record as opposing forced labor, having enacted a prohibition (in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)) on the importation of goods made with such labor and having passed in the Ninety-eighth Congress by unanimous vote a resolution calling such practices morally reprehensible and calling upon the President to express to the Soviet Union the opposition of the United States to such policies;

[(5) the prohibition enacted by the Congress declares that "goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited";

[(6) there is ample knowledge of the Soviet forced labor system to require enforcement of the prohibition contained in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

[(7) the delay in enforcing the law brings into question the commitment of the United States to protest the inhumane treatment of prisoners in the Soviet Gulag, an estimated ten thousand of whom are political and religious prisoners according to the Department of State.

[(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should express to the Soviet in the firmest possible terms the strong moral opposition of the United States to the slave labor policies of the Soviet Union by every means possible, including refusing to permit the importation into the United States of any products made in whole or in part by such labor.

[(c) PRESIDENTIAL ACTION.—The President is hereby requested to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) without delay.]

* * * * *

TITLE III—CULTURAL, EDUCATIONAL, AND OTHER EXCHANGE PROGRAMS

Section 301. Mutual Educational And Cultural Exchange Act of 1961

(a) * * *

* * * * *

SEC. 112. (a) In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) * * *

* * * * *

(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the [Soviet Union] *independent states of the former Soviet Union* and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) who have not received the initial baccalaureate degree or through other programs designed to promote contact between the young peoples of the United States, the [Soviet Union] *independent states of the former Soviet Union*, and Eastern European countries; and

* * * * *

(b) * * *

Sec. 113. [United States-Soviet Exchanges] Exchanges Between the United States and the Independent States of the Former Soviet Union.—(a) The President is authorized to negotiate and implement [an agreement with the union of Soviet Socialist Republics] *agreements with the independent states of the former Soviet Union* under which repayments [made by the Soviet Union] *made by the independent states* on Lend-Lease debts to the United States would be used to finance the exchange of persons between the United States [and the Soviet Union] *and the independent states* for educational, cultural, and artistic purposes. Exchanges authorized pursuant to this section shall be administered subject to the provisions of this Act Part of the funds repaid to the United States shall be in convertible currency for the purpose of paying the expenses associated with study and other exchange activities [by Soviet citizens in the United States] *in the United States by citizens of the independent states.*

* * * * *

Section 302. Soviet-Eastern European Research and Training

[TITLE VIII—SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING] *TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION*

SEC. 801. This title maybe cited as the "[Soviet-Eastern European Research and

Training] *Research and Training for Eastern Europe and the Independent States of the Former Soviet Union* Act of 1983".

FINDINGS AND DECLARATIONS

SEC. 802. The Congress finds and declares that—

(1) factual knowledge, independently verified, about the [Soviet Union and Eastern European countries] *countries of Eastern Europe and the independent states of the former Soviet Union* is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the [Soviet Union and Eastern countries] *countries of Eastern Europe and the independent states of the former Soviet Union* depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government.

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including

(A) * * *

* * * * *

(E) firsthand experience of the [Soviet Union and Eastern Europe countries] *countries of Eastern Europe and the Independent States of the Former Soviet Union* by American specialists, including on site conduct of advanced training and research to the extent practicable; and

* * * * *

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(2) the term "Advisory Committee" means the [Soviet-Eastern European Studies Advisory Committee] *Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union* established by section 804(a).

* * * * *

ESTABLISHMENT OF [THE SOVIET-EASTERN EUROPEAN STUDIES] ADVISORY COMMITTEE

SEC. 804. (a) There is established within the Department of State the [Soviet-Eastern European Studies Advisory Committee] *Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union* which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies, and the President of the Association of American Universities. The Secretary of State shall be the Chairman.

* * * * *

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning [Soviet and Eastern European countries] *the countries of Eastern Europe and the Independent States of the Former Soviet Union* and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

AUTHORITY TO MAKE PAYMENTS

SEC. 805. (a) * * *

(b)(1) * * *

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, post-doctoral, and teaching fellowships for advanced training in [Soviet and Eastern European studies] *studies on the countries of Eastern Europe and the Independent States of the Former Soviet Union* and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on [Soviet and Eastern European studies] *studies on the countries of Eastern Europe and the independent states of the former Soviet Union* and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the [field of Soviet and Eastern European studies and related studies] *independent states of the former Soviet Union and the countries of Eastern Europe and related fields* to conduct advanced research with particular emphasis upon the use of the data on [the Soviet Union and Eastern European counties] *those states and countries;* and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the [fields of Soviet and Eastern European studies and related studies] *independent states of the former Soviet Union and the countries of Eastern Europe and related fields.*

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the [Union of Soviet Socialist Republics] *independent states of the former Soviet Union* and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in [the Union of Soviet Socialist Republics and Eastern European countries] *those states and countries.*

(5) One part of the payments made in each fiscal year shall be used to support [language training in Russian and Eastern European languages.] *training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.* Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies *and, as appropriate, studies of other languages of the independent states of the former Soviet Union.*

(6) Payments may be made to carry out other research and training in [Soviet and Eastern European studies] *studies on the countries of Eastern Europe and the independent states of the former Soviet Union* not otherwise described in this section.

* * * * *

Section 303. Fascell Fellowship Act

SEC. 1002. FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS [IN THE SOVIET UNION AND EASTERN EUROPE] *ABROAD.*

(a) ESTABLISHMENT.—There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions which would otherwise be held by foreign national employees at United States diplomatic or consular missions abroad.

* * * * *

Section 304. Board For International Broadcasting

(a) * * *

[BALTIC DIVISION

[SEC. 307. None of the funds authorized to be appropriated by the amendments made by section 302 of this Act may be used for a grant to RFE/RL, Incorporated unless—

[(1) the Estonian, Latvian, and Lithuanian radio services of RFE/RL, Incorporated, are organized as a separate division within Radio Liberty; and

[(2) Those radio services begin broadcasts under a name which would accurately reflect United States policy of not recognizing the illegal incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.]

(b) * * *

Policy on the jamming by the Soviet Union of broadcasts of the Voice of America and RFE/RL

SEC. 308. [(a) The Congress finds that—

(1) the permanent unrestrained flow of accurate information would greatly facilitate mutual understanding and world peace;

(2) the Soviet Union and its allies are at present electronically jamming the broadcasts of the Voice of America and RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty); and

(3) electronic jamming of international broadcasts violates at least four international agreements: Article 35(1) of the International Telecommunications Union Convention, Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe (commonly known as the Helsinki Accords).

(b) it] *It* is the sense of the Congress that the President should urge the [Government of the Soviet Union] *government of any country engaging in such activities* to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated].

Section 305. Scholarship Programs for Developing Countries

SEC. 602. FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) * * *

[(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by Soviet-bloc governments to students in developing countries, and this disparity entails the serious long-run cost of having so many of the potential future leaders of the developing world educated in Soviet-bloc countries;

[(7) from 1972 through 1982 the Soviet Union and Eastern European governments collectively increased their education exchange programs to Latin America and the Caribbean by 205 percent while those of the United States declined by 52 percent;]

[(8)] *(6)* an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities;

[(9)] *(7)* the National Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education; and

[(10)] *(8)* it is also in the interest of the United States as well as peaceful cooperation in the Western Hemisphere, that particular attention be given to the students of the Caribbean region.

* * * * *

Section 306. Report on Soviet Participants in Certain Exchange Programs

SECTION 126 OF THE DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1982 AND 1983

[Scientific Exchange Activities with the Soviet Union

[SEC. 126. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report with respect to the individual exchange activities conducted pursuant to the 11 agreements for cooperation in specialized fields which were entered into by the United States and the Union of Soviet Socialist Republics between 1972 and 1974. This report shall include—

[(1) an assessment of the risk of the transfer to the Soviet Union of military significant technology through research, exchanges, and other activities conducted pursuant to those agreements; and

[(2) a detailed description on the exchanges and other activities conducted pursuant to those agreements during fiscal year 1981 and fiscal year 1982, including—

[(A) the areas of cooperation,

[(B) the specific research and projects involved,

[(C) the man-hours spent in short-term (less than 60 days) and long-term exchanges,

[(D) the level of United States and Soviet funding in each such fiscal year, and

[(E) an assessment of the equality or inequality in value of the information exchanged.

[(b) The Secretary of State shall prepare the report required by subsection (a) in consultation and cooperation with the heads of the other agencies involved in the exchange and other cooperative activities conducted pursuant to the agreements described in that subsection.

[(c) Not later than July 1 of each year, the Secretary of State shall submit to the Congress a list of the Soviet nationals participating during the upcoming academic year in the United States-Union of Soviet Socialist Republics graduate student/young faculty exchange or in the United States-Union of Soviet Socialist Republics senior scholar exchange, their topics of study, and where they are to study. This report shall also include a determination by the Secretary of State, in consultation with the heads of the other agencies involved in these exchange programs, that these exchange programs will not jeopardize United States national security interests.]

TITLE IV—ARMS CONTROL

Section 401. Arms Control and Disarmament Act.

(a) * * *

REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES

SEC. 38. The President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the United States Commissioner on the activities of the [United States-Union of Soviet Socialist Republics] Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. In preparing this report, the Commissioner should consult with former United States Commissioners and other experts. Such annual report shall include detailed information on all substantive issues raised by either party to the Treaty and the response of the other party with regard to such issues. Such annual report shall be transmitted under an injunction of secrecy, but shall be accompanied by an unclassified addendum containing such information with respect to the activities of the Commission as can be made public consistent with the need for confidentiality of Commission proceedings and the national security of the United States.

* * * * *

(b) * * *

[Specialists fluent in Russian language] *specialists fluent in Russian or other languages of the independent states of the former Soviet Union*

SEC. 51. The Director is authorized to create up to eight additional permanent personnel positions at both junior and more senior levels for specialists in [Soviet foreign and military policies] *the foreign and military policies of the independent states of the former Soviet Union,* arms control, or strategic affairs, who also demonstrate fluency in the Russian language *or another language of the independent states of the former Soviet Union.*

(c) * * *

REPORTS ON ADHERENCE TO AND COMPLIANCE WITH AGREEMENTS

SEC. 52. The Congress determines that the achievement and maintenance of successful controls upon armaments requires official and public confidence that the parties are expected to adhere to their commitments and that the parties will be held accountable for failure to meet obligations. Without such confidence, existing arms control accords are eroded, and the prospects are jeopardized for new agreements which can place further controls on the competition in nuclear and conventional weapons and which can increase international stability. In accordance with this determination—

(1) the President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Director, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, on the adherence of the United States [the Soviet Union] *Russia,* and other nations to obligations undertaken in arms control agreements and on any problems related to compliance by [the Soviet Union] *Russia* and other nations with the provisions of bilateral and multilateral arms control agreements to which the United States is a party;

* * * * *

(3) the section of the report dealing with [Soviet] *Russian* adherence shall include information on actions taken by [the Soviet Union] *Russia* with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements;

* * * * *

(5) the section of the report dealing with problems of compliance by [the Soviet Union] *Russia* and other nations shall include, in the case of each treaty or agreement about which compliance questions exist—

(A) a description of each significant issue raised and efforts made and contemplated with the other party to seek a resolution of the difficulty;

(B) an assessment of damage, if any, to United States security and other interests; and

(C) recommendations as to any steps which should be considered to redress any damage to United States National security and to reduce compliance problems.

The report required by this section shall be provided in unclassified form, with classified annexes, as appropriate

* * * * *

(d) * * *

ON-SITE INSPECTION ACTIVITIES

Findings

SEC. 61. The Congress finds that—

(1) * * *

* * * * *

(4) on-site inspection activities under the INF Treaty include—

(A) inspection in [the Soviet Union, Czechoslovakia, and the German Democratic Republic] *Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany*

(B) escort duties for [Soviet] teams visiting the United States and the Basing Countries,

(C) establishment and operation of the Portal Monitoring Facility in [the Soviet Union] *Russia, and*

(D) support for the [Soviet] *Russian* inspectors at the Portal Monitoring Facility in Utah;

* * * * *

Section 402. Arms Export Control Act

CHAPTER 9—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

* * * * *

SEC. 94. NOTIFICATIONS AND REPORTS TO CONGRESS.

(a) * * *

(b) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

(1) * * *

* * * * *

(3) lists, on a country-by-country basis, all transfers to another country of convention armaments and equipment limited by the CFE Treaty—

(A) * * *

(B) by each [Warsaw Pact country] *country of the Eastern Group of States Parties* in implementing the CFE Treaty

SEC. 95. DEFINITIONS.

As used in this chapter—

(1) * * *

* * * * *

(5) the term [Warsaw Pact country] *country of the Eastern Group of States Parties* means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955 *or a successor state to such a country*.

Section 403. Annual Reports on Arms Control Matters

(a) * * *

SEC. 1002. ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS.

[(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

[(b) MATTER TO BE INCLUDED.—The President shall specifically include in each such report the following:

[(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

[(2) An assessment of all violations by the Soviet Union of such agreements and risks such violations pose to the national security of the United States and its allies.

[(3) A net assessment of the aggregate military significance of all such violations.

[(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

[(5) What actions, if any, the President has taken or proposes to take to bring the Soviet union into compliance with its commitments under those agreements.

[(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.

[(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.]

* * * * *

(b) * * *

[SEC. 906. ANNUAL REPORT ON ARMS CONTROL STRATEGY.

[(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

[(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

[(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

[(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposal agreements would have on the risks and costs of the United States.

[(5) An assessment of the effect that proposed treaty subceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

[(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact

[(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

[(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserve with or without arms control agreements.

[(b) Explanation of Methodology.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsections (a)), the President shall—

[(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analysis in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

[(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

[(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

(c) * * *

[SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

[(a) STUDY.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

[(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

[(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radar in violation of the 1972 Antiballistic Missile Treaty.

[(3) The ability of the Soviet Union to develop an effective exoatmospheric missile defense without using widespread deployments of traditional engagement radars.

[(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

[(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

[(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

[(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

[(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

[(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

[(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

[(b) Assessment of Ability of United States To Counter a Soviet ABM System.—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

[(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

[(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

[(c) Report.—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.]

* * * * *

Section 404. United States/Soviet Direct Communications Link

Joint Resolution Authorizing the Secretary of Defense To Provide to the Soviet Union, on a Reimbursable Basis, Equipment and Services Necessary for an Improved

United States/Soviet Direct Communication Link for Crisis Control

Whereas section 1123(a) of the Department of Defense Authorization Act, 1983 (Public Law 97-252), directed the Secretary of Defense "to conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises;

Whereas the Congress directed that the same study should address several specific measures for building confidence between the United States and the Soviet Union, including an improved Direct Communications Link for crisis control;

Whereas the Secretary of Defense responded to that congressional mandate with a report entitled "Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability" in which the Secretary proposed several improvements to existing United States-Soviet mechanisms for the prevention and resolution of crises, including the addition of a facsimile capability to the United States/Soviet Union Direct Communications Link;

Whereas the President of the United States presented the recommendations of the Secretary of Defense to the Government of the Soviet Union in May 1983;

Whereas the United States and the Soviet Union commenced negotiations on bilateral communications improvements in August 1983, and on July 17, 1984, concluded the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade in which the two governments agreed to add a facsimile capability to the Direct Communications Link;

Whereas the Congress endorses that agreement and remains committed to all possible measures to facilitate the resolution of international crises and to limit the danger of conflict;

Whereas the Secretary of Defense is responsible for the installation, maintenance, and operation of the Direct Communications Link equipment for the United States; and

Whereas the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade provides that the United States Government will provide to the Union of Soviet Socialist Republics, at cost, the equipment and services necessary for the Soviet Union part of the improved direct Communications Link: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide [to the Soviet Union] *to Russia*, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the [Soviet Union part] *Russian part* of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services [to the Soviet Union] *to Russia* at the cost thereof to the United States.

SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

(b) Funds received from [the Soviet Union] *Russia* as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.

TITLE V—DIPLOMATIC RELATIONS

Section 501. Personnel Levels and Limitations

(a) * * *

[Personnel Ceiling on United States and Soviet missions

[SEC. 602. It is the sense of the Congress that the ceiling on permanent positions at the United States Mission to the Soviet Union and the Soviet Mission to the United States should not be increased unless—

[(a) the President determines that such increase is essential to the effective functioning of the United States Mission to the Soviet Union; and

[(b) the FBI is provided sufficient additional resources to fulfill its responsibilities resulting from the increased number of permanent positions at the Soviet Mission to the United States.]

(b) * * *

[SEC. 154. REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.

[Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report discussing whether the number of personnel of Soviet state trading enterprises in the United States should be reduced.]

* * * * *

(c) * * *

REPORT ON ADMISSION OF CERTAIN ALIENS

[SEC. 501. The Attorney General shall report annually to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence regarding the circumstances of any admission to the United States over the objections of the Federal Bureau of Investigation, of any Soviet national employed by or assigned to a foreign mission or international organization in the United States.]

* * * * *

(d) * * *

SECTION 702 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

[Soviet Mission at the United Nations

[Sec. 702(a)(1). It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals be serve as members of the Soviet mission at the United Nations headquarters would be in the interest of the United States.

[(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six-month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.

[(3) Nothing in this subsection may be construed as including any dependent or spouse who is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.

[(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet national described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

[(c) For purposes of this section—

[(1) the term "members of the Soviet mission" and "members of the United States mission" are used within the meaning of the term "members of the mission", as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

[(2) the term "mission at the United Nations headquarters" of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialize agencies of the United Nations, as defined in article 57 of the charter of the United Nations.]

(e) * * *

[SEC. 813. DIPLOMATIC EQUIVALENCE AND RECIPROCITY.

[(a) STATEMENT OF CONGRESSIONAL POLICY.—(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States who serve as diplomatic or consular personnel of the Soviet Union to the United States shall be substantially equivalent to the number of United States nationals admitted to the Soviet Union who serve as diplomatic or consular personnel of the United States in the Soviet Union unless the President determines that the admission of additional Soviet diplomatic and consular personnel would be in the best interests of the United States.

[(2) The policy expressed in paragraph (1) does not apply to dependents or spouses who do not serve as diplomatic or consular personnel.

[(b) REPORTING REQUIREMENT.—The Secretary of State and the Attorney General shall prepare and, not later than 6 months after the date of the enactment of this Act, shall transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate, and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives, a report setting forth a plan for ensuring that the number of Soviet nationals described in subsection (a) does not exceed the limitation described in that section.

[(c) DEFINITIONS.—For purposes of this section—

[(1) the term "diplomatic or consular personnel" means the numbers of the diplomatic mission or the members of the consular post, as the case may be;

[(2) the term "members of the diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations (done April 18, 1961), and

[(3) the term "members of the consular post" is used within the meaning of Article 1(g) of the Vienna Convention on Consular Relations (done April 24, 1963).]

* * * * *

Section 502. Other Provisions Related to Operation of Embassies and Consulates

(a) * * *

SEC. 132. CONSTRUCTION OF DIPLOMATIC FACILITIES.

[(a) LIMITATION.—Amounts appropriated pursuant to section 101(a)(7) shall be available for obligation and expenditure subject to the provisions of this section.

[(b) COMPREHENSIVE PLAN.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of State, in coordination with the heads of other appropriate Government agencies, shall prepare and submit to the appropriate committees of the Congress, comprehensive plan which sets forth current and future space requirements for the United States Mission in Moscow and how such requirements will be met.

[(2) In addition to such other information as the Secretary of State considers necessary and appropriate, such plan shall include detailed information concerning requirements for—

[(A) United States constructed and secure office space to house all classified or sensitive activities from the most secure to unclassified but sensitive functions;

[(B) unclassified nonsensitive office functions;

[(C) staff housing that is physically safe, secure, and adequate for the needs of the entire United States Mission, both permanent and transient;

[(D) secure and unsecured warehousing;

[(E) recreational facilities;

[(F) expanded activities of the United States Information Agency, including offices and cultural activities;

[(G) expanded consular activities of the Mission;

[(H) expanded activities of the Foreign Commercial Service of the Department of Commerce;

[(I) activities of the Immigration and Naturalization Service; and

[(J) all other anticipated United States Government space requirements.

[(3) In the preparation of such plan, the Secretary shall ensure that detailed consideration be given to at least three construction options for the new chancery building at the United States Embassy in Moscow: (A) full teardown and rebuild; (B) four floor "top hat" in which two floors are removed from the unfinished New Office Building and four floors added; and (C) a two floor "top hat" in which no floors are removed but two are added.

[(c) IMPLEMENTING DOCUMENTS.—The Secretary of State shall make available to the appropriate committees of Congress copies of all agreements, including memoranda of understanding, exchanges of letters, and all other written agreements with the governments of the Soviet Union, the Russian Republic, and the City of Moscow necessary to implement the comprehensive plan under subsection (b).

[(d) REPORT.—

[(1) Not later than 60 days before the obligation or expenditure of any funds authorized to be appropriated under section 101(a)(7), the Secretary of State and the Director of Central Intelligence shall submit to the appropriate committees of the Congress a joint written report on alternative approaches to the reconstruction of the new chancery building at the United States Embassy in Moscow (as authorized under section 101(a)(7)).

[(2) CONTENTS OF REPORT.—The report under paragraph (1) shall contain detailed comparison of the relative advantages and disadvantages of all alternatives considered with respect to the new chancery building at the United States Embassy in Moscow and shall identify the alternative selected for implementation. Such report shall include an analysis of the following factors:

[(A) Estimated cost of completion, based on comparable levels of fit, finish, and equipment.

[(B) Estimated time to completion.

[(C) Total amount of secure and nonsecure space available for office and other functions.

[(D) Whether classified or sensitive functions would be conducted in nonsecure ares, and, if so, how the conduct of such functions would be made secure.

[(E) Whether, and to what extent, Embassy functions or normal work practices would have to be rearranged in order to accommodate limitations on secure space.

[(e) EXTRAORDINARY SECURITY SAFEGUARDS.—]

[(1) In] *(a) Extraordinary Security Safeguards.—In* carrying out the reconstruction project for the new chancery building at the United States Embassy in Moscow, the Secretary of State shall ensure that extraordinary security safeguards are implemented with respect to all aspects of security, including materials, logistics, construction methods, and site access.

[(2) Such] *(b) Safeguards To Be Included.—Such* extraordnary security safeguards under [paragraph (1)] subsection (a) shall include the following:

[(A)] *(1)* Exclusive United States control over the site during reconstruction.

[(B)] *(2)* Exclusive use of United States or non-Soviet materials with respect to the new chancery structure.

[(C)] *(3)* Exclusive use of United States workmanship with respect to the new chancery structure.

[(D)] *(4)* To the extent feasible, prefabrication in the United States of major portions of the new chancery.

[(E)] *(5)* Exclusive United States control over construction materials during the entire logistical process of reconstruction.

[(h) CONFORMING AMENDMENTS.—

[(1) Section 304 of Public Law 100–202 (The Department of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1988) is repealed.

[(2) Section 154 of Public Law 99–93 (The Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is repealed.

[(3) The Supplement Appropriations Act 1985 (P.L. 99–88) is amended under the heading "ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDING ABROAD" for the Department of State by striking out ": *Provided,*" and all that follows before the period at the end of subsection (d).

[(i) DEFINITIONS.—For the purpose of this section, the term "appropriate committee of Congress", means the Committee on Foreign Affairs, the Committee on Appropriations, and the Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

[(j) Establishment of Additional United States Missions in the Soviet Union.—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress outlining plans for the establishment of additional United States missions in the former Soviet Union. Particular priority should be placed on establishing an appropriate United States presence in Tbilisi, Georgia; Kishinev, Moldavia; Yerevan, Armenia; and Khabarovsk, Russia or another suitable nearby location in the Russian Far East. Such report shall include the number of missions and personnel, projected costs, and the ramifications regarding reciprocity for Soviet missions in the United States.

(b) * * *

[SEC. 133. POSSIBLE MOSCOW EMBASSY SECURITY BREACH.

[Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report on the extent to which United States assets were compromised by Soviet "firefighters" in the March 1991 fire at the United States Embassy complex in Moscow. Such report shall include an accounting of the Embassy's political, military, communications, and intelligence capabilities, and shall be submitted in classified, as well as unclassified, form.]

* * * * *

(c) * * *

[SEC. 134. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

(a) WAIVER OF RESTRICTION REGARDING SOVIET CONSULATES IN THE UNITED STATES.—(1) Notwithstanding section 153(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204) and subject to paragraph (2), the Secretary of State may allow the Soviet mission to the United States to occupy, on the basis of reciprocity, a consulate facility in the United States.

[(2) Paragraph (1) shall apply only after the Secretary of State certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the United States mission in Kiev is able to occupy an interim facility intended from the conduct of unclassified activities.

[(b) Reports to Congress.—Not later than January 30, 1991, the Secretary of State shall develop and submit to the Congress a long term plan for acquiring secure permanent facilities for the United States mission in Kiev, together with a budget proposal to implement such plan.]

* * * * *

(d) * * *

[SEC. 1232. REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.

[(a) FINDING.—The Congress finds that the report submitted by the Secretary of Defense pursuant to section 1122 of the National Defense authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180)—

[(1) contains insufficient detail (even in the classified portion) for a review and assessment of the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia, as required by subsection (a) of that section; and

[(2) does not contain a determination of the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Soviet Union is consistent with the national security of the United States, as required by subsection (b) of that section.

[(b) SUBMISSION OF NEW REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to Congress which meets the requirements of section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989.]

* * * * *

(e) * * *

Diplomatic Reciprocity and Security * * *

[SEC. 151. UNITED STATES-SOVIET EMBASSY AGREEMENT: PROHIBITION ON USE OF MT. ALTO SITE.

[(a) FINDINGS.—The Congress finds that—

[(1) the Government of the Union of Soviet Socialist Republics has intentionally and substantially violated international agreements with the United States concerning the establishment and operation of the new United States Embassy complex in Moscow by significantly delaying progress and by constructing the premises of that Embassy so as to compromise the security of United States operations, thus rendering the premises unusable for the primary purpose intended under those agreements;

[(2) the Soviet Government's actions constitute a material violation of international law and a substantial default in performance under the contract for construction of the new United States Embassy complex, and the United States is entitled to claim appropriate compensation;

[(3) due to actions of the Government of the Union of Soviet Socialist Republics, United States Government personnel cannot pursue their official duties in confidence, as the national security and diplomatic relations of the United States requires, within the new United States Embassy being constructed in Moscow;

[(4) the Government of the Union of Soviet Socialist Republics has similarly taken steps to impair the full and proper use of the present United States Embassy in Moscow, to the detriment of the national security of the United States and its ability to conduct diplomatic relations;

[(5) as a result of the substantial violations by the Soviet Union of these international agreements with the United States and other Soviet violations of international law, the United States is entitled to terminate, in whole or in part, those agreements;

[(6) termination of such agreements may include withdrawal of rights and privileges otherwise granted to the Soviet Union concerning the establishment of a new Soviet Embassy complex in Washington, District of Columbia;

[(7) the location of the new Soviet Embassy on Mount Alto creates serious concerns with respect to electronic surveillance and potential damage to the national security of the United States; and

[(8) to protect the national security of the United States, therefore, the United States should exercise its right to terminate the Embassy agreements in view of the substantial and intentional Soviet breaches thereof, unless the threat to the national security posed by adherence to those agreements can be overcome.

[(b) WITHDRAWAL FROM EMBASSY AGREEMENT.—The United States shall withdraw from the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington (signed at Moscow, May 16, 1969) and related agreements, notes, and understandings unless the President makes the determinations and waiver under subsection (c).

[(c) WAIVER.—

[(1) PRESIDENTIAL DETERMINATIONS REQUIRED.—The President may waive subsection (b) if he determines that—

[(A) it is vital to the national security of the United States that the United States not withdraw from the agreement (and related agreements, notes, and understanding) referred to in subsection (b);

[(B) steps have been or will be taken that will ensure that the new chancery building to be occupied by the United States Embassy in Moscow can be safely and securely used for its intended purposes; and

[(C) steps have been or will be taken to eliminate, no later than 2 years after the date of enactment of this Act, the damage to the national security of the United States due to electronic surveillance for Soviet facilities on Mount Alto.

[(2) WHEN DETERMINATIONS MAY BE MADE.—The President may not make the determination and waiver permitted by paragraph (1) before the end of the 6-month period beginning on the date of enactment of this Act.

[(3) REPORT TO CONGRESS.—The waiver permitted by paragraph (1) shall not be effective until 30 days after the determinations and waiver are reported to the Congress. Any such report shall include—

[(A) a detailed justification for each of the determinations;

[(B) an assessment of the impact on national security of the removal of the Soviet Embassy from Mt. Alto; and

[(C) specify the steps that have been or will be taken to achieve the requirements of paragraphs (1)(B) and (C).

[(4) NONDELEGATABILITY.—The President may not delegate the responsibility for making the determination and waiver permitted by paragraph (1).

[(d) NOTIFICATION OF UNAVAILABILITY OF MOUNT ALTO.—If the President does not waive subsection (b), the Secretary of State shall notify the Government of the Union of Soviet Socialist Republics that the Mount Alto site will cease to be available to that Government for any purpose as of the date which is 1 year and 10 days after the earliest date on which the President could make the waiver under subsection (c).

[(e) PROHIBITION ON FUTURE USE OF MOUNT ALTO SITE BY FOREIGN MISSIONS.—If subsection (b) takes effect, the Mount Alto site may not be made available for use thereafter by a foreign mission for any purpose.

[SEC. 152. RECOVERY OF DAMAGES INCURRED AS A RESULT OF SOVIET INTELLIGENCE ACTIVITIES DIRECTED AT THE NEW UNITED STATES EMBASSY IN MOSCOW.

[It is the sense of the Congress that the arbitration process between the United States and the Union of Soviet Socialist Republics, which is currently under way with respect to damages arising from delays in the construction of the new United States Embassy in Moscow, should include Soviet reimbursement of the full costs incurred by the United States as a result of the intelligence activities of the Soviet Union directed at the new United States Embassy in Moscow.

[SEC. 153. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

[(a) REQUIREMENT FOR RECIPROCITY IN CERTAIN MATTERS.—The Secretary of State shall exercise the authority granted in title II of the State Department Basic Authorities Act of 1956 (relating to foreign missions) to obtain the full cooperation of the Soviet Government in achieving the following objectives by October 1, 1989:

[(1) FINANCE.—United States diplomatic and consular posts in the Soviet Union not pay more than fair value for goods or services as a result of the Soviet Government's control over Soviet currency valuation and over the pricing of goods and services.

[(2) ACCESS TO GOODS AND SERVICES.—United States diplomatic and consular posts in the Soviet Union have full access to goods and services, including utilities.

[(3) REAL PROPERTY.—The real property used for office purposes, the real property used for residential purposes, and the real property used for all other purposes by United States diplomatic and consular posts in the Soviet Union is comparable in terms of quantity and quality to the real property used for each of those purposes by diplomatic and consular posts of the Soviet mission to the United States.

[(b) SOVIET CONSULATES IN THE UNITED STATES.—The Secretary of State shall not allow the Soviet mission to the United States to occupy any new consulate in the United States until the United States mission in Kiev is able to occupy secure permanent facilities.

[(c) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall provide to the Secretary of State such assistance with respect to the implementation of paragraph (1) of subsection (a) as the Secretary of State may request.

[(d) REPORTS TO CONGRESS.—Not later than 60 days after the date of enactment of this Act and annually thereafter, the Secretary of State shall submit to the Congress a report setting forth the actions taken and planned to be taken in carrying out subsection (a)

[(e) DEFINITION OF BENEFIT.—Paragraph (1) of section 202(a) of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(1); commonly referred to as the Foreign Missions Act) is amended—

[(1) by striking out "and" at the end of subparagraph (E);

[(2) in subparagraph (F), by inserting "and" after "services,"; and

[(3) by inserting after subparagraph (F) the following new subparagraph:

["(G) financial and currency exchange services,".

(f) * * *

[SEC. 1122. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

[(a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

[(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

[(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

[(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).]

* * * * *

(g) * * *

[ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY

[SEC. 901. (a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than ninety days after the date of the enactment of this Act.

[(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

[(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both classified and unclassified form, and the determination required by subsection (b) shall be submitted in an unclassified form.

[(d) LIMITATION OF DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).]

(h) * * *

SEC. 1364. FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES.

[(a) CONGRESSIONAL FINDINGS AND POLICIES.—The Congress makes the following findings:

[(1) The conduct of espionage activities (including the collection of classified and unclassified technological information) by the diplomatic and consular missions of the Soviet Union and certain other foreign diplomatic and consular missions within the United States (as well as by certain employees of international organizations acting on behalf of the Soviet Union or certain other foreign countries) represents a grave threat to the security of the United States.

[(2) The conduct of such activities constitutes a gross abuse of the rights, privileges, and immunities accorded to persons assigned to such missions, including the right to enter and reside within the United States (or any particular area thereof).

[(3) The Soviet Union and certain other countries take advantage of the free and open society of the United States to carry out espionage against the United States.

[(4) The United States should take immediate and effective action to counteract espionage by the Soviet Union and certain other countries.

[(5) It is fully consistent with international law and the international obligations of the united States to take reasonable measures to prevent such activities, including measures which would (A) impose restrictions on the travel of such foreign officials within the United States, and (B) close to such officials certain areas of the United States.

[(b) CONGRESSIONAL POLICY.—] The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well as upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists.

[(c) REPORT ON FOREIGN ESPIONAGE.—(1) The President shall submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report on foreign espionage in the United States. Such report shall include the following:

[(A) An assessment of the effect of espionage activities in the United States conducted by the Soviet Union and certain other countries whose intelligence activities pose a threat to the national security of the United States.

[(B) An assessment of how such countries use the freedom to travel within the United States, accorded to the officials of such countries, to engage in espionage activities against the United States.

[(C) An assessment of the advantage and disadvantages of the principle of diplomatic reciprocity and the consequences of such reciprocity on the national security of the United States.

[(D) Recommendations for measures to curtail espionage against the United States, including the following:

[(i) Prohibiting the personnel of certain foreign governments and certain international organizations from traveling in designated areas of the United States.

[(ii) Identifying the governments to whose nationals such restrictions are to apply.

[(iii) Identifying those foreign governments which have closed certain areas of their countries to United States diplomatic and consular personnel and, in the case of each such country, the number of such closed areas and the size of such areas in relation to the total area of the country.

[(2) The report shall be prepared under the direction of the Secretary of State and in close cooperation with the Secretary of Defense, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation.

[(3) The report required by paragraph (1) shall be submitted in both a classified and unclassified version.

[(4) Such report shall be submitted not later than March 1, 1987.]

Section 503. Foreign Service Buildings Act

SEC. 4. (a) * * *

* * * * *

[(j) For the purpose of carrying into effect the provisions of this Act in the Union of Soviet Socialist Republics, there is authorized to be appropriated, in addition to amounts authorized prior to the enactment of this subsection, $30,000,000, which amount is authorized to remain available until expended.]

TITLE VI—OCEANS AND THE ENVIRONMENT

Section 601. Arctic Research and Policy Act.

Section 102 of the Arctic Research and Policy Act of 1984

FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce the Nation's dependence on foreign oil and improve the national balance of payments;

(2) [as the Nation's only common border with the Soviet Union,] the Arctic is critical to national defense;

* * * * *

(10) most Arctic-rim countries, [particularly the Soviet Union,] possess Arctic technologies far more advanced than those currently available in the United States;

* * * * *

Section 602. Fur Seal Management

THE ACT OF NOVEMBER 2, 1966[1] (POPULARLY KNOWN AS THE FUR SEAL ACT OF 1966)

SEC. 101. (a) * * *

* * * * *

(h) "Party" or "parties" means the United States of America, Canada, Japan, and [the Union of Soviet Socialist Republics] *Russia (except that as used in subsection (b) of this section, "party" and "parties" refer to the Union of Soviet Socialist Republics).*

* * * * *

SEC. 102. It is unlawful, except as provided in this Act or by regulation of the Secretary, for any person or vessel subject to the jurisdiction of the United States to engage in the taking of fur seals in the North pacific Ocean or on lands or waters under the jurisdiction of the United States, or to use any port or harbor or other place under the jurisdiction of the United States for any purpose connected in any way with such taking, or for any person to transport, import, offer for sale, or possess at any port or place or on any vessel, subject to the jurisdiction of the United States, fur seals or the parts thereof, including, but not limited to, raw, dressed, or dyed fur seal skins, taken contrary to the provisions of this Act or the Convention, or for any person subject to the jurisdiction of the United States to refuse to permit, except within the Exclusive Economic Zone of the United States, a duly authorized official of Canada, Japan, or [the Union of Soviet Socialist Republics] *Russia* to board and search any vessel which is outfitted for the harvesting of living marine resources and which is subject to the jurisdiction of the United States to determine whether such vessel is engaged in sealing contrary to the provisions of said Convention.

* * * * *

Section 603. Global Climate Protection.

SEC. 1106. CLIMATE PROTECTION AND [UNITED STATES-SOVIET RELATIONS] *UNITED STATES RELATIONS WITH THE INDEPENDENT STATES OF THE FORMER SOVIET UNION*

In recognition of the respective leadership roles in the United States and the [Soviet Union] *independent states of the former Soviet Union* in the international arena, and of [their joint role as the world's two major] *the extent to which they are* producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of [United States-Soviet relations] *United States relations with the independent states.*

* * * * *

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

Section 701. United Nations Assessments

Section 717 of the International Security and Development Cooperation Act of 1981

Sec. 717. (a) The Congress finds and declares that—

(1) the financing of the United Nations is the collective responsibility of all member nations;

(2) the International Court of Justice has determined that the expenses of the United Nations incurred in its peacekeeping operations are properly included as a part of the regular expenses of the United Nations; *and*

(3) peacekeeping operations are vital to the mission of the United Nations and must be adequately financed if such operations are to continue[; and].

[(4) the Government of the Union of Soviet Socialist Republics is currently $180,000,000 in arrears on its payments to the United Nations, primarily as a result of its refusal to pay for the peacekeeping operations of the United Nations.]

(b) It is the sense of the Congress that the President, acting through the Permanent

Representatives of the United States to the United Nations, should undertake [a diplomatic initiative to obtain payment by the Government of the Union of Soviet Socialist Republics of all its outstanding financial obligations to the United Nations, including its] *appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their* assessments with respect to the peacekeeping operations of the United Nations.

Section 702. Soviet Occupation of Afghanistan.

[SEC. 1241. SOVIET OCCUPATION OF AFGHANISTAN.

[(a) FINDINGS ON SOVIET ACTIONS IN AFGHANISTAN.—The Congress finds that—

[(1) the Soviet Union has been waging war against the people of Afghanistan since the invasion of Decmber 25, 1979;

[(2) the victims of the Soviet invasion and occupation include more than 1,000,000 dead and more than 3,000,000 Afghans forced to find refuge in neighboring countries;

[(3) Soviet military tactics have included the bombing and napalming of villages without regard to the human toll, the destruction of crops, agricultural land, and orchards so as to create famine conditions, and the massacre of hostages and other innocent civilians;

[(4) children have been particular victims of Soviet aggression, with some being targeted for death by the dropping of booby-trapped toys while other children have been transported to the Soviet Union for indoctrination;

[(5) the Soviet-installed puppet regime has engaged in a consistent pattern of gross violations of the human rights of its own citizens, including torture and summary execution, for which its Soviet sponsors must also be held accountable; and

[(6) Soviet actions in Afghanistan constitute a violation of international law and of accepted norms of human decency and, therefore, must be condemned by civilized people everywhere.

[(b) FINDINGS ON THE AFGHAN RESISTANCE.—The Congress further finds that—

[(1) The Afghan people have heroically resisted the Soviet invaders in spite of the tremendous cost of so doing and now control most of their homeland;

[(2) the provision of effective assistance to the Afghan people is an obligation of those who cherish freedom;

[(3) a total and prompt withdrawal of all Soviet forces from Afghanistan is essential in order for the Afghan people to exercise their inalienable human right to self-determination; and

[(4) a negotiated settlement providing for the total and prompt withdrawal of Soviet forces offers the best prospect for an early end to the suffering of the Afghan people.

[(c) DECLARATION OF POLICY.—The Congress, therefore, declares it to be the policy of the United States—

[(1) to provide such assistance to the Afghan people as will most effectively help them resist the Soviet invaders;

[(2) to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria; and

[(3) to communicate clearly to the Government and people of the Soviet Union the necessity of a Soviet withdrawal from Afghanistan as a condition for better relations between the United States and the Soviet Union.

[(d) PROVISION OF ASSISTANCE.—The President and Secretary of State are directed to adopt policies and program to ensure that all assistance intended for the Afghan people reaches its intended recipients and that theft or diversion of such assistance not be tolerated.]

* * * * *

Section 703. Angola

Section 405 of the International Security Assistance and Arms Export Control Act of 1976

[SOVIET INTERVENTION IN ANGOLA

[SEC. 405. The Congress views the large-scale and continuing Soviet intervention in Angola, including active sponsorship and support of Cuban armed forces in Angola, as being completely inconsistent with any reasonably defined policy of detente, as well as with Article 1 and 2 of the United Nations Charter, the principle of noninterference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.]

Section 704. Self Determination of the People from the Baltic States

SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that—

(1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence [from the Soviet Union] should be recognized; and

* * * * *

Section 705. Obsolete references in Foreign Assistance Act

Foreign Assistance Act of 1961.

* * * * *

PART II

CHAPTER 1—POLICY

SEC. 501. STATEMENT OF POLICY.—The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individuals or collective self-defense. The Congress hereby finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of this part to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and invasion.

The Congress recognizes that the peace of the world and the security of the United States are endangered so long as [international communism and the countries it controls] *hostile countries* continue by threat of military action, by the use of economic pressure, and by internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government to peoples and countries once free but now subject to such domination.

It is the sense of the Congress that an important contribution toward peace would be made by the establishment under the Organization of American States of an international military force.

In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat [Communist or Communist-supported] aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals in this part.

It is the sense of the Congress that in the administration of this part priority shall be given to the needs of those countries in danger of becoming victims of [active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion.] *aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.*

Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. In particular, the Congress welcomes the steps which have been taken to promote multilateral programs of coordinated procurement, research, development, and production of defense articles and urges that such programs be expanded to the fullest extent possible to further the defense of the North Atlantic area.

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PART III

CHAPTER 1—GENERAL PROVISIONS

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SEC. 614. SPECIAL AUTHORITIES—(a)(1) * * *

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(4)(A) * * *

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(C) Not more than $50,000,000 of the $250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active [Communist or Communist-supported] aggression, and not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

* * * * *

SEC. 620. PROHIBITIONS AGAINST FURNISHING ASSISTANCE.—

(a) * * *

* * * * *

(h) The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of [the Communist-bloc countries] *any country that is a*

Communist country for purposes of subsection (f).

Section 706. Review of United States Policy Toward the Soviet Union

Section 24 of the International Security Assistance Act of 1978

[UNITED STATES RELATIONS WITH THE SOVIET UNION.

[SEC. 24. (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.

[(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy toward the Soviet Union. This review should cover, but not be limited to—

[(1) an overall reevaluation of the objectives and priorities of the United States in its relations with the Soviet Union,

[(2) the evolution of and sources of all bargaining power of the United States with respect to the Soviet Union and how that bargaining power might be enhanced;

[(3) what linkages do exist and what linkages should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

[(4) the policies of the United States toward human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

[(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

[(6) the current status of other arms control negotiations between the United States and the Soviet Union;

[(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet those challenges more effectively;

[(8) the impact of our relations with the People's Republic of China on our relations with the Soviet Union;

[(9) the impact of strategic parity on relations between the United States and the Soviet Union and on the ability of the United States to meet its obligations under the North Atlantic Treaty;

[(10) United States economic, technological, scientific, and cultural relations with the Soviet Union and whether those relations are desirable and should be continued, expanded, restricted, or linked to other aspects of relations between the United States and the Soviet Union;

[(11) the evolution of Soviet domestic policies and the relationship between Soviet domestic politics and its foreign policy behavior, especially toward the United States; and

[(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

[(c) The President should report the results of the review called for by subsection (b) to the Congress not later than December 31, 1978.]

TITLE VIII—INTERNAL SECURITY; WORLDWIDE COMMUNIST CONSPIRACY

Section 801. Civil Defense

Section 501 of the Federal Civil Defense Act of 1950

SENSE OF CONGRESS

SEC. 501. (a) * * *

(b) It is further the sense of Congress that an improved civil defense program should be implemented which—

(1) enhances the survivability of the American people and its leadership in the event of nuclear war and thereby improves the basis for eventual recovery and reduces the Nation's vulnerability to a major attack;

(2) enhances deterrence[, contributes to perception of the United States-Soviet strategic balance and crisis stability,] and reduces the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

* * * * *

Section 802. Report on Soviet Press Manipulation in the United States

[SEC. 147. SOVIET AND COMMUNIST DISINFORMATION AND PRESS MANIPULATION.

[Not later than one year after the date of the enactment of this Act, the Secretary of State shall prepare, in consultation with the heads of relevant Federal departments and agencies, and shall transmit to the Speaker of the House of Representatives, and to the Chairman of the Committee on Foreign Relations of the Senate, an unclassified report on Soviet and Communist disinformation and press manipulation with respect to the United States. Such report shall include a recommendation by the President on the advisability of establishing within the Department of State, a permanent office of Soviet disinformation and press manipulation. In conducting the study required by this section the Secretary may make use of suitability qualified scholars and journalists.

Section 803. Subversive Activities Control Act.

Subversive Activities Control Act of 1950

* * * * *

TITLE I—SUBVERSIVE ACTIVITIES CONTROL

[SECTION 1. (a) This title may be cited as the "Subversive Activities Control Act of 1950". (50 U.S.C. 781 note).

[(b) Nothing in this Act shall be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect.

[NECESSITY FOR LEGISLATION

[SEC. 2. As a result of evidence adduced before various committees of the Senate and House of Representatives, the Congress hereby finds that—

[(1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization. (50 U.S.C. 781(1))

[(2) The establishment of a totalitarian dictatorship in any country results in the suppression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and results in the maintenance of control over the people through fear, terrorism, and brutality. (50 U.S.C. 781(2))

[(3) The system of Government known as a totalitarian dictatorship is characterized by the existence of a single political party, organized on a dictatorial basis, and by substantial identity between such party and its policies and the government and governmental policies of the country in which its exists. (50 U.S.C. 781(3))

[(4) The direction and control of the world Communist movement is vested in and exercised by the Communist dictatorship of a foreign country.

[(5) The Communist dictatorship of such foreign country, in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment of, and utilizes, in various countries, action organizations which are not free and independent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.

[(6) The Communist action organizations so established and utilized in various countries, acting under such control, direction, and discipline, endeavor to carry out the objectives of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most powerful existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as an agency by which people govern themselves.

[(7) In carrying on the activities referred to in paragraph (6), such Communist organizations in various countries are organized on a secret, conspiratorial basis and operate to a substantial extent through organizations, commonly known as "Communist fronts", which in most instances are created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership. One result of this method of operation is that such affiliated organizations are able to obtain financial and other support from persons who would not extend such support if they knew the true purposes of, and the actual nature of the control and influence exerted upon, such "Communist fronts".

[(8) Due to the nature and scope of the world Communist movement, with the existence of affiliated constituent elements working toward common objectives in various countries of the world, travel of Communist members, representatives, and agents from country to country facilitates communication and is a prerequisite for the carrying on of activities to further the purpose of the Communist movement.

[(9) In the United States those individuals who knowingly and willfully participate in the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement.

[(10) In pursuance of communism's stated objectives, the most powerful existing Communist dictatorship has, by the methods referred to above, already caused the establishment in numerous foreign countries of Communist totalitarian dictatorships, and threatens to establish similar dictatorships in still other countries.

[(11) The agents of communism have devised clever and ruthless espionage and sabotage tactics which are carried out in many instances in form or manner successfully evasive of existing law.

[(12) The Communist network in the United States is inspired and controlled in large part by foreign agents who are sent into the United States ostensibly as attaches of foreign legations, affiliates of international organizations, members of trading commissions, and in similar capacities, but who use their diplomatic or semidiplomatic status as a shield behind which to engage in activities prejudicial to the public security.

[(13) There are, under our present immigration laws, numerous aliens who have been found to be deportable, many of whom are in the subversive, criminal, or immoral classes who are free to roam the country at will without supervision or control.

[(14) One device for infiltration by Communists is by procuring naturalization for disloyal aliens who use their citizenship as a badge for admission into the fabric of our society.

[(15) The Communist movement in the United States is an organization numbering thousands of adherents, rigidly and ruthlessly disciplined. Awaiting and seeking to advance at a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States by force and violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparations by Communist organizations in other countries have aided in supplanting existing governments. The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the United States and to the existence of free American institutions, and make it necessary that Congress, in order for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the existence of such worldwide conspiracy and designed to prevent it from accomplishing its purpose in the United States.

[(16) The findings of fact contained in paragraphs (1) through (5) of this section are reiterated. Recent court decisions involving the registration provisions of this Act make it necessary to enact legislation to accomplish the purposes of such Act without the requirements of registration. Disclosure of Communist organizations and of the members of Communist-action organizations as provided in this Act is essential to the protection of the national welfare.

[DEFINITIONS

[Sec. 3. For the purposes of this title—

[(1) The term "person" means an individual or an organization.

[(2) The term "organization" means an organization, corporation, company, partnership, association, trust, foundation, or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together for joint action on any subject or subjects.

[(3) The term "Communist-action organization" means any organization in the United States (other than a diplomatic representative or mission of a foreign government accredited as such the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance to objectives of such world Communist movement referred to in section 2 of this title.

[(4) The term "Communist-front organization" means any organization in the United States (other than a Communist-action organization as defined in paragraphs (3) of this section) which (A) is substantially directed, dominated, or controlled by a Communist-action organization, or (B) is substantially directed, dominated, or controlled by one or more members of a Communist-action organization, and (C) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title.

[(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) in serving, or within three years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however*, That any labor organization which is an affiliate in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist movement, shall be presumed prima facie not to be a "Communist-infiltrated organization"

[(5) The term "Communist organization" means any Communist-action organization, Communist-front organization, or Communist-infiltrated organization.

[(6) The term "to contribute funds or services" includes the rendering of any personal service and the making of any gift, subscription, loan, advance, or deposit, of money or of anything of value, and also the making of any contract, promise, or agreement to contribute funds or services, whether or not legally enforceable.

[(7) The term "facility" means any plant, factory or other manufacturing, producing or service establishment, airport, airport facility, vessel, pier, water-front facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division, or department of any of the foregoing. The term "defense facility" means any facility designated by the Secretary of Defense pursuant to section 5(b) of this title and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation.

[(8) The term "publication" means any circular, newspaper, periodical, pamphlet, book, letter, post card, leaflet, or other publication.

[(9) The term "United States," when used in a geographical sense includes the several States, Territories, and possessions of the United States, the District of Columbia, and the Canal Zone.

[(10) The term "interstate or foreign Commerce" means trade, traffic, commerce, transportation, or communication (A) between any State. Territory, or possession of the United States (including the Canal Zone), or the District of Columbia, and any place outside thereof, or (B) within any Territory or possession of the United States (including the Canal Zone), or within the District of Columbia.

[(11) The term "Board" means the Subversive Activities Control Board created by section 12 of this title.

[(12) The term "final order of the Board" means an order issued by the Board under section 13 or 13A of this title, which has become final as provided in section 14 of this title.

[(13) The term "advocates" includes advises, recommends, furthers by overt act, and admits belief in; and the giving, loaning, or promising of support or of money or anything of value to be used for advocating any doctrine shall be deemed to constitute the advocating of such doctrine.

[(14) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist movement.

[(15) The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such a party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

[(16) The term "doctrine" includes, but is not limited, to policies, practices, purposes, aims, or procedures.

[(17) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be conclusively presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

[(18) "Advocating the economic, international, and governmental doctrines of world communism" means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

[(19) "Advocating the economic and governmental doctrines of any other form of totalitarianism" means advocating the establishment of totalitarianism (other than world communism) and includes, but is not limited to, advocating the economic and governmental doctrines of fascism and nazism.

CERTAIN PROHIBITED ACTS

SEC. 4. [(a) It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship, as defined in paragraph (15) of section 3 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of, any foreign government, foreign organization, or foreign individual: *Provided, however*, That this subsection shall not apply to the proposal of a constitutional amendment.]

[(b)] *(a)* It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government[or an officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title] any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employees shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information.

[(c)] *(b)* It shall be unlawful for any agent or representative of any foreign government[, or any officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title,] knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from any officer or employee of the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

[(d] *(c)* Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $10,000, or imprisonment for not more than ten years, or by both such fine and such imprisonment, and shall, moreover, be thereafter ineligible to hold any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

[(e)] *(d)* Any person may be prosecuted, tried, and punished of any violation of this section at any time within ten years after the commission of such offense, notwithstanding the provisions of any other statute of limitations: *Provided*, That if at the time of the commission of the offense such person is an officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, such person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after such person has ceased to be employed as such officer or employee.

[(f)] *(e)* Neither the holding of office nor membership in any communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute.

[EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS

[Sec. 5. (a) When there is in effect a final order of the Board determining any organization to be a Communist-action organization or a Communist-front organization, it shall be unlawful—

[(1) For any member of such organization, with knowledge or notice of such final order of the Board—

[(A) in seeking, accepting, or holding any nonelective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

[(B) to hold any nonelective office or employment under the United States; or

[(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

[(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility; or

[(E) to hold office or employment with any labor organization, as that term is defined in section 2(5) of the National Labor Relations Act, as amended (29 U.S.C. 152), or to represent any employer in any matter or proceeding arising or pending under that Act.

[(2) For any officer or employee of the United States or of any defense facility, with knowledge or notice of such final order of the Board—

[(A) to contribute funds or services to such organization; or

[(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of paragraph (1) of this subsection.

[(b) The Secretary of Defense is authorized and directed to designate facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall promptly notify the management of any facility so designated, whereupon such management shall immediately post conspicuously notice of such designation in such form and in such place or places as to give notice thereof to all employees of, and to all applicants for employment in such facility. Such posting shall be sufficient to give notice of such designation to any person subject thereto or affected thereby. Upon the request of the Secretary, the management of any facility so designated shall require such employee of the facility, or any part thereof, to sign a statement that he knows that the facility has, for the purposes of this title, been designated by the Secretary under this subsection.

[DENIAL OF PASSPORTS TO MEMBERS OF COMMUNIST ORGANIZATIONS

[Sec. 6. (a) When a Communist organization as defined in paragraph (5) of section 3 of this title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

[(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

[(2) to use or attempt to use any such passport.

[(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.

[RECORDS OF FINAL ORDERS OF THE BOARD; PUBLIC INSPECTION; REPORTS TO PRESIDENT AND CONGRESS

[SEC. 9. (a). The Board shall keep and maintain records, which shall be open to public inspection, giving the names and addresses of all organizations as to which, and individuals as to whom, there are in effect final orders of the Board issued pursuant to any of the provisions of subsections (g) through (j), inclusive, or section 13, or subsection (f) of section 13A.

[(b) Copies of all public proceedings and hearings before the Board, including the reports and orders of the Board, shall be furnished by the Board to any person upon request and upon the payment of the reasonable costs thereof as then currently fixed by the Board.

[(c) The Board shall submit to the President and to the Congress on or before June 1 of each year (and at any other time when requested by either House by resolution) a report giving the names and addresses of all Communist-action, Communist-front, or Communist-infiltrated organizations as to which, and all individual members of Communist-action organizations as to whom, there are in effect such final orders of the Board.

[USE OF THE MAILS AND INSTRUMENTALITIES OF INTERSTATE OR FOREIGN COMMERCE

[SEC. 10. It shall be unlawful for any organization with respect to which there is in effect a final order of the Board determining it to be a Communist organization as defined in paragraph (5) of section 3 of this title, or for any person with knowledge or notice of such final order acting for or on behalf of any such organization—

[(1) to transmit or cause to be transmitted, through the United States mails or by any means or instrumentality of interstate or foreign commerce, any publication which is intended to be, or which it is reasonable to believe is intended to be, circulated or disseminated among two or more persons, unless such publication, and any envelope, wrapper, or other container in which it is mailed or otherwise circulated or transmitted, bears the following, printed in such manner as may be provided in regulations prescribed by the Attorney General: "Disseminated by ———," (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist——— organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be); or

[(2) to broadcast or cause to be broadcast any matter over any radio or television station in the United States, unless such matter is preceded by the following statement: "The following program is sponsored by ———," (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist——— organization" (setting forth in lieu of the blank action, front, or infiltrated, as the case may be); or

[(3) to use the United States mails or any means, facility, or instrumentality or interstate or foreign commerce, including but not limited to radio and television broadcasts, to solicit any money, property, thing, or service, unless such solicitation if made orally is preceded by the following statement, and if made in writing or in print is preceded by the following written or printed statement: "This solicitation is made for or on behalf of ———," (with the name of the organization in lieu of the blank) "an organization determined by the final order of the Subversive Activities Control Board to be a Communist——— organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be).

[DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS

[SEC. 11. (a). Notwithstanding any other provisions of law, no deduction for Federal income tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization.

[(b) No organization shall be entitled to exemption from Federal income tax, under section 501 of the Internal Revenue Code of 1954, for any taxable year if at any time during such taxable year there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization.

[SUBVERSIVE ACTIVITIES CONTROL BOARD

[SEC. 12. (a) There is hereby established, to be known as the Subversive Activities Control Board, which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board shall be members of the same political party. The terms of office of the members of the board in office on the date of enactment of the Subversive Activities Control Board Tenure Act shall expire at the time they would have expired if such Act had not been enacted. The term of office of each member of the Board appointed after the date of enactment of the Subversive Activities Control Board Tenure Act shall be for five years from the date of expiration of the term of his predecessor, except that (1) the term of office of that member of the Board who is designated by the President and is appointed to succeed one of the two members of the Board whose terms expire on August 9, 1955, shall be for four years from the date of expiration of the term of his predecessor, and (2) the term of office of any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be for the remainder of the term of his predecessor. Upon the expiration of his term of office, a member of the Board shall continue to serve until his successor shall have been appointed and shall have qualified. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

[(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum. The Board shall have an official seal which shall be judicially noticed.

[(c) The Board shall at the close of each fiscal year make a report in writing to the Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees of the Board, and an account of all moneys it has disbursed.

[(d) Each member of the Board shall receive a salary of $15,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.

[(e) It shall be the duty of the Board—

[(1) upon application made by the Attorney General under section 13(a) of this title, or by any organization under section 13(b) of this title, to determine whether any organization is a "Communist-action organization" within the meaning of paragraph (3) of section 3 of this title, or a "Communist-front organization" within the meaning of paragraph (4) of section 3 of this title; and

[(2) upon application made by the Attorney General under section 13(a) of this title, or by any individual under section 13(b) of this title, to determine whether any individual is a member of any organization as to which there is in effect a final order of the Board determining such organization to be a Communist-action organization and

[(3) upon any application made under subsection (a) or subsection (b) of section 13A of this title, to determine whether any organization is a Communist-infiltrated organization.

[(f) subject to the civil-service laws and Classification Act of 1949, the Board may appoint and fix the compensation of a chief clerk and such examiners and other personnel as may be necessary for the performance of its function.

[(g) The Board may make such rules and regulations, not inconsistent with the provisions of this title, as may be necessary for the performance of its duties.

[(h) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out its functions.

[(i) The Board shall cease to exist on June 30, 1969, unless in the period beginning on the date of enactment of this subsection and ending on December 31, 1968, a proceeding under this Act shall have been instituted before the Board and a hearing under this Act shall have been conducted by the Board. On or before June 30, 1968, the Attorney General shall report to the Congress on the proceedings he has instituted before the Board under this Act during the period from the enactment of this subsection to the date of the report, and the Board shall report on the progress it has made in conducting hearings under the Act during such period. If no proceedings have been instituted before the board by the Attorney General, the Attorney General shall report his reasons for not having done so. If no hearings have been conducted, the Board shall report the reasons for not having done so. Similar reports shall be filed by the Attorney General and the Board on or before January 10, 1969, and each year thereafter, to cover the immediately preceding calendar year.

[Proceedings before the board * * *

[SEC. 13. (a) Whenever the Attorney General shall have reason to believe that any organization is a Communist-action organization or a Communist-front organization, or that any individual is a member of an organization which has been determined by final order of the Board to be a Communist-action organization, he shall file with the Board and serve upon such organization or individual, as the case may be, a petition for a determination that such organization is a Communist-action or Communist-front organization, or determining that such individual is a member of such Communist-action organization.

Each such petition shall be verified under oath, and shall contain a statement of the facts upon which the Attorney General relies in support thereof. Two or more such individual members of Communist-action organization or of any section, branch, fraction, cell, board, committee, commission, or unit thereof, may be joined as respondents in one petition for an order determining each of such individuals to be a member of such organization. A dissolution of any organization subsequent to the date of the filing of any petition for a determination that such organization is a Communist-action or Communist-front organization shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues: *Provided, however*, That if the Board shall find such organization to be a Communist-action or Communist-front organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-action or Communist-front organization, as the case may be, and the Board shall include it as such in the appropriate records maintained pursuant to section 9 of this title, together with a notation of its dissolution.

[(b) Any organization as to which there is in effect a final order of the Board determining it to be a Communist-action or Communist-front organization, and any individual as to whom there is in effect a final order of the Board determining such individual to be a member of Communist-action organization may, not more often than once in each calendar year, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-action or Communist-front organization, or that such individual no longer is a member of a Communist-action organization, as the case may be. Each petition filed under this subsection shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

[(c)Upon the filing of any petition pursuant to subsection (a) or subsection (b) of this section, the Board (or any member thereof or any examiner designated thereby) may hold hearings, administer oaths and affirmations, may examine witnesses and receive evidence at any place in the United States, and may require by subpoena the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed relevant, to the matter under inquiry. Subpoenas may be signed and issued by any member of the Board or any duly authorized examiner. Subpoenas shall be issued on behalf of the organization or the individual who is a party to the proceeding upon request and upon a statement of showing of general relevance and reasonable scope of the evidence sought. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. Witnesses summoned shall be paid the same fees and mileage paid witnesses in the district courts of the United States. In case of disobedience to a subpoena, the Board may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear (and to produce documentary evidence if so ordered) and give evidence relating to the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture, shall be excused from testifying or producing documentary evidence before the Board in obedience to a subpoena of the Board issued on request of the Attorney General when the Attorney General represents that such testimony or evidence is necessary to accomplish the purposes of this title; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he, under compulsion as provided in this subsection, may testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. No person shall be held liable in any action in any court, State or Federal, for any damages resulting from (1) his production of any documentary evidence on any proceeding before the Board if he is required, by a subpoena issued under this subsection, to produce the evidence; or (2) any statement under oath he makes in answer to a question he is asked while testifying before the Board in response to a subpoena issued under this subsection, if the statement is pertinent to the question.

[(d)(1) All hearings conducted under this section shall be public. Each party to such proceeding shall have the right to present its case with the assistance of counsel, to offer oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. An accurate stenographic record shall be taken of the testimony of each witness, and a transcript of such testimony shall be filed in the office of the Board.

[(2) Where an organization or individual declines or fails to appear at a hearing accorded to such organization or individual by the Board in proceedings initiated pursuant to subsection (a) of this section, the Board shall, nevertheless, proceed to receive evidence, make a determination of the issues, and enter such order as shall be just and appropriate. Upon failure of an organization or individual to appear at a hearing accorded to such organization or individual in proceedings under subsection (b) of this section the Board may forthwith and without further proceedings enter an order dismissing the petition of such organization or individual.

[(3) Any person who, in the course of any hearing before the Board or any member thereof or any examiner designated thereby, shall misbehave in their presence or so near thereto as to obstruct the hearing or the administration of the provisions of this title, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $500 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. Whenever a statement of fact constituting such misbehavior is reported by the Board to the appropriate United States attorney, it shall be his duty to bring the matter before the grand jury for its action.

[(4) the authority, function, practice, or process of the Attorney General or Board in conducting any proceeding pursuant to the provisions of this title shall not be questioned in any court of the United States, nor shall any such court, or judge or justice thereof, have jurisdiction of any action, suit, petition, or proceeding, whether for declaratory judgment, injunction, or otherwise, to question such authority, function, practice, or process, except on review in the court or courts having jurisdiction of the actions and orders of the Board pursuant to the provisions of section 14, or when such authority, function, practice, or process, is appropriately called into question by the accused or respondent, as the case may be, in the court or courts having jurisdiction of his prosecution or other proceeding (or the review thereof) for any contempt or any offense charged against him pursuant to the provisions of this title.

[(e) In determining whether any organization is a "Communist-action organization", the Board shall take into consideration—

[(1) the extent to which its policies are formulated and carried out and its activities performed, pursuant to directive or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 of this title, and

[(2) the extent to which its views and polices do not deviate from those of such foreign government or foreign organization, and

[(3) the extent to which it receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization; and

[(4) the extent to which it sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movements; and

[(5) the extent to which it reports to such foreign government or foreign organization or to its representatives; and

[(6) the extent to which its principal leaders or a substantial number of its members are subject to or recognize the disciplinary power of such foreign government or foreign organization or its representatives; and

[(7) the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it fails to disclose, or resist efforts to obtain information as to, its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method); (ii) its members refuse to acknowledge membership therein; (iii) it fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its meetings are secret; and (v) it otherwise operates on a secret basis; and

[(8) the extent to which its principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization.

[(f) In determining whether any organization is a "Communist-front organization", the Board shall take into consideration—

[(1) the extent to which persons who are active in its management, direction, or supervision, whether or not holding office therein, are active in the management, direction, or supervision of, or as representatives or members of, any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

[(2) the extent to which its support, financial or otherwise, is derived from any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

[(3) the extent to which its funds, resources, or personnel are used to further or promote the objectives of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

[(4) the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2.

[(g) If, after hearing upon a petition filed under subsection (a) of this section the Board determines—

[(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order determining the organization to be a Communist-action organization as the case may be;

[(2) that an individual is a member of a Communist-action organization it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order determining such individual to be a member of a Communist-action organization.

[(h) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

[(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General an order denying the determination sought by his petition, and shall send a copy of such order to such organization;

[(2) that an individual is not a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General an order denying the determination sought by his petition, and shall send a copy of such order to such individual.

[(i) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

[(1) that an organization no longer is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General and such organization an order determining that the organization no longer is a Communist-action organization or Communist-front organization as the case may be;

[(2) that an individual no longer is a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon the Attorney General and such individual an order determining that such individual no longer is a member of a Communist-action organization.

[(j) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

[(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order denying its petition for a determination that the organization no longer is a Communist-action organization or a Communist-front organization as the case may be;

[(2) that an individual is a member of a Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon such individual an order denying his petition for a determination that the individual no longer is a member of a Communist-action organization.

[(k) When any order of the Board issued under subsection (g), (h), (i), or (j) of this section becomes final under the provisions of section 14(b) of this title, the board shall publish in the Federal Register the fact that such order has become final, and publication thereof shall constitute notice to all persons that such order has become final.

[PROCEEDINGS WITH RESPECT TO COMMUNIST-INFILTRATED ORGANIZATIONS

[SEC. 13A. (a) Whenever the Attorney General has reason to believe that any organization is a Communist-infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In any proceeding so instituted, two or more affiliated organizations may be named as joint respondents. A dissolution of such organization subsequent to the date of the filing of any petition for a determination that it is Communist-infiltrated, shall not moot or abate the proceedings, but the Board shall receive evidence and proceed to a determination of the issues; *Provided, however,* That if the Board shall determine such organization to be a Communist-infiltrated organization as of the time of the filing of such petition and prior to its alleged dissolution, and shall find that a dissolution of the organization has in fact occurred, the Board shall enter an order determining such organization to be a Communist-infiltrated organization and the Board shall include it as such in the appropriate records maintained pursuant to section 9 of this title, together with a notation of its dissolution. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board shall be expedited to the greatest practicable extent.

[(b) Any organization which has been determined under this section to be a Communist-infiltrated organization may, within six months after such determination, file with the board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-infiltrated organization.

[(c) Each such petition shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

[(d) The provisions of subsection (c) and (d) of section 13 shall apply to hearings conducted under this section.

[(e) In determining whether any organization is a Communist-infiltrated organization, the Board shall consider—

[(1) to what extent, if any, the effective management of the affairs of such organization is conducted by one or more individuals who are, or within three years have been, (A) members, agents, or representatives of any Communist organization, and Communist foreign government, or the world Communist movement referred to in section 2 of this title, with knowledge of the nature and purpose thereof, or (B) engaged in giving aid or support to any such organization, government, or movement with knowledge of the nature and purpose thereof;

[(2) to what extent, if any, the policies of such organization are, or within three years have been, formulated and carried out pursuant to the direction or advice of any member, or agent, or representative of any such organization, government, or movement;

[(3) to what extent, if any, the personnel and resources of such organization are, or within three years have been, used to further or promote the objectives of any such Communist organization, government, or movement;

[(4) to what extent, if any, such organization within three years has received from, or furnished to or for the use of, any such Communist organization, government, or movement any funds or other material assistance;

[(5) to what extent, if any, such organization is, or within three years has been, affiliated in any way with any such Communist organization, government, or movement;

[(6) to what extent, if any, the affiliation of such organization, or of any individual or individuals who are members thereof or who manage its affairs, with such Communist organization, government, or movement is concealed from or is not disclosed to the membership of such organization; and

[(7) to what extent, if any, such organization or any of its members or managers are, or within three years have been, knowingly engaged—

[(A) in any conduct punishable under section 4 or 15 of this Act or under chapter 37, 105, or 115 of title 18 of the United States Code; or

[(B) with intent to impair the military strength of the United States or its industrial capacity to furnish logistical or other support required by its armed forces, in any activity resulting in or contributing to any such impairment. (50 U.S.C. 792a(e))

[(f) After hearing upon any petition filed under this section, the Board shall (1) make a report in writing in which it shall state its findings as to the facts and its conclusions with respect to the issues presented by such petition, (2) enter its order granting or denying the determination sought by such petition, and (3) serve upon each party to the proceeding a copy of such order, any order granting any determination on the question whether any organization is a Communist-infiltrated organization shall become final as provided in section 14(b) of this Act. (50 U.S.C. 792a(f))

[(g) When any order has been entered by the Board under this section with respect to any labor organization or employer (as these terms are defined by section 2 of this National Labor Relations Act, as amended, and which are organizations within the meaning of section 3 of the Subversive Activities Control Act of 1950), the Board shall serve a true and correct copy of such order upon the National Labor Relations Board and shall publish in the Federal Register a statement of the substance of such order and its effective date.

[(h) When there is in effect a final order of the Board determining that any such labor organization is a Communist-action organization, a Communist-front organization, or a Communist infiltrated organization, such labor organization shall be ineligible to—

[(1) act as representative of any employee within the meaning or for the purposes of section 7 of the National Labor Relations Act, as amended (29 U.S.C. 157);

[(2) serve as an exclusive representative of employees of any bargaining unit under section 9 of such Act, as amended (29 U.S.C. 159);

[(3) make, or obtain any hearing upon, any charge under section 10 of such Act (29 U.S.C. 160); or

[(4) exercise any other right or privilege, or receive any other benefit, substantive or procedural, provided for such Act for labor organizations.

[(i) When an order of the Board determining that any such labor organization is a Communist-infiltrated organization has become final, and such labor organization theretofore has been certified under the National Labor Relations Act, as amended, as a representative of employees in any bargaining unit—

[(1) a question of representation affecting commerce, within the meaning of section 9(c) of such Act, shall be deemed to exist with respect to such bargaining unit; and

[(2) the National Labor Relations Board, upon petition of not less than 20 percent of the employees in such bargaining unit or any person or persons acting in their behalf, shall under section 9 of such Act (notwithstanding any limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the selection of a representative thereof for collective bargaining purposes, and (B) to determine whether the employees thereof desire to rescind any authority previously granted to such labor organization to enter into any agreement with their employer pursuant to section 8(a)(3)(ii) of such Act.

[(j) When there is in effect a final order of the Board determining that any such employer is a Communist-infiltrated organization, such employer shall be ineligible to—

[(1) file any petition for an election under section 9 of the National Labor Relations Act, as amended (29 U.S.C. 157), or participate in any proceeding under such section; or

[(2) make or obtain any hearing upon any charge under section 10 of such Act (29 U.S.C. 160); or

[(3) exercise any other right or privilege or receive any other benefit, substantive or procedural, provided by such Act for employers.

[JUDICIAL REVIEW

[SEC. 14. (a) The party aggrieved by any order entered by the Board under subsection (g), (h), (i), or (j) of section 13, or subsection (f) of section 13A, may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia, within sixty days from the date of service upon it of such order, a written petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of Title 28. Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides. The findings of the Board as to the facts, if supported by the preponderance of the evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by the preponderance of the evidence shall be conclusive, and its recommendations, if any, with respect to action in the matter under consideration. If the court shall set aside an order issued under subsection (j) of section 13, or under subsection (f) of section 13A, it may, in the case of an organization, enter a judgment requiring the Board to issue an order determining that such organization no longer is a Communist-action organization, Communist-front organization, or a Communist-infiltrated organization, as the case may be, or in the case of an individual, enter a judgment requiring the Board to issue an order determining that such individual no longer is a member of a Communist-action organization. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in title 28, United States Code, section 1254.

[(b) Any order of the Board issued under section 13, or subsection (f) of section 13A, shall become final—

[(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

[(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals, and no petition for certiorari has been duly filed; or

[(3) upon the denial of a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals; or

[(4) upon the expiration of ten days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Board be affirmed or the petition for review dismissed.

[Penalties * * *

[SEC. 15. Any organization which violates any provision of section 10 of this title shall, upon conviction thereof, be punished for such violation by a fine of not more than $10,000. Any individual who violates any provision of section 5 or 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment.

[Applicability of Administrative Procedure Act * * *

[SEC. 16. Nothing in this title shall be held to make the provisions of the Administrative Procedure Act inapplicable to the exercise of functions, or the conduct of proceedings, by the Board under this title.]

* * * * *

Section 804. Report on Soviet and International Communist Behavior.

[SEC. 155. SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR.

[Not later than one year after the date of enactment of this section, the Secretary of State shall prepare and transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, an unclassified report on the advisability of establishing a permanent office in the Department of State to study Soviet and international Communist behavior that violates the concepts of national sovereignty and peace between nations. In conducting the study required by this section, the Secretary may make use of suitably qualified journalists and scholars.]

TITLE IX—MISCELLANEOUS

Section 901. Ballistic Missile Tests Near Hawaii.

[SEC. 1201. SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII.

[(a) FINDINGS.—The Congress finds that—

[(1) the Union of Soviet Socialist Republics and the United States are presently negotiating a reduction of nuclear weapons and have recently concluded an agreement with respect to reducing the risks of accidental nuclear war,

[(2) the Soviet Union has recently conducted two tests of its heavy intercontinental ballistic missiles over trajectories similar to those which could be used in actual attacks on the Hawaiian Islands;

[(3) the announced impact points for reentry vehicles from these tests could have resulted in the overflight of sovereign United States territory, namely the Hawaiian Islands;

[(4) the Soviet Union reportedly encrypted telemetry from the flight tests in potential violation of the provisions of bilateral arms control agreements;

[(5) the Soviet Union used a directed energy device, believed to be a laser, to irradiate a United States military aircraft in international airspace that was monitoring the tests, having the potential effect of interfering with our national technical means of verification;

[(6) had this test misfired, Soviet ballistic missile test reentry vehicles could have landed among the Hawaiian Islands, and

[(7) the United States does not test strategic missiles in the direction of or in close proximity to sovereign Soviet territory.

[(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

[(1) the actions of the Soviet Union in testing intercontinental ballistic missiles in the Hawaiian region and irradiating United States monitoring aircraft are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

[(2) the United States Government—

[(A) should officially and at the highest levels protest these actions by the Soviet Union and should inform the Soviet Union that it cannot tolerate flight tests in close proximity to sovereign United States territory or interference with United States monitoring aircraft; and

[(B) should seek Soviet assurances that such missile testing near United States territory and irradiation of United States territory and irradiation of United States aircraft will not occur in the future; and

[(3) the President should, within 10 days of the date of enactment of this Act, report to the Congress in both classified and unclassified form, on—

[(A) the details of these Soviet missile tests, including the irradiation of the United States monitoring aircraft;

[(B) Soviet explanations offered in response to United States protests; and

[(C) what steps will be taken to ensure that such activities will not happen in the future.

Section 902. Nondelivery of International Mail.

[SEC. 1203. SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION.

[It is the sense of the Congress that—

[(1) the President should express to the Government of the Soviet Union the disapproval of the United States regarding the systematic nondelivery of international mail; and

[(2) at the Congress of the Universal Postal Union in Washington, District of Columbia, in 1989, the Department of State should bring to the attention of other member countries of the Universal Postal Union patterns of nondelivery of international mail by the Soviet Union contrary to the Acts of the Universal Postal Union and the delegation of the United States should ask other member countries to support the adoption of amendments to the Universal Postal Convention and other measures to encourage improved postal performance by the Soviet Union.

Section 903. State-Sponsored Harassment of Religious Groups.

(a) * * *

[SEC. 1204. UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should continue to express to [the governments of the Union of Soviet Socialist Republics and Eastern European countries] *government of any country that engages in the harassment of religious groups* the deep concern and opposition of the United States with respect [to the harassment of Christians and other religious believers] *to such activities*;

(2) the government of [the Union of Soviet Socialist Republics of Eastern European] *all* countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants of Human Rights, the Final Act of the Conference on Security and Co-operation in Europe, and the Madrid Concluding Document; and

[(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion.]

* * * * *

(b) * * *

[SEC. 1202. EMIGRATION OF JEWS AND OTHERS WHO WISH TO EMIGRATE FROM THE SOVIET UNION.

[It is the sense of the Congress that the Government of the Soviet Union should—

[(1) permit the emigration of Jews and others who wish to emigrate from the Soviet Union;

[(2) remove restrictions on the practice of religion and the exercise of cultural rights; and

[(3) cease the official harassment of individuals who wish to emigrate, practice their religion, exercise their cultural rights, or engage in free intellectual pursuits.

(c) * * *

[SEC. 805. POLICY TOWARD TREATMENT OF SOVIET PENTECOSTALS.

[(a) FINDINGS.—The Congress finds that—

[(1) it is the policy of the Government of the Soviet Union to hinder and deny the free practice of religion and to deny freedom to emigrate to the victims of religious persecution;

[(2) such policies are a violation of the letter and spirit of the Charter of the United Nations, the United Nations Declaration on Human Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe;

[(3) members of the 170-member Pentecostal Christian community living in Chuguyevka in the Soviet Far East have allegedly undergone persecution at the hands of the Soviet authorities as a result of their attempts to practice their religious beliefs;

[(4) the Soviet authorities allegedly have refused to allow members of that Pentecostal community to emigrate from the Soviet Union;

[(5) when, on Monday, May 13, 1985, four members of the Pentecostal community of Chuguyevka attempted to enter the United States Embassy in Moscow in an attempt to seek refuge and make their plight known, they were intercepted by Soviet guards stationed outside the Embassy;

[(6) in the scuffle that ensued three of the Pentecostals were beaten severely and arrested by the Soviet guards, while the fourth Pentecostal gained entrance to the Embassy and was interviewed by United States officials; and

[(7) upon agreeing to leave the United States Embassy the man was driven to the subway in a diplomatic car where he was detained by Soviet police before he could enter the subway.

[(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

[(1) the Soviet Union has acted in violation of the human rights of the Pentecostal community in Chuguyevka by hindering the practice of their religious beliefs and refusing to allow them to emigrate from the Soviet Union;

[(2) personnel of the Government of the Soviet Union acted in violation of the human rights of the four members of the Pentecostal community who attempted to enter the United States Embassy in Moscow, particularly in using excessive force in an attempt to prevent their entry;

[(3) the United States Department of State should continue through all available channels to assure the safety of the four persons who attempted to enter the United States Embassy, and to seek to persuade the Government of the Soviet Union to allow the members of the Pentecostal community in Chuguyevka to emigrate to the West; and

[(4) the Secretary of State should undertake a study of United States policy relating to the granting of asylum in United States embassies abroad and develop recommendations for the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives as to where current policy might be adjusted with relation to incidents over the past five years when asylum has been requested at United States embassies abroad.]

* * * * *

Section 904. Murder of Major Arthur Nicholson.

[SEC. 148. MURDER OF MAJOR ARTHUR D. NICHOLSON, JUNIOR.

[It is the sense of the Congress that the United States should declare persona non grata one or more senior defense attaches of the Soviet Union's mission to the United States unless the President certifies to the Congress, within 90 days after the date of the enactment of this Act.

[(1) that the Soviet Union has made a formal apology for the murder of Major Arthur D. Nicholson, Junior, and

[(2) that the Soviet Union has provided satisfactory assurances that it will adhere to agreements concerning the status and safety of military and civilian missions of western nations in the German Democratic Republic.]

GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 422) a bill to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the Government securities market, in order to protect investors and facilitate Government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of Government securities.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments: Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Securities Reform Act of 1993".

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 101. EXTENSION OF GOVERNMENT SECURITIES RULEMAKING AUTHORITY.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by striking subsection (g).

SEC. 102. TRANSACTION RECORDS.

(a) AMENDMENT.—Section 15C(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(d)) is amended by adding at the end thereof the following new paragraph:

"(3) GOVERNMENT SECURITIES TRADE RECONSTRUCTION.—

"(A) FURNISHING RECORDS.—Every government securities broker and government securities dealer shall furnish to the Commission on request such records of government securities transactions, including records of the date and time of execution of trades, as the Commission may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the Commission. In requiring information pursuant to this paragraph, the Commission shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission, to the Federal Reserve Bank of New York, or to an appropriate regulatory agency or self-regulatory organization with responsibility for examining the government securities broker or government securities dealer. The Commission may require that such information be furnished in machine readable form notwithstanding any limitation in subparagraph (B).

"(B) LIMITATION; CONSTRUCTION.—The Commission shall not utilize its authority under this paragraph to develop regular reporting requirements, except that the Commission may require information to be furnished under this paragraph as frequently as necessary for particular inquiries or investigations. This paragraph shall not be construed as requiring, or as authorizing the Commission to require, any government securities broker or government securities dealer to obtain or maintain any information for purposes of this paragraph which is not otherwise maintained by such broker or dealer in accordance with any other provision of law or usual and customary business practice. The Commission shall, where feasible, avoid requiring any information to be furnished under this paragraph that the Commission may obtain from the Federal Reserve Bank of New York.

"(C) PROCEDURES FOR REQUIRING INFORMATION.—At the time the Commission requests any information pursuant to subparagraph (A) with respect to any government securities broker or government securities dealer for which the Commission is not the appropriate regulatory agency, the Commission shall notify the appropriate regulatory agency for such government securities broker or government securities dealer and, upon request, furnish to the appropriate regulatory agency any information supplied to the Commission.

"(D) CONSULTATION.—Within 90 days after the date of the enactment of this paragraph, and annually thereafter, or upon the request of any other appropriate regulatory agency, the Commission shall consult with the other appropriate regulatory agencies to determine the availability of records that may be required to be furnished under this paragraph and, for those records available directly from the other appropriate regulatory agencies, to develop a procedure for furnishing such records expeditiously upon the Commission's request.

"(E) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this paragraph shall be construed so as to permit the Commission to require any government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any appropriate regulatory agency other than the Commission or any supervisory recommendations or analysis contained in any such examination report.

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission and the appropriate regulatory agencies shall not be compelled to disclose any information required or obtained under this paragraph. Nothing in this paragraph shall authorize the Commission or any appropriate regulatory agency to withhold information from Congress, or prevent the Commission or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Commission, or the appropriate regulatory agency. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

(b) CONFORMING AMENDMENTS.—(1) Section 15C(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(4)) is amended by inserting ", other than subsection (d)(3)," after "subsection (a), (b), or (d) of this section".

(2) Section 15C(f)(2) of such Act is amended—

(A) in the first sentence, by inserting ", other than subsection (d)(3)", after "threatened violation of the provisions of this section"; and

(B) in the second sentence, by inserting "(except subsection (d)(3))" after "other than this section".

SEC. 103. LARGE POSITION REPORTING.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) by redesignating subsection (f) as subsection (h); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LARGE POSITION REPORTING.—

"(1) REPORTING REQUIREMENTS.—The Secretary may adopt rules to require specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file such reports regarding such positions as the Secretary determines to be necessary or appropriate for the purpose of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and for the purpose of otherwise assisting the Commission in the enforcement of this title. Reports required under this subsection shall be filed with the Federal Reserve Bank of New York, acting as agent for the Secretary, and shall be provided by that Federal Reserve Bank to the Commission on a timely basis.

"(2) RECORDKEEPING REQUIREMENTS.—Rules under this subsection may require persons holding, maintaining, or controlling large positions in Treasury securities to make and keep for prescribed periods such records as the Secretary determines are necessary or appropriate to ensure that such persons can comply with reporting requirements under this subsection.

"(3) AGGREGATION RULES.—Rules under this subsection—

"(A) may prescribe the manner in which positions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control; and

"(B) may define which persons (individually or as a group) hold, maintain, or control large positions.

"(4) DEFINITIONAL AUTHORITY; DETERMINATION OF REPORTING THRESHOLD.—

"(A) In prescribing rules under this subsection, the Secretary may, consistent with the purpose of this subsection, define terms used in this subsection that are not otherwise defined in section 3 of this title.

"(B) Rules under this subsection shall specify—

"(i) the minimum size of positions subject to reporting under this subsection, taking into account the purposes of this subsection and the potential for price distortions or other anomalies resulting from large positions;

"(ii) the types of positions (which may include financing arrangements) to be reported;

"(iii) the securities to be covered; and

"(iv) the form and manner in which reports shall be transmitted, which may include transmission in machine readable form.

"(5) LIMITATION ON DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Secretary or the Commission to withhold information from Congress, or prevent the Secretary or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Secretary, or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 104. AUTHORITY OF THE COMMISSION TO REGULATE TRANSACTIONS IN EXEMPTED SECURITIES.

(a) PREVENTION OF FRAUDULENT AND MANIPULATIVE ACTS AND PRACTICES.—Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fictitious quotation, and no municipal securities dealer" and inserting the following:

"fictitious quotation.

"(B) No municipal securities dealer";

(3) by striking "fictitious quotation. The Commission shall" and inserting the following:

"fictitious quotation.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security in connection with which such government securities broker or government securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation.

"(D) The Commission shall"; and

(4) by inserting at the end thereof the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule.".

(b) FRAUDULENT AND MANIPULATIVE DEVICES AND CONTRIVANCES.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by striking "contrivance, and no municipal securities dealer" and inserting the following:

"contrivance.

"(B) No municipal securities dealer";

(3) by striking "contrivance. The Commission shall" and inserting the following:

"contrivance.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(D) The Commission shall"; and

(4) by inserting at the end thereof the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule.".

SEC. 105. BROKER/DEALER SUPERVISION RESPONSIBILITIES.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by inserting after subsection (f) (as added by section 103 of this Act) the following new subsection:

"(g) POLICIES AND PROCEDURES TO PREVENT AND DETECT VIOLATIONS.—Every government securities broker and government securities dealer shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such person's business, to prevent and detect in connection with the purchase or sale of government securities, insofar as practicable, fraud and manipulation in violation of this title and the rules and regulations thereunder and violations of such other provisions of this title and the rules and regulations thereunder as the appropriate regulatory agency for such government securities broker or government securities dealer shall designate by rule.".

SEC. 106. SALES PRACTICE RULEMAKING AUTHORITY.

(a) RULES FOR FINANCIAL INSTITUTIONS.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b)) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) SALES PRACTICE RULES.—(A) With respect to any financial institution that has filed notice as a government securities broker or government securities dealer or that is required to file notice under subsection (a)(1)(B) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may issue such rules with respect to transactions in government securities as may be necessary to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

"(B) Each appropriate regulatory agency shall consult with the other appropriate regulatory agencies for the purpose of ensuring the consistency of the rules prescribed by such agencies under this paragraph. The appropriate regulatory agencies shall consult with and consider the views of the Secretary and the Commission with respect to the impact of such rules on the operations of the market for government securities, consistency with analogous rules of self-regulatory organizations, and the enforcement and administration of such rules. The consultation required by this paragraph shall be conducted prior to the appropriate regulatory agency adopting a rule under this paragraph, unless the appropriate regulatory agency determines that an emergency exists requiring expeditious and summary action and publishes its reasons therefor. If the Secretary or the Commission comments in writing to the appropriate regulatory agency on a proposed rule that has been published for comment, the appropriate regulatory agency shall respond in writing to such written comment before adopting the rule.".

(b) RULES BY REGISTERED SECURITIES ASSOCIATIONS.—

(1) REMOVAL OF LIMITATIONS ON AUTHORITY.—(A) Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended—

(i) by striking subsections (f)(1) and (f)(2); and

(ii) by redesignating subsection (f)(3) as subsection (f).

(B) Section 15A(g) of such Act is amended—

(i) by striking "exempted securities" in paragraph (3)(D) and inserting "municipal securities";

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4).

(2) OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS.—Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(A) in subsection (b), by adding at the end thereof the following new paragraph:

“(5) The Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule change filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary comments in writing to the Commission on such proposed rule change that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule change.”;

(B) in subsection (c), by adding at the end thereof the following new paragraph:

“(5) Before adopting a rule to amend a rule of a registered securities association that primarily concerns conduct related to transactions in government securities, the Commission shall consult with and consider the views of the Secretary, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary comments in writing to the Commission on such proposed rule change that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule change.”.

(3) CONFORMING AMENDMENT.—

(A) Section 3(a)(12)(B)(ii) of such Act (15 U.S.C. 78c(a)(12)(B)(ii)) is amended by striking “15, 15A (other than subsection (g)(3)), and 17A” and inserting “15 and 17A”.

(B) Section 15(b)(7) of such Act (15 U.S.C. 78o(b)(7)) is amended by inserting “or government securities broker or government securities dealer registered (or required to register) under section 15C(a)(1)(A)” after “No registered broker or dealer”.

SEC. 107. MARKET INFORMATION.

Section 23(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking subparagraphs (C), (D), and (H);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (C), (D), and (E), respectively;

(3) by redesignating subparagraphs (I), (J), and (K) as subparagraphs (F), (G), and (H), respectively;

(4) by striking “and” at the end of such redesignated subparagraph (G);

(5) by striking the period at the end of such redesignated subparagraph (H) and inserting “; and”; and

(6) by inserting after such redesignated subparagraph (H) the following new subparagraph:

“(I) the steps that have been taken and the progress that has been made in promoting the timely public dissemination and availability for analytical purposes (on a fair, reasonable, and nondiscriminatory basis) of information concerning government securities transactions and quotations, and its recommendations, if any, for legislation to assure timely dissemination of (i) information on transactions in regularly traded government securities sufficient to permit the determination of the prevailing market price for such securities, and (ii) reports of the highest published bids and lowest published offers for government securities (including the size at which persons are willing to trade with respect to such bids and offers).”.

SEC. 108. STUDY OF REGULATORY SYSTEM FOR GOVERNMENT SECURITIES.

(a) JOINT STUDY.—The Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System shall—

(1) evaluate the effectiveness of any rules promulgated or amended after October 1, 1991, pursuant to section 15C of the Securities Exchange Act of 1934 or any amendment made by this title, and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991, in carrying out the purposes of such Act;

(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of defects in any available audit trails with respect to transactions in such securities; and

(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

(A) the regulation of government securities brokers and government securities dealers,

(B) the dissemination of information concerning quotations for and transactions in government securities,

(C) the prevention of sales practice abuses in connection with transactions in government securities, and

(D) such other matters as they consider appropriate.

(b) GAO STUDY.—The Comptroller General shall—

(1) conduct a study of the effectiveness of regulation of government securities brokers and government securities dealers pursuant to section 15C of the Securities Exchange Act of 1934 and the effectiveness of the amendments made by this title; and

(2) submit to the Congress, not later than March 31, 1997, the Comptroller General's recommendations for change, if any, or such other recommendations as the Comptroller General considers appropriate.

(c) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

(1) conduct a study of—

(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934; and

(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

(2) submit to the Congress, not later than 18 months after the date of enactment of this Act, the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.

SEC. 109. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (34)(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

“(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;

“(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

“(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;”;

(2) by amending paragraph (46) (relating to the definition of financial institution) to read as follows:

“(46) The term ‘financial institution’ means—

“(A) a bank (as defined in paragraph (6) of this subsection);

“(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

“(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation.”; and

(3) by redesignating paragraph (51) (as added by section 204 of the International Securities Enforcement Cooperation Act of 1990) as paragraph (52).

(b) EFFECTIVE DATE OF BROKER/DEALER REGISTRATION.—

(1) GOVERNMENT SECURITIES BROKERS AND DEALERS.—Section 15C(a)(2)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(2)(ii)) is amended by inserting before “The Commission may extend” the following: “The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.”.

(2) OTHER BROKERS AND DEALERS.—Section 15(b)(1)(B) of such Act (15 U.S.C. 78o(b)(1)(B)) is amended by inserting before “The Commission may extend” the following: “The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.”.

(c) INFORMATION SHARING.—Section 15C(d)(2) of such Act is amended to read as follows:

“(2) Information received by an appropriate regulatory agency, the Secretary, or the Commission from or with respect to any government securities broker, government securities dealer, any person associated with a government securities broker or government securities dealer, or any other person subject to this section or rules promulgated thereunder, may be made available by the Secretary or the recipient agency to the Commission, the Secretary, the Department of Justice, the Commodity Futures Trading Commission, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank.”.

SEC. 110. OFFERINGS OF CERTAIN GOVERNMENT SECURITIES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

“(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading.”.

SEC. 111. RULE OF CONSTRUCTION.

(a) IN GENERAL.—No provision of, or amendment made by, this title may be construed—

(1) to govern the initial issuance of any public debt obligation, or

(2) to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization—

(A) to prescribe any procedure, term, or condition of such initial issuance,

(B) to promulgate any rule or regulation governing such initial issuance, or

(C) to otherwise regulate in any manner such initial issuance.

(b) EXCEPTION.—Subsection (a) of this section shall not apply to the amendment made by section 110 of this Act.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means an obligation subject to the public debt limit established in section 3101 of title 31, United States Code.

TITLE II—REPORTS ON PUBLIC DEBT

SEC. 201. ANNUAL REPORT ON PUBLIC DEBT.

(a) GENERAL RULE.—Subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§3130. Annual public debt report

"(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

"(1) the Treasury's public debt activities, and

"(2) the operations of the Federal Financing Bank.

"(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

"(1) A table showing the following information with respect to the total public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(2) A table showing the following information with respect to the net public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations.

"(4) A table showing the following information as of the time the report is submitted and for prior years:

"(A) A description of the various categories of the holders of public debt obligations.

"(B) The portions of the total public debt held by each of such categories.

"(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

"(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

"(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

"(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CURRENT FISCAL YEAR.—The term 'current fiscal year' means the fiscal year ending in the calendar year in which the report is submitted.

"(2) TOTAL PUBLIC DEBT.—The term 'total public debt' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

"(3) NET PUBLIC DEBT.—The term 'net public debt' means the portion of the total public debt which is held by the public.

"(4) DEBT TO GDP RATIO.—The term 'debt to GDP ratio' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

"(5) INTEREST COST TO OUTLAY RATIO.—The term 'interest cost to outlay ratio' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year."

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3130. Annual public debt report."

SEC. 202. TREASURY AUCTION REFORMS.

(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

(1) meets the minimum creditworthiness standard established by the Secretary; and

(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

(b) PROHIBITION ON FAVORED PLAYERS.—

(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

(ii) the grant of the exception is designed to minimize any anticompetitive effect.

(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) OPEN MEETINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the "advisory committee"), or any successor to the advisory committee, shall be open to the public.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

(ii) makes recommendations to the Secretary.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

(i) another member of the advisory committee who is present at the meeting; or

(ii) an officer or employee of the Department of the Treasury.

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the

time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 10-year period beginning on the date of such removal.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

(B) A brief description of the nature of the violations.

(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act).

(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.

SEC. 203. REPORT ON TREASURY MODIFICATIONS TO AUCTION PROCESS.

The Secretary of the Treasury shall report to the Congress concerning significant modifications to the auction process for issuing United States Treasury obligations at the time such changes are implemented.

Mr. DODD. Mr. President, I rise in support of the Dodd-Gramm amendment to S. 422, the Government Securities Act Amendments of 1993. This legislation reauthorizes the Treasury's rulemaking authority over Government securities dealers and makes other reforms to the Government securities market. It also includes, as title 3 to the amendment, provisions addressing limited partnership rollup reforms.

Let me first address the Government securities legislation. Every taxpayer in this country is affected by this legislation. The market for Treasury securities is the largest securities market in the world, and conditions in the Treasury market determine the cost to the taxpayer of financing U.S. Government operations.

It is essential that we maintain the fairness and efficiency of this market so that Government funds are raised with the least possible cost to the American taxpayer, and that investors—whether they are individuals, mutual funds, or State and local governments—have confidence in this market and believe it is fair and honest.

The Senate first acted on this legislation in the last Congress, when it passed a bill to reauthorize the Treasury's rulemaking authority over Government securities dealers and to authorize sales practice rules for dealers. The House failed to pass a broader bill developed by the Energy and Commerce Committee.

I reintroduced the legislation earlier this year with Senators RIEGLE, D'AMATO, SHELBY, KERRY and MURRAY. Our bill passed the Senate by unanimous consent July 29, 1993, the House took up and passed the bill with an amendment 2 months ago, and we have been in negotiations with the House to develop this text since that time.

This legislation is needed to restore the Treasury's rulemaking authority over Government securities dealers. That authority expired on October 1, 1991. As a result, the Treasury has not been able to go forward with critical rulemaking initiatives related to capital standards, risk assessment, and customer protection.

In addition to reauthorizing the Treasury's rulemaking authority under the Government Securities Act, this legislation would do the following: Authorize the Securities and Exchange Commission to require certain transaction records from Government securities dealers in a format that will expedite its enforcement and surveillance responsibilities; authorize the Treasury to require the reporting of certain large positions in Treasury securities; authorize the SEC to write rules to prevent fraudulent and manipulative acts and practices in Government securities; provide a structure for instituting sales practice rules for both bank and nonbank Government securities dealers—something State and local officials have told us is necessary to protect investors; require certain disclosure by Government securities dealers that are not members of the Securities Investor Protection Corporation; prohibit false or misleading written statements in connection with any bid for or purchase of a Government security related to an offering of Government securities; enact certain technical amendments; and require certain reports by regulators of this important market.

This legislation was based on studies by the Treasury, the Federal Reserve, and the SEC, as well as an extensive hearing record developed by the Securities Subcommittee and the House Subcommittee on Telecommunications and Finance in the last Congress.

The scandal in the Treasury securities market in 1991 resulted in heightened scrutiny over this market and led to the adoption of major reforms. The SEC levied hefty fines and brought civil actions against one of the largest primary dealers and its top officers. The Treasury, the Federal Reserve, the SEC, and the CFTC established a surveillance group to ensure that trading activity in the market is closely monitored. The Treasury has implemented a long list of reforms designed to keep the market fair, honest, and efficient. Government securities dealers have strengthened their own internal controls to prevent future violations. It is noteworthy that today, there is more price and volume information in this market than ever before.

Many reforms have been implemented, and wrongdoers have been punished. Nonetheless, legislation is necessary to implement further reforms that require additional statutory authority.

I am including in the record following my remarks a statement agreed to by the principal Senate and House sponsors of the legislation who were involved in working out this compromise amendment. The statement is intended to clarify the scope and limitations of certain provisions.

In addition, I want to respond to further questions that have been raised concerning the scope of the transaction records provision. In the course of discussions with the House, Senate negotiators raised questions about the need for further clarification of this provision and requested that the language "enforcement or surveillance purposes" be added. This will ensure that the SEC can obtain records, in machine readable form, to assist it in inquiries and investigations where it may suspect wrongdoing by market participants or become aware of unexplained anomalies in trading activities. However, the language clarifies that records will not be requested under this provision for routine monitoring.

The large position reporting authority given to the Treasury under this amendment also was clarified in the course of negotiations between the House and the Senate. I am including following the explanatory discussion a letter from Treasury Undersecretary for Domestic Finance Frank Newman, which clarifies the Treasury's intent with respect to the confidentiality of accounts maintained by the Federal Reserve Bank of New York for foreign central banks, foreign governments, and official international financial institutions.

Officials at the Treasury, the SEC, and the Federal Reserve worked long hours with us to achieve a final package of reforms that will maintain the continued efficiency and integrity of this market. I want to thank all of them.

I want to thank my House colleagues, Chairman DINGELL, Chairman MARKEY and Representatives MOORHEAD and FIELDS, for their diligent efforts to work out a House bill. I also want to thank my colleagues on the Banking Committee and Ways and Means Committee for their contributions to those efforts.

Finally, let me thank my Senate colleagues, in particular Senators RIEGLE, D'AMATO, and GRAMM, as well as their staffs and the subcommittee staff, for the many hours they have devoted to this legislation over the past 3 years.

Mr. President, I ask unanimous consent that a joint statement by Senators RIEGLE, D'AMATO, GRAMM, and myself be printed in the RECORD at this point, followed by a letter from Treasury Undersecretary Frank Newman.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT ON S. 442, THE GOVERNMENT SECURITIES ACT AMENDMENTS

On July 29, 1993, the Senate passed S. 442, the Government Securities Act Amendments of 1993, and, on October 5, 1993, the House passed the bill with an amendment containing the language of the House-passed bill, H.R. 618, the Government Securities Reform Act of 1993. The resolution before the Senate provides for the Senate to concur in the amendment of the House to S. 422 with a further amendment. In lieu of a conference report, this floor statement represents the views of Senators Dodd, Gramm, Riegle and D'Amato and is intended to serve as the legislative history, along with S. Rept. 103–109 (July 27, 1993) and Congressional Record (July 29, 1993) at S9863–S9866, and H. Rept. 103–255 (September 23, 1993) and Congressional Record (October 5, 1993) at H7390–7405.

ANALYSIS OF MAJOR PROVISIONS

Extension of Rulemaking Authority.—In 1986, Congress granted specific rulemaking authority to the Secretary of the Treasury (Treasury) and provided that the authority of the Treasury to issue orders and to propose and adopt rules would terminate on October 1, 1991 (P.L. 99–571). This was done in response to concerns raised by 1985 Treasury testimony strongly opposing the Government Securities Act (GSA).

However, the 1990 Joint Treasury, Securities and Exchange Commission (SEC), and Board of Governors of the Federal Reserve System (Federal Reserve) Study of the Effectiveness of the Implementation of the Government Securities Act reached the following unanimous conclusion: "[t]he implementation of the GSA regulations has met the objectives established by Congress in enacting the GSA. The rules have been timely and fairly implemented; have not imposed excessive and overly burdensome requirements; have not impaired the liquidity, efficiency and integrity of the government securities market; and have improved and strengthened investor safety in the market. Most importantly, although some government securities brokers or dealers have failed or discontinued business since the inception of the GSA regulations, no customers have lost any funds or securities as a result of such occurrences."

Accordingly, the amendment eliminates the sunset date and extends the Treasury rulemaking authority pursuant to section 15C(b) of the Exchange Act, as well as the new large position reporting authority granted to Treasury under this amendment.

Transaction Records.—The amendment requires all government securities brokers and dealers to furnish to the SEC on request records of government securities transactions, including records of the date and time of execution of trades, as the SEC may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the SEC for enforcement or surveillance purposes. It is our intention that the SEC and Treasury will take the necessary steps under their existing authorities to adopt necessary recordkeeping rules to assure that appropriate records are made and maintained by all government securities brokers and dealers, and that they will work together to make sure that inadequate recordkeeping and impediments to trade reconstruction are addressed so that the SEC is able to carry out effectively its responsibilities under the federal securities laws. It is further our intent that, in utilizing its authority to require information in machine readable form under new section 15C(d)(3)(A), the SEC shall consider the impact of this requirement on small government securities brokers and dealers and should work with these smaller firms to develop an efficient means of compliance, such as the electronic blue sheets used for all firms in the equity markets. See House Comm. on Energy and Commerce, Report to Accompany H.R. 618, H.R. Rep. No. 255, 103rd Cong., 1st Sess. (September 23, 1993) at 42.

Large Position Reporting.—The amendment authorizes Treasury to prescribe rules to require persons holding, maintaining or controlling large positions in to-be-issued or recently-issued Treasury securities to file reports regarding those positions.

The amendment rests on the belief that the Secretary of the Treasury is well positioned to determine whether large position reporting is necessary and appropriate in order to monitor the impact in the Treasury securities market of concentrations of positions and to assist the SEC in its enforcement of the Exchange Act. It is our expectation that substantial deference will be accorded to any determinations that Treasury makes in this regard.

The statutory provision regarding the minimum size of a position subject to reporting is meant to ensure that the minimum size will not be set so low that positions which could not affect significantly the market for a particular security are subject to reporting rules. However, there is no presumption or manipulative intent solely because a position is large enough to be subject to reporting rules adopted by Treasury.

It is our expectation that, in determining the minimum size of a reportable position, Treasury will consider, among other factors, other relevant rules and procedures, including auction rules regarding positions. It is our further expectation that Treasury will take into account the likelihood of collusion among market participants. Substantial deference should be accorded to Treasury's determination of the minimum size of a position subject to reporting requirements.

By inserting the requirement that Treasury, in adopting rules regarding large position reporting, take into account any impact on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt, the amendment does not contemplate that a formal statistical exercise be performed to justify the rulemaking. Rather, it is our intent to ensure that Treasury considers all the important responsibilities and goals that it has in managing the public debt in any rulemaking concerning large position reporting.

We expect the Treasury to consult with the Federal Reserve Bank of New York in formulating large position reporting rules concerning the Bank's need to maintain the confidentiality of the accounts it maintains for foreign central banks, foreign governments, and official international financial institutions.

Finally, it is our intent that large position reports would be information within the scope of the Trade Secrets Act (TSA), 18 U.S.C. 1905, which prohibits the disclosure of certain types of information by officers and employees of the federal government unless "authorized by law." See *Chrysler* v. *Brown*, 441 U.S. 281, 295–304 (1979) (disclosure may be deemed authorized by law only when made pursuant to statute or substantive agency regulation authorized by statute). The TSA covers "information coming to [such person] in the course of his employment or official duties or by reason of any . . . report or record . . . concern[ing] or relat[ing] to . . . the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association." See *CNA Financial Corp.* v. *Donovan*, 830 F.2d 1132, 1140 (D.C. Cir. 1987) (describing the scope of the TSA as "oceanic" and as "encompass[ing] virtually every category of business information likely to be in the files of an agency.") In addition to this criminal statute, Section 24(b) of the Exchange Act specifically makes it unlawful "for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, statement, report, contract, correspondence, notice, or other document field with or otherwise obtained by the Commission (1) in contravention of the rules and regulations of the Commission under the [the FOIA] or (2) in circumstances where the Commission has determined pursuant to such rules to accord confidential treatment to such information in violation of Section 24 and the rules thereunder are subject to criminal penalties pursuant to Section 32 of the Exchange Act. Officers and employees are also prohibited pursuant to Rule 0–4 of the SEC's Rules and Regulations under the Exchange Act from making "non-public records of the Commission" available to others without SEC authorization.

Fraudulent and Manipulative Acts and Practices.—The amendment extends the SEC's current authority under sections 15(c)(1) and (2) of the Exchange Act to all government securities brokers and dealers and to all transactions in government securities. This grant of authority will enable the SEC to prescribe rules to prevent fraudulent, deceptive, or manipulative acts or practices or the use of any fictitious quotations in the government securities market.

The amendment requires the SEC to consult with and consider the views of the Treasury and the bank and thrift regulatory agencies prior to adopting any such rules, and to respond in writing to any written comments submitted in such consultation process. The amendment provides for enhanced consultation between the regulators in order to respond to particular concerns about the potential impact of these antifraud rules on the Treasury's ability to manage the federal debt. Accordingly, this provision is designed to avoid any unforeseen effects of new rules on the auctions or secondary market for Treasury securities. This concern ordinarily would not be expected to arise with respect to the application of such rules to the marketing and trading of other types of government securities.

Sales Practice Rulemaking Authority.—The amendment removes current limitations on the ability of the National Association of Securities Dealers (NASD) to regulate its members' transactions in exempted securities other than municipal securities, and authorizes the bank and thrift regulatory agencies to prescribe rules applicable to the financial institutions they supervise, to prevent fraudulent and munipulative sales practices, and promote just and equitable principles of trade. The amendment's consultation and coordination requirements are intended to facilitate consistency of financial institution rules with analogous self-regulatory organization rules, as well as consistent administration and enforcement of such rules, in order to maintain the integrity of the market for government securities. The amendment provides for enhanced consultation between the regulators in order to respond to particular concerns about the potential impact of these sales practice rules on the Treasury's ability to manage the federal debt. Accordingly, this provision is designed to avoid any unforeseen effects of new rules on the auctions or secondary market for Treasury securities. This concern ordinarily would not be expected to arise with respect to the application of such rules to the marketing and trading of other types of government securities.

Market Information—The amendment adds government securities market transparency to the list of subjects on which the SEC is required to report to Congress annually. These reports will provide information necessary for proper ongoing evaluation of the sufficiency of private sector developments, and are necessary to assure that momentum toward improved market transparency continues and is not reversed.

SIPC Disclosure.—The amendment prohibits a government securities broker or dealer, registered under Exchange Act Section 15C(a)(1)(A), that is not a member of the Securities Investors Protection Corporation (SIPC) from effecting securities transactions in contravention of rules prescribed to assure that customers receive complete, accurate, and timely disclosure of the inapplicability of SIPC coverage to their accounts.

False and Misleading Statements In Government Securities Offerings.—The amendment explicitly provides that, in connection with any bid for a purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker or dealer, or bidder for or purchaser of securities in such offering, shall knowingly and willfully make any false or misleading statement or omit any fact necessary to make any written statement made not misleading. The amendment does not alter the SEC's existing authority under sections 10(b) or 17(a) of the Exchange Act or the rules promulgated thereunder; it expressly establishes SEC authority with respect to the use of false or misleading written information in offerings of government securities.

Treasury Auction Reforms.—The amendment requires that, by the end of 1995, any bidder, who meets the Treasury's minimum creditworthiness standard and agrees to comply with the applicable rules and regulations, be permitted to submit a computer-generated tender to any automated auction system established by Treasury for the sale upon issuance of Treasury securities. The amendment also prohibits Treasury from providing any government securities broker or government securities dealer any advantage, favorable treatment, or other benefit, subject only to necessary and appropriate exceptions. Finally, the amendment opens to the public, subject to reasonable exceptions, the meetings of the Treasury Borrowing Committee, requires minutes of each meeting to be publicly available within three business days, and explicitly prohibits Committee members from divulging the contents of the Committee's discussions. The amendment provides penalties for violations of the latter prohibition (that are in addition to any other applicable penalty or enforcement action) and requires Treasury to submit an annual report to Congress with respect to violations of Treasury auction rule or regulations.

Studies, Reports and Notices to Congress.—The amendment provides for (1) a joint Treasury, SEC and Federal Reserve study and report, as well as a separate Treasury study and report on a discrete issue, on the effectiveness of the regulatory system for government securities as amended by this legislation; (2) an annual report by Treasury on the Treasury's public debt activities and the operations of the Federal Financing Bank; and (3) a notice to the Congress of any significant modifications to the Treasury auction process at the time such modifications are implemented.

DEPARTMENT OF THE TREASURY,
Washington.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: In connection with the legislative process that will, we hope, soon culminate in enactment of the "Government Securities Act Amendments of 1993," I understand that you have expressed concern about the Federal Reserve Bank of New York's need to preserve the confidentiality of the accounts it maintains for foreign central banks, foreign governments, and official international financial institutions.

The Treasury recognizes the importance of maintaining the confidentiality of these accounts. Breaching this confidentiality could have a negative impact on our relationship with foreign governments and on the ability of the U.S. government, through the Federal Reserve, to conduct financial operations important to the international financial system. The Congress has previously recognized the importance of this confidentiality in 31 U.S.C. 714(b)(1), which prohibits the Comptroller General, when conducting audits of the Federal Reserve banks, from auditing "transactions for or with a foreign central bank, government of a foreign country, or nonprofit international financing organization."

It is the Treasury Department's intention that if, as anticipated, it is granted large position reporting authority, it will consult with the Federal Reserve Bank of New York in its rulemaking concerning large position reporting requirements. Any rules the Treasury adopts in this area will enable the Federal Reserve Bank of New York to maintain the needed confidentiality.

Sincerely,

FRANK N. NEWMAN,
Under Secretary of the Treasury,
Domestic Finance.

Mr. GRAMM. Mr. President, I rise to engage in a colloquy with the chairman of the Subcommittee, Senator DODD, on language that was inserted in the bill dealing with transactions records in section 103 of the bill. That section is intended to empower the Securities and Exchange Commission to seek records of Government securities transactions in the course of a particular inquiry or investigation being conducted by the Commission. This section is not intended to permit the Commission to require regular or random reporting requirements, nor to expand the Commission's existing authority to monitor markets. To specify this limitation further, the bill includes language that ensures that the Commission's grant of authority under this provision must be connected to a specific enforcement investigation or surveillance inquiry.

It has come to my attention that there is concern among some market participants that use of the words "enforcement and surveillance" in this section appears to expand the authority of the Commission, as opposed to narrowing its power. Does the chairman of the Securities Subcommittee understand that the intent of this language is a limitation, not an expansion, of the Commission's authority further ensuring that the Commission will only use this authority in connection with a specific inquiry? I would ask the chairman of the subcommittee if he views this language in this manner, as I do.

Mr. DODD. I agree with the ranking member's reading of this section of the conference agreement and would only add that this section was intended to ensure that the appropriate records are available to the Commission during the course of specific enforcement and surveillance inquiries. I commend the gentleman for his leadership in clarifying this issue.

Mr. GRAMM. Section 103 contains a specific charge that, in utilizing its authority to require information in machine readable form, the Commission minimize the burden that this requirement may place on small Government securities brokers and dealers. Would the chairman of the subcommittee agree that the Commission should seek to minimize the burden of this requirement for all Government securities brokers and dealers?

Mr. DODD. I agree completely. Many small Government securities brokers and dealers are not as automated as their larger counterparts. This provision contemplates that the Commission may, for example, supply small Government securities brokers and dealers with computer software that will enable them to comply. In addition, the Commission should continue to avoid any steps that unnecessarily drive up costs for all participants in the Government securities markets, for such costs will ultimately translate into higher borrowing costs for taxpayers.

Mr. GRAMM. Section 103 prohibits the Commission from requiring any Government securities broker or dealer to maintain any information not otherwise required by law or maintained by such broker or dealer. I understand this provision does not authorize the Commission to require that information be maintained in any particular medium. Does the chairman of the subcommittee agree?

Mr. DODD. That is correct. Obviously, however, if the information is not maintained in machine readable form, Government securities brokers dealers may have to convert such information to machine readable form to comply with section 103. The information must be maintained to comply with section 103.

Mr. GRAMM. I thank my colleague, the subcommittee chairman.

Mr. DODD. Mr. President, let me now turn to Title 3 of the amendment, the Limited Partnership Rollup Reform Act. Passage of this legislation is necessary in order to protect millions of investors in limited partnerships.

This legislation has been before the Congress for more than 2½ years. There have been many hearings. An earlier version of this bill passed the Senate last year with the support of 87 Senators. Forty-two Senators have cosponsored the legislation this year, and it was reported by the Banking Committee by a unanimous vote. Legislation on this subject passed the House of Representatives in March by a vote of 408 to 6. A similar, but not identical, bill passed this body by unanimous consent 4 months ago.

This amendment reflects the negotiations between House and Senate representatives since that time. It reflects our agreement on a final package of protections for investors who are confronted with abusive partnership rollups.

As I have said in the past, there is a reason why many Members of Congress strongly support this bill. Our constituents—primarily small investors with an average investment of about $10,000—have documented a long record of abuses in limited partnership rollups.

Rollups generally are transactions in which investors in an existing limited partnership are solicited to approve a reorganization of their partnership, or a combination of their partnership with other partnerships. The reorganization or combination often results in an exchange of the existing limited partnership securities for securities in a new publicly-traded entity, in which the investors' rights are substantially different.

Because of the way in which these transactions have been structured, many of them have not been subject to state review. Moreover, State partnership laws, with one exception, do not address abuses that may occur when limited partnerships are rolled up and converted into exchange-traded entities.

In the past, in these transactions, investors have received misleading and confusing disclosure documents. Many investors have been pressured to vote in favor of rollup transactions by brokers who were paid only if they produced yes votes. In addition, general partners have structured deals to award themselves abusively high fees in the newly-formed entities and to pay high fees to affiliates.

Investors who have voted against a rollup have been forced to accept shares in a new entity, often with substantial reductions in their voting rights, while the voting rights of managements have increased. In a number of cases, management compensation arrangements in these new entities have been structured to produce high rewards for management, at the expense of the investors. No one has disputed the extent of these abuses in the past.

In many of these transactions, the price of securities issued in the rollup have declined substantially on the first day of trading.

Of course, other economic factors have contributed to losses in real estate and oil and gas partnerships. But, in light of the compensation structure of some of these deals, we have to question whether they were structured for the benefit of the general partners, instead of the investors.

I want to emphasize that limited partnerships have been an excellent capital-raising tool for business, as well as an excellent investment vehicle for many individuals. And, today, the restructuring of real estate partnerships, research and development partnerships and drilling programs in the oil and gas industry offers the potential for businesses to conserve capital and for investors to realize greater values.

Therefore, in developing the legislation, our goal has been to take the steps necessary to curb the abusive transactions but to permit fair deals that are good for investors to go forward.

Since we started this legislative process over 2 years ago, the SEC, the NASD, and the State of California have taken steps to address abusive rollup transactions. These have been very constructive actions, but gaps in investor protection still remain. Moreover, if we do not act, other States may feel they have to act, and the result could be a patchwork of different rules that would inhibit even the best transactions.

This amendment, which our House colleagues have agreed to accept, retains provisions Senator GRAMM and I developed prior to the Banking Committee's markup. These provisions further our objective of placing limits on abusive transactions, while giving businesses the flexibility to carry out good transactions.

Thus, we exclude from the bill's requirements: Certain arms-length acquisitions; certain transactions in which investors are offered seasoned, exchange-traded securities, whose value is readily ascertainable; and other transactions in which the original partnership documents clearly state that a future reorganization was planned. We also provide greater flexibility for certain transactions that receive the wide approval of limited partners. In addition, we provide greater certainty for investors and for businesses with respect to the effective date of the legislation.

This amendment also makes it clear that certain transactions that were not included in the original Senate bill's definition, such as private placements, are not intended to be covered. It is intended that a transaction in which securities are offered and sold in reliance upon the private placement exemption will not come within the definition of rollups, so long as the private placement transaction is not integrated with a public offering of other securities, such as REIT shares.

In recent months, there have been discussions involving the Securities and Exchange Commission and the National Association of Securities Dealers about the application of the private placement exclusion for certain transactions. Uncertainty in this area could result in costly delays in completing transactions, which could deprive investors of the benefits of certain restructuring transactions. NASD officials have advised us that it will work with the SEC toward developing consistency in its interpretation of the definition of limited partnership rollup transaction.

All of these provisions make it clear that we certainly are not banning transactions—but banning abuses. So, where investor rights are protected, these transactions may go forward.

Mr. President, during the course of our negotiations over the bill, first in the Senate and more recently in the House/Senate discussions, two different, but related, sets of concerns have been raised.

On one side, advisers to the partnership and real estate investment trust industries have argued for exemptions from the statute or, at a minimum, greater clarity as to the types of transactions that may be covered. They raised specific concerns about the application of the statute to new structures in which limited partnerships may be combined or reorganized in a transaction leading to an acquisition by a REIT or in a transaction related to a new offering of REIT shares. They have said to us, and I agree, that the statute should not be interpreted to unduly restrict these types of transactions, which often provide greater liquidity for security holders and often may bring new capital into the real estate industry, while reducing debt.

At the same time, investor groups and State regulators have stressed that many of these new structures fall within the definition of a limited partnership rollup transaction and present the potential for the kind of abuses the bill is designed to address. They also have stated concerns that if the bill is read narrowly, unscrupulous operators will find ways around the investor protections set forth in the bill.

I believe this amendment is drafted in such a manner, and should be interpreted and implemented in such a manner, as to address these two very legitimate concerns.

This amendment does not prevent rollups, it does not prevent reorganizations or restructurings, nor does it prevent the offering of REIT shares in connection with partnership acquisition or reorganizations. Many transactions are expressly exempted, where we believe other investor protection mechanisms provide a comparable substitute. Moreover, transactions that are subject to the bill may continue to go forward, as long as they comply with the standards in the bill. For example, if a transaction meets the definition of rollup, this bill does not prohibit it, but requires that adequate disclosure be made to partnership holders and requires that the transaction be conducted in accordance with the prescribed rules of fair practice and other requirements of the self-regulatory organizations. Moreover, the rules of fair practice give the NASD broad flexibility to structure investor protections that meet the purposes of the act and make sense from a business point of view. For example, the self-regulatory organizations, in rulemaking, may take into account the availability of public or private financing to cover expenses of rollups, the practical requirements for voting provisions when a publicly held parent company is involved, the importance to a real estate investment trust that it be "self-managed" by inclusion of management business, and the burdens that may be imposed where new rules are applied to transactions already structured and under review.

Let me also note that investor and State regulator concerns that unscrupulous operators will find ways around the statute are addressed by the flexibility the SEC and the SROS have under their current authority, as well as under this amendment. The SEC has the authority to define terms, to promulgate rules and to interpret its rules. The self-regulatory organizations also have broad authority with respect to the conduct of their members and rules for listing. The intent of this bill has never been to limit that authority, but to prescribe basic protections the NASD and SEC should adopt, pursuant to their authority.

Having said that, I would urge the SEC and the self-regulatory organizations to work with the affected industry groups to achieve the greatest degree of certainty, so that business transactions are not needlessly hindered. Investors are best protected when the rules of the game are clear.

Let me close by thanking my colleague, Senator GRAMM, for his hard work on this legislation. He has helped to take a very good bill and make it even better.

Let me also thank Chairman RIEGLE and Senator D'AMATO for their support on this issue over the past 2 years, as well as Senator BOND, who has been one of the strongest supporters of this legislation.

I would note that this issue was first brought to my attention by Senator BOXER, when she was a House Member, and she has continued to work to move this legislation as a Senator.

Let me also thank my House colleagues. The House initiated this legislative effort, both in the last Congress and in this one. Chairman MARKEY of the Subcommittee on Telecommunications and Finance and Chairman DINGELL of the Energy and Commerce Committee have worked tirelessly to ensure that investors in limited partnerships are protected from abusive rollup transactions. I applaud their efforts and greatly respect their leadership on this issue.

I also want to thank the staff who have worked so hard on the legislation: Wayne Abernathy of Senator GRAMM's staff; Laura Unger and Ira Paull of Senator D'AMATO's staff; and Mitchell Feuer of Chairman RIEGLE's staff. Let me also thank my two staff members who have shaped this legislation: Michael Stein, the deputy staff director of the Securities Subcommittee, worked on this legislation for 2 years, before recently leaving for law school. Marti Cochran, chief counsel and staff director of the subcommittee worked with the House in getting this bill completed through final passage.

We have been assisted in our efforts on by the hard-working staff of the SEC and the NASD, and I want to give a special thanks to all of them.

Mr. RIEGLE. Mr. President, I am pleased that the Congress has today completed action on, and cleared for the President, two important pieces of securities legislation, the Government Securities Act Amendments of 1993 and the Limited Partnership Rollup Reform Act of 1993. Both bills contribute significantly toward individual investors' protection and the integrity of our financial markets.

The first bill, the Government Securities Act Amendments of 1993, provides important reforms for the Government securities market. This $2.3 trillion market may be the most important in the world: The ability of the U.S. Government to fund its activities depends on an orderly and liquid market for Treasury securities. The Salomon Bros. fraudulent bidding scandal indicated that changes were needed in the auction process for Treasury securities.

This bill strengthens the regulation of the Government securities market and ensures that the auction system and secondary market for Treasury securities continue to function smoothly.

The bill permanently reauthorizes Treasury's authority to write rules regarding capital standards and certain other rules for Government securities dealers. This authority expired on October 1, 1991.

The SEC is given authority to develop rules requiring Government securities brokers and dealers to keep records of transactions. However, the SEC cannot develop regular reporting requirements.

The Treasury is given authority to adopt rules requiring persons holding large positions in to be issued or recently issued Treasury securities to report their positions, and keep records necessary for compliance.

The bill provides for sales practice rules for transactions in Government securities, to prevent fraudulent and manipulative acts and practices.

The bill further directs the Treasury, the Securities and Exchange Commission, and the Federal Reserve to monitor and evaluate the effectiveness of private sector efforts to disseminate Government securities information.

Finally, in response to Salomon's violations, the bill makes it clear that any false or misleading written statement in connection with bids for or purchase of Government securities is a violation of law.

The second bill, the Limited Partnership Rollup Reform Act of 1993, will bring an end to abusive transactions that have harmed individual investors across the country. This bill is supported by the State securities regulators, by investors groups, and by the organization representing general partners.

Limited partnerships were an important investment vehicle in the 1980's; roughly $150 billion in limited partnership interests were sold to U.S. investors, in average investments of $10,000.

The bill will provide limited partners with a number of important protections:

The bill improves disclosure to limited partners.

The bill requires that limited partners be provided a list of other limited partners, and permits them to engage in preliminary communications without filing with the Securities and Exchange Commission.

The bill prohibits any person soliciting proxies in a rollup to be paid only for "yes" votes, or only if the transaction is completed.

It further protects investors by prohibiting broker-dealers from participating in a rollup, and the stock exchanges from listing a security issued in a rollup, unless the transaction meets certain requirements of fairness. These include the right of dissenting limited partners to an appraisal and compensation, or other rights designed to protect them.

The United States has the most vibrant capital markets in the world, due in large part to our commitment to investor protection. The legislation passed today underscores that commitment, by strengthening oversight where necessary, by ending abusive practices, and by ensuring that markets function fairly.

Mr. D'AMATO. Mr. President, I am pleased that today the Senate has passed two important pieces of securities legislation—the Government Securities Act of 1993 and the Limited Partnership Rollup Reform Act of 1993. Both bills provide for important investor protections that will enhance the markets for Government securities and limited partnership securities.

The Government Securities Act Amendments of 1993 strikes the critical balance of providing for improved investors protection while maintaining the liquidity and efficiency of the Government securities market.

The Government securities market is the largest securities market in the world. Treasury finances the national debt of approximately $3.61 trillion dollars with Government securities—conducting auctions over 150 times every year.

In the Government Securities Act of 1986 [GSA], Congress granted the Treasury temporary authority to write rules regarding Government securities transactions by Government securities broker dealers. The GSA included a 5-year sunset of Treasury's rulemaking authority and required the SEC, Treasury, and the Federal Reserve to conduct a joint study of the rules promulgated under the GSA and make recommendations accordingly.

The joint study, released in 1991, recommended that Treasury's rulemaking authority be permanently extended and that Congress consider legislation on three additional issues related to the Government securities market—sales practice rules, enhanced price transparency, and expanding SIPC coverage.

The Government Securities Act Amendments of 1993 permanently extends Treasury rulemaking authority and addresses these additional issues raised in the joint study. This legislation authorizes the NASD to promulgate sales practice rules, requires disclosure to customers regarding SIPC coverage, and directs Treasury, the Federal Reserve and the SEC to study private sector efforts to disseminate price and volume information.

This legislation also takes steps to improve the quality of information provided to the SEC for enforcement and market surveillance purposes. This legislation authorizes the SEC to request information regarding trade reconstruction in machine readable format. In making a request from small Government securities broker dealer firms, however, the legislation requires that the SEC consider and minimize the burden of such a request.

This legislation also gives Treasury authority to prescribe rules requiring large position reporting so that the Treasury and the SEC can effectively monitor concentrations of positions in the Government securities market.

The Government Securities Act Amendments of 1993 authorizes the SEC to promulgate antifraud rules to prevent fraudulent, deceptive, or manipulative acts or practices or make fictitious quotations. Prior to adopting any such rules, the SEC must consult with the Treasury and the appropriate regulatory agencies to address any concerns about the efficiency and liquidity of the Government securities market.

This legislation represents tremendous bipartisan efforts by the staffs of the Senate Banking Committee and the Securities Subcommittee along with their House counterparts. I particularly want to thank Laura Unger, Ira Paull, Wayne Abernathy, Martha Cochran, and Mitchell Feuer for their hard work on this legislation. The Government Securities Act Amendments of 1993 takes up where the GSA left off, creating a comprehensive body of law to regulate the world's most important financial market—the market for Government securities.

The Limited Partnership Rollup Reform Act of 1993 is another important piece of legislation that will protect thousands of investors in limited partnerships throughout the country.

This legislation addresses many of the abuses that have occurred in limited partnership rollup transactions. In the last few years, the Securities Subcommittee has heard ample testimony from investors who were limited partners and whose interests were basically rolled over in a rollup transaction.

There are close to 750,000 limited partners in New York alone. In the past, limited partners have had limited recourse against general partners proposing a rollup of the limited partnership interests into publicly traded securities. Many investors lost a substantial portion of their original investment when their limited partnership interest was included in a rollup transaction.

The Limited Partnership Rollup Reform Act protects all investors in limited partnerships. It encourages investors to communicate about the rollup and it requires clear, concise, and comprehensible disclosure documents so that investors can understand the proposed transaction. The bill also requires that there be sufficient time for limited partners to consider the rollup and requires national securities exchanges to adopt listing standards to protect these limited partners in the resulting rollup.

This legislation also provides protections for limited partners who choose not to participate in the rollup. These protections are sufficiently flexible so that they can be tailored to meet the particular circumstances and structured to ensure that the interests of all limited partners in the rollup transaction are properly balanced.

Mr. BIDEN. Mr. President, I move that the Senate concur in the House amendments with a substitute amendment which I now send to the desk on behalf of Senators DODD and GRAHAM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. DODD, proposes an amendment No. 1241:

(The amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, NOVEMBER 23

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10:30 a.m., Tuesday, November 23; that when the Senate reconvenes on that day, the Journal of proceedings be approved to date, the call of the calender be waived, and no motions or reconsiderations come over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that immediately following the announcement of the Chair, the Senate proceed to a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned until 10:30 a.m., Tuesday, November 23, as previously ordered.

The motion was agreed to, and the Senate, at 9 p.m. adjourned until tomorrow, Tuesday, November 23, 1993, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate November 22, 1993, under authority of the order of the Senate of January 5, 1993:

ACTION AGENCY

JAMES A. SCHEIBEL, OF MINNESOTA, TO THE DIRECTOR OF THE ACTION AGENCY, VICE JANE A. KENNY, RESIGNED.

DEPARTMENT OF STATE

THOMAS L. BALDINI, OF MICHIGAN, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE GORDON K. DURNIL, RESIGNED.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

CHARLES H. DOLAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1994, VICE EDWIN J. FEULNER, JR., TERM EXPIRED.

HAROLD C. PACHIOS, OF MAINE, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1996, VICE LEWIS W. DOUGLAS, JR., TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MARTHA B. GOULD, OF NEVADA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997, VICE JULIA LI WU, TERM EXPIRED.

GARY N. SUDDUTH, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997, VICE JERALD CONWAY NEWMAN, TERM EXPIRED.

FRANK J. LUCCHINO, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998, VICE CHARLES E. REID, TERM EXPIRED.

BOBBY L. ROBERTS, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998, VICE WANDA L. FORBES, TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL H. TRUJILLO, OF OREGON, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR A TERM OF 4 YEARS. (NEW POSITION)

FEDERAL EMERGENCY MANAGEMENT AGENCY

ELAINE A. MCREYNOLDS, OF TENNESSEE, TO BE FEDERAL INSURANCE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE C.M. SCHAUERTE, RESIGNED.

RICHARD THOMAS MOORE, OF MASSACHUSETTS, TO BE AN ASSOCIATE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE THOMAS F. KRANZ, RESIGNED.

U.S. ENRICHMENT CORPORATION

GRETA JOY DICAS, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 1 YEAR. (NEW POSITION)

FRANK G. ZARB, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 2 YEARS. (NEW POSITION)

KNEELAND C. YOUNG, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 3 YEARS. (NEW POSITION)

MARGARET HORNBECK GREENE, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 4 YEARS. (NEW POSITION)

WILLIAM J. RAINER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM OF 5 YEARS. (NEW POSITION)

EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE NOVEMBER 22, 1993:

DEPARTMENT OF COMMERCE

GREG FARMER, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR TRAVEL AND TOURISM, VICE JOHN G. KELLER, JR., RESIGNED.

GRAHAM R. MITCHELL, OF MASSACHUSETTS, TO BE ASSISTANT SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY, VICE DEBORAH WINCE-SMITH, RESIGNED.

DEPARTMENT OF DEFENSE

ROBERT B. PIRIE, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE JACQUELINE E. SCHAFER, RESIGNED.

DEPARTMENT OF THE INTERIOR

ROBERT JAY URAM, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, VICE HARRY M. SNYDER, RESIGNED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JILL B. BUCKLEY, OF WASHINGTON, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE ROBERT R. RANDLETT, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. GEORGE L. BUTLER, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. BARRY R. MCCAFFREY, [redacted] U.S. ARMY.

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. ROBERT L. DEZAM, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate November 22, 1993:

NATIONAL CREDIT UNION ADMINISTRATION BOARD

NORMAN E. D'AMOURS, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 1999.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, November 22, 1993*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Of all Your gifts, O God, that we gladly receive, we celebrate the gifts of light and life, the gifts of understanding and peace, of faith and hope and love. Surrounded by so many blessings, we pray that we will not miss the gifts of Thanksgiving and gratitude. In the midst of all that needs to be accomplished, we gather together to ask the Lord's blessing and to give thanks for family and friends, for freedoms and opportunities and for the joys of this season. Bless us, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. UNSOELD. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. UNSOELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 141, answered "present" 1, not voting 72, as follows:

[Roll No. 601]

YEAS—219

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Berman
Bevill
Bishop
Blackwell
Bonior

Borski
Boucher
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)

Combest
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell

Dooley
Durbin
Edwards (CA)
Edwards (TX)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hilliard
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Hyde
Inglis
Inslee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kingston
Klein
Klink
Kopetski
Kreidler
Lambert

Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Margolies-
Mezvinsky
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Mink
Montgomery
Myers
Natcher
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds

Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sarpalius
Sawyer
Schenk
Schumer
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Watt
Wheat
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—141

Allard
Armey
Bachus (AL)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Cox
Crapo
Cunningham

Diaz-Balart
Dickey
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hancock
Hansen
Hastert

Hefley
Hobson
Hoekstra
Hoke
Horn
Huffington
Hutchinson
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder

Livingston
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Nussle
Packard
Paxon
Petri
Portman
Pryce (OH)
Quillen

Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen

Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Murtha

NOT VOTING—72

Baker (CA)
Barton
Bateman
Becerra
Beilenson
Bilbray
Brewster
Brown (CA)
Bunning
Chapman
Clay
Clinger
Conyers
Crane
DeLay
Dixon
Doolittle
Dornan
Engel
English (AZ)
English (OK)
Farr
Fields (TX)
Fish

Ford (MI)
Ford (TN)
Geren
Gilman
Hall (OH)
Hefner
Herger
Hinchey
Hunter
Jefferson
Kaptur
Kleczka
LaFalce
Manton
Markey
Martinez
McCrery
McDade
Meyers
Miller (CA)
Moakley
Mollohan
Moran
Morella

Murphy
Nadler
Neal (NC)
Oxley
Parker
Peterson (MN)
Porter
Rangel
Sangmeister
Schaefer
Scott
Slattery
Slaughter
Smith (OR)
Sundquist
Valentine
Washington
Waters
Waxman
Whitten
Williams
Wilson
Wolf
Young (AK)

☐ 0928

Mr. KLEIN changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I regret that my being involved in a conference on narcotics with the Attorney General prevented me from voting on rollcall No. 601, approving the Journal. Had I been present to vote, I would have voted "aye."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Kansas [Mr. GLICKMAN] will lead the House in the Pledge of Allegiance.

Mr. GLICKMAN led the Pledge of Allegiance as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minute speeches on each side.

"60 MINUTES" REPORT ON ALLEGATIONS OF CIA COMPLICITY IN VENEZUELAN NARCOTICS TRAFFICKING

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, last night the CBS show "60 Minutes" contained a report of serious allegations of complicity of Government agents, including agents of the CIA, in drug trafficking in Venezuela.

The House Intelligence Committee takes those allegations with utmost seriousness.

These allegations undermine the effectiveness of counternarcotics programs and corrode their credibility with the American public and with foreign governments, whose cooperation is vital to their success. These charges are a regrettable blot against one of the Federal Government's highest priority programs to reclaim our streets and neighborhoods from the drug-driven crimes tormenting our society.

The committee initiated an investigation of this episode when it first came to its attention over 2 years ago. Pursuant to its oversight responsibilities, the committee has followed and will continue to follow the case closely to ensure appropriate remedial actions are taken.

With respect to the Federal Government's counternarcotics programs generally and the role of the CIA in them, the committee has subjected them to exhaustive scrutiny. A classified committee staff report on "Intelligence Support to Counternarcotics" was disseminated to executive branch agencies earlier this year. However, many of the recommendations the committee made for improving the performance of the intelligence community have not been fully implemented. The committee believes that stronger management controls over these programs, particularly those that involve working with foreign governments, must be instituted.

While the intelligence community plays a significant role in the war on drugs, it is but one part in what is and must be a comprehensive policy. With respect to the implementation of this policy, I view with grave concern the fragmented nature and often ineffective coordination of the numerous multiagency programs dealing with drugs. There is still too much turf fighting between Federal agencies in the battle against drugs.

□ 0930

TYRANNY

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I am standing here in the well, as my colleagues know, and I never understood what it meant to poison the well before last night. I did not understand because, as a casual observer of Congress before I got here as a Member, I did not know what really was going on here. Like most Americans, Mr. Speaker, I believe in a fair fight. I do not mind losing when I have played in a fair fight. But what I hate is I hate cheaters. I detest, I abhor, bullies. And I hate a rigged game, and that is clearly what we have got here.

The truth is that what the poisoning of the well is all about is the fury that erupts in a free people, the fury that people feel who have been elected by a majority of the people in this country, a majority, because between the number of people that wanted to have amendments offered last night, the Republican conference, the gentleman from Oklahoma [Mr. SYNAR] and others, we clearly represent a majority of the American people, but could we be heard last night? No, absolutely not.

Mr. Speaker, that truly is the meaning of tyranny of the majority.

DREAM DREAMS OF THE FUTURE

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, today the world will pause and think of the life of John F. Kennedy, our beloved President. We all have favorite quotes and challenges of what he gave us. Mine was when he said, "I would rather dream dreams of the future than read history of the past," and boy was he a dreamer. He dreamed of feeding, and teaching and clothing the hungry people of the world and created the Peace Corps. He gave us the dream of putting a man on the Moon and the dream of someday having all people treated equally in this country.

I challenge my colleagues and the American people today not to think of his death, but think of the challenges that he gave the American people, to dream their dreams and to make their dreams come true.

NO REPLIES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, Secretary of Commerce Ron Brown has been accused of taking a $700,000 bribe to normalize relations with Vietnam and to lower those trade barriers even though we have not had a full accounting of the 2,200 POW-MIA's, and their families are still waiting. Because of this accusation, Mr. Speaker, a grand jury was empaneled in Miami, and those grand jury investigations are going on right now.

But the chief accuser who passed a 6-hour lie detector test has never been called before that grand jury, and we asked Janet Reno why, and we have no reply. We wrote to the President of the United States asking Ron Brown, the Secretary of Commerce, to recuse himself from involvement in negotiations with Vietnam. We received no reply. We wrote to Brown's Department of Commerce asking for information about these allegations. No reply. We wrote to the Attorney General Reno about a special prosecutor, and all the leadership on the Republican side asked for that. No reply. And now we have 2,200 POW-MIA families who wait daily for some response from the Vietnamese Government about their loved ones left behind while these negotiations to normalize relations are going on, without any reply.

No reply, no reply.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 898. An act to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs;

H.R. 1237. An act to establish procedures for national criminal background checks for child care providers;

H.R. 3225. An act to support the transition to nonracial democracy in South Africa;

H.R. 3378. An act to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes;

H.R. 3471. An act to authorize the leasing of naval vessels to certain foreign countries; and

H.J. Res. 159. Joint resolution to designate the month of November in 1993 and 1994 as "National Hospice Month."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2840. An act to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 2632) "An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) "An act to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes."

AMERICAN PEOPLE STILL WANT ANSWERS ABOUT THE ASSASSINATION OF JFK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a vast majority of Americans believe that our Government lied to us about the assassination of JFK, that they withheld critical evidence, they disguised facts and they covered it up.

In fact, I say, "The assassination of JFK and the way it was handled was a real crossroads for America. There is much distrust and cynicism that started in 1963 that continues to grow in 1993, and, ladies and gentlemen, if you believe that there was one smart, magic bullet that wounded John Connally, then did a 180-degree turnaround and killed JFK, then you believe, then you believe, that we can solve all the wetland problems in Florida."

My colleagues, the very simple truth here is that the truth shall set you free, and the American people today want to know the truth. I ask, "Why don't we investigate what really happened in Dealey Plaza?"

CLINTON, GINGRICH FORM A FORMIDABLE DUO

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, the Atlanta Constitution in my hometown said so many bad things about our leader, NEWT GINGRICH, that when they say something well done, it deserves to be in the RECORD.

On November 19 the Atlanta Constitution said that Clinton is not the only winner:

> Clinton probably could not have carried the day without the help of House Minority Whip Newt Gingrich. By demonstrating his willingness to fight alongside a Democratic president, the Cobb County Republican has begun to look more like a national leader.
>
> By allying himself with the president, Gingrich showed that he can put the interests of the country first—and that he can deliver. He managed to round up 132 votes, more than even he had predicted, to help put NAFTA over the top.
>
> By putting aside partisan rancor, Clinton and Gingrich were able to accomplish what seemed virtually impossible just a week ago. How much better off the country would be if the two leaders could keep alive the spirit of cooperation as the House begins a new round of debates over spending cuts.

PENNY-KASICH—NOT THE WAY TO REDUCE THE DEFICIT

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, yesterday morning—on a beautiful Sunday here in Washington—I went to Arlington National Cemetery, and visited the gravesites of John and Bobby Kennedy, and watched the changing of the guard at the Tomb of the Unknown Soldiers. It was good for me to make this trip on the occasion of the 30th anniversary of President Kennedy's death to remind me of the burden we have to protect and promote the well-being of this great Nation.

Mr. Speaker, just as John and Bobby Kennedy welcomed the great challenge of their time—to fight for racial and economic justice for all, so must our generation accept the greatest challenge of our day: to make the fundamental right of health care available to all Americans.

That is the major reason I oppose the Penny-Kasich amendment. We all want to reduce the deficit, but this amendment is not the way to do it. For Penny-Kasich will take the money needed to reform our health care system.

Obligating Medicare savings for deficit reduction will endanger this goal. What will we give up? Will it be home health care, prescription drug benefits, or mental health coverage?

The easy thing to do would be to vote for Penny-Kasich and claim to be a deficit reducer. But the courageous thing to do is to make more responsible cuts, and meet the challenge of our generation—to provide health care for all Americans.

THE CLINTON CREDIBILITY GAP

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, after coercing several Democrats into voting for the largest tax increase in history, President Bill Clinton promised a vote on real spending cuts.

The Penny-Kasich plan is the only bipartisan amendment which will achieve real spending cuts. It will save the taxpayer $90 billion. That is only one penny on every dollar over the next 5 years.

But now a new tactic to influence the outcome of this vote is being used. Just as when the President passed out pork barrel projects to secure votes on NAFTA, some in the House leadership are now threatening Members with losses of projects in their districts if they vote for real cuts.

□ 0940

Do not be held hostage to this political chicanery. We must do what is right and begin to address our deficit at long last.

As our friend, the gentleman from Minnesota [Mr. PENNY] says, we cannot cut spending unless we cut spending. Just do it. It is the right thing.

Vote for Penny-Kasich.

PENSION REFORM LEGISLATION WOULD TARGET UNDERFUNDED PENSION PLANS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I rise this morning to remind my colleagues that Chairman FORD and Chairman ROSTENKOWSKI joined by Mr. HOUGHTON and myself recently introduced upon request H.R. 3396, which is very important pension reform legislation. Under this bill companies which sponsor seriously underfunded pension plans would be required to fund their pension promises and to inform their workers of the true financial condition of the pension plan. It is my understanding that later today the Pension Benefit Guaranty Corporation, which currently has a deficit of over $2.7 billion, will release its latest analysis of the 50 most underfunded pension plans. I think Members will be shocked at this list. Pension underfunding is increasing rapidly. For example the unfunded liabilities of General Motors increased from $14 billion to over $24 billion in 1 year. Total unfunded liabilities are now expected to exceed $50. And, as if this is not bad enough, the Securities and Exchange Commission and the Financial Accounting Standards Board are now warning companies that they must begin to use realistic pension assumptions that properly reflect the true extent of their liabilities on their books. Using realistic assumptions will cause the reported level of underfunding to increase by many additional billions and today in the Washington Post we are reminded of the grim reality that our public pension plans are shockingly underfunded. It is time to start our arduous task of reform. In light of this very serious problem, I urge Members to pay very careful attention to the provisions of H.R. 3396 and to join in this effort to resolve this critical issue.

MORE THOUGHTS ON PENNY-KASICH

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, the Washington Post headline says it all: "White House Lobbies Against Plan for $90 Billion More in Spending Cuts."

When push comes to shove or when spending-cut rhetoric comes to spending-cut reality, the administration just will not agree to cut spending first.

The question is, What will this Congress do?

Why do Members want cuts in spending? Because they want to solve our deficit problem and pay less in taxes. And if this Congress cannot cut one penny out of a dollar in spending over 5 years, then I suggest we cannot cut anything. But at least now we know that when it comes to the war on spending, the President and the Democratic leadership are conscientious objectors.

If there is ever a book written entitled "The Rise and Fall of the United States of America" it will surely have to focus on the twin causes of our demise, and that is the debt and deficit.

Colleagues, it is time for soul-searching. It is time to cut spending first.

HEALTH CARE FOR VETERANS OF PERSIAN GULF WAR

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2535) to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. AUTHORITY TO PROVIDE PRIORITY HEALTH CARE TO VETERANS OF THE PERSIAN GULF WAR.

(a) INPATIENT CARE.—(1) Section 1710(a)(1)(G) of title 38, United States Code, is amended by striking out "or radiation" and inserting in lieu thereof ", radiation, or environmental hazard".

(2) Section 1710(e) of such title is amended—

(A) by inserting at the end of paragraph (1) the following new subparagraph:

"(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.";

(B) in paragraph (2), by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A), (B), or (C)"; and

(C) in paragraph (3), by striking out the period at the end and inserting in lieu thereof ", or, in the case of care for a veteran described in paragraph (1)(C), after December 31, 1994.".

(b) OUTPATIENT CARE.—Section 1712(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(D) during the period before December 31, 1994, for any disability in the case of a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and who the Secretary finds may have been exposed to a toxic substance or environmental hazard during such service, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure."; and

(2) by adding at the end the following new paragraph:

"(7) Medical services may not be furnished under paragraph (1)(D) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.".

(c) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall take effect as of August 2, 1990.

(2) The Secretary of Veterans Affairs shall, upon request, reimburse any veteran who paid the United States an amount under section 1710(f) or 1712(f) of title 38, United States Code, as the case may be, for hospital care, nursing home care, or outpatient services furnished by the Secretary to the veteran before the date of the enactment of this Act on the basis of a finding that the veteran may have been exposed to a toxic substance or environmental hazard during the Persian Gulf War. The amount of the reimbursement shall be the amount that was paid by the veteran for such care or services under such section 1710(f) or 1712(f).

SEC. 2. EXTENSION OF CERTAIN HEALTH CARE AND OTHER AUTHORITIES.

(a) ELIGIBILITY FOR CARE FOR EXPOSURE TO DIOXIN OR IONIZING RADIATION.—Section 1710(e)(3) of title 38, United States Code, as amended by section 1(a)(2)(C), is further amended by striking out "December 31, 1993" and inserting in lieu thereof "June 30, 1994".

(b) ELIGIBILITY FOR SEXUAL TRAUMA COUNSELING.—Section 102(b) of the Women Veterans Health Programs Act of 1992 (Public Law 102–585; 38 U.S.C. 1720D note) is amended—

(1) by striking out "December 31, 1991," and inserting in lieu thereof "December 31, 1922,"; and

(2) by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1994".

(c) AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.—Section 315(b) of title 38, United States Code, is amended by striking out "March 31, 1994" and inserting in lieu thereof "December 31, 1994".

(d) AUTHORITY FOR ADVISORY COMMITTEE ON EDUCATION.—Section 3692(c) of title 38, United States Code, is amended by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1994".

SEC. 3. SHARING OF RESOURCES WITH STATE HOMES.

(a) PURPOSE.—Section 8151 of title 38, United States Code, is amended by adding at the end the following: "It is further the purpose of this subchapter to improve the provision of care to veterans under this title by authorizing the Secretary to enter into agreements with State veterans facilities for the sharing of health-care resources.".

(b) DEFINITION.—Section 8152 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'health-care resource' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, any other health-care service, and any health-care support or administrative resource.".

(c) SHARING OF HEALTH-CARE RESOURCES.—Section 8153(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by striking out "other form of agreement," and all that follows and inserting in lieu thereof the following: "other form of agreement for the mutual use, or exchange of use, of—

"(A) specialized medical resources between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools; and

"(B) health-care resources between Department health-care facilities and State home facilities recognized under section 1742(a) of this title.

"(2) The Secretary may enter into a contract or other agreement under paragraph (1) only if (A) such an agreement will obviate the need for a similar resource to be provided in a Department health care facility, or (B) the Department resources which are the subject of the agreement and which have been justified on the basis of veterans' care are not used to their maximum effective capacity.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. PICKLE). Is there objection to the request of the gentleman from Mississippi.

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, I do not intend to object, and I yield to the chairman of the committee for an explanation of the bill.

Mr. MONTGOMERY. Mr. Speaker, the Senate amendments to H.R. 2535 reflect an agreement with the other body to provide priority health care for Persian Gulf veterans, both inpatient and outpatient, through December 31, 1994. It also authorizes the VA to reimburse any Persian Gulf war veteran who may have been charged for VA health care.

The bill would also authorize the VA to enter into agreements with State homes for veterans to share any health care resources.

In addition, the bill would extend certain expiring authorizations to:

First, provide health care to veterans exposed to Agent Orange or ionizing radiation through June 30, 1994;

Second, provide sexual trauma counseling to certain women veterans through December 31, 1994;

Third, operate the Regional Office in the Philippines through December 31, 1994; and

Fourth, utilize an Educational Advisory Committee through December 31, 1994.

It is unfortunate that the other body has not acted on a number of measures our committee sent to them over the past several months. This is not the comprehensive legislation we had hoped to have ready by the end of this session, but it is the best that we can do under the circumstances.

Mr. Speaker, I want to thank the ranking minority member of the committee, BOB STUMP, for his cooperation in reaching agreement with the other body.

I urge my colleagues to support this important measure.

Mr. BUYER. Mr. Speaker, it is with a great deal of satisfaction that I add my strong support to H.R. 2535 as amended. This bill is particularly timely in light of the recent revelations concerning the Czechoslovakian chemical report released by the Department of Defense, as well as the continued reports of serious illness from Persian Gulf veterans.

This bill authorizes the Department of Veterans Affairs [VA] to provide health care to veterans who were exposed to internal and external toxic substances or environmental hazards during the Persian Gulf war. It also authorizes the VA to reimburse Persian Gulf veterans who have been previously charged for health care.

Since the House unanimously passed H.R. 2535 last August, subcommittees from both the House Armed Services and Veterans Affairs Committees have held additional hearings on the gulf war illness. It is obvious from the testimony at those hearings that the problems these veterans face are real, not imagined, and that this legislation is needed now more than ever. I am delighted that my colleagues from the other body have acted with such speed in completing action on this bill before adjournment. But we must do more.

The fiscal year 1994 National Defense Authorization Act authorized $1.2 million for the establishment, by the Department of Defense, of an environmental unit for investigating the low-level chemical exposure of U.S. military personnel who served the gulf. Unfortunately, the fiscal year 1994 National Defense Appropriations Act only funded $300,000 for this program. This seriously undercuts the effectiveness of this research. I call on my colleagues to revisit this issue during the next session and to provide full funding to the authorized limit for this timely and important program.

I am also concerned that we are not providing enough support for our Persian Gulf veterans still on active duty. My office, as well as those of many of my colleagues, has received hundreds of calls from active duty personnel who suffer from health problems from their service in the gulf. These individuals are afraid to come forward for fear of being branded as malingerers, or of being medically discharged early with no finding of disability. This is why I, along with three of my House colleagues who were called to active duty for service during the Persian Gulf war, recently sent letters to the House Armed Services Committee and the Military Forces and Personnel Subcommittee leadership calling for hearings on the reporting procedures, diagnostic criteria, and medical discharge procedures relating to the gulf war illness.

The passage of H.R. 2535 represents the first step in aiding those veterans suffering as a result of their gulf war service. I look forward to continuing the fight as we search for the causes of the mysterious gulf war illness.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 2535, with the Senate amendments and concur in the Senate amendments.

As the distinguished chairman of the Committee on Veterans' Affairs has stated, this bill reflects an agreement to temporarily extend certain programs currently authorized in the Department of Veterans Affairs. The bill also contains provisions to provide priority health care to Persian Gulf veterans.

The Committee on Veterans' Affairs on which I serve as ranking minority member has held several hearings on the health experience of veterans who served in the Gulf region.

The committee identified problems which these veterans were having in obtaining access to VA health care services. This bill will build on legislation passed last Congress (Public Law 102–585) which also addressed this group of veterans.

In addition, this measure contains limited authority to extend certain programs set to expire at the end of this year. While the committee and this body has already passed comprehensive improvements to VA's Agent Orange authority and the furnishing of sexual trauma counseling, the other body has once again delayed passage, and we are left with no alternative but simple extensions.

Mr. Speaker, I am deeply troubled by the other body's pattern of procrastination which results in prolonging necessary improvements in the programs important to our Nation's veterans.

I urge support for this simple measure. My only regret is that it does not reflect the true intentions of this body as previously passed. In addition, I want to thank the chairman of the Subcommittee on Hospitals and Health Care, Dr. ROWLAND and the ranking minority member, Mr. SMITH for their hard work on these issues.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

THE PENNY-KASICH DEFICIT REDUCTION PLAN

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, the opposition to Penny-Kaisch has been amazing. I believe the reason is that this budget reduction plan would fundamentally challenge the status quo in this city.

Frankly, I did not expect committee chairmen to be enthusiastic, because they created many of the programs that would be reduced by this amendment. I did not expect the President to be thrilled, because he could have and should have done more to cut spending earlier this year in his original budget package.

Obviously, I did not expect the special interests to love this plan because they are the ones that have perpetuated the problem with their zealous defense of spending for all of their pet projects.

But I really did not expect the sort of overkill that the opposition has leveled against this proposal. The reason they have overreacted is because this amendment goes to the heart of the power structure in Washington, DC. It challenges the big spenders on Capitol Hill. It challenges the special interest groups. It challenges committee chairmen.

The sort of resistance we are witnessing is the very reason we now have nearly $300 billion worth of red ink. And the tactics here on Capitol Hill are particularly reprehensible. Letters from Appropriation Committee chairmen with a clear implication.

It is intimidation. It is pressure politics. These chairmen are threatening projects in Members' districts if those Members have the audacity to vote for deficit reduction, as represented by Penny-Kasich.

If this were the private sector, this kind of intimidation practice would be a crime. Vote for Penny-Kasich. It will change the way this Town operates.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The SPEAKER pro tempore. Pursuant to House Resolution 319 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3.

□ 0948

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes, with Mr. OBEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes, and the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on May 7, 1993, the President and the democratic leadership announced agreement on the broad specifications of a campaign finance reform package. The proposal was and is today, substantially similar to the bill this Chamber has passed twice—2 years ago on November 25, 1991, as the House bill H.R. 3750, by a vote of 273 to 156, and on April 9, 1992, as the Conference Report to accompany S. 3 by a vote of 259 to 156. In general, the bill before you today has the same architecture as last year's proposals—it has similar overall spending limits, contribution limits on PAC's and large individual donors, and provisions to provide incentives to candidates to abide the limits.

Like last year's bill, the overriding goals of this bill are threefold: One is to restrain the power of money as a force in our electoral process and as a determinate of its outcomes. The second is to protect the ability of all individuals, and of modest means, to participate in Federal campaigns; and the third is to reduce the amount of time and energy spent soliciting campaign funds.

TITLE I

The need to bring campaign spending under control is the No. 1 priority in this legislation. this is the essential first step toward lessening candidates' reliance on large sums of money. All other reforms stem from this step—without cost control there is no reform. Spending limits provide a more honest debate.

The data on campaign finance trends provide overwhelming evidence that spending has been spiraling out of control. Expenditures in House elections more than doubled from 1980 to 1992. The average cost of winning a House seat was $554,000 in 1992, up from $178,000, 12 years earlier. In 1980, 28 House candidates spent more than $500,000—that number has increased to 249 candidates in 1992—more than half of the House in the 103d Congress. In fact, close to 50 candidates spent more than $1 million.

Title I establishes a voluntary system of campaign spending limits in House elections, in which candidates who agree to abide by specified limits on their campaign contributions and expenditures, would be eligible to receive certain benefits. Short of challenging the Supreme Court's Buckley versus Valeo 1976 decision, this is the only real alternative to producing real campaign reform in this Congress.

Under H.R. 3 as amended, each candidate who agrees to participate in the system may spend $600,000 during the election cycle.

If a candidate wins the primary by a margin of 20 percent or less, the candidate may spend an additional $200,000.

A candidate who has a runoff election may spend an additional $200,000.

Excluded from the day-to-day campaign operating expenses are the costs of legal services and taxes as well as exemption of up to 10 percent of the cycle limit for fundraising and accounting compliance costs.

The $600,000 election cycle figure is based on an indepth analysis of spending over the last six election cycles and provides candidates to determine when and how to spend campaign funds.

According to the Congressional Research Service, the median amount spent by 1992 House winners in the closest races, decided by 10 percent or less, was $606,000, while $673,000 or less was spent by fully 75 percent of all successful House candidates and $594,000 or less was spent by 75 percent of those challengers who defeated incumbents. Clearly, the $600,000 election cycle limit, adjusted for inflation, provides that critical latitude needed in most races which engender the highest degree of competition.

Declaration of participation:

Candidates must file an irrevocable declaration of participation with the FEC committing to abide by system of spending limits as a condition of eligibility for vouchers.

Statement must be submitted no later than 7 days after the candidate becomes a general election party nominee under State law.

Nonparticipating candidate: Failure by one candidate to file a statement of participation lifts all the spending limits when the nonparticipating opponent raises or spends more than $150,000. Participating candidates are still eligible for voter communication vouchers.

Voter communication vouchers:

Communication vouchers, based on the Presidential primary matching fund system, serve not only as a strong incentive to participation by candidates, but also greatly decrease a candidate's reliance on private sources of campaign money and will reduce the time spent raising money by all candidates.

A participating candidate is eligible to receive up to $200,000, one-third of the spending limit, in voter communication vouchers after raising 10 percent of the $600,000 spending limit from individual contributions less than $200, counting the first $200 of any individual contribution greater than $200.

The vouchers would be redeemable only for TV and radio broadcasts, print advertisement space, and postage expenditures.

The threshold, estimated to around $66,000 in 1996, is high enough so that we are not arbitrarily creating viable challengers where there would be none. All challengers must demonstrate a real ongoing fundraising ability, or they will not be able to qualify.

Vouchers are provided only to general election candidates who have ballot-certified opponents.

It is important to note that while these vouchers are provided by the make democracy work election fund, and administered by the Treasury Department, they will not use funds from general revenues. It is our intention to seek, at a later date, and under separate legislation, resources, from sources other than general revenues, to support the fund. Some of these resource options have begun to be debated.

None of the provisions of this bill become effective until the enactment of subsequent legislation providing resources to the fund.

It is estimated by the Congressional Budget Office that matching vouchers for House candidates would cost approximately $90 million every election cycle. If there is not enough money in the system to finance vouchers, then candidates would receive only a pro rata reduction in matching vouchers.

TITLE II

Contribution limits:

While the proposal places a limit of $600,000 on campaign spending, there is *no* limit on the overall amount of funds a candidate may raise.

Candidates who agree to abide by the spending limits also agree not to make personal contributions to their campaigns in excess of $50,000.

The proposal also establishes mandatory aggregate contribution limit of $200,000 per election cycle from PAC's and individual contributions greater than $200. This one-third contribution targets achieve a balance—assuring the public that no one source or no one type of funds will dominate a campaign. If these limits had been in place for the 1992 election, over $30 million in PAC contributions and $10 million in individual large donor contributions would have been taken out of the overall mix of campaign funds.

There is no aggregate limit on the amount of individual contributions less than $200 that a candidate may raise.

Yes, a participating candidate may raise $800,000—but he or she is *only* allowed to spend $600,000 per cycle.

The mandatory PAC and large donor limits are lifted for the participating candidate only, if the nonparticipating candidate makes personal contributions in excess of $50,000. The nonparticipating opponent is still subject to the mandatory limits as well.

Candidates who have a primary can raise an additional $200,000 in the same one-thirds distribution—$66,600 PAC, $66,600 large individual donor, $66,600 small donor/matching vouchers.

Candidates who have runoffs can raise an additional $200,000, one-half from PACs, $100,000, and one-half from all individual contributions.

TITLE III

Independent expenditures: Any legislation which seeks a comprehensive approach to the campaign finance system must address the unanticipated consequences of reform. There is always the danger new restrictions may force money from its current path to other, less accountable, less visible routes. Foremost among these are independent expenditures.

This legislation takes several steps to reduce existing problems with independent expenditures and to prevent ones which might occur under proposed reforms.

First, the definition of "independent expenditures" will be sufficiently tighten to prevent collusion or coordination between independent groups and their agents and candidates. We also say that if any person or organization makes a contribution to a candidate, they are not allowed to make independent expenditures in the same race.

Tight new reporting requirements will eliminate the surprise factor. From now on, those making independent expenditures will be expected to report immediately and continually throughout the election cycle. and the FEC will be required to notify us of those reports. More importantly, we counter last minute attacks by requiring those who will be making independent expenditures right before the election to tell the FEC at least 20 days before the election, so that the FEC can notify us. In this way, everyone will be put on notice.

Participating candidates receive an equal opportunity at the lowest nonpreemptible rate from broadcasters to respond to independent expenditures.

Finally, we authorize participation candidates to receive vouchers to respond to independent expenditures aggregating more than $10,000.

TITLE IV. CONTRIBUTIONS AND EXPENDITURES BY POLITICAL PARTY COMMITTEES

Definitions. Section 401 Definitions: establishes new State party grass roots fund to conduct mixed party activities that identify a specific Federal candidate; generic party activity means a campaign activity to promote a political party rather than a specific candidate.

Contributions to political party committees.

Section 402 amends section 315 of FECA to allow individuals to make annual contributions aggregating not more than $20,000 per year to State party grass roots, of which $5,000 could be designated to any committee of a State party. Allows multicandiate committees to make annual contributions aggregating not more than $15,000 per year to State party grass roots funds, of which $5,000 could be designated to any committee of a State party. Allows individuals to make contributions aggregating not more than $60,000 per election cycle, of which $25,000 could be designated to candidates, $20,000 to a national party, and $20,000 to State parties.

Provisions relating to national, State, and local party committees.

Section 403 adds new section 323 to FECA to prohibit national parties from soliciting or receiving any contributions not subject to the limitations, prohibitions and reporting requirements of Federal Election Campaign Act, except for building funds and transfers of non-FECA contributions to State parties for specific State party activities. Prohibits State parties from soliciting or receiving contributions not subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act for any activity that identifies or promotes a Federal candidate, regardless if a State or local candidate is also identified, including GOTV and voter registration during a Presidential election calendar year, generic campaign activity, except non-FECA contributions may be expended for specific State activities conducted by State party during a non-Presidential election year which the State party certifies does not identify Federal candidates. Specifies allowable disbursements and expenditures by State party grassroots funds.

Reporting requirements. Section 404 amends section 304 of FECA to require national party committee, congressional campaign committees, and any subordinate committees to report all receipts and disbursements, whether or not in connection with a Federal election. A political committee, other than a national party committee, shall report all receipts and disbursements in connection with a Federal election. Any other political committee which maintains a non-Federal account must report all activity in connection with a Federal election. Reports must include itemization of receipts and disbursements in excess of $200.

Restrictions on fundraising by candidates and Federal officeholders. Section 405 amends section 315 of FECA to prohibit Federal candidates and officeholders from soliciting contributions not subject to the limitations, and prohibitions of the Federal Election Campaign Act.

Increase in authorized political contributions to congressional campaign committee. Section 406 amends section 315 of FECA to allow candidate authorized committees to make contributions aggregating not more than $10,000 per year to the congressional campaign committees of a political party.

Increase in the amount that multicandidate political committees may contribute to national political party committees. Section 407 amends section 315 of FECA to increase the limitation on multicandidate political committee contributions to a national party committee from $15,000 per year to $25,000 per year.

Merchandising and affinity cards. Section 408 amends section 316 of FECA to allow political parties to receive a commission or royalty on the sale of goods or the issuance of credit cards by a corporation subject to specific limitations.

Increase limitation amount for certain contributions to political committees of State political parties. Section 409 amends section 315 of FECA to increase the limitation on individual contributions to State parties to $20,000 per year.

TITLE V—CONTRIBUTIONS

Restrictions on bundling: Section 501 amends section 315 of FECA to prohibit any person from acting as a conduit or intermediary for contributions to a candidate. "Conduit or intermediary" is defined as collecting and physically transmitting checks to a candidate, except that a "representative" of a candidate, defined as commercial fundraisers, volunteers holding house parties, and individuals who forward their spouses' contributions, and other individuals authorized and not acting on behalf of any prohibited class are not considered conduits or intermediaries. Representatives of a candidate may not include individuals acting on behalf of political committees with a connected organization, political parties, partnerships, sole proprietorships, or any organization which is prohibited from contributing to a candidate under the Federal Election Campaign Act, including corporations, labor unions, national banks, and trade associations. Any person who is prohibited from being a conduit or intermediary may not conduct joint fundraising activities with a candidate. Joint fundraising conducted by two or more candidates is permitted.

Contributions by dependents not of voting age: Section 502 amends section 315 of FECA to count contributions by nonvoting age dependents of another individual as contributions by that individual, and allocates the amounts between that individual and his or her spouse, if applicable.

Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100: Section 503 amends section 321 of FECA to clarify current law to prohibit candidates from accepting cash contributions in excess of $100 for any one person.

Contributions aggregated from State and local committees of political parties: Section 504 amends section 315 of FECA to provide that a candidate may not accept a contribution from the State or local committee of a political party, if, when aggregated with all contributions from all committees of that political party, the amount exceeds a limitation in the Federal Election Campaign Act.

Prohibition of false representation to solicit contributions: Section 505 amends section 322 of FECA to prohibit any person from soliciting contributions by falsely representing himself or herself as a candidate or a representative of a candidate, political committee, or political party.

Advances by campaign workers or volunteers: Section 506 amends section 301 of FECA to exempt advances made by volunteers or employees of a candidate's authorized committees from the definition of "contribution" under the Federal Election Campaign Act of 1971, if reimbursed within 10 days and the advance does not exceed $500 with respect to an election.

Corporate and labor union expenditures for candidate appearances, candidate debates or voter guides: Section 507 amends section 316 of FECA to provide that corporate or labor union expenditures for candidate appearances, candidate debates, voter guides, or voting records are contributions to candidates if the corporation or union expressly advocates the election or defeat of a candidate in connection with the appearance, debate, guide, or record, if the appearance, debate, guide, or record favors one candidate over another.

Prohibition of activities of foreign nationals: Section 508 amends section 319 of FECA to prohibit any foreign national from directing, controlling, influencing, or participating in another person's election-related activities and requires nonparty multicandidate committees to include a statement that it is unlawful for a foreign national to make contributions in all written solicitations.

Technical amendment relating to honoraria: Section 509 amends section 301 of FECA to delete references to honoraria from FECA.

TITLE VI—REPORTING REQUIREMENTS

Change in reporting from a calendar year basis to an election cycle basis: Section 601 amends section 304 of FECA to change the reporting periods for authorized committees from a calendar year basis to an election cycle basis.

Personal and consulting services: Section 602 amends section 304 of FECA to require disclosure of consulting service payments and expenditures to other persons for goods or services.

Reduction in threshold for reporting of certain information by persons other than political committees: Section 603 amends section 304 of FECA to require candidates to provide identification for individual contributions aggregating more than $100.

Computerization indices of contributions: Section 604 amends section 311 of FECA to require the FEC to maintain computerized indices of contributions exceeding $200.

Identification: Section 605 amends section 301 of FECA definition of "identification" of contributors to provide for their permanent residence address.

Political committees: Section 606 amends section 303 of FECA to require nonauthorized political committees to disclose the State in which the organization or committee is incorporated and the name and address of the officers.

Prohibition of use of candidate name by political committees: Section 607 amends section 302 of FECA to require authorized committees to include the candidate's name in the committee's name. Unauthorized committees may not use candidate name in committee name or in any context so as to suggest that committee is an authorized committee.

Reporting requirements: Section 608 amends section 304 of FECA to authorize the FEC to grant waivers of certain reporting requirements to political committees.

Simultaneous registration: Section 609 amends section 303 of FECA to provide for the simultaneous filing of a candidate's statement of candidacy and principal campaign committee organization.

Disclosures by organizations that engage in lobbying activities: Section 610 adds section 324 of FECA to require that organizations classified under Internal Revenue Code section 501(c) (4) or (6), which engage in lobbying activities, to disclose and report their contributions in the same manner as political committees.

TITLE VII—FEDERAL ELECTION COMMISSION

Appearance as amici curiae: Section 701 amends section 306 of FECA to authorize the FEC to appear on its own behalf in any action related to the exercise of its statutory duties.

Public service announcements: Section 702 adds section 325 to FECA to require the FEC to carry out a program between January 15 and April 15 of each year, utilizing public service announcements, to inform the public about the existence of and purpose for, the Make Democracy Work Election Fund.

Authority to seek injunctive relief: Section 703 amends section 309 of FEC to grant the FEC express injunctive relief authority to initiate temporary restraining orders or temporary injunctions when it has reason believe that violations of the act are occurring or are about to occur.

Expeditied procedures: Section 704 amends section 309 of FECA to authorize the FEC to expedite proceedings for complaints filed within 60 days preceding a general elections, shorten time periods for filings, and seek injunctive relief if it determines there is insufficient time to conduct proceedings before an election.

Insolvent political committees: Section 705 amends section 303 of FECA to clarify the authority of the FEC to initiate proceedings to terminate committees with outstanding debts.

TITLE VIII—BALLOT INITIATIVE COMMITTEES

Ballot initiative committees: Section 801 amends section 301 of FECA to define the terms "ballot initiative political committee," "ballot initiative contribution," and "ballot initiative expenditure." A ballot initiative political committee is any committee, club, association, or other group of persons which makes ballot initiative expenditures or receives ballot initiative contributions in excess of $1,000 during a calendar year. A ballot initiative contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the State, commonwealth, territory, or District of Columbia level which involves: first, the election of candidates for Federal office and the permissible terms of those so elected; second, the regulation of speech or press, or any other right guaranteed under the U.S. Constitution. The definition of ballot initiative expenditure parallels the definition of ballot initiative contribution.

Section 802 amends the definition of "contribution" under the act to exclude ballot initiative contributions.

Section 803 amends the definition of "expenditure" under the act to exclude ballot initiative expenditures.

Section 804 amends provisions of the act pertaining to the organization of political committees to make them applicable to ballot initiative political committees.

Section 805 amends provisions of the act to make political committee registration requirements applicable to ballot initiative committees.

Section 806 amends provisions of the act pertaining to political committee reporting requirements to make them applicable to ballot initiative political committees.

Section 807 provides that the civil penalties of the act shall apply to the organizational, recordkeeping and reporting requirements of a ballot initiative political committee.

Section 808 prohibits ballot initiative committees from making contributions or expenditures to influence Federal elections not subject to prohibitions and limitations of the act.

TITLE IX—MISCELLANEOUS

Broadcast rates and preemption: Section 901 amends section 315(b) of the Communications Act of 1934 to provide that any candidate for political office is entitled to the nonpreemptible lowest unit rate charged by a licensee for the same amount election and the 45 days prior to the general election.

Campaign advertising amendments: Section 902 amend section 318 of FECA to require that disclaimer attached to printed communications must be of sufficient type size to be clearly readable, contained in a printed box apart from the other text, and consist of a reasonable degree of color contrast between the background and the printed statement. Disclaimers attached to televised communications must appear for at least 4 seconds, be clearly readable with a reasonable degree of color contrast between the background and the printed statement, and if paid for by the candidate, be accompanied by a clearly identifiable photograph or other image of the candidate. The payor of the advertisement must indicate in a statement that the payor is responsible for its content.

Telephone voting by persons with disabilities: Section 903 require FEC to conduct a study of the feasibility of permitting persons with disabilities to vote by telephone.

Transfer of Presidential election financing provisions to FECA: Section 904 transfers the Presidential Election Campaign Fund and Presidential primary matching payment account provisions—IRC chapters 95 and 96—to new title VII of FECA.

TITLE X

House of Representatives campaign election funding and related matters:

Make Democracy Work Election Fund: Section 1001 establishes new title VII—section 701—of the Federal Election Campaign Act creating the Make Democracy Work Fund on the books of the U.S. Treasury to make payments of voter communication vouchers. Requires the Secretary of the Treasury to issue payments within 48 hours upon certification by the Commission. On June 1, 1996, and on June 1 of every Federal election year thereafter, authorizes the Secretary to make pro rata reductions in payments in insufficient funds, except that candidates in special elections will receive full payments as well as payments to respond to independent expenditures. Requires the Secretary to notify candidates of pro rata reductions. Requires that vouchers shall be redeemed at face value and the Secretary to promulgate regulations for the redemption of vouchers.

TITLE XI—EFFECTIVE DATES AND SEVERABILITY

Elective date: Section 1101 provides that the provisions and amendments of this act shall take effect on the date of enactment, but shall not apply with respect to any election occurring before January 1, 1995.

Severability: Section 1102 except for the provisions of title VI, and section 315 (i) through (j)—as added by this act, or section 701, as added by this act—if any provision or amendment made by this act is held invalid, the validity of the other provisions are not affected. If any provision of title VI, section 315(i) through (j), or section 701 is held invalid, all of title VI, section 315(i) through (j), and section 701 shall be held invalid.

Expedited review of constitutional issues: Section 1103 allows appeals directly to Supreme Court of any order, judgment, decree issued by any court finding any provisions made by this act unconstitutional.

Regulations: Section 1104 requires the Commission to promulgate regulations with 12 months after the effective date of this act.

Budget neutrality: Section 1105. None of the provisions of this act shall be effective nor considered to be an estimate required under the Balanced Budget and Emergency Deficit Control Act until the enactment of subsequent revenue legislation effectuating section 701 of the Federal Election Campaign Act.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 1993.
Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On January 5, 1993, I introduced H.R. 3, "The Congressional Campaign Spending Limit and Election Reform Act of 1993." This bill was identical to the 1992 Conference Report to accompany S. 3 which passed the House on April 9, 1992. As you may recall, President Bush vetoed this measure on May 9, 1992.

On November 10, 1993, the Committee on House Administration reported H.R. 3 favorably with an Amendment in the Nature of a Substitute. This Amendment, incorporated as the original text for H.R. 3, contains provisions under the jurisdiction of the Committee on Energy and Commerce. In specific, section 303 of Title III, and section 901 of Title IX contain provisions to amend the Communications Act of 1934.

The text of section 901 regarding the "Lowest Unit Rate" provisions of the Communications Act is identical to the provisions of a bill that your Committee reported in 1990 (H.R. 5756). As I recall, that legislation was part of a bipartisan effort to clarify these provisions in the Communications Act, but the House was unable to consider it prior to sine die adjournment.

Moreover, the provisions of section 303, regarding broadcast and cablecast independent expenditures, have been developed, drafted, and reviewed in consultation with your staff. I want to personally extend my appreciation to you and to your staff for the assistance provided to me and my staff in integrating various proposals under your Committee's jurisdiction into the overall efforts to reform the way federal elections are financed and conducted.

Given the Speaker's stated desire to have H.R. 3 considered by the House before adjournment, I would respectfully request that the Committee allow this bill to move to the Floor without exercising its jurisdictional prerogatives under the Rules of the House. Specifically, it is my intention to seek a Rule that will, upon its adoption, discharge the Committee on Energy and Commerce from further consideration of H.R. 3. It is my hope that this course of action is acceptable to you. This course of action will not, however, prejudice your Committee's rights to serve as conferees in the event of a Conference with the Senate.

With best personal regards, I remain,
Sincerely,
SAM GEJDENSON, *Member of Congress.*

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, November 19, 1993.
Hon. SAM GEJDENSON,
Rayburn House Office Building, Washington, DC.

DEAR SAM: Thank you for your letter concerning H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act of 1993. I appreciate your courtesy in keeping the Committee on Energy and Commerce informed of your efforts to bring a campaign reform package to the full House.

As you indicated in your letter, the text of the "Lowest Unit Rate" provisions of the bill is identical to the provisions of a bill that this committee reported in 1990. That legislation was part of a bipartisan effort to clarify these provisions of the Communications Act. While time did not permit us to bring the bill before the full House, the clarification was unanimously approved by the Committee, and I am confident that it would have been approved by the full House.

Inasmuch as the Committee on House Administration has included in H.R. 3 a provision that is identical to that which the Committee on Energy and Commerce had previously attempted to bring before the full House, I see no reason to slow the progress of H.R. 3 by asking the Speaker to refer it to this Committee to exercise its jurisdiction prerogatives.

By a copy of this letter, I am informing Chairman Moakley that the Committee will not object to a Rule which discharges this Committee from further consideration of this legislation, provided that the provisions of the bill (as reported by the Committee on House Administration) which fall within this Committee's jurisdiction remain intact. This agreement is without prejudice to the appropriate members of our Committee being named as conferees. In addition, I would ask that you include a copy of this exchange of correspondence in the Congressional Record when H.R. 3 is considered by the House.

I trust that this is responsive to your request, and I appreciate your cooperation in this important matter.

Sincerely,
JOHN D. DINGELL,
Chairman.

□ 0950

Mr. Chairman, I reserve the balance of my time.

Mr. LIVINGSTON. Mr. Chairman, I yield myself 6½ minutes.

Mr. Chairman, our charter was to provide real campaign reform, not a sham, not campaign deform, not a mockery, not an incumbent protection plan, not an embarrassment.

However, everything that the gentleman from Connecticut [Mr. GEJDENSON] has just described as his plan is all those things. That is what this plan is, it is neither fair nor simple nor believable nor constitutional. Our plan is all of that, but we were not wed to it. We had no pride of authorship. We wanted to allow amendments, but their closed rule prevented that. It limited the time to debate these restrictive proposals, which could drastically affect the future of this country through the election process.

The gentleman from California [Mr. THOMAS] will lead the debate for our substitute. It is a good proposal. We reached a consensus in good faith among all our Members. Ours was not forced on anyone behind closed doors, like the bill of the gentleman from Connecticut [Mr. GEJDENSON] was.

The Gejdenson bill is a bad bill. Not only does it contain, contrary to what he says, and hide publicly funded campaigns by way of communications vouchers, which are like food stamps, paid by taxpayers' funds from the U.S. Treasury; not only does it call on Congress to raise money for vouchers through increased taxes at a later date; not only does it retain full, current influence of PAC's at $5,000 per contribution, compared to ours, we abolished PAC's; not only does it protect incumbent's overwhelming current advantage, which allowed them to raise some $95 million from PAC's, while challengers only raised a meager $12 million in PAC funds in 1992; not only does it require the obscene expenditure of $39 million a year to propagandize the American people on the "benefits" of the taxpayer-financed Make Democracy Work election fund, whatever that is; not only does it perpetuate the fraud of spending limits, which totally nail a challenger's chances of raising more money than an unpopular incumbent; but the bill, in doing all of that, is unfair, incredibly complex, and unconstitutional.

It is unconstitutional because it provides for coercive measures, rather than voluntary measures. It limits money that a candidate can give his own campaign, in direct violation and contravention of Buckley versus Vallejo, the Supreme Court case.

They did try to force nonprofit organizations to disclose the donor list, but the Committee on Rules took that out because they knew that was unconstitutional. They do restrict independent expenditures, and most incredibly, they stifle the free speech of people who want to support States and local ballot initiatives on things like term limits by making those initiatives subject to the regulations of the Federal election campaign law, even though State ballot initiatives have nothing to do with Federal jurisdiction.

Mr. Chairman, in terms of complexity, this bill is mind-boggling. It is an administrative nightmare. It provides for aggregate spending limits of $600,000 and then there are aggregate PAC limits of $200,000. One-third of the $600,000 of that is at $5,000 per PAC. Then there are individual limits of $1,000 each, up to $200,000, and after that, the limit drops from $1,000 to $200.

There are no such limits, or, that is, there is a limited exemption, up to 10 percent of the total raised, for campaign headquarters, accounting costs, and fundraising expenses. Got that?

If that is not confusing enough, there is an unlimited exemption for legal costs and the payment of Federal, State, and local income and payroll taxes.

If that is not confusing enough, if there is a contested primary, defined as a primary with a margin of victory of less than 20 percent, the $600,000 total limit is raised by $200,000 to $800,000. All but the primary limits are waived altogether, thrown out the window, however, if the opponent has not agreed to the limits, and spends at least $150,000, or gives himself $50,000 or more, or if the independent expenditures exceeded $10,000. I suppose everybody understands that. What they might also understand is, all these limits go up every single year, because they are all indexed for inflation. If we add up all the exemptions, the loopholes, and everything else, he is talking about a total exemption of well over $1 million, which is much more than most individuals spend in the congressional campaigns.

In terms of unfairness, this bill, the so-called Gejdenson bill, prevents bundling but provides loopholes for bundling by distinguishing between connected PAC's and nonconnected PAC's, which conveniently provides that Emily's List is exempt from the bundling restrictions.

It distinguishes between soft money, they say, "We are against soft money," but they say State and national political committees can have soft money if they use it for facility-building and State candidates. My goodness, anybody is going to go to jail if they try to comply with this bill. It is unbelievable. They don't even let it apply to the 1994 elections. They say, "We will try to apply it in 1996." They give not a single dollar to the Federal Election Commission to enforce this goofy piece of legislation.

Mr. Chairman, this bill is unconstitutional primarily because it federalizes State and local initiatives and makes them subject to these goofy laws. It stifles free speech beyond belief, because no challenger is going to want to qualify under this system, because he knows he will probably go to jail if he signs up.

It is a bad bill. It is an incredible bill. It is an embarrassing bill that we should even be debating it. It should be defeated.

Mr. Chairman, I include for the RECORD the following information and material which illustrate my points with regard to PAC contributions and campaign finance reform:

"SEC. 325. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Federal Election Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Make Democracy Work Election Fund and the role that individual citizens can play in the election process by voluntarily contributing to the Fund. The Commission shall seek to broadcast such announcements during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall attempt to ensure that the maximum number of taxpayers shall be exposed to these announcements. The Federal Election Commission shall attempt to utilize a variety of communications media, including television, cable, and radio networks, and individual television, cable, and radio stations, to provide similar announcements.

"(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.".

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Direct spending:					
Matching payments to eligible candidates					
Estimated budget authority	....	....	93	....	98
Estimated outlays	....	....	93	....	98
Requiring appropriation action:					
Advertising campaign for the make—					
Democracy Work Election Fund:					
Estimated authorization level	....	39	39	39	39
Estimated outlays	....	39	39	39	39
Additional costs of the FEC					
Estimated authorization level	....	5	5	5	5
Estimated outlays	....	4	5	5	5
Bill total (to be scored with future legislation):					
Estimated budget authority and/or authorization level	....	44	137	44	142
Estimated outlays	....	43	137	44	142

Section 902 amend section 318 of FECA to require that disclaimers attached to printed communications must be of sufficient type size to be clearly readable, contained in a printed box apart from the other text, and consist of a reasonable degree of color contrast between the background and the printed statement. Disclaimers attached to televised communications must appear for at least four second, be clearly readable with a reasonable degree of color contrast between the background and the printed statement, and if paid for by the candidate, be accompanied by a clearly identifiable photograph or other image of the candidate. The payor of the advertisement must indicate in a statement that the payor is responsible for its content.

Telephone Voting by Persons with Disabilities:

Section 903 requires FEC to conduct a study of the feasibility of permitting persons with disabilities to vote by telephone.

Transfer of Presidential Election Financing Provisions to FECA:

Section 904 transfers the Presidential Election Campaign Fund and Presidential Primary Matching Payment Account provisions (IRC Chapters 95 and 96) to new Title VIII of FECA

TITLE X

House of Representatives campaign election funding and related matters

Make Democracy Work Election Fund

Section 1001 establishes new Title VII ("section 701") of the Federal Election Campaign Act creating the Make Democracy Work Fund on the books of the U.S. Treasury to make payments of Voter Communication Vouchers. Requires the Secretary of Treasury to issue payments within 48 hours upon certification by the Commission. On June 1, 1996 and on June 1 of every Federal election year thereafter, authorizes the Secretary to make pro rata reductions in payments in insufficient funds, except that candidates in special elections will receive full payments as well as payments to respond to independent expenditures. Requires the Secretary to notify candidates of pro rata reductions. Requires that vouchers shall be redeemed at face value and the Secretary to promulgate regulations for the redemption of vouchers.

TITLE XI—EFFECTIVE DATES AND SEVERABILITY

Effective date

Section 1101 provides that the provisions and amendments of this Act shall take effect on the date of enactment, but shall not apply with respect to any election occurring before January 1, 1995.

Severability

Section 1102 except for the provisions of Title VI, and section 315 (i) through (j) (as added by this Act, or section 701 (as added by this Act), if any provisions or amendment made by this Act is held invalid, the validity of the other provisions are not affected. If any provision of Title VI, section 315 (i) through (j), or section 701 is held invalid, all of Title VI, section 315 (i) through (j) and section 701 shall be held invalid.

CAMPAIGN FINANCE REFORM

Reforming political campaign financing is a tough task, involving as it does individual contributions construed as expressions covered by the constitutional right to free speech. But a new proposal by House Republicans, spearheaded by Louisiana's U.S. Rep. Bob Livingston as chairman of the GOP Campaign Reform Task Force, does a good job of bringing practical sense to the issue.

The fundamental goal is to level the financial playing field so that challengers are able to mount serious campaigns against incumbents who, an individual's political record aside, enjoy the considerable current advantages of incumbency. The Republican proposal takes some interesting steps to do this.

First, it aims at the really big bucks: the political action committees, or PACs. These pool special-interest money into massive campaign contributions, the far larger share traditionally going to incumbents rather than challengers. These would be abolished outright.

But that has been attempted before—indeed, one attempt had the unintended result of increasing them. So a back-stop proposal, if abolition is ruled unconstitutional, would simply limit PAC contributions to a mere $1,000.

The GOP proposals would also ban "soft money"—non-monetary contributions to a campaign—and require unions, corporations and non-profit groups to disclose their spending on political activities undertaken to influence federal elections.

Moving again at big money, the proposal would allow political parties to contribute to challengers up to the amount of an incumbent's war chest carried over from a previous campaign.

To other major proposals are challenger-friendly close to the grass roots. One would drop the limit on the amount individuals may contribute to a candidate whose opponent spends more than $250,000 of his own money on a campaign. This would help a challenger match a rich incumbent who does not need to raise much outside money.

Another would require that at least half of a candidate's campaign funds be raised from individuals in the district. That works against an incumbent's being financially supported by contributions from special interests operating nationwide or headquartered elsewhere.

The overall goal of this package, as of its sister package in the Senate is to open up the competition for congressional office at a time when the electorate indicates that it is for congressional rejuvenation and when limiting congressional terms is an active issue.

Term limits may not soon be in the cards for Congress, but term limits by popular election should be a real possibility for any individual member of Congress.

An incumbent should not benefit from rules that increase the already powerful advantages of incumbency. Challengers should have essentially the same resources for campaigning as an incumbent. That way it will be more likely that positions and personalities rather than campaign bank accounts will be the major deciding factors on election day.

Rep. Livingston and his group have made a major contribution to the effort of clearing debris off the campaign field so everyone can have a chance to play and score.

PAC CONTRIBUTIONS: 1991–92

[In millions of dollars]

	Democrat House candidates	Republican House candidates	Incumbent House candidates	Challenger House candidates
Total PAC contributions: ...	$85.8	$42.5	$94.7	$12.3
Corporate PAC contributions: ...	23.4	19.5	35.1	2.8
Trade Assoc. PAC contributions: ...	23.2	15.5	29.2	2.9
Labor PAC contributions: ..	29.0	1.5	19.8	4.4

Source: Federal Election Commission.

SPENDING LIMITS

Spending limits are a fraud: They do not reduce spending, they merely drive it under the table and off the books. The Presidential system has spending limits and millions in soft money.

Spending limits protect incumbents by enhancing the substantial advantages incumbents have in name recognition, staff, constituent service, free mailing privileges and media access.

The highly respected Committee for the Study of the American Electorate (CSAE) issued a study on November 18, 1993, that totally vindicates Republican opposition to spending limits.

The report states, "It appears, on the basis of this study, that the Republicans have the better of the argument," said Curtis B. Gans, CSAE's Director.

The Study found that more than one-third of winning House challengers who won since 1978 exceeded the flat $600,000 limit in the proposed House legislation.

The reports summarizes, "The insistence on spending limits by Democrats, as the immutable core of any campaign finance reform proposal, seems to be impeding any progress toward reform. Since durable reform depends on the creation of what is seen by all partisans as a level playing field, it might be more useful to focus on other aspects of the problem."

Study Shows Spending Limits Inhibit Competition Too Low in Senate; Not Flexible in House

WASHINGTON.—If the amount needed for challengers to win against incumbents in the last 15 years in any guide, then the spending limits proposed in both the campaign finance reform bill passed this spring by the U.S. Senate and the one being proposed for consideration by the House of Representatives before its fall recess inhibit competition.

According to a study released today, more than half (55.3 percent) of the Senate challengers who won since 1978 exceeded, in CPI adjusted dollars, the flexible spending limits passed by the U.S. Senate this spring. More than a third (35.2 percent) of winning House challengers exceeded the flat $600,000 limit in the proposed House legislation.

The study was released by The Committee for the Study of the American Electrorate (CSAE), a non-partisan, non-profit, Washington-based organization, which conducts research about and develops non-partisan public policy solutions addressing the problem of low voter participation in the United States.

The issue of spending limits has been the subject of heated partisan debate during the last four Congresses. Democrats argue that spending limits are the only way to control costs and create a level political playing field. Republicans argue that spending limits inhibit competition and protect incumbents by enhancing the substantial advantages incumbents have in name recognition, staff, constituent service, free mailing privileges and media access.

The CSAE study is an attempt to quantify, in CPI adjusted dollars, the amount of advantage incumbents enjoy, by focussing on the amount spent by those challengers who were successful in defeating incumbents during the period 1978–1992.

"It appears, on the basis of this study, that the Republicans have the better of the argument," said Curtis B. Gans, CSAE's director. "The Senate spending limits are clearly too low and the House limits are not flexible enough to permit competition in some areas where campaign costs are higher.

"The issue is not whether incumbents are unduly protected," Gans said. "In the absence of issues of moral turpitude, failure to perform their jobs, an overriding public issue or a sea change in public attitudes, incumbents should expect public support. The issue is whether the spending limits in the proposed campaign finance laws are too low to permit challengers to get their message across and thus inhibit competition."

The study showed that by a 3–2 (87–58) majority, the challengers who won were outspent by their incumbent opponents. In recent years, it has become much more likely for challengers to be outspent. In the 1978 to 1984 period, 47 of 86 successful challengers outspent their incumbent opponents. Between 1986 through 1992, only 11 of 59 successful challengers outspent their incumbent opponents.

On average, Senate incumbents outspent winning challengers by $3,874,621 to $3,148,358. House incumbents outspent challengers, on average, $643,199 to $553,712. But these relatively narrow spending differentials mask races in which incumbents substantially outspent those challengers who won.

In 1990, former Sen. Rudy Boschwitz outspent Sen. Paul Wellstone by 4–1. In the 1992 primaries, former Rep. Guy Vander Jagt outspent Rep. Peter Hoekstra by nearly 7.5–1. Former Rep. Steven Solarz outspent his winning challenger opponent, Nydia Velázquez, in the 1992 primary by 4.85–1.

"Competition does not, as some have argued, depend on equal levels of spending," Gans said. "Money, per se, does not win elections. The critical question appears to be whether challengers have sufficient funds to get their message across."

Among the findings of the study with respect to races for the U.S. Senate were:

During the period 1978–1992, the average amount spent by winning challengers was a CPI adjusted $1.54 per eligible vote. If that average were applied to a spending limit for

California, it would mean a spending limit of $35 million, as opposed to the proposed $8.25 million in the bill which passed the Senate in 1992.

In 1992 the average spending of winning Senate challengers was $0.71 an eligible vote or a spending limit of more than $15 million in California, as compared to the proposed $8.25 million limit.

Of the successful Senate challengers, 21 of 38 exceeded the proposed spending limit in their states. (The campaign finance reform bill passed by the U.S. Senate this spring would establish "voluntary" spending ceilings of $2,004,000 to $8,250,000 depending on the size of the state.)

Among the sitting Senators who exceeded the proposed spending limits at the time they gained office at the expense of an incumbent are: Carol Mosely Braun, Paul Coverdell, Lauch Faircloth, Diane Feinstein, Richard Bryan, John Kerrey, Joseph Leiberman, Bob Graham, Richard Shelby, Tom Harkin, Mitch McConnell, Paul Simon, Jeff Bingaman and Charles Grassley.

The findings of the study with respect to the U.S. House of Representatives include:

Average spending for challengers in races in which they beat incumbents in the period 1978–1992 was $553,712 (excluding the Rep. Donald Huffington's 1992 race in which he spent more than $5 million). This figure is below the $600,000 proposed "voluntary" spending limit for House races contained in both 1992 proposed legislation and previous versions of such legislation.

However, more than one in three successful challengers (51 of 145) exceeded the $600,000 proposed spending limit.

The average amount spent by successful challengers in both the House and Senate has been declining in recent years without the benefit of spending limits. In 1984, winning House challengers spent an average of $742,852 CPI adjusted dollars. In 1986, they spent $709,373. In 1988, they spent $686,302. In 1990, they spent $513,310. And in 1992, they spent $489,662. A similar pattern exists in U.S. Senate spending. From a high of $2.99 per eligible vote in 1988, challenger spending decreased to $0.71 an eligible vote in 1992.

"This study raises two important questions: Whether spending limits are necessary and whether they are desirable," Gans said.

"It is theoretically possible to establish a set of flexible spending limits for the U.S. Senate which would not inhibit competition, but those levels would likely be so high that many would not see much point to them," Gans said. "It should also be possible to establish a flexible, rather than a uniform, set of spending limits for the House to account for those places—localities and media markets—in which challengers must regularly spend more than $600,000 to win.

"But there are both substantive and political considerations as to why such limits might not be attempted," Gans said.

"First, whether due to the recession, public cynicism or just plain common sense, per race spending seems to be declining without such limits. And spending limits which are too low or inflexible seem to inhibit competition.

"But perhaps of equal import, the insistence on spending limits by Democrats, as the immutable core of an campaign finance reform proposal, seems to be impeding any progress toward reform. Since durable reform depends on the creation of what is seen by all partisans as a level playing field, it might be more useful to focus on other aspects of the problem," Gans said.

Mr. Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let me just say that the gentleman from Louisiana [Mr. LIVINGSTON] has been factually incorrect for a substantial portion of his statement. Under our system, we would have saved $40 million in spending in the last session.

Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. ROSE], the eminent chairman of the Committee on House Administration, who has been of tremendous help in this effort, and without him we would not be here today with as good a package as we have.

Mr. ROSE. Mr. Chairman, I thank the gentleman from Connecticut [Mr. GEJDENSON] for yielding time to me.

Mr. Chairman, I always enjoy hearing my friend, the gentleman from Louisiana [Mr. LIVINGSTON], when he really gets a head of steam behind him on an issue like this. That was well done, and I know now why the gentleman from Illinois, Mr. BOB MICHEL, chose him to be the first recipient of the Silvio Conte Joy of Politics award. He rightfully deserves it.

Mr. Chairman, when I established the task force on campaign finance reform in the 102d Congress, I saw the mission of the task force as designing a complete and comprehensive package of reforms which would restore the public's trust and confidence in Federal campaigns. President Bush vetoed the bill produced in that Congress, and we are here today for the continuation of this process of restoring campaign integrity. I especially want to commend my colleague from Connecticut [Mr. GEJDENSON] for all of his efforts in carrying through on this difficult path and putting together this reform bill.

I have consistently stated that my goal is to address the concerns of the American people, and as I read those concerns, they are particularly frustrated by the role of "big money" in elections. H.R. 3 directly addresses big money contributions. This bill limits to $200,000 the amount candidates may raise from political action committees. Importantly, this bill also limits to $200,000 the amount candidates may raise from so-called high-rollers. Candidates will only be able to accept a total of $200,000 from wealthy individuals who can easily afford give $1,000 per shot.

I believe that these overall contribution limits are a cornerstone to reform. They are intended to provide a balance to the sources of money being poured into campaigns from interested persons. These limits are intended to reduce the dependency on big money and give more attention to the small contributor, the average working man and woman, who may only be able to give $100 or $200.

I say to my colleagues who criticize PAC's, that eliminating the PAC's is not the answer. Small contributors, average working people, must have a role to play in the political process. PAC's are themselves a reform, and their role in the political process is protected by the freedom of association guaranteed by the first amendment. By placing an aggregate limit on the amount PAC's may give in any particular race, and by placing an aggregate limit on the amount wealthy individuals may contribute in any political race, small contributors are given an equal chance to be heard.

I would also say to my colleagues that I believe that these aggregate contribution limits are constitutional. These limits are intended to eliminate the perception of corruption that big money contributions brings. Not one of us can deny that his or her constituents are fed up with the high rollers who are seeking influence through their big money contributions. We must address this issue, and H.R. 3 does so in a very reasonable and fair fashion.

There are other important reforms in this legislation, which will also be discussed during this debate. H.R. 3 addresses the wishes of the American people to have us conduct responsible campaigns. I urge my colleagues to vote for H.R. 3.

□ 1000

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN], a great member of the Committee on House Administration.

Ms. DUNN. Mr. Speaker, it is with a great sense of frustration that I watch us bring H.R. 3, the supposed campaign finance reform bill, to the floor of this House.

During the process of debate on this bill as it has moved through the committee system, I have heard it stated that one of the reasons to support the Democrat version and oppose the Republican alternative was that the Republican bill proposed that a certain percentage of campaign dollars were raised locally. Mr. Speaker, I do not think and I doubt that our constituents think that it is unreasonable for a percentage of our campaign dollars to come from people of our State and our district. After all, we are supposed to be representing them and them alone.

Yet my Democrat colleagues have argued with great passion to require a certain percentage of campaign dollars be homegrown would be a tremendous burden to women and minority Members of Congress. For all of my colleagues who are concerned about being unfair to women, let me say this: Relax. Do not worry. Women will be just fine. This is one woman, one Republican woman, who can make it with requirements for homegrown campaign money. In this last election, which was my first election to the Congress, I raised over 70 percent of my campaign funds in the State of Washington.

The requirement that a set amount of funds be of home origin is a good requirement. It allows the people in your district to see that the support for your candidacy comes from people who are your neighbors, your coworkers, and your friends.

Mr. Chairman, most importantly, a homegrown requirement provides your constituents a sense that you are not beholden to interests that are hundreds or thousands of miles away.

One other point, to all of my freshman colleagues, to all of my reform-minded friends on both sides of the aisle, and to all my Democrat friends who earlier this year voted for the President's tax increase bill, I urge you to remember the promises we have all made to rein in Federal spending are serious promises.

I think this vote will be ironic. On the eve of voting for significant spending reduction plans of various colleagues, the gentleman from Minnesota [Mr. PENNY], the gentleman from Ohio [Mr. KASICH], the gentleman from Massachusetts [Mr. FRANK], the gentleman from Connecticut [Mr. SHAYS], and others, we are on the verge of voting to provide taxpayer dollars to benefit ourselves and our campaigns. Mr. Chairman, this is outrageous. It is wrong.

As my colleague, the gentleman from Louisiana, has so aptly put it, this is nothing more than welfare for politicians. Welfare for politicians, in the final analysis, that is all this bill really is. Simply, a vote for this bill is a guarantee that the taxpayers of America will remember that you voted to fund your campaign with their hard-earned tax dollars.

Mr. Chairman, two things: First, I urge my colleagues to ignore the arguments that homegrown campaign fund requirements would hurt women candidates. Do not worry about this. We will do just fine.

And, second, remember that after voting for this welfare-for-politicians bill, the next vote you may take will be to cut spending for your State and your constituents. I doubt that that irony will be lost on the constituents in your district.

Mr. GEJDENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of the bill, H.R. 3, the underlying document.

I congratulate the gentleman from Connecticut [Mr. GEJDENSON] and the members of the Committee on House Administration for coming forth with this. I regret that it is not a bipartisan bill, unfortunately.

Efforts were made, but did not work out in terms of a bipartisan measure, so we are left with facing sort of the political harangue here of bumper-sticker slogans by the opponents slapped onto a problem that is very complex. Frankly, I think it is a disservice to the Members and the people of this country.

The choice here is between whether you want the continued policy path of special interests funding campaigns or you want to interject something that is going to bring about a reform and a change in terms of how we fund campaigns, which does have an effect, I think all too often, or at least the perception, in terms of what is the public's negative view of campaign funding.

The issue here is whether or not we want to set up a voluntary process within the Government to help limit what the total overall spending is. The only bill that limits the spending in this—albeit too high from my perspective—is the Gejdenson bill, the Democrat bill proposed here today.

There is a fundamental difference here. Some think there ought to be no limits, no limits, no government participation, just the special interests, and only those selected special interests that happen to feather the nest of a particular group of candidates. I do not think that is what would be called a level playing field.

I think what is happening here is we are trying to reengage the American people and try to claim back or gain credibility so that they have the faith in what we are doing in Congress. There is no taxpayer funding in this bill, nor is there any designs to do so in the concepts advanced in this measure. It is a voluntary system where people make voluntary contributions to try to gain back the control in terms of an election system that is careening out of control. That is what the policy attempts to do in this measure. It limits spending in line with the law.

We have to live within the precepts of the Constitution. The public does not understand that, and some get up here and make all of these bumper-sticker slogans about the features to achieve such limits, but the fact is that the 1976 decision limits what you can do and how you do it. You cannot limit independent expenditures. You cannot limit what an individual candidate will spend overall. You cannot limit what an individual will give to himself nor the total amount spent, most significant to the public perception. That is the 1976 law, a confusing and awkward law of the land that we must comply with.

So what you have to do is to create a system wherein you will actually accomplish some sort of a spending limit and different controls. That is exactly what the Gejdenson bill does. It is not a simple process. It is complex, because not everyone will accept that type of spending limit. They are going to go through it.

□ 1010

So you have to address those particular phenomena. Election law is not simple. Some people talk about election law; they think they are going to take politics out of elections; they are going to thwart the system. You have to provide an opportunity to challenge it. In my district I do not need $600,000. I hope I never do. I hope I never see the day.

Someone got up here and talked about local funding of campaigns. How about local control and State control of laws that govern our campaigns? We cannot have that because that was ruled unconstitutional. By the court, we don't have that option. So the fact is, let us face the issue as it is, honestly. Can the bumper sticker slogans and move on to a bill that will work, the Gejdenson bill.

Mr. Chairman, I rise in strong support of H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act of 1993. As a cosponsor of this important reform legislation, I want to commend the leadership for allowing us to move forward with campaign reforms. These reforms are long overdue. Hopefully, today's positive action will bring needed reforms one step closer to reality.

As my colleagues know, H.R. 3 is very similar to legislation that the House considered and approved in the last Congress. This bill will set voluntary spending limits for House candidates. For those candidates who agree to the spending limits, assistance is providing to communicate with the voters. The legislation also limits the contributions that a candidate can receive from special interests' political action committees and wealthy individuals. The legislation also prohibits the use of soft money and addresses negative campaign ads.

Mr. Chairman, H.R. 3 is not perfect. We all have changes that we would like to see incorporated in the legislation. Personally, I believe that the spending ceiling is too high and could be significantly lowered without stifling effective campaigns. However, these objections should not be used to derail comprehensive Federal campaign reform.

Congress must lead if campaign reform is to become a reality. Regrettably, a State-by-State approach has not been permitted to work. My own State of Minnesota implemented meaningful congressional campaign spending limits, which I actively supported and observed. Unfortunately, the opponents of campaign reform successfully overturned the Minnesota law. With the action, the hope of State leadership on Federal reform was ended.

H.R. 3 addresses the problem of campaign spending head-on by limiting campaign spending. Without adequate spending limits, any campaign reforms will be meaningless. Spending on congressional campaigns is too high. The American voter wants election campaigns based on ideas not 30-second sound bites. The enactment of the spending limits in H.R. 3 is an important step to take our national elections out of the hands of media gurus like Ed Rollins while returning campaigns to the one-on-one contact with the American voter.

H.R. 3 is complex principally because of the careful mine field of limitations that campaign reform must march through to become law. The 1975 decision in Buckley versus Valeo limits what the law can do directly by preventing mandatory spending limits overall; preserving the right of an individual candidate to spend as much personal resources as the candidate wishes; permitting unlimited independent expenditures as special interests in support or opposition to a specific candidate. These factors thwart the ability to write laws that level the campaign playing field. Some of our constituents do not understand these factors. When added to the swamp of political rhetoric seeking political advantage rather than true reform, this debate sinks into a swamp of controversy and public confusion.

H.R. 3 is not simple to understand because of the need to avoid the constitutional limitation requirements and to fundamentally advance the issue of reform. Despite these constraints, H.R. 3 limits political action committee support, encourages small contributions, and sets in place a voluntary public funding program, albeit without the funding mechanism left as an important future step clearly reflecting the special House and Member hostility reserved for any tax measures.

Finally, H.R. 3 holds out the real hope of limiting spending in the high-cost House contests, as well as in the more modest races in which some of us have contained spending. This legislation is a major positive step forward, and I urge my colleagues to support it.

Mr. LIVINGSTON. Mr. Chairman, I am very, very pleased to yield 2 minutes to the great gentleman from Nebraska [Mr. BARRETT], a member of the Committee on House Administration.

Mr. BARRETT of Nebraska. I thank my friend, the gentleman from Louisiana [Mr. LIVINGSTON] for yielding this time to me.

Mr. Chairman, the American people made one thing perfectly clear in the last election. They wanted change and reform—not just any reform, but constructive reform.

H.R. 3 does not achieve this goal. Instead, it merely represents an incumbent protection plan.

This bill is vague in many respects. The financing portion has been stripped from the bill, and the $600,000 spending limit is very misleading.

With exemptions for runoff elections, contested primaries, administrative campaign expenses, indexing for inflation, and an unlimited amount for legal and accounting expenses, the final cost for a candidate could rise to $1,000,000.

Because of the unpopularity of using taxpayer dollars to finance campaigns, it was taken out of the bill at the last moment.

However, it is expected to be introduced as separate legislation next year. In other words, it is business as usual—spend now, worry about how to tax later to pay the tab.

Can we afford to use tax dollars for that kind of spending, and at the same time tell the public, the Government must make cutbacks in other programs??

I ask my colleagues on the other side of the aisle who oppose public financing, to join us in defeating a bill with this type of welfare for politicians.

There are additional concerns I have with this bill. I take exception to the claim that "leveling the playing field" among candidates will occur with the bill.

Under any circumstances, when everything is even between an incumbent and challenger, the advantage goes directly back to the incumbent because of the incumbent's privileges of office, particularly the franking privilege.

The bill also goes wrong by imposing spending limits.

While it may not be difficult for an incumbent to raise the maximum amounts allowable for contributions, challengers may have problems in reaching these limits.

In the last election cycle, only 5 out of a possible 435 challengers reached the $200,000 PAC contribution limit. This illustrates just part of the problem with having contribution and spending limits.

If we are to be honest with the American public about reform, then we should consider true reform that would improve the status quo.

After examining the numerous flaws in this bill, I can't support it, and I urge my colleagues to oppose it as well.

Mr. GEJDENSON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, this bill is not perfect. But it does mark very significant progress toward achieving the two chief goals of campaign finance reform: First, democratizing our election process by making it easier for candidates of modest means to raise enough money to communicate their names, programs, and critiquest of their opponents to the voters so that the voters have a real choice, not the illusory choice so common today in which the voter knows the name and record only of the incumbents or the celebrity; second, decreasing the influence of special-interest money on Congress.

Supporters of campaign finance reform have tended to focus on the second goal, and indeed H.R. 3 makes important progress by placing limits on aggregate contributions a campaign may accept in large contributions and from political action committees. But the most important virtue of H.R. 3 in my view is that by limiting total spending and at the same time providing public resources in the form of "communication vouchers" redeemable for postage or broadcast time will greatly narrow the disparity in resources that so often determine election outcomes.

Let us speak freely about the reality of congressional elections: As the cost of mounting campaigns has increased, it has become increasingly difficult for an average person to run for Congress. We are coming closer and closer to the point where the only people who can be elected are incumbents, millionaires, celebrities, and people willing to become indentured servants to the special interests.

The American people want elections that offer choices between contrasting policies, personalities and values. A real choice does not exist, cannot exist, if only one candidate has the resources to compete, to have his or her views heard. Real choice requires an election that features the clash of ideas, not the sound of one hand clapping.

In a perfect world I would have liked to see a bill with more public financing, to narrow further the opportunity gap between those candidates best able to raise money, and all the rest.

I would have liked for us to have found a way to limit the ability of people of great wealth to practically buy, in quotes, a seat in Congress.

A $5 million personally funded campaign is no obscenity. I would have liked for the public financing provisions of this bill to be applicable to primaries as well as general elections. But it is important in this difficult area not to let the best become the enemy of the good.

H.R. 3 take vitally important steps toward securing genuinely competitive elections and reducing the influence of big money and special interests on our congressional elections.

Mr. Chairman, I support this bill, I urge my colleagues to put aside whatever reservations they may have on specific provisions, and make the most of the opportunity to finally vote for a bill that represents our only choice to pass meaningful campaign finance reform.

Mr. GEJDENSON. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I just hope the speakers on the other side debate the bill and not create a bill that does not exist. I just say we have campaign spending limits, they do not; we do not have taxpayer funds in here. Do not argue against taxpayer funds. And if Lyndon LaRouche were running for Congress, Lyndon LaRouche could not get funded under this bill. Argue against this bill.

Mr. LIVINGSTON. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Ohio [Mr. HOKE], a member of the Republican task force on elections on campaign finance reform.

Mr. HOKE. I thank the gentleman for yielding this time to me.

Mr. Chairman, we agree on one thing, and that is that campaigns cost too much money. We agree on another thing, and that is their bill does in fact impose spending limits. Let us talk about what those limits are.

We are talking about a million dollars in spending limits; $600,000, $200,000 in contested primary, $200,000 if you are in a State with a runoff, 10 percent of all of that as overhead plus legal and accounting. We are talking about a total of——

Mr. GEJDENSON. Mr. Chairman, if the gentleman will yield, that statement is inaccurate. It is not 10 percent of all of that.

Mr. HOKE. Ten percent of what? I reclaim my time.

The fact is that it would add up to $1 million whether it is 10 percent of $600,000 or 10 percent of a million dollars, you get over a million dollars. That is the limit. The gentleman is right, there is a ceiling there. Right now the mean average expenditure for 1992, according to the CRS, for a congressional campaign was $391,000. So what you have done is you have created a system that you can talk about, that you can talk about, that will in fact have a spending limit. That spending limit, of course, is 2½ times the amount of the average campaign in 1992, but, yes, you can talk about it. I think the distinguished chairman of the Committee on House Administration put it very well when he said just moments ago these limits seek to eliminate the perception of corruption. He is absolutely right. That is exactly what they do, they seek to eliminate the perception of corruption. They do nothing, nothing to eliminate the actual corruption itself.

But do not believe me, please. Let us go to see what other people around the country think about the campaign finance reform bill offered by the Democrats.

The Washington Post editorial, of November 15, 1993, says it violates the first amendment, it is bad policy, it has overkill on the fringes and weakness at the core.

Now let us take a look at the New York Times editorial of September 27, 1993, more to the point. Mr. FOLEY offers his colleagues credit for changing a corrupt system without having to give up their ties to wealthy favor seekers—or give challengers the resources they need to compete.

□ 1020

The gentleman from Washington [Mr. FOLEY] offers his colleagues credit for changing a corrupt system without having to give up their ties to wealthy favor seekers or give challengers the resources they need to compete.

Finally, they call it a fake bill. The bill is a sham, designed to protect incumbents and wealthy special interests at the expense of democracy and a cleaner Government.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, like President Clinton, Vice President GORE and the rest of the class of 1992, I was elected to change the way government works. Changing the way Members of Congress are elected is a critical piece of my reform agenda. This Congress' willingness to embrace change and reform will be tested today as we debate campaign finance reform.

I was pleased to co-chair the Freshman Democratic Task Force on Campaign Reform which endorsed the reform principles contained in H.R. 3, as does the Common Cause pledge that most of us signed during our campaigns, and I am committed to fighting any attempt to scuttle this legislation.

As a first-time candidate in 1992 for California's new 36th District, my primary and general campaigns were some of the most expensive in the Nation. Spending caps are essential to permit more time to address the issues and less to fundraising, and to persuade average people that elections are open and fair. With less cost and more accountability in the system, everyone wins.

It is also critically important to preserve in law the ability of non-connected PAC's, like Emily's List, to give credibility to and generate contributions for women candidates.

Our freshman class is the reform class. Working together, we will make sure that the promise of 1992 is fulfilled.

Mr. LIVINGSTON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of campaign finance reform, but in even stronger opposition to H.R. 3. Mr. Chairman, coming from what is perhaps the least partisan State in the Nation, by orientation, I find the excessive partisanship of the Congress to be appalling. Coming from a good government State, I find the currently evolved campaign finance system has a corrosive affect on the Congress' ability to routinely act to serve the public interest and our national interest. America needs campaign finance reform, but during the previous 102d Congress, the campaign finance reform bill was constructed primarily to generate partisan advantages, and the truth is that there was certainly no legitimate effort by the House and Senate majority leadership to work in a bipartisan way to achieve real and very necessary reform. A partisan bill was forced from the Congress which was intended to invoke a Bush veto.

In the current 103d Congress the Democrat leadership once again is proceeding under the "business as usual" theory, and refusing to listen to the American people who are demanding workable, bipartisan campaign finance reform—and one which does not include public financing of congressional campaigns. We do need to address the problem of incumbent advantages, and we do need to establish spending limits. However, this is the fourth time in the last 3 years that a campaign finance reform bill was constructed to primarily generate partisan advantages—there was, once again, no legitimate effort by the House Democrat leadership to work in a bipartisan way to achieve real and very necessary reform. This Member is disappointed with the Democrat tactics and with H.R. 3 to say the least.

While H.R. 3 includes some positive features, it has numerous major problems. Foremost among its problems is the provision providing almost irrelevantly high spending limits—certainly too high to be a limiting factor in the great majority of congressional races or districts. In short, the measure sets the spending limit for House races too high, at $600,000, even though the average cost of winning a House seat was $410,000 in 1990, and in 1992, only a third of current House Members spent more than $600,000 to win their seats. Under H.R. 3, however, no campaign would ever be subject to the so-called $600,000 spending limit; once exemptions and inflation are factored in, the spending cap will be closer to $1 million for most House races by the time it takes effect for the 1996 election. This is a political ploy designed to make spending limits so high as to be meaningless in most districts. Of course the legislation should still be made to be totally effective in 1994—not 1996.

Another problem is the partial public financing provided in H.R. 3 which is estimated to cost taxpayers $1 billion over the next decade. While the supporters of H.R. 3 argue that the "vouchers" provided in this measure are not public financing, the American public knows that their tax dollars will be used to pay for these "food stamps for politicians." Public financing would be seen as just one more advantage incumbents are giving themselves. Most Americans do not want the taxpayer or Government to finance congressional elections. They do not want to fund what will surely be called "welfare politicians." Polling in Nebraska and national polling shows that more than 70 percent of the people strongly oppose public financing of elections.

However, this Member notes that on June 17, 1993, the Senate passed its version of campaign finance reform which included a compromise limiting proposed public financing of congressional campaigns to candidates whose opponents exceed voluntary spending limits. While this Member remains opposed to comprehensive public financing for congressional races, this Member believes that the Senate compromise is a good effort to find a workable way to reduce some of the major defects in the current campaign finance system. It is, therefore, only folly and a purely partisan step to pass H.R. 3 with its over-reaching version of public financing.

Furthermore, H.R. 3 does not include a way to pay for its benefits. In fact the measure will not have any effect at all unless the financing legislation is passed later. The Democrat leadership was only able to overcome the financing stumbling block to its legislation by completely severing from the bill the funding mechanism. The funding part of the measure would have had to pass through the House Ways and Means Committee, where apparently there were grave concerns about proposed new taxes on candidate contributions and a new, larger proposed tax check-off to fund the system. Therefore, the House is now considering only half of the legislation and not the entire Democrat-sponsored campaign reform bill. We will only get to consider the additional unspecified funding next year. This "two-bill" plan is a ridiculous and an issue-cowardly way for the House to do business.

This is one Member who is not afraid to say that this is a bad bill with completely flawed and unworkable sections. The measure's ban on "bundling" exempts PAC's that are not connected to a business or labor group. This is merely an obvious and totally unjustified attempt to create a special exemption for PAC's like Emily's list and wish list. This provision practically guarantees that every PAC in the country will reorganize in order to avoid the already too high limits on PAC contributions. Furthermore, the bill's so-called ban on "soft money"—money that is not subject to Federal guidelines—creates numerous loopholes that subvert the intent of any real soft money reform. Instead of an outright ban on soft money, H.R. 3 provides a myriad of exceptions. For example, Federal candidates are prohibited from raising soft money for party committees, but they could raise soft money for State candidates. In this Member's opinion, you either ban soft money completely or you do not—but you do not create so many exceptions as to make a so-called ban meaningless.

Additionally, in reality there is no effective limit on special interest contributions from PAC's. The bill's PAC limit is insignificant in that it would affect only those receiving more than $200,000 from PAC's. This Member has called for the elimination of PAC contributions or at least the sharp reduction in the individual PAC contributions limit to $1,000.

A real reduction in PAC contributions is needed to help challengers become more competitive, since statistics from the last election indicated that 71 percent of PAC funds went to incumbents. It simply will be business as usual under the PAC provisions of H.R. 3—at the same time the public is complaining or at least widely suspicious about the undue influence of PAC's.

In light of the real need for campaign finance reform, on February 2, 1993, this Member reintroduced his campaign finance reform package (H.R. 708). While this Member's omnibus bill does not represent comprehensive campaign finance reform, it certainly represents changes that must be included in any comprehensive campaign reform bill that Congress passes during the 103d Congress. This Member has long been a supporter of campaign finance reform and believes that it is a crucial reform of our political system which is long overdue. The voters have nationally called rather loudly for change; therefore, this Member's campaign finance reform legislation would:

First, reduce the PAC contribution limit to $1,000 per PAC;

Second, prohibit bundling of contributions through connected PAC's;

Third, prohibit transfers among PAC's and candidate committees;

Fourth, leadership PAC's;

Fifth, prohibit soft money use to benefit Federal candidates in joint Federal-State activities;

Sixth, require a majority of funds raised by House candidates to come from local residents;

Seventh, prohibit corporations and unions from using their own money to indirectly influence Federal elections;

Eighth, require a clearer disclaimer on independent expenditure communications; and

Ninth, require unions to get written approval of any members whose dues or agency fees are used for political purposes and require annual notice to such members if such funds are used for political purpose.

In addition, this Member is an original cosponsor of H.R. 3470, the House Republican campaign finance reform package which this Member will support today when the Michel alternative to H.R. 3 is offered. This package has received favorable coverage from the media. Roll Call called this plan tough, and ambitious. The Christian Science Monitor reported that the Republican proposals to ban all PAC's and require local fundraising "have wide public support." Indeed this reform package would improve competition, reduce special interest influence, increase disclosure, and return power back to in-district individuals.

The House Republican package provides real reform without public financing or unconstitutional spending limits or taxes. Our comprehensive reform proposal will:

First, ban all PAC's. If a ban on non-connected PAC's is determined to be unconstitutional, the allowable non-connected PAC contribution would be reduced to $1,000.

Second, ban the use of soft money to influence Federal elections.

Third, ban bundling by PAC's and lobbyists.

Fourth, require that a majority of a candidate's funds be raised from in-district individuals.

Fifth, allow political parties to contribute matching payments to challengers up to the amount of the war chest carried over by an incumbent.

Sixth, drop the contribution limits to a candidate whose opponent spends more than $250,000 in personal funds.

Seventh, implement the Beck decision to require unions to get written approval of any members whose dues or agency fees are used for political purposes and require annual notice to union members if such funds are used for political purpose.

Eighth, increase the contribution limit to State parties to $20,000, the same level currently allowed for contributions to national parties.

Ninth, require disclosure of spending by unions, corporations, and nonprofits on political activities undertaken to influence Federal elections.

Tenth, require that reform apply to the 1994 elections.

However, the bill before us today, H.R. 3, is designed to ensure partisan advantages by giving overwhelming advantages to incumbents. It mocks the claims of its supporters of "leveling the playing field." We can and must be better—the American people are demanding genuine campaign finance reform, but H.R. 3 is merely a poor imitation. This Member will not support this sham attempt at campaign finance reform. This Member urges his colleagues to join in opposition to H.R. 3 and to support the Michel substitute.

Mr. GEJDENSON. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama [Mr. BROWDER], who has been a tremendous worker in favor of campaign finance reform.

Mr. BROWDER. Mr. Chairman, I would like to engage the gentleman from Connecticut in a brief colloquy.

May I ask the gentleman from Connecticut [Mr. GEJDENSON], this bill sets up a framework for spending limits, some restrictions on PAC's, and the possibility of matching funds. Is that right?

Mr. GEJDENSON. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. BROWDER. On the question of matching funds, are there any funds provided in this bill for those matching funds?

Mr. GEJDENSON. No, there are not. There is a Fund for Democracy to be filled at a later date.

Mr. BROWDER. So do any of the provisions of this bill go into effect until that funding mechanism is passed by the Congress of the United States?

Mr. GEJDENSON. No. There will be a supplemental vote where the Members of Congress can decide how to fill that fund.

Mr. BROWDER. May I ask the gentleman from Connecticut [Mr. GEJDENSON], there has been a lot of talk about public financing and every Member of this Congress is a beneficiary to a certain extent of public financing in campaigns, if you just talk about the franking privilege, as an example.

I think it is going to be very important that we make it very clear, and I want to make it very clear to the gentleman, that we have worked together on this bill, but one of the things that allowed us to work together was the agreement that there would be no public financing included in this bill.

I would like to make it very clear that when the debate on this funding mechanism occurs that I will rejoin that fight, and if there is any attempt to use taxpayer financed funds for these campaigns, I will be in vigorous opposition.

Mr. Chairman, I support this bill.

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman. Let me say to the gentleman's efforts we have included in the report language a provision that says that no general revenues will be used to finance that section, so that when people get up and say it is a taxpayer-funded bill they are simply not accurately portraying what is in the bill or what is intended by the bill.

Mr. BROWDER. Mr. Chairman, may I say to the gentleman from Connecticut [Mr. GEJDENSON], have a plan that I think would work. The gentleman from Wisconsin [Mr. OBEY] and others have plans that they think would work, but there are probably 400 and some Members who have a plan that they think would work. We will have that debate later on.

Mr. GEJDENSON. Mr. Chairman, I thank the gentleman for his efforts.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds to say that the gentleman from Alabama had a wonderful quote when he said you could put lipstick on a pig and call it Madonna, but it is still a pig.

Public financing is in this bill. Later on to make this bill effective, they have to pass a tax act and the taxes will go into the public treasury to fund the public vouchers, or the communications vouchers.

This is a public financing bill. If the gentleman from Alabama does not understand that, he is dead wrong.

Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding this time to me.

I would like to say up front, it is my judgment that political action committees have poisoned the political process. If somebody has $5 to give to your campaign and they believe in you, send that $5 direct, that $1, that $15, send it direct to the candidate that you like. Do not send it to any other organization.

The Republican plan bans PAC money. The majority side does not.

The Republican plan bans soft money and bundling. The Democratic plan does not.

The Republicans require unions to tell their members how the union dues are going to be spent. The Democrats do not.

I have heard a great deal about wealthy Republicans. In my last election when I ran against a Democrat, my Democratic opponent spent more money on catering than I spent in the whole election. He outspent me by way more than $1 million.

This plan would continue to allow that type of spending to occur.

The Republicans receive a majority of their funds from inside the District. The Democrats do not. Eighty percent of my opponent's campaign funding in the last election came from outside the District.

Mr. Chairman, I urge my colleagues to vote for the Republican substitute.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank the distinguished gentleman from Connecticut for yielding this time to me.

Mr. Chairman, I rise today in strong support of H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act of 1993.

Although H.R. 3 does not go as far as I would like, in reducing overall spending and PAC contributions, it is a strong step in the right direction. Congress will not earn the trust and faith of the American people until we reform the political process.

I have long supported comprehensive campaign finance reform, both on the State and Federal level. I was an original cosponsor of similar legislation that passed the House last year, but was vetoed by George Bush.

By curbing the influence of big money, we can level the playing field for challengers and make it easier for the best candidate to win rather than solely the best-financed candidate.

With the spending limits, the limits on political action committees, and controls on "soft" money in this bill, I believe we can create fairer, less expensive campaigns.

I urge my colleagues to vote for this legislation as a good first step, and to come back next year to work on the financing provisions needed to give this reform real teeth.

Americans are sick and tired of multimillion dollar campaigns and endless fundraising by their elected Representatives. This is our chance to clean up the election process. If we fail, the voters will rightfully send new Members down here to get the job done.

□ 1030

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, if we adopt a bill that would put limits on campaign financing, it would give the incumbent a significant advantage. Most incumbents have higher name recognition than their challengers, and the incumbent has direct mail privileges during an election year. It may cost a challenger $100,000 or $200,000 to be able to get the name recognition necessary to become a serious challenger.

Mr. Chairman, that was the case in my first election in 1990. In 1992 incumbents had approximately $150,000 in direct mail privileges. Thus one could argue that the challenger is $250,000 in the hole before the election truly begins.

Now, if the Democrat incumbent protection plan is adopted, in real terms the challenger's resources would equal $350,000 while the incumbent would have $600,000. Where is the fairness?

We should, yes, have campaign finance reform, but this bill should be defeated.

Mrs. MALONEY. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Speaker, I rise in support of H.R. 3, the first real attempt at campaign reform this House has made in 20 years. As a Member of the largest class of new Members in Congress since 1944, I know firsthand the value of change to this institution.

The American people have told us over and over in election after election that they have had enough business as usual in Congress. My constituents in the proud Garden State are fed up with political operatives telling stories that elections can be bought. New Jersey's voters are angry, and they are not alone.

Now many of our colleagues on the other side of the aisle are going to stand up, and have stood up, and told us we should vote down this bill because it is not perfect. To them I say, "Enough grandstanding." The people on the other side of the aisle know full well that the bill that they propose cannot be passed. They do not want it passed. We have a bill here that has teeth in it, and the American people want us to support it.

H.R. 3 has very significant, important elements. It has spending limits in it. It limits the amount that PACs can contribute and the amount that big givers can contribute. It limits soft money. It eliminates public financing. It does the things that we need to have done to create a level playing field.

This bill may not be perfect, but it is a real bold step forward in an area where we have seen too much talking and not enough action. It is a strong enough measure that it meets the test of Common Cause and other public advocacy groups that have fought for two decades to advance the cause of campaign reform.

Mr. Chairman, the time for reform is now. Support H.R. 3.

Mr. LIVINGSTON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I think it is important to look at the agenda of the Democratic leadership in this so-called campaign reform bill. Incumbent reelection; that is not our words, but our own Democratic colleagues' words.

I ask, "How do you rig elections?" Let us take a look at the previous actions of this House even before this bill.

So we increase the size of the Federal workforce, where their paycheck is beholden to you, and you control their lives, and then let us, by the way, let us have Hatch Act reform so that they can take part in those campaigns. How about motor voter? Let us not forget an amendment to strike illegal immigrants from being able to vote under motor voter was defeated. And by the way, the terrorist that bombed the Trade Center could vote under motor voter.

The gentleman says that the rich benefit from the current system. Well, let us take a look.

How about the unions? Unlimited contributions in soft money. The Republicans ban all PAC's. The Democratic plan would allow $5,000 PAC contributions, and how about the rich Hollywood set? How difficult is it for a poor candidate to work against those odds?

I ask, "How do you control the size of the vote? You increase the Federal Government, you attack small business on purpose, you put controls on banks, the environmental movement, to shut down construction, unfunded mandates, health care rules, regulations, OSHA, to cut small business. Why? Because small business votes with the Republicans, they vote with the Chamber."

And by the way, let us give unions more power. Let us cut off all bundling except let us exempt Emily's list that's been so supportive of Democratic Members.

Yes, there is a power grab, Mr. Chairman.

There is an agenda in the Democrat leadership, and that is to control campaigns. They want to liberalize, socialize and federalize this country. I strongly oppose this bill and urge support of the Republican substitute.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, make no mistake about it. We need campaign finance reform, and only one alternative here brings us campaign finance reform, and that is the committee's bill.

Campaigns today are too expensive. Expenditures in House elections have more than doubled from 1980 to 1992. The average cost of winning a House seat was $178,000 in 1980. It is $554,000 in 1992.

In 1980, Mr. Chairman, 28 House candidates spent more than $500,000 in their campaigns. By 1992 that number rose to 249 House Members. In 1990, 50 candidates spent over $1 million.

Mr. Chairman, the current law favors incumbents. Clearly incumbents outspent challengers. In 1992, of the 182 candidates who spent over $600,000, 139 were incumbents, and only 10 were challengers.

The public perception of special interests is there because of the heavy reliance on political action committees and large contributors.

There is no perfect bill. Mr. Chairman, there is no perfect bill. I am disappointed this bill does not provide the financing necessary for the vouchers. I am disappointed that we have not handled primaries in a more straightforward way because many of us have problems in our primaries that are not addressed in this bill.

But this bill, the committee bill, is the best alternative. It provides a structure to bring down the cost of campaigns, to reduce the amount of special interest dollars in campaigns and to control spending.

I urge my colleagues to vote yes for the committee bill.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

☐ 1040

Mrs. FOWLER. Mr. Chairman, I rise in opposition to H.R. 3.

In their rush to leave here under the mantle of reform, the leadership has put forth this bill that sounds like reform, they will tell people it is reform, but it is not reform.

This bill gives incumbents more protection than they have under the current rules.

The bill leaves PAC's virtually untouched. It leaves the limit at $5,000 per cycle and the overall limits could reach $366,000. That is not reform, Mr. Chairman, that is business as usual.

The public funding provisions in this legislation should anger every taxpayer.

And wait until they find out that this bill only takes effect if, and when, a separate bill is passed to raise the taxes to pay for the taxpayer-subsidized campaigns.

Mr. Chairman, the reform package I offered on behalf of the freshman Republicans would have given the American people real reform without false promises and legal challenges. I urge my colleagues to vote no on H.R. 3.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, you know, almost every piece of legislation we pass in one way or another is a transfer of wealth. Obviously, appropriations bills and tax bills transfer wealth in a more direct way. Remember back to the Presidential campaigns, we heard Perot, we heard Bush, we heard Clinton, all say that somehow we have got to slow down the tremendous influence that special interest lobbyists have in this legislative process. Traditionally, there is a direct relation in political campaigns between spending and winning. Lobbyist PAC money too often is nothing short of a bribe, trying to get a transfer of wealth to their particular special interests.

This bill that is now before us is a smoke screen, because it does not deal with the real problems of special interest lobbyists buying influence. Let us use H.R. 3 as the vehicle bill for real campaign finance reform.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY], who has really done an outstanding job and put in a tremendous effort to get this bill to the floor today.

Mrs. MALONEY. Mr. Chairman, I rise in strong support of H.R. 3, the Comprehensive Campaign Finance Reform bill. It has taken us 20 years to get this close to making campaign finance a true reality. We cannot afford to waste this opportunity.

It is extremely difficult to pass legislation that literally makes it more difficult for incumbents to get reelected, and that is exactly what this bill does, by establishing real spending limits—the Republican alternative has no spending limits—and by making communication vouchers available to challengers.

This plan is not perfect, but as Common Cause, Public Citizen and countless editorials across this Nation have all pointed out, H.R. 3, the Gejdenson bill, represents a true major step forward. It includes the five principles of campaign finance reform that were in the President's proposal, in the Common Cause proposal, and in the freshman class' proposal. They include spending limits, limits on PAC's, limits on soft money, control of independent expenditures, and alternative resources.

Mr. Chairman, this will level the playing field and encourage more people to run for office. Overall, this plan represents real change. Now it is time to put up or shut up. America needs elections, not auctions. A vote for H.R. 3 will show Americans that their Government is not for sale to the highest bidder. This vote can reaffirm the belief that we serve the people's interests, not the special interests. Vote for H.R. 3.

Mr. LIVINGSTON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman, I appreciate the gentleman yielding.

Campaign reform: Is that really the type of reform we need? No. We do not need to worry so much about reforming how we get here. What needs reforming is what we do after we get here. The actions of Congress, that is what needs reforming.

In a campaign in Georgia, the incumbent spent $1.1 million. The challenger spent less than $250,000. Neither the money nor the name recognition salvaged that incumbent.

No, it was his actions in Congress; the fact that he voted for the 1990 tax increase, a deficit reduction package. Sound familiar? He also voted for a large salary increase at a time when working Americans' spending power in the home budget was declining because of the increase in taxation and the lack of a strong economy. He also had accumulated $1.5 million in lifetime benefits from a lucrative congressional pension plan. Those actions are what sent that incumbent home. Think about it.

The reform this Congress needs is what you do after you get here. I urge Members to vote against this package of reforms that are going to call for more tax dollars to be spent on campaigns.

If there is one place that we need reform, it is in the PAC contributions. Eliminate the PAC contributions. That same incumbent had a major portion of that $1.1 million that came from special interests.

Mr. GEJDENSON. Mr. Chairman, it is my privilege to yield 2 minutes to the gentleman from South Carolina [Mr. CLYBURN].

The CHAIRMAN. The Chair would indicate at this point that when the gentleman is finished, the gentleman from Connecticut [Mr. GEJDENSON] will have 2½ minutes remaining, and the gentleman from Louisiana [Mr. LIVINGSTON] will have 4½ minutes remaining.

Mr. CLYBURN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 3. I believe it to be a fair and balanced compromise.

The district I represent has approximately 70,000 taxpaying households. According to the Center on Budget Priorities, over 63,000 of those households are eligible for the earned income tax credit. That means that over 90 percent of the people who sent me here earn less than $25,000 per year.

The alternative being proposed by the other side, calling for the elimination of PAC contributions and calling for 51 percent of all contributions to come from one's congressional district, says to those people that I represent that we must oppress the contributions coming from people outside of the district in order to remain eligible as a candidate.

Mr. Chairman, I believe that this alternative, as well as others, makes it very clear that in order for us to be fair to all of the citizens in this great Nation, in order for us to be balanced with our representation here in this body, we ought to pass this great compromise that I believe would do justice to our entire system.

Mr. LIVINGSTON. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise as a reformer in opposition to this bill. The narrow rule has prohibited amendments representing constructive alternatives, and I might say very tough provisions, and forces us to choose between a Democratic plan and a Republican plan. Of the two, the Republican plan is far superior. But without the individual amendments, neither plan is going to represent the quality of reform that America needs and that the American people know is desperately in order.

Notwithstanding the gag rule under which we are operating, my hat is off to the gentleman from Connecticut's Second District who chaired the majority's effort to craft a campaign reform bill. It is a thankless task, and he and his staff deserve our gratitude for putting in many frustrating hours to reach this point.

I wish I could be as complimentary of the product. Regrettably, the result is H.R. 3, a hopelessly incongruous collection of reform ideas that represent a giant step backward because they limit challenger spending, provide direct subsidies to incumbents, and do little to change the current PAC system which has clearly fallen into disrepair and ill-repute.

The Michel bill, H.R. 3470, is clearly superior in addressing these issues. Our bill imposes campaign limits that at least require a majority of campaign funds to come from local individuals. It also bans PAC money, soft money, bundled money, and involuntary union wage deductions of political activities.

The gentleman from Peoria, IL, also deserves our praise and gratitude for his abiding commitment to this institution and the principles of good government. The minority leader's bill is superior because it deals with reality. BOB MICHEL is truly "Mr. Reform."

Over 1 year ago, I introduced my own bill to limit fundraising sources, tighten contribution limits, and level the playing field for challengers. Everyone has their own ideas for reform, to be sure. But the local sourcing requirement in my bill, which is the central feature of the Michel bill and advocated strongly by the gentleman from California [Mr. THOMAS], our foremost expert on the details of campaign reform, should be the basis of any serious campaign finance reform we might achieve together.

Even Tony Coelho, former majority ship and chairman of the Democrat Congressional Campaign Committee for several years, liked this idea. Now there's a source close to home. I quote excerpts from page 313 of Brooks Jackson's "Honest Graft," a handbook on campaign finance reform:

> The Coelho-Common Cause measure has a partisan flavor and mainly relies on unenforceable spending limits. Still, Coelho's plan does contain some real, though modest, reforms. It would require candidates to raise at least $32,000 in small donations (under $250) from residents of their home state in order to qualify for federal subsidies—a tiny step toward returning power to constituents.

Only the Michel bill, H.R. 3470, requires that candidates raise a majority of their fund from individual contributors who live within their districts.

My friends, H.R. 3 is not reform but a one-sided, well-disguised incumbent protection plan. Let us defeat this bill, open up the process, and pass real reform with bipartisan support.

□ 1050

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to another great freshman, the gentlewoman from Utah [Ms. SHEPHERD], who has been doing yeoman work on the campaign finance bill.

Ms. SHEPHERD. Mr. Chairman, on this bill every single person in this body has a conflict of interest. We have a conflict of interest as individuals, and we have a conflict of interest as parties.

Furthermore, the stakes are very high. We could each lose or win our elections over this bill, and parties could lose or win their majority in this House based on this bill. So we are all experts on what serves us best and what serves our parties best, but I do not think we are the experts on what serves this country best.

And I do not think we are the last and final word on this. The experts in the country are the good government groups who have been studying this for years. And every single solitary one of those groups supports this bill. They say it is the best that we have ever come up with. They say there is no other alternative that meets it.

It is a nonpartisan bill. It has limits on PAC's, limits on soft money, above all, limits on spending, and it provides a clean and alternative funding source that is most definitely not a public funding source for the money to encourage people to hold to the limits.

Give citizens back the influence they deserve. Vote for this bill.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, at a time when the Nation is faced with massive Federal deficits, I simply cannot support a bill that provides for taxpayer finance. I have just come from downstairs where we are wrestling with the idea of some kind of deficit reduction. We cannot come to grips over 5 years with reducing 1 cent out of every dollar we are going to spend.

Yet, here is a bill that could result in outlays of over $300 million in fiscal years 1995 to 1996.

After asking American taxpayers to bear the brunt of the largest tax hike in history, the Democrats are now asking them to pay for campaigns, too.

The President and the majority have been talking about deficit reduction all year. We saw how that worked.

Public financing of elections is simply more of the same. I, like everyone else, favor campaign changes, but I do not favor public financing, and I am strongly opposed to the proposal that is brought before us today.

Mr. LIVINGSTON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 1½ minutes.

Mr. LIVINGSTON. Mr. Chairman, I thank the Chair for the time, for the debate and for his courtesy. But this bill, H.R. 3, the Gejdenson proposal, is a charade.

It is so phony, it does not even go into effect until a tax increase bill is passed to fund the so-called communications vouchers, and that tax bill may never pass and, hence, this bill may never come into effect.

But even if it does, the American taxpayer will be paying the bill for public welfare, for welfare for politicians.

Mr. Chairman, the Gejdenson bill is awful. It is goofy. It is complex. It is unfair. It is unbelievable. It is unconstitutional.

I think its sponsor should be ashamed of the bill, because I think it is a silly bill. It demeans the electoral process of this Nation. And if it passes into law, than every single Member who voted for it should go home to their districts in the appropriate uniform like that.

The CHAIRMAN. The Chair would remind the Member from Louisiana that it is against the rules of the House to wear hats.

Mr. GEJDENSON. Mr. Chairman, I thank the Chair for pointing that out.

Mr. Chairman, I yield the balance of my time to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, we appreciate the humor that the Republicans have injected into this debate, but that is not the funniest part of the debate. They missed the whole point. What is most amazing about their campaign finance reform proposal is that in the name of reform what they are saying is that a candidate can spend as much money as he or she wants. Boy, that is really reform.

The American people are outraged that big money is buying this institution. That is what the outrage is about. Does anybody in America really think that the problem in this institution now is that working people and poor people have too much power? Do they really think that is what the problem is about? Nobody except those Members over there think that is what the problem is.

So while the gentleman's little red nose may be funny, what really is a lot funnier is his "reform proposal," which says that if a millionaire wants to run for office, he or she could spend as much money as they want and then go out and raise as much money as they want.

Now, the truth of the matter is, as an Independent, I have problems with the Democrats' bill. It does not go anywhere near far enough in limiting the amount of money that should be expended. It does not articulate very clearly how we can raise the public money that, in fact, we need.

But as Public Citizen, as Common Cause, as the New York Times and as people serious about reform have said, it is a step in the right direction. And I support it.

Mr. STENHOLM. Mr. Chairman, I regretfully rise in opposition to H.R. 3. I believe that we must reform our campaign finance system to eliminate the unfair advantages that incumbents have in the current system and reduce the role of money in campaigns. However, I believe that both proposals before us fall far short of this goal. The bill before us, H.R. 3, will not make any campaigns any less expensive or more competitive. I fear that passing this bill today will effectively prevent this body from making real reforms of the campaign finance system this Congress. I urge my colleagues to defeat this bill so that we can go back to the drawing board to put together a real campaign finance reform bill that can receive strong bipartisan support.

We should enact tough restrictions on soft money contributions which have been used to circumvent campaign finance regulations. We should ban leadership PAC's, transfers between PAC's and bundling of campaign contributions. I support proposals to limit campaign spending at $600,000. Spending limits would prevent candidates from buying elections by outspending opponents. If it is not possible to impose spending limits without also providing public financing, I would support proposals to tax campaign spending above $600,000 at corporate rate. I have cosponsored legislation introduced by my colleague, Representative GLENN BROWDER, which would tax campaigns on expenditures above $600,000. Although I do not share the sentiment that PAC's are inherently bad and believe that they have an important role in our political system, I support proposals to place tighter limits on the amount that PAC's are allowed to contribute to a candidate.

I believe that we should enact a tax deduction for small contributors. Such a credit would encourage candidates to place emphasis on small contributors and less on wealthy special interest. This approach would have the additional benefit of encouraging average Americans to participate directly in the electoral process.

The amendment by my colleague from Oklahoma, Mr. SYNAR, comes much closer to the type of real reforms that we should make. We should be voting on this proposal today. Representative BROWDER's "big spender's sin tax" bill and proposals to allow a tax deduction for small contributors should be included in campaign finance reform legislation. Unfortunately, the rule does not allow the House to express its will on any of these proposals. We are left with an unacceptable bill that I must oppose. I urge my colleagues to vote "no" on this bill so that the House may pass real campaign finance reform.

Mr. REED. Mr. Chairman, I rise today in support of H.R. 3, the House Campaign Spending Limit and Election Reform Act, and in opposition to the substitute.

Though not a perfect bill, this is a package that is both substantive and enforceable and most importantly, contains the elements of real reform. It limits spending, caps contributions from interest groups and wealthy individuals and closes loopholes to prevent abuses of soft money contributions.

What seems to go ignored in many so-called reform proposals is the plain fact that there is too much money in campaigns. In 1980, the average cost of winning a House seat was $178,000; in 1992, races cost on average $554,000.

This legislation takes the necessary step forward to real reform by bringing campaign spending under rein. The voluntary two-year election cycle spending will take candidates away from time spent raising money and provide more time to focus on the issues.

This legislation also gets tough on one of the worst abuses of the current system: Soft money. Campaign contributions meant to support Federal candidates are sometimes routed through State parties to avoid the restrictions of Federal law. Most State parties run legitimate and necessary campaign programs. However, funds directly benefiting Federal candidates should meet Federal standards. In adopting the Senate soft money provisions, H.R. 3 achieves this objective.

The communication vouchers established in this bill are the key to effective reform. These vouchers could be used to pay for radio and TV broadcasts, print advertising, postage and campaign materials like brouchers and bumperstickers. What these vouchers represent is an incentive for candidates to accept voluntary limits and raise contributions from a small donor base. These are resources meant to promote alternative priorities in the campaign process. However, the promise of reform will be an empty one unless Congress follows swiftly to enact the necessary revenue financing for this legislation.

Mr. Chairman, it's clear to me that many of my colleagues continue to underestimate their constituents' genuine concern over the current campaign finance process. Nearly 20 years have passed since significant reform has been enacted. Last November, voters sent Congress a clear message to "mend thy ways." This vote today may present the best evidence of whether anyone is listening.

I urge my colleagues to support H.R. 3.

Mr. BORSKI. Mr. Chairman, I rise today in support of H.R. 3, the House Campaign Spending Limit and Election Reform Act. This legislation takes a positive step toward curbing runaway spending in campaigns and addressing other problems of the current campaign financing system.

H.R. 3 would establish a voluntary spending limit of $600,000 per election with higher limits for candidates with closely contested primaries or runoff elections. This legislation would also prohibit any candidate from receiving more than $200,000 in PAC contributions, or more than $200,000 in large individual contributions.

These spending limits strike a fair balance between restraining excessive expenditures and allowing lesser known candidates the opportunity to obtain the resources they need to effectively challenge incumbents.

As an incentive to abide by the bill's spending limits, H.R. 3 would provide eligible candidates up to $200,000 in vouchers to buy television, radio, postage, and other means of communicating with voters. These vouchers would be financed through future legislation, and would not take effect until such a measure is passed.

H.R. 3 would also close current loopholes that allow soft money and bundling to be used to evade the current limits on contributions. While these restrictions are tough, they preserve the legitimate responsibilities of State party committees and other organizations to help organize and coordinate election efforts for both Federal and non-Federal candidates.

While H.R. 3 may not be perfect or ideal, it includes all the critical elements for reform—spending limits, curbs on the role of special interests, and communication vouchers to level the playing field between challengers and incumbents.

Mr. Chairman, Congress passed similar campaign finance reform legislation last year. Regrettably, President Bush vetoed that bill. Now we have a President in office who will sign a campaign finance reform measure. Let's approve this year's bill and send it to conference with the Senate so that we can forward it to the President's desk early next year.

Mr. HUGHES. Mr. Chairman, I rise today in support of H.R. 3, legislation which seeks to limit the amount of money which candidates can raise and spend in congressional campaigns.

I was very disappointed when President Bush vetoed the campaign finance reform bill we passed last year, forcing us to start all over again in this session of Congress.

Most people know that our campaign finance system is broken and needs to be fixed. In recent years, there has been a steady deterioration of the public's trust in Government. Indeed, I have never seen so much cynicism and distrust of government as we see and hear today.

Much of this skepticism is because so many people have lost faith in the campaign process, and understandably so. Campaigns have become too long, too expensive, too confusing, and too negative.

The fundraising process has become so dominated by special interest groups that a growing number of voters believe they have been frozen out of the process. Many ordinary citizens who used to contribute to political campaigns no longer do so, because they don't think their contributions make a difference.

Moreover, many qualified candidates are discouraged from even running for Congress today, because it takes so much time and is so difficult to raise the money needed to mount a competitive race.

I hate to say it, but we are reaching the point where campaigns are being driven more by money than by the qualifications or views of the candidates. That is a sad commentary for a country which prides itself in being the greatest democracy in the world.

The legislation before us today is certainly not perfect, but it does make a start at leveling the playing field by restoring some basic fairness and competitiveness to the campaign process. In so doing, it should help to rebuild some public confidence in our elected officials and system of government.

While I intend to support this bill, I do so with great reservations. Frankly, it doesn't go nearly as far as I had hoped in addressing the major deficiencies in our system. I think both parties must share the blame for this.

Instead of working together in a bipartisan fashion to develop a campaign finance reform bill which truly represents the best interests of our country, both parties have sought to protect their special interests and gain political advantage through this legislation. It's disappointing that we couldn't do better.

Earlier this year, I introduced my own campaign finance reform bill, H.R. 2198, which took a fair and straightforward approach to the issue of campaign finance reform.

My bill would have set a $600,000 spending limit on campaigns, capped PAC contributions at $200,000, and required candidates to raise the majority of their funds in small donations from their own constituents, just as I have tried to do in my own campaigns.

Just as important, it would have achieved these limits without relying on taxpayer-subsidized public financing, or such goodies as discontinued mailings costs or advertising rates.

While I am pleased that H.R. 3 incorporates the basic elements of my bill, I am very concerned that it provides for partial public financing of general election campaigns. Public financing may very well be the best long-term solution for campaign finance reform.

At the present time, however, I just don't think there is broad public support for using taxpayer dollars to pay for political campaigns while we face such great budget deficits. Moreover, the bill doesn't identify where this money is supposed to come from. That too is problematic, to say the least.

Mr. Chairman, H.R. 3 is far from perfect, but it's a start. It will begin to shift the focus of fundraising away from Washington and back to the candidates' districts and independent contributors, where it belongs. It will begin to restore some fairness and fiscal sanity to the process. I urge my colleagues to support the bill.

Mr. BILIRAKIS. Mr. Chairman, today we are debating a momentous issue—campaign finance reform. The issue of campaign reform is, at one time, both exceedingly complex and politically charged. There are more than a few potential landmines in proposing a serious alternation of current rules.

I believe it is imperative that we take action to correct perceived flaws in our political system. We need to restore the faith of the American people in their election process, and indeed, to reaffirm their faith in our system of government. In my opinion, low voter turnout and public cynicism is not a problem—but a symptom. It is indicative of an underlying disenchantment with the operation of our political system. Therefore, the time has come to address the need for campaign finance reform.

Today, I voted in favor of the Republican substitute because it included provisions to promote competition and create a level playing field for all congressional candidates. The Republican substitute totally banned soft money in Federal elections. In my cases, soft money comes into a race later and under the radar. Direct campaign activities are funded from outside the campaign structure and campaign account of the candidate. This should end.

The Republican substitute, however, did allow political parties to fund matching payments to challengers up to the amount of an incumbent's retained warchest. This provision, then, ensured that challengers could have effective access to a system which has often been criticized as stacking the deck in favor of incumbents. Importantly, the substitute accomplished this end without a resort to taxpayer money.

Of course, I am disappointed that the House of Representatives did not approve this alternative. Although the substitute did gain 11 votes from the other side of the aisle, unfortunately, the matter of campaign reform has been tinged with partisan bickering, charges and countercharges.

When one takes a step back from the fray: There is no reason why reform of our elections should have become a matter of party politics. Certainly, voter dissatisfaction with our political system is not partisan. The voters don't like what they see. Period.

This, instead, is a regrettable end to an effort which began over 2 years ago when a special bipartisan task force was organized to analyze legislation and recommend a course of action. Somewhere along the line, bipartisanship went out the window and we arrived today with competing Republican and Democrat proposals. I will not try to assign blame for this event, but it should not have happened. Not on an issue which is as important as campaign reform.

In this regard, although I have some strong concerns about certain aspects of H.R. 3—particularly the financing mechanism and the possibility that taxpayer money will be used to pay for Federal campaigns—I will support this legislation.

Quite simply, I feel it is vital that Congress move forward on campaign finance reform. I want the process to continue and I would hope that further consideration of this matter in the other body and in any conference committee will refine the present bill. I believe it would be disastrous for us to refuse to act, to perpetuate a system of elections which nearly everyone agrees must be changed.

But I must make one important and overriding condition regarding my support of H.R. 3, and that is—if we cannot resolve the matter of public financing—I will vote against any conference report which uses taxpayer money to fund elections or allows for the possibility that taxpayer money might be so used.

I just believe that using taxpayer money for elections is fundamentally wrong and at odds with our system of government. The public should be involved in political campaigns—the government should not. The public should work on behalf of the candidates of their choice, voluntarily contribute their time and money. The government should not use its revenues, obtained under the threat of law, to fund this intrinsically private activity.

To directly involve the government in matters of campaign finance creates a conflict of interest which I do not believe can be resolved. We will create a system with perverse incentives. Tax money will not open up the process as its proponents argue. Instead, I believe it will be ultimately used for further self-preservation, for protection of the status quo.

In Alice in Wonderland, the queen shouted out "No, No * * * sentence first—verdict afterwards." I think we will engage in equally flawed judgment if we approve public financing as part of our system of elections. We will have concluded that private citizens cannot be fully trusted with their personal decision on who they should elect, or not elect, as their representative. We will level the playing field by paving it with taxpayer dollars. This is wrong and it should not stand.

Mr. POSHARD. Mr. Chairman, I rise tonight to explain what I view to be the real issues in this debate over campaign finance reform.

I first want to emphasize that I am someone who considers it an honor and a privilege to serve here on behalf of the people of the 19th District of Illinois and our Nation. As a history and government teacher, I spent a lot of time talking to kids about the blessings of freedom and the rights and responsibilities of living in a democracy. I am not one to run for Congress by running against Congress. I believe with all my heart in what this institution stands for and in its ability to confront the major problems facing this country.

But there is clearly a need to change direction in terms of how we finance the campaigns that allow us the opportunity to serve.

I voted against the rule (H. Res. 319) because it did not allow for consideration of the proposal by my friend and colleague, Congressman SYNAR of Oklahoma. In my judgment, that bill is the best bipartisan option for proceeding on campaign finance reform.

I do not want anything I am about to say to be taken as an indictment of any individual member. I have tremendous respect for each and every one of my colleagues on both sides of the aisle. But I must tell you that I think the system we have created and will perpetuate under the guise of reform is clearly not in our best interest.

In 1988, I ran for Congress with the benefit of political action committee money. Shortly upon arriving in Washington, I was faced with a number of votes where my analysis of the issues told me to vote one way, but my commitment to the PAC donors based on their issue surveys led me another way. After doing that once or twice, I returned to my office and told my staff that from this point on, I would no longer accept PAC money.

That has been one of the best decisions I have made in public life.

In 1990, I was fortunate to be re-elected without spending a great deal of money, running my campaign with the support of individual donors who thought I was right on the issues and perhaps appreciated the manner in which I endeavored to serve.

In 1991, Illinois, like every other State, went through the difficult process of redistricting, going from 22 to 20 seats in the U.S. House of Representatives. The seat I was representing was divided into thirds, and I was forced to make a decision as to where I would run if I wanted to continue to serve in the House. I decided to run in what is now the 19th District, against a friend and colleague, because I wanted to continue to fight for the issues which had propelled me into public service in the first place.

I like to think I ran a campaign of ideas. I know I ran a campaign that had limited financial resources. We faced a tremendous uphill battle, seeing as how I had very little money in my campaign fund while my opponent had accumulated some $700,000 in his. We took off over a 27 county area and tried our best to raise money at chili suppers and fundraisers where a $50 ticket is considered steep. But the money came in enough to keep us going, and in the end we were able to raise about $125,000. I would guess that when the final totals were in we were outspent at least five-to-one. But the people carried us to victory.

In the general election, I faced a challenger making his first run for public office, a commendable undertaking and one which should be available to every citizen with good ideas and an interest in service. We were able to raise more than the challenger, but by refusing PAC money and refusing to send out newsletters under the Congressional frank, I believe I at least offered a competitive opportunity for us to discuss the issues and take our message to the public.

My colleagues, I've been on both sides of this coin. I've taken PAC money and thought nothing of it, only to learn quickly how injurious I believe this practice is to our system. And I have run in elections where I have faced a huge financial disadvantage and also where I've had to defend my record as an incumbent with limited financial resources. It can be done.

And it is the kind of reform we need. We need to eliminate the PAC contributions, or at the very least, cut the donation limit to $1,000, and also reduce the individual contribution limit from $1,000 to $500, to dampen the influence of special interest money and big donors.

I know my colleagues bring forth their proposals in an honest and genuine fashion. But I think we need a complete overhaul of our thinking in terms of how we view Congressional service and how we view what it takes to win elections.

Decatur is different from Dallas. I am not suggesting that what works in the 19th District of Illinois is the only way to run an election. But let's be serious with the American people, who truly want reform and attentiveness to the issues of the day.

Let's stop taking special interest money and depend on the generosity of individual donors to fund our campaigns. And let us also reform our Congressional offices—stop the mass mailings, reduce our mailing budgets and do everything we can to level the playing field between incumbents and challengers.

Mr. BEILENSON. Mr. Chairman, I rise in support of H.R. 3, the House of Representatives Campaign Spending Limit and Election Reform Act, but I do so with the hope that significant improvements will be made to this legislation in conference with the Senate.

Reforming our campaign finance system is without a doubt one of the most difficult and complex issues before us, and I greatly respect and appreciate the hard work our leadership has done to produce a bill that a majority of Members will, hopefully, support. But having participated in the development of such legislation several times in the last dozen years, it has become clear that the process of drafting a campaign finance bill to win a sufficient number of votes simply does not yield a satisfactory response to the problems we all know we have with our current campaign finance system.

H.R. 3 takes a step in the right direction, but it does not do nearly enough to solve the major problems with our system: the large role special interests play, the high cost of campaigns and the huge amount of time candidates spend raising money, and the advantages the system gives to incumbents over challenges. It is a system that makes people feel that Members of Congress are more responsive to those who contribute to their campaigns than to the people who elect them, and it has to be changed far more than is done through this bill if we are to succeed in restoring public confidence in our electoral process, and in Congress.

First, because H.R. 3 allows candidates to accept as much as $200,000 in political action committee [PAC] contributions per election cycle, and makes no change in the amount of money an individual PAC can contribute, the bill falls far short of what ought to be done to reduce the role of special interests in congressional campaigns.

By allowing candidates to accept $200,000 in PAC contributions, it virtually guarantees that incumbent candidates, in particular, will continue to raise money from Washington-based special interests rather than from the people they represent. Campaign finance reform should shift the focus of fundraising away from Washington and back to districts where the elections are taking place; it should make fundraising an integral part of a candidate's outreach to the voters he or she hopes to represent. This bill takes a step in that direction, but it is much too modest.

If we cannot eliminate PAC contributions altogether—which would be my preference—we should at least reduce the amount an individual PAC can contribute to a candidate and set the aggregate level of allowable contributions at a level somewhat lower than $200,000.

Second, the spending limit in the bill is far too high. The $600,000 voluntary per-cycle spending limit, which will first apply in the 1996 elections, will actually be closer to $1 million for many candidates when indexing for inflation and the various exemptions are factored in. Very few candidates spend that much now, so it will be difficult to argue that a spending "limit" of $1 million represents a new control on the amount of money candidates spend on their campaigns. And, it will not reduce the amount of time and effort candidates must spend raising money to run a competitive campaign.

Third, this bill does very little to make House elections more competitive because it does so little to reduce the role of PAC's. PAC's have been giving between 8 to 12 times as much money to House incumbents as to challengers in recent elections, and the majority of incumbent candidates receive a majority of their campaign funds from PAC's. We must curb PAC contributions much more tightly to level the playing field between incumbents and challengers.

Finally, while this bill would, for the first time, make House candidates who comply with the spending limit eligible for $200,000 worth of Federal communication vouchers, that amount is not enough to substantially change the way candidates raise money. The purpose of providing public funding is to free candidates from relying on PAC's and wealthy individuals to finance their campaigns; but with the high spending limit allowed under this bill, the average candidate is likely to continue raising as much money from PAC's and wealthy donors as they have in the past.

Moreover, it is very disturbing that the provision for funding the communication vouchers is not included in this bill, and that the legislation will not take effect until a subsequent measure is enacted. By separating the funding mechanism from the rest of the bill, we are postponing a legislative struggle we ought to be undertaking right now; we may well find it impossible to enact that future revenue-raising component of this package, in which case this will have been a hollow exercise.

Mr. Chairman, it is unfortunate that, even though the public is more vocal in calling for campaign finance reform than ever before, we are apparently unable to pass the kind of legislation that we need to make a real change in this area. However, because H.R. 3 is a step in the right direction, and an improvement over the status quo, I will give it my support with the hope that we will revisit many of its provisions in conference with the Senate.

Mr. ORTON. Mr. Chairman, today, I will be supporting H.R. 3, the campaign finance reform bill. Much of the public cynicism toward Congress is based on the general belief that their lawmakers are bought and paid for by lobbyists and campaign contributors. Until we enact strong legislation to reduce the influence of special interest money, this cynicism will not abate. Today, by passing H.R. 3, the House can take a preliminary step to arrest this influence.

No one in the House believes this bill is perfect. As many on the other side of the aisle have pointed out, this bill will not become effective until a funding mechanism is enacted. But moving forward on this legislation is far preferable to doing nothing.

After enactment of this bill today, I urge my colleagues in this body to work in earnest to develop a funding mechanism to provide the incentives necessary to induce candidates to abide by the spending limits. I want to make it clear that I will not vote for any such financing mechanism that uses public, taxpayer funds. However, I believe we can avoid this. Potential funding sources include a combination of a voluntary, add-on contribution on tax returns, a tax on political action committees, and a levy against campaign contributions. Preliminary estimates indicate that these sources are more than sufficient to pay for the incentives provided for in this bill.

Our task is not complete until we enact these funding sources. Voters are fed up with the way campaign contributions and lobbyists dominate public policy in Congress. We cannot let them down. I urge a "yes" vote on H.R. 3.

Mr. LEWIS of Florida. Mr. Chairman, I rise in opposition to H.R. 3 and in support of the Michel substitute. H.R. 3 is nothing more than hide and seek campaign reform. The Democrat leadership is hiding behind a bill proclaiming voluntary spending limits of $600,000 which, in fact, translates into more than $1 million. In addition, the Democrat solution to federally funded communication vouchers of up to $200,000 per candidate seeks to pick the pockets of the American taxpayers to pay for it.

The bill contains no honest attempt at PAC reform as it allows the Democrats to continue the status quo of PAC influence, while pretending to be in favor of campaign reform. The bill postpones enactment until 1996 while the Democrats look for funding sources from the taxpayers.

This bill is nothing but a shell game and the Democrats are the hucksters. I oppose the bill and I oppose this effort to deceive the American public.

Instead, I voted in favor of real campaign reform, a substitute to H.R. 3, which bans all PAC contributions and requires candidates to raise at least one-half of their funds from local residents. This bill has no hidden public financing agendas and eliminates special interests, bundling, and soft money and would be enacted for the 1994 elections. This is not gameplaying; it is real reform.

Mr. PACKARD. Mr. Chairman, the Democrats campaign finance bill is a taxpayer financed fraud. It sets meaningless spending and PAC donation limits. H.R. 3 will use taxpayer money to fund elections. Worse, there is no funding mechanism contained in this bill—it was severed from the legislation and will not be considered until next year. That means Congress will have to consider how to take more of the taxpayers hard-earned money—for what? For their elections! Interestingly, CBO estimates that the bill will cost taxpayers $43 million in 1995. Why 1995, you ask? Because the bill will not take effect until after 1995.

Have my colleagues forgotten the clear message that rang in our ears at the beginning of the 103d Congress? We were sent to Washington with an angry mandate to reform the way we do business. And yet instead of real change, the Democrat's so-called reform bill was passed so that Members can go back to their constituents and say "I voted to change the system."

The reality is, the bill that Democrats want us to pass today is the worst kind of deception: It masquerades as reform while preserving the status quo.

I urge my colleagues to support the Michel alternative which makes substantive changes in campaign finance law, not just cosmetic touch-ups. The Republican alternatives bans PAC's, soft money and requires candidates to raise most of their funds from their own district. In addition, the Michel alternative applies to next years elections.

I had high hopes the 103d Congress would make historic changes because of the huge number of new Members who rode the wave of change into office. I still hope new Members and those of us who want substantive change will coalesce behind the idea of truly reforming the way campaigns are financed. I hope I will not be disappointed.

Mr. YOUNG of Florida. Mr. Chairman, far too often in this House we are asked to vote for something with a good sounding title that is just bad legislation. The bill before us this afternoon, H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act of 1993, is a perfect example.

Not only does it fail to limit the cost of political campaigns, it does not provide a single election reform without the enactment of subsequent legislation. Last year, similar legislation was brought before the 102d Congress under the guise of providing spending limits and election reform. I opposed that bill because it was an empty shell full of hollow promises. The bill before us today is even worse.

This legislation is so bad that even the leading proponents of campaign finance reform, such as Common Cause, Public Citizen, and the League of Women Voters have asked for support of the bill, not because it is good legislation, but to keep the process alive by sending it to a House-Senate conference committee. Almost 2 years ago to the day, I voted for a campaign finance reform bill before the House for the same reason. Not because I thought it was the best possible bill, but because I thought we should keep alive the debate on limiting campaign spending. It was my hope that with that vote, the House and Senate would listen to the American people and come up with a tough bill that provided enforceable spending limits and election reforms.

As I said earlier, the legislation that emerged from the conference committee last year was a fraud. The legislation before us today is even more phony and is an insult to the American people who are clamoring for real change. Instead, they are being given a warmed-over version of last year's bill.

This time around, I cannot in good conscience cast my vote in support of this legislation just to keep the process alive. It is obvious that the only way we can convey our demand for change to the Democrat leadership in the House and Senate is to defeat this bill and send the committee back to the drawing board to draft a version more along the lines of the Republican substitute which I will support later today.

According to the bill's title, the first goal of H.R. 3 is to limit congressional campaign spending. It says that the limit is $600,000, but that is before you add in all the exceptions that increase the limit to more than $1 million per candidate. Keep in mind that only 35 candidates spent more than $1 million in 1992. This legislation would encourage candidates to increase, not decrease, the cost of their campaigns.

The exceptions included in the spending limit section of the bill are similar to those in last year's bill, but in some cases are actually more lenient. Candidates would be allowed to spend an additional $200,000 if there is a runoff election. An additional $200,000 can be spent if a candidate had a closely contested primary, a race in which the candidate won with less than a 20 percent margin. How ridiculous. A win of 20 percent is considered a landslide in anyone's definition. Last year's bill classified a closely contested primary as one with less than a 10 percent margin. Why the change? Candidates can add an additional 10 percent, or $60,000, to their spending limit to cover the costs of fundraising, staff, overhead, and accounting, plus an unlimited amount for legal and tax costs. Finally, the so-called spending limits are indexed for inflation beginning this year even though they do not become effective until January 1, 1995, after the 1994 congressional elections.

This spending limit of $1 million does not even count the additional $200,000 in taxpayer funds each candidate can receive for the purchase of radio and television broadcasting, print advertisements, campaign mailings, and postage. The committee does not call this public financing, it calls these funds voter communication vouchers. As with the spending limit section of the bill, candidates may qualify for an additional $66,600 in voter communication vouchers if they were in a closely contested primary. But, who pays for these vouchers?

It is estimated that if implemented, this new system of voter communication vouchers would cost the American taxpayers upwards of $1 billion over the next decade. Yet the bill provides no provisions to pay for the vouchers and requires the enactment of subsequent financing legislation before any of this bill's provisions take effect. This is outright fraud and is more than enough reason to send the bill back to the committee.

With regard to political action committees [PAC's], many of my constituents have called for PAC's to be eliminated entirely. The Republican substitute I support today bans PAC's. But the committee bill before us today allows candidates to accept more than $400,000 in PAC contributions.

The Republican substitute requires candidates to raise the majority of their campaign funds from within their own districts. The committee bill does nothing to encourage candidates to raise funds at home.

Finally, the Republican substitute would become effective immediately and apply to the 1994 election cycle. The committee bill does not become effective, as I said earlier, until subsequent legislation is enacted to pay for its public financing section, and even then it would not apply until the 1996 election cycle.

Mr. Speaker, we do not need to pass legislation to establish another costly new Federal program, this one to pay for political campaigns. Each of us has the ability to reduce the cost of political campaigns by taking our campaigns to the people and by deemphasizing media-based campaigns that rely on 30-second sound bites and catchy phrases.

The American people are smart. They are smart enough to make an informed decision on election day based upon the information they receive from candidates and based on the records of those candidates. They form their opinions from meeting their candidates and asking questions.

The American people are also smart enough to see through the charade before us that is labeled as campaign finance reform. They know that this legislation will neither limit campaign spending or provide for election reform. The truth is this legislation just preserves the status quo when it comes to congressional campaigns. It has been said so accurately that the committee bill is nothing more than an incumbent protection act.

For me Mr. Speaker, while the House and Senate spin their wheels on campaign finance reform, I will continue to maintain my own self-imposed campaign spending limitations by emphasizing people to people campaigns that rely on people spreading the word about my work in Congress. Personally taking the message directly to the people we represent is the best, most cost-effective campaign finance reform effort we can ever undertake.

Mr. ANDREWS of Texas. Mr. Chairman, I strongly support campaign finance reform, and I support this legislation. What deeply troubles me, however, is the possibility that this will lead us down the path to public financing.

Quality congressional reform is mandatory. This legislation has much-needed provisions; it sets voluntary spending limits, it cracks down on soft money abuse, and increases the reporting requirements for independent expenditures. I strongly support these provisions.

But while all of us will agree that campaign finance reform is needed, few will be successful in convincing the American people that they should be required to pay for this reform. Specifically, H.R. 3 has a potential for a public financing framework through the Make Democracy Work Fund. Through this fund, a candidate will receive a Federal benefit through communication vouchers in exchange for voluntarily complying with campaign spending limits. The bill does not, however, provide any mechanism for funding the communications vouchers and the Congress must enact legislation to fund the vouchers. My fear is that public financing is not far behind. The same efforts I have used to support this legislation will be used to oppose any efforts to provide for public financing.

I do believe that there must be a positive step towards reform in this Congress. The need for campaign finance reform is critical: elections should be a battle of ideas, not of bank accounts. The passage of this proposal will move the process forward, and there will be opportunities to improve upon this measure. What is critical is that we reform our campaign financing system by making campaigns more competitive and reducing the exorbitant costs of campaigns.

Mr. KYL. I rise in opposition to H.R. 3 because it will not accomplish the very campaign finance reforms that the American people want.

True reform must concentrate not on public financing or unconstitutional spending limits or new taxes but, instead, on improving competition, reducing special interest influence, increasing disclosure, and returning power back to the people who actually live in a represented district or State.

Clearly, the campaign finance reform legislation proposed by House Democrats, H.R. 3, will not accomplish these goals. The measure under consideration today will provide tax money to candidates, impose unconstitutional spending limits and taxes on campaign contributions, and sets meaningless PAC limits.

H.R. 3 will spend hundreds of million of taxpayer dollars on political campaigns; even though the American taxpayer has made it clear he or she does not want the national treasury funding political campaigns. This is evident from the unpopularity of the $1 check-off for presidential campaigns. Under H.R. 3, candidates who agree to comply with optional spending limits would be eligible for partial Federal funding of their general election campaigns. Up to $200,000, in vouchers to buy TV, radio, postage, and other means of communicating, would be available to candidates.

Public financing will not benefit the electorate. First, individual participation in the political process is not encouraged by public funding of political campaigns. Second, no one should be forced to contribute to the political fortunes of anyone with whom he or she disagrees. Candidates could receive individual political "donations" from thousands of individual taxpayers struggling to make ends meet, many of whom may completely disagree with the political ideology of the candidate for whom they are forced to contribute.

H.R. 3 would also impose "voluntary" spending limits on general elections. I am opposed to spending limits for a number of reasons, including their likely unconstitutionality. The Supreme Court has ruled that campaign spending is equivalent to speech and therefore protected by the first amendment. Unless a spending limit on political campaigns is voluntary then it is considered a free speech violation.

Under H.R. 3, if a candidate complies with the spending limit and the opponent does not, the candidate who has complied is eligible for taxpayer funds above the spending limits. Clearly, this provision is not voluntary. It also favors the incumbent. Accordingly to the Center for Responsible Politics, there is a direct correlation between the amount spent by challengers and their share of the total votes on election day. Campaign spending buys the means—TV, video, radio, etc.—to communicate with the American electorate. A limit on campaign spending would limit the ability of a candidate, particularly a challenger, to gain name ID equivalent to that of his or her opponent.

Those are just a few of the reasons H.R. 3 and a number of House-introduced bills are unsatisfactory and will not truly reform our campaign elections laws. During the 102d and 101st Congress, I introduced a bill known as the "Honest Campaign Act." The primary goal of my bill was to take away many of the monetary advantages of incumbency, and to give challengers a fair chance of winning. The House did not consider this legislation during either Congress. I would like to have offered amendments to the campaign finance bill under consideration but, unfortunately, the House majority-controlled Rules Committee did not allow for consideration of such amendments today.

The Republican alternative I support today is not perfect but is a vast improvement over H.R. 3 and will provide real reform, without public financing or unconstitutional spending limits.

The Republican leadership alternative would ban the use of soft money to influence Federal elections, ban bundling, and prohibit campaign contributions from political action committees [PAC's], unless a total ban is found to be unconstitutional, in which case the amendment drops the limit on PAC contributions to $1,000.

National parties would also be allowed to contribute to a challenger up to the amount any incumbent "carried over" from previous elections. Additionally, if a candidate's opponent spent more than $250,000, the personal limit of $5,000 would be waived for the candidate's contributors. The alternative would also require unions, corporations, and nonprofit organizations to reveal all activities and spending affecting Federal elections to the FEC. Labor unions would also be required to obtain written permission from their members before using dues for political reasons.

Candidates would also be required to raise at least half of their funds from local sources. This is particularly important. A candidate would no longer be able to raise most of his or her campaign cash from out-of-State groups whose interests have nothing to do with the State or district the candidate will potentially represent.

The ban of PAC's will most likely raise objections from constitutional scholars who say the Supreme Court is almost certainly unwilling to permit Congress to outlaw PAC's. PAC's allow those associated with groups the opportunity to be heard collectively on issues of importance to them. However, PAC's, in some instances, are used to gain influence. They sometimes contribute only to senior incumbents, perpetuating their power. We must continue to work toward elimination of this kind of PAC abuse.

We should be working toward campaign reforms that will not constrict political freedom and will bring the power of the campaign back to local individuals. We should reject H.R. 3 and pass the Republican leadership campaign finance reform alternative.

Mr. ZIMMER. Mr. Chairman, this bill falls far short of the comprehensive reform we need to reduce the corrosive effect of big money on the political process. The best that can be said about the bill is that it is better than nothing and that it may be improved by the House-Senate conference committee. For these reasons I am casting an unenthusiastic yes vote.

The main purpose of campaign finance reform should be to reduce the influence of large contributors and encourage candidates to solicit the bulk of their funds from small contributors who live in their districts. Earlier today I voted for a Republican substitute that would have taken us in that direction.

The two biggest flaws in our current system is the failure to limit the use of "soft money" and its excessive reliance on PAC contributions.

While this bill does significantly reform the rules governing soft money, its restrictions on PAC are so loaded with loopholes as to be laughable. We ought to reduce the maximum contribution from a single PAC far below the current level of $5,000. This bill keeps the level at its current amount, perpetuating one of the greatest advantages for incumbents.

The legislation includes some other modest reforms such as reducing the influence of independent expenditures and limiting the amount of personal money a wealthy candidate can throw into his or her own race.

It's a shame the House couldn't do better than this. I look forward to the day when we get more serious about campaign finance reform. But for now I'll vote for this tiny step forward.

Mr. EWING. Mr. Chairman, I rise in strong opposition to H.R. 3, the Democrat campaign reform legislation, which would more aptly be called the "welfare for politicians act." I strongly support the substitute offered by Mr. MICHEL, which includes real reforms in the way campaigns are financed.

H.R. 3 would impose voluntary spending limits on Congressional campaigns of $600,000. Those candidates who agree to the limit would in return receive vouchers from the Federal Treasury worth up to $200,000 for various campaign expenses.

The Democrats are silent about where this money will come from because H.R. 3 contains no financing mechanism. That will need to be passed later. Congress will need to either raise taxes, cut other programs, or increase the deficit to start paying for campaigns. The Congressional Budget Office estimated that this bill would cost the taxpayers $43 million in fiscal year 1995, $137 million in fiscal year 1996, $44 million in fiscal year 1997 and $142 million in fiscal year 1998. I wouldn't be surprised to see these figures climb even higher.

Asking the taxpayers to start picking up the tab for Congressional campaigns is a slap in the face to working women and men everywhere. This Congress has done a miserable job in managing the finances of the Federal Government. We are running deficits close to $300 billion and now the majority party expects the taxpayers to start paying for their campaigns! This is a sham and a fraud.

H.R. 3 would not even take effect until after the next election. The American people want reform, and they want it now. The alternative being offered by Mr. MICHEL would take effect immediately and would be in place for the 1994 election cycle.

The Michel plan does not contain taxpayer financing of elections. Instead, it contains commonsense reforms which will reduce the dependency of candidates on special-interest contributions and strengthen the role of small contributors and average voters in campaigns.

The Michel plan would severely restrict the role of political action committees [PAC's]. It proposes to eliminate PAC's or, if a complete ban of PAC's is found to be unconstitutional, the Michel plan would reduce the maximum PAC contribution to a candidate to $1,000. This is down from the current $5,000 limit and places PAC's on the same level as individual contributors.

Another very important proposal in the Michel plan would require that candidates raise a majority of their funds from individual contributors who live in the district they are seeking to be elected to represent. Contributions ought to come from the home folks, not special interests in Washington, DC or somewhere else.

The Michel plan also bans all "soft money" contributions from national party organizations, a loophole in the current system which allows candidates to get around financing limits. It would also ban "bundling" by PAC's, another loophole in the current system which allows special interest to evade contribution limits.

I strongly oppose H.R. 3 and strongly support the Michel alternative.

Mr. MANZULLO. Mr. Chairman, today we have a historic opportunity to debate how we can reform the campaign finance system. Unfortunately, I cannot support either plan because the proposals laid out by both parties were deficient in achieving the goal of real reform. That's why I voted against both the Democratic and Republican plan and voted to send both back to committee to draw a real campaign financing reform bill.

The Democrat's proposal (H.R. 3) is a half-hearted attempt at campaign finance reform because it places an arbitrary limit on the amount of money that can be spent in a campaign and ends up as a first stepping stone toward taxpayer financed congressional elections. The bill provides up to $200,000 in federally funded communication vouchers for candidates who agree to spending limits. The vouchers may be used during the general election to purchase broadcast time, newspaper advertisements, brochures, posters, yard signs and postage for campaign mailings all paid for taxpayers whether they like the candidate or not.

The Republican bill, also, contains some real problems. For example, in the event a candidate spends $250,000 of his own money in a campaign, then the opponent can disregard the regular rule of not being able to take more than $1,000 from any individual and can take up to $25,000 from any number of individuals. This is not campaign reform. The purpose of the present limit of $1,000 per person is to make sure that a campaign is financed by a broad based group as opposed to key individuals.

I suggest real campaign reform include at least some of the following: First, requiring that the residents of a candidate's state provide the majority of the candidate's funds; second, eliminating PAC contributions from one PAC to another; third, requiring the inclusion of the entire name of the organization which establishes a PAC in that PAC's name; fourth, prohibiting bundling while allowing nationally solicited direct contributions; fifth, requiring lobbyists to declare their lobbyist status on contributions; sixth, requiring lobbyists to file a report on all political contributions with the Federal Election Commission; seventh, itemizing all out of state contributions on FEC reports; eighth, banning all "soft" money from being used to influence federal elections; ninth, putting into law stiff measures to prohibit employees from being coerced into political activity by their employers or labor unions; tenth, eliminating or cutting back on the amount of free unsolicited mass mailings such as newsletters.

I believe each Member of Congress must set the standard for election and congressional reform. That is why I don't use the free mass mailings privilege for newsletters. That is why for my first term in Congress I pledged to give back 10 percent of my salary for scholarships for students in my congressional district. This is why I helped lead the fight in the House of Representatives to not fund four select subcommittees that served no purpose except to waste several millions of dollars per year.

Someday we'll get a true reform bill and at that point I'll vote for true reform.

Ms. WOOLSEY. Mr. Chairman, I rise today in support of the campaign finance reform measure being considered by the House today. This bill will take a big step toward cleaning up our government and saving taxpayer dollars.

There are many Members of Congress who do not want this bill to pass. In fact, Mr.

Speaker, many of them are opposed to any meaningful finance reform. However, while some Members of Congress don't want it, I can guarantee you that the American people demand it. I have received hundreds of letters from the people of Marin and Sonoma Counties about campaign finance reform. Many of them have demanded that we get it done before the end of the year, and I urge my colleagues to make this happen.

The campaign reform bill we are debating today accomplishes many of the reforms that the American people have called for. It limits the amount of money that candidates can accept from political action committees, curbs the influence of wealthy contributors, and imposes voluntary spending limits—allowing candidates to spend more time with the people and less time raising money. Most importantly, Mr. Speaker, this bill begins to put the power back into the hands of the American people.

This bill could certainly use some improvements, Mr. Speaker. It could have contained formal spending limits, thus making better progress toward relieving candidates of the burden of raising money. The goal of campaign finance reform should be to stop forcing candidates to spend their time raising money—and instead spending more time meeting with the people they represent and learning more about the needs and concerns of their constituents. By creating a voluntary $600,000 spending limit with incentives to stay below the cap, the bill we are debating today takes strong steps in that direction. However, I believe that tougher limits are appropriate and would have improved the bill.

Nevertheless, the fact remains that this campaign finance reform is meaningful, and it takes important steps toward cleaning up the system. I urge my colleagues to answer the call of the American people by passing a meaningful campaign finance reform now. I urge my colleagues to vote in favor of this bill. Thank you, Mr. Speaker.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 3, the House Campaign Spending Limit and Election Reform Act of 1993.

Mr. Speaker, the American people have asked this Congress to enact real reform in how campaigns are conducted. The Campaign Spending Limit and Election Reform Act of 1993 is that real reform.

The U.S. Supreme Court in Buckley versus Valeo acknowledged the First Amendment rights at stake by recognizing campaign contributions as a form of protected political expression. The bill before the House today protects the First Amendment rights of all citizens while enacting reasonable, constitutionally sound limitations on political contributions.

The bill sets voluntary spending limits of $600,000 per House candidate for incumbents and challengers alike. In addition, candidates who agree to the spending limits cannot contribute or loan their own campaign more than $50,000 of their personal funds for the race. Once a candidate has committed to abide by the voluntary spending limits, the bill's enforcement measures provide the level playing field we seek for all candidates.

While the overall spending limits are voluntary, the provisions limiting contributions from Political Action Committees [PACs] and large individual contributions are mandatory; they apply to all candidates, even those who refuse to abide by the voluntary spending cap of $600,000. The bill limits each House candidate to $200,000 in PAC contributions per election cycle and limits large individual contributions of more than $200 to a total of $200,000 per election cycle.

Let me be clear about the mandatory limits on contributions by PACs. PACs are not in and of themselves a bad thing. They enable average citizens to pool their resources in support of a common interest. Many working Americans contribute to PACs. Civil organizations also contribute money to candidates of their choice through their own PACs. In short, pooling money into PACs is just one important part of the average citizen's participation in government.

This legislation also closes a variety of campaign loopholes dealing with independent expenditures, bundling of contributions, and so-called soft money. To enforce the closing of these loopholes, the bill expressly grants the Federal Election Commission [FEC] injunctive relief powers. If a candidate is violating any provision of this bill, the FEC can issue a temporary restraining order against that candidate. In addition, the bill contains penalties for candidates that spend or raise more than the limits.

Mr. Speaker, as you may remember, this House voted in favor of comprehensive campaign reform finance legislation in the last Congress when a similar measure was approved by both the House of Representatives and the Senate. Unfortunately, former President Bush vetoed that bill. President Clinton is a strong advocate of political reform and has worked with Congress to develop a bipartisan consensus on a sweeping overhaul of campaign financing.

Mr. Speaker, I remain steadfastly committed to strong campaign finance reform. This legislation is an important step forward in restoring and strengthening the public's faith in our political system. This legislation offers real reform while protecting every citizen's First Amendment right to be a full participant in the electoral process. I urge my colleagues to vote for the House Campaign Spending Limit and Election Reform Act of 1993.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part 1 of House Report 103-402, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "House of Representatives Campaign Spending Limit and Election Reform Act of 1993".

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—[Reserved]

Subtitle B—Expenditure Limitations, Contribution Limitations, and Voter Communication Vouchers for Eligible House of Representatives Candidates

Sec. 121. Provisions applicable to eligible House of Representatives candidates.
Sec. 122. Registration as eligible House of Representatives candidate.
Sec. 123. Definitions.

TITLE II—LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES

Sec. 201. Limitations on political committee and large donor contributions that may be accepted by House of Representatives candidates.

TITLE III—INDEPENDENT EXPENDITURES

Sec. 301. Clarification of definitions relating to independent expenditures.
Sec. 302. Reporting requirements for certain independent expenditures.
Sec. 303. Broadcast and cable independent expenditure communications against eligible House of Representatives candidates.

TITLE IV—CONTRIBUTIONS AND EXPENDITURES BY POLITICAL PARTY COMMITTEES

Sec. 401. Definitions.
Sec. 402. Contributions to political party committees.
Sec. 403. Provisions relating to national, State, and local party committees.
Sec. 404. Reporting requirements.
Sec. 405. Restrictions on fundraising by candidates and officeholders.
Sec. 406. Increase in authorized political committee contributions to congressional campaign committees.
Sec. 407. Increase in the amount that multicandidate political committees may contribute to national political party committees.
Sec. 408. Merchandising and affinity cards.
Sec. 409. Increased limitation amount for certain contributions to political committees of State political parties.

TITLE V—CONTRIBUTIONS

Sec. 501. Restrictions on bundling.
Sec. 502. Contributions by dependents not of voting age.
Sec. 503. Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100.
Sec. 504. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 505. Prohibition of false representation to solicit contributions.
Sec. 506. Limited exclusion of advances by campaign workers from the definition of the term "contribution".
Sec. 507. Amendment to section 316 of the Federal Election Campaign Act of 1971.
Sec. 508. Prohibition of certain election-related activities of foreign nationals.

TITLE VI—REPORTING REQUIREMENTS

Sec. 601. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 602. Personal and consulting services.
Sec. 603. Reduction in threshold for reporting of certain information by persons other than political committees.

Sec. 604. Computerized indices of contributions.
Sec. 605. Identification.
Sec. 606. Political committees.
Sec. 607. Use of candidates' names.
Sec. 608. Reporting requirements.
Sec. 609. Simultaneous registration of candidate and candidate's principal campaign committee.

TITLE VII—FEDERAL ELECTION COMMISSION

Sec. 701. Appearance as amici curiae.
Sec. 702. Federal Election Commission public service announcements.
Sec. 703. Authority to seek injunction.
Sec. 704. Expedited procedures.
Sec. 705. Insolvent political committees.

TITLE VIII—BALLOT INITIATIVE COMMITTEES

Sec. 801. Definitions relating to ballot initiatives.
Sec. 802. Amendment to definition of contribution.
Sec. 803. Amendment to definition of expenditure.
Sec. 804. Organization of ballot initiative committees.
Sec. 805. Registration of ballot initiative committees.
Sec. 806. Reporting by ballot initiative committees.
Sec. 807. Enforcement for ballot initiative committees.
Sec. 808. Prohibition on contributions and expenditures by ballot initiative committees.

TITLE IX—MISCELLANEOUS

Sec. 901. Broadcast rates and preemption.
Sec. 902. Campaign advertising amendments.
Sec. 903. Telephone voting by persons with disabilities.
Sec. 904. Transfer of presidential election financing provisions to Federal Election Campaign Act of 1971.

TITLE X—HOUSE OF REPRESENTATIVES CAMPAIGN ELECTION FUNDING AND RELATED MATTERS

Sec. 1001. Make Democracy Work Election Fund.

TITLE XI—EFFECTIVE DATES; SEVERABILITY

Sec. 1101. Effective date.
Sec. 1102. Severability.
Sec. 1103. Expedited review of constitutional issues.
Sec. 1104. Regulations.
Sec. 1105. Budget neutrality.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—[Reserved]

Subtitle B—Expenditure Limitations, Contribution Limitations, and Voter Communication Vouchers for Eligible House of Representatives Candidates

SEC. 121. PROVISIONS APPLICABLE TO ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following new title:

"TITLE VI—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, AND VOTER COMMUNICATION VOUCHERS FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

"SEC. 601. EXPENDITURE LIMITATIONS.

"(a) IN GENERAL.—An eligible House of Representatives candidate may not, in an election cycle, make expenditures aggregating more than $600,000.

"(b) RUNOFF ELECTION AND SPECIAL ELECTION AMOUNTS.—

"(1) RUNOFF ELECTION AMOUNT.—If an eligible House of Representatives candidate is a candidate in a runoff election, the candidate may make additional expenditures aggregating not more than $200,000 in the election cycle.

"(2) SPECIAL ELECTION AMOUNT.—An eligible House of Representatives candidate who is a candidate in a special election may make expenditures aggregating not more than $600,000 with respect to the special election.

"(c) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 20 percentage points or less, the candidate may make additional expenditures aggregating not more than $200,000 in the election cycle.

"(d) NONPARTICIPATING OPPONENT PROVISIONS.—

"(1) LIMITATION EXCEPTION.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if any other general election candidate seeking nomination or election to that office—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 25 percent of the limitation under subsection (a).

"(2) CONTINUED ELIGIBILITY AND ADDITIONAL MATCHING FUNDS.—An eligible House of Representatives candidate referred to in paragraph (1)—

"(A) shall continue to be eligible for all benefits under this title; and

"(B) shall receive voter communication vouchers under section 604.

"(3) REPORTING REQUIREMENT.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress—

"(A) who is not an eligible House of Representatives candidate; and

"(B) who makes contributions in excess of $50,000 of personal funds of the candidate and members of the candidate's immediate family to the authorized committee of the candidate or receives contributions or makes expenditures in excess of 25 percent of the limitation under subsection (a);

shall report that the threshold has been reached to the Clerk of the House of Representatives not later than 48 hours after reaching the threshold. The Clerk shall transmit a report received under this paragraph to the Commission as soon as possible (but no later than 4 working hours of the Commission) after such receipt, and the Commission shall transmit a copy to each other candidate for election to the same office within 48 hours of receipt.

"(e) EXEMPTION FOR LEGAL COSTS AND TAXES.—Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee, or a Federal officeholder, for legal services or Federal, State, or local income and payroll taxes with respect to a candidate's authorized committees, or to comply with section 606, shall not be considered in the computation of amounts subject to limitation under this section.

"(f) EXEMPTION FOR ACCOUNTING OR FUNDRAISING COSTS.—

"(1) Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee in connection with the solicitation of contributions on behalf of such candidate or for accounting services to ensure compliance with this Act shall not be considered in the computation of amounts subject to limitation under subsection (a) to the extent that the aggregate of such costs does not exceed 10 percent of the limitation under subsection (a).

"(2) An amount equal to 10 percent of salaries and overhead expenditures of an eligible House of Representatives candidate's campaign headquarters and offices shall not be considered in the computation of amounts subject to limitation under this section. Any amount excluded under this paragraph shall be applied against the accounting or fundraising expenditure exemption under paragraph (1).

"(g) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 2.5 percent or less shall pay to the Commission an amount equal to the amount of the excess expenditures.

"(2) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to three times the amount of the excess expenditures.

"(3) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 5 percent or more shall pay to the Commission an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(h) INDEXING.—The dollar amounts specified in subsections (a), (b), and (c) shall be adjusted at the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"(i) The limitations of this section do not apply in the case of any recall action held pursuant to State law.

"SEC. 602. CONTRIBUTION LIMITATIONS.

"(a) PERSONAL CONTRIBUTIONS.—An eligible House of Representatives candidate may not, with respect to an election cycle, make contributions or loans to his or her own campaign totaling more than $50,000 from the personal funds of the candidate. The amount that the candidate may accept from persons referred to in section 315(i)(2) shall be reduced by the amount of contributions made under the preceding sentence. Contributions from the personal funds of a candidate may not be matched under section 604.

"(b) LIMITATION EXCEPTION.—The limitation imposed by subsection (a) does not apply in the case of an eligible House of Representatives candidate if any other candidate for that office—

"(1) is not an eligible House of Representatives general election candidate; and

"(2) makes contributions or loans to his or her own campaign totaling more than $50,000 from his or her own personal funds.

"SEC. 603. DECLARATION OF PARTICIPATION; CONTINUING ELIGIBILITY.

"The Commission shall determine whether a candidate is eligible under this title and, by reason of such eligibility may receive benefits under this title. Such determination shall—

"(1) in the case of an initial determination, be based on a declaration of participation submitted by the candidate; and

"(2) in the case of a determination of continuing eligibility, be based on relevant additional information submitted in such form and manner as the Commission may require.

"SEC. 604. VOTER COMMUNICATION VOUCHERS.

"(a) IN GENERAL.—An eligible House of Representatives candidate shall be entitled to receive, with respect to the general election, an amount of voter communication vouchers equal to the amount of contributions from individuals received by the candidate, but not more than $200,000, with not more than $200 to be taken into account per individual.

"(b) Specific Requirements.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may receive voter communication vouchers under subsection (a) only if the candidate—

"(1) in an election cycle, has received 10 percent of the limit specified in section 601(a) in contributions from individuals, with not more than $200 to be taken into account per individual;

"(2) qualifies for the general election ballot;

"(3) has an opponent on the general election ballot; and

"(4) files a declaration of participation in which the candidate agrees to—

"(A) comply with the limitations under sections 601 and 315(i);

"(B) cooperate in the case of any audit by the Commission by furnishing such campaign records and other information as the Commission may require; and

"(C) comply with any repayment requirement under section 606.

"(c) Written Instrument Requirement.—No contribution in any form other than a gift of money made by a written instrument or a certification by the committee making the request that identifies the individual making the contribution by full name and address may be used as a basis for any matching payment under this section.

"(d) Certification and Payment.—

"(1) Certification.—Except as provided in paragraphs (2), (3), and (4) not later than 5 days after receiving a request for payment, the Commission shall certify for payment the amount requested under this section. The request by an eligible candidate to receive voter communications vouchers under this section shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(2) Payments.—The initial payment of voter communication vouchers under subsection (a) to an eligible candidate shall be an amount equal to at least 10 percent of the limit specified in section 601(a). All payments shall be—

"(A) made not later than 48 hours after certification under paragraph (1); and

"(B) subject to proportional reduction in the case of insufficient funds.

"(3) Partial Certification.—If the Commission determines that any portion of a request does not meet the requirements for certification, the Commission shall withhold the certification for that portion only and inform the candidate as to how the candidate may correct the request.

"(4) Certification Withheld.—The Commission may withhold certification if it determines that a candidate who is otherwise eligible has engaged in a pattern of activity indicating that the promises in the candidate's statement of participation cannot be relied upon.

"(e) Closely Contested Primary.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 20 percentage points or less, the candidate shall be eligible to receive matching vouchers totaling not more than $66,600, in addition to any other amount received under this section. The amount available under the preceding sentence is subject to the matching requirements of this section.

"(f) Independent Expenditure Provision.—If, with respect to a general election involving an eligible House of Representatives candidate, independent expenditures totaling $10,000 are made against the eligible House of Representatives candidate or in favor of another candidate, the eligible House of Representatives candidate shall be entitled, in addition to any amount received under subsection (a), to voter communication vouchers equal to the amount of such independent expenditures, and expenditures may be made from such vouchers without regard to the limitations in section 601.

"(g) Prohibition of Conversion to Personal Use.—An eligible candidate who receives voter communication vouchers under this section may not convert any amount to personal use or make any payments, directly or indirectly, to such candidate or to any members of the immediate family of the candidate.

"(h) Indexing.—The dollar amount specified in subsections (a) and (e) (other than the amount taken into account per individual) shall be adjusted at the beginning of the calendar year based on the increase in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"(i) Use of Voter Communication Vouchers.—Voter communication vouchers shall be used by an eligible House of Representatives candidate—

"(1) to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate;

"(2) to purchase print advertisements during the general election period;

"(3) to purchase voter contact campaign materials (brochures, bumper stickers, handbills, pins, posters, and yard signs) used during the general election period; or

"(4) to pay for postage expenses incurred during the general election period.

"(j) Unexpended Vouchers.—Any amount of voter communication vouchers received by an eligible House candidate under this title and not expended on or before the date of the general election shall be repaid within 60 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of obligations to pay expenditures for the general election incurred during the general election period. At the end of the 120-day period, any unexpended vouchers received under this title shall be promptly repaid.

"SEC. 605. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

"No eligible House of Representatives candidate may receive amounts under section 604 unless such candidate has certified to the Federal Election Commission that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 606. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) General Election.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 5 percent of the eligible House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. No other factors shall be considered in carrying out such an examination and audit. The Commission shall conduct an examination and audit of the accounts of all candidates from a congressional district where any eligible candidate is selected for examination and audit.

"(b) Special Election.—After each special election, the Commission shall conduct an examination and audit of the campaign accounts of all eligible candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(c) Affirmative Vote.—The Commission may conduct an examination and audit of the campaign accounts of any eligible House of Representatives candidate in a general election if the Commission, by an affirmative vote of 4 members, determines that there exists reason to believe whether such candidate may have violated any provision of this title.

"(d) Payments.—If the Commission determines that any amount of a payment to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay an amount equal to the excess.

"SEC. 607. JUDICIAL REVIEW.

"(a) Judicial Review.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) Application of Title 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) Agency Action.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 608. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) Appearances.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 607 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Institution of Actions.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) Injunctive Relief.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) Appeals.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 609. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) Reports.—The Commission shall, as soon as practicable after each election, submit a full report to the House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the aggregate amount of voter communication vouchers certified by the Commission under section 604 for each eligible candidate; and

"(3) the amount of repayments, if any, required under section 606, and the reasons for each repayment required.

Each report submitted pursuant to this section shall be printed as a House document.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under section 604) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 606 or judicial review under section 607.

"(c) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) REPORT OF PROPOSED REGULATIONS.—The Commission shall submit to the House of Representatives a report containing a detailed explanation and justification of each rule, regulation, and form of the Commission under this title. No such rule, regulation, or form may take effect until a period of 30 legislative days has elapsed after the report is received. As used in this subsection—

"(1) the term 'legislative day' means any calendar day on which the House of Representatives is in session; and

"(2) the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.".

(b) REPORT ON USING VOTER COMMUNICATION VOUCHERS FOR PRIMARY ELECTIONS.—The Commission shall submit to the House of Representatives, not later than January 1, 1997, a report containing an evaluation for expanding the use of voter communication vouchers in primary elections for eligible candidates to the House of Representatives for the election year 2000 and thereafter. The report shall include a detailed cost estimate for such expansion and options for financing the use of Voter Communication Vouchers in primary elections.

SEC. 122. REGISTRATION AS ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATE.

(a) IN GENERAL.—Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by adding at the end the following new paragraph:

"(6)(A) In the case of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who desires to be an eligible House of Representatives candidate, a declaration of participation of the candidate to abide by the limits specified in sections 601 and 315(i) and provide the information required under section 604(b)(4) shall be included in the designation required to be filed under paragraph (1).

"(B)(i) In the case of a candidate referred to in subparagraph (A), if the statement of candidacy does not include a declaration referred to in that paragraph, the candidate may amend the statement to include such declaration, if such amendment is filed under subsection (g) not later than 7 days after the earlier of—

"(I) the date the candidate qualifies for the general election ballot under State law; or

"(II) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(ii) A declaration of participation that is included in a statement of candidacy or has been added by amendment under subparagraph (B) may not thereafter be revoked.".

SEC. 123. DEFINITIONS.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

"(20) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(21) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, step-brother, sister or step-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(22) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(23) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(24) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(25) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

"(26) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"(27) The term 'eligible House of Representatives candidate' means a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, as determined by the Commission under section 603, is eligible to receive matching vouchers and other benefits under title VI by reason of filing a declaration of participation under section 302(e) and complying with the continuing eligibility requirements under section 603.

"(28) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

TITLE II—LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES

SEC. 201. LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsections:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions from political committees aggregating in excess of $200,000.

"(2) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions aggregating in excess of $200,000 from persons other than political committees whose contributions total more than $200.

"(3) In addition to the contributions under paragraphs (1) and (2), if an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 20 percentage points or less, the candidate may accept contributions of—

"(A) not more than $66,600 from political committees; and

"(B) not more than $66,600 from persons referred to in paragraph (2).

"(4) In addition to the contributions under paragraphs (1) and (2), a House of Representatives candidate who is a candidate in a runoff election may accept contributions of (A) not more than $100,000 from political committees; and (B) not more than $100,000 from persons referred to in paragraph (2).

"(j) NONPARTICIPATING OPPONENT PROVISIONS.—The limitations imposed by section 315(i) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(1) is not an eligible House of Representatives general election candidate; and

"(2) makes contributions or loans to his or her own campaign totaling more than $50,000 from his or her own personal funds.

"(k) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitations under this section by 2.5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(2) MEDIUM AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitations under this section by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to three times the amount of the excess contributions.

"(3) LARGE AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitations under this section by 5 percent or more shall pay to the Commission an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.

"(l) EXEMPTION FOR CERTAIN COSTS.—Any amount—

"(1) accepted by a House of Representatives candidate; and

"(2) used for costs incurred under section 601(e) and (f) shall not be considered in the computation of amounts subject to limitation.

"(m) INDEXING.—The dollar amounts specified in section 315(i) shall be adjusted at the beginning of the calendar year based on the increase

in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"(n) Transfer Provision.—The limitations imposed by section 315(i) apply without regard to amounts transferred from previous election cycles or other authorized committees of the same candidate. Candidates shall not be required to seek the redesignation of contributions in order to transfer such contributions to a later election cycle.".

TITLE III—INDEPENDENT EXPENDITURES

SEC. 301. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) Independent Expenditure Definition Amendment.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

"(iii) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

"(iv) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(v) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.".

(b) Contribution Definition Amendment.—Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

SEC. 302. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (8); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any person (including a political committee) making an independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall file a report within 24 hours after such independent expenditure is made.

"(B) Any person (including a political committee) making an independent expenditure aggregating $5,000 or more made at any time up to and including the 20th day before any election shall file a report within 48 hours after such independent expenditure is made. An additional report shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial report filed under this section.

"(C) Such report shall be filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the Commission, whichever is applicable, and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Clerk of the House of Representatives and the Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a report transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any payment and any action taken to incur an obligation for payment.

"(4)(A) If any person (including a political committee) intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a report no later than the 20th day before the election.

"(B) Such report shall be filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the Commission, whichever is applicable, and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure is actually intended to support or to oppose. The Clerk of the House of Representatives and the Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a report transmit it to the Commission. Not later than 48 hours after the Commission receives a report under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

"(6) At the same time as an eligible candidate who has qualified under section 604(b) is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 604(b).

"(7) The Clerk of the House of Representatives and the Secretary of the Senate shall make any report received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).".

SEC. 303. BROADCAST AND CABLE INDEPENDENT EXPENDITURE COMMUNICATIONS AGAINST ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(2) by inserting immediately before subsection (e) as redesignated the following new subsection:

"(d) If any person makes an independent expenditure through a communication on a broadcasting station or a cable system (as defined in section 602 of this Act) that expressly advocates the defeat of an eligible House of Representatives candidate, or the election of the opponent of an eligible House of Representatives candidate (regardless of whether such opponent is an eligible candidate), the licensee or cable operator, as applicable, shall, not later than one week after the communication (or not later than 24 hours after the communication, if the communication occurs not more than one week before the election) transmit to such candidate—

"(1) a statement of the date and time of the communication;

"(2) a script or tape recording of the communication, or an accurate summary of the communication if a script or tape recording is not available; and

"(3) an offer of an equal opportunity for such candidate to use the broadcasting station or cable system to respond to the communication at a charge determined in accordance with subsection (b).".

TITLE IV—CONTRIBUTIONS AND EXPENDITURES BY POLITICAL PARTY COMMITTEES

SEC. 401. DEFINITIONS.

(a) Contribution and Expenditure Exceptions.—(1) Clause (xii) of section 301(8)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)(xii)) is amended—

(A) by inserting "in connection with volunteer activities" after "such committee"; and

(B) by striking "and" at the end of subclause (2), by inserting "and" at the end of subclause (3), and by adding at the end the following new subclause:

"(4) such activities are conducted solely by, and any materials are prepared for distribution, and are distributed solely by, volunteers;".

(2) Clause (ix) of section 301(9)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)(ix)) is amended—

(A) by inserting "in connection with volunteer activities" after "such committee";

(B) by striking "and" at the end of subclause (2); and

(C) by adding at the end the following new subclause:

"(4) such activities are conducted solely by, and any materials are prepared for distribution and are distributed solely by, volunteers; and".

(b) Generic Activities; State Party Grassroots Fund.—Section 301 of Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 123, is further amended by adding at the end the following new paragraphs:

"(29) The term 'generic campaign activity' means any campaign activity conducted by a

political party to promote a political party rather than any Federal or non-Federal candidate and which does not identify any Federal or non-Federal candidate.

"(30) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 323(d).".

SEC. 402. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.—Paragraph (1) of section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000;

"(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or".

(c) OVERALL LIMIT.—Paragraph (3) of section 315(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3)(A) No individual shall make contributions during any election cycle (as defined in section 301(29)(B)) which, in the aggregate, exceed $60,000.

"(B) No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees which, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party which, in the aggregate, exceed $20,000.

"(C) For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which such contribution is made shall be treated as made during the calendar year in which the election is held.".

SEC. 403. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding after section 322 the following new section:

"SEC. 323. POLITICAL PARTY COMMITTEES.

"(a) LIMITATIONS ON NATIONAL COMMITTEE.—(1) A national committee of a political party and the congressional campaign committees of a political party may not solicit or accept contributions or transfers not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to contributions—

"(A) that—

"(i) are to be transferred to a State committee of a political party and are used solely for activities described in clauses (xi) through (xvii) of paragraph (9)(B) of section 301;

"(ii) are described in section 301(8)(B)(viii); and

"(B) with respect to which contributors have been notified that the funds will be used solely for the purposes described in subparagraph (A).

"(b) ACTIVITIES SUBJECT TO THIS ACT.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party with respect to any of the following activities shall be subject to the limitations, prohibitions, and reporting requirements of this Act:

"(A) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

"(B) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

"(C) Any generic campaign activity.

"(D) Any activity that identifies or promotes a Federal candidate, regardless of whether—

"(i) a State or local candidate is also identified or promoted; or

"(ii) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

"(E) Voter registration.

"(F) Development and maintenance of voter files during an even-numbered calendar year.

"(G) Any other activity that—

"(i) significantly affects a Federal election, or

"(ii) is not otherwise described in section 301(8)(B)(xvii).

Any amount spent to raise funds that are used, in whole or in part, in connection with activities described in the preceding paragraphs shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF POLITICAL PARTIES.—(1) Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, which is conducted by a State, district, or local committee of a political party shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to any activity which the State committee of a political party certifies to the Commission is an activity which—

"(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held,

"(B) is exclusively on behalf of (and specifically identifies only) one or more State or local candidates or ballot measures, and

"(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

"(d) STATE PARTY GRASSROOTS FUNDS.—(1) A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(A) any generic campaign activity;

"(B) payments described in clauses (v), (x), and (xii) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

"(C) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

"(D) voter registration; and

"(E) development and maintenance of voter files during an even-numbered calendar year.

"(2) Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if such district or local committee—

"(A) has established a separate segregated fund for the purposes described in paragraph (1); and

"(B) uses the transferred funds solely for those purposes.

"(e) AMOUNTS RECEIVED BY GRASSROOTS FUND FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(e) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met; and

"(ii) certifies that such requirements were met.

"(2) For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee, and

"(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting such requirements as are necessary to cover the transferred funds.

"(3) Notwithstanding paragraph (1)—

"(A) any State Party Grassroots Fund receiving any transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from such candidate committee; and

"(B) in the case of a subordinate committee of a State committee which maintains segregated accounts which are not commingled with other accounts of the State committee and which subordinate committee is subject to reporting and contribution limitation requirements of State law, the certification required by this paragraph may be made by such subordinate committee.

"(4) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.".

(b) CONTRIBUTIONS AND EXPENDITURES.—(1) Section 301(8)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (viii), by inserting after "Federal office" the following: "or any amounts received by any committee of any National or State political party to support the operation of a television and radio broadcast facility";

(B) by striking "and" at the end of clause (xiii);

(C) by striking clause (xiv); and

(D) by inserting after clause (xiii) the following new clauses:

"(xiv) any amount contributed to a candidate for other than Federal office;

"(xv) any amount received or expended to pay the costs of a State or local political convention;

"(xvi) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 323(b) (without regard to paragraph (6)(B)) or section 323(c)(1);

"(xvii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xviii) any payment for research pertaining solely to State and local candidates and issues;

"(xix) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xx) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 323(b) (without regard to paragraph (6)(B)) or section 323(c)(1).".

(2) Section 301(9)(B) of Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)), as amended by section 401, is further amended by striking "and" at the end of clause (ix), by striking the period at the end of clause (x) and inserting a semicolon, and by adding at the end the following new clauses:

"(xi) any amounts expended by any committee of any National or State political party to support the operation of a television and radio broadcast facility;

"(xii) any amount contributed to a candidate for other than Federal office;

"(xiii) any amount received or expended to pay the costs of a State or local political convention;

"(xiv) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 323(b) (without regard to paragraph (6)(B)) or section 323(c)(1);

"(xv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xvi) any payment for research pertaining solely to State and local candidates and issues;

"(xvii) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xviii) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 323(b) (without regard to paragraph (6)(B)) or section 323(c)(1).".

(c) LIMITATION APPLIED AT NATIONAL LEVEL.—Paragraph (3) of section 315(d) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)) is amended by adding at the end the following new flush sentence:

"Notwithstanding the preceding sentence, the applicable congressional campaign committee of a political party shall make the expenditures described in this paragraph which are authorized to be made by a national or State committee with respect to a candidate in any State unless it allocates all or a portion of such expenditures to either or both of such committees.".

(d) LIMITATIONS APPLY FOR ENTIRE ELECTION CYCLE.—Section 315(d)(1) of Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(1)) is amended by adding at the end the following new sentence: "Each limitation under the following paragraphs shall apply to the entire election cycle for an office.".

SEC. 404. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 323 applies shall report all receipts and disbursements including separate schedules for receipts and disbursements for State Grassroots Funds described in section 301(30).

"(3) Any political committee to which section 323 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 323(d)(2) and shall itemize such amounts to the extent required by section 304(b)(3)(A).

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

"(5) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as subsection (b) (3)(A), (5), or (6).

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTS BY STATE COMMITTEES.—Section 304 of Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Paragraph (4) of section 304(b) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended by striking "and" at the end of subparagraph (H), by inserting "and" at the end of subparagraph (I), and by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Subparagraph (A) of section 304(b)(5) of Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year", and

(B) by inserting ", and the election to which the operating expenditure relates" after "operating expenditure".

SEC. 405. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

Section 315 of Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 201, is further amended by adding at the end the following new subsection:

"(o) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any Federal candidate or political committee, or any party or other multicandidate committee organized under State law to support more than one candidate for non-Federal office—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under subsections (a) (1) and (2), and are not from sources prohibited by such subsections with respect to elections to Federal office.

The limitations of this subsection do not apply to the solicitation or receipt of funds by a Federal candidate on behalf of any committee or organization organized primarily for purposes other than the election of particular candidates for public office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, an agent of such a candidate or individual, or any national, State, district, or local committee of a political party (including a subordinate committee) and any agent of such a committee.

"(3) The personal appearance or participation by a candidate for Federal office or individual holding Federal office in any fundraising event conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if such candidate or individual does not receive, or make disbursements from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

SEC. 406. INCREASE IN AUTHORIZED POLITICAL COMMITTEE CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGN COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 201 and 405 is further amended by adding at the end the following new subsection:

"(p) AUTHORIZED POLITICAL COMMITTEE CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGN COMMITTEE.—For purposes of the limitations imposed by this section and notwithstanding any other provision of this section, the authorized political committees of a House of Representatives or United States Senate candidate shall not make contributions aggregating more than $10,000 in any calendar year to the congressional campaign committees of a political party.".

SEC. 407. INCREASE IN THE AMOUNT THAT MULTICANDIDATE POLITICAL COMMITTEES MAY CONTRIBUTE TO NATIONAL POLITICAL PARTY COMMITTEES.

Section 315(a)(2)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(B)) is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

SEC. 408. MERCHANDISING AND AFFINITY CARDS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c) Notwithstanding the provisions of this section or any other provision of this Act to the contrary, an amount received from a corporation (including a State-chartered or national bank) by any political committee (other than a separate segregated fund established under section 316(b)(2)(C)) shall be deemed to meet the limitations and prohibitions of this Act if such amount represents a commission or royalty on the sale of goods or services, or on the issuance of credit cards, by such corporation and if—

"(1) such goods, services, or credit cards are promoted by or in the name of the political committee as a means of contributing to or supporting the political committee and are offered to consumers using the name of the political committee or using a message, design, or device created and owned by the political committee, or both;

"(2) the corporation is in the business of merchandising such goods or services, or of issuing such credit cards;

"(3) the royalty or commission has been offered by the corporation to the political committee in the ordinary course of the corporation's business and on the same terms and conditions as those on which such corporation offers royalties or commissions to nonpolitical entities;

"(4) all revenue on which the commission or royalty is based represents, or results from, sales to or fees paid by individual consumers in the ordinary course of retail transactions;

"(5) the costs of any unsold inventory of goods are ultimately borne by the political committee in accordance with rules to be prescribed by the Commission; and

"(6) except for any royalty or commission permitted to be paid by this subsection, no goods, services, or anything else of value is provided by such corporation to the political committee, provided that such corporation may advance or finance costs or extend credit in connection with the manufacture and distribution of goods, provision of services, or issuance of credit cards pursuant to this subsection if and to the extent such advance, financing, or extension is undertaken in the ordinary course of the corporation's business and is undertaken on similar terms by such corporation in its transactions with nonpolitical entities in like circumstances.".

SEC. 409. INCREASED LIMITATION AMOUNT FOR CERTAIN CONTRIBUTIONS TO POLITICAL COMMITTEES OF STATE POLITICAL PARTIES.

Section 315(a)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(B)) is amended—

(1) by inserting after "(B)" the following: "notwithstanding any other provision of law,"; and

(2) by inserting after "national" the following: "or State".

TITLE V—CONTRIBUTIONS

SEC. 501. RESTRICTIONS ON BUNDLING.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) No person, either directly or indirectly, may act as a conduit or intermediary for any contribution to a candidate.

"(B)(i) Nothing in this section shall prohibit—

"(I) joint fundraising conducted in accordance with rules prescribed by the Commission by 2 or more candidates; or

"(II) fundraising for the benefit of a candidate that is conducted by another candidate.

"(ii) No other person may conduct or otherwise participate in joint fundraising activities with or on behalf of any candidate.

"(C) The term 'conduit or intermediary' means a person who transmits a contribution to a candidate or candidate's committee or representative from another person, except that—

"(i) a House of Representatives candidate or representative of a House of Representatives candidate is not a conduit or intermediary for the purpose of transmitting contributions to the candidate's principal campaign committee or authorized committee;

"(ii) a professional fundraiser is not a conduit or intermediary, if the fundraiser is compensated for fundraising services at the usual and customary rate;

"(iii) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(b), is not a conduit or intermediary for the purposes of that event; and

"(iv) an individual is not a conduit or intermediary for the purpose of transmitting a contribution from the individual's spouse.

For purposes of this section a conduit or intermediary transmits a contribution when receiving or otherwise taking possession of the contribution and forwarding it directly to the candidate or the candidate's committee or representative.

"(D) For purposes of this section, the term 'representative'—

"(i) shall mean a person who is expressly authorized by the candidate to engage in fundraising, and who, in the case of an individual, is not acting as an officer, employee, or agent of any other person;

"(ii) shall not include—

"(I) a political committee with a connected organization;

"(II) a political party;

"(III) a partnership or sole proprietorship;

"(IV) an organization prohibited from making contributions under section 316; or

"(V) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or a foreign agent to register.

"(E) For purposes of this section, the term 'acting as an officer, employee, or agent of any other person' includes the following activities by a salaried officer, employee, or paid agent of a person described in subparagraph (D)(ii)(IV):

"(i) Soliciting contributions to a particular candidate in the name of, or by using the name of, such a person.

"(ii) Soliciting contributions to a particular candidate using other than the incidental resources of such a person.

"(iii) Soliciting contributions to a particular candidate under the direction or control of other salaried officers, employees, or paid agents of such a person.

For purposes of this subparagraph, the term 'agent' shall include any person (other than individual members of an organization described in subparagraph (b)(4)(C) of section 316) acting on authority or under the direction of such organization.".

SEC. 502. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 201, 405, and 406, is further amended by adding at the end the following new subsection:

"(q) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 503. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended by inserting ", and no candidate or authorized committee of a candidate shall accept from any one person," after "make".

SEC. 504. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) Notwithstanding paragraph (5)(B), a candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds the limitation on contributions to a candidate under paragraph (2)(A).".

SEC. 505. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 506. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)), as amended by section 403, is further amended—

(1) in clause (xix), by striking "and" after the semicolon at the end;

(2) in clause (xx), by striking the period at the end and inserting: "; and"; and

(3) by adding at the end the following new clause:

"(xxi) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.".

SEC. 507. AMENDMENT TO SECTION 316 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended—

(1) by striking "(2) For" and inserting "(2)(A) Except as provided in subparagraph (B), for";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end the following:

"(B) Expenditures by a corporation or labor organization for candidate appearances, candidate debates, voter guides, or voting records directed to the general public shall be considered contributions unless—

"(i) in the case of a candidate appearance, the appearance takes place on corporate or labor organization premises or at a meeting or convention of the corporation or labor organization, and all candidates for election to that office are notified that they may make an appearance under the same or similar conditions;

"(ii) in the case of a candidate debate, the organization staging the debate is either an organization described in section 301 whose broadcasts or publications are supported by commercial advertising, subscriptions or sales to the public, including a noncommercial educational broadcaster, or a nonprofit organization exempt from Federal taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 that does not endorse, support, oppose candidates or political parties and any such debate features at least 2 candidates competing for election to that office;

"(iii) in the case of a voter guide, the guide is prepared and distributed by a corporation or labor organization and consists of questions posed to at least two candidates for election to that office; and

"(iv) in the case of a voting record, the record is prepared and distributed by a corporation or labor organization and such preparation and distribution occurs either without consultation with any candidate whose record is included or in consultation with all such candidates;

provided that no communication made by a corporation or labor organization in connection with the candidate appearance, candidate debate, voter guide, or voting record contains express advocacy, or that no structure or format of the candidate appearance, candidate debate, voter guide, or voting record, nor any preparation or distribution of any such guide or record, reflects a purpose of influencing the election of a particular candidate.".

SEC. 508. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsections:

"(c) A foreign national shall not directly or indirectly direct, control, influence or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State, or Federal office or the administration of a political committee.

"(d) A separate segregated fund established in accordance with section 316(b)(2)(C) involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

"'It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee.'.".

TITLE VI—REPORTING REQUIREMENTS

SEC. 601. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2), (3), (4), (6), and (7) of section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2), (3), (4), (6), and (7)), are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 602. PERSONAL AND CONSULTING SERVICES.

(a) REPORTING BY POLITICAL COMMITTEES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)), as amended by section 405, is further amended by inserting before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

(b) RECORDKEEPING AND REPORTING BY PERSONS TO WHOM EXPENDITURES ARE PASSED THROUGH.—Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) The person described in section 304(b)(5)(A) who is providing personal or consulting services and who is in turn making expenditures to other persons (not including employees) for goods or services provided to a candidate shall maintain records of and shall provide to a political committee the information necessary to enable the political committee to report the information described in section 304(b)(5)(A).".

SEC. 603. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended by striking "$200" and inserting "$100".

SEC. 604. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of $200 or more.".

SEC. 605. IDENTIFICATION.

Section 301(13)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)(A)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 606. POLITICAL COMMITTEES.

Section 303(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 433(b)) is amended—

(1) in paragraph (2), by inserting ", and if the organization or committee is incorporated, the State of incorporation" after "committee"; and

(2) by striking the "name and address of the treasurer" in paragraph (4) and inserting "the names and addresses of the officers, including the treasurer".

SEC. 607. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name, or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 608. REPORTING REQUIREMENTS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 404, is further amended by adding at the end the following new subsection:

"(f) WAIVER.—The Commission may relieve any category of political committees of the obligation to file 1 or more reports required by this section, or may change the due dates of such reports, if it determines that such action is consistent with the purposes of this Act. The Commission may waive requirements to file reports in accordance with this subsection through a rule of general applicability or, in a specific case, may waive or change the due date of a report by notifying all political committees affected.".

SEC. 609. SIMULTANEOUS REGISTRATION OF CANDIDATE AND CANDIDATE'S PRINCIPAL CAMPAIGN COMMITTEE.

Section 303(a) of Federal Election Campaign Act of 1971 (2 U.S.C. 433(a)) is amended in the first sentence by striking "no later than 10 days after designation" and inserting "on the date of its designation".

TITLE VII—FEDERAL ELECTION COMMISSION

SEC. 701. APPEARANCE AS AMICI CURIAE.

Section 306(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(f)) is amended by striking out paragraph (4) and inserting in lieu thereof the following new paragraph:

"(4)(A) Notwithstanding the provisions of paragraph (2), or of any other provision of law, the Commission is authorized to appear on its own behalf in any action related to the exercise of its statutory duties or powers in any court as either a party or as amicus curiae, either—

"(i) by attorneys employed in its office, or

"(ii) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

"(B) The authority granted under subparagraph (A) includes the power to appeal from, and petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which the Commission appears pursuant to the authority provided in this section.".

SEC. 702. FEDERAL ELECTION COMMISSION PUBLIC SERVICE ANNOUNCEMENTS.

Title III of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 403 and 610, is further amended by inserting after section 324 the following new section:

"SEC. 325. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Federal Election Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Make Democracy Work Election Fund and the role that individual citizens can play in the election process by voluntarily contributing to the Fund. The Commission shall seek to broadcast such announcements during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall attempt to ensure that the maximum number of taxpayers shall be exposed to these announcements. The Federal Election Commission shall attempt to utilize a variety of communications media, including television, cable, and radio networks, and individual television, cable, and radio stations, to provide similar announcements.

"(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.".

SEC. 703. AUTHORITY TO SEEK INJUNCTION.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found or in which the violation is occurring, has occurred, or is about to occur.";

(2) in paragraph (7), by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(3) in paragraph (11), by striking "(6)" and inserting "(6) or (13)".

SEC. 704. EXPEDITED PROCEDURES.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)), as amended by section 703, is further amended by adding at the end the following new paragraph:

"(14)(A) If the complaint in a proceeding was filed within 60 days immediately preceding a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to it, that there is clear and convincing evidence that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in paragraph (13)(A)(ii), (iii), and (iv) are met, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, immediately seek relief under paragraph (13)(A).

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to it, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

SEC. 705. INSOLVENT POLITICAL COMMITTEES.

(a) IN GENERAL.—Section 303(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 433(d)) is amended by adding at the end the following new paragraph:

"(3) Proceedings by the Commission under paragraph (2) constitute the sole means, to the exclusion of proceedings under title 11, United States Code, by which a political committee that is determined by the Commission to be insolvent may compromise its debts, liquidate its assets, and terminate its existence.".

(b) PROCEDURES.—Section 303(d)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 433(d)(2)) is amended by striking out "Nothing" and all that follows through "procedures" and inserting in lieu thereof "The Commission shall establish procedures to allow".

TITLE VIII—BALLOT INITIATIVE COMMITTEES

SEC. 801. DEFINITIONS RELATING TO BALLOT INITIATIVES.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by sections 123 and 401, is further amended by adding at the end the following new paragraphs:

"(31) The term 'ballot initiative political committee' means any committee, club, association, or other group of persons which makes ballot initiative expenditures or receives ballot initiative contributions in excess of $1,000 during a calendar year.

"(32) The term 'ballot initiative contribution' means any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the State, commonwealth, territory, or District of Columbia level which involves—

"(A) the election of candidates for Federal office and the permissible terms of those so elected; or

"(B) the regulation of speech or press, or any other right guaranteed under the United States Constitution.

"(33) The term 'ballot initiative expenditure' means any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the state, commonwealth, territory, or District of Columbia level which involves—

"(A) the election of candidates for Federal office and the permissible terms of those so elected; or

"(B) the regulation of speech or press, or any other right guaranteed under the United States Constitution.".

SEC. 802. AMENDMENT TO DEFINITION OF CONTRIBUTION.

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)), as amended by sections 403 and 506, is further amended—

(1) in clause (xx), by striking "and" after the semicolon;

(2) in clause (xxi), by striking the period and inserting "; and"; and

(3) by adding at the end the following new clause:

"(xxii) a ballot initiative contribution.".

SEC. 803. AMENDMENT TO DEFINITION OF EXPENDITURE.

Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)), as amended by sections 401 and 403, is further amended—

(1) in clause (xvii), by striking "and" after the semicolon;

(2) in clause (xviii), by striking the period and inserting "; and"; and

(3) by adding at the end the following new clause:

"(xix) a ballot initiative expenditure.".

SEC. 804. ORGANIZATION OF BALLOT INITIATIVE COMMITTEES.

Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432), as amended by section 602, is further amended by adding at the end the following new subsection:

"(k) Every ballot initiative committee shall comply with the organizational and recordkeeping requirements of this section, with respect to all ballot initiative contributions and ballot initiative expenditures.".

SEC. 805. REGISTRATION OF BALLOT INITIATIVE COMMITTEES.

Section 303 of the Federal Election Campaign Act of 1971 (2 U.S.C. 433) is amended by adding at the end the following new subsection:

"(e) Every ballot initiative committee shall comply with the registration requirements of this section.".

SEC. 806. REPORTING BY BALLOT INITIATIVE COMMITTEES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 404 and 608, is further amended by adding at the end the following new subsection:

"(g) Every ballot initiative committee shall comply with the reporting requirements of subsections (a)(1), (a)(4), and (b), with respect to the reporting of all ballot initiative contributions and ballot initiative expenditures. The provisions of subsections (a)(5), (7), and (8) shall apply to reports filed by ballot initiative committees.".

SEC. 807. ENFORCEMENT FOR BALLOT INITIATIVE COMMITTEES.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) The Commission may proceed in accordance with the requirements of this section, either on the basis of a complaint filed under subsection (a)(1) or on information ascertained in the normal course of carrying out its supervisory responsibilities, to determine whether a ballot initiative committee has complied with the requirements of sections 302, 303, and 304(a)(1), (a)(4) and (b).".

SEC. 808. PROHIBITION ON CONTRIBUTIONS AND EXPENDITURES BY BALLOT INITIATIVE COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 201, 405, 406, and 502, is further amended by adding at the end the following new subsection:

"(r) Notwithstanding the provisions of subsection (a)(1), it shall be unlawful for any ballot initiative committee to make any contribution or expenditure for the purpose of influencing any election for Federal office.".

TITLE IX—MISCELLANEOUS

SEC. 901. BROADCAST RATES AND PREEMPTION.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1)—

(A) by striking "forty-five" and inserting "30";

(B) by striking "sixty" and inserting "45"; and

(C) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and insert "lowest charge of the station for the same amount of time for the same period"; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

SEC. 902. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(2) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement";

(3) in the matter before paragraph (1) of subsection (a), by striking "direct";

(4) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

(5) by adding at the end the following new subsections:

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any communication described in subsection (a)(1) or subsection (a)(2) that is provided to and distributed by any broadcasting station or cable system (as such terms are defined in sections 315 and 602 (respectively) of the Communications Act of 1934) shall include, in addition to the requirements of subsections (a)(1) and (a)(2), an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a communication described in paragraph (1) contains any visual images, the statement required by paragraph (1) shall—

"(A) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds at the end of the communication; and

"(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any communication described in subsection (a)(3) that is provided to and distributed by any broadcasting station or cable system (as such terms are defined in sections 315 and 602 (respectively) of the Communications Act of 1934) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

'   is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if such communication contains visual images, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 903. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) Study of Systems To Permit Persons With Disabilities To Vote by Telephone.—

(1) In general.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) Consultation.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) Criteria.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only those persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) Requests for proposals.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) Physical access.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) Deadline.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

SEC. 904. TRANSFER OF PRESIDENTIAL ELECTION FINANCING PROVISIONS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) General Rule.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following:

"TITLE VIII—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

"Subtitle A—Presidential Election Campaign Fund

"Subtitle B—Presidential Primary Matching Payment Account".

(b) Transfer of Provisions From Internal Revenue Code.—

(1) Sections 9001 through 9012 of the Internal Revenue Code of 1986 are hereby transferred to the Federal Election Campaign Act of 1971, inserted after the heading for subtitle A of title VIII of such Act (as added by subsection (a)), and redesignated as sections 801 through 812, respectively.

(2) Sections 9031 through 9042 of the Internal Revenue Code of 1986 are hereby transferred to the Federal Election Campaign Act of 1971, inserted after the heading for subtitle B of title VIII of such Act, and redesignated as sections 831 through 842, respectively.

(c) Conforming Amendments to Internal Revenue Code.—The Internal Revenue Code of 1986 is amended—

(1) by striking "section 9006(a)" in section 6096(a) and inserting "section 806(a) of the Federal Election Campaign Act of 1971",

(2) by striking subtitle H, and

(3) by striking the item relating to subtitle H in the table of subtitles.

(d) Conforming Amendments to Transferred Sections.—

(1) Each section transferred under subsection (b) is amended by striking each reference contained therein to another provision transferred and redesignated by subsection (b) and inserting a reference to the redesignated provision.

(2) Title VIII of the Federal Election Campaign Act of 1971 (as amended by the foregoing provisions of this section) is amended—

(A) by striking "This chapter" each place it appears and inserting "This subtitle",

(B) by striking "this chapter" each place it appears and inserting "this subtitle",

(C) by striking "of the Federal Election Campaign Act of 1971" each place it appears,

(D) by striking "chapter 96" in section 803(e) and inserting "subtitle B",

(E) by striking "section 6096" in sections 806(a), 808(a), and 810(c) and inserting "section 6096 of the Internal Revenue Code of 1986", and

(F) by striking "this subtitle" in section 810(c) and inserting "this title".

(e) Savings Provisions.—

(1) Continuation of funds.—The fund established under section 806(a) of the Federal Election Campaign Act of 1971 (as amended by this section) shall be treated for all purposes of law as a continuation of the fund established by section 9006(a) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act). A similar rule shall apply to the accounts required under sections 808 and 837 of the Federal Election Campaign Act of 1971 (as so amended).

(2) References to transferred provisions.—Any reference in any law, rule, regulation, or other official paper to a provision of the Internal Revenue Code of 1986 which was transferred under subsection (b) shall be treated as reference to the appropriate provision of the Federal Election Campaign Act of 1971.

TITLE X—HOUSE OF REPRESENTATIVES CAMPAIGN ELECTION FUNDING AND RELATED MATTERS

SEC. 1001. MAKE DEMOCRACY WORK ELECTION FUND.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 121, is further amended by adding at the end the following new title:

"TITLE VII—MAKE DEMOCRACY WORK ELECTION FUND

"SEC. 701. ESTABLISHMENT AND OPERATION OF THE FUND.

"(a) IN GENERAL.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the Make Democracy Work Election Fund (hereinafter in this title referred to as the 'Fund'). The amounts designated for the Fund shall remain available without fiscal limitation for purposes of providing benefits under title VI and making expenditures for the administration of the Fund. The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 604, except as provided in subsection (c), the Secretary shall issue within 48 hours to an eligible candidate the amount of voter communication vouchers certified by the Commission to the eligible candidate out of the Fund.

"(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—If on June 1, 1996, or on June 1 of a Federal election year thereafter, the Secretary determines that the moneys in the account are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from such payment the amount necessary to assure that each eligible candidate will receive a pro rata share of the candidate's full entitlement. Amounts so withheld shall be paid when the Secretary determines that there are sufficient moneys in the account to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the account to satisfy the full entitlement of an eligible candidate, the amounts so withheld shall be paid in such manner that each eligible candidate receives a pro rata share of the full entitlement, except that—

"(1) in special elections, a candidate shall receive the full entitlement not a pro rata share; and

"(2) a candidate who receives vouchers from the Fund in response to an independent expenditure as provided in section 604(f) shall receive the full entitlement not a pro rata share.

"(d) NOTIFICATION.—The Secretary shall notify the Commission and each eligible candidate by registered mail of any reduction of any payment by reason of subsection (c).

"(e) REDEEMABILITY OF VOUCHERS.—Voter communication vouchers issued and used as provided in this section shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States. The Secretary shall issue regulations providing for the redemption of voter communication vouchers through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. No financial institution may impose a fee or other charge for the redemption of voter communication vouchers.".

TITLE XI—EFFECTIVE DATES; SEVERABILITY

SEC. 1101. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1995.

SEC. 1102. SEVERABILITY.

(a) Except as provided in subsection (b), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

(b) If title VI of the Federal Election Campaign Act of 1971, section 315(i) through (j) (as added by this Act), or section 701 (as added by this Act), or any part thereof, is held to be invalid, all provisions of, and amendments made by title VI, section 315(i) through (j) of this Act, or section 701 of this Act shall be treated as invalid.

SEC. 1103. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court finding any provision of this Act, or amendment made by this Act to be unconstitutional.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 1104. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out the provisions of this Act within 12 months after the effective date of this Act.

SEC. 1105. BUDGET NEUTRALITY.

The provisions of this Act (other than this section) shall not be effective and shall not be considered to be an estimate required under the procedures specified in section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 until the enactment of revenue legislation effectuating section 701 of the Federal Election Campaign Act of 1971.

The CHAIRMAN. No amendment to the substitute, as modified, is in order except the amendment printed part 2 of House Report 103–402. The amendment may be offered only by a Member designated in the report, shall be considered as read and is not subject to amendment.

Debate time on the amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

□ 1100

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. THOMAS of California: Strike out all after the enacting clause and insert the following:

SECTION 1. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 323. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year.".

(2) Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking out subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(3)) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful—

(A) for any person that is treated as a political committee by reason of paragraph (1) and is directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association to make contributions to any candidate or the candidate's authorized committee; and

(B) for any person that is treated as a political committee by reason of paragraph (1) and is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

SEC. 2. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than local individual residents totaling in excess of the total of contributions accepted from local individual residents.

"(2) As used in this subsection, the term 'local individual resident' means an individual who resides in the congressional district involved.

"(3)(A) Any candidate who accepts contributions that exceed the limitation under this subsection with respect to the pre-election report period or the post-election report period shall pay to the Commission, for deposit in the Treasury, an amount equal to 5 times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.

"(B) Any candidate who accepts contributions that exceed the limitation under this subsection with respect to a period other than a period referred to in subparagraph (A) shall pay to the Commission, for deposit in the Treasury, an amount equal to 3 times the amount of the excess contributions.

"(C) Each report under section 304(a)(6) shall include a certification by the treasurer of the committee that the contributions reported do not exceed the limitation under this subsection.".

SEC. 3. BAN ON SOFT MONEY.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 1, is further amended by adding at the end the following new section:

"LIMITATIONS AND REPORTING REQUIREMENTS FOR AMOUNTS PAID FOR MIXED POLITICAL ACTIVITIES

"SEC. 324. (a) Any payment by the national committee of a political party or a State committee of a political party for a mixed political activity—

"(1) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(2) may be paid only from an account that is subject to the requirements of this Act.

"(b) As used in this section, the term 'mixed political activity' means, with respect to a payment by the national committee of a political party or a State committee of a political party, an activity, such as a voter registration program, a get-out-the-vote drive, or general political advertising, that is both (1) for the purpose of influencing an election for Federal office, and (2) for any purpose unrelated to influencing an election for Federal office.".

(b) REPEAL OF BUILDING FUND EXCEPTION TO THE DEFINITION OF THE TERM "CONTRIBUTION".—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking out clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

SEC. 4. ADDITIONAL POLITICAL PARTY CONTRIBUTIONS TO CHALLENGERS WHOSE INCUMBENT OPPONENTS USE FUNDS CARRIED FORWARD FROM EARLIER ELECTIONS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 2, is further amended by adding at the end the following new subsection:

"(j)(1) Subject to paragraph (2), if, in a general election for Federal office, a candidate who is the incumbent uses campaign funds carried forward from an earlier election cycle, any political committee of a political party may make contributions to a nonincumbent candidate of that political party to match the funds so carried forward by the incumbent. For purposes of this paragraph, funds shall be considered to have been carried forward if the funds represent cash on hand as of December 31 of the year of the election, less legitimate outstanding debts relating to the previous election up to the amount of the December 31 balance, plus any amount expended on or before that December 31 for a later election.

"(2) The political party contributions under paragraph (1) may be made without regard to any limitation amount otherwise applicable to such contributions under this section, but a nonincumbent candidate may not accept such contributions in excess of the total of funds carried forward by the incumbent candidate.".

SEC. 5. ELIMINATION OF LIMITATIONS ON CONTRIBUTIONS TO CANDIDATES WHOSE OPPONENTS USE LARGE AMOUNTS OF PERSONAL FUNDS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 2 and 4, is further amended by adding at the end the following new subsection:

"(k) Each candidate in an election for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress may declare, in the first report that the candidate files with the Commission after becoming a candidate, that the candidate will not make expenditures of more than $250,000 from the personal funds of the candidate. If a candidate does not so declare and makes expenditures of more than $100,000 from personal funds—

"(1) the limitations under subsections (a)(1)(A) and (i) shall not apply to any opponent of the candidate who so uses personal funds; and

"(2) the limitations under subsection (a)(2)(A) (insofar as such subsection applies to political party multicandidate political committees) shall not apply to contributions to any opponent of the candidate who so uses personal funds, up to the amount of personal funds expended by the noncomplying candidate.".

(b) NOTIFICATION.—Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended by adding at the end the following new paragraph:

"(C) The principal campaign committee of a candidate shall notify the Commission in writing by telegram, facsimile, or other electronic means of any incremental expenditure of personal funds totaling $50,000 or more. This notification shall be made not later than 24 hours after the expenditure.".

SEC. 6. LIMITATION ON CONTRIBUTIONS AND EXPENDITURES BY LABOR ORGANIZATIONS.

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee,".

(b) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by adding at the end the following new paragraph:

"(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

"(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which attests that the expenditures which the union claimed it made for certain expenses were actually made for those expenses. Such examination shall be conducted in accordance with generally accepted auditing standards.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contributions and expenditures made after the date of the enactment of this Act.

SEC. 7. INCREASED LIMITATION AMOUNT FOR CERTAIN CONTRIBUTIONS TO POLITICAL COMMITTEES OF STATE POLITICAL PARTIES.

Section 315(a)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(B)) is amended by inserting after "national" the following: "or State".

SEC. 8. TRANSITION RULE RELATING TO EXCESS FUNDS OF CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

The limitations under section 315(i) of the Federal Election Campaign Act of 1971 (as added by section 2) shall be applied to the funds of a candidate carried over from previous elections and shall take effect on the day after the date of the 1994 primary election. A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, on the day after the date of the 1994 primary election, has campaign accounts containing amounts in excess of the contribution limit under section 315(i) of the Federal Election Campaign Act of 1971 shall deposit such excess in a separate account subject to section 304 of the Federal Election Campaign Act of 1971. The amount so deposited shall be returned to contributors or available for any lawful purpose other than use, with respect to the individual for an election for the office of Representative, in, or Delegate or Resident Commissioner to, the Congress. For purposes of this section, excess funds are those funds which exceed twice the amount of funds raised from local individual residents after December 31, 1992. From the day after the date of the 1994 primary election until the date of the 1994 general election, a candidate may transfer excess funds from the separate account to the campaign account so long as a majority of the total funds contributed or transferred to the campaign account were raised from local individual residents after December 31, 1992. No funds may be transferred from a separate account of a candidate to a campaign account of the candidate after the date of the 1994 general election.

SEC. 9. DISCLOSURE OF ELECTION-RELATED ACTIVITY BY CORPORATIONS, LABOR ORGANIZATIONS AND NONPROFIT ORGANIZATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Any corporation, labor organization, or nonprofit organization that makes a payment for a communication or other activity that—

"(1) relates to any election for Federal office; and

"(2) in the case of a corporation or labor organization, by reason of subparagraph (A) or (B) of paragraph (2) of section 316(b), is not a contribution or expenditure; shall report such payment to the Commission in the same manner as a contribution or expenditure, as the case may be, is reported by a principal campaign committee of a candidate for the House of Representatives or the Senate under this section.".

SEC. 10. PROHIBITION OF BUNDLING OF CONTRIBUTIONS TO CANDIDATES BY POLITICAL ACTION COMMITTEES AND LOBBYISTS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c) No nonparty multicandidate political committee or person required to register under the Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office.".

SEC. 11. PROHIBITION OF TRANSFERS AMONG NONCANDIDATE, NONPARTY POLITICAL COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 2, 4, and 5, is further amended by adding at the end the following new subsection:

"(l) A noncandidate, nonparty political committee may not make contributions, or otherwise transfer funds, to any other noncandidate, nonparty political committee. As used in this subsection, the term 'noncandidate, nonparty political committee' means a political committee that is not an authorized committee of a candidate for Federal office and is not a political committee of a political party.".

SEC. 12. PROHIBITION OF LEADERSHIP COMMITTEES; RESTRICTION ON CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES.

(a) LEADERSHIP COMMITTEE PROHIBITION.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) A candidate for Federal office may not establish, maintain, finance, or control a political committee, other than the principal campaign committee of the candidate.".

(b) PRINCIPAL CAMPAIGN COMMITTEE RESTRICTION.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 2, 4, 5, and 11, is further amended by adding at the end the following new subsection:

"(m) A principal campaign committee of a candidate for Federal office may not make any contribution to any other principal campaign committee (other than the principal campaign committee of the same individual as a candidate for another Federal office).".

SEC. 13. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute is not subject to amendment.

The gentleman from California [Mr. THOMAS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. GEJDENSON. Mr. Chairman, I am in opposition to the amendment in the nature of a substitute.

The CHAIRMAN. The gentleman from California [Mr. THOMAS] will be recognized for 30 minutes, and the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, we have heard some amazing statements on the floor. The gentleman from Vermont [Mr. SANDERS] has indicated that somehow the Republican side was deficient because we allowed millionaires to spend their own money. Perhaps the gentleman from Vermont [Mr. SANDERS] does not realize that a little thing like the Constitution stands in the way. However, the Republicans in their bill do address the question of whether or not someone spending their own money can do so with limits being placed on their opponent. What we do is remove those limits, if in fact someone exercises their constitutional right to spend money. I imagine a number of folks on the other side of the aisle will not let a little thing like the Constitution stand in their way.

Last night, Mr. Chairman, we had some amazing statements made on the floor. The gentlewoman from California [Ms. SCHENK] used the word "hypocrisy." It appears on page 31549 in the CONGRESSIONAL RECORD.

Mr. Chairman, I walked over to the dictionary here, the Random House Dictionary of the English Language, Second Edition, Unabridged. On page 943 it says "hypocrisy: A pretense of having some desirable or publicly approved attitude," a "pretense."

Mr. Chairman, on the floor last night on page 31553 of the CONGRESSIONAL RECORD, the Speaker said, "We have promised to deal with this issue this year. We should deal with it this year." A pretense of having some desirable or publicly approved attitude. We will not deal with this issue this year. The bill that the Democrats have put on the table cannot go into effect this year. It cannot go into effect next year. It cannot go into effect ever, unless and until the Democrats vote new revenue. They have to vote new revenue or nothing in the bill goes into effect.

Last night, Mr. Chairman, we heard the gentleman from Connecticut [Mr. GEJDENSON]. We know in the sports scene today when we see two members jawing on the floor either in basketball or football, they use the term "trash talk." The gentleman from Connecticut [Mr. GEJDENSON] I am sure did not realize, but he was engaged in what I think we could only call trash talk last night when he, getting a little carried away with his rhetoric, indicated that tens of millions of dollars could be raised from political action committees under the Republican proposal.

Now, I know his skin is a little thin when we use the term "$1 million" in talking about the Democrats' package, but Mr. Chairman, this is not coming from us. If the Members will look at the Congressional Quarterly on page 309–1 for November 13, the headline, by a very respected reporter around here who knows how to read bills, the headline reads, "House Will Vote On Limits Nearing $1 Million." Everybody knows the Democrat package is a $1 million package.

Mr. Chairman, I am going to talk about a number of issues in terms of the Republican bill, but I frankly want to spend some time on the one section where apparently the Democrats simply do not understand how it works. The Democrats simply do not understand how it works. The Democrats have said over and over again that "We have spending limits in our bill. You don't have spending limits in your bill." Yes, they have an arbitrary amount which is about $1 million applied to every district in the United States, whether that district is a whole State, whether the district is an urban district, whether that district is a suburban or rural district. It is an automatic, artificial, clamped-on $1 million limit, regardless of the kind of campaign they are able to run or the district they represent.

What the Republicans have said is "Let's get hold of campaign spending". Who should we give it to? Who best, who most properly should control the amount of money spent in a campaign? Guess who we came up with; a radical new idea, revolutionary. Maybe that is why it is so difficult for some of the Democrats to understand. The radical, revolutionary idea that Republicans offer in the Michel substitute is that the people who vote in the election get to control how much money is spent in the campaign.

I have heard the Democrats say, "Gee, we spend too much time trying to raise money." Of course they do. Why? Because they are never in their district. They are in New York. They are in Hollywood. They are in some other major urban center, but never in their district.

The reason they are never in their district is, there is no requirement that they have to raise money in their district. In this bill they can spend $1 million and still do not have to raise any money in their district. What the Republicans say is, "Before you can get a dime from a political action committee, before you can get a dime from somewhere outside your district, you have got to raise a dime in your own district."

Democrats keep talking about $1,000 contributions. We know who really is upset with the political system today. It is the people who give $5 or $10 or $15 or $20. They do not count, and they know they do not count. Guess why? With the Republican proposal, if we are required to get $1 from our district before we can get $1 from anywhere else, all of a sudden that guy who has $5 to offer is a lot more powerful. We have to actually go home to our districts and work with those people before we can take PAC money, any PAC money, under our proposal.

Let me tell the Members—we enable the small person, we make the system work. We reunite the voting precinct and the financial precinct. The amount of money determined to be spent in the campaign is determined by the people back home, not by some arbitrary limit slapped on by incumbents who want to make sure they are taken care of at the $1 million level. It is the people back home who determine how much money is spent in the Republican proposal.

I know Democrats have a difficult time understanding that, because it is so radical. It seems to me, Mr. Chairman, that if we really listen to the public, what they are complaining about is all the money brought in from the outside, from all the big organizations. What we say is, "Get your money from back home."

Guess what, when we are taking the $5 or the $10 contribution, we are taking it from someone who can vote in the election. We do not need as much money if we are actually spending time in our districts talking to people in our districts. I know that it is radical, I know it is revolutionary, I know they have a hard time understanding it, but what we have here is an opportunist to really radically change elections, to put the people who can vote in the driver's seat, and to take a look at the suggestion that a majority of our money has to come from people who can actually vote in the election.

Mr. Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I consider it a privilege and an honor to yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the cosponsor of the so-called Obey-Railsback bill, one of the real leaders in this Congress for reform.

Mr. OBEY. Mr. Chairman, the first goal of campaign reform ought to be, "Don't make the system worse than it is right now." The fact is, if we pass the Republican substitute, that is exactly what we will do. The issue is not whether people have too much influence on Government because of contributions which they give collectively through PAC's. The issue is whether wealthy people have too much influence on this Government, whether they give individually or collectively, and I suggest that the Democratic bill is by far superior in scaling back the power that wealthy people have in this society to influence events on this floor.

☐ 1110

If you eliminate PAC's, as our old friend, Dick Bolling, used to say—and no one can question his credentials as a reformer—if you eliminate PAC's, all you do is drive the money trail underground. You go back to the old system under which people give money through circuitous routes, and it takes an army of detectives to determine whether or not those people have the same collective interest.

The virtue of PAC's, whatever you think of them, it that they bring the money trail above ground where it is visible, where people can see who gives what.

Much has been made in the Republican attack on the Democratic bill, that it is incomplete. It is. I regret that very much. In some ways, it really does represent a horse without legs, because we do not have the financing mechanism yet attached to the bill. That will happen at a later stage.

But I do strenuously question, in fact, I am somewhat amused by the Republican attacks on this bill as containing public financing. First of all, if it did, I would make absolutely no apology for that, because I cannot think of another activity in this country which is a more public activity than is the process by which we elect people to public office. It is a public activity. It ought not to be considered a private activity.

Second, while the Republican attack on this bill attempts to scare taxpayers into thinking that there is a method by which we are going to forcibly dig into taxpayers' pockets, I want to make clear what this proposal would provide by the time it gets to the financing bill passed in stage 2.

What we have in mind is something very simple, simply a campaign run by the Federal Election Commission which would simply on network television explain to people the existence of the democracy fund, to tell them that if they want to take their Government back, they might consider contributing up to $5 in voluntary contributions above and beyond the amount that they owe on their income tax. If they do not want to contribute it, they do not contribute it. But if they think it would be good to provide a public source of money, which is a voluntary action on their part, they would be able to do so.

Mr. Chairman, I find this much superior, for instance, than the Common Cause suggestion that we ought to simply require taxpayers to provide public funding for campaigns.

I believe in the principle of public funding, but I think we ought to give the public an opportunity to vote with their pencils to see whether or not they do also, and that is what you do by creating a voluntary ability to contribute additional funds into campaigns.

I just have to say that if you vote for the Republican substitute, you are voting to turn campaign contributions largely over to the wealthiest people in this society. That does not surprise me.

If you take a look at the tax plans which the Republican Party has supported through the years and the tax policy they have supported through the years, it is apparent that they have an old habit of defending the interests of the very wealthy, and that simply carries over into this campaign bill.

The Democratic alternative in contrast tries to limit to some degree the influence that wealthy people have on the campaign system. That is what we ought to do. I think it is a far better-balanced proposal than any other alternative around.

I would urge support for the Gejdenson bill.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. BARRETT], who is a long-suffering member of the Task Force on Campaign Finance Reform and a member of the Committee on House Administration.

Mr. BARRETT of Nebraska. Mr. Chairman, my constituents and most Americans have echoed several campaign themes with regard to campaign finance reform.

First, they do not want their tax dollars used to support political campaigns.

Second, they want the influence of special interests to be reduced.

And, third, they want the power returned to the people.

The Republican campaign finance alternative achieves all three of these objectives.

As a fiscal conservative, I continue to believe that it is imperative that we rein in Federal spending, not expand it with new entitlements. The Democratic bill is a weak bill. It contains entitlements for candidates.

The substitute is a much stronger, much less complicated piece of legislation that requires absolutely no Federal funds.

The alternative enables individuals to make contributions to candidates that they support, and I think this is really truly representative government.

Mr. Chairman, I ask my friends on the other side of the aisle to have an open mind, to listen to common sense, and to give the American people the true reform that they have asked of us. Support the Michel substitute.

Mr. GEJDENSON. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for the first time this year calling me "distinguished."

Mr. Chairman, the rhetoric on this bill is hot and heavy. I would like to simply make a couple of points in rebuttal to some of the issues that have been raised.

The first is the question of spending limits. There is no dispute that there is a spending limit in the Democratic bill, and there is not in the Republican substitute. Why is that important? It is important because even if it is not the lowest limit anyone could imagine, the fact is that this limit was set at what the average cost of a campaign has been around the country. It is not picked out of the air. It is a reasonable number.

Putting some limit on it ends the arms race for contributions. If you do not do that, if you have unlimited amounts of money that can be spent on campaigns and if you do not lower the amount that can come from any individual, as the Republican package does, then you have an unlimited chase for $1,000 contributions from people who can afford to give that amount of money in a campaign, and you spend unlimited amounts of money.

Do not tell me that a spending limit locks in an incumbent advantage, because you know and I know that incumbents can raise as much money as they want. What this does is simply put a cap on the amount of money that can be raised and allows challengers at least to know that the incumbent who can have access to these $1,000 contributions places some limit on the amount.

The second point, on the question of the resources that will go into funding these communication vouchers, I also, like everybody else, recognize that they are not in this bill. But I will tell you that I personally have been involved in this issue not only this year but throughout my career in public service, and I have never seen a better-faith effort to try and find a compromise on how to fund these programs than has been going on this year. I invite anyone who has concerns about it to participate in that good-faith effort.

Because we can find a solution that does not burden taxpayers' dollars, but that will, in fact, provide the resources to people to get a voice on television and radio so they can present competing views.

Finally, the Republicans, and the gentleman from California [Mr. THOMAS] in particular, make much of the point that the money is being raised at home. Well, let me just say something about campaign contributions being raised at home. It is easy in all of our districts to find where the country club is and to find where those who can afford $1,000 contributions are located. It is much more difficult for working people and average people to be able to make their contributions known, and here is how it happens, here is what these awful political action committees do: First, with the subject of labor contributions, the local union goes to every single member and asks them to sign a card to say whether or not they would like a small amount of their dues to go into a political action committee, and then we go to them and talk about the issues and ask for their endorsement. If we get their endorsement, they then ask some of the money that went from their small contributions gets contributed to our campaigns.

That is democracy, and that is what this is all about.

Mr. THOMAS of California. Mr. Chairman, I yield myself 20 seconds.

Despite what was just said, in the article that I alluded to it says, "The higher limits mean relatively few campaigns would be seriously pinched. In 1992, a third of current House Members spent more than $600,000 to win their seats, but only 35 topped a million;" it is not the average amount.

The gentleman from Ohio spent more than $600,000, with about a quarter of a million from PAC's. He may think that is the average expense in a race. It is not.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Chairman, I rise in strong support of the Michel substitute.

The campaign last year in my congressional district cost $2 million. My committee raised and spent $750,000. The incumbent we defeated outspent us by nearly a half million dollars. The difference reflected his ability to collect hundreds of thousands of PAC dollars.

The time has come to enact real campaign finance reform—reform that does away with PAC's—period. I do not accept PAC money. It is a tough thing to do, but I am convinced it is the right thing to do. And I can tell you it is liberating.

What is wrong with the PAC system? First, it undermines the public's confidence in the independence and integrity of its elected representatives.

When a Member of Congress casts votes critical to the interests of a particular labor union, industry or trade association on one day, and then solicits these same interests for financial contributions the next, he or she creates at least the appearance of basing his or her vote on what is good for the contributor and not on what is good for the people he or she represents. We can have the public's trust, or we can have PAC's. But we cannot have both.

Second, PAC's protect incumbents and allow outside interests to dominate local concerns.

Consider the case of an incumbent Member of Congress who has been here too long and who has become out of touch with the voters. He or she is challenged by a bright, dynamic opponent who is willing to work harder, and better represent the district's voters. But the incumbent is the chairman of an important committee or subcommittee. The PAC dollars flow to the incumbent from all over the country. The incumbent dominates the airways with slick, misleading television ads attacking the challenger. The challenger's message is overwhelmed. The incumbent is re-elected largely on the strength of special interest money from out-of-state. Power and position win. Principle loses again.

Third, PAC's keep individual voters from getting personally involved in choosing which candidate to support.

Under the PAC system a union member, a corporate employee or a member of a profession may give money to a political action committee—and completely dismiss his or her responsibility as a voter to evaluate the candidate on the wide agenda of issues. Neither voters nor candidates are one-dimensional. Steamfitters should not judge candidates based only on their views on steamfitting. Neither should doctors, lawyers, teachers or anyone else limit their evaluation of a candidate to one narrow band of issues. When a contribution goes directly from the voter to the candidate of choice, the contributor will be more inclined to consider the candidate's views on a greater spectrum of issues.

Mr. Chairman, Americans voted for change last year. They voted for reform. They do not want symbolic gestures or press releases, and they sure do not want the status quo masquerading as reform. They want results. Real reform means campaign finance reform. And real campaign finance reform means doing away with the PAC system and returning political power to the voters of each congressional district.

The vote on the Michel amendment separates true reformers from those determined to protect business as usual. I urge all reform-minded members to support the Michel substitute.

☐ 1120

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of H.R. 3.

This is a consensus bill that is similar to legislation passed last year by this body but was vetoed by President Bush.

We finally have the opportunity to level the playing field and reduce the influence of special interest groups in campaigns, without the threat of a veto.

The bill is supported by Citizen Action, Public Citizen, the League of Women Voters, and Common Cause, whose campaign finance reform pledge I was proud to sign in my 1992 election.

It is also supported by people all over the country who have been waiting for a change in the status quo.

Elements of the bill include spending limits, caps on PAC spending, advertising vouchers, restrictions on soft money, and public financing—all representing a significant and welcome departure from business as usual.

And having been a strong supporter of public financing, I look forward to working on legislation that will make this goal a reality.

Mr. Chairman, it is time to show our constituents that their voices have been heard and that we are unafraid to compete with opponents on the merits of our service to them rather than the comfort of incumbency.

By taking this step we will strengthen this institution and rebuild the confidence of the citizens we are privileged to serve.

Mr. Chairman, I urge my colleagues to support this long-awaited legislation.

Mr. Chairman, I would like to thank the gentleman from Connecticut [Mr. GEJDENSON] for all the work he has done to bring it to this point.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], the chief deputy whip.

Mrs. KENNELLY. I thank the gentleman for yielding this time to me.

Mr. Chairman, as we all know, congressional campaigns have become extremely expensive, with calls for reform mounting from both within Congress and the public.

As a former Secretary of the State of Connecticut, I believe this year we have an important opportunity to solve some of the major problems in the current campaign finance system. This bill sets up a system for voluntary spending limits to control ever escalating campaign costs, reduces the role of political action committees and steers the system toward smaller individual contributions, and curbs so-called soft money which is the biggest loophole in the system today.

Mr. Chairman, no bill is perfect. Over the last 100 years, Congress has periodically risen to the challenge presented by emerging problems in the current system of the time and the public's disenchantment with those problems, and renewed itself and the public's faith by implementing reform. Now is a time for reform. It is not the time to vote against these important strides forward.

I wish to compliment my colleague from Connecticut [Mr. GEJDENSON], for all of the hard work he and his staff did on this issue. I urge all of my colleagues to support this effort.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. BARTLETT], a freshman Member.

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong opposition to the Democratic bill and in support of the alternative. Let me cite just one major difference in these bills. Imagine that you are a worker in Garrett County, part of our district in Appalachia, and you come home on Friday evening with your paycheck, which puts you just barely above the poverty line, and you look there at the Federal income tax and recognize that part of that is going to pay for the campaign of the candidate who stands for all the things that are wrong for you, wrong for your district, wrong for your State, and wrong for the country. I tell you, Mr. Chairman, Americans believe this is outrageous, it is un-American, it is unthinkable. The rage of Americans at this rape of the treasury is going to defeat candidates who vote for this outrageous bill.

Vote against the bill, please.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I oppose the amendment; in fact, I oppose the bill. This is either hypocrisy or the height of stupidity. And if you really believe, America, that Congress is going to give their opponents a chance to defeat them at the polls, you yourself are a candidate for one of two things: No. 1, Prozac therapy; or, No. 2, Dr. Kevorkian. But today's debate answers a question for many Americans and a question is being answered for me.

America is asking how could Congress pass all these laws that are killing us, and today I understand it: A Congress that is dumb enough to pass a law that will hurt themselves is more than capable of ripping you off on a regular basis.

Now, I heard all this talk about honor, level playing field, integrity; the American people cannot be fooled. They know there is none of that in congressional politics.

Let me close by saying one thing: I think Congress puts much too much emphasis and importance on money. If money got congressmen and congresswomen here, I would not be here. But let me close by saying this: Give all your money to my opponent all you want to; I want your votes. Give me your vote. That is still what really counts in politics.

☐ 1130

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON], a member of the task force who has not only labored in the field of campaign finance reform but actually practiced it.

Mr. UPTON. Mr. Chairman, I stand for reform. As a member of the Republican Task Force on Reform, we met for many months dissecting all parts of campaign finance reform.

In fact, I beat the only incumbent in the country in a primary when I was first elected. I know how hard it is to beat an incumbent, and the deck is stacked against challengers.

I want to see more people involved in congressional raises. That is one of the reasons why I ran for Congress in the first place and that is one of the reasons I supported the motor-voter bill, a system that works well in Michigan for all.

Our bill, the Michel substitute, does what the people at home want. It eliminates or reduces PAC's. There is no more bundling, no more soft money, and we have a requirement that makes a lot of sense. If you are from the Sixth District of Michigan, you are going to raise most of your money from individuals in Kalamzaoo, Portage, St. Joe, Benton Harbor, Watervliet, Niles, Pokagon, Dowagiac, Sturgis, Three Rivers, South Haven, Paw Paw, Colon, Climax, Summerville, and Keeler Keg in Keeler, and about 50 other communities as well; not Burbank, not Hollywood, not Miami, not Houston and not New York.

Mr. Chairman, what is wrong with that? The Michel substitute is exactly what our constituents want. It is real reform that every one of us here can be proud of.

We do not have taxpayer financing. We do not want the Treasury financing congressional elections. There are enough problems with the Presidential financing scheme.

People like Lyndon LaRouche, sitting in jail collecting a million bucks every 4 years from the Treasury, makes me sick.

Some want to expand that same mechanism to congressional races.

Well, that is wrong. Can you imagine the taxpayers financing thousands more races under the guise of reform? That is sick, too.

The Michel substitute is the only reform on the table. I would urge all my colleagues to strongly support that substitute and defeat the bill of the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I yield myself 20 seconds.

I know the gentleman is earnest and I am sure the gentleman from Louisiana [Mr. LIVINGSTON] yesterday was earnest, but the bill specifically has language that would preclude a gentleman like Lyndon LaRouche from getting matching funds. It is just simply inaccurate to say that.

If the gentleman would read lines 18 through 23 on page 14, he would see that.

Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

[Roll No. 602]

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
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de Lugo (VI)
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
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Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
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Wilson
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Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1154

The CHAIRMAN. Four hundred and eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Chairman, I support this campaign reform bill because I know, and every one of my colleagues in this House knows, that this bill presents the only possibility we have to move toward reform. This bill is, quite literally, the only game in town. That is why Common Cause and Public Citizen support this bill, and that is why those who really want to see reform, and who are not driven by partisan or individual concerns, also should support his bill.

This bill is neither perfect nor complete. We still need to approve a method for funding the system. I hope I can support the coming funding proposal. Right now, I don't know. But I do know that if this bill dies, we will not have the opportunity to deliver reform of the current campaign finance system.

I want to address one specific criticism of this bill, the notion that any supporter of term limits cannot vote for this bill. The bill as currently drafted requires groups that support certain types of ballot initiatives, including term limit initiatives, to make the same public disclosures that candidates for Congress must make. The opponents have alleged that this attempt to shine the light of public disclosure on initiatives constitutes "harassment."

But the real problem with that disclosure provision is not that it goes too far, but that it does not go far enough. We need more disclosure, not less. As Justice Brandeis noted in his book, "Other People's Money," "Sunlight is the best disinfectant." Those words remain true today. The people are served better by fuller disclosure, by knowing who really supports a candidate or a cause.

In my State, as in many Western States and States whose constitutions were written during the Progressive era, the initiative and referendum are a proud and significant part of our political life. Unfortunately, too many moneyed interests, styling themselves as grassroots movements, push their own agendas, avoiding disclosure of their actual identities and the true sources of their support. It is not grassroots; it is astroturf.

Any group seeking to move public policy should want to make these disclosures. I support term limits, and I support shining the light of public scrutiny as fully and brightly as possible on the political process. At the root of both ideas is opening up the system and making it more accountable. These proposals are not mutually exclusive; instead, they go together.

I support H.R. 3, the Campaign Spending Limit and Reform Act, and I urge my colleagues to do the same.

Mr. THOMAS of California. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN], the chairman of the Freshman Republican Campaign Task Force.

Mr. TORKILDSEN. Mr. Chairman, I rise in support of the Republican substitute for campaign finance reform, which would ban political action committee contributions to candidates for Congress.

While there are many issues to be debated for meaningful campaign finance reform, I want to focus on the issue of PAC contributions. Perhaps nowhere is an incumbent's advantage over challengers more pronounced than in PAC contributions.

The simple fact is that it is incumbents, not challengers, who shake the PAC-funded money tree. It is incumbents who receive the vast majority of all PAC contributions. In 1992, challengers received only 9.5 percent of PAC contributions!

So is it any surprise that the bill the Democrat leadership is advocating—under a gag rule—continues the status quo of allowing, and even encouraging, $5,000 contributions per PAC per election?

Even pretending that $200,000 in PAC money is somehow a limit is absurd. That would be the same as telling a mass murderer that he would be limited to 200 murders per year, in the interest of reducing crime.

Some of us who ran for office refused all PAC money, even though our opponents took enormous amounts. While I accepted no PAC money last year, my general election opponent, a 14-year incumbent, took over $240,000 in PAC contributions.

For the Democrat leadership to advance a bill that would now put an incentive in place for those who refuse PAC money to now turn around and accept it, is pure hypocrisy. And it is inane to even try to call it reform.

For those who do not like the Republican substitute, there would have been other alternatives, such as the one proposed by the gentleman from Oklahoma, which would have reduced PAC contributions from $5,000 to $1,000. Unfortunately, both Democrats and Republicans will not have the opportunity to vote on any other amendments, because the rule adopted forbids him or anyone from offering alternatives.

If you are serious about reforming campaign finance, and leveling the playing field for challengers, then a vote to ban PAC contributions is essential. Because of the dictatorial rule adopted by this House, which will not even allow instructions to ban PAC contributions on the motion to recommit, our only opportunity to ban PAC contributions is by the Republican substitute. I ask every Member to vote for the substitute as our only vehicle to eliminate PAC contributions once and for all.

☐ 1200

Mr. GEJDENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in strong support of the gentleman's bill, and against the Republican alternative, and commend him on a job well done.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Chairman, The Democratic bill is right on the principles. Some will oppose this bill today because they genuinely believe it is worse than nothing at all, but rejecting it will only give opponents of reform an excuse to kill campaign finance reform yet again. That would be a terrible disservice to our country.

My friends on the other side of the aisle will say there is no money for matching funds in this bill and that the caps are so full of holes that candidates will be able to spend more than a million dollars and still meet them.

But instead of fixing these problems, the Republican leadership doesn't even pretend to provide resources for challengers or limit overall spending. Congressional candidates spent $66 million in the 1972 election cycle.

In 1992, it was $504 million. By refusing to cap spending, the Republican alternative reinforces the escalating spiral of spending that had made elections a contest between fundraising committees rather than ideas.

Any system that requires candidates to raise several hundred thousand dollars to run a competitive race unfairly favors incumbents, gives special interests undue influence, and makes meaningful participation in the political process impossible for all but a handful of citizens.

Let us pass the Democratic bill and get on with reforming the way we finance congressional campaigns.

The conference should agree to compromise with the Senate and limit the size of PAC contributions or ban them outright, because failing to drastically reduce the power of PAC's would allow special interests to wield disproportionate influence over a wide range of issues, from health care to trade.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, 8 years ago, in the Michigan State Senate, I introduced our first PAC limitation bill. One of my first bills in Congress, H.R. 1914, is a bill to limit PAC contributions and require that 51 percent of the contributions come from the Member's home district.

Lobbyists get paid $100,000, $200,000 and even higher salaries. They give millions of dollars to campaign war chests, because they are effective in influencing what ends up in our laws and the appropriation bills. Most every law is a transfer of wealth and special interest lobbyists are very successful in having the wealth transferred their way.

Sometimes the lobbyists PAC money ends up being a bribe for a vote. More often, it simply buys time in a busy Congressional schedule to give their side of the story and lobby for their interests.

On the question of the Republican substitute, we can vote in the interest of our campaign war chests, or we can vote in the best interest of America's future. To stop the PAC money and undue interests of lobbyists, to vote for 51 percent of the money coming from within a candidate's district, vote for the Michel substitute and the Republican proposal for campaign finance reform.

Mr. GEJDENSON. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON], the distinguished chief deputy whip.

Mr. RICHARDSON. Mr. Chairman, Let us get this issue behind us. This is not a perfect bill, but neither is our political system.

Let me just state that if this bill had been signed and not vetoed in 1991, $40 million less would have been spent on the last election cycle.

Mr. Chairman, this bill is a compromise to women and minorities, to reflect the diversity that is our country and this Congress. That is a noble goal. The Congress should reflect this diversity.

This bill will end the constant questioning every one of us has about how special interest moneys influence our vote. The bill does not accomplish all the goals we want, but it does the following four positive things:

One, it stops the escalating cost of campaigns; two, it protects the ability of all candidates, regardless of their wealth, to participate in competitive Federal campaigns; it equalizes the role for challengers who face incumbents with more resources; it places less reliance on special interests, this is a good objective; last, it reduces the time and energy all of us spend on campaigns soliciting funds.

Mr. Chairman, great tribute should go to the gentleman from Washington [Mr. SWIFT], the gentleman from Connecticut [Mr. GEJDENSON], the Speaker, the majority leader, and minority Members that have worked on reforming our process.

This is not the best possible bill that could ever be drafted, but it is a good compromise, one that we should all support and just simply get this issue behind us.

Mr. Chairman, it cannot be denied, the campaign finance system is broken and needs to be fixed. Today we can fix it.

I rise in support of H.R. 3, the House Campaign Spending limit and Election Reform Act and I commend the ongoing efforts of Representative SAM GEJDENSON and Majority Leader GEPHARDT in their attempt to bring reform to the floor.

This bill accomplishes a great deal but faces the challenge that it does not do enough. We cannot let the hollow hope that something better will come along destroy our only chance at fixing a system that has run out of control.

Last year I told the people of New Mexico that I was committed to several basic principles in the reform of the political process. This bill stands on the foundation of those principles.

H.R. 3 limits overall spending. It limits the amount of PAC money a candidate can raise. It tightens the bundling and independent expenditure laws and, most important, it opens up the political process and will encourage more competition.

I have long been an advocate of campaign reform and increased competition in the political process. I believe that this bill accomplishes both goals.

Mr. Chairman, this bill calls for real change and reform. Therefore, it is far easier to vote no than to vote yes. Nonetheless, a yes vote is a vote for reform. A yes vote is the right vote.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Ohio [Mr. HOKE], an outspoken opponent of the Democratic plan and a strong proponent of the GOP reform plan.

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding time to me.

Let us tell the truth about spending limits in these two different bills. I think it is important that we get down to this.

I just had a nice conversation with the gentleman from Connecticut [Mr. GEJDENSON], and he stipulates that for a general election, with a primary and a runoff, the limit would be a million sixty. For a general election, with just a primary, the limit would be $860,000, and for a general election with no runoff, the limit would be $660,000.

That is the law, the limit that would be in the Democrats bill.

Let me tell Members right now what the average candidate's expenditure is. It was about $400,000 in 1992. That was what was spent. The average winning candidate spent $550,000.

□ 1210

The average PAC contribution is $250,000. If we eliminate PAC's and reduce each of these amounts, the average winning candidate would then be reduced to about an average of $300,000 in the 1992 cycle.

If we put on top of that the requirement that 51 percent of contributions have to come from in-district, it is clearly going to be even less. It is clearly going to be even less. So this phony, as the New York Times put it, it is a fake bill, this phony spending limit is a spending limit in name only. In practical application, those spending limits will never be reached.

Not only that, but they are also COLAed, they are adjusted for inflation starting in 1994. Mr. Chairman, what our bill would do is, it would eliminate the PAC money and it would require that 51 percent of this money come from in-district.

Let us talk about the theory that was behind PAC's in the first place. It was well intended. As my friend, the gentleman from Ohio, says, it allows people to put in $5 or $10 and all of these moneys come together. The fact is that when an individual gives a contribution to a political campaign, they do it for a broad spectrum of reasons that are all in the public interest, or how they perceive the public interest to be.

However, when a special interest takes that money, it is using it to influence a specific piece of legislation, to buy a specific piece of legislation, and to get a specific agenda of their own across. This is the difference.

That is the problem with special interest money, as opposed to public interest money. That is the problem that everybody in this Chamber grapples with, because so many of us are actually beholden to that as an easy way to raise funds.

Mr. Chairman, I urge support of the so-called Michel substitute. I urge Members to vote down this fake bill.

Mr. GEJDENSON. Mr. Chairman, it is my privilege now to yield 5 minutes to the gentleman from Washington [Mr. SWIFT], who has really been a remarkable leader in this area, and has been a great help to me personally in putting forward this bill.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, today I want to disagree with conventional wisdom. The specific piece of conventional wisdom that I wish to disagree with is this: that political action committees are the root of all campaign finance evil. Mr. Chairman, I disagree with that conventional wisdom. In fact, I believe it is conventional malarkey.

Members might ask how on Earth could I stand here in the well of the House and say that. Please, follow me. What is the problem here that concerns people? Is it not the fundamental concern of the mixing of private money with public policy? If that is the problem, the mixing of private money with public policy, is not the solution to eliminate the private money? Public financing.

However, we cannot achieve public financing. The public does not support public financing. I would suggest that had Common Cause over the years spent have as much time explaining the benefits to the public of public financing as they have thinking up drive-by shootings and other kinds of political terrorism for Members in the House, we might be closer to their goal today than we are otherwise. The fact is, we are a very far piece from adopting public financing.

Therefore, question: If we cannot get public financing so we can drive the private money out of the system, does not the next question become, "What is the best kind of private money to have mixing with public policy?" And does not the answer follow, the most accountable kind of private money, the one we can see and trace and know about most readily?

Question: What kind of private money is that? The answer is the political action committee.

There is a reason that Americans know about PAC's. The reason is they are easy to track. They are regularly reported on. They are editorialized about. They are used by opponents in campaigns. Information about PAC's is readily available. It tells us who gave how much money to whom and what interest they represent.

Large individual contributions, on the other hand, are infinitely harder to track. They are much harder to correlate. It is much harder to determine with specificity what special interest they may represent. They are much harder for the media or for an opponent or the people to know about. It is much harder to know with a private, large individual contribution who gave how much money to whom and what interest do they represent.

If we cannot drive private money out of the system, if we cannot get to public financing, or if we philosophically do not want to get to public financing, do not, please do not, as the Republican substitute would do, drive that private money back under the table, which is what will happen if we rely more greatly on large individual private contributions.

We are stuck, at least for now, with private money in the system. Do not close down the most accountable kind, the one we know about, because we get so much information about it. Do not exchange it for a greater reliance on individual special interest money. That money is there today, and if the Republican substitute passes, that money will continue there big time, greater. Do not go back to the days of bag men and money under the table, vote with the gentleman from Connecticut [Mr. GEJDENSON] on the so-called Gejdenson bill.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT], a member of the Republican Campaign Task Force.

Mr. CALVERT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I, like many of my freshman class colleagues, was elected with reform a major reason for our election to Congress. I have personally worked hard to see that major elements of reform are undertaken in the area of campaign reform.

I am proud to have been a member of the Republican Leader's Task Force on Campaign Finance Reform, as well as being an original cosponsor of the Republican campaign reform bill.

The Republican bill would accomplish what many deemed impossible, a virtual elimination of the influence of the PAC's and most importantly a renewed accountability to our constituents.

It is the accountability to our constituents which I deem to be most important. The Republican bill requires that a majority of a candidate or incumbent's funds come from individual contributors who reside in their district.

No more would the majority of a candidate's or incumbent's funds come from PAC's here in Washington.

No more would rich residents outside a Member's district be able to provide a majority of a candidate's or incumbent's funding.

No more would the residents of a district be held hostage to anyone else.

Some say that this discriminates against poorer districts, but this is not true. Both the incumbent and challenger would have to abide by the same restrictions.

What about a wealthy challenger spending his own money? The Republican bill removes any restrictions on a candidate or incumbent if his opponent spends more than $250,000 of his own money.

What about an incumbent who already has money in a "war chest?" The Republican bill permits the party to make a one time match of the "war chest" amount to ensure that the challenger and incumbent start off at the same level.

My office has recently been getting letters and calls from so called watchdog groups which are pushing for support of public financing of campaigns. These groups say that public financing will help make Congress more accountable to its constituents rather than special interest contributors.

But, if there is no requirement to have the majority of a candidate's funds provided by individual in-district contributions, how does this make us more accountable?

If this bill is not going to go into effect until there is some tax legislation at a later time, how are we responding to the needs of our constituents for some speed in campaign reforms?

Let us stop living in a dream, like many seem to want us to do, and pass a bill which provides better and more sincere reforms to our campaign finance system. That bill is the Republican one.

Mr. GEJDENSON. Mr. Chairman, it is now my privilege to yield such time as he may consume to the gentleman from Washington [Mr. FOLEY], the Speaker of the House, without whose efforts we would not be here today, and without his efforts, we would not be passing this bill, nor would we have passed the rule.

□ 1220

Mr. FOLEY. Mr. Chairman, I rise in support of the committee bill, in opposition to the Michel substitute. But I especially urge that all Members of Congress vote for campaign finance reform.

This is a difficult issue. We all know very well that this is an issue on which each Member has very strong, particular, and informed opinions. Each of us is a candidate. Each of us must decide, in his or her own elections, how to finance that campaign, and how to conduct that campaign.

But we are faced with an increasing cynicism on the part of the American people that there is not a fair contest between incumbents and challengers, and that there is not a willingness on the part of the House of Representatives and the Senate to deal with reform in this very personal area of political interest.

I think we can, to some extent, restore public confidence by moving today to bring this bill not only to a positive conclusion in the House, but move it forward into conference with the Senate. For those Members who want to do more or do differently, I would suggest they will have an opportunity to make a final judgment when the conference committee reports, and the bill comes back for final passage. But to vote "no" today is to kill campaign reform for this Congress. That would be a terrible message to send to the Nation, a bad message for both parties. It would increase public cynicism and doubt about the institution, and it simply is the wrong choice.

This bill has been carefully constructed to ensure fairness and balance. We limit campaign contributions by PAC's to a third of the total amount raised. We also limit the size of individual contributions. We limit the number of contributions from minors that can be secretly attributed to candidates by guardians. All of these reforms are aimed at fairness and balance in the campaign financing system.

Like my colleague, the gentleman from Washington [Mr. SWIFT], I frankly believe the best course would have been public financing. We do not have tax-supported public financing in this bill. I believe public financing is the way to offer the best opportunity for fairness and balance and an even playing field, but the public, for many years, has made clear its resistance and its reluctance to adopt that program. This is the best we can do at this moment to move serious and important campaign financing forward.

I urge my colleagues to vote "aye" on this bill and to send the message to the public that awaits our action today, that we are willing to reform, indeed anxious to reform.

Mr. GEJDENSON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I rise in support of H.R. 3 and opposed to the Republican substitute.

I speak as the most recently elected Member of this body, having campaigned last June against 26 other candidates. There were no other issues on the ballot other than this election to this office.

But certainly the whole debate was about campaign style and campaign reform. And I rise to support H.R. 3 because it embodies what everyone was talking about, a fairness and an equal playing field to allow all candidates to have an opportunity to express their viewpoints, not just those that have a lot of money in their back pocket, or a lot of money in their family history.

This is an equal playing field. They wanted fairness. They wanted disclosure, and that is what this campaign reform has.

I urge support of it, as does the AARP who wants H.R. 3. Common Cause wants us to support H.R. 3. The League of Women Voters wants us to support H.R. 3. I rise in support of this bill.

The CHAIRMAN. The gentleman from California [Mr. THOMAS] has 8 minutes remaining, and the gentleman from Connecticut [Mr. GEJDENSON] has 4 minutes remaining and has the right to close debate.

Mr. THOMAS of California. Mr. Chairman, I have the right to close debate.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, when President Abe Lincoln spoke softly on the battlefield at Gettysburg in a speech he thought none would note and few would remember, he ended it with almost a prayer, that a government of, by, and for the people should not perish from the Earth.

Today when we debate campaign finance reform, and in the context of that debate introduce the concept of public funding, taxpayer dollars to fund vouchers for campaign communications, in my sincere opinion we threaten, we threaten the success of that prayer by Abe Lincoln.

Government should come from the people. Candidates for public office ought to get their support and their sustenance from the people who support them.

When Government funds, taxpayer funds are used to create candidates, to create communication in a campaign, and ultimately to help select the people who will eventually govern this Nation, we end up with Government by Government.

Taxpayer funding of campaigns is the most pernicious response to this Nation's call for campaign reform. I wish we had the chance today to vote on the bipartisan substitute that the gentleman from Oklahoma [Mr. SYNAR] would have offered in this House. Unfortunately, we are faced with a choice now to either choose to support a plan that contains this public taxpayer funding of campaigns, a proposition which I suggest that most Americans vehemently oppose, or to choose the Michel substitute.

I do not like a feature in the Michel substitute. I would rather we did not ban PAC contributions. I think that is probably unconstitutional, and if it is, the limits on PAC's in the Michel substitute would become the law of the land. Given this choice, the Michel substitute limiting the amount PAC's can contribute, the Michel substitute urging and in fact requiring that we raise more of our funds at home where we seek reelection, where we ask for support, or this choice to support taxpayer-funded campaigns in America, to support a choice where we are to vote for Government sponsoring itself, funding the very essence of free speech in America, a free speech in campaigns for the selection of candidates for public office, given that choice, I think the choice is clear. We ought to vote for the substitute. We ought to vote down this pernicious plan to put taxpayer dollars in our campaigns.

If Members think the American public is cynical about campaigns today, I want them to picture the day when campaigns are funded with taxpayer dollars, when Government taxpayer funds fund campaigns, and I want Members to picture that day when people in America see politicians at the trough for their own benefit, to fund their own campaigns, not satisfied with wastefully spending taxpayer dollars on all sorts of purposes, but spending it instead on themselves and on their own campaigns for reelection, put that before the voters and see how fast that is rejected by the American public.

The CHAIRMAN. The gentleman from Connecticut [Mr. GEJDENSON] has ceded to the gentleman from California [Mr. THOMAS] the right to close debate.

Mr. GEJDENSON. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, I am pleased to support this significant and meaningful campaign finance reform measure that Mr. GEJDENSON and the other members of his committee have worked so hard to bring forward.

During my recent campaign I took Common Cause's pledge to support legislation which reduces the undue influence of special-interest political money and provides challengers with a fairer chance to compete.

I am proud tonight to honor that pledge and to support the many people in my district who told me they believe that we need to improve our campaign finance laws.

In Wisconsin, our State election laws are similar to the provisions that I am supporting tonight. We have a long tradition of clean and open government in Wisconsin, and I think that our experience proves that campaign finance reform can work.

The public is frustrated and tired of seeing skyrocketing amounts of money being spent on campaigns. H.R. 3 provides for reasonable spending limits which will actually help challengers by putting them on a level playing field with incumbents.

The bill addresses the issue of Political Action Committees by placing aggregate limits on funds from both PAC's and wealthy individuals.

The measure closes the loopholes that allow soft money and bungling to be used to evade the current limits on contributions.

It has the support of Common Cause, Public Citizen, and the League of Women Voters, groups known for their support of open government.

This measure is necessary, timely and will strengthen our country by making our election process more competitive.

Mr. THOMAS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise in strong support of real campaign finance reform, but in strong opposition to the phony reform contained in H.R. 3.

What is wrong with this bill? For starters, this bill has been created for one specific purpose—to make it easier for incumbents to get reelected. Supporters of this bill have incumbents in mind when they talk about reducing the time and energy candidates spend soliciting contributions. They feel that, in spite of the over 95-percent reelection rate for Members, we have to work too hard to get reelected.

So, here is what they have done.

First, this bill creates a system of taxpayer financing for elections, a new entitlement—welfare for politicians.

The way this will work is that entrenched incumbents will get the first $260,000 or so from the PAC community. Then, they will use this money and money from their big money contributors to do nationwide fundraising in Washington and New York and Hollywood. And the first $200 of their favorite Hollywood star or Wall Street lawyer's $1,000 contribution will be counted as a small contribution and matched by the tax dollars of your local dry cleaner or restaurant line cook.

Incumbents will find it much easier under the Democratic reform system to raise enough money to swamp their opponents while doing half the work.

The second critical factor that is wrong with the Democratic approach is the notion that hard spending limits will make it easier for challengers to get elected. The evidence shows the exact opposite. An analysis of challenger spending in the 1988 election by the Capitol Hill newspaper Roll Call showed that every challenger who spent less than $300,000 lost, while those who raised $500,000 or more had a 1 in 6 chance of winning. In other words, history shows us that, under the proposed system, a challenger would have little chance of winning, and if he or she chose to forgo or limit PAC contributions, their chances would be virtually nil.

Challengers generally need to raise large sums of money to overcome the advantages of incumbency—high name identification and easy access to PAC's. It is not often that the American Civil Liberties Union [ACLU] and the Heritage Foundation agree on an important matter, but both organizations have raised their voices loudly in opposition to this reform.

Third, the Democrat's bill is littered with loopholes that reward the campaign that can most clearly hide its spending under the guise of overhead, fundraising, or legal expenses. An incumbent with a healthy war chest can hide all types of expenditures by hiring the most sophisticated lawyers, accountants, and fundraisers around to figure our ways to exploit these loopholes.

At the same time, that incumbent's challenger will be raising $10 per person at house parties so that he or she can buy bumper stickers to establish some name identification. The $10 per person house party contribution will be counted against these spending limits, the $5,000 PAC check toward legal fees will not be.

Fourth, you will not be entitled to any of the Federal matching funds until you have raised a threshold level of $60,000 from contributions of $200 or less. With the professionally prepared national mailing list prepared by your off-spending limit fundraising operation, that may not be that hard to do. Going from house to house, door to door, only a small percentage of challengers will ever reach this threshold.

Every significant provision of this bill tilts the playing field to the incumbent's advantage. It's Reform Lite—you expend half as many calories campaigning as you used to, but you still get the great taste of reelection.

Now my colleagues on the other side of the aisle may argue that this is the only campaign reform bill we are voting on today with any chance of passing. Well, thanks to their closed rules and refusal to accept any reform that would make elections more competitive that may be true.

I have voted last Congress for the real campaign reform proposed by the Republican leadership on November 25, 1991, H.R. 3750, Republican substitute, rollcall 425. It contained an 80-percent reduction in the allowable PAC contribution, requirements for a minimum of 50 percent of funds to come from individuals in a candidate's district, elimination of soft money with no loopholes and no taxpayer financing. This is the policy and reform I support.

I challenge any of my colleagues on the other side of the aisle to lay out the facts on these two issues before your constituents and ask them which proposal sounds like real reform to them.

Now, many of us on the Republican side question whether the total elimination of PAC's is good policy or constitutional, we all agree that the two key provisions in any campaign finance reform proposal are first, a substantial 80-percent cut in the allowable PAC contribution and second, a minimum requirement for either in-district or in-State financing percentages. Amendments have been offered on both sides of the aisle, and rejected by the Rules Committee, that would have contained these key provisions without a constitutionally questionable ban on PAC's.

The Republican plans are all based on one key premise—that our congressional elections should be more competitive. The Democratic bill is based on a different premise—that taxpayers should help incumbents get elected more easily.

I urge my colleagues to vote against phony reform and for more competitive elections.

□ 1230

Mr. GEJDENSON. Mr. Chairman, I yield the remainder of my time to the leader of the House, the gentleman from Missouri [Mr. GEPHARDT], a gentleman whose continuing efforts have improved the bill and brought us to this point where we will shortly hopefully pass the committee bill.

Mr. GEPHARDT. Mr. Chairman, I rise today in strong support of this legislation.

I want to thank the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Oklahoma [Mr. SYNAR], and many, many others who participated in putting this very important bill together.

In my view, the bill provides the most effective and strongest reform in a generation. The heart of reform has been, is now, always will be trying to put a limit on how much can be spent in a campaign.

People in the country know and believe that there is too much money being raised and too much money being spent in political campaigns, and they believe, rightly or wrongly, I think usually their perception is wrong, but they believe that money in campaigns has too much of an influence on the behavior of legislators.

And so from a practical viewpoint and from a theoretical viewpoint, the heart of reform is getting a limit. This bill achieves a limit on what can be spent.

In fact, a bill largely like this bill that we passed in 1992, if it had been signed by former President Bush, there would have been $40 million less, if it had been applicable to the 1992 election, spent in 1992 of special interests' so-called PAC money and large-contributor money.

So if we can pass the bill and apply it to 1996, a lot less money will be spent.

Secondly, we limit large-contributor money and political action money which is the second major definition of what is good reform.

Third, we induce small contributors, not through the use of public money. We have heard the word here on the floor that there is tax money, public money. That is not true. We do have to come back, and we will come back, and we will pass legislation that gets money out of the system through voluntary contributions to the system. But everyone believes that we need to induce smaller contributors.

Finally, I want to reiterate the importance of this legislation. Every public opinion poll, everytime that I meet with constituents, I receive the perception from people that they think money has too much of a place in this political system.

I think everybody here believes that too much time is spent in raising dollars for campaigns. I think everybody here believes that we need to reduce the amount of money involved in campaigns, and I think everybody here believes that it is time finally to bring real reform to the way money is raised and the way money is spent.

This is the opportunity to do it.

I urge Members to vote down the Michel amendment and to vote for this bill. It is real reform. It is not public financing. It is a limit on what can be spent. It is a limit on political action funds. It is a limit on large individual contributors. It is a description of what everybody who has talked about reform for 20 years has said is reform.

Vote for this bill. Improve our democracy and put faith back into our political system.

Mr. GEJDENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in favor of this bill.

Mr. THOMAS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of this legislation.

Mr. THOMAS of California. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, the speaker just a short time ago used the term "cynicism." The American people are very cynical about what is going on.

I would ask my colleagues and, as a matter of fact, members of the press and everybody at home to take out your campaign reform checklist. Let us look at what is actually in these two bills.

First of all, you just heard it once again from the majority leader. This bill before us today does nothing, and it will do nothing until Democrats vote a revenue package to make it work, if they vote a revenue package.

All of the good stuff they have talked about is on the shelf until they put money in this bill.

Now, ask yourself: Why would a Member of Congress who is an incumbent with hundreds of thousands of dollars in his or her campaign war chest give a political contribution to another incumbent who has a war chest of hundreds of thousands of dollars? Would you not think it is because the incumbent is trying to influence the other incumbent. Why would a Member of Congress want to influence another Member of Congress? Because we play games inside this body, such as who sits on which subcommittee, who gets to be a member, and who gets to be the chairman of a particular subcommittee.

Those insidious devices to pay off people inside this system are called leadership PAC's. The Republican substitute bans leadership PAC's. The Democrat's proposal does not.

The gentleman from Washington talked about bagmen with money, about money under the table. That is why it was in the 1960's and the early 1970's. All of this reform, such as the political action committee movement was designed to get corporate money out of the system, so-called soft money, because under Federal contribution laws, you cannot give corporate money. But we still have corporate money in the system today.

The Michel substitute bans soft money. Theirs does not. It allows soft money to stay in the system.

We ban the bundling of contributions. We think it is wrong. They ban the bundling of contributions except for those groups that are politically correct.

We say that if an incumbent has hundreds of thousands of dollars that he or she carries over in a massive campaign war chest, why not let a political party match that incumbent's amount and give the challenger the same amount that the incumbent carries over? If the incumbent does not want the challenger to have a lot of money, do not carry it over. It is an automatic fix on the problem of an incumbent's war chest. We propose that solution in our substitute. They do not.

We looked at the idea of the Senate Democrats and the Senate Republicans, that they put in their campaign package: the banning of political action committees, and if that ban is unconstitutional, limiting them to $1,000. We decided that was a good idea: We have it in our package. The House Democrats do not.

The Democrats on the floor of the House are standing in the way of fundamental political action committee reform. I personally believe that the Supreme Court would uphold the constitutional right of political action committees to freely and voluntarily organize, but I see no constitutional guarantee that political action committees get to put more money in the system than anybody else. There is nothing wrong with a $1,000 limit on political action committees.

Finally, Democrats say they limit campaigns and they have a mechanism for limiting the dollars. Yes, but only if they spend, only if they go ahead and vote the revenue, do they then have a $1 million limit.

You know, I heard the majority leader say that that is the heart of campaign reform. Let me tell you what the heart of campaign reform is going to be. We have read about political consultants in the news recently. What we have seen is that they take these megabuck campaigns and play games with each other.

Let me ask you, what is the system that has a better chance of games being played? A system which allows you to raise a million dollars of which you do not have to raise a penny from people in your district, or a system where every time you want an outside dollar, you have got to go to people who are actually in the district and ask them for a contribution? Do you think the political shenanigans that go on in campaigns now, negative campaigning, the mudslinging and all the rest would go on if you had to go to your constituents and say, "I need your contribution before I can take another contribution?"

The reason so much negative campaigning goes on is because candidate's import the money. They get it from other places. Three-quarters of the American people agree with us. They want to require candidates to get money from their district.

Money is the means, not the end. It is votes: The votes of individuals are the end in this process.

□ 1240

Why do we not reunite the voting precinct with the financial precinct? Why do we not tell candidates in this country today, "You should go to the people who can vote in the election to determine how much money is spent in the campaign?", not some arbitrary number dictated by incumbents to guarantee that they still have got those war chests to carry on the negative campaigns. Bring financing back home. You will limit the spending, but, more importantly, you will clean up the sewer kind of campaigns that now go on.

The Michel substitute is real, fundamental reform across the board, and I urge its support.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. THOMAS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. THOMAS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 263, not voting 2, as follows:

[Roll No. 603]

AYES—173

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bunning
Burton
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cooper
Costello
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Everett
Ewing
Fawell
Fields (TX)
Fish
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—263

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—2

Clinger
Hall (OH)

□ 1250

Ms. EDDIE BERNICE JOHNSON of Texas and Mr. WATT changed their vote from "aye" to "no."

Messrs. GILMAN, PETRI, and HALL of Texas changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1300

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. BEILENSON] having assumed the chair, Mr. OBEY, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes, pursuant to House Resolution 319, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. FOWLER

Mrs. FOWLER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. FOWLER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. FOWLER moves to recommit the bill H.R. 3, to the Committee on House Administration.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. FOWLER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 240, not voting 3, as follows:

[Roll No. 604]

AYES—190

Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Costello
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—240

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—3

Allard
Clinger
Hall (OH)

□ 1318

Mrs. MINK and Mr. DINGELL changed their vote from "aye" to "no."

Messrs. SARPALIUS, MICHEL, and STUMP changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

□ 1320

The SPEAKER pro tempore (Mr. GEPHARDT). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 255, nays 175, not voting 3, as follows:

[Roll No. 605]

YEAS—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant

Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Poshard
Price (NC) .
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—175

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bliley
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Towns
Traficant
Upton
Vucanovich
Walker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—3

Clinger
Goodling
Hall (OH)

□ 1336

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GEJDENSON. Mr. Speaker, pursuant to the provisions of House Resolution 319, I call up from the Speaker's table the Senate bill (S. 3) entitled the "Congressional Spending Limit and Election Reform Act of 1993," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 3 is as follows:

S. 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Congressional Campaign Spending Limit and Election Reform Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.
Sec. 105. Excess campaign funds of Senate candidates.
Sec. 106. Restrictions on use of campaign funds.

Subtitle B—General Provisions

Sec. 131. Broadcast rates and preemption.
Sec. 132. Extension of reduced third-class mailing rates to eligible Senate candidates.
Sec. 133. Reporting requirements for certain independent expenditures.
Sec. 134. Campaign advertising amendments.
Sec. 135. Definitions.
Sec. 136. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.
Sec. 202. Equal broadcast time.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

Sec. 301. Personal contributions and loans.
Sec. 302. Extensions of credit.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Definitions.
Sec. 312. Contributions to political party committees.
Sec. 313. Provisions relating to national, State, and local party committees.
Sec. 314. Restrictions on fundraising by candidates and officeholders.
Sec. 315. Reporting requirements.

Subtitle C—Soft Money of Persons Other Than Political Parties

Sec. 321. Soft money of persons other than political parties.

TITLE IV—CONTRIBUTIONS

Sec. 401. Contributions through intermediaries and conduits; prohibition on certain contributions by lobbyists.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Contributions and expenditures using money secured by physical force or other intimidation.
Sec. 405. Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100.
Sec. 406. Out-of-State fundraising.

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Computerized indices of contributions.
Sec. 504. Filing of reports using computers and facsimile machines.
Sec. 505. Political committees.

TITLE VI—FEDERAL ELECTION COMMISSION

Sec. 601. Use of candidates' names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Penalties.
Sec. 605. Audits.
Sec. 606. Prohibition of false representation to solicit contributions.

Sec. 607. Regulations relating to use of non-Federal money.
Sec. 608. Simultaneous registration of candidate and candidate's principal campaign committee.
Sec. 609. Reimbursement fund.
Sec. 610. Insolvent political committees.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.
Sec. 703. Debates by general election candidates who receive amounts from the Presidential Election Campaign Fund.
Sec. 704. Telephone voting by persons with disabilities.
Sec. 705. Provisions relating to Presidential primary elections.
Sec. 706. Certain tax-exempt organizations not subject to corporate limits.
Sec. 707. Aiding and abetting violations of FECA.
Sec. 708. Deposit of repayments of excess payments from the Presidential Election Campaign Fund.
Sec. 709. Disqualification from receiving public funding for Presidential election campaigns.
Sec. 710. Prohibition of contributions to Presidential candidates who receive public funding in the general election campaign.
Sec. 711. Application of increased revenues to reduce the deficit.
Sec. 712. Sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would empower Congress and the States to set reasonable limits on campaign expenditures.
Sec. 713. Sense of the Senate.
Sec. 714. Campaign advertising that refers to an opponent.
Sec. 715. Limit on congressional use of the franking privilege.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Budget neutrality.
Sec. 803. Severability.
Sec. 804. Expedited review of constitutional issues.
Sec. 805. Regulations.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b);

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a); and

"(D) the candidate and the candidate's authorized committees will meet the closed captioning requirements of section 509.

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate certifies to the Secretary of the Senate, under penalty of perjury, that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amounts described in subsections (c), (d), and (e) of section 502, reduced by any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(vi) will cooperate in the case of any audit and examination by the Commission under section 505 and will pay any amounts required to be paid under that section; and

"(vii) will meet the closed captioning requirements of section 509; and

"(E) the candidate intends to make use of the benefits provided under section 503.

"(2) The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 502(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate or to the Commission with respect to such period under section 304.

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit under section 502(b).

"(2) For purposes of this section and subsections (b) and (c) of section 503—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

"(3) For purposes of this subsection and subsections (b) and (c) of section 503, the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of subsections (b) and (c) of section 503, the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1) and section 502(b)(3), the base period shall be calendar year 1996.

"SEC. 502. LIMITATIONS ON EXPENDITURES.

"(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

"(2) A source is described in this paragraph if it is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $1,200,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the fund is established with respect to qualified legal and accounting expenditures incurred with respect to a particular general election;

"(B) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(C) the aggregate amounts transferred to, and expenditures made from, the fund with respect to the election cycle do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(D) no funds received by the candidate pursuant to section 503(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act for the general election for which the legal and accounting fund was established; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided in connection with the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(C)(i), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 506.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5) Any funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal and accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds for purposes of section 313(b).

"(d) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's authorized committees.

"(e) CERTAIN EXPENSES.—In the case of an eligible Senate candidate who holds a Federal office, the limitation under subsection (b) shall not apply to ordinary and necessary expenses of travel of such individual and the individual's spouse and children between Washington, D.C. and the individual's State in connection with the individual's activities as a holder of Federal office.

"(f) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) thereof.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

"(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

"(3) payments from the Senate Election Campaign fund in an amount equal to—

"(A) the excess expenditure amount determined under subsection (b); and

"(B) the independent expenditure amount determined under subsection (c).

"(b) EXCESS EXPENDITURE AMOUNT.—(1) For purposes of subsection (a)(3)(A), except as provided in section 510(d), the amount determined under this subsection is, in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1) is less than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of the following:

"(i) The allowable contributions of the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 501(e).

"(ii) 50 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(iii) The excess described in paragraph (1).

"(c) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of subsection (a)(3)(B), the amount determined under this subsection is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1)(A) An eligible Senate candidate who receives payments under subsection (a)(3) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

"(B) In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit under section 502(b) with respect to such candidate shall be increased by the amount (if any) by which the excess described in subsection (b)(1) exceeds the amount determined under subsection (b)(2)(B) with respect to such candidate.

"(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(j), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 503, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—(1) The Commission shall conduct an examination and audit of the campaign account of each eligible Senate candidate who accepted benefits under this title to determine, among other things, whether the candidate has complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 501(d); or

"(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to the sum of—

"(i) three times the amount of the excess expenditures plus an additional amount determined by the Commission, plus

"(ii) if the Commission determines such excess expenditures were willful, an amount equal to the benefits the candidate received under this title.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid within 30 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(g) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty required by this section shall be paid to the entity from which benefits under this title were paid to the eligible Senate candidate.

"(h) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to any entity from which benefits under this title were paid.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund (and any account thereof).

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe (in accordance with the provisions of subsection (c)) such rules and regulations, to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE SENATE CANDIDATES.

"No eligible Senate candidate may receive amounts under section 503(a)(3) under section 503(a)(4) unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 510. SENATE ELECTION CAMPAIGN FUND.

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the Senate Election Campaign Fund (hereafter in this section referred to as 'the Fund').

"(2) There are hereby appropriated to the Fund the following amounts:

"(A) Amounts received in the Treasury which are equivalent to the increase in Federal revenues by reason of the repeal of the exempt function income exclusion under section 527 of the Internal Revenue Code of 1986 for authorized committees, and the graduated rates under such section for the principal campaign committee, of any candidate who does not abide by the campaign expenditure limits under this title, but only to the extent such amounts do not exceed the amount certified by the Commission as necessary to carry out the purposes of this title.

"(B) Amounts received in the Treasury which are equivalent to the increase in Federal revenues by reason of the disallowance of deductions for lobbying expenditures, but only to the extent such amounts do not exceed the amount certified by the Commission under subparagraph (A) reduced by amounts appropriated to the Fund under subparagraph (A).

"(C) Amounts transferred to the Fund under any provision of this Act.

"(D) Amounts credited to the Fund under paragraph (3).

"(3) The Secretary of the Treasury shall transfer amounts to, and manage, the Fund in the manner provided under subchapter B of chapter 98 of the Internal Revenue Code of 1986.

"(4) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(5) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (c), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Fund.

"(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment to an eligible candidate, the Secretary determines that the monies in the Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the Fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the Fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1994.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 404, is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 327. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for nomination for election, or election, to Federal office or the candidate's authorized committees,

unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year;

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; or

"(D) any committee described in section 315(a)(8)(D)(i)(III).".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 302(e).".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 327 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to Federal office (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$1,000" for "$5,000";

(3) it shall be unlawful for a multi- candidate political committee to make a contribution to a candidate for election, or nomination for election, to Federal office (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle.

The $825,000 amount in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year 1996. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by subsections (a), (b), and (c) of this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(D) and (2)(D) of section 315(a) of FECA (2 U.S.C. 441a(a) (1)(D) and (2)(D)), as redesignated by section 312, are each amended by striking "$5,000" and inserting "$1,000".

(g) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1994.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received before January 1, 1994; or

(B) contributions made to, or received by, a candidate on or after January 1, 1994, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate before January 1, 1994, over

(ii) such contributions received by the candidate before January 1, 1994.

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible Senate candidate under section 501; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 2 business days after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 2 business days after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 100, 133⅓, 166⅔, and 200 percent of such limit.

"(3) The Commission—

"(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

"(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 2 business days after such expenditures have been made or loans incurred.

"(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

"(c) Candidates for Other Offices.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(4) The Commission shall certify to the individual and such individual's opponents the amounts the Commission determines to be described in paragraph (3) and such amounts shall be treated as expenditures for purposes of this Act.

"(d) Certifications.—Notwithstanding section 504(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of the Commission's own investigation or determination.

"(e) Shorter Periods for Reports and Notices During Election Week.—Any report, determination, or notice required by reason of an event occurring during the 7-day period ending with the general election shall be made within 24 hours (rather than 2 business days) of the event.

"(f) Copies of Reports and Public Inspection.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or under title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(g) Definitions.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.".

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 134, is amended by adding at the end thereof the following:

"(f) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.".

SEC. 105. EXCESS CAMPAIGN FUNDS OF SENATE CANDIDATES.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting "(a) In General.—" before "Amounts"; and

(2) by adding at the end the following new subsection:

"(b) Return of Excess Campaign Funds.—(1) Except as provided in paragraph (2), and notwithstanding subsection (a), if a candidate for the Senate has amounts in excess of amounts necessary to defray campaign expenditures for any election cycle, including any fines or penalties relating thereto, such candidate shall, not later than 1 year after the date of the general election for such cycle, expend such excess in the manner described in subsection (a) or transfer it to the Senate Election Campaign Fund established under section 510.

"(2) Paragraph (1) shall not apply to any amounts—

"(A) transferred to a legal and accounting compliance fund established under section 502(c); or

"(B) transferred for use in the next election cycle to the extent such amounts do not exceed 20 percent of the sum of the primary election expenditure limit under section 501(d)(1)(A) and the general election expenditure limit under section 502(b) for the election cycle from which the amounts are being transferred.".

SEC. 106. RESTRICTIONS ON USE OF CAMPAIGN FUNDS.

(a) Restrictions on Use of Campaign Funds.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"Sec. 327. (a) An individual who receives contributions as a candidate for Federal office—

"(1) may use such contributions only for legitimate and verifiable campaign expenses; and

"(2) may not use such contributions for any inherently personal purpose.

"(b) As used in this subsection—

"(1) the term 'campaign expenses' means expenses attributable solely to bona fide campaign purposes; and

"(2) the term 'inherently personal purpose' means a purpose that, by its nature, confers a personal benefit, and such term includes, but is not limited to, a home mortgage payment, clothing purchase, noncampaign automobile expense, country club membership, vacations or trips of a non-campaign nature, and any other inherently personal living expense as determined under the regulations mandated by section 106(b) of the Congressional Campaign Spending Limit and Election Reform Act of 1993.".

(b) Regulations.—For the purposes of subsection (a), the Federal Election Commission shall, not later than 90 days after the date of enactment of subsection (a), prescribe regulations to implement the subsection. Such regulations shall apply to all contributions possessed by an individual at the time of implementation of this section.

Subtitle B—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) in paragraph (1)—

(A) by striking "forty-five" and inserting "30"; and

(B) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date"; and

(2) by adding at the end the following new sentence:

"In the case of an eligible Senate candidate (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges for the use of a television broadcasting station during the 60-day period referred to in paragraph (1) shall not exceed 50 percent of the lowest charge described in paragraph (1), except that this sentence shall not apply to broadcasts which are to be paid by vouchers which are received under section 503(c)(4) by reason of the independent expenditure amount.".

(b) Preemption; Access.—Section 315 of such Act (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

(c) Revocation of License for Failure To Permit Access.—Section 312(a)(7) of such Act (47 U.S.C. 312(a)(7)) is amended—

(1) by striking "or repeated";

(2) by inserting "or cable system" after "broadcasting station"; and

(3) by striking "his candidacy" and inserting "his or her candidacy, under the same terms, conditions, and business practices as apply to its most favored advertiser".

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "and the National" and inserting "the National"; and

(B) by striking "Committee;" and inserting "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;";

(2) in paragraph (2)(B), by striking "and" after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) the terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to 2 times the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.".

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) In General.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) Time for Reporting Certain Expenditures.—(1) Any person making independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before any election shall file a report of such expenditures within 24 hours after such expenditures are made.

"(2) Any person making independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before any election shall file a report within 48 hours after such expenditures are made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

"(3) Any statement under this subsection shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the State involved, as appropriate, and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(4) For purposes of this subsection, an expenditure shall be treated as made when it is made or obligated to be made.

"(5)(A) If any person intends to make independent expenditures totaling $5,000 or more during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Any statement under subparagraph (A) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the State involved, as appropriate, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (1) or (2). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (3), (5), or (6) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 503(a).

"(8) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).".

(b) CONFORMING AMENDMENT.—Section 304(c)(2) of FECA (2 U.S.C. 434(c)(2)) is amended by striking the undesignated matter after subparagraph (C).

SEC. 134. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(2) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement' ;

(3) in the matter before paragraph (1) of subsection (a), by striking "direct";

(4) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

(5) by adding at the end the following new subsections:

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement which—

"(A) states: 'I, (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message';

"(B) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(C) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

'   is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 135. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'eligible Senate candidate' means a candidate who is certified under section 504 as eligible to receive benefits under title V.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office. Such term includes a primary election which may result in the election of a person to a Federal office.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

"(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

"(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"(29) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 136. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6)(C) of title 39, United States Code, is amended—

(1) by striking "if such mass mailing is postmarked fewer than 60 days immediately

before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(2) by inserting "or reelection" immediately before the period.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the calendar year in which the election is to be held about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign. For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person, and the term 'professional services shall include any services (other than legal and accounting services for purposes of ensuring compliance with this Act) in support of any candidate's or candidates' pursuit of nomination for election, or election, to Federal office.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

"(iii) provide the licensee a copy of the statement described in section 304(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid using funds derived from a payment made under section 503(a)(3)(B) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.".

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(j) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions received after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of a mailing.".

Subtitle B—Provisions Relating To Soft Money of Political Parties

SEC. 311. DEFINITIONS.

(a) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Clause (xii) of section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)(xii)) is amended—

(A) by inserting "in connection with volunteer activities" after "such committee"; and

(B) by striking "and" at the end of subclause (2), by inserting "and" at the end of subclause (3), and by adding at the end the following new subclause:

"(4) such activities are conducted solely by, or any materials are distributed solely by, volunteers;".

(2) Clause (ix) of section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)(ix)) is amended—

(A) by inserting "in connection with volunteer activities" after "such committee", and

(B) by striking "and" at the end of subclause (2), by inserting "and" at the end of subclause (3), and by adding at the end the following new subclause:

"(4) any materials in connection with such activities are prepared for distribution (and are distributed) solely by volunteers;".

(b) GENERIC ACTIVITIES; STATE PARTY GRASSROOTS FUND.—Section 301 of FECA (2 U.S.C. 431), as amended by section 135, is amended by adding at the end thereof the following new paragraphs:

"(30) The term 'generic campaign activity' means a campaign activity that promotes a political party rather than any particular Federal or non-Federal candidate.

"(31) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 324(d).".

SEC. 312. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000;

"(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or".

(c) OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3)(A) No individual shall make contributions during any election cycle (as defined in section 301(29)(B)) which, in the aggregate, exceed $60,000.

"(B) No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees which, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party which, in the aggregate, exceed $20,000.

"(C) For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which such contribution is made shall be treated as made during the calendar year in which the election is held.".

(d) PRESIDENTIAL CANDIDATE COMMITTEE TRANSFERS.—(1) Subparagraph (B) of section 315(b)(1) of FECA (2 U.S.C. 441a(b)(1)) is amended to read as follows:

"(B) in the case of a campaign for election to such office, an amount equal to the sum of—

"(i) $20,000,000, plus

"(ii) the lesser of—

"(I) 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section), or

"(II) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.".

(2) Subparagraph (A) of section 9002(11) of the Internal Revenue Code of 1986 (defining qualified campaign expense) is amended by striking "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by inserting at the end the following new clause "(iv) any transfers to the national committee of the candidate's political party for distribution to State Party Grassroots Funds (as defined in section 301(31) of the Federal Election Campaign Act of 1971) to the extent such transfers do not exceed the amount determined under section 315(b)(1)(B)(ii) of such Act,".

SEC. 313. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of FECA is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 324. (a) LIMITATIONS ON NATIONAL COMMITTEE.—(1) A national committee of a political party and the congressional campaign committees of a political party may not solicit or accept contributions or transfers not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to contributions—

"(A) that—

"(i) are to be transferred to a State committee of a political party and are used solely for activities described in clauses (xi) through (xvii) of paragraph (9)(B) of section 301; or

"(ii) are described in section 301(8)(B)(viii); and

"(B) with respect to which contributors have been notified that the funds will be used solely for the purposes described in subparagraph (A).

"(b) ACTIVITIES SUBJECT TO THIS ACT.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to any of the following activities shall be subject to the limitations, prohibitions, and reporting requirements of this Act:

"(1)(A) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

"(B) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

"(2) Any generic campaign activity.

"(3) Any activity that identifies or promotes a Federal candidate, regardless of whether—

"(A) a State or local candidate is also identified or promoted; or

"(B) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

"(4) Voter registration.

"(5) Development and maintenance of voter files during an even-numbered calendar year.

"(6) Any other activity that—

"(A) significantly affects a Federal election, or

"(B) is not otherwise described in section 301(8)(B)(xvii).

Any amount spent to raise funds that are used, in whole or in part, in connection with activities described in the preceding paragraphs shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF POLITICAL PARTIES.—(1) Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, which is conducted by a State, district, or local committee of a political party (including any subordinate committee) shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to any activity which the State committee of a political party certifies to the Commission is an activity which—

"(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held,

"(B) is exclusively on behalf of (and specifically identifies only) one or more State or local candidates or ballot measures, and

"(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

"(d) STATE PARTY GRASSROOTS FUNDS.—(1) A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(A) any generic campaign activity;

"(B) payments described in clauses (v), (x), and (xii) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

"(C) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

"(D) voter registration; and

"(E) development and maintenance of voter files during an even-numbered calendar year.

"(2) Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if such district or local committee—

"(A) has established a separate segregated fund for the purposes described in paragraph (1); and

"(B) uses the transferred funds solely for those purposes.

"(e) AMOUNTS RECEIVED BY GRASSROOTS FUND FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(e) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met; and

"(ii) certifies that such requirements were met.

"(2) For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee, and

"(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting such requirements as are necessary to cover the transferred funds.

"(3) Notwithstanding paragraph (1), any State Party Grassroots Fund receiving any transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from such candidate committee.

"(4) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

"(f) SOFT MONEY RESPONSE FUNDS.—(1) The national committee of any political party may establish a separate fund for purposes of this subsection. Such fund shall consist of contributions described in section 315(p).

"(2)(A) If a candidate or political party is notified under section 304(h) that a person is making disbursements in excess of $10,000—

"(i) solely in opposition to such candidate or solely in support of an opponent of such candidate, or

"(ii) in opposition to such political party or in support of another political party,
the national committee may make the transfers described in subparagraph (B).

"(B) In the case of—

"(i) a notification described in subparagraph (A)(i), the national committee may transfer funds to authorized committees of the candidate described in such paragraph, or

"(ii) a notification described in subparagraph (A)(ii), the national committee may transfer funds to the State Party Grassroots Fund in the State where the disbursements are being made.

The aggregate amounts which may be transferred under this subparagraph in response to any notification shall not exceed the amount of disbursements specified in such notice.

"(3) Any amount transferred under paragraph (2) (and any amount expended by the State Party Grassroots Fund or the candidate's authorized committees from such amount)—

"(A) shall not be treated as an expenditure for purposes of applying any expenditure limit applicable to the candidate under title V, and

"(B) shall not be taken into account in applying the limit under section 315(d)(3) for expenditures by a political party or committees thereof on behalf of a candidate.".

(b) CONTRIBUTIONS AND EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended by striking "and" at the end of clause (xiii), by striking the period at the end of clause (xiv) and inserting a semicolon, and by adding at the end the following new clauses:

"(xv) any amount contributed to a candidate for other than Federal office;

"(xvi) any amount received or expended to pay the costs of a State or local political convention;

"(xvii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

"(xviii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xix) any payment for research pertaining solely to State and local candidates and issues;

"(xx) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xxi) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).".

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by striking "and" at the end of clause (ix), by striking the period at the end of clause (x) and inserting a semicolon, and by adding at the end the following new clauses:

"(xi) any amount contributed to a candidate for other than Federal office;

"(xii) any amount received or expended to pay the costs of a State or local political convention;

"(xiii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

"(xiv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xv) any payment for research pertaining solely to State and local candidates and issues;

"(xvi) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xvii) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).".

(c) LIMITATION APPLIED AT NATIONAL LEVEL.—Paragraph (3) of section 315(d) of FECA (2 U.S.C. 441a(d)(3)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the applicable congressional campaign committee of a political party shall make the expenditures described in this paragraph which are authorized to be made by a national or State committee with respect to a candidate in any State unless it allocates all or a portion of such expenditures to either or both of such committees.".

(d) LIMITATIONS APPLY FOR ENTIRE ELECTION CYCLE.—Section 315(d)(1) of FECA (2 U.S.C. 441a(d)(1)) is amended by adding at the end the following new sentence: "Each limitation under the following paragraphs shall apply to the entire election cycle for an office.".

(e) CONTRIBUTIONS TO RESPONSE FUNDS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 710, is amended by adding at the end the following new subsection:

"(p) CONTRIBUTIONS TO RESPONSE FUNDS.—(1) An individual may make contributions to a response fund established by a political party under section 324(f) which, in the aggregate, do not exceed $7,500 for any calendar year. For purposes of the preceding sentence, contributions during the calendar year preceding the calendar year in which an election occurs shall be treated as made in the year in which the election occurs.

"(2) Any contribution under paragraph (1) shall not be taken into account for purposes of subsection (a) (1)(B) or (3)."

SEC. 314. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end thereof the following new subsection:

"(k) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under subsections (a) (1) and (2), and are not from sources prohibited by such subsections with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, an agent of such a candidate or individual, or any national, State, district, or local committee of a political party (including a subordinate committee) and any agent of such a committee.

"(3) The appearance or participation by a candidate for Federal office or individual holding Federal office in any fundraising event conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if such candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(l) TAX-EXEMPT ORGANIZATIONS.—(1) If an individual is a candidate for, or holds, Federal office during any period, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

SEC. 315. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434), as amended by section 133(a), is amended by adding at the end thereof the following new subsection:

"(e) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements including separate schedules for receipts and disbursements for State Grassroots Funds described in section 301(31).

"(3) Any political committee to which section 324 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 324(d)(2) and shall itemize such amounts to the extent required by section 304(b)(3)(A).

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

"(5) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as subsection (b) (3)(A), (5), or (6).

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

"(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Paragraph (4) of section 304(b) of FECA (2 U.S.C. 434(b)(4)) is amended by striking "and" at the end of subparagraph (H), by inserting "and" at the end of subparagraph (I), and by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Subparagraph (A) of section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year", and

(B) by inserting ", and the election to which the operating expenditure relates" after "operating expenditure".

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 321. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of FECA (2 U.S.C. 434), as amended by section 602(d), is amended by adding at the end thereof the following new subsection:

"(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—(1)(A) If any person to which section 324 does not apply makes (or obligates to make) disbursements for activities described in section 324(b) in excess of $2,000, such person shall file a statement—

"(i) on or before the day which is 48 hours before the disbursements (or obligations) are made, or

"(ii) in the case of disbursements (or obligations) which are to be made within 14 days of the election, on or before such 14th day.

An additional statement shall be filed each time additional disbursements aggregating $2,000 are made (or obligated to be made) by such person.

"(B) This paragraph shall not apply to—

"(i) a candidate or a candidate's authorized committees, or

"(ii) an independent expenditure (as defined in section 301(17)).

"(2) Any statement under this section shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State of the State involved, as appropriate, and shall contain such information as the Commission shall prescribe, including whether the disbursement is in support of, or in opposition to, 1 or more candidates or any political party. The Secretary of the Senate or Clerk of the House of Representatives shall, as soon as possible (but not later than 24 hours after receipt), transmit a statement to the Commission and the Commission shall, not later than 48 hours after receipt, transmit it—

"(A) to the candidates or political parties involved, or

"(B) if the disbursement is not in support of, or in opposition to, a candidate or political party, to the State committees of each political party in the State involved.

"(3) The Commission may make its own determination that disbursements described in paragraph (1) have been made or obligated to be made. The Commission shall notify the candidates or political parties described in paragraph (2) within 24 hours of its determination."

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION ON CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection:

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

"(ii) the intermediary or conduit is—

"(I) a political committee;

"(II) an officer, employee, or agent of such a political committee;

"(III) a political party;

"(IV) a partnership or sole proprietorship;

"(V) a person who is required to register or to report its lobbying activities, or a lobbyist whose activities are required to be reported, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

"(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C)(i) The term 'intermediary or conduit' does not include—

"(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

"(II) a professional fundraiser compensated for fundraising services at the usual and customary rate, but only if the individual is not described in subparagraph (B)(ii);

"(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B), but only if the individual is not described in subparagraph (B)(ii); or

"(IV) an individual who transmits a contribution from the individual's spouse.

"(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

"(iii) The term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

Such term does not include contributions made, or arranged to be made, by reason of an oral or written communication by a Federal candidate or officeholder expressly advocating the nomination for election, or election, of any other Federal candidate and encouraging the making of a contribution to such other candidate.

"(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(VI):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 314(b), is amended by adding at the end the following new subsection:

"(m)(1) A lobbyist, or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

"(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

"(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

"(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

"(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

"(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

"(4) For purposes of this subsection—

"(A) the term 'covered executive branch official' means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

"(B) the term 'lobbyist' means—

"(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

"(C) the term 'lobbying contact'—

"(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

"(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

"(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

"(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

"(ii) does not include a communication that is—

"(I) made by a public official acting in an official capacity;

"(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

"(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

"(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

"(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

"(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

"(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

"(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

"(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

"(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

"(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

"(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

"(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.".

"(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress; or

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 401(b), is amended by adding at the end the following new subsection:

"(n) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) Notwithstanding paragraph (5)(B), a candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 404. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION.

Title III of FECA, as amended by section 707, is amended by adding at the end the following new section:

"CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION

"SEC. 326. It shall be unlawful for any person to—

"(1) cause another person to make a contribution or expenditure by using physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or

"(2) make a contribution or expenditure utilizing money or anything of value secured in the manner described in paragraph (1).".

SEC. 405. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of FECA (2 U.S.C. 441g) is amended by inserting ", and no candidate or authorized committee of a candidate shall accept from any one person," after "make".

SEC. 406. OUT-OF-STATE FUNDRAISING.

Title III of FECA, as amended by this Act, is amended by adding at the end the following new section:

"OUT-OF-STATE FUNDRAISING

"SEC. 328. A person shall not solicit or accept a contribution from a person that is not a legal resident of the candidate's State of residence prior to the date that is 2 years prior to the date of a general election for a congressional office in which the person seeks to become a candidate.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)), as amended by section 315(d), are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 502. PERSONAL AND CONSULTING SERVICES.

(a) REPORTING BY POLITICAL COMMITTEES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

(b) RECORDKEEPING AND REPORTING BY PERSONS TO WHOM EXPENDITURES ARE PASSED THROUGH.—Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) The person described in section 304(b)(5)(A) who is providing personal or consulting services and who is in turn making expenditures to other persons (not including employees) for goods or services provided to a candidate shall maintain records of and shall provide to a political committee the information necessary to enable the political committee to report the information described in section 304(b)(5)(A).".

SEC. 503. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of $200 or more.".

SEC. 504. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of FECA (2 U.S.C. 432(g)) is amended by adding at the end the following new paragraph:

"(6)(A) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe regulations under which persons required to file designations, statements, and reports under this Act—

"(i) are required to maintain and file them for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of $100,000 during the current calendar year, and

"(ii) may maintain and file them in that manner if not required to do so under clause (i).

"(B) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

"(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than signing) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(D) The Commission shall ensure that any computer (or other) system developed and maintained by the Commission to receive designations, statements, and reports in the forms required or permitted under this paragraph are compatible with the systems of the Secretary of the Senate and the Clerk of the House of Representatives.".

SEC. 505. POLITICAL COMMITTEES.

Section 303(b) of FECA (2 U.S.C. 433(b)) is amended—

(1) in paragraph (2), by inserting ", and if the organization or committee is incorporated, the State of incorporation" after "committee",

(2) by striking the "name and address of the treasurer" in paragraph (4) and inserting "the names and addresses of the officers", and

(3) by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following new paragraph:

"(7) a statement of the purpose for which the political committee was formed.".

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name, or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by inserting the following new subparagraph at the end:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—(1) Section 304(a)(3) (A)(i) and (B)(i) of FECA (2 U.S.C. 434(a)(3) (A)(i) and (B)(i)) are amended by striking "20th" and inserting "15th".

(2) Section 304(a)(4) of FECA (2 U.S.C. 434(a)(4)) is amended—

(A) in subparagraph (A)(i) by inserting ", and except that if at any time during the election year a committee receives contributions in excess of $100,000 ($10,000 in the case of a multicandidate political committee), or makes disbursements in excess of $100,000 ($10,000 in the case of a multicandidate political committee), monthly reports on the 15th day of each month after the month in which that amount of contributions is first received or that amount of disbursements is first anticipated to be made during that year" before the semicolon; and

(B) in subparagraph (B) by striking "20th" and inserting "15th".

(c) INCOMPLETE OR FALSE CONTRIBUTOR INFORMATION.—Section 302(i) of FECA (2 U.S.C. 432(i)) is amended—

(1) by striking "submit" and inserting "report"; and

(2) by adding the following at the end: "In the case of a contribution required to be reported under section 304(b)(3)(A), the contribution shall not be used by the political committee to make an expenditure until the political committee has obtained all of the information that is required to be reported.".

(d) WAIVER.—Section 304 of FECA (2 U.S.C. 434), as amended by section 315(c), is amended by adding at the end the following new subsection:

"(g) WAIVER.—The Commission may relieve any category of political committees of the obligation to file 1 or more reports required by this section, or may change the due dates of such reports, if it determines that such action is consistent with the purposes of this Act. The Commission may waive requirements to file reports in accordance with this subsection through a rule of general applicability or, in a specific case, may waive or change the due date of a report by notifying all political committees affected.".

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by adding at the end the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence; and

(2) by striking the third sentence.

SEC. 604. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation." and inserting "which—

"(i) is not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) does not exceed the greater of $5,000 or all contributions and expenditures involved in the violation.".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation." and inserting "which—

"(i) is not less than all contributions and expenditures involved in the violation; and

"(ii) does not exceed the greater of $10,000 or 150 percent of all contributions and expenditures involved in the violation.".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (B) or (C) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found or in which the violation occurred.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which—

"(i) is not less than all contributions and expenditures involved in the violation; and

"(ii) does not exceed the greater of $10,000 or 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which—

"(i) is not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) does not exceed the greater of $20,000 or 250 percent of all contributions and expenditures involved in the violation.".

SEC. 605. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986 or to an authorized committee of an eligible Senate candidate subject to audit under section 505(a).".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 606. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 607. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

"(g) The Commission shall promulgate regulations to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.".

SEC. 608. SIMULTANEOUS REGISTRATION OF CANDIDATE AND CANDIDATE'S PRINCIPAL CAMPAIGN COMMITTEE.

Section 303(a) of FECA (2 U.S.C. 433(a)) is amended in the first sentence by striking "no later than 10 days after designation" and inserting "on the date of its designation".

SEC. 609. REIMBURSEMENT FUND.

Section 311 of FECA (2 U.S.C. 438) is amended by adding at the end thereof the following new subsection:

"(g)(1) There is established in the Treasury of the United States a Federal Election Commission Reimbursement fund (referred to in this subsection as the "fund").

"(2) There shall be credited to the fund an amount equal to—

"(A) the expenses of the Commission incurred in preparing copies of documents, publications, computer tapes, and other forms of records sold to the public;

"(B) the expenses of the Commission incurred in responding to requests for records under section 552 of title 5, United States Code; and

"(C) costs awarded to the Commission in litigation.

"(3) Amounts credited to the fund shall be available without fiscal year limitation to the Commission, in addition to amounts otherwise appropriated to the Commission, for the purpose of paying the expenses of the Commission in providing records to the public as described in subparagraphs (A) and (B) and in providing at no charge to the public informational publications designed to assist candidates, political committees, and other persons in complying with this Act.".

SEC. 610. INSOLVENT POLITICAL COMMITTEES.

Section 303(d) of FECA (2 U.S.C. 433(d)) is amended by adding at the end the following new paragraph:

"(3) Proceedings by the Commission under paragraph (2) constitute the sole means, to the exclusion of proceedings under title 11, United States Code, by which a political committee that is determined by the Commission to be insolvent may compromise its debts, liquidate its assets, and terminate its existence.".

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

(2) by adding at the end the following new paragraph:

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, finance, maintain, or control any Federal or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

"(B) For one year after the effective date of this paragraph, any political committee established before such date but which is prohibited under subparagraph (A) may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.".

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 315(b), is amended by inserting at the end the following new subparagraph:

"(D) A contribution of polling data to a candidate shall be valued at the usual and normal charge for the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 703. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are receiving payments under section 9003 of the Internal Revenue Code of 1986 from the Secretary of the Treasury shall refund such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 3 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are receiving payments under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are receiving payments under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) not receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section.".

SEC. 704. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) CRITERIA.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only those persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the effective date of this Act.

SEC. 705. PROVISIONS RELATING TO PRESIDENTIAL PRIMARY ELECTIONS.

(a) LIMITATION ON PRESIDENTIAL PRIMARY EXPENDITURES.—Section 315(b)(1)(A) of FECA (2 U.S.C. 441a(b)(1)(A)) is amended to read as follows:

"(A) $12,000,000, in the case of a campaign for nomination for election to such office; or".

(b) MINIMUM CONTRIBUTIONS.—Section 9033(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking "$5,000" and inserting "$15,000"; and

(2) by striking "20 States" and inserting "26 States".

(c) CONFORMING AMENDMENT.—Clause (vi) of section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)(vi)) is hereby repealed.

SEC. 706. CERTAIN TAX-EXEMPT ORGANIZATIONS NOT SUBJECT TO CORPORATE LIMITS.

Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c) PROHIBITIONS NOT TO APPLY TO INDEPENDENT EXPENDITURES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.—(1) Nothing in this section shall preclude a qualified nonprofit corporation from making independent expenditures (as defined in section 301(17)).

"(2) For purposes of this subsection, the term 'qualified nonprofit corporation' means a corporation exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 which is described in section 501(c)(4) of such Code and which meets the following requirements:

"(A) Its only express purpose is the promotion of political ideas.

"(B) It cannot and does not engage in any activities that constitute a trade or business.

"(C) Its gross receipts for the calendar year have not (and will not) exceed $100,000, and the net value of its total assets at any time during the calendar year do not exceed $250,000.

"(D) It was not established by a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code, a corporation engaged in carrying out a trade or business, or a labor organization, and it cannot and does not directly or indirectly accept donations of anything of value from any such person, corporation, or labor organization.

"(E) It—

"(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings, and

"(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its position on any political issue.

"(3) If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 301(4) are met with respect to the corporation, the corporation shall be treated as a political committee.

"(4) All solicitations by a qualified nonprofit corporation shall include a notice informing contributors that donations may be used by the corporation to make independent expenditures.

"(5) A qualified nonprofit corporation shall file reports as required by section 304 (c) and (d).

SEC. 707. AIDING AND ABETTING VIOLATIONS OF FECA.

Title III of FECA, as amended by section 313, is amended by adding at the end the following new section:

"AIDING AND ABETTING VIOLATIONS

"SEC. 325. With reference to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets the person in that capacity in violating that provision may be proceeded against as a principal in the violation.".

SEC. 708. DEPOSIT OF REPAYMENTS OF EXCESS PAYMENTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Subsection (d) of section 9007 of the Internal Revenue Code of 1986 (relating to examinations, audits, and repayments) is amended to read as follows:

"(d) DEPOSIT OF REPAYMENTS.—All payments received by the Secretary under this section shall be deposited in the fund.".

SEC. 709. DISQUALIFICATION FROM RECEIVING PUBLIC FUNDING FOR PRESIDENTIAL ELECTION CAMPAIGNS.

(a) GENERAL ELECTION.—Section 9003 of the Internal Revenue Code of 1986 (relating to condition for eligibility to receive payments) is amended by adding at the end the following new subsection:

"(e) DISQUALIFICATION.—A person who has been convicted of a violation of this chapter or chapter 96 shall be ineligible to receive benefits under this chapter on and after the date of the conviction.".

(b) PRIMARY ELECTION.—Section 9033 of the Internal Revenue Code of 1986 (relating to condition for eligibility to receive payments) is amended by adding at the end the following new subsection:

"(d) DISQUALIFICATION.—A person who has been convicted of a violation of this chapter or chapter 95 shall be ineligible to receive benefits under this chapter on and after the date of the conviction.".

SEC. 710. PROHIBITION OF CONTRIBUTIONS TO PRESIDENTIAL CANDIDATES WHO RECEIVE PUBLIC FUNDING IN THE GENERAL ELECTION CAMPAIGN.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 402, is amended by adding at the end the following new subsection:

"(o) Except to the extent permitted under sections 9003 (b)(2) and (c)(2) of the Internal Revenue Code of 1986, no person shall make a contribution to a candidate who has become eligible to receive benefits under chapter 95 of such Code by making a certification described in section 9003 (b) and (c) of such Code.".

SEC. 711. APPLICATION OF INCREASED REVENUES TO REDUCE THE DEFICIT.

(a) DEFICIT REDUCTION.—The amount of increased revenue to the United States that is determined to be attributable to the disallowance of a deduction from income tax for lobbying expenses made by any law shall be paid into the general fund of the Treasury, to reduce the deficit and, to the extent provided by law, shall be used to reduce the role of special interests in congressional elections by funding the provision of benefits to candidates to encourage their agreement to campaign expenditure limits.

SEC. 712. SENSE OF THE SENATE THAT CONGRESS SHOULD ADOPT A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION THAT WOULD EMPOWER CONGRESS AND THE STATES TO SET REASONABLE LIMITS ON CAMPAIGN EXPENDITURES.

It is the sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office; and

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for State or local office.

SEC. 713. SENSE OF THE SENATE.

It is the sense of the Senate that every employee in the executive or legislative branch of the Federal Government shall follow appropriate officially prescribed procedures in contacts and dealings with the Federal Bureau of Investigation and the Internal Revenue Service.

SEC. 714. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of FECA, as amended by this Act, is amended by adding at the end the following new section:

"CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT

"SEC. 329. (a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(b) PERSONS OTHER THAN CANDIDATES.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that—

"(1) advocates the election of a particular candidate in an election; and

"(2) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular,

shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.".

SEC. 715. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6)(A) of title 39, United States Code, is amended to read as follows:

"(A) A Member of Congress may not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that seat or for election to any other Federal office.".

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act.

SEC. 802. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—The provisions of this Act (other than this section) shall not be effective until the Director of the Office of Management and Budget certifies that the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 have been offset by the enactment of legislation effectuating this Act.

(b) FUNDING.—Legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit, but should be funded by disallowing the Federal income tax deduction for expenses paid or incurred for lobbying the Federal Government and by repealing the tax exemption under section 527 of the Internal Revenue Code of 1986 for the exempt function income of the campaign committees of a candidate who exceeds the voluntary Federal campaign spending limits (whether or not the candidate agreed to the limits).

(c) CLARIFICATION OF RELATIONSHIP TO POTENTIAL RECONCILIATION ACT PROVISIONS.—The amount of increased revenue to the United States that is determined to be attributable to the disallowance of a deduction from income tax for lobbying expenses made by any law shall be paid into the general fund of the Treasury, to reduce the deficit and, to the extent provided by law, shall be used to reduce the role of special interests in congressional elections by funding the provision of benefits to candidates to encourage their agreement to campaign expenditure limits.

SEC. 803. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 805. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out the provisions of this Act within 9 months after the effective date of this Act.

MOTION OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GEJDENSON moves to strike all after the enacting clause of the Senate bill, S. 3 and insert in lieu thereof the provisions of H.R. 3, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret my absence for rollcall No. 605, on final passage of H.R. 3. I was fervently involved in a health care reform meeting and did not realize a vote had been called.

I am completely opposed to the public financing provisions contained in H.R. 3. One can already envision future taxes being raised to pay for campaigns. I believe our attention should be aimed at cutting the costs of campaigning and not increasing the amount of money available for consumption. I have always believed campaigns should be the contests of people and ideas rather than money. I acted upon this belief in voting for the alternative campaign reform bill, which would have banned political action committees, required a majority of funds to be raised from in-district individuals, and banned the use of soft money. Moreover, the bill did not utilize public financing. While I believe the alternative bill was not perfect, it would have been an improvement on the current system.

H.R. 3 does not contain the necessary ban on political action committees but does contain unwarranted public financing provisions. For this reason, I believe H.R. 3 is fatally flawed. Had I been present for rollcall vote No. 605, I would have voted "nay."

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3, the bill just considered and passed.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). is there objection to the request of the gentleman from Connecticut?

There was no objection.

AGREEING TO THE REQUEST OF THE SENATE FOR A CONFERENCE ON H.R. 1025, BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 322 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 322

Resolved, That upon the adoption of this resolution the House shall be considered to have taken the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, with a Senate amendment thereto, from the Speaker's table, to have disagreed to the Senate amendment, and to have agreed to the request of the Senate for a conference thereon. The requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to a resolution reported on the legislative day of November 22, 1993, providing for the consideration or disposition of a conference report to accompany that bill.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 322 provides that upon the adoption of this resolution, this House is considered to have taken H.R. 1025, the Brady Handgun Violence Prevention Act, with a Senate amendment, from the Speaker's table, to have disagreed to the Senate amendment and to have agreed to the request of the Senate for a conference. The rule further waives clause 4(b) of rule XI against any resolution reported from the Committee on Rules on the legislative day of November 22, 1993, providing for consideration or disposition of a conference report on H.R. 1025. Clause 4(b) of rule XI requires a two-thirds vote to consider a rule on the same day it is reported to the floor. This resolution would simply waive that two-thirds requirement against any rule for H.R. 1025 on November 22, 1993.

Mr. Speaker, Saturday the Senate passed its version of the Brady Handgun Violence Prevention Act. This rule will facilitate a conference on the Brady Handgun Violence Prevention Act prior to the close of this session of the Congress.

Mr. Speaker, the Brady Handgun Violence Prevention Act was first introduced 6 years ago. Since 1987, more than 150,000 Americans have been killed by handguns. That is more Americans killed than in World War I, the Korean war and the Vietnam war combined. The numbers continue to mount.

Mr. Speaker, the President vowed to sign the Brady Bill into law. We cannot afford to wait any longer. Too many lives have been lost to handgun violence already. Passage of the Brady bill is long overdue and this Congress should show the courage to send it to the President before we adjourn for the year.

Mr. Speaker, House Resolution 322 expedites further consideration of the Brady bill. I urge my colleagues to support the rule.

☐ 1340

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of the rule to permit us to go to conference on H.R. 1025, the Brady Handgun Violence Prevention Act.

As you know, H.R. 1025 passed the House by a vote of 238 to 189 on November 10, and was taken up by the Senate Saturday night. The Senate amended the bill and sent it back to the House, with a request for a conference. As the Senate amendment is not acceptable to Brady supporters in the House, a conference is necessary to work out a final bill.

Ordinarily, in order to agree to conference, I would simply make a unanimous consent request. As an objection is certain to be heard in this case, a rule is necessary to agree to the conference requested by the Senate on H.R. 1025.

As you know, the Senate is operating under unanimous consent to conduct any further business in that body prior to adjournment. I have also been informed that an objection will be raised by certain Senate Members to any conference report on H.R. 1025 that contains any deviation from the Senate-passed bill.

Nonetheless, there appears to be a desire to conference on H.R. 1025 by some Members of the House who wish to make major changes to the Senate-passed bill. If that is the desired procedure, then I am perfectly willing to proceed to conference.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, When my good friend, the able chairman of the Judiciary Committee, JACK BROOKS, appeared before the Rules Committee last night, he noted that ordinarily he would simply ask unanimous consent to agree to conference. However, in this case, because there would almost certainly be an objection raised, he decided to come to the Rules Committee for a rule.

What this rule does, Mr. Speaker, is to say that upon the adoption of the rule the House will have agreed to the Senate request for a conference.

This rule also has a second provision which will come into play if and only if the conferees work out an agreement today or tonight.

If a conference report is brought to the Rules Committee later today and the Rules Committee reports a rule providing for its consideration which they might do, ordinarily a two-third vote would be required to consider a rule on the same day reported.

The second part of this rule before us now waives that two-thirds vote requirement for same day consideration, thereby making it possible to consider a conference report on the Brady bill later today in the House.

Chairman BROOKS made one other interesting observation at the time he appeared in the Rules Committee. He noted that the Senate has now agreed to do further business only by unanimous consent, and that it is his understanding that an objection will be raised by certain Senate Members to any conference report on the Brady bill that deviates from the Senate-passed version of the bill.

Mr. Speaker, I have been an opponent of the Brady bill for years, and I hope we have some watchful Senators waiting at the appropriate time over there.

As for the two versions that will be considered in the conference, there is not a dime's worth of difference between either version. So if you did not like the Brady bill before, you will not like the one coming out of conference later today, if it comes at all.

What should be coming out of conference today, is a real crime prevention bill that does not penalize law abiding citizens who own guns, but throws the book at criminals who commit crimes with guns. That is what we ought to be considering here today.

Unfortunately the Republican comprehensive crime bill is once again being bottled up by the Democrat leadership of this House.

Meanwhile, heinous crimes and murders proliferate all across this country, and especially right here in our Nation's Capital, where there have been more than 400 homicides in the last 9 months alone.

It is a shame that this Congress is more than just partially to blame for the rampant crime across this country because we continually refuse to be allowed to do anything about it, and that is a shame.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. McCOLLUM], the chairman of our task force on crime legislation.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding the time.

Today, I come on this rule for one purpose, to discuss very briefly the Brady bill and what it means or does not mean, and to call attention of my colleagues to the fact we do not have out here the kind of anticrime legislation this session of Congress that we would all like to have out here. We darn well better be prepared to address it as early as possible in the next session.

First of all, the Brady bill in my judgment is both unnecessary and a distraction. It is unnecessary for the simple reason that regardless of your views on the merits of a waiting period, the fact of the matter is today with the kind of procedures we have in place throughout our law enforcement system in this Nation, we can check on who is and who is not a felon who is trying to purchase a gun from a gun dealer, which is the purpose of the Brady bill, we can do that in 5 minutes, or certainly in 5 hours, and we do not need 5 days to do it. We can do it just as well in that 5 minutes or the 5-hour period in 1 day.

There is a problem with the records in terms of their being in good place and condition, and the problem of identifying people and mechanics and so on. But none of that is going to make a hill of beans' worth of difference when it comes to being able to check this sort of thing out. It can certainly be done without the Brady bill.

The bill is a distraction from the really important legislation we need to address the violent crime crisis in America. We need to take the violent criminals off the streets, lock them up, and throw away the keys. To do that, we need to go into partnership with the States, as the Republicans have proposed, a partnership on building prisons to share fifty-fifty with the States in doing that. We need to say that we will take those States' prisoners who have been convicted of violent crimes and sexual abusers if the States will agree that they will require those prisoners to serve at least 85 percent of their sentences, and if the States will agree to have minimum mandatory sentences for that classification of criminals.

Only if we do this can we stop the revolving door that is really causing the problem where 7 percent of criminals in this Nation are causing 80 percent of violent crimes today in this country. And we should be doing that now. We should be addressing that problem and putting swiftness and certainty of punishment back into our criminal justice system where we can have deterrence again now.

To do that requires things such as ending the endless appeals that death row inmates have when they go into their prison cells after their sentences. It means changing the rules of evidence so we can get evidence more easily in. It means any number of things, including dealing with criminal aliens.

The House Republican leadership task force crime bill, H.R. 2872, addresses all of these. It is a comprehensive bill. I wish the Committee on the Judiciary had brought a bill of some sort of that nature out here so that we could have addressed these problems this session. It is the intent I believe of the chairman to do that sometime early next year.

But in the meantime, I think that the best thing we can do as Members of this House to demonstrate we want that type of opportunity, and to demonstrate our concern, since we do not have a bill to vote on that comprehensive nature, is to sign a discharge petition on an open rule and a comprehensive bill that I have filed. It is discharge petition No. 10.

□ 1350

I urge my colleagues on both sides of the aisle before we go out on recess to sign that discharge petition to demonstrate that we do care about the bottom-line problems and we do understand that the grant program bills and the Brady bill that have been brought out do not get at the root cause of the problem facing this Nation today with crime.

This is a very serious matter with the American public. They demand, and they should demand, that we address it comprehensively and that we address it by addressing the root causes of the problems, getting the violent criminals off the streets, locking them up, throwing away the key, and then correcting the fundamental flaws in our criminal justice system that have taken away deterrence and incapacitation from punishment and do not allow us to deter crime anymore in this country.

So I urge again that whatever your views are on the Brady bill, and I know there are many different views about it, that it is truly primarily symbolic at best, and that, indeed, in order to demonstrate what the point is that we want to make on this issue that you get out and to face the violent crime problem, sign discharge petition No. 10 today before we go home. It is the only way to send that message and the only way to deal with it.

Again, Brady is there, but Brady is not the answer to this problem.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], another distinguished member and the subcommittee vice-chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, the question arises: Why is a conference even necessary? Why do we not just send the Senate-passed bill on to the President?

A conference is necessary, and this resolution should be supported, for two reasons. First, there are major philosophical differences in two provisions added to the Brady bill by the Senate, one which permits licensed gun dealers to sell guns anywhere in the country rather than just in their State of residence; and, second, a change in the definition of antique firearms to include any gun manufactured before 1919.

I oppose both of those provisions in the Senate bill, and I think there are legitimate reasons why they do not belong in the Brady bill.

However, there are two provisions that the Senate added that have not been properly drafted and which will have to be cleaned up in conference, at best. One is a requirement that the Bureau of Alcohol, Tobacco, and Firearms send every proposed regulation that they issue to all Federal firearms licensees before they go into effect. The way this is drafted is that it is not just regulations relating to firearms but regulations relating to alcohol and tobacco and the other matters that come under the jurisdiction of the BATF. I do not think it is necessary for a mailing to go out even on firearms regulations. That is not done by the licensing agency in most other license provisions on both the Federal and State levels. So that will have to be cleaned up.

Second, the Senate added a provision to the Brady bill that conditions States receiving grant funds for the computized instant-check system on having a plan to report mental health records. The way the Senate has drafted this amendment is that the States get no funds for computerizing their criminal justice records until they have such a plan relative to mental health records. Most mental health records are sealed by court order and to get them unsealed is not an easy thing to do. It may even require court hearings and notice given to everyone whose mental health records have been sealed.

To hold the train at the station on the computerization of the criminal justice records for all that to be done I do not think is in the best interests of getting the instant-check system up and running, which is something that is desired by both opponents and proponents of the Brady bill.

So a conference is necessary, and this proposed rule facilitates that conference. I would hope that the rule would be adopted right now.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], another distinguished member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the purpose of this proposed rule, this expedited rule, is to try to accomplish a politically correct signing ceremony at the White House for the Brady bill on Thanksgiving, and I want to point out that although that may in fact occur, what we are passing up in this mad rush to pass this one bill, first of all, is we are passing up every declaration we have made up until now against unfunded mandates.

What this bill says is that there will be a 5-day waiting period in the purchase of a handgun from a licensed dealer during which time the local police agency, at their expense and at their possible civil liability, are required to do a background check of the proposed purchaser. We do not even know how much all of these checks will cost. We have never researched it, because we, in Congress, do not intend to pay for it, by having the Federal Bureau of Investigation do the check or reimbursing the States.

This is important, because there is a debate about whether this approach helps or hurts law enforcement. Supporters argue it helps law enforcement because we might catch criminals and keep them from getting guns.

But it can be pointed out that when the time is spent checking out every purchaser of a handgun, and thousands of people are honest citizens, there might be a net loss to law enforcement. Although there is a fair debate either way, there is no debating the fact that we impose this decision on local law enforcement, and we tell them, "You will do this check our way and you will pay for it."

Second of all, we are passing up oversight. And what is the Department of Justice doing today to enforce the felony-in-possession statute, 18 U.S.C. 922, in terms of its use to prevent a felon from committing a crime? I have just received information from the Justice Department, and I will make it available for all Members. I hope I am interpreting it correctly, but the information I have received indicates that the Justice Department uses this statute primarily to further prosecute criminals who have committed a new crime. I do not oppose that use, of course, but that means it is virtually not used to prevent a felon in possession from committing a new crime.

That is very significant, because the Department of Justice says all the way up to the Attorney General of the United States that we need the Brady bill; we need that bill that we are not going to enforce, that the local government is going to enforce, but they are not using existing Federal law to arrest and prosecute a felon in possession of a weapon before there is a new crime.

Third and finally, Mr. Speaker, the whole point of the Brady bill, according to its supporters, is that we have a number of violent criminals on the street, and we have to try to prevent them from getting firearms and, according to their own statement, this is a small step in that direction.

I would submit that this would raise to any logical person the question: Why are the violent criminals on the street in the first place?

I would conclude by saying to the American people that if you know the violent criminals are still on the street after we have adjourned but we pass the Brady bill, do you feel any safer?

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS], another member of the Committee on the Judiciary.

Mr. GEKAS. Mr. Speaker, Members of the House, too often we see the spectacle of a gun-toting criminal, who has just killed someone or hurt someone or used it to rob someone, in court who then, on a technicality, is set free who goes out onto the street laughing at the court system because of a technicality that the judge has used in the exclusionary rule.

I ask you, does the Brady bill in this form or any other form go to reforming that process which is so vital to the criminal justice system? The answer is a resounding no. Yet we are wasting resources, time, and energy to go to a Brady bill that does nothing about the guy who has already been convicted of a felony but who walks out of the court on a technicality.

Does this bill do anything about the individuals who have been convicted of first-degree murder and are sitting in death row filing appeal after appeal, averting justice, averting the final element of justice because of a flaw in the habeas corpus system or a habeas corpus system that is being abused? Does the Brady bill in this form or any other form have anything to do with or does it cure or does it help to cure, does it provide a remedy for the death-row appeals?

☐ 1400

The answer, of course, is "no." What we are doing—may I hear that again? No. They agree with me.

They know that the Brady bill in its present form or any form that constitutes a waiting period is simply a symbol, a strong symbol, a credit to the work of Sarah and Jim Brady, but it does not go to the core of the problems that vex us as a society on the criminal on the street, the criminal on death row and the three-time felon.

How about the three-time felon whom we want to, in separate legislation, convict of a third felony and then impose life imprisonment for three-time losers, does the Brady bill provide for that?

Does the Brady bill in this form or any other form prevent the three-time felon from committing more felonies? Is not life imprisonment for a three-time felon more important than a symbol that is within this Brady bill about preventing a felon from getting a gun?

Here we have more important work to do. The three-time felon who has maimed and robbed and committed felony after felony is not gaining the attention of the Congress, but rather a 5-day waiting period.

If it does nothing to do all of these things, what is the Brady bill going to succeed in doing? It is going to make a lot of people feel better, I know, but I would rather get to work on habeas corpus reform, exclusionary rule reform, and three-time felon life imprisonment reform.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, you know, I was sitting back there listening to the last several speakers, and I was trying to remember where the quote came from, but I could not recall it. But it goes something like this: "He protested too much."

You know, the last several speakers, it is really very amusing, they have blamed the Brady bill, they blamed it on the criminal, they blamed it on the victim, they blamed it on the judges, they blamed it on the court system, they blamed it on the prisons, and they blamed it on everything except what is the real cause. And that is, they do not have the courage to vote for the Brady bill. That is what it is all about.

I mean here we have the Brady bill has been proposed before the Houses of Congress since 1967, and this business about it is not going to do any good, well, one-fourth of the guns that were bought that killed people were purchased from licensed gun dealers.

Every State in this Nation that has any sort of waiting period has caught thousands and thousands and tens of thousands of people who had criminal records and who had backgrounds in an institution of the mentally insane.

So this business is just not true. The fact of the matter is that there is a group that does not have the courage to vote for the Brady bill.

You know, I also find it rather interesting in this country that we had 17 or 18 people killed in Somalia a couple of months ago—and my heart goes out to their families for what they have done, given the ultimate sacrifice for this Nation—but 60 people are killed every day in this Nation by handguns. I am not going to suggest to you that the Brady bill is some magic answer to it, but it is a step in the right direction and it will save some lives.

I find it rather amusing that the Senate and the House were willing to vote billions and billions and billions of dollars of taxpayers' money for more cops on the beat, for more prisons, I mean for everything that we can possibly think of except getting up the courage to vote for the Brady bill. I mean we are buying our conscience off, I guess, is about the only way I can explain it. It is the height of hypocrisy.

Now let me say that having said all that, let us go ahead and pass this rule and send the bill to the conference committee.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of H.R. 1025, the Brady Handgun Violence Prevention Act. Before going further, I would like to commend Jim and Sarah Brady for their tireless work on this legislation. The Brady bill has been the subject of much debate over many years and often looked as if it would never reach the President's desk. The dedication and perseverance of the Bradys and other supporters of this legislation shows that hard work, coupled with being right on the issue, can result in success in Congress.

I will neither recount the litany of statistics that drive this legislation nor will I narrate individual horror stories which assault us daily in the headlines and on the streets. I wish only to emphasize the sobering fact that this legislation, while extremely important both directly and symbolically, is only a first step in our fight against crime and our effort to regain control over our communities. We must not rest on the passage of the Brady bill. We must not delude ourselves into the comforting yet mistaken belief that this single piece of gun control legislation, or any gun control legislation for that matter, will suddenly end crime. This simply is not the case.

Violence for the sake of violence alone may, to some, have become an end in itself. But it is also symptomatic of other mistakes and tears in our social fabric. Drug abuse, poverty, entropy of the family at all income levels, a loss of purpose and direction; these evils do damage to all of us daily. The frustration engendered by these and other hardcore problems will continue to express itself in violence, with or without the Brady bill.

One risks falling into reciting platitudes when one talks about the perceived causes of violence in our society. But there is no doubt that we will not improve the lives of America's youth, we will not control violence in the home and on the streets, and we will not remove the blight of crime from our communities until we adequately address the deep social divisions and inequities that provide the fuel for aggression and disorder.

Here in Congress, we must continue to pass legislation which helps people rise above the conditions which nurture chaos and brutality. In our communities, we must assert our commitment to the future through our active involvement in the life of our cities and towns. And individuals and families must take control of their lives and responsibility for their actions.

Passage of the Brady bill sends a signal that the Congress and the American people are now ready to take positive action to stop crime. Today we take a solid first step.

Mr. SMITH of Texas. Mr. Speaker, police, prosecutors, and the courts need a tough, practical crime bill to take violent criminals off our streets.

Many are shocked to hear that violent criminals serve an average of only 6 years for murder, 3 years for rape, 2 years for robbery and 1 year for assault.

But instead of tougher sentences, the answer we are given in this legislation is a 5-day waiting period for handgun purchases. And since over 80 percent of felons purchasing guns avoid going to legitimate dealers to buy them, a waiting period will have little impact on the crime rate.

The Brady bill wrongly creates high hopes and great expectations. In reality, it will disappoint the American people.

To measure the impact of the Brady bill, start with the crime actually committed with a handgun within 1 month of that weapon's purchase.

According to a Police Foundation Firearm Abuse Study, only 2 percent of crime fit this category. And the Brady bill would cover only a fraction of this time period.

From that small number, deduct those criminals who would have acquired handguns from other sources if the Brady bill were in effect. For example, pistols could be obtained through the underground market, borrowed from friends or simply stolen.

Then deduct those who would have used false or stolen identification to purchase a gun. Then deduct those who would have slipped through the cracks simply because background records were nonexistent, incomplete, or inaccurate.

So what do you have left? Not much reduction in crime. And at what expense to the taxpayer and at what cost to the constitutional rights of law-abiding citizens? Worse yet, you have reduced the work of police officers to that of summer interns—taking cops off the street to shuffle paper.

The only real answer to gun violence is swift, severe and guaranteed punishment for people who misuse guns. That is what we should be considering here today.

Instead we are likely to help the criminal more than we are the victim with this bill by placing restrictions on the self defense of law-abiding citizens.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RIDGE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 178, not voting 6, as follows:

[Roll No. 606]

YEAS—249

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Blute
Boehlert
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dunn
Durbin
Edwards (CA)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Huffington
Hughes
Hutto
Hyde
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klug
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez

Meyers
Mfume
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Porter
Price (NC)
Quinn
Ramstad
Rangel
Reed
Regula
Reynolds
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Swett
Swift
Synar
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NAYS—178

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Boucher
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Coleman
Collins (GA)
Combest
Costello
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Edwards (TX)
Emerson
Everett
Ewing
Fields (TX)
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Goodlatte
Grams
Grandy
Green
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hilliard
Hobson
Hoekstra
Hoke
Holden
Houghton
Hunter
Hutchinson
Inglis
Inhofe
Inslee
Istook
Johnson (GA)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Kopetski
Kyl
LaRocco
Laughlin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Mica
Mollohan
Montgomery
Moorhead
Myers
Natcher
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Rahall
Ravenel
Richardson
Roberts
Rogers
Rohrabacher
Roth
Royce
Sanders
Santorum
Sarpalius
Schaefer
Schiff
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Volkmer
Walker
Williams
Wilson
Wise
Young (AK)
Zeliff

NOT VOTING—6

Chapman
Clinger
Dooley
Hall (OH)
McCurdy
Vucanovich

□ 1425

Mr. EVERETT changed his vote from "yea" to "nay."

Mr. BRYANT and Mr. BLUTE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The gentleman will state his parliamentary inquiry.

Mr. SENSENBRENNER. Does the gentleman from Texas [Mr. BROOKS] have to make the motion to send the bill to conference provided for under this rule?

The SPEAKER pro tempore. No, the adoption of the rule accomplishes that.

Mr. SENSENBRENNER. I thank the Chair.

APPOINTMENT OF CONFEREES ON H.R. 1025

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 1025, be instructed to accept section 302(d) of the Senate amendment, and subsection (i)(1)(A) of the matter proposed to be added by section 302(e) of the Senate amendment.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a motion which I hope will be noncontroversial. It instructs the House conferees to accept the language added in the Senate to make the theft of a gun from a licensed gun dealer a Federal crime. Presently stealing a gun from a gun shop is not a Federal crime. The Senate added a provision that makes it a Federal crime subject to a fine of not more than $10,000, imprisonment of up to 10 years, or both, which would get the FBI involved in investigating thefts from gun stores.

Mr. Speaker, I would hope that this would be adopted in conference. I urge support for my motion to instruct.

Mr. Speaker, reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have examined the motion to instruct, and the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER] is soon to be appointed to the conference committee. I feel sure we will be able to rationalize and thoroughly explore that suggestion. We have no objection to it.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary. I think this is a worthy instruction, and I hope we can move it very quickly.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I, too, yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. BROOKS, HUGHES, SCHUMER, SENSENBRENNER and GEKAS.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3400, GOVERNMENT REFORM AND SAVINGS ACT OF 1993

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3400) to provide a more effective, efficient, and responsive government. The first reading of the bill shall be dispensed with. All points or order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the Majority Leader and the Minority Leader. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the committee amendments now printed in the bill, the amendment in the nature of a substitute specified in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill, as so amended, shall be considered as the original bill for the purpose of further amendment. All points of order against the bill, as so amended, are waived. The bill, as so amended, shall be considered as read. No amendment to the bill, as so amended, shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered and shall be disposed of only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable under the terms specified in the report, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as so amended, to the House with such further amendment as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill, as so amended, or to any further amendment in the nature of a substitute adopted in the Committee of the Whole. The previous question shall be considered as ordered on the bill, as so amended, and any amendment thereto to final passage without intervening motion except one motion to recommit, which may not include instructions.

□ 1430

POINT OF ORDER

Mr. GOSS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The gentleman will state his point of order.

Mr. GOSS. Mr. Speaker, I make a point of order against the consideration of House Resolution 320 on grounds that it is in violation of clause 4(b) of House rule XI, and ask to be heard on my point of order.

Clause 4(b) of House rule XI provides that, and I quote:

> The Committee on Rules shall not report any rule or order of business which * * * would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

And clause 4 of rule XVI provides, and again I quote:

> After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, as was said last night, those two clauses were adopted as amendments to House rules on March 15, 1909, when the minority party Democrats joined with a group of insurgent Republicans to guarantee greater minority rights.

Mr. Speaker, I will not repeat all the arguments I made on the preceding rule which contained the same wording which denied any instructions on the motion to recommit.

Nor will I quote all the Speakers I previously cited who affirmed that this motion was designed in 1909 to permit the minority to offer its final amendment to a bill.

Nor will I explain again why the one Speaker who misruled on this point in 1934 was wrong and should be overturned.

All this has been amply documented. All that remains to be done is for the present occupant of the Chair to admit that the single ruling in 1934 on which all the recent rulings have been based was erroneous and should be overturned.

Just as the Supreme Court overturned a bad precedent in 1954 to guarantee minority rights, so too can this Speaker overturn a bad precedent and restore the minority rights that were originally established back in 1909.

I strongly urge the Chair to sustain my point of order and thereby restore the rights that are rightfully ours according to the legislative history and intent behind this rule.

The SPEAKER pro tempore. Does the gentleman from Tennessee [Mr. GORDON] wish to be hard on this point of order?

Mr. GORDON. Mr. Speaker, I do wish to be heard on this point of order.

Mr. Speaker, the gentleman from Florida [Mr. GOSS] makes the point of order that the rule limits the motion to recommit and therefore, according to the minority, the rule violates clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree. Rule XI prohibits the Rules Committee from reporting a rule that: "Would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Clause 4 of rule XVI addresses only the simple motion to recommit and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure.

Nowhere are instructions mentioned. Mr. Speaker, so long as the minority's right to offer a simple motion to recommit is protected, a rule does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." This is a well-established parliamentary point.

I will not respect the precedents and history of this point. Suffice it to say that Speaker Rainey, on January 11, 1934 so ruled and was sustained on appeal.

The parliamentary point has been reaffirmed several times in the last few years, by ruling of the Chair, and when the ruling was challenged, it has been sustained on appeal.

The precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to recommit, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI. Mr. Speaker, I urge that the point of order be overruled.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The Chair is now prepared to rule. Under the precedents cited in section 729(C) of the House Rules and Manual, and as reiterated as recently as yesterday afternoon, the Chair overrules the point of order.

The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes for the purpose of debate only to the gentleman from New York [Mr. SOLOMON] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 320 provides for the consideration of H.R. 3400, the Government Reform and Savings Act. The rule provides for 1 hour of general debate which is to be equally divided and controlled by the majority leader and minority leader or their designee. All points of order are waived against consideration of the bill.

The rule provides that the amendment in the nature of a substitute printed in part I of the report to accompany the rule shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as read.

House Resolution 320 provides that the bill, as amended, shall be considered as an original bill for the purposes of further amendment. All points of order are waived against the bill as amended.

The rule makes in order only those amendments which are printed in part II of the report to accompany the rule. The amendments are to be considered in the order and manner specified in the report, with debate time also specified in the report.

The amendments are to be considered as read, and are not subject to a demand for the division of the question. All points of order are waived against the amendments in the report.

Finally, the rule provides for one motion to recommit which may not contain instructions.

Mr. Speaker, H.R. 3400 is the second round of spending cuts Congress has considered this year. In August, Congress enacted a comprehensive deficit reduction package which included $255 billion in spending cuts.

House Resolution 320 provides for the consideration of three different Federal spending reduction alternatives.

The first alternative the House will consider is sponsored by the chairman of the Budget Committee, Mr. Sabo. The Sabo amendment cuts $37.1 billion over 5 years, and includes the $2.6 billion rescission package reported by the Appropriations Committee. The Sabo alternative includes many of the recommendations included in Vice President GORE'S National Performance Review, including a reduction of the Federal work force by 252,000 positions over the next 5 years.

The Penny-Kasich amendment will be considered second. This amendment provides for $90.4 billion in spending cuts over 5 years. Many of the recommendations included in the Sabo amendment are incorporated in the Penny-Kasich plan including the reduction of the Federal work force by 252,000. Additional savings are achieved by cuts in mandatory spending, consolidation of Federal agencies, streamlining government and other changes in policy.

Finally, after the House has considered the Penny-Kasich amendment, it will be in order to consider the Frank-Shays amendment which cuts $51.5 billion over 5 years.

The Frank-Shays alternative includes everything in the Sabo amendment plus an additional $14.4 billion is spending cuts: $707 million from canceling the space station, $4.9 billion by increasing our European allies' burdensharing responsibilities, $1.85 billion in cuts from the Ballistic Missile Defense Program, and $315 million from the termination of the advanced liquid metal reactor.

Mr. Speaker, this rule provides for the consideration of three major cost cutting alternatives. Now is the time to live up to our commitment to cut government spending. A no vote on the rule will send the wrong message to the American public.

I encourage my colleagues to adopt the rule so that the House can consider this very important piece of legislation.

□ 1440

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. Speaker, no one enjoys a tough challenge more than I do. But to wait until the last days of this session of Congress to try and reinvent government, I think, is a little bit more than daunting. It is downright intimidating, if not ludicrous, at best.

This is especially so when Members consider that it took our Founding Fathers nearly 4 months to invent the government in the first place. It is a bit arrogant on our part to think that we can reinvent it in just one day or a couple of hours.

Mr. Speaker, let me say that I appreciate the fact that a commitment was made by the Speaker earlier this year to give us an opportunity before this session was out to have another round of spending cuts. On that, I commend the Speaker. But little did anyone know or think that he would literally wait until the very last day of the session, in the very last hours, to make good on that commitment.

This, Mr. Speaker, all began as a reasonable idea. The Vice President has a number of sound recommendations for making the government work better. The President and the Appropriations Committee had some competing ideas for modest spending rescissions, and the Penny-Kasich group, of which I was proud to be a member, had some bold and necessary proposals for cutting spending and reducing the deficit. That is something that the American people want us to do and do more of.

Our Task Force labored for months to put together roughly $103 billion in spending cuts over 5 years. Some 75 percent of those cuts were based on the Republican budget plan, rejected by this House earlier this year. That package has since been modified in the face of certain political realities, but it is still a repeatable $90 billion in cuts.

The President claimed to have sent us some $9 billion in spending cuts in the Gore Reinventing Government package on October 27, plus another $1.9 billion in rescissions on November 2. However, when the Congressional Budget Office scored that October 27 package, lo and behold, it only contained $305 million in cuts, not the $9 billion. That is 95 percent less. And by the time the 17 committees to which it was referred, got down with it, it actually would have ended up costing, not saving, an additional $1.2 billion.

Can Members imagine? Instead of saving $9 billion, it is now going to cost $1.2 billion. Naturally this was cause for considerable embarrassment on the part of the administration and its allies here in the House, who had hoped to have available an alternative to our Penny-Kasich package.

So the administration embarked on a two-track strategy to try to salvage something from this disastrous situation. What did they do?

They borrowed $30 billion in savings from the Penny-Kasich package by agreeing to a reduction of 252,000 Federal workers. My colleagues all know those figures being bandied around. And on the second track, they tried to savage and discredit the Penny-Kasich package as being the end of the world as we know it.

Keep in mind that the House leaders endorsing the so-called "Sabo substitute," of which more than 75 percent is based on Federal work force reduction, is the same group that has twice defied the wishes of this House to include those reductions in unemployment legislation on the grounds that such a work force reduction was impractical.

All this brings us, Mr. Speaker, to the Committee on Rules and the rules which fabricates a new base bill called the Sabo substitute, which is self-executed to final adoption by this rule.

Mr. Speaker, what exactly does the Sabo substitute do? Unfortunately, the gentleman from Minnesota [Mr. SABO] could not tell us in detail, since he admitted up in the Committee on Rules the other night, in his testimony, that it was still being written by the Committee on Rules in the back room even as he spoke.

Mr. Speaker, what finally came out of that back room is unbelievable. The Sabo substitute actually strikes, listen to this, it actually strikes provisions reported by several committees who bothered to report, thus bypassing the entire committee system. And it adds new provisions which other committees did not report at all. Some way to run a ship, Mr. Speaker.

In short, the Sabo base text rewards those who did not do their work on time. And it punishes those who did. That is a whole new twist on what the legislative process is really all about around here.

Mr. Speaker, not only does the rule self-execute the Sabo language into the base text of the bill, it goes on to take the same language as a substitute for itself—and the gentleman from Pennsylvania [Mr. WALKER] is going to dramatize this on a chart in a few minutes—as one of those three amendments.

The reason for that is to allow the House to strategically vote on Sabo first and, thereby, give an excuse for all of those Democrats who voted for the tax package, the biggest tax increase in history, to give them an excuse for not voting for Penny-Kasich right now.

The second amendment allowed by this rule is the Penny-Kasich amendment, which is not a substitute for but, rather, a further amendment to the base text. Never mind that one-third of Penny-Kasich is identical to over three-fourths of the Sabo substitute. We will simply go ahead and enact the same 252,000 Federal work force reduction, twice in the same bill.

How are we going to score that?

The third amendment is the Frank-Shays amendment, which takes a major chunk out of an already eviscerated Defense budget and also duplicates the language of the Sabo base text. Talk about confusion. No one even knows how that works. We cannot possibly score it, and we cannot possibly enact it.

Finally, the rule denies this minority its traditional right to even offer a motion to recommit with instructions, our traditional right for the last 150 years. That is the second time in 2 days that this suppression has taken place.

What the rule does not do, though, is also a disgrace, my colleagues. All told, some 34 amendments were submitted to the Committee on Rules, 15 by Democrats and 19 by Republicans. Most of these were thoughtful and serious attempts by Members on both sides of the aisle to make some contribution towards reinventing government and reducing the deficit. But this rule shuts out 32 of those 34 amendments, Republicans and Democrats alike. We will not have an opportunity to even consider, let alone vote on, those meritorious amendments.

At the top of the list is a sincere effort led by the gentleman from California [Mr. HORN] and the Republican freshman class to put some meaningful and low spending caps on Government spending. They are being denied, notwithstanding that our freshmen comprise a sizable segment of this House and are probably the closest to the mandate for change the people voted for a year ago. Members all remember that.

Freshmen Members on both sides of the aisle are being shut out of the process by this rule.

□ 1450

If I were one of those freshmen, I would be outraged. Not only are the most junior Members of this House disenfranchised, but so, too, are our most senior Members, including our respected leader, the gentleman from Illinois, BOB MICHEL, the man who has served in this House longer than any other Republican. He had offered an amendment for giving the line item veto over targeted tax benefits, something this House voted on earlier this year, but now has been killed in the other body by somebody named BYRD.

I wish I had the time to discuss all the worthy amendments that were disallowed by this rule and, more importantly, I wish the House would be given the time to debate them.

Mr. Speaker, I can read the writing on the wall and the clock on the wall. The first session of this Congress will mercifully come to an end soon, and this is used as a justification for denying Members of this House a chance to really legislate on this bill. We do not have time. We do not have time.

I think at the very least we could amend this rule to allow one additional amendment to be made in order. At present we have two Democrat amendments and one truly bipartisan amendment. I would like to suggest, for the sake of fairness, that we, at the very least, amend this rule to make in order the so-called Horn freshman Republican amendment to set hard target discretionary and mandatory spending caps for fiscal 1994 through 2000.

That amendment would exempt Social Security, Medicare, veterans, civil service pensions, Head Start, and give the President certain flexibility in other areas, but it would do something for meaningful deficit reduction. Let us make that amendment in order under the same 1 hour of debate as the Penny-Kasich and Frank-Shays amendment, and then have an up-or-down vote on it. I think this is reasonable, and it is equitable, and it is fair.

If Members vote down this rule, they will have that chance. If we do not, there is not going to be any deficit reduction, and this sea of red ink is going to continue to mount and mount and mount. We do not want that to happen.

Mr. Speaker, I include for the RECORD a chart and documents depicting the percentage of open versus closed rules, and a chart and other material describing amendments:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	53	12	23	41	77

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 20, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Rollcall Votes in the Rules Committee on Amendments to the Proposed Rule on H.R. 3400, the Government Reform and Savings Act

Open rule—This amendment to the proposed rule provides for an open rule with two-hours of general debate time equally divided between the minority and majority leaders. It is first in order to consider the Penny-Kasich amendment in the nature of a substitute under the five-minute rule. All points of order are waived against the bill and the substitute.

Vote (Defeated 3–7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Derrick, Hall.

Allow motion to recommit with instructions—

Vote (Defeated 3–7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

Porter: Requires OMB and Treasury, in 1995 and in each year through 1999, to determine: (1) the difference between last year's deficit and the deficit two years ago, (2) the amount of reconciliation taxes for last year (income taxes, excise taxes and user fees attributable to the 1993 reconciliation bill), and (3) the relationship of any change in the deficit to reconciliation tax increases. If the deficit grew, or shrank less than the amount of reconciliation taxes, then the reconciliation tax changes do not apply for that year.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Saxton: (Amends Penny-Kasich) Strikes sections 603 and 604; those sections impose a 20% coinsurance on home health services and clinical laboratory services under Medicare.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Ramstad: Requires Congress and the President to use the current year spending levels as a baseline in preparation of the budget.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Smith (MI): Create a Consumer Price Index for Government Use (CPI–G) to set the amount of federal cost-of-living allowances; the index will be modeled on the Consumer Price Index for Urban Consumers (CP–U) except that tobacco products will be excluded.

Vote (Defeated 4–7): Yeas—Solomon, Dreier, Goss, Slaughter; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon. Not voting: Quillen, Hall.

Horn: Sets hard-target caps for FY 1994–2000 discretionary appropriations and mandatory spending, with the threat of sequestration if spending exceeds caps (except for bank deposit insurance, interest payments, Social Security benefits, Medicare, Veterans' compensation and pensions, military and civil service pensions or annuities, Head Start, and offsetting receipts). Allows President to exempt other programs from reductions, up to $1 billion per functional category, provided the across-the-board percentage cut is increased for nonexempt programs to make up the difference.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Schiff: Repeals several provisions of the 1993 reconciliation bill: increase in earned income tax credit; increase in Presidential election campaign fund checkoff; certain increases in Food Stamp program; and the moratorium on HHS collections on penalties against States that allegedly fail to properly implement foster care and child welfare services.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Morella: Provides that the Secretary shall carry out the phase out and closure of the Uniformed Services University of the Health Services in the same manner as the closure of a military installation approved for closure under the base closure law.

Vote (Defeated 3–7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall, Beilenson.

Michel: Grants the President authority to veto any targeted tax benefit within a revenue bill. Requires the President to notify Congress of the individual vetoes by special message not later than twenty days after the date of enactment of the revenue measure. Congress, by a majority vote, may disapprove the vetoes by passage of a disapproval bill or joint resolution. Provides a twenty day Congressional review period. The President may either sign or veto the disapproval bill or joint resolution. A veto of the disapproval bill or joint resolution must be overridden by a two-thirds vote in both Houses.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Collings (GA): Amendment to the Penny/Kasich amendment—Changes the Medicare Part B subsidy threshold from $70,000 for individuals and $90,000 for couples to $100,000 for either individuals or couples. The amendment would provide a phase-in of the premium increase and would eliminate the Part B subsidy by 3% increments so that beneficiaries earning $125,000 or more will pay full premiums.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Collins (GA): Amendment to the Penny/Kasich amendment—Strikes the provisions affecting military COLAs.

Vote (Defeated 3–8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Zimmer: Repeals retroactive application of 1993 reconciliation provisions increasing income tax rates and making the top estate and gift tax rates permanent.

Vote (Defeated 4–7): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Zimmer: Repeals 1993 reconciliation provision increasing the portion of Social Security benefits-income subject to income tax.

Vote (Defeated 3–8):Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Zimmer: Repeals 1993 reconciliation increasing tax on transportation fuels.

Vote (Defeated 3–8) Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Goodling: Strikes Title XVI, subtitle G which requires federal agencies to adjust civil monetary penalties to reflect the rate of inflation at least every 4 years.

Vote (Defeated 3–8) Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Morella: Strikes the section in Title III relating to the closure of the Uniformed Services University of the Health Sciences.

Vote (Defeated 3–8) Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Archer: Provides for 50% capital gains exclusion and indexes the cost basis of capital gains assets

Vote (Defeated 4–7): Yeas—Solomon, Dreier, Goss, Derrick; Nays—Moakley Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Vote (Defeated 3–8) Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Walker: Omnibus amendment including both rescissions and statutory changes to reduce the deficit.

Vote (Defeated 3–8) Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

King-of-the-hill procedure: This amendment would set up a king-of-the-hill procedure for the consideration of (1) the Horn amendment; and, (2) the Penny-Kasich substitute. Whichever was the last to receive a majority would prevail. That surviving test would then be subject to each of three separate amendments by Mr. Zimmer which would use some of the savings achieved for specified tax cuts.

Vote (Defeated 3–8) Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Burton: (Amendment to H.R. 3511) Rescinds an additional $155.3 million from seven items: $21.75 million from FHA rural development grants; $3 million from the Outreach for Socially Disadvantaged Farmers program; $109.4 million from the Economic Development Assistance programs; $11.8 million from the Forth Worth Stockyards project; $2 million from the National Park Service construction for Boston Public Library; $6.9 million from the Agriculture Forest Service forest legacy program; and $400,000 from HUD community development grants.

Vote (Defeated 3-8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

Add words "and shall be disposed of":

Vote (Adopted 8-3): Yeas—Moakley, Derrick Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter; Nays—Solomon, Dreier, Goss. Not voting: Quillen, Hall.

Adoption of rule.

Vote (Adopted 7-3-1): Yeas—Moakley, Derrick, Beilenson, Bonior, Wheat, Gordon, Slaughter; Nays—Solomon, Dreier, Gross. Voting present: Frost. Not voting Quillen, Hall.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only I yield 4 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, as Members of Congress, our job is to make fundamental policy choices for the Nation. I view the impending vote on the Penny-Kasich amendment as a fundamental policy choice.

The choice presented by the Penny-Kasich amendment is whether we can cut another $90 billion from Federal spending, which is going to total $8.1 trillion over the next 5 years, or not. I believe we can.

I have deep reservations about whether some of the cuts are good policy. I am skeptical they will, in the end, result in as much savings as claimed. I hope and expect that the details of these proposals will be altered substantially as they are considered by the Senate, and as the House and Senate reconcile their differences over these cuts. However, I firmly believe we can cut spending by $90 billion over the next 5 years, and we should commit ourselves to that goal by voting for Penny-Kasich.

Let me be specific about some of my reservations. I am not pleased to raise the Davis-Bacon threshold without adopting other reforms to that law. I question whether adequate thought has been given to the creation of the new Department of Science. I worry about the impact of the proposed defense cuts on readiness, including the proposed unaccompanied tours of duty. And I am concerned about Medicare premium increases which do not reflect actual costs in Nebraska. I am only willing in the end to go along with further cuts in Medicare that are consistent with reforming our health care system in a financially sound manner. Notwithstanding these reservations, I support the Penny-Kasich amendment because I firmly believe we can achieve further deficit reduction. Our national debt is preventing economic growth and will be a burden on our children's generation. The provisions will undoubtedly be changed—let us pass it now—and wait to judge the final product when it comes back.

Over the 5 fiscal years covered by Penny-Kasich, we are projected to spend $8.1 trillion. Of the $8.1 trillion, $1.2 trillion will be new debt.

The Penny-Kasich amendment will reduce the $8.1 trillion of expected spending by $90 billion or only 1 percent. It will reduce the $1.2 trillion of deficit borrowing we expect over the next 5 years by 7.5 percent. Surely we can do that much.

Economist Barry Bosworth of the Brookings Institute tells us that the U.S. Government borrows between two-thirds and three-fourths of all individual and corporate savings in America to fund the annual Federal deficit.

In other words, that giant sucking sound you hear is capital being drained away from private enterprise to underwrite our profligate spending. That is money that would otherwise be available to be borrowed by private industry to invest in new plants and equipment which would create jobs and increase our real economic growth rate.

As long as Government continues to borrow between two-thirds and three-fourths of all private savings, how can you expect our real growth rate to increase as fast as we would like?

The point is, there is real value in deficit reduction. Deficit reduction through cuts, freeing up capital for private investment, really does make our economy work better. That is what is at stake here.

And there is no reason on earth we cannot reduce $8.1 trillion of spending over the next 5 years by $90 billion of spending. Passage of Penny-Kasich is no more than directions to this institution to get that job done.

Some of the cuts are genuinely painful for the affected groups, but we cannot stop this fiscal hemorrhaging without some painful choices. If we are rendered impotent by all of these interest groups that are bearing down on us every moment of the day, and cannot get this done, then we will never make the tough choices that are necessary to restore this country to fiscal sanity.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], the majority whip or soon to be the majority deputy whip, let me put it that way, in November 1994.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just want to talk a little bit about this Rube Goldberg rule that was concocted to make certain that we do not ever get around to voting for real spending cuts. I have the Rube Goldberg contraption here beside me. I want to lead people through it, because it really is an amazing attempt to make certain that we never get to voting for real spending cuts.

Mr. Speaker, we start off down here, with H.R. 3400. Even the Democrats came to the conclusion that that was a laughable piece of legislation; that they were going to get laughed out of town if they brought this thing forward for any kind of real measure, so immediately in this rule what they do is, they put the so-called Sabo amendment in play. The so-called Sabo amendment is adopted as soon as we adopt the rule, but then, guess what? What we do then is, we go into a debate on the so-called Sabo amendment, despite the fact that it has been adopted. We go to a debate on it, and we have 90 minutes of debate on the so-called Sabo amendment. That is the so-called Sabo amendment to the Sabo bill that has already been introduced.

Then, if we have adopted the so-called Sabo amendment to the Sabo bill, we then come down and we actually get back down to the Sabo bill again.

Then we take up the so-called Penny-Kasich amendment. After we take up the Penny-Kasich proposal, depending upon the outcome of that, it can win or lose, nevertheless, we go back to Sabo again.

Then we come up with another amendment under this formula. We then go to the amendment of the gentleman from Connecticut [Mr. SHAYS], which, guess what, contains the so-called Sabo amendment. So we have the amendment by the gentleman from Connecticut [Mr. SHAYS] containing the amendment by the gentleman from Minnesota [Mr. SABO] that comes down here, and amends Sabo that was already put in as part of the rule, because they could not do H.R. 3400 because that was a laughable piece of trash.

I would suggest that a rule that does those kinds of things probably is pretty bad. It might be a good idea to turn down this rule and go back and get a real spending cut. What we could do is, we could bring Penny-Kasich before us. Penny-Kasich has a lot of good things in it, in fact, so many good things that the gentleman from Minnesota [Mr. SABO] puts it in his bill. A large portion of the rescissions the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] came up with are already included in the so-called Sabo bill, but remember, that is the so-called Sabo bill we are adopting as part of this rule, and then going back to the so-called Sabo bill, and then back to the so-called Sabo bill again, and three times we go to the Sabo bill.

Mr. Speaker, do we think maybe they are trying to keep us from voting on real spending cuts? I think so. Turn down the rule.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comments of the gentleman from Pennsylvania [Mr. WALKER]. I am not sure that I follow them, but I do appreciate those. I think he was saying he wanted a vote on the so-called Penny-Kasich amendment, and we are going to get that vote, so I hope that he is getting what he requested.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

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Mr. FOGLIETTA. Mr. Speaker, I rise to speak in favor of the rule and against the Penny-Kasich amendment.

It has become our tradition to pass important legislation before we adjourn for the year.

This is not show business. This sends a message to the American people that we are working, and working hard for them.

But we are engaging in show business today with the Penny-Kasich amendment.

The results of this performance will handicap our efforts to downsize the military in a rational and safe manner, jeopardize our halting economic recovery, and sabotage our efforts to reform health care delivery. It will also hurt senior citizens, and our poorest and most vulnerable constituents.

Representing one of the poorest districts in the country, and chairing the congressional urban caucus, I want to focus my remarks on how it will hurt the people who live in our cities.

In our appropriations bills we have made tough choices, and we have performed well in making sure that the safety net of Federal program is in place for the people who live in cities. But Penny-Kasich will kill or cripple every program important to cities. Just in Labor/HHS funding alone, a cut of 2 percent—a conservative figure—will mean cutting Head Start by $67 million, AIDS programs by $50 million, substance abuse programs by $28 million, State unemployment aid by $50 million, aid to city schools by at least $139 million.

Before you vote for Penny-Kasich, I urge you to talk to the mayors of your cities, the superintendents of your school districts, the operators of your mass transit systems—ask them how they will replace these lost Federal funds. Simply put, a vote for Penny-Kasich is a vote for big tax increases back home.

Thus, a vote for Penny-Kasich is not a tough vote at all; it is smoke and mirrors. It just forces others to make the tough decision about Government spending. We were not elected to shift around responsibility. Let us reject this superficial piece of candy that feeds the radio talk show hosts. Vote for the rule against Penny-Kasich.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Tennessee for the time allotted.

Mr. Speaker, most of us in this House are concerned with deficit reduction. And I want no mistake to be made that if we oppose the rule we are not opposed to deficit reduction.

But as has been pointed out, as we address this rule in the closing hours of a session, when our colegislative body has for all practice purposes left the Capitol, and we have almost a closed, a rather limited rule, there is no opportunity for those of us who are concerned with deficit reduction to offer individual amendments to either correct, detract, or add to the three packages that we are given. The three packages are rather confused, add to, take from, go up, go down.

What we need to seriously address this problem is time, time that the rule cannot give us today, time that this session cannot give us this year. Let us return from the holidays when our colleagues across the Capitol return and address this matter seriously, go through it amendment by amendment, take into consideration what we feel is important, what we feel is unimportant.

In Davis-Bacon it should be clarified. I do not oppose the limitations. But I think that we already have a bill out of committee that totally expresses our desire in readdressing Davis-Bacon. Medicare adjustments, very complicated, Medicaid, very complicated, something that we cannot do in the remaining few hours that we are given.

We are given an opportunity to either be for or against deficit reduction, and we will have to vote for one, two, or three of these packages. I think that is very unfair to the Members. It is very unfair to the 110 new Members of this Congress. They should be given their opportunity to fully debate and fully amend.

I urge my colleagues to defeat the rule, bring this session to a close, and come back and address it when we have time.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I am here today to register my strong objection to section 16701, now section 16010 in the bill before us, which would index all civil penalties, except those under the Internal Revenue Code, to inflation. Penalty levels would be increased by September 1994 to reflect past inflation from the time the penalty was last adjusted, then indexed to inflation thereafter. Hundreds of provisions in existing law would be affected.

Ironically, this is a bill advertised as a budget cutter, and as one to reinvent the Government to better serve the public. This provision does neither. It raises revenues for the Government to the tune of $64 to $126 million over 5 years, and is going to look like just another tax to the businesses in this country.

Why are we so determined to put small businesses out of business?

Despite the sweeping nature of this provision, there have been no hearings; no serious consideration has been given to this provision. In fact, the approach is just the opposite to the call of the Vice President to examine all of what Government does—to check and review regulation overkill.

I brought this to the attention of one of the high officials in the Administration and he said, "Why shouldn't we increase criminal penalties?" And I said, "But we are not talking about criminal penalties, we are talking about civil penalties." And when he asked the staffer with him whether we are talking about criminal penalties the staffer said, "Yes, criminal penalties."

Well, we are talking about civil penalties. In fact, when you talk about civil penalties, here is the booklet Civil Monetary Assessments and Collections, 1990 Report to Congress on Civil Monetary Penalties and Inflation Adjustment Report On the very first page there are 36 adjustments, and then you go page after page after page. No one looked at them. No one is checking to see whether we should reinvent what has been done here, whether these penalties have outlived their usefulness.

Let me just give a couple of examples if you think this issue is insignificant. On this page here is one that would go from $800,000 to $2,125,000. Another goes from $800,000 to $2,500,000. Another goes from $400,000 to $1,250,000.

It seems to me the committees of jurisdiction should really be looking at this. This is revenue enhancement. It has nothing to do with budget cutting.

But the seriousness of it is that we do not really know how many businesses we are going to put out of business simply by taking something blindly like this and doing it.

I saw where the chairman of the Ways and Means Committee asked what is the rush. I saw where the AFL–CIO said you are moving too rapidly, you had better reexamine what it is you are doing. And that is what I am asking Members to do today, slow this process down. Think of what we are doing before we do something that we are going to be very, very sorry for in the very near future.

Mr. Speaker, as the ranking Republican of the Education and Labor Committee I would like to comment on today's spending cuts/reinventing Government proposals, and how they may, or may not, affect programs before my committee.

First of all, I must register my strong objections to section 16701 of H.R. 3400, which would index all civil penalties, except those under the Internal Revenue Code, to inflation. Penalty levels would be increased by September 1994 to reflect past inflation, then indexed to inflation thereafter. Hundreds of provisions in existing law would be affected. Ironically, this is in a bill advertised as a budget cutter and as one to reinvent government to better serve the public. This provision does neither; it raises revenue for the government, to the tune of $64 to $126 million over 5 years, and is going to look like just another tax to the businesses in this country.

Despite the sweeping nature of this provision, there have been no hearings, nor has it, or any other provision in the bill for that matter, been given serious consideration. The bill, as a whole, has been rushed through the House, introduced only a few weeks ago—on October 28. The Republican Members on the Education and Labor Committee requested a markup of H.R. 3400 and were denied that chance to get the issues on the table for public examination. I then went to the Rules Committee with an amendment to strike section 16701, thinking we could get some debate on the floor. Guess what? The Rules Committee decided not to permit the amendment to be brought up. I know I should no longer be surprised, I suppose, at how undemocratic the Democrats can be, but I feel a particular sense of frustration, even outrage, in this instance.

No one should think this is an unimportant, technical issue. Civil penalties under OSHA were recently increased seven-fold, from $10,000 to $70,000. Quick math will show that, assuming a 3.5 percent inflation rate, that penalty will be close to $100,000 in 10 years under this provision and will continue to climb, compounding forever. What would the amounts be if inflation was at the double-digit levels of the Carter years? Apply that calculation to any of the hundreds of penalties on the books and see what you come up with. And it will all be done automatically, by the Federal agencies, without any examination of the merits, or demerits, of the underlying law. What will be the effect on businesses or enforcement? We have no idea. And, of course, there is no guarantee in the law or otherwise that the income of businesses will also increase, lock step, with the rate of inflation. In fact, history has taught us otherwise.

Well, I wish we could have had a discussion of this issue, but the Rules Committee saw fit to preclude that. I assume, however, that my colleagues who support tying penalties to an automatic escalator driven by inflation will support my future efforts to similarly tie to inflation the monetary thresholds exempting small business under certain laws. If not, I look forward to hearing how they will draw a distinction.

Beyond the point of the civil penalties portion of this legislation, I would also like to note that H.R. 3400 falls far short of actually reinventing government. On September 7, with much fanfare, Vice President GORE released the long awaited report of the National Performance Review [NPR] entitled From Red Tape to Results: Creating a Government That Works Better and Costs Less. Vice President GORE'S report called for an impressive list of 21 reform initiatives related to the Department of Labor. But, as with past attempts to substantially reform the Federal Government programs, a cabal of lobbyists and special interest representatives fanned out across the various agencies and Congress and put the kibosh on the full implementation of the Gore Report. As a result, H.R. 3400 omits many of the labor reform proposals.

It is extremely disappointing that the administration failed to act upon all of the Gore Report's recommendations, especially those in the labor. Despite the pressure of the many lobbyists and special interests who labored to slow down the implementation of the Gore Report's recommendations, many Republican and Democratic Members of Congress enthusiastically endorsed the reform plan. In fact, 13 Republican members of the Committee on Education and Labor wrote Vice President GORE offering our support for many of the education and labor reforms.

In particular, we voiced our support for the NPR's recommendation to allow employers the option of using third parties or in-house programs to certify the safety of the workplace, and to create incentives in the OSHA Program to encourage employers to have good safety records. This very important OSHA reform proposal was completely excluded from H.R. 3400. Moreover, we also embraced the NPR's proposal to raise the current Davis-Bacon Act threshold from $2,000 to $100,000, and to substantially overhaul the McNamara-O'Hara Service Contract Act of 1965. In both cases, the NPR's original recommendations were vitally important in a necessary effort to modernize these two antiquated statutes. With regard to the Davis-Bacon and Service Contract Acts, H.R. 3400 merely tinkers with the periphery of the statutes and sidesteps the more important substantive changes recommended by the NPR.

Let me also add, Mr. Speaker, that I am very disappointed to see that H.R. 3400 fails to include any of the education recommendations made by the Vice President in the National Performance Review. The Vice President recommended consolidation or elimination of over 40 education programs—H.R. 3400 does nothing on this front. In addition, there are a number of good government provisions that could have been added to the bill dealing with education programs ranging from Head Start to Higher Education and beyond, had we been given the opportunity to review this bill at the committee level. These proposals would both make government work more efficiently and save money—which is what the NPR was all about. It is bad, at least as education is concerned, that the administration's legislation does not match its rhetoric.

Further, I am also extremely disappointed that the process used by the administration to first develop the Gore report's recommendations, and second to prepare a legislative package was cloaked in secrecy. At the time of that NPR's release, the administration's stated that full working group monographs and agency management cluster group reports would be released before a legislative package was developed. As of today, this promise has not been kept. As a result of the administration failure to keep its promise, I would simply ask that the administration release all pertinent monographs and cluster group reports. This request is especially important for those recommendations that will be implemented in the future. The administration's failure to make all pertinent background material available for congressional consumption risks preempting the type of debate which would lead to meaningful and wide-sweeping Government reform.

Beyond H.R. 3400, Mr. Speaker, I also would like to state that from an Education and Labor Committee perspective I also have some concerns about the Penny-Kasich amendment.

I am concerned about the proposal in the Penny-Kasich amendment which would eliminate Pell Grants for incarcerated individuals. I believe that these individuals must be educated and rehabilitated if they are going to contribute to society once they are released from prison. Eliminating Pell grants for all incarcerated individuals will reduce the chances that they will become educated and contribute to society once they serve their prison sentence.

I also am concerned with their proposal to consolidate several social service programs into one large block grant to the States. I applaud them generally for their effort to consolidate programs, because as we all know the Federal Government has too many programs that do the same thing, which leads to a large waste of money to feed the bloated bureaucracy. My concern with this proposal, however, is that the programs slated for consolidation are, by-and-large, targeted for separate and distinct populations with unique needs. For example, one of the programs provides nutrition and social services for the elderly, while another one provides funding for low-income child care; obviously, two very different groups of people. If the Penny-Kasich amendment is enacted, I would urge my colleagues to examine ways to ensure that funds under this new giant block grant program could be targeted to these different and unique groups in the same proportion they now enjoy, while reaping the administrative cost savings that will result from the consolidation.

Mr. Speaker, I definitely support the concepts of reducing Federal spending and reinventing government, but the way in which this whole process has unfolded leaves many question marks from the perspective of the Education and Labor Committees, which I wanted to bring to the attention of my colleagues.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise in strong support of this rule.

Mr. Speaker, it is all too often on this floor that we hear that we are about to have a watershed vote, but I do believe that if we are able to vote today on the Penny-Kasich amendment that that is exactly what we will have.

The facts of the matter really are quite simple. There are some Members of this body who believe that more deficit reduction is needed than has been adopted in this session of Congress. There are others who do not. We asked, those of us who believe more is needed, for the opportunity to make that case to the full House during this session. We were given that commitment.

We then reached across the aisle to join together in a bipartisan effort to come up with a package of spending cuts that would meet what we believe is the necessity for further deficit reduction, and we were joined with outstretched hand by the gentleman from

Ohio [Mr. KASICH], and by many other Members of the Republican side in this bipartisan effort. We argued together, we compromised together, and we achieved our package. And today, if this rule passes, we will have a chance to debate it before the House, and to have the House render a decision on it.

I say to my Republican friends who are concerned about this rule that while there are other issues that I know you wish to debate, there are other cuts and other proposals you wish to put before the House, that the terms of this commitment have been kept. This rule provides us with the opportunity to debate and to make the case on the bipartisan amendment that we worked on, and I ask that we all support this rule in the same spirit that we proceeded over the last month to put together the Penny-Kasich amendment.

□ 1510

I would say finally to my friends who were concerned about this rule that if we make this historic statement today in favor of further deficit reduction that the lay of the land will never be the same again and that we will have other opportunities to pursue the other issues that people wish to follow.

I urge support of this rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON], the fiscal watchdog of this House.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, when the Committee on Rules met there were other amendments besides the Penny-Kasich approach that were to be discussed. In the dark of night without any discussion at all from Members, they passed a rule that did not include any of these other amendments for debate, and the gentleman from New York [Mr. SOLOMON] alluded to that just a few minutes ago.

I had an amendment before the Committee on Rules which would have cut $555 million from spending, and it was just cutting back to the 1993 levels. It was not cutting into the muscle and bone of some of these projects. I was going to cut things like the LaCrosse, KS, industrial park. We do not have any business in this body passing money for an industrial park. Seaboard Farms, OK, processing plant; we were going to cut $3 million out of a program for socially disadvantaged farmers, and nobody in this body even knows what a socially disadvantaged farmer is. We were going to cut out renovation of the Macon, GA, Coliseum; we were going to cut out a new hangar maintenance facility at Wood County Airport in West Virginia from the gentleman from the other body, chairman of the Appropriations Committee. We were going to cut economic development assistance programs for the Fort Worth stockyards which the previous Speaker of the House wanted. We were going to cut $2 million for a historical landmark at the Boston Public Library, but we did not get a chance to debate that. We were going to cut $7 million from the Forest Legacy Program which allows the Government to buy more land so we cannot develop it in this country. And we were going to cut $400 million, back to the $4 billion level of 1993, for the Community Development Block Grant Program, and a lot of this money was going for such things as golf courses, beachfront parking garages, and cemeteries.

The people of this country want us to be fiscally responsible. They want us to cut wasteful spending, and yet the Committee on Rules time after time after time sends rules to this floor which will not allow any debate on these cuts.

Now, the Penny-Kasich approach is a valiant effort in that direction. But there are a lot of other proposals that will save this country money, and we need to have the Committee on Rules be more responsive.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, in August the leadership and the White House agreed to another round of spending cuts in the fall time frame. Based upon that agreement, I worked with a bipartisan group to develop a package of spending cuts totaling roughly $90 billion over 5 years. We have a rule before us that provides a fair fight and a freestanding vote on this package of cuts. I believe that fulfills the agreement made by Speaker FOLEY and others in the leadership and President Clinton.

No doubt it is somewhat a creative rule, but it allows for three separate votes on three spending-cut packages and no vote impedes another vote.

A vote for the rule provides us the only opportunity we will have before adjournment to further reduce the Federal deficit.

The key difference between the three amendments before us today is that only the Penny-Kasich amendment cuts the deficit. The other amendments do not.

The Sabo proposal touts $35 billion worth of cuts, but those savings are left available to be spent elsewhere. The Frank-Shays proposal, while including many provisions which I support, does not reduce the deficit but, again, reserves those cuts to be spent elsewhere.

These two amendments do not represent spending cuts. They are spending shifts, and they do not cut the deficit.

For those who are serious about deficit reduction, there is only one choice: Penny-Kasich.

Support the rule; support Penny-Kasich.

Mr. GORDON. For the purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule. The rule provides the opportunity today for us to vote on three options.

We will debate the merits of those options later. I think the rule is fair. Clearly the Members will be presented with real choices between people who want to sabotage our attempt to move forward with health care reform and, rather, simply ask the seniors of this country to pay substantially more for Medicare absent health care reform and to make some other very fundamental changes that involve choices which I do not think this Congress wants to make.

I have to say, Mr. Speaker, that this amendment and this process comes in the wake of the historic actions by the Congress last summer in adopting a $500 billion deficit reduction package. I cannot help but note that some of the most vehement rhetoric today comes from people who voted "no" last summer, but we will explore that more later.

In the meantime, Mr. Speaker, I would urge us to adopt this motion and pass the rule.

MESSAGE FROM THE PRESIDENT

A message in writing the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

GOVERNMENT REFORM AND SAVINGS ACT OF 1993

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

The very cute rule that the gentleman from Minnesota [Mr. SABO] and the gentleman from Minnesota [Mr. PENNY] were talking about before is characterized as cleverly structured.

I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER], who was deprived of his amendments.

Mr. ZIMMER. Mr. Speaker, I support the Penny-Kasich amendment, but I oppose the rule.

The Rules Committee has refused to make in order three amendments I proposd to offer in an effort to bring Congress back on track with regard to fiscal policy.

We all remember that when the President first proposed his budget package, he justified its huge tax increases on the grounds that spending cuts alone could not achieve the desired level of deficit reduction. Now that the Penny-Kasich task force has identified major additional spending cuts, we should use some of those savings to begin to roll back the Clinton tax increases.

The Penny-Kasich proposal is before us today because of a commitment that was made to secure enough votes to pass the tax increases included in the 1993 Budget Reconciliation Act. Because the Reconciliation Act addressed both the spending and revenue sides of the fiscal ledger, it is appropriate that H.R. 3400 do so as well. If all three of the amendments I have proposed were approved they would eliminate a total of $60 billion in new taxes—leaving $30 billion to go toward deficit reduction beyond the levels provided in the Reconciliation Act.

My first amendment would repeal the 4.3-cent increase in the gasoline tax. The gas tax is regressive. It hits low- and middle-income families the hardest. The $24 billion in anticipated revenue this tax increase is supposed to bring in is not dedicated to highway construction. It should be rolled back.

My second amendment would repeal the Social Security tax increase, which is nothing more than a penalty on retirees who have tried to provide for their old age.

My third amendment would repeal the retroactivity of most of the new taxes. Even people who are not required to pay retroactive taxes have been shocked and offended by the unfairness of retroactivity.

Now that Representatives Penny and Kasich have identified additional spending cuts, we should use this opportunity to roll back the most egregious tax increases in the 1993 Budget Reconciliation Act.

Vote against the rule so we can do so.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Florida [Mr. Bacchus].

☐ 1520

Mr. BACCHUS of Florida. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in very strong support of this rule. I want to thank the President of the United States for keeping his commitment to us to submit proposals for additional spending cuts beyond those in his plan which was adopted last summer. I thank the leadership of my party in the House for keeping their commitment to those of us who are deficit hawks and allowing us a chance to offer a real spending cut proposal on the floor of this House as we do today.

I also rise in support of the Penny-Kasich plan. Mr. Speaker, I have three overriding goals. My first goal is to continue to reduce and eventually eliminate the Federal budget deficit so that we can go on and begin reducing and eliminating the debt. The only way to cut spending is to cut spending; the only way to reduce the deficit is to reduce the deficit. The Penny-Kasich plan is the only one before us that actually reduces the budget deficit.

Also, I propose we shift spending that we do have toward more investments. Mr. Speaker, we will only be able to do that if we begin to be honest about what entitlement spending is doing to us in this country. The Penny-Kasich plan begins to reform entitlement spending and makes certain that those who need it get it and those who can afford to pay a bit pay a bit, so that we can have the money for the children, the education and the technology programs that we so desperately need as a Nation.

Third, I have a goal of health care reform, universal coverage, cost containment. I share the President's goal for health care reform. I believe if we begin the savings now as we are proposing to do in the Penny-Kasich plan, that we can begin moving toward health care reform more quickly.

There are difficult choices here, Mr. Speaker. We have to make difficult choices. A lot of the cuts in this Penny-Kasich plan I would ideally rather not make, but the truth of the matter is that, in order to protect those programs, preserve those opportunities for people, we need to begin cutting things that we might not like in an ideal world to cut.

This is the best chance we have had in a long, long time to truly cut the Federal budget deficit. The Presdent's plan was a good start. I voted for it. The budget deficit is going down. It is going to continue to go down under the President's plan for a few more years. But if we adopt the Penny-Kasich proposal, it will go down even more.

Mr. SOLOMON. Mr. Speaker, one of the real deficit cutters in this Congress has always been, during his career, the gentleman from California. I yield 3 minutes to the gentleman from California [Mr. Cox].

Mr. COX. I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, let us recall why we are here today. Just a few months ago this Congress enacted the largest tax increase in American history and at the same time in the name of deficit reduction this Congress also passed the largest deficit spending increase in American history. The numbers make it quite clear, fiscal 1993, just ended, the numbers are in: Congress spent $1.4 trillion last year, last fiscal year just ended.

Under the Clinton budget enacted by this Congress, next year's spending will rise to $1.5 trillion, a whopping increase; $1.6 trillion will be the spending called for by the budget we pass in 1996, and $1.8 trillion in 1998, collectively the largest 5-year increase in deficit spending in American history, all in the name of deficit spending.

How can this work? How can we keep cutting the deficit and yet spending increases year after year after year? The answer is, of course, that we are not cutting real money at all, we are cutting our projections of how fast spending could increase if we really cut loose.

Our colleague, Congressman Ramstad, from Minnesota went to the Committee on Rules and said, "Let us stop this abuse, let us end baseline budgeting and use real numbers. If we spend $100 this year and $110 next year, let us call it a 10-percent increase, not a fantastic cut." It was defeated. That is how serious the people who run this place are about cutting spending in real life.

That is what this rule is all about, preventing people from cutting spending.

Let me just give you an example of how baseline budgeting distorts the language. We talk about spending cuts as if they were real, but they are not. This is Thanksgiving.

Let us say last year at Thanksgiving you had 5 helpings of turkey and dressing and gravy and really enjoyed it. This year it was so much fun last year you want to have 10 helpings. But your friends say, "No, no, no, you can't do that, you would be a glutton." Your family physician tells you cut down on fat and cholesterol. So you settle for 7 and you say that you have reduced your turkey intake by 30 percent. That is the way it works here in Congress.

Now, some of the public might come up to you and say, "Excuse me, but the 7 helpings that you have this year represent a 40 percent increase over the turkey you ate last year." And of course if you are the Democrats in Congress, you say, "Well, you don't understand real fat and calorie reduction." But that is the way it works.

Mr. Speaker, Penny-Kasich is likely to be defeated here; I plan to vote for it. But the reason it will be defeated is that the Committee on Rules made sure that we lump all of our cuts together. Now, porkbarrel spending is parochial. If we voted one cut at a time, there would be only one district defending it here on the Congress floor, and the national interest would be vindicated. But by forcing us to vote on them all together, the barons of big spending know that they can bring this to defeat. And that is exactly what happened. That is why this rule institutionalizes deficit spending.

You know, we are promised spending cuts, but now it is the last day and the 11th hour and we say we just do not have time to consider these spending cuts one by one.

The people who are forcing this rule down the throats of the Congress have no interest in cutting deficit spending.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. Sabo].

Mr. SABO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to pursue this question of baseline, a little bit.

Mr. Speaker, I find what the gentleman said interesting, I just want to see if I understand what he wants us to do. Would the gentleman suggest that in Social Security that the baseline should be last year's payments to last year's number of recipients, that we should ignore law, that we should not assume that new retirees should be paid, that we should not assume that old recipients get the COLA's that current participants are promised by existing law because existing law says if you become a certain age you are eligible for benefits and if inflation was so much you get so much of a COLA. That is what baseline is. Would the gentleman suggest that we say new recipients and new COLA's have to be approved each year by Congress?

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. SABO. I would be glad to yield to the gentleman.

Mr. COX. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows, we discussed baseline budgeting in our committee. It almost was defeated, by 1 vote.

Mr. SABO. Reclaiming my time, that was an amendment to direct the Chair to do something. It had nothing to do with baseline. If you want to change baselines, you amend Social Security, so it takes an action by Congress to pay new recipients or pay the COLA's or Medicare.

Mr. COX. If the gentleman would yield.

Mr. SABO. That is the answer.

Mr. COX. May I answer the chairman's question? As you know, baseline budgeting or its repeal, either way, does not mandate a cut or an increase in spending. It is simply a way of reporting what it is that we are doing.

When we use projections of future increases as our baseline and then cut from those, we can in fact increase spending year to year and pretend to the American taxpayers that we are cutting.

All I am talking about is when Congress chooses to increase, as the chairman and I might agree we should do with COLA's, we should say so, we should report to the American people.

Mr. SABO. So the gentleman is suggesting we change Social Security so that each year the Congress would have to act to recognize new people who reach retirement age, and COLA's should be repealed and be subject to action by Congress each year?

Mr. COX. No. What I am suggesting, Mr. Chairman, is that we be honest in what we do. For example, when we increase spending on congressional staff, rather than pretending we are cutting, we should point out that we are cutting only from a baseline of a projected future increase.

Mr. SABO. Most of the changes in baseline come from permanent law, which says this, this, this will happen. Baseline recognizes existing law. I am just curious if the gentleman wants to change that for Social Security.

Mr. COX. The only change that I would propose, Mr. Chairman, and the only change that Mr. RAMSTAD proposed in his amendment that was defeated in the Rules Committee was that if we spend $100 this year and $110 next year, that is called a 10-percent increase. If we spend $90 next year, that is called a 10-percent cut. That is being honest with the American people.

Mr. SOLOMON. Mr. Speaker, I yield myself 15 seconds in order to say that one of the amendments defeated on a party line vote up in the Committee on Rules and which we are being denied the right to vote on down here was the Ramstad amendment, which would have required all of us to score from the same set of rules. That was defeated on a party line vote. We would not have these arguments if we had had that amendment made in order.

□ 1530

Mr. STEARNS. Mr. Speaker, I rise today to highlight the fact that this House is ending this session the same way it began, with a barrage of closed rules which are designed to prevent Members from having the opportunity to vote for or against all credible proposals on the issues we debate on this floor.

Last week, for example, I went before the Rules Committee to request that the Horn budget reduction proposal be ruled in order for consideration by the full House today.

The end result was that the Rules Committee denied Members the opportunity to debate a proposal that would have offered a budget formula which would have reduced the deficit by a $144 billion over the next 5 years.

The Sabo amendment cuts the deficit by $38 billion and the Frank-Shays amendment cuts it by $51 billion. These so-called cuts really are just transfers.

Even so, the Rules Committee had a moral obligation to allow the Horn amendment with the largest deficit reduction.

The Horn proposal achieved these reductions by establishing a flexible freeze for 1994 through the year 2000.

Second, the President would have had the authority to identify specific areas to exempt from the spending caps. However, any additional spending must be offset by a real cut elsewhere in the budget.

Third, the bill would safeguard against excessive spending against mandatory programs, by requiring that the annual appropriation process be strictly followed.

After watching the contentious budget debates of 1990 and 1993, I believe this simple, yet comprehensive, approach is the only way to achieve true deficit reduction.

Trimming the fat out of the Federal budget is absolutely necessary, and I have been very active in that effort. However, without across-the-board budget limits, every $1 we cut in one program reappears as $1.50 in another.

This rule should be rejected so that all budget-cutting proposals may be brought to the floor. Vote "no" on the rule and force the leadership of this House to end the year on high note—with an open rule for deficit reduction.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I take the floor on this rule as the ranking member of one of the standing committees of the House who was requested to review this reorganization of Government legislation in an extraordinarily brief period of time.

I also happen to be a member of the Committee on Ways and Means, and given the scope and the complexity of the request to the Ways and Means Committee, we basically threw up our hands and said that in the timeframe in which we are asked to consider this, it is impossible to do a decent job.

It was serendipity in the Committee on House Administration, however, because we just in July of this year passed on the Suspension Calendar a restructuring of the informational dissemination aspect of both the Government Printing Office and the Library of Congress.

We had a series of meetings about the question of what do we do with the Joint Committee on Printing and the dissemination of information to the Superintendent of Documents.

So in a bipartisan unanimous fashion, the Committee on House Administration passed their suggested recommendation to the reorganization of Government.

It is scored hard by the Congressional Budget Office as a savings of $262 million.

Now, let me tell you what happened. In the November 18 edition of Roll Call, the gentleman from Maryland [Mr. HOYER]: "I'm trying to figure out why it happened"—the bipartisan unanimous package in committee, HOYER said in an interview last week. "This is a major policy decision which has very broad policy ramifications" but has not been subjected to hearings.

Is that bipartisan unanimous agreement from the Committee on House Administration in the Sabo base line? Is it in the Sabo substitute? No.

What happened to it? In the shadowy recesses, back in the dimly lit back rooms, a deal was cut.

I have heard people talk about Third World governments and how they are not very democratic. A unanimous decision of a full standing committee of the House was overturned by the insiders cutting a deal in which the members of the Rules Committee did not even know it occurred.

So somewhere in the shadowy Halls, in the dimly lit rooms, in the recesses of the Capitol, you folks are cutting deals about the reorganization of Government.

Mr. Speaker, vote down the rule.

Mr. SOLOMON. Mr. Speaker, with the understanding that the Democrat majority only has one speaker to close out, I yield the balance of our time to the gentleman from Florida [Mr. GOSS], a very distinguished member of the Committee on Rules who has fought for fairness for Democrats and Republicans up in the Rules Committee.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON], my ranking member, for yielding this time to me.

Mr. Speaker, it is almost Thanksgiving. It is time to talk turkey, and this rule is a turkey.

Mr. Speaker, today's Congress Daily A.M. had it right when it said, and I quote: "The House Rules Committee adopted a cleverly structured rule Saturday night making it more difficult to support Penny-Kasich, but without placing a restriction on outright support."

That says it all. This is a ruse.

This rule that we have got graphically depicted here looks sort of like a turkey, actually, if you have a creative imagination.

I tend to think that this rule is the product of an overactive imagination that has seen one too many horror shows and it is going to take a real suspension of belief for this body to accept it.

But, Mr. Speaker, I would submit that if you cut through the smoke of this "cleverly structured rule," you will find it is not so clever after all. The Democrat Leadership has attempted to sledge-hammer a sandwich out of Penny-Kasich by squeezing it between the Sabo and Frank amendments. But, on close examination, you will find that the Sabo and Frank slices of bread are full of air holes: There is no provision that either will reduce the deficit by 1 penny, since neither lowers the existing spending caps nor mandatory spending allocations. Congress can simply take any savings from those amendments, and spend them on other things.

That is called a deficit air sandwich, and it is the same old stuff—spend, spend, spend.

This whole strategy was really telegraphed over a week ago by this headline in the November 13 Washington Post: "White House Prefers a 'Carve-and-Spend' Policy: White House Tries To Halt Budget Cuts."

Carve and spend sounds a little bit appropriate for Thanksgiving, but frankly there is more taking from the taxpayers than there is giving to the taxpayers under this turkey rule and some of these amendments that Penny-Kasich is squeezed in between.

Let me just quote from one paragraph of that story: "The administration's fiscal motto is neither 'cut the budget' nor 'tax-and-spend,' according to one White House official. Instead, he said, the message is best described as 'carve-and-spend'—fund new policies by wresting money from other programs." End quote.

I think that says it pretty well.

Mr. Speaker, this cleverly structured rule is better described as a "cleverly structured ruse." It would have you believe that you have not one, but two deficit-cutting alternatives to Penny-Kasich, when in fact you have no alternative.

The only deficit-cutting alternative is Penny-Kasich.

Do not be fooled by this ruse. I urge defeat of this rule, so that we can at least give you a second alternative that would really lower the spending caps and the deficit with it.

And if all that is not bad enough, the Rules Committee took 25 separate requests on amendment through hours of testimony, did not allow votes on matters such as repealing the retroactivity of the Clinton tax increases, repealing the Social Security and gas taxes, considering the freshmen class proposals that were made, a great deficit reduction package, and reforming the capital gains tax. Every one of those things were asked to be considered by the people of this country.

Mr. Speaker, it may be Thanksgiving, but we have not got there yet by this rule, because there is no thanks in it. I strongly urge defeat of this rule.

Mr. Speaker, I include the article referred to earlier from the Congress Daily/A.M., and the article from the Washington Post of November 13, 1993:

[From Congress Daily/A.M.]

It's Showdown Time for Penny-Kasich

House Democratic leaders upped the ante over the weekend in their high-stakes campaign to defeat the Penny-Kasich budget-cutting proposal, and key supporters of the plan Sunday privately predicted an uphill fight on the floor today. The maneuvering came as the House hurtled toward a pre-Thanksgiving adjournment; it is scheduled to wrap up its work for the year in a session that it expected to go through tonight and into the early morning hours of Tuesday. Besides the budget proposals, the House is scheduled to consider the campaign reform bill and conference reports on the jobless benefits extension and the Brady handgun control bill. The Senate—having acted on the North American Free Trade Agreement, the Brady Bill and other measures in a Saturday session—is scheduled to come in today, but has no more roll call votes planned for 1993.

House leaders continued a barrage of criticism of the $90 billion five-year Penny-Kasich spending cut proposal, as the Rules Committee Saturday adopted a cleverly structured rule aimed at making it more difficult to support Penny-Kasich, but without placing a restriction on outright support. In effect, the rule allows a vote for the smaller $37.1 billion savings plan sponsored by Budget Chairman Sabo, which the Democratic leadership and Clinton administration back; the Penny-Kasich proposal; and a $51.5 billion savings amendment sponsored by Reps. Barney Frank, D-Mass., and Christopher Shays, R-Conn.

[From the Washington Post, Nov. 13, 1993]

White House Prefers a "Carve-and-Spend" Policy

(By Clay Chandler)

Three months after waging a bitter congressional battle in the name of cutting the deficit, President Clinton's top economic advisers are struggling to halt efforts in Congress to further shrink the budget gap.

There is broad consensus among the President's economic team that Congress should use additional savings in federal spending to fund the President's health care plan and other initiatives rather than reducing the deficit, according to Clinton administration economic policy makers.

And, according to one adviser, the President could ask Congress to use extra savings to make good one of his top promises during the Democratic primaries—a middle-class income tax cut.

The administration's fiscal motto is neither "cut-the-budget" nor "tax-and-spend," according to one White House official. Instead, he said, the message is best described as "carve-and-spend"—fund new policies by wresting money from other programs.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friend, the gentleman from Florida, sounds like a parent who tells a child, "When I whip you, it's going to hurt me more than it is going to hurt you."

It is amazing to hear the gentleman say that this rule is a bad rule to vote for Penny-Kasich, when the gentleman from Minnesota [Mr. PENNY], the author of it, got up before this whole House and this Nation and said that it is a good rule, that he wants to go forward with it. It is hard for me to understand.

You know, my grandmother used to tell me that the proof is in the pudding. So let us talk facts for just a moment.

There have been a variety of accusations and statements here today, but I want to talk facts.

The facts are that just a few months ago this House passed the largest deficit reduction package in history. The United States Senate followed suit, and the President of the United States signed the largest deficit reduction package in history.

What does that mean? It means that just in January of this year when they made the estimate for our budget deficit for this year, we found in October that it was $60 billion less than the original estimate made in January.

For the first time in 4 years the deficit is going down, and not up.

And what has been the result? the stock market is going up. The stock market is at record highs. Interest rates are at record lows. Unemployment, still too high, is going down, construction is going up.

We are making progress. It amazes me that some people seem to want the country to go down the tubes so they can say, "I told you so."

The fact of the matter is that the country is moving forward. Deficit reduction is going forward. For the first time in 4 years the deficit is lower. The deficit is going down rather than up.

Today we have the opportunity to continue with that progress. A vote today for this rule is a vote to add additional deficit reduction to the largest deficit reduction in our country's history.

☐ 1540

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from Ohio.

Mr. KASICH. I want to just rise for a second and say that I think that the way the rule was constructed was terrible, but unfortunately I have got to vote for the rule because the only way we get a chance to vote for Penny-Kasich real deficit reduction is to pass the rule. If we defeat the rule, we yank the bill, and that is the end of Penny-Kasich, and that may make some people happy around here who want to spend more, but even though the rule is terrible, and I am put in this position, I intend to vote for the rule.

Mr. GORDON. Mr. Speaker, let me just quickly conclude by giving my compliments to the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] for their hard work in bringing together this legitimate effort to try to bring forth additional deficit reduction, and finally, and in conclusion, let me once again say that a vote of yes on this rule is a vote to go forward with billions, tens of billions, of dollars in additional deficit reduction.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 183, not voting 3, as follows:

[Roll No. 607]

YEAS—247

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Barton
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Byrne
Cantwell
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gingrich
Glickman
Gordon
Grandy
Green
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hilliard
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Houghton
Hoyer
Hughes
Hutto
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCrery
McCurdy
McDermott
McHale
McInnis
McKinney
McMillan
McNulty
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Meek
Menendez
Miller (FL)
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Montgomery
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Neal (MA)
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Reynolds
Richardson
Roemer
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Roybal-Allard
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Sanders
Sangmeister
Sawyer
Saxton
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Schenk
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Schumer
Scott
Serrano
Sharp
Shays
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Skaggs
Slattery
Slaughter
Smith (IA)
Smith (MI)
Stenholm
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Studds
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Swett
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Synar
Tanner
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Taylor (MS)
Tejeda
Thompson
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Torres
Torricelli
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Tucker
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Young (FL)

NAYS—183

Abercrombie
Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Coble
Coleman
Combest
Cox
Crane
Crapo
Cunningham
Dellums
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Emerson
English (OK)
Everett
Fields (TX)
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Ford (MI)
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Franks (CT)
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Hancock
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Hefner
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Hinchey
Hoke
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Huffington
Hunter
Hutchinson
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Machtley
Manzullo
McCandless
McCloskey
McCollum
McDade
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McKeon
Meyers
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Michel
Miller (CA)
Mink
Molinari
Mollohan
Moorhead
Morella
Murphy
Myers
Nussle
Owens
Packard
Parker
Paxon
Pelosi
Petri
Pombo
Pomeroy
Porter
Portman
Quillen
Quinn
Rahall
Rangel
Ravenel
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Royce
Santorum
Sarpalius
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Velazquez
Vucanovich
Walker
Washington
Weldon
Wolf
Yates
Young (AK)
Zeliff
Zimmer

NOT VOTING—3

Bliley
Clinger
Hall (OH)

☐ 1604

Messrs. ARCHER, MFUME, HINCHEY, and GONZALEZ changed their vote from "yea" to "nay."

Mr. NEAL of Massachusetts changed his vote from "nay" to "yea."

So the resolution was agreed to

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). Pursuant to House Resolution 320 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3400.

☐ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3400) to provide a more effective, efficient, and responsive government, with Mr. HUGHES in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Missouri [Mr. GEPHARDT] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. MICHEL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER], the distinguished chairman of the House Democratic caucus.

Mr. HOYER. Mr. Chairman, I thank the leader for yielding time to me.

Mr. Chairman, this is an unusual procedure that we begin this day. It is, in fact, a second revisiting of how we can bring the deficit down in this country, an issue of primary importance on both sides of the aisle, irrespective of party or philosophy.

The President, in his State of the Union address, observed that it was critical that we bring the deficit down, and he presented us a budget which, in fact, cut spending.

The Committee on the Budget of this House then reported out a budget which cut an additional almost $60 billion in addition to what the President suggested. And then, in a wrenching and tough vote for all of us, in August we passed a bill that cut the deficit over the next 5 years by $496 billion.

The President of the United States and the Vice President of the United States said, that is not enough. And in fact, the leadership of this House said to the gentleman from Minnesota [Mr. PENNY] and others, we understand that it is necessary for us to continue to visit this question. Why? Because it is morally incumbent upon us to bring our deficit down so that our children and grandchildren do not have to pay for the priorities that we determine in this Congress in our time.

The President asked the Vice President of the United States to look at how we could make government work better. The President of the United States said to the Vice President, let us see how we can make government work better and cost less.

And in September, the Vice President, on behalf of the President and himself, presented us with a document which made numerous suggestions and urged us to make government work better and cost less.

We call it the National Performance Review Report.

□ 1610

The items that we will be considering in this debate and in the three amendments that will be on this floor, pursuant to the rule just adopted, will glean from this document many suggestions. As some on the Penny-Kasich side have said, some recommendations in the so-called Sabo recommendation are the same. They come from the recommendations of the Vice President. It is right that they would be the same.

In point of fact, I would suggest to all the Members in this House that irrespective of what amendments we adopt this day, we should continue to glean from the Vice President's report additional proposals to make government cost less and work better. That is our responsibility.

In point of fact, in March 1993, the President said that:

> Our goal is to make the entire Federal Government both less expensive and more efficient, and to change the culture of our national bureaucracy away from complacency and entitlement toward initiative and empowerment. We intend to redesign, to reinvent, to reinvigorate our entire national government.

I believe that the Penny-Kasich alternative goes too far in the sense that it takes very substantial Medicare cuts, which are going to be necessary if we are going to reform health care.

Slashing another $50 billion from discretionary caps will also affect programs that this House holds dear. Head Start, drug fighting efforts, crime programs, and prison construction—all will suffer under broad-brushed reductions. When such cuts are made, they sound easy, but they can yield unproductive results. As chairman of the Treasury Subcommittee, for example, I can point out that the Penny-Kasich amendment would have a perverse effect on revenue collection.

In 1994 alone the Penny-Kasich amendment would cut the IRS appropriation by $75 million. This would mean firing 1,000 IRS agents—meaning less enforcement efforts, increased tax evasion, and an inability to collect hundreds of millions of dollars in taxes.

But I also believe in deficit reduction and that the Sabo amendment, which cuts $37 billion on top of what we have already done, is a major step forward.

I urge the rejection of Penny-Kasich, the adoption of the Sabo amendment, so we can begin the process of making government cost less and work better.

Mr. MICHEL. Mr. Chairman, I ask unanimous consent that after I have concluded my remarks, that the balance of our time on our side be given to the gentleman from Ohio [Mr. KASICH], to be allocated as he sees fit during that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first would like to commend the gentleman from Ohio [Mr. KASICH], our ranking Republican member on the Committee on the Budget, for all his diligent work this year on budgetary issues and on making it clear to the American people that we remain the party of cutting spending first. Let me also take this opportunity to compliment the distinguished gentleman from Minnesota [Mr. PENNY] for his efforts and for the reputation that he has established here in the House as a real budget cutter.

Some of us, I guess, are more ripe for retirement than others. I am sorry to learn that the distinguished gentleman from Minnesota would see fit at his relatively young age to bow out of further service here in the House of Representatives, for in my opinion he is the caliber of individual we ought to have serving in this body.

Mr. Chairman, let me also compliment the gentleman from Minnesota [Mr. PENNY] on his spirit of bipartisanship, recognizing full well that when he was initially entrusted with the obligation of putting together a spending package on the Democratic side, he was willing to come over and work across the aisle with the distinguished gentleman from Ohio [Mr. KASICH]. I am quite certain that had it not been for that combination of these two Members, we would not be talking about the level of spending reductions we are talking about in Penny-Kasich. It just goes to prove that when there is a willingness to work across the aisle in a common effort, that it can be done, and with a good result.

Mr. Chairman, the so-called Penny-Kasich amendment we will vote on later today contains about 80 specific spending reduction proposals that are enforced by lowering the discretionary spending caps and by wiping clean the pay-as-you-go entitlement spending scorecard. The result is that these savings will now go toward deficit reduction, and will not be spent elsewhere. That is a very important distinction to be drawn here.

The Democratic leadership has had to scramble to put together a proposal, the so-called Sabo amendment, that took several provisions from the Penny-Kasich amendment, including the 252,000 personnel reduction, so they could claim at least some reduction in spending. Without taking from the original Penny-Kasich amendment, there would just have been a nominal amount of savings in this Sabo amendment.

The administration and the Democratic leadership now openly admit that they oppose the so-called Penny-Kasich amendment, not because they oppose the specific spending reductions, but because they are reserving those reductions to offset new spending in the future.

It is no secret that the administration has proposed over three times the total Medicare spending cuts than are in the Penny-Kasich amendment, so that they can finance new programs and program expansions relating to health care reform. They want to rearrange spending, not reduce spending.

What the so-called Penny-Kasich amendment seeks to do today is to allow Members to vote on a small down payment on the Federal deficit. As my colleague, the gentleman from Ohio [Mr. KASICH] has so aptly stated, the so-called Penny-Kasich amendment represents less than one penny out of each dollar's spending over the next 5 years.

We know that the administration and the Democratic leadership, opposes the amendment and that they have ginned up every special interest group against the various provisions in this amendment. However, I would urge my colleagues to vote for the Penny-Kasich amendment. It represents the only opportunity in this session for the House to vote to reduce Federal spending and dedicate those cuts solely to deficit reduction.

Let us not just vote to rearrange spending, let us vote to cut spending.

Mr. GEPHARDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in support of the so-called Sabo amendment.

Mr. Chairman, I rise in support of the Sabo amendment to reduce Federal spending by $37.1 billion. I also want to note my strong opposition to the Penny-Kasich amendment which would endanger chances for national health care reform.

The Sabo amendment would enact into Federal law the proposal offered by the Clinton administration to reduce the Federal work force by 252,000. This proposal was made as part of Vice President GORE's reinventing Government plan that called for a Federal Government that works better and costs less. The Sabo amendment would ensure that significant savings are achieved and this would be done without threatening the hopes of Americans for much needed national health care reform.

In contrast, the Penny-Kasich amendment seeks to cut spending by $90 billion over 5 years but would do this by using savings the Clinton administration has already recommended as part of its health care reform legislation. The Congress will be working next year to meet the demands of the American people for health care security but we will only be able to act if the costs of health care reform can be paid. The Penny-Kasich amendment would cut Medicare and other entitlement programs by $50 billion, which equals over half of the amendment's total claimed savings. Enactment of Penny-Kasich would preempt any chance of paying for health care reform and would aid those who favor the status quo on health care.

In addition, Penny-Kasich is an ill-conceived attempt to rush through major changes in a large number of existing Federal programs. The problem is that this hasty approach to budget reform will hurt Americans who depend on the Federal Government the most. Penny-Kasich seeks to cut the fat but it threatens to cut the muscle out of basic social service programs. This program would hit programs that help abused women and children, the handicapped, and those most in need across this Nation.

For example, Penny-Kasich would consolidate social services grant programs and cut the grant totals by 4 percent to reflect administrative savings. Unfortunately, this approach punishes States like Pennsylvania which are more efficient than others in managing Federal social service grant programs. The Commonwealth of Pennsylvania spends only 2 percent on administrative costs so the Penny-Kasich would result in a cut in the amount of social service funds that actually get down to the people of my State.

Finally, Penny-Kasich includes a number of changes in the Federal budget process that will make future deficit-reduction efforts more difficult, if not impossible. The Congress adopted a $496 billion deficit-reduction package earlier this year that included a hard freeze on discretionary spending. The Penny-Kasich amendment would lower the caps on discretionary spending but fails to identify the specific spending reductions that would be made to reach those lower caps. Congress is being asked to approve broad cuts in Federal spending but Penny-Kasich does not tell Members or the American people where those cuts would be made.

Mr. Chairman, the Sabo amendment provides real spending cuts achieved through clear reductions in the size of the Federal work force. The Sabo amendment can be made law without endangering health care reform or taking a meat ax approach to Federal budget policy. I urge my colleagues to support the Sabo amendment and vote against the Penny-Kasich amendment.

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentleman from Bellingham, WA, Mr. SWIFT, a member of the Committee on Energy and Commerce.

Mr. SWIFT. Mr. Chairman, the so-called Penny-Kasich amendment is just simply bad policy, but it is especially bad policy as it is applied to Superfund. It severely weakens the existing clean-up standards that are designed to protect human health and the environment in the existing Superfund law. It weakens them in a way that could affect every Superfund hazardous waste site in this country.

In addition, this amendment is bad process. The amendment would severely undermine efforts that are going on right now to fashion a balanced and comprehensive rewrite of the Superfund statute. The current Superfund law includes a preference for clean-up remedies that are permanent, and its provides for treatment of hazardous waste.

Penny-Kasich, however, would eliminate that preference for permanent clean-up and instead put in institutional controls. Those are things like fences, or things like having guards stand around to keep people away from them.

It would also eliminate the need to comply with existing Federal and State clean-up standards.

The Penny-Kasich proposal is a bad idea for a lot of reasons.

One, the institutional controls that I have just described and containment do not adequately protect the human health and the environment at many sites. Fences and warnings and guards may not do a long enough job for keeping people away from contamination, and containment can fall, sometimes over time, and sometimes in the event of such things as a flood or an earthquake.

Every congressional district with an ongoing Superfund cleanup will be subject to these risks if Penny-Kasich passes.

Second, the proposal would hurt over 100 companies in over 30 States which have been working to develop innovative treatment technologies both for use here and for export.

□ 1620

Three, reliance on containment and institutional controls would create yet another unfunded mandate for the States since extensive operation and maintenance costs associated with those remedies would fail to the States.

Four, by containing waste onsite, the proposal would make it more difficult to redevelop contaminated sites, and could disproportionately affect minority communities.

Five, waste would be left in place. The cost of cleanups would simply be passed on to our children. Ultimately the overall costs of containment including failed remedies and long-term operations and maintenance may prove more expensive than the judicious use of treatment technologies now.

Delaying these changes until October of next year, as provided in the amendment, does not solve these problems. Instead, it encourages parties who should be cleaning up contaminated sites into thinking up new ways to drag out the cleanup. This is bad.

Vote against Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield such time as he shall consume to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, may I say first of all that just a few days ago we had a bipartisan majority in this House, we had a good, healthy debate. It was at the right tone, it was the right level of substance. I hope in this bipartisan effort to cut spending we will have a similar tone and a similar effort, recognizing that there are Members on both sides of the aisle who genuinely want to cut spending.

But, I must say there is a fascinating pattern developing here. When the time came to raise taxes, promises were made about the opportunity to cut spending. I must say in all fairness, no one suggested that they would both provide the opportunity and have it happen. But the level of intensity in the last 3 or 4 days against the bipartisan Penny-Kasich effort to cut spending has been astonishing, and the scare tactics have been astonishing.

Now it is clear we are going to have to change things. Let me take the Superfund example. I believe President Clinton said recently that two-thirds of the money that was being spent on Superfund so far has gone to lawyers, that this has been a lawyer's field day, that it has not gone to engineers, it has not gone to cleanup, but it has gone to lawyers.

Now maybe the Congress will have to pass a new version of the Superfund where with more limited money we actually cleaned up the sites instead of paying off the trial lawyers. But that would be a good thing. It would be good for America. It would force us to change.

On defense, there are scare letters going around here. Let me say that I vote strongly in favor of defense. I am a hawk. I am a cheap hawk, but I am a hawk. I helped found the Military Reform caucus. I believe that Pentagon can change. But the scare tactics are ridiculous.

The bipartisan Penny-Kasich effort has specific legislative language directing in technical terms that the 602(b) allocation will not hit defense. And in addition, the key leaders of the bipartisan Penny-Kasich effort have pledged that they will not support coming out of conference a bill that does not have a strong firewall that defends the Defense Department from unnecessary cuts. So I am prepared on their word to make this same commitment. I will oppose it coming out of conference if we have not protected defense.

But, to see liberals who have gutted defense for years suddenly tell us how worried they are is just ridiculous.

Let me carry it a step further. There are less increases in Medicare and Medicaid under Penny-Kasich than there are under current services. There would have to be changes. They are increases, not cuts, increases, but they are smaller. However, the Clinton administration has proposed four times as big a change, four times as big, and they were quoted that the new Clinton administrator of the Health Finance Administration promised last week that they could make four times as big a change as Penny-Kasich, and they could do it without hurting a single senior citizens.

So we are told on the one hand that the modest changes in the Penny-Kasich bill are impossible, dangerous, terrible, frightening. But four times as big a change, good, easy to do, no problem by the same people. Now you cannot have it both ways.

Let me go a step further. There is a classic Washington Monument effect which Members are going to hear all afternoon. The Washington Monument effect occurs when the Department of the Interior at $16 billion is told you have to cut $1,000 out of your budget, and at $16 billion they say the only way to do this is to close the Washington Monument on Sundays, so tourists will not be able to see the city. We cannot slow down travel, we cannot cut out paperwork, we cannot reduce consultants, we cannot be wiser about expenditures, we cannot by attrition slow down the size of Park Department offices in cities. The only thing we can do to save that $1,000 is to close the Washington Monument. And what are we going to hear all afternoon? We are going to hear about 30,000 Washington Monuments. Every Member is going to be told if you vote for Penny-Kasich in cuts that are real that oh, it will be terrible, you will not be able to have the Corps of Engineers, and it will go to smaller than it was when Robert E. Lee was a colonel in St. Louis, which will be tragic. You will not be able to have a highway department. We will have roads that are unpaved across the country, and we will have every scare story.

Yet, the truth is, I believe I am correct in saying that even under the Penny-Kasich bipartisan proposal, the total amount of money spent in the next 5 years will be around $8 trillion, $8 trillion, and this is the smaller version, $8 trillion.

Now let me go a step further. This country is trying to tell Washington it wants change. The choice today is between change and no change.

The brilliantly designed Sabo amendment, for which I have the greatest respect as an artwork, cleverly manages to avoid noting that it does not require the money be spent for deficit reduction. It simply says we will cut it here and keep it available to spend it there. It is not a real deficit cut. All it does is temporarily provides cover for those who want to spend more money but not 'fess up to it.

Here we have $8 trillion in spending. We are talking about $90 billion out of $8 trillion. But that happens to be the most decisive, the most vital, most important, most significant dollars $90 billion. They have gone through this entire $8 trillion to find only the pieces of pain that will sound terrible in the press, leaving behind a modest $7,910,546,333,210.07, all of which will be irrelevant because the really key part of the Federal Government has all magically been hit by PENNY and KASICH in a grotesquely Frankenstein effort to destroy the American people by wiping out their entire Government, leaving behind for the appropriators a mere $7,910,546,000,000.

What has the country said? The country said in Los Angeles that we want change. The country said in New York we want change. The country said in Jersey City we want change. The country said in the New Jersey Governor's race, we want change. The country said in Virginia we want change. In every State where term limits have been on the ballot, by over 70 percent the country said we are sick of politics in Washington, we are sick of pork barrel, we want change.

Now today we have a choice. Do Members want to vote for a nice, pleasant smokescreen with no legal deficit reduction teeth? If they do, the Sabo smokescreen is terrific, but if they want to vote to cut spending, and vote for what the people have said they want, and want to vote in a serious way, and yes, maybe next year we will have to enact some implementing legislation and focus the superfund on engineers, not lawyers, or cut administrative costs and focus on poor people, and maybe we actually have to make government work, and have the same downsizing that we are seeing in General Motors, and Xerox and IBM, and maybe we would have to change things. But as for me, I would rather go home having voted for change and explain change to everybody, my senior citizens, my doctors, my trial lawyers. Everybody has to learn if America is going to prosper, America has to change.

I will say one last thing. It has been a good while since I have seen the kind of personal arm-twisting that has gone on in this building in the last 24 hours. People talk about the lobbyists outside of the door, but I have never seen members of the Appropriations Committee do things that I think are totally unacceptable on both sides of this aisle on a bipartisan basis. I say to every Member look at this proposal, look at your children, and vote your conscience. Do not let anybody browbeat, blackmail, or bully you into doing the wrong thing.

Mr. GEPHARDT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Haven, CT, Ms. DELAURO, a member of the Committee on Appropriations.

☐ 1630

Ms. DELAURO. Mr. Chairman, today we make a choice. We can choose substantial budget cuts that will still allow us to forge the kind of country we want to be—a country with universal health care; a country that can educate its children for the future; a country that cares for its elderly.

Or, we can choose cuts that will make health care reform impossible, put unfair burdens on our veterans and elderly, and cripple the research and technology that will create the jobs of the future.

This summer, Congress adopted an unprecedented $500 billion 5-year deficit reduction package. We worked hard to get that legislation enacted because it was a critical step in putting our Nation's fiscal house back in order.

Today, we can make additional responsible cuts by passing the Sabo amendment which cuts $38 billion by reducing the Federal work force, cutting 1994 appropriations, and streamlining the Federal Government.

We should reject the Penny-Kasich amendment. It is not good government. It is not thoughtful government. It contains real threats to our senior citizens, veterans, the environment, and our State governments. Perhaps most ominous of all, it will seriously jeopardize our ability to enact meaningful health care reform legislation next year.

If we adopt Penny-Kasich, Medicare will be cut another $34 billion in addition to the cuts we made earlier this year. This will significantly increase the out-of-pocket health care costs borne by senior citizens and will steal critical budget savings needed to help finance health care reform. This is unacceptable. So, too, are the cuts in veterans health care, and unfunded mandates on our State governments—$55 million in Connecticut alone.

Mr. Chairman, the easy vote would be to vote for Penny-Kasich. Cuts for the sake of cuts. The responsible vote—the vote that looks toward the future—is to vote for the Sabo amendment.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. CLYBURN], a member of the Committee on Veterans' Affairs.

Mr. CLYBURN. Mr. Chairman, I rise in opposition to the Penny-Kasich amendment. While many will see this budget reduction effort only in terms of dollars and cents, I want to point out—in human terms—the effects and nonsense some of these proposals will visit on three populations.

My office has been flooded with calls from among many other health care providers in South Carolina many of whom work in home health care. They feel that if the 20 percent Medicare copayment requirement for home health care is adopted, the poorest of Medicare patients, usually women living alone, will be adversely affected. Many will be forced to seek hospitalization, and leave the comfort and security of their homes, because they cannot afford this new 20 percent Medicare copayment. This is not a savings; this is a disguised increase in spending because Medicare will be picking up the entire resulting hospital bill.

In addition to our elderly, many of our children will suffer. Child care under Penny-Kasich is slated for disguised cuts by combining child care funds with other social programs already competing for limited dollars. What we take from a child today, we pay tenfold in the years ahead.

Third, if Penny-Kasich passes, we will be forced to break faith with the men and women who have made tremendous sacrifices for the country. Penny-Kasich will deliver a devastating blow to our VA health-care system and could deny care to tens of thousands of economically disadvantaged veterans who rely on the VA for their health care. We cannot let this happen.

Mr. Chairman, Penny-Kasich will hit hardest the most vulnerable in our country; our elderly, our children, and our veterans. I urge my colleagues to join me in voting against this amendment.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN. Mr. Chairman, I thank the gentleman for yielding me this time, and I congratulate him and the gentleman from Minnesota on really doing an outstanding job on this bipartisan effort.

Not only have they given it good leadership, but we have had excellent participation by new Members on both sides of the aisle who I can assure one of the earlier speakers have given a lot of deep thought and attention to this.

I want to focus on one of the biggest criticisms of the plan, which is the Medicare cost reduction, $35 billion in this plan, not by cutting benefits, you should be fully aware, but by extending 20 percent copays to the only two programs in Medicare that do not require copayment, that is, lab tests and home health care. We only do that, by the way, for those above the 150-percent level of poverty and by asking high-income beneficiaries over $70,000 a year to pick up a little bit larger share of the subsidized premiums.

I guarantee you that any serious health care reform package will have copayments in its including the President's package.

Now, let us look a little bit at the President's package. The Clinton plan will cut $124 billion out of Medicare, not $35 billion as in our plan. But $20 billion of this are the same cuts that are in the Penny-Kasich plan, lab tests and part B premiums both. The only thing Clinton does not address is home health care. All medical care costs, wherever they are, are fungible, that is, the savings in one plan can be spent on additional things in another program all up and down the line. That is the foundation of the Clinton health care reform plan.

To say that we cannot pull anything out of this is absurd. The Clinton plan cuts Medicare $124 billion, Medicaid $65 billion, raises $90 billion of taxes, it increases Medicare expenditures by $131 billion, Medicaid and public health by $170 billion.

[In billions in dollars]

Clinton health care plan:	
Savings:	
Medicare	+124
Medicaid	+65
Tax hikes	+90
Expansion under plan:	
Medicare	+131
Medicaid	+170
Deficit-reduction	58
Cushion	45
Total	103
Penny-Kasich health care plan:	
Savings	+35
Expansions	0

It should be understood that the $65 billion included here for long-term care does not go to the elderly. It goes into disability programs. The new programs for drug assistance and long-term care require full copayments and State mandates.

Their criticism of Penny-Kasich is disingenuous and hypocritical, and if you believe their numbers after all is said and done, they have a cushion of $45 billion built into the total 5-year plan that claims deficit reduction of $58 billion.

So Penny-Kasich does not cut away from any other program or other use of savings. It simply identifies part of the savings and proposes deficit reduction and moves them slightly forward in time.

In the end if the Clinton plan is adopted, we would still have $58 billion in deficit reduction even with Penny-Kasich.

Penny-Kasich simply fixes some of it now and moves it forward into the current year to the extent of about $3 billion.

This, my colleagues, is the most commonsense, serious deficit reduction package I have seen in my 8 years in Congress. Let us not let the country down.

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. THURMAN], a member of the Committee on Agriculture and the Committee on Government Operations.

Mrs. THURMAN. Mr. Chairman, I would like to thank the gentleman from Missouri for yielding me this time.

Mr. Chairman, it is important to recognize Representatives PENNY and KASICH for bringing the discussion on deficit reduction so far, and I commend them for their dedication to fiscal responsibility. However, even those of us in this body who are fiscally conservative must ask whether this is the proper time to make such significant cuts to Medicare.

In the first place, these dollars are important in guaranteeing universal health care reform and in ensuring that a prescription drug benefit and long-term care are not sacrificed. Also, while the amendment cuts spending, it does not impose any cost containment measures. Can we ensure that savings will be achieved if we do not curb utilization? The Penny-Kasich bill does not address the heart of the problem, it only addresses the symptoms.

With regard to home health services, the Penny-Kasich amendment appears to be very generous by instituting a 20-percent home health care coinsurance only for seniors with incomes over 150 percent of the poverty level. But if you work the numbers, you find that the plan, in fact, does affect seniors on very tight budgets.

The U.S. Government poverty levels are $6,970 for individuals and $9,430 for couples. By doing simple mathematical calculations, we find that the coinsurance for home health services would impact individuals who only have incomes of $10,445, and couples with incomes of only $14,145. Mr. Speaker, these are low-income seniors, not the seniors with incomes of $70,000 or more.

Well, I am not going to forget about those lower-income seniors. If we do, then we remind voters in the United States that Congress is once again out of touch.

Finally, I want to stress to you that the Penny-Kasich amendment could affect seniors in my district by cutting budgets for social services by 4 percent to account for administrative savings. Because we have no guarantee that the 4 percent will come directly from administrative savings, services such as transportation for seniors, congregate dining sites, meals on wheels, home injury control, and medication management are put at risk.

On November 20, I appeared before the Rules Committee and asked them to support a proposal to strike the Medicare provisions for this plan. The amendment was not allowed.

Mr. Chairman, I am committed to deficit reduction, but not at the expense of our seniors. I cannot support a plan that makes 20 percent of the population responsible for over one-third of the savings.

I want to stress that we can vote for $35 billion in further cuts and still leave Medicare in tact with the Sabo plan.

□ 1640

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished member of the Committee on Armed Services, the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. I thank the gentleman for yielding this time to me.

Mr. Chairman, the opponents of the Penny-Kasich deficit-cutting amendment, including the Department of Defense, who argue that the amendment will adversely affect national security or result in huge cuts, make an argument that is not only an unlikely worse-case scenario but is disingenuous at best.

If Members buy their argument and vote against Penny-Kasich because of Defense, then we will never, never cut spending in this body. The only conceivable threat is that lowering the caps on the overall budget will require us to go deeper into Defense. There is explicit language in this amendment protecting Defense from additional cuts as a result of the caps. And if Members are still worried that Defense is threatened or cut too deeply, then they should join some of us who want to reconstruct a budget firewall for Defense in the next session. Only then will we see real protection from continued assaults on Defense.

I say to Members who are worried about anti-Defense forces making continual assaults on the Defense budget: The assaults can and will be made regardless of Penny-Kasich. The reality is that those forces will never be satisfied. But this amendment is not their vehicle. Suggesting that national security is at issue in this package is a lame attempt to divert attention from the real issue of whether or not this House and this Government mean business about cutting the deficit.

It is especially ironic that the Department of Defense now complains about this amendment, when they rolled over during the first budget deliberations that resulted in cuts amounting to $67 billion more than President Clinton campaigned on. Yet, when faced with this amendment, which is brought in the interest of lowering the deficit and which has a modest Defense reduction in such items as the MK-19 grenade launcher and a few Senate adds, there is no end to the wild charges and fear-mongering from the Department of Defense.

If Members do not want to cut the budget, then they should be honest and just say so, but they should not use Defense as an excuse. It just will not wash.

Mr. GEPHARDT. Mr. Chairman, I now yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON], a member of the Committee on Agriculture and the Committee on Small Business.

Mrs. CLAYTON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to speak in opposition to the amendment being offered by Representatives PENNY and KASICH. I believe their proposal to cut funding from discretionary and entitlement programs is not only unsound but unnecessary, as this Congress has already passed the largest deficit-reduction legislation in this Nation's history. Also, the administration has offered additional cuts and there is another amendment which allows reductions without disabling our Government the ability to respond to our Nation's needs.

The Penny-Kasich amendment is unsound because it does not consider the obligation this Congress has made this year for implementing NAFTA and crime control, nor does it consider the many investment programs we need to fund in order to get our Nation's economy back on its feet. Congress has passed NAFTA and we need to provide financing for it to be set in place. We need to institute worker retraining programs for displaced workers and environmental cleanup. We have recently passed far-reaching crime legislation that will require investments in our Nation's youth to keep them from harm's way and prevent them from leading lives of crime.

What causes me the greatest concern, however, is that if this amendment passes, it will rob all Americans of access to quality health care. The Penny-Kasich plan takes the savings in the Medicare and Medicaid programs the President has proposed for health care reform or the other proposed health care reform savings and puts it toward deficit reduction only. The impact of the Penny-Kasich copayments in Medicaid will cost the State of North Carolina over $126 million. I urge my colleagues to vote against this amendment, as a vote for Penny-Kasich is indeed a vote against health care reform.

I, too, am concerned about the need to control our Nation's deficit. That is why I was proud to vote in favor of the Budget Reconciliation Act earlier this year. All of the cuts we assumed in that budget bill have not as yet been specified and if we adopt what Penny-Kasich proposes, we will cut too deeply into programs that work for Americans. If we adopt the Penny-Kasich plan, we will tie Congress' hands and limit our ability to provide true worker training programs, education programs, and health care reform.

I ask my colleagues in the House of Representatives to stand up for health care reform and vote against the Penny-Kasich amendment.

Mr. KASICH. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, the chairman of the Foreign Affairs Committee and I recommended a revision in the provision requiring savings based on the marine security guard program at the Department of State. That change eliminates the requirement for the Secretary of State to achieve savings specifically through reductions in the marine security guard program. The rule we just adopted contains this Hamilton-Gilman amendment as a selfexecuting provision, therefore we will not specifically discuss the change. However, this so-called budget matter does raise real concerns—that must not be ignored—about the foundation of our international security policy.

A paramount responsibility of the Secretary of State is to protect personnel and U.S. property abroad. We can all agree that we are living in an unpredictable world and the one certainty is that security standards must be maintained. This suggests that the Secretary of State should have the flexibility to find other ways to reduce spending. I think it was ill-conceived of the administration to expect to achieve $5.7 million in savings over 5 years strictly through reductions in the marine guard program for our posts overseas. Furthermore, the savings in the out years are spurious. The planned reduction of approximately 66 marine guards was planned long before the National Performance Review [NPR] came along, and some marine guards have already been recalled.

In truth, we may have to add some marines to several new diplomatic posts overseas, in places such as the new states in the former Soviet Union. The point is, we must be vigilant in our international security and antiterrorism activities.

On August 20 of this year the gentleman from New York [Mr. SOLOMON], who has long taken the lead in fighting terrorism, joined with me in writing the Secretary of State expressing our concern that we not let down our guard against international terrorism.

The shining path guerilla attack on our Embassy in Peru, following the earlier terrorist attack on the Trade Center complex in New York reawakened and elevated our concern about terrorism. We know we must be vigilant against a new and alarming threat to our national security.

In that letter Mr. SOLOMON and I noted,

> Although the cold war is behind us, it is clear to all of us that the civilized world is facing a new and more dangerous wave of international terrorism . . . Prudence would dictate that our important programs for combatting this formidable menace be strengthened, particularly given the pervasiveness of this threat and the fact that Americans remain a key terrorist target domestically as well as abroad.

We are hopeful that the State Department heard our message and will not allow disproportionate cuts in those areas. The expenditures for diplomatic security and our counterterrorism efforts, which some may question in these tough budgetary times, are essential.

Our counterterrorism effort and programs help us maintain our nation's national security, and protect our American diplomats overseas. The attacks that never occur, or that are thwarted by these antiterrorism expenditures, are never in the headlines, but these counterterrorism efforts are effective and necessary.

Under leave to include extraneous matter, I submit the August 24, 1993, letter to the Secretary of State, and the September 29, 1993, response from the State Department to this letter to be entered into the RECORD as part of these proceedings.

The letters are as follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 24, 1993.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: As advocates of a strong counterterrorism program for this country, the terrorist bombing of the American Embassy in Lima, Peru should serve as a warning that we can not let our guard down against terrorism. That attack follows on the heels of the February bombing of the World Trade Center in New York, as well as other threats to American citizens, facilities and political leaders from militant terrorists.

Although the Cold War is behind us, it is clear to all of us that the civilized world is facing a new and more dangerous wave of international terrorism. This terrorism is often religiously driven and sometimes ethnically inspired. Prudence would dictate that our important programs for combatting this formidable menace be strengthened, particularly given the pervasiveness of this threat and the fact that Americans remain a key terrorist target domestically as well as abroad.

We know that your Bureau of Diplomatic Security is charged with securing and protecting American facilities and personnel who are proudly serving our country around the world. While we realize that all agencies of our government have undertaken necessary budget reductions during this period of fiscal austerity, we want to ensure that Diplomatic Security, the Office of the Coordinator for Counterterrorism, and construction security programs are not required to take disproportionate shares of the State Department's budget reductions. We feel that this is especially important considering the current climate of international terrorist violence. We would be interested to know if any additional reductions are being proposed for the Bureau of Diplomatic Security and the other offices we have noted, beyond that of the levels of other bureaus and offices.

Given the recent Shining Path attack on our embassy in Peru, the continuing threat of international terrorism, and the ongoing targeting of Americans, the important mission of diplomatic security becomes all the more critical. It is essential that the Department of State maintain a sufficient level of security personnel to carry out its vital responsibilities, and that adequate funding be available for the important task of securint these diplomatic missions around the world, particularly those in high-threat countries. Finally, our new embassies being constructed overseas should have levels of physical security which meet the challenges of the international terrorist menace.

American diplomats are increasingly threatened by international terrorism. Today, they and our embassies are attractive targets in that they symbolize America and the values that our nation represents. We want to ensure that our government is doing everything possible to protect our diplomatic missions, and our personnel, along with their families.

Thank you for your immediate attention and prompt response to our inquiry. We look forward to your comments on this most important matter of interest and concern to us.

With best wishes.

Sincerely,

BENJAMIN A. GILMAN,
Ranking Minority Member.
GERALD B.H. SOLOMON,
Member of Congress.

U.S. DEPARTMENT OF STATE,
Washington, DC, September 29, 1993.

Hon. BENJAMIN A. GILMAN,
House of Representatives, Washington DC.

DEAR MR. GILMAN: The Secretary has asked me to respond to your August 24 letter expressing concern about the adequacy of the Department of State's global diplomatic security efforts. In particular, you asked whether the Bureau of Diplomatic Security, the Office of the Coordinator for Counterterrorism, and the construction security program are being required to take disproportionate shares of overall budget reductions.

We welcome your support as we work to maintain a strong Department of State global security program during a time of severe budget cuts. As you recall, Secretary Christopher, in his appearance before the House Foreign Affairs Committee last February, stated his determination to maintain a strong overseas security program despite overall budgetary reductions. In light of increasing terrorist activities taking place at home and abroad, I can assure you that the Bureau of Diplomatic Security, the Office of the Coordinator for Counterterrorism and the construction security program of the Office of Foreign Buildings Operations will receive sufficient resources to carry out their responsibilities of defending U.S. interests and protecting U.S. facilities.

The Department's security effort reflects a careful approach to chaging world conditions. Program priorities focus on three areas. First, we must ensure the safety of foreign affairs personnel at U.S. missions abroad. Second, we must safeguard all classified and sensitive information handled, stored and processed at these posts. Finally, we must protect our office and housing facilities at our domestic and overseas missions. To achieve an appropriate level of protection at our Foreign Service posts, the Department has developed threat-driven security standards which allow the application of resources to each specific post—especially those in countries with critical and high security threats. These security standards also mandate that our new embassy facilities constructed overseas have strong physical security against international terrorist threats.

Maintaining sufficient protection of our overseas missions at a time of severe budget retrenchment has been a challenging task. In concert with other bureaus and offices of the Department, we have been able to maintain the integrity of our security program while, at the same time, eliminating and/or reducing lower priority efforts. That will continue to be our intent in the future, assuming adequate Departmental funding.

Thank you for your interest in preserving the security programs which protect all Americans serving abroad at U.S. diplomatic missions. Please contact us if we may be of further assistance.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

☐ 1650

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, at a time when the richest people in our country have grown much richer, and the poorest people in our country are suffering greater pain than at any time since the great depression, the Penny-Kasich amendment is an extremely mean-spirited and harmful piece of legislation which will cause significant pain for some of the most vulnerable people in our society—and which sets some very dangerous precedents for future budgetary policy.

Mr. Chairman, the very serious budget crisis which this country faces today was not caused by the elderly or by the poor. It was caused primarily by giving hundreds of billions of dollars in tax breaks to the wealthiest people in this country, and through an enormous increase in military spending. If we want to get to the root cause of our deficit problem, now that the cold war is over let us cut military spending significantly, and let us ask the wealthy to pay their fair share of taxes. Let us not balance the budget on the backs of the elderly, the poor, and hospitalized veterans. Let us not destroy the universal aspects of Medicare—so that in years to come it will evolve into a welfare program for low-income senior citizens.

Mr. Chairman, it is cruel and unacceptable to ask a senior citizen with an income of $10,500 to pay a 20-percent coinsurance payment for all home health services. How many low-income senior citizens would simply not be able to call their visiting nurse association for help—and suffer terribly as a result. In my State of Vermont, the Central Vermont Home Health and Hospice Association estimates that this copayment would cost the average beneficiary about $850 in 1994. That's a lot of money for someone bringing in $10,500 a year.

Further, Penny-Kasich proposes to collect another 20-percent coinsurance fee, on clinical lab services currently covered under Medicare. This will result in additional direct out-of-pocket expense to senior citizens, regardless of their incomes, whenever important lab tests need to be undertaken. What a sad way, what a pathetic way to raise money.

Mr. Chairman, Penny-Kasich imposes, for the first time, a means test on Medicare which would start with elderly people with incomes of $70,000. But in 10 years, because there is no indexing, that figure will be the equivalent of today's $50,000. Most importantly, we are destroying the universality of Medicare and moving it, over a period of years, into a welfare program for low-income senior citizens.

Mr. Chairman, Penny-Kasich would cut spending for veterans medical care by a billion dollars over 5 years, at precisely the time when our VA hospitals are so very hard-pressed. And that is why Penny-Kasich has been opposed by the American Legion, the Vietnam Veterans of America, the Paralyzed Veterans of America, and other veterans' groups. I find it extremely distasteful that this Congress would consider balancing the budget on the backs of men and women who put their lives on the line and suffered physical injury defending this country.

Mr. Chairman, I have heard some of my congressional friends who are defending this amendment express the belief that this is a courageous act in moving this country forward in deficit reduction. With all due respect to my colleagues, I disagree. It is not courageous to inflict more pain on sick and elderly people and on hospitalized veterans. That is not courage.

Mr. Chairman, if we want to show some courage, then we will ask the wealthy in this country to pay their fair share of taxes. That is courageous, because the wealthy have power, and they fight hard to protect their privileges. If we want to show some courage, let's take on the military-industrial complex, and stop spending $2 billion for each spy satellite and $100 billion a year to defend Europe and Asia against a nonexistent enemy. That also requires real courage.

Mr. Chairman, let us reject Penny-Kasich, and let us support the far more sensible Frank-Shays amendment. Let us not balance the budget on some of the most vulnerable people in our society.

Mr. GEPHARDT. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY], the chairman of the Committee on Post Office and Civil Service.

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 3400 and to urge Members to defeat the Penny-Kasich amendment. Penny-Kasich includes provisions to raise the retirement age to 65 for all Federal employees hired after January 1, 1994, and to reduce the thrift savings plan Government match for such employees by 1 percent. Under the amendment, the Government will match only the first 3 percent of employee contributions to the savings plan. These changes, if adopted, will make the Federal Employees' Retirement System significantly less attractive than other public and private sector pension plans, will severely retard the ability of Government to attract qualified employees, and will impose undue hardships on new Federal employees as they reach retirement age.

In 1986, following years of extensive review, the Federal Employees' Retirement System Act was jointly developed by a Democratic House and a Republican Senate and signed into law by President Reagan. FERS is modeled on the best practices of the private sector and responsibly addresses the needs of both the Government and its employees. Costs of the system are less than 23 percent of payroll. Its enactment achieved savings of $300 million in the first year and $8.3 billion between 1987–91. All Federal employees hired after December 31, 1983, automatically became participants in FERS. Under FERS the minimum retirement age is 62 with 5 years of service, 60 with 20 years of service, and 55 to 57 after 30 years of service.

Under Penny-Kasich, no new Federal employee will be able to retire under normal conditions and receive even a reduced benefit before age 65. According to the Department of Labor:

> Virtually all of the employees participating in defined benefit pension plans could retire before normal retirement age and receive an immediate, but reduced, pension.

Ninety-nine and a half percent of all State and local employees are able to retire before age 65 and receive an immediate benefit. A majority of all State and local employees are able to retire as early as age 55 and receive an immediate, unreduced benefit. A majority of all private sector workers may retire with full benefits before 65. Sixty-eight percent of all private sector pension participants may retire as early as age 55 with an immediate annuity.

Beyond imposing wholly unreasonable restrictions on when a Federal employee may retire and receive an immediate benefit, Penny-Kasich severely undermines the likelihood that employees will be able to accumulate adequate savings for their retirement. Under the Federal Employees' Retirement System, the Government automatically contributes 1 percent of an employee's pay to the thrift savings plan. An employee may contribute up to 10 percent of his or her salary to the savings plan, and the Government matches employee contributions dollar for dollar for the first 3 percent of the employee's pay and 50 cents on the dollar for the next 2 percent of the employee's pay. Contrary to information provided by Mr. KASICH and Mr. WOLF in a November 18, 1993, "Dear Colleague" letter, the Penny-Kasich proposal eliminates the Government match for employee contributions beyond 3 percent of pay, thereby reducing the overall Government contribution by 1 percent and not by only one-half of a percent as the "Dear Colleague" states.

The thrift savings plan already is somewhat less generous than similar plans provided by private employers. Many private sector savings plans provide a greater matching contribution than FERS, while others permit employees to contribute a higher percentage of their salary to the plan. Reducing the Government match will have other serious ramifications beyond simply making FERS less attractive than other pension plans. Employee contribution rates largely correlate to matching contributions. This is especially true for employees receiving lower salaries. Seventy-one percent of FERS employees contributing at the 5-percent rate earned less than $35,000. Reducing the match limit to 3 percent is expected to reduce the percentage of pay that employees contribute to the thrift savings plan by 40 percent. The ultimate effect, then, of reducing the Government match is to create a disincentive for employees to save for their own retirement and increase the likelihood that employees will not have sufficient pension income to provide for financial security during retirement.

Penny-Kasich substantially alters FERS to make it obviously and significantly less attractive than many other retirement plans in the country. The impact this will have on the ability of the Government to attract qualified workers will be significant. In effect, the Government will offer prospective candidates a job that, on average, pays 20 percent less than equivalent private sector jobs with a pension plan that both inhibits the accumulation of sufficient funds to meet old age needs and, unlike most plans in the country, precludes the employee from voluntarily retiring and receiving an immediate benefit anytime before the age of 65. Raising the retirement age produces no scorable savings at all and reducing the thrift plan matches produces savings of only $144,000,000 over 5 years. The real costs of the Penny-Kasich proposal are considerably dearer.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding this time to me.

I simply want to respond to the remarks of the committee chairman, the gentleman from Missouri [Mr. CLAY].

The gentleman talks about breaking faith with public employees by the changes we have made in the retirement program. These changes are all prospective. They take place for those who are newly hired. It will not be fully phased in for decades.

The fact is that we need to begin the process of making changes in this retirement system, because currently we have a $1 trillion unfunded liability in the public pension program because of the fear in this institution to make a change in the system.

Mr. KASICH. Mr. Chairman, I ask unanimous consent that for the rest of the day people will remember that it is "KASICH," like it rhymes with basic.

Mr. GEPHARDT. Mr. Chairman, for the purpose of a response, I yield 30 seconds to the chairman of the committee, to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. However you pronounce it, Mr. Chairman, it is still impacting adversely on 3 million Federal employees.

Let me say that this Penny-Kasich amendment has no impact whatsoever on unfunded Federal pension liabilities. The FERS we created several years ago is a fully-funded system and Penny-Kasich has no effect on the CSRS pension system.

□ 1700

Mr. KASICH. Mr. Chairman, I yield myself 20 seconds to make this perfectly clear, perfectly clear.

I want everybody to understand that we do not impact those programs. How many times are we going to go back and forth being charged with impacting those public employees? We do not impact any public employee currently working in the Federal Government. Everything is prospective. That charge is not unlike most other exaggerations as to what is in this bill.

Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS. Mr. Chairman, the sky is falling. Civilization, as we know it, is about to end, and everyone should head to the hills. At least that is what one would think if they read these letters that have come to my office from every special interest in the free world telling me that Penny-Kasich will absolutely be the ruination of the United States of America.

Unfortunately, Mr. Chairman, we have heard it here on the floor today. We have heard it from the White House. They think that it is going to destroy America. We have heard it from the leadership of this old Congress, that it somehow is going to destroy American life as we know it to cut one penny out of every dollar that we spend in this country. We have heard it from these special interest groups.

But, Mr. Chairman, I would like to ask the Members here that represent a new Congress within this body whether they heard from their people at home, the people at home that are worried about their children and grandchildren facing a $4.2 trillion national debt. Those folks will say not to listen to these folks.

Vote for Penny-Kasich.

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Miami, FL [Mrs. MEEK], a member of the Committee on Appropriations.

Mrs. MEEK. Mr. Chairman, this is supposed to be a commonsense plan for cutting one cent on the dollar from Federal savings? I will just paraphrase an old phrase by saying, "A name, a name, a rose by any other name would smell the same."

Mr. Chairman, I am saying to my colleagues that there is little sensitivity on the part of any Congress that passes a bill which has the impact, the negative impact, of the Penny-Kasich proposal. But I will forgive them for this because I do not really think they know what they are doing.

Mr. Chairman, I think they have crunched some numbers and that they have been working on it for quite some time. But I do not think they have ever lived in an atmosphere where they had to deal with some of these problems. I do not think that they have ever been truly desperate, as some of the elderly citizens of this country are going to be if this bill passes, if this amendment passes.

I know how to pronounce "Penny-Kasich." I know what it rhymes with as well. But I am here to say to my colleagues that it is very difficult to finance health care reform if we vote for Penny-Kasich.

I say to my colleagues, "You have talked about health care, every last one of you all over this country. You did not tell the people how you are going to do it. Now you come up at the last moment, and say, 'Let's build a health care plan and take $34 billion from Medicare.'"

Mr. Chairman, that puts enormous financial burdens on the beneficiaries. Those of us who God has given a chance to live this long will understand the impact of this. Forty percent of the savings in this Penny-Kasich plan comes from Medicare. Listen to that: 40 percent. So, I ask my colleagues, How you going to balance the budget? On the backs of elderly people, many of them poor? How are you going to say to them that you want them all to stay in the hospital, to be institutionalized, or do you want them to come out of the hospital and go into home health care where people can come to them and give them adequate care? Then you're going to make them pay 20 percent more than that.

Mr. Chairman, to me this is the type of thing one does when their insensitivity has been forgotten because they are thinking more of numbers crunching.

I am opposed to it because it applies these budget tricks. It is sort of like a bait and switch. They are using money three and four times. I ask, how many times can you use the money? It is double counting the savings which has already been required by President Clinton's budget plan. It falls short of the budget reduction that it wants to get, falls short of the target. It provides no specifics, and I say to my colleagues, Many of you are sitting in here listening to this, and there are those of you who have walked the streets talking about we are going to do deficit reduction. This plan does not tell you specifically what it's going to cut. They're not telling you what it's going to cut. Is it going to cut Women, Infants and Children?

I just want to say, vote against Penny-Kasich.

I am voting against the Penny-Kasich amendment, and I strongly urge my colleagues to do the same. I am appalled that something that important is even being considered at this late hour. This is truly desperation legislation.

I am opposed to Penny-Kasich because it will make health care reform much more difficult to finance, and health care reform is absolutely necessary to improve the well-being of our people and to control the Federal deficit.

Penny-Kasich cuts $34 billion from Medicare and puts enormous financial burdens on beneficiaries.

In fact, nearly 40 percent of the savings in Penny-Kasich comes from Medicare—yet Penny-Kasich does nothing to control the real problem: escalating health care costs.

We should not balance the budget on the backs of senior citizens.

I am opposed to Penny-Kasich because it employs budget tricks and sleight-of-hand to achieve its goals: It double counts savings already required by President Clinton's budget plan; it falls short of its deficit reduction target by about $78 billion; and it provides no specifics about what programs will be cut to make up this shortfall.

I am opposed to Penny-Kasich because we already passed a carefully thought-out deficit reduction bill—the biggest in our history—earlier this year, which will already reduce the deficit by five times as much as Penny-Kasich.

Mr. Speaker, Penny-Kasich is the deficit-cutting equivalent of a desperation "Hail Mary" pass to the end zone when there are still three quarters to play in the game.

We don't need desperation moves; we need deliberate, steady, controlled progress toward our goals: Controlling health care costs, investing in our future, and reducing spending in a reasoned way that will not jeopardize the recovery of our economy or the welfare of our people.

I urge my colleagues to join me in opposing and voting against Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield myself 20 seconds.

Mr. Chairman, I want to read this chart:

The Clinton administration has called the Penny-Kasich planned $35 billion in Medicare cuts immoral, yet Bruce Vladeck, Medicare Administrator, said the administration's $124 billion in Medicare cuts would not be putting Medicare beneficiaries at risk.

Which is it, my colleagues?

Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, this is our last chance. After today's vote on Kasich-Penny, we will not have another opportunity this Congress to cut spending.

Once health reform is in full swing, all talk of budget cuts will come to a halt. So if Kasich-Penny is defeated in the House today, we will go into the next election with voters fuming that Congress could not bring itself to make substantial cuts in spending.

Kasich-Penny cuts $90 billion in spending over the next 5 years, and every nickel of savings is earmarked to deficit reduction, real cuts and real deficit reduction.

The Sabo amendment, on the other hand, will not reduce the deficit at all. The Sabo amendment will cut spending, but these savings will be spent on other programs. I repeat, the Sabo amendment does not cut the red ink one red cent.

Critics of Kasich-Penny have charged it will doom health care reform, undermine national security, and threaten future growth in the economy, as well as any projects in my colleagues' districts. The special interests have repeated this chorus in the piles of literature that have been sent to our offices. We know Kasich-Penny really cuts spending because the beneficiaries of government largesse have been burning the midnight oil lobbying against it.

Let us address the arguments made by critics of Kasich-Penny. They claim Kasich-Penny will doom health care reform if we cut $34 billion from Medicare. Yet the President's proposed health plan, which I call Mega-Care, contains a staggering $332 billion in net new spending. In addition, the President's plan cuts Medicare $124 billion. And we are supposed to believe a mere $34 billion will devastate health reform?

Big spenders in the administration and elsewhere also argue Kasich-Penny threatens the economic recovery. Even under Keynesian analysis, the idea that cutting next year about $6 billion out of a $1.5 trillion budget $250 billion in deficit in a $6.6 trillion economy will have a noticeable effect on economic growth is laughable.

The bottom line is that Kasich-Penny opponents are delaying because they know the window of opportunity for enacting genuine spending cuts and deficit reduction is closing. We have delayed long enough. I urge my colleagues to support this bipartisan effort to reduce this deficit. Support Kasich-Penny.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Olympia, WA [Mrs. UNSOELD], a member of the Committee on Education and Labor and the Committee on Merchant Marine and Fisheries.

Mrs. UNSOELD. Mr. Chairman, I thank the majority leader for yielding this time to me, and I wish to associate myself with his remarks and the remarks of others who are opposing Penny-Kasich and to support the Sabo amendment.

Mr. Chairman, I would like to point out that there is new policy in Penny-Kasich, and it consolidates social services. Consolidation should be a good thing if we are reorganizing government. But it consolidates the government for the elderly, the senior citizens and for children into a single block grant, reduces it in size and has those children and seniors compete for the same smaller amount of money.

But, second, as my colleagues know, Penny-Kasich is described as a heroic vote because it will provide opportunity for us to set new policy, to start reducing the cost of government, to lower the taxes, to lower the debt for the American public.

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This is a sham. There is real hypocrisy when $5 billion is going to be shifted from the Federal responsibility onto State government, $5 billion of mandated, unfunded responsibility. Each State can look at what happens when Medicare is reduced and the States have to pick up those Medicaid expenses. A $5 billion hit on the States is not a hero vote, and we should oppose Penny-Kasich.

While I appreciate the efforts of my colleagues to continue the attempt to cut Federal spending, I cannot support the Penny-Kasich amendment. Like those who support the amendment, I believe that additional spending reductions can be achieved over and above the roughly $496 billion in deficit reduction which was passed in this past summer's Omnibus Budget Reconciliation Act. However, I think the Penny-Kasich amendment contains cuts which are unfair, unwarranted, and bad policy.

There are five primary reasons I will not support the Penny-Kasich amendment.

First, I am very concerned that Penny-Kasich will undermine, if not torpedo, President Clinton's critically important health care reform plan. In order to help pay for some of the provisions in the health care initiative, the President plans to use savings from Medicare and other Federal health programs. If Penny-Kasich became law, all of the savings it achieves will be dedicated solely to deficit reduction. In the absence of broad health care policy reform, this would result in massive cost-shifting, making senior citizens and other health care consumers pay more without even a promise of future benefit. I support the President's health plan because it takes a comprehensive approach to solving the health care crisis in this country. There is hardly a more important issue before the Nation than solving this crisis, and it would be disastrous if we were to sabotage the historic opportunity to institute comprehensive health care reform. If Penny-Kasich is enacted, it will be extremely difficult, if not impossible, to finance any real health care reform legislation.

Second, I am concerned about the fairness of some of the cuts included within Penny-Kasich. While it is clear that additional spending reductions can and must be achieved, I am not about to jump on a bandwagon of budget cutting simply for the sake of cutting. I am particularly concerned about the effect of Penny-Kasich on senior citizens, children, and families. One-third of the savings proposed by the Amendment would come from cuts in programs for seniors. While the cuts are aimed primarily at upper income seniors, many middle and low income seniors would be hit as well through cuts in the Medicare program.

The amendment would also cut programs that benefit children and families. By consolidating a number of programs aimed at assisting poor families, Penny-Kasich would be particularly harmful to families in need of child care services. It would also impact State unemployment programs, childhood immunizations, the Head Start program, Special Education services, and an assortment of other important programs. On another front, the Amendment would cut 10 percent from an agency that I believe is historically underfunded—the National Marine Fisheries Service. I cannot support such a reduction at the same time we are asking this agency to assume greater responsibility for such things as restoring threatened and endangered salmon.

Third, the Penny-Kasich Amendment would increase unfunded mandates on States by $5 billion over the next 5 years. The mandate would come through a new requirement that States pay 20 percent coinsurance on Medicare home health benefits for individuals up to 150 percent of the poverty line. It is estimated that in my State of Washington alone, roughly

$58 million will have to be paid by the State for this new Federal mandate. The effect of this mandate is that part of the Medicare savings that Penny-Kasich supporters hope to achieve will come only at the expense of State governments.

Fourth, I have serious reservations with the extensive number and nature of policy changes that are included within the Penny-Kasich Amendment. For example, it creates a new Department of Science which would combine science offices from several Federal agencies; it changes the retirement rules for tens of thousands of civil service and military retirees; it implements far-reaching new policies affecting the operation and morale of the armed services, including forbidding families to accompany U.S. military personnel assigned to year-long deployments in Europe; and it makes important changes in the Superfund program. This is not to say that some of these changes aren't good ideas, but I believe they should receive the benefit of a proper legislative process. All of these changes, and more, would be made through one amendment on the House floor without any scrutiny in the committee process.

Finally, I am concerned that the cuts in Penny-Kasich—which are in addition to hundreds of billions of dollars in cuts already legislated—would have a detrimental effect on the gradual economic recovery we are experiencing. I worked very hard earlier this year with the President and my colleagues in Congress to pass the President's deficit reduction and economic package. Contrary to those who say that Congress hasn't cut spending deeply, significant spending cuts have in fact been enacted this year. Medicare has already been cut by $56 billion, federal retirement has been cut by $12 billion, Medicaid by $7.1 billion, agriculture by $3 billion, and veterans programs have already been cut by $2.6 billion. Moreover, Congress has placed caps on discretionary spending that will hold spending at or below the 1993 level for the next five years. In fact, these caps are $56 billion below President Clinton's budget. This budget spending freeze is historic, ending steady increases that nearly doubled discretionary spending between 1980 and 1992.

The hard reality is that significant cuts have already been made this year simply to meet the 1994 discretionary targets—and this task will become even more difficult over the next few years. Taken together, the 1994 appropriations bills were $998 million below the discretionary funding targets set in the budget resolution. Through this year's appropriations process, Congress has voted to cut hundreds of specific programs and projects below last year's level, yielding more than $34 billion in savings. In addition, the proposed rescission bill would reduce 1994 appropriations by another $2.5 billion.

For those who doubt the seriousness of the deficit reduction which has occurred so far this year and which will continue to occur over the next five years, there is one gauge which is particularly telling and which helps put our efforts into perspective. That gauge is the amount of federal spending relative to the Gross Domestic Product (GDP). In terms of spending, as a result of the reconciliation package overall spending will average 22.5 percent of GDP over the next five years, compared to 23.3 percent for the Bush and Reagan years combined. The average of discretionary spending as a percentage of GDP will be 7.8 percent, while under Bush it was 9.2 percent and under Reagan it was 10.2 percent.

Another important measure is the deficit as a percentage of GDP. Since 1989, this percentage has been growing steadily from 2.9 percent in that year to 4 percent in 1990, 4.8 percent in 1991, and 4.9 percent in 1992. Due to the President's deficit reduction package this percentage will drop significantly. In 1993, the deficit as a percentage of GDP is estimated to be 4.3 percent and is projected to drop in each of the next five years and reach a low of 2.5 percent in 1998. In other words, rather than continuing the upward trend the deficit has been going along, the deficit as a percentage of GDP will be sliced in half over the next five years. Although this trend is often overlooked, I believe it is essential if one is to appreciate the magnitude of the efforts being taken currently to reign in the deficit and provide economic growth.

While I cannot support the Penny-Kasich Amendment for the reasons listed above, I enthusiastically support the Sabo Amendment. The Sabo Amendment will cut spending by $37.1 billion over the next five years, above and beyond the savings already enacted through the reconciliation package. The Sabo alternative includes some of the provisions the Clinton Administration offered as part of its "Reinventing Government" initiative, as well as the President's proposed rescissions of already appropriated spending. The largest part of the package is a $32.5 billion spending cut to be achieved by reducing the Federal workforce by 252,000 over the next five years. Also included are $1.9 billion of savings in rescissions, and $2.7 billion in savings through changes in programs and in how government operates. These changes—many of which were included within Vice President GORE'S National Performance Review recommendations—are intended to make the Federal Government more efficient and effective.

I support the Sabo amendment because the cuts it proposes are real and fair. The amendment is part of a much broader strategy to control the deficit while at the same time shifting away from the outdated spending priorities of the past. It will not sabotage the President's health care reform initiative and its cuts will not fall unjustly upon the poor, the elderly, and on State governments.

Not only will the cuts included in the Sabo amendment slice a significant share from previously approved spending, but they will also act as the first stage of the continuing effort to implement the Vice President's "Reinventing Government" proposals by locking some of them into law. The amendment includes cuts in program which have outlived their usefulness and no longer deserve funding such as the permanent elimination of the federal price support program for wool and mohair, and termination of the Advanced Metal Liquid Reactor Program. Most important, the amendment will produce budget savings as part of a more comprehensive plan to eliminate wasteful government spending and make the Federal Government more effective.

In many ways, this debate is about perspective. Some believe that Congress can continue to cut more and more spending and not run the risk of bringing ruin to our economy. Others believe that Congress has already cut too much too quickly and should not cut deeper. I believe that a great deal has been done so far this year to turn this Nation away from the voodoo economics of the past and honestly address the deficit and its effect on our economy. Clearly, more can be done and I will continue to support efforts to cut unnecessary spending. But I will not support proposals which jeopardize the progress we have made to strengthen our economy and to raise it above the weak level of growth characteristic of the past few years. Interest rates have continued to remain at historically low levels because the financial markets have faith in our current deficit reduction efforts. I will continue to work with my colleagues to achieve an appropriate level of spending cuts that will also allow a high level of sustained economic growth.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from the State of Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Chairman, I rise in strong support of Penny-Kasich. There are a number of Members in this House who support a balanced budget amendment on the one hand, yet voted against the President's budget and tax plan because they wanted more spending cuts. I am one of those Members.

Today we get our chance to match our record with our rhetoric. Today we get what we asked for, more spending cuts. They are not painless cuts, but they are responsible cuts, nearly $100 billion in deficit reduction.

Mr. Chairman, I would ask Members, if you are undecided on Penny-Kasich, and if you supported a balanced-budget amendment and voted against the President's tax bill, I have several questions for you: First, how do you balance the budget without tax increases or spending cuts? Second, can you have it both ways, no taxes and no cuts? Third, do you really think your constituents will believe the free lunch theory of balanced budgets? That is, all gain with no pain?

Mr. Chairman, it is time for us to be honest with the American people. To suggest we can balance this budget without serious spending cuts is wishful thinking at best, and pure delusion at worst. By voting for Penny-Kasich, you have a chance to prove that "Cut spending first" is more than just a hollow rhetoric. I urge support of this amendment.

Mr. GEPHARDT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise today in strong opposition to the Penny-Kasich amendment.

I have had the great pleasure of working with JOHN KASICH as a member of the Budget Committee, and with

TIM PENNY on amendments to cut spending for the Trident D-5 Missile. Although we didn't win on the D-5 votes, I am committed to fight until we cut that $10 billion cold war relic.

Mr. Chairman, I want to make it clear that I believe we should cut wasteful programs—not simply make cuts for cutting sake. I support the amendment to cut over $37 billion that is being offered by Budget Committee Chairman SABO. I also support the Frank-Shays amendment because it cuts $14.4 billion more than the Sabo amendment by cutting programs that our Nation can no longer afford—the space station, spending on defense burdensharing, star wars, and the advanced liquid metal reactor. This is where we must cut—the waste.

Some of my colleagues will say that the Penny-Kasich amendment is a tough-but reasonable—deficit reduction measure that cuts excess spending. I say that this amendment makes major policy decisions that set our Nation on a dangerous course.

First, this amendment will kill health care reform. While many of us have our own view about the best way to reform the health care system, there is no doubt that reform is needed now.

This amendment, however, puts health care reform in serious jeopardy. It calls for significant Medicare savings that would be applied to deficit reduction. But these savings are not some new idea. The administration has already asked for these cuts to pay for health care reform. The authors of this amendment say they don't want to wait, and I understand that. During the Budget Committee hearing on this amendment, however, I specifically asked if they would consider putting these savings aside and reserve them for health care reform. They have not done so, and I view this as a clear and blatant attempt to kill health care, and maintain the status quo.

Second, the budget agreement already passed by Congress cuts the deficit by $500 billion, and fundamentally reorders our Nation's spending priorities. This budget imposed tough discretionary spending caps which are only beginning to take effect.

With the end of the cold war, defense spending was cut in the budget. Some of this money was used for deficit reduction, and some of it used to address important domestic issues that have been ignored for too long. These are investments in our people—education, worker retraining, and economic conversion to name a few.

It simply does not follow that if we cut defense, then we should also cut infrastructure and human investments. That is short-sighted and downright wrong. Without health care reform, without an educated workforce, without infrastructure improvements, without worker retraining programs, our Nation will lose its ability to compete in the global economy. By investing in important human programs, we can save money in the long run. Just like our mother always told you: "An ounce of prevention is worth a pound of cure."

Third, I am gravely concerned about the effect that this amendment will have on the economy.

Congress passed a deficit reduction plan that reduced the deficit by $500 billion over the next 5 years. Low interest rates are helping to reduce the drag on the economy that is triggered by a deflationary budget. So far, it appears that this has worked, and our economy is on the road to recovery.

It is unlikely that interest rates will be lowered further to counteract the slower economic growth and higher unemployment that will result from the additional spending cuts required under the Penny-Kasich amendment. It is clear that many economists fear this proposal—combined with the $500 billion in deficit reduction already passed—would be a significant drag on the economy and may lead to slower economic growth, increased unemployment, and greater deficits.

This amendment cuts programs, but not enough to meet the existing caps, and then reduces the caps by that amount. This means that we will then be required to cut into programs that are a higher priority—programs like education, WIC, health programs, AIDS, environment, and crime. This amendment is dangerous not just because of what's in it—but also because of what's not in it.

Last, this proposal uses number games. It proposes spending cuts that would not reach the discretionary spending caps already set in place by the budget; it also tries to take credit for cuts that are about to happen anyway; and it shifts costs to States as unfunded Federal mandates.

I support some of the spending cuts in this package, but there are many that I believe need substantive debate, and some that I outright disagree with. For example, Mr. Chairman, there are new tax provisions in this package that directly tax the wine and winegrape industry—which is so important to the district I represent. These and other changes have not been fully debated.

As a whole, Mr. Chairman, this amendment is bad fiscal, social, and economic policy. I urge my colleagues to oppose this amendment, and support the Sabo amendment, the Frank-Shays amendment to cut spending.

The CHAIRMAN pro tempore (Mr. VENTO). The Chair would announce that the gentleman from Missouri [Mr. GEPHARDT] has 2½ minutes remaining, and the gentleman from Ohio [Mr. KASICH] has 1 minute 50 seconds remaining.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, we are at a crossroads, and I would like to thank "Mr. Farthing" and "Mr. Cossack" for coming up with this brilliant plan and having the courage to put together a budget cut.

But we are at a crossroads. We all campaigned, the 110 freshmen, to come here and balance the budget. Now that we are here, how tough it is, that we are actually going to have to do it.

What are we doing? We are asking for a 1/80th, a little more than 1 percent, cut, and we cannot do it. Peter Grace was up on the Hill this week and says we are buried in debt, and if the interest rate should go up, one-half of the amount of revenue we will take in by the end of the decade will go to interest on the national debt. Is this what we want to do to our grandchildren?

This is our only opportunity this year to make meaningful cuts in Federal spending. Yet the budget analysts have been up all night. And what have they been up doing? Trying to find out how a 1/80th, or a little more than 1 percent, cut, was going to destroy Western civilization.

Do not believe it. It is tough; it is time. Vote for the Penny-Kasich plan.

Mr. KASICH. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. CUNNINGHAM].

The CHAIRMAN. The gentleman from California is recognized for 50 seconds.

Mr. CUNNINGHAM. Mr. Chairman, several Members tout Clinton's tax package as a $50 billion deficit reduction plan. What they fail to tell you is 80 percent of those cuts come after 1996. That is not believable. Kasich-Penny cuts now. That is believable.

That is a $27 billion saving that you can cut today. That is only in the State of California. Liberals also tell you that Clinton's deficit reduction is $500 billion. How do you get that when you increase spending $500 billion, and you increase taxes $476 billion, and 80 percent of the cuts do not come until after 1996?

Mr. Chairman, the Kasich-Penny package happens now. Support it.

Mr. GEPHARDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Penny-Kasich amendment. Some have argued that the Penny-Kasich amendment represents a draconian reduction in Federal spending that will devastate the economy. Nothing could be further from the truth. At a Budget Committee hearing earlier this year, Alan Greenspan dismissed the concern that Congress may cut the deficit more than the economy could handle, stating that "I find it misplaced the fear that deficit reduction would be overdone and create an undesirable degree of 'fiscal drag.'"

We are not reducing investment programs one dime in Penny-Kasich. The entitlement savings in the Penny-Kasich amendment are simply reductions in the rapid growth of entitlement spending. In fact, we are cutting only $37.9 billion of the $271 billion in increased entitlement spending permitted under the budget that we passed earlier this year.

I find it interesting that many of the people who are opposing this proposal are the same folks who are opposing the balanced budget amendment to the Constitution. The opponents of the balanced budget amendment insist over and over that we don't need a constitutional amendment to balance the budget, that we need to make tough choices. Today, we will see who is willing to make those tough choices.

The criticism of this proposal clearly illustrates why we need a balanced budget constitutional amendment. Over the last few weeks, we have been bombarded with calls and letters from virtually every special interest group that has a stake in maintaining the status quo of spending nearly a billion dollars a day that we don't have. I am proud to say, however, that not all of our constituents are as short-sighted and purely self-interested as their national organizations might imply. To make that point, I submit for the record a letter I received from my constituent, Mr. Bill Ulmer, CEO of Mediplex Home Health Services in Abilene, TX.

Our children and grandchildren don't have clout in the political process to match the national special interests, but they and their generation are the ones who have the most at stake in what we do here today. If we do not take action today to bring our budget deficit under control, we will mortgage the future of generations to come. Now is the time to vote to brighten the future for generations to come. Vote "yes" on Penny-Kasich for the sake of the children.

MEDIPLEX,
Abilene, TX, November 22, 1993.

Hon. CHARLES STENHOLM,
1211 Longworth, Washington, DC.

DEAR CONGRESSMAN STENHOLM: I am the chief executive for a group of home health care companies. Since 1987 our company has created 160 new jobs and successfully maintained a growth late of 100% per year. I have a vast background in the operational management of retail pharmacy, hospital pharmacy, durable medical equipment sales/rentals, home infusion therapy, hospice, and certified home health care. We utilize a "managed care" concept to deliver a vast array of health care services to one's home. For the last 3 years, we have participated in a pilot study that utilized a standard rate of reimbursement in lieu of the traditional cost based reimbursement for our home care services.

With this experience from an operational aspect, I urge you to seriously consider passage of the home care proposals contained in the Penny-Kasich Amendment scheduled for a vote on November 22, 1993.

The most crucial home care component contained in this amendment is the standard reimbursement rate set at 93% of the current cost limits and the scheduled January 1, 1994 implementation. Setting this rate would revolutionize the health care service arena by creating healthy competition.

The second crucial home care component contained in this amendment is the provision to mandate a co-pay provision to beneficiaries whose income level exceeds 150% of the federal poverty level. You will receive an intense lobbying effort from our industry in opposition to this provision. You must calm their fears. From my perspective, over 70% of our beneficaries possess a Medi-Gap Policy to cover the 20% co-pay provisions. The remaining 30% would be unaffected by the co-pay provision as they fall below the 150% poverty level trigger.

Do not allow the special interest lobbyists to influence your vote with false facts. Support the Penny-Kasich Amendment and open the door to competition in the health care system. I will gladly testify and elaborate on my position when the time presents the opportunity.

Respectfully,
BILL ULMER.

Mr. GEPHARDT. Mr. Chairman, I yield 2½ minutes, the balance of our time, to the gentleman from south Florida [Mr. DEUTSCH], a member of the Committee on Banking, Finance and Urban Affairs, and the Committee on Foreign Affairs.

Mr. DEUTSCH. Mr. Chairman, today I rise to voice my strong opposition to the Penny-Kasich amendment to the Government reform and savings bill. While I am fully supportive of efforts to reduce the deficit, we must not reduce the deficit by placing the burden of balancing the budget on our Nation's senior citizens.

It appears that once again, those who want to balance the budget attempt to do so on the backs of our Nation's senior citizens. Under the proposed Penny-Kasich amendment, America's seniors are being asked to pay for $41 billion of the $92 billion in savings—that means that 20 percent of the population will pay for 46 percent of the savings. While we all may want to reduce the deficit further, the senior citizens of our country didn't create the deficit, and they shouldn't be asked to pay for 46 percent of the proposed savings in the Penny-Kasich plan.

The Penny-Kasich plan will impose a 20-percent coinsurance payment for all home health services on seniors whose incomes are above 150 percent of the poverty level. While this may be directed only at the wealthy, in reality it hits seniors whose individual incomes are as little as $10,455 and couples whose joint incomes are as little as $14,145. Worse yet, the Penny-Kasich amendment proposes to collect another 20-percent coinsurance on clinical lab services currently covered under Medicare.

The plan also implements means testing the hospital insurance deductible and the Medicare premium part B at $70,000 for individuals and $90,000 for couples. So, in addition to making seniors pay more out-of-pocket fees for services, Penny-Kasich also intends to raise the Medicare deductibles and premiums for seniors. While this may seem like a fair option now, the means testing provisions do not provide for adjusting the thresholds for inflation—so in 10 years, middle income seniors making only $52,000 will be subject to the means testing.

It's bad enough that all these provisions hit seniors, but in a more general sense, cutting Medicare now just does not make sense. Let us not be so short-sighted as to raid Medicare now—the time to fix Medicare is during the important debate on reforming our Nation's health care system.

Just this morning Secretary of Health and Human Services Donna Shalala clearly voiced her opposition to the Penny-Kasich plan. She said, "The Penny-Kasich amendment would devastate all major proposals for comprehensive health care reform," and she also voiced her concern that most of the savings are achieved by burdening the elderly of our country.

I want to support an effort to reduce the deficit, but we cannot afford to cut the deficit on the backs of seniors and eliminate any chance for health care reform by doing so.

I urge Members to vote against the Penny-Kasich plan.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 3400, the Government Reform and Savings Act.

I wish to commend Vice President AL GORE for the outstanding job he did in developing this reinventing Government proposal, which is long overdue.

For the first time in decades, we now have before us a credible plan to streamline the Federal work force, while improving both the efficiency and effectiveness of Government.

As the Vice President's report shows, the advent of new technology makes it possible to greatly overhaul the way in which Government operates, particularly in areas such as Federal purchasing and accounting. This will enable us to reach the goal which all Americans share: to make Government work better and cost less.

H.R. 3400 achieves significant deficit reduction through additional program cuts totaling $37.1 billion over 5 years. These cuts are not accounting gimmicks. H.R. 3400 contains real savings, which include codifying the Vice President's recommendation to reduce the Federal work force over the next 5 years by 252,000 positions for a savings of $32.5 billion; reorganizing the Department of Agriculture by consolidating field, regional, and national offices for a savings of $849 million over 5 years; and terminating the advanced metal liquid reactor program for a savings of $318 million over 5 years.

I am also very pleased to see that H.R. 3400 includes a set-aside of about $300 million over 5 years for the Social Security Administration to conduct continuing disability reviews [CDR's]. A General Accounting Office [GAO] study released in July, that I requested, reported there is a 1.1 million case backlog of CDR's with a loss of $1.4 billion to the Social Security Trust Fund. The set-aside for CDR's is an example of a modest investment which will yield huge savings by providing the resources for timely and thorough CDR's.

While I support the initiatives of H.R. 3400, I cannot support the Penny-Kasich amendment because it falsely characterizes a long-range deficit reduction for America.

The sponsors of this amendment have portrayed it as a relatively easy and painless way to reduce the deficit by cutting 1 cent on the dollar from Federal spending over 5 years,

But, this amendment isn't nearly as simple or painless as they would have you believe, and it certainly is not a sensible way to reduce the deficit. Indeed, in some instances it will increase the deficit.

In fact, if this amendment passes the House, it will conceivably do more to damage deficit reduction in the long-term, than any short-term savings may achieve.

What's more, the short-term savings this amendment would produce would come largely at the expense of senior citizens who can least afford the cuts it would impose on health care and nutritional programs.

Mr. Speaker, not only do I understand the need to cut spending and reduce the deficit, I strongly support that effort. I also understand the desire of some Members to speed up that process, beyond the framework of the 5-year deficit reduction plan which Congress enacted earlier this year.

Unfortunately, Penny-Kasich is not good policy, fiscal or otherwise. Let me cite three reasons why I oppose this amendment.

First, it undercuts the deficit reduction mechanism which is already in place in Congress and is working well. As Members know, the 1990 budget agreement requires the Appropriations Committee to meet a specific spending target each year.

Within that overall target, each appropriations subcommittee is assigned a specific spending cap which they are not permitted to exceed.

Under this approach, the subcommittees still have the discretion to hold hearings, take testimony, set priorities, and make the basic decisions on the programs which are funded. However, total spending must stay within the ceiling.

This approach is working well. Indeed, total Federal spending has decreased every year since the 1990 agreement was enacted, and it will continue to decrease further under the 5-year deficit reduction plan which we enacted this year.

What's more, there is nothing in the budget plan which precludes the Congress from enacting additional spending cuts, as part of the individual appropriations bills.

This year alone, we have already approved more than 300 additional cuts, ranging from foreign aid to agricultural subsidies to public housing. These cuts have reduced spending by another $10 billion beyond the framework of the budget plan.

The deliberative process which the Appropriations Committee follows assures that the decision-making is fair and balanced, and that the burden of spending cuts is distributed as equitably as possible.

By comparison, the arbitrary cuts proposed by Penny-Kasich are not fair and do not represent good policy. Moreover, they would force down the annual budget caps, and limit our flexibility to make the kinds of investments we need in our infrastructure and training programs which will, over the long term, create jobs, increase productivity, improve our competitiveness, stimulate economic growth, and bring the deficit down.

Second, I am deeply troubled by some of the specific tax increases and cuts which are proposed in this amendment.

For example, Penny-Kasich would impose a 20 percent coinsurance payment on Medicare beneficiaries for clinical lab services and home health care benefits.

Such a policy will undercut the growing effort to reduce health care costs by emphasizing preventive care and the delivery of medical services in non-institutionalized settings.

If our goals are to reduce health care costs while improving the quality of life for senior citizens, then this is the wrong way to go.

The Penny-Kasich amendment would also virtually gut the Older Americans Act, which is the only Federal program that provides funding for meals on wheels, green thumb, retired senior volunteers, and other services for senior citizens.

Just this week, the House Older Americans caucus, which I chair, released the findings of a national survey which showed that more than 2.5 million, and perhaps as many as 4.9 million, older Americans are suffering from hunger and food insecurity.

How can we cut funding for senior nutrition programs, at the very time that millions of older Americans are skipping meals or going hungry because they don't have enough money to buy food?

If anything, we should be looking for ways to improve the delivery of services to these impoverished older Americans, and not adding to the misery of our Nation's neediest citizens.

Third, and perhaps most importantly, I am concerned that Penny-Kasich will increase the budget deficit in the long run, by undermining our ability to get health care costs under control.

Nearly one-third of the projected savings from this amendment would come from cuts in Medicare. That is the same source of savings which President Clinton has proposed to tap to pay for much of his national health care reform program.

As my colleagues know, health care spending is the single fastest growing part of the Federal budget. If we are really serious about deficit reduction, then we have to start by getting health care costs under control.

Penny-Kasich would make it very difficult for this effort to even get off the ground, let alone succeed, by requiring that the savings from Medicare cuts be applied to deficit reduction instead of health care reform.

In so doing, it could lock us into a fiscal straightjacket, where long-term health care spending—and the Federal deficit—will continue to skyrocket, in exchange for some limited, short-term deficit reduction. Clearly, the risks of this approach far outweigh the benefits of developing a comprehensive national health care plan, which will help get the single fastest growing area of the budget under control.

Finally, I intend to vote for the Frank-Shays amendment to cancel the Manned Space Station, increase European burdensharing, reduce spending on the Ballistic Missile Defense Program and cancel the advanced liquid metal reactor. These spending cuts will save over $14.5 billion over 5 years in outlays.

These cuts represent real savings for deficit reduction as well as good policy. Thank you.

Mrs. MORELLA. Mr. Chairman, it is both unfortunate and unwise that the leadership of this body has postponed until the last day of this session—truly, the 11th hour—a discussion of one of the most critical issues we face as a nation today: the need to reduce our staggering budget deficit. The result of this delay is that the House is left with three flawed proposals to consider, each of which has some merit but all of which contain serious problems.

First, I have serious reservations about the wisdom of the proposed 252,000 person reduction in the Federal work force and considerable doubts about both the manner in which this figure was reached and the economic assumptions behind the projected cost savings. Unfortunately, Mr. Speaker, each of the three budget proposals being considered today calls for the 252,000-person Federal work force reduction recommended by the Vice President's National Performance Review. Given these limited choices, and after much consideration, I have decided to support the Sabo amendment. Aside from the Federal work force reductions, this proposal would rescind nearly $2 billion in 1994 appropriations and would secure approximately $2.7 billion in savings from H.r. 3400, the administration's proposal to reinvent Government.

However, Mr. Speaker, I am greatly concerned by another aspect of this propsoal—the proposed elimination of the Uniformed Services University of the Health Sciences [USUHS]. Last week, I testified before the Rules Committee in support of my amendment to preserve USUHS, which has been scheduled for termination under this bill. I argued then—as I do now—that the decision to phase out USUHS is both shortsighted and misinformed.

The administration has proposed this phaseout based on its belief that it is more costly for the Federal Government to educate a military health professional at USUHS than through the Health Professionals Scholarship Program [HPSP]. However, the evidence indicates that this is simply not the case. Studies by the Congressional Budget Office and the Journal of the American Medical Association indicate that USUHS provides training that is both more cost-effective and more specialized than that which can be delivered through the HPSP Program. There is considerable evidence to indicate that USUHS represents a savings—not a drain—to the Federal Treasury, and that its contributions to our military preparedness cannot be equaled by civilian medical institutions. I am committed to working closely with my colleagues in the Senate to preserve the Uniformed Services University of the Health Sciences—our West Point of military medicine.

Mr. FRANKS of Connecticut. Mr. Speaker, the Penny-Kasich amendment is our last chance this Congress to make real and substantial spending cuts in our budget. I remember the requests of my constituents in Connecticut last summer to cut spending first. Well, despite the votes of 216 Members of the House of Representatives, taxes came first. Now the proponents of big government would like to complete the first session of this Congress with nothing to show but tax increases.

Without question there are some difficult decisions to be made today when we consider which amendment to H.R. 3400 is the best amendment for our country. First, let's examine the Sabo amendment. This amendment is derived directly from President Clinton's version of reinventing Government, which the

Congressional Budget Office showed as saving only a fraction of what the bill's proponents claim. This amendment is a flagrant attempt to mislead the public about the commitment of some Members of Congress to cut wasteful spending. There are few programs worthy of being preserved with only some bureaucratic shuffling posing as reinvention.

The Sabo amendment does not even include some of the spending cuts that the House committees reported. I cannot vote for this amendment and honestly claim that I have done my best to reduce the budget deficit.

The second choice we have today is the Frank-Shays amendment. I consider this amendment a sincere and bipartisan attempt to reduce the deficit through spending cuts. It would reduce the deficit by $15 to $20 billion over 5 years. Unfortunately, the cuts are in the wrong places. Eliminating the space station would eliminate jobs while freezing the American effort to learn more about the economic possibilities of space. Technological research projects partially funded by the Government have benefited Americans in myriad ways. It would be foolhardy to quit now.

The Frank-Shays amendment would also reduce American troops in Europe and cut funds from the ballistic missile defense system. I won't elaborate on the cliche about the world still being a dangerous place; I will just state that these cuts will not help our national security. In this context, the cuts in the Frank-Shays amendment are also unpalatable.

Finally, there is the $90 billion spending cut amendment introduced by Representatives JOHN KASICH, a Republican, and TIM PENNY, a Democrat. This bill, which has true bipartisan support, has been altered over the past week to address various Members' concerns about certain items that may be premature to change at this time. The amendment forces the spending cuts to be used for deficit reduction rather than on new spending programs. In addition, the cuts in the bill amount to a reasonable 1 cent on each dollar spent in the next 5 years. All of us in Congress know that these cuts, while mild, are real, because virtually every interest group that feeds off the taxpayer has contacted me to ask for my opposition. Yes, these cuts are real.

I do not deny that I have had to seriously consider the implications of some of the cuts in this bill. Do I support every single provision? No, there are probably few Members of Congress that support every spending cut in such a wide-ranging bill. But it is this range of spending cuts that makes the amendment a fair amendment.

This range of cuts also sparks every special interest group to oppose the bill. However, I am thinking about the economic long-term security of our Nation and the future of our children. This is why I support the Penny-Kasich amendment.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 3400, the Government Reform and Savings Act and in support of the Sabo amendment and the Frank-Shays amendment.

H.R. 3400 is part of an on-going effort to bring our deficit down to zero while ensuring that the engines of our economy do not sputter and fail—a careful balancing act, indeed. In August, we enacted a nearly $500 billion deficit reduction package with $255 billion coming from spending cuts. As a part of that package, discretionary spending levels were frozen at the fiscal year 1993 level for each of the next 5 years.

We are now considering a number of proposals to further enhance spending reductions, including rescissions for this fiscal year. Next year, I am hopeful we will complete action on comprehensive health care reform, the enactment of which most agree will be key to the long run dissipation of our deficit and the national debt.

H.R. 3400 includes many of the efforts of the reinventing government proposals recommended by Vice President GORE. This proposal as modified by the Sabo amendment, will cut Federal spending by $37.1 billion over 5 years. It is important to note that H.R. 3400 and the appropriations rescissions legislation were considered, however quickly, by the relevant committees in the House.

Most of the reductions—some $32.5 billion—in the bill today come from the reductions in the Federal work force, cutting 252,000 full-time equivalent positions by fiscal year 1998. Other provisions include actions taken by Banking Committee to facilitate section 235 mortgage refinancing and the much needed reform of FHA multifamily property disposition. The bill terminates the Advanced Metal Liquid Reactor [AMLR] program, modifies the Essential Air Services subsidies, improves financial management tools of the Federal Government and provides incentives, reorganizations and phase-outs to produce savings across other Federal departments. An additional $1.9 billion was cut by the Appropriations Committee in fiscal year 1994 outlays.

The Frank-Shays amendment will include these provisions along with specific reductions in funding for ballistic missile defense programs, eliminating the space station, and requiring European allies to pay a greater share of the cost of stationing U.S. forces in Europe. It is estimated to cut spending by $51.5 billion over 5 years when combined with the Sabo amendment and the provisions of the basic measure. I have long supported the proposed cuts in the Frank-Shays amendment and will do so again today.

I am opposed, however, to the refined and evolved Penny-Kasich amendment. The motives behind this amendment are no doubt appropriate. Nonetheless, good intentions don't necessarily make good budget policy. Many of the proposals brought to us at this time are not fully understood or adequately explained by the proponents. Furthermore, this amendment has been offered as a litmus test of who is for cutting spending and who isn't. Yet the specifics of how these cuts would be achieved are not outlined and have become more and more clouded as the measure's details have become outlined. Those which are still defined are contradictory to many major goals and initiatives now being advanced in this Congress.

In the haste to cut the deficit with this proposal, it is clear that there are more negatives than positives. Notwithstanding protestantions to the contrary, this amendment could jeopardize the passage of health care reform by acting now on $34 billion of largely undefined Medicare entitlement savings which have been assumed by all health care reform proposals to help pay for their programs. The Penny-Kasich measure seriously undermines the adoption of health care reform, threatening one of the real opportunities that the Congress will have to get the exploding federal health care deficit under control.

I am deeply concerned about the provision in the Penny-Kasich amendment that would require upper income Medicare part B users to pay 100 percent of the national average 96 percent of counties in the United States have costs less than the national average. While charging a premium reflective of actual cost has merit, charging any users more than cost is not equitable. Furthermore, on the health care funding cuts, the amendment slices $5 billion from State reimbursement for health care without a clue as to how states struggling to pay for health care today would absorb a billion dollar a year cut for each of the 5 years.

Many of the other provisions of the evolved Penny-Kasich proposal are not merely deficit cutting measures. That are basic changes in public policy that have not been reflected on, studied or considered by the relevant committee of this Congress. There may well be some ideas of merit in this plethora of policy changes. Eliminating programs, creating new Federal departments, radically changing policy paths with one vote without thoughtful dilberations by the committees, without informing the American people or examining the total impact is unwise and unfair to those adversely affected. Acting on over 80 separate proposals in a single floor amendment is always troublesome but in the manner of the Penny Kasich amendment, it is irresponsbile. Even under the rhetoric of budget cutting you cannot legitimize such arbitrary action.

Finally, Congress has already imposed strict caps in discretionery spending in the 1993 OBRA—freezing levels at or below fiscal year 1993 for 5 years without adjusting for inflation. In fact, in order to comply with these existing spending caps, Congress will need to come up with $78 billion in new, not-yet-identified cuts just to stay within existing caps as required by the act. Under the 1993 OBRA, Congress set discretionary caps $56 billion below the President's budget. In addition, the President included $22 billion in unspecified cuts, which leads to the $78 billion in total cuts. This cutting process is guaranteed to cause pain on a broad spectrum of national programs. Because the Penny-Kasich plan lowers the spending caps by most of the amount that it purports to save, were the amendment to be enacted, about $70 billion in additional cuts, not included in the plan itself, will still have to be found and implemented. Upon analysis, Penny-Kasich proposes to make the identical cuts in numerous instances already assumed in the previously enacted budget and spending cut law. In essence, this means that Penny-Kasich is counting tens of billions of dollars twice and that we have no demonstrated reduction that would illustrate the impact. Penny-Kasich is a leap in blind faith cloaked in the political rhetoric of cutting spending. The short term glory and bragging rights on this vote may be great but the effect and precision of its impact and making it work in the final analysis will lead to wholesale cuts that have not been thought out and for which the credit or blame will likely be denied by the proponents.

Mr. Speaker, Congress must continue to be at the forefront of deficit reduction efforts along with the Clinton administration. We must move responsibly and realistically to reduce our spending without endangering our precarious economic recovery or our efforts to address the human deficit. One way to make Congress irrelevant is to pass measures that are improbable if not impossible to achieve. This simply feeds public cynicism in the long run for short term political gain. We have had repeated performances and experience of following this siren's song throughout the 1980's. I urge my colleagues to support the Sabo amendment and the Frank-Shays amendment and to reject the proposals under the Penny-Kasich amendment, which is unfair, unrealistic and misunderstood.

Mr. PACKARD. Mr. Chairman, since I have served in Congress, I have been recognized for my efforts to control Federal spending. I evaluate the cost of each bill that I cosponsor, and I have consistently worked for systemic reform of our budget process, such as a line-item veto and a balanced budget amendment.

We all share in the spirit of reinventing government. In general, all of us would like to make Government a leaner, more efficient animal—one that does more with less of our constituent's tax dollars than is presently the case.

However, the spirit and the letter of the law are often quite different. H.R. 3400 is before us today, my fellow colleagues. We should examine it as the letter of the law. I know that after I examined it, I found that it fell short of the spirit of truly reinventing government.

H.R. 3400 is supposed to provide political coverage to a White House and the Democrats who voted—without a single Republican's support—to raise taxes on the American people by $275 billion, the largest tax hike in the history of the world.

However, H.R. 3400 is hardly substantive. The rescissions and reinventing government recommendations contained in this legislation amounts to $37 billion in camouflage. Why camouflage? Because, unlike the Penny-Kasich substitute, some of the savings from H.R. 3400 will be used to pay for new spending.

If the whole exercise of identifying rescissions was to identify and eliminate excessive spending why will these savings not go toward deficit reduction?

I asked myself the same thing, and came to the conclusion that I would support Penny-Kasich; a much truer representation of the spirit of truly reinventing government for the following reasons:

The bill cuts roughly $90 billion in Federal spending over the next 5 years.

The reductions are immediate—they are not promises to cut spending years later while increasing it now.

A significant share of the savings come from our most serious budget problem—$38 billion are saved from entitlements.

All savings realized in the Penny-Kasich substitute will go toward deficit reduction.

Supporting spending cuts and then not applying them to deficit reduction undermines this whole process. And yet this is precisely what H.R. 3400 does.

I urge my colleagues to support Penny-Kasich. It is the only legislative vehicle that will allow us to go back to our districts, look our constituents in the eyes and truthfully tell them we voted to cut spending and reduce the deficit. The letter of the law as written in the Penny-Kasich substitute embraces the spirit of budget savings and deficit reduction.

Mr. GOODLING. Mr. Speaker, as the ranking Republican of the Education and Labor Committee I would like to comment on today's spending cuts/reinventing government proposals, and how they may, or may not, affect programs before my committee.

First of all I must register my strong objections to section 16701 H.R. 3400, which would index all civil penalties, except those under the Internal Revenue Code, to inflation. Penalty levels would be increased by September 1994 to reflect past inflation, then indexed to inflation thereafter. Hundreds of provisions in existing law would be affected. Ironically, this is in a bill advertised as a budget cutter and as one to reinvent government to better serve the public. This provision does neither; it raises revenue for the government, to the tune of $64 million to $129 million over 5 years, and is going to look like just another tax to the businesses in this country.

Despite the sweeping nature of this provision, there have been no hearings, nor has it, or any other provision in the bill for that matter, been given serious consideration. The bill, as a whole, has been rushed through the House, introduced only a few weeks ago—on October 28. The Republican members on the Education and Labor Committee requested a markup of H.R. 3400 and were denied that chance to get the issues on the table for public examination. I then went to the Rules Committee with an amendment to strike section 16701, thinking we could get some debate on the floor. Guess what? The Rules Committee decided not to permit the amendment to be brought up. I know I should no longer be surprised, I suppose, at how undemocratic the Democrats can be, but I feel a particular sense of frustration, even outrage, in this instance.

No one should think this is an unimportant, technical issue. Civil penalties under OSHA were recently increased seven-fold, from $10,000 to $70,000. Quick math will show that, assuming a 3.5 percent inflation rate, that penalty will be close to $100,000 in 10 years under this provision and will continue to climb, compounding forever. What would the amounts be if inflation was at the double-digit levels of the Carter years? Apply that calculation to any of the hundreds of penalties on the books and see what you come up with. And it will all be done automatically, by the Federal agencies, without any examination of the merits, or demerits, of the underlying law. What will be the effect on businesses or enforcement? We have no idea. And, of course, there is no guarantee in the law or otherwise that the income of businesses will also increase, lock step, with the rate of inflation. In fact, history has taught us otherwise.

Well, I wish we could have had a discussion of this issue, but the Rules Committee saw fit to preclude that. I assume, however, that my colleagues who support tying penalties to an automatic escalator driven by inflation will support my future efforts to similarly tie to inflation the monetary thresholds exempting small business under certain laws. If not, I look forward to hearing how they will draw a distinction.

Beyond the point of the civil penalties portion of this legislation, I would also like to note that H.R. 3400 falls far short of actually reinventing government. On September 7, with much fanfare, Vice President GORE released the long awaited report of the National Performance Review [NPR] entitled "From Red Tape to Results: Creating a Government That Works Better & Costs Less." Vice President GORE's report called for an impressive list of 21 reform initiatives related to the Department of Labor. But, as with past attempts to substantially reform the Federal Government programs, a cabal of lobbyists and special interest representatives fanned out across the various agencies and Congress and put the kibosh on the full implementation of the Gore report. As a result, H.R. 3400 omits many of the labor reform proposals.

It is extremely disappointing that the administration failed to act upon all of the Gore report's recommendations, especially those in the labor area. Despite the pressure of the many lobbyists and special interests who labored to slow down the implementation of the Gore report's recommendations, many Republican and Democrat Members of Congress enthusiastically endorsed the reform plan. In fact, 13 Republican members of the Committee on Education and Labor wrote Vice President GORE offering our support for many of the education and labor reforms.

In particular, we voiced our support for the NPR's recommendation to allow employers the option of using third parties or in-house programs to certify the safety of the workplace, and to create incentives in the OSHA program to encourage employers to have good safety records. This very important OSHA reform proposal was completely excluded from H.R. 3400. Moreover, we also embraced the NPR's proposal to raise the current Davis-Bacon Act threshold from $2,000 to $100,000, and to substantially overhaul the McNamara-O'Hara Service Contract Act of 1965. In both cases, the NPR's original recommendations were vitally important in a necessary effort to modernize these two antiquated statutes. With regard to the Davis-Bacon and Service Contract Acts, H.R. 3400 merely tinkers with the periphery of the statutes and sidesteps the more important substantive changes recommended by the NPR.

Let me also add, Mr. Speaker, that I am very disappointed to see that H.R. 3400 fails to include any of the education recommendations made by the Vice President in the National Performance Review. The Vice President recommended consolidation or elimination of over 40 education programs—H.R. 3400 does nothing on this front. In addition, there are a number of good Government provisions that could have been added to the bill dealing with education programs ranging from Head Start to higher education and beyond, had we been given the opportunity to review this bill at the committee level. These proposals would both make Government work more efficiently and save money—which is what the NPR was all about. It is too bad, at least as education is concerned, that administration's legislation does not match its rhetoric.

Further, I am also extremely disappointed that the process used by the administration to first develop the Gore report's recommendations, and second prepare a legislative package which was cloaked in secrecy. At the time of the NPR's release, the administration stated that full working group monographs and agency management cluster group reports would be released before a legislative package was developed. As of today, this promise has not been kept. As a result of the administration's failure to keep its promise, I would simply ask that the administration release all pertinent monographs and cluster group reports. This request is especially important for those recommendations that will be implemented in the future. The administration's failure to make all pertinent background material available for congressional consumption risks preempting the type of debate which would lead to meaningful and wide-sweeping Government reform.

Beyond H.R. 3400, Mr. Speaker, I also would like to state that from an Education and Labor Committee perspective I also have some concerns about the Penny-Kasich amendment.

I am concerned about the proposal in the Penny-Kasich amendment which would eliminate Pell grants for incarcerated individuals. I believe that these individuals must be educated and rehabilitated if they are going to contribute to society once they are released from prison. Eliminating Pell grants for all incarcerated individuals will reduce the chances that they will become educated and contribute to society once they serve their prison sentence.

I also am concerned with their proposal to consolidate several social service programs into one large block grant to the States. I applaud them generally for their effort to consolidate programs, because as we all know the Federal Government has too many programs that do the same thing, which leads to a large waste of money to feed the bloated bureaucracy. My concern with this proposal, however, is that the programs slated for consolidation are, by-and-large, targeted for separate and distinct populations with unique needs. For example, one of the programs provides nutrition and social services for the elderly, while another one provides funding for low-income child care; obviously, two very different groups of people. If the Penny-Kasich amendment is enacted, I would urge my colleagues to examine ways to ensure that funds under this new giant block grant program could be targeted to these different and unique groups in the same proportion they now enjoy, while reaping the administrative cost savings that will result from the consolidation.

Mr. Speaker, I definitely support the concepts of reducing Federal spending and reinventing government, but the way in which this whole process has unfolded leaves many question marks from the perspective of the Education and Labor Committee, which I wanted to bring to the attention of my colleagues.

Mr. SKAGGS. Mr. Chairman, the House has before it today three choices on deficit reduction.

The first alternative is the measure put together by the House's committees, which would reduce spending by $37.1 billion. The bill is a good, important, and unprecedented mid-year deficit reduction package. It includes $3 billion more than recommended by the administration, and reflects the strong desire in this institution to get serious about reducing the deficit. But I think we can do better.

The second alternative, the amendment to Representatives BARNEY FRANK and CHRISTOPHER SHAYS, would cut Federal spending by a total of $51.4 billion—$16.7 billion more than originally recommended by the administration, and $14.4 billion more than in the bill prepared by the committees. Although it has one problematic component, I support this alternative, and urge my colleagues to vote for this more aggressive deficit-reduction package.

The third alternative, the amendment by Representatives TIMOTHY J. PENNY and JOHN R. KASICH, would make $90.4 billion in spending cuts—but in doing so would cause more problems than it solves.

Just to cite, for now, one example, it would preclude the resources needed for reforming our health-care system. I urge my colleagues to vote against this ill-advised alternative.

To begin with, it's helpful to remember why it is that we are even debating these alternative deficit-reduction measures today. When the Congress passed the President's budget proposal in August, we embarked upon a historic journey. With that bill, we made a significant down payment on deficit reduction, reducing future deficits by 40 percent over the next 5 years. That will be achieved in large part by $225 billion in spending cuts, the largest real spending cuts were approved by Congress.

But for many of us, these spending cuts were not large enough. That resolve is real, and is already reflected in decisions to go beyond our deficit-reduction goals for this fiscal year. In putting together the 13 appropriations bills for this year, those of us on the Appropriations Committee recommended, and the full Congress approved, another $1 billion in cuts beyond the $10.4 billion that was required to meet the deficit-reduction goal we established in August. I, and many of my colleagues, also proposed additional cuts, which unfortunately were not adopted.

The congressional determination to make additional spending cuts is also behind the very idea of the legislation we are considering today. It was only to satisfy a strong congressional determination for more spending cuts that the administration recommended to Congress a bill rescinding $1.9 billion in previously appropriated funds and making additional savings by adopting recommendations of Vice President GORE's National Performance Review Task Force.

The bill before us, one put together by 11 committees and being managed by the chairman of the Budget Committee [Representative MARTIN OLAV SABO] goes further than the original administration recommendation. And that, I believe, is to the credit of Congress.

The part of this bill that was prepared by those of us on the Appropriations Committee would rescind $2.6 billion, 37 percent more than the amount recommended by the administration.

Another part of the bill would write into law a mandate to reduce the Federal civilian work force by a quarter of a million people, as recommended by Vice President GORE's task force. This will reduce Federal spending by $32.5 billion over 5 years.

A third major part of the bill would reform many specific governmental operations in ways that will produce additional spending cuts. The specific "reinventing government" reforms proposed by the administration that require legislation would save $300 million. The changes put together by the committees of the House, again, go much further, and would save a total of $2 billion.

So, altogether, the bill put together by the House's committees would reduce spending by $37.1 billion over the next 5 years, or $3 billion more than recommended by the administration.

This would be our second major deficit-reduction bill of 1993, and would be unprecedented for being the first ever considered outside of the normal budgetary process.

But I'm convinced we can go further. I urge my colleagues to support the Frank-Shays amendment to cut an additional $14.4 billion, by eliminating or severely curtailing programs that can't be justified as priorities in light of our current deficit.

First, it would cancel the space station. At its present scale, this is an expensive undertaking which is sapping limited resources from other NASA programs, such as the space science and applications program. In our zero-sum budget environment, it also poses a threat to other science programs outside NASA. This would save $7.7 billion over the next 5 years.

Next, it would require our European allies to share a larger portion of the costs of basing U.S. troops in Europe. I actually have some problem with this part of the Frank-Shays proposal, because I think it is in our own national interest to maintain a presence in Europe. But I'm willing to push our European allies to pay more of the costs. The amendment establishes a gradually increased schedule of contributions, which would require them to pay 75 percent of the costs by the end of 1997. This would save $4.9 billion over the next 5 years.

Third, it would cut funding for the ballistic missile defense program (the old "Star Wars" program), but leave in place adequate funds to meet today's threat. While development of a missile defense will move still forward, these cuts will scale back these efforts in light of the many military threats we face, and don't face, in the wake of the collapse of the Soviet Union. Over 5 years, this will yield a savings of $1.85 billion.

By making these three major additional cuts, the Frank-Shays amendment would move us an important $14.4 billion further down the road toward deficit reduction and fiscal sanity without sacrificing any essential programs.

By contrast, the third deficit-reduction alternative, the Penny-Kasich amendment, would do more harm than good.

Some of my colleagues may find it tough to vote against the alternative that reduces the deficit the most. The American people are quite justifiably incensed about the burden of governmental debt that's been imposed on them, and we all are trying to respond to our constituents. But, we should not cut spending at any cost. And make no mistake about it, the Penny-Kasich proposal cuts spending recklessly.

The major difference between the Penny-Kasich approach and the other two approaches is over health care. The other two approaches leave health-care savings to be dealt with in the context of comprehensive health-care reform that will be considered next year. That's essential if you believe, as I do, that health care reform will require us to find some savings in the budget to offset the expenses associated with universal coverage.

Penny-Kasich achieves 88 percent of its $39 billion in cuts beyond Frank-Shays through cuts in Federal Medicaid spending—savings that are made unavailable by law for funding health care reform. The way Penny-Kasich cuts Medicare makes it more than just a deficit-reduction alternative, it makes it a de facto health-care reform alternative as well. We can pass the Penny-Kasich amendment today, or comprehensive health-care reform next year, but we can't do both.

Though it doesn't say so, the Penny-Kasich cut in the Medicare program has to be based on the assumption that there won't be comprehensive health-care reform. More to the point, these cuts would guarantee that outcome. The Penny-Kasich amendment would "use-up" critical elements of savings the President has proposed to fund reform and expand coverage. Passing health-care reform would then require an accompanying $34.2 billion in new taxes. We all know that's not going to happen.

And Penny-Kasich doesn't even attempt to achieve its Medicare savings through intelligent reform. It would merely shift costs the Federal Government now pays to Medicare beneficiaries and to State governments. That's right—the program wouldn't be reformed, benefits wouldn't be expanded, administrative costs wouldn't be reduced, and just as much money would be spent as before, only by different people. That's not the health-care reform America wants.

How about the other cuts in Penny-Kasich? The first thing that strikes me about the rest of Penny-Kasich is what it doesn't cut. It doesn't cut the space station, and it doesn't cut the ballistic missile defense program—the old Star Wars program. It preserves these programs, at the expense of other programs—some other quite valuable programs, such as low-income housing, energy, research, hurricane detection,and acquisition of lands for national parks and wildlife refuges. Better, I say, to eliminate the space station and curtail Star Wars-type research.

The second thing that strikes me about the Penny-Kasich cuts is that they could be so deep and immediate as to send a fragile economy into another tail spin. The $496 billion packages of deficit reduction that was approved in August was designed with one eye on what the economy could stand without being pushed back into recession. Since that package was passed, there have been additional signs of economic recovery, but the recovery is still uneven and uncertain. Under these circumstances, there's only so much contraction through reduced spending that the economy can sustain and still grow. Going too far too fast could produce the ironic effect of a larger deficit, as income taxes decreased and countercyclical expenditures increased in a renewed recession.

The Penny-Kasich amendment would also make some most peculiar policy changes, changes that carry some profound consequences but have not had the benefit of careful examination through the usual hearings process.

The amendment would change the "Superfund" law to stop cleaning up areas contaminated with hazardous wastes, and instead start putting fences around them. Rather than having "permanent treatment" be the preferred course in dealing with toxic wastes, "land use and containment" methods would be. Sure, in the next few years, at least, this would save money, particularly when it comes to federally owned Superfund sites. But the people of Colorado want Rocky Flats and the Rocky Mountain Arsenal cleaned up, not locked up. They know that the long-term environmental and public health costs of toxic wastes can be greater than the short-term costs of cleanup. And the same is true with respect to Superfund sites all across the country. To rewrite the Superfund law as proposed in the Penny-Kasich amendment, without discussion, scrutiny, or review, would be irresponsible.

Finally, believe it or not, the amendment would actually create an entire new federal department, the Department of Science. This idea, which also has not been the subject of any serious congressional or public debate, is a most astonishing proposal to find in an amendment that is being sold as a cost savings measure. Even if it might end up being a good idea, this is hardly a thoughtful way to go about it.

Yes, the Penny-Kasich proposal has superficial appeal. But the devil, as they say, is in the details. And Penny-Kasich has too many devilish details for me.

So, of the deficit-reduction alternatives before us, I support the committee bill and the Frank-Shays amendment. Together, they will save $51.5 billion. They will do so by focusing, appropriately, on Government programs that are not as essential as others. They will do so without killing health-care reform. They will do so without setting up new federal departments or making ill-advised changes in important laws. They move us toward greater fiscal sanity, and I urge the House to pass both.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, in lieu of the committee amendments now printed in the bill, the amendment in the nature of a substitute printed in Part 1 of House Report 103–403 is adopted and the bill, as amended, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the bill, H.R. 3400, as amended by the amendment in the nature of a substitute and made in order as original text, is as follows:

H.R. 3400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Reform and Savings Act of 1993".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—DEPARTMENT OF AGRICULTURE

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TITLE I—DEPARTMENT OF AGRICULTURE

Subtitle A—Department of Agriculture Reorganization

SEC. 1001. DEPARTMENT OF AGRICULTURE REORGANIZATION.

(a) IN GENERAL.—The Secretary of Agriculture shall (1) consolidate field, regional, and national offices within the Department of Agriculture and (2) reduce personnel by not less than 7,500 staff years, so as to achieve a reduction in expenditures by the Department of not less than $1,640,000,000 during the period fiscal years 1995 through 1999.

(b) AUTHORITIES.—In consolidating offices and reducing personnel as required by subsection (a), the Secretary shall take such action on the basis of the powers vested in the Secretary under other laws.

Subtitle B—Eliminating Federal Support for Honey

SEC. 1101. AMENDMENTS TO SECTION 207 OF THE AGRICULTURAL ACT OF 1949.

(a) Section 207(a) of the Agricultural Act of 1949 is amended to read as follows:

"(a) IN GENERAL.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations, except that for the 1994 and 1995 crops, the price of honey shall be supported through recourse loans.

"(1) For the 1991 through 1993 crop years, the rate of support shall be not less than 53.8 cents per pound.

"(2) For the 1994 and 1995 crop years, the Secretary shall provide recourse loans to producers at such a rate that minimizes costs and forfeitures, except that such rate shall not be less than 44 cents a pound. Section 407 shall not be applicable to honey forfeited to the Commodity Credit Corporation under loans made under this paragraph.

"(3) A producer who fails to repay a loan made under paragraph (2) by the end of the crop year following the crop year for which such loan was made shall be ineligible for a loan under this section for subsequent crop years, except that the Secretary may waive this provision in any case where in which the Secretary determines that the failure to repay the loan was due to hardship conditions or circumstances beyond the control of the producer.".

(b) Section 207(b) of the Agricultural Act of 1949 is amended by striking "for a crop" and inserting "for the 1991 through 1993 crops".

(c) Section 207(c) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1993".

(d) Section 207(e) of the Agricultural Act of 1949 is amended by—

(1) striking subparagraphs (D) through (G);

(2) inserting "and" after the semicolon following subparagraph (B); and

(3) changing the semicolon following subparagraph (C) to a period.

(e) Section 207(j) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1995".

SEC. 1102. AMENDMENT TO SECTION 405 OF THE AGRICULTURAL ACT OF 1949.

Section 405(a) of the Agricultural Act of 1949 is amended by striking in the first sentence "section 405A" and inserting "sections 207 and 405A".

SEC. 1103. AMENDMENTS TO SECTION 405A OF THE AGRICULTURAL ACT OF 1949.

Section 405A(a) of the Agricultural Act of 1949 is amended by striking all that follows "1992 crop year," and inserting "and $150,000 in the 1993 crop year.".

SEC. 1104. SAVINGS PROVISION.

A provision of this subtitle may not affect the liability of any person under any provision of law as in effect before the effective date of the provision.

TITLE II—DEPARTMENT OF COMMERCE

SEC. 2001. POLAR SATELLITE CONVERGENCE.

The Departments of Commerce and Defense and the National Aeronautics and Space Administration shall propose a single operational polar environmental and weather satellite system, which meets national needs. It is the sense of Congress that such a proposed system, contingent on the provision of adequate resources to fully meet the national security interests of the United States, shall be operated as a civil system by the Department of Commerce. A detailed implementation plan shall be submitted to Congress by the Director of the Office of Science and Technology Policy, in consultation with the Departments of Commerce and Defense and the National Aeronautics and Space Administration, by April 30, 1994. The plan shall be designed to result in savings of up to $300 million in budget authority and up to $251 million in outlays between fiscal years 1994 and 1999. The National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall jointly develop a plan to implement a program modelled after the Operational Satellite Improvement Program for the purpose of making incremental enhancements in operational weather satellite systems. The goal of the plan shall be to achieve these enhancements in a cost effective manner by implementing procedures aimed at avoiding duplication of effort, cost overruns, and schedule delays. The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall submit to Congress no later than April 30, 1994, a report detailing the elements of the plan and outlining savings in budget authority and budget outlays projected through fiscal year 1999.

TITLE III—DEPARTMENT OF DEFENSE

SEC. 3001. USE OF PROCEEDS FROM THE SALE OF RECYCLABLE MATERIALS AT MILITARY INSTALLATIONS.

Section 2577 of title 10, United States Code, is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Proceeds from the sale of recyclable materials at an installation shall be credited—

"(1) to funds available for operations and maintenance at that installation; and

"(2) at the discretion of the commander of the installation and if a balance remains available after such funds are credited, to the nonappropriated morale and welfare account of the installation to be used for any morale or welfare activity.".

SEC. 3002. CLOSURE OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE REQUIRED.—Section 2112 of title 10, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting "and the closure" after "The development"; and

(B) by striking out "subsection (a)" and inserting in lieu thereof "subsections (a) and (b)"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b)(1) Not later than September 30, 1998, the Secretary of Defense shall close the University. To achieve the closure of the University by that date, the Secretary shall begin to terminate the operations of the University beginning in fiscal year 1995. On account of the required closure of the University under this subsection, no students may be admitted to begin studies in the University after September 30, 1994.

"(2) Section 2687 of this title and any other provision of law establishing preconditions to the closure of any activity of the Department of Defense shall not apply with regard to the termination of the operations of the University or to the closure of the University pursuant to this subsection.".

(b) FINAL GRADUATION OF STUDENTS.—Section 2112(a) of such title is amended—

(1) in the second sentence, by striking out ", with the first class graduating not later than September 21, 1982." and inserting in lieu thereof ", except that no students may be awarded degrees by the University after September 30, 1998."; and

(2) by adding at the end the following new sentence: "On a case-by-case basis, the Secretary of Defense may provide for the continued education of a person who, immediately before the closure of the University under subsection (b), was a student in the University and completed substantially all requirements necessary to graduate from the University.".

(c) TERMINATION OF UNIVERSITY BOARD OF REGENTS.—Section 2113 of such title is amended by adding at the end the following new subsection:

"(k) The Board shall terminate on September 30, 1998, except that the Secretary of Defense may terminate the Board before that date as part of the termination of the operations of the University under section 2112(b) of this title.".

(d) PROHIBITION ON RECIPROCAL AGREEMENTS.—Section 2114(e)(1) of such title is amended by adding at the end the following new sentence: "No agreement may be entered into under this subsection after September 30, 1994, and all such agreements shall terminate not later than September 30, 1998.".

(e) CONFORMING AMENDMENTS.—(1) Section 178 of such title, relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine, is amended—

(A) in subsection (b), by inserting after "Uniformed Services University of the Health Sciences," the following: "or after the closure of the University, with the Department of Defense,";

(B) in subsection (c)(1)(B), by striking out "the Dean of the Uniformed Services University of the Health Sciences" and inserting in lieu thereof "a person designated by the Secretary of Defense"; and

(C) in subsection (g)(1), by inserting after "Uniformed Services University of the Health Sciences," the following: "or after the closure of the University, the Secretary of Defense".

(2) Section 466(a)(1)(B) of the Public Health Service Act (42 U.S.C. 286a(a)(1)(B)), relating to the Board of Regents of the National Library of Medicine, is amended by striking out "the Dean of the Uniformed Services University of the Health Sciences,".

(f) CLERICAL AMENDMENTS.—(1) The heading of section 2112 of title 10, United States Code, is amended to read as follows:

"§ 2112. Establishment and closure of University".

(2) The item relating to such section in the table of sections at the beginning of chapter 104 of such title is amended to read as follows:

"2112. Establishment and closure of University.".

SEC. 3003. STREAMLINING AND REORGANIZATION OF CORPS OF ENGINEERS.

(a) DEVELOPMENT OF PLAN.—The Secretary of the Army shall develop a plan to reorganize the United States Army Corps of Engineers by reorganizing the headquarters offices, reducing the number of division offices, and restructuring the district functions so as to increase the efficiency of the United States Army Corps of Engineers and reduce staff and costs, with the goal of achieving approximately $50 million in net annual savings by fiscal year 1998.

(b) TRANSMITTAL AND APPROVAL OF PLAN.—The Secretary of the Army shall transmit to Congress the plan developed under subsection (a) for approval. The Secretary shall not implement such plan until it is approved by Congress.

TITLE IV—DEPARTMENT OF ENERGY

Subtitle A—Alaska Power Administration Sale Authorization

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Alaska Power Administration Sale Authorization Act".

SEC. 4002. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this subtitle as "Snettisham") to the State of Alaska Power Authority (now known as the Alaska Industrial Development and Export Authority, and referred to in this subtitle as the "Authority"), or its successor, in accordance with the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Authority.

(b) The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this subtitle as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this subtitle as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this Act.

(d) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as are necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(f) No later than one year after both of the sales authorized in section 4002 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration; and

(2) prepare and submit to Congress a report documenting the sales.

SEC. 4003. ASSESSMENT OF ALTERNATIVE OPTIONS.

Before taking any action authorized in section 4002, the Secretary shall assess the feasibility of alternative options for maximizing the return to the Treasury from the sale of the Alaska Power Marketing Administration.

Subtitle B—Federal-Private Cogeneration of Electricity

SEC. 4101. FEDERAL-PRIVATE COGENERATION OF ELECTRICITY.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

Subtitle C—Power Marketing Administrations

SEC. 4201. POWER MARKETING ADMINISTRATIONS REFINANCING STUDY.

The Administrators of the Southeastern, Southwestern and Western Area Power Administrations, in consultation with their respective firm power contractors and other interested parties (including, where applicable, the Bureau of Reclamation), shall study refinancing options, including modifications to existing financial and accounting practices that may be required to effectively and efficiently issue and manage revenue bonds. Such refinancing options shall, for each of the power systems they administer, satisfy their respective repayment obligations to the United States Treasury without causing any increase in their respective firm power rates beyond the rates that would otherwise result under rate-setting policies and practices in effect on October 1, 1993. The results of such studies shall be submitted no later than May 1, 1994, to the Speaker of the House of Representatives and the President of the Senate. Such studies shall be made within the limits of existing funding, or, if necessary, with funds contributed by firm power contractors.

SEC. 4202. BONNEVILLE POWER ADMINISTRATION REFINANCING STUDY.

The Administrator of the Bonneville Power Administration, in consultation with his customers and constituents, shall study options, including an open market buyout, a Treasury buyout, or any other reasonable alternative that would lead to a permanent resolution of the repayment reform initiative directed at Bonneville's appropriation investment repayment obligation. Such refinancing options shall satisfy the outstanding appropriated investment repayment obligation, without increasing rates beyond the rates that would otherwise result under rate-setting policies and practices in effect on October 1, 1993. The result of this study shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than March 1, 1994.

Subtitle D—Termination of Advanced Liquid Metal Reactor Program

SEC. 4301. TERMINATION OF ADVANCED LIQUID METAL REACTOR PROGRAM.

(a) IN GENERAL.—No amount of funds provided for any fiscal year may be obligated by the Secretary of Energy after the date of the enactment of this Act for the civilian portion of the advanced liquid metal reactor program, including—

(1) the program's promotion of the use of such reactors for the disposal of high-level radioactive waste; and

(2) Department of Energy support for regulatory applications to the Nuclear Regulatory Commission for design certification for advanced liquid metal reactors or related licensed facilities.

(b) PROHIBITION OF OTHER USES.—The amount of funds available on the date of the enactment of this Act for obligation for the program described in subsection (a) shall not be available for obligation by the Secretary of Energy after such date for any other purpose.

(c) EXCEPTION.—Subsections (a) and (b) shall not apply to obligations required to be incurred in terminating the program described in subsection (a).

TITLE V—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 5001. STUDY OF METHODS TO INCREASE FLEXIBILITY IN CONTRACTING FOR MEDICARE CLAIMS PROCESSING.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of methods to increase flexibility in contracting for claims processing under the medicare program and to otherwise simplify the administration of program, and shall include in the study an analysis of the feasibility and desirability of carrying out the following changes to the program:

(1) Permitting entities other than insurance companies to serve as carriers under part B of the program.

(2) Eliminating the requirement that fiscal intermediaries under part A of the program be nominated by a group or association of providers of services under such part.

(3) Increasing the Secretary's flexibility in assigning particular functions to fiscal intermediaries and carriers.

(4) Expanding the circumstances and standards under which the Secretary may terminate a contract with a fiscal intermediary or a carrier.

(5) Permitting the Secretary to require that a fiscal intermediary or a carrier meet data matching requirements for purposes of identifying situations in which medicare is a secondary payer.

(6) Eliminating the requirements that the Secretary make an additional payment to fiscal intermediaries and carriers for administrative costs.

(7) Eliminating the requirement that the Secretary enter into an agreement with a separate carrier for purposes of administering part B with respect to individuals entitled to benefits as qualified railroad retirement beneficiaries.

(b) REPORT.—Not later than April 30, 1994, the Secretary shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a), together with any recommendations of the Secretary for statutory revisions to increase flexibility and reduce costs in the administration of the medicare program.

SEC. 5002. WORKERS' COMPENSATION DATA EXCHANGE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary is authorized to conduct pilot projects with not more than three States for the purpose of studying various means of obtaining on a timely and accurate basis such information relating to benefits paid on account of total or partial disability under the States' workers' compensation plan as the Secretary may require for the purpose of carrying out section 224 of the Social Security Act.

(b) REIMBURSEMENT OF STATE COSTS.—A State that participates in a project conducted pursuant to subsection (a) may be paid by the Secretary, from amounts available pursuant to subsection (e), the reasonable costs of such participation.

(c) EVALUATION.—The Secretary shall evaluate each project conducted pursuant to subsection (a) and shall apply the findings, as appropriate, to agreements negotiated pursuant to subsection (h)(2) of such section 224.

(d) DEADLINE FOR COMMENCEMENT OF PROJECTS.—No pilot project authorized by subsection (a) may be commenced after the expiration of the 5-year period beginning on the date of enactment of this section.

(e) FUNDING.—Expenditures for pilot projects conducted pursuant to subsection (a) may be made from the Federal Disability Insurance Trust Fund and the Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.

(f) EFFECTIVE DATE.—This section shall be effective upon enactment.

SEC. 5003. FEDERAL CLEARINGHOUSE ON DEATH INFORMATION.

(a) CLEARINGHOUSE DESIGNATION.—The heading for section 205(r) of the Social Security Act is amended to read as follows: "Clearinghouse on Death Information".

(b) ACQUISITION OF DISCLOSABLE DEATH INFORMATION FROM STATES.—

(1) Section 205(r)(1)(A) of the Social Security Act is amended by striking "to furnish the Secretary periodically with" and inserting "to furnish periodically to the Secretary, for use in carrying out subparagraph (B) and paragraphs (3) and (4),".

(2)(A) Notwithstanding clause (ii) of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66)), in order for a contract requiring a State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it to meet the requirements of such section 6103(d)(4)(B), such contract shall authorize the Secretary to use such information and to redisclose such information to any Federal agency or any agency of a State or political subdivision in accordance with section 205(r) of the Social Security Act.

(B) The provisions of subparagraph (A) of this paragraph and, notwithstanding subparagraph (C) of section 6103(d)(4) of the Internal Revenue Code of 1986 (as added by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66)), the provisions of subparagraphs (A) and (B) of such section 6103(d)(4) shall apply to all States, regardless of whether they were, on July 1, 1993, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(C) Subparagraphs (A) and (B) of this paragraph shall take effect at the same time as the amendment made by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 takes effect.

(D) For the purpose of applying the special rule contained in section 13444(b)(2) of the Omnibus Budget Reconciliation Act of 1993, the reference in such section to section 6103(d)(4)(B) of the Internal Revenue Code of 1986 shall be deemed to include a reference to subparagraph (A) of this paragraph.

(c) PAYMENT TO STATES FOR DEATH INFORMATION.—Section 205(r)(2) of the Social Security Act is amended—

(1) by striking "the reasonable costs" and inserting "a reasonable amount"; and

(2) by striking "transcribing and transmitting" and inserting "furnishing".

(d) FEE FOR CLEARINGHOUSE INFORMATION.—

(1) Section 205(r)(3) of the Social Security Act is amended by striking out "if" and all that follows, and inserting ", provided that such agency agrees to pay the fees set by the Secretary pursuant to paragraph (8).".

(2) Section 205(r)(4) of the Social Security Act is amended—

(A) by inserting "and political subdivisions" after "States" the first place such term appears;

(B) by striking "the States" and inserting "any State, political subdivision, or combination thereof"; and

(C) by striking "if" and all that follows and inserting "provided such States and political subdivisions agree to pay the fees set by the Secretary pursuant to paragraph (8).".

(3) Section 205(r) of the Social Security Act is amended by adding at the end a new paragraph as follows: "(8) The Secretary shall establish fees for the disclosure of information pursuant to this subsection. Such fees shall be in amounts sufficient to cover all costs (including indirect costs) associated with the Secretary's responsibilities under this subsection. Fees collected pursuant to this paragraph shall remain available, without fiscal year limitation, to the Secretary to cover the administrative costs of carrying out this subsection.".

(e) TECHNICAL ASSISTANCE.—Section 205(r) of the Social Security Act is amended by adding at the end (after the paragraph added by subsection (d)(3)) the following new paragraph:

"(9) The Secretary may provide to any Federal or State agency that provides Federally funded benefits, upon the request of such agency, technical assistance on the effective collection, dissemination, and use of death information available under this subsection for the purpose of ensuring that such benefits are not erroneously paid to deceased individuals.".

(f) TECHNICAL AMENDMENT.—Section 205(r) of the Social Security Act is amended by adding at the end (after the paragraph added by subsection (e)) the following new paragraph:

"(10) For purposes of this subsection, the term 'Federally funded benefit' means any payment funded in whole or in part by the Federal Government.".

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect upon their enactment.

SEC. 5004. CONTINUING DISABILITY REVIEWS.

Section 201(g)(1)(A) of the Social Security Act is amended by adding at the end of the paragraph the following sentence: "From funds provided pursuant to this subparagraph for the following fiscal years, not less than the following amounts shall be available only for conducting continuing disability reviews and related workloads: for fiscal year 1994, $46 million; for fiscal year 1995, $47,200,000; for fiscal year 1996, $48,500,000; for fiscal year 1997, $49,800,000; for fiscal year 1998, $51,100,000; and for fiscal year 1999, $52,500,000.".

TITLE VI—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6001. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(5) AFFORDABLE.—A unit shall be considered affordable if—

"(A) for units occupied—

"(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish the rent based on an amount higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; and

"(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, except that the Secretary may establish the rent based on an amount higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; or

"(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

"(6) LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.—The terms 'low-income families' and 'very low-income families' shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

"(7) PREEXISTING TENANT.—The term 'preexisting tenant' means, with respect to a multifamily housing project, a family that—

"(A) resides in a unit in the project; and

"(B) immediately before foreclosure or acquisition of the project by the Secretary, was residing in a unit in the project.

"(8) MARKET AREA.—The term 'market area' means a market area determined by the Secretary for purposes of establishing fair market rentals under section 8(c) of the United States Housing Act of 1937.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary may, in carrying out this section, dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the market area in which the project is located and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary may, in carrying out this section—

"(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine;

"(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A); and

"(C) contract for management of such properties with nonprofit organizations and public agencies, including public housing authorities.

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(3) HOUSING STANDARDS.—In disposing of any multifamily housing project under this section, the Secretary shall enter into an agreement with the purchaser under which the purchaser agrees that the project will be rehabilitated so that it is in compliance with, and will be maintained in compliance with, any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

"(e) REQUIRED ASSISTANCE.—In disposing of any multifamily housing property under this section, the Secretary shall take, separately or in combination, one or more of the following actions:

"(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

"(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

"(C) EXCEPTIONS.—In lieu of providing project-based assistance under subparagraph (A)(i) or (B)(i) for a project, the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary provides an increase in project-based assistance for very low-income persons for units within unsubsidized projects located within the same market area as the project otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) that is at least equivalent to the units otherwise required to be so assisted; and

"(ii) upon disposition of the project, low-income families residing in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) receive tenant-based assistance under such section 8.

"(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

"(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

"(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

"(II) the property disposition program under section 8(b) of such Act;

"(III) the project-based certificate program under section 8 of such Act;

"(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

"(V) section 23 of such Act (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937 at such time.

"(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who, on the date that the project is acquired by the purchaser, reside in the project and are eligible for such assistance, subject to the following requirements:

"(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families.

"(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary annually.

"(C) PROVISION OF PROJECT-BASED ASSISTANCE UNDER CHANGED CIRCUMSTANCES.—The Secretary shall, to the extent such amounts are available, provide project-based assistance under section 8 of the United States Housing Act of 1937 for any units in a project for which the Secretary has provided tenant-based assistance under this paragraph if, and only to the extent that, the owner demonstrates to the satisfaction of the Secretary within 24 months after the date of acquisition by the owner that—

"(i) the provision of such project-based assistance (I) is necessary to maintain the financial viability of the project because of changes occurring after such acquisition that are beyond the control of the owner, and (II) may reasonably be expected to maintain such financial viability; or

"(ii) sufficient habitable, affordable housing for very low-income families and other low-income families is not available in the market area in which the project is located. Assistance provided pursuant to this subparagraph shall have a term of not more than 5 years.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

"(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide assistance under section 8 of such Act to such families.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

"(A) IN GENERAL.—The Secretary may transfer a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an entity eligible to own or operate housing under assisted section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

"(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

"(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

"(f) DISCRETIONARY ASSISTANCE.—In addition to the actions taken under subsection (e) for a multifamily housing project, the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—The Secretary may provide a short-term loan to facilitate the sale of a multifamily housing project to a nonprofit organization or a public agency if—

"(A) authority for such loans is provided in advance in an appropriation Act;

"(B) such loan has a term of not more than 5 years;

"(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

"(D) the terms of such loan is consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

"(2) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity to comment by existing tenants, the Secretary may allow not more than—

"(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary may take actions under subparagraph (A) only if—

"(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

"(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to allow use of such assistance.

"(g) REQUIRED ASSISTANCE FOR CERTAIN PROJECTS.—In disposing under this section of multifamily housing projects, the Secretary shall, to the extent that such assistance is available—

"(1) in the case of any project located in a market area in which habitable, affordable rental housing for very low-income families is not sufficiently available, provide tenant-based or project-based rental assistance under section 8 of the United States Housing Act of 1937 (depending on the circumstances of the family) to very low-income families who are preexisting tenants of the project and do not otherwise qualify for project-based assistance; and

"(2) provide project-based assistance for very low-income families who are preexisting tenants of the project to the extent that such assistance is necessary to maintain the financial viability of the project and is reasonably expected to maintain such financial viability.

"(h) RENT RESTRICTIONS.—

"(1) AUTHORITY FOR USE IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to be subject to use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(2) REQUIREMENT REGARDING SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—In disposing under this section of any subsidized or formerly subsidized multifamily housing project, the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

"(A) 15 years after such disposition; or

"(B) the time at which the family first fails to qualify as a very low-income family.

"(3) REQUIREMENT REGARDING UNSUBSIDIZED PROJECTS.— Unless the Secretary determines that the applicability of rent restrictions under this paragraph to a project would unreasonably impede the disposition of the project, in disposing under this section of any unsubsidized multifamily housing project the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

"(A) 15 years after such disposition; or

"(B) the time at which the family first fails to qualify as a very low-income family.

"(4) PHASE-IN OF RENT INCREASES.—If the disposition under this section of any multifamily housing project results in any rent increases for any very low-income families who are preexisting tenants of the project and are paying less than 30 percent of the adjusted income of the family for rent, the Secretary shall provide that such rent increases shall be phased in equally over a period of not less than 3 years.

"(5) DEFINITION OF 'UNASSISTED VERY LOW-INCOME FAMILY'.—For purposes of this subsection, the term 'unassisted very low-income family' means a very low-income family who resides in a unit that is not assisted with project-based assistance under section 8 of the United States Housing Act of 1937 and on whose behalf tenant-based assistance under such section is not provided.

"(i) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

"(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that—

"(A) the term may be less than 15 years to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term;

"(B) to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that the amount of rent payable by tenants of the project for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; and

"(C) the term may be less than 15 years if such assistance is provided—

"(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall establish contract rents for section 8 project-based rental contracts issued under this section at levels that provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed 144 percent of the existing housing fair market rentals for the market area in which the project assisted under the contract is located.

"(B) UP-FRONT GRANTS AND LOANS.—If the Secretary determines that action under this subparagraph is more cost-effective, the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance)—

"(i) provide up-front grants to nonprofit organizations or public housing agencies for the necessary cost of rehabilitation; or

"(ii) pay any cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974, for loans made pursuant to subsection (f)(1).

"(j) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, and the occupancy profile of the project.

"(2) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

"(A) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

"(B) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

"(3) TECHNICAL ASSISTANCE.—To carry out the procedures developed under paragraph (2), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this paragraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this paragraph, notwithstanding the source of the funding.

"(k) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

"(1) NOTIFICATION OF ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a multifamily housing project, the Secretary shall notify the unit of general local government (which, for purposes of this subsection, shall include any public housing agency) for the area in which the project is located and the State agency or agencies designated by the Governor of the State in which the project is located of such acquisition.

"(2) RIGHT OF FIRST REFUSAL.—During the period beginning upon acquisition of title to a multifamily housing project and ending 45 days after completion of notification under paragraph (1), the Secretary may offer to sell and may sell the project only to the unit of general local government or the designated State agency.

"(3) EXPRESSION OF INTEREST.—The unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in a project not later than 45 days after receiving notification from the Secretary under paragraph (1) regarding the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(4) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has submitted an expression of interest in a project before the expiration of the 45-day period referred to in paragraph (3) and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for the project, shall—

"(A) notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan; and

"(B) provide that, for 90 days after the date of such notification, only the unit of general local government or designated State agency may make an offer to purchase the project.

"(5) FAILURE TO TIMELY EXPRESS INTEREST.—If the unit of general local government or designated State agency does not timely express and, if requested, substantiate interest in a project as provided in paragraph (4), the Secretary may offer the project for sale to any interested person or entity upon approval of the disposition plan for the project.

"(6) ACCEPTANCE OF OFFERS.—If the unit of general local government or designated State agency timely expresses and, if requested, substantiates interest in a project as provided in paragraph (4), the Secretary shall accept an offer made by the unit of general local government or designated State agency during the 90-day period for the project under paragraph (4)(B) that complies with the terms and conditions of the disposition plan for the project. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary may reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (i)(1) and in order to facilitate affordable rents.

"(7) FAILURE TO SELL TO LOCAL OR STATE GOVERNMENT AGENCY.—If the Secretary and the unit of general local government or designated State agency cannot reach agreement on an offer for purchase of a project within the 90-day period for the project under paragraph (4)(B), the Secretary may offer the project for sale to the general public.

"(8) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(9) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) (as in effect immediately before the effective date of this subsection); or

"(B) the requirements of paragraphs (1) through (7) of this subsection, if—

"(i) the Secretary gives the unit of general local government or designated State agency 45 days to express interest in the project; and

"(ii) the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, within 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(10) TRANSFER BY LOCAL OR STATE GOVERNMENT AGENCY PURCHASERS.—The Secretary shall permit units of general local government and designated State agencies to transfer multifamily housing projects acquired under the right of first refusal under this subsection to a private entity, but only if the local government or State agency clearly identifies its intention to transfer the project in the offer to purchase the property accepted by the Secretary under this subsection.

"(l) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of the disposition of tenants of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(m) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary, or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,

unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(n) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment of each project;

"(3) the status of the mortgage for each project;

"(4) the physical condition of each project;

"(5) for each subsidized or formerly subsidized project, an occupancy profile of the project, stating the income, family size, race, and ethnic origin of current residents and the rents paid by such residents;

"(6) the proportion of units in each project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession of each project, if applicable;

"(8) the date and conditions of any foreclosure sale for a project;

"(9) the date of acquisition of each project by the Secretary, if applicable;

"(10) the date and conditions of any property disposition sale for a project;

"(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

"(13) a description of the activities carried out under subsection (k) during the preceding year.".

(c) CLARIFICATION OF FEDERAL PREFERENCES.—

(1) PUBLIC HOUSING TENANCY.—Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(2) SECTION 8 ASSISTANCE.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(d) DEFINITION OF OWNER.—Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by inserting "an agency of the Federal Government," after "cooperative,".

(e) AMENDMENT TO NATIONAL HOUSING ACT.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS

"SEC. 541. (a) AUTHORITY.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

"(1) accept partial payment of the claim under the mortgage insurance contract; and

"(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

"(b) REPAYMENT.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.".

(f) EFFECTIVE DATE.—The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) not later than 90 days after the date of the enactment of this Act. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations.

SEC. 6002. SECTION 235 MORTGAGE REFINANCING.

Section 235(r) of the National Housing Act is amended—

(1) in paragraph (2)(C), by inserting after "refinanced" the following: ", plus the costs incurred in connection with the refinancing as described in paragraph (4)(B) to the extent that the amount for those costs is not otherwise included in the interest rate as permitted by subparagraph (E) or paid by the Secretary as authorized by paragraph (4)(B)";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by inserting after "otherwise)" the following: "and the mortgagee (with respect to the amount described in subparagraph (A))"; and

(B) in subparagraph (A), by inserting after "mortgagor" the following: "and the mortgagee"; and

(3) by amending paragraph (5) to read as follows:

"(5) The Secretary shall use amounts of budget authority recaptured from assistance payments contracts relating to mortgages that are being refinanced for assistance payments contracts with respect to mortgages insured under this subsection. The Secretary may also make such recaptured amounts available for incentives under paragraph (4)(A) and the costs incurred in connection with the refinancing under paragraph (4)(B). For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payment contracts relating to mortgages insured under this subsection and for amounts paid under paragraph (4) shall not be construed as unused.".

SEC. 6003. USE OF EMERGENCY ASSISTANCE FUNDS FOR RESIDENCY IN MULTIFAMILY HOUSING DISPOSITION PROJECTS.

Section 203(f) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11), as amended by section 6001 of this Act, is further amended by adding at the end the following new paragraph:

"(4) EMERGENCY ASSISTANCE FUNDS.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.".

SEC. 6004. ADDITIONAL EMPLOYEES TO FACILITATE DISPOSITION OF FHA INVENTORY PROPERTIES.

Notwithstanding any other provision of law, during fiscal years 1993, 1994, and 1995 amounts in the various funds of the Federal Housing Administration otherwise available to the Secretary of Housing and Urban Development for non-overhead expenses associated with processing, accounting, loan servicing, asset management, and disposition services may be used by the Secretary for personnel compensation and benefits for temporary employees of the Department of Housing and Urban Development employed to manage, service, and dispose of single family and multifamily properties insured by, assigned to, or owned by the Secretary. The Secretary may employ not more than 400 temporary employees at any one time using amounts made available pursuant to this section, no such employee may be employed in a temporary position pursuant to this section for a period in excess of 2 years, and such employees shall not be considered for purposes of any personnel ceiling applicable to the Department of Housing and Urban Development or any unit therein or any personnel ceiling applicable to temporary employees of the Federal Government.

SEC. 6005. HUD STREAMLINING.

The Secretary of Housing and Urban Development shall carry out the recommendation of the Report of the National Performance Review, issued on September 7, 1993, that the Department streamline its headquarters, regional, and field office structure and consolidate and reduce its size, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

TITLE VII—DEPARTMENT OF THE INTERIOR

SEC. 7001. IMPROVEMENT OF MINERALS MANAGEMENT SERVICE ROYALTY COLLECTION.

(a) The Secretary of the Interior shall, by fiscal year 1995, direct the Minerals Management Service, Royalty Management Program, to develop and implement (1) an automated business information system to provide to its auditors a lease history that includes reference, royalty, production, financial, compliance history, pricing and valuation, and other information; (2) the optimum methods to identify and resolve anomalies and to verify that royalties are paid correctly; (3) a more efficient and cost-effective royalty collection process by instituting new compliance and enforcement measures, including assessments and penalties for erroneous reporting and underreporting; (4) pilot projects under which a State may assume mineral receipt collections on Federal lands within the State and where the State assumes 50 percent of the cost of such pilot project; and (5) such other actions as may be necessary to reduce royalty underpayment and increase revenue to the U.S. Treasury by an estimated total of $28 million by fiscal year 1999.

(b) The Federal Oil and Gas Royalty Management Act of 1982 (Public Law No. 97-451, 30 U.S.C. 1701 et seq.) is amended by adding a new subsection 111(h) as follows:

"PENALTY ASSESSMENT FOR SUBSTANTIAL UNDERREPORTING OF ROYALTY"

"SEC. 111. (h)(1) If there is any underreporting of royalty owed on production from any lease issued or administered by the Secretary for the production of oil, gas, coal, any other mineral, or geothermal steam, from any Federal or Indian lands or the Outer Continental Shelf, for any production month, by any person who is responsible for paying royalty, the Secretary may assess a penalty of 10 percent of the amount of that underreporting.

"(2) If there is a substantial underreporting of royalty owed on production from any lease issued or administered by the Secretary for the production of oil, gas, coal, any other mineral, or geothermal steam, from any Federal or Indian lands or the Outer Continental Shelf, for any production month, by any person who is responsible for paying royalty, the Secretary may assess a penalty of 20 percent of the amount of that substantial underreporting.

"(3) For purposes of this section, the term 'underreporting' means the difference between the royalty on the value of the production which should have been reported and the royalty on the value of the production which was reported, if the value of the production which should have been reported is greater than the value of the production which was reported. An underreporting constitutes a 'substantial underreporting' if such difference exceeds 10 percent of the royalty on the value of the production which should have been reported.

"(4) The Secretary shall not impose the assessment provided in paragraphs (1) or (2) if the person corrects the underreporting before the date the person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of enactment of this section, whichever is later.

"(5) The Secretary shall waive any portion of an assessment provided in paragraphs (1) or (2) attributable to that portion of the underreporting for which the person demonstrates that—

"(i) the person had written authorization from the Secretary to report royalty on the value of the production on the basis on which it was reported, or

"(ii) the person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported, or

"(iii) the person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting, or

"(iv) the person meets any other exception which the Secretary may, by rule, establish.

"(6) All penalties collected under this subsection shall be deposited to the same accounts in the Treasury or paid to the same recipients in the same manner as the royalty with respect to which such penalty is paid.".

SEC. 7002. PHASE OUT OF MINERAL INSTITUTE PROGRAM.

The Secretary of the Interior, beginning in fiscal year 1995, shall take action to phase out the Mining and Mineral Resources Research Institute Act of 1984, Public Law 98-409, as amended (98 Stat. 1536 through 1541 and 102 Stat. 2339 through 2341, 30 U.S.C. 1221 through 1230). There are hereby authorized to be appropriated under the Act the following amounts: fiscal year 1995—$6.5 million; fiscal year 1996—$5 million; fiscal year 1997—$3 million; and fiscal year 1998—$1.5 million. No further appropriations for this Act are authorized after September 30, 1998.

SEC. 7003. REORGANIZATION STUDY OF BUREAU OF INDIAN AFFAIRS.

(a) GENERAL AUTHORITY.—The Secretary of the Interior, with the active participation of Indian tribes, shall conduct a study of the reorganization of the Bureau of Indian Affairs.

(b) CONTENT.—The study conducted under subsection (a) shall include (but shall not be limited to)—

(1) an examination of the current structure of the Bureau of Indian Affairs and recommendations for structural changes to improve the implementation of Federal trust responsibilities toward Indian tribes;

(2) an examination of the current roles of the Central, Area, and Agency offices of the Bureau of Indian Affairs and recommendations to improve efficiency of the Bureau through reorganization;

(3) an examination of the efficiency of the Bureau of Indian Affairs in comparison with other Bureaus of the Department of the Interior;

(4) an examination of the barriers to the implementation of the 1988 amendments to the Indian Self-Determination and Education Assistance Act throughout the Department of the Interior and a proposed plan for effective implementation; and

(5) recommendations for the transfer of personnel and resources from the Central, Area, and Agency offices of the Bureau of Indian Affairs to Indian tribes.

(c) REPORT.—The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within one year after the date of enactment of this Act.

SEC. 7004. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1993.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94-241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1993.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 8001. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking "(2) Effective" and inserting "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking "Effective" and inserting "Subject to subsection (b), effective"; and

(C) by adding at the end the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking "Effective" and inserting "(a) Subject to subsection (b), effective"; and

(B) by adding at the end the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking "(a) Effective" and inserting "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

SEC. 8002. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,053,600 during fiscal year 1994;

(2) 1,999,600 during fiscal year 1995;

(3) 1,945,600 during fiscal year 1996;

(4) 1,895,600 during fiscal year 1997; and

(5) 1,851,600 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—

(1) EMERGENCIES.—Any provision of this section may be waived upon a determination by the President that—

(A) the existence of a state of war or other national security concern so requires; or

(B) the existence of an extraordinary emergency threatening life, health, safety, property, or the environment so requires.

(2) AGENCY EFFICIENCY OR CRITICAL MISSION.—

(A) Subsection (d) may be waived, in the case of a particular position or category of positions in an agency, upon a determination of the President that the efficiency of the agency or the performance of a critical agency mission so requires.

(B) Whenever the President grants a waiver pursuant to subparagraph (A), the President shall take all necessary actions to ensure that the overall limitations set forth in subsection (b) are not exceeded.

TITLE IX—DEPARTMENT OF LABOR

SEC. 9001. DETERRENCE OF FRAUD AND ABUSE IN FECA PROGRAM.

(a) Section 8102 of title 5, United States Code, is amended to redesignate subsection (b) as subsection (c), and to add the following new subsection (b):

"(b) An individual convicted of a violation of 18 U.S.C. 1920, as amended, or of any other fraud related to the application for or receipt of benefits under subchapter I or III of chapter 81 of title 5, shall forfeit, as of the date of the conviction, all entitlement to any prospective benefits provided by subchapter I or III for any injury occurring on or before the date of the conviction. Such a forfeiture of benefits shall be in addition to any action the Secretary may take under section 8106 or 8129 of title 5, United States Code.".

(b) Section 8116 of title 5, United States Code, is amended by adding the following new subsection (e):

"(e) Notwithstanding any other provision of this title, no benefits under sections 8105 or 8106 of this subchapter shall be paid or provided to any individual during any period during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to that individual's conviction of an offense that constituted a felony under applicable law, except where such individual has one or more dependents within the meaning of section 8110 of this subchapter, in which case the Secretary may, during the period of incarceration, pay to such dependents a percentage of the benefits that would have been payable to such individual computed according to the percentages set forth in section 8133(a)(1)–(5) of this subchapter.".

(c) Section 8116 of title 5, United States Code, is further amended by adding the following new subsection (f):

"(f) Notwithstanding the provisions of section 552a of this title, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the names and Social Security account numbers of individuals who are confined in a jail, prison or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to such individuals' conviction of an offense that constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.".

(d) Section 1920 of title 18, United States Code, is amended to read as follows: "Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with the application for or receipt of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, United States Code, shall be punished by a fine of not more than $250,000, or by imprisonment for not more than five years, or both.".

(e) Except as otherwise provided in this section, the amendments made by this section shall be effective on the date of enactment and shall apply to actions taken on or after the date of enactment both with respect to claims filed before the day of enactment and with respect to claims filed after such date.

(f) The amendments made by subsections (a), (b), and (c) of this section shall be effective on the date of enactment and shall apply to any person convicted or imprisoned on or after the date of enactment.

(g) The amendment made by subsection (d) of this section shall be effective on the date of enactment and shall apply to any claim, statement, representation, report, or other written document made or submitted in connection with a claim filed under subchapter I or III of chapter 81 of title 5, United States Code.

SEC. 9002. ENHANCEMENT OF REEMPLOYMENT PROGRAMS FOR FEDERAL EMPLOYEES DISABLED IN THE PERFORMANCE OF DUTY.

(a) Section 8104 of title 5, United States Code, is amended—

(1) by striking the comma after "employment" and by striking "other than employment undertaken pursuant to such rehabilitation" from subsection (b); and

(2) by adding the following new subsection (c):

"(c) The Secretary of Labor, as part of the vocational rehabilitation effort, may assist permanently disabled individuals in seeking and/or obtaining employment. The Secretary may reimburse an employer (including a Federal employer), who was not the employer at the time of injury and who agrees to employ a disabled beneficiary, for portions of the salary paid by such employer to the reemployed, disabled beneficiary. Any such sums shall be paid from the Employees' Compensation Fund.".

(b) The Secretary of Labor is authorized to expand the Federal Employees' Compensation Act Periodic Roll Management Project to all offices of the Office of Workers' Compensation Program of the Department of Labor.

(c) The provisions of, and amendments made by, subsections (a) and (b) of this section shall be effective on the date of enactment.

SEC. 9003. WAGE DETERMINATIONS.

(a) The McNamara-O'Hara Service Contract Act, as amended (41 U.S.C. 351 et seq.) is amended by adding at the end the following new section:

"SEC. 11. To more effectively implement wage determination procedures, the Secretary of Labor is authorized to develop and implement an electronic data interchange system to request and obtain wage determinations required under the Act.".

(b) The Davis-Bacon Act, as amended (41 U.S.C. 276a et seq.) is amended by adding at the end the following new section:

"SEC. 8. To more effectively implement wage determination procedures, the Secretary of Labor is authorized to develop and implement an electronic data interchange system to request and obtain wage determinations required under the Act.".

(c) The amendments made by subsections (a) and (b) of this section shall be effective on the date of enactment.

SEC. 9004. ELIMINATION OF FILING REQUIREMENTS.

(a) Section 101(b) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) Section 102 of ERISA (29 U.S.C. 1022) is amended by striking paragraph (a)(2) and redesignating paragraph (a)(1) as subsection (a).

(c) Section 104(a)(1) of ERISA (29 U.S.C. 1024(a)(1)) is amended to read as follows:

"SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor. The administrator shall also furnish to the Secretary, upon request, any documents relating to the employee benefit plan including but not limited to the summary plan description, description of material modifications to the plan, bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated.".

(d) Section 104(b) of ERISA (29 U.S.C. 1024(b)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall, upon written request of any participant or beneficiary of a plan for a copy of any documents described in paragraph (4), make a written request to the plan administrator for copies of such documents. The plan administrator shall comply with such request from the Secretary. Upon obtaining such copies from the plan administrator, the Secretary shall provide them to the requesting participant or beneficiary. In making a request under this paragraph to the plan administrator, the Secretary shall not disclose to the plan administrator the identity of the participant or beneficiary. The administrator may make a reasonable charge to cover the cost of furnishing such complete copies consistent with any regulations issued by the Secretary pursuant to paragraph (4). The Secretary may require the participant or beneficiary to reimburse the Secretary for such charges before the participant receives the requested copies.".

(e) Section 106(a) of ERISA (29 U.S.C. 1026(a)) is amended by striking "descriptions,".

(f) Section 107 of ERISA (29 U.S.C. 1027) is amended by striking "description or".

(g) Section 108 of ERISA (29 U.S.C. 1028) is amended by striking "(B) after publishing or filing the plan description, annual reports," and inserting "(B) after publishing the plan description, or after publishing or filing the annual reports,".

(h) Section 109(b) of ERISA (29 U.S.C. 1029(b)) is amended to read as follows:

"(b) The financial statement and opinion required to be prepared by an independent qualified public accountant pursuant to section 103(a)(3)(A) and the actuarial statement required to be prepared by an enrolled actuary pursuant to section 103(a)(4)(A) shall not be required to be submitted on forms.".

(i) Section 502(c) of ERISA is amended by adding at the end the following new paragraph:

"(4) The Secretary may assess a civil penalty against any plan administrator of up to $100 per day from the date of such plan administrator's failure or refusal to comply with a request for documents which such administrator is required to furnish to the Secretary (unless such failure or refusal results from matters reasonably beyond the control of the administrator) pursuant to section 104(b)(5) by mailing the material requested to the address provided by the Secretary within 30 days after such request.".

(j) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act.

TITLE X—DEPARTMENT OF STATE AND UNITED STATES INFORMATION AGENCY

SEC. 10001. IMPROVEMENT OF EFFICIENCY OF STATE DEPARTMENT ACTIVITIES.

The Secretary of State shall take action to improve the efficiency of the activities of the Department of State and save a total of $5,700,000 by the end of fiscal year 1999.

SEC. 10002. IMPROVEMENT OF EFFICIENCY OF USIA PUBLIC DIPLOMACY ACTIVITIES.

The Director of the United States Information Agency (USIA) shall take action to improve the efficiency of USIA's public diplomacy activities and save a total of $15,000,000 by the end of fiscal year 1999.

TITLE XI—DEPARTMENT OF TRANSPORTATION

SEC. 11001. REEMPLOYMENT RIGHTS FOR CERTAIN MERCHANT SEAMEN.

(a) IN GENERAL.—Title III of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131) is amended by inserting after section 301 the following new section:

"SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty.

"(b) An individual may submit an application for certification under subsection (c) to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

"(c) Not later than 20 days after the date the Secretary of Transportation receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether or not the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946, in a period in which that vessel was in use or being activated for use under subsection (b) of that section;

"(ii) that is requisitioned or purchased under section 902 of this Act; or

"(iii) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable) of title 46, United States Code; and

"(2) if the Secretary makes affirmative determinations under paragraph (1) (A) and (B), certify that individual under this subsection.

"(d) For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate referred to in clause (1) of section 4301(a) of title 38, United States Code.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to employment described in section 302(c)(1)(A) of the Merchant Marine Act, 1936, as amended by subsection (a), occurring after August 2, 1990.

(c) EMPLOYMENT ENDING BEFORE ENACTMENT.—Notwithstanding subsection (b) of section 302 of the Merchant Marine Act, 1936, as amended by this Act, an individual who, in the period beginning August 2, 1990, and ending on the date of the enactment of this Act, completed a period of employment described in subsection (c)(1)(A) of that section may submit an application for certification under subsection (c) of that section with respect to that employment not later than 45 days after the date of the enactment of this Act.

(d) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations implementing this section.

SEC. 11002. REFORM OF ESSENTIAL AIR SERVICE PROGRAM.

Section 419 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1389) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following:

"(2) RESTRICTIONS ON QUALIFICATIONS AS AN ELIGIBLE POINT.—To qualify as an eligible point in the 48 contiguous states, Hawaii, and Puerto Rico for purposes of fiscal year 1995 and thereafter, a point described in paragraph (1) must not require a rate of subsidy per passenger in excess of $200 unless such point is more than 210 miles from the nearest large or medium hub airport and may not be located fewer than 70 highway miles from the nearest large or medium hub airport;" and

(2) in subsection (l) by striking paragraph (2) and inserting the following:

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $33,423,077 per fiscal year for each of fiscal years 1994 through 1999. Such amounts shall remain available until expended. Unobligated balances that remain available as of September 30, 1994, are rescinded.".

SEC. 11003. AIRWAY SCIENCE PROGRAM.

(a) REPEAL.—All authority for—

(1) the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science programs; and

(2) the Federal Aviation Administration to enter into competitive grant agreements with institutions of higher education having airway science curricula, and all authorizations to appropriate for such purposes, as enacted under the head, "Federal Aviation Administration, Facilities and Equipment", in the Department of Transportation and Related Agencies Appropriations Acts for fiscal years ending before October 1, 1993;

is repealed.

(b) LIMITATION.—Subsection (a) shall not affect the authority of the Secretary to enter into grant agreements with universities, colleges, or institutions of higher education to obligate funds appropriated for fiscal years ending before October 1, 1993, which have not been rescinded.

SEC. 11004. COLLEGIATE TRAINING INITIATIVE.

(a) IN GENERAL.—Section 313(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(d)) is amended—

(1) by striking the subsection heading and all that follows through "The Administrator" and inserting the following:

"(d) TRAINING SCHOOLS.—

"(1) IN GENERAL.—The Administrator";

(2) by moving the text of paragraph (1), as so designated, 2 ems to the right; and

(3) by adding at the end the following:

"(2) COLLEGIATE TRAINING INITIATIVE.—

"(A) CONTINUATION.—The Administrator of the Federal Aviation Administration may continue the Collegiate Training Initiative program, by entering into new agreements, with post-secondary institutions, as defined by the Administrator, whereby such institutions, without cost to the Federal Aviation Administration, prepare students for the position of air traffic controller with the Department of Transportation, as defined in section 2109 of title 5, United States Code.

"(B) STANDARDS.—The Administrator may establish standards for the entry of institutions into such program and for their continued participation in it.

"(C) APPOINTMENT IN EXCEPTED SERVICE.—The Administrator may appoint persons who have successfully completed a course of training in such program to the position of air traffic controller noncompetitively in the excepted service, as defined in section 2103 of title 5, United States Code. Persons so appointed shall serve at the pleasure of the Administrator, subject to section 7511 of such title (pertaining to adverse actions). However, an appointment under this subparagraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service, as defined in section 2102 of such title when the incumbent achieves full performance level air traffic controller status, as determined by the Administrator. The authority conferred by this subparagraph to make new appointments in the excepted service shall expire at the end of 5 years from the date of the enactment of this subparagraph; except that the Administrator may determine to extend such authority for 1 or more successive 1-year periods thereafter.".

(b) CONFORMING AMENDMENT.—Section 362 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1560) is repealed.

(c) LIMITATION.—The repeal and the amendments made by this section shall not prohibit the expenditure of funds appropriated for fiscal years ending before October 1, 1994.

TITLE XII—DEPARTMENT OF VETERANS AFFAIRS

Subtitle A—Administrative Improvements

SEC. 12001. ELIMINATION OF HOSPITAL AND NURSING HOME BED CAPACITY REQUIREMENTS.

(a) Section 8110(a)(1) of title 38, United States Code, is amended—

(1) by striking "at not more than 125,000 and not less than 100,000"; and

(2) by striking the third and fourth sentences.

(b) Section 8111(a) of such title is amended by striking out "result (1)" and all that follows through "maintained or".

SEC. 12002. ELIMINATION OF REQUIREMENT FOR MINIMUM NUMBER OF PERSONNEL IN THE OFFICE OF INSPECTOR GENERAL.

Subsection (b) of section 312 of title 38, United States Code, is amended to read as follows:

"(b) Whenever the Secretary proposes to reduce the authorized number of full-time equivalent employees assigned to the Office of Inspector General, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report providing notice of the proposed reduction and a detailed explanation for the proposed reduction. No action to carry out the proposed reduction may be taken after the submission of such report until the end of a 45-day period of continuous session of Congress (determined in the same manner as specified in the last sentence of section 510(b) of this title) following the date of the submission of the report.".

SEC. 12003. MODIFICATION OF ADMINISTRATIVE REORGANIZATION AUTHORITY.

(a) MODIFICATION OF REQUIREMENT TO REPORT TO CONGRESS.—Section 510 of title 38, United States Code, is amended by striking out "90-day" both places it appears in subsection (b) and inserting in lieu thereof "45-day".

(b) AUTHORITY TO REORGANIZE OFFICES IN EVENT OF EMERGENCY.—Such section is further amended by striking out subsection (d) and inserting the following:

"(d)(1) The limitation in subsection (b) does not apply with respect to an administrative reorganization at a medical facility if the Secretary determines that the reorganization is necessary to respond to an emergency situation at that facility. The Secretary may determine that there is an emergency situation at a medical facility for purposes of this subsection only in a case in which there would be an immediate danger to patients and employees at that facility without the reorganization. In the case of a facility at which officials of the Department are considering whether to implement an administrative reorganization before the event or occurrence which leads to an initial finding that such an emergency exists, the Secretary may not make such a determination.

"(2) Whenever the Secretary determines under paragraph (1) that it is necessary to carry out an administrative reorganization at a medical facility without regard to the limitation in subsection (b), the Secretary shall submit a report on that determination to the Committees on Veterans' Affairs of the Senate and House of Representatives. The report shall provide the same information as is provided in a detailed plan and justification in the case of an administrative reorganization subject to subsection (b). The Secretary shall include in the report an explanation of the alternatives to the proposed administrative reorganization that were considered and each factor that was considered in the decision to reject each such alternative.".

SEC. 12004. ELIMINATION OF REQUIREMENT FOR CERTAIN SERVICES IN THE VETERANS HEALTH ADMINISTRATION.

(a) Section 7305 of title 38, United States Code, is repealed.

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking the item relating to section 7305.

SEC. 12005. MODIFICATION OF PHYSICIAN REQUIREMENT FOR CERTAIN SENIOR VETERANS HEALTH ADMINISTRATION OFFICIALS.

(a) UNDER SECRETARY.—Section 305 of title 38, United States Code, is amended—

(1) in subsection (a)(2), by striking out "shall be a doctor of medicine and shall be" and inserting in lieu thereof "shall (except as provided in subsection (d)(1)) be a doctor of medicine. The Under Secretary shall be";

(2) in subsection (d)—

(A) by adding at the end of paragraph (1) the following: "If at the time such a commission is established both the position of Deputy Under Secretary for Health and the position of Associate Deputy Under Secretary for Health are held by individuals who are doctors of medicine, the individual appointed by the President as Under Secretary for Health may be someone who is not a doctor of medicine. In any case, the Secretary shall develop, and shall furnish to the commission, specific criteria which the commission shall use in evaluating individuals for recommendations under paragraph (3).";

(B) by redesignating paragraph (4) as paragraph (5);

(C) by inserting after the first sentence of paragraph (3) the following: "In a case in which, pursuant to paragraph (1), the individual to be appointed as Under Secretary does not have to be a doctor of medicine, the commission may make recommendations without regard to the requirement in subsection (a)(2)(A) that the Under Secretary be appointed on the basis of demonstrated ability in the medical profession, but in such a case the commission shall accord a priority to the selection of a doctor of medicine over an individual who is not a doctor of medicine."; and

(D) by designating the last two sentences of paragraph (3) as paragraph (4).

(b) DEPUTY AND ASSOCIATE DEPUTY UNDER SECRETARY.—Section 7306 of such title is amended—

(1) in subsection (a)—

(A) by striking out "of the following:" in the matter preceding paragraph (1) and inserting in lieu thereof "such personnel as may be considered necessary for the purposes of this chapter. In appointing persons to positions in the Office, the Under Secretary shall consider the different types of health care services provided to veterans by the Veterans Health Administration and shall seek to ensure that appointments in the Office are made in such a manner that the Office is staffed so as to provide the Under Secretary with appropriate expertise in those services. The Office shall include the following:";

(B) by inserting "(except as provided in subsection (c))" in paragraphs (1) and (2) after "and who shall";

(C) by striking out each paragraph after paragraph (2);

(2) by striking out subsection (b);

(3) by redesignating subsection (c) as subsection (b) and striking out "In the case of" in the second sentence and all that follows through "such appointments" and inserting in lieu thereof "Such appointments"; and

(4) by inserting after subsection (b), as so redesignated, the following new subsection (c):

"(c)(1) If at the time of the appointment of the Deputy Under Secretary for Health under subsection (a)(1), both the position of Under Secretary for Health and the position of Associate Deputy Under Secretary for Health are held by individuals who are doctors of medicine, the individual appointed as Deputy Under Secretary for Health may be someone who is not a doctor of medicine.

"(2) If at the time of the appointment of the Associate Deputy Under Secretary for Health under subsection (a)(2), both the position of Under Secretary for Health and the position of Deputy Under Secretary for Health are held by individuals who are doctors of medicine, the individual appointed as Associate Deputy Under Secretary for Health may be someone who is not a doctor of medicine.".

SEC. 12006. USE OF FUNDS RECOVERED FROM THIRD PARTIES.

(a) AUTHORIZED USES.—Section 1729(g) of title 38, United States Code, is amended by adding at the end of paragraph (3) the following new subparagraph:

"(C) Payments for (i) the purchase of needed medical equipment, and (ii) such other purposes as may be specifically authorized by law.".

(b) AVAILABILITY OF FUNDS.—Such section is further amended by striking out paragraph (4) and inserting the following:

"(4)(A) Not later than December 1 of each year, there shall be set aside within the Fund a reserve to be used for the purposes described in paragraph (3)(C). The amount placed into the reserve each year shall be determined under subparagraph (B). No funds may be obligated under paragraph (3)(C) in excess of the funds in the reserve. The reserve shall remain available for obligation until expended.

"(B)(i) On December 1, 1993, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1993, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $538,600,000.

"(ii) On December 1, 1994, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1994, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $590,500,000.

"(iii) On December 1, 1995, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1995, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $646,000,000.

"(iv) On December 1, 1996, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1996, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $698,100,000.

"(v) On December 1, 1997, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1997, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $753,500,000.

"(C) If the amount to be set aside for the reserve for any year, as calculated under subparagraph (B), is less than zero, the amount added to the reserve for that year shall be zero.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30 of the preceding year minus any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3), and the amount in the reserve described in paragraph (4).

"(6) The Secretary shall prescribe regulations for the allocation of amounts in the reserve under paragraph (4) to the medical centers of the Department for the purposes stated in paragraph (3)(C). Those regulations shall be designed to provide incentives to directors of medical centers to increase the recoveries and collections under this section by requiring that 20 percent of those amounts be made available each year directly to the medical centers at which such recoveries and collections have been at above average levels. The remaining 80 percent of those funds shall be allocated as the Secretary considers appropriate.".

Subtitle B—Closure of Certain Facilities

SEC. 12101. CLOSURE OF SUPPLY DEPOTS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall close the Department of Veterans Affairs' supply depots specified in subsection (b).

(b) COVERED DEPOTS.—Subsection (a) applies to the supply depots of the Department of Veterans Affairs at the following locations:

(1) Somerville, New Jersey.

(2) Hines, Illinois.

(3) Bell, California.

(c) DEADLINE.—The Secretary shall complete the actions required by subsection (a) not later than September 30, 1995.

SEC. 12102. WAIVER OF OTHER PROVISIONS.

Sections 510(b) and 8121 of title 38, United States Code, do not apply to the actions required under this subtitle.

Subtitle C—Provision of Information From the Medicare and Medicaid Coverage Data Bank to the Department of Veterans Affairs

SEC. 12201. PROVISION OF DATA BANK INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.

(a) ADDITIONAL PURPOSE OF DATA BANK.—

(1) The heading to section 1144 of the Social Security Act is amended by striking "**medicare and medicaid**" and inserting "**Health care**".

(2) Subsection (a) of that section is amended—

(A) in the matter preceding paragraph (1), by striking "Medicare and Medicaid" and inserting "Health Care";

(B) by striking "and" at the end of paragraph (1);

(C) by substituting ", and" for the period at the end of paragraph (2); and

(D) by adding at the end the following:

"(3) assist in the identification of, and the collection from, third parties responsible for payment for health care items and services furnished to veterans under chapter 17 of title 38, United States Code.".

(b) DISCLOSURE OF DATA BANK INFORMATION TO SECRETARY OF VETERANS AFFAIRS.—Subsection (b)(2)(B) of that section is amended by inserting "to the Secretary of Veterans Affairs and" after "Data Bank".

Subtitle D—Veterans' Appeals Improvements

SEC. 12301. BOARD OF VETERANS' APPEALS.

(a) BOARD MEMBERS AND PERSONNEL.—Section 7101(a) of title 38, United States Code, is amended to read as follows:

"(a)(1) There is in the Department a Board of Veterans' Appeals (hereinafter in this chapter referred to as the 'Board'). The Board is under the administrative control and supervision of a Chairman directly responsible to the Secretary.

"(2) The members of the Board shall be the Chairman, a Vice Chairman, such number of Deputy Vice Chairmen as the Chairman may designate under subsection (b)(4), and such number of other members as may be found necessary to conduct hearings and consider and dispose of matters properly before the Board in a timely manner. The Board shall have such other professional, administrative, clerical, and stenographic personnel as are necessary to conduct hearings and consider and dispose of matters properly before the Board in a timely manner.".

(b) ETHICAL AND LEGAL LIMITATIONS ON CHAIRMAN.—Section 7101(b)(1) of such title is amended by inserting after the first sentence the following: "The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in partisan political activities as apply to judges of the United States Court of Veterans Appeals.".

(c) APPOINTMENT AND REMOVAL OF BOARD MEMBERS.—Section 7101(b) of such title is further amended—

(1) in paragraph (2)(A) by striking "other members of the Board (including the Vice Chairman)" and inserting "Board members other than the Chairman";

(2) in paragraph (2)(B) by striking "paragraph" and inserting "subparagraph"; and

(3) by striking paragraph (4) and inserting the following:

"(4) The Secretary shall designate one Board member as Vice Chairman based upon recommendations of the Chairman. The Chairman may designate one or more Board members as Deputy Vice Chairmen. The Vice Chairman and any Deputy Vice Chairman shall perform such functions as the Chairman may specify. The Vice Chairman shall serve as Vice Chairman at the pleasure of the Secretary. Any Deputy Vice Chairman shall serve as Deputy Vice Chairman at the pleasure of the Chairman.".

(d) ACTING BOARD MEMBERS.—Section 7101(c) of such title is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) The Chairman may from time to time designate one or more employees of the Department to serve as acting Board members.";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph by—

(A) striking "temporary Board members designated under this subsection and the number of"; and

(B) striking "section 7102(a)(2)(A)(ii) of this title" and inserting "paragraph (1)".

(e) CHAIRMAN'S ANNUAL REPORT.—Section 7101(d)(2) of such title is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the names of those employees of the Department designated under subsection (c)(1) to serve as acting Board members during that year and the number of cases each such acting Board member participated in during that year.".

(e) CONFORMING AMENDMENTS.—Section 7101 of such title is further amended—

(1) in subsection (d)(3)(B), by striking "section 7103(d)" and inserting "section 7101(a)(2)"; and

(2) in subsection (e), by striking "a temporary or" and inserting "an".

SEC. 12302. DECISIONS BY THE BOARD.

(a) ACTION BY BVA THROUGH SECTIONS.—Sections 7102 and 7103 of title 38, United States Code, are amended to read as follows:

"§ 7102. Decisions by the Board

"A proceeding instituted before the Board shall be assigned to an individual member or a panel of members of the Board (other than the Chairman). A member or panel of members who are assigned a proceeding shall render a decision thereon, including any motion filed in connection therewith. The member or panel of members shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the Board's final disposition of the proceeding. Decisions by a panel shall be made by a majority of the members of the panel.

"§ 7103. Reconsideration; correction of obvious errors

"(a) The decision of a member or panel of the Board under section 7102 of this title is final unless the Chairman orders reconsideration of the case. Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(b)(1) If the Chairman orders reconsideration in a case decided by a single member, the matter shall be referred to a panel of not less than three Board members, not including the member who rendered the initial decision, which shall render its decision after reviewing the entire record before the Board. Such decisions shall be made by a majority vote of the members of the panel and shall constitute the final decision of the Board.

"(2) If the Chairman orders reconsideration in a case decided by a panel of members, the matter shall be referred to an enlarged panel, not including the members of the panel which rendered the initial decision, which shall render its decision after reviewing the entire record before the Board. Such decisions shall be made by a majority vote of the members of the expanded panel and shall constitute the final decision of the Board.

"(c) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.".

(b) CLERICAL AMENDMENT.—The items relating to sections 7102 and 7103 in the table of sections at the beginning of chapter 71 are amended to read as follows:

"7102. Decisions by the Board.

"7103. Reconsideration; correction of obvious errors.".

SEC. 12303. TECHNICAL CORRECTION.

Section 7104(a) of title 38, United States Code, is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

SEC. 12304. HEARINGS.

(a) IN GENERAL.—Section 7110 of title 38, United States Code, is amended to read as follows:

"§ 7110. Hearings

"(a) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(b) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing will participate in making the final determination in the claim.

"(c)(1) An appellant may request a hearing before the Board at either its principal location or at a regional office of the Department. A hearing held at a regional office shall (except as provided in paragraph (2)) be scheduled for hearing in the order in which the requests for hearing in that area are received by the Department at the place specified by the Department for the filing of requests for those hearings.

"(2) In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided under paragraph (1).

"(d) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission, or picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location. When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or members as provided in subsection (c). Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in subsection (c) shall not be affected.".

(b) CLERICAL AMENDMENT.—The item relating to section 7110 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7110. Hearings.".

SEC. 12305. ELIMINATION OF REQUIREMENT FOR ANNUAL INCOME QUESTIONNAIRES.

Section 1506 of title 38, United States Code, is amended—

(1) in paragraph (2), by striking out "shall" and inserting in lieu thereof "may"; and

(2) in paragraph (3), by striking out "file a revised report" and inserting in lieu thereof "notify the Secretary".

TITLE XIII—HUMAN RESOURCE MANAGEMENT

SEC. 13001. FEDERAL WORKFORCE TRAINING.

(a) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended—

(1) in section 4101(4) by striking "fields" and all that follows through the semicolon and inserting "fields which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals;";

(2) in section 4103—

(A) in subsection (a)—

(i) by striking "In" and all that follows through "maintain" and inserting "In order to assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate";

(ii) by striking "and" at the end of paragraph (2);

(iii) by redesignating paragraph (3) as paragraph (4); and

(iv) by inserting after paragraph (2) the following:

"(3) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and"; and

(B) in subsection (b)—

(i) in paragraph (1) by striking "determines" and all that follows through the period and inserting "determines that such training would be in the interests of the Government."; and

(ii) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(3) in section 4105—

(A) in subsection (a) by striking "(a)"; and

(B) by striking subsections (b) and (c);

(4) by repealing section 4106;

(5) in section 4107—

(A) by amending the catchline to read as follows:

"§ 4107. Restriction on degree training";

(B) by striking subsections (a) and (b) and redesignating subsections (c) and (d) as subsections (a) and (b), respectively;

(C) by amending subsection (a) (as so redesignated)—

(i) by striking "subsection (d)" and inserting "subsection (b)"; and

(ii) by striking "by, in, or through a non-Government facility"; and

(D) by amending paragraph (1) of subsection (b) (as so redesignated) by striking "subsection (c)" and inserting "subsection (a)";

(6) in section 4108(a) by striking "by, in, or through a non-Government facility under this chapter" and inserting "for more than a minimum period prescribed by the head of the agency";

(7) in section 4113(b)—

(A) in the first sentence by striking "annually to the Office," and inserting "to the Office, at least once every 3 years, and"; and

(B) by striking the matter following the first sentence and inserting the following: "The report shall set forth—

"(1) information needed to determine that training is being provided in a manner which is in compliance with applicable laws intended to protect or promote equal employment opportunity; and

"(2) information concerning the expenditures of the agency in connection with training and such other information as the Office considers appropriate.";

(8) by repealing section 4114; and

(9) in section 4118—

(A) in subsection (a)(7) by striking "by, in, and through non-Government facilities";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 3381(e) by striking "4105(a)," and inserting "4105,"; and

(2) in the analysis for chapter 41—

(A) by repealing the items relating to sections 4106 and 4114; and

(B) by amending the item relating to section 4107 to read as follows:

"4107. Restriction on degree training.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 13002. SES ANNUAL LEAVE ACCUMULATION.

(a) Effective on the last day of the last applicable pay period beginning in calendar year 1993, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE XIV—REINVENTING SUPPORT SERVICES

SEC. 14001. SHORT TITLE.

This title may be cited as the "Government Information Dissemination and Printing Improvement Act of 1993".

SEC. 14002. TRANSFER OF FUNCTIONS.

(a) SUPERINTENDENT OF DOCUMENTS.—The position of Superintendent of Documents and all functions of the position of Superintendent of Documents under title 44, United States Code, or any other provision of law are transferred to the Library of Congress and shall be carried out by the Superintendent of Documents under the direction of the Librarian of Congress. The Superintendent of Documents shall be appointed by, and serve at the pleasure of, the Librarian of Congress. Until otherwise provided by law, on and after the effective date of the transfer under this subsection, the employees under the Superintendent of Documents who are transferred shall be treated, for purposes of the laws governing labor-management relations, in the same manner as such employees were treated before the effective date of such transfer.

(b) REVOCATION OF CHARTERS.—All printing plant charters authorized under section 501 of title 44, United States Code, are revoked.

(c) EFFECTIVE DATE.—The transfer under subsection (a) shall take effect one year after the date of the enactment of this title. The revocation under subsection (b) shall take effect 2 years after the date of the enactment of this title.

SEC. 14003. GOVERNMENT PUBLICATIONS TO BE AVAILABLE THROUGHOUT THE GOVERNMENT.

All Government publications shall be available throughout the Government to any department, agency, or entity of the Government for use or redissemination.

SEC. 14004. INVENTORY AND FURNISHING OF GOVERNMENT PUBLICATIONS.

Each department, agency, and other entity of the Government shall—

(1) establish and maintain a comprehensive inventory of its Government publications;

(2) make such inventory available through the electronic directory under chapter 41 of title 44, United States Code; and

(3) in the form and manner prescribed by the Superintendent of Documents, furnish its Government publications to the Superintendent of Documents.

SEC. 14005. ADDITIONAL RESPONSIBILITIES OF THE PUBLIC PRINTER.

(a) IN GENERAL.—The Public Printer shall, with respect to the executive branch of the Government and the judicial branch of the Government—

(1) use all necessary measures to remedy neglect, delay, duplication, and waste in the public printing and binding of Government publications, including the reduction and elimination of internal printing and high-speed duplicating capacities of departments, agencies, and entities;

(2) prescribe Government publishing standards, which, to the greatest extent practicable, shall be consistent with the United States Government Printing Office Style Manual;

(3) prescribe Government procurement and manufacturing requirements for printing paper and writing paper, which, to the greatest extent practicable, shall be consistent with Government Paper Specification Standards;

(4) authorize the acquisition and transfer of equipment requisitioned by publishing facilities authorized under section 501 of title 44, United States Code;

(5) authorize the disposal of such equipment pursuant to section 312 of title 44, United States Code; and

(6) establish policy for the acquisition of printing, which, to the greatest extent practicable, shall be consistent with (A) Printing Procurement Regulation (GPO Publication 305.3), (B) Government Printing and Binding Regulations (JCP No. 26), and (C) Printing Procurement Department Instruction (PP304.1B).

(b) POLICY STANDARDS.—The policy referred to in subsection (a)(6) shall be formulated to maximize competitive procurement from the private sector. Government in-house printing and duplicating operations authorized under section 501 of title 44, United States Code, or otherwise authorized by law, may be used if they provide printing at the lowest cost to the Government, taking into consideration the total expense of production, materials, labor, equipment, and general and administrative expense, including all levels of overhead.

SEC. 14006. ADDITIONAL RESPONSIBILITIES OF THE SUPERINTENDENT OF DOCUMENTS.

(a) GOVERNMENT PUBLICATIONS TO BE FURNISHED TO THE SUPERINTENDENT OF DOCUMENTS.—If a department, agency, or other entity of the Government publishes a Government publication, the head of the department, agency, or entity shall furnish the Government publication to the Superintendent of Documents not later than the date of release of the material to the public.

(b) DISSEMINATION OR REPUBLICATION.—In addition to any other dissemination provided for by law, the Superintendent of Documents shall disseminate or republish Government publications, if, as determined by the Superintendent, the dissemination by the department, agency, or entity of the Government is inadequate. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under subsection (a), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(c) COST.—The cost charged to the public by the Superintendent of Documents under subsection (b) for any Government publication (whether such Government publication is made available to the public by a department, agency, or entity of the Government, or by the Superintendent of Documents) may include the incremental cost of dissemination, but may not include any profit.

SEC. 14007. DEPOSITORY LIBRARIES.

In addition to any other distribution provided for by law, the Superintendent of Documents shall make Government publications available to designated depository libraries and State libraries. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under section 14006(a), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

SEC. 14008. DEFINITIONS.

As used in this title—

(1) the term "Government publication" means any informational matter that is published at Government expense, or as required by law; and

(2) the term "publish" means, with respect to informational matter, make available for dissemination.

TITLE XV—STREAMLINING MANAGEMENT CONTROL

SEC. 15001. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of Executive branch performance in implementing statutory requirements for reports to Congress and its committees. Examples of improvements in efficiency intended by this title are the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that will provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the President's Budget his recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or its committees. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended. If the Director's recommendations are approved by law, they shall take effect.

(c) The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) Prior to the publication of the recommendations authorized in subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE XVI—FINANCIAL MANAGEMENT

SEC. 16001. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1993".

SEC. 16002. ELECTRONIC PAYMENTS.

(a) Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 16003. FRANCHISE FUNDS AND INNOVATION FUNDS.

(a) Title 31, United States Code, is amended by adding, after section 1537, a new section 1538, as follows:

"§ 1538. Franchise funds

"(a) There is hereby authorized to be established a franchise fund in any executive agency which does not have such a fund which shall be available, without further appropriation action by the Congress, for expenses and equipment necessary for the maintenance and operations of such administrative services as the head of the agency, with the approval of the Office of Management and Budget, determines may be performed more advantageously on a centralized basis.

"(b)(1) The fund shall consist of the fair and reasonable value of inventories, equipment, and other assets and inventories on order pertaining to the services to be provided by the fund as are transferred by the head of the agency to the fund less related liabilities and unpaid obligations together with any appropriations made for the purpose of providing capital.

"(2) For the first fiscal year a fund is in operation and each fiscal year thereafter, an amount not to exceed 4 percent of the total income of the fund may be retained in the fund, to remain available until expended, to be used only for the acquisition of capital equipment and for the improvement and implementation of agency financial management and related support systems.

"(3) For the first three fiscal years a fund is in operation, up to 50 percent of the unobligated balances of funds provided in annual appropriations available at the end of the fiscal year to the agency for salaries and expenses may be transferred into the fund no later than the end of the succeeding fiscal year.

"(c) The fund shall be reimbursed or credited with payments, including advance payments, from applicable appropriations and funds of the agency, other Federal agencies, and other sources authorized by law for supplies, materials, and services at rates which will recover the expenses of operations including accrued leave, depreciation of fund plant and equipment, and an amount necessary to maintain a reasonable operating reserve, as determined by the head of the agency.

"(d)(1) In the third fiscal year after the fund is established, and each year thereafter, any Federal entity seeking to obtain any service financed through the fund that is not inherently governmental in nature must not be precluded from obtaining such service from one or more other sources, either governmental or nongovernmental, in addition to the source financed through the fund.

"(2) If, after the end of the third fiscal year after a fund is established, any Federal entity seeking to obtain any service financed through the fund that is not inherently governmental in nature is precluded from obtaining such service from one or more other sources, either governmental or nongovernmental, in addition to the source financed through the fund, the fund shall be canceled.".

(b) The table of sections for subchapter III of chapter 15 of title 31, United States Code, is amended by adding, after the item for section 1537, the following new item:

"1538. Franchise funds.".

(c) Title 31, United States Code, is amended by adding, after section 1538, a new section 1539, as follows:

"§ 1539. Innovation funds

"(a) There is hereby authorized to be established an innovation fund in any executive agency which does not have such a fund, which shall be available without further appropriation action by the Congress.

"(b) The purpose of the fund is to provide a self-sustaining source of financing for agencies to invest in projects designed to produce measurable improvements in agency efficiency and significant taxpayer savings. Amounts available in the fund may be borrowed by the agency for such projects, subject to subsection (e).

"(c) Each agency that establishes an innovation fund will develop an investment project selection process, including specific investment criteria such as return on investment, payback period, extent of matching or in-kind support (including such support from other Federal agencies), technical merit, and budget justification.

"(d) For the first three fiscal years a fund is in operation, up to 50 percent of the unobligated balances of funds provided in annual appropriations available at the end of the fiscal year to the agency (other than appropriations for salaries and expenses) may be transferred to and merged with the innovation fund to be available to make loans to agency components for projects designed to enhance productivity and generate cost savings, provided that such transfers occur no later than the end of the succeeding fiscal year.

"(e)(1) Any amounts borrowed from the fund by an agency component to finance a project selected under the process described in subsection (c) shall be repaid to the fund at the times specified in the repayment schedule agreed upon at the time the loan is made.

"(2) Interest on loans made by the fund shall be paid to the fund at the rate on marketable Treasury securities of similar maturity at the time the loan is made.

"(3) Repayments shall be made from the accounts anticipated to receive the greatest long-term benefit from the project at the time the loan is made.

"(4) Repayments to the fund shall take priority over any other obligation of payments of an account designated to make repayments under paragraph (3) of this subsection.".

(d) The table of sections for subchapter III of chapter 15 of title 31, United States Code, is amended by adding, after the item for section 1538, the following new item:

"1539. Innovation funds.".

SEC. 16004. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) To improve the efficiency of Executive branch performance in implementing statutory requirements for general management and financial management reports to the Congress and its committees, the Director of the Office of Management and Budget may publish annually in the President's Budget his recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has general management or financial management responsibility. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended. If the Director's recommendations are approved by law, they shall take effect.

(b) The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(c) Prior to the publication of the recommendations authorized in subsection (a), the Director or his designee shall consult with the appropriate congressional committees, including the House Committee on Government Operations and the Senate Committee on Governmental Affairs, concerning the recommendations.

SEC. 16005. ANNUAL FINANCIAL REPORTS.

(a) Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting principles, standards, and requirements.

"(d) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a).

"(e) Not later than March 1 of 1996, the head of each Executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(f) Not later than March 31 of 1994, 1995, and, for Executive agencies not designated by the Director of the Office of Management and Budget under subsection (e), 1996, the head of each Executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(g) for purposes of subsection (f), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (e) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

SEC. 16006. AUTHORIZATION OF APPROPRIATIONS FOR ENHANCING DEBT COLLECTION.

(a) Title 31, United States Code, is amended by adding, after section 3720A, a section 3720B, as follows:

"§ 3720B. Authorization of appropriations for enhancing debt collection

"(a) To the extent and in the amounts provided in advance in appropriations acts—

"(1) an amount not to exceed 1 percent of the delinquent debts collected for a program in one fiscal year is authorized to be credited in the following fiscal year to a special fund for such program;

"(2) an amount not to exceed 10 percent of any sustained annual increase in delinquent debt collections, as defined by the Director of the Office of Management and Budget, is authorized to be credited to a special fund for such program; and

"(3) from amounts credited under paragraphs (1) and (2), such sums as may be necessary are authorized to be appropriated for the improvement of that program's debt collection activities, including, but not limited to, account and loan servicing, delinquent debt collection and asset disposition.

"(b) Debt is defined as delinquent under standards prescribed or to be prescribed by the Secretary of the Treasury.

"(c) For direct loan and loan guarantee programs subject to Title V of the Congressional Budget Act of 1974, amounts credited in accordance with section (a) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(d) This section shall apply only to collection of debts—

"(1) for a program not within the Department of Justice; and

"(2) not involving the assistance of the Department of Justice.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding, after the item for section 3720A, the following new item:

"3720B. Authorization of appropriations for enhancing debt collection.".

SEC. 16007. CONTRACTS FOR COLLECTION SERVICES.

(a) Subsection 3701(d) of Title 31, United States Code, is amended—

(1) by striking "and 3716–3719" and inserting in lieu thereof ", 3716, and 3717"; and

(2) by striking ", the Social Security Act (42 U.S.C. 301 et seq.),".

(b) Section 3701 of title 31, United States Code, is amended by adding at the end the following:

"(e) Section 3718 of this title does not apply to a claim or debt under, or to an amount payable under, the Social Security Act (42 U.S.C. 301 et seq.) owed by a person receiving benefits under that Act or to a claim or debt under, or to an amount payable under, title 26 of the United States Code.".

SEC. 16008. NOTIFICATION TO AGENCIES OF DEBTORS' MAILING ADDRESSES.

Section 3720A of title 31, United States Code is amended by striking "the individual's home address." at the end of subsection (c) and inserting the following: "the person's mailing address. Provision of this information is authorized by section 6103(m)(2) of the Internal Revenue Code (26 U.S.C. 6103(m)(2)).".

SEC. 16009. CONTRACTS FOR COLLECTION SERVICES.

Subparagraph 3718(B)(1)(A) of title 31, United States Code, is amended by striking the following: "If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts with private individuals or firms in such district.".

SEC. 16010. ADJUSTING CIVIL MONETARY PENALTIES FOR INFLATION.

The Federal Civil Penalties Inflation Adjustment Act of 1990 is amended by—

(1) amending section 4 to read as follows: "The head of each agency shall—

"(1) by regulation, no later than September 30, 1994, and at least once every 4 years thereafter, adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 and publish each such adjustment in the Federal Register; and

"(2) provide a report to the Secretary of the Treasury by November 15 of each year on all penalties adjusted during the preceding fiscal year.";

(2) amending subsection 5(a) by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) adding, after section 6, a section 7, as follows: "Section 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

TITLE XVII—RESCISSIONS OF BUDGET AUTHORITY

SEC. 17001. SHORT TITLE.

This title may be cited as the "Fiscal Year 1994 Rescission Act".

Subtitle A—Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(RESCISSION AND TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103–111 and subsequently transferred to the Human Nutrition Information Service pursuant to Secretary's Memorandum No. 1020–39, dated September 30, 1993, $1,000,000 are rescinded and the remaining funds are transferred to the Agricultural Research Service: *Provided*, That funds appropriated by Public Law 103–111 for the functions of the former Human Nutrition Information Service shall be made available only to the Agricultural Research Service.

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $14,279,000 are rescinded, including $4,375,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended; $7,000,000 for competitive research grants; and $2,904,000 for necessary expenses of the Cooperative State Research Service.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $2,897,000 are rescinded.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

(RESCISSION AND TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103–111 and subsequently transferred to the Agricultural Cooperative Service pursuant to Secretary's Memorandum No. 1020–39, dated September 30, 1993, $100,000 are rescinded and the remaining funds are transferred to the Rural Development Administration.

PAYMENTS TO STATES AND POSSESSIONS

(TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103–111 and subsequently transferred to the Agricultural Cooperative Service pursuant to Secretary's Memorandum No. 1020–39, dated September 30, 1993, $435,000 are transferred to the Rural Development Administration.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111 for the cost of direct section 502 loans, $35,000,000 are rescinded.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111 for the cost of direct loans, $20,000,000 are rescinded.

RURAL WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $25,000,000 are rescinded.

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $12,167,000 are rescinded.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $12,600,000 are rescinded.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $6,000,000 are rescinded.

PUBLIC LAW 480 PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111 for commodities supplied in connection with title III, $20,000,000 are rescinded.

Subtitle B—Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $29,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–121, $3,000,000 are rescinded.

DEPARTMENT OF JUSTICE

ADMINISTRATIVE PROVISION

For fiscal year 1994 only, the Director of the Bureau of Justice Assistance, upon good cause shown, may waive the provisions of section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 for projects located in communities covered under a Presidentially declared disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

BUYING POWER MAINTENANCE

(RESCISSION)

Of the balances in the Buying Power Maintenance account, $8,800,000 are rescinded.

NEW DIPLOMATIC POSTS

(RESCISSION)

Of the funds made available for the United States Information Agency under this heading in Public Law 102–395, $1,000,000 are rescinded.

ADMINISTRATIVE PROVISION

Subject to enactment of legislation authorizing the Secretary of State to charge a fee or surcharge for processing machine readable non-immigrant visas and machine readable combined border crossing identification cards and non-immigrant visas, the Secretary of State may collect not to exceed $20,000,000 in additional fees or surcharges during fiscal year 1994 pursuant to such authority: *Provided*, That such additional fees shall be deposited as an offsetting collection to the Department of State, Administration of Foreign Affairs, "Diplomatic and Consular Programs" appropriation account and such fees shall remain available until expended: *Provided further*, That such collections shall be available only to modernize, automate, and enhance consular services and counterterrorism activities of the Department of State, to include the development and installation of automated visa and namecheck information systems, secure travel documents, worldwide telecommunications systems, and management systems to permit sharing of critical information regarding visa applicants and help secure America's borders.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $3,000,000 are rescinded.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

Of the funds made available under this heading, $1,700,000 are rescinded.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $1,177,000 are rescinded.

Notwithstanding the provisions of this or any other Act, not to exceed $2,000,000 of the funds made available under this heading in Public Law 103–121 may be used to carry out projects involving security construction and related improvements for Agency facilities not physically located together with Department of State facilities abroad: *Provided*, That such funds may remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $850,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $2,000,000 are rescinded.

Subtitle C—Energy and Water Development

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $24,970,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $97,319,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $16,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–126, $97,300,000 are rescinded: *Provided*, That the reduction shall be taken as a general reduction, applied to each program equally, so as not to eliminate or disproportionately reduce any program, project, or activity in the Energy Supply, Research and Development Activities account as included in the reports accompanying Public Law 103–126.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $42,000,000 are rescinded.

Subtitle D—Foreign Operations, Export Financing, and Related Agencies

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the International Bank for Reconstruction and Development for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $27,910,500 is rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of the increases in capital stock in an amount not to exceed $902,439,500.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the Inter-American Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock $16,063,134 is rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the increases in capital stock in an amount not to exceed $1,563,875,725.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock $13,026,366 is rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the Asian Development Bank may not subscribe in fiscal year 1994 to the callable capital portion of the United States share of any increases in capital stock.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE

(RESCISSION)

Of the unexpended or unobligated balances (including earmarked funds) made available for fiscal years 1987 through 1993 to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, $160,000,000 is rescinded: *Provided*, That funds rescinded under this paragraph are to be derived from the following countries in the following amounts: Guatemala, $8,000,000; Honduras, $5,000,000; India, $10,000,000; Indonesia, $15,000,000; Morocco, $10,000,000; Pakistan, $15,000,000; Peru, $5,000,000; Philippines, $10,000,000; Thailand, $10,000,000; and Yemen, $5,000,000: *Provided further*, That $10,000,000 of the funds rescinded under this paragraph are to be derived from non-country specific, centrally funded activities: *Provided further*, That $57,000,000 of the funds rescinded under this paragraph are to be derived from prior year deobligated funds.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the unexpended or unobligated balances of funds (including earmarked funds) made available for fiscal years 1987 through 1993 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, $90,000,000 is rescinded: *Provided*, That funds rescinded under this paragraph are to be derived from the following countries in the following amounts: Kenya, $2,000,000; Liberia, $797,000; Oman, $18,000,000; Peru, $11,000,000; Philippines, $10,200,000; and Somalia, $3,003,000: *Provided further*, That $45,000,000 of the funds rescinded under this paragraph are to be derived from the Private Sector Power Project (No. 391–0494) for Pakistan.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

(RESCISSION)

Of the grant funds made available (including earmarked funds) under this heading in Public Law 102–391 and prior appropriations Acts, $66,000,000 is rescinded: *Provided*, That funds rescinded under this paragraph are to be derived from the following countries in the following amounts: Benin, $3,000; Cameroon, $161,000; Central African Republic, $59,000; Congo, $7,000; Cote D' Ivoire, $128,000; Equatorial Guinea, $86,000; Gabon, $3,000; Ghana, $600,000; Guatemala, $1,563,000; Guinea, $499,000; Kenya, $9,000,000; Liberia, $15,000; Madagascar, $505,000; Mali, $3,000; Malawi, $326,000; Mauritania, $300,000; Morocco, $8,000,000; Organization of American States, $6,000; Oman, $3,100,000; Pakistan, $8,108,000; Peru, $6,533,000; Philippines, $5,000,000; Rwanda, $250,000; Sao Tome & Principe, $228,000; Somalia, $4,349,000; Sudan, $8,609,000; Thailand, $1,384,000; Togo, $19,000; Tunisia, $4,100,000; Uganda, $100,000; Yemen, $2,241,000; Zambia, $100,000; Zaire, $455,000; and Zimbabwe, $160,000.

Subtitle E—Department of the Interior and Related Agencies

DEPARTMENT OF THE INTERIOR

U.S. FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

(RESCISSION)

Of the funds appropriated under this head in Public Law 100–446 and Public Law 102–154, $3,874,000 are rescinded.

DEPARTMENT OF THE TREASURY

BIOMASS ENERGY DEVELOPMENT

(RESCISSION)

Of the funds available under this head, $16,275,000 are rescinded.

DEPARTMENT OF ENERGY

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Section 303 of Public Law 97–257, as amended, is repealed.

The seventh proviso under the head "Clean Coal Technology" in Public Law 101–512, and the seventh proviso under the head "Clean Coal Technology" in Public Law 102–154, both concerning Federal employment, are repealed.

Subtitle F—Departments of Labor, Health and Human Services, Education, and Related Agencies

DEPARTMENT OF LABOR

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Labor, $4,000,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Health and Human Services (except the Social Security Administration), $37,500,000 are rescinded.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–112, $10,909,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112 to invest in a state-of-the-art computing network, $80,000,000 are rescinded.

DEPARTMENT OF EDUCATION

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

(RESCISSION)

Of the amounts appropriated under this heading in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Education, $8,500,000 are rescinded.

Subtitle G—Legislative Branch

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available under this heading in Public Law 101–520, $633,000 are rescinded in the amounts specified for the following headings and accounts:

"ALLOWANCES AND EXPENSES", $633,000, as follows:

"Official Expenses of Members", $128,000; "supplies, materials, administrative costs and Federal tort claims", $125,000; "net expenses of purchase, lease and maintenance of office equipment", $364,000; and "Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation", $16,000.

Of the amounts made available under this heading in Public Law 102–90, $2,352,000 are rescinded in the amounts specified for the following headings and accounts:

"HOUSE LEADERSHIP OFFICES", $253,000;

"COMMITTEE ON THE BUDGET (STUDIES)", $4,000;

"STANDING COMMITTEES, SPECIAL AND SELECT", $378,000;

"ALLOWANCES AND EXPENSES", $943,000, as follows:

"Official Expenses of Members", $876,000; and "stenographic reporting of committee hearings", $67,000;

"COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)", $595,000;

"SALARIES, OFFICERS AND EMPLOYEES", $179,000, as follows:

"Office of the Postmaster", $19,000; "for salaries and expenses of the Office of the Historian", $26,000; "the House Democratic Steering and Policy Committee and the Democratic Caucus", $73,000; and "the House Republican Conference", $61,000.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–392 and Public Law 103–69, $1,000,000 and $2,000,000, respectively, both made available until expended, are rescinded: *Provided*, That the Architect of the Capitol shall be considered the agency for purposes of the election in section 801(b)(2)(B) of the National Energy Conservation Policy Act and the head of the agency for purposes of subsection (b)(2)(C) of such section.

LIBRARY OF CONGRESS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–69 and Public Law 98–396, $900,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–69, $1,300,000 are rescinded.

SUPPLEMENTAL APPROPRIATION

That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1994, and for other purposes, namely:

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Karen A. Henry, widow of Paul B. Henry, late a Representative from the State of Michigan, $133,600.

Subtitle H—Department of Defense-Military

MILITARY CONSTRUCTION

(RESCISSIONS)

Of the funds appropriated under Public Law 103–110, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Army, $22,319,000;
Military Construction, Navy, $13,969,000;
Military Construction, Air Force, $24,787,000;
Military Construction, Defense-Wide, $13,663,000;
Military Construction, Army National Guard, $7,568,000;
Military Construction, Air National Guard, $6,187,000;
Military Construction, Army Reserve, $2,551,000;
Military Construction, Naval Reserve, $626,000;

Military Construction, Air Force Reserve, $1,862,000;

North Atlantic Treaty Organization Infrastructure, $70,000,000; and

Base Realignment and Closure Account, Part III, $437,692,000:

Provided, That, within funds available for "Base Realignment and Closure Account, Part III" for fiscal year 1994, not less than $200,000,000 shall be available solely for environmental restoration.

Subtitle I—Department of Transportation and Related Agencies

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The funds provided for "Small community air service" under section 419 of the Federal Aviation Act of 1958, as amended, in excess of the funds made available for obligation in Public Law 103–122 are rescinded.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the funds provided under this heading in Public Law 102–368, $5,000,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the funds provided under this heading in Public Law 102–368, $2,000,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–122, $750,000 are rescinded.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances (including earmarked funds) under this heading, $29,451,111 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds provided under the Airport and Airway Improvement Act of 1982, as amended, for grants-in-aid for airport planning and development and noise compatibility planning and programs, $488,200,000 of the amount in excess of the funds made available for obligation in Public Law 103–122 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

(RESCISSION)

Of the funds made available for specific highway projects that are not yet under construction, $85,774,222 are rescinded: *Provided*, That no funds shall be rescinded from any emergency relief project funded under section 125 of title 23, United States Code: *Provided further*, That for the purposes of this paragraph, a project shall be deemed to be not under construction unless a construction contract for physical construction has been awarded by the State, municipality, or other contracting authority.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(RESCISSION)

Of the amounts provided under this heading in Public Law 102–388, $3,476,000 are rescinded.

Of the amounts provided under this heading in Public Law 101–516, $1,075,000 are rescinded.

Of the amounts provided under this heading in Public Law 101–164, $2,505,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION)

Any unobligated balances of funds made available for fiscal year 1991 and prior fiscal years under section 3 of the Federal Transit Act, as amended, and allocated to specific projects for the replacement, rehabilitation, and purchase of buses and related equipment, for construction of bus-related facilities, and for new fixed guideway systems are rescinded: *Provided*, That no funds provided for the Miami Metromover project shall be rescinded: *Provided further*, That of the funds provided under this heading in Public Law 103–122, $2,500,000 are rescinded.

Subtitle J—Treasury, Postal Service, and General Government

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $126,022,000, are rescinded and are not available in fiscal year 1994: *Provided*, That no individual prospectus-level new construction project may be reduced by more than 5 percent.

ADMINISTRATIVE PROVISION

SEC. 17101. Section 630 of the Treasury, Postal Service, and General Government Appropriations Act, 1993 (Public Law 102–393), and the amendment made by that section, are repealed.

Subtitle K—Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $26,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139, $66,000,000 are rescinded: *Provided*, That of the foregoing amount, $34,000,000 shall be deducted from the amounts earmarked for the HOPE for Public and Indian Housing Homeownership Program and $32,000,000 shall be deducted from the amounts earmarked for the HOPE for Homeownership of Multifamily Units Program.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior years, and earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, $25,000,000 are rescinded.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior years, $20,000,000 are rescinded.

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, the City of Slidell, Louisiana, is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Slidell under title I of such Act for fiscal year 1994.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(INCLUDING RESCISSION OF FUNDS)

Of the funds made available under this heading in Public Law 103–124, $22,000,000 are rescinded: *Provided*, That the $500,000,000 earmarked under this heading in Public Law 103–124 to not become available until May 31, 1994, shall instead not become available until September 30, 1994.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $2,000,000 are rescinded.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $25,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $25,000,000 are rescinded.

NATIONAL SCIENCE FOUNDATION

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $10,000,000 are rescinded.

NATIONAL SERVICE INITIATIVE

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $5,000,000 are rescinded.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The proviso under this heading in Public Law 103–124 is repealed.

The CHAIRMAN pro tempore. No amendment to the bill, as amended, is in order except the amendments printed in part 2 of House Report 103–403. Each amendment may be offered and shall be disposed of only in the order printed in the report, may be offered only by a Member specified in the report, is considered as read, shall be debatable under the terms specified in the report, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 103-403.

For what purpose does the gentleman from Minnesota [Mr. SABO] rise?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SABO

Mr. SABO. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

For text of the amendment in the nature of a substitute offered by Mr. SABO, see the text of the bill, H.R. 3400, as amended by the amendment in the nature of a substitute and made in order as original text, in prior proceedings of the House today.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes, a Member opposed will be recognized for 30 minutes.

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Mr. SABO. Mr. Chairman, if I might inquire, my understanding is, under the rule, that 30 minutes are reserved to the Committee on Appropriations.

The CHAIRMAN pro tempore (Mr. VENTO). The gentleman is correct. A Member opposed to the gentleman's amendment is also recognized for 30 minutes.

Under the rule, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 15 minutes. The Chair understands that there is an agreement that the chairman and ranking member of the Committee on Appropriations will use their time first.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, included in the bill we are considering today is the fiscal year 1994 rescission bill. Title XVII of the bill before the House is the text of a bill, with one minor exception, that was developed and reported by the Committee on Appropriations. It was developed in response to the President's message of November 1, 1993, that proposed 37 rescissions totaling $1.992 billion. The rescissions reported by the committee total $2.561 billion, $570 million more than the President proposed.

In the way the committee has usually responded to Presidential requests for rescissions, we are recommending to the House an amount of rescissions that exceeds the amount of the request. In fact, since 1974 when the current process was enacted, the Congress has rescinded $19,071,177,195 more than Presidents have requested. Many times our priorities are different than the various administrations, but we have always acted responsibly and timely. The rescissions we bring to the House today were developed in the very same way as our previous rescission recommendations. We accepted some of the President's requests—we included some of our own.

I hope you'll support the committee reported rescissions included in this bill. They were carefully developed. We should resist further cuts that dramatically affect the programs that are so important to our country.

At this time, I want to thank all Members on both sides of the aisle for their cooperation in getting our 13 regular appropriations bills completed and signed into law, especially my friend, the gentleman from Pennsylvania [Mr. MCDADE], our ranking Republican member. We got our work done, and we did it right. I want all Members to know that I appreciate it.

Also I want to commend our excellent staff. Our staff works hard for long hours. I want the staff to know that I appreciate their hard work, too.

I ask the committee to support the committee rescission package and resist further cuts to discretionary programs.

Mr. Chairman, I reserve the balance of my time.

Mr. MCDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. I rise to speak on H.R. 3511, the appropriations rescission bill that by magic has been incorporated into the base bill and, pursuant to the unusual rule that governs consideration of this measure, is also a part of the amendment now under consideration. Although the appropriations action is significant, amounting to $2.5 billion in rescissions for fiscal year 1994, it is only a small part of the measure now under consideration, and it is not a particularly controversial part of that larger issue.

The administration proposed a rescission package of close to $2 billion in early November, which involved eight subcommittees. The Committees under the leadership of my dear friend from Kentucky, immediately moved to consider the proposals. Each subcommittee met or increased the amount of rescissions, and three subcommittees volunteered rescissions. The committee reported a bill that contains $2.5 billion in rescissions, half a billion more than the administration proposed.

These rescissions are by and large different than what the administration proposed, and reflect congressional priorities. That is the history of the committee when it comes to rescissions—historically we have met and exceeded what is asked of us, and we've done it in a way that protects the priorities of the Congress, and of its individual Members. The Committee has been responsive and responsible, by producing the savings that were asked of it and more.

One area I thought the committee should have addressed was the 252,000 personnel reduction. I thought the Committee should have locked in the savings from this year's cumulative 2.5 percent reduction, net of what has already been saved in the regular appropriations bills. In my view, we should have taken the lead in this area, to make sure it was done right.

Beyond that, Mr. Speaker, on the narrow issue of the appropriations piece of this larger amendment, the $2.5 billion in rescissions represents the consensus, the broad consensus, of the Appropriations Committee for additional spending reductions as a response to the President's request.

Mr. Chairman, I close my remarks by thanking, once again, my distinguished friend, the gentleman from Kentucky, for the leadership he has shown in the committee.

Mr. Chairman, I reserve the balance of my time.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding time to me.

One would think, to hear the talk here today, that we had not recently reduced the Federal budget by billions of dollars for the fiscal year beginning October 1. But we did. The fact of the matter is, there are no easy ways to make additional reductions, certainly such reductions would not be as easy as what is pretended.

I will just give Members a few examples of the kinds of drastic and unwise reductions in the Penny-Kasich amendment that affect programs in the Commerce, Justice and State Subcommittee which I chair. The first example is the proposed reduction for the Securities and Exchange Commission in the Penny-Kasich amendment. The SEC has a budget of $260,317,000, including about $172 million in offsetting fee collections. The Penny-Kasich amendment would take an estimated $141,600,000 in such fees and put these funds into the General Fund. The SEC, therefore, would not have that money to spend for carrying out its securities enforcement responsibilities. That reduction is 55 percent of the SEC's budget for fiscal year 1994.

The SEC protects investors. It is important to this country that we protect investors. Since 1987, the SEC has collected over $1.3 billion in disgorgements and penalties. I do not want to cripple the SEC, but that is what the Penny-Kasich amendment would do.

Now, any way we look at it, we have two alternatives for this agency. Either we cripple this important agency, or we do not save a dime by putting the fees into the General Fund of the Treasury and appropriating the money directly to the SEC. In addition, the Penny-Kasich amendment terminates the State Justice Institute. We just passed some crime bills. We want the States to do more on crime. We want to cooperate with them. That is what this institution does. But contrary to the current drive against crime, the Penny-Kasich amendment would terminate the State-Justice Institute which is the only Federal agency which provides grants to the States to improve the efficiency and effectiveness of their judicial systems.

The Penny-Kasich amendment would also terminate NOAA funding for procurement of new reconnaissance aircraft so we can discover hurricanes earlier and reduce the disasters that we have in this country. This equipment is very necessary. If we do not have it, we could have higher property losses, injuries, and even loss of life, as well as higher costs for disaster assistance. We do not save money by denying NOAA the equipment that they need so they can predict where disasters are going to hit, especially in the case of hurricanes.

Anybody that votes for this amendment is saying we do not want to know more about hurricanes. We do not want to avoid the damage that they do.

NAFTA just passed here. We want to be competitive. We have got to do more about technology and R&D.

□ 1730

They would cut that back, too. That is contrary to the current drive that we have in this government, and in addition to that, it is contrary, to NAFTA. Those that voted for NAFTA want to be competitive, and this is anti-competitive.

What I am saying here is that there are no easy answers. I have just given a few of the examples of what happens if we vote for the Penny-Kasich amendment. Vote against it today.

Mr. MCDADE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, and I would say to my friend, the gentleman from Minnesota [Mr. SABO] concerning his amendment, I would like to clear up, because I know he was concerned, and the gentleman from Pennsylvania [Mr. JACK MURTHA] and the people on the Committee on Armed Services, with one of the problems they had with the so-called Kasich amendment.

My concern is that we offer a contract to military personnel and Federal personnel. Congress should not violate that contract. That was my hangup with Penny-Kasich. That has been cleared up. What we do is offer anyone new coming into the Federal Government or the military the right to turn down or accept a new contract. That is a way that we get rid of the entitlement program for retirement. We do not change the retirement in midstream.

I know that the gentleman from Minnesota [Mr. SABO], and the gentleman from Pennsylvania [Mr. MURTHA], and people on the Committee on Armed Services were concerned about the Kasich amendment, because I have heard other people on the other side of the aisle say it affects Federal employees and military. That has been corrected.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I rise in support of the Sabo substitute to H.R. 3400. Subtitle C of title 17 of the bill includes rescissions totalling $277,589,000 from programs under the jurisdiction of my Energy and Water Development Subcommittee. These are the same as the rescissions reported by the Committee on Appropriations in H.R. 3511.

For the U.S. Army Corps of Engineers, the President proposed to rescind a total of $122,289,000 from studies and construction projects for which funds were provided in our fiscal year 1994 appropriations bill. For the Bureau of Reclamation, the President proposed to rescind $16,000,000 from construction projects which were funded in our bill.

The President's recommendation did not include a list of projects which would be cut as a result of the rescissions. The President's proposal and the Penny-Kasich proposal would permit the Corps of Engineers and Bureau of Reclamation to make those selections.

Mr. Chairman, the water resources projects included in our fiscal year 1994 bill were carefully considered by our panel, the full House, and the Senate. We believe that all those projects are important. Therefore, our panel did not agree with the President's proposal to rescind funds from our fiscal year 1994 bill. Instead, we have proposed to rescind amounts equal to the President's request from unobligated balances carried forward into fiscal year 1994.

For the Department of Energy, the President proposed to rescind $97,300,000 in the Energy supply, research and development activities account. The committee has agreed with the total amount of the rescission, but has directed that the reduction shall be taken as a general reduction, applied to each program equally, instead of the specific rescissions proposed by the President.

Also for the Department of Energy, the President proposed to rescind $42,000,000 in the uranium supply and enrichment activities account as a result of curtailing the atomic vapor laser isotope separation project. The committee has agreed with the amount of the rescission, but has directed that it be funded from prior year balances in the uranium supply and enrichment activities account.

Mr. MCDADE. Mr. Chairman, I am delighted to yield 2½ minute so the able gentleman from Iowa [Mr. LIGHTFOOT], the ranking member of the Subcommittee on Treasury-Postal-Service-General Government of the Committee on Appropriations.

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the committee rescission package. I think as Members of Congress, and as one who very strongly believes that one of the most important jobs here is to gain control of the Federal deficit, we are facing a rather difficult vote today.

I must congratulate my colleagues, the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH], for their valiant efforts in crafting the significant deficit reduction package they bring before us. I know their intentions are noble, but I think that is where it ends.

It is with deep regret that I am unable to support their effort, no matter how well intentional that effort might be. It is not that I do not share their concern about getting the deficit under control. I do. It is not that I do not believe their efforts are important. It is, and I applaud them for all the hours of work they put into it.

However, unfortunately, the package is damaging in many areas of the budget. I have been a long supporter of across-the-boards cuts in discretionary spending. If we had the option to simply do that, I would be up here in support of it today.

However, we do not. Instead, the option before us is one that cuts Medicare by $34 billion. In my State of Iowa, where hundreds of rural hospitals can barely make it today, most of them rely heavily on Medicare reimbursement. Because of the high proportion of elderly residents, a person would have to be smoking something strange and inhale it, if they are going to support $34 billion in cuts to Medicare, when the end result would be to deprive thousands of my own constituents of emergency medical care.

On another front, the Penny-Kasich alternative will cut $67 million, that is $67 million, in deficiency payments for corn producers in the State of Iowa alone. Here is a headline in one of our local papers today, "USDA Crop Estimate Plunges, Corn, Soybeans Hurt By Flood." This is typical of what we are facing now.

The economists at Iowa State tell us that every dollar that is put into a farmer's pocket turns over seven times before it leaves town. That means the preacher gets a piece of it, the guy at the grocery store gets a piece of it, the country tax collector gets a piece of it, and the school teachers get paid. Take seven times $67 million and it will give you some idea of the impact on my State alone.

Our former Speaker, Tip O'Neill, once said that "All politics are local." He certainly knew what he was talking about. I have to take into consideration the impact that this proposal has on my constituents, the people who elected me and sent me here to represent them. That impact is very adverse.

I am sorry, but this is one meat axe approach that I am going to have to go the other direction on. As an afterthought, being a member of the Committee on Appropriations, we have not totally ignored the effort to cut spending, as our rescission package has about $2.5 billion that has been cut this fiscal year alone. That includes $126 million from the public building fund alone. Yes, I support budget cuts—responsible ones that don't do more damage that they seek to repair.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. YATES. Will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, Penny-Kasich is an amendment of immense proportions. It usurps the role of the authorizing committees, it usurps the role of the appropriations committee, it usurps the role of reason, it reorganizes the President's Cabinet, it reorganizes agencies within Departments and it abolishes agencies. It makes specific cuts and it would force unspecified cuts—all without committee review.

How did the two gentlemen whose names are associated with this amendment come up with these proposals and the claimed savings?

Was it by divine revelation?

Was it a gathering around a cauldron at midnight?

Was it the divining of entrails by witch doctors? Where are the hearings to support the Penny-Kasich amendment? What committees have considered it?

Now, let us look at some of the specific cuts in this amendment and the authors' rationales for those cuts. Everybody's whipping boy is the National Endowment for the Arts. But do you realize that this program has already been reduced? The fiscal year 1994 appropriation is already $4,365,000 below the President's request for the National Endowment for the Arts; it is already $4,232,000 below the fiscal year 1993 level; and if the Congress had kept pace with inflation since 1981, the appropriation for the Arts would have been $261 million. But the Congress has not done that. The fiscal year 1994 appropriation is $170 million, $91 million below what would be needed to deliver the same program level as was available in 1981.

As for the general cuts represented by the reduction in the total amount for discretionary spending, we are already doing an inadequate job in meeting the responsibilities placed upon the agencies under the Interior subcommittee's jurisdiction made inadequate by lack of adequate funds. For example, take the National Parks. Almost every day, when one opens newspapers, magazines and looked at television programs, they point out the lack of funding for the national treasures of the National Parks. This year, because discretionary spending is already constrained, the Congress could not appropriate the full amount requested by the administration by $67 million. It would take several years of increases to get the Park Service back to an acceptable condition to protect its wonderful natural and cultural resources and to provide for their enjoyment by the 300 million annual visitors.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

The Penny-Kasich amendment would reduce fossil energy research and development by $54 million in 1994 with a stated intent of reducing it ultimately to 25 percent of its current level. Why? In 1981 this activity was at a level of $993.8 million. In 1994 the appropriation is only $430.7 million. It has already been reduced substantially. This is a vital program for the discovery of alternate fuels for energy.

And what committee has carried the funding for the electric car? It is this program that has provided the money. Currently, at least an additional 20 percent above the appropriated level will be received from industrial partners in research being conducted in this account. This is money for research that has not even reached the level of demonstrating its commercial viability, such as in the Clean Coal Technology program, where cost-sharing is well over 50 percent.

Research in this account has been highly successful over the years, and continues to be. For example, mainly because of funding in this account, fluidized bed combustion of coal is practiced widely by industry; fuel cells have been introduced commercially; CO_2 flooding, diamond drilling bits and advanced seismic technology are being used by the oil and gas industry. Dozens of other technologies have also been commercialized.

In addition, advanced processes for pressurized combustion, gasification of coal, liquefaction of coal, and technology to improve fuel cells and turbine generators, all strongly supported by industry, are supported.

In all cases, technologies are targeted at improving efficiency and reducing pollution. Great strides have been made in these areas.

Beyond the technologies mentioned previously, over one-half of the 45 projects being demonstrated in the Clean Coal Technology program prior to expected commercialization, were developed at least in part with funds in the fossil energy appropriations.

This program is essential. It is popular to denigrate fossil resources such as coal, oil, and natural gas, but such resources account for over 88 percent of all energy consumed in this country. The continued use of these resources is a given. Their use in a clean and efficient manner must continue to be supported as is other environmentally sound and efficient technology. When it is proper to reduce such research, the Congress has done it. Programs in oil shale, magnetohydrodynamics [MHD], underground gasification of coal, atmospheric fluidized combustion of coal, tar sands, heat engines, small scale coal combustion equipment, and certain types of fuel cells have been deleted as success or failure has dictated reduction of support. This is the proper way to make budget decisions. Previously, the Congress has done that. We should continue.

STRATEGIC PETROLEUM RESERVE PETROLEUM FUNDS

The amendment would rescind unobligated strategic petroleum reserve funds which amount to between $300 and $400 million. It sounds so simple to do that, assuming we are not going to purchase any more oil in the immediate future but as with other parts of the amendment, there are unintended consequences.

First, the unobliged balances normally available are used for draw down activities. With no funds available we would have a reserve that couldn't be used without supplemental appropriations.

Second, most of the obligated funds were expected to be used to fund a Life-Extension Program for facilities that are about 20 years old. Absent these already appropriated funds about $300 million wail be needed over the next several years for these facilities. Therefore, the rescission will not save any money either.

Third, if no oil is to be purchased, the oil in the system now should be adjusted by site or produce the most effective protection from the reserve. To do this would require funds to shift oil from site to site. No funds would be available because of this amendment.

CLEAN COAL TECHNOLOGY

The amendment would terminate the Clean Coal Technology program which is considered by many to be one of the most successful technology demonstration programs in the Government. It would also terminate it in a most devastating way, affecting 26 out of the 45 existing projects adversely. By prohibiting obligation of additional funds, $1,952,303,000 would be rescinded. Of these funds over $1.7 billion are related to 26 ongoing projects which would be halted. These projects, which are in various stages of negotiation, design, construction, and operation, have a total value, including non-Federal funds, of $5.9 billion of which over $1 billion from all sources has already been obligated.

Based on expenditure forecasts, jobs lost in construction and operation of these facilities would vary from 30,000 to 53,000 in the years 1994 through 1997.

Almost all the advanced—more efficient, cleaner—power generating technology projects would be terminated.

Firms who committed significant funding based on Government commitments would most likely sue to recoup expenses.

Future collaborations with industry would be hampered severely.

In the area of Indian affairs, the Penny-Kasich amendment would have a devastating effect on programs providing needed services to Indian people, who often are found to be among the poorest of the poor when it comes to all standard indicators, such as income, employment, educational levels, and health care status. Our subcommittee received testimony from over 600 separate Indian tribes and organizations this past spring. These witnesses told an almost endless litany of unmet needs for their people, in everything from child abuse and child protection needs, to old and crumbling schools and health clinics, to inadequate or nonexistent law enforcement on reservation lands, to unaddressed hazardous waste situations, to the severe impacts of alcoholism and other substance abuse, and on and on. The amounts requested of our subcommittee totaled several hundred million dollars, of which we were able to provide only a small fraction. The Penny-Kasich amendment, by lowering the caps on discretionary spending and forcing more unspecified cuts in such programs as those of the Bureau of Indian Affairs and the Indian Health Service, would only increase the severe impacts that budget constraints are already having on the Indian people in these and other areas.

Basic hospital and clinic services in Indian country are funded, on average, at 75 percent of need. Many locations are funded at substantially lower levels. Other health services are funded at dramatically lower levels. For example, dental services are funded at 44 percent of need, public health nursing services are funded at 33 percent of need and health services for Indians in urban settings are funded at a mere 22 percent of need. We will be unable to sustain even those deficit levels if the budget allocations are further reduced.

Some of our Indian hospitals and clinics are more than 80 years old. Within the current budget caps, we are able to fund only one or two new or replacement hospitals or clinics in any given year. There are about 200 facilities waiting to be placed on the priority list for new or replacement hospitals and clinics and each of the nearly 30 facilities on the current priority list will wait up to 10 or 15 years from the time they are placed on the list until construction is complete and a new facility is in operation. Further reductions in our budget allocation not only will extend the time it takes to get a new hospital or clinic constructed, it also will leave us unable to staff those facilities that are currently under construction.

Many Indian homes do not have safe water or sewer facilities. The backlog of needed water and sewer projects, which are considered to be economically feasible, amount to over $600 million. If you add in all the water and sewer needs for existing homes which are not economically feasible—for example, in remote villages in Alaska—the backlog is nearly $2 billion. Progress in reducing this backlog under the existing budget caps has been limited to slowing the rate of growth in the backlog.

The Penny-Kasich amendment would also include a Sense of Congress provision regarding reorganization of the Bureau of Indian Affairs, specifically regarding consolidation of BIA area offices. This issue is currently under consideration by the Joint Task Force on Bureau of Indian Affairs Reorganization, which was established by the committee several years ago. The reason it is important to let the task force continue to review this issue and develop final recommendations for the consideration of Congress is that this is the only mechanism for ensuring that the tribes themselves, who are served by these offices, have a direct say in how and to what extent such a consolidation should occur. Although it may sound good to decrease the number of these offices, it is important to remember that these offices provide direct services, as well as extensive technical assistance, to well over 300 tribes spread throughout the United States, as well as other Indian organizations and 184 Bureau-funded schools. In some areas, consolidation could well lead to decreased efficiencies in the provision of services, as well as increased costs. Therefore, the committee believes that Congress should not take a blanket position on this issue until the situation in each area has been studied by the tribes and organizations in that area, and a consensus has been reached on how best to provide Government services with least cost. The decision of the task force on this issue is expected to be forwarded to Congress within the next year, and could be implemented shortly thereafter.

The Penny-Kasich amendment would reduce the appropriations to the Smithsonian Institution and the National Gallery of Art by 2 percent per year over the next 5 years, for a total reduction of 10 percent. In the case of the Smithsonian, its museums and galleries attracted nearly 30 million visitors in 1992. As custodian of the National Collections, the Smithsonian is responsible for more than 130 million art objects, natural history specimens, and artifacts. In recent years, the Smithsonian's Federal base has eroded as a result of cumulative unfunded inflationary costs, increased FERS and health insurance costs, and several across-the-board funding reductions. To absorb these costs, the Smithsonian has held museum positions vacant; reduced essential support for research, collections management, and exhibitions; and deferred facilities maintenance throughout the Institution.

In the fall of 1992, to correct these base erosion problems and meet the funding limitations required by the fiscal year 1993 Appropriations Act, the Smithsonian began a comprehensive reorganization and restructuring process to ensure adequate funding for core responsibilities. This process focused on eliminating activities no longer central to the Institution's mission and the streamlining of other activities. The first phase of the multi-year restructuring plan was approved by Congress and implemented in fiscal year 1993.

The proposed 2 percent reduction following so soon after the difficult restructuring decisions of phase I would severely threaten the Institution's ability to continue this process in a planned, orderly manner. The following impacts could occur from the proposed reductions in 1994:

The closing of museum galleries or reduction in hours open to the public;

Closing of the National Zoo to the public 1 day a week;

Reduction of public services and outreach programs that serve wider audiences;

Curtailment of long-term research projects for which continuity is the defining element of the activity;

Mothballing some telescopes and eliminating associated research at the Smithsonian Astrophysical Observatory;

Loss of momentum in development of the National Museum of the American Indian, especially in the National Campaign to raise private funds for the buildings;

Reduction of collection management activity, including curtailing acquisitions and deferring artifact restorations;

Reduction of the Smithsonian Traveling Exhibition Service's subsidized exhibits for resource-poor, emerging ethnic communities;

Reduction or elimination of curatorial and research-related travel;

Slowing installation of accounting system designed to strengthen internal controls; and

Reducing safety training and safety inspections.

In subsequent years, the Smithsonian with over 75 percent of its salaries and expenses budget devoted to salaries and the uncontrollable costs of utilities and security, would be unable to function as the public has known it in the past.

With regard to the National Gallery of Art, when Congress accepted Andrew

Mellon's gift to the people of the United States in 1937, it pledged the faith of the United States to provide funds for upkeep, administration, and operations—including the protection and care of works of art acquired by the Board of Trustees—so that the gallery would be properly maintained and works of art exhibited regularly to the public free of charge. The 10-percent Penny-Kasich reduction would mean a cut of $5,470,000 over 5 years or $1.1 million per year. The 1994 appropriation provided for the gallery—before the Penny-Kasich reductions—is the same amount the gallery received for fiscal year 1993, despite inflationary and uncontrollable increases of 3-4 percent along with locality pay—$775,000—all of which must be absorbed.

Virtually all of the gallery's annual appropriation relates to personnel costs, rent, utilities, communications, and building security and maintenance, giving limited flexibility if the gallery is to fulfill its mandated purpose as a public museum housing a rare and valuable collection of fine art. To achieve a 10-percent reduction would mean letting go 147 FTE's over 5 years, the equivalent of 47 percent of the guard force or 90 percent of the maintenance staff. In order to comply with Executive Order 12839, the gallery is already eliminating 35 FTE's, and eliminating summer evening hours. OMB has also asked the gallery to look at the loss of an additional 70 FTE's through 1999. In addition, Executive Order 12837 requires a separate 14-percent reduction in administrative expenses from the 1993 baseline through 1997.

The gallery has testified for several years to this subcommittee as to the urgent need for three critical projects needed to maintain the safety of visitors, the art and the buildings in which they are contained, specifically: First, replacement of the six acres of gallery skylights originally installed in the West Building more than 50 years ago; second, installation of a centralized computer-controlled heating, humidity and air conditioning system; and third, an upgraded fire prevention system. The 10 percent reduction, on top of the other reductions mentioned above and the costs needed to be absorbed, would make it impossible to address these vital needs.

The Penny-Kasich amendment also proposes that the 10 percent reduction to the Smithsonian and the gallery be made up by charging admission fees. The Smithsonian has undertaken an experiment aimed at collecting voluntary fees from visitors, with little success to date. It is continuing to try various methods to increase such contributions, as well as other forms of private contributions. In the case of the gallery, the acceptance of the Mellon gift by the Congress included a provision that the gallery be kept open and available to the public free of charge, and this provision would have to be changed, if it even could be, before fees could be charged. However, significant private contributions have always been a major part of the private-Government partnership embodied by the gallery, including establishment of a $50 million endowment fund in the early 1980's for the acquisition of art, and gifts to the gallery during its 50th anniversary in 1991 of more than $1 billion worth of works of art.

The Penny-Kasich amendment contains a congressional finding that the helium program in the Department of the Interior loses $120 million a year in interest on the helium debt. This is not true. The helium program does not receive annual appropriations. The program is financed through a revolving fund which is self-sustaining. The proceeds from the sale of helium pay all expenses of the program and about $10 million a year is returned to the Treasury to offset the deficit.

The billion-dollar debt associated with the helium program truly is a paper debt. No funds were ever actually borrowed through public financing. The facility was built with appropriated funds and helium was purchased using appropriate borrowing authority which was charged against the bills in the years the appropriations were made. Those who claim savings will be realized by eliminating the helium program assume that you will save the interest that is accumulating on the debt each year. The interest is not real money because there is no actual loan.

The confusion over this issue stems from the Helium Act amendments of 1960 which required the Secretary of the Interior to pay back funds which had been borrowed to finance the helium program. The Treasury Department has been carrying those funds as a debt and accumulating interest on them ever since.

The General Accounting Office has said that canceling the helium program debt would be adversely affect the Federal budget because the debt consists of outlays that have already been appropriated and interest that is a paper transaction, not an outlay.

The amendment calls for a study to determine how best to sell or dispose of the helium reserve. Such a study would cost about $300,000. Now that's not a lot of money but why do we need to do a study? This issue has been studied in some detail over the past few years, including a review by the Vice President's task force on reinventing Government. We know that the only way to get a substantial amount of money out of the helium program would be to sell some of the Government's crude helium reserves to private customers. We have about 100 years of supply at current Government consumption rates. Any sales of crude helium would need to be carefully coordinated with private industry so that massive amounts of helium, in excess of demand, were not dumped on the open market. The Vice President's task force proposed controlled sales of helium from the Government's helium reserve but the legislative committee in the House rejected this proposal.

Mr. Chairman, this amendment does bring change, but change for change's sake is not productive. I urge members to defeat this amendment.

NATIONAL GALLERY OF ART

Appropriation Account: Salaries and Expenses, Repairs, Restoration and Renovation of Buildings.

Subject: Impact of a possible 10% Reduction Over Five Years.

The use of Federal funds to operate the Gallery stems from a 1937 Joint Resolution of Congress which accepted an unprecedented gift that Andrew W. Mellon made to the people of the United States. The gift consisted of his art collection, funds to construct a building (now the West Building), and an endowment fund. The Congress pledged the faith of the U.S. to provide funds for upkeep, administration, and operations (including the protection and care of works of art acquired by the Board of Trustees) so that the Gallery would be properly maintained and works of art exhibited regularly to the public free of charge.

Currently, Federal funds cover only 81% of the Gallery's operating expenses. 19% of yearly costs are covered by private funds—income from the Mellon and other endowments, plus gifts and grants. The private sector is already a major source of annual financial support of many Gallery programs, including the Center for Advanced Studies in the Visual Arts (CASVA), Conservation, education department projects, the research library and special exhibitions. Such funding is in addition to donations of works of art. The Gallery's challenge is to maintain this level of private support in the current and foreseeable economic climate.

Compliance with a 10% reduction specified in the Penny-Kasich Plan would mean a cut of $5,470,000 over five years or $1.1 million per year.

The $54.7 million appropriation proposed for the Gallery in FY 1994 before taking into consideration the Penny-Kasich Plan is the same amount the Gallery received from Congress for FY 1993 despite inflationary and uncontrollable increases of 3-4% along with locality pay ($775,000) which must be absorbed. The problem becomes more difficult looking ahead when we annualize the locality pay and future promised pay raises into FY 1995 and beyond.

Virtually all of the Gallery's annual appropriation relates to personnel costs, rent, utilities, communications, and building security and maintenance, giving limited flexibility if the Gallery is to fulfill its mandated purpose as a public museum housing a rare and valuable collection of fine art.

To achieve a 10% cut would mean letting go of 147 FTE's over five years, the equivalent of 47% of the guardianship force or 90% of the maintenance force. We hasten to point out that the Gallery is currently coping with Executive Order 12839 which requires a 4% reduction in staff through FY 1995, equivalent to 35 FTE's. We understand and agree with the need to cut back federal expenditures and are making the requisite reductions per Executive Order 12839 in that spirit. Our first action has been to eliminate summer evening hours, reducing the availability of the Gallery to summer tourists—the public drawn from throughout the United States and the world. We have also been asked by OMB to contemplate the loss of an additional 70 FTE's through 1999.

Furthermore, lest it be overlooked, Executive Order 12837 requires a separate 14% reduction in administrative expenses from the 1993 baseline through 1997.

And, as the Interior Subcommittee already knows, a vital and urgent concern of the Gallery continues to be the lack of federal funding for three critical projects needed to maintain the safety of the visitors, the art and the building: specifically, (1) replacement of the six acres of Gallery skylights originally installed in the West Building more than 50 years ago; (2) installation of a centralized computer controlled heating, humidity and air conditioning system; and (3) an upgraded fire prevention system.

The Penny-Kasich Plan proposes a 10% reduction in funding to be made up by admission fees or private contributions. The proposal has two fundamental flaws as it pertains to the National Gallery of Art.

One, as mentioned earlier, is that the original Andrew Mellon gift to the nation comprising his art collection and the West Building, was accepted by a 1937 Joint Resolution of Congress with the provision that the Gallery be kept open and available to the public free of charge. It is difficult to imagine changing the terms (and the faith of the United States) under which Andrew Mellon's gifts were received.

Two, it should be pointed out that Andrew Mellon's original gift also gave responsibilities to the private sector to provide art for the nation. The Founding Benefactors pay tribute to Andrew Mellon's goal of attracting other major donors and gifts to the nation. Each gave or bequeathed major, virtually priceless, collections.

The process of building the nations art collection though gifts of art and funds from the private sector has since evolved into a partnership in which the government (and each administration) has fulfilled its responsibility for maintaining and protecting the works so generously given. During the early 1980's the Gallery conducted a capital fund drive to raise $50 million in endowment funds, the income of which is dedicated to the purchase of art. And during the Gallery's 50th Anniversary in 1991 more than 1,000 major works of art were given to the Gallery at a value close to $1 billion.

The slow moving economy has made it more difficult than ever to raise funds not only for art but for those projects already supported by private funds such as special exhibitions. An attempt to divert this private support to replace federal funds would have serious adverse effects: the diversion would reduce support already given to high profile important Gallery programs, and it would be seen as an abdication by the government of its responsibilities under the terms of the 1937 Joint Resolution of Congress, further undermining operating support and gifts of art from the private sector.

It is beyond argument that the private sector has played a major role in making the National Gallery of Art into one of the top museums of the world. In its relatively short life the Gallery's collections, programs, and exhibitions have become ranked with those of the Louvre, the British Museum, the Hermitage, the National Gallery of London, and the Metropolitan Museum of Art in New York.

In short, the people of the United States have received a great bargain in their partnership with the private sector. We believe that when the framers of the Penny-Kasich amendment become aware of this background, they will agree that the National Gallery of Art is not an organization to which indiscriminate, across-the-board cuts can be applied and recognize, as well, that the present federal funding arrangement of the Gallery should, because of its great benefit to the nation, remain unchanged.

SMITHSONIAN INSTITUTION RESPONSE TO THE PENNY-KASICH DEFICIT REDUCTION PLAN, NOVEMBER 8, 1994

Excerpt from the Penny-Kasich Deficit Reduction Plan:

Human Resources:

Proposal 1: Phase In 10-Percent Reduction for the Arts and Humanities

Federal funding for the National Endowment for the Arts, the National Endowment for the Humanities, the Smithsonian Institution, the National Gallery of Art, and the Corporation for Public Broadcasting should by reduced by 2 percent each from FY 1994 through FY 1998.

Because many arts and humanities programs benefit higher-income people, much of the loss in federal funds could be made up through admission fees of [sic] private contributions. Public television and radio receive the bulk of their funding from private contributions and cable television access has greatly expanded.

IMPACT OF THE PENNY-KASICH DEFICIT REDUCTION PLAN ON THE SMITHSONIAN INSTITUTION

The Smithsonian Institution is unique in the Federal establishment. Established by the Congress in 1846 to carry out the trust included in James Smithson's will, it has been engaged for 147 years in the "increase and diffusion of knowledge among men" in accordance with the donor's instructions. For some years, it utilized only the funds made available by the trust. Then, before the turn of the century, it began to receive Federal appropriations to conduct some of its activities. With the expenditure of both private and Federal funds over the years, it has grown into one of the world's great scientific and cultural organizations. It operates magnificent museums, outstanding art galleries, and important research centers. Its collections are among the best in the world. Its traveling exhibits deliver beauty and information throughout the country.*

In 1992, the Smithsonian attracted nearly 30 million visitors to its museums, galleries and zoological park. Additional millions also view the annual Folklife Festival on the Mall and Smithsonian traveling exhibitions, which appear across the United States and abroad. As custodian of the National Collections, the Smithsonian is responsible for more that 130 million art objects, natural history specimens, and artifacts. These collections are displayed for the enjoyment and education of visitors and are available for research not only by the staff of the Institution, but also by hundreds of visiting students, scientists, and historians each year. Other significant study efforts draw their data and results directly from terrestrial, marine, and astrophysical observations at various Smithsonian installations.*

In recent years the Smithsonian Institution's Federal base has eroded as a result of cumulative unfunded inflationary costs, increased FERS and health insurance costs, and several across-the-board funding reductions. To absorb these costs, the Smithsonian has held museum positions vacant; reduced essential support for research, collections management, and exhibitions; and deferred facilities maintenance throughout the Institution.

In the fall of 1992, to correct these base erosion problems and meet the funding limitations required by the FY 1993 appropriations act, the Institution began a comprehensive reorganization and restructuring process to ensure adequate funding for core responsibilities. This process focused on eliminating activities no longer central to the institution's mission and the streamlining of other activities. The first phase of the multi-year restructuring plan was approved by Congress and implemented in FY 1993.

The proposed Penny-Kasich two percent reduction a year for five years—over $6 million to the Institution's FY 1994 anticipated operating (S&E) appropriation—following so soon after the difficult restructuring decisions of phase 1 would severely threaten the Institution's ability to continue this process in a planned, orderly manner. In the subsequent phases of the restructuring plan, the institution must maintain stable levels of basic programs and support services.

Should such a reduction occur, the following could result in FY 1994: the closing of museum galleries or reduction hours open to the public; closing of the National Zoo to the public one day a week; reduction of public services and outreach programs that serve wider audiences; curtailment of long-term research projects for which continuity is the defining element of the activity; "mothballing" some telescopes and eliminating associated research at the Smithsonian Astrophysical Observatory; loss of momentum in development of the National Museum of American Indian, especially in the National Campaign; reduction of collection management activity, including curtailing acquisitions and deferring artifact restorations; reduction of Smithsonian Institution Traveling Exhibition Service's subsidized exhibits for resource-poor,emerging ethnic communities; reduction or elimination of curatorial and research-related travel and reduction of administrative activities, including, slowing installation of accounting system designed to strengthen internal controls; reducing safety training and safety inspections.

In subsequent years, should the reduction plan be enacted, the Smithsonian, with over 75 percent of its Salaries and Expenses budget devoted to salaries and the uncontrollable costs of utilities and security, would be unable to function as the public Institution we have known and revered.

PENNY-KASICH BIPARTISAN TASK FORCE BUDGET PROPOSAL—PHASE IN 10-PERCENT REDUCTION FOR THE ARTS AND HUMANITIES

Proposal: Federal funding for the Smithsonian Institution should be reduced by 2 percent each year from FY 1994 through FY 1998.

Justification: Because many arts and humanities programs benefit higher-income people, much of the loss in federal funds could be made up through admission fees of(sic) private contributions.

Smithsonian Response: The proposal outlined in the Penny-Kasich plan for a ten percent reduction in federal funding from FY 1994 through FY 1998 would do irreparable damage to the national museum and research complex. The Institution has already undergone a significant restructuring and reassessment of its priorities. However, the Institution's mandatory costs continue to increase beyond Federal annual budget allocations. Unlike most federally funded agencies, the Smithsonian must assume the cost of rent, utilities, maintenance and renewal of facilities. The Institution's federal appropriation each year goes almost exclusively for the operation of the museums, the care and conservation of the collections, and programs which relate the collections to the public.

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*From House Report accompanying Department of the Interior and Related Agencies Appropriations Bill, 1994, updated.

The Institution's policy, as it has been since its inception, is to charge no admission fees to its museums. As the national museum, it is strongly held by the Board of Regents that the collections belong to the citizens of the United States and that they should be accessible to all equally. Contrary to the assertion made by the Penny-Kasich supporters, survey data demonstrates that the nearly 30 million individuals who visit the Smithsonian each year come from all income and demographic groups, all geographic areas of the country and from all racial and ethnic backgrounds. The Smithsonian is truly the epitome of an egalitarian cultural and educational institution. Any implementation of admission fees will invariably affect the ability of some of our citizens to enjoy their nation's history and culture through limiting access to the national collections.

Similarly, it is strongly held by the Institution's visitors that the Smithsonian, which receives support through their federal tax dollars, continues to operate without resorting to admission fees. The roughly $330 million dollars of federal funds expended each year for Smithsonian operations is viewed as a worthwhile and prudent expenditure of public funds when viewed against other federal programs.

While the Institution continues to seek a greater share of funds through private contributions, this will never replace the need for a steady and predictable level of support from the Federal government for basic operations and maintenance.

Mr. MURTHA. Mr. Chairman, my concern about the Penny-Kasich package, and I have great regard for both the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH], even though they say that there are no lower caps, there will be lower budget caps under their proposal. Our experience is that when we propose lower caps, then half the cut will be in defense and the other half of the cut will be in discretionary domestic spending. That means we would have an additional $23 billion in cuts in the next 5 years for defense. We would send the opposite signal that we want to send.

Members can say we are going to negotiate this out in conference, but believe me, what we will be voting on now is a $23 billion cut in defense. Mr. Panetta, the distinguished Budget Director, has sent a letter that says, "There will be no walls to protect defense." Defense has been the one area that has cut spending more than any other. Over the last 2 years we cut $30 billion out of defense.

Mr. Chairman, we are on the edge of having a hollow force. Any additional cuts would be disastrous for the military. Mr. Chairman, I would urge the Members to consider very carefully to vote no on the Penny-Kasich amendment.

Mr. McDADE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY], a member of our leadership.

Mr. DELAY. Mr. Chairman, I grew up on a farm and raised pigs. I can remember when you would go after those little piglets and you would catch one of them, they would just squeal and they would just squeal. Listening to this debate is like catching one of those pigs. Everybody that has been caught is just squealing and squealing about all of these cuts.

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Let me talk just a minute about why they are squealing. What has happened here is the President introduced the reinventing Government plan. Not only does the plan as introduced not save the $9 billion that the administration claims, but the CBO calculated its net savings to amount to a paltry $350 million. No wonder they are squealing.

Most of the Sabo-Clinton savings in the Sabo amendment come from the Kasich work force reduction, so they are squealing. They got caught by pilfering some of the Kasich plan.

Then the Democrat-controlled committees in the House reinvented Government just a little bit more. The result of their handiwork ended up costing more money rather than saving money, and they squealed again.

When they introduced a package, the package was intended to cut $9 billion and ends up producing a proposal that will cost the taxpayers an additional $1.3 billion.

Well, Mr. Chairman, even the Democrats realized that they could not bring up such a flawed package to the floor and keep a straight face. The new proposal, the Sabo proposal claims to cut spending by some $40 billion. But let me tell the American people, these claims are phony. Under the Sabo amendment, how much of our deficit is reduced? Not one single penny. All the money cut under this proposal is free to be spent on more Government bureaucrats and more programs. Right here, this dollar of mine that I am holding will amount to more cuts than the Democrats have presented with the Sabo-Clinton amendment of pretend reductions.

Thanks to the Clinton tax bill passed by the Democrats in this Congress, taxes will be raised by $250 billion, spending will increase by $300 billion a year in the fifth year, and the Federal Government will spend over $8 trillion over the next 5 years. Those are real tax dollars being raised; that is real spending that is being cut. And what the Democrats have proposed and are voting on today with the Sabo amendment are phony cuts, phony deficit reduction.

The Penny-Kasich plan is real. That is why they are squealing. It is real. For the first time since I have been in Congress we have a real package here that has a real chance of passing. And we have a real chance of reducing the deficit.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. HINCHEY. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I rise in opposition to the amendment. I agree with its proponents that the subject of the debate today is the future, the future of our Nation, and the future of our children. I agree with them that the specific provisions of this proposal speak to the future. But I do not like what they say.

They say that our future should be smaller and dimmer. They say that it is time to abandon at least some of our hopes, and some of our dreams. They say that it is better to stay in a cramped, drafty, creaking house than to take the risk of taking out a slightly larger mortgage. They say it is time to discard many of the promises we have made to our citizens—to our children and our parents alike. That is a fine lesson for our children.

Let us look at some of the particular targets of this proposal. Perhaps more than anything else in the Federal budget, research spending promises us a better future. We may be inclined to take the benefits of research for granted, but how many of us could honestly say that our lives have not been improved by the results of federally sponsored research? So we find that research is a particular target. The authors of this proposal try not to discriminate: they cut space research, but they cut medical research by the same percentage. Just last week in the debate on NAFTA, we heard many voices inside this Chamber and outside it insist that the future of our Nation lies in research and new technology. And here we are just a few days later considering how we can cut back on it.

Any of us who have ever lived in creaky old houses know that some spending is necessary and sensible. We know that it is a good idea to install new mechanical systems, and to make use of new technology. We know that it will save us money in the long run, by improving our efficiency our enhancing the value of our house. Millions of people are ready and willing to borrow to finance sensible improvements. But this proposal says we should stick with the same old plumbing. To mention just one example, it proposes to terminate funding for Maglev rail. Maglev may be expensive—just like that new plumbing. But it promises us a much more efficient means of transportation. Would we really be better off as a nation today if we had decided 50 years ago that interstate highways and jetports were just too expensive, and that we would do just as well if we drove into the future on a two-lane blacktop? I don't think so.

We can all agree that if there is one thing we want for our own children and for the children of this Nation, it is a good education. So education spending becomes another target of the proposal. It cuts Federal support for universities by cutting support for research, as I have already mentioned. It cuts support for elementary and secondary education programs.

It cuts programs to help the disadvantaged. What kind of message are we sending with this? Are we telling our children that we do not really mean it when we tell them to get the best education they can? Are we telling them we would really rather they drop out of school, so that we could cut school spending some more? Are we telling them education is a good idea, but we don't want to invest any money in it? I think we are.

I have heard it said that we should make these cuts because of our children, because we should not burden them with debt. Yet our higher education programs are based on the principle that our children should burden themselves with debt in order to improve their future. Which one do we mean? Are we telling our young people that they should not go to college, because college requires spending? I hope not—but that is how it sounds to me.

Some will say that the cuts in education are only a small part of this proposal, and that is true. They will further say that it helps young people, since its chief target is benefits for older people—Medicare and pension benefits, specifically. They will say they are really young people, since it is unfair to make our young people assume the burden of assisting their elders. And surely, some young people will welcome that message.

But in fact, this is just another form of the same message about our future and about their future. It is a dark message. It is a message that they can expect to stay in that same old, creaky house for the rest of their lives. The cuts proposed in Medicare tell them first that the Government can make the promises made to them, and it will break them, it will reserve the right to increase their burdens when they are old and sick and no longer able to work. But it sends them a more immediate message too. Those Medicare savings cut into the pool of money that could be used to finance a universal health care program. Are we going to scuttle that plan right now? Are we going to tell our young people, and our working families, that their hopes for health security can we be tossed out the window right now? I hope not.

The final argument for this amendment has been that it is the responsible thing to do, even if it is unpleasant, even if it does narrow our horizons, even if it does dampen our hopes. But again, I see it as the opposite. To me, its message is irresponsible. The cuts named in this plan are being called savings. But what about the costs? Who will pay for the cuts in Medicaid, for example? Will the costs be passed along to State and local government? What about the cost of cutting into child care? Will they be borne by working families? Will they force people to give up their jobs?

The problem is not that the amendment cuts Government spending. We all have our ideas on how Government spending can and should be cut. The problem is how it cuts spending. The bill we have before us cuts spending in responsible ways. It was the product of a careful review, and it genuinely targets unnecessary spending. Those cuts are sensible ones, ones that will not increase costs in other ways, cuts that will not compromise our future.

Every action, the physicists tell us, has an equal and opposite reaction. That is true of what we do here as well. These cuts are not without consequences. We know that our failure to fix the plumbing or repair the roof in an aging house is not really a savings. We know it will have consequences, and we know it will only increase costs later. Before you vote for this proposal take a long and hard look at the consequences. Cutting spending should not be an end in itself. It certainly is not an end in itself in managing our own affairs. We know enough to fix the roof, to visit the doctor and take our pills even when it means a cash outlay. Look at the true costs of this package. I believe they greatly exceed the true savings.

Mr. DURBIN. Mr. Chairman, I could address the specifics of the Penny-Kasich amendment and what it does in the areas of my jurisdiction in appropriations, how it takes 60,000—60,000 low-income pregnant women and children off the WIC Program. We could speak about the fact that it will reduce Medicare benefits and increase Medicare premiums. We could talk about the burden that is being shifted by mandates to the States for the payment on Medicaid. But I will not. I would rather address the much larger issue.

Because of our budget deficit reduction plan which we adopted several months ago, significant changes in Federal spending will already occur. Discretionary spending will be going down. Most entitlement programs will go up very gradually.

But, if Members look on the chart, they will find that there is one area of Federal spending which will increase dramatically, and that is in the area of Medicare and Medicaid. We understand, as President Clinton understands, that the real answer to deficit reduction goes beyond cutting some spending into the area of policy change, into the area of real health care reform, into the area not only of security for American families knowing that they have health care protection, but reform in the system to cut out the waste, to bring everyone in under an insurance plan.

Now Mrs. Clinton and the President have put together a proposal, and we will be debating it at length during the next year. I would suggest to my colleagues to resist the easy impulse to vote for Penny-Kasich so that they can go home over the break and say we cut the deficit, because I will tell Members, when we come back to work next year, if Penny-Kasich prevails, the money that they have removed from Medicare will make our job twice as difficult to bring real health care reform to America. This is President Clinton's health care reform plan. The Penny-Kasich amendment will cut the guts out of it, and then say to Congress go ahead and try and put it back together.

So then what do we tell the American people who are waiting for health care reform? Will the Republicans join us and say let us raise taxes? I doubt it. What cuts are they going to propose then in Medicare? It becomes increasingly difficult.

It is my belief that this Congress will not be judged on whether or not we have reduced the deficit on the margins, but rather whether we have been behind real health care reform, which will mean real deficit reduction for generations to come.

Mr. McDADE. Mr. Chairman, I am delighted to yield 2 minutes to the able gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise today in support of the common cents amendment, otherwise known as the Penny-Kasich bill.

It would be a lot easier in some ways for me to rise in opposition to this amendment because yes: it makes cuts that will impact all of our constituents. And it reduces spending in Federal programs that are apparently near and dear to the hearts of dozens of special interest groups. In fact, I have received so many letters from national organizations that I began to keep a list—in the past 4 days alone, 62 groups have written to ask me to oppose Penny-Kasich. We've all heard from them. Many of these groups are well-known and respected nationally—collectively, they represent millions of members nationwide.

From reading these letters, my colleagues might begin to believe that members of these groups will suffer irreparable harm from the reductions, consolidations and freezes contained in the amendment.

I guess the intent of these groups is to scare us away from supporting this timely budget-cutting measure. But rather than being scared, I am perplexed. Why? Because I have studied my colleagues' plan and know that it's provisions are reasonable and balanced: in fact, as we've heard on the floor this afternoon, the overall impact is a modest cut of less than one penny on each dollar of Federal spending over the next 5 years. That's right, just one penny—let's keep the debate on Penny-Kasich in perspective. What's really frightening is the prospect of continuing deficit spending at the current rate of $200 to $300 billion per year, adding to a debt exceeding $4 trillion. What's really scary is the knowledge that our children will soon be faced with interest payments on the debt that exceed spending on just about any other part of the Federal budget. The most alarming aspect for me is that we might not take advantage of this one-time chance to vote for a real, bipartisan deficit reduction measure.

I willingly admit that it can be uncomfortable to support some of the reductions proposed in this amendment. There are some provisions which—standing alone—I would not personally support; however, on balance, this plan is fair and effective and gives us an opportunity to show the American people that Congress still has a little common sense left. It is far less frightening to vote for Penny-Kasich than against it.

Mr. MCDADE. Mr. Chairman, I am delighted to yield 2 minutes to the able gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding. I would like to point out that my fellow buckeye's name is KASICH, which is easy to remember because it rhymes with basic.

Mr. Chairman, this really is unbelievable. The President induces, he lures Congressman PENNY and other like-minded Democrats into voting for the biggest tax increase in history by promising them that there is going to be a vote, a real vote on spending cuts later in the session.

In fact, we do have a vote that we are going to have this afternoon now based on those spending cuts, and yet the President is working as hard as he knows how to defeat the very vote that he promised. And who is collaborating with him in this defeat but those gentlemen and gentlewomen that I call, in the words of Tom Wolfe in his book "Bonfires of the Vanities," the masters of the universe.

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These are the appropriators, the people that really control the spending on both sides of the aisle. They have gotten together and they have decided that, well, it is like not this NAFTA, not this spending cut, and yet we talk about this thing as though there are spending cuts at all. The fact is we are going to increase spending by 20 percent, 20 percent over the next 5 years.

We are talking about reducing the amount that we will increase it by 1 percent instead of a 20-percent increase over the next 5 years annually, a 19-percent increase, and yet somehow this is going to destroy our economy; it is going to ruin the lives of the elderly and the poor and every single trumped-up excuse that you can find to not vote for this is being brought out.

It truly is unbelievable that when there is a genuine opportunity to have some real spending constraints, and I cannot use the word "cuts" because cuts does not describe what happens; spending constraints that everybody gets up in arms and says, "No, not in my district; no, not on my project; no, not for me."

And what it really belies, it is a study in what is wrong with Washington and what is wrong with this Congress, because here are the letters I have received in the past 2 days. These are special-interest letters.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Chairman, I rise in strong opposition to the amendment offered by Representatives PENNY and KASICH for a number of reasons.

First, this amendment contains billions of dollars in unspecified cuts. Tens of billions of additional dollars in discretionary program cuts would be required to fit within the severe spending caps the plan would establish in law! Existing caps are already tight, leaving little or no room for program growth or even program stability. Cutting our discretionary programs by at least another $35 billion makes no sense until we see specifically HOW we're going to get there and who is affected.

Second, this amendment proposes massive policy changes in addition to deep budget cuts. I am very concerned about an amendment that proposes extreme policy changes without hearings, without oversight by committees and without regard for constituencies.

Third, this amendment poses severe threats to vital domestic programs. If enacted, it would likely doom all but a fraction of our important investment proposals in high priority program areas ranging from education and training to WIC and Head Start, and from environmental initiatives to infrastructure improvements.

The increased fiscal pressure created by the Penny-Kasich proposal will result in further, deeper cuts in health programs devoted to biomedical and behavioral research, training health care professionals, disease prevention and health promotion, and the delivery of health care services to children and other medically underserved populations.

This amendment is a vote against any significant federal investment in education over the next 5 years. A substantial investment is needed in the next several years if we are to ensure that every child living in poverty has the opportunity to achieve the high levels of performance expected of all students.

Yet this amendment proposes to eliminate four education programs. Let me give you an example: One of these programs is the Follow Through Program. Follow Through creates partnerships between schools, communities, and education specialists, and facilitates high levels of parent and community involvement in all aspects of the child's education and development. Follow Through reaches out to bring many comprehensive services into the schools and homes of high-risk children and their families. At-risk children in Arizona are having a successful experience because of Follow Through. This program focuses on prevention of failure rather than treatment after the failure occurs, providing a high-quality, full-day instructional program based on the best educational practices. The Follow Through Program has succeeded in helping hundreds of Arizona children stay in school and to perform well in the classroom.

Here is another example: This amendment would eliminate the Public Telecommunication Facilities Program which is the source of funding for the American Indian Higher Education Consortium telecommunications planning project. This project is essential for bringing distance-learning resources to economically and educationally disadvantaged Native American people. It will provide the basis for linking the educational resources of the tribal colleges in order to provide more adequate and more cost-effective services to various tribes. Native American people must not be left behind as the American Nation develops the information superhighway.

This amendment also would mean that:

First, training and retraining programs for Americans would have to be trimmed while our world competitors are redoubling their commitments; and second, investments in school reform and higher education would have to be placed on the back burner.

If the United States is to maintain its competitiveness in an increasingly global economy, it must invest in education. We must defeat legislation which will deny us this important investment in the future.

It is because of these major concerns that I am opposing and urge my colleagues to oppose this Penny-Kasich amendment.

Mr. MCDADE. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I think that the American people need to understand the context of what is happening here today. In Congress Daily it was reported today that a cleverly structured rule was put forth designed to make it harder for the Penny-Kasich bill to pass.

Why was that rule designed? If you recall the fight we had over the President's tax package when it passed, it was put forward as a deficit-reduction package, but the American people found out very quickly it was all taxes this year with the net result an increase in spending and a promise sometime in the next 4 years that there would be some cuts. And the American people said, "Cut spending first, because we are tired of being told to increase taxes first and then hope for the cuts in the future."

The pressure got so strong that almost immediately there were promises, "We will vote on some cuts this year. We will vote on some cuts this year."

Now is the day, the very last day of this session; we have got the chance for that vote, and the administration that promised that vote and the leadership that put forward the tax proposal are now trying to make it harder for that vote on those cuts to pass.

One of the more difficult problems of this is that with regard to every proposal that we will vote on today, except the Penny-Kasich proposal, even if they pass, they do not reduce the budget caps.

Around here in Washington you can vote to cut programs and projects, and if you succeed, all that happens is that particular program or project goes away. The money stays available, because the caps are not reduced, and the money can be spent in future years and by other groups.

What we need is to look to a real bill like the Penny-Kasich bill that cuts not only the caps, the budget, but the caps as well so that Congress cannot respend that money and all other proposals put forth as a substitute for Penny-Kasich fail to have that provision.

We are asking that we cut just 1 penny on the dollar for the next 5 years. This is a vote that Congress cannot ignore.

Let us vote not to cut that 1 penny on the dollar but let us vote to make the cuts count.

Mr. McDADE. Mr. Chairman, I yield the remainder of my time, 30 seconds, to my friend, the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, I will try to talk fast.

I think we should remind ourselves why we are here. It is because a lot of Members of Congress and a lot of Americans were concerned about the way we overspent and overtaxed in the budget this last summer.

We are going into debt faster than we have ever gone into debt, going from $4.3 trillion to $6.2 trillion in the next 5 years.

This is an opportunity to say to future generations we are concerned about this overspending; we are going to slow down on this credit-card mentality, and even though we can think of a lot of good things to do, we are going to stop borrowing so much money and start living within our means.

Mr. NATCHER. Mr. Chairman, I yield the balance of our time to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, there are lots of cuts in Penny-Kasich which I personally favor, but that amendment has two problems.

First of all, we have to cut $56 billion over 5 years in discretionary spending simply to reach the saving levels that we promised in the budget. Yet Penny-Kasich says they are going to cut some more.

The problem is that the programs that they identify for cuts are the same programs that we are going to have to cut in order to get to the original promised cuts. It absolutely makes no sense to pretend that we can apply those cuts to new promised savings before we keep the promises that we made just a few months ago.

Second, Penny-Kasich effectively sandbags health care reform. It uses up Medicare funds which the President is going to need in order to finance health care reform, and everybody knows it.

And last, it does it in a way which winds up being very unfair for senior citizens. The way they apply part B cost increases to the senior citizens, which they target, would require many senior citizens to pay part B costs which would be 183 percent of what it costs the Government to provide those services in the first place. That clearly is not fair.

The CHAIRMAN pro tempore (Mr. VENTO). The gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes.

Is the gentleman from North Carolina [Mr. MCMILLAN] opposed to the Sabo amendment?

Mr. MCMILLAN. I am opposed to the Sabo amendment, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from North Carolina [Mr. MCMILLAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of myself and the following Members: the gentlewoman from Florida [Mrs. THURMAN], the gentlewoman from Missouri [Ms. DANNER], the gentleman from Ohio [Mr. STRICKLAND], the gentlewoman from North Carolina [Mrs. CLAYTON], the gentlewoman from California [Ms. WOOLSEY], the gentlewoman from Georgia [Ms. MCKINNEY], the gentlewoman from California [Ms. ROYBAL-ALLARD], the gentleman from Georgia [Mr. BISHOP], the gentleman from New Jersey [Mr. MENENDEZ], the gentlewoman from New York [Ms. VELÁZQUEZ], the gentleman from Washington [Mr. KREIDLER], the gentleman from Washington [Mr. KREIDLER], the gentleman from South Carolina [Mr. CLYBURN], and the gentlewoman from Arizona [Ms. ENGLISH].

Mr. Chairman, I am pleased that the Committee on Rules has made in order the vote on the Sabo plan which saves more than $37 billion over the next 5 years. The amendment includes the rescission bill as reported by the Committee on Appropriations, adds the Government Reform and Savings Act, which modifies and codifies the $252,000 reduction in Federal civilian employment which was recommended by the President.

It includes 40 reforms in Government organizations or procedures. For a number of these changes, no savings are claimed, but they will serve to make government work better and can result in eventual savings.

Lost in this debate has been the fact that the Congress has already voted significant deficit reduction this year, and frankly, most of the folks today who claim they want to vote for deficit reduction voted no.

We voted a $500 billion package over 5 years. It is real. Spending cuts and new revenues focused on the very wealthy in this country, which the Republicans did not like, and the cuts enforced by discretionary entitlement spending cuts.

The difficulty of what we have done is already well known. Significant cuts had to be made this year to meet the 1994 discretionary caps. During this year's appropriations process, Congress voted to cut hundreds of specific programs and projects below last year's level yielding more than $34 billion in savings.

SPECIFIC BUDGET CUTS VOTED BY CONGRESS IN 1994 APPROPRIATIONS ACTS

Bill/Program/Project	Below fiscal year 1993
AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG AND RELATED AGENCIES APPROPRIATIONS ACT (P.L. 103–111, SIGNED OCTOBER 21, 1993)	
Department of Agriculture	
Advisory committees	−$12,000
Hazardous waste management	−198,000
Office of Public Affairs	−355,000
Economic Research Service	−3,501,000
Agricultural Research Service—building and facilities	−1,771,000
Cooperative State Research Service:	
Special research grants—24 grants eliminated totaling $4,639,000	−494,000
Weather Information Center (ND)	−400,000
Maize Research Center (ND)	−400,000
Extenson Service:	
P.L. 100–219 pilot projects	−2,550,000
Project future (MN)	−250,000
Rural education pilot (ND)	−846,000
Rural health infrastructure (AL)	−200,000
Animal and Plant Health Inspection Service:	
13 items reduced or eliminated	−1,434,000
Buildings and facilities	−255,000
Agricultural Cooperative Service	−1,047,000
Dairy indemnity program	−5,000
Federal Crop Insurance Corporation:	
Administrative and operating expenses	−19,832,000
FCIC fund	−50,000,000
Soil Conservation Service: Watershed and flood prevention operations	−49,629,000
Agricultural Stabilization and Conservation Service:	
Water bank program	−10,620,000
Emergency conservation program	−33,000,000
Rural Development Administration	−5,200,000
Farmers Home Administration: Rural Housing Insurance Fund:	
Credit sales of acquired property	−1,226,000
Salaries and expenses	−30,491,000
Rental assistance (sec. 502(C)(5)(D))	−5,960,000
Self-help housing land development fund	−7,000,000
Agricultural Credit Insurance Fund:	
Farm operating loans:	
Direct	−28,330,000
Guaranteed unsubsidized	−8,790,000
Soil and water loans:	
Direct	−1,277,000
Guaranteed	−12,000
Indian tribe land acquisition loans	−29,000
Emergency disaster loans	−10,206,000
Administrative expenses	−233,000
Rural Development Insurance Fund:	
Water and sewer direct loans	−7,117,000
Industrial development loans	−8,531,000
Administrative expenses	−14,000
Agricultural Resource Conservation Demonstration Program	−45,000
Very low-income housing repair grants	−2,500,000
Emergency community water assistance grants	−50,000,000
Rural Electrification Administration	
Direct loans:	
Electric 5 percent	−96,944,000
Telephone 5 percent	−31,059,000
FFB loans (regular electric)	−32,298,000
Office of the Administrator	−243,000
Food and Nutrition Service:	
Food donations on Indian reservations	−12,960,000
The Emergency Food Assistance Program	−45,000,000
Foreign Agricultural Service: Market Promotion Program	−47,734,000
Public Law 480 Program: Debt restructuring	−40,000,000
Office of International Cooperation and Development	−643,000
Department of the Treasury	
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	−21,918,000
Bill total	−665,566,000
COMMERCE, JUSTICE, STATE AND JUDICIARY APPROPRIATIONS ACT (P.L. 103–121, SIGNED OCTOBER 27, 1993)	
Department of Justice	
General administration—FTE reductions	−6,168,000

SPECIFIC BUDGET CUTS VOTED BY CONGRESS IN 1994 APPROPRIATIONS ACTS—Continued

Bill/Program/Project	Below fiscal year 1993
Quantico Training Center	−7,700,000
Office of Inspector General	−622,000
United States Parole Commission	−186,000
General legal activities—FTE reductions	−18,504,000
U.S. Attorneys—FTE reductions	−23,316,000
U.S. Marshals—FTE reductions	−9,946,000
Community Relations Service—FTE reductions	−2,096,000
Interagency law enforcement: Organized crime drug enforcement	−2,867,000
Federal Bureau of Investigation—FTE	−65,415,000
Drug Enforcement Administration—FTE reductions	−22,413,000
Immigration and Naturalization Service—FTE reductions	−8,906,000
Federal Prison System:	
Salaries and expenses—FTE reductions	−24,906,000
National Institute of Corrections	−39,000
Related agencies	
Federal Communications Commission	−40,100,000
Securities and Exchange Commission	−57,679,000
Department of Commerce	
National Institute of Standards and Technology: Construction of research facilities	−43,314,000
National Oceanic and Atmospheric Administration:	
Fishing vessel obligations guarantee	−11,000
Fishing vessel and gear damage fund	−33,000
Fishermen's contingency fund	−26,000
Foreign fishing observer fund	−15,000
Operations, Research and Facilities Account:	
National Ocean Service: Mapping, Charting, and Geodesy:	
Mapping and charting	−800,000
Automated Nautical Charting System II	−200,000
Great Lakes mapping project	−465,000
Geodesy—Land information system (multi-purpose cadastre)	−474,000
Observation and assessment:	
Observation and prediction:	
Circulatory Survey Program	−38,000
Institute for Marine Engineering	−500,000
COAP	−56,000
Estuarine and coastal assessment:	
S. Carolina wetland management demonstration	−1,300,000
Marine protective structure	−100,000
N.Y. Harbor water quality model	−75,000
Coastal ocean science:	
Coastal Ocean Program	−1,000,000
Maui algae bloom crisis	−400,000
National Marine Fisheries Service:	
Information collection and analyses:	
Resource information (Winter run chinook salmon)	−250,000
Information analyses and dissemination:	
Computer hardware and software (IT–95)	−500,000
Conservation and management operations:	
Fisheries Management Program:	
Columbia River smolt	−12,000
International Fisheries Commission	−300,000
Pribilof Islands	−300,000
State and Industry Assistance Programs:	
Grants to States: Interjurisdictional fisheries	−83,000
Fisheries Development Program:	
Fish oils	−900,000
Hawaiian fisheries development	−18,000
Oceanic and Atmospheric Research:	
Oceans and Great Lakes programs:	
Marine prediction research:	
Greak Lakes nearshore research	−300,000
SE US FOCI Program	−500,000
Sea grant, National Coastal R & D Institute	−200,000
National Weather Service:	
Operations and research:	
Local warnings and forecasts:	
Data buoy engineering and test	−518,000
Contract observers	−190,000
Samoa	−40,000
National Environmental and Satellite, Data, and Information Service: Environmental data management systems	−346,000
Program support:	
Administration and services:	
Marine services:	
Maintain S.E. marine facility	−258,000
Marine electronics agenda	−700,000
New England Science Center	−186,000
Bureau of the Census: Periodic censuses and programs	−63,300,000
Export Administration	−6,268,000
The Judiciary	
Care of the buildings and grounds	−470,000
Administrative Office of the U.S. Courts	−200,000
National Commission on Judicial Discipline and Removal	−443,000
United States Sentencing Commission	−532,000
Related agencies	
Christopher Columbus Quincentenary Jubilee Commission	−200,000
Commission on Agricultural Workers	−578,000
Small Business Administration:	
Office of Inspector General	−338,000
Business Loans Program Account:	
Direct loans subsidy	−3,533,000
Guaranteed loans subsidy	−192,879,000
Administrative expenses	−12,364,000
Disaster Loans Program Account:	
Direct loans subsidy	−60,000,000
Administrative expenses	−1,899,000
Surety bond guarantees revolving fund	−6,020,000
Thomas Jefferson Commemoration Commission	−38,000
Department of State	
Administration of Foreign Affairs:	
Diplomatic and consular programs and salaries and expenses	−32,724,000
Buying power maintenance	−14,000,000
Office of Inspector General	−586,000
Representation allowances	−120,000
Protection of Foreign Missions and Officials	−263,000
Acquisition and maintenance of buildings abroad	−160,500,000
New Diplomatic posts	−25,000,000
Emergencies in the Diplomatic and Consular Service	−195,000
Repatriation Loans Program Account:	
Direct loans subsidy	−31,000
Administrative expenses	−10,000
Payment to the American Institute in Taiwan	−378,000
International Organizations and Conferences:	
Contributions to International Organizations (arrearage payments)	−92,719,000
Contributions for International Peacekeeping Activities	−36,716,000
Arrearage payments	−21,992,000
International Commissions:	
International Boundary and Water Commission, U.S. and Mexico:	
Salaries and expenses	−130,000
Construction	−390,000
American Sections, International Commissions	−113,000
Other:	
United States Bilateral Science and Technology Agreements	−225,000
Payment to the Asia Foundation	−693,000
Russian, Eurasian, and East European Research and Training Program	−4,961,000
Related agencies	
Arms Control and Disarmament Agency	−2,500,000
Board for International Broadcasting	−10,000,000
United States Information Agency:	
Salaries and expenses	−6,693,000
Office of Inspector General	−143,000
Israeli Arab Scholarship Program	−238,000
Radio construction	−28,483,000
Broadcasting to Cuba	−7,531,000
Russian Far East Technical Assistance Center	−2,000,000
Bill total	−1,143,667,000
DEFENSE APPROPRIATIONS ACT (P.L. 103–139, SIGNED NOVEMBER 11, 1993)	
Military Personnel	
Army	−1,942,280,000
Navy	−897,614,000
Marine Corps	−208,681,000
Air Force	−2,699,933,000
Reserve Personnel, Army	−21,349,000
Reserve Personnel, Navy	−97,400,000
Operation and maintenance	
Navy Reserve	−87,608,000
Army National Guard	−25,204,000
National Board for Promotion of Rifle Practice, Army	−217,000
Court of Military Appeals, Defense	−45,000
World Cup USA 1994	−3,000,000
World University Games	−6,000,000
Procurement	
Aircraft, Army	−120,956,000
Weapons and Tracked Combat Vehicles, Army	−32,572,000
Ammunition, Army	−358,815,000
Other, Army	−154,287,000
Aircraft, Navy	−321,993,000
Weapons, Navy	−773,977,000
Shipbuilding and Conversion, Navy	−1,783,212,000
Other, Navy	−2,621,094,000
Marine Corps	−383,391,000
Aircraft, Air Force	−3,366,351,000
Missile, Air Force	−470,354,000
Other, Air Force	−49,274,000
Defense-wide	−152,019,000
National Guard and Reserve Equipment	−367,200,000
Research, development, test and evaluation	
Army	−605,314,000
Navy	−564,595,000
Air Force	−884,644,000
Defense-wide	−961,221,000
Developmental test and evaluation, Defense	−27,250,000
Operational test and evaluation, Defense	−333,000
Revolving and management funds	
Defense business operations fund	−21,505,000
Other Department of Defense programs	
Defense Health Program—Procurement	−20,135,000
Chemical Agents and Munitions Destruction, Army—Procurement	−176,714,000
Drug Interdiction, Defense	−272,451,000
General provisions	
FFRDC's (sec. 8064)	−200,000,000
Bill total	−20,678,988,000
ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT (P.L. 103–126, SIGNED OCTOBER 28, 1993)	
Corps of Engineers	
Flood Control, Mississippi River and Tributaries	−2,300,000
Bureau of Reclamation	
Construction Program	−6,100,000
Department of Energy	
National Renewable Energy Laboratory	−600,000
Solar Energy Research Facility	−4,100,000
Electric energy systems materials research	−1,200,000
Energy thermal storage	−4,400,000
Nuclear light water reactor	−900,000
Advanced reactor R&D	−17,600,000
Advanced radioisotope power systems	−1,900,000
Nuclear facility operations	−81,800,000
Nuclear facility equipment	−2,200,000
Nuclear facility construction	−3,200,000
Nuclear policy and management	−22,500,000
Spent fuel storage	−4,000,000
Biological and environmental research	−6,600,000
Biological and environmental equipment	−5,900,000
Structural biology additions	−1,800,000
Biomedical isotope facility	−600,000
Fusion energy confinement systems	−12,400,000
Applied plasma physicals	−2,700,000
Inertial fusion energy	−4,200,000
Fusion capital equipment	−5,000,000
Materials sciences	−13,200,000
Chemicals sciences	−6,400,000
Engineering and geosciences	−1,600,000
Advanced energy projects	−500,000
Energy biosciences	−900,000
Energy sciences equipment	−1,400,000
Radiation source	−3,400,000
Basic energy sciences facilities	−94,800,000
University program	−8,00,000
Electric system upgrades	−900,000
Multiprogram facilities	−29,200,000
Multiprogram energy labs	−3,100,000
Corrective action energy research	−1,200,000
Low-level waste transfer system	−4,400,000
Uranium mill tailings program	−46,000,000
Waste operations	−34,500,000
West Valley waste management	−10,000,000
Nuclear waste management equipment	−2,300,000
Environmental restoration general purpose facilities	−16,800,000
Uranium enrichment operations	−1,064,600,000
Atomic vapor laser separation	−70,000,000
Uranium enrichment construction	−25,400,000
Uranium enrichment corrective action	−29,700,000
Uranium enrichment environmental restoration	−155,700,000
Uranium enrichment waste management	−31,400,000
High energy physics research	−13,500,000
Accelerator improvement	−2,000,000
High energy technology	−10,000,000
Continuous electron beam accelerator construction	−16,400,000
Superconducting super collider development	−517,000,000
Isotope production and distribution	−1,100,000
Weapons research and development:	
Operating expenses	−141,300,000
Capital equipment	−17,100,000
Construction	−27,100,000
Inertial confinement fusion	−23,900,000
Weapons testing	−16,200,000
Weapons stockpile support:	
Operating expenses	−350,300,000
Capital equipment	−68,500,000
Construction	−81,300,000
Program direction	−48,800,000
Salary reduction	−50,000,000
Materials support:	
Reactor operations	−384,700,000
Processing of nuclear materials	−104,400,000
Supporting services	−47,100,000
Capital equipment	−15,900,000
Construction	−28,300,000
Program direction	−9,500,000
Nuclear safeguards and security	−7,400,000
Security investigations	−9,300,000
New production reactors	−34,000,000
Naval reactors	−47,000,000
Southeastern power administration	−2,700,000
Western area power administration	−48,700,000
Bill total	−3,970,900,000
FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT (P.L. 103–87, SIGNED SEPTEMBER 30, 1993)	
Multilateral Assistance	
International Bank for Reconstruction and Development	−6,359,100
Inter-American Development Bank:	
Paid-in capital	−300,000

SPECIFIC BUDGET CUTS VOTED BY CONGRESS IN 1994 APPROPRIATIONS ACTS—Continued

Bill/Program/Project	Below fiscal year 1993
Fund for Special Operations	−108,000
Multilateral Investment Fund	−15,000,000
Asian Development Bank	−25,000,000
European Bank for Reconstruction and Development	−60,000,000
Bilateral economic assistance	
Development Assistance fund	−225,580,000
Rescission	−5,100,000
Subsaharan Africa Development Assistance Fund	−16,000,000
Private Sector Revolving Fund:	
Operating expenses	−1,347,-000
Subsidy	−4,057,000
American Schools and Hospitals Abroad	−30,000,000
Housing and Other Credit Guarantee Programs:	
Operating expenses	−168,000
Subsidy	−329,000
Agency for International Development	−10,240,000
AID Inspector General	−198,000
Debt restructuring	−43,000,000
Economic Support Fund	−305,438,000
Rescission	−203,000,000
International Fund for Ireland	−104,000
Philippines Assistance Initiative	−40,000,000
Eastern European Assistance Initiative	−10,000,000
Overseas Private Investment Corporation:	
Operating expense	−610,000
Subsidy	−735,000
International Narcotics Control	−47,783,000
International Anti-terrorism	−311,000
Bilateral Military Assistance	
International military education and training	−21,250,000
Foreign military financing program:.	
Grants	−150,721,000
Subsidy	−102,470,000
Special Defense Acquisition Fund	−266,000,000
Export Programs	
Export-Import Bank	−314,000
Bill total	−1,591,522,100
INTERIOR APPROPRIATIONS ACT (P.L. 103–138, SIGNED NOVEMBER 11, 1993)	
DEPARTMENT OF THE INTERIOR	
Bureau of Land Management	
Hazardous materials management	−2,567,000
Resource protection and law enforcement	−5,025,000
Information systems	−1,460,000
Construction	−5,209,000
Land acquisition	−15,674,000
Oregon and California grant lands/timber programs	−4,608,000
Oregon and California grant lands/information systems	−2,355,000
Fish and Wildlife Service	
Eliminate striped bass study	−297,000
Line item construction	−6,122,000
Payment of rewards	−198,000
National Park Service	
Recreation program	−2,000
Natural program	−139,000
Environmental and compliance review	−9,000
Horseshoe Curve NHL (elimination)	−248,000
Johnstown Area Heritage Association	−68,000
Native Hawaiian culture and arts	−250,000
Construction/planning	−16,415,000
Line item construction	−12,115,000
Land acquisition/assistance to States	−161,000
Federal park acquisitions	−22,308,000
Acquisition management	−181,000
United States Geological Survey	
Mapping/advanced cartographic systems	−6,015,000
Geologic and mineral resources/mineral surveys	−1,380,000
Oregon and California grant lands/timber programs	−1,236,000
Minerals Management Service	
OCS leasing and environment program	−3,659,000
Bureau of Mines	
Information and analysis	−1,369,000
Health, safety and mining technology research	−2,982,000
Minerals and materials science research	−1,670,000
Mineral Institutes	−3,499,000
Office of Surface Mining	
Technical services, training and research	−923,000
Bureau of Indian Affairs	
Business development grants	−1,244,000
Water management and development	−1,949,000
Construction/schools	−15,840,000
Aleutian-Pribilof restitution	−1,500,000
Water rights settlements	−162,000
Hoopa-Yurok settlement	−2,502,000
Aroostook land fund	−900,000
Trust of St. George	−500,000
Navajo Rehabilitation Trust Fund	−1,500,000
Territorial and International Affairs	
American Samoa construction grant	−1,047,000
Guam Power Authority loan assistance	−1,206,000
Rongelap studies	−595,000
Office of the Secretary	
Secretary's immediate office	−70,000
Quality assurance	−301,000
Assistant Secretary, land and minerals management	−159,000
Assistant Secretary, fish, wildlife and parks	−124,000
Assistant Secretary, Indian affairs	−27,000
Assistant Secretary, territories	−146,000
Assistant Secretary, policy, management and budget	−69,000
Environmental affairs	−198,000
Office of Personnel	−110,000
Library services	−100,000
Administrative services	−945,000
National Indian Gaming Commission	
Salaries and expenses	−1,040,000
Related Agencies	
Forest Service (Department of Agriculture)	
Pest management	−2,064,000
Forest legacy	−2,967,000
National forest system/minerals and land activities	−21,084,000
Road maintenance	−21,540,000
Timber Sales	−26,793,000
Reforestation	−8,098,000
Soil, water and air operations	−4,010,000
General administration	−6,602,000
Construction/roads	−43,241,000
Range betterment fund	−664,000
Department of Energy	
Fossil Energy Research and Development	
Coal liquefaction	−12,153,000
Flue gas cleanup	−1,153,000
Advanced combustion research	−1,695,000
Heat engines	−4,330,000
Magnetohydrodynamics	−25,503,000
Advanced gasification research	−1,000,000
Oil Shale	−5,571,000
Naval Petroleum and Oil Shale Reserves	
Operation of the reserves	−21,298,000
Indian Health Service (Department of Health and Human Services)	
Indian health facilities/hospital construction	−67,019,000
Office of Navajo and Hopi Indian Relocation	
Operations/relocation	762,000
Smithsonian Institution	
Major scientific instrumentation	−648,000
National Museum of American History	−223,000
Center for Folklife Programs	−190,000
Construction, National Zoo	−2,433,000
Repair and restoration	−193,000
Construction	−6,287,000
National Gallery of Art	
Operation and maintenance of buildings and grounds	−504,000
Repair and renovation	−700,000
National Endowment for the Arts	
Grants and administration and matching grants	−4,232,000
National Endowment for the Humanities	
Media grants	−726,000
Humanities projects in libraries	−227,000
Institute of Museum Services	
Support for conservation	−288,000
Services to the profession	−96,000
Pennsylvania Avenue Development Corporation	
Public improvements	−658,000
Bill total	−407,044,000
LEGISLATIVE BRANCH APPROPRIATIONS ACT (P.L. 103–69, signed August 11, 1993)	
Member clerk hire	−3,000,000
Committee employees	−6,000,000
Franked mail	−7,700,000
Printing	−1,200,000
Congressional Research Service	−573,000
Botanic garden	−1,900,000
Library of Congress	−913,000
Copyright Office	−100,000
General Accounting Office	−4,400,000
Bill total	−25,786,000
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT (P.L. 103–112, signed October 21, 1993)	
Department of Labor	
Training and Employment Services:	
Job training	−45,000,000
Youth Fair Chance	−25,000,000
Mine Safety and Health Administration: Program administration	−4,519,000
Department Management:	
Executive direction	−925,000
Administration and management	−158,000
Chief Financial Officer	−1,979,000
Health and Human Services	
Health Resources and Services Administration:	
Health administration traineeships	−499,000
Geriatric training and research	−838,000
Organ transplantation	−115,000
Centers for Disease Control: Program management	−257,000
Substance Abuse and Mental Health Services:	
Clinical training	−456,000
Treatment Improvement—Campus program	−9,000,000
Treatment Improvement—Critical populations	−1,000,000
Substance abuse—Pregnant women and infants	−6,772,000
Substance abuse—Other programs	−1,000,000
Office of the Assistant Secretary for Health:	
Population affairs: Adolescent family life	−598,000
Health Service Management	−1,000,000
Health Care Financing Administration:	
Rural hospital transition demos, trust funds	−1,704,000
Medicare certification, trust funds	−2,209,000
Education	
Chapter 1: Evaluation and technical assistance	−936,000
Impact Aid:	
Regular "b" payments	−500,000
Payments related to decreased activity (Sec. 3e)	−1,786,000
School Improvement:	
Chapter 2—State block grants	−65,988,000
Drug-free schools—State grants	−129,065,000
Drug-free schools—National programs	−2,000,000
General assistance to the Virgin Islands	−1,228,000
Special Education: Chapter 1 handicapped program	−9,516,000
National Technical Institute for the Deaf: Construction	−158,000
Gallaudet University: Construction	−1,455,000
Student Financial Assistance: Perkins loans—Capital contributions	−7,780,000
Higher Education:	
Student Literacy and Mentoring Corps	−5,270,000
Interest subsidy grants, prior year construction	−660,000
Robert A. Taft Institute	−319,000
National Academy of Science, Space, and Technology	−2,161,000
Howard University: Construction	−6,384,000
College Housing and Academic Facilities: Loan subsidies	−2,973,000
Education Research: Educational partnerships	−4,136,000
Libraries: Foreign language materials	−968,000
Inspector General	−422,000
Related Agencies	
National Commission on AIDS	−1,736,000
Financing Postsecondary Education Commission	−206,000
National Commission to Prevent Infant Mortality	−446,000
Physician Payment Review Commission	−244,000
Railroad Retirement Board—Administration	−1,318,000
RRB Inspector General	−103,000
Soldiers and Airmen's Home—Capital outlay	−1,022,000
Weed and Seed rescissions	−225,000,000
Bill total	−576,809,000
MILITARY CONSTRUCTION APPROPRIATIONS ACT (P.L. 103–110, SIGNED OCT. 21, 1993)	
Military Construction, Air National Guard	−40,068,000
Family Housing, Army	−225,618,000
Family Housing, Air Force	−288,882,000
Family Housing, Defense—Wide	−1,904,000
Base Realignment and Closure, Part I	−402,870,000
Base Realignment and Closure, Part II	−92,290,000
Bill total	−1,051,632,000
TRANSPORTATION APPROPRIATIONS ACT (P.L. 103–122, SIGNED OCTOBER 27, 1993)	
Office of the Secretary	
Immediate Office of the Secretary	−262,000
Office of Public Affairs	−191,000
Executive Secretariat	−65,000
Office of Civil Rights	−32,000
Office of Small and Disadvantaged Business Utilization	−19,000
Office of Intelligence and Security	−265,000
Coast Guard	
Acquisition, construction, and Improvements—other equipment	−12,065,000
Acquisition, construction, and improvements—shore facilities and navigation aids	−27,285,000
Research, development, test, and evaluation	−5,315,000
Federal Aviation Administration	
Facilities and equipment	−229,896,000
Federal Highway Administration	
Surface transportation projects	−221,712,000
National Highway Traffic Safety Administration	
Operations and research	
Vehicle safety and consumer standards	−205,000
New car assessment program	−360,000
Odometer fraud	−100,000
Emergency medical services	−907,000
Jackson Memorial trauma center	−2,250,000

SPECIFIC BUDGET CUTS VOTED BY CONGRESS IN 1994 APPROPRIATIONS ACTS—Continued

Bill/Program/Project	Below fiscal year 1993
Highway safety information management system	−500,000
Motor vehicle research	−6,317,000
Metric conversion	−50,000
Operating expenses	−84,000
Highway traffic safety grants	
National driver register	(−150,000)
Alcohol safety incentive grants	(−500,000)
Federal Railroad Administration	
Office of the Administrator	−5,141,000
Mandatory Passenger Rail Service Payments	−9,000,000
Conrail commuter transition assistance	−7,000,000
Amtrak corridor improvement loans	−844,200
Amtrak corridor improvement loans—direct loans	(3,500,000)
High-speed ground transportation	(1,500,000)
Federal Transit Administration	
Interstate transfer grants—transit	−30,000,000
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION	
Hazardous Materials Safety:	
Operating expenses	−192,000
Information dissemination	−50,000
Sanitary Food Safety Act	−75,000
Registration Program	−232,000
Airline Information Management:	
Personnel compensation and benefits	−84,000
Operating expenses	−2,000
Information processing	−11,000
Emergency Transportation:	
Personnel compensation and benefits	−112,000
Operating expenses	−3,000
Transportation resource management	−50,000
Research and Technology: operating expenses	−5,000
Program and Administration: operating expenses	−380,000
Emergency Preparedness Grants: curriculum	−300,000
Alaska Pipeline Task Force	−550,000
Related Agency	
Department of the Treasury	
Rebate of Saint Lawrence Seaway tolls	−543,000
Bill total	−562,454,200
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT (P.L. 103–123, SIGNED OCTOBER 28, 1993)	
Department of the Treasury	
Office of Inspector General	−250,000
Financial Crimes Enforcement Network	−62,000
Financial Management Service	−4,192,000
Bureau of Alcohol, Tobacco and Firearms	−3,926,000
U.S. Customs Service	−15,403,000
Bureau of the Public Debt	−4,034,000
U.S. Secret Service	−18,501,000
Postal Service	−30,478,000
The White House Office	−4,041,000
Council of Economics Advisers	−8,000
Office of Administration	−3,000
Special Forfeiture Fund	−23,242,000
Related Agencies	
GSA—Federal Supply Service	−12,724,000
GSA—Information Resources Management Service	−744,000
GSA—General Management and Administration	−2,565,000
Office of Personnel Management	−467,000
Administrative Conference of the United States	−514,000
Advisory Commission on Intergovernmental Relations	−820,000
Federal Labor Relations Authority	−306,000
Bill total	−122,280,000
VETERANS AFFAIRS, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT (P.L. 103–124, SIGNED OCTOBER 28, 1993)	
Veterans Affairs	
Loan guarantee program account: Administrative expenses	−17,153,000
Education loan fund program account: Administrative expenses	−119,000
Vocational rehabilitation loans program account: Administrative expenses	−211,000
Native American veteran housing: Loan program	−4,500,000
Administrative expenses	−344,000
Health professional education loan repayment program	−5,000,000
Medical administration and miscellaneous operating expenses	−454,000
National Cemetery System	−161,000
Construction, major projects	−123,674,000
Housing and Urban Development	
Homeownership and opportunity for people everyhere grants (HOPE grants)	−161,810,000
Rescission of fiscal year 1992 and 1993 HOPE funds	−250,000,000
Annual contributions for assisted housing:	
Loan management	−108,350,000
Section 8 amendments	−450,000,000
Assistance for the renewal of expiring section 8 subsidy contracts	−1,518,029,000
Rent Supplement Program: Rescission of budget authority	− 32,438,000
Shelter plus care	−142,803,000

SPECIFIC BUDGET CUTS VOTED BY CONGRESS IN 1994 APPROPRIATIONS ACTS—Continued

Bill/Program/Project	Below fiscal year 1993
INDEPENDENT AGENCIES	
Consumer Product Safety Commission	−6,114,000
Cemeterial Expenses, Army	−295,000
Environmental Protection Agency	
Asbestos Program	
Grants	−5,775,000
Loans	−30,225,000
Administrative expenses	−1,000,000
Buildings and facilities	−116,300,000
Hazardous Substance Superfund	−92,675,000
Water Infrastructure/State Revolving Fund	−73,000,000
Executive Office of the President	
National Space Council	−941,000
Office of Science and Technology Policy	−1,775,000
Council on Environmental Quality	−2,185,000
Federal Emergency Management Agency: Emergency Planning and Assistance Interagency Council on the Homeless	−900,000
National Aeronautics and Space Administration	
Space shuttle	195,000,000
Construction of facilities	−2,300,000
Advanced solid rocket motor	−96,000,000
Search for Extraterrestrial Intelligence (SETI)	−11,300,000
AXAF—S	−19,000,000
Consortium for international earch science information network (CIESIN)	−14,000,000
Space Research and Technology	3,229,000
National Commission on American Indian, Alaska Native, and Native Hawaiian	500,000
National Science Foundation: U.S. Antarctic logistical support activity	−760,000
Selective Service System	−3,616,000
Bank Enterprise Program	−1,000,000
Bill total	−3,533,219,000
Grand total	−34,329,867,300

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Our hard freeze on discretionary outlays will continue to require difficult cuts in the years ahead. The President has asked the Congress to give the deficit reduction plan that it passed "time to work and not take risks with our now fledgling economic recovery." He is right. With this amendment we are giving our deficit reduction plan time to work. We are implementing it, and while we are cutting specific programs in a reasoned way, we are not risking our economy, our defense, or health reform.

Mr. Chairman, I reserve the balance of my time.

Mr. MCMILLAN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I rise to commend, first of all, the President, the Democratic leadership, the bipartisan coalition, Mr. PENNY, Mr. KASICH, for bringing this deficit reduction opportunity before us.

Today, Mr. Chairman, has been a reform day; we have voted for campaign finance reform because people in this country are sick and tired of politics as usual, and we have done that with bipartisan support. We have voted in the last few days to do something about crime and violence that are escalating to new levels. We passed the Brady bill with bipartisan support.

Now we have the opportunity for true deficit reduction.

Mr. Chairman, Penny-Kasich is bad politics; it is bad politics because it threatens the reelection of those Members who are going to vote for it because it is real cuts, confirmed by the CBO. There are hard numbers, there are tough choices, there are things in this program I do not want to vote for because they really will be cut.

I am going to vote for it, Mr. Chairman, for three reasons. Waste, fraud and abuse, we heard that all throughout the 1980's. If we cut waste, fraud and abuse, we would balance the budget.

Malarkey, we have to make real significant cuts in the budget to do something about our escalating deficit. This is more than waste, fraud and abuse.

Second, 14 percent of our payments are going toward interest payments on the deficit. That prohibits us from investing in good programs throughout this country for our children and to rebuild our inner cities.

Third, the growth of entitlements, if we continue to grow and grow and grow as President Clinton made great speeches in Memphis and Los Angeles over the past week, we will not be able to save our children. This is $18 billion a year over the next 5 years. That is reasonable.

Mr. MCMILLAN. Mr. Chairman, I yield 2 minutes to the gentleman from the Shenandoah Valley and northern Virginia, the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Penny-Kasich bipartisan deficit reduction plan. Last August the President promised further deficit reduction efforts. Unfortunately, the administration has not made any serious efforts to follow through on this promise. Our colleagues, TIM PENNY and JOHN KASICH, have made a serious, thoughtful, and bipartisan effort to make a downpayment on downsizing the deficit.

I would like to first note that the Penny-Kasich amendment does not impact at all any current Federal or military employee or retiree. We all have received a lot of calls on this and I wanted to set the record straight. The changes for Federal employees and the military are only for those hired after January 1, 1994. I appreciate the changes that Mr. PENNY and Mr. KASICH made in the package on these matters.

If Members are serious about the deficit, it is time to act on the deficit, not just continue to talk about it. There are elements of this package that many don't like but there will never be a package of spending cuts that we all agree on. There is no pain-free way to cut the deficit, no hot fudge sundae diet. And unfortunately, the House leadership refuses to allow an A-to-Z type deficit cutting effort that would allow us to go through item by item on spending, so we have to vote up or down on a package.

The bipartisan Concord Coalition, led by our former colleagues in the other body, Warren Rudman and Paul Tsongas, understands the importance of the Penny-Kasich amendment in its statement that,

> Every Member can probably point to some item in the amendment as an excuse to vote against the package. But the days of "anonymous" deficit reduction are over. The items included in the amendment represent a sensible, balanced and fair package. Anyone who cares about deficit reduction, and indeed about the future of our nation, should join us at The Concord Coalition in support of the Penny-Kasich amendment.

This bill cuts roughly $90 billion in Federal spending over the next 5 years. The President's package only provides for a fraction of these spending cuts. So who is serious about cutting the deficit? As TIM PENNY has said, "when we finally get a vote on the Penny-Kasich plan, it will be the single most significant vote in the time that I have been in Congress in terms of defining who is serious about solving this problem and who is part of the problem." I agree. The American people keep telling us, cut spending first, yet the Congress does nothing. It is time to step up to the plate. It is time that this Congress stop being part of the problem.

A bipartisan team of 31 Democrats and Republicans put together this package. It has been scored by CBO and these are real cuts. Ironically, now that the President's cuts have been scored by CBO at much smaller savings than claimed by the administration, the Vice President has been quoted as saying "We can't trust the Congressional Budget Office." I would like to remind my colleagues that when we all sat here in February for the President's State of the Union message, President Clinton stated: "No longer will we rely on the White House Budget Office for numbers. We are going to rely on the Congressional Budget Office, the bible of budget estimates." Let's get real here. How can the American people trust Congress or this administration if we continue to play with the numbers like this?

It is time to cut spending first. The American people want change. They are sick of the status quo. Voting for serious spending reduction is what the American people are asking us to do. The Penny-Kasich amendment does this and is a vote for real change. It is a vote for the future. It is a vote for our children and our grandchildren. It is a vote that will determine who wants to talk about the deficit and who wants to do something about it; a vote about who wants to talk about change and who wants to actually change the way we do things around here. I urge passage of this amendment.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Sabo amendment and against Penny-Kasich.

Deficit reduction is an important goal for this Congress to pursue and we have already made great strides in this area.

Earlier this year, we passed legislation which will lower the deficit by $496 billion over the next 5 years. This is the single largest deficit-cutting plan every introduced by an American President, passed by Congress, and signed into law.

Over half of the $496 billion in deficit reduction comes from spending cuts—$255 billion in spending cuts.

This President, with the commitment of this Congress, has succeeded in doing something previous administrations have only talked about for the past 12 years—bringing real discipline to the budget process.

And, we provided budget discipline fairly—by prioritizing and protecting the people who have played by the rules and worked hard in the previous 12 years of Republican leadership.

The deficit reduction package contained no income tax increases for the middle class. Working families making less than $140,000 in taxable income will pay no additional income tax.

And, we gave over 15 million working families, almost 50 million Americans, a tax cut.

At the same time, we have already instituted tough spending cuts.

Medicare has already been cut by $56 billion. The Penny-Kasich amendment would cut another $34 billion by eliminating benefits, also eliminating our ability to fund the President's health care reform initiative which calls for even greater Medicare savings—$124 billion—while improving coverage for Medicare beneficiaries.

Federal retirement has already been cut by $12 billion. The Penny-Kasich amendment would make dramatic additional cuts.

Agriculture has been cut by $3 billion. The Penny-Kasich amendment makes further reductions of farm price support payments.

Veterans' programs have been cut by $2.6 billion. The Penny-Kasich amendment would cut another $1 billion from veterans' medical care, just as the need to become part of a competitive health system is impacting the Department.

Today, with the Sabo amendment, we continue our commitment to budget discipline by rescinding $2.6 billion in additional spending. And, we make a long-term payment of another $37 billion on our 5-year deficit goal.

This is real deficit reduction.

And again today, the Sabo amendment does something that has only served as rhetoric for past administrations. We take the first step to reinvent Government. We believe that Government can and must provide service to Americans—but it must do so in an efficient and effective manner.

We are turning around the cycle of decline and moving into the cycle of balanced growth.

Let us look at the record:

Since January 1993, the economy has produced 1.3 million private sector jobs—President Clinton has already created more private sector jobs in 10 months than were created in the previous 4 years of a Republican Presidency.

As further illustration of the strong economic growth, the Wall Street Journal recently noted that much of the growth in the third quarter came from sectors of the economy sensitive to interest rates:

Consumer purchases of durable goods such as cars;

Business investment in capital equipment; and

Investment in that most standards of American dreams, a new home. All these things have become more affordable with the lowest long-term rates in more than two decades—rates that are a result of the investment and deficit reduction plan we already passed.

These lower interest rates mean jobs. A point drop in mortgage rates can spur construction of up to 58,000 single-family homes. By some estimates, that translates into 100,000 jobs and almost $2.6 billion in wages for construction crews, loggers, appliance assemblers, and other workers.

While the President and Democrats in Congress have provided the strong leadership to grow the economy, we are also providing incentives to help businesses join in.

As a result of the budget passed earlier this year, more than 90 percent of small businesses are eligible for a tax cut through a variety of incentives, including:

A 75-percent increase of investment that small businesses are able to write off;

A targeted capital gains tax cut for investments in small businesses held over 5 years; and,

A retroactive extension of the 25-percent deduction for health insurance premiums for the self-employed.

Mr. Chairman, almost a year ago, President Clinton, this Congress, and our Nation embarked upon a new journey to bring fundamental change to our country. Through the leadership of President Clinton, we have brought about that basic change.

We have lowered inflation, lowered interest rates, lowered unemployment, and lowered bankruptcies. At the same time, we have created more jobs, more housing starts, more investment, and more consumer spending. This is part of the most successful first presidential term since President Eisenhower's first term in 1951.

We have brought about this change through a delicate balance between deficit reduction and targeted investment.

Yes, American taxpayers want deficit reduction and we have answered the call. But I submit to my colleagues that Americans also want economic growth, health care reform, crime prevention, and more efficient Government. A vote today for Penny-Kasich will prevent us from achieving these other goals.

Mr. Chairman, we should not promote slash and burn budgeting. We must be balanced in our approach to reducing the deficit. We must ensure that the economy keeps growing in order to help reduce the deficit.

The Sabo amendment is the only responsible amendment we will consider today. It is the only amendment which cuts spending while permitting this Congress to move forward on the other critical issues that the American public demands—health care reform, economic growth, and crime prevention.

The Sabo amendment is the only amendment which allows us to continue down that path of fundamental change without stalling out the recovery. I urge my colleagues to support it and defeat the Penny-Kasich alternative.

Now, I want to be specific on matters relating to the legislative branch.

We have already cut the legislative branch in the regular fiscal year 1994 appropriations bill by over $106 million in spending, minus 4.5 percent below last year, and $33.3 million, minus 1.4 percent, in budget authority.

We have already begun to downsize legislative:

We are 12 percent below 1992 service levels.

We enacted a 4-percent personnel reduction throughout our branch of government.

We believe that is a responsible downsizing program—and it is a tough one—and we have more being discussed for the future.

And we have added another $8.2 million in legislative rescissions in the bill reported by the Appropriations Committee.

But the Penny-Kasich amendment will have draconian effects on this plan. It is so drastic that the authors of the amendment probably do not even realize the impacts of this proposal.

The Penny-Kasich rescissions affects legislative branch in several ways:

A 1-percent transfer of all funds into a disaster relief fund.

A 7.5-percent rescission of all fiscal year 1994 legislative funds.

A 30-percent reduction ($12 million) in House mail.

A 15-percent reduction ($4.5 million) in travel. A total of $173.5 million.

So the effect is an 8.5-percent reduction in the funds made available on October 1, 1993, for the 12-month fiscal year period. But this reduction is for more onerous than 8.5 percent. It will take several months to actually implement the necessary downsizing. By that time the effects will be anywhere from 15 to 50 percent, depending upon the regulations that apply to each agency.

Most legislative funds are spent on personnel. That's the primary resource in our branch of government—the committee and Member office staff who organize hearings, draft legislation, and handle constituent services, the people at GAO, CRS, and so forth who do the research and audits of Federal programs, our building maintenance personnel, our computer programmers, and the librarians who staff the national library—the largest collection of knowledge in the world.

So when we rescind money, we are actually laying off our workers.

Now that cannot be done overnight. If these Penny-Kasich reductions are enacted, let us assume a bill would be signed by December 15.

We cannot decide who to fire in our 32,000 work force immediately. For example, the General Accounting Office estimates it will take 90 days to go through their employment rolls and their large organization to determine how to downsize in order to absorb a $37 million reduction in their resources. There are specific and regulated procedures they are required to follow in identifying which positions and departments will be eliminated.

Then the GAO regulation requires that employees whose jobs are being eliminated be given 60 days notice of the planned personnel action. That's also a Government-wide regulation of the Office of Personnel Management Another 30 days will be consumed in allowing employees to exercise their rights for reassignment from the eliminated position. This is called bumping in Federal personnel jargon—but is a legally protected process.

That will take 6 months—up to about the middle of June—which leaves 3 months in the fiscal year before the first reduction-in-force will take place. It is at that time that the bulk of the $37 million savings can take place. That's why this 8.5 percent is only the tip of the iceberg. After three-quarters of the fiscal year, 8.5 percent becomes 25.5 percent, and that does not count the severance pay and unemployment compensation payments that will also be paid out of the funds remaining in the agency appropriations.

The effects at GAO are probably the most drastic because of the personnel policies that govern reductions-in-force. There will be a similar process conducted at the Library of Congress and a somewhat more expedited program for the Architect of the Capitol employees. Even in the House of Representatives, and at CBO and OTA, we estimate it will be February 1 before staffing layoffs can begin—at least 1 month to develop a staffing reduction plan and a 1-month employee notification.

These procedures are what will actually impede immediate savings. They are not unlike those that take place in the private sector when downsizing takes place.

So the effects of Penny-Kasich on the legislative branch should be understood in their practical consequences.

Here are the overall effects:

Five thousand six hundred legislative branch employees out of 31,000 will lose their jobs within the next several months.

Since most legislative resources are personnel-related—about 70 percent of our budget—a massive reduction in force will take place.

The Senate is exempted from Penny-Kasich, but the House will undergo very large reductions in personnel and other necessary activities.

Thirty percent of Library of Congress patrons will not be served.

About half of the financial and program audits at General Accounting Office will be terminated.

Up to 30 percent of braille and talking books will be eliminated for almost one million handicapped Americans.

Up to 250 Federal depositories will be removed from the program.

Specific impacts:

One thousand five hundred House employees will lose their jobs: 2 to 3 from each House Member's staff, (1,138 total); 9 per committee; 31 of 254 computer personnel; 8 leadership staff; 143 finance clerks, floor clerks, doorkeepers, and other support personnel, and 190 Capitol police.

Members office accounts will run out of funds in August 1994;

Immediate suspension on ordering office equipment or personal computers; House mail cut another 30 percent under the 63 percent it is already underfunded. All franked mail after May 1, 1994, will not be paid for—except employee paychecks. That means suspending newsletters, town meeting notices, and single piece response mail after May 1; Member travel funds will run out in late July—no money for official travel to districts after that, and GAO audit travel will terminate in July 1994.

Congressonal Budget Office, Office of Technology Assessment, Congressional Research Service: 230 of 1,200 employees will lose their jobs; No bill drafting assistance on budget legislation; CBO will suspend all work for all except Budget and Appropriations Committees; and Backlog on Member and committee requests at CRS will grow to 5 weeks.

General Accounting Office: 2,500 of 4,800 will lose their jobs, Government-wide bid protests will be delayed up to 2 years; Davis-Bacon employee claims will be delayed up to 2 years; and 12-month delay in starting new congressional request audits.

Architect of the Capitol: 442 of 2,060 employees RIF'd; close Botanic Garden on weekends and evenings; close 25 percent of the newly built plant growing nursery; no weekend cleaning of Member offices; terminate removal of toxic PCB's from transformers on congressional grounds; and stop work on ADA improvements.

Library of Congress (Non-CRS): RIF 750 of 3,900 employees; uncataloged books and manuscripts will grow by 1 million per year—above the 27 million current arrearage; and main reading room closed in the evenings and on weekends.

These cuts are unnecessarily disruptive. We can do better than this. Our committee has already begun a legislative downsizing program.

Let the process work.

□ 1810

Mr. McMILLAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I commend the gentleman from Minnesota [Mr. SABO], the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH] for presenting us with these cost-cutting alternatives.

I rise in strong support of the Penny-Kasich amendment.

I voted and worked hard for passage of the President's deficit reduction package earlier this year because I believe that the deficit is the single largest barrier to long-term economic growth and the creation of new jobs in this country.

The deficit reduction plan we passed earlier this year is a good law. It includes some tough spending measures including capping discretionary spending at 1993 levels for the next 5 years.

However, as I said at the time the 5-year deficit reduction plan did not go far enough with spending cuts.

Penny-Kasich is a strong step in the right direction.

It will reduce the deficit by an additional $490 billion over the next 5 years by further cutting spending.

I do not agree with every cut proposed in this plan.

But I believe this deficit reduction plan is responsible, cutting fairly domestic and defense spending, and mandatory and discretionary spending.

Mr. Chairman. the spending cuts in Penny-Kasich have been characterized as unfair and unreasonable.

However, I can think of nothing more unfair and more unreasonable than to burden future generations of Americans by continuing to borrow more and more money and expecting our children and grandchildren to repay our debts.

I can think of nothing more unfair than to burden future generations with an economy that does not create jobs and opportunity for its citizens.

Further reducing the deficit is critical if our economy is to grow in the long term. It is vital that we increase the amount of capital available for investment by the private sector by borrowing less in the public sector.

Penny-Kasich requires us to cut about one cent for each dollar of spending planned over the next 5 years—a sacrifice we should make.

I urge my colleagues to support the Penny-Kasich amendment.

Mr. McMILLAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I rise in support of Penny-Kasich and against the Sabo amendment.

It is any wonder the American public is cynical about us when it comes to dealings on the budget deficit? We got a $4 trillion debt right now. Earlier this year we passed the Clinton budget that was supposed to solve the deficit problem, get us on the right track, but at the end of the 5-year period, we will have a $5 trillion total debt and still have a $200 billion deficit at that particular time.

Tonight we are being asked to buy a pig in a poke, another nice proposal that is supposed to reduce the deficit, cut spending, but in reality all it does is shift spending. That is the Sabo proposal. It saves the money, but it saves it for future outlays somewhere else. It does not actually make the spending cap reductions required to do the job, to really reduce the deficit and the debt.

So we are out here to cover somebody's vote from earlier this year with something that is a fig leaf.

The fact of the matter is the only true budget deficit reduction vote you have here tonight on the floor is Penny-Kasich. It is $90 billion in real spending reductions.

Mr. Chairman, I urge a vote for it.

Mr. McMILLAN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment offered by Congressman PENNY and Congressman KASICH.

Last summer, during the debate on the President's budget, we heard the pleas of the American people to cut spending.

Well, here is our chance to cut $90 billion in spending over the next 5 years.

Are there provisions of the Penny-Kasich amendment that I have reservations about? You bet.

But, if we cannot take this small step to cut about 1 cent out of each dollar spent over the next 5 years, then we will never be able to make the even harder decisions that will be necessary to eliminate the national debt.

Finally, I would like to address one of the criticisms that has been leveled against the Penny-Kasich amendment.

Some opponents have claimed that the Penny-Kasich will hamper our economic recovery.

The idea that cutting $90 billion over the next 5 years will have a noticeable effect on economic growth is laughable, especially given the fact that U.S. economic activity for the next 5 years is estimated to be $37 trillion.

Mr. Chairman, there are some things I worry about, but one of the things that I worry about least is that Congress will pass enough deficit reduction to hamper the economy.

Also, I would like to deal with the criticism about unfunded mandates.

As one of the leading opponents in this House of unfunded Federal mandates, I would like to commend the administration and the leadership for their attention to unfunded Federal mandates.

I have spent a lot of time, along with several Members from both sides of the aisle dealing with the issue of unfunded mandates. We hear a lot from those people who are talking about this being an unfunded mandate. We have heard a lot about unfunded mandates as they relate to the Penny-Kasich amendment, that the people who are talking about it and who are decrying the unfunded mandates would not seem to be too interested in unfunded mandates just a few months ago.

If you remember, we passed the Motor-Voter bill. We did not hear a lot of emphasis on unfunded mandates. As a matter of fact, you could not even get an amendment on this floor to deal with the issue of unfunded mandates. You cannot even get a hearing in this House to deal with unfunded mandates.

So I submit to you, my colleagues, the unfunded mandate issue as it relates to this issue is a phony issue.

I hope after this vote is taken tonight, I sincerely hope that those people who have decried this and talked about unfunded mandates will be as interested in unfunded after we vote on the Penny-Kasich amendment.

With that being said, I strongly urge my colleagues this evening to do the right thing and vote for the Penny-Kasich amendment.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank my distinguished friend, the gentleman from Minnesota, for yielding this time to me.

Would the gentleman from Minnesota, the distinguished chairman of the Budget Committee and the author of the substitute, please join me in a colloquy on the subject of the workforce reduction?

Mr. SABO. Mr. Chairman, if the gentleman will yield, I would be happy to.

Mr. DINGELL. Mr. Chairman, I assume that the intent of the amendment being offered here to reduce the overall Federal civilian, nonpostal work force by 252,000 positions over 5 years is that the Government should become more efficient and save money by conducting these reductions in force, not become less efficient and lose money. To that end, I would like to secure the gentleman's understanding on two important matters.

First, I understand that the reduction called for in this provision is an overall ceiling, not a mandatory across the board cut equal at every agency in the Federal Government. When conducting the overall reduction, the Federal Government should not cut employees whose termination would result in a net loss for the Federal Government. For example, employees who bring in more money for the Government than they are paid, such as those in the Internal Revenue Service and the Customs Service, should be considered specially. It would be an act of great foolishness if these revenue-raising employees were to be cut in the name of meeting a specific reduction number.

Second, there are a number of employees whose salaries are not a burden to the Federal budget. By these I mean those workers who are employed by agencies that collect use fees—and collections, such as fines and penalties—in amounts that equal or exceed the agency's budget. A specific example is the Securities Exchange Commission. This relatively small agency is largely a revenue raiser for the Federal Government, and it serves the very useful purpose of policing the financial industry. We would not want Federal oversight, which saves money and benefits the public, to fall short just to achieve a numerical reduction.

I hope the gentleman from Minnesota would agree that these agencies should be protected during the plan's implementation.

I would also draw attention to the mandatory governmentwide hiring freeze that will be triggered if requirements of the reductions are not met. The President has the authority to waive this provision in situations that merit an exemption. Specifically, the language reads:

> In the case of a particular position or category of positions in an agency, upon a determination of the President that the efficiency of the agency or the performance of a critical agency mission so requires.

As I understand the gentleman's amendment, the President is authorized to exempt the agencies I have been describing from the hiring freeze on the ground that bringing in money to the Federal Government and performing functions that are funded by user fees are indeed critical and efficient.

Could the gentleman please speak to these two concerns? Would he agree with me that the three situations I have outlined are sound examples of instances in which the Government should not be cutting employees or prohibiting new hires just to meet this mandatory 252,000 number?

Mr. SABO. I agree with the gentleman from Michigan that the two policies he outlines above are indeed sound and should be followed as this provision is implemented.

Mr. DINGELL. I thank the distinguished gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise in strong opposition to the Penny-Kasich amendment and here is why.

I came here on the pledge that I would work to reduce our deficit and have worked daily to make good on this pledge.

I voted for a half trillion dollars in deficit reductions and $90 billion in spending reductions to date.

The issue is not who wins the war of words on cuts, it is how we do them and how fair the cuts are.

The specifics of this proposal are deeply troubling and unfair.

It is a short-sighted response to a long-term problem.

It is a public relations bill to take to constituents phony evidence of fiscal responsibility.

Those who vote for this should know it drives a stake through the heart of health care reform—our Nation's most pressing domestic priority and the essential way to get health care costs under control.

Nearly every health proposal—the President's plan, the Cooper plan, the Chafee plan, and even the Gramm plan—rely on savings in medicare to pay for health reform.

Those who truly want health care reform and plan to support the Penny-Kasich amendments had better be prepared to go on record next year to raise taxes to pay for it.

Furthermore, a study by the Center on Budget and Policy Priorities shows that Penny-Kasich includes unfunded mandates in the form of medicaid copayments that would cost the State of California alone approximately $702 million over the next 5 years.

There should be fewer unfunded mandates, not a heaping on of more.

Mr. Chairman, this House already passed landmark legislation to reduce the deficit by a half trillion dollars—the largest in our country's history—and freeze spending over the next 5 years.

In addition, I fought along with my colleagues for a deficit reduction trust fund, guaranteeing that all new taxes raised be directly applied to the deficit.

The Penny-Kasich plan double counts many of the cuts already assumed in the budget—yet many of its supporters did not vote for the budget and scream now.

The amendment's spending caps will affect university research, AIDS, breast cancer, community health centers, student loans, and many other critical programs.

Mr. Chairman, this proposal before us is perfect for Thanksgiving—it is a turkey—it is Penny-wise and Kasich-foolish. I urge its defeat.

Mr. MCMILLAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. KASICH], the ranking Republican on the Committee on the Budget.

Mr. KASICH. Mr. Chairman, let us just make things perfectly clear tonight. The Sabo program is nothing more than spend, spend, spend.

The Clinton plan which came in here at $1½ billion in savings to be redistributed gives us real deficit reduction of a big fat zero.

The Sabo plan which was essentially drafted off the Penny-Kasich amendment does nothing, Mr. Chairman. It does not save the Government of the United States, the taxpayers of this country, one single dime.

□ 1820

It is a fraud, it is a fake, it is not real. It does not represent anything but cover.

I do not know if I could be any more clear about what I think about the Sabo proposal.

Mr. Chairman, I have great respect for the gentleman from Minnesota [Mr. SABO]. And the reason why I say this is that the gentleman does not lower the caps, which means that all the money that the gentleman has saved is going to be redistributed to other parts of the Federal Government and, probably, in some kind of a supplemental appropriation bill.

If the gentleman was serious about deficit reduction, if the gentleman really wanted to save money from the national debt and operating budget of the Federal Government, he would lower the cap, and he would end up right where the bipartisan group of Penny-Kasich is, and that is a $90 billion cut in the operating budget of the United States.

But he does not do that. He just takes the money, and he redistributes it to all the areas of the Federal Government where people want to spend, and I ask my colleagues, "You know what the bottom line is?" The bottom line is that over the next 5 years, my colleagues, the Federal Government is going to be spending somewhere in the vicinity of $8 trillion, $8 trillion in total spending, and what the Penny-Kasich proposal is intended to do is to barely save $90 billion out of $8 trillion in spending.

So, Mr. Chairman, what I would say to the Members of this body is, "You need to come here to this floor, and you need to vote against phony deficit reduction, and you need to do the real thing. You need to get with the real program, and you need to adopt Penny-Kasich, which will save this country $90 billion over 5 years out of $8 trillion in spending."

One more point:

We keep hearing about Medicare. Well, the Medicare spending over these next 5 years, as my colleagues can see under current projections, is $989 billion, represented by the green graph. The Penny-Kasich is $955 billion, represented by purple. This is increases, my colleagues, over the next 5 years, and the Clinton plan comes in third at $865 billion in Medicare. So, the current projections take us up $989, Penny-Kasich takes us up at $955. It is the Clinton administration that comes in third.

I say to my colleagues, the bottom line is, ladies and gentleman, if you are interested in trying to do something to bring change to this Capitol, to restore, to begin the steps, the first few steps to restore fiscal integrity, then, ladies and gentlemen, you have got to vote to trim one penny out of a dollar over the next 5 years. For who? For the people of this country who have been demanding and asking for change and sent a young man from Hope, AR, to Washington with the hope that we would begin to control the destiny of this Federal Government, and somehow on that bus trip somebody told him, "We can't have change in Washington," and you see that's what this plan represents. You know what it represents? Republicans and Democrats who, for the first time in budgeting in a decade, came together to make some responsible changes in the operation of this Federal Government, and, instead of trying to stomp us out, we ought to be encouraged.

Mr. Chairman, I suggest to everybody that comes to this Chamber tonight to find the will for the children of this country and for those who have not yet been born. I say to my colleagues, you can find the will to trim $90 billion out of $8 trillion in spending and save one penny on a dollar over the next 5 years to begin to restore the confidence of the American people in the fact that they can get some of what they want out of this Chamber.

They want change. They want Penny-Kasich. Reject Sabo. Let us have real deficit reduction.

Mr. SABO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the gentleman from Ohio [Mr. KASICH] talks about fraud, copying him. The fact is he is copying the President. He is copying the personnel reductions that the President has recommended.

I have no quarrel with that. We do the same thing.

This amendment has real reductions in spending, and rescissions, restructuring the Government, cutting Federal personnel. It is going to solve hard, tough choices.

And I have heard this gentleman speak today, Mr. Chairman, but we passed a plan of $500 billion last August. I know it taxed their rich friends, was over seven times as much deficit reduction as they have today. And the gentleman and his friends voted no. So, I say, don't come give us lectures.

As the gentleman knows, I have recognized and defended his sincerity, and the gentleman works hard. But do not come say to us who worked very hard to get something that not only could pass the House, could pass the Senate, be signed into law, while they sat on the sideline and said, "No, it's not good enough."

As my colleagues know, we did more than the gentleman is suggesting here. We are trying to make it work, and we will make it work.

Mr. MCMILLAN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I want to say to the gentleman from Minnesota that, if anybody has come to understand how difficult it is to put a budget together, the gentleman from Minnesota [Mr. PENNY] and I understand. We walk on this floor, and we come into this well, and over the last several weeks people have almost tackled us to change our proposal, and I would say to the gentleman that I understand the difficulty that the President had, and the reason why, and let me just say to the gentleman that, if he feels as though my remarks went over the line, I would apologize to him, but what frustrates me is that the gentleman from Minnesota [Mr. PENNY] and I came to the Committee on the Budget and we laid out our program.

I say to the gentleman, you have a billion and a half program in deficit reduction. You then come back, writing the rule, by the way, in a back room when Mr. PENNY and I are testifying. You then come back by taking our savings out of our bill——

Mr. SABO. Just so we are fair, Mr. Chairman, they took the President's.

Mr. KASICH. We took some of the President's, we took some of the savings. The gentleman might remember in the Republican budget we had 200,000 employee reduction in our proposal.

Now what is the bottom line on it? I would say to the gentleman from Minnesota, if you will take the savings, and you use it for deficit reduction, then I would believe that you were serious about reducing the deficit. But somehow there is an implication here that we'll take this money and use it to reduce the deficit, and that will never happen because, if you intended to make it happen, you would have lowered the cap like Mr. PENNY and I have. The impact of your proposal is not to save the American taxpayer a dime. This money is all going to be spent again. If you really wanted to save the taxpayers money, if you really wanted to reduce the deficit, you would lower the caps precisely the way we have done it.

And what I would say to the gentleman is:

During the Budget Committee fight we spent 10 hours offering 30 amendments in your committee, and we lost on a party line vote for every single proposal that we made, save one. So, when we go to the Budget Committee with a budget——

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I have to say to the gentleman that I watched his proposal today emerge which interest.

□ 1830

I watched the first descriptions of it. Then I saw it change. The reality is, I understand how you put your amendment together. We had to put a budget together, which involved negotiations among lots of Members. You are trying desperately to break up our coalition that can pass $500 billion of deficit reduction.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, the gentleman keeps using the term "$500 billion." Everyone in this chamber knows you did not pass a $500 billion deficit reduction bill.

Mr. SABO. Yes, we did.

Mr. SANTORUM. CBO scored it at $433 billion. Those are CBO numbers, what your President said he would use. Four hundred thirty-three is the number. Quit using incorrect information.

Mr. KASICH. Mr. Chairman, reclaiming my time, let me say I tried to yield my time to the gentleman from Minnesota [Mr. SABO] out of courtesy. Let me say something about this. It was always our intent to knock your taxes out, because we think that is what defines the difference between Republicans and Democrats, more taxes, more spending. That is precisely what this debate is all about. You do not want to cut the budget to reduce the deficit. You want to cut the budget to have more spending for more programs.

What Republicans tried to do through the budget process was to give this country what Bill Clinton promised, which is change. What the gentleman from Minnesota [Mr. PENNY] and I are trying to do today is come in and say of that $8 trillion in Federal spending over the next 5 years, we want to trim $90 billion, and we do not want to use it for more programs. We want to do it to reduce the deficit and reduce the operating budget of the United States.

So I would say to my chairman, the gentleman from Minnesota [Mr. SABO], it is an honest to goodness legitimate debate. We will not come out here with phony programs. We come out here with specifics, and we have spent the whole week getting trashed by everybody in the Clinton administration, every Cabinet member thinking up anything they could come up with to come out here and trash us.

This is a good effort by Republicans and Democrats who believe that we need some fundamental change. One of the biggest changes we made in our bill was to change the impact on Federal employees and military retirees. That is the bulk of it. That is the bulk of the change. The rest of it stays essentially the same.

What I say to you is, rather than beating us into the ground, we ought to adopt this basic, fundamental, tiny little change in the way the Federal Government operates, because it sends a very strong signal for Republicans and Democrats to be able to work together down the road.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, the more I hear about the Penny-Kasich proposal, I am reminded of what Mark Twain once said: "The more you explain it to me, the more I don't understand it."

Mr. Chairman, as Chairman of the Subcommittee on Military Forces and Personnel, I rise in opposition to the Penny-Kasich amendment. In its current form, there's both good news and bad news about the amendment. The good news is that its sponsors have dropped or revised several of the more onerous provisions from the amendment. The bad news is that the amendment still wields a meat axe to the future military retirement benefits of new recruits without generating any outlay savings to the Federal budget for 20 years. In the meantime, however, the amendment would likely have a devastating effect on career retention and would also discourage those still willing to undergo the hardships of a full career from providing any survivor benefit coverage for their widows.

If further changes in military retirement are required—and I am certainly open to that idea—then they should be done in a deliberative fashion after full hearings. Despite the notion of the amendment's sponsors, over the past decade, Congress has made major changes to the military retirement system.

Contrary to the headline-grabbing story in today's Washington Post, Congress a decade ago, at the Armed Services Committee's behest, changed the funding for military retirement from pay-as-you-go to advance funding. As a result, the military pay account now includes an additional percentage of the payroll that represents the actuarily-determined cost of future retirement benefits for the current force.

Seven years ago, under the leadership of the full committee Chairman Les Aspin, a long-time critic of the military retirement system, the Armed Services Committee approved the Military Retirement Reform Act of 1986, which substantially reduced the value of retirement for those who entered the military after August 1, 1986.

Before we make additional changes affecting future retirees, good public policy demands that we at least analyze the potential impact on recruiting and retaining a high quality force. While retired colonels make the best headlines, the typical military retiree is an enlisted person, an Army sergeant or a Navy chief, who has spent many years away from home and family. The Penny-Kasich amendment providing no cost-of-living increase until age 62 will erode that sergeant's or chief's purchasing power by nearly 65 percent.

At the same time, the amendment won't provide outlay savings to the Federal Government for 20 years but will undoubtedly result in substantial, added near-term cost to the Defense budget in order to retain experienced personnel beyond the first reenlistment point. With the prospect of deployment to garden spots like Somalia, what's the incentive to that sergeant or chief to make the military a career?

Before undertaking major change, good public policy demands that we understand the ramifications. One example of the need for something other than a meat ax approach is the impact of Penny-Kasich on the survivor benefit plan. Unlike Social Security, where survivor benefits are automatic, the military survivor benefit plan is cost-shared between the Government and the retiree, requiring that the retiree take a reduction in his or her retired pay in order to provide an annuity for the survivor. The Penny-Kasich amendment exempts payments to survivors from the COLA freeze, as Congress did with the COLA delays included in reconciliation this year. That survivor exemption means, however, that the amount deducted from the retiree's pension to fund the survivor benefit will continue to increase while the retired pay itself is frozen for 20 or more years. By the time the retiree reaches age 62, the reduction from retired pay to finance survivor benefits will triple. What this means is that the retiree, already facing an almost two-thirds reduction in purchasing power, will be unwilling to see purchasing power eroded another 5 percent and will likely opt not to provide survivor coverage at all—clearly an unintended and potentially costly result.

Like the amendment's sponsors, I strongly support deficit reduction—but it is something we must do smartly and deliberately after weighing both the pros and cons of the actions taken. I urge my colleagues' defeat of the amendment.

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in somewhat reluctant support for H.R. 3400, the Government Reform and Savings Act of 1993. While I support most of the reductions contained in the Sabo Amendment, there are some that I do object to. In particular, I am disturbed by the continuing trend in this Congress to gut our Nations advanced energy science projects.

However, I recognize that in order for any serious deficit reduction each Member is going to have to take their hits. The Senate must take action on a similar budget cutting proposal raises hopes that my concerns may be addressed in conference.

Mr. Chairman, I have greatest respect for both TIM PENNY and JOHN KASICH. I believe they are honest, straight shooters who are deeply committed to deficit reduction. I share their serious concerns over the need to cut Government spending.

Reluctantly, I must oppose the amendment offered by my two friends. While there are many reductions contained in Penny-Kasich which I strongly support, the fact of the matter is that there are others that have a direct impact on jobs in my district. Given that job creation and job preservation are first on the minds of my constituents, I cannot vote for this amendment.

Penny-Kasich proposes to cut the budget of the Tennessee Valley Authority by 30 percent. Should it pass, quite simply, it would mean a loss of up to 800 jobs in Tennessee. At the same time many of the projects and efforts conducted by T.V.A. That are important to Tennessee's Third District would be eliminated or scaled back dramatically. T.V.A. has been an important job creator in the Tennessee Valley. Thousands of people rely on them for their power generation. While there are indeed areas where T.V.A. can be more cost-effective, Penny-Kasich is simply too arbitrary a cut to be absorbed by the people of my district.

One more reason that I cannot vote for Penny-Kasich is that it complicates our ongoing efforts to reform the Nation's health care system. When the House passed the Omnibus Budget Reconciliation Act of 1993, the medicated budget was cut by $56 billion. Penny-Kasich cuts an additional $37 billion from Medicare.

I say to my colleagues that, we have a monumental task ahead of us as we debate and develop a health care reform plan. I plan to be especially active in this debate. The President has formally submitted his proposal. Already there are several competing reform proposals in circulation. It is anyone's guess what the final plan will look like. Regardless of what side the Members fall down on, it is going to cost big money to reform the health care system. By approving more cuts to the existing public health care programs, we are robbing ourselves of funds that will be needed to fund a new, comprehensive, cost effective health care program. And we will not be able to tame the growing health care budget which is a very large part of our national debt.

As I mentioned above, I know that everyone is going to have to make sacrifices for real deficit reduction. The pain should be spread evenly. Unfortunately, my constituents, under Penny-Kasich, are being asked to assume more of a burden than is fair.

The CHAIRMAN pro tempore (Mr. HUGHES). The Chair would announce that the gentleman from North Carolina [Mr. MCMILLAN] has 12 minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 15 minutes remaining.

Mr. McMILLAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong support again of the Penny-Kasich amendment. I would like to put in proper perspective what we are really talking about today.

Mr. Chairman, last year I stood in the well and tried to pass the balanced budget constitutional amendment. I listened to my colleagues who oppose the Penny-Kasich amendment, arguing that the balanced budget amendment is not what is needed. It does not make the hard choices.

Well, today the same people are criticizing the Penny-Kasich amendment because it makes the hard choices. You cannot have it both ways.

Mr. Chairman, let us talk about numbers. I have no quarrel with Chairman SABO, and I am proud to serve on the same committee, and find we are not going to fuss about the details of this. But I want to make this point: spending this year is $1 trillion 400 billion. Spending will go up by $2.2 trillion over the next 5 years under Penny-Kasich. Two point $2 trillion more we will have to spend.

Defense, the draconian cuts in defense just are not there. In 1993 it is $294 billion. The only difference in 1998 is $1 billion out of $252 billion. Nondefense discretionary, we have heard all this today. Let me give you the numbers. Two hundred thirty-one billion we are spending in 1993, and $284 billion we will spend under Penny-Kasich, an increase of $53 billion in 1998 alone.

Entitlement spending, we have heard this over and over what we are doing to the senior citizens of this country. Let me tell you what we are doing. We are increasing the amount of money that we are spending, mostly on senior citizens, from $764 billion in 1993 to $1 trillion 25 billion in 1998, an increase of $261 billion. Yet some of my colleagues have the guts to come down here and say we are gutting it?

Mr. Chairman, what I am here to say is we can cut 1 percent of the growth in spending, and protect our grandchildren's future for just a moment tonight. That is the issue.

Mr. Chairman, I rise in strong support of the Penny-Kasich amendment. I would like to commend TIM PENNY and JOHN KASICH for their leadership in bringing together a bipartisan group to find common ground in an effort to take a step toward bringing our deficit under control.

Some have argued that the Penny-Kasich amendment represents a Draconian reduction in Federal spending that will devastate the economy. Nothing could be further from the truth. At a Budget Committee hearing earlier this year, I ask Alan Greenspan about the concern that Congress may cut the deficit more than the economy could handle. Mr. Greenspan's response is very relevant to the debate that we are having today:

> I find misplaced the fear that deficit reduction would be overdone and create an undesirable degree of 'fiscal drag.' It seems to me highly unlikely that in the current political environment the Congress and the Administration would cut too much too soon from the deficit. . . Fiscal policymakers in turn, by taking difficult but necessary measures to reduce the structural deficit now, can enhance the growth of the economy and promote rising living standards for the American people for years to come.

Comments such as Mr. Greenspan's are the reason I am so pleased that the Penny-Kasich amendment guarantees that deficit reduction will result from the spending cuts. I personally have absolutely no interest in making the difficult choices of cutting certain programs simply to have those savings spent elsewhere. Therefore, the lowering of the caps and adjusting of the PayGo scorecard is a critical element to the Penny-Kasich amendment.

The entitlement savings in the Penny-Kasich amendment are simply reductions in the rapid growth of entitlement spending. Under the current budget, entitlement spending is projected to increase by an average of 7 percent a year. Under the budget that we passed earlier this year, entitlement spending will increase by $271 billion over the next 5 years. The Penny-Kasich amendment will modestly restrain the growth of entitlement programs by cutting entitlement spending by $37.9 billion. Even with the savings included in the Penny-Kasich amendment, entitlement spending will still increase by nearly $250 billion over the next 5 years. That does not seem like the Draconian cut that is being portrayed by the opponents of this amendment.

We are not reducing investment programs one dime in Penny-Kasich. Lowering the discretionary caps to ensure that the savings from Penny-Kasich are applied to deficit reduction will not threaten our ability to fund programs that invest in economic growth and other high priority programs. What it will do is require Congress and the President to set priorities in Federal spending so that we do not continue to borrow from our children's future to fund low-priority spending. Even with the reductions in the caps in the Penny-Kasich amendment, discretionary spending will increase by $53 billion over the next 5 years.

Having served as the Democratic chair of the Task Force on Health Reform, I would like to address the health changes involved in the amendment. The $36 billion in 5-year savings from Medicare Parts A and B reforms standardize copayments and adjust premium subsidies for high-income beneficiaries. This means testing of benefits is a concept which has been endorsed from the left to the right in the ideological spectrum. For years, the American Medical Association has supported high-income means testing and most recently the President included means testing in his reform package.

I reject entirely the argument that passage of Penny-Kasich will in some way preclude meaningful health reform later. Even if the Congress does approve a reform package of the magnitude of the President's which of course is yet to be seen, the administration build in $58 billion of deficit reduction. We are simply guaranteeing part of that deficit reduction up front, rather than end-loading—and never fulfilling the promise—as usual. There remain more than enough options for health reform which, after all, is supposed to reduce, not increase costs.

I have found utterly remarkable the wolf-crying carried on by countless special interest groups during the past few weeks. Despite the fact that the vast majority of these groups are not even involved in the programs mentioned by the Penny-Kasich amendment, these folks have run Chicken Little style to every Member of Congress, crying that the benevolent sky of their public largesse is falling.

What the Penny-Kasich amendment does do is allow domestic discretionary spending to increase—not be cut—by $53 billion over the next 5 years. Overall, spending will go up by $300 billion. We may eventually get to the point where we actually have to choose priorities among spending programs, although this amendment certainly doesn't drive us in that direction as far as we should go. Nonetheless, the panic has struck. Maybe every hospital, every family planning program, every Head Start program, every WIC program, every other program which has contacted us over the past few weeks doubts its ability to compete on a meritorious basis for funding. I personally have more confidence than these advocates of their own programs that they will continue to be deemed worthwhile and funded. Perhaps they know something I don't.

I particularly find important the copayments which we include for home health and laboratory services. While protecting the most poor, we would enact some of the first measures necessary to control utilization of unnecessary services which makes up one piece of the many faceted puzzle of health reform.

I find it interesting that many of the people who are opposing this proposal are the same folks who are opposing the Balanced Budget Amendment to the Constitution. The opponents of the balanced budget amendment insist over and over that we don't need a constitutional amendment to balance the budget, that we need to make tough choices. However, many of these same people have opposed every effort to make the tough choices necessary to balance the budget. Today, we will see who is willing to make those tough choices.

To the 260 of my colleagues who have joined me in cosponsoring the Constitutional amendment: now is the time to follow through on the commitment you made last week to take responsibility in dealing with our deficit. To those who say that we don't need a constitutional restrain to act responsibly, this is the time to put your votes behind your rhetoric.

The criticism of this proposal clearly illustrates why we need a balanced budget constitutional amendment. Over the last few weeks, we have been bombarded with calls and letters from virtually every special interest group that has a stake in maintaining the status quo of spending nearly a billion dollars a day that we don't have.

But let me remind you about those who have not called or written to us: our children and grandchildren. They don't have clout in the political process to match the special interests, but they and their generation are the ones who have the most at stake in what we do here today. What type of future do they have to look forward to? If we do not take action today to bring our budget deficit under control, we will mortgage the future of generations to come. The savings we propose are reasonable and necessary if we are to escape the ever-rising debt escalator which continues to carry our children farther and farther away from economic stability and prosperity. Now is the time to vote to brighten the future for generations to come. Vote "yes" on Penny-Kasich for the sake of the children.

MEDIPLEX,
Abilene, TX, November 22, 1993.
Hon. CHARLES STENHOLM,
1211 Longworth, Washington, DC

DEAR CONGRESSMAN STENHOLM: I am the chief executive for a group of home health care companies. Since 1987 our company has created 160 new jobs and successfully maintained a growth rate of 100% per year. I have a vast background in the operational management of retail pharmacy, hospital pharmacy, durable medical equipment sales/rentals, home infusion therapy, hospice, and certified home health care. We utilize a "managed care" concept to deliver a vast array of health care services to one's home. for the last 3 years, we have participated in a pilot study that utilized a standard rate of reimbursement in lieu of the traditional cost based reimbursement for our home care services.

With this experience from an operational aspect, I urge you to seriously consider passage of the home care proposals contained in the Penny/Kasich Amendment scheduled for a vote on November 22, 1993.

The most crucial home care component contained in this amendment is the Standard Reimbursement Rate set at 93% of the current cost limits and the scheduled January 1, 1994 implementation. Setting this rate would revolutionize the health care service arena by creating healthy competition.

The second crucial home care component contained in this amendment is the provision to mandate a co-pay provision to beneficiaries whose income level exceeds 150% of the federal poverty level. You will receive an intense lobbying effort from our industry in opposition to this provision. You must calm their fears. From my perspective, over 70% of our beneficiaries possess a Medi-Gap Policy to cover the 20% co-pay provisions. The remaining 30% would be unaffected by the co-pay provision as they fall below the 150% poverty level trigger.

Do not allow the special interest lobbyists to influence your vote with false facts. Support the Penny/Kasich Amendment and open the door to competition in the health care system. I will gladly testify and elaborate on my position when the time presents the opportunity.

Respectfully,

BILL ULMER, RPh., CEO,
Mediplex Health Care Companies.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, 11 months ago we gathered in this chamber with the same goals and ideas in mind, reduce the deficit, streamline government, stimulate our economy, and put people back to work. For the past 11 months, if one had stopped and looked at our accomplishments, the Federal deficit for this year is down $35.4 billion; we have 590,000 more people working; interest rates are down; inflation is down. With the passage of NAFTA, there are more opportunities for more jobs and to put more people to work.

Mr. Chairman, I cannot support the Penny-Kasich tax bill. That is what I call it, a tax bill. Because as a Member who served in the State legislature, there is no question that this bill will force State legislatures throughout this country to raise their taxes to meet the mandates that this Government will be passing on to them through cuts in Medicare, and also by cuts in higher education, farm programs, $3 billion in economic development, and I firmly believe we are putting our national defense at risk.

Mr. MCMILLAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I rise in support of the Penny-Kasich amendment.

Mr. Chairman, the Penny-Kasich amendment, I believe, offers our best hope to address the Federal deficit in a serious manner. Despite how critics have characterized this amendment, it is not a slash and burn approach to Federal spending. Rather, it is a measured and sensible framework for taking a much needed step toward fiscal responsibility. It cannot be denied that long-term economic growth would benefit from $90 billion in deficit reduction.

Opponents of the Penny-Kasich amendment would like the world to believe that this plan is the precursor to the apocalypse. While I fail to believe that cuts outlined in Penny-Kasich will cause social ruin, I do believe that the cries we all hear regarding this plan signify one point—that this is true deficit reduction. We all must face the fact that if this body is truly to address the deficit, then there are no easy answers or quick fixes. The Penny-Kasich amendment offers a reasonable approach to cutting Federal spending, and then locks in these cuts to achieve real deficit reduction.

It is also important to keep in perspective that the Penny-Kasich amendment is relatively modest in its scope. For example, during fiscal year 1994, the Penny-Kasich amendment would cut about $7 billion out of a $1.4 trillion budget, hardly revolutionary or dangerous. The home health benefit under Medicare is estimated to cost the Federal Government more over the next 5 years than this plan cuts over the same timeframe.

This amendment offers our best hope to start making the cuts necessary to bring Federal spending more in line with revenue. These are not easy or popular cuts. They may not be popular in my district. But then, we were not elected to just make easy choices. Nonetheless, I sincerely believe that it is time that we stop sacrificing future economic growth for present Federal spending. The Penny-Kasich amendment takes a significant step to slow the red ink flowing from the Federal budget, and I strongly urge its adoption.

Mr. MCMILLAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. SMITH].

□ 1840

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the Sabo amendment and in support of the Penny-Kasich amendment. Penny-Kasich is about one thing: cutting spending. Last Thursday Democrat leaders decided to delay a vote on the $90 billion Penny-Kasich spending cut amendment in order to accelerate a misinformation campaign.

They put off the vote here, just as they had the balanced budget amendment in the Senate a week earlier, for one reason.

Democrat decisionmakers are afraid spending cuts will pass and they will not get their hands on your money to spend as they see fit.

The vote on Penny-Kasich is not about defense.

The vote on Penny-Kasich is not about Medicare.

The vote on Penny-Kasich is about one thing: It is about cutting Federal spending now.

It is about cutting 1 cent from every $1 of Federal spending over 5 years, and it is the only legislation with a real chance to pass that will really reduce the deficit by even that 1 cent.

The White House's attempt to kill Congress' last best chance to cut Federal spending demonstrates their real agenda.

Yesterday is the right time to raise taxes; today is the right time for new spending, and tomorrow, always tomorrow, is the right time for spending cuts.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong opposition to the Penny-Kasich amendment. While I have many concerns, I will use my time to focus on just one, crime.

By lowering the budget caps, the Penny-Kasich amendment makes it impossible to fund efforts to put more cops on the street. Specifically, it takes $22.3 billion earmarked for a crime reduction trust fund. Unless gutted by this amendment the trust fund would increase sixfold the annual subsidy now given to States and local governments to fight crime and it would put 100,000 more police officers on the street.

All across this country people are living in fear. Every day in my district people fall prey to gang killings, drive by shootings, robberies, rapes, and other acts of senseless violence. People are scared to leave their homes. The law abiding majority has been terrorized by criminals who operate without fear of being caught.

Criminals are less likely to commit crimes when they fear they will be caught. It's no wonder criminals in Los Angeles are so cavalier in their crimes, Los Angeles is the most underpoliced major city in the country. There are presently only 7,700 sworn officers serving a city of three and a half million people. Only 350 patrol cars cover 470 square miles. This means that there is only 1 police officer for every 457 residents.

When you live in a neighborhood full of graffiti, lurking corner gangs, drug peddlers, burned-out buildings, and police that are few and far between it's not hard to see how some might get the impression that anything goes. It's also not that hard to figure out why such areas are suffering financially. Los Angeles will not revive economically if crime continues to run rampant.

We cannot stem the violence unless we invest in crime prevention and putting more cops on the street. The Penny-Kasich amendment financially wipes out this possibility. While this amendment may be "Penny wise," it is "pound foolish." It hamstrings Congress' ability to make critical investments in areas such as crime prevention. Consequently, I urge a no vote on the Penny-Kasich amendment.

The CHAIRMAN. The Chair would advise that the gentleman from North Carolina [Mr. MCMILLAN] has 8½ minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 12 minutes remaining.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Mr. Chairman, since coming to Congress 11 months ago, I have worked very hard to cut Federal spending and bring down the deficit. We have made important progress this year, and will face even more difficult decisions next year.

I commend Mr. PENNY and Mr. KASICH, and those who worked with them on this amendment, for taking on such a tough job. I believe their hearts are in the right place, and that we share a common objective. But I think their zeal to cut spending has outrun their common sense.

I am going to vote against this amendment for three reasons:

First, the caps. Earlier this year, after much debate, we adopted caps to cut discretionary spending $78 billion over the next 5 years. The caps we adopted are tighter than those that Washington State voters just put on our State budget through an initiative. The caps we adopted earlier this year include some of the same cuts Penny-Kasich would impose, especially the reduction in Federal employees.

But Penny-Kasich lowers those caps another $43 billion without specifying all the cuts we would need to reach them. The Penny-Kasich caps are arbitrary. They abdicate real decisionmaking, and to adopt them would be rash and negligent.

Second, this is no way to legislate. This amendment makes major policy changes, but it has never been considered by any House or Senate committee. For example, it revises the Superfund law to emphasize containment of toxic waste rather than cleanup. That's a very serious policy change that could affect the health of every American.

More examples: The amendment apparently abolishes the Department of Commerce. That is pretty important to anyone involved with trade or economic development. It also eliminates the new child care block grant that took Congress years to pass. If we are going to take steps like those, we should do so after full consideration in the committees of Congress and a full debate—not just for the sake of cutting spending.

Finally, the Medicare cuts are just plain, irresponsible. The amendment cuts $34 billion more out of Medicare, on top of the $56 billion we already cut in the budget reconciliation bill. I worked on those cuts in the Energy and Commerce Committee. They affected doctors and hospitals, but not the older Americans who depend on Medicare. But the cuts before us today all come straight from the pocketbooks of senior citizens. Penny-Kasich takes $37 billion from senior. That's wrong.

Medicare is not sacrosanct. We should look at more cuts along with reforms in our health care system. The President and others have proposed some Medicare cuts in order to pay for reforms we all want—universal coverage and cost control.

Everyone in Congress says they are for health care reform. Everyone say they want reform that is properly financed. But Penny-Kasich doesn't finance reform. It just cuts Medicare, blowing a hole in the financing we will need to pass a reform bill next year. And if we fail to implement real health reform, that will cost all Americans a heck of a lot more than everything Penny-Kasich would save.

I am just as tempted as many of you to vote for this amendment. It's a feel-good vote that's a lot easier to sell than to defend. And some of its cuts are wise and necessary. But the authors of the amendment don't want us to pick and choose. They want us to swallow it whole. I urge you: Don't swallow this fiscal snake oil. Don't torpedo health care reform. Vote no on Penny-Kasich.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, we all want to bring the deficit down and we are making real progress on the issue. We have approved an historic budget package that will provide $496 billion in deficit reduction, including $255 billion in spending cuts. We achieved a net $11 billion in reductions below the administration request for fiscal year 1994 and exceeded his request for rescissions in this package. Though little noticed, the actual deficit for fiscal year 1993 has come in well below the dire predictions at the beginning of the year.

There has been pain. Many worthy programs have been curtailed as we make tough priority decisions. The Congress has voted to terminate major initiatives, such as the supercollider, that had real promise. The ability to meet pressing national needs ranging from crime prevention to enhancing educational opportunities is tightly squeezed by pay as you do rules.

I want to especially focus on the devastating impact that the Penny-Kasich amendment could have on our national security. We are already engaging in a major downsizing of our defense forces under the administration's plans that will result in real reductions of more than 45 percent between 1985 and 1993. Many communities are already experiencing the serious economic consequences of this adjustment.

I am concerned that we may already be going too far in cutting defense. A wide range of current and retired military commanders are sounding warnings of hollow forces. The Defense Department estimates that just to meet the Clinton numbers will require identifying an additional $13 billion in cuts over the 5-year planning period. In addition, the Congress has set discretionary caps $56 billion below the Clinton budget, and there will be irresistible pressure to have a significant portion of this shortfall borne by defense.

On top of this very tight situation comes Penny-Kasich. It claims to make only minimal cuts in defense. But it could have devastating impact. The bottom line is that the amendment reduces discretionary caps by another $42.5 billion below the base bill. The firewalls are down, defense is part of discretionary spending. Wishful thinking that firewalls will be recreated in a way to hold defense harmless is a pipedream. Anyone who thinks that defense would only take around 3 percent of those cuts, as Penny-Kasich supporters assert, doesn't have a clue about political reality.

Penny-Kasich would also have tremendous adverse impact on military personnel. As Secretary of Defense Aspin and Chairman of the Joint Chiefs of Staff General Shalikashvili stated in a recent letter to the Speaker:

> Even if COLA changes are grandfathered, the lifetime loss to future retirees of over 20 percent would have immense implications for recruiting, retention and moral. * * * In fact, the costs of implementing this proposal may outweigh the projected savings.

Penny-Kasich could undermine deficit reduction by undercutting the savings needed to help finance what has the greatest promise for long term deficit reduction, health care reform. It will make it tougher to finance a crime package. This is another potential source of pressure to make cuts in defense to provide funding for these programs since the cuts we had planned to use will be gone.

This amendment was hastily assembled, and has not been subject to critical scrutiny. Many of its provisions have major long term implications that deserve deliberate consideration by the House.

Anyone who thinks this is the last opportunity to make further spending cuts simply doesn't understand the system. Every year when we consider the budget resolution there is an opportunity to adjust prior spending assumptions. I have no doubt that next spring we will be debating a number of proposals to further reduce spending. That is the proper forum and I urge my colleagues to oppose this amendment.

Mr. MCMILLAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in support of Penny-Kasich, the true deficit reduction plan. The special interests came out of the woodwork as soon as this began. My letters read, "We support efforts to reduce the Federal deficit but," and then they explained why theirs should not be reduced.

But what do the overwhelming majority of the American people really want us to do tonight and every day and night we are here? They want us to eliminate waste. They want runaway government checked. They want outdated programs abolished. And most of all, they want us to control spending at the Federal Government level.

Tonight is a night that we can put pork barrel spending behind us. It does not work anyhow. It is bad politics.

Tonight is the night we can weigh the greater good as opposed to the individual interests of our congressional districts. Tonight is the night we can have the political courage to do what is right.

Remember what we campaigned on, that we were going to make Government more efficient, run better, make the programs help people more than they do today. We can show all these things tonight by a very clear vote. We can vote for real deficit reduction.

Vote for the Penny-Kasich amendment.

Mr. McMILLAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I rise in support of Penny-Kasich.

Over and over during this Congress on important votes, I would hear Members say "This vote is a defining moment in this Congress."

What I would suggest is that tonight we really do have a defining moment in this Congress. It is going to define who this Congress is. It is going to define who we are as freshmen. It is going to answer the question, are we any different or is it business as usual, more of the status quo and just rhetoric.

Everyone is in favor of deficit reduction in the abstract. Tonight we are going to find out how many are really in favor of deficit reduction in the concrete.

□ 1850

Mr. Chairman, I have been listening to the scare tactics of the opposition to this amendment. I started writing down some of the words that have been used: "devastating, ominous, catastrophic, mean-spirited, extreme pain, cruel." We are talking about one penny on the dollar over 5 years. That is what is cruel, and that is what is ominous.

Mr. Chairman, I had a constituent call me this morning and they put it in good perspective. They said, "Congressman, we are heading for the waterfall, and we must stop." A vote for Penny-Kasich this evening is one small step towards stopping. It is one small step toward fiscal responsibility.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I am going to ask a question. I keep hearing about the one penny on the dollar on spending. If the chairman, the gentleman from Minnesota [Mr. SABO] would indulge me here, we talk about the $8 trillion we are going to spend over the next 5 years, and we talk about spending for the next 5 years.

One penny on the dollar, are we counting the $1.15 trillion in interest payments over the next 5 years?

Is that counted as spending?

Mr. SABO. Mr. Chairman, I would assume it is. I assume no one is suggesting we cut a penny off of the interest payments and do not cut a penny off Social Security.

Mr. HEFNER. The arguments are not exactly truthful. I would certainly hope that the proponents of the proposition would certainly not want to give out any wrongful information.

Mr. McMILLAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I rise in strong support of Penny-Kasich, the only true solution to our deficit problem.

Mr. Chairman, I rise in support of the Penny-Kasich deficit reduction amendment to H.R. 3400. This plan contains real spending cuts, real fiscal constraint, and real deficit reduction. This plan offers the best hope for fiscal responsibility and the best hope that we will stop piling more and more debt on our children and grandchildren.

Since I was first elected to Congress in July 1991, I have repeatedly stated that my No. 1 priority is to help bring fiscal responsibility to the Federal budget. Year after year of deficit spending—some $255 billion in 1993—has created a debt of over $4.4 trillion, more than quadrupling the Federal Government's debt since 1980. During this period, mandatory spending programs have grown exponentially, and interest payments on this debt have consumed a greater portion of the annual budget each year. The escalating debt has a profound negative impact on the ability of the Government to provide important social services, and it has hurt the economy.

During debate on President Clinton's tax increase package last summer, my offices and those of many other Members of Congress were flooded with phone calls and letters from constituents demanding that we cut spending first. It became clear during that debate that the American people want us to balance the budget by cutting spending, not raising taxes. I agreed with that position then, and I agree with it now.

Cutting spending challenges us to make tough decisions, and Penny-Kasich meets that challenge. The proposal achieves over $90 billion in deficit reduction over 5 years. It cuts or eliminates dozens of unnecessary programs including nonvital military projects, a freeze in construction of new Federal buildings, streamlining of operations at several Federal agencies, et cetera. But, in order to achieve such major deficit reduction, it also contains cuts in programs many of us would rather not cut.

In the past few days leading up to the vote on the Penny-Kasich amendment we have seen a tremendous lobbying campaign against deficit reduction led by special interest groups in Washington, DC, and by President Clinton and the leadership in Congress. Unfortunately, in their zeal to kill the spending cuts, these groups have distorted the facts about Penny-Kasich. I would like to set the record straight.

Penny-Kasich will reduce the increase of spending on Medicare, one of the fastest growing programs in the entire Federal budget, by $34 billion over 5 years. However, despite what some groups have depicted, it is important to note that much of these cuts will not be felt by most senior citizens. About one-third of the savings in Medicare come from asking part B recipients with income over $70,000—$90,000 for couples—to pay a higher portion of their premiums, for which the Government currently pays 75 percent, regardless of income. The plan also proposes increased hospital insurance deductibles for those with incomes over $70,000—$90,000 for couples.

I am sure that the Penny-Kasich amendment contains something for everyone to hate, which is probably a sign that this is a good proposal. For instance, I am concerned about the proposal to cut overhead costs for university research and development projects. The University of Illinois, in the heart of my district, will feel this cut. While I would prefer that this not be included, I also realize that on the whole, Penny-Kasich is good because it will reduce the deficit.

Finally, it is important to point out that we are guaranteed that Penny-Kasich will directly reduce the deficit, and won't be spent on other programs, because it actually reduces spending caps set forth in the annual budget resolution. Usually when the House votes to cut a program—which isn't very often—those caps are not lowered, and the money cut is therefore made available for appropriation to other programs. Penny-Kasich has teeth, it will cut spending, reduce the size of the budget, and it will cut the deficit.

We need to keep some perspective during this debate. While the President and the special interest groups would have us believe that Penny-Kasich would have devastating effects, the fact is that overall this amendment will only cut about 1 cent out of every Federal dollar. It would cut about $6.5 billion in fiscal year 1994—the current deficit is $255 billion—and $90 billion over 5 years. If we cannot even make this rather small cut, I doubt we will ever be able to balance the budget.

Mr. Chairman, for those of us who have been calling for deficit reduction, now is the time to stand up and be counted. It is time to make tough choices and to do what we said we will do. I strongly support the Penny-Kasich amendment and urge my colleagues to vote for it.

Mr. McMILLAN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, for nearly a generation, Congress has repeatedly and consciously been willing to spend more than we take in. First, the deficit was small. As it grew, so did our anxiety and rhetoric, but we have not been willing to match our words with action.

In 1985 I was one of a small group that developed an alternative budget. We cut defense $25 billion. We cut discretionary programs line by line $25 billion for a total of $50 billion in cuts and a balanced budget in a few short years. Everyone said—impressive, honest, courageous. The then-Budget Committee chairman commended us and said he was incorporating most of our ideas.

Mr. Chairman, it all sounded great, but when the final curtain came down, real cuts were small and the deficit grew, and the public was led to believe we had been tough. And so it has gone year after year. The deficit goes up and we go home and say how tough we have been.

Mr. Chairman, today is D-day. This is our last real chance to save our kids, to actually address the deficit that so endangers the economic strength of our country and the personal security of our people. We raised taxes a couple of months ago by over $300 billion. Now we must cut spending.

Mr. Chairman, Penny-Kasich is not draconian. Look at Medicare. We all agree wealthy retired seniors must pay more of their Medicare premiums than seniors retired on $6,000 or $20,000 or even $69,000. Even seniors support means testing on premiums. Most seniors have incomes higher than most single-parent households. If we want to adjust the income levels, closer to those recommended by President Clinton, we can do that in conference, but this is not draconian.

And let's look at the other Medicare cuts—all proposed by the President. If you don't like them we can give seniors the chance to join managed care programs, just as 15 States are now allowed under an HCFA demonstration program. We could even amend Medicare law to allow it to fund preventive service to reduce costs, though so far that has been too radical for this body.

No, the 1-percent Penny-Kasich cut is not draconian. Then why the ruckus? Listen up, America—listen up.

The ruckus is because the Penny-Kasich cuts are real.

The one-cent-in-every-dollar cuts are backed by budget caps and are enforceable. That's the big difference between the Sabo and Kasich budgets. That's why the threatening letters and the arm twisting. The game is over.

Yes, Penny-Kasich is real. It's good for your kids because it will slow deficit growth and every American now being whipped up to believe they'll be hurt will end up being better served by a Congress truly focused on fiscally responsible spending and taxing policy. We have no right to do health care reform until we have done our duty to bring current spending more in line with current revenues.

I urge your support of Penny-Kasich. It's a small but real drop in the bucket of our deficit. Even with Penny-Kasich, the U.S. Government will increase spending $2.2 trillion in the next 5 years. When is enough enough?

We increased taxes—now let's make good on a generation of promises, promises, promises to cut spending.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Chairman, I rise today reluctantly to oppose the Penny-Kasich proposal. I want to cut spending. I do believe in fiscal restraint. However, this proposal is a dangerous plan.

Penny-Kasich amounts to a $5 billion unfunded mandate on State governments. Prior to being elected to Congress, I served 16 years in the Georgia Legislature. I have seen first hand the devastating nature of unfunded mandates. I cannot, in good faith, support $5 billion in unfunded mandates on our State and local governments in the name of deficit reductions.

This proposal is also a slap in the face of the men and women who have valiantly served in our country's Armed Forces. I cannot support more cuts in veterans hospitals, many of which will have to be closed or have vital programs eliminated under Penny-Kasich. I cannot support more cuts for senior citizens, from children and from Federal workers—they are already cut to the bone.

I want to support a cut proposal above and beyond the $37 billion White House plan because I feel that it does not go far enough. And I have examined the Penny-Kasich proposal in detail. But I can not, Mr. Chairman, in good conscience, support it.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Chairman, I rise in reluctant opposition to the Penny-Kasich plan.

I am reluctant, because I strongly support the goal of deficit reduction.

But the outcry from my State has been so great—protesting the draconian impact of cuts so quick and so deep—that I must vote against this proposal. Georgians For Children expressed opposition to the proposal to lump block grants together. Without adequate childcare funding, Georgia's hard-fought welfare reform plans are doomed.

Officials of Grady Memorial Hospital—our huge, regional public hospital—raise concerns that this proposal will deal a death blow to any hope of health care reform. The Medicare cuts could cost Georgia $158 million.

I understand that this bill could force the closing of Warner-Robbins Air Force Base and further reduce the number of National Guard units in our State. Our communities are already reeling from the impact of base closings and military reductions.

I support the Frank-Shays amendment to cut an additional $51 billion over the next 5 years. This proposal eliminates big-ticket projects that I have consistently opposed such as the space station. Support responsible deficit reduction—oppose Penny-Kasich.

Mr. MCMILLAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, if I were to capsulize the so-called Sabo amendment, a short description would be "all flash and no cash." There are no cuts at all in the so-called Sabo amendment. It merely shuffles money around. It is a three shell game. It reprioritizes spending, but it does not make even a brush, a dent in the deficit.

Mr. Chairman, there are two groups of people that are most directly impacted by the so-called Sabo amendment. One are those Democrats who voted, painfully, for the President's budget on the promise that they would get to vote on some real cuts later on. They find out how hollow, how empty that promise really was.

Then there is a second group of Democrats, more sophisticated, who felt that this type of vote is a CYA vote, a cover your posterior vote. Now, if they think that, and when the public wises up to no cuts, no dents in the deficit, the CYA suddenly becomes a cellophone fig leaf. If they think that is going to cover them, I just suggest they may well get arrested for indecent exposure.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] has 7 minutes remaining, and the gentleman from North Carolina [Mr. MCMILLAN] has 3 minutes remaining.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in very strong opposition to the Penny-Kasich amendment.

I suppose it has become fashionable in some quarters to blame all of our fiscal problems on senior citizens, but this amendment constitutes a reckless assault on older Americans. Nearly $40 billion of the $90 billion in savings from Penny-Kasich comes literally out of the pockets of senior citizens.

The so-called Medicare cuts in Penny-Kasich are not cuts at all. Penny-Kasich simply makes seniors—wealthy, middle-income, and low-income seniors—pay more for certain medical procedures under Medicare.

I hope seniors are listening carefully: Passage of Penny-Kasich will mean that over the next 5 years $40 billion will come out of seniors' bank accounts and go into the Federal Treasury account. It is really that simple.

Even worse, since these so-called savings come from Medicare, this $40 billion bill is payable only when seniors become ill. One has to question what this amendment says about our society.

A very serious problem with Penny-Kasich is that it eviscerates our national crime prevention strategy. Earlier today, Member after Member stood up and said that we are not focusing on the root causes of crime—that we need more cops on the beat, more prisons, stiffer prison sentences. I agree with you, but where are we going to get the money?

The Senate has wisely earmarked the savings from the Federal work force reductions to finance our $22 billion crime package. Let me remind Penny-Kasich supporters of what is in the crime package: 100,000 new cops to patrol our neighborhoods, money to construct new prisons so criminals go to jail and stay in jail, drug treatment in prison so we don't send drug addicts back on the street, and boot camps to set juveniles on the right course.

If we pass the Penny-Kasich amendment, say goodbye to more cops, more prisons, and more peace of mind in the communities we represent.

Mr. Chairman, I am somewhat of a deficit hawk. If you look at my record, you'll see that I supported many amendments to cut spending. I support the bipartisan Frank-Shays amendment to cut the space station and other wasteful programs. I have drafted legislation with Representatives BREWSTER, EDWARDS, and HARMAN to earmark hard fought spending cuts to deficit reduction. I also supported the President's $500 billion deficit plan which remains the first and only serious attempt ever made to control Federal spending.

Therefore, I am baffled that proponents of Penny-Kasich have boasted of the courage it takes to make "real spending cuts." With the notable exception of Mr. Penny, nearly every supporter of this amendment not only opposed the President's budget plan but stood on the sidelines from the day the bill was introduced to its passage. That doesn't sound too courageous to me.

The Penny-Kasich amendment is bad legislation. It is an all-out assault on seniors and it guts our crime initiatives. I urge Members to make the right choice and vote "no" on Penny-Kasich.

□ 1900

And I ask my colleagues, if there is one consensus in America on spending, it is spending to fight crime, not throwing money at a problem, but dealing with the problem in a rational and careful way. People on the right, people on the left, Democrats, Republicans, we all support it.

But instead of coming to this floor year after year and pushing empty promises, we now, this time, for the first time have a potential to put our money where our mouth is and actually do the tough things on crime that we want to do, our public wants us to do, and the criminals are afraid of.

But if we pass Penny-Kasich that hope is all gone.

Mr. MCMILLAN. Mr. Chairman, I would like to suggest to the gentleman from New York that if he wants action on crime he could sign discharge petition No. 10.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise tonight in strong support of Penny-Kasich. We were promised the opportunity to finally cut spending, and that is what this bill does.

No, it is not perfect. But let me tell you, with very few exceptions there is not a single budget cut out there that will not make someone howl. It is always, "Don't cut me, cut someone else behind that tree."

Well, Mr. Speaker, tonight we can make a difference. I have met with my Concord Coalition folks and my United We Stand folks too. They have read Bankruptcy 1995. They know we have to start making some tough choices now.

The taxpayers have had it up to here. Let us stop listening to the few folks walking around the hallways trying to protect their special pet programs. We can do it. We can do it for our kids and their kids too by starting to finally do something about the deficit tonight that otherwise will strangle us if we do not.

Please vote for Penny-Kasich.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, this is a very serious vote that we have before us tonight. Whether we are talking about $30 billion, $42 billion, $90 billion-plus, we are talking about an incredible amount of shifts in taxpayers' dollars. We are talking about huge expenditures. We are talking about amounts of money we can hardly imagine.

Yet tonight we are dealing with these huge sums in this ad hoc way we sometimes have of doing things. This is not the budget process. The gentleman from Minnesota [Mr. SABO] is chairman of the Budget Committee, and the gentleman from Ohio [Mr. KASICH] is the ranking member of the Budget Committee. They both worked long and hard on the budget we passed this summer.

Why did that budget vote pass by only one vote? Why did it pass by so close a vote? Because it was a very tough budget. It talked about tax increases. It talked about caps on discretionary spending. It talked about change, for the first time in a long time, about turning the budget around and going in the other direction by reducing the deficit; being realistic about where we are in this country, a country that has a huge debt. And it was done in the proper fashion; and it was very difficult.

Tonight we are going to have a vote that we all will argue about—what cut, or where that cut really is, or what is really happening. What is happening here is this is an extra vote and one we do not need. Rather, we should continue to build on the budget we passed in the regular process of the U.S. Congress. We did it right then. We went in the right direction.

Tonight's vote is not the right vote. Tonight's vote is a vote we should not have, but if we are going to have it, let us continue to build on the Sabo budget and do it in the right way, in a professional way, in a way that is going to take this country in the right direction: Orderly, real deficit reduction while at the same time keeping commitments to the American people already made in the budget process.

A vote for the Sabo amendment is the right vote. We would all love to cut and reduce the deficit more, but it is irresponsible to do it in this manner. Let us just keep going in the right direction knowing that we have to reduce the deficit and reduce it in the right way.

Mr. MCMILLAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding the time.

In 1985, when I first came to Congress, the national debt was $1.4 trillion. For 9 years I have watched Congress with all of its many 5-year plans and budgets promising trillions of dollars of deficit reduction. But what the people really got was trillions of dollars of new debt, a national debt now at $4.3 trillion.

Why? Because most of the heralded decreases in spending touted as deficit reductions were rerouted to alternative spending, exactly what the Sabo amendment does. So here we are, the Nation is drowning in debt, there will be new debt of at least another $2 trillion or $2.5 trillion at the end of the 5-year plan, and here we are, we are quivering about taking a step like this.

Winston Churchill has said that you can always count on the Americans to do the right thing—after they have exhausted every bloody alternative around. He must have had Congress in mind. The Sabo amendment is simply more a bloody alternative for rerouted spending. It is not a deficit reduction, and that is why, with all of the promises of literally trillions of dollars of deficit reduction those last 9 years, the only things the taxpayers got was a little bit older and deeper in debt.

Shape up, Washington, and support the Penny-Kasich amendment.

Mr. MCMILLAN. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, the message I am hearing from hard-working Hoosier families is to cut spending first. If they can balance their budget around the kitchen table, Congress should be able to balance the national budget. The Kasich-Penny amendment would represent the first step toward a balanced budget.

The hope of ridding our Nation of its Federal deficit will never be realized until we stop the practice of cutting spending but funding new programs. The Kasich-Penny amendment specifically sets sending cuts to go exclusively to reduce the deficit. What Congress is doing now, by considering the Kasich-Penny amendment, is what it should have done when it passed the tax bill in July.

The opponents of Kasich-Penny just don't get it. If this Congress can't support $90 billion in cuts for deficit reduction, it will never come to grips with the growth of Government spending.

The Kasich-Penny amendment will be the litmus test for hypocrisy. Many of you who voted for tax increases will now vote against spending cuts. You will be judged. I applaud my Democratic colleagues who are now going to vote for real spending cuts to reduce the deficit.

During this year, we have seen the administration, flanked by forklifts of unnecessary Government rules and regulations, call for serious and genuine cuts and Government reform. The Vice President's reinventing Government plan claimed an estimated $108 billion in savings over 5 years. According to CBO, this plan, as it was introduced in Congress, contained only around $300 million in savings.

My colleagues, on both sides of the aisle, worked long and hard to put together the Kasich-Penny plan which would achieve real deficit reduction by over $90 billion over 5 years. It is sad the administration, now flanked by special interest groups, is leading the charge against the Kasich-Penny amendment to cut Federal spending, claiming it will wreck the economy, threaten our national security, and destroy the prospects for health care reform.

This plan will not have a detrimental impact on the economy. The plan amounts to 0.2 percent of the $37 trillion in U.S. economic activity projected over the next 5 years. If anything, rather than harming the economy, the achievement of a sizable deficit reduction would send a positive signal to the financial markets. Federal Reserve Chairman Alan Greenspan said the best thing Congress can do for the economy is adopt credible deficit reduction. The Kasich-Penny amendment achieves just that.

This plan does not threaten national security. This plan contains only around $1.8 billion in Defense spending reduction over the next 5 years. The administration's policies, which include $127 billion in cuts in the military without a risk assessment to national security, trying to put gays in the military, wrecking the operational tempo, and sending our troops abroad in peacekeeping missions without proper support, are far more detrimental to the preservation of national security than the Kasich-Penny plan.

This plan does not destroy the prospects for health care reform. In fact, these proposals are the same as provisions President Clinton included in his health care reform proposal. The Medicare provisions of the Kasich-Penny amendment, which include $34 billion in savings, are far less than the administration's proposal of $124 billion in cuts to Medicare. The administration's health care reform plan also includes a $45 billion cushion. The $34 billion reduction in the Kasich-Penny plan cannot possibly harm Clinton's health plan.

This amendment's savings represent around 1.1 percent of our Nation's entire budget over the next 5 years. This translates into a cut of 1 penny for every dollar the Federal Government spends. It mandates that these savings be used exclusively to reduce the deficit, not for new or existing programs.

Sure there are tough choices in the Kasich-Penny plan. These are the kinds of choices which are going to save this country from bankruptcy for our children and grandchildren. Most of the cuts in the Kasich-Penny plan will have little effect on everyday Americans. These types of cuts are long overdue.

If this Congress cannot overcome the business-as-usual agenda and pass this amendment, then this Congress will never tackle the deficit tiger. I urge my colleagues to support the demands of the American public. I urge my colleagues to stand for fiscal responsibility and support the Kasich-Penny amendment.

Mr. MCMILLAN. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, the Kasich-Penny proposal is the only serious proposal to cut spending here tonight. Members who have argued for a balanced budget amendment say we need the amendment to have the courage to make serious cuts in Government spending. Members who have opposed a balanced budget amendment have said we don't need an amendment—just the courage to make serious cuts in Government spending. Opponents of the President's budget bill said we need to cut more spending. Many proponents of the President's budget bill said it was a first step to cutting spending, but they said we need to do more.

Well, if we really want to cut spending, this is our chance. If we want to send an honest message to American taxpayers that we're serious about cutting spending and reducing the deficit, this is our chance. If you want to go home and tell your constituents that you seriously cut spending, this is your chance.

Mr. Chairman, Kasich-Penny is a package that cuts 1 cent out of every tax dollar the Government will spend in the next 5 years. It is a package that was put together by 31 Democrats and Republicans, and supported by a lot of other Members, who have said we have had enough—enough of the fake spending cuts.

Tonight this is your chance to rise above partisanship and pass a package that is about the future.

Mr. Chairman, it is very basic, vote for Kasich—and Penny.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] has 3 minutes remaining.

Mr. SABO. Mr. Chairman, I yield myself our remaining time.

Mr. Chairman, I simply rise to ask support of the amendment which provides for $37 billion of real spending cuts. It has $2.5 billion of rescissions of actual appropriations from this year. It makes some very fundamental reforms in how Government operates, provides for a personnel cap which reduces Federal employment by 252,000 employees over the next 5 years.

It is a good amendment, it is reasonable, and it is a responsible amendment. It is consistent with the budget that we adopted last summer, and I ask Members' support.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. SABO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCMILLAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 272, noes 163, not voting 3, as follows:

[Roll No. 608]

AYES—272

Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodlatte
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings

Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Huffington
Hughes
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—163

Abercrombie
Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Combest
Condit
Conyers
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Grams
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Miller (FL)
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Molinari
Moorhead
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Nussle
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Pryce (OH)
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Ramstad
Ravenel
Regula
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Royce
Santorum
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Schaefer
Schiff
Sensenbrenner
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Smith (NJ)
Smith (OR)
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Underwood (GU)
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Mr. OWENS changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in part 2 of House Report 103-403.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment made in order under the rule.

The text of the amendment is as follows:

Amendment offered by Mr. PENNY: Add at the end of the bill the following:

SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Common Cents Deficit Reduction Act of 1993".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—NATIONAL SECURITY

Sec. 101. Sense of Congress on increased burden sharing by allies of the United States.
Sec. 102. Streamlining and reorganization of Corps of Engineers.
Sec. 103. Rescission of certain defense add-ons.
Sec. 104. Rescission of funds for MK-19 grenade launcher program.
Sec. 105. Termination of C-26 aircraft program.
Sec. 106. Termination of mobile in-shore undersea warfare vans program.
Sec. 107. Rescission of certain defense operation and maintenance funds.
Sec. 108. Reduction in Public Law 480 Food for Peace Program.
Sec. 109. Rescission of funds for World Bank.
Sec. 110. Reduction in funding for International Development Association.
Sec. 111. Rescission of funds for foreign military financing.
Sec. 112. Rescission of funds for Agency for International Development, Department of state, and United States Information Agency.

TITLE II—PHYSICAL CAPITAL, NATURAL RESOURCES, AND SCIENCE

Sec. 201. Termination of spacelifter program.
Sec. 202. Department of Science, Space, Energy and Technology.
Sec. 203. Elimination of funding for MagLev prototype development program.
Sec. 204. Rescission of funds for federally sponsored university research and development.
Sec. 205. Recoupment of certain grants.
Sec. 206. Coverage of federally funded research and development centers by Competition in Contracting Act.
Sec. 207. Termination of modular high temperature gas reactor project.
Sec. 208. Department of Energy Facilities Closure and Reconfiguration Commission.
Sec. 209. Rescission of funds for fusion energy research and development.
Sec. 210. Rescission of funds for fossil energy research and development.
Sec. 211. Alaska Power Administration sale.
Sec. 212. Federal-private cogeneration of electricity.
Sec. 213. Termination of clean coal technology program.
Sec. 214. Rescission of funds from SPR petroleum account.
Sec. 215. Study of termination of helium subsidy.
Sec. 216. Rescission of funds for low-priority water projects.
Sec. 217. Preference for interim measures in Superfund response actions.
Sec. 218. Reservation of funds for disaster relief.
Sec. 219. Elimination of Weather Office closure certification procedures.
Sec. 220. Rescission of funds for NOAA research fleet.
Sec. 221. Rescission of funds for NOAA add-ons.
Sec. 222. Study concerning merger of Bureau of Reclamation and United States Army Corps of Engineers.
Sec. 223. Rescission of funds for agriculture building and facilities account.
Sec. 224. Repeal of authorizations for the airway science program, collegiate training initiative, and air carrier maintenance technician training facility grant program.
Sec. 225. Repeal of national recreational trails program.
Sec. 226. Rescission of funds for EDA.
Sec. 227. Elimination of funding for public telecommunications facilities.
Sec. 228. Moratorium on construction and acquisition of new Federal buildings.

TITLE III—GOVERNMENT MANAGEMENT

Sec. 301. Government information dissemination and printing improvement.
Sec. 302. Sense of Congress regarding reorganization of Bureau of Indian Affairs.
Sec. 303. Rescission of funds for printing and reproduction and for supplies and materials.
Sec. 304. Streamlining of Department of Housing and Urban Development.
Sec. 305. Termination of Interstate Commerce Commission.
Sec. 306. Rescission of funds from Tennessee Valley Authority Fund.
Sec. 307. Rescission of funds for Appalachian Regional Commission.
Sec. 308. Improvements to managment of veterans' hospitals.
Sec. 309. Rescission of funds for Legal Services Corporation.

Sec. 310. Termination State Justice Institute.
Sec. 311. Improvement of U.S. Marshals Service.
Sec. 312. Rescission of funds for BATF.
Sec. 313. Rescission of funds for construction of new Federal offices and courthouses.
Sec. 314. Limitation on office equipment and furnishings purchases by departing Members of House of Representatives.
Sec. 315. Rescission of funds for Executive Office of the President.
Sec. 316. Rescission of funds for Legislative Branch.
Sec. 317. Rescission of funds for House franking.
Sec. 318. Provisions relating to annual pay adjustments for Members of Congress.
Sec. 319. SES annual leave accumulation.
Sec. 320. Reduction of Federal full-time equivalent positions.
Sec. 321. Rescission of funds for travel accounts.
Sec. 322. Termination of Federal advisory committees.
Sec. 323. Increase in threshold for application of Davis-Bacon Act.
Sec. 324. Elimination of certain reports required on contracts covered by Davis-Bacon Act.
Sec. 325. Fees for applications for alcohol labeling and formula reviews.
Sec. 326. Increase in SEC registration fees.
Sec. 327. Travel, tourism, and export promotion fees.

TITLE IV—HUMAN RESOURCES

Sec. 401. Reduction in funding for arts and humanities programs.
Sec. 402. Elimination of operating subsidies for vacant public housing.
Sec. 403. Substitution of voucher assistance for public housing new construction.
Sec. 404. Reform of HUD multifamily property disposition.
Sec. 405. Termination of annual direct grant assistance.

TITLE V—SOCIAL SERVICES AND RETIREMENT

Sec. 501. Increase in retirement age under FERS to 65.
Sec. 502. Provision relating to Government contributions to the Thrift Savings Plan.
Sec. 503. Deferral until age 62 of cost-of-living adjustments for military retirees who first entered military service on or after January 1, 1994.
Sec. 504. Consolidation of certain social services programs into a single block grant program.
Sec. 505. Awards of Pell grants to prisoners prohibited.
Sec. 506. Elimination of education programs that have largely achieved their purpose.

TITLE VI—AGRICULTURE AND HEALTH CARE

Sec. 601. Department of Agriculture reorganization.
Sec. 602. Reduction in triple base for deficiency payments for basic agricultural commodities under agriculture programs.
Sec. 603. Imposition of 20 percent coinsurance on clinical laboratory services under Medicare.
Sec. 604. Imposition of 20 percent coinsurance on home health services under Medicare.
Sec. 605. Relating Medicare part B premium to income for certain high income individuals.
Sec. 606. Increase in Medicare hospital insurance deductible for certain high-income individuals.
Sec. 607. Establishment of standard payment rates for home health services.
Sec. 608. Eliminating Federal support for honey.

TITLE VII—ENFORCEMENT

Sec. 701. Dedication of savings to deficit reduction.

TITLE I—NATIONAL SECURITY

SEC. 101. SENSE OF CONGRESS ON INCREASED BURDEN SHARING BY ALLIES OF THE UNITED STATES.

(a) DEFENSE COST-SHARING AGREEMENTS.—It is the sense of Congress that the President should enter into negotiations with each foreign nation referred to in subsection (b)(1) that is not excluded by subsection (b)(2) to seek to conclude an agreement that provides for such nation to pay at least 50 percent of the overseas basing costs that are incurred for the stationing of members of the Armed Forces of the United States and related civilian employees of the Department of Defense in that nation as a result of the implementation of a bilateral or multilateral defense agreement with that nation.

(b) COVERED FOREIGN NATIONS.—(1) Except as provided in paragraph (2), subsection (a) applies with respect to the following foreign nations:

(A) Each member nation of the North Atlantic Treaty Organization (other than the United States).

(B) Every other foreign nation with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty ashore in that nation.

(2) Subsection (a) does not apply with respect to any foreign nation—

(A) that receives assistance or financing under—

(i) section 23 of the Arms Export Control Act (22 U.S.C. 2763), relating to the foreign military financing program; or

(ii) the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

(B) in which not more than 1,000 members of the Armed Forces of the United States and related civilian employees of the Department of Defense are assigned to permanent duty ashore as a result of the implementation of a bilateral or multilateral defense agreement; or

(C) that has agreed to assume, not later than January 1, 1995, at least 50 percent of the overseas basing costs of the United States in that nation.

(c) USE OF FUNDS FOR PAYING OVERSEAS BASING COSTS.—(1) It is the sense of Congress that funds should not be expended to pay more than the allowable percent of the overseas basing costs that are incurred during a fiscal year referred to in paragraph (2) for the stationing of members of the Armed Forces of the United States and related civilian employees of the Department of Defense in a nation referred to in subsection (a) as a result of the implementation of a bilateral or multilateral defense agreement with that nation.

(2) For purposes of paragraph (1), the allowable percent for a fiscal year is as follows:

(A) For fiscal year 1995, 84 percent.

(B) For fiscal year 1996, 75 percent.

(C) For fiscal year 1997, 60 percent.

(D) For each fiscal year that begins after September 30, 1997, 50 percent.

(d) OVERSEAS BASING COSTS DEFINED.—In this section, the term "overseas basing costs" means all costs related to the operation of installations in foreign countries at which forces of the Armed Forces of the United States are based, as determined by the Secretary of Defense using the methodology used in preparing the "Fiscal Year 1994 Budget Estimate, Department of Defense", dated April 1993, and the "Report on Allied Contributions to the Common Defense", dated May 1993. The term—

(1) includes, among other costs—

(A) pay for foreign nationals;

(B) costs of utilities;

(C) costs of local services;

(D) costs of military construction projects;

(E) costs of real property maintenance;

(F) costs of environmental restoration;

(G) leasing costs;

(H) taxes;

(I) user fees;

(J) tolls; and

(K) import duties;

(2) does not include—

(A) the rent value of land or facilities provided to the United States by foreign nations covered by this section in excess of amounts actually paid by such nations to private owners of such land or facilities; and

(B) revenue foregone by foreign nations covered by this section in providing rent-free land or facilities to the United States; and

(3) does not include the pay and allowances of members of the Armed Forces of the United States and civilian employees of the Department of Defense.

SEC. 102. STREAMLINING AND REORGANIZATION OF CORPS OF ENGINEERS.

The Secretary of the Army shall reorganize the United States Army Corps of Engineers by reorganizing the headquarters offices, reducing the number of division offices from 11 to not more than 6, and restructuring the district functions so as to increase the efficiency of the United States Army Corps of Engineers and reduce staff and costs, to achieve at least $50,000,000 in net annual savings by fiscal year 1998.

SEC. 103. RESCISSION OF CERTAIN DEFENSE ADD-ONS.

(a) MILITARY CONSTRUCTION.—Of the funds made available under the heading "Military Construction, Army Reserve" in the Military Construction Appropriations Act, 1994 (Pub. L. 103-110), $15,000,000 is rescinded, to be derived from the Georgia-Fort McPherson Command Headquarters, Phase I, project.

(b) DEFENSE PROCUREMENT.—Of the funds made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139), the following amounts are rescinded from the following accounts and programs:

(1) "Other Procurement, Army", $15,000,000, to be derived from common hardware and software.

(2) "Other Procurement, Navy", $30,000,000, to be derived from spare and repair parts.

(3) "Other Procurement, Navy", $12,000,000, to be derived from weapons range support equipment.

(4) "Other Procurement, Army", $10,000,000, to be derived from tactical trailers/dolly sets.

(5) "Shipbuilding and Conversion, Navy", $50,000,000, to be derived from advance procurement of LHD-7.

SEC. 104. RESCISSION OF FUNDS FOR MK-19 GRENADE LAUNCHER PROGRAM.

Of the funds made available under the heading "Procurement of Weapons and Tracked Combat Vehicles, Army" in the Department of Defense Appropriations Act, 1994

(Pub. L. 103–139), $15,000,000 is rescinded, to be derived from the MK–19 automatic grenade launcher program.

SEC. 105. TERMINATION OF C–26 AIRCRAFT PROGRAM.

The Secretary of Defense shall cancel the C–26 aircraft program. Funds appropriated for the Department of Defense may not be obligated after the date of the enactment of this Act for procurement of new aircraft under that program other than for contract termination or cancellation costs.

SEC. 106. TERMINATION OF MOBILE IN-SHORE UNDERSEA WARFARE VANS PROGRAM.

The Secretary of Defense shall cancel the Mobile In-Shore Undersea Warfare Vans program. Funds appropriated for the Department of Defense may not be obligated after the date of the enactment of this Act for procurement under that program other than for contract termination or cancellation costs.

SEC. 107. RESCISSION OF CERTAIN DEFENSE OPERATION AND MAINTENANCE FUNDS.

Of the funds made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), the following amounts are rescinded from the following accounts:

(1) "Operation and Maintenance, Army", $88,020,000 to be derived from general reduction DBOF, and $15,180,000 to be derived from inventories.

(2) "Operation and Maintenance, Navy", $109,270,000 to be derived from general reduction DBOF, and $27,555,000 to be derived from inventories.

(3) "Operation and Maintenance, Air Force", $94,140,000 to be derived from general reduction DBOF, and $12,265,000 to be derived from inventories.

SEC. 108. REDUCTION IN PUBLIC LAW 480 FOOD FOR PEACE PROGRAM.

(a) In General.—Section 103 of title I of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end the following:

"(f) Modification of Terms and Conditions During Certain Years.—The Secretary shall set the terms and conditions of agreements entered into under this title after the date of the enactment of this subsection so that—

"(1) the length of the loan does not exceed 20 years;

"(2) the length of the grace period does not exceed 5 years;

"(3) the interest rate during the grace period is not less than 3 percent; and

"(4) the interest rate during the payback period is not less than 5 percent.".

(b) Rescission of Funds.—Of the funds made available under the heading "Public Law 480 Program Account" in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–111)—

(1) $69,378,000 is rescinded from the amounts provided for programs under title I of the Agricultural Trade Development and Assistance Act of 1954 and the Food for Progress Act of 1985; and

(2) $56,017,000 is rescinded from the amount provided for commodities supplied in connection with dispositions abroad pursuant to title III of the Agricultural Trade Development and Assistance Act of 1954.

SEC. 109. RESCISSION OF FUNDS FOR WORLD BANK.

Of the funds made available under the heading "Contribution to the International Bank for Reconstruction and Development" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87)—

(1) $27,910,500 provided for paid-in capital is rescinded; and

(2) $902,439,500 provided for callable capital is rescinded.

SEC. 110. REDUCTION IN FUNDING FOR INTERNATIONAL DEVELOPMENT ASSOCIATION.

(a) In General.—Section 526 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) is amended by inserting before the period at the end ", of which not more than $957,142,857 shall be available for fiscal year 1994, and not more than $957,142,857 shall be available for fiscal year 1995".

(b) Rescission of Funds.—Of the funds made available under the heading "Contribution to the International Development Association" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87), $67,189,143 is rescinded.

SEC. 111. RESCISSION OF FUNDS FOR FOREIGN MILITARY FINANCING.

Of the funds made available under the heading "Foreign Military Financing Program" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103–87), $25,721,000 is rescinded, to be derived from grants.

SEC. 112. RESCISSION OF FUNDS FOR AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE, AND UNITED STATES INFORMATION AGENCY.

(a) AID.—Of the funds made available under the heading "Agency for International Development—Development Assistance Fund" in appropriations Acts for fiscal year 1994 and prior fiscal years to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $160,000,000 is rescinded.

(b) Department of State.—Of the funds made available under the heading "Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $600,000 is rescinded.

(c) USIA.—

(1) Salaries and expenses.—Of the funds made available under the heading "United States Information Agency—Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $3,000,000 is rescinded.

(2) North/south center.—Of the funds made available under the heading "United States Information Agency—North/South Center" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $8,700,000 is rescinded.

TITLE II—PHYSICAL CAPITAL, NATURAL RESOURCES, AND SCIENCE

SEC. 201. TERMINATION OF SPACELIFTER PROGRAM.

(a) In General.—The United States shall not obligate any funds for the acquisition or operation of any space launch system not in operation as of the date of enactment of this Act.

(b) Rescission of Funds.—Of the funds made available under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), $10,000,000 is rescinded, to be derived from the new medium lift vehicle (Spacelifter) program.

SEC. 202. DEPARTMENT OF SCIENCE, SPACE, ENERGY AND TECHNOLOGY.

(a) Short Title.—This section may be cited as the "Department of Science, Space, Energy, and Technology Organization Act of 1993".

(b) General Provisions.—

(1) Findings.—The Congress finds that—

(A) the advancement of science and technology is a vital national goal which is essential for the continued economic well being of the United States;

(B) the creation of new scientific information and technological development are generators of new wealth and jobs;

(C) consolidation of the Federal agencies which conduct and support science and technology activities will focus the resources of the Federal Government and will lead to better coordination of the overall effort of those agencies to carry out the research and development objectives of the United States;

(D) the elimination of duplication of functions within the scientific and technical agencies of the Federal Government will lead to cost savings for the Government; and

(E) the creation of the Department of Science, Space, Energy, and Technology will increase the dissemination of technology through the improved coordination of technology transfer from the Federal Government to the private sector.

(2) Definitions.—As used in this section, unless otherwise provided or indicated by the context—

(A) the term "Department" means the Department of Science, Space, Energy, and Technology;

(B) the term "Secretary" means the Secretary of Science, Space, Energy, and Technology;

(C) the term "Deputy Secretary" means the Deputy Secretary of Science, Space, Energy, and Technology;

(D) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(E) the term "office" includes any office, institute, council, unit, or organizational entity, or any component thereof.

(c) Establishment of the Department.—

(1) Establishment.—There is authorized an executive department to be known as the Department of Science, Space, Energy, and Technology. The Department shall be administered, in accordance with the provisions of this section, under the supervision and direction of a Secretary of Science, Space, Energy, and Technology. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall receive basic pay at the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code.

(2) Principal Officers.—

(A) Deputy secretary.—(i) There shall be in the Department a Deputy Secretary of Science, Space, Energy, and Technology who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices. The Deputy Secretary shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(ii) The Deputy Secretary shall perform such other duties and exercise such powers as the Secretary may from time to time prescribe.

(B) UNDER SECRETARIES.—(i) There shall be in the Department—

(I) an Under Secretary of Research who shall, on the transfer of functions and offices under subsection (d), serve as the Director of the National Science Foundation;

(II) an Under Secretary of Technology who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Institute of Standards and Technology, the National Technical Information Service, the National Telecommunications and Information Administration, and the Patent and Trademark Office;

(III) an Under Secretary of Energy who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Energy Administration;

(IV) an Under Secretary of Space who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Aeronautics and Space Administration; and

(V) an Under Secretary of Oceanic and Atmospheric Affairs who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Oceanic and Atmospheric Administration.

(ii) Each of the Under Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretaries shall receive basic pay at the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) ASSISTANT SECRETARIES.—(i) There shall be as many as 20 Assistant Secretaries in the Department. Among the Assistant Secretaries shall be—

(I) an Assistant Secretary for Administration who shall serve as the Chief Financial Officer of the Department;

(II) an Assistant Secretary for Policy and Budget;

(III) an Assistant Secretary for Congressional and Intergovernmental Affairs;

(IV) an Assistant Secretary for Technology Transfer and Commercial Programs; and

(V) an Assistant Secretary for International Programs.

(ii) Each of the Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(D) GENERAL COUNSEL.—There shall be in the Department a General Counsel who shall administer the Office of General Counsel. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(E) INSPECTOR GENERAL.—There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978. The Inspector General shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(F) ADDITIONAL OFFICERS.—In addition to the officers specified in subparagraphs (A) through (E) and the 24 members of the Board of Directors of the National Science Foundation, there shall be in the Department not more than 10 additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subparagraph shall perform such functions as the Secretary shall prescribe.

(G) SPECIFICATION OF FUNCTIONS.—Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this paragraph, the President shall state the particular functions of the Department such individual will exercise upon taking office, consistent with the requirements of this section.

(H) LINE OF AUTHORITY; ADDITIONAL FUNCTIONS.—Each officer of the Department referred to in subparagraphs (A) through (F) shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(d) TRANSFERS OF FUNCTIONS AND OFFICES.—

(1) TRANSFER OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There is transferred to the Department the National Aeronautics and Space Administration, along with all of its functions and offices.

(2) TRANSFER OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is transferred to the Department the National Institute of Standards and Technology, along with all of its functions and offices.

(3) TRANSFER OF THE NATIONAL SCIENCE FOUNDATION.—There is transferred to the Department the National Science Foundation, along with all of its functions and offices.

(4) TRANSFER OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There is transferred to the Department the National Oceanic and Atmospheric Administration, along with all of its functions and offices.

(5) TRANSFER OF THE NATIONAL TECHNICAL INFORMATION SERVICE.—There is transferred to the Department the National Technical Information Service, along with all of its functions and offices.

(6) TRANSFER OF THE PATENT AND TRADEMARK OFFICE.—There is transferred to the Department the Patent and Trademark Office, along with all of its functions and offices.

(7) TRANSFER OF THE DEPARTMENT OF ENERGY.—There is transferred to the Department the Department of Energy, which shall be renamed the National Energy Administration, along with all of its functions and offices, except for the following facilities, which shall be transferred to the Department of Defense:

(A) The Feed Materials Production Center at Fernald, Ohio.

(B) The Extrusion Plant at Ashtabula, Ohio.

(C) The Savannah River Plant, including the Savannah River Weapons Facility, at Aiken, South Carolina.

(D) The Hanford Production Operations at Richland, Washington.

(E) The Nevada Test Site.

(F) The Kansas City Plant at Kansas City, Missouri.

(G) The Rocky Flats Plant located between Golden and Boulder, Colorado.

(H) The Pantex Plant located near Amarillo, Texas.

(I) The Pinellas Plant at St. Petersburg, Florida.

(J) The Mound Facility at Miamisburg, Ohio.

(K) The Y-12 Plant at Oak Ridge, Tennessee.

(8) TRANSFER OF THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION.—There is transferred to the Department the National Telecommunications and Information Administration, along with all of its functions and offices.

(9) EFFECTIVE DATE.—This subsection shall take effect—

(A) 180 days after the first Secretary takes office under subsection (c)(1); or

(B) on any date earlier than the date described in subparagraph (A), but later than September 30, 1994, that the President designates through publication in the Federal Register.

(e) ADMINISTRATIVE PROVISIONS.—

(1) PERSONNEL PROVISIONS.—

(A) OFFICERS AND EMPLOYEES.—

(i) GENERAL AUTHORITY.—The Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(ii) TEMPORARY SUPER GRADE AND TECHNICAL POSITIONS.—(I)(aa) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under subsection (d) and which were assigned and filled on the day before such transfer.

(bb) Appointments to positions provided for under this subclause may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under subsection (d) and, on the day before such transfer, holds a position and has duties comparable to those of the position to which appointed hereunder.

(II) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Department of a number of scientific and professional positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under subsection (d) and which were assigned and filled on the day before such transfer.

(III) The authority under this clause with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(IV) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this clause shall be deemed to occupy the same position as the individual occupied on the day before the transfer of functions and offices under subsection (d).

(iii) TRANSITIONAL SENIOR EXECUTIVE SERVICE POSITIONS.—Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 5 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire on the later of 3 years after the date of the transfer of functions and offices under subsection (d) or 3 years after the initial appointment to each position. Positions in effect under this clause shall be taken into account in applying the limitation on positions prescribed under section 3134(e) and section 5108 of such title.

(B) Experts and consultants.—The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under subchapter III of chapter 53 of such title.

(C) Personnel reduction.—

(i) Full-time employee limitations.—Not later than the end of the first fiscal year beginning after the date of the transfer of functions and offices under subsection (d), the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department under such subsection shall be reduced by not less than 350.

(ii) Computations.—Computations required to be made for purposes of this subparagraph shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5, United States Code, and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(iii) Report to congress.—The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the date of the transfer of functions and offices under subsection (d), prepare and transmit to the Congress a report on the effects on employees of the reorganization under this section, which shall include—

(I) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this section;

(II) a statement of the number of employees entitled to grade or pay retention under subchapter VI of chapter 53 of title 5, United States Code, by reason of the reorganization under this section;

(III) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(IV) an estimate of the personnel costs associated with such reorganization;

(V) the effects of such reorganization on labor management relations; and

(VI) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(2) General administrative provisions.—

(A) General authority.—In carrying out any function transferred by this section, the Secretary, or any officer or employee of the Department, may exercise any authority available by law with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(B) Delegation.—Except as otherwise provided in this section, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this subparagraph or under any other provision of this section shall relieve the Secretary of responsibility for the administration of such functions.

(C) Reorganization.—

(i) Authority of secretary.—Except as provided in clause (ii), the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or abolish such offices or positions within the Department as may be necessary or appropriate.

(ii) Authority with respect to statutory entities.—The Secretary may not—

(I) abolish any office or position transferred to the Department and established by statute, or any function vested by statute in such an office or an officer of such an office;

(II) abolish any office or position established by this section; or

(III) alter the delegation of functions to any specific office or position required by this section,

unless a period of 90 days has passed after the receipt by the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this clause and the facts and circumstances relied upon in support of such proposed action.

(D) Regulations.—The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department, in accordance with chapter 5 of title 5, United States Code.

(E) Contracts.—

(i) In general.—Subject to the Federal Property and Administrative Services Act of 1949 and other applicable Federal law, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(ii) Appropriation authority required.—No authority to enter into contracts or to make payments under this section shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subparagraph (J).

(F) Regional and field offices.—The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(G) Acquisition and maintenance of property.—

(i) Authority of secretary.—To the extent necessary to carry out functions under this and any other Act, the Secretary is authorized to provide appropriate facilities and services necessary for carrying out such functions or necessary for the health and welfare of the Department's employees, including—

(I) to acquire (by purchase, lease, condemnation, contract, or otherwise), construct, improve, repair, operate, maintain, and provide transportation to—

(aa) schools and related facilities;

(bb) laboratories;

(cc) research and testing sites and facilities;

(dd) quarters and related accommodations, including eating facilities, for employees and dependents of employees of the Department; and

(ee) personal property (including patents), or any interest therein; and

(II) to provide reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(ii) Limitation.—The authority granted by clause (i) shall be available only with respect to facilities of a special purpose nature or at a remote location that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(H) Use of facilities.—

(i) Authority to use.—With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(ii) Authority to permit use.—The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed 5 years. The Secretary may require permittees under this subparagraph to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This clause shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(iii) Crediting of reimbursements.—Proceeds from reimbursements under this subparagraph shall be deposited in a separate fund which shall be available to the Secretary without appropriation or fiscal year limitation, for carrying out the functions of the Secretary under this or any other Act.

(iv) Interests in real property.—Any interest in real property acquired pursuant to this section shall be acquired in the name of the United States Government.

(I) Copyrights and patents.—

(i) Acquisition of rights.—The Secretary is authorized to acquire any of the following described rights if the rights acquired thereby are for use by or for, or useful to, the Department:

(I) Copyrights, patents, designs, processes, and manufacturing data.

(II) Licenses in connection with copyrights and patents.

(III) Releases for past infringement of patents or copyrights.

(ii) Disposition.—Notwithstanding clause (i), the disposition of all copyrights and patents and other intellectual property owned or developed for the Department shall be governed by chapter 18 of title 35, United States Code (commonly referred to as the

Bayh-Dole Act), section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)), the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.), or the National Competitiveness Technology Transfer Act of 1989, as appropriate.

(J) GIFTS AND BEQUESTS.—The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money, and proceeds from sales of other property received as gifts, bequests, or devises, shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(K) TECHNICAL ADVICE.—

(i) AUTHORITY TO PROVIDE.—The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(ii) CONSOLIDATION OF APPLICATIONS.—The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

(L) WORKING CAPITAL FUND.—

(i) ESTABLISHMENT AND USE.—The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund (in this subparagraph referred to as the "fund"), to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of an administrative services office to provide such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(I) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its offices;

(II) central messenger, mail, telephone, and other communications services;

(III) office space, and central services for document reproduction, for graphics, and for visual aids; and

(IV) a central library service.

(ii) OPERATION OF FUND.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the administrative services office, less the related liabilities and unpaid obligations. There shall be transferred to the administrative services office the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed. Administrative supplies and services provided by such office shall be paid for in advance from available funds of agencies and offices in the Department, or from other sources, at rates that will approximate the expense of operation. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property.

(M) FUNDS TRANSFER.—The Secretary may, when authorized in an appropriation Act for any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriations for any fiscal year shall be either increased or decreased pursuant to this subparagraph by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(N) SEAL OF DEPARTMENT.—The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(O) ANNUAL REPORT.—

(i) IN GENERAL.—The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year.

(ii) CONTRACTING-OUT REPORT.—The report required by clause (i) shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under subparagraph (E) or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(f) TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS.—

(1) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—

(A) TRANSFER TO SECRETARY.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with, the functions and offices, or portions thereof, transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subparagraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(B) EFFECT OF TERMINATIONS.—Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this section, personnel occupying those positions on the date of such transfer, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule under section 5315 or 5316 of title 5, United States Code, on the date of such transfer, shall be subject to paragraph (3) of this subsection.

(2) EFFECT ON PERSONNEL.—

(A) PRESERVATION OF GRADE AND COMPENSATION FOR 1 YEAR.—Except as otherwise provided in this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(B) PRESERVATION OF COMPENSATION FOR EXECUTIVE SCHEDULE APPOINTEES.—Any person who, on the day preceding the date of the transfer of functions and offices under subsection (d), held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

(3) AGENCY TERMINATIONS.—

(A) TERMINATIONS.—On the date of the transfer of functions and offices under subsection (d), the following entities shall terminate:

(i) The Office of the Secretary of Commerce.

(ii) The Office of the Deputy Secretary of Commerce.

(iii) The Office of the General Counsel of the Department of Commerce.

(iv) The Office of the Secretary of Energy.

(v) The Office of Deputy Secretary of Energy.

(vi) The Office of the Under Secretary of Commerce for Technology.

(vii) The Office of the Assistant Secretary of Commerce for Technology Policy.

(viii) The Office of Science and Technology Policy in the Executive Office of the President.

(B) TERMINATION OF EXECUTIVE SCHEDULE POSITIONS.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section shall also terminate.

(4) ADDITIONAL TRANSFERS.—

(A) IN GENERAL.—The Director of the Office of Management and Budget, in conjunction with the Secretary, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this section. The Director shall provide for the termination of the affairs of all entities terminated by this section and, in conjunction with the Secretary, for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(B) ALLOCATION OF SES POSITIONS.—After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this section.

(C) MISCELLANEOUS FUNCTIONS.—(i) The Economics and Statistics Administration, including the Bureau of Census and the Bureau of Economic Analysis, and the Bureau of Export Administration shall be transferred to the Department of the Treasury.

(ii) The Economic Development Administration shall be transferred to the Department of Housing and Urban Development.

(iii) The International Trade Administration and the United States Travel and Tourism Administration shall be transferred to the Office of the United States Trade Representative.

(iv) The Minority Business Development Administration shall be transferred to the Small Business Administration.

(5) SAVINGS PROVISIONS.—

(A) CONTINUITY OF LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(i) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this section to the Secretary or the Department; and

(ii) which are in effect at the time of such transfer,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, or the authorized official, a court of competent jurisdiction, or by operation of law.

(B) PENDING PROCEEDINGS.—(i) This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of the transfer of functions and offices under subsection (d) before any department, agency, commission, or component thereof, functions of which are transferred by this section. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued, except as provided in clause (iii).

(ii) Orders may be issued in such proceedings, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subparagraph to the Department.

(C) NO EFFECT ON JUDICIAL PROCEEDINGS.—Except as provided in subparagraph (E)—

(i) the transfer of functions and offices under subsection (d) shall not affect suits commenced prior to the date of such transfer; and

(ii) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(D) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against any department or agency, functions of which are transferred by this section, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this section.

(E) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the date of the transfer of functions and offices under subsection (d), any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this section any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(F) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Secretary.

(6) REFERENCE.—With respect to any function transferred by this section and exercised on or after the date of such transfer, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this section transfers such functions.

(7) AMENDMENTS.—

(A) DEPARTMENT OF ENERGY ORGANIZATION ACT.—Sections 201 through 203 of the Department of Energy Organization Act (42 U.S.C. 7131–7133) are repealed.

(B) INSPECTOR GENERAL ACT OF 1978.—THE INSPECTOR GENERAL ACT OF 1978 IS AMENDED—

(i) in section 8E(a)(2), by striking "the National Science Foundation,";

(ii) in section 8E(a)(4), by striking ", except that with respect to the National Science Foundation, such term means the National Science Board";

(iii) in section 11(1)—

(I) by striking "Commerce,";

(II) by striking "Energy,";

(III) by inserting "Science, Space, Energy, and Technology," after "the Interior, Labor,"; and

(IV) by striking "National Aeronautics and Space,"; and

(iv) in section 11(2)—

(I) by striking "Commerce,";

(II) by striking "Energy,";

(III) by inserting "Science, Space, Energy, and Technology," after "Justice, Labor,"; and

(IV) by striking "the National Aeronautics and Space Administration,".

(C) NATIONAL AERONAUTICS AND SPACE ACT OF 1958.—Section 207 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476a) is repealed.

(8) TRANSITION.—

(A) USE OF FUNDS.—Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this section, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this section and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

(B) USE OF PERSONNEL.—With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(9) INTERIM APPOINTMENTS.—

(A) AUTHORITY TO APPOINT.—Notwithstanding any other provision of law, in the event that one or more officers required by this section to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the date of the transfer of functions and offices under subsection (d), the President may designate an officer in the executive branch to act in such office for 120 days or until the office is filled as provided in this section, whichever occurs first.

(B) COMPENSATION.—Any officer acting in an office in the Department pursuant to the provisions of subparagraph (A) shall receive compensation at the rate prescribed for such office under this section.

(g) RELATION TO OTHER PROVISIONS.—

(1) MODIFICATIONS IN AUTHORITY.—If any other section of this Act increases, restricts, or otherwise modifies any authority (including the authority to assess or collect fees) with respect to any function or office, or portion thereof, transferred by this section, the authority transferred by this section shall be the authority as so modified.

(2) RESCISSIONS.—If any other section of this Act rescinds funds that are to be transferred pursuant to this section, such rescission shall be made prior to such transfer.

SEC. 203. ELIMINATION OF FUNDING FOR MAGLEV PROTOTYPE DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Section 1036(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. 309 note; 105 Stat. 1986) is amended—

(1) in paragraph (1) by striking "the following" and all that follows through "DEMONSTRATION PROGRAM.—For" and inserting "for"; and

(2) in paragraph (2) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "Federal Railroad Administration—Railroad Research and Development" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103–122), $20,000,000 is rescinded, to be derived from magnetic levitation research and analysis activities.

SEC. 204. RESCISSION OF FUNDS FOR FEDERALLY SPONSORED UNIVERSITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Of the aggregate funds made available for the accounts specified in subsection (b), $220,000,000 is rescinded, to be derived from university research and development programs. The Director of the Office of Management and Budget shall allocate such rescission among such accounts, and shall submit to the Congress a report setting forth such allocation.

(b) AFFECTED ACCOUNTS.—The funds subject to the rescission made by subsection (a) are the following:

(1) NATIONAL INSTITUTES OF HEALTH.—The amounts made available under the heading "Department of Health and Human Services—National Institutes of Health" in the Departments of Labor, Health and Human

Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–112), for the following accounts:

(A) "National Cancer Institute".

(B) "National Heart, Lung, and Blood Institute".

(C) "National Institute of Dental Research".

(D) "National Institute of Diabetes and Digestive and Kidney Diseases".

(E) "National Institute of Neurological Disorders and Stroke".

(F) "National Institute of Allergy and Infectious Diseases".

(G) "National Institute of General Medical Sciences".

(H) "National Institute of Child Health and Human Development".

(I) "National Eye Institute".

(J) "National Institute of Environmental Health Sciences".

(K) "National Institute on Aging".

(L) "National Institute of Arthritis and Musculoskeletal and Skin Diseases".

(M) "National Institute on Deafness and Other Communication Disorders".

(N) "National Institute of Nursing Research".

(O) "National Institute on Alcohol Abuse and Alcoholism".

(P) "National Institute on Drug Abuse".

(Q) "National Institute of Mental Health".

(R) "National Center for Research Resources".

(S) "National Center for Human Genome Research".

(T) "John E. Fogarty International Center".

(U) "National Library of Medicine".

(V) "Office of the Director".

(2) INDEPENDENT AGENCIES.—The amounts made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), for the following accounts:

(A) "National Science Foundation—Research and Related Activities".

(B) "National Aeronautics and Space Administration—Research and Development".

(3) DEPARTMENT OF DEFENSE.—The amounts made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), for the following accounts:

(A) "Research, Development, Test and Evaluation, Army".

(B) "Research, Development, Test and Evaluation, Navy".

(C) "Research, Development, Test and Evaluation, Air Force".

(D) "Research, Development, Test and Evaluation, Defense-Wide".

SEC. 205. RECOUPMENT OF CERTAIN GRANTS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Commerce shall establish procedures and criteria for the recoupment of the Federal share of all cost shared research, development, demonstration, and commercial application projects undertaken by such Departments. If required, such recoupment shall occur within a reasonable period of time following the date of completion of a project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(1) the commercial competitiveness of the entity carrying out the project;

(2) the profitability of the project; and

(3) the commercial viability of the technology utilized.

The Secretary of Energy and the Secretary of Commerce may require recoupment under this section as appropriate.

SEC. 206. COVERAGE OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS BY COMPETITION IN CONTRACTING ACT.

(a) CONTRACTS WITH EXECUTIVE AGENCIES.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended in subsection (b)(1)(C) and in subsection (c)(3) by striking out "or a federally funded research and development center" each place it appears.

(b) CONTRACTS WITH DEPARTMENT OF DEFENSE.—Section 2304 of title 10, United States Code, is amended in subsection (b)(1)(C) and in subsection (c)(3) by striking out "or a federally funded research and development center" each place it appears.

SEC. 207. TERMINATION OF MODULAR HIGH-TEMPERATURE GAS-COOLED REACTOR PROJECT.

(a) IN GENERAL.—The United States shall not obligate any funds for the Modular High-Temperature Gas-Cooled Reactor program.

(b) AMENDMENTS.—Section 2122(b) of the Energy Policy Act of 1992 (42 U.S.C. 13492(b)) is amended—

(1) in paragraph (1)(B), by striking "the modular high-temperature gas-cooled reactor technology and"; and

(2) in paragraph (2)(C)—

(A) by striking "high-temperature gas-cooled reactor technology and"; and

(B) by striking "one or both of those technologies" and inserting in lieu thereof "that technology".

(c) RESCISSION OF FUNDS.—Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $12,000,000 is rescinded, to be derived from the gas turbine-modular helium reactor program.

SEC. 208. DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION.

(a) DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION.—

(1) ESTABLISHMENT.—There is established an independent commission to be known as the "Department of Energy Facilities Closure and Reconfiguration Commission".

(2) DUTIES.—The Commission shall carry out the duties specified for the Commission in this section.

(3) APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President, by and with the advise and consent of the Senate. The President shall transmit to the Senate the nominations for appointment to the Commission not later than 3 months after the date of the enactment of this Act.

(B) CONSULTATION.—In selecting individuals for nominations for appointments to the Commission, the President should consult with—

(i) the Speaker of the House of Representatives concerning the appointment of 1 member;

(ii) the majority leader of the Senate concerning the appointment of 1 member;

(iii) the minority leader of the House of Representatives concerning the appointment of 1 member; and

(iv) the minority leader of the Senate concerning the appointment of 1 member.

(C) CHAIRPERSON.—At the time the President nominates individuals for appointment to the Commission, the President shall designate one such individual who shall serve as Chairperson of the Commission.

(4) TERMS.—Each member of the Commission shall serve until the termination of the Commission under paragraph (12).

(5) MEETINGS.—Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(7) PAY AND TRAVEL EXPENSES.—

(A) IN GENERAL.—

(i) BASIC PAY.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(ii) PAY OF CHAIRPERSON.—The Chairperson shall be paid for each day referred to in clause (i) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(8) DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served as a civilian employee of the Department of Energy during the one-year period preceding the date of such appointment.

(B) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(9) STAFF.—

(A) APPOINTMENT BY DIRECTOR.—Subject to subparagraphs (B) and (C), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(C) LIMITATION.—Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Energy.

(D) SUPPORT FROM OTHER AGENCIES.—Upon request of the Director, the head of a Federal agency may detail any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(E) SUPPORT FROM COMPTROLLER GENERAL.—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(10) Other authority.—

(A) Temporary and intermittent services.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) Authority to lease space and acquire certain property.—The Commission may lease space and acquire personal property to the extent funds are available. To the extent practicable, the Commission shall use suitable real property available under the most recent inventory of real property assets published by the Resolution Trust Corporation under section 21A(b)(11)(F) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)(F)).

(11) Funding.—There is appropriated for fiscal year 1994, out of any money in the Treasury not otherwise appropriated, $1,000,000 to the Commission to carry out its duties under this section. Such funds shall remain available until expended.

(12) Termination.—The Commission shall terminate not later than 20 months after the date of the enactment of this Act.

(b) Procedure for Making Recommendations for Closure and Reconfiguration of Facilities.—

(1) Selection criteria.—

(A) In general.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Energy shall publish in the Federal Register and transmit to the congressional energy committees the criteria proposed to be used by the Secretary in making recommendations for the closure or reconfiguration of Department of Energy facilities resulting in an overall budget for such facilities for a fiscal year in an amount equal to the amount appropriated for such facilities for the previous fiscal year reduced by 25 percent. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under this paragraph. In developing the criteria, the Secretary shall consider—

(i) the program costs and program distributions on a State and county basis, including real and personal property costs associated with each Department of Energy facility considered;

(ii) the number of participants in programs conducted through a Department of Energy facility and staff resources involved;

(iii) duplication of effort by Department of Energy facilities and overhead costs as a proportion of program benefits distributed through a Department of Energy facility; and

(iv) cost savings and increases that would accrue through the reconfiguration of Department of Energy facilities.

(B) Final criteria.—Not later than 5 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register and transmit to the congressional energy committees the final criteria to be used in making recommendations for the closure or reconfiguration of Department of Energy facilities under this section.

(2) Secretary's recommendations.—

(A) Publication in federal register.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register and transmit to the congressional energy committees and to the Commission a list of the Department of Energy facilities that the Secretary recommends for closure or reconfiguration on the basis of the final criteria referred to in paragraph (1).

(B) Summary of selection process.—The Secretary shall include, with the list of recommendations published and transmitted pursuant to subparagraph (A), a summary of the selection process that resulted in the recommendation for each Department of Energy facility, including a justification for each recommendation.

(C) Equal consideration of facilities.—In considering Department of Energy facilities for closure or reconfiguration, the Secretary shall consider all such facilities equally without regard to whether a facility has been previously considered or proposed for closure or reconfiguration by the Secretary.

(D) Availability of information.—The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Secretary in making recommendations to the Commission for closures and reconfiguration.

(3) Review and recommendations by the commission.—

(A) Public hearings.—After receiving the recommendations from the Secretary pursuant to paragraph (2), the Commission shall conduct public hearings on the recommendations.

(B) Report.—Not later than 15 months after the date of the enactment of this Act, the Commission shall transmit to the President and the congressional energy committees a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and reconfigurations of Department of Energy facilities.

(C) Deviation from secretary's recommendations.—In making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the final criteria referred to in paragraph (1) in making recommendations. The Commission shall explain and justify in the report any recommendation made by the Commission that is different from the recommendations made by the Secretary.

(D) Provision of certain information.—After transmitting the report, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(4) Assistance from comptroller general.—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to paragraph (2); and

(B) not later than 12 months after the date of the enactment of this Act, transmit to the congressional energy committees and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

(5) Review by the president.—

(A) In general.—Not later than 16 months after the date of the enactment of this Act, the President shall transmit to the Commission and to the congressional energy committees a report containing the President's approval or disapproval of the Commission's recommendations.

(B) Presidential approval.—If the President approves all of the recommendations of the Commission, the President shall transmit a copy of such recommendations to the congressional energy committees together with a certification of such approval.

(C) Presidential disapproval.—If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the congressional energy committees the reasons for that disapproval. The Commission shall then transmit to the President, not later than 17 months after the date of the enactment of this Act, a revised list of recommendations for the closure and reconfiguration of Department of Energy facilities resulting in an overall budget for such facilities for a fiscal year in an amount equal to the amount appropriated for such facilities for the previous fiscal year reduced by 25 percent.

(D) Certification.—If the President approves all of the revised recommendations of the Commission transmitted to the President under subparagraph (C), the President shall transmit a copy of such revised recommendations to the congressional energy committees, together with a certification of such approval.

(E) Failure to certify.—If the President does not transmit to the congressional energy committees an approval and certification described in subparagraph (B) or (D) by 18 months after the date of the enactment of this Act, the process by which Department of Energy facilities may be selected for closure or reconfiguration under this section shall be terminated.

(c) Closure and Reconfiguration of Department of Energy Facilities.—

(1) In general.—Subject to paragraph (2), the Secretary shall—

(A) close all Department of Energy facilities recommended for closure by the Commission in the report transmitted to the congressional energy committees by the President pursuant to subsection (b)(5);

(B) reconfigure all such facilities recommended for reconfiguration by the Commission in the report; and

(C) complete the closures and reconfigurations not later than the end of the 6-year period beginning on the date on which the President transmits the report pursuant to subsection (b)(5).

(2) Congressional disapproval.—

(A) In general.—The Secretary may not carry out any closure or reconfiguration of a facility recommended by the Commission in the report transmitted from the President pursuant to subsection (b)(5) if a joint resolution is enacted, in accordance with the provisions of subsection (g), disapproving the recommendations of the Commission before the earlier of—

(i) the end of the 45-day period beginning on the date on which the President transmits the report; or

(ii) the adjournment of Congress sine die for the session during which the report is transmitted.

(B) For purposes of subparagraph (A) of this paragraph and paragraphs (1) and (3) of subsection (g), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(d) Implementation of Closure and Reconfiguration Actions.—

(1) Actions of the secretary.—In closing or reconfiguring a Department of Energy facility under this section, the Secretary shall—

(A) take such actions as may be necessary to close or reconfigure the facility;

(B) provide outplacement assistance to any employees employed by the Department of

Energy at the office whose employment is being terminated, and may use for such purpose funds in the Account or funds appropriated to the Department of Energy for outplacement assistance to employees;

(C) take such steps as may be necessary to ensure the safe keeping of all records stored at the facility; and

(D) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or reconfiguration, and may use for such purpose funds in the Account or funds appropriated to the Department of Energy and available for such purpose.

(2) MANAGEMENT AND DISPOSAL OF PROPERTY.—

(A) IN GENERAL.—The Administrator of General Services shall delegate to the Secretary of Energy, with respect to excess and surplus real property and facilities located at a Department of Energy facility closed or reconfigured under this section—

(i) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(ii) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(iii) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)); and

(iv) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(B) EXERCISE OF AUTHORITY.—

(i) IN GENERAL.—Subject to clause (iii), the Secretary shall exercise the authority delegated to the Secretary pursuant to subparagraph (A) in accordance with—

(I) all regulations in effect on the date of the enactment of this Act governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(II) all regulations in effect on the date of the enactment of this Act governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(ii) REGULATIONS.—The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by subparagraph (A).

(iii) LIMITATION.—The authority required to be delegated by subparagraph (A) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(3) WAIVER.—The Secretary may close or reconfigure Department of Energy facilities under this section without regard to any provision of law restricting the use of funds for closing or reconfiguring such facilities included in any appropriations or authorization Act.

(e) ACCOUNT.—

(1) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the "Department of Energy Facility Closure Account" which shall be administered by the Secretary as a single account.

(2) CONTENT OF ACCOUNT.—There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Energy for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional energy committees; and

(C) proceeds received from the transfer or disposal of any property at an office closed or reconfigured under this section.

(3) USE OF FUNDS.—The Secretary may use the funds in the Account only for the purposes described in subsection (d)(1).

(4) REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit a report to the congressional energy committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to subsection (d)(1) during such fiscal year.

(B) UNOBLIGATED FUNDS.—Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional energy committees receive the report transmitted under subparagraph (C).

(C) ACCOUNTING REPORT.—Not later than 60 days after the termination of the Commission, the Secretary shall transmit to the congressional energy committees a report containing an accounting of—

(i) all the funds deposited into and expended from the Account or otherwise expended under this section; and

(ii) any amount remaining in the Account.

(f) REPORTS ON IMPLEMENTATION.—As part of the budget request for each fiscal year in which the Secretary will carry out activities under this section, the Secretary shall transmit to the congressional energy committees—

(1) a schedule of the closure and reconfiguration actions to be carried out under this section in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and reconfiguration and of the time period in which these savings are to be achieved in each case; and

(2) a description of the Department of Energy facilities, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and reconfigurations.

(g) CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.—

(1) TERMS OF THE RESOLUTION.—For purposes of subsection (c)(2), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under subsection (b)(5), and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Department of Energy Facilities Closure and Reconfiguration Commission as submitted by the President on _____", the blank space being filled in with the appropriate date; and

(C) the title of which is as follows: "Joint resolution disapproving the recommendations of the Department of Energy Facilities Closure and Reconfiguration Commission.".

(2) REFERRAL.—A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services and the Committee on Science, Space, and Technology of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate.

(3) DISCHARGE.—If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under subsection (b)(5), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(4) CONSIDERATION.—

(A) IN GENERAL.—On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) QUORUM CALL.—Immediately following the conclusion of the debate on a resolution described in paragraph (1) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) APPEALS FROM DECISION OF CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—

(A) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in clause (ii)(II).

(ii) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) CONSIDERATION AFTER DISPOSITION BY OTHER HOUSE.—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(6) RULES OF THE SENATE AND HOUSE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Account" means the Department of Energy Facility Closure Account established in subsection (e)(1).

(2) The term "Commission" means the Department of Energy Facilities Closure and Reconfiguration Commission.

(4) The term "congressional energy committees" means the Committees on Armed Services of the Senate and House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.

(5) The term "Secretary" means the Secretary of Energy.

SEC. 209. RESCISSION OF FUNDS FOR FUSION ENERGY RESEARCH AND DEVELOPMENT.

Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $70,000,000 is rescinded, to be derived from the fusion energy program.

SEC. 210. RESCISSION OF FUNDS FOR FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

Of the funds made available under the heading "Department of Energy—Fossil Energy Research and Development" in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103-138), $54,007,000 is rescinded.

SEC. 211. ALASKA POWER ADMINISTRATION SALE.

(a) SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS..—(1) The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this section as "Snettisham") to the State of Alaska Power Authority (now known as the Alaska Industrial Development and Export Authority, and referred to in this section as the "Authority"), or its successor, in accordance with the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Authority.

(2) The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this section as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this section as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(3) The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this Act.

(4) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(5) There are authorized to be appropriated such sums as are necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(6) No later than one year after both of the sales authorized in this subsection have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(A) complete the business of, and close out, the Alaska Power Administration; and

(B) prepare and submit to Congress a report documenting the sales.

(b) ASSESSMENT OF ALTERNATIVE OPTIONS.—Before taking any action authorized in subsection (a), the Secretary shall assess the feasibility of alternative options for maximizing the return to the Treasury from the sale of the Alaska Power Marketing Administration.

SEC. 212. FEDERAL-PRIVATE COGENERATION OF ELECTRICITY.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities".

SEC. 213. TERMINATION OF CLEAN COAL TECHNOLOGY PROGRAM.

(a) IN GENERAL.—The United States shall not obligate any funds for the Clean Coal Technology program.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the matter under the heading "DEPARTMENT OF ENERGY, CLEAN COAL TECHNOLOGY" in the Act entitled "An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1986, and for other purposes" enacted by section 101(d) of the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes" (Public Law 99-190; 99 Stat. 1251) is repealed.

(2) EXCEPTION.—The authority provided in the matter repealed by paragraph (1) of this subsection shall be preserved to the extent necessary to carry out obligations of the United States with respect to clean coal technology projects selected by the Secretary of Energy pursuant to the fifth general request for proposals issued by the Secretary under such section 101(d) (and pursuant to any such general request issued before the fifth general request).

SEC. 214. RESCISSION OF FUNDS FROM SPR PETROLEUM ACCOUNT.

The unobligated balance of the funds in the SPR petroleum account on the date of the enactment of this Act is rescinded.

SEC. 215. STUDY OF TERMINATION OF HELIUM SUBSIDY.

(a) FINDINGS.—The Congress finds that—

(1) the United States Government's helium recovery program was instituted in 1925, when helium conservation was deemed to be a matter of national security and no private sector helium recovery industry existed;

(2) today, as compared to 1925, there is little likelihood that the United States will have to field a fleet of blimps on an emergency basis;

(3) private sources of helium are more than adequate for serving existing and foreseeable future national needs;

(4) since 1925, there has been a dramatic increase in private industry's involvement in helium recovery, as a result of the free market discovery of numerous commercial uses for helium;

(5) currently, private industry accounts for 90 percent of all helium extraction and consumption;

(6) the Government's helium recovery program currently owes the Department of the Treasury $1,400,000,000 and loses an additional $120,000,000 yearly on interest alone, and there is no prospect for repayment of this debt without significant reform; and

(7) with combined public and private helium reserves considerably in excess of foreseeable national helium needs, there is no longer any need for the Federal Government to own and operate a helium refining and marketing program.

(b) STUDY.—(1) The Secretary of the Interior, in consultation with private industry, shall conduct a study to determine how best to—

(A) sell or otherwise dispose of, at the best possible terms available to the United States, all facilities, equipment, and other real or personal property, or rights thereto, held by the United States in connection with activities carried out under the Helium Act, unless such facilities, equipment, or other real or personal property, or rights thereto, are required for other Federal purposes;

(B) sell or otherwise dispose of, at the best possible terms available to the United States, the helium reserves held by the United States other than amounts required for the specific immediate needs of the Federal Government, in a manner consistent with the orderly conduct of commercial helium markets; and

(C) ensure the full repayment of loans made under section 12 of the Helium Act.

(2) The Secretary of the Interior shall transmit to the Congress within one year after the date of enactment of this Act a report containing the results of the study conducted under paragraph (1).

SEC. 216. RESCISSION OF FUNDS FOR LOW-PRIORITY WATER PROJECTS.

(a) CORPS OF ENGINEERS GENERAL INVESTIGATIONS.—Of the funds made available under the heading "Corps of Engineers-Civil—General Investigations" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $24,970,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) are not economically justified, or environmentally beneficial in a manner commensurate with costs;

(3) are not environmentally acceptable;

(4) are not in compliance with standard cost sharing;

(5) do not have available the necessary non-Federal sponsorship and funding;

(6) represent a Federal assumption of traditionally non-Federal responsibility; or

(7) have not completed normal executive branch project review requirements.

(b) Corps of Engineers Construction.—Of the funds made available under the heading "Corps of Engineers-Civil—Construction, General" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $97,319,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) are not economically justified, or environmentally beneficial in a manner commensurate with costs;

(3) are not environmentally acceptable;

(4) are not in compliance with standard cost sharing;

(5) do not have available the necessary non-Federal sponsorship and funding;

(6) represent a Federal assumption of traditionally non-Federal responsibility; or

(7) have not completed normal executive branch project review requirements.

(c) Bureau of Reclamation.—Of the funds made available under the heading "Department of the Interior—Bureau of Reclamation—Construction Program" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $16,000,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) in the case of new projects, are inconsistent with the priorities of the Secretary of the Interior;

(3) are not environmentally beneficial in a manner commensurate with costs; or

(4) do not have available the necessary non-Federal cost sharing.

SEC. 217. PREFERENCE FOR INTERIM MEASURES IN SUPERFUND RESPONSE ACTIONS.

(a) Amendment of CERCLA.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, in selecting appropriate remedial actions in any record of decision issued on or after October 1, 1994, the President shall give a preference to the use of institutional controls (such as deed and access restrictions, monitoring, and provision of alternate water supplies), containment methods (including caps, slurry walls, and surface water diversion), and other interim measures, rather than permanent treatment technologies, if such measures are sufficient to assure the protection of human health and the environment.".

(b) Cleanup Standards.—Section 121(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)) shall not apply to any remedial action described in the amendment made by subsection (a).

(c) Authorization of Appropriations.—(1) Section 517(b) of the Superfund Amendments and Reauthorization Act of 1986 is amended by striking "and" at the end of paragraph (8), by striking paragraph (9) and by inserting the following after paragraph (8):

"(9) 1995, $1,065,536,000,

"(10) 1996, $1,100,198,000,

"(11) 1997, $1,254,824,000, and

"(12) 1998, $1,321,018,000,".

(2) Section 9507(c) of the Internal Revenue Code of 1986 is amended by adding the following new paragraph at the end thereof:

"(3) Limitation on appropriations from fund.—For fiscal years 1995, 1996, 1997, and 1998, the total of all amounts authorized to be appropriated from the Superfund shall not exceed the amounts specified in paragraphs (9) through (12) of the Superfund Amendments and Reauthorization Act of 1986.".

(d) Report Requirement.—(1) The President shall submit to Congress a report, during each of the 5 years listed in paragraph (2), on the use of measures under the last sentence of section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621), as required by the amendment made by subsection (a). The report shall cover the preceding fiscal year and shall include the estimated savings resulting from the use of such measures in comparison to using permanent treatment technologies.

(2) The President shall submit the report required by paragraph (1) by December 1 of 1995, 1996, 1997, 1998, and 1999.

SEC. 218. RESERVATION OF FUNDS FOR DISASTER RELIEF.

(a) Establishment of Disaster Relief Account.—On the date of the enactment of this Act the Secretary of the Treasury shall establish a Disaster Relief Account within the Office of the Secretary of the Treasury.

(b) Reservation of Funds.—For each domestic discretionary spending account, the head of each Federal agency shall transfer 1 percent of all funds appropriated for each fiscal year beginning after September 30, 1993, to the account established under subsection (a) upon enactment of the appropriations Act for the agency for the fiscal year.

(c) Transfer of Funds.—Upon enactment of an emergency disaster supplemental appropriations Act, the Secretary of the Treasury shall transfer such sums as are specified in such Act with respect to a disaster declared by the President from the Disaster Relief Account to the accounts specified by such Act.

(d) Use of Disaster Relief Account Prior to Provision of Emergency Funds in Excess of Caps.—All funds in the Disaster Relief Account established under subsection (a) shall be exhausted before any funds shall be made available pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) Release of Funds.—Any funds reserved under subsection (b) for a fiscal year which have not been transferred under subsection (c) by August 1 of such fiscal year shall after that date be returned to the account from which they were reserved in an amount proportionate to the amount originally reserved under subsection (b) if no emergency disaster supplemental appropriations bill has been reported from a committee of, or passed by, the House of Representatives or the Senate. If such a bill has been so reported or passed by August 1, such funds as may be required by such bill shall be retained in the Disaster Relief Account established under subsection (a) until transferred under subsection (c). Any funds in excess of those required for such bill shall be returned to the accounts from which they were reserved in an amount proportionate to the amount originally reserved under subsection (b) upon enactment of such bill as law.

(f) Definition.—For purposes of this section, the term "domestic discretionary spending account" means each budget account that was for purposes of section 601(a) of the Congressional Budget Act of 1974 considered to be with respect to fiscal year 1993 within the domestic discretionary category, and each new account not classified as within function 050 or 150.

(g) Rescission of Funds.—Of the funds made available under the heading "Federal Emergency Management Agency—Disaster Relief" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), $15,000,000 is rescinded.

SEC. 219. ELIMINATION OF WEATHER OFFICE CLOSURE CERTIFICATION PROCEDURES.

(a) In General.—Title VII of the National Oceanic and Atmospheric Administration Authorization Act of 1992 is repealed.

(b) Sense of Congress.—It is the sense of the Congress that the repeal made by subsection (a) will not result in a degradation of weather forecasting service.

(c) Rescission of Funds.—Of the funds made available under the heading "National Oceanic And Atmospheric Administration—Operations, Research, and Facilities" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $20,000,000 is rescinded, to be derived from the National Weather Service.

SEC. 220. RESCISSION OF FUNDS FOR NOAA RESEARCH FLEET.

Of the funds made available under the heading "National Oceanic And Atmospheric Administration—Fleet Modernization, Shipbuilding and Conversion" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $77,064,000 is rescinded.

SEC. 221. RESCISSION OF FUNDS FOR NOAA ADD-ONS.

Of the funds made available under the heading "National Oceanic And Atmospheric Administration" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), there are rescinded the following amounts from the following accounts:

(1) "Operations, Research, and Facilities", $71,298,000.

(2) "Construction", $29,840,000.

(3) "Aircraft Procurement and Modernization", $43,000,000.

SEC. 222. STUDY CONCERNING MERGER OF BUREAU OF RECLAMATION AND UNITED STATES ARMY CORPS OF ENGINEERS.

(a) Finding.—The Congress finds—

(1) that similar functions should be administered in the same agency;

(2) that the Bureau of Reclamation is currently reevaluating its mission; and

(3) now is the proper time for the Bureau of Reclamation and the Corps of Engineers to evaluate the feasibility of a merger.

(b) Study.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior, acting through the Commissioner of Reclamation, and the Secretary of the Army, acting through the Chief of Engineers, shall jointly conduct a study and submit a report to the Congress on merging the Bureau of Reclamation with the Corps of Engineers. The study shall include an examination of the administrative efficiencies that could be achieved in addition to the change and reorganization referred to in subsection (a), including—

(1) a the financial savings through administrative efficiency that would be obtained through such a merger; and

(2) the realignment of water projects such that similar projects are treated in a similar manner.

SEC. 223. RESCISSION OF FUNDS FOR AGRICULTURE BUILDING AND FACILITIES ACCOUNT.

Of the funds made available under the heading "Cooperative State Research Service—Buildings and Facilities" in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–111), $56,874,000 is rescinded.

SEC. 224. REPEAL OF AUTHORIZATIONS FOR THE AIRWAY SCIENCE PROGRAM, COLLEGIATE TRAINING INITIATIVE, AND AIR CARRIER MAINTENANCE TECHNICIAN TRAINING FACILITY GRANT PROGRAM.

(a) AIRWAY SCIENCE PROGRAM.—All authority for—

(1) the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration for conducting demonstration projects with respect to the development, advancement, and expansion of airway science programs, and

(2) the Federal Aviation Administration to enter into competitive grant agreements with institutions of higher education having airway science curricula,

and all authorizations to appropriate funds for such purposes, including all authorizations for which funds were appropriated for such purposes under the heading "Federal Aviation Administration, Facilities and Equipment" in the Department of Transportation and Related Agencies Appropriations Acts, 1994 are repealed.

(b) COLLEGIATE TRAINING INITIATIVE.—Section 362 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1560) is repealed. Notwithstanding such repeal, the Administrator of the Federal Aviation Administration may continue to convert appointment of persons who have been appointed pursuant to such section prior to the effective date of this Act from the excepted service to a career conditional or career appointment in the competitive civil service, pursuant to subsection (c) of such section.

(c) AIR CARRIER MAINTENANCE TECHNICIAN TRAINING FACILITY GRANT PROGRAM.—Section 119 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (49 U.S.C. App. 1354 note; 106 Stat. 4883–4884) is repealed.

(d) RESCISSION OF FUNDS.—

(1) FAA OPERATIONS.—Of the funds made available under the heading "Federal Aviation Administration—Operations" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103–122), $2,750,000 is rescinded, to be derived from grants to the Mid-American Aviation Resource Consortium and vocational technical institutions.

(2) FAA FACILITIES AND EQUIPMENT.—Of the unobligated balance of funds made available under the heading "Federal Aviation Administration—Facilities and Equipment" in appropriations Acts for fiscal year 1994 and prior fiscal years, $40,257,111 is rescinded, to be derived from the airway science program.

SEC. 225. REPEAL OF NATIONAL RECREATIONAL TRAILS PROGRAM.

The Symms National Recreational Trails Act of 1991 (16 U.S.C. 1261–1262; 105 Stat. 2064–2069) is repealed.

SEC. 226. RESCISSION OF FUNDS FOR EDA.

Of the funds made available under the heading "Economic Development Administration—Economic Development Assistance Programs"in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $159,892,000 is rescinded.

SEC. 227. ELIMINATION OF FUNDING FOR PUBLIC TELECOMMUNICATIONS FACILITIES.

(a) REPEAL OF AUTHORIZATION OF APPROPRIATIONS.—Subpart A of Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390-393a) is repealed.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "National Telecommunications and Information Administration—Public Telecommunications Facilities, Planning and Construction" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $24,000,000 is rescinded.

SEC. 228. MORATORIUM ON CONSTRUCTION AND ACQUISITION OF NEW FEDERAL BUILDINGS.

(a) GENERAL RULE.—After the date of the enactment of this Act and before October 1, 1998, the Administrator of General Services may not obligate any funds for construction or acquisition of any public building under the authority of the Public Buildings Act of 1959 or any other provision of law (other than a public building under construction or under contract for acquisition on such date of enactment).

(b) PUBLIC BUILDING DEFINED.—In this section, the term "public building" has the meaning such term has under the Public Buildings Act of 1959.

TITLE III—GOVERNMENT MANAGEMENT

SEC. 301. GOVERNMENT INFORMATION DISSEMINATION AND PRINTING IMPROVEMENT.

(a) TRANSFER OF FUNCTIONS.—

(1) PUBLIC PRINTER.—The position of Public Printer and all functions of the position of Public Printer (other than functions of the Superintendent of Documents) under title 44, United States Code, or any other provision of law are transferred from the legislative branch of the Government to the executive branch of the Government.

(2) SUPERINTENDENT OF DOCUMENTS.—The position of Superintendent of Documents and all functions of the position of Superintendent of Documents under title 44, United States Code, or any other provision of law are transferred to the Library of Congress and shall be carried out by the Superintendent of Documents under the direction of the Librarian of Congress. The Superintendent of Documents shall be appointed by, and serve at the pleasure of, the Librarian of Congress.

(3) REVOCATION OF CHARTERS.—All printing plant charters authorized under section 501 of title 44, United States Code, are revoked.

(4) EFFECTIVE DATE.—The transfer under paragraph (1) and the revocation under paragraph (3) shall each take effect 2 years after the date of the enactment of this Act. The transfer under paragraph (2) shall take effect one year after the date of the enactment of this Act.

(b) GOVERNMENT PUBLICATIONS TO BE AVAILABLE THROUGHOUT THE GOVERNMENT.—All Government publications shall be available throughout the Government to any department, agency, or entity of the Government for use or redissemination.

(c) INVENTORY AND FURNISHING OF GOVERNMENT PUBLICATIONS.—Each department, agency, and other entity of the Government shall—

(1) establish and maintain a comprehensive inventory of its Government publications;

(2) make such inventory available through the electronic directory under chapter 41 of title 44, United States Code; and

(3) in the form and manner prescribed by the Superintendent of Documents, furnish its Government publications to the Superintendent of Documents.

(d) ADDITIONAL RESPONSIBILITIES OF THE PUBLIC PRINTER.—

(1) IN GENERAL.—The Public Printer shall, with respect to the executive branch of the Government and the judicial branch of the Government—

(A) use all necessary measures to remedy neglect, delay, duplication, and waste in the public printing and binding of Government publications, including the reduction and elimination of internal printing and high-speed duplicating capacities of departments, agencies, and entities;

(B) prescribe Government publishing standards, which, to the greatest extent practicable, shall be consistent with the United States Government Printing Office Style Manual;

(C) prescribe Government procurement and manufacturing requirements for printing paper and writing paper, which, to the greatest extent practicable, shall be consistent with Government Paper Specification Standards;

(D) authorize the acquisition and transfer of equipment requisitioned by publishing facilities authorized under section 501 of title 44, United States Code;

(E) authorize the disposal of such equipment pursuant to section 312 of title 44, United States Code; and

(F) establish policy for the acquisition of printing, which, to the greatest extent practicable, shall be consistent with (i) Printing Procurement Regulation (GPO Publication 305.3), (ii) Government Printing and Binding Regulations (JCP No. 26), and (ii) Printing Procurement Department Instruction (PP304.1B).

(2) POLICY STANDARDS.—The policy referred to in paragraph (1)(F) shall be formulated to maximize competitive procurement from the private sector. Government in-house printing and duplicating operations authorized under section 501 of title 44, United States Code, or otherwise authorized by law, may be used if they provide printing at the lowest cost to the Government, taking into consideration the total expense of production, materials, labor, equipment, and general and administrative expense, including all levels of overhead.

(e) ADDITIONAL RESPONSIBILITIES OF THE SUPERINTENDENT OF DOCUMENTS.—

(1) GOVERNMENT PUBLICATIONS TO BE FURNISHED TO THE SUPERINTENDENT OF DOCUMENTS.—If a department, agency, or other entity of the Government publishes a Government publication, the head of the department, agency, or entity shall furnish the Government publication to the Superintendent of Documents not later than the date of release of the material to the public.

(2) DISSEMINATION OR REPUBLICATION.—In addition to any other dissemination provided for by law, the Superintendent of Documents shall disseminate or republish Government publications, if, as determined by the Superintendent, the dissemination by the department, agency, or entity of the Government is inadequate. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under paragraph (1), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(3) COST.—The cost charged to the public by the superintendent of documents under paragraph (2) for any government publication (whether such government publication is made available to the public by a department, agency, or entity of the government, or by the superintendent of documents) may include the incremental cost of dissemination, but may not include any profit.

(f) DEPOSITORY LIBRARIES.—In addition to any other distribution provided for by law, the Superintendent of Documents shall make Government publications available to designated depository libraries and State libraries. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under subsection (e)(1), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(g) DEFINITIONS.—As used in this section—

(1) the term "Government publication" means any informational matter that is published at Government expense, or as required by law; and

(2) the term "publish" means, with respect to informational matter, make available for dissemination.

SEC. 302. SENSE OF CONGRESS REGARDING REORGANIZATION OF BUREAU OF INDIAN AFFAIRS.

It is the sense of the Congress that—

(1) the Bureau of Indian Affairs should be reorganized, with special attention given to the reorganizing the Bureau's 12 area offices into not more than 5 regional service centers and 2 special service offices; and

(2) such reorganization should be pursued in coordination with the Task Force on Bureau of Indian Affairs reorganization, as provided in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103–138).

SEC. 303. RESCISSION OF FUNDS FOR PRINTING AND REPRODUCTION AND FOR SUPPLIES AND MATERIALS.

(a) IN GENERAL.—Of the funds made available in appropriations Acts for fiscal year 1994 to the following agencies for printing and reproduction and for supplies and materials, the following amounts are rescinded:

(1) Department of Agriculture, $186,000,000.

(2) Department of Commerce, $6,000,000.

(3) Department of Health and Human Services, $22,400,000.

(4) Department of the Interior, $14,400,000.

(5) Department of Justice, $15,600,000.

(6) Department of Labor, $2,000,000.

(7) Department of State, $4,400,000.

(8) Department of the Treasury, $13,200,000.

(9) Department of Education, $400,000.

(10) Department of Energy, $2,800,000.

(11) Environmental Protection Agency, $11,200,000.

(12) Department of Transportation, $33,200,000.

(13) Department of Housing and Urban Development $240,000.

(14) Department of Veterans Affairs, $97,200,000.

(b) ALLOCATION.—The Director of the Office of Management and Budget shall allocate the rescissions made by subsection (a) among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 304. STREAMLINING OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall streamline the headquarters, regional, and field office structure of the Department of Housing and Urban Development by consolidating various of such offices and reducing the size of the Department, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

(b) WORKFORCE REDUCTIONS.—In carrying out subsection (a), during the period referred to in such subsection, the Secretary of Housing and Urban Development shall eliminate not less than 1,500 full-time employment positions in the Department of Housing and Urban Development.

SEC. 305. TERMINATION OF INTERSTATE COMMERCE COMMISSION.

(a) IN GENERAL.—There are transferred to the Secretary, effective January 1, 1994, all functions of the Commission.

(b) AUTHORITY OF OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget, in consultation with the Commission and the Secretary, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of assets, liabilities, contracts, property, and records, as may be necessary to carry out the provisions of this section. The unobligated funds of the Commission shall not be transferred to the Department of Transportation in order to carry out the transfer of functions under this section, and the number of fulltime employee positions within the Department of Transportation shall not be increased as a result of such transfer of functions.

(c) JOINT PLANNING FOR TRANSFER.—The Chairman of the Commission and the Secretary shall, beginning as soon as practicable after the date of enactment of this section, jointly plan for the orderly transfer of functions under this section.

(d) INTERIM USE OF INTERSTATE COMMERCE COMMISSION PERSONNEL.—Prior to January 1, 1994, and with the consent of the Commission, the Secretary may use the services of officers, employees, and other personnel of the Commission under such terms and conditions as will reasonably facilitate the orderly transfer of functions under this section.

(e) SAVINGS PROVISIONS.—

(1) IN GENERAL.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(A) which have been issued, made, granted, or allowed to become effective by any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by this section to the Secretary from the Commission; and

(B) which are in effect immediately before the transfer of functions by this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary or any other duly authorized official, by any court of competent jurisdiction, or by operation of law.

(2) CONTINUATION OF PROCEEDINGS.—The transfer of functions by this section shall not affect any proceedings, including rulemaking proceedings, or any application for any license, permit, or certificate, pending before the Commission immediately before the transfer takes effect. Such proceedings and applications shall be continued at the Department of Transportation. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Transportation, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) EFFECT ON PENDING CIVIL ACTIONS.—Except as provided in paragraph (5)—

(A) the transfer of any function under this section shall not affect any civil action relating to such function which is commenced prior to the date the transfer takes effect; and

(B) in all such actions, proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No action or other proceeding commenced by or against any officer in that officer's official capacity as an officer of the Commission shall abate by reason of the transfer of any function under this section. No cause of action by or against the Commission, or by or against any officer thereof in that officer's official capacity, shall abate by reason of the transfer of any function under this section.

(5) JUDICIAL ADMINISTRATIVE PROVISION.—If immediately before the transfer of functions by this section the Commission or any officer thereof in that officer's official capacity is a party to an action relating to a function transfer by this section, then such action shall be continued with the Secretary or other appropriate official of the Department of Transportation substituted or added as a party.

(6) REFERENCES.—With respect to any function transferred by this section and performed on or after the effective date of the transfer, reference in any Federal law to the Interstate Commerce Commission or the Commission (insofar as such term refers to the Interstate Commerce Commission), or to any officer or office thereof, shall be deemed to refer to the Department of Transportation, or other official or component of the Department of Transportation in which such function vests.

(7) EXERCISE OF FUNCTIONS BY SECRETARY.—In the exercise of any function transferred by this section, the Secretary shall have the same authority as that vested in the Commission with respect to such function immediately preceding its transfer, and actions of the Secretary shall have the same force and effect as when exercised by the Commission. Orders and actions of the Secretary in the exercise of the functions transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Commission in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this section shall apply to the exercise of such functions by the Secretary.

(f) REPORTS.—No later than July 1, 1994, the Secretary shall submit to the appropriate committees of Congress a report on the functions transferred from the Commission to the Department of Transportation under this section. The report shall include—

(1) an assessment of benefits compared to costs associated with each of these functions, both with respect to persons affected directly and to the public generally;

(2) recommendations for the elimination of functions identified as redundant, or substantially the same as functions or services which are performed by the Department of Transportation or other public or private organizations prior to the transfer of functions under this section; and

(3) recommendations to modify or eliminate those functions that do not provide substantial economic or safety benefits to the general public.

(g) CONFORMING AMENDMENTS.—

(1) EXECUTIVE LEVEL PAY RATES.—

(A) Section 5314 of title 5, United States Code, is amended by striking "Chairman, Interstate Commerce Commission.".

(B) Section 5315 of title 5, United States Code, is amended by striking "Members, Interstate Commerce Commission.".

(2) TERMINATION OF COMMISSION.—Sections 10301 through 10308 of title 49, United States Code, are repealed.

(3) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994.

(h) DEFINITIONS.—In this section—

(1) the term "Commission" means the Interstate Commerce Commission;

(2) the term "function" means a function, power, or duty; and

(3) the term "Secretary" means the Secretary of Transportation.

(i) RESCISSION AND TRANSFER OF FUNDS.—Of the funds made available under the heading "Interstate Commerce Commission—Salaries and Expenses" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103–122)—

(1) $18,000,000 is rescinded; and

(2) $15,000,000 shall be transferred to and merged with the appropriation in such Act for "DEPARTMENT OF TRANSPORTATION—OFFICE OF THE SECRETARY—Immediate Office of the Secretary".

SEC. 306. RESCISSION OF FUNDS FROM TENNESSEE VALLEY AUTHORITY FUND.

Of the funds in the Area and Regional Account of the Tennessee Valley Authority Fund, $23,000,000 is rescinded.

SEC. 307. RESCISSION OF FUNDS FOR APPALACHIAN REGIONAL COMMISSION.

Of the funds made available under the heading "Appalachian Regional Commission" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $59,000,000 is rescinded.

SEC. 308. IMPROVEMENTS TO MANAGEMENT OF VETERANS' HOSPITALS.

The Secretary of Veterans Affairs, in consultation with the Secretary of Health and Human Services, shall implement for the Veterans Health Administration a financing system known as a "Prospective Payment System". In implementing such a system, the Secretary shall classify each individual receiving health care and services under chapter 17 of title 38, United States Code, in a Diagnosis-Related Group (DRG). The Prospective Payment System implemented by the Secretary shall be modeled as closely as is practicable on the Prospective Payment System in use for the Medicare program under title XVIII of the Social Security Act. The Secretary may, to the extent necessary to implement this section, waive any provisions of law inconsistent with this section. In implementing this section, it shall be a goal of the Secretary to achieve savings in outlays for the Department of Veterans Affairs medical system of not less than $1,000,000,000 over the five-year period of fiscal years 1994 through 1998.

SEC. 309. RESCISSION OF FUNDS FOR LEGAL SERVICES CORPORATION.

Of the funds made available under the heading "Legal Services Corporation—Payment to the Legal Services Corporation" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $20,000,000 is rescinded.

SEC. 310. TERMINATION STATE JUSTICE INSTITUTE.

(a) IN GENERAL.—The State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) is repealed.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "State Justice Institute—Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–121), $6,775,000 is rescinded.

SEC. 311. IMPROVEMENT OF U.S. MARSHALS SERVICE.

(a) PHASING OUT OF POLITICAL APPOINTEES.—

(1) UNCONFIRMED APPOINTEES.—Any individual serving as a United States marshal to whose appointment to such office the Senate has not given its advice and consent as of the date of the enactment of this Act, may no longer serve in such position on or after such date of enactment, except pursuant to appointment by the Attorney General under the amendments made by this section. The Attorney General shall, before appointing any other individual to such vacated position, offer such vacated position to the individual then serving as deputy marshal in that office of United States marshal. The individual appointed to fill such vacated position shall be appointed for the remainder of the unexpired term of his or her predecessor.

(2) CONFIRMED APPOINTEES.—Any individual who, on the date of the enactment of this Act, is a United States marshal to whose appointment the Senate has given its advice and consent, may not serve in such position on or after December 31, 1994, except pursuant to appointment by the Attorney General under the amendments made by this section. The Attorney General shall, before appointing any other individual to such vacated position, offer such vacated position to the individual then serving as deputy marshal in that office of United States marshal. The individual appointed to fill such vacated position shall be appointed for the remainder of the unexpired term of his or her predecessor.

(b) APPOINTMENT OF UNITED STATES MARSHALS.—Section 561 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "The President shall appoint, by and with the advice and consent of the Senate," and inserting "The Attorney General shall appoint"; and

(2) in subsection (d) by striking "President" and inserting "Attorney General".

(c) OVERALL REDUCTION IN NUMBER OF POSITIONS.—

(1) ELIMINATION OF POSITIONS OF DEPUTY MARSHAL.—The position of deputy marshal in the 70 judicial districts having the least population of all judicial districts shall be abolished, as of—

(A) the date of the enactment of this Act, in a case in which subsection (a)(1) applies; or

(B) the date on which the United States marshal leaves office under the first sentence of subsection (a)(2), in a case in which such subsection applies;

and no equivalent position in such districts shall thereafter be created.

(2) OVERALL REDUCTION.—The number of full-time equivalent positions in the United States Marshals Service as of January 1, 1995, may not exceed the number of full-time equivalent positions in the United States Marshals Service on the date of the enactment of this Act, minus 70.

(d) CONFORMING AMENDMENTS.—(1) Section 562 of title 28, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 37 of such title, are repealed.

(2) Section 569 of such title is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

SEC. 312. RESCISSION OF FUNDS FOR BATF.

Of the funds made available under the heading "Bureau of Alcohol, Tobacco and Firearms—Salaries and Expenses" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103–123), $2,000,000 is rescinded.

SEC. 313. RESCISSION OF FUNDS FOR CONSTRUCTION OF NEW FEDERAL OFFICES AND COURTHOUSES.

Of the funds made available under the heading "General Services Administration—Federal Buildings Fund" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103–123), $288,000,000 is rescinded.

SEC. 314. LIMITATION ON OFFICE EQUIPMENT AND FURNISHINGS PURCHASES BY DEPARTING MEMBERS OF HOUSE OF REPRESENTATIVES.

The first section of the Act entitled "An Act to authorize the disposition of certain office equipment and furnishings, and for other purposes", enacted October 20, 1974 (2 U.S.C. 59a) is repealed.

SEC. 315. RESCISSION OF FUNDS FOR EXECUTIVE OFFICE OF THE PRESIDENT.

(a) IN GENERAL.—Of the funds made available for each account under the heading "Executive Office of the President and Funds Appropriated to the President" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103–123), there is rescinded an amount equal to 5 percent of such funds.

(b) ADDITIONAL OFFICES.—Of the funds made available for each account under the heading "Executive Office of the President" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), there is rescinded an amount equal to 5 percent of such funds.

SEC. 316. RESCISSION OF FUNDS FOR LEGISLATIVE BRANCH.

(a) IN GENERAL.—Of the funds made available for each account in the Legislative Branch Appropriations Act, 1994 (Pub. L. 103–69), there is rescinded an amount equal to 7.5 percent of such funds.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) funds made available under the heading "Congressional Operations—Senate"; or

(2) funds for which amounts are rescinded by section 317.

SEC. 317. RESCISSION OF FUNDS FOR HOUSE FRANKING.

Of the funds made available under the heading "House of Representatives—Salaries and Expenses" in the Legislative Branch Appropriations Act, 1994 (Pub. L. 103–69), $12,000,000 is rescinded, to be derived from "Official Mail Costs".

SEC. 318. PROVISIONS RELATING TO ANNUAL PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) CALENDAR YEAR 1994.—Notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), the cost of living adjustment (relating to pay for

Members of Congress) which would become effective under such provision of law during calendar year 1994 shall not take effect.

(b) LIMITATION ON FUTURE ADJUSTMENTS.—Effective as of December 31, 1994, paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 is amended—

(1) by striking "(2) Effective" and inserting "(2)(A) Subject to subparagraph (B), effective"; and

(2) by adding at the end the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.".

SEC. 319. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the last day of the last applicable pay period beginning in calendar year 1993, subsection (f) of section 6304 of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304, such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

(c) CONFORMING AMENDMENT.—Section 6304(a) of title 5, United States Code, is amended by striking "(e), (f), and (g)" and inserting "(e) and (g)", effective as of the effective date of subsection (a).

(d) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of payments for accrued leave upon termination of employment, $2,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 320. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,053,600 during fiscal year 1994;
(2) 1,999,600 during fiscal year 1995;
(3) 1,945,600 during fiscal year 1996;
(4) 1,895,600 during fiscal year 1997; and
(5) 1,851,600 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget noifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Mangement and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

(f) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of employee compensation, $2,122,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 321. RESCISSION OF FUNDS FOR TRAVEL ACCOUNTS.

(a) IN GENERAL.—Of the funds made available in any appropriations Act for fiscal year 1994 to any executive department or agency, or any entity in the legislative branch, for purposes of official travel, 15 percent is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) the Department of Defense, the Department of Justice, the Department of State, the Department of the Treasury, the Department of Veterans Affairs, or any agency or office within any such department; or

(2) the Office of Personnel Management in carrying out its responsibilities under the Voting Rights Act of 1965.

SEC. 322. TERMINATION OF FEDERAL ADVISORY COMMITTEES.

(a) TERMINATION.—The entities described in subsection (b) are terminated.

(b) ENTITIES DESCRIBED.—The entities referred to in subsection (a) are the following:

(1) Preservation of Jazz Advisory Commission.

(2) Mt. Saint Helen's Scientific Advisory Board.

(3) Advisory Panel for the Dictionary of Occupational Titles.

(4) U.S. Army Medical Research and Development Advisory Board.

(5) Secretary of the Navy's Advisory Committee on Naval History.

(6) Scientific Advisory Committee on Effects.

(7) Advisory Committee on Publications Subvention.

(8) National Advisory Council on Educational Research and Improvement.

(9) Advisory Panel for the Decontamination of TMI-2.

(10) Technical Advisory Group on Cigarette Fire Safety.

(11) Advisory Commission of Swine Health Protection.

(c) SAVINGS PROVISIONS.—

(1) CONTINUATION OF AGREEMENTS, GRANTS, CONTRACTS, PRIVILEGES, AND OTHER ADMINISTRATIVE ACTIONS.—All agreements, grants, contracts, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by an entity described in subsection (b) in the performance of its functions or by a court of competent jurisdiction with respect to those functions, and

(B) which are in effect on the date of the enactment of this Act, or were final before that date of enactment and are to become effective on or after that date of enactment, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(3) SUITS INVOLVING COUNCIL OR OFFICE.—No suit, action, or other proceeding commenced by or against an entity described in subsection (b), or by or against any individual in the official capacity of such individual as an officer or employee of such an entity, shall abate by reason of the enactment of this section.

SEC. 323. INCREASE IN THRESHOLD FOR APPLICATION OF DAVIS-BACON ACT.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of March 3, 1931 (40 U.S.C. 276a et seq.) (known as the "Davis-Bacon Act") is amended by striking "$2,000" and inserting "$100,000".

(b) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of construction activities under the Act of March 3, 1931 (40 U.S.C. 276a et seq.) (known as the "Davis-Bacon Act") or similar prevailing wage requirements applicable to projects assisted by Federal funds, $62,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 324. ELIMINATION OF CERTAIN REPORTS REQUIRED ON CONTRACTS COVERED BY DAVIS-BACON ACT.

(a) IN GENERAL.—The first sentence of section 2 of the Act of June 13, 1934, entitled "An Act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes" (40 U.S.C. 276c) (known as the "Copeland Act") is amended by striking "shall furnish weekly a statement with respect to the wages paid each employee during the preceding week" and inserting "shall furnish, at least once per month, a statement of compliance with the labor standards provisions of applicable law, certifying the payroll with respect to the wages paid employees during the preceding period for which the statement is furnished, covering each week any contract work is performed".

(b) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of construction activities submitted under section 2 of the Act of June 13, 1934 (40 U.S.C. 276c) (known as the "Copeland Act"), $55,000,000 is rescinded.

The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 325. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.

(a) In General.—The Secretary of the Treasury or his delegate (in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) Program Criteria.—

(1) In general.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) Minimum fees.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) Application of Section.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) Deposit and Credit as Offsetting Receipts.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 326. INCREASE IN SEC REGISTRATION FEES.

(a) Securities Act of 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking "one-fiftieth of 1 per centum" and inserting "1/29 of 1 percent".

(b) Securities Exchange Act of 1934.—Sections 13(e)(3) and 14(g)(1)(A)(i) of the Securities Exchange Act of 1934 (47 U.S.C. 78m(e)(3), 78n(g)(1)(A)(i)) are each amended by striking "1/50 of 1 per centum" and inserting "1/29 of 1 percent".

(c) Deposit and Credit as Offsetting Receipts.—The amounts collected under the provisions amended by this section shall be deposited into the Treasury as offsetting receipts and ascribed to the salaries and expenses account of the Securities and Exchange Commission.

(d) Applicability.—The amendments made by subsections (a) and (b) shall not apply after September 30, 1998.

SEC. 327. TRAVEL, TOURISM, AND EXPORT PROMOTION FEES.

(a) Travel and Tourism Fees.—

(1) In general.—Each State that participates in marketing activities or tourism promotion abroad through the United States Travel and Tourism Administration shall pay a fee in an amount determined by such Administration so that the total receipts from such fees shall equal the budget of such Administration.

(2) Deposit and credit as offsetting receipts.—The amounts collected under this subsection shall be deposited into the Treasury as offsetting receipts and ascribed to the salaries and expenses account of the United States Travel and Tourism Adminsitration.

(b) Export Promotion Fees.—

(1) In general.—The Secretary of Commerce or his delegate (in this subsection referred to as the "Secretary") shall establish a program requiring the payment of user fees for all services provided to all entities outside the Federal Government by the International Trade Administration in carrying out its export promotion programs.

(2) Setting of fees.—The fees charged under the program required by paragraph (1) shall be determined such that the Secretary estimates that the aggregate of such fees received during the following fiscal years will equal the following amounts:

(A) $100,000,000 during fiscal year 1994.

(B) $212,154,000 during fiscal year 1995.

(C) $224,821,000 during fiscal year 1996.

(D) $237,830,000 during fiscal year 1997.

(E) $251,648,000 during fiscal year 1998.

(3) Application of section.—Paragraph (1) shall apply to services provided on or after the 90th day after the date of the enactment of this Act.

(4) Definition.—As used in this subsection, the term "export promotion program" has the meaning given that term in section 201(d) of the export administration amendments act of 1985 (15 U.S.C. 4051(d)) and includes—

(A) the provision of information and technical assistance; and

(B) any form of assistance in the marketing of goods and services.

(5) Deposit and credit as offsetting receipts.—The amounts collected by the Secretary under the program required by paragraph (1) (to the extent such amounts do not exceed the amounts specified in paragraph (2)) shall be deposited into the Treasury as offsetting receipts and ascribed to the operations and administrations account of the International Trade Administration.

TITLE IV—HUMAN RESOURCES

SEC. 401. REDUCTION IN FUNDING FOR ARTS AND HUMANITIES PROGRAMS.

(a) National Endowment for the Arts.—Section 11(d)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)(1)) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) for fiscal year 1994, $166,823,000,

"(B) for fiscal year 1995, $163,487,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1994 to carry out the activities of the Endowment, whichever is less,

"(C) for fiscal year 1996, $160,217,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1995 to carry out the activities of the Endowment, whichever is less,

"(D) for fiscal year 1997, $157,012,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1996 to carry out the activities of the Endowment, whichever is less, and

"(E) for fiscal year 1998, $153,872,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1997 to carry out the activities of the Endowment, whichever is less.".

(b) National Endowment for the Humanities.—Section 11(d)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)(2)) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) for fiscal year 1994, $173,941,000,

"(B) for fiscal year 1995, $170,462,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1994 to carry out the activities of the Endowment, whichever is less,

"(C) for fiscal year 1996, $167,053,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1995 to carry out the activities of the Endowment, whichever is less,

"(D) for fiscal year 1997, $163,712,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1996 to carry out the activities of the Endowment, whichever is less, and

"(E) for fiscal year 1998, $160,438,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1997 to carry out the activities of the Endowment, whichever is less.".

(c) Smithsonian Institution.—Notwithstanding any other law, the funds appropriated for the Smithsonian Institution for fiscal year 1994, 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(d) National Gallery of Art.—Notwithstanding any other law, the funds appropriated for the National Gallery of Art for fiscal year 1994, 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(e) Corporation for Public Broadcasting.—Notwithstanding any other law, the funds appropriated for the Corporation for Public Broadcasting for fiscal year 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(f) Rescission of Funds.—Of the funds made available under each of the headings "National Endowment for the Arts", "National Endowment for the Humanities", "Smithsonian Institution", and "National Gallery of Art" in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103-138), 2 percent is rescinded.

SEC. 402. ELIMINATION OF OPERATING SUBSIDIES FOR VACANT PUBLIC HOUSING.

(a) In General.—Section 9(a)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(B)) is amended—

(1) in clause (iv), by striking "and" at the end;

(2) in clause (v), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(vi) no payment may be provided under this section for any dwelling unit that has been vacant for a period of 180 days or more unless such unit is vacant because of comprehensive modernization, major reconstruction, demolition, or disposition activities that have been funded or approved.".

(b) Elimination of Annual Contribution Reserve.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended by striking paragraph (3).

(c) Recapture of Annual Contribution Reserve.—The Secretary of Housing and Urban Development shall recapture any amounts reserved from annual contributions for public housing agencies and deposited in accounts established on behalf of the agencies pursuant to paragraph (3) of section 14(p) of the United States Housing Act of 1937 (as in effect immediately before the date of the enactment of this Act).

(d) RESCISSION OF FUNDS.—Of the funds made available under the heading "Department of Housing and Urban Development—Housing Programs—Payments for Operation of Low-Income Housing Projects" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), $54,000,000 is rescinded.

SEC. 403. SUBSTITUTION OF VOUCHER ASSISTANCE FOR PUBLIC HOUSING NEW CONSTRUCTION.

(a) TERMINATION OF ASSISTANCE FOR CONSTRUCTION OF PUBLIC HOUSING.—

(1) LOAN AUTHORITY.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may not enter into any new commitment to make loans under section 4 of the United States Housing Act of 1937 to public housing agencies for the development or acquisition of public housing projects by such agencies.

(2) CONTRIBUTION AUTHORITY.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may not enter into any new contract to make contributions under section 5 of the United States Housing Act of 1937 to public housing agencies for the development or acquisition of public housing projects by such agencies.

(3) EXISTING COMMITMENTS.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may make contributions and loans for the development or acquisition of public housing projects only pursuant to legally binding commitments to make such loans or contracts for such contributions entered into on or before the date of the enactment of this Act.

(4) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply to public housing developed pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(5) DEFINITIONS.—For purposes of this section, the terms "Indian housing authority", "project", "public housing", and "public housing agency" have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

(b) PERMISSIBLE USES.—Vouchers for rental assistance provided with the amounts made available under this section may be used for the rental of dwelling units or costs of residency, as determined by qualified voucher recipients.

(c) RESCISSION AND TRANSFER OF FUNDS.—Of the funds made available under the heading "Department of Housing and Urban Development—Housing Programs—Annual Contributions for Assisted Housing" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124)—

(1) $367,000,000 is rescinded from the total amount under such heading and from the amount specified under such heading for the development or acquisition cost of public housing; and

(2) $230,701,000 of the amount specified under such heading for the development or acquisition cost of public housing shall be reallocated to and merged with the amount specified under such heading for the housing voucher program under section 8(o) of the United States Housing Act of 1937.

SEC. 404. REFORM OF HUD MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iii) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational staff and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goal specified in subsection (a)(3)(A), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraphs (A) through (C) of subsection (b)(2) that does not otherwise receive project-based assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining affordability, as defined in paragraph (3)(B).

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) with at least an equivalent increase in units made affordable to very low-income persons within unsubsidized projects;

"(ii) low-income tenants residing in units otherwise requiring project-based assistance under subparagraph (A) or (B) upon disposition receive section 8 tenant-based assistance; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in unsubsidized projects, the contract shall at least be sufficient to provide—

"(i) project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for low-income families. Actions taken pursuant to this paragraph may be taken in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary annually.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms which will ensure that—

"(i) at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions authorized by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—In connection with projects referred to in subsection (e), make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall make available tenant-based rental assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A), and the Secretary shall take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance.

"(g) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(h) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—Notwithstanding subparagraph (A), to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area (as determined by the Secretary under section 8(c) of the United States Housing Act of 1937) as the Secretary may prescribe.

"(B) UP-FRONT GRANTS AND LOANS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to—

"(i) provide project-based section 8 rental assistance; and

"(ii)(I) provide up-front grants for the necessary cost of rehabilitation; or

"(II) pay for any cost to the Government, as defined in section 502 of the Congressional Budget Act, for loans made pursuant to subsection (f)(1).

"(i) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities which represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) USE OF FUNDS.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly, and to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section for the provision of technical assistance under this section.

"(ii) SOURCE OF FUNDS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(j) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a project, the Secretary shall notify the unit of general local government and the State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B), and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for a project, shall notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan and give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—Where the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e). If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(k) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(l) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, which report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after enactment of the Housing and Community Development Act of 1993 and actions taken in years prior to such enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments, and the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 405. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1993.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94-241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1993.

TITLE V—SOCIAL SERVICES AND RETIREMENT

SEC. 501. INCREASE IN RETIREMENT AGE UNDER FERS TO 65.

(a) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VIII—SPECIAL RULES FOR CERTAIN POST-1993 NEW EMPLOYEES AND MEMBERS

"§ 8481. Applicability

"(a) This subchapter sets forth special rules in conformance with which this chapter shall be applied with respect to any employee who first becomes an employee subject to this chapter, or who is first elected as a Member, after December 31, 1993.

"(b) Nothing in this subchapter shall be considered to apply with respect to any employee or Member not described in subsection (a) or to have any effect except for the purpose referred to in such subsection.

"§ 8482. Immediate retirement

"Deem section 8412 to be amended as follows:

"(1) Subsection (c) is amended by striking '62' and inserting '65'.

"(2) Subsections (a), (b), (f), and (g) are repealed.

"§ 8483. Deferred retirement

"Deem section 8413 to be amended as follows:

"(1) Subsection (a) is amended by striking '62' and inserting '65'.

"(2) Subsection (b) is repealed.

"§ 8484. References to age 62

"(a) Deem section 8415 to be amended as follows:

"(1) Subsection (f) is repealed.

"(2) Subsection (g)(2)(B) is amended by striking 'is at least 62 years of age and'.

"(b) Deem section 8442 to be amended in subsections (c)(2)(B) and (g)(2)(B) by striking '62' each place it appears and inserting '65'.

"(c) Deem section 8452(b)(1) to be amended by striking 'sixty-second' and inserting 'sixty-fifth'.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"SPECIAL RULES FOR CERTAIN POST-1993 NEW EMPLOYEES AND MEMBERS

"8481. Applicability.
"8482. Immediate retirement.
"8483. Deferred retirement.
"8484. References to age 62.".

SEC. 502. PROVISION RELATING TO GOVERNMENT CONTRIBUTIONS TO THE THRIFT SAVINGS PLAN.

Section 8432(c)(2)(B) of title 5, United States Code, is amended by adding at the end the following:

"Clause (ii) shall not apply with respect to any employee or Member described in section 8481(a).".

SEC. 503. DEFERRAL UNTIL AGE 62 OF COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES WHO FIRST ENTERED MILITARY SERVICE ON OR AFTER JANUARY 1, 1994.

Section 1401a(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of a member or former member under age 62 (other than a member retired under chapter 61 of this title) who first became a member on or after January 1, 1994, such increase shall not become payable as part of the retired pay of the member or former member until the month in which the member or former member becomes 62 years of age.".

SEC. 504. CONSOLIDATION OF CERTAIN SOCIAL SERVICES PROGRAMS INTO A SINGLE BLOCK GRANT PROGRAM.

(a) AT-RISK CHILD CARE PROGRAM MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.—

(1) CONSOLIDATION OF SERVICES.—Section 2002(a)(2)(A) of the Social Security Act (42 U.S.C. 1397a(a)(2)(A)) is amended by inserting "(including services that could have been provided under section 402(i), as in effect immediately before the effective date of section 504 of the Common Cents Deficit Reduction Act of 1993)" after "child care services".

(2) CONSOLIDATION OF FUNDING.—Section 2003(c) of such Act (42 U.S.C. 1397b(c)) is amended—

(A) in paragraph (4), by striking "and";

(B) in paragraph (5), by striking "each fiscal year after fiscal year 1989." and inserting "the fiscal years 1990, 1991, 1992, 1993, and 1994; and"; and

(C) by adding at the end the following:

"(6) $2,976,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(b) CERTAIN DISCRETIONARY SOCIAL SERVICES PROGRAMS MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES BUT LEFT DISCRETIONARY.—

(1) CONSOLIDATION OF SERVICES.—Section 2002 of such Act (42 U.S.C. 1397a) is amended—

(A) in subsection (a), by adding at the end the following:

"(3) In addition to payments pursuant to paragraph (1), the Secretary may make payments to a State under this title for a fiscal year in an amount equal to its additional allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

"(4) For purposes of paragraph (3)—

"(A) services which are directed at the goals set forth in section 2001 include services that could have been provided under—

"(i) the Community Services Block Grant Act;

"(ii) the Child Care and Development Block Grant Act of 1990;

"(iii) title III or VII of the Older Americans Act of 1965; or

"(iv) the State Dependent Care Development Grants Act,

as in effect immediately before the effective date of section 504 of the Common Cents Deficit Reduction Act of 1993; and

"(B) expenditures for such services may include expenditures described in paragraph (2)(B)."; and

(B) in each of subsections (b), (c), and (d), by inserting "or additional allotment" after "allotment" each place such term appears.

(2) CONSOLIDATION OF FUNDING.—Section 2003 of such Act (42 U.S.C. 1397b) is amended by adding at the end the following:

"(d) The additional allotment for any fiscal year to each State shall be determined in the same manner in which the allotment for the fiscal year is determined for the State under the preceding subsections of this section, except that, in making such determination the following amounts shall be used in lieu of the amount specified in subsection (c):

"(1) $2,301,000,000 for the fiscal year 1995;

"(2) $2,359,000,000 for the fiscal year 1996;

"(3) $2,419,000,000 for the fiscal year 1997; and

"(4) $2,478,000,000 for the fiscal year 1998.".

(c) CONFORMING AMENDMENTS AND REPEALS.—

(1) COMMUNITY SERVICES BLOCK GRANT ACT.—The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is hereby repealed.

(2) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(3) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by striking titles III and VII.

(4) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is hereby repealed.

(5) AT-RISK CHILD CARE PROGRAM.—

(A) PROGRAM AUTHORITY.—Section 402 of the Social Security Act (42 U.S.C. 602) is amended—

(i) in subsection (g)(7), by striking "and subsection (i)"; and

(ii) by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by striking subsection (n).

(d) EFFECTIVE DATE.—The amendments and repeals made by this section shall take effect on October 1, 1994.

SEC. 505. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

(a) IN GENERAL.—Section 401(b)(8) the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

SEC. 506. ELIMINATION OF EDUCATION PROGRAMS THAT HAVE LARGELY ACHIEVED THEIR PURPOSE.

(a) PUBLIC LIBRARY CONSTRUCTION.—

(1) REPEAL.—Title II of the Library Services and Construction Act (20 U.S.C. 355a et seq.) is repealed.

(2) CONFORMING AMENDMENT.—Section 4(a)(2) of such Act (20 U.S.C. 351b(a)(2)) is repealed.

(b) FOLLOW THROUGH PROGRAM.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(c) LAW-RELATED EDUCATION.—Section 1565 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2965) is repealed.

(d) LAW SCHOOL CLINICAL EXPERIENCE PROGRAM.—Part G of title IX of the Higher Education Act of 1965 (20 U.S.C. 1132u et seq.) is repealed.

(e) RESCISSION OF FUNDS.—

(1) LIBRARY CONSTRUCTION.—Of the funds made available under the heading "Department of Education—Libraries" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-112), $17,792,000 is rescinded, to be derived from public library construction.

(2) SCHOOL IMPROVEMENT PROGRAMS.—Of the funds made available under the heading "Department of Education—School Improvement Programs" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-112)—

(A) $8,478,000 is rescinded, to be derived from the follow through program; and

(B) $5,952,000 is rescinded, to be derived from the law-related education program.

(3) LAW SCHOOL CLINICAL EXPERIENCE.—Of the funds made available under the heading "Department of Education—Higher Education" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-112), $14,920,000 is rescinded, to be derived from the law school clinical experience program.

TITLE VI—AGRICULTURE AND HEALTH CARE

SEC. 601. DEPARTMENT OF AGRICULTURE REORGANIZATION.

(a) CLOSURE AND CONSOLIDATION OF OFFICES.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the Secretary of Agriculture shall close or consolidate not less than 1,200 field offices of the agencies of the Department of Agriculture described in subsection (d).

(b) PURPOSE OF CLOSURE AND CONSOLIDATION.—In addition to reducing expenditures of the Department of Agriculture, the closure and consolidation of field offices pursuant to this section is intended to improve services provided to agricultural producers in the United States through the greater use of multipurpose field offices combining the services of more than one of the agencies described in subsection (d).

(c) Corresponding Reductions and Reorganization.—As part of the closure and consolidation of field offices under subsection (a), the Secretary of Agriculture shall—

(1) eliminate not less than 7,500 full-time employment positions in the Department of Agriculture; and

(2) reorganize the headquarters corresponding to the agencies described in subsection (d).

(d) Field Offices Described.—The field offices to be closed and consolidated under this section shall be selected from among the field offices of the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation.

(e) Rescission of Funds.—Of the funds made available for the Department of Agriculture in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–111), $13,000,000 is rescinded. The Secretary of Agriculture shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

SEC. 602. REDUCTION IN TRIPLE BASE FOR DEFICIENCY PAYMENTS FOR BASIC AGRICULTURAL COMMODITIES UNDER AGRICULTURE PROGRAMS.

(a) Wheat.—Section 107B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(b) Feed Grains.—Section 105B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1444f(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(c) Upland Cotton.—Section 103B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1444-2(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(d) Rice.—Section 101B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

SEC. 603. IMPOSITION OF 20 PERCENT COINSURANCE ON CLINICAL LABORATORY SERVICES UNDER MEDICARE.

(a) In General.—Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) Effective Date.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1994.

SEC. 604. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES UNDER MEDICARE.

(a) In General.—

(1) Part A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all the per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(2) Part B.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(F) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less a copayment amount equal to 20 percent of the average of all per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year);".

(3) Provider charges.—Section 1866(a)(2)(A)(i) of such Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) Coverage of Cost Sharing Under the Qualified Medicare Beneficiary Program for Individuals with Income Below 150 Percent of Poverty.—Section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking "and" at the end of clause (ii), and

(2) by adding at the end the following new clause:

"(iv) for making medical assistance available for the medicare cost-sharing consisting of the coinsurance applicable to home health services under sections 1813(a)(5) and 1833(a)(2)(F) for individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved; and".

(c) Effective Dates.—

(1) Medicare.—The amendments made by subsection (a) shall apply to home health services furnished on or after January 1, 1994.

(2) Medicaid.—The amendments made by subsection (b) shall apply to calendar quarters beginning on or after January 1, 1994, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 605. RELATING MEDICARE PART B PREMIUM TO INCOME FOR CERTAIN HIGH INCOME INDIVIDUALS.

(a) Increase in Premium.—

(1) In general.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following:

"(g)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) is equal to or exceeds the sum of the threshold amount described in paragraph (4) and $25,000, the amount of the monthly premium for the calendar year shall be increased by an amount such that the total monthly premium (determined without regard to subsection (b)) is equal to 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) Notwithstanding the previous subsections of this section, in the case of an individual not described in paragraph (1) whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) exceeds the threshold amount described in paragraph (4), the amount of the monthly premium for the calendar year shall be increased by an amount which bears the same ratio to the amount of the increase determined under paragraph (1) as such excess bears to $25,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(3) Using information provided by the Secretary of the Treasury under section 6103(l)(14) of the Internal Revenue Code of 1986, the Secretary shall determine the actual modified adjusted gross income of individuals enrolled in this part during a taxable year and adjust the monthly premium applicable to an individual during a calendar year to take into account any overpayments or underpayments in the premium during the previous calendar year resulting from the application of this subsection.

"(4) In this subsection and section 1813(c), the term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $70,000,

"(B) $90,000 in the case of an individual who files a joint return under section 6013 of the Internal Revenue Code of 1986, and

"(C) zero in the case of an individual who—

"(i) is married at the close of the taxable year (as determined under section 7703 of the Internal Revenue Code of 1986) but does not file a joint return for such year, and

"(ii) does not live apart from the individual's spouse at all times during the taxable year.".

(2) Conforming amendment.—Section 1839(f) of such Act (42 U.S.C. 1395r(f)) is amended by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (g))".

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning after February 1994 in taxable years beginning after December 31, 1993.

(b) Reporting Requirement for Beneficiaries.—Title XVIII of the Social Security Act is amended by adding at the end the following:

"REPORT TO SECRETARY ON ESTIMATED MODIFIED ADJUSTED GROSS INCOME

"Sec. 1893. (a) In General.—

"(1) Individuals covered throughout year.—Not later than November 1 of each year (beginning with 1994), each individual enrolled under part B shall submit to the Secretary (in such form and manner as the Secretary may require, in consultation with the Secretary of the Treasury) an estimate of the individual's modified adjusted gross income anticipated for the taxable year ending with or within the following calendar year, to be used (subject to section 1839(g)(3)) to determine whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) for such following calendar year.

"(2) SPECIAL RULE FOR FIRST YEAR OF COVERAGE.—For the first year in which an individual is enrolled under part B, the individual shall submit to the Secretary (at such time and in such form and manner as the Secretary may require, in consultation with the Secretary of the Treasury) an estimate of the individual's modified adjusted gross income anticipated for the taxable year ending with December 31 of such year, to be used to determine whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) for such year.

"(b) SPECIAL RULE FOR 1994.—Not later than 60 days after the date of the enactment of this section, each individual described in subsection (a) shall submit to the Secretary an estimate of the individual's modified adjusted gross income for the taxable year ending December 1993, to be used to determine (subject to section 1839(g)(3)) whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) during 1994.

"(c) MODIFIED ADJUSTED GROSS INCOME DEFINED.—In subsection (a), the term 'modified adjusted gross income' means, with respect to an individual for a taxable year, the individual's adjusted gross income under the Internal Revenue Code of 1986, determined without regard to sections 931 or 933 of such Code.".

(c) DISCLOSURE OF CERTAIN TAX INFORMATION BY SECRETARY OF TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(14) DISCLOSURE OF RETURN INFORMATION TO MEANS-TEST MEDICARE.—

"(A) IN GENERAL.—The Secretary shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the officers and employees of such Administration return information necessary to determine the modified adjusted gross income (as defined in section 1893(c) of the Social Security Act) of any medicare beneficiary (as defined in paragraph (12)(E)), to be used to determine whether the beneficiary is to be subject to an increase in the monthly part B premium under section 1839(g) of such Act.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officer or employee of the Health Care Financing Administration receiving return information under subparagraph (A) shall use such information only for purposes of, and to the extent necessary in, establishing the modified adjusted gross income (as so defined) of any medicare beneficiary (as so defined)."

(2) CONFORMING AMENDMENTS.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (13)" each place it appears and inserting "(13), or (14)".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to information for taxable years beginning after December 31, 1993.

SEC. 606. INCREASE IN MEDICARE HOSPITAL INSURANCE DEDUCTIBLE FOR CERTAIN HIGH-INCOME INDIVIDUALS.

(a) INCREASE IN DEDUCTIBLE.—

(1) IN GENERAL.—Section 1813 of the Social Security Act (42 U.S.C. 1395e) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) exceeds the threshold amount (described in section 1839(g)(4)), the inpatient hospital deductible otherwise applicable with respect to an individual for a spell of illness that begins during such year shall be increased—

"(i) in the case of an individual whose modified adjusted gross income exceeds such threshold amount by less than $5,000, by 33 percent of such deductible; or

"(ii) in the case of any other such individual, by 33 percent of such deductible for each $5,000 by which the individual's modified adjusted gross income exceeds such threshold amount.

"(B) Notwithstanding subparagraph (A), the total inpatient hospital deductible applicable to an individual for a spell of illness may not exceed—

"(i) for 1994, $2,000; and

"(ii) for any succeeding year, the amount described in this subparagraph for the preceding calendar year, changed and adjusted in the same manner as the inpatient hospital deductible is changed and adjusted under subsection (b)(1).

"(2) Using information provided by the Secretary of the Treasury under 6103(l)(14), the Secretary shall determine the actual modified adjusted gross income of individuals enrolled in this part during a taxable year and apply the following rules:

"(A) In the case of an individual subject to an increase in the inpatient hospital deductible under paragraph (1) during a year whose modified adjusted gross income did not exceed the threshold amount (described in section 1839(g)(4)) for such year, the Secretary shall refund to the individual the amount of such increase.

"(B) In the case of an individual to which the inpatient hospital deductible applied for inpatient hospital services furnished in a year and whose actual modified adjusted gross income exceeded the threshold amount (described in section 1839(g)(4)) for such year, if such individual was not subject to an increase in such deductible during the year under paragraph (1)—

"(i) the Secretary shall collect the amount by which the deductible would have been increased if the modified adjusted gross income reported by the individual under section 1893(a) was equal to the individual's actual modified adjusted gross income from the hospital that furnished the inpatient hospital services (either directly or through reductions in payments to the hospital for subsequently furnished services); and

"(ii) the individual shall be liable to the hospital for payment of such amount.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to inpatient hospital services for which a spell of illness (as defined in section 1861(a) of the Social Security Act) begins after February 1994 in taxable years beginning after December 31, 1993.

(b) CONFORMING AMENDMENT TO REPORTING REQUIREMENT FOR BENEFICIARIES.—Section 1893 of such Act, as added by section 605(b), is amended—

(1) in subsection (a), by striking "part B" each place it appears in paragraphs (1) and (2) and inserting "part B or entitled to benefits under part A"; and

(2) by striking "1839(g)" each place it appears in subsections (a) and (b) and inserting the following: " 1839(g) or an increase in the inpatient hospital deductible under section 1813(c)".

(c) CONFORMING AMENDMENT TO DISCLOSURE REQUIREMENT FOR SECRETARY OF THE TREASURY.—Section 6103(l)(14)(A) of the Internal Revenue Code of 1986, as added by section 605(c), is amended by striking "1839(g)" and inserting the following: " 1839(g) or an increase in the inpatient hospital deductible under section 1813(c)".

SEC. 607. ESTABLISHMENT OF STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—

(1) STANDARD PAYMENT RATES DESCRIBED.—Title XVIII of the Social Security Act is amended by inserting after section 1889 the following new section:

"STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES

"SEC. 1890. (a) IN GENERAL.—Notwithstanding section 1814(b)(1), section 1833(a)(2)(A), or any other provision of this title, the amount of payment made under this title for home health services furnished by a home health agency on or after January 1, 1994, shall equal the adjusted standard per visit payment rate determined under subsection (b) for the category of home health services involved (as defined in subsection (d)(1)) for the fiscal year during which the services are furnished.

"(b) DETERMINATION OF ADJUSTED STANDARD PER VISIT PAYMENT RATES.—

"(1) IN GENERAL.—The adjusted standard per visit payment rate for home health services furnished in a fiscal year is equal to—

"(A) the base per visit rate for the category of home health services involved for the fiscal year determined under paragraph (2), adjusted for area wage differences under paragraph (3); and

"(B) in the case of home health services in the category of services described in subsection (d)(1)(A) that involve the furnishing of non-routine medical supplies directly identifiable as services for an individual patient (but not including durable medical equipment, prosthetic devices, or orthotics and prosthetics), the amount described in subparagraph (A) increased by the medical supply add-on described in paragraph (4).

"(2) BASE PER VISIT RATE.—

"(A) INITIAL RATE.—The base per visit rate for a category of home health services furnished by a home health agency in fiscal year 1994 shall be an amount equal to 93 percent of the mean of the labor-related and nonlabor costs for that category of services utilized for purposes of computing limits under section 1861(v)(1)(L) for cost reporting periods beginning on or after July 1, 1993, and before July 1, 1994, increased by the cost reporting period adjustment factor for January 1994 (as specified in the regulation setting forth such limits).

"(B) SUBSEQUENT YEARS.—The base per visit rate for a category of home health services furnished by a home health agency in a fiscal year beginning on or after October 1, 1994 is the base per visit rate for that category of services for the preceding fiscal year increased by the home health market basket percentage increase (as defined in subsection (d)(2)) for such fiscal year.

"(3) ADJUSTING FOR AREA WAGE LEVELS.—The Secretary shall adjust the base per visit rate determined under paragraph (2) for home health services furnished by a home health agency for a fiscal year by utilizing the area wage index applicable during the fiscal year under section 1886(d)(3)(E) to hospitals located in the geographic area in which the agency is located (determined without regard to whether such hospitals have been reclassified to a new geographic area pursuant to section 1886(d)(8)(B), a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10)).

"(4) MEDICAL SUPPLY ADD-ON DESCRIBED.—The medical supply add-on described in this paragraph is equal to—

"(A) for fiscal year 1994, the estimated national average cost of non-routine medical supplies directly identifiable as services for an individual patient (but not including durable medical equipment, prosthetic devices, or orthotics and prosthetics) associated with a home health visit, as estimated by the Secretary based upon the best data available and updated through fiscal year 1994 by the Secretary's estimate of the increase in the medical equipment and supplies component of the supplies and rental consumer price index for all urban consumers (U.S. city average), from the end of the period from which the data was drawn through fiscal year 1994; and

"(B) for a subsequent fiscal year, the add-on for the preceding fiscal year increased by the Secretary's estimate of the percentage increase in the index referred to in subparagraph (A) for the fiscal year involved.

"(c) COST REPORTING REQUIREMENTS.—

"(1) IN GENERAL.— Not later than January 1, 1994, the Secretary shall implement a system under which a random sample of home health agencies shall submit cost reports. Cost reports submitted under such system shall be used solely for purposes of comparing the costs of home health agencies with the adjusted standard payment rates established under subsection (b).

"(2) SYSTEM DESCRIBED.—The system developed under paragraph (1) shall—

"(A) utilize a different random sample of agencies for each 12-month period,

"(B) include in such random sample 5 percent of all home health agencies, and

"(C) to the greatest extent practicable and consistent with the preceding provisions of this paragraph, avoid requiring a home health agency to submit a cost report pursuant to paragraph (1) more than once in any 5-year period.

"(3) REPORTS OF ADDITIONAL AGENCIES.—Any home health agency that is not required to submit a cost report pursuant to paragraph (1) for a cost reporting period may be required by the Secretary to submit a simplified cost report for such period, in accordance with regulations issued by the Secretary. The Secretary may use such reports solely for the purposes described in such paragraph.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'category of home health services' means any one of the following home health services:

"(A) Skilled nursing services.

"(B) Physical therapy services.

"(C) Occupational therapy services.

"(D) Speech therapy services.

"(E) Medical social services.

"(F) Home health aide services.

"(2) The term 'home health market basket percentage increase' means, with respect to a fiscal year, the percentage by which the cost of the mix of goods and services comprising home health services will exceed the cost of such mix of goods and services for the preceding fiscal year, as estimated by the Secretary before the fiscal year begins.".

(2) EXCEPTIONS AND ADJUSTMENTS FOR COSTS SIGNIFICANTLY IN EXCESS OF PAYMENTS.—The Secretary of Health and Human Services shall provide by regulation for such exceptions and adjustments to the payment amounts established for home health services under section 1890(a) of the Social Security Act (as added by paragraph (1)) as the Secretary deems appropriate for services for which a home health agency incurs costs that significantly exceed such payment amounts for reasons beyond the agency's control, subject to any limits the Secretary may establish to ensure that such an exception or adjustment does not result in the reimbursement of any costs that the Secretary does not find to be reasonable.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO PART A.—(A) Section 1814(b) of such Act (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, and 1890".

(B) Section 1813(a)(5) of such Act, as added by section 604(a)(1), is amended by striking "the average of all the per visit costs" and all that follows and inserting "the payment amount determined for such services under section 1890(a).".

(2) AMENDMENTS RELATING TO PART B.—(A) Section 1832(a)(2)(F) of such Act, as added by section 604(a)(2), is amended—

(i) by amending clause (i) to read as follows:

"(i) the payment amount determined for such service under section 1890(a), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A);"; and

(ii) in the matter following clause (iii), by striking "the average of all the per visit costs" and all that follows and inserting "the payment amount determined for such services under section 1890(a).".

(B) Section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) Clauses (i), (ii), and (iii) shall not apply to any services furnished on or after January 1, 1994.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during cost reporting periods beginning on or after January 1, 1994.

SEC. 608. ELIMINATING FEDERAL SUPPORT FOR HONEY.

(a) Section 207(a) of the Agricultural Act of 1949 is amended to read as follows:

"(a) IN GENERAL.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations, except that for the 1994 and 1995 crops, the price of honey shall be supported through recourse loans.

"(1) For the 1991 through 1993 crop years, the rate of support shall be not less than 53.8 cents per pound.

"(2) For the 1994 and 1995 crop years, the Secretary shall provide recourse loans to producers at such a rate that minimizes costs and forfeitures, except that such rate shall not be less than 44 cents a pound. Section 407 shall not be applicable to honey forfeited to the Commodity Credit Corporation under loans made under this paragraph.

"(3) A producer who fails to repay a loan made under paragraph (2) by the end of the crop year following the crop year for which such loan was made shall be ineligible for a loan under this section for subsequent crop years, except that the Secretary may waive this provision in any case where in which the Secretary determines that the failure to repay the loan was due to hardship conditions or circumstances beyond the control of the producer.".

(b) Section 207(b) of the Agricultural Act of 1949 is amended by striking "for a crop" and inserting "for the 1991 through 1993 crops".

(c) Section 207(c) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1993".

(d) Section 207(e) of the Agricultural Act of 1949 is amended by—

(1) striking subparagraphs (D) through (G);

(2) inserting "and" after the semicolon following subparagraph (B); and

(3) changing the semicolon following subparagraph (C) to a period.

(e) Section 207(j) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1995".

(f) Section 405(a) of the Agricultural Act of 1949 is amended by striking in the first sentence "section 405A" and inserting "sections 207 and 405A".

(g) Section 405A(a) of the Agricultural Act of 1949 is amended by striking all that follows "1992 crop year," and inserting "and $150,000 in the 1993 crop year.".

(h) A provision of this section may not affect the liability of any person under any provision of law as in effect before the effective date of the provision.

TITLE VII—ENFORCEMENT

SEC. 701. DEDICATION OF SAVINGS TO DEFICIT REDUCTION.

(a) DIRECT SPENDING.—None of the changes in direct spending and receipts resulting from this Act shall be reflected in estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) DISCRETIONARY SPENDING.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays), as adjusted, set forth in 601(a)(2) of the Congressional Budget Act of 1974 for each of fiscal years 1994 through 1998 as follows:

(1) For fiscal year 1994, reduce new budget authority by $5,477,000,000 and reduce outlays by $2,987,000,000.

(2) For fiscal year 1995, reduce new budget authority by $8,198,000,000 and reduce outlays by $6,967,000,000.

(3) For fiscal year 1996, reduce new budget authority by $9,546,000,000 and reduce outlays by $9,372,000,000.

(4) For fiscal year 1997, reduce new budget authority by $10,376,000,000 and reduce outlays by $11,080,000,000.

(5) For fiscal year 1998, reduce new budget authority by $11,211,000,000 and reduce outlays by $12,113,000,000.

(c) SECTION 602 ALLOCATIONS.—

(1) HOUSE APPROPRIATIONS COMMITTEE.—The allocations in effect under section 602(a)(1) of the Congressional Budget Act of 1974 for fiscal year 1994 for the Committee on Appropriations of the House of Representatives are reduced by $5,477,000,000 in outlays and by $3,056,000,000 in budget authority.

(2) SENATE APPROPRIATIONS COMMITTEE.—The allocations in effect under section 602(a)(2) of the Congressional Budget Act of 1974 for fiscal year 1994 for the Committee on Appropriations of the Senate are reduced by $5,477,000,000 in outlays and by $3,056,000,000 in budget authority.

(3) SUBALLOCATIONS.—Each Committee on Appropriations is authorized and directed to immediately adjust its suballocations among its subcommittees for fiscal year 1994 to reflect the lower allocations provided by subsection (a) in a manner that accurately reflects the changes in law made by this Act and to promptly report to its House of Congress suballocations revised under this subsection.

(4) EFFECT.—The allocations and suballocations as adjusted by this section shall be deemed to be allocations made under section 602(a)(1) and suballocations made under section 602(b)(1) of the Congressional Budget Act of 1974.

(5) SECTION 601.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "or as adjusted pursuant to section 701(b) of the Common Cents Deficit Reduction Act of 1993" before the period at the end.

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. PENNY] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

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The CHAIRMAN. Is there a Member seeking recognition for the purpose of opposing the amendment?

Mr. SABO. Mr. Chairman, I rise in opposition to the Penny-Kasich amendment and seek to control the time in opposition.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes.

Mr. PENNY. Mr. Chairman, I ask unanimous consent to divide my time equally with the gentleman from Ohio [Mr. KASICH].

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] will be recognized for 15 minutes, and the gentleman from Ohio [Mr. KASICH] will be recognized for 15 minutes.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, in the South Bay of California, the drumbeat for spending cuts now and real deficit reduction has been loud and clear all year. Constituents, I hear you.

When I voted for the budget bill this summer, I did so because it offered significant deficit reduction. But I stood with the leadership and TIM PENNY to pledge that a vote on more cuts would come this fall.

Penny-Kasich is that vote, and I am for it.

I see this amendment as a "marker"—some would say a "hangman's noose"—that has already generated three positive developments.

First, it has accelerated the effort to tell the American public how effective the earlier budget bill has been in reducing the deficit: $50 billion is real deficit reduction and the lowest interest rates in decades are big progress;

Second, the effort to head off Penny-Kasich has resulted in a much improved administration recission proposal which just passed with my support and incorporates a number of Penny-Kasich ideas;

Third, today's vote on Penny-Kasich shows that the leadership and the administration kept their promise to let substantial additional cuts be considered this fall.

But the most important benefit of Penny-Kasich is prospective:

It shows our constituents that we can face hard choices, be fiscally responsible, and work to generate the public trust that will be essential to pass new investment initiatives. Those initiatives will not pass unless our constituents feel we know how to control the deficit.

I don't like everything in this amendment. I do not want to reduce certain research and development efforts, funding for the arts, public broadcasting, or legal services. And I certainly oppose cutting the Defense budget further. But, to regain public trust and to achieve real deficit reduction, nothing should be "off limits."

Please join me in standing for public trust and for fiscal responsibility. Please support the Penny-Kasich amendment.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I rise in strong support of true deficit reduction and for America's future, and urge passage of the Penny-Kasich amendment.

Since last week, my offices have been flooded with calls and letters from special interest groups, Members of Congress, and administration officials pleading and, in some cases, threatening me to vote against the Penny-Kasich amendment. I have actually received threats against projects and interests in my district if I vote for this amendment.

I must say that I resent the high pressure tactics that are being brought to bear against Members by the guardians of big Government and, in spite of their threats, I will support real deficit reduction by voting for Penny-Kasich.

Those who have banded together in trying to defeat Penny-Kasich fail to realize one very important fact—that the resolve of the American taxpayer in matters regarding the Federal budget is just as strong as their own. The people who go to work, earn a living and pay taxes to the Federal Government know what is going on here, and they are outraged.

Well, I've heard both sides of the argument here, and I am siding with the taxpayer. People in this country are taxed enough already, and they deserve the relief that Penny-Kasich will provide. This does not mean that I don't care about federally funded research, or institutions of higher learning, or employees of the Federal Government. Quite the contrary. I care about all of them enough to take a tough stand and cast a tough vote in favor of real deficit reduction.

If we do not take action to curtail our out-of-control Federal budget deficit, our entire Nation will continue in an economic tailspin. I cannot let this happen. On behalf of the American taxpayer, I will take the heat on this, and vote "yes" for Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GREENWOOD].

(Mr. GREENWOOD asked and was given permission to revise and extend his remarks.)

Mr. GREENWOOD. Mr. Chairman, I strongly and emphatically support the Penny-Kasich amendment. Our Nation is $4 trillion in debt, and despite the so-called deficit reduction measure adopted by the Congress and signed into law by the President, we plunge more deeply into debt with each and every hour.

Our situation is critical. Our radical reversals in our attitudes and expectations will rescue our children from this legacy of crushing debt. Financial salvation cannot be had without pain. We must sacrifice ourselves today or sacrifice our children tomorrow. And so I will vote for the Penny-Kasich amendment despite the dire consequences some may predict, because it is the right thing to do.

Having said this, there is a provision of this amendment that causes me particular concern. Section 217 of the amendment calls for a Preference for Interim Measures in Superfund Response Actions. I have consulted with the sponsors of this language. They have assured me that their legislative intent is to prioritize superfund sites in such a way as to target those sites that pose threats to human health or to the environment for remediation while employing such interim measures as containment and limitation of access on sites where no such threat exists.

The authors have further indicated that it is their intention that all sites would ultimately be remediated. The savings, they argue, would not be derived from failing to remediate sites, but rather from focusing administrative and legal efforts on those sites that constitute the greatest risks to health and the environment.

I find these arguments only partially reassuring. I will vote for the Penny-Kasich amendment because of my above-mentioned commitment to deficit reduction and debt elimination. However, should this amendment be adopted and become the subject of a conference committee, I will work to see that the Superfund language is either clarified to make certain that the program continues to emphasize remediation, or is removed from the report entirely.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, I rise in support of the Penny-Kasich amendment.

Mr. Chairman, the single loudest message I hear from my constituents is to cut Government spending. The Federal budget deficits over the next 5 fiscal years will total over $1 trillion. This is a tremendous amount of money that could be used for productivity-enhancing private investment but that the Federal Government is pulling out of the U.S. economy to finance current consumption. This borrow-today, pay-back tomorrow attitude is the root of the economic problems we are facing today and a burden to our children and grandchildren in the future.

The Penny-Kasich deficit reduction package, which I helped to author, would cut this amount by only 9 percent, $90 billion, but from the diatribes that have been launched by special interest groups, you would think we were trying to bring about the end of western civilization. Critics from the administration have even charged that these modest cuts would hinder the economic recovery; this absurd argument ignores the fact that the 1994 cuts in this package total approximately $8 billion, or less than one-fifth of the 1 percent of projected U.S. gross domestic product [GDP] next year. This amounts to a monthly cut in Federal spending of $2.70 per person in the United States—about the cost of a Big Mac and fries. This cut is hardly enough to bring the world's largest economy to its knees. If anything, these cuts would strengthen the economy by assuring bond markets that the Federal Government is serious about cutting spending and cutting governmental consumption to boost private investment and lower interest rates.

Truly cutting Government spending is never easy; real spending cuts always hurt someone. Biting the bullet of deficit reduction means putting the interests of the Nation as a whole above the wants of individual special interests. The Penny-Kasich plan achieves deficit reduction in an equitable and substantive manner by embracing many of the cutting proposals that President Clinton himself has put forward such as reducing the Federal workforce by 252,000. The proposal adjusts the budget enforcement provisions to lock in all the savings for deficit reduction, not for higher spending; places a means test on Medicare, so that wealthier beneficiaries bear a little more of the burden for their medical costs than those seniors who are less well-off; reduces the legislative branch budget by 7.5 percent and cuts the franked mail account by 20 percent; and reduces the White House budget by 5 percent.

Changes have been made to the package to make it more acceptable to affected groups. Increasing the retirement age for Federal employees, which I had proposed phasing in over 20 years, would only be applied on a prospective basis to employees hired after January 1, 1994. The same applies to the changes made to the Thrift Savings Plan for Federal employees.

Finally, this plan is bipartisan, credible, and specific. Unlike an across-the-board freeze or spending cap, Penny-Kasich details the exact nature of the spending cuts. It also begins the cuts when they are needed—today—rather than postponing the pain to some ambiguous future date.

Mr. Chairman, the Penny-Kasich plan is the best opportunity this Congress will have to achieve substantial spending cuts. We cannot afford to continue our current excessive spending. We must listen to our constituents and put the interests of the United States as a whole above the demands of the few.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of the Penny-Kasich amendment.

Any member who has promised to get serious about deficit reduction must realize this is the only chance for real, meaningful deficit reduction.

This is it, and the American people are watching.

We also need Penny-Kasich because it reduces Government spending caps. This is the only way to guarantee the cuts are applied to deficit reduction rather than new spending.

All of us have been bombarded by special interest groups with stories of "doom-and-gloom" if Penny-Kasich passes. The outrageous distortions, scare tactics and intimidation are truly unfortunate.

It is no wonder the American people are fed up with politics-as-usual.

Let us get real around here. Let us be honest with ourselves and the people we represent.

We are talking about 1 cent in cuts for every dollar in spending over 5 years. We're hardly talking about draconian cuts, as some have claimed.

The American people want real deficit reduction and spending restraint. They want Penny-Kasich because it's true deficit reduction.

Say "no" to politics-as-usual. Vote for Penny-Kasich.

Mr. PENNY. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I rise in support of this amendment.

Few pieces of legislation are perfect, and this one is no exception. But politics have been defined as "the art of the possible", the product of which always represents compromise. In a pluralistic society such as ours, with a representative republic style democracy, the right balance of compromise between the interests of the majority and the minority must be found or the result is political gridlock. Unfortunately, the partisan rancor of the recent past and the present have produced much more gridlock than compromise.

The Penny/Kasich amendment, as it is called, is a product representing compromise, some of which I agree with and some of which I oppose. However, on balance I support the compromise and I will be proud to vote in favor.

However, voting "yes" on this amendment is not as easy for me as some of my colleagues who know of my reputation as a staunch fiscal conservative might assume. I am proud to serve as a member of the Budget Committee under the very capable leadership of Chairman MARTIN SABO. Our committee labored for many weeks last winter and developed what I believe is a strong budget resolution which, over the next 5 years, will significantly reduce the rate of growth of our Federal deficit. The Budget Committee and the Congress should be proud of this budget resolution because it does more to actually bring down Federal spending than any other effort made to date (including the Gramm-Rudman-Hollings Act, and the 1990 Budget Agreement.)

The Budget Committee did not go as far in cutting spending as I and several of my colleagues on the committee wanted, but under the Chairman's leadership a good compromise was agreed upon. It has been pointed out to me by some of my colleagues on the committee that I was the member of the committee who suggested and insisted upon including a 5-year hard freeze on discretionary spending in the budget. The freeze was included and I agreed to support and vote in favor of the budget resolution even though, in my opinion, it did not contain adequate spending reductions. Now it is suggested that a deal is a deal and that supporting the additional spending cuts in the Penny/Kasich rescission bill might violate the compromise reached in the Budget Committee. This suggestion has caused me great distress and significant contemplation because my most prized possession is my honor.

Upon reflection, I do not believe that supporting this bill is in any way a breach of my agreement to support the budget compromise reached in the committee. In fact, I voted in favor of the budget resolution in the committee and on the floor of the House last spring. I could not vote in favor of the budget reconciliation bill passed by the House in August because of my disagreement on the tax provisions in the bill. In the report of the budget resolution, I filed additional views calling for more spending cuts through the rescission process and for comprehensive reform of the Federal budget process. I believe that supporting Penny/Kasich is entirely consistent with my work on the committee and my commitment to reduce the Federal deficit.

This amendment takes the next step beyond the budget resolution and the reconciliation bill. I am pleased to have been a part of the negotiations leading up to the introduction of this amendment, which sets important new precedents for helping us get control of the budget.

Controlling the budget and lowering the deficit is perhaps the most important and daunting task we face as legislators. True deficit reduction must include two fundamental components; (1) Budget process reform, and (2) Reduction in spending or increase in revenue.

H.R. 1138 which I introduced this year would reform the entire process by which we budget and spend money by requiring a balanced budget, biennial budget, capital budget, expedited rescission authority, performance-based budget, incremental-based budget, and establishing an enforcement mechanism involving the President and Congress. So far this year, the House has enacted expedited rescission and performance-based budgeting authority, and by Executive order the President has established caps on entitlement spending and an enforcement mechanism similar to my bill. We have also held hearings on biennial budgeting and capital budgeting.

While reforming the budget process is essential, alone it is not enough. We must weigh budget priorities against the revenue raised in taxes and make real spending cuts. In fact, establishing the right spending priorities is a driving principle behind many of the provisions in my Budget Process Reform Act. My incremental budgeting provision would require the administration, when it submits its budget each year, to identify which areas could most easily be cut if it were necessary to do so. My performance-based budgeting provision requires the executive branch to identify through objective standards of measurement which programs are working and which are not. This should be the major criteria we use in making spending cuts.

If there is any message the voters have sent us over and over again, it is that they want Government to stop spending more money than we are bringing in. And when given the choice between raising taxes or cutting spending, there can be no confusion over the resounding message: Don't raise taxes, cut spending first.

You cannot cut spending without cutting spending, there is no way around it. We must make choices, and because each of us has different priories, almost any choice will offend someone. Personally, I would rather have not made some of the choices in this amendment. In the short run some of these provisions will affect people in my district. But in the long run doing nothing will hurt present and future generations even more.

Our ever burgeoning deficit is consuming capital and credit necessary for private sector investment and interest on the public debt presently claims almost 15 percent of Federal budget outlays and almost 3 percent of our national output. The result is artificially high interest rates (compared to inflation) and a diminution of economic growth. Both artificially high interest rates and depressed economic growth have a similar impact of a tax increase. Therefore, if overspending continues the economy will react with higher interest and/or inflation rates and slowed economic growth similar to the result of increased taxation. The most sound economic solution is reduction of Federal spending, which also withdraws money from the economy and may result in some economic slowdown. However, I know of no economic study to suggest that Federal taxation and spending, or Federal deficit spending is a sound solution to long-term economic growth.

By taking bold steps to cut the deficit, this amendment begins to get at the problem which I believe ranks No. 1 on our legislative priority list. If we fail to bring this problem under control, future generations of Americans will suffer and curse our names as they try to pay for our mistaken fiscal policies.

If we do nothing more than contain spending within the present budget caps, in 5 years the public debt will rise by $1.8 trillion, a 41 percent increase. The result will cripple this Nation for decades into the future, permanently slowing economic growth, and force our children and grandchildren to dig deeper into their pockets to finance the most rudimentary functions of Government such as Social Security and national defense.

I am pleased to see that a number of cuts we will be voting on today were drawn directly from legislative proposals I have offered over the last 3 years. For example, the committee bill includes rescissions of the HOPE Program, an inefficient method of rehabilitating our housing stock, which has the actual effect of reducing affordable rental housing. Earlier this year I introduced legislation to rescind funds from the HOPE Program to reduce the deficit. I am pleased to see this proposal adopted.

Last year, I introduced comprehensive legislation to reform our foreign-aid programs to reduce spending. A number of provisions in this bill are included in the committee version. These involve hundreds of millions of dollars, and include reductions in bilateral assistance, in foreign military assistance grants, and the U.S. Information Agency.

In addition, there are many, many spending cuts being voted on today which I have actively supported in the past. These include the advanced liquid metal reactor, the space station, improved debt collection, and reductions in spending by Congress and the executive branch.

While I support this amendment, there are some details that trouble me. As the Penny-Kasich proposal took shape, I became particularly concerned about certain retirement provisions that I believed were unfair. These included the COLA rollback for military retirees, changes in the retirement age and length of service requirement for Federal workers, and changes in the Thrift Savings Plan.

I communicated these concerns with my colleague from Minnesota [Mr. Penny], and I was pleased to see that he made changes in response to the concerns of myself and others in this body. Under this amendment these changes are prospective. Military and civilian employees currently employed in the Federal Government would not be affected.

I also question whether the 20-percent coinsurance for home health services is wise policy without adjustments elsewhere. In principle, it is well-intentioned. With a co-payment requirement, consumers will have a stake in the kind of treatment they receive and make more reasonable choices. However, requiring a co-payment only on home health care may have unintended effects, driving consumers into more expensive treatments such as emergency rooms, where there is no co-pay.

In addition, I believe that the means test for Medicare part B, as drafted in this amendment, has unfair consequences. In many parts of the country, including my district, seniors with income over $70,000 annually will pay substantially more for Medicare part B than the value of the services they receive. I believe that increasing the premium to 100 percent of the State average, rather than the national average, would correct this defect.

Finally, I would like to address the concern that passage of Penny-Kasich would represent a major threat to health care reform. I am committed to sensible health care reform, and would certainly hate to see us take any action now which could undermine its enactment. However, I do not agree that this is a valid argument for not making cuts. Preliminary administration estimates are that we will not be needing these cuts to meet PAYGO, since the expectation is that health care reform will lower the deficit by a significant amount. It does not make sense to put off sound deficit reduction measures, simply because we would like to count them for another purpose.

These problems can be corrected in conference, but unless we pass this or a similar amendment, we, and future generations, will be left with runaway deficits and a public debt that pulls at our standard of living.

It is easy in the abstract to talk about deficit reduction, but when the time comes to vote on it, it is also easy to find reasons to condemn any specific spending cuts. We cannot cut spending without making specific spending cuts and difficult choices.

I urge my colleagues to think of our young children now in school who represent America's future, and ask ourselves what is the legacy which we leave to them? I urge passage of the amendment.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Mr. Chairman, I rise in strong support of the Penny-Kasich amendment.

I strongly supported the President's steps for a reduction plan. I believe it is a good start. It reduces the deficit and helps bring spending and the deficit down.

I am voting for the President's rescission bill tonight. I think it is a good bill.

I voted for the amendment of the gentleman from Minnesota [Mr. SABO]. I think it is good, but Mr. Chairman, the best amendment by far is the Penny-Kasich amendment because it is the only one that truly cuts spending and truly cuts the deficit that is before us tonight.

Mr. Chairman, this amendment cuts spending. It cuts the deficit. It does so fairly. It begins to reform entitlements.

We cannot have our spending and cut it, too. We have to make some difficult choices.

The same people who were writing me and calling me last summer asking me to cut spending first are now writing and calling me asking me not to cut spending at all.

You cannot have it both ways, America. We have to make some tough decisions.

The gentleman from Minnesota [Mr. PENNY], the gentleman from Ohio [Mr. KASICH], all of us who are supporting this amendment are willing to stand up here and make some tough decisions, just like you say you want the Congress to do.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WALSH], a member of the Committee on Appropriations.

Mr. WALSH. Mr. Chairman, it is tough to cut the budget.

I offer these letters we have received just in the last 2 weeks from organizations claiming to represent hundreds and even thousands of people opposed to any cuts in the budget.

It is tough to cut the budget, but I will tell you, I have heard some horror stories tonight about forcing senior citizens to pay a copayment on home health care and on laboratory fees.

Well, the real horror story, Mr. Chairman, is that if we do not start to get this budget under control we are not going to have any money to spend on Medicare. We are not going to have any money to spend on Medicaid, because the budget is going to require, the debt service on our debt is going to require all the resources of the Federal Government.

Mr. Chairman, I urge a strong vote in support of the Penny-Kasich budget. Let us get our fiscal house back in order.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, one of the recurring dangers we confront in this body is our tendency to adopt legislative fads. Too often we are seduced by the bold gesture that confuses political theater with legislative process.

The goal of reducing the deficit is a noble one. I yield to no one here as a champion of deficit reduction. But I have learned during my years here that we disregard regular order at our peril. And this legislation totally ignores regular order. This bill may initially smell like deficit reduction, but it will leave a bitter aftertaste. We do not know enough about this bill to make a reasoned decision about whether it is good policy.

I can understand why some may find it ironic that I am speaking against this measure because of my reputation as a deficit hawk. But the fact is that this is a bad plan being considered in a bad way at a bad time.

Adopting this proposal would send several messages—all of them bad. It would tell our constituents that we lack the courage to legislate under regular order, so we instead embrace comprehensive proposals that we do not fully understand. It would seriously undermine our efforts to guarantee health insurance for all Americans by snatching away some of the savings required to fund the President's proposal.

For years, I have argued that deficit reduction is the most important thing on our agenda, but I reject today's argument that it ought to be the only thing on our agenda. A government that ignored all other problems in its blind quest of deficit reduction would be a sorry government indeed. Yet that is what we threaten to do by voting for this measure.

I object strenuously to the procedural shortcuts that we are using to bring up a measure that few of us have seen before and even fewer of us can understand. It reminds me of the 1981 reconciliation bill that was debated in this House that contained take-out pizza orders on the margin of the text. In 1981 we legislated in haste—and then spent a decade trying to undo the damage. Let us not repeat that sad exercise.

Approving this measure would not only send a message to the American people that the Government was not interested in their problems, but it would, paradoxically, undermine the possibilities of long-term deficit reduction.

Why do I say that? Simply because all the experts agree that we cannot contain the deficit over time unless we enact comprehensive health reform legislation.

As long as Government health expenditures continue to rise at double-digit rates, the deficit will be a problem. And the cuts in this bill, while superficially helpful, do not address the more basic systemic problem. Meanwhile, there is broad agreement that our quest for international competitiveness in the private sector is also undermined by escalating health costs. In the long run, of course, a healthy American economy is more important than a short-term reduction in the deficit.

We have addressed this issue already this year and responded in a positive fashion. Our actions this year will reduce the anticipated deficit by about $500 billion over the next 5 years. That is not chickenfeed. And it will force us to make a series of tough decisions in the years ahead to implement our deficit-reduction goals.

This is not a time to tie our hands further; $500 billion in deficit reduction is enough for 1 year. In a few months, a new budget cycle begins and this debate will restart. There will be ample time to properly consider further cuts then.

Enacting this legislation would be both callous and foolish. I urge my colleagues to reject it.

□ 1940

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Chairman, in the last Congress we voted on a balanced budget amendment which had the votes to pass. The Democratic leadership then bullied 12 cosponsors to vote against their own legislation. They did not want to have their feet held to the fire. They did not want us to start living within our means.

The real opposition to cutting spending was made clear by the Speaker. The Speaker complained that our plan directs all savings to deficit reduction, leaving nothing for new spending initiatives. The Speaker is right; that is exactly what we intend to do—cut spending.

Even if all the President's spending cuts occur, and all his revenues appear, the President's plan will add $1.8 trillion to our $4.4 trillion national debt over the next 5 years.

The Penny-Kasich vote is the litmus test that will show whether Congress is serious about cutting spending.

The vote will define the two kinds of people who occupy Congress: those who truly want to control the flow of red ink, and those who only want to talk about it.

It is time to pay the piper, it is time to decide whether or not we really care about what happens to the future of our country.

It is time that we get serious about living within our means. The Penny-Kasich amendment will cut less than 10 percent from our annual deficit. There is much more that needs to be done, but we need to start somewhere.

Support deficit reduction—vote "yes" on Penny-Kasich.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. JOHNSON].

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in support of the Penny-Kasich amendment. As an original member of the task force and chairman of the subgroup on Government management, I am proud of this package. Not because it is perfect, but because it is a credible start toward the kind of hard deficit reduction many of us have worked for all year. Given the intense opposition that has been brought to bear on this proposal, we must be doing something right.

Many of us were roundly criticized during debate on the budget for approving too many taxes. Now we are being crucified for too many cuts. To hear some tell it, this amendment, if it passes, will spell the end of Western civilization. But this vote is really just a test of our commitment to true spending cuts.

There has been a lot of talk up here about spending cuts and balanced budgets, but it has taken an unprecedented bipartisan effort, prompted in large measure by Members of the freshman class, to put a tough spending-cut proposal on the table. Democrats have been accused of being a tax-and-spend party. Republicans have been accused of being a borrow-and-spend party. The new term for both is carve and spend. This proposal shows that both parties can come together to produce a measure that cuts and does not spend.

Mr. Chairman, I believe there is a consensus among the House of Representatives that we need to balance the budget. Once we break down the partisan barriers we can work together to restore fiscal sanity to the Federal budget and public trust to the Congress. Fiscal sanity is what this body needs. If we ever get it, public trust will follow.

I urge the adoption of this amendment.

Mr. PENNY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Ms. SCHENK.]

Ms. SCHENK. Mr. Chairman, everyone in this institution has heard time and time again from their constituents: Cut spending first. The American people demanded this in the last campaign and nonstop this past year. Consistently 20 percent of my mail calls for spending cuts. People call my office, and stop me in the street. "LYNN, cut spending," they say.

The Penny-Kasich amendment answers those demands. It has been said on this floor today that this proposal asks too great a sacrifice from the American people.

I say to my friends, that there is no such thing as a painless cut. There is no magic bullet for deficit reduction. The only way to reduce the deficit, is to cut spending.

Why can we not give the American people the spending cuts they have asked for? To every Member of this institution who talked about deficit reduction in their campaigns, in their newsletters, and in their speeches—it is time to deliver.

If you really believe that this deficit is the most pressing threat to our economic security, then surely you can vote to cut one penny out of each Federal dollar we spend.

It is time to make the right choice. I urge my colleagues to vote "yes."

□ 1950

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I rise in opposition to the Penny-Kasich rescission amendment. While I agree we must do everything we can to cut spending, the proposal before us would unfairly penalize millions of senior citizens and undermine our ability to carry out national health care reform.

I have strongly supported cutting wasteful and unwarranted spending since I have come to Congress. In fact, I have voted to cut $28 billion in spending since coming to Washington last January. Later today, I will be voting in favor of the Sabo substitute and the Frank-Shays substitute which offer an additional $38 billion in responsible and fair cuts.

Mr. Chairman, the devil is in the details of this Penny-Kasich proposal. Under Penny-Kasich, senior citizens would be asked to pay for $42 billion of the proposed $90 billion in savings. In other words, 20 percent of the U.S. population will be asked to shoulder 45 percent of the savings. This is simply not fair.

Perhaps more importantly, the Penny-Kasich proposal includes irresponsible cuts in Medicare part B coverage that could derail all efforts to pass significant health care reform. The proposal would increase Medicare part B payments for many, from the current-law level of $41.10 per month to a maximum of $157.20 per month. Savings generated from this increase in payments would not go to fund health care reform as the administration has requested and would jeopardize this Congress' ability to finance health care reform next year. Furthermore, because rural hospitals are disproportionately dependent on Medicare payments, these cuts will adversely affect health care providers, hospitals, and physicians in rural areas by reducing their ability to attract quality health care professionals.

The Penny-Kasich proposed 20 percent coinsurance payment on home health services and clinical laboratory services would create significant financial hardships for many Medicare beneficiaries, particularly those who are sick and those with low to moderate incomes. In effect, the Penny-Kasich plan is equivalent to a new tax on the elderly, the sick, and low-income persons. Again, this does not fulfill the criteria of fair and responsible budget cutting.

Additionally, I cannot justify supporting this slash and burn approach to budget cutting when just a few days ago, many Members of this body voted for an unfunded $50 billion project called the North American Free-Trade Agreement. We could have saved the American taxpayer the unknown but exorbitant cost of NAFTA by standing firmly behind the pay-as-you-go rules of the Budget Enforcement Act of 1990. Sadly, Congress failed on this account and waived the pay-as-you-go provision. In supporting Penny-Kasich, Members are transferring the pricetag for NAFTA to seniors and millions of Americans in need of health care reform.

As I have stated before, the question on whether or not to support Penny-Kasich is like asking Members to chose between this amendment and the reform of our health care system. The constant rise in health care costs is the single biggest contributor to our deficit. The administration and the Congress have made health care reform a national priority, the people of northern Michigan and in rural areas all over the country deserve health care reform, and I will not give up the fight for quality health care for all Americans. We must be vigilant in pursuing a balance between deficit reduction and investment in our citizens.

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, the debate on the budget has gone from the sublime to the ridiculous.

This Chamber has moved past an honest concern for the deficit to an all out obsession.

We have lost sight of our national purpose, lost sight of our jobs as legislators, and become blinded to the plight of millions of Americans looking to us to turn this economy around.

Despite this country's massive economic problems, the only thing this Congress has done all year is cut, cut, cut. People act as though we haven't already made significant budget cuts. This is simply factually untrue.

The first budget received by the House this year cut $450 billion over 5 years—including $54 billion in reduced Medicare expenditures. Before that budget reached the House floor, the Budget Committee cut an additional $61 billion—a deal worked out exclusively with conservative deficit hawks.

During the budget reconciliation debate, we added an entitlement cap, further restricting spending on Social Security, Medicare, and Medicaid.

The third wave of blind budget cuts came in the Senate during budget reconciliation. Conservative Senators over there insisted on an additional $51 billion in cuts, including $35 billion in Medicare.

To top it off, President Clinton promised further spending cuts to sway a few wavering Members to support his budget program.

Which brings us to today's vote. Now we are at it again. It is a bidding war on the House floor to see who can out cut whom.

All this ignores the deep-seated problems which fester in America. Our cities seethe with anger, violence, and hopelessness. Entire States are suffering depression-level unemployment—including my home State, California, the largest State in the Union. Rural America needs a renaissance.

The 1980's saw unprecedented domestic budget cuts. According to some estimates, between 1980 and 1992, these cuts totalled $231 billion in housing, education, health care, economic development, job training, and infrastructure improvement.

When will it end, Mr. Chairman? We must stop the budgetary onslaught on poor and working America. We need to change the debate. We need to stop punishing the victims for the mistakes of a faulty trickle-down philosophy.

We cannot simply hide from our problems, and pretend it is because we are running a budget deficit.

I oppose every alternative before this body today. We must confront the problems of the needy in America, not hid from them. I urge my colleague to defeat these proposals and come back from recess prepared to confront the real issues of this country.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, adoption of the Penny-Kasich budget amendment by this House will be recorded as modern day mismanagement by those in whose trust the public has placed its fate.

I believe, at stake in this discussion, debate and vote, is the very ability of Government to serve the people of this country and the very survival of this economy. While I respect the views of our colleagues and their right to express those views and to press them in this Congress, if the Penny-Kasich plan becomes the plan for America, the very fabric of this Nation will be destroyed.

The economist, Milton Friedman, instructs us that, "the Great Depression, like most other periods of severe unemployment, was produced by Government mismanagement."

At least 16 million Americans are out of work or underemployed. Unemployment crept up last month to 6.8 percent, about the level it has been for more than 2 years. Homelessness, hunger, and begging have become commonplace on the streets of America. Violent crime is snuffing out young lives almost before they begin. And, joblessness is the driving force behind this misery. What answer does the Penny-Kasich plan offer? More joblessness, more poverty, more misery. This plan must be rejected as unwise and bad for America.

The long-term solution to joblessness is to increase the incentive for the average American to save, invest, work and, eventually, put others to work. At the center of this solution is consumer confidence—that is confidence, by the people of this Nation, in the Government, and its ability to effectively lead us into the future. Consumer confidence today is tentative or lacking altogether. The Penny-Kasich amendment will stifle confidence, suppress investment, propel more into the unemployment lines, and steer this economy deeper into recession.

Why work for a better life for your children, when Penny-Kasich would reduce child care programs, slash Head Start, push back investment in higher education, and abolish programs, including library construction? Why have confidence in the future, when Penny-Kasich would take a giant razor blade to training and retraining programs, putting us behind other nations? If we did not intend to compete globally, why did we pass NAFTA? And, if you are poor, why put your hopes in America, when Penny-Kasich would eliminate the public housing construction program, cut Medicare by another $41 billion, tax the sick, and kill health care reform? Veterans' hospitals, for those who have defended this Nation, will have their funding cut. Federal building construction, including courthouses, are delayed. Economic development funds are cut.

In short, Mr. Chairman, if you are young, Penny-Kasich gives you no hope for the future. If you are an older American, Penny-Kasich gives you no respect for the past. And, if you are in the midst of your life, able-bodied and ready to contribute to this Nation, Penny-Kasich will shake your faith, raise your fears, and put you out of work. If that isn't mismanagement, I don't know what is.

Not long ago, we passed a record deficit reduction bill, and we asked each American to bleed for the benefit of all. This amendment, which seeks to cut another $90 billion over 5 years, rubs salt in that unhealed wound.

Today, we are being watched by a waiting Nation. They have powers, and they can use those power to support the decisions we make that are wise. Among their powers is the power to purchase and invigorate our economy. Unused purchasing power means unemployed labor, and unemployed labor means human want in the face of plenty. It is an irony we must resolve. If we do not, the watching, waiting Nation will find some who can.

The key to joblessness is jobs. The key to jobs is first, a resounding rejection of this imprudent amendment, then a program of investment in humans and infrastructure to put America back to work.

Mr. Chairman, we hold the public's trust. They have placed their faith in us. With the right decisions, they will place their confidence in us. Let us rise to the task. I urge my colleagues to defeat the Penny-Kasich amendment.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. NATCHER], the distinguished chairman of the Committee on Appropriations.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment. This amendment would make major additional cuts in discretionary appropriations and would lock in these cuts and other unidentified reductions in future years by lowering the discretionary spending caps $42 billion below the hard-freeze level of the budget resolution adopted in May of this year.

I want to remind Members that we just completed action on all 13 regular bills. We had to cut programs back. They were tight bills. They're going to be very tight in the future under existing caps.

Mr. Chairman, we passed our 13 bills $4.2 billion under the amounts contained in the 1993 bills, and about $1 billion under the budget resolution, and $11.43 billion under the President's request.

Mr. Chairman, The budget reconciliation bill put discretionary spending into a real hard freeze—no growth before inflation. To go further means that additional major cuts will have to be made in fiscal 1995 and beyond. Where do we go to cut—education? FBI? Transportation? Military spending? Veterans benefits? NASA? NIH? IRS? Prisons? Crime? Drug enforcements?

This amendment makes significant unidentified cuts. The real impact will be that it will reduce all programs in the future. If you think it's targeted to not cutting activities you're in favor of, you'd better think again. A cut of this size will impact all programs. You're cutting education and defense and transportation all at the same time.

Resist this approach. Let's continue to develop budget resolutions and appropriations bills the right way and vote this amendment down.

The CHAIRMAN pro tempore (Mr. BROWN of California). The Chair would advise that the gentleman from Minnesota [Mr. PENNY] has 10½ minutes remaining, the gentleman from Ohio [Mr. KASICH] has 12 minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 23 minutes remaining.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Chairman, I rise in support of the Penny-Kasich amendment and would like to read a letter I wrote to my children tonite:

Dear Sarah and Mark:

Hi, remember me, your daddy. I haven't been home much this week before Thanksgiving, but my thoughts have been with you and your mommy as we wrap up another session of Congress.

I'm sorry I haven't been much of a daddy lately—I've been stuck here in Washington, where daddy works, doing important work—at least that's what people here tell me.

Some of the reasons why I had to stay is because the people I work with wanted to flap their mouths again about deficits and debts.

Just so you know what that is, it's the amount of money you will have to pay after daddy's work here is all done. I am staying because I still believe we can reduce the amount of money you will have to owe the rest of the country, now over $16,000.

I hope staying to try and work on this important issue is really worth being away from you this year.

Time will tell.

I love you and I will vote tonite for you.

Love,

DADDY.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in strong support of deficit reduction.

I want to take a moment to step past the rhetoric and the scare tactics being employed against the Penny-Kasich amendment and cut to the quick.

When you strip everything away, what we have today is an opportunity to pass the only true deficit reduction measure the House will consider this Congress—Penny-Kasich.

It is important to note that we're not talking about doomsday here, we're not talking about the end of the civilized world as we know it. We're talking about 1 penny on the dollar. Let me repeat—1 penny on the dollar.

Folks, if we cannot bite the bullet and cut 1 penny on the dollar, do you really think we'll ever be able to get a handle on the growing national debt? We have got three alternatives: Bankruptcy, increased taxes, or spending cuts. The American people overwhelmingly want us to cut spending first.

This isn't easy. I don't support every provision of this bill. At some point, however, we have got to have the political courage to cut some programs that we support. Otherwise you end up with the cut everywhere but in my backyard syndrome that has thrived here and contributed to our deficit.

This is an historic day. Today, we decide whether to embrace the politics-as-usual, tax-and-spend mentality that has for so long dominated congressional politics, or we decide to finally take a bold step in the direction of fiscal control and responsibility.

The American people have demanded we reduce the deficit, and the people of Wyoming want us to do that by cutting spending first—not by raising taxes. While that cry may be falling on deaf ears in the administration and the leadership of the House, I have heard it loud and clear and will support Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arizona [Mr. KOLBE], a member of both the Committee on the Budget and the Committee on Appropriations.

Mr. KOLBE. Mr. Chairman, make no mistake about it. Today's debate on the Penny-Kasich amendment will prove another defining moment for this House. It will distinguish between those who truly want to control the flow of red ink, and those who only want to talk about it.

Just a few days ago, the House passed the North American Free-Trade Agreement which will advance the cause of economic renewal at home as well as American leadership abroad. Yet, as important as this agreement is for our potential economic growth, it represents only half the equation. The other half requires that we reduce our burgeoning Federal budget deficit and curb the flow of resources into inefficient, outdated Government spending programs. Adoption of the Penny-Kasich amendment is the first downpayment on that goal.

Critics of the plan seem to have forgotten that we are projecting $200–$300 billion deficits as far as we can see. They seem satisfied that the average taxpayer literally wastes $1 of every $7 paid in taxes to maintain interest payments on the national debt. They are not bothered by the fact that they are mortgaging their grandchildren's future to red ink. And they believe that cutting the budget .006 percent this year—as Penny-Kasich would do—would cause the sky to fall. Nonsense.

Penny-Kasich is no chicken-little plan that will cause the sky to fall if passed. The idea that cutting less than $10 billion in 1994 out of a $1,500 billion budget in a $6.6 trillion economy will hurt economic growth is laughable. Likewise, cutting $90 billion from $7,500 billion of spending over 5 years is only a tiny piece of what must be done to stop this flow of deficit spending.

Adopting this cut spending first approach is the best chance for us to impose true budget discipline because it allows lawmakers greater control over the budget numbers, enforces spending discipline from the beginning rather than promising it later, and delivers benefits to the economy.

Stripped down to its bare facts, the Penny-Kasich amendment locks in approximately $90 billion in Federal spending cuts—over 5 years—starting immediately. No smoke. No mirrors. No double-counting. And no out-of-line or unthinkable spending cuts.

Sound familiar? It should. This is the son of Cutting Spending First, the Republican budget alternative that put $490 billion in straight spending cuts up against the President's $275 billion tax-hike budget package. The President's package won because nervous Democrats were promised another opportunity to vote on another round of budget cuts. So, here we are today, with a second chance to do the right thing. But will we?

Compare the plans. In one corner is Penny-Kasich weighing in at $90.3 billion in locked-in spending cuts. In the other corner is the Presidential contender weighing in at $2.2 billion—$1.9 billion from the President's rescission package plus $304 million from Vice President GORE's national performance review savings—just a tad less than the original estimate of $108 billion. These are not my figures, I might add, they are CBO's. And this pittance is expected to be directed toward—you guessed it—future spending. It is obvious the Penny-Kasich plan delivers the only real punch.

If you believe that taxpayers haven't seen much value in the last decade as far as real deficit reduction is concerned then you should vote for the Penny-Kasich amendment and reject scare tactics and phony criticisms against the plan that simply don't add up. Penny-Kasich is a good faith, bipartisan effort that imposes real deficit reduction.

I urge my colleagues to vote for the Penny-Kasich plan.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from Mississipi [Mr. PARKER], a member of the Committee on the Budget.

Mr. PARKER. Mr. Chairman, as a member of the House budget Committee, I have for the past 3 years fought as diligently as any Member of this body for real and meaningful deficit reduction. I am a fiscal conservative and a deficit hawk. I am an advocate of deeper spending cuts in the Federal budget.

We will not bring reason and order to the budget process by leaping off a cliff in a herd mentality. And that is what Penny-Kasich is all about. It is not financial management.

While I voted against the budget reconciliation act last August and do not need the political cover that this measure represents—it seems to me that we are engaged in a desperate effort to hide behind the first tree, bush, or shrub that we can find.

Well, Penny-Kasich is a tree begging for a lightning strike. It's a burning bush that threatens to consume us all.

The leading argument against Penny-Kasich is that it will destroy the possibility of meaningful health care reform next year. That is a serious concern. We cut $37 billion from medicare today and in doing so fail to reform health care tomorrow. The result will be higher Medicare costs later because we will fail to do anything to control the explosive growth of health costs. This is a flawed process. We should take action on a measure of this type after health care reform.

This is what Penny-Kasich can do; my State is engaged now in health care reform efforts. They are seeking to utilize their current Medicaid budget to undertake innovations in expanding health coverage. And we are here in Washington, changing the rules as fast as we can. This amendment will cost my State, Mississippi, over $42 million in additional Medicaid costs over the next 5 years. I will not impose yet another unfunded mandate on those States, like mine, that are already doing what we, at the Federal level, want to do—all in the name of political expediency.

I do not oppose further spending cuts. And there will be pain associated with the cuts that I believe to be necessary. But this is not the way nor he time.

I will not rush headlong in the 11th hour of this session to institute far-reaching policy changes without the benefit of reasoned judgment.

I urge Members to vote against Penny-Kasich.

Mr. PENNY. Mr. Chapman, I yield 1 minute to the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. Mr. Chairman, the eleventh hour is when action takes place. That is the time we are at. We are at the eleventh hour. We are brought here today to do what leaders are expected to do—to make bold decisions.

Here's why: My 7-year-old son has never had a job, he is just learning to read and yet he has been saddled by the Government of the United States with a debt of $16,045—$16,045 on his small but growing shoulders! Without our bold action today it will grow to $20,800 in 1998 when he is 21 years old.

□ 2000

He needs, my colleagues, all of us to volunteer for the deficit reduction army and take action. He does not need more service club speeches by us that we hate the deficit. He needs our action to kill it.

In this fight I enlist Thomas Jefferson who said that if one generation could leave its debt to encumber the next then, "The earth would belong to the dead and not the living generation."

I want to leave my son a fair chance.

I want to increase public confidence in our ability to be fiscally responsible, which is the first requirement for health care reform. To those who believe we must further cut the deficit, I ask simply, if not now, when? When? When? And if we do not attack the deficit, who will?

Mr. KASICH. Mr. Chairman, I yield 1 minute my to colleague and friend, the gentlewoman from Columbus, OH [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Chairman tonight we are given a fleeting opportunity for fiscal sanity with Penny-Kasich. Every special interest group conceivable is hoping that the lateness of the hour and the heat of the debate will wither the courage of our Members to begin, at long last, to address the Federal budget deficit. But we must vote to protect our national interest, not the special interests.

Because we do not want to redistribute savings, or rearrange, or recategorize or even reinvent. We want to cut. Very simply cut spending—No games, no carry overs, no mumbo-jumbo, use this for that. We want to cut. And America wants to cut. The American people are ready to face reality—If they know it's being done honestly. How can the taxpayers trust us as an institution if we tell them we are making cuts when all we are doing is playing a shell game—hiding those dollars—those hard earned taxpayer dollars. It's not play money. This isn't monopoly. We were entrusted and sworn to manage the purse strings of this country and up until now we've done a pretty poor job of it. The bipartisan Penny-Kasich plan is the first sign that anyone in this body remembers our solemn oath. It's the first opportunity to do what America expects of us—to reduce the deficit without raising taxes.

No less than the future is at stake. We must consider the legacy we are leaving our children and grandchildren—One of misery and hardship as they work and sweat to pay our debts in a country we barely recognize because there are no dollars to support it. That is not a legacy to be proud of. Take this historic opportunity—it will not come along again. It's a first baby step—in a long road ahead. Do not be guided by fear. We can trust the American voter to understand what we are doing here—it must be done—they want it done—if we show them they can trust us. Let's get started.

Define yourselves as being on the side of the taxpayer—of fiscal sanity—

of our children's future vote for Penny-Kasich.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, tonight we have rescinded funds sufficient to bring 1994 appropriations $7 billion below the 1993 appropriations level and $3.5 billion below the budget cap for 1994, contrary to the claims of Mr. KASICH and others here tonight. We have also produced savings of $2.5 billion with the first installment of the Reinventing Government Initiative and $33 billion by enforcing a reduction in the Federal civilian work force.

Now the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] come in and say we should do more, and they present us with a very attractive list of discretionary and entitlement spending cuts. It looks pretty good, and it appeals to many Members. But there is only one problem, and it is a big problem. It does not add up.

We could enact every one of the spending cuts listed in the Penny-Kasich proposal, and we still would not even reach the present spending caps, much less the new ones.

It is a disappointing performance, Mr. Chairman, from those who have demanded that we get specific and get real. This package is not specific, and it is not real.

Do not misunderstand what I am saying. I agree with Mr. PENNY and Mr. KASICH that we must cut more. For years to come, we must bring in appropriations bills and rescission bills below the 1993 freeze level and below the budget caps. That is what really counts, not pulling new spending caps out of thin air and avoiding the specifics as to how we are to meet them.

And what of the entitlement cuts? These cuts and more are going to be required of us, if we are going to make health care reform work. But if we simply take another shot at Medicare in isolation, after cutting $56 billion only 3 months ago, we are going to widen the gap between what Medicare is paying and what private plans are paying. We are going to increase the number of providers refusing to see Medicare patients. We are going to encourage further cost shifting onto private insurance plans and those paying for those plans. And we are also going to shift further costs to the States. The Penny-Kasich plan imposes a $126 million unfunded Medicare and Medicaid liability on my State of North Carolina. This is simply not acceptable, to make this pretense at budget cutting and then let others pick up the tab.

Mr. Chairman, if these cuts do not add up on the discretionary side, and if they shift costs and derail broader reform and stop efforts to control expenditures on the entitlement side, they represent a cruel deception, more of the same budget chicanery that has so turned off the American people. Vote against the Penny-Kasich amendment.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, a few moments ago the distinguished chairman of the Committee on Ways and Means decried the fact that we are doing what we are doing, when and how we were doing it, and it is not proper in the legislative process to do it now and this way.

I would suggest to him that those remarks would have been better addressed to the leadership of this House, who forced those who would like to address the problem of deficits and to reduce spending as the only effective way to address that problem, why not address those concerns to the leadership, who force this as the only alternative we have in this session?

And it is flawed. I hope it will be improved, as we complete the process. But this is our last opportunity, as Members of this body, to effectively apprise our leadership and our constituents that we want the deficit reduced and we know that the only way we are going to accomplish it is by reductions in spending.

Mr. Chairman, few decisions over how to vote on pending legislation have given me so much difficulty as the Penny-Kasich spending reduction amendmnent. What concerns me is not that federal spending cannot be cut by $90 billion over the next 5 years. I strongly believe it can and should be done. Indeed, I support—and have cosponsored—bills that would achieve even greater spending reductions over this same time period. Therefore, my concern over the Penny-Kasich amendment is not because of the amount of spending cuts it proposes.

I am dubious of the reductions in national security proposed by the Penny-Kasich amendment. Having been actively involved in shaping the Fiscal Year 1994 Department of Defense Authorization bill and conference report recently adopted, I know we have already implemented billions of dollars in defense spending reductions that are significant.

I am one of those who believe that we have already decreased defense spending too much—not too little. The reductions in defense spending specified by the Penny-kasich amendment are not in themselves large. But they come on top of cuts in each and every fiscal year since 1985. Unless the administration reverses its position on defense spending for Fiscal Years 1995–1998, our Nation's defense capabilities will suffer in an unacceptable way.

Mr. KASICH assures me his initiative protects defense spending from any further reductions, and that civilian employmenmt at the Department of Defense will not be hit by the reduction in government employment. Since there has been a hiring freeze at DOD for several years, this is an important consideration. I cannot and will not support an ultimate package of spending cuts that further ravages our defense budget.

In my view, it is not the prerogative of the Budget Committee or of members of that panel to make sweeping policy decisions, such as to consolidate entire executive departments and Federal agencies into a new Department of Science as the Penny-Kasich amendment proposes, and to bring them to the floor without adequate hearings and without following the norms of the legislative process. Since this proposal claims little or no specific cost savings, why should it even be in this package?

These are a few, but by no means all, of the concerns I have about the Penny-Kasich amendment. My concerns are such that I seriously considered voting present on the amendment to reflect my concerns over this amendment's deviation from the norms of the legislative process, while not voting no and having that vote interpreted by my constituents and others as a vote against deficit reduction through spending cuts which I strongly support.

I will not vote present on the Penny-Kasich amendment. By this statement, however, I want to voice my objections over the way the Democratic leadership of this House has managed the floor schedule and the Rules Committee has structured this debate to discourage a meaningful and coherent action on deficit reduction.

Since the White House has unleashed a full-scale lobbying campaign against the Penny-Kasich amendment, and because the House leadership waited until the 11th hour of the last day of this session to schedule floor time for it, Mr. PENNY and Mr. KASICH have not had the benefit of a full and fair opportunity to structure their proposal and to work out the broadest, most effective and bipartisan coalition. They have had to race the clock, refine and reshape their proposal on an almost ad hoc basis. This has been unfair to Mr. PENNY, Mr. KASICH, to me, my colleagues and the American people who desperately want to see this House deal with deficit reduction in a cogent manner.

I ultimately have decided to support the Penny-Kasich $90 billion spending cut amendment. I do so despite my serious reservations over several items it does include, and my support for other spending cuts it does not include.

I am voting for Penny-Kasich because I believe cutting spending is essential to deficit reduction, which remains our Nation's greatest legislative challenge. Even with its flaws, Penny-Kasich is the superior and most viable proposal to achieve real deficit reduction by cutting spending first.

I also am supporting Penny-Kasich because if deficit reduction achieved through spending cuts is to have a chance of being enacted by this Congress, there must be a legislative vehicle moving to affect these changes. I know that the other body has adjourned and will not consider this legislation until next year. When in the next session of this Congress they do so, they will need a vehicle that manifests that this House and a bipartisan coalition is serious about deficit reduction and that spending cuts is a priority whose time has come.

Finally, the premise of Penny-Kasich is that the spending reductions it achieves is in order to reduce the deficit and not to make room for additional, new spending in other areas of the Federal Government. This cannot be said about any of the other alternatives. If the name of the game is something other than cutting spending to reduce the deficit, I do not want to play.

In the hope and belief that the Penny-Kasich amendment will be subject to greater scrutiny and reshaping as it moves through the legislative process, and to go on record that cutting spending should have as its bottom line—deficit reduction, I will vote for the Penny-Kasich amendment.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise as a Penny-Kasich coconspirator, strongly in support of the Penny-Kasich amendment.

Mr. Chairman, what began as a noble debate over budget priorities has come down to a political brawl, with mistruths, threats, and scare tactics. In the true spirit of bipartisanship, the Penny-Kasich group offered a $90 billion deficit reduction plan. We have a choice between solid deficit reduction and a hollow shell game of "cut a little here, spend a lot there." Every member is under enormous pressure—Cabinet Members and special interests predict nothing less than the end of civilization as we know it if Penny-Kasich passes. They don't tell us what happens if it doesn't pass and the annual deficits keep rolling up the national debt faster than we, our children, grandchildren can pay it off.

Appropriations point out the possibility of early, untimely demise of projects in our districts. That is called political hardball. Some don't like it, but I do not respond to sweetened deals, or threats. I respond to my constituents and my best judgment. My constituents want deficit cuts now—they want to a balanced budget soon, and my judgment knows they are right. Support Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, as the leading defense hawk in this House, I support Penny-Kasich, which does not hurt defense at all. I ought to know, because I know that portion, and my colleagues know it is O.K. I support it.

Mr. Chairman, this debate comes down to a choice. What do we as a Congress stand for: Over the past 2 weeks I have received letters from special interest groups all across the country urging me to oppose Penny-Kasich for special reasons.

They claim it unfairly penalizes seniors; ignores our domestic spending needs; guts the national defense or terminates an essential project.

Mr. Chairman, in direct contrast to this barrage, I have received hundreds of letters from my constituents, Mr. and Mrs. Main Street America, urging me to support it, calling for spending cuts, deficit reduction and honesty with the American people.

These constituents are the heart of America, those who have given their sweat and blood to build this Nation into what it is today. They have already sacrificed for our Nation. Is it now time we followed suit?

For me, this is a simple choice. These people call for deficit reduction—and Penny-Kasich delivers it. The Sabo substitute and the Frank-Shays amendment does not.

These people call for a reduction in the Federal debt—Penny-Kasich cuts the debt, the Sabo substitute and the Frank-Shays amendment do not.

The American people call for spending cuts and Penny-Kasich is the only proposal before us today which honestly reduces the deficit. The Sabo substitute and the Frank-Shays amendment both allow—yes allow—their savings to be spent again.

While our constituents call for passage of Penny-Kasich, and the special interests call for its defeat, Where do you stand? Do you stand with the majority of the people in this country on the side of fiscal responsibility? Or do you stand with the majority and special interest groups in this House in defense of the status quo?

Stand with America and the financial future or our children and grandchildren, vote for Penny-Kasich!

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BARTON], a former great pitcher on the Republican baseball team.

Mr. BARTON of Texas. Mr. Chairman, Winston Churchill, in the darkest days of World War II, finally received word of a British victory at El Alamein in North Africa. When he went to address the euphoric British Parliament, he said, "My friends, this is not the beginning of the end of Nazi Germany, but it is the end of the beginning of our efforts to contain that monster."

That is where we are this evening. This is not the end of serious deficit reduction, should we pass Penny-Kasich, but it could be the beginning of the end of talking about it and the beginning to start actually doing something about it.

The American people demand that we actually start serious deficit reduction. They are fed up with Congress, as is proven out in poll after poll that shows the institutional rating of Congress at all-time lows.

Why do you think people have become more and more insistent on personal accountability of individual Congressmen? It is because they have given up that we will ever exercise institutional accountability.

We have not balanced the Federal budget since 1969. David Stockman, President Reagan's first Director of OMB, solved that problem with the magic asterisk, which said that there would be savings unspecified in the outyears to balance the budget.

Leon Panetta, President Clinton's OMB Director, does not even attempt the magic asterisk. He simply presents budgets that are never balanced into infinity. That is unacceptable. That is unacceptable to me as a voter, to me as a taxpayer, to me as a U.S. Congressman, and to me as a parent of 3 children that I want to have a future in this Nation that is not crushed by a huge Federal debt burden.

To my Republican friends, I would say, it is time for us to pass Penny-Kasich and begin to practice what we preach.

To my Democratic friends, I would say that you have got to "just say no" to the insatiable budget monster of special interest spending that has captured your caucus.

Vote for Penny-Kasich. Let us begin serious deficit reduction and end the meaningless talk about it. Mr. Chairman, I also recommend the House drop subtitle A, Title VII from H.R. 3400. This provision, which attempts to improve the Minerals Management Service Royalty Collection, has not been given sufficient time for comment and deliberation. Drastically altering current royalty collection provisions, to the extent of establishing new punitive penalties for unintentional under-reporting, deserves close consideration. This proposal has never been deliberated in house hearings and should not be passed without fully weighing its effect on our Nation's energy producers.

Subtitle A provides new and unnecessary royalty collection penalties. The existing penalties under the Federal Oil and Gas Royalty Management Act are severe and provide a strong incentive to make correct royalty payments. Since interest is already assessed on any underpayment, the Federal Government's financial position is fully protected without this plan.

Mr. Chairman, I believe this issue should be addressed in a conference with the other body, which reportedly opposes the provision. I hope that at that time we can remove this mistaken proposal.

□ 2010

Mr. PENNY. Mr. Chairman, I yield one minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. Mr. Chairman, I thank the gentleman for yielding time to me, and for the invitation to participate in the bipartisan Penny-Kasich working group. I hope that bipartisan effort will continue into the future.

Mr. Chairman, all of us have seen the bumper sticker on the travel trailer that says, "I am spending my children's inheritance." As a Nation, we are not only spending our children's inheritance, we are leaving them with IOUs that they will not be able to repay during their lifetime. I want to suggest to the Members that that is generational immorality, and something we should not tolerate. If our Nation were an individual, we could not even pay for our own funeral. There is something wrong with that.

Mr. Chairman, for those who would say, "Not these cuts," I would ask them, "Then what cuts?" Like my friend, the gentleman from Washington, Mr. JAY INSLEE, for those who would say, "Not now," I would ask, "When?" It is the last hours of the last day. It is time for us to act.

Mr. Chairman, I think it is time we take one very, very small step toward financial and fiscal responsibility. Mr. Chairman, it is time that as a Nation, we stop eating our seed corn. I urge Members to pass this amendment.

Mr. KASICH. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I would like to express my dismay that the Committee on Rules would not allow a freeze proposal to be included in this debate.

Mr. Chairman, at this time it is appropriate to enter into the RECORD the guarantees I have received from Messrs. KASICH and PENNY.

First, there are no unfunded Medicare or Superfund mandates for the states that will be caused by this amendment.

Second, there will be no reductions-in-force [RIFs] of federal employees if this amendment is passed.

Third, all changes to Federal and military retirement will be prospective in nature and only be done for new hires—in other words—this amendment will not affect the retirement of any current Federal employee.

With these assurances, I will vote for this amendment, but I am concerned that we are forced to vote for the least worst alternative. The Rules Committee should have allowed an open rule and permitted each Member the opportunity to offer amendments.

There is no reason why we must adjourn tonight. We could have, and should have, come back next week to consider proposals like a freeze plus 2 percent. We are picking and choosing winners in the budget.

Under the amendment science and R&D is a loser. This concerns me because the only way the United States will be competitive next century is if we invest in technology.

This is wrong.

However, this is the least worst alternative allowed by the Rules Committee, and I reluctantly will vote for it.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY].

Ms. MARGOLIES-MEZVINSKY. Mr. Chairman, I rise today in support of the Penny-Kasich spending cut package.

As a member of the bipartisan Penny-Kasich team, I must confess that there are cuts in here that I do not like. None of us likes all of these cuts. But, to paraphrase my good friend TIM PENNY, you can't cut spending unless you cut spending.

True deficit reduction cannot come without pain. But it is nothing compared to the pain our children and grandchildren will feel if we don't act today to decrease our deficit. In a recent New Yorker article, David Stockman, former Director of the Office of Management and Budget under President Reagan, observed that it is the responsibility of every President since Reagan to distribute pain to pay for the irresponsible budgets of the 1980s.

This is not about President Clinton's future—it's about Chelsea's. Members of the House, before you cast your votes today, think about the 1,026 children you directly represent as mothers and fathers. I make very few decisions here without thinking about the impact on the futures of my children, and Penny-Kasich is nothing if not directly about their futures.

While the children of our Nation may not be the voters of today, they are our future, they are our tomorrow.

If you are not prepared to vote for even this small deficit-reducing measure, you have absolutely no business telling your constituents you are serious about reducing the deficit. And if you are unprepared to lead, you cannot call yourself a leader. Have the courage, the sense of responsibility, and the compassion for the children of America to support Penny-Kasich and take this small step to eliminate our debt.

Mr. Chairman, this is no time for blame, and let me make this very clear: Republicans and Democrats, working together, gave us this national debt, and Republicans and Democrats, working together, like the Penny-Kasich team did, are the only ones who can help free our children and grandchildren from the overwhelming mass of debt they currently face.

To Members of Congress who posture tough on the debt but will vote against Penny-Kasich, I ask: were you here in 1980? In 1986? Are you here now? If so, you are responsible. We were not elected to be student body presidents, running school dances and pep rallies. We are here to solve these problems with the years 1997, 2004, and 2015 in mind—not only November 1994.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON], for the purpose of a colloquy.

Mr. GUNDERSON. Mr. Chairman, I rise in support of the so-called Penny-Kasich amendment.

However, I want to clarify for the record my understanding of the process intended by Mr. KASICH and Mr. PENNY in achieving these savings.

Mr. Chairman, section 216 of the amendment proposes $82 million in savings for low priority water projects in 1994 and $662 million over 5 years.

Am I correct that nothing in the amendment specifically denies funding for any project? Rather, the amendment assumes the Corps of Engineers will use their discretion to follow the 1994 appropriation intention to the maximum extent possible. Nothing in this amendment reverses policy decisions made in the 1994 appropriations bill. Rather it allows great flexibility to achieve the bottom line savings over the 5-percent period.

Can the gentleman from Ohio [Mr. KASICH] clarify this for me?

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, let me emphatically agree with the understanding and description of how these savings would be achieved, as just described by the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, I thank the gentleman.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Chairman, what we need to decide is what the word deficit means and what it means to cut the deficit.

Mr. Chairman, we have, as a body here, people who will say they want to cut the deficit but they will not. What we need to think about is what the people of America want. If we took the voters and said to them, "Will you give up some of your projects to cut the deficit," I think overwhelmingly, overwhelmingly they would say, "Cut the deficit so we can have something later to spend." Why not do it? That is because the people in this body want to be reelected more than they want to cut the deficit.

The people are willing to do it. They are willing to sacrifice, because that is what happened when we were in the state of war in the past. They do not want to just recycle money, they want us to declare war on the deficit and sacrifice to get it. We need to do it here first and then do it at home later.

Mr. Chairman, why do we persist? That is because reelection is so important. We have a collision happening. Down one lane is the deficit coming, like a locomotive. Down the other lane, an 18-wheeler called spending addiction. We are going to have a collision here. We do not need it.

What can we do? Stopping spending and cutting the deficit equals the Penny-Kasich bill. We ought to vote for it.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise in opposition to the Penny-Kasich amendment to H.R. 3400, the Government Reform and Savings Act.

When President Clinton made his State of the Union Address to this Nation, he offered us a bold and courageous plan to move this Nation in the direction of prosperity and progress and away from the gridlock that existed in the Reagan and Bush years. His plan included a deficit reduction package of $500 billion over 5 years, and an investment blueprint for America's future.

The American people have made it perfectly clear that they want us to change our priorities to invest in America's future, and repair the damage done in the 1980's. Earlier this year, we responded to the call for change by passing the largest deficit reduction package in American history and we began to invest in America's future by fully funding Head Start, the WIC Program, and adopting the President's National Service Act.

The Penny-Kasich amendment would turn back the clock away on the President's investment plan for our future. Instead the amendment would single out those groups, veterans, military personnel, Federal employees, farmers, children, and senior citizens, who were neglected in the 1980's and need our help now.

Let us vote this unfair amendment down. It will cause a great deal of unnecessary pain.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire

Mr. SWETT. Mr. Chairman, I rise today in strong support of the Penny-Kasich amendment. Look at what we have before us. We are already winning some of these battles. We have the big guns coming out trying to stop what is a small step toward fiscal responsibility in this country.

Mr. Chairman, I do not agree with everything that is in this bill, but I will tell the Members, if we do not get together and on a bipartisan basis start working out some of these problems, we are never going to see any kind of fiscal responsibility in this country.

Mr. Chairman, Penny-Kasich is a serious deficit reduction package. It is not business as usual. That is why so many of the big guns have been marshaled against it. I congratulate those of my colleagues who have withstood their withering barrage and intend to cast a "yes" vote on Penny-Kasich. Penny-Kasich is an outcomes-oriented piece of legislation. We need to encourage more efficient and effective public programs, and Penny-Kasich starts us down that road.

Mr. Chairman, in the long run the greatest threat to those who are disadvantaged in our society is the ongoing failure of this Congress to deal effectively with our budgetary proposals. If we do not address the deficit, there will be no moneys available for the future years to help those who need help.

Mr. Chairman, let us win this battle, too. It is time to say bye-bye to partisanship and welcome bipartisan solutions with Penny-Kasich.

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Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, Harry Houdini was a great Wisconsin magician, and I wish I could balance the Federal budget by simply a sleight of hand. But the truth is we can only do it by making real cuts in real programs, and sometimes it even hurts in our own district.

If this proposal passes tonight, it will mean that a local library in my district will lose construction funds, and a very good research program at the University of Wisconsin into fusion research will be cut. But there is no way to make a dent in the deficit without real anguish.

And let us get real. The package tonight represents merely $7 billion worth of cuts, and that means we have only $293 billion more to go this year.

And if you cannot take the heat on this vote, just wait for the next ones. There are no card tricks, no shell games, no magic, just tough votes ahead.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in strong opposition to this amendment. This amendment is anathema to the legislative process and to responsible public policy.

My colleague, the gentleman from Minnesota, speaks of a promise from the leadership for a "fair fight for more budget cuts." I ask whether this is a fair fight at all. Is it a fair fight for senior citizens who will see their health care benefits reduced without even the promise of future benefit? Is it fair to states, which will be forced to pay more than $5 billion in unfunded Medicare mandates? Is it fair to citizens to weaken environmental clean up standards and to undermine the Superfund Law for no meaningful savings? Is it fair to the industries and to the investing taxpayer to shut down the Securities and Exchange Commission? Is it fair to compromise our Nation's international competitiveness, energy stability and growth, national security, space policy, and basic research capability by consolidating the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration [NASA] and the National Science Foundation [NSF] into a new, monstrous-sized Department? Again, for no appreciable savings? Let me draw your attention to a chart on this matter.

Is this a fair fight for Penny-Kasich opponents? This amendment makes a mockery of the regular order and the normal legislative process. Sometimes we act without the benefit of hearings and committee consideration. Sometimes that is necessary, but now is not one of those times. Would the American public be stuck with all of this bad policy if we followed the regular order and drew on the expertise of the Members who are familiar with each issue? There are good reasons for the committee process in the House, but they seem to be lost on the supporters of this plan.

Most of the changes in permanent law made by this amendment—and many of those are significant—are ill-conceived and disturbing, and many of them do not even save the taxpayer money. I would like to insert for the RECORD an analysis of policy changes made by this amendment that are within the jurisdiction of the Energy and Commerce Committee.

Some of these examples have already been enacted into law. For example, the SEC fees in this amendment already passed last month in the appropriations conference report. But this language on SEC fees will have the effect of abolishing the SEC. Is this what the authors intended? Do they even know that this is a consequence of their amendment? Is abolishing the SEC a goal of deficit reduction? I find that hard to believe.

Supporters of this ill-conceived amendment have been modestly educated by the members of the House as to the misgivings of many of their proposals. Now they are plainly asking Members to vote for their amendment, not because it makes sense, but because it has no chance of becoming permanent law. Mr. PENNY and Mr. KASICH in their own Dear Colleagues are quite plainly asking Members to cast bad votes because they say the problems they are creating will be taken care of later.

In one of their Dear Colleagues, they give four reasons to vote for their package:

First, that only their package will reduce the deficit. Congress is lowering the deficit and the Sabo substitute moves further in that direction.

Second, similar proposals are not pending in the Senate, so we will have a chance to correct the problems with this package—namely, the Medicare cuts—in conference. It is remarkable that the House should pass bad legislation simply because it will not emerge from conference with the Senate. Third, in case we were concerned that some Senators might actually vote to pass legislation resembling this forlorn package, the authors point out that it takes 60 votes in the Senate to change spending caps. Again, the authors of this package are telling the Members of the House to vote for bad policy because the other body will not pass it. Certainly, that is a lot of faith to put in our colleagues on the other side of the Capitol.

Finally, the amendment sponsors tell us in their Dear Colleague today that we can vote for this bill because the "President has veto power," and "There is no way for these spending cuts to be adopted by a veto-proof margin." Are they saying that Members of the House should take leave of their senses, vote for reprehensible public policy, and inflict great pain on many portions of the American public because not enough of their colleagues will do the same?

I ask you, is this any way to run a Congress?

We in Congress are sent here to make sound decisions for our constituents and for this country after fair and careful deliberation. We must draw on our experience and knowledge when being asked to carry out these tasks, not merely push buttons in the name of deficit reduction. We must be smarter than that, wiser than that, and stronger than that.

It is easy to vote for unsound budget cuts. It is infinitely more difficult to craft and vote for sound ones that make sense and will work.

Vote against this outrageous, misguided, irrational, unworkable, pathetic attempt to craft public policy.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, November 22, 1993.
Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DINGELL: I have been advised that an amendment to the Penny/Kasich deficit reduction initiative would have a catastrophic impact on the Securities and Exchange Commission, the public, and the nation's securities markets.

According to the Congressional Budget Office, the amendment would be scored in such a way that the agency would lose the offsetting collections portion of its 1994 appropriation—approximately $142.6 million. A reduction of this magnitude could only be accomplished through a total shut down of the agency not later than February 1994. Reductions in force or furloughs could not generate sufficient savings to offset the agency's funding loss.

If this amendment is adopted, the entire range of program activities to protect investors would cease. All law enforcement investigations and market oversight functions would be abandoned thereby giving license to widespread fraud and manipulation. The SEC would not be available to register securities thereby halting all capital formation in the country. In effect, the SEC would be abolished.

Please advise me if you need more specific or additional information.

Sincerely,

ARTHUR LEVITT, Jr.,
Chairman.

ANALYSIS OF ISSUES OF CONCERN IN THE PENNY-KASICH AMENDMENT IN THE JURISDICTION OF THE ENERGY AND COMMERCE COMMITTEE

SEC. 202. DEPARTMENT OF SCIENCE, SPACE, ENERGY AND TECHNOLOGY

The amendment authorizes the establishment of a new Department of Science, Space, Energy and Technology. There are a number of workability problems with this provision. It transfers the National Aeronautics and Space Administration, the National Institute of Standards and Technology, the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Technical Information Service, the Patent and Trademark Office, National Telecommunications and Information Administration, and the Department of Energy (DOE) to this new Department before it is established. In the case of the DOE, certain listed functions are to be transferred to the Department of Defense. These transfers take place not later than September 30, 1994. Once the functions and offices are transferred under subsection (d) a list of offices are terminated. The bill also repeals section 201-203 of the DOE Organization Act.

Further, the bill terminates offices, such as the Office of the Secretary of Energy, but not the entire Department. The term "function" is defined to include authorities. The term "Office" includes components. Thus, the Energy Information Administration and the Federal Energy Regulatory Commission are probably transferred to this new Department, along with the Economic Regulatory Administration.

The costs associated with moving these agencies toward consolidation could be significant in the near term. Penny-Kasich originally claimed savings of $500 million from this consolidation effort. The $79 million in savings scored by CBO for the proposal does not come from increased efficiency, but from a statutorily mandated personnel cut of 350 employees. This number is completely arbitrary, not based on need or demonstrated usefulness. It is not clear if this number is in addition to the 252,000 federal employees to be cut for overall workforce reduction or an arguably disproportionate workforce loss for the important functions contained in these departments. Basically, the creation of this new department is not a budget issue, but rather a policy issue, and there are a number of specific concerns with the policy this language seems to set out.

Further curious is that in section 202(e)(2)(H)(ii), authorization is given to the Secretary to permit any public, private agency, corporation, association, or organization or individual to use any of the new Department's facilities or real property. This would allow, for example, church groups, big corporations (like IBM), lobbying organizations, and others to use for up to five years these taxpayer paid facilities albeit under possibly some fee schedule.

Section 202(e)(2)(G)(i), would also authorize the new Department to acquire land and facilities for schools and related purposes, laboratories, housing, and personnel equipment. That is a very broad authority beyond that which is already provided to the General Services Administration.

Certainly, it is important to avoid duplication among departments and agencies, but it is not wise to establish a massive and potentially inefficient bureaucracy. In this proposal as many as 62 individuals would be reporting directly to the Secretary. Additionally, it is not clear that a number of important functions presently being performed by these Departments will be adequately preserved in this new configuration. Energy production and regulation, manufacturing and trade policy all would be shuffled in this plan.

SEC. 204. RESCISSION OF FUNDS FOR FEDERALLY SPONSORED UNIVERSITY RESEARCH AND DEVELOPMENT

Sec. 204 makes cuts through rescission of funds in NIH-supported research and development grants. The original proposal was to achieve these savings through a cap (50%) on indirect costs associated with these grants. It appears that this is still how the amendment achieves cuts. However, the bill as drafted does not refer to indirect costs, just to cuts in grants. This could subject important medical research to cuts that could jeopardize its outcome.

SEC. 205. RECOUPMENT OF CERTAIN GRANTS

This section requires the Departments of Energy and Commerce to establish a process for recouping the federal share of all costs shared research, development, demonstration and commercial application projects. Cost-shared and jointly funded cooperative work efforts between industry and government is one means by which we are seeking to make our nation's industry more internationally competitive. It allows us to fully utilize our national resources.

This recoupment exercise could affect promising programs in energy, trade, microcomputing, telecommunications, natural gas, coal, and efficiency technologies just to name a few. And it could potentially require the expenditure of a great deal of time and money to go back and review all of the grants that these Departments have entered into, regardless of their merit, to determine if recoupment is necessary. There is no reason to believe this proposal will save the government any money. The Congressional Budget Office did not score savings for this proposal. This is another example of a policy directive in this amendment that is questionable in its goals and workability and does not even save the government money.

SEC. 208. DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION

This section requires the establishment of a 7-person Department of Energy Facilities Closure and Reconfiguration Commission. The Secretary of Energy must develop criteria for making recommendations for such closure or reconfiguration. This section, however, does not define the term "facilities". That becomes important because it could include: the Bonneville Power Administration, the Southeastern Power Administration, the Alaska Power Administration, the Federal Energy Regulatory Commission, the Environmental Restoration and Waste Management Office and any of the National Laboratories to name a few.

The section also changes the rules of the House regarding the referral of a resolution to disapprove a closure resolution. The resolution, if introduced, would bypass the Committees of Jurisdiction, including the Energy and Commerce Committee.

Additionally, the provision mandates a 25% reduction without the benefit of completed assessment of the condition and capability of the facilities. The Department of Energy is currently undergoing a comprehensive review of these facilities to determine their competency and efficacy. The focus of the review includes industrial competitiveness, environmental clean-up, resource efficiency, and pollution prevention. The mandate is premature and could do a great deal more harm than good.

SEC. 210. RESCISSION OF FUNDS FOR FOSSIL ENERGY RESEARCH DEVELOPMENT

The rescission of $54 million in this program would seriously undermine efforts that are useful to our nation's energy security, environmental compliance, and competitiveness in the 21st Century. It would inhibit the development of useful natural gas technologies which have major economic and environmental benefits domestically and internationally. In the oil area, it will impede ongoing cost-shared efforts to prevent the premature abandonment of domestic oil fields. It will also significantly slow this program's continued ability to assist private industry in developing technologies that will help them comply with the requirements of the Clean Air Act. Elimination of promising natural gas research by this amendment could severally hurt efforts to wean this nation from reliance on imported crude oil.

SEC. 213. TERMINATION OF CLEAN COAL TECHNOLOGY PROGRAM

The U.S. has a 500 year supply of coal and coal represents 30% of basic energy produced in the U.S. The Clean Coal Technology program promises more efficient use of coal and a reduction in emissions that contribute to acid rain and global warming both of which would be major benefits to our economy and the environment. Efficient use of this energy source, and the development of clean technologies through this program, will help us maximize domestic resources, control emissions and promote the export and transfer of U.S. clean technologies and services to developing countries. The program is jointly funded by private investment and has already produced promising innovations.

SEC. 214. RESCISSION OF FUNDS FROM SPR PETROLEUM ACCOUNT

The Strategic Petroleum Reserve (SPR) is essentially an insurance policy against severe oil shortages, resulting recession, and blackmail from the Middle East. It protects Americans from market fluctuation and price hikes in the case of an oil supply disruption. The SPR was drawn down during the Gulf War and helped stabilize and drive down oil prices. This proposal does not give the Administration the ability to fill the SPR to prepare for another supply disruption. The last three U.S. recessions were all immediately preceded by oil price shocks. The SPR is the nation's only defense against the enormous disruption to the economy and severe job losses that these price shocks have helped bring about.

SEC. 217. PREFERENCE FOR INTERIM MEASURES IN SUPERFUND RESPONSE ACTIONS

The Penny-Kasich amendment would eliminate existing state and federal standards that establish the degree of cleanup at toxic waste sites. These are standards designed to protect human health and the environment. Instead, the amendment establishes a preference for institutional controls like fences and containment methods like caps. At many sites these remedies fail to protect human health and the environment. Obvious examples are sites in a flood plain like the Mississippi River, or a wetlands area.

Other equally bad results will occur because of this amendment. Severe impacts will be felt by the many new companies which have been working to develop innovative and cost-effective treatment technologies. Jobs would be lost. Further, a shift to containment and control remedies would impede redevelopment of contaminated sites, particularly in our urban areas and impose a greater burden on nearby residents.

This amendment, according to the Congressional Budget Office, achieves no direct spending savings from the Superfund program. No limitation is placed on appropriations from the Superfund Trust Fund. Indeed, in 1995, this amendment authorizes a four-fold increase, from $250 million to over $1 billion, in the amount of money authorized to be spent from general revenues—directly from the taxpayers. This is in addition to money currently available from the "Hazardous Superfund Trust Fund" which comes from a dedicated tax on private industry.

Then, in the three years from 1996–1998, this provision authorizes new expenditures of general revenues to the tune of approximately $3.5 billion. These are expenditures of $3.5 billion not currently authorized by law.

SEC. 227. ELIMINATION OF FUNDING FOR PUBLIC TELECOMMUNICATIONS FACILITIES AND SECTION 401. REDUCTION IN FUNDING FOR ARTS AND HUMANITIES PROGRAMS

The elimination of funding for public telecommunications facilities and the cut in funding for the Corporation for Public Broadcasting contrary to congressional commitment to universal access and equity in distribution of educational and informational programming. At a time of serious budget deficit, these programs have proven themselves to yield a strong return on the taxpayer dollar. Local stations have raised private contributions to supplement federal support at a 6 to 1 ratio to meet a number of national goals: literacy, preparing children to learn, and providing equitable access to educational opportunity nationwide.

SEC. 305. TERMINATION OF INTERSTATE COMMERCE COMMISSION

The ICC performs a number of critical public interest functions. Penny-Kasich is contrary to the clear intent of the ICC Act, i.e., that a competitive, efficient interstate transportation system be ensured by an independent regulatory body. Further, the ICC has proven its ability to "do more with less." The ICC's budget has decreased by more than 40% since 1979. During that same time, the ICC staff has been cut by 70%. An identical amendment was defeated by both the House and Senate this year during debate on the transportation appropriations bill. The amendment was opposed by numerous transportation, agricultural, labor, and public interest groups.

SEC. 326. INCREASE IN SEC REGISTRATION FEES

According to CBO, this amendment would be scored in such a way that the SEC would lose offsetting collections of approximately $142,600,000. In response, the SEC would have to close its doors no later than February 1994. Because of the magnitude of this cut and the amount of fixed expenses (rent, telephone, etc.), RIFs and furloughs would provide only limited savings and at best would reduce only by days the closing date.

The entire range of SEC functions to protect investors would not be performed. Most importantly, the SEC would not pursue investigations (thereby creating a blanket license to steal in our securities markets) nor would the SEC be available for the registration of securities (capital formation in this country would cease). *The effect of this amendment is to abolish the SEC.*

SEC. 327. TRAVEL, TOURISM, AND EXPORT PROMOTION FEES

This proposal is another unfunded mandate that shifts the costs of operating the U.S. Travel and Tourism Administration and the International Trade Administration to states. This proposal is similar to fees that this Committee enacted as part of the 1990 Reconciliation Bill at the request of the Bush Administration, that have never been implemented due to that Administration's claim that they violate international treaties.

SEC. 504. CONSOLIDATION OF CERTAIN SOCIAL SERVICES PROGRAMS INTO A SINGLE BLOCK GRANT PROGRAM

This proposal consolidates largely unrelated programs on the pretext of savings administrative costs. The real effect will be to cut programs covered by the Social Services Block Grant and the Community Services Block Grant.

SEC. 603. IMPOSITION OF 20 PERCENT COINSURANCE ON CLINICAL LABORATORY SERVICES UNDER MEDICARE

SEC. 604. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES UNDER MEDICARE

This provision increases co-payments under Medicare and will result in about $5.1 billion in unfunded mandates to states. The state governments must pay for coverage for the elderly and the disabled who live below 150% under the poverty line.

SEC. 605. RELATING MEDICARE PART B PREMIUM TO INCOME FOR CERTAIN HIGH INCOME INDIVIDUALS

SEC. 606. INCREASE IN MEDICARE HOSPITAL INSURANCE DEDUCTIBLE FOR CERTAIN HIGH-INCOME INDIVIDUALS

SEC. 607. ESTABLISHMENT OF STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES

About $37 billion in savings come from increasing the out-of-pocket expenses of Medicare beneficiaries. Most of these proposed savings are also included in the Administration's health care plan where they are balanced by new long-term care and prescription drug coverage. Indeed, *any comprehensive health care reform plan will require these savings as a source of financing.*

The Penny-Kasich amendment contains a number of out-of-pocket increases for Medicare beneficiaries. In the guise of soaking upper income beneficiaries, the amendment puts de facto levies on sick elderly people by requiring payments for laboratory and home health services. Elderly people able to afford private Medigap insurance will doubtless face rate increases as a result. Those unable to afford private coverage could face staggering increases in out-of-pocket costs. In essence, the provision shifts costs to those least able to pay.

Some will reply that variations of these provisions appear in President Clinton's health plan. They do, though the President never conceived of the idea of means testing a hospital deductible. This could result in an elderly person showing up at the hospital only to face a mountain of paperwork before being admitted. In addition, this amendment would have the elderly subjected to income determinations and turn hospitals into welfare offices.

Where the President has suggested Medicare changes he has done so in the context of major reform. The most important elements of that reform are universal coverage and cost containment. Medicare beneficiaries would get new benefits and would live in a world where costs would be constrained. In this context we can begin to talk about shared responsibility. Penny and Kasich apparently believe that responsibility for health reform and deficit reduction should only be shouldered by the elderly and the sick. Do they suggest a single protection from rising costs for the sick and elderly? No. They merely seek to undermine the one legitimate plan that would provide meaningful protections.

Twelve years of Reagan and Bush cuts to Medicare without an iota of health reform has brought us to the precipice of disaster. This amendment would push us over the edge.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I rise in opposition to this amendment. Both the Kasich-Penny amendment and the Frank-Shays amendment have substantial, and, to me, troubling implications for programs in the jurisdiction of the Committee on Science, Space, and Technology. But my concerns go far beyond narrow disputes over turf or protection of favored programs. These amendments raise fundamental questions about how we do business in this Congress and the direction we want to take this country over the next several years.

Everyone will find things they can agree with or things they don't like in this amendment. And everyone can sympathize with the desire to reduce the deficit by eliminating wasteful or very low priority spending. But no one should be comfortable with a bill that pushes down the ceiling on discretionary programs so far that it becomes impossible to make investments that are every bit as important to our nation's future as deficit reduction. Nor should we be comfortable with a bill that makes sweeping policy changes in a slapdash fashion, totally outside the normal legislative process.

Let me give you some examples:

The Kasich-Penny amendment would combine several Government agencies into a single department of Science, Space, Energy, and Technology. This idea is worthy of consideration; in fact, in order to stimulate debate earlier this year, I cosponsored similar legislation. But I can't imagine that we would want to make such an important decision as part of a hastily drafted, last-minute amendment to a budget bill. When a proposal as complicated as this has no legislative record, one expects unintended and unfortunate consequences.

This proposal is full of such consequences. To choose but one, this provision would create a massive inefficient bureaucracy with 62 individuals reporting directly to the Secretary. This number is not my estimate. It is in the analysis provided to us by the Secretary of Energy, the Secretary of Commerce, and the Administrator of NASA.

The Kasich-Penny amendment would also create a Department of Energy Facilities Closure and Reconfiguration Commission to implement a 25-percent reduction in the overall budget for Department of Energy facilities. We have seen no analysis whatsoever to support the idea that, in a time of immense national need for clean, secure sources of energy, we should cut DOE labs by 25 percent. There are legitimate questions that need to be addressed about the future role of energy facilities and other Federal laboratories. But this is not the vehicle and now is not the time. Our committee will report a bill early next year that will address DOE lab issues through the normal and appropriate legislative process.

Kasich-Penny also proposes a rescission of funds for federally sponsored university research and development, and I believe it is their intention to achieve this through a 50-percent cap on university R&D overhead. I think it is important to point out that the Office of Management and Budget has recently revised its circular A-21, which contains regulations governing indirect cost reimbursement for colleges and universities. This revision followed extensive negotiations—just last year—among universities, Federal funding agencies, OSTP, and OMB to address past problems. This process should be given time to work. If, however, it is the intention of the drafters to cut university R&D directly, they have an obligation to make the substantive policy case that we are currently spending too much on R&D. Most serious analysis suggests that the social rate of return on R&D is quite high and we should be doing more of it.

Kasich-Penny also proposes large cuts in fossil and fusion energy research and development programs and termination of the Clean Coal Program. Most of these cost savings would represent a reversal of the policy decisions we made last year in the Energy Policy Act, which passed the House overwhelmingly.

Finally, I think the Penny-Kasich and Frank-Shays proposals need to be placed in a broader budget context. I am not sure that Members understand how much budget cutting we have already done this year. The spending caps enacted as part of the Omnibus Budget Reconciliation Act of 1993 have already put incredible pressure on discretionary programs. We will need to find tens of billions of dollars over the next 5 years—a real cut of about 12 percent—just to meet these caps. Domestic discretionary spending will fall from 3.7 percent of national income in 193, to 3.4 percent in 1998. This is lower than in any of the last six administrations. Under Kasich-Penny discretionary spending would fall even further from 51 percent of the budget in 1980 to 37 percent in 1998.

What troubles me about continuing such aggressive lowering of the discretionary caps is that it seriously threatens Government investment programs. Deficit reduction is important for encouraging private investment, but most studies show that Government investment in infrastructure, the health, education, and training of workers, and research and development is an important complement to private investment in raising productivity, and, ultimately, our standard of living. Penny-Kasich reductions in discretionary spending caps threaten our ability to make worthwhile public investments, especially in the critical area of R&D. The United States is already spending less than two-thirds of what is major industrial competitors spend on R&D. Kasich-Penny would make that situation even worse; over 20 percent of the Kasich-Penny proposals pertain to R&D issues. This sort of mindless meat-axing is counterproductive to the whole purpose of deficit reduction.

So, I am troubled by Penny-Kasich on both substantive and procedural grounds. I understand the desire of Members to find ways of further reducing the budget deficit. But proposals as important as creating a Department of Science or reversing major energy initiatives that we have just recently enacted deserve full debate through normal legislative processes. Lowering the budget caps still further threatens the very investment programs we need to encourage a strong economy. The normal budget process will afford us plenty of opportunity to revisit the question of deficit reduction as we debate the fiscal year 1995 budget next year.

I urge my colleagues to reject this amendment.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I would ask the gentleman, you do have legislation that accomplishes if not identical very similar objectives in this area, do you not?

Mr. BROWN of California. Similar objectives, but in a different way, yes.

Mr. SABO, Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me just make a couple of points that I think are so important that the Members should be aware of. We can talk about these caps not taking effect, we can talk about going to conference and changing them and we can talk about establishing walls to protect Defense.

I have a letter from the OMB director that says there will be no budget walls next year. I am convinced that we are on the very edge of a hollow force. We have a $750 million shortage in O&M for the U.S. landforces. I was just talking to a young pilot that was in Bosnia flying overflights. They are flying every day. We are wearing the airplanes out, we are wearing out the equipment, and the troops are suffering.

There is no way we can afford to take this Defense cut, and this is a real Defense cut of $23 billion.

There is a saying in the Appropriations Committee that the whistle does not move the train, the money moves it. You can talk, and you can promise, but you cannot make a $23 billion cut in Defense in addition to what we have reduced in the last few years and expect to have a defense that will be prepared in case of a national emergency. We will not be able to move the troops, we will not be able to pull off a Desert Storm. We have under arms less people than we had during Desert Storm. We could not get them to Saudi Arabia in the time that we did. We could not fight a two-front war. We can barely fight a one-front war that would take us 6 or 7 months to get the troops in the theater.

So I am convinced that as good-intentioned as this amendment is, it would be devastating to Defense. And anything Members say about what would happen, what they would like to come out of conference, the facts are that this cap reduction is cutting $23 billion more out of Defense, and it will have a devastating effect.

Section 701, title 7 of the Penny-Kasich amendment codifies into law a reduction of $44.8 billion in budget authority and $42.5 million in outlays in the budget caps for discretionary spending for fiscal years 1994–1998.

Defense spending makes up approximately half of discretionary spending and will have to take at least half of these reductions, if not more.

Thus the actual impact of Penny-Kasich is a reduction in the range of $23 billion in defense spending over the next 5 years.

As many of you know, Secretary Aspin has already stated that the bottoms-up review has concluded there is a $13 billion shortfall in the funding available for defense. There are indications this shortfall is understated.

Thus the actual impact of Penny-Kasich along with known shortfalls is at least a $36 billion shortfall in defense to meet the funding requirements of the 5 year defense plan embodied in the bottoms-up review.

Also, the Department of Defense must absorb or must pay items that were not in the 5 year defense plan: 2.2 percent military pay raise—$1.3 billion each year; civilian locality pay—$676 million in fiscal year 1994; and medical programs—champus—$242 million shortfall in fiscal year 1994.

As I wrote in a recent dear colleague letter:

First, the projected uniformed strength by 1997 of 1,400,000 would be the lowest number of personnel in the Armed Forces in 57 years.

Second, this year's spending level for defense as a percentage of the GNP is projected to be the lowest it has been since before World War II with the exception of fiscal year 1948.

Third, in constant dollars, the procurement account has declined by 64 percent in 9 years.

Fourth, budget outlays for national defense as a percentage of the Federal budget are the lowest since before World War II.

The Penny-Kasich amendment would require the following reductions:

First, approximately another 50,000 civilian reduction on top of the reduction of 115,000 embodied in the bottoms-up review.

Second, discharge of about 100,000 Guard and Reserve personnel.

Third, loss of 125,000 private sector jobs as large cuts are made in procurement and research and development.

Let's not approach important national security issues in the context of a massive piece of legislation such as Penny-Kasich.

Do not vote for another massive cut in defense which has been so severely cut back in recent years. Vote no on Penny-Kasich.

Mr. PENNY. Mr. Chairman, may I inquire as to the time remaining?

The CHAIRMAN pro tempore (Mr. BROWN of California). The gentleman from Minnesota [Mr. PENNY] has 6½ minutes remaining, the gentleman from Ohio [Mr. KASICH] has 4 minutes remaining, and the gentleman from Minnesota [Mr. SABO] has 10 minutes remaining.

Mr. PENNY. Mr. Chairman, who is entitled to close debate on this amendment?

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. PENNY] is entitled to close debate.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, this is an awkward moment for me. Colleagues from Minnesota are managing both sides of the debate. The vote is not easy. We are considering spending cuts that affect my district. We are cutting programs that I support and would like to see expanded.

The Penny-Kasich proposal is not perfect. Yet, we cannot make the best cutting proposal the enemy of a good one.

□ 2030

We need to move dramatically.

I represent a district in economic distress. Yet when I tell my people what is at issue they say, "Make the tough decision. We support you in making the cuts that affect us as long as others are cut as well."

We need to reduce the acid level of partisanship that is at the heart of this institution. We need a bipartisanship approach. We have a start in this proposal. Let us seize it and show the Nation we have the strength to make the tough decisions and move toward ending the insidious deficit that is destroying our future.

Mr. KASICH. Mr. Chairman, may I ask, how many speakers does the gentleman from Minnesota have left?

Mr. SABO. Four.

Mr. KASICH. Mr. Chairman, I ask unanimous consent that both sides be given 10 additional minutes in this debate.

The CHAIRMAN pro tempore (Mr. BROWN of California). The Chair would note that the request is out of order since the time is fixed under the rule.

Mr. SABO. How many speakers does the gentleman have?

Mr. KASICH. Three speakers left with about 4 minutes.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Chairman, here is what it is all about, this little penny here, one penny on the dollar.

Have you ever dropped a penny and walked by it and say it is insignificant? It is significant. We can make a difference. One penny on the dollar, that is all we want to save, and apply it right to deficit reduction and we can make a difference.

Let me speak to my colleagues who are undecided on this. Think about it for a minute, if you are undecided, let us keep this process going. Let us shake this place up a little bit. Let us shake it up a little bit and keep the process moving. Let us push this bill out of here. Let us tell America we are serious about cutting the deficit, we are serious about cutting spending, we are serious about tightening our belts and making tough choices.

Disastrous? Dangerous? Draconian? I think not. Smart? Prudent? Listening? Standing up for what is right? I think so.

Let us send a clear message to our constituents that we are ready to take the tough votes here in the House of Representatives.

The next time you walk past a penny, think about it. We could have saved a penny on a dollar over the next 5 years. Let us pass Penny-Kasich. Let us send it to the Senate. Let us send a clear message to our colleagues over in the other body and to America and to our constituents.

Pass Penny-Kasich.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK. Mr. Chairman, I want to just dispel some myths which I heard here in the House. First of all, there is nothing wrong with bipartisanship. I think it is great when we are trying to do something good. But now you are hiding behind a lot of smoke and mirrors to make people believe that you really believe in deficit reduction.

I want to tell you why there are a lot of people involved in this. They wrote a check which they do not have the money to fill. When they ran for office, they went out and told the American public, "We are going to Congress, we are bashing on it now, so when we get there, we are going to change that sucker. We are going to change it from top to bottom. We are going to turn everything around and make a new Congress."

Let me tell you something, you are not going to be able to do it, because you have got to go through the same door these people did that you see sitting all over here. So deficit reduction, if it is really true and pure, you will come to this Congress, not fool people that you can do this, because all you are doing tonight is writing that check; 80 separate funding proposals.

How in the world are you going to fund it? No scrutiny, no committee action, never been before appropriations, never been anywhere, cutting out all of these rules which you all made. You made these rules.

Now you come back here to me in front of a freshman and say, "We went about this right. We are going to pass this with 80 different funding proposals tonight."

And to think of it that some of you are being taken in by this crap. I do not understand it. You are being taken in by it. You think you are doing something. The people back home say, "Hooray." "Deficit reduction."

What are you going to do about crime? What are you going to do when they break into your home? What are you going to do when they put a gun at your head? You are not going to have anywhere in this Congress to go and get some money to fight it. Do not come to me and say, "I am sick of this crime. I am sick of welfare." Get sick. But you are going to have to heal it. And it is going to take money.

I am saying to you put up or shut up, and all you are doing is taking numbers and squeezing them together and you are not coming out with what the American public wants you to do. But I know all of you, what you promised, but I am not going to help you deliver it, because I am voting against Penny-Kasich, because Penny-Kasich is sick.

Mr. KASICH. I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Wake up. Our country is going bankrupt, and we are talking like it does not matter.

"Burning Money," "Government Racket, Waste from A to Z," "Bankruptcy 1995," these are all books that document the problem. We are talking about what you read in the paper today—a trillion-dollar deficit in our Federal retirement system. We have a national debt that will go up 40 percent in the next 5 years, $1.6 trillion, and you say it is a fraud. It doesn't matter.

Wake up. My God, wake up. This is the one opportunity you have on a bipartisan effort to get our financial house in order. The programs you care about now will not be funded in the future, because we will be bankrupt in the years to come, and it will not matter what we do.

My colleagues, don't let this opportunity slip by you. Please, seize this moment. You have the gentleman from Minnesota [Mr. PENNY]; you have the gentleman from Ohio [Mr. KASICH]; they have worked together on a bipartisan effort with a team of Republicans and Democrats to make logical rational cuts to our budgets. It means something. These are real numbers. Act while we have the chance.

The President and everyone here should nourish the effort, protect it, encourage it, not stamp it out.

Vote for Penny-Kasich and get our financial house in order.

Mr. PENNY. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the Penny-Kasich amendment to H.R. 3400. I participated in the unique bipartisan task force that produced the amendment, hoping that this unconventional group might yield unusual and successful results. However, during the last several days, I have heard from a number of groups, friends, and colleagues urging me to vote "no". I greatly respect those whose views I have heard. My friends have pointed out legitimate and worthy criticisms of this proposal. I cannot easily cast my vote against my friends, especially when I know they are absolutely right; Penny-Kasich is not perfect.

It includes cuts that I do not support. Indeed, it includes cuts to some programs that I strongly support. At the same time, the internal dynamics of the Penny-Kasich group meant that this proposal does not include other cuts that I support and consider necessary and appropriate, such as the elimination of the Advanced Liquid Metal Reactor [ALMR] Program. However, as a direct result of the momentum for making difficult budget choices created by the Penny-Kasich task force, the package Mr. SABO offered earlier today has been strengthened and included much that I can support, including termination of the ALMR Program. Ultimately, Penny-Kasich forced the leadership to bring to the floor a laudable and worthy package, and I was pleased to support Mr. SABO's amendment. Some now say we should be satisfied with that step. I do not agree.

I will vote for the Penny-Kasich amendment because it represents important, honest, and significant deficit reduction legislation. Yes, the discipline it will impose will hurt; it's supposed to hurt. If it doesn't hurt, it's not discipline. Moreover, no one district or group will bear the pain alone. All of us, including Members of Congress, will have to re-evaluate what we are doing. We must try to do more with less, and we also must recognize that we will not be able to do everything with our limited public resources.

I received a letter this weekend from a friend who vigorously supports a program active in Arizona, a good and vital program that receives some Federal funding. Penny-Kasich will reduce funding for that program by 5 percent. My friend recited the good the program does, good that it is claimed it will not be able to do without that 5 percent of its funding. Instead, I wondered, what is happening with the other 95 percent if all the good the whole program does depends only on the last 5 percent?

We must learn that we cannot reduce the deficit by cutting only unnecessary programs and waste. We need to make thoughtful choices among programs that do some good and trim those that do not measure up to the highest standard. Penny-Kasich is a difficult and unpalatable answer, but it is an answer to a vast problem that we cannot resolve with easy, sugar-coated solutions. I urge my colleagues to vote "yes" on this amendment.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentlewoman from the State of Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Chairman, I rise in strong support of the Penny-Kasich amendment which will cut an additional $90 billion from the Federal budget.

Reducing the deficit is never going to be comfortable. How could it be?

We have $4 trillion debt. Spending cuts are not always going to come from somebody else's backyard. How could they? We all ran up this credit-card bill.

What we need to do, our job is to make responsible spending decisions.

This is not a Democrat issue. It is not a Republican issue. It is a 1990's issue. It is about saying what we did in the 1980's on deficit reduction was not good enough.

It is time to stop selling our future to finance the present.

Penny-Kasich is a bipartisan effort that builds on the President's deficit-reduction package. Let us start this new era of fiscal responsibility by passing this measure and start the process now.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I have examined this amendment, and I stopped counting after 15 cuts. I don't know what your districts are like, but if I went back to Detroit and told my constituents that I wanted to cut Medicare by $34.2 billion, and force elderly Alzheimer's patients to pay a 20 percent deductible on their vital home care needs, they would begin to wonder.

In fact, I think they already are wondering. They know that 42 million people don't have a dime's worth of health insurance, and they wonder if we care. They know that this bill will place Head Start, Women Infants and Children, and immunizations programs at risk, and they wonder what sort of mind-altering illness we've managed to catch. They see the obvious need for breast cancer screening, tuberculosis control programs, AIDS services, and community health centers, and they wonder if we have taken leave of our senses.

So many of my constituents ask me, "John, you've co-authored a plan to provide health insurance to everyone, regardless of employment or income. How come Congress won't help us by passing it?" And I explain that President Clinton has introduced a plan to reform health care. The plan is flawed, but it represents a starting point. From this plan we will move toward a single-payer plan that will cover all Americans equally.

But with this amendment, we cannot even take that important first step. By eliminating these funds from the budget, we are eliminating any chance for health care reform. This amendment is a cheap parlor trick designed to make reckless and irresponsible spending slashes look like real deficit reduction.

The gentleman on the other side of the aisle says "Wake up!" That's right—wake up! We don't even know what's in this bill. There have never been hearings to address these proposals. These cuts haven't been taken through the proper process. To make this decision without the benefit of a thorough study of its effects is to invite economic disaster. This amendment will wreck the fragile economic program we have carefully crafted. We have spent hundreds of hours studying the administration's proposals, and already made deep, specific cuts to attain deficit reduction. It would be irresponsible to blindly slash at additional programs such as Head Start and Medicare that are so important to America's poor, elderly, and disenfranchised.

I urge all my colleagues to consider what we are doing here tonight. This is the last night of the session, but we should not make reckless decisions at the 11th hour just to run home and claim that we fulfilled our duties and cut programs. Turn this amendment around and send it back to its authors, and let's continue a thoughtful process of deficit reduction that doesn't throw the baby out with the bathwater.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. I thank the gentleman for yielding and rise in strong support of Penny-Kasich. Mr. Chairman, I flat out do not like parts of the Penny-Kasich amendment. I want to change or cut out several items in the amendment. Unfortunately, that's not possible. We have no choice. We must either take this one chance at real cuts in spending, or leave it. And we simply cannot afford to leave it.

I'm voting for Penny-Kasich because we must cut the budget deficit—now. The President has raised our taxes while refusing to make real spending cuts. All year long, Congress has postured and pretended. Now it's time to stand and deliver. This amendment cuts over $90 billion out of a $1.5 trillion Federal budget. If we're serious about cutting spending and erasing the huge budget deficit that's eating away at our country's future, then we must vote "yes".

The Penny-Kasich amendment is the only alternative we have to politics as usual and the same old tax and spend pattern of Government.

I believe we must have the courage to change. The courage to bite the bullet and make the tough vote for cutting spending. That's why I'm voting "yes" on Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. I thank the gentleman for yielding time to me. Mr. Chairman, I rise in support of Penny-Kasich.

I rise in strong support of the Penny-Kasich amendment to H.R. 3400. Overall, the Penny-Kasich plan is a much better deficit reduction measure than H.R. 3400. Unlike H.R. 3400, Penny-Kasich is real, comprehensive deficit reduction. And, yes, because the deficit reduction is real, some of it is painful.

The Clinton administration's rhetoric about deficit reduction sounds wonderful, with inspiring talk about shared sacrifice and no free lunches, but it flunks the reality test. The deficit is continuing to soar. During his term as President, Mr. Clinton will add more than $1 trillion to the national debt. Only in Washington, DC, is that deficit reduction. The time has come for big steps toward deficit reduction, instead of President Clinton's deficit reduction with a wink.

Mr. Chairman, the American economy is going to be in serious trouble if we do not change course. We have talked for so long about mortgaging the future of our children and grandchildren that no one seems to take it seriously anymore. The problem hasn't gone away because there has been a lot of talk about it. Something must be done, and the Penny-Kasich plan is a courageous start in reducing our Government spending to levels the American people can afford.

I commend Mr. PENNY and Mr. KASICH for their effort to trim spending by $90 billion. They deserve the support of every Member of the House. They do not deserve the chorus of attacks and the parliamentary tricks being directed at them by the opponents of deficit reduction. The American people are going to wonder what is going on in Washington—most of them probably do already.

Mr. Chairman, no legislative proposal is perfect. As ranking minority member of the Veterans' Affairs Committee, I have serious reservations about the veterans' portion of the Penny-Kasich plan. My long experience with the health care system of the Department of Veterans Affairs tells me that the diagnostic related grouping [DRG] prospective payments proposal in Penny-Kasich won't save much money, if any.

The proposal is well-intended, because in theory it would not hurt veterans' health care programs and would only save money by greatly improved efficiency. I want to make it very clear, this proposal is exactly the same veterans' savings as proposed by the Clinton administration in its own 5-year budget. That's right, the Clinton administration proposed the same direct savings. The administration did not mention this fact in its very carefully contrived statement in opposition, which assumed indirect effects on veterans.

The prospective payment proposal originally came from the Congressional Budget Office and was adopted by the administration. The proposal is among the options discussed in "Reducing the Deficit: Spending and Revenue Options"—Congressional Budget Office, February 1993—and is entitled "Promote More Efficient Management and Delivery of Health Care for Veterans."

CBO estimates $2.25 billion in savings, whereas Penny-Kasich uses a much more conservative target of $1 billion. Also, Penny-Kasich sets the $1 billion only as a goal for outlay savings. Therefore, VA funding would not be reduced by any greater amount than the actual savings achieved. Penny-Kasich would not authorize the administration to arbitrarily reduce the VA budget by $1 billion.

The reason the prospective payment proposal would be unlikely to save anything is that the VA has already tried such a system. It proved to be a failure and was scrapped in 1991. DRG prospective payments are geared to acute care patients, not chronically disabled patients in need of long-term care. Much of the VA health care system does not deliver acute care because its veteran patients are older and sicker than the general population. Also, about one-third of the VA's hospital beds are for psychiatric care, which does not fit the acute care model either.

But even if a workable prospective payment system could be invented for the VA, the VA would be unable to determine how much it would be saving, because the VA has no accounting system which is remotely capable of accurately measuring its financial performance on an individual patient basis. So the VA would not only have to invent a new DRG system to replace its failed one, it would have to successfully fund, develop, and implement a totally new accounting system for its hospitals and clinics. These contingencies make significant savings unlikely.

Mr. Chairman, deficit reduction is truly about hard choices. In addition to my reservations about the veterans provision, I don't want the Penny-Kasich means test on Medicare. Though wealthier retirees may be capable of paying more for their Medicare coverage, the point is that means testing sets a dangerous precedent which erodes the underlying earned nature of Medicare and ultimately Social Security coverage.

I know that other Members also face similar dilemmas. There are no doubt things in Penny-Kasich which each of us finds difficult to support. Yet, in my opinion, we have an obligation to consider this plan in its entirety.

Mr. Chairman, I intend to work with veterans' organizations to convince the other body and conferees that DRG's simply will not work in the VA, regardless of CBO's estimated savings. However, even without the prospective payments provision, nothing else has been proposed which comes close to this plan for real deficit reduction. Unlike the other plans we debate today, Penny-Kasich would apply 100 percent of its savings to deficit reduction. The Sabo and Frank-Shays amendments allow Congress to take money cut from one program and spend it on another, meaning they will not reduce the debt. We have a chance today to finally do what each of us knows must be done—reduce spending. I urge my colleagues to summon up their courage and support Penny-Kasich.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. I thank the gentleman for yielding, and I rise in strong support of Penny/Kasich.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. SANTORUM.]

Mr. SANTORUM. I thank the gentleman for yielding to me. Mr. Chairman, every generation of Americans is here for one reason, to leave the next generation better off than this one.

Everyone in this body wants that as a motivation. Ladies and gentlemen, the next generation of Americans, the 13th generation of Americans, will be the first generation since the Civil War that will be poorer and have less opportunity than their parents. They will be the first generation in the history of America to have less opportunity and to be poorer than their grandparents.

Look in the faces of your children and vote for Penny/Kasich.

[From USA Today, Oct. 13, 1993]

HEALTH PLAN A GENERATIONAL PAIN

(By William Strauss and Neil Howe)

"If you're a young single person in your 20s and you're already insured, your rates may go up somewhat," confessed the president when announcing his health-care plan. Go up somewhat? Does Bill Clinton think Michael Jordan jumps somewhat?

If you were born in the 1960s, you belong to the 13th generation in U.S. history, dating back to the Revolution. Like most your age, you're probably tired of the big talk and want to know the bottom line: What does "go up somewhat" mean?

It means that, if the Clinton plan is enacted, you'll have to pay *twice* as much in insurance premiums as you would today for the same benefits.

If you're a 30-year-old single person, Clinton says his plan will cost you $1,800 per year—a figure many experts consider too low. By contrast, a comparable plan currently costs a single 30-year old male $900 (a single female slightly more).

Net loss? At least $900 per year. If you're self-employed or unemployed, this will come out of your wallet. If you work for somebody else, it will sooner or later come out of your paycheck—unless your boss likes giving money away.

So where will your extra $900 go? Mainly, it will reduce the health insurance costs of people now between the ages of 50 and 65—members of the "silent generation" that came of age from the late 1940s through the early 1960s.

Are they needy? A few yes, most no. The "silent generation" is the richest in U.S. history. Yours is the first generation since the Civil War to grow up poorer than its parents and the only one to grow up poorer than its grandparents.

Clinton says you'll have to pay more because "you're going to go in a big pool with middle-aged people and older people." This is called "community rating," which means that everybody will pay exactly the same premium.

To date, our only experience with community rating has been in New York, which last April enforced it on most commercial insurers. The price of health insurance more than doubled for young adults and fell by half for 60-year olds. A lot of 20-something New Yorkers are now choosing to go bare rather than buy policies whose benefits are worth only 40 cents on the premium dollar.

According to the administration, community rating protects people who are poor health risks. Fair enough: Most Americans don't mind paying slightly higher premiums to hold harmless the chronically ill. But no one can justify a massive categorical transfer (at least $50 billion annually) from young adults to their parents' generation—nor explain why premiums should not be allowed to reflect *average* health costs by age group.

And that's not the only young-to-old ripoff. The Clinton plan will also pay 80% of the cost of its community-rated premium for anybody ages 55–64 who loses a job or retires early. This benefit is not means-tested, which means that if Woody Allen stops making movies or some CEO golden parachutes out of a seven-figure salary, he'll get all taxpayers (including you) to pay 80% of a health bill that has already been cut in half! A silent generation early retiree thus would enjoy a 90% reduction in health costs—whereas a 13er, even if unemployed, would face a 100% increase.

Further, there's a new Medicare drug benefit plus a new long-term care benefit—which by the end of the decade will shunt at least $50 billion more to seniors at all income levels. If this new cost is covered by new revenue, 13er taxpayers will bear a large share of the burden. If it pushes up the deficit, they will bear an even larger share in the form of lifetime interest charges on the national debt.

In his speech, Clinton said, "I think (my plan's) fair because when the young get older, they'll benefit from it." There is, of course, another possibility. By tipping our fiscal balance sheet even further out of kilter, the plan could worsen the eventual crash of America's creaking edifice of intergenerational promises. The result would torch 13ers at both ends of their life cycle.

Over the past 20 years, the median income of single 25- to 34-year-old men has fallen by one-quarter. Meanwhile the 13th generation has come of age with darkening expectations. A new Roper poll shows, that, among 18- to 29-year-olds of both sexes, the share who think they have a "very good" chance of achieving "the good life" has fallen from 41% in 1978 to 21% today. There's little young-adult wealth left to squeeze—but the first boomer president wants to try.

Subsidizing affluent elders and mortgaging the future of the young has been a political fact of life ever since the generation of World War II heroes began entering old age. Now, Clinton proposes more of the same to benefit an even richer generation on the verge of retirement. Will he get away with it? Will U.S. politicians ever gain the courage to stand up to the senior lobbies and say: "No you're not entitled"?

Thirteeners, get real: Neither political party cares about leaving much behind in the national piggy bank by the time you reach the age of leadership. That's because so many of you don't organize, don't vote and don't seem to care about big issues. Come 1996, you'll become the biggest generational voting bloc in America. It's up to you to act.

Mr. PENNY. I yield 1 minute to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. I thank the gentleman for yielding. Mr. Chairman, it is always, on any issue, that the supporters and opponents are united in their vote but not always on the reasons for casting that vote.

I do not agree with everything that has been said on behalf of Penny/Kasich today, particularly with some of the views, frankly, of my Republican colleagues. But my biggest concern is with the arguments from my Democratic friends. My friends, I stood with you in August in the face of intense political pressure and took a first dramatic step with you toward deficit reduction. I stood with you even when we asked many of my constituents to pay more for a debt that I did not help create. I stood with you then, and if I thought for a minute that a single child would go hungry or one senior citizen would be impoverished if we pass this amendment, I would be against it. But that is not true, and you know it. You know that is not true. The only people hurt by this amendment are the bureaucrats who claim to work on behalf of the elderly and the children.

My friends, the argument tonight is over who speaks for the future. The answer is: the proponents of Penny/Kasich. Every dollar's debt that we accumulate will be paid by our children. Every dollar we pay in interest on the debt is in place of a dollar that we could spend on education, child care, health care. It is simple.

Support Penny/Kasich.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. I thank the gentleman for yielding.

I support Penny/Kasich.

Mr. KASICH. I yield myself the balance of my time.

Mr. Chairman, I want first of all to thank my Democratic colleagues because I understand the pressures they are under. Because for three separate budgets I fought my President because I did not think he was doing enough. I want to pay tribute to all of you.

You see, this is not the end of this coalition, this is just the beginning; regardless of how this vote comes out, we are coming back again and we are coming back as Republicans and Democrats who want to make a difference.

And then I want to thank my Republication colleagues who have had to put up with me all year long. You know what, ladies and gentlemen, this is just one small downpayment on our national debt, just one small downpayment on our national debt, but one very giant step for this institution. This whole process has been one very giant step for this institution. For the people who are in their offices waiting to come to the floor to vote, you can join the team that represents change, you can join the team that says to the committee chairmen who want to go through the procedures and the process and who are satisfied, "Not any more." We want change, we want real change, we want Republicans and Democrats delivering it together for the best interests of this country.

You can join our team and when you leave your office and you take that subway ride or you leave that office and you do that walk, you think about what makes you feel good about what we need to do to save this country, this one little sliver out of all this torrent of spending represents one small downpayment but one giant step for what the American people have been demanding of Republicans and Democrats alike.

Please support Penny/Kasich; America needs you.

THE COMMON CENTS DEFICIT REDUCTION ACT OF 1993

(An Amendment to H.R. 3400)

SUMMARY AND EXPLANATION OF PROVISIONS

November 22, 1993

(By Representatives Timothy J. Penny and John R. Kasich)

Section 101: Sense of Congress on Increased Burdensharing by Allies of the United States.

This provision is a Sense of Congress that U.S. allies should, by 1998, pay at least 50 percent of the costs of such items as labor, utilities, military construction, and environmental restoration for U.S. troops stationed in their countries.

Section 102: Streamlining and Reorganization of Corps of Engineers.

This recommendation is included in the National Performance Review. Specifically, NPR recommends implementing a 1992 reorganization proposal that would reduce the number of division offices from 11 to six and would allow the Corps to work with the Secretary of the Army to make maximum use of Corps' engineering and technical capabilities.

Section 103: Rescission of Certain Defense Add-ons.

This provision rescinds $147 million in funds added by the Senate, including $30 million in Navy spare parts and repair, $12 million for Navy weapons range support equipment, $15 million for hardware and software, $15 million for military construction, $10 million for Tactical Trailers/Dolly Sets, and $50 million for advance procurement of LHD-7.

All tables at end of article.

Section 104: Rescission of Funds for MK-19 Grenade Launcher Program.

This appropriation provides for the procurement of weapons mounted on track combat vehicles for the Army. The MK-19 Automatic Grenade Launcher is used in offensive and defensive operations against personnel and light-armored vehicles. It is used in main battle areas by infantry units and combat support and combat service support units to conduct rear area security. The MK-19 is mounted on M151 ¼-ton trucks, M113 Armored Personnel Carriers and High Mobility Multi-Purpose Wheeled Vehicles (HMMWV).

Section 105: Termination of C-26 Aircraft Program.

This provision directs the Secretary of Defense to cancel the C-26 program. This appropriation provides for the procurement and modernization of cargo aircraft and equipment for the National Guard and the Reserves. President Bush proposed rescinding funds for this program. The rescission justification stated "the current inventory of C-26, C-9, C-12F, and C-130 aircraft is expected to meet Coast Guard airlift requirements of the reduced force structure." It also stated that the "Coast Guard's ability to accomplish its mission successfully would not be affected by this rescission proposal." The Clinton Administration has requested no funds for this program for FY 1994, and neither has the House or the Senate. This provision would rescind any funds subsequently restored.

Section 106: Termination of Mobile Inshore Undersea Warfare Vans Program.

This appropriation provides for the procurement and modernization of equipment for the National Guard and the Reserves. The van is a mobile underwater sonar and radar surveillance center. The entire force was transitioned to the Naval Reserve in 1977.

President Bush originally proposed rescinding funds for this program. The rescission justification stated "the current configuration of MIUW Vans meets the needs of the counter-narcotics mission. The thermal/visual systems and AN/ALR -60 ESM system upgrades are not required." It also stated that the ability of the "National Guard and the Reserves to accomplish their missions successfully would not be affected by this rescission proposal."

No funds were requested for this program for FY 1994 by the Clinton Administration. The House of Representatives, however, appropriated $21 million; no funds were appropriated by the Senate. This provision would rescind any funds that might ultimately be provided for FY 1994.

Section 107: Rescission of Certain Defense Operation and Maintenance Funds.

This provision rescinds the following defense operation and management (O&M) funds:

From Army O&M, $88.02 million from general reduction DBOF and $15.18 million from inventories.

From Navy O&M, $109.27 million from general reduction DBOF and $27.555 million from inventories.

From Air Force O&M, $94.14 million from general reduction DBOF and $12.265 million from inventories.

Section 108: Reduction of Public Law 480 Food for Peace Program.

In 1954 Congress instituted the Food for Peace Program—better known as P.L. 480. On the East coast, the program was justified as a humanitarian gesture; in the midwest, its workings were more honestly discussed in terms of agricultural "overproduction."

Recently, the General Accounting Office, commenting on Title II and III stated: "AID (the Agency for International Development) has no strategy for assessing the impact of its programs on enhancing the food security of people in recipient countries, nor has it determined whether food aid is an efficient means for accomplishing this goal."

Despite these drawbacks, P.L. 480 has its supporters, who argue that the programs are a flexible, fast means of providing assistance to friendly countries. They note that the programs reduce the likelihood that surplus commodities will depress prices within the United States. Nevertheless, this funding reduction would provide a strong incentive for program managers to improve the efficiency and effectiveness of the program.

Section 109: Rescission of Funds for World Bank.

The report accompanying the Senate Foreign Operations, Export Financing, and Related Programs Appropriations Bill contains the following critique of the World Bank:

"An internal review of the World Bank's loan portfolio concluded that the number of projects judged unsatisfactory at completion increased from 15 percent in fiscal 1981 to 37.5 percent in fiscal 1991. It also determined that borrowers' compliance with loan conditions, particularly financial conditions, was only 25 percent. It found that the role of Bank staff has evolved from independent evaluators of country-proposed projects to advocates of projects to move money and gain promotions, with a resulting decline in project quality.

"In its report 2 years ago, the Committee expressed concern about the overly generous salaries and benefits to World Bank employees. Since then, little has changed. In part, the substantial reduction in the Committee's recommendation for a U.S. contribution to the World Bank in fiscal 1994 is meant as a warning to the Bank that austerity dictated by the need to reduce the U.S. Federal deficit must apply to the Bank as well as to other recipients of U.S. foreign assistance.

"The Committee is also disturbed by a report that the Bank underestimated the cost of its new headquarters building by over $100,000,000, and that the cost has risen from a planned $180,000,000 to an estimated $290,000,000."

The Senate recommended an appropriation of $27.9 million for paid-in-capital and a limitation on callable capital of $902.4 million for the World Bank. The Administration recommended an appropriation of $70.1 million for paid-in-capital and a limitation on callable capital of $2.27 billion; the House recommended an appropriation of $55.8 million for paid-in-capital and a limitation on callable capital of $1.8 billion.

Section 110: Reduction of Funding for International Development Association.

The IDA is the soft loan window of the World Bank. The Senate recommended an appropriation of $957.1 million for IDA. The Administration requested $1.25 billion and the House recommended $1.02 billion. According to the report that accompanied the Senate version of the Foreign Operation, Export Financing, and Related Programs Appropriations Bill:

"[T]he Committee made clear it could not support an increase in the U.S. contribution under IDA-10. Nevertheless, the administration agreed to an increase of nearly $225,000,000 in the U.S. annual commitment.

"[G]iven the intense budgetary pressures on the foreign aid programs, concerns raised by the IDA's performance in the areas of the environment, population and poverty alleviation, the World Bank's inadequate policy on information disclosure and its failure to establish a public appeals panel, the Committee cannot support the requested increase."

This provision would rescind $67 million by accepting the Senate's funding recommendation for FY 1994.

Section 111: Rescission of Funds for Foreign Military Financing.

Foreign Military Financing (FMF) consists of both loan subsidies and grants. Both the House and the Senate recommended an appropriation of $46.5 million for loan subsidies. The FY 1993 level is $120.2 million. The House recommended an appropriation of $3.175 billion for FMF grants. The Senate recommended an appropriation of $3.124 billion. The Conference Report contains $3.149 billion. The FY 1993 figure is $3.3 billion. Both the House and Senate Appropriations Committees recommended not less than $1.8 billion and $1.3 billion in grants for Israel and Egypt respectively.

Section 112: Rescission of Funds for Agency for International Development, Department of State, and United States Information Agency.

The Senate recommended an appropriation of $957.1 million for IDA, the soft loan window of the World Bank. The administration requested $1.25 billion and the House recommended $1.024 billion. According to the Report that accompanied the Senate version of the Foreign Operations, Export Financing, and Related Programs Appropriations Bill:

"[T]he Committee made clear it could not support an increase in the U.S. contribution under IDA-10. Nevertheless, the administration agreed to an increase of nearly $225,000,000 in the U.S. annual commitment."

"[G]iven the intense budgetary pressures on the foreign aid program, concerns raised by the IDA's performance in the areas of the environment, population and poverty alleviation, the World Bank's inadequate policy on information disclosure and its failure to establish a public appeals panel, the Committee cannot support the requested increase."

Section 201: Termination of Spacelifter Program.

The Spacelifter is the next generation of launch systems to replace the current aging and unmanned launch capabilities (i.e. Space Shuttle and ELVs). Development for the Spacelifter launch system is estimated to cost DOD and NASA between $5 billion and $6 billion over the next 10 years. This recommendation includes the government's spinning this industry off into the private sector and commercializing the launch industry. Alternative commercial services will provide for future space missions.

Section 202: Department of Science, Space, Energy, and Technology.

This provision calls for consolidating the Departments of Commerce, Energy and Environment, NASA, NSF, OSTP and EDA (in Commerce) into a single Department of Science. This proposal could result in $1 billion of reduced spending due to administrative consolidation and elimination of programmatic duplication. Cross-cutting research efforts (i.e., materials, information systems, biotechnology, etc.) would be singularly directed more efficiently, avoiding duplicative research and development. National labs would be focused and unjustified capacity would be sold off or closed.

Section 203: Elimination of Funding for MagLev Prototype Development Program.

Section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 establishes a national magnetic levitation prototype program. But the Office of Technology Assessment has stated: "We do not believe that the technology is ready to jump to the full-scale operating demonstration that has been proposed in the Surface Transportation Act . . . We can't get to operational testing using a U.S. technology at an acceptable level or risk starting today. The technology is just not ready yet." Critics of the MagLev program also contend that the program could lead to even greater operating subsidies than the current Amtrak subsidy ($908 million in FY 1994).

Section 204: Rescission of Funds for Federally Sponsored University Research and Development.

Overhead costs allocated to federal research include research related administrative overhead, library and student services, building and equipment used in common and operations and maintenance. In 1990, 46 cents in indirect or overhead costs were paid for each dollar spent on direct research costs. The overhead payments for federally sponsored university research have increased faster than direct costs of research, which have themselves increased faster than the general rate of inflation in the economy. Under current policy, HHS projects that overhead costs will rise as a percentage of direct costs—further reducing the number of grants federal agencies can make.

This proposal involves imposing a 50 percent cap on the payment rate for overhead costs. Because only a few institutions contend for a large share of federal spending for university R&D, it may not be reasonable to assume that competition is enough to hold down overhead costs.

Section 205: Recoupment of Certain Grants.

The authorization is already in place in PL 102-486, the Energy Policy Act, for the Department of Energy to recoup coal research and development costs incurred by the government for technology used for profit in private industry.

Additionally, the House passed this requirement for the Advanced Technology Program in HR 820, the National Competitiveness Act.

Section 206: Coverage of Federally Funded Research and Development Centers Under the Competition in Contracting Act.

Federally Funded Research and Development Centers (FFRDCs) were first established during World War II to meet specific defense research and development needs that were not readily available in the private sector. Since their establishment, the U.S. has witnessed a tremendous growth in private sector firms that offer sophisticated R&D capabilities which often exceed or match government sponsored FFRDCs. Between 1985 and 1991, when total funding for DOD research and development declined 8 percent in constant dollars, support for DOD's FFRDCs increased over 22 percent. FFRDC professional staff also jumped 30 percent during this time.

Some contend that the FFRDC funding growth can be attributed, in part, to the FFRDCs exemption from the 1984 Competition In Contracting Act (CICA). Congress passed CICA to enhance competition and reduce unnecessary sole-source contracting. Since the passage of CICA, the military services' contracting officials have been placing more sole source contracts with FFRDCs in order to bypass CICA and other procurement regulations.

Section 208: Department of Energy Facilities Closure and Reconfiguration Commission.

This provision calls for the formation of an independent commission, patterned on the Base Closure Commission, to determine the most effective organization of the national defense and energy research labs.

Section 209: Rescission of Funds for Fusion Energy Research and Development.

Commercial markets for fusion energy R&D may be years away, and large-scale demonstration projects may be premature. Proponents argue that energy markets are not perfect and thus federal intervention is justified. They argue that progress is being made, yet in some cases, technology is being pursued before the scientific phenomenon is completely understood. In other instances, the research is being conducted at expensive national laboratories. As such, this proposal reduces magnetic fusion R&D to 50 percent of its CBO baseline levels over the next five years.

Section 210: Rescission of Funds for Fossil Energy Research and Development.

DOE's track record for developing new technologies is poor. It has done little to boost synthetic fuels, solar energy, or conservation, or to improve existing technologies. In such cases as synthetic fuels, DOE programs and grants have directed private firms to pursue costly research in unproductive areas. Given this lack of success, DOE could cut back on programs for near-term development of energy technologies. In the area of fossil fuels, commercial firms already spend considerable funds to develop new technologies. The major new technologies for enhanced oil recovery, for example have come from private industry, not DOE. Proponents argue that energy markets are not perfect and hence federal intervention is justified. The utilities area, for example, contains federal and state regulations which distort incentives.

This proposal would reduce funding for fossil fuel R&D to 25 percent of its baseline level. The reductions would be phased in over the 1994–1998 period.

Section 211: Alaska Power Administration Sale.

The APA was originally created to encourage economic development in Alaska by making low-cost hydro- power available to industry and residential customers. The project can now be turned over to local ownership. Unlike other federally owned power marketing administrations, the APA is located in a single state and its sale is supported by Alaska's congressional delegation, DOE, and OMB.

Section 212: Federal-Private Co-generation of Electricity.

Currently, only DOD has this authority. All federal agencies should be allowed to install co-generation at sites where it is cost-effective.

Section 213: Termination of Clean Coal Technology Program.

The clean coal technology program (CCTP) was created in 1984 to assist private industry in developing commercial technologies that would use coal in environmentally sensitive ways. An initial goal of the CCTP was to reduce acid raid by supporting technologies that can lower the emissions of sulfur dioxide and nitrogen oxides that result from coal combustion. Another goal of the program has been to promote the use of coal to bolster the economies of coal-producing regions.

In the past, supporters of the CCTP viewed it as an alternative to legislation controlling acid rain. With the passage of the Clean Air Act Amendments of 1990, federal support for new clean coal technologies may no longer be necessary. This proposal would complete projects for which there are already bid solicitations, but rescinded the funds for future proposals.

Section 214: Rescission of Funds from SPR Petroleum Account.

The strategic petroleum reserve was authorized in 1975 to reduce the vulnerability of the United States to interruptions in oil supplies. It currently contains over 570 million barrels of oil.

According to the President, "the U.S. today obtains less than one-quarter of its oil from OPEC countries, and the rate at which we continue to fill the reserve can be slowed." He has proposed reducing the fill rate from 20,000 barrels of oil per day to 13,000 barrels per day. Under this proposal, a five-year moratorium would be placed on new oil for the Strategic Petroleum Reserve.

Section 215: Study of Termination of Helium Subsidy.

This proposal calls for the closing of the National Helium Reserve and selling the Reserve to a joint venture that comprises current employees and other private investors.

Section 216: Rescission of Funds for Low Priority Water Projects.

The Clinton Administration recommended reducing or stretching out construction funding for "low priority water projects." *A Vision of Change For America* states: "Funding for these projects is not [a] high priority because the projects are either: (1) not economically justified, (2) not a Federal responsibility, (3) exempted from standard non-Federal cost sharing, or (4) environmentally unacceptable."

Section 217: Preference for Interim Measures in Superfund Response Actions.

One method of reducing the huge costs of hazardous waste clean-up is to change the mix of methods used to protect health and the environment at Superfund sites. The present statutory preference for permanent technologies could be dropped in favor of an emphasis on institutional controls (such as deed and access restrictions, monitoring, and provision of alternative water supplies) and containment methods (including caps, slurry walls, and surface water diversion). A University of Tennessee study estimated that a judicious shift toward these interim measures could reduce remediation costs by 40 percent, without sacrificing health or environmental protection.

Proponents of this proposal argue that it is wasteful to spend more on Superfund clean-ups than is necessary to protect health and the environment, and that use of more permanent remedies (such as incineration, bioremediation, and vitrification) can be deferred until land-use needs are clearer and treatment technologies are more developed.

Section 218: Reservation of Funds for Disaster Relief.

Each agency would be required to set aside 1 percent of its budget allocation toward a disaster relief fund, thereby reducing the need for deficit-increasing emergency expenditures when emergencies actually occur.

Section 219: Elimination of Weather Office Closure Certification Procedures.

This proposal calls for a policy shift to rationalize the closing procedures for antiquated weather offices which are being replaced by fewer, more automated offices. The overly-protective, political regulations regarding weather office closure procedures requires the Secretary to legally guarantee the performance of the replacement weather office technology before the old, antiquated office system can be closed. This results in duplicative systems, with multiple offices serving the same area for up to two years despite the technical performance of the new system.

Section 220: Rescission for NOAA Research Fleet.

NOAA owns and operates a fleet of sea vessels for scientific research and other duties. These vessels carry out scientific experiments and maintain buoys and navigational beacons. GAO has recommended that the fleet be phased out and privatized over a five year period.

GAO has criticized the government-operated fleet for being too expensive to maintain and operate. Says GAO: ". . . NOAA vessels' daily costs range from $100 to $22,000, compared to $465 to $4,955 for private-sector ships . . ." NOAA should purchase services from the private sector. This would be more cost effective while increasing the competitive forces in the private sector.

Section 221: Rescission of Funds for NOAA Add-ons.

The Commerce-State-Justice Appropriations Subcommittee has funded specific member NOAA projects that tend to benefit only a small, specific group within a local geographic area. These earmarks are not requested by the President and in most cases are not authorized, and include funding for various projects totaling approximately $145 million in budget authority for FY 1994.

Section 222: Study Concerning Merger of Bureau of Reclamation and United States Army Corps of Engineers.

This proposal would merge the water resource management responsibilities of the Bureau of Land Management and the Corps of Engineers, thereby streamlining government, and reducing administrative overhead. This proposal is based on the principle that administrative reorganization should place similar functions in the same agency.

Section 223: Rescission of Funds for Agricultural Buildings and Facilities Account.

The Administration requested zero funding for this account, which was established for USDA acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities. Nevertheless, House Appropriators have earmarked $38 million, and Senate Appropriators have earmarked $57 million.

Section 224: Repeal of Authorizations for the Airway Science Program, Collegiate Training Initiative, and Air Carrier Maintenance technician Training Facility Grant Program.

Success has rendered these subsidies obsolete. Many schools now offer high quality aviation training programs without support from the FAA.

Section 225: Repeal of National Recreational Trails Program.

This program, while authorized in ISTEA, is not germane to the statutory roll of the FHWA. No funding has been appropriated for the recreational trails fund. But there is pressure to provide funding this year.

Section 226: Rescission of Funds for EDA.

The EDA (Economic Development Administration) provides grants to state and local governments for public works, technical assistance, and job programs as well as loan guarantees to firms for business development. One criticism of EDA programs is that federal assistance should not be provided for activities whose benefits are primarily local and, therefore, whose responsibility should be that of state and local governments. In addition, EDA programs have been criticized for substituting federal credit for private credit and for facilitating the relocation of business from one distressed area to another through competition among communities for federal funds. The EDA has also been criticized for its broad eligibility criteria, which allow areas containing 80 percent of the U.S. population to compete for benefits, and for providing aid with little proved effect compared with other programs with similar goals. This level of funding reduction should provide program managers with an incentive to improve the efficiency and effectiveness of their programs.

Section 227: Elimination of Funding for Public Telecommunications Facilities.

Approximately $0.5 billion dollars has been spent to date on Commerce Department grants to bring public radio and television to remote areas. More than 95 percent of Americans now receive public broadcasting, which fulfills the goal of this program created in the early 1960s. The program is now being used as an operating subsidy to upgrade existing station facilities and equipment, not the original mission.

Section 228: Moratorium on Construction and Acquisition of New Federal Buildings.

The National Performance Review report on Reinventing Government stated, "Over the next 5 years, the Federal Government is slated to spend more than $800 million a year acquiring new federal office space and courthouses. Under current conditions, however, those acquisitions don't make sense." The review recommended that the GSA administrator place a hold on GSA's acquisitions and begin aggressive negotiations for existing and new leases to further reduce costs.

Section 301: Government Information Dissemination and Printing Improvement.

This provision, also contained in H.R. 3400 as reported by the Committee on House Administration, would transfer all of the Government Printing Office to the executive branch except that portion needed for legislative branch printing and the Superintendent of Documents function, which would be transferred to the Library of Congress.

Section 302: Sense of Congress Regarding Reorganization of Bureau of Indian Affairs.

This Sense of Congress language encourages reorganizing the BIA so that its 12 area offices are reduced to five regional service centers and two special service offices. The reorganization is to be coordinated with the Task Force on Bureau of Indian Affairs reorganization as provided in the Department of Interior and Related Agencies appropriations bill.

Section 303: Rescission of Funds for Printing and Reproduction and for Supplies and Materials.

This provision reduces Cabinet agencies' funds (except those of the Department of Defense) for printing, reproduction, supplies, and materials for FY 1994.

Section 304: Streamlining of Department of Housing and Urban Development.

According to the Vice President's National Performance Review, the Department of Housing and Urban Development (HUD) has developed a strategy to close offices without cutting customer services. Roughly 10,000 of HUD's 13,500 employees work in field offices, but their workloads vary: the New York regional office monitors 238,000 federal public housing units, the Senate office only 30,000 units. Management restructuring will streamline HUD's field operations. Under a five-year plan, HUD will streamline the Washington headquarters, eliminate all regional offices, pare down its 80-field office system, and cut its field staff by 1,500 people.

Section 305: Termination of Interstate Commerce Commission.

Since about 1980, most of the Interstate Commerce Commission's duties have been eliminated, and even a current ICC Commissioner concedes the agency's duties are duplicative. The 106-year-old agency, with only 640 employees and $45-million-a-year budget, could be completely folded into the DOT. An appropriations amendment to that effect was narrowly defeated in the House this year.

Section 306: Rescission of Funds from Tennessee Valley Authority Fund.

The annual appropriation for the TVA provides federal support for the TVA's stewardship of its lands, facilities, and natural resources, and provides recreational programs, promotes public use of its land and water resources and operates the National Fertilizer and Environmental Research Center. Many of these activities are beyond the scope of the TVA. These activities could be underwritten by state or local governments, or by fee-for-service. Most activities of the National Fertilizer Research Center benefit the private sector and could be supported by private funds.

Section 307: Rescission of Funds for Appalachian Regional Commission.

The ARC has spent almost $6 billion and built roughly 2,500 miles of new roads, yet high poverty rates still persist in Appalachia. Some programs supported by the ARC duplicate activities funded by other federal agencies, such as the Department of Transportation and the Department of Housing and Urban Development. Also, although the ARC allocates resources to poor rural communities, those areas are no worse off than many others outside the Appalachian region.

Section 308: Improvements to Management of Veterans' Hospitals.

This provision involves employing a Prospective Payment System (PPS) at VA hospitals similar to that now employed in Medicare. Under such a system, each patient would be classified in a Diagnosis—Related Group (DRG) that would entitle the hospital to a fixed payment designed to reflect the average cost of efficient care for such a patient.

The VA spends about $16 billion a year on medical care. The Congressional Budget Office has projected potential outlay savings from this strategy at $2.225 billion over five years, compared with the Administration's more modest $1 billion reduction. But it may be prudent to accept the more cautious savings projection. It may be noted that prospective payment systems are complex, as is the problem of defining patient categories, especially regarding psychiatric care, which is prevalent in veterans hospitals.

Section 309: Rescission of Funds for Legal Services Corporation.

The Legal Services Corporation is an independent, non-profit organization created to furnish free legal aid to the poor in civil matters. LSC lawyers have been accused of focusing on social causes, and the Reagan Administration repeatedly tried and failed to abolish the LSC. The agency has an annual federal budget of about $350 million. In addition to federal money, LSC is funded through private sources and interest on certain escrow accounts. LSC received $357 million in FY 1993, though the Administration recommended $432 million and LSC requested $525 million.

Section 310: Termination of State Justice Institute.

The State Justice Institute aims to improve the efficiency of state courts by funding research and demonstration projects and distributing information about effective ways to administer justice. But the Institute appears to have no clear federal purpose."

Section 311: Improvements of U.S. Marshals Service.

This provision eliminates the political appointment process for U.S. marshals and promotes the professionally trained deputy marshals to the U.S. marshal positions. Thus, the number of employees in the Marshals Service is reduced by 70.

Section 312: Rescission of Funds for BATF.

The House adopted by a vote of 353–62 an amendment to the Treasury-Postal appropriation to reduce BATF funding by $2.1 million, equal to the Administration request. The President's budget included $364 million for BATF, but the House Appropriations Committee recommended $366 million. This provision would reduce BATF staff by 60 positions (41 from Law Enforcement and 19 from Compliance).

Section 313: Rescission of Funds for Construction of New Federal Offices and Courthouses.

This provision rescinds $675 million in FY 1994 funds for construction of federal office buildings and courthouses.

Section 314: Limitation on Office Equipment and Furnishings Purchases by Members of House of Representatives.

This provision repeals the first section of Public Law 93–462 to limit departing Members' purchases of office equipment and office furnishings from their district offices.

Section 315: Rescission of Funds for Executive Office of the President.

The Executive Office of the President includes OMB, USTR, the Council of Economic Advisers, the Economic Policy Council, and various other offices. This provision reduces funds for these offices by 5 percent.

Section 316: Rescission of Funds for Legislative Branch.

This provision reduces House of Representative Funds other than the franking account by 7.5 percent in FY 1994. From FY 1974 to FY 1993 the Legislative Branch Appropriation increased by 303 percent while the CPI increased 193 percent. For FY 1994, the Legislative Branch appropriation is 1.4 percent below FY 1993, but in the House most of this savings was from the abolishment of the Select Committees and in the Senate the decrease was a departure from increases in their funding in 1993.

Section 317: Rescission of Funds for House Franking.

This provision reduces the House of Representatives' franking account by 20 percent.

Section 318: Provisions Relating to Annual Pay Adjustments for Members of Congress.

This provision freezes FY 1994 salaries for Members of Congress at the 1993 level and permanently ties future COLAs for Members to no more than the COLAs provided to all other Federal Government employees. The effect would be to freeze Members at the current level of $133,600 for FY 1994.

Section 319: SES Annual Leave Accumulation.

Most federal employees may accumulate and hold unused up to 240 hours (30 days) of vacation leave. But the 8,000 people in the Senior Executive Service may accumulate unlimited leave. This provision would equate SES with other federal employees by limiting them to 30 days of unused leave that can be carried over. Any overtime already accumulated would remain with the employee until used. If unused, it would be paid off at retirement. The provision would not affect overtime accrued by those involved in criminal investigation.

Section 320: Reduction of Federal Full-Time Equivalent Positions.

This provision has its roots in Vice President Gore's National Performance Review. The pace of reductions in Penny-Kasich would trim the federal workforce by less than 3 percent each year. Normal attrition is 6 percent to 8 percent a year. Therefore special "buyout" or incentive provisions for employee separations are not necessary. The savings from overlapping provisions—such as streamlining the Department of Agriculture—have been scrubbed out to avoid potential double-counts with these workforce reductions.

Section 321: Rescission of Funds for Travel Accounts.

This provision would cut the travel budgets for certain Executive Branch agencies and the Legislative Branch by 15 percent. The provision exempts selected agencies because of special requirements of their functions that necessitate the use of their full travel budget allowances. For example, the Department of Veterans Affairs uses most of its travel budget to transport patients. The Department of Defense needs flexibility in its travel account to move military personnel in the case of conflict.

The agencies expressly exempted from the travel budget reduction are the Department of Defense, the Department of Veterans Affairs, the Department of the Treasury (which includes the FBI) and the Department of Justice.

Section 322: Termination of Federal Advisory Committees.

This provision eliminates 11 non-statutory boards and commissions.

Section 323: Increase in Threshold for Application of Davis-Bacon Act.

This provision raises the threshold for applicability of the Davis-Bacon Act from its current $2,000 to $100,000.

Section 324: Elimination of Certain Reports Required on Contracts Covered by Davis-Bacon Act.

Under this provision, the weekly payroll reports required of employers working on federal construction projects covered by Davis-Bacon would be replaced by monthly certifications of compliance with the Act.

Section 325: Fees for Applications for Alcohol Labeling and Formula Reviews.

This fee would partly cover the cost of approving all alcoholic beverage labels and the cost of performing various laboratory analysis to determine whether the beverage content is in compliance with federal law.

Section 326: Increase in SEC Registration Fees.

The Securities and Exchange Commission collects fees to cover the SEC's cost of registering, supervising, and regulating investment advisors and their activities. The SEC fee is based on the dollar value of the offering. The intent of this provision, also recommended by the Administration, is to make permanent, as of January 1, 1995, the 6(b) fee increase enacted this Congress and to permanently raise the registration fees on mergers and acquisitions to bring them to the same level as the 6(b) fee.

Section 327: Travel, Tourism, and Export Promotion Fees.

The U.S. Travel and Tourism Administration promotes the United States and individual states as a tourist destination for foreign travelers. A fee would be charged to state governments that use the USTTA to market or advertise their states. The International Trade Administration provides services to U.S. industries such as export promotion, marketing services, and development of remedies for long-range trade and investment problems. A fee would be assessed on beneficiaries of ITA's provision of information and technical and marketing assistance.

Section 401: Reduction in Funding for Arts and Humanities Programs.

Under this provision, federal funding for the National Endowment for the Arts, the National Endowment for the Humanities, the Smithsonian Institution, the National Gallery of Art, and the Corporation for Public Broadcasting should be reduced by 2 percent each from FY 1994 through FY 1998.

Section 402: Elimination of Operation Subsidies for Vacant Public Housing.

HUD provides operating subsidies to Public Housing Agencies (PHAs) to make up the difference between rental income and operating costs. Even though HUD has tried to stop payments for vacant public housing, Congress has continued funding for these units.

Some PHAs argue that the current operating subsidy formula does not provide adequate subsides to cover costs. Therefore, they say, eliminating subsides for vacant units will take away necessary funds. But because of massive increases for public housing modernization, operating subsidies, and drug elimination grants, all PHAs are receiving record funding amounts.

Section 403: Substitution of Voucher Assistance for Public Housing New Construction.

HUD provides capital grants to PHAs to build housing for families with incomes below 80 percent of area median income (approximately $28,000 nationally). After construction, HUD provides annual operating subsidies and modernization funds to keep the projects solvent and well-maintained.

Public housing new construction is roughly twice as expensive as tenant-based assistance such as vouchers. It represents vestige of the old power structure of housing: treatment housing as a jobs program, instead of providing housing assistance to the poor at the lowest cost.

Section 404: Reform of HUD Multifamily Disposition Program.

HUD currently owns approximately 69,000 units of multifamily housing. HUD was never meant to function as a landlord, but the agency has not been able to sell the units because of restrictions in Section 203 of the Housing and Community Development Amendments of 1978 requiring that each unit must be sold with 15-year project-based Section 8 assistance. Over the past several years, funding for Section 8 has been significantly reduced. This proposal would loosen the restrictions in Section 203, allowing HUD to dispose of the multifamily units more easily. The proposal was offered by the Administration and is expected to save $1.5 billion in budget authority over five years.

Section 405: Termination of Annual Direct Grant Assistance.

This provision, also contained in H.R. 3400 as reported by the House Committee on Natural Resources, terminates the annual direct grant assistance to the Commonwealth of the Northern Mariana Islands.

Section 501: Increase in Retirement Age Under FERS to 65.

This proposal raises the retirement age prospectively for all new federal hires. For all new federal employees hired on January 1, 1994 or later, the retirement age will be increased to 65. The retirement age for current federal employees will remain unchanged. The annuities of federal judges, firefighters, law enforcement officers, air traffic controllers, members of the CIA, the disabled, and survivors are unaffected by this proposal. The proposal does not change federal annuity computations.

Section 502: Provision Relating to Government Contributions to the Thrift Savings Plans.

The reform of the Thrift Savings Plan maintains the automatic one percent contribution, a dollar-for-dollar match for the first 3 percent, and a 50 cents per dollar match for the fourth percent of salary. It eliminates the 50-cents-per-dollar match for the fifth percent of salary available under the current TSP.

The remaining portions of the Thrift Savings Plan will remain unchanged. The reform applies only to new federal employees hired on January 1, 1994 or later, not to current federal employees.

Section 503: Deferral Until Age 62 of Cost-Of-Living Adjustments for Military Retirees who First Entered Military Service on or after January 1, 1994.

Starting on January 1, 1994, for all new enlistees into the armed services the military retirement benefit is changed so that no COLA on retirement benefits is provided until the retiree reaches the age of 62. At that age, there is a catch-up provision to account for the lack of a COLA since retirement and a full COLA is provided for each year thereafter. This provision does not affect the COLAs of disabled or survivors benefits.

Section 504: Consolidation of Certain Social Service Programs into a Single Block Grant Program.

This proposal would consolidate the following: the Social Services Block Grant, the Community Services Block Grant. Title IV-A "At Risk" Child Care, the Child Care and Development Block Grant, two activities of the Administration for Children and Families (specifically, Title III services and meals for the aging, and Dependent Care Planning and Development Grants). Social Services are provided to many individuals and families through an array of programs, each with its own rules and regulations. By consolidating these programs into a single block grant, services could be provided more efficiently, duplicate services would be eliminated, and administrative costs would decline due to a reduction in administrative personnel.

Section 505: Awards of Pell Grants to Prisoners Prohibited.

Pell Grants were created to help deserving low- and middle-income students get the education and training they need to improve their lives. Pell Grants follow the student, not the post-secondary institution. Therefore, students have more of an educational choice than they otherwise would have.

The government spends almost $100 million annually on prisoner education. Yet the government has been spending an additional $40 million to $200 million on prisoner education in the form of Pell Grants. Halting grants to prisoners allows those grants to go to more deserving students who need the assistance.

Section 506: Elimination of Education Programs That Have Largely Achieved Their Purpose.

Four programs administered by the Department of Education have largely achieved their purpose. They are the following: Public Library Construction (access to public libraries is not virtually universal); Follow Through (this program is duplicated by the much larger Chapter 1 Basic Grant Program); Law-Related Education (goal of training elementary and high-school teachers in law-related education has been achieved); Law School Clinical Experience (most law schools now offer clinical education and would continue to do so in the absence of federal support).

Section 601: Department of Agriculture Reorganization.

According to the National Performance Review, USDA should streamline its field operations to eliminate unnecessary offices, reduce costs and better serve farmers.

Although USDA's mission has changed dramatically since the 1930s, its organizational structure and management practices have remained largely unchanged. Then, agriculture was dominated by small, widely-dispersed, family-owned farms that sold their products domestically. Communication and transportation systems were limited by geography. These conditions justified a county-based decentralized field office system. Today, agriculture is dominated by large operations, and the farm population has declined sharply. Only 16 percent of the nation's counties were designated as farm counties in 1986, down from 63 percent in 1950. Telephones, computers, and highways have increased farmers' access to various information and assistance programs.

Section 602: Reduction in Triple Base for Deficiency Payments for Basic Agricultural Commodities Under Agriculture Programs.

This proposal would increase the triple base to 17.5 percent from its current 15 percent. This change would decrease the amount of land eligible for deficiency payments to 82.5 percent of base acreage.

Section 603: Imposition of 20-Percent Coinsurance on Clinical Laboratory Services Under Medicare.

Medicare currently pays the full cost of clinical lab services (blood tests, etc.) provided to Medicare beneficiaries. In the past, a coinsurance was charged to beneficiaries. This provision reinstates a 20-percent coinsurance. Costs to beneficiaries would be low; the coinsurance on a $25 test would be $5.

Section 604: Imposition of 20-Percent Coinsurance on Home Health Services Under Medicare.

The Home Health benefit (in-home therapists, skilled nursing visits, etc.) is one of two Medicare programs paid in full by the Federal Government. Costs for the benefit increased 45.9 percent, 30.1 percent, and 24.2 percent over the past three years. This provision would institute a 20-percent coinsurance payment by Medicare beneficiaries for home health services. The Qualified Medicare Beneficiary program would pay the coinsurance for those with incomes up to 150 percent of poverty.

The provision includes the establishment of a prospective payment system for Medicare Home Health services. Setting standard rates would be more effective for Medicare, would bring less efficient providers in line with the national averages, and would allow regulatory relief by removing onerous cost reporting requirements. Cost reports would be simplified, and full cost reporting would be done on a rotating basis. This system would assure Medicare beneficiaries that they would not be overcharged, and would make the coinsurance consistent for services. The prospective payment system is supported by the Home Health industry.

According to the House Ways and Means Committee, the national average for a home health visit is $74. The 20-percent coinsurance would be $14.80. On average, those receiving the benefit have 14 visits per year. Total costs to the Medicare beneficiary receiving the services could average $207.20 per year. With the prospective payment system, average costs should be lower.

Section 605: Relating Medicare Part B Premium to Income for Certain High-Income Individuals.

Medicine Part B premiums are subsidized 75 percent from general federal taxes regardless of income. This provision would phase out the subsidy for individual beneficiaries with incomes above $70,000 ($90,000 for couples). Individuals with $95,000 incomes would pay the full current premium of $164.40 per month. The phase-in would increase the premium 3 percent per thousand dollars of additional income. The current 75-percent subsidy for the premium would be reduced in 3-percent increments.

Example: Today, a Medicare Part B beneficiary pays a $41.10 premium per month regardless of income. Under this provision, an individual with income of $69,999 or less would still pay $41.10. If the individual has income of $70,000, the premium would be $46.03, or a $4.93 increase. Someone with income of $71,000 would pay $50.96, or a $9.86 increase.

Section 606: Increase in Medicare Hospital Insurance Deductible for Certain High-Income Individuals.

Currently, all Medicare beneficiaries pay a $676 deductible for a hospital stay regardless of income. This provision would phase in an increased deductible for those with incomes above $70,000 (Couples $90,000) from the current level to $2,000. For each $5,000 increase in income, the deductible would be 33 percent higher, for an increase of $221 per increment.

Example: Under this provision, an individual above $70,000 would pay a $897 deductible for a hospital stay. Someone with $75,000 more income would pay $1,117. The phase-in would continue to a maximum of $2,000.

Section 607: Establishment of Standard Payment Rates for Home Health Services.

The provision includes the establishment of a prospective payment system for Medicare Home Health services. Setting standard rates would be more effective for Medicare, would bring less efficient providers in line with the national averages, and would allow regulatory relief by removing onerous cost reporting requirements. Cost reports would be simplified, and full cost reporting would be done on a rotating basis. This system would assure Medicare beneficiaries that they would not be overcharged, and would make the coinsurance consistent for services. The prospective payment system is supported by the Home Health industry.

Section 608: Eliminating Federal Support for Honey.

This provision terminates the federal honey subsidy.

TITLE VII: ENFORCEMENT

This provision guarantees that the savings achieved by the Penny-Kasich substitute are used to reduce the federal budget deficit rather than finance new spending initiatives. It applies to savings from changes in both authorization law, for entitlements, and rescissions of budget authority, for discretionary programs.

The amendment specifically provides that any reduction in direct spending resulting from the Penny-Kasich substitute shall not be scored under Pay-As-You-Go (PAYGO). Under PAYGO, tax and entitlement legislation may not increase the deficit in any year, any increase in the deficit due to entitlement or tax legislation must be offset by legislation cutting entitlements or raising taxes. Conversely, savings from tax or entitlement legislation may be used to pay for other entitlement expansions. In the absence of this enforcement provision, subsequent entitlement or tax legislation could be enacted that increases the deficit by an amount equivalent to the reduction in entitlement spending provided by the Penny-Kasich plan.

Similarly, the amendment provides that the rescission of budget authority in the Penny-Kasich substitute shall not be scored under the cap on discretionary spending. The Omnibus Reconciliation Act of 1993 extended the cap on total discretionary spending for 1994 through 1998. In the absence of this amendment, Congress could increase discretionary spending in FY 1994 by the amount of budgetary authority rescinded in the Penny-Kasich substitute.

TITLE I.—NATIONAL SECURITY

TABLE 1.—SUMMARY OF SPENDING REDUCTIONS IN TITLE I, NATIONAL SECURITY

[Savings from baseline, in millions of dollars]

	1994	5-year savings
Section 101: Sense of Congress on Increased Burdensharing by Allies of the United States		
Budget authority	$0	$0
Outlays	0	0
Section 102: Streamlining and Reorganizations of Corps of Engineers		
Budget authority	0	0
Outlays	0	0
Section 103: Rescission of Certain Defense Add-ons		
Budget authority	−130	−130
Outlays	−20	−120
Section 104: Rescission of Funds for MK–19 Grenade Launcher Program		
Budget authority	−15	−15
Outlays	0	−14
Section 105: Termination of C–26 Aircraft Program		
Budget authority	0	0
Outlays	0	0
Section 106: Termination of Mobile Inshore Undersea Warfare Vans Program		
Budget authority	0	0
Outlays	0	0
Section 107: Rescind Funds for Certain Operations & Main. Programs and Maintenance Funds		
Budget authority	−350	−1,850
Outlays	−270	−1,700
Section 108: Reduction of Public Law 480 Food for Peace Program		
Budget authority	−125	−664
Outlays	−91	−607
Section 109: Rescission of Funds for World Bank		
Budget authority	−28	−148
Outlays	−3	−107
Section 110: Reduction of Funding for International Development Association		
Budget authority	−67	−355
Outlays	−9	−149
Section 111: Rescission of Funds for Foreign Military Financing		
Budget authority	−26	−138
Outlays	−2	−90
Section 112: Rescission of Funds for Agency for International Development, Department of State, and United States Information Agency		
Budget authority	−172	−909
Outlays	−20	−624
Subtotal: National Security		
Budget authority	−913	−4,209
Outlays	−415	−3,411

Source: Congressional Budget Office.

TITLE II.—PHYSICAL CAPITAL/NATURAL RESOURCES/SCIENCE

TABLE 2.—SUMMARY OF SPENDING REDUCTIONS IN TITLE II, PHYSICAL CAPITAL/NATURAL RESOURCES/SCIENCE

[Savings from baseline, in millions of dollars]

	1994	5-year savings
Section 201: Termination of Spacelifter Program:		
Budget authority	−$10	−$10
Outlays	−5	−10
Section 202: Department of Science, Space, Energy, and Technology:		
Budget authority	0	−85
Outlays	0	−79
Section 203: Elimination of Funding for MagLev Prototype Department Program:		
Budget authority	−20	−106
Outlays	−12	−90
Section 204: Rescission of Funds for Federally Sponsored University Research and Development:		
Budget authority	−220	−1,160
Outlays	−100	−1,000
Section 205: Recoupment of Certain Grants:		
Budget authority	0	0
Outlays	0	0
Section 206: Coverage of Federally Funded Research and Development Centers Under the Competition in Contracting Act:		
Budget authority	0	0
Outlays	0	0
Section 207: Termination of Modular High Temperature Gas Reactor:		
Budget authority	−12	−63
Outlays	−6	−54
Section 208: Department of Energy Facilities Closure and Reconfiguration Commission:		
Budget authority	1	4
Outlays	1	4
Section 209: Rescission of Funds for Fusion Energy Research and Development:		
Budget authority	−70	−650
Outlays	−35	−522
Section 210: Rescission of Funds for Energy Research and Development:		
Budget authority	−54	−286
Outlays	−22	−238
Section 211: Alaska Power Administration Sale:		
Budget authority	0	28
Outlays	0	30
Section 212: Federal-Private Co-generation of Electricity:		
Budget authority	0	−60
Outlays	0	−30
Section 213: Termination of Clean Coal Technology Program:		
Budget authority	0	−311
Outlays	0	−2
Section 214: Rescission of Funds from SPR Petroleum Account:		
Budget authority	−323	−323
Outlays	0	−323
Section 215: Study of Termination of Helium Subsidy:		
Budget authority	0	0
Outlays	0	−17
Section 216: Rescission of Funds for Low Priority Water Projects:		
Budget authority	−138	−730
Outlays	−82	−662
Section 217: Preference for Interim Measures in Superfund Response Actions:		
Budget authority	0	−1,630
Outlays	0	−893
Section 218: Reservation of Funds for Disaster Relief:		
Budget authority	−15	−79
Outlays	−4	−63
Section 219: Elimination of Weather Office Closure Certification Procedures:		
Budget authority	−20	−106
Outlays	−12	−92
Section 220: Rescission of for NOAA Research Fleet:		
Budget authority	−77	−407
Outlays	−12	−260
Section 221: Rescission of Funds for NOAA Add-ons:		
Budget authority	−144	−767
Outlays	−50	−672
Section 222: Study Concerning Merger or Bureau of Reclamation and United States Army Corps of Engineers:		
Budget authority	0	1
Outlays	0	1
Section 223: Rescission of Funds for Agricultural Buildings and Facilities Account:		
Budget authority	−57	−300
Outlays	−3	−159
Section 224: Repeal of Authorizations for the Airway Science Program, Collegiate Training Initiative, and Air Carrier Maintenance Technician Training Facility Grant Program:		
Budget authority	−43	−55
Outlays	−10	−48
Section 225: Repeal of National Recreational Trails Program:		
Budget authority	0	0
Outlays	0	0
Section 226: Rescission of Funds for EDA:		
Budget authority	−159	−841
Outlays	−16	−513
Section 227: Elimination of Funding for Public Telecommunications Facilities:		
Budget authority	−24	−127
Outlays	−3	−87
Section 228: Moratorium on Construction and Acquisition of New Federal Buildings:		
Budget authority	0	−1,233
Outlays	−27	−2,910
Subtotal: Physical Capital/Natural Resources/Science:		
Budget authority	−1,384	−9,296
Outlays	−397	−8,671

Source: Congressional Budget Office.

TITLE III.—GOVERNMENT MANAGEMENT

TABLE 3.—SUMMARY OF SPENDING REDUCTIONS IN TITLE III, GOVERNMENT MANAGEMENT

[Savings from Baseline, in millions of dollars]

	1994	5-year savings
Section 301: Government Information Dissemination and Printing Improvement:		
Budget authority	0	−261
Outlays	0	−230
Section 302: Sense of Congress Regarding Reorganization of Bureau of Indian Affairs:		
Budget authority	0	0
Outlays	0	0
Section 303: Rescission of Funds for Printing and Reproduction and for Supplies and Materials:		
Budget authority	−409	−2,158
Outlays	−307	−2,045
Section 304: Streamlining of Department of Housing and Urban Development:		
Budget authority	0	−164
Outlays	0	−144
Section 305: Termination of Interstate Commerce Commission:		
Budget authority	−18	−192
Outlays	−15	−188
Section 306: Rescission of Funds from Tennessee Valley Authority Fund:		
Budget authority	−23	−221
Outlays	−18	−173
Section 307: Rescission of Funds for Appalachian Regional Commission:		
Budget authority	−59	−312
Outlays	−3	−160
Section 308: Improvements to Management of Veterans' Hospitals:		
Budget authority	0	−1,000
Outlays	0	−1,000
Section 309: Rescission of Funds for Legal Services Corporation:		
Budget authority	−20	−106
Outlays	−18	−103
Section 310: Termination State Justice Institute:		
Budget authority	−7	−65
Outlays	−2	−50
Section 311: Improvements of U.S. Marshals Service:		
Budget authority	0	−20
Outlays	0	−20
Section 312: Rescission of Funds for BATF:		
Budget authority	−2	−10
Outlays	−2	−10
Section 313: Rescission of Funds for Construction New Federal Offices and Courthouses:		
Budget authority	−288	−288
Outlays	−28	−538
Section 314: Limitation on Office Equipment and Furnishings Purchases by Members of House of Representatives:		
Budget authority	0	0
Outlays	0	0
Section 315: Rescission of Funds for Executive Office of the President:		
Budget authority	−14	−76
Outlays	−11	−71
Section 316: Rescission of Funds for Legislative Branch:		
Budget authority	−134	−728
Outlays	−121	−711
Section 317: Rescission of Funds for House Franking:		
Budget authority	−12	−63
Outlays	−12	−63
Section 318: Provisions Relating to Annual Pay Adjustments for Members of Congress:		
Budget authority	0	−2
Outlays	0	−2
Section 319: SES Annual Leave Accumulation:		
Budget authority	−2	−55
Outlays	−2	−55
Section 320: Reduction of Federal Full-Time Equivalent Positions:		
Budget authority	−2,122	−31,347
Outlays	−2,037	−30,976
Section 321: Rescission of Funds for Travel Accounts:		
Budget authority	−204	−1,078
Outlays	−174	−1,046

TABLE 3.—SUMMARY OF SPENDING REDUCTIONS IN TITLE III, GOVERNMENT MANAGEMENT—Continued

[Savings from Baseline, in millions of dollars]

	1994	5-year savings
Section 322: Termination of Federal Advisory Committees:		
Budget authority	0	0
Outlays	0	0
Section 323: Increase in Threshold for Application of Davis-Bacon Act:		
Budget authority	−28	−88
Outlays	−16	−151
Section 324: Elimination of Certain Reports Required on Contracts Covered by Davis-Bacon Act:		
Budget authority	−25	−165
Outlays	−15	−255
Section 325: Fees for Applications for Alcohol Labeling and Formula Reviews:		
Budget authority	−5	−25
Outlays	−5	−25
Section 326: Increase in SEC Registration Fees:		
Budget authority	−2	−804
Outlays	−2	−804
Section 327: Travel, Tourism, and Export Promotion Fees:		
Budget authority	−108	−1,109
Outlays	−76	−1,002
Subtotal: Government Management:		
Budget authority	−3,482	−40,337
Outlays	−2,863	−39,820

AASource: Congressional Budget Office.

TITLE IV.—HUMAN RESOURCES

TABLE 4.—SUMMARY OF SPENDING REDUCTIONS IN TITLE IV, HUMAN RESOURCES

[Savings from baseline, in millions of dollars]

	1994	5-year savings
Section 401: Reduction in Funding for Arts and Humanities Programs:		
Budget authority	−15	−560
Outlays	−9	−451
Section 402: Elimination of Operating Subsidies for Vacant Public Housing:		
Budget authority	−54	−284
Outlays	−25	−252
Section 403: Substitution of Voucher Assistance for Public Housing New Construction:		
Budget authority	−367	−1,874
Outlays	2	−318
Section 404: Reform of HUD Multifamily Disposition Program:		
Budget authority	−425	−425
Outlays	−425	−425
Section 405: Termination of Annual Direct Grant Assistance:		
Budget authority	0	−112
Outlays	0	−112
Subtotal: Human Resources:		
Budget authority	−861	−3,255
Outlays	−457	−1,558

Source: Congressional Budget Office.

TITLE V.—SOCIAL SERVICES AND RETIREMENT

TABLE 5.—SUMMARY OF SPENDING REDUCTIONS IN TITLE V, SOCIAL SERVICES

[Savings from baseline, in millions of dollars]

	1994	5-year savings
Section 501: Increase in Retirement Age Under FERS to 65:		
Budget authority	0	0
Outlays	0	0
Section 502: Provision Relating to Government Contributions to the Thrift Savings Plans:		
Budget authority	−2	−144
Outlays	−2	−144
Section 503: Deferral Until Age 62 of Cost-Of-Living Adjustments for Military Retirees who First Entered Military Service on or after January 1, 1994:		
Budget authority	0	0
Outlays	0	0
Section 504: Consolidation of Certain Social Service Programs into a Single Block Grant Program:		
Budget authority	0	−902
Outlays	0	−915
Section 505: Awards of Pell Grants to Prisoners Prohibited:		
Budget authority	0	0
Outlays	0	0
Section 506: Elimination of Education Programs That Have Largely Achieved Their Purpose:		
Budget authority	−47	−248

TABLE 5.—SUMMARY OF SPENDING REDUCTIONS IN TITLE V, SOCIAL SERVICES—Continued

[Savings from baseline, in millions of dollars]

	1994	5-year savings
Outlays	−6	−188
SUBTOTAL: Social Services:		
Budget authority	−49	−1,294
Outlays	−8	−1,247

Source: Congressional Budget Office.

TITLE VI.—AGRICULTURE AND HEALTH CARE

TABLE 6.—SUMMARY OF SPENDING REDUCTIONS IN TITLE VI, AGRICULTURE AND HEALTH CARE

[Savings from baseline, in millions of dollars]

	1994	5-year savings
Section 601: Department of Agriculture Reorganization:		
Budget authority	−13	−865
Outlays	−12	−849
Section 602: Reduction in Triple Base for Deficiency Payments for Basic Agricultural Commodities Under Agriculture Programs:		
Budget authority	0	−748
Outlays	0	−748
Section 603: Imposition of 20-Percent Coinsurance on Clinical Laboratory Services Under Medicare:		
Budget authority	−867	−7,434
Outlays	−737	−7,128
Section 604: Imposition of 20-Percent Coinsurance on Home Health Services Under Medicare:		
Budget authority	−1,529	−13,675
Outlays	−1,529	−13,675
Section 605: Relating Medicare Part B Premium to Income for Certain High-Income Individuals:		
Budget authority	−380	−10,950
Outlays	−380	−10,950
Section 606: Increase in Medicare Hospital Insurance Deductible for Certain High-Income Individuals:		
Budget authority	−130	−1,240
Outlays	−130	−1,240
Section 607: Establishment of Standard Payment Rates for Home Health Services:		
Budget authority	−51	−975
Outlays	−51	−975
Section 608: Eliminating Federal Support for Honey:		
Budget authority	0	−11
Outlays	0	−11
SUBTOTAL: Agriculture/Health:		
Budget authority	−2,970	−35,898
Outlays	−2,839	−35,576

Source: Congressional Budget Office.

GRAND TOTALS

TABLE 7.—NET GRAND TOTAL SAVINGS FOR ALL TITLES AND INTEREST SAVINGS.

[Savings from baseline, in billions of dollars]

	1994	5-year savings
Spending Reductions Titles I through VII		
Budget authority	−9.661	−94.315
Outlays	−6.981	−90.309
Locked-In Savings (Determined by Cap and PAYGO Adjustments)		
Budget authority	−9.024	−83.018
Outlays	−6.372	−80.308
Interest Savings		
Budget authority	−0.171	−9.777
Outlays	−0.171	−9.777
Deficit Reduction		
Budget authority	−9.195	−92.795
Outlays	−6.543	−90.085

Source: Congressional Budget Office.

CONCORD COALITION ENDORSES PENNY/KASICH PLAN

Today, Concord Coalition co-chairs Warren Rudman and Paul Tsongas endorsed the proposal for additional budget cuts released yesterday by Congressmen Tim Penny and John Kasich.

"It is reassuring to see that Representatives PENNY and KASICH have not forgotten about the deficit crisis and the promises made to the American people by Congress and the Administration. While Washington seems to have lost interest in the deficit, PENNY and KASICH have been hard at work developing a worthy plan for taking a big bite out of government spending," said Coalition co-chair Warren Rudman.

"Last month we tried to reignite the debate on the deficit with the release of our Zero Deficit Plan. Obviously Congressmen PENNY and KASICH, as well as the others involved with this proposal, were listening," said former Senator Paul Tsongas.

We are particularly pleased with the bipartisan nature of this plan. It will take the efforts and talents of both parties, working together, to make the tough choices required to eliminate the deficit. This plan shows that kind of cooperation is possible," continued Sen. Tsongas.

On September 20 The Concord Coalition released its own plan for eliminating the deficit by the year 2000. While the Penny-Kasich plan is not a strategy for eliminating the deficit, it is an unprecedented opportunity to have a second shot at deficit reduction this year.

The Concord Coalition is a bipartisan, grass roots organization focused on eliminating the federal budget deficit by educating and organizing citizens across the country. Currently the Coalition has chapters in all 50 states and 100,000 members nationwide.

RESPONSIBLE BUDGET
ACTION GROUP,
Washington, DC, November 4, 1993.

Hon. TIM PENNY and Hon. JOHN KASICH,
U.S. House of Representatives, Washington, DC.

DEAR TIM AND JOHN: Throughout the budget debate this year we argued that the President's economic program did not cut spending or the deficit enough. We were concerned that Congress never could enact the deep spending and the deficit reduction we believe to be necessary and appropriate except on a bipartisan basis.

When President Clinton submitted his budget to Congress, he said that further entitlement restraint and deficit reduction depended on health care reform. But the Administration's health care reform proposal actually would increase entitlement spending—would not reduce the deficit at all until after 1998—and then only modestly—even if the Administration's cost and savings estimates are right.

When Congress passed the reconciliation bill, the President promised to submit additional spending cuts this fall. But the Administration's rescission and REGO proposals would not reduce spending. The Administration proposes to cut some programs and redirect the savings to pay for other priorities. And the Administration proposals would have little or no affect on the growth in entitlement spending.

The Penny-Kasich amendment is a serious bipartisan effort. It would cut spending and the deficit by more than $100 billion over five years. We support your amendment.

Certainly, there is something in the package for almost anybody to dislike. But this amendment really would cut spending. Half the Penny/Kasich savings are in entitlements. Those savings would be locked into law immediately. The other half, in discretionary spending, also would be locked-in. Congress could change the mix in discretionary spending in future years, but they would have to stay within the new limits which would be established if the amendment is enacted.

How can anybody who called for more spending cuts earlier this year oppose Penny/

Kasich? We don't know. For our part, we laud this effort. We support your amendment. We will do anything we can to help you in this important effort.

If you have any questions or if there is something more we can do in support of the amendment please call Carol Cox Wait or Susan Tanaka in our office.

Best regards,

Robert N. Giaimo,
Henry Bellmon.

P.S. We have sent an identical "Dear Former Colleague" letter to all House Members.

Citizens For a Sound Economy,
November 4, 1993.

Hon. John Kasich,
U.S. House of Representatives, Washington, DC.

Dear Representative Kasich: On behalf of our 250,000 members across the country, Citizens for a Sound Economy (CSE) supports your bipartisan effort to reduce the deficit as outlined in the Penny-Kasich "Common Cent$ Plan" document.

CSE is especially pleased that your initiative will apply savings only toward genuine deficit reduction, not to new spending initiatives. While CSE has not taken a position on each of the specific proposals in the package, we believe that as a whole it would go a long way toward reducing wasteful federal spending. It is highly encouraging that the bipartisan task force that produced this document wants to set an example within the halls of Congress and is willing to make necessary reforms concerning mandatory spending.

CSE looks forward to working with your office to make authentic spending cuts as regular an exercise on Capitol Hill as the appropriations process. We believe that the Penny-Kasich Bipartisan Task Force plan offers tremendous hope for doing that by the close of this session of Congress.

Sincerely,

Paul Beckner,
President.

Americans For Tax Reform,
Washington, DC, November 3, 1993.

Hon. John Kasich,
U.S. House of Representatives,
Washington, DC.

Dear Congressman Kasich: Americans for Tax Reform applauds and endorses your legislation (as introduced) to cut $103 billion in federal spending over the next five years.

Passage of this legislation in its current form would represent the first major, sincere effort on the part of Congress to cut the bloated federal budget since 1985, when Gramm-Rudman was approved.

In 1992, voters demanded change. The American people clearly communicated their antipathy for big government and overspending and taxation. Your legislation is consistent with their desires. It breaks with the status quo. It represents change.

You, Congressman Penny, and the other sponsors of this legislation should be complimented for your hard work. Please let me know how our organization can be of assistance.

Best wishes.

Sincerely,

Grover G. Norquist.

Lead or Leave,
Washington, DC, November 3, 1993.

Hon. John Kasich,
U.S. Congress, Washington, DC.

Dear Congressman: We write to give our strong endorsement to the Penny-Kasich Deficit Reduction Plan. It is a fair, bi-partisan effort to help reduce our runaway budget deficits—and should receive the vote of every House and Senate member who is committed to deficit reduction.

As you know, genuine deficit reduction—not the feel-good stuff of campaign rhetoric—requires tough and painful choices that will affect the lives of millions of Americans. The Penny-Kasich plan is honest about those choices, but would reduce the deficit in a way that clearly protects those least able to pay.

This package of spending cuts is the bare minimum that future generations deserve. Without deep cuts—and a commitment to shifting our spending priorities to invest more in the future—our generation, and those to come, will face an exploding national debt that will lower our living standards and jeopardize our dreams for a stronger America.

There's no good excuse to vote against Penny-Kasich, and anyone who does should be ashamed to look their kids and grandkids in the eye. Before this vote, members should ask themselves one question; what's the point of staying in office if I can't muster the political courage to make some tough choices?

If Washington buries this plan, America should get ready to throw in the towel on any serious, long-term deficit reduction effort.

Sincerely,

Jon Gowan,
President.
Rob Nelson,
Chairman.

[From The Philadelphia Inquirer, Nov. 5, 1993]

Back to the Deficit

A lot of Americans seem not to realize it, but despite the taxes and belt-tightening that Congress approved this summer, the federal government will suffer from large deficits throughout the 1990s—unless more is done.

Fortunately, more may happen. To get the budget package passed, Democratic legislative leaders promised rank-and-file lawmakers a shot at making more spending cuts this fall. And it's starting to look as if this Round Two on the budget will deliver serious savings.

For this go-round, which will be getting underway later this month, a hardy band of Republicans and Democrats in the House has just recommended more than 80 eminently doable ways to cut federal spending. Between now and 1998, their plan would save the federal government an average of $20 billion a year. While that's serious money, the leaders of this effort—Reps. Tim Penny (D., Minn.) and John Kasich (R., Ohio)—point out that it's only a 1 percent cut. The Inquirer enthusiastically endorses the "Penny-Kasich Plan."

The proposals include a moratorium on new government buildings, a cut in Congress' own budget, a cutback in federal retirement benefits and a reduction in Medicare benefits for upper-income retirees. This bipartisan package borrows ideas from all over, including Vice President Gore's "reinventing government" report and Republican proposals offered early this year. It is bigger, and thus better, than what President Clinton proposed last week.

At the same time, the politicians and the public need to start thinking and talking about an even bolder, and better, plan for fiscal sanity. That's the Zero Deficit Plan of the Concord Coalition—a grassroots organization founded by former Sens. Paul Tsongas and Warren Rudman. Instead of denting the deficit, as Congress and Mr. Clinton did this summer and plan to do again this fall, the coalition's plan would *eliminate* the deficit by the year 2000.

To achieve this dramatic change, the Zero Deficit Plan cuts entitlement spending much more than the Penny-Kasich Plan, and it raises taxes. The biggest items in the plan are radical and logical: gradually reducing the value of all federal benefits to families whose income exceeds $40,000, and phasing in a 50-cents-a-gallon increase in the gas tax.

Unfortunately, when the Zero Deficit Plan was unveiled in September, it didn't get the attention it deserves. Maybe people and the media were feeling pooped on the subject. In any event, The Inquirer also endorses the Concord Coalition's Zero Deficit Plan. We endorse it lock, stock and barrel. As Warren Rudman said about his group's plan: "Here are all the answers that Ross Perot has the questions for."

[From The San Diego Union-Tribune, Nov. 1, 1993]

Bait and Switch

When last we heard from President Clinton on the Federal budget, he was promising to get back to Congress with more than $100 billion in spending cuts. Well, he finally has gotten back. But he has come up about $90 billion short of the promised cuts.

If this were not disconcerting enough, the president doesn't even plan to apply the entire $10 billion in spending cuts to deficit reduction. He wants to spend half the savings on his dubious anti-crime bill.

So instead of $106 billion in deficit reduction over five years, which the president promised moderate and conservative Democrats in Congress while stumping for his budget last summer, he actually is proposing to pare only an additional $5 billion off the deficit.

It's the same old budgetary bait-and-switch that taxpayers have seen before. The spendthrifts in Washington promise that tax hikes will be matched dollar-for-dollar with spending cuts. The taxes take effect, but the promised cuts never materialize.

Since Clinton has reneged on his promised spending cuts, a bipartisan group of lawmakers has put its own plan on the table. They propose $103 billion in deficit reduction through cuts in Medicare, federal workers' benefits and other areas of the federal budget.

"This is exactly what the people in this country have been asking for for a very long time," says Rep. Tim Penny, D-Minn., who along with Rep. John Kasich, R-Ohio, drew up the plan. They are joined, so far, by 30 other House members.

The Penny-Kasich plan would trim more than 80 federal programs altogether. There would be cuts in foreign aid and a few small weapons programs. Outlays would be pared for the strategic petroleum reserve. Savings also would be made by gradually raising the minimum retirement age for federal workers from 55 to 65.

The White House has had little to say about the Penny-Kasich package, except that the administration has a problem with the proposed $37 billion in Medicare cuts. Rather than apply those savings to deficit reduction, Clinton wants to spend the entire amount on health care.

It seems the president is not serious about cutting federal spending or reducing the deficit. Otherwise, he would have done much better than propose one-tenth the spending cuts he promised.

Reps. Penny and Kasich are on the right track. Delivery should be made on the more than $100 billion in spending cuts that taxpayers were promised.

The $10 billion in cuts the president proposed last week is simply not enough.

[From Newsday, Nov. 3, 1993]

HOW TO ADD MUSCLE TO A PUNY DEFICIT-CUT PLAN

It's time for President Bill Clinton to pay off on the promises he made last summer when he used any and all devices at hand to push his beleaguered deficit-reduction bill through a reluctant Congress. One of his pledges was to produce another spending-cut package.

The White House has produced a $10-billion measure, chicken feed in a $1.5-trillion budget. Most of the recommended cuts are taken from Vice President Al Gore's National Performance Review and involve streamlining government departments, changing complex and arcane purchasing systems and cutting a few eminently cuttable programs, like the Defense Department's medical school.

The White House package, however, should be seen as the starting point for deeper cuts—specific, legitimate ones that don't involve slash-and-burn gimmickry.

In the House, Reps. Tim Penny (D-Minn.) and John Kasich (R-Ohio) have come up with a $103-billion alternative that is remarkable in its detail and wise in its specifics, but flawed in its mechanics. For the first time in memory, a leading Republican—Kasich is the ranking minority member on the House Budget Committee—is actually pushing a specific and politically dangerous list of programs to be cut. Usually, while Republican conservatives harrumph about the deficit, their plans amount to little more than accounting leger-demain and sweeping proposals for "across-the-board" cuts that leave the hard choices to others. This time, there is indeed a specific list—one that includes painful but perhaps necessary proposals to increase payments by affluent Medicare beneficiaries.

Unfortunately, the Penny-Kasich plan in its current form is unacceptable because it lowers already tight caps on discretionary spending to unrealistic levels and provides no game plan for meeting the new targets. It would change other deficit-reduction rules to make it impossible ever to increase taxes or launch new programs.

But take the gimmickry out, marry the best specifics with Clinton's plan and Congress would actually have sound deficit reduction.

[From The Sun, Nov. 3, 1993]

BUDGET CUTTING: ROUND TWO

Congress will get a second chance to hack away at chronic federal deficits before it adjourns this month, but the fervor it brings to the task may be a lot less that last August's rhetoric suggested. President Clinton's welcome proposals for a complete overhaul of government procurement practices could save significant sums over the next five years, but it could also have the adverse effect of giving Congress a chance to opt out of any serious budget cutting before it goes home for the year.

Thanks to a bipartisan coalition of deficit hawks, however, members of the House (and perhaps the Senate) may be forced to vote on alternative proposals to cut federal spending a whopping $103 billion over the next half decade. Unlike the administration package, which foresees using some $5 billion of the savings to fund the pending anti-crime bill, the hawks would earmark every dollar for deficit reduction. They would also meanstest Medicare, a proposal sure to raise the hackles of the gray-power lobby.

This second round of budget cutting sets the stage for more serious work in 1994, when Congress will be under election-year pressure to convince impatient voters that it can put the government's house in order. The administration will be intent on showing that Vice President Al Gore's plans for "re-inventing government" can bring on savings and efficiencies in the mammoth federal bureaucracy. But conservative Democrats and Republicans will be insisting on a more direct approach. As Rep. Timothy Penny, D-Minn., remarked in presenting 80 specific proposals: "The only way to cut the budget is to cut the budget."

That means eliminating obsolete government programs, canceling costly but marginal weapons systems, putting real caps on the runaway growth of popular middle-class entitlements and reducing the size of the federal work force.

With the president already absorbed with health care reform and the North American Free Trade Agreement, Congress may not get into the kind of prolonged debate seen last summer. But anything to keep public attention focused on the need to get deficits under control is a step forward. Round Two in the budget battle should not be in vain.

[From The Washington Times, Nov. 4, 1993]

BIPARTISAN SPENDING SCISSORHANDS

(By Donald Lambro)

Now is the time for every American taxpayer concerned about the uncontrolled growth in federal spending to get behind the Penny-Kasich deficit reduction plan.

This bipartisan bill was drafted by Rep. Tim Penny, the Minnesota Democrat who has been one of his party's fiercest critics of the Clinton budget, and Rep. John Kasich, the Ohio Republican, who has been a leader in the battle to restrain federal spending.

Their $103 billion budget-cutting package contains more than 80 specific spending reductions, program eliminations and other reforms that would cut $26 billion in discretionary spending, $50 billion in mandatory or entitlement programs, and $27 billion in personnel savings.

It has already won the support of 19 Democrats and 11 Republicans in the House, plus a number of grass-roots organizations, including Ross Perot's United We Stand, the Committee for a Responsible Federal Budget, and the Concord Coalition, headed by former Sens. Paul Tsongas of Massachusetts and Warren Redman of New Hampshire.

This is not a panacea for dissolving the huge deficits we have been putting on future generations of taxpayers. Indeed, its savings amounts to only 1 cent for every dollar in federal spending over the next five years.

But its budget-cutting provisions would cut into some of the government's thickest and oldest layers of fat. And its proposals are truly bipartisan in nature, drawing upon a variety of Republican and Democratic plans.

Among the plan's five-year savings:

It would cut foreign aid by $5 billion, including the Agency for International Development, the International Development Association, and the World Bank, which is putting up a new building whose costs have swollen to $290 million.

It would reduce U.S. military costs in Europe and Asia by $5 billion by asking our allies to shoulder a larger share of our defense operations there.

It would terminate outdated programs, such as the helium subsidy set up to ensure helium for wartime blimps; end the moribund Interstate Commerce Commission; sell the Alaska Power Administration; and abolish the State Justice Institute, which a study found has "no clear federal purpose."

It would cut the waste-ridden Economic Development Administration by 20 percent, the National Endowments for the Arts and Humanities by 10 percent, and the Legal Services Corp. by 5 percent.

It would shut down 1,200 Agriculture Department field offices and eliminate the equivalent of 7,500 full-time employees, savings more than $1.6 billion. It would close the Housing and Urban Development Department's regional office and cut its field staff by 1,500 people.

In Congress, it would cut mass mailing privileges by 20 percent; freeze salaries for lawmakers and tie any future cost-of-living increase to any cost-of-living adjustments given to federal employees; and cut the legislative branch budget by 7.5 percent.

It would mandate the administration's proposed cut in federal personnel by 252,000; raise the federal civilian retirement age to 65 over a 20-year period; defer cost-of-living raises for military retirees until they reach age 62.

In most areas, this plan does not go far enough, considering the magnitude of the mess wer're in. Our military costs in Europe should be cut in half, for starters. So should Agriculture's 12,000 field offices.

There is no evidence that Legal Services has done anything to alleviate poverty or that EDA has promoted economic growth. They should be abolished.

But on balance the Penny-Kasich plan is a good beginning and sends a real signal that Congress, after running up a 1993 deficit of nearly $260 billion, may be getting serious about controlling spending.

Moreover, their proposal not only cements specific spending cuts into law, it mandates that all the savings go into deficit reduction and not be spent elsewhere.

That's why Democratic leaders are opposed to it. House Speaker Tom Foley has promised Messrs. Penny and Kasich a vote on their plan, but he doesn't like the savings going into further deficit reduction.

"If all we do is assign every dollar of savings . . . to deficit reduction, we are not going to develop policy of recycling federal programs in more efficient and effective investments," said Mr. Foley. Translation: We want to plow budget savings into new spending, not into cutting the deficit further.

But Mr. Penny and Mr. Kasich may be striking at just the right time. Public disdain for Congress and the government is at nearly an all-time low. Few believe our tax dollars are being spent wisely or frugally.

"This is a fair plan that touches all corners of the federal budget," says Mr. Penny: "This package represents the sort of choices that need to be made if we are to seriously cut the deficit. If we can't do this much, we will again have missed a tremendous opportunity and let down the American people."

"We believe this package stands a real chance of approval, but the public must get behind it," says Mr. Kasich.

Everyone complains about wasteful government spending. Here's the chance to begin doing something about it. Make your voices heard.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I do not have any pictures, I do not have any pennies—excuse me, Mr. PENNY—I do not have any gimmicks, I do not have any charts. I really was not going to get into this argument tonight, but, you know, I could not resist the political implications of what is going on here. This is not the tough vote. The tough vote was on August 5. That was the tough vote. Do not make a mistake about it.

I only have a minute, but I can tell you one thing, I can give you the reasons why not to vote for this, but I will just come down to what the gentleman from Pennsylvania said about defense. You cannot deny it, we have cut defense too much. It is going to be cut again, and the historical precedent says that half of that $50 billion will be in defense. Do not do it. Vote against Penny/Kasich.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

(Mr. ANDREWS of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS of New Jersey. I thank the gentleman for yielding.

My colleagues, we are being asked to do tonight what local governments and county governments and churches, synagogues, and small businesses all across this country have already done, and that is make do with just a little bit less. If we went somewhere in this country tonight and asked people if they thought this Government could make the trains run on time and light the Washington Monument, inspect the meat and defend the borders for 99 cents on the dollar instead of a dollar on the dollar, you know that their answer would be "yes."

The answer of our colleagues tonight should be "yes" as well. If in August you voted for the President's plan and said, "But we need to do more," tonight is the night to do more. If in August you voted against the President's plan and said you wanted to cut first and tax later, tonight is the night to cut first.

I am not sure we are going to win this vote, but I will tell you this: The people elected in the last two or three Congresses will carry a large majority of that group, and we will be back.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to Penny-Kasich.

Mr. Chairman, I rise to oppose the Penny-Kasich amendment. This amendment will have devastating effects on many of the programs that our constituents and State governments rely on.

This year we have already placed extremely constricting caps on spending levels in the budget. By continuing to reduce the deficit by cutting vital programs like Headstart, Chapter 1 programs, and retraining programs we will only hurt the American people and the economy. We need to be reinvesting in our people, not cutting our reinvestment dollars.

Additional cuts of $34 billion to Medicaid will have a negative affect on our hopes of enacting major health care reform next year. These funds will be used to help finance a health care system that will ultimately reduce the deficit and save the American taxpayer money through decreased health care cost. As we cast our votes tonight, we need to remember the people in our communities who are relying on us to implement a health care plan that will work for the people.

It is simply not acceptable to pass an amendment that is as far reaching as the Penny-Kasich amendment. I urge my colleagues to realize the ability the adoption of the Penny-Kasich has to make such a negative impact on each of our districts. I plan to vote no on the Penny-Kasich amendment and I hope my colleagues will do the same.

Mr. SABO. Mr. Chairman, I yield the balance of my time to our distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. First I want to pay my respects and my deep respect to the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH]. I think both of them bring to this question a tremendous commitment to what they are trying to do. Both of them have brought to this debate a set of issues and ideas that were, as the gentleman from Ohio said, not going to be ending on tonight; this is the beginning.

□ 2050

I thought it would be useful to try to put this debate in a larger context. Let us remember that from 1980 to 1992 we as a country, and I put the blame nowhere but on all of us, all 238 million of us, we created about $3 trillion of debt. I think everyone would agree it was too much, way too much, that we borrowed our way to a false prosperity and that now we have to figure out how to get out of that hole, how to get back up to a balanced budget and get this economy to function correctly so that we can produce the kind of economic growth and revenues that will help us get out of that hole.

We just finished a very important first step in attacking that problem, the budget. As the gentleman from Virginia said, it was a tough vote to implement that budget; easy to vote for the budget, hard to take the specific steps to make it happen.

Now the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] bring additional steps that they believe are important to take now before we get to next year's budget to try to take further steps on that budget.

But let me remind you that when we passed that budget we did not just take the steps in this year ahead, we set in place the only thing that I have ever seen here in my years that has been effective, caps on spending.

We put in place a hard freeze on caps in each of the next 5 years.

In other words, we are not going to allow to be spent in discretionary spending any more money in the dollar amount that we spent in fiscal year 1993. It has never been done. We have not even come close.

Some of our friends on the other side talk about base lines and how that skews the debate. There is truth in that, but this is a hard freeze.

Go talk to Leon Panetta, the Director of the Office of Management and Budget, He will tell you that already he is having a conversation with all the Heads of the Departments, saying, "No, you got to get to this number. That number is too high. You are $10 billion over where you need to be. You got to get down under the cap."

We are going to be back here next spring talking about a lot of the ideas that the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] have brought forward tonight, and more. Then there is the year after that, and the year after that and the year after that.

We have just begun to cut. We have just begun to look for places to reduce this deficit. This is the beginning, but if we enact this amendment tonight, in my view, we act prematurely. We act in an untimely manner because we not only cut, we take the caps down further. We will be in a much harder position to deal with this next Spring.

Now, there is another point. What is this all about? What are we trying to do? Are we cutting for the sake of cutting? Are we cutting to reach some goal that theoretically makes us feel good? I do not think so.

We are doing this because we think it makes the economy work better. That is what we are trying to do.

I would argue to you tonight that this economy is fragile. It is not yet strong. Inflation is very low, interest rates historically low, and yet people are still being laid off all over the United States. If you go to many of our states, mine included, what we are seeing is people being laid off in the Defense industry. Do you really want right now to make that transition from defense to a more domestic economy happen faster, prematurely? We are going to do it anyway next Spring.

A final point. Part of their cuts or their action is this amendment is a drastic—what we have all talked about forever, and that is entitlements. How are we going to deal with entitlements?

I give them high marks for making very important suggestions on entitlements.

I just would say this. We are going to do health care reform next year. You are going to be looking for these cuts. Nobody wants to raise taxes. We are going to need these cuts to make health care work. Please do not act prematurely tonight. Let us not go forward with this amendment.

The gentleman from Ohio [Mr. KASICH] is right. This is not the end. This is the beginning, and the important items they brought up are going to be needed by this Congress this spring, next fall, the spring after, that and every year after that.

Mr. PENNY. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, the bottom line is that under the current budget plan the deficit goes back up, up to $300 billion or more at the turn of the century. That is simply not good enough.

Inside Washington no one seems to like the Penny-Kasich budget cuts. They have been trashed by the barons of Capitol Hill, bashed by the Clinton administration, attacked by all the special interests and criticized by the Washington Post; but across America these budget cuts are being endorsed. The Penny-Kasich budget plan has been endorsed by the San Diego Union Tribune, by the Dallas Morning News, by the Houston Chronicle, by the Philadelphia Inquirer, by the Boston Herald, by the Baltimore Sun, by New York Newsday, and even in Chairman SABO's home town, the Penny-Kasich plan has been endorsed by the Minneapolis Star Tribune.

It comes down to this. A vote for Penny-Kasich tonight will show the rest of America that maybe Washington is finally getting the message.

Mr. Chairman, vote for Penny-Kasich. Vote for real deficit reduction.

Mr. BACHUS of Alabama. Mr. Chairman, just 3 months ago, President Bill Clinton persuaded many Democratic Members of this body to vote against their constituents and for the largest tax increase in the history of this country. President Clinton convinced these Members to vote against the clearly expressed wishes of their constituents by promising to support "real spending cuts letter" this year.

Well, later this year is here, and Penny-Kasich has real spending cuts—90 billion dollars' worth.

But lo and behold, the President, the same President who promised spending cuts, is now, as I speak, working and lobbying against Penny-Kasich. Once again, President Clinton has broken his promise to the American people.

I, and a majority of the American people, suspected that the promise to "real spending cuts later" was false. Tonight these suspicions are confirmed. Yet another broken promise.

On the other hand, and ironically, it is the proponents of Penny-Kasich, most of whom like me voted against the largest tax increase in the history of the country, who are now trying to keep faith with the American people—working to hold the President to his promise of "real spending cuts later."

And, Mr. Chairman, we will not be silenced now by more false representations, being offered against Penny-Kasich, that cutting spending will destroy this country. The one-cent-on-the-dollar cuts contained in Penny-Kasich will not destroy this country. To the contrary, when combined with a commitment to continued spending cuts, Penny-Kasich might save it. We must get our economic house in order for the sake of our children and grandchildren.

Vote for Penny-Kasich.

Mr. RICHARDSON. Mr. Chairman, the Penny-Kasich plan looks very enticing on the surface. However, if you look just a little below the surface, one quickly finds that the guts of the plan are very detrimental to practically every conceivable constituent group.

I have heard from constituents in my district expressing their fears about: cuts to home health care agencies; cuts to block grants for health care; unfunded Medicaid mandates that would cost the State of New Mexico $13.9 million over the next 5 years; additional bureaucracies that would hurt innovative scientific research; and Superfund waste sites that would be incompletely cleaned up if Penny-Kasich passed. The list goes on and on.

We should look for opportunities to cut the Federal deficit, but not when the unintended effects of the cuts have not been thought through clearly, and not when those unintended effects mean real pain to millions of people. We cannot get caught in a spiral of cut first and ask questions later. There simply has not been adequate time to examine the impact of this amendment and the unintended effects like those listed above.

This Congress has already produced significant savings this year—$500 billion over 5 years from the budget reconciliation bill. The Penny-Kasich plan calls for an additional $34 billion in Medicare cuts, above and beyond those cuts made to the Medicare program in the reconciliation bill. These additional cuts would sink the administration's attempt at health care reform because the Medicare cuts would go to deficit reduction rather than towards financing the President's health care plan. The road to true deficit reduction is with overall health care reform, not greater and greater cuts to the Medicare program. Greater cuts to Medicare simply mean more shifted costs to an inefficient private health care system.

Earlier this year, Congress lowered discretionary caps by $56 billion below what the President had requested in his budget. The Penny-Kasich amendment calls for an additional $53 billion in cuts to the discretionary spending caps. Congress has already made cuts of $34 billion below what was appropriated last year through the fiscal year 1994 appropriations cycle. Finding additional cuts in this fiscal year is like squeezing blood from a turnip. It is going to be awfully tough to find additional cuts without damaging programs that truly make a difference in many persons' lives.

In the future, I hope we are able to more carefully consider the effects of amendments like Penny-Kasich before we strike fear in the lives of so many with proposed budgetary cuts that go to the bone of useful social programs.

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong opposition to the Penny-Kasich amendment. This amendment calls for the $37.9 billion in cuts of mandatory spending and $52.5 billion in discretionary spending.

Mr. Chairman, this amendment will do more harm to our economy long term than good. This amendment cuts hard at Medicare and in a health care system where millions of Americans are either uninsured or not able to afford preventive care these cuts are unjustified. Enactment of this amendment will in effect destroy any hope for Congress to pass effective and meaningful health care reform. This amendment contains $34 billion in Medicare savings; unfortunately the money will not be used for the funding of the administration's health plan, this effect would kill the chances of enacting a plan that would provide universal coverage without increasing costs for most Americans.

This amendment will prevent this Congress one real opportunity to get the Federal deficit under control. Under the administration's budget passed this summer by this Congress, the only reason the deficit may rise in a few years is because of out-of-control health care costs. Health care reform will in effect prevent Medicare and Medicaid spending from spiraling upward out of control.

I urge my colleagues to vote against the Penny-Kasich amendment which will kill any chance to legitimately get the deficit under control and impose an undue hardship on older and low-income Americans.

Ms. SNOWE. Mr. Chairman, in the midst of the debate here today on the Penny-Kasich package, one critical point must be made—when an opportunity arises to pass a bill which makes a serious attempt to curtail waste and excessive spending and trim the national deficit, we in Congress have an obligation to take swift action. It is as simple as that.

Mr. Chairman, the American people have again reiterated their demand for change in the way Government functions, especially in the area of fiscal restraint. The message the voters delivered in November 1992 and again, in November 1993, demonstrates that they still have a strong desire for change. They demand an end to the wasteful spending and an end to spending beyond the Government's means. They demand that Congress end the growth of a $4 trillion national debt which has threatened economic growth in our Nation.

Mr. Chairman, we have the responsibility to meet these demands—for what our citizens are asking of us is nothing less than fiscal prudence, nothing less than an accurate accounting of our revenue and expenditures, and nothing less than playing fair and honest with the American people on the question of taxes.

The Penny-Kasich amendment presents an opportunity for the Congress to offer the American people a credible package of spending cuts and make good on our claims that we are serious about reducing the deficit. The Penny-Kasich package is not a perfect plan. But it is an unequivocal, bipartisan step in the right direction. The Penny-Kasich proposals prompts serious discussion, and because it calls for action instead of rhetoric—because it calls for trimming spending rather than giving free rein to the taxers and spenders which have dominated the budget process for too long—and because it makes the tough decisions on the deficit which need to be taken, rather than postponing them to another promised venue in the future.

When the country is running a $253 billion deficit and a national debt in the trillions of dollars, what is needed is a plan that begins to make the bold, new, and meaningful steps in the right direction. Penny-Kasich proposes to devote $90 billion over 5 years to deficit reduction. The White House promised to send Congress a package of proposed spending cuts and Government reform measures that demonstrated it, too, was serious about fixing the Nation's financial troubles. Unfortunately, recommendations that amount to around $3 billion, as proposed by the President, comes up a little short in my book. Their proposal raises serious questions about the administration's commitment to reduce spending. Had the President presented a serious proposal, and had this Congress taken the necessary steps long ago, perhaps Penny-Kasich would not have been necessary. But now it is.

In many areas, this plan seeks to eliminate obsolete projects and target wasteful spending. It aims to infuse reason into decisions to commit hard-earned taxpayer dollars to fund programs. Many of its Government reform proposals and cost-cutting measures are adopted straight from the Vice President's National Performance Review and the President's budget. The plan examines the Federal agencies, Congress, and both discretionary and mandatory spending to see what is needed and what can go toward deficit reduction. To say that Penny-Kasich makes drastic cuts is to say that cutting less than one cent on every dollar, which Penny-Kasich does, is too much.

Penny-Kasich is clearly not a perfect plan. I am sensitive to the concerns expressed by some of the Medicare and Federal retirement proposals. The changes that were made were a step in the right direction. More could have been done. However, we need to be clear on how Penny-Kasich affects health care. Regarding Medicare, the Penny-Kasich plan will actually stop health care reform from taking additional funding from Medicare. The administration says Penny-Kasich will hamper efforts to pay for health care reform, but it includes the exact same proposals on Medicare as the Clinton plan. The administration, in fact, is hampering its own health care reform by promising a lower tobacco tax—one of their funding proposals—in exchange for NAFTA votes. The real reason the administration opposes Penny-Kasich is because its savings will be used for deficit reduction. Passage of Penny-Kasich will preempt the deeper Medicare cuts the administration proposes—$124 billion—and leave them at $34 billion over 5 years. Passage of Penny-Kasich will stop the administration from making deeper cuts in Medicare.

Regrettably, the House leadership did not permit amendments or votes on the individual provisions of Penny-Kasich. I think the American people deserve the chance to have such provisions considered, and/or amended on their own merit alone. The rule on the Penny-Kasich amendment prevented amendments to its individual proposals and allowed only an up or down vote on the package as a whole. Under these restraints, the situation presented is one of supporting a credible deficit reduction package or accepting the status quo of continued Government red ink.

The Penny-Kasich amendment represents a litmus test on deficit reduction. It offers the opportunity for those who want to act on cutting the deficit to separate themselves from those who are content to continue to merely talk about doing it. And simply talking about deficit reduction will not solve the problem. Penny-Kasich is not an ideal plan, but it is the only serious proposal on the table willing to deal with a problem that impacts all Americans. Such opportunities, unfortunately, come along all too rarely. That is precisely why we must seize the opportunity before us, and act.

Mr. CRANE. Mr. Chairman, I rise in support of the Penny-Kasich amendment to H.R. 3400 which would cut Federal spending by more than $90 billion over the next 5 years. Of the three spending reduction proposals before us today, I believe that the Penny-Kasich amendment represents the real opportunity to significantly cut the deficit.

Unlike other proposals that the House has considered this year which promise to cut spending in the future, the Penny-Kasich amendment calls for immediate reductions in Federal expenditures. In particular, I support the language in the Penny-Kasich proposal which prevents the savings in it from being used to finance new Federal programs by adjusting the discretionary spending caps and pay-as-you-go provisions of current budget law. In addition, I believe that the recent changes in the Penny-Kasich package have made it a reasonable and balanced first step toward fiscal responsibility.

Over the past year, the American public has questioned the ability of Congress to take definitive action to cut spending and eliminate waste.

I urge my colleagues to demonstrate their resolve toward deficit reduction today by supporting the Penny-Kasich amendment to H.R. 3400.

Mr. SANTORUM. Mr. Chairman, I rise in strong support of the Penny-Kasich amendment. The amendment is an important step toward bringing the Federal budget into balance, and I urge my colleagues to vote in favor of this important plan. With the Federal debt over $4 trillion, hard choices must be made. I concede that supporting this amendment is a very hard choice for many of my colleagues, but I believe that the Penny-Kasich plan is the right choice.

Mr. Chairman, the opponents of the Penny-Kasich plan have been working diligently to defeat this effort. They would rather see higher taxes and higher deficits than sharp cuts in spending.

The opponents have also been spreading fear. Over the past several days, my office has received dozens of phone calls and letters from concerned constituents. Some of their concerns are valid, and I am acutely aware of the impact of several of these provisions. In many cases, though, these fears are largely unfounded, as demonstrated by the many calls I have received regarding the proposed cut in Medicare for wealthy retirees. Seniors around the country have been whipped into a fury over the Penny-Kasich plan, because they have been told that it will lead to higher Medicare premiums. What these older Americans have not been told is that the changes will only affect the wealthiest seniors, those with annual incomes in excess of $70,000. Most of the callers to my office are retirees living on fixed incomes of less than $25,000, and they are genuinely afraid that this plan will cost them what precious little they have left over each month after the bills are paid. But the Penny-Kasich plan will have little or no impact on their Medicare benefits. In fact, when the time is taken to explain that the changes are primarily aimed at making the wealthy pay their fair share, my callers are very supportive of the Penny-Kasich plan.

One of my constituents called this week to urge me to vote against a specific spending cut, funding for clean coal research, that will affect my district. I explained that a separate vote on clean coal research was not likely to be made in order, the House would probably only have a single vote on the whole package, and I had made up my mind to vote for the Penny-Kasich amendment. While he still wanted the program to continue, he also noted that this might be the price that must be paid for the way we have gone about business for so many years.

He is right. Much of the excess and waste in the Federal budget is the direct result of the way things have been done in Congress. It is an ages-old truth that most representatives will not object to Federal spending programs if there is something in it for them. A bridge or a road or an airport for one Congressman's district can leverage support for the bridge or road or airport to be placed in another district.

My support for this amendment is not unequivocal, however, and there are many things in this package that I oppose. It is difficult for me, for example, to support the elimination of the clean coal and fossil fuel research programs at the Department of Energy, because the development of cleaner coal technology is very important to the economic future of my district and the State of Pennsylvania. When the House voted to cut the program in July, I joined many of my colleagues in writing to the Senate Appropriations Committee to urge that this funding be restored. I have long fought to preserve the clean coal research program, and I am hopeful that during conference consideration this provision will be reexamined and ultimately stripped from the bill.

I am also concerned about the proposal to save money by cutting costs at Veterans Administration hospitals, and I am skeptical that a high quality of care can be maintained while slashing operating budgets. If the amendment is accepted, I will urge the Senate to delay the implementation of this provision until we have the opportunity to review it carefully.

Opponents of the Penny-Kasich plan charge that the 20-percent coinsurance on home health services under Medicare will impose an unfunded mandate of $352 million over 5 years for Pennsylvania alone. In the past, I have supported efforts to prohibit the Federal Government from passing unfunded mandates onto the States. If the Medicare copayment is in fact such a mandate, I would be glad to work with my colleagues to repeal this specific provision.

Another proposal which concerns me is the reduction in Corps of Engineers Division Offices from 11 to 6. The Pittsburgh Corps of Engineers office provides vital services to the people of western Pennsylvania, and I have worked hard to ensure that this office remains open. I would urge a thorough review before implementing this provision.

Finally, the proposal to create a Federal Department of Science from the Departments of Commerce and Energy, the EPA, the OSTP, NASA and other agencies also concerns me. Though consolidating Federal agencies might be a good idea, I do not believe that an omnibus recision package is the proper forum for this debate. These agencies are branches of the executive branch, and I believe that such a proposal should originate with the administration. Before any wholesale consolidation, I would prefer to commission a study to determine the impact of this consolidation. If the consolidation makes sound public policy, I would be glad to urge the President to consider moving ahead with the creation of a Department of Science.

Mr. Chairman, it is clear that all of us can find reasons to oppose this amendment. But the alternatives to Penny-Kasich, higher taxes and higher spending, are much worse.

It is essential that we support this amendment to demonstrate that we are willing to leave the reckless spending habits of the past behind us. A vote for Penny-Kasich is a clear signal that the old ways of doing business in Congress are dead. It's time to stand up for the rights of the taxpayers in future generations, who will have to bear the burden of today's excess. I urge my colleagues to vote aye.

Mr. BORSKI. Mr. Chairman, I rise in opposition to the Penny-Kasich amendment and in support of the Sabo amendment.

Reducing the deficit is an important goal of this Congress. But what good is deficit reduction if it cripples our cities, prevents us from guaranteeing comprehensive health care to all Americans and critically hurts senior citizens and working Americans. This is what the Penny-Kasich amendment proposes to do.

A large portion of the cuts in the Penny-Kasich amendment target senior citizens. Nearly $40 billion would be cut from Medicare. $20.8 billion would come from a 20 percent coninsurance on clinical lab and home health services. This would mean money out of the pockets of seniors regardless of their income each time they need bloodwork or other laboratory analyses or seek special care in the home. It would also mean that these services would be placed out of the reach of many low-income seniors.

The proposed cuts in Medicare would jeopardize the President's plan for health care reform. The President has proposed using savings from the Medicare Program to finance his health care reform proposals, including extending coverage to all Americans and expanding Medicare coverage for prescription drugs and long-term care. Penny-Kasich would require spending cuts to be used only for deficit reduction and not for health care reform. This would seriously limit our ability to provide universal coverage without increasing costs for most Americans.

In addition, Penny-Kasich would cut Federal programs that are vital to our cities. By lowering discretionary spending caps by $43 billion beyond the limits set under the Budget Reconciliation Act, Penny-Kasich would require substantial cuts in many important programs, including State unemployment, Head Start, low-income energy assistance, aid for disadvantaged school districts, AIDs programs and substance abuse programs.

Penny-Kasich would also virtually eliminate operating subsidies for mass transit. In my district of Philadelphia, SEPTA authorities would have to raise their fares and force thousands of people back into their cars during rush hour.

Years of neglect of our cities have allowed our communities' infrastructure and municipal facilities to deteriorate. Crime, homelessness, and poverty have become commonplace. Our cities simply cannot bare the burden of the additional cutbacks proposed under Penny-Kasich.

Mr. Chairman, we must reduce the deficit, but we must do so carefully to ensure that the burden is distributed fairly and equitably. The Sabo amendment would accomplish this.

In August, I made one of the toughest votes of my career when I supported the President's $500 billion deficit reduction package. Over the next 5 years, $250 billion of this deficit reduction will come from spending cuts that are both real and painful. This year desperately hard choices had to be made in order to meet the strict spending caps set in the bill.

Despite this significant deficit reduction, we have returned today to cut spending even further. The Sabo amendment cuts spending by an additional $37.1 billion over 5 years. It includes many of the President's recommendations for reforming Government to make it more efficient and more effective. In addition, the Sabo amendment eliminates unnecessary programs, including the Federal honey subsidy, the Advanced Metal Liquid Reactor Program, and several Federal highway demonstration projects.

In short, Mr. Chairman, the Sabo amendment reduces the deficit by nearly $40 billion over the next 5 years without threatening health care reform, crippling our cities or unfairly targeting elderly and working Americans. I urge my colleagues to reject Penny-Kasich and support the Sabo amendment.

Mr. LEVIN. Mr. Chairman, I rise in opposition to the Penny-Kasich amendment.

I have not shied away from the tough votes to cut spending. I have voted for every serious comprehensive deficit reduction proposal since coming to Congress. I voted in August for the largest deficit reduction package in our Nation's history. I am voting tonight for the Sabo amendment and the Frank amendment, which together would cut spending by $51.5 billion.

The Penny-Kasich amendment is well-intentioned, but poorly conceived.

It is "Penny"-wise and pound foolish. It makes cuts today that will make it extremely difficult—if not impossible—to achieve the far greater cuts that would be realized from genuine health care reform. The public loses twice: it loses an opportunity for serious deficit reduction and it loses comprehensive health care reform. This alone is reason enough to vote against this amendment.

But there's more. Many of the proposals contained in the amendment appear to be badly flawed and counter-productive. The Chairman of the Securities and Exchange Commission says that the amendment will force a shutdown of his agency. Environmental experts say that it will cripple Superfund cleanup efforts. The Secretaries of Commerce and Energy say that it will create a massive, inefficient bureaucracy.

These are just some of the concerns that have been raised which cannot be considered carefully because of the hasty manner in which this amendment was put together.

Some of the health-related cuts illustrate the trouble with Penny-Kasich.

All the Penny-Kasich Medicare cuts come out of beneficiaries' pockets, placing an unfair share of the burden on the elderly and disabled.

The Penny-Kasich proposal to means-test Medicare Part B premiums could result in some beneficiaries paying more for their Medicare coverage than it is actually worth. If we are to modify the Medicare program—that is, from an entitlement program to an income-tested program—we need to ensure that it is done in a thoughtful way. The authors of this proposal did not do that.

The proposal to require Medicare beneficiaries to pay for part of their home-health services would add to Medicaid costs. The Medicaid program pays for lower-income beneficiaries' Medicare premiums, copayments and deductibles. Since states pay nearly half of Medicaid costs, this amounts to a new and significant unfunded mandate on States. Michigan would have to pay about $164 million over 5 years.

I am all for real, responsible deficit reduction. That is why I am voting tonight for the Sabo amendment. I am also voting for the Frank amendment because it reflects most, though not all, of my previous votes on strong deficit reduction.

And that is why I am voting against Penny-Kasich.

Mr. PORTER. Mr. Chairman, I rise to discuss my support for the Penny-Kasich amendment to H.R. 3400, the "reinventing government" legislation before us tonight. This amendment proposes $90 billion in budget savings over the next 5 years, a reduction of 1 percent from what we expect to spend during that time under current law. While I oppose several of the amendment's provisions, I believe we should pass this legislation in order to make a real cut in the deficit. Indeed, if we are unable to make a mere 1 percent cut in Federal spending, it is doubtful whether we will ever be able to make the deeper cuts needed to finally clean up the fiscal mess Congress has made and Congress continues to worsen with its current policies. My decision to support this amendment was not easy.

Mr. Chairman, I firmly believe that the root cause of the deficit is too much spending rather than too little taxation. My opposition to the recently-enacted budget reconciliation law was based largely on the fact that that legislation depended heavily on tax increases instead of spending cuts to achieve its deficit reduction goals. I also opposed that legislation because it spends most of the new taxes it raises and because its deficit reduction goals are inappropriately modest. If this law works the way its supporters say it will—and there is justifiable doubt that it will—the Fiscal Year 98 deficit will be just 20 percent less than the Fiscal Year 93 and Fiscal Year 94 deficits. I believe we should seek a 50 percent cut in the deficit by Fiscal Year 98, a goal candidate Bill Clinton espoused during the 1992 presidential campaign.

Given this outlook, the Penny-Kasich amendment represents a chance to help correct one of the most serious faults with current budget law: it allows too much spending and does little in terms of reducing the deficit. The Penny-Kasich proposal takes a reasonable yet significant step in the right direction by cutting total Federal spending by one percent over the next 5 years. By making meaningful and specific cuts, this amendment would lower the deficit and help mitigate the fiscal child abuse Congress continues to commit with its profligacy.

The diversity of cuts within Penny-Kasich is one of the amendment's greatest strengths—and the source of the difficulty I had in making my choice to support this legislation. I strongly oppose several of the amendment's provisions, including the proposed creation of a Department of Science, added defense cuts and others. However, there are several other proposals included in it which I strongly support. These items include the increase in the Davis-Bacon threshold, substitution of vouchers in place of new construction of public housing, termination of the Interstate Commerce Commission, streamlining of various agriculture programs and closing the national helium reserve. On balance, I support a majority of the amendment's provisions. More importantly, I am heartened by and vigorously in favor of the amendment's goal of added deficit reduction through fiscally honest spending cuts. Such cuts are exactly what I called for when I criticized and voted against the 1993 reconciliation law and precisely what the American people continue to call for but which Congress refuses to enact.

Mr. Chairman, a number of charges have been hurled against this proposal by the Clinton administration and the special interests the administration marshalled to oppose it. These opponents charge that enactment of Penny-Kasich will undermine health care reform, send the economy into a calamitous tail spin, unfairly burden various segments of the population and cast aside those who most need government assistance. I believe these charges are unfounded. Were this legislation adopted, total Federal spending over the next 5 years would fall fro $8.015 trillion to just under $7.924 trillion, a decrease of about 1 percent. Certainly, $7.924 trillion leaves us enough money to reform health care and provide necessary Government services to those most in need. Indeed, if we are so bloated, inefficient and uncreative in our use of tax dollars that we cannot meet our society's basic needs over the next 5 years with that amount of money, then American indeed is in deep trouble. We can and should do better, Mr. Chairman, both for the sake of reducing the deficit and for the sake of regaining the confidence of the American people in Congress and its ability to govern.

Mr. Chairman, it never had to come to this. I repeatedly warned about the dangers of big deficits during the early 1980's when I first came to Congress and after. At that time, however, the Nation was enjoying strong economic growth and Congress was unconcerned about the red ink it sent flowing from Washington. On several occasions during the mid eighties, I offered alternative Federal budgets which would have frozen Federal spending by program function, thereby forcing Congress to set priorities and live within reasonable spending limits. Unfortunately, those budgets were blocked from consideration or rejected on the one occasion when Congress was allowed to vote on my proposal. Had any of these proposals been adopted today, the budget would be running a surplus instead of a deficit—and we would have no need for proposals such an Penny-Kasich.

Unfortunately, that is not the situation we find ourselves in today. With respect to the specifics of this vote, I am disappointed that Speaker FOLEY's Rules Committee has again brought a major piece of legislation to the floor under a highly restrictive rule. Specifically, this rule allows Members a vote on only two amendments: Penny-Kasich and Frank-Shays. While there exists a plethora of Government reform and spending cut proposals introduced in this Congress, those of us seeking additional deficit reduction through spending cuts continue to be blocked from voting on those proposals by the Rules Committee and its tight-fisted control of floor debate on major bills such as H.R. 3400.

Mr. Chairman, I will vote for Penny-Kasich and Frank-Shays tonight not because I support every item in them but because they are the only options available to me. They are the only proposals I will have a chance to vote on which attempt to do what we need to do far more of: reduce the deficit through real, comprehensive and far-reaching cuts in spending.

Mrs. LOWEY. Mr. Chairman, I rise to express my opposition to the Penny-Kasich amendment and to urge my colleagues, instead, to support the budget cutting proposals being offered by the chairman of the Budget Committee, Mr. SABO, and by Congressman FRANK and Congressman SHAYS.

I want to congratulate Congressman PENNY and Congressman KASICH for their determination to continue work on reducing the Federal budget deficit. I share their desire to accelerate the process of putting our Nation's fiscal house in order. I have offered my own plan for cutting the deficit by over $53 billion, and I am pleased that all three of the measures before the House tonight contain elements of my proposal.

Mr. Chairman, we do not disagree over the need for deficit reduction but over the means by which to achieve those savings. The Penny-Kasich amendment is fundamentally flawed for four reasons:

It would seriously undermine the chances of enacting meaningful health care reform during the 103d Congress by preventing the use of anticipated medicare savings for health care reform.

It would impose an undue burden of deficit-reduction on seniors, particularly those who live in States, such as New York, which have high costs of living.

It would impede our ability to shift budget priorities to help our communities address our most pressing needs, such as crime control and prevention, job-creation, education, public health, and our economic and environmental infrastructure.

It would make a series of dramatic changes to a range of Federal programs that should be thoroughly reviewed and debated before the full house takes action on these matters.

Mr. Chairman, it would be easy to ignore the impact of these proposals and take what many are calling a free vote in favor of this proposal, in the hope that it will be improved later on in the process. To give the appearance of being tough on spending without taking the time to get it right.

There is no such thing as a free vote in Congress. The people of the 18th district did not send me here as their Representative so that I could cast free votes.

They sent me here with the hope that I would rise to the challenge of a more difficult task—to cut our budget while investing in initiatives that will make our Nation stronger. They know that we must do both. I believe that the Penny-Kasich amendment fails to rise to that challenge.

That is why I am voting against the Penny-Kasich amendment and for the amendment offered by Congressman SABO and the amendment offered by Congressmen FRANK and SHAYS. These amendments will build on the rescission package which my colleagues and I on the Appropriations Committee approved last week.

The Sabo amendment would cut Federal spending by $37.1 billion over 5 years, on top of the savings already enacted last August. Most of these savings would be achieved by reducing the Federal workforce by 252,000 positions. The personnel cuts required by the measure are identical in size to those recommended by the administration's National Performance Review, chaired by Vice President GORE.

The measure would also achieve important savings by reorganizing agencies within the Agriculture Department and eliminating wasteful agriculture subsidies, which I have long advocated, for a savings of over $900 million. The amendment would streamline operations at the Department of Housing and Urban Development and eliminate wasteful programs in the Interior, Energy, and Transportation Departments.

The amendment includes a number of proposals which I made earlier this year, such as the following:

Consolidate in one department the Federal Government's efforts to build polar satellite systems which are currently carried out separately in the Department of Defense, NASA, and the Department of Commerce;

Require Federal agencies to make greater use of direct deposit/electronic funds transfers to pay Federal benefits and salaries; and

Allow the private sector to cogenerate power at Department of Energy Labs.

The Sabo amendment amounts to dramatic, yet sensible, deficit-reduction that will improve our fiscal health while enhancing the effectiveness of federal programs.

Likewise, the Frank-Shays proposal also includes sensible reductions of $14.4 billion that merit support. The amendment would cancel the space station, something I have long supported. It would also cut spending on the defense of Europe by requiring our European allies to contribute to the costs of basing U.S. troops there—or face their withdrawal. Finally, the measure cuts funding for ballistic missile defense and for the advanced liquid metal reactor.

Taken together, the rescission package, as amended by the measures offered by Mr. SABO, Mr. FRANK and Mr. SHAYS, would provide over $51 billion in savings over the next 5 years. These measures provide major new spending reductions that go beyond the record $496 billion deficit-reduction package enacted in August.

These proposals are well considered and keep faith with the mission the American people sent us here to accomplish: To turn our Nation's economy around by making Government work better. I urge my colleagues to support this package.

Mr. POSHARD. Mr. Chairman, I rise today in support of the Penny-Kasich amendment to H.R. 3400.

In my 5 years of service in the House of Representatives, I have tried to help steer this country on a path of fiscal responsibility and deficit reduction. I voted for the 1990 Budget Agreement and the 1993 Budget Agreement, both extremely challenging votes, because I believed that we had to take action against the deficit. Both of those bills cut Federal spending. I do not regret voting for either bill. But their combination of revenue increases and spending cuts have really only slowed the growth in spending. I believe it is time to do more, and Penny-Kasich offers us the best opportunity for real deficit reduction.

I must tell my colleagues that his debate typifies for me why we struggle to make even the most basic decisions on fiscal policy. Ever since the Penny-Kasich amendment was proposed, my offices have been swamped with calls and letters from representatives of particular groups or individuals who say they will be hurt by specific cuts Penny-Kasich has in store for their program. The letterhead lobby here in Washington has produced hundreds of arguments insisting that cuts would do irreparable harm to whatever organization or sector of the economy they happen to represent.

All of these folks are good people. In many cases, they are good friends whom I've had the pleasure of working with for many years. They represent issues I care about deeply—child care, seniors, clean coal research, public broadcasting and on down the list. They can make a compelling case for why each specific cut will cause some pain. And I respect their arguments.

But while our job is to represent our districts and the people who elected us to serve in this House, we are also here to address the broad national interest. And I think Penny-Kasich is a defining moment in terms of whether we are willing to come to grips with deficit reduction, and whether we are willing to cut programs which may serve some of our constituents and may be important to our districts.

Let me give you one concrete example in my district. Illinois is suffering from the effects of the 1990 Clean Air Act. We have lost coal mining jobs by the thousands because we cannot sell the high-sulfur coal which is mined in my state. No one has worked harder than me to support clean coal research and to look for scientific answers to the problems facing our coal industry.

This would seem to be reason enough to oppose Penny-Kasich. And the inclusion of serious cuts in the Clean Coal program was one of the reasons I had to take a long, hard look at this proposal. But suppose I decide that this cut alone is too much for me to support the whole package. Then the Member with the defense industry in his or her district who is affected decides that cut is too much. Then the Member with a high number of senior citizens says the same because of Medicare. You see where I'm headed. So long as we decide to hold all programs harmless, we will never truly achieve deficit reduction. At some point, we will have to make real cuts which affect real programs that may discomfort real people in our district and across the country.

We can eliminate the helium reserve and cut our office budgets—things we should do—until the cows come home and we will never achieve substantial, meaningful and tangible deficit reduction.

Let me return for a moment to the vote this year on the budget bill. I voted for that bill in part because we were promised the opportunity to vote for additional spending cuts. Surely everyone knew that we could not bring forth a package of real cuts that would avoid programs which we believe are worthwhile. There is no safe cut. But unless we re willing to make tough choices, we will keep running up $250 to $300 billion annual deficits and will send the $4 trillion debt even higher.

I think my colleagues have come up with a plan worthy of our support. In the big picture, we are talking about one-cent on the dollar in federal spending cuts over the next 5 years. This is only one-fifth of one-cent per year. We are not tying the President's hands on health care. I have great respect for the President and First Lady for their meaningful response to the health care crisis facing this country. Besides being one of the most critical issues in the daily lives of average Americans, it is one of the driving forces behind our runaway deficits and debt. But making these changes will not rob the administration of options on health care, and if it does, that means we have another tough vote ahead, which is how to fully pay for the reforms people want. That is also our responsibility.

I will vote for the other spending cut options, knowing that it is likely that Penny-Kasich could fail and that we must take at least some measures to address the deficit. But I tell my colleagues, and the people in my district, that the other options, while they are brought forth in an honorable manner, do not meet the test of real deficit reduction.

Mr. Chairman, I have gone across my district to discuss the importance of this issue. Time and time again, with very few exceptions, people in my district tell me they are willing to accept cuts in government programs or even the elimination of government programs if they know the cuts will go to deficit reduction. Quite often, they are willing to accept higher taxes, if they know the money is going to deficit reduction.

But they are almost always willing to do neither—spending cuts or tax increases—if they lack the confidence in this body to apply those cuts to deficit reduction. I believe we have gone about as far as we can on the tax side. We are now faced with the cold, hard reality of spending cuts. And the Penny-Kasich cuts go directly to deficit reduction. We keep the faith with pay-as-you-go government.

To my friends who have called and written to me on specific programs, I want to tell them that I do not take this vote lightly. I appreciate your concerns about how this program will affect education, labor, veterans, coal and Federal employees among many others. If given the opportunity to change this or other alternatives, I might well choose differently in the reductions we propose or buffer the impact of these cuts in other ways. But we are given very few chances like that in today's Congress. We are given a package of tough choices and are asked to vote "up" or "down" and then live with the consequences. That is what you sent us here to do.

For the last 12 years or more, we have endured an administration which told the people, "You don't have to pay for anything, and we will never raise your taxes." And we have suffered from a legislative branch which told the people, "You don't have to do without anything, we will never cut or eliminate a program." That is a disastrous combination which has put this country into long term indebtedness which will take us years and years to reconcile. It will take plenty of very tough decisions. And it will have to start with this one, today, in support of Penny-Kasich.

Mr. BALLENGER. Mr. Chairman, as my colleagues Representative PENNY and Representative KASICH said in a Washington Times editorial, "The vote will define the two kinds of people who occupy Congress: those who truly want to control the flow of red ink, and those who only want to talk about it." I want to stop the flow of red ink in Washington, so I strongly endorse the Penny-Kasich common cents deficit reduction plan to cut spending first.

We have had years to accomplish fiscal responsibility and have failed completely. The political will and honesty have not been there. This plan is needed to give us the backbone to make the tough decisions to return common sense budgeting to our nation. The Democratic majority has thwarted every attempt to bring fiscal sanity to the present budget system. The Penny-Kasich bipartisan plan is the best and really the only hope to reduce the bulging Federal deficit (estimated to be $254.5 billion).

The Penny-Kasich plan is estimated to reduce Government spending by $90.2 billion over the next 5 years, which works out to about .006 percent or less than one cent out of every Federal dollar spent over the next 5 years. The package includes roughly $21 billion in discretionary savings, $39 billion in entitlement savings, and $30 billion in personnel savings. In fiscal year 1994 this plan produces about $7 billion of spending cuts and in a $6 trillion economy, this will certainly have a very small effect on the recovery. This is truly a small price to pay to put our fiscal house in order.

Many naysayers have spoken on the House floor talking of draconian cuts and urging that we do not pass the Penny-Kasich Common Cents Deficit Reduction Act of 1993. Let me clearly say that this is simply a distortion of the truth and in some cases an outright lie. Who are the naysayers—every special interest group who feeds at the public trough.

Let me rebuke a few of the myths about this plan:

The plan does not hurt the economy. Over the next 5 years the Federal Government will spend $8 trillion dollars and the common cents deficit reduction plan only cuts $90 billion in Federal spending. Government spending does not create jobs. If this money were left in the hands of the taxpayers, it could be spent or saved by them, in other words, creating jobs in the private sector.

The plan does not cut defense. President Clinton sent Congress a budget in February which cut total defense spending by $127 billion over 5 years, $67 billion more than he claimed during the campaign. These cuts are in addition to the Bush build-down. This plan only contains $1.8 billion in defense cuts over the next five years.

The plan does not destroy health care reform. The President's health care reform plan includes $332 billion in new spending over 6 years, $50 billion in deficit reduction and also contains a $45 "fudge factor." If this is really true, it's hard to see how the Penny-Kasich plan's claim of $35 billion in Medicare savings now—rather than later—could possibly harm the Clinton health plan—unless the President is a lot less confident of his health care figures then he claims.

The plan is not unfair to seniors. The Medicare provisions included in the Penny-Kasich plan are the same proposals the administration included in their health care reform proposal. More importantly, the Penny-Kasich plan is seeking only $35 billion in cuts, while the President proposes $124 billion in Medicare cuts.

Finally, let me add a word about the President's so-called deficit reduction plan—it's a sham. President Clinton's deficit plan allows the cuts—$41.2 billion—to be used for anything—including more spending. The Penny-Kasich plan requires the savings to go directly to deficit reduction. The President's proposal does nothing to reduce the Federal deficit.

If you are serious about deficit reduction and want to show the American people who have called for us to cut spending first, you will join me in supporting the Penny-Kasich common cents plan. You can no longer run or hide from these difficult decisions.

Mr. KIM. Mr. Chairman, I rise in strong support of the Kasich-Penny deficit reduction amendment. Actions always speak louder than words. It's time to stop talking about cutting Government waste and start doing something about it. The Kasich-Penny amendment cuts $90 billion in deficit spending over the next 5 years.

Today I was shocked to learn that the Government's own Civil Service and Military Pension Fund is over $1 trillion short. Let me repeat that, the Government pension fund is over $1 trillion in the hole. The Federal Government as a whole is over $4 trillion in debt. We're in trouble and we must stop deficit spending.

The Kasich-Penny amendment is a golden opportunity we must not let pass. Despite all the claims by its opponents, Kasich-Penny is modest, relatively speaking. It is only 1 penny of cuts per $1 for the next 5 years.

Opponents of this responsible amendment have gone to great extremes to try to scare the public away from cutting Federal waste. They claim Kasich-Penny will severely cut Medicare, food for poor children and colas for retirees. They should reread the amendment; it does not do that at all. This is nothing more than clever, fear-mongering rhetoric and it is a disservice to the American public which deserves the facts.

I would not support this amendment if, in fact, it did all these terrible things claimed by its opponents. But, it doesn't. The real reason opponents are fighting this deficit busting amendment is because it is cutting their special pet pork projects. They're upset because Kasich-Penny responsibly reduces programs under the jurisdiction of committees they chair and consider their personal fiefdoms.

The American people are demanding real fiscal reform in Government. This is responsible and genuine reform that cuts the deficit. The rest of the country has tightened its belt in hard economic times, why can't Congress?

I urge my colleagues to join me in strongly supporting the Kasich-Penny amendment.

Mr. WYDEN. Mr. Chairman, Penny-Kasich would impose tremendous new paperwork and administrative hassles on Medicare, a program that already gives millions of seniors a migraine, Our colleagues should review the attached analysis from the Health Care Financing Administration, and vote "no" on Penny-Kasich.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, November 22, 1993.

Hon. RON WYDEN,
House of Representatives, Washington, DC.

DEAR MR. WYDEN: I am writing in response to your inquiry earlier today about the provision included in the Penny-Kasich deficit reduction plan that would vary the amount of the Medicare hospital deductible by income.

This provision is flawed in several respects. First, it falls flat in achieving its intended goal, to require beneficiaries who can afford it to pay more out-of-pocket than those with lower incomes. Rather, the additional costs to beneficiaries will be passed through to the majority of beneficiaries, both rich and poor, have supplemental insurance coverage that pays the hospital deductible. Only 20 percent of Medicare beneficiaries are liable for paying the hospital deductible out of pocket and these are mostly not higher income beneficiaries Sixty-five percent of beneficiaries have the deductible paid through supplemental coverage received as retiree benefits or by Medigap policies. It is in this group where most higher income beneficiaries can be found. Another 15 percent of beneficiaries are Medicaid eligible. The increase in the deductible will, therefore, not be borne by higher income persons, as intended by the proposal, but by those who will pay the higher premiums for supplemental coverage that will result from a higher deductible.

The second flaw is equally troubling to me. This proposal will result in an unprecedented invasion of privacy for Medicare beneficiaries. Each of the sixty-five percent of beneficiaries with supplemental coverage, nearly 25 million people, will need to provide proof of income to their health insurers. Hospitals will require similar information from the more than 11 million Medicare beneficiaries a year who are admitted to hospitals.

Finally, the provisions will create new administrative burdens for beneficiaries, the Federal Government, private insurers, and hospitals. Beneficiaries will be required to report their incomes annually to the Government and to supplemental insurers as well as to provide income information upon admission to a hospital. The Government, insurers and hospitals will need to collect and maintain the information, and to use it each time to calculate correctly the amount of payment for hospital claims. Even after the claim is paid, the burden continues. Because until the year's end, which is after hospital services have been rendered and payment made, many payments will require retroactive adjustments.

I hope that this information is useful to you in evaluating this proposal.

Sincerely,
BRUCE C. VLADECK,
Administrator.

Mr. REED. Mr. Chairman, I rise in support of the Sabo and Frank amendments to responsibly reduce our Nation's budget deficit by $51.4 billion and in opposition to the Penny-Kasich amendment.

While some claim that the Penny-Kasich amendment is the only initiative that reduces spending, I believe that the Sabo and Frank alternatives are far more deserving of this mantle. In contrast to Penny-Kasich, the Sabo and Frank amendments do not endanger health care reform which is the real way to control Federal spending, but they do reduce spending now.

Supporters of Penny-Kasich would have Americans believe that Congress has not already taken steps to control the budget deficit. To the contrary, just 3 months ago, Congress passed a $496 billion deficit reduction plan at the urging of the President, and during the appropriations process, hundreds of specific programs were cut, $34 billion was trimmed from the fiscal year 1993 spending level, and fiscal year 1994 appropriations were $11 billion under the administration's request. Moreover, the President's deficit reduction plan froze the caps on domestic discretionary spending at the fiscal year 1993 level with no adjustments for inflation. All of these efforts cut spending now and will mean more tough choices in the future.

The Penny-Kasich amendment would place an enormous burden on the backs of my State's senior citizens. Over 90 percent of the entitlement cuts in their proposal would come from cuts in Medicare, and, overall, seniors are the target of one-third of Penny-Kasich's budget slashing. Rhode Island's older Americans have already sacrificed under the President's $496 billion deficit reduction plan. Penny-Kasich demands even more and does not recognize that we need health care reform before we gut health programs for seniors. Cutting more from Medicare before reforming health care is putting the cart before the horse. Indeed, controlling health care costs is the real key to reducing the deficit. Penny-Kasich also proposes to reduce investments in our most precious resource—children. This amendment not only reduces funding for libraries and makes it more difficult to expand funding for Head Start job training, school reform, and other future-oriented investments, it also would reverse a recent decision that children should not have to compete for Federal resources. Indeed, Penny-Kasich proposes to combine several social service grant programs and reduce the overall funding level in the name of efficiency. We should control Federal spending to protect future generations, however, we should not jeopardize the ability of our children to compete in the future.

As the Secretary of Defense and the Joint Chiefs have pointed out, Penny-Kasich poses a threat to our Nation's military readiness. Penny-Kasich lowers the discretionary spending cap which would require unspecified cuts in the Defense budget beyond the reductions included in the President's economic plan. In addition, Penny-Kasich threatens the military's ability to recruit by reducing the incentives offered to those Americans who volunteer their lives in service to our country. I am pleased to note that the sponsors of this amendment dropped provisions which would have reneged on past promises by drastically reducing the benefits of the thousands of Federal and military retirees in Rhode Island. However, making these benefit reductions prospective does not eliminate the impact on recruiting and readiness that has been pointed out by the Defense Department, the American Legion, and others.

Finally, Penny-Kasich contains a number of policy changes from unaccompanied tours of duty for service personnel to cuts in university research to the creation of a new Department of Science to abandoning the Superfund program's preference for permanent environmental clean up in favor of mere containment. These policy changes may be called for, but none has received sufficient review from Congress or the public to be enacted today.

Mr. Chairman, while my constituents care about the future and the deficit, they are more concerned with jobs for their families and neighbors. They have seen thousand of manufacturing jobs disappear, families up-rooted, mortgages foreclosed, and they are afraid that their children will be part of the first American generation that does not have a better life than the preceding generation. The American Dream is fundamentally tied to economic opportunity and rising wages. That is why the President's economic plan was careful not to adversely affect the nascent economic recovery. Penny-Kasich jeopardizes jobs and the dream by cutting first and asking questions later.

I urge my colleagues to support a continuing economic recovery and vote against Penny-Kasich.

Ms. VELÁZQUEZ. Mr. Chairman, many Members in this Chamber recognize the need to address the deficit,—the need to cut Government waste,—the ability to cut Federal spending in some select areas. But, it seems that many Members do not realize that we must proceed responsibly and sensibly.

Contrary to the cutting frenzy which has taken hold of this Congress, every proposed cut is not a wise cut, and I can offer no better proof than the Penny-Kasich amendment which is before us today.

We should not and cannot destroy the present with the flawed intention of saving the future. That approach, as embodied in this amendment, would spiral this Nation down an irreversible path.

In the 12th Congressional District of New York, which I represent, far too many people cannot sacrifice any more for tomorrow because they are struggling—literally fighting—to survive today.

Passage of the Penny-Kasich amendment would mean the final, lethal blow to these communities which endured 12 years of disregard and disaffection.

The Penny-Kasich amendment eats away at the social safety net of society like a pack of frenzied piranhas by requiring $70 billion in future cuts in discretionary spending. These devastating cuts would affect education and training, WIC and Headstart, environmental initiatives and infrastructure improvements. These are unspecified cuts that go above and beyond the more than $50 billion in savings that we must presently find as a result of passage of President Clinton's budget and deficit reduction legislation earlier this year.

The Penny-Kasich amendment also reduces spending and consolidates into a single block grant a host of vital programs such as the social services block grant, the "At Risk" Child Care Program, and two major nutrition programs for our elderly.

But possibly even more distressing is the fact that Penny-Kasich seeks $37 million in savings from Medicare, the vast majority of which replicate Medicare savings requested by President Clinton. An important difference however, is that while the President would recycle these savings into much needed health care reform, Penny-Kasich would put all the savings into the deficit. This means that Penny-Kasich would effectively sabotage our Government's ability to reform thie present health care system and join the large family of nations that provide universal coverage.

This amendment also violates the Government's pact with our workers by removing prevailing wage rates from Federal construction contracts and removing the critical protections of the Copeland Act.

Mr. Chairman, I urge my colleagues to have the courage to register their vote against this irresponsible amendment. I urge my colleagues not to be fooled by the bold print of this $90 billion cutting scheme and to look carefully at the small print which outlines the decay and chaos this amendment would beget.

Let us recall the words of Ralph Barton Perry who stated that "any government has in the final analysis to be justified by the quality of life which it promotes."

I urge my colleagues to heed the advice of Mr. Perry and vote "no" on Penny-Kasich.

Mr. OWENS. Mr. Chairman, I rise in strong opposition to the Penny-Kasich amendment. This amendment includes over 85 provisions that cut Federal spending and make permanent changes in various authorizations. It would further squeeze domestic spending programs which already are hard-pressed to support the Nation's most needy citizens.

Adoption of the amendment would destroy and opportunity for this Congress to enact comprehensive health care reform. Everyone agrees that Americans need more affordable health care, and yet the amendment purports to achieve $34 billion in so-called Medicare savings and directs the savings toward deficit reduction only. Such savings includes imposing 20-percent co-insurance fees on home health services and clinical laboratory services—services for which co-insurance is not currently required. These savings provisions would hit the poor and the elderly the hardest.

I also would like to remind Penny-Kasich supporters that if they rob this Congress of the opportunity to pass meaningful health care reform legislation, they also prevent this Congress from tackling the deficit. Health care cost containment cannot be achieved without comprehensive reform, and health care continues to soak-up more than 14 percent of our gross national product.

Some of the entitlement cuts contained in the amendment would be unfunded mandates on the States, coming at a time when many States, including my home State of New York, are experiencing fiscal crises of their own. For example, the amendment requires that the 20-percent co-insurance for Medicare home health services for low-income beneficiaries be paid by State Medicaid, amounting to a $5 billion burden on the States over the next 5 years.

Moreover, like the disastrous Gramm-Latta amendment which was enacted in 1981, this amendment contains major policy revisions that have not been scrutinized by the usual, rigorous, legislative process. For instance, without a single hearing on the issue, the Penny-Kasich amendment would establish a new cabinet-level department, the Department of Science, Space, Energy, and Technology, by combining the Departments of Commerce and Energy with the National Science Foundation and NASA.

Even H.R. 3400 itself includes major policy changes that have barely been examined because of the determination of the Clinton administration to ram the bill through Congress before Thanksgiving. Again, without a single hearing on the issue, H.R. 3400 would radically alter the way in which government information is published and disseminated. That provision flies in the face of the Depository Library Program, which has existed for more than 150 years; the Government Printing Office, which has existed for more than 130 years; and the Joint Committee on Printing, which has existed for 160 years. Despite the fact that this system has achieved cost savings over time, the Clinton administration is asking Congress to make sweeping changes.

Congress should not make such an important decision with haste. The impact and cost of dismantling the Government Printing Office should be studied carefully over a period of months, not a period of days. In fact, a study just completed by the Deputy Librarian of Congress concludes that shifting the Government Printing Office's functions elsewhere may cost, not save, money.

Mr. Chairman, the cuts proposed by the Penny-Kasich amendment are rash, and the changes proposed by H.R. 3400 may be premature. I urge my colleagues to vote against the Penny-Kasich amendment.

Mr. HOUGHTON. Mr. Chairman, I don't have much time to endorse the Penny-Kasich bill but recognizing that limitation I must say that this debate astounds me. Imagine a family, a business moving slowly into bankruptcy arguing about technical irregularities. This is what we're doing. Remember the old saying—the last thing a company does before it goes out of business is to issue a new controller's procedure. That is what we're doing. Or to put it another way let's say our family income is $12,000 a year, but our expenses are $15,000—and somebody says "Hey you better watch out. You're going broke. Why don't you face reality. Make a start, save $150 a year. It's not much you'll have to cut down a bit, but what's the alternative? Don't put it off—do it—do it." And then your answer comes slowly back—"No, I can't do it. I haven't thought it through, I'll have to wait."

My fellow associates—hear me. That is what we're doing here tonight. The sad part is that we're doing it not with our money, you see we're borrowing hundreds of billions each year. We're doing it with our children's money. In your heart do you feel right about that. We're losing our will, we're losing our backbone. I cry for our country.

Mr. BEREUTER. Mr. Chairman, this Member would like to comment on a matter mentioned in a previous debate by the gentlemen from Pennsylvania [Mr. GOODLING] which refers to the punitive effect of civil penalties. This Member shares the gentlemen from Pennsylvania's concern and objection to section 16701 of H.R. 3400, which would index all civil penalties, except those under the Internal Revenue Code, to inflation. This provision would affect hundreds of provisions in existing law by increasing penalty levels by September 1994 to reflect past inflation, then indexing to inflation thereafter.

This Member supports the Penny-Kasich amendment, and is pleased that a similar provision was removed from the original draft of this initiative. However, the Penny-Kasich amendment does not delete the language providing for the indexing of all civil penalties in H.R. 3400.

This Member expects that this situation will be rectified in any conference and pledges his support to any future effort by the gentlemen from Pennsylvania [Mr. GOODLING] to address this issue.

Mr. STARK. Mr. Chairman, I rise in strong opposition to the Penny-Kasich amendment that would require Medicare beneficiaries to pay an additional $35 billion for their medical bills over the next 5 years. Just a few months ago, the Congress enacted $56 billion in Medicare savings as part of OBRA 93. Many of us recognize that it may be necessary to consider further reductions in Medicare spending within the broader context of health care reform. If this amendment is passed, and if these Medicare savings are enacted, health reform will be stopped in its tracks.

A vote for the Penny-Kasich amendment is a vote against the Medicare Program and the beneficiaries it serves. This amendment would:

First, income-relate the Medicare part B premium, which would quadruple the part B premium for higher income Medicare beneficiaries; second means-test the hospital deductible incurred by Medicare patients; third, impose a new 20 percent copayment for laboratory services, and fourth require home health beneficiaries to pay a 20 percent coinsurance for all home health visits.

Enacted apart from broad health care reform, the Medicare proposals would be financially burdensome to Medicare beneficiaries, and would undermine future efforts to achieve health care reform.

The Penny-Kasich amendment would increase medical bills paid by the oldest and most frail senior citizens. The amendment would establish a new 20 percent coinsurance for home health services, which is a highly regressive sick tax. Seniors who are near-poor—with incomes around $11,000 per individual—will be billed hundreds, if not thousands of dollars for home health services.

Under the Penny-Kasich amendment, a typical senior citizen with medical needs requiring home health services would pay about $800 in Medicare deductibles and another $650 for the new home health coinsurance. Of course, these individuals will also be required to pay the entire cost of their prescription drugs, which are not covered by Medicare. Those who are older and sicker, with the greatest need for home health services, could pay more than $1,000 for home health care, if this proposal is enacted.

The Penny-Kasich amendment imposes a new and onerous reporting requirement on all seniors and the disabled, beginning 60 days after the date of enactment. This proposal would force 35 million elderly and disabled Medicare beneficiaries to report their expected, modified adjusted gross income to the Secretary of HHS each year. This is likely to generate anxiety and confusion for beneficiaries since no such reporting requirement currently exists. It is also likely to result in erroneous reports unless HHS functions as a shadow IRS and instructs individuals how to estimate their modified adjusted gross income.

The Penny-Kasich amendment will increase Medigap premiums, as a result of the means-tested hospital deductible, and the coinsurance on home health services. More than two-thirds of all seniors have supplemental coverage, in addition to Medicare. These supplemental policies wrap around the Medicare benefit package. The Penny-Kasich amendment will result in higher Medigap premiums to pick up the new and substantial cost sharing that would be required under Medicare.

The Penny-Kasich amendment will provide confidential income data to hospitals. To administer the means-tested hospital deductible, the Secretary of HHS will develop and maintain income data on every Medicare beneficiary to determine the appropriate level of payment for each of the 11 million hospital stays that occur each year. If, based upon the Secretary's income records, the deductible charged to the individual were too low, Medicare would recoup the difference from the hospital, and the hospital would chase down the beneficiary to collect the residual part of the deductible that they are due.

Obviously, this gives hospital billing departments the ability to deduce which of their patients have incomes that exceed $70,000.

The Penny-Kasich amendment increases the administrative burden on HHS and the IRS, and requires the Department of Health and Human Services to function as a shadow IRS. This plan would force Medicare to monitor the income of senior citizens in order to decide which patients are liable for the proposed $2,000 hospital deductible and the quadrupled part B premium. The Secretary of HHS would begin to collect and use self-reported income data, filed by seniors and the disabled, to determine the applicable inpatient hospital deductible for each admission, and the appropriate part B monthly premium amounts to be deducted from each beneficiary's monthly Social Security check.

The IRS would provide taxpayer information to the Secretary of HHS to verify self-reported data. The Secretary of HHS would reconcile IRS information with the self-reported income for each Medicare beneficiary. Any discrepancy would be corrected through the part B premium deductions applied to future monthly Social Security payments.

Mr. Speaker, the Penny-Kasich amendment would widen the current disparity between seniors and the under 65-population with respect to health coverage. Seniors already pay over three times more than the younger population for their medical bills. The current law part A deductible, now at $676, is substantially higher than the deductibles paid by the vast majority of those with employment provided health benefits. Moreover, seniors are not protected by a catastrophic cap on out-of-pocket expenses. This amendment would only make matters worse.

I urge my colleagues to vote against this amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY].

While offered in the name of deficit reduction, this amendment is not simply a matter of budget numbers. It is not simply a matter of cover or an easy vote. Rather, it is a proposition that threatens to deny our children's education, our workers' training, and services all Americans count on in their daily lives.

The Penny-Kasich amendment includes specific rescissions. It proposes to eliminate Federal support for library construction. It slashes meals on wheels for senior citizens, child care assistance for families, and health research for cancer and other diseases.

The discretionary caps enacted with the 1993 reconciliation act already threaten the education resources needed to meet the challenges of tomorrow. The lower cap proposed by this amendment would make the pressure that much worse.

With this amendment we would be unable to meet the commitments to which we pledged ourselves in the budget resolution, such as full funding for Head Start, expanding title 1 compensatory education beefing up training and retraining for Americans and renewing investments in school reform and higher education.

Mr. Chairman, we have twin responsibilities. One is to eliminate the budget deficit in order that we not leave a mountain of debt to future generations. The other is to provide for our children the tools they need to become educated, responsible, contributing members of society.

Mr. Chairman, this amendment would make a modest step to reduce the deficit, but its cost will be measured in a generation less able to meet the other challenges that will confront them.

Mr. Chairman, I must also oppose this amendment because of the way it would unfairly reduce retirement benefits and increase the retirement age for Federal workers. As former chairman of the Committee on Post Office and Civil Service and one of the principal architects of the Federal Employees Retirement System, I am deeply troubled by this proposal to undo FERS—a retirement system modeled after plans used by private industry and even viewed by the Reagan administration as fiscally correct—in the name of deficit reduction.

These proposals represent bad personnel policy and should be summarily rejected. These changes are just plain wrong, particularly at a time when some are proposing to reinvent Government by improving efficiency and rewarding exemplary service. Federal employees should be lauded for their hard work and dedicated to service, commonly for salaries far below those of their private sector colleagues.

I urge defeat of the amendment.

Mr. KYL. Mr. Chairman, President Clinton promised wavering Members of Congress and the American people that if they went along with his record-setting tax increase last summer, he would initiate a second round of spending cuts this fall. In what OMB Director Leon Panetta characterized as a package that "more than fulfilled" the President's commitment, the administration has since submitted a package which it claimed would save about $5.9 billion over 5 years.

That is far short of the magnitude of savings which I suspect most who went along with the President's tax package had in mind. And, I suspect they will be even more disappointed to learn that the Congressional Budget Office recalculated the savings at only $305 million, not even the $5.9 billion the administration claimed.

Mr. Chairman, the President proposed and won passage of a budget which is top-heavy with tax increases that take effect now—and, in some cases, retroactively to January 1, 1993—while 80 percent of the claimed spending cuts won't take effect until 1997 and 1998—after the next Presidential election. He won the vote based, in part, on his promise to seek additional spending cuts, and out of a $1.5 trillion budget, the best he was able to do was propose $305 million in savings.

If the President can't propose serious spending cuts only 4 months after he promised to seek additional savings, how can the American people really believe that the 80 percent of spending cuts in the Clinton budget which are scheduled for 4 and 5 years from now will ever materialize?

Fortunately, we do have an opportunity today to consider significant cuts in spending. The Penny-Kasich amendment won't balance the budget in and of itself; it amounts to a cut of only one cent on every dollar that will be spent by the Federal Government over the next 5 years. But, Penny-Kasich represents the only chance we will have this year to vote on a credible package of spending cuts.

Mr. Chairman, the opposition to this plan has amazed me. The President, instead of backing the effort he helped set in motion, has been furiously lobbying special interest groups around the country to defeat it. It's not surprising that the special interests oppose the plan. But, it is surprising the extent to which they've gone to exaggerate its impact and frighten people.

Many retirees, for example, have been told that Penny-Kasich will eliminate cost-of-living adjustments [COLAs]. The fact is, the COLA provisions don't even affect current retirees. Only Federal civilian and military personnel, newly hired or enlisted as of January 1, 1994, will be affected by Penny-Kasich's under-age-62 COLA deferral.

This amendment will not devastate Medicare as some are suggesting. Compared to the $124 billion in Medicare reductions which President Clinton is proposing, Penny-Kasich trims just $34 billion over 5 years, almost half of which comes from asking those with annual incomes over $70,000—couples with incomes over $90,000—to pay more for Part B premiums rather than receive a 75 percent Government subsidy. The President's own health care reform plan includes a similar proposal. The real difference, besides the depth of the Medicare cut, is that the President wants to spend the savings that would result, whereas Penny-Kasich applies it to the deficit.

Health researchers have been told that biomedical research will be devastated. Here's what Penny-Kasich will really do: it simply says that overhead costs associated with federally sponsored university research can't exceed 50 percent. Penny-Kasich will ensure that more resources go directly to research, and less to wasteful overhead. 50 percent is not an unreasonable limit.

Some groups are urging a "no" vote, saying it will cut WIC, Head Start or Child Immunization funding. These programs are not even mentioned in the Penny-Kasich amendment.

To cut administrative costs, Penny-Kasich does consolidate several social services programs—the social services block grant, the community services block grant, title IV–A at-risk child care, and the child care and development block grant—into one block grant program. By consolidating the programs, it provides an opportunity to cut administrative costs—as opposed to services to the American people—and, in the process, provide those services more efficiently.

Will it devastate education? No. It cuts only $170 million from four programs that have either achieved their goals or are duplicated in large part by other programs. Those programs include Public Library Construction, Follow Through, Law-Related Education, and Law School Clinical Experience. It doesn't touch the bulk of education, including Pell Grants.

There are some things in Penny-Kasich I would do differently. For example, while it would freeze the budget of the Appalachian Regional Commission at last year's level for a 5-year savings of $38 million, I would eliminate the commission for a 5-year savings of about $1 billion.

Penny-Kasich would cut the Legal Service Corporation by 5 percent for a 5-year savings of $80 million. I would eliminate it for a 5-year savings of $1.2 billion.

I would still like to see Congress cut its own budget deeper—by 25 percent instead of the recommended 7.5 percent in this amendment—eliminate agencies like the Economic Development Administration, cut deeper into farm subsidies, and repeal the costly Davis-Bacon and Service Contract Acts, to name a few.

On balance, while I believe some changes need to be made in Penny-Kasich—and we will still have that chance later in the legislative process—Penny-Kasich is a sound and reasonable spending cut package. A "yes" vote will keep the process moving forward, and there will be opportunities in the Senate and in conference to try to deal with any problems anyone might have. But, a "no" vote will stop deficit reduction dead in the water.

Mr. Chairman, if we can't even cut a penny on the dollar over the next 5 years, how are we ever going to make the really difficult decisions needed to balance the budget?

I urge my colleagues to support the Penny-Kasich amendment.

Ms. NORTON. Mr. Chairman, I rise in support of Chairman SABO's amendment to H.R. 3400, the Government Reform and Savings Act of 1993, which embodies many of the proposals from Vice President GORE's National Performance Review. However, I strongly oppose the Penny-Kasich amendment to the bill. The Penny-Kasich amendment is a massive package of ill-considered policy changes which have completely bypassed the committee review process, and which, if passed, would do irreparable harm to the administration's goal of achieving greater government efficiency and health care reform.

As chair of the House Subcommittee on Compensation and Employee Benefits, which has jurisdiction over proposals effecting Federal employees' and retirees' benefits, I am especially concerned about the Penny-Kasich proposals to increase the retirement age for Federal employees from 55 to 65 and to reduce the Government's contribution to employees' Thrift Savings Plans. These proposals are based on the mistaken belief that Federal employees' retirement benefits are somehow out of line with those enjoyed by private sector employees who the proponents believe must work until age 65. However, a 1991 study by the Bureau of Labor Statistics showed that the majority of private sector pension plans allowed their employees to retire before age 65 with full benefits, and data collected by the Office of Personnel Management indicates that more than half the Federal work force currently retires after age 60. In other words, the Federal civil service retirement closely parallels that in the private sector.

As regards the Thrift Savings Plan, the Penny-Kasich proposal mistakenly presumes that this employee retirement savings plan is more generous than those offered by large private sector employers. However a 1991 Bankers Trust survey revealed that approximately half of the 182 corporate plans surveyed matched employee contributions at a rate comparable to the Thrift Plan, and that the definitive trend amongst corporate private sector employers was to increase, not decrease, their matching contributions. More importantly, the Thrift Savings Plan was designed to accomplish two things: First, to encourage Federal employees to save for their own retirement; and second, to save the Government money. It has done both, has done so significantly, and should not be precipitously altered.

Finally, my friends, the changes in civil service retirement contained in the Penny-Kasich amendment do not save money. According to the Congressional Budget Office, increasing the retirement age from 55 to 65 generates no scoreable savings to the budget, and the radical alteration of the Thrift Savings Plan will only cut the budget by $1 million. These facts clearly evidence that these two changes in civil service retirement are both ill-considered and totally unwarranted.

Mr. Chairman, this Member, in our successful work to achieve the President's deficit reduction savings, has shown that she is committed to greater Government efficiency. This Member, however, does not support steps to achieve it without the necessary deliberation of committee review we insist upon for important measures, especially those which effect the pocketbooks of Americans. I am certainly opposed to further reductions of Federal employee and retiree benefits in the name of deficit reduction. Federal employees and retirees have already contributed their fair share. I urge all Members to vote "No" on the Penny-Kasich amendment.

Mr. STOKES, Mr. Chairman, I rise in opposition to the Penny-Kasich amendment.

Mr. Chairman, I would like to describe the impact of this amendment on appropriations for VA, HUD, and Independent Agencies.

The amendment seeks to reduce VA medical care by $1 billion over 5 years. It is doubtful that the proposed prospective payment system legislation will save anything close to $1 billion. Reducing medical care funds by $1 billion will result in fewer sick and disabled veterans receiving medical treatment.

The amendment also seeks to replace public housing with vouchers. The Congress has reviewed this proposal before, and rejected it—for good reason. Public housing plays a crucial and unique role in offering the poorest members of our society a decent place to live. It cannot be replaced with vouchers.

Further, the amendment would rescind $367 million appropriated in 1994 for public housing, reducing the number of families that will be able to receive housing assistance.

It changes Superfund cleanup standards and lowers authorization levels, probably leading to lower appropriation levels and fewer sites being cleaned up. It would extend the lengthy process of addressing high risk sites and reduce the level of enforcement.

I share the authors' concern about the Superfund Program. No one can argue that changes are not needed in the legislation. But significant policy changes should not be made in an amendment to a rescission bill. Such changes need to be thoroughly considered by the authorization committees and deserve to be fully debated in Congress.

It creates a new Department of Science. Proponents claim that this will save money and improve efficiency. It may not. The amendment provides for a new science bureaucracy—a new Secretary, Deputy, and attendant offices, while preserving all offices and staff of the original agencies. The additional management layers would create a larger, less flexible and less focused bureaucracy.

It cuts $220 million from scientific research, leaving to the administration the decision to take such cuts out of health care, the military, space or basic science. These areas of investigation are not equal in their importance to the country. We should not enact these cuts without knowing their impact. Furthermore, it is the job of the Congress, not the Office of Management and Budget, to set funding priorities.

Yet all of these cuts and legislative changes are dwarfed by the last section of the amendment—the lowering of the discretionary spending caps. For VA–HUD appropriations, a proportionate share of the cap reductions would mean about a $1 billion cut every year for 5 years. This could mean reductions in the quality of veteran's medical care—and a devastation of VA's attempts to upgrade its facilities in anticipation of health care competition. This could endanger NASA's manned and unmanned space program—already encountering funding problems. Penny-Kasich could also damage our science, housing and environmental programs. I urge Members to vote down the Penny-Kasich amendment.

Mr. QUINN. Mr. Chairman. As a freshman elected to this body light year ago; I promised the people of my district that I would fight business as usual in Washington. Along with 110 other new Members of Congress, most of us promised to fight for reform of this institution: to try and change the way things have been done in Washington, DC.

This year, I voted against a huge pork barrel spending bill. I voted against the largest tax increase in American history. I also voted against this House raising the debt ceiling for our Government. I watched in dismay as all these measures passed the House Mr. Speaker.

I watched as line item veto legislation I introduced, with two of my freshman colleagues—something the President asked for during his campaign—was voted down by the House. The first real test of fiscal reform this year.

Now, we have one last opportunity to change the way this body spends, taxes, and increases its own credit line before this session ends this year.

The Penny-Kasich amendment represents a true test of cutting wasteful spending—but more importantly, it offers a choice today for all Members of Congress. A choice between business as usual—more spending, more taxes, and bowing to all the letters and calls from special interests; or—choosing to change by supporting Penny-Kasich.

Yes, there are tough cuts in this amendment. And many groups will find reasons to oppose every single cut in this amendment. But, this amendment represents real overall cuts in spending. The Penny-Kasich amendment will cut 1 cent, that's right, 1 cent on every $1 over 5 years. It will reduce Federal spending by $90 billion dollars.

Mr. Chairman, the American people don't want more government and they don't want more of their hard earned tax dollars going to Washington to support more spending.

Congress needs to go on a diet.

I told my constituents in western New York that I would not vote to send one more dime in taxes to Washington before Congress cuts spending first. Well, I am going to stand up and vote yes for Penny-Kasich and vote for cutting spending. I'm going to vote for change, I'm going to vote against business as usual in Washington.

And I urge each and every one of my colleagues, especially Members of my freshman class who support reform—vote for the Penny-Kasich amendment. Vote for real bipartisan change.

Mr. HEFLEY. Mr. Chairman, in many respects, that is a historic vote. It represents the first time in my memory that the House has held a debate solely designed to cut spending. Given the Democratic leadership's violent opposition to such efforts in the past, just getting the vote is a victory.

How did we score such a victory? It wasn't easy, or cheap. During debate on Bill Clinton's budget for 1994, Congressman TIM PENNY struck the following deal with the President: I'll vote for your $300 billion tax increase if you promise to submit additional spending cuts to Congress this fall.

Like myself and so many other fiscal conservatives, Congressman PENNY had seen other deficit reduction packages pass the House, always with the promise to raise taxes now, cut spending later. Unfortunately for the taxpayer, later never came and Federal spending just grew faster.

This time, however, Clinton was desperate. He needed every vote, so he cut the deal. Congressman PENNY then turned to his Democratic leaders and extracted a promise that they would allow him to offer his own spending cut amendment to the President's proposal. The Democratic leaders, faced with the same dilemma, agreed.

Why go to such lengths to cut spending? Look at the numbers. In 1993, the Federal Government operated at a deficit of $254 billion. Under the Clinton plan that passed last summer, future deficits are expected to remain above $200 billion for the forseeable future.

That's using President Clinton's questionable accounting, which relies on especially optimistic forecasts of new revenues. Historically, new taxes have never raised as much revenue as expected. If the Clinton tax increases follow suit, then we can expect budget deficits exceeding $300 billion through the year 2000.

On the other side of the ledger, spending is barely touched. For 1994, after the much-ballyhooed deficit reduction plan, spending will increase by $60 billion. If you don't count the very real defense cuts, then spending increases even more.

Given the opportunity to actually cut Federal spending, a bipartisan group of Representatives put together a package of over 80 distinct cuts which would save, according to the Congressional Budget Office, $80 billion over 5 years.

Many of these cuts, like reducing the Federal work force by 250,000, were recommended by Vice President GORE in his "Reinventing Government" report, but were left out of the President's reduction package. Other cuts, like the elimination of the ICC and reducing Congress' budget, were included in the earlier Grace Commission Report but have never been enacted.

In an effort to gather support, several extremely controversial cuts, including retarding military retirement COLA's, raising the retirement age for civil service, and reducing matches to the Federal Thrift Savings Plan, have been dropped from the amendment. This helps Colorado, which has more than many States of military and civil service retirees, but it leaves plenty of cuts for Coloradans and others to shoulder.

By contrast, the CBO scored the President's spending cuts at only $320 million. Over the 5 years projected, those cuts represent a total cut to the Federal budget of only 0.004 percent. This is hardly leadership on the deficit front, it's considerably less than the $10 billion advertised by the administration, and it's been no small embarrassment to Bill Clinton.

So now we have our package and our vote. Obviously, it's easier to spend the taxpayer's dollar than to save it. The taxpayer doesn't always know where it's going, while the recipients always know where it's been!

On the other hand, several factors are in our favor. First, the House has a large freshmen class intent on making its mark on Congress. They've been frustrated on congressional reform and other issues important to them. This is an opportunity to flex their muscle.

Second, we have the novelty of it all. The House doesn't vote to cut spending every day, and this is the type of vote taxpayers remember. Many Representatives who are already damaged by their support of the Clinton tax increases are looking for ways to redeem themselves to their constituents. With Hillary's health care bill on the schedule for next year, this is the only chance they'll get.

Commenting on the upcoming debate, Speaker TOM FOLEY stated that Penny/Kasich would get more support if Congress could use the savings to fund new programs. That's the Washington mindset in a nutshell, and it explains why Congress has allowed 25 consecutive budget deficits. It's time to take a new path, and Penny/Kasich is the first step.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the pending Penny-Kasich amendment to H.R. 3400, the rescission/government reorganization bill, and in reluctant support for the Sabo substitute.

Mr. Chairman, I voted for the Clinton budget reconciliation bill last August out of a conviction that we absolutely had to respond to America's demand for reduced spending and a reduced deficit over the next 5 years. We did that, and it was a painful process, because we not only capped spending for discretionary use in the coming years, we also raised taxes—something I have consistently voted against doing for nearly the whole of my nine terms in office.

There is no skirting that issue. But I was willing to help the President to at least make a beginning dent in our national indebtedness, while at the same time not putting so enormous a pressure on our fragile economic recovery as to drive us back into a recessional trench from which we may never rise again.

Just as we are beginning to see an honest-to-goodness emergency of economic improvement, and to feel those warm winds of recovery that soothe the bodies and souls of our people, giving them hope that just may be 4 years from now they will be able to say they are better off, we are about to be sandbagged into voting once again for additional, seriously draconian, spending caps and spending cuts that will, just as sure as we are standing here today, confuse and confound Americans to the point where new-found confidence in our economy will disappear. Too much pressure on the economy now will cause it to spiral downward, and interest and inflation rates will not be able to drop lower to accommodate the pressure. Such measures as are before us today will place a greater burden upon the marketplace than it can absorb.

Mr. Chairman, in 1990 I voted against the so-called White House budget summit agreement; I didn't think it would work. I particularly voted against it because of its reliance on new taxes. It didn't work as well as had been hoped, because the deficit refused to go down, in spite of the cuts made in spending. Spending cuts created a continuing inability for us to invest in our infrastructure, which in turn caused our economy to founder for a lack of job creating initiatives. Our gross national or domestic product grew for too many years by less than 3 percent—a growth level of 3 percent or higher being necessary before the first new job is created. This lack of growth was due to a serious decline in infrastructure investment in the United States, while Japan and Germany were investing billions in theirs. We made the recession that plagued us possible, and we created an environment of no economic growth and no new jobs and the highest unemployment rates since the Great Depression.

But in spite of the fact that it didn't work as well as predicted, the 1990 budget agreement did work in one respect: It set spending caps—and those spending caps were not breached one time by Congress. Not once. And this is a record we can be and are proud of at a time when Congress is being bashed by many who claim that when we make hard decisions we can't stick to them.

The Clinton budget adopted those spending caps again in this year's budget—and in so doing we stretched our capability to the limits with respect to how much the economy could bear without going under again, while still cutting spending and reducing the deficit. As I urged my own constituents after passage of the 1990 budget, the one I voted against, I urge them again, "let us give this budget time to work * * * before we give in to total despair."

Mr. Chairman, we have spent this entire year on budget matters, at the expense of other pressing issues. Infrastructure repair, job creation, economic development, campaign reform, health care reform. Let us give the budget a rest. Let us give the budget we have a chance to work—before doing it all over again.

Many of the actions taken in the rescission bill and in H.R. 3400, the vehicle for reinventing Government, I can vote for, even though the National Performance Review proposals have not been the subject of appropriate hearings or due deliberations by authorizing committees. This legislation, as everyone knows, was introduced and referred to 17 committees, and Members were given less than 18 days to act.

The President and his Vice President have a good, positive thing going—the National Performance Review Report—and had put before the country and the Congress the blueprint at least to reinvent Government, make it more efficient and less costly, and save money besides. I have no interest, nor does the House today, in creating a negative by voting to pass a piecemeal, lip-service, cosmetic version. To do so, would represent nothing more or less than a quick and dirty vote achieving nothing noteworthy before we adjourn the session. All this just so everyone will have something to go home and brag about? Let us wait, and when we give more than lip service to the real reinvent Government package next year, we can point with pride to how it helps the economy, creates jobs, reduces unemployment, gets people off welfare, if it does.

Penny-Kasich, I believe, is one of the most dangerous and unproductive proposals I have ever witnessed here. It does not scan—moneywise or policywise. I am reminded of two small, mischievous boys with nothing better to do, who got together and decided to play a trick on the rest of the gang. It's numbers are every bit as suspect—every bit as tricky—as the ones in the rescission bill and in H.R. 3400. Separately, the rescission bill might stand alone on its own and be passed handily. Merged with H.R. 3400, it becomes an injury. Add Penny-Kasich and we add insult to injury.

Penny-Kasich relies almost solely on the pocketbooks of the elderly to achieve its so-called goals. Don't believe me? Take a good look. Take a look at yet another $37 billion in Medicare cuts on top of the $56 billion in Medicare cuts contained in the just enacted budget bill. President Clinton needs those Medicare savings next year if he is to get health care reform through. Where are our priorities, anyway. Are we so anxious for a shot from Dr. Feelgood that we'd sacrifice our economic growth and the future health care coverage for our constituencies for it?

We are acting like a bunch of swooning Scarlet O'Hara's who, upon inspecting the ruins of Tara, decided to worry about all that tomorrow. Let us not vote here today and be left looking at the ruins of what was a recovering economy, tomorrow.

Another $53 billion in discretionary spending cuts is too deep. But Penny-Kasich don't think so.

Entitlement cuts and means testing the elderly under Medicare, so that many of them end up paying either the full national average cost of part B premiums, or more, is unconscionable. For example, West Virginia seniors would see their part B, doctor's office fees, rise from the current $106 a month to $157 a month. Taking $37 billion away from health care reform, an expenditure that is hoped will bring the cost of health care way down for everyone—including the elderly—will leave us broke when health care reform comes up next year.

Remember what President Clinton says: Don't stop thinking about tomorrow. Tomorrow we absolutely must do health care reform.

How about equity? We've already acted to severely downsize the military; we've agreed to troop cuts; we've agreed to close bases all over the country. We've cut defense spending by a great deal compared with past years. Shall we take another hit on the military by denying military retirees an annual COLA until they reach age 62? If so, we will have cut military retirement benefits even further beyond what was done in the recently enacted, painfully enacted, budget bill.

I understand Penny-Kasich have modified their bill to apply the no-COLA provision to those entering the service after January 1994. What an incentive to get and keep a voluntary Armed Forces—enact into law a denial of annual cost-of-living increases for future service men and women upon retirement. Wow. At this rate, we will have to reinstate the draft in times of national need in order to scrape enough soldiers to fight for their country.

Penny-Kasich contains some unprecedented—by nature and by number—policy changes which it says will save money. By creating a new Cabinet level Department of Science by abolishing the Department of Commerce? The Department of Energy? By creating another block grant program out of current categorical programs serving women, infants and children, and then cutting funding across the board. Shades of Ronald Reagan. How soon we forget!

And Penny-Kasich, those self-appointed guardians of the people's purse would do this with one mere amendment on the floor—an amendment that bypasses and totally ignores the need for debate, any hope for real consensus, and denies due process to citizens whose oxen are about to get good and "Gored." No pun intended.

But to me, the most important factor in all this is that: The Penny-Kasich amendment will tend to put more pressure on the economy than it can stand, and our fragile economic recovery is going to be history. Slash another $24 billion from the budget in the next 2-year span, which Penny-Kasich will do, and we are not likely to see another lowering of interest rates to offset its effects.

The assurance of continued low interest rates was the only saving grace of the just-enacted Clinton budget. Low interest rates were the answer Members could give in support of their painful vote to cut spending and raise taxes in order, at the same time, to create a modest reduction in the deficit, when they voted to support the President's budget last August.

It is the main reason I believed I could vote for it, breaking with my own established traditional voting record, and not harm the country.

I didn't vote for the Clinton budget because someone promised me another crack at budget cuts just before adjournment. I was fairly convinced last August that we had made all the cuts we could afford and keep the economy healthy. I still think so.

Mr. Chairman, I urge my colleagues to reject the Penny-Kasich amendment. It amounts to economic terrorism. And if we want to do all that is required of us, which is hard enough—let us just pass the reconciliation bill as we do every year. The record shows that in the past we have exceeded every Presidential request for total rescissions—rescinding far more dollars than we were asked to rescind. We can do that, in good conscience, today. We can reinvent Government next year, when we have time to give it timely and appropriate consideration, debate it, and form consensus agreements that won't thrust the economic recovery back to the stone age.

Mr. MATSUI. Mr. Chairman, I rise today in strong opposition to the amendment offered by my colleagues, Mr. PENNY and Mr. KASICH, to H.R. 3400. However laudatory their goal and however pure their motive, this amendment must be defeated.

It is often said in legal circles that the tough cases make for bad law. This might very well be said of the Penny-Kasich amendment. The case is tough. Our deficit continues to bind our hands when we most need flexibility in our fiscal policy. It is clear that we must find ways to reduce the deficit. We must cut Government waste and provide the services citizens of the United States pay for with their tax dollars. And we must do this work urgently because the deficit is a drag on our economy and prevents the Government the flexibility it needs to react quickly to correct negative forces in the economy.

We all recognize the importance of deficit reduction. But we must not do more damage to the economy we are trying to help. The Government cannot abdicate its duty to ensure the long-term viability of our economy. Ill-advised quick fixes will not remedy the serious problems facing the Federal budget. Our approach to deficit reduction must be circumspect, persistent, even-handed, and sober.

Many on the floor today will argue that the amendment will make extremely damaging cuts in Medicare and will undermine our ability to pass meaningful health care reform legislation. Others will argue that the amendment will compromise our national security by forcing the Department of Defense to make drastic cuts in personnel and programs. I share the concerns of my colleagues on these points.

There are other casualties of the Penny-Kasich amendment which also deserve attention. These areas of the budget might not have high profile of national defense and health care, but they are extremely important as well. The amendment's handling of these portions of the budget serves to illustrate the sweeping, ill-conceived, meat-cleaver approach to budget cutting envisioned by the amendment which is at odds with rational budget management and deficit reduction.

The provisions of the amendment pertaining to Federal retiree benefits are far too draconian and fail to recognize the valuable service of Federal employees. If we are to continue to attract highly competent women and men to service in the Armed Forces, we must not take action which sends a signal that their service is less valuable than individuals in the private sector. Delaying military retirement cost-of-living adjustments, or COLAs, from the compensation packages offered to potential military personnel makes service less attractive to the qualified candidates we need in today's scaled-back military.

Civilian Federal employees work hard and make many sacrifices for our country, and we must find ways to adequately compensate them for their service. Cutting Federal contributions to the Thrift Savings Plan is definitely a step in the wrong direction, as is raising the civilian retirement age to 65. I remind my colleagues that recent Bureau of Labor Statistics data show that a majority of workers in the private sector may retire on a full pension before age 65, and most State and local government workers may retire at age 55 with full benefits. Military personnel and civilian employees in my district and across the country work hard and deserve better than this amendment allows. For these reasons alone I will vote against the amendment, but there are other grounds on which to reject the proposal.

Mr. Chairman, many discretionary spending programs also attract the eye of this amendment. I cannot speak to the importance of all of the programs targeted by the amendment, but I can highlight the negative effects of the amendment in at least two instances.

Penny-Kasich proposal No. 32 under the section entitled "Physical Capital," would place a moratorium on all the purchases of Federal buildings and courthouses. It seems plausible that freezing construction might save money. But this proposal fails to look beyond the horizon and recognize the long-range costs of leasing.

The General Services Administration identified Sacramento's dire need for new Federal judicial facilities. The old facility is dangerously insecure and cannot handle the current caseload, let alone the projected future caseload. GSA ran a cost-benefit analysis of construction of a new facility versus leasing adequate facilities. Over a 30-year period, the time period used to determine facility requirements, construction of a new facility in Sacramento actually costs $27.5 million less than leasing facilities. In the long run, this proposal will actually be damaging to our deficit reduction efforts.

The Penny-Kasich amendment also targets many projects undertaken by the Army Corps of Engineers. The corps, primarily responsible for flood control across the United States, must have the resources it needs to protect against dangerous floodwaters. We need only look to the horrible disaster which beset the Mississippi a few months ago to fully fathom the importance of the work of the corps. I know personally of the importance of the corps' work. In 1986, Sacramento narrowly avoided a disaster when the floodwaters of February almost inundated the majority of my district. The corps continues to work to protect Sacramento and other communities from the dangers of flooding; the Penny-Kasich amendment must not hinder this critical work.

Mr. Chairman, President Clinton's deficit reduction plan makes strides in the right direction. The administration presents a reasonable approach to deficit reduction that, in the long run, will help achieve our goal and give life and flexibility back to Government. We must not tie the hands of this President with this amendment. Furthermore, a close reading of the details of the amendment shows that the means are drastic, inequitable, and perhaps extremely hurtful in both the short and long run.

In short, I believe the Penny-Kasich amendment does much more harm than good. I urge my colleagues to vote against this amendment.

Mr. WELDON. Mr. Chairman, the people of this country want us to get our house in order. They are fed up with our inability to control spending.

Earlier this year, the Congress passed the President's budget plan. This plan increases Federal spending $850 billion over the next 5 years, and allows our Federal debt to continue to skyrocket. This plan was not reform or change, but instead maintained business as usual.

Mr. Chairman, for the sake of our children's future we must begin to take seriously the issue of debt reduction. I am sure every Member of this House has taken the well of the House, or spoken with their constituents to exclaim their support of reducing our Federal debt and controlling Federal spending. Today is our opportunity to be true to our words.

If we are to be serious about significantly reducing the Federal deficit, controlling Federal spending, and eliminating bureaucratic redtape, then the only option we have is to support the Penny-Kasich amendment. The plan will cut $90 billion in Federal spending over the next 5 years. Therefore, this plan asks us to cut just one cent from every dollar of Federal spending over the next 5 years. Is this too much to ask? If we can not support this plan, what cuts will we support? The Sabo and

Frank-Shays plans are little more than window dressing for those who want to say they are for spending cuts, but are unwilling to make tough cuts. These plans do not accomplish deficit reduction, instead these plans allow the funds to be spent elsewhere. Do not believe for one second that voting for one of these two alternatives is a vote for deficit reduction.

Certainly, we all have concerns about certain projects that will be hurt under this plan. For instance, I want to make sure that cuts in Medicare are not placing an excessive financial burden on the elderly. As the ranking Republican on the Oceanography Subcommittee, I am concerned about the amendment's treatment of National Oceanic and Atmospheric Administration's [NOAA] programs.

Specifically, the amendment attempts to save taxpayer funds by eliminating NOAA's fleet modernization account. The intent is for NOAA to charter vessels to replace the ships that it was planning to construct. Unfortunately, the moneys in the fleet modernization account are the only funds NOAA currently has available to build or charter vessels. If the fleet modernization accounts is eliminated, NOAA will be unable to charter vessels to conduct its crucial mission.

Also of concern is the elimination of over $140 million from NOAA programs. Although NOAA receives its share of unneeded moneys for pork projects in selected Members' districts, many of the programs which are eliminated by the amendment are worthy projects which are currently authorized. Although some of the cuts in NOAA's budget are ill-advised, I am confident that these issues can be resolved when the bill goes to conference with the Senate.

The truth is that to reduce the Federal deficit the Federal Government's role must be diminished. We can not continue a free-wheeling tax-and-spend approach. It is time to take responsibility and do what is right. The Penny-Kasich plan is the first step toward addressing the Federal debt. It is a reasonable approach that should enjoy support from both sides of the aisle.

Finally, there is a plan which allows Congress to take appropriate action to reduce our Federal debt. Finally, we can stand up and be counted for change and fiscal accountability. I hope my colleagues will join me in supporting Penny-Kasich.

Mr. McCLOSKEY. Mr. Chairman, I rise today to strongly urge a no vote on the Penny-Kasich amendment. I am opposing it because this amendment makes broad and ill-advised policy changes under the guise of deficit reduction.

I also strongly resent the implication that a vote against this bill is a vote for the status quo, and evidence of a lack of seriousness about the budget deficit. Personally, I find much of the rhetoric surrounding this amendment insulting and demeaning, especially the charge that opponents of Penny-Kasich are pawns of special interests. The truth is that this amendment contains massive policy changes on which there is ample room for honest disagreement.

The original Penny-Kasich spending cuts package would have had a devastating negative effect on the Federal employees. Now I understand that the proposals have been prospective, and would only apply to employees who are hired after December 31, 1993. Although this is an improvement, as chairman of the Subcommittee on Civil Service I still question the wisdom of these proposals and ask why they are in the bill at all anymore.

I say that because by making the changes only prospective, I am not sure what the budget savings are, though I suspect they are zero. According to the proponents of Penny-Kasich, the point is to reduce the deficit in the next 5 years, but the proposal to raise the retirement age, cut COLAs for military retirees, and reduce Government contributions to the Thrift Savings Plan have no effect on the deficit. So my question is, why include such massive policy changes in the amendment at all?

With concerns about unfunded Federal pension liability, perhaps such reforms may eventually be necessary, but they should be based on the deliberative committee process, including hearings.

The Penny-Kasich plan would raise the civil service retirement age from 55 to 65 immediately for employees hired after December 31, 1993. Maybe it makes sense to raise the retirement age at some point, but shouldn't we stop to think about the long-range implications of this.

What affect will it have on the Government's ability to hire and retain workers? What is the long-range effect on the budget? Won't this lead to retaining more higher grade, high-salary positions, which will increase the cost? Can the proponents of this amendment answer those questions? Can my colleagues who have pledged to support the bill answer them? Or do the proponents simply not care what the policy implications are?

Raising the retirement age in this way also conflicts with the goal of reducing the Federal work force by 252,000 also contained in the amendment. This combination could lead to costly and destructive reductions in force [RIF's] which disproportionately hurt women and minorities and other employees in low-grade positions who have less seniority, regardless of productivity.

Apparently we are not going to pass legislation to authorize agencies to offer buy-out incentives to employees to help reduce the size of the work force. It is my understanding that without these incentives—already offered to Defense and CIA employees—agencies face a real threat of RIF's next year to meet work force limits.

Quite simply, raising the retirement age is likely to make achieving these goals more difficult. I suggest that the authors of this amendment should sort out these conflicting incentives before making such major changes in civil service policy.

As I mentioned before, this amendment reduces the pensions of future Federal retirees by reducing the Government's matching contribution under the Thrift Savings Plan—the Government's 401(k) plan. Like the change in the retirement age, and the reduced COLA for the military, there are no budget savings from this proposal, and I don't understand why it has been included in the Penny-Kasich amendment. We want people to save more for retirement, not less, yet this amendment does the opposite. Asking Federal employees to retire at an older age with less income is a bad idea.

Penny-Kasich would also reduce retirement pay to members of the military hired after December 31, 1993, who retire before age 62. Despite the fact that this is made prospective, the Joint Chiefs of Staff have written in a letter that this "would have immense implications for recruiting, retention, and morale." I urge my friends on both sides of the aisle to read that letter before casting their vote on this amendment.

I have heard many speeches on the floor of this House by Members who want to pass Penny-Kasich decrying the effect of congressional action on military readiness. I hope those Members think twice before voting for this change in military retirement, which should more properly be left to the Armed Services Committee, and not a deficit-cutting amendment.

The Penny-Kasich cuts target seniors for over 46 percent of the budget cuts—some $42 billion over 5 years. This figure comes directly from the handbook put out by the authors of the amendment.

I have read several press reports in the last several days that proponents of Penny-Kasich say that the administration and others are being alarmist about the Medicare cuts, because they have virtually no chance of surviving in the other body. This begs the question why are they being offered in the first place? To me it makes no sense to support substantial Medicare cuts that if enacted would shift costs to seniors while arguing that there's no chance they will ever be enacted. The public should not tolerate this crass political gesture.

According to the authors of this proposal, $7.1 billion is from a 20-percent coinsurance payment on clinical lab services, which means money out of the pockets of seniors regardless of ability to pay each time bloodwork or other medically necessary laboratory analysis is done.

Much of the other savings come from means testing high-income seniors. There are strong arguments that current budget realities may lead to means testing entitlement spending for those with income well above the average. However, savings from such proposals are projected by the administration to be used to pay for health reform in the near future.

By immediately applying these projected savings to deficit reduction, Penny-Kasich mandate additional costs for health care reform. Members who support health reform should ask themselves where this money that is needed for health reform will come from. In seeking to cut the deficit now, we may be placing strong pressures to raise taxes or curtail health care benefits to seniors and everyone else during the debate on health care reform.

I am more than perplexed about why we are using a so-called deficit cutting amendment to creating a new Federal agency. According to the most recent copy of the amendment consolidates several duplicative agencies and bureaucracies, including the Department of Commerce, the Department of Energy, NASA, the National Science Foundation, and the Office of Science and Technology Policy, into a Department of Science.

Dosen't such a major policy change deserve hearings? What is the effect of this change and why are we doing it in this amendment?

I doubt most the people who intend to vote for this bill could tell me why this change is being made, but I hope they are aware that they are about to vote for it. According to press reports I've read, the staff of the authors of the amendment weren't even aware it has been included.

I also am concerned about language in the Penny-Kasich proposal cutting all further outlays for the Clean Coal Technology Program. Eliminating this program would devastate the coal industry in my district and would be destructive to the environment throughout the entire eastern seaboard.

I question the wisdom of reneging on an international commitment that was supported by Presidents Reagan and Bush as well as the Congress. The joint Lewis-Davis American-Canadian report called for the United States to engage in a $5 billion Clean Coal Program to reduce United States-caused acid rain in Canada and up to now we have been committed to this. The Department of Energy has already made outlays of $1.9 billion to fund 48 clean coal technology programs while the commercial entities participating in this cost-sharing program have made investments of $2.974 billion.

My home State of Indiana produces over 31 million tons of coal annually, two-thirds of which is consumed in-State. Six of the clean coal projects—representing a total investment of $1 billion, including $403 million in DOE funds—have been in Indiana.

Clean coal is exactly the kind of public-private partnership that Government should be engaging in. These funds have all been used to help turn new and innovative coal technologies into viable commercial programs. The results of these investments will help us to clean our environment and fulfill our commitment to the Canadians.

It also will help to rapidly bring about new technologies from which coal-burning utilities—which still generate 58 percent of all U.S.-consumed electric power—can choose to help them meet the sulfur and nitrous oxide emission standards of the two phases of the 1990 amendments to the Clean Air Act in a cost-effective way.

DOE's role in developing these new technologies helps to make compliance with clean air standards more efficient and less expensive, thereby benefiting not only residential consumers, but also the commercial and industrial activities which provide the jobs at which those consumers work. They also ultimately will lead to the development of exportable technologies which can help improve our balance of trade, while creating jobs and generating new tax revenues.

To withdraw funding from the Clean Coal Technology Program at this point could lead to 164,000 job losses over the next 4 years, terminate many of the ongoing projects just as they are at the point of producing a return on DOE's investment, eliminate much needed flexibility for the electric power industry, and substantially reduce our future ability to compete in the world market of technologies to reduce sulfur emissions.

These provisions I've discussed are at best questionable public policy, and are reason enough for any fair minded and responsible Member to oppose Penny-Kasich. This amendment is referred to by its supporters as the "common cents" deficit reduction plan, but when it comes to the civil service provisions, the Medicare cuts, creating a new Federal agency, and eliminating clean coal technology, common sense is noticeably absent. I urge a "no" vote on the amendment.

Mr. SAWYER. Mr. Chairman, I rise in opposition to the Penny-Kasich amendment. Of particular concern to me are the provisions affecting Federal and postal employees and retirees.

The Penny-Kasich amendment would, in part, raise the retirement age for Federal employees from 55 to 65; delay cost of living adjustments [COLA's] for military retirees until age 62; and reduce the Government's contribution to retirement Thrift Savings Plans [TSP] from 5 percent to 3.5 percent.

I believe that our career civil servants have already endured enormous erosion in their benefits over the past decade. We expect efficient, knowledgeable service from our Government, but we often fail to acknowledge adequately the basic needs of the very people who administer those services day in and day out.

I understand that the provisions to raise the retirement age, delay military COLA's, and restrict matching Government contributions to the TSP would only affect new hires—individuals hired after December 3, 1993. Those proposals represent significant changes to the civil service system. We should not make such sweeping changes without comprehensive oversight hearings to assess the consequences for the efficient operation of the Federal Government. It simply would be irresponsible to enact these proposals as part of a budget measure, without giving them the full scrutiny they deserve.

In 1990, Congress passed the Federal Employee Pay Comparability Act. The primary purpose of that act was to help the Government attract and retain a qualified work force. Even the locality pay plan has been the target of efforts to reduce the budget deficit. The Penny-Kasich amendment would further hamper the Federal Government's ability to meet the needs of the people it serves.

I urge my colleagues to vote "No" on the Penny-Kasich amendment. We ought to ensure that our current, as well as future, Federal and postal employees, who make the smooth operation of our Government possible under often difficult circumstances, do not see any further erosion in their benefits.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 219, not voting 7, as follows:

[Roll No. 609]

AYES—213

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Coble
Collins (GA)
Condit
Cooper
Coppersmith
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kaptur
Kasich
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lewis (CA)
Lewis (FL)
Linder
Livingston
Long
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Murphy
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rohrabacher
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—219

Abercrombie
Ackerman
Andrews (ME)
Applegate
Barcia
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English (AZ)

English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hamburg
Hastings
Hefner
Hilliard
Hinchey
Hochbrueckner
Horn
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lantos
Lazio
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowey
Machtley
Maloney
Manton
Markey
Martinez
Matsui
McCloskey
McDade
McDermott
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pickle
Price (NC)
Quillen
Rahall
Rangel
Reed
Reynolds
Richardson
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Scott
Serrano
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Clinger
de Lugo (VI)
Faleomavaega (AS)
Hall (OH)
Norton (DC)
Romero-Barcelo (PR)
Underwood (GU)

□ 2114

So the amendment was rejected.

The results of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 103-430.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK of Massachusetts: Add the following at the end of the bill:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Reform and Savings Act of 1993".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—DEPARTMENT OF AGRICULTURE

Subtitle A—Department of Agriculture Reorganization

Sec. 1001. Department of Agriculture reorganization.

Subtitle B—Eliminating Federal Support for Honey

Sec. 1101. Amendments to section 207 of the Agricultural Act of 1949.
Sec. 1102. Amendment to section 405 of the Agricultural Act of 1949.
Sec. 1103. Amendments to section 405A of the Agricultural Act of 1949.
Sec. 1104. Savings provision.

TITLE II—DEPARTMENT OF COMMERCE

Sec. 2001. Polar satellite convergence.

TITLE III—DEPARTMENT OF DEFENSE

Sec. 3001. Use of proceeds from the sale of recyclable materials at military installations.
Sec. 3002. Closure of the Uniformed Services University of the Health Sciences.
Sec. 3003. Streamlining and reorganization of the Corps of Engineers.

TITLE IV—DEPARTMENT OF ENERGY

Subtitle A—Alaska Power Administration Sale Authorization

Sec. 4001. Short title.
Sec. 4002. Sale of Snettisham and Eklutna hydroelectric projects.
Sec. 4003. Assessment of alternative options.

Subtitle B—Federal-Private Cogeneration of Electricity

Sec. 4101. Federal-private cogeneration of electricity.

Subtitle C—Power Marketing Administrations

Sec. 4201. Power Marketing Administrations refinancing study.
Sec. 4202. Bonneville Power Administration refinancing study.

Subtitle D—Termination of Advanced Liquid Metal Reactor Program

Sec. 4301. Termination of advanced liquid metal reactor program.

TITLE V—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 5001. Study of methods to increase flexibility in contracting for Medicare claims processing.
Sec. 5002. Workers' compensation data exchange pilot projects.
Sec. 5003. Federal clearinghouse on death information.
Sec. 5004. Continuing disability reviews.

TITLE VI—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 6001. Multifamily property disposition.
Sec. 6002. Section 235 mortgage refinancing.
Sec. 6003. Use of emergency assistance funds for residency in multifamily housing disposition projects.
Sec. 6004. Additional employees to facilitate disposition of FHA inventory properties.
Sec. 6005. HUD streamlining.

TITLE VII—DEPARTMENT OF THE INTERIOR

Sec. 7001. Improvement of Minerals Management Service royalty collection.
Sec. 7002. Phase out of Mineral Institute program.
Sec. 7003. Reorganization study of Bureau of Indian Affairs.
Sec. 7004. Termination of annual direct grant assistance

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 8001. Limitation on certain annual pay adjustments.
Sec. 8002. Reduction of Federal full-time equivalent positions.

TITLE IX—DEPARTMENT OF LABOR

Sec. 9001. Deterrence of fraud and abuse in FECA program.
Sec. 9002. Enhancement of reemployment programs for Federal employees disabled in the performance of duty.
Sec. 9003. Wage determinations.
Sec. 9004. Elimination of filing requirements.

TITLE X—DEPARTMENT OF STATE AND UNITED STATES INFORMATION AGENCY

Sec. 10001. Improvement of efficiency of State Department activities.
Sec. 10002. Improvement of efficiency of USIA public diplomacy activities.

TITLE XI—DEPARTMENT OF TRANSPORTATION

Sec. 11001. Reemployment rights for certain merchant seamen.
Sec. 11002. Reform of essential air service program.
Sec. 11003. Airway science program.
Sec. 11004. Collegiate training initiative.

TITLE XII—DEPARTMENT OF VETERANS AFFAIRS

Subtitle A—Administrative Improvements

Sec. 12001. Elimination of hospital and nursing home bed capacity requirements.
Sec. 12002. Elimination of requirement for minimum number of personnel in the Office of Inspector General.
Sec. 12003. Modification of administrative reorganization authority.
Sec. 12004. Elimination of requirement for certain services in the Veterans Health Administration.
Sec. 12005. Modification of physician requirement for certain senior Veterans Health Administration officials.
Sec. 12006. Use of funds recovered from third parties.

Subtitle B—Closure of Certain Facilities

Sec. 12101. Closure of supply depots.
Sec. 12102. Waiver of other provisions.

Subtitle C—Provision of Information From the Medicare and Medicaid Coverage Data Bank to the Department of Veterans Affairs

Sec. 12201. Provision of data bank information to Department of Veterans Affairs.

Subtitle D—Veterans' Appeals Improvements

Sec. 12301. Board of Veterans' Appeals.
Sec. 12302. Decisions by the Board.
Sec. 12303. Technical correction.
Sec. 12304. Hearings.
Sec. 12305. Elimination of requirement for annual income questionnaires.

TITLE XIII—HUMAN RESOURCE MANAGEMENT

Sec. 13001. Federal workforce training.
Sec. 13002. SES annual leave accumulation.

TITLE XIV—REINVENTING SUPPORT SERVICES

Sec. 14001. Short title.
Sec. 14002. Transfer of functions.
Sec. 14003. Government publications to be available throughout the Government.

Sec. 14004. Inventory and furnishing of Government publications.
Sec. 14005. Additional responsibilities of the Public Printer.
Sec. 14006. Additional responsibilities of the Superintendent of Documents.
Sec. 14007. Depository libraries.
Sec. 14008. Definitions.

TITLE XV—STREAMLINING MANAGEMENT CONTROL

Sec. 15001. Authority to increase efficiency in reporting to Congress.

TITLE XVI—FINANCIAL MANAGEMENT

Sec. 16001. Short title.
Sec. 16002. Electronic payments.
Sec. 16003. Franchise funds and innovation funds.
Sec. 16004. Simplification of management reporting process.
Sec. 16005. Annual financial reports.
Sec. 16006. Authorization of appropriations for enhancing debt collection.
Sec. 16007. Contracts for collection services.
Sec. 16008. Notification to agencies of debtors' mailing addresses.
Sec. 16009. Contracts for collection services.
Sec. 16010. Adjusting civil monetary penalties for inflation.

TITLE XVII—RESCISSIONS OF BUDGET AUTHORITY

Sec. 17001. Short title.
Subtitle A—Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies
Subtitle B—Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies
Subtitle C—Energy and Water Development
Subtitle D—Foreign Operations, Export Financing, and Related Agencies
Subtitle E—Department of the Interior and Related Agencies
Subtitle F—Departments of Labor, Health and Human Services, Education, and Related Agencies
Subtitle G—Legislative Branch
Subtitle H—Department of Defense-Military
Subtitle I—Department of Transportation and Related Agencies
Subtitle J—Treasury, Postal Service, and General Government
Subtitle K—Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

TITLE XVIII—ADDITIONAL DEFICIT REDUCTION PROVISIONS

Sec. 18001. Rescission of funds and cancellation of space station.
Sec. 18002. Rescission of funds and reduction of authorization for ballistic missile defense program.
Sec. 18003. Rescission of funds and cancellation of advanced liquid metal reactor program.
Sec. 18004. Reduction of forces in Europe.

TITLE I—DEPARTMENT OF AGRICULTURE

Subtitle A—Department of Agriculture Reorganization

SEC. 1001. DEPARTMENT OF AGRICULTURE REORGANIZATION.

(a) IN GENERAL.—The Secretary of Agriculture shall (1) consolidate field, regional, and national offices within the Department of Agriculture and (2) reduce personnel by not less than 7,500 staff years, so as to achieve a reduction in expenditures by the Department of not less than $1,640,000,000 during the period fiscal years 1995 through 1999.

(b) AUTHORITIES.—In consolidating offices and reducing personnel as required by subsection (a), the Secretary shall take such action on the basis of the powers vested in the Secretary under other laws.

Subtitle B—Eliminating Federal Support for Honey

SEC. 1101. AMENDMENTS TO SECTION 207 OF THE AGRICULTURAL ACT OF 1949.

(a) Section 207(a) of the Agricultural Act of 1949 is amended to read as follows:

"(a) IN GENERAL.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations, except that for the 1994 and 1995 crops, the price of honey shall be supported through recourse loans.

"(1) For the 1991 through 1993 crop years, the rate of support shall be not less than 53.8 cents per pound.

"(2) For the 1994 and 1995 crop years, the Secretary shall provide recourse loans to producers at such a rate that minimizes costs and forfeitures, except that such rate shall not be less than 44 cents a pound. Section 407 shall not be applicable to honey forfeited to the Commodity Credit Corporation under loans made under this paragraph.

"(3) A producer who fails to repay a loan made under paragraph (2) by the end of the crop year following the crop year for which such loan was made shall be ineligible for a loan under this section for subsequent crop years, except that the Secretary may waive this provision in any case where in which the Secretary determines that the failure to repay the loan was due to hardship conditions or circumstances beyond the control of the producer.".

(b) Section 207(b) of the Agricultural Act of 1949 is amended by striking "for a crop" and inserting "for the 1991 through 1993 crops".

(c) Section 207(c) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1993".

(d) Section 207(e) of the Agricultural Act of 1949 is amended by—

(1) striking subparagraphs (D) through (G);

(2) inserting "and" after the semicolon following subparagraph (B); and

(3) changing the semicolon following subparagraph (C) to a period.

(e) Section 207(j) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1995".

SEC. 1102. AMENDMENT TO SECTION 405 OF THE AGRICULTURAL ACT OF 1949.

Section 405(a) of the Agricultural Act of 1949 is amended by striking in the first sentence "section 405A" and inserting "sections 207 and 405A".

SEC. 1103. AMENDMENTS TO SECTION 405A OF THE AGRICULTURAL ACT OF 1949.

Section 405A(a) of the Agricultural Act of 1949 is amended by striking all that follows "1992 crop year," and inserting "and $150,000 in the 1993 crop year.".

SEC. 1104. SAVINGS PROVISION.

A provision of this subtitle may not affect the liability of any person under any provision of law as in effect before the effective date of the provision.

TITLE II—DEPARTMENT OF COMMERCE

SEC. 2001. POLAR SATELLITE CONVERGENCE.

The Departments of Commerce and Defense and the National Aeronautics and Space Administration shall propose a single operational polar environmental and weather satellite system, which meets national needs. It is the sense of Congress that such a proposed system, contingent on the provision of adequate resources to fully meet the national security interests of the United States, shall be operated as a civil system by the Department of Commerce. A detailed implementation plan shall be submitted to Congress by the Director of the Office of Science and Technology Policy, in consultation with the Departments of Commerce and Defense and the National Aeronautics and Space Administration, by April 30, 1994. The plan shall be designed to result in savings of up to $300 million in budget authority and up to $251 million in outlays between fiscal years 1994 and 1999. The National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall jointly develop a plan to implement a program modelled after the Operational Satellite Improvement Program for the purpose of making incremental enhancements in operational weather satellite systems. The goal of the plan shall be to achieve these enhancements in a cost effective manner by implementing procedures aimed at avoiding duplication of effort, cost overruns, and schedule delays. The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall submit to Congress no later than April 30, 1994, a report detailing the elements of the plan and outlining savings in budget authority and budget outlays projected through fiscal year 1999.

TITLE III—DEPARTMENT OF DEFENSE

SEC. 3001. USE OF PROCEEDS FROM THE SALE OF RECYCLABLE MATERIALS AT MILITARY INSTALLATIONS.

Section 2577 of title 10, United States Code, is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Proceeds from the sale of recyclable materials at an installation shall be credited—

"(1) to funds available for operations and maintenance at that installation; and

"(2) at the discretion of the commander of the installation and if a balance remains available after such funds are credited, to the nonappropriated morale and welfare account of the installation to be used for any morale or welfare activity.".

SEC. 3002. CLOSURE OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE REQUIRED.—Section 2112 of title 10, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting "and the closure" after "The development"; and

(B) by striking out "subsection (a)" and inserting in lieu thereof "subsections (a) and (b)"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b)(1) Not later than September 30, 1998, the Secretary of Defense shall close the University. To achieve the closure of the University by that date, the Secretary shall begin to terminate the operations of the University beginning in fiscal year 1995. On account of the required closure of the University under this subsection, no students may be admitted to begin studies in the University after September 30, 1994.

"(2) Section 2687 of this title and any other provision of law establishing preconditions to the closure of any activity of the Department of Defense shall not apply with regard to the termination of the operations of the University or to the closure of the University pursuant to this subsection.".

(b) FINAL GRADUATION OF STUDENTS.—Section 2112(a) of such title is amended—

(1) in the second sentence, by striking out ", with the first class graduating not later

than September 21, 1982." and inserting in lieu thereof ", except that no students may be awarded degrees by the University after September 30, 1998."; and

(2) by adding at the end the following new sentence: "On a case-by-case basis, the Secretary of Defense may provide for the continued education of a person who, immediately before the closure of the University under subsection (b), was a student in the University and completed substantially all requirements necessary to graduate from the University.".

(c) TERMINATION OF UNIVERSITY BOARD OF REGENTS.—Section 2113 of such title is amended by adding at the end the following new subsection:

"(k) The Board shall terminate on September 30, 1998, except that the Secretary of Defense may terminate the Board before that date as part of the termination of the operations of the University under section 2112(b) of this title.".

(d) PROHIBITION ON RECIPROCAL AGREEMENTS.—Section 2114(e)(1) of such title is amended by adding at the end the following new sentence: "No agreement may be entered into under this subsection after September 30, 1994, and all such agreements shall terminate not later than September 30, 1998.".

(e) CONFORMING AMENDMENTS.—(1) Section 178 of such title, relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine, is amended—

(A) in subsection (b), by inserting after "Uniformed Services University of the Health Sciences," the following: "or after the closure of the University, with the Department of Defense,";

(B) in subsection (c)(1)(B), by striking out "the Dean of the Uniformed Services University of the Health Sciences" and inserting in lieu thereof "a person designated by the Secretary of Defense"; and

(C) in subsection (g)(1), by inserting after "Uniformed Services University of the Health Sciences," the following: "or after the closure of the University, the Secretary of Defense".

(2) Section 466(a)(1)(B) of the Public Health Service Act (42 U.S.C. 286a(a)(1)(B)), relating to the Board of Regents of the National Library of Medicine, is amended by striking out "the Dean of the Uniformed Services University of the Health Sciences,".

(f) CLERICAL AMENDMENTS.—(1) The heading of section 2112 of title 10, United States Code, is amended to read as follows:

"§2112. Establishment and closure of University".

(2) The item relating to such section in the table of sections at the beginning of chapter 104 of such title is amended to read as follows:

"2112. Establishment and closure of University.".

SEC. 3003. STREAMLINING AND REORGANIZATION OF CORPS OF ENGINEERS.

(a) DEVELOPMENT OF PLAN.—The Secretary of the Army shall develop a plan to reorganize the United States Army Corps of Engineers by reorganizing the headquarters offices, reducing the number of division offices, and restructuring the district functions so as to increase the efficiency of the United States Army Corps of Engineers and reduce staff and costs, with the goal of achieving approximately $50 million in net annual savings by fiscal year 1998.

(b) TRANSMITTAL AND APPROVAL OF PLAN.—The Secretary of the Army shall transmit to Congress the plan developed under subsection (a) for approval. The Secretary shall not implement such plan until it is approved by Congress.

TITLE IV—DEPARTMENT OF ENERGY

Subtitle A—Alaska Power Administration Sale Authorization

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Alaska Power Administration Sale Authorization Act".

SEC. 4002. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this subtitle as "Snettisham") to the State of Alaska Power Authority (now known as the Alaska Industrial Development and Export Authority, and referred to in this subtitle as the "Authority"), or its successor, in accordance with the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Authority.

(b) The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this subtitle as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this subtitle as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this Act.

(d) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as are necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(f) No later than one year after both of the sales authorized in section 4002 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration; and

(2) prepare and submit to Congress a report documenting the sales.

SEC. 4003. ASSESSMENT OF ALTERNATIVE OPTIONS.

Before taking any action authorized in section 4002, the Secretary shall assess the feasibility of alternative options for maximizing the return to the Treasury from the sale of the Alaska Power Marketing Administration.

Subtitle B—Federal-Private Cogeneration of Electricity

SEC. 4101. FEDERAL-PRIVATE COGENERATION OF ELECTRICITY.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

Subtitle C—Power Marketing Administrations

SEC. 4201. POWER MARKETING ADMINISTRATIONS REFINANCING STUDY.

The Administrators of the Southeastern, Southwestern and Western Area Power Administrations, in consultation with their respective firms power contractors and other interested parties (including, where applicable, the Bureau of Reclamation), shall study refinancing options, including modifications to existing financial and accounting practices that may be required to effectively and efficiently issue and manage revenue bonds. Such refinancing options shall, for each of the power systems they administer, satisfy their respective repayment obligations to the United States Treasury without causing any increase in their respective firm power rates beyond the rates that would otherwise result under rate-setting policies and practices in effect on October 1, 1993. The results of such studies shall be submitted no later than May 1, 1994, to the Speaker of the House of Representatives and the President of the Senate. Such studies shall be made within the limits of existing funding, or, if necessary, with funds contributed by firm power contractors.

SEC. 4202. BONNEVILLE POWER ADMINISTRATION REFINANCING STUDY.

The Administrator of the Bonneville Power Administration, in consultation with his customers and constituents, shall study options, including an open market buyout, a Treasury buyout, or any other reasonable alternative that would lead to a permanent resolution of the repayment reform initiative directed at Bonneville's appropriation investment repayment obligation. Such refinancing options shall satisfy the outstanding appropriated investment repayment obligation, without increasing rates beyond the rates that would otherwise result under rate-setting policies and practices in effect on October 1, 1993. The result of this study shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than March 1, 1994.

Subtitle D—Termination of Advanced Liquid Metal Reactor Program

SEC. 4301. TERMINATION OF ADVANCED LIQUID METAL REACTOR PROGRAM.

(a) IN GENERAL.—No amount of funds provided for any fiscal year may be obligated by the Secretary of Energy after the date of the enactment of this Act for the civilian portion of the advanced liquid metal reactor program, including—

(1) the program's promotion of the use of such reactors for the disposal of high-level radioactive waste; and

(2) Department of Energy support for regulatory applications to the Nuclear Regulatory Commission for design certification for advanced liquid metal reactors or related licensed facilities.

(b) PROHIBITION OF OTHER USES.—The amount of funds available on the date of the enactment of this Act for obligation for the program described in subsection (a) shall not be available for obligation by the Secretary of Energy after such date for any other purpose.

(c) EXCEPTION.—Subsections (a) and (b) shall not apply to obligations required to be incurred in terminating the program described in subsection (a).

TITLE V—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 5001. STUDY OF METHODS TO INCREASE FLEXIBILITY IN CONTRACTING FOR MEDICARE CLAIMS PROCESSING.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of methods to increase flexibility in contracting for claims processing under the medicare program and to otherwise simplify the administration of program, and shall include in the study an analysis of the feasibility and desirability of carrying out the following changes to the program:

(1) Permitting entities other than insurance companies to serve as carriers under part B of the program.

(2) Eliminating the requirement that fiscal intermediaries under part A of the program be nominated by a group or association of providers of services under such part.

(3) Increasing the Secretary's flexibility in assigning particular functions to fiscal intermediaries and carriers.

(4) Expanding the circumstances and standards under which the Secretary may terminate a contract with a fiscal intermediary or a carrier.

(5) Permitting the Secretary to require that a fiscal intermediary or a carrier meet data matching requirements for purposes of identifying situations in which medicare is a secondary payer.

(6) Eliminating the requirements that the Secretary make an additional payment to fiscal intermediaries and carriers for administrative costs.

(7) Eliminating the requirement that the Secretary enter into an agreement with a separate carrier for purposes of administering part B with respect to individuals entitled to benefits as qualified railroad retirement beneficiaries.

(b) REPORT.—Not later than April 30, 1994, the Secretary shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a), together with any recommendations of the Secretary for statutory revisions to increase flexibility and reduce costs in the administration of the medicare program.

SEC. 5002. WORKERS' COMPENSATION DATA EXCHANGE PILOT PROJECTS.

(a) IN GENERAL.—The Secretary is authorized to conduct pilot projects with not more than three States for the purpose of studying various means of obtaining on a timely and accurate basis such information relating to benefits paid on account of total or partial disability under the States' workers' compensation plan as the Secretary may require for the purpose of carrying out section 224 of the Social Security Act.

(b) REIMBURSEMENT OF STATE COSTS.—A State that participates in a project conducted pursuant to subsection (a) may be paid by the Secretary, from amounts available pursuant to subsection (e), the reasonable costs of such participation.

(c) EVALUATION.—The Secretary shall evaluate each project conducted pursuant to subsection (a) and shall apply the findings, as appropriate, to agreements negotiated pursuant to subsection (h)(2) of such section 224.

(d) DEADLINE FOR COMMENCEMENT OF PROJECTS.—No pilot project authorized by subsection (a) may be commenced after the expiration of the 5-year period beginning on the date of enactment of this section.

(e) FUNDING.—Expenditures for pilot projects conducted pursuant to subsection (a) may be made from the Federal Disability Insurance Trust Fund and the Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.

(f) EFFECTIVE DATE.—This section shall be effective upon enactment.

SEC. 5003. FEDERAL CLEARINGHOUSE ON DEATH INFORMATION.

(a) CLEARINGHOUSE DESIGNATION.—The heading for section 205(r) of the Social Security Act is amended to read as follows: "Clearinghouse on Death Information".

(b) ACQUISITION OF DISCLOSABLE DEATH INFORMATION FROM STATES.—

(1) Section 205(r)(1)(A) of the Social Security Act is amended by striking "to furnish the Secretary periodically with" and inserting "to furnish periodically to the Secretary, for use in carrying out subparagraph (B) and paragraphs (3) and (4),".

(2)(A) Notwithstanding clause (ii) of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66)), in order for a contract requiring a State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it to meet the requirements of such section 6103(d)(4)(B), such contract shall authorize the Secretary to use such information and to redisclose such information to any Federal agency or any agency of a State or political subdivision in accordance with section 205(r) of the Social Security Act.

(B) The provisions of subparagraph (A) of this paragraph and, notwithstanding subparagraph (C) of section 6103(d)(4) of the Internal Revenue Code of 1986 (as added by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66)), the provisions of subparagraphs (A) and (B) of such section 6103(d)(4) shall apply to all States, regardless of whether they were, on July 1, 1993, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(C) Subparagraphs (A) and (B) of this paragraph shall take effect at the same time as the amendment made by section 13444(a) of the Omnibus Budget Reconciliation Act of 1993 takes effect.

(D) For the purpose of applying the special rule contained in section 13444(b)(2) of the Omnibus Budget Reconciliation Act of 1993, the reference in such section to section 6103(d)(4)(B) of the Internal Revenue Code of 1986 shall be deemed to include a reference to subparagraph (A) of this paragraph.

(c) PAYMENT TO STATES FOR DEATH INFORMATION.—Section 205(r)(2) of the Social Security Act is amended—

(1) by striking "the reasonable costs" and inserting "a reasonable amount"; and

(2) by striking "transcribing and transmitting" and inserting "furnishing".

(d) FEE FOR CLEARINGHOUSE INFORMATION.—

(1) Section 205(r)(3) of the Social Security Act is amended by striking out "if" and all that follows, and inserting ", provided that such agency agrees to pay the fees set by the Secretary pursuant to paragraph (8).".

(2) Section 205(r)(4) of the Social Security Act is amended—

(A) by inserting "and political subdivisions" after "States" the first place such term appears;

(B) by striking "the States" and inserting "any State, political subdivision, or combination thereof"; and

(C) by striking "if" and all that follows and inserting "provided such States and political subdivisions agree to pay the fees set by the Secretary pursuant to paragraph (8).".

(3) Section 205(r) of the Social Security Act is amended by adding at the end a new paragraph as follows: "(8) The Secretary shall establish fees for the disclosure of information pursuant to this subsection. Such fees shall be in amounts sufficient to cover all costs (including indirect costs) associated with the Secretary's responsibilities under this subsection. Fees collected pursuant to this paragraph shall remain available, without fiscal year limitation, to the Secretary to cover the administrative costs of carrying out this subsection."

(e) TECHNICAL ASSISTANCE.—Section 205(r) of the Social Security Act is amended by adding at the end (after the paragraph added by subsection (d)(3)) the following new paragraph:

"(9) The Secretary may provide to any Federal or State agency that provides Federally funded benefits, upon the request of such agency, technical assistance on the effective collection, dissemination, and use of death information available under this subsection for the purpose of ensuring that such benefits are not erroneously paid to deceased individuals.".

(f) TECHNICAL AMENDMENT.—Section 205(r) of the Social Security Act is amended by adding at the end (after the paragraph added by subsection (e)) the following new paragraph:

"(10) For purposes of this subsection, the term 'Federally funded benefit' means any payment funded in whole or in part by the Federal Government.".

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect upon their enactment.

SEC. 5004. CONTINUING DISABILITY REVIEWS.

Section 201(g)(1)(A) of the Social Security Act is amended by adding at the end of the paragraph the following sentence: "From funds provided pursuant to this subparagraph for the following fiscal years, not less than the following amounts shall be available only for conducting continuing disability reviews and related workloads: for fiscal year 1994, $46 million; for fiscal year 1995, $47,200,000; for fiscal year 1996, $48,500,000; for fiscal year 1997, $49,800,000; for fiscal year 1998, $51,100,000; and for fiscal year 1999, $52,500,000.".

TITLE VI—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6001. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8), if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(5) AFFORDABLE.—A unit shall be considered affordable if—

"(A) for units occupied—

"(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish the rent based on an amount higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; and

"(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, except that the Secretary may establish the rent based on an amount higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; or

"(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

"(6) LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.—The terms 'low-income families' and 'very low-income families' shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

"(7) PREEXISTING TENANT.—The term 'preexisting tenant' means, with respect to a multifamily housing project, a family that—

"(A) resides in a unit in the project; and

"(B) immediately before foreclosure or acquisition of the project by the Secretary, was residing in a unit in the project.

"(8) MARKET AREA.—The term 'market area' means a market area determined by the Secretary for purposes of establishing fair market rentals under section 8(c) of the United States Housing Act of 1937.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary may, in carrying out this section, dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the market area in which the project is located and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in a decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary may, in carrying out this section—

"(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine;

"(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A); and

"(C) contract for management of such properties with nonprofit organizations and public agencies, including public housing authorities.

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(3) HOUSING STANDARDS.—In disposing of any multifamily housing project under this section, the Secretary shall enter into an agreement with the purchaser under which the purchaser agrees that the project will be rehabilitated so that it is in compliance with, and will be maintained in compliance with, any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

"(e) REQUIRED ASSISTANCE.—In disposing of any multifamily housing property under this section, the Secretary shall take, separately or in combination, one or more of the following actions:

"(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

"(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

"(C) EXCEPTIONS.—In lieu of providing project-based assistance under subparagraph (A)(i) or (B)(i) for a project, the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary provides an increase in project-based assistance for very low-income persons for units within unsubsidized projects located within the same market area as the project otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) that is at least equivalent to the units otherwise required to be so assisted; and

"(ii) upon disposition of the project, low-income families residing in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) receive tenant-based assistance under such section 8.

"(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

"(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

"(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

"(II) the property disposition program under section 8(b) of such Act;

"(III) the project-based certificate program under section 8 of such Act;

"(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

"(V) section 23 of such Act (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937 at such time.

"(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who, on the date that the project is acquired by the purchaser, reside in the project and are eligible for such assistance, subject to the following requirements:

"(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families.

"(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary annually.

"(C) PROVISION OF PROJECT-BASED ASSISTANCE UNDER CHANGED CIRCUMSTANCES.—The Secretary shall, to the extent such amounts are available, provide project-based assistance under section 8 of the United States Housing Act of 1937 for any units in a project for which the Secretary has provided tenant-based assistance under this paragraph if, and only to the extent that, the owner demonstrates to the satisfaction of the Secretary within 24 months after the date of acquisition by the owner that—

"(i) the provision of such project-based assistance (I) is necessary to maintain the financial viability of the project because of changes occurring after such acquisition that are beyond the control of the owner, and (II) may reasonably be expected to maintain such financial viability; or

"(ii) sufficient habitable, affordable housing for very low-income families and other low-income families is not available in the market area in which the project is located. Assistance provided pursuant to this subparagraph shall have a term of not more than 5 years.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

"(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide assistance under section 8 of such Act to such families.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

"(A) IN GENERAL.—The Secretary may transfer a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an entity eligible to own or operate housing under assisted section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

"(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

"(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

"(f) DISCRETIONARY ASSISTANCE.—In addition to the actions taken under subsection (e) for a multifamily housing project, the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—The Secretary may provide a short-term loan to facilitate the sale of a multifamily housing project to a nonprofit organization or a public agency if—

"(A) authority for such loans is provided in advance in an appropriation Act;

"(B) such loan has a term of not more than 5 years;

"(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

"(D) the terms of such loan is consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

"(2) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity to comment by existing tenants, the Secretary may allow not more than—

"(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary may take actions under subparagraph (A) only if—

"(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

"(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to allow use of such assistance.

"(g) REQUIRED ASSISTANCE FOR CERTAIN PROJECTS.—In disposing under this section of multifamily housing projects, the Secretary shall, to the extent that such assistance is available—

"(1) in the case of any project located in a market area in which habitable, affordable rental housing for very low-income families is not sufficiently available, provide tenant-based or project-based rental assistance under section 8 of the United States Housing Act of 1937 (depending on the circumstances of the family) to very low-income families who are preexisting tenants of the project and do not otherwise qualify for project-based assistance; and

"(2) provide project-based assistance for very low-income families who are preexisting tenants of the project to the extent that such assistance is necessary to maintain the financial viability of the project and is reasonably expected to maintain such financial viability.

"(h) RENT RESTRICTIONS.—

"(1) AUTHORITY FOR USE IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to be subject to use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(2) REQUIREMENT REGARDING SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—In disposing under this section of any subsidized or formerly subsidized multifamily housing project, the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

"(A) 15 years after such disposition; or

"(B) the time at which the family first fails to qualify as a very low-income family.

"(3) REQUIREMENT REGARDING UNSUBSIDIZED PROJECTS.— Unless the Secretary determines that the applicability of rent restrictions under this paragraph to a project would unreasonably impede the disposition of the project, in disposing under this section of any unsubsidized multifamily housing project the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

"(A) 15 years after such disposition; or

"(B) the time at which the family first fails to qualify as a very low-income family.

"(4) PHASE-IN OF RENT INCREASES.—If the disposition under this section of any multifamily housing project results in any rent increases for any very low-income families who are preexisting tenants of the project and are paying less than 30 percent of the adjusted income of the family for rent, the Secretary shall provide that such rent increases shall be phased in equally over a period of not less than 3 years.

"(5) DEFINITION OF 'UNASSISTED VERY LOW-INCOME FAMILY'.—For purposes of this subsection, the term 'unassisted very low-income family' means a very low-income family who resides in a unit that is not assisted with project-based assistance under section 8 of the United States Housing Act of 1937 and on whose behalf tenant-based assistance under such section is not provided.

"(i) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

"(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that—

"(A) the term may be less than 15 years to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term;

"(B) to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that the mount of rent payable by tenants of the project for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; and

"(C) the term may be less than 15 years if such assistance is provided—

"(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall establish contract rents for section 8 project-based rental contracts issued under this section at levels that provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed 144 percent of the existing housing fair market rentals for the market area in which the project assisted under the contract is located.

"(B) UP-FRONT GRANTS AND LOANS.—If the Secretary determines that action under this subparagraph is more cost-effective, the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance)—

"(i) provide up-front grants to nonprofit organizations or public housing agencies for the necessary cost of rehabilitation; or

"(ii) pay any cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974, for loans made pursuant to subsection (f)(1).

"(j) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, and the occupancy profile of the project.

"(2) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

"(A) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

"(B) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

"(3) TECHNICAL ASSISTANCE.—To carry out the procedures developed under paragraph (2), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this paragraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this paragraph, notwithstanding the source of the funding.

"(k) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

"(1) NOTIFICATION OF ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a multifamily housing project, the Secretary shall notify the unit of general local government (which, for purposes of this subsection, shall include any public housing agency) for the area in which the project is located and the State agency or agencies designated by the Governor of the State in which the project is located of such acquisition.

"(2) RIGHT OF FIRST REFUSAL.—During the period beginning upon acquisition of title to a multifamily housing project and ending 45 days after completion of notification under paragraph (1), the Secretary may offer to sell and may sell the project only to the unit of general local government or the designated State agency.

"(3) EXPRESSION OF INTEREST.—The unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in a project not later than 45 days after receiving notification from the Secretary under paragraph (1) regarding the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(4) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has submitted an expression of interest in a project before the expiration of the 45-day period referred to in paragraph (3) and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for the project, shall—

"(A) notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan; and

"(B) provide that, for 90 days after the date of such notification, only the unit of general local government or designated State agency may make an offer to purchase the project.

"(5) FAILURE TO TIMELY EXPRESS INTEREST.—If the unit of general local government or designated State agency does not timely express and, if requested, substantiate interest in a project as provided in paragraph (4), the Secretary may offer the project for sale to any interested person or entity upon approval of the disposition plan for the project.

"(6) ACCEPTANCE OF OFFERS.—If the unit of general local government or designated State agency timely expresses and, if requested, substantiates interest in a project as provided in paragraph (4), the Secretary shall accept an offer made by the unit of general local government or designated State agency during the 90-day period for the project under paragraph (4)(B) that complies with the terms and conditions of the disposition plan for the project. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary may reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (i)(1) and in order to facilitate affordable rents.

"(7) FAILURE TO SELL TO LOCAL OR STATE GOVERNMENT AGENCY.—If the Secretary and the unit of general local government or designated State agency cannot reach agreement on an offer for purchase of a project within the 90-day period for the project under paragraph (4)(B), the Secretary may offer the project for sale to the general public.

"(8) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(9) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) (as in effect immediately before the effective date of this subsection); or

"(B) the requirements of paragraphs (1) through (7) of this subsection, if—

"(i) the Secretary gives the unit of general local government or designated State agency 45 days to express interest in the project; and

"(ii) the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, within 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(10) TRANSFER BY LOCAL OR STATE GOVERNMENT AGENCY PURCHASERS.—The Secretary shall permit units of general local government and designated State agencies to transfer multifamily housing projects acquired under the right of first refusal under this subsection to a private entity, but only if the local government or State agency clearly identifies its intention to transfer the project in the offer to purchase the property accepted by the Secretary under this subsection.

"(l) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of the disposition of tenants of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(m) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary, or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(n) Report to Congress.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment of each project;

"(3) the status of the mortgage for each project;

"(4) the physical condition of each project;

"(5) for each subsidized or formerly subsidized project, an occupancy profile of the project, stating the income, family size, race, and ethnic origin of current residents and the rents paid by such residents;

"(6) the proportion of units in each project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession of each project, if applicable;

"(8) the date and conditions of any foreclosure sale for a project;

"(9) the date of acquisition of each project by the Secretary, if applicable;

"(10) the date and conditions of any property disposition sale for a project;

"(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

"(13) a description of the activities carried out under subsection (k) during the preceding year.".

(c) Clarification of Federal Preferences.—

(1) Public housing tenancy.—Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(2) Section 8 assistance.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(d) Definition of Owner.—Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by inserting "an agency of the Federal Government," after "cooperative,".

(e) Amendment to National Housing Act.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS

"Sec. 541. (a) Authority.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

"(1) accept partial payment of the claim under the mortgage insurance contract; and

"(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

"(b) Repayment.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.".

(f) Effective Date.—The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) not later than 90 days after the date of the enactment of this Act. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations.

SEC. 6002. SECTION 235 MORTGAGE REFINANCING.

Section 235(r) of the National Housing Act is amended—

(1) in paragraph (2)(C), by inserting after "refinanced" the following: ", plus the costs incurred in connection with the refinancing as described in paragraph (4)(B) to the extent that the amount for those costs is not otherwise included in the interest rate as permitted by subparagraph (E) or paid by the Secretary as authorized by paragraph (4)(B)";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by inserting after "otherwise)" the following: "and the mortgagee (with respect to the amount described in subparagraph (A))"; and

(B) in subparagraph (A), by inserting after "mortgagor" the following: "and the mortgagee"; and

(3) by amending paragraph (5) to read as follows:

"(5) The Secretary shall use amounts of budget authority recaptured from assistance payments contracts relating to mortgages that are being refinanced for assistance payments contracts with respect to mortgages insured under this subsection. The Secretary may also make such recaptured amounts available for incentives under paragraph (4)(A) and the costs incurred in connection with the refinancing under paragraph (4)(B). For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection and for amounts paid under paragraph (4) shall not be construed as unused.".

SEC. 6003. USE OF EMERGENCY ASSISTANCE FUNDS FOR RESIDENCY IN MULTIFAMILY HOUSING DISPOSITION PROJECTS.

Section 203(f) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11), as amended by section 6001 of this Act, is further amended by adding at the end the following new paragraph:

"(4) Emergency assistance funds.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.".

SEC. 6004. ADDITIONAL EMPLOYEES TO FACILITATE DISPOSITION OF FHA INVENTORY PROPERTIES.

Notwithstanding any other provision of law, during fiscal years 1993, 1994, and 1995 amounts in the various funds of the Federal Housing Administration otherwise available to the Secretary of Housing and Urban Development for non-overhead expenses associated with processing, accounting, loan servicing, asset management, and disposition services may be used by the Secretary for personnel compensation and benefits for temporary employees of the Department of Housing and Urban Development employed to manage, service, and dispose of single family and multifamily properties insured by, assigned to, or owned by the Secretary. The Secretary may employ not more than 400 temporary employees at any one time using amounts made available pursuant to this section, no such employee may be employed in a temporary position pursuant to this section for a period in excess of 2 years, and such employees shall not be considered for purposes of any personnel ceiling applicable to the Department of Housing and Urban Development or any unit therein or any personnel ceiling applicable to temporary employees of the Federal Government.

SEC. 6005. HUD STREAMLINING.

The Secretary of Housing and Urban Development shall carry out the recommendation of the Report of the National Performance Review, issued on September 7, 1993, that the Department streamline its headquarters, regional, and field office structure and consolidate and reduce its size, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

TITLE VII—DEPARTMENT OF THE INTERIOR

SEC. 7001. IMPROVEMENT OF MINERALS MANAGEMENT SERVICE ROYALTY COLLECTION.

(a) The Secretary of the Interior shall, by fiscal year 1995, direct the Minerals Management Service, Royalty Management Program, to develop and implement (1) an automated business information system to provide to its auditors a lease history that includes reference, royalty, production, financial, compliance history, pricing and valuation, and other information; (2) the optimum methods to identify and resolve anomalies and to verify that royalties are paid correctly; (3) a more efficient and cost-effective royalty collection process by instituting new compliance and enforcement measures, including assessments and penalties for erroneous reporting and underreporting; (4) pilot projects under which a State may assume mineral receipt collections on Federal lands within the State and where the State assumes 50 percent of the cost of such pilot project; and (5) such other actions as may be necessary to reduce royalty underpayment and increase revenue to the U.S. Treasury by an estimated total of $28 million by fiscal year 1999.

(b) The Federal Oil and Gas Royalty Management Act of 1982 (Public Law No. 97–451), 30 U.S.C. 1701 et seq.) is amended by adding a new subsection 111(h) as follows:

"PENALTY ASSESSMENT FOR SUBSTANTIAL UNDERREPORTING OF ROYALTY"

"Sec. 111. (h)(1) If there is any underreporting of royalty owed on production from any lease issued or administered by the Secretary for the production of oil, gas, coal, any other mineral, or geothermal steam, from any Federal or Indian lands or the Outer Continental Shelf, for any production month, by any person who is responsible for paying royalty, the Secretary may assess a penalty of 10 percent of the amount of that underreporting.

"(2) If there is a substantial under reporting of royalty owed on production from any lease issued or administered by the Secretary for the production of oil, gas, coal, any other mineral, or geothermal steam, from any Federal or Indian lands or the Outer Continental Shelf, for any production month, by any person who is responsible for paying royalty, the Secretary may assess a penalty of 20 percent of the amount of that substantial underreporting.

"(3) For purposes of this section, the term 'underreporting' means the difference between the royalty on the value of the production which should have been reported and the royalty on the value of the production which was reported, if the value of the production which should have been reported is greater than the value of the production which was reported. An underreporting constitutes a 'substantial underreporting' if such difference exceeds 10 percent of the royalty on the value of the production which should have been reported.

"(4) The Secretary shall not impose the assessment provided in paragraphs (1) or (2) if the person corrects the underreporting before the date the person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of enactment of this section, whichever is later.

"(5) The Secretary shall waive any portion of an assessment provided in paragraphs (1) or (2) attributable to that portion of the underreporting for which the person demonstrates that—

"(i) the person had written authorization from the Secretary to report royalty on the value of the production on the basis on which it was reported, or

"(ii) the person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported, or

"(iii) the person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting, or

"(iv) the person meets any other exception which the Secretary may, by rule, establish.

"(6) All penalties collected under this subsection shall be deposited to the same accounts in the Treasury or paid to the same recipients in the same manner as the royalty with respect to which such penalty is paid.".

SEC. 7002. PHASE OUT OF MINERAL INSTITUTE PROGRAM.

The Secretary of the Interior, beginning in fiscal year 1995, shall take action to phase out the Mining and Mineral Resources Research Institute Act of 1984, Public Law 98–409, as amended (98 Stat. 1536 through 1541 and 102 Stat. 2339 through 2341, 30 U.S.C. 1221 through 1230). There are hereby authorized to be appropriated under the Act the following amounts: fiscal year 1995—$6.5 million; fiscal year 1996—$5 million; fiscal year 1997—$3 million; and fiscal year 1998—$1.5 million. No further appropriations for this Act are authorized after September 30, 1998.

SEC. 7003. REORGANIZATION STUDY OF BUREAU OF INDIAN AFFAIRS.

(a) GENERAL AUTHORITY.—The Secretary of the Interior, with the active participation of Indian tribes, shall conduct a study of the reorganization of the Bureau of Indian Affairs.

(b) CONTENT.—The study conducted under subsection (a) shall include (but shall not be limited to)—

(1) an examination of the current structure of the Bureau of Indian Affairs and recommendations for structural changes to improve the implementation of Federal trust responsibilities toward Indian tribes;

(2) an examination of the current roles of the Central, Area, and Agency offices of the Bureau of Indian Affairs and recommendations to improve efficiency of the Bureau through reorganization;

(3) an examination of the efficiency of the Bureau of Indian Affairs in comparison with other Bureaus of the Department of the Interior;

(4) an examination of the barriers to the implementation of the 1988 amendments to the Indian Self-Determination and Education Assistance Act throughout the Department of the Interior and a proposed plan for effective implementation; and

(5) recommendations for the transfer of personnel and resources from the Central, Area, and Agency offices of the Bureau of Indian Affairs to Indian tribes.

(c) REPORT.—The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within one year after the date of enactment of this Act.

SEC. 7004. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1993.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94–241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1993.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 8001. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking "(2) Effective" and inserting "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking "Effective" and inserting "Subject to subsection (b), effective"; and

(C) by adding at the end the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking "Effective" and inserting "(a) Subject to subsection (b), effective"; and

(B) by adding at the end the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking "(a) Effective" and inserting "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

SEC. 8002. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,053,600 during fiscal year 1994;

(2) 1,999,600 during fiscal year 1995;

(3) 1,945,600 during fiscal year 1996;

(4) 1,895,600 during fiscal year 1997; and

(5) 1,851,600 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—

(1) EMERGENCIES.—Any provision of this section may be waived upon a determination by the President that—

(A) the existence of a state of war or other national security concern so requires; or

(B) the existence of an extraordinary emergency threatening life, health, safety, property, or the environment so requires.

(2) AGENCY EFFICIENCY OR CRITICAL MISSION.—

(A) Subsection (d) may be waived, in the case of a particular position or category of positions in an agency, upon a determination of the President that the efficiency of the agency or the performance of a critical agency mission so requires.

(B) Whenever the President grants a waiver pursuant to subparagraph (A), the President shall take all necessary actions to ensure that the overall limitations set forth in subsection (b) are not exceeded.

TITLE IX—DEPARTMENT OF LABOR

SEC. 9001. DETERRENCE OF FRAUD AND ABUSE IN FECA PROGRAM.

(a) Section 8102 of title 5, United States Code, is amended to redesignate subsection (b) as subsection (c), and to add the following new subsection (b):

"(b) An individual convicted of a violation of 18 U.S.C. 1920, as amended, or of any other fraud related to the application for or receipt of benefits under subchapter I or III of chapter 81 of title 5, shall forfeit, as of the date of the conviction, all entitlement to any prospective benefits provided by subchapter I or III for any injury occurring on or before the date of the conviction. Such a forfeiture of benefits shall be in addition to any action the Secretary may take under section 8106 or 8129 of title 5, United States Code.".

(b) Section 8116 of title 5, United States Code, is amended by adding the following new subsection (e):

"(e) Notwithstanding any other provision of this title, no benefits under sections 8105 or 8106 of this subchapter shall be paid or provided to any individual during any period during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to that individual's conviction of an offense that constituted a felony under applicable law, except where such individual has one or more dependents within the meaning of section 8110 of this subchapter, in which case the Secretary may, during the period of incarceration, pay to such dependents a percentage of the benefits that would have been payable to such individual computed according to the percentages set forth in section 8133(a)(1)–(5) of this subchapter.".

(c) Section 8116 of title 5, United States Code, is further amended by adding the following new subsection (f):

"(f) Notwithstanding the provisions of section 552a of this title, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the names and Social Security account numbers of individuals who are confined in a jail, prison or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to such individuals' conviction of an offense that constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.".

(d) Section 1920 of title 18, United States Code, is amended to read as follows: "Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with the application for or receipt of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, United States Code, shall be punished by a fine of not more than $250,000, or by imprisonment for not more than five years, or both.".

(e) Except as otherwise provided in this section, the amendments made by this section shall be effective on the date of enactment and shall apply to actions taken on or after the date of enactment both with respect to claims filed before the day of enactment and with respect to claims filed after such date.

(f) The amendments made by subsections (a), (b), and (c) of this section shall be effective on the date of enactment and shall apply to any person convicted or imprisoned on or after the date of enactment.

(g) The amendment made by subsection (d) of this section shall be effective on the date of enactment and shall apply to any claim, statement, representation, report, or other written document made or submitted in connection with a claim filed under subchapter I or III of chapter 81 of title 5, United States Code.

SEC. 9002. ENHANCEMENT OF REEMPLOYMENT PROGRAMS FOR FEDERAL EMPLOYEES DISABLED IN THE PERFORMANCE OF DUTY.

(a) Section 8104 of title 5, United States Code, is amended—

(1) by striking the comma after "employment" and by striking "other than employment undertaken pursuant to such rehabilitation" from subsection (b); and

(2) by adding the following new subsection (c):

"(c) The Secretary of Labor, as part of the vocational rehabilitation effort, may assist permanently disabled individuals in seeking and/or obtaining employment. The Secretary may reimburse an employer (including a Federal employer), who was not the employer at the time of injury and who agrees to employ a disabled beneficiary, for portions of the salary paid by such employer to the reemployed, disabled beneficiary. Any such sums shall be paid from the Employees' Compensation Fund.".

(b) The Secretary of Labor is authorized to expand the Federal Employees' Compensation Act Periodic Roll Management Project to all offices of the Office of Workers' Compensation Program of the Department of Labor.

(c) The provisions of, and amendments made by, subsections (a) and (b) of this section shall be effective on the date of enactment.

SEC. 9003. WAGE DETERMINATIONS.

(a) The McNamara-O'Hara Service Contract Act, as amended (41 U.S.C. 351 et seq.) is amended by adding at the end the following new section:

"SEC. 11. To more effectively implement wage determination procedures, the Secretary of Labor is authorized to develop and implement an electronic data interchange system to request and obtain wage determinations required under the Act.".

(b) The Davis-Bacon Act, as amended (41 U.S.C. 276a et seq.) is amended by adding at the end the following new section:

"SEC. 8. To more effectively implement wage determination procedures, the Secretary of Labor is authorized to develop and implement an electronic data interchange system to request and obtain wage determinations required under the Act.".

(c) The amendments made by subsections (a) and (b) of this section shall be effective on the date of enactment.

SEC. 9004. ELIMINATION OF FILING REQUIREMENTS.

(a) Section 101(b) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) Section 102 of ERISA (29 U.S.C. 1022) is amended by striking paragraph (a)(2) and redesignating paragraph (a)(1) as subsection (a).

(c) Section 104(a)(1) of ERISA (29 U.S.C. 1024(a)(1)) is amended to read as follows:

"SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be required by regulations promulgated by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor. The administrator shall also furnish to the Secretary, upon request, any documents relating to the employee benefit plan including but not limited to the summary plan description, description of material modifications to the plan, bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated.".

(d) Section 104(b) of ERISA (29 U.S.C. 1024(b)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall, upon written request of any participant or beneficiary of a plan for a copy of any documents described in paragraph (4), make a written request to the plan administrator for copies of such documents. The plan administrator shall comply with such request from the Secretary. Upon obtaining such copies from the plan administrator, the Secretary shall provide them to the requesting participant or beneficiary. In making a request under this paragraph to the plan administrator, the Secretary shall not disclose to the plan administrator the identity of the participant or beneficiary. The administrator may make a reasonable charge to cover the cost of furnishing such complete copies consistent with any regulations issued by the Secretary pursuant to paragraph (4). The Secretary may require the participant or beneficiary to reimburse the Secretary for such charges before the participant receives the requested copies.".

(e) Section 106(a) of ERISA (29 U.S.C. 1026(a)) is amended by striking "descriptions,".

(f) Section 107 of ERISA (29 U.S.C. 1027) is amended by striking "description or".

(g) Section 108 of ERISA (29 U.S.C. 1028) is amended by striking "(B) after publishing or filing the plan description, annual reports," and inserting "(B) after publishing the plan description, or after publishing or filing the annual reports,".

(h) Section 109(b) of ERISA (29 U.S.C. 1029(b)) is amended to read as follows:

"(b) The financial statement and opinion required to be prepared by an independent qualified public accountant pursuant to section 103(a)(3)(A) and the actuarial statement required to be prepared by an enrolled actuary pursuant to section 103(a)(4)(A) shall not be required to be submitted on forms.".

(i) Section 502(c) of ERISA is amended by adding at the end the following new paragraph:

"(4) The Secretary may assess a civil penalty against any plan administrator of up to $100 per day from the date of such plan administrator's failure or refusal to comply with a request for documents which such administrator is required to furnish to the Secretary (unless such failure or refusal results from matters reasonably beyond the control of the administrator) pursuant to section 104(b)(5) by mailing the material requested to the address provided by the Secretary within 30 days after such request.".

(j) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act.

TITLE X—DEPARTMENT OF STATE AND UNITED STATES INFORMATION AGENCY

SEC. 10001. IMPROVEMENT OF EFFICIENCY OF STATE DEPARTMENT ACTIVITIES.

The Secretary of State shall take action to improve the efficiency of the activities of the Department of State and save a total of $5,700,000 by the end of fiscal year 1999.

SEC. 10002. IMPROVEMENT OF EFFICIENCY OF USIA PUBLIC DIPLOMACY ACTIVITIES.

The Director of the United States Information Agency (USIA) shall take action to improve the efficiency of USIA's public diplomacy activities and save a total of $15,000,000 by the end of fiscal year 1999.

TITLE XI—DEPARTMENT OF TRANSPORTATION

SEC. 11001. REEMPLOYMENT RIGHTS FOR CERTAIN MERCHANT SEAMEN.

(a) In General.—Title III of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131) is amended by inserting after section 301 the following new section:

"Sec. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty.

"(b) An individual may submit an application for certification under subsection (c) to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

"(c) Not later than 20 days after the date the Secretary of Transportation receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether or not the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946, in a period in which that vessel was in use or being activated for use under subsection (b) of that section;

"(ii) that is requisitioned or purchased under section 902 of this Act; or

"(iii) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable) of title 46, United States Code; and

"(2) if the Secretary makes affirmative determinations under paragraph (1) (A) and (B), certify that individual under this subsection.

"(d) For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate referred to in clause (1) of section 4301(a) of title 38, United States Code.".

(b) Application.—The amendment made by subsection (a) shall apply to employment described in section 302(c)(1)(A) of the Merchant Marine Act, 1936, as amended by subsection (a), occurring after August 2, 1990.

(c) Employment Ending Before Enactment.—Notwithstanding subsection (b) of section 302 of the Merchant Marine Act, 1936, as amended by this Act, an individual who, in the period beginning August 2, 1990, and ending on the date of the enactment of this Act, completed a period of employment described in subsection (c)(1)(A) of that section may submit an application for certification under subsection (c) of that section with respect to that employment not later than 45 days after the date of the enactment of this Act.

(d) Regulations.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations implementing this section.

SEC. 11102. REFORM OF ESSENTIAL AIR SERVICE PROGRAM.

Section 419 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1389) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following:

"(2) Restrictions on qualifications as an eligible point.—To qualify as an eligible point in the 48 contiguous states, Hawaii, and Puerto Rico for purposes of fiscal year 1995 and thereafter, a point described in paragraph (1) must not require a rate of subsidy per passenger in excess of $200 unless such point is more than 210 miles from the nearest large or medium hub airport and may not be located fewer than 70 highway miles from the nearest large or medium hub airport;" and

(2) in subsection (l) by striking paragraph (2) and inserting the following:

"(2) Amounts available.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $33,423,077 per fiscal year for each of fiscal years 1994 through 1999. Such amounts shall remain available until expended. Unobligated balances that remain available as of September 30, 1994, are rescinded.".

SEC. 11003. AIRWAY SCIENCE PROGRAM.

(a) Repeal.—All authority for—

(1) the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science programs; and

(2) the Federal Aviation Administration to enter into competitive grant agreements with institutions of higher education having airway science curricula, and all authorizations to appropriate for such purposes, as enacted under the head, "Federal Aviation Administration, Facilities and Equipment", in the Department of Transportation and Related Agencies Appropriations Acts for fiscal years ending before October 1, 1993;

is repealed.

(b) Limitation.—Subsection (a) shall not affect the authority of the Secretary to enter into grant agreements with universities, colleges, or institutions of higher education to obligate funds appropriated for fiscal years ending before October 1, 1993, which have not been rescinded.

SEC. 11004. COLLEGIATE TRAINING INITIATIVE.

(a) In General.—Section 313(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(d)) is amended—

(1) by striking the subsection heading and all that follows through "The Administrator" and inserting the following:

"(d) Training Schools.—

"(1) In general.—The Administrator";

(2) by moving the text of paragraph (1), as so designated, 2 ems to the right; and

(3) by adding at the end the following:

"(2) Collegiate training initiative.—

"(A) Continuation.—The Administrator of the Federal Aviation Administration may continue the Collegiate Training Initiative program, by entering into new agreements, with post-secondary institutions, as defined by the Administrator, whereby such institutions, without cost to the Federal Aviation Administration, prepare students for the position of air traffic controller with the Department of Transportation, as defined in section 2109 of title 5, United States Code.

"(B) Standards.—The Administrator may establish standards for the entry of institutions into such program and for their continued participation in it.

"(C) Appointment in Excepted Service.—The Administrator may appoint persons who have successfully completed a course of training in such program to the position of air traffic controller noncompetitively in the excepted service, as defined in section 2103 of title 5, United States Code. Persons so appointed shall serve at the pleasure of the Administrator, subject to section 7511 of such title (pertaining to adverse actions). However, an appointment under this subparagraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service, as defined in section 2102 of such title when the incumbent achieves full performance level air traffic controller status, as determined by the Administrator. The authority conferred by this subparagraph to make new appointments in the excepted service shall expire at the end of 5 years from the date of the enactment of this subparagraph; except that the Administrator may determine to extend such authority for 1 or more successive 1-year periods thereafter.".

(b) Conforming Amendment.—Section 362 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1560) is repealed.

(c) Limitation.—The repeal and the amendments made by this section shall not prohibit the expenditure of funds appropriated for fiscal years ending before October 1, 1994.

TITLE XII—DEPARTMENT OF VETERANS AFFAIRS

Subtitle A—Administrative Improvements

SEC. 12001. ELIMINATION OF HOSPITAL AND NURSING HOME BED CAPACITY REQUIREMENTS.

(a) Section 8110(a)(1) of title 38, United States Code, is amended—

(1) by striking "at not more than 125,000 and not less than 100,000"; and

(2) by striking the third and fourth sentences.

(b) Section 8111(a) of such title is amended by striking out "result (1)" and all that follows through "maintained or".

SEC. 12002. ELIMINATION OF REQUIREMENT FOR MINIMUM NUMBER OF PERSONNEL IN THE OFFICE OF INSPECTOR GENERAL.

Subsection (b) of section 312 of title 38, United States Code, is amended to read as follows:

"(b) Whenever the Secretary proposes to reduce the authorized number of full-time equivalent employees assigned to the Office of Inspector General, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report providing notice of the proposed reduction and a detailed explanation for the proposed reduction. No action to carry out the proposed reduction may be taken after the submission of such report until the end of a 45-day period of continuous session of Congress (determined in the same manner as specified in the last sentence of section 510(b) of this title) following the date of the submission of the report.".

SEC. 12003. MODIFICATION OF ADMINISTRATIVE REORGANIZATION AUTHORITY.

(a) MODIFICATION OF REQUIREMENT TO REPORT TO CONGRESS.—Section 510 of title 38, United States Code, is amended by striking out "90-day" both places it appears in subsection (b) and inserting in lieu thereof "45-day".

(b) AUTHORITY TO REORGANIZE OFFICES IN EVENT OF EMERGENCY.—Such section is further amended by striking out subsection (d) and inserting the following:

"(d)(1) The limitation in subsection (b) does not apply with respect to an administrative reorganization at a medical facility if the Secretary determines that the reorganization is necessary to respond to an emergency situation at that facility. The Secretary may determine that there is an emergency situation at a medical facility for purposes of this subsection only in a case in which there would be an immediate danger to patients and employees at that facility without the reorganization. In the case of a facility at which officials of the Department are considering whether to implement an administrative reorganization before the event or occurrence which leads to an initial finding that such an emergency exists, the Secretary may not make such a determination.

"(2) Whenever the Secretary determines under paragraph (1) that it is necessary to carry out an administrative reorganization at a medical facility without regard to the limitation in subsection (b), the Secretary shall submit a report on that determination to the Committees on Veterans' Affairs of the Senate and House of Representatives. The report shall provide the same information as is provided in a detailed plan and justification in the case of an administrative reorganization subject to subsection (b). The Secretary shall include in the report an explanation of the alternatives to the proposed administrative reorganization that were considered and each factor that was considered in the decision to reject each such alternative.".

SEC. 12004. ELIMINATION OF REQUIREMENT FOR CERTAIN SERVICES IN THE VETERANS HEALTH ADMINISTRATION.

(a) Section 7305 of title 38, United States Code, is repealed.

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking the item relating to section 7305.

SEC. 12005. MODIFICATION OF PHYSICIAN REQUIREMENT FOR CERTAIN SENIOR VETERANS HEALTH ADMINISTRATION OFFICIALS.

(a) UNDER SECRETARY.—Section 305 of title 38, United States Code, is amended—

(1) in subsection (a)(2), by striking out "shall be a doctor of medicine and shall be" and inserting in lieu thereof "shall (except as provided in subsection (d)(1)) be a doctor of medicine. The Under Secretary shall be";

(2) in subsection (d)—

(A) by adding at the end of paragraph (1) the following: "If at the time such a commission is established both the position of Deputy Under Secretary for Health and the position of Associate Deputy Under Secretary for Health are held by individuals who are doctors of medicine, the individual appointed by the President as Under Secretary for Health may be someone who is not a doctor of medicine. In any case, the Secretary shall develop, and shall furnish to the commission, specific criteria which the commission shall use in evaluating individuals for recommendations under paragraph (3).";

(B) by redesignating paragraph (4) as paragraph (5);

(C) by inserting after the first sentence of paragraph (3) the following: "In a case in which, pursuant to paragraph (1), the individual to be appointed as Under Secretary does not have to be a doctor of medicine, the commission may make recommendations without regard to the requirement in subsection (a)(2)(A) that the Under Secretary be appointed on the basis of demonstrated ability in the medical profession, but in such a case the commission shall accord a priority to the selection of a doctor of medicine over an individual who is not a doctor of medicine."; and

(D) by designating the last two sentences of paragraph (3) as paragraph (4).

(b) DEPUTY AND ASSOCIATE DEPUTY UNDER SECRETARY.—Section 7306 of such title is amended—

(1) in subsection (a)—

(A) by striking out "of the following:" in the matter preceding paragraph (1) and inserting in lieu thereof "such personnel as may be considered necessary for the purposes of this chapter. In appointing persons to positions in the Office, the Under Secretary shall consider the different types of health care services provided to veterans by the Veterans Health Administration and shall seek to ensure that appointments in the Office are made in such a manner that the Office is staffed so as to provide the Under Secretary with appropriate expertise in those services. The Office shall include the following:";

(B) by inserting "(except as provided in subsection (c))" in paragraphs (1) and (2) after "and who shall";

(C) by striking out each paragraph after paragraph (2);

(2) by striking out subsection (b);

(3) by redesignating subsection (c) as subsection (b) and striking out "In the case of" in the second sentence and all that follows through "such appointments" and inserting in lieu thereof "Such appointments"; and

(4) by inserting after subsection (b), as so redesignated, the following new subsection (c):

"(c)(1) If at the time of the appointment of the Deputy Under Secretary for Health under subsection (a)(1), both the position of Under Secretary for Health and the position of Associate Deputy Under Secretary for Health are held by individuals who are doctors of medicine, the individual appointed as Deputy Under Secretary for Health may be someone who is not a doctor of medicine.

"(2) If at the time of the appointment of the Associate Deputy Under Secretary for Health under subsection (a)(2), both the position of Under Secretary for Health and the position of Deputy Under Secretary for Health are held by individuals who are doctors of medicine, the individual appointed as Associate Deputy Under Secretary for Health may be someone who is not a doctor of medicine.".

SEC. 12006. USE OF FUNDS RECOVERED FROM THIRD PARTIES.

(a) AUTHORIZED USES.—Section 1729(g) of title 38, United States Code, is amended by adding at the end of paragraph (3) the following new subparagraph:

"(C) Payments for (i) the purchase of needed medical equipment, and (ii) such other purposes as may be specifically authorized by law.".

(b) AVAILABILITY OF FUNDS.—Such section is further amended by striking out paragraph (4) and inserting the following:

"(4)(A) Not later than December 1 of each year, there shall be set aside within the Fund a reserve to be used for the purposes described in paragraph (3)(C). The amount placed into the reserve each year shall be determined under subparagraph (B). No funds may be obligated under paragraph (3)(C) in excess of the funds in the reserve. The reserve shall remain available for obligation until expended.

"(B)(i) On December 1, 1993, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1993, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $538,600,000.

"(ii) On December 1, 1994, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1994, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $590,500,000.

"(iii) On December 1, 1995, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1995, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $646,000,000.

"(iv) On December 1, 1996, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1996, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $698,100,000.

"(v) On December 1, 1997, the amount set aside for the reserve under subparagraph (A) shall be the amount by which—

"(I) the unobligated balance remaining in the Fund at the close of business on September 30, 1997, minus any part of such balance that the Secretary determines is necessary to defray, the expenses, payments, and costs described in paragraph (3), exceeds

"(II) $753,500,000.

"(C) If the amount to be set aside for the reserve for any year, as calculated under subparagraph (B), is less than zero, the amount added to the reserve for that year shall be zero.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30 of the preceding year minus any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3), and the amount in the reserve described in paragraph (4).

"(6) The Secretary shall prescribe regulations for the allocation of amounts in the reserve under paragraph (4) to the medical centers of the Department for the purposes stated in paragraph (3)(C). Those regulations shall be designed to provide incentives to directors of medical centers to increase the recoveries and collections under this section by requiring that 20 percent of those amounts be made available each year directly to the medical centers at which such recoveries and collections have been at above average levels. The remaining 80 percent of those funds shall be allocated as the Secretary considers appropriate.".

Subtitle B—Closure of Certain Facilities

SEC. 12101. CLOSURE OF SUPPLY DEPOTS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall close the Department of Veterans Affairs' supply depots specified in subsection (b).

(b) COVERED DEPOTS.—Subsection (a) applies to the supply depots of the Department of Veterans Affairs at the following locations:

(1) Somerville, New Jersey.

(2) Hines, Illinois.

(3) Bell, California.

(c) DEADLINE.—The Secretary shall complete the actions required by subsection (a) not later than September 30, 1995.

SEC. 12102. WAIVER OF OTHER PROVISIONS.

Sections 510(b) and 8121 of title 38, United States Code, do not apply to the actions required under this subtitle.

Subtitle C—Provision of Information From the Medicare and Medicaid Coverage Data Bank to the Department of Veterans Affairs

SEC. 12201. PROVISION OF DATA BANK INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.

(a) ADDITIONAL PURPOSE OF DATA BANK.—

(1) The heading to section 1144 of the Social Security Act is amended by striking "**medicare and medicaid**" and inserting "**Health care**".

(2) Subsection (a) of that section is amended—

(A) in the matter preceding paragraph (1), by striking "Medicare and Medicaid" and inserting "Health Care";

(B) by striking "and" at the end of paragraph (1);

(C) by substituting ", and" for the period at the end of paragraph (2); and

(D) by adding at the end the following:

"(3) assist in the identification of, and the collection from, third parties responsible for payment for health care items and services furnished to veterans under chapter 17 of title 38, United States Code.".

(b) DISCLOSURE OF DATA BANK INFORMATION TO SECRETARY OF VETERANS AFFAIRS.—Subsection (b)(2)(B) of that section is amended by inserting "to the Secretary of Veterans Affairs and" after "Data Bank".

Subtitle D—Veterans' Appeals Improvements

SEC. 12301. BOARD OF VETERANS' APPEALS.

(a) BOARD MEMBERS AND PERSONNEL.—Section 7101(a) of title 38, United States Code, is amended to read as follows:

"(a)(1) There is in the Department a Board of Veterans' Appeals (hereinafter in this chapter referred to as the 'Board'). The Board is under the administrative control and supervision of a Chairman directly responsible to the Secretary.

"(2) The members of the Board shall be the Chairman, a Vice Chairman, such number of Deputy Vice Chairmen as the Chairman may designate under subsection (b)(4), and such number of other members as may be found necessary to conduct hearings and consider and dispose of matters properly before the Board in a timely manner. The Board shall have such other professional, administrative, clerical, and stenographic personnel as are necessary to conduct hearings and consider and dispose of matters properly before the Board in a timely manner.".

(b) ETHICAL AND LEGAL LIMITATIONS ON CHAIRMAN.—Section 7101(b)(1) of such title is amended by inserting after the first sentence the following: "The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in partisan political activities as apply to judges of the United States Court of Veterans Appeals.".

(c) APPOINTMENT AND REMOVAL OF BOARD MEMBERS.—Section 7101(b) of such title is further amended—

(1) in paragraph (2)(A) by striking "other members of the Board (including the Vice Chairman)" and inserting "Board members other than the Chairman";

(2) in paragraph (2)(B) by striking "paragraph" and inserting "subparagraph"; and

(3) by striking paragraph (4) and inserting the following:

"(4) The Secretary shall designate one Board member as Vice Chairman based upon recommendations of the Chairman. The Chairman may designate one or more Board members as Deputy Vice Chairmen. The Vice Chairman and any Deputy Vice Chairman shall perform such functions as the Chairman may specify. The Vice Chairman shall serve as Vice Chairman at the pleasure of the Secretary. Any Deputy Vice Chairman shall serve as Deputy Vice Chairman at the pleasure of the Chairman.".

(d) ACTING BOARD MEMBERS.—Section 7101(c) of such title is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) The Chairman may from time to time designate one or more employees of the Department to serve as acting Board members.";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph by—

(A) striking "temporary Board members designated under this subsection and the number of"; and

(B) striking "section 7102(a)(2)(A)(ii) of this title" and inserting "paragraph (1)".

(e) CHAIRMAN'S ANNUAL REPORT.—Section 7101(d)(2) of such title is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the names of those employees of the Department designated under subsection (c)(1) to serve as acting Board members during that year and the number of cases each such acting Board member participated in during that year.".

(e) CONFORMING AMENDMENTS.—Section 7101 of such title is further amended—

(1) in subsection (d)(3)(B), by striking "section 7103(d)" and inserting "section 7101(a)(2)"; and

(2) in subsection (e), by striking "a temporary or" and inserting "an"

SEC. 12302. DECISIONS BY THE BOARD.

(a) ACTION BY BVA THROUGH SECTIONS.—Sections 7102 and 7103 of title 38, United States Code, are amended to read as follows:

"§ 7102. Decisions by the Board

"A proceeding instituted before the Board shall be assigned to an individual member or a panel of members of the Board (other than the Chairman). A member or panel of members who are assigned a proceeding shall render a decision thereon, including any motion filed in connection therewith. The member or panel of members shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the Board's final disposition of the proceeding. Decisions by a panel shall be made by a majority of the members of the panel.

"§ 7103. Reconsideration; correction of obvious errors

"(a) The decision of a member or panel of the Board under section 7102 of this title is final unless the Chairman orders reconsideration of the case. Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(b)(1) If the Chairman orders reconsideration in a case decided by a single member, the matter shall be referred to a panel of not less than three Board members, not including the member who rendered the initial decision, which shall render its decision after reviewing the entire record before the Board. Such decisions shall be made by a majority vote of the members of the panel and shall constitute the final decision of the Board.

"(2) If the Chairman orders reconsideration in a case decided by a panel of members, the matter shall be referred to an enlarged panel, not including the members of the panel which rendered the initial decision, which shall render its decision after reviewing the entire record before the Board. Such decisions shall be made by a majority vote of the members of the expanded panel and shall constitute the final decision of the Board.

"(c) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.".

(b) CLERICAL AMENDMENT.—The items relating to sections 7102 and 7103 in the table of sections at the beginning of chapter 71 are amended to read as follows:

"7102. Decisions by the Board.
"7103. Reconsideration; correction of obvious errors.".

SEC. 12303. TECHNICAL CORRECTION.

Section 7104(a) of title 38, United States Code, is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

SEC. 12304. HEARINGS.

(a) IN GENERAL.—Section 7110 of title 38, United States Code, is amended to read as follows:

"§ 7110. Hearings

"(a) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(b) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing will participate in making the final determination in the claim.

"(c)(1) An appellant may request a hearing before the Board at either its principal location or at a regional office of the Department. A hearing held at a regional office shall (except as provided in paragraph (2)) be scheduled for hearing in the order in which the requests for hearing in that area are received by the Department at the place specified by the Department for the filing of requests for those hearings.

"(2) In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided under paragraph (1).

"(d) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission, or picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location. When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or members as provided in subsection (c). Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in subsection (c) shall not be affected.".

(b) CLERICAL AMENDMENT.—The item relating to section 7110 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7110. Hearings.".

SEC. 12305. ELIMINATION OF REQUIREMENT FOR ANNUAL INCOME QUESTIONNAIRES.

Section 1506 of title 38, United States Code, is amended—

(1) in paragraph (2), by striking out "shall" and inserting in lieu thereof "may"; and

(2) in paragraph (3), by striking out "file a revised report" and inserting in lieu thereof "notify the Secretary".

TITLE XIII—HUMAN RESOURCE MANAGEMENT

SEC. 13001. FEDERAL WORKFORCE TRAINING.

(a) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended—

(1) in section 4101(4) by striking "fields" and all that follows through the semicolon and inserting "fields which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals;";

(2) in section 4103—

(A) in subsection (a)—

(i) by striking "In" and all that follows through "maintain" and inserting "In order to assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate";

(ii) by striking "and" at the end of paragraph (2);

(iii) by redesignating paragraph (3) as paragraph (4); and

(iv) by inserting after paragraph (2) the following:

"(3) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and"; and

(B) in subsection (b)—

(i) in paragraph (1) by striking "determines" and all that follows through the period and inserting "determines that such training would be in the interests of the Government."; and

(ii) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(3) in section 4105—

(A) in subsection (a) by striking "(a)"; and

(B) by striking subsections (b) and (c);

(4) by repealing section 4106;

(5) in section 4107—

(A) by amending the catchline to read as follows:

"§ 4107. Restriction on degree training";

(B) by striking subsections (a) and (b) and redesignating subsections (c) and (d) as subsections (a) and (b), respectively;

(C) by amending subsection (a) (as so redesignated)—

(i) by striking "subsection (d)" and inserting "subsection (b)"; and

(ii) by striking "by, in, or through a non-Government facility"; and

(D) by amending paragraph (1) of subsection (b) (as so redesignated) by striking "subsection (c)" and inserting "subsection (a)";

(6) in section 4108(a) by striking "by, in, or through a non-Government facility under this chapter" and inserting "for more than a minimum period prescribed by the head of the agency";

(7) in section 4113(b)—

(A) in the first sentence by striking "annually to the Office," and inserting "to the Office, at least once every 3 years, and"; and

(B) by striking the matter following the first sentence and inserting the following: "The report shall set forth—

"(1) information needed to determine that training is being provided in a manner which is in compliance with applicable laws intended to protect or promote equal employment opportunity; and

"(2) information concerning the expenditures of the agency in connection with training and such other information as the Office considers appropriate.";

(8) by repealing section 4114; and

(9) in section 4118—

(A) in subsection (a)(7) by striking "by, in, and through non-Government facilities";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 3381(e) by striking "4105(a)," and inserting "4105,"; and

(2) in the analysis for chapter 41—

(A) by repealing the items relating to sections 4106 and 4114; and

(B) by amending the item relating to section 4107 to read as follows:

"4107. Restriction on degree training.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 13002. SES ANNUAL LEAVE ACCUMULATION.

(a) Effective on the last day of the last applicable pay period beginning in calendar year 1993, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE XIV—REINVENTING SUPPORT SERVICES

SEC. 14001. SHORT TITLE.

This title may be cited as the "Government Information Dissemination and Printing Improvement Act of 1993".

SEC. 14002. TRANSFER OF FUNCTIONS.

(a) SUPERINTENDENT OF DOCUMENTS.—The position of Superintendent of Documents and all functions of the position of Superintendent of Documents under title 44, United States Code, or any other provision of law are transferred to the Library of Congress and shall be carried out by the Superintendent of Documents under the direction of the Librarian of Congress. The Superintendent of Documents shall be appointed by, and serve at the pleasure of, the Librarian of Congress. Until otherwise provided by law, on and after the effective date of the transfer under this subsection, the employees under the Superintendent of Documents who are transferred shall be treated, for purposes of the laws governing labor-management relations, in the same manner as such employees were treated before the effective date of such transfer.

(b) REVOCATION OF CHARTERS.—All printing plant charters authorized under section 501 of title 44, United States Code, are revoked.

(c) EFFECTIVE DATE.—The transfer under subsection (a) shall take effect one year after the date of the enactment of this title. The revocation under subsection (b) shall take effect 2 years after the date of the enactment of this title.

SEC. 14003. GOVERNMENT PUBLICATIONS TO BE AVAILABLE THROUGHOUT THE GOVERNMENT.

All Government publications shall be available throughout the Government to any department, agency, or entity of the Government for use or redissemination.

SEC. 14004. INVENTORY AND FURNISHING OF GOVERNMENT PUBLICATIONS.

Each department, agency, and other entity of the Government shall—

(1) establish and maintain a comprehensive inventory of its Government publications;

(2) make such inventory available through the electronic directory under chapter 41 of title 44, United States Code; and

(3) in the form and manner prescribed by the Superintendent of Documents, furnish its Government publications to the Superintendent of Documents.

SEC. 14005. ADDITIONAL RESPONSIBILITIES OF THE PUBLIC PRINTER.

(a) IN GENERAL.—The Public Printer shall, with respect to the executive branch of the Government and the judicial branch of the Government—

(1) use all necessary measures to remedy neglect, delay, duplication, and waste in the public printing and binding of Government publications, including the reduction and elimination of internal printing and high-speed duplicating capacities of departments, agencies, and entities;

(2) prescribe Government publishing standards, which, to the greatest extent practicable, shall be consistent with the United States Government Printing Office Style Manual;

(3) prescribe Government procurement and manufacturing requirements for printing

paper and writing paper, which, to the greatest extent practicable, shall be consistent with Government Paper Specification Standards;

(4) authorize the acquisition and transfer of equipment requisitioned by publishing facilities authorized under section 501 of title 44, United States Code;

(5) authorize the disposal of such equipment pursuant to section 312 of title 44, United States Code; and

(6) establish policy for the acquisition of printing, which, to the greatest extent practicable, shall be consistent with (A) Printing Procurement Regulation (GPO Publication 305.3), (B) Government Printing and Binding Regulations (JCP No. 26), and (C) Printing Procurement Department Instruction (PP304.1B).

(b) POLICY STANDARDS.—The policy referred to in subsection (a)(6) shall be formulated to maximize competitive procurement from the private sector. Government in-house printing and duplicating operations authorized under section 501 of title 44, United States Code, or otherwise authorized by law, may be used if they provide printing at the lowest cost to the Government, taking into consideration the total expense of production, materials, labor, equipment, and general and administrative expense, including all levels of overhead.

SEC. 14006. ADDITIONAL RESPONSIBILITIES OF THE SUPERINTENDENT OF DOCUMENTS.

(a) GOVERNMENT PUBLICATIONS TO BE FURNISHED TO THE SUPERINTENDENT OF DOCUMENTS.—If a department, agency, or other entity of the Government publishes a Government publication, the head of the department, agency, or entity shall furnish the Government publication to the Superintendent of Documents not later than the date of release of the material to the public.

(b) DISSEMINATION OR REPUBLICATION.—In addition to any other dissemination provided for by law, the Superintendent of Documents shall disseminate or republish Government publications, if, as determined by the Superintendent, the dissemination by the department, agency, or entity of the Government is inadequate. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under subsection (a), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(c) COST.—The cost charged to the public by the Superintendent of Documents under subsection (b) for any Government publication (whether such Government publication is made available to the public by a department, agency, or entity of the Government, or by the Superintendent of Documents) may include the incremental cost of dissemination, but may not include any profit.

SEC. 14007. DEPOSITORY LIBRARIES.

In addition to any other distribution provided for by law, the Superintendent of Documents shall make Government publications available to designated depository libraries and State libraries. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under section 14006(a), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

SEC. 14008. DEFINITIONS.

As used in this title—

(1) the term "Government publication" means any informational matter that is published at Government expense, or as required by law; and

(2) the term "publish" means, with respect to informational matter, make available for dissemination.

TITLE XV—STREAMLINING MANAGEMENT CONTROL

SEC. 15001. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of Executive branch performance in implementing statutory requirements for reports to Congress and its committees. Examples of improvements in efficiency intended by this title are the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that will provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the President's Budget his recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or its committees. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended. If the Director's recommendations are approved by law, they shall take effect.

(c) The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) Prior to the publication of the recommendations authorized in subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE XVI—FINANCIAL MANAGEMENT

SEC. 16001. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1993".

SEC. 16002. ELECTRONIC PAYMENTS.

(a) Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 16003. FRANCHISE FUNDS AND INNOVATION FUNDS.

(a) Title 31, United States Code, is amended by adding, after section 1537, a section 1538, as follows:

"§ 1538. Franchise funds

"(a) There is hereby authorized to be established a franchise fund in any executive agency which does not have such a fund which shall be available, without further appropriation action by the Congress, for expenses and equipment necessary for the maintenance and operations of such administrative services as the head of the agency, with the approval of the Office of Management and Budget, determines may be performed more advantageously on a centralized basis.

"(b)(1) The fund shall consist of the fair and reasonable value of inventories, equipment, and other assets and inventories on order pertaining to the services to be provided by the fund as are transferred by the head of the agency to the fund less related liabilities and unpaid obligations together with any appropriations made for the purpose of providing capital.

"(2) For the first fiscal year a fund is in operation and each fiscal year thereafter, an amount not to exceed 4 percent of the total income of the fund may be retained in the fund, to remain available until expended, to be used only for the acquisition of capital equipment and for the improvement and implementation of agency financial management and related support systems.

"(3) For the first three fiscal years a fund is in operation, up to 50 percent of the unobligated balances of funds provided in annual appropriations available at the end of the fiscal year to the agency for salaries and expenses may be transferred into the fund no later than the end of the succeeding fiscal year.

"(c) The fund shall be reimbursed or credited with payments, including advance payments, from applicable appropriations and funds of the agency, other Federal agencies, and other sources authorized by law for supplies, materials, and services at rates which will recover the expenses of operations including accrued leave, depreciation of fund plant and equipment, and an amount necessary to maintain a reasonable operating reserve, as determined by the head of the agency.

"(d)(1) In the third fiscal year after the fund is established, and each year thereafter, any Federal entity seeking to obtain any service financed through the fund that is not inherently governmental in nature must not be precluded from obtaining such service from one or more other sources, either governmental or non-governmental, in addition to the source finance through the funds.

"(2) If, after the end of the third fiscal year after a fund is established, any Federal entity seeking to obtain any service financed through the fund that is not inherently governmental in nature is precluded from obtaining such service from one or more other sources, either governmental or non-governmental, in addition to the source financed through the fund, the fund shall be canceled.".

(b) The table of sections for subchapter III of chapter 15 of title 31, United States Code, is amended by adding, after the item for section 1537, the following new item:

"1538. Franchise funds.".

(c) Title 31, United States Code, is amended by adding, after section 1538, a section 1539, as follows:

"§ 1539. Innovation funds

"(a) There is hereby authorized to be established an innovation fund in any executive agency which does not have such a fund, which shall be available without further appropriation action by the Congress.

"(b) The purpose of the fund is to provide a self-sustaining source of financing for agencies to invest in projects designed to produce measurable improvements in agency efficiency and significant taxpayer savings. Amounts available in the fund may be borrowed by the agency for such projects, subject to subsection (e).

"(c) Each agency that establishes an innovation fund will develop an investment project selection process, including specific investment criteria such as return on investment, payback period, extent of matching or in-kind support (including such support from other Federal agencies), technical merit, and budget justification.

"(d) For the first three fiscal years a fund is in operation, up to 50 percent of the unobligated balances of funds provided in annual appropriations available at the end of the fiscal year to the agency (other than appropriations for salaries and expenses) may be transferred to and merged with the innovation fund to be available to make loans to agency components for projects designed to enhance productivity and generate cost savings, provided that such transfers occur no later than the end of the succeeding fiscal year.

"(e)(1) Any amounts borrowed from the fund by an agency component to finance a project selected under the process described in subsection (c) shall be repaid to the fund at the times specified in the repayment schedule agreed upon at the time the loan is made.

"(2) Interest on loans made by the fund shall be paid to the fund at the rate on marketable Treasury securities of similar maturity at the time the loan is made.

"(3) Repayments shall be made from the accounts anticipated to receive the greatest long-term benefit from the project at the time the loan is made.

"(4) Repayments to the fund shall take priority over any other obligation of payments of an account designated to make repayments under paragraph (3) of this subsection.".

(d) The table of sections for subchapter III of chapter 15 of title 31, United States Code, is amended by adding, after the item for section 1538, the following new item:

"1539. Innovation funds.".

SEC. 16004. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) To improve the efficiency of Executive branch performance in implementing statutory requirements for general management and financial management reports to the Congress and its committees, the Director of the Office of Management and Budget may publish annually in the President's Budget his recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has general management or financial management responsibility. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended. If the Director's recommendations are approved by law, they shall take effect.

(b) The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(c) Prior to the publication of the recommendations authorized in subsection (a), the Director or his designee shall consult with the appropriate congressional committees, including the House Committee on Government Operations and the Senate Committee on Governmental Affairs, concerning the recommendations.

SEC. 16005. ANNUAL FINANCIAL REPORTS.

(a) Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting principles, standards, and requirements.

"(d) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a).

"(e) Not later than March 1 of 1996, the head of each Executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(f) Not later than March 31 of 1994, 1995, and, for Executive agencies not designated by the Director of the Office of Management and Budget under subsection (e), 1996, the head of each Executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(g) for purposes of subsection (f), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (e) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

SEC. 16006. AUTHORIZATION OF APPROPRIATIONS FOR ENHANCING DEBT COLLECTION.

(a) Title 31, United States Code, is amended by adding, after section 3720A, a section 3720B, as follows:

"§ 3720B. Authorization of appropriations for enhancing debt collection

"(a) To the extent and in the amounts provided in advance in appropriations acts—

"(1) an amount not to exceed 1 percent of the delinquent debts collected for a program in one fiscal year is authorized to be credited in the following fiscal year to a special fund for such program;

"(2) an amount not to exceed 10 percent of any sustained annual increase in delinquent debt collections, as defined by the Director of the Office of Management and Budget, is authorized to be credited to a special fund for such program; and

"(3) from amounts credited under paragraphs (1) and (2), such sums as may be necessary are authorized to be appropriated for the improvement of that program's debt collection activities, including, but not limited to, account and loan servicing, delinquent debt collection and asset disposition.

"(b) Debt is defined as delinquent under standards prescribed or to be prescribed by the Secretary of the Treasury.

"(c) For direct loan and loan guarantee programs subject to Title V of the Congressional Budget Act of 1974, amounts credited in accordance with section (a) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(d) This section shall apply only to collection of debts—

"(1) for a program not within the Department of Justice; and

"(2) not involving the assistance of the Department of Justice.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding, after the item for section 3720A, the following new item:

"3720B. Authorization of appropriations for enhancing debt collection.".

SEC. 16007. CONTRACTS FOR COLLECTION SERVICES.

(a) Subsection 3701(d) of Title 31, United States Code, is amended—

(1) by striking "and 3716-3719" and inserting in lieu thereof ", 3716, and 3717"; and

(2) by striking ", the Social Security Act (42 U.S.C. 301 et seq.),".

(b) Section 3701 of title 31, United States Code, is amended by adding at the end the following:

"(e) Section 3718 of this title does not apply to a claim or debt under, or to an amount payable under, the Social Security Act (42 U.S.C. 301 et seq.) owed by a person receiving benefits under that Act or to a claim or debt under, or to an amount payable under, title 26 of the United States Code.".

SEC. 16008. NOTIFICATION TO AGENCIES OF DEBTORS' MAILING ADDRESSES.

Section 3720A of title 31, United States Code is amended by striking "the individual's home address." at the end of subsection (c) and inserting the following: "the person's mailing address. Provision of this information is authorized by section 6103(m)(2) of the Internal Revenue Code (26 U.S.C. 6103(m)(2)).".

SEC. 16009. CONTRACTS FOR COLLECTION SERVICES.

Subparagraph 3718(B)(1)(A) of title 31, United States Code, is amended by striking the following: "If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts with private individuals or firms in such district.".

SEC. 16010. ADJUSTING CIVIL MONETARY PENALTIES FOR INFLATION.

The Federal Civil Penalties Inflation Adjustment Act of 1990 is amended by—

(1) amending section 4 to read as follows: "The head of each agency shall—

"(1) by regulation, no later than September 30, 1994, and at least once every 4 years thereafter, adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 and publish each such adjustment in the Federal Register; and

"(2) provide a report to the Secretary of the Treasury by November 15 of each year on all penalties adjusted during the preceding fiscal year.";

(2) amending subsection 5(a) by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) adding, after section 6, a section 7, as follows: "Section 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

TITLE XVII—RESCISSIONS OF BUDGET AUTHORITY

SEC. 17001. SHORT TITLE.

This title may be cited as the "Fiscal Year 1994 Rescission Act".

Subtitle A—Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(RESCISSION AND TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103-111 and subsequently transferred to the Human Nutrition Information Service pursuant to Secretary's Memorandum No. 1020-39, dated September 30, 1993, $1,000,000 are rescinded and the remaining funds are transferred to the Agricultural Research Service: *Provided*, That funds appropriated by Public Law 103-111 for the functions of the former Human Nutrition Information Service shall be made available only to the Agricultural Research Service.

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111, $14,279,000 are rescinded, including $4,375,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended; $7,000,000 for competitive research grants; and $2,904,000 for necessary expenses of the Cooperative State Research Service.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111, $2,897,000 are rescinded.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

(RESCISSION AND TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103-111 and subsequently transferred to the Agricultural Cooperative Service pursuant to Secretary's Memorandum No. 1020-39, dated September 30, 1993, $100,000 are rescinded and the remaining funds are transferred to the Rural Development Administration.

PAYMENTS TO STATES AND POSSESSIONS

(TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103-111 and subsequently transferred to the Agricultural Cooperative Service pursuant to Secretary's Memorandum No. 1020-39, dated September 30, 1993, $435,000 are transferred to the Rural Development Administration.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111 for the cost of direct section 502 loans, $35,000,000 are rescinded.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111 for the cost of direct loans, $20,000,000 are rescinded.

RURAL WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111, $25,000,000 are rescinded.

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111, $12,167,000 are rescinded.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102-341, $12,600,000 are rescinded.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102-341, $6,000,000 are rescinded.

PUBLIC LAW 480 PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-111 for commodities supplied in connection with title III, $20,000,000 are rescinded.

Subtitle B—Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $29,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

(RESCISSION)

Of the amounts made available under this heading in Public Law 103-121, $3,000,000 are rescinded.

DEPARTMENT OF JUSTICE

ADMINISTRATIVE PROVISION

For fiscal year 1994 only, the Director of the Bureau of Justice Assistance, upon good cause shown, may waive the provisions of section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 for projects located in communities covered under a Presidentially declared disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

BUYING POWER MAINTENANCE

(RESCISSION)

Of the balances in the Buying Power Maintenance account, $8,800,000 are rescinded.

NEW DIPLOMATIC POSTS

(RESCISSION)

Of the funds made available for the United States Information Agency under this heading in Public Law 102-395, $1,000,000 are rescinded.

ADMINISTRATIVE PROVISION

Subject to enactment of legislation authorizing the Secretary of State to charge a fee or surcharge for processing machine readable non-immigrant visas and machine readable combined border crossing identification cards and non-immigrant visas, the Secretary of State may collect not to exceed $20,000,000 in additional fees or surcharges during fiscal year 1994 pursuant to such authority: *Provided*, That such additional fees shall be deposited as an offsetting collection to the Department of State, Administration of Foreign Affairs, "Diplomatic and Consular Programs" appropriation account and such fees shall remain available until expended: *Provided further*, That such collections shall be available only to modernize, automate, and enhance consular services and counterterrorism activities of the Department of State, to include the development and installation of automated visa and namecheck information systems, secure travel documents, worldwide telecommunications systems, and management systems to permit sharing of critical information regarding visa applicants and help secure America's borders.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $3,000,000 are rescinded.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

Of the funds made available under this heading, $1,700,000 are rescinded.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $1,177,000 are rescinded.

Notwithstanding the provisions of this or any other Act, not to exceed $2,000,000 of the funds made available under this heading in Public Law 103–121 may be used to carry out projects involving security construction and related improvements for Agency facilities not physically located together with Department of State facilities abroad: *Provided*, That such funds may remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $850,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $2,000,000 are rescinded.

Subtitle C—Energy and Water Development

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $24,970,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $97,319,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $16,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–126, $97,300,000 are rescinded: *Provided*, That the reduction shall be taken as a general reduction, applied to each program equally, so as not to eliminate or disproportionately reduce any program, project, or activity in the Energy Supply, Research and Development Activities account as included in the reports accompanying Public Law 103–126.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $42,000,000 are rescinded.

Subtitle D—Foreign Operations, Export Financing, and Related Agencies

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the International Bank for Reconstruction and Development for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $27,910,500 is rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of the increases in capital stock in an amount not to exceed $902,439,500.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the Inter-American Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock $16,063,134 is rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the increases in capital stock in an amount not to exceed $1,563,875,725.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock $13,026,366 is rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the Asian Development Bank may not subscribe in fiscal year 1994 to the callable capital portion of the United States share of any increases in capital stock.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE

(RESCISSION)

Of the unexpended or unobligated balances (including earmarked funds) made available for fiscal years 1987 through 1993 to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, $160,000,000 is rescinded: *Provided*, That funds rescinded under this paragraph are to be derived from the following countries in the following amounts: Guatemala, $8,000,000; Honduras, $5,000,000; India, $10,000,000; Indonesia, $15,000,000; Morocco, $10,000,000; Pakistan, $15,000,000; Peru, $5,000,000; Philippines, $10,000,000; Thailand, $10,000,000; and Yemen, $5,000,000: *Provided further*, That $10,000,000 of the funds rescinded under this paragraph are to be derived from non-country specific, centrally funded activities: *Provided further*, That $57,000,000 of the funds rescinded under this paragraph are to be derived from prior year deobligated funds.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the unexpended or unobligated balances of funds (including earmarked funds) made available for fiscal years 1987 through 1993 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, $90,000,000 is rescinded: *Provided*, That funds rescinded under this paragraph are to be derived from the following countries in the following amounts: Kenya, $2,000,000; Liberia, $797,000; Oman, $18,000,000; Peru, $11,000,000; Philippines, $10,200,000; and Somalia, $3,003,000: *Provided further*, That $45,000,000 of the funds rescinded under this paragraph are to be derived from the Private Sector Power Project (No. 391–0494) for Pakistan.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

(RESCISSION)

Of the grant funds made available (including earmarked funds) under this heading in Public Law 102–391 and prior appropriations Acts, $66,000,000 is rescinded: *Provided*, That funds rescinded under this paragraph are to be derived from the following countries in the following amounts: Benin, $3,000; Cameroon, $161,000; Central African Republic, $59,000; Congo, $7,000; Cote D' Ivoire, $128,000; Equatorial Guinea, $86,000; Gabon, $3,000; Ghana, $600,000; Guatemala, $1,563,000; Guinea, $499,000; Kenya, $9,000,000; Liberia, $15,000; Madagascar, $505,000; Mali, $3,000; Malawi, $326,000; Mauritania, $300,000; Morocco, $8,000,000; Organization of American States, $6,000; Oman, $3,100,000; Pakistan, $8,108,000; Peru, $6,533,000; Philippines, $5,000,000; Rwanda, $250,000; Sao Tome & Principe, $228,000; Somalia, $4,349,000; Sudan, $8,609,000; Thailand, $1,384,000; Togo, $19,000; Tunisia, $4,100,000; Uganda, $100,000; Yemen, $2,241,000; Zambia, $100,000; Zaire, $455,000; and Zimbabwe, $160,000.

Subtitle E—Department of the Interior and Related Agencies

DEPARTMENT OF THE INTERIOR

U.S. FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

(RESCISSION)

Of the funds appropriated under this head in Public Law 100–446 and Public Law 102–154, $3,874,000 are rescinded.

DEPARTMENT OF THE TREASURY

BIOMASS ENERGY DEVELOPMENT

(RESCISSION)

Of the funds available under this head, $16,275,000 are rescinded.

DEPARTMENT OF ENERGY

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Section 303 of Public Law 97–257, as amended, is repealed.

The seventh proviso under the head "Clean Coal Technology" in Public Law 101–512, and the seventh proviso under the head "Clean Coal Technology" in Public Law 102–154, both concerning Federal employment, are repealed.

Subtitle F—Departments of Labor, Health and Human Services, Education, and Related Agencies

DEPARTMENT OF LABOR

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Labor, $4,000,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Health and Human Services (except the Social Security Administration), $37,500,000 are rescinded.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–112, $10,909,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112 to invest in a state-of-the-art computing network, $80,000,000 are rescinded.

DEPARTMENT OF EDUCATION

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

(RESCISSION)

Of the amounts appropriated under this heading in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Education, $8,500,000 are rescinded.

Subtitle G—Legislative Branch

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available under this heading in Public Law 101–520, $633,000 are rescinded in the amounts specified for the following headings and accounts:

"ALLOWANCES AND EXPENSES", $633,000, as follows:

"Official Expenses of Members", $128,000; "supplies, materials, administrative costs and Federal tort claims", $125,000; "net expenses of purchase, lease and maintenance of office equipment", $364,000; and "Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation", $16,000.

Of the amounts made available under this heading in Public Law 102–90, $2,352,000 are rescinded in the amounts specified for the following headings and accounts:

"HOUSE LEADERSHIP OFFICES", $253,000;

"COMMITTEE ON THE BUDGET (STUDIES)", $4,000;

"STANDING COMMITTEES, SPECIAL AND SELECT", $378,000;

"ALLOWANCES AND EXPENSES", $943,000, as follows:

"Official Expenses of Members", $876,000; and "stenographic reporting of committee hearings", $67,000;

"COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)", $595,000;

"SALARIES, OFFICERS AND EMPLOYEES", $179,000, as follows:

"Office of the Postmaster", $19,000; "for salaries and expenses of the Office of the Historian", $26,000; "the House Democratic Steering and Policy Committee and the Democratic Caucus", $73,000; and "the House Republican Conference", $61,000.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–392 and Public Law 103–69, $1,000,000 and $2,000,000, respectively, both made available until expended, are rescinded: *Provided*, That the Architect of the Capitol shall be considered the agency for purposes of the election in section 801(b)(2)(B) of the National Energy Conservation Policy Act and the head of the agency for purposes of subsection (b)(2)(C) of such section.

LIBRARY OF CONGRESS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–69 and Public Law 98–396, $900,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–69, $1,300,000 are rescinded.

SUPPLEMENTAL APPROPRIATION

That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1994, and for other purposes, namely:

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Karen A. Henry, widow of Paul B. Henry, late a Representative from the State of Michigan, $133,600.

Subtitle H—Department of Defense-Military

MILITARY CONSTRUCTION

(RESCISSIONS)

Of the funds appropriated under Public Law 103–110, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Army, $22,319,000;

Military Construction, Navy, $13,969,000;

Military Construction, Air Force, $24,787,000;

Military Construction, Defense-Wide, $13,663,000;

Military Construction, Army National Guard, $7,568,000;

Military Construction, Air National Guard, $6,187,000;

Military Construction, Army Reserve, $2,551,000;

Military Construction, Naval Reserve, $626,000;

Military Construction, Air Force Reserve, $1,862,000;

North Atlantic Treaty Organization Infrastructure, $70,000,000; and

Base Realignment and Closure Account, Part III, $437,692,000:

Provided, That, within funds available for "Base Realignment and Closure Account, Part III" for fiscal year 1994, not less than $200,000,000 shall be available solely for environmental restoration.

Subtitle I—Department of Transportation and Related Agencies

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The funds provided for "Small community air service" under section 419 of the Federal Aviation Act of 1958, as amended, in excess of the funds made available for obligation in Public Law 103–122 are rescinded.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the funds provided under this heading in Public Law 102–368, $5,000,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the funds provided under this heading in Public Law 102–368, $2,000,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–122, $750,000 are rescinded.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances (including earmarked funds) under this heading, $29,451,111 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds provided under the Airport and Airway Improvement Act of 1982, as amended, for grants-in-aid for airport planning and development and noise compatibility planning and programs, $488,200,000 of the amount in excess of the funds made available for obligation in Public Law 103–122 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

(RESCISSION)

Of the funds made available for specific highway projects that are not yet under construction, $85,774,222 are rescinded: *Provided*, That no funds shall be rescinded from any emergency relief project funded under section 125 of title 23, United States Code: *Provided further*, That for the purposes of this paragraph, a project shall be deemed to be not under construction unless a construction contract for physical construction has been awarded by the State, municipality, or other contracting authority.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and Research

(RESCISSION)

Of the amounts provided under this heading in Public Law 102–388, $3,476,000 are rescinded.

Of the amounts provided under this heading in Public Law 101–516, $1,075,000 are rescinded.

Of the amounts provided under this heading in Public Law 101–164, $2,505,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

Discretionary Grants

(HIGHWAY TRUST FUND)

(RESCISSION)

Any unobligated balances of funds made available for fiscal year 1991 and prior fiscal years under section 3 of the Federal Transit Act, as amended, and allocated to specific projects for the replacement, rehabilitation, and purchase of buses and related equipment, for construction of bus-related facilities, and for new fixed guideway systems are rescinded: *Provided*, That no funds provided for the Miami Metromover project shall be rescinded: *Provided further*, That of the funds provided under this heading in Public Law 103–122, $2,500,000 are rescinded.

Subtitle J—Treasury, Postal Service, and General Government

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $126,022,000, are rescinded and are not available in fiscal year 1994: *Provided*, That no individual prospectus-level new construction project may be reduced by more than 5 percent.

ADMINISTRATIVE PROVISION

Sec. 17101. Section 630 of the Treasury, Postal Service, and General Government Appropriations Act, 1993 (Public Law 102–393), and the amendment made by that section, are repealed.

Subtitle K—Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

DEPARTMENT OF VETERANS AFFAIRS

Departmental Administration

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $26,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139, $66,000,000 are rescinded: *Provided*, That of the foregoing amount, $34,000,000 shall be deducted from the amounts earmarked for the HOPE for Public and Indian Housing Homeownership Program and $32,000,000 shall be deducted from the amounts earmarked for the HOPE for Homeownership of Multifamily Units Program.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior years, and earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, $25,000,000 are rescinded.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and prior years, $20,000,000 are rescinded.

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, the City of Slidell, Louisiana, is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Slidell under title I of such Act for fiscal year 1994.

INDEPENDENT AGENCIES

Environmental Protection Agency

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(INCLUDING RESCISSION OF FUNDS)

Of the funds made available under this heading in Public Law 103–124, $22,000,000 are rescinded: *Provided*, That the $500,000,000 earmarked under this heading in Public Law 103–124 to not become available until May 31, 1994, shall instead not become available until September 30, 1994.

Federal Emergency Management Agency

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $2,000,000 are rescinded.

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $25,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $25,000,000 are rescinded.

National Science Foundation

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $10,000,000 are rescinded.

National Service Initiative

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $5,000,000 are rescinded.

Executive Office of the President

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The proviso under this heading in Public Law 103–124 is repealed.

TITLE XVIII—ADDITIONAL DEFICIT REDUCTION PROVISIONS

SEC. 18001. RESCISSION OF FUNDS AND CANCELLATION OF SPACE STATION.

(a) Cancellation.—The Space Station program is hereby canceled.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration—

(1) $500,000,000 for costs associated with carrying out subsection (a) of this section; and

(2) $300,000,000 for each of the fiscal years 1994 through 1998 for carrying out the responsibilities of the National Aeronautics and Space Administration.

(c) Rescission of Funds.—Of the funds made available under the heading "National Aeronautics and Space Administration—Research and Development" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), $1,946,000,000 is rescinded, to be derived from the redesigned space station.

SEC. 18002. RESCISSION OF FUNDS AND REDUCTION OF AUTHORIZATION FOR BALLISTIC MISSILE DEFENSE PROGRAM.

(a) Fiscal Year 1994 Rescission.—Of the funds made available under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1994 (Public Law 103–139), $350,000,000 is rescinded, to be derived from the Ballistic Missile Defense Program.

(b) Fiscal Year 1995 Authorization Reduction.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1995 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,500,000,000.

(c) Fiscal Year 1996 Authorization Reduction.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1996 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,450,000,000.

(d) Fiscal Year 1997 Authorization Reduction.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1997 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,400,000,000.

(e) Fiscal Year 1998 Authorization Reduction.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1998 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,350,000,000.

SEC. 18003. RESCISSION OF FUNDS AND CANCELLATION OF ADVANCED LIQUID METAL REACTOR PROGRAM.

(a) In General.—The Secretary of Energy shall take such actions as are necessary to terminate, as soon as possible, the civilian portion of the advanced liquid metal reactor/integral fast reactor program of the Department of Energy, including the program's promotion of the use of such reactors for the disposal of high-level radioactive waste and Department of Energy support for regulatory applications to the Nuclear Regulatory Commission for design certification for advanced liquid metal reactors or related licensed facilities.

(b) Rescission of Funds.—

(1) Fiscal year 1994.—Subject to subsection (c), of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $141,900,000 is rescinded, to be derived from the advanced liquid metal reactor/integral fast reactor program.

(2) Prior fiscal years.—Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in appropriations Acts for fiscal year 1993 and prior fiscal years, the unobligated balance available on the date of the enactment of this Act for the advanced liquid metal reactor/integral fast reactor program is rescinded.

(c) Termination Costs.—Subsection (b)(1) shall not apply to the amount of the funds, not exceeding $96,600,000, required for termination of the advanced liquid metal reactor/integral fast reactor program.

SEC. 18004. REDUCTION OF FORCES IN EUROPE.

(a) Effective Date for Requirement for Reduction to 100,000 Military Personnel in Europe Changed from Fiscal Year 1996 to Fiscal Year 1995.—Section 1303(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 1928 note) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1994".

(b) Further End Strength Reductions Required.—Notwithstanding section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), for each of fiscal years 1995, 1996, 1997, and 1998, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization in accordance with subsection (c).

(c) Reduction Formula.—For each percentage point that the allied contribution level is below the goal specified in subsection (d) as of the end of a fiscal year, as determined by the Secretary of Defense, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO by 1,000 for the next fiscal year. The reduction shall be made from the end strength level in effect, pursuant to section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), and subsection (b) of this section (if applicable), for the fiscal year in which the allied contribution level is below the goal specified in subsection (d).

(d) Annual Goals for Force Reduction.—The President is urged to seek, in continued efforts to enter into revised host-nation agreements as described in section 1301(e) of National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2545), to have European member nations of NATO assume an increased share of the nonpersonnel costs of United States military installations in those nations in accordance with the following timetable:

(1) By September 30, 1994, 18.75 percent of such costs should be assumed by those nations.

(2) By September 30, 1995, 37.5 percent of such costs should be assumed by those nations.

(3) By September 30, 1996, 56.25 percent of such costs should be assumed by those nations.

(4) By September 30, 1997, 75 percent of such costs should be assumed by those nations.

(e) End Strength Authority.—Notwithstanding reductions required pursuant to subsection (b), the Secretary of Defense may maintain an end strength of at least 25,000 members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO.

(f) Allocation of Force Reductions.—To the extent that there is a reduction in end strength level for any of the Armed Forces in European member nations of NATO in a fiscal year pursuant to subsection (b)—

(1) half of the reduction shall be used to make a corresponding reduction in the authorized end strength level for active duty personnel for such Armed Force for that fiscal year; and

(2) half of the reduction shall be used to make a corresponding increase in permanent assignments or deployments of forces in the United States or other nations (other than European member nations of NATO) for each such Armed Force for that fiscal year, as determined by the Secretary of Defense.

(g) Definitions.—For purposes of this section:

(1) Allied contribution level.—The term "allied contribution level", with respect to any fiscal year, means the aggregate amount of nonpersonnel costs for United States military installations in European member nations of NATO that are assumed during that fiscal year by such nations.

(2) Nonpersonnel costs.—The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. Frank] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes. Does any Member seek recognition for the purpose of opposition?

Mr. SABO. Mr. Chairman, I oppose the Frank amendment and seek control of the time in opposition.

The CHAIRMAN. The gentleman from Minnesota [Mr. Sabo] will be recognized for 30 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent that I may yield 10 of my 30 minutes for further yielding to the gentleman from Connecticut [Mr. Shays].

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 2120

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. Sabo].

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

If I might have the attention of Members who may have some interest in this amendment, I claimed the time in opposition to the Frank amendment. I intend to vote no.

However, I think I voted for probably all the component parts of his amendment earlier in the year. I am not sure what is all there.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would just point out to the gentleman, whole is the sum of the parts.

Mr. SABO. Mr. Chairman, some of the parts make me vote no. I am not really in a position to argue the substance of the Frank amendment. For Members who are, I urge them to ask me to give them time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I do not understand how Members who are not opposed to some of the parts can be opposed to the sum of the parts. But maybe I will learn.

This is a very straightforward amendment. It cuts, according to the Congressional Budget Office, if passed, an additional 14-plus billion within the 5-year period and 2 billion beyond that, not within the 5-year period.

These cuts are hard cuts. It includes a rescission of a couple of billion in the first year. It does not change the caps. CBO does not score caps. CBO scores hard dollar reductions that are legislative. This amendment does it.

Mr. Chairman, there are four component parts to this amendment. All received at least 200 votes in the House.

One, we cancelled the Manned Space Station, not because it is terrible but because if we are going to cut in a second round an item which had an only 1-vote margin, it appears to us a good place to start. We take 2 billion of that cut and give it back to NASA. We save 9 billion, and NASA has 2 billion for other projects.

Two, this would impose a realistic burdensharing requirement on the longest free ride in the history of the world, our wealthy Western Europe allies who are the beneficiaries of substantial multi-billion-dollar spending year after year by the United States.

This requires them to pay up. If they do not pay up, not the personnel cost but the nonpersonnel cost, we begin to reduce. It would subject them to the same rules that the Japanese now have.

It would cut nothing from the military, if our Western European allies produced. It would cut some in the troop strength over there, if they do not.

Three, it cancels the Advanced Liquid Metal Reactor, which the House previously voted to kill.

And fourth, it reduces the Strategic Defense Initiative somewhat, a couple of billion dollars over 4 years, over 5 years.

These are four very specific cuts. They give us $14 billion, and I hope that the House will vote for them.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. Bacchus].

Mr. BACCHUS of Florida. Mr. Chairman, I find it sadly and strangely ironic that this amendment should be offered on the floor of this House today of all days. Today is the 30th anniversary of the assassination of John Fitzgerald Kennedy.

President Kennedy stood for many good things. Among other things, he was a fiscal conservative. He was not a free-spending, big-spending, tax-and-spend liberal, nosirree.

I am a fiscal conservative, too, and I think I have proven that today again by voting for the Sabo amendment and the Penny-Kasich amendment for real deficit reduction of the right kind.

JFK would have done the same thing. President Kennedy also believed in peace. He was a man of peace. He wanted world peace. But be believed in peace through strength.

I do, too, and I voted with our President and with my party this year and in the previous Congress for legitimate cuts in the national defense budget.

But I would submit that we cannot afford to cut defense any more today. That is absolutely the worst signal we could send to the North Koreans, among others, to cut national defense any more.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlemen yield?

Mr. BACCHUS of Florida. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, are the North Koreans terribly frightened of the troops we have in Western Europe? Because that is the only cut we make in troops, are in Western Europe.

Mr. BACCHUS of Florida. I would submit that the North Koreans are looking now for any sign of weakness, any sign of weakness on the part of the United States.

If JFK were here tonight, he would not vote to cut defense even one dime more, not now, not at this time.

Finally, I would say that President Kennedy believed in the future, as I do, and as I like to believe we all do. We have tried to prove that by being fiscally conservative and by working for peace through strength. The space station represents the future. That is why it has survived 6 efforts to kill it in the past 3 years.

We have had this debate 2 times already this year alone. We are trying now to find peace with the Russians by working with them in space. But the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Connecticut [Mr. SHAYS] do not even want to give that a chance.

If JFK were here tonight, he would vote "no" on this amendment. He would vote "no" against this type of spending cut that would eviscerate our defense, this type of effort that would eviscerate the space program and defeat our effort to build a future in space in partnership with the Russians in a way that would save our jobs and our technology and our future as a country.

He would vote "no". And if he were here, also, I think he might also, as he sometimes did, recall the words of a poet, perhaps Wordsworth. And he might ask:

"Whither has fled that visionary gleam?
"Where is it now, the glory and the dream?"

□ 2130

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would first note that I think there is very little likelihood that the North Koreans would invade France.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I have decided to cosponsor the amendment with the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Connecticut [Mr. SHAYS]. I have decided to sponsor the amendment for one, I think, very good reason. We simply cannot afford the items that are listed in the Frank amendment. We ought to get rid of them.

Mr. Chairman, as we all know, we promised when we passed President Clinton's budget to cut an additional $56 billion in discretionary spending over the next 5 years. However, many of those specific cuts in the next 4 years have not yet been identified. What this proposal does, Mr. Chairman, is to identify at least $14 billion in very specific cuts that we are willing to make to try to reach that goal.

Mr. Chairman, in contrast to the previous Penny-Kasich amendment, which was rightly defeated, this amendment recognizes that we should not begin to make new promises about reducing spending caps until we first fulfill the promises we have already made. This amendment will get us partially toward those promises.

It also recognizes that in the case of the space station, the Congress has been lied to for many years about the cost of this program. The cost of this program has steadily escalated. They play the old loss leader game. They get their nose in under the tent, and then they let us know what the real costs are, after they have us locked in, and they have so many businesses and so many universities tied into a piece of the pork that they figure the Congress will not have guts enough to shut it down. Mr. Chairman, I think we ought to show them that they are wrong.

If we take all the dollars that we have spent to win the cold war since the time Harry Truman first decided it was necessary to contain the Soviet Union until it changed, and, if we divide that money by the number of taxpaying American families in the country today, the cost of winning that war was $82,000 per family. We are entitled to lighten up on that burden. Our European allies have an obligation to pick up a bigger share of the tab. This is the time when they ought to be asked to do it.

Mr. Chairman, there are two other items in the amendment that I think are important to support. On SDI, people will say, "Well, we have to keep it because we may have a missile threat in years to come." I would suggest to the Members that the real threat to every American family sitting at its kitchen table tonight, because jobs are steadily going down, down, down in this country, in large corporation after large corporation, that real economic threat is a far greater threat to this country than the theoretical threat that the SDI could protect us against.

Recognize reality. Vote for this amendment. It is the right thing to do to save money.

Mr. SHAYS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I join with the gentleman from Massachusetts [Mr. FRANK] in this amendment for one basic fact. We need to get our financial house in order.

Our amendment eliminates or modifies four programs. It cancels the space station, providing a half a billion dollars to close out that program, and $1.5 billion for new programs at NASA. It provides a net savings of $7.66 billion over the next 5 years.

With regard to burden-sharing, Mr. Chairman, the Japanese pay us $2.5 billion, $2.5 billion for 40,000 troops. The Europeans pay $299 million for over 100,000 troops. Our amendment requires they pay us 75 percent of our nonpersonnel costs. If they pay we receive $10 billion in the next 5 years. If they don't pay we save $4.89 billion by bringing home 75,000 troops and decommissioning 37,500 of them.

Reducing the Ballistic Missile Defense Program by 16 percent saves us $1.85 billion and cancelling the advanced liquid metal reactor saves us $315 million. Our amendment makes sense and we encourage all our colleagues to vote for its passage.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I rise in support of the Frank-Shays amendment, and would like to thank the gentlemen for bringing it forward. Though I will not continue to support it if it comes back from the Senate as written, space station funding eliminated, because I support the space station, I urge Members to vote for it due to the other provisions it contains in hopes that the savings from those other provisions may be achieved.

Mr. Chairman, almost 50 years since the end of World War II, the American people are still spending about $183 billion a year paying for the defense of

Europe and Japan. I submit that, on a night on which much has been made of the ravages of the budget deficit, much has been made of our economic situation and our inability to manage our budget, this is the night to vote to do something with regard to this enormous burden that we continue to carry long after World War II has ended.

Let us cut back on the subsidy we are giving to Europe. These countries can support themselves. That money ought to be used in the United States to protect this country from crime, to give us a good education system, and to give our people a health care system as fine as the one the people of Europe have today.

I urge Members to vote for the Frank-Shays amendment. I urge Members to vote tonight to tell the Europeans that 50 years after World War II it is time they pay for their own defense. We need those dollars here in America.

Mr. SABO. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. COX] in opposition to the amendment, and ask unanimous consent that he be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I would just rise in strong opposition to the so-called Frank amendment. I believe we have made a decision in this Congress, in this House, to continue the funding for the space station. I think it is an excellent program, and one that ought to be continued.

Mr. Chairman, the other thing I would like to mention briefly is that the whole assumption on this burden-sharing amendment is that the Europeans will agree to pay more of the burden of having our troops there. We must remember that we had our troops there on their land. They have contributed forces of their own. They have paid part of the price. I have no problem asking them to do more. The problem I have is if they do not achieve that then, it will be another cut in the defense budget.

Mr. Chairman, I think one of the reasons that the Penny-Kasich amendment was defeated tonight was a concern in this House that we have already gone too far in cutting defense. We have the specter of the hollow force coming back. General Sullivan, the Chief of Staff of the Army, has written a very long letter to the members of the Army caucus here in this House about his concerns about the return of a hollow force; that we do not have the money for modernization, we do not have the money for readiness.

Every time we make another one of these cuts, though well intentioned, I think we run the risk of undermining our military capability. By the way, Mr. Chairman, we have already cut the defense budget by nearly 50 percent since fiscal year 1985. It is not like we have been lavishly spending money on defense. Mr. Chairman, we have made them eat inflation. They get no cost-of-living index increase.

Mr. Chairman, for those two reasons I would urge the Members again to defeat this amendrment and to stay with the gentleman from Minnesota [Mr. SABO], the distinguished chairman, who I think has come in with a package at about the right size.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding to me. I really think this package makes a lot of sense, even though very little makes any sense at this hour of the night. But every one of these amendments has been debated by the House. People totally understand them, and they almost passed.

□ 2140

Now you will hear the same old arguments on burden sharing. We would not want to ask our allies to do more. But we have absolutely no hesitation about slam-dunking bases and closing them all over the United States. We have gone through two rounds of that and it has been painful. No one ever says oh, well, we would not want the States to have to do more. I think most States would like to get nearly as good a deal as the Europeans are getting.

I also want to point out what many people have said before, the Japanese are doing much more vis-a-vis burden sharing than the Europeans. And why in the world are we maintaining these huge bases in West Germany to protect West Germany from East Germany when it is really all one country, and the East Germans are in West German shopping malls? I mean, please. The Berlin Wall has become a speed bump, and we are still pretending like the cold war is on. So why are we spending money here when we have so many other demands for this money?

The same thing with SDI. This is not a massive cut. This is the one that almost won; it is $350 million. It just brings it down a little bit more.

We know that that has been a cash cow that people played with for a long time, and we cannot afford cash cows anymore. This one just barely missed going over the top, and I think we can certainly say now that we have new financial data.

It should be the same with space station. We would all love to do it, and it would be great. But every day there is a new number, there is a new something, there is a new mixup. At some point I think we have to say this may not be the time. We better get things together here on Earth. We better figure out where we can get the money for community policing in our neighborhoods. We had better figure it out where we do those kinds of things where people live rather than some of the others.

So I hope people vote "aye" on this. I think this is one of the best amendments we have put together, and I thank the gentleman from Massachusetts for yielding.

Mr. COX. Mr Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding the time.

We noted with interest a moment ago that despite the fact that a number of the Delegates were on the floor, none of them voted on the last vote. Now this House has been put through several months of casting revotes in the full House because of a court suit that dealt with the Delegate voting.

What we are wondering is whether or not this vote now is going to be a wide enough split that the Delegates will be able to vote in this particular instance, because it does appear that what happened on this is because the vote was going to be so close on the last vote that the Democratic leadership felt that they were risking the fact that there might be a revote on that issue and so, therefore, instructed the Delegates not to vote because, as I say, some of them were on the floor but did not vote on the last vote. In fact, all five did not vote.

So our question really is at this point we wonder whether or not we are going to have the Delegates vote.

Mr. COLEMAN. Regular order, Mr. Chairman.

The CHAIRMAN. The gentleman is following regular order. The gentleman from Pennsylvania has the time.

Mr. WALKER. If the gentleman from Texas would behave himself, I might finish here, and we would not have to worry about it.

Mr. COLEMAN. Finish what? Finish what?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] has the time.

Mr. WALKER. Mr. Chairman, it seems to us that there is then selective use of those Delegate votes. If in fact the Democratic leadership can decide at times to pull those votes when it serves their purpose to do so, then the right that we have talked about so often on the House floor seems to me to be a right of some limited usage if in fact they can be instructed not to vote when the votes are going to be close.

So the real question before the House now is we wonder how the votes are going to take place when this amendment comes up. Are the Delegates going to vote this time or are they not going to vote this time. Are the rights of the House going to be protected or are the rights not going to be protected?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, we just happened to check the RECORD, and the truth of the matter is the Delegates did vote on the Sabo amendment earlier on.

Mr. WALKER. So the five delegates voted on the Sabo amendment, and none of them voted on the next amendment that looked like it was going to be a close vote. And there is a question of whether they are going to vote this time.

Mr. COX. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ARMEY], chairman of the Republican conference.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, this vote at this time in the proceedings is somewhat anticlimatic. Tonight's big issue has been resolved with the defeat of the Penny-Kasich amendment.

I find it fascinating that in terms of the fiscal affairs of this Nation the fight has not changed throughout the entire duration of this year. We began the year trying to stop the largest tax increase in the history of the country as the President submitted his 5-year budget plan where he entertained us with the magic of a plan that had 500 billion dollars' worth of spending increase, 476 billion dollars' worth of tax increase, and from that magical manifestation of $500 billion in deficit reduction. Oh, if the poor beleaguered American businessmen could just retire their debts with so much ease.

All of that is done, of course, through the obscuring influence of such things as current services baseline budgeting, which makes sense to nobody except people in Washington. And I, of course, from that experience of watching the Democrats on a totally partisan basis, over the bipartisan resistance of all of the Republicans and 42 of their own Democrats pass as a partisan effort on the part of the Democrats, pass this big tax increase, with all of the leverage that could be brought to bear by the Democrat leadership in the House and the Senate, and with all of the horse trading skills of the President, which was manifest early in this process as they brought on those last few votes in those last last few precious minutes. We managed again to fail in our effort to cut that massive tax increase while it was passed through the cajolery of the Democrat leadership and the President, and all the time the American people were saying cut spending first.

As we know, the Penny-Kasich effort tonight was the fulfillment of a promise to the gentleman from Minnesota, [Mr. PENNY], by the President, that if in fact he would vote with them at that time we would have an opportunity to entertain spending cuts as we did tonight, spending cuts wrapped in the most convoluted rule I have ever seen.

I will not yield to the gentleman, so do not bother asking.

Mr. COLEMAN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. ARMEY] has the time.

Mr. COLEMAN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. For what purpose does the gentleman from Texas rise?

Mr. COLEMAN. I want to ask a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Texas [Mr. ARMEY] yield to the gentleman from Texas [Mr. COLEMAN] for a parliamentary inquiry?

Mr. ARMEY. I will not yield to the gentleman from Texas until I have finished my statement.

The CHAIRMAN. The gentleman from Texas has the time and the gentleman does not yield.

Mr. COLEMAN. Parliamentary inquiry.

The CHAIRMAN. The gentleman from Texas does not yield for a parliamentary inquiry.

Mr. COLEMAN. He does not have to. I am asking a question.

The CHAIRMAN. The gentleman from Texas does not yield for a parliamentary inquiry. The gentleman from Texas has the time.

Mr. ARMEY. I would ask the Chair, if he does not mind, that time used to explain the rules will not come out of my time?

The CHAIRMAN. That will not count against the time of the gentleman from Texas.

Mr. COLEMAN. Mr. Chairman, do you mean to tell me when I ask a parliamentary inquiry, it does not ask that of the Chair?

The CHAIRMAN. Under the rules, the gentleman does not have to yield, as long as he has the floor, for a parliamentary inquiry. The gentleman from Texas has the time, and this time will not be counted against the gentleman from Texas.

The Chair recognizes the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the Chair.

The point that I am trying to make here is again tonight we are here trying to do what the American people have asked: Cut spending. We have been thwarted in that effort again by the Democrat majority's control of the rules of this House to create this curious voting configuration that required all kinds of effort to explain even to the Members, let alone the American people, to create this smokescreen of parliamentary procedure and to give those that are faint of heart an opportunity to run, and duck, and parry, and find their way out of the process without being in fact pinned down for having been unwilling to actually vote with the American people to cut spending.

□ 2150

The Democrats again obscured and then, of course, in their smokescreen effort have countered with their traditional effort, cut defense spending, always cut defense spending.

Let me just say, nothing has changed. We Republicans fought against tax increases and spending increases.

Mr. Chairman, the point is, irrespective of all of the smoke and mirrors and all the parliamentary procedures and all the fancy rules, the one thing that has remained constant is the Republican Party has fought against the President and his party, against tax increases pushed through earlier in the year, and we fought for spending cuts and failed tonight because of the ingenious use of the parliamentary procedures by the majority and the leverage applied by the President's horse-trading tactics. We failed to get for the American people the spending cuts they wanted tonight, but we will be back.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the Frank-Shays amendment. This amendment would terminate the space station and the ballistic missile defense program, which I consider very important to the future technical capabilities of our Nation.

I urge you to support the House Committee on the Budget.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, is the gentleman allowed to talk about the amendment? I have been listening to the Republicans, and I cannot think it was in order to talk about the subject under discussion.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, the amendment proposes to terminate the space station program, a program the Congress has consistently supported.

There have been five House votes on the station program since I came to Congress 3 years ago. Each time this House has voted to continue the space station.

The space station is a vital and necessary project that we need to complete and launch.

The station is the most important international cooperative science project that has ever been undertaken. We have the opportunity to participate with the Canadians, the Japanese, the European Community, and the Russians in this venture.

The administration and NASA have redesigned the station resulting in $6 billion in savings and have gained a further $4 billion in savings through cooperation with the Russians. Give the station a chance.

The space station program is crucial to the continuation of the manned exploration of space and to this country's technological and scientific future.

Now is not the time to abandon the project.

BALLISTIC MISSILE DEFENSE

The amendment reduces ballistic missile defense by $350 million a year for 5 years. This is on top of the $1 billion already taken from the budget proposed by the President for this year.

The BMD program cannot afford further cuts to a budget that is already too low.

Opponents of missile defense argue that there is no longer a threat of attack on this country or on our troops in the field. They argue that the end of the cold war has eliminated this threat.

Nothing could be further from the truth.

I serve on the House Intelligence Committee and I can assure these opponents that the threat of an attack on this country is in fact greater today than it was a couple of years ago.

Over 15 countries right now have ballistic missiles and the ability to threaten the United States and our troops deployed overseas. More countries could have this capability before we have an adequate defense.

Many Members I have discussed missile defense with seem to think that we could defend this country from an attack by ballistic missiles. Nothing could be further from the truth.

Not only do we not have that capability, but if we keep reducing the level of spending for ballistic missile defense we will never be able to defend ourselves. This would be a fatal mistake.

We simply cannot afford to reduce ballistic missile defense any further.

Vote against the Frank/Shays amendment.

Mr. SHAYS. Mr. Chairman, I yield myself 20 seconds to respond to the gentleman from Alabama [Mr. BEVILL] and just say to the gentleman from Alabama [Mr. BEVILL] that the Frank-Shays amendment does not eliminate the ballistic missile defense. It reduces it by 16 percent over the next 5 years. It is a very responsible amendment as is our amendment on burden-sharing.

Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, the American people are sick and tired of Congress continuing to break its promises when it comes to reducing the deficit.

Mr. Chairman, the longer we wait to make tough choices, the longer it will take to reduce this $250 billion deficit.

Mr. Chairman, I cannot tell you how disappointed I was to see that the President could only initially find $2.7 billion in spending cuts. This after he challenged us in this Chamber to try and do something to work on the deficit.

I believed the President last winter when he told us that he wanted to work with us to reduce spending and, in fact, only $2.7 billion.

Mr. Chairman, I strongly support this substitute. These four programs that are included in the Frank-Shays amendment save the taxpayers $14.7 billion.

The space station came within one vote of being killed earlier this year. Increasing burden-sharing seems like a reasonable idea. I can remember my good friend and colleague, the gentleman from Michigan [Mr. BONIOR], offering that same amendment which passed overwhelmingly in this House a year or two ago. Should not the folks that we are looking out for have to pay 75 percent of the cost? Does that not seem like a decent thing?

These are tough choices, and they are not easy ones, and that is what we were elected to do.

I only wish that earlier Congresses could have done a little bit more so that we would not be in this fiscal mess that we are in tonight. Let us save future Congresses, and certainly future generations, from the mess by voting yes on this amendment.

The American people are tired of Congress breaking promises when it comes to reducing the deficit. Unfortunately, the budget bill that passed Congress focused much more on increasing taxes, rather than cutting spending. It did not include the broad sacrifices that must be made within the Federal Government to overcome the magnitude of America's budget blues.

We are now forced to deal with this inability to act. Even with the 5-year budget passed earlier this year, the annual deficits will still be at more than $200 billion annually. This shows that the only way to make a dent in the deficit is to cut spending. The longer we wait, the more difficult it becomes to pull America out of the red. That is why I am voting "yes" to approve this spending cut package tonight.

I am disappointed that the President could initially identify $2.7 billion in more spending cuts over the next 5 years and vigorously opposed more cuts. I voted for the Penny-Kasich Common Cents plan to cut Federal spending by $90 billion in the next 5 years, and I urge all my colleagues to support the $14 billion in cuts offered by Representatives FRANK and SHAYS.

The Frank-Shays amendment consists of four savings proposals which each garnered more than 200 votes when considered individually by the House earlier this year. I voted for each of those four parts to kill the space station, cut ballistic missile defense systems, the advanced liquid metal reactor program, and requiring Europeans to pay a higher share of their own defense. As a package, these cuts are even more attractive. In tough budgetary times, these savings make sense, too.

As a person who has long wielded the budget ax, we need to pass all of these budget cutting efforts and more to ensure a positive future for our kids. This is an unprecedented opportunity, an opportunity made possible by the President, to cut spending without raising taxes. We need to find the guts to pass the tough choices which need to be made.

Mr. COX. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Arizona [Mr. KYL], a member of the Committee on Armed Services.

Mr. KYL. Mr. Chairman, this is not the way to be legislating.

Let us talk for just a little bit about one of the aspects of this amendment, and that is ballistic missile defense. One of the Speakers on the other side said "a little bit more out of this program will not hurt." I submit to you that there is not anyone who has spoken on behalf of this cut that understands the effect of the cut on the ballistic missile defense program.

We have already cut more than Secretary Aspin and President Clinton recommended be cut from the ballistic missile defense system this year. We have already completed the action on the defense authorization bill and the defense appropriation bill, and I agree with the remarks that the gentleman from Washington [Mr. DICKS] made at the beginning of this debate when he said that we have cut quite enough from this part of the program.

I would like to ask the proponents of this amendment, for example, where they would take the $350 million in rescissions in this last year from the ballistic missile defense system. What specific program would be cut?

I think my colleagues need to know something about the ballistic missile defense system, because it is no longer SDI or Star Wars. The money has been taken out of that program and it has been totally recharacterized to deal now almost exclusively with the development of a theater-based system, basically the next generation of the Patriot, which intercepted the Scuds launched by Iraq.

There is no more space-based component to the ballistic missile defense system. That is gone. I know a lot of folks on this side of the aisle did not like that. It is essentially gone from the program. There is essentially no more long-term long-range development or research under the program. It is gone. There is basically no more money left for a national missile defense system. There was a lot of dispute about whether we should be spending money for the defense of the continental United States. That money is basically gone. As a result, all that is left in the ballistic missile defense system is money for the development of a theater defense system, a short-range system basically like the Patriot, to defeat a system like the Scud.

Now, I do not know where the money is going to come out of this year's budget with the $350 million rescission called for in this amendment or with the ratcheting down each year thereafter down to the point of $2.35 billion in 4 more years.

As one of the speakers pointed out, we have already cut out over a billion dollars from the request of the administration. Now, if the authorization and appropriation committees and the House and the Senate have already gone further than the President and Secretary Aspin think is prudent, how can we tonight with no information, with no understanding of exactly where these cuts would be made, vote to cut out this additional funding from the ballistic missile defense budget?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. As the gentleman knows, in the committee, in the Research and Development Subcommittee of the Committee on Armed Services, this is the number. If we vote for this amendment tonight, it will be the number that the Research and Development Subcommittee came up with for ballistic missile defense after listening to testimony all year.

Mr. KYL. Reclaiming my time, because the gentlewoman is not accurate in that regard.

The R&D Subcommittee did not cut this sum of money over the next 4 years from the ballistic missile defense system. It is absolutely incorrect to make that statement, as the gentlewoman knows.

Furthermore, the subcommittee did not suggest a $350 million rescission from this year's budget.

And, finally, the full committee and the House and the Senate all rejected the recommendation of the subcommittee and, therefore, I would suggest to the gentlewoman that it would be wrong to argue that the body tonight should go against the recommendations of the full House Committee on Armed Services and the Committee on Appropriations. And I would like to conclude this point, and if the gentlewoman would like to respond, that would be fine.

□ 2200

What I am saying is this: It is true that the R&D Subcommittee recommended the lower funding for the ballistic missile defense system, for 1 year, but it is not true that it recommended the cuts set forth in this proposed amendment. Nor is it true that it recommended $350 million rescission. There is nowhere for that money to come out this year.

So the body needs to decide this tonight. The House Committee on Appropriations Subcommittee on Defense, and the full committee have acted as have the Armed Services Committees in both bodies. We have confirmed a conference committee report. The defense authorization and appropriation bills have been sent to the President. Now, is this body tonight, based on this amendment at this time without any further information, going to adopt an amendment that undoes all that action? I suggest that that would be imprudent, to say the least, and that we could not explain where the money would be coming from, what the effect on the ballistic missile defense system would be, whether it would affect the Arrow system, for example, or what any of the other effects would be. It would be an act of irresponsibility for us to adopt this amendment tonight.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding. I am perfectly happy to be here with further information, and just sorry that the gentleman from Arizona did not want to let me put it out there. First, technically the gentleman is correct in that we did not pass this for 4 years because we only mark up a bill for 1 year. However, you could just get in there because my Subcommittee on Research and Development, for every $1 you cut there is only 50 cents in this year and the rest of it is over the rest of the years. So that is technically correct.

However, if you look at the number that the committee marked up to, this is where we would be over a 4-year period. Voila.

Now, what did we do? We did not touch theater missile defense. We thought that was terribly important, that was the President's highest priority, and that is what we left in there. What did we go after? We went after things that were in the space-based defense that had not been showing up with good results, but with very marginal results, they were on the line. But we did not micromanage.

He is also trying to be tricky by saying precisely what program is in here. Our committee decided what we would do is put a pool in for the space-based defense.

Mr. SHAYS. Mr. Chairman, I yield an additional minute to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

The idea was that the Service would then sort out these programs and determine which ones came up with the best results and which made the most sense to invest in.

Now, the Subcommittee on Research and Development passed this; it went down by, I think it was, only a 1- or 2-vote margin in the committee. On the House floor I offered it again, and I almost won there, with almost 200 votes.

Mr. KYL. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SCHROEDER. Well, I am going to be more of a gentlewoman to the gentleman than the gentleman was to the gentlewoman, and I will be happy to yield.

Mr. KYL. I want to thank the gentlewoman. I had yielded to the gentlewoman. I simply want to ask if the gentlewoman wants to revise what she said about my being tricky when I asked the question of where precisely these would be coming from.

Mrs. SCHROEDER. Reclaiming my time, I tell the gentleman that I think he knows, because he is a very esteemed member of the committee, the determination was not to micromanage and pinpoint one program. We had several programs that we had very severe questions about in the space-based area, and what we were saying was we wanted the Department of Defense to select out of that pool where we thought that much money could be found.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the gentleman from Massachusetts for yielding this time to me.

Mr. Chairman, I rise in support of the Frank Shays amendment today, a serious and important addition to the budget debate we are now conducting.

Each of the four elements in this measure has passed or nearly passed the House this year, and I am proud to be the author of the space station elimination provision and a supporter of all the others.

Tonight I want to address the space station program in particular. I strongly believe that what we are trying to do is in the best interest of the country, the taxpayers and certainly of NASA and the American space program.

NASA clearly needs a new direction. Just today we learn in the media that NASA has been conducting a nationwide search for a new name for the space station to replace *Freedom* and *Alpha*.

I do not know how much this effort is costing NASA, and I am not sure we want to know. NASA spent $65,000 to decide what color the station should be, and what with inflation and all, who knows what a name costs these days?

NASA has settled on five finalist names: Unity, Alliance, Aurora, Alpha and Sigma. Instead of picking a finalist, I submit that they should keep all five names. The space station has already been redesigned five times, and with all the problems it faces in the future, it will probably go through all five names and more.

I have a few suggestions of my own. How about space station Hoover, vacuuming up taxpayer's dollars? How about Space Station Abracadabra, making NASA's resources disappear?

Mr. Chairman, what I would like to call it is space station History. This House almost had it right earlier this year, when we failed to adopt my amendment to end this program by a single vote.

We have a real opportunity to fix that mistake here today, Mr. Chairman, and I urge all of our colleagues to support, and create real change here today.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Mr. Chairman, I understand the gentleman from Indiana [Mr. ROEMER] had limited time and he has been courteous to me and had yielded to me in the past.

But I ask the gentleman at this time if he is willing to cut off the vice president of the United States at the knees with this vote here tonight before he goes over to Russia later this year to put together the final proposal between the Russians and the Americans for what could be a partnership of earth-shattering proportions, that could bring our two countries together after nearly half a century of potential combat, is he willing to do that?

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BACCHUS of Florida. I yield to the gentleman from Indiana.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Chairman, I do not think it is a question about the vice president's knees, it is about our children's futures.

Mr. BACCHUS of Florida. Reclaiming my time, our children are not going to have any future unless we are willing to invest in technology that will create economic growth so that we can afford social programs.

Mr. ROEMER. The question here is, since Ronald Reagan developed this program, we have spent $11 billion on a space station and we do not have a dime's worth of hardware.

Mr. BACCHUS of Florida. Reclaiming my time: For every dollar we have invested in the space program, including the space station, we have generated $9 in additional gross national product, and that is a far better rate of return than we get on almost any other investment.

Mr. FRANK of Massachusetts. I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong support of this commonsense amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Frank-Shays amendment.

I am a cosponsor of the amendment offered by the gentleman from Massachusetts, as well as a cosponsor of the Penny-Kasich package. The House has rejected a chance to cut spending by $90 billion; at the very least, let's not pass up this chance to cut $51 billion.

Opponents of this amendment will claim that it jeopardizes our national security, and our advances in science and space exploration.

Mr. Chairman, to my colleagues let me say that the biggest threat to our national security is a $4 trillion debt which saps our ability to invest in this country's future. This debate is not just about deficit reduction—it is about regaining control of our economic destiny.

By voting down the Penny-Kasich proposal, we passed up a chance for real deficit reduction.

Surely, if you believe that we are in a crisis, if you believe that this deficit is the most pressing threat to our economic security, then surely you can vote for the cut of $51 billion. I urge a "yes" vote on the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, it is our job here in Congress to give the taxpayers their money's worth. We can do that by enacting programs which provide real and tangible benefits for American families. That is why I support the Frank-Shays amendment.

The American taxpayers are wondering why we continue to spend money on programs which this amendment proposes to cut—and, Mr. Chairman, 110 new Members were elected to Congress in 1992 to cut these wasteful programs.

Earlier in the year, this body came very close to eliminating the space station; passing a burdensharing amendment; terminating ALMR; and cutting star wars—because in these tough fiscal times, and with the end of the cold war we can no longer afford extravagant space programs and wasteful military spending.

Mr. Chairman, the Pentagon's 5-year plan calls for American taxpayers to spend $400,000 per minute on defense. This waste causes taxpayers to wonder what on earth we are doing for them here in Congress.

This body desperately needs to muster the political will to cut defense programs we no longer need. I urge my colleagues to vote in favor of the Frank-Shays amendment.

□ 2210

Mr. SHAYS. Mr. Chairman, I yield myself 40 seconds.

Mr. Chairman, as we debate this bill, how can we say that $14.7 billion does not amount to anything. And we are not just talking about $14.7 billion, we are talking about $14.7 billion in the next 5 years and tens of billions of dollars in the years to follow.

I have no doubt in my mind that the space station, like the superconducting super collider, will be eliminated. Do it now, not later.

I have no doubt in my mind that Americans will no longer continue to tolerate the Europeans having a free ride.

Let us get burden sharing going right now and save the taxpayers billions of dollars.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, I am very pleased to join my colleagues, the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Connecticut [Mr. SHAYS] in strong support of this amendment.

As has been stated, each one of these separate programs, of which there are only 4, had only 200 votes by Members of this House. One of them passed this House. The second one failed by one vote. The third one, the gentlewoman from Colorado spoke very articulately of the fact that we are actually saving more money than we are spending.

And the fourth one on the burden sharing, I want to speak a little more at length on. That was my biggest disappointment in our effort to cut spending in this session of Congress.

In fact, when I went back to my district and told people that we failed by about a 5- or 6-vote margin on the burden sharing amendment, they were dumbfounded. They could not understand how this country who shouldered the burden for our Nation's defense and the world's defense for over 40 years should be expected to continue these practices.

Furthermore, Mr. Chairman, just like the last amendment, this is a bipartisan amendment. The gentleman from Connecticut [Mr. SHAYS] and I have worked together on the last amendment, and every argument that applied in the last amendment is no less true in terms of this amendment.

There are no gimmicks to this amendment. There are four items that we are cutting. They are real cuts. They are $14 billion. They are cutting spending, I do not know if it is first or last, but it is cutting real spending.

It is important that we make these cuts.

Just like the last amendment when the articulate speakers spoke, we are $4 trillion in debt. We are spending a buck fifty for every buck we are taking in. We cannot continue these practices. It has to stop.

Mr. Chairman, I hope we would join the National Taxpayers' Union, as well as over a dozen other groups, and vote "yes" on this important amendment.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I rise in strong opposition to the Frank-Shays amendment and urge its rejection by the House.

Frankly, I did not think that the House would have to go through another debate on the space station this year. It appears that a few Members are unwilling to accept the judgment of the House when it twice voted to continue the program earlier this year.

I share with many Members the desire to cut spending and put our fiscal house in order. I have worked hard to cut wasteful spending wherever I have found it. But I will not support cutting out those investments—like the space station—that offer the promise of a better future for all of our citizens, young and old. We should cut back when necessary, but not cut out. And we have cut back substantially this year. We cut the President's request for NASA by $226 million in subcommittee and committee markup. And then on the floor, Mr. CALVERT and I offered an amendment that was passed by the House which cut NASA spending by an additional $250 million.

The redesign of the space station completed earlier this year will save taxpayers $4 billion over the next 5 years. NASA is tightening its belt, and I intend to make sure that NASA continues to use the taxpayers' dollars wisely.

Since the space station has already been debated extensively by the House twice this year, I'm not going to take up Members' time listing all the reasons I support this important program. But I would like to note that we intend to work with the Russians in building our space station. We have a chance to help them move away from a military economy while helping us make our station program better.

Mr. Chairman, the Frank-Shays amendment would do real harm to our Nation's space program. I urge my colleagues to vote against it.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, this is one of the most informative debates we have had this year. To the American people who are listening, I know you are probably astounded to hear that almost 50 years after the end of World War II we are still spending billions of dollars to defend Germany and Japan. We are debating burden sharing with Germany and Japan.

The Japanese and the German workers have a higher standard of living then the American workers. I congratulate the workers and the people of Japan and Germany and I congratulate their leaders.

I also congratulate the people of America for throwing out the leaders who did not have the vision to see that we should end this stupidity.

The new leaders have not yet gotten the message, and the Members of this Congress have not yet gotten the message.

This amendment is to educate where the real cuts are, where the real waste is.

We did not vote to cut Federal workers. The people did not vote to cut Federal workers. They voted to cut waste. There are hundreds of billions of dollars' worth of waste, and this amendment attacks that waste, even before it gets to the wasteful CIA and the Intelligence budget.

Mr. Chairman, vote for the Frank-Shays amendment and you will have real waste cutting.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I rise in support of the Frank-Shays amendment and hope we will finally be successful in recognizing that the world has changed and our needs have changed. Our fiscal needs have changed. That is why we are here tonight in this country dealing with these critical financial questions, but our security needs have changed and our scientific needs have changed, and this amendment reflects the fact that we have not yet caught up with that.

One issue in particular, the Liquid Metal Reactor, will be eliminated here. The House voted overwhelmingly earlier to eliminate it, but the Senate not only restored the funds, it increased the expenditures for next year.

And yet we do not really want to go to plutonium away from uranium, because it is much more dangerous. It is less economical. The private sector will not invest in it, and yet we in the public sector drag on, carrying the taxpayer forward and having to fund these kinds of programs when our needs are greater elsewhere.

Mr. Chairman, let us catch up with the changing world. Let us support the Frank-Shays amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Chairman, I rise in strong support of the Frank-Shays amendment. This amendment ends $14 billion in unnecessary spending by cutting four sacred cows that we simply cannot afford, a manned space station that is no longer useful, European burden sharing that should have been ended a long, long time ago, so that our partners could pay their fair share.

When added to the cuts in the Sabo amendment, we will be reducing spending by $53 billion.

Mr. Chairman, I am strongly committed to reducing spending. That is why I support this amendment. These are real spending cuts, achieved not by robbing from Medicare programs that could help us achieve health care reform, not by robbing from nutrition centers.

And by the way, I have visited dozens of those nutrition centers and the people who use them desperately need them and they depend on them.

These spending cuts are achieved by cutting four programs that no longer have a future.

Let those who really care about cutting spending vote for this amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank my colleague, the gentleman from Massachusetts, for yielding this time to me.

Mr. Chairman, a responsible deficit reduction has to continue to be a top priority of this Congress because the loud and clear message from businesses and families who are having to live within their means is to stop borrowing from our children's future.

The Frank-Shays amendment cuts four programs: the manned space station, the star wars strategic defense initiative, the helium reserve, and European burden sharing. These programs should be cut or scaled. They do not meet the test of priority. We simply cannot afford them.

As we set spending priorities, programs to create jobs and prepare workers for those jobs must come before expensive, outdated big ticket items.

H.R. 3400, as already amended tonight, is a good start, but we can do more. I urge my colleagues to support this amendment, save an additional $14 billion now and $100 billion, probably, as has been suggested by the gentleman from Connecticut, over the next few years and strike a victory for fiscal responsibility.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, earlier tonight we heard some outstanding speeches in behalf of the Penny-Kasich bill to cut deficit spending. The Penny-Kasich bill would have cut 1 percent of total Federal spending, and it was denounced passionately by the liberal Members on the Democratic side because the cuts were too deep, even though they amounted to only 1 percent of the total Federal budget.

The Democratic sponsor of this amendment, my colleague, the gentleman from Massachusetts [Mr. FRANK] voted against Penny-Kasich and offers instead this amendment, which purports to save .002 percent of total Federal spending.

The trouble with this amendment is that we will not save this money at all. Unlike Penny-Kasich which contained enforcement, this bill contains no budget enforcement at all.

The Penny-Kasich amendment lowered the spending caps. It reduced budget authority and outlays, so that the money saved from the Penny-Kasich cuts would actually go to reduce taxes or reduce the deficit.

□ 2220

In this case, however, the money that is cut from defense can be used by every other Democrat committee chairman to increase deficit spending on other pet programs. It is like found money. Penny-Kasich would have cut 1 percent. It was a start, but only a start, and it was defeated by many of the Members who are now urging this fig leaf. Unfortunately, Mr. Chairman, this amendment does not guarantee any real spending reduction. The money will simply be used elsewhere. Just as surely as it cuts ballistic missile defense, it will eventually increase some other new deficit spending program.

I say to my colleague, "Don't fall for it."

Mr. SABO. Mr. Chairman, I am going to vote the same way as the last gentleman who spoke, but I have a tough time following his logic.

Mr. Chairman, I yield back the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I was such a strong supporter of Penny-Kasich, I believed in it with all my heart and soul, I believed in it because I think our Nation is facing a day of reckoning. Whether bankruptcy occurs in 1995 or 1998, or the year 2000, it is happening. It is happening because we are seeing a national debt that is continuing to grow, and grow, and grow. It will grow by 40 percent in the next 5-years—$1.6 trillion,—the largest increase in any five year period.

We are advocating that four programs be reduced or eliminated saving us $14.7 billion in 5 years.

In the case of the manned space station, Mr. Chairman, we failed by one vote. Tell me, if we failed by one vote this year, is it not likely that we are going to succeed next year. And, if we are to succeed next year, why wait? Why continue to spend money? The space station has been revised so many times it does not even know what its mission is. We are looking now to the Russians to rescue us, and we are not even sure where they are going.

We have seen the strategic defense initiative [SDI] become the Global Protection Against Limited Strikes [GPALS] become the Ballistic Missile Defense [BMD]. It too, like the space station, is a program searching for a mission. And we are looking at burdensharing, and we are saying, "My gosh, the Europeans pay only $299 million for over a hundred thousand troops, and the Japanese pay $2.5 billion. They pay 75 percent of our military's nonsalary costs."

"Why shouldn't the Europeans pay the same? If they did we would have a $10 billion savings in the next 5 years. If they don't, we would reduce our force in Europe by 75,000 troops redeploying 37,500 and reducing our base force by 37,500." Some 25,000 troops would still be left in Europe.

I thank my colleague, the gentleman from Massachusetts [Mr. FRANK], for joining with me in this amendment. And I encourage my colleagues on both sides of the aisle to cancel the manned space station, increase European burdensharing, reduce spending on the Ballistic Missile Defense Program, and cancel the Advanced Liquid Metal Reactor. Do these four things and we will save the American taxpayers $14.7 billion in the next 5 years and tens of billions of dollars more in the years to follow.

The CHAIRMAN. The Chair advises that the gentleman from California [Mr. COX] still has 45 seconds remaining, and the gentleman from Massachusetts [Mr. FRANK] has 3½ minutes remaining, and the gentleman from Massachusetts has the right to close.

Mr. COX. Mr. Chairman, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 3½ minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I subscribe very much to what my cosponsor, the gentleman from Connecticut [Mr. SHAYS], has said. This is to some extent a test of the extent to which rhetoric and intentions coincide throughout this Chamber. We have people who would like to argue that spending cuts are only spending cuts if they aim at domestic programs, if they reduce employees, if they diminish services for the poor. Somehow the semantics are at risk of being captured by people who want to argue that if we cut $9 billion out of a venture to put men in space, not for the national defense and not on an overwhelming scientific justification, and we are not attacking NASA; we give NASA billions more in this amendment for the nonmanned space programs than they would have had. We believe that the motivation for putting men in space historically and today is political and psychological. It is to help the Russians. It used to be to scare the Russians. Tomorrow it will be something else with the Russians. But it will not be science. That is not a cut apparently.

Saying that the Europeans can no longer get subsidies, that is not a real cut. Cutting foreign aid to poor people is a real cut, but cutting foreign aid to rich people is not a real cut, because the richest people in the world right now in Western Europe, among the richest, are the beneficiaries of substantial American funds, and what we are saying is they should pay it.

As my colleagues know, this is a great way to make the Europeans feel more secure. They tell us they need the troops because they are nervous. And we will tell them to pay for the troops. Do my colleagues know what? They may not need the troops anymore. At the very least it will make them feel better.

The notion that it is only a cut if it is somehow going to diminish services to people in need has to be exploded, and the gentleman from California said, "Well, this doesn't lower the caps. It only cuts out spending programs so it's not real savings."

Do my colleagues know why? Because, having voted to reduce spending in real terms by $16 billion, we have not locked the money up forever. That is like saying, "If you take half of your salary, and put it in the bank, that's not saving because you know what? You might later decide to spend it." Well, that is in the Constitution of the United States. A later Congress can decide to change the decision of a prior Congress. But I know of no other way to save money than to stop spending it, and CBO does not score caps. They do not score gloves, they do not score socks. They score spending, and in fact spending cuts are more important than cutting the caps. When we reduce the deficit further this year, we do it by going below the caps.

We have an amendment which does have some pain, so when people said, "Well, you're actually trying to go over what we did before," but that was the commitment. The commitment was that, having made one round of cuts, we would come back and make another, and this is not enormous, but it is over time $16 billion hardened, and the gentleman from Connecticut said it is tens and hundreds of billions if we project it out.

Let us not put men in space. Let us just concentrate on NASA as a scientific operation. Let us tell the wealthy people of Western Europe that we are no longer going to give them a free ride on defense. Let us kill the advanced liquid metal reactor, which the gentleman from Indiana has pointed out the flaws of, and let us, as the gentlewoman from Colorado pointed out, reduce SDI, and I thought her discussion of that was quite persuasive.

Please vote for this amendment. It is the only 14 billion actually my colleagues are going to get tonight, and it is real savings.

Mr. BARCA of Wisconsin. Mr. Chairman, President Clinton's deficit reduction plan was an important first step, but most of us realize that we need to go further to cut the federal deficit.

The main complaints during the budget debate was that it lacked bipartisan support and did not cut enough out of the federal budget. With the Penny-Kasich and Frank-Shays amendments, we have found common ground and I am pleased to have been an integral part of advancing bipartisan solutions to our budget woes.

Making cuts of $90 billion or $21 billion are difficult tasks and requires us to make tough decisions. There is no magic about these figures, but there is magic in the fact that bipartisan groups came together to advance significant and specific proposals to reduce spending and further address our deficit.

The benefits of these efforts are that we actually further reduce the deficit in this Congress and we have created the impetus for further proposals to cut wasteful spending. Our national debt is now more than $4 trillion and climbing. The bottom line is that we cannot continue to spend a $1.50 for every dollar we take in.

We have the responsibility tonight to continue to build on the effort made in the budget act passed in August.

I will be going home tomorrow to celebrate my daughter Abrianna's birthday on Wednesday. I feel an obligation to her, my son Peter Joseph, and all of the children of the First Congressional District to stop our outrageous fiscal policies of the past couple decades.

It is becoming increasingly obvious that the red ink that our fiscal policy has been producing jeopardizes the long term viability of some of our most important and worthy federal programs.

After our initial vote on burdensharing during the appropriations process, I went home during the district work period. The people of my district were dumbfounded at our vote. They could not understand, why, after forty years as the leading defender of democracy around the world, we could not ask our European allies to pay just a small part for the defense of Europe. I must admit that I was at a loss to explain to them how this could happen.

Tonight we have a chance with Frank-Shays amendment to correct this by voting for burdensharing as well as significant cuts in other programs like the space station. In earlier votes, the House has indicated strong support for all four measures in the Frank-Shays amendment. They deserve our support tonight.

Our work in Congress means that we must craft compromises and that means that as individuals we may not support every segment of a proposal. This is the case for me regarding the Penny-Kasich plan. There are a number of problems with this proposal that need further work. Just two examples of the problems it creates include health care reform and unfunded mandates.

As a member of the Unfunded Mandates Caucus, I am concerned about the unfunded Federal mandates that arise from the amendment. The home health care and lab tests provisions must be modified.

I want to work with the President and members of both parties to accomplish the goal of universal health care. The President has indicated that savings from Medicare need to be used for health care reform.

Indeed, I would support, as would many of the members from the task force, having the money saved through Medicare savings in the Penny-Kasich amendment to be applied toward health care reform in order to be able to pass a universal health care plan.

However, the most significant benefit of this amendment is that it reduces the caps to actually further reduce the deficit and that is critical and necessary.

This amendment, and the Frank-Shays amendment, accomplishes what the American people are demanding—reducing Federal Spending.

Our efforts have the backing of the Concord Coalition, the National Taxpayers Union, Citizens Against Government Waste and countless other organizations concerned about this country's Federal deficit.

I am supporting these proposals as the most significant measures before us today that directly reduce our Federal deficit.

Mr. MINETA. Mr. Chairman, I rise today in opposition to the Frank/Shays amendment to H.R. 3400.

Mr. Chairman, certainly we all agree that the budget deficit needs our attention—that is why I voted in favor of the $37.1 billion savings found in the Sabo amendment to H.R. 3400.

I cannot, however, support the Frank/Shays amendment. Mr. Chairman, it is a serious mistake to attempt to cut a marginal percentage of the deficit at the cost of canceling the future of our Nation's space program through the elimination of the space station. A first-rate American space program is not a luxury—it is a competitive necessity.

The path we as a nation desperately need to travel is clearly marked by the United States maintaining a leadership presence overseas, a nationwide sense of hope for the future, and the capacity of our industries to complete the prosper in the world's markets.

Last July, the House again voted to fund the space station. Since then, NASA has proposed a new and even better version, known as the alpha station, to take us down this path.

The alpha version of the space station is designed around extensive cooperation with the Russian space program as well as our more traditional partners: the Europeans, Canadians, and Japanese. Using Russian technology and experience to support our own will save us money, allow us to perform more and better science, and greatly reduce our risks.

The proposed alpha station is also an important step in the President's policy of reaching out to Russia. This version, should it meet with congressional approval, would mean a new era of cooperation between our two nations.

And Mr. Chairman, the station is really about hope over fear. It is about our Nation making goals and reaching them. It is about our children being excited to be American—and about maintaining our role as the worldwide pioneers of the Technology Revolution.

Yes, Mr. Chairman, we could support the Frank/Shays amendment, turn our gaze inward, save some money, and put space exploration on a back shelf. But that is not what we should do.

Instead, let us stake out our role as leaders, and learn not just from having a permanent space lab in terrestrial orbit, but also from the process of getting one there. And with that knowledge, our high-technology firms will lead the way in our Nation's economic recovery and teach us again to compete effectively in the world's markets. I have often pointed out that it was no accident that the most dramatic growth in our high-technology industries paralleled the years of NASA's greatest activity and accomplishment.

Mr. Chairman, several months ago, we voted to support a pared down, yet more efficient version of the space station. Today we have on the table an effort to kill an even better model, one that, if anything is more deserving of our support. We should not allow that to happen.

I urge my colleagues to oppose the Frank/Shays amendment.

Mr. DELAY. Mr. Chairman, I rise in strong opposition to this amendment. First, because it cuts funding for the space station, a project I believe in strongly and for which I have fought long and hard.

Funding for this program has been fully debated by the House under both the authorization and appropriations bill and the House has voted twice against amendments to eliminate funding for the space station.

This year the space station has been through a major redesign and we have entered into a joint venture with the Russians which serves also as a critical initiative to bring post cold war Russia into the mainstream of global society. Through the redesign and Russian cooperation, we have cut $4 billion in costs from the space station, station will be operable 2 years earlier than originally planned in 1997 and completed in 2001, it will have 25 percent more volume, 57 percent more power, a larger area for microgravity experiments and room for six astronauts—two more than before.

As we are here discussing the "Reinventing Government" package and the question of the efficiency of the Federal Government, I am the first one to argue that the private sector can do almost anything more efficiently than the Government and that it is the failure of Government that it takes control of those things which the private sector can do better.

When it comes to the space station, however, this is not the case. For those Members who believe that we should kill space station in favor of deficit reduction, I urge you to think again.

Compared to all the unnecessary activities undertaken by our Government, America's space program is one which is unquestionably legitimate. Space station will provide indisputable benefits now and in the future that will far outweigh the investment we've put in. And realizing these benefits through space research is exactly the type of activity that Americans expect their Government to undertake. When we look for places to cut Federal spending, we should go first to the excess of activities in which Government is involved but does not need to be. America's space program is one activity that absolutely requires Government involvement.

As if that weren't enough, this amendment also threatens our national security. The Appropriations Committee recently cut $1 billion from the requested $3.8 billion for the Ballistic Missile Defense Program. This program is already lean. This amendment would make further cuts rendering the program useless. In fact, Secretary Aspin has stated that the program requires $3.6 billion to be effective. This amendment essentially cuts this important defense system off at the knees and thus becomes a national security problem.

With regard to burdensharing, Congress has already agreed to reduce the number of troops in Europe to 100,000 by 1996. This amendment would accelerate this schedule by 1 year. I strongly believe that there should be some pacing with regard to downsizing. We have less than one-third the number of troops that we had just 2 years ago and this amendment—with its complicated percentage for troops formula would dangerously reduce those levels even further.

What about NATO? How in the world are we supposed to negotiate an alliance with some 16 foreign nations when we are withdrawing troops at an unprecedented rate? I believe this amendment would severely damage our negotiating position with NATO and thus reduce our Nation's security.

My colleagues, make no mistake, not one dime of savings from this amendment will go toward deficit reduction because it does not lower the discretionary caps. Characterizing this amendment as a deficit reduction proposal is a sham. The supporters of this amendment are already planning how to spend the money saved on nonproductive social programs.

A vote against this misguided amendment is a vote for a strong presence in space and a strong defense.

Mr. SANDERS. Mr. Chairman, I stand in strong support of the Frank-Shays deficit reduction amendment to the President's rescission package. This amendment includes all the provisions in the Sabo bill plus additional spending cuts that have garnered the support of over 200 Members of the House during the last several months.

Passage of this amendment will reduce spending by $51.5 billion over 5 years by cutting the Federal workforce while increasing its efficiency and effectiveness and reducing or canceling three of the lowest priority programs to which we are now committed.

The Frank-Shays amendment offers a rare opportunity to take another hard look at some of the most questionable spending programs in the budget.

This amendment would reduce U.S. military spending in Western Europe by $10 billion over 5 years and require our European allies to finally pay for a fair share of their defense. If the Europeans still need our soldiers on their soil, they ought to pay the room and board. A similar proposal attracted 210 votes on September 9.

This amendment would reduce spending for the Ballistic Missile Defense program—also known as the Strategic Defense Initiative—by $1.85 billion over the next 5 years. This idea got 202 votes in the House on September 8. This amendment would cancel the Space Station and re-allocate 25 percent of the funds to more sensible NASA projects, for a 5-year savings of $10.5 billion and further savings thereafter. NASA's pre-occupation with a manned space station has wasted money and crowded out less expensive, more useful projects. The Frank-Shays proposal would divert $2 billion of the savings to other NASA initiatives. The space station survived by a single vote in the House on June 23.

Mr. Chairman, last summer, this House enacted the largest deficit reduction package in history, cutting $496 billion from the Federal budget over 5 years. We need to continue that work. As our constituents face financial hardships, we must be certain that we are doing everything in our power to cut unnecessary government spending while meeting the needs of our citizens. I believe we should do this in an intentional, deliberate manner—cutting weapons systems and preserving children's programs, giving up on space stations and protecting social security.

I raise my voice in support of rational national priorities and in support of the Frank-Shays amendment. Mr. Chairman, let's take this opportunity to fix three huge deficit-building mistakes.

Mr. ANDREWS of Texas. Mr. Chairman, more than a quarter century ago, our Nation made a commitment to space. It was a commitment to not only explore the frontiers beyond our planet, but also the frontiers of science, engineering, and medicine. In all, this investment—averaging less than 1 percent of our entire Federal budget per year—has paid rich dividends to our knowledge and our lives. Today, the potential to reap even greater benefits is stronger than ever before.

For all that the space program has given us, we struggle over funding each year. Year in and year out, proposals to kill the space station are brought before Congress; and year in and year out these proposals are defeated because of commitment to a manned presence in space. Since 1985, there have been nine major votes on the space station. In 1993 alone, we have twice voted for the continuation of the space station program. Yet opponents continue to ignore the will of the House and attack this much maligned project.

I find it ironic that today, on the 30th anniversary of the tragic death of President Kennedy, we would turn our backs on his historic vision of conquering space. As the United States embarks on a new path of international collabbration on the space station with the Russians, we should further the efforts that President Kennedy first outlined at Rice University in 1963.

Over 30 years ago, President Kennedy proclaimed this Nation's goal of placing a man on the moon. Kennedy had said, "The exploration of space will go ahead, whether we join in it or not, and it is one of the great adventures of all time. No nation which expects to be the leader of other nations can expect to stay behind in this race for space. * * * We mean to be a part of it—We mean to lead it."

President Kennedy's words still ring true. The space program is no longer just a dream of an extraordinary President, but the life work for the talent here in this country.

The next chapter of our country's space program may very well be the most daring and exciting. In the weightlessness environment of space, our astronauts may find the answers to man's worst diseases. Our best scientists believe that we can build a better computer chip in space than can be built on Earth. NASA's work to improve heart transplantation, discovering new ways to halt the rising epidemic of skin cancer, and to improve prosthetic products for our disabled population is just the beginning. The fact is, we know only a small fraction of what this universe holds.

Inventions and discoveries that we cannot even imagine, we will consider as commonplace tomorrow. Let us not be the Congress that stops the progress of our country's space program. Let us not be the Congress that says to the world that America is no longer interested in leading the world in the grand adventure of space exploration.

The issue is a clear one: We either move ahead with the program and build a space station or move aside for forfeit our leadership.

Our trading partners understand the space station's potential and are waiting to follow our leadership. Without a strong commitment to the space station program, the Japanese, the Canadians, and the Europeans will turn elsewhere in this fierce competition for the future. With their ready assets and resources and with a changed world, I welcome the involvement of the Russians in building a space station. This new cooperation only underscores how different the playing field has become since President Kennedy spoke at Rice stadium.

Our generation has a responsibility and a great challenge. We can keep America No. 1 in space technology—we can continue to lead other nations—or we can step aside and follow.

Mr. Chairman, I urge my colleagues to reject the Frank amendment.

Mr. FAZIO. Mr. Chairman, I regret that I must rise in opposition to the gentleman's amendment.

The amendment seems to attempt to rescind the funding in the fiscal year 1994 appropriation for the Advanced Liquid Metal Reactor/Integral Fast Reactor Program. The appropriation for this program is $45.3 million. The amendment would reduce the fiscal year 1994 funding by $141.9 million. The effect of this would be to reduce other programs in this appropriation by an additional $96.6 million. This would be applied by the administration to this account which includes solar and renewables, basic energy sciences and environmental research and cleanup.

The authors apparently intend to only reduce the Advanced Liquid Metal Reactor Program, but even if this difference is resolved in the conference on the bill, the funds would have to be held back from these programs for many months until the conference is completed.

I must regrettably urge the defeat of this amendment.

Ms. HARMAN. Mr. Chairman, I rise in opposition to the Frank-Shays amendment. While I support its goals, I object to the route it takes to achieve them.

I supported the Penny-Kasich amendment because it takes a scalpel to the budget and distributes the pain in a fair manner. Unfortunately, the Frank-Shays amendment takes a meat axe to many of our Nation's most important scientific and military R&D programs, and that is not fair.

The Frank-Shays amendment would cancel the space station, which I supported this year after much research and thought. I have been quite clear in my criticisms of NASA, but the Clinton administration deserves a chance to reinvent the agency and the country will benefit from the science and jobs the station generates. The proposed United States-Russian partnership to build the station is a bold proposal that could have great payoffs for both countries, and I urge my colleagues not to kill the program at this crucial moment.

I also oppose the Frank-Shays amendment's cuts to ballistic missile defense. BMD was one of the hardest-fought issues in the Armed Services Committee this year. Many Members are not happy with the fiscal year 1994 spending level that Congress approved last week: Some would like to see it lower, others higher. The Defense Department is still sorting out its BMD priorities, but it has already made major changes and reoriented the program to meet real post-cold war threats. Efforts to cut BMD funding further were defeated on this floor this fall, and we should do the same with this amendment.

Let me note, however, that I support some of the Frank-Shays provisions. I have supported every effort this year to terminate the advanced liquid metal reactor, which would also be ended under the administration bill and the Sabo substitute. And I supported amendments to the Defense authorization bill that would have increased allied burdensharing, although at a more moderate pace than this provision. I commend Congressmen FRANK and SHAYS for offering this amendment and helping underline the message that the future is now for deficit reduction.

Mr. WHEAT. Mr. Chairman, I rise to add my strong support to the Frank-Shays amendment and to urge my colleagues to vote for this responsible effort to significantly cut Federal spending.

I commend Mr. FRANK and Mr. SHAYS for their leadership, and I'm proud to be involved in efforts to move this legislation forward.

Mr. Chairman, our constituents are demanding that we end wasteful and unnecessary spending.

They are demanding that we reinvent our spending priorities as we reinvent government.

The Frank-Shays amendment answers that call.

Each of the provisions contained in this amendment have been considered by the House in the recent past.

Each has been reviewed by relevant committees and subcommittees. Each has been debated. Each has been voted on. Everything here has appropriately gone through the normal legislative process.

Some of the provisions have been approved by this body, none has received less than 200 votes.

Mr. Chairman, there is nothing new here. Except that today, we are asking the House to consider these reforms together—at one time and in one package—with the goal of substantially reducing our national deficit.

The Frank-Shays amendment takes a responsible approach toward real deficit reduction—without undermining the promise of national health care reform, without imposing billions of dollars in unfunded mandates to States, without cutting back on vital health care research, without denying critically needed assistance to the young and the elderly.

The Frank-Shays amendment acknowledges that in this post-cold war era, we must take serious steps toward burden-sharing.

This amendment sends a clear and overdue message to our wealthy Western European allies: The American people are fed up with picking up your tab.

Our wealthy allies simply must begin to pay their fair share of U.S. defense costs abroad.

This amendment goes beyond the rhetoric and ends the free ride for our friends who can well afford to pay their own way.

The amendment also recognizes that we must stop spending billions of dollars for big-ticket items like the space station which we either do not need or cannot afford.

Mr. Chairman, together with the cuts already proposed, the Frank-Shays amendment will reduce spending by over $51 billion in the next 4 years.

It does so without any budgetary grandstanding, and without stealing from the account that we have set aside for national health care reform.

The Frank-Shays amendment is a responsible continuation of our earlier efforts to achieve true deficit reduction, and I urge my colleagues to support this important amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COX. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 248, not voting 6, as follows:

[Roll No. 610]

AYES—184

Abercrombie
Ackerman
Allard
Andrews (ME)
Baesler
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Bereuter
Bilbray
Bishop
Blute
Borski
Brewster
Brown (OH)
Bryant
Byrne
Camp
Cantwell
Cardin
Clayton
Clement
Clyburn
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Danner
de Lugo (VI)
Deal
DeFazio
Dellums
Deutsch
Dooley
Duncan
Durbin
English (AZ)
English (OK)
Evans
Faleomavaega (AS)
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Furse
Gekas
Gilchrest
Goodlatte
Goodling
Gordon
Grandy
Gunderson
Gutierrez
Hamburg
Hefner
Hinchey
Hoagland
Hoekstra
Holden
Hughes
Inslee
Istook
Jacobs
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kildee
Kingston
Kleczka
Klein
Klink
Klug
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Margolies-Mezvinsky
Markey
McCloskey
McDermott
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Murphy
Nadler
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Price (NC)
Ramstad
Rangel
Reed
Reynolds
Roemer
Rostenkowski
Roth
Roukema
Rowland
Rush
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Snowe
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Synar
Thomas (WY)
Thompson
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Walsh
Washington
Watt
Waxman
Wheat
Williams
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—248

Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Berman
Bevill
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonilla
Bonior
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Carr
Castle
Chapman
Clay
Coleman
Collins (GA)
Combest
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Darden
de la Garza
DeLauro
DeLay
Derrick
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Dunn
Edwards (CA)
Edwards (TX)
Emerson
Engel
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Fowler
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goss
Grams
Green
Greenwood
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Herger
Hilliard
Hobson
Hochbrueckner
Hoke
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kasich
Kennelly
Kim
King
Knollenberg
Kolbe
Kopetski
Kyl
Lancaster
Laughlin
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manton
Manzullo
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meek
Meyers
Mica
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Natcher
Neal (MA)
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Peterson (FL)
Pickett
Pickle
Pombo
Pryce (OH)
Quillen
Quinn
Rahall
Ravenel
Regula
Richardson
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roybal-Allard
Royce
Sabo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Scott
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stokes

Stump
Sundquist
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Tucker
Underwood (GU)
Volkmer
Vucanovich
Walker
Waters
Weldon
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—6

Clinger
Ford (TN)
Hall (OH)
Michel
Romero-Barcelo (PR)
Smith (OR)

□ 2246

Mr. FIELDS of Louisiana, Ms. WATERS, and Mr. HOBSON changed their vote from "aye" to "no."

Mr. ALLARD changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3400) to provide a more effective, efficient, and responsive government, pursuant to House Resolution 320, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment?

Mr. WALKER. Mr. Speaker, I demand a vote on the so-called Sabo amendment.

(For the text of the so-called Sabo amendment (amendment in the nature of a substitute offered by Mr. SABO) see prior proceedings of the Committee of the Whole of today.)

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 277, noes 153, not voting 3, as follows:

[Roll No. 611]

AYES—277

Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodlatte
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Huffington
Hughes
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—153

Abercrombie
Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bateman
Bentley
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Mink
Molinari
Moorhead
Myers
Nussle
Owens
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Waters
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Clinger
Hall (OH)
Smith (OR)

□ 2303

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HOYER). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 429, noes 1, not voting 4, as follows:

[Roll No. 612]

AYES—429

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton

Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—1

Traficant

NOT VOTING—4

Clinger
Hall (OH)
Smith (OR)
Williams

☐ 2320

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SABO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material for the CONGRESSIONAL RECORD on the bill, H.R. 3400, which was just passed, and that I may have permission to insert tabular material in the RECORD relating to the bill.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS SPONSOR OF H.R. 3457

Mr. HANCOCK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3457.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I regret that my being involved in a conference on narcotics with the Attorney General prevented me from voting on rollcall No. 601, approving the Journal. Had I been present to vote, I would have voted "aye."

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 322. An act to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes;

H.R. 1727. An act to establish a program of grants to States for arson research, prevention, and control, and for other purposes;

H.R. 2150. An act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes;

H.R. 2876. An act to promote and support management reorganization of the National Aeronautics and Space Administration; and

H.R. 3000. An act for reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other new independent states of the former Soviet Union.

The message also announced, That the Senate agrees to the amendments of the House to the bill (S. 422) entitled "An act to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the government securities market, in order to protect investors and facilitate government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of government securities", with an amendment.

The message also announced, That the Senate insists upon its amendment to the bill (H.R. 322) "An act to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes" and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, Mr. AKAKA, Mr. BRADLEY, Mr. WALLOP, Mr. MURKOWSKI, and Mr. CRAIG, to be the conferees on the part of the Senate.

The message also announced that the Secretary of the Senate be directed to request the House to return to the Senate the bill (S. 1732) entitled "An Act to extend arbitration under provisions of chapter 44 of title 28, United States Code, and for other purposes."

The message also announced that Mr. STEVENS and Mr. KEMPTHORNE, be appointed conferees, on the part of the Senate, on the bill (H.R. 1025) "An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearms.", in lieu of Mr. HATCH and Mr. CRAIG.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 664. An act making a technical amendment of the Clayton Act;

S. 1769. An act to make a technical amendment, and for other purposes;

S. 1774. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes;

S. 1777. An act to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes; and

S. Con. Res. 56. Concurrent resolution to authorize corrections in the enrollment of S. 1766.

MAKING IN ORDER ON TODAY CONSIDERATION OF CONFERENCE REPORT ON S. 714, RESOLUTION TRUST CORPORATION COMPLETION ACT

Mr. NEAL of North Carolina. Mr. Speaker, I ask unanimous consent that it be in order on today to consider the conference report on the Senate bill (S. 714) to provide for the remaining funds needed to assure that the United States fulfills its obligation for the protection of depositors at savings and loan institutions, to improve the management of the Resolution Trust Corporation [RTC] in order to assure the taxpayers the fairest and most efficient disposition of savings and loan assets, to provide for a comprehensive transition plan to assure an orderly transfer of RTC resources to the Federal Deposit Insurance Corporation, to abolish the RTC, and for other purposes; and that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MAKING IN ORDER ON TODAY CONSIDERATION OF CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report on the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes and I ask that it be considered as read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, reserving the right to object, is this the unemployment compensation bill?

Mr. ROSTENKOWSKI. If the gentleman would yield, yes, it is, Mr. Speaker.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 1025, BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm:

CONFERENCE REPORT (H. Rept. 103–412)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1025), to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I—BRADY HANDGUN CONTROL

SEC. 101. SHORT TITLE.

This title may be cited as the "Brady Handgun Violence Prevention Act".

SEC. 102. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess or acquire a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.".

(2) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1), is amended by adding at the end the following:

"(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

"(B)(i) the system provides the licensee with a unique identification number; or

"(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

"(2) If receipt of a firearm would not violate section 922 (g) or (n) or State law, the system shall—

"(A) assign a unique identification number to the transfer;

"(B) provide the licensee with the number; and

"(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

"(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess or acquire a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

"(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 103. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) ESTABLISHMENT OF SYSTEM.—Not later than 60 months after the date of the enactment of this Act, the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition

to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(e) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms "firearm", "handgun", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, which may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, such sums as are necessary to enable the Attorney General to carry out this section.

SEC. 104. REMEDY FOR ERRONEOUS DENIAL OF FIREARM.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 925 the following new section:

"§925A. Remedy for erroneous denial of firearm

"Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

"(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

"(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925 the following new item:

"925A. Remedy for erroneous denial of firearm.".

SEC. 105. RULE OF CONSTRUCTION.

This Act and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.

SEC. 106. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section 103 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act.".

(b) ADDITIONAL FUNDING.—

(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1), which may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, a total of $200,000,000 for fiscal year 1994 and all fiscal years thereafter.

TITLE II—MULTIPLE FIREARM PURCHASES TO STATE AND LOCAL POLICE

SEC. 201. REPORTING REQUIREMENT.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) in the second sentence by inserting after "thereon," the following: ", and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place,";

(2) by inserting "(A)" after "(3)"; and

(3) by adding at the end thereof the following:

"(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.".

TITLE III—FEDERAL FIREARMS LICENSE REFORM

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Firearms License Reform Act of 1993".

SEC. 302. PREVENTION OF THEFT OF FIREARMS.

(a) COMMON CARRIERS.—Section 922(e) of title 18, United States Code, is amended by adding at the end the following: "No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.".

(b) RECEIPT REQUIREMENT.—Section 922(f) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.".

(c) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, as amended by section 102, is amended by adding at the end the following new subsection:

"(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.".

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person who knowingly violates section 922(u) shall be fined not more than $10,000, imprisoned not more than 10 years, or both.

"(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.".

SEC. 303. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by adding "or" at the end;

(2) in subparagraph (B) by striking "a pawnbroker dealing in firearms other than" and inserting "not a dealer in";

(3) in subparagraph (B) by striking "$25 per year; or" and inserting "$200 for 3 years, except that the fee for renewal of a valid license shall be $90 for 3 years."; and

(4) by striking subparagraph (C).

And the Senate agree to the same.

JACK BROOKS,
BILL HUGHES,
CHARLES SCHUMER,
F. JAMES SENSENBRENNER, Jr.,
GEORGE W. GEKAS,
Managers on the Part of the House.
JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1025), to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

Section 103(b) of the Senate amendment provided for certain standards to be utilized by the Attorney General in determining whether a national background check system was established within 24 months. The House had no such provision, and the managers agreed that the Senate recede.

Section 302(c) of the Senate amendment provided authorization for a licensee to transfer or deliver firearms from another licensee at any location without regard to the State which is specified on the license. The House had no such provision, and the managers agreed that the Senate recede.

Section 302(e)(b) of the Senate amendment provided mandatory imprisonment for thirty years, no part of which may be suspended, for any person who stole a gun during a robbery or riot. The House had no such provision, and the managers agreed that the Senate recede.

Section 304 of the Senate amendment changed the definition of antique firearms to include any firearm manufactured in or before 1918. The House had no such provision, and the managers agreed that the Senate recede.

Section 305 of the Senate amendment specified, among other things, that any rule or regulation of the Bureau of Alcohol, Tobacco, and Firearms would not be effective until 30 days after a copy was provided to all licensees. The House had no such provision, and the managers agreed that the Senate recede.

Section 401 of the Senate amendment provided for notification to the Department of Justice by the States of any person adjudicated as a mental defective or committed to a mental institution. The House had no such provision, and the managers agreed that the Senate recede.

Section 2(a) of the House bill contained a five year sunset of the waiting period. The Senate amendment provided for a four-year sunset with a possible extension of one-year by the Attorney General. The managers agreed that the Senate recede to section 2(a) of the House bill, with conforming amendments.

The managers further agreed to add in sections 106(b)(2) and 301(l) of the Senate amendment the words "which may be appropriated" before the word "from".

JACK BROOKS,
BILL HUGHES,
CHARLES SCHUMER,
F. JAMES SENSENBRENNER, Jr.,
GEORGE W. GEKAS,
Managers on the Part of the House.
JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 1025, BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm, that all points of order against its consideration be waived; and that the conference report be considered as read when called up for consideration.

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but I just want it understood that there will be a recorded vote on the conference report itself.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, the conference report may be subject to a vote.

Mr. SOLOMON. Mr. Speaker, we have just saved the House 3 hours with these three unanimous-consent requests.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 714, RESOLUTION TRUST CORPORATION COMPLETION ACT

Mr. NEAL of North Carolina. Mr. Speaker, I call up the conference report on the Senate bill (S. 714) to provide for the remaining funds needed to assure that the United States fulfills its obligation for the protection of depositors at savings and loan institutions, to improve the management of the Resolution Trust Corporation [RTU] in order to assure the taxpayers the fairest and most efficient disposition of savings and loan assets, to provide for a comprehensive transition plan to assure an orderly transfer of RTC resources to the Federal Deposit Insurance Corporation, to abolish the RTC, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, November 19, 1993 at page 30422.)

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. NEAL] will be recognized for 30 minutes, and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. NEAL].

GENERAL LEAVE

Mr. NEAL of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. NEAL of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ], the distinguished committee chairman.

Mr. GONZALEZ. I thank the gentleman for yielding this time to me.

Mr. Speaker, after many months of diligent work, Congress has finally come to the end of the savings and loan cleanup—one of the most difficult, but important obligations this body has undertaken.

On September 14, the House passed H.R. 1340, a bill that would reform the Resolution Trust Corporation, and provide funds to protect depositors in hundreds of dead and dying S&L's. Today's conference report closely mirrors that bill. In fact, every major House provision remains, intact, in this report.

The conference report on S. 714 would enable the RTC to close the large number of institutions that are losing millions of taxpayer dollars every day. It would ensure that local investors get to bid on RTC's assets, and that minority and women-owned businesses have an equal opportunity to receive contracts. It would guarantee that the Clinton administration follows through on critical management and fiscal reforms. These improvements, such as appointing a RTC Chief Financial Officer, are long overdue and sorely needed.

The conference report does not contain a House provision giving homeless families preference in buying RTC affordable housing properties because the conferees believed that existing law adequately covers this situation. The RTC's Affordable Housing Program has been one of the few bright lights in the darkness of the savings and loan situation. I encourage the Corporation to continue striving to assist low-income and very low-income families, including the homeless.

But the best part of S. 714 is that all of these positive changes do not require any additional appropriations. The bill simply makes the remainder of $25 billion that was appropriated in 1991 available to the RTC. This amount should be sufficient to complete the RTC's work, making further congressional action unnecessary.

All of our constituents expect the full faith and credit of the United States to stand behind their deposits. Today we must live up to that expectation. We must keep our obligation to depositors and constituents by voting for this conference report.

I want to thank Congressman LEACH for his hard work and support, and Chairman STEVE NEAL, whose energetic, consistent leadership on the Financial Institutions Subcommittee helped usher this legislation through the Congress. This is a good bill. It is the last RTC bill. It will close the book on this sorry episode of our financial history. And it deserves your vote.

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany S. 714, the Resolution Trust Corporation Completion Act.

If this Congress adopts the report to provide the RTC with additional funds, it should be the last vote that any of us will ever have to make for RTC funding.

These funds are needed. They are not used to bail out shareholders, officers, or directors of failed savings and loans. Simply, they are paid to insured depositors who have relied on the U.S. deposit guarantee. We must honor that promise.

During the 4 years the RTC has been in operation, it has protected over 22 million depositors and $198 billion of insured deposits in 675 failed savings and loans. About 1 American of every 11 has had his or her deposits protected by the RTC.

According to the General Accounting Office audit of the RTC's financial statements, there could still be as many as 170 more institutions whose depositors the RTC must protect. It is our responsibility to honor our pledge to protect those depositors.

Let me emphasize that the legislation neither authorizes nor appropriates additional funds for the RTC. It simply removes the statutory April 1, 1992, limitation on the expenditure of funds which had been appropriated in 1991.

Some people have suggested that the RTC does not need any more money to finish the job. That is simply not true. The GAO says so, the CBO says so, the administration says so, and the facts say so. On Friday, the Comptroller General wrote to the Congress "that RTC needs additional funding to complete its task of resolving troubled thrifts."

Others claim that the legislation authorizes too much money. Again, listen to the Comptroller General's latest letter. In his Friday letter he stated "that the funding by the current proposed legislation of $18.3 billion is reasonable." He concluded that "[d]elaying legislative action could add to the cost."

In short, GAO says that the RTC needs funding, and that the funding level in this legislation is reasonable.

Others have argued that the RTC should simply sell more assets to pay off depositors. The only reason the RTC has these assets is because the savings and loans which failed did not have enough assets to sell to pay off their depositors. Yes, the RTC has billions of dollars in assets, but it owes depositors even more. It needs this legislation to make up the difference.

Moreover, RTC funding is not optional. A recent Congressional Research Service memorandum states that, "without additional appropriations to the RTC or its successors, there would eventually be a default under the deposit insurance guarantees somewhere in the deposit insurance system" and "there can be no doubt that a default would precipitate runs."

In short, unless we fund the RTC, we risk a collapse of our banking system.

I am sure that every Member has heard at least one story about RTC mismanagement—about inability to get information, real estate fire sales, and excessive photocopying costs. The conference report also maintains the strict management reforms of the House bill which should stop these shoddy practices, while adding additional provisions to improve the operation of the RTC.

There is no question that the management of the RTC needs to be improved. If you want RTC reform, then you should support the conference report. The legislation provides significant improvements in the RTC's operating procedures. Receipt of additional funds by the RTC is conditioned on the implementation of the legislation's required management reforms.

Importantly, the legislation terminates the RTC a full year earlier than originally scheduled, so it will end on December 31, 1995.

Beginning in 1995, the cost of resolving failed savings and loans will be transferred to the Savings Association Insurance Fund, or SAIF. The Senate agreed to the House's reduction in the existing $32 billion authorization for the SAIF by 75 percent, to $8 billion. And the Senate agreed to drop its $8.5 billion appropriation for SAIF. As a result, the bill does not appropriate a single cent to SAIF, and it is very likely that no money for SAIF will ever be needed.

If there is a need for SAIF funding, the funds may be used only to pay depositors, not to build up the fund. The legislation also requires the FDIC to certify to Congress that all possible funds have been taken from the savings and loan industry before any funds are appropriated to the SAIF for losses.

Finally, any appropriated funds for the RTC or the SAIF that are not needed must be returned to the Treasury.

RTC legislation has never been a popular subject in this House. It has been hard for Democrats and it has been hard for Republicans. But now we have come to the end of the process. Finally, it appears that this will be the last legislation needed to complete the resolution of the S&L debacle; the last vote on the RTC.

On Friday, the Senate approved this conference report. A "yes" vote today is the final vote on RTC funding. Sooner or later, this House is going to have to vote to fund the RTC. Let's make today the day we bring down the curtain on the savings and loan crisis.

Mr. Speaker, I urge this House to honor the U.S. deposit insurance commitment, and adopt the conference report.

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH], the distinguished ranking member of the full Committee on Banking, Finance and Urban Affairs.

Mr. LEACH. I would only say very briefly that the RTC and its problem is a dark cloud hanging over this Congress. With this vote there is some decent prospect that we will never ever again have to deal with this issue.

I urge that it be adopted.

Mr. Speaker, the RTC and the problem it symbolizes are a dark cloud hanging over Congress. But there is, in this vote, three slivers of silver in the lining: First, the low-inflation macroeconomic environment has cut the taxpayer liability that existed 4 or 5 years ago from $200 to $250 billion to $110 to $120 billion; such is the case because the fixed interest assets taken over by the RTC have increased in value and because institutions on the cusp of difficulties have accordingly recovered; second, unless calamity strikes the economy, this vote should be the last Congress will have to make; third, unless mistakes are made in new product offerings like derivatives, the United States in short order should have the strongest financial system in the world.

With regard to the authorization, it must be stressed that funds granted by this bill can only be used to protect depositors. The bill does not mandate any spending. Indeed, it requires the RTC to return any excess funds to the Treasury.

As we look at the past two decades experience with S&Ls it is interesting—although expensively so—how changes in interest rates affect not only the economy, but costs of deposit insurance liabilities to the Government. In an escalating interest rate environment, delay in dealing with the S&L problem in the late 1970's and early 1980's cost the Government dearly. Ironically, in a declining interest rate environment, delay in resolving certain thrift problems in the late 1980's and early 1990's saved the Government money—in total about one-half of what would otherwise have been the cost of the S&L cleanup. Today, it would appear interest rates are stabilizing and Treasury estimates delay in congressional decisionmaking has cost the taxpayer between $1 and $2 billion. If a Member is confident interest rates will continue to ratchet down, a credible case can be made for more delay. My personal sense is that such is an imprudent risk. Stability in rates or a higher interest rate environment would prove costly to the taxpayer, making the better bet or at least most prudent policies being that of dealing with reality as it exists rather than as one might wish it to be.

Mr. Speaker, Congress is disproportionately responsible for causing this liability to the tax payer. It is therefore disproportionately responsible for resolving it. Accordingly, I urge support of this conference report. Congress has no choice but to honor its commitment to small depositors, over 22 million of whom have so far been protected.

To ensure that the funds authorized for the RTC and the SAIF are used to protect only depositors, I would like to point out that the conference committee agreed to a House amendment I authored which prohibits RTC funds and FDIC funds to be used in any manner to benefit shareholders of failed or failing depository institutions. Under my amendment, the FDIC, in administering both the Bank Insurance Fund and Savings Association Insurance Fund, and the RTC are prohibited from providing open bank or thrift assistance, facilitating in an early resolution assisted merger or participating in any other assisted transaction, unless existing shareholders of a failed or failing depository institution are wiped out. Except for instances of systemic risk, my amendment overrides all other statutory mandates imposed on the FDIC and RTC in its resolution of a depository institution, including the least cost resolution requirement imposed under section 13(c)(4) of the Federal Deposit Insurance Act.

The need for RTC legislation is unfortunate, but the passage of this conference report should be the last payment for the sins of Congresses past. The financial conditions of the banking and thrift industries are improving. Once the S&L cloud is removed from the financial horizon, the country will have the strongest financial system in the world. Failure to remove the cloud and provide adequate funds for the RTC could not only increase thrift bail-out costs but conceivably prove so jolting to public confidence as to produce runs on financial institutions.

Mr. Speaker, for the sake of economic stability and the integrity of this body, I urge my colleagues to honor this body's commitment to the deposit insurance system and vote for the RTC conference report.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume. I would like to make a couple of very brief comments about this. Now, the Members may not want to hear it, but I want to say it.

The fact is we still have a problem with this money that we have got out here on the table in this bill. The fact is some of us are very much opposed to giving the RTC another penny. They do not need it, and there is $18 billion in here. The report that we have, the latest revised estimate is that at the most even by their own figures they are going to need $4.4 billion. They have $6.8 billion in loss funds right now.

In the estimates we have seen, looking at the overall picture for this matter, there is absolutely no sense in putting 18 billion—and that is with a "b" as in "boy"—dollars out for the Resolution Trust Corporation.

They have borrowing authority if they need it, if they need to use it. Frankly, they do not need to use it. They have the money. We do not have to put out 1 penny here tonight, but certainly not $18 billion when $4.5 billion, by their own estimate, would do the job.

In addition to that, we still have a problem relative to the fact that we have minority provisions in this bill that I do not think were improved in the conference report to the satisfaction of most Members. There is no reason to have the quota-type system set up in this bill for doing the work of the Resolution Trust Corporation.

I know the Members want to rush through the night, they want to go home, they are not happy with the fact that they may have to vote again somebody with any prospect of RTC; but I would submit to you that your constituents are not going to appreciate reviewing someday the fact that we put this kind of money out there when it was absolutely unnecessary. If this were a couple of hundred million dollars, that is still big money to our folks, but we are dealing with billions of dollars here. We are dealing with at least $12 to $14 billion more than they say they need, even though the official request is for the full amount.

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But that is by a memo that the GAO has sent over here very recently, dated the 19th day of November.

So I cannot see why we are doing this tonight. I want to go on record very much so against this. The RTC can borrow against at least $38 billion in assets if they need to.

Mr. NEAL of North Carolina. Mr. Chairman, I yield such time to the distinguished gentleman from Maryland [Mr. MFUME] for a colloquy.

Mr. MFUME. Mr. Speaker, this will be a rather brief colloquy.

Would the gentleman from North Carolina enter into a colloquy with me?

Mr. NEAL of North Carolina. Mr. Speaker, if the gentleman will yield, I would be happy to.

Mr. MFUME. Am I correct that section 3(a)(18) of this bill is designed to increase the opportunities that minorities and women have to participate in contracts in excess of $500,000?

Mr. NEAL of North Carolina. The gentleman is correct.

Mr. MFUME. Am I correct that the provision would require the use of a minority or women subcontractors except where the RTC chooses to exclude a contract because imposition of the subcontracting requirement would substantially increase the cost of contract performance or would undermine the ability of the contractor to perform its obligation under the contract?

Mr. NEAL of North Carolina. Again, the gentleman is correct.

Mr. MFUME. It is my understanding that in order to redress disparities in the participation levels of the different subgroups of the class of MWOB's and MWOLF's in RTC contracting activities, the bill requires the RTC to establish guidelines for achieving the goal of a reasonably even distribution of contracts among minority subgroups comprising 5 percent or more of all certified MWOB's and MWOLF's. The 5 percent threshold is meant to provide the RTC with a mechanism for reasonable administration of goals and is not meant to exclude any eligible MWOB's and MWOLF's from the benefits of section 1216(c) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, or of section 21A(r)(1) of the Federal Home Loan Bank Act.

Is my understanding correct?

Mr. NEAL of North Carolina. The gentleman is correct.

Mr. MFUME. The joint explanatory statement accompanying the conference report on the Resolution Trust Corporation Funding Act of 1991, indicated that "the RTC has not included racial and ethnic groups in the business activities of the Corporation in a significant way, to the detriment of the national interest." Although the RTC has established guidelines, the RTC in practice has not achieved Congress' objectives among all minority subgroups. Do the conferees believe that a mechanism that is designed to achieve equitable consideration of all eligible groups of MWOB's and MWOLF's is appropriate?

Mr. NEAL of North Carolina. Again, the gentleman from Maryland is correct.

Mr. MFUME. Mr. Speaker, I rise in support of the conference report on S. 714. Since the RTC's inception in August 1989, I have worked specifically on those elements of the RTC's operations regarding their minority-and women-owned business outreach program, which was mandated by Section 1216 of the Financial institutions Reform, Recovery and Enforcement Act [FIRREA].

Meaningful and full inclusion of minority subgroups in opportunities arising from the work of RTC has been something we have worked diligently toward for some time now. It has been noted by previous RTC conference committees that the RTC has not included racial and ethnic groups in the contracting activities of the Corporation in a significant, way, to the detriment of the national interest. The compelling national interest presented by this issue is that of economic development and how increasing the access of minority group members to the factors of production will generate business activity and contribute to that development.

Almost 2 years passed after FIRREA's enactment before the RTC even began developing regulations for minority and women outreach program. While there has been progress, much of that progress has been driven by the work of the members of the committee who have given direction to the program through legislative language after having been patient for more than 2 years.

The legislation before us today contains improvements to the RTC's outreach efforts and is designed to increase economic opportunity for minorities and minority-and women-owned businesses. While the language that was agreed upon during House Committee consideration did contain some stronger provisions than what is before us today, we have reached a workable compromise that I encourage my colleagues to support.

Mr. Speaker, with regard to the parity guidelines called for in the bill, this language is a result of the noted disparities between the participation levels of non-minority men and women and ethnic minorities in RTC contracting activities. The bill requires RTC to establish guidelines for achieving the goal of reasonably even distribution of contracts among minority subgroups comprising five percent or more of all certified minority-and women-owned businesses and minority- and women-owned law firms. The 4 percent threshold is meant to provide the RTC with a mechanism for reasonable administration of goals and is not meant to exclude any eligible group. In fact, the language specifies that any movement toward parity should not be accomplished at the expense of any subgroup falling below the 5 percent threshold. Furthermore, the guidelines may reflect the regional and local geographic distribution of American minority populations. For example, Hispanic-owned businesses tend to be concentrated in the Southwest, in California, and in Florida—parts of the country with relatively large Hispanic-American populations. California has the largest number of businesses owned by Asian-Americans and Pacific Islanders and Alaska has the largest number of businesses owned by Native-Americans. Guidelines geared toward regional and local geographic distribution would ensure that party guidelines are not implemented in a fashion detrimental to some minority sub-groups.

Additionally, the language before us today contains important elements designed to preserve minority-owned depository institutions. This policy will further support the goal of providing greater economic opportunities for minority-owned businesses and for the residents of predominantly minority neighborhoods and will promote diversity in the financial services industry.

Only one percent of the financial institutions in the United States are owned by minorities. Financial institutions are essential to the economic well-being of the country and of the communities they serve. There is evidence that minority-owned financial institutions can serve as valuable resources in furthering the economic viability of minority communities. There is also evidence that the residents of minority neighborhoods often do not have access to banking services commonly available in other localities. Preserving and increasing the number of minority-owned financial institutions may ease some entrepreneurship obstacles and help allay the bias in mortgage lending.

Section 308 of FIRREA called for methods to preserve minority-owned depository institutions. Further, section 403 of the RTC Refinancing, Restructuring and Improvement Act provided for assistance to minority investors and institutions in acquiring non-minority institutions; following guidelines already established in the Strategic Plan of the RTC Oversight Board. The language before us today further encourages and supports minority ownership of financial institutions and minority acquisition of institutions and branches in minority neighborhoods.

Finally, Mr. Speaker, the subcontracting requirements are based on the same policies that have long served as the basis for Congressional action to increase economic opportunity for minorities and minority-owned businesses. The long-standing policy of using the subcontracting arena is reflected in many areas including section 8(a) of the Small Business Act, the Airport and Airway Development Act of 1970, the Public Works Employment Act of 1977, the Surface Transportation Assistance Act of 1982, and other legislation. The RTC is left with the discretion to decide which of its contracts involve activities that could be appropriately subcontracted.

Mr. Speaker, these are good provisions that represent the culmination of years of work toward meaningful inclusion of minorities in the opportunities arising out of the savings and loan debacle. I encourage full support of the conference report as presented.

Mr. Speaker, important governmental objectives were established by section 1216 of FIRREA. Section 1216 grew out of findings that discrimination and the present effects of past discrimination have adversely affected the economic development of certain racial and ethnic groups. All citizens have a right to pursue commercial endeavors unencumbered by invidious discrimination or the present effects of past discrimination. The Federal Government's interest is to ensure that public funds are not used to finance the preservation of discriminatory practices and, to achieve this objective, it is appropriate for the government to utilize all authorities at its disposal. Thus section 1216 called for a minority outreach program to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts entered into by the RTC and other financial regulatory agencies.

The opportunity for disadvantaged individuals to fully participate in the free enterprise system of the United States is essential to obtain social and economic equality for such persons and to improve the functioning of the national economy. Discrimination has adversely affected the rate at which members of certain racial and ethnic groups have accumulated the factors of production (including land, labor, capital, management, and technological resources) needed to establish and develop business concerns. Discrimination against individual members of racial and ethnic groups is evidenced by, among other things, such individuals' lack of access to the factors of production; representation in social, trade, and professional organizations and associations; business experience; equitable participation in markets supported with public contract; and access to bonding and insurance needed to penetrate certain markets. The underrepresentation of minority individuals in most industries is primarily due to discrimination and, were it not for discrimination, minority individuals would be represented in most industries in approximate proportion to the representative number in the general population.

To achieve social and economic equality and improve the functioning of the national economy, it is essential that substantial and sustained efforts be undertaken at all levels of government to assist disadvantaged individuals in their entrepreneurial endeavors. The minority business provisions in S. 714 are designed to move toward that end.

It can not be understated that programs like the minority outreach program serve important governmental objectives. The United States Commission on Minority Business Development reported that we are dealing with historically underutilized businesses in America, and it is a squander of talent and energy that we can ill afford. In most urban and many rural areas of the country, small and minority owned firms are the prime employers of other minorities living within those communities. The Commission said, therefore, the lack of viable businesses owned and operated by minorities is increasing unemployment, overloading welfare and contributing to more crime. If minorities owned businesses at the same rate as non-minorities and had average gross receipts on a path with all domestic firms, minority business establishments would be contributing billions more per year to the total economy. That would create more jobs, enhance tax revenues, decrease government subsistence payments, and contribute to an improved quality of life and standard of living for all Americans.

The Commission noted that minority business development efforts are not social programs; they are investments in America's economic system and in its future. Even if we place considerations of equity and historic discrimination aside, it makes absolutely no economic sense to squander more than 20 percent of the nation's most precious resources—human talent—and foster, in effect, practices that primarily force minorities to be consumers rather than producers of wealth. Investing in human capital now places us in a position of reaping the benefits of economic progress in the future.

The House Banking Committee presented a report entitled "Problems With Equal Employment Opportunity and Minority and Women Contracting at the Federal Banking Agencies," in June of 1992. It reported that three years after passage of FIRREA, the agencies affected still had not developed information systems that provide detailed statistics regarding both equal employment opportunity and contracting outreach and awards. It was noted two years after enactment that the law intended to encourage the involvement of minority-owned concerns in managing assets seized from savings and loans appeared to be having little effect. Internal documents at that time showed that Federal contracts to manage everything from multi-million dollar loan portfolios to small apartment buildings had gone almost entirely to companies owned by non-minorities. As of July, 1991, black firms were doing 0.7 percent of the business, Latinos 2 percent, and Asian-Americans received 0.1 percent. In fact it was shown that 25 firms captured more than 59 percent of the fees ($961 million at the time and 23,000 contracts). With respect to legal services, the RTC in January of 1991 states that it was unable to provide data on RTC's use of minority- and women-owned businesses for legal services and that it would not have a more comprehensive data-gathering system until the end of 1991. Three hundred million went to law firms in 1990 and legal fees for 1991 approximated $750 million.

So we began, Mr. Speaker, to direct the outreach program through legislative change and we have begun to realize improvements and hope that S. 714 will further our efforts toward achieving the intent and spirit of the originating language.

Regarding minority ownership of financial institutions, the Congress affirmed its realization that minority owned institutions can further the interest of community reinvestment when it made changes to the statute providing for Community Reinvestment Act credit for investments in minority owned institutions. The Federal Reserve's previously released mortgage data makes it clear that more needs to be done to get credit into the hands of minorities and low and moderate income borrowers, and one way is through minority ownership.

Section 308 of FIRREA provides for the preserving of minority ownership of minority financial institutions. Also, in accordance with sections 403 and 404 of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991, the RTC may accept bids from minority investors for previously majority-owned depository institutions with such bids being dependent upon the minority investor receiving interim capital assistance from the RTC. Such interim capital assistance dependent bids will only be considered by the RTC if no other cost effective bid is received by the RTC from a qualified bidder. However, less than 50 percent of institutions which were previously minority owned were resolved in favor of minority acquirors. S. 714 further encourages the ownership of financial institutions by minority groups by providing preferences for institutions in predominantly minority neighborhoods.

The Home Mortgage Disclosure Act data has mostly been used to make the case that mortgage lenders discriminate against certain racial minorities. But the numbers provide even more revealing insights about mortgage markets. One is that thrifts lend mostly to low-income communities, while commercial banks tend to focus on high-income communities. The need for minority ownership of these thrifts became more evident as the Department of Justice, in 1992, settled its first race discrimination lawsuit against a major mortgage lender. It was found that one of the largest providers of home mortgage loans in the Atlanta, Georgia, area engaged in a pattern or practice of discrimination against prospective black homebuyers. It was also found that this institution purposefully defined its relevant lending market to exclude large portions of the black community and employed virtually an all-white staff. Since 1927, Decatur Federal placed 42 out of 43 branch and regional loan offices in predominantly white neighborhoods.

The language in S. 714 is designed to counteract the dwindling number of financial institutions which are minority-owned and also to interrupt the closing of branches located in minority neighborhoods by majority acquirors after they have successfully acquired franchises offered by the Resolution Trust Corporation.

There is no better method on the table today which would allow for the true implementation of the objectives of the community reinvestment act and community development banking initiatives than the creation and expansion of minority-owned financial institutions.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I certainly rise in strong support of this legislation. I think it is about time that we put an end to this sad chapter in our history. We have delayed much too long. We have lost money for the taxpayer by this long protraced delay. At least a billion dollars of taxpayer money has already been lost.

The point is that we should end the gridlock and pass this tonight.

As a battle-scarred veteran of previous RTC funding bills, including the most recent one which won with a margin of 6 votes, I hope we can all summon the courage one last time to pass this legislation and bring to an end this sad chapter in the history of our financial institutions.

S. 174 will provide the final increment of previously authorized funds necessary to continue the process of closing down remaining insolvent S&Ls and finishing the clean-up of the thrift mess.

S. 174 contains no new funds for the RTC. It merely removes an arbitrarily set date for cutting off the use of existing funds and permits the RTC to spend the money the Congress has already authorized and appropriated.

To my colleagues I say I want to reemphasize this point. We are not providing any new funds for the RTC.

The inability of the RTC to close down insolvent thrifts costs the American taxpayer up to $3 million each and every day. Our lack of political will up to now has cost the American taxpayer over $1 billion.

This lack of political courage also represents the worst example of gridlock which the American voter demanded we end when they went to the polls last year.

I believe we are simply kidding ourselves, and shirking our responsibilities to the thrift depositor and the American taxpayer by refusing to proceed with this funding request.

As I have said in the past , I believe it is totally irresponsible for Members to decide that innocent depositors and taxpayers no longer matter and that we will not support the final resolution of the S&L mess which we demanded be cleaned up.

To my colleagues, I say we are here today on the verge of completing the work of cleaning up the S&L mess.

I want to urge my colleagues to do the right thing—vote for RTC funding. We must understand the basic essential: Delay equates into added and unnecessary, costs.

The failure to pass this conference report is costing the American taxpayer money. $1 billion more so far. How fiscally responsible is that?

Must we subject our hard-working, taxpaying citizens to this irresponsible loss of money? To pretend this issue will simply go away is the most irresponsible position we can take.

Yes, the S&L debacle was an indictment of a deregulation frenzy that went awry. And yes, it was a sorry commentary on our regulatory process and even on our role as congressional overseers.

However, this is history. There simply is no alternative. These billions of dollars are buying fairness.

I urge my colleagues to act as the responsible custodians of the public trust that we are.

Lets get on with the job of cleaning up this mess once and for all.

I urge passage of this conference report.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from the great State of Wisconsin [Mr. ROTH] a member of the committee.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding this time to me.

I know we want to vote; but you know, this is serious business. I am only going to speak 1 minute, but I think the Members of this body have to understand, this is not the last time you are going to face this bill.

This is $18 billion. Your own investigative arm of the Congress, the GAO, said the most they need is $11 billion. They have $7 billion on hand now.

How much more are we going to put in to this black hole?

The reason this is going to come back is because we had a man by the name of Al Casey at the Head of the RTC this year.

He said, "I can close down the RTC this year, but our government would not allow it."

They fired him on the spot. You remember that.

This is the same agency that last year paid $600 million to outside law firms.

I mean, this thing stinks to high heaven. You have got to take a look at this before you vote on it.

There are 7,000 people working at the RTC. You are not going to shut down the RTC this year or next year or the year after that.

This is important business, and my friends, I ask you to look at this and to vote no. This is $18 billion of taxpayer money. Your own GAO, to reiterate, said that the most that they can possibly need is $11 billion and they have got $7 billion on hand now.

Mr. Speaker, do not vote for this, do not vote for this.

Mr. Chairman, I urge the House to reject the RTC funding bill.

My colleagues, this is a golden opportunity to slash Federal spending in a really big, big way.

The former FDIC chairman, Bill Seidman was right when said there is no need now for this $18 billion S&L bail-out legislation.

Seidman was FDIC chairman and the first boss at the RTC. He was there from the beginning.

And, in the vernacular, "He knows what he's talking about."

The $18 billion we could save is at least *double* what we will cut by eliminating the supercollider.

It is at *least six times* the much-heralded budget-cutting rescission bill.

If this useless, wasteful, unfair RTC legislation becomes law, the taxpayers have every right to take revenge at the ballot box next year.

The $18 billion in the conference report is far more money than could ever be reasonably or justifiably used.

That's not just my opinion—but the opinion of experts at the RTC itself and at the General Accounting Office [GAO].

The bill dumps billions of dollars into the RTC, already one of the costliest agencies ever created.

The bill's supporters assure us that if all this money isn't needed, the leftover would go back to the Treasury.

Yes, my friends, there is a Santa Claus, an Easter bunny, and a tooth fairy.

And, yes, my friends, the taxpayers won't remember this vote.

I never heard of a bureaucrat who could not spend any given amount of money.

Believe me, this bill would give the RTC bureaucrats bushels of money to play with.

The RTC itself, in internal documents, says it needs only about $11 billion to finish its clean-up job.

The RTC has about $7 billion in unobligated funds on hand, leaving a net of only about $4 billion—according to their own inflated figures.

Not $18 billion that the proponents of this bill want to give them.

I ask you to consider this—before you vote to waste billions more of the taxpayers' money.

The actual amount needed can easily be covered by borrowing against RTC assets of about $76 billion.

So the Congress does not need to vote for any new taxpayers' dollars at this time to finish the clean-up.

This is basically the plan of those like Bill Seidman who know what the score is.

I offered amendments to mandate this approach.

I have argued long and hard for adoption of this concept in Committee.

I took my battle to the Rules Committee, and I presented it in floor debate on September 14 when the bill was passed.

And now I reiterate the facts that are evident to all.

This is a bad bill. It deserves defeat.

The bill itself was prepared without benefit of hearings or expert witnesses.

No need for the $18 billion can be demonstrated at this time.

This basically is a fight of the bureaucracy against the American taxpayer.

Let's win one for the taxpayer for a change.

The RTC bureaucracy is given a new lease on life. More than 7,000 people are on the RTC payroll at a cost of about $360 million a year.

This agency should be phased out—not given a new life with a transfusion of taxpayers' money.

All RTC functions should be taken over by the Federal Deposit Insurance Corporation.

Finally, despite my efforts to amend the bill, State governments responsible for more than half of the Nation's $84 billion of S&L depositors' losses are again let off scot free.

The States again are given another free ride at Federal Government expense.

So I urge my colleagues to reject this conference report.

To do otherwise—to appropriate tax funds now just is not fair to the people paying the taxes.

I know you're concerned about the 7,000 bureaucrats at the RTC. But is it fair to raid the Treasury just so these bureaucrats have a Government job?

This would be in total disregard for the American taxpayer to say nothing of being irresponsible on the part of Congress.

If enacted in this form, this bill will come to haunt its supporters because now they are responsible for the RTC's renewed life.

Again, it was Bill Seidman who pointed out that Congress' failure since April 1, 1992, to act to provide additional clean-up funds has willy-nilly saved the taxpayers billions of dollars.

This is because every top official in the U.S. Government has consistently overestimated S&L losses. One of the worst was the former administration's bad guess in September 1991 that $80 billion should be appropriated immediately.

In February of this year, the RTC's chief, Albert Casey, told our committee he could finish the job for $25 billion and close down the RTC in 1993.

He was immediately fired.

Then the Secretary of the Treasury told our committee $45 billion and a renewed life for the RTC were urgently needed.

Now this bill tells us $18 billion will take care of it.

Do not be misled by those who say delay costs the taxpayer's money. The truth is billions have been saved because we in Congress were not stampeded into opening the Federal Treasury. Let's not be stampeded now.

The facts are, the longer we wait, the less the bail out will cost the taxpayers.

I urge my colleagues to reject this ill-advised, unnecessary bill. It is bad legislation. It is bad public policy. It is a big waste of money.

Mr. NEAL of North Carolina. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I just rise in support of this measure.

I would just say that I think you have to dismiss the sort of wishful thinking that has led us to a repeated denial of the funds to make up for the lost funds of the RTC.

This is to make up the difference between what the depositors have in value and loss of assets.

There is money sitting over there that is committed. I only wish it was a $5 billion problem. The fact is it is closer to the $18 billion.

Let us give the Treasury the money they need to do the job. We have reformed the RTC. We have a separate inspector general appointed by the President. We have done the best we can. The new administration is taking the right steps.

Mr. Speaker, let us get behind this and get this problem solved.

Mr. Speaker, I rise in support of S. 714, the Resolution Trust Corporation Completion Act. I commend Chairmen GONZALEZ and NEAL, as well as Congressman LEACH for their hard work and leadership on this difficult issue. This legislation, which is overdue, will hopefully draw to an end the long and costly S&L bailout and will allow the administration to close the book on the RTC in an efficient and cost-effective manner.

Mr. Speaker, all of my colleagues are well aware of the serious shortcomings of the RTC. We have all heard our constituent complaints about the nonresponsive RTC bureaucracy. As the former chairman of the House Banking Committee RTC task force, I know that these RTC missteps were more than public relations fiascoes. They literally have cost the American taxpayers hundreds of millions of dollars.

It is clear that significant changes had to be made to bring the S&L resolution process in line and to a conclusion. To its credit, the Clinton administration has already implemented many necessary changes through regulation or policy directives. These administrative changes include stronger internal controls against waste, fraud, and abuse; improvements in the management information systems; and improvements in the disposition of assets. However, these improvements were not enough, further legislative action was required. Hopefully when the day is done with the current wave of S&L failures, the lessons learned in faulty regulation, law, policy, and the administration of the resolution will be retained for the future.

The Resolution Trust Completion Act incorporates those needed reforms. The conference report now under consideration sets in place further safeguards to ensure that taxpayer funds will be used efficiently and effectively as the special thrift resolution process comes to a conclusion. Under this legislation, crucial management reforms include positive steps to ensure that RTC-held properties are sold for the maximum price, to require the appointment of a chief financial officer; to improve the oversight of outside contractors; to extend the statute of limitations; and to improve the office for professional liability.

Mr. Speaker, as important as these reforms are, perhaps even more important are the reforms which this legislation includes for the Federal Deposit Insurance Corporation. Based on the experience of the RTC, this legislation sets in place many of the same key reforms for the FDIC. The requirement that the FDIC establish a division of asset disposition; importantly the designation of a Presidentially appointed inspector general for the FDIC who will be truly independent; and the expansion of the conflict of interest reforms are all long overdue FDIC resolution reforms. In addition, this legislation sets up a rational transition process between the RTC and the FDIC.

Mr. Speaker, some have suggested that this legislation is unneeded and should be defeated. A "yes" vote on S. 714 is a vote against business as usual for the RTC and FDIC. It is truly a vote for resolution reforms. A "yes" vote is a vote to give the Government new tools to prosecute those individuals who have contributed to the S&L crisis and to ensure that the taxpayer will not pay more and more because of the delay.

Some critics point to new estimates that the lost funds amount may be substantially less than this legislation provides in the release of already appropriated funds. If history is any guide, estimates have too often been off and too little has been provided. This measure ensures that the S&L industry will pay first and to the maximum extent feasible. Taxpayer dollars are, by law, carefully limited in the past and current proposals. Nevertheless, I would caution my colleagues, especially those on the relevant committees, to join me in maintaining a thorough oversight of this process.

Mr. Speaker, it is time for the Resolution Trust Corporation to complete its work. This legislation will provide the RTC with the tools to do its job efficiently. I urge my colleagues to support this crucial legislation.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in opposition to this conference report which appropriates $18.3 billion to the RTC, a new debt to America.

The last time I remember voting on this thing, it was about 2 o'clock in the morning and nobody wanted to vote because it is so bad.

This bill extends the RTC's takeover authority by 18 months.

It retroactively extends the statute of limitations against officers of failed thrifts.

It establishes, as we have already been told, minority contracting quotas.

The main reason I oppose this bill, though, is because it wastes taxpayer dollars. You have already heard how much we waste, and you all know this body killed the super collider because you believed it wasted taxpayer money. Well, let me tell you, this bill wastes over $13 billion, or almost two times what the Congress wanted to save by killing the SSC.

The RTC's own internal estimates say they only need $4.4 billion, and we have talked about that. We have already said how much they have on hand. They just flat do not need to waste an unnecessary amount of money.

Review the past amounts the RTC, the GAO, and the CBO believed was needed to finish the job.

You know, first they told us they needed $60 billion. Then it went to $45 billion, then $28 billion, then 25, 18, 11, and now it is down to $4.4 billion.

You know, if this economy stays on a roll like it has been and interest rates stay down, it takes an idiot not to make money with a thrift.

They do not need any more. This kind of accounting makes me leery of giving them anything.

You now, some RTC lobbyists caught me outside yesterday and tried to lobby me on this bill. I checked and found they have 16 people on the payroll of the RTC lobbying this Congress. That is taxpayer-wasted money.

Mr. Speaker, a vote for this bill is a vote to waste tax dollars. I urge you to vote against it.

Mr. McCOLLUM. Mr. Speaker, for purposes of a colloquy, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the distinguished ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, this will only take a minute.

I would like to engage the chairman of the Judiciary Committee in a colloquy regarding section 4 of the conference report, a provision within the jurisdiction of the Judiciary Committee. This section carefully confines the class of conduct to which the retroactive and prospective extension of the statute of limitations applies.

Prospectively, section 4 extends the statute of limitations to acts involving gross negligence or a greater disregard of a duty of care, including intentional misconduct. It is my understanding that gross negligence clearly does not encompass simple negligence, or any tortious conduct which, in any way, is less culpable than gross negligence. Is that the chairman's understanding?

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Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. BROOKS. The gentleman is correct. Section 4 clearly excludes actions involving simple errors in judgment or unintentional mistakes from extension of the limitations period. Gross negligence is an extreme category of negligence, reflecting decades of interpretation by State and Federal courts. Section 4 is not intended to permit the RTC to retitle simple negligence actions as gross negligence actions for purposes of a statute of limitations extension. The traditional distinction between gross negligence and simple negligence is completely and specifically maintained by this legislation.

Mr. FISH. Mr. Speaker, I thank the gentleman from Texas.

Mr. McCOLLUM. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the conference report.

Mr. NEAL of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, H.R. 1340 states "The guidelines may reflect the regional and local geographic distributions of minority subgroups." Thus, as the RTC establishes guidelines to achieve the goal of an even distribution of contracts among various minority- and women-owned businesses and law firms, the RTC will be able to acknowledge that there are some regions of the country with greater concentrations of certain minority subgroups. For example, the southwest, California, and Florida have greater concentrations of Hispanic-American populations. California has the largest number of businesses owned by Asian-Americans and Pacific Islanders, and Alaska has the largest number of businesses owned by native Americans. In short, the many regions of this country contain various concentrations of minority subgroups. Thus, the number of certified contractors of a minority subgroup could be well over the 5-percent threshold in one region but less than 5 percent in another region. Is it the committee's intent that the RTC guidelines reflect this geographic distribution so that a minority subgroup that has certified contractors fewer than 5 percent in some regions not be excluded from the RTC's goals in other regions?

Mr. NEAL of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from North Carolina.

Mr. NEAL of North Carolina. Yes, it is.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume to conclude the debate on our side of the aisle.

Mr. Speaker, I would like to conclude this before I yield back over to my friend from North Carolina with just a couple of final points on this RTC matter and put it to rest.

We started this process quite a long time ago with a request for $45 billion. Fortunately we have not had to do that. The economy has been better. They did not have to close down nearly the thrifts they said they would in the savings and loan crisis. We have a lot of institutions today that are still out there because we did not rush to judgment and frankly because we delayed and did not give them the money when it ran out on them last spring. We have gone through several months in which the interest rates have gone down, when the actual situation is such that property values have been going back up again, and the taxpayers have been profiting by the very fact we have not been rushing to judgment on RTC.

Why are we here today? We are here today, and we are voting for so-called emergency situations. That back in September was supposed to be very dire, but they really did not press for a conference report to be gotten out during that interval that has gone on in the several months because they had the money to deal with this and because they really are not under the pressure they said they were going to be. There is nothing on the economic horizon that says things are going to get worse. If anything, they are going to get better. They have, as I said earlier, $6.6 billion in lost reserves presently without barring a single penny to devote to the cause that they need to, and, as a couple of our speakers have pointed out, the most they have ever said they needed was $11.2 billion. So, that leaves a net, if we believe them, that they may need without barring of about $4.4 billion, and that is it, and they could go out and borrow against $38 billion in assets.

Frankly, Mr. Speaker, they do not need a penny here tonight, and we are going to give them $18 billion. As the gentleman from Texas [Mr. JOHNSON] said, that is a couple of superconducting super colliders, and I think this is very tragic, very unnecessary and very wrong, and I urge my colleagues to take this conference report and vote it down. Let us come back with a figure sometime next year in the ballpark of what they may need, if they do, because they got a plenty of money, at least 6.8 billion, to do whatever they may need to deal with before we come back in session, and they may not even need that. But whatever the case may be, it is absolute folly tonight to be voting 18 billion more to the Resolution Trust Corporation.

Please vote "no" for common sense.

Mr. Speaker, I yield back the balance of my time.

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself 1 minute to finish this up.

Mr. Speaker, I just want to clear up this matter about what the GAO has to say.

On Friday the Comptroller General wrote to the Congress that the RTC needs additional funding to complete its task of resolving troubled thrifts, and they went on to say that $18.3 billion is the reasonable amount of money. He concluded that delaying the legislation would add to the costs.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. NEAL of North Carolina. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I think it boggles the mind that here we have had the RTC unable to take in institutions into conservatorship because they have not got the money to deal with the difference between the assets and deposits. We have got someone standing up saying that there is no problem, and we are losing money every day because we have to pay the depositors, rather than the Treasury, rates.

Mr. NEAL of North Carolina. Mr. Speaker, the gentleman is correct. We need the $18.3 billion.

Mr. LAFALCE. Mr. Speaker, in previous years I have opposed RTC funding. However, I am now convinced that the responsible course is to provide the RTC and the SAIF with the funds necessary to finish the job. I believe that the RTC reforms implemented by this administration will make the resolution process more equitable and will serve to minimize the cost to taxpayers.

The resolution process has caused enormous dislocations in our economy and local communities, largely as a direct result of the ill-advised policies adopted in the past. I am referring to the lax supervisory policies of the Reagan administration, as well as the failure to sufficiently recapitalize the FSLIC insurance fund in 1987. Had it provided adequate funding, the 1987 FSLIC recapitalization legislation could have contained the thrift crisis. Instead, insufficient funding allowed the crisis to snowball over the next several years and the cost of the eventual cleanup to skyrocket. By the time Congress and the Bush administration finally confronted the problem in 1989, it had degenerated into a financial crisis of monumental proportions.

Much of the dislocation—including a credit crunch the effects of which persist to this day—could have been avoided had the Bush administration and Congress not taken such a draconian approach to thrift resolutions in the 1989 FIRREA legislation. That legislation emphasized a liquidation strategy rather than a revitalization strategy. I argued strongly that was the wrong approach, and would do irreparable damage to our economy, and felt compelled to vote against final passage of the legislation.

Unfortunately I was proved correct. This liquidation strategy adopted in FIRREA has been responsible in large part for the credit crunch that has been restricting economic growth in this country over the past several years, particularly for small business.

But we now have a new administration, committed to reforming the resolution process. Therefore, despite the misguided policies of the past and the many flaws in the FIRREA legislation in 1989, I believe it is our responsibility now to complete the job of resolving thrifts that are already in conservatorship and those that must be closed in the near future.

This is the final stage of a very painful and disruptive process. The most difficult part of the job has been completed and the only responsible course now is to finish the resolution process. We have now gone three-quarters of the way across the lake and at this point it makes sense to swim to the other side. But we must finish the job in a manner that is both fair to those participating in the resolution process and cost efficient to the taxpayers.

I believe this bill reflects a serious effort at reform of the RTC resolution process on the part of Congress and the administration. The management reforms, the restrictions on bulk sales, the improvements made in contracting systems, and in the area of minority and women contracting—all these provisions contained in the bill will improve both the efficiency and fairness of the resolution process.

I am also confident that the new approach of this administration to thrift resolutions provides a better balance between the need for economic growth and the safety and soundness concerns that have dominated in the past. I have been assured that the administration is putting more emphasis on working with weak but viable institutions to give them adequate time to rebuild their capital, thereby enabling them to continue making loans and serving their communities. This change has been a major factor in my decision to support this legislation.

In the end, despite all the legitimate criticisms that can be made concerning their thrift resolution process to date, we are still confronted with an obligation that no government can responsibly ignore. The simple fact is that the full faith and credit of the U.S. Government stands behind depositors in the insured the rights that have failed and those that may fail in the near future, and we absolutely must honor that commitment.

I urge my colleagues to meet this responsibility and vote in favor of funding for the RTC and the SAIF.

Mr. LAZIO. Mr. Speaker, I rise in support of the conference report for the Resolution Trust Completion Act. A vote for the conference report is a vote for fiscal responsibility. It is a vote to end the savings and loan mess once and for all.

The Federal Government promised to insure depositors and it is your responsibility to fulfill that promise. The RTC was never properly funded, and as a result, the RTC has been unable to carry out its mission, with the costly result that taxpayers ultimately pay more.

The Congressional Budget Office reminds us that if we fail to provide this money now, then we will be back to vote on this again in the future. Federal Reserve Board Chairman, Alan Greenspan, testified before the Banking Committee that it would be irresponsible not to fund the RTC. I reiterate—putting off this action will almost only continue to raise the cost of the S&L mess.

We are finally providing enough funds to get the job done and this bill makes sure that unneeded funds are not used. At the same time, it ensures, as best as possible that we do not have to repeat this painful process. I urge a "yes" vote on the conference report.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today in strong support of the conference report on S. 714, a bill to restore funding to the Resolution Trust Corporation.

The conference report is a compromise version of the bill passed in this Chamber just 2 months ago. Those Members who voted in favor of the bill in September should be aware that the conference report is just as strong as the House-passed bill. The tough requirements imposed upon the RTC and the savings and loan industry have been retained, including RTC management reforms and strict certification requirements the industry must meet prior to receiving funding for the savings association insurance fund.

I would also remind my colleagues that the conference agreement contains provisions to improve contracting opportunities for minorities and women and to enhance affordable housing programs. And the agreement includes cost-saving measures to ensure that the maximum price is received from the sale of assets from failed thrifts. This is a socially responsive and fiscally responsible agreement.

Beyond these enhancement provisions, this government must not overlook its fundamental commitment to this Nation's depositors. As representatives of the people, we must not turn our backs on millions of Americans * * * men and women who put their savings into insured S&L accounts, believing that the government would honor its insurance commitments.

Let us act responsibly by voting to meet our obligations to the depositors of this country, and to improve the operations of the RTC. I urge my colleagues to vote "aye" on the conference report of S. 714.

Mr. BACHUS of Alabama. Mr. Speaker, I rise today not in opposition to RTC funding, but in opposition to this RTC funding bill.

As a new member of this body, I missed the opportunity to vote on RTC funding in the 102d Congress when the price tag was $60 billion.

By the time that I was elected to Congress and became a member of the Banking Committee in February 1993, the price tag had fallen to $50 billion.

By the time I took my first committee vote on the issue, we were down to $18.6 billion and even then, we found money that had already been appropriated.

Before the entire body voted on September 13, the GAO found more money and lowered the estimate to $11.9 billion.

The trend continues.

Just last week, the GAO released a letter saying that the RTC only needs $5 billion to complete its job.

If they only need $5 billion, why are we giving them $18.3 billion.

Let's not wipe out the cuts we just made, vote "no" on this RTC bill.

Mr. THOMAS of Wyoming. Mr. Speaker, there will be all kinds of outlandish claims during this debate, but I'd hope we would return to the facts. I have a good friend in the other body who is fond of saying "you're entitled to your own opinion, but you're not entitled to your own facts." That's true tonight.

The facts are this: The money in this bill isn't based on need, it's not based on the current situation or expected future losses. The money in this bill is based on political bidding.

Let's not lose sight on the fact that the administration first requested $42 billion for this bill. That was cut to $34 billion and now is at $26 billion. Each time we're told this is the bare minimum needed to finish the job. In fact, the GAO determined the need was $11.9 billion.

This is a good example of why the government ought not to be in business activities.

It seems to me we ought to be encouraging the RTC to use the $12 billion in cash reserves and borrowing authority they have now to dispose of their assets. I certainly haven't seen proof that they need another $18 billion.

I'm also concerned about the management abuses we've seen in this agency.

I know a woman in Denver who is owed a half of a million dollars for work the RTC demanded and now refuses to pay for.

I could talk about a man from Casper, WY who has had nothing but the run-around from the RTC for the last 2 years. He was told the property he was buying didn't have a balance on the deed of trust. After purchase the RTC changed its tune. They've since turned down several different offers—offers that would have produced revenue for the agency. Now it seems their first determination was the correct one. We're not sure, however, because they can't find their own files.

Clearly, the American taxpayer demands more from the RTC. This is not the kind of activity that deserves increased funding.

I'm not saying there isn't a need for some action. We need to wrap things up and put this episode behind us. There are good savings and loan institutions that shouldn't be penalized needlessly. However, this bill is not the answer and it ought to be defeated.

Mr. NEAL of North Carolina. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HOYER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 191, answered "present" 1, not voting 6, as follows:

[Roll No. 613]

AYES—235

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Baker (LA)
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Carr
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Danner
Darden
de la Garza
Deal
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dreier
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Farr
Fawell
Fazio
Fields (LA)
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDermott
McHale
McKinney
McMillan
Meehan
Meek
Mfume
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Porter
Price (NC)
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams

Wilson
Wise
Woolsey
Wynn
Yates
Young (AK)

NOES—191

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Bartlett
Barton
Bentley
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
DeFazio
DeLauro
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Duncan
Dunn
Emerson
English (OK)
Evans
Everett
Ewing
Fields (TX)
Filner
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Hefner
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hughes
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Johnson, Sam
Kaptur
Kasich
Kim
Kingston
Klug
Knollenberg
Kyl
Lewis (FL)
Linder
Livingston
Lloyd
Long
Lowey
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McNulty
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Molinari
Moorhead
Nussle
Owens
Oxley
Packard
Pallone
Paxon
Penny
Peterson (MN)
Petri
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Sanders
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Walker
Walsh
Weldon
Wolf
Wyden
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Hyde

NOT VOTING—6

Clinger
Hall (OH)
Hayes
Myers
Sharp
Smith (OR)

☐ 0006

Mr. KLUG and Mr. SKEEN changed their vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1705

Mr. FINGERHUT. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1705.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

(Mr. SOLOMON asked and was given permission to proceed out of order for 1 minute.)

SCHEDULE FOR VOTES

Mr. SOLOMON. Mr. Speaker, I have asked unanimous consent to speak out of order to inform the House that it is our understanding on this side of the aisle that there are 2 more votes to be taken up her tonight. Both of them will be taken probably within the next half hour to 35 minutes.

Members should stay on the floor and not be late for the vote.

CONFERENCE REPORT ON H.R. 1025, BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. BROOKS. Mr. Speaker, pursuant to the order of the House, I call up the conference report on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Monday, November 22, 1993.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes.

The CHAIR recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

As I predicted last night, the conference on H.R. 1025 was not very lengthy. While some may have hoped for different language, including myself, the conferees nevertheless have agreed to a final version of the bill. What we ended up with is the Senate bill with the following changes:

We adopted the House 5-year sunset of the waiting period, with no standards for the establishment of the instant national background check. We also dropped from the Senate bill the following sections: section 304 on antique firearms; section 302(c) on face-to-face transfer between licensees from different States: section 305 on the Bureau of Alcohol, Tobacco and Firearms, communications with licensees each time a new rule or regulation is issued; section 302(e)(b), which imposed a mandatory 30-year sentence for stealing a gun from a licensee; and section 401, imposing certain requirements on States in reporting any adjudication of mental defectives or commitments to mental institutions.

☐ 0010

Finally, a few words of clarification were added in two sections on the authorization of funds. Unfortunately, I cannot support the legislation, Mr. Speaker, as it now stands. It still does not address the preemption of State law question, which does not make sense if one is attempting to impose a uniform national waiting period for handgun purchases.

Finally, Mr. Speaker, it goes without saying that the legislation will not remedy one unassailable fact in this debate. Violent criminals do not purchase firearms in the legal market at all. They buy them in the illicit marketplace or steal them.

Until there is a real commitment to get the National Instant Check System on line, the temporary waiting period procedure, spelled out in the conference report, may do but very little to stem the flow of illegal purchases.

Mr. Speaker, I would just tell the Members this. If they did not like the bill when it came through the House, they will not love it now. If they did like it, they will probably like it just as well.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of this conference report. I did like the bill when it passed the House. I still like it, and so should the membership of the House.

The major issue of difference in the conference between the House and the Senate was on the sunset provisions and standards imposed for certification of the Instant Check System. In the conference, the House prevailed and the so-called Gekas amendment provisions, which I opposed on the floor of the House, but which I support now, are in the conference report, which means a 5-year sunset provision and no standards.

Mr. Speaker, I believe this is a good bill. I strongly urge that it be passed.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, both the gentleman from Texas [Mr. BROOKS] and the gentleman from Wisconsin [Mr. SENSENBRENNER] have adequately described the bill. In layman's language, what it says is the 4 years are out, the 5 years are in, there are no standards, and the other changes were all within scope. Therefore, for those of the Members who are anti-Brady, they still should vote no, like they did before.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just want to reiterate very briefly once again the fact that many of us do not believe this bill is necessary, and do not believe that it is anything more than a distraction. Mr. Speaker, the reason why we believe it is unnecessary, regardless of any other feelings about it, is that we truly can do in between five minutes and five hours what the waiting period is supposed to do in five days. That is, we can find out by checking through the NCIC system through the States whether or not somebody is a felon, and if that person is ineligible to purchase a gun or a handgun from a gun dealer, so really, it is not necessary.

Mr. Speaker, I would like to bring out the point that I think is more important in this than just the unnecessary feature. Mr. Speaker, I think the point that I think is more significant than the question of why we find it unnecessary, many of us, is the fact that bill itself is really a distraction in terms of what we have to do out here. The issue of controlling and getting control of violent crime, which is the number one concern in the polls today of the American people, is not addressed by this bill. Mr. Speaker, it is at best symbolic.

Mr. Speaker, if we want to address that kind of issue, and we must do it immediately when we get back here, we have to have opportunities to vote on things like a partnership with the States for regional prisons, to take the violent felons who commit these crimes and go back out on the street through the revolving door, take them off the streets, throw away the key and lock the door up permanently on them. We have to be able to do that. There is a vehicle.

Mr. Speaker, the regional prison concept and a number of other critical ways of going about addressing this problem do exist in various legislative forms, but they have not been brought out this session for votes.

Mr. Speaker, the gentleman, who is my friend, the chairman of the committee, has assured us that sometime next year, earlier rather than later, we are going to see some of these out here. I want to remind my colleagues that the statistics from the bureau that collects those statistics show that every single month in this country there are 160,000 violent crimes committed, and if we wait 6 months to pass any legislation that really addresses this problem, we are going to see over 1 million more violent crimes committed in this country.

Mr. Speaker, there is a bill down at the desk tonight in a discharge petition form, No. 10, that any of the Members can sign on an open rule to bring out a comprehensive crime bill. Mr. Speaker, I would urge both my colleagues on this side and that side of the aisle to sign that discharge petition before the night is out and send a signal that the Members do care about how long it takes and how quickly we address this problem when we get back here.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary, so he can get home and go home for his birthday.

Mr. SCHUMER. Mr. Speaker, I urge my colleagues to pass the Brady bill now. I urge this Congress to send it to the President before Thanksgiving.

Mr. Speaker, the grant program established by the Brady bill requires a grant to each of the States to improve their computerized criminal history records. The grant program is critical in order to implement the instant check system quickly and effectively.

The grant program is intended to be a flexible vehicle to permit the Justice Department, through the Bureau of Justice Statistics, to target funds as needed, to establish a reliable instant check system. The legislation requires that a grant be made to each State during the life of the program but does not require a grant to each State in each year. The Department should take into account each State's timetable and the assistance that each State needs in order to participate in the instant check system.

We intend that courts can and should receive grant moneys. Courts are often the source of final dispositions and these dispositions are necessary so that the system will be a reliable identifier of convicted felons who are prohibited from purchasing firearms.

The Bureau of Justice Statistics has existing legal authority to make grants to not-for-profit organizations and the Brady bill does not change this. Thus, Brady grants can be awarded to not for profits when this serves the purposes of the Brady grant program. Not for profits can provide technical assistance, training, demonstration, and dissemination of strategies for participating in the instant check system and other assistance that will be critical for the prompt implementation of the system.

We intend that the national instant check system shall be based on the existing Interstate Identification Index [III] unless the Attorney General finds that the III would not be satisfactory for this purpose. The III is the only existing comprehensive computerized national file of criminal history records in existence at this time. The States and the FBI have been working cooperatively to establish III for two decades. It is based on a decentralized recordkeeping principle, which has been proven to offer a cost-effective way to store, search, and disseminate more complete and accurate records. For these reasons, it would be far preferable to build the national instant check system on III than to attempt to create a new centralized system at the FBI or elsewhere.

Mr. SMITH of Michigan. Mr. Speaker, on this early Tuesday morning, Mr. SCHUMER of New York has indicated that Michigan's law, which prohibits the sale of handguns to convicted felons, exempts Michigan from the 5-day waiting period of H.R. 1025.

Restrictions on guns will do very little to reduce crime in our country. Our greater energies in our efforts to reduce crime must be more effective apprehension, quicker and stricter judicial review and sentencing, assurances that those convicted will serve their time in prison, and most importantly instilling values and moral responsibility in the minds of our Nation's young people.

More specifically, we need: Mandatory prison sentences for the most serious offenders; sentencing laws that will not permit armed and violent felons to avoid prison through plea bargaining; mandatory life imprisonment for a third conviction of violent or serious felony similar to the three strikes you're out initiative; death penalty for first degree murder with aggravating circumstances; tough, determinate sentences coupled with prison release policies that require every inmate to serve no less than 85 percent of the prison sentence imposed; adequate prison capacity with authority to privatize institutions; comprehensive effective juvenile justice reform with early intervention for youth at risk; and comprehensive, enforceable constitutional rights for crime victims. This morning I am signing the discharge petition No. 10 so we can bring to the floor the Republican crime bill to help solve some of these problems.

I would also like to add, Mr. Speaker, that in trying to assure a safer society, the role of the family cannot be understated. Dedicated parents sustain families and the Nation. As models and guides for their children, they help solve our educational problems, our crime problems, and, by teaching respect and hard work, provide the key to a strong economic future. They nurture the strong, healthy adults we need in our society.

Mr. PORTER. Mr. Speaker, the level of crime in our society is frightening, and we must enact legislation to combat this violence. But there is not one measure that is a quick cure-all that will solve our crime problem. In the past month, Members of both Houses have argued for more prison construction, more police on our streets, increased penalties, drug rehabilitation, a more expeditious appeals system, and a limitation on the easy availability of handguns. I agree. We need both preventive and punitive measures to address this complex problem.

I have strongly supported the Brady bill for years, and I would like to see this bill be one in a series of effective anticrime measures enacted in the 103d Congress.

The Brady bill is only a modest step to prevent convicted or potential criminals from easily obtaining handguns. It does not deny the right of individuals to obtain handguns or to keep them for self-defense or legitimate hunting or sporting purposes. If it did, I would oppose it.

It is also not a panacea for our Nation's crime problem nor for criminal misuse of weapons. It will not prevent many crimes. But it will prevent some: suicides of confused teenagers; crimes of passion where an individual, in a fit of rage, quickly purchases a handgun and murders his mate or spouse; and, perhaps, crimes like that of John Hinckley against former President Reagan and Jim Brady.

Yes, the Brady bill will cause a little inconvenience, but 5 working days seems to me a very small price to pay to ensure that felons, fugitives, drug addicts, and individuals with histories of mental illness are not able to purchase handguns over the counter in less time than it takes to get a haircut. Even most members of the NRA admit that the inconvenience is inconsequential.

Obviously, there are other, more effective ways to end violent crime. Mandatory additional sentences for crimes committed with a deadly weapon are a very effective way, an approach I favored with my own legislation when I served in the Illinois General Assembly, and an approach I have supported in this Congress by cosponsoring similar legislation. But today we are addressing the Brady bill, and this bill will apply reason to the way we sell handguns.

Virtually every major law enforcement organization supports passage of the Brady bill: the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the National Sheriffs Organization, the National Association of Police Organizations, and the list goes on. The American people are now more than ever overwhelmingly supportive of reasonable handgun control measures. Poll after poll shows public support for the Brady bill to be in the 80 percent range. It is time to shake up the special interests, stand for what we think is right, listen to the American people, and support the Brady bill. Presidents Nixon, Ford, Carter, Reagan, and most recently Clinton have endorsed the Brady bill. Let us pass this conference report today and do what is in the public's best interest.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOYER). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 187, not voting 8, as follows:

[Roll No. 614]

AYES—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Barca
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bilirakis
Blackwell
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Horn
Hoyer
Huffington
Hughes
Hutto
Hyde
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klug
Kreidler
LaFalce
Lancaster
Lantos
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Nadler
Neal (MA)
Neal (NC)
Olver
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Pickle
Porter
Price (NC)
Quinn
Ramstad
Rangel
Reed
Regula
Reynolds
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (MI)
Smith (NJ)
Spratt
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Thomas (CA)
Thompson
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Valentine
Velazquez
Vento
Visclosky
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zimmer

NOES—187

Allard
Archer
Armey
Bachus (AL)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bereuter
Bevill
Bilbray
Bishop
Bliley
Boehner
Bonilla
Boucher
Brewster
Brooks
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Coble
Coleman
Collins (GA)
Combest
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fields (TX)
Franks (CT)
Gekas
Geren
Gillmor
Gingrich
Goodlatte
Grams
Grandy
Green
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hilliard
Hobson
Hoke
Holden
Houghton
Hunter
Hutchinson
Inglis
Inhofe
Inslee
Istook
Johnson (GA)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Kopetski
Kyl
Lambert
LaRocco
Laughlin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
Martinez
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Nussle
Oberstar
Obey
Ortiz
Orton
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Rahall
Ravenel
Richardson
Ridge
Roberts
Rogers
Rohrabacher
Roth
Royce
Sanders
Santorum
Sarpalius
Schaefer
Schiff
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (TX)
Snowe
Solomon
Spence
Stenholm
Strickland
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (WY)
Thornton
Thurman
Unsoeld
Volkmer
Vucanovich
Walker
Williams
Wilson
Wise
Young (AK)
Zeliff

NOT VOTING—8

Baker (LA)
Clinger
Ford (TN)
Hall (OH)
Hayes
Smith (OR)
Whitten
Yates

□ 0034

Mr. CARR of Michigan changed his vote from"aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1246

Mr. MACHTLEY. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1246.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM MONDAY, NOVEMBER 22, 1993, OR TUESDAY, NOVEMBER 23, 1993, AND ADJOURNMENT OR RECESS OF THE SENATE FROM MONDAY, NOVEMBER 22, 1993 OR THEREAFTER

Mr. GEPHARDT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 190) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 190

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Monday, November 22, 1993, or the legislative day of Tuesday, November 23, 1993, pursuant to a motion by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned sine die, and that when the Senate adjourns on any day beginning on Monday, November 22, 1993 through 11:55 a.m. on Monday, January 3, 1994, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned sine die or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution: *Provided*, That the Senate may recess or adjourn for any period in excess of three days pursuant to a motion made by the Majority Leader, or his designee, for the duration of the first session of the One Hundred Third Congress, subject to section 2 of this resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONVENING OF THE SECOND REGULAR SESSION OF THE 103D CONGRESS ON TUESDAY, JANUARY 25, 1994

Mr. GEPHARDT. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 300) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 300

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the One Hundred Third Congress shall begin at noon on Tuesday, January 25, 1994.

SEC. 2. That prior to the convening of the second regular session of the One Hundred Third Congress on January 25, 1994, as provided in section of this resolution, Congress shall reassemble at noon on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I ask for this time for the purpose of informing the Members that we have one additional matter tonight, the unemployment compensation conference, which will be brought up right now and will probably not be debated very much and will go to a vote. That will be the last vote. You will then be asked to reappear here on January 25, 1994.

I would also inform Members we have a number of unanimous-consent requests regarding legislation which has been approved by both sides. Those will be handled later tonight, but there will be no other votes after the vote on unemployment.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members shall have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 1025, which was just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 21, 1993, at page 31443.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The CHAIR recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

□ 0040

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement on H.R. 3167, the Unemployment Compensation Amendments of 1993. This legislation, which the Senate approved Saturday, will extend the authorization for new claims under the Emergency Unemployment Compensation, or EUC, Program from October 2, 1993 through February 5, 1994. It also includes an administration initiative that will help to address the reemployment needs of the growing number of unemployed workers who have lost their jobs permanently.

H.R. 3167 will help provide income security to approximately 1 million workers who exhaust regular State benefits, and their families. Depending on the unemployment rate in each State, workers will receive either 7 or 13 weeks of benefits. An estimated 400,000 unemployed workers, who have been waiting for their benefits since as far back as October 3, will receive extended benefits retroactively. Another 500,000 unemployed workers will be able to claim benefits from now until February 5, 1994. After that date, continued claims will be paid through April 30, 1994.

Mr. Speaker, this conference report is identical to the one that the House recommitted last week. The conferees deleted both Senate amendments, because it was our understanding that the House would be given a chance to vote on Federal work force reductions as part of the recissions and reinventing Government legislation. Since the Senate has passed this conference report without those amendments, the Senate amendments are at issue no longer.

The bill has been delayed long enough and we have had ample opportunity to debate its merits. In the end, we cannot ignore the basic facts: While job growth has improved, long-term unemployment is as much a problem today as when this program first was enacted in November 1991. Let us finish the year having recognized these facts and acted upon them. I strongly urge my colleagues to vote yes on the conference agreement on H.R. 3167.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I expected it would come to this, I am still very disappointed by the way Democrat leaders in the House and Senate have blatantly arranged to thwart the will of large majorities in both Chambers.

This conference report on the extension of federally funded unemployment benefits is before us once again—with a glaring omission—the provision originally passed by the Senate on an 82 to 14 vote to cut the Federal work force by 252,000 employees.

In case anyone has forgotten, the House voted on two separate occasions to instruct our negotiators to agree with that provision to cut the swollen Federal bureaucracy.

The first time the vote was 275 to 146. The second time it was 226 to 202.

The Democrat leadership in the House and Senate couldn't beat us on the merits of the issue. So they created a parliamentary situation specifically designed to preclude the House from even voting on the Senate amendment this time around on this bill.

I am under no illusion that a majority will vote down the conference report. The hour is late and this session of Congress is grinding to a close.

But I, for one, will vote "no." It is an outrage that the leadership has handled the issue the way it has.

But my opposition is based on far more than that. I believe firmly that on the merits of the issue it is time to let this program finally expire.

It is time to let the State and Federal matching extended benefits program do the job it was designed to do in areas of high unemployment.

We simply cannot afford to continue a program which pays Federal benefits to people in areas where there is virtually no unemployment. And yet that is exactly what this so-called emergency benefits program does.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report presently under consideration.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for yielding time to me.

Mr. Speaker, so far as I know, I have voted for every unemployment compensation bill since I have been in the Congress. I believe that workers who have lost their jobs through no fault of their own should get extended benefits. When I was a member of the Texas Employment Commission, I sat on the governing board of my State's unemployment benefits program because I firmly believed that we needed to help people who had lost their jobs, so I have a longstanding commitment to help unemployed workers.

With this particular bill, though, I have grave reservations regarding the lack of proper financing of the extension. We are asked to spend $1.1 billion in the next year, but the recommended revenue raiser, which purports to make up the money in the next 5 years, is not real and valid. The so-called profiling approach, in my view, simply will not produce the intended savings. There's just no reality in that approach.

Mr. Speaker, I want unemployed workers to get their benefits, but we must be more responsible in finding a realistic way to pay for them. I am willing to look at cuts or real revenues, and I would even be willing to look at that most sacred of sacred cows, cutting entitlements. I believe very strongly that we need a real, working unemployment benefits program, but we've got to be responsible enough to really pay for it.

Mrs. KENNELLY. Mr. Speaker, I am pleased that we have one final opportunity to pass the unemployment extension bill.

I cannot tell you how many of my constituents have stopped me at home the last 6 weeks to ask me when we were going to pass this bill. Late last week, I received a phone call from a resident in my home State who asked if she was going to get additional benefits. She told me that she was concerned because she had lost her job, and can't find another one in our economy up there, and was running out of money to provide for her family.

I know that many Members are concerned about these extensions and they want some type of permanent solution established so we do not need to go through this process every few months. I agree, and would be pleased to work with my colleagues to find a permanent solution.

We must correct the relationship between the States and the Federal Government in regard to the extended benefits program. The way the program is currently structured is not financially attractive for the States to implement.

The current Federal matching rate for this program is 50–50. As part of reconciliation, language was included in the House bill to make this share 75–25. However, this provision was dropped. We need to take a look at this match, and evaluate how many States can successfully fund their share of the program.

At the Human Resources Subcommittee hearing on this legislation in September, Secretary Reich testified that an emergency extension was needed because at that time only two States and Puerto Rico would qualify for the Federal-State extended benefit program when regular benefits ran out in October.

To correct this, there must be a mechanism established that will allow States with significant unemployment, States where people are unemployed for the long term, can qualify for the extended benefit program.

We cannot make these changes today. Today we can only do one thing, pass a bill which will help pay mortgages, feed children, and keep families together. I urge my colleagues to vote for this conference report.

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 3167, the Unemployment Compensation amendments.

As we are all aware, the Emergency Unemployment Benefit Program expired on October 2. Every day since then, thousands of Americans have exhausted their regular unemployment benefits and discovered that there were no additional benefits for them. Every day these Americans, whose lives have been seriously disrupted by the long recession and restructuring of our economy, have looked to us for help. But all they have found is more delay.

Mr. Speaker, we have had this legislation before us for 2 months. We could have approved the extension before the EUC Program even expired. I cannot adequately express my frustration at the gridlock and extraneous issues that have delayed passage of this extension.

Because we did not follow our traditional procedure of declaring the extension as emergency spending, we had to find offsetting cuts in other programs. The controversy over which programs to cut in order to pay for the extension delayed passage of this legislation in the House for several weeks. In addition, the amendment added in the Senate to require the reduction of the Federal work force by 252,000, created more controversy and further delayed passage of the extension, even though this provision was included in concurrent legislation.

While controlling the deficit and reducing unnecessary Government are important goals of this Congress, they have nothing to so with unemployment benefits. We must remember that our first priority is to serve the American people. When Americans are in need, it is our responsibility to act.

Today, we have the opportunity to provide these Americans with 7 to 13 weeks of additional benefits that will help them pay their mortgage, put food on the table and have a more hopeful holiday season.

If we do not approve this extension today, 2 long months will elapse before we will have another opportunity to provide these people with the benefits they so desperately need. No political or procedural controversy will ever be able to justify to these people why we have failed them again.

I urge my colleagues to put their differences aside to show unemployed Americans they are not forgotten.

Mr. CRANE. Mr. Speaker, after the conference committee on H.R. 3167 ignored the previous instructions which the House sent to it on October 28, I offered a second motion to recommit the bill on November 9. Specifically, my motion instructed the conferees to concur in the Senate amendment to cut the Federal bureaucracy by 252,000 employees as recommended by Vice President GORE's National Performance Review. I was pleased that 225 of my colleagues supported my motion to save the taxpayers an estimated $21 billion over the next 5 years by sending H.R. 3167 back to the conference committee to do the job the House asked it to do the first time. Unfortunately, the conferees turned a deaf ear on this effort once again by dropping the Senate provision from the conference agreement before us today. It is highly disappointing that the conference committee twice disregarded a provision that has received overwhelming support in both Chambers. Indeed, it is no wonder that the American public has become so skeptical of this Congress' ability to reduce the deficit and eliminate waste when even the cuts that a bicameral majority supports are not adopted.

Mr. ARCHER. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, I yield back the balance of my time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BUNNING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 320, noes 105, not voting 9, as follows:

[Roll No. 615]

AYES—320

Abercrombie
Ackerman
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dunn
Durbin
Edwards (CA)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Herger
Hilliard
Hinchey
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
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Lewis (GA)
Lipinski
Lloyd
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Lowey
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Manton
Margolies-Mezvinsky
Markey
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Matsui
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McCloskey
McCurdy
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Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
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Price (NC)
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Ros-Lehtinen
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Rostenkowski
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Roybal-Allard
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Santorum
Sarpalius
Sawyer
Saxton
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Schiff
Schroeder
Schumer
Scott
Serrano
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Shepherd
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Solomon
Spence
Spratt
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Stokes
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Stupak
Swett
Swift
Synar
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Tejeda
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Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Watt
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Whitten
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Wolf
Woolsey
Wyden
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Zimmer

NOES—105

Allard
Archer
Armey
Bachus (AL)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Burton
Buyer
Callahan
Coble
Collins (GA)
Combest
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dornan
Dreier
Duncan
Edwards (TX)
Ewing
Fields (TX)
Fowler
Geren
Gingrich
Goodlatte
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Grams
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Hefley
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Hutchinson
Inglis
Inhofe
Istook
Johnson (GA)
Johnson, Sam
Kingston
Knollenberg
Kolbe
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Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
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Moorhead
Nussle
Oxley
Packard
Payne (VA)
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Portman
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Ramstad
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Roberts
Rohrabacher
Roth
Rowland
Royce
Schaefer
Sensenbrenner
Shaw
Shays
Skeen
Smith (MI)
Smith (TX)
Stearns
Stenholm
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Valentine
Walker
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Andrews (ME)
Baker (LA)
Clinger
Hall (OH)
Hayes
Smith (OR)
Torres
Wilson
Yates

☐ 0101

The Clerk announced the following pair:

On this vote:

Mr. Yates for, with Mr. Smith of Oregon against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ANDREWS of Maine. Mr. Speaker, I learned this morning that my vote for H.R. 3167, rollcall No. 615, was not recorded by the electronic device last night. Mr. Speaker, if it had been recorded, my vote would have been "aye." I asked unanimous consent that my vote appear as an "aye" vote in the permanent RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no obligation.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF VARIOUS BILLS

Mr. MFUME. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of the following bills: H.R. 526, H.R. 1200, H.R. 1699, H.R. 1296, and H.R. 1151.

The SPEAKER (Mr. HOYER). Is there objection to the request of the gentleman from Maryland?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF VARIOUS BILLS

Mr. GORDON. Mr. Speaker, I ask unanimous consent to have my name removed from the sponsorship of the following bills: H.R. 2010, H.R. 634, H.R. 1296, H.R. 937, and H.R. 1078.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

INTRODUCTION OF H.R. 3626, THE ANTITRUST REFORM ACT OF 1993

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, 18 months ago, I introduced legislation (H.R. 5096) in the 102d Congress that was designed to establish a broad-based competition policy to guide this Nation's telecommunications industry into the 21st century. At that time, there was fragmented policy orientation in the courts, throughout the enforcement agencies, and in the Halls of Congress. Piecemeal, one sided solutions seemed to be the easy and preferred choice for many who wished to avoid the hard decisions needed to formulate a comprehensive approach for all sectors of the industry. Having watched the confusion in all branches of Government, I finally reached the decision that it was time to change the dynamic and I think that last year's effort made a real difference in serving notice that change was on the way.

And much has changed since I introduced H.R. 5096. Tonight—as the first session of the 103d Congress moves rapidly to adjournment—I am pleased to be introducing—with my good friend, Chairman JOHN DINGELL—comprehensive telecommunications legislation to spur competition and accelerate innovation in what may be our most critical strategic industry. The legislation (H.R. 3626) obviously builds upon my antitrust legislative effort last year but expands its reach to encompass legitimate and vital communications policy concerns as well.

Many thought this moment would not come. The naysayers were fond of predicting that two committee chairmen, who both believe in and strongly defended their jurisdictional interests, would never be able to fashion a product together. Some may have even hoped that jurisdictional gridlock would win out as it has so often in the past—so that anarchy in the markets would not be replaced by the larger vision of what is needed to keep telecommunications the prized industry that it is. I am happy to say that our mutual interests and deep concern for this vital industry transcended all other concerns.

The Brooks-Dingell legislation establishes a blueprint of the all important transition to a new State for all market sectors will be opened up to robust competition, with the added benefits or better products and services at lower prices. In the process, however, we cannot allow small- and mid-size niche players—who have made this industry such a diverse and innovative one in the past decade—to fall by the wayside. Similarly, our national interest is not served by unreasonably restricting new entrants to use their demonstrated skills and resources in furthering the technological revolution provided competitive entry and public interest concerns are met.

When the next session comes, you can be assured that two chairmen are going to be moving together to have this legislation proceed with all due speed through the legislation process.

INTRODUCTION OF H.R. 3626

(Mr. DINGELL asked and was given permission to address the House for 1 minute.)

Mr. DINGELL. Mr. Speaker, I am pleased and honored to join my good friend, JACK BROOKS, in the introduction of H.R. 3626. This is important legislation that creates a process for phasing out the Modification of Final Judgment [MFJ] that governs much of the behavior of the Bell Operating Cos.'

This legislation is important for many reasons. First, it will affect virtually every American. It will help to ensure that America's telecommunications companies retain their world leadership, and will usher in a new age of telecommunications services that will improve the quality of life for everyone.

Second, it is important because, with the enactment of this legislation, Congress will reclaim its rightful role in formulating telecommunications policy. For the last 10 years, U.S. District Judge Harold Green has regulated the Bell Cos.', and the extent to which they are able to freely and fairly compete in the telecommunications marketplace. This legislation will change all that.

Finally, it is important because it demonstrates that this institution works—and works well. This bill represents a compromise among many different perspectives and interests, as many people of good will worked together to craft a balanced policy.

Since the negotiations that resulted in this legislation were only completed a short time ago, we do not yet have a summary of its provisions. That will come tomorrow. But I would like to say a few words of gratitude about the people who contributed to this legislation.

First among these is JACK BROOKS. JACK and I come at this debate from opposite poles. It is my belief that the Bell Cos.' should be freed of the MFJ restraints. By contrast, last year JACK introduced H.R. 5096, which was vigorously opposed by the Bells and many of their allies.

Yet JACK and I both understand that the only way that comprehensive legislation can move through this institution is for balances to be struck; for compromises to be reached, and for opponents to work with each other. That is what we have done, and that is the reason that we are able to join together today and introduce this bill. It is not a bill that I would have crafted; it is not a bill that JACK would have authored. But it is a compromise that we can both support, and I have enormous respect for JACK's willingness to compromise and work together with me so that we could resolve our differences and introduce this bill.

I would also like to thank our colleague, ED MARKEY, the chairman of the Commerce Committee's Subcommittee on Telecommunications and Finance. Chairman MARKEY has built an impressive record on the need to reform our Nation's telecommunications laws, and has today introduced legislation to accomplish much of what needs to be done.

In addition, our colleague, BILLY TAUZIN has worked closely with me for many years to rationalize the application of the MFJ restrictions. I know he will continue to contribute to this process as H.R. 3626 moves through the legislative process.

Finally, I would also like to thank my good friend and colleagues on the Energy and Commerce Committee, JIM SLATTERY. JIM has led the effort to permit the Bell Cos.' to manufacture telecommunications equipment, and has worked closely with the Communications Workers, the IBEW, and the Bell Cos.' themselves. In addition, he has also succeeded in working with the disabled community to ensure that network developments and advances in equipment technology are accessible to those with disabilities, so that they may be full participants in the information age.

Mr. Speaker, the legislation my good friend, JACK BROOKS and I are introducing will, I suspect, be of considerable interest to the Members when we return next January. We will be furnishing more comprehensive summaries and explanations of the bill in the coming days. But I wanted to take this opportunity to thank JACK and all of our other colleagues who have assisted—each in different ways—in the production of this legislation. We have succeeded in crafting a balanced bill, and it is my intention to bring the bill before the full House for a vote early in the next session.

MAKING CERTAIN NON-FEDERAL LEVEES ELIGIBLE FOR ASSISTANCE UNDER THE FEDERAL LEVEE REHABILITATION PROGRAM

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 3583) to make certain non-Federal levees eligible for assistance under the Federal levee rehabilitation program, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF CERTAIN NON-FEDERAL LEVEES.

(a) ELIGIBILITY.—Notwithstanding any other provision of law (including any regulation), the eligibility to receive assistance under the levee rehabilitation program of a public sponsor of a primary levee located in the area that was affected by major, widespread flooding in the Midwest during 1993 shall not be affected by the status of participation (or the lack of participation) of the public sponsor in the program.

(b) APPLICATION.—A public sponsor of a levee who is eligible to receive assistance under the levee rehabilitation program as a result of subsection (a) shall submit an application to participate in the program not later than September 30, 1994.

(c) CONDITIONS.—Subject to the availability of funds, assistance may be provided under the levee rehabilitation program to a public sponsor of levee which is eligible to receive assistance under the levee rehabilitation program as a result of subsection (a) only if—

(1) the public sponsor demonstrates sufficient financial capability to comply with the requirements of this section;

(2) the levee otherwise meets the requirements of the levee rehabilitation program for operation, maintenance, and design;

(3) the benefits derived from repair or reconstruction of the levee exceed the costs thereof; and

(4) the public sponsor enters into a written agreement acknowledging that any future

assistance under the levee rehabilitation program will be conditioned upon the public sponsor's continued participation in the program.

(d) NON-FEDERAL SHARE.—The non-Federal share of a levee rehabilitation project for which assistance is made available as a result of this section shall be—

(1) to provide all lands, easements, rights-of-way, and dredged material disposal areas necessary for the project; and

(2) to provide 25 percent of the costs of construction of the project of which 5 percent of such costs shall be paid in cash (or a cash equivalent) from non-Federal sources.

(e) LIMITATION ON FUNDING.—Of the amounts made available to the Secretary of the Army to provide assistance under the levee rehabilitation program for fiscal year 1994, not more than $50,000,000 may be used to provide assistance to public sponsors who become eligible to receive assistance under the program as a result of this section.

SEC. 2. LEVEE REHABILITATION PROGRAM DEFINED.

In this Act, the term "levee rehabilitation program" means the levee rehabilitation assistance program of the Army Corps of Engineers carried out under section 5(a)(1) of the Act entitled "An Act authorizing construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)).

Mr. MINETA. Mr. Speaker, I am pleased to rise in support of H.R. 3583, a bill which will expand the eligibility of certain nonfederal levees to participate in the levee repair and reconstruction program of the Corps of Engineers.

Mr. Speaker, this bill represents a compromise proposal to provide additional assistance to the flood victims of the Midwest. Congresswoman PAT DANNER and the Missouri congressional delegation, and others, have developed this legislation working in close cooperation with the Office of Management and Budget. All the parties to the negotiation are to be commended for developing a proposal which will aid the flood victims, but not place an undue burden upon the Federal Treasury.

I wish to emphasize that this bill is not a blank check or a raid on the Federal Treasury. Many safeguards are included in the bill to assure that only viable levee projects are eligible for assistance:

There must be a public sponsor responsible for participating in the levee repair;

The levee must otherwise meet corps requirements for operation, maintenance and design;

The repair work must pass a cost-benefit analysis;

The non-Federal share is increased from the usual 20 to 25 percent, and at least 5 percent must be in cash; and finally,

No more than $50 million of the funds available to the corps may be spent for this program.

I should also note that we do not intend the repair or reconstruction of nonparticipating levees, as authorized by this bill, to be at the expense of the repair or reconstruction of participating levees or other flood control projects. Those who have a real need for repair or reconstruction work and who have been participants in the corps program should not be disadvantaged either by their willingness to participate or by any unintended interpretation of this bill.

Mr. Speaker, I do not believe that rebuilding every levee which was damaged this summer is in the best interests of the Nation, of flood control, or of the environment. We also need to explore nonstructural alternatives such as restoration of wetlands and natural floodplains. But, until we have had the opportunity to Evaluate these alternatives, certain critical public facilities and settled areas in the Midwest will need protection now. This legislation will allow for that protection to be provided.

I urge my colleagues to support the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3583, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION ACT

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2921) to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities, with amendments thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I would ask for the gentleman from Minnesota [Mr. VENTO] to explain this legislation.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, H.R. 2921, introduced by Congressman CLEMENT, authorizes appropriations for the preservation and restoration of historic buildings at historically black colleges and universities [HBCU]. This bill was introduced on August 6, 1993, and was approved by the Natural Resources Committee on November 10, 1993.

Many of the historic structures located on historically black college and university [HBCU] campuses are threatened, and a significant effort is needed to preserve and protect them. The Department of the Interior, in cooperation with the United Negro College Fund [UNCF], has launched a project to preserve these structures. In 1988, a special survey to identify candidates for inclusion in this program generated responses from 46 HBCU's nominating 144 structures for consideration.

The Department and UNCF eventually selected 11 of the most historically significant and critically threatened structures on such campuses. The Department and UNCF estimate that it will cost $20 million to preserve these particular structures, and UNCF has agreed to match a departmental contribution of $10 million for this purpose under the HBCU historic preservation initiative. However, no funds were requested or appropriated for this purpose for fiscal year 1994.

H.R. 2921, as reported by the Committee on Natural Resources, authorizes the use of appropriations from the historic preservation fund to provide grants for the preservation and restoration of historic buildings and structures at eligible HBCU's. In fiscal year 1995, a total of $20 million would be authorized, $5 million of which may be used only for Fisk University and $10 million of which may be used only for grants to those HBCU's identified for inclusion in the Interior Department's HBCU historic preservation initiative. For each of fiscal years 1996, 1997, and 1998, $15 million would be authorized. Federal funding for structures listed on the national register of historic places must be matched equally, unless the Secretary determines that an extreme emergency exists or that such waiver is in the public interest. The bill, as amended, also stipulates that structures receiving Federal funds may be altered later only with the concurrence of the Secretary.

These structures represent the hopes and achievements of a group of people denied equal opportunity and justice and who succeeded despite the imposition of almost insurmountable legal and social obstacles. In many cases, the buildings were constructed by the students themselves, many of them former slaves, and came under constant attack, particularly during the civil rights struggles of the 1960's and 1970's, as symbols of African-American pride and progress.

National Park System resources representing African-American themes are notably scarce. These institutions provided the only avenue to a better life for many African-Americans and provided this country with some of its greatest leaders—including many current Members of Congress. The inadequacy of the African-American theme representation in the National Park System makes this program to recognize the importance of HBCU's to our Nation critical.

The historic preservation fund, through which this grant program will be funded, is authorized at $150 million each fiscal year through 1997, and the total amount authorized for the fund since fiscal year 1977 remains available until appropriated. Of the funds appropriated for historic preservation through the HPF, the amounts cited in this bill may be used for preservation specifically at HBCU's. This bill does not authorize new spending, but allows already authorized funds to be spent on these significant, and underfunded, resources.

The testimony received at the hearing from the many presidents of HBCU's provided moving and eloquent affirmation of the significance of these resources and their importance to the African-American experience. Many of our colleagues have expressed strong support for this legislation, and several were able to attend the hearing and voice powerful personal confirmation of the education and cultural values represented by these structures. With enactment of this legislation, we will have taken an important step in recognizing the importance of these institutions to African-American advancement in this country, and I urge my colleagues to support this bill.

Mr. ALLARD. Mr. Speaker, further reserving my right to object, I rise in opposition to H.R. 2921. I commend the efforts of Mr. CLEMENT to provide funding to Fisk University and the other historically black colleges and universities. There is no doubt that these schools have made significant contributions to the advancement of African-Americans and indeed to the history of this country.

The reason I stand in opposition is not because of the merits of this program but because the $65 million that is authorized by H.R. 2921 is not supported by current projects. As fully explained by Mr. VENTO, H.R. 2921 would authorize $65 million for the rehabilitation and renovation of structures at historically black colleges and universities out of the Historical Preservation Fund. Unfortunately, only $16 million is supported by projects that have been reviewed and recommended by the National Park Service. In committee I offered a reasonable amendment that would have fully funded the 11 projects identified by the Park Service and the Fisk University project but it was defeated by my colleagues on the other side of the aisle.

It is irresponsible to turn an extra $49 million over to the Interior Department to spend on projects that have not been the subject of study and review by the administration or Congress. In a time when funds are scarce, we, as Representatives must keep a watchful eye over the taxpayers' hard-earned dollars.

Providing Federal assistance to the historically black colleges and universities is certainly a worthwhile effort that will preserve our history and heritage; however, H.R. 2921 in its present form is irresponsible. Vote "no" on H.R. 2921 and send it back to committee where we can authorize those projects that are fully supported by identified projects.

Mr. Speaker, I withdraw my reservation of objection.

□ 0110

Mr. CLEMENT. Mr. Speaker, reserving the right to object. I rise in support of the bill.

Mr. Speaker, I speak today in strong support of H.R. 2921, a bill to create a matching grant program for the preservation and restoration of historic buildings on the campuses of our Nation's historically black colleges and universities. With the encouragement of Chairman VENTO, I introduced H.R. 2921 on August 6, with the broad support of our colleagues.

I would like to thank Chairman VENTO and Chairman, MILLER, as well as ranking Republicans JIM HANSEN and DON YOUNG for their leadership in bringing H.R. 2921 to the floor today. I would also like to thank Mr. VENTO'S staff, particularly Ms. Amy Holley, for their assistance as well.

Mr. Speaker, as my colleagues know, our historically black colleges and universities have had a unique role in educating African-Americans. Notwithstanding the creation of land grant colleges under the 1890 Second Morrill Act, State and Federal Governments did not allocate sufficient land and financial resources to support these institutions. As a result, many of the schools came to rely on the generous support of private benefactors and charitable organizations. Many also came to rely on the sweat and tears of their own students and faculty.

Several of the witnesses who testified before the subcommittee described many of these structures as well as the historic activities and individuals associated with them.

It is the restoration and preservation of these important buildings that brings us before you today. Many of these buildings are architectural masterpieces and sites of historic consequence. They deserve to be restored and preserved.

As a former college president, I have a keen appreciation of the importance of the physical plant which houses every institution of higher learning. The first impression is often the most important impression as schools try to recruit talented young people to their campuses.

And, as a former college president, I know the difficult financial needs these and other schools have in keeping tuition affordable and in just meeting operating requirements. Regrettably, these schools are financially strapped and unable to devote scarce resources to restoring their historic buildings.

For all of us, the historic buildings on these campuses are important symbols of the schools' past, present, and promising future. Their restoration sends an important message nationally to members of all races that educational excellence is to be rewarded and not discouraged. By linking our rich history and culture with educational excellence, our country will retain its position of world leadership.

Specifically, the bill sets forth two important criteria before a building can qualify for assistance. First, that the building either be designated "a national historic landmark" or be listed on the National Register of Historic Buildings. And second, for buildings on the national register, the building's sponsor provide an equal amount of non-Federal funds to match the Federal Government's grant.

The bill authorizes $20 million in the first year and $15 million in the subsequent 3 fiscal years.

The opponents of the bill have argued that after the first year, the extent of the need is not evident. Perhaps they are unaware that there were more than 10 times as many historic buildings submitted for consideration under the Interior Department's initiative. Each of the 144 submissions was carefully reviewed by a special evaluation team of National Park Service historic preservation experts, and HBCU and private sector officials.

What opponents misunderstand is that the 11 buildings included in the Interior initiative are the most critically threatened, but they are not the only critically threatened historic structures on the campuses of the historically black colleges and universities.

H.R. 2921 establishes a modest program that will be administered by the Secretary of the Interior to meet these other needs.

Mr. Speaker, these historic buildings attest to the contribution historically black colleges and universities have made to the rich history of our Nation. These structures and buildings are national treasures worthy of preservation and restoration for future generations. They are also valuable educational facilities for the students and faculty who occupy them.

I respectfully request the House's favorable consideration of H.R. 2921.

Mr. Speaker, under my reservation, I yield to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I rise today in support of H.R. 2921, the Historically Black Colleges and Universities Historic Building Restoration and Preservation Act. Historically black colleges and universities have been the educational environment for thousands of African-Americans. They have been, and continue to be, the source of both academic and social enrichment. Not only has the enrollment in these institutions grown significantly over the years, their physical plants feature well equipped, architecturally beautiful structures. Some buildings, however, because of their age in need of major renovation.

Such is the case with Virginia Hall on the campus of Hampton University in Hampton, VA, in my district. Hampton University was established in 1868 to provide an education for newly freed slaves. One of the first permanent buildings constructed on the campus was Virginia Hall.

Virginia Hall has been designated a National Historic Landmark. Virginia Hall is also in need of significant repair. The funding provided through this bill will afford Hampton University the moneys that it needs to refurbish this historic building.

I urge my colleagues to vote for H.R. 2921.

Mr. CLEMENT. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Speaker, I rise in support of the bill H.R. 2921 and I am proud to be an original cosponsor of this legislation.

This important bill would authorize funds to assist Historically Black Colleges and Universities [HCBU's] in restoring historic buildings on their campuses. H.R. 2921 would authorize $25 million in fiscal year 1994 and such sums as necessary through the year 2000 to restore buildings on the campuses of HCBU's that are on the historic register or designated historic landmarks. The United Negro College Fund [UNCF], through its own historic preservation initiative, has identified 11 schools whose historic buildings are critically threatened and which would benefit under the bill: First, Gaines Hall, Morris Brown College, Atlanta, GA; second, Leonard Hall, Shaw University, Raleigh, NC; third, Hill Hall, Savannah State College, Savannah State College, Savannah, GA; fourth, St. Agnes Hall, St. Augustine's College, Raleigh, NC; fifth, The Mansion, Tougaloo College, MI; sixth, White Hall, Bethune Cookman College, Daytona Beach, FL; seventh, Graves Hall, Morehouse College, Atlanta, GA; eighth, Howard Hall, Howard University, Washington, DC; ninth, Virginia Hall, Hampton University, Hampton, VA; tenth, Packard Hall, Spelman College, Atlanta, GA; eleventh, Lockerman Hall, Delaware State College, Dover, DE. In addition, the entire campus of Fisk University in Nashville, TN, has been designated as a National Historic District by the U.S. Department of the Interior. This bill would make a one-time authorization of $5 million for renovation of the Fisk Campus Historic District.

One of the 11 buildings already identified by UNCF is White Hall on the campus of Bethune Cookman College in Daytona Beach, FL, which is in my district. This school was founded in 1904 by a great American, Mary McLeod Bethune, who began a small school with only $1.50 to serve the needs of the sons and daughters of slaves in Florida. It has grown over the years to 2,400 students. White Hall was named for Mr. Thomas A. White who was affiliated with the Westinghouse Co. and made a substantial contribution to the college. The First Lady, Mrs. Eleanor Roosevelt, was a close friend of Dr. Mary McCleod Bethune and on several occasions visited the building and the campus. White Hall is the oldest building at Bethune Cookman and the 6 years was the only building on campus. All activities were conducted in this building—both academic and administrative functions. The gymnasium which was a combination of a gym arena and auditorium was also used by civic organizations for cultural and social events.

The historical significance of all these buildings and their contribution to the higher education of African-American people cannot be overemphasized. HBCU's with historic buildings have difficulty securing funds necessary to repair and renovate these structures. Older historic buildings are much more expensive to preserve and maintain; this is an undisputed fact. However, the importance of these structures to the African-American community, the African-American higher education and intellectual achievement requires that every effort be made to preserve these symbols for future generations.

Many of these historic structures, that serve to physically attest to the contribution that HBCU's have made in educating this Nation's citizens, are at risk of being lost forever to the wrecking ball, acts of nature or loss of institutional memory. Recognizing this fact, the Department of the Interior launched a project aimed at preserving those structures on HBCU campuses considered to be the most significant and threatened. The project has been established as the HBCU Historic Preservation Initiative. A blue ribbon Department of the Interior/Private Sector Field Assessment Team headed by the National Park Service made a final field evaluation resulting in the selection of the 11 schools listed above. Efforts have begun to organize external public and private recognition and support for preservation and protection of the buildings.

Another important feature of this bill is that it provides for Federal funds to be matched on a dollar-for-dollar basis. This will allow Government dollars to be stretched twice as far. The Federal funds are already authorized, this is not new money. This bill merely allows the historic preservation fund to be used for grants to HBCU's specifically.

The problem that H.R. 2921 addresses is that these historic buildings are in danger of being lost if they are not restored. They have been too important to the higher education of African-Americans to lose—not just for the role they have played in the past, but for the valuable lessons they can teach future generations of African-American students.

Mr. CLEMENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota:

There was no objection.

The Clerk read the bill, as follows:

H.R. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Historically Black Colleges and Universities Historic Building Restoration and Preservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for African-American, low-income, and educationally disadvantaged Americans;

(2) over our Nation's history, States and the Federal Government has discriminated in the allocation of land and financial resources to support these institutions, thus forcing them to rely on the generous support of private individuals and other charitable organizations;

(3) the development of this source of private and charitable financial support for historically black colleges and universities has resulted in structures and buildings of historic importance and architecturally unique design on the campuses of these institutions; and

(4) many of these structures and buildings are national treasures worthy of preservation and restoration for future generations of all Americans as well as for the students and faculty of these institutions.

SEC. 3. PRESERVATION AND RESTORATION GRANTS FOR HISTORIC BUILDINGS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) Authority To Make Grants.—Under the authority of section 2 of the Act entitled "An Act to provide for the preservation of historic sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 462), the Secretary of the Interior shall, from amounts available under subsection (b) in any fiscal year, make grants to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) Authorization of Appropriations.—(1) There are authorized to be appropriated $25,000,000 for fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year through fiscal year 2000, to carry out this Act.

(2) Of the amounts appropriated pursuant to paragraph (1) for fiscal year 1994, $5,000,000 shall be available only for grants under subsection (a) to Fisk University.

(c) Regulations.—The Secretary may promulgate such regulations as may be necessary to carry out this Act.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) The term "historically black colleges and universities" means any historically black college and university that was established prior to 1964 whose principal mission was, and is, the education of African-Americans and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary of the Department of Education to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.

(2) The term "historic building and structures" means a building or structure listed on the National Register of Historic Places or designated a National Historic Landmark.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore (Mr. Hoyer). The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Historically Black Colleges and Universities Historic Building Restoration and Preservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for African-American, low-income, and educationally disadvantaged Americans;

(2) over our Nation's history, States and the Federal Government have discriminated in the allocation of land and financial resources to support these institutions, thus forcing them to rely on the generous support of private individuals and other charitable organizations;

(3) the development of this course of private and charitable financial support for historically black colleges and universities has resulted in structures and buildings of historic importance and architecturally unique design on the campuses of these institutions; and

(4) many of these structures and buildings are national treasures worthy of preservation and restoration for future generations of all Americans as well as for the students and faculty of these institutions.

SEC. 3. PRESERVATION AND RESTORATION GRANTS FOR HISTORIC BUILDINGS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) Authority To Make Grants.—From the amounts made available to carry out the

National Historic Preservation Act for the fiscal years 1995 through 1998, the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—(1) Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(d) FUNDING PROVISIONS.—(1) Not more than $20,000,000 for fiscal year 1995 and not more than $15,000,000 for each of the fiscal years 1996, 1997, and 1998 may be made available under this section.

(2) Of the amounts made available under this section for fiscal year 1995, $5,000,000 shall be available only for grants under subsection (a) to Fisk University.

(3) Of the amounts made available under this section for fiscal year 1995, $10,000,000 shall be available only for grants under subsection (a) to those historically black colleges and universities identified for inclusion in the Department of the Interior Historically Black College and University Historic Preservation Initiative.

(e) REGULATIONS.—The Secretary shall promulgate such regulations as may be necessary to carry out this Act.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) The term "historically black colleges and universities" has the same meaning given the term "part B institution" by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) The term "historic building and structures" means a building or structure listed on the National Register of Historic Places or designated a National Historic Landmark.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2921, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

Mr. KENNEDY. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 3616) to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the Memorial, and the Women in Military Service for America Memorial, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. MCCANDLESS. Mr. Speaker, reserving the right to object, I ask that the subcommittee chairman, the gentleman from Massachusetts [Mr. KENNEDY] explain the bill that is before us.

Mr. KENNEDY. Mr. Speaker, if the gentleman will yield, H.R. 3616 establishes commemorative coin programs on behalf of prisoners of war, women veterans, the preservation of the Vietnam Veterans Memorial, the preservation of Monticello, Thomas Jefferson's home, and the preservation of the U.S. Capitol.

With the exception of the U.S. Capitol coin, the House passed this exact legislation yesterday by a vote of 428 to nothing. The Capitol coin will be used for a very worthy cause, to preserve and maintain the U.S. Capitol, the center of our democracy. This legislation will not cost the taxpayers a cent, and I urge its adoption.

Mr. MCCANDLESS. Mr. Speaker, I withdraw my reservation of objection and I urge the adoption of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—THOMAS JEFFERSON COMMEMORATIVE COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Jefferson Commemorative Coin Act of 1993".

SEC. 102. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 600,000 one-dollar coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the coins issued under this title shall be emblematic of a profile of Thomas Jefferson and a frontal view of his home Monticello. On each coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 104. SELECTION OF DESIGN.

Subject to section 102(a)(2), the design for the coins authorized by this title shall be—

(1) selected by the Secretary after consultation with the Executive Director of the Thomas Jefferson Memorial Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Advisory Committee.

SEC. 105. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this title shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this title.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this title during the period beginning on May 1, 1994, and ending on April 30, 1995.

SEC. 106. SALE OF COINS.

(a) SALE PRICE.—The coins authorized under this title shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (c) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(c) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary—

(1) in the case of surcharges received in connection with the sale of the first 500,000 coins issued, to the Jefferson Endowment Fund, to be used—

(A) to establish and maintain an endowment to be a permanent source of support for Monticello and its historic furnishings; and

(B) for the Jefferson Endowment Fund's educational programs, including the International Center for Jefferson Studies; and

(2) in the case of surcharges received in connection with the sale of all other such coins, to the Corporation for Jefferson's Poplar Forest, to be used for the restoration and maintenance of Poplar Forest.

SEC. 109. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 108, as may be related to the expenditures of amounts paid under section 108.

SEC. 110. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE II—U.S. VETERANS COMMEMORATIVE COINS

SEC. 201. SHORT TITLE.

This title may be cited as the "United States Veterans Commemorative Coin Act of 1993".

SEC. 202. COIN SPECIFICATIONS.

(a) One-Dollar Silver Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue one-dollar coins of 3 different designs, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) Designation of Value and Inscriptions.—On each coin there shall be a designation of the value of the coin, an inscription of the year "1994", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(3) Design of 3 Coins.—

(A) Prisoner-of-war Commemorative Coin.—1 type of coin issued under this title shall be a prisoner-of-war commemorative coin the design of which shall be emblematic of the experience of Americans who have been prisoners-of-war.

(B) Vietnam Veterans Memorial Commemorative Coin.—1 type of coin issued under this title shall be a Vietnam Veterans Memorial commemorative coin the design of which shall be emblematic of the Vietnam Veterans Memorial.

(C) Women in Military Service for America Memorial Commemorative Coin.—1 type of coin issued under this title shall be Women in Military Service for America Memorial commemorative coin the design of which shall be symbolic of women's service in the Armed Forces of the United States.

(4) Maximum Number for Coins of Each Design.—The Secretary shall issue no more than 500,000 coins of each design.

(b) Legal Tender.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 203. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 204. SELECTION OF DESIGN.

Subject to section 202(a)(3), the design for the coins authorized by this title shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts and—

(A) in the case of the coin described in section 202(a)(3)(B), the Vietnam Veterans Memorial Fund; and

(B) in the case of the coin described in section 202(a)(3)(C), the Women in Military Service for America Memorial Foundation, Incorporated; and

(2) reviewed by the Citizens Commemorative Advisory Committee.

SEC. 205. SALE OF COINS.

(a) Sale Price.—The coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in subsection (d).

(b) Bulk Sales.—The Secretary shall make bulk sales at a reasonable discount.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins issued under this title before the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) Surcharges.—All sales of coins issued under this title shall include a surcharge of $10 per coin.

SEC. 206. ISSUANCE OF THE COINS.

(a) Commencement of Issuance.—The coins minted under this title may be issued beginning May 1, 1994.

(b) Termination of Authority.—The coins authorized under this title may not be minted after April 30, 1995.

(c) Proof and Uncirculated Coins.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(d) 3-Coin Sets.—

(1) In general.—In addition to any other manner and form of sales of coins minted under this title, the Secretary shall make a portion of such coins available for sale in 3-coin sets containing 1 of each of the 3 designs of coins required pursuant to section 202(a)(3).

(2) Number of sets.—The number of 3-coin sets made available pursuant to paragraph (1) shall be at the discretion of the Secretary.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) Prisoner-of-War Commemorative Coins.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of prisoner-of-war commemorative coins described in section 202(a)(3)(A) shall be promptly paid by the Secretary in the order that follows:

(1) Amounts to be made available for construction of museum.—The Secretary of the Treasury shall make available to the Secretary of the Interior the first $3,000,000 of such surcharges for the construction of the Andersonville Prisoner-of-War Museum in Andersonville, Georgia.

(2) Amounts to be paid to endowment fund.—After payment of the amount required by paragraph (1), the Secretary of the Treasury shall pay 50 percent of the remaining surcharges to the endowment fund established pursuant to section 209(a).

(3) Amounts to be paid to maintain national cemeteries.—After payment of the amount required by paragraph (1), the Secretary shall pay 50 percent of the remaining surcharges to the Secretary of Veterans Affairs for purposes of maintaining national cemeteries pursuant to chapter 24 of title 38, United States Code.

(b) Vietnam Veterans Memorial Commemorative Coins.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of Vietnam Veterans Memorial commemorative coins described in section 202(a)(3)(B) shall be promptly paid by the Secretary to the Vietnam Veterans Memorial Fund to assist the Fund's efforts to raise an endowment to be a permanent source of support for the repair, maintenance, and addition of names to the Vietnam Veterans Memorial.

(c) Women in Military Service for America Memorial Commemorative Coins.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of Women in Military Service for America Memorial commemorative coins described in section 202(a)(3)(C) shall be promptly paid by the Secretary to the Women in Military Service for America Memorial Foundation, Inc., for the purpose of creating, endowing, and dedicating the Women in Military Service for America Memorial.

(d) Surcharges From 3-Coin Sets.—In the case of surcharges derived from the sale of 3-coin sets pursuant to section 206(d)—

(1) ⅓ of such amount shall be distributed as provided in subsection (a);

(2) ⅓ shall be distributed as provided in subsection (b); and

(3) ⅓ shall be distributed as provided in subsection (c).

SEC. 209. ANDERSONVILLE PRISONER-OF-WAR MUSEUM ENDOWMENT FUND.

(a) Establishment.—There is hereby established in the Department of the Interior an endowment fund (hereinafter in this section referred to as the "fund") to be administered by the Secretary of the Interior and to consist of the amounts deposited under subsection (b).

(b) Deposit Into Fund.—

(1) Deposit from surcharges.—There shall be deposited into the fund such amounts that

are paid by the Secretary under section 208(a)(2).

(2) Investment.—The Secretary of the Interior shall have the authority to invest the portion of the fund that is not, in the determination of such Secretary, required to meet the current needs of the fund, in obligations of the United States or in obligations guaranteed as to the principal and interest by the United States. In making such investments, the Secretary of the Interior shall select obligations having maturities suitable to the needs of the fund.

(c) Expenditures.—The Secretary of the Interior may use the amounts deposited in the fund under this title to pay for the maintenance of the Andersonville Prisoner-of-War Museum in Andersonville, Georgia.

SEC. 210. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 208, as may be related to the expenditures of amounts paid under section 208.

SEC. 211. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE III—REFORM OF COMMEMORATIVE COIN PROGRAMS

SEC. 301. SENSE OF CONGRESS RESOLUTION.

(A) Findings.—The Congress hereby makes the following findings:

(1) Congress has authorized 18 commemorative coin programs in the 9 years since 1984.

(2) There are more meritorious causes, events, and people worthy of commemoration than can be honored with commemorative coinage.

(3) Commemorative coin legislation has increased at a pace beyond that which the numismatic community can reasonably be expected to absorb.

(4) It is in the interests of all Members of Congress that a policy be established to control the flow of commemorative coin legislation.

(b) Declaration.—It is the sense of the Congress that the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate should not report or otherwise clear for consideration by the House of Representatives or the Senate legislation providing for more than 2 commemorative coin programs for any year, unless the committee determines, on the basis of a recommendation by the Citizens Commemorative Coin Advisory Committee, that extraordinary merit exists for an additional commemorative coin program.

SEC. 302. REPORTS BY RECIPIENTS OF COMMEMORATIVE COIN SURCHARGES.

(a) Quarterly Financial Report.—

(1) In general.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a quarterly financial report to the Director of the United States Mint and the Comptroller General of the United States describing in detail the expenditures made by such person from the proceeds of the surcharge.

(2) Information to be included.—The report under paragraph (1) shall include information on the proportion of the surcharges received during the period covered by the report to the total revenue of such person during such period, expressed as a percentage, and the percentage of total revenue during such period which was spent on administrative expenses (including salaries, travel, overhead, and fund raising).

(3) Due dates.—Quarterly reports under this subsection shall be due at the end of the 30-day period beginning on the last day of any calendar quarter during which any surcharge derived from the sale of commemorative coins is received by any person.

(b) Final Report.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a final report on the expenditures made by such person from the proceeds of all surcharges received by such person, including information described in subsection (a)(2), before the end of the 1-year period beginning on the last day on which sales of such coins may be made.

SEC. 303. GAO REPORTS TO CONGRESS.

Before the end of the 1-year period beginning on the last day on which sales of commemorative coins may be made under the Act of Congress which authorized such coins, the Comptroller General of the United States shall submit a financial accounting statement to the Congress on the payment of any surcharges derived from the sale of such coins and the use and expenditure of the proceeds of such surcharges by any recipient (other than a recipient which is an agency or department of the Federal Government) based on the reports filed by such recipient with the Comptroller General in accordance with section 302 and any audit of such recipient which is conducted by the Comptroller General with respect to the use and expenditure of such proceeds.

TITLE IV—BICENTENNIAL OF THE UNITED STATES CAPITOL COMMEMORATIVE COIN ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Bicentennial of the United States Capitol Commemorative Coin Act".

SEC. 402. SPECIFICATIONS OF COINS.

(a) One Dollar Silver Coins.—

(1) Issuance.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall mint and issue not more than 500,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) Design.—The design of the one dollar coins shall, in accordance with section 404, be emblematic of the bicentennial of the United States Capitol. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1994", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) Legal Tender.—The coins minted under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

(c) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 403. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 404. DESIGN OF COINS.

The design for the coin authorized by this title shall be selected by the Secretary after consultation with the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Commission of Fine Arts.

SEC. 405. ISSUANCE OF COINS.

(a) One Dollar Coins.—The one dollar coins minted under this title may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular quality.

(c) Commencement of Issuance.—The Secretary may issue the coins minted under this title beginning May 1, 1994.

(d) Termination of Authority.—Coins may not be minted under this title after April 30, 1995.

(e) Contracts.—Any contract to be made by the Secretary involving the promotion, advertising, or marketing of any coins authorized under this title shall be valid only upon approval by the United States Capitol Preservation Commission.

SEC. 406. SALE OF COINS.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Surcharges.—All sales of coins minted under this title shall include a surcharge of $15 per coin.

SEC. 407. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) Payment for Coins.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 408. USE OF SURCHARGES.

(a) Use of Surcharges.—All surcharges that are received by the Secretary from the sale of coins minted under this title shall be deposited in the Capitol Preservation Fund and be available to the United States Capitol Preservation Commission.

(b) Technical Amendment.—Section 8(b)(1) of Public Law 100-673 is amended to read as follows:

"(2) LIMITATIONS ON REIMBURSEMENTS.—No amount received by the Commission from the Capitol Preservation Fund from the sale of coins minted under this Act may be used to pay representational expenses of the Commission.".

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KENNEDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3616, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADDITION OF TRUMAN FARM HOME TO HARRY S. TRUMAN NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 486) to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I yield back to the gentleman from Minnesota [Mr. VENTO] for an explanation.

Mr. VENTO. Mr. Speaker, H.R. 486 is legislation introduced by Representative ALAN WHEAT to authorize the Secretary of the Interior to acquire by donation the Truman Farm National Historic Landmark located in Grandview, MO, and add this property to the existing Harry S Truman National Historic Site. Identical legislation passed the House last Congress but was not acted on by the Senate prior to adjournment.

Harry Truman, the 33d President of the United States, lived and worked on the Truman farm from 1906 until 1917. During these 11 years he did everything that was required for farm life including plowing, sowing, baling hay, repairing equipment and building fences and a barn. He kept the books for the farm and experimented with relatively new practices such as crop rotation and soil conservation. Truman was the sole manager of the farm for 3 years after his father died in 1914 and he visited the farm frequently throughout the rest of his life.

The property was listed on the National Register of Historic Places in 1978. The farm was purchased by Jackson County in 1980 and was restored by a local foundation in 1984. The property was designated a National Historic Landmark in 1985.

Several prominent historians, including Truman biographer David McCullough and the chief historian of the National Park Service, have provided testimony about the high degree of national significance of the Truman Farm Home property and the importance of the farm to the development of Truman's values of family and community and to shaping his views on agriculture.

Truman's agricultural experience became a major factor in his 1948 election victory because of his firsthand knowledge of farm issues and because he constantly appealed to farm voters on the basis of their common ground. Much of Truman's Federal Farm Program was founded in his and his family's agricultural experience. Truman had great affection for the farm, and once stated "I always give my occupation as farmer. I spent the best years of my life trying to run a 600-acre farm successfully, and I know what the problems are."

The costs of this measure are minimal for several reasons. As I stated, the Truman Farm Home and surrounding property will be donated to the National Park Service by Jackson County. Administrative costs at the site will be minor since there already is a National Park Service administrative unit in nearby Independence. Finally, no visitor center would be needed and much of the interpretive work could be performed by volunteers who are currently doing this service.

Mr. Speaker, H.R. 486 is a low cost measure which would preserve a very significant site in the life of one of our greatest presidents. Its addition to the existing Truman National Historic Site would complement the properties already managed by the National Park Service and it would provide an excellent opportunity to interpret Truman's farm years which were so important in shaping the future President's life and values. The bill has bipartisan support in the House and Senate and is supported by the Clinton administration. I urge Members to support this measure.

Mr. ALLARD. Mr. Speaker, continuing my reservation of objection, I rise in opposition to H.R. 486, a bill to expand the Harry S. Truman National Historic Site by authorizing a Federal takeover of the Truman Farm Home, an existing county park. As the administration testified before the Parks Subcommittee in presenting their opposition to this measure, both in the 102d and 103d Congresses, this site fails to pass the first test which all properties must pass in order to be eligible for inclusion in the National Park System, and that is the integrity of the site itself.

When the Park Service studied the site, they found that the 5.2-acre remnant of the former 600-acre Truman Farm did not pass muster because the farm had been almost entirely engulfed by urban development. During our hearing, several historians testified that the Truman Farm, which former President Truman ran from 1906 to 1917, was important in shaping his understanding of rural life and political skills. I don't disagree with that, but the question we must answer with this measure is whether it is essential for the Federal Government to takeover this compromised site in order to interpret the life of this President to the public. Will this site add in any significant way to the story presented to the public at the existing Truman National Historic Site, located just 15 miles away?

To answer that question, I'd like to quote from a National Park Service internal memorandum signed by the associate director of cultural resources:

> The Truman Farm Home is no longer in a farming area; indeed, Truman himself sold the farm for development and it is now a suburban area. Thus it is impossible to interpret his farm life there in a meaningful way. Additionally, unlike the home in Independence, which was donated to the Government fully intact and completely furnished with Truman belongings, the farm home lacks much curatorial potential.
>
> The primary motivation behind this bill, we suspect, is to free Jackson County from the financial burden of maintaining the property as a public park. We do not believe the Service should accede, for we suspect it will strengthen the pressure for additional Presidential sites of the second rank, as we must suggest this one is; we cannot advocate that the National Park System include all such properties, when other subjects cry out for representation in a system already topheavy with Presidential sites, as opposed to those representing other great individuals and other aspects of the Nation's history.

The best thing that proponents can say about this measure is that it won't cost much, only about $0.5 million up front and $350,000 annually for eternity. That is a shallow argument, when you consider that the country paid nothing for this property, which they are now so anxious for the Federal Government to takeover. In fact, Federal funds were originally used to acquire a 50-percent interest in the property and the balance was donated to the county by the Truman family. This site is such a low priority for Jackson County that in 1992 the county allocated just $2,000 of their $5 million park and recreation budget to this site.

I cannot disagree with the priorities of the county and why they have decided not to fund this project. I know there are many projects at all levels of government where we have good intentions to carry them out, but lack the necessary funds. However, if this is not even a priority at the county level, I cannot agree that it should be a priority for the Federal Government and therefore I oppose this measure.

My colleagues will remember a few years ago when this body said no to funding for the Lawrence Welk home. I urge you now to join me in rejecting this proposal which is equally unnecessary.

Mr. Speaker, under my reservation, I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I rise in support of H.R. 486, which provides for the addition of the Truman Farm Home to the Harry S Truman National Historic Site in the State of Missouri.

Martha Truman, the mother of our 33d President, said of her son, "It was on the farm that Harry got his common sense." President Truman worked on his family's farm in Grandview, MO for 11 years before going off to fight in World War I.

Truman worked on the Grandview farm during what historians call "the Golden Age" of American agriculture. It was also the time of Truman's formative years, when his social and political values were molded. President Truman not only kept the books for his farm, he did the hands-on work required of farm life—plowing, sowing, repairing farm equipment, and bailing hay.

The Grandview farm continued to be a family-run operation throughout his time in Washington to his retirement in Independence, MO. It continues to attract many Americans who wish to glimpse a part of President Truman's past.

H.R. 486, which adds the Harry S Truman Harm to the existing National Historic Site, will enhance our appreciation and understanding of President Truman and preserve this important site for the benefit of future generations. It deserves our support.

Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from Minnesota?

Mr. WHEAT. Mr. Speaker, reserving the right to object, I would just like to thank the chairman for all the work that he has done in moving this bill forward over the years.

Mr. Speaker, I rise today in support of H.R. 486, legislation to allow the National Park Service to acquire and administer Harry Truman's farm home in Grandview, MO. This bill would allow the National Park Service to acquire the 5.2 acre farm home in Grandview by donation from Jackson County, MO, and to operate the site as part of the existing Truman Historic Site in Independence, MO.

Mr. Speaker, this legislation was passed by the House of Representatives during the 102d Congress; however, the other body was unable to act on the measure before the end of the session. Now I am hopeful that the House can again move this important measure so that the farm home of President Truman can be appropriately preserved as an important piece of this Nation's history.

I would like to thank the members and staff of the committee and subcommittee for all of their hard work. In particular, I extend great thanks to Mr. Emerson, my colleague from Missouri, who was instrumental in once again bringing this bill to the floor for consideration.

I would like to begin by quoting from a letter I received from noted historian David McCullough, Pulitzer Prize winner for his masterpiece Truman, in which he states his support for this bill.

> Harry Truman was not the avocational kind of farmer who never pulled a weed, or never knew the satisfactions and pride of being truly a farmer. He was in this, as in so much else in his life, the real thing.

Much of the history of Truman's life is evident throughout Independence and surrounding areas. The addition of the Truman farm home to the National Historic Site would provide a unique opportunity for the presentation in one area of an entire presidential life story. The farm in Grandview depicts Truman's roots as a common, working man. In Independence, Truman's courthouse office preserves the memory of his early political career. The Truman home, also known as the Summer White House, is where he lived before he was elected Vice President and where he returned after his decision not to run for a third term of office. Finally, the presidential library commemorates and preserves the documents of Truman's presidency. Preservation of the farm home is necessary to the completion of this comprehensive biography of our 33d President.

Numerous historians and Truman scholars, including historians from the Park Service, have affirmed the significance of Truman's years on this farm in the development of his character. Historians often refer to his farm home as the site where the future President not only worked the land, but also cultivated the skills and no-nonsense work ethic that made him a towering figure in American history. The addition of the Truman farm home will greatly enhance our National Park System by allowing the Park Service to teach the public about a key period in the life of this great national and international leader.

Harry Truman lived on the original 600-acre farm from 1906 until 1917 when he left Missouri to serve in the First World War. Extensive historical documentation of Truman's life on the farm, and reminiscences about his time there, are available through nearly 1200 letters he wrote to his future wife, Bess Wallace, during his years on the farm.

The farm and the house were built in 1894 and belonged to Truman's maternal grandparents. Because of a flood that destroyed the rented farm of Truman's father, John Anderson Truman, Harry and his brother Vivian left their banking jobs in Kansas City to help their father run their grandparents' farm. From age 22 to age 23, Harry made his living planting, plowing, and managing the family farm. Through those years on the farm, Truman gained a deep appreciation for the working man. The habits of rising early and working hard never left the future President.

Historians believe that it was during Harry Truman's life as a working man, especially the 11 years of his early adult life that he spent on this family farm, that he developed the common sense, integrity and compassion for which he is so famous. Truman himself remarked in later years that "I spent the best 10 years of my life on a 600-acre farm south of Kansas City."

This farm home represents a critical part of Truman's life and must not be allowed to fall into disrepair. It was in 1967 that the local community began to express concerns about the state of the farm home and later organized a plan for its revival. Volunteer organizations were formed with the help of Federal, State and local officials, specifically, the Truman Farm Home Foundation and The Friends of the Truman Farm Home. Along with Jackson County, these volunteers focused their efforts on raising funds to purchase, restore, and operate the farm home which was opened for visitors in 1984.

Unfortunately, after years of hard work, the county and volunteers do not have the funds, resources, or preservation expertise to appropriately complete the necessary restoration. As a result, the farm home has been available for the public to enjoy only a few days a week in the summer.

Because of the lack of adequate resources, nearby commercial development, and the need for professional management, passage of this legislation is imperative for the future of this historic site. Although the farm home has been in good hands with the care of the volunteers of the Friends of the Truman Farm Home, the National Park Service has recommended—and stated its support for—putting the responsibility for the care of the home under the Park Service. In testimony before the other body in July, the administration announced its support for preserving and administering the farm home under the auspices of the National Park Service.

In 1989, at the behest of Congress, the National Park Service conducted a study of the site and possible management alternatives. The Park Service identified the option embodied in H.R. 486—a takeover of the farm by the Park Service through donation by Jackson County—as one feasible solution to the management dilemma. Since the study, Jackson County has offered to donate the property to the National Park Service, believing strongly that Federal management of the site would be beneficial, in fact vital, to preserving the farm home for the public.

I would like to take the time to specifically address some of the concerns that have been expressed by others in response to this proposal.

Some have questioned the historical value of the property. However, I would like to point out that the Park Service, in 1978, selected the Truman Farm Home to be a site listed in the National Register of Historic Places. Stringent criterion regarding the historical integrity of the resource must be met in order to receive this designation. Later, in 1985, the Park Service awarded the farm an even more prestigious designation by selecting it to be a National Historic Landmark.

Further, few historians have disputed the historical value of this site or this period of Truman's life. Even the Chief Historian for the National Park Service emphasized the importance of this period to the development of this future president while testifying at the hearing on this bill.

Opponents of this legislation like to point out that Truman himself sold much of the farm land for development. They neglect to mention, however, that the Truman family was forced to sell much of the land in order to settle the mortgage on the farm. In fact, because of the financial troubles that plagued Truman throughout his life, he lived most of the time in a house owned by his mother-in-law. The current historic site in Independence represents the Wallace family house.

It is true that in this time of strained budgets and shrinking funds for State and local governments, Jackson County has been unable to provide the necessary funds to maintain this site at the level it deserves. However, the historical value of the site itself mandates that it be placed under the auspices of the National Park Service. No amount of funding support at the local level can make up for the historical, management, and interpretative resources that the National Park Service can and must bring to this nationally significant site.

Certainly, it is important that any added responsibility for the Park Service be carefully scrutinized. According to the Congressional Budget Office, this proposal would not involve any pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. Furthermore, because the farm home would be included as part of the existing Truman Historical site, cost savings would be realized through the use of the existing administrative and management resources already in place at the Truman home in Independence.

Finally, Mr. Speaker, this is a bipartisan issue. The two Republican Senators from Missouri have sponsored the bill in the other body.

I am proud to represent a region of the country that calls Harry Truman its favorite son. Among other things, Harry S Truman will most likely be remembered as one of the last American Presidents to have worked as a farmer. The years that he spent on the farm were a vital component to the formation of his character. If the place where he spent those years is not adequately preserved through Federal management, Americans will not have the opportunity to experience this important aspect of Truman's life. To allow this landmark to deteriorate without proper maintenance would be to rob thousands of visitors of the opportunity to learn of a truly unique aspect of a truly unique President. This landmark represents a theme in American history which should not be forgotten—that the mainstay of our early economy was agriculture and the family farmer.

Mr. Speaker, the time has come to move forward and pass this measure into law. I will finish my remarks with another quote from David McCullough's letter:

> If the walls of that small plain, seemingly ordinary house could speak, they would have the most American of stories to tell. So let us make sure it is properly preserved. Let the house stand as a symbol of strength and pride and bedrock decency of the "good farmer," as Truman might have said. It is a national treasure.

Mr. Speaker, with that, I close my remarks and ask that the House approve H.R. 486.

I include for the RECORD the letter from Mr. McCullough:

JULY 29, 1993.

President WILLIAM J. CLINTON,
The White House, Washington, DC.,

DEAR MR. PRESIDENT: I am writing to urge you to give full support to the bill S. 845 that would save the old Truman family homeplace at Grandview, Missouri, and make it part of the National Park Service operation that maintains the Truman home in Independence.

The importance of the Truman farmhouse, in the life of President Truman, and in what it says about our country, could not be greater. The two most formative experiences of his life were his service in France in World War I and his years on the farm. It was there, in the house at Grandview, that he lived with his mother, father, and sister for eleven years, up every morning to work the long day as a partner in the family enterprise, in all seasons, beset often by drought, insect plague, falling prices, and always with a load of debt.

It was there on the farm, his mother liked to say, that, "Harry got his common sense." It was there, writing to the love of his life, Bess Wallace of Independence, that he poured out the events of his days, his ideas and his heart's desire in hundreds of letters that fortunately have survived, letters that tell us so much about him and about a whole vanished way of life in rural America. It was there, in a house without electricity or running water, that young Harry held the lantern while a country doctor operated on his mother, there that he watched over his father in his dying hour, John Truman having literally worked himself to death.

Some supposedly historic houses have in fact been of only marginal importance in the life of the past Americans they honor. This is not one of those and its preservation is entirely in the national interest.

Harry Truman was not the avocational kind of farmer who never pulled a weed, or never knew the satisfactions and pride of being truly a farmer. He was in this, as in so much else in his life, the real thing. Further, his years on the farm, from 1906 to 1917, coincided with what historians call "The Golden Age" of American agriculture. His grandfather had pioneered the land when it was unbroken prairie. He and his family were living still the Jefferson ideal. He himself often expressed that ideal in the long letters to Bess Wallace, and he would, when the time came, leave the plow and go to war in the spirit of Cincinnatus, another of his heroes.

If the walls of that small plain, seemingly ordinary house could speak, they would have the most American of stories to tell. So let us make sure it is properly preserved. Let the house stand as a symbol of the strength and pride and bedrock decency of the "good farmer," as Truman might have said. It is a national treasure.

Respectfully,

DAVID MCCULLOUGH.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. SKELTON. Mr. Speaker, reserving the right to object, I think that this is a piece of history that is living all over again. I commend my colleague, the gentleman from Missouri [Mr. WHEAT]. I commend the committee. I think it certainly is a step that will pay great dividends for young people generations from now to be able to see the beginnings and the rearings of our own Harry Truman from back in Missouri.

Mr. Speaker, under my reservation I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, this measure has broad bipartisan support in the Missouri delegation. I am proud to be an original cosponsor of the measure, together with the gentleman from Kansas City and the gentleman from Lexington, and I urge Members to support this measure.

Mr. SKELTON. Mr. Speaker, further reserving the right to object, I might say that this is a great effort on behalf of the delegation, led by the gentleman from Kansas City, MO [Mr. WHEAT]. I compliment the gentleman, and I am pleased to be associated with it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY ACQUISITION.

The first section of the Act entitled "An Act to establish the Harry S Truman National Historic Site in the State of Missouri, and for other purposes", approved May 23, 1983 (97 Stat. 193), is amended by adding at the end the following:

"(c) The Secretary is further authorized to acquire from Jackson County, Missouri, by donation, the real property commonly referred to as the Truman Farm Home located in Grandview, Jackson County, Missouri, together with associated lands and related structures, comprising approximately 5.2 acres.".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee Amendment: On page 2, line 9, strike the quotation marks and the final period, and add the following:

"(d) The Secretary is authorized and directed to provide appropriate political subdivisions of the State of Missouri with technical and planning assistance for the development and implementation of plans, programs, regulations, or other means for minimizing the adverse effects on the Truman Farm Home of the development and use of adjacent lands.".

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 486, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

DESIGNATION OF CHAIRMAN OF COMMITTEE ON FOREIGN AFFAIRS TO HEAD DELEGATION FOR D-DAY FIFTIETH ANNIVERSARY CELEBRATION

Mr. FOLEY. Mr. Speaker, I am pleased to announce that I have designated the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans Affairs, to head a delegation on behalf of the House to the celebrations for the 50th anniversary of D-day. Mr. MONTGOMERY will lead a bipartisan delegation of Members, many of them World War II veterans, to observations in the United Kingdom, France, and Italy marking the pivotal military assaults that took place in those three countries in early June 1944.

ANNOUNCEMENT OF APPOINTMENT OF OBSERVERS WITH RESPECT TO PRESENT AND FUTURE UNITED STATES ARMS CONTROL NEGOTIATIONS

Mr. FOLEY. Mr. Speaker, pursuant to an agreement with the Republican leader, I am pleased to announce the appointment of observers from the House during the 103d Congress with respect to present and future United States arms control negotiations, including those affecting a Comprehensive Nuclear Test Ban Treaty, implementation of the Chemical Weapons Convention, and other arms proliferation regimes, as well as implementation of existing arms control treaties and agreements. The observers are as follows:

Messrs. GEPHARDT, HAMILTON, DELLUMS, SABO, LANTOS, CARR of Michigan, DICKS, BERMAN, TORRES, LANCASTER, SKAGGS, BROWDER, KOPETSKI, GILMAN, SPENCE, HYDE, BATEMAN, HANSEN, BEREUTER, KYL, GOSS, and RAMSTED.

EXTENDING AUTHORIZATION OF BLACK REVOLUTIONARY WAR PATRIOTS FOUNDATION TO ESTABLISH MEMORIAL

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2947) to extend for an additional 2 years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO] to explain the bill.

Mr. VENTO. Mr. Speaker, H.R. 2947 as originally introduced by Congresswoman NANCY JOHNSON, would extend the authorization for the Black Revolutionary War Patriots Memorial, a memorial to those African Americans who fought with the American colonists for independence from Great Britain and for those who petitioned for their freedom or escaped to obtain it. As amended by the Committee on Natural Resources, H.R. 2947 extends the authorization for the establishment of three commemorative works to be constructed here in the Nation's Capital and makes various technical amendments to the Commemorative Works Act. In 1986 Congress enacted the Commemorative Works Act out of concern that numerous memorials were being proposed for the scarce public lands in the Nation's Capital and that a process for establishing those of the highest merit should be developed. The Black Revolutionary War Patriots Memorial, the women in military service to America and the National Peace Garden have all been authorized under the Commemorative Works Act. All three have obtained the initial site and design approvals as required by the law. But for various reasons, particularly because of the difficulty of fundraising, each of them has requested an extension for the completion of their commemorative works. This legislation extends their authorizations to 10 years—an additional 3 years for each. I support this extension with the understanding that there will be no further extensions.

As amended by the Committee on Natural Resources, H.R. 2947 also makes various changes to the Commemorative Works Act. Primarily Technical, these changes were requested by the National Capital Memorial Commission, and by those responsible for administrating the act. The most important of these changes adds provisions on accountability for fundraisers so that the public's trust is not abused.

Mr. Speaker, I endorse this legislation and urge its passage.

Mr. ALLARD. Mr. Speaker, further reserving my objection, I yield to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to stress the importance of the reauthorization of the Black Revolutionary War Patriots Memorial. This noteworthy initiative will result in the construction of a powerful monument that will not only honor those thousands of black Americans who helped turn defeat at the hands of the redcoats into victory during this Nation's most important hour, but also will remind us all that our freedom, our vision of justice, and our ideals as embodied in our remarkable Constitution were won by black and white men fighting shoulder to shoulder. Only if we as a society understand this fact—so long ignored in teaching our children—can Americans fully realize our potential as a nation of free men and women of all races, religions, and national origins. Only with a clear and accurate knowledge of our history can we create a Nation of unrivaled justice and opportunity.

Today, Mr. Speaker, our Nation faces hard times once again. The degree of change in our world is extraordinary and is not understood easily by many. Most people don't grow up in traditional two parent families anymore. Their mothers and fathers don't have the luxury of working for the same employer throughout their careers. Violence stalks our streets with a frequency, randomness, and viciousness never before so widespread. In a time of uncertainty and anguish, fear and animosity play a large role in our everyday lives. In response, some easily turn to racism and violence, threatening our future as well as the principal society we have worked so hard to create.

Now, more than ever, an honest understanding of our history is crucial. We must teach our children differently if the easy racism of a period of uncertainty is to be put down.

Accordingly, I ask your support for this one step to fight violence and racism. By building this monument, in this age of television and instant communications, we can convey in a concrete, tangible form, that America's freedom, her unique vision, and the hope she offers to all mankind was created by courageous black soldiers fighting with their white brethren for the independence of America.

Over the 4 years, the Black Patriots Foundation has gained access to an appropriate site on the national Mall, managed a competition resulting in a powerful model, and worked hard to find corporate donors to begin construction. And while it has been a tough road, there is now more support than ever before; clear progress has been made. The Black Patriots Foundation and all those who have worked to see this through, have secured new, concrete commitments from the private sector and have succeeded thus far only through the vision of individuals like Lena Ferguson, who fought for her right to become a member of the Daughter of the American Revolution Chapter in Connecticut, and that of her nephew, Maurice Barboza, who conceived of the idea for the memorial and is the reason we are here today. Indeed, their efforts deserve our gratitude.

Along with so many of our colleagues, I firmly believe this monument is worthy of our continued support. If we as a nation don't accurately understand our own history, we cannot shape our future. If our children don't know and can't learn through the Black Patriots Memorial that freedom was won by blacks fighting alongside whites, then we cannot teach them that, by working together free of debilitating racism, we can create a nation worthy of our Constitution's vision of freedom and equality.

Mr. Speaker, I urge adoption of the bill.

□ 0120

Mr. ALLARD. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 2947 to extend the authorization for the construction of the Black Revolutionary War Patriots Memorial and the Women in Military Service for America Memorial. I especially wish to thank the chairman of the subcommittee, Mr. VENTO, and the ranking minority member, Mr. HANSEN for their support of this legislation and the work they and their staffs did to make the extension possible.

During the Revolutionary War, approximately 5,000 African-Americans served our country. This is a little known fact because these individuals have gone virtually unrecognized for over 200 years. It is very important that this memorial be constructed because it will serve as a reminder of the bravery of black African-Americans fought for our Nation's independence. It is time that they are honored, and I want to complement my colleague from Connecticut, Mrs. JOHNSON, for all of her efforts over the years in pursuit of this memorial.

I am also extremely interested in the extension for the Women in Military Service for America Memorial, which I have been working on for some time. This structure, to be located at the entrance of Arlington Cemetery, will serve as a monument to the 1.8 million American women who have faithfully served their country in time of war and whom have not, to date, been adequately credited.

The Women in Military Service Memorial Foundation has met the requirements for site approval and has unanimous design concept approval. Work is in progress on the detailed design and will start shortly on the construction documents. A substantial investment in the project has already been made.

Mr. Speaker, completion of this project is vital because a comprehensive record of the accomplishments of our military women throughout the Nation's history has never before been assembled. Through the computerized data base being compiled, and with the other exhibits planned, the story of women's contributions to our Nation will at last be made visible to the American public and to visitors from other countries.

It is vital that an extension be granted now so that the established momentum continues and we all keep faith with the women from all eras so that they get the recognition they've earned and never had. I urge all of my colleagues to support this legislation and extend the authorization for the construction of these memorials.

Mr. ALLARD. Mr. Speaker, further reserving the right to object, there is no opposition on this side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 10(b) of Public Law 99-652, the legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work (as defined by such Public Law) shall expire at the end of the nine year period beginning on the date of enactment of such authority.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment in the nature of a substitute; strike all after the enacting clause and insert:

SECTION 1. EXTENSION OF LEGISLATIVE AUTHORITY FOR MEMORIAL ESTABLISHMENT.

(a) IN GENERAL.—The legislative authority for each of the following groups to establish a commemorative work (as defined by Public Law 99-652, as amended) shall expire at the end of the 10-year period beginning on the date of enactment of such authority for the respective commemorative work, notwithstanding the time period limitation specified in section 10(b) of that Public Law:

(1) The Black Revolutionary War Patriots Foundation.

(2) The Women in Military Service for America Memorial Foundation.

(3) The National Peace Garden.

(b) NAME CHANGE.—(1) The Congress finds that the Peace Garden Project, Incorporated, has changed its name to the National Peace Garden.

(2) Any reference in a law, map, regulation, document, paper, or other record of the United States to the entity referred to in paragraph (1) shall be deemed to be a reference to the National Peace Garden.

SEC. 2. COMMEMORATIVE WORKS ACT AMENDMENTS.

(a) DEFINITIONS.—(1) Section 2(c) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" (40 U.S.C. 1002(c)) is amended—

(A) by inserting "plague, inscription," after "memorial,";

(B) by striking out "a person" and inserting in lieu thereof "an individual"; and

(C) by inserting "American" before "history".

(2) Section 2(d) of such Act (40 U.S.C. 1002(d)) is amended by striking "an individual, group or organization" and inserting "a public agency, and an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is".

(b) AUTHORIZATION.—Section 3 of such Act (40 U.S.C. 1003) is amended as follows:

(1) In subsection (a), by inserting "on Federal lands referred to in section 1(d)" after "established".

(2) By redesignating subsection (b) as subsection (d) and inserting after subsection (a) the following new subsections:

"(b) A military commemorative work may be authorized only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative work commemorating a lesser conflict or a unit of an Armed Force shall be authorized. Commemorative works to a war or similar major military conflict shall not be authorized until at lest 10 years after the officially designated end of the event.

"(c) A commemorative work commemorating an event, individual, or group of individuals, other than a military commemorative work as described in subsection (b) of this section, shall not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.".

(c) SPECIFRIC CONDITIONS APPLICABLE TO AREAS I AND II.—Section 6 of such Act (40 U.S.C. 1006) is amended to read as follows:

"SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II

"SEC. 6. (a) AREA I.—The Secretary or Administrator (as appropriate) may, after seeking the advice of the National Capital Memorial Commission, recommend the location of a commemorative work in Area I only if the Secretary or Administrator (as appropriate) determines that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify the National Capital Memorial Commission and the committees of Congress specified in section 3(b) of the recommendation by the Secretary or Administrator (as appropriate) that a commemorative work should be located in Area I. The location of a commemorative work in Area I shall be deemed not authorized, unless, not later than 150 calendar days after such notification, the recommendation is approved by law.

"(b) AREA II.—Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.".

(d) SITE AND DESIGN APPROVAL.—Section 7 of such Act (40 U.S.C. 1007) is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking out "commencing construction of the commemorative work" and inserting in lieu thereof "requesting the permit for the construction of the commemorative work";

(2) in paragraph (1) of subsection (a)—

(A) by inserting "the selection of alternative sites and designs for" after "regarding"; and

(B) by striking out the second sentence;

(3) in paragraph (2) of subsection (a), by striking out "and the Secretary or Administrator (as appropriate)"; and

(4) in the matter preceding paragraph (1) of subsection (b), by inserting "(but not limited by)" after "guided by".

(e) Criteria for Issuance of Construction Permit.—(1) Section 8(a)(3) of such Act (40 U.S.C. 1008(a)(3)) is amended by striking out "contracts for construction and drawings" and inserting in lieu thereof "contract documents for construction".

(2) Section 8 of such Act (40 U.S.C. 1008) is amended by adding at the end the following:

"(c)(1) The Secretary or the Administrator may suspend any activity under the authority of this Act with respect to the establishment of a commemorative work if the Secretary or Administrator determines that—

"(A) fundraising efforts with respect to the commemorative work have misrepresented an affiliation with the commemorative work or the United States; or

"(B) the percentage of funds raised that is disbursed for administrative expenses and fundraising fees is unreasonable or excessive or otherwise violates fund raising standards established by the Secretary or Administrator.

"(2) The person shall be required to submit to the Secretary or Administrator an annual report of operations prepared by an independent certified public accountant, paid for by the person authorized to construct the commemorative work.

"(3) The person authorized to construct a commemorative work shall require in all fundraising contracts that the fundraiser make its books and records with respect to the commemorative work fully available to the Secretary or Administrator and the Comptroller General of the United States for a period of not less than five years after the establishment of the commemorative work.".

(f) Temporary Site Designation.—Section 9(a) of such Act (40 U.S.C. 1009(a)) is amended by striking out "he may designate such a site on lands administered by him" and inserting in lieu thereof "a site may be designated on lands administered by the Secretary".

(g) Miscellaneous Provisions.—(1) Section 10(d) if such Act (40 U.S.C. 1010(d)) is amended to read as follows:

"(d) The Secretary and the Administrator shall develop appropriate regulations or standards to carry out this Act.".

(2) Section 10(e) of such Act (40 U.S.C. 1010(e)) is amended to read as follows:

"(e) This Act shall apply to all commemorative works authorized by Congress before, on, or after the date of enactment of this subsection.".

(h) Short Title.—Such Act is amended by adding at the end the following new section:

"SHORT TITLE

"Sec. 11. This Act may be cited as the 'Commemorative Works Act'.".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The Speaker pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to amend the Commemorative Works Act, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AMENDING THE EVERGLADES NATIONAL PARK PROTECTION AND EXPANSION ACT OF 1989

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Natural Resources be discharged from further consideration of the bill (H.R. 3617) to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. Vento] to explain the bill.

Mr. VENTO. Mr. Speaker, this bill authorizes the Secretary of the Interior to use funds appropriated pursuant to the 1989 Everglades Expansion Act (Public Law 101–229) for flood control in the Rocky Glades agricultural area, frog pond and 8½-square-mile area to provide Federal assistance to the State of Florida for acquisition of these lands. The text of this bill was contained in H.R. 2620 which was approved by the House of Representatives on November 15, 1993.

The 1989 act authorized the transfer of funds from the National Park Service to the U.S. Army Corps of Engineers for constructing flood control and water modification projects in the three named areas. Studies now show that acquiring these lands and flooding them to restore the natural water flows to the Everglades National Park and Florida Bay would be the most beneficial in terms of the overall park restoration efforts. Approximately $17.4 million remains unobligated of the approximately $22.7 million that had been appropriated to the National Park Service for the purposes of the 1989 act. The State of Florida, the South Florida Water Management District, and Dade County have agreed to form a partnership to provide funding for a large part of the proposed land acquisition. Authorizing the use of already appropriated funds to assist in the effort will provide needed funds to ensure that the land acquisition process can go forward and provides the Secretary the ability to require that the lands thus acquired will be managed for the benefit of the park.

Since the enactment of the 1989 legislation, the Everglades and Florida Bay have experienced significant decline. The lack of water flow to and through the park, as well as the nature of that flow, has caused severe deterioration of the indigenous plant and animal life in the park and the bay. A field hearing held in the Florida Keys in July 1993 highlighted the urgent need to mitigate the severe damage. Restoring the natural flows through the Everglades to Florida Bay is a priority both for the preservation of this unique resource and for those economically dependent upon a healthy Everglades ecosystem.

The bill stipulates that the Federal contribution may not exceed 25 percent of the total cost of the land acquisition, and requires that the lands so acquired must be managed for the restoration of natural water flows to the park or Florida Bay. The Federal Government will neither acquire the land directly nor hold title to the property, but the Federal interest is protected by the provisions ensuring that these lands will be managed for the benefit of the park and Florida Bay.

I participated in the field hearing in July and was impressed by the willingness of all parties—local, State, and Federal agencies as well as interested business persons and private citizens—to work together to restore the Everglades ecosystem. The participation of the entire Florida delegation has been critical in this effort, particularly in seeking this authorization. Their persistence and hard work certainly speaks to the importance of a healthy Everglades to Florida's environment and economy. I support authorizing the reprogramming of these funds, and I urge my colleagues support of this positive first step in restoring the Everglades ecosystem.

Mr. ALLARD. Mr. Speaker, further reserving the right to object, this particular piece of legislation passed the House before. We have no objections on our side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8) is hereby amended by adding at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of this Act, the Secretary is authorized to use funds appropriated pursuant to this Act, including any available funds appropriated to the National Park Service for construction in the Department of the Interior and Related Agencies Appropriations Acts for fiscal years 1991 through 1994 for project modifications by the Army Corps of Engineers, in such amounts as determined by the Secretary, to provide Federal assistance to the State of Florida (including political subdivisions of the State) for acquisition of lands described in paragraph (4).

"(2) With respect to any lands acquired pursuant to this subsection, the Secretary may provide not more than 25 percent of the total cost of such acquisition.

"(3) All funds made available pursuant to this subsection shall be transferred to the State of Florida or a political subdivision of the State, subject to an agreement that any lands acquired with such funds will be managed in perpetuity for the restoration of natural flows to the park or Florida Bay.

"(4) The lands referred to in paragraph (1) are those lands or interests therein adjacent to, or affecting the restoration of natural water flows to, the park or Florida Bay which are located east of the park and known as the Frog Pond, Rocky Glades Agricultural Area, and the Eight-and-One-Half Square-Mile Area.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WEST VIRGINIA RIVERS CONSERVATION ACT OF 1993

Mr. VENTO. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3252) to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO] to explain the bill.

Mr. VENTO. Mr. Speaker, H.R. 3252 is an omnibus measure addressing a number of matters related to several national conservation systems.

It includes provisions similar to separate bills introduced by the gentleman from West Virginia [Mr. RAHALL], the gentleman from Utah [Mr. HANSEN], the gentleman from Pennsylvania [Mr. MCDADE], the gentleman from Virginia [Mr. BOUCHER], the gentleman from Massachusetts [Mr. MARKEY], the gentleman from California [Mr. BERMAN], the gentleman from Illinois [Mr. DURBIN], the gentleman from Virginia [Mr. BATEMAN], and the gentleman from California [Mr. GALLEGLY].

Most of these provisions are similar to ones passed by the House in the last Congress but which were not enacted into law. They would make a number of revisions in the boundaries of certain National Park System units, designate or require study of areas for inclusion in the National Wild and Scenic Rivers, National Trails, and National Park Systems, and address several other matters related to these systems, including the naming of a visitors center at the Channel Islands National Park after our former colleague from California, Robert Lagomarsino. At hearings held on the provisions, the administration has expressed its support, and the provisions deserve approval by the House.

For the RECORD, I will insert a more detailed description of the several titles of H.R. 3252, and I urge the passage of the bill.

WEST VIRGINIA PROVISIONS

Title I of H.R. 3252 is similar to H.R. 1584, introduced by Mr. RAHALL. It would modify the boundaries of the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic Area, all in West Virginia.

It would also designate a segment of the New River as a component of the National Wild and Scenic Rivers System—to be managed as a scenic river—and require a study of a segment of the Elk River, also in West Virginia, for possible future addition to that system or alternative National Park System designation. In addition, the title has a number of other provisions related to management of these West Virginia areas.

WESTERN TRAIL PROVISIONS

Section 201 is based on H.R. 1872, introduced by our ranking subcommittee member, Mr. HANSEN. It would authorize a study of the Great Western Trail for potential addition to the National Trails System. The Great Western Scenic Trail is actually a system of trails approximately 3,100 miles in length and extending from the Arizona-Mexico border to the Idaho-Montana-Canada border. At the subcommittee hearing on this bill on June 22, the Forest Service testified in support of the bill with two recommended amendments. The Forest Service recommended that the language authorizing motorized use along the trail be deleted from the bill. The issue of motorized use should be addressed in the study process and not in the legislation. This is consistent with previous National Trail Study bills including the American Discovery Trail Study passed by Congress last year. The Forest Service also recommended that the bill not designate the trail administrator. This is another issue which should be addressed in the trail study process. The bill is silent on the trail administrator but does direct the Secretary of Agriculture to study the trail in consultation with the Department of the Interior.

DELAWARE WATER GAP PROVISIONS

Section 301 would extend beyond July 31, 1993, the National Park Service's authority to collect and retain fees for use of Route 209, which runs through the park, by commercial vehicles. This legislation was originally enacted 10 years ago as a way of restricting the then-numerous trucks passing through the park. The National Park Service erected toll booths to collect fees and uses the fees to pay for staffing those booths. I strongly believe that all extraneous commercial traffic should be eliminated from Delaware Water Gap National Recreation Area as quickly as possible and support the approach embodied in this legislation as a way of doing that. Section 301 extends the authorization for 7 years and includes a provision that the fee charged reflect the costs for collecting them, but not to exceed $25. Finally, section 301 deletes from the boundary of Delaware Water Gap National Recreational Area some 350 acres—28 miles of railroad right-of-way that were administratively added. This particular provision is identical to one adopted by the committee and passed in the House last year. I do not believe it is appropriate for the National Park Service to be in the railroad business, nor do I believe that so-called minor boundary adjustments should be used in this way.

CUMBERLAND GAP PROVISIONS

Section 302 removes the prohibition on using appropriated funds to purchase land in the Cumberland Gap National Historical Park and is similar to H.R. 2297 introduced by Congressman BOUCHER.

Established in 1940, Cumberland Gap National Historical Park preserves and interprets the area of the Appalachian Mountains in Kentucky, Virginia, and Tennessee which provided the door to settlement of the territory west of the Blue Ridge mountains. The park contains over 20,000 acres in the three States and maintains camping and hiking areas, a representative settlement area, and various interpretive programs.

The park has been constrained by the prohibition on the use of appropriated funds to purchase land. In instances where property has become available, separate legislation has been needed to secure authorization for its purchase. Currently, several parcels included in the park's development plan are needed to provide access to trails within the park. Additionally, the park would like authority to purchase an abandoned rail line which would connect the park to a new State park in Virginia.

REVERE BEACH PROVISIONS

Section 303 is identical to the bill H.R. 1739, introduced by our colleague, Mr. MARKEY. It would require a study of Revere Beach, in Massachusetts, for possible inclusion in the National Park System. Two years ago, the subcommittee visited Revere Beach and saw firsthand the local enthusiasm for such action. A similar bill passed the House and Senate last year but was pocket vetoed by then-President Bush after Congress adjourned.

WILLIAM O. DOUGLAS CLASSROOM PROVISIONS

Section 304 is similar to H.R. 1441, introduced by the gentleman from California [Mr. BERMAN]. It would authorize cooperative agreements related to the Santa Monica Mountains National Recreation Area, including a cooperative agreement between the National

Park Service and the William O. Douglas Outdoor Classroom.

LINCOLN CENTER PROVISIONS

Section 305 would authorize the establishment of an Abraham Lincoln Presidential Center at the existing Lincoln Home National Historic Site in Springfield, IL. It is identical to H.R. 2496 as introduced by Representative DURBIN except from the name change to the Abraham Lincoln Presidential Center and with this one change is also identical to the bill which passed the House twice last year.

Springfield is the site of many significant events in the life of the 16th President of the United States. Abraham Lincoln moved to Springfield in 1837 and lived there on and off until departing for the White House in 1861. Springfield was the place where Lincoln married, raised his family, practiced law, campaigned for political office, and is buried.

The current visitors center at the Lincoln Home National Historic Site has no exhibits on Lincoln beyond the furnishings of the home and the storage area for Lincoln items is too small and is not properly insulated. Although there are several Lincoln sites in the National Park System, none of them tell the story of his entire life or his years as President. The center will interpret Lincoln's life and contributions, provide an opportunity to exhibit Lincoln artifacts and documents owned by the National Park Service and the State of Illinois, and orient visitors to other Lincoln-related sites in the Springfield area.

This section is significantly different from the bill as introduced in the 102d Congress. The authorization for a research or library component of the proposed center has been deleted and an authorization ceiling has been put in the bill. Lands owned by the State of Illinois can be acquired only by donation and Lincoln-related artifacts can be purchased only with donated funds. With these changes in cost and scope the bill is a straightforward authorization for a visitors center. The administration supports these revisions.

COLONIAL PARKWAY PROVISIONS

H.R. 3252 also includes provisions related to Colonial National Parkway, in Colonial National Historical Park. These provide for addition of approximately 20 acres adjoining the parkway, through an adjustment of boundaries, and for transfer of an existing sewage disposal system to York County, VA. The National Park Service would be authorized to contribute to the renovation of this sewage system through a cooperative agreement that would also involve reduced payments by the National Park Service.

LAGOMARSINO VISITORS CENTER

Finally, the bill would rename the visitors center in the Channel Islands National Park, as the Robert J. Lagomarsino Visitors Center, as a mark of respect to the many contributions of our former colleague from California, who took a longstanding active interest in this important unit of the National Park System.

Mr. ALLARD. Mr. Speaker, further reserving the right to object, we have no objections on this side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. RAHALL. Mr. Speaker, reserving the right to object, I rise in support of H.R. 3252, title I of which is designated as the "West Virginia Rivers Conservation Act of 1993" based on legislation I introduced, H.R. 1584.

The central feature of title I is the establishment of a 14.5-mile Upper New National Scenic River on the segment of the New River that runs from the West Virginia-Virginia State line downstream to the Bluestone Lake in Summers County.

It should be noted that the acreage within the proposed national scenic river is already in Federal ownership, and would continue to be managed as a wildlife management area under the existing lease arrangement between the State of West Virginia and the Federal Government.

At the same time, the protections afforded free-flowing river segments under the Wild and Scenic Rivers Act would be provided.

And it is these protections which are clearly intended to preclude the approval of a right-of-way across this river segment for the purpose of constructing a 765 kv powerline.

I would also note that this legislation is the product of a grass roots effort in southeastern West Virginia.

On April 22, 1992, citizens from the counties of Monroe, Summers, and Mercer gathered at a place along the New River known as Shanklins Ferry.

We gathered there on that day in April 1992 to set in motion a chain of events aimed at leading to the designation of this segment of the New River under the Wild and Scenic Rivers Act.

At the time, I observed that it has been said that West Virginia only prospers when something is removed from the State, be it our coal or our timber.

And this, before the advent of new regulations, has left us with a grim legacy. A legacy of scarred landscapes, polluted waters, abandoned mines, and abandoned coal miners.

But this effort, this legislation, represents a new era.

Because this legislation is about more than whether or not a powerline should be built across the New River. And it is about more than protecting the river itself.

It is about the people of southern West Virginia taking back control of the land.

It is about controlling our destinies. And, it is about maintaining our culture and our heritage.

In my view, that day in April 1992 represented one of those rare moments when history itself seemed to hold its breath.

And so on this day I want to recognize all of those people who have worked so hard on behalf of this legislation.

I would also commend the chairman of the Subcommittee on National Parks, and Public Lands, BRUCE VENTO, for his diligence on behalf of this bill. I urge its approval by the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RIVERS

SEC. 101. SHORT TITLE.

This title may be cited as the "West Virginia Rivers Conservation Act of 1993".

SEC. 102. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1993".

SEC. 103. GAULEY RIVER NATIONAL RECREATION AREA.

Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1993".

SEC. 104. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,004, and dated January 1993".

SEC. 105. DESIGNATION OF UPPER NEW RIVER, WEST VIRGINIA.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) UPPER NEW RIVER, WEST VIRGINIA.—(A) The segment in Summers County, West Virginia, from the West Virginia-Virginia State line downstream for approximately 14.5 miles as depicted on the boundary map entitled 'Upper New Wild and Scenic River', numbered UPNE 80,000 and dated July 1993; to be administered by the Secretary of the Interior as a scenic river.

"(B) The acreage limitation set forth in subsection (b) shall not apply to the segment designated under this paragraph. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph.

"(C) Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to the lease in effect on the date of enactment of this paragraph (or renewed thereafter) between the

United States and the State of West Virginia with respect to the Bluestone Wildlife Management Area.

"(D) Nothing in this Act shall affect the management by the State of West Virginia of hunting and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Wildlife Management Area to the extent permitted in the lease agreement as in effect on the date of enactment of this paragraph, and if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which such State management shall be continued pursuant to such renewal. If requested to do so by the State of West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.

"(E) Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project.".

SEC. 106. DESIGNATION OF ELK RIVER AS A STUDY RIVER.

The Secretary of the Interior shall conduct a study of the segment of the Elk River, West Virginia, that is reflected on the Webster Springs Quadrangle (West Virginia) 7.5 minute series topographic map, U.S. Geological Survey, to determine its eligibility and suitability as either—

(1) a component of the national wild and scenic rivers system,

(2) a unit of the National Park System as a national river, or

(3) a unit of the National Park System as a national recreation area.

The Secretary shall submit a report containing the results of such study to the Committee on Natural Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 3 years after the enactment of this Act. Nothing in this section shall affect or impair the management of the Sutton project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this section. In conducting the study authorized by this section, the Secretary shall consult with the West Virginia Division of Tourism and Parks and the West Virginia Division of Environmental Protection.

SEC. 107. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the segment of the New River designated pursuant to section 205, the Secretary of the Interior shall consolidate offices and personnel administering such segment with offices and personnel administering the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River to the extent practicable, and shall utilize facilities of the New River Gorge National River to the extent practicable.

SEC. 108. MISCELLANEOUS PROVISIONS.

(a) NEW RIVER CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) REMNANT LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.".

(b) BLUESTONE RIVER CONFORMING AMENDMENTS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking "leases" in the fifth sentence and inserting in lieu thereof "the lease" and in the seventh sentence by striking "such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned." and inserting in lieu thereof the following: "if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which such State management shall be continued pursuant to such renewal. If requested to do so by the State of West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.".

SEC. 109. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO RIVER.—Within 90 days after the date of enactment of this subsection, the Secretary shall submit a report to the Committee on Natural Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate setting forth a plan to provide river access for noncommercial recreational users within the Gauley River National Recreation Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such noncommercial users.".

SEC. 110. VISITOR CENTER.

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or the Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SEC. 111. EXTENSION.

For a 5-year period following the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under section 5(b) of that Act shall apply to those segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by the West Virginia National Interest River Conservation Act of 1987 as part of the Bluestone National Scenic River or as part of the Gauley River National Recreation Area, as the case may be.

SEC. 112. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C 1271 and following) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire such lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 113. GAULEY RIVER BOUNDARY MODIFICATION.

Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C 460ww-4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

TITLE II—TRAILS

SEC. 201. GREAT WESTERN SCENIC TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Great Western Scenic Trail, a system of trails to accommodate a variety of travel users in a corridor of approximately 3,100 miles in length extending from the Arizona-Mexico border to the Idaho-Montana-Canada border, following the approximate route depicted on the map identified as 'Great Western Trail Corridor, 1988', which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture. The trail study shall be conducted by the Forest Service in consultation with the Department of the Interior. The Secretary of Agriculture shall examine in such study the appropriateness of motorized trail use along the trail.".

TITLE III—PARKS

SEC. 301. PROHIBITION OF COMMERCIAL VEHICLES.

(a) IN GENERAL.—Effective at noon on July 30, 2000, the use of Highway 209 within the Delaware Water Gap National Recreation Area by commercial vehicles, when such use is in no way connected with the operation of the recreation area, is prohibited except pursuant to a permit issued in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall permit such use only in emergency situations or for access to non-Federal land within or contiguous to the recreation area.

(b) CONFORMING PROVISIONS.—Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98-63 (97 Stat. 329), as amended, are repealed effective on the date referred to in subsection (a) of this section. Pending such effective date, the Secretary of the Interior shall collect and utilize a commercial use fee from commercial vehicles in accordance with such subsections, and authority to so collect and utilize such fees shall continue in effect from the date of the enactment of this Act through July 30, 2000. Such fees shall reflect costs of collection but shall not exceed $25 per vehicle.

(c) Boundary Modification.—Section 2(a) of the Act of September 1, 1965 (79 Stat. 612; 16 U.S.C. 460o-1(a)), establishing the Delaware Water Gap National Recreation Area is amended by striking "as generally depicted on the drawing entitled 'Proposed Tocks Island National Recreation Area' dated and numbered September 1962, NRA-TI-7100, which drawing is on file" and inserting "as generally depicted on the map entitled 'Delaware Water Gap National Recreation Area' dated November 1991 and numbered DWGNRA-620/80,900A' which shall be on file".

SEC. 302. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) Removal of Restrictions.—The first section of the Act of June 11, 1940, entitled "An Act to provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia" (54 Stat. 262; 16 U.S.C. 261 and following) is amended by striking out everything after the words "Cumberland Gap National Historical Park" and inserting a period.

(b) Use of Appropriated Funds.—Section 3 of such Act (16 U.S.C. 263) is amended by inserting "or with funds that may be from time to time appropriated for the purpose," after "funds,".

SEC. 303. REVERE BEACH, MASSACHUSETTS.

(a) Findings.—The Congress finds that—

(1) Revere Beach played an important historic role as a public beach and park set aside for public leisure and recreation;

(2) Revere Beach represents a valuable example of the social and cultural aspects of early 20th century American working class history;

(3) original structures and public buildings of Revere Beach remain to be preserved and interpreted;

(4) Revere Beach is located within easy access of a large urban population center and within reach of tourists visiting the historic city of Boston; and

(5) given the interest by organized groups and local and State governments in the preservation of Revere Beach, a coordinated evaluation should be conducted to consider options for preserving the historical, cultural, natural and recreational resources of Revere Beach.

(b) Study.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall conduct a study to identify potential means to preserve and interpret Revere Beach. As part of the study, the Secretary shall propose alternatives for cooperation in the preservation and interpretation of Revere Beach, including providing recommendations on the suitability and feasibility of establishing Revere Beach as a unit of the National Park System.

(c) Contents of Study.—The study of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the role played by Revere Beach in the processes in industrialization, urbanization, and immigration;

(2) the historical, cultural, natural, and outdoor recreational values of Revere Beach;

(3) the types of Federal, State, and local programs that are available to preserve, develop, and make accessible Revere Beach for public use;

(4) the use of, and coordination with, Federal, State, and local programs to manage in the public interest the historical, cultural, natural, and recreational resources of Revere Beach; and

(5) the possible kinds and general intensities of development, including a visitor facility with sufficient space to accommodate exhibits and information regarding the history of Revere Beach, that would be associated with public enjoyment and use of Revere Beach, including general location and anticipated costs.

(d) Congressional Review.—The Secretary shall transmit the study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 12 months after the enactment of this section.

(e) Consultation.—In preparing the study under this section, the Secretary shall consult with the public, representatives of the city of Revere and the Commonwealth of Massachusetts, historians, planners, recreation specialists, and historic preservationists knowledgeable in American History, historic preservation, and architecture. The Secretary shall seek expertise from both local and national organizations.

(f) Authorization.—There is authorized to be appropriated $200,000 to carry out this section.

SEC. 304. COOPERATIVE AGREEMENT WITH THE WILLIAM O. DOUGLAS OUTDOOR CLASSROOM.

(a) General Authority.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into cooperative agreements, as specified in subsection (b), relating to Santa Monica Mountains National Recreation Area (hereafter in this Act referred to as the "recreation area") in accordance with this section.

(b) Cooperative Agreements.—The cooperative agreements referred to in subsection (a) are as follows:

(1) A cooperative agreement with appropriate organizations or groups in order to promote education concerning the natural and cultural resources of the recreation area and lands adjacent thereto. Any agreement entered into pursuant to this paragraph—

(A) may provide for Federal matching grants of not more than 50 percent of the total cost of providing a program of such education;

(B) shall provide for visits by students or other beneficiaries to federally owned lands within the recreation area;

(C) shall limit the responsibility of the Secretary to providing interpretation services concerning the natural and cultural resources of the recreation area; and

(D) shall provide that the non-Federal party shall be responsible for any cost of carrying out the agreement other than the cost of providing interpretation services under subparagraph (C).

(2) A cooperative agreement under which—

(A) the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California, for a period of 8 fiscal years beginning with the first fiscal year for which funds are appropriated pursuant to this section, and to provide funding for programs of the William O. Douglas Outdoor Classroom or its successors in interest that utilize those facilities during such period; and in return

(B) the William O. Douglas Outdoor Classroom, for itself and any successors in interest with respect to such facilities, agrees that at the end of the term of such agreement all right, title, and interest in and to such facilities will be donated to the United States for addition to and operation as a part of the recreation area.

(c) Expenditure of Funds.—Federal funds may be expended on non-Federal property located within the recreation area pursuant to the cooperative agreement described in subsection (b)(2).

(d) Limitations.—(1) The Secretary may not enter into the cooperative agreement described in subsection (b)(2) unless and until the Secretary determines that acquisition of the facilities described in such subsection would further the purposes of the recreation area.

(2) This section shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by the William O. Douglas Outdoor Classroom or any successor in interest that are not directly related to the use of such facilities for environmental education and interpretation of the resources and values of the recreation area and associated lands and resources.

(e) Authorization of Appropriations.—There is authorized to be appropriated for the 8-year period beginning October 1, 1993, not to exceed $2,000,000 to carry out this section.

SEC. 305. ABRAHAM LINCOLN PRESIDENTIAL CENTER.

The Act entitled "An Act to authorize the Secretary of the Interior to establish the Lincoln Home National Historic Site in the State of Illinois, and for other purposes", approved August 18, 1971 (85 Stat. 347), is amended by adding at the end the following new section:

"SEC. 4. ABRAHAM LINCOLN PRESIDENTIAL CENTER.

"(a) Establishment.—In order to provide for the education, inspiration and benefit of the American people, and to further the interpretation of the life and contributions of Abraham Lincoln and his times, the Secretary of the Interior is authorized to establish at or near the Lincoln Home National Historic Site an interpretive center which shall be known as the Abraham Lincoln Presidential Center (hereafter in this section referred to as the 'center'). The center shall be added to and administered as part of the Lincoln Home National Historic Site. Upon establishment of the center, the boundary of the Lincoln Home National Historic Site is hereby modified to include the center.

"(b) Acquisition of Land.—For the purposes of this section, the Secretary may acquire land or interests in land near the Lincoln Home National Historic Site by donation, purchase with donated or appropriated funds, or exchange. Lands or interests therein owned by the State of Illinois or any political subdivision thereof may be acquired only by donation.

"(c) Construction, Operation, and Maintenance of Facilities.—In carrying out this section, the Secretary is authorized to construct, operate, and maintain a facility, including an exhibit area, in order to preserve and make available materials related to the life of Abraham Lincoln and to provide interpretive and educational services which communicate the meaning of the life of Abraham Lincoln.

"(d) Cooperative Agreements.—In carrying out this section, the Secretary may enter into cooperative agreements with (1) appropriate Federal agencies and the State of Illinois, or any political subdivision thereof, for the interpretation of resources at the center, and (2) with the owners of documents and artifacts of historical or cultural significance as determined by the Secretary.

"(e) DOCUMENTS AND ARTIFACTS.—In carrying out this section, the Secretary may acquire by purchase with donated funds, exchange, loan, or donation documents and artifacts related to the purposes of the center for display at the center.

"(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 3, there is authorized to be appropriated not more than $18,000,000 to carry out this section.".

SEC. 306. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

(d) EXPANSION.—Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b and following) limiting the average width of the Colonial Parkway, the Secretary is authorized to include within the Colonial National Historical Park, and to acquire by purchase, donation, or exchange, lands and interests in lands (with or without improvements) within the areas depicted on the map dated August 1993 and numbered 333/80031A, entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, D.C.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 307. CHANNEL ISLANDS NATIONAL PARK.

(a) DESIGNATION.—The visitors center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitors Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in subsection (a) is deemed to be a reference to the "Robert J. Lagomarsino Visitors Center".

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the committee amendments:

The Clerk read as follows:

Committee Amendments: Page 4, beginning on line 22, strike "from the Webster-Randolph County line to Centralia in Braxton County" and insert "there is reflected on the Webster Springs Quadrangle (West Virginia) 7.5 minute series topographic map, U.S. Geological Survey".

Page 7, line 12, strike "or as provided in such lease agreement,".

Page 11, line 19, strike "Subsections" and insert "Paragraphs".

Page 12, line 16, strike the single closing quotation mark.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 3617 and H.R. 3252, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1993

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2150) to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,612,552,200, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund, and of which $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $417,996,500, to remain available until expended, of which $23,030,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, and defense readiness, $25,000,000, to remain available until expended, of which $4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $548,774,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation associated with the Bridge Alteration Program, $12,940,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $23,057,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—For fiscal year 1994, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,986 student years.

(2) For flight training, 114 student years.

(3) For professional training in military and civilian institutions, 338 student years.

(4) For officer acquisition, 955 student years.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. CEILING ON OFFICER CORPS.

Subsection (a) of section 42 of title 14, United States Code, is amended by striking "6,000" and inserting "6,200".

SEC. 202. VOLUNTEER SERVICES.

Section 93 of title 14, United States Code, is amended by—

(1) striking "and" at the end of paragraph (r);

(2) striking the period at the end of paragraph (s) and inserting a comma; and

(3) adding at the end the following new subsection:

"(t) Notwithstanding any other law, enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities,

Subject to the requirement that—

(1) the cooperative agreements shall each provide for the parties to contribute funds or

services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

"(2) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and".

SEC. 203. RESERVE RETENTION BOARDS.

Section 741 of title 14, United States Code, is amended—

(1) in subsection (a) in the first sentence by striking "and are not on active duty and not on an approved list of selectees for promotion to the next higher grade" and inserting the following: ", except those officers who—

"(1) are on extended active duty;

"(2) are on a list of selectees for promotion;

"(3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or

"(4) have reached age 59 by the date on which the retention board is convened";

(2) in subsection (a) by moving the second sentence so as to begin—

(A) immediately below paragraph (4) (as added by paragraph (1) of this section); and

(B) flush with the left margin of the material preceding paragraph (1);

(3) by designating the third sentence of subsection (a) as subsection (b) by—

(A) inserting "(b)" before "This board shall—"; and

(B) moving the third sentence so as to begin immediately below the second sentence of subsection (a); and

(4) by redesignating the last 2 subsections as subsections (c) and (d), respectively.

SEC. 204. CONTINUITY OF GRADE OF ADMIRALS AND VICE ADMIRALS.

(a) Section 46(a) of title 14, United States Code, is amended to read as follows:

"(a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in subsection 51(d) of this title.".

(b)(1) Section 47 of title 14, United States Code, is amended—

(A) in the heading by striking "; retirement";

(B) in subsection (a) by—

(i) striking "(a)" at the beginning thereof, and

(ii) striking the last sentence and inserting the following: "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title."; and

(C) by striking subsections (b), (c), and (d).

(2) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended by striking the item relating to section 47 and inserting the following:

"47. Vice Commandant: assignment.".

(c) Section 50(b) of title 14, United States Code, is amended by striking the last sentence and inserting "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title.".

(d) Section 51 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

"(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

"(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.".

SEC. 205. CHIEF OF STAFF.

(a) Section 41a(b) of title 14, United States Code, is amended by striking ", except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay" at the end of the second sentence.

(b)(1) Title 14, United States Code, is amended by inserting after section 50 the following new section:

"§ 50a. Chief of Staff.

"(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform duties as prescribed by the Commandant. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for the appointment.

"(b) The Chief of Staff shall have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.".

(2) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended by inserting after the item relating to section 50 the following:

"50a. Chief of Staff".

(c) Section 51 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "as Commander, Atlantic Area, or Commander, Pacific Area" and inserting "in the grade of vice admiral"; and

(2) in subsection (b) by striking "as Commander, Atlantic Area, or Commander, Pacific Area" and inserting "in the grade of vice admiral".

(d) Section 290 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "or in the position of Chief of Staff" in the second sentence;

(2) in subsection (f)(1) by striking "Chief of Staff or"; and

(3) in subsection (f)(2) by striking "Chief of Staff or".

TITLE III—MISCELLANEOUS COAST GUARD PROVISIONS

SEC. 301. NORTH ATLANTIC ROUTES.

Sections 3 and 5 of the Act of June 25, 1936 (49 Stat. 1922, 46 App. U.S.C. 738b and 738d), are repealed.

SEC. 302. COAST GUARD FAMILY HOUSING.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 670. Procurement authority for family housing

"(a) The Secretary is authorized—

"(1) to acquire, subject to the availability of appropriations sufficient to cover its full obligations, real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium-relate fees; and

"(2) to dispose of by sale, lease, or otherwise, any real property or interest therein used for Coast Guard family housing units for adequate consideration.

"(b)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for at least one, but not more than 5, fiscal years.

"(2) The Secretary may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

"(A) the use of a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

"(B) there are realistic estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.

"(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by adding at the end the following:

"670. Procurement authority for family housing.".

SEC. 303. AIR STATION CAPE COD IMPROVEMENTS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding after section 670 (as added by section 302 of this Act) the following new section:

"§ 671. Air Station Cape Cod improvements

"The Secretary may expend funds for the repair, improvement, restoration, or replacement of those federally or nonfederally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by adding after the item relating to section 670 (as added by section 302 of this Act) the following:

"671. Air Station Cape Code improvements.".

SEC. 304. LONG-TERM LEASE AUTHORITY FOR AIDS TO NAVIGATION.

(a) Chapter 17 of title 14, United States Code, is amended by adding after section 671 (as added by section 303 of this Act) the following new section:

"§ 672. Long-term lease authority for navigation and communications systems sites

"(a) The Secretary is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for aids to navigation (hereafter in this section referred to as 'ATON') sites, vessel traffic service (hereafter in this section referred to as 'VTS') sensor sites, or National Distress System (hereafter in this section referred to as 'NDS') high level antenna sites. These lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. These lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

"(b) The Secretary may enter into multiyear lease agreements under subsection (a) of this section whenever the Secretary finds that—

"(1) the use of such a lease agreement will promote the efficiency of the ATON, VTS, or NDS programs and will result in reduced total costs under the agreement;

"(2) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

"(3) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.".

(b) The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 671 (as added by section 303 of this Act) the following:

"672. Long-term lease authority for navigation and communications systems sites.".

SEC. 305. AUTHORITY FOR EDUCATIONAL RESEARCH GRANTS.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 196. Participation in Federal, State, or other educational research grants

"Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

"(1) No award may be accepted for the acquisition or construction of facilities.

"(2) No award may be accepted for the routine functions of the Academy.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of title 14, United States Code, is amended by adding at the end the following:

"196. Participation in Federal, State, or other educational research grants.".

SEC. 306. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

The Secretary of Transportation is authorized to expend out of amounts appropriated for acquisition, construction, and improvement for fiscal year 1994—

(1) $890,000 to acquire and preposition oil spill response equipment at Port Arthur, Texas, and

(2) $890,000 to acquire and preposition oil spill response equipment at Helena, Arkansas, subject to the Secretary determining that adequate storage and maintenance facilities are available.

SEC. 307. SHORE FACILITIES IMPROVEMENTS AT COAST GUARD STATION LITTLE CREEK, VIRGINIA.

(a) The Secretary of Transportation, subject to the availability of appropriations, may at Coast Guard Station Little Creek, Virginia—

(1) construct a 2-story station building with operational, administrative, and living spaces;

(2) construct a 180-foot long pier for Coast Guard patrol boats;

(3) construct a boat ramp; and

(4) strengthen a waterfront bulkhead.

(b) Funds necessary to carry out this section are authorized to be appropriated for fiscal years 1994.

SEC. 308. OIL SPILL TRAINING SIMULATOR.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for acquisition, construction, and improvement not more than $1,250,000 to the Maritime College of the State of New York to purchase a marine oil spill management simulator.

SEC. 309. TECHNICAL CLARIFICATION.

Section 4283B of the Revised Statutes (46 App. U.S.C. 183c) is amended by striking "any court" in clause (2) and inserting in lieu thereof "court".

SEC. 310. OIL SPILL PREVENTION AND RESPONSE TECHNOLOGY TEST AND EVALUATION PROGRAM.

(a) Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall establish a program to evaluate the technological feasibility and environmental benefits of having tank vessels carry oil spill prevention and response technology. To implement the program the Secretary shall—

(1) publish in the Federal Register an invitation for submission of proposals including plans and procedures for testing; and

(2) review and evaluate technology using, to the maximum extent possible, existing evaluation and performance standards.

(b) The Secretary shall, to the maximum extent possible, incorporate in the program established in subsection (a), the results of existing studies and evaluations of oil spill prevention and response technology carried on tank vessels.

(c) Not later than 2 years after the date of the enactment of this Act, the Secretary shall evaluate the results of the program established in subsection (a) and submit a report to Congress with recommendations on the feasibility and environmental benefits of, and appropriate equipment and utilization standards for, requiring tank vessels to carry oil spill prevention and response equipment.

(d) Not later than 6 months after the date of the enactment of this Act, the Secretary shall evaluate and report to the Congress on the feasibility of using segregated ballast tanks for emergency transfer of cargo and storage of recovered oil.

SEC. 311. UNMANNED SEAGOING BARGES.

Section 3302 of title 46, United States Code, is amended by adding at the end the following:

"(m) A seagoing barge is not subject to inspection under section 3301(6) of this title if the vessel is unmanned and does not carry—

"(1) a hazardous material as cargo; or

"(2) a flammable or combustible liquid, including oil, in bulk.".

SEC. 312. PROHIBITION ON DECOMMISSIONING ICEBREAKER MACKINAW.

(a) The Secretary of Transportation may not decommission the Coast Guard cutter MACKINAW before December 31, 1994.

(b) There is authorized to be appropriated to the Secretary of Transportation $1,600,000 for fiscal year 1994, to remain available until expended, for operations and maintenance of the Coast Guard cutter MACKINAW.

SEC. 313. LOWER COLUMBIA RIVER MARINE FIRE AND SAFETY ACTIVITIES.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard for fiscal year 1994 not more than $421,700, and for fiscal year 1995 not more than $358,300, for the lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

SEC. 314. CASS RIVER.

Subtitle II of title 46, United States Code, relating only to vessel inspection and manning, shall not apply to a vessel operating on the date of enactment of this Act on the Cass River above the dam at Frankenmuth, Michigan (locally known as the Hubinger Dam) which is inspected and licensed by the State of Michigan to carry passengers.

SEC. 315. SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard, the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

SEC. 316. COOPERATIVE AGREEMENT AUTHORITY.

Section 93 of title 14, United States Code, as amended by section 202 of this Act, is further amended by adding at the end the following new subsection:

"(u) enter into cooperative agreements with other Government agencies and the National Academy of Sciences.".

SEC. 317. REGIONAL FISHERIES LAW ENFORCEMENT TRAINING CENTERS.

(a) GULF OF MEXICO.—The Coast Guard shall establish a Gulf of Mexico Regional Fisheries Law Enforcement Training Center in the Eighth Coast Guard District in Southeastern Louisiana.

(b) SOUTHEAST ATLANTIC.—The Coast Guard shall establish a Southeast Regional Fisheries Law Enforcement Training Center in the Seventh Coast Guard District in Charleston, South Carolina.

(c) PURPOSE.—The purpose of the regional fisheries law enforcement training centers shall be to increase the skills and training of Coast Guard fisheries law enforcement personnel and to ensure that such training considers and meets the unique and complex needs and demands of the fisheries of the Gulf of Mexico and the Southeast United States.

SEC. 318. NATIONAL SAFE BOATING WEEK.

(a) The Act of June 4, 1958 (36 U.S.C. 161) is amended by striking "week commencing on the first Sunday in June" and inserting "the seven day period ending on the last Friday before Memorial Day".

(b) This section is effective January 1, 1995.

SEC. 319. LOS ANGELES-LONG BEACH VESSEL TRAFFIC SERVICE.

The Coast Guard is authorized to provide personnel support for the interim vessel traffic information service in the Ports of Los Angeles and Long Beach operated on behalf of the State of California by the Marine Exchange of Los Angeles-Long Beach Harbors, Inc., a California nonprofit corporation (hereinafter referred to as "Marine Exchange"). The Coast Guard shall be reimbursed for all costs associated with providing such personnel in accordance with a reimbursable agreement between the Coast Guard and the State of California. Amounts received by the Coast Guard as reimbursements for its costs shall be credited to the appropriation for operating expenses of the Coast Guard. The United States Government assumes no liability for any act or omission of any officer, director, employee, or representative of the Marine Exchange or of the State of California, arising out of the operation of the vessel traffic information service by the Marine Exchange, and the Coast Guard shall have the same protections and limitations on such liability as are afforded to the Marine Exchange under California law.

SEC. 320. FINANCIAL RESPONSIBILITY FOR NON-PERFORMANCE.

Section 3(b) of Public Law 89-777 (46 App. U.S.C. 817e(b)) is amended by striking "and such bond or other security shall be in an amount paid equal to the estimated total revenue for the particular transportation." and inserting a period.

SEC. 321. FISHING AND FISH TENDER VESSELS.

(a) In this section, "fish tender vessel", "fishing vessel", and "tank vessel" have the meanings given those terms under section 2101 of Title 46, United States Code.

(b) A fishing vessel or fish tender vessel of not more than 750 gross tons, when engaged only in the fishing industry, shall not be deemed to be a tank vessel for the purposes of any law.

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (Pub. L. 101-595).

SEC. 322. OIL SPILL RECOVERY OPERATIONS.

(a) Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by striking "a vessel used only to respond to a discharge of oil or a hazardous substance,"; and

(2) by adding a new subsection to read as follows:

"(p) On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.".

(b) Section 8301 of title 46, United States Code, is amended by adding a new subsection to read as follows:

"(e) A vessel used only to respond to a discharge of oil or a hazardous substance shall have—

"(1) two licensed mates when the vessel is engaged in an operation over 12 hours in duration;

"(2) one licensed mate when the vessel is engaged in an operation less than 12 hours in duration; and

"(3) if the vessel is more than 200 gross tons, a licensed engineer when the vessel is operating.".

SEC. 323. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewman has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations."

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

SEC. 324. CAPE COD LIGHTHOUSE PLANNING AND DESIGN STUDIES.

(a) COMPLETION OF STUDIES.—

(1) PLANNING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Interior shall complete the necessary planning studies, including selection of a relocation site, identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse (popularly known as the "Highland Light Station"), located in North Truro, Massachusetts.

(2) DESIGN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete the design studies identified in the Coast Guard's strategy document for relocation of the Cape Cod Lighthouse.

(b) USE OF AMOUNTS FOR STUDIES.—Of amounts appropriated under the authority of this Act of acquisition, construction, rebuilding, and improvement, the Secretary of Transportation may use up to $600,000 for conducting the studies required under subsection (a).

SEC. 325. WASHINGTON STATE LIGHTHOUSES.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary may convey by any appropriate means to the Washington State Parks and Recreation Commission all right, title, and interest of the United States in and to property comprising 1 or more of the Cape Disappointment Lighthouse, North Head Lighthouse, and Point Wilson Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Cape Disappointment Lighthouse, North Head Lighthouse, or Point Wilson Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a center for public benefit for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Washington State Parks and Recreation Commission may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property; and

(F) the property shall be rehabilitated and maintained by the owner in accordance with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(4) MAINTENANCE OF CERTAIN EQUIPMENT NOT REQUIRED.—The Washington State Parks and Recreation Commission shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "Cape Disappointment Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard; and

(B) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of the maritime history;

(2) "North Head Lighthouse" means the Coast Guard lighthouse located at Fort Canby State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history;

(3) "Point Wilson Lighthouse" means the Coast Guard lighthouse located at Fort Worden State Park, Washington, including—

(A) the lighthouse, excluding any lantern or lens that is the personal property of the Coast Guard;

(B) 2 ancillary buildings; and

(C) such land as may be necessary to enable the Washington State Parks and Recreation Commission to operate at that lighthouse a center for public benefit for the interpretation and preservation of maritime history; and

(4) "Secretary" means the Secretary of Transportation.

SEC. 326. HERON NECK LIGHTHOUSE.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary of Transportation shall convey by any appropriate means to the Island Institute, Rockland, Maine, all right, title, and interest of the United States in and to property comprising the Heron Neck Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this subsection.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) USE OF PROPERTY.—The property conveyed pursuant to subsection (a) may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) REVISIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Heron Neck Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a nonprofit center for educational, historic, recreational, and cultural programs open to and for the benefit of the general public;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (U.S.C. 40 et seq.).

(3) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Island Institute may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OBLIGATION.—The Island Institute shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to subsection (a).

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The Island Institute shall maintain the Heron Neck Lighthouse in accordance with the Provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and other applicable laws.

(d) DEFINITIONS.—For purposes of this section, the term "Heron Neck Lighthouse" means the Coast Guard lighthouse located on Green Island, Vinalhaven, Maine, including—

(1) the attached keeper's dwelling, ancillary buildings, and associated fog signal, and boat ramp; and

(2) such land as may be necessary to enable the Island Institute to operate at that lighthouse a nonprofit center for public benefit.

SEC. 327. BURNT COAT HARBOR LIGHTHOUSE.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Secretary of Transportation shall convey by any appropriate means to the Town of Swan's Island, Swans Island, Maine, all right, title, and interest of the United States in and to property comprising the Burnt Coat Harbor Lighthouse.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this subsection.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) USE OF PROPERTY.—The property conveyed pursuant to subsection (a) may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museums, gift shops, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Heron Neck Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of the State of Maine;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (U.S.C. 470 et seq.).

(4) REQUIRED CONDITIONS.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States Government for as long as they are needed for this purpose;

(B) the Town of Swan's Island may not interfere or allow interference in any manner with such aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OBLIGATION.—The Town of Swan's Island shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to subsection (a).

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The Town of Swan's Island shall maintain the Burnt Coat Harbor Lighthouse in accordance with the Provisions of the National Historic Preservation Act of 1966 (16 U.S.C. et seq.) and other applicable laws.

(d) DEFINITIONS.—For purposes of this section, the term "Burnt Coat Harbor Lighthouse" means the Coast Guard lighthouse located on Swans Island, Maine, including the keeper's dwelling, oil house, bell tower and such lands as may be necessary to enable the Swan's Island Educational Society to operate at the lighthouse a nonprofit center for public benefit.

TITLE IV—EMPLOYMENT AND DISCHARGE

SEC. 401. SHIPPING ARTICLES AGREEMENTS.

Section 10302 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment."; and

(2) by adding at the end the following new subsections:

"(c) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator, and by each seaman employed.

"(d) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.".

SEC. 402. FORM OF AGREEMENTS.

Section 10304 of title 46, United States Code, is amended by striking "Shipping commissioner's signature or initials" from the form.

SEC. 403. MANNER OF SIGNING AGREEMENTS.

Section 10305 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by striking "a shipping commissioner" and inserting in lieu thereof "the master or individual in charge";

(2) by striking "(a)"; and

(3) by striking subsections (b) and (c).

SEC. 404. EXHIBITING MERCHANT MARINE MARINERS' DOCUMENTS.

Section 10306 of title 46, United States Code, is amended by striking "shipping commissioner" and inserting in lieu thereof "master or individual in charge".

SEC. 405. REPEAL OF PENALTY FOR FAILURE TO POST AGREEMENT.

Section 10307 of title 46, United States Code, is amended by striking the last sentence.

SEC. 406. REPEAL OF PENALTY RELATING TO ENGAGING SEAMEN OUTSIDE UNITED STATES.

Section 10308 of title 46, United States Code, is amended by striking "(a)" and by striking subsection (b).

SEC. 407. REPEAL OF PENALTY RELATING TO ENGAGING REPLACEMENT SEAMEN; APPLICATION OF REQUIREMENTS.

Section 10309 of title 46, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 408. ACCOUNTING OF WAGES AND DEDUCTIONS AT PAYOFF OR DISCHARGE.

Section 10310 of title 46, United States Code, is amended by striking "or a shipping commissioner" in the first sentence and by striking the last sentence.

SEC. 409. CERTIFICATES OF DISCHARGE.

Section 10311 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "shipping commissioner" and inserting in lieu thereof "master or individual in charge";

(2) in subsection (b), by striking the last sentence and inserting in lieu thereof "The certificate shall be signed by the master and the seaman.";

(3) in subsection (d)(1), by striking "Secretary" and inserting in lieu thereof "owner, charterer, managing operator, master, or individual in charge"; and

(4) in subsection (d)(2), by striking "at a cost prescribed by regulation" and inserting in lieu thereof "at the request of the seaman".

SEC. 410. SETTLEMENTS ON DISCHARGE.

Section 10312 of title 46, United States Code, is amended to read as follows:

"§10312. Settlements on discharge

"When discharge and settlement are completed, the master, individual in charge, or owner and each seaman shall sign the agreement required by section 10302 of this title.".

SEC. 411. RECORDS OF SEAMEN.

Section 10320 of title 46, United States Code, is amended to read as follows:

"§10320. Records of seamen

"The Secretary shall prescribe regulations requiring vessel owners to maintain records of seamen on matters of engagement, discharge, and service. A vessel owner shall make these records available to the seaman and the Coast Guard on request.".

SEC. 412. GENERAL PENALTY.

Section 10321 of title 46, United States Code, is amended to read as follows:

"§10321. General penalty

"(a) A person violating any provision of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.

"(b) The vessel is liable in rem for any penalty assessed under this section.".

SEC. 413. SHIPPING ARTICLES AGREEMENTS.

Section 10502 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment.".

(2) by adding at the end the following new subsections:

"(d) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator, and by each seaman employed.

"(e) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.

"(f) The Secretary shall prescribe regulations requiring shipping companies to maintain records of seamen on matters of engagement, discharge, and service. The shipping companies shall make these records available to the seaman and the Coast Guard on request.".

SEC. 414. ADVANCES.

Section 10505 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by striking "$100" and inserting in lieu thereof "$5,000"; and

(2) in subsection (b), by striking "$500" and inserting in lieu thereof "$5,000".

SEC. 415. DUTIES OF SHIPPING COMMISSIONERS.

(a) REPEAL.—Section 10507 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 105 of title 46, United States Code, is amended by striking the item relating to section 10507.

SEC. 416. GENERAL PENALTIES.

Section 10508(b) is amended by striking "$20" and inserting in lieu thereof "not more than $5,000".

SEC. 417. GENERAL REPORT REQUIREMENT.

Section 10103(a) of title 46, United States Code, is amended—

(1) by striking "without a shipping commissioner being present"; and

(2) by inserting "to the vessel owner" immediately after "shall submit reports".

SEC. 418. PROCEDURES OF MASTERS REGARDING SEAMAN'S EFFECTS.

Section 10703 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "by regulations prescribed by the Secretary" and inserting in lieu thereof "in section 10706 of this title";

(2) in subsection (b), by striking "as prescribed by regulations" and inserting in lieu thereof "to a district court of the United States"; and

(3) in subsection (c), by striking "subsection (a) of this section" and inserting in lieu thereof "section 10706 of this title".

SEC. 419. SEAMEN DYING IN UNITED STATES.

Section 10706 of title 46, United States Code, is amended by striking at the end "as provided by regulations prescribed by the Secretary." and inserting in lieu thereof "to a district court of the United States within one week of the seaman's death. If the seaman's death occurs at sea, such money, property, or wages shall be delivered to a district court of a consular officer within one week of the vessel's arrival at the first port call after the seaman's death.".

SEC. 420. DELIVERY TO DISTRICT COURT.

(a) REPEAL.—Section 10707 of title 46, United States Code, is repealed.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The analysis at the beginning of chapter 107 of title 46, United States Code, is amended by striking the item relating to section 10707.

SEC. 421. DISPOSAL OF FORFEITURES.

Section 11505 of title 46, United States Code, is amended—

(1) in subsection (a), by striking the last sentence and inserting in lieu thereof "The balance shall be transferred to the appropriate district court of the United States when the voyage is completed."; and

(2) in subsection (b), by striking the first sentence.

SEC. 422. CONFORMING AMENDMENTS.

(a) DUTIES OF MASTERS.—Section 10702(b) of title 46, United States Code, is amended by striking "a shipping commissioner" and inserting in lieu thereof "the consular officer or court clerk".

(b) COMPLAINTS OF UNFITNESS.—Section 10902(b) of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Secretary," immediately after "The complaint may be made to the";

(B) by striking "Coast Guard shipping commissioner,"; and

(2) in paragraphs (2) and (3), by striking "The officer, commissioner," each place it appears and inserting in lieu thereof "The Secretary, officer,".

(c) SHIPPING COMMISSIONER DESIGNATIONS AND DUTIES.—(1) Section 10102 of title 46, United States Code, is repealed.

(2) The analysis at the beginning of chapter 101 is amended by striking the item relating to section 10102.

TITLE V—PASSENGER VESSEL SAFETY

SEC. 501. SHORT TITLE.

This title may be cited as the "Passenger Vessel Safety Act of 1993".

SEC. 502. PASSENGER.

Section 2101(21) of title 46, United States Code, is amended to read as follows:

"(21) 'passenger'—

"(A) means an individual carried on the vessel except—

"(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charter or individual representative of the charterer;

"(ii) the master; or

"(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services.

"(B) on an offshore supply vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

"(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.

"(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) a managing operator;

"(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer;

"(v) an observer or sea sampler on board the vessel pursuant to a requirement of State or Federal law.

"(D) on a sailing school vessel, means an individual carried on the vessel except—

"(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

"(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

"(iv) a sailing school instructor or sailing school student.".

SEC. 503. PASSENGER VESSEL.

Section 2101(22) of title 46, United States Code, is amended to read as follows:

"(22) 'passenger vessel' means a vessel of at least 100 gross tons—

"(A) carrying more than 12 passengers, including at least one passenger for hire;

"(B) that is chartered and carrying more than 12 passengers; or

"(C) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 504. SMALL PASSENGER VESSEL.

Section 2101(35) of title 46, United States Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons—

"(A) carrying more than 6 passengers, including at least one passenger for hire;

"(B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

"(C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or

"(D) that is a submersible vessel carrying at least one passenger for hire.".

SEC. 505. UNINSPECTED PASSENGER VESSEL.

Section 2101(42) of title 46, United States Code, is amended to read as follows:

"(42) 'uninspected passenger vessel' means an uninspected vessel—

"(A) of at least 100 gross tons—

"(i) carrying not more than 12 passengers, including at least one passenger for hire; or

"(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

"(B) of less than 100 gross tons—

"(i) carrying not more than 6 passengers, including at least one passenger for hire; or

"(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.".

SEC. 506. PASSENGER FOR HIRE.

Section 2101 of title 46, United States Code, is amended by inserting between paragraphs (21) and (22) a new paragraph (21a) to read as follows:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed as a 'condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.".

SEC. 507. CONSIDERATION.

Section 2101 of title 46, United States Code, is amended by inserting between paragraphs (5) and (6) a new paragraph (5a) to read as follows:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.".

SEC. 508. OFFSHORE SUPPLY VESSEL.

Section 2101(19) of title 46, United States Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking everything after "resources" to the period at the end.

SEC. 509. SAILING SCHOOL VESSEL.

Section 2101(30) of title 46, United States Code, is amended in subparagraph (B) by striking "at least 6" and substituting "more than 6".

SEC. 510. SUBMERSIBLE VESSEL.

Section 2101 of title 46, United States Code, is amended by inserting between paragraphs

(37) and (38) a new paragraph (37a) to read as follows:

"(37a) 'submersible vessel' means a vessel that is capable of operating below the surface of the water.".

SEC. 511. GENERAL PROVISION.

(a) Section 2113 of title 46, United States Code, is amended to read as follows:

"§2113. Authority to exempt certain vessels

"If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

"(1) for a vessel issue a special permit specifying the conditions of operation and equipment;

"(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify;

"(3) establish different operating and equipment requirements for vessels defined in section 2101(42)(A) of this title;

"(4) establish different structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons carrying not more than 150 passengers on domestic voyages if the owner of the vessel—

"(A) make application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

"(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act; and

"(5) establish different structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons, carrying not more than 150 passengers on domestic voyages, if the owner of the vessel—

"(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

"(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act.".

(b) Section 4105 of title 46, United States Code is amended—

(1) by inserting "(a)" before the text; and

(2) by adding a new subsection (b) to read as follows:

"(b) Within twenty-four months of the date of enactment of this subsection, the Secretary shall, by regulation, require certain additional equipment which may include liferafts or other lifesaving equipment, construction standards, or specify additional operating standards for those uninspected passenger vessels defined in section 2101(42)(A) of this title.".

SEC. 512. EQUIPMENT AND STANDARDS FOR CERTAIN PASSENGER VESSELS.

(a) Section 3306 of title 46, United States Code, is amended by adding at the end of the following new subsections:

"(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

"(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title."

(b) The Secretary of Transportation shall, within twenty-four months of the date of enactment of this Act, prescribe regulations establishing the structural fire protection, manning, operating, and equipment requirements for vessels which meet the requirements of subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act.

(c) Before the Secretary of Transportation prescribes regulations under subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act, the Secretary may prescribe the route, service, manning, and equipment for those vessels based on existing passenger vessel and small passenger vessel regulations.

SEC. 513. APPLICABILITY DATE FOR REVISED REGULATIONS.

(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels (as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act) shall not, before the date that is 6 months after the date of enactment of this Act, apply to such vessels when chartered with no crew provided.

(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating shall extend for up to 30 additional months or until issuance of a certificate of inspection, whichever occurs first, the period of inapplicability specified in subsection (a) if the owner of the vessel concerned carries out the provisions of subsection (c) to the satisfaction of the Secretary.

(c) CONDITIONS FOR EXTENSION.—To receive an extension authorized by subsection (b), the owner of the vessel shall—

(1) make application for inspection with the Coast Guard within 6 months after the date of enactment of this Act;

(2) make the vessel available for examination by the Coast Guard prior to the carriage of passengers;

(3)(A) correct especially any hazardous conditions involving the vessel's structure, electrical system, and machinery installation, such as (i) grossly inadequate, missing, unsound, or severely deteriorated frames or major structural members; (ii) wiring systems or electrical appliances without proper grounding or overcurrent protection; and (iii) significant fuel or exhaust system leaks;

(B) equip the vessel with lifesaving and fire fighting equipment, or the portable equivalent, required for the route and number of persons carried; and

(C) verify through stability tests, calculations, or other practical means (which may include a history of safe operations) that the vessel's stability is satisfactory for the size, route, and number of passengers; and

(4) develop a work plan approved by the Coast Guard to complete in a good faith effort all requirements necessary for issuance of a certificate of inspection as soon as practicable.

(d) OPERATION OF VESSEL DURING EXTENSION PERIOD.—The owner of a vessel receiving an extension under this section shall operate the vessel under the conditions of route, service, number of passengers, manning, and equipment as may be prescribed by the Coast Guard for the extension period.

TITLE VI—DOCUMENTATION OF VESSELS

SEC. 601 DOCUMENTATION OF VESSELS

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the following vessels:

(1) ABORIGINAL (United States official number 9421).

(2) AFTERSAIL (United States official number 689427).

(3) ALEXANDRIA (United States official number 586490).

(4) AMANDA (Michigan registration number MC–1125–FR).

(5) ARBITRAGE II (United States official number 962861).

(6) ARIEL (United States official number 954762).

(7) BRANDARIS (former United States official number 263174).

(8) COMPASS ROSE (United States official number 695865).

(9) DIXIE (United States official number 513159).

(10) ELISSA (United States official number 697285).

(11) EMERALD PRINCESS (former United States official number 530095).

(12) ENTERPRISE (United States official number 692956).

(13) EUROPA STAR (former United States official number 588270).

(14) EUROPA SUN (former United States official number 596656).

(15) GAZELA OF PHILADELPHIA (Pennsylvania registration number PA-4339-AF).

(16) GUSTO (United States official number 624951).

(17) GRAY (Connecticut registration number CT-5944-AJ).

(18) GRIZZLY PROCESSOR (Canadian offical number 369183).

(19) GYPSY COWBOY (United States official number 550771).

(20) IMPATIENT LADY (United States official number 553952).

(21) INTREPID DRAGON II (United States official number 548109).

(22) ISLAND GIRL (United States official number 674840).

(23) JULIET (Michigan registration number MC-1669-LM).

(24) KALENA (Hawaii registration number HA-1923-D).

(25) LAURISA (United States official number 924052).

(26) LIBBY ROSE (United States official number 236976).

(27) LISERON (United States official number 971339).

(28) MARINE STAR (United States official number 248329).

(29) MARINER (United States official number 285452).

(30) MARY B (Kentucky registration number KY-0098-HX).

(31) MOONSHINE (United States official number 974226).

(32) MYSTIQUE (United States official number 921194).

(33) NORTHERN LIGHT (United States official number 237510).

(34) PAI NUI (Hawaii registration number HA-6949-D).

(35) PANDACEA (United States official number 665892).

(36) PELCIAN (United States official number 234959).

(37) PLAY PRETTY (United States official number 975346).

(38) PRINCE OF TIDES II (United States official number 903858).

(39) RANGOON RUBY (Hawaii registration number HA-5636-B).

(40) RBOAT (United States official number 563955).

(41) SABLE (Massachusetts registration number MS-1841-AM).

(42) SERENA (United States official number 965317).

(43) SHILOH (United States official number 902675).

(44) SIDEWINDER (United States official number 991719).

(45) SWELL DANCER (United States official number 622046).

(46) TESSA (United States official number 675130).

(47) TOP DUCK (United States official number 990973).

(48) VIKING (United States official number 286080).

(49) WHIT CON TIKI (United States official number 663823).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) or any other law restricting a foreign-flag vessel from operating in the coastwise trade, the foreign-flag vessel H851 may engage in the coastwise trade to transport an offshore drilling platform jacket from a place near Aransas Pass, Texas, to a site on the Outer Contiental Shelf known as Viosca Knoll 989.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886, (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise and Great Lakes endorsement for the vessels LADY CHARL II (United States official number 541399) and LINETTE (United States official number 654318).

(d) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886, (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V TWIN DRILL (Panama official number 8536-PEXT-2) if--

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than three times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995;

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract; and

(5) the additional vessel is documented under chapter 121 of title 446, United States Code, immediately after it is constructed.

(e) Notwithstanding sections 12106 and 12108 of title 46, United States Code, the Act of June 19, 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation with a coastwise and fishery endorsement for the vessel REEL CLASS (Hawaii registration number HA-6566-E).

(f) Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a fishery endorsement for the vessel DA WARRIOR (United States official number 962231).

(g) Notwithstanding any other law or any agreement with the United States Government, the vessels UST ATLANTIC (United States official number 601437) and UST PACIFIC (United States official number 613131) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(h) Notwithstanding any other law, the vessel AMY CHOUEST (United States official number 995631) is deemed to be less than 500 gross tons, as mesaured under chapter 145 of title 46, United States Code, for purposes of the maritime laws of the United States.

(i) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) PRINCESS XANADU OF MONACO (United States official number 660847).

(2) INSPIRATION (United States official number 277099).

(3) VENUS (United States official number 547419).

(4) LATER (United States official number 615732).

(5) MATCH MAKER (United States official number 908725).

TITLE VII—MISCELLANEOUS FISHERY PROVISIONS

SEC. 701. GOVERNING INTERNATIONAL FISHERIES AGREEMENT.

The Agreement between the Government of the United States of America and the Government of the Russian Federation on Mutual Fisheries Relations which ws entered into on May 31, 1988, and which expired by its terms on October 28, 1993, may be brought into force again for the United States through an exchange of notes between the United States of America and the Russian Federation and may remain in force and effect on the part of the United States until May 1, 1994, and may be amended or extended by a subsequent agreement to which section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823) applies.

SEC. 702. SHRIMP TRAWL FISHERY.

Section 304(g)(6)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)(6)(B)) is amended by striking "January 1, 1994" and inserting "April 1, 1994".

SEC. 703. INTERNATIONAL FISHERY CONSERVATION IN THE CENTRAL BERING SEA.

It is the sense of the Congress that—

(1) the United States should take appropriate measures to conserve the resources of the Doughnut Hole, a small enclave of international waters in the central Bering Sea, encircled by the Exclusive Economic Zones of the United States and the Russian Federation;

(2) the United States should continue its pursuit of an international agreement, consistent with its rights as a coastal state, to ensure proper management for future commercial viability of these natural resources;

(3) the United States, working closely with the Russian Federation should, in accordance with international law and through multilateral consultations or through other means, promote effective international programs for the implementation and enforcement of regulations of the fisheries by those nations that fish in the Doughnut Hole;

(4) the United States nonetheless should be mindful of its management responsibility in this regard and of its rights in accordance with international law to fully utilize the stock within its own exclusive economic zone;

(5) the United States should accept as an urgent duty the need to conserve for future generations the Aleutian Basin pollock stock and should carry out that duty by taking all necessary measures, in accordance with international law; and

(6) the United States should foster further multilateral cooperation leading to international consensus on management of the Doughnut Hole resources through the fullest use of diplomatic channels and appropriate domestic and international law and should explore all other available options and means for conservation and management of these living marine resources.

SEC. 704. NOAA FACILITIES IN KODIAK.

(a) Notwithstanding any other provision of law, the Secretary of Commerce may enter into an agreement with the University of Alaska under which the University may contract for the engineering and design specifications of a facility on Near Island in Kodiak, Alaska, that meets the long-term space needs of National Oceanic and Atmospheric Administration personnel currently located in Alaska.

(b) The Secretary may transfer available funds to the University of Alaska to pay for such engineering and design work if additional funds in an equal or greater amount are made available from non-federal sources for such work.

TITLE VIII—ATLANTIC COASTAL FISHERIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Atlantic Coastal Fisheries Cooperative Management Act".

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

(2) Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

(5) The failure by one or more Atlantic States to fully implement a coastal fishery management plan can affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

(6) It is in the national interest to provide for more effective Atlantic State fishery resource conservation and management.

(b) PURPOSE.—The purpose of this title is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources.

SEC. 803. DEFINITIONS.

In this title, the following definitions apply:

(1) The term "coastal fishery management plan" means a plan for managing a coastal fishery resource, or an amendment to such plan, prepared and adopted by the Commission, that—

(A) contains information regarding the status of the resource and related fisheries;

(B) specifies conservation and management actions to be taken by the States; and

(C) recommends actions to be taken by the Secretary in the exclusive economic zone to conserve and manage the fishery.

(2) The term "coastal fishery resource" means any fishery, any species of fish, or any stock of fish that moves among, or is broadly distributed across, waters under the jurisdiction of two or more States or waters under the jurisdiction of one or more States and the exclusive economic zone.

(3) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(4) The term "conservation" means the restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.

(5) The term "Councils" means Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852).

(6) The term "exclusive economic zone" means the exclusive economic zone of the United States established by Proclamation Number 5030, dated March 10, 1983. For the purposes of this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of that zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(7) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds.

(8) The term "fishery" means—

(A) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(B) any fishing for such stocks.

(9) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity that can be reasonably expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity or the catching, taking, or harvesting of fish in an aquaculture operation.

(10) The term "implement and enforce" means to enact and implement laws or regulations as required to conform with the provisions of a coastal fishery management plan and to assure compliance with such laws or regulations by persons participating in a fishery that is subject to such plan.

(11) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "State" means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission.

SEC. 804. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERY MANAGEMENT.

(A) FEDERAL SUPPORT FOR STATE COASTAL FISHERIES PROGRAMS.—The Secretary in cooperation with the Secretary of the Interior shall develop and implement a program to support the interstate fishery management efforts of the Commission. The program shall include activities to support and enhance State cooperation in collection, management, and analysis of fishery data; law enforcement; habitat conservation; fishery research, including biological and socioeconomic research; and fishery management planning.

(b) FEDERAL REGULATION IN EXCLUSIVE ECONOMIC ZONE.—(1) In the absence of an approved and implemented fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are—

(A) necessary to support the effective implementation of a coastal fishery management plan; and

(B) consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851).

The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2) The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 805. STATE IMPLEMENTATION OF COASTAL FISHERY MANAGEMENT PLANS.

(a) COASTAL FISHERY MANAGEMENT PLANS.—(1) The Commission shall prepare and adopt coastal fishery management plans to provide for the conservation of coastal fishery resources. In preparing a coastal fishery management plan for a fishery that is located in both State waters and the exclusive economic zone, the Commission shall consult with appropriate Councils to determine areas where such coastal fishery management plan may complement Council fishery management plans. The coastal fishery management plan shall specify the requirements necessary for States to be in compliance with the plan. Upon adoption of a coastal fishery management plan, the Commission shall identify each State that is required to implement and enforce that plan.

(2) Within 1 year after the date of enactment of this Act, the Commission shall establish standards and procedures to govern the preparation of coastal fishery management plans under this title, including standards and procedures to ensure that—

(A) such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available; and

(B) the Commission provides adequate opportunity for public participation in the plan preparation process, including at least four public hearings and procedures for the submission of written comments to the Commission.

(b) STATE IMPLEMENTATION AND ENFORCEMENT.—(1) Each State identified under subsection (a) with respect to a coastal fishery management plan shall implement and enforce the measures of such plan within the time frame established in the plan.

(2) Within 90 days after the date of enactment of this Act, the Commission shall establish a schedule of time frames within which States shall implement and enforce the measures of coastal fishery management plans in existence before such date of enactment. No such time frame shall exceed 12 months after the date on which the schedule is adopted.

(c) COMMISSION MONITORING OF STATE IMPLEMENTATION AND ENFORCEMENT.—The Commission shall, at least annually, review each State's implementation and enforcement of coastal fishery management plans for the purpose of determining whether such State is effectively implementing and enforcing each such plan. Upon completion of such reviews, the Commission shall report the results of the reviews to the Secretaries.

SEC. 806. STATE NONCOMPLIANCE WITH COASTAL FISHERY MANAGEMENT PLANS.

(a) NONCOMPLIANCE DETERMINATION.—The Commission shall determine that a State is not in compliance with the provisions of a coastal fishery management plan if it finds that the State has not implemented and enforced such plan within the time frames established under the plan or under section 805.

(b) NOTIFICATION.—Upon making any determination under subsection (a), the Commission shall within 10 working days notify the Secretaries of such determination. Such notification shall include the reasons for making the determination and an explicit list of actions that the affected State must take to comply with the coastal fishery management plan. The Commission shall provide a copy of the notification to the affected State.

(c) WITHDRAWAL OF NONCOMPLIANCE DETERMINATION.—After making a determination under subsection (a), the Commission shall continue to monitor State implementation and enforcement. Upon finding that a State has complied with the actions required under subsection (b), the Commission shall immediately withdraw its determination of noncompliance. The Commission shall promptly notify the Secretaries of such withdrawal.

SEC. 807. SECRETARIAL ACTION.

(a) SECRETARIAL REVIEW OF COMMISSION DETERMINATION OF NONCOMPLIANCE.—Within

30 days after receiving a notification from the Commission under section 806(b) and after review of the Commission's determination of noncompliance, the Secretary shall make a finding on—

(1) whether the State in question has failed to carry out its responsibility under section 805; and

(2) if so, whether the measures that the State has failed to implement and enforce are necessary for the conservation of the fishery in question.

(b) Consideration of Comments.—In making a finding under subsection (a), the Secretary shall—

(A) give careful consideration to the comments of the State that the Commission has determined under section 806(a) is not in compliance with a coastal fishery management plan, and provide such State, upon request, with the opportunity to meet with and present its comments directly to the Secretary; and

(B) solicit and consider the comments of the Commission and the appropriate Councils.

(c) Moratorium.—(1) Upon making a finding under subsection (a) that a State has failed to carry out its responsibility under section 805 and that the measures it failed to implement and enforce are necessary for conservation, the Secretary shall declare a moratorium on fishing in the fishery in question within the waters of the noncomplying State. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium.

(2) If after a moratorium is declared under paragraph (1) the Secretary is notified by the Commission that the Commission is withdrawing under section 806(c) the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If so, the moratorium shall be terminated.

(d) Implementing Regulations.—The Secretary may issue regulations necessary to implement this section. Such regulations—

(1) may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(2) shall allow for retention of fish that are subject to a moratorium declared under this section and unavoidably taken as incidental catch in fisheries directed toward menhaden if—

(A) discarding the retained fish is impracticable;

(B) the retained fish do not constitute a significant portion of the catch of the vessel; and

(C) retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(e) Prohibited Acts During Moratorium.—During the time in which a moratorium under this section is in effect, it is unlawful for any person to—

(1) violate the terms of the moratorium or of any implementing regulation issued under subsection (d);

(2) engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d);

(4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d);

(5) refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any research or inspection under this title;

(7) resist a lawful arrest for any act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this title; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(f) Civil and Criminal Penalties.—(1) Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

(g) Civil Forfeitures.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (e), shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

(h) Enforcement.—A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

SEC. 808. FINANCIAL ASSISTANCE.

The Secretary and the Secretary of the Interior may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this title, including—

(1) the preparation, implementation, and enforcement of coastal fishery management plans; and

(2) State activities that are specifically required within such plans.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

To carry out the provisions of this title, there are authorized to be appropriated $3,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.

SEC. 810. ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is repealed.

SEC. 811. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) is amended by inserting ", and $600,000 for each of the fiscal years 1994 and 1995," immediately after "and 1993".

TITLE IX—LIBERTY MEMORIAL

SEC. 901. SHORT TITLE.

This title may be cited as the "Liberty Memorial Act of 1993".

SEC. 902. CONVEYANCE VESSELS.

(a) Authority to Convey.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in two vessels described in subsection (b) to any nonprofit organization that operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

(b) Vessels Described.—Vessels that may be conveyed under subsection (a) are vessels that—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to be scrapped.

(c) Conditions of Conveyance.—As a condition of conveying any vessel to an organization under subsection (a), the Secretary of Transportation shall require that before the date of the conveyance, the organization shall enter into an agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purpose of refurbishing and making seaworthy a Liberty Ship or Victory Ship that the organization maintains as a memorial to merchant mariners, to enable the vessel to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) that are not used in accordance with paragraph (2).

(d) Deposit of Amounts Returned.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund established under the Act of June 2, 1951 (46 App. U.S.C. 1241a).

(e) Delivery of Vessels.—The Secretary of transportation shall deliver each vessel conveyed under this section—

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary of Transportation.

(2) in its condition on the date; and

(3) without cost to the Government.

(f) Expiration of Authority to Convey.—The authority of the Secretary of Transportation under this section to convey vessels shall expire on the date that is 2 years after the date of enactment of this Act.

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from Massachusetts [Mr. STUDDS], chairman of the committee, to explain the legislation.

Mr. STUDDS. Mr. Speaker, H.R. 2150 authorizes all the programs of the Coast Guard for fiscal year 1994. The authorization levels are consistent with the administration's request and the amounts appropriated for the Coast Guard for fiscal year 1994. The Coast Guard does an excellent job year round in protecting our shores from marine pollution, rescuing fishermen and sailors at sea, and ensuring the safety of cruiseships and freighters entering U.S. ports. The men and women of the Coast Guard deserve our admiration and support.

Of particular significance, the Coast Guard bill includes the Passenger Vessel Safety Act of 1993. These provisions, requested by the Coast Guard, approved by the Committee on Merchant Marine and Fisheries, and passed by the House, grant the Coast Guard new authority to regulate bareboat vessel charters so that they meet Coast Guard safety regulations. This will promote safety on our waterways.

H.R. 2150 also contains an extension of the mutual fisheries agreement between the United States and Russia, allowing Americans to continue fishing in the Russian Exclusive Economic Zone until a new Governing International Fishery Agreement goes into effect. It also authorizes a one-time only, 3-month extension of the moratorium on Federal regulations to control finfish bycatch in the Gulf of Mexico shrimp trawl fishery. I expect that this extension will provide sufficient time for the National Marine Fisheries Service to complete and present the results of its study on this issue to the Regional Fishery Management Councils in the gulf so that regulations may then be promulgated if necessary. There is no other fishery in the United States where the Federal Government is prohibited from imposing management regulations. There is no reason why this regulatory moratorium should continue after April 1, 1994.

I am also pleased that the bill includes the Atlantic Coastal Fisheries Cooperative Management Act of 1993, a bill I authored. This legislation authorizes a cooperative effort between the States and the Federal Government to ensure that everyone shares the responsibility for conserving and rebuilding Atlantic coastal fisheries. It also makes the States' and Commission's job of managing these fisheries easier by providing money for research and making the resources of the Federal Government available, if needed, to enforce Commission rules. The bill was approved by the Merchant Marine and Fisheries Committee and the House and represents more than 2 year's work by the States, the Commission, fisheries managers, user groups and others interested in the long-term productivity of our coastal fisheries.

H.R. 2150 also authorizes a number of private bills, including waivers of the Jones Act, that the committee has reviewed and approved as warranting these waivers, as well as authorizing the transfer of a limited number of vessels from the National Defense Reserve Fleet to be scrapped, and the proceeds used, by three nonprofit organizations for making three World War II ships seaworthy so they may join the 50th anniversary celebration of the Invasion of Normandy on June 7, 1994.

While I am pleased that adoption of the Senate amendment to H.R. 2150 will enable the committee and Congress to complete action this year on a Coast Guard authorization bill, at the same time I am extremely disappointed that the Senate has seen fit to delete the annual authorizations for the Maritime Administration [MARAD] and the Federal Maritime Commission. This was done, apparently, to placate one member of that body who has concerns about a totally unrelated program, the Cargo Preference Program.

President Clinton has restated his support of the Cargo Preference Program this year, and both the House and State have thoroughly debated and rejected proposals this year to gut that program. My committee's own maritime reform bill, H.R. 2151, which the House approved overwhelmingly on November 3, 1993, maintains support for the Cargo Preference Program while making a few administrative reforms in its operation to ensure that this program operates efficiently and at the lowest possible cost to the American taxpayer.

Finally, I regret that the Senate has deemed it necessary to amend the provision that the House inserted in last year's Coast Guard bill to allow cruise ship passengers who are injured aboard cruise ships to bring suits in States where cruise ship companies are doing business. This provision was added last year to overturn a Supreme Court case that limited where passengers could sue based on the small print on the back of the ticket. Section 309 of this bill again amends section 4283B of the Revised Statutes to clarify that the tort action cannot be brought in just any district court of the United States, but must be filed in a court located in a district in which the vessel owner is doing business, the vessel is operating, or where the passenger boarded the vessel. For this reason, the word "any" has been deleted. We do not intend by this amendment to restore the standard set by the Supreme Court in its 1991 decision, Carnival Cruise Lines versus Shute.

On balance, Mr. Speaker, H.R. 2150, with the Senate amendment, is worthy legislation and deserves the House's approval.

Attached to my statement is a section-by-section analysis of all the provisions in the Coast Guard Authorization Act of 1993.

Mr. Speaker, I include for the RECORD a section-by-section analysis of the bill:

H.R. 2150—SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section states that the Act may be cited as the "Coast Guard Authorization Act of 1993".

TITLE I—AUTHORIZATIONS

Section 101. Authorization of appropriations.

This section authorizes the appropriation of approximately $3.6 billion to support Coast Guard activities in Fiscal Year 1994.

Subsection (1) authorizes the appropriation of $2,612,552,200 for operations and maintenance, also called operating expenses. Of this amount $25,000,000 is to be derived from the Oil Spill Liability Trust Fund; and $35,000,000 is to be expended from the Boat Safety Account (as authorized in 26 U.S.C. 9503(c)(4)(A)).

The Operating Expenses (OE) Account provides funding for the operation and maintenance of Coast Guard vessels, aircraft and shore units. This account also funds military and civilian salaries. The OE Account is the largest account in the Coast Guard's budget, accounting for about 70 percent of the total. The Coast Guard's FY 1994 OE request reflects a shift in funding from drug interdiction and search and rescue to marine environmental protection, marine transportation safety, and fisheries law enforcement.

The Coast Guard's $2,609,747,000 request for OE is $51,747,000 over the amount appropriated in FY 1993. This increase results from including the FY 1993 pay raise and an anticipated cost of living adjustment of approximately $37,200,000 in the OE base. The amount authorized in H.R. 2150 for OE, $2,612,552,200, is $54,552,200 over the FY 1993 appropriation and $2,805,200 over the President's request. The $2,805,200 increase reflects $2,750,000 that would be available if the entire $35 million authorized for Coast Guard OE from the Boat Safety Account is appropriated, and $55,200 which is authorized for training personnel of the Lower Columbia River Fire and Safety Association, pursuant to section 315 of this Act. The Committee strongly supports appropriating the entire amount authorized from the Boat Safety Account.

Subsection (2) authorizes the appropriation of $417,996,500 for acquisition, construction, and improvements (AC&I). These funds are to be used for the acquisition, construction, and improvements of aids-to-navigation, shore and offshore facilities, vessels, aircraft and related equipment. Of the amount authorized to be appropriated, $23,030,000 is to be derived from the Oil Spill Liability Trust Fund.

The President's request for AC&I is $74,000,000 over the amount appropriated in FY 1993. Major items in the FY 1994 AC&I request include: (1) $45,000,000 for replacement of coastal buoy tenders; (2) $43,200,000 for continuation of the 210-foot cutter major maintenance availability program; (3) $55,200,000 for the purchase of HH–60 helicopters for Operation Bahamas Turks and Caicos; and (4) $32,000,000 for Vessel Traffic Services.

The amount authorized for AC&I in this bill is $77,996,500 over the FY 1993 appropriation and $3,996,500 over the President's request. This increase reflects the authorization of $1,780,000 for prepositioned oil spill response equipment in Port Arthur, Texas, and Helena, Arkansas (section 306), $1,250,000 for the purchase of an oil spill management simulator for the New York Maritime College (section 308), $600,000 for the completion of planning and design studies for relocating Cape Cod Lighthouse (section 314), and $366,500 to purchase equipment for the Lower Columbia River Marine Fire and Safety Association (section 315).

Subsection (3) authorizes the appropriation of $25,000,000 for research, development, test, and evaluation, in support of the following areas: search and rescue, aids-to-navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations and defense readiness. Of the amount authorized to be appropriated, $4,457,000 is to be derived from the Oil Spill Liability Trust Fund. The amount reflects a decrease of $2,800,000 from the amount appropriated in fiscal year 1993, and is the same amount requested by the President. Projects to be conducted under this account include improved search and rescue capabilities, development of an advanced Global Positioning System, marine safety research, fire safety technology development, pollution response, and the OPA-90 regional grant program.

Subsection (4) authorizes the appropriation of $548,774,000 for retired and survivor pay and benefits. This is the amount requested by the President.

Subsection (5) authorizes the appropriation of $12,940,000 for the alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation. This amount reflects a $300,000 increase of the amounts appropriated for this account in FY 1993, and is consistent with the President's request. Under the Truman-Hobbs Act of 1940, the Coast Guard shares, with the bridge owner, the cost of altering railroad and publicly-owned highway bridges which obstruct the movement of maritime traffic. The $12,940,000 requested for this account is intended to continue work on the: (1) Burlington Northern Railroad Bridge, Burlington, Iowa; (2) Sidney Lanier Bridge, Brunswick, Georgia; (3) Florida Avenue Bridge, New Orleans, Louisiana; and (4) CSX-L&N Railroad Bridge, Pascagoula, Mississippi. Funds are also requested to begin design and contract work for bridges in Fort Madison, Iowa, and Chelsea, Massachusetts.

Subsection (6) authorizes the appropriation of $23,057,000 for the Coast Guard's environmental compliance and restoration account. This reflects a $1,100,000 increase over amounts appropriated in FY 1993. This account is used to: (1) identify and clean up contamination from hazardous substances and pollutants; (2) correct other environmental damage that poses an imminent threat to the public; (3) demolish and remove unsafe buildings and structures at former Coast Guard stations; and (4) prevent contamination from hazardous substances at current Coast Guard facilities. Cleanup and remediation projects are planned for Kodiak, Alaska; Traverse City, Michigan; Elizabeth City, North Carolina; and Cape Cod, Massachusetts.

Section 102. Authorized levels of military strength and military training.

This section authorizes an end-of-year (as of September 30, 1994) strength for active duty personnel for the Coast Guard. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

Subsection (a) authorizes an end-of-year active duty strength for active duty personnel of 39,138. The active duty strength is in accordance with the President's request.

Subsection (b) authorizes the Coast Guard's FY 94 average student training loads as follows:

(1) Recruit and Special Training, 1,986 student years.

(2) Flight training, 114 student years.

(3) Professional training in military and civilian institutions, 338 student years.

(4) For officer acquisition, 955 student years.

The student training loads are in accordance with the President's request.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Section 201. Ceiling on officer corps.

This section amends section 42(a) of title 14, United States Code, by raising the ceiling for commissioned Coast Guard officers from 6,000 to 6,200. The Coast Guard has been tasked with increased regulatory and enforcement responsibilities in the areas of environmental protection, commercial vessel safety, and drug interdiction. An increase in the number of commissioned officers will provide the Coast Guard with the flexibility to manage its current programs and to meet its increased regulatory responsibilities.

Section 202. Volunteer services.

This section authorizes the Coast Guard to enter into partnership agreements with nonprofit conservation entities (including cooperative agreements with states, local governments, nongovernmental organizations, and individuals) to share the cost and accept volunteer services in support of natural and historic resource management. It is similar to authority granted to other Federal land owning/managing agencies and would provide opportunities to private conservation organizations, groups, and individuals to assist financially, on a matching basis, and furnish services for, programs that maintain and improve natural and historic resources on Coast Guard facilities. For example, this section would enable conservation organizations actively participating in the North American Waterfowl Management Plan to assist the Coast Guard in the restoration and enhancement of waterfowl habitat on Coast Guard property. It would also authorize cooperative partnerships for the protection and restoration of historic lighthouses. Finally, this section states that volunteers shall be considered Federal employees for the purposes of chapter 171 of title 28.

Section 203. Reserve Retention Boards.

This section amends section 741 of title 14, United States Code, by authorizing the Coast Guard to remove certain reserve captains from the promotion list who, because of mandatory retirement requirements, are ineligible for continued service in the Reserves. Current law enables the Secretary to convene boards to consider which Reserve officers in a specified grade will be retained in the Coast Guard Reserve. To be considered by a Reserve Retention Board a Reserve officer must have 18 years or more of service, not be on active duty, and not be selected for promotion. These boards select and recommend a specified number of officers under consideration for retention in an active status whenever the Secretary determines it necessary to reduce the number of Reserve officers in this status. This section will remove Reserve Captains facing mandatory retirement from consideration for retention in the Coast Guard Reserve.

Section 204. Continuity of grade of admirals and vice admirals.

This section amends chapter 3 of title 14, United States Code, relating to the retirement of admirals and vice admirals in the Coast Guard.

Under current law, any officer who serves as Commandant, Vice Commandant, or area commander must, unless reappointed to another position as an admiral or vice admiral, retire the day following the termination of that appointment or risk being retired in the lower permanent grade of rear admiral. Because there is only one admiral in the Coast Guard (the Commandant) and three vice admirals (the Vice Commandant, and the Atlantic and Pacific Area Commanders) there is no provision that allows these officers to keep their current grade between the time they end their final assignment and the official date of their retirement. Currently, each of these officers would revert to the grade of Rear Admiral (0-8) which in the case of the Commandant is two full grades below his last active duty grade, and in the case of the Vice Commandant and the area commanders is one full grade below a vice admiral's last active duty grade. This section will allow these individuals to retain their grade after their final assignment until retirement. This will not be costly because the administrative process for retirement is usually completed within sixty days of an officer's final day on active duty.

Section 205. Chief of Staff.

This section amends section 41a(b) of title 14, United States Code, by authorizing the Coast Guard to establish the position of Chief of Staff at the grade of vice admiral (0-9).

Under current law, the Chief of Staff of the Coast Guard serves as the senior rear admiral (0-8). However, since the formation of that position, the Chief of Staff has taken on the additional duties of strategic planning, Headquarters command and support, procurement management, budget formulation and execution, as well as responsibilities for general policy and management effectiveness for the entire Coast Guard. In performing these tasks, the Chief of Staff reports directly to the Commandant and the Vice Commandant. However, many times the Chief of Staff deals with officers of the same or greater rank. Given the importance of the role, the Committee considers that the position of Chief of Staff should have the rank and authority of vice admiral, commensurate with that of senior field commanders.

TITLE III—MISCELLANEOUS COAST GUARD PROVISIONS

Section 301. North Atlantic Routers.

This section would repeal sections 3 and 5 of the Act of June 25, 1936, to eliminate certain statutory requirements regarding North Atlantic passenger vessel routes and the requirement to publish unnecessary and redundant regulations in the Code of Federal Regulations.

Section 3 of the Act of June 25, 1936, dealt with the International Ice Patrol and set up a scheme for U.S. passenger liners to file routes and report their positions when operating in the North Atlantic Ocean. The statute was intended to help track passenger liners and encourage them to stay on regular routes outside of known ice areas. Section 5 of the 1936 Act provides for the publication of rules and regulations in the Federal Register for the implementation of the provisions of the Act. The regulations are both unnecessary and redundant because, since 1979, all

U.S. flag shipping has been required to report to the Automated Mutual Assistance Vessel Rescue System (AMVER). AMVER is a worldwide computerized database of the location of merchant shipping. This information is accessible from Coast Guard Rescue Coordination Centers and is used to locate and divert merchant vessels to provide assistance to vessels in distress.

Vessels file a sail plan including departure time, projected course, destination, and speed of advance via telex, radio, fax of telephone prior to departure. While underway, vessels provide updates every 48 hours and an arrival message upon reaching their destination. In addition to AMVER, new technology such as satellite communications, accurate electronic position systems, improved radio direction finding equipment, and emergency position indicating radio beacons (EPIRBS) vastly improve the ability of a vessel to alert and provide accurate location information to rescue authorities.

Moreover, the requirement to give notice of regular North Atlantic routes is unnecessary because there are no U.S. flag passenger vessels using those routes. The last U.S. flag passenger line ceased operation in the North Atlantic in 1967.

Section 302. Coast Guard family housing.

This section amends title 14, United States Code, to allow the Coast Guard to enter into long-term leasing agreements for family housing.

This authority would expand the Coast Guard's ability to provide cost-effective housing for its military personnel, particularly in geographic locations that are relatively remote or where short-term leases are unavailable or difficult to obtain because of local housing market pressures.

Section 303. Air Station Cape Cod improvements.

This section amends title 14, United States Code, to allow the Coast Guard to make improvements to support buildings at Air Station Cape Cod that are currently leased from the Commonwealth of Massachusetts.

A majority of the Coast Guard support buildings at Air Station Cape Cod are situated on land owned by the Commonwealth of Massachusetts. The real property and many of the buildings of the facility are being leased or permitted to the Coast Guard. This authorization would provide the Coast Guard greater flexibility in using funds to maintain or renovate facilities located on leased property on the Massachusetts Military Reservation.

Section 304. Long-Term lease authority for aids to navigation.

This section authorizes the Coast Guard to enter into long-term lease agreements for aids to navigation sites. This includes sites for new Vessel Traffic System facilities. It also allows the Coast Guard to lease sites for day markers, navigational ranges, and other traditional short-range aids to navigation.

The authority to enter into long-term leases for these sites would reduce administrative expenses and is budget neutral. The Coast Guard should only exercise this authority when cost savings will result in the long run. Cost estimation procedures specified in OMB guidelines shall be used.

Section 305. Authority for educational research grants.

This section authorizes the Coast Guard Academy to compete on an equal basis with private and state colleges and universities for state, federal, and other educational research grants designed to encourage innovative approaches to education.

This legislative language was necessitated after the Coast Guard Academy competed successfully for a grant, from the U.S. Department of Education, only to have it withdrawn later due to the Academy's lack of explicit authority to receive such a grant. Enactment of this provision would not override state or federal regulations, but would provide statutory authority to receive grants. The Academy may not receive grants or awards involving routine functions of the Academy or acquisition or construction of facilities.

Section 306. Prepositioned oil spill cleanup equipment.

This section authorizes the Coast Guard to preposition oil spill response equipment at Port Arthur, Texas, and at Helena, Arkansas.

The provision authorizes $890,000 for Port Arthur, and $890,000 for the Port of Helena. Additionally, the authorization for Helena, Arkansas, is subject to the Secretary of Transportation's determining that adequate storage and maintenance facilities exist for the equipment.

In 1991, the Secretary of Transportation submitted to Congress the Port Needs Study required under section 4107(b) of OPA–90 (Public Law 101–380, 104 Stat. 514). Section 4107(b) of OPA–90 directed the Secretary to determine which U.S. ports and channels need new, expanded, or improved Vessel Traffic Service Systems (VTS). To complete the study, the Department of Transportation selected 23 waterways or zones having substantial traffic in oil or hazardous materials and some degree of navigational difficulty or congestion. Taken together, these study zones encompass 82 deep-draft ports which load or unload over 80 percent of the total U.S. international and domestic cargo vessel tonnage. After an extensive analysis was conducted, seven zones were selected and determined to have a positive net benefit from VTS. Port Arthur, Texas, ranked second only to New Orleans, Louisiana, on that list. The Committee believes that the analysis conducted to determine the need for additional VTS resources also supports the need for prepositioned oil spill cleanup equipment to respond immediately to an oil spill emergency. For this reason, section 306 of this Act requires that Port Arthur, Texas, be among the sites at which the Coast Guard prepositions oil spill cleanup equipment.

Helena, Arkansas, is located on the Mississippi River. Along with significant amounts of oil, other hazardous materials are transported by barge on this important waterway. This response equipment will provide coverage for a large unprotected, heavily traveled portion of the Mississippi River. The nearest potential supply of prepositioned equipment is approximately three hundred miles away from Helena.

Section 307. Shore facilities improvements at Coast Guard Station Little Creek, Virginia.

This section authorizes such sums as are necessary for facility improvements in Fiscal Years 1994, 1995, and 1996 at Station Little Creek, Virginia. The Coast Guard has indicated it may request funds for the facility improvements in its Fiscal Year 1995 budget request. This section provides the Coast Guard with the authority to begin these repairs in 1994 if funds become available.

Section 308. Oil spill training simulator.

This section authorizes the Secretary of Transportation to expend $1.25 million for the purchase of an oil spill response simulator by the New York Maritime Academy. This simulator would provide state of the art training for students, including Coast Guard personnel and other industry professionals.

Section 309. Technical clarification.

Section 4283B of the Revised Statutes of the United States (46 App. U.S.C. 183c) prohibits any manager, agent, master, or owner of a vessel transporting passengers between ports in the United States or between a port in the United States and a foreign port from placing any limitation in a contract, such as a passenger's ticket, that would (1) relieve the owner, master, or agent of any liability for any loss of life or bodily injury arising from the negligence or fault of the owner or his servants; or (2) lessen, weaken, or avoid the right of any claimant to trail by any court of component jurisdiction on the question of liability for those losses or injury. If a vessel owner includes such a provision in the contract the provision is declared to be against public policy and is, under this section, "null and void and of no effect".

This section of the Revised Statutes is amended by striking the term "any" before the phrase "court of competent jurisdiction" since the term is unnecessary. So long as the civil action is brought in any Article 2 court the rights of the passenger can be protected procedurally. However, simply protecting the procedural and legal rights of the injured is not sufficient to ensure that all of the rights of the injured are guaranteed.

In 1936, the Committee on Merchant Marine and Fisheries amended the Vessel Owners Limitation of Liability statute (P.L. 74–391) to provide increased consumer-passenger protection. In 1936, any clause selecting a forum for suit was unenforceable in Federal court and the 1936 amendment was directed to prevent the inclusion of arbitration clauses to ouster Federal jurisdiction over passengers' personal injury claims. As such, this provision encompassed any conceivable jurisdictional provision preventing a claimant from brining suit for personal injury, a right which is abridged by a clause in a ticket restricting a passenger from bringing a civil action in any district court of the United States.

Last year Congress amended section 4283B of the Revised Statutes to overturn a Supreme Court case that limited where passengers could sue based on the small print of the ticket. Section 309 of this bill again amends section 4283B of the Revised Statutes to clarify that the civil action can't be brought in just *any* district court of the United States, the action must be filed in an appropriate district court including the area in which the vessel owner is doing business, or the vessel is operating out of, or the passenger boarded the vessel. For this reason, H.R. 2150 deleted "any" but did not restore the term to "a" district court as it was worded before last year's amendment. To do so may leave the mistaken interpretation that we intend by this amendment to restore the standard set by the Supreme Court in *Carnival Cruise Lines* v. *Shute* (111 S. Ct. 1522, 113 L. Ed.2d 622, 1991 AMC 1697 (1991)).

Section 309 of H.R. 2150 should not be construed to mean that a vessel owner may enforce a forum selection clause in a passenger ticket. American law generally frowns on contracts of adhesion, contracts where the party with all the bargaining power, usually a powerful business, imposes an unfair provision on individual consumers on a take-it-or-leave-it basis. These forum selection clauses do restrict a passengers ability to bring suit before a court of competent jurisdiction, are contrary to public policy, and should be declared null and void. Today, consumers often purchase refundable or nonrefundable tickets over the phone with a credit card without the opportunity to view all of the terms in the ticket before making that purchase. Even if the passenger should discover these clauses, they are nonnegotiable between the vessel owner and the passenger. To require a passenger to fly great distances such as from Seattle to Miami just to be present in court is unfair if in fact the passenger went on the cruise out of Los Angeles and not Miami. By adoption of this amendment, the Committee does not intend to reinstate the opinion of the Supreme Court in *Carnival Cruise Lines* v. *Shute*.

It is not the intent of this amendment to allow vessel owners to be sued everywhere. The interest of the vessel owner is adequately protected under the traditional *forum nonconveniens* standards which would allow a vessel owner to be sued in a limited number of places, such as district in which the vessel is operating, the owner is doing business (such as selling tickets), or where the passenger boarded the vessel.

Section 310. Oil Spill Prevention and Response Technology Test and Evaluation Program.

This section requires the Secretary to establish a program to evaluate vessel carried oil spill response technology within 6 months of the date of enactment of this Act. In conducting the program, the Coast Guard shall publish a notice in the Federal Register soliciting proposals on appropriate procedures to evaluate spill response technology. Within 2 years of the date of enactment, the Coast Guard shall report to Congress with recommendations on the feasibility and environmental benefits of having tank vessels carry on board response equipment. Finally, this section requires the Secretary to study the feasibility of using segregated ballast tanks for emergency transfer of cargo or storage of recovered oil and report the findings to Congress within 6 months of enactment.

Section 311. Unmanned seagoing barges.

This section amends the vessel inspection laws in Subtitle II of title 46, United States Code, to exempt certain barges, including barges of the flexifloat design, from inspection as seagoing barges under those laws. Specifically, this exemption covers all seagoing non-self-propelled vessels of at least 100 gross tons making voyages beyond the Boundary Line that are unmanned and that do not carry a hazardous material as cargo, or a flammable or combustible liquid, including oil, in bulk. These vessels are not currently subject to inspection if operating inside the Boundary Line. The Coast Guard believes, based on casualty statistics, that these barges do not pose a significant threat to personnel or the marine environment, and also should not be subject to inspection when operating outside the Boundary Line. Certain of these barges will still be required to undergo classification society inspections every 5 years for issuance of a loadline. The Coast Guard believes that these surveys should be sufficient to maintain hull integrity.

This section eliminates unnecessary regulation on vessels that do not pose a threat to the environment, and allows the Coast Guard to devote the resources used to inspect these vessels to a higher priority. Under this section, the Coast Guard may not reclassify the barges that are exempt from inspection under this section into a category subject to inspection under section 3301 of title 46, United States Code, unless the vessel undergoes a major conversion, or engages in a different type of operation.

Section 312. Prohibition on decommissioning icebreaker *Mackinaw*.

This section prevents the Coast Guard from decommissioning the Coast Guard cutter *Mackinaw* before December 31, 1994. The Secretary of Transportation is authorized $1,600,000 for FY 1994 to continue operation of the *Mackinaw*.

Section 313. Lower Columbia River Marine Fire and Safety activities.

This section authorizes the Secretary of Transportation to expend $421,700 in FY 1994, $358,300 in FY 1995 to support the Lower Columbia River Marine Fire and Safety Association. In FY 1994, $55,200 may be expended from the OE account to train personnel in the Lower Columbia River in oil and hazardous material response. In addition, $366,500 may be expended from the AC&I account to purchase three oil spill response vessels, a skimmer, a recovered oil container, and 20 hand-held radios.

Since 1984, Congress has recognized the unique need for marine fire, safety, and pollution protection on the Columbia River by authorizing and appropriating funds to the Association for training and the purchase of equipment. This section continues that relationship.

Section 314. Cass River.

This section exempts a vessel operating on the date of enactment of this Act on the Cass River above the dam at Frankenmuth, Michigan, from the vessel inspection and manning requirements of Subtitle II of title 46, United States Code. This exemption only applies to vessels which are inspected and licensed by the State of Michigan.

Section 315. Sense of the Congress regarding funding for Coast Guard.

This section states that it is the sense of Congress that Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

Section 316. Cooperative agreement authority.

This section adds a new subsection to section 93 of title 14, United States Code, which authorizes the Coast Guard to enter into cooperative agreements with other Government agencies and the National Academy of Sciences.

Section 317. Regional Fisheries Law Enforcement Training Centers.

This section directs the Coast Guard to establish Regional Fisheries Law Enforcement Training Centers in the Eighth Coast Guard District in Southeast Louisiana for the Gulf of Mexico, and in Charleston, South Carolina, for the Southeast Atlantic. The new training centers are to be modeled after the existing training center in Massachusetts.

Section 318. National Safe Boating Week.

This section changes the dates of National Safe Boating Week from the first week in June to the seven day period ending on the last Friday before Memorial Day. This section takes effect on January 1, 1995.

Section 319. Los Angeles-Long Beach vessel traffic service.

This section authorizes the Coast Guard to provide personnel support to the interim vessel traffic information system for the Ports of Los Angeles and Long Beach operated by the Marine Exchange of Los Angeles-Long Beach Harbors, Inc. The Coast Guard shall be reimbursed for its personnel costs related to the interim vessel traffic system. The United States Government assumes no liability for any act or omission of any officer, director, employee, or representative of the Marine Exchange or of the State of California related to the vessel traffic information system.

Section 320. Financial responsibility for nonperformance.

This section amends section 3(b) of Public Law 89–777. The amendment eliminates the requirement that passenger vessels file dollar-for-dollar revenue bonds. The bonds are filed to ensure financial responsibility for the reimbursement of passenger fares in the event of the cancellation of a voyage.

Pursuant to the authority granted under section 3(a) of Public Law 89–777, the Commission has required bonds of no less than 110 percent of all unearned passenger revenue within two years preceding the application; however, the Federal Maritime Commission (FMC) has put a cap on coverage at $15,000,000. Since the enactment and implementation of Public Law 89–777, all passenger fares have been recovered in the event of vessel operator nonperformance. The FMC feels that clarification of the matter is warranted, and recommends that elimination of the section 3(b) dollar-for-dollar bonding requirement.

Section 321. Fishing and fish tender vessels.

This section states that fishing vessels and fish tender vessels shall not be deemed to be tank vessels, for the purposes of any law, while being utilized in work relating to the fishing industry. The section does not affect the authority of the Secretary of Transportation to regulate such vessel to ensure the safe carriage of oil and hazardous substances. Furthermore, this section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with certain chapters of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (P.L. 101–595).

Section 322. Oil spill recovery operations.

This section amends section 8104 of title 46, United States Code, to allow the licensed individuals and crewmembers of vessels used only to respond to a discharge of oil or hazardous substance to be divided up into two watches when the vessel is engaged in an operation of less than 12 hours. Current law allows the crews of these vessels to be divided into two watches when on voyages of less than 600 miles.

Section 8301 of title 46, United States Code, is also amended to allow vessels used only to respond to a discharge of oil or hazardous substance to have one licensed mate when the vessel is engaged in operations of less than 12 hours. Current law requires these vessels to carry two licensed mates at all times.

Section 323. Limitations of performance of longshore work by alien crewmembers—Alaska exceptions.

This section amends section 258 of the Immigration and Nationality Act to permit the employment of alien crewmembers to perform longshore work at transshipment locations in Alaska under limited circumstances. The amendment is necessary because U.S. longshore workers are not always available to work on fishing and fish processing vessels in remote areas of Alaska. Before hiring foreign longshore workers, an employer must file an attestation with the Secretary of Labor that U.S. longshore workers have been requested but are not available for hire.

Section 324. Cape Cod Lighthouse planning and design studies.

This section directs the Coast Guard to complete the planning and design studies outlined in its 1992 strategy document to preserve Cape Cod Lighthouse, located in North Truro, Massachusetts. Further, the section authorizes the Secretary of Transportation to expand $600,000 to complete the studies.

Cape Cod Lighthouse (also known as Highland Light Station) was originally built in 1798 and rebuilt in 1857. The oldest lighthouse on Cape Cod, and the first on the continental United States, it is located on land surrounded by the Cape Cod National Seashore and is listed on the National Register of Historic Places. The lighthouse is being seriously threatened by erosion at its present location. At present, the light tower is less than 100 feet from the edge of a cliff. Planning and design must begin soon before further erosion makes moving the lighthouse impossible.

Section 325. Washington State lighthouses.

This section would authorize the transfer of three lighthouses from the Coast Guard to the Washington State Parks and Recreation Commission. The transfers will promote the preservation, maintenance, and public enjoyment of these historic lighthouse properties.

The conveyance of each lighthouse is subject to the condition that the lighthouse will revert to the United States if it ceases to be: (1) a center for public benefit for the interpretation and preservation of maritime history; (2) maintained in a manner that ensures its continued operation as a Coast Guard aid to navigation; and (3) maintained in a manner consistent with the National Historic Preservation Act of 1966. In addition, to ensure that the transfer will not sacrifice the important navigation functions of the lighthouses, the Coast Guard will continue to have access to the lights to oversee the proper operation of their navigational equipment.

Section 326. Heron Neck Lighthouse.

This section would authorize the conveyance of the Heron Neck Lighthouse to the Island Institute, Rockland, Maine. The conveyed property may be used for educational, historic, recreational, and cultural programs open to the general public.

The conveyance of the lighthouse is subject to the condition the lighthouse will revert to the United States is it ceases to be: (1) used as a nonprofit center for educational, historic, recreational, and cultural programs open to and for the benefit of the general public; (2) maintained in a manner that ensures its continued operation as a Coast Guard aid to navigation; and (3) maintained in a manner consistent with the National Historic Preservation Act of 1966. In addition, to ensure that the transfer will not sacrifice the important navigational function of the lighthouse, the Coast Guard will continue to have access to the light to oversee the proper operation of its navigational equipment.

Section 327. Burnt Coat Harbor Lighthouse.

This section would authorize the conveyance of the Burnt Coat Harbor Lighthouse to the Town of Swan's Island, Swans Island, Maine. The conveyed property may be used for educational, historic, recreational, and cultural programs open to the general public.

The conveyance of the lighthouse is subject to the condition that the lighthouse will revert to the United States if it ceases to be: (1) used as a nonprofit center for educational, historic, recreational, and cultural programs open to and for the benefit of the general public; (2) maintained in a manner that ensures its continued operation as a Coast Guard aid to navigation; and (3) maintained in a manner consistent with the National Historic Preservation Act of 1966. In addition, to ensure that the transfer will not sacrifice the important navigational function of the lighthouse, the Coast Guard will continue to have access to the light to oversee the proper operation of its navigational equipment.

TITLE IV—EMPLOYMENT AND DISCHARGE

Section 401. Shipping articles agreements.

This section amends section 10302 to require the owner, charterer, managing operator, master or individual in charge of a vessel to make a shipping agreement with each seaman. The agreement must be in writing. Also, a copy of the agreement must be provided to the seaman. These agreements must be made before the seaman is employed.

New Subsection (d) requires the owner, charterer, managing operator, etc., to maintain the shipping agreement and to make copies available to the seaman. The Coast Guard does not intend to stock forms or provide them to the public.

Section 402. Form of agreements.

This section amends section 10304, by striking the words "shipping commissioner's signature of initials" and deleting all reference to shipping commissioners.

Section 403. Manner of signing agreements.

This section amends section 10305 by striking the words "a shipping commissioner." In addition it repeals subsection (b) and (c) which set out the manner of signing the agreement. The essence of section 10305 is review of the agreement by the shipping commissioner. Since there are no longer shipping commissioners, subsections (b) and (c) are unnecessary.

Section 404. Exhibiting merchant mariners' documents.

This section substitutes "master or individual in charge" for "shipping commissioner" in section 10306 which addresses exhibiting merchant mariners' documents. This is merely a technical, conforming amendment directing to whom the seaman is to show the required merchant mariner documents.

Section 405. Repeal of penalty for failure to post agreements.

This section strikes the civil penalty provision in section 10307, which requires the master to post the shipping agreement on the vessel. All civil penalties for violations of chapter 103 will be consolidated into section 10321.

Section 406. Repeal of penalty relating to engaging seamen outside United States.

This section strikes the civil penalty provision in section 10308, which requires the shipping agreement to be signed in front of a consular officer when the seamen is engaged outside the United States. This is a technical amendment made for the same reason stated in the discussion on section 405 above.

Section 407. Repeal of penalty relating to engaging replacement seamen; application of requirements.

This section strikes the civil penalty provision in section 10309, which addresses engaging seamen to replace seamen lost because of desertion or casualty, for the same reason stated above in section 406 above.

Section 408. Accounting of wages and deductions at payoff or discharge.

This section strikes reference to shipping commissioner in the first sentence of section 10310, which provides that an accounting of the seaman's wages be delivered to the seaman at least 48 hours before paying off or discharging the seaman. In addition, it strikes the penalty provision for the same reason stated in Section 406 above.

Section 409. Certificates of discharge.

This section amends section 10311(a) by substituting "matter or individual in charge" for "shipping commissioner." This will require those persons to provide the seaman with a certificate of discharge. This section also strikes "shipping commissioner" from subsection (b). In addition, subsection (d)(1) is amended by requiring the owner and other individuals in charge, instead of the Secretary, to maintain the records of discharge. It also removes the provisions to charge for providing the seaman with a duplicate of the discharge.

Section 410. Settlements of discharge.

This section amends section 10312, which provides the procedures for settlement on the discharge of a seaman. Section 10312 currently provides that the shipping commissioner be a third party to disputes between the vessel master or owner and the seaman. This section repeals those provisions and keeps only the requirement that the agreement be signed by both parties when the discharge and settlement are completed. Since there have been no shipping commissioners for over ten years, disputes have had to be settled by the Federal court system and will continue to be under this section.

Section 411. Records of seamen.

This section amends section 10320 to require vessel owners to maintain seaman's records pursuant to Coast Guard regulations. This section also requires that all the maintained records be made available to both the seaman and the Coast Guard. Under existing section 10320, the Coast Guard maintained these records.

Section 412. General penalty.

This section amends section 10321, the current penalty section, by making the section applicable for all violations of chapter 103 and by increasing the maximum civil penalty assessment from $200 to $5,000, to more accurately reflect modern commercial vessel operations.

Section 413. Shipping articles agreements.

This section sets out the requirements for the agreements in section 10502 for coastwise voyages in the same manner as section 401 of this title provides in section 10302 for foreign and intercoastal voyages.

Section 414. Advances.

This section amends section 10505 which addresses advances by increasing the civil penalty to $5,000.

Section 415. Duties of shipping commissioners.

This section repeals section 10507 which provides for the duties of shipping commissioners. Since there are no longer shipping commissioners, section 10507 is unnecessary.

Section 416. General penalties.

This section amends section 10508 which addresses general penalties, by increasing the civil penalty to "not more than $5,000."

Section 417. General report requirement.

This section amends section 10103, which requires the master who hires or discharges a seaman without a shipping commissioner being present to submit a report to the Coast Guard of the situation involved. This amendment strikes the reference to the shipping commissioner and requires the master to submit the report to the vessel owner.

Section 418. Procedures of masters regarding seaman's effects.

This section amends section 10703, which concerns procedures of Masters upon the death of a seaman, by striking the references to regulations in this section.

Section 419. Seamen dying in the United States.

This section amends section 10706, which requires the master or vessel owner to deliver the deceased seaman's property and wages, as prescribed by regulations. Proposed section 10706 would require the master or vessel owner to deliver them to the U.S.

district court. Under current 10707, which is repealed by this title, the Coast Guard delivers the property to the court.

Section 420. Delivery to district court.

This section repeals section 10707, as the requirement to deliver the deceased seaman's property to a district court would be provided in section 10706.

Section 421. Disposal of forfeitures.

This section amends section 11505, which addresses disposal of forfeitures, by requiring the vessel owner or master to transfer the balance of forfeited wages to the appropriate district court instead of to the Coast Guard as is now the case.

Section 422. Conforming amendments.

This section makes conforming amendments to reflect this title's amendment.

TITLE V—PASSENGER VESSEL SAFETY

Section 501. Short title.

This section provides that the title may be referred to as the "Passenger Vessel Safety Act of 1993".

Section 502. Passenger.

This section amends section 2101(21) of title 46, United States Code by consolidating the multiple definitions of "passenger" into a single, consistent definition. Under the current definitions of "passenger" in paragraphs (A), (B), and (D) of section 2101, an individual carried on a vessel may or may not be a passenger depending on the number of "passengers" on board and the vessel's tonnage. This amendment corrects this problem by eliminating the separate definitions for passengers on "uninspected passenger vessels," "small passenger vessels," and "passenger vessels" and replacing them with a single definition of "passenger." The amendment maintains the exceptions for certain special use vessels such as offshore supply, fishing, and sailing school vessels.

The Committee notes that the general definition of passenger excludes the owner or charterer of a vessel and individual representatives of the owner and charterer from being considered "passengers". This is intended to prevent a group of individuals from entering into a legal agreement to become the owner or charterer of the vessel and to thereby escape the passenger vessel safety laws.

Section 503. Passenger vessel.

This section amends the definition of "passenger vessel" in 46 U.S.C. 2101(22) to make a vessel of at least 100 GT a "passenger vessel" when it carries more than 12 passengers, including one passenger for hire, or when it is being operated under charter and carries more than 12 passengers. Under current law, a "passenger vessel" is defined as a vessel of at least 100 GT carrying at least one passenger for hire. Two purposes are accomplished by this change in the definition of "passenger vessel". First, yachts over 100 GT will be allowed to carry 12 or less passengers and be uninspected. While these vessels will not have to be inspected, they will have to be operated by a Coast Guard licensed mate and meet higher safety standards than a recreational vessel. The removal of inspection requirements on these vessels should not create safety problems because additional safety equipment will be required under section 511.

Second, the new definition will require vessels which are bareboat chartered and carry more than 12 passengers to meet the Coast Guard safety and inspection requirements of "passenger vessels". This change is intended to bring large bareboat chartered vessels under Coast Guard safety regulations. The committee believes that any vessel, whether chartered or not, which carries more than 12 passengers should meet Coast Guard safety standards and undergo inspection to protect the safety of its passengers.

This section also adds the term "submersible vessel" of 100 GT or more, with at least one passenger for hire, to the definition of "passenger vessel". Submersibles are not included in the new category of uninspected passenger vessel over 100 GT because the inherently dangerous nature of submersibles makes Coast Guard inspection necessary. Casualties that would be insignificant on the water surface could be catastrophic or fatal in a submersible.

Section 504. Small passenger vessel.

Section 504 amends the definition of "small passenger vessel" in 46 U.S.C. 2102(22) to include two types of charter agreements in the definition of "small passenger vessel". First, charters with the crew provided or specified by the owner or the owner's representative are defined as "small passenger vessels" if they carry 7 or more passengers. Vessels in this category were considered "small passenger vessels" under existing law, but were not explicitly referenced in the definition. Second, bareboat charters carrying more than 12 passengers are added to the definition. This change will allow groups of 12 or less people to charter vessels and operate them as recreational vessels, while subjecting vessels which carry larger groups of people to Coast Guard's passenger vessel safety regulations.

This section also adds "submersible vessel" of 100 GT or less, with as least one passenger for hire, to the definition of "small passenger vessel." This standard is more stringent that the standard for other small passenger vessels because submersibles are inherently dangerous and the carriage of any paying passenger in a submersible should require Coast Guard safety inspections.

Section 505. Uninspected passenger vessel.

Section 505 amends the definition of "uninspected passenger vessel" in 46 U.S.C. 2101(42). Under this amendment, there will be two types of uninspected passenger vessels depending on whether the vessel is over or under 100 GT. If a vessel is under 100 GT and it carries 6 or less passengers, including one for hire, or if it is chartered with the crew provided or specified and carries 6 or less passengers, it will be classified as an "uninspected passenger vessel". This represents a technical change to the existing definition of "uninspected passenger vessel" which will specifically include vessels chartered with the crew provided or specified in the definition.

If a vessel is over 100 GT and carries 12 or less passengers, including one for hire, or is chartered with the crew provided or specified and carries 12 or less passengers it will also be classified as an "uninspected passenger vessel." This new category of over 100 GT "uninspected passenger vessel" will be subject to different safety and licensing requirements than the under 100 GT category of uninspected vessels. The Coast Guard is directed in section 512 to develop the new over 100 GT standards within 24 months of the date of enactment. Creation of this new category of vessel is necessary to conform to the changes made to the definition of "passenger vessel" in section 503.

Section 506. Passenger for Hire.

This section amends 46 U.S.C. 2101 by adding a new paragraph (21a) to define the term "passenger for hire." Although the term "passenger for hire" has been used in the definitions of "passenger vessel" and "small passenger vessel," it has never been defined in title 46. A "passenger for hire" must contribute "consideration" as a condition of carriage on a vessel which must flow directly or indirectly to the owner, charterer, operator, agent, or other person having an interest in the vessel. "Consideration" is defined in the following section.

Section 507. Consideration.

Section 507 amends 46 U.S.C. 2101 by adding a new paragraph (5a) to define the term "consideration." Although the word "consideration" is used in the existing definition of "passenger" in paragraph (21) of section 2101, it has not been previously defined by statute. Various interpretations have been used by government and industry personnel, which has caused confusion for vessel owners. H.R. 2150 clarifies the scope of the term to include an economic benefit, inducement, right, or profit including payment of money accruing to an individual, person, or entity. Voluntary sharing of the actual expenses of the voyage including donations of fuel, food, beverages, bait, or other supplies would not be included in the meaning of consideration.

The Committee intends that the following examples would not constitute an exchange of consideration between passenger and owner. If a vessel carried passengers who were employees of the vessel owner and the purpose of the carriage is for the morale of the employees, then the employees would not be passengers for hire. Similarly, the carriage of business clients or associations for entertainment purposes would generally not be considered carriage of passengers for hire.

Section 508. Offshore supply vessel.

Section 508 amends the definitions of "offshore supply vessel" in 46 U.S.C. 2101(19) by adding "individuals in addition to the crew" as something regularly carried on an offshore supply vessel. It also deletes the statement that an offshore supply vessel "is not a small passenger vessel." Under the existing definition of "offshore supply vessel," if the vessel also meets the definition "small passenger vessel" then it had to be considered a "small passenger vessel" and must have been regulated as such. By deleting this phrase, the Coast Guard will no longer be required to consider a vessel carrying individuals employed in the offshore mineral, and oil and gas industry as a small passenger vessel. As a result, the Coast Guard will be able to treat these vessels the same as other offshore mineral and energy vessels. Because offshore crew boats operating in the mineral and oil industry are very different from passenger vessels, the Coast Guard has had problems trying to regulate them together.

Section 509. Sailing school vessel.

Section 509 amends the definition of "sailing school vessel" in 46 U.S.C. 2102(30) substituting "more than 6" for "at least 6". This change parallels the amendment made in section 504 of this legislation to the definition of "small passenger vessel".

Section 510. Submersible vessel.

Section 510 amends 46 U.S.C. 2101 by adding a new paragraph (37a) to define "submersible vessel". This proposal distinguishes submersible from surface vessels for purposes of the passenger vessel laws, by making submersibles subject to inspection if even one passenger is for hire. If a vessel can submerge and operate under the water, it is considered a "submersible vessel".

Section 511. General provision.

Section 511 amends sections 2113 and 4105 of title 46, U.S.C., to give the Coast Guard additional flexibility in regulating the new category of "uninspected passenger vessels" of at least 100 gross tons carrying not more than 12 passengers.

Subsection (a) amends 46 U.S.C. 2113 to allow the Coast Guard flexibility in the establishment of requirements for this new over 100 GT category of uninspected vessel for the purpose of setting loadlines for domestic voyages and the protection of shipboard personnel.

Subsection (a) maintains the present authority of the Coast Guard to issue excursion permits. In this regard, the Committee notes that the requirements in sections 503 and 504 that vessels under bareboat charter be limited to 12 or fewer passengers in order to be considered recreational vessels could impact the use of vessels in motion picture and television production because those vessels often carry more than 12 passengers. The Committee encourages the Coast Guard to waive the inspection and manning requirements and to utilize its authority under 46 U.S.C. 2113(1) to expeditiously issue excursion permits for recreational vessels used in motion picture and television production.

This subsection further amends section 2311 of title 46, United States Code to allow the Coast Guard to establish different structural fire protection, manning, operating, and equipment requirements for: (1) vessels of at least 100 gross tons but less than 300 gross tons, carrying not more than 150 passengers on domestic voyages; and (2) former public vessels at least 100 gross tons but less than 500 gross tons, carrying not more than 150 passengers. Vessels are only eligible for certification in these categories if the owner makes application for inspection to the Coast Guard within 6 months of the date of enactment and can document that the vessel was chartered within the previous year.

Subsection (b) directs the Coast Guard to establish, by regulation, certain additional safety equipment requirements for the new category of large uninspected passenger vessel. The Committee understands the Coast Guard's intent to consult with the affected industry in issuing these regulations and to use, to the extent possible, existing industry standards (such as the American Boat and Yacht Council's standards) and appropriate portions of the Coast Guard's existing regulations for uninspected passenger vessels under 100 GT. Areas that may be considered for regulation include construction materials, construction standards, watertight subdivision, watertight closures, loadline assignment, stability, structural fire protection, and firefighting and lifesaving equipment. The Committee encourages the Coast Guard, to the extent that safety is not compromised, to harmonize these additional equipment requirements with European and international standards to avoid creating trade barriers for American-built vessels.

Section 512. Equipment and standards for certain passenger vessels.

This section amends section 3306 of title 46, United States Code, to allow the Secretary of Transportation to establish appropriate structural fire protection, manning, operating, and equipment requirements for: (1) vessels of at least 100 gross tons but less than 300 gross tons carrying not more than 150 passengers on domestic voyages; and (2) public vessels of at least 100 gross tons but less than 500 gross tons carrying not more than 150 passengers on domestic voyages. The Secretary shall promulgate regulations to implement this section within 24 months of the date of enactment. Before the promulgation of these regulations, the Secretary shall use existing regulations for small passenger and passenger vessels to prescribe the route, service, manning, and equipment for these vessels.

Section 513. Applicability date for revised regulations.

This section states that revised regulations for passenger and small passenger vessels shall not apply to bareboat chartered vessels within 6 months of the date of enactment. The Secretary shall extend this period for up to 30 additional months, or until the vessel is issued a certificate of inspection, whichever is later. This extension is contingent on the owner of the vessel: (1) making application for inspection within 6 months of the date of enactment; (2) making the vessel available for examination by the Coast Guard; and (3) correcting any especially hazardous conditions, equipping the vessel with lifesaving and fire fighting equipment, conducting a stability test, and developing a work plan approved by the Coast Guard. The owner of a vessel receiving an extension under this section shall operate the vessel under conditions prescribed by the Coast Guard.

TITLE VI—DOCUMENTATION OF VESSELS

Section 27 of the Merchant Marine Act, 1920 (popularly known as the Jones Act, 46 App. U.S.C. 883) provides that only vessels built in the United States and owned by a citizen of the United States may transport merchandise in the coastwise trade of the United States. The Act also provides that a vessel that has acquired the right to engage in the coastwise trade and is later sold to a foreign owner or is placed under foreign registry may not engage in the coastwise trade.

Chapter 121 of Title 46, United States Code, prohibits foreign-built, -owned, and -documented vessels from engaging in the U.S. coastwise or Great Lakes trades or fisheries of the United States.,

When the facts surrounding any particular vessel implicate one or more of these statutory prohibitions, the Coast Guard may not issue a document granting coastwise or Great Lakes trading or U.S. fisheries privileges. A vessel may acquire these privileges through special legislation authorizing the Coast Guard to issue the necessary documentation. In the past, the Committee has approved special legislation when the owners of particular vessels have demonstrated extenuating circumstances meriting such action.

Section 601(a) authorizes 49 vessels to be issued certificates of documentation with coastwise endorsements. Some of these vessels were originally U.S.-flag vessels but were transferred to foreign ownership at some point in their chain of title. Other vessels were foreign built and are otherwise prohibited from engaging in the coastwise trade.

Section 601(b) grants a foreign-flag launch barge a one-time waiver of section 27 in order to transport an offshore drilling platform jacket to a place on the Outer Continental Shelf.

Section 601(c) authorizes two vessels to be issued certificates of documentation with coastwise and Great Lakes endorsements.

Section 601(d) authorizes the M/V TWIN DRILL (Panama official number 8536–PEXT–2) to be issued a certificate of documentation with a coastwise endorsement if—

(1) the vessel undergoes a major conversion in a U.S. shipyard;

(2) the cost of the major conversion is more than three times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented with a coastwise endorsement before June 30, 1995;

(4) the person documenting the vessel contracts with a U.S. shipyard to construct an additional vessel of equal or greater capacity within twelve months of the date of enactment of this Act, for delivery within 36 months of the date of such contract; and

(5) the additional vessel is documented as a U.S. vessel immediately after it is constructed.

Section 601(e) authorizes a vessel to be issued a certificate of documentation with a coastwise and fishery endorsement.

Section 601(f) authorizes a vessel to be issued a certificate of documentation with a fishery endorsement.

Section 601(g) authorizes the foreign transfer of the vessels U.S.T. *Atlantic* (United States official number 601437), and U.S.T. *Pacific* (United States official number 613131), notwithstanding any other law.

Section 601(h) authorizes the vessel *Amy Chouest* United States official number 995631) to be deemed less than 500 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of the maritime laws of the United States.

Section 601(i) authorizes five vessels to be issued certificates of documentation with coastwise endorsements.

TITLE VII—MISCELLANEOUS FISHERY PROVISIONS

Section 701. Governing international fisheries agreement.

This section authorizes the extension of a mutual fisheries agreement between the United States and the Russian Federation until May 1, 1994.

Section 702. Shrimp trawl fishery.

This section authorizes the extension of the moratorium on federal regulations to control finfish bycatch in the Shrimp trawl fishery in the Gulf of Mexico. The moratorium is extended until April 1, 1994. After that date, regulations to control bycatch could be promulgated.

Section 703. International fishery conservation in the central Bearing Sea.

This section asserts that it is the sense of the Congress that the U.S. should continue the pursuit of an international agreement to ensure cooperative management and conservation of the natural resources of the Doughnut Hole in the Central Bering Sea.

Section 704. NOAA facilities in Kodiak.

This section states that the Secretary of Commerce may enter into an agreement with the University of Alaska to contract for the engineering and design specifications of a facility on Near Island in Kodiak, Alaska.

TITLE VIII—ATLANTIC COASTAL FISHERIES

Section 801. Short title.

This title may be cited as the "Atlantic Coastal Fisheries Cooperative Management Act".

Section 802. Findings and purposes.

This section outlines the findings and purposes of the bill.

Section 803. Definitions.

This section defines the terms used in the bill, including "coastal fishery management plan", "conservation", and "implement and enforce".

Section 804. State-Federal cooperation in Atlantic coastal fishery management.

This section directs the Secretary of Commerce, in cooperation with the Secretary of the Interior, to develop and implement a program to support the interstate fishery management efforts of the Atlantic States Marine Fisheries Commission (Commission). It also authorizes the Secretary, in the absence of an approved federal fishery management plan, to promulgate regulations to support the effective implementation of the Commission's coastal fishery management plans.

Section 805. State implementation of coastal fishery management plans.

This section directs the Commission to prepare and adopt coastal fishery management plans to provide for the conservation of coastal fishery resources. The Commission shall also establish standards and procedures to govern the preparation of such plans and ensure adequate public participation in plan development.

States are required to implement and enforce new plans within the time frame specified in the plan. Existing plans must be implemented and enforced within 15 months of the date of the enactment of this title. The Commission shall, at least annually, review each State's implementation and enforcement of the Commission's plans.

Section 806. State noncompliance with coastal fishery management plans.

If the Commission determines that a State has not implemented a coastal fishery plan within the required time frame, the Commission shall notify the Secretaries of Commerce and the Interior of this lack of compliance. Upon finding that a State has come into compliance, the Commission shall notify the Secretaries of this fact.

Section 807. Secretarial Action

Upon notification by the Commission that a State is not in compliance with a coastal fishery management plan, the Secretary of Commerce shall review the Commission's finding. If the Secretary finds that a State is not in compliance, the Secretary shall declare a moratorium on fishing for that species in that State's waters. Upon notification that a State has come into compliance, the Secretary shall immediately review the Commission's finding and terminate the moratorium.

This section also authorizes the Secretary of Commerce to promulgate the regulations necessary to implement this section and describes the activities which are prohibited during a moratorium. Finally, it describes the civil and criminal penalties and civil forfeitures that apply under this title.

Section 808. Financial assistance.

This section authorizes the Secretaries of Commerce and the Interior to provide financial assistance to the Commission and the States to carry out their respective responsibilities under this title.

Section 809. Authorization of appropriations.

This section authorizes appropriations of $3,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.

Section 810. Atlantic Striped Bass Conservation Act.

This section repeals Section 9 of the Atlantic Striped Bass Conservation Act.

Section 811. Interjurisdictional Fisheries Act of 1986.

This section amends the Interjurisdictional Fisheries Act of 1986 by inserting an additional authorization of $600,000 for each of the fiscal years 1994 and 1995.

TITLE IX—LIBERTY MEMORIAL

Section 901. Short title.

Section 901 is the title of the bill, the "Liberty Ship Memorial Act of 1993".

Section 902. Conveyance vessels.

Subsection (a) authorizes the Secretary of Transportation (Secretary) to convey all rights, title, and interest of the United States in two vessels to a nonprofit organization that operates and maintains a Liberty or Victory ship as a merchant marine memorial.

Subsection (b) requires the vessels conveyed to be of no use to the Government and in the National Defense Reserve Fleet on the date the Act is enacted. It also requires that the vessels be of at least 4,000 displacement tons and designated by MARAD for scrapping.

Subsection (c) sets conditions for conveying the vessels. It requires the nonprofit organizations to sell the vessels for scrapping and to use the proceeds to refurbish the Liberty and Victory ships to make them seaworthy so that they may participate in the 50th Anniversary commemorative reenactment of the Invasion of Normandy in June 1994. The bill also requires all proceeds not used for that purpose to be returned to the United State Government.

Subsection (d) names the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (65 Stat. 59; 46 App. U.S.C. 1241a) as the depository of funds returned to the Government.

Subsection (e) directs the Secretary to deliver each vessel in its present condition without cost to the Government on the conveyance date.

Subsection (f) provides that the Secretary's authority to convey vessels expires two years from the date the Act is enacted.

Mr. YOUNG of Alaska. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I rise in strong support of the conference report. The Coast Guard Authorization Act of 1993 is an important piece of legislation which is a culmination of many hours of difficult negotiations between House and Senate leaders and staffs in both bodies.

Included in the legislation is language authorizing the transfer of obsolete mothball vessels to three maritime organizations each of which operates a historic World War II Liberty or Victory ship.

This noncontroversial language is important to many American veterans across the country and I want to thank the Merchant Marine and Fisheries Committee leadership—Chairman STUDDS, Representatives FIELDS, LIPINSKI, BATEMAN, TAUZIN, and COBLE—for their direct involvement in making it possible for these ships to be part of the Normandy '94 flotilla to commemorate the 50th anniversary of "D-Day" on June 6, 1994. Both the majority and minority staffs of the Merchant Marine and Fisheries Committee worked unceasingly to make certain that the Liberty ship memorial bill make it through both Houses either as a freestanding bill or part of the Coast Guard authorization.

On behalf of the SS *John W. Brown*, SS *Jeremiah O'Brien*, and SS *Lane Victory*, I again want to thank everyone involved.

Mr. YOUNG of Alaska. Mrs. Speaker, further reserving the right to object, I rise in support of H.R. 2150 and urge its adoption by the House.

This bill, as amended by the Senate, is the result of a long discussion among Senate and House members. It is not a perfect bill. There are provisions that some House Members would like to see changed. There are things not included which should be. Nevertheless, on balance, it is a bill that I believe we should pass.

Title I of the bill authorizes appropriations for the U.S. Coast Guard. I want to take this opportunity to thank Admiral Kime, Commandant of the Coast Guard, for his help in moving the bill. I understand that this is likely to be the last Coast Guard authorization bill to move before he retires, and I think he deserves the gratitude of the Congress for his many years of distinguished service.

Titles II, III, and IV contain a number of miscellaneous provisions affecting the Coast Guard, including one which will relieve commercial fishermen from certain paperwork burdens resulting from Coast Guard regulations.

Title V contains the revised text of the Passenger Vessel Safety Act, which is designed to improve safety on previously uninspected passenger vessels.

Title VI contains a variety of maritime provisions reported by the House Merchant Marine and Fisheries Committee.

Title VII contains several fisheries provisions, including the texts of H.R. 3509 and House Concurrent Resolution 135, both of which have been reported by the committee.

Title VIII includes the text of H.R. 2134, which has previously passed the house.

Title IX is the text of H.R. 58, which the House approved this weekend.

Finally, Mr. Speaker, I want to say a few words about language that was not included by the Senate.

The House has gone on record on several occasions regarding the need to grant veteran's status for certain World War II merchant mariners. Mr. FIELDS has introduced H.R. 44, which I cosponsored along with 236 other members. The Senate has refused to act on this bill.

Although the text of the bill is not included here, as we all hoped, I have been assured that a strong effort will be made to correct this problem by either legislative or administrative action. I support this effort.

In my opinion, these Americans who served their country so loyally at great risk to life and limb, deserve to be recognized as veterans. None of us should rest until this status is granted to them.

Mr. Speaker, on balance this is a bill that deserves to be passed. I urge the House to do so.

Mr. TAUZIN. Mr. Speaker, I join the chairman of the Merchant Marine and Fisheries Committee to urge the House to concur in the amendments adopted by the Senate to the Coast Guard Authorization Act of 1993. This Act is the result of a great deal of cooperation, effort, and real dedication on the part of my colleagues on the House Committee on Merchant Marine and Fisheries. I want to thank our chairman, the Honorable GERRY STUDDS of Massachusetts, for his support of this legislation and his willingness to bring all the affected members together on some very difficult issues. I want to especially thank our ranking minority member, the Honorable JACK FIELDS of Texas, for his untiring efforts on behalf of the men and women of the U.S. Coast guard and the U.S. merchant marine. The Honorable HOWARD COBLE deserves special thanks. Mr. COBLE, as a former Coast Guard member brings a personal concern for the men and women who serve our country with such courage and dignity.

Mr. Speaker, the Subcommittee on Coast Guard and Navigation fully authorized the essential programs of the Coast Guard, but unfortunately the Coast Guard 1994 fiscal year appropriation is far lower than what we have authorized. The Coast Guard presented our committee with an extremely lean budget, and we made further cuts in that budget. However, I know that the Coast Guard will get the job done. They will save lives, insure safe navigation for our ships, respond to oilspills, interdict and rescue illegal immigrants in the Caribbean, inspect passenger vessels to prevent loss of life, and carry out the long list of missions that Congress has given them.

One of the most important safety bills which congress will be enacting this year is the Passenger Vessel Safety Act of 1993. I am truly proud of our subcommittee for its efforts in proposing and adopting this important legislation. I know it will be the cornerstone of the Coast Guard's efforts to insure safety for the many members of the general public participating in our growing passenger vessel industry.

At present, many vessels used for party cruises are not inspected and certificated by the Coast Guard because of a legal loophole called the bare boat charter. The use of the bare boat charter agreement by a vessel makes it nearly impossible for the Coast Guard to inspect and insure the safety of the passengers aboard that vessel. The Passenger Vessel Safety Act requires that vessels carrying more than 12 passengers, whether bare boat chartered or not, be inspected and obtain a certificate from the Coast Guard showing that they meet certain safety standards. They will be subject to fire safety and life saving standards and also standards for hull construction, stability, manning, electrical wiring, and machinery installation. The bill gives these vessels a sufficient opportunity to come into compliance and gives the Coast Guard the discretion to allow vessels some limited additional time to comply where the vessel owner has made a good faith effort.

This bill contains many important provisions to the Coast Guard and to the general public. Our members have worked hard to achieve consensus while maintaining very stringent standards for public safety. The Senate amendments are worthy of our consideration and adoption. I urge the House to concur in the amendments adopted by the Senate.

Mr. COBLE. Mr. Speaker, I am pleased to rise in support of H.R. 2150, the Coast Guard Authorization Act for fiscal year 1994.

As the ranking Republican member of the Merchant Marine and Fisheries Subcommittee on Coast Guard and Navigation, I support the Coast Guard authorization sections of H.R. 2150 as well as the title which incorporates the Passenger Vessel Safety Act.

I also want to state my strong disappointment in the Senate for not including an amendment which was added to the House version of the Coast Guard authorization bill. This amendment would have granted veteran status to certain members of the U.S. merchant marine who served during World War II. These individuals would have merely been given a military discharge, a flag when they die, and the option to be buried in a veterans cemetery. The cost of this small recognition would have been very small, and I believe these individuals deserve this honor.

As many of you know, the Coast Guard provides our Nation with one of the best values in the Federal budget. The Coast Guard is a multimission agency with roles in marine environmental protection, maritime law enforcement, and maritime safety. All the Coast Guard, missions, whether directed toward rescuing distressed mariners, interdicting drug smugglers, opening frozen rivers to commerce, or conducting port security operations, contribute directly to the Nation's economic social, environmental, and military security.

I hope that my colleagues took time to read and see last summer's press reports about the Coast Guard's tireless efforts to assist and rescue people who were caught in the terrible Midwest floods. The floods strongly illustrate that the Coast Guard helps to protect all parts of our country, not just coastal United States.

The Passenger Vessel Safety Act, which was approved by the Coast Guard and Navigation Subcommittee on March 31 and passed by the full House on June 9, provides for the increased protection of passengers on commercial vessels by closing loopholes in our current law which have allowed some passenger vessel operations to avoid having their vessels inspected by the Coast Guard. Every American who boards a commercial vessel, whether it be for an extended vacation or a dinner cruise, should be assured that his safety will be protected.

While this issue is not addressed in this particular bill, I would also like to state my strong concerns about the Appropriation Committee's fiscal year 1994 funding levels for the Coast Guard Reserve. Over the next year, the Coast Guard will have to reduce the number of reservists from 10,500 to 8,000. I am very concerned about such a large cut.

Unlike the other military reserves, the Coast Guard Reserve is extensively used during peacetime emergencies. Reserve units were very important in the cleanup of the *Exxon Valdez* oil spill in Alaska, the emergency operations after hurricane Hugo in North and South Carolina, and last summer's Midwest floods. While I am a strong supporter of reducing unnecessary government spending, I fear that a 2,500-person reduction may hamper the Coast Guard in carrying out its vital missions. I have also heard rumors that the administration may call for even further cuts in the Coast Guard Reserve during a fiscal year 1995. I fear that any further reductions could cripple this important organization.

I urge my colleagues to vote in favor of this legislation which will authorize the Coast Guard in fiscal year 1994 and protect the lives of the thousands of Americans who enjoy our Nation's rivers, lakes, and coastal waters.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

FRIENDSHIP ACT

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3000) for reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other New Independent States of the former Soviet Union, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLES.

This Act may be cited as the "Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States" or as the "FRIENDSHIP Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short titles.
Sec. 2. Table of contents.
Sec. 3. Definition.

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

Sec. 101. Statement of purpose.
Sec. 102. Findings.
Sec. 103. Statutory provisions that have been applicable to the Soviet Union.

TITLE II—TRADE AND BUSINESS RELATIONS

Sec. 201. Policy under Export Administration Act.
Sec. 202. Representation of countries of Eastern Europe and the Independent States of the former Soviet Union in legal commercial transactions.
Sec. 203. Procedures regarding transfers of certain Department of Defense-funded items.
Sec. 204. Soviet slave labor.

TITLE III—CULTURAL, EDUCATIONAL, AND OTHER EXCHANGE PROGRAMS

Sec. 301. Mutual Educational and Cultural Exchange Act of 1961.
Sec. 302. Soviet-Eastern European research and training.
Sec. 303. Fascell Fellowship Act.
Sec. 304. Board for International Broadcasting Act.
Sec. 305. Scholarship programs for developing countries.
Sec. 306. Report on Soviet participants in certain exchange programs.

TITLE IV—ARMS CONTROL

Sec. 401. Arms Control and Disarmament Act.
Sec. 402. Arms Export Control Act.
Sec. 403. Annual reports on arms control matters.
Sec. 404. United States/Soviet direct communication link.

TITLE V—DIPLOMATIC RELATIONS

Sec. 501. Personnel levels and limitations.
Sec. 502. Other provisions related to operation of embassies and consulates.
Sec. 503. Foreign Service Buildings Act.

TITLE VI—OCEANS AND THE ENVIRONMENT
Sec. 601. Arctic Research and Policy Act.
Sec. 602. Fur seal management.
Sec. 603. Global climate protection.
TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES
Sec. 701. United Nations assessments.
Sec. 702. Soviet occupation of Afghanistan.
Sec. 703. Angola.
Sec. 704. Self determination of the people from the Baltic States.
Sec. 705. Obsolete references in Foreign Assistance Act.
Sec. 706. Review of United States policy toward the Soviet Union.
TITLE VIII—INTERNAL SECURITY; WORLDWIDE COMMUNIST CONSPIRACY
Sec. 801. Civil defense.
Sec. 802. Report on Soviet press manipulation in the United States.
Sec. 803. Subversive Activities Control Act.
Sec. 804. Report on Soviet and international communist behavior.
TITLE IX—MISCELLANEOUS
Sec. 901. Ballistic missile tests near Hawaii.
Sec. 902. Nondelivery of international mail.
Sec. 903. State-sponsored harassment of religious groups.
Sec. 904. Murder of Major Arthur Nicholson.
Sec. 905. Monument to honor victims of communism.

SEC. 3. DEFINITION.

As used in this Act (including the amendments made by this Act), the terms "independent states of the former Soviet Union" and "independent states" have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5801).

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

SEC. 101. STATEMENT OF PURPOSE.

The purpose of this Act is to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and the Russian Federation, Ukraine, and the other independent states of the former Soviet Union. All of the statutory provisions amended or repealed by this Act were relevant and appropriate at the time of enactment, but with the end of the Cold War, they have become obsolete. It is not the purpose of this Act to rewrite or erase history, or to forget those who suffered in the past from the injustices or repression of communist regimes in the Soviet Union, but rather to update United States law to reflect changed international circumstances and to demonstrate for reformers and democrats in the independent states of the former Soviet Union the resolve of the people of the United States to support the process of democratic and economic reform and to conduct business with those states in a new spirit of friendship and cooperation.

SEC. 102. FINDINGS.

The Congress finds and declares as follows:

(1) The Vancouver Declaration issued by President Clinton and President Yeltsin in April 1993 marked a new milestone in the development of the spirit of cooperation and partnership between the United States and Russia. The Congress affirms its support for the principles contained in the Vancouver Declaration.

(2) The Vancouver Declaration underscored that—

(A) a dynamic and effective partnership between the United States and Russia is vital to the success of Russia's historic transformation;

(B) the rapid integration of Russia into the community of democratic nations and the world economy is important to the national interest of the United States; and

(C) cooperation between the United States and Russia is essential to the peaceful resolution of international conflicts and the promotion of democratic values, the protection of human rights, and the solution of global problems such as environmental pollution, terrorism, and narcotics trafficking.

(3) The Congress enacted the FREEDOM Support Act (Public Law 102-511), as well as other legislation such as the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) and the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484), to help meet the historic opportunities and challenges presented by the transformation that has taken place, and is continuing to take place, in what once was the Soviet Union.

(4) The process of reform in Russia, Ukraine, and the other independent states of the former Soviet Union is ongoing. The holding of a referendum in Russia on April 25, 1993, that was free and fair, and that reflected the support of the Russian people for the process of continued and strengthened democratic and economic reform, represents an important and encouraging hallmark in this ongoing process.

(5) There remain in force many United States laws that are relics of the Cold War, and repeals or revisions of these provisions can play an important role in efforts to foster and strengthen the bonds of trust and friendship, as well as mutually beneficial trade and economic relations, between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union.

SEC. 103. STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION.

(a) IN GENERAL.—There are numerous statutory provisions that were enacted in the context of United States relations with a country, the Soviet Union, that are fundamentally different from the relations that now exist between the United States and Russia, between the United States and Ukraine, and between the United States and the other independent states of the former Soviet Union.

(b) EXTENT OF SUCH PROVISIONS.—Many of the provisions referred to in subsection (a) imposed limitations specifically with respect to the Soviet Union, and its constituent republics, or utilized language that reflected the tension that existed between the United States and the Soviet Union at the time of their enactment. Other such provisions did not refer specifically to the Soviet Union, but nonetheless were directed (or may be construed as having been directed) against the Soviet Union on the basis of the relations that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

(1) section 216 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316),

(2) sections 136 and 804 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93),

(3) section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1411),

(4) the Multilateral Export Control Enhancement Amendments Act (50 U.S.C. 2410 note, et seq.),

(5) the joint resolution providing for the designation of "Captive Nations Week" (Public Law 86-90),

(6) the Communist Control Act of 1954 (Public Law 83-637),

(7) provisions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including sections 101(a)(40), 101(e)(3), and 313(a)(3),

(8) section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East", approved March 9, 1957 (Public Law 85-7), and

(9) section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa),

should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.

TITLE II—TRADE AND BUSINESS RELATIONS

SEC. 201. POLICY UNDER EXPORT ADMINISTRATION ACT.

(a) CONFORMING AMENDMENTS.—Section 2 of the Export Administration Act of 1979 (50 U.S.C. App. 2401) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively.

(b) POLICY REGARDING KAL.—

(1) The Congress finds that—

(A) President Yeltsin should be commended for meeting personally with representatives of the families of the victims of the shootdown of Korean Airlines (KAL) Flight 7;

(B) President Yeltsin's Government has met on two separate occasions with United States Government and family members to answer questions associated with the shootdown and has arranged for the families to interview Russians involved in the incident or the search and rescue operations that followed;

(C) President Yeltsin's Government has also cooperated fully with the International Civil Aviation Organization (ICAO) to allow it to complete its investigation of the incident and has provided numerous materials requested by the ICAO, including radar data and so-called "black boxes", the digital flight data and cockpit voice recorders from the flight;

(D) the Export Administration Act of 1979 continues to state that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the "no exceptions" policy was rescinded by President Bush in 1990;

(E) the Government of the United States is seeking compensation from the Russian Government on behalf of the families of the KAL victims, and the Congress expects the Administration to continue to pursue issues related to the shootdown, including that of compensation, with officials at the highest level of the Russian Government; and

(F) in view of the cooperation provided by President Yeltsin and his government regarding the KAL incident and these other developments, it is appropriate to remove such language from the Export Administration Act of 1979.

(2) Section 3(15) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(15)) is repealed.

SEC. 202. REPRESENTATION OF COUNTRIES OF EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION IN LEGAL COMMERCIAL TRANSACTIONS.

Section 951(e) of title 18, United States Code, is amended by striking "the Soviet Union" and all that follows through "or Cuba" and inserting "Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section".

SEC. 203. PROCEDURES REGARDING TRANSFERS OF CERTAIN DEPARTMENT OF DEFENSE-FUNDED ITEMS.

(a) LIMITATION ON CERTAIN MILITARY TECHNOLOGY TRANSFERS.—(1) Section 223 of the National Defense Authorization Act for Fiscal

Years 1988 and 1989 (10 U.S.C. 2431 note) is amended to read as follows:

"SEC. 223. LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF THE FORMER SOVIET UNION.

"Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines, and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.".

(2) Section 6 of that Act is amended by amending the item in the table of contents relating to section 223 to read as follows:

"Sec. 223. Limitation on transfer of certain military technology to independent states of the former Soviet Union.".

(b) REPEAL OF OBSOLETE PROVISION.—Section 709 of the Department of Defense Appropriations Authorization Act, 1975 (50 U.S.C. App. 2403–1) is repealed.

SEC. 204. SOVIET SLAVE LABOR.

(a) REPEAL.—Section 1906 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 1307 note) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1906.

TITLE III—CULTURAL, EDUCATIONAL, AND OTHER EXCHANGE PROGRAMS

SEC. 301. MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961.

The Mutual Educational and Cultural Exchange Act of 1961 is amended—

(1) in section 112(a)(8) (22 U.S.C. 2460(a)(8)), by striking "Soviet Union" both places it occurs and inserting "independent states of the former Soviet Union"; and

(2) in section 113 (22 U.S.C. 2461)—

(A) by amending the section caption to read "EXCHANGES BETWEEN THE UNITED STATES AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—";

(B) by striking "an agreement with the Union of Soviet Socialist Republics" and inserting "agreements with the independent states of the former Soviet Union";

(C) by striking "made by the Soviet Union" and inserting "made by the independent states";

(D) by striking "and the Soviet Union" and inserting "and the independent states"; and

(E) by striking "by Soviet citizens in the United States" and inserting "in the United States by citizens of the independent states".

SEC. 302. SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING.

The Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4501–4508) is amended—

*(1) by amending the title heading to read "**TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION**";*

(2) in section 801, by striking "Soviet-Eastern European Research and Training" and inserting "Research and Training for Eastern Europe and the Independent States of the Former Soviet Union";

(3) in paragraphs (1), (2), and (3)(E) of section 802, by striking "Soviet Union and Eastern European countries" and inserting "countries of Eastern Europe and the independent states of the former Soviet Union";

(4) in section 803(2), by striking "Soviet-Eastern European Studies Advisory Committee" and inserting "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union";

(5) in section 804—

(A) in the section heading by striking "THE SOVIET-EASTERN EUROPEAN STUDIES";

(B) in subsection (a), by striking "Soviet-Eastern European Studies Advisory Committee" and inserting "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union"; and

(C) in subsection (d), by striking "Soviet and Eastern European countries" and inserting "the countries of Eastern Europe and the independent states of the former Soviet Union"; and

(6) in section 805(b)—

(A) in paragraphs (2)(A), (2)(B), and (6), by striking "Soviet and Eastern European studies" and inserting "studies on the countries of Eastern Europe and the independent states of the former Soviet Union";

(B) in paragraphs (3)(A) and (3)(B), by striking "fields of Soviet and Eastern European studies and related studies" and inserting "independent states of the former Soviet Union and the countries of Eastern Europe and related fields";

(C) in paragraph (3)(A) by striking "the Soviet Union and Eastern European countries" and inserting "those states and countries";

(D) in paragraph (4)—

(i) by striking "Union of Soviet Socialist Republics" the first place it appears and inserting "independent states of the former Soviet Union", and

(ii) by striking "the Union of Soviet Socialist Republics and Eastern European countries" and inserting "those states and countries"; and

(E) in paragraph (5)—

(i) by striking everything in the first sentence following: "support" and inserting "training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe."; and

(ii) in the last sentence by inserting immediately before the period "and, as appropriate, studies of other languages of the independent states of the former Soviet Union".

SEC. 303. FASCELL FELLOWSHIP ACT.

*Section 1002 of the Fascell Fellowship Act (22 U.S.C. 4901) is amended in the section heading by striking "**IN THE SOVIET UNION AND EASTERN EUROPE**" and inserting "**ABROAD**".*

SEC. 304. BOARD FOR INTERNATIONAL BROADCASTING ACT.

(a) BALTIC DIVISION.—Section 307 of the Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (Title III of Public Law 98–164; 97 Stat. 1037) is repealed.

(b) JAMMING OF BROADCASTS.—Section 308 of that Act (97 Stat. 1037) is amended—

(1) by striking "(a) The" and all that follows through "(b) It" and inserting "It"; and

(2) by striking "Government of the Soviet Union" and inserting "government of any country engaging in such activities".

SEC. 305. SCHOLARSHIP PROGRAMS FOR DEVELOPING COUNTRIES.

Section 602 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4702) is amended by striking paragraphs (6) and (7) and by redesignating paragraphs (8), (9), and (10) as paragraphs (6), (7), and (8), respectively.

SEC. 306. REPORT ON SOVIET PARTICIPANTS IN CERTAIN EXCHANGE PROGRAMS.

Section 126 of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 102–138; 96 Stat. 282) is repealed.

TITLE IV—ARMS CONTROL

SEC. 401. ARMS CONTROL AND DISARMAMENT ACT.

(a) REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES.—Section 38 of the Arms Control and Disarmament Act (22 U.S.C. 2578) is amended by striking "United States-Union of Soviet Socialist Republics".

(b) LANGUAGE SPECIALISTS.—Section 51 of that Act (22 U.S.C. 2591) is amended—

(1) by amending the section heading to read "SPECIALISTS FLUENT IN RUSSIAN OR OTHER LANGUAGES OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION";

(2) by striking "Soviet foreign and military policies" and inserting "the foreign and military policies of the independent states of the former Soviet Union"; and

(3) by inserting "or another language of the independent states of the former Soviet Union" after "Russian language".

(c) COMPLIANCE WITH AGREEMENTS.—Section 52 of that Act (22 U.S.C. 2592) is amended—

(1) in paragraph (1), by striking "the Soviet Union" both places it appears and inserting "Russia";

(2) in paragraph (3), by striking "Soviet adherence" and inserting "Russian adherence" and by striking "the Soviet Union" and inserting "Russia"; and

(3) in paragraph (5), by striking "the Soviet Union" and inserting "Russia".

(d) ON-SITE INSPECTION AGENCY.—Section 61(4) of that Act (22 U.S.C. 2595(4)) is amended—

(1) in subparagraph (A), by striking "the Soviet Union, Czechoslovakia, and the German Democratic Republic" and inserting "Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany";

(2) in subparagraph (B), by striking "Soviet";

(3) in subparagraph (C), by striking "the Soviet Union" and inserting "Russia"; and

(4) in subparagraph (D), by striking "Soviet".

SEC. 402. ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended—

(1) in section 94(b)(3)(B) (22 U.S.C. 2799c(b)(3)(B)), by striking "Warsaw Pact country" and inserting "country of the Eastern Group of States Parties"; and

(2) in section 95(5) (22 U.S.C. 2799d(5))—

(A) by striking "Warsaw Pact country" and inserting "country of the Eastern Group of States Parties"; and

(B) by inserting before the period at the end "or a successor state to such a country".

SEC. 403. ANNUAL REPORTS ON ARMS CONTROL MATTERS.

(a) SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS.—(1) Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1002.

(b) ARMS CONTROL STRATEGY.—(1) Section 906 of the National Defense Authorization Act, Fiscal Year 1989 (22 U.S.C. 2592b) is repealed.

(2) Section 3 of that Act is amended by striking the item in the table of contents relating to section 906.

(c) ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION.—(1) Section 907 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2034) is repealed.

(2) Section 3 of that Act is amended by striking the item in the table of contents relating to section 907.

SEC. 404. UNITED STATES/SOVIET DIRECT COMMUNICATION LINK.

(a) CHANGING REFERENCES.—The joint resolution entitled "Joint Resolution authorizing the Secretary of Defense to provide to the Soviet Union, on a reimbursable basis, equipment and services necessary for an improved United

States/Soviet Direct Communication Link for crisis control," approved August 8, 1985 (10 U.S.C. 113 note) is amended—

(1) in the first section—

(A) by striking "to the Soviet Union" both places it appears and inserting "to Russia"; and

(B) by striking "Soviet Union part" and inserting "Russian part"; and

(2) in section 2(b), by striking "the Soviet Union" and inserting "Russia".

(b) SAVINGS PROVISION.—The amendment made by subsection (a)(2) does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union.

TITLE V—DIPLOMATIC RELATIONS

SEC. 501. PERSONNEL LEVELS AND LIMITATIONS.

(a) PERSONNEL CEILING ON UNITED STATES AND SOVIET MISSIONS.—Section 602 of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193; 103 Stat. 1710) is repealed.

(b) REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.—(1) Section 154 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1353) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 154.

(c) REPORT ON ADMISSION OF CERTAIN ALIENS.—Section 501 of the Intelligence Authorization Act, Fiscal Year 1988 (22 U.S.C. 254c–2) is repealed.

(d) SOVIET MISSION AT THE UNITED NATIONS.—Section 702 of the Intelligence Authorization Act for Fiscal Year 1987 (22 U.S.C. 287 note) is repealed.

(e) DIPLOMATIC EQUIVALENCE AND RECIPROCITY.—(1) Section 813 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 455) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 813.

SEC. 502. OTHER PROVISIONS RELATED TO OPERATION OF EMBASSIES AND CONSULATES.

(a) CONSTRUCTION OF DIPLOMATIC FACILITIES.—Section 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 662) is amended—

(1) by repealing subsections (a) through (d) and subsections (h) through (j); and

(2) in subsection (e)—

(A) by striking "(e) EXTRAORDINARY SECURITY SAFEGUARDS.—";

(B) by striking "(1) In" and inserting "(a) EXTRAORDINARY SECURITY SAFEGUARDS.—In" and by striking "(2) Such" and inserting "(b) SAFEGUARDS TO BE INCLUDED.—Such";

(C) by setting subsections (a) and (b), as so redesignated, on a full measure margin; and

(D) in subsection (b), as so redesignated—

(i) by striking "paragraph (1)" and inserting "subsection (a)"; and

(ii) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively, and by setting such redesignated paragraphs on a 2-em indention.

(b) POSSIBLE MOSCOW EMBASSY SECURITY BREACH.—(1) Section 133 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 665) is repealed.

(2) Section 2 of that Act is amended by striking the item in the table of contents relating to section 133.

(c) UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.—(1) Section 134 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4301 note) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 134.

(d) REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.—(1) Section 1232 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2056) is repealed.

(2) Section 3 of that Act is amended by striking the item in the table of contents relating to section 1232.

(e) DIPLOMATIC RECIPROCITY.—(1) Sections 151 through 153 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1351) are repealed.

(2) Section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 151 through 153.

(f) ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.—(1) Section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1149) is repealed.

(2) Section 6 of that Act is amended by striking the item in the table of contents relating to section 1122.

(g) ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITIES.—Section 901 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100–178; 101 Stat. 1017) is repealed.

(h) FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES.—Section 1364 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4001) is amended by—

(1) repealing subsections (a) and (c); and

(2) striking "(b) CONGRESSIONAL POLICY.—".

SEC. 503. FOREIGN SERVICE BUILDINGS ACT.

Section 4(j) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295(j)) is repealed.

TITLE VI—OCEANS AND THE ENVIRONMENT

SEC. 601. ARCTIC RESEARCH AND POLICY ACT.

Section 102(a) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4101(a)) is amended—

(1) in paragraph (2), by striking "as" and all that follows through the comma; and

(2) in paragraph (10), by striking ", particularly the Soviet Union,".

SEC. 602. FUR SEAL MANAGEMENT.

The Act of November 2, 1966, commonly known as the Fur Seal Act of 1966, is amended—

(1) in section 101(h) (16 U.S.C. 1151(h)), by striking "the Union of Soviet Socialist Republics" and inserting "Russia (except that as used in subsection (b) of this section, 'party' and 'parties' refer to the Union of Soviet Socialist Republics)"; and

(2) in section 102 (16 U.S.C. 1152), by striking "the Union of Soviet Socialist Republics" and inserting "Russia".

SEC. 603. GLOBAL CLIMATE PROTECTION.

The Global Climate Protection Act of 1987 (title XI of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; 15 U.S.C. 2901 note) is amended—

(1) in section 1106—

*(A) by striking "**UNITED STATES-SOVIET RELATIONS**" in the section heading and inserting "**UNITED STATES RELATIONS WITH THE INDEPENDENT STATES OF THE FORMER SOVIET UNION**";*

(B) by striking "Soviet Union" and inserting "independent states of the former Soviet Union";

(C) by striking "their joint role as the world's two major" and inserting "the extent to which they are"; and

(D) by striking "United States-Soviet relations" and inserting "United States relations with the independent states"; and

(2) in section 1(b), in item in the table of contents relating to section 1106, by striking "United States-Soviet relations" and inserting "United States relations with the independent states of the former Soviet Union".

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

SEC. 701. UNITED NATIONS ASSESSMENTS.

Section 717 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1549) is amended—

*(1) in the section heading by striking "**OF THE SOVIET UNION**";*

(2) in subsection (a)—

(A) in paragraph (2), by inserting "and" after the semicolon;

(B) in paragraph (3) by striking "; and" and inserting a period; and

(C) by striking paragraph (4); and

(3) in subsection (b), by striking "a diplomatic" and all that follows through "including its", and inserting "appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their".

SEC. 702. SOVIET OCCUPATION OF AFGHANISTAN.

(a) REPEAL.—Section 1241 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1420) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1241.

SEC. 703. ANGOLA.

Section 405 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2293 note) is repealed.

SEC. 704. SELF DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES.

Paragraph (1) of section 1206 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411) is amended by striking "from the Soviet Union".

SEC. 705. OBSOLETE REFERENCES IN FOREIGN ASSISTANCE ACT.

The Foreign Assistance Act of 1961 is amended—

(1) in section 501 (22 U.S.C. 2301)—

(A) in the second undesignated paragraph by striking "international communism and the countries it controls" and inserting "hostile countries";

(B) in the fourth undesignated paragraph, by striking "Communist or Communist-supported"; and

(C) in the fifth undesignated paragraph, by striking everything following "victims of" and inserting "aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.";

(2) in section 614(a)(4)(C) (22 U.S.C. 2364(a)(4)(C)), by striking "Communist or Communist-supported"; and

(3) in section 620(h) (22 U.S.C. 2370(h)), by striking "the Communist-bloc countries" and inserting "any country that is a Communist country for purposes of subsection (f)".

SEC. 706. REVIEW OF UNITED STATES POLICY TOWARD THE SOVIET UNION.

Section 24 of the International Security Assistance Act of 1978 (22 U.S.C. 2151 note) is repealed.

TITLE VIII—INTERNAL SECURITY; WORLDWIDE COMMUNIST CONSPIRACY

SEC. 801. CIVIL DEFENSE.

(a) IN GENERAL.—Except as provided in paragraph (2), section 501(b)(2) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2301(b)) is amended by striking the first comma and all that follows through "stability,".

(b) EXCEPTION.—The amendment made by subsection (a) shall not apply if, before the date of enactment of this Act, title V of the Federal Civil Defense Act of 1950 has been repealed.

SEC. 802. REPORT ON SOVIET PRESS MANIPULATION IN THE UNITED STATES.

(a) REPEAL.—Section 147 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 426) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 147.

SEC. 803. SUBVERSIVE ACTIVITIES CONTROL ACT.

The Subversive Activities Control Act of 1950 (50 U.S.C. 781 and following) is amended—

(1) by repealing sections 1 through 3, 5, 6, and 9 through 16; and

(2) in section 4—

(A) by repealing subsections (a) and (f);

(B) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively;

(C) in subsection (a), as so redesignated, by striking "or an officer" and all that follows through "section 3 of this title"; and

(D) in subsection (b), as so redesignated, by striking ", or any officer" and all that follows through "section 3 of this title,".

SEC. 804. REPORT ON SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR.

(a) REPEAL.—Section 155 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 155.

TITLE IX—MISCELLANEOUS

SEC. 901. BALLISTIC MISSILE TESTS NEAR HAWAII.

(a) REPEAL.—Section 1201 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1409) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1201.

SEC. 902. NONDELIVERY OF INTERNATIONAL MAIL.

(a) REPEAL.—Section 1203 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1203.

SEC. 903. STATE-SPONSORED HARASSMENT OF RELIGIOUS GROUPS.

(a) POLICY.—Section 1204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411) is amended—

*(1) by amending the section heading to read "**SEC. 1204. STATE-SPONSORED HARASSMENT OF RELIGIOUS GROUPS.**";*

(2) in paragraph (1)—

(A) by striking "governments of the Union" and all that follows through "countries" and inserting "government of any country that engages in the harassment of religious groups", and

(B) by striking "to the harassment of Christians and other religious believers" and inserting "to such activities";

(3) in paragraph (2), by striking "the Union of Soviet Socialist Republics and Eastern European" and inserting "all" ; and

(4) by striking paragraph (3).

(b) REPEAL.—(1) Section 1202 of that Act (Public Law 100–204; 101 Stat. 1410) is repealed.

(2) Section 1(b) of that Act is amended—

(A) by striking the item in the table of contents relating to section 1202; and

(B) by amending the item in the table of contents relating to section 1204 to read as follows:

"Sec. 1204. State-sponsored harassment of religious groups.".

(c) REPEAL.—(1) Section 805 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 450) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 805.

SEC. 904. MURDER OF MAJOR ARTHUR NICHOLSON.

(a) FOREIGN RELATIONS AUTHORIZATION ACT.—Section 148 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 427) is repealed.

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 148.

SEC. 905. MONUMENT TO HONOR VICTIMS OF COMMUNISM.

(a) FINDINGS.—Congress finds that—

(1) since 1917, the rulers of empires and international communism led by Vladimir I. Lenin and Mao Tse-tung have been responsible for the deaths of over 100,000,000 victims in an unprecedented imperial communist holocaust through conquests, revolutions, civil wars, purges, wars by proxy, and other violent means;

(2) the imperialist regimes of international communism have brutally suppressed the human rights, national independence, religious liberty, intellectual freedom, and cultural life of the peoples of over 40 captive nations;

(3) there is a danger that the heroic sacrifices of the victims of communism may be forgotten as international communism and its imperial bases continue to collapse and crumble; and

(4) the sacrifices of these victims should be permanently memorialized so that never again will nations and peoples allow so evil a tyranny to terrorize the world.

(b) AUTHORIZATION OF MEMORIAL.—

(1) AUTHORIZATION.—

(A) The National Captive Nations Committee, Inc., is authorized to construct, maintain, and operate in the District of Columbia an appropriate international memorial to honor victims of communism.

(B) The National Captive Nations Committee, Inc., is encouraged to create an independent entity for the purposes of constructing, maintaining, and operating the memorial.

(C) Once created, this entity is encouraged and authorized, to the maximum extent practicable, to include as active participants organizations representing all groups that have suffered under communism.

(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The design, location, inscription, and construction of the memorial authorized by paragraph (1) shall be subject to the requirements of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The entity referred to in subsection (b)(1) shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial, including the maintenance and preservation amount provided for in section 8(b) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1008(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 4010(b)), there remains a balance of funds received for the establishment of the memorial, the entity referred to in subsection (b)(1) shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1)).

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Mr. GILMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and I do not object, but under my reservation of objection I yield to the distinguished gentleman from Indiana [Mr. HAMILTON], the chairman of the Committee on Foreign Affairs, to explain the bill.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 3000 as amended by the Senate revises obsolete laws related to the cold war.

The House passed its version of repealing cold war restrictions, H.R. 3000, as amended, on November 15. The other body took the text of the House-passed bill, amended it, and passed it on November 22.

Mr. Speaker, whatever the merits of the two bills, we are in a procedural situation where there is no possibility of a conference before adjournment.

A bill to repeal cold war restrictions is important to the President of the United States. He wants it signed into law before he travels to Moscow for a summit with President Yeltsin in January.

Thus, I believe that it is important that we complete legislative action on repealing cold war restrictions. The bill was introduced by the majority leader and the minority leader. We should complete action on this bill, and in this session.

Mr. Speaker, the chairman of the House Committee on Foreign Affairs recognizes the possible interests of the House Committee on Armed Services in certain provisions of the Export Administration Act [EAA] reauthorization legislation.

This legislation will be considered by the Foreign Affairs Committee and the full House next year.

As chair, I will make a good faith effort to consult with the Armed Services Committee regarding such legislation.

Again, I will make every effort to ensure that such consultation includes the opportunity for the Armed Services committee to comment on a markup draft prior to the formal consideration of such legislation by the Foreign Affairs Committee.

I urge my colleagues to support H.R. 3000 as amended.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I am pleased to yield to the distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding to me, and I want to compliment the chairman of the committee for the statement he made with respect to working with the Committee on Armed Services. The reason for that, from my point of view, was the fact that that cooperation occurred at a rather late date with respect to this particular legislation, confusion resulted, and we want to avoid that kind of confusion when the House takes up the Export Administration Act.

I think the chairman's comment in this regard will be most helpful. I appreciate them very much. I appreciate the ranking member yielding to me.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I just rise to state my support for the passage of the Senate bill, S. 1672, the Friendship with Russia, Ukraine and Other Newly-Independent States Act.

Mr. Speaker, this bill, which, as H.R. 3000, passed the House earlier this month in a slightly different version, stems from the April meeting of Presidents Clinton and Yeltsin in Vancouver, Canada. The cause of democracy and reform in Russia, championed by Mr. Yeltsin, was at that point under tremendous attack from nationalist and Communist forces opposed to change, and the prospects for success in his struggle with those forces, as we can all recall, were doubtful.

As a gesture of our country's strong support for Mr. Yeltsin's efforts to achieve a stable, democratic system of government and economic prosperity for Russia, President Clinton agreed to review our statutory law concerning our relationship with Russia and the other New Independent States of the former Soviet Union in an attempt to ensure that they reflected the changes of the last few years.

After that review, and after consultation between the House leadership and the administration, the House version of this bill was introduced in August by the gentleman from Missouri, majority leader DICK GEPHARDT, and the gentleman from Illinois, minority leader BOB MICHEL. Their joint sponsorship of the bill was a clear sign of the bipartisan support that exists for the cause of reform in Russia.

The bill's provisions frankly do not touch on larger questions, such as the future of our Jackson-Vanik trade provisions linking emigration and most-favored-nation trade status or our multilateral export control system under CoCom. Those issues will be dealt with in other legislation or other venues. Instead, the bill generally seeks to revise or repeal those provisions of law, concerning our relations with Russia and the other New Independent States, which might be construed as retaining an adversarial character from the cold war era.

Mr. Speaker, in the House, the seven committees to which the measure was referred examined its proposed changes for those revisions that might go beyond the bill's intent and endanger our national security. I believe that the Foreign Affairs Committee's review of those provisions regarding export control and defense technology transfer language, incorporating suggestions communicated by the Armed Services Committee, went a very long way in ensuring that that does not occur.

At the same time, the Judiciary Committee and Select Committee on Intelligence also assured the Foreign Affairs Committee that the provisions of the bill within their jurisdiction were either technical or non-controversial. These committees' review of the bill led to its passage in the House by voice vote under suspension of the rules on November 15, with the leadership on both sides stating their strong and continuing support for the cause of reform in Russia.

The Senate has now come to us with a slightly amended version of the legislation that I think actually improves the bill somewhat. In particular, I think that its provision authorizing a Captive Nations Memorial in the District of Columbia is a positive contribution. Its incorporation into the measure should assure all of those who fought the long battle against communism—and all of those innocents who suffered terribly under communism—that this bill does not represent an attempt to rewrite the history of the cold war, but to move forward to consolidate the victory we fought for and achieved in it: the right for all peoples to live in freedom and peace.

I would like to commend the gentleman from California [Mr. ROHRABACHER], who worked to move his legislation establishing a Captive Nations Memorial forward in both Houses of the Congress.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3000, the legislation just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SENSE OF CONGRESS THAT EVERY EFFORT SHOULD BE MADE TO AVERT HUMANITARIAN DISASTER IN BOSNIA AND HERZEGOVINA AND OTHER FORMER YUGOSLAV REPUBLICS DURING THE WINTER OF 1993–94

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the concurrent resolution (H. Con. Res. 189) expressing the sense of the Congress that every appropriate effort should be made to avert a humanitarian disaster in Bosnia and Herzegovina and the other former Yugoslav Republics during the winter of 1993–94.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from Indiana [Mr. HAMILTON] to explain the resolution.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, winter has come early to the former Yugoslavia. Snow covers Sarajevo, and much of Bosnia and Herzegovina. Mountainous areas are already inaccessible.

Between 2.7 and 3 million people in Bosnia and Herzegovina will be directly dependent on humanitarian assistance this winter. This is an astounding figure. This represents more than half of the remaining population of the Republic.

There also are humanitarian needs in Macedonia because of Macedonia's enforcement of international sanctions against Serbia.

House Concurrent Resolution 189 states that the United States, together with the international community, should make every effort to ensure that the people of Bosnia and Herzegovina have adequate medical supplies, food, and other humanitarian assistance this winter.

It states that the United States should support necessary and appropriate actions to facilitate a relief effort throughout the former Yugoslav Republics.

This resolution is timely. The Congress should voice its strong support for this relief effort.

I urge my colleagues to support this resolution.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I commend the gentleman for his explanation, and I am pleased to yield to the gentleman from Indiana [Mr. MCCLOSKEY] who has been a leader in this initiative.

Mr. MCCLOSKEY. Mr. Speaker, I thank the distinguished ranking member, the gentleman from New York [Mr. GILMAN], and I thank the gentleman from Indiana [Mr. HAMILTON], the chairman of the Committee on Foreign Affairs, for his leadership in this regard, and in giving a straightforward and succinct statement as to this resolution.

Mr. Speaker, as we reach the closing minutes of this session, one ongoing tragedy still far from resolution is the ongoing aggression in Bosnia and, indeed, the extended crisis throughout the former Yugoslavia.

The first snows already have hit Sarajevo, much of Bosnia is under Serbian siege and otherwise engulfed in Croatian-Bosnian conflict, and peace-loving Macedonia faces possible widespread starvation.

This resolution submitted on behalf of Mr. WILSON, Mr. HYDE, Ms. MOLINARI, and myself, simply urges that the United States and the international community should make every effort to ensure that the people of Bosnia, Macedonia, and, indeed, the entire former Yugoslavia—consistent with existing sanctions rules—have adequate medical and other humanitarian supplies this winter.

In particular, we should spend appropriated funds for these purposes as expeditiously as possible.

This resolution mandates no particular solution to the aggression in the former Yugoslavia. It does not advocate force or allocate blame. It basically commits us to saving lives in a cruel, desperate situation.

I want to commend Chairman HAMILTON for his leadership and cooperation in expediting consideration of this resolution.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, and I shall not object, House Concurrent Resolution 189 addresses a critical humanitarian emergency now arising in Bosnia and Herzegovina and other parts of the former Yugoslavia. I commend the gentleman from Indiana [Mr. MCCLOSKEY] for bringing it to the floor at this time.

The State Department has estimated that 4.2 million persons are in danger of perishing this winter throughout the former Yugoslavia. This would be a disaster the magnitude of which the world has not witnessed in Europe since the dark days of World War II. The people of Bosnia and Herzegovina are without the food and fuel reserves which enabled them to get through last year's mild winter weather. They are exhausted because of the continuing hostilities they have lived through for the past 12 months, and this year's winter already looks to be a harsh one.

Although supplies on hand are barely adequate to meet the needs at this time, blockades of the routes over which humanitarian convoys need to travel prevent the necessary supplies from reaching the majority of people at risk in Bosnia.

This resolution urges the United States, together with the international community, to make every appropriate effort to get the aid through in Bosnia and elsewhere in the former Yugoslavia where innocent men, women, and children are suffering. By every appropriate effort, we mean those measures already endorsed by the U.N. Security Council, NATO, and the U.S. Government. We are not in this resolution calling for the deployment of any U.S. military forces into the territory of the former Yugoslavia. We are, however, calling upon all parties to cooperate in the delivery of humanitarian assistance. International action is required now in order to avert a catastrophe of enormous proportion.

I urge all my colleagues to join in supporting this resolution.

Mr. Speaker, continuing my reservation of objection, I am pleased to yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from New York for yielding to me.

Mr. Speaker, I rise in support of this resolution. I would observe that many of us over the months and years of this tragedy would have wanted to do much more, but certainly, at this hour, as we leave, I think this is very appropriate for us to take this action to express these sentiments and to make clear that the United States has a deep and abiding concern for the welfare of the poor souls who have been ravaged by war and war crime in that area of the world.

I am pleased to support this resolution, and would hope and believe that all of our colleagues in this body would continue to watch very, very closely as the winter falls and the pain level rises in Bosnia, and that we keep vigilant for the incredible abuses of human rights that occur daily, unfortunately, on all sides of this tragic war.

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Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to commend the gentleman from Maryland [Mr. HOYER] for his concerns and his support and for his continual efforts on behalf of human rights throughout the world.

Mr. Speaker, further reserving the right to object, I am pleased to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. I would like to reemphasize I think a point that I heard the gentleman make in his remarks, and that is that nothing in this resolution would anticipate the introduction of U.S. military forces as a part of these efforts. I believe I heard the gentleman state that, and it seems to me that in the resolution that says every effort or every appropriate effort and so on, that could be interpreted by some to indicate that there might be some degree of military humanitarian mission of the type that we engaged in in Somalia.

I think I heard the gentleman's assurances that that is not anticipated in this resolution, and I would certainly want to have on the record that in passing this resolution the House does not intend to have it used as a way of introducing American military forces in that part of the world.

Mr. GILMAN. Further reserving the right to object, I am pleased to respond to the gentleman from Pennsylvania that when we used the term "every appropriate effort," we meant those measures already endorsed by the U.N. Security Council, by NATO, and by our own government, and we specifically do not call for any deployment of U.S. forces.

Mr. WALKER. I thank the gentleman.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 189

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States, together with the international community, should make very appropriate effort to ensure that the people of Bosnia-Herzegovina have adequate medical supplies, food, and other humanitarian assistance during the winter of 1993-1994 in order to prevent a possible humanitarian disaster;

(2) the United States should support necessary and appropriate preparations to facilitate a relief effort in order to prevent a possible humanitarian disaster;

(3) all parties should cooperate with the provision of humanitarian assistance to those in need throughout the former Yugoslav republics, especially Bosnia-Herzegovina;

(4) the United States should provide similar assistance to the peoples endangered this winter throughout the former Yugoslav republics, especially the former Yugoslav Republic of Macedonia; and

(5) the United States should expend appropriated funds for such purposes as expeditiously as possible.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SENSE OF CONGRESS CONCERNING INTERNATIONAL YEAR OF THE WORLD'S INDIGENOUS PEOPLES

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate concurrent resolution (S. Con. Res. 44) to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GILMAN. Mr. Speaker, observing the right to object, and I shall not object, I am pleased to yield to our distinguished chairman [Mr. HAMILTON] to explain the Senate concurrent resolution.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the U.N. has proclaimed 1993 as the International Year of the World's Indigenous Peoples.

The other body has commemorated this event. I believe it is important that the House also go on record in support of this worthy initiative;

I would like to thank the gentleman from Illinois [Mr. PORTER], for bringing this timely resolution to my attention;

I urge my colleagues to support this resolution.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to commend my good friend and colleague, Representative PORTER, for his work to honor the designation of 1993 as the International Year of the World's Indigenous Peoples. He and his wife, Kathryn, have made remarkable efforts to call attention to this important issue.

It is unfortunate that our Government's foreign policy institutions are to a large degree to blame for some of the marginalization that many endangered cultures face. The Agency for International Development has refused to ensure that projects and policies under their jurisdiction do not have any deleterious impact on indigenous peoples.

The State Department has refused to add in its annual report on human rights practices, a section on indigenous people. Unfortunately, the bureaucracy, still insists that these goals are impossible to meet.

I have even received feedback from A.I.D. that questions the value of the effort to help protect ancient beliefs and practices.

Accordingly, I am very pleased to support Senate Concurrent Resolution 44 and urge my colleagues to vote for their resolution.

Mr. PORTER. Mr. Speaker, Congressman LANTOS and I along with our colleague from Guam, ROBERT UNDERWOOD, are the original sponsors of the House version of this resolution. This resolution urges the United States and other governments as well as the United Nations to work to end the abuse, exploitation, and discrimination suffered by indigenous peoples around the world.

Indigenous people provide us with models of sustainability in a time when the world's natural resources and our environment are rapidly being depleted and destroyed.

Their cultures and traditions add a rich contribution to the diversity of all mankind.

However, despite the efforts of indigenous communities to protect themselves, many remain at risk for human rights abuse.

Far too often, indigenous people have suffered abduction, torture, and killing at the hands of government forces, guerilla groups, and hired gunmen.

Their homelands, on which their survival ultimately depends, are routinely invaded and their natural resources destroyed.

Just this summer, 16 Yanomami Indians in Brazil were attacked and killed by gold miners.

Sadly, many other horrifying stories such as this one can be told by indigenous populations who currently live in more than 70 countries.

The United States and other developed countries have a responsibility to promote the political, cultural, and environmental rights of indigenous peoples.

Although the International Year of the World's Indigenous Peoples is almost over, it is my hope that in the years to come we will make significant progress toward protecting indigenous peoples from human rights violations and ensuring that their unique cultures and traditions are preserved.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 44

Whereas United Nations Resolution 45/164 of December 18, 1990, proclaimed the year 1993 as the International Year of the World's Indigenous Peoples, in order to strengthen international cooperation for a solution to the problems faced by indigenous communities in areas such as human rights, the environment, development, education, and health;

Whereas indigenous peoples are descendants of the original inhabitants of many countries with diverse cultures, religions, languages, and social and economic customs;

Whereas an estimated 300 million indigenous peoples live in more than 70 countries, including the United States;

Whereas indigenous peoples are often disadvantaged and face common difficulties in their homelands, including issues such as self-determination, the preservation of land and natural resources, the preservation of culture, arts, and language, and dismal social and economic conditions;

Whereas many indigenous peoples continue to face discrimination and exploitation in their homelands;

Whereas the rights and social and economic conditions of indigenous peoples have often been overlooked by individual nations and the international community; and

Whereas the United Nations Working Group on Indigenous Populations has drafted a Declaration on the Rights of Indigenous Peoples: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should cooperate with the United Nations in its efforts to raise the level of public interest in and consciousness of the problems of indigenous peoples;

(2) the United States should address the rights and improve the social and economic conditions of its own indigenous peoples, including Native American Indians, Alaska Natives, Native Hawaiians, Chamorros, American Samoans, and Palauans;

(3) the United States should support the United Nations in its efforts to establish international standards on the rights of indigenous peoples; and

(4) the United States recognizes that the year 1993 is an insufficient time period for promoting public awareness of the plight of indigenous peoples and urges the United Nations to proclaim an International Decade of the World's Indigenous Peoples.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 7

Mr. MALONEY. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 7.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

EXTENDING SUSPENDED IMPLEMENTATION OF CERTAIN REQUIREMENTS OF FOOD STAMP PROGRAMS ON INDIAN RESERVATIONS AND CERTAIN ELIGIBILITY REQUIREMENTS FOR PARTICIPATION OF RETAIL FOOD STORES IN FOOD STAMP PROGRAM

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1777) to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, to explain the bill to my colleagues in the House.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 1777 requires that, until March 15, 1994, retail food stores that are participating in the Food Stamp Program cannot be withdrawn from the program solely because they do not meet the current definition of retail food store in the Food Stamp Act.

On November 10, the House passed H.R. 3436, a bill that redefines retail food store to permit a store to participate in the Food Stamp Program if it meets one or the other of two conditions:

If the store has over 50 percent of its total sales volume in staple foods, or if the store offers, on a continuous basis, a variety of food in each of four categories of staple foods, and sells perishable foods in at least two of these categories of foods.

S. 1777 will allow additional time for this important legislation to pass the Congress.

S. 1777 also delays, until March 15, 1994, implementation of two amendments to the Food Stamp Act that would otherwise become effective on January 31, 1994. These amendments would affect food stamp households living on Indian reservations. This delay will give the Congress time to review these provisions which have generated considerable interest.

I urge passage of this legislation.

Mr. ROBERTS. Mr. Speaker, I thank the chairman for his explanation.

Mr. Speaker, I rise in support of S. 1777, a bill to extend certain provisions of the Food Stamp Act. First, this bill extends the changes made to the Food Stamp Program found in public law 102–237, the Farm Bill Technical Corrections Act. In that public law implementation of the requirement that families living on Indian reservations are exempt from the periodic reporting requirements of the Food Stamp Act was delayed. Additionally, delay was granted to the implementation of the requirement that issuance of food stamp benefits to these families be staggered over a month.

The bill before the House today further delays implementation of these provisions until March 15, 1994. This marks the third time delay has been granted. It was my hope that the differences surrounding these provisions would be worked out before this time. However, that is not the case.

I recently received a letter from the secretary of the Kansas Department of Social and Rehabilitation Services urging action on this issue. The Secretary believes, as do most other States affected by these provisions, that the mandates will cause unnecessary hardships for food stamp participants and unnecessary work for administrators. It is time to resolve the differences concerning these provisions. This bill will provide time, until March 15, 1994, to accomplish this task.

Second, the bill under consideration today provides that, until March 15, 1994, retail food stores now authorized to accept food stamps will not be disqualified from eligibility solely because they do not meet the current definition contained in the Food Stamp Act.

On November 10, 1993, the House passed H.R. 3436, to redefined which retail food stores can accept food stamp coupons. Other purposes of H.R. 3436 were to strengthen the enforcement of that provision; to allow information provided by retail food stores to be shared with law enforcement officials; and, to require that the secretary spend up to $4 million on pilot projects designed to improve the investigation and prosecution of food stamp trafficking.

Several retail food stores in Kansas advised me of the need to change this definition in order to move away from only a sales-based test and take into account the variety of staple foods sold in food stores.

However, since the Senate did not act on H.R. 3436, it is necessary to allow continued participation of these retail food stores so that they are not disqualified only for the reason that they do not meet the current definition of a retail food store contained in the act.

Other provisions of H.R. 3436, as well as this new definition, are essential to improve the administration of the Food Stamp Program. As I stated, action to resolve the differences must be concluded prior to March 15, 1994, on this provision and the items mentioned earlier. Effective and efficient administration of the Food Stamp Program depends on it.

Mr. Speaker, I urge support for S. 1777.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTING AND STAGGERED ISSUANCE FOR HOUSEHOLDS ON RESERVATIONS.

Section 908(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 2015 note and 7 U.S.C. 2016 note) is amended by striking "January 31, 1994" both places it appears and inserting "March 15, 1994".

SEC. 2. CONTINUING ELIGIBILITY OF CERTAIN RETAIL FOOD STORES.

Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on March 15, 1994, an establishment or house-to-house trade route that is otherwise authorized to accept and redeem coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) on the date of enactment of this Act may not be disqualified from participation in the food stamp program solely because the establishment or trade route does not meet the definition of "retail food store" under section 3(k)(1) of such Act (7 U.S.C. 2012(k)(1)).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING CORRECTIONS IN ENROLLMENT OF S. 1766, LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION IMPROVEMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 56) to authorize corrections in the enrollment of S. 1766, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to my colleague, the gentleman from Texas [Mr. DE LA GARZA] to explain to my colleagues in the House why we are passing this for the third time in a week.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this concurrent resolution simply corrects a technical drafting error in S. 1766, which was approved by the Senate on Saturday and the House on Sunday S. 1766 amends the research and promotion program for limes.

This concurrent resolution instructs the Secretary of the Senate to change three words in the enrollment of the bill for presentation to the President.

I urge passage of the concurrent resolution.

This resolution corrects a technical drafting error in section 4(b)(1) of S. 1766, which would amend section 1955(b)(4) of the Lime Research, Promotion, and Consumer Information Act. The Senate passed S. 1766 on Saturday, and the House approved the measure yesterday. The words "The

Secretary" and "shall—" do not appear in section 1955(b)(4) of the current law. The correct reference is to "Members" and to "appointed—".

Mr. ROBERTS. Mr. Speaker, I thank the chairman for his explanation and certainly hope that the other body can change three words to our satisfaction.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the text of the bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, the Secretary of the Senate shall make the following corrections:

In section 4(b)(1)—

(1) strike "'The Secretary'" and insert "'Members'"; and

(2) strike "'shall—'" and insert "'appointed—'".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1777 and on Senate concurrent resolution 56.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUSING TECHNICAL CORRECTIONS BILL

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1769) to make a technical amendment, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mrs. ROUKEMA. Mr. Speaker, reserving the right to object, I will not object, and I yield to the distinguished gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, for an explanation of his request.

Mr. GONZALEZ. Mr. Speaker, I thank the gentlewoman for yielding.

I include the following information on S. 1769 housing technical corrections to the bill:

The Senate passed this measure by unanimous consent. Chairman Gonzalez is expected to accept the measure with an amendment to the "Fire Safety in Federally Assisted Housing" provision by making it apply just to federally related housing projects in New York City.

Three of the four provisions in the Senate measure came from S. 1299. The Housing and Community Development Act of 1993, which the Senate passed on Thursday, November 18, 1993. The four provisions are:

1. Slidell, Louisiana-CDBG Entitlement extension. This provision allows the City of Slidell, Louisiana to submit, not later than 10 days after enactment, its final statement of community objectives and projected use of funds for the FY 94 CDBG program. (Livingston, Senators Breaux, Johnston)

2. Pittsburgh, Pennsylvania-Public Service cap under the CDBG program. Allows a one-year waiver of the public service cap (15% of funds) under the CDBG program to 20% for the city of Pittsburgh. (Coyne)

3. Section 23 Conversion. Authorizes HUD to convert a Section 23 Leased Housing contract (Leonard Terrace Apartments, Grand Rapids, Michigan) to a Section 8 project. (Senator Riegle, Representatives Upton and Hoekstra)

4. Fire Safety in Federally Assisted Housing. Creates an exception to current law (Federal Fire Prevention and Control Act of 1974) which requires recipients of federal assistance for newly constructed highrise housing to install sprinklers or other approved safety mechanisms which are equivalent to sprinklers and approved by Fire Marshalls.

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Mrs. ROUKEMA. Mr. Speaker, further reserving the right to object, I will not object, except to say I support passing this measure, and the amendment to it, which grants certain extensions to and waivers from statutory requirements to several communities. The provisions are noncontroversial and, on the merits, require timely congressional action. Furthermore, the provisions have no impact upon the budget.

But, let me say Mr. Speaker, that although I am pleased to pass legislation which provides relief to these communities, I had hoped that Congress would act on a more comprehensive measure to relieve statutory restrictions in the multifamily property disposition program at HUD. Although H.R. 3400 contained a provision which would have provided this relief, the same provision was not passed in the Senate. Consequently, until the House and Senate take up this matter again next year, HUD remains in an untenable position with regard to selling almost 69,000 units nationwide.

Mr. Speaker, without legislative relief, HUD cannot sell its multifamily property inventory unless 15-year section 8 rental subsidies are attached to each apartment. These subsidies are very expensive and Congress is unable, under current budgetary constraints, to provide sufficient budget authority for these subsidies. HUD estimates it would need more than $15 billion to sell these properties—an amount upon which we all can agree will not be appropriated.

But the problem transcends budgetary constraints. Families live in these buildings and, according to HUD, many of the buildings in the inventory are unsafe. By HUD's own admission, the Department is not an effective landlord. But I want to remind my colleagues, it is not HUD's mission to manage properties.

I know the chairman, Mr. GONZALEZ, is committed to amending current law to rectify this situation. Perhaps, given the severity of the problem and the fact that both the House and the Senate are very close to agreement on how to implement changes to the program, Congress can move this legislation early in 1994, perhaps separately from the reauthorization process.

Mr. GONZALEZ. Mr. Speaker, if the gentlewoman will yield further, that is a commitment, and we hope that immediately upon the return of the House in January we will have the comprehensive reauthorization of all of the assisted housing programs plus the administration's package.

Mrs. ROUKEMA. Mr. Speaker, I withdraw my reservation of objection and give my wholehearted support.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days after the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 2. INCREASE OF CDBG PUBLIC SERVICES CAP.

(a) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

SEC. 3. CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard

Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

SEC. 4. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GONZALEZ: Strike all after the enacting clause and insert the following:

SECTION 1. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days after the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 2. INCREASE OF CDBG PUBLIC SERVICES CAP.

(A) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

SEC. 3. CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leasing housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

SEC. 4. EXCEPTION TO FIRE SAFETY REQUIREMENT FOR NEWLY CONSTRUCTED MULTIFAMILY PROPERTY.

In the case of any newly constructed multifamily property, as defined in section 31(c)(2)(A)(ii) of the Federal Fire Prevention and Control Act of 1974, in the city of New York in the State of New York, the requirement contained in section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 with respect to an automatic sprinkler system shall be deemed to be met if such property meets an equivalent level of safety (as defined in section 31(a)(3) of such Act).

Mr. GONZALEZ (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as having been read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 422) to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the government securities market, in order to protect investors and facilitate Government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of Government securities, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Senate amendment to House amendments: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 101. Findings.
Sec. 102. Extension of government securities rulemaking authority.
Sec. 103. Transaction records.
Sec. 104. Large position reporting.
Sec. 105. Authority of the Commission to regulate transactions in exempted securities.
Sec. 106. Sales practice rulemaking authority.
Sec. 107. Market information.
Sec. 108. Disclosure by government securities brokers and government securities dealers whose accounts are not insured by the Securities Investor Protection Corporation.
Sec. 109. Technical amendments.
Sec. 110. Offerings of certain government securities.
Sec. 111. Rule of construction.
Sec. 112. Study of regulatory system for government securities.

TITLE II—REPORTS ON PUBLIC DEBT

Sec. 201. Annual report on public debt.
Sec. 202. Treasury auction reforms.
Sec. 203. Notice on Treasury modifications to auction process.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

Sec. 301. Short title.
Sec. 302. Revision of proxy solicitation rules with respect to limited partnership rollup transactions.
Sec. 303. Rules of fair practice in rollup transactions.
Sec. 304. Effective date; effect on existing authority.

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 101. FINDINGS.

The Congress finds that—

(1) the liquid and efficient operation of the government securities market is essential to facilitate government borrowing at the lowest possible cost to taxpayers;

(2) the fair and honest treatment of investors will strengthen the integrity and liquidity of the government securities market;

(3) rules promulgated by the Secretary of the Treasury pursuant to the Government Securities Act of 1986 have worked well to protect investors from unregulated dealers and maintain the efficiency of the government securities market; and

(4) extending the authority of the Secretary and providing new authority will ensure the continued strength of the government securities market.

SEC. 102. EXTENSION OF GOVERNMENT SECURITIES RULEMAKING AUTHORITY.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by striking subsection (g).

SEC. 103. TRANSACTION RECORDS.

(a) AMENDMENT.—Section 15C(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(d)) is amended by adding at the end the following new paragraph:

"(3) GOVERNMENT SECURITIES TRADE RECONSTRUCTION.—

"(A) FURNISHING RECORDS.—Every government securities broker and government securities dealer shall furnish to the Commission on request such records of government securities transactions, including records of the date and time of execution of trades, as the Commission may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the Commission for enforcement or surveillance purposes. In requiring information pursuant to this paragraph, the Commission shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission, to the Federal Reserve Bank of New York, or to an appropriate regulatory agency or self-regulatory organization with responsibility for examining the government securities broker or government securities dealer. The Commission may require that such information be furnished in machine readable form notwithstanding any limitation in subparagraph (B). In utilizing its authority to require information in machine readable form, the Commission shall minimize the burden such requirement may place on small government securities brokers and dealers.

"(B) LIMITATION; CONSTRUCTION.—The Commission shall not utilize its authority under this paragraph to develop regular reporting requirements, except that the Commission may require information to be furnished under this paragraph as frequently as necessary for particular inquiries or investigations for enforcement or surveillance purposes. This paragraph shall not be construed as requiring, or as authorizing the Commission to require, any government securities broker or government securities dealer to obtain or maintain any information for purposes of this paragraph which is not otherwise maintained by such broker or dealer in accordance with any other provision of law or usual and customary business practice. The Commission shall, where feasible, avoid requiring any information to be furnished under this paragraph that the Commission may obtain from the Federal Reserve Bank of New York.

"(C) PROCEDURES FOR REQUIRING INFORMATION.—At the time the Commission requests any information pursuant to subparagraph (A) with respect to any government securities broker or government securities dealer for which the Commission is not the appropriate regulatory agency, the Commission shall notify the appropriate regulatory agency for such government securities broker or government securities dealer and, upon request, furnish to the appropriate regulatory agency any information supplied to the Commission.

"(D) CONSULTATION.—Within 90 days after the date of enactment of this paragraph, and annually thereafter, or upon the request of any other appropriate regulatory agency, the Commission shall consult with the other appropriate regulatory agencies to determine the availability of records that may be required to be furnished under this paragraph and, for those records available directly from the other appropriate regulatory agencies, to develop a procedure for furnishing such records expeditiously upon the Commission's request.

"(E) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this paragraph shall be construed so as to permit the Commission to require any government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any appropriate regulatory agency other than the Commission or any supervisory recommendations or analysis contained in any such examination report.

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission and the appropriate regulatory agencies shall not be compelled to disclose any information required or obtained under this paragraph. Nothing in this paragraph shall authorize the Commission or any appropriate regulatory agency to withhold information from Congress, or prevent the Commission or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Commission, or the appropriate regulatory agency. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

(b) CONFORMING AMENDMENTS.—(1) Section 15C(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(4)) is amended by inserting ", other than subsection (d)(3)," after "subsection (a), (b), or (d) of this section".

(2) Section 15C(f)(2) of such Act is amended—

(A) in the first sentence, by inserting ", other than subsection (d)(3)", after "threatened violation of the provisions of this section"; and

(B) in the second sentence, by inserting "(except subsection (d)(3))" after "other than this section".

SEC. 104. LARGE POSITION REPORTING.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LARGE POSITION REPORTING.—

"(1) REPORTING REQUIREMENTS.—The Secretary may adopt rules to require specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file such reports regarding such positions as the Secretary determines to be necessary and appropriate for the purpose of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and for the purpose of otherwise assisting the Commission in the enforcement of this title, taking into account any impact of such rules on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt. Unless otherwise specified by the Secretary, reports required under this subsection shall be filed with the Federal Reserve Bank of New York, acting as agent for the Secretary. Such reports shall, on a timely basis, be provided directly to the Commission by the person with whom they are filed.

"(2) RECORDKEEPING REQUIREMENTS.—Rules under this subsection may require persons holding, maintaining, or controlling large positions in Treasury securities to make and keep for prescribed periods such records as the Secretary determines are necessary or appropriate to ensure that such persons can comply with reporting requirements under this subsection.

"(3) AGGREGATION RULES.—Rules under this subsection—

"(A) may prescribe the manner in which positions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control; and

"(B) may define which persons (individually or as a group) hold, maintain, or control large positions.

"(4) DEFINITIONAL AUTHORITY; DETERMINATION OF REPORTING THRESHOLD.—

"(A) In prescribing rules under this subsection, the Secretary may, consistent with the purpose of this subsection, define terms used in this subsection that are not otherwise defined in section 3 of this title.

"(B) Rules under this subsection shall specify—

"(i) the minimum size of positions subject to reporting under this subsection, which shall be no less than the size that provides the potential for manipulation or control of the supply or price, or the cost of financing arrangements, of an issue or the portion thereof that is available for trading;

"(ii) the types of positions (which may include financing arrangements) to be reported;

"(iii) the securities to be covered; and

"(iv) the form and manner in which reports shall be transmitted, which may include transmission in machine readable form.

"(5) EXEMPTIONS.—Consistent with the public interest and the protection of investors, the Secretary by rule or order may exempt in whole or in part, conditionally or unconditionally, any person or class or persons, or any transaction or class of transactions, from the requirements of this subsection.

"(6) LIMITATION ON DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Secretary or the Commission to withhold information from Congress, or prevent the Secretary or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Secretary, or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 105. AUTHORITY OF THE COMMISSION TO REGULATE TRANSACTIONS IN EXEMPTED SECURITIES.

(a) PREVENTION OF FRAUDULENT AND MANIPULATIVE ACTS AND PRACTICES.—Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fictitious quotation, and no municipal securities dealer" and inserting the following:

"fictitious quotation.

"(B) No municipal securities dealer";

(3) by striking "fictitious quotation. The Commission shall" and inserting the following:

"fictitious quotation.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security in connection with which such government securities broker or government securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation.

"(D) The Commission shall"; and

(4) by adding at the end the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.".

(b) FRAUDULENT AND MANIPULATIVE DEVICES AND CONTRIVANCES.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by striking "contrivance, and no municipal securities dealer" and inserting the following:

"contrivance.

"(B) No municipal securities dealer";

(3) by striking "contrivance. The Commission shall" and inserting the following:

"contrivance.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(D) The Commission shall"; and

(4) by adding at the end the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.".

SEC. 106. SALES PRACTICE RULEMAKING AUTHORITY.

(a) RULES FOR FINANCIAL INSTITUTIONS.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(b)) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) With respect to any financial institution that has filed notice as a government securities broker or government securities dealer or that is required to file notice under subsection (a)(1)(B), the appropriate regulatory agency for such government securities broker or government securities dealer may issue such rules and regulations with respect to transactions in government securities as may be necessary to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. If the Secretary of the Treasury determines, and notifies the appropriate regulatory agency, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the appropriate regulatory agency shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(B) The appropriate regulatory agency shall consult with and consider the views of the Secretary prior to approving or amending a rule or regulation under this paragraph, except where the appropriate regulatory agency determines that an emergency exists requiring expeditious and summary action and publishes its reasons therefor. If the Secretary comments in writing to the appropriate regulatory agency on a proposed rule or regulation that has been published for comment, the appropriate regulatory agency shall respond in writing to such written comment before approving the proposed rule or regulation.

"(C) In promulgating rules under this section, the appropriate regulatory agency shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers.".

(b) RULES BY REGISTERED SECURITIES ASSOCIATIONS.—

(1) REMOVAL OF LIMITATIONS ON AUTHORITY.—(A) Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended—

(i) by striking subsections (f)(1) and (f)(2); and

(ii) by redesignating subsection (f)(3) as subsection (f).

(B) Section 15A(g) of such Act is amended—

(i) by striking "exempted securities" in paragraph (3)(D) and inserting "municipal securities";

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4).

(2) CONFORMING AMENDMENT.—

(A) Section 3(a)(12)(B)(ii) of such Act (15 U.S.C. 78c(a)(12)(B)(ii)) is amended by striking "15, 15A (other than subsection (g)(3)), and 17A" and inserting "15 and 17A".

(B) Section 15(b)(7) of such Act (15 U.S.C. 78o(b)(7)) is amended by inserting "or government securities broker or government securities dealer registered (or required to register) under section 15C(a)(1)(A)" after "No registered broker or dealer".

(c) OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS.—Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(1) in subsection (b), by adding at the end the following new paragraphs:

"(5) The Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary of the Treasury comments in writing to the Commission on a proposed rule that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule, find that such rule is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(6) In approving rules described in paragraph (5), the Commission shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers."; and

(2) in subsection (c), by adding at the end the following new paragraph:

"(5) With respect to rules described in subsection (b)(5), the Commission shall consult with and consider the views of the Secretary of the Treasury before abrogating, adding to, and deleting from such rules, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor.".

SEC. 107. MARKET INFORMATION.

Section 23(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking subparagraphs (C), (D), and (H);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (C), (D), and (E), respectively;

(3) by redesignating subparagraphs (I), (J), and (K) as subparagraphs (F), (G), and (H), respectively;

(4) by striking "and" at the end of such redesignated subparagraph (G);

(5) by striking the period at the end of such redesignated subparagraph (H) and inserting "; and"; and

(6) by inserting after such redesignated subparagraph (H) the following new subparagraph:

"(I) the steps that have been taken and the progress that has been made in promoting the timely public dissemination and availability for analytical purposes (on a fair, reasonable, and nondiscriminatory basis) of information concerning government securities transactions and quotations, and its recommendations, if any, for legislation to assure timely dissemination of (i) information on transactions in regularly traded government securities sufficient to permit the determination of the prevailing market price for such securities, and (ii) reports of the highest published bids and lowest published offers for government securities (including the size at which persons are willing to trade with respect to such bids and offers).".

SEC. 108. DISCLOSURE BY GOVERNMENT SECURITIES BROKERS AND GOVERNMENT SECURITIES DEALERS WHOSE ACCOUNTS ARE NOT INSURED BY THE SECURITIES INVESTOR PROTECTION CORPORATION.

Section 15C(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

"(4) No government securities broker or government securities dealer that is required to register under paragraph (1)(A) and that is not a member of the Securities Investor Protection Corporation shall effect any transaction in any security in contravention of such rules as the Commission shall prescribe pursuant to this subsection to assure that its customers receive complete, accurate, and timely disclosure of the inapplicability of Securities Investor Protection Corporation coverage to their accounts.".

SEC. 109. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (34)(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by amending paragraph (46) (relating to the definition of financial institution) to read as follows:

"(46) The term 'financial institution' means—

"(A) a bank (as defined in paragraph (6) of this subsection);

"(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

"(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(3) by redesignating paragraph (51) (as added by section 204 of the International Securities Enforcement Cooperation Act of 1990) as paragraph (52).

(b) EFFECTIVE DATE OF BROKER/DEALER REGISTRATION.—

(1) GOVERNMENT SECURITIES BROKERS AND DEALERS.—Section 15C(a)(2)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(a)(2)(ii)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.".

(2) OTHER BROKERS AND DEALERS.—Section 15(b)(1)(B) of such Act (15 U.S.C. 78o(b)(1)(B)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.".

(c) INFORMATION SHARING.—Section 15C(d)(2) of such Act is amended to read as follows:

"(2) Information received by an appropriate regulatory agency, the Secretary, or the Commission from or with respect to any government securities broker, government securities dealer, any person associated with a government securities broker or government securities dealer, or any other person subject to this section or rules promulgated thereunder, may be made available by the Secretary or the recipient agency to the Commission, the Secretary, the Department of Justice, the Commodity Futures Trading Commission, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank.".

SEC. 110. OFFERINGS OF CERTAIN GOVERNMENT SECURITIES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading.".

SEC. 111. RULE OF CONSTRUCTION.

(a) IN GENERAL.—No provision of, or amendment made by, this title may be construed—

(1) to govern the initial issuance of any public debt obligation, or

(2) to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization—

(A) to prescribe any procedure, term, or condition of such initial issuance,

(B) to promulgate any rule or regulation governing such initial issuance, or

(C) to otherwise regulate in any manner such initial issuance.

(b) EXCEPTION.—Subsection (a) of this section shall not apply to the amendment made by section 110 of this Act.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means an obligation subject to the public debt limit established in section 3101 of title 31, United States Code.

SEC. 112. STUDY OF REGULATORY SYSTEM FOR GOVERNMENT SECURITIES.

(a) JOINT STUDY.—The Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System shall—

(1) with respect to any rules promulgated or amended after October 1, 1991, pursuant to section 15C of the Securities Exchange Act of 1934 or any amendment made by this title, and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991—

(A) evaluate the effectiveness of such rules in carrying out the purposes of such Act; and

(B) evaluate the impact of any such rules on the efficiency and liquidity of the government securities market and the cost of funding the Federal debt;

(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of the availability of automated, time-sequenced records of essential information pertaining to trades in such securities; and

(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

(A) the regulation of government securities brokers and government securities dealers;

(B) the dissemination of information concerning quotations for and transactions in government securities;

(C) the prevention of sales practice abuses in connection with transactions in government securities; and

(D) such other matters as they consider appropriate.

(b) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

(1) conduct a study of—

(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934; and

(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

(2) submit to the Congress, not later than 18 months after the date of enactment of this Act, the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.

TITLE II—REPORTS ON PUBLIC DEBT

SEC. 201. ANNUAL REPORT ON PUBLIC DEBT.

(a) GENERAL RULE.—Subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3130. Annual public debt report

"(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

"(1) the Treasury's public debt activities, and

"(2) the operations of the Federal Financing Bank.

"(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

"(1) A table showing the following information with respect to the total public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(2) A table showing the following information with respect to the net public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations, including a discussion of the projections and assumptions with respect to the structure of interest rates for the current fiscal year and for the succeeding 5 fiscal years.

"(4) A table showing the following information as of the time the report is submitted and for prior years:

"(A) A description of the various categories of the holders of public debt obligations.

"(B) The portions of the total public debt held by each of such categories.

"(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

"(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

"(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

"(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CURRENT FISCAL YEAR.—The term 'current fiscal year' means the fiscal year ending in the calendar year in which the report is submitted.

"(2) TOTAL PUBLIC DEBT.—The term 'total public debt' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

"(3) NET PUBLIC DEBT.—The term 'net public debt' means the portion of the total public debt which is held by the public.

"(4) DEBT TO GDP RATIO.—The term 'debt to GDP ratio' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

"(5) INTEREST COST TO OUTLAY RATIO.—The term 'interest cost to outlay ratio' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year.".

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new item:

"3130. Annual public debt report.".

SEC. 202. TREASURY AUCTION REFORMS.

(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

(1) meets the minimum creditworthiness standard established by the Secretary; and

(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

(b) PROHIBITION ON FAVORED PLAYERS.—

(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

(ii) the grant of the exception is designed to minimize any anticompetitive effect.

(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) OPEN MEETINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the "advisory committee"), or any successor to the advisory committee, shall be open to the public.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

(ii) makes recommendations to the Secretary.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

(i) another member of the advisory committee who is present at the meeting; or

(ii) an officer or employee of the Department of the Treasury.

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 5-year period beginning on the date of such removal.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

(B) A brief description of the nature of the violations.

(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act).

(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.

SEC. 203. NOTICE ON TREASURY MODIFICATIONS TO AUCTION PROCESS.

The Secretary of the Treasury shall notify the Congress of any significant modifications to the auction process for issuing United States Treasury obligations at the time such modifications are implemented.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

SEC. 301. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1993".

SEC. 302. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under subsections (a) and (d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed limited partnership rollup transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that—

"(i) nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title; and

"(ii) any holder of not less than 5 percent of the outstanding securities that are the subject of the proposed limited partnership rollup transaction who engages in the business of buying and selling limited partnership interests in the secondary market shall be required to disclose such ownership interests and any potential conflicts of interests in such preliminary communications;

"(B) require the issuer to provide to holders of the securities that are the subject of the limited partnership rollup transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a limited partnership rollup transaction—

"(i) on the basis of whether the solicited proxy, consent, or authorization either approves or disapproves the proposed limited partnership rollup transaction; or

"(ii) contingent on the approval, disapproval, or completion of the limited partnership rollup transaction;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest, or the compensation of the general partner in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of the interests of the limited partners to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the limited partnership rollup transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the limited partnership rollup transaction with less than all limited partnerships;

"(vi) the statement by the general partner required under subparagraph (E);

"(vii) such other matters deemed necessary or appropriate by the Commission;

"(E) require a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and an evaluation and a description by the general partner of alternatives to the limited partnership rollup transaction, such as liquidation;

"(F) provide that, if the general partner or sponsor has obtained any opinion (other than an opinion of counsel), appraisal, or report that is prepared by an outside party and that is materially related to the limited partnership rollup transaction, such soliciting materials shall contain or be accompanied by clear, concise, and comprehensible disclosure with respect to—

"(i) the analysis of the transaction, scope of review, preparation of the opinion, and basis for and methods of arriving at conclusions, and any representations and undertakings with respect thereto;

"(ii) the identity and qualifications of the person who prepared the opinion, the method of selection of such person, and any material past, existing, or contemplated relationships between the person or any of its affiliates and the general partner, sponsor, successor, or any other affiliate;

"(iii) any compensation of the preparer of such opinion, appraisal, or report that is contingent on the transaction's approval or completion; and

"(iv) any limitations imposed by the issuer on the access afforded to such preparer to the issuer's personnel, premises, and relevant books and records;

"(G) provide that, if the general partner or sponsor has obtained any opinion, appraisal, or report as described in subparagraph (F) from any person whose compensation is contingent on the transaction's approval or completion or who has not been given access by the issuer to its personnel and premises and relevant books and records, the general partner or sponsor shall state the reasons therefor;

"(H) provide that, if the general partner or sponsor has not obtained any opinion on the fairness of the proposed limited partnership rollup transaction to investors in each of the affected partnerships, such soliciting materials shall contain or be accompanied by a statement of such partner's or sponsor's reasons for concluding that such an opinion is not necessary in order to permit the limited partners to make an informed decision on the proposed transaction;

"(I) require that the soliciting material include a clear, concise, and comprehensible summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of subparagraph (D) and a summary of the matter referred to in subparagraphs (F), (G), and (H)), with the risks of the limited partnership rollup transaction set forth prominently in the fore part thereof;

"(J) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(K) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this title, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION OF LIMITED PARTNERSHIP ROLLUP TRANSACTION.—Except as provided in paragraph (5), as used in this subsection, the term 'limited partnership rollup transaction' means a transaction involving the combination or reorganization of one or more limited partnerships, directly or indirectly, in which—

"(A) some or all of the investors in any of such limited partnerships will receive new securities, or securities in another entity, that will be reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(B) any of the investors' limited partnership securities are not, as of the date of filing, reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(C) investors in any of the limited partnerships involved in the transaction are subject to a significant adverse change with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(D) any of such investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSIONS FROM DEFINITION.—Notwithstanding paragraph (4), the term 'limited partnership rollup transaction' does not include—

"(A) a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate;

"(B) a transaction involving only limited partnerships wherein the interests of the limited partners are repurchased, recalled, or exchanged in accordance with the terms of the preexisting limited partnership agreements for securities in an operating company specifically identified at the time of the formation of the original limited partnership;

"(C) a transaction in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(D) a transaction that involves only issuers that are not required to register or report under section 12, both before and after the transaction;

"(E) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, involving the combination or reorganization of one or more limited partnerships in which a non-affiliated party succeeds to the interests of a general partner or sponsor, if—

"(i) such action is approved by not less than 66⅔ percent of the outstanding units of each of the participating limited partnerships; and

"(ii) as a result of the transaction, the existing general partners will receive only compensation to which they are entitled as expressly provided for in the preexisting limited partnership agreements; or

"(F) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, in which the securities offered to investors are securities of another entity that are reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A, if—

"(i) such other entity was formed, and such class of securities was reported and regularly traded, not less than 12 months before the date on which soliciting material is mailed to investors; and

"(ii) the securities of that entity issued to investors in the transaction do not exceed 20 percent of the total outstanding securities of the entity, exclusive of any securities of such class held by or for the account of the entity or a subsidiary of the entity.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a), and such regulations shall become effective not later than 12 months after the date of enactment of this Act.

(c) EVALUATION OF FAIRNESS OPINION PREPARATION, DISCLOSURE, AND USE.—

(1) EVALUATION REQUIRED.—The Comptroller General of the United States shall, within 18 months after the date of enactment of this Act, conduct a study of—

(A) the use of fairness opinions in limited partnership rollup transactions;

(B) the standards which preparers use in making determinations of fairness;

(C) the scope of review, quality of analysis, qualifications and methods of selection of preparers, costs of preparation, and any limitations imposed by issuers on such preparers;

(D) the nature and quality of disclosures provided with respect to such opinions;

(E) any conflicts of interest with respect to the preparation of such opinions; and

(F) the usefulness of such opinions to limited partners.

(2) REPORT REQUIRED.—Not later than the end of the 18-month period referred to in paragraph (1), the Comptroller General of the United States shall submit to the Congress a report on the evaluation required by paragraph (1).

SEC. 303. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the association and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the association during the period in which the offer is outstanding.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee of limited partners that is independent, as determined in accordance with rules prescribed by the exchange, of the general partner or sponsor, that has been approved by a majority of the outstanding units of each of the participating limited partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the exchange and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the exchange during the period during which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in paragraphs (4) and (5) of section 14(h)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to one of the following:

"(i) an appraisal and compensation;

"(ii) retention of a security under substantially the same terms and conditions as the original issue;

"(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

"(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

"(v) other comparable rights that are prescribed by rule by the association and that are designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed limited partnership rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a person who, on the date on which soliciting material is mailed to investors, is a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction, and who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such person shall file an objection in writing under the rules of the association during the period during which the offer is outstanding.".

SEC. 304. EFFECTIVE DATE; EFFECT ON EXISTING AUTHORITY.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by section 303 shall become effective 12 months after the date of enactment of this Act.

(2) RULEMAKING AUTHORITY.—Notwithstanding paragraph (1), the authority of the Securities and Exchange Commission, a registered securities association, and a national securities exchange to commence rulemaking proceedings for the purpose of issuing rules pursuant to the amendments made by section 303 is effective on the date of enactment of this Act.

(3) REVIEW OF FILINGS PRIOR TO EFFECTIVE DATE.—Prior to the effective date of regulations promulgated pursuant to this title, the Securities and Exchange Commission shall continue to review and declare effective registration statements and amendments thereto relating to limited partnership rollup transactions in accordance with applicable regulations then in effect.

(b) EFFECT ON EXISTING AUTHORITY.—The amendments made by this title shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, I will not object, but I would like to give the gentleman from Massachusetts [Mr. MARKEY] an opportunity to explain the bill.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Texas. Further reserving the right to object, Mr. Speaker, I am happy to yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, today the House is taking up consideration of S. 422, the Government Securities Act Amendments of 1993. This legislation reflects a bipartisan House-Senate agreement on a broad package of reforms affecting the regulation of the Government securities market and mergers or reorganizations of limited partnerships. It represents a compromise between: First, the House government securities legislation that was approved by voice vote on October 5 (H.R. 618) and the Senate bill (S. 422) which was approved on July 27; and second, the House limited partnership rollup legislation (H.R. 617) that was approved by a 408-to-6 vote on March 2 of this year and the companion Senate legislation (S. 424) which passed the Senate by voice vote on August 6 of this year.

I. GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

BACKGROUND

Two years ago, shocking revelations of wrongdoing by Salomon Bros. in connection with several Treasury auctions dramatically underscored the consequences of relying on an antiquated system of clubby informal regulation to guide the $4.5 billion market for U.S. Treasury securities, as well as the markets for other government securities. We learned that Salomon employees repeatedly submitted false bids at Treasury auctions, committed numerous books and records violations, and participated in a series of fictitious tax trades. At the same time, we learned of serious breakdowns in internal controls and supervisory procedures by the senior management of the firm.

These scandals raised a disturbing prospect for regulators—the spectacle of sophisticated and unscrupulous operators being able to manipulate the market for the U.S. Government's securities by effectively cornering the market for a particular Treasury issue, generating a short squeeze in that issue, and then profiting from the artificially inflated prices that would result. Such a development, if left unchecked, would have a devastating effect on the public's confidence in the fairness and integrity of the market.

Unfortunately, the shocking revelations of wrongdoing by Salomon Brothers were not an isolated incident. During the last 2 years we have witnessed:

Ninety-eight securities firms and banks reaching a settlement with Federal regulators for inflating customer orders and maintaining false books in connection with sales of the securities of various Government-sponsored enterprises;

Two firms signing a consent decree relating to abuses associated with noncompetitive bidding for Treasury securities, with additional investigations into abuses by other firms and individuals still underway;

Other firms either reaching or nearing settlements for undertaking prearranged trades aimed at generating fictitious tax losses; and,

Revelations that convicted swindler Steven Wymer used the Government market as the vehicle for carrying out a series of ripoffs of nearly 100 local and State governments.

Today, Government investigations into these areas, as well as broad-ranging investigations into other instances of possible market manipulation are still continuing, and further settlements or enforcement actions may be forthcoming in the very near future.

CONGRESSIONAL RESPONSE

The Salomon and related scandals amply demonstrated the need for comprehensive reforms in the regulation of the Government securities market. In response, in January of this year, I joined with Chairman DINGELL, Mr. FIELDS, Mr. WYDEN, Mr. SYNAR, Mr. COOPER, and Mr. MOORHEAD in introducing H.R. 618, the Government Securities Reform Act of 1993, which this House approved in October. The Senate passed a narrower bill, S. 422, in July. We have since labored long and hard to craft the final agreement we are bringing to the House floor today.

I am very pleased to report that the result of our discussions has been a bill which adopts the major provisions of the original House bill. S. 422, as amended by the House-Senate agreement, would:

Permanently extend all the rulemaking authorities granted to Treasury under the Government Securities Act of 1986;

Require all Government securities brokers and dealers to furnish to the

SEC, upon request, records of transactions in Government securities needed to reconstruct trading for oversight, surveillance or enforcement purposes;

Authorize Treasury to adopt rules requiring reporting by holders of large positions in Treasury securities in order to enhance market surveillance and enforcement efforts;

Empower the National Association of Securities Dealers and the appropriate regulatory agencies for financial institutions to develop and enforce sales practice and other rules of fair practice for Government securities brokers and dealers;

Make it an explicit violation of the securities laws for any person to make false or misleading statements in connection with any bid for or purchase of a Government security;

Supplement the SEC's basic antifraud authorities over this market by empowering it to prescribe prophylactic antifraud and antimanipulation rules for the Government securities market;

Direct the SEC to continuously monitor the nature and adequacy of public access to market quotation and transaction information;

Effectuate various reforms affecting the primary auction market for Treasury securities, including the electronic submission of bids, open access to the auction, and reforms of the Treasury Borrowing Committee;

Mandate joint interagency, the Treasury, and GAO studies of the regulatory system for Government securities; and,

Require certain reports by the Treasury concerning its public debt obligations and changes in the Treasury debt auction process.

HOUSE-SENATE AGREEMENT ON S. 422

I would like to take a few minutes to further clarify the purpose of four key changes made in the legislation that we are considering today, from the bill H.R. 618, which the House approved in October.

Transaction records: The House and Senate agreed that there was a need to improve recordkeeping by Government securities brokers and dealers so that the SEC can readily obtain transaction information needed to reconstruct trading for surveillance or enforcement purposes. Shoddy recordkeeping practices by some Government securities brokers and dealers greatly complicated the SEC's Salomon Brothers-related investigations. Requiring standardized records to be maintained in electronic form and furnished to the SEC upon request should help rectify this problem.

The House-Senate agreement anticipates that the SEC shall consider the impact of this requirement on small Government securities brokers and dealers. It is our intent that this provision be construed to mean that the SEC shall work with these smaller firms to develop an efficient means of compliance, such as the electronic blue sheets used for all firms in the equity markets.

The House-Senate agreement also provides that the information to be furnished to the SEC is information that is required for particular inquiries or investigations being conducted by the SEC for surveillance or enforcement purposes. While it is not anticipated that the SEC would use this particular grant of authority to establish continuous marketwide surveillance system or electronic audit trail covering the entire Government securities market, we fully intend and anticipate that the SEC will be able to obtain information as frequently as is needed. For example, if price anomalies, unusual trading patterns, or shortages of supply in a particular issue should develop, the SEC would be able to require Government securities firms to furnish transaction records during the period such records are required by the SEC to reconstruct trading in the issue, identify the causes of any anomalies or shortages, and whether any manipulative or fraudulent practices have taken place.

At the same time (as noted in H. Rept. 103-55, at 23-24), we fully expect and anticipate that the SEC will take other steps to closely monitor market developments and maintain an active market surveillance program which makes full use of all other available sources of information, such as GSCC transaction information, GOVPX and other interdealer broker price and volume information.

Large position reporting: In response to the Salomon Brothers and related scandals, both the House and Senate agreed that it was necessary to improve the information available to regulators regarding large positions held by market participants. I consider reporting of such information to be absolutely critical to the Treasury and the SEC in monitoring risks to the stability and integrity of the Treasury market and undertake appropriate regulatory or enforcement actions to respond to market squeezes or other disruptions.

The House and Senate agreed on the need for the large position reporting authority in H.R. 618. We also have added clarifying language regarding the minimum size of positions that would be subject to reporting under the agreement. This language states that the minimum size of positions reported "shall be no less than the size that provides the potential for manipulation or control of the supply or price, or the cost of financing arrangements, of an issue or the portion thereof that is available for trading."

In establishing a minimum threshold for reporting, the House and Senate sought to ensure that Treasury would retain considerable flexibility and discretion to set an appropriate standard for what positions should be reported. It is our expectation that the thresholds reported will be large in relation to the size of an issue or the portion thereof that is available for trading. At the same time, we have sought to avoid establishing an artificially high minimum reporting threshold that would prevent regulators from obtaining access to information regarding large positions that they might need in order to carry out their responsibilities.

During our discussions with the Senate, the House considered and rejected proposals to establish a percentage or dollar threshold for large position reporting. At one point during our discussions, some of our Senate colleagues suggested that we establish a percentage or dollar minimum threshold for reporting. For example, a 35-percent threshold was suggested by one of our Senate colleagues, since that is the upper limit of what a single purchaser can bid for at Treasury auctions. The House and Senate resoundingly rejected such an approach for a number of reasons.

We were concerned that the 35-percent threshold was far too high for a minimum reporting threshold. At the same time, we also felt that defining by statute that a large position must be at least 35 percent of an issue—or even some other lower percentage threshold—would remove Treasury's flexibility to tailor the reporting requirements to specific market conditions. For example, a considerable amount of a security that is in short supply—and which may be reopened by Treasury—may be in the hands of final investors who do not follow market conditions that closely. In addition, a considerable amount of the issue may have been, or is committed to be, stripped into separate interest- and principal-only securities. In such cases, a significantly lower percentage of the total issue might constitute the actual amount of the security that is actually available for trading. We wanted to ensure that Treasury would have ample discretion to take such factors into account in setting the minimum reporting threshold.

In addition, we feared that tying the Treasury's hand by statute would also present an inviting target for would-be manipulators, who might find a way to evade a reporting threshold by working in concert to control the supply of an issue. In such a situation, two or more persons or firms might collude to manipulate the market for the issue but never individually have a position large enough to be potentially reportable. It also was feared that establishing a percentage or dollar minimum threshold might create the impression that manipulation of the market with a slightly smaller position is something that would be condoned. The language we agreed upon gives Treasury the flexibility it needs to respond to such situations.

As the joint House-Senate statement indicates, it is our expectation that Treasury will take into account the likelihood of collusion among market participants when it issues large position reporting rules. While Treasury should take into account other relevant rules and procedures, including auction rules regarding positions, in its rulemaking, it must make the potential for collusion, manipulation, or market control its paramount concern. At the same time, I would emphasize that there is absolutely no presumption of manipulative intent solely because a position is large enough to be reported, and no such presumption should be inferred simply because a person is required to file such reports.

Internal controls: While the House-Senate agreement deletes provisions of H.R. 618 that would have established statutory requirements that Government securities brokers and dealers establish, maintain, and enforce written policies and procedures aimed at assuring compliance with the Federal securities laws, there was agreement on the part of both the House and Senate that the general responsibility of brokers and dealers to supervise their employees must be adhered to and vigorously enforced by both the Commission and the self-regulatory organizations [SRO's]. I would note that over the last several years, there have been a number of disturbing instances in which a breakdown in supervision and compliance at brokers and dealers has occurred. The subcommittee has asked the General Accounting Office to undertake an investigation into this matter, and Chairman DINGELL has recently joined this request and also asked the SEC to submit a report on its ongoing inquiry regarding recidivist rogue brokers to determine whether action is needed to strengthen the failure to supervise provisions of the Exchange Act and related SRO rules.

Sales practice anti-fraud and anti-manipulation rules: S. 422, as amended, contains the sales practice and antifraud and antimanipulation rulemaking provisions contained in Sections 5 and 7 of H.R. 618. In doing so, the House and Senate agreed on the need to eliminate current restrictions that prevent the NASD and bank regulators from developing and applying normal sales practice rules to the Government securities markets. We also agreed that the SEC should have the power to supplement its existing antifraud authorities by being able to issue prophylactic antifraud and antimanipulation rules.

We agreed on an enhanced consultation requirement with regard to both of these provisions in order to allow Treasury the opportunity to provide input regarding the impact of any rules adopted pursuant to these provisions on Treasury's ability to manage the Federal debt. While the consultative provisions refer to all Government securities, it is not anticipated that Treasury would normally have any special concerns or special expertise regarding the impact of any rules prescribed for the marketing or trading of securities other than Treasury securities. For example, it would not be anticipated that such authority would normally be invoked in the context of a rulemaking dealing solely with securities in Government sponsored enterprises.

CONCLUSION

This bill represents a truly bipartisan reform package that is targeted at the specific abuses and problem areas that were uncovered by the Subcommittee on Telecommunications and Finance during its 3-year investigation of the Government securities market.

The reform package set forth in this conference report is supported by both the Treasury Department and the Securities and Exchange Commission. Key provisions are also supported by the Federal Reserve Bank of New York. The bill has won support from a wide range of organizations representing brokers, dealers, and investors in the market, including the National Association of Securities Dealers, the Public Securities Association, the Government Finance Officers Association, the North American Securities Administrators Association, the Investment Company Institute, the United Shareholders Association, the Council of Institutional Investors, the National Association of Counties, the National League of Cities, and the National Association of State Retirement Administrators.

I would like to express my appreciation to both House and Senate Members and staff for their tireless efforts in crafting this important legislation. In particular, I would like to thank Chairman DINGELL and Consuela Washington of the full Committee staff, the distinguished ranking Republican member of the committee, Mr. MOORHEAD, and the ranking Republican on the subcommittee, Mr. FIELDS, and Steve Blumenthal and Peter Rich of the minority staff, Steve Cope of the Office of Legislative Counsel, and Jeffrey Duncan of the subcommittee staff. In addition, I also want to express my special thanks to Treasury Under-Secretary Frank Newman and his staff, particularly Darcy Bradbury, Norman Carlton, and George Tyler. I would also like to thank SEC Chairman Arthur Levitt and the SEC staff, particularly Kate Fulton and Catherine McGuire. Their hard work and technical support was invaluable in helping us to bridge the differences that had previously separated the various parties interested in the government securities reform legislation.

Again, I urge my colleagues to support this legislation. It makes critically-needed reforms in the regulation of the government securities market that must be enacted into law now if we are to assure continued public confidence in the fairness and integrity of the Government securities market and allow it to continue to efficiently serve the U.S. Government's financing objectives, meet the needs of other government issuers, and provide individual and institutional investors with a fair and well-regulated market in which to invest their savings.

II. LIMITED PARTNERSHIP ROLLUP REFORM ACT

Today the House is also taking up final consideration of legislation to reform the regulatory treatment of mergers and reorganizations of limited partnerships, known on Wall Street as rollups. This legislation, contained in Title III of S. 422, will protect investors from abusive limited partnership rollups and provide significant new protections to the millions of investors who are today at risk of losing their savings in abusive rollup transactions.

BACKGROUND

The Subcommittee on Telecommunications and Finance has conducted a 3-year investigation into the fairness and regulatory treatment of rollups. Our investigations revealed that virtually all of the rollups approved during the last several years have resulted in devastating financial losses for small investors all over the country. General partners and Wall Street investment banks raked in huge fees, while thousands of small, generally unsophisticated investors suffered devastating financial losses. According to an analysis by the American Association of Limited Partners of 18 major real estate and oil and gas rollups completed over the last decade, over 510,000 investors lost an estimated $1.7 billion, while general partners and others earned up to $200 million in fees and reimbursements. In the first year of trading, rollup securities often drop 70 percent below the values assigned to the securities at the time of the transaction, with first trading day losses averaging 45 percent.

The tragedy is that even those investors who voted against the deal got rolled up if a simple majority consents to the transaction. On Wall Street, this is called a "cram down" because it crams often worthless rollup securities down the throats of unwilling investors.

CONGRESSIONAL RESPONSE

After the Subcommittee on Telecommunications and Finance began shining a spotlight on abusive rollups, the SEC and the NASD took steps to improve regulatory scrutiny of these transactions. However, major gaps still exist that could allow abusive rollups to continue, and passage of this legislation is needed to close those loopholes and give limited partners the full range of protections they need. Title III of S.

422, as amended by our agreement with the Senate, would:

Allow dissenting investors to be provided with a financial alternative to the rollup and no longer be forced to accept cramdown securities;

Greatly improve disclosure of the independent third-party fairness opinions that often accompany rollup disclosure documents, require rollup sponsors who fail to obtain a fairness opinion disclose why not, and mandate a GAO study of fairness opinions;

Improve rollup disclosures to prominently highlight any risks and conflicts-of-interest and assure that rollup disclosure documents are more clear, concise, and comprehensible;

Prevent rollups from being utilized to make certain changes in corporate governance, unfair changes in fees paid to the general partner, and unfair transaction charges for failed transactions;

Make it easier for limited partners to fight abusive rollups by assuring they get access to investor lists and can communicate with other investors;

Assure investors have adequate time to review a rollup proposal by setting a 60-day minimum solicitation period; and finally,

Bar broker-dealers or any other proxy solicitors from being paid for "yes" votes but not for "no" votes, in order to reduce financial incentives for engaging in abusive boilerroom solicitation practices.

HOUSE-SENATE AGREEMENT

I would like to briefly discuss some of the key aspects of the House-Senate agreement on the rollup legislation.

While we would have preferred to maintain the mandatory fairness opinion and the House infeasibility triggering standard from the House bill, the Senate was unwilling to yield on these issues, forcing us instead to seek alternative means of assuring adequate protections to investors. We believe that we have done so by making a number of significant improvements in these provisions of the Senate bill.

Fairness opinions: We have beefed up the fairness opinion disclosure provisions of the bill. The bill now requires that if the general partner or rollup sponsor receives a fairness opinion or appraisal from someone whose compensation is tied to approval of the deal or who has not been given full access by the issuer to its personnel and premises and any books and records the preparer deems relevant, there must be fulsome disclosure of these facts. This is intended to put investors on notion that the objectivity and utility of any such opinion may be severely compromised if the preparer of the opinion has a direct economic stake in approval or completion of the transaction.

Second, we have mandated that if a fairness opinion is not obtained, the general partner or rollup sponsor must state the reasons why they have concluded that such an opinion is not necessary in order to permit the limited partners to make an informed decision on the proposed transaction. Currently, fairness opinions are not required by either Federal or State law, although general partners often obtain such opinions to help market the rollup to investors or defend themselves against litigation alleging that they have breached their fiduciary duties.

Particularly in those situations where a general partner or rollup sponsor proposes a rollup transaction which confers significant financial benefits on themselves, investors require an independent opinion of the entire fairness of the transaction. Factually accurate disclosure, by itself, is simply not sufficient to allow investors to make an informed consent, particularly when they are under intense and sometimes coercive pressure to approve a transaction. A fairness opinion, to be useful, must examine the entire fairness of the deal to investors in each of the affected partnerships, including whether there has been fair dealing by the general partner and whether a fair price has been offered to investors. If a fairness opinion has not been obtained, the rollup sponsor or general partner must now explain the reasons for their failure to do so in light of the importance that receiving such information and analysis could have to investors trying to make an informed decision regarding the rollup.

In addition to these disclosure provisions, the legislation also requires the GAO to undertake a comprehensive analysis of the nature and adequacy of fairness opinions. We are mandating this study in order to determine whether there is a need for the SEC to mandate that fairness opinions be prepared in connection with all rollup transactions, and whether the SEC should establish Federal standards regarding such opinions in order to improve their usefulness to investors.

Triggering language: In our discussions with the Senate, we also agreed to drop the so-called triggering language on dissenter's rights. This has the effect of allowing dissenting investors to be offered either an appraisal and compensation, retention of their original security, approval of the rollup by a 75 percent supermajority, the use of an independent committee, or other comparable rights designed to protect dissenting limited partners. We expect there to be a presumption in favor of providing dissenting investors appraisal rights wherever feasible.

We dropped the so-called triggering language from the House bill for three reasons. First, the 75 percent supermajority requirement is a very high standard for approval by each of the affected partnerships. Indeed, some say it is so high as to be virtually impossible to attain by anything other than a self-evidently beneficial transaction. Second, by adding a requirement that individuals serving on the independent committee be approved by a majority of the limited partners, the House has obtained greater confidence that the committee will genuinely represent and protect the interest of investors. Finally, by adding language requiring that any other rights offered to limited partners be comparable to the appraisal and compensation, we have greater assurance that if any other rights are offered, such rights will be adequate to protect the financial interests of limited partners.

I would also like to make note of some other important changes that have been made in the final version of the bill. We have picked up the Senate's exclusions from the definition of a rollup, but modified them to eliminate potential loopholes and better assure that abusive transactions would not be able to evade the purposes of the act.

First, we accepted the exclusion in section (5)(B) based on the understanding that it only affects transactions that are conducted in accordance with the terms of the preexisting limited partnership agreement and which are for securities in an operating company specifically identified in such agreements at the time of the formation of the original limited partnership. Unless both conditions are met, a transaction cannot go forward in reliance on this exclusion.

Second, we have accepted the exclusion in section (5)(D) based on the understanding that this excludes transactions only involving issuers that are not required to register or report under section 12 of the Exchange Act both before and after the transaction. If a transaction involved the issuance of a security that, after the transaction, would be convertible into a security of an issue that is required to register or report under section 12, this exclusion would not be available since the transaction would not involve only section 12 issuers.

Third, we agreed on the exclusion in section (5)(E) on the basis of new language providing the Commission authority to subject otherwise excluded transactions to the provisions of the act if it determines, by rule, that such action is necessary for the protection of investors. The Commission should not hesitate to make use of this authority if it determines that this exclusion is being utilized for transactions that are abusive and inconsistent with the purpose of this act. In addition, we have provided that transactions using this exclusion will not provide the existing general partner with any compensation to which they were not entitled as expressly provided for in the preexisting partnership agreements. This provision is intended to prevent general partners from being bought off by an independent acquirer and assure that the excluded transactions are the result of arms length negotiations and not self-dealing.

Fourth, we agreed on the so-called seasoned securities exclusion in section (5)(F) on the basis of three language changes. We provided the Commission authority to subject otherwise excluded transactions to the provisions of the Act if it determines, by rule, that such action is necessary for the protection of investors. The Commission should not hesitate to make use of this authority if it determines that this exclusion is being utilized for transactions that are abusive and inconsistent with the purposes of this act.

We have also added new language to this exclusion that assures that closely held securities are excluded from the requirement that the securities of the entity issued to investors in the transaction do not exceed 20 percent of the total outstanding securities of the entity. The purpose of this provision is to assure that there is an adequate public float of securities in the entity so that investors have will be likely to have a deep and liquid trading market available to them if they desire to sell the securities in the successor entity following the rollup transaction.

Finally, we have added language requiring that such securities be both reported and regularly traded for at least 12 months prior to the transaction. The Senate argued that this exclusion was in the public interest because the securities being offered to the limited partners were essentially equivalent to cash, in that the value of such securities was readily ascertainable due to the existence of a public market for such securities. The House, however, was concerned about the possibility that some NYSE, AMEX, or NASDAQ National Market System securities might not have a sufficiently liquid secondary trading market, and therefore the value of the securities offered or exchange could be reasonably expected to plummet in value following the transaction. The House therefore insisted that securities provided under this exclusion be a regularly traded securities, which, in this context, means securities for which there exists an active, liquid and orderly secondary trading market into which those limited partners who choose to do so may sell their new shares following the rollup transaction.

CONCLUSION

I would like to express my appreciation to the staffs and Members of both the House and Senate for their efforts to craft the rollup compromise, In particular, I would like to thank Chairman DINGELL and Consuela Washington of his staff, the gentleman from California [Mr. MOORHEAD], the gentleman from Texas [Mr. FIELDS], and Steve Blumenthal and Peter Rich of their staffs, and Jeffrey Duncan of the subcommittee staff. I would also like to thank Steve Cope of the Office of Legislative Counsel for his assistance. Finally, I would like to express my personal appreciation for the efforts of the many individuals and organizations who worked hard for passage of the important set of investor protections that we are enacting today.

I urge my colleagues to join with us in supporting passage of S. 422, as amended with the rollup reform provisions, so that we can put on the books appropriate rules that will protect the estimated 8 million limited partners who today are at risk of being subjected to an abusive rollup.

Mr. FIELDS of Texas. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of S. 422, the Government Securities Reform Act of 1993.

The purpose of the government securities market is to finance the national debt at the lowest possible cost. Public confidence in the integrity of the market is essential. It was to help preserve that confidence that Congress enacted the Government Securities Act of 1986, and for the same reason we act today.

The GSA established a Federal system for regulating the government securities market, including previously unregulated brokers and dealers, in order to protect investors and to ensure the maintenance of fair, honest and liquid markets. Treasury's rulemaking authority under the GSA, however, sunset on October 1, 1991.

I believe it is incumbent upon Congress to remedy the situation in which the Treasury Department is without authority to regulate its own marketplace. Our legislation does this by reauthorizing the Treasury Department to adopt rules as necessary.

I believe that the government has a role to play in ensuring that this critically important marketplace is not disrupted by the frauds and scandals it has endured during the last 3 years.

I want to commend our full committee chairman, JOHN DINGELL, Chairman ED MARKEY of the Telecommunications and Finance Subcommittee, and its ranking Republican member, JACK FIELDS, for their work in fashioning an appropriate response to the need to update the oversight regulations of this important market. I urge my colleagues to vote for this legislation.

I also rise today in support of those provisions of S. 422 that were contained in H.R. 617, the Limited Partnership Rollup Reform Act of 1993.

That bill outlines what changes must be made to the Federal securities laws to ensure that in rollup transactions adequate disclosure is made. It also ensures that conflicts of interest and self-dealing are minimized and that dissenters' rights are adequately protected.

Just as important, the rights of legitimate businessmen are maintained as well. The regulatory structure of the bill uses securities industry self-regulation as the first line of defense for investors. By pursuing this avenue of regulation, the industry's considerable expertise is brought to bear on its own problems, and the solutions, carefully overseen by the government's own securities regulator, will be in the best interest of all those who are involved in these transactions.

All of the members of the Energy and Commerce Committee share the same desire, to ensure that this bill focuses only on the abuses in these transactions and does not interfere with legitimate business done by reputable firms. I believe that we have achieved this goal admirably.

Mr. GONZALEZ. Mr. Speaker, I would like to reiterate several points concerning the conference report's government securities auction reforms which I first made when H.R. 618 was considered by the House.

But first I should point out that the scandal of Salomon Brothers involved fraud in the government securities auction process, with a resultant squeeze in the secondary market. The submission of false bids by Salomon Brothers at several government securities auctions forced the resignation of several top level officers of the firm, including the chief executive officer. This is why I insisted that any bill to reform the government securities market must include reforms of the auction process which was so easily manipulated.

The conference report on S. 422 contains several important long-term reforms to the government securities auction process. These reforms will increase participation and competition in the government securities auction process, and thereby lower the cost of financing the Government's debt.

The first provision guarantees that any bidder who meets a minimum creditworthiness standard will be eligible to participate in the new automated auction system. Currently, only the primary dealers are allowed to participate in the new automated system. This gives them an unfair competitive advantage.

The second provision prohibits the Treasury Department from giving an auction bidder any advantage, favorable treatment, or other benefit. Only reasonable and necessary exceptions in the public interest would be allowed. The favored treatment historically given to the primary dealers for no valid reason would be stopped once and for all.

Third, the activities of the secretive Treasury advisory borrowing committee will be pried open to the public. Generally, all meetings are open, except for those where the committee deliberates and reports to the Treasury. I am pleased that the Treasury Department has agreed to implement this provision in advance of the passage of the conference report. In fact, the borrowing committee has already held an open meeting under this new policy.

The minutes of borrowing committee meetings must be available to the public within 3 business days. Also, committee members are strictly prohibited from divulging the contents of the committee's discussions. A person violating this provision will be permanently banned from the committee and the firm the person was associated with would also be banned from the committee for 5 years.

In addition, I have received assurances from the Chairman of the Securities and Exchange Commission that committee members who violated this prohibition would be subject to liability under insider trading laws. I would refer Members to the debate on H.R. 618 contained in the October 5, 1993, CONGRESSIONAL RECORD, where I placed into the record a letter I received from Chairman Arthur Levitt on this point.

I have also received assurances from the Treasury Department that it will improve the diversity of the committee membership to reflect more accurately the array of participants in the government securities market. The Treasury Department will ensure that at least one-fourth of the committee's membership turns over every 2 years, with a complete turnover every 8 years.

Finally, the Secretary must report to Congress every year on violations and suspected violations of the auction rules. The Treasury will continue its practice of referring all such violations to the SEC or Justice Department for further investigation or prosecution.

I appreciate the cooperation of the Treasury Department in accepting these much needed reforms, and the work of everyone involved in producing this legislation. I urge passage of the conference report.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the Government Securities Act Amendments of 1993. Passage of this bill is the culmination of a process that begin over 2 years ago, and is a tribute to the cooperation of three committees in the House—Energy and Commerce, Banking, and Ways and Means—and our colleagues on the Senate Banking Committee, as well as senior officials and staff of the Department of Treasury, the Securities and Exchange Commission, and the Federal Reserve. Each provision of the bill has been carefully crafted, keeping in mind the manner in which Treasury finances and manages the public debt, and the critical need to maintain investor confidence and the integrity of the market in Government securities. The special provisions governing rules for financial-institution Government securities brokers and Government securities dealers are a result of the unique structure of the Treasury market and its regulation, and are not meant as precedent for any other markets or any future legislation.

Although no formal conference was convened to reconcile differences between the House and Senate bills, staffs from both bodies conducted extensive negotiations and ultimately reconciled the differences between the two bills. No formal conference was necessary due to the success of this process. I commend the staff for their hard work and diligence, and thank my colleagues in the House and the Senate, especially Senators DODD and GRAMM, for their leadership and their efforts to resolve their differences in such an expeditious and considerate manner. The statement that follows my remarks, and an identical statement that appears in the Senate proceedings on this bill, shall constitute the legislative history on this bill in lieu of a formal conference report.

This legislation is the product of a bipartisan effort in the House and the Senate to produce a focused, well-balanced regulatory framework in response to significant changes that have occurred in the Government securities market since enactment of the Government Securities Act of 1986, and to scandals in the Government securities market that threaten to shake public confidence in the fairness of that market. I especially want to commend Mr. MARKEY, the chairman of the Subcommittee on Telecommunications and Finance, and Messrs. MOORHEAD and FIELDS, the ranking Republican members of the committee and of the subcommittee, respectively, for their extraordinary leadership and perseverance on this issue, and to thank Mr. GONZALEZ, the chairman of the House Banking Committee, and Messrs. ROSTENKOWSKI and PICKLE, the chairmen of the Committee on Ways and Means and of its Subcommittee on Oversight, respectively, for their important contributions to this legislation.

I urge my colleagues to support passage of this bill.

STATEMENT ON S. 422, THE GOVERNMENT SECURITIES ACT AMENDMENTS

On July 29, 1993, the Senate passed S. 422, the Government Securities Act Amendments of 1993, and, on October 5, 1993, the House passed the bill with an amendment containing the language of the House-passed bill, H.R. 618, the Government Securities Reform Act of 1993. The legislation that we consider today is, with a few modifications, almost identical to the bill (S. 422 as amended by the text of H.R. 618, the previously-passed House bill) that was passed by the House on October 5, 1993. These modifications are reflected in an amendment which was passed by the Senate earlier today. The legislation before the House thus encompasses the amendments of the House to S. 422 with an amendment. In lieu of a conference report, this floor statement represents the views of the chairman and ranking minority member of the Committee on Energy and Commerce and the chairman and ranking minority member of the Subcommittee on Telecommunications and Finance and is intended to serve as the legislative history, along with S. Rpt. 103–109 (July 27, 1993) and CONGRESSIONAL RECORD (July 29, 1993) at 17865–17866, and H. Rpt. 103–255 (September 23, 1993) and CONGRESSIONAL RECORD (October 5, 1993) at 23620–23635.

ANALYSIS OF MAJOR PROVISIONS

Extension of Rulemaking Authority.—In 1986, Congress granted specific rulemaking authority to the Secretary of the Treasury (Treasury) and provided that the authority of the Treasury to issue orders and to propose and adopt rules would terminate on October 1, 1991 (P.L. 99–571). This was done in response to concerns raised by 1985 Treasury testimony strongly opposing the Government Securities Act (GSA).

However, the 1990 Joint Treasury, Securities and Exchange Commission (SEC), and Board of Governors of the Federal Reserve System (Federal Reserve) Study of the Effectiveness of the Implementation of the Government Securities Act reached the following unanimous conclusion: "[t]he implementation of the GSA regulations has met the objectives established by Congress in enacting the GSA. The rules have been timely and fairly implemented; have not imposed excessive and overly burdensome requirements; have not impaired the liquidity, efficiency and integrity of the government securities market; and have improved and strengthened investor safety in the market. Most importantly, although some government securities brokers or dealers have failed or discontinued business since the inception of the GSA regulations, no customers have lost any funds or securities as a result of such occurrences."

Accordingly, the amendment eliminates the sunset date and extends the Treasury rulemaking authority pursuant to section 15C(b) of the exchange Act, as well as the new large position reporting authority granted to Treasury under this amendment.

Transaction Records.—The amendment requires all government securities brokers and dealers to furnish to the SEC on Request records of government securities transactions, including records of the date and time of execution of trades, as the SEC may require to reconstruct trading in the course of a particular inquiry of investigation being conducted by the SEC for enforcement or surveillance purposes. It is our intention that the SEC and Treasury will take the necessary steps under their existing authorities to adopt necessary recordkeeping rules to assure that appropriate records are made and maintained by all government securities brokers and dealers, and that they will work together to make sure that inadequate recordkeeping and impediments to trade reconstruction are addressed so that the SEC is able to carry out effectively its responsibilities under the federal securities laws. It is further our intent that, in utilizing its authority to require information in machine readable form under new section 15C(d)(3)(A), the SEC shall consider the impact of this requirement on small government securities brokers and dealers and should work with these smaller firms to develop an efficient means of compliance, such as the electronic blue sheets used for all firms in the equity markets. *See* House Comm. on Energy and Commerce, Report to Accompany H.R. 618, H.R. Rep. No. 225, 103rd Cong., 1st Sess. (September 23, 1993) at 42.

Large Position Reporting.—The amendment authorities Treasury to prescribe rules to require persons holding, maintaining or controlling large positions in to-be-issued or recently-issued Treasury securities to file reports regarding those positions.

The amendment rests on the belief that the Secretary of the Treasury is well positioned to determine whether large position reporting is necessary and appropriate in order to monitor the impact in the Treasury securities market of concentrations of positions and to assist the SEC in its enforcement of the Exchange Act. It is our expectation that substantial deference will be accorded to any determinations that Treasury makes in this regard.

The statutory provision regarding the minimum size of a position subject to reporting is meant to ensure that the minimum size will not be set so low that positions which could not affect significantly the market for a particular security are subject to reporting rules. However, there is no presumption of manipulative intent solely because a position is large enough to be subject to reporting rules adopted by Treasury.

It is our expectation that, in determining the minimum size of a reportable position, Treasury will consider, among other factors, other relevant rules and procedures, including auction rules regarding positions. It is our further expectation that Treasury will take into account the likelihood of collusion among market participants. Substantial deference should be accorded to Treasury's determination of the minimum size of a position subject to reporting requirements.

By inserting the requirement that Treasury, in adopting rules regarding large position reporting, take into account any impact on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt, the amendment does not contemplate that a formal statistical exercise be performed to justify the rulemaking. Rather, it is our intent to ensure that Treasury considers all the important responsibilities and goals that it has in managing the pubic debt in any rulemaking concerning large position reporting.

We expect the Treasury to consult with the Federal Reserve Bank of New York in formulating large position reporting rules concerning the Bank's need to maintain the confidentiality of the accounts it maintains for foreign central banks, foreign governments, and official international financial institutions.

Finally, it is our intent that large position reports would be information within the scope of the Trade Secrets Act (TSA), 18 U.S.C. 1905, which prohibits the disclosure of certain types of information by officers and employees of the federal government unless "authorized by law." *See Chrysler* v. *Brown*, 441 U.S. 281, 295-304 (1979) (disclosure may be deemed authorized by law only when made pursuant to statute or substantive agency regulation authorized by statute). The TSA covers "information coming to [such person] in the course of his employment or official duties or by reason of any * * * report or record * * * concern[ing] or relat[ing] to * * * the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association." *See CNA Financial Corp.* v. *Donovan*, 830 F.2d 1132, 1140 (D.C. Cir. 1987) (describing the scope of the TSA as "oceanic" and as "encompass[ing] virtually every category of business information likely to be in the files of an agency.") In addition to this criminal statute, Section 24(b) of the Exchange Act specifically makes it unlawful "for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, statement, report, contract, correspondence, notice, or other document filed with or otherwise obtained by the Commission (1) in contravention of the rules and regulations of the Commission under the [the FOIA] or (2) in circumstances where the Commission has determined pursuant to such rules to accord confidential treatment to such information." Members, officers, or employees of the SEC who disclose information in violation of Section 24 and the rules thereunder are subject to criminal penalties pursuant to Section 32 of the Exchange Act. Officers and employees are also prohibited pursuant to Rule 0-4 of the SEC's Rules and Regulations under the Exchange Act from making "non-public records of the Commission" available to others without SEC authorization.

Fraudulent and Manipulative Acts and Practices.—The amendment extends the SEC's current authority under sections 15(c) (1) and (2) of the Exchange Act to all government securities brokers and dealers and to all transactions in government securities. This grant of authority will enable the SEC to prescribe rules to prevent fraudulent, deceptive, or manipulative acts or practices or the use of any fictitious quotations in the government securities market.

The amendment requires the SEC to consult with and consider the views of the Treasury and the bank and thrift regulatory agencies prior to adopting any such rules, and to respond in writing to any written comments submitted in such consultation process. The amendment provides for enhanced consultation between the regulators in order to respond to particular concerns about the potential impact of these antifraud rules on the Treasury's ability to manage the federal debt. Accordingly, this provision is designed to avoid any unforeseen effects of new rules on the auctions or secondary market for Treasury securities. This concern ordinarily would not be expected to arise with respect to the application of such rules to the marketing and trading of other types of government securities.

Sales Practice Rulemaking Authority.—The amendment removes current limitations on the ability of the National Association of Securities Dealers (NASD) to regulate its members' transactions in exempted securities other than municipal securities, and authorizes the bank and thrift regulatory agencies to prescribe rules applicable to the financial institutions they supervise, to prevent fraudulent and manipulative sales practices, and promote just and equitable principles of trade. The amendment's consultation and coordination requirements are intended to facilitate consistency of financial institution rules with analogous self-regulatory organization rules, as well as consistent administration and enforcement of such rules, in order to maintain the integrity of the market for government securities. The amendment provides for enhanced consultation between the regulators in order to respond to particular concerns about the potential impact of these sales practice rules on the Treasury's ability to manage the federal debt. Accordingly, this provision is designed to avoid any unforeseen effects of new rules on the auctions or secondary market for Treasury securities. This concern ordinarily would not be expected to arise with respect to the application of such rules to the marketing and trading of other types of government securities.

Market Information.—The amendment adds government securities market transparency to the list of subjects on which the SEC is required to report to Congress annually. These reports will provide information necessary for proper ongoing evaluation of the sufficiency of private sector developments, and are necessary to assure that momentum toward improved market transparency continues and is not reversed.

SIPC Disclosure.—The amendment prohibits a government securities broker or dealer, registered under Exchange Act Section 15C(a)(1)(A), that is not a member of the Securities Investor Protection Corporation (SIPC) from effecting securities transactions in contravention of rules prescribed to assure that customers receive complete, accurate, and timely disclosure of the inapplicability of SIPC coverage to their accounts.

False and Misleading Statements in Government Securities Offerings.—The amendment explicitly provides that, in connection with any bid for a purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker or dealer, or bidder for or purchaser of securities in such offering, shall knowingly and willfully make any false or misleading statement or omit any fact necessary to make any written statement made not misleading. The amendment does not alter the SEC's existing authority under sections 10(b) or 17(a) of the Exchange Act or the rules promulgated thereunder.

Treasury Auction Reforms.—The amendment requires that, by the end of 1995, any bidder, who meets the Treasury's minimum creditworthiness standard and agrees to comply with the applicable rules and regulations, be permitted to submit a computer-generated tender to any automated auction system established by Treasury for the sale upon issuance of Treasury securities. The amendment also prohibits Treasury from providing any government securities broker or government securities dealer any advantage, favorable treatment, or other benefit, subject only to necessary and appropriate exceptions. Finally, the amendment opens to the public, subject to reasonable exceptions, the meetings of the Treasury Borrowing Committee, requires minutes of each meeting to be publicly available within three business days, and explicitly prohibits Committee members from divulging the contents of the Committee's discussions. The amendment provides penalties for violations of the latter prohibition (that are in addition to any other applicable penalty or enforcement action) and requires Treasury to submit an annual report to Congress with respect to violations of Treasury auction rules or regulations.

Studies, Reports and Notices to Congress.—The amendment provides for (1) a joint Treasury, SEC and Federal Reserve study and report on the effectiveness of the regulatory system for government securities as amended by this legislation; (2) a Treasury study and report on the continuing need for a separate regulatory system for government securities brokers and government securities dealers registered with the SEC under section 15C of the Exchange Act; (3) an annual report by Treasury on the Treasury's public debt activities and the operations of the Federal Financing Bank; and (4) a notice to the Congress of any significant modifications to the Treasury auction process at the time such modifications are implemented.

Mr. FIELDS of Texas. Mr. Speaker, I strongly support this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on S. 422, the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2840) to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty Tribunal Reform Act of 1993".

SEC. 2. COPYRIGHT ARBITRATION ROYALTY PANELS.

(a) ESTABLISHMENT AND PURPOSE.—Section 801 of title 17, United States Code, is amended as follows:

(1) The section designation and heading are amended to read as follows:

"§ 801. Copyright arbitration royalty panels: Establishment and purpose"

(2) Subsection (a) is amended to read as follows:

"(a) ESTABLISHMENT.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, is authorized to appoint and convene copyright arbitration royalty panels.".

(3) Subsection (b) is amended—

(A) by inserting "PURPOSES.—" after "(b)";

(B) in the matter preceding paragraph (1), by striking "Tribunal" and inserting "copyright arbitration royalty panels";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "Commission" and inserting "copyright arbitration royalty panels";

(ii) in subparagraph (B), by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panels"; and

(iii) in subparagraph (D) by adding "and" after the semicolon;

(D) in paragraph (3)—

(i) by striking "and 119(b)," and inserting "119(b), and 1003,"; and

(ii) by striking the sentence beginning with "In determining" through "this title"; and

(E) by striking paragraph (4);

(4) by amending subsection (c) to read as follows:

"(c) RULINGS.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, may, before a copyright arbitration royalty panel is convened, make any necessary procedural or evidentiary rulings that would apply to the proceedings conducted by such panel."; and

(5) by adding at the end the following new subsection:

"(d) ADMINISTRATIVE SUPPORT OF COPYRIGHT ARBITRATION ROYALTY PANELS.—The Library of Congress, upon recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter.".

(b) MEMBERSHIP AND PROCEEDINGS.—Section 802 of title 17, United States Code, is amended to read as follows:

"§ 802. Membership and proceedings of copyright arbitration royalty panels

"(a) COMPOSITION OF COPYRIGHT ARBITRATION ROYALTY PANELS.—A copyright arbitration royalty panel shall consist of 3 arbitrators selected by the Librarian of Congress pursuant to subsection (b).

"(b) SELECTION OF ARBITRATION PANEL.—Not later than 10 days after publication of a notice in the Federal Register initiating an arbitration proceeding under section 803, and in accordance with procedures specified by the Register of Copyrights, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, select 2 arbitrators from lists provided by professional arbitration associations. Qualifications of the arbitrators shall include experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes, and any qualifications which the Librarian of Congress, upon recommendation of the Register of Copyrights, shall adopt by regulation. The 2 arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same lists, who shall serve as the chairperson of the arbitrators. If such 2 arbitrators fail to agree upon the selection of a third arbitrator, the Librarian of Congress shall promptly select the third arbitrator. The Librarian of Congress, upon recommendation of the Register of Copyrights, shall adopt regulations regarding standards of conduct which shall govern arbitrators and the proceedings under this chapter.

"(c) ARBITRATION PROCEEDINGS.—Copyright arbitration royalty panels shall conduct arbitration proceedings, subject to subchapter II of chapter 5 of title 5, United States Code, for the purpose of making their determinations in carrying out the purposes set forth in section 801. The arbitration panels shall act on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration panel determinations, and rulings by the Librarian of Congress under section 801(c). Any copyright owner who claims to be entitled to royalties under section 111, 116, or 119, or any interested copyright party who claims to be entitled to royalties under section 1006, may submit relevant information and proposals to the arbitration panels in proceedings applicable to such copyright owner or interested copyright party, and any other person participating in arbitration proceedings may submit such relevant information and proposals to the arbitration panel conducting the proceedings. In ratemaking proceedings, the parties to the proceedings shall bear the entire cost thereof in such manner and proportion as the arbitration panels shall direct. In distribution proceedings, the parties shall bear the cost in direct proportion to their share of the distribution.

"(d) PROCEDURES.—Effective on the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, the Librarian of Congress shall adopt the rules and regulations set forth in chapter 3 of title 37 of the Code of Federal Regulations to govern proceedings under this chapter. Such rules and regulations shall remain in effect unless and until the Librarian, upon recommendation of the Register of Copyrights, adopts supplemental or superseding regulations under subchapter II of chapter 5 of title 5, United States Code.

"(e) REPORT TO THE LIBRARIAN OF CONGRESS.—Not later than 180 days after publication of the notice in the Federal Register initiating an arbitration proceeding, the copyright arbitration royalty panel conducting the proceeding shall report to the Librarian of Congress its determination concerning the royalty fee or distribution of royalty fees, as the case may be. Such report shall be accompanied by the written record, and shall set forth the facts that the arbitration panel found relevant to its determination.

"(f) ACTION BY LIBRARIAN OF CONGRESS.—Within 60 days after receiving the report of a copyright arbitration royalty panel under subsection (e), the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt or reject the determination of the arbitration panel. The Librarian shall adopt the determination of the arbitration panel unless the Librarian finds that the determination is arbitrary or contrary to the applicable provisions of this title. If the Librarian rejects the determination of the arbitration panel, the Librarian shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be. The Librarian shall cause to be published in the Federal Register the determination of the arbitration panel, and the decision of the Librarian (including an order issued under the preceding sentence). The Librarian shall also publicize such determination and decision in such other manner as the Librarian considers appropriate. The Librarian shall also make the report of the arbitration panel and the accompanying record available for public inspection and copying.

"(g) JUDICIAL REVIEW.—Any decision of the Librarian of Congress under subsection (f) with respect to a determination of an arbitration panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. If no appeal is brought within such 30-day period, the decision of the Librarian is final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in the decision. The pendency of an appeal under this paragraph shall not relieve persons obligated to make royalty payments under sections 111, 115, 116, 118, 119, or 1003 who would be affected by the determination on appeal to deposit the statement of account and royalty fees specified in those sections. The court shall have jurisdiction to modify or vacate a decision of the Librarian only if it finds, on the basis of the record before the Librarian, that the Librarian acted in an arbitrary manner. If the court modifies the decision of the Librarian, the court shall have jurisdiction to enter its own determination with respect to the amount or distribution of royalty fees and costs, to order the repayment of any excess fees, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the arbitration panel and remand the case to the Librarian for arbitration proceedings in accordance with subsection (c).

"(h) ADMINISTRATIVE MATTERS.—

"(1) DEDUCTION OF COSTS FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. If no royalty pool exists from which their costs can be deducted, the Librarian of Congress and the Copyright Office may assess their reasonable costs directly to the parties to the most recent relevant arbitration proceeding.

"(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations

Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 115, 116, 118, or 119 or chapter 10.".

(c) PROCEDURES OF THE TRIBUNAL.—Section 803 of title 17, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 8 of such title, are repealed.

(d) INSTITUTION AND CONCLUSION OF PROCEEDINGS.—Section 804 of title 17, United States Code, is amended as follows:

(1) The section heading is amended to read as follows:

"§ 803. Institution and conclusion of proceedings".

(2) Subsection (a) is amended to read as follows:

"(a)(1) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under subparagraphs (A) and (D) of section 801(b)(2), during the calendar years specified in the schedule set forth in paragraphs (2), (3), and (4), any owner or user of a copyrighted work whose royalty rates are specified by this title, established by the Copyright Royalty Tribunal before the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, or established by a copyright arbitration royalty panel after such date of enactment, may file a petition with the Librarian of Congress declaring that the petitioner requests an adjustment of the rate. The Librarian of Congress shall, upon the recommendation of the Register of Copyrights, make a determination as to whether the petitioner has such a significant interest in the royalty rate in which an adjustment is requested. If the Librarian determines that the petitioner has such a significant interest, the Librarian shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter.

"(2) In proceedings under section 801(b)(2)(A) and (D), a petition described in paragraph (1) may be filed during 1995 and in each subsequent fifth calendar year.

"(3) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, a petition described in paragraph (1) may be filed in 1997 and in each subsequent tenth calendar year.

"(4)(A) in proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 116, a petition described in paragraph (1) may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phono-record players during the 1-year period ending March 1, 1989, the Librarian of Congress shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, convene a copyright arbitration royalty panel. The arbitration panel shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of non-dramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the arbitration panel, in accordance with section 802, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).".

(3) Subsection (b) is amended—

(A) by striking "subclause" and inserting "subparagraph";

(B) by striking "Tribunal" the first place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress";

(C) by striking "Tribunal" the second and third places it appears and inserting "Librarian";

(D) by striking "Tribunal" the last place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress"; and

(E) by striking "(a)(2), above" and inserting "subsection (a) of this section".

(4) Subsection (c) is amended by striking "Tribunal" and inserting "Librarian of Congress".

(5) Subsection (d) is amended—

(A) by striking "Chairman of the Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "determination by the Tribunal" and inserting "a determination".

(6) Subsection (e) is stricken out.

(e) REPEAL.—Sections 805 through 810 of title 17, United States Code, are repealed.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 8 of title 17, United States Code, is amended to read as follows:

"CHAPTER 8—COPYRIGHT ROYALTY TRIBUNAL

"Sec.
"801. Copyright arbitration royalty panels: establishment and purpose.
"802. Membership and proceedings of copyright arbitration royalty panels.
"803. Institution and conclusion of proceedings.".

SEC. 3. JUKEBOX LICENSES.

(a) REPEAL OF COMPULSORY LICENSE.—Section 116 of title 17, United States Code, and the item relating to section 116 in the table of sections at the beginning of chapter 1 of such title, are repealed.

(b) NEGOTIATED LICENSES.—Section 116A of title 17 United States Code, is amended—

(A) by redesignating such section as section 116;

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(C) in subsection (b)(2) (as so redesignated) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in subsection (c) (as so redesignated)—

(i) in the subsection caption by striking "ROYALTY TRIBUNAL" and inserting "ARBITRATION ROYALTY PANEL";

(ii) by striking "subsection (c)" and inserting "subsection (b)"; and

(iii) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(E) by striking subsections (e), (f), and (g).

(2) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by striking "116A" and inserting "116".

SEC. 4. PUBLIC BROADCASTING COMPULSORY LICENSE.

Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first 2 sentences;

(B) in the third sentence by striking "works specified by this subsection" and inserting "published nondramatic musical works and published pictorial, graphic, and sculptural works";

(C) in paragraph (1)—

(i) in the first sentence by striking ", within one hundred and twenty days after publication of the notice specified in this subsection,"; and

(ii) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in paragraph (2) by striking "Tribunal" and inserting "Librarian of Congress";

(E) in paragraph (3)—

(i) by striking the first sentence and inserting the following: "In the absence of license agreements negotiated under paragraph (2), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Librarian of Congress.";

(ii) in the second sentence—

(I) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel"; and

(II) by striking "clause (2) of this subsection" and inserting "paragraph (2)"; and

(iii) in the last sentence by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(F) by striking paragraph (4);

(2) in subsection (c)—

(A) by striking "1982" and inserting "1997"; and

(B) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(3) in subsection (d)—

(A) by striking "to the transitional provisions of subsection (b)(4), and";

(B) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel";

(C) in paragraphs (2) and (3) by striking "clause" each place it appears and inserting "paragraph"; and

(4) in subsection (g) by striking "clause" and inserting "paragraph".

SEC. 5. SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "; after consultation with the Copyright Royalty Tribunal," each place it appears;

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in paragraph (3) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(D) in paragraph (4)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in subparagraph (B) by striking "conduct a proceeding" in the last sentence and inserting "convene a copyright arbitration royalty panel"; and

(2) in subsection (c)—

(A) in the subsection caption by striking "DETERMINATION" and inserting "ADJUSTMENT";

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(II) by striking the last sentence and inserting the following: "Such arbitration proceeding shall be conducted under chapter 8.";

(ii) by striking subparagraphs (B) and (C);

(iii) in subparagraph (D)—

(I) by redesignating such subparagraph as subparagraph (B); and

(II) by striking "Arbitration Panel" and inserting "copyright" arbitration royalty panel appointed under chapter 8";

(iv) by striking subparagraphs (E) and (F);

(v) by amending subparagraph (G) to read as follows:

"(C) Period during which decision of arbitration panel or order of Librarian effective.—The obligation to pay the royalty fee established under a determination which—

"(i) is made by a copyright arbitration royalty panel in an arbitration proceeding under this paragraph and is adopted by the Librarian of Congress under section 802(e), or

"(ii) is established by the Librarian of Congress under section 802(e),

shall become effective as provided in section 802(f)."; and

(vi) in subparagraph (H)—

(I) by redesignating such subparagraph as subparagraph (D); and

(II) by striking "adopted or ordered under subparagraph (F)" and inserting "referred to in subparagraph (C)"; and

(D) by striking paragraph (4).

SEC. 6. CONFORMING AMENDMENTS.

(a) Cable Compulsory License.—Section 111(d) of title 17, United States Code, is amended as follows:

(1) Paragraph (1) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(2) Paragraph (1)(A) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(3) Paragraph (2) is amended by striking the second and third sentences and by inserting the following: "All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Librarian of Congress in the event no controversy over distribution exists, or by a copyright arbitration royalty panel in the event a controversy over such distribution exists.".

(4) Paragraph (4)(A) is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(5) Paragraph (4)(B) is amended to read as follows:

"(B) After the first day of August of each year, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, determine whether there exists a controversy concerning the distribution of royalty fees. If the Librarian determines that no such controversy exists, the Librarian shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled to such fees, or to their designated agents. If the Librarian finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty fees.".

(6) Paragraph (4)(C) is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress".

(b) Audio Home Recording Act.—

(1) Royalty payments.—Section 1004(a)(3) of title 17, United States Code, is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(2) Deposit of royalty payments.—Section 1006 of title 17, United States Code, is amended by striking the last sentence.

(3) Entitlement to royalty payments.—Section 1006(c) of title 17, United States Code, is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress shall convene a copyright arbitration royalty panel which".

(4) Procedures for distributing royalty payments.—Section 1007 of title 17, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" and inserting "Librarian of Congress";

(B) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress'; and

(C) in subsection (c)—

(i) by striking the first sentence and inserting "If the Librarian of Congress finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments.";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in the last sentence by striking "its reasonable administrative costs" and inserting "the reasonable administrative costs incurred by the Librarian".

(5) Arbitration of certain disputes.—Section 1010 of title 17, United States Code, is amended—

(A) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress";

(B) in subsection (e)—

(i) in the subsection caption by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in subsection (f)—

(i) in the subsection caption by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(ii) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(iii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iv) in the third sentence by striking "its" and inserting "the Librarian's"; and

(D) in subsection (g)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(ii) by striking "Tribunal's decision" and inserting "decision of the "Librarian of Congress"; and

(iii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress".

SEC. 7. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) In General.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Effectiveness of Existing Rates and Distributions.—All royalty rates and all determinations with respect to the proportionate division of compulsory license fees among copyright claimants, whether made be the Copyright Royalty Tribunal, or by voluntary agreement, before the effective date set forth in subsection (a) shall remain in effect until modified by voluntary agreement or pursuant to the amendments made by this Act.

(c) Transfer of Appropriations.—All unexpended balances of appropriations made to the Copyright Royalty Tribunal, as of the effective date of this Act, are transferred on such effective date to the Copyright Office for use by the Copyright Office for the purposes for which such appropriations were made.

SEC. 8. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.

(a) Alaska Exception.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) State of Alaska Exception.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall be 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7.5 miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I shall not object, but I wish to give the gentleman from Texas the opportunity to explain this legislation, and I yield to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, H.R. 2840 abolishes the Copyright Royalty Tribunal and reassigns its duties to ad hoc arbitration panels, the Copyright Office, and the Librarian of Congress. This legislation passed the House on October 12, 1993, under suspension of the rules.

On November 20, the Senate passed the legislation with an amendment adding a provision which narrowly redefines the limitations on the performance of longshore work by alien crewmen in Alaska. This action was taken in response to problems which have arisen due to the implementation of the Immigration Technical Corrections Act of 1991. The present provision reflects an agreement finally reached between fishing interests and the longshore union in Alaska. I am delighted that the groups were able to resolve their differences before the expiration of the interim agreement next month.

As far as I know, the Senate amendment is without opposition in this body as well.

I urge its adoption.

Mr. HUGHES. Mr. Speaker, the House passed this bill on October 12. The Senate passed the bill on November 20, with a few technical amendments. These amendments represent improvements and I urge my colleagues to support the bill and concur in the Senate amendments.

This bill will abolish the Copyright Royalty Tribunal, the only Government agency to be eliminated this session of Congress despite a lot of talk about reinventing Government. The tribunal's light workload and its members' inability to operate under majority rule argue for its abolition and replacement with ad hoc arbitration panels. This bill will save taxpayers and copyright owners money.

I wish to thank my colleague, CARLOS MOORHEAD, ranking Republican member of the Subcommittee for Intellectual Property and Judicial Administration, which I chair, for his leadership on the bill, as well as Senators DECONCINI and HATCH, who were the sponsors of the legislation in the other body, and without whom this legislation would not have been possible.

I would like to briefly explain the amendments made by the Senate.

First, in order to address concerns of small royalty claimants, the Senate amendments requires the Librarian of Congress to choose two arbitrators from lists provided by professional arbitration association, rather than, as in the House-passed bill, from lists provided by the parties.

Second, in order to ensure that the arbitrations will be efficiently handled, the arbitrators selected are required to have experience in conducting arbitration proceedings and facilitating dispute resolution and settlement.

Third, the arbitration panels are required to conduct their proceedings according to the Administrative Procedures Act.

Fourth, the Librarian of Congress is required to adopt the rules and regulations of the Copyright Royalty Tribunal until such time as the Librarian, upon the recommendation of the Register of Copyrights, adopts superseding or supplemental regulations.

Fifth, the Librarian of Congress is directed to adopt the arbitration panel's decisions unless he or she finds those decisions are arbitrary or contrary to the applicable provisions of title 17, United States Code. The House-passed limited this review to arbitrary determinations.

Sixth, assignment of the costs of the arbitration proceedings is treated differently depending on whether the proceeding is one for ratemaking or distribution of royalties. If the proceeding is for ratemaking, the parties shall bear the cost in direct proportion to their share of the distribution. If the proceeding is for distribution of royalties, the parties are to bear costs in such manner and proportion as the arbitration panel directs. The House-passed version had only method of allocating costs, that for distribution proceedings.

Seventh, the Librarian of Congress is directed to adopt regulations regarding the standards of conduct governing arbitration panels. No such provision was contained in the House-passed bill. The establishment of ethical criteria in the selection and conduct of arbitrators is a welcome addition to the legislation.

Eighth, the effective date of the act has been changed from January 1, 1994, to the date of enactment. Since the 1990 cable distribution has been suspended at the request of the parties, there is no need to delay the effective date.

I would also like to comment briefly on a few issues raised by the parties who currently participate in proceedings of the Copyright Royalty Tribunal. There are a number of practices of the tribunal that have grown up over the years and that should be continued by the ad hoc arbitration panels established by H.R. 2840. The first of these concerns partial distribution of royalty funds. Even in instances where there is a controversy over the distribution of royalties, the CRT has traditionally distributed a very large proportion of the royalties before final adjudication. An amount sufficient to cover disputed amounts is retained. This practice, which gets needed royalties to copyright owners at the earliest possible time is a good one and should be followed by the Librarian of Congress upon enactment of the Copyright Royalty Reform Act of 1993.

The CRT has also held open hearings at which oral testimony and cross examination is permitted. This too should be continued by the copyright arbitration royalty panels. In order to reduce the amount of actual litigation time, and thereby reduce expenses, I encourage the Librarian to promulgate regulations permitting exchange of information before the tolling of the 180 decision period, and, to the extent practicable, generally to permit precontroversy discovery.

As discussed above, the Senate amendments require the Librarian of Congress to select arbitrators from a list supplied from professional arbitration associations and to select individuals with experience in adjudication and dispute settlement. I have been informed that there are such associations which include former Federal and State judges. These individuals would appear to be well-qualified to perform the arbitration duties assigned under the bill.

Parties who appear before the CRT requested that the bill require the Librarian to choose arbitrators willing to serve a 6-year term in order that there be continuity in decisionmaking. These individuals would only be paid as they needed, however. I agree that continuity is desirable. The Librarian of Congress certainly has the discretion to chose individuals willing to serve for 6 years. The Senate decided not to make this a requirement, however, and I agree with that decision.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

EXTENDING CERTAIN AUTHORITY FOR THE MARSHAL OF THE SUPREME COURT AND SUPREME COURT POLICE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Senate bill (S. 1764) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police be rereferred exclusively to the Committee on the Judiciary, and to discharge the Committee on the Judiciary from further consideration of the Senate bill (S. 1764) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I do so to give the gentleman an opportunity to explain to us what this bill does.

I yield to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, this legislation extends for 3 years the authority of the Supreme Court Police to protect Justices of the U.S. Supreme Court—as well as their officers, employees, and guests—when off the grounds of the Supreme Court Building.

Since 1982, when Congress first recognized the Supreme Court Police's jurisdiction outside the Court grounds, threats of violence against the Justices and the Court have increased. These incidents have increased the need for the Supreme Court Police to protect Justices when they are away from the Court. This authority became even more important with the Court's use of space in the new Thurgood Marshall Federal Judiciary Building here in Washington.

The existing authority is set to expire, under the terms of its last 3-year extension, on December 29, 1993. This legislation would extend it until December 1996.

S. 1764 passed the Senate on November 20. I urge adoption of the bill by the House today.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I received a letter from the Chief Justice of the Supreme Court just in the last day or two saying that this bill would be very helpful, and he felt it was very necessary for them to have to give them the protection they need, so I ask for an "aye" vote.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1993" and inserting in lieu thereof "1996".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ARBITRATION EXTENSION UNDER PROVISIONS OF THE UNITED STATES CODE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1732) to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Texas [Mr. BROOKS] to explain this legislation.

Mr. BROOKS. Mr. Speaker, on October 12, 1993, the House passed H.R. 1102, the Court Arbitration Authorization Act of 1933, which permanently reauthorizes and extends court-sponsored arbitration in the Federal courts. A successful pilot project for 20 Federal district courts was authorized in 1988 and expired a few days ago.

The bill required Federal district courts to develop, by local rule, mandatory or voluntary arbitration programs. It provided that all persons subject to mandatory arbitration may request a full trial at the conclusion of the arbitration proceedings.

The Senate bill provides a simple, short-term reauthorization for 1 year. The House amendment is necessary to revive the program because it expired last Friday. I am supporting this legislation because of the importance of continuing efforts to facilitate access to justice in an efficient yet fair manner. I hope that in the next session, before this program expires again, we can enact a longer-lasting arbitration alternative that offers litigants and opportunity to reduce expense or delay.

Mr. Speaker, I am also including in the RECORD at this point a summary of H.R. 1102, the Court Arbitration Authorization Act of 1993, as follows:

SUMMARY OF H.R. 1102, THE COURT ARBITRATION AUTHORIZATION ACT OF 1993

Summary: In 1988, Congress enacted legislation authorizing 10 pilot programs of "mandatory" court-annexed arbitration that were in operation in the Federal Courts, as well as 10 additional pilot programs that would be "voluntary." This authorization is scheduled to expire on November 19, 1993. H.R. 1102, as amended, repeals this sunset provision and requires that all Federal District Courts make available to their litigants some form of arbitration procedure, either voluntary or mandatory (or both), subject to the restrictions in the existing law. It also increases the maximum amount in controversy for "mandatory" referral from $100,000 to $150,000.

The bill retains provisions of current law which make all arbitration awards subject to trial de novo, as well as numerous procedural limits on arbitrator powers. A number of classes of cases are excluded from consideration for arbitration, such as civil rights actions. In essence, because of the right to refuse voluntary arbitration and to have a jury trial following mandatory arbitration, all Federal arbitration under this legislation is more accurately described as "non-binding" arbitration.

Senate bill: The Senate bill, S. 1732, is a one-year extension of authority for the pilot project.

House amendment: The House technical amendment is necessary because the program expired on November 19 and must be "revived," not extended.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I wish to congratulate the gentleman from New Jersey [Mr. HUGHES] and the gentleman from Texas [Mr. BROOKS] for the work that they have done on this fine piece of legislation which I feel is very important and very necessary, providing for a 1-year extension of the 20 pilot arbitration programs in operation in the Federal district courts.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, the bill before the House today is a stop-gap provision to authorize pilot court-annexed arbitration for another year.

The existing authorization for pilot court-annexed arbitration in the Federal System was enacted in 1988 and expired on November 19, 1993.

The 1988 legislation identified 10 pilot districts for mandatory pilot programs and directed the judicial conference to identify 10 other districts for voluntary programs.

Our review of these pilot programs revealed that the pilot projects in the mandatory courts were working very well and meeting their goals of:

First, providing options to litigants;

Second, reducing costs and time of litigation; and

Third, reducing the burdens on the courts.

We also determined that the mandatory programs were far more successful than the voluntary programs, and that the dollar limit for mandatory programs should be raised.

The House of Representatives' response to this situation was to expand the arbitrations programs nationwide through H.R. 1102.

H.R. 1102, as passed by the House of Representatives on the Suspension Calendar on October 12, 1993, directs that all district courts provide, by local rule arbitration, programs of some form. It increases the maximum amount in controversy for mandatory referral to $150,000.

The Committee on the Judiciary also strongly recommends in its report that all district courts select certain categories of cases for mandatory referral.

In doing so, I would say that the mandatory designation for these programs is misleading because there is a great flexibility in this mandatory process. First of all, arbitration can be used only for cases with potential money damages of under $150,000. Also, many cases are exempt from referral under the existing law, and local courts are allowed to chose those categories of cases which are most suitable for referral. Finally, and most significantly, all cases are subject to trial de novo. Given this fact, mandatory arbitration might more accurately be called nonbinding arbitration.

Our Federal courts are experiencing tremendous backlogs in their civil dockets. These backlogs are adding not only delay, but expense. It behooves us to make this modest adjustment in the civil process and allow for arbitration options designed at the local level. In fact, with the difficulty of getting civil cases to trial due to the great increase in criminal dockets in the Federal Court System, H.R. 1102 might aptly be named the "Access to Civil Justice Act."

The other body, however, believes it needs more time to study H.R. 1102, so as an interim measure, they have passed S. 1732 to extend until December 31, 1994, the 20 pilot projects.

In passing S. 1732 today, I would say that I look forward to working with Senator HEFLIN, Senator GRASSLEY, and my ranking Member, Congressman MOORHEAD in the next session to refine H.R. 1102 so that it will provide meaningful and expedited access to civil justice.

In the interim, I urge my colleagues to accept S. 1732.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF ARBITRATION.

(a) AMENDMENT OF REPEAL.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note; Public Law 100-702; 102 Stat. 4664) is amended in the first sentence by striking out "5 years after the date of the enactment of this Act" and inserting in lieu thereof "December 31, 1994".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note; Public Law 100-702; 102 Stat. 4664) is amended in the first sentence by striking out "4" and inserting in lieu thereof "7".

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Add the following after section 1:

SEC. 2. TREATMENT OF EXPIRED PROVISIONS.

Chapter 44 of title 28, United States Code, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, shall be effective on or after the date of the enactment of this Act as if such chapter and item had not been repealed by section 906 of the Judicial Improvements and Access to Justice Act, as such section was in effect on the day before the date of the enactment of this Act.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 0200

MAKING A TECHNICAL AMENDMENT OF THE CLAYTON ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 664) making a technical amendment to the Clayton Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. PAYNE of Virginia). Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, reserving the right to object, and I will not object, as the principal sponsor of the Antitrust Amendments Act of 1990, H.R. 29, which modernized the interlocking directorate provisions of section 8 of the Clayton Act, I now rise in support of S. 664, which makes a technical amendment to that same section of the Clayton Act, 15 U.S.C. 19.

S. 664 simply changes from October 30 to January 31 the date by which the FTC must publish its annual revision of the jurisdictional threshold amounts for the application of the act's prohibition against interlocking directorates.

This change is necessary because the Federal Trade Commission must base its revised threshold amounts on GNP data which the Department of Commerce cannot now make available until after the date by which the present law requires the Commission to act.

I urge all Members to join me in support of S. 664.

Mr. Speaker, further under my reservation of objection, I yield to the gentleman from Texas [Mr. BROOKS].

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. I thank my distinguished friend, the gentleman from New York [Mr. FISH] for yielding.

Mr. Speaker, S. 664 makes a technical correction to the date by which the Federal Trade Commission [FTC] is required to report any revisions it makes in the jurisdictional dollar thresholds that trigger the act's prohibition on interlocking directorates.

Section 8(a)(5) of the Clayton Act (15 U.S.C. 19(a)(5)) was enacted on November 16, 1990, and requires, among other things, that the FTC report, by October 30 of each year, any revisions it makes in the jurisdictional dollar thresholds. The annual revisions are to be based on the change in the gross national product [GNP] as determined by the Department of Commerce.

Since the Department of Commerce does not publish final figures for the GNP until December, the FTC cannot adjust these jurisdictional thresholds by October 30 to comply strictly with the reporting deadline. S. 664 merely changes the reporting deadline to January 31.

This change improves the efficiency of the Government and saves the expenditure of funds required to print an explanation of the delay in the Federal Register every year. I urge its passage.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENT OF THE CLAYTON ACT.

Section 8(a)(5) of the Clayton Act (15 U.S.C. 19(a)(5)) is amended by striking "October 30" and inserting "January 31".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNUAL REPORT OF RAILROAD RETIREMENT BOARD, FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on Ways and Means:

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1992, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 22, 1992.*

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the 4 bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SAFE MEDICATIONS ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, I rise today to introduce the Safe Medications Act of 1993. This legislation will improve the public health by creating a national, confidential information network to track deaths caused by medication errors. The data will then be shared with practitioners through publications to educate and inform them of mishaps that can take place when prescribing, dispensing and administering medications. This bill is designed to build upon, not replace the voluntary and State systems already in place.

In late October, the Pittsburgh Post-Gazette published a series of articles by writer Steve Twedt that detailed medication errors. Mr. Twedt's series contained some disturbing statistics in this area. He reported that a Pittsburgh-Post Gazette study of 250 hospital pharmacists across the country estimated that there were 16,000 medication errors in their institutions in 1992; 106 of them caused patient deaths.

After reading the Post-Gazette series on this topic and after reviewing extensive industry data, I have concluded that the present system for monitoring medication errors needs to be improved. A voluntary reporting program has tracked over 600 mishaps that have occurred in a variety of health care facilities. Some examples reported to the U.S. Pharmacopeia over the last year include: a 98-year-old woman who died because the nursing home pharmacist gave her blood pressure medicine, corgard, instead of cephradine an antibiotic; a 4-year old girl who was sedated with chloral hydrate at a diagnostic center died when the medical technician gave her twice the normal adult dose; a 13-year-old boy undergoing oral surgery died with he was given 12 teaspoons of chloral hydrate; a 20-year-old man died when a local pharmacy dispensed the drug methotrexate, an anticancer drug, rather than metolazone the kidney drug his physician had prescribed; a women on her seventies and a women in her forties were over medicated, and one subsequently died, when staff in a physician's office incorrectly communicated the wrong dosage of a drug to a pharmacy and to the patient.

These accounts illustrated that medication errors are not confined to one setting and that the same faults are often repeated. We need to create a national clearinghouse that will protect patient care by identifying repeated mistakes and addressing and fixing any problems. The facts collected by this date bank will improve the present health care delivery system; further, this information cannot be used for prosecuting individuals.

Currently, there are no substantive figures to indicate the number of incidents which may be occurring. The only way medical boards are alerted to problems is if consumers or health personnel voluntarily report them. Experts in the field cite national estimates that indicate that one in 3,000 prescriptions are indeed wrong. One such authority put it in perspective: if there are 4 billion prescriptions a year, 1 error in 3,000 is "a lot of errors."

As Americans, we hear daily of how we have the most advanced health care system in the world. This stellar medical delivery system includes technology that is able to diagnose diseases before they develop and cutting edge surgery that reconstructs and replaces vital organs. The system also includes a wide variety of medications and devices that are used to treat and cure illnesses. These sophisticated technologies and the wide availability of medications and devices also unfortunately increase the chances for mistakes.

Under our present medical system, if a health care practitioner accidently prescribes, dispenses or administers an inaccurate does of a drug or confuses the labels of two drugs and mismedicates a patient, there is no required reporting system, in most cases, for practitioners to share the incidient. Sometimes these errors have little health consequences, sometimes they cause permanent damage to an individual's well-being and sometimes they are fatal. Ultimately, since there is no mandatory reporting system, these unfortunate occurrences are repeatedly causing permanent health problems for productive people and sometimes killing others.

Two States require reporting medication errors; New York as a mandatory program for hospitals and North Carolina has a required reporting system for its pharmacies. While these programs are important steps in addressing this problem on a local level, the information they collect is not available to other regions of the country as quickly as it could be.

Miscalculations are not typically isolated to one area. Mistakes which happen in New York and North Carolina, could most likely be occurring in other parts of the Nation. It is important to establish a structure to interface both on State and Federal levels.

The Institute for Safe Medication Practices established the medication error reporting program (MER). This voluntary system is coordinated by the U.S. Pharmacopeia, the organization that sets drug standards and publishes drug information. This program is vital in identifying miscaluations and educating over 1.5 million health professionals about the misunderstandings, miscalculations and misadministration that may accompany the prescribing, dispensing and administering of medications. Unfortunately, as one of the founders of the MER program recently noted, "We know we don't get a very large percentage of the actual incidents because it's not required."

First, we need to maintain and expand upon the voluntary MER program. This can be done by requiring all health care entities to report deaths caused from medication errors to the FDA. The U.S. Pharmacopeia and FDA already collaborate to help address faults that health professionals elect to share. This effort is catching some of the medication errors; but we need to bolster that effort.

Second, and perhaps most importantly, to protect the public health and welfare, we must ensure that this information is disseminated to other health care providers to educate them and minimize unnecessary risks. My legislation will achieve these goals.

With this in mind, I have developed legislation that will:

Establish a system that will address misinterpretation, misreading and misdiagnosing drugs by requiring health care institutions to report deaths caused by medication errors to one central entity.

Require the FDA to review this information and share it with other providers who prescribe, dispense and administer prescription drugs.

Finally, ensure the confidentiality of the individuals and institutions involved so that honest oversights can be addressed without assigning liability.

Presently, health care personnel in a wide variety of institutions are able to prescribe, dispense and/or administer prescription drugs. These institutions include pharmacies, hospitals, long-term care facilities, ambulatory care facilities and physician offices. Since these entities are involved in medicating patients there is a possibility that mistakes can occur in any one of these settings.

This legislation will require these providers to notify Food and Drug Administration (FDA) of deaths caused by medication errors in their institutions. These reports must be made within 10 working days from the date the error was discovered. In order to analyze each problem these reports must include the drug name or names, a description of the error, the date and time the death occurred and when and how the error was discovered.

The FDA will examine the reports it is given from these health care entities. This information will then be shared with the U.S. Pharmacopeia and with select national and specialty health professional organizations so that they can notify and alert their constituencies of potential problems.

As I stated earlier, this bill is not designed to address medical liability. This legislation is to make certain that information drawn from a national clearinghouse is published and that health care professionals are informed of deaths that can occur during the prescribing, dispensing and administration of drugs. While this bill requires all fatal medical mishaps to be reported, the identities of those reporting will remain anonymous. Anyone who tries to gain access to the data bank will be fined up to $15,000 and could be subject to imprisonment for a first offense.

This bill authorizes the necessary appropriations for this data bank.

Mr. Speaker, today medication errors occur that often result in death. Most times, these are honest mistakes made by otherwise competent providers. We need to establish a neutral, educational system that will help medical personnel who prescribe, administer and dispense medication and perhaps cause a fatal accident to share their experience anonymously with their peers. Remember, a great deal of these errors involve administering the wrong drug, the incorrect strength or the improper dosage due to misreading prescription abbreviations, writing or confusing products because of similar labels or names. The possibility of accidents increases with the amount of drugs on the market. Health professionals have concluded that learning of their colleagues' experiences is helpful for practicing better medicine and to prevent recurring problems. With a greater awareness of potential problems, safeguards can be instituted to avoid them, thereby promoting better patient care.

I look forward to working with all the groups involved with this effort to construct the most effective system possible so that we can reduce errors and improve America's health.

Mr. Speaker, I ask that part 4 of the Pittsburgh-Post Gazette series be printed in the RECORD.

HOSPITALS ARE BLIND TO EACH OTHER'S MISTAKES

(By Steve Twedt)

In nearly all walks of life, tragedies born of human error launch public investigations to assign blame and establish underlying causes.

A serious car accident will set in motion investigations by the local police department and other public safety officials to determine what happened and what could be done to prevent it from happening again. A train derailment or plane crash will send National Transportation Safety Board officials scrambling to the scene within hours. Their investigation of one accident may lead to changes in an entire fleet of aircraft.

But medication errors in America's hospitals are different. Most medication errors are not investigated by anyone outside the hospital walls.

And when the lessons from those mistakes are kept within the hospital, the mistakes are doomed to be repeated at a cost measurable in human lives, ruined careers and costly lawsuits.

In examining how hospital medication errors are handled across America, the Post-Gazette found most states lack any program that could identify patterns of medication errors.

In two exceptions—New York and North Carolina—the decision to start such a program was spurred by ghastly mistakes.

The 1985 death of Lillian Cedeno, who was pregnant, helped to move New York to statewide mandatory reporting for hospital patients' injuries. And a series of three incidents that killed four patients prompted the North Carolina Board of Pharmacy to adopt mandatory reporting of fatal errors.

"As far as we can tell, any reporting out there is minimal if there's any at all," said David R. Work, executive director or North Carolina's board, which surveyed other states before enacting its reporting regulations.

"I think they just haven't thought about it."

Hospitals traditionally have operated under an honor system in which they investigate their own medication errors, then act to prevent a recurrence. Presumably the problem gets solved—at that particular hospital.

The U.S. Food and Drug Administration, with overriding authority for regulating medications and medical devices, requires manufacturers to report adverse reactions to their drugs, but makes no requirement that health professionals or hospitals report even fatal medication errors.

And the Joint Commission for Accreditation of Healthcare Organizations, a voluntary, independent organization that accredits about 80 percent of U.S. hospitals, says only that hospitals must have a policy for dealing with medication errors. It does not analyze those errors to spot recurring problems.

One disagreement among those who advocate better reporting is on the question of whether medication error reports should be voluntary or mandatory.

The voluntary approach encourages reporting, one side says. But without mandatory reporting, the picture will be incomplete because few will report, the other side counters. A third group favors mandatory reporting of fatal errors, but only with legal and professional immunities for the health care workers involved.

Under the current system, however, patients must accept hospital's word that it aggressively investigates mistakes and takes steps to prevent recurrences.

"We don't have any reason to disbelieve them," said Work. "However, if [medication error reporting] is being handled adequately, why shouldn't it be public?"

A SEARCH FOR ERRORS

One state—New York—has a comprehensive reporting system that allows health department officials to monitor hospital mishaps, including medication errors.

From Oct. 1, 1985 through June 15, 1993, New York's Hospital Incident Reporting Program collected 4,172 reports of medication errors from New York hospitals, 261 of which resulted in a patient's death. And officials believe those numbers represent only part of the total.

"Even with these regulations we know we're getting underreported. The hospitals nickel and dime us by saying, 'Oh, it was repaired immediately.' You wouldn't believe how many interpretations [of the law] we've had," said George Ennis, senior hospital administration consultant for New York's state Department of Health.

For example, Ennis said, they heard unconfirmed reports that doctors would "sit" on patients who developed blood clots shortly after surgery, rather than return them to surgery.

The reason: an immediate return to surgery would be a reportable incident under New York state law, something doctors wanted to avoid.

Ennis said: "What we were hearing from all over the place, is 'You know, you guys are preventing people from getting appropriate care.' Believe it or not, the doctors were blaming it on us."

Earlier this year, the system was modified so that hospital staff members are identified by code numbers known only to that hospital's administration. Non-serious incidents are reported in aggregate on a quarterly basis.

Ennis also said the state wants to handle the reports differently. "We were not making adequate use of the information. We were getting lots of information in but we weren't doing much with it. And, even more importantly, the hospitals weren't doing much with it."

But even with those limitations, the New York system enabled the health department in 1988 to send out statewide alerts after officials noted a series of mistakes in administering potassium chloride, a medication which showed up repeatedly in the Post-Gazette investigation of hospital medication errors.

The New York alert went out nearly five years before the U.S. Pharmacopoeia began enforcing a standard that calls for putting black caps imprinted with a warning on potassium chloride concentrate bottles.

New York also sent out alerts regarding laser surgery injuries and injuries occurring during a new procedure in which a patient's gallbladder is removed with the aid of a laparoscope.

Without mandatory reporting, Ennis said, none of that would have happened.

"I do not believe you accomplish anything by the voluntary system. If you don't have mandatory reporting, everyone will protect themselves."

ACTION IN NORTH CAROLINA

After learning that four patients were killed in North Carolina hospitals when the hospital pharmacies made mistakes, North Carolina's Board of Pharmacy last year became one of the few state licensing boards that requires reports on fatal errors.

In January 1988, a night pharmacist at Charlotte Memorial Hospital (now Carolinas Medical Center), accidentally dispensed bags of TPN, a liquid nourishment, instead of a cardioplegia solution that was ordered for two men scheduled for heart bypass surgery. Cardioplegia is used to bathe the resting heart during the operation.

The error was discovered after doctors could not restart either man's heart following the surgery. It became public after the Charlotte Observer newspaper broke the story.

As the North Carolina Board of Pharmacy prepared for its hearing in the case, it received word of another death at Charlotte Memorial: On June 13, 1988 a patient died within minutes after being given 10 times the prescribed dose of a hydrochloric acid solution.

When the board learned of a fourth death in 1991, it took action.

Brandon Quintero 5, had been treated at Duke University Medical Center with chemotherapy for a benign tumor on his arm. The physician order called for 4.8 milligrams of "Velban (vincristine)" to be given intravenously.

The problem: Velban is not vincristine. Velban is a trade name for vinblastine, a different cancer drug.

The pharmacist dispensed vincristine at the Velban dose, which was then administered intravenously to the youngster. The boy died from the overdose two weeks later.

"That's when I said we needed to do something about reporting these deaths," said Work. "From a public health standpoint, I don't think it's arguable. Public health and safety demands that it be reported. Not that it be reported if they feel like it, or if risk management people say they should."

But while fatal dispensing errors must now be reported to the pharmacy board, no similar regulations apply for the North Carolina's physician and nurse licensing boards.

PATCHWORK SAFETY NET

That inconsistency is reflected across the country, where the Post-Gazette contacted health officials in every state and found a patchwork of approaches to tracking medication errors.

Kansas, for example, requires hospitals to report any injury-causing error to the state health department but only its nursing board analyzes that information to spot patterns. The pharmacy and medicine boards don't do the same for errors made by pharmacists or doctors.

Colorado also has a reporting system but it doesn't cover all medication errors. Since January 1991, the health department has received only 17 reports of medication errors.

The Massachusetts health department requires reports on any "serious incidents . . . which seriously affects the health and safety of its patients." Does that include medication errors? "It could," said program administrator Margery Eramo.

Louisiana, like many states, does not require medication error reports.

"The problem we run into with trying to regulate it is, when do you report and when do you not report? If we report every little incident, then we will be inundated. Paperwork is not going to help anybody," said Board of Pharmacy Executive Director Howard B. Bolton.

"On the other hand if we ask hospital pharmacy directors to document mishaps, then perhaps we'll get a pattern of incidents that we might need to work on."

In Pennsylvania, where hospitals must report fires or power outages to state health officials, there is no requirement to report even fatal medication errors.

"We haven't found that there have been a lot of problems in the hospitals that should have been brought to our attention that weren't," said William F. White, director of the Division of Hospitals for the state health department.

"The other problem is the whole process of overregulation. If everyone started reporting every problem, I don't have the resources to deal with that."

White acknowledged that his staff has sometimes depended on news accounts to find out about medication errors.

"Every time when something happens like that, there's a question—'Shouldn't there be reporting?'

"And every time we look at it, we don't think that because of that incident the solution is to have every hospital report to us."

In West Virginia, Larry Barker, a member of the Board of Pharmacy since 1978, said the pharmacy board once learned "by chance" of a $25,000 civil settlement against a pharmacist for dispensing the wrong drug. It convinced him they need a mandatory reporting law, although the board has not yet voted for such a regulation.

"We'd get 500 percent more [reports] than we get now," Barker said.

One year ago, Kentucky appeared headed for its own mandatory reporting laws following a highly publicized case where Mark Sun, 20, was killed when a retail pharmacist dispensed a potent cancer-fighting drug instead of a diuretic.

A few years earlier, Sun had suffered permanent brain damage because of an anesthesiology mix-up while he was undergoing surgery.

For months, the Kentucky pharmacy board considered various reporting regulations, most versions modeled after North Carolina's. But, earlier this year, the idea lost steam.

Ralph Bouvette, who became executive director in January, said the board was troubled by North Carolina's emphasis on fatal errors.

"I don't know what they're gaining by that. They should investigate each and every complaint, regardless of the outcome," he said.

But state officials can't count on complaints to alert them, according to North Carolina's Work. He noted that the North Carolina board received 15 reports of deaths in the first year of its new reporting regulations. In each case, no complaint had been filed "and none of those [incidents] were in the newspaper, so we wouldn't have found out about them without our reporting rule."

In states without mandatory reporting, some officials concede they have only a fragmentary picture of medication errors in their hospitals.

"There are many, many medication errors that would never be brought to the board because the hospital takes care of it," said Ruth Ann Terry, supervisor and nursing education consultant for the California Board of Registered Nurses.

"There really may be a pattern [of errors] that nobody has looked at that could cause harm in patients. Right now we don't have a real view of what's happening."

MISSING THE BIG PICTURE

Nor does the nation as a whole. Instead, medication errors typically are viewed as individual mistakes rather than small pieces of a single, dangerous puzzle.

At the annual meeting of the American Society of Hospital Pharmacists in Orlando last December, one speaker said the problem of medication errors "is vastly underappreciated."

"It is underappreciated in health care because we never see it in the aggregate. We see it one patient at a time," said Bill Zellmer, an ASHP vice president.

The irony is that potentially valuable information on medication errors exists within key agencies such as the FDA.

The FDA's Adverse Drug Reaction Reporting System has a database of 675,000 adverse drug reaction reports going back to 1969, some of which the Post-Gazette found explicitly describe medication errors which led to patient deaths.

But the medication errors are not separated out or distinguished from reports of allergic reactions, unexpected side effects or other possible "adverse reactions."

So the information on errors literally is lost in a mountain of other data. And, an FDA official said the agency historically has not encouraged medication error reports, anyway.

"Mining the old stuff in the Adverse Drug Reaction system wouldn't be productive because I think the agency didn't particularly look for those [medication error] reports," said Dr. Peter H. Rheinstein, director of the medicine staff in FDA's Office of Health Affairs. "It could be done, but my top-of-the-head impression is that you wouldn't find much there."

Specific information about medication errors also is contained in the National Practitioner Data Bank. Established by Congress, the Data Bank since September 1990 has collected information about medical malpractice payments.

The information, which an agency spokeswoman said contains descriptions of specific incidents, is available to hospitals, licensing boards, peer review organizations and other health care groups.

The idea is to prevent doctors and others with a history of problems from jumping from state to state.

But Congress included a provision in the law calling for a $10,000 fine against anyone releasing data bank information to the public.

In reality, the closest any national group comes in attempting to monitor medication errors is the U.S. Pharmacopeia in Rockville, Md., which sets industry standards for purity and labeling of drugs.

USP coordinates a voluntary, confidential medication error reporting program originated by Pennsylvania pharmacists Michael R. Cohen and Neil M. Davis.

In its first 18 months of operation, from January 1992 through June 30, 1993, the USP hotline had fielded 660 reports, or about 35-40 per month. Starting last year, those reports also have been reviewed by a special FDA subcommittee.

Cohen and Davis said the system has led to direct changes in drug packaging and labeling, but conceded they are only hearing about a fraction of the errors happening in hospitals across the country.

"I would say the effect [of the FDA subcommittee] is better than nothing, but it's not going to address the problem in a major way," said Kenneth N. Barker, head of pharmacy care systems at Auburn University in Alabama and one of the country's preeminent medication errors experts.

New York's Ennis was more direct: "Voluntary reporting is nothing. Nothing happens."

STOLEN GUNS ACT OF 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. FIELDS] is recognized for 5 minutes.

Mr. FIELDS of Louisiana. Mr. Speaker, today I am introducing a new bill, the Stolen Guns Act of 1994, to end the way stolen guns are openly bought and sold.

Currently, stolen guns are easily sold to unknowing gun dealers. The dealer then resells the gun, and the path is nearly impossible for law enforcement to discover or follow.

This legislation plugs that regulatory loophole, stemming the untraceable flow of stolen guns into the stream of commerce.

The Stolen Guns Act will provide an accurate, enforceable method for the dealer to discover whether a gun is stolen.

Stolen guns will be recaptured when offered for sale, and most important, without an easy market for resale, fewer guns will be stolen.

This law is not a solution to crime; nor is it just another gun law.

The Stolen Guns Act establishes a needed rule, tailored to prevent stolen guns from being bought and sold by gun dealers.

EVALUATING THE CLINTON ADMINISTRATION: DID THE AMERICAN PEOPLE VOTE FOR THIS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 60 minutes.

Mr. SOLOMON. Mr. Speaker, the Clinton administration is presently enjoying the 10th month of its 48-month lease on political life.

I put it that way because 3 years from next week the American people will be turning down an opportunity to renew that lease.

They will do so—in overwhelming numbers—because the gap between what they believe about our country and what, in fact, the Clinton administration actually represents will have widened into an unbridgeable gulf.

Indeed, today's credibility gap will be a credibility canyon by 1996.

Speaking as part of the 57 percent of the American electorate which did not vote to put Bill Clinton in the White House, far be it from me to explain the motives of the 43 percent who did.

But, Mr. Speaker, I can at least hazard a suggestion or two concerning what they didn't vote for.

I am convinced that the large majority of Bill Clinton's voters did not cast a vote in favor of reviving the counterculture of the 1960's.

Nor did they support a return to the drift, shift, and national embarrassment that characterized the Carter years.

Unfortunately, all of this is exactly what the American people are now getting—and things can only go from bad to worse over the next 3 years.

I believe Bill Clinton was elected President because he managed to convince just enough voters as necessary that he is some kind of "new democrat", that he represents some kind of new thinking in Democratic Party circles.

Fooling the American people is one thing—but fooling the left-wing activists, the moonstruck academics, and the careerist bureaucrats who are populating the Clinton administration is another thing altogether.

These are the people who saw the "help wanted" sign that was posted outside Clinton headquarters the day after the election.

And the word was put out early in the transition process after the election: Centrists, moderates, genuine "new Democrats", and nonlawyers need not apply.

Mr. Speaker, other Members have taken to this well in recent days to describe a cultural war that is presently raging across the country.

This is a struggle in which nothing less than the survival of our American way of life, the survival of a free society rooted in the Judeo/Christian ethic, is at stake.

I would suggest that today's cultural war in American society at large stems in large part from a civil war within the Democratic Party—a civil war that began in the 1960's and which shaped an entire generation of political and social activities who now find ample opportunity for employment in the Clinton administration.

In the 1960's the legislation that was enacted in pursuit of the new frontier and the great society spawned a dramatic increase in the size and scope of the Federal Government's activities and expenditures in all sectors of American life.

But when social engineering at home was overtaken by politico/military engineering abroad—the war in Vietnam—the liberal coalition which had dominated American politics since the 1930's completely disintegrated.

The stage was set for a massive disillusionment and rupture within the Democratic Party—a division that haunts the party to this very day.

The political collapse of the Johnson administration—made manifest most dramatically during the riots at the Democratic National Convention in Chicago in 1968—drove an entire generation of social activists underground.

Indeed, a virtual government-in-exile gradually took shape as refugees from the 1960's licked their wounds, wondered what went wrong, and plotted to reconstruct society in their own image.

Some of these people surfaced just long enough in the late 1970's to doom the Carter administration irretrievably.

But mostly they decided to bide their time—sheltered within their academic cloisters, bureaucratic pigeonholes, well-heeled law firms, and left-wing advocacy groups.

Cultivating the sense of intellectual certainty and superiority that only comes from not having any actual responsibility or contact with reality, this government-in-exile has spent the last 25 years nursing its grudges against American society and pursuing ever more bizarre fantasies about the way things ought to be.

When they weren't coining "rights", identifying "victims", or redefining even the most basic meaning of "justice", they were busy exploring the outer limits of human sexuality and celebrating even the most twisted forms of personal self-expression.

And then Bill Clinton hung out the "help wanted" sign.

The government-in-exile was given a new lease on life.

But, Mr. Speaker, did the American people really vote for this?

Even the 43 percent who voted for Bill Clinton—how many of them really voted for this?

This is an administration:

Whose Associate Director of Personnel at the White House proclaims himself as the "first fag" and announces that his status as a homosexual protects him from being fired;

Whose AIDs policy advisor declares that the United States is a "repressed victorian society" and that teaching sexual abstinence to teenagers is "criminal";

Whose Deputy Attorney General wrote the preface to an autobiography of a career criminal and praised the man as having personal qualities that would be useful on the White House Staff;

Whose Assistant Secretary of Education for elementary and secondary education believes the Boy Scouts cannot be tolerated working with young people.

This same official also promotes so-called results-based performance, in which teachers are prohibited from giving failing grades to students for fear of harming their self-esteem.

This is an administration:

Whose Assistant Secretary of Housing for Fair Housing and Equal Opportunity favors the addition of homosexuals as a protected class under the Fair Housing Act and requiring the lodging of homosexual support groups at homeless shelters.

This official, by the way, also has a particular hangup about the Boy Scouts—she was the driving force behind banning the Boy Scouts from the San Francisco public school system and in cutting off financial support for them by the Bay Area United Way.

This is an administration—

Whose surgeon-general advocates sex education in kindergarten, believes abortion is a positive public health benefit, and equates any beliefs on these issues different from hers with slavery;

Whose assistant Secretary of HHS for health believes the real problem with the American health care system today is the presence of too many doctors.

Maybe that is why the Clinton administration wants to replace so many of them with lawyers.

This is an administration—

Whose Assistant Secretaries of Education for Civil Rights and Policy have both promoted various schemes whereby funding for all public school districts would have to be equalized—by means of class action lawsuits if necessary;

Whose Chairman of the National Endowment for the Humanities had carried "political correctness" to such hypocritical extremes in his previous job his appointment to Federal office was more like a rescue than a promotion.

And on and on and on it goes, Mr. Speaker.

The Lani Guinier episode was not an isolated fluke—she is not the only Clinton appointee to have suffered intellectual meltdown during those long and lonely years away from the Federal trough and the levers of power.

Indeed, the Lani Guinier episode is entirely symptomatic of Bill Clinton's preference for appointing to high office people whose political sensibilities were shaped by the struggles of the 1960's and whose philosophies have been migrating steadily leftward ever since.

All of this wouldn't matter, Mr. Speaker, if ideas had no consequences.

But ideas do have consequences—and the worst idea coming out of the 1960's counterculture was the whole notion that one's actions and one's personal accountability for such actions can be disconnected.

How else, then, could Bill Clinton have maintained a straight face throughout the 1992 campaign all the while trying to explain the inconsistencies and discrepancies in both his public and private lives?

Another question: How can a generation of social activists which worked overtime coining new "rights" not wonder if there was any connection between that exercise and the concurrent one of identifying all kinds of new "victims"?

If responsibilities had been emphasized as the necessary corollary to rights, the number of society's so-called victims would be significantly smaller—and the number of claimants on the Government would be significantly smaller.

But that is the whole point.

The 1960's Government-in-exile that Bill Clinton brought back to Washington in the 1990's is dedicated to increasing the power of the Federal Government over every individual, every home, every business place, every private institution in the country.

How else, for example, can one explain the health care proposal the Clinton team came up with?

That proposal—all 1,600 pages of it—is so convoluted, so fraught with social engineering, so intrusive in all sectors of society, and so bereft of any cost controls that I can only conclude it must actually be a stalking horse for outright socialized medicine.

Indeed, the so-called "single-payer", or socialized, scheme actually looks simple, efficient, and cost-effective by comparison.

All of this bodes badly enough for America at home, but what about overseas?

What about protecting the very security of our country?

There again, the Clinton administration sees no connection between actions and accountability.

How else can one explain a process whereby the administration decides first to reduce the defense budget and only after that decision is locked in decides to examine what the security needs of the country actually are?

Can it be any surprise that the projected defense spending over the 4-year span of the Clinton administration does not meet the minimum requirements identified by the so-called "bottom-up" review as needed to protect the security of the country?

And then we come to the issue of peacekeeping, the centerpiece of what the Clinton administration says is a foreign policy.

The architect of the policy on peacekeeping is named Morton Halperin—remember that name.

Here is another refugee from the counterculture of the 1960's, and he has been given a tailor-made position in the Defense Department as Assistant Secretary for Democracy and Peacekeeping.

I must be precise and say that he does not actually hold the position to which he has been appointed—because the Senate has thus far refused to confirm him.

But he doesn't need confirmation so long as he has an office in the Pentagon anyway and all the access he wants to senior officials.

And, frankly, I cannot imagine the day when the Senate of the United States would confirm the appointment to high office of a man who has expressed views such as these:

> Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients.
>
> Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law.
>
> The Soviet Union apparently never even contemplated the overt use of military force against Western Europe.
>
> In the name of protecting liberty from communism, a massive undemocratic national security structure was erected during the cold war. . . .

Mr. Speaker, I will have more to say in future special orders concerning Morton Halperin and others to whom Bill Clinton would entrust the future of our country.

Suffice to say right now that any Member who attended as I did the briefing in which Secretary of State Christopher and Secretary of Defense Aspin could neither explain, defend, or even confirm the existence of a United States policy in Somalia need look no further than Morton Halperin's desk in order to understand how things could go so seriously awry.

In conclusion, Mr. Speaker, I can only reiterate what I said at the very outset: The gap between what the American people believe about our country and the interests the Clinton administration truly represents will inevitably get wider and wider.

This administration is the living embodiment of a philosophy which believes actions can be divorced from accountability.

We have 3 more long years to wait until the day of reckoning finally comes—at the polls, that is.

In the meantime, who can predict what kind of storms our country and our people will have to endure as the Clinton administration gets its on-the-job training in learning how to deal with reality?

THE MINORITY HEALTH IMPROVEMENT ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 10 minutes.

Mr. STOKES. Mr. Speaker, whereas, all groups lacking access to health care and experiencing a diminished health status, African-Americans and other minorities continue to top the list;

And, whereas, the 17th annual report card on health, the publication entitled, "Health United States 1992," continues to report that whether the focus is on the rate of minorities' mortality, morbidity, or the utilization of health services, disparities in health status remain widespread;

And, whereas, this disparity has remained despite significant advances stemming from the Nation's steadfast investment in biomedical and related research, and rapid improvements in the systems designed to provide essential health care services, racial and ethnic groups have not benefitted equally as well as the rest of the United States population;

I rise to introduce the Minority Health Improvement Act of 1993.

I am most eager about this legislation because the issue of health care for underserved, disadvantaged populations is a cause which I have championed since my first days in Congress. It is a known fact that our Nation must provide quality accessible and affordable health care for all Americans if the Nation is to strengthen its competitive edge and further improve the quality of life for all Americans.

Mr. Speaker, I am sure you know just how critical this legislation is to the minority community. Certainly, every racial and ethnic minority group experiences some health disparity. Unfortunately, for African-Americans, this situation continues to not only persist but to deteriorate. We know, for example, that the gap between blacks and whites in life expectancy has continued to widen. Life expectancy at birth for blacks overall was 69.1 years in 1990 compared to 76.1 years for whites. For black males, life expectancy was 64.5 years in 1990, a decline since its high of 65.3 years in 1984. For white males, the life expectancy is 72.7 years, 8.2 years longer than for African-Americans.

Blacks also have higher age-adjusted death rates than whites for 15 leading causes of death. In the instance of homicide and HIV infection, the gap between black and white mortality rates is wider than for any chronic disease.

Although infant mortality declined among both blacks and whites between 1980 and 1990, it was still more than twice as high among blacks than whites. In fact, black mothers with a college degree have a higher infant mortality rate than white mothers with less than a high school education.

Added to these grim statistics is the fact that African-Americans and Hispanics account for over 50 percent of the number of Americans added to the rolls of the uninsured between 1977 and 1987—and that these individuals are disproportionately represented in the kinds of families at the greatest risk of being uninsured or underserved. These types of trends further exacerbate the disproportionate incidence of illness and death in our communities.

Mr. Speaker, because of these continued adversities, I introduce the Minority Health Improvement Act of 1993. This is a most critical time for improving minority health. It is at a time when our President has issued a call to his administration and experts around the United States to reform our health care system. To that end, we in the Congress must determine what must be done to make sure that the resulting system is responsive to the health care needs of all Americans. From my position as a member of the Labor-Health and Human Services Appropriations Subcommittee, and particularly as chairman of the Congressional Black Caucus Health Braintrust, I know that, if we listen and respond to the experts in the minority community, we have at our fingertips many of the answers to this critical problem.

Many of these solutions are provisions under the original law, the Disadvantaged Minority Health Improvement Act of 1990. They were enacted with the input and insight of those of us who deal regularly with these concerns. Our references were those individuals who every day are in the trenches touching, healing, and treating the medically indigent.

Mr. Speaker, you have only to visit my city of Cleveland, to see the success of the health services for residents in public housing section of the original Disadvantaged Minority Health Improvement Act. There has been such an overwhelming response to this program that the housing authorities cannot accommodate the need. This is in an area where only 5 minutes away is another health facility. But the success of this program is based upon its being targeted, for the first time, to the area where the underserved live. In this case, they live in public housing.

I have also been contacted by students and faculty at institutions across the Nation about their achievement in pursuing health professions careers and addressing the health care needs of unserved and underserved populations due to the provisions in the Minority Health bill. This would not have happened without the centers of excellence in minority health.

Undoubtedly, if this Nation ensures that every American has access to health care, we must also ensure the availability of culturally competent providers for all minority populations that are sicker and have very unique needs. Moreover, it is these providers who understand the cultural, linguistic, racial, educational, and attitudinal differences that impose special barriers to effective delivery of health care to minority Americans.

The Minority Health Improvement Act of 1993 which I am introducing today not only recognizes the importance of the original law, but also the need to strengthen and enhance it to ensure its continued responsiveness to improving the health status of minority Americans.

The Minority Health Improvement Act of 1993 recognizes the success of the office of minority health in fulfilling its mission throughout the Department of Health and Human Services [HHS], and also strengthens the coordination of minority health initiatives in every HHS agency. This will provide a guaranteed mechanism for activities the bill supports. Thereby, the bill improved upon the existing minority health bill by expanding and strengthening efforts in other areas to improve the health status of African-Americans, Hispanic-Americans, Native-Americans, and Asian-Americans. The bill addresses the needs of each group individually and collectively.

This approach is particularly important since the health problems among the various minority populations are immense, as well as diverse. Thus, any legislative remedy should require a strengthening of the Federal commitment to program with a long and successful history of addressing these concerns. At the same time, we need to recognize those programs that are newer, and others that have not yet been implemented.

Mr. Speaker, our colleague in the Senate, Senator KENNEDY from Massachusetts jointly sponsored this legislation in the 101st Congress, it was signed into law in November of 1990. The urgency of the enactment of this legislation is as pressing now as it was then. Mr. KENNEDY and I will again work to make this legislation and the improvements in the quality of life that stem from it a reality. The Nation cannot afford for the closing of the minority health gap to be just a sound byte. The physical, social, and economic burden and suffering is just too great to be ignored.

Mr. Speaker, I strongly urge my colleagues to meet the challenge in 1993 as they did in 1990 and enact this very important piece of legislation, the Minority Health Improvement Act of 1993.

PREPAYMENT PENALTIES ON SMALL BUSINESS FINANCINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 60 minutes.

Mr. LAFALCE. Mr. Speaker, today I have introduced the Small Business Prepayment Penalty Relief Act of 1993.

This bill will assist some small businesses which are burdened with onerous interest rates on debentures held by the Small Business Administration or guaranteed by it and purchased by the Federal Financing Bank.

It is my intent in introducing this bill today to put forth a proposal for examination by the administration and the small business constituency it is designed to help. I am not wed to its provisions, and I solicit input from others. But any alternative proposals, I believe, must be equitable to all small business borrowers who are required to pay these excessive interest rates. Any solution must adhere to two principles.

First, it must provide some type of a refinancing mechanism. Merely reducing the penalty, without providing alternative means, would unfairly reward those small businesses who had become so successful that they have accumulated sufficient capital with which to pay off the principal amount of their indebtedness, while requiring less successful firms to continue paying, 10-, 12-, or even 14- or 15-percent rates.

And second, it must treat all of these SBA program participants the same, whether they are under the certified development company program, the small business investment company program or the specialized small business investment company program.

BACKGROUND AND EXPLANATION OF PROVISIONS

During the 1980's, small businesses came to seek assistance from the Small Business Administration through several different programs. Interest rates at the time were very high. The one thing that each of these borrowers has in common is that a hidden, and somewhat unintelligible clause, in the debenture agreement is interpreted by the Federal Financing Bank of the Department of the Treasury to effectively prohibit prepayment of the debentures, locking these companies in to prohibitively high rates.

Interest rates have since dropped substantially. But these borrowers can prepay or refinance only if they pay a penalty which is equal to the total amount of interest which would be required to be paid on the debenture if paid according to its full term, but reduced to its present value; that is, the prepayment penalty would be the amount of money which would be required to be invested at today's rates being paid by the Federal Government which would result in a return to the Government of the same amount of money which the Government would receive if the issuer of the debenture, or long-term loan, paid the interest each year according to the original terms and conditions. The provision holds the Government harmless, but does enormous harm to these small companies.

This excessive prepayment penalty inflicts a severe financial penalty on the affected small businesses, in some cases an amount equal to 50 percent or more of the amount of the loan. For some it means that they cannot sell their business; for others, if the owner dies, the heirs must continue the business or be subject to the penalty; and for others it means that the business cannot expand with new financing because a prospective lender requires a first lien position, and thus the borrower would have to prepay the existing debenture, including the penalty.

The small businesses subject to these penalties are small firms whose efforts serve important public policy goals. These debentures have been issued under the certified development loan company program, one of the primary purposes of which is job creation, and under programs to provide venture capital to small businesses and minority small businesses under the Small Business Investment

Company Program and the Minority or Specialized Small Business Investment Company Program. The prohibitive penalties which now exist are impending SBA's efforts to bring job growth and new capital to the small business community, including the minority small business community.

Mr. Speaker, based upon data supplied by the Federal Financing Bank, we estimate that if all of these debentures prepaid, the aggregate prepayment penalty would be almost $200 million. Under the Budget Enforcement Act, this would be treated as a loss of income to the Government if legislation was enacted eliminating these penalties. Thus, we cannot eliminate the penalties without crippling all other SBA programs, and I do not advocate doing so. But I do believe that we must mitigate the damage being inflicted on these small businesses which we tried to help with loans made years ago.

In prior Congresses, the House of Representatives has twice passed legislation to reduce the amount of this penalty. In the first instance, the bill was vetoed by President Reagan. And in the second instance, the Senate blocked consideration of a similar provision at the request of President Bush.

Fortunately, this year President Clinton has indicated that he believes that this prepayment penalty is so onerous that it must be modified. However, no formal request nor authorizing legislation to do so has been submitted to date.

I have long advocated the modification of the penalty, and in fact, I introduced the earlier House legislation to do so. However, our current budget situation indicates to me that it is impossible to fix the entire problem in one fiscal year. This problem was created over a number of fiscal years and its resolution should be paid for over a number of fiscal years.

Accordingly, my proposal is for a two-prong approach.

First, my bill would authorize the appropriation of funds each year to permit SBA to buy down the interest rate on these debentures to 7.5 percent. This is above the current Federal cost of money and still would result in a penalty being imposed upon these small business borrowers, but a much more reasonable one. This should reduce the overall pressure to exit the programs.

Second, my bill would authorize all of those small business borrowers with loans outstanding to bid on a reduced prepayment penalty or their debentures, with SBA paying the balance of the penalty. With our current budget situation, we probably cannot provide enough money to accommodate everyone. But SBA annually would supplement the bid price with the addition of some limited amount of funds so that borrowers who elected to do so could prepay—with those who agreed to pay the highest amount, but less than 100 percent of the calculated penalty receiving assistance first.

This approach would provide some help to all of these small business borrowers and would permit a few annually, depending upon the amount of an appropriation we were able to secure, to get completely out from under the onerous terms of their Federal loan.

It is my hope that the committee will explore a legislative solution along the lines I have proposed, with hearings to commence early in the second session of this Congress.

A sectional summary of the bill follows:

SECTIONAL SUMMARY

Provides that this Act may be cited as "The Small Business Prepayment Penalty Relief Act of 1993".

TITLE II

Buy-downs and interest rate reductions

Section 201. (a) Provides that upon the request of the issuer, annually the Administration is authorized to buy-down the interest rate of any debenture purchased by the Federal Financing Bank (1) which has been issued by a development company pursuant to the provisions of section 503 of the Investment Act or (2) which has been issued by a small business investment company pursuant to the provisions of section 303 of such Act.

It defines the term "buy-down" as a payment from the Administration to the Federal Financing Bank in an amount determined by the Administration to reduce the interest payment for that year to an amount equal to 7.5 percentum of the outstanding principal amount of the debenture.

Subsection (b) provides that upon the request of the issuer, annually the Administration is authorized to reduce the interest rate on any debenture issued by a small business investment company licensed pursuant to the provisions of section 301(d) of the Investment Act. The amount of the reduction would be an amount determined by the Administration to make the interest payment for that year equal to 7.5 percentum of the outstanding principal amount of the debenture.

TITLE III

Prepayments

Section 301(a) provides that annually, after the regular Appropriations Act has been signed into law providing funding for the Administration, the Administration shall calculate the amount needed to carry out the provisions of section 201 of this Act. It would then set-aside this amount and the balance would be available for title III.

Subsection (b) requires the Administration to promptly notify the issuer of each debenture subject to the provisions of section 201 of this Act that it will receive offers from any interested issuer to prepay the debenture in full. The issuer's offer would include all or part of the full prepayment penalty, or assumed prepayment penalty in the case of a specialized small business investment company. To assist the issuer in making his proposal, SBA's notification would provide basic information, including:

(1) the amount of funds available to carry out this title;

(2) a computation of the total amount of the prepayment penalties and assumed prepayment penalties if all issuers prepaid;

(3) the amount of the prepayment penalty or assumed prepayment penalty for the issuer receiving the notification;

(4) the time period during which offers may be submitted; and

(5) a description of the process under which the Administration will evaluate, give priority to, and accept submission of offers pursuant to this title.

Subsection (c) requires SBA within 30 days after termination of the period for submission of offers, to evaluate each offer and assign each a priority. The priority would be based upon the percentum of the prepayment penalty which the issuer offers to pay, with the highest percentum receiving the highest priority. The Administration would approve offers beginning with the one with the highest priority and continuing until it utilizes all funds available to carry out this title in the current fiscal year.

Prepaying Development Company Debentures

Section 302. (a) Defines the term "issuer' as the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of the Investment Act, and the term "borrower" as the small business concern whose loan secures a debenture issued pursuant to such section.

Subsection (b) provides that the issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the SBA under section 503 of the Investment Act may offer to prepay if:

(1) the debenture is outstanding on the date of enactment of this Act, and neither the loan that secures the debenture nor the debenture is in default on the date the prepayment is made;

(2) state or personal funds, which may include refinancing under the programs authorized by section 504 and 505 of the Investment Act are used to prepay the debenture; and

(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

Subsection (c) prohibits any fees or penalties other than those specified in this section from being imposed as a condition of such prepayment against the issuer or the borrower, or the Administration or any fund or account administered by the Administration.

It also provides that if the debenture is prepaid or refinanced other than through section 504, the issuer may require the borrower to pay a fee to the issuer in an amount equal to one-half of one percent of the unpaid principal balance of the debenture, or if refinanced under section 504, the issuer may require the borrower to pay a fee to the issuer in an amount equal to one-fourth of one percent of the unpaid balance of the debenture.

Subsection (d) provides that debentures refinanced under section 504 shall be subject to all of the other provisions of sections 504 and 505 of the Investment Act and the rules and regulations of the Administration promulgated thereunder.

Prepaying Specialized Small Business Investment Company Debentures

Section 303. (a) provides that any specialized small business investment company which is the issuer of a debenture purchased by the Administration under title III of the Investment Act may offer to prepay the debenture if:

(1) the debenture is outstanding on the date of enactment of this Act and is not in default of the date the prepayment is made; and

(2) personal funds, which may include refinancing with the proceeds of debentures under title III of the Investment Act, are used to prepay the debenture.

Subsection (b) prohibits any fees or penalties other than those specified in this section from being imposed as a condition of such prepayment against the issuer, the Administration or any fund or account administered by the administration.

Prepaying Regular Small Business Investment Company Debentures

Section 304. (a) provides that any small business investment company which is the issuer of a debenture guaranteed by the Administration under title III of the Investment Act and purchased by the Federal Financing Bank may offer to prepay the debenture if:

(1) the debenture is outstanding on the date of enactment of this Act and is not in default on the date the prepayment is made; and

(2) personal funds, which may include refinancing with proceeds of guaranteed debentures under title III of the Investment Act, are used to prepay the debenture.

Subsection (b) prohibits any fees or penalties other than those specified in this section from being imposed as a condition of such prepayment against the issuer, the Administration or any fund or account administered by the Administration.

Subsection (c) provides debentures refinanced under title III of the Investment Act shall be subject to all of the other provisions of such Act.

TITLE IV

Miscellaneous Provisions

Section 401. (a) provides that the provisions of this Act are exercisable at the option of the borrower under section 302 of this Act or at the option of a small business investment company under sections 303 and 304 of this Act and are in addition to any prepayment options otherwise authorized by law.

Subsection (b) requires SBA within sixty days of the date of enactment of this Act to issue regulations to implement this Act.

Subsection (c) provides that any new credit or spending authority provided for in this Act is subject to amounts provided in advance in appropriations Acts.

Authorization

Section 402. (a) Authorizes the appropriation of such sums as may be necessary to carry out the provisions of this Act.

Subsection (b) provides that in the administration of this Act, the Administration shall not obligate any funds pursuant to title III of this Act in any fiscal year unless it has provided the full amount of assistance authorized and requested pursuant to title II of this Act.

Subsection (c) provides that if sufficient funds are not appropriated for any fiscal year to fully carry out the buy-downs and reductions authorized and requested pursuant to title II of this Act, the Administration must buy down and reduce the interest rates to the extent that funds are available for that year, but may not utilize any funds to carry out title III.

Section 403 defines the term "Administration" as the Small Business Administration, and the term "Investment Act" as the Small Business Investment Act of 1958.

A TRIBUTE TO MANUEL HERNANDEZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DOOLEY] is recognized for 5 minutes.

Mr. DOOLEY. Mr. Speaker, I rise today to pay tribute to Manuel Hernandez, an immigrant American who for the past 40 years has contributed mightily to the well-being of Visalia, CA.

Mr. Hernandez was born in Torreon, Coahuila, Mexico, on September 1, 1913, and came to the United States at the age of 10. He has lived in Visalia since 1927. He and his wife, Helen, have four children: Ruben, Richard, Mary Lou, and Vicki; 13 grandchildren, and 8 great-grandchildren.

Mr. Hernandez has little formal education, but he has given a lifetime of benefit to the Visalia community. He was the first president of the Crowley School PTA on the northside of Visalia, and his dedication earned him an honorary life membership in the PTA. In the late 1950's, he served on the board of directors of the Visalia YMCA, and in the 1960's he represented working people as president of the Carpenter's Union Local No. 1484 in Visalia.

Beginning in 1965, Mr. Hernandez served as construction superintendent for Self-Help Enterprises, for which he helped establish affordable housing in the San Joaquin Valley. He continued to volunteer as a member of the self-help board of directors until 1979. From 1979 to 1985, he was a member of the board of directors of the Washington, DC-based Housing Assistance Council.

Mr. Hernandez is a former president of the Community Service Organization, and he was active for many years as a member of the Visalia Neighborhood Advisory Council and the North Visalia Concerned Citizens Committee. As a city volunteer, he served on the City of Visalia advisory committee and on the selection committee of the Leadership Visalia Program.

In 1983, Mr. Hernandez was awarded the outstanding citizen commendation by the Optimist Club, and in 1987 he was chosen as Visalia's Man of the Year, the first Visalian of Mexican descent to receive that honor. He served on the Tulare County Grand Jury from 1986 to 1989.

Mr. Hernandez currently is a board member of the Kaweah Delta District Hospital Foundation and of Tulare County Food Resources. He also is an active supporter of the Wittman Village Community Center. He continues his involvement with young Visalians through the Police Activities League.

As you can see, Manuel Hernandez has never recognized barriers in himself and in others. He has set a shining example as a devoted family man and community worker. His dedication and vision have done immeasurable good for Visalia and Tulare County.

Please join me, Mr. Speaker and my colleagues, in honor of Manuel Hernandez.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROOKS) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. FIELDS of Louisiana, for 5 minutes, today.

Mr. STOKES, for 10 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

Mr. HOYER, for 30 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. STEARNS, and to include therein extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $7,682.)

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 898. An act to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources.

H.R. 2330. An act to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 3225. An act to support the transition to nonracial democracy in South Africa.

H.R. 3318. An act to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

H.R. 3378. An act to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes.

H.R. 3471. An act to authorize the leasing of naval vessels to certain foreign countries.

H.J. Res. 75. Joint resolution designating January 16, 1994, as "National Good Teen Day."

H.J. Res. 159. Joint resolution to designate the month of November in 1993 and 1994 as "National Hospice Month."

H.J. Res. 294. Joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 412. An act to amend title 49, United States Code, relating to procedures for resolving claims involving unfiled, negotiated transportation rates, and for other purposes.

S. 1670. An act to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 3 minutes a.m.), the House adjourned until today, November 23, 1993, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. North American Free-Trade Agreement [NAFTA] Rules of Origin and Enforcement Issues (Rept. 103–407). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Reimbursement of Defense Contractors' Environmental Cleanup Costs: Comprehensive Oversight Needed to Protect Taxpayers (Rept. 103–408). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. State Department Mismanagement of Overseas Embassies: Corrective Action Long Overdue (Rept. 103–409). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Bank Regulation and Bank Lending to Small Business (Rept. 103–410). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3063. A bill to authorize U.S. participation in the replenishment of the resources of the International Development Association and the Asian Development Bank, to authorize a U.S. contribution to the Global Environment Facility, to authorize the provision of special debt relief for the poorest, most heavily indebted countries through the multilateral approach of the Paris Club, and for other purposes; with an amendment (Rept. 103–411). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of Conference. Conference report on H.R. 1025. A bill to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm (Rept. 103–412). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WAXMAN (for himself, Mr. Synar, Mr. Wyden, Mr. Durbin, and Mrs. Schroeder):

H.R. 3614. A bill to prescribe labels for packages and advertising for tobacco products, to restrict the advertising and promotion of tobacco products, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GONZALEZ (for himself, Mr. Neal of North Carolina, and Mr. Leach):

H.R. 3615. A bill to amend the Federal Deposit Insurance Act to require Federal Deposit Insurance Corporation approval for conversions of insured banks from mutual form to stock form, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KENNEDY:

H.R. 3616. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the memorial, and the Women in Military Service for America Memorial, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHAW (for himself and Mr. Deutsch):

H.R. 3617. A bill to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes; to the Committee on Natural Resources.

By Mr. WYDEN (for himself and Ms. Furse):

H.R. 3618. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to exempt from preemption thereunder certain provisions of law of the State of Oregon relating to the Oregon Health Plan; to the Committee on Education and Labor.

By Mr. ANDREWS of Texas (for himself, Mr. Sundquist, and Mr. Kopetski):

H.R. 3619. A bill to amend the Revenue Act of 1987 to provide a permanent extension of the transition rule for certain publicly traded partnerships; to the Committee on Ways and Means.

By Mr. UPTON:

H.R. 3620. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Ways and Means.

By Mr. BACHUS of Alabama:

H.R. 3621. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for costs incurred to cleanup contaminated property; to the Committee on Ways and Means.

By Mr. BAKER of California:

H.R. 3622. A bill to repeal the must-carry provisions of the title VI of the Communications Act of 1934, relating to cable television; to the Committee on Energy and Commerce.

By Mr. BARCIA of Michigan (for himself and Mr. Dingell):

H.R. 3623. A bill to amend the Federal Crop Insurance Act to establish a pilot program to evaluate the feasibility of including crop insurance based on costs of production among the types of crop insurance available under the act; to the Committee on Agriculture.

By Mr. BOUCHER (for himself and Mr. Upton):

H.R. 3624. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a program for assigning shares of liability to liable parties at Superfund sites, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. BROWN of California:

H.R. 3625. A bill to renew and improve the operation of title V of the Trade Act of 1974 (relating to the Generalized System of Preferences); to the Committee on Ways and Means.

By Mr. BROOKS (for himself and Mr. Dingell):

H.R. 3626. A bill to supersede the modification of final judgment entered August 24, 1982, in the antitrust action styled U.S. v. Western Electric, civil action No. 82–0192, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Ms. CANTWELL (for herself and Mr. Manzullo):

H.R. 3627. A bill to amend the Export Administration Act of 1979 with respect to the control of computers and related equipment; to the Committee on Foreign Affairs.

By Mr. CHAPMAN:

H.R. 3628. A bill to establish the Regulatory Sunset Commission to review regulations of executive agencies, and to provide for the automatic termination of regulations that are not authorized by the Commission to continue in effect; jointly, to the Committees on the Judiciary and Government Operations.

By Mr. COPPERSMITH (for himself, Mr. Cunningham, Mr. Kreidler, Mr. Stenholm, Mr. Fingerhut, Mr. Canady, Mr. Crane, Mr. McCandless, Mr. Poshard, Mr. Ewing, Mr. Archer, Mr. Hochbrueckner, Mr. Taylor of Mississippi, Mr. Gene Green of Texas, Mr. Lancaster, Mr. Kingston, and Mr. Gallegly):

H.R. 3629. A bill to rescind appropriations for the U.S. Postal Service in an amount equal to the amount expended by the Postal Service in the design and implementation of its new corporate logo; to the Committee on Appropriations.

By Mr. COYNE (for himself, Mr. Cardin, Mr. Lewis of Georgia, Mr. Neal of Massachusetts, Mr. Hoagland, Mr. Kopetski, Mr. Jefferson, Mr. Brewster, Mr. Shaw, and Mr. Sundquist):

H.R. 3630. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of tax-exempt bonds; to the Committee on Ways and Means.

By Mr. COYNE (for himself, Mr. Jacobs, Mr. Neal of Massachusetts, Mr. Hoagland, and Mr. Brewster):

H.R. 3631. A bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies; to the Committee on Ways and Means.

By Mr. COYNE (for himself and Mr. Stark):

H.R. 3632. A bill to require the mandatory reporting of deaths resulting from errors in the prescribing, dispensing, and administration of drugs, to allow the continuation of voluntary reporting programs, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. CRAPO (for himself, Mr. Hastert, Mr. Hansen, Mr. Hutchinson, Mr. Santorum, Mr. Armey, and Mr. Quinn):

H.R. 3633. A bill to reform the House of Representatives, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. DeFAZIO:

H.R. 3634. A bill to amend the Military Selective Service Act to terminate the registration requirement and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System; to the Committee on Armed Services.

By Mr. DORNAN (for himself, Mr. Herger of California, Mr. Baker of California, Mr. Pombo, Mr. Doolittle, Mr. Taylor of North Carolina, Mr. Packard, and Mr. Young of Alaska):

H.R. 3635. A bill to require the withdrawal of the United States from the NAFTA supplemental agreements on labor and environmental cooperation; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. Fields of Texas, Mr. Boucher, Mr.

Oxley, Mr. Hall of Texas, Mr. Moorhead, Mr. Bryant, Mr. Barton of Texas, Mr. Lehman, Mr. Hastert, Mr. Richardson, Mr. Gillmor, and Ms. Schenk):

H.R. 3636. A bill to promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DURBIN (for himself, Mr. McDermott, Mr. Gordon, Mr. Darden, Mr. Dellums, Mr. Frank of Massachusetts, Mr. Pete Geren of Texas, and Mr. Walsh):

H.R. 3637. A bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments; to the Committee on Ways and Means.

By Ms. ESHOO:

H.R. 3638. A bill to suspend temporarily the duty on Mycophenolate Mofetil in bulk form; to the Committee on Ways and Means.

By Mr. FIELDS of Louisiana:

H.R. 3639. A bill to amend title 18, United States Code, to regulate the receipt of firearms dealers; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 3640. A bill to direct the Administrator of the Environmental Protection Agency to establish an office in a community in the United States located not more than 10 miles from the border between the United States and Mexico; to the Committee on Merchant Marine and Fisheries.

By Mrs. FOWLER (for herself, Mr. Young of Florida, Mr. Lewis of Florida, Mr. Bacchus of Florida, Mr. Goss, Mr. Peterson of Florida, and Mrs. Thurman):

H.R. 3641. A bill to make adjustments of maps relating to the Coastal Barrier Resources System; to the Committee on Merchant Marine and Fisheries.

By Mr. FRANK of Massachusetts (for himself, Mr. Baker of Louisiana, Mr. Moran, Mr. Leach, Mr. Flake, Mr. McCollum, and Mr. LaRocco):

H.R. 3642. A bill to provide regulatory capital guidelines for treatment of real estate assets sold with limited recourse by depository institutions; jointly to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. FRANKS of Connecticut:

H.R. 3643. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage corporations to provide financing and management support services to enable welfare recipients to leave welfare an operate small business concerns; to the Committee on Ways and Means.

By Mr. GRAMS:

H.R. 3644. A bill to correct the tariff treatment of certain articles covered by the Nairobi Protocol; to the Committee on Ways and Means.

By Mr. GRAMS (for himself, Mr. Hutchinson, Mr. Hastert, Mr. Gingrich, Mr. Armey, Mr. McCollum, Mr. DeLay, Mr. Hyde, Mr. Hunter, Mr. Paxon, Mr. Solomon, Mr. Kasich, Mr. Istook, Mr. Knollenberg, Mr. Talent, Mr. Crapo, Mr. Manzullo, Ms. Dunn, Mr. Bachus of Alabama, Mr. Bartlett of Maryland, Mr. Dickey, Mr. Kingston, Mr. Kim, Ms. Pryce of Ohio, Mr. Hoekstra, Mr. Levy, Mr. Pombo, Mr. McKeon, Mr. Baker of California, Mr. Collins of Georgia, Mr. Inglis of South Carolina, Mr. Quinn, Mr. Canady, Mr. Hoke, Mr. Torkildsen, Mr. Linder, Mr. Blute, Mr. McInnis, Mr. King, Mr. Smith of Michigan, Mrs. Fowler, Mr. McHugh, Mr. Royce, Mr. Doolittle, Mr. Barton of Texas, Mr. Burton of Indiana, Mr. Ramstad, Mr. Cox, Mr. Smith of Oregon, Mr. Dornan, Mr. Herger of California, Mr. Hefley, Mr. Goss, Mr. Kyl, Mr. Zimmer, Mr. Stearns, Mr. Rohrabacher, Mr. Baker of Louisiana, Mr. Inhofe, Mrs. Vucanovich, Mr. Boehner, Mr. Ewing, Mr. Stump, Mr. Sam Johnson, Mr. Moorhead, Ms. Molinari, Mr. Santorum, Mr. Packard, Mr. Shays, Mr. Spence, Mr. Hancock, Mr. Emerson, Mr. Smith of Texas, Mr. Saxton, Mr. Ravenel, Mr. Hobson, and Mr. Gallegly):

H.R. 3645. A bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. GUNDERSON:

H.R. 3646. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards; to the Committee on Agriculture.

By Mr. HINCHEY:

H.R. 3647. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes; to the Committee on Natural Resources.

By Mr. HUNTER (for himself, Mr. Everett, Ms. Kaptur, and Mr. Traficant):

H.R. 3648. A bill to amend the Internal Revenue Code of 1986 to provide investment incentives for any corporation with a majority of its manufacturing operations in the United States; to the Committee on Ways and Means.

By Mr. HUNTER (for himself, Mr. Burton of Indiana, Mr. Cunningham, Mr. Everett, Ms. Kaptur, and Mr. Traficant):

H.R. 3649. A bill to establish the Industrial Regulatory Relief Commission; jointly, to the Committees on Energy and Commerce, Banking, Finance and Urban Affairs, and Rules.

By Mr. WAXMAN (for himself and Mr. Dingell):

H.R. 3650. A bill to amend the Federal Food, Drug, and Cosmetic Act to assure access to dietary supplements and to amend the Dietary Supplement Act of 1992 to extend the moratorium with respect to the issuance of regulations on dietary supplements, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, and Mr. Thomas of California):

H.R. 3651. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance policies, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Thomas of California, Mr. McMillan, and Mr. Gunderson):

H.R. 3652. A bill to improve the competitiveness, efficiency, and fairness of health coverage for individuals and small employers through promoting the development of voluntary Health Plan Purchasing Cooperatives; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. KOLBE (for himself, Mr. Porter, Mr. Schiff, Mr. Dornan, and Mr. Herger of California):

H.R. 3653. A bill to amend title XI of the Social Security Act and title 18, United States Code, to extend criminal RICO provisions to health care fraud and to extend certain other criminal provisions to health care fraud under the CHAMPUS Program, the Indian health care program, health care programs for veterans and the Department of Defense, and the Federal employees health care program; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. KOPETSKI (for himself, Mrs. Unsoeld, Mr. Farr, Mr. Young of Alaska, and Mr. Smith of Oregon):

H.R. 3654. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. LaFALCE:

H.R. 3655. A bill to authorize the Small Business Administration to reduce the interest rate on certain outstanding debentures, and for other purposes; to the Committee on Small Business.

By Mr. LANTOS (for himself, Mr. Gilman, Mrs. Maloney, Mr. Swett, Ms. Margolies-Mezvinsky, Mr. Deutsch, Mr. Hastings, Mr. Brown of Ohio, Mr. Andrews of New Jersey, Mr. Schumer, Ms. Lowey, Mr. Pallone, Ms. Ros-Lehtinen, Mr. Berman, and Mr. Ackerman):

H.R. 3656. A bill to restrict sales and leases of defense articles and defense services to any country or international organization which as a matter of policy or practice is known to have sent letters to U.S. firms requesting compliance with, or soliciting information regarding compliance with, the secondary or tertiary Arab boycott; to the Committee on Foreign Affairs.

By Mr. LaROCCO (for himself, Mr. Lehman, Mr. Rahall, Mr. Young of Alaska, Mr. Richardson, Mr. Schiff, and Mrs. Vucanovich):

H.R. 3657. A bill to establish fees for communication sites on public lands; jointly, to the Committees on Natural Resources and Agriculture.

By Mr. LEHMAN (for himself, Mr. Moorhead, Mr. Berman, Mr. Dooley, Mr. Matsui, Mr. Dellums, and Mr. Rohrabacher):

H.R. 3658. A bill to amend the Fair Labor Standards Act of 1938 to provide that employees in classified positions in community colleges are not required to receive overtime compensation for service in a certified or other academic position; to the Committee on Education and Labor.

By Mrs. MALONEY (for herself, Mr. Rangel, Mr. Gilman, Mr. Manton, Mr. Nadler, Mr. Engel, Mrs. Lowey, Mr. Owens, Mr. Hinchey, Mr. Hochbrueckner, Mr. McNulty, Mr. Flake, Ms. Velazquez, Mr. Schumer, Mr. Ackerman, Ms. Slaughter, Mr. Quinn, and Mr. Serrano):

H.R. 3659. A bill to amend title XIX of the Social Security Act to improve the Federal medical assistance percentage used under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MANZULLO (for himself and Mr. Weldon):

H.R. 3660. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive benefits; to the Committee on the Judiciary.

By Mr. McCOLLUM (for himself, Mr. Lewis of California, Mr. Sam Johnson, Mr. Linder, Mr. Bachus of Alabama, Mr. Grams, Mr. McCrery, Mr. Thomas of Wyoming, Mr. McCandless, and Mr. Castle):

H.R. 3661. A bill to amend the Federal Deposit Insurance Act to clarify the due process protections applicable to directors and officers of insured depository institutions and other institution-affiliated parties, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MEEHAN:

H.R. 3662. A bill to amend the Ethics in Government Act of 1978 to require that Members, officers, and employees of Congress required to file reports under this Act disclose in those reports additional information relating to travel financed by persons with any interest in legislation before the Congress, and for other purposes; jointly, to the Committees on the Judiciary, House Administration, and Post Office and Civil Service.

By Mrs. MEEK (for herself, Mr. Gilman, Ms. Brown of Florida, Mr. Owens, Mr. Mfume, Mr. Towns, Mr. Rush, Mrs. Clayton, Mr. Scott, Mr. Lewis of Georgia, Mr. Watt, Mr. Hilliard, Mr. Romero-Barcelo, Miss Collins of Michigan, Mr. Flake, Mr. Tucker, Ms. Waters, Mr. Jefferson, Mr. Payne of New Jersey, Mr. Rangel, Ms. Pelosi, Mr. Wynn, Mr. Jacobs, Mr. Frank of Massachusetts, Ms. Eddie Bernice Johnson of Texas, Mr. Conyers, Mr. Hastings, Mr. Foglietta, Ms. McKinney, Mr. Serrano, Mr. Washington, Mr. de Lugo, Mr. Clyburn, Mr. Engel, and Mr. Dellums):

H.R. 3663. A bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States, designate Haiti under temporary protected status, and for other purposes; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. MINGE:

H.R. 3664. A bill to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility; to the Committee on Merchant Marine and Fisheries.

By Mrs. MORELLA (for herself and Ms. Byrne):

H.R. 3665. A bill to amend title 49, United States Code, relating to penalty amounts for civil violations of Federal motor carrier safety regulations, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MURPHY (for himself and Mr. Murtha):

H.R. 3666. A bill to require the Secretary of the Treasury to mint and issue $1 coins in commemoration of the 50th anniversary of the end of World War II and General George C. Marshall's service therein; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURPHY:

H.R. 3667. A bill to redesignate the Federal building located at Ninth and Pennsylvania Avenue, NW., Washington, DC, and known as the "J. Edgar Hoover Federal Bureau of Investigation Building" as the "Federal Bureau of Investigation Building"; to the Committee on Public Works and Transportation.

By Mr. NADLER (for himself and Mrs. Maloney):

H.R. 3668. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 125th anniversary of the founding of the American museum of Natural History; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NADLER:

H.R. 3669. A bill to amend the Public Health Service Act with respect to determining the amount of a supplemental grant under the emergency relief program regarding the human immunodeficiency virus; to the Committee on Energy and Commerce.

By Mr. NADLER (for himself and Mrs. Schroeder):

H.R. 3670. A bill to provide a civil claim for individuals who are victims of crimes motivated by actual or perceived race, color, gender, religion, national origin, ethnicity, sexual orientation, or physical or mental disability; to the Committee on the Judiciary.

By Mr. NADLER (for himself, Ms. Lowey, Mr. Engel, and Mr. Schumer):

H.R. 3671. A bill to amend the Internal Revenue Code of 1986 to provide for adjustments in the individual income tax rates to reflect regional differences in the cost-of-living; to the Committee on Ways and Means.

By Mr. NADLER:

H.R. 3672. A bill to require the Secretary of Labor to establish cost-of-living indexes on a regional basis; to the Committee on Education and Labor.

By Mr. HERGER:

H.R. 3673. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Government Operations.

By Mr. NADLER:

H.R. 3674. A bill to amend title XIX of the Social Security Act to increase the income eligibility limit for medical assistance for COBRA continuation coverage under a State medicaid plan from 100 percent to 185 percent of the poverty level; to the Committee on Energy and Commerce.

H.R. 3675. A bill to provide for the establishment of alternative use committees at defense facilities to assist in the economic adjustment of communities, industries, and workers as a result of reductions or realignments in defense or aerospace spending and arms exports and the closure or realignment of military installations; jointly, to the Committees on Armed Services, Education and Labor, Foreign Affairs, Science, Space, and Technology, and Merchant Marine and Fisheries.

By Ms. NORTON:

H.R. 3676. A bill to amend the District of Columbia Spouse Equity Act of 1988 to provide for coverage of the former spouses of judges of the District of Columbia courts; to the Committee on the District of Columbia.

By Ms. NORTON (by request):

H.R. 3677. A bill to extend to the Mayor of the District of Columbia the same authority with respect to the National Guard of the District of Columbia as the Governor of a State exercises with respect to the National Guard of that State; jointly, to the Committees on Armed Services and the District of Columbia.

By Mr. ORTIZ (for himself, Mr. Weldon, Mr. Lehman, and Mr. Tauzin):

H.R. 3678. A bill to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources; jointly, to the Committees on Natural Resources and Merchant Marine and Fisheries.

By Mr. ORTIZ (for himself, Mr. Weldon, Mr. Hughes, Mr. Dellums, Mr. Lipinski, Mr. Laughlin, Mr. Young of Alaska, Mr. Frost, Mr. Bonior, and Mr. Washington):

H.R. 3679. A bill to authorize appropriations to expand implemention of the Junior Duck Stamp Conservation Program conducted by the U.S. Fish and Wildlife Service; to the Committee on Merchant Marine and Fisheries.

By Mr. OWENS (for himself and Mr. Hastings):

H.R. 3680. A bill to amend the revised statutes to restore standards for proving international discrimination; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. OXLEY:

H.R. 3681. A bill to promote the establishment of qualified voluntary environmental response programs in States and to encourage the expeditious remediation of contaminated sites; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. PALLONE:

H.R. 3682. A bill to require that 4-gallon to 6-gallon buckets distributed in commerce bear a permanent label warning of a potential drowning hazard to young children, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PETERSON of Florida:

H.R. 3683. A bill to amend the Community Reinvestment Act of 1977 to permit any loan by an insured depository institution, the proceeds of which are used for the certified rehabilitation of a certified historical structure, to be taken into account in connection with an assessment of such institution for purposes of such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PICKLE (for himself and Mr. Archer):

H.R. 3684. A bill to amend the Internal Revenue Code of 1986 to modify the pension plan rules applicable to State judicial retirement plans; to the Committee on Ways and Means.

By Mr. POMBO:

H.R. 3685. A bill to amend title 18, United States Code, to authorize prosecutions as adults of certain armed offenders who are juveniles; to the Committee on the Judiciary.

By Mr. ROBERTS (for himself and Mr. Condit):

H.R. 3686. A bill to amend the Safe Drinking Water Act to suspend the requirements of that act until the costs of implementing those requirements are fully funded by the Federal Government; to the Committee on Energy and Commerce.

By Mr. ROEMER (for himself, Mrs. Maloney, Mr. Penny, Mr. Barrett of Wisconsin, Mr. Frank of Massachusetts, Mr. Shays, Mr. Ramstad, Mr. Pomeroy, Mr. Hoekstra, Mr. Meehan, Mr. Strickland, Mr. Durbin, Mr. Vento, Mr. Barca of Wisconsin, Mr. Andrews of Maine, Mr. Poshard, Ms. Danner, Mrs. Roukema, Mr. Klein, Mr. LaRocco, Mr. DeFazio, Mr. Conyers, Mr. Kleczka, Mr. Hughes, Mr. Schumer, Mr. Porter, Mr. Payne of New Jersey, Mr. Sharp, and Mr. Hastert):

H.R. 3687. A bill to cancel the space station program; to the Committee on Science, Space, and Technology.

By Mr. SANGMEISTER (for himself and Mr. Hastert):

H.R. 3688. A bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act; to the Committee on Energy and Commerce.

By Mr. SANTORUM (for himself and Mrs. ROUKEMA):

H.R. 3689. A bill to limit occupancy of nonelderly single persons in dwelling units located in public housing projects for elderly families; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SANTORUM:

H.R. 3690. A bill to require that development assistance may be provided to certain governmental or nongovernmental organizations only if those organizations use that assistance in democratic countries, and for other purposes; to the Committee on Foreign Affairs.

H.R. 3691. A bill to require that printing for the executive and legislative branches of the Government be procured through a competitive bid process conducted by the Administrator of General Services; jointly, to the Committees on Government Operations and House Administration.

H.R. 3692. A bill to limit the amount an executive agency may obligate for office furniture and decorating in fiscal years after fiscal year 1994, and to rescind amounts available for that purpose for fiscal year 1994; to the Committee on Government Operations.

By Mr. SCHAEFER:

H.R. 3693. A bill to designate the U.S. courthouse under construction in Denver, CO, as the "Byron White United States Courthouse"; to the Committee on Public Works and Transportation.

By Mrs. SCHROEDER (for herself, Mr. MARKEY, and Mr. KENNEDY):

H.R. 3694. A bill to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgment against an annuitant for physically abusing a child; to the Committee on Post Office and Civil Service.

By Mr. SMITH of Texas (for himself, Mr. KASICH, Mr. COX, and Mr. FRANKS of New Jersey):

H.R. 3695. A bill to establish requirements relating to the issuance and review of regulations by Federal agencies; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 3696. A bill to subject the income of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Student Loan Marketing Association to taxation by State and local governments, and to require the Mayor of the District of Columbia to submit a report to Congress on the economic impact of such entities on the District of Columbia; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, and the District of Columbia.

H.R. 3697. A bill to amend the Internal Revenue Code of 1986 to impose excise taxes on acts of self-dealing and private inurement by certain tax-exempt organizations; to the Committee on Ways and Means.

By Mr. STEARNS (for himself, Mr. ARMEY, Mr. HASTERT, Mr. BAKER of California, Mr. CUNNINGHAM, Mr. DELAY, Mr. GINGRICH, Mr. RAMSTAD, Mr. GRAMS, Mr. HANCOCK, Mr. HYDE, Mr. TALENT, Mrs. VUCANOVICH, Mr. HUTCHINSON, Mr. DORNAN, Mr. HUNTER, Mr. GEKAS, and Mr. DUNCAN):

H.R. 3698. A bill to provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, the Judiciary, and Rules.

By Mr. STOKES (for himself, Mr. CLAY, Mrs. MEEK, Mr. LEWIS of Georgia, Mr. DELLUMS, Mr. HILLIARD, Mr. MFUME, Mr. JEFFERSON, Mr. TOWNS, Mr. BISHOP, Ms. NORTON, and Mr. THOMPSON):

H.R. 3699. A bill to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. STRICKLAND:

H.R. 3700. A bill to provide for enforcement of State court judgments against federally forfeited assets of individuals who are delinquent in payment of child support; jointly, to the Committees on the Judiciary, Energy and Commerce, and Ways and Means.

By Mr. STUDDS:

H.R. 3701. A bill to deauthorize a portion of the project for navigation, Falmouth, MA, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SYNAR:

H.R. 3702. A bill to amend section 1341 of title 28, United States Code, relating to the jurisdiction of the district courts over certain tax controversies; to the Committee on the Judiciary.

By Mr. THOMAS of California:

H.R. 3703. A bill to validate and confirm a conveyance of certain real property by the Southern Pacific Transportation Co., successor in interest to Southern Pacific Railroad Co., to the Redevelopment Agency of the city of Tulare, a public body, corporate and politic, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMAS of California (for himself, Mrs. JOHNSON of Connecticut, Mr. GUNDERSON, and Mr. MACHTLEY):

H.R. 3704. A bill to provide comprehensive reform of the health care system of the United States, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, the Judiciary, and Rules.

By Mrs. THURMAN (for herself, Mr. CANADY, Mr. BACCHUS of Florida, Mr. BILIRAKIS, Ms. BROWN of Florida, Mrs. FOWLER, Mr. GIBBONS, Mr. GOSS, Mr. JOHNSTON of Florida, Mr. MILLER of Florida, Mr. PETERSON of Florida, and Ms. ROS-LEHTINEN):

H.R. 3705. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from that act for inmates of penal or other correctional institutions who participate in certain programs; to the Committee on Education and Labor.

By Mr. TOWNS (for himself, Mr. BROWN of California, Miss COLLINS of Michigan, Mr. CONYERS, Mr. DELLUMS, Mr. EVANS, Mr. PETERSON of Minnesota, Mr. RICHARDSON, Mr. SANDERS, Mrs. SCHROEDER, Mr. WHEAT, and Mr. WYNN):

H.R. 3706. A bill to amend the Solid Waste Disposal Act to prohibit the international export and import of certain solid waste; to the Committee on Energy and Commerce.

By Mr. VENTO (for himself, Mr. HINCHEY, and Mr. BOUCHER):

H.R. 3707. A bill to establish an American Heritage Areas Partnership Program in the Department of the Interior; to the Committee on Natural Resources.

By Mr. VENTO:

H.R. 3708. A bill to reform the operation, maintenance, and development of the Steamtown National Historic site, and for other purposes; to the Committee on Natural Resources.

H.R. 3709. A bill to reform the process for the study of areas for potential inclusion in the National Park System, and for other purposes; to the Committee on Natural Resources.

H.R. 3710. A bill to strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes; to the Committee on Natural Resources.

By Mrs. VUCANOVICH:

H.R. 3711. A bill to establish within the Department of Energy a National Test and Demonstration Center of Excellence at the Nevada test site, and for other purposes; to the Committees on Armed Services, Science, Space, and Technology, and Energy and Commerce.

By Mr. WHEAT:

H.R. 3712. A bill to award a congressional gold medal on behalf of President Harry S. Truman to commemorate the 50th anniversary of his 1st inauguration as President of the United States of America; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3713. A bill to amend the Motor Vehicle Information and Cost Savings Act to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles that are salvage or have been damaged, to require inspection of salvage vehicles that have been repaired in order to prevent the sale of unsafe vehicles or vehicles with stolen parts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WHITTEN:

H.R. 3714. A bill to provide for an interpretive center at the Civil War Battlefield of Corinth, MS, and for other purposes; to the Committee on Natural Resources.

By Mr. YOUNG of Alaska:

H.R. 3715. A bill to provide consultations for the development of Articles of Incorporation for territories of the United States; to the Committee on Natural Resources.

By Mr. ZIMMER:

H.R. 3716. A bill to limit amounts expended by certain Government entities for overhead expenses; to the Committee on Government Operations.

H.R. 3717. A bill to allow for moderate growth of mandatory spending; jointly, to the Committees on Government Operations and Rules.

By Mr. GEPHARDT:

H.J. Res. 300. Joint resolution providing for the convening of the 2d session of the 103d Congress; considered and passed.

By Mr. CRANE:

H.J. Res. 301. Joint resolution designating May 1994 as "National Sporting Goods Month"; to the Committee on Post Office and Civil Service.

By Ms. FURSE (for herself, Ms. SNOWE, Ms. MCKINNEY, Ms. VELAZQUEZ, Mr. ANDREWS of Maine, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. BEILENSON, Mr. BILBRAY, Mr. BISHOP, Mr. BONIOR, Ms. BYRNE, Mrs. CLAYTON, Mr. CONYERS, Mr. COPPERSMITH, Mr. DEFAZIO, Mr. DELLUMS, Mr. DE LUGO, Ms. ESHOO, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. FISH, Mr. FOGLIETTA, Mr. FROST, Mr. GIBBONS, Mr. GREENWOOD, Mr. HINCHEY, Mr. HUGHES, Mr. HUTTO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KASICH, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mrs. LLOYD, Ms. LOWEY, Mr. MARTINEZ, Mr. MCDERMOTT, Mr. MCNULTY, Mrs. MEEK, Mr. MINGE, Mrs. MINK, Mr.

Moakley, Mrs. Morella, Mr. Nadler, Ms. Norton, Mr. Oberstar, Mr. Olver, Mr. Pastor, Ms. Pelosi, Mr. Peterson of Minnesota, Mr. Rangel, Mr. Ravenel, Ms. Roybal-Allard, Mr. Scott, Mr. Serrano, Mr. Towns, Mrs. Unsoeld, Mr. Valentine, Mr. Walsh, Mr. Washington, Ms. Waters, Mr. Waxman, and Ms. Woolsey):

H.J. Res. 302. Joint resolution designating 1994 through 1999 as the "Years of the Girl Child"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS (for himself, Mr. Gephardt, Mr. Michel, Mr. Dellums, Mr. Spence, Mr. Montgomery, Mr. Stump, and Mr. Gibbons):

H.J. Res. 303. Joint resolution designating June 6, 1994, as "D-Day National Remembrance Day"; to the Committee on Post Office and Civil Service.

By Mr. SHARP (for himself, Mr. Swett, Mrs. Morella, Ms. Lambert, and Mr. Boehlert):

H. Con. Res. 188. Concurrent resolution expressing the sense of the Congress that a dramatic new direction in Federal Government energy research, development, demonstration, and commercialization funding priorities should be adopted to improve environmental protection, create new jobs, enhance U.S. competitiveness, and reduce the trade deficit; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. McCLOSKEY (for himself, Mr. Wilson, Mr. Hyde, and Ms. Molinari):

H. Con. Res. 189. Concurrent resolution expressing the sense of the Congress that every effort should be made to avert a humanitarian disaster in Bosnia and Herzegovina and the other former Yugoslav republics during the winter of 1993–94; to the Committee on Foreign Affairs.

By Mr. GEPHARDT:

H. Con. Res. 190. Concurrent resolution providing for the sine die adjournment of the 1st session of the 103d Congress; considered and agreed to.

By Mr. FRANKS of New Jersey (for himself, Mr. Johnson of Georgia, and Mr. Regula):

H. Con. Res. 191. Concurrent resolution to urge the Secretary of State to actively engage in negotiations with the signatories of the United Nations Convention relating to the status of refugees to establish international first safe haven procedures for aliens claiming political asylum; to the Committee on Foreign Affairs.

By Mr. NADLER:

H. Con. Res. 192. Concurrent resolution expressing the sense of Congress with respect to information on AIDS and HIV infections, and for other purposes; to the Committee on Energy and Commerce.

By Mr. REGULA (for himself, Mr. Levin, Mr. Mineta, Mr. Oberstar, Mr. Yates, Mr. Costello, Mr. Applegate, Mr. Visclosky, Mr. Hughes, Mr. Edwards of California, Mr. Boehner, Mr. Filner, Mr. Conyers, Mr. Lipinski, Mr. Lancaster, Mrs. Bentley, Mr. Murtha, Ms. Lowey, Ms. Eshoo, Mr. DeFazio, Mr. Cardin, Mr. Gene Green of Texas, Mr. Pastor, Mr. Ridge, Mr. Weldon, Mr. Carr, Mr. Gekas, Mr. LaFalce, Mr. Clay, Ms. Long, Mr. McDade, Mr. Pallone, Mr. Stokes, Mr. Dingell, Mr. Hinchey, Mr. Vento, Mr. McHale, Mr. Payne of Virginia, Mr. Brown of Ohio, Mr. Hunter, Mr. Rush, Mr. Crapo, Mr. Slattery, Mr. Markey, Mrs. Mink, Mr. Brown of California, Ms. Kaptur, Mr. Coyne, Mr. Kildee, Mr. Obey, Mr. Rahall, Mr. Sangmeister, Mr. Sawyer, Mr. Synar, Mr. Boehlert, Mr. Quinn, Mr. Roemer, Ms. Furse, Ms. Margolies-Mezvinsky, Mr. Mollohan, Mr. Neal of Massachusetts, Mrs. Kennelly, Mr. Pickle, Mr. Bonior, Mr. Houghton, and Miss Collins of Michigan):

H. Con. Res. 193. Concurrent resolution to express the sense of the Congress regarding negotiations objectives for the Uruguay round of the General Agreement on Trade and Tariffs [GATT] to the Committee on Ways and Means.

By Mr. TALENT:

H. Con. Res. 194. Concurrent resolution expressing the sense of the Congress that any comprehensive health care reform legislation that is enacted should require a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress to wait for a period equal to a national average waiting period before receiving a health care service; jointly, to the Committees on Energy and Commerce and House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Ms. MARGOLIES-MEZVINSKY introduced a bill (H.R. 3718) for the relief of Mark A. Potts; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Ms. Furse.

H.R. 39: Mr. Lantos and Mr. Wynn.

H.R. 70: Mrs. Fowler and Mr. Johnson of South Dakota.

H.R. 122: Mr. Klug and Mrs. Maloney.

H.R. 133: Mr. Klug, Mr. Cox, and Mr. Hoke.

H.R. 140: Mr. Burton of Indiana, Mr. Portman, Mr. Oxley, Mr. Shaw, Mr. Gallegly, Mr. Reynolds, Mr. Canady, Mr. Barton of Texas, Mr. Grandy, Mr. Murtha, Mr. Lancaster, Mrs. Vucanovich, and Mr. Armey.

H.R. 146: Mr. Bachus of Alabama.

H.R. 163: Mr. Hoke and Mr. Gordon.

H.R. 173: Mr. Gordon.

H.R. 226: Mr. Yates, Mr. Swett, and Mr. Wise.

H.R. 291: Mr. Bunning, Mr. Hughes, and Ms. Furse.

H.R. 301: Mr. Klug.

H.R. 306: Mr. Franks of Connecticut.

H.R. 383: Mrs. Meyers of Kansas.

H.R. 388: Mrs. Meyers of Kansas.

H.R. 401: Mr. Herger of California.

H.R. 417: Ms. Pryce of Ohio.

H.R. 425: Mr. Barcia of Michigan.

H.R. 427: Mr. Barcia of Michigan.

H.R. 429: Mr. Klug and Mr. Mica.

H.R. 436: Ms. Pelosi and Ms. Furse.

H.R. 441: Ms. Molinari Mr. Blute, Mr. Pallone, Mr. Schaefer, Mr. Johnson of South Dakota, and Mr. Lazio.

H.R. 465: Mr. Schaefer, Mr. Hoke, and Mr. Johnson of South Dakota.

H.R. 476: Mr. Grams, Ms. Furse, and Mr. Jefferson.

H.R. 477: Mrs. Maloney.

H.R. 502: Mr. Goodlatte, Mrs. Maloney, and Mr. Bacchus of Florida.

H.R. 518: Mr. Ford of Michigan, Mr. Sanders, Mr. Sabo, Mr. Gutierrez, Mr. Pallone, and Ms. Kaptur.

H.R. 522: Mr. Serrano.

H.R. 549: Mr. Schiff.

H.R. 551: Mr. Bunning, Mr. Engel, and Mr. Barlow.

H.R. 561: Mr. Armey Mr. Herger of California, and Mr. Upton.

H.R. 624: Mr. Goodlatte, Mr. Vento, Mr. Hinchey, and Mr. Romero-Barceló.

H.R. 643: Ms. Molinari.

H.R. 657: Mr. Bateman.

H.R. 662: Mr. Spence and Mr. Cox.

H.R. 672: Mr. Dornan, Mr. Hinchey, Mr. Quinn, and Mr. Kennedy.

H.R. 681: Mr. Shays.

H.R. 702: Mr. Wynn.

H.R. 723: Mr. Bachus of Alabama and Mr. Johnson of South Dakota.

H.R. 746: Ms. Norton and Mr. Matsui.

H.R. 769: Mr. Andrews of Maine.

H.R. 778: Mr. Orton, Mr. Darden, Mrs. Lloyd, and Mr. Clement.

H.R. 814: Mr. Schiff and Mr. Bachus of Alabama.

H.R. 846: Mr. Goss.

H.R. 883: Mr. Hoke.

H.R. 895: Mr. Bachus of Alabama and Mr. Schaefer.

H.R. 896: Mr. Bateman, Mrs. Vucanovich, and Mrs. Fowler.

H.R. 943: Mr. Camp, Mr. Duncan, Mr. Orton, and Mr. Lazio.

H.R. 961: Ms. Molinari, Mr. Pallone, and Mr. Johnson of South Dakota.

H.R. 972: Ms. Furse.

H.R. 1015: Mr. Gilman.

H.R. 1026: Mr. Bachus of Alabama.

H.R. 1048: Mr. Stark, Mrs. Maloney, Mr. Penny, and Mr. Pastor.

H.R. 1055: Ms. Furse and Mr. Levy.

H.R. 1080: Mr. Blute, Mr. Johnson of South Dakota, and Mr. Gilchrest.

H.R. 1086: Mr. Gejdenson.

H.R. 1099: Mr. Mica, Mr. Stearns, Mr. Linder, Mr. Bachus of Alabama, Mrs. Vucanovich, Mr. Cox, and Mr. Ramstad.

H.R. 1116: Mr. Wynn.

H.R. 1122: Mr. Knollenberg, Mr. Schaefer, and Mrs. Maloney.

H.R. 1124: Mr. Bachus of Alabama and Mr. Schaefer.

H.R. 1125: Mr. Bateman.

H.R. 1126: Mr. Mica, Mr. Schaefer, and Mr. Bachus of Alabama.

H.R. 1127: Mr. Schaefer.

H.R. 1128: Mr. Cox, Mr. Bachus of Alabama, and Mr. Blute.

H.R. 1129: Mr. Knollenberg, Mr. Cox, and Ms. Molinari.

H.R. 1130: Mr. Shaw and Mr. Bachus of Alabama.

H.R. 1151: Mr. Waxman.

H.R. 1164: Mr. Towns.

H.R. 1167: Mr. Bachus of Alabama.

H.R. 1168: Mr. Cox, Mrs. Fowler, Mr. Bateman, and Mr. Quinn.

H.R. 1169: Mr. Bachus of Alabama and Mr. Cox.

H.R. 1176: Ms. Furse.

H.R. 1181: Mr. Swett.

H.R. 1191: Mr. Gilchrest.

H.R. 1192: Mr. Zimmer.

H.R. 1194: Mr. McCloskey and Mr. Nadler.

H.R. 1200: Mr. Fields of Louisiana, Mr. Synar, Mr. Richardson, Mr. Gonzalez, and Mr. Waxman.

H.R. 1209: Mr. Bachus of Alabama and Mr. Cox.

H.R. 1231: Mr. Barca of Wisconsin.

H.R. 1241: Mrs. Meyers of Kansas.

H.R. 1276: Mr. Sarpalius and Mr. Cramer.

H.R. 1293: Mr. Linder, Mr. Doolittle, Mr. Bachus of Alabama, and Mr. Schaefer.

H.R. 1295: Mr. ANDREWS of Texas, Mr. HOBSON, Mr. HERGER of California, Mr. KYL, and Mr. ISTOOK.

H.R. 1322: Mr. LIVINGSTON, Mr. DICKEY, Mr. DOOLITTLE, Mr. ISTOOK, Mr. CRAPO, Mr. TUCKER, Mr. INGLIS of South Carolina, Mr. MACHTLEY, Mr. KASICH, Mr. DELAY, Mr. LIGHTFOOT, Mr. DARDEN, Mr. DIAZ-BALART, Mr. CAMP, Mr. EVERETT, and Mr. MCKEON.

H.R. 1349: Mr. COBLE, Mr. DEUTSCH, and Ms. FURSE.

H.R. 1354: Mr. TORKILDSEN, Mr. MILLER of California, Mr. NADLER, and Mrs. MORELLA.

H.R. 1392: Mr. HOKE.

H.R. 1402: Mr. FRANK of Massachusetts.

H.R. 1423: Mr. MATSUI, Mr. GRAMS, Mr. HILLIARD, Mr. APPLEGATE, and Mr. HINCHEY..

H.R. 1428: Mr. BACHUS of Alabama.

H.R. 1444: Mr. FRANK of Massachusetts.

H.R. 1455: Mr. YOUNG of Florida.

H.R. 1483: Mr. HOKE, Mr. SCHAEFER, and Mr. KLUG.

H.R. 1487: Mr. MICA, Mr. RAMSTAD, and Mrs. FOWLER.

H.R. 1493: Mr. BATEMAN, Mr. YATES, and Ms. FURSE.

H.R. 1505: Mr. PORTMAN, Mr. BLUTE, and Mr. COX.

H.R. 1518: Mr. SCHAEFER.

H.R. 1538: Mr. MORAN.

H.R. 1551: Mr. BURTON of Indiana, Mr. SMITH of Texas, Mr. MCCRERY, Mr. DORNAN, and Mr. EDWARDS of Texas.

H.R. 1552: Mr. LINDER, Mr. BACHUS of Alabama, Mr. BARCA of Wisconsin, Mr. DARDEN, and Mr. GILCHREST.

H.R. 1555: Mr. BARCA of Wisconsin.

H.R. 1571: Ms. MARGOLIES-MEZVINSKY.

H.R. 1602: Mr. OLVER, Mr. MURPHY, Mr. LEWIS of Georgia, and Mr. ZELIFF.

H.R. 1604: Mr. BACHUS of Alabama.

H.R. 1607: Mr. PALLONE.

H.R. 1609: Mr. RICHARDSON.

H.R. 1620: Mr. KLUG, Mrs. VUCANOVICH, Mr. GOODLATTE, Mr. LINDER, Mr. RAMSTAD, Mrs. FOWLER, Mr. BACHUS of Alabama, Mr. SCHAEFER, Mr. MICA, Mr. COX, and Mr. JOHNSON of South Dakota.

H.R. 1621: Mr. ZELIFF, Mr. ZIMMER, Mr. UPTON, Mr. JACOBS, Mr. PALLONE, and Mr. PENNY.

H.R. 1622: Mr. BATEMAN.

H.R. 1673: Mr. KLUG and Mr. PENNY.

H.R. 1687: Mr. WALSH.

H.R. 1703: Mr. GEJDENSON, Mr. GIBBONS, and Mr. FRANK of Massachusetts.

H.R. 1709: Mr. SMITH of Oregon, Mr. ROSE, Mr. PACKARD, Mr. HILLIARD, Mr. TANNER, Mr. OXLEY, Mr. MANTON, Mr. OWENS, Mr. GALLO, Mr. SKELTON, Mr. NEAL of North Carolina, Mr. WELDON, Mr. PAXON, Mr. YOUNG of Alaska, Mr. SMITH of New Jersey, Mr. BLILEY, Mr. HUTCHINSON, Mr. DELAY, Mr. UNDERWOOD, Mr. FORD of Tennessee, Mr. BEREUTER, Mr. GOODLING, Mrs. LLOYD, Mr. BILIRAKIS, and Mr. ANDREWS of Maine.

H.R. 1725: Mr. ZELIFF and Mr. KLUG.

H.R. 1775: Ms. LAMBERT.

H.R. 1785: Mr. ZELIFF, Mr. DOOLITTLE, Mr. KLUG, and Mr. SCHAEFER.

H.R. 1793: Mrs. MEYERS of Kansas, Mr. BISHOP, and Mr. GEJDENSON.

H.R. 1808: Mr. DEFAZIO, Mr. PAYNE of New Jersey, and Mr. ENGEL.

H.R. 1809: Mr. DEFAZIO, Mr. PAYNE of New Jersey, Mr. PORTER, and Mr. ENGEL.

H.R. 1810: Mr. DEFAZIO, Mr. PAYNE of New Jersey, and Mr. ENGEL.

H.R. 1815: Mr. MCDADE, Mr. SANTORUM, Mr. CANADY, Mr. GINGRICH, Mr. MCMILLAN, and Mr. GOODLING.

H.R. 1852: Mr. BACHUS of Alabama and Mr. COX.

H.R. 1853: Mr. BACHUS of Alabama.

H.R. 1857: Mr. BACHUS of Alabama.

H.R. 1860: Mr. BACHUS of Alabama.

H.R. 1864: Mr. MCKEON.

H.R. 1883: Mr. GONZALEZ, Mr. HASTINGS, Mr. BROWN of California, Miss COLLINS of Michigan, and Mr. YOUNG of Florida.

H.R. 1884: Mr. BEVILL and Mr. BARRETT of Wisconsin.

H.R. 1887: Mr. BATEMAN, Mr. HERGER of California, and Mr. BACHUS of Alabama.

H.R. 1900: Mr. THORNTON.

H.R. 1910: Mr. TAUZIN and Mr. SCHAEFER.

H.R. 1921: Mr. HOKE.

H.R. 1950: Mr. BALLENGER, Mr. HOBSON, Mr. SOLOMON, and Mr. HERGER of California.

H.R. 1961: Ms. BYRNE.

H.R. 1968: Mr. ANDREWS of Maine.

H.R. 1989: Mr. ZIMMER.

H.R. 1999: Mr. COMBEST and Mr. GREENWOOD.

H.R. 2013: Mr. MCKEON, Mr. CALVERT, Mr. EVANS, and Mr. ROMERO-BARCELÓ.

H.R. 2014: Mr. KLUG, Mr. BATEMAN, Mr. SCHAEFER, Mr. DARDEN, and Mr. GORDON.

H.R. 2022: Mr. HOUGHTON and Mr. SUNDQUIST.

H.R. 2023: Mr. HERGER of California and Mr. EWING.

H.R. 2032: Ms. FURSE and Mr. JEFFERSON.

H.R. 2035: Mrs. MALONEY.

H.R. 2036: Mrs. MALONEY.

H.R. 2037: Mr. SCHAEFER.

H.R. 2038: Mr. SCHAEFER.

H.R. 2043: Mr. KENNEDY and Mr. ZIMMER.

H.R. 2059: Mr. BACHUS of Alabama.

H.R. 2062: Mr. ACKERMAN and Ms. MOLINARI.

H.R. 2073: Mr. ZIMMER.

H.R. 2088: Mr. CLYBURN, Mr. EDWARDS of Texas, Mr. RAVENEL, and Mr. WELDON.

H.R. 2132: Mr. HILLIARD.

H.R. 2145: Mr. DEUTSCH and Mr. PASTOR.

H.R. 2159: Mr. SMITH of New Jersey.

H.R. 2171: Mr. BROWN of Ohio and Mr. GILMAN.

H.R. 2175: Mr. DOOLEY.

H.R. 2192: Mr. BACCHUS of Florida.

H.R. 2207: Mr. BARLOW, Mr. SMITH of Oregon, Mr. OXLEY, Mr. MURPHY, Mr. CLEMENT, and Mr. BACHUS of Alabama.

H.R. 2210: Mr. NADLER.

H.R. 2219: Mr. BACHUS of Alabama.

H.R. 2220: Mr. HERGER of California.

H.R. 2229: Ms. WOOLSEY, Mr. ANDREWS of Maine, Mr. GONZALEZ, Mr. SABO, Ms. PELOSI, Mr. NADLER, and Mr. MORAN.

H.R. 2238: Mrs. MALONEY.

H.R. 2292: Mr. UPTON and Mr. KLEIN.

H.R. 2308: Mr. TUCKER and Ms. VELAZQUEZ.

H.R. 2319: Mr. BONILLA, Mr. DIAZ-BALART, Mrs. FOWLER, Mr. FRANKS of New Jersey, Ms. FURSE, Mr. GRANDY, Mr. HOKE, Mr. KING, Mr. KNOLLENBERG, Mr. LEVY, Mr. MCCANDLESS, Mr. MCCOLLUM, Mr. MCDADE, Mr. PACKARD, and Mr. PORTMAN.

H.R. 2393: Mr. BACHUS of Alabama.

H.R. 2418: Mr. SMITH of Texas and Mr. FRANK of Massachusetts.

H.R. 2427: Mr. WISE.

H.R. 2429: Mr. GIBBONS, Ms. PRYCE of Ohio, Mr. TOWNS, and Mr. STOKES.

H.R. 2434: Mr. PORTMAN and Mr. SCHAEFER.

H.R. 2441: Mr. DELLUMS.

H.R. 2443: Mr. BROOKS, Mr. MCCURDY, Mr. HUFFINGTON, Mr. HORN of California, Mr. POMBO, Mr. COYNE, Mr. BEILENSON, Mr. CONYERS, Mr. ABERCROMBIE, Mr. EDWARDS of California, Mr. COX, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BYRNE, Mr. CONDIT, Mr. BECERRA, Mr. GORDON, Mr. SAXTON, Mr. ORTIZ, Mr. DREIER, Mr. BLILEY, Mr. TORRES, Mr. SMITH of Texas, Mr. TAYLOR of North Carolina, Mr. WHITTEN, Mr. MYERS of Indiana, Mrs. SCHROEDER, Mr. DELAY, Mr. BONILLA, Mr. ENGLISH of Oklahoma, Mr. PETRI, Mr. DUNCAN, Mr. MFUME, Ms. DELAURO, Mr. ARMEY, Mr. SWIFT, Mr. ROTH, Mr. RAMSTAD, Mr. KLECZKA, Mr. ROBERTS, Mr. WYNN, Mr. PORTER, Mr. GRAMS, Mr. LEHMAN, and Mr. SCOTT.

H.R. 2452: Mr. ANDREWS of New Jersey.

H.R. 2464: Mr. TORRES.

H.R. 2484: Mr. LIPINSKI and Mr. HYDE.

H.R. 2488: Mr. ANDREWS of Maine, Mr. LANTOS, and Mr. PALLONE.

H.R. 2525: Mr. CALLAHAN and Mr. BALLENGER.

H.R. 2526: Mr. SANDERS.

H.R. 2527: Mr. SANDERS.

H.R. 2541: Mr. COX.

H.R. 2543: Mr. HINCHEY.

H.R. 2572: Mr. WYNN.

H.R. 2600: Mr. FLAKE.

H.R. 2602: Mr. GILCHREST.

H.R. 2605: Mr. POMEROY.

H.R. 2617: Mr. FISH and Mr. HERGER of California.

H.R. 2638: Mr. ANDREWS of Maine and Mr. MORAN.

H.R. 2640: Mr. DELAY.

H.R. 2641: Mr. LAROCCO, Mr. BACCHUS of Florida, Mr. SANDERS, and Mr. DURBIN.

H.R. 2646: Mr. BACHUS of Alabama, Mr. JACOBS, Mr. LINDER, Mr. RAMSTAD, Mr. SCHAEFER, Mr. HOKE, Mr. ZIMMER, and Mr. GORDON.

H.R. 2649: Mr. RAMSTAD and Mr. HINCHEY.

H.R. 2662: Mr. JEFFERSON, Mr. ENGEL, Mr. TUCKER, Mr. WASHINGTON, Mr. GUTIERREZ, Mr. COYNE, Mr. CRAMER, Mr. UNDERWOOD, Mr. FALEOMAVAEGA, and Mr. WYNN.

H.R. 2671: Mr. ZIMMER.

H.R. 2676: Mr. FORD of Tennessee.

H.R. 2705: Mr. HOKE.

H.R. 2721: Mr. JACOBS and Mr. ENGEL.

H.R. 2728: Mr. DELLUMS, Mr. EVANS, and Mr. FISH.

H.R. 2736: Mr. VENTO, Mr. TRAFICANT, Ms. NORTON, and Ms. VELAZQUEZ.

H.R. 2738: Mr. TOWNS.

H.R. 2756: Mr. GORDON.

H.R. 2759: Ms. FURSE.

H.R. 2786: Mr. SLATTERY.

H.R. 2787: Mr. VENTO.

H.R. 2788: Mr. MARTINEZ.

H.R. 2790: Mr. BISHOP and Mr. ENGEL.

H.R. 2816: Mr. MILLER of Florida, Mr. CANADY, Mr. SMITH of New Jersey, and Mr. FISH.

H.R. 2826: Ms. KAPTUR, Mr. YATES, Mr. COBLE, Mr. FINGERHUT, Mr. INSLEE, Mr. WAXMAN, Mr. HOCHBRUECKNER, Mr. ROSE, Mr. JACOBS, Mr. DIXON, Mr. FORD of Michigan, Mr. KENNEDY, Mr. TORRES, Mr. MURPHY, Mr. LEVIN, Mr. JEFFERSON, Mr. SABO, Mr. SHAYS, Mr. DURBIN, Mr. OLVER, Mr. SCHIFF, Mr. MARKEY, Mr. HOLDEN, Mr. BILBRAY, Mr. APPLEGATE, Mr. PETERSON of Florida, Mr. REED, Mr. LEHMAN, Mr. SHEPHERD,, Mr. MATSUI, Mr. MILLER of California, Mr. RAVENEL, Mr. THOMAS of Wyoming, Mr. BATEMAN, Mr. LANTOS, Mr. WALSH, Mr. KING, Mr. PICKETT, Mr. HOAGLAND, Mr. EVANS, Ms. PRYCE of Ohio,, Mr. TAYLOR of North Carolina, Mr. STARK, Mr. JOHNSON of South Dakota, Mr. SWETT, Mr. BROWN of Ohio, Mr. REGULA, Mr. NADLER, Mr. DINGELL, Mr. KLEIN, Mr. SANDERS, Mr. HORN of California, Mr. LEVY, Mr. HOBSON, Mr. FAWELL, Mr. BLUTE, Mr. WOOLSEY, Ms. MARGOLIES-MEZVINSKY, Mr. WATT, Mr. SANTORUM, and Mr. CONDIT.

H.R. 2835: Mrs. JOHNSON of Connecticut.

H.R. 2848: Mr. BAESLER, Mr. KNOLLENBERG, Mr. THOMAS of Wyoming, Ms. LAMBERT, and Mr. MCDADE.

H.R. 2853: Mr. BAKER of California.

H.R. 2873: Mr. JEFFERSON, Mr. CLYBURN, Mr. DIAZ-BALART, and Mr. SWETT.

H.R. 2886: Mr. FISH, Mr. WALKER, Mr. CHAPMAN, Mr. BARCA of Wisconsin, Mr. PACKARD, and Mr. QUINN.

H.R. 2889: Mr. Abercrombie, Mr. Barlow, Mr. Boucher, Mr. Cox, Mr. Dickey, Mr. Evans, Mr. Everett, Mr. Frank of Massachusetts, Mr. Gillmor, Mr. Gordon, Mr. Gene Green of Texas, Mr. Hinchey, Mr. Holden, Mr. Inslee, Mr. Kildee, Mrs. Morella, Mr. Payne of Virginia, Mr. Petri, Mr. Poshard, Ms. Shepherd, Mr. Sangmeister, Mr. Sundquist, and Mr. Talent.

H.R. 2898: Mr. Nadler.

H.R. 2912: Mr. Frank of Massachusetts, Mr. Edwards of California, Mrs. Lloyd, Mr. Foglietta, and Ms. Furse.

H.R. 2918: Mr. Hochbrueckner, Mr. Kopetski, Mr. Sangmeister, Ms. McKinney, Mr. Gene Green of Texas, Mr. Romero-Barcelo, Mr. Johnson of South Dakota, and Mrs. Meek.

H.R. 2923: Ms. Velazquez.

H.R. 2933: Mr. Yates, Mr. Frost, Mr. Frank of Massachusetts, and Mrs. Mink.

H.R. 2957: Mr. Castle, Mr. Zeliff, and Mr. Bachus of Alabama.

H.R. 2962: Ms. Woolsey.

H.R. 2980: Mr. Martinez, Mr. Kopetski, and Ms. Pelosi.

H.R. 3005: Mr. Armey and Mr. Herger of California.

H.R. 3017: Mr. Gingrich.

H.R. 3025: Ms. Pelosi, Mr. Lewis of Georgia, Ms. Slaughter, and Mr. Romero-Barceló.

H.R. 3026: Mr. Waxman, Mr. McDermott, Ms. Pelosi, Mr. Romero-Barceló, and Mr. Wynn.

H.R. 3030: Mr. Herger of California.

H.R. 3031: Mr. Herger of California.

H.R. 3039: Mr. McKeon.

H.R. 3041: Mr. Wynn.

H.R. 3059: Mr. Frost, Mr. Hughes, and Mr. Nadler.

H.R. 3065: Mr. Pickett, Mr. Payne of Virginia, Mr. Hancock, Mr. Parker, Mr. Laughlin, Mr. Emerson, Mr. Rowland, Mr. Hall of Texas, Mr. Stump, Mrs. Bentley, Mr. Roberts, Mr. Myers of Indiana, Mr. Hobson, Mr. Ballenger, Mr. Coble, Mr. Spence, Mr. Baker of California, Mr. Gallegly, Mr. Zeliff, Mr. McCollum, Mr. Istook, Mr. Bliley, Mr. Herger of California, Mr. Armey, Mr. Skeen, Mr. DeLay, Mr. Linder, Mr. Gingrich, Mr. Rohrabacher, Mr. Wolf, Mr. Ramstad, Mr. Kasich, Mr. Camp, Mr. Hunter, Mr. Lightfoot, Mr. Quillen, Mr. Kolbe, Mr. Houghton, and Mr. Allard.

H.R. 3075: Ms. Margolies-Mezvinsky, Mr. Sawyer, and Mr. Gejdenson.

H.R. 3080: Mr. Stearns, Mr. Zimmer, and Mr. Rogers.

H.R. 3086: Mr. Portman, Mr. Doolittle, Mr. Ramstad, Mr. Linder, Mr. Schaefer, Mr. Schiff, Mr. Herger of California, Mr. Cox, and Mr. Hoke.

H.R. 3087: Ms. Eshoo, Ms. Furse, and Mr. Dixon.

H.R. 3088: Mr. Wynn and Mr. Barca of Wisconsin.

H.R. 3097: Ms. Shepherd.

H.R. 3102: Mr. Barrett of Nebraska, Mr. Beilenson, Mr. Brewster, Mr. Canady, Mr. Chapman, Mr. Collins of Georgia, Mr. Fawell, Mr. Fields of Texas, Mr. Fish, Mr. Gejdenson, Mr. Gingrich, Mr. Gunderson, Mr. Knollenberg, Mr. Schaefer, Mr. Stump, and Mr. Swett.

H.R. 3109: Mr. Sanders.

H.R. 3125: Mr. Royce and Mr. Barca of Wisconsin.

H.R. 3128: Mr. Coppersmith and Ms. Pelosi.

H.R. 3163: Mr. Darden, Mr. Wynn, Mr. Zeliff, Mr. Laughlin, Mr. Barcia of Michigan, and Mr. Zimmer.

H.R. 3182: Mr. Zeliff.

H.R. 3183: Mr. Upton and Mr. Machtley.

H.R. 3205: Ms. Lambert, Mr. Wynn, and Mr. Swett.

H.R. 3206: Mr. Sanders.

H.R. 3222: Ms. English of Arizona and Mr. Camp.

H.R. 3224: Mr. Deutsch and Mr. Tucker.

H.R. 3227: Mrs. Morella, Mr. Swett, and Mr. Manzullo.

H.R. 3250: Mr. Armey.

H.R. 3251: Mr. Herger of California.

H.R. 3255: Mr. Combest, Mr. McCrery, Mr. Crane, Mr. Pombo, Mr. Boehner, Mr. Armey, Mr. Doolittle, Mr. Dornan, Mr. Sam Johnson, and Mr. DeLay.

H.R. 3256: Mr. Lancaster, and Mr. Gene Green of Texas.

H.R. 3266: Mr. Lazio, Mr. Saxton, Ms. Margolies-Mezvinsky, Mr. Gingrich, Mr. Walker, Mr. DeLay, Mr. McMillan, Mr. Allard, Mr. Barrett of Nebraska, Mr. Camp, Mr. Cunningham, Mr. Gilchrest, Mr. Hobson, Mr. Sam Johnson, Mr. Klug, Mr. Nussle, Mr. Santorum, Mr. Taylor of North Carolina, Mr. Grandy, Mr. Ravenel, Mr. Smith of Texas, Mr. Upton, Mr. Ballenger, Mr. Barton of Texas, Mr. Coble, Mr. Lightfoot, Mr. Myers of Indiana, Mr. Hancock, Ms. Molinari, Ms. Ros-Lehtinen, Mr. Hunter, Mr. McCollum, Mr. Dreier, Mr. McCandless, Mr. Livingston, Mrs. Vucanovich, Mr. Walsh, Mr. Lewis of California, Mrs. Thurman, Mr. Dickey, Mr. Shuster, Mr. Kolbe, and Mr. Bliley.

H.R. 3283: Mr. Sangmeister.

H.R. 3293: Mr. Gene Green of Texas and Mr. Hastings.

H.R. 3294: Mr. Sanders.

H.R. 3296: Mr. Frank of Massachusetts, Mr. Olver, Mrs. Kennelly, Mr. Andrews of Maine, Mr. Hinchey, Ms. DeLauro, and Mr. Swett.

H.R. 3328: Mr. Traficant, Mr. McInnis, Mr. Weldon, Mr. Brewster, Mr. Lewis of Florida, and Mr. Dornan.

H.R. 3342: Ms. Furse.

H.R. 3349: Mr. Hall of Ohio, Mr. Traficant, Mr. Sawyer, and Ms. Kaptur.

H.R. 3357: Mr. Gene Green of Texas and Mr. Beilenson.

H.R. 3359: Mr. Armey.

H.R. 3363: Mr. Valentine and Mr. Gilchrest.

H.R. 3364: Mr. Rangel, Mr. Watt, and Mr. Serrano.

H.R. 3365: Mr. Andrews of Maine and Mr. Waxman.

H.R. 3366: Ms. Furse.

H.R. 3367: Mr. Santorum.

H.R. 3372: Mr. Dooley, Mr. Hefner, Mrs. Thurman, Miss Collins of Michigan, Mr. Laughlin, Mr. Volkmer, Mr. Gejdenson, Mr. Schiff, Ms. Slaughter, Mr. Levin, Mr. Hughes, Mr. Borski, Mr. Hoagland, Mr. Hyde, Mr. Dingell, Mr. Skeen, Mr. Myers of Indiana, Mr. Livingston, Mr. Ravenel, Mr. Valentine, and Mrs. Meyers of Kansas.

H.R. 3373: Ms. Furse and Mr. Nadler.

H.R. 3374: Ms. Furse.

H.R. 3392: Mr. Johnson of Georgia, Mr. Coleman, Mr. Stenholm, Mr. Thomas of Wyoming, and Mr. Pete Geren of Texas.

H.R. 3398: Mr. Porter, Mr. Lipinski, and Mr. Miller of California.

H.R. 3404: Mr. Sanders.

H.R. 3421: Mr. Armey and Mr. Herger of California.

H.R. 3429: Mr. King.

H.R. 3434: Mr. Conyers, Mr. Jacobs, Mr. Jefferson, and Mr. Nadler.

H.R. 3440: Mr. Deutsch.

H.R. 3442: Mr. Herger of California.

H.R. 3446: Mr. Istook.

H.R. 3458: Mr. Hoekstra, Mr. Ballenger, Mr. Jacobs, and Mr. Sanders.

H.R. 3470: Mr. Kingston.

H.R. 3475: Mr. Frank of Massachusetts, Mr. Dellums, Mr. Pallone, Mr. Ravenel, Mr. Manton, and Mr. Bonior.

H.R. 3477: Ms. Furse, Mr. Rush, and Mr. Sanders.

H.R. 3480: Mr. Gonzalez, Mr. Castle, Mr. Tejeda, Mr. Sarpalius, Mrs. Meek, Mr. Klein, Mr. Walsh, Mr. Hutto, Mr. Canady, and Mr. Thornton.

H.R. 3483: Mr. Shays, Mr. Hefley, Mr. Hoekstra, and Mr. Zeliff.

H.R. 3488: Mr. Weldon, Mr. Kim, Mr. Solomon, and Mr. Gillmor.

H.R. 3490: Mr. Johnson of South Dakota, Mr. Lightfoot, Mr. McDade, and Mr. Whitten.

H.R. 3492: Mr. Hyde, Mr. Smith of Texas, Mr. Dixon, Mr. Owens, Mr. Gene Green of Texas, Mr. Wynn, Mr. Hinchey, and Mr. McCollum.

H.R. 3495: Mr. Traficant and Mr. Frank of Massachusetts.

H.R. 3497: Mr. Dornan.

H.R. 3498: Mr. Towns and Mrs. Mink.

H.R. 3500: Mr. Myers of Indiana.

H.R. 3519: Mr. Hochbrueckner, Mr. Lipinski, Mr. Hansen, Mr. Barca of Wisconsin, and Mr. Regula.

H.R. 3546: Mr. Solomon, Mr. Barlow, Mr. Volkmer, and Mr. Blute.

H.R. 3548: Mr. Goodlatte.

H.R. 3552: Mr. Porter.

H.R. 3567: Mr. Yates.

H.R. 3611: Mr. Edwards of California.

H.J. Res. 129: Mr. Gilchrest.

H.J. Res. 133: Mr. Clyburn.

H.J. Res. 175: Mr. Brown of Ohio, Mr. Watt, and Ms. Margolies-Mezvinsky.

H.J. Res. 209: Mr. Hoyer and Mr. Smith of New Jersey.

H.J. Res. 229: Mr. Doolittle, Mr. Ewing, Mr. Hastert, and Mr. Solomon.

H.J. Res. 234: Mr. Hoyer.

H.J. Res. 246: Mr. de Lugo, Mr. Diaz-Balart, Ms. Dunn, Mr. Mollohan, Mr. Payne of New Jersey, Mr. Richardson, Mr. Scott, Mr. Tanner, Mr. Valentine, Mr. Volkmer, and Mr. Watt.

H.J. Res. 252: Mr. Ackerman, Mr. Andrews of New Jersey, Mr. Archer, Mr. Bacchus of Florida, Mr. Baesler, Mr. Ballenger, Mr. Barca of Wisconsin, Mr. Barcia of Michigan, Mr. Bateman, Mr. Bevill, Mr. Bilirakis, Mr. Bishop, Mr. Blackwell, Mr. Blute, Mr. Bonior, Mr. Borski, Ms. Byrne, Mr. Brown of California, Mr. Buyer, Mr. Callahan, Mr. Calvert, Mr. Carr, Mr. Clay, Mrs. Clayton, Mr. Clement, Mr. Clinger, Miss Collins of Michigan, Mr. Conyers, Mr. Coppersmith, Mr. Coyne, Mr. Cramer, Mr. Edwards of Texas, Mr. Darden, Mr. Deutsch, Ms. DeLauro, Mr. de Lugo, Mr. Dickey, Mr. Dicks, Mr. Doolittle, Mr. Duncan, Mr. Engel, Mr. Evans, Mr. Faleomavaega, Mr. Fawell, Mr. Fields of Louisiana, Mr. Fingerhut, Mr. Fish, Mr. Frost, Ms. Furse, Mr. Gallegly, Mr. Gekas, Mr. Pete Geren of Texas, Mr. Gilman, Mr. Gene Green of Texas, Mr. Greenwood, Mr. Gordon, Mr. Gutierrez, Mr. Hansen, Mr. Hefner, Mr. Hinchey, Mr. Hilliard, Mr. Hobson, Mr. Hoagland, Mr. Hochbrueckner, Mr. Holden, Mr. Hutto, Mr. Hyde, Mr. Inhofe, Mr. Inslee, Mr. Jacobs, Ms. Eddie Bernice Johnson of Texas, Mr. Johnson of South Dakota, Mr. Kanjorski, Mr. Kasich, Mr. Kennedy, Mr. Kildee, Mr. King, Mr. Klein, Mr. Knollenberg, Mr. Kopetski, Mr. Kreidler, Mr. LaFalce, Mr. Lancaster, Mr. Lantos, Mr. Leach, Mr. Levin, Mr. Levy, Mr. Livingston, Mr. McDermott, Mr. McInnis, Mr.

MCNULTY, Mrs. MALONEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MEEHAN, Mrs. MEEK, Mrs. MEYERS of Kansas, Mrs. MINK, Mr. MONTGOMERY, Mr. MOAKLEY, Mr. MENENDEZ, Mr. MINGE, Mr. MORAN, Mr. MOORHEAD, Mrs. MORELLA, Mr. MURPHY, Mr. MURTHA, Mr. NADLER, Mr. NATCHER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OBEY, Mr. OWENS, Mr. PALLONE, Mr. PARKER, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETERSON of Florida, Mr. PORTER, Mr. POMEROY, Mr. POSHARD, Mr. PRICE of North Carolina, Mr. QUINN, Mr. RAVENEL, Mr. REED, Mr. REGULA, Mr. REYNOLDS, Mr. ROEMER, Ms. ROYBAL-ALLARD, Mr. SABO, Mr. SAWYER, Mr. SCHAEFER, Mr. SCHIFF, Mr. SERRANO, Mr. SHAYS, Mr. SKEEN, Mr. SLATTERY, Mr. SMITH of Texas, Mr. SPENCE, Mr. SPRATT, Mr. STARK, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Mr. TUCKER, Mr. VALENTINE, Ms. VELÁZQUEZ, Mr. VOLKMER, Mr. WALSH, Mr. WAXMAN, Mr. WOLF, Ms. WOOLSEY, Mr. WYNN, Mr. YOUNG of Alaska, and Mr. MCCOLLUM.

H.J. Res. 253: Mr. FISH, Mr. JOHNSON of South Dakota, and Mr. VALENTINE.

H.J. Res. 285: Mr. LIPINSKI, Mr. DEUTSCH, Ms. FURSE, Mr. MARTINEZ, and Mr. WALSH.

H. Con. Res. 20: Mr. GEJDENSON and Mr. WAXMAN.

H. Con. Res. 49: Mr. FRANK of Massachusetts.

H. Con. Res. 52: Mr. NEAL of Massachusetts.

H. Con. Res. 61: Mr. LANTOS, Mr. CONYERS, Mr. EVANS, Mr. BORSKI, Ms. NORTON, Mr. HINCHEY, Mr. NADLER, and Mr. GILMAN.

H. Con. Res. 91: Mr. APPLEGATE, Mr. VOLKMER, Mr. MFUME, Mr. SISISKY, Mr. DICKS, Mr. TAYLOR of Mississippi, Mr. MURPHY, Mr. STENHOLM, Mr. NADLER, Mr. COSTELLO, Mr. BEREUTER, Mr. CASTLE, Mr. GINGRICH, Mr. GOSS, Mr. GRAMS, Mr. KIM, Mr. MCDADE, Mr. WHEAT, Mr. JOHNSON of Georgia, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. POMBO, Mr. SCHIFF, Mr. SKEEN, Mr. SMITH of Oregon, Mr. TAYLOR of North Carolina, Mr. WALKER, Mr. ARCHER, Mr. STUPAK, and Mrs. MORELLA.

H. Con. Res. 98: Mr. BLUTE, Mr. TRAFICANT, and Mr. HALL of Texas.

H. Con. Res. 107: Mr. WYNN.

H. Con. Res. 110: Ms. FURSE, Ms. PELOSI, and Mr. BARCA of Wisconsin.

H. Con. Res. 126: Mr. NADLER.

H. Con. Res. 138: Ms. DELAURO, Mrs. MEEK, Mr. TEJEDA, Mr. EVANS, Mr. BARRETT of Wisconsin, Mr. FARR, and Mr. BARCA of Wisconsin.

H. Con. Res. 141: Mr. GILLMOR and Mr. BATEMAN.

H. Con. Res. 154: Mr. SCHIFF.

H. Con. Res. 159: Mr. SMITH of New Jersey and Mr. TORKILDSEN.

H. Con. Res. 166: Mr. SERRANO and Mr. MARTINEZ.

H. Con. Res. 176: Ms. MARGOLIES-MEZVINSKY.

H. Con. Res. 177: Mr. PORTER and Ms. FURSE.

H. Con. Res. 185: Mr. CASTLE and Mr. BATEMAN.

H. Res. 165: Mr. BROWDER, Mr. CALLAHAN, Ms. DUNN, and Ms. LONG.

H. Res. 166: Ms. SLAUGHTER and Mr. BORSKI.

H. Res. 236: Mr. COPPERSMITH, Mr. STUMP, Mr. HANSEN, Mr. DE LA GARZA, Mr. WALSH, Mr. PASTOR, Mr. OBERSTAR, Mrs. FOWLER, Mr. BUNNING, Mr. KASICH, Mr. JOHNSON of South Dakota, Ms. PRYCE of Ohio, Mr. BARLOW, Mr. DEUTSCH, Ms. BYRNE, Mr. FALEOMAVAEGA, Mr. SPENCE, Mr. MOORHEAD, Mr. POMEROY, Mr. NUSSLE, Mr. BAKER of California, Mr. SLATTERY, Mr. CALLAHAN, Mr. MANN, Mr. YATES, Mr. MENENDEZ, Mr. DICKEY, Mr. HALL of Ohio, Mr. COLLINS of Georgia, Mr. HYDE, Mr. CASTLE, Mr. SWETT, Mr. MORAN, Mr. ARCHER, Mr. RAHALL, Mr. TAYLOR of North Carolina, Mr. HUTCHINSON, Mr. MONTGOMERY, Mr. HUNTER, Mr. SUNDQUIST, Mr. SOLOMON, Mr. MICHEL, Mr. GONZALEZ, Mrs. MEEK, Mr. COOPER, Mr. KILDEE, Mr. SCHAEFER, Mr. MCDADE, Ms. BROWN of Florida, Mr. REYNOLDS, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. VALENTINE, Mr. BISHOP, Mr. HUTTO, Mr. BATEMAN, Mr. ROBERTS, Mr. EMERSON, Mr. LIPINSKI, Mr. GREENWOOD, Mr. SYNAR, Mr. BILIRAKIS, Mr. PETE GEREN of Texas, Mr. SMITH of New Jersey, Mr. TORRICELLI, Mr. UNDERWOOD, Mr. HILLIARD, Mr. JACOBS, Mr. SMITH of Texas, Mr. DE LUGO, Mr. JEFFERSON, Mr. JOHNSON of Georgia, Mr. MCCOLLUM, Mr. RAMSTAD, Mr. FRANKS of Connecticut, Mr. SAXON, Mr. GOODLATTE, Mr. STENHOLM, Mr. SERRANO, Mr. VOLKMER, Mrs. CLAYTON, Mr. WYNN, Mr. DARDEN, Mr. MFUME, Mr. DIAZ-BALART, and Mr. GIBBONS.

H. Res. 237: Mr. BAKER of California, Mr. SHAW, and Mr. WELDON.

H. Res. 239: Mr. HERGER of California.

H. Res. 255: Mr. BOEHNER, Mr. JACOBS, Ms. PRYCE of Ohio, and Mr. MILLER of Florida.

H. Res. 266: Mr. ZIMMER.

H. Res. 277: Mr. BURTON of Indiana.

H. Res. 281: Mr. REGULA, Mr. TRAFICANT, Mr. PETERSON of Florida, Mr. NUSSLE, Mr. HEFNER, Mr. MICHEL, Mr. GRANDY, Mr. MCINNIS, Mr. BEREUTER, Mr. SKELTON, Mr. WHITTEN, Mr. MURTHA, Mr. VOLKMER, Mr. PETRI, Mr. COOPER, Mr. YOUNG of Florida, Mr. HOKE, Mr. BORSKI, Mr. HOBSON, and Mr. TAUZIN.

H. Res. 323: Mr. GILMAN and Mr. TORRICELLI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 7: Mrs. MALONEY.
H.R. 526: Mr. MFUME.
H.R. 634: Mr. GORDON.
H.R. 937: Mr. GORDON.
H.R. 1078: Mr. GORDON.
H.R. 1151: Mr. MFUME.
H.R. 1200: Mr. MFUME.
H.R. 1246: Mr. MACHTLEY.
H.R. 1296: Mr. GORDON and Mr. MFUME.
H.R. 1699: Mr. MFUME.
H.R. 1705: Mr. FINGERHUT.
H.R. 3457: Mr. HANCOCK.

EXTENSIONS OF REMARKS

THE FORGOTTEN FLEET OF WORLD WAR II—COAST GUARD-MANNED GUNBOATS IN THE PACIFIC

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DORNAN. Mr. Speaker, I insert today in the RECORD the inspiring story of Coast Guard-manned gunboats serving as part of the Navy's Seventh Fleet. These combat Coast Guardsmen were called the Seventh Amphibious Force under the command of Adm. Daniel E. Barbey and came to be known as MacArthur's Navy.

Please take a moment to read about the exploits of these brave Coast Guardsmen who continue to serve our Nation today as brave warriors of the sea.

[From Sea Classics, September 1993]

ASSAULT AGAINST NEW GUINEA

(By Frank A. Manson)

On a bright summer day in 1942, a weird and wonderful mechanical contrivance rumbled down 14th Street in Washington. It was indeed a hybrid thing, with the body of a barge and the wheel tracks of a tank. It behaved like an automobile, besides, when it came to traffic lights and stop signs. After crossing the Potomac, the nightmare thing slid into a lake with the nonchalance of a duck. Immediately, a man on the shore began to scream wildly and wave his hands at the "thing." When the ugly monster emerged from the water, all the occupants were put under arrest for invading a wild waterfowl sanctuary.

This was the first recorded action taken against an amphibious vehicle.

One of the occupants was a Navy captain named Daniel E. Barbey, who held the unique post of head of the Navy's Amphibious Warfare Section, thus placing himself well on the road to acquiring the nickname "Uncle Dan, the Amphibious Man."

When the Japanese dropped the first bomb on Pearl Harbor, amphibious warfare had not progressed much since the British went ashore in small boats from warships during the Battle of New Orleans. With the convenient use of pierheads denied to us by the enemy in this war, it was necessary to devise some method of getting troops and heavy equipment ashore and on the beaches.

One of the prototypes of the strange new family of ships, boats, and small craft that were to confuse even naval officers with their alphabetical designations was the "Alligator." It was in an Alligator that Barbey got into trouble with one of Secretary Icke's bird watchers.

The Alligator was an invention of Donald Roebling, of the world-famous family of bridge builders. It was not conceived to be a naval craft, but as a carrier of cargoes and hunting parties through the weedy, sandbarred, log-snagged Florida bays and swamps. Something that could travel over any mixture of land and water.

It was not even an engineer, but a scholar with a ready hand for tools, who devised the unique propulsion gear of the Alligator, Noyes Collinson, house guest and lifelong friend of Roebling. With tape, cardboard, rubber bands, and an oblong wooden cream-cheese box he built a model whose caterpillar track was equipped with rubber flanges that would serve as elongated paddle wheels in water, on land as treads pliant to rocks or logs, and as self-cleansing grips in mud or quicksand. The first embryo Alligator triumphantly traversed the Roebling swimming pool, climbed its tiled edge and proceeded to give birth to a huge family of hybrid mechanical saurians at home in surf or jungle.

Into their evolution went the landing ramp, experimented with by our Navy and Marine Corps and used by the Japanese on shallow-draft small boats employed in the invasion of the East Indies, and the half-keeled invasion ships experimentally built by the British from Admiral Lord Keye's designs. Marine Corps and Navy expert contributed new ideas, or demands for performance which inspired new ideas, and in the midst of it all came General MacArthur's request for an amphibious admiral. The obvious man for the assignment was Dan Barbey, who not only had worked on the construction of the new fleet, but had also assisted in training the 1st Marine Division (later to land at Guadalcanal) and the 1st Army Division (used in the North African invasion) in the techniques of amphibious warfare.

On 15 December 1942, Barbey was nominated a rear admiral and ordered to Australia, as Commander Amphibious Force Southwest Pacific. At the time Admiral Barbey had only a paper fleet but it was to grow into the mighty Seventh Amphibious Force, which as part of the Seventh Fleet, was to take part in 56 amphibious landings, move more than a million men over the Eastern seas, and transport cities of supplies to the malaria-ridden jungles of New Guinea and to the shores of the liberated Philippines.

The Seventh Fleet was a far cry from the type of fleet that was later to pound a path across the Central Pacific. Lacking were the large heavy units that men think of as traditionally belonging to a fleet. There were no battleships, no aircraft carriers, and only a few cruisers, some of them Australian. True, these larger units were to be added in the future, but there were many long miles of New Guinea coast to mop up before the mighty landings in the Philippines saw the Seventh Fleet full-blown and strong enough to combat the remains of the Japanese Navy.

When men of the Pacific spoke of "MacArthur's Navy" they meant the Seventh Fleet. This was true from both an operational and an administrative standpoint. The primary function of the fleet was the support of land operations, and because of this the core of the fleet became the Amphibious Forces.

Admiral Barbey arrived in Australia in January 1943. The organization he proceeded forthwith to create was destined, except for two occasions, to lead all the major combined landing operations of our sweaty advance along the jungled coast of New Guinea and into the heart of the Philippines and Borneo. The story of his Amphibious Force is the history of the Seventh Fleet.

The problems of amphibious warfare were known to Barbey from his Atlantic days, but as this whole conception of warfare was new, rough, original ideas had to be painfully polished up by trial and error methods.

Without ships, however, the problems of amphibious warfare were academic, so Admiral Barbey with Brisbane as his base of operations, went out in search of shipping. Pickings were lean, to put it mildly, for other theaters of war had a priority on things that floated, but enough was scraped together for a beginning.

The *Henry T. Allen*, formerly the liner *President Jefferson* converted into an attack transport (APA), was acquired from the South Pacific in March 1943, for troop training. The Australian Government kicked in with three former passenger ships previously used as merchant cruisers. These, *Westralia*, *Manoora*, and *Kanimbla*, were converted into Landing Ships, Infantry (LSIs), the British equivalent of our APAs, and were put to immediate use. These four ships formed the slim beginnings of the Seventh Amphibious Force and were to serve with that force until the end of the war.

At Port Stephens, north of Sydney, The Royal Australian Navy had an amphibious training base known appropriately as HMAS *Assault*. The facilities were offered to Admiral Barbey, who immediately set up the Amphibious Training Command for the purpose of accustoming Australian and American soldiers to flying spray and bouncing boats.

The Amphibious Forces were ready for their first show in June 1943. The objectives were two islands in the western Solomon Sea off the coast of New Guinea—Woodlark and Kiriwina.

Admiral Barbey's flagship was the USS *Rigel*, a repair ship. The *Rigel* was so small that there were bunks for only a fraction of the Admiral's staff, and consequently the wardroom—the officers' dining room, recreation room, and library—became office, wardroom, or sleeping quarters according to the greatest need at the time. Off to Milne Bay she wallowed with an overload of humanity to prepare for the first operation. The Kiriwina invasion force was to stage, as best it could, out of Milne Bay; the Woodlark force used the better facilities of Townsville, Australia, for its preparation.

On 30 June 1943, while amphibious forces of Admiral Halsey's South Pacific Command were going ashore on Rendova and New Georgia, Admiral Barbey's hybrid fleet ground their virgin noses and keels on the sand and coral of Woodlark and Kiriwina. To some the instant plethora of mishaps and confusion seemed almost like something taken from a Mack Sennet comedy film. The invasion fleet itself was a motley mix of begged, borrowed and some claimed stolen vessels of every description. Few of the ships had worked as a team before, crews had been hastily assembled or transferred. Many aboard the new landing craft lacked sufficient seagoing experience and officers with any amphibious operational skills were at a precious premium.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Barbey's "borrowed" fleet came from a multitude of sources, all hastily assembled. In addition to the loaned Australian liners it consisted of four old flush-deck destroyers that had been converted to small assault transports (APDs). These had been wrestled from Halsey's Third Fleet along with six LSTs. Eleven other LSTs had newly arrived from the states. These were jointed by 20 LCIs, 20 LCTs, ten SC patrol boats, four YMS mine-sweepers and a civilian-manned salvage tug. Offensive Reconnaissance was provided by submarines and PT boats patrolling the northern end of Solomon Sea.

The absence of any Japanese opposition to the practice landings helped to keep the tragicomedy from becoming a major disaster. With many of the new landing craft snagged on jagged coral reefs or with props damaged by uncharted rocks much of the equipment had to be torturously unloaded by hand fifty to a hundred feet from the beach. But despite the initial confusion the landings proceeded and allowed the Army to soon carve out vitally needed airstrips on the two islands.

The landings at Kiriwina and Woodlark were a good drill for Barbey's neophyte Seventh Amphibious Force. Lessons learned there would hold them in good stead for the tough, often harrowing landings yet to come.

Meanwhile, the boys manning the PTs of the Seventh Fleet felt that their kin across the way in the Solomons were having all the fun. They had big game targets like Japanese cruisers and destroyers charging down the slot, whereas in New Guinea the hunting was mainly elusive enemy motor barges that were impossible to torpedo and difficult as corks to sink.

The first PT boats moved into the New Guinea area in December 1942, more than six months before the Seventh Amphibious Force made its amateurish bow in the empty theater of Woodlark and Kiriwina. The beginnings were small, only six boats and a tender, the converted yacht *Hilo*.

Commander Edgar T. Neale's chief problem as commander of motor torpedo boats in the Southwest Pacific area was to cut off supplies for the Japanese advanced forces, which were shipped down the coast on 80-foot-armed wooden power barges. It was a gunboat war, and a night war, the adversaries hiding in jungle-screened bays by day. One of the greatest dangers, besides the intense return fire from the barges, was uncharted reefs.

The first major action against enemy barges took place the night of 17 January 1943. The *PT 120* was on the prowl near Douglas Harbor when, across the calm water, she saw three Japanese barges heading south, as usual hugging the coast. Immediately, the PT went to full speed and headed in, all guns blazing. Simultaneously, the barges opened up with machine guns and 20mms, the long strings of greenish-blue tracer showing the surprised Japanese to be consistently firing too high. At top speed the PT circled the barges, raking them from stern, beam, and stem, from every angle, for 25 minutes.

Even ordnance can't work without rest, and the *120*'s guns were glowing hot as all but two jammed, and the action had to be broken off. But two of the barges had been sunk, and the third was ablaze. The PT had been hit twice; one 20mm shell pierced the wooden bow and exploded in the chain locker and another 20mm hit the aft 50-caliber gun mount. Chief Motor Machinist's Mate J.J. Master, Jr., was badly wounded and died ashore twelve hours later.

Not much of a battle, of course. It does not appear in history books as the Battle of Douglas Bay. But Masters was just as dead as any of the thousands who died in the big fleet engagements, his ten shipmates fought as gallantly against odds, and the small victory left some thousands of Japs short of food, ammunition, and medical supplies. A two-bit contribution to a ten-billion-dollar victory, maybe, but the one example of what the PT boys' chore was, night after night, along the New Guinea coast.

BATTLE OF THE BISMARCK SEA

By the end of January the Australian 7th Division, after slugging its way across the Owen Stanley Mountains, and the US 32nd Division had mopped up the last Jap in the Buna-Sanananda area, and began pushing slowly up the fever-haunted coast.

The Japanese had no choice but to reinforce the Lae-Salamaua area with troops from their great base at Rabaul on New Britian. On the last day of February a convoy of six transports, ranging from 2,700 to 6,900 tons, two small freighters of about 500 tons apiece, set out across the Bismarck Sea escorted by eight destroyers. On the evening of the next day, 1 March 1943, the convoy was sighted by a patrolling B-24. Word was flashed back to headquarters at Port Moresby, but it was too late to strike that day.

All that night the convoy was shadowed by the Navy's "Black Cats," black-bodied Catalina Flying Boats whose night patrols became famous throughout the South Pacific. The Navy fliers kept Port Moresby informed of the ships' course and speed. The next morning dawned clear and the bombers came back for the kill, guided by the Black Cats' over-the-spot directions. The convoy was now only 60 miles east of its destination, Salamaua, but it was never to arrive there.

Throughout the day Allied fighters and bombers shuttled over the Owen Stanley Mountains between Port Moresby and the convoy—Beaufighters, Flying Fortresses, Havocs, Mitchells, Lightnings, Kittyhawks, Airacobras—gassing up, rearming, and dumping death and destruction. At one time there were more than 109 planes over the convoy, or what was left of it by then. By nightfall only four destroyers and two cargo ships were reported to be afloat, and both cargo ships were burning.

To finish the work of the bombers eight PTs were sent out that night, and two of them, the *143* and *150*, polished off the only Japanese ship of the convoy left afloat. The surviving destroyers had fled.

The now-famous Battle of the Bismarck Sea was over and the Japanese had lost all of the eight ships in convoy, four of the escorting destroyers, and the special service vessel. Loss of life was high among the troops of the 51st Japanese Division. About 2,900 men were drowned. Japanese destroyers and submarines picked 2,734 survivors out of the water.

The Battle of the Bismarck Sea convinced the Japanese that sea routes from Rabaul to Lae and Finschhafen were unhealthy for any ship as large as a destroyer. No more could the positions around Lae and Salamaua be reinforced by cargo ships and fast destroyer transports. Supplies had to be muscled overland through swamps, toted in handfuls by submarine, or brought in on barges sneaking along the coast from Wewak. It was in the strangulation of this barge traffic that the PT boats were use toilsomely to demonstrate their hell-raising potentialities. The doughty little giants were not to find heftier game again until the Leyte operation.

Two months after the dress rehearsal at Kiriwina and Woodlark, Admiral Barbey's Seventh Amphibious Force was ready for the Japanese. The picked point of contact was on the rugged Huon Peninsula, 14 miles east of Lae. Here it was planned to put the 9th Australian Division ashore for a drive as the Japanese stronghold, 14 miles through mangrove forest and other stinking, miry river deltas. Of the 56,000 enemy troops estimated to be in New Guinea, 12,000 were believed to be in the Lae-Salamaua area.

The Lae Task Force formed up in the Milne Bay area and headed up the coast.

Before dawn on 4 September, the destroyer *Conyngham* eased in toward the dark low coast. The mountains that rise abruptly from the flat, wooded coastal plain could not be seen in the darkness. Landing beaches were hard to identify. Aboard the *Conyngham* Admiral Barbey studied a chart with an Australian naval lieutenant, who before the war had been part owner of a plantation near the beach area. Before sunrise the two sandy strips had been found, and the APDs, LSTs, and LCIs were drawn up ready to empty their troops.

For almost three weeks prior to the Lae operation Allied planes hammered at the enemy's airfields in Wewak, Hansa Bay, Alexishafen, and Madang. At Wewak, alone, over 200 planes were destroyed on the ground and 64 in the air by American and Anzac Army fliers. Japanese air support was pushed back 300 miles to Hollandia.

The morning of the landing, however, there was still grave danger of air attack from Rabaul. The destroyer *Reid* took position off Cape Cretin to sweep the eastern horizon with radar and to direct our fighters to enemy planes that might head from that direction.

As the first waves of boats started in from the APDs, the destroyers *Lamson* and *Flusser* began to rake Yellow Beach with 5-inch fire while *Perkins*, *Smith* and *Mahan* gave Red Beach the same treatment. But, the enemy made no response.

But if the Japs were not on hand to greet us from the shore, he was quick to leap on us from the air. At 0705, little over half an hour after the first boat had snubbed its nose on the beach, seven Mitsubishi bombers and three Zeros came diving down from the mountains, undetectable by radar.

At that time the *LCI 339* was approaching the beach, dropping her stern anchor and in no position to maneuver. A shout of warning, a few seconds to swing the AA guns on the target, and then three Zeros ripped her bow to stern with their bullets.

Close behind came the bombers. Two "paint-scrapers" exploded in the water to port and to starboard, staggering the little ship and then, in a perfect bracket, a third bomb bore into the deck amidships, blasting a jagged hole seven feet across, buckling decks, rupturing bulkheads, and riddling the superstructure with large holes. The doctor's quarters were smashed and the pilothouse wrecked beyond recognition. Listing badly to port the LCI made a dying lunge onto the beach and settled in the shallow water.

On the blasted decks Australian and American blood flowed together. Twenty Australian soldiers had been killed and just as many wounded. Eight Americans were wounded, among them the ship's doctor, Lieutenant (jg) Fay B. Begor, who lay with both thighs shattered by shrapnel. He died a few days later aboard the *LST 464* the converted landing ship that had been fitted out as a firstline hospital ship of the Seventh Amphibious Corps. (The LST hospital ship was not protected by the rules of the Geneva convention. She looked the same as her fighting sisters and bristled with as many guns.)

The troop-filled *LCI 341* was caught in the same attack. A near miss blasted a gaping hole in her port side, starting numerous fires. Lieutenant (jg) Robert W. Rolf calmly ordered the troops to starboard to counteract the port list, and, like a battle-wise veteran (which he wasn't), skillfully brought his craft into the beach, firmly snubbing her upon the sand. When the troops were unloaded, Rolf personally lead a fire-fighting party and soon the flames were smothered. The craft was so badly hurt that the crew had to be assigned to other duties. But Rolf stayed with his ship, sure that it could be salvaged.

On 6 September he was still checking damage when a flight of Japanese bombers came in over the western mountains. It happened very quickly. One explosion bathed the *341* with a hot shower of shrapnel, and Rolf was deeply wounded in the right thigh. His ship—for which he had risked his life—would fight again, but not he. Forty-five minutes later Rolf died on the operating table. Beside him, tight-lipped, stood the Army colonel whose men he had landed safely on the beach.

On the first day of the Lae landings over 7,800 fully equipped troops had been put ashore, quickly so as not to overexpose the almost defenseless landing craft to avoidable air attacks. When Jap planes struck at the landing beaches the afternoon of 4 September they found only the two injured LCIs and one of those tough little bulldogs of the Navy, the tug *Sonoma*. But more men and more supplies were on the way.

In the wheelhouse of the *LST 473* stood Johnnie Hutchins, Seaman 1st Class. The ship was at General Quarters and his station was lee helmsman. He peered over the shoulder of the man at the wheel, watching the gyro click back and forth to either side of 132, the course being steered. Soon it would be time for him to relieve the man at the helm. Meanwhile he wished he could smoke.

Then—"Bogies on the port bow!"

Nine of them, all enemy, dive bombers and fighters. Simultaneously twin-engined torpedo planes slanted out of the sun on the port beam. The *LST 473*, under attack for the first time in its career, was blanketed with four bombs, all of which seemed to explode together. Two were near misses, but two hit all too true. One demolished the commanding officer's station and blew up a 20mm gun, including the ammunition, killing six and wounding 13. The other ripped through to the bottom of the ship and exploded near the keel amidships, bulging the deck four feet out of true.

In the smoke and debris of the wheelhouse the helmsman lay dead, and beside him lay Johnnie Hutchins, bleeding badly, both feet a pulp of shattered bone and flesh. But he wasn't dead. He could see—and he saw the helm untended. He could hear—and from what seemed to be miles away he heard the order from the officer of the deck: "Right full rudder!"

Torpedo planes were coming in fast at masthead height.

Through the puzzling blackness that fogged his eyes, Johnnie reached for the wheel and twisted it to the right with his last ounce of strength.

As the ship swung right, the straight white wake of a torpedo passed 20-feet astern. Johnnie's turn had saved the ship.

After the attack, the boy's dead fingers had to be pried loose from the wheel. Johnnie David Hutchins, age 21, had given his life for his shipmates, and had earned the Congressional Medal of Honor. The next year, at a shipyard in Orange, Texas, his mother christened a sleek, new destroyer escort—the USS *Johnnie Hutchins*.

Other ships of the convoy were being attacked at the same time the *LST 473* was absorbing so much punishment. Evidently mistaking the mine sweepers for destroyers, several dive bombers peeled off for the attack but succeeded in scoring only near misses. The *LST 471* (Lieutenant George L. Cory) also was receiving the one-two punch of dive bomber and torpedo plane, but a damage control party led by Lieutenant Albert E. Craig, the executive officer, kept her afloat.

The casualties were relatively heavy. We counted six of our men dead, one missing, five injured. The Australian dead numbered 45, with two missing and 17 wounded. The Japanese lost two planes out of the attacking dozen.

The two crippled LSTs were taken in tow to Morobe, where, next day, the dead were buried ashore.

The Japanese in the Lae-Salamaua sector now found themselves caught in a master squeeze play. The day after the landings on Red and Yellow Beaches, units of the 7th Australian Division were dropped by parachute in the Markham River valley, the first use of the airborne troops in the Southwest Pacific.

There was no escape for the trapped Japanese. Retreat overland was cut off. Withdrawal in barges or submarines across the Huon Gulf was made disastrously unhealthy by our PT boats and destroyers.

The enemy retaliated with air attacks on our convoys that kept the vital supplies pouring onto the beaches east of Lae. The destroyer *Conyngham*, with Admiral Barbey aboard, fought off a swarm of bombers while returning from the initial landings. On 12 September, by which time the Seventh Amphibious had landed over 16,500 troops on Red and Yellow, bombers attacked our advanced base at Morobe and damaged the *LST 455*, but the fire was put out with the aid of that veteran tug, the *Sonoma*, who, having undergone three intense air attacks in one week, felt as if she were fighting a single-handed war against the Japanese. Two of her men, unable to stand the strain, broke down with hysteria, as truly wounded as if by bullets.

On the morning of 16 September, troops of the 7th Australian Division, after fighting their way down the Markham Valley, entered Lae, still smoldering from the attacks of Allied heavy bombers. The Japanese who remained offered only slight resistance before they fled into the brush.

With the capture of Lae, the last serious threat to southeastern New Guinea and the possible threat to Australia were removed. The Allies now had control of Huon Gulf, with all its strategic advantages, and Vitiaz Strait was not wide open for Allied aerial and surface patrols against enemy barge traffic between New Guinea and New Britain.

Things had gone well at Lae. So well, in fact, that the schedule of attack in New Guinea could be stepped up considerably.

The assault date for Finschhafen was moved up three and a half weeks to 22 September. Plans were literally still being made for the operation as the first echelon moved toward the beaches.

Just before midnight on D-minus-2 day, six LSTs pulled away from Buna and headed for George Beach, east of Lae, escorted by four destroyers and the omnipresent tug *Sonoma*. The following morning 16 LCIs shoved off from Buna. With them were four destroyers of the bombardment group plus the *Henley*. Admiral Barbey, his flag again on the *Conyngham*, preceded the group.

The beach selected, "Scarlet," was on a small bay six miles north of Finschhafen, flanked at either end by steep cliffs. Not much was known about the area. Photographic coverage had been inadequate, and the party of ten scouts, landed the night of 11 September from PT boats, had not obtained all the information they were after because Japanese activity kept them lying low.

The time selected for the landing was a compromise. The Navy, at this stage of the war having in mind the continuous menace of aircraft, preferred night landings. The Army, on the other hand, wanted a dawn landing so that their troops could see what they were doing. The compromise hour was 0445, permitting a landing in darkness and at the same time giving the troops good light shortly after they had hit the beach.

The stage was now set. Before midnight the heterogeneous fleet weighed anchor and headed east, some of the ships trailing canvas in bridal-veil fashion to conceal their phosphorescent wakes from night-flying Japanese.

First blood was drawn by the PTs *133* and *191* on patrol north of Finschhafen when they sighted a 120-ton coastal trawler scouting near Fortification Point. Like a dog after a thrown stick the two boats went to flank speed and closed, blowing the scout out of the water and breaking its keel.

Precisely on schedule, at 0433, four destroyers, commenced the beach bombardment. While the destroyers were still sending their whistling 5-inch shells through the darkness, the first wave of boats from the destroyer transports started in toward the beach. Our troops found the beach defenses fully manned.

Machine gun and mortar fire was intense. Sniper fire also was heavy, and in an effort to silence it, several of the ships opened up at the treetops.

Landing in the darkness caused some confusion. Two LCIs, one leaving and one approaching the beach, collided. One LCI had its port ramp carried away when it attempted to land troops in deep water. Operations all along the line were delayed when the LCMs and LCVs carrying units of the 2nd Engineering Special Brigade lost their way.

But in spite of all, by 0935, the last LST had unloaded and another beachhead was firmly established on the Road to Tokyo.

The first air attack—ten torpedo planes—that broke through the tight umbrella that the Army fighters capped over the area, came a little after noon when the last three LSTs, the *Sonoma*, and the destroyers *Perkins*, *Smith*, *Reid*, *Mahan*, *Henley* and *Conyngham* were retiring south. Captain Jesse H. Carter, in command of the escorting destroyers, immediately signaled the prearranged maneuver against aircraft attack. The destroyers rang up full speed and started circling the convoy in a counterclockwise movement while the tug and LSTs kept course and formation, wiggling right and left like agitated polliwogs.

Two of the planes were hit at long range by the destroyers' 5-inch fire and were down before they could loose torpedoes. A third, hit at long range, dropped its torpedo 90 degrees from its proper course.

Wakes of seven torpedoes crisscrossed the water, but none hit. By the time the P-38s arrived to take charge of the situation our ships had knocked out eight of the attackers, and the two others were heading for Rabaul. Added to the 37 planes that the

Army fighter-cover had knocked down over the beach that day, the total bag left the sky empty of Japanese planes.

After cleaning out Japanese mortar batteries and machine gun implacements on Scarlet Beach, Allied troops advanced rapidly southward along the coastal plain. Another Allied force moving eastward along the coast cut off the southern escape route of the Japanese. Again, the PTs and Allied patrol planes made withdrawal across Vitaiz Strait in barges to New Britain extremely dangerous for the bottled Japanese. On 2 October, within ten days following the initial landings, Finschhafen fell after hard fighting to elements of the Australian 9th Division.

But the sweet taste of victory was bittered by the next day by the loss of one of the desperately few combatant ships the Seventh Amphibious Force possessed. At six in the evening the destroyers *Reid*, *Smith* and *Henley* were in a loose column formation about to commence an anti-submarine sweep off Finschhafen, when suddenly the *Smith* sheered out of column to starboard. Four torpedo wakes wrote the reason in the water. As the *Henley* came left, increasing speed to 25 knots in pursuit, the commanding officer, Commander Carlton R. Adams, saw two torpedoes approaching his ship from the port side—one heading for the bow, one for the stern.

"Hard left rudder!"

The slim ship seemed to pivot around her mast, heeling to the turn. One torpedo passed clear of the bow by about 30 yards and another skittered ten yards astern on the surface. It looked as if the ship had avoided certain death, but five seconds later a third torpedo tore in, heading straight for the ship's belly. It hit the port side amidships and dug into the fire room before exploding, destroying the boilers and snapping the keel. Within three minutes, with the main deck awash, Commander Adams gave the order that tears at the heart of Navy skippers: "Abandon ship!"

The *Smith* and *Reid* immediately jumped after the submarine, but after a number of attacks lost contact and were not able to regain it. That night the seas were carefully combed for *Henley* survivors floating in rafts. When the last oil-coated man was hauled aboard, only one officer and 14 enlisted men were missing.

With the capture of Finschhafen the first phase of the New Guinea campaign was over. During the next few months the main Allied effort was devoted to the neutralization of the great Japanese bases at Rabaul and Kavieng. Once this was accomplished, "MacArthur's Navy" would be in a position to commence the 1200 miles of leapfrogging the troops up the northern New Guinea coast to poise for the long jump to the Philippines.

HONORING PASTOR ELIAS MINOR

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ENGEL. Mr. Speaker, I am pleased to join with the United Christian Baptist Church of the northeast Bronx in saluting Pastor Elias Miner for 33 years of service to the community.

On May 15, 1996, Pastor Miner organized the United Christian Baptist Church after serving for 12 years with the late Jasper Reaves at the Community Baptist Church. Since that time, the church has grown in size as well as in stature within the community. The fact that so many people rely on the United Christian Baptist Church for support and inspiration is a credit to the dedication of Pastor Miner.

Beyond his work in the church, Pastor Miner has also contributed to the successes of many other organizations, including the Baptist Ministers of New York State, the Williamsbridge branch of the NAACP, and the 47th Precinct Clergy Coalition. These and other affiliations show that Pastor Miner is deeply involved in working toward a more just and secure society.

On behalf of all my constituents who have been touched by the efforts of Pastor Miner, I congratulate him for 33 years of devoted and inspiring work, and I wish him many more years of good health and success.

TRIBUTE TO BENJAMIN TODD DESAULNIER

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GEJDENSON. Mr. Speaker, I rise today to express my sympathy and regret at the passing of Benjamin Todd Desaulnier, a remarkable young man from Danielson, CT. Far exceeding his 17 years in maturity, Benjamin touched many people through his citizenship and scholarship. He was the quintessential leader, outstanding athlete and all-around good citizen.

I would like to submit for the CONGRESSIONAL RECORD remarks delivered by John Fulco and David Sweet, two of Benjamin's teachers, who have eloquently expressed what made Benjamin so special, and the sadness felt by all in his death.

KILLINGLY HIGH SCHOOL,
Danielson, CT, October 8, 1993.

Mr. and Mrs. EDWARD DESAULNIER,
Danielson, CT.

DEAR ED AND MARY LOU: Carpe Diem! Seize the day. For the past nine months, the Renaissance Program at K.H.S. has recognized students for academic accomplishment and perfect attendance. Another facet of this program strives to recognize students for good deeds and accomplishments. I thought you should know that I caught Ben doing good deeds. There are few opportunities in the day to day operation of a school to witness what I saw last Friday. Generally, students go through their days being tolerant of each other and interacting on a very superficial level. Rarely do you see students giving of themselves as I saw Ben doing last week.

During one of the lunch waves, a special education student was having great difficulty with his lunch. While carrying his bagged lunch, he had inadvertently shaken his soda to the point of explosion. When he opened it, it sprayed all over the floor and table, soaking his lunch and his clothing. Many students would have laughed, but Ben came to his rescue. He assisted in the cleanup of the soda, wiping off the table and even the floor. At this point you would think his job was done. Ben wasn't finished. He then sat down and ate lunch with Jamie and appeared to have a great time. Jamie loves to talk about sports and the WWF. I'm sure Ben enjoyed his time during that lunch.

Ben has a keen humanitarian sense and I am very proud of him. Not just for this one kind act, but for all he does. He is becoming a real leader at Killingly High School. You can be very proud of Ben, he is a fine young man.

It is a great pleasure to write a letter like this to parents. I sincerely thank you for sending such a great guy like Ben to Killingly High School.

Sincerely,

DAVID A. SWEET,
K.H.S. Renaissance Committee.

A TRIBUTE TO BEN
(By John J. Julio)

School began in late August in the year 1992. My classroom had been decorated and organized, and I awaited the arrival of the new students. Each year began with the expectations of new promise, new hope and new lessons of life. Little did I know the lessons that would be taught to me over the next year.

Ben Desaulnier was a member of my College English 3 class. He stood out among the twenty-four students that I had in that class that year. I remember his seat in the classroom, row 1 seat 3, next to the window with the white birch tree growing outside. Surrounding him sat Ron "Joe" Barbeau, Big Dave Irish, Julie Golaski, Tammy Larkin, Michael Boledovic, and Angela Lemoine. Ben, the student, ever attentive, ever thoughtful, ever questing to understand. Ben, the student, never fearful to say, "Mr. Fulco, I don't understand," or, "I don't see it that way." Ben, the student, who would leave the classroom with a smile on his face shaking his head and saying, "That was one great class, Mr. Fulco."

Ben was willing to take chances in the classroom. He was willing to try and see life in a different way. One day, Ben stood on the top of my desk and looked out over his classmates. He encouraged his classmates like Michael Boledovic and Angela Lemoine to stand with him and see the world from another perspective.

When a student in the class had difficulty with a drinking problem, and when other students would make crass comments, it was Ben who came after class, concerned about the welfare of the boy.

So very often, it was I who played the actor in the class. I played the Devil's advocate and challenged the students to expand their horizons of thought. It was I who entertained the students while making them question their own values. It was I who attempted to put the foundations under their feet so they would grow tall and strong. It was Ben, however, that received the applause from the class on one particular day. Ben came into the classroom dressed in a minister's white collar and black suit. He stood before his peers, fearful with knees shaking. He became a persona, Rev. Leumel Wiley, a character from Spoon River Anthology by Edgar Lee Masters. It was Ben who recited.

I preached four thousand sermons,
I conducted forty revivals,
And baptized many converts.
Yet no deed of mine
Shines brighter in the memory of the world,
And none is treasured more by me:
Look how I saved the Blisses from divorce,
And kept the children free from that disgrace,
To grow up into moral men and women,
Happy themselves, a credit to the village.

Ben was a leader in the classroom. In class projects on the Joy Luck Club, or doing

Video presentations. Ben would take the lead to insure that everyone got a good grade, and that everyone in his group did the best that the group could do. It was Ben who made sure that the project was neat and eye-appealing, and it was Ben who would be chosen to come and speak to me if, for some reason, the project could not be finished within the allotted time. It was Ben who helped to set the calendar for due assignments, and it was he who worked around the sporting, recreational and school functions to try and meet everyone's needs.

Ben was a natural. In his term paper he wrote about Roy Hobbs, a character from Bernard Malamud's novel. The Natural. Many of the heroic attributes found in Roy Hobbs, could so easily be found in Ben himself. Ben wrote. "As a boy, Roy Hobbs (Ben Desaulnier) grew up with good values. Due to his outstanding baseball ability and talent, he became an instant hero with almost everyone. He entered manhood 'with a child-like innocence'".

In describing other traits of the hero, Ben continued, "Another one of Roy's (Ben's) more impressive qualities is his willingness to sacrifice himself for others. He made it a point, since their funds were low, not to ask for anything at all."

Roy Hobbs (Ben Desaulnier), as a heroic figure, proved himself to his peers. Hobbs (Desaulnier) had outstanding baseball talent and a bright future ahead of him in the game of baseball. Members of the crowd thought of him as a hero. One bystander echoed the feelings of many of Ben's admirers when she said, "My hero, let me kiss your hand".

Unlike the character about who Ben wrote, Ben never lost his values, nor did he allow his ego to swell where he might lose perspective of his role in life. Instead, I like to remember Ben as the young, impressionable, idealistic boy who believed that he could make a difference. Ben wonderfully spoke about these qualities when he wrote a story entitled "Team Spirit."

"I was at bat, and the tying run for our team was on second base. There was one out, and I was facing the most ferocious, yet talented, pitcher in the tournament. He stood on a raised dirt mound sixty feet away from me. As my calm stare met the pitcher's eye. I knew that I was ready to meet his challenge. My knees, secretly shaking beneath my leggings, gave no hint of the anxiety I felt. I took the signals from my third base coach. I stepped into the box and the pressure built tremendously.

"The first pitch flew past me, and the umpire shouted, 'Strike one!' Everyone in the park made a comment by either booing or cheering the umpire's call. I checked my spirit, and then I prepared myself for the next pitch.

"Like a meteor speeding through space, the ball was hurled toward me, landing high and outside its mark.

'Ball one!'

"With the count one and one, I knew that the next pitch would probably be a fast ball. I eyed the pitcher carefully as he reared back and fired the ball. I ripped out at the spiralling sphere as hard as I had ever swung a bat in my life. The ball fouled off the tip of my bat and landed in the left field bleachers.

"The umpire yelled, 'Foul ball. Strike two!'

"With the count now standing at one ball and two strikes, I was filled with apprehension. My teammates hollered their support over the shouts of the crowd. Their team spirit made me rise to the occasion.

I believed that the following pitch was going to be a curve ball which I could unload and knock into the next county. I could be the hero of the game. I could be lifted onto the shoulders of my buddies and carried across the field. Honor would be bestowed upon me."

While I believe that Ben held the ideals of baseball and the belief in the goodness of all human beings highly in his life, he also knew the pain of falling short of his own hopes and desires. He beautifully wrote about failure and disappointment, and yet, his character, like Ben himself, was able to rise above the situation, and lend a helping hand to support his friend in time of triumph. Ben wrote,

"As the pitcher began his wind-up, I shifted my stance, cocked back my arms, and focused upon the oncoming ball. I took a huge, home-run cut. The ball resounded like thunder into the catcher's mitt. I had struck out.

The world collapsed around me. I had choked! My spirit was devastated.

I walked into the dugout, and sat with my head between my knees, experiencing a state of total dejection. The entire season had been a waste. We'd never win this "big" game. Spirit or not, I had failed my team. I had never felt such anguish and despair in my life.

Our final hope, the last ember of spirit, approached the plate. I lifted my head to see my teammate, Sean O'Leary, take a killer swing as the ball cracked off the bat. The ball flew over the fence. The flame of victory filled my heart, as I watched Sean trot around the bases and cross home plate. Our bench emptied, as I led my teammates to congratulate Sean. All of my feelings of despair were gone, I was no longer a loser. I was part of a team, and I was sharing in the team spirit. We were the champions.

The excitement of celebration, cheering and back slapping, rose to a level of acclamation. Being first in line, I was able to help lift Sean to my shoulders, and with the help of the team, we carried him around the field.

The fans in the park absolutely wild. The reporters were frantically writing in their notebooks. We had come from behind, and we had won the championship. An air of superiority was thrust upon us. We were the champs, and that feeling could never be taken away from us. Our team spirit continued to rise as we carried Sean back to home plate and into the locker room.

That evening when the fans, vendors, and reporters had left, I returned to the park. There in the stillness of a warm summer night, I relived that one moment of victorious glory, when team spirit congealed with the ideals of a young baseball team, and I was given an experience that I would always remember."

Ben has given everyone so many experiences to remember. We have been blessed in just knowing the boy. He has been able to touch the hearts, souls and minds of peers, and the people with whom he worked. His kindness, generosity, and well-being to all people will always be remembered. Ben Desaulnier was Student Government President, Homecoming King, Homecoming Prince, Junior Prom King, basketball player, baseball catcher, golfer. Ben was loved.

Ben was unable to attend the performance of "Arsenic and Old Lace" which I appeared in at the Bradley Playhouse during the month of October. On the night of one of the shows, Mr. Desaulnier, his father, was asked to appear as one of the thirteen men buried in the cellar of the Brewster household. When Mr. Desaulnier came through the backstage doorway, he saw me sitting in my Reverend Dr. Harper costume. He came over to me and said, "Ben wanted me to tell you, 'Break a leg.'"

Ben was cast as the Eagle in the senior play, "Alice in America Land". Here is a role that I assigned to Ben that will never be fulfilled. Last Wednesday, October 27, 1993, Ben stood on the stage and told me that he hadn't found his voice for the Eagle. I told him that we had time, and that we would be able to work on the voice on another day. Instead, we worked on the Eagle's dance. Amy Strandson, Ben and I laughed as we danced to our made-up tango. Ben tripped over his feet as he tried to execute a turn on the stage. He tried repeatedly to get his footing right. The last time that Ben was on the stage, he danced forwards and backwards, linked arms with Amy and turned her around. Ben made it back to his designated spot on the stage without tripping or falling. He stood tall and proud and flapped his arms like an eagle ready to take flight. In my eye, the Eagle flew.

I am deeply saddened at the death of Ben. He had such wonderful potential and he accomplished so much. He did so much good, and he asked for so little in return. I believe that his parents have accomplished the greatest goal in life. They helped to form Ben into a person of whom we all can be proud. Their son, Ben, made a difference in the world, and for a short while there was again light at the castle in Camelot.

We can never know the direction that life is going to take us, but there are those people, like Ben, who believe that there is a purpose and a direction that we must all follow. Ben probably put it best when he wrote, "God leads the birds in a pattern to their final resting place. Just as He guided William Cullen Bryant on the lonely road to his new job, so God would insure that the birds would never be lost." Just as the birds would find their way to their final resting place, so with God's guidance, will Ben find his peace in his final resting place.

Ben Desaulnier came to me a year and two months ago just another student. He became my leader, my student, my Eagle. With love, I set him free.

IN HONOR OF UNIVERSITY HOSPITAL, AUGUSTA, GA

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to pay tribute to a remarkable medical facility located in the 10th District of Georgia. On Saturday, September 11, University Hospital celebrated 175 years of service to Augusta, GA, and the surrounding area.

What began as the 10-bed, 2-story City Hospital in 1818 has grown into Georgia's second-largest hospital, with 700 beds and a staff of 3,000. It continues today a tradition of exemplary medical care and devotion to the teaching of medical practices. I want to share with you some of the history of this institution.

In 1829, just 11 years after City Hospital was founded, Dr. Milton Antony established Georgia's first medical school on the premises. In 1833, the City of Augusta provided $5,000 for the construction of a new medical college building, and the tradition of fine medical instruction in Augusta had begun.

Drs. Henry and Robert Campbell opened a surgical infirmary for the city's black community in 1854 and operated that facility until the

Freedman's Hospital was opened after the Civil War. In 1891, the Medical College of Georgia named a woman, Ella Thomas, to serve as chief executive officer. Her appointment and the opening of the infirmary for the area's black community demonstrate the hospital's devotion to serving all humanity and recognizing the talents of both men and women at a time when such recognition was unusual.

City Hospital battled smallpox for two decades beginning in 1851. It sent aid to those in need by horse-drawn ambulance and served as a medical center for Confederate soldiers. That proud tradition of service and excellent medical care has been passed down through these 175 year to University Hospital.

Mr. Speaker, I am proud to have such a facility in my district and I am proud to join the entire central Savannah River area in congratulating University Hospital on its 175th anniversary.

INTRODUCTION OF H.R. 3586, DEFENSE ACQUISITION REFORM ACT OF 1993

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BILBRAY. Mr. Speaker, after months of development and discussions, I would like to inform my colleagues, that as chairman of the Subcommittee on Procurement, Taxation and Tourism of the Committee on Small Business I have introduced H.R. 3586, the Defense Acquisition Reform Act of 1993.

Over the last several months, my subcommittee staff has been involved in a number of discussions with the staffs of the full Committees on Small Business, Armed Services, and Government Operations. These discussions have been particularly fruitful due to their bipartisan nature as they have included the staffs of Chairman DELLUMS, Chairman CONYERS, Chairman LAFALCE, ranking member CLINGER, ranking member MEYERS, Congressman WELDON, Congressman MFUME, and the ranking member of my subcommittee, Congressman BAKER of Louisiana. Our goal has been nothing less than legislation to reinvent the U.S. Government's procurement system and to bring it into the 21st century.

To this end, our discussions have centered around a number of proposals that have been put forth by my colleagues, Members of the other body and the administration. These have included the Department of Defense's section 800 panel, Chairman CONYER's H.R. 2238, the Senate's S. 1587 and the work of the Vice President's National Performance Review. Our goal has been and will remain to afford the maximum protection and competition for America's small businesses as we revamp the antiquated and complicated Government procurement system.

The bill includes a number of far-reaching reforms including the institution of commercial items, increasing the small purchase threshold to $100,000, the implementation of governmentwide electronic commerce, and the reform of contract administration and contract protest procedures.

As the President and Vice President stated on October 26 to Chairman DELLUMS, Chairman CONYERS and myself, procurement reform is a cornerstone of the White House's efforts to reinvent government and has received their highest priority. To this end, I maintain my commitment to the administration to pass acquisition reform legislation with all due diligence.

It is my subcommittee's intention to hold hearings on this legislation in late January. In the meantime, I am aware of a number of issues and questions that remain unanswered. H.R. 3586 remains an open document, open to suggestion and negotiation. I would encourage the private sector, the administration and any of my colleagues who have questions or concerns regarding this legislation, to contact myself or my subcommittee staff.

It is my hope that we will have taken the time over the recess to craft and perfect the best procurement reform proposals that we can, and by early spring, we will have enacted legislation with substance, not merely promises or an empty shell. I hope that these discussions will truly lead to reform that will modernize and improve our procurement system while maintaining small business protections and increasing competition within our system .

HONORING JOHN F. ALLARD, INTERNATIONAL REPRESENTATIVE, UNITED AUTO WORKERS, RETIRED

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TORRES. Mr. Speaker, I rise today to recognize John F. Allard, as he is honored at a special dinner on December 15, 1993, for his 56 years of service and dedication to the working men and women of the International Union, United Auto Aerospace Workers [UAW].

John's life is like a page from the "Grapes of Wrath." Born and raised on a farm in Soldier, KS, watching his parents till the land, only to see them lose it in the wake of the droughts and dust bowl conditions that prevailed during the Great Depression. He had his mother stitch his savings, two $20 dollar bills, into his shorts as he traveled west to California. Settling in Bell Garden, then Billy Goat Acres, he promised his parents and blind brother that he would send for them and he took a job at the Chrysler plant in nearby Maywood. The work was backbreaking at the plant docks and on the line; the bosses were tough and the workers had accumulated grievances. Unionism was on the rise, John and others applied for a union charter from the AFL for local 230 of the United Automobile Workers of America [UAWA]. Sitdown strikes from Detroit to Los Angeles fueled the recognition of local 230 under the leadership of John and others such as Bill Goldmann, Noah Tauscher, Ken Gillie, and Sim Huff.

The forces of antilabor set about to destroy the momentum of union membership and targeted the local 230 leadership to make an example of them by charging them with conspiracy. The county district attorney had them arrested and brought to trial. The trial went on for 90 days with great sacrifice by the defendants and their families. The result was a hung jury.

A second trial was ordered and again lasted 90 days. Were it not for the solidarity of the workers to sustain the men on trial and their destitute families, the back of the union would have been broken. In the end they were acquitted. John and his wife Irene played a crucial role in the support of the workers families. Without question, John Allard had displayed great skill at leadership and in 1939 was elected recording secretary of local 230.

In 1942, under the guidance and organization of President Roosevelt, John served on the War Manpower Commission and the Southern California Aircraft Committee of the War Labor Board.

On the very day President Roosevelt died in 1945, John was inducted into the U.S. Army. He served his country with distinction as an infantryman and later as a sergeant in charge of personnel matters at Camp Butner, NC. It was during his Army service that he met Doug Fraser, a Chrysler worker, who would later become the president of the international union, UAW. Returning to civilian life and Chrysler, John was elected as president of local 230 and under his leadership, the local established itself as the leader in a precedent-setting strike at Chrysler in 1950 that won workers pension fund benefits.

From 1950 to 1955, John was appointed as an international representative serving as coordinator of the National Aircraft Department. As coordinator, John successfully headed negotiations in all three of the major aircraft companies on the west coast: McDonnell-Douglas, North American, and Ryan.

From 1955 to 1958, John worked with UAW Vice President Norman Matthews in the technical, office and professional [TOP] department. Organizing white collar workers at Ryan Corp., John met Bruce Lee who would later join the region 6 organizing staff. From 1958 to 1966, as John became coordinator for the west coast organizing staff under UAW Vice President Pat Greathouse, he was assigned two new organizers to supervise: they were Bruce Lee, local president from Ryan, and myself, a chief steward from local 230. Under John's direction, we brought many new members to the UAW.

In 1967, John worked on the servicing staff and later, 1970, transferred to the UAW retired workers department. Mr. Speaker, I have had the high honor and personal privilege of having known and worked with John Allard for 40 years. He has been an unquestionably sage mentor and counsel to me in many areas of national concern. While we may be in disagreement on some matters of national policy, nonetheless, I am grateful for his friendship and support.

Mr. Speaker, John Allard is being honored by the UAW, his family, friends and civic leaders for his exemplary contribution to working men and women of the Los Angeles community and the Nation as a whole. I ask my colleagues assembled in the House to join me in thanking and saluting him for his outstanding record of service.

TO SUPPORT THE DIETARY SUPPLEMENTS HEALTH AND EDUCATION ACT OF 1993, H.R. 1709

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MANZULLO. Mr. Speaker, I have received hundreds of letters from constituents in my district who are users of legal dietary supplements. They are afraid that they may soon be denied access to products that help keep them healthy if the Congress does not act soon.

The 1-year moratorium on the Federal Drug Administration [FDA] rules on dietary supplements proposals will soon expire. This will leave the FDA open to impose their proposed regulations on the vitamin industry and take safe products off the shelves. The FDA has proposed three troublesome regulations.

First, the FDA will view single amino acids and mixtures of amino acids as equal to prescription drugs.

Second, the FDA will arbitrarily remove most supplements—including herbs from the market by citing them as unsafe food additives.

Finally, the FDA will prohibit the use of health claims for dietary and health food supplements, with the sole exception of the nutrient/disease link between calcium and osteoporosis.

I am a proud cosponsor of H.R. 1709 the Dietary Supplements Health and Education Act of 1993 introduced by my colleague from New Mexico Representative BILL RICHARDSON. This legislation represents a reasonable, rational, and fair approach for Congress to provide urgently needed direction to the FDA. There are currently 183 cosponsors of this legislation. H.R. 1709 includes these provisions.

First, it establishes that dietary supplements are not drugs or food additives.

Second, H.R. 1709 would prohibit the FDA from seizing safe and legal products from the market. Under this legislation substantiated health claims would be allowed.

Finally, the potency limits on dietary supplements that the FDA seeks to impose would not be mandated.

My colleagues may be surprised to learn that 100 million Americans use dietary supplements on a regular basis. Eight out of ten doctors in a recent survey said they took vitamin E to protect against heart disease. Scientific evidence has convincingly demonstrated that vitamins and minerals protect against a number of disease conditions, including cancer, osteoporosis, heart problems, cataracts, and neural tube birth defects.

The current health care reform initiatives emphasizing the importance of prevention should provide added impetus for stopping these proposed onerous regulations by the FDA and replace them with the commonsense provisions contained in H.R. 1709. Optimal use of dietary supplements costing only pennies per day can save billions of dollars in health care costs. It's preventative health care in the best sense of the word.

I urge my colleagues to cosponsor H.R. 1709 and move this legislation to the floor of the House. It makes good health sense and just asks the Government not to interfere.

FEE SCHEDULE FOR TOWER SITE USE

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LaROCCO. Mr. Speaker, I rise today to introduce legislation which resolves the issue of fees paid by broadcasters for the use of tower sites that are located on Federal land managed by the Forest Service and the Bureau of Land Management.

Government agencies and the broadcast industry have been struggling with this issue for years. While it is reasonable for broadcasters to expect fee increases over time, some actual proposals for increases of over 1,000 percent have been put forth by the Forest Service and the Bureau of Land Management. These proposals have been so far out of line with fair market values associated with the sites in question, that the Appropriations Committee has repeatedly rejected the fee increases proposed by the agencies and has imposed moratoriums in response.

To finally resolve this longstanding problem, Congress established an advisory committee to study this issue, develop an acceptable and equitable fee schedule, and report those findings back to Congress. The Committee completed its task and developed a fee schedule which contains reasonable fee increases that ranged from 200 to 900 percent for broadcasters with tower sites located on Federal lands. The legislation I am introducing today will simply codify those recommendations.

The time has come to settle this issue. We had an opportunity during budget reconciliation, but it slipped away from us at a critical moment. But while it is disappointing to return to this subject yet again, continually placing moratoriums on site fee increases makes no sense and costs us money every year. This legislation will put an end to the question, and establish a stable process for future decision-making by the agencies and the broadcasters.

I appreciate the support of those Members who have joined with me as original cosponsors, and I look forward to working with the other members of the Natural Resources Committee next year to pass this legislation.

IN HONOR OF JACK E. WILSON

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DARDEN. Mr. Speaker, I rise today to ask my colleagues in the House to join me in paying tribute to a man of great service and dedication: Jack E. Wilson of Marietta, GA. Jack, a successful businessman and devoted community volunteer, was recently recognized for his service to the citizens of Marietta, GA, when he was named Marietta Citizen of the Year this past Friday.

Mr. Speaker, without a doubt, Jack Wilson has made many outstanding contributions, too numerous to mention, to the people of Marietta and the citizens of all of Cobb County. However, I would like to note just a few of the ways he has made our community a better place to live.

Jack has been instrumental in encouraging economic growth for the community through his service as director and vice president of the Cobb County Chamber of Commerce. He is responsible for starting the first leadership Cobb class, which is still going strong after 10 years. In addition, Jack Wilson founded the honorary commanders, which matches community leaders with the area's military leaders to give both a better understanding of each other's role in Marietta.

A devoted father and grandfather, Jack looks to the future with experience from the past. As a successful insurance executive, he has seen and helped Cobb County grow from a sleepy, rural community to a dynamic, suburban area. Jack also has a sense of adventure. He surprised and impressed many of his friends earlier this year as a participant in the annual running of the bulls in Pamplona, Spain.

Jack Wilson is a visionary leader, a steadfast worker, and a great and loyal friend to many people. His legacy of service is something all of us should strive to emulate.

EDNA SPENCER: CHARLES COUNTY'S "MOST BEAUTIFUL PERSON"

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HOYER. Mr. Speaker, I rise today to congratulate Mrs. Edna Spencer, a resident of Potomac Heights, MD, who was recently named Charles County's "Most Beautiful Person." This annual event is sponsored by "Maryland, You Are Beautiful," and recognizes outstanding volunteers for their generosity.

Mrs. Spencer was one of 17 nominees from Charles County and was nominated by the Potomac Heights Leisure Club, of which she is an active member. Edna Spencer is most deserving of this award, Mr. Speaker. She delivers food for the Charles County's Meals on Wheels Program, transports cancer patients to clinics and hospitals, and serves as an adopted grandmother to an unwed mother.

I would like to share with my colleagues an article which appeared in the Maryland Independent which tells of Edna's outstanding contributions to her community. I urge my colleagues to join me in recognizing Edna Spencer, Charles County's "Most Beautiful Person."

[From Maryland Independent, Oct. 29, 1993]

YOU CAN DEPEND ON EDNA—SPENCER SELECTED CHARLES COUNTY'S "MOST BEAUTIFUL"

(By James Hettinger)

Edna Spencer has never forgotten what life was like without a car.

When Spencer and her husband Kenneth were married in 1943, World War II was on.

money was scarce, her husband was in the Navy and she was home alone with no transportation.

"You would depend on your neighbors and friends," Spencer recalled, noting that it was at times a lonely feeling. "It's a rough time when you're trying to get groceries and do things with no car."

That feeling stayed with her, and prompted Spencer to adopt helping people get around as one of her objectives in life.

Spencer, 68, of Potomac Heights, drives cancer patients to clinics and hospitals for treatments, and delivers hot meals to the elderly and handicapped through Charles County's "Meals on Wheels" program.

She also transports elderly people to grocery stores and the hairdresser, takes flowers to patients at the Fort Washington Nursing Home and serves as the adopted grandmother to an unwed mother and her child by buying the food, clothing and small gifts.

"(If) anybody needs transportation, if there's any way possible, I try to give it to them," Spencer said.

Spencer's good deeds are typically known only to the recipients of her kindness, and that's fine with her. "I'm not a person that likes to be in the spotlight," she said. "I like to be in the background."

Tuesday afternoon, though, the spotlight found Spencer, when she was named Charles County's "Most Beautiful" person in a "Maryland You Are Beautiful" awards ceremony at the Charles County Government Building in La Plata. She will represent Charles County in a statewide "Maryland's Most Beautiful People" ceremony next month in Annapolis.

When her name was announced Tuesday as the "most beautiful" of the 17 nominees, Spencer's hand came up to cover her mouth in surprise, and for a moment she couldn't stand up.

"You've heard that commercial, 'I'm down and I can't get up'? That's what I felt like," Spencer said Wednesday afternoon at her home in Potomac Heights.

Despite being nominated for the award—by the Potomac Heights Leisure Club, a seniors' group—Spencer was "some kind of surprised" to win. "On my way over there, I kept naming the people I thought would get it," she recalled.

Spencer questions whether she deserves to be called the "most beautiful" volunteer in Charles County. "I'm sure there are a lot of people who deserve it more than I do," she said. "There are so many people who volunteer and do things that people don't know about."

But she has no doubts about the value of her volunteer work. She has volunteered for more than 20 years, and served as a "Meals on Wheels" driver since the program started about five year ago.

Spencer and her partner, Marian Robey, deliver meals to about 15 people. "It gives you a lot of satisfaction to know you'll be taking a hot meal to these people," Spencer said. Most of the recipients live alone, and Spencer and Robey take time to visit with them. "Sometimes, (we) might be the only people they see during the day," Spencer said.

She and Robey often wonder what their meal recipients eat on days when there are no Meals on Wheels.

A former cancer patient herself, Spencer added that her driving patients to and from medical services "means a lot to someone with no transportation."

Spencer's cancer occurred five years ago. She and her husband—Virginia natives who came to Charles County in 1959—recently celebrated their 50th wedding anniversary. The couple has one daughter, Ann Spencer of Waldorf.

Looking to the future, "I hope I'll always be able to do things for other people. I think what you do for others, it comes back to you," Spencer said. "There are a lot of people who need help. . . . There's a lot more we can do. I'm sure there's a lot more I can do."

NATURAL FAMILY PLANNING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SMITH of New Jersey. Mr. Speaker, natural family planning is often scoffed at as "the old rhythm method." However, the September 18, 1993 issue of the British Medical Journal carries a report which concludes that natural family planning, particularly the Billings method, can be as effective as artificial means of contraception. "Natural family planning is cheap, effective, without side effects, and may be particularly acceptable to and efficacious among people in areas of poverty," the author states.

Dr. R.E.J. Ryder reports on a World Health Organization [WHO] multinational study of the ovulation method of natural family planning. He notes that the study found a pregnancy rate approaching zero among 19,843 poor women in India. I believe that all who have concern about population issues, as well as the health of women, will find this study of special interest.

The British Medical Journal report follows:

NATURAL FAMILY PLANNING: EFFECTIVE BIRTH CONTROL SUPPORTED BY THE CATHOLIC CHURCH

(R.E.J. Ryder, consultant physician, Department of Endocrinology, Dudley Road Hospital, Birmingham B18 7QH

During 20–22 September Manchester is to host the 1993 follow up to last year's "earth summit" in Rio de Janeiro. At that summit the threat posed by world overpopulation received considerable attention. Catholicism was perceived as opposed to birth control and therefore as a particular threat. This was based on the notion that the only method of birth control approved by the church—natural family planning—is unreliable, unacceptable, and ineffective.

In the 20 years since E L Billings and colleagues first described the cervical mucus symptoms associated with ovulation natural family planning has incorporated these symptoms and advanced considerably. Ultrasonography shows that the symptoms identify ovulation precisely. According to the World Health Organisation, 93% of women everywhere can identify the symptoms, which distinguish adequately between the fertile and infertile phases of the menstrual cycle. Most pregnancies during trials of natural family planning occur after intercourse at times recognised by couples as fertile. Thus pregnancy rates have depended on the motivation of couples. Increasingly studies show that rates equivalent to those with other contraceptive methods are readily achieved in the developed and developing worlds. Indeed, a study of 19,843 poor women in India had a pregnancy rate approaching zero. Natural family planning is cheap, effective, without side effects, and may be particularly acceptable to and efficacious among people in areas of poverty.

The 1993 follow up to last year's "earth summit" in Rio de Janeiro is to take place in Manchester during 20–22 September and is entitled "Partnerships for change." The Rio earth summit focused considerable attention on the expanding population of the world as an important issue in relation to resources, environment, and poverty. In the media the "opposition of the Catholic Church to birth control" was discussed (BBC Radio 4, *Today Programme*, 18 May 1992) and considered to be an important factor with the many millions of Catholics in the world, particularly the Third World, such as Brazil. In the medical press the "Pope's continuing opposition to birth control" was condemned[1] and powerful Vatican opposition was considered likely to wreck hope of useful progress at the earth summit with regard to global overpopulation as a most urgent ecological hazard.[2]

The widespread beliefs that the Catholic Church is opposed to birth control,[1] that the urgent provision of artificial contraception within the Third World is the only answer to overpopulation, and that the Catholic Church is opposed to this[2] all stem from the perception that the so called "natural methods of family planning," which are approved by the Catholic Church, are unreliable, unacceptable, and ineffective. Historically, this perception is based on the unreliability of the rhythm method of contraception ("Roman roulette"), which attempt to identify the fertile phase of the woman's cycle by calendar calculations. Is this perception as accurate today as it may have been in the past?

The ovum has a life span of not more than 24 hours and is fertilisable for only part of that time[3]. The life span of the sperm may be measured in hours under adverse conditions. Under optimum conditions, however, sperms may remain viable for four or five days, and a life span of up to seven days has been postulated.[3] Thus a woman is potentially fertile for no more than six to eight days of her cycle, probably less in most cases. To what extent can these potentially fertile days be accurately identified and avoided by most women as a method of birth control?

CYCLICAL CHANGES IN CERVICAL MUCUS SECRETION

In 1972 Billings *et al* reported the characteristic changes in cervical mucus secretion which occur during the menstrual cycle.[4] After menstruation there are a variable number of "dry" days with little or no mucus secretion and a feeling of dryness in the vaginal area. Then, as ovulation approaches under the influence of increasing oestrogen concentrations'[3 5] the dry feeling ends and there is increasing secretion of cervical mucus, which at the time of ovulation becomes an abundant discharge of substance like the raw white of an egg. After ovulation the first secretion of progesterone abruptly reverses the effect of oestrogen on cervical mucus and causes it to become thick and rubbery forming a plug in the cervix.[3 5] The fertile-type, "raw egg white" cervical mucus is of low viscosity and high threadability (spinnbarkeit) with glycoprotein fibrils in a micelle-like structure which aids sperm migration. It contains sugars and trace elements necessary for sperm survival, capacitation, and transport and it can maintain by sperm cable of fertilisation for several days.[3 5 6] By contrast, the thick, white, non-

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Footnotes at end of article.

stretch mucus which occurs at other times in the cycle is impenetrable by sperm and hostile to its survival.

Other symptoms have been described in association with ovulation, in particular periovulatory pain and the progesterone induced postovulatory rise in basal body temperature. Hormonal studies have confirmed the close relation of the various symptoms with ovulation.[4 7] and more recently ovarian ultrasonography has suggested that the day of most abundant secretion of fertile-type egg white mucus identifies the day of ovulation as precisely as does the luteinising hormone peak.[8] Other symptoms associated with the cyclical changes in oestrogen and progesterone concentrations include changes in the cervix, breast tissue, skin, hair, libido, and moods.[3 5]

PREGNANCY AND CONTRACEPTION

Reported pregnancy rates (pregnancies per 100 woman years; Pearl index) in well motivated couples using the condom, diaphragm, intrauterine device, and progestogen only and combined oestrogenprogestogen oral contraception are 3–6, 1–9, 1–4, 1–2, and 0–18 respectively.[9] Much higher rates have been recorded, particularly among less motivated couples—for example, pregnancy rates of 21 and 22 in condom users[10] and 23 in diaphragm users.[10] Pregnancy rates of 23 and 28 have also been reported in users of oral contraceptives in the developing world.[11] As shown in Oxford, even the contraceptive pill may fail if the woman forgets to take it, runs out of tablets, or has diarrhea and vomiting or other illness.[12]

Early trials of birth control based on symptom observation[13–17] yielded pregnancy rates of 6–0[17] to 25.4.[13] Most conceptions occurred because of intercourse on days designated by the family planning method as fertile. Controversy therefore ensued[18–21] between those who thought that all pregnancies occurring in trials should be considered as failures of the particular method[19–21] and those who thought that the method could not be blamed if couples had intercourse during a phase which they knew to be fertile.[18 20] It was also possible that initial scepticism about natural family planning methods led to a casual approach by couples.[13]

WHO STUDY

Given a natural pregnancy rate—that is, the Pearl index without any birth control—estimated as 80,[22] the cheapness of natural family planning, and the acceptability of natural family planning to many cultures and religions, the World Health Organization undertook an international study.[23–27] A total of 869 women of proved fertility and widely varying cultural, educational, and economic backgrounds were studied in five centres (Auckland, Bangalore, Dublin, Manila, and San Miguel, El Salvador). Regardless of culture and education, 93% of the women recorded an interpretable ovulatory mucus pattern. Of the El Salvador women, 48–1% were illiterate and yet recognized the mucus symptoms.[23]

Detailed analysis in the WHO study confirmed the potential effectiveness of mucus symptom observation as a means of family planning. The probability of conception from intercourse outside the period of fertility cervical mucus observation was 0–004.[24] Intercourse on days designated as fertile by cervical mucus observation resulted in conception with increasing frequency the nearer to ovulation that intercourse occurred, intercourse on the peak day of cervical mucus secretion resulting in a probability of conception of 0–667.[25] Thus it is clear that women of all cultures and educational backgrounds can learn to recognize when they ovulate and when they are potentially fertile and that if intercourse is avoided on potentially fertile days pregnancies will not occur.

INCREASED CONFIDENCE IN NATURAL CONTRACEPTION

After the early studies,[13-17] increased confidence in and experience with natural family planning methods tended to lead to progressively lower overall pregnancy rates. The rates, however, remain variable, depending on the standard of teaching and the motivation to avoid pregnancy.[24 28-39] A study in Chile confirmed the importance of good initial natural family planning teaching, experienced teachers achieving a pregnancy rate of 4•7, inexperienced teachers achieving a rate of 16•8.[28] Studies have underlined the importance of motivation, one international study finding a pregnancy rate of 4•13 in couples wishing to limit their families but a rate of 14•56 in couples wishing only to space their families.[29] Studies suggest that methods combining several indicators of ovulation yield lower pregnancy rates.[3] The cost issue has been addressed, studies from Liberia and Zambia showing pregnancy rate of 4•3 and 8•9 and user costs of $40 and $30 respectively.[39] A study of natural family planning in general practice in the United Kingdom also found it to be by far the cheapest method.[39]

The largest natural family planning study combined effective teaching with high motivation and showed the natural family planning can be extremely effective in the Third World.[33] The study was of 19,843 predominantly poor women in Calcutta, 52% Hindu, 27% Muslim, and 21% Christian. Because of poverty motivation was high both among the users and among the well trained teachers of natural family planning. The failure rate was similar to that with the combined contraceptive pill—0•2 pregnancy/100 women users yearly.[33] The result suggests that poverty as the motivation can greatly improve the effectiveness of natural family planning. A similar result, however, was achieved in Germany in a study with a pregnancy rate of 0•8.[34]

An Italian study found an overall pregnancy rate of 3•6, all the pregnancies occurring in couples wishing to space but not limit their families. The pregnancy rate was zero in couples who wanted no more children.[30] With other German studies finding pregnancy rates of 1•8[31] and 2•3,[36] a study in general practice in the United Kingdom finding a rate of 2•7,[39] and a study among 3003 illiterate and semiliterate women in India yielding a pregnancy rate of 2•04[37] the accumulating data confirm that natural family planning can be as effective as any method of family planning.

IMPLICATIONS FOR THE THIRD WORLD

In the WHO study most couples in the three developing countries who practised natural family planning were satisfied with the frequency of intercourse, whereas in the two developed countries one-third of subjects and half of their partners who practised the method would have preferred more frequent intercourse.[27] It might be argued that natural family planning being cheap, effective, without side effects, and potentially particularly effective and acceptable in areas of poverty may be the family planning method of choice for the Third World. The case for and against this may be argued and debated, but whatever the standpoint there is no doubt that it would be more efficient for the ongoing world debate on overpopulation, resources, environment, poverty, and health to be conducted against a background of truth rather than fallacy. It is therefore important that the misconception that Catholicism is synonymous with ineffective birth control[12] is laid to rest.

Understanding the simple facts about the signs of fertility confers considerable power to couples to control their fertility, for achieving as well as preventing conception. The widespread dissemination of these simple facts would be useful everywhere but might be of particular value in the Third World.

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TRIBUTE TO PRESIDENT KENNEDY

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LAZIO. Mr. Speaker, I was 5 years old and watching "As the World Turns" with my mother when Walter Cronkite broke in with a news bulletin. I was too young to know anything other than something tragic had happened. It was 30 years ago today.

In the years since John Kennedy's life and promise were taken from us—through the Vietnam war and Watergate—the American people have grown increasingly cynical of, and negative toward, its elected officials.

Perhaps the reason is that people get what they expect as much as who they elect. My theory is that elected representatives tend to rise to levels consistent with the expectations of their constituents. If people expect their elected representative to be a bum, they will be fortunate to do better. But if they expect a statesman, a genuine legislator, then they have a better chance of getting one.

Mr. Speaker, as we think about that fateful day 30 years ago, perhaps we should look in the mirror and ask if we are living up to the expectations of those who elected us to represent them and act accordingly. Perhaps then our constituents would reciprocate by raising their expectations of us. That would be a fitting tribute to John F. Kennedy.

HELP THE HOMELESS WEEK

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. WYNN. Mr. Speaker, in the Washington Metropolitan area, it is often easy to walk by the homeless on our streets. On November 20, 1993, the employees of 63 Washington-area companies walked for the homeless. This Help the Homeless walkathon was the culmination of a weeklong fundraising and educational campaign and their goal is to raise $500,000 to support nonprofit groups that provide a range of services for homeless families and individuals in Maryland, Washington, and Northern Virginia.

In 1988, in response to employees' concerns about the homeless, Fannie Mae, the Federal National Mortgage Association, initiated the Help the Homeless Program. The week prior to Thanksgiving was chosen for Help the Homeless Week because of its symbolic significance. Since 1988, the Help the Homeless campaign has raised more than $1 million and has grown into a collaborative effort of local community and religious organizations, schools, and businesses. Employees from each of the sponsoring organizations raise money during the weeklong campaign through activities such as bake sales, silent auctions, raffles, and basketball and volleyball challenges.

This annual campaign has motivated and inspired Washington area employees to increase their efforts on behalf of the area's homeless each year. As the Help the Homeless Program has grown, additional benefits beyond raising money have been realized—a greater awareness of the problems of the homeless and appreciation for the services offered by nonprofit organizations. More than anything else, however, is the recognition that individuals working together can have a significant impact on their communities.

I would like to take this opportunity to commend the companies and their employees who are taking a part in this effort. I especially would like to recognize the employees of Fannie Mae who, 6 years ago, responded to the needs of our area's homeless individuals and families by creating the Help the Homeless Program.

DRINK BOX RECYCLING TOPS 2 MILLION HOUSEHOLDS—MORE THAN 1,700 SCHOOLS ALSO RECYCLING ASEPTIC PACKAGING

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BRYANT. Mr. Speaker, I would like to bring to my colleagues' attention a new and innovative type of recycling program that is underway throughout the country: namely, recycling of drink boxes and milk cartons.

A little over 2 years ago, programs to collect and recycle drink boxes and milk cartons were virtually nonexistent. Today, thanks to the efforts of the Aseptic Packaging Council, a trade association comprised of the makers of the drink box, substantial progress has been made toward collection and recycling of polycoated paperboard materials. Drink boxes and milk cartons are being collected and recycled from nearly 1,700 schools and nearly 1.8 million homes in 22 States. The high quality paper fiber recovered from these containers is being recycled into a variety of consumer products, including writing paper, paper towels, and napkins. Over 5 million Americans have had this recycling program made available to them in just 2 years.

In my own State of Texas recycling programs have begun in schools in the Denton Independent School District. The Texas Legislature this year recognized the importance of recycling new materials and passed legislation to encourage school districts, universities, and other State institutions to separate from the waste stream, collect, and recycle drink boxes and milk cartons. This is important recognition of the fact that there are many materials beyond the traditional glass, aluminum, and newsprint which can and should be recovered from the waste stream.

According to a recent article in Waste Age, there are several reasons why recycling these nontraditional materials has been a successful endeavor and is expanding around the country. First, the paper fiber used in drink boxes and milk cartons is the highest quality postconsumer paper fiber available. It is high quality fiber in the first instance, does not require expensive deinking since all printing is done on the plastic coating and not on paper itself, and is easily recovered using a well known process called hydrapulping. Paper mills want this type of high value fiber to meet the new and growing demand for postconsumer recycled content in paper products.

I am encouraged by the realization in some parts of the business community that good environmental practices are also good business. I also believe the drink box recycling programs throughout the country are an excellent example of joint public and private partnerships needed in recycling. As former Speaker Tip O'Neill used to say, "all politics is local." The same is true for recycling. Recycling programs vary from municipality to municipality and they work best when government, industry and local citizens work together.

One good example of a successful public/private partnership is the National Recycling in the Schools program sponsored by the U.S. Conference of Mayors and the Aseptic Packaging Council. Through this program, children of all ages are provided first hand lessons in environmental stewardship. According to Mr. David Gatton, senior environmental advisor at the Conference of Mayors, "Schools are the training ground of the future. By creating partnerships with cities, schools districts, and communities, we can expand the recycling of milk cartons and drink boxes in a way that ensures we teach our kids good environmental habits right from the start."

Mr. Speaker, I commend the Aseptic Packaging Council for its voluntary efforts in the area of recycling and encourage it to keep working on this most important issue. Commitment to and progress in this effort can and should be a guide for us as we consider legislation at the Federal level designed to address the Nation's solid waste problems.

FORMER MEMBERS OF CONGRESS VIEW THE ROLE OF POLITICAL PARTIES

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. THOMAS of California. Mr. Speaker, I wish to share with my colleagues the exceptionally interesting findings of a survey of former Members of Congress conducted by the Center for Party Development, a nonprofit research and educational organization associated with The Catholic University of America. I have the pleasure of serving the advisory board of the center and was fascinated by the information gathered by the study. The report is entitled "Former Members of Congress View the Role of Political Parties in the U.S. Congress", Essay 93–1. Complete copies may be obtained by addressing the center at the department of politics, Catholic University, Washington, DC 20064. The excerpts that I quote are from the foreword and the conclusion sections of the report.

Political parties are the managers of legislative business in most of the parliaments and congresses of the world. When the 102d Congress of the United States established an Ad Hoc Joint Committee on the Organization of Congress, the Joint Committee was directed to make a full and complete study of the organization and operation of the Congress and to recommend to the 103d Congress improvements in that organization and operation with a view toward strengthening the effectiveness of Congress, simplifying its operations, improving its relationships with, and oversight of, other branches of the government, and improving the orderly consideration of legislation. The authorizing resolution, House Concurrent Resolution 192, mentioned political parties only in passing. From the perspective of the Center for Party Development, this seemed to be one more reflection of the low esteem in which the political parties of the United States are held by many in the Nation's leadership and citizenry.

While the membership of the sitting 103d Congress is able to express its views on party management of congressional business directly to the Joint Committee, views that are likely to be somewhat influenced by current headlines, another experienced and much more detached group of experts on this subject, namely, the former Members of Congress, was less likely to be heard. Believing that former Members may have useful insights into the role of the parties in congressional management, the Center for Party Development embarked upon this survey as a contribution to the public interest and the deliberations of the Ad Hoc Joint Committee on the Organization of the Congress.

The questions raised by the survey focus on the role of political parties in the management of the membership and the work of the Congress. The questionnaire was brief. The specific survey populations were: First, the membership of the U.S. Association of Former Members of Congress; and second, in a somewhat less systematic way, those incumbents retiring from the 102d Congress in 1993. As a group of oft-forgotten experts on the workings of Congress, former Members of Congress are in a special position to make assessments from experience and with detachment. The center's staff concluded that these expert views should be heard in as systematic a way as possible.

[NOTE.—Ninety-six former Members responded to the mail questionnaire, four of whom wrote extended comments.]

In sum, those former Members of Congress who responded to this survey did so thoughtfully and explicitly. Several broad conclusions may be drawn from their responses to questions about specific subjects. On the matter of the general management of the work of Congress by the parties, two-fifths considered the parties' role adequate, but as many as a third believed the role to be insufficient. Four-fifths were satisfied with the way the parties selected their leaders, but only three-fifths were satisfied with the agenda-setting function performed by the parties. As for the issue of divided government so much lamented by pundits and political scientists, three-fifths of the former Members dismissed this as an issue.

With respect to the recruitment function of the parties, more than half of the former Members thought that the parties should play a greater role, although less than a fourth experienced important party involvement in their own candidacies. Nearly one-half of the respondents anticipated that party influence in recruitment would increase if term limits were adopted. As self-recruiters themselves, two-fifths strongly disagreed with the suggestion that petition requirements to get on the ballot be made more stringent. On the controversial issue of term limits, the expectations were that term limitation would make Members more representative, create difficulties in their acquiring expertise, increase the influence of congressional staff, and increase the influence of the parties in the recruitment of candidates.

Who should enunciate their parties' program? The President, if their party holds that office, otherwise, a titular leader—an office of parliamentary systems. Very few picked the Speaker, majority or minority leaders, or the caucuses for this job.

If nothing else, parties are presumed to be campaign organizations. Yet, nearly 51 percent of the former Members said that their party was very little involved in their own campaigns. What they found valuable, however, was the legitimacy lent their candidacy by the party name and the occasional ability of their party to provide volunteers for the campaign. Only about one-fourth thought that the party should provide financial support.

Differences appeared on questions dealing with finances. There was a 42–42 split on whether disclosure requirements are now adequate or should be more strict. Asked about the effectiveness of statutory limits on campaign contributions, a plurality believe that the present limits are effective in the case of individual contributors, less so for contributions from party committees, and hardly at all for interest groups. Asked if public funds should be used to maintain specific units of party organization, three-fourths said "Never." However, Democrats were clearly more inclined to favor public funds in support of the campaigns of duly nominated candidates. The views of former Members of Congress are the views of men and women who have served and who continue to feel concern for their country and its political system. The findings reveal diversity of attitudes, commentary, and recommendations on the difficult subject of the institutional relationship between the party system and the Congress. Their views are important data for those seeking to facilitate the work of Congress, rationalize the Nation's policy process, make the political parties more responsible and accountable, and give the citizenry a greater influence upon those who manage its government.

These objectives are hardly attainable in a system that fragments the units of political power to a degree that far exceeds the separation of power concept of the Founding Fathers. From an institutional perspective, the U.S. party system and the legislative process in Congress create an every-person-for-him-or-her-self world. The search for the Holy Grail is simpler than the search for consensus in such circumstances. The good news is that anyone aspiring to establish a dictatorship in this country would give up the game very quickly for all the reasons noted here. However, those Americans who wish merely to avoid gridlock, discourage greed, promote accountability, and maintain a rational and vigorous system of policy making can see in these findings the dimensions of their task.

SUPPORT VIOLENCE AGAINST WOMEN ACT

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. QUINN. Mr. Speaker, I rise today in strong support of H.R. 1133, the Violence Against Women Act.

It is shameful that so many women fear for their personal safety. I am sad to say, Mr. Speaker, that no community is safe.

H.R. 1133 would provide invaluable assistance and protection to women who have been the victim of sexual assault and other physical violence both in the street or on the domestic front.

H.R. 1133 will provide grants to States and localities for law enforcement, rape and sexual assault prevention, and education. New penalties for these crimes will be created and victims will have new restitutions and remedies available to them.

Mr. Speaker, as the incidence of violence and crimes against women rises at an alarming rate, we can not stand by idly.

Women are becoming increasingly frightened for their safety. It is particularly disheartening that this fear often occurs in their own home. Violence—in any form—is intolerable.

I am proud to support this effort. The perpetrators of rape and other violent acts against women are committing heinous crimes.

We must get tough on crime and let criminals know that we will not tolerate their actions.

THE CHILD SUPPORT FAIRNESS ACT OF 1993

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STRICKLAND. Mr. Speaker, today I am pleased to join forces with the distinguished senior Senator from Ohio, Senator JOHN GLENN, by introducing the House companion measure to S. 1747, the Child Support Fairness Act of 1993.

Our legislation would allow the Federal Government to satisfy a valid State court judgement against federally forfeited assets of individuals who are delinquent in payment of child support.

As in the case of many legislative proposals, this issue was brought to our attention by a constituent who experienced frustration with the current system of collecting State court-ordered child support payments. The former husband of a woman from Warren County, OH was arrested in Hawaii. At the time of his arrest, the former husband was carrying over $50,000 in cash, yet he declared to U.S. Customs that he was only carrying $20,000. Customs officials seized the amount in excess of $20,000. Even though the former wife obtained a valid State court judgement for $7,660.26 for back child support, she was unable to receive any of the funds that were seized by Customs. Under current law, the Federal Government cannot honor State court judgments unless they are against an agency employee.

Mr. Speaker, we need to ensure that in the future, any assets that are seized and forfeited by the Federal Government will be subject to valid State court judgments for the payment of delinquent child support. It is time we put the interests of children first, particularly when their supporting parent fails to do so.

I look forward to working with Senator GLENN and my colleagues in the House toward enactment of this measure which will put the needs of children before the neglect of delinquent parents.

A SOLUTION TO A TAXING PROBLEM

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DUNCAN. Mr. Speaker, people all over this Nation today are fed up with Government. Our Government has become so arrogant, wasteful, and inefficient that it is almost unbelievable.

The problem is that no real pressure on Government employees compared to that found in the private sector. Government employees, in most instances, are paid, rewarded, and even promoted, no matter how poorly they perform or how little they do.

This situation has been highlighted in an interesting way by Steve Twomey, in a column in today's Washington Post. I would like to call this column to the attention of my colleagues and other readers of the RECORD.

A SOLUTION TO A TAXING PROBLEM

(By Steve Twomey)

Before getting to my plea for immediate privatization of government at all levels, let me state that I have absolutely no idea what my county's property tax rate is. Maybe that's just me, but somehow I doubt it.

Nor do I know the specific levies for having my leaves sucked up, my bottles recycled or my fires put out, nor what I'm assessed as penance for being a white male, oppressor of millions.

When the annual notice listing all those taxes arrives, I simply check the bottom—down where it says *kazillions*—and proceed to pawn another piece of furniture or my wife, who, incidentally, should be out of hock any day now.

In other words, I don't curl up by the fire to dissect my tax bill. This makes me a less-than-conscientious American, as you shall see.

One day, Joan Robison was curled up with *her* tax notice. In her family room overlooking the Patuxent River, she was checking the rates because there was a debate in her town, Laurel, about whether the tax burden was greater if you lived in the city or outside it, in Prince George's County proper.

The issue was of more than passing interest to Joan, because she happened to live with one of the chief debaters, the mayor of Laurel, the honorable Joseph R. Robison.

Actually, on that day, Joan was looking at two tax notices, one for their home and one for a condo they own in another part of Laurel. If she hadn't been looking at the two together, she might never have caught the mistake.

Among the tax rates listed was one for the Maryland-National Capital Park and Planning Commission, which handles park and planning duties for Montgomery and Prince George's counties. For the Robison condo, the rate was listed as 25.4 cents per $100 of assessed value. But for their house, it was listed as 14.1 cents.

Same town, same county, same taxing agency, different tax rates.

Joan swung into action, family finances being her turf, not Joe's.

"I run the millions," the mayor says, "she runs the pennies."

Nobody Joan reached could figure out what was wrong, not MNCPPC (pure joy, that acronym), which spends the money; not Prince George's County, which collects it for MNCPPC; not the state of Maryland, which sends out the bills for all taxes.

Joe did, though.

Because the city of Laurel does its own planning, its residents aren't required to pay the planning part of MNCPBlah-blah's rates. But Joe found that about 2,300 Laurel properties—including their condo—were being assessed the full MNCPWhatever rate and had been for a while.

Like, since the Carter administration.

The overtaxation was not much per household—$30, $40 a year—but during the last 15 years, hundreds of thousands of dollars had been wrongly squeezed out of the people of Laurel. Not one of them had caught the error because all of them had had something better to do than scrutinize their tax bills, such as have a life.

MNCPPC swiftly acknowledged a mistake had been made.

"Took about a year," Joe Robison says.

The commission also acknowledged a similar mistake involving 2,000 homes in Montgomery County and agreed that residents in both counties were due a refund.

Three years' worth.

We'll keep the other 12 years of overpayments, the commission said, because the law provides for a three-year statute of limitation on our screw-ups. After that, we're home free. You taxpayers should have been more vigilant.

There you have it. It's our duty to know every tax rate, every tax policy and every municipal, county and state bureaucracy—and apparently every name of every government employee and their favorite colors—all so we can catch the incompetence before the three-year Wheel-of-Misfortune clock expires.

I say privatize.

Government has no incentive to act sanely because we can't fire it. It has no competitors. But if MNCPPC were turned over to Ford, for example, and Ford then refused to reimburse 4,300 wrongfully taxed households, we could give it 30 days' notice and hire GM.

Lest you think this is an extreme response to one small matter, let's look at last week's headlines about government performance.

The police chief in the District said crime would be cut if shopkeepers closed earlier. By staying open into the evening, he said, they're merely asking for it, sort of like a woman who innocently smiles at a drooling guy. The chief's statement suggests a question: Don't shopkeepers pay taxes so there are police to protect them, so they can stay open and earn a decent living? If the police are unable to do that, maybe we should give the job to a major defense contractor. Community policing, brought to you by General Dynamics.

A dean at the University of Maryland awarded himself a $12,000 pay raise after being told not to do so. He remains employed. Try giving yourself a raise and see if you remain employed. But if that dean had been an employee of TRW, to whom we had awarded the contract to run the school, he'd be history now because company officials would have wanted to preserve their lucrative deal with us.

Seventeen current or former employees at the Lorton Correctional Complex were accused of taking bribes and supplying drugs to prisoners, suggesting the city might be having problems with its procedures for checking the backgrounds of potential hires. This screening problem would evaporate if Walt Disney Co. had a contract to run Lorton. Not only would the correctional officers become models of wholesomeness, but Disney might even turn Lorton into a profitable fantasyland, the fantasy being that its prisoners would be unable to get drugs, sex or money.

I could go on and on about the beauties of privatizing government, but I see that it's time for my tax-rate study group. Today, we're memorizing storm drainage assessments.

HONORING WESLEYAN UNIVERSITY

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GEJDENSON. Mr. Speaker, I would like to take this opportunity to commend Wesleyan University for its creation of the Wesleyan Challenge—an innovative public service program which encourages students to become involved in their communities. Each year three high school sophomores or juniors, from across the United States, will be selected by a review board including Mr. Eli Segal, President Clinton's Director of National Service, to participate in this worthy program.

Wesleyan University's administration has successfully encouraged its own students to become interested in community projects in and around the Middletown, CT area and I am pleased that the institution has designed a program to advocate this activity in our Nation's high school students as well. I believe this program promotes the important concepts of social responsibility and community service in a fun and educational manner.

Students must design a summer service project complete with goals, cost estimates, and supporting organizations in their communities. Wesleyan Challenge participants will receive a grant of $2,000 to implement the venture. In addition, they will be awarded $3,000 for use toward college tuition at the institution of their choice. I am enthusiastic that not only does this program encourage young people to find ways to help their communities, it also provides a foundation for these students to pursue higher education.

I strongly urge all high school students to investigate this worthwhile program and I again commend Wesleyan University for introducing the Wesleyan Challenge.

LEGISLATION INTRODUCED URGING INCREASED RELIANCE ON ENERGY CONSERVATION AND RENEWABLE ENERGY

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SHARP. Mr. Speaker, I am pleased today to introduce legislation which calls for sharply increased reliance by the U.S. on energy conservation and renewable energy over the next 15 years. To do this, it urges a major budget shift—a major reallocation of DOE energy R&D and commercialization funding toward efficiency and renewable energy.

Among the benefits of this new direction are less energy-related pollution, added jobs in efficiency and renewable technologies, more results from limited Federal dollars, and enhanced U.S. international competitiveness.

The three basic purposes of the resolution are to:

First, increase U.S. energy efficiency and reduce energy use by 30 percent by the year 2010.

Second, have renewable energy technologies account for 20 percent of the overall national energy mix by 2010.

Third, achieve these goals by shifting $1 billion to efficiency, conservation, and renewable energy programs from other DOE programs over the next few years, consistent with reducing the overall Federal deficit.

Mr. Speaker, since 1973, Americans have saved more energy through improved efficiency than all the increases in production of traditional sources of energy put together. This is why Congress made energy efficiency the centerpiece of the 1992 Energy Policy Act [EPAct]. It is also why the Clinton administration is already giving a strong new emphasis to energy conservation and renewable energy.

Funding efficiency measures and renewable energy, as the resolution urges, will also yield these benefits:

Save consumers and businesses money, by limiting wasted energy.

Reduce our dependency on foreign oil imports, and reduce the U.S. trade deficit which is partially caused by these imports.

Spur technological advances in energy efficient equipment and renewable energy, which can increase existing markets and create new high-tech markets over the next 20 years, as well as high-paying U.S. jobs to supply them.

Help meet the President's Climate Change Action Plan [CCAP], which seeks to reduce global warming potential by stabilizing greenhouse gas emissions at their 1990 levels.

For too long, cost-effective efficiency and renewable energy initiatives have taken a funding back seat, while other energy options received most of the attention. Shifting priorities, as the resolution urges, will give long overdue consideration to a wide variety of different renewable and efficiency programs.

Here are some examples:

A 30-percent renewable energy goal for alternative fuel cars, running for example on ethanol or ethers from biomass, is set by the EPAct. A variety of new conversion processes now under study could provide greater volumes of these replacement fuels at lower prices, to help meet this goal.

The Green Lights Program, an EPA program to install energy efficient lighting wherever it is profitable and only where it maintains or improves the quality of light, can help meet our global warming commitments. If every organization participated in the Green Lights Program, the resulting CO_2 emission reductions would be the equivalent of taking 43 million cars off the road.

Upgrading appliance efficiency and building codes established under the EPAct, with technical assistance and incentive funding as a carrot to go with the stick of the new requirements, will add to previous savings. The original appliance standards passed by Congress are expected to save the equivalent of the output of 28 large, 1,000 megawatt powerplants.

New and innovative wind energy technologies have been proven technically feasible and cost-effective. Industry cost-shared programs can help commercialize wind energy as a large-scale source of electric generation and can minimize the expenditure of Federal dollars, thus providing a good return to the taxpayer.

The Federal Energy Management Program [FEMP], a program to increase cost-effective energy efficiency in buildings and facilities of the Federal Government, could save about a quarter of annual Federal energy spending on buildings.

Nonprofit consortia can be formed to deploy clean photovoltaic [PV] power in cost-effective utility applications. PV technology has shown itself to be cost-competitive for a variety of stand-alone applications, and commercialization efforts are needed to make it cost-competitive with conventional forms of utility electric power generation.

The United States, through a DOE industry partnership program, is the geothermal industry leader in the world in technology, resource development, and electric-power generation. Advances and commercialization of geothermal technology can further increase exports to the Pacific rim and Central America. One project now planned for the Philippines will account for over 400 megawatts of clean power by 1997.

Many ventures have already been formed to develop technologies needed for clean cars, more fuel-efficient cars, and electric vehicles. These can reduce our oil import dependency and will be needed in any event to satisfy tough new air pollution rules coming into effect over the next few years.

Mr. Speaker, my resolution has been lauded by the Clean Energy Campaign, an effort supported by numerous groups which seek to realign DOE budget priorities to more effectively support renewable energy and energy conservation technologies. I appreciate their efforts to seek cosponsors for the resolutions, and also commend the support and work of my cosponsors on this measure, Mr. SWETT, Mrs. MORELLA, Ms. LAMBERT, and Mr. BOEHLERT.

I want to stress that funding for our new budget priorities will not simply come from other energy areas. In fact, funding can and should be shifted from all DOE programs, especially including defense programs.

Finally, I urge my colleagues on the Hill and in the administration to consider supporting these new budget priorities in the coming months by their cosponsorship, their actions and their votes on the various budget resolutions, appropriations bills, and authorizing legislation we will have before us, in order to achieve our goals.

TV RESPONSIBLE FOR FEAR AND LOATHING OF NAFTA

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. OXLEY. Mr. Speaker, I would like to call your attention to and submit into the RECORD an article in the November 22 edition of the Washington Post, entitled: "TV Has A Lot To Do With Fear and Loathing of NAFTA." It is an excellent analysis of the distortion of reality and cynicism which shades broadcast television's coverage of current events.

[From the Washington Post, Nov. 22, 1993]

TV HAS A LOT TO DO WITH FEAR AND LOATHING OF NAFTA

(By James K. Glassman)

The source of NAFTA's close call this week was a kind of national economic paranoia, which, recent research suggests, may have its roots in network television.

The thrust of NAFTA is to bring Mexico's higher tariffs down to the level of our own (i.e., about zero). Since the engine that's been driving the U.S. economy for the past decade is exports, to kill a border-opening deal like NAFTA would be to kill the goose that's laying lots of golden eggs.

But, if you believe—as millions of Americans do—that this country is on the edge of economic disaster, opening borders can be frightening. The overblown fears of these Americans provided fertile ground for Ross Perot and for union leaders with a distinct aversion to competition.

But in the face of hard facts that show the U.S. economy looking solid, how did Americans get so scared?

One compelling answer lies in the pathetic inadequacy of network television reporting on money matters. An article in MediaCritic, a new publication of the business magazine Forbes, concludes from two studies of more than 17,000 TV stories that "the three networks consistently do a poor job of reporting economic developments." That may be putting it mildly.

One of the authors, Ted J. Smith of Virginia Commonwealth University, says that television news is responsible for "a sort of hysteria about jobs that is totally out of touch with reality."

In fact, many Americans will be surprised to learn that, since the election of Bill Clinton a year ago, the United States has scored a net gain of more than 2 million jobs.

But such facts don't make good television, a medium that's strong on drama but weak on numbers. Smith and his coauthor, Robert Lichter of the Center for Media and Public Affairs, found in their research that "only about half of all economic stories [on the networks] contain statistical information."

Worse, they write, TV treats minor fluctuations in economic data "as harbingers of doom, and actual economic problems are described in terms of crisis and catastrophe."

And, whether the economic news is good or bad, TV coverage is relentlessly negative. Holmes Brown, whose Institute for Applied Economics conducted a study in 1983 (a year in which the economy grew by 4 percent), described a typical piece:

The Labor Department releases figures showing that unemployment is down, but the anchorman warns that pockets of joblessness still exist. Then, a reporter follows with "a depressing feature on some forlorn guy in Ohio who was about to commit suicide because he couldn't find work. By the time viewers got through watching it they forgot all about the fact that the unemployment rate went down instead of up."

While the groups that back these studies are often linked to conservative or pro-business causes, their conclusions appear sound to practically anyone who watches television and follows economic data.

"I don't have any problem with those findings," says William Adams, a professor of public administration at George Washington University who also monitors the media.

"If Dan Rather had been around on the day Ben Franklin discovered electricity," Adams says, "he would have started his broadcast by saying, 'Horrible news today for America's candlemakers. . . .'"

Newspapers do a far better job covering the economy than the three networks, and CNN and PBS both have excellent 30-minute nightly business programs. But the audiences for these media tend to be well-educated, well-off and relatively small.

Lichter points out that surveys show that NAFTA attitudes are "stratified by class," and NAFTA foes "are most likely to rely on [network] TV for their news, not on the New York Times or the Washington Post."

TV watchers have been getting a steady dose of doom and gloom. Smith's study for the Media Institute found that from 1982 to 1987, a total of 4,500 stories out of 5,300 had a negative tone. Lichter's research found that from October 1990 to May 1993, of the 2,100 speakers who evaluated the economy on evening newscasts, 86 percent were naysayers.

And TV appears to be nonpartisan in its pessimism. This spring, with Clinton in the White House, TV evaluations of the economy were 92 percent negative, say the authors.

TV defenders reply that news, almost by definition, is the bad stuff—or, as Irving R. Levine of NBC put it: "For producers and reporters, bad news is good news." But the result of negative reporting is a lopsided, inaccurate view of the economy—a view that, as we saw in the NAFTA debate, can affect public policy.

Besides, sportscasters don't give the score only when the home team loses, and the weather report isn't broadcast only when rain is due.

No wonder so many Americans think their economy stinks. The facts, however, are quite different, particularly when you look at the rest of the world:

Growth in the United States for the year is higher than in any large industrial nation except Australia. Our gross domestic product is up 2.8 percent while Japan's is down 0.5 percent. The GDP of Germany is off 2.4 percent, France 1.5 percent, Sweden 4.2 percent.

The U.S. unemployment rate is 6.8 percent—still too high, but down from 7.4 percent a year ago. In every European country, as well as in Japan, unemployment has risen over the past year. The rate in Britain is 10.3 percent, Germany 8.8 percent, Italy 11.2 percent, France 11.8 percent.

I just returned from France, and there unlike in the United States, economic paranoia is fully justified. Industrial production has dropped 2.9 percent (in the United States, it's up 4.5 percent), and the French auto industry, with sales down 17 percent, is suffering its worst year since the oil crisis of the mid-1970s.

Bernard Kaplan, writing recently in the Hearst newspapers, quoted a French economist as saying, "Americans have received a grossly distorted picture of their economic condition."

And television is the culprit, along with politicians who exploit its images.

The truth is that, compared with Europe and Japan, we've got it pretty good right now, and one big reason is that we've finally come to understand that our internal market is no longer enough, especially as the world—yes, including Mexico!—is getting richer.

Over the past seven years, the volume of U.S. sales to foreigners has risen an astounding 85 percent—more than any other major industrial country. In 1992, for example, we exported $39 billion in aircraft, $38 billion in cars and trucks, $18 billion in power generators, $6 billion in tobacco products and $3 billion in fish.

And there's a lot more business where that came from. Trillons more.

PENSION BENEFIT GUARANTY CORPORATION [PBGC] REFORM LEGISLATION

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. ROUKEMA. Mr. Speaker, the funding problems of our Nation's pension system, and the Pension Benefit Guaranty Corporation [PBGC] in particular, are growing and require immediate attention. In addition to the interest taken by the Ways and Means Committee on this issue, my subcommittee on Labor-Management Relations of the Committee on Education and Labor has held a number of hearings to examine the nature of PBGC's problem, the extent of the problem, and the remedies needed to fix that problem.

The hearings by the subcommittee on Labor-Management Relations adequately apprised us of pension plan underfunding, projected PBGC deficits, hidden pension liabilities, and the decline in the number of defined benefit plans. In the words of the PBGC Executive Director, Mr. Martin Slate, the PBGC deficit will grow and grow if no action is taken to address the chronic underfunding of a significant and concentrated minority of defined benefit pension plans. With PBGC's single-employer fund at a deficit of about $2.7 billion, legislative action is urgently needed. Otherwise, the problem will become worse and the solution will only become more difficult.

On Thursday, October 28, the administration introduced the Retirement Protection Act of 1993, H.R. 3396, to reform the PBGC and our Nation's defined benefit system. I want to commend the administration for recognizing the urgency of the problem, for bringing all types of pension experts together to examine the problems, from the Department of Labor, Department of Commerce, Department of Treasury, and the Office of Management and Budget, and for creating a framework that can help the Congress fashion a permanent solution that will put the PBGC on solid financial ground while securing the pensions of the American worker.

In our subcommittee, we heard witnesses from every persuasion urging the Congress to take deliberate steps that will achieve a careful balancing of the need to shore up the PBGC while still encouraging the continuation of the defined benefit pension system. I believe what's at stake here is the health of the voluntary pension system and, in particular, the support in this Congress for defined benefit pension plans.

As we proceed to fashion an appropriate legislative solution, it might be said that we are engaging in a very delicate operation. Certainly we want to assure the Federal taxpayer that the PBGC program will never require their assistance like the saving and loans did.

Also, we need to exercise caution regarding any increase in the premiums on well-funded pension plans, or we risk the continuance of the very plans we need to keep the PBGC on a self-financing basis. By avoiding any increase in the flat rate premium, the administration bill recognizes this principle.

There are other facets to this complex problem that we will have to address in crafting a solution that will withstand the test of time. Of critical importance, the administration's PBGC reform legislation recognizes the severe problem of chronic pension plan underfunding, and thus requires underfunded plans to be funded faster.

Retirees and taxpayers are at risk if our Nation's pension system is left unchanged. If legislative action is not taken, the risks and losses will increase. For this reason, I urge my colleagues to focus on this important issue and examine the administration's PBGC reform proposal so that remedial legislation can be enacted in a timely fashion.

CLINTON HEALTH PLAN WILL HURT SMALL BUSINESS

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. EWING. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I received from my constituents, Brandon and Susan Griffing, regarding the impact of the President's health care reform and the impact it would have on small businesses. We need to realize that small businesses produce 9 out of 10 new jobs in America and keep this in mind during the health care debate.

PAGES FOR, ALL AGES BOOKSTORE,
Champaign, IL.

DEAR CONGRESSMAN EWING: I am writing this letter to you because I am a small business owner who is very concerned about the proposed health-care legislation. My wife and I own a bookstore in Champaign, Illinois. We currently employ 43 people. We work at the store daily bringing the total to 45. I am distressed that no discussion has even mentioned average or "normal" industry profit margins as a factor in deciding how much a business should contribute. Our industry is dominated by chain operations. The average profit margin in our industry is hovering around 1.4% (before income taxes; please see documentation from the American Booksellers Association). People scream bloody murder when their CD rates are earning below 4%, yet we are supposed to try to compete with a rate of return that is half that amount. We are competing against large chain operations that receive all kinds of margin enhancing benefits that we as independents do not receive. Any kind of meaningful dialogue and legislation that results from it must include industry standard next margins as a major component. As independent booksellers, we do not list extravagant luxuries as part of our financial statements. No independent bookstore owner ever bought a professional sports team or private jet with revenue earned from her or his store. We are just trying to pay the bills and compete with the chain operations. With 1.4% as our average margin, we have no room for any additional expenses. Our products are priced for us by the publishers, with the retail price being printed on the book jacket. Our industry is also very labor intensive. There is no practical way to automate the receiving and stocking of books. So, the combination of high labor costs and low margins means that taking a percentage of our biggest expense item would be devastating to us.

I also believe that any dialogue and eventual legislation relating to health-care reform must include a remedy for excessive worker's compensation insurance premiums. As a low risk retail operation, we pay $7,500 per year. We have had zero claims in 5 years. This area seems like it must be a "cash cow" for insurance companies. I realize that there are dangerous occupations, but bookselling is not included in that category.

Currently, we pay 50% of our full-time associates' health care premiums. We insure through Fortis Benefits. We chose a higher deductible plan that offers a $10.00 co-payment for office visits. Our share of this bill is $15,600 and our associates pay the equivalent amount. Under the proposals I have seen recently, we would be paying $28,646 or 84% more than we pay now!

As I stated earlier, we don't have much at the end of the year anyway. Where is this additional revenue supposed to come from? Small business is responsible for most of the stimulus behind our modest economic growth. If "smalls" are put out of business because of health-care legislation, are we to turn to firms like IBM for jobs? As you know large companies are cutting payrolls every single day. We need the precious little we earn to pay off loans, to pay income tax and if there is any left, to reinvest in equipment and inventory.

My wife and I quit our corporate jobs 6 years ago to open our store. We have invested a lot of money and time into our business. We have two children who depend on us to make a living. Our staff depends on us to live. We love what we do, and most days we look forward to getting to the store to begin each day. However, what we don't need are more government regulations and a huge financial burden heaped upon us by our government. I want legislators who are throwing around percentages of payroll to sit down with a real life P&L and show me how I can make it work. We already pay $55,406 in payroll taxes, and $7,500 in worker's compensation insurance. We cannot keep paying for more and more and more. There is a very real limit to what we as a retail business can pay and survive. That limit is staring us in the face.

I understand that cost shifting and the massive amount of waste in our health care system are problems that must be rectified, but, for heaven's sake, please don't eliminate an entire retail industry. Interestingly enough, I used to sell surgical supplies in my former vocation. I was always amazed at the wealth of people like Leon Hirsch of U.S. Surgical Co., one of the wealthiest men in America. Every business, if run efficiently, should be able to earn a reasonable rate of return on investment, but maybe the excess of these companies would be a place to start in the overhaul of health-care costs.

I am pleading with you to come up with responsible legislation. Families and individual's livelihoods are in your hands.

TRIBUTE TO PAT KEEBLE

HON. WILLIAM P. BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BAKER of California. Mr. Speaker, I rise today to enter into the RECORD, the last column by legendary Contra Costa columnist Pat Keeble. She is hanging up her press pass and entering a new career.

Pat has been a friend for over 20 years, covering county and local politics, telling it like it is.

It has been a pleasure to work with and to know Pat, and I wish her the best of luck in her newest adventure.

A QUARTER CENTURY OF POLITICS

(By Pat Keeble)

My first day of employment with Lesher newspapers March 13, 1967, I was assigned to report on the Concord City Council meeting for the old Concord Daily Transcript. That's when I first met then-Mayor Dan Boatright.

The same Dan Boatright, who went from there to the Assembly and the state Senate, is the only politician I have covered who has been active my entire career. Many others have come and gone, but I was covering politics for Lesher newspapers before any of the others came on the scene.

I covered Concord city politics until I transferred to Martinez to cover the county. Other reporters on the Times and Transcript covered the big-time politics, the Democrats and Republicans, the state legislators and congressmen.

Then I drew the short straw to work on New Year's Day 1969. That usually amounted to a quick check of the Sheriff's Office and police department, a couple of small stories and you could go home. But at about 1:45 that morning, State Senator George Miller, Jr. had died of a heart attack at his Alhambra Valley home. I was assigned to cover the story. The next day I told the editor there was a lot of talk already about who might replace him. I figured more experienced reporters who had been there long would glom into the assignment. But suddenly all those who had been covering politics had gone, and no one else wanted to do it. Did I want to do it, I was asked.

Did I! What does anyone go into journalism for but to cover politics? The subsequent campaign was one of the wildest I've ever covered. District Attorney John Nejedly immediately announced he would seek the Republican nomination. There was another Republican, a Peace and Freedom Party candidate, an American Independent Party candidate, an independent and 10, count 'em, 10, Democrats.

The Miller Democrats, headed by Bert Coffey, had tried to get Miller's widow Dorothy to run but she wasn't having any of it. The next in line was George III, then 23 years old and a law student. He agreed to run and was challenged by Supervisor Tom Coll, who was supported by Rep. Jerry Waldie of Antioch, who had never gotten along with the Miller-Coffey crowd. Banker Pete Stark, then of Danville, finished third in his first race for a congressional seat.

My most vivid memory of that campaign was of a young, somewhat forlorn George Miller at Sunvalley mall, standing at the end of an escalator trying to get people coming off it to take his literature. He wasn't having much luck.

He won the nomination, but got creamed by Nejedly in the runoff. No one figured he was finished in politics, however. When Waldie left his seat five years later, Miller was an obvious candidate and he won handily.

During the early 1970s, a young, skinny guy with big glasses became executive director of the Contra Costa Taxpayers Association, which had its offices across the street from ours on Main Street in Martinez. Bill Baker loved to talk politics, so it was natural that he struck up a friendship with the press and a number of us frequently dined together at the old Amatos. So he wasn't unknown to us when he ran for and won his Assembly seat in 1980.

The Board of Supervisors in those days was a Good Ol' Boy board. In 1976, when environmentalist Nancy Fahden got mad enough not to take it anymore and ran against Al Dias, I didn't think she could overcome the politics-as-usual campaigning. With her Martinez Women for the Waterfront and a West County environmental coalition, she became the first woman on the board.

Then there's Sunne McPeak. I told her she couldn't beat Warren Boggess in 1978, that "the establishment" would give him all the money he needed. She forced a run-off with a true grassroots campaign using people instead of money, and the rest, as they say, is history.

It was a time when the whole of local politics was changing, with younger, activist candidates wanting to get rid of the Old Boy network and force government to change. They did that. Now, they are the Old Boys and Girls, burning out perhaps, certainly being challenged by a new generation.

The Board of Supervisors got two new members last year and will get at least one new one in 1994. Bill Baker went up a step to Washington, with Dick Rainey taking his seat and looking toward the state Senate in 1996, when most of the rest of our legislators must find new jobs, thanks to term limits. As we head for the big 2000, all sorts of changes are in store.

Why the nostalgia now? Because this writer is making a change, also. This is my last column for the Times. I'm moving on to other challenges.

During all this time trying to keep up with the politicians, what has made it more than worthwhile has been by readers. I've very much enjoyed the feedback, which let me know I passed on a little bit of knowledge here and there they might not have gotten otherwise. Thanks to all of you. Keep passing on our motto: If you don't vote, you can't complain.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

OWL INVESTIGATIONS, INC.,
Bowling Green, KY, August 4, 1982.

Re voice identification, aural and spectrographic examination of client supplied known and unknown tapes.

RAY HAGEMANN,
Attorney at Law, City of New York, Borough Hall, Staten Island, NY.

Tapes: Realistic MC90 #52101 AM; Maxell XLII 90 #E3015383; Sony MC60 #A1517221 UNK.

Summary: Mr. Hagemann's office supplied tapes of a known suspect which were recorded by an informant. These were labeled Control 1 and Control 2. I was asked to compare a voice on Control 1 and Control 2 to each other, to see if they were the same voice and then compare that voice to a voice on the Unknown tape.

Examination: The examination consisted of critical listening, spectrographic analysis, and aural identification.

Conclusions: The targeted voice on Control 1 & Control 2 appears to be the same. There are similarities in pitch, quality, rate of speech, mannerisms, amplitude, accent, and other unique factors. The voice on the Unknown tape is speaking in a slow, affected manner and is somewhat slurred. (In my opinion, this is possibly due to the influence of drugs or alcohol.) By digitally speeding up the voice while maintaining its proper pitch, I was able to better match the rate of speech of Control 1 & 2 as demonstrated by the enclosed audio tape.

Similarities do exist between the voice on the unknown tape and the voices on Control 1 & 2. Pitch, quality, mannerisms and accent are similar.

I would need to take a Voice exemplar of the person on the unknown tape saying the exact words that were said on the unknown tape. A comparison then could be made to provide a determination of identification or elimination.

Respectfully Submitted

TOM OWEN.

CI: Hey Jose how are You? Where have you been? I've been around looking for you. You haven't been around any of the restaurants. What's your last name?

Prado: Prado, Jose Prado.

CI: I've been having problems here with a couple of police officers, asking questions and I was wondering if you can help me. I want to know about the Inspector from Immigration.

Prado: He gave us money to carry false information against Occhipinti. They only paid me $35,000.

CI: Now you went to court and made false accusations and so they kicked all of you out for giving false statements?

Prado: Yeah we gave false statements and they — because none of it was true. OK now, you've asked me that question too many times and your asking too many questions. Elias gave you all that info already

CI: What else happened, explain to me? When you went to court to give false statements, who was there?

Prado: Elias, Altagracia, Rhadame Liberato, and a few others.

CI: Damm shit, he fell into the trap, the federal agent and then he got fired.

Prado: There was proof that it was all false statements in the testimony, but you see we were to many witnesses and everything was done for money.

CI: You know I forgot to ask you who was the one who paid you money to testify in the court?

Prado: You know, Jose Liberato?

CI: He's the head honcho?

Prado: Yes, he's the one that's in charge.

CL: Goodbye!

STATEMENT OF MICHAEL CAPASSO TAKEN ON JULY 9, 1992

I am currently an agent with the U.S. Drug Enforcement Administration (DEA). Prior to my employment with DEA, I was an Agent with U.S. Immigration & Naturalization Service, also as a Special Agent, from June 1988 to April 1990. I worked under the supervision of Supervisory Special Agent Joseph Occhipinti. Through my service of employment I, along with Joseph Occhipinti and others, conducted upward of 50 consensual searches and at no time was a search of a home or business made prior to the consent of search being properly signed. Several of these searches were part of Project Bodega. In approximately two years of working with Mr. Occhipinti I personally had seen only him twice brandish his weapon and those were joint investigations with the Drug Enforcement Administration. I also recall a conversation with Special Agent Richard Lauria of the Immigration Service in which Mr. Lauria conveyed to me the understanding that Special Agent Stafford Williams had made false statements during his testimony at the trial of Joseph Occhipinti.

MICHAEL CAPASSO.

State of New York, County of Orange.

John M. Hickey, being duly sworn, deposes and says:

1. I was formerly employed by the New York City Police Department. I retired in October 1989.

2. At the time, I was employed as a detective, assigned to the Manhattan North Homicide Squad. I was assigned to the Buczek homicide and related drug investigations.

3. During the performance of my duties, I became acquainted with Joseph Occhipinti.

4. Mr. Occhipinti's actions in visiting various bodegas arose from the Buczek homicide/Freddy Then drug cartel investigations.

5. Mr. Occhipinti went to these bodegas with the full knowledge and concurrence of the New York City Police Department.

6. In fact, in doing so, Mr. Occhipinti was pursuing leads and information provided to him by the Police Department. Another detective, Detective Hildebrandt, gave him a list of bodegas, which Mr. Occhipinti ultimately visited.

7. We believed that many of these bodegas were owned and/or controlled by Freddy Then and that they were havens for illegal activity.

8. Mr. Occhipinti's visits to these bodegas were not unilateral acts on his part; but were undertaken with the full knowledge and concurrence of the New York City Police Department.

JOHN M. HICKEY.

QUESTIONS TO ASK ABOUT THE PRESIDENT'S HEALTH PLAN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CRANE. Mr. Speaker, the Ways and Means Committee, of which I am a member, has held a series of hearings this fall to try to sort out the details of President Clinton's immense health care reform plan. At hearing after hearing, however, it has been very difficult to get complete answers to questions about the intricacies of the President's package. In an article from the November 4, 1993 issue of the Chicago Tribune, Joan Beck poses a number of such unanswered questions that challenge the ability of the President's plan to achieve its stated goals. I urge my colleagues to read and consider these questions and to support alternatives that would strengthen the private sector's ability to expand coverage and contain costs.

CLINTON HEALTH PLAN RAISES QUESTIONS, OFFERS FEW ANSWERS

With its 1,342 pages of legislative legalese, President Clinton's new "Health Security Act" may be the most complicated bill ever introduced in Congress.

Even so, it leaves a slew of questions unanswered about what it will do to our lives, our health, our taxes, our economy and our national debt.

For starters, here's a sampling:

1. Can a 1,342-page law be understandable not only to members of Congress who must pass it, but to the bureaucrats who must administer it and to the public whose lives will depend on it? Or is the administration creating a new IRS-type monstrosity that will make today's health care mess look like Tiddlywinks?

2. Conventional wisdom holds that runaway health care costs are due in large part to economic incentives for physicians and hospitals to treat patients more than necessary. But isn't there a danger the cost-containing incentives in the Clinton plan will make it profitable to undertreat patients—with some dangerous consequences?

3. How can taxpayers believe the cost estimates in the Clinton plan are reasonably correct? The Federal government, after all, has been horrendously wrong in costing out other health care plans. For example, the End-Stage Renal Disease program that pays for kidney dialysis was projected to cost $250 million annually in 1977, five years after its start-up; in 1991, the bill came to $6.6 billion.

4. What confidence can we have in Clinton's assertions that more efficient administration will cut costs enough to pay for much of the expanded coverage? As Vice President Al Gore pointed out several weeks ago, federal regulations generate tons of expensive, unnecessary paperwork. Will the health plan do better, even if it is run by the states? Medicaid—at least in Illinois—is so poorly managed that cheating, over-billing, unnecessary care and other abuses are rampant and unlikely to be weeded out.

5. Won't the requirement that employers provide health insurance for workers carry built-in incentives for small businesses to reduce their payrolls and hesitate to take on new hires—even with the subsidies the Clinton plan promises? Since small businesses generate a majority of new jobs, won't this increase the rate of unemployment?

6. If a big majority of Americans are satisfied with their current health care, why should they take on the risks and complications of the Clinton plan, especially when 40 percent of people will be paying more (some will get lower deductibles) and 15 percent will pay more and get less coverage?

7. How can using $140 billion in cuts in future Medicare spending to finance the health care plan be justified when Medicare reimbursements are already so low that some elderly people have trouble getting care? Why should those over 65 have to stay in Medicare when it will provide fewer benefits than health plans for younger people?

8. Who is going to pay for health care for the nation's 3.2 illegal immigrants, for whom the Clinton plan provides only an inadequate $1 billion a year for emergency treatment? What will happen to public health if large numbers of undocumented people can't get care for contagious diseases, pregnancy and other medical problems?

9. Despite the lip service the Clinton administration—yielding to pressures and criticism—now gives to plans allowing people to choose their doctors and hospitals and pay on a fee-for-service basis, is there any certainty such freedom can be preserved? Many analysts predict most doctors will be forced out of private practice and that choice will be priced out of existence and will soon disappear.

10. What Clinton is proposing is actually a gigantic, new entitlement program, like those that now make it impossible to control the federal budget, the deficit or the national debt. Shouldn't Clinton—and critics such as Ross Perot—be more concerned about the deficit dangers of the health care plan or the new taxes it may require?

11. How will cost controls on insurance premiums, fee schedules, budget caps and global budget requirements actually work? What the administration is now proposing—after backing down some under fire—is essentially price controls. And price controls are ineffective in the long-term, create shortages and could lead to rationing.

12. What will be the effect of the squeeze on high drug prices the Clinton plan calls for? Will what are essentially price controls cut into the ability of pharmaceutical companies to carry on research and development new medications that could reduce the cost and improve the outcome of treating many illnesses?

13. Isn't it unrealistic—and dangerous—to try to hold health care to the rate of inflation, as Clinton proposes, when the aging population with their increased needs for care is growing rapidly, when new technology can help cure illnesses and relieve suffering and demands are escalating for better treatments for such diseases as breast cancer and AIDS?

14. How can we be sure the heavy hand of government won't stifle and do harm to what is now the best medical care in the world and that medical innovation and discovery will still flourish?

15. Is there really an emergency in health care that justifies such a sweeping new power grab by the federal government and such incalculable risks to the nation's economy? Can't problems in the current system be fixed by clearly targeted, evolutionary improvements?

Congress is expected to debate for at least several months about the Clinton plan, as it should with legislation that will affect all of us so intimately and will be so disruptive of a major economic sector. At the very least, voters should insist on credible answers to questions like these.

EAGLE SCOUT JEFFREY D. PETERS

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize Jeffrey D. Peters for earning the Boy Scouts of America's rank of Eagle Scout. Very few Scouts reach this goal. The award will be bestowed at a special Court of Honor Ceremony on December 5, 1993.

Jeff started scouting as a Cub Scout with Pack 40, where he earned the Arrow of Light. He transferred into the Boy Scouts and joined Troop 83. As Jeff has grown and matured, he has held several leadership positions, from assistant patrol leader to junior assistant scoutmaster. Jeff was tapped as a member of a select group of honor campers called the Order of the Arrow.

Jeff has volunteered countless hours of his time to such projects as the annual Scout-O-Rama, to civic efforts such as cleanup and beautification projects in Mount Airy, and to trail maintenance in Mount Airy Forest. Jeff has also remembered those less fortunate than himself by assisting with food and clothing drives.

Jeff Peters has not neglected his academic efforts while he has pursued his other interests. He has received the American Revolution Award and a biology academic award. In addition, Jeff has been an honor student at LaSalle High School for 12 out of 13 academic quarters.

I am proud to salute Eagle Scout Jeffrey Peters and congratulate him, his parents, and his scout leaders on his accomplishment.

PRESIDENT CLINTON'S HEALTH SECURITY ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SWIFT. Mr. Speaker, a few months ago President Clinton came before the Congress and the American people to share his very serious concerns with our Nation's health care system. A few weeks ago the President unveiled his specific plan on how he hopes to cure what ails our current system. Today the distinguished majority leader from Missouri, Mr. GEPHARDT, will officially introduce President Clinton's Health Security Act and I am pleased to be an original cosponsor.

I and many of my colleagues have been troubled by the tremendous problems that plague our health system. First, it costs too much. It costs too much for individuals, families, business, and government. We are spending more on health care than any other industrialized country in the world and unless the Congress takes action, it will continue to cost too much. For example, it is estimated that by the year 2000, almost $1 out of every $5 earned by Americans will go to health care spending. And if current spending trends continue, health care costs will consume 19 percent of our country's gross domestic product by the turn of the century.

As costs continue to spiral out of control, people—families—are losing access to our health care system. They are losing access because their health insurance premiums have risen 30 percent in the last year. They are losing access because the advances in medical technology are enormously expensive. They are losing access because of a pre-existing condition which prevents folks from changing jobs or even getting health insurance in the first place. Right now, in my home State of Washington, 40,000 people are losing their health care benefits each month. There are simply too many people in this country who are just one illness away from losing what coverage they currently have. It is clear, the cost of doing nothing will ultimately put all Americans at risk.

Fortunately, President Clinton is not content to stay with the status quo and let costs skyrocket and have families continue to lose access to health care coverage. He has put before us a very bold, innovative plan to address this burgeoning crisis in health care. With this plan all Americans can look forward to knowing that they will always have health security—for themselves and their families. The President's model for reform would control costs and provide universal access to health care for all Americans. It is a plan which builds on the health care delivery system that we already have in place and seeks to maintain the high quality and maximum choice that many Americans value in our current health system. It preserves what is right with our system and fixes what's broken.

As one who has been supportive of the single-payer approach, I am particularly pleased that the President's plan embraces some of the key principles of a single-payer system—universal access, strong cost containment, administrative simplification.

The committees in both the House and Senate have already begun to examine the various aspects of the Health Security Act. For example, how will the plan affect senior citizens, families and children, large and small businesses, and biomedical research? Will the plan simplify the overwhelming paperwork associated with our current system and will it encourage new physicians to practice primary care?

The Health Security Act makes sure that all Americans—the young and the old—are covered. It will make it easier for both large and small employers including the self-employed to buy and maintain health care coverage. The academic health centers established under the act and other research initiatives will ensure that we have an adequate supply of primary caregivers and that we continue our efforts to find new treatments and cures for the health problems that Americans encounter whether they are as common as the cold or as difficult as cancer. And finally the Health Security Act will simplify health care administration for both providers, insurers and consumers by using a single form for health care claims.

It is terribly important that we work together to come up with comprehensive reform. That will mean compromises from every quarter. I have often said that it is not the opponents of health care reform that will kill this proposal but rather the proponents will doom any chance of reform if we are not willing to keep an open mind to different approaches to solve the problem. I look forward to working with my colleagues on the Energy and Commerce Committee and the entire House to make sure that all Americans have health care that they can count on.

The bottom line is that the health care system in our country is sick. The President has prescribed the medicine. Now is the time for Congress to fill the prescription.

IN HONOR OF ADDIE KELLER

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. ESHOO. Mr. Speaker, I rise today to recognize Addie Keller, an extraordinary citizen of San Mateo County, CA, and a member of the San Mateo County General Hospital Foundation Board of Directors. The foundation was initiated to provide support to one of California's financially strapped public health and hospital systems. Mrs. Keller recognized the mission of the foundation as both a special challenge and a noble undertaking and stepped up to it.

Within months, Mrs. Keller had found a unique way to make the public aware of County General. She decided to bring the colorful tradition of the wild west to San Mateo—the bed race. With the able assistance of her son, Barry Keller, who had staged races in other parts of California, Mrs. Keller brought the community coalition together. She drew support from small businesses, other hospitals, chambers of commerce, unions, physicians, firefighters, and elected officials who entered beds in the race and made significant donations. The Great Bed Race was previewed at a Gala Bed Race Dinner the evening before and proceeded on a sunny Sunday morning by a parade through downtown San Mateo. Nearly 30 beds were raced, and television stations from the bay area covered the wild antics, including four doctors racing an iron lung.

Addie Keller succeeded in making people aware of SMC General hospital and raised nearly $50,000 with the tremendous help of her husband George, their son Barry, and his wife Lynda. The staff and community of County General are truly grateful to Addie Keller. I urge my colleagues to join me in saluting Addie Keller and her inspiring achievements. She is indeed a national treasure.

THE MOTOR CARRIER SAFETY ACT OF 1993

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MORELLA. Mr. Speaker, today I am introducing the Motor Carrier Safety Act of 1993. This bill would set a minimum penalty and increase the maximum penalty amounts for civil violations of Federal motor carrier safety regulations. It would also improve information provided to motor carriers about past safety performance of drivers and improve supporting documentation records of duty status.

On August 6, 1993, a "Beltway summit" was convened at the U.S. Department of Transportation to plan safety improvements for the Washington Beltway. On the same day, there were three accidents involving motor carriers on the beltway in Montgomery County, MD. In a space of 12 days last summer, 7 people were killed in a series of beltway accidents; trucks were involved in four of these accidents. There are many responsible trucking companies and drivers, but when one large truck, which has not been maintained or whose driver falls asleep at the wheel, is involved in an accident, death often results.

Mr. Speaker, I urge my colleagues to reduce truck accidents on the beltway and across the Nation and cosponsor the Motor Carrier Safety Act of 1993.

Five years ago, a regional effort was launched by Federal, State, and local officials to improve safety on the Capital Beltway. I believe that this interjurisdictional work has been effective in reducing major accidents and massive traffic congestion on the beltway. In addition, the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] contained important motor carrier safety provisions, which I sponsored in the House, to reduce truck violations and to improve safety on interstate highways.

In August, my colleague FRANK WOLF initiated the "Beltway summit" to which I referred earlier. As a result of that meeting, Federal Highway Administrator Rodney E. Slater appointed three committees, whose work will be published soon, to continue the work of previous working groups to improve beltway safety.

Mr. Speaker, the provisions in the Motor Carrier Safety Act of 1993, which I and Congresswoman BYRNE introduce today support and enhance the efforts of these working groups. The legislation will also send the message to the motor carrier industry that violations of the Federal motor carrier safety regulations are significantly more serious than traffic violations. We have improved truck safety on our interstates. More needs to be done and done quickly.

OPENING OUR BORDERS TO STATE-INSPECTED MEAT: AN EXERCISE IN EQUITY

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GUNDERSON. Mr. Speaker, last Wednesday, we participated in a historic occasion as the House of Representatives gave its approval to the implementing legislation for the North American Free-Trade Agreement. At that time we stood up as a country and said that we would be a player in the global economy of the 21st century and, further, that we would not let artificial boundaries called borders stand in our way.

Now that we have made that decisive statement concerning our international borders, Mr. Speaker, I believe that we must turn our attention inward and look at some of our internal policies that restrict interstate trade among the several States. The most glaring example of an artificial barrier to interstate trade is the restriction against State-inspected meat and poultry products traveling in interstate commerce.

Twenty-five years ago, Congress passed the Wholesome Meat Act of 1967. At that time, there were over 15,000 nonfederally inspected meat and poultry processing plants producing about 15 percent of all of our carcass meat and 35 percent of all of our processed meat. Indeed, there was no uniformity or consistency in the various State laws regulating these processors.

Accordingly, the 1967 Wholesome Meat Act introduced a new Federal requirement that any State meat and poultry inspection law must provide standards which were "at least equal to" those of its Federal counterpart. If a State inspection law failed to meet those Federal standards, the Secretary would designate that State for Federal inspection.

Unfortunately, Mr. Speaker, even though the 1967 act required State inspection laws to be at least equal to Federal inspection standards, it did not permit State-inspected meat that met those standards to travel in interstate commerce. As such, for 25 years we have had an inequitable situation in our country where foreign meat and poultry products which meet Federal inspection standards may enter the country and travel in interstate commerce, but State-inspected products meeting those same standards cannot.

Are we talking about a great quantity of State-inspected meat and poultry products? No. While 40 percent of all American meat and poultry processors are State inspected, State-inspected operations slaughter and process only about 5 percent of the total American meat supply. What does this tell us about these businesses? Simply that they are small mom and pop operations who, like all small businesses, are in a day-to-day struggle to find new markets and keep their doors open.

From this perspective, the current prohibition against State-inspected meat traveling in interstate commerce works a particular hardship on those family meat and poultry operations close to a State border since they cannot market their product across that boundary line. That's why we are losing about 5 percent of these businesses every year. In fact, we barely have more than 3,000 State-inspected meat and poultry processors left in our country—only 20 percent of what we had 25 years ago.

Simply stated, Mr. Speaker, its time to rid ourselves of this meaningless distinction in the law which has become nothing more than an artificial barrier to free and fair trade within our own American borders. That's why I'm introducing the Meat and Poultry Products Inspection Amendments of 1993 today—to ensure that we truly promote the free flow of commerce in the United States by allowing all meat and poultry products which meet Federal inspection standards to travel in interstate commerce.

Indeed, now that we have opened our borders to allow meat and poultry products from our North American neighbors which meet our inspection standards to enter the country and travel in interstate commerce, we should provide the same opportunities to our domestic meat processors and their State-inspected meat and poultry products. Our American traditions of equity, fairness, and justice require nothing less.

TRIBUTE TO JOHN MIDDLEMORE

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STUMP. Mr. Speaker, I rise today to pay tribute to John Middlemore, a senior at Prescott High School and resident of the Third Congressional District in Arizona. John won 24th place honors in the Voice of Democracy script writing contest sponsored each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary.

This year more than 136,000 high school students entered the contest competing for 29 national scholarships totaling $87,500. This year's contest theme was "My Voice in America's Future."

John is the son of David and Winifred and the youngest of 10 children. John was nominated by my office to attend the U.S. Air Force Academy and accepted an appointment.

I would like to submit John's award winning speech for publication in the CONGRESSIONAL RECORD:

MY VOICE IN AMERICA'S FUTURE

(By John Middlemore)

At birth I was given a priceless gift. A gift that would guarantee me life, liberty and the pursuit of happiness. These gifts are a part of a greater legacy. Our forefathers left us a free government which is a miracle of faith—strong, durable, and marvelously workable. Yet it can remain so only as long as we understand it, believe in it, devote ourselves to it, and when necessary fight for it. Our forefathers established for us the chance to know freedom, to love freedom, and to do our full share to assure its continuance. There is no freedom without responsibility.

Freedom is not inherited. It is up to each of us to keep our house of freedom in good repair with our voices, yours and mine.

Those Americans who gathered at Independence Hall, were touched with idealism, but they were not dreamers. Their great vision was rooted in wisdom and common sense. It was in an atmosphere of hope and faith that our blueprint for freedom, the Constitution of the United States, was born. Their voices spoke through their pens, my voice must now preserve their words for America's future.

Today, that blueprint is our most treasured inheritance, this document which belongs to each of us, will continue to be the effective guardian of our rights only as long as each American recognizes his responsibilities.

The future of America lies in my voice. We live in a land where the right of dissent and of free speech is jealously guarded—where the ballot box is the sword and the people its welder. We live in a country that allows us to stand up and question our leaders.

Freedom is not a legacy. We inherit only the chance to realize it. Each generation—each individual must re-earn it. Freedom is like a warming fire, while newcomers to the circle can warm themselves, the fire must be fed with new fuel. That fuel is my voice. I must be ready to defend our rights be it with my voice, my pen, or my sword.

Jacklyn Lucas was my age, seventeen, when he was involved in the battle of Iwo Jima. He threw himself on two grenades saving several men. He fed the fire of freedom with courage. His act of courage was his voice speaking for America's future.

My voice will have to be as strong as those men who have fought and died for freedom. I must speak out against injustice, whether it be in the classroom, the city, or the government.

This thing we call Democracy is so precious that it needs to be guarded. I mut act upon the defense of our freedom.

My voice will join others to keep America strong and free. My voice will be America's future. I will use my voice to be the keeper of the flame, to fulfill our destiny.

For those that much is given, much is expected.

H.R. 3, THE HOUSE CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. VELÁZQUEZ. Mr. Speaker, today I rise in support of H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act. Last year, we all watched as citizens across the country cast their votes for the candidates of their choice, sending to Washington a historic number of minorities and women. However, despite the wonderful and important results of last year's elections, there is still a high degree of voter dissatisfaction with the way congressional campaigns are financed and run. The playing field is not level. Those individuals who are wealthy and those incumbents who have amassed the largest war chests are in the best position to run effective primary and general election campaigns. Moreover, candidates who receive massive amounts of funds from PAC's and corporate donors have a clear advantage over newcomers who are also worthy candidates but who are not linked to those funds.

Mr. Speaker, as Members of Congress, we are quick to remind our sisters and brothers that we are sent here to represent our districts in a government of the people, by the people and for the people, yet we do not yet have a fair, efficient set of campaign financing rules which would move to level the playing field for potential candidates. All too often, our government at all levels seems to be of the privileged, by the privileged, and for the privileged.

H.R. 3 would address this problem of unfair campaign financing laws by establishing a system of voluntary campaign spending limits for House candidates and providing communication vouchers as incentives to follow the campaign spending limits. The bill makes the system fairer by extending the spending limit for those candidates who face opponents which do not abide by the voluntary limits. H.R. 3 also places absolute limits on each candidate of $200,000 in political action committee contributions per election cycle and $200,000 for large individual contributions over $200. Additionally, the measure prohibits bundling of funds by an intermediate agent but exempts groups which do not lobby from the bundling restriction.

One of the most important aspects of H.R. 3 is the provision for communication vouchers. Candidates who abide by the voluntary spending limits would receive communication vouchers to match up to the first $200 of each individual contribution. These communication vouchers would be used to pay for radio and television broadcasts, print advertising, postage, and campaign material such as brochures, bumper stickers, handbills, pins, posters, and yard signs. H.R. 3 envisions financing this provision through the Make Democracy Work fund and suspends the implementation of the bill until separate revenue legislation is enacted. Congress had committed to implementing the second step of this two-step funding process next year.

It is true that it takes a great deal of money to run an effective campaign for Federal office.

Many viable potential candidates—women, minorities, teachers, factory workers, and even small business owners—many times do not have the resources to seek political office. These are the Americans who are often not wealthy, who do not come from affluent districts, and who do not have large donor networks and the contracts to raise the much needed war chest for modern day campaigns. H.R. 3 provides limits on campaign spending that moves in the direction where worthy Americans may have the opportunity to run for an elective office.

Further, recent allegations of the use of walking around money to suppress the African-American vote in the New Jersey gubernatorial election speak directly to the need for there to be a level playing field. These tactics are certainly not restricted to gubernatorial races. Acts of this nature can have a potentially devastating effect on elections involving minority candidates. I have recently investigated possible legislative vehicles to address this issue of vote suppression and payoffs, only to find that these actions are already criminal acts. In this regard, I urge my colleagues to focus their attention on this issue to ensure that dishonest tactics are not used to falsely elect a candidate. America will rue the day when she casts a blind eye toward the wholesale purchasing of elections through vote suppression.

For the above reasons I would have supported a more ambitious Federal campaign financing measure containing higher degree of public financing—the only way to provide true fairness and openness. However, despite my advocacy of stronger legislation, I remain a supporter of H.R. 3.

Mr. Speaker, we have taken the first important step toward ensuring a true participatory democracy this year by enacting H.R. 2, the National voter Registration Act. Let us take the next important step by supporting H.R. 3 to begin to level the playing field so that our Nation's teachers, homemakers, factory workers—our average citizens—can have a chance to run for political office. I urge my colleagues to vote "yes" on H.R. 3, and to move toward strengthening the public financing provision.

LENDING ENHANCEMENT THROUGH NECESSARY DUE PROCESS ACT—DIRECTOR AND OFFICER BILL

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. McCOLLUM. Mr. Speaker, today, I introduced the Lending Enhancement Through Necessary Due Process Act.

In the aftermath of the savings and loan crisis, Congress empowered the RTC, the FDIC, and other Federal agencies to prosecute the S&L crooks and pursue other wrongdoers through civil suits to collect damage awards to lessen the taxpayer costs of the thrift debacle.

To date, the Government's efforts have been very successful. Almost 1,000 criminal convictions have been obtained and more than 2,000 civil suits have been initiated; $825 million in fines and restitution have been collected.

However, in carrying out Congress' mandate, Government agencies have launched a zealous civil litigation campaign against anyone even remotely connected to a failed bank or thrift. Litigation against marginal defendants and the use of highly paid outside counsel have aggravated the credit crunch. Directors and officers in financial institutions are reluctant to make character loans or business loans with any element of risk for fear that they could be accused of negligence by the regulators if the loan ever failed. Currently, banks and thrifts are finding it difficult to attract qualified directors and officers because of the campaign of fear brought on by the regulators.

Taxpayer funds are being wasted and the lives of reputations of countless individuals are being ruined. In their fervor to squeeze every last dollar out of S&L and bank professionals, the RTC and the FDIC are spending an inordinate amount of time and money pursuing marginal cases in which the culpability of the defendants is highly questionable. Faced with an enormous pool of potential individuals to sue, the RTC and the FDIC have contracted most of the legal work to outside counsel.The RTC and the FDIC employ over 2,400 law firms, paying them over $504 million in 1992 alone. The current caseload is over 60,000 lawsuits. These law firms have little incentive to reduce taxpayer costs and every incentive to bill thousands of hours in the pursuit of former directors and officers, regardless of their culpability. Defending these suits is a costly, demeaning, and time consuming enterprise. Many defendants have agreed to settlements in order to avoid bankruptcy.

Examples of regulatory excesses are legion. I will describe a few here for my colleagues to show why this legislation is necessary.

First, the National Bank of Washington [NBW] failed in 1990. In July 1992, the FDIC, as receiver, brought suit against 11 defendents—10 NBW directors and 1 officer. On February 17 this year, after 8 months of costly, pretrial litigation, the Federal district judge dismissed all counts against nine of the defendants citing the "apparent baselessness of most of the charges" and the FDIC's "vague, ill-defined conspiracy theory." The court took the unusual step of imposing rule 11 sanctions on the FDIC and the Justice Department, requiring that they pay the legal costs of the defendants whose cases were dismissed. Unfortunately, because rule 11 sanctions were designed to chastise irresponsible private litigants, the sanctions in this case will have little or no effect because the taxpayers will end up footing the bill.

Second, the former associate general counsel for the RTC recently stated publicly that 90 percent of the civil cases against former directors are of doubtful merit. They are nonetheless filed because RTC officials fear being summoned before congressional committees and asked to explain why certain cases were not brought. They believe that if as many cases as possible are brought, they will not be criticized. This mindset is bringing down the economy and wrecking people's lives.

Third, Dr. James Fisher, former president of Towson State University, was an outside director for Baltimore Federal Savings & Loan for 16 years. The S&L failed in 1988, and Fisher is being sued for $32 million. He is not charged with dishonesty, fraud, or insider dealing. He is charged with negligence, despite duly attending meetings, reading documents, and listening to officers and outside experts. He is defending himself because, at age 61, he is living on partial disability and the legal fees would have cost him $600,000 to date.

Fourth, Mr. Young Kim invested his life savings in a failing institution and turned it around. This was the only Vietnamese/Korean savings bank in the United States. The OTS seized the bank despite its profitability and adequate capital. OTS alleged technical violations dealing with bookkeeping. The OTS froze Kim's assets causing him to not be able to pay his mortgage or his child's tuition. An administrative law judge found that the OTS actions were wrong. The acting director of the OTS overruled the judge's decision and banned Kim from banking for life.

Fifth, Richard Blair, 69, was an outside director for McLean Savings & Loan. In 1988, the FDIC closed McLean and sued all officers and directors, alleging breach of fiduciary duty and negligence. Blair was amazed that he had been sued. For most of the time the allegedly negligent lending was taking place, he was lying comatose in a hospital bed. Three Federal magistrates presiding in this case have criticized the FDIC for improper conduct. One magistrate ordered the FDIC to pay $6,600 in court costs. The FDIC presses on.

This bill will remedy these types of abuses and still let the regulators pursue culpable individuals.

First, accused directors and officers will be allowed to assert defenses to overreaching accusations. One example is the business judgment defense. The courts in all of the States recognize the business judgment rule either by case law or by statute. This bill will establish defenses for business judgment, regulatory actions, and unforeseen economic conditions.

Second, regulators must have good cause to obtain the financial records of potential defendants. The current practice is to ask for the financial records of all parties and then sue the richest, regardless of culpability. The bill requires that the regulators must show a violation of law and the likelihood that the individual will dissipate assets.

Third, more due process protections are given to individuals to prevent the freezing of their assets without good cause.

Fourth, the standard for director and officer liability is clarified by stating that the standard is gross negligence and not simple negligence. This will prevent many frivolous suits. This is also in line with the recent decision in the U.S. Court of Appeals for the Seventh Circuit.

TRIBUTE TO VIRGIL PAT CHAMBERLAIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FARR of California. Mr. Speaker, I want to commemorate the life of a truly great resident of my 17th Congressional District of California. Virgil Pat Chamberlain was a resident California Highway Patrol officer in the Big Sur area of my beautiful central coastal district for 18 dedicated years.

Virgil was born on October 20, 1939, having recently had a birthday. He served the citizens of Big Sur who now mourn his passing by being a founding member of the Big Sur Volunteer Fire Brigade in 1974. He was the Fire Brigade's Assistant Chief for 10 years and was Chief of the Brigade until his retirement last December when fellow firefighters named him honorary chief for life at that time.

A lifelong resident of pacific Grove in Monterey County, he graduated from Pacific Grove High School and attended Monterey Peninsula College.

The resident of this small yet close knit community join his survivors in paying tribute to a valuable member of our citizenry and a public servant who will be greatly missed in this life.

TRIBUTE TO JAMES W. YORK

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to Jim York, a good friend of mine and of many, many people in the Ninth District of Florida. In December, Jim will be retiring after 31 years of service to the American Red Cross, and I just couldn't allow this 1st session of the 103d Congress to adjourn without offering a few words to honor this dedicated gentleman.

It wouldn't do for me simply to offer a laundry list of the many ways and instances Jim has contributed in a positive way to his community and to the spirit and dignity of his fellow man. We don't have the time or space for that here today. The same goes for the honors and awards that have been heaped on him by a grateful community.

Rather, let me tell you a little about Jim York himself. Jim always has believed in the power of people to help people. He has served as a great inspiration in this regard, tirelessly championing the volunteer throughout his work with the Red Cross.

In his farewell message to the Red Cross, his warmest words of gratitude and encouragement were for the volunteers with whom he had worked: "Each of you are the heart and soul of the American Red Cross; you bring a dimension to the Red Cross that is the envy of every private nonprofit organization in the world." I maintain that these very words can without qualification be applied to Jim himself.

Furthermore, his work did not end with the Red Cross. Twenty-four-hour days never were long enough for Jim York. In fact, there aren't many service organizations in Pinellas County, FL, that don't have Jim's fingerprints on them somewhere. On one occasion he noted that, "Once you start sitting around and thinking that you're doing a great job, you probably aren't." I always have appreciated that sentiment.

On behalf of the Ninth District, I would like to say one final thing to Jim and that is, "Please don't take your retirement too seriously, my friend; we can't afford to lose you."

INTRODUCING THE CHILD ABUSE ACCOUNTABILITY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. SCHROEDER. Mr. Speaker, today I am introducing the Child Abuse Accountability Act of 1993.

This bill holds child abusers accountable for their actions by allowing victims access to a convicted abuser's Federal pension.

If a court awards a victim monetary damages for child abuse, an abuser often avoids payment by liquidating and skipping town. Under those circumstances, the victim is almost guaranteed he or she will not collect a penny.

To make matters worse, the Federal Government protects a child abuser's pension. Victims, who relive the nightmares in order to hold their abuser accountable, are horrified to find that the Federal Government refuses to pay court-ordered awards. When it comes to paying for child abuse, Uncle Sam blocks the way. Federal pensions are untouchable. This is obstruction of justice.

We are just beginning to learn the extent of child abuse and the repercussion it has on individuals, families, and the Nation. For too long, abused children were afraid to speak up about this terrible crime. The anguish and stigma associated with child abuse make it tough to address. But a nation that does not protect its children is a nation without a future. And a Federal Government that protects abusers is abetting that tragedy.

That is why we should take the lead—not stand in the way—in combating child abuse. I hope my colleagues will join me in supporting the Child Abuse Accountability Act.

LIVING BY THE GOLDEN RULE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, "Do unto others as you would have them do unto you"—that's the Golden Rule. But the Golden Rule Insurance Co. of Indiana and Illinois does not practice the Golden Rule.

I never doubted that when the health care reform debate began, we would see and hear ideas and concepts—the likes of which we've never seen before and hopefully, never will again. Some insurance companies want us to give tax breaks or subsidies for people to buy private insurance or IRA-type policies that can be used to meet health expenses.

One of the major proponents of this concept is the Golden Rule Insurance Co. of Indiana and Illinois.

If it sounds too good to be true—it usually is. But this doesn't even sound that good. According to Golden Rule's 1992 Annual Statement, for every dollar of premium collected, the company paid out $53.8 cents in benefits (Schedule H, column 2, lines 3 and 4, page 69).

Mr. Speaker, the $53.8 cents in benefits indicates that Golden Rule was about 54 percent effective. In school, 54 percent would get you a failing grade. We are being lobbied to provide tax breaks so that people can buy products from a company that is only 54 percent effective. What did they do with the remaining 46 cents? It was probably spent on executive salaries and perks, advertising, and agents commissions. In other words, for every dollar in premium Golden Rule collects, it spends approximately 46 cents in expenses; that might be a good deal for Golden Rule and its investors, but for policyholders—it's a loser.

Mr. Speaker, while Golden Rule might be one of the most inefficient, it is not the only inefficient commercial health insurer. The consumer organization, Citizen Action, released a study last week entitled "Premiums Without Benefits, 1981–1991—The Continued Growth in Commercial Health Insurance Industry Waste and Inefficiency." According to Citizen Action, not including profits, the commercial health insurance industry spent 40 times as much on administration per dollar of benefits as the Canadian national health system, and 17 times as much as the Medicare system.

Further, the study found that in 1991, commercial health insurers spent 36.4 cents for administration, marketing and overhead to provide a dollar's worth of health care benefits to policyholders. Citizen Action reports that if commercial insurers had been as efficient as the Medicare system in 1991, consumers would have saved $16.7 billion; and if the companies had been as efficient as the Canadian national health system, consumers would have saved $17.3 billion. These are sobering figures, regardless of the approach to health reform you favor.

Mr. Speaker, health reform is full of obstacles and problem. We don't need to complicate matters by adding this new twist and allowing insurance companies to just keep getting richer and richer, while doing less for consumers. Let's not waste any time on this. Our efforts will be better and more wisely spent trying to find ways to guarantee everyone equal access to affordable quality health care.

Giving someone a dollar so they can give me back 54 cents is not my idea of the Golden Rule—it's practically cheating.

GOLDEN RULE INSURANCE, CO.,
Lawrenceville, IL., October 11, 1993.

Hon. FORTNEY PETE STARK,
Cannon Building, Washington, DC.

DEAR MR. STARK: Column 2, Schedule H on page 69 of Golden Rule's 1992 Annual Statement mostly represents the company's new association group business. Without that new business, you will find higher numbers, such as the one in column nine—even higher because group insurance has higher claim cost.

New business always has high marketing costs in the first year, which are then amortized over the subsequent life of the business. This is true for any plan, including an HMO plan. The marketing and distribution costs are substantial with any new product.

Customers usually have low claim costs in the first year on any insurance product.

Sincerely,

BRIAN MCMANUS,
Public Policy Specialist.

IN MEMORY OF BETTY SPERBER

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DE LUGO. Mr. Speaker, I rise to honor the memory of Betty Sperber who died November 12, 1993 on the island of St. Croix after a long battle with cancer.

St. Croix was her adopted home but few have loved the island and its people or proven that love by their deeds as much as Betty. She believed in the St. Croix people and knew full well that it is people who make up the real richness and beauty of a community.

In 1973, Betty began bringing hundreds of travel agents and writers to St. Croix to see for themselves the real island and its people. She helped pay airfares, gave them free rooms, personally hosted them, and proved that St. Croix and its people was a vibrant community their clients should visit.

And it worked. The good name of St. Croix became untarnished, tourism came back, the economy revived, and people had jobs once again.

But Betty did not stop there, because she knew that for tourism to be a true part of the economy, every resident must be part of tourism. Betty conceived, developed, and implemented a program called "Hello Tourist" so young students could understand tourism, visit properties, learn jobs, and understand first hand how important tourism is to the community.

Betty served in many capacities including president of both the St. Croix and Caribbean Hotel Associations. She won a Travel Industry Award for Excellence in 1991 and was named Caribbean Hotelier of the Year in 1993.

But Betty never forgot the most important thing of all: people. And for that, Mr. Speaker, all of us who knew Betty Sperber and all the people of St. Croix are much the richer.

When I was home last week I attended Betty's funeral and witnessed an outpouring of genuine love and real appreciation from the entire St. Croix community.

Once again, I want to express my sincere condolences to Betty's husband, Irwin, and to her two sons, Mark and Miles.

Thanks, Betty. We will miss you.

LEGISLATION TO EXTEND COVERAGE OF THE DISTRICT'S SPOUSE EQUITY AMENDMENT ACT TO DISTRICT OF COLUMBIA JUDGES INTRODUCED

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. NORTON. Mr. Speaker, today I am introducing an administrative amendment to title 11 of the D.C. Code in order to extend coverage of the District Spouse Equity Amendment Act of 1988 to District of Columbia judges. Both Congress and the District have determined that spouses are entitled to a share of the annuity benefits earned during the course of a marriage.

In 1989 the D.C. Council enacted the "Spouse Equity Amendment Act of 1988," (Spousal Equity Act) D.C. Code §§1-3001 et seq., to conform the District's retirement system to the Federal Government's Civil Service Retirement System [CSRS], under which former spouses of retirees may receive retirement benefits and survivor annuities. The original purpose of the D.C. Spousal Equity Act was to make applicable to certain D.C. retirement systems—police, firefighters, teachers, and judges—provisions similar to those of Public Law 95-366, which permits a court to order U.S. Office of Personnel Management to pay a share of a CSRS retiree's vested pension directly to a former spouse, and to certain sections of Public Law 98-615, which, among other things, permits a court to order existing survivor annuities to former spouses.

The judges' retirement system, set forth in title 11 of the D.C. Code, had to be omitted from the Spousal Equity Act, however, because the Home Rule Act prohibits the council from enacting any laws with respect to title 11, which relates to the organization and jurisdiction of the courts. Under current law, District judges are not covered by the Federal or D.C. Spousal Equity Acts, and therefore are the sole group among District or Federal employees whose former spouses are denied appropriate and legal access to the judges' pensions.

A prime example of this administrative glitch is the dilemma of one former wife of a retired D.C. judge. This woman was awarded part of the judge's pension benefits in the divorce settlement. Both parties agreed to this provision as part of the settlement, and the court decree reflected their agreement. When the wife attempted to collect the benefits, however, she learned that the law in the District of Columbia covered all but one group of employees—D.C. judges—and therefore did not allow her to effectuate a voluntary agreement. Since making this discovery, both she and her former husband have lobbied actively for a change in the law so that the terms of their agreement can be met. We ought to help them achieve what both Federal and District laws intend.

To address this situation and others like it, I am introducing this noncontroversial legislation to extend rightful coverage and benefits of the current D.C. Spouse Equity Amendment Act to D.C. judges, thereby carrying out the purpose of the act as intended by the D.C. Council and the Congress when the law was enacted in 1988. Because there are no significant costs associated with this legislation, I urge my colleagues in the House to move it through swiftly and I hope that the Senate will move with dispatch as well to correct this technical gap in the law.

DAVID AND HEDY WEINBERGER RECEIVE COUPLE OF THE YEAR AWARD

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the recent Couple of the Year Award bestowed upon two outstanding members of their community, David and Hedy Weinberger, by the United Jewish Council of the East Side.

The United Jewish Council has been the umbrella organization for several programs on the lower east side of Manhattan for over 22 years. It is one of the leading groups serving this remarkable neighborhood and seeks to strengthen the residential and business communities. The UJC offers a number of important social services and community development programs for a wide variety of my constituents.

David is in charge of special projects for the UJC, serves on the local community board, the board of directors of Hillman Housing and is a Democratic district leader. Hedy is the assistant office coordinator for State Senator Martin Connor and is heavily involved with a number of civic and philanthropic activities.

The UJC serves not just the Jewish community on the Lower East Side, but significant numbers of Hispanic, African-American, and Asian-American families as well. David has pushed to develop the multiservice center which provides information and help with Federal, State, and city entitlement programs. The luncheon clubs are attended by over 300 seniors each day and home attendant programs offer home care services to over 600 disabled individuals.

Because of their tremendous service to our community, I hope my colleagues will join me in honoring these two dedicated people for this very special award.

A SALUTE TO A PIONEER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GALLEGLY. Mr. Speaker, as our session comes to a close today, it is a fitting time to inform my colleagues that a distinguished career in law enforcement recently came to a close in my hometown of Simi Valley, CA.

Sgt. Pat Hopkins recently retired after 30 years in law enforcement, 22 of those years on the Simi Valley Police Department. What makes this particularly noteworthy is that Pat Hopkins was one of the first full-fledged female police officers in the entire country, and her career stands as a microcosm of the enormous progress that women have made in law enforcement—indeed, in all careers—during that time.

Back in 1971, when she became a charter member of the fledgling community safety agency, as our police department was known as, women officers were extremely rare except in support or traffic roles. In fact, a Ford Foundation study later found that Pat was the first woman in the entire country to patrol a city's streets in a one-person squad car.

As Simi Valley's mayor for 7 years, I was privileged to see just how outstanding a job Pat did in a variety of difficult assignments. She served 8 years in the emotionally devastating child abuse detail, served as a robbery/homicide detective and became the department's first female sergeant.

Mr. Speaker, Pat Hopkins has truly been a law enforcement pioneer. I ask my colleagues to join me in saluting her accomplishments and in wishing her well in retirement.

U.S. PRICING POLICY ON THE SALE OF M60A3 TANKS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HAMILTON. Mr. Speaker, earlier this year, the Committee on Foreign Affairs received correspondence indicating potential irregularities in the pricing policy on the sale of U.S. M60A3 tanks to foreign nations. In this regard, the Committee on Foreign Affairs received notifications on the sale of U.S. M60A3 tanks pursuant to the Arms Export Control Act with unit prices ranging between a low of $215,000 per tank to a high of $790,000 per tank. Earlier this month, the Committee on Foreign Affairs received yet another information notification on the sale of U.S. M60A3 tanks that included a unit price of $130,000 per tank. As a result of these variations in pricing, I requested the Defense Security Assistance Agency to provide the Committee on Foreign Affairs with a memorandum explaining the pricing policy of U.S. defense equipment—specifically, the M60A3 tank. I have attached a copy of that memorandum to this statement so that Members can review it and gain a better understanding of the U.S. pricing policy on the sale of M60A3 tanks to foreign nations.

PRICING OF M60A3 TANKS

Pricing of defense equipment is based on Department of Defense guidance contained in Financial Management Regulation DOD 7000.14-R, Volume 15, Security Assistance Policy and Procedures, March 1993

Price is determined as follows:

A. Determine the normal peacetime life of the item to be sold.

B. Determine the percentage of useful life remaining.

C. Determine condition of item to be sold.

D. Apply the percentage to the acquisition price.

In 1990 M60A3 tanks were sold to Oman, Bahrain, and Saudi Arabia.

Normal peacetime life: 20 years

Average age of tanks sold: 8 years

Condition: Serviceable used—Good—Not Overhauled

Percentage of acquisition price considering age/condition: 60%

Army Master Data File Acquisition Price: $1,291,865

Base price of tanks (less radios, machine guns, overhaul or non-recurring costs), $1,291,865 X 60% = $775,119

In 1993 a world-wide survey was conducted to identify foreign requirements for the aging M60A3 fleet.

Normal peacetime life: 20 years

Average age of tanks offered: 16 years

Condition: Serviceable used—Fair condition—Not Overhauled

Percentage of acquisition price considering age/condition: 20%

Location of tanks: Korea

Acquisition price: $1,291,865

Survey price, less radios, machine guns, or overhaul:

$1,291,865 X 20% = $258,373 less reduction for condition—20%

($51,675), plus 20% of nonrecurring cost ($31,000 X 20% = $6,200), = $212,898

Two countries have inspected the 111 serviceable tanks located in Korea which were offered at $212,000. Bahrain indicated a requirement for 14 and Taiwan for 97. Taiwan has not yet submitted a letter of request for these tanks.

Of the 1,435 tanks located in Europe, 1,311 have been cascaded to other NATO Countries under the terms of the Conventional Forces Europe (CFE) Agreement. 124 are awaiting transfer decisions.

In view of the 3,976 tanks located in CONUS, and the minimal response to the world-wide survey, the Army requested an exception from the DOD Comptroller to sell the M60A3 tanks at 10% of the acquisition price to realize a return to the taxpayer before the tanks become excess. On 6 August 1993 the exception (in accordance with the DOD Regulation) was approved and a quantity of 340 M60A3 tanks was offered to Egypt at a unit price of $129,865 (copy attached). Egypt has inspected 411 tanks at Fort Hood and 91 at Fort Knox. They have tentatively selected 299 of these 502. An additional quantity of the CONUS fleet of M60A3 tanks is available at this price for other approved purchasers. In the near term the Army will declare the M60A3 tanks as excess to requirements and dispose of them through grant programs or demilitarization at additional costs to the taxpayer.

COOPERATION BETWEEN COMMUNITY, PRIVATE, AND FEDERAL ENTITIES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RICHARDSON. Mr. Speaker, I am honored to share with my colleagues a success story about cooperation between a community nonprofit organization, private corporations, and a Federal grant program that has made a difference in the life of a young woman in Santa Fe, NM.

Brenda Ortega could have easily been another teenage statistic. Brenda was pregnant by the time she was a 9th grader and a high school drop-out by 16. Today at age 18, Brenda has earned a GED, has a job with the New Mexico Economic Development Department, and is a student at Santa Fe Community College. The link between Brenda's situation and success was the Service Education Redevelopment [SER] Program.

The Service Education Redevelopment Program is provided by a nonprofit organization which helps students obtain a high school equivalency degree and find employment. Funded by JPTA grants, State matching education funds, and contributions from private businesses and foundations, the Service Education Redevelopment Program finds students jobs and pays their wages while they study to obtain a GED. While preparing students for the GED test, the SER program also coaches students in how to fill out a job application, how to dress appropriately, the importance of being on time, and communicating with an employer.

I ask my colleagues to join me in recognizing what is possible when we have cooperation between community, State, and Federal sources and the difference we can make in the lives of young people like Brenda Ortega.

REAL WELFARE REFORM SHOULD NOT PUNISH CHILDREN

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MARTINEZ. Mr. Speaker, by now, many of us have seen the welfare proposal being put forth by our Republican colleagues. I appreciate the impatience exhibited by the drafter of that bill. I, too, am eager to face the problem of welfare reform head on—to pass reforms that will improve the lives of children and their families who now live in poverty. We would all like to see poor families work their way toward self-sufficiency as soon as possible.

I also want to save tax dollars. I want to pass real welfare reform that would save money by reducing families' reliance on public assistance and increasing their participation as taxpaying members of society.

It was with hopes of achieving these goals that I read the Republican welfare proposal introduced last week, H.R. 3500.

But I have to say that what I read left me both disappointed and determined to help develop a better option. The Republican proposal is a cruel and punitive measure that forgets the purpose of public assistance—protecting children and their families—and instead sets a discount price for their well-being.

H.R. 3500 is less a plan for helping families attain self-sufficiency, and more a threat to punish children for being born into proverty—all in the name of deficit reduction.

The goal of our welfare policy should not be to provide a lifelong source of income that precludes employment. Neither is the goal, however, to punish those children who are born into poverty. Welfare policy must ensure the well-being of America's children, while helping their parents to be productive and fulfill their potentials.

As we anticipate the welfare reform plan being developed by the administration's task force, we must begin laying the groundwork for real change that will help families out of poverty and unemployment.

A sound welfare reform policy must recognize that caring for the next generation of children is a good investment. It must also recognize that those children and their parents are a package—sanctions against parents hurt their children. Empowerment of parents leads to healthier children who are more productive members of society.

Welfare reform must include increased opportunities for employment. We cannot strand families in poverty by removing them from public assistance without providing training if necessary and a real, permanent job. And, if our priority is the welfare of the children, we cannot expect parents to enter the work force without ensuring access to quality childcare.

In short, if we want families who live in poverty to survive, we cannot treat them simply as a line item in the budget that can be cut.

When I talk about stranding American families in poverty, I am not only talking about time limits, although clearly they are problematic unless we are willing to guarantee people jobs.

I am also talking about the Republican plan to cap six of the most important programs to poor parents and children—AFDC, SSI, public housing and section eight housing, food stamps and earned income tax credit.

Each of these programs is designed to solve a very real problem faced by American citizens—the hungry, the homeless, the disabled, and the working poor. Capping programs does not solve these problems. It makes them worse by saying to a welfare parent cutting the budget is more important than feeding your children. Cutting the budget is more important than having a roof over your head. Cutting the budget is more important than trying to help you keep your family together when all you can find is a low-paying, part-time or temporary job.

We cannot strand these families. We cannot ignore these very real social problems, which have only gotten worse for Americans through the 1980's and the early 1990's.

If you are a recent immigrant to the United States, the Republican bill will not just cap programs that help you and your children survive so you can make the contributions and have the opportunities that generations of immigrants have had before you. If you are a recent immigrant to the United States, H.R. 3500 says not only do we not care about you, we do not care about your children. H.R. 3500 goes to the extreme of cutting every social program that helps immigrant children survive—even the programs designed specifically to help them.

H.R. 3500 is not just unacceptable. It is un-American. We need a better option for real reform.

I look forward to seeing other proposals being developed by Members of this body and the administration. We should also take a close look at bills like the Community Works Progress Act and other legislation that would create public jobs for those who want to work, but face high levels of unemployment in their communities.

I intend to pursue real welfare reform in the coming months, and look forward to working toward a bipartisan plan for improving the well-being of our children and families while maximizing the productivity of this country's citizens.

H.R. 3545 THE INDEPENDENT COUNSEL ACCOUNTABILITY AND REFORM ACT OF 1993

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HYDE. Mr. Speaker, on Friday, the 19th of November, I introduced the Independent Counsel Accountability and Reform Act of 1993 along with BOB MICHEL, NEWT GINGRICH, DICK ARMEY, DUNCAN HUNTER, BILL MCCOLLUM, TOM DELAY, BILL PAXON, HAMILTON FISH, Jr., CARLOS MOORHEAD, GEORGE GEKAS and BOB LIVINGSTON. We all feel very strongly about this legislation, and I wanted to explain why.

This Nation has had no independent counsel law for almost a year and it needs one. The American people need to be reassured that the law has been, is being, and will be obeyed by even the most powerful in our government. The best way to do this is to give the Attorney General the power to seek appointment by the appropriate court of an independent counsel when there has been alleged wrongdoing by a President, a high administration official, or a Members of Congress. This eliminates people's fears, whether grounded in reality or not, that the Justice Department can't impartially investigate these people given the political pressures it would be subject to. Therefore, we have introduced the Independent Counsel Accountability and Reform Act of 1993.

H.R. 811, House Judiciary Committee Chairman JACK BROOKS' independent counsel reauthorization, was reported out of that committee back on March 24. Unfortunately, we have seen no action by the House since then. We do not speculate on the reasons for this inaction, but we introduce the Independent Counsel Accountability and Reform Act of 1993 to call attention to this important and unfinished business. To jump-start the process, we are prepared to introduce a discharge petition to get this bill to the floor for a vote. In addition, we believe we have a better vehicle than H.R. 811, Chairman BROOKS' still languishing bill.

Why not just support H.R. 811? Most importantly, we believe that the independent counsel law must treat Congressmen exactly the same as it treats the President and his advisors. The Justice Department faces the same political pressures in investigating a powerful Congressman as in investigating a high administration official. Our bill puts Congressmen in the same class as the President—the Attorney General must, not may but must, start a preliminary investigation when he or she receives information sufficient to constitute grounds to investigate whether a Congressman may have violated Federal law. H.R. 811 just doesn't do this. It is time that Congress place itself under the same laws that the executive branch must deal with.

We should have learned from the experience under the now expired independent counsel law that accountability and other reforms are necessary. Our bill provides for the first time strict control and accountability of the office of independent counsel. H.R. 811 fails to do so. Our bill requires the supervising court to specifically and precisely state the exact purpose of an independent counsel investigation, so that it doesn't become an open ended fishing expedition. It requires that an independent counsel apply to the court every 2 years for reappointment and be subject to the regular appropriations process also after 2 years. It allows the court to terminate an independent counsel whenever the court finds that an investigation has been substantially completed. It provides for the security of classified information.

We must be vigilant against corruption and wrongdoing in high office. We must guard against even the perception that the law is treating some less equally than others. To accomplish these goals, we need an effective, comprehensive and balanced independent counsel statute. We believe the Independent Counsel Accountability and Reform Act of 1993 is such a law.

GIVE THE GIFT OF LIFE—SUPPORT THE ORGAN DONATION INSERT CARD ACT

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DURBIN. Mr. Speaker, today I am introducing legislation, the Organ Donation Insert Card Act, which will encourage organ donation through a highly cost-effective campaign of public education.

In order for an organ donation to take place, the next-of-kin must authorize the donation.

Most Americans have never signed an organ donor card, and many of those who have signed a card have never discussed the matter with their family members. As a result, family members hesitate to authorize organ donation and opportunities to save lives are lost.

According to a Gallup Poll, cosponsored by the Partnership for Organ Donation, more than 90 percent of the public would authorize organ donation if their loved one had expressed that wish before death, but less than half would consent to donation if the discussion had not occurred. According to the survey, less than half of the public have told their families of their wishes regarding donation.

The keys to organ donation are knowledge and family discussion. First, a person must decide that they want to be an organ donor if they should die unexpectedly. Second, they must communicate that desire to their loved ones, because the organ donation process is not initiated without the express consent of the next-of-kin.

My legislation would address this problem in the following way:

The legislation would direct the Treasury Department, after consulting with the Department of Health and Human Services, to enclose with each income tax refund check mailed in 1995 an insert card that encourages organ donation.

The insert would include a detachable organ donor card. The insert would urge recipients to sign and carry the card. The insert would also contain a message encouraging people to talk to their families about their willingness to be an organ donor and encourage family members to authorize organ donation if the occasion should arise.

Inserting such an appeal with IRS refund checks poses no logistical problems for the Treasury Department, because such inserts are not a new idea. Refund checks are frequently accompanied by an appeal to buy a special commemorative coin.

The cost of the bill is $500,000 to reach 80 million households.

While thousands of people each year gain a new lease on life because of a successful organ transplant, many people die before they can receive a transplant because the demand for organs greatly exceeds the supply. For example:

One-third of the Americans on waiting lists for a new heart or a new liver die before an organ donor can be found.

Over 31,000 people are currently waiting for an organ transplant, including 23,000 adults who need kidney dialysis while they wait.

Our bill's one-time public education effort is a highly cost-effective way to save lives by encouraging increased organ donation. Every additional organ donor added because of this campaign offers a new chance at life for someone who desperately needs a transplant.

This legislation has the support of the following organizations:

American Association of Critical-Care Nurses.
American Association of Kidney Patients.
American Association of Transplant Surgeons.
American Heart Association.
American Nurses Association.
American Society of Transplant Physicians.
American Society of Transplant Surgeons.
Association of Organ Procurement Organizations.
Children's Organ Transplant Association.
International Society for Heart and Lung Transplantation.
Michigan Transplant Institute.
Mid-Atlantic Renal Coalition.
National Kidney Foundation.
North American Transplant Coordinators Organization.
Partnership for Organ Donation.
South-Eastern Organ Procurement Foundation.
The Transplant Foundation.
Transplant Recipients International Organization.
United Network for Organ Sharing [UNOS].

I urge my colleagues to join me as a cosponsor of this bill and encourage all Americans to give the gift of life.

YOU CAN TAKE HEART FROM U.S. HISTORY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LANTOS. Mr. Speaker, our most distinguished Ambassador to the European Community wrote a singularly perceptive article on the impressive developments in the field of the European integration. I am pleased to share this with my colleagues:

[From the International Herald Tribune, Oct. 29 1993]

YOU CAN TAKE HEART FROM U.S. HISTORY

(By Stuart E. Eizenstat, U.S. Ambassador, to the European Community)

Brussels—As an extraordinary European Community summit meeting inaugurates the Maastricht treaty creating a more integrated union for its 12 member nations, the mood is pessimistic, not celebratory. With recession, Bosnia and the tortuous path to ratification of Maastricht, this year has taken a psychological toll on Europe's leaders and peoples.

Nevertheless, both a look at American history and a review of what has been accomplished on the Continent since the 1957 Treaty of Rome give reason for confidence in the future.

Institution building is always a complex process, even more so because the European Community is unlike anything in world history.

One of the great experiments ever undertaken by democratic governments, the Community is not a regional organization like the Organization of American States, a purely economic entity like the General Agreement on Tariffs and Trade, or an international organization like the United Nations.

Neither is it a classical nation-state. It is a sui generis supranational organization in which nation-states have pooled sovereignty in many areas while retaining it in others. There are no precedents for what is being attempted in the Community—and achieved.

Maastricht is designed to further the integration process by leading to economic and monetary union, including a common currency and central bank by 1999, a common foreign and security policy, and joint action in areas of justice and social policy heretofore solely within the province of the member nations.

No one should minimize the difficulties of achieving these ambitions. But American history affords an encouraging context to counter Euro-pessimists about an integration process that the United States has supported since the inception of the Community.

America was governed by the Articles of Confederation for almost a decade before the current constitution went into effect. The original 13 colonies established a government of states that reflected their distrust of a strong central government. Each state's sovereignty was guaranteed. Congress could not levy taxes or regulate trade.

Even after the constitution established a stronger federal government to replace this ineffectual system, substantial power was retained by the states through the 10th Amendment—a version of the "subsidiarity" issue with which the Community is struggling to give member nations greater freedom to act.

Only late in the last century did the U.S. Supreme Court interpret the constitution's commerce clause in a manner that permitted Washington to regulate in social and economic areas. As the debate over the Clinton health care plan shows, Americans continue to have important disagreements over the appropriate balance between federal and state power.

EC concern about the timetable for creation of a central bank and a common currency parallels U.S. difficulties in developing the sinews of a central financial system in the republic's early years. Alexander Hamilton and Thomas Jefferson sharply disagreed over whether to have a central bank at all.

The 20-year charter of the First Central Bank of the United States lapsed in 1811 under pressure from states. As much of the currency became valueless, Congress established the Second Bank in 1816, but Andrew Jackson vetoed renewal of its charter. Not until 30 years later during the Civil War were national banks created along with a safe, uniform currency. Even then, with no power to regulate the money supply, there were four financial panics from 1873 to 1907 that dwarf the problems faced this summer in the European Monetary System.

The Federal Reserve System was not created until 1913—124 years after adoption of the constitution. Still, the suspicion of a central bank remained so strong that Congress established reserve banks in each district of the country.

I do not suggest that the European Community, with its own history, political culture and society, should emulate an American model. The Community and its members will determine the organizational structures that best meet their needs. But if the United States had such difficulties in institution building with former colonies, it is all the more to be expected with sovereign nations.

France is not Florida. Germany is not Georgia. Italy is not Indiana. The Community's nation-states in some cases have more than a millennium of experience.

Viewed in this perspective, the Community has been an enormous and rapid success. Europeans' criticism of the Community is itself a testimony to its importance. Its institutions are increasingly active.

The European Court of Justice adjudicates disputes among EC bodies, member states and the Community, and its decisions are followed in member states.

The EC Commission is competent in trade, allocation of aid to underdeveloped regions and member states, antitrust policy and harmonization of national laws and regulations. It has been blessed with visionary leaders like Jacques Delors, and embodies the best impulses in Europe—for liberalized markets, social justice and human rights.

The EC Council brings ministers together for regular consultations on virtually every conceivable issue. It has developed a unique depth and breadth of cooperation.

The European Parliament receives expanded authority from Maastricht. Its special significance as the Community's democratically chosen institution will be reinforced by Europe-wide elections next June, which are of increasing importance.

Creation of a single market, reform of the Common Agricultrue Policy and generous assistance to new democracies in Eastern Europe and the ex-Soviet Union, plus support for the Middle East peace process, underscore the Community's success. So do the increasing feelings of a common European identity and the degree to which Europeans travel, study and work beyond their own borders.

The tasks in transforming Maastricht's promises into realities are daunting. But in light of what has been achieved, and with perspective on how long it has taken the United States to find its institutional balance, this is a time for Europe to be proud and optimistic.

The United States looks forward to a growing partnership with the European Community.

EXEMPT ORGANIZATION REFORM ACT OF 1993

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, following is the full text of a bill I introduced today, entitled "The Exempt Organization Reform Act of 1993":

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCISE TAXES ON ACTS OF SELF-DEALING AND PRIVATE INUREMENT BY CERTAIN TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Chapter 42 of the Internal Revenue Code of 1986 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"SUBCHAPTER D—ACTS OF SELF-DEALING AND PRIVATE INUREMENT BY CERTAIN EXEMPT ORGANIZATIONS

"Sec. 4958. Taxes on certain acts of self-dealing.
"Sec. 4959. Taxes on private inurement.
"Sec. 4960. Other definitions.

"SEC. 4958. TAXES ON CERTAIN ACTS OF SELF-DEALING.

"(a) INITIAL TAXES.—

"(1) ON SELF-DEALER.—There is hereby imposed a tax on each act of self-dealing between a disqualified person and an applicable tax-exempt organization. The amount of such tax shall be 5 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than an organization manager acting only as such) who participates in the act of self-dealing.

"(2) ON ORGANIZATION MANAGER.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in any act of self-dealing between a disqualified person and an applicable tax-exempt organization, knowing that it is such an act, a tax equal to 2.5 percent of the amount involved with respect to such act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the act of self-dealing.

"(b) ADDITIONAL TAXES.—

"(1) ON SELF-DEALER.—In any case in which an initial tax is imposed by subsection (a)(1) on any act of self-dealing between a disqualified person and an applicable tax-exempt organization and such act is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than an organization manager acting only as such) who participated in the act of self-dealing.

"(2) ON ORGANIZATION MANAGER.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part of all of the correction.

"(c) SPECIAL RULES.—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(2) $10,000 LIMIT FOR MANAGEMENT.—With respect to any one act of self-dealing, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) SELF-DEALING.—For purposes of this section—

"(1) IN GENERAL.—Except as provided by paragraph (2), the term 'self-dealing' means any direct or indirect—

"(A) transfer, lease, or license of property between an applicable tax-exempt organization and a disqualified person, and

"(B) lending of money or other extension of credit between an applicable tax-exempt or organization and a disqualified person.

"(2) EXCEPTIONS.—The term 'self-dealing' shall not include—

"(A) the lending of money by a disqualified person to an applicable tax-exempt organization if the loan is without interest or other charge (determined without regard to section 7872) and if the proceeds of the loan are used exclusively for exempt purposes,

"(B) the furnishing of goods or facilities by a disqualified person to an applicable tax-exempt organization if the furnishing is without charge and if the goods or facilities so furnished are used exclusively for exempt purposes, and

"(C) any transfer, lease, or license of property if—

"(i) such transfer, lease, or license (as the case may be) is by a disqualified person in the ordinary course of such disqualified person's trade or business and such transaction is on a basis comparable to the basis on which similar transactions are made in the ordinary course of such trade or business with other parties, or

"(ii) such transfer, lease, or license (as the case may be) is by an applicable tax-exempt organization in the ordinary course of its activities and such transaction is made on a basis comparable to the basis on which similar transactions are made in the ordinary course of such activities with other parties.

"(3) EXEMPT PURPOSE.—For purposes of paragraph (2), the term 'exempt purpose' means—

"(A) in the case of an organization described in section 501(c)(3), any purpose specified in section 501(c)(3), and

"(B) in the case of an organization described in section 501(c)(4), any purposes specified in section 501(c)(4).

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1),

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to any act of self-dealing, the greater of the amount of money and fair market value of other property given, or the amount of money and fair market value of other property received. In the case of a lease or license, the amount involved is the fair market value of the leased or licensed property. For purposes of this paragraph—

"(A) in the case of the taxes imposed by subsection (a), fair market value shall be determined as of the date on which the act of self-dealing occurs, and

"(B) in the case of the taxes imposed by subsection (b), fair market value shall be the highest fair market value during the taxable period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any act of self-dealing transaction, undoing the transaction to the extent possible, but in any case place the applicable tax-exempt organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

"SEC. 4959. TAXES ON PRIVATE INUREMENT.

"(a) INITIAL TAXES.—

"(1) ON THE ORGANIZATION.—There is hereby imposed on any taxable inurement a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization with respect to which such inurement occurred.

"(2) ON THE MANAGEMENT.—There is hereby imposed on the participation of any organization manager of an organization in any taxable inurement which occurs with respect to such organization, knowing that it is taxable inurement, a tax equal to 2½ percent of the amount thereof, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by the organization manager who participated in the taxable inurement.

"(3) ON THE BENEFICIARY.—There is hereby imposed on any taxable inurement a tax equal to 5 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the beneficiary of such inurement.

"(b) ADDITIONAL TAXES.—

"(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) on any taxable inurement and such inurement is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by the organization with respect to which such inurement occurred.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(3) ON THE BENEFICIARY.—In any case in which an additional tax is imposed by paragraph (1), there is hereby imposed a tax equal to 200 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by the beneficiary of such inurement.

"(c) TAXABLE INUREMENT.—For purposes of this section, the term 'taxable inurement' means any direct or indirect inurement of any part of the net earnings of an applicable tax-exempt organization to the benefit of any disqualified person. Such term shall not include any act of self-dealing on which tax is imposed under section 4958.

"(d) Special Rules.—For purposes of this section—

"(1) Joint and several liability.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one taxable inurement, all such persons shall be jointly and severally liable under such paragraph with respect to such inurement.

"(2) Limit for management.—With respect to any 1 taxable inurement, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(e) Other Definitions.—For purposes of this section—

"(1) Taxable period.—The term 'taxable period' means, with respect to any taxable inurement, the period beginning with the date on which the inurement occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(2) Correction.—The terms 'correction' and 'correct' mean, with respect to any taxable inurement, undoing the inurement to the extent possible, establishing safeguards to prevent future taxable inurement, and where fully undoing the inurement is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"SEC. 4960. OTHER DEFINITIONS.

"(a) Applicable Tax-Exempt Organization.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means any organization which (without regard to any act of self-dealing or taxable inurement) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a). Such term shall not include any private foundation.

"(b) Disqualified Person.—For purposes of this subchapter, the term 'disqualified person' means, with respect to any transaction—

"(1) any person who was an organization manager at any time during the 5-year period ending on the date of such transaction.

"(2) any member of a family (as defined in section 4946(d)) of any person described in paragraph (1), and

"(3) any 35-percent controlled entity of persons described in paragraph (1) or (2).

"(c) Organization Manager.—For purposes of this subchapter, the term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization). Such term includes any person performing substantial medical services as a physician for the applicable tax-exempt organization pursuant to an employment or other contractual relationship.

"(d) 35-Percent Controlled Entity.—For purposes of this section—

"(1) 35-percent controlled entity.—The term '35-percent controlled entity' means—

"(A) a corporation in which persons described in paragraph (1) or (2) of subsection (b) own more than 35 percent of the combined voting power,

"(B) a partnership in which such persons own more than 35 percent of the profits interest, and

"(C) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(2) Constructive ownership rules.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this subsection."

(b) Application of Private Inurement Rule to Tax-Exempt Civic Leagues.—Paragraph (4) of section 501(c) of such Code is amended to read as follows:

"(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(B) Local associations of employees—

"(i) the membership of which is limited to the employees of a designated person or persons in a particular municipality, and

"(ii) which is operated exclusively for charitable, educational, or recreational purposes."

(c) Technical and Conforming Amendments.—

(1) Subsection (e) of section 4955 of such Code is amended—

(A) by striking "section 4945" in the heading and inserting "sections 4945 and 4959", and

(B) by inserting before the period "or a taxable inurement for purposes of section 4959".

(2) Subsections (a), (b), and (c) of section 4963 of such Code are each amended by inserting "4958, 4959," after "4955,".

(3) Subsection (e) of section 6213 of such Code is amended by inserting "4958 (relating to acts of self-dealing), 4959 (relating to private inurement)," before "4971".

(4) The table of subchapters for chapter 42 of such Code is amended by striking the last item and inserting the following:

"Subchapter D. Acts of self-dealing and private inurement by certain exempt organizations.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) Effective Date.—The amendments made by this section shall apply to transactions occurring on or after January 1, 1994.

PUBLIC FINANCE AND INFRASTRUCTURE INVESTMENT ACT OF 1993

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to speak about public financing. As the former mayor of the city of Springfield, I am a firm believer in public financing. I have seen its benefits firsthand. In the past 12 years, Federal support to local and State governments has dramatically increased. Public financing can assist to fill this crucial void.

Today, Congressman Coyne is introducing the "Public Finance and Infrastructure Investment Act of 1993." I am a cosponsor of this legislation and I would like to commend Mr. Coyne for his work on putting together this worthy piece of legislation.

Former Congressman Beryl Anthony formed the Anthony Commission on Public Financing. The commission released a report that made recommendations on public financing. Most of the recommendations were in response to the restrictions placed on tax-exempt bonds by the Tax Reform Act of 1986. This legislation incorporates many of the objectives of the Anthony Commission.

Most of the provisions included in the legislation have already been passed by Congress. The bill includes one new provision, distressed community economic development bonds and I believe this type of bond compliments the enterprise zone legislation included in the Omnibus Budget Reconciliation Act of 1993. These bonds would help communities that face economic hardship and this would not just be large urban communities. Many smaller cities such as Springfield who are facing tough economic times would be able to qualify for distressed community economic development bonds.

The other provisions are needed changes and they are supported by the bond community. One of these provisions would eliminate the $15 million limit placed on output facilities. I have introduced a bill on this issue. There is no reason output facilities such as public powerplants should not be treated differently from other facilities.

The purpose of this legislation is to improve the provisions concerning tax-exempt bonds in the Internal Revenue Code. The provisions would include indexation of the volume cap and a small issuer exception for bank deductibility.

Public financing touches many aspects of our everyday life. Municipal bonds are used by State and local governments to finance public facilities such as school, hospitals, roads, and ports. I urge you to review this important piece of legislation. I look forward to a debate on municipal financing during the next session of Congress.

TRIBUTE TO THE PASHAMI DANCERS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CARR. Mr. Speaker, I appreciate this opportunity to extend my congratulations to the Pashami Dancers of Lansing, MI, on the occasion of their 25th anniversary.

The Pashami Dancers, a nonprofit dance company specializing in traditional West African dance, have been sharing their knowledge and love of West African culture with the people of Michigan since 1970. Through their local teaching and performances, they have fostered a great appreciation for the richness and complexity of West African dance, music, and culture.

In addition to their local activities, the Pashami Dancers have traveled extensively within the United States, as well as to several West African countries. Members of the group have performed and studied with local dancers in such countries as Benin, Cote D'Ivoire, The Gambia, Ghana, Nigeria, Senegal, and Togo. The Pashami Dancers have also performed for such distinguished persons as Nobel Peace Prize winner Desmond Tutu and Zimbabwe President Robert Gabriel Mugabe.

The Pashami Dancers have enjoyed continued success under the leadership of Dr. Dorothy H. Jones, assistant professor of social work at Michigan State University, and founder and artistic director of the Pashami Dancers. Other members of the company are active in such varied fields as business, education, engineering, law, and medicine.

The Pashami Dancers have done our community a great service through their teaching and performance of West African dance. Please join me in recognizing their many years of contribution to the cultural life of Michigan, and in wishing them continued success in their endeavors.

TRIBUTE TO HUMBERTO J. TIJERINA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a very dear friend, and a man who has molded the souls and the minds of students, both young and old.

Mr. Speaker and colleagues, Mr. Humberto J. Tijerina, of Kingsville, TX, will retire soon, on December 2, 1993. I would ask that all of you join me in commemorating the long and distinguished career of an educator—a career, which to me, is the most important job in our society.

Mr. Tijerina—affectionately known as Mr. T to his friends, is literally a product of the Kingsville educational system. He attended schools in Kingsville, graduating from Henrietta King School, before attaining his degree at Texas A & I University in Kingsville. He majored in accounting and minored in teaching.

He first taught school in Raymondsville, TX, for a year before returning to Corpus Christi, where he worked a stint in the old Army Operations and Inspections Center at Corpus Christi Naval Air Station. The following year, 1957, he joined the Corpus Christi independent school system. Mr. T had realized during his tenure at the Raymondsville independent school district that he loved the art of teaching.

Teaching moved him. Nothing made him happier than seeing others realize their potential. In 1965, he began working with the adult learning center in Corpus Christi. He says that the most enriching reward of all is seeing others summon the very best in themselves as they learn. He feels great pleasure in seeing people attain their goals of receiving an education.

When Mr. T first started at the adult learning center, they only offered graduate equivalency degrees [GED], but soon they moved toward programs that emphasized English as a second language. During the years Mr. T has worked at the adult learning center, he has seen it grow to include language services and informational and self-help programs for welfare mothers.

I would ask that the house join me today—as well as Mr. T's family; his wife Rose, and his sons Terence Neil and Darin Dale—in commending Mr. Humberto J. Tijerina for his lifetime achievements in the field of education.

TRIBUTE TO WILBUR BUCHER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GOODLING. Mr. Speaker, today I would like to recognize the accomplishments of Mr. Wilbur Bucher of Mechanicsburg, PA, in the 19th Congressional District, which I represent.

Mr. Bucher has lived in Mechanicsburg all of his life and has contributed much to the community and the Commonwealth of Pennsylvania. In addition to being a leader in local agriculture, he has also served on the Monroe Township Planning Commission.

In December 1993, Mr. Bucher will celebrate his 80th birthday. Many of his friends and family, including myself, will join him for this celebration, which will be held at the Allenberry resort in Boiling Springs, PA.

Mr. Bucher has certainly earned the respect bestowed upon him by the community. He has been an active member of the Cumberland County and Pennsylvania Farmers Association and has ably served on their legislative committee. Mr. Bucher was a member of the very first 4–H Baby Beef Club of Cumberland County. In addition to serving in these official capacities, Mr. Bucher has served on my own Agriculture Advisory Board, which is comprised of about 30 residents of the 19th congressional district to advise me on the impact of Federal Government policies and legislation on local agriculture. I have certainly been very appreciative of Mr. Bucher's efforts through the years.

Mr. Bucher has also provided dedicated service to his community. He has served as a member of the Monroe Township Planning Commission for 27 years 1967–1993. He served as chairman for a majority of those years. As my colleagues know, this is often a thankless job, but one for which a qualified and dedicated individual can make a great difference for the community.

Many communities are built around their churches. For Mr. Bucher, the church is an important part of the community and the foundation upon which to build our future. He has volunteered his time as a Sunday school teacher, assistant superintendent and superintendent of the Sunday school at the Trindle Spring Lutheran Church.

In addition to serving his community, Mr. Bucher also enjoys reading and traveling.

I would like to express the thanks of the entire community to Mr. Bucher for his tireless commitment to the community. We greatly appreciate the knowledge and wisdom he has provided through the years. As he completes his final term as a member of the planning commission, we would like to wish him the very best of luck in all of his future endeavors and hope he continues to enjoy a full and happy life.

THE STATE OF NEW COLUMBIA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FARR. Mr. Speaker, this body agonized over whether to extend statehood to Washington, DC. I favored statehood for the District and have a hard time understanding why the segment of the American population living in this city has been singled out for disenfranchisement.

I would like to share with my colleagues a resolution passed by the California Legislature dealing with this issue. It lays out quite clearly the contributions the District of Columbia has made to the country and how its situation parallels that of so many of the existing States.

Though H.R. 51 failed passage yesterday, I believe this is an issue that will return to be reconsidered; maybe not soon, but it will return, nonetheless. It is only right that the people living in this city receive fair and equal representation due each and every American, regardless of their place of residence.

Text of California Assembly Joint Resolution No. 3 follows:

ASSEMBLY JOINT RESOLUTION NO. 3

Assembly Joint Resolution No. 3—Relative to extending statehood to Washington, D.C.

[Filed with Secretary of State Sept. 14, 1993]

This measure would memorialize the President and the Congress of the United States to extend statehood to Washington, D.C.

Whereas, the American Revolution and War for Independence was ultimately declared citing the principle "taxation without representation is tyranny," and there are nearly 650,000 taxpaying American citizens in the District of Columbia who have no federal voting representation in Congress; and

Whereas, of the 117 countries in the world with elected national legislatures, the United States stands alone in depriving the residents of its capital a voice and a vote in our national legislative body; and

Whereas, District of Columbia residents pay more federal income tax per capita than the residents of 48 states, and more in local taxes than the residents of any state in the country; and

Whereas, the District of Columbia's per capita income is $32,000, exceeding the national average by 42 percent and is well positioned for growth as a leader in a number of service industries, for example, law, business services, communications, and tourism; and

Whereas, District of Columbia residents serve disproportionately in the military; have served in all wars since the War for Independence and during the Vietnam War, had more casualties than 10 states and more casualties per capital than 47 states; and

Whereas, the District of Columbia sent more soldiers to the Persian Gulf than 20 states (more per capita than all but four states), and yet had no voting representation on the floor of the House of Representatives or Senate when Congress approved military involvement; and

Whereas, there is no constitutional prohibition against creating the State of New Columbia out of nonfederal parts of the District of Columbia, and the District of Columbia meets all statehood requirements traditionally imposed by Congress; and

Whereas, the District of Columbia has 639,000 residents, nearly as many or more residents than six states: Wyoming (465,000), Alaska (552,000), Vermont (565,000), North Dakota (641,000), Delaware (669,000), and South Dakota (699,000) with each state possessing two Senators; and

Whereas, historically, statehood has been granted when three criteria were met: (1) the people, through some democratic process, express their desire to become a state; (2) the people accept the republican form of government required by the United States Constitution and practiced in the United States; and (3) there are sufficient people and economic resources to support a state; and

Whereas, District of Columbia residents have democratically expressed their desire to become a state through passage of a statehood referendum (November 1980); approval of a Constitution by district delegates (May 1982); transmittal of the Constitution and a petition for statehood (September 1983) to Congress; and in the tradition of Tennessee in 1796, election of their own statehood delegation to appeal to Congress to accept their petition for admission to the Union as the 51st state; and

Whereas, statehood will provide District of Columbia residents with federal voting representation, as well as local legislative, budgetary, and judicial autonomy: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to extend statehood to Washington, D.C.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

PUERTO RICO'S FUTURE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DE LUGO. Mr. Speaker, as chairman of the subcommittee with jurisdiction over matters relating to Puerto Rico's political status, I have noted, that Congress has a duty to seriously consider the decision that the people of Puerto Rico made in an act of self-determination.

To explore with representatives of the administration and the Puerto Rican people how we can constructively respond, the Subcommittee on Insular and International Affairs will hold a hearing at the beginning of the next session.

Our purpose will not be to reopen the debate among the status options that 1.7 million citizens voted upon.

Again, it will be to receive recommendations regarding the measures that the Federal Government should take in reaction to the wishes that were expressed.

Several newspapers have commented on the results of the plebiscite. Thoughtful suggestions about the Nation's responsibility to address Puerto Rico's fundamental problems were made in editorials which I will include in the RECORD.

[From the New York Times, Nov. 16, 1993]

PUERTO RICO CHOOSES, FOR NOW

The close vote in Puerto Rico favoring continued commonwealth status rather than statehood will be greeted with relief in Washington. It spares Congress from deciding how and whether to admit a Spanish-speaking island to the Union.

Gov. Pedro Rossello's New Progressive Party hoped that Sunday's nonbinding referendum would build momentum for Puerto Rico's admission as the 51st state. But this course was preferred by only 46 percent of the voters, compared with 48 percent for commonwealth status and 4 percent for independence. That effectively sidetracks the statehood campaign, at least for now.

Yet the plebiscite does not resolve a more fundamental question: Is Puerto Rico a colony? The honest answer is yes and no.

Puerto Rico is clearly a willing subordinate. President Clinton, and most mainlanders, agree that the islanders themselves should be free to choose their final status. And overwhelmingly, Puerto Ricans favor one of two forms of association with the United States; there is no clamor for independence. In 1952 Congress approved commonwealth status, and a year later Washington persuaded the United Nations to take Puerto Rico off its list of colonies.

Even so, in vital respects Puerto Rico remains a dependent ward. Under commonwealth status Puerto Ricans are U.S. citizens, to a point. They can settle anywhere on the mainland, and on the island they elect their Governor and legislature. But because islanders pay no Federal income taxes, they do not elect U.S. senators or representatives or vote for President.

This arrangement, sweetened by other tax breaks, has spurred investment from the mainland, created jobs and raised wages, a boon that doubtless caused many Puerto Ricans to prefer remaining in a familiar halfway house to the risks of economic pain with any change.

But Puerto Ricans are reminded of their diminished citizenship when Washington gives short shrift to their petitions. The Treasury Department barely consulted islanders this year in proposing elimination of Federal tax incentives that Puerto Ricans deem essential to their economy. Twice since 1953, Puerto Ricans petitioned Congress for changes to enhance commonwealth status; Congress did nothing. Nor could it agree two years ago on a plebiscite whose results would be binding.

Many who voted for continued commonwealth status did so to protect Puerto Rico's distinct culture from homogenization into the English-speaking mainland. This choice of cultural autonomy short of national independence deserves respect in a world groping with the dilemmas of self-determination. Now that Puerto Rico has voiced its preference, it is incumbent upon Washington to react more sensitively to Puerto Rican requests and to continued exploration of the island's status.

[From the New York Daily News, Nov. 17, 1993]

WHAT NOW FOR PUERTO RICO?

Congress heaved a sigh of relief when voters in Puerto Rico narrowly rejected petitioning for statehood in favor of remaining a United States commonwealth. The results of Sunday's referendum, though, don't mean that all is well between Puerto Rico and the U.S. The relationship will not be sound until the island moves toward greater autonomy and less economic dependence.

The Puerto Rican statehood movement is driven by powerful forces—a sense of second class status and feelings of lost identity, among them. Impatience at having citizenship but not the right to vote in federal elections or any true representation in Washington is widespread even among those who voted for the status quo. Their ballots were cast for economic reasons: Statehood would mean having to pay federal income tax while losing much of the assistance that has elevated Puerto Rico, poor as it is, over other islands.

The mission now is to chart a course that moves Puerto Rico toward self-sufficiency. The effort will have to be made jointly by the island's leadership and Congress, but early movements do not bode well. Those who supported maintaining Puerto Rico as a commonwealth are proposing an "enhanced commonwealth" status, whose components leave a lot to be desired. If anything, they'd increase the island's dependency.

The "enhancement" goes no further than asking Congress to restore tax breaks to mainland and foreign companies investing in Puerto Rico, to impose tariffs on some imported agricultural products, and to make Puerto Ricans eligible both for Supplemental Security Income, a federal aid program for the elderly and handicapped, and full food stamp benefits. The cost of the latter two alone would be $1.6 billion annually. Even in good times Washington would balk.

A real "enhanced commonwealth" proposal would include ideas such as allowing Puerto Rico to initiate its trade relations with other countries and to participate in regional economic organizations. It would also seek to give Puerto Rico greater control over its own borders. The more the island is encouraged to go it alone, the better off it will be in the long run.

[From the Washington Post, November 18, 1993]

STATELESS IN SAN JUAN

For years the principal issue in Puerto Rican politics has been the so-called status question. Is the island better off in the constitutional halfway house it currently occupies as a "commonwealth," or should it try to become a state? That's what divides the two major island political parties. The plebiscite last Sunday can't have been a great comfort to either. Commonwealth won—but only by 48 percent to 46 percent. The voters are split; the fight will go on. For now, however, a plurality seems to think the likely cost of becoming a state is greater than the likely benefit. That's probably right.

Statehood would mean tremendous economic change for Puerto Rico. It's anything but clear that the change would be for the better. The island now is a major enterprise zone. Mainland companies are given a lucrative tax break if they build plants there. In part because of the lure of this tax break, Puerto Rico has a high per capita income by Latin American standards. At the same time, more than half the population is officially poor by mainland standards.

If the island were to become a state on a par with all others, it would lose the tax advantage (already reduced last summer). Puerto Ricans would also have to pay federal income taxes, which they don't now. At the same time, they would presumably become entitled to full federal welfare and related benefits, which they also aren't now; benefits currently are limited, lest they flood the economy. If benefits went up, wages would likely have to be increased to match. Labor costs would rise; the island would lose competitive advantage. The Congressional Budget Office has estimated that the unemployment rate, already too high, could approach a quarter of the work force. The statehooders haven't really spelled out how they would deal with this. Some commonwealthers also argue that statehood would cost the island some of its cultural identity.

The statehooders' leading contrary argument is that commonwealth status is politically unjust. Puerto Ricans are U.S. citizens who serve in the armed forces, are subject to other federal law and yet can't vote in federal elections. They could if Puerto Rico became a state—but that's the bargain that the voters rejected last Sunday. It isn't clear that Congress would have been receptive to a statehood petition anyway.

The plebiscite was a gamble by the statehood party now in power on the island. The statehooders lost, just as the commonwealthers also lost when they tried to lock up the issue a couple of years ago when they were in power. The lesson may be to leave status alone for a while and work on the island's other problems. Status aside, what should U.S. policy be toward Puerto Rico, and how well do present policies fulfill the federal obligation? That's the right question.

TRIBUTE TO MARIA PAPAIOANNOU

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to a good friend—both to the Washington, DC, community and to me—Maria Papaioannou, wife of Rev. Dr. George Papaioannou, who died of cancer in October.

It is difficult to express what this woman meant to her family as well as her community. Maria Papaioannou's active participation in the St. George Greek Orthodox Church in Bethesda, MD should be an inspiration to us all.

She was the mother of three daughters, however, one could argue that she was also the true matriarch of the St. George Greek Orthodox community. She was always teaching the principles of the church and touching the lives of so many in a positive and enduring way.

Recently, the St. George Greek Orthodox Church erected a youth cultural center, which will be used by the entire Washington, DC, Greek Orthodox community. It is fitting that the parish at St. George chose to dedicate this building to her loving memory.

Maria will always be remembered for the support that she gave to her husband and the compassion she exhibited for the parish. The love that she elicited from the parish is a testimonial to this.

Despite her illness, Maria displayed greater courage than any of us have had to show, commitment to the church in such a loving way that was so characteristic of her. May her dedication and steadfastness be an example to future generations and provide them inspiration to do the same.

Maria Papaioannou will be sorely missed by all who knew her and loved her. May her memory be eternal.

HONORED AND PRIVILEGED TO SERVE

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. UNDERWOOD. Mr. Speaker, I rise today honored and privileged to be a part of this legislative body and to have participated in this democratic process. As this first year of the 103d Congress comes to a close, I am pleased to note that the work we did over the past year will have a profound impact for my constituents on Guam. My constituents are very important to me and I have the honor and privilege of being their representative in the U.S. Congress.

I have learned much about the political process, but most importantly, I have made new friends that I feel will become lifelong companions.

As the Thanksgiving holiday approaches, I have many things to be thankful for: first and foremost, I give thanks to God for my strength and faith and for blessing me with a healthy family and wonderful constituents to represent on Guam. I would also like to thank my family for being patient with me as I work long hours and as I split my time with them because of my responsibilities. I would like to thank my staff for all their hard work and dedication. Lastly, I want to thank my colleagues for all their cooperation and understanding of issues that are important to the people of Guam.

May your holiday season be bright and joyous, and may all of you have continued health, happiness, and contentment throughout the holiday season and in the years to come.

FOR THE RELIEF OF MARK A. POTTS

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I am today introducing a private bill on behalf of Mark A. Potts that would remove barriers to make it possible for him to receive an immigrant visa.

Mark is a 20-year-old native and citizen of the United Kingdom. He is the adopted foster son of Derek and Christine Riley, who reside in Exton, PA. Mark and his brother, Darren, have lived with the Rileys since October 1973, when Mark was only 10 months old. Mark has always been hard working and law abiding.

The Rileys are the only family Mark has ever known. In England, it was not the normal practice to go through formal adoption procedures in the case of foster children.

Unless relief is granted by way of a private bill, Mark will be separated from the only family he has ever know—the Rileys and his biological brother. He will be required to return to the United Kingdom, where he has no immediate relatives and no family residence.

Therefore, I am proud to introduce a private bill today on behalf of this deserving young man and encourage my colleagues to join me in making sure that this young man can stay with the only parents he has ever known.

HONORING BRUCE A. COOK

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PORTMAN. Mr. Speaker, I would like to pay tribute today to a distinguished constituent of mine who will soon be the recipient of a prestigious award in Cincinnati, OH—Bruce A. Cook. On January 14, 1994, Mr. Cook will be warded the Spirit of Life Award by the Greater Cincinnati Executive Council for City of Hope National Medical Center. The center is world renowned for its scientific firsts, such as the laboratory synthesis of human insulin and growth hormone, and its pioneering research to eliminate cancer, leukemia, and heart, blood, and lung diseases. This is the highest honor a person can receive from the center, and it could not be presented to a more deserving community figure.

Mr. Cook has made a significant contribution to his country and to the city of Cincinnati during his life. Although I cannot adequately describe his many accomplishments in a brief time, I would like to highlight some of his most notable achievements.

Mr. Cook served in the U.S. Airborne Infantry from October 1946 through March 1948, including overseas duty with occupational forces in Sendai, Japan, with the 11th Airborne Division. Graduating from the University of Illinois in 1954, he joined the Trane Co., in LaCrosse WI, and since 1969 Mr. Cook has been the president of Bruce A. Cook, Inc., representing the Trane Co. in Cincinnati.

Mr. Cook has been active in a number of local civic groups, including the Greater Cincinnati Chamber of Commerce and the Cincinnati Club Reciprocity Table. He has served as the president of the University of Illinois Alumni Association and currently serves as the vice president of the University of Illinois Mechanical Engineering/Industrial Engineering Alumni Board.

A Rotarian since 1969, Mr. Cook was Rotary International Director from 1987 through 1989. He is a member and past president of the Rotary Club of Cincinnati. In addition, he has held the position of district governor for Rotary International District 6670 in 1981–82, has served as secretary-treasurer, a member of the board of directors, and as chairman of numerous committees of the Rotary Club of Cincinnati.

As you can tell from this incomplete, but distinguished, list of accomplishments, Bruce Cook is a deserving recipient of the prestigious Spirit of Life Award. Today, I praise his good work for the betterment of his country and commend this man who has throughout his life given others the spirit of life and hope.

LEGISLATION TO GIVE THE MAYOR OF THE DISTRICT OF COLUMBIA AUTHORITY OVER THE DISTRICT OF COLUMBIA NATIONAL GUARD INTRODUCED

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. NORTON. Mr. Speaker, today, at the request of the Mayor of the District of Columbia, I am introducing legislation that would give the District's Mayor the same authority over the National Guard as the Governors of all 50 states and the four territories.

This bill is simply another legislative step necessary to complete the transfer of full self-government powers that Congress itself began with the passage of the Home Rule Act of 1973. As a U.S. jurisdiction, the District is entitled all of the attributes of self-government.

THE BYRON WHITE FEDERAL COURTHOUSE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SCHAEFER. Mr. Speaker, today I am introducing legislation that would name the new Federal courthouse in Denver, CO, after Supreme Court Justice Byron White, who retired in July 1993.

Justice White is a native Coloradan and the only citizen of our State to serve on the U.S. Supreme Court. His tenure on the Court typified his Western origins and self-reliant nature. During his service some of the most controversial and politically divisive decisions were handed down. Nevertheless, he maintained an independent train of thought, true to his vision of the Constitution.

Mr. Speaker, Justice White served his country well and his distinguished service has made his home State proud. I ask my colleagues to join me today in honoring Justice White by designating the new Federal courthouse in Denver, CO, "The Byron White Federal Courthouse."

INTRODUCTION OF THE CONTAMINATED SITES RECLAMATION ACT OF 1994

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. UPTON. Mr. Speaker, one constant of legislative policymaking is the proverbial "Law of Unintended Effects." We know it well here on Capitol Hill. It attests to the fact that, despite our best intentions, laws and programs often have effects unforeseen at the time of their creation.

The Superfund program was created in 1980 with passage of the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA]. It was reauthorized and amended significantly in 1986 under the Superfund Amendments and Reauthorization Act [SARA]. The latest authorization expires in 1994.

Hearings have been held before several House committees, including the Committee on Energy and Commerce. A cottage industry has sprung up producing studies and reports on the program and its failings. In his first appearance before a joint session of Congress, President Clinton singled out Superfund as an example of a program long in need of fixing.

The President isn't the only observer to note Superfund's failings, merely the most prominent. Thoughtful analysts in all walks of life have pointed out that Superfund cleanups cost too much, take too long and often impose unjust and disproportionate costs on potentially responsible parties. Superfund has become a super headache.

The core of Superfund is its draconian liability provisions. It doesn't just apply to those who have unlawfully dumped hazardous materials. It applies to anyone who generated or transported hazardous waste or who arranged for its transport. It applies to anyone who owned or operated the land, facility or vessel where the hazardous constituents were found.

Superfund liability is strict, meaning that the Government must only prove that a party was involved in a disposal site. There is no need to prove negligence. It is retroactive, meaning that the action creates liability even if it was lawful at the time that it took place. Lastly, Superfund liability is joint and several, meaning that a party can be held liable for cleanup costs far in excess of its contribution to the contamination requiring cleanup.

This heavy liability burden was devised to discourage the creation of new contaminated sites. Who would willingly incur such liability? Unfortunately, the effects of Superfund's liability have gone much farther than anticipated.

Throughout the United States, but especially in older manufacturing areas, the fear of Superfund liability has scared investors and businesses away from previously used sites. With cleanups averaging more than $30 million per site, it's safer to avoid the brownsites in established manufacturing areas in favor of the greensites where there has been no industrial activity.

The result is thousands of abandoned or virtually abandoned sites that will not be redeveloped because the potential redevelopers fear the staggering liability that can come with a contaminated site. Such sites create great gaps in our cities, like missing teeth. Jobs relocate along with the factories, leaving older manufacturing areas with higher unemployment and shrinking tax bases.

New facilities are built on the periphery stretching infrastructural features like water, sewerage and electricity. Employees must often commute over great distances because greensites aren't near public transportation. New strains are placed on the local ecosystem. Irreplaceable wildlife habitat is lost. Prime agricultural farmland is destroyed.

It's frustrating when Federal programs don't achieve their desired or anticipated results. It's infuriating, however, when a program functions to undermine other efforts to improve American life. We spend money on community development to breathe new life into our older cities and towns. We spend to build public transit, to save farmland and to protect animal habitat. We spend billions to create jobs. These costly efforts are undermined when the Superfund program has opposite effect.

No one planned it. No one wanted it. No one anticipated it, but the Superfund Program has created a chain of dead zones from one end of America to the other. It is a classic case of shooting ourselves in the foot. Common sense dictates that we do something about it.

Mr. Speaker, I am today introducing H.R. 3620, the Contaminated Sites Reclamation Act to address problems the current Superfund Program has created. This proposal has four parts.

First, it strengthens the innocent landowner defense for those who unwittingly acquire contaminated property. The current act exempts innocent landowners from liability, but it simply isn't sufficiently specific about what actions parties must take to shelter themselves from liability for someone else's mess. Basically, the bill protects those who take certain reasonable steps to determine if contamination exists when buying commercial or industrial property.

Second, it provides a framework for negotiated voluntary cleanups when contamination is found. A party might find a site, have it investigated under provisions of the innocent landowner title and still seriously consider buying it. He or she needs to be able to approach EPA or the appropriate State agency and determine just how much needs to be done and how much it will cost. That's very difficult now, some say it is impossible. EPA and State agencies are oriented toward making unwilling polluters pay up through tough liability and enforcement. A voluntary cleanup by a party that didn't create the mess in the first place is not something they're used to dealing with.

Third, it provides tax incentives to those who voluntarily clean up sites they did not contaminate. Let me emphasize this point, Mr. Speaker: In those cases where a party doing the cleanup had no role in creating the contaminated site, there would be a 25-percent tax credit for all expenses incurred in cleaning up the site. It would also allow the expensing of cleanup costs in other situations.

Fourth, it clarifies the lender liabilities provisions that already exist in the Superfund law. There have been some occasions when lenders were held liable for actions taken by interests to whom they had loaned money despite language in the act exempting those "who, without participating in the management of a vessel or facility, hold indicia of ownership primarily to protect his security interest * * *." Lenders have been reluctant to make loans to those who would redevelop previously used sites and this has exacerbated the rush to greensites.

Let me emphasize, Mr. Speaker, that this bill does not carve out new exceptions to Superfund's liability provisions. Both innocent landowners and lenders are ostensibly sheltered in the current law. My bill simply clarifies these existing provisions.

When a law doesn't work, Mr. Speaker, or, worse yet, when a law has effects virtually opposite those intended, we have an obligation to put things right. We have here a law that was intended to ensure the cleanup of contaminated sites. Instead, it has led to the wholesale abandonment of sites, many of which aren't contaminated, most of which are in our cities and older manufacturing areas. The legislation I am introducing today will not right all of Superfund's wrongs, but it will reverse the program's most important unintended effect.

ABOLISH MANDATORY MINIMUM SENTENCES AND "LET JUDGES DECIDE"

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. EDWARDS of California. Mr. Speaker, Judge Harold Greene, of the Federal district court in the District of Columbia, has written an excellent article in today's Washington Post urging Congress not to enact more mandatory minimum sentences. While Judge Greene writes for himself, my survey of Federal judges shows his views are the same as those of 93 percent of his colleagues on the Federal bench. When Congress considers this issue next year, we should repeal the mandatory minimums already on the books, not enact new ones.

LET JUDGES DECIDE

(By Harold H. Greene)

Congress is engaged in an urgent effort to enact legislation requiring mandatory minimum sentences for a considerable number of criminal offenses. Writing only on my own behalf and not for the judiciary as such, I submit that, whatever else it may accomplish, this effort is not in the interest of justice.

Congress has the power under the Constitution to enact laws governing the sentencing of individuals convicted of crime. Moreover, there is no doubt that members of Congress in their bidding wars of toughness on crime—when a proposal for life imprisonment for a particular violation may be trumped the next day by one for the death penalty—are carrying out the wishes of many, if not most, of their constituents. Indeed, mandatory penalties far beyond the few that exist now for special cases seem to be inexorably on the march toward passage as part of the crime bill. This is to counsel a stop-look-and-listen.

Especially when it comes to matters of fundamental justice, more must be included than polls, the desires of constituents, legitimate anxieties and political calculations. That is the lesson of the Constitution itself and of the Bill of Rights. It is also the lesson of such actions as the internment of Japanese Americans after Pearl Harbor, which most of the participants came to regret even though at the time the internment had the overwhelming support of the citizenry.

Why do some of us believe that it is not consistent with justice to decree flatly that those who engage in the drug trade or in acts of violence be punished by rigid, mandatory sentences of imprisonment for 10, 20 or 30 years, or for life, all without the possibility of parole? No one engaged in the administration of justice would argue that sentences of that magnitude are not sometimes, or even frequently, appropriate or necessary. Drugs and violence have gotten out of hand. They are disrupting our national life, particularly in the large cities, and stern measures must be taken against those responsible. And federal judges in all parts of the country, including here in Washington, have shown through the years that they do not flinch from their duty to be stern and even harsh when appropriate. But the question is whether fixed, mandatory sentences are a fair and just means for dealing with the crime-justice problem.

I submit that they are not. It is simply not true that all those involved in drug transactions or offenses accompanied by a degree of violence deserve a mandatory life sentence or close to it, regardless of what they actually did and what their backgrounds may be. The members of Congress, who of necessity deal only in general principles, cannot be expected to be familiar with the distinctions that should, in equity and fairness, be made, based on facts as distinguished from broad generalities.

It would seem that the judges who will ultimately be called upon to implement the sentencing laws enacted by Congress, and who have wrestled with sentencing problems day-in and day-out, thus have a contribution to make at the take-off, so to speak, not only at the crash landing. The judges, after all, do know from experience, not from philosophical or other general writings, that an individual who is a courier carrying a small amount of cocaine in a bus from one city to another, enticed to do so by a relatively small sum of money, does not deserve the same fixed sentence as a drug kingpin who imports and distributes drugs on a large scale. They also know from experience that violent crimes may differ greatly with respect to such factors as intent, premeditation, provocation, brutality and many others. All of the perpetrators of such crimes deserve punishment, but surely not identical punishment.

Judges also know, having seen the examples many times, that a genuinely contrite offender, perhaps with a distinguished war record or a record of service to the community before becoming addicted and thereafter enmeshed in the drug trade, should not be punished to the same extent as an antisocial defendant who has never done productive work, does not support his family and is unlikely for a long time, if ever, to be anything but a leech on society. Yet under the legislation Congress may be about to decree, the practical effect would be that the sentencing judges must treat them all alike. That is not justice.

It is probably for these reasons that the federal judges of this country, apparently with few exceptions, regard the fixed, mandatory sentencing laws as unjust and an affront to conscience. That revulsion is not limited to the usual suspects—the so-called bleeding heart liberals. It extends from the judicial appointees of President Carter to those appointed by President Reagan and Bush. And the members of the latter group, at least, may safely be assumed to have been nominated, at least in part, on account of their known or expected toughness with respect to crime.

Why, then, are the judges of this view? Cynics might surmise that this is so because the mandatory sentences and the related guidelines issued by the United States Sentencing Commission deprive them of their unrestrained sentencing power and the pleasure that presumably comes from the ability to exercise that power. The cynics are wrong. Left to his or her own devices, each conscientious judge spends a great deal of time, energy and moral capital attempting to fashion a just sentence. Balancing the competing forces of deterrence and retribution, the needs of society, the injury to the victim and the personal circumstances of the defendant is a complex and daunting task, taking much time and thought.

It is far easier on the judicial schedule and the judge's conscience to issue a flat sentence in accordance with a congressionally imposed mandate. Such a sentence requires neither deliberation nor the balancing of competing considerations; it is simply announced. Under that system, when conscience calls it can be stilled by the words that others have used when required to perform unjust acts, "I am just carrying out orders." Yet most judges feel a profound sense of wrong when they have to sit by, powerless, while sentence are imposed in their names and by their voices that are entirely at odds with what justice and basic morality and equity require.

One final word. In many cases, the Draconian, mandatory sentence requirements will be counterproductive, even on their own terms. Jurors are not stupid or uninformed, and they by and large have a profound sense of basic fairness. When they learn, as they will, what will happen upon conviction under the mandatory sentence regime to those who by any rational standard are not really major offenders, they will often engage in the practice of nullification: They will choose to exercise their ability to find the defendant or defendants not guilty, no matter what the evidence.

In sum, notwithstanding their popular appeal, and the undoubted need for toughness on crime and criminals, mandatory sentences are likely very often to be incompatible with the requirements of justice. The nation should be slow and careful before embarking on so radical a departure from traditional norms.

PRESIDENTIAL MEDAL OF FREEDOM FOR "COLONEL MAGGIE"

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. McNULTY. Mr. Speaker, on Tuesday, November 2, President Bill Clinton awarded to Ms. Martha Raye the Presidential Medal of Freedom, the highest civilian award of the U.S. Government.

In issuing his 1945 Executive order, President Harry S. Truman stated that the Medal of Freedom shall be awarded to any person who "* * * has performed a meritorious act or service which has aided the United States in the prosecution of a war against an enemy or enemies * * *." Throughout World War II, Korea, and Vietnam, Martha Raye did just that.

"Colonel Maggie," as she became known to the U.S. Marines and Special Forces units who commissioned her an honorary lieutenant colonel, dedicated many months of her life to our troops serving abroad during those wars. During World War II, although stricken with yellow fever, Ms. Raye entertained as a U.S. trouper. She nursed the wounded in Korea as well, yet never sought recognition for her selfless actions.

During the Vietnam war, she spent 3 to 6 months each year with our service men and women. She traveled to remote camps, under enemy fire, to entertain the soldiers and to care for the wounded.

Veterans' groups from all over the country cooperated in an effort to recognize Martha Raye's dedication to her country. These groups include AMVETS, the Military Order of the Purple Heart, and the American Legion Auxiliary, all of whom remembered her service and wished to honor her accordingly.

However, no group worked harder to ensure that "Colonel Maggie" be recognized for her work than the Medals' for Maggie Committee, headquartered in Albany, NY, in my congressional district. Ms. Margaret "Noonie" Fortin and Ms. Belle Pellegrino, both Vietnam-era veterans, were devoted and untiring in their efforts to achieve this well-deserved recognition for Ms. Raye.

Mr. Speaker, on Monday, November 15, we were successful. Marine Maj. Leo Mercado, representing the President of the United States, presented the Medal of Freedom to Ms. Martha Raye. God bless you, Colonel Maggie.

TRIBUTE TO CURT FLOOD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CLAY. Mr. Speaker, Curt Flood, a friend of mine, was not only a great athlete and great individual, but also a better than average artist. I shall never forget the night I was preparing to open a cocktail lounge in St. Louis. My cousin Arthur, another better than average artist, and Flood started painting caricatures on the walls and ceiling to be highlighted by the black lights of my Glow Worm lounge. At 6 o'clock the next morning Flood left, went home, and prepared for a daytime game where he started as usual.

I would like to share the following article about Curt Flood with my colleagues. The article appeared in the November 21, 1993, edition of the Washington Post.

A BASEBALL LESSON IN FREEDOM

(By George F. Will)

NEW YORK.—Curt Flood, a 165-pound whippet of a centerfielder, could outrun most fly balls, but it took him 24 years to catch up to his 1969 Gold Glove award. His story is rich with lessons about courage, freedom and the conceit that we can predict freedom's consequences.

He has a career batting average of .283 in 15 seasons, 12 with the Cardinals. But nothing so became him in baseball as his manner of leaving it. Although he played 13 games with the 1971 Senators, he really left after the 1969 season when the Cardinals traded him to Philadelphia and he said, hell no, I won't go.

Black ballplayers have done much to move freedom forward. In 1944, 11 years before Rosa Parks refused to move to the back of a bus in Montgomery, Ala., a lieutenant in Texas faced a court-martial for a similar refusal on an Army bus: Lt. Jackie Robinson. A similar spiritedness made Flood help win for players the elemental right to negotiate with employers their terms of employment.

He was born in Houston in 1938 and played his way up through minor leagues in the South in the 1950s, before public accommodations were desegregated. He received food at the back door of restaurants that served his white teammates, and he relieved himself behind the bus on the shoulder of the highway.

In the 1950s and 1960s, pitchers were driven to distraction by black players such as Henry Aaron and Frank Robinson who played with an implacable intensity that suggested the controlled venting of indignation stored up during many minor league and spring training experiences in a South in transition. The Cardinals of the 1960s were fueled partly by the fierce pride of our black men who were taking out their anger on the ball and on opponents—Flood, Bill White (now president of the National League) and two Hall of Famers, Lou Brock and Bob Gibson, the take no-prisoners pitcher who once drilled the ribs of a rookie who had the impertinence to hit a long foul off him.

When the Cardinals traded Flood, he challenged baseball's reserve clause, which bound a player to a team until that team traded or released him. Seeking to win for players the right to sell their labor in a free market, he challenged baseball's antitrust exemption. He lost the 1970 season and lost in the Supreme Court, but he had lit a fuse.

In 1975 the clause was overturned by an arbitrator. Loud were the lamentations predicting the end of baseball's competitive balance—a few rich teams would buy the best players—and a decline of attendance. Well.

The decade 1978–87 was the first in baseball history in which 10 different teams won the World Series. Until 1990 there had been no "worst-to-first" volatility in this century—no team won a pennant the year after finishing last. The Twins and Braves did in 1991, and the Phillies did in 1993. The 1993 A's were the first team since 1915—the A's Philadelphia ancestors—to finish alone in last place the year after finishing first.

In 1993 the team with the worst attendance—the Padres with 1,375,432—drew more fans than the St. Louis Browns drew in the entire 1930s (1,184,436). The Orioles' lowest attendance for two consecutive regularly scheduled games was 83,307—more than the Browns (who became the Orioles in 1954) drew in all of 1935.

In 1954, the year Jacques Barzun wrote that anyone who would know America must know baseball, the average attendance was 13,000. This year the Padres averaged 17,191, and the major league average was 31,337. The Rockies drew 4,483,350, more people than live in Minnesota or 31 other states. Major League attendance was 70,257,938, more than the combined population of 32 states.

But no one last year bought a ticket to see an owner. Because of what Flood started, the players, who largely create baseball value, now receive their share of that value. In 1969 the players' average salary was $24,909. In 1993 it was $1.1 million, much more than Flood earned in his entire career.

Rawlings Gold Gloves are awarded annually to the nine players in each league voted best defensively at their positions. Flood won in 1969, when this could have been said of him: "Two-thirds of the planet is covered by water and the rest is covered by Flood." But in the turbulence of his rebellion he never collected his glove. He got it here last week at this year's award ceremony.

He once said, "I am pleased that God made my skin black, but I wish He had made it thicker." Friends of baseball, and of freedom, are pleased that He didn't.

AMERICA'S ECONOMICALLY UNDERSERVED COMMUNITIES

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FLAKE. Mr. Speaker, H.R. 3474 is the product of bipartisanship—both on the House Banking, Finance, and Urban Affairs Committee and in the House as a whole. H.R. 3474 addresses one of the Nation's most urgent and pressing concerns—America's economically underserved communities. I commend the President and my colleagues on the Banking Committee for moving this legislation with such speed and decision. The Nation can be proud of its House today as we strive to make economic opportunity a reality for more Americans.

Mr. Speaker, H.R. 3474 removes burdensome regulations from financial institutions, while not jeopardizing their safety and soundness or their ability to serve their customers. By freeing banks of these unnecessary constraints, they will be better prepared to make a positive impact in this country.

I particularly commend Representatives JIM LEACH and TOM RIDGE for their commitment to the idea of community development and the Bank Enterprise Act and its mission of making banks active participants in community development. Their support made this bill work for all of us.

Mr. Speaker, I have dedicated a great deal of my life to community development. I was successful in part because of the participation of mainstream financial institutions. In 1978, I arrived in Queens, NY to a community which the media called "A community in decline."

Today, Queens is bouncing back. There are storefront shopping districts, decent and affordable housing for low- and middle-income homeowners, and most importantly, desperation and stagnation have been replaced by hope and promise.

Hope exists because of the hard work of community organizations and residents who have fought back in the face of adversity. Belief in themselves and their neighbors has allowed them to see the light at the end of a dark tunnel.

Promise comes from banks who make real commitments to the communities where they take deposits.

Mr. Speaker, when I began to develop the community around my church in 1977, I was unable to get banks to participate to their potential. Their participation in 1977 would have increased my church's ability to create the 700 jobs which it now provides to the Queens community. It would have made it easier to build decent, affordable housing units for low- and moderate-income residents in Queens. Their participation would have made the grounds of my community more fertile fields of long-term economic growth which ultimately creates a safer and healthier place to live.

Mr. Speaker, this legislation is not about creating an unaccountable social/welfare program. instead, this legislation is about mainstreaming people who otherwise might not have access to needed capital and credit.

Again, I would like to express my appreciation and gratitude to Representatives JIM

LEACH, TOM RIDGE and their staffs and to all of the Members who supported the Bank Enterprise Act amendment in the Banking Committee.

Mr. Speaker, I urge my colleagues to support H.R. 3474.

AAA PRESIDENT HONORED

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SCHUMER. Mr. Speaker, on December 9, 1993, the New York County Lawyers' Association will honor Robert Coulson, president of the American Arbitration Association since 1972, with the William Nelson Cromwell Award for useful and outstanding service to the profession and the community. I join in offering my congratulations to him and my appreciation for the energy and intellect he has brought to our profession. Indeed, his work has affected all our lives and most directly the causes of alternative dispute resolution and legal reform.

Robert Coulson joined the American Arbitration Association in 1963. The AAA was founded in 1926 by leaders in the business and legal communities and has become the standard-setting institution for alternative dispute resolution with more than 7,000 members, and more than 52,000 panelists who work on cases involving billions of dollars each year. Mr. Coulson explained AAA's growth on the occasion of its 65th birthday several years ago as a reflection of the fact that arbitration and mediation are favored by business executives and their lawyers as less costly, less time-consuming and more rational ways of settling disputes, particularly when the court system is flooded with cases.

Robert Coulson's passion for reform has affected every activity in which he is involved. He has been active in the Association of the Bar of the City of New York and the American Bar Association, serving as chairman of the Commercial Arbitration Committee of the corporation section of the ABA and cochairman of the Collective Bargaining and Arbitration Committee of the labor section. He serves on the board of the Fund for Modern Courts and is an Honorary Fellow of the Arbitrator's Institute of Canada. He has written and lectured extensively on management-labor relations and dispute resolution. Mr. Coulson is the author of "How to Stay Out of Court," "Family Mediation Will Work for You," "The Termination Handbook," "Business Arbitration," "Labor Arbitration," "Arbitration in the Schools," "Alcohol, Drugs and Arbitration," "Empowered at 40." "How to Stay Out of Court," published in 1968, sold more than 100,000 copies, attracted mainstream media attention, and brought alternative dispute resolution to the attention of the country. The Arbitration Journal, published by the AAA, continues as a preemminent publication in its field.

Robert Coulson is a graduate of Yale University and Harvard Law School. He has received honorary doctorates from Bryant College and Hofstra University. He is married to Cynthia Cunningham Coulson, has five children, and lives with his family in Connecticut.

GREGORY LEWIS HONORED BY THE CARING INSTITUTE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to recognize one of my constituents, an exceptional young man from Kings Park, NY. In December, Gregory Lewis will be one of 10 young adults honored by the Caring Institute for selflessness, compassion, and caring.

Gregory has been a leader among Long Island chapters of Students Against Drunk Driving [SADD]. During his 3-year tenure as the president of Kings Park High School's Students Against Drunk Driving, Mr. Lewis formed a coalition composed of SADD students from every school district in Suffolk County, Long Island. Among the group's activities was a workshop dealing with drug hotlines, drunk driving, alcoholism, and government relations.

In addition to his work with Students Against Drunk Driving, Gregory established a drug awareness reading program and founded the Athletes Detest Drugs Organization in the Kings Park school district. Furthermore, Gregory Lewis led the charge to heighten the public's awareness of drug abuse. Gregory's efforts included a request to have the board of education declare April as Alcohol and Other Drug Abuse Awareness Month.

Mr. Speaker, I join the Caring Institute in commending Gregory Lewis and Americans who show their concern for humanity everyday. The efforts of these outstanding citizens are truly deserving of the highest praise and I am certain that their work will continue to have a positive impact on our society.

EXEMPTION FOR CLASSIFIED WORKERS UNDER THE FAIR LABOR STANDARDS ACT

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LEHMAN. Mr. Speaker, I rise today to introduce legislation to assist community colleges across the Nation by amending the Fair Labor Standards Act. This legislation will exempt classified personnel from overtime pay provisions as a result of their part-time academic work.

Classified work is that which does not require academic certification, and it includes such activities as support and maintenance. However, many classified personnel earn academic certification in order to teach certain courses at the community college in which they are employed. Unfortunately, under current law community colleges such as Fresno City College and Kings River Community College in California are financially prohibited from hiring classified staff in an educational capacity.

According to the Fair Labor Standards Act, any additional workload which exceeds the 40-hour per week limit is to be considered overtime and the employee must be compensated for the work performed regardless if the work occurs in a certified or classified position. Community colleges that abide by this Federal law are therefore forced to pay not only the negotiated part-time instructor salary for the academic duties, but also the overtime pay formula mandated by the Fair Labor Standards Act. This double-paying by community colleges has forced many districts to discontinue the practice of hiring classified staff as part-time instructors.

In response to the financial shortfalls confronting community colleges and the education system as a whole, I am proposing legislation which exempts classified employees from the overtime pay requirement for additional academic duties they perform. It is my desire to provide classified employees with the opportunity to continue an enjoyable and self-enhancing activity, while not creating an undue financial burden on our educational system.

Classified employees play an important role in our educational system, however, without amending the Fair Labor Standards Act, community colleges will be permanently prohibited from utilizing these valuable people in an academic capacity. I urge my colleagues to cosponsor this important legislation which has the support of the State Center Community College District in Fresno, the California Federation of Teachers and the California State Educational Employees Association.

HAITIAN REFUGEE FAIRNESS ACT

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MEEK. Mr. Speaker, today I am introducing legislation, the Haitian Refugee Fairness Act, which will bring the treatment of Haitian refugees by the United States Government into conformity with international law and will make the treatment that Haitian refugees receive from the United States Government consistent with the treatment given to refugees from other nations.

Since May 24, 1992, the United States has been repatriating Haitians interdicted at sea without first assessing whether they are fleeing persecution at the hands of the violent military junta that has seized control in Haiti. My bill would require the United States to determine the legitimacy of such persons' refugee claims and would prohibit repatriation if their claims are found to be legitimate. My bill would apply to Haitians interdicted outside United States territory or within the territorial waters of another nation. Most important, while the legislation would prohibit the return of such persons deemed to be refugees to their country of persecution, it would not require that they be brought to the United States.

My legislation has additional provisions that bring our treatment of Haitian refugees into conformity with the way the United States treats refugees from other nations. For example, it would permit Haitians already in this country as of November 18, 1993, to apply for temporary protected status, a status that has been granted to nationals of other nations, such as Kuwait, Somalia, Bosnia, and El Salvador, during conflict in their countries.

The Haitian Refugee Fairness Act will ensure that the United States is better prepared to handle future outflows of refugees from Haiti by requiring Federal reimbursement to State and local governments for costs associated with Haitians paroled into the United States.

Why is this legislation needed? It is needed because Haitians are dying on the high seas, and they are being murdered and tortured in their own homeland. My legislation would provide temporary protected status to those who understandably fear returning to the chaos and lawlessness in Haiti, who have been physically present here in the United States since November 17, 1993.

Mr. Speaker, the ultimate solution to the problem of refugee flight from Haiti is to restore democracy there. In the meantime, we must treat those fleeing persecution with the same compassion that we treat refugees from other countries and other parts of the world. I urge my colleagues to join me in this effort by becoming an original cosponsor of the Haitian Refugee Fairness Act.

A summary of the Haitian Refugee Fairness Act follows:

SUMMARY OF THE HAITIAN REFUGEE FAIRNESS ACT

SECTION 1. SHORT TITLE

Designates the bill's short title as the "Haitian Refugee Fairness Act of 1993."

SECTION 2. ADHERENCE TO INTERNATIONAL LAW REQUIREMENT OF NONREFOULEMENT

(a) CONGRESSIONAL STATEMENT.—States the Sense of Congress that the U.S.'s consent to the U.N. Protocol on Refugees obligates the United States under international and U.S. law to refrain from returning refugees it encounters while inside or outside of U.S. territory to their countries of persecution.

(b) OBLIGATIONS OUTSIDE THE UNITED STATES.—Requires that the U.S. determine whether or not foreign nationals are refugees before returning them to their country of persecution if the U.S. encounters such nationals while they are outside of such country. Further precludes the U.S. from returning or otherwise taking an action that causes the return of such foreign nationals who it determines to be refugees.

(c) OBLIGATIONS WITHIN THE TERRITORIAL WATERS OF ANOTHER COUNTRY.—Precludes the U.S. from returning or otherwise taking an action that causes the return of foreign nationals who it encounters inside of the territorial waters of another country unless it first makes a determination that such nationals are not refugees.

(d) LIMITATIONS.—

(1) Provides that the U.S. would not be obligated to protect nationals from return if the nationals participated in the persecution of others or if they had been convicted by a final judgment of an aggravated felony.

(e) RULE OF CONSTRUCTION.—Clarifies that the bill should not be construed to require the U.S. to protect nationals from returning if they are in a U.S. embassy of their country of persecution.

SECTION 3. DESIGNATION OF HAITI UNDER TEMPORARY PROTECTED STATUS

Designates Haiti for Temporary Protected Status (TPS) for a period of 24 months or until the President certifies to Congress that a democratically elected government is securely in place in Haiti, whichever occurs later. Such designation would make Haitians in this country prior to November 18, 1993, eligible to apply for TPS. Once granted such status, the U.S. would be required to refrain from returning a grantee to his home country and the grantee would be eligible for work authorization until the designation expires.

SECTION 4. REIMBURSEMENT FOR STATE AND LOCAL GOVERNMENT COSTS

Requires the Attorney General to reimburse state and local governments for incremental costs they incur in association with Haitians paroled into the United States. Such reimbursement would come from the emergency fund that was created by section 404(b) of the Immigration and National Act.

SECTION 5. EARMARK OF FUNDS FOR CUBAN/HAITIAN PRIMARY SECONDARY MIGRATION PROGRAM FOR FISCAL YEARS 1994

Earmarks $6 Million for each of fiscal years 1994, 1995, and 1966 for the Cuban Haitian Primary Secondary Migration Program, operated by the Community Relations Service of the U.S. Department of Justice, and earmarks $27 Million for each of fiscal years 1994, 1995, and 1996 for the Community Relations Service.

SECTION 6. CUBAN/HAITIAN ENTRANT EMERGENCY FUND

Creates a Cuban/Haitian Entrant Emergency fund to be used to provide primary and secondary resettlement services for Cuban and Haitian parolees in the event that more Haitians and/or Cubans are paroled into the U.S. than planned for and that regular funds appropriated for this purpose are inadequate.

NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1993

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KOPETSKI. Mr. Speaker, today I am introducing legislation to divide the Ninth Judicial Circuit of the United States, thereby creating a new judicial circuit in the Federal judicial system.

Mr. Speaker, the Ninth Circuit Court of Appeals is the largest of the Federal circuit courts in terms of the numbers of judges which serve it. It currently has 28 judges, 11 more judges than the next largest circuit—the fifth circuit which has 17 judges. In all likelihood, there will be 10 more judges added to the ninth circuit in the near future. The judges are necessary to meet the rapidly growing caseload. The additional judges will bring the total number of judges in the circuit to 38. In addition, the ninth circuit is the largest circuit in terms of geographic size. It stretches from the Arctic Circle to the Mexican border, from the Northern Mariana Islands and Guam to Montana and Arizona.

The increasing number of judges adversely affects the operation of the circuit. There is a limit on the number of judges which can be added to a circuit. At one time, it was thought that 15 was the outer limit on the number of judges. The ninth circuit has far exceeded that number for some time. Judges serving a circuit need to maintain collegiality and uniformity within the circuit. Also, the increased number of judges can slow decisions issued by a circuit, which is a hardship for litigants.

There have been previous recommendations and legislation to split the ninth circuit. The Congressional Commission on the Revision of the Federal Court Appellate System recommended that the ninth and fifth circuits be split in 1973. The fifth circuit was divided by the Congress in 1981. The ninth circuit instituted a number of innovative measures in an effort to continue to function effectively. Although the judges are to be commended for their ingenuity and innovations in dealing with the sheer numbers and size which complicate their work, it is time to look again to a fundamental solution.

The bill proposes to form a new 12th circuit from the central and southern districts of California, Arizona, and Nevada. Oregon, Alaska, Idaho, Montana, Washington, Hawaii, Guam, the Northern Mariana Islands, the northern and eastern districts of California will remain in the ninth circuit. A new intercircuit panel is proposed for the resolution of conflicts, within the State of California, between the ninth and proposed 12th circuits.

Finally, Mr. Speaker, I want to emphasize that this bill is not motivated out of a desire to split the Northwest, particularly Oregon and Washington, from California in an attempt to affect substantive legal opinions. In fact, the bill would include northern California in the ninth circuit. The only motivation behind the introduction of the bill is to remove what has become an impediment to the swift and uniform administration of the law for all those currently under the ninth circuit. I urge swift consideration of this important legislation.

INTRODUCTION OF THE PUBLIC FINANCE AND INFRASTRUCTURE INVESTMENT ACT OF 1993

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. COYNE. Mr. Speaker, today I am introducing a bill to provide State and local governments with much-needed Federal assistance in financing investments in infrastructure and economic development.

This legislation, the Public Finance and Infrastructure Investment Act of 1993, makes changes in the Internal Revenue Code that will increase the usefulness of tax-exempt bonds in meeting pressing State and local government capital financing needs.

My service on the Pittsburgh City Council has provided me with substantial first-hand knowledge about the challenges facing State and local governments. Since I left the city council to become a Member of Congress, the demands on State and local governments have increased substantially, and the resources at their disposal have declined.

In the last 12 years, the Federal Government has eliminated General Revenue Sharing and Urban Development Action Grants, and it has limited funding for programs like the Economic Development Administration and Community Development Block Grants.

At the same time, the Federal Government has imposed a number of unfunded mandates on State and local governments that require expensive new investments in infrastructure like water and sewage treatment facilities. Such investments clearly improve Americans' quality of life, but they also consume large portions of State and local governments' scarce capital budgets, which might otherwise be used to foster economic development.

Tax-exempt bonds are important tools in financing both types of large capital investments.

The legislation I am introducing today is necessary because the tax-exempt bond provisions in the Tax Code have been developed in a haphazard fashion over the last 25 years. According to a Congressional Research Service study, Congress enacted 18 laws between 1968 and 1990 that contained tax-exempt bond provisions. As recently as this summer, the reconciliation bill included changes to the tax-exempt bond provisions in the tax code. As a result of these piecemeal changes, many of the provisions that affect tax-exempt bonds are confusing and needlessly complex.

Tax-exempt bonds were last addressed in a comprehensive fashion in the Tax Reform Act of 1986. The Tax Reform Act of 1986 was a monumental piece of legislation that dramatically reformed many provisions in the Federal tax code. This law made significant positive changes in the code with regard to tax-exempt bonds. Some of these changes need to be revisited, however. In addition, a broad consensus has developed in Congress since 1986, primarily as a result of the work of the Anthony Commission on Public Finance, that a number of additional reforms in our tax-exempt bond laws are necessary. Lastly, subsequent events unrelated to, or only indirectly related to, the Tax Reform Act of 1986 have had an impact on States and local governments, and on the market for tax-exempt bonds, and these changes need to be addressed as well.

Since 1986, a number of bills have been introduced to correct some of these problems. Many of the provisions in this bill were included in H.R. 11, the Revenue Act of 1992, which was passed by Congress last year but subsequently vetoed by President Bush. Many of them were also included in H.R. 13, the Tax Simplification Act of 1993, as originally introduced by Ways and Means Committee Chairman DAN ROSTENKOWSKI earlier this year. In fact, with the exception of the distressed community economic development bond, which is a new proposal, most of these provisions have enjoyed a long history of strong support from the public finance community.

The Public Finance and Infrastructure Investment Act of 1993 would streamline the definition of tax-exempt private activity bonds, simplify existing arbitrage rebate requirements, increase the small-issuer exception for bank deductibility of interest, index the private activity bond volume cap to inflation, and establish a new type of tax-exempt private activity bond, the distressed community economic development bond.

Over the years, Congress has modified the definition of tax-exempt private activity bonds, adding different provisions to prevent issuers from abusing the Federal interest subsidies provided through tax-exempt financing. Today, however, a cap on the total annual volume of private activity bonds that can be issued effectively forces States and local governments to choose their investment initiatives from among many needed projects. As a result of this change to the tax code, several older provisions of the Internal Revenue Code today increase the system's administrative complexity without contributing significantly to reducing abuse or Federal revenue loss. Consequently, this legislation repeals the 5 percent unrelated and disproportionate private use test and the lower private business test for certain output facilities, and it increases the nominal limit on the private loan financing test from $5 million to $15 million.

The Public Finance and Infrastructure Investment Act of 1993 also contains a number of provisions that simplify the tax-exempt bond arbitrage provisions in the Internal Revenue Code. A number of arbitrage restrictions in the tax code predate the adoption of the arbitrage rebate requirement. Now, in light of the comprehensive rebate requirement, these provisions add little to the code but administrative complexity. In addition, the bill expands the small issuer arbitrage rebate exception to cover issuers that issue up to $10 million in a given calendar year. The current limit of $5 million exempted more than half of the issuers of tax-exempt bonds from the arbitrage rebate requirement in 1992. The bonds issued by these small issuers made up less than 5 percent of the volume of long-term municipal new issues that year. Increasing the exception to issuers issuing $10 million or less in any given year would exclude over 70 percent of municipal issuers from the requirement to track, calculate, and rebate arbitrage profits. Those issuers combined produced less than 10 percent of the long-germ municipal issues that year.

Banks and other financial institutions are, for the most part, denied a deduction for the portions of their interest expenses attributable to investment in tax-exempt bonds required after August 7, 1986. An exception to this disallowance is permitted for tax-exempt bonds issued by governments that issue no more than $10 million of such bonds during a calendar year. This provision is known as the small-issuer exception.

Six thousand of the eight thousand and five hundred issuers of tax-exempt municipal bonds each issued less than $10 million in bonds in 1992. These issuers were responsible for only $19 billion of the $235 billion in long-term municipal new issues that year. Increasing the limit from $10 million to $25 million would provide over 1,000 more issuers the benefits of the bank deductibility of interest exception; such issuers were responsible for only $17 billion in long-term municipal new issues in 1992.

The bill increases the small issuer exception from $10 million to $25 million. This change substantially increases the number of tax-exempt bond issuers eligible for coverage under this provision without a proportionate impact on Federal revenue loss. In addition, it addresses the impact of inflation in the years since the Tax Reform Act of 1986 was enacted; due to inflation, the $10 million volume limit now affects small issuers that the Congress never intended to exclude from coverage under this provision.

The bill also indexes annual State volume cap allocations for inflation in calendar year 1994 and each year thereafter. This change would address the impact of inflation in the years since the Tax Reform Act of 1986. Due to the decrease in the purchasing power of the dollar since 1987, the volume cap now allows a smaller volume of private activity bond issuance that the Congress intended in 1986. Moreover, the volume cap level was set with the understanding that mortgage revenue bonds and small-issue industrial development bonds would expire at the end of 1987. These tax-exempt bond provisions were subsequently extended and have now been made permanent, reducing the volume of private activity bonds available under the cap for other purposes to a level less than that Congress intended in 1986. Consequently, indexation of the private activity bond volume cap is advisable.

Finally, the bill creates a new type of tax-exempt bond, the distressed community economic development bond. The distressed community economic development bond would be targeted at communities that have been hard-hit by population loss, job loss, slow growth, or military base closings. Communities which meet the bill's criteria for designation as distressed communities could issue private activity bonds to promote a wide range of economic development projects within their jurisdictions. In light of the sharp decline in Federal support for State and local governments in recent years—and the concurrent growth in federally imposed mandates on those same governments—congressional action to encourage development is long overdue.

The Federal Government's financial support for community and economic development activities has declined markedly over the last 12 years. At the same time, other government policies and changes around the world have adversely affected particular communities and regions of our country. For example, U.S. efforts to open up global trade markets benefit domestic manufacturers of export products, but they have at times had adverse impacts on other domestic industries and specific regions of the country. Another informative example is defense spending. Defense production and military activities encouraged the growth of many communities over the last 50 years. With the end of the cold war, these same communities face shrinking economic opportunities and a surplus of operational infrastructure assets.

In addition, national infrastructure programs have had inadvertent secondary effects which have placed many hard-hit communities at a disadvantage in attracting new sources of employment. For example, in the past, Federal funding for new highway construction often encouraged the location of business facilities in suburban or rural green field sites, to the detriment of existing communities with the necessary infrastructure already in place.

As a result, many communities have experienced unprecedented job loss and economic dislocation. These communities are in desperate need of economic development activities that will provide new jobs and tax revenues.

There have been other adverse effects as well. Certain Federal policies increase the overall cost of providing public services by encouraging underutilization of existing infrastructure in some areas and shifting demand for such services to areas where new infrastructure must be built. Moreover, many of these same policies produce insidious side effects like excessive energy consumption and increased air pollution. The Federal policies described above, however, provide important benefits to society. Such policies should not be eliminated; rather, additional Federal action is needed to offset their adverse effects on communities that have been hard-hit by major changes in the economy, and to recognize the value of existing infrastructure like housing, roads, schools, and water and sewage treatment facilities.

The bill addresses these problems by creating a new type of tax-exempt private activity bond, the economic development bond. The proceeds of such bonds could be used to finance economic development projects in areas which qualify as distressed communities.

The eligibility criteria consist of: First, population loss equal to or greater than 5 percent, second, an average 5-year unemployment rate of not less than 8 percent, third, slow job growth, or fourth, a military base closing resulting in the loss of not less than 500 jobs.

Only 50 percent of any economic development bond will be counted toward the issuing authority's volume cap allocation, and banks could deduct the interest costs of purchasing economic development bonds issued by qualified small local governments.

I believe that these bonds will provide economically hard-hit communities—whether they are large or small, urban or rural—with the necessary means to foster economic growth and create new jobs. In short, these bonds will help communities that have been hit by the recent recession at a time when local and State governments find themselves without sufficient resources to make important long-term investments.

The Public Finance and Infrastructure Investment Act of 1993 would increase the usefulness of tax-exempt bonds in meeting pressing State and local infrastructure needs. I urge my colleagues to cosponsor this legislation.

HEALTH CARE REFORM

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LEVIN. Mr. Speaker, on November 20, President Clinton's health care reform plan was formally introduced as legislation in both the House and the Senate. After 12 years of not-so-benign neglect by previous administrations, this President is to be commended for putting health care reform on the front burner, where it belongs.

Although I do not endorse all aspects of this proposal, I want to work with the President and my colleagues in the Congress—on both sides of the aisle—to achieve serious health care reform. Certainly the final product will be different than the bill that was introduced yesterday. But let us not lose sight of the significance of this moment: We are, at last, beginning the debate on health care reform. As complex and controversial as this issue is, we are eager to roll up our sleeves and work hard to shape a good bill—one that will provide quality health care to all Americans at an affordable price.

Let us also recognize that the President's bill is just the starting point. The bill that Congress will eventually pass will be the product of a long process of debate, discussion, negotiation, and compromise. Democrats and Republicans will help write this bill. But we also need the advice and counsel of health care providers, business owners, insurance companies, retirees, families, and the disabled, to name but a few. In other words, we need to hear from the American people.

For the past several months, in town meetings and in my office, through surveys and roundtable discussions, I have listened to my constituents' ideas on and concerns with health care reform. I know that they do not want to fund health care reform with any increase in general income taxes. As I have made clear from the outset, neither do I. Over the next several months, I want to learn as much as I can about my constituents' views. Their input on health care reform is crucial. Each and every one of us has a stake in this. Health care reform is an area where we can and must find common ground. I want to work with my constituents to pass a bill that we can support.

As we proceed, I will rely on six basic principles to guide my work on this bill: First, quality; second, choice; third, affordability; fourth, security; fifth, universal access; and sixth, a realistic approach. Let me say a few words about each of these, in turn.

First, we must maintain the high quality care that most Americans now have and want to keep. There is much that is right with our health care system. For those who can afford it, America has the finest health care system in the world. We have—and continue to develop—the most sophisticated technology available, and we can diagnose and treat what were once fatal diseases. Our biomedical research is unsurpassed. But we also have the highest infant mortality rate of any industrialized nation. We do not even immunize all of our children against serious, but preventable, diseases. There are millions of working families who cannot afford even basic health care.

To address these disparities, we must change certain components of our health care system. However, we must make sure that we do not throw out the baby with the bath water. We must identify what works in our current system, and build on it. Therefore, we should begin this debate—and I will work on this bill—with the presumption that we do not want to diminish the quality of America's medical care.

Second, we must all be able to continue to choose our doctors and other health care providers. Before the administration sent its proposal to the Congress, I told key officials it was imperative to allow all qualified fee-for-service providers to compete under any new system. I am very pleased that the President and his advisors have since amended their proposal to make this possible. His plan also requires Health Maintenance organizations [HMOs] to offer members a "point-of-service" option, which allows members to go outside the HMO for care—at a higher co-payment rate. I strongly believe that we must be free to choose our health care providers. That way, we have an extensive choice of doctors and the increased competition in the marketplace should lead to lower costs.

Third, we must make health care affordable by bringing health care spending and inflation under control. In the last 10 years, the average Michigan family's health payments rose 257 percent faster than wages. If health care inflation continues unabated, in the year 2000—just 7 years from now—Michigan families can expect to spend, on average, over $11,000 per year on health care, compared to average annual expenditures of $4,569 per family in 1991.

Federal and State government budgets are being decimated by out-of-control health care costs. In 1980, total Federal spending for health—which is mostly for Medicare and Medicaid—accounted for about 12 percent of all Federal spending; this amount rose to 15.4 percent in 1990. If our system remains unchanged, Federal spending on health is estimated to nearly double to 29 percent by the year 2000. Much the same is happening in the States. State spending on health care accounted for about 8 percent of total State expenditures in 1980, increasing to 12.5 percent in 1990. This percentage is expected to grow to 19 percent by the year 2000, with all the increase attributable to rising Medicaid costs.

Trends in private sector spending on health care are just as troubling: In Michigan, between 1980 and 1991, employers' annual health expenditures rose by 175 percent. Nationwide, the average cost to employers to provide health insurance to their workers increased by over 140 percent, from $1,645 per worker per year in 1984 to $3,968 in 1992. Ultimately, it is employees who bear much of the burden of these increases in the form of lower wages, or the reduction or even elimination of health insurance benefits.

Escalating prices affect not only our pocketbooks, but our global competitiveness. American employers spent 107 percent of corporate after-tax profits in health care in 1991, compared to only 48 percent in 1980. These exploding health care expenditures drive up the cost of labor, raise the retail prices of American goods and services, and severely restrict our ability to compete in the global marketplace.

In my home State of Michigan, the Big Three automakers are at a decided disadvantage when it comes to competing with Japanese manufacturers, even if those Japanese cars are manufactured in this country. According to a recent study conducted by the University of Michigan, Japanese facilities in this country have a $600 per car advantage over the Big Three automakers, which can be entirely attributed to health care costs. We simply must get these escalating health care costs and runaway inflation under control.

Fourth, we must be secure in the knowledge that our health care will always be there for us—even if we change jobs or are laid off, and especially if we or our loved ones become seriously ill. Some 30 percent of Americans cannot change jobs because of job lock. Workers often find that if they change jobs, and consequently health insurers, they cannot get coverage if they or their dependents have a preexisting condition, such as diabetes or even pregnancy. Sometimes, the new employer's insurer may charge ridiculously high premiums; sometimes, they flatly refuse to provide coverage at any price. For these reasons, many people feel trapped, unable to take new jobs because they or their families will lose their health insurance.

We also want to make certain that when a serious illness strikes—and we or our loved ones need our health insurance the most—it will be there for us. We have all heard stories about people who became critically ill, and suddenly the cost of their health insurance skyrocketed—or worse, was canceled. Many of us are just one catastrophic illness away from financial disaster.

Fifth, we must strive, over time, to make access to basic health care services available to all Americans. In Michigan alone, it is estimated that some 76,000 people are losing health care each month. Nationally, more then one-half of the uninsured in 1990 were full-time workers and their families. More than 1 million of those who lost their health insurance in 1991 were earning between $25,000 and $40,000 annually, and almost one-half of the uninsured go without health insurance for 2 years or more.

By making basic health care universal, we will end the destructive and costly practice of cost shifting, where those of us with private insurance are charged more for medical services in order to pay for medical care provided to those without such insurance. People without health insurance end up paying, on average, about 20 percent of the cost of any health care they might receive. But those of us with insurance are charged, on average, 130 percent of the cost of the care we receive. The excess amounts we pay help defray the costs of caring for those without insurance. In health care, as in all other things, there is no free lunch.

Cost-shifting also affects businesses. Just as privately insured individuals help subsidize the uninsured, employers who provide health care insurance for their workers and dependents are unintentionally subsidizing the medical costs of workers left uninsured by other employers. The 75 percent of all employers who now provide health care insurance shouldering more than their fair share of health care costs. These employers' annual health care tabs are rising, on average, by 15 percent per year—nearly four times the annual inflation rate. This is particularly tough on the two-thirds of all small businesses who now insure their employees. These small businesses, lacking the purchasing clout of big corporations, already pay premiums one-third higher, on average, then their big-business counterparts.

Sixth, if we are to achieve serious health care reform, we must be clear-eyed and hard-headed—short, realistic. We cannot bankrupt ourselves or our businesses as we undertake any reforms. As we continue to reduce our budget deficit, we need to make absolutely sure than any reforms we propose are fiscally sound, affordable, and fairly financed. At this stage, it is impossible to know with complete accuracy how much any plan we may finally pass will cost. But I will not vote for a plan if I cannot explain how it works or if I am not confident about the precision of the cost estimates. And of course, we must be certain that we can afford to make the changes we are contemplating. We must not bite off more than we can chew.

Mr. Speaker, I will use these six criteria as we work through this enormously complex legislation: Quality, choice, affordability, security, universal access, and realism. I will, for example, evaluate two of the bill's linchpin provisions—the employer mandates and small-business subsidies—in the context of cost-shifting, sound fiscal policy, and labor-force implications.

I want to support a health care bill that is good for us—the patients using the system—and good for business. Toward that end, I strongly support the President's proposal to have the Federal Government assume most of the costs of early retirees health care benefits. These are individuals who retire between the ages of 55 and 64 and who are not yet eligible for Medicare. In the past, many of these people decided they could afford to retire because their employers promised to continue providing health care coverage. However, as American businesses continue to downsize and seek ways to lower their operating costs, older workers and early retirees are often the first casualties.

As a result, millions of early retirees are finding their health care benefits severely reduced or even terminated. As corporate America continues to retrench, increasing numbers of older workers will be forced into early retirement, only to find their families' health care benefits in serious jeopardy. It is extremely difficult for these older individuals to get health insurance on their own. Many insurance companies consider people between the ages of 55 and 64 "uninsurable," and do not even offer coverage. And those individual policies that are available are often prohibitively expensive, particularly for those living on a fixed income, as most retirees are.

Businesses that do provide health care coverage for their retirees are at a decided competitive disadvantaged both in global and domestic markets. Because nearly all industrialized countries have national health care programs, foreign businesses have much lower health care costs. And U.S. employers who do not provide health care benefits to their early retirees or, for that matter, to any of their workers, have an obvious operating cost advantage.

Moreover, many industries in this country—including automobile manufacturing, steel, mining, telecommunications, and airlines—have an aging workforce and large numbers of early retirees for whom they already provide health care benefits. These industries are subsidizing a disproportionately large number of these retirees, both in relation to their roster of active workers and in relation to American industry in general. This is yet another example of the cost-shifting that occurs in our current patchwork system. The burden of high health care costs for early retirees in lopsided—borne primarily by certain industries.

To address this inequity, the Clinton plan will have the Federal Government assume, over time, 80 percent of the costs of these retirees' health care premiums—simultaneously securing their health care coverage and lifting a great economic burden from their former employer. This is an excellent example of how health care reform can be good for both families and business. I will work diligently to keep this provision in the final bill.

There are many other components of the President's plan that I support, including the home and community-based long-term care benefits for the elderly and disabled, as well as the Medicare prescription drug program. I am also pleased to see the prominence of preventive care in the basic benefits package, as well as the coverage of basic mental health services, although I would like to see more of an emphasis on non-institutional care. There are some gaps in the basic benefits package, such as vision care and routine dental care for adults, that I would like to explore further. I am also very interested in encouraging the education and training of more primary care practitioners, particularly given the emphasis on preventive care. In addition, I will pay close attention to the quality assurance provisions of the plan, and want to highlight the active role of the consumer in promoting and protecting quality of care. The role of the health alliances, and their relationships to employers and employees, must be meticulously crafted, as will the risk adjustments the alliances make to the various participating health plans.

And so, Mr. Speaker, with this bill's introduction, we make a start. This is an historic undertaking, in which I am proud to be involved. I will work very hard to help shape what I hope will be a bipartisan reform of which this country will be proud: Quality health care available to all Americans, at a price we can afford. It is about time.

TRIBUTE TO JESSE L. BROWN, FIRST AFRICAN-AMERICAN NAVAL AVIATOR

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TAYLOR of Mississippi. Mr. Speaker, on April 30, 1994, the Knox-class frigate *Jesse L. Brown* will be hot-transferred to the Egyptian Navy. The ship bears the name of the first African-American naval aviator. I am proud to say Jesse L. Brown was from Hattiesburg, MS. He served with great distinction during the Korean war, and it is only fitting that today we pay our respect to the memory of one of America's finest heroes.

On December 4, 1950, four naval aviators scrambled to their F4U Corsairs in a gallant attempt to save American soldiers trapped by Chinese forces at the Chosin Reservoir in east central North Korea.

Eight Chinese divisions had encircled the 1st Marine Division and the Army's 7th Infantry Division, and it was up to these aviators to pave the way for the American troops as they hiked 40 miles to escape down a narrow valley road to safety.

One of those naval aviators was Ens. Jesse L. Brown. Brown at the age of 19 enlisted in the U.S. Naval Reserve in 1946 as an engineering student at Ohio State University. He excelled first in his studies, and later as an officer candidate.

In just a little more than 2 years Brown achieved his life-long ambition, and on October 21, 1948, he was awarded his wings of gold and designated a naval aviator. At 22, Brown became the Navy's first African-American aviator.

Shortly after the outbreak of the Korean war, Ensign Brown and his squadron were sent to the Sea of Japan. While aboard the carrier U.S.S. *Leyte,* he flew a total of 19 combat missions. His commanding officer, Capt. Thomas Sisson of Winona, MS, called Brown "one of the best pilots of the air group."

However, on his 20th mission Brown was flying a low altitude run when his plane was hit by enemy gunfire. As his plane trailed smoke, Brown meticulously set his plane down on a barren rocky slope on a rugged snow-covered mountain. The plane came to an abrupt halt, apparently striking a rock. Upon impact, the fuselage broke in two and the engine was ripped loose.

Strong-willed, the badly injured Brown survived the crash, but was trapped in the cockpit by twisted metal. Valiant attempts were made to rescue the downed pilot. One of his wing mates went as far as to crash his own plane next to Brown's in an attempt to pull him from the burning wreckage. But after hours of unsuccessful attempts in near-zero temperatures to free Brown, he could hold on no more.

The story of Brown should survive forever. In 1948, he accomplished a goal that had never been accomplished by an African-American before him. As an aviator and as an officer, he made tremendous strides in the U.S. Armed Forces and saved innumerable lives. We must never forget unselfish acts of courage. After 43 years Michael Gregory, a Marine who was fighting around the Chosin Reservoir as Brown offered protection from overhead, explains, "Jesse L. Brown died for us, the survivors."

Today I would like to request that the Foreign Affairs Committee, when they meet with the Navy in regard to the *Jesse L. Brown*'s transfer, have all the ship's major artifacts, such as the ship's plague, bell and any other artifacts that bear the name Jesse L. Brown, be transferred to the people of Hattiesburg, MS, so they may establish a memorial in his honor.

TRIBUTE TO WOLFGANG RUPPE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. COLEMAN. Mr. Speaker, I rise today to honor the achievements of Wolfgang Ruppe, a man of great character and integrity who has unselfishly given of his time to help the Allied cause in Berlin.

Born in East Germany in 1939, Wolfgang Ruppe forged his ties to the West very early in life when at the age of 10 he escaped to West Berlin to pursue an advanced education, an education that was forbidden in his native East Germany.

At the end of 1973, Mr. Ruppe forged an intimate relationship with the commanders of the third Allied military hospital in Berlin. With this relationship, Mr. Ruppe was able to assist in the formation of the Berlin International Medical Society [BIMS] in 1978. The BIMS was established to foster cooperation and professional medical interaction between allied medical professionals and their counterparts among civilian medical professionals in West Berlin. As a result of this effort, the lives and health of many U.S. soldiers, family members, and civilians were greatly enhanced because of increased access to high quality specialty care. The BIMS has been a great success and it continues to serve the public in the present day.

Because of his work with the BIMS, Mr. Ruppe became a personal supporter and sponsor of many United States military units in Berlin, most prominently, the U.S. Army Hospital in Berlin. Currently, the stewards the BIMS administrative division with overall responsibility for ensuring the continued cooperative efforts between the Berlin medical community and the remaining allied military medical facilities and their supported population.

Wolfgang Ruppe's generosity was also felt during one of the darkest hours of modern West German history: The La-Belle disco terrorist bombing in 1986. In the aftermath of this event, Mr. Ruppe gave his personal and financial support in a multitude of ways to ease the impact of this attack on its victim and their loved ones. Because of these actions and his efforts as BIMS cofounder, the Scroll of Appreciation was conferred upon him by Gen. Glenn K. Otis, Commander of the U.S. Army-Europe, in 1987.

Mr. Speaker, this gentleman gave of his time, and of his financial resources without any expectation of recognition or gratitude. Time and again, Mr. Ruppe has exhibited tireless dedication to the Allied cause in Berlin and his garnered the trust, respect, and admiration of Allied medical personnel and the senior leadership of the Allied forces. Wolfgang Ruppe is a true friend of the American, British, and French forces and the Democratic principles they represent. Today, let us honor and celebrate his example of charity. The spirit by which he has lived his life is truly an ideal for which to strive.

ABC NEWS "20/20" TRANSCRIPT NO. 1349

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CALVERT. Mr. Speaker, my congressional district recently suffered a catastrophic brush fire that destroyed homes and lives. The devastation and suffering that were caused by this fire is hard for anyone to understand who is not from an arid region. But one possibility has been reported in the press that may add an additional element of tragedy to this situation: some homeowners who are now homeless believe that they lost their homes due to the rigid implementation of the Endangered Species Act.

The November 16, 1993, edition of the Los Angeles Times contains an article in which several homeowners allege that the Endangered Species Act protection of the Stephens kangaroo rat prevented the development of the types of firebreaks that could have protected their homes from brush fires. The ABC news show "20/20" aired an expose on Friday, November 19, 1993, on this same topic. I will be investigating this situation further over the winter recess.

Mr. Speaker, all of us are concerned about species extinction. However, we must also ensure that our laws for protecting species are sensitive to the needs of humans. If, in fact, the Endangered Species Act has contributed to the loss of homes in Riverside County, the Endangered Species Act will, inevitably, lose public support. When we reauthorize the Endangered Species Act next year, we must ensure that the act balances the needs of humans with the need to preserve and enhance endangered and threatened species—so that the act may continue to enjoy the strong support of the public. That is why I am pleased to be a cosponsor of H.R. 1490, the Endangered Species Act Reform Amendments of 1993, which seeks to accomplish this goal.

Mr. Speaker, I insert a copy of the article from the November 16, 1993, edition of the Los Angeles Times and the transcript from "20/20" to be printed into the RECORD at this point.

[From ABC News "20/20," Nov. 19, 1993]

MY HOUSE FOR A RAT?

Hugh Downs, ABC News: Good evening. I'm Hugh Downs.

Barbara Walters, ABC News: And I'm Barbara Walters and this is 20/20.

Announcer: Tonight, the untold story of the California fires. How many homes were lost to protect this rodent?

Anna Klimko, Lost House in California Fire: In seven minutes, everything was gone. For what? A rat?

Announcer: The kangaroo rat—its home was saved, but theirs weren't.

John Stossel, ABC News: It says here even to annoy the rat is illegal.

Announcer: Have we taken animal protection too far? John Stossel with some outraged victims. They're asking, "My House For a Rat?"

Hugh Downs: Can you imagine letting your house burn down to save a rat? Some victims of the recent California fires say that that's just what happened to them. As flames swept down on their neighborhood, they knew what they should have done to try to save their homes, but their hands were tied by a law that you may not have paid much attention to up to now. But this law might eventually threaten your home and property, too.

Barbara Walters: It's the Endangered Species Act, a well-intentioned and valuable law that's supposed to see that animals and even insects aren't squeezed out by the existence of man. The question is, does this law go too far?

Should we have to sacrifice our homes for theirs? If you're not sure, John Stossel's report may help you decide.

John Stossel, ABC News: Most every year there are fires in California, but this year it was worse. One reason was the weather. It was unusually windy and dry. And of course, more homes were destroyed simply because more people live here now. But in the aftermath of the fires, some who lost their homes now say one cause of the disaster was government's rules.

Anna Klimko, Lost House in California Fire: I did exactly what they required of me. My home is gone.

2nd Homeowner: [?] If they were smart, they would have let us do what we had to do up there—make firebreaks and do all these things—and they would have saved the whole thing.

Stossel: These people believe they could have protected their property, but the government wouldn't let them because of a rat. Let me explain. One of the best ways to stop brush fires is to create a firebreak—to clear out a strip of vegetation so that when the fire gets here, it won't have anything to burn. Doing it with this machine is called disking, and the people around here have disked their property for years, until a few years ago when the government told them they could not because disking, by digging into the ground destroys the burrows of the Stevens [sp?] kangaroo rat. Most kangaroo rats live in the desert, but the Stevens rat—here's a better look—likes to live around Riverside County. This is a problem only because humans want to live here, too.

A few years ago, the U.S. Fish and Wildlife Service decided that all this homebuilding is enough of a threat to the rat that it should be protected under the Endangered Species Act. This means Riverside County must now spend up to $300 million to protect the rat. For local residents, this also meant that when the Fire Department posted signs ordering people, "Get rid of flammable vegetation on your property," residents were not allowed to disk the brush under. A Fish and Wildlife field officer told Michael Rowe, "You may not disk because your property is occupied."

Michael Rowe, House Survived California Fire: That was his statement. "Your land is occupied by kangaroo rats. You cannot remove the fire—vegetation hazard by disking.

Stossel: Well, what about just disking a strip?

Mr. Rowe: That's all we were asking is just a strip.

Stossel: The government followed up with a threatening letter from the Interior Department. "Provides civil and criminal penalties."

Mr. Rowe: Correct.

Stossel: So they, what, put you in jail for this?

Mr. Rowe: Yes. The term is one year in prison and $100,000 fine.

Stossel: It says here even to annoy the rat is illegal.

Mr. Rowe: Annoying means many things—shining a flashlight on it is considered annoying the rat.

Stossel: This means the homeowners are caught between Fish and Wildlife, which says, "Don't hurt the rats," and the Forestry Service, which says the best way to stop fires is to disk. Michael Rowe obeyed the non-disking rule until last month, when the California fires hit. Rowe saw flames roar through the valley toward his house.

Mr. Rowe: I went down to my equipment area and got my tractor that had the disk hooked up on it, brought it up here, cut my neighbor's fence, which you see right here, and began disking a firebreak in as much of this area as I could along the property line to protect my buildings. By the time I got about 50 feet by 200 feet disked in this particular area, the fire was already on me, burning all around the area that I had disked.

Stossel: You saved the house.

Mr. Rowe: I saved the house, no question about it.

Stossel: Twenty-nine of his neighbors lost their homes. Others here say they, too, saved their homes by breaking the law.

2nd Homeowner: And my property was in the middle of the fire and it's still there today because I do disk my property.

Mr. Stossel: Fish and Wildlife officials say, "We're not responsible for the disaster."

Dr. John Bradley, U.S. Fish and Wildlife Service: That's a tragedy of a wildfire and even disked firebreaks don't guarantee that a house is not going to burn down.

3rd Homeowner: [?] I disked in front of my house, which was illegal, from fence line to fence line. That's what saved my house. Beyond the fence line, it burned.

Stossel: Ken Tessier obeyed the law to protect the rat. He lost his home.

Ken Tessier, Lost House in California Fire: I feel that they've put—the government and the biologists have put a rodent before the human being.

Stossel: Fish and Wildlife says the Fire Department approved mowing, that that was enough.

2nd Homeowner: Mowing is not enough. I have a neighbor that mowed hers and hers is history.

Stossel: His neighbor is Anna Klimko. She followed the government's suggestion and mowed her property. Mowing doesn't disturb the rat's burrows, but it also doesn't get rid of all the vegetation, which then burned.

Ms. Klimko: In three minutes, my house was fully consumed in flames and in seven minutes, everything was gone. For what? A rat?

Stossel: But maybe this kangaroo rat is key to the ecosystem. Maybe——

Mr. Rowe: Well, you know, I sort of have a feeling that I have some key role in this society, too.

Stossel: When the Endangered Species Act passed 20 years ago, it passed easily. Everyone wants to stand for protecting nature, especially species like the bald eagle and the grizzly bear. But laws like this tend to grow.

When the act was passed, many people assumed it would protect perhaps a few dozen species, but as of this week, Fish and Wildlife has declared 600 species in danger. In the future, they say, they may expand the list to another 3,000 species.

And species aren't just animals. The act gives Fish and Wildlife power to set rules protecting insects and plants.

People who want to build are going to be confronted by you folks much more often as you classify these other 3,000 species.

Gail Kobetich, U.S. Fish and Wildlife Service: That's true. There is no doubt about it, and my advice to folks outside of California where they don't have the pressures that we have here now is to begin to plan now.

Stossel: People are going to be hearing from you?

Dr. Bradley: Yes.

Stossel: Just this spring, Fish and Wildlife declared the California gnat catcher endangered. An Orange County fire chief says this meant brush in Emerald Canyon couldn't be cleared away, and that helped this fire burn.

There are how many species—three million, 10 million, 100 million?

Dr. Bradley: Very conservative estimates are three million. There are 100 million, maybe.

Stossel: Are they all necessary?

Dr. Bradley: We don't know, but——

Stossel: So you've got to preserve all of them?

Mr. Kobetich: I'm much more inclined to the idea of protecting them and just part.

Stossel: All 600,000 species of beetle should be protected:

Mr. Kobetich: If we can.

Stossel: More people are being born all the time. Where will they live?

Mr. Kobetich: Develop denser living quarters in areas that are already developed.

Ms. Klimko: It's impossible to save every species. We can't feed every mouth on the planet. How can we possibly save every microscopic species? We've got a fly that was listed here a month ago—300 acres for this fly and 250,000 acres for a bird and 88,000 acres for a rat. The list goes on and on and on and where does it stop, till they have it all?

Downs: That's a problem, John. I can see that. Is it likely to happen again next year in California where people can't clear out brush and save their house?

Stossel: Oh now, after the fires, they are willing to talk about some compromise.

Downs: You know—I know you're aware nature weeds out species, had—and throughout geologic time, isn't there something to be said for natural selection? We're part of nature and do we—as you said, do you need all 600,000 species of beetle?

Stossel: Well, I mean, this is a good point in that evolutionary theory tells us nature is changing, adapting all the time. Lots of species have already gone extinct, many new ones are being created. The law is sort of unnatural in that it seeks to stop the clock now. And we certainly want more diversity—more species makes life richer—but do we want to turn life upside down to preserve all of them?

Downs: To preserve all of them—yeah, and the question exists whether we should preserve all of them, a trade-off seems to be almost inevitable and necessary here.

Stossel: Well, the law does not allow for a trade-off.

Downs: Interesting, John, Thank you.

[From the Los Angeles Times, Nov. 16, 1993]

IRE AFTER THE FIRE—VICTIMS SAY ENDANGERED RAT GOT MORE PROTECTION THAN THEIR HOMES

(By David W. Myers)

A group of Riverside County residents who claim they needlessly lost their homes in the recent fires are teaming up with local developers to campaign for changes in federal laws designed to protect endangered animals and plants.

Almost half a dozen burned-out families in the Winchester area of south Riverside County say their homes might have been saved if government officials had given them permission to clear the brush and build firebreaks around their property earlier this year.

But officials from the county, state and federal government discouraged home-owners from wholesale clearing because it could have displaced the Stephens' kangaroo rat, a tiny rodent put on the federal endangered species list in 1988.

The Winchester fire, which roared through the mostly rural area in late October, charred 25,100 acres and destroyed 29 homes—some of which may have been saved if homeowners had cleared their land.

"My home was destroyed by a bunch of bureaucrats in suits and so-called environmentalists who say animals are more important than people," said angry rancher Yashmael Garcia, who lost his 3,000-square-foot home in the fire.

"I'm now homeless, and it all began with a little rat."

But environmentalists worry that the emotional stories of people like Garcia may encourage lawmakers to pass hasty, ill-conceived changes to the Endangered Species Act, without considering the long-term consequences.

"These fires weren't started by the kangaroo rat, and it shouldn't be made a scapegoat for something that happened naturally," said Anne Dennis, an official with the nearby San Gorgonio chapter of the Sierra Club. "To use this as an excuse to scrap the whole Endangered Species Act would be ludicrous."

The furry kangaroo rat has been the bane of many homeowners and developers in the inland Empire for years.

The Endangered Species Act either bans or strictly limits development on most of the 77,000 acres that have been deemed "rat study" areas in Riverside County.

Builders complain that dozens of new housing projects have either been scuttled or delayed by the rodent, while some homeowners gripe that they can't even remodel their homes or build firebreaks without running afoul of the federal law.

Efforts to ease restrictions on the rat habitat and open up it up for more development have so far been unsuccessful. But now some of the fire victims, as well as other local homeowners, plan to work more closely with Southland home builders and Riverside farmers to either "de-list" the rat or repeal or amend the Endangered Species Act.

"What happened a couple of weeks ago is tragic, but the stories of the fire victims might finally help us put a human face on the cost of all this foolishness," said Michael Rows, a Riverside real estate agent who has so far been thwarted in his attempts to replace the one-bedroom house on his 20-acre parcel with a larger home.

Ironically, Rowe says his home was spared by last month's fire because he hastily built a break by completely clearing, or "discing," a swath of land as the blazes approached. The flames didn't jump the break and the house was saved, he said.

But Garcia and some of Rowe's other neighbors say they lost their homes because they obeyed the rules discouraging discing, which can kill or displace the kangaroo rat. By clearing the land to save his own house, Rowe may have violated the Endangered Species Act and could be jailed or fined.

No charges have yet been filed against Rowe.

Officials at the Riverside County Fire Department and the U.S. Fish and Wildlife Service say they had been encouraging homeowners in the fire area to mow their grass and remove the trimmings with a grass catcher.

But Rowe, Garcia and some of their neighbors say that mowing dozens of acres would be too expensive and impractical, in part because a blade that strikes a rock can spark a fire by itself.

"Besides, grass burns whether it's four inches tall or four feet tall," Garcia said. "The only way to protect against fire is to build a firebreak, and we weren't allowed to do that.

Riverside County Deputy Fire Chief Bob Martinez agreed that discing is the best way to protect property against fires, but his department had encouraged property owners to simply mow their land to appease Fish and Wildlife officials.

In addition, Martinez said there is no guarantee that discing would have saved any of the names given the intensity of the firestorm.

John Bradley, a biologist for Fish and Wildlife's Carigbad office, said no one at his agency ever explicitly told Rowe or any other homeowner in the area that discing would break federal law.

But in a letter concerning's Rowe's request to build a firebreak several months ago, the supervisor of the Carisbed office, Brooks Harper, told Rowe that the proposed break posed "potential endangered species conflicts" and that harming the rat or its habitats would make him "liable for both State and Federal prosecution."

Rowe's ongoing battles with government officials have made him an unofficial spokesman for some of the homeowners fed up with the government's restrictions on their property.

The group's efforts to amend or repeal the act, which is up for reauthorization by Congress next year, are being joined by two powerful local trade groups, the Riverside Building industry Assn. and the Riverside Farm Bureau.

"I think the public is starting to realize that the kangaroo rat is not an issue that affects only big developers," said Jon Friedman, president of the builders group, who claimed to have had two housing projects torpedoed by concerns over the rodent.

"Hopefully, something good will come out of these fires," said Dennis Hollingsworth, the Farm Bureau's environmental manger, who complained that some farmers have been prevented from working their land because it could displace the rat.

"It was bad enough that some people had to lose their homes," Hollingsworth said, "It would be even worse if Congress ignored their loss and leaves the act intact."

Indeed, the political heat caused by last month's fires is being felt in Washington.

"We have to change the [environmental] laws so they show more concern about human life and property rights," said Rep. Ken Calvert (R-Riverside), who added that he may ask fire victims to testify before Congress in his efforts to amend the Endangered Species Act.

At the very least, Deputy Fire Chief Martinez hopes that last month's blasts will lead to some type of compromise that will balance the Fire Department's primary responsibility to protest the public with the government's goal of protecting endangered species.

A CITATION HONORING A. JOHN MENICHETTI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NEWINGTON CHILDREN'S HOSPITAL

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. KENNELLY. Mr. Speaker, since coming to Newington Children's Hospital as president and chief executive officer in 1976, A. John Menichetti has dedicated himself to improving the delivery of health care services to the children in Connecticut.

In August, John Menichetti announced that he is taking a medical retirement, effective June 30, 1993.

In honor of John Menichetti's 17 years of service, Newington Children's Hospital is honoring him during its annual meeting of the board of directors and board of governors on December 7.

As Newington's president, John Menichetti has been responsible for the development of goals and objectives for the hospital; coordination of institutional operations; integration of activities of the board of directors and hospital management; served as the hospital's primary representative to its patients and the public and provided leadership to the hospital's more than 700 employees.

In 1985, as the result of a corporate restructuring, John Menichetti assumed the additional responsibilities of president and chief executive officer of a number of new corporate entities including NCH Corporation, the hospital's parent corporation; the Newington Children's Hospital Foundation, NCH affiliates, Inc. a nonprofit subsidiary corporation; and Newington Ventures, a for-profit subsidiary corporation.

John Menichetti's most significant accomplishment at Newington has been his unswerving leadership toward the creation of a comprehensive children's hospital. Since the early 1980's his vision of a hospital that could serve all a child's medical needs in one location has guided Newington Children's Hospital toward this goal.

Today, Newington Children's Hospital is at the crossroads of the most significant new direction in its 95-year history of providing specially medical and surgical care to children with disabilities. Through a consolidation with the pediatric programs and personnel of Hartford Hospital and the University of Connecticut Health Center's John Dempsey Hospital, a new Newington Children's Hospital will be built in Hartford.

This new children's hospital will provide a full spectrum of health care services to the children of Connecticut. It's mission will be to keep children healthy and safe, provide sophisticated medical and surgical care when they are sick or injured, and help children reach their full development potential.

In 1986, the first formal step toward this goal was taken when Newington Children's Hospital signed a memorandum of understanding with Hartford Hospital to embark on this new course. In 1989 Newington Children's Hospital joined Hartford Hospital's parent organization, Connecticut Health System, providing the institutional flexibility necessary to make the new children's hospital a reality.

Throughout a long regulatory approval process, John Menichetti's leadership and dedication helped keep the plan for the new children's hospital moving forward.

He guided the hospital's board of directors through the considerable compromises and accommodations necessary to achieve approval. His commitment to the vision of the new children's hospital was confirmed by the many courageous decisions made by the board.

Newington Children's Hospital is trying to accomplish something that only one other hospital in the country is even considering. It is moving from a suburban location that has been home for 95 years, to the inner city of Hartford, the fourth poorest city in the country in one of the Nation's wealthiest States.

This move will greatly improve children's access to badly needed primary and preventive health care services. The new children's hospital will be the hub of a complete range of pediatric practitioners of the future.

To further demonstrate it's commitment to improving children's health, Newington Children's Hospital has taken a leadership role in committing $15 million to endow the Greater Hartford Children's Fund. This fund, the first of its kind in the Nation, will provide grants to community-base initiatives supporting such programs as preventing lead poisoning and curbing adolescent violence.

It takes a leader with extraordinary courage and foresight to commit a hospital to the kind of dramatic changes required by the health care situation in this country, and that person is A. John Menichetti.

Thank you, John, on behalf of all the children who will benefit from what we know will be a great hospital for the children of Connecitcut.

IN HONOR OF KENNETH BEATY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SARPALIUS. Mr. Speaker, I rise today to honor an individual who has shown his strength and courage to all of America. Kenneth Beaty was recently released from a Iraqi prison, after serving 7 months of an 8-year prison term.

Mr. Beaty was sentenced to prison in Iraq for illegally entering that Middle East country from Kuwait. The oil man, employed by Santa Fe Drilling based in Orange, CA, has problems with his health and several of my colleagues and I soon began asking for his humanitarian release. Senator DAVID BOREN, of Oklahoma, went to Iraq on the weekend of November 14 after President Saddam Hussein honored that humanitarian request, and was able to bring Mr. Beaty home to the United States.

Mr. Beaty graduated in 1966 from Borger High School. He attended Oklahoma State University before going to work for Santa Fe Drilling. His current home is in Mustang, OK. He is married to the former Robin Smith of Cushing, OK, and they have two young daughters.

While in prison, Mr. Beaty was kept relatively comfortable along with several other prisoners from Sweden, Britain, the Philippines, and Pakistan. The prisoners were allowed to leave their cells, cook together, and socialize. Mr. Beaty's health was monitored fairly closely.

Prison is not a pleasant experience, and it is especially unpleasant in a foreign country. But Mr. Beaty demonstrated extreme courage during the past 7 months, and he never lost faith in the possibility of a happy ending.

Mr. Speaker, I thank my colleagues who help in the humanitarian effort and ask that they all join me in this special honor to Kenneth Beaty.

FEDERATION OF STATE MEDICAL BOARDS

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BLILEY. Mr. Speaker, during the debate of the North American Free-Trade Agreement [NAFTA], it was my intention to have correspondence between the Federation of State Medical Boards of the United States, Inc., and the Office of the United States Trade Representative included as part of my remarks. It is important to have this correspondence included in the CONGRESSIONAL RECORD, for it explains how NAFTA will not preempt the authority of State medical boards.

Unfortunately, due to a clerical error, these letters were not part of my remarks. For that reason, I wanted to take this opportunity to place the correspondence into the CONGRESSIONAL RECORD.

THE FEDERATION OF STATE MEDICAL
BOARDS OF THE UNITED STATES,
INC.,
Ft. Worth, TX, November 9, 1993.

Ambassador MICHAEL KANTOR,
United States Trade Representative, Washington, DC.

Re: North American Free Trade Agreement.

DEAR AMBASSADOR KANTOR: The Federation of State Medical Boards is a national organization, the members of which are the state medical licensing and disciplinary boards in the fifty states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands. The Federation has examined the North American Free Trade Agreement in an attempt to determine its effect, if any, upon state medical board licensing activities, an issue of great concern to our membership and to the public. Our review has focused primarily on the issue of whether NAFTA will preempt a state's authority to license physicians. We believe NAFTA does not preempt the licensing authority of the states, and we are writing to you for confirmation or refutation of our interpretation of the treaty.

Under NAFTA's definitions physician services fall under professional services and are addressed in Chapter Twelve "Cross-Border Trade in Services" and Chapter Sixteen "Temporary Entry for Business Persons." Using these chapter titles, we have stated our conclusions and presented our reasoning for these conclusions on the topics of licensing and certification, mutual recognition of licensed professionals, and temporary entry procedures.

CROSS-BORDER TRADE IN SERVICES

1. It is our conclusion that state medical board licensing standards are not preempted.

NAFTA's objective in relation to licensing is to prevent licensing requirements from being "unnecessary barriers to trade." Art. 1210, sec. 1 provides that any state licensing requirements be 1) based on objective and transparent criteria, 2) not be unduly burdensome, and 3) not constitute a disguised restriction on the provision of services across borders. These standards are not necessarily preemptive of the states' licensing authority. A state can set its own licensure requirements as long as the requirements fall within these standards. Requirements not based upon competence or which are considered to restrict trade will have to be revised or eliminated by the states.

NAFTA sets requirements for processing applications for licenses and certifications (Annex 1210.5). NAFTA requires that upon receipt of complete applications a determination on the application and notification of that determination must be made within "a reasonable time". Upon receipt of an incomplete application the applicant must be informed "without undue delay" of the status of the application and what information is necessary to complete the application. Thus, although a state licensing board may be obliged to review licensure applications of physicians from NAFTA countries, the board may apply the same standards and criteria in reviewing the qualifications of these applicants as it applies to domestic applicants. If such items as educational and training qualifications are not within the state's established standards, the state will be under no obligation to grant a license to an individual just because that person is a citizen of a NAFTA party.

2. It is our conclusion that Art. 1203 "most favored nation" designation will not change state licensure requirements or standards.

Article 1210, section 2(a) expressly states that most favored nation treatment (Art. 1203) does not require the recognition of education, experience, licenses or certifications obtained in other countries. Although NAFTA countries must give each other adequate opportunity to demonstrate that their respective education, experience, or licenses or certifications should be recognized, any process by which these issues are discussed in the context of medical licensure will not lead to coercive efforts to force a state's acceptance of any element of an applicant's qualifications.

3. It is our conclusion that some state medical boards' requirements concerning citizenship and permanent residency will be affected by NAFTA.

Art. 1206 of NAFTA requires elimination of all citizenship and permanent residency requirements for licensing of professionals within two years after implementation of the treaty. As a result of this provision, any state seeking to maintain citizenship or permanent residency requirements may need to seek an exception, or "reservation" from NAFTA. A board seeking such a reservation will not, however, be subjected to any dispute settlement cases under the treaty.

4. It is our conclusion that the provisions dealing with mutual recognition of licensed professionals do not to require automatic recognition of credentials of physicians of other countries.

Contrary to the concept of automatic recognition of credentials, the provisions of Annex 1210.5 suggest and encourage, but do not mandate, the development of standards and criteria for licensing which are mutually acceptable to all of the countries under the Agreement. Education, examination, experience, conduct and ethics, professional development and re-certification, scope of practice, local knowledge and consumer protection are given as possible but not exclusive criteria upon which the NAFTA parties may develop such standards. It is our understanding that the section will not be used to force NAFTA countries to agree to any common standards, but is suggestive only.

TEMPORARY ENTRY FOR BUSINESS PERSONS

1. It is our conclusion that Chapter 16 provisions do not prohibit state medical boards from applying applicable licensure standards to physicians.

Annex 1602, section D, pertains only to physicians desiring to enter the United States to teach or research, not physicians wanting to practice medicine temporarily in the U.S. The purpose of this Chapter is to simplify the documentation required for physicians desiring to teach or research temporarily in a NAFTA country. This chapter does not circumvent state licensure requirements, and a citizen of a NAFTA country seeking to enter the U.S. even in a teaching or research capacity will be required to meet licensure requirements of a given state as required for the activities that individual will undertake.

We look forward to your comments about our interpretations of this important document. If our interpretation is incorrect on any points, please inform us so that we may reevalute our position based on new information.

Thank you in advance for your consideration of and prompt response to this letter.

Yours truly,

DOROTHY G. HARWOOD, JD,
Assistant Vice President,
Administrative and Legislative Affairs.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE,
Washington, DC.

MS. DOROTHY G. HARWOOD, JD,
Assistant Vice President, Administrative and Legislative Affairs, The Federation of State Medical Boards of the United States, Inc., Fort Worth, TX.

DEAR MS. HARWOOD: Thank you for your letter of November 9 outlining the results of your review of the North American Free Trade Agreement. Your letter addresses the five issues most asked about by medical professionals and other concerned individuals.

We agree with your interpretations of Chapter 12 and Chapter 16 of the NAFTA, and how they will affect the duties of state medical boards. The NAFTA does not permit Mexican or Canadian health care professionals—or any professional service providers—to circumvent state licensing and certification procedures. The NAFTA does not permit Mexican or Canadian professionals to practice a licensed profession in the United States, even on a temporary basis, without meeting all applicable state licensing criteria and receiving such a license. Nor does the NAFTA require any change in state certification or licensing criteria or procedures, except for citizenship or permanent residency requirements. The Statement of Administrative Action presented to the Congress by the President also states this very clearly.

I appreciate the effort you have made in taking the time to thoroughly review the NAFTA. If you need additional information, please do not hesitate to contact my office.

Sincerely,

DONALD S. ABELSON,
Assistant U.S. Trade Representative
for Services, Investment,
and Intellectual Property.

OCEANSIDE COMES TOGETHER TO RESPOND TO BIGOTRY

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KING. Mr. Speaker, it is truly remarkable to see an entire community come together to respond to a crisis. I am proud to report that Oceanside, NY, a community in my district, is one such place where this is happening.

I had intended to rise today only to condemn and express my outrage at recent acts of anti-Semitic vandalism in Oceanside. And I do want to clearly state that these incidents are disgusting acts and an unacceptable affront to the decent and hard-working people of Oceanside and neighboring communities on Long Island. Very simply, such acts cannot and will not be tolerated.

However, rather than taking time to discuss the outrageous actions of a few very troubled individuals, I want to report to the Members of this institution on the admirable response of the people of Oceanside and an important event scheduled for this Sunday.

From the beginning of this crisis, people have decided to come together. An antibias task force was formed. A community meeting was scheduled to develop a strategy and more than 400 people attended—far in excess of anyone's predictions. Civic organizations, religious leaders, educators, merchants, law enforcement officials, and concerned citizens have all been working together to promote awareness—among young and old of the threat posed by the haters.

Mr. Speaker, I am pleased to report that the task force has scheduled a day-of-unity rally to make a stand against prejudice. The event will be held at Oceanside High School on Sunday, November 28 at 1:30 p.m. I am proud to say that I will attend and have personally encouraged my friends, neighbors, and other government officials to do so.

Since taking office earlier this year, I have made it a top priority to condemn the kinds of acts that have plagued the people of Oceanside and to speak out at schools, houses of worship, in public forums, and in the Chamber. I have also contacted local law enforcement officials to urge that every effort be made to bring to justice those responsible for crimes of hate.

I am pleased to report that the dedicated men and women of the Nassau County Police Department have worked tirelessly in this matter. They have established a 24-hour hotline for anyone who has information about bias-related vandalism. The telephone number is (516) 573–7717.

Mr. Speaker, if we have learned any lesson from the past, it is that we cannot remain silent in the face of intolerance and bigotry. I commend the people of Oceanside who are responding to this insidious threat and who, by coming together, have already won a great victory over hate.

OUTSTANDING COMMUNITY INVESTMENT AWARD

1993

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MEEHAN. Mr. Speaker, I want to call attention to the fine work performed by the Coalition for a Better Acre and Enterprise Bank and Trust in the development of my hometown, Lowell, MA. CBA and Enterprise are being recognized by the Social Compact in conjunction with the 1993 Outstanding Community Investment Awards program, which focuses national attention on outstanding efforts to strengthen disadvantaged neighborhoods.

The Coalition for a Better Acre [CBA] is Lowell's only community based nonprofit development organization. Its Hispanic Empowerment and Leadership Project and Southeast Asian Organizing Project help local residents strengthen their communities and revitalize their neighborhoods. The Enterprise Development Center focuses on the creation and retention of local jobs by supporting the smallest and newest business ventures in high-growth sectors of the economy. In the field of affordable housing, the CBA has developed nearly 400 residential units for low- and moderate-income people.

The Acre community in Lowell is one of New England's most diverse—and poorest—communities, with nearly 85 percent of its 15,000 residents living in poverty. With thousands of jobs lost in the Lowell area since the beginning of the recession in 1989, home businesses, self-employment ventures and micro-sized enterprises have exploded in number and represent a critical source of income for the urban poor in the Acre and provide a realistic alternative to minimum wage jobs and welfare.

With the help of Enterprise Bank and Trust, CBA created the Minority Enterprise Development Assistance Initiative [MEDAI] in 1992. MEDAI is based on a micro-enterprise development model created by the Grameen Bank in Bangladesh. The program offers $500 working capital loans to individuals who form peer groups of up to seven members. To be eligible for participation in MEDAI, peer members must be currently living on some type of public assistance. As a group, the members review each other's business plans and then approve and co-sign each other's loans. Loans graduate up to $1,500 when members stay current on payments.

Enterprise played a lead role in capitalizing the experimental MEDAI peer loan program by pledging $25,000. In addition, the chief executive officer and assistant vice president actively participated in the planning and development of the program and continue to offer their advice and expertise on a regular basis.

CBA secured operating funds from the city of Lowell, private foundations, and national religious philanthropic organizations, including the Theodore Edson Parker Foundation, Sun Microsystems Inc., the Marianist Sharing Fund, and the Adrian Dominican Sisters. In addition to loan fund capital supplied by Enterprise, loan pool resources were committed from five additional banks, the city of Lowell, and religious philanthropies. In all, 11 different sources of funds were found to begin the MEDAI program.

This awards program is built upon a national competition which seeks out the most innovative and effective affordable housing, community and/or economic development strategies carried out by partnerships between financial services institutions and neighborhood-based nonprofit organizations. With the support of the country's national nonprofit housing and community development leadership, almost 2,000 applications were distributed and 120 applications received. The award-winning partnerships are representative of each of the types of financial services institutions represented in the pool of applicants. Each of these nonprofit partners receives a grant averaging $5,000 to further their work. The CBA/Enterprise Bank and Trust partnership was chosen as one of sixteen honorees in the Outstanding Community Investment Awards competition. I think the keen competition for this award speaks to the exemplary quality of work by both the coalition and Enterprise in helping restore the economic vitality of Lowell.

FEDERAL PROGRAM FOR ARTS IN SMALL COMMUNITIES

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ROWLAND. Mr. Speaker, a modest Federal program to help devleop the arts in smaller communities throughout the country is something I have long supported. Such a program not only enriches communities from a cultural standpoint, it also has real economic benefits. Artistic activities such as theater, musical events, and museums greatly enhance the growth potential as well as the quality of life of every community.

Tift County and neighboring areas of southwest Georgia are an example of this. Artistically, this is an area that is really on the move. There are a number of reasons for this, including the work of the arts experiment station at Abraham Baldwin College in Tifton, the contributions of the Georgia Council for the Arts, the assistance from the National Endowment for the Arts, and, most of all, the support of civic leaders like the Tifton-Tift Chamber of Commerce and the community at large.

These are the artistic initiatives now underway: The renovation of an historic church building in Tifton so it can be converted into a museum of arts and cultural heritage; a chamber music program in Tift, Turner, Irwin, Ben Hill, and Colquitt Counties through a 9-month residency of 11 professional musicians; a series of professional performing events for the community including dance, storytelling, orchestral programs, and theater; an exhibition of Georgia artists in two shows, including a national show attracting artists from throughout the country and an art display specially designed for the visually impaired; a series of performing art programs in the public schools; and recognition of a fine arts festival as a cultural olympiad event by the Atlanta Committee for the Olympic Games.

This is an example of how a partnership between private citizens and State and Federal Government can work for the benefit of everyone. Community development is what NEA does best. And it is the part of NEA's mandate that should be emphasized more.

TRIBUTE TO HAROLD BATESON ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to Harold Bateson, on the occasion of his retirement as auditor of Wood County, OH.

A lifelong resident of Wood County, Harold has been auditor since 1971. He and his wife, Betty, have a farm partnership with their two sons, Tom and Mike. The Batesons also have two daughters, Sally and Ann.

Prior to becoming auditor, Mr. Bateson served three terms as a Liberty Township trustee and has served as president of both the Wood County Township Trustees Association and Ohio Township Trustees Associations. He is a former president of the Wood County Cooperative Extension and Advisory Committee and served three terms as director of the Wood County Soil and Water Conservation.

Bateson was actively involved in promoting the State constitutional amendment creating the Agricultural Land Use Program. He also was instrumental in passage of the Farmland Preservation Act which creates agricultural districts. Since his initial election as auditor, he has expanded the modernization of Wood County's tax accounting procedures through massive computerization, all without additional staff or the incident costs to the taxpayers.

He is past president of the County Auditor's Association of Ohio and currently represents that organization on the State Advisory Board for current agricultural land use. As a member of the legislative committee for the County Auditor's Association, Mr. Bateson is frequently called upon to offer expert testimony before various State senate and house committees in Columbus.

The professionalism demonstrated by Bateson's administration has been recognized by the voters in his past campaigns. He would often receive the highest percentage vote of any candidate, regardless of party affiliation, on the ballot in Wood County.

Mr. Speaker, I ask my colleagues to join me in congratulating Harold Bateson on a job well done and wish him the best in the years ahead.

TRIBUTE TO WALTER CHRISTIAN PLOESER

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TALENT. Mr. Speaker, I rise today to recognize the Honorable Walter Christian Ploeser, a former distinguished Member of this body, who passed away on November 16, 1993, at the age of 86. He was a remarkable man who epitomized the concept that with hard work, you can accomplish anything regardless of income. Orphaned at age 7 and raised by maternal and paternal aunts, hawking newspapers in Wyoming at age 11, selling insurance at age 15, and forming his own business at age 26, he took life's setbacks as challenges to expand his opportunities beyond most people's imagination.

Mr. Ploeser's drive for excellence is shown in the many ways he served his country. In 1931, at age 25, he was elected to serve as a State representative to the Missouri General Assembly. At that time he was the youngest person ever elected to the State House. In 1934 he founded the Young Republicans Federation of Missouri and served as its first president until 1935. From 1937–38 Mr. Ploeser served as regional chairman of the Republican National Program Committee. In 1941 he was elected to represent the 12th U.S. Congressional District of Missouri, where he served until 1949. While there, he served as a member of the Republican Steering Committee, was the Chairman—80th Congress—Select Committee on Small Business, was chairman of the Appropriation Subcommittee on Government Corporations, and was a member of the Navy Appropriations Committee. He was rated one of Congress' six best orators in the 1940's.

In 1953, Mr. Ploeser served as citizen advisor to the U.S. Senate Committee on Banking and Currency. In 1957, President Eisenhower appointed him to be U.S. Ambassador to Paraguay. He served in that position until 1959, and was decorated with the Grand Cross of the Republican or Paraguay. In 1966, he served as the Republican National Committeeman for Missouri. In 1970, President Nixon appointed him U.S. Ambassador to Costa Rica, a position he held until 1972.

During his time of political service, Mr. Ploeser received numerous awards. Among them: The Navy Certificate of merit, an Honorary Doctor of Law from Norwich University, and Honorary Doctorate of Honoris Causa-National University of Asuncion, Paraguay, the Wisdom Award of Honor of Wisdom Hall of Fame and the Religious Freedom Award.

Mr. Ploeser's accomplishments and service were not limited to just the political front. In 1964, he served as chairman of the Salvation Army Tree of Lights Campaign, an organization with which he was involved for many years. He was active in many Masonic organizations as well. In 1986, he was inducted into the Demolay Hall of Fame. In 1961, he rose to 33 degree status in the Scottish Rite, the highest level of Scottish Rite masonry. That year he also served as potentate of Moolah Shrine Temple. In 1967, he was appointed Sovereign Grand Inspector General of the Orient of Missouri of the Scottish Rite. He retired from that position in 1988.

Mr. Ploeser is listed in Who's Who in America, Who's Who in the World, Who's Who in Finance and Industry, Who's Who in the Midwest, and Who's Who in American Politics.

Mr. Speaker, the Honorable Walter Christian Ploeser is survived by his two daughters, five grandchildren, and six great-grandchildren. He will be greatly missed by his family and the many friends whose lives he has touched.

ELECTIONS IN JORDAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HAMILTON. Mr. Speaker, on November 8, 1993, the Jordanian people participated in free and open parliamentary elections. These elections were the first multiparty elections to take place in Jordan in nearly 40 years. They were among the freest ever to take place in the Arab world. The people of Jordan can be justifiably proud of their emerging democracy, which has produced a democratically elected, representative parliament.

The United States has placed a high value on helping other nations around the world achieve democratic forms of government. The people and Government of Jordan should know that the American people support them in this noble undertaking. It is my hope that the example set by Jordan will inspire similarly free elections elsewhere in the Arab world and that the spread of democracy will augur an era of peace, prosperity, and stability in the Middle East.

QUEENS PUBLIC LIBRARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ACKERMAN. Mr. Speaker, it is with great pride that I bring to the attention of the House a special project under consideration in my home district of Queens, NY. The Queens Public Library, the busiest library in the United States and one of the most appreciated institutions in all of New York City, is spearheading a visionary effort to construct an Asian Center as part of their new, state-of-the-art library complex in Flushing, NY. When completed, this multifaceted library will serve as a cultural resource and beacon for the multiethnic residents of the Borough of Queens and the Greater New York Metropolitan area.

Recognizing both the critical need and the crucial importance of library functions, the city of New York has pledged over $20 million in construction financing for this important new building. No city funds, however, are available for the proposed Asian Center, an integral component of this development.

The Queens Library makes an essential contribution to the cohesiveness of community unity by providing thousands of free programs—educational, cultural, and practical self-help—along with free borrowing privileges for books, tapes, and videos. The Queens Library provides critical services to tens of thousands of new immigrants who daily come to its doors for help. For example, a newly arrived Chinese or Korean immigrant will find free classes in English as well as programs in their native language to help them find a job or to adjust to the bewilderment of life in America.

The Borough of Queens in New York City is the most ethnically diverse region in the country, and has the largest concentration of Asian-Americans east of California. They have, as all ethnic groups do, special language and cultural needs. Through the proposed Asian Center, the library will establish a bridge between its Asian and non-Asian residents. The Asian Center will promote community harmony and cultural understanding by providing a forum—open to all residents—for a limitless range of programs on Asian culture, such as lectures, music appreciation, readings, et cetera. The proposed Asian Center will become an important business reference resource for the growing number of Asian businesses which are locating and expanding in Queens.

I applaud the Queens Library for undertaking this project. I look forward to reporting to the House that financial support has been secured and the Asian Center's potential has begun to be realized.

DEVELOPMENT OF ARTICLES OF INCORPORATION FOR TERRITORIES OF THE UNITED STATES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today to provide a process to permit any U.S. territory to be considered decolonized by international standards through incorporation with the United States. The citizens of a territory could seek full self-government with constitutional rights and responsibilities equal to those of citizens in the several States, by the development of articles of incorporation. The goal, if possible, is to achieve decolonization for all of the U.S. territories by the end of this decade.

It would be at the discretion of a territory to initiate a request of the United States to discuss incorporation with the United States of America. Both the President of the United States and the Governor of the territory would designate special representatives to consult and develop, in good faith, articles of incorporation for the territory concerned. The proposed articles would include measures that lead to the political empowerment of the U.S. citizens of the territory. Those measures may include special Federal laws or a constitutional amendment to address the matter of enfranchisement and representation. Incorporation provisions could be phased in over an extended period of time, with varying transition periods for benefits and responsibilities.

The articles of incorporation and an accompanying report would be submitted to the Congress within 1 year after the appointment of the special representatives, but not later than December 31, 1998. This would give Congress time to act on the matter before the end of the decade. It is expected that incorporation would not become effective until the congressionally approved articles of incorporation had been accepted by the people of the requesting territory in a freely expressed act of self determination.

The United Nations has declared the 1990's as the International Decade for the Eradication of Colonialism. A territory may be considered fully self-governing and decolonized, either as an independent and sovereign entity through independence or free association, as in the case of the Philippines and the Marshall Islands, or by being incorporated into an administering power. The residents of U.S. territories currently live in unincorporated areas in which the Constitution has not been extended in full.

I am aware of the aspirations of the citizens in the territories as I have served for over 20 years on the committee in the House with primary jurisdiction for insular affairs. I represent Alaska which was an unincorporated territory for 45 years. Then, in 1912, Congress enacted legislation in order for the Constitution to have the same force and effect in the Territory of Alaska as in the several States. A similar act of incorporation had been passed some years earlier for the Territory of Hawaii. No other territory has subsequently been extended the full protections and rights under the Constitution. Although the act of incorporation has carried with it a promise of equal citizenship rights, it has been incorrectly assumed that those rights could only be attained through statehood. This misperception has lead to the limited application of the Constitution to the territories.

To help clarify this matter, in December, 1989, I asked the General Accounting Office to analyze and study the extent to which the Constitution applied to the territories. In June 1991, the GAO responded with a report entitled "The Applicability of Relevant Provisions of the U.S. Constitution to the Territories." The report indicated that not only does the Constitution not apply in full to the territories, but its application varies with each of the unincorporated territories: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands.

The history of United States decolonization has shown that the only status options which have successfully lead to full self-government have been independence and statehood. While some form of an unincorporated territory has been developed with the label of "commonwealth" in the cases of Puerto Rico and the Northern Mariana Islands, neither of these has been recognized as having achieved decolonization. Other creative formulations of commonwealth have been proposed by Guam, Puerto Rico and other territories, although the fundamental resulting status will be that of an unincorporated territory. This is not in opposition to the title "commonwealth." An incorporated commonwealth is consistent with the U.S. Federal system. There are currently four incorporated commonwealths; all happen to be States. The question that must be answered is, Can an unincorporated territory under the territorial clause of the Constitution, as defined in the insular cases, achieve full self-government and equality of rights, and thereby be considered decolonized? The answer so far is "no" and it is implausible that it could ever be otherwise.

A void has existed in the development of an alternative mechanism toward full self-government and equality of constitutional rights of the citizens in the U.S. territories, particularly for the smaller territories which have not met the traditional profile of a State. This legislation is a serious attempt to provide a path for the people of a territory who want to be a permanent part of the United States, but do not believe unincorporated territorial status provides a viable basis for permanent union.

For years attempts have been made to develop relationships between the Federal Government and the unincorporated territories which provide a degree of self-government which would be viewed as fully self-governing by international standards. In many instances these were precedent-setting acts which did provide for increased local self-government. Territories were authorized to elect their own Governors and establish legislatures, court systems, and local constitutions. Today, nearly all of the territories are represented in the Congress by a nonvoting delegate. Special Federal laws have been enacted to provide for economic development in the territories. All of these have contributed to the development of self-government in the territories. However, the fundamental Federal-territorial relationship remains as an unincorporated territory.

Regardless of how one attempts to embellish or enhance these relationships, as long as the Constitution has not been extended in full, or conversely withdrawn along with U.S. sovereignty, an unincorporated territorial status exists. I hope no one misconstrues what I am saying as derogatory to the development in self-government that has taken place in the territories. Both the United States and the territories can proudly point to the many substantive developments in self-government which have occurred over the years in the territories.

However, the United Nations has defined what it means for a non-self-governing territory to be considered fully self-governing. The territory either becomes incorporated into the administering power or a separate and distinct sovereign entity. The latter means independence or a form of independence termed "free association." We have had a number of territories or trust territories which have chosen separate sovereignty from the United States: Cuba, the Philippines, the Marshall Islands, the Federated States of Micronesia, and most recently, Palau.

The attempts which have been made to develop self-government in the unincorporated territories have yet to result in decolonization. When the cold war was raging, the United States was attacked as a colonial power by the Communist block. The United States responded for many years by pointing to various improvements in self-government in the territories. However, all of the possible improvements to self-government in unincorporated territories have been insufficient to meet the decolonizing definition of full self-government.

It is important to have this process for the incorporation of any U.S. territory to become law if a genuine effort is to be made to bring about decolonization before the end of this century. It remains up to the people of the territories to determine if they want to seek a closer relationship with the United States. This will provide a path to explore arrangements unique to the needs of a territory, while achieving full self-government and equality of rights.

The following is the text of the bill to provide consultations for the development of articles of incorporations for territories of the United States.

H.R. 3715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARTICLES OF INCORPORATION.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the United Nations General Assembly has declared the 1990's to be the International Decade for the Eradication of Colonialism;

(B) the United States is one of the remaining administering powers responsible for the evolution of self-government in territories;

(C) a territory may be considered de- colonized once incorporated into an administering power consistent with a freely expressed act of self-determination of the people of the territory;

(D) nearly 4,000,000 United States citizens live in unincorporated territories in which the United States Constitution has not been extended in full; and

(E) the citizenship of residents born in the unincorporated United States territories is of a subordinated nature without equal protection, rights, and responsibilities of those born in the several States.

(2) PURPOSE.—The purpose of this Act is to provide for a process to enable the people of any United States territory to become self-governing with constitutional rights and responsibilities equal to those of the citizens in the several States, through consultation and working with the United States.

(b) GENERAL AUTHORITY.—Before the period ending on December 31, 1998, a territory of the United States may develop, in consultation with the United States, and submit to the Congress proposed Articles of Incorporation, which shall include measures that lead to the political empowerment of the United States citizens of the territory.

(c) APPOINTMENT OF SPECIAL REPRESENTATIVES.—At the request of a government of a territory of the United States to discuss incorporation with the United States of America, the President of the United States and the Governor of the requesting territory may designate special representatives to consult and develop in good faith, Articles of Incorporation, with the United States.

(d) SUBMISSION TO CONGRESS.—The proposed Articles of Incorporation and accompanying report of the consultations shall be transmitted to the United States Congress within one year after the appointment of the special representatives, but not later than December 31, 1998.

(e) DEFINITION.—As used in this section, the term "territory of the United States" includes the Territory of American Samoa, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Territory of the United States Virgin Islands.

EXEMPT ORGANIZATION REFORM ACT OF 1993

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, today I rise to introduce a bill with three reforms to exempt organization law. My bill would first, create a category of transactions that would be considered self-dealing because of insiders involved in a transfer of 501(c)(3) and 501(c)(4) organization assets; second, clarify that private inurement prohibitions apply to 501(c)(4) organizations; and third, impose intermediate sanctions on both private inurement and self-dealing transactions.

This bill is necessary because assets accumulated by organizations enjoying tax exempt status are being raided through certain business transactions and the IRS does not have appropriate sanctions to address the problem.

Problems of insiders inappropriately benefiting from a tax exempt entity are all too common among nonprofit healthcare providers. For this reason, I have introduced this bill now, with the hope that it will be incorporated into any health reform proposal enacted. However, the problem is broader than what is evident in the health care field. The following examples illustrate transactions in which individuals have enriched themselves at the public's expense while nonprofit organizations have been looted.

The Cystic Fibrosis Foundation, one of the country's largest and best known charities, recently announced a plan to transfer the use of its most valuable assets to the foundation's current president, Robert K. Dresser. Mr. Dresser reportedly was interested in leaving the nonprofit sector and starting up his own business. To assist Mr. Dresser in his new venture, the board of trustees is considering the transfer of half of the work force of the nonprofit, the direct mail list that raised $13.8 million in contributions last year, the mail order pharmaceutical operation that reported sales of $10 million last year, and its home health services that generated $3.4 million in revenues last year.

In considering the transfer of assets to the current president, the foundation's board rejected the idea of requiring Mr. Dresser to bid or compete with other companies for the work his new company will perform.

Televangelist Pat Robertson, chairman of Christian Broadcasting Network [CBN], and his son, Timothy, turned a $150,000 investment into stock worth $90 million by the 1992 sale to the public of cable TV stock they had originally bought from CBN.

This story is complicated, with twists and turns that often exist in self-dealing and private inurement cases. A cable TV programming company, the Family Channel, was started in 1977 as a division of the nonprofit CBN and financed with charitable donations of viewers. CBN wanted to sell the Family Channel in 1989, partly because the Family Channel was so lucrative that it jeopardized the tax exempt status of the CBN—IRS rules require charities to get their revenues more from charitable activities than from business activities. The family channel reportedly generated $17.5 million in just 9 months of 1989.

For the purchase in 1990, Pat and Tim Robertson formed a for profit company, the International Family Entertainment, Inc., [IFE], with a minority shareholder and bought the Family Channel. The Robertsons put up $150,000—2.22 cents a share—and the minority shareholder put up $22 million.

IFE/Family Channel went public at $15 a share in 1992, and the Robertsons' $150,000 investment became worth $90 million. They retain 69 percent control of IFE/Family Channel. The Family Channel continues to be a cash cow. Pat Robertson's 1992 salary and bonus from IFE/Family Channel amounted to $390,611. His son, Tim, received $465,731 in 1992.

All the while, Robertson remains chairman of the nonprofit CBN that created the lucrative Family Channel.

Health Net in California is a third example of what should not happen.

Health Net, a not for profit health plan with 844,000 members, proposed a conversion to for profit status. Health Net's board of directors approved an offer by a group of insiders—many of the board members and key management personnel—for significantly less than all other bidders. This self-dealing by the organization's insiders could reap a benefit of hundreds of millions of dollars.

Health Net insiders led by Health Net chairman Roger Greaves initially bid $108 million for Health Net. The bid was later increased to $127. The Health Net insiders' deal would have required them to pay only $1.5 million in cash and a note for the balance owed to be paid out of the profits of the new entity. Tax law requires that the value of the assets at the time of conversion must go to a charitable organization.

When outsiders bid on Health Net, offers ranged from $130 million to $300 million. Salomon Bros. appraised Health Net for one of the bidders and came up with an estimated value of between $252 and $302 million—more than twice the amount that the board agreed to accept from the Greaves group of insiders.

Health Net's stated reason for the conversion was to get access to capital and yet they summarily rejected a merger offer by Blue Cross of California which would have provided a substantial source of debt-free capital, significantly reduced administrative costs, and maintained the not-for-profit status as well.

But the insiders had a different standard for what was a good deal.

Another example of abuse by insiders involved directors of a nonprofit psychiatric hospital purchasing the hospital's assets for $6.3 million and selling them 2 years later for $29.6 million. In this case, although the IRS retroactively revoked the hospital's exempt status, no tax penalties exist to levy against the directors who pocketed $23 million on the deal.

In the medical area, there are, and will continue to be, a growing number of transactions involving the purchase of private medical practices. Sale of physician practices often involves physicians with a substantial influence over the exempt organization purchaser. Two recent IRS rulings illustrate the amounts and issues at stake.

Under the first ruling, the exempt organization paid $110 million for private medical practices and assets, including intangible assets such as covenants not to compete, HMO contracts, an assembled work force, warranty rights, trademarks and trade names. In the second ruling, the facts involved an $8 million purchase of stock of a private medical corporation whose assets consisted largely of intangible assets such as its trade name, patient files and records, software, a work force in place, contracts to provide medical services, noncompetition agreements, and goodwill.

In both cases, the IRS approval was contingent upon no more than fair market value being paid to the physicians in the practice. However, the IRS cannot rule on valuation in advance; it can only determine whether fair market value was paid when it subsequently audits the exempt organization. Thus, it could be years before we find out if the exempt organizations paid the appropriate amount for these mostly intangible assets which are so hard to value.

Another way insiders profit from their association with a tax exempt organization is through the receipt of no-interest or low-interest loans. According to an April 22, 1993, article in the Philadelphia Inquirer, Children's Hospital of Philadelphia loaned its president $600,000 to purchase a $550,000 house in Chester County. The loan was for a term of 10 years with no interest. Georgetown University loaned a senior officer of the Medical Center $107,700 at 5 percent interest and $644,380 with no interest charged—a blatant example of charitable contributions being diverted from the charitable purpose.

Under current law, the only sanction available to the IRS to combat private inurement is revocation of the organization's exempt status. Unfortunately, the IRS rarely imposes this sanction. In addition, even where it is imposed, it may not be effective because there are no penalties imposed directly on the persons responsible for the organization's loss of exemption.

At a July 10, 1991, hearing before the Ways and Means Committee, the IRS testified that although its agents do find questionable transactions involving private benefit and private inurement, they revoke a hospital tax exemption infrequently. According to John Burke, Assistant Commissioner of the IRS Exempt Organizations Division, "agents are reluctant to propose revocation of exemption because the sanction of revocation of a hospital's exempt status greatly outweighs the private gain of a few individuals."

Current IRS Commissioner Margaret Milner Richardson testified this year that the lack of intermediate sanctions cause "significant enforcement difficulties."

At the July 10, 1991, hearing, the Treasury Department also testified that the sole sanction for noncompliance under current law—loss of tax exempt status—may merit reexamination. Treasury suggested that intermediate sanctions for tax exempt organziations may be needed. In the Treasury's view, such sanctions should be modeled on the private foundation excise tax provisions that impose monetary penalties on responsible persons. My legislation takes this approach. It is based on the private foundation rules applicable to self-dealing transactions.

A summary prepared by the Joint Committee on Taxation follows:

EXPLANATION OF BILL

PRESENT LAW

Under the Internal Revenue Code (the "Code"), a tax-exempt charitable organization described in section 501(c)(3) must be organized and operated exclusively for a charitable, religious, educational, scientific, or other exempt purpose specified in that section, and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual. Organizations described in section 501(c)(3) are classified as either private foundations or public charities. Organizations described in section 501(c)(4) also must be operated on a non-profit basis, although there is no specific statutory rule prohibiting the net earnings of such an organization from inuring to the benefit of shareholder or individual.

Under the Code, penalty excise taxes may be imposed on private foundations, their managers, and certain disqualified persons for engaging in certain prohibited transactions (such as so-called "self-dealing" and "taxable expenditure" transactions, see sections 4941 and 4945). In addition, under present law, penalty excise taxes may be imposed when a public charity makes an improper political expenditure (section 4955). However, the Code generally does not provide for the imposition of penalty excise taxes in cases where a public charity (or section 501(c)(4) organization) engages in a transaction that results in private inurement. In such cases, the only sanction that may be imposed under the Code is revocation of the organization's tax-exempt status.

SELF-DEALING

The bill would amend the Code to impose penalty excise taxes as an intermediate sanction in cases where a public charity described in section 501(c)(3) (such as a hospital) or organization described in section 501(c)(4) (such as an HMO) engages in a self-dealing" transaction with certain disqualified persons. The bill refers to such organizations as "applicable tax-exempt organizations."

For purposes of the bill, "self-dealing" generally means any direct of indirect transfer, lease, or license of property between an applicable tax-exempt organization and a disqualified person. However, the bill provides exceptions for transfers of property by an organization (or disqualified person) in the ordinary course of its activities (or the person's trade or business), provided that the transaction is made on a basis comparable to the basis on which similar transactions are made in the ordinary course of such activities (or business). Thus, the bill imposes penalties on unique sales or exchanges of property between applicable tax-exempt organizations and disqualified persons (where there is significant potential for private inurement). It does not, for example, prohibit an organization from selling gift shop items to a disqualified person on the same basis that such items ordinarily are sold to the general public. Likewise, a disqualified person could sell items to an organization on the same basis that the person ordinarily sells such items to the public as part of the person's trade or business. In addition, the bill excludes from the definition of "self-dealing" goods or facilities furnished free of charge by a disqualified person to an exempt organization for use in furthering the organization's exempt purposes.

Under the bill, "self-dealing" also includes the lending of money or other extension of credit between an applicable tax-exempt organization and a disqualified person, other than the lending of money by a disqualified person on a no-interest (and no-other-charge) basis, if the proceeds are used by the organization to further its exempt purposes.

"Disqualified persons" would be defined under the bill as any person who was an organization manager at any time during the five-year period prior to the self-dealing transaction at issue, as well as certain family members and 35-percent owned entities. The term "organization manager" means any officer, director, or trustee of a public charity or social welfare organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees). The bill specifically provides that any person performing substantial medical services as a physician for the organization shall be deemed to be an "organization manager."

The bill would provide for a two-tiered penalty excise tax structure, similar to the excise tax penalty provisions applicable under present law to prohibited transactions by private foundations and political expenditures by public charities. Under the bill, an initial tax equal to 5 percent of the amount involved would be imposed on a disqualified person who participates in self-dealing transaction. In general, the "amount involved" with respect to an act of self-dealing would be the greater of (1) the amount of money and fair market value of other property given, or (2) the amount of money and fair market value of other property received. Organization managers who participate in self-dealing transactions, knowing that the transaction constitutes self-dealing, would be subject to a tax equal to 2.5 percent of the amount involved (subject to a maximum amount of tax of $10,000), unless such participation was not willful and was due to reasonable cause.

Additional, second-tier taxes would apply under the bill if the self-dealing transaction is not "corrected," meaning undoing the transaction to the extent possible, but at least ensuring that the organization is in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards. If a self-dealing transaction is not corrected within a specified time period (generally ending 90 days after the IRS mails a notice of deficiency), then the disqualified person would be subject to a tax equal to 200 percent of the amount involved. Any organization manager refusing to agree to correction would be subject to tax equal to 50 percent of the amount involved (subject to a maximum amount of tax of $10,000). Under the bill, if more than one person is liable for a first-tier or second-tier tax with respect to any one self-dealing transaction (or instance of taxable inurement, discussed below), then all such persons would be jointly and severally liable for the tax.

TAXABLE INUREMENT

In addition to imposing penalty excise taxes on "self-dealing" transactions, the bill also provides for a two-tiered penalty excise tax regime applicable to cases involving "taxable inurement." "Taxable inurement" is defined as any direct or indirect inurement of any part of the net earnings of a public charity described in section 501(c)(3) or an organization described in section 501(c)(4) to the benefit of a disqualified person (as defined above). These penalty excise taxes would apply, for example, in cases where a disqualified person receives excessive compensation from the organization. The organization would be subject to a first-tier penalty tax equal to 10 percent of the amount of taxable inurement (e.g., the amount exceeding reasonable compensation). Beneficiaries of taxable inurement would be subject to a first-tier penalty tax equal to 5 percent of the amount of the taxable inurement. Organization managers who participate taxable inurement would be subject to a first-tier penalty tax of 2.5 percent of the amount of taxable inurement (subject to a maximum amount of tax of $10,000).

Additional, second-tier taxes would apply if "taxable inurement" is not corrected within a specified time period. In such cases, the organization would be subject to a penalty tax equal to 100 percent of the amount of taxable inurement, the beneficiary would be subject to a penalty tax equal to 200 percent of the amount of taxable inurement, and an organization manager who refuses to agree to correction would be subject to a penalty tax equal to 50 percent of the amount of taxable inurement (subject to a maximum amount of tax of $10,000). For this purpose, "correction" would mean undoing the taxable inurement to the extent possible, establishing safeguards to prevent future taxable inurement, and where fully undoing the inurement is not possible, taking such additional corrective action as prescribed by the Secretary of the Treasury by regulations.

APPLICATION OF PRIVATE INUREMENT RULE TO SOCIAL WELFARE ORGANIZATIONS

The bill would amend section 501(c)(4) to provide tax-exempt status to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, provided that no part of the net earnings of such organization inures to the benefit of any private shareholder or individual. The bill would not alter the present-law standards under section 501(c)(4) governing the tax-exempt status of local associations of employees.

EFFECTIVE DATE

The provisions of the bill would be effective for transactions occurring after December 31, 1993.

HONORING THE 122D ANNIVERSARY OF UNION BAPTIST CHURCH IN HARTFORD, CT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. KENNELLY. Mr. Speaker, on December 12, the members of Hartford's Union Baptist Church and their many friends will mark their 122d anniversary in our city. This thriving congregation plays a vital part in Hartford's religious and community life, and I welcome this opportunity to congratulate them.

Union Baptist Church had its beginnings in 1871, when a group newly arrived from Virginia and began holding Sunday meetings at various homes. Through the years, the congregation has had many places of worship. Starting with a boxcar on Spruce Street in Hartford, the congregation moved to Albany Avenue, to Wooster Street, and to Mather Street. It was not until 1921 that Union Baptist Church occupied its current home at 1921 Main Street. Through the Great Depression, through the 1983 hurricane, and through the struggle for civil rights, Union Baptist has been a force in Hartford.

Many of us still remember Dr. J.C. Jackson, pastor of the church for many years, and known as the Old Patriarch. His accomplishments are a rollcall of social justice: his efforts to get black teachers and social workers employed in Hartford; his work toward the establishment of the State's Inter-Racial Commission, which tracked employment discrimination; and his membership of the original 10-member commission, which today is known as the Connecticut Commission for Human Rights and Opportunities.

Union Baptist continues to thrive. This congregation is a historic part of our community, and so it is fitting that the church and the near-by Jackson Center are both listed on the National Registry of Historic Places. But this is also a congregation committed to the city and its people, who joined in the celebration when Union Baptist dedicated its parish house.

It is part of Union Baptist's history that its first congregants, walking to services, used lanterns to light their ways at night. Union Baptist continues to light the way today. I congratulate the congregation and Pastor Emeritus Rev. D. A. Roger Williams, and look forward to working with the next pastor when he is named.

TRIBUTE TO ERNESTINE "LULU" DOUGLAS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RUSH. Mr. Speaker, I rise today to honor the achievements of Ernestine "Lulu" Douglas on the occasion of her retirement from the Chicago Board of Education and the celebration of her 65th birthday.

Mrs. Douglas, born to Walter and Eva Penn in Winston Salem, NC, moved to Chicago in 1954. She worked as a clerk for the Cook County Department of Public Aid from 1960 until 1974. From 1974 until this year, Mrs. Douglas served with distinction as a clerk for the Chicago Board of Education.

Mrs. Douglas is an active member of the Trinity United Church of Christ and the CHUMS organization. She is a highly respected member of the Beverly community area located in my congressional district.

Mr. Speaker, it is with great pride that I salute the life and legacy of Ernestine "Lulu" Douglas. I am privileged to enter these words of congratulations into the RECORD.

SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LANTOS. Mr. Speaker, in 1988, the U.S. Merit Systems Protection Board [MSPB] released a report which found that sexual harassment in the Federal workplace is a pervasive, costly, systemic problem. The MSPB report emphasized the need for tough enforcement of the laws against sexual harassment.

The Government Operations Subcommittee on Employment, Housing, and Aviation, of which I am a member, and which has oversight responsibility over the MSPB, received allegations that, earlier this year, an MSPB employee was fired in retaliation for complaining of sexual harassment by a high-level official at the MSPB. Yet, no investigation of the allegations was done. Rather, the MSPB settled this case with a sealed settlement agreement.

The subcommittee investigation into the process by which MSPB settled the allegations revealed serious flaws. Therefore, I joined today with other subcommittee members in referring the matter to President Clinton, with the request that he take steps to assure than an independent, impartial investigation of these allegations be carried out and a determination made of the factual issues involved. A copy of the subcommittee's referral letter follows:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, November 22, 1993.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: A six-month staff investigation by the Subcommittee on Employment, Housing, and Aviation has uncovered serious flaws in the procedures used by the U.S. Merit Systems Protection Board (Board) to respond to a complaint of discrimination brought by an excepted service employee against Antonio C. Amador, then vice chairman of the Board. Subcommittee staff reviewed the Board's official file on its review of these allegations and interviewed key officials and employees of the Board.

Based on the results of the Subcommittee's investigation, we believe it is appropriate at this time to refer the matter to your Office. We request that a full investigation of the allegations against this official be carried out by an independent, statutory inspector general from another agency, and a determination made of the factual questions involved. Further action, if so indicated by the results of such an investigation, can be considered at that time.

In May of this year, the Subcommittee learned of allegations that Mr. Amador, then vice chairman (and now member) of the Board, sexually harassed an employee[1] (Complainant) on his staff over a one-year period both in the office and off federal premises, and summarily fired her after she raised the sexual harassment allegations with an agency equal employment opportunity (EEO) counselor. Although Mr. Amador denied all allegations, the Board resolved the informal complaint through a sealed settlement agreement with the Complainant under which she was reinstated, assigned to a regional office, and received a cash payment of $17,500.

Charges of sexual harassment and retaliatory firing are serious allegations against any presidential appointee, but are even more significant in this case. As one of three Board members, Mr. Amador is responsible for adjudicating appeals for retaliatory firing and sexual harassment cases brought to the Board by federal employees. The allegations against him raise serious questions as to his ability to maintain impartiality in considering such cases.

If true, the charges suggest a breach of public trust by a high-ranking government official, a probable violation of Title VII of the Civil Rights Act, and possible malfeasance in office, one of the grounds for which a member of the Board may be removed from office under 5 U.S.C. 1202(d). Given Mr. Amador's significant position of trust, the charges raise both ethical and legal considerations.

The process by which the Board responded to and settled these allegations was seriously flawed. No investigation of the allegations was done. The agency's pre-complaint counseling process consisted merely of interviews of the Complainant and Mr. Amador, and a review of relevant personnel records. Other potential witnesses to the allegations were not contacted. No findings, of fact were made prior to the negotiation of the settlement agreement. The Board's General Counsel, though charged with drafting the settlement agreement, did not review the records of interviews with the Complainant and Mr. Amador prior to negotiating the settlement on the agency's behalf.

Intimidation, fear, and the desire to avoid public disclosure of the allegations pervaded the process. Shortly after the Complainant brought her informal complaint on February 17, 1993, the Complainant's EEO counselor withdrew, stating a fear of intimidation and a desire to remain anonymous. Janice Fritts, the Board's director of the Office of Equal Employment Opportunity, advised then Chairman Daniel R. Levinson that, due to the nature of the allegations and the rank of the accused, intimidation of agency employees who participated in the investigation was a serious risk. Ms. Fritts then assumed responsibility for serving as the employee's EEO counselor.[2]

Ms. Fritts also requested that the Equal Employment Opportunity Commission (EEOC) become involved in investigation at the pre-complaint counseling stage because: "the counselor in this action is alleging sexual harassment and termination based on sex (female) and reprisal, and the alleged perpetrator of these actions is an agency official at the highest levels in the agency. These facts, combined with the small size of the agency, make it *virtually impossible to conduct an inhouse counseling and investigation of these allegations in an objective intimidation-free environment*.[3] (emphasis added)

The next day, February 24, 1993, after a meeting with Chairman Levinson and General Counsel Llewellyn M. Fischer, Ms. Fritts withdrew her request to EEOC, noting in the EEO Counselor's Report (EEO report) that the Board would handle the matter internally "in order to expedite the counseling process rather than waiting on EEOC." The Board was well aware that if the informal complaint could not be settled within 30 days, the Complainant had the right to then file a formal, recorded complaint.

Chairman Levinson had written to General Counsel Fischer recommending that an outside inspector general be brought in the investigate the matter. No outside investigators were ever called in, however, because Mr. Levinson had also directed his subordinates to take no action without the consensus of the Board members. Mr. Amador did not consent. In effect, Chairman Levinson accorded Mr. Amador veto power concerning an independent investigation.[4] The Board's inspector general was going to interview Mr. Amador, but dropped his inquiry when the general counsel told him the Complainant had been reassigned elsewhere.

Ms. Fritts conducted a preliminary review of the allegations at the pre-complaint counseling stage. Her review of relevant personnel records and interviews with Mr. Amador and the Complainant, while useful, cannot substitute for an independent investigation. Indeed, the EEO report also contains allegations pertaining to racial discrimination by Mr. Amador, which are never addressed.

The chronology that follows is based on documents contained in the energy investigative file, including the EEO Counselor's Report (EEO report), and on interviews conducted by Subcommittee staff.

The EEO report compiled by Ms. Fritts contained information suggesting that Mr. Amador abruptly dismissed the Complainant after he learned that she had taken action to trigger EEO discrimination complaint procedures, as well as a defense by Mr. Amador. Ms. Fritts interviews Mr. Amador on February 24, 1993, and recorded in the EEO report: "The Vice Chairman stated on February 19, Robert Hernandez, his Executive Assistant, said he had talked to [the Complainant]. She was upset and told him that she wasn't going to leave, that the VC was not going to fire her; that if the VC fired her, she was going to file a sexual harassment charge against the VC, unless the VC kept her employed until September. The VC said this shattered all of his trust and confidence in her and *he decided to terminate her employment sooner*—that he wasn't going to be held hostage. He said that he was amenable to settlement." (emphasis added)

In an interview with Subcommittee staff on November 12, 1993, Mr. Amador said that, despite the superior performance ratings he gave the employee on February 9, 1993, he had lost confidence in her, and therefore, on that same day, he had given her 30 days' notice to find another job. The EEO report notes that on February 10, the Complainant told Mr. Amador's executive assistant that she [the Complainant] was being pressured to leave because of sexual harassment. Mr. Amador told Subcommittee staff that his response upon learning of this conversation was, "No one was going to blackmail me."

On February 17, 1993, the Complainant met with an EEO counselor at the agency, alleging sex discrimination in the form of sexual harassment and naming Mr. Amador as the harasser. By statute, this meeting triggered prescribed Title VII/EEO procedures, beginning with a 30-day period for investigation and pre-complaint counseling.

Around 11:15 a.m. on February 18, 1993, Mr. Amador fired the Complainant. According to the EEO report, Mr. Amador ordered his executive assistant, Robert Hernandez,[5] to escort the Complainant out of the office immediately. The Complainant left so quickly that she did not have the opportunity to retrieve her personal belongings. Agency personnel files recorded the Employee's involuntary determination on February 19, 1993.

Mr. Amador gave the Complainant notice on February 9 that he would no longer employ her after march 9. Mr. Amador could not recall to Subcommittee staff his reason for having the Complainant physically removed from the office at midday on February 18. One significant intervening event was the Complainant's filing an informal complaint of sexual harassment on February 17.

The Subcommittee makes no judgment as the validity of the allegations. However, this sequence of events and the EEO report suggest retaliatory firing, which should be investigated to determine if it violated Title VII of the Civil Rights Act. From both a legal and an ethnical perspective, violation of Title VII may constitute a breach of trust and malfeasance in office, one of the grounds for removal from office under 5 U.S.C. 1202(d). As then vice chairman of the Merit Systems Protection Board, it is reasonable to expect that Mr. Amador should have foreseen the implications of his action on February 18, 1993.

The severity of the consequences flowing from these allegations, and the information compiled in the EEO report suggesting possible wrongdoing by Mr. Amador, should have prompted the agency to arrange for a more thorough, independent investigation. Instead, the agency closed ranks and rushed to settle the matter within the 30-day, pre-complaint stage prescribed by EEOC regulations. This guaranteed that there would not be a formal, recorded complaint against Mr. Amador.

On March 17, 1993, the Complainant, through her counsel, notified the Board that she would not agree to an extension of the 30-day counseling period. The Complainant requested from the Board a notice of final interview, giving her the right to file a formal discrimination complaint within 15 days after receipt of the notice. On March 18, 1993, the Complainant and the Board entered into a confidential settlement agreement of her informal complaint.

Because there was no formal hearing and determination of the validity of the allegations, the question of whether Mr. Amador sexually harassed the Complainant, and then fired her in retaliation for her making an informal complaint, remains unanswered. Without an independent investigation and a factual determination as to the validity of the allegations, the integrity and impartiality of the agency as an adjudicatory body may be compromised.

The failure of the Board's own IG to investigate these allegations, and the intimidation of agency employees, indicate the need for an independent investigation. Therefore, we suggest that an independent, statutory inspector general carry out a full investigation of the allegations.[6] In the interim, it is essential that Mr. Amador be required to recuse himself from consideration of all cases involving sexual harassment or retaliatory firing.

Due process for the accused in discrimination cases and accountability of high-level agency officials are not mutually exclusive. This case, however, is an example of inadequacy of the present system when a small agency fails to arrange for an independent, impartial investigation of the allegations against the official, but instead settles the matter with a sealed agreement. Secrecy does nothing to counter the perception that a high-level Administration official—in one of the federal agencies charged with rooting out discrimination—fired an employee in retaliation for her filing a complaint of sexual harassment, thus triggering the EEO process, and got away with it.

If your staff has any questions or needs additional information with respect to this referral, please contact Edith Holleman, Subcommittee staff director and counsel, or Andrea Nelson, Subcommittee counsel, at 202/225-6751. Thank you for your attention to this matter.

Respectfully yours,
COLLIN C. PETERSON,
Chairman, Subcommittee on Employment, Housing and Aviation.
TOM LANTOS.
KAREN L. THURMAN.
BOBBY L. RUSH.
FLOYD H. FLAKE.
BARBARA-ROSE COLLINS.

FOOTNOTES

[1] The employee, as confidential assistant to Mr. Amador, worked as one of his four staff members from March 11, 1991, until she was fired on February 18, 1993. As a Schedule C political appointee, the employee had none of the usual job protections accorded to career federal employees. However, under Title VII of the Civil Rights Act, it is illegal to fire any employee, including a Schedule C political appointee, based on discriminatory reasons. Dismissal of an employee in response to the employee's filing of an informal complaint is illegal under Title VII.

The employee's performance was rated "Outstanding" on February 6, 1992, for which she received a performance award of $1,621. She was promoted from GS-11 to GS-12 on April 5, 1992. And, on February 9, 1993, little more than one week before the employee was fired, Mr. Amador rated her job performance as "Exceeds Fully Successful," and recommended another cash award.

[2] 29 C.F.R. 1614.105 sets out the procedures for the pre-complaint processing of discrimination complaints. In summary, individuals who believe they have been discriminated against on the basis of sex must consult a Counselor prior to filing a complaint. After reviewing relevant documents and interviewing interested parties, the Counselor must prepare an "EEO Counselor's Report."

[3] February 23, 1993, letter to Ronnie Blumenthal, Office of Federal Operations, U.S. Equal Employment Opportunity Commission, from Janice E. Fritts, Director, Office of Equal Employment Opportunity, U.S. Merit Systems Protection Board.

[4] March 1, 1993, memorandum from Daniel R. Levinson to he agency's General Counsel and Director of EEO states ". . . have the allegations underlying the matter investigated by an Inspector General in another agency. Please make sure that the Vice Chairman knows about this effort, and that Member Parks concurs in the choice of the designated Inspector General." In an interview with Subcommittee counsel, General Counsel Fischer stated that his directions were to proceed only with the consensus of the Members, and since that could not be obtained, he did not make arrangements for an independent IG investigation.

[5] Mr. Hernandez was not interviewed by Janice Fritts.

[6] The individual charged with conducting a full investigation may wish to interview the following current and former officials and employees of the Board: Daniel R. Levinson, former chairman, Ben Erdreich, chairman; Antonio C. Amador, former vice chairman; now member; Jessica L. Parks, vice-chair; Llewellyn M. Fischer, general counsel; Paul Riegart, Inspector General; Janice E. Fritts, director of the Office of Equal Employment Opportunity; Judy Bowes, confidential assistant to Vice Chair Parks; Evangeline W. Swift, director, Office of Policy and Evaluation; Robert Hernandez, exective assistant to Amador; and the Complainant.

SOMALIS MUST HELP THEMSELVES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PORTER. Mr. Speaker, the United States and the United Nations have sent a clear message to the Somali people, "Stop fighting each other and begin rebuilding your country or we are going to stop trying to help you."

Last December, the United States sent 28,000 troops to Somalia and joined the international community in providing billions of dollars of food to try to avert the starvation of as many as 2 million Somalis, mostly women and children. We had no ulterior motive in doing this. We simply wanted to help, and we realized that no other nation was willing to take the lead. As we have so many other times in our history, we took the chance, assumed the leadership role, and stepped forward to do what we knew was right. Our best effort, combined with assistance from other nations, was successful and hundreds of thousands were saved.

While we achieved the initial goal of saving the starving, we have had a far more difficult time getting the Somalis themselves to work toward stability in their own country. Somalia's 16 different political factions continue to fight among themselves and the safety of international relief workers is in doubt. Worse yet, the ability of United Nations and United States efforts to promote a long term solution to Somalia's problems through local institutions—police, courts, schools, village councils—is greatly hampered by the Internal Somali situation.

This apparent lack of interest in compromise for the greater good of their country has prompted U.S. and U.N. officials to threaten a cut-off of assistance to factions that impede nation-building.

Rebuilding Somalia will be a difficult task. Tremendous efforts must be made to build local institutions and to promote trust and understanding among the factions. The people of the United States have willingly started the wheel turning. The Somali people must understand very clearly that responsibility for rebuilding is theirs, not ours. The United States has been extremely generous in its efforts to give the Somali people a chance for stability. But we can go only so far.

I applaud Madeline Albright's announcement that United States assistance will go only to Somali factions willing to seriously negotiate a settlement to Somali's problems. I also call on Somali faction leaders to attend the assistance conference in Addis Ababa next week.

United States troops will be withdrawing from Somalia the latest on March 31. The Somali people must know that they have only until that date to take their destiny into their own hands and create a viable system to govern their country. After March 31, we will be gone and if they do not act now, their opportunity for a peaceful future may be lost.

FEDERAL JUNIOR DUCK STAMP CONSERVATION PROGRAM

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to introduce legislation to establish the Federal Junior Duck Stamp Conservation Program within the U.S. Fish and Wildlife Service.

The Federal Junior Duck Stamp Design Contest and Conservation Program targets youth in grades K-12 for participation in activities which lead to a greater awareness of our Nation's living resources. Establishing conservation education in the arts, plus other subjects which have been traditionally associated with conservation education, will provide more students with learning opportunities related to concerns for the preservation of waterfowl and their habitat.

The annual Federal Junior Duck Stamp Design Contest, and numerous exhibitions of the winning stamp designs at State fairs, national refuges, art galleries, museums, Government buildings, and at educational conferences have been of invaluable assistance in helping to inform the public about the maintenance and the protection of waterfowl and wetlands. Conservation education materials are distributed to schools, refuges, organizations, and to individuals by the Federal Duck Stamp Office, in order to provide information on the Federal Junior Conservation Education Programs.

Mr. Speaker, the authorization I propose will allow the program to expand from 8 States to all 50 States. In addition to the social benefits of this program, it is expected that expansion of the Junior Duck Stamp Program will lead to an increase in future revenues generated by the larger Duck Stamp Program, thereby covering the costs of administering an expanded Federal Junior Duck Stamp Conservation Program. I urge you and the other Members of the House to support this initiative.

PRESIDENT CLINTON'S RETREAT FROM THE WAR ON DRUGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SOLOMON. Mr. Speaker, drug pushers are the primary cause of violent crime in this country and I take strong exception to the liberal rhetoric which argues that they are not violent criminals and therefore should not be taking up prison space. That's like saying an individual who pays another person to commit murder is not guilty of murder.

Drug pushers are responsible for most of the violence occurring on our streets. And for

President Clinton, in a speech last week, lecturing the African community on the need to take responsibility for this violence when his administration has retreated from the war on drugs is totally disingenuous.

The President gutted the Drug Czars Office. He tried to cut $240 million in domestic drug programs. His administration is trying to cut drug interdiction by over $200 million. They oppose the death penalty for drug kingpins and worst of all, the President has yet to develop a comprehensive drug control strategy.

And guess what the result has been? Drug use is up in this country. According to recent reports, drug use by eighth graders in this country is up. Crack, marijuana, LSD, heroin, and cocaine use is up. And drug related violence is up across the country.

We can all agree with the President's program to do more to rehabilitate hard-core drug addicts. What we cannot agree with is the administration's coddling of so-called recreational drug users and drug pushers!

Mr. Speaker, I've offered many drug amendments. A recent one was incorporated into the new National Service Program. It conditions eligibility in the program to remaining drug free.

If you live in Ohio, Massachusetts, Florida, Pennsylvania, Texas, Virginia, New York, and several other States and receive a drug conviction, your driver's license is automatically suspended. This was a result of my amendment to the 1991 DOD appropriations bill.

These amendments all have a common thread. They all emphasize the need to reduce drug demand in this country by going after casual drug users. Something this administration just doesn't get.

I would again point to the conclusion of the Rand Corp. study entitled "Money From Crime: A Study of the Economics of Drug Dealing in Washington, DC." According to this study, 74 percent of the cocaine purchased in Washington, DC is sold to casual drug users in the suburbs.

Just think about that for a minute, up to 75 percent of the cocaine sold in our major cities is bought by these so-called casual drug users in the suburbs.

People who use cocaine or other illegal drugs are financing the drug-related violence in the inner cities. And yet this President has been dead silent about casual drug use.

Is it only coincidental that the President's reactions to these events always coincide with the latest poll results.

Well, the drive-by shootings are taking the lives of innocent young children all year. And the leading cause of death for all African-Americans, between the ages of 15 and 34 is homicide. And most are drug related. The war on drugs is turning into a massacre in the black community but it was wrong of the President to place all of the blame on them.

It took a serious election defeat before this administration even woke up to the seriousness of the problem. The next time President Clinton is looking to place blame for this problem he should locate the closest mirror.

There is a direct correlation between the white flag this administration has hoisted in the war on drugs and the level of violence on America's streets.

This administration's casual policy regarding casual drug users puts criminals right back on the streets.

Let me just conclude by referring back to the Rand Corp. study and a quote from Washington Post columnist William Raspberry. "With affluent buyers at risk of obtaining criminal records or even imprisonment, selling in the street markets becomes much less attractive.

"The most effective strategies involve stiffening the sanctions on drug users, particularly the nonpoor, so-called recreational users."

Mr. Speaker, at this time I would include into the RECORD the most recent poll results regarding crime and drugs. It seems to be the only way to get this administration's attention.

THE RISE OF THE CRIME ISSUE

[In percent]

Survey date	Crime	Drugs
October	2	2
January 1993	5	3
April 1993	5	3
July 1993	5	4
September 1993	14	4
October 1, 1993	16	4
October 26, 1993	15	6

CONGRESSIONAL REFORM NEEDS MORE WORK

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. EMERSON. Mr. Speaker, this morning the Joint Committee on the Organization of Congress reported out the House version of congressional reform. Today marks the end of one phase and the beginning of another in the reform process, with the final destination being a vigorous—and probably heated—debate on the House floor culminating in a vote by the full House early next year. I look forward to that time. It will be a very important event for Congress and the Nation.

Briefly, I want to thank my colleagues on the Joint Committee who worked diligently and honestly towards the reform effort. It was a long and interesting year of hearings and meetings and discussions and debate. The bill before us proposes some positive changes—changes I have advocated and strongly support such as biannual budgeting, committee and subcommittee membership limits, a longer work week, floor and committee scheduling improvements and important oversight requirements. Unfortunately, I cannot say that the bill before us is my idea of profound and far-reaching congressional reform. However, this is the only bill the House Members of the Joint Committee will have to work with. This being the case, I am committed to working within the legislative process to vastly improve this document so that it will reflect a vision of real congressional reform; and, we hope this measure will come to the floor under a generous and open rule that will permit the House full debate of the subjects that have been the preview of the Joint Committee, and the opportunity to amend the committees work.

It is difficult for a representative democracy to thrive in a climate when leaders are constantly eyed with suspicion and distrust. Still, I believe that this institution is worthy of great respect, and one of the tasks still before us is to restore public confidence in our Government. Today, we are moving toward that end, but we are not yet there.

Understandably, congressional reform is not necessarily a well-understood subject, but needed reform will positively impact the Congress and the Nation. The day-to-day business of Congress and how this body operates does affect the substance and quality of the legislation we pass. Most importantly, unless Congress can prove to the country that it has both the fortitude and desire to change itself, Congress will not have the credibility to make the changes the country needs.

In closing, I would like to remind my colleagues of the truly bipartisan spirit which led to the creation of the Joint Committee on the Organization of Congress. I hope that this spirit that unfortunately was missing in the mark-up will find its way to the House floor where I believe more of our colleagues are committed to true congressional reform. I would like to submit for the RECORD, and associate myself with the remarks made by my colleague, the distinguished vice chairman of the Joint Committee on the Organization of Congress, my friend and congressional classmate, the Honorable DAVID DREIER of California. Mr. DREIER's remarks follow:

STATEMENT OF VICE CHAIRMAN DAVID DREIER, JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. Chairman, it has been a long and somewhat disappointing process. After nearly a year of deliberations, including six months of hearings and taking testimony from hundreds of witnesses, and in speaking with colleagues on both sides of the aisle, I was confident that all of the major options for reform would be placed before us in the chairman's mark. I, as well as my House Republican colleagues, came away from our two-day full committee retreat at the Naval Academy with optimism that the reform process would yield a bicameral and bipartisan series of recommendations that would significantly change this institution for the better.

Yet, our joint markup slipped from early September to October to November 3rd. After the third delay in the joint committee process, the Senate subcommittee moved on its own, and they were justified in taking that action. At this late date, we all have to acknowledge that the full Joint Committee on the Organization of Congress will never meet together again. That is a tragedy for the process of reform.

During this week, the House subcommittee has attempted to do as much as it can to move the process forward. I acknowledge that there are some significant elements in the base bill—particularly the recommended reforms in the ethics process and in bringing Congress into compliance with most, if not all, of the laws that apply to the private sector and the executive branch. I also acknowledge that the committee assignment limitations in the base bill are a significant step forward, and I would note that those limitations and the tough waiver provisions to accompany them were contained in my amendment to comprehensively reform the committee system.

I also acknowledge that eight amendments, offered by Republican Members, were adopted during the markup of the subcommittee. Some were more significant than others. I was particularly pleased that biennial budgeting, including appropriations, and our proposal to make committee voting records more accessible to the public through the Congressional Record were accepted by a clear bipartisan majority of the subcommittee.

Nevertheless, there are several very important elements to comprehensive congressional reform that do not appear in the bill, as amended. A ban on proxy voting, jurisdictional reform, a significant reduction in the cost and unnecessary bureaucracy of the legislative branch, as well as a number of other bold new ideas for reform were all rejected. We were not even able to agree that the Rules Committee should be required to spell out waivers of points of order—a proposal that would make it possible for Members to have a clear understanding of which provisions of the standing Rules of the House are being abused in the consideration of legislation.

I have long been concerned by the attempts of a small but vocal, faction of the Democratic Caucus to derail this effort. To some degree, they have succeeded. Twenty-five amendments, offered by House Republicans, fell in a 6-6 tie. The irony, of course, is that many of these amendments were not meant just to benefit the minority. Their purpose was to enhance the ability of a majority of members, Democrats and Republicans, to work their will in the People's House.

We can do better than this, and I hope we can on the floor of the House under an open rule. The Chairman admitted as much when we opened our proceedings this week when he indicated that this package was not all he had hoped for. I appreciate the assurances of the Chairman that he is willing to support as generous a rule as possible. It will come as no surprise to him, however, that "generous" is not, in my view, how we should proceed. This is just the first step toward reform of the Congress. Our recommendations will have to be reviewed by our colleagues. It is they that, in the end, should have the final vote. Only an open rule will assure that the will of the House can be determined. This institution belongs to the people and it is to the people's representatives that we should fully entrust the responsibility on this question.

Nevertheless, despite my deep and serious misgivings about these recommendations as a whole, I will support the motion to report to keep the process moving. In doing so, I want to state emphatically that this package is the lowest common denominator reform package. It is not a bipartisan package. It is the Democrats' package.

However, I have faith, not in the "old bulls," but in the membership. At some point, Mr. Chairman, the House will have an opportunity to work its will. Based on my recent experience with the bipartisan effort that went into the successful passage of the North American Free Trade Agreement, I am holding out the hope that we will be able to work in a similar bipartisan fashion that will allow the House to work its will on the floor. If so, I am confident that the membership, Democrats and Republicans, will do the right thing.

INTRODUCTION OF THE POSTAL RESPONSIBILITY ACT OF 1993

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. COPPERSMITH. Mr. Speaker, today, sixteen of my colleagues and I introduced the Postal Service Fiscal Responsibility Act of 1993. This legislation requires the Postal Service to reconsider its unwise decision to replace its existing logo with a new bird.

Given our Federal budget deficit no Government agency or quasi governmental agency has any business in exalting style over substance. If the Postal Service truly wishes to improve its image among its customers, our constituents, it should do so by improving reliability, improving service, and fulfilling its claims of job reductions. The Postal Service should focus its attention, and that of the public, on its substantive efforts, not on style and dress.

My legislation is simple. Unless the Postal Service withdraws its plans to put the new logo on stationary, buildings, uniforms, and trucks, Congress will rescind $6.6 million from the fiscal year 1994 appropriation. This bill sends a clear message that Congress understands symbolism too, and that our constituents consider the new bird wasteful spending, brought to us by the same Madison Avenue thinking that gave us new Coke.

Postal workers from my district have told me that they disagree with the decision to spend money on an unneeded change at this time. Our constituents are tired of gimmicks. They want real, substantive change, not a glossy new logo.

We should not allow image to triumph over today's reality of frugality. Join me as a cosponsor of the Postal Service Fiscal Responsibility Act of 1993 and return the new bird to sender. Your constituents will thank you for it.

TRIBUTE TO BISHOP-ELECT LARRY D. TROTTER

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RUSH. Mr. Speaker, I rise today to honor Rev. Larry Darnell Trotter, pastor of the Sweet Holy Spirit Missionary Baptist Church in Chicago on the occasion of his appointment and consecration to the office of bishop in the Full Gospel Baptist Fellowship over the Midwest region of the United States of America on December 30, 1993.

Bishop-elect Trotter has served as pastor of Sweet Holy Spirit for the past 12 years. During his pastroate, the Sweet Holy Spirit congregation has grown from 25 members to nearly 5,000 Saints. Bishop-elect Trotter served as youth minister at the Greater New Mount Eagle Baptist Church from 1976 until 1981.

A native of Chicago, IL, Bishop-elect Trotter is a graduate of the Chicago Public School system. He attend the Moody Bible Institute. He and has wife, the former Ms. Celeste Gibbs, have been blessed with five children.

Bishop-elect Trotter is the president of the African-American Pastors Fellowship and a member of the Southern Baptist Convention and the Illinois Baptist State Association. He is also a member of the Chicago Metropolitan Baptist Association, the Black Council of Churches, the Roseland Clergy Association, Operation PUSH, and the Baptist Pastors Conference.

A world-renown speaker, Bishop-elect Trotter has preached in Greece, Belgium, Israel, Kenya, Uganda, Ethiopia, and Zimbabwe. He has spoken extensively in the United States, including the States of New York, Missouri, Pennsylvania, Michigan, New Mexico, Tennessee, Alabama, Georgia, and Ohio.

Mr. Speaker, Bishop-elect Larry Darnell Trotter has dedicated his life to God. Through his ministry, thousands have been blessed, healed, and delivered. I am privileged that in this life our paths have crossed. I am proud to enter these words into the RECORD.

THE HOUSE VOTE ON H.R. 51—THE NEW COLUMBIA ADMISSION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. NORTON. Mr. Speaker, I come to the floor this morning to thank Members who voted to give the District a seat at the table of democracy yesterday. I especially thank the leaders of the House for allowing a historic debate for the first time in more than 200 years.

For many, yesterday's vote was not the easiest vote they have ever cast. But Members who voted with us were unable to vote against parity in citizenship for Americans who bear the full weight of citizenship obligations.

We got many votes from unexpected quarters in this House. Some who had sat through debates where District laws were summarily overturned were unable to justify the District as the lone exception to American principles of democratic representation and self-government. Others remembered how fiercely their own constituents resist taxes even with representation in the House. They could imagine the Federal tax-paying rage of District residents who rank third per capita, far above what most Americans who are represented here pay.

I say to you, my colleagues, "I shall return" to statehood. With a base now of 60 percent of the Democrats, a substantial majority of my own party, I will not stop until we go over the top.

However, I do not intend to let the House and the Senate off the hook while we continue to build support for statehood. Many in the House have indicated that they indeed want greater self-rule for the District. Well, some elements of statehood are immediately achievable. I intend to give Members the opportunity to make good on the prevailing sentiment I hear on both sides of the aisle in the House—that statehood or not, some way should be found to afford District residents at least the self-government and representation rights other Americans enjoy. I will press next year for bills no American, who claims democracy as a creed, can oppose.

H.R. 2071 will give the District control over its own tax funds raised exclusively in the District. It also will allow District laws to become effective as soon as enacted rather than after 30 to 60 legislative days, a period that can stretch to months. This bill takes little authority from the Congress. What it does is to remove the shortcuts Congress employs to overturn District laws. Until statehood is achieved, Congress could still do so by introducing legislation through the normal process.

After yesterday's vote, I hope that this House will not resist this additional dose of democracy for the District. "Try it, you might like it." District residents deserve it. And so does the Congress. These bills will relieve the House of the details of local government, which miniaturize this body and distract it from the large and urgent issues confronting our country.

I invite Members to call my office and agree to cosponsor H.R. 2071. I thank you again for the votes so many of you gave the District yesterday. I ask you to continue to march with us until my constituents are as free and equal as you have insisted that yours must be.

H.R. 2921, THE HISTORICALLY BLACK COLLEGES AND UNIVERSITIES BILL

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HASTINGS. Mr. Speaker, I wish to announce my support for H.R. 2921, a bill which authorizes grants to historically Black colleges and universities. This is a subject that is near and dear to my heart since I am a proud graduate of Fisk University.

This bill will authorize $25 million to assist historically Black colleges and universities in the restoration process of historic landmarks on their campuses. Five million dollars of this funding will go directly to Fisk University to help rehabilitate beautiful historic buildings that are in great need of repair.

Fisk, which first opened its doors as the Fisk School to a student body of former slaves in 1866, is a symbol in African-American communities nationwide of what can be achieved through high quality higher education coupled with dedicated work. The university is a small, predominantly Black institution with a strong liberal arts and sciences emphasis.

I urge my colleagues to join me in supporting H.R. 2921 to ensure that the Fisk tradition may be extended to teach young African-American students well into the future.

FINDING A SUITABLE REPOSITORY FOR HIGH-LEVEL RADIOACTIVE WASTE

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, recently Members of the Pennsylvania congressional delegation wrote to President Clinton bringing to his attention the concerns of our State regarding the Nation's spent nuclear fuel management program. Underscoring the importance of this issue to our State, the Pennsylvania House of Representatives voted 194 to 0 earlier this year in favor of a resolution calling upon the President and Congress to act expeditiously in finding a suitable repository for the Nation's high-level radioactive waste.

Members of the Pennsylvania delegation likewise believe it is imperative that the Federal Government move forward with its efforts to develop a suitable storage site for spent nuclear fuel and that the Department of Energy take action to ensure it will meet its obligation to begin accepting spent fuel from utilities beginning in 1998.

The reason for this urgency is that in Pennsylvania, all but two of the nine electricity generating reactors will be out of spent fuel storage space shortly after the turn of the century. After that, we face the choice of either constructing additional temporary storage facilities, which is a safe but expensive option, or having to shut down efficient, reliable, and nonpolluting powerplants that supply a significant percentage of the State's electricity.

It is important for my colleagues to understand that this program is being funded by American electric ratepayers in 41 States who have paid more than $7.6 billion into the nuclear waste fund. Pennsylvania ratepayers have paid more than $500 million into the fund. For the sake of our energy security, for economic stability, for environmental safety and in fairness to the hardworking American ratepayers who have paid in good faith for this program, justice demands that this money be made available to get on with the work of resolving this issue.

We applaud Secretary O'Leary's recognition of DOE's moral obligation to move forward with its program to determine the suitability of Yucca mountain as a repository site and meet its 1998 responsibilities. However, Congress has the responsibility to make the funds available for this to happen.

The Pennsylvania congressional delegation joins with the Pennsylvania House of Representatives in supporting Secretary O'Leary's efforts to establish a new funding mechanism—a revolving fund—which would ensure that ratepayer money is available to the program as needed and not subject to congressional budgetary constraints, which would divert these funds for deficit reduction. To be sure, this would be accomplished while retaining strong congressional oversight.

Mr. Speaker, this is not only an urgent matter for Pennsylvanians, but for our environment, for our energy security, and for American ratepayers who are shouldering the expense, which I stated to date is more than $7.6 billion. I ask Members to join with me in urging DOE to fulfill its responsibilities with the spent-fuel management program and adopt a revolving fund mechanism to jump start this vital energy program and ensure that sufficient funds are available when needed.

Mr. Speaker, I ask that the letter sent by the Pennsylvania delegation to the President of the United States and the resolution adopted by the Pennsylvania House of Representatives be inserted into the RECORD.

PENNSYLVANIA HOUSE RESOLUTION NO. 91

A Resolution memorializing the President and Congress to act expeditiously in procuring a site or sites for the storage of high-level radioactive waste

Whereas, Decades into the commercial use of nuclear power the government has failed to establish a permanent high-level radioactive waste disposal facility; and

Whereas, Nuclear power facilities must store high-level nuclear waste onsite; and

Whereas, There are currently 25 nuclear facilities in the United States that will be forced to expand onsite storage capacity by 1996; and

Whereas, Congress enacted the Nuclear Waste Policy Act of 1982 and directed the Department of Energy (DOE), through its Office of Civilian Radioactive Waste Management, to establish a program for the management of the nation's high-level waste, including high-level radioactive waste and spent nuclear fuel, and for its permanent disposal in a deep geologic repository; and

Whereas, Congress placed a fee on electricity generated by nuclear energy plants and directed that the funds collected via the fee be deposited in the Nuclear Waste Fund to pay for the development of a waste depository program; and

Whereas, Both the National Academy of Sciences and the Nuclear Waste Technical Review Board, which were established to provide Congress and the Administration with sound scientific and technical advice, have concluded that they do not know of any scientific reason to discontinue the studies at Yucca Mountain, Nevada; and

Whereas, Both the National Academy of Sciences and the Nuclear Waste Technical Review Board have also recommended more studies to determine if the site is suitable for a repository, particularly studies underground; and

Whereas, DOE is prepared to begin underground studies if adequate funding is available; in fact, DOE has begun constructing the experimental studies facility and broke ground on November 30, 1992, at the Yucca Mountain site for the surface facilities needed to support the experimental studies; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania call upon the President and Congress to take action to ensure that a timely and comprehensive study at sites, including the site at Yucca Mountain, be conducted and concluded to establish a site for a permanent repository; and be it further

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania call upon the President and Congress to work with the utilities and other affected industries and to explore approaches that will allow DOE to meet its obligation and satisfy the requirements set forth in the Nuclear Waste Policy Act and contained in its contract with nuclear facilities to receive spent fuel from utilities beginning in 1998; and be it further

Resolved, That copies of this resolution be transmitted to the President, the President pro tempore of the United States Senate, the Speaker of the House of Representatives and to each member of Congress from Pennsylvania.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 10, 1993.

Hon. BILL CLINTON,
The President, The White House,
Washington, DC.

DEAR MR. PRESIDENT: Earlier this year, the Pennsylvania House of Representatives, by a vote of 194-0, approved a resolution (attached) "memorializing the President and Congress to act expeditiously in procuring a site for the storage of high-level radioactive waste."

As members of the Pennsylvania Congressional Delegation, we believe it is imperative that the Federal government move forward with its efforts to find a suitable site for storing high-level radioactive waste.

Specifically, we fully support the resolution's call for action to ensure that the Department of Energy will meet its obligation to begin accepting spent fuel from utilities beginning in 1998.

Many utilities are concerned about delays in waste acceptance because they will soon be unable to continue to store spent fuel onsite in their spent fuel pools. Of the nine reactors in Pennsylvania, all but two are expected to lose their full core discharge capability shortly after the turn of the century. The construction of additional on-site storage facilities, while safe, is expensive. Utilities and their ratepayers will be, in effect, paying twice for the storage and disposal of waste—first to the Nuclear Waste Fund, and second time for added on site storage necessitated by delays in the DOE program.

In addition, we would like to express our support for Secretary of Energy Hazel O'Leary's efforts to establish a revolving fund which would allow contributions to the program to be spent in a timely and efficient manner. It is imperative that the program receive adequate funding if the Department is to meet its obligation in 1998.

Since enactment of the Nuclear Waste Policy Act, electric utilities in 41 states have paid $7.523 billion into the Nuclear Waste Fund through 1992. Pennsylvania utilities have contributed $534.1 million to the Fund through 1992. Less than half of the money collected in the Nuclear Waste fund has been spent on the high-level waste program. Nearly $4 billion remains unexpended in the Fund.

Finally, it is our understanding that the Department of Energy has announced that it will be conducting a review of the high-level waste program in the coming months. We would like to express our hope that the review will not be accompanied by a moratorium on the valuable and necessary work currently being conducted by the Department at Yucca Mountain and that the review will be limited in scope so that it will not in any way interfere with forward progress on the characterization of the site at Yucca Mountain.

Thank you for your consideration of our views on this very important issue.

Sincerely,

Hon. John Murtha, Hon. William Coyne, Hon. Thomas Foglietta, Hon. Robert Borski, Hon. Paul McHale, Hon. Tim Holden, Hon. Ron Klink, Hon. Paul Kanjorski, Hon. Joseph McDade, Hon. Robert Walker, Hon. William Clinger, Jr., Hon. Curt Weldon, Hon. Rick Santorum, Hon. James Greenwood, Hon. Lucien Blackwell, Hon. Marjorie Margolies-Mezvinsky.

PENNSYLVANIA CONGRESSIONAL DELEGATION,
Washington, DC, September 24, 1993.

Hon. BILL CLINTON,
The President, The White House
Washington, DC.

DEAR MR. PRESIDENT: Earlier this year, the Pennsylvania House of Representatives, by a vote of 194-0, approved a resolution (attached) "memorializing the President and Congress to act expeditiously in procuring a site for the storage of high-level radioactive waste."

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Thank you for your consideration of our views on this very important issue.

Sincerely,

Hon. Harris Wofford, Hon. Bud Shuster, Hon. Tom Ridge, Hon. Arlen Specter, Hon. George Gekas, Hon. Bill Goodling.

TRIBUTE TO WRYM 840 AM

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. KENNELLY. Mr. Speaker, I rise today to recognize a very important occasion in the First Congressional District of Connecticut. I speak of the 25th anniversary of the establishment of the State's largest and oldest Spanish-language radio station, WRYM–AM. I also wish to give equal recognition to the accomplishments of the founder and director of WRYM, Mr. Omar Aguilera.

Radio communications has traditionally been one of the primary sources of news, information, and entertainment for diverse groups in our State. WRYM and Omar Aguilera have been performing this task successfully and admirably for a quarter century in the Spanish-speaking community of our State. Presently WRYM reaches over one-quarter million people in our region with information, commentary, music, and live coverage of many important events. Omar Aguilera and WRYM have provided a forum for many worthy causes and valuable public services.

Omar Aguilera first came to the United States from Argentina in 1962. Then a professional soccer player, he brought a wealth of enthusiasm and knowledge to our area about this great sport. He joined with Mr. Walter Martinez in founding Spanish-language programming on WRYM in 1962, beginning with a half-hour broadcast on Saturdays. In the intervening 25 years a full range of Spanish-language programming has taken to the air 7 days a week, and Mr. Aguilera has brought to our community important and exciting reporting from throughout the United States and Latin America.

Assisting Mr. Aguilera at WRYM is a team of dedicated professionals, including Mr. Alberto Virdo, engineer; Mr. Karl Virdo Ciarci, secretary; and announcers Pedro Garcia, Danny Delgado, Felix Pagan, and Juan Campos, all of whom have endeared themselves to the Spanish-speaking audience throughout the State.

Mr. Speaker, I am very pleased to mark for the benefit of my colleagues 25 years of valuable public service by WRYM and Mr. Omar Aguilera, and to wish them many more accomplishments in the future.

THE NEXT BOSNIA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ENGEL. Mr. Speaker, the horrors which the world has witnessed in Bosnia and Herzegovina continue unabated. Many foreign policy experts argue rightfully that this tragedy would have been prevented by firm international action at the onset of the crisis.

Western governments are now faced with yet another opportunity to stem aggression in former Yugoslavia. The Republic of Kosova, where 2 million Albanians live under brutal Serbian-imposed repression, threatens to become the next Bosnia. Already, Serbian leaders, such as accused war criminal Zeljko Arkan Raznjatovic, have expressed their desire to cleanse Albanians from Kosova.

The early warning signs of nearing aggression are clear: Serbs have closed Albanians schools and health care facilities, Albanians have been dismissed from their jobs, thousands of armed Serbians regular and paramilitary troops have been moved into Kosova and heavy artillery guns are aimed at major Kosova cities.

The United States must make certain that bloodshed in the Balkans does not spread into Kosova. We must make it clear to the Serbs that the international community will not tolerate gross human rights abuses and threats of massacre in Kosova. Only through such vigilance can the next Bosnia be prevented.

The following article written for the New Republic by Anna Husarska from Kosova's capital, paints a vivid portrait of the tangible fear which currently exists in Kosova. I commend the article to my colleagues and invite them to address inquires on Kosova to the Albanian Issues Caucus co-chaired by myself and Representative MOLINARI.

[From the New Republic, Nov. 15, 1993]

THE NEXT BOSNIA

(By Anna Husarska)

Waiting at the bus terminal in Skopje, Macedonia, I took out my digital wristwatch, which holds telephone numbers, and entered the names of my contacts in Pristina, the capital of the southern Serb Province of Kosovo. I must have looked slightly ridiculous, because Marco, an Italian photographer accompanying me to Pristina, stared at me, bemused. So as not to seem paranoid, I handed him a stack of reports and press clippings on human rights abuses in Kosovo. Several cited cases of journalists having their notebooks confiscated.

No sooner had we crossed the border from Macedonia into Kosovo than the bus—filled entirely with Albanians—was stopped at a checkpoint. Serbian policemen came on board and, at random, dragged off two men and searched them thoroughly. Then the policemen ripped up the address books that the Albanians had in their wallets. The two men returned to the bus and sat without a word. When I asked them what happened, they shrugged. It obviously was not the first or the last time such a thing had happened to them; they; too, said they had made copies of their addresses.

My interest in their face won Marco and me some sympathy among the passengers. When we arrived in Pristina, a couple of them offered to show us the way to the municipal bus stop. But when we started the usual chit-chat, they kindly asked us not to speak to them in public, and to walk at some distance. Befriending foreigners can bring them trouble. (I had read about that in my stack of reports, too.)

We wanted a good half-hour for the bus the embargo imposed on the whole of Serbia has hit Kosovo as well, stymieing municipal transportation, electricity and most other utilities and public services. During those thirty minutes, two convoys of cars decorated with "Just Married" streamers passed by honking. Both were adorned with flags bearing a double-headed black angle on a red background. This is the Albanian flag, and—as the people at the bus stop explained to us—except for weddings, Albanians in Kosovo cannot display it.

One does not have to be an habitué of repressive regimes to feel the tension here. The Serbian militia is everywhere. (Our contacts in Pristina instructed us to meet them on a back street close to the Grand Hotel, but not in front of it. The hotel, they explained, is the hangout of the Serb army and secret police forces.) While the Serbs continue their war in Bosnia, here in tiny Kosovo (population 2 million) they apply a subder combination of oppression and repression. The oppression is patterned after apartheid: a minority denying all rights to a majority (in Kosovo, Albanians outnumber the Serbs nine to one, but the Serbs outgun the Albanians ten to zero). The repression is reminiscent of Polish martial law: Serb forces (black and blue camouflage, bullet-proof vests, walkie-talkies) patrol the towns and villages, arresting and beating Albanians with little regard to law. The Albanians' response is a nonviolent resistance a la Solidarity.

When we finally hooked up with our contacts, they led us to a small wooden hut that stood in a muddy wasteland next to the central police station. A few expensive Japanese cars were parked outside. Plaques on either side of the door read: "Albanian PEN Center" and "Kosovo Writers Association." It did not look like a base of the Albanian resistance (especially given its proximity to the police), but it is one. Although there is no plaque announcing it, this is the headquarters of the Democratic League of Kosovo (LDK), the leading party of the republic. Inside, amid humming faxes and photocopying machines, a staff of well-dressed young men who look like they're fresh from Wall Street prepares statements, translates bulletins and informs the world about the persecution all around them.

The normality is deceptive. The Serbs avoid hurting Albanian leaders because it would get them bad publicity; but they do not shy away from beating and arresting civilians, raiding houses and stealing jewelry, foreign cash and cameras from ordinary people. Adam Demaci, president of Kosovo's Council on Human Rights, says that in the town of Glogovac (population 6,000), 171 houses were raided, 403 people were beaten and 156 arrested in reprisal for the deaths of two Serb policemen.

This sort of thing has been going on for nearly four years, as Kosovo's status as a de facto autonomous republic within the Yugoslav federation, granted by Josip Broz Tito in 1974, was gradually taken away. Ever since he came to power, Serbia's President Slobodan Milosevic saw the Kosovo issue as a way to increase his own power by inflaming Serb nationalism. He dissolved the local parliament in July 1990, and Belgrade embarked on a wave of mass purges of "disloyal" Albanians. According to Muhamet Hamiti of the Kosovo Information Center, more than 130,000 ethnic Albanians, or Kosovars, have been dismissed from jobs in government, the police, media schools and hospitals since 1989. Hamiti, formerly a professor of English literature at the University of Pristina, was thrown out from his job and replaced by a Serb.

The Albanians' response to the Serbs' seizure and monopolization of Kosovo's public institutions was to boycott them and create their own. The parliament went underground (it now operates from Stuttgart), in October 1991 it declared the region's independence. In May 1992 secret parliamentary and presidential elections were held in Kosovo: LDK won 76 percent of the vote, and Dr. Ibrahim Rugova, a poet and literary critic, was elected president of the republic.

Under the independent government, Kosovars set up their own schools with Albanian curriculums and their own clinics and hospitals where Albanians (denied health care in Serb-run hospitals) are attended by Albanian doctors, most of whom were fired from their previous posts. These institutions, plus the welfare system for those who lost their jobs, are financed by the Kosovo Central Fund, whose money comes from Kosovan émigrés. (Last year, it received more than $1 million in donations.)

President Rugova is 48 years old; his hair, balding on top, is long and disheveled on the sides. When he received us in his office in the LDK hut, he was uncharacteristically without the trademark kerchief that he wears around his neck. Rugova says he is very proud of Kosovars—"we succeeded in leading a nonviolent fight and in surviving"—but is rather pessimistic about the future of the region. "The bloodbath would be worse here than in Bosnia, because of the higher population density. And besides, we have nowhere to go. The border with Albania is all mountains."

Rugova says he is counting on international support to avoid being swallowed by the Serbs. "We want preventive measures. We have asked for the establishment of an international trusteeship or a protectorate." His demands sounded faintly unrealistic, coming just a week after the Serbs expelled from Kosovo a group of observers from the Conference on Security and Cooperation in Europe. "The Serbs now want all of our territory," he says matter-of-factly. "In Bosnia, they grabbed the land because of ethnic rights; here in Kosovo they claim historical rights."

In deed, for the Serbs the region is the cradle of their civilization. In 1889, under czar Lazar, the Serbs battled the Ottoman forces. They lost, and the defeat ended the medieval Serb Empire. Six hundred years later. Milosevic pledged to more than 1 million Serbs gathered for the anniversary of the battle that never again would anyone beat the Serbs. Until now, he has been proved right. The Serbs are getting away with creating a Greater Serbia. With the war in Bosnia almost over, the may look for other outlets for their aggression. Kosovo is in their sights.

CONGRATULATIONS TO OAKLAND, CA: AN ALL-AMERICA CITY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DELLUMS. Mr. Speaker, today I rise to share with you and my colleagues that Oakland, CA, my hometown, the city which I represent, in the ninth California Congressional District, has been awarded the distinguished All-America City Award for 1993.

The National Civic League has designated Oakland a 1993 All-America City. This prestigious award is given to cities that demonstrate outstanding levels of citizen participation and innovation in government. The award also recognizes Oakland's diversity and community vision.

The All-America City Award is a constant reminder that people in a community can work together to identify and solve their common problems. The 44-year-old AAC Award Program, sponsored by the Allstate Foundation, is a major part of the National Civic League's efforts to encourage and recognize civic excellence. The major award criteria are as follows: Broad-based citizen involvement, reflecting the communities demographics; public, private, and nonprofit sectors participate in decision making; community resources are utilized and mobilized creatively; projects have significant impact in light of challenges, resources and circumstances; community is willing to confront critical issues; project results and impacts are clearly demonstrated and measurable.

Oakland's winning application included descriptions of three projects that were examples of the above criteria: Safe streets now; the Native American health center; the firestorm recovery project.

Oakland was chosen out of 151 cities who were considered, and prevailed out of the 151 to be No. 1. Oakland has the prestigious position of being the only All-America City in California to have won this award twice, the time before being in 1956. Oakland won twice, Oakland applied twice. Oakland also is the first city to have won this award and also be chosen to host the America-City awards celebration for the next year's competition, which will be held June 12, 1994.

You see why I am so pleased and proud to share this news as it testifies that Oakland truly exemplifies a city where diversity is strength. These strengths can provide a guide for other cities, as we seek to improve the quality of life for our communities.

AN ACT TO PROVIDE FOR ENVIRONMENTAL RESPONSE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. OXLEY. Mr. Speaker, today, I am introducing legislation that, if enacted into law, will dramatically improve the way in which contaminated sites are cleaned up in this country. It is intended to establish a process that provides for faster, protective response actions at more sites at a lower overall cost and thus achieve the fundamental goal of expeditiously abating significant risk to human health and the environment through cost-effective methods based on accurate risk analysis. The bill finds its origin in H.R. 6199, the Voluntary Environmental Response Act of 1992, introduced by Norman F. Lent in the 102d Congress, when he was my esteemed colleague and ranking minority member of the Committee on Energy and Commerce. He spearheaded the efforts of this body to jump-start voluntary cleanups at contaminated sites and I am pleased to follow him in this important endeavor.

This bill creates an alternative, streamlined mechanism to be administered by State governments for the purpose of addressing contaminated sites through voluntary response actions. This bill provides financial assistance for States to develop and administer State voluntary respone programs or qualified programs. Moreover, it provides flexibility to States by allowing existing State laws, regulations, or programs that meet the requirements of the act to obtain such funding.

This legislation would allow parties wishing to respond to releases of contaminates at eligible sites to "opt in" to a State's qualified program. By conducting an environmental response under a qualified program, a party would be able to efficiently and expeditiously remediate a site in an alternative, simplified regulatory scheme without becoming entangled in the burdensome bureaucratic process currently in place. At the same time, such voluntary response would be required to achieve standards that ensure the protection of human health and the environment, an important aspect of the bill is that it allow for streamlined review of response actions under State qualified programs. Moreover, of sites that are primarily of State interest, States have additional flexibility to develop their own review procedures.

Another significant and fundamental aspect of this bill is the provision for selecting response actions based on site-specified risk assessment that would rely on reasonable exposure assumptions and would consider the current and future use of the site. This is a significant departure and improvement upon current EPA practice under superfund and other environmental statutes with response to risk assessment. In addition, the bill provides for more balanced consideration of remedial options, including both containment and treatment, so as to allow implementation of containment remedies or remedies that combine treatment and containment methods provided they ensure the long-term protection of human health and the environment with no preordained preference either method.

This legislation is desperately needed at this time. It is a well known fact that the remediation of identified contaminated sites in this country has proceeded at a disgracefully slow pace and that Government agencies simply do not have the resources to address these sites. Moreover, the current regulatory and statutory process has led to excessive cost with correspondingly little accomplishment in terms of actual cleanup and has delayed the revitalization urban industrial areas.

The benefits of providing a mechanism to address contaminated sites at the State level while ensuring protection of human health and the environment would be tremendous. These qualified programs would relieve the pressure on overburdened State and Federal agencies by encouraging private parties to voluntarily undertake response actions. By streamlining the process, response actions would proceed at a more expeditious pace. Furthermore, the significant transaction costs associated with response actions initiated pursuant to current regulatory programs would be greatly reduced. Finally, the economic distress experienced by the communities in and around urban industrial areas would be relieved as these areas are revitalized thus providing economic and employment opportunities for the people of the United States, particularly the poor, unemployed, and disadvantaged.

Mr. Speaker, this legislation is intended as a response to the growing backlog of contaminated sites that are not being addressed in a timely manner under the existing statutory cleanup programs. The failure of these programs to result in any meaningful improvement in our Nation's hazardous waste problems is well known. Something must be done to solve this problem. I urge my colleagues to support this legislation.

LEGISLATION TO AMEND SECTION 1341, TITLE 28 U.S.C. INTRODUCED

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SYNAR. Mr. Speaker, today I introduce legislation designed to restore fairness to the collection of State and local property taxes from large, interstate railroads. My bill simply requires that property tax disputes between railroads and State and local governments be litigated first in State court, rather than in Federal District Court, just as is required in any other State or local property tax dispute. The bill also treats railroads like any other taxpayer by allowing unlimited access to Federal District Courts, once all State court remedies are exhausted.

My bill is needed because the railroads' current ability to go directly into Federal court to litigate State and local property tax disputes deprives States, local governments, and school districts of millions of dollars in property tax revenue. This problem stems from the Railroad Revitalization and Regulatory Reform Act of 1978 (4-R Act), which, as originally conceived, gave railroads a direct entree into Federal court to protect them against potential State discrimination in taxing railroad property.

Unfortunately, what started out as a good idea has been expanded through an aggressive litigation strategy into a nifty property tax avoidance scheme by interstate railroads. Current Federal court decisions have expanded the original intent of the 4-R Act, which was to protect railroads from discriminatory taxes, into providing railroads with preferential tax rates vis-a-vis other State and local property taxpayers.

In addition to preferential tax rates, the 4-R Act also allows unending Federal injunctive relief for the disputed portion of railroad property taxes while their cases are pending, as well as automatic Federal court jurisdiction over other types of State taxation and fees, not just property taxes. Finally, court interpretations of the act have also changed the very role of the court system in arbitrating disputes. The Supreme Court has interpreted the 4-R Act in such a way that the original tax issue the act was intended to address has been superseded and, as a result, Federal courts have gone into the State property tax appraisal business. All of these allowances are contrary to the standard practice in which Federal courts cannot interfere with State tax collection—a fundamental tenet of our Federalist system.

This special tax treatment of railroads has set a dangerous precedent, and correcting this situation is becoming increasingly critical for States. Not only is the present situation depriving the States of needed revenue—in Oklahoma more than $3 million over a 4-year period was enjoined in railroad valuation cases—but other interstate industries are petitioning to be extended the same benefits. Oklahomans are concerned that expanding these tax privileges will place an even heavier burden on the local farmers, homeowners, and business people. Unless it is corrected, this provision will continue to shrink the property tax base that State and local governments use for schools, fire and police protection and road repair. These services and infrastructure are public goods and must be supported by all public and private interests that are located within a State's borders.

My bill would take an important step to correct the current tax unfairness. By requiring the railroad industry to exhaust the State administrative and court procedures for handling their tax disputes before going into the Federal courts, the State courts, which are the experts in State valuation cases, would play a much larger role in setting tax rates for railroads. In addition, Federal courts, notorious for their crowded dockets, would be freed from having to play State tax assessor and be able to attend to more pressing criminal and civil cases. Finally, in cases where railroads felt they were discriminated against, they would still have the remedy of appealing to Federal district courts.

The overly preferential treatment for interstate railroads which disadvantages our States is a situation that can be addressed cleanly, simply and without undue burden to any party. I urge my colleagues to support this legislation and restore fairness to the property tax system for all taxpayers.

TAX EXEMPT STATUS OF GOVERNMENT SPONSORED ENTERPRISES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, today I am introducing a bill that would provide an opportunity for states and the District of Columbia to raise additional revenue. My bill would remove the exemption from State and local income taxes enjoyed by three Government sponsored enterprises—the Federal National Mortgage Association [Fannie Mae], the Student Loan Marketing Association [Sallie Mae], and the Federal Home Loan Mortgage Corporation [Freddie Mac]. Since Fannie Mae and Sallie Mae have their principal places of business in the District of Columbia, my proposal would allow District officials to consider taxing the substantial income of these entities.

My bill also specifies that within 90 days of the law's enactment, the mayor of the District of Columbia shall submit a report to the House Committee on the District of Columbia and the Committee on Governmental Affairs of the Senate detailing the potential effects of the bill on the revenues of the District of Columbia.

It is a well documented and often acknowledged fact that the citizens and businesses of the District of Columbia bear one of the highest tax burdens in the Nation. The burden acts as a major impediment to the retention and expansion of the District's tax base. While there are many reasons for these high taxes, one significant factor is the proliferation of congressionally mandated tax exemptions. Some of these exemptions make sense because the beneficiaries are foreign missions or nonprofit organizations. Fannie Mae, Sallie Mae, and Freddie Mac, however, are major corporations that are privately owned and managed.

It may be reasonable to assume that when Congress chartered Fannie Mae, Sallie Mae, and Freddie Mac they were fledgling corporations in need of these tax exemptions. This is no longer the case. The approximate 1992 revenues of these entities were as follows: Fannie Mae—$14.5 billion, Freddie Mac—$4.5 billion, and Sallie Mae—$2.8 billion. These corporations are not exempt from Federal tax liability, and their combined 1992 Federal taxable income was nearly $5 billion. While there is the potential for substantial revenues to accrue to the jurisdictions in which these corporations are located, it is important to note that the bill does not require that any State taxes actually be imposed.

I urge my colleagues to support this proposal.

TRIBUTE TO REV. RONALD I. SCHUPP

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RUSH. Mr. Speaker, I rise today to honor the Rev. Ronald I. Schupp, a Baptist minister and civil rights leader, who has been active in Chicago in fighting to end apartheid in South Africa.

For the past 8 years, Reverend Schupp has conducted a fast and vigil at the South African consulate in Chicago, renewing attention to violence and injustice in South Africa. Fittingly, Reverend Schupp has chosen Dr. Martin Luther King Jr. Day to hold his fast and vigil.

Mr. Speaker, I applaud the tireless dedication of Reverend Schupp. It is through his efforts and all those who seek fairness and justice, that the majority people of South Africa shall enjoy democracy to the fuller extent possible.

I am proud to enter these words of congratulation into the RECORD.

NO RETRIBUTION AGAINST MEXICAN NAFTA CRITICS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LaFALCE. Mr. Speaker, it has come to my attention that Mexican critics of NAFTA and those working for democratic and human rights reforms have been targeted in the Mexican press as traitors to Mexico. In several advertisements and columns in Mexico prior to the United States congressional vote of NAFTA November 17, Mexican politicians and academics who dared to speak out against NAFTA and Mexico's authoritarian practices by the PRI have been branded as working for the "interests of foreign powers" and forming a "Perot-PRD alliance against Mexico." These advertisements and articles named not only position political leaders, but leaders of Mexico's intellectual community who have had the courage to testify before committees of the United States Congress.

Several Mexican citizens representing various organizations and interests—human rights, political and electoral reform, labor rights, the PRD and PAN, the church, economic reform—have appeared before my Small Business Committee and other Congressional fora to make a case for democracy, fair and open elections, and freedom from intimidation and corruption. Many now fear that the passage of NAFTA enhance the power of the PRI and provides a signal and human rights abuses my continue with impunity. They fear that reprisals may be taken against them for their stand for freedom, their exercise of free speech, and their efforts to provide information to United States citizens and the Congress about Mexico that is not widely known.

Mr. Speaker, I believe the United States—and particularly the U.S. Congress and the administration—must be vigilant to ensure that no untoward actions, either professional blacklisting or physical harm, are taken against Mexican citizens who have spoken out against NAFTA. We in the Congress owe a debt of gratitude to those who came before our committees, and we must not forget them.

I have sent a letter to our United States Ambassador to Mexico, former Representative James R. Jones, requesting that his staff in the Embassy monitor for possible reprisals against Mexican citizens who spoke against NAFTA. I asked him to convey to the Mexican Government that the United States Congress will certainly condemn any actions that may be interpreted as reprisals against Mexicans who came to Capitol Hill to provide their views on NAFTA and Mexico's authoritarian form of democracy. Mr. Speaker, I ask that a copy of my letter to Ambassador Jones be inserted in the RECORD.

COMMITTEE ON SMALL BUSINESS,
Washington, DC, November 21, 1993.

Hon. JAMES R. JONES,
U.S. Ambassador to Mexico, Laredo, TX

DEAR JIM: Now that the NAFTA vote is behind us and implementation will proceed on January 1, 1994, I believe it incumbent on all of us to ensure that the citizens of Mexico who opposed NAFTA will not encounter negative repercussions for their activities.

It has come to my attention that several advertisements and press columns in Mexico last week specifically identified individuals as working for the "interests of foreign powers" and forming a "Perot-PRD alliance against Mexico." In addition to opposition politicians Cuauhtemoc Cardenas and Porfirio Munoz Ledo, academics Jorge Castaneda and Adolofo Aguilar Zinser were specifically identified and are being painted as traitors to Mexico.

Dr. Castaneda and Mr. Aguilar Zinser, along with many other Mexican citizens, appeared before my Small Business Committee and other Congressional committees and conferences. Mexican representatives from human rights and electoral organizations, the Church, PRD, and labor as well as individual economists came before Congress. Some were intimidated and threatened for speaking out before the NAFTA vote in the U.S. Congress, and some are now concerned about their professional and personal safety.

Jim, please have your Embassy staff monitor any possible backlash against these NAFTA opponents. I believe it would also be used to convey to the highest levels of the Mexican Government that the U.S. Congress will not look favorably on any actions against individuals who testified before Congress.

Sincerely,

JOHN J. LAFALCE,
Chairman.

NUCLEAR POWER'S CONTRIBUTION TO A CLEANER WORLD ENVIRONMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HASTERT. Mr. Speaker, I want to bring to the attention of my colleagues the important contribution nuclear energy is making to a cleaner world environment. As the second largest source of electricity in the United States, providing 22 percent of the Nation's electricity, nuclear energy is supplying the needs of 65 million households with virtually no air polluting emissions.

I commend the Clinton administration for acknowledging nuclear energy is important in the Climate Challenge Program, thereby recognizing nuclear energy's ability to help achieve the Nation's environmental objectives.

I can tell you first-hand about the environmental advantages of nuclear energy since my district gets about 80 percent of its electricity from nuclear energy.

But you need not take just the administration's and my word for the environmental benefits of nuclear energy. The World Energy Council just reported, "if global policymakers are serious about reducing greenhouse gases in the long term, nuclear power must make a comeback. There is no chance of stabilizing greenhouse gas emissions at 1990 levels until the nuclear energy question is resolved."

The Congressional Office of Technology Assessment stated in a 1991 report that nuclear energy is the only nonfossil energy option that can be rapidly expanded, thereby offering the greatest potential for "achieving deep cuts in carbon dioxide emission." The National Academy of Sciences agreed that nuclear energy is "the most technically feasible alternative" to replace fossil fuels as the primary source of electricity.

Mr. Speaker, I ask my colleagues to carefully consider the important role that nuclear energy plays for a cleaner environment and I encourage my colleagues to support policies that enhance America's nuclear energy option.

25TH ANNIVERSARY OF SESAME STREET

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PORTER. Mr. Speaker, 25 years ago today, the Children's Television Workshop [CTW] production of "Sesame Street" first appeared on public television and changed children's TV forever. Today, "Sesame Street" is the most widely televised children's program in the world.

When the CTW first created "Sesame Street," its mission was the education of children. Over the years, this mission has remained constant as characters have expanded to meet new curriculum goals and to reach low-income and minority youngsters.

Today "Sesame Street" communicates with children through new media—print, software, and outreach programs—to enhance its impact. A new "Sesame Street" component, the "Preschool Education Program" [PEP], uses televised story book reading, artwork, and parent involvement to reach children in day care settings, including thousands in my State of Illinois.

Both the New York Times and the USA Today ran articles today commemorating the 25th anniversary of "Sesame Street," and I ask that they be reprinted here as a part of my statement.

I offer my sincere congratulations to the Children's Television Workshop and my hope that it will continue to provide exceptional children's programming into the next century.

[From the New York Times, Nov. 22, 1993]

IT'S 25 AND STILL THINKING LIKE A CHILD

(By John J. O'Connor)

Known as the longest street in the world, stretching in one form or another around the globe, "Sesame Street" celebrates its 25th birthday today with a characteristic eye on the future and a meandering stroll to a new playground that it calls "just around the corner." The Children's Television Workshop's pioneering blend of carefully researched education and quality entertainment has lost none of its imaginative freshness. Hillary Rodham Clinton, flanked by Big Bird and Rosita, drops by today in a gesture of richly deserved tribute.

The survival of "Sesame Street" has involved struggle and occasional controversy. In the 1970's, the BBC rejected the program, ostensibly because of its ultra-American, hard-sell teaching techniques; Britons were later allowed to watch the series, seemingly without ill effect. When the project was conceived in the 1960's by Joan Ganz Cooney and Lloyd Morrisset, children's television was a generally sorry affair, with cartoons at one end and dull instructional classics at the other. The Children's Television Workshop created something entirely new: an education program that was great fun to watch.

The program is aimed at all pre-schoolers, but is especially eager to reach disadvantaged children whose early exposure to school-related skills might be limited. The underlying theory is that more than half of a child's lifetime intellectual abilities are formed by the age of 5. Lessons are delivered, for the most part, by showing, not by lecturing. In the show's multicultural society, children of all sorts mix easily with one another and, of course, with furry creatures representing all colors of the rainbow. The memorable duet of Ray Charles and Kermit the Frog on "Bein' Green" was anything but an accident.

So today, as Big Bird leads a parade of youngsters and Muppets to the new playground, it's hardly surprising to discover that the new faces in the crowd look like an illustration for a United Nations brochure. Tarah (Tarah Lynne Schaeffer) is a 9-year-old whose physical disability keeps her in a wheelchair. All of the newcomers are helping introduced this week, and will be developed more fully in future episodes.

Meanwhile, the scene on Sesame Street is punctuated with brief taped segments that might offer a lesson on a letter or number, an illustration of concepts (Zero Mostel's take on "Big" and "Little" is a series classic), or a vignette with an understated point. Today, for instance, two girls are found waking up in a bedroom that is obviously middle-class comfortable. One girl is black, the other is white. The white girl is the visitor. This season, Asian-American cultures are being highlighted. Among the scheduled guests: the tennis star Michael Chang.

When Children's Television Work-shop researchers went to day-care centers and asked children what they would like to see on the show, the most frequent answer was a place to play. The new playground, which required moving the production to the larger quarters of the Kaufman Studios in Astoria, Queens, should satisfy the most demanding of young viewers. In the course of the hour, the First Lady urges those watching to eat fruits and vegetables, get plenty of exercise and rest. In a rap song, Cookie Monster admits that nobody should eat just cookies. And the show ends with an announcement that this edition of "Sesame Street" was brought to you by the letters of C and O, and by the number 8. Talk about enlightened sponsorship.

The Children's Television Work-shop has moved well beyond "Sesame Street" as, seeking feasible ways to support its many activities, it has branched into television specials, videos, books and even items like a Cookie Monster cookie jar. There have been critics of this commercialization inside and outside the organization. David V.B. Brit, its president, disagrees, though he says perhaps the name should be changed to the Children's Media Workshop.

Sadly, as one of the brightest jewels in public television's now lopsided crown, "Sesame Street" has failed in one crucial sense, one that is beyond its control. Despite its demonstrable success, television executives and politicians have largely failed to follow up with adequately financed projects of similar caliber for young audiences. The level of education in the nation today is abysmal. All those preschoolers so lovingly prepared are being betrayed by schools impoverished on just about every level. "Sesame Street" has shown how to proceed with intelligence and style. Perhaps some day. * * *

Meanwhile, let's get on with the next 25 years.

[From USA Today, Nov. 22, 1993]

MAKING KIDS AND LEARNING FEEL AT HOME

(By Donna Gable)

The safest street in the world stretches from the inner cities of the USA across the ocean to the Middle East and beyond.

It's not on any map, but you can get there from here. And no matter the name—Sesamstrasse in Germany; Plaza Sesamo in Latin America; Rachov Sumsum in Israel; or Iftah Ya Simsim in Kuwait—Sesame Street has always been a protected place for kids to play and learn. From the early days when it taught tots their ABCs and 1-2-3s, to today's life lesson in race relations, Sesame Street is a reflection of our times for the eyes of children.

Today, the Emmy-winning PBS children's series turns a corner, metaphorically and physically, as it begins its 25th season. But the Street is not just growing up, it's growing out. For the first time, we get to see what's "Around the Corner" from the familiar brownstone and Mr. Hooper's Store.

Executive producer Michael Loman says the set was designed as a cuddly S-shaped cul-de-sac "so there are no streets to cross." There's a dance studio, a thrift shop, a playground, a home care center, and The Furry Arms, a Muppet hotel "where everyone stays when they're in town."

And while there are newcomers—including Zoe, "a bright orange, 3-year-old monster girl that smiles from ear to ear"—they're all old friends on the Street.

Dr. Valeria Lovelace, assistant vice president/director of research, says the new set is "a way through which we can show the contributions that families make to children's success in school and life."

Three fresh faces—Angela (Angel Jemmott) and Jamal (Jou Jou Papailler), a black couple, and their 6-month-old, Kayla—are related to series regulars Susan and Gordon.

"We want to show the family as a socializing agent, the most important part of a child's life," Lovelace says. The knowledge gained from the show's race relations curriculum "will guide our thinking on families, in terms of looking at their diversity."

Through Celina (Miss Saigon's Annette Calud), an Asian-American dance instructor, the show will explore issues like exclusion and name-calling.

Today's season opener is a backdrop for the myriad Muppets and others who parade down the lane. First lady Hillary Rodham Clinton stops by to christen the new season and inspire Cookie Monster to rap about the importance of eating more than cookies to stay healthy.

Upcoming celebrity guests who will stay at the Furry Arms include poet Maya Angelou, singer Garth Brooks and actress/comedian Lily Tomlin.

"These celebrities have helped draw the parent to the child's side . . . and they sit and watch Sesame Street together," say Peggy Charren, founder of Action for Children's television. "Research shows when children and parents watch together they learn more."

Ruth Buzzi—who joins the cast as Ruthie the offbeat owner of Finders Keepers, which offers such collectibles as Cinderella's glass slippers and Jack and Jill's legendary pail—credits the show's stable of "creative, ingenious and nutty writers" for the show's longevity.

"Writing comedy every day, day in, day out, is not all laughs," says Buzzi, who compares the cadre of scriptmeisters with those of her Rowan & Martin's Laugh-In days. "After a while your brain dies out. The only way to keep the momentum going and keep it fresh is to have a LOT of writers."

Charron says the program "could've been a wonderful model for the people in the commercial broadcast world. We'd hoped it would send a message to them: that you can do it right and still win. But what was their response? Let PBS do it."

The Street has always been safe but it hasn't been a blind alley or a dead end. Since 1969, it's evolved from an experimental educational program for preschoolers to a multimedia educational institution seen in 90 countries.

And even though the conventional wisdom is that Barney has taken the spotlight, the world on the Street—from the top down—is "there's room for everybody."

It doesn't matter whether kids tune in to a big yellow bird or a purple dino, says Loman, "as long as they're learning and having fun."

"We don't look at Barney as being in competition with us because we're both on PBS," he says, besides, "We'd rather have them watch Barney than a violent or nonsensical cartoon on another channel."

Sonia Manzano, who has played Maria on the show since its third season, agree "Kids have the right to have more than one show to choose from. Adults have lots of choices . . . and still complain there's nothing on."

Besides, the show has more important things than Barney's bite to focus on, such as continuing its 25-year legacy.

And everyone agrees, the days have been a little less sunny without Jim Henson, the mastermind behind the Muppet menagerie, who died suddenly in 1990.

And in strolling down the street, you cannot overlook his touch. Puppeteer Kevin Clash, who won an Emmy for breathing life into a fuzzy, red Muppet named Elmo, says Henson's death "was a difficult loss."

"Jim loved coming to Sesame Street and putting on Ernie and Kermit. I miss that immensely," says Clash, who grew up watching Sesame Street and "dreamt of working" with the brilliant Muppet-making man-boy.

"The love that's behind the scenes and comes across on camera—that's Jim. And some days when something goes really right. Jim's there. You can feel it."

Clash—who also portrays Baby Sinclair, the tiny dino on ABC's sitcom Dinosaurs—hopes his 11-month-old daughter, Shannon, will someday don a fuzzy alter-ego.

"I'm envious of Elmo. I'd love to keep that positive. But when you become an adult, sometimes things can get you down," he says. "It's great to be able to cover yourself with these characters and become young again.".

The most important lesson, he says, may be "how to find your way back" to the Sesame Street inside us all.

Mansano says she's looking forward to the next 25 years.

"If this show is the only thing I ever do in my career, that's not a bad credit," she says. "When I looked back at my life I could say, 'I lived a good life. I lived on a nice street.'"

LEGISLATION TO AMEND OCSLA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to introduce legislation which will amend the Outer Continental Shelf Lands Act [OCSLA]. The bill will authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf [OCS] sand, gravel, and shell resources for public works projects. The OCSLA was designed primarily to govern leasing, permitting, collecting of data, and operations for oil, gas, and sulphur on the OCS. Section 8(k) of the OCSLA provides explicit authority for the Secretary to grant leases for any OCS mineral other than oil, gas, and sulphur on the basis of competitive bonus bidding.

Because of diminishing onshore and nearshore supply sources, there is increasing interest from coastal States in using OCS sand, gravel, and shell resources for beach and barrier island restoration projects. Also, sand gravel, and shell resources from the OCS have been identified for possible use in connection with some U.S. Army Corps of Engineers congressionally authorized projects for coastal wetlands and storm damage protection. The requirement that marine minerals from the OCS must be leased on a competitive basis does not provide the flexibility needed by State and local governments or the access to OCS resources needed by the U.S. Army Corps of Engineers.

The option for negotiated agreements allows the Secretary of the Interior to, One, specify and better control the end use and quantity of the resource which can be extracted; two, work with the U.S. Army Corps of Engineers with necessary environmental and decision-making studies, thus avoiding duplication of efforts, three, negotiate fees with other government entities or assess no fee for the sand for certain projects substantially funded by the Federal Government—for example, certain corps funded projects; and four, avoid unexpected or speculative bidding which could have a negative effect on public works projects by diverting the resource to other uses or inflating total Government project costs. I urge you and the other Members of the House to support this initiative.

Last, I want to thank Mr. WELDON, the ranking member of the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf, Mr. LEHMAN, the chairman of the Subcommittee on Energy and Mineral Resources, and Mr. TAUZIN, the chairman of the Subcommittee on Coast Guard and Navigation, for cosponsoring this important legislation.

THE NONNEGOTIABLE PRINCIPLES OF HEALTH REFORM

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DINGELL. Mr. Speaker, I commend to my colleagues the following article, entitled "Health Care: Some Basic Reform Principles Shouldn't Be Negotiated" that appeared in the November 10 Detroit Free Press. The article speaks to the goals which must be preserved through upcoming lengthy and difficult negotiations on details of health care reform. The most important of these goals is universial coverage. It is the one goal upon which we cannot waiver.

The article follows:

[From the Detroit Free Press, Nov. 10, 1993]

HEALTH CARE—SOME BASIC REFORM PRINCIPLES SHOULDN'T BE NEGOTIATED

Enacting an adequate health care reform plan will require a lot of tugging and pulling in Congress, and willingness to change, as Hillary Rodham Clinton acknowledged this week. But certain reform principles are so fundamental that they must not be compromised, under special-interest, partisan or ideological pressure.

The most basic principle is universal coverage, the notion that no American will be denied the medical care he or she needs. Such coverage should be phased in promptly, not gradually, and it should include a comprehensive clearly defined package of affordable minimum benefits.

We believe a single-payer health care system similar to Canada's, in which most coverage is financed directly by government, would be best suited to meeting that objective. Such a system would collect premiums, pay bills, negotiate rates with doctors, and regulate annual hospital budgets. It has the virtue of relative simplicity.

But the Clinton administration deserves the opportunity to show that its hybrid "managed competition" model also can do the job. That plan would require employers to help pay for workers' health care, from quasi-governmental regional purchasing alliances for health insurance, and limit the growth of private insurance premiums.

Even as she searches for common ground with proponents of alternative plans that also aim, for universal coverage, Mrs. Clinton is correct to reject those "reform" schemes that do not. An overreliance on "market forces" to provide coverage has helped leave tens of millions of Americans without health insurance, and many more with inadequate, discriminatory or exorbitantly priced coverage.

Such people—a large number of them children—often are forced to seek costly, subsidize emergency treatment once their illnesses become critical, rather than earlier, less expensive care that could have prevented or mitigated them. That raises the nation's health care bill for everyone.

Other principles ought to be preserved as well. The reform process must maintain the quality of care and technological innovation that has made American medicine a global model. It must control costs and be equitably financed. It must promote administrative efficiency. It should encourage primary and preventive care. It should allow consumers to choose their doctors, within reasonable limits. It should not tie coverage too tightly to employment.

Inevitably, these values will come into conflict as Congress and the White House negotiate a health care reform compromise. Accommodations will have to be made. But the first lady has identified universal coverage and a defined benefit package as the administration's bottom line. It's a line that should not be erased.

LEGISLATION TO PROVIDE DEATH BENEFITS FOR POLICE & FIRE CHAPLAINS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MANZULLO. Mr. Speaker, I am introducing legislation that would amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that families of police and fire chaplains killed in the line of duty will receive well-deserved death benefits. Should the rare occurrence take place, the families of these courageous men and women will not be left out in the cold. These unsung heroes will have the assurance of knowing that their loved ones will be taken care of.

Mr. Speaker, these police and fire chaplains are often called upon to enter dangerous circumstances. They are counted upon to fill-in when necessary, walk-in to situations where criminals are holding hostages, drive an ambulance if needed, and even pickup a fire-ax if called upon. These men and women go to work every day and perform their duties diligently and quietly, responding to the same crime and fire scenes that their counterparts do.

I would like to take this opportunity to ask my colleagues that they join me in cosponsoring this simple legislation which would reward the families of police or fire chaplains who, while in the line of duty, could pay the highest price possible for doing their job, with their lives.

NAFTA

HON. JENNIFER B. DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. DUNN. Mr. Speaker, without doubt, the prolonged discussion over the North American Free-Trade Agreement [NAFTA] has been the most spirited—and, too often, heated—debate in which the American public and Congress have engaged in many years.

At the outset, I must emphasize one point: I was extremely disturbed by reports that the President and Vice President had secured votes of undecided House Members by making certain concessions to them. At no time was I offered—nor did I seek—any special consideration for my support of NAFTA. I emphatically reject that kind of politicking. It is my belief the Clinton Administration let the American people down by trading "pork" for votes.

During recent weeks thousands of people from Washington State have contacted me regarding the controversial issue of NAFTA, and were sharply divided in their views. I fully appreciated the frequently mentioned fear that the agreement could lead to United States manufacturing jobs flowing to Mexico, where the wage levels are low.

I listened, also, to many heartfelt concerns about the further degradation of the environment that might occur with added economic activity in Mexico. And I listened intently to the honest, thoughtful worries of some that the operating panels and other mechanisms of the agreement might somehow threaten America's sovereignty.

During my campaign, I supported NAFTA's principles of free and fair trade. These ideals weighed heavily on my mind and were reflected in the final decision I made in my vote. After lengthy study, fact-finding and balancing the pluses and minuses, I concluded NAFTA was in the best long-term interest of our Nation and its citizens, especially the people I represent. I want to share the process and factors which led me to support the agreement. The following are considerations I felt persuasive.

There was discussion about NAFTA's potential to erode the United States' sovereignty. However, the best legal authorities have concluded that nothing in the agreement preempts Federal or State laws. NAFTA's commissions cannot supersede our laws nor do they have the power to compel any action to change them. Rather than changing any domestic law, NAFTA makes clear that a government may choose to allow another country to suspend trade benefits—such as tariff concessions—against it following an adverse panel report. Thus a commission can make only recommendations, not new laws. By limiting the power of government bureaucrats to restrict trade, NAFTA restores sovereignty of individual Americans to sell to and buy from whomever they please.

Some raised the argument that NAFTA will degrade the environment of Mexico. NAFTA did not create the pollution that currently exists, but it is the most practical course toward remedying the problem. This agreement is the first which places environmental concerns on an equal footing with those of free trade. NAFTA is the best vehicle to clean up the environment. Without it, GATT rules on the environment apply and they are not nearly as strong. NAFTA eliminates the status quo and will positively affect the environment. Environmental groups such as the National Wildlife Federation, World Wildlife Fund, Audubon Society and others fully endorse NAFTA. They represent 7.5 million members and some 80 percent of those belonging to environmental groups.

I share the concerns expressed regarding job dislocation and the fear of businesses moving to Mexico. But, it seems to me that it is the current system that is causing such events. In order for American companies to sell their goods in Mexico, they must either manufacture their products there or export them under the burden of tariffs which are on average two-and-a-half times higher than those of the United States. These additional fees inhibit our competitive edge with products of other nations—thereby creating incentives for our manufacturing plants to move to Mexico in order to avoid these tariffs. I truly believe NAFTA will alleviate these inequities and in some cases, provide incentives for companies to move back home.

In fact, we are already seeing some dividends from NAFTA. The United Parcel Service [UPS] announced a new order for 10 additional Boeing 757–200 Package Freighters. This illustrates the company's belief that increased trade with Canada and Mexico benefits the entire U.S. economy. This is only one example I see of how NAFTA can create jobs in Washington State and in America.

NAFTA is not about the jobs we have already lost around the world. Those are gone. NAFTA represents a new vision of job creation at home. Knowing that we live in a country that produces more than it consumes, we must continue to open up protective markets. NAFTA does this.

While it is true Mexican wages are lower than ours, it is also true that the American worker is on average five times more productive than his or her counterpart in Mexico. Americans enjoy high paying jobs because they are the most productive workers in the world. Global competition creates greater productivity; protectionism historically has bred stagnation and inefficiency. Increasing our productivity, not protectionism, is the secret to keeping our wages high and our jobs in America.

Although I believe NAFTA ultimately will create more American jobs through increased trade for our district's job-creating businesses, I also believe it can establish a broad set of other benefits for America. NAFTA can serve as a model for future trade agreements. It will reinforce our commitment to free trade in a global economy. By advancing the ideals of free trade and not foreign aid, we will allow for other countries to provide for themselves. If we foster economic development in Mexico as well as here at home, NAFTA can lead to reduced illegal immigration, and help our neighbor to the South continue on the path of needed political, social and economic reform.

It is my duty and obligation as an elected official to advance the long-term health of the economy by promoting basic U.S. political, social, and economic interests. No, NATFA is not perfect. However, it is the best answer to some of the problems in our globalized economy. We cannot allow the perfect to become the enemy of the good. I honestly believe this agreement will help America.

LONG-TERM CARE INSURANCE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, one of the greatest fears of our senior constituents is the fear of saving for retirement only to lose it all if nursing home care becomes necessary. This fear is not unfounded. Forty-three percent of all Americans turning 65 this year eventually will enter a nursing home. Twenty-five percent of that group will stay at least 1 year, at a cost of $30,000 to $60,000.

One solution to this problem is long-term care insurance. Although relatively new, long-term care insurance is a rapidly growing market that offers the best option for providing greater coverage for nursing home and home care. In 1986, 30 insurers were selling long-term care insurance policies and 200,000 people were covered by these policies. By 1991, over 2.4 million policies had been sold, with over 135 insurers offering coverage.

Unfortunately, it's expensive to purchase long-term care insurance and policies don't always deliver what they appear to promise. Some insurers have designed long-term care policies that limit their liability in ways purchasers don't suspect. Many policies are medically underwritten to exclude persons with certain illnesses or contain fine print benefit restrictions that limit access to what one would assume was covered care. Although the National Association of Insurance Commissioners has taken steps toward establishing standards for regulating long-term care insurance, most States have been slow to adopt them. Only 12 States prohibit the practice of post claims underwriting and only 17 States have standards for home care benefits. The Long-Term Care Insurance Standards Act, which I introduced today, rectifies the inconsistencies in the long-term care insurance market by addressing:

Inflation protection.—Without inflation protection, the value of the benefit will shrink dangerously by the time a policyholder needs care.

Nonforfeiture of benefits.—Without nonforfeiture of benefits, policyholders will lose their entire equity in the policy if they can't afford to keep paying the premiums.

Premium increases.—Any increase in long-term care premiums must first be open to public comment and approved through a State process.

Limitations on agent sales practices.—This includes high-pressure sales tactics, misleading advertising, or incomplete or fraudulent long-term care insurance comparisons.

Mr. Speaker, I urge my colleagues to examine this legislation in the context of health care reform and invite their cosponsorship.

THE UKRAINIAN GOVERNMENT'S HUMANITARIAN AID TO THE REPUBLIC OF GEORGIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GILMAN. Mr. Speaker, I would like to bring to the attention of my colleagues a very interesting and encouraging article recently released by the Embassy of Ukraine.

We are all aware of the vicious fighting that took place recently in the Abkhazian region of the Republic of Georgia. Many of us may not have noted, however, the very constructive role that the Government of Ukraine sought to fill in providing humanitarian assistance to the thousands of refugees from that fighting. Specifically, Ukrainian Air Force helicopters, by order of the Ukrainian Government, delivered food, medicine, and other items to stranded refugees and also transported the most sick and exhausted refugees to places of safety.

Mr. Speaker, I would like to insert a copy of this article for the review of my colleagues. I also want to commend the Government of Ukraine, which, beset by serious economic problems in its own country, still undertook to help the people of a neighboring state in need.

Mr. Speaker, the article provided to me by the Embassy of Ukraine follows:

[From the Embassy of Ukraine, Oct. 27, 1993]

UKRAINE PROVIDES HUMANITARIAN AID TO REFUGEES FROM ABKHAZIA

Heavy battles between Georgia's government troops and Abkhaz armed paramilitary units in late September-early October caused unjustified losses of human lives, massive exodus of refugees, mostly senior citizens, women and children.

As is known, this motivated the Head of the Republic of Georgia Eduard Shevardnadze to appeal to the governments of friendly states and world public with a request to help save the civilian population.

In response to that appeal President of Ukraine Leonid Kravchuk ordered the Cabinet of Ministers of Ukraine to render necessary humanitarian aid to Georgia.

Ukraine's Air Force, the Ministry of Foreign Affairs, other ministries and agencies, public associations and trade unions were involved in the relief operation. Ukrainian helicopter crews began to evacuate refugees from Abkhazia as early as October 10, 1993. Seventeen Ukrainian helicopters including 15 NI–8MTs from the towns of Vapnyarka and Kherson, and two KA–27 helicopters from Ochakiv manned by 90 servicemen performed 2 to 3 daily flights to deliver bread, flour and other food products to the mountainous areas, and transported sick and exhausted people to safe places. Only during the four days between October 10 and 14, the Ukrainian relief teams made 291 flights having rescued 7,634 refugees and delivered 487 tons of food, medicines, clothing and fuel.

Ukrainian public, different associations and funds joined in the humanitarian campaign, including the Federation of Ukrainian trade Unions, Social Security Fund, State Export-Import Bank, Ukrainian Investment Bank and other institutions. The raised funds were used to purchase basic necessities for the refugees, linen, warm clothing and food products which were delivered to Thilisi by the Ukrainian Air Force.

At the request of the German government, three Ukrainian Air Force transport planes IL–76 carried more than 50 tons of urgent humanitarian aid from Cologne (Germany) to Tbilisi.

The campaign for providing humanitarian aid to the fraternal Georgian people continues to gain in scale and strength in Ukraine. In addition to trade unions, the "greens", religious parishes, different organizations and individual citizens are joining in.

The leadership of the Republic of Georgia, Head of State Eduard Shevardnadze expressed sincere gratitude for the assistance, and highly assessed the moral and material support rendered by Ukraine to the people of Georgia.

JUDGE GILBERT RABIN—LEGAL SCHOLAR, PUBLIC SERVANT, AND COMMUNITY LEADER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. LOWEY. Mr. Speaker, I rise today to congratulate Judge Gilbert Rabin on the occasion of his well-deserved retirement from the Yonkers City Court. Judge Rabin has been an inspiring community servant whose contribution to New York's civic life will be missed but not forgotten.

Through an extraordinary career, Judge Rabin has exemplified our highest standards of rectitude, commitment to the rule of law, and excellence in public service.

Admitted to practice before the U.S. Supreme Court, Judge Rabin has since served in a variety of distinguished roles on such important bodies as the Committee on Law Reform of the Bronx County Bar Association, the New York University Law Review, the Yonkers Lawyers Association, the Westchester County Bar Association, and the New York State Bar Association. Judge Rabin's tenure on the Yonkers City Court—a body to which he has been repeatedly elected by the citizens of Yonkers—culminated in his selection as Chief Judge in 1992.

A life-long resident of Westchester County, Judge Rabin has been a leader in a wide range of community and service organizations. These include Children's Hearing Education and Research, the Lincoln Park Taxpayers Association, the Big Brother/Big Sister Committee, the Yonkers Community Action Program, and the United Givers Fund.

Judge Rabin has also been a devoted and active member of his synagogue, the Lincoln Park Jewish Center, for a time serving as the president of its congregation.

Judge Rabin's remarkable example has been noted by leaders throughout the Nation. Indeed, my good friend and colleague, Representative CARRIE MEEK of Florida; has spoken to me of his exceptional reputation and impressive career.

Mr. Speaker, I am confident that, even as Judge Rabin takes time to enjoy his family and the special pleasures of retirement, he will continue to be an active and inspiring leader in our community. His work has made an important difference for Yonkers and for Westchester, and will serve as an example to public servants for many years into the future.

THE MUTUAL BANK CONVERSION ACT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GONZALEZ. Mr. Speaker, today I introduce with Congressman NEAL, chairman of the Financial Institutions Subcommittee, and Congressman LEACH, the ranking minority member of the Banking Committee, the Mutual Bank Conversion Act. This legislation is intended to address the increasingly common—and very troublesome—practice by insured depository institutions of converting from mutual to stock from outside the scrutiny of Federal rules and regulations.

The Home Owners' Loan Act currently provides that savings associations may convert from mutual to stock form in accordance with Federal regulations only. Those Federal regulations, found in 12 CFR 363b, are designed to protect the interests of the mutual savings association's owners—its account holders—and prevent windfall profits to insiders and insider abuse. Thus, the regulations address the determination of the market value of stock in the converted savings association, the subscription rights of the mutual's account holders, require appropriate disclosures made to account holders and potential purchases, and most importantly, place limits on the amount of stock that insiders may purchase.

The Federal regulations have worked well, allowing thrifts to recapitalize while protecting the mutual account holders. In fact, they may have worked so well that lobbyists, lawyers and States have developed a way to evade them. The latest game involves converting from a mutual thrift to a mutual State savings bank. Then, those mutual banks convert to stock form of ownership under liberal State laws that are being adopted at a rapid pace. Often, these conversions are done in connection with mergers where a bank purchases the institution after it converts to stock form but before it goes public. All types of incentives are thrown in—free stock for thrift managers, retention of management, contributions to executive stock option plans—the 1990's equivalent of a toaster. In one such recent transaction, the acquiring bank purchased a mutual with a pro forma book value of $19 million for $9 million. Insider management and the acquirer profited by the difference. States have been rushing to pass these laws, and approve applications filed under them. Over 195 institutions, with over $39 billion in assets, have converted from Federal to State charters—the first step of these mutual to stock transactions—from January 1992 to date.

While these conversions, and the State laws that allow them, have been defended as consistent with the "free market", the more apt description is "free lunch"—for the insiders and big bank acquirers. This legislation simply applies existing laws and regulations for thrifts to these bank transactions to insure that account holders are adequately informed, that institutions are properly valued, and that insiders and acquirers don't benefit at the expense of the institution and its account holders. The legislation, upon enactment, will retroactively apply to all State bank conversion transactions taking place on or after November 22, 1993. This will prevent a "rush to convert" prior to the passage of this legislation and the FDIC's promulgation of regulations.

THE GREENING OF TECHNOLOGY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MORELLA. Mr. Speaker, On November 18, I introduced H.R. 3540, a bill to coordinate the life-cycle assessment activities and resources of the Federal Government, relating to environmental technologies. The bill encourages a shift in thinking for both policymakers and business leaders. Environmental policies previously have focused on cleanup, and now we are turning to waste prevention and minimization, which will lead to greater environmental protection and long-term economic growth.

In September, 1992, the Science, Space, and Technology Subcommittee on Environment held a hearing in Rockville, MD, on Green Technology. Dr. Indira Nair from Carnegie Mellon University, chair of the advisory panel for the Office of Technology Assessment Report, Green Products By Design: Choices for a Cleaner Environment, commented on the report and recommended ways the Federal Government can encourage efforts to promote the concept of Green Design.

This legislation would ensure that the Federal Government coordinates its own programs that support the development of data and methods of life-cycle assessment. The Federal Government would also make its resources available to non-Federal entities, State and local governments, and businesses. The Federal Government would also use information from non-Federal sources who have developed successful programs.

Life-cycle assessment is simple in concept, but difficult to put into practice. At a November 18 Technology, Environment, and Aviation Subcommittee hearing, we listened to Daniel Imhoff of Esprit International describe how an international apparel company designed its Ecollection:

> In 1990 Esprit initiated an internal environmental audit of garment manufacturing as a means of improving its own products and influencing the fashion industry. * * * Esprit established a separate research and development project with a two-fold mission: to identify the environmental and social impacts of conventional manufacturing; and to seek out and test innovative materials and technologies. * * * Over the next two years, every aspect of garment production was examined: fibers and fabrics, dyeing and finishing processes, even buttons and trims.

Esprit's Ecollection uses organically grown cotton, and recycled wool. It does not use dyes containing heavy metals, but does use biodegradable enzyme washes to soften fabrics. Handpainted buttons from a women's cooperative in rural North Carolina and handknit sweaters from the Appalachian Fiber Artisans Cooperative are a part of the Ecollection. Esprit is influencing other companies to think green. Mission Valley Mills in Texas has opened the first organic cotton textile mill because Esprit has continued to purchase U.S.-grown organic cotton fibers.

This legislation encourages this new way of green thinking. I urge my colleagues to cosponsor H.R. 3540 and bring creative approaches to protecting the environment and promoting long-term economic growth.

THE RURAL CALIFORNIA HOUSING CORP. AND THE BANK OF AMERICA COMMUNITY DEVELOPMENT BANK

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FAZIO. Mr. Speaker, I rise this evening in recognition and appreciation of a truly unique partnership between the Rural California Housing Corp. [RCHC] and the Bank of America Community Development Bank. These two entities have joined forces with the city of Williams, CA, the State of California, Catholic Healthcare West Corp. [CHCWC] and the Farmers Home Administration to create homeownership opportunities for low-income families in my district.

Agricultural workers in the city of Williams, in the heart of Colusa County, were in critical need of safe, affordable housing for their families. Yet, as we all know, during these times of high costs and scarce funding, homeownership has become more and more elusive for even middle income American families, let alone for workers whose wages are at the bottom of the pay scale.

Given these obstacles, the Bank of America Community Development Bank knew that the more traditional approaches toward meeting the challenge of affordable housing in rural America were not going to work—that different tactics were required—so they came up with a more creative strategy. They devised a plan whereby the State's Predevelopment Loan Program and Farmworker Housing Grant Program provided part of the funding for the land acquisition. The next step was for RCHC to work with the seller to buy the land over 3 years at an agreed upon fixed cost. Then, the Bank of America Community Development Bank truly became a partner—not just a lender—in this enterprise. It changed its standard for low-income housing appraisals, enabling it to make higher construction loans. Then it advanced a loan for land acquisition and site development, waiving its customary loan fee. At this point, the CHCWC stepped in and made a linked deposit that reduced the interest expense on the site development loan, thereby increasing the loan amount. The Farmers Home Administration [FHA] did its share by providing combined home construction/takeout financing for individual borrowers. And, to help offset costs, the city of Williams modified its standard performance requirements. Unanticipated cost increases were covered by additional contributions form the RCHC.

The end result is a subdivision of 123 self-help homes, 90 of which are completed and the remainder of which will be finished early next year. The community has been strengthened and low income Williams residents have become first-time homebuyers at monthly costs less then what they were previously paying for rented apartments or mobile homes.

Mr. Speaker, a little over 1 year ago, on the occasion of RCHC's 25th anniversary, I paid a similar tribute to this organization and its efforts on behalf of quality, affordable housing for low- and moderate-income families in northern California. Today, I am once again pleased to be able to congratulate RCHC, the Nation's second largest producer of self-help housing, as well as the rest of this team, for collaborating on this innovative team effort.

IN RECOGNITION OF THE NEED TO BUY AMERICAN

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to call to the attention of the House a group of people dedicated to increasing the public's awareness of American-made products. Buy American, Inc., is a not-for-profit organization based in the metropolitan Kansas City area comprised of civic, labor, and business leaders interested in a positive approach to promoting the concept of buying American through education and public relations efforts designed to strengthen the job base in the United States.

As part of this initiative, the thousands of Buy American, Inc. volunteers and supporters encourage the recognition of Friday, November 26, 1993, as "Buy American Day, 1993." On this busy shopping day, it is important for consumers to recognize the availability of high-quality, domestically produced goods. Additionally, and very importantly, many American jobs depend on strong domestic sales during the crucial holiday season.

Mr. Speaker, I support Buy American, Inc. goals to educate consumers and focus attention on the vitality of American job growth. Increased consumer awareness can positively impact sales on this day of intense commercial activity as well as contribute to the financial health of our country.

BUCKET DROWNING PREVENTION ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PALLONE. Mr. Speaker, I have just introduced a bill that I hope will address a problem that has not received much public attention, but which has brought tragedy to over 200 families. Although most parents are aware that their homes contain ordinary items that are capable of causing harm to their young children, most are not aware of the drowning hazard presented by 4- to 6-gallon buckets.

As a new father, I am quickly learning that even the most seemingly innocuous items in my home can bring serious harm to my 2-month-old daughter, Rose Marie. Before this issue was brought to my attention, I was not aware of the danger presented by 4- to 6-gallon buckets and I am certain that there are many other parents like me.

Most people find these buckets at a work site or construction area and bring them into their homes for use as a diaper pail, or to use when mopping floors or washing cars. I know that parents must watch their children every moment, but there are times when parents look away for a moment. The tragedy occurs in bucket drowning cases because parents do not realize that their child has fallen into the bucket. They have looked away, and are unable to locate their son or daughter. By the time the parent realizes that the child has fallen into the bucket, it is too late—the child has drowned.

I want to stop these unnecessary deaths from occurring. My bill will require a label on buckets that will warn parents of the danger that is presented when buckets that contain even a small amount of liquid are left unattended. I believe that if parents are informed of the risk, they will be better armed to keep their children away from this dangerous situation, and we will soon see a dramatic decrease in the number of bucket drownings.

I am not alone in recognizing this problem. California has passed a bucket labeling law and New York is considering similar legislation. In order to ensure uniformity, I believe a Federal standard is appropriate, and I hope that the House will work with the other body which passed a similar bill yesterday. Several consumer groups and members of the industry have endorsed this bill and it is my hope that the House will pass a workable standard that is not overly burdensome on industry, but that provides the public with a strong warning and which has the effect of preventing accidents and saving lives.

IN RECOGNITION OF THE RETIREMENT OF COL. STEVEN P. STROBRIDGE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SKELTON. Mr. Speaker, I rise to commend and pay tribute to one of our Nation's most dedicated and professional military officers, Col. Steven P. Strobridge. Colonel Strobridge is retiring from the Air Force after 24 years of dedicated and distinguished service to his country.

Because of his superb reputation as a leader in the Air Force personnel community, Colonel Strobridge has filled critical positions in both the Office of the Secretary of Defense and on the Air Staff. As deputy director and later director, officer and enlisted personnel management, he was responsible for establishing policies on military personnel promotions, utilization, retention, separation, and retirement. Colonel Strobridge was assigned to his present position as chief, military compensation division, Air Force directorate of personnel programs, education and training in 1989.

Colonel Strobridge has been instrumental in numerous significant improvements to military entitlements, compensation and benefits that contribute directly to the recruitment and retention of the top quality personnel required to maintain the high standards and challenging mission needs of our Armed Forces, in both peace and in time of war. Those who know him, and especially those fortunate enough to have served with him, recognize his unwavering commitment to the welfare of the soldiers, sailors, airmen, and marines on whose service we all depend so heavily. Colonel Strobridge is a dedicated, unselfish, and tireless leader who has truly left his mark not only on the Air Force, but on the entire Department of Defense. His leadership and personal sacrifice will be missed, but not forgotten. He is a professional we can all look to with pride and admiration.

Mr. Speaker, I ask to enter into the RECORD our commendation, sincere appreciation, and best wishes to Colonel Strobridge for his outstanding service to the U.S. Air Force and to our great Nation.

BEULAH BAPTIST CHURCH

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. MCKINNEY. Mr. Speaker, Beulah Baptist Church is celebrating 97 years of service and inspiration to residents of Georgia's 11th Congressional District.

I submit the history of the great Beulah Baptist, Rev. Jerry Black, pastor, for the CONGRESSIONAL RECORD:

BEULAH BAPTIST CHURCH—A BRIEF HISTORY, 1896–1993

One June 4, 1896, Beulah had its humble beginnings at an old time prayer meeting in a one room shack located on Mayson Avenue in northeast Atlanta. This was the home of Deacon and Mrs. Harry Oliver. Reverend W.F. Paschall, Elbert Lofton, Harry Williams, Eliza Gaither, and Lizzie Goldsmith were among the band of Christian followers who held weekly "fire burning" prayer meetings that shaped Beulah's future to come.

As a result of these weekly prayer meetings, Beulah Baptist Church was organized by its first pastor, Reverend W.F. Paschall, on Thursday night, November 20, 1896, along with the ever faithful and devoted band of Christians. Reverend Paschall served faithfully for thirty-three years, 1896–1929, until he accepted the call to another church. Reverend Dorsey Gordon, Reverend Henry White, Reverend Sam Barnes, Reverend T.H. Seals, and Reverend Paul Scruggs were among the ministers present at this grand event. Later, the members moved to Hardee Street under the latticed bush arbor where Mrs. Lizzie Goldsmith was the first baptized member, as well as the first mother of the church. A Women's Home Mission society, headed by Mrs. Lula Paschall, and a Sunday School were among the first organizations to take form within our newly organized church.

The years which followed ushered in new goals, ideas, and challenges for a growing congregation. This prompted the purchase of land for the sum of $100.00 at the corner of Wesley and Hardee streets on which a wooden church was built. As the membership continued to increase, the church was enlarged and bricked to accommodate the growing needs of the congregation.

Reverend E.M. Johnson, who displayed unusual qualities of leadership and possessed an eloquent speaking ability, pastored Beulah between 1929–1935. Thus, the membership increased greatly. Reverend Johnson passed on the gospel torch to Reverend R.J. Hawk who became pastor for one year, 1935–1936. He was succeeded by Reverend C.A. Moore who served from 1937–1942, while Reverend B.R. Watts served as pastor from 1942–1948. It was under Reverend Watts' administration when Beulah experienced its most memorable event which was the burning of the church's mortgage note. It was the development and implementation of the ward system that proved beneficial in Beulah's financial efforts in recovering the church's deeds.

The church then called Reverend E.D. Thomas who proudly served as our pastor for thirty-six years, 1948–1974. It was during this time that the Mary White Carlton Fellowship Hall was dedicated. This dedication consisted of a grand finale, which was the unveiling of Ms. Carlton's portrait by her grandchildren. Under his powerful leadershp, the church continued to grow and prosper even more, as progressive thinking became instilled in the minds of the congregation. We stepped out on faith and accepted the task to build a $76,000 education annex, purchase the only organ in the history of the church, install new pews and carpeting, and purchase other property. Due to Beulah's innovative search for financial freedom, a restructuring of financial procedures occurred. This resulted in the changing of the name "ward captain" to "birth month president" and the establishment of a building fund. Through it all, God was before us and beside us and we became debt free. We thank God for Reverend Thomas for thirty-six years of leadership as an humble and beloved pastor. He died January 1978, but his memory will forever be in our hearts.

On the first Sunday, June 1975, we accepted a new challenge and an even greater blessing from the Lord. We marched into a beautiful edifice known as the New Beulah Baptist Church located at 2046 Sage Land in Southeast Atlanta. It was a glorious occasion long to be remembered by many. Yet, we will always cherish our memories of the site at 1536 Hardee Street.

Notable contributions were made by Reverend Littleton Price who pastored from 1976–1977. Reverend Price later accepted the call to pastor another church leaving Reverend J.I. Jones, a member of Beulah, with the task of serving as interim pastor until 1978 when Reverend Jimmie Lee Smith accepted the pastorship of the church. His tenure ended in 1990, but not before he led the Beulah family to higher grounds.

Reverend Smith inspired our prayer services, organized Bible study classes, implemented tutoring classes for people with poor reading skills, assisted in the opening of a daycare nursery during Sunday morning services, established scouting troops for boys and girls, and encouraged other sporting activities and events throughout the church. The laying of the cornerstone at the present Beulah location is one memorable event which occurred while Reverend Smith servied as pastor of our church. The cornerstone was laid on the first Sunday, June 1978, with a very impressive ceremony.

From 1990–1991, Reverend Zeddie Scott served as interim pastor. Beulah thanks Reverend Scott for keeping the church together. He served faithfully until August 29, 1991, when the conference called Reverend Jerry D. Black as its new spiritual leader. Reverend Black, who is truly a man of God, came to us with his sleeves rolled up. Beulah has become energized because of "The Black Concept", which emphasizes humbleness of heart, increased personal and spiritual growth, and earnest commitment is service to our Lord and fellowman. Organizations formed, reorganized and some even became revitalized under his auspices. These organization include the Ministers Wives Guild, Ministry for the Incarcerated, Overcomers Outreach Ministry, Christian Education Department, Wednesday Noonday Prayer Service, Sunday School Teachers Meeting, Men's Ministry, Young Men for Christ, and a class regarding Effective Tools for Witnessing.

Beulah's rich history and heritage also include the ordination of several ministers who were called to go into the Lord's vineyard to preach the gospel. Among these are the following Reverends: D. A. Guy Banks, Joe Spear, O. Rutland, Richard Gammage, Hubert Hamilton, William E. Flippin, Lois Anderson, Lonnie White, Woodrow Williams, George Scott Freddie Anderson, Michael Caldwell, Zeddie Scott, Stephen King, and Duane Jackson.

History is like a river. As the river flows to its final destination, it changes its course at various points; but whatever its form or direction, it is the same river. Like the river, Beulah's history reveals that we have changed course at various points; but we are, nonetheless, God's church and we will continue our mission in faith, hope, and love. As we look back over these 97 years, we have been given a perspective of how far we have come and how far we have to go in our work for the Master.

VEHICLE EMISSIONS AND URBAN AIR QUALITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KILDEE. Mr. Speaker, as co-chairman of the Congressional Automotive Caucus, I would like to bring to my colleagues attention an article that recently appeared in the July 2, 1993, Science magazine, entitled: "Achieving Acceptable Air Quality: Some Reflections on Controlling Vehicle Emissions." This article, co-authored by four experts in this field, contains some intriguing findings that will interest members who are concerned with urban air quality.

Mr. Speaker, the authors of this article make three major points concerning this issue. First, urban air quality, which is affected by both automobile emissions and emissions from so-called stationary sources—like factories and drycleaners—has greatly improved since Congress first passed clean air legislation 25 years ago. Second, we still have a more to do to meet the law's requirements. Third, the most cost effective way to make further reductions is through measures aimed at cars already on the road, not by imposing additional emission controls on new cars.

As many of my colleagues know, improvements in vehicle emission systems have reduced ozone concentrations by 8 percent from 1982 to 1991, and carbon monoxide levels are down 30 percent over the same period. The innovation of the catalytic converter alone is responsible for the reduction of the three major pollutants, hydrocarbons [HC's], nitrogen oxide [NO_x] and carbon monoxide [CO] by a factor of 5 to 10. These reductions have made our cities healther and cleaner places to live.

However, as the authors note, many metropolitan areas still suffer periodic levels that exceed current air quality standards. The situation will only get tougher for cities as the stricter requirements of the 1990 Clean Air Act are phased in. In fact, several recent studies document higher vehicle emissions than predicted by the computer models used to forecast air quality.

The authors site data which show that about 50 percent of auto emissions come from only 10 percent of the vehicles on the road. Many of these are the older models, the clunkers, as they are known, with limited, if any emission control systems. However, the data shows that this group is not limited to just the clunkers—it includes a significant portion of recent year models and brand new vehicles. In fact, some of the worst emitters are the newest models. The evidence indicates that tampering has occurred in several instances. Some automobiles have had their emission control systems tampered with, some have been misfueled with leaded, instead of unleaded gas, which has ruined the catalytic converter and emission control system, and a significant portion of the high emitters either do not have the required maintenance performed or do not have it performed properly.

The authors also cite other causes for higher than anticipated emissions. There are more cars on the road, problems with evaporative emissions, effects of weather conditions, and variations in testing conditions.

The Clean Air Act of 1990 sets out three basic ways emission reductions can be achieved and the authors evaluate each of them. These include improving the vehicle, enhancing the fuel or emission system, and bettering inspection and maintenance programs [I&M].

On vehicle improvement, there is extensive research being conducted world-wide. Improvements look promising in the areas of basic engine design, control systems and the exhaust system.

While this may take some time, more effective control systems for evaporative hydrocarbon emissions are on a faster track. The authors believe these new systems, combined with fuel volatility controls and better inspection procedures, will eliminate evaporative emissions in a few years as a major source of hydrocarbon emissions.

With respect to the fuel option for reducing emissions, the authors believe that reformulated gasoline gives the biggest bang for the buck. They rate it as far superior to alternative fuels like natural gas, or alcohol fuels like ethanol, for several key reasons. It is more cost effective to produce, it is easily marketed through existing facilities, and it results in significant reductions in both tail pipe and evaporative emissions for the entire vehicle population, not just new vehicles.

Improvements in inspection and maintenance programs offer the greatest potential for additional emission reductions, the authors conclude. As every car owner in a major metropolitan area knows, these are the required inspections of the car's emission control system which ensures it is operating effectively. When a problem is discovered, the owner must correct it before the car registration is renewed. However, it has not been as effective as anticipated because First, high emitting vehicles have been exempted from the repair requirements, second, repair shops often perform the tests sloppily or incompletely, and third, auto owners and repair shops have cheated on the tests, either by modifying the vehicle before the test or by altering the results if the vehicle fails the inspection. The end result is that there are a lot of cars on the road which are emitting far more pollutants than they should.

Mr. Speaker, if we really want to reduce auto emissions in a cost effective manner, we need to focus on the real problems, such as old cars and high emitters. The authors suggest that in order to reduce the disproportionate amount of emissions from these vehicles, I&M programs should be tightened up, and penalties should be increased for cheaters.

According to the article, "Recent studies * * * have shown that if all auto emissions are removed from the emissions inventory in Los Angeles by 2010, ozone concentrations will be only about 10 percent lower than they are projected to be if current regulations are implemented." Los Angeles and much of California will clearly have to take extraordinary steps to clean up the air, like requiring new cars with zero emissions. However, Los Angeles and California are not the rest of the country and mandating such extreme measures for everyone else will squander our scarce financial resources. We will, in effect, subsidize the small number of vehicles which are responsible for the majority of emissions if we continue to focus only on developing more complex and expensive controls for new vehicles. Equally important, this misplaced focus will not give us the kind of air quality improvement our constituents deserve. Mr. Speaker, I urge my colleagues to read this important article.

SALUTE TO JOHN CONNELL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to John Connell, who is retiring after 21 years of dedicated service to the village of Energy, a community which I am proud to serve in the U.S. House of Representatives.

John Connell started working for the village in November 1972. He worked under four different mayors—the Honorable Dale Walker, Bob Jeralds, Stanley Bloodworth, and Rex Piper. But mostly, he worked for the people of Energy, which is the kind of community where you know most everyone by name and care about them as friends and neighbors.

John was responsible for a nearly 100-percent improvement in the Energy water, sewer, and road systems. The widening of important arteries such as Pershing and College Streets was also the result of his oversight and hard work. Even as supervisor of public works, John also found time to serve as fire chief, improving the village's fire rating and striving again to make Energy a better, more safe place to live.

Friends I have talked with about John always point out how responsible he is and how he always accomplished whatever task needed to be done. When the snows would fall or when the storms would bring down branches and limbs, John would be out early and late to clean things up and make Energy presentable and open for business. He went above and beyond the call of duty because he cared about what he was doing.

Maybe that stems from his 22 years of service in the U.S. Army, where he earned the Bronze Star. Or maybe he draws his strength from the love and support of his wife of 42 years, Esther, and the three children and four grandchildren with whom they share their lives. Either way, we are lucky to have had someone like John working on our behalf, and we all wish him the greatest success and enjoyment in his retirement.

EXPLANATION OF THE MEDICARE CHANGES INCLUDED IN THE COMMON CENTS DEFICIT REDUCTION ACT OF 1993 THE HONORABLE CASS BALLENGER

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BALLENGER. Mr. Speaker, I have received several inquiries from constituents questioning the Medicare spending provisions included in the Penny-Kasich Common Cents Deficit Reduction Act of 1993. The fact sheet below, provided by the House Budget Committee Republican staff, explains the Medicare reforms.

A FACT SHEET

The Penn/Kasich plan would reduce the increase in Medicare spending $34 billion over five years. Of these savings, $11.2 billion comes from asking those with higher incomes to pay more for Part B premiums rather than receive a 75% subsidy. This compares with the $124 billion in Medicare reductions in the Clinton health care proposal. Penny/Kasich includes provisions instituting coinsurance on the two remaining Medicare benefits that currently have no coinsurance, and begins means testing Part B premiums and Part A deductible at $70,000 of income for individuals and $90,000 of income for couples. All of these proposals are accepted by health care reformers as reasonable and needed for true cost containment.

No Medicare beneficiary at or below 150% of poverty would pay the coinsurance.

A prospective payment system is established for home health to standardize rates and protect beneficiaries from being overcharged.

The Clinton administration believes home health coinsurance is good policy because they include it in their health plan.

Coinsurance for Medicare services is not a new concept; in fact, the home health benefit is one of the two remaining Medicare services with no coinsurance requirement.

CLINICAL LABS

Clinical lab services are part of the voluntary Medicare Part B program.

Clinicial labs had a coinsurance requirement in the past. It is one of only two Medicare benefits with no coinsurance requirement.

The Clinton administration believes clinical lab coinsurance is good policy because they include it in their health plan.

MEANS TEST PART B PREMIUM

Only individuals with incomes above $70,000 and couples with incomes above $90,000 would pay the higher premiums.

The current premium is based on the national average and is subsidized 75 percent. Penny/Kasich gradually eliminates the premium subsidy.

The Clinton administration believes means testing the Part B premium is good policy because they include a similar proposal in their health plan.

THE FACTS

There has been concern over the Medicare provisions in the Penny/Kasich plan. This fact sheet will detail the provision, discuss inaccuracies of critics, and give examples of potential payments by Medicare beneficiaries. Medicare is projected to spend $989 billion over five years. Penny/Kasich affects this amount by only 3 percent.

HOME HEALTH

1. The Home Health benefit is one of the two Medicare programs without coinsurance requirement for beneficiaries (the other being clinical labs). The Penny/Kasich Deficit Reduction Plan institutes a 20 percent coinsurance on these services, which include visits by skilled nurses, physical therapists, speech therapists, occupational therapists, medical social services, and home health aides. The benefit is used by 2.2 million of the 31.3 million Medicare recipients (7 percent).

As a free benefit, home health services spending has risen 45.9 percent, 30.1 percent, and 47.4 percent respectively over the past three years. In 1993, it is estimated the program will increase 42.4 percent for total spending of $10.184 billion. Over the next five years, the program is projected to spend $95.5 billion. In other word, this one program will spend more than the Penny/Kasich plan reduces from the entire federal budget.

2. The proposal includes two important provisions to ease the burden of the coinsurance. These are as follows:

"a. Medicare beneficiaries at or below 150 percent of the poverty rate (individual $10,455; couple $14,145) will not pay the coinsurance. The coinsurance will be paid by the Qualified Medicare Beneficiary program, which currently pays Medicare premiums, deductibles, and coinsurance for those at the poverty rate.

"b. A prospective payment system is established at 93 percent of the mean rate. The 20 percent coinsurance would be based on a rate limited to no higher than 93 percent of the mean (the current limit is 112 percent of mean). A national association and most home health agencies support the new system."

The prospective payment system provision also includes regulatory relief from current cost reporting requirements. For some home health agencies, this reporting accounts for 40 percent of the cost of operation. This regulatory relief will lower costs, thus lowering the charge to Medicare for services. The provision will establish standard rates and thus remove the variance charges for the same service. This will protect the Medicare beneficiary from being overcharged for a coinsurance payment.

3. Clearly, Medicare beneficiaries or their medical insurance will have to pay a fraction

of the cost of a service they now receive without cost. However, the 20 percent coinsurance is reasonable, and brings home health services in line with the rest of Medicare coinsurance requirements. Health care economists agree that the days of providing benefits with no coinsurance are over. The propensity to overspend when using other peoples' money is proven by the data. Spending on benefits provided with no cost consciousness is unsustainable.

Attack: The AARP sent letters claiming high costs to Medicare beneficiaries. One letter asserts the coinsurance would "cost the average home health user another $850 in 1994."

Truth: 1. The average home health user (7 percent of all Medicare beneficiaries) is not paying anything now—how can it be "another $850"?

2. The methodology used to calculate the costs per beneficiary was flawed. They multiplied averages by averages and created a distorted number which overstated the cost by more than double. Some basic math skills would have prevented these inaccuracies. Using a weighted average for each type of services provided to beneficiaries, the total average coinsurance cost would be $391.08. This more accurately represents the use of services by a beneficiary and thus the average coinsurance. (Source data: Prospective Payment System Report to the Congress, June 1993; Federal Register July 8, 1993)

The home health provision does entail costs for the beneficiary. We would expect Medigap policies and private insurance coverage to adjust to this policy change.

Finally, it is charged that the coinsurance is a new "sick" tax. The question arises: when exactly should we pay for health care? The Clinton administration believes coinsurance is good policy coinsurance provisions are included in their health plan. This is an effort to implement spending restraint in a deficit-ridden budget.

CLINICAL LAB SERVICES 20 PERCENT INSURANCE

The coinsurance on clinical lab services would require Medicare beneficiaries to pay 20 percent of the cost of tests. Clinical lab services is part of Medicare Supplemental Medical Insurance (SMI), or Medicare Part B. It is a voluntary benefit, and covers physician services. Part B is currently subsidized 75 percent by general tax revenues.

In the past, the clinical lab program charged a 20 percent coinsurance. It was removed when the payment system was changed. The Penny/Kasich plan would reinstate the coinsurance, requiring nominal payments by the beneficiary. The service includes the typical tests given at a doctor's office, and either analyzed in an office lab or sent to a clinical lab. They include blood tests, urinalysis, electrocardiogram, pap smears, etc.

"For example: Mrs. Smith goes to the doctor for an annual complete physical. Typical tests and charges would be a urinalysis ($12.50), SMAC/CBC comprehensive blood test ($40), pap smear ($18), hemoccult ($7), and electrocardiogram ($15), for a total of $92.50. The total coinsurance paid by the beneficiary for all tests would be $18.50."

Many Medicare beneficiaries will have the coinsurance paid by employer-provided retirement coverage or other types of insurance. The coinsurance will not be onerous as the cost of clinical lab tests are modest. The Clinton administration includes the 20 percent coinsurance in their plan.

MEANS TEST MEDICARE PART B PREMIUM

The Penny/Kasich plan gradually reduces the Medicare Part B premium subsidy beginning at $70,000 for individuals and $90,000 for couples. The subsidy would be phased out in increments of 3 percent per $1,000 of income above the threshold. The full national average premium would be paid by individuals above $95,000 and couples above $115,000 income.

Attack: The Democratic Study Group claims the proposal would make elderly overpay for Medicare Part B coverage.

Truth: Again, the Penny/Kasich plan is attacked by specious logic and bad math skills. Using their logic, all (not just high income) Medicare beneficiaries in rural counties are overpaying their premium now. If they are paying 25 percent of the national average, they are not receiving as much subsidy as those in high cost areas. A national average is just that—a national average. Pointing to a county with low costs and claiming overpayment of a national average makes no sense.

Everyone knows Medicare underpays providers and shifts costs to the private sector. Does anyone really believe someone over 65 could purchase part B coverage for $164 per month? The national average for private sector health insurance is $400. Most people were paying $400 per month for health insurance before entering Medicare. It's still a good deal even without the subsidy.

Finally, a very similar proposal is included in the Clinton health plan. It is widely recognized the current subsidy needs to be eliminated.

CAVEAT CONSUMERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DINGELL. Mr. Speaker, I commend to my colleagues the following November 5, 1993 Detroit Free article which points to the dangers posed by special interest groups to rational debate on health care reform. As the article aptly points out, policymakers need to maintain a critical eye and sharp mind against the frontal attack that will be waged by those with special interests in the outcome in the health care debate. If we are going to produce sound, rational health care policy, we must insist on well articulated and factual arguments.

HEALTH CARE—WARNING: INDUSTRY ADS MAY BE HAZARDOUS TO REFORM

The hyperbole and special pleading that distort the national debate on health care can only be expected to grow, now that President Bill Clinton's complicated reform proposal offers such a fat target to naysayers and nitpickers.

So Hillary Rodham Clinton's broadside this week against the heath insurance industry's TV commercials opposing the White House plan provides a useful reminder—even if you disagree with the first lady—that consumers must remain skeptical of sincere-sounding rhetoric and slick, expensive advertising, from whatever source.

Ms. Clinton accused the industry of greed and dishonesty in asserting in its ads that the administration's reform initiative would cost too much, create too much regulatory bureaucracy, and impermissibly limit patients' choice of doctors and hospitals. To the contrary, she argued, health insurers' profit-motivated restrictions on medical coverage have diminished choice, denied affordable insurance to millions of Americans, and brought the U.S. health care system "to the brink of bankruptcy."

By contrast, the president's (and her) managed "competition" proposal, she said, would enhance choice and security by allowing Americans to select from an array of health care plans, including the traditional fee-for-service model. But what happens, critics ask, if one's preferred plan is oversubscribed or runs out of money?

The insurance industry defends the accuracy of its ads, and insists it seeks universal coverage and what it calls "comprehensive" reform rather than the status quo. In the next breath, though, it opposes as chaotic White House attempts to contain the growth of health insurance premiums and to provide medical benefits through regional purchasing alliances.

We think Ms. Clinton is more nearly right than the industry. To maintain public support, the administration will have to defend its proposal aggressively against interest-group criticism from many directions, even as it remains willing to negotiate details with Congress.

But the danger of a White House war on insurance companies, drug manufacturers, Republicans, doctors, employers, or any other medical lobby or trade group, is that it could deflect administration—and public—attention from the central questions that must guide the health care debate: cost efficiency, quality, access and innovation.

The squabble between the first lady and the insurance industry persuades us more than ever that the best way to curb the industry's dominance would be to remove it from the health-care system—except, perhaps, for claims processing—by embracing a progressively financed, government-administered, single-payer system.

INTRODUCTION OF THE HEALTH EQUITY AND ACCESS REFORM TODAY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. THOMAS of California. Mr. Speaker, when we return for the second session of this Congress, one issue will dominate the agenda—health care reform.

Thus far, the debate on this issue has centered on the Clinton Administration plan which uses the heavy hand of federal regulation, massive bureaucracy and an enormous tax increase to deliver universal health coverage. The average American, worried about losing control of their personal health decisions to the federal government, remains unconvinced by the President's approach.

That is why I am introducing health reform legislation today that guarantees every American coverage but leaves the individual in charge of his own health choices. This legislation, The Chafee-Thomas Health Equity and Access Reform Today bill, or HEART, is being jointly introduced by myself and Senator JOHN CHAFEE. HEART is the most comprehensive Republican health care plan to date and represents the tireless efforts of many Republicans to meet the President head-on in the health reform debate.

And I would like to thank my staff, the staffs of both the House Ways and Means Committee and Senator CHAFEE's office, particularly

Ann LaBelle and Christine Ferguson, for their fine efforts and hard work in helping to develop the HEART proposal. I would also like to thank the House Legislative Counsel staff, particularly Edward Grossman, Noah Wofsy, Lawrence Johnson and Susan Fleishman, and Senate Legislative Council Mark Mathiesen, William Baird, Susan Fauver, and Julie Simon for their tremendous support in helping to draft this bill.

We all agree that our Nation's health care system is in need of reform. Many people cannot acquire or pay for adequate health insurance. Others face precarious situations when they get sick, change jobs or their employer changes coverage. Access, security and cost are the three most pressing issues on Americans' minds when it comes to health care.

HEART will give everyone access to a standard package of benefits including medical and surgical services, prescription drugs and preventative services. Every health insurance plan would have to offer this coverage or lose their tax deductibility. Furthermore, insurance plans could not reject or hike up premiums to any applicant because they are sick or have a pre-existing condition. Plans would be forced to compete on the basis of price and quality of services they can bring to their customers.

All employers, both large and small, must offer the standard benefit package. While employers are not required to pay for this coverage, small employers, who currently find coverage unaffordable, may take advantage of HEART's new purchasing cooperatives to buy insurance with the same price and administrative advantages as big companies.

These purchasing cooperatives, of which there may be several competing for business in one area, will also operate for the benefit of the self-employed and other individuals who wish to purchase insurance on their own. Even the low income individual, which is not Medicaid eligible, can get standard coverage form the cooperative where he/she lives. A government voucher, phased in over a ten year period, will help those with incomes up to 240 percent of the poverty line buy the standard benefits.

HEART also makes the tax treatment of health benefits more equitable. Self-employed workers and individuals who buy their own insurance will be able to deduct all their premiums just like companies do now. In addition, long term health insurance will receive favorable tax advantages to enhance American health security.

My proposal does require that by the year 2005 every American obtain health coverage. But purchasers still retain many choices. For example, individuals may choose a catastrophic plan with an integrated, tax deductible medical savings account to meet their coverage requirements. Employers may also offer these plans and make contributions without tax consequences to their employees.

But Mr. Speaker, the most important standard by which this plan or any other plan should be measured is in its affordability—the standard of reality. For without this, all the promises of access, security and quality are empty.

This plan does not make promises it cannot keep. It does not mandate huge tax increases on working Americans. It does not sacrifice the quality of medical care. And it does not rely on phoney price controls to support a huge new layer of bureaucracy.

Mr. Speaker, it is important to note that this is the same approach used in the other Republican health care reform plan, the "Affordable Health Care Now Act," of which I am also a cosponsor. This is the only effective approach to reform.

The HEART plan pays for the low income voucher assistance by reducing the growth of Medicare and Medicaid from the current 12 percent rate to 9 percent. And that's not just a promise. Our budget enforcement requires that the reductions be certified by the OMB before the expansion of the assistance programs proceed.

Mr. Speaker, U.S. medicine is one of the wonders of the modern world. It was built by American genius, innovation and the marketplace. The HEART plan uses the strengths of the current system and addresses the ills of the system with a dose of reality, a characteristic that has been all too uncommon in the health reform debate until now.

SUMMARY OF THE "HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993" [HEART]

The "Health Equity and Access Reform Today Act of 1993" guarantees every individual access to affordable and secure health coverage through substantial health insurance market reforms. Low income individuals will receive government vouchers to help purchase insurance. The vouchers are phased in through 2005 as savings in current government health programs are realized. The legislation will constrain the growth of health care costs through structural reforms and other savings.

HEART makes important changes in the tax treatment of health insurance that will make it easier to obtain coverage. The proposal also creates equity in the tax code. Individuals and the self-employed will be able to deduct all of their reasonable health insurance expenses. Tax code clarification will also help make long-term care insurance more affordable.

In addition, special assistance is provided for medically underserved, frontier, rural, and inner-city areas. "HEART" also contains important administrative, antitrust, medical fraud, malpractice, and quality assurance initiatives.

SECURE AND EQUITABLE HEALTH INSURANCE COVERAGE

Insurance and Consumer Protection Reforms

To be fully tax deductible, an insurance plan must be certified by the state as a "qualified health plan" following federal benefit and other standards. All qualified health insurance plans must meet the following requirements:

Guarantee eligibility to all applicants.

Prohibit discrimination based on illness or preexisting conditions.

Guarantee renewal.

Ensure delivery of services throughout the entire geographic area (or Health Care Coverage Area) in which they are offered.

Offer either a standard or catastrophic/medical savings account benefit package (or both).

Encourage formation of purchasing groups for individuals and small businesses (100 or fewer employees).

Comply with administrative reforms, meet quality assurance and solvency standards, participate in risk-adjustment programs among insurers, and implement requirements to reach the medically underserved.

Individual and Small business Purchasing Groups

To provide some of the same market advantages large businesses enjoy, and to disseminate better consumer information, purchasing groups may be established through which individuals and small businesses may choose from among several qualified health plans. States will establish geographic areas called Health Care Coverage Areas (HCCAs) in which one or more purchasing groups may compete for members. An HCCA may also be formed by interstate agreement to cover more than one state.

Vouchers to Assist Low Income Purchasers

Starting in 1997, those with incomes below 90 percent of the poverty level (and who are not eligible for Medicaid) will receive vouchers to buy insurance through purchasing groups. Voucher assistance will expand annually up to 240 percent of the poverty line in the year 2005.

Uniform Benefits Package

The standard benefit package includes medical and surgical services and equipment, prescription drugs, preventive services, rehabilitation home health services for acute care, hospice care, and some mental health services—all of which are based on a medically necessary or appropriate standard. Copayments and deductibles may apply to all but preventive services. An alternative catastrophic benefit plan can also serve as qualified coverage.

A Benefits Commission, appointed by the President and Congressional leadership, will report to Congress on any needed clarifications of the benefit plan. Annually, the Commission may recommend benefit changes for the approval of the Congress and President.

UNIVERSAL COVERAGE: INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

Individual Responsibility for Health Care Coverage

All individuals must obtain health insurance coverage by 2005. The requirement is phased in based upon an individual's ability to purchase the standard plan and will be tied to the gradual expansion of federal assistance for low-income uninsured individuals. Individuals who enter the health care system uninsured will pay a penalty equal to the average yearly premium of the local area plus 20 percent.

Employer Responsibility for Health Care Coverage

Small employers (those with 100 employees or less) must offer (but need not pay for) a standard benefit package or alternative catastrophic insurance obtained from a qualified health plan. Employees of small businesses may choose not to join any of the plans offered by their employer. They may, instead, purchase insurance through a different group or qualified health plan.

Large employers (those with more than 100 employees) must offer both a standard and catastrophic benefit package to all employees. The employer may form a purchasing group, purchase from a qualified health plan, or self-insure for the purpose of providing insurance; however, its plan must comply with all consumer protection and insurance reforms.

TAX TREATMENT OF HEALTH CARE COVERAGE

Individual and Employer Tax Provisions

All purchasers of qualified health plans will receive favorable tax treatment up to the "applicable dollar limit." Employees with employer paid insurance will not count the premium payments as income when the premiums do not exceed this amount; premiums in excess of the cap will be taxable to the employee as income. The health insurance deduction for self-employed persons is extended permanently and increased to cover 100 percent of the cost of qualified health plans, up to the "applicable dollar limit." The medical expense deduction for health insurance premiums of other taxpayers would be expanded to permit the deduction of 100 percent of the cost of qualified health plans (up to the amount discussed above), even for individuals who do not itemize deductions.

Medical Savings Accounts (MSAs)

Medical Savings Accounts can be part of any qualified catastrophic benefit plan. Contributions to an MSA will be fully deductible up to the applicable dollar limit. If the employer makes the contribution, the amount contributed is excluded from the employee's income. These accounts are available to pay the cost sharing requirement of the catastrophic health plan and may also be used to purchase long-term care.

FEATURES TO IMPROVE THE CURRENT HEALTH CARE SYSTEM

Quality Assurance and Medical Research

All health plans must have a quality assurance program consistent with federal guidelines. Federal research on effectiveness outcomes will be expanded, and a clearinghouse and other registries on clinical trials research will be developed. A Medical Research Trust Fund is established to guarantee funding for research.

Assistance To Underserved Areas and Provider Incentives

Health plans may be required to provide additional benefits to special needs populations in defined geographic regions. Plans will be compensated for such care through grants or enhanced reimbursement.

In order to increase the number of primary care providers, the National Health Service Corps and other health profession funding would be increased. States may apply for Medicare graduate medical education demonstration authority to experiment with methods of changing physician specialties.

JUDICIAL REFORMS

Malpractice Reforms

To lower health care costs, parties in malpractice suits must participate in alternative dispute resolution systems before entering regular litigation procedures. Noneconomic damages are capped at $250,000, and liability for such damages shall be based on proportion of fault. Providers following practice guidelines approved by the Agency for Health Care Policy and Research (AHCPR) shall have a presumptive defense against malpractice claims.

Anti-Fraud and Abuse Control Program

The bill establishes a national health care fraud prevention program. It increases and applies civil penalties for Medicare and Medicaid fraud to all health care programs. Providers convicted of fraud will be excluded from the Medicare program.

Antitrust Reforms

The Attorney General, along with HHS and FTC, shall establish competition guidelines for approved providers, health care plans, and purchasing groups. Justice, HHS and the FTC will establish expedited waiver procedures from antitrust laws. Cooperative ventures shall be subject to the "rule of reason analysis."

"HEART" FINANCING GUARANTEES NO INCREASE IN FEDERAL HEALTH COSTS

Reductions in Medicare/Medicaid Programs

Savings in Medicare and Medicaid finance fully the low income voucher program. Savings arise from means testing the Medicare Part B premiums, phasing out payments to hospitals for uncompensated care and for enrollee bad debt, and instituting a managed care program in Medicaid.

Budget Procedures to Protect Against Cost Overruns

The voucher program expansion proceeds only after certification by OMB that savings are occurring as scheduled. In the event that savings occur more rapidly, the phase-in will be accelerated. In the case of a savings shortfall, it will be decelerated. The Benefits Commission may make recommendations to Congress to reduce the deficit amount by restructuring benefits or restructuring health care entitlements. If Congress enacts such recommendations, the deceleration in voucher coverage will be appropriately adjusted.

CONGRESSMAN KILDEE HONORS DAVID NUSSBAUM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KILDEE. Mr. Speaker, I rise today to honor a dear friend of mine, Mr. David Nussbaum, who has recently announced he will be leaving my hometown of Flint, MI for a new position in Richmond, VA.

Mr. Speaker, for the past 10 years, David Nussbaum has been a dynamic, and effective community leader as the executive director of the Flint Jewish Federation. He organized and strengthened the Flint Jewish community, which has always been a strong advocate for human dignity and justice. In this capacity, David has worked to improve the quality of life for not only the Flint Jewish community, but the entire community.

David is a compassionate human being who cares deeply about people and their problems. He understood the need for social services in the Jewish community so he established the Flint Jewish Family and Children Services to address those unique problems. But David knew that a community is only healthy when all of its people are strong. David understands that people are a community's strongest assets, and Mr. Speaker, that is indeed true of both Flint, MI and David Nussbaum.

In serving our community, David was an officer in the Urban Coalition of Greater Flint, he was the president of the Greater Flint Sunrise Rotary, chair of the city of Flint Human Relations Commission, community co-chair of the 1986 Martin Luther King, Jr. Flint Holiday observance, and a board member of both the Mott Community College Foundation Board and the Endowment Board. In addition to these activities, David maintained a national presence through his deep involvement in the National Jewish Community Relations Advisory Council.

David was one of those special people that you knew you could always count on to lend a hand. I knew that I could call David at any time, at any place, and he would do what was humanly possible to help. And when David called me for assistance, it was to help a person in need. David was also active in the Democratic party. He would often call me in Washington, DC, to give me his views on the issue of the day. Most of the time, it was a view that we both shared. He was someone I could count on for honest and politically astute advice. But, as I told David, when I am in Washington, DC, he will now be only 90 miles away. So, I know I will see him often.

Mr. Speaker, if losing David were not bad enough, we feel another loss in that David's wife, Laurie MacArthur, will be leaving for Richmond as well. Laurie has lived most of her life in Flint, and has also been very active in the Flint community. She is currently the executive director of the Flint Visually Impaired Center, and a member of the Bishop International Airport Authority and the board of Health Plus of Michigan. Laurie is also a founder and executive board member of 100 Women, a group promoting women's issues and candidates throughout the State of Michigan. She also served as president of the Junior League of Flint and chairperson of the board of the Department of Social Service in Genesee County. A Michigan State University graduate, she served as associate executive of the United Way of Genesee and Lapeer County.

Mr. Speaker, our community will certainly miss David and Laurie for all they did to enhance our community. What makes life so special is being able to share time with people like David and Laurie, who touch people's lives in the most positive way. Most of all, I will miss their friendship, which I will cherish forever. I wish them the best in their future endeavors, and I want them to know they will always have a place to call home in Flint.

AIRCRAFT NOISE OVER NEW JERSEY IS INTOLERABLE

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, like all other congressional offices on Capitol Hill, my office regularly receives hundreds of phone calls, facsimiles, and letters each day from constituents. Today, my office was contacted by Ms. Ann Reynolds of Scotch Plains, NJ concerning the issue of aircraft noise. While it is not unusual for my office to receive complaints about the high level of aircraft noise over the communities of central New Jersey, Ms. Reynolds relayed a unique story concerning aircraft noise that deserves to be brought to my colleagues' attention.

The Reynolds family moved from Manhattan to Scotch Plains last July to seek peace and quiet in a residential setting. The Reynolds family specifically chose a home away from busy streets, churches, and schools to ensure that their new home would be free from noise. Unfortunately, the first night the Reynolds spent in their new home, they were rudely awakened by a type of noise they didn't expect: the sounds of jets roaring overhead, coming from and going to Newark International Airport. Nearly 4 months later, this intolerable cacophony of noise continues unabated, disturbing the Reynolds, and all of their neighbors in the communities around Scotch Plains.

Mr. Speaker, the Reynolds, and all other families who have put up with aircraft noise day and night since the FAA's expanded east coast plan was implemented 7 years ago, deserve relief. They deserve to live in their homes without outrageous disturbances. They deserve to live in their homes in quiet enjoyment, a legal principal implied in all leases and deeds. While the issue of aircraft noise is often shrouded in mind-numbing statistics and bizarre FAA-speak, the Reynolds' plight shows that there is also a human side to this issue. I urge my colleagues not to forget families like the Reynolds, and to join me in my ongoing effort to reduce aircraft over our residential communities.

THE TENTH—A DISTRICT OF CARING COMMUNITIES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PAYNE. Mr. Speaker, I want my colleagues to know that I am proud to represent a district of caring communities. Wednesday, December 1, 1993, is World AIDS Day and a number of activities have been planned in my district to bring attention to this dreaded disease and its impact on our local, national, and international communities. From hosting health fairs, information and screening sessions, to ceremonies commemorating the first day issue of the AIDS awareness postage stamp, to community meetings, and candlelight vigils, the day will be filled with opportunities to draw attention to HIV/AIDS and its impact on the urban community, to educate our constituents on how to prevent the spread of HIV or AIDS, and how to increase/provide compassionate care for affected persons.

The people of New Jersey's 10th Congressional District are always ready and willing to work for the benefit of the community at-large. On September 10, 1993, I had the pleasure to work with the Union County HIV Consortium, a 30-plus member organization, during its day of caring. The day's events included an open house for the Union County HIV Consortium Resource Center, a legislative reception, and a town hall meeting. The day focused on issues centered around providing community awareness and education; disseminating information, and providing a forum for provider agencies; and developing coordinated plans to respond to the HIV epidemic, and identifying and assessing needs and services delivery.

Just as the events of World AIDS Day will be coordinated chiefly through a corps of volunteers, so was the September 10 Union County Day of Caring. I would like to take this opportunity to thank the Union County HIV Consortium Planning Committee members for their stalwart support and commitment of serving a population in great need. They are Catherine Miranda, board president; Mary Beth Kelly, former board president; Michelle Doran McBean, committee chair; Charles Jones, executive director; Freeholders Linda DiGiovanni, and Linda Lee Kelly, Lisa Berlin, Carmen Solis, Susan Moore, Patty Devereau, Louise Yohalem, Karen Dinsmore, Alvin Hester, Tony Jirau, Anne Dashensky, Carmen Lopez, Patricia Morris, and Mary Wegryn. Special thanks also goes to Joseph Manfredi, Urbano Venero, and Nathan Dodge McBean for their assistance. I would be remiss if I did not thank my town hall meeting panelists—Douglas Morgan, Arlene Enabulele, Ann Baran, Tinga Buckly, and Evelyn Sullivan—other speakers and participants.

AN INTERNATIONAL SOLUTION FOR ASYLUM REFORM

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to introduce a concurrent resolution which would restore integrity to the political asylum process by creating a fair and effective international asylum strategy.

Immigration has historically been a great source of strength for our Nation upon which we have built a foundation for past and future success. One unique component of America's immigration policy is our willingness to provide safe haven for individuals who have been persecuted in another country. Because of widespread abuses, however, this historic tradition is in jeopardy. I believe a cohesive international approach to the asylum process must be taken in order to provide relief to America's overburdened asylum system, while also preserving refuge for those suffering from legitimate persecution.

Americans across the country have expressed frustration with our Nation's immigration policies—and for good reason. This year alone, almost 150,000 aliens will arrive at American ports of entry seeking political asylum. Before coming to the United States, many of these individuals travel through countries which provide safe haven from persecution. Rather than applying for asylum at one of these safe haven nations where refuge is immediately available, these asylum seekers continue their journey to the United States primarily in search of economic opportunity. This country shopping has contributed to a growing backlog of 330,000 asylum cases, creating a situation that not only strains America's limited resources but also, as we have seen in New York, poses a serious threat to national security.

Recently, the nations of the European Community negotiated a multilateral treaty to alleviate similar problems. In conjunction with independent asylum reform measures, their multilateral agreement helped countries like France, Italy, and the United Kingdom reduce asylum applications by 50 percent since 1991. It is time for America to do the same. If we do not, the overflow of asylum seekers will pass through Europe and be sent on the United States.

The legislation I am introducing today would help generate an international approach by urging the Secretary of State to negotiate multilateral first safe haven guidelines for real asylum reform. This legislation would prevent thousands of fraudulent claimants from ever reaching U.S. soil. It is a cost-effective approach which would eliminate the incentive to country shop in search of economic relief, yet ensure political asylum for valid claims where political asylum is most immediate available.

Mr. Speaker, it is time to set forth a vision for American immigration policy for the coming century. This legislation will begin that process by constructing a frame work which would significantly reduce the aggregate number of asylum seekers in the United States while preserving safe haven for all who need it. Finally, I would like to thank my colleagues, Representative DON JOHNSON and Representative RALPH REGULA for their assistance in introducing this much needed, bipartisan legislation.

CONGRESSMAN KILDEE HONORS ALICE SHOTWELL GUSTAFSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to a remarkable woman who has, throughout her lifetime, demonstrated a total commitment to excellence in her profession. Alice Shotwell Gustafson has grown to become a truly influential leader in the Michigan business community. Her sphere of influence not being limited to the business world, Ms. Gustafson has proven herself a tireless advocate for the development of our Nation's most valuable natural resources, our youth. In recognition of her lifetime of service, the Clinton Valley Council of the Boy Scouts of America will honor Alice Shotwell Gustafson at the 18th Annual Distinguished Citizen Dinner on December 2, 1993 at the Pontiac Silverdome.

Barely out of high school and armed only with an unwavering desire to succeed, Alice Shotwell Gustafson was hired by Hubert Distributors Incorporated as a file clerk. Today, 46 years after that humble beginning, she has risen through the ranks to become the chief executive officer of the corporation which now grosses over $42 million a year. Under her leadership, Hubert Distributors built a $6 million distribution, warehousing and administrative complex in Pontiac. Hubert Distributors commands a 51 percent market share of the Anheuser-Busch products it distributes, making it the market leader in Oakland County and Michigan's third largest distributor.

Alice Shotwell Gustafson and her company have been the recipients of numerous awards for their record of excellence and competitiveness. In 1989, Alice Shotwell Gustafson and her company received Anheuser-Busch's highest honor, when Hubert Distributors Incorporated was named a Gold Dimensions of Excellence Distributor. Ms. Gustafson and Hubert Distributors have been featured in countless articles in leading industry publications such as Michigan Business, The Beverage Journal, Crain's Detroit Business, Oakland-Tech News and The Oakland Press.

A true pathfinder, Alice Shotwell Gustafson has helped to break down gender and age barriers in many arenas, including business and sports. She was named the first woman chair of her industry association, The Michigan Beer and Wine Wholesalers Association. She was the first woman member of the Pontiac Rotary Club as well as its first woman president. Not only was Alice Shotwell Gustafson chair of the committee that sponsored the Olympic Torch Run through Pontiac, she was a participant in the run as well.

Alice Shotwell Gustafson has been the Michigan woman water skiing champion five times. She holds a commercial pilots license with instrument and multiengined ratings as well as a Sea Plane Rating. Ms. Gustafson is the oldest women in the United States to obtain a jet captain rating. In June 1991, Alice Shotwell Gustafson was appointed to the Michigan Aeronautics Commission for a term ending in September 1995.

Ms. Gustafson is the Honorary Chair of the Boys Club and a recipient of its highest honor, the Golden Boy Award. She serves on the board of trustees of the Young Womens Christian Association and the executive planning committee for the largest yearly fundraiser of the Clinton Valley Council of the Boy Scouts of America. Alice Shotwell Gustafson established a grant to build the Shotwell-Gustafson Pavilion at Oakland University in Rochester, MI. She purchased the Howard Shelly outdoor wildlife firm series and donated the films to Oakland University. Ms. Gustafson is a member of both the university's President's Club as well as the board of the university's foundation.

Mr. Speaker, it is indeed an honor for me to rise before you and my fellow Members of the 103d Congress, to pay tribute to the lifetime accomplishments of Alice Shotwell Gustafson. She has become a part of the living history of my home State of Michigan and our Nation. Alice Shotwell Gustafson has spent her life demonstrating that those who place no limits on their dreams shall achieve greatness. She will serve as an inspiration for Americans for decades to come.

THE CIVIL RIGHTS STANDARDS RESTORATION ACT: RESTORING THE LONGSTANDING LEGAL FRAMEWORK

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. OWENS. Mr. Speaker, today I am introducing with Congressman ALCEE I. HASTINGS, the Civil Rights Standards Restoration Act, to overturn the Supreme Court's Hicks decision. I would like to applaud Senator METZENBAUM's leadership on this issue.

Last summer, in St. Mary's Honor Center versus *Hicks*, a bare 5-4 majority of the Supreme Court abandoned the three-step legal framework federal courts have used for 20 years to resolve civil rights claims involving intentional discrimination. The Court repudiated its own long-standing precedents, rejecting the position taken by the Reagan Administration, the Bush Administration, the Clinton Administration, and a majority of the federal courts of appeals. In its place, the Court adopted a scheme that Justice Souter (in dissent) called "unfair to plaintiffs, unworkable in practice, and inexplicable in forgiving employers who present false evidence in court."

1. The 20-year-old Legal Framework. Twenty years ago, in McDonnell Douglas Corp. versus Green, 411 U.S. 792 (1973), the Supreme Court laid out a three-step framework for resolving Title VII cases involving intentional discrimination. This scheme has been employed in thousands of federal civil rights cases and was reaffirmed by the Court in *Texas Dep't of Community Affairs versus Burdine, 450 U.S. 248 (1983). The framework is as follows:*

First, the plaintiff must establish a prima facie case of discrimination by offering evidence strong enough to result in a judgment that the employer discriminated, if the employer offers no evidence of its own.

Second, if the plaintiff establishes a prima facie case, the employer must then come forward with a clear and specific nondiscriminatory reason for the challenged action.

Third, if the employer offers a nondiscriminatory reason for its conduct, the plaintiff then must establish that the reason the employer offered was a pretext for discrimination. Significantly, the Supreme Court made clear in Burdine that the plaintiff can prevail at this third stage "either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence."

2. Hicks: Lower Courts. At trial, Melvin Hicks, an African-American corrections officer, established a prima facie case that his employer had suspended, demoted and terminated him based on his race. The employer responded by claiming that the plaintiff had violated work rules. The district court rejected that reason as a pretext, but still ruled in the employer's favor, based on a different reason—personal animosity of the plaintiff's supervisor—that was never put forward by the employer at trial to explain its conduct. The 8th Circuit Court of Appeals reversed, holding (based on McDonnell Douglas, Burdine, and a clear majority of federal courts of appeals) that the plaintiff should prevail as a matter of law where he proves a prima facie case of intentional discrimination and that the nondiscriminatory reasons offered by the employer were not credible.

3. Hicks: Supreme Court. In a 5-4 decision written by Justice Scalia, the Supreme Court reversed the 8th Circuit's decision and upheld the district court's judgment for the employer. In an opinion by Justice Scalia, the Court abandoned the 20-year-old McDonnell-Douglas framework, holding that the plaintiff was not entitled to judgment even though he had proved a prima facie case of discrimination and disproved the employer's only proffered reason for its conduct. Instead, the Court held that plaintiffs may be required not just to prove that the reasons offered by the employer were pretextual, but also to "disprove all other reasons suggested, no matter how vaguely, in the record." Justice Scalia acknowledged that the majority's decision will place an employer who lies in a better position than one who says nothing.

4. Souter Dissent. Justice Souter wrote a dissenting opinion, joined by Justices Blackman, White, and Stevens. Souter charged that the majority's decision "stems from a flat misreading of Burdine and ignores the central purpose of the McDonnell Douglas framework." The Court is throwing out the rule," Justice Souter asserted, "for the benefit of employers who have been found to have given false evidence in a court of law." Justice Souter expressed particular concern that the decision "provides [the plaintiff] with no opportunity to produce evidence showing that the district court's hypothesized explanation, first articulated six months after trial, is unworthy of credence."

5. Impact of Hicks. Justice Souter identified a number of likely consequences from the Court's decision. First, by making intentional discrimination substantially more difficult to prove, Hicks will discourage discrimination victims from enforcing their rights, thus frustrating Title VII's purposes.

Second, the decision saddles plaintiffs "with the tremendous disadvantage of having to confront, not the defined task of proving the employer's stated reasons to be false, but the amorphous requirement of disproving all possible nondiscriminatory reasons that a factfinder might find lurking in the record." Justice Souter rightly concluded that Hicks "will promote longer trials and more pro-trial discovery, threatening increased expense and delay in Title VII litigation for both plaintiffs and defendants, and increased burdens on the judiciary."

Third, the Hicks decision suggests that many discrimination victims will be unable to prove a Title VII violation without "smoking gun" evidence of intentional discrimination. As Justice Souter recognized, the need to allow plaintiffs to prove their cases based on circumstantial evidence is "crucial to the success of most Title VII claims, for the simple reason that employers who discriminate are not likely to announce their discriminatory motive."

6. The Civil Rights Standards Restoration Act. The bill creates a new, free-standing statutory provision (Section 1984) which applies in federal civil rights cases in which the McDonnell Douglas/Burdina framework is used to establish intentional discrimination (this includes Title VII, the ADEA, the ADA, etc.). The bill adopts the precise language of these two cases, providing that, where the plaintiff establishes a prima facie case of discrimination, and the defendant offers a nondiscriminatory explanation for its conduct, the plaintiff may still prevail by proving that either (1) "a discriminatory reason more likely motivated the [employer]," or (2) "the [employer's] proffered explanation is unworthy of credence."

HEALTH PLAN PURCHASING COOPERATIVES

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, as we prepare to reform our Nation's health care system, a key challenge is making affordable insurance available to small employers and individuals. While this is not the only challenge, it is key to both increasing access and cutting the cost of health care. Though States have begun to address the group of issues involved, Federal action will enable them to move more rapidly and more consistently. Further, by building on successful programs that have been piloted in our States, we will increase the chances that reform will mean just that.

Consequently, I invite cosponsorship of a bill to address a piece of the health care reform puzzle that in and of itself is complicated but very important to assuring affordable health care for all. This piece creating purchasing cooperatives can then be fit with other legislative proposals to assure the systemic reform we know is necessary.

Under my proposal, States would establish voluntary health plan purchasing cooperative [HPPC's] in which individuals without insurance and small employers could freely enroll and select from a wide array of competing health plans all providing a standard benefit plan governed by the rules of a reformed health insurance industry. In addition, the Health Plan Purchasing Cooperative Act would:

Make available to individuals and small employers at least three standard plan choices—managed care, fee-for-service, and a medisave option.

Require all health care plans to sell their products for the same price both inside and outside of the HPPC so that neither the HPPC plans nor the plans outside the HPPC receive an inequitable share of risk.

Assure that all plans would comply with proposed insurance reforms—guarantee availability, renewability and continuity of coverage, limits on the use of preexisting conditions, and adjusted community rating.

Enable members to benefit from the cooperative's contracting expertise, the administrative savings, and the consumer information they would provide.

Encourage competition, increase access, bring down costs, and improve quality.

I urge my colleagues to join me in establishing the voluntary health plan purchasing cooperative model. The Health Plan Purchasing Cooperative Act would increase access, bring down costs, and improve quality. Competition, based on consumer choice would determine who would succeed and who would not.

SUPPORT FOR REAL CAMPAIGN FINANCE REFORM

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today in opposition to H.R. 3 and in support of the Michel campaign finance substitute offered by the Republican leader from Illinois.

It is obvious to all of us here today that the American political process is in urgent need of campaign finance reform. I have sat and listened as Members on both sides of the aisle have accosted the unclean sources of funding which pervade the current system.

There are two ways to rid campaigns of special interests and potentially corrupting influences. One is to simply eliminate them from the list of eligible donors. The second is to subsidize politicians with taxpayer dollars. Unfortunately, Mr. Speaker, the bill we are here to consider today would implement the latter.

The simple facts are these: The Michel substitute would eliminate PAC's. H.R. 3 would not. The Michel substitute would require candidates to have the financial backing of their constituents by requiring a majority of funds to originate from within a candidate's district. H.R. 3 would not. The Michel substitute would place a complete ban on soft money and bundling. H.R. 3 would not. And most importantly, the Michel substitute would apply to the 1994 elections. H.R. 3 would not.

Mr. Speaker, I made a pledge to the people of the Seventh District of New Jersey to clean up campaign financing and make that reform apply to the next congressional elections. I cannot in good conscience support a measure which does neither and would continue to protect incumbent at the expense of the American taxpayer. I therefore urge my colleagues to reject H.R. 3 and vote in favor of the Michel substitute.

BEST WISHES DR. KENYON C. BURKE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues, the retirement to Dr. Kenyon C. Burke. Dr. Burke is retiring from the National Council of the Churches of Christ in the United States. He is unit director associate general secretary for Prophetic Justice. On Monday, December 13, 1993, a gala celebration will be held in his honor.

As unit director, Dr. Burke has been responsible for the council's social action arm. He administered diverse programs, focusing on issues of economic and environmental justice/hunger concerns, racial justice, justice for women and health justice, child and family justice, including substance abuse and the AIDS crisis. Dr. Burke believes that churches have a serious responsibility in assuring that the disadvantaged and unprotected in our society gain equal access to services and resources, and that they are not abused. An Episcopal layperson, he describes his mission with the Prophetic Justice unit as an effort to help people perceive the church in its prophetic role as a vehicle for social action, in order to harness the talent and interest already present in the religious community and in the greater society.

Before joining the council staff in 1980, Dr. Burke was associate director for program at the NAACP. He has also been affiliated with Planned Parenthood/World Population, Anti-Defamation League of B'nai B'rith, the Urban League of Essex County, Engelhard Minerals, Seton Hall University, and the New Jersey Rehabilitation Commission.

Dr. Burke serves on the executive boards of the Leadership Conference on Civil Rights, the NAACP/Special Contribution Fund, the Center for the Study of Harassment of African-Americans, the National Coalition on Black Voter Participation, and the AIDS National Interfaith Network.

Mr. Speaker, I am sure my colleagues will want to join me as I offer my best wishes to Dr. Kenyon Burke on the occasion of his retirement.

H.R. 617, THE LIMITED PARTNERSHIP ROLLUP REFORM ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DINGELL. Mr. Speaker, today the House will consider final passage of limited partnership rollup reform legislation as part (title III) of the substitute amendment to S. 422, the Government Securities Act Amendments of 1993. I urge my colleagues' support for this important investor protection legislation.

Rollup transactions can take many different forms—the typical rollup combines a number of previously untraded individual limited partnerships into a single new entity that publicly trades on a national securities exchange or on the national market system—and can be beneficial to investors by providing them with liquidity and enhanced value. This legislation however represents our response to widespread abuses and conflicts of interest associated with partnership rollup transactions that have led to substantial financial losses to investors, as documented in the House and Senate hearing records. This bill originated as legislation introduced in the 102d Congress (H.R. 1885) and culminates over 3 years of House and Senate hearings and legislative activity. I want to single out for particular commendation, Mr. MARKEY, the chairman of our Subcommittee on Telecommunications and Finance, for his strong and effective leadership on this issue. This legislation contains a series of directives that we consider necessary to protect investors in limited partnerships that undergo rollup transactions. The SEC and the NASD have acted in the interim since 1990 to respond to those directives, but more needs to be done. The potential abuses faced by investors in limited partnerships undergoing a rollup are serious in nature and devastating in their financial impact for investors.

On March 2, 1993, the House passed H.R. 617, the Limited Partnership Rollup Reform Act of 1993, and on August 6, 1993, the Senate passed S. 424, the Limited Partnership Rollup Reform Act of 1993. The legislation that we consider today is, with a few modifications, analogous to the bill that was passed by the Senate on August 6, 1993. These modifications are reflected in an amendment to S. 422 that was passed by the Senate earlier today. In lieu of a conference report, this statement presents a discussion of the amendment's major provisions and is intended to serve as the legislative history, along with Senate Report 103–121 (August 3, 1993) and CONGRESSIONAL RECORD (August 6, 1993) and House Report 103–21 (February 25, 1993) and CONGRESSIONAL RECORD (March 2, 1993).

MAJOR PROVISIONS

Special Provisions for Proxy Rules—The amendment makes it unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction or to make any tender in furtherance of a limited partnership rollup transaction unless the transaction is conducted in accordance with specified SEC rules. The rules must provide for the following:

Communications among shareholders—The rules must permit holders of securities in a proposed limited partnership rollup transaction to engage in preliminary communications with other limited partners, for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without being required to file soliciting material with the SEC. SEC rules relating to fraudulent, deceptive or manipulative acts or practices would continue to apply.

Shareholder lists—The rules must require the issuer to provide limited partners involved in a rollup transaction a list of names of other limited partners involved in the proposed transaction, subject to such reasonable terms and conditions as the SEC may specify.

Differential compensation—The rules must prohibit compensating any person soliciting proxies, consents, or authorizations from security holders concerning a limited partnership rollup transaction: (i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or (ii) contingent on the transaction's approval, disapproval, or completion. This provision would address the conflict of interest that arises when a broker-dealer or proxy solicitor is soliciting proxies and is compensated for the delivery of a specific outcome (generally, approval) of the proposed partnership rollup transaction.

Full and fair disclosure—The rules must require clear, concise and comprehensible disclosure of:

(i) Any changes, in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed partnership rollup transaction from each of the original limited partnerships;

(ii) The conflicts of interest, if any, of the general partner;

(iii) Whether it is expected that there will be a significant difference between the exchange value of the limited partnership and trading price of the securities to be issued in the partnership rollup transaction;

(iv) The valuation of the limited partnership and the method used to determine the value of limited partners' interests to be exchanged for the securities in the partnership rollup transaction;

(v) The differing risks and effects of the transactions for limited partners in different partnerships proposed to be included, and the risks and effects of completing the transaction with less than all partnerships;

(vi) The required fairness statement by the general partner; and

(vii) Such other matters deemed necessary or appropriate by the SEC.

Fairness statement—The rules must require a statement by the general partner as to whether the proposed rollup transaction is fair or unfair to investors in each limited partnership, the basis for that conclusion, and description of alternatives to the rollup transaction.

Fairness opinions—The rules must require that, where the general partner or sponsor obtains an opinion, appraisal, or report prepared by an outside party and that is materially related to the rollup transaction, the soliciting materials must contain clear, concise and comprehensible disclosure of:

(i) the analysis of the transaction, scope of review, preparation of the opinion, and basis for and methods of arriving at conclusions, and related representations and undertakings;

(ii) the identity and qualifications of the person who prepared the opinion, the method of selection of such person, and any material past, existing, or contemplated relationships between the person or any of its affiliates and the general partner, sponsor, successor, or any other affiliate;

(iii) any compensation of the preparer of such opinion, appraisal, or report that is contingent on the transaction's approval or completion; and

(iv) any limitations imposed by the issuer on the access afforded to such preparer to the issuer's personnel, premises, and relevant books and records.

Where the general partner or sponsor has not obtained an independent fairness opinion on the proposed transaction, the soliciting materials must contain or be accompanied by a statement of the reasons for concluding that such an opinion is not necessary in order to permit the limited partners to make an informal decision on the proposed transaction. Within 18 months of the date of enactment, GAO must conduct a study and report to Congress on fairness opinion preparation, cost, disclosure and use.

Summary—The rules must require that the soliciting material contain a clear, concise, and comprehensible summary of the limited partnership rollup transaction, including specific matters listed, with the risks of the transaction set forth prominently.

Minimum offering period—The rules must require that all shareholders have at least sixty calendar days to review a limited partnership rollup transaction disclosure document, unless a lesser period is required under state law.

Definition Of Limited Partnership Rollup Transaction—The amendment defines the term "limited partnership rollup transaction" to mean a transaction involving the combination or reorganization of one or more limited partnerships, directly or indirectly, in which

(i) some or all of the investors in any of such limited partnerships will receive new securities, or securities in another entity, that will be reported under a transaction reporting plan declared effective before the date of enactment by the SEC under Exchange Act section 11A;

(ii) any of the investors' limited partnership securities are not, as of the date of filing, reported under a transaction reporting plan declared effective before the date of enactment by the SEC under section 11A;

(iii) investors in any of the limited partnerships are subject to a significant adverse change with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; and

(iv) any of such investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

The amendment provides conditional exceptions from this definition for certain transactions. It is not intended that these exclusions be used to conduct through the excluded categories the abusive behavior that gave rise to this legislation, thus eviscerating the Act's protections. We expect the SEC to monitor this area, and to take action, as necessary, for the protection of investors and to advise Congress of any problems that require legislative remedies. Nothing in this amendment shall be construed to limit the SEC's authority under any other subsection of section 14 of the Exchange Act or any other provision of the federal securities laws or to preclude the SEC from imposing a remedy or procedure required to be imposed thereunder.

Given the concerns expressed about certain REIT (real estate investment trust) and UPREIT (umbrella-partnership real estate investment trust) transactions, it is our intention that the SEC pay special attention to transactions involving these entities and their disclosure documents. Relatedly, the amendment excludes from the definition transactions involving only issuers that are not required to register or report under Section 12 of the Exchange act both before and after the transaction. If a transaction involved the issuance of a security that, after the transaction, would be convertible into a security of an issuer that is required to register or report under Section 12, this exclusion would not be available since the transaction would not involve only Section 12 issuers.

Rules Of Fair Practice In Rollup Transactions.—The amendment requires that the rules of a registered securities association (such as the NASD) to promote just and equitable principles of trade include rules to prevent members of the association from participating in any limited partnership rollup transaction that does not provide procedures to protect the rights of limited partners. The amendment also prohibits an exchange from listing any securities resulting from a rollup transaction, unless such transaction provides certain rights for limited partners. Moreover, the amendment requires that the rules of a registered securities association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the SEC as a national market system security resulting from a rollup transaction, unless such transaction provides certain rights for limited partners.

These rights, identical in all three cases, must include:

(A) the right of dissenting limited partners to one of the following:

(i) an appraisal and compensation;

(ii) retention of a security under substantially the same terms and conditions as the original issue;

(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association or exchange, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

(v) other comparable rights that are prescribed by rule by the association or exchange and that are designed to protect dissenting limited partners;

(B) the right not to have their voting power unfairly reduced or abridged;

(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

By defining "dissenting limited partner" to mean a person who is a holder of the limited partnership interests on the date on which soliciting material is mailed, who then votes against the transaction and complies with procedures established by the association or exchange to assert dissenters' rights, the amendment intends to prevent persons from buying into dissenters' rights.

CONSUMER CHOICE SECURITY ACT OF 1993

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STEARNS. Mr. Speaker, today I am introducing the Consumer Choice Security Act of 1993. For the benefit of Members, please include the attached bill in its entirety in today's CONGRESSIONAL RECORD under Extension of Remarks:

H.R. 3698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Consumer Choice Health Security Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

Sec. 101. Refundable health care expenses tax credit.
Sec. 102. Medical savings accounts.
Sec. 103. Other tax provisions.

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

Sec. 111. Federally qualified health insurance plan.
Sec. 112. Family security benefits package.
Sec. 113. Rating practices.
Sec. 114. Guaranteed issue.
Sec. 115. Guaranteed renewability.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

Sec. 117. Establishment of regulatory program for certification of plans.
Sec. 118. Standards for regulatory programs.

Subtitle C—Employer Provisions

Sec. 121. General provisions relating to employers.
Sec. 122. Conversion of non-self-insured plans.
Sec. 123. Provisions relating to existing self-insured plans.
Sec. 124. Continuation of employer-provided health coverage required until effective date of new coverage under this Act.
Sec. 125. Requirements with respect to cashing out employer-sponsored plans.
Sec. 126. Enforcement.

Subtitle D—State Plan Requirements

Sec. 131. State plan requirements.

Subtitle E—Federal Preemption

Sec. 141. Federal preemption of certain State laws.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

Sec. 201. Study of medicare private health insurance program.
Sec. 202. Elimination of medicare hospital disproportionate share adjustment payments.
Sec. 203. Reduction in adjustment for indirect medical education.
Sec. 204. Imposition of copayment for skilled nursing facility services.
Sec. 205. Shift payment updates to January for all payment rates under hospital insurance program.
Sec. 206. Acceleration of transition to prospective rates for facility costs in hospital outpatient departments.

Subtitle B—Medicaid

Sec. 211. Cap on Federal payments made for acute medical services under the medicaid program.
Sec. 212. Waivers for the furnishing of acute medical services under the medicaid program.
Sec. 213. Termination of disproportionate share payments.
Sec. 214. Grants for health insurance coverage, acute medical services, preventive care, and disease prevention.

TITLE III—HEALTH CARE LIABILITY REFORM

Sec. 301. Short title.
Sec. 302. Definitions.
Sec. 303. Health care malpractice.
Sec. 304. Health care product liability of manufacturer or seller.
Sec. 305. General provisions relating to health care liability.
Sec. 306. Punitive damages.
Sec. 307. Exceptions.
Sec. 308. Rules of construction.

TITLE IV—ADMINISTRATIVE COST SAVINGS

Subtitle A—Standardization of Claims Processing

Sec. 401. Adoption of data elements, uniform claims, and uniform electronic transmission standards.
Sec. 402. Application of standards.
Sec. 403. Periodic review and revision of standards.
Sec. 404. Health insurance plan defined.

Subtitle B—Electronic Medical Data Standards

Sec. 411. Medical data standards for hospitals and other providers.
Sec. 412. Application of electronic data standards to certain hospitals.
Sec. 413. Electronic transmission to Federal agencies.
Sec. 414. Limitation on data requirements where standards in effect.
Sec. 415. Advisory commission.

Subtitle C—Development and Distribution of Comparative Value Information

Sec. 421. State comparative value information programs for health care purchasing.
Sec. 422. Federal implementation.
Sec. 423. Comparative value information concerning Federal programs.

Subtitle D—Preemption of State Quill Pen Laws

Sec. 431. Preemption of State quill pen laws.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

Sec. 501. Penalties for health care fraud.
Sec. 502. Rewards for information leading to prosecution and conviction.

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

Sec. 511. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health insurance plan.

TITLE VI—ANTITRUST PROVISIONS

Sec. 601. Exemption from antitrust laws for certain competitive and collaborative activities.
Sec. 602. Safe harbors.
Sec. 603. Designation of additional safe harbors.
Sec. 604. Certificates of review.
Sec. 605. Notifications providing reduction in certain penalties under antitrust law for health care cooperative ventures.
Sec. 606. Review and reports on safe harbors and certificates of review.
Sec. 607. Rules, regulations, and guidelines.
Sec. 608. Definitions.

TITLE VII—LONG-TERM CARE

Sec. 701. Exclusion from gross income for amounts withdrawn from individual retirement plans or 401(k) plans for long-term care insurance.
Sec. 702. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.
Sec. 703. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 704. Effective date.

TITLE VIII—WELFARE RESTRICTIONS FOR ALIENS

Sec. 801. Ineligibility of aliens for public welfare assistance.
Sec. 802. State AFDC agencies required to provide information on illegal aliens to the Immigration and Naturalization Service.

TITLE IX—INCREASE IN ASSISTANCE TO COMMUNITY AND MIGRANT HEALTH CENTERS FROM RESIDUAL SAVINGS

Sec. 901. Grant program to promote primary health care services for underserved populations.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans,

(2) make the American health care system responsive to consumer needs and encourage the provision of quality medical care at reasonable prices through enhanced competition,

(3) provide more equitable tax treatment of health insurance and medical care expenses, and

(4) assist low-income and uninsured Americans in purchasing health insurance and receiving primary medical care.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

SEC. 101. REFUNDABLE HEALTH CARE EXPENSES TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. HEALTH CARE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the sum of—

"(1) 25 percent of the sum of the qualified health insurance premiums and the unreimbursed expenses for medical care paid by such individual during the taxable year which does not exceed 10 percent of the adjusted gross income of such individual for such year, plus

"(2) 50 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 10 percent but does not exceed 20 percent of such adjusted gross income, plus

"(3) 75 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 20 percent of such adjusted gross income.

"(b) Qualified Individuals.—For purposes of this section—

"(1) In general.—The term 'qualified individual' means the taxpayer, the spouse of the taxpayer, and each dependent of the taxpayer (as defined in section 152) who is enrolled in a federally qualified health insurance plan.

"(2) Federally covered individuals.—The term 'qualified individual' does not include any individual whose medical care is covered under—

"(A) title XVIII or XIX of the Social Security Act,

"(B) chapter 55 of title 10, United States Code,

"(C) chapter 17 of title 38, United States Code, or

"(D) the Indian Health Care Improvement Act.

"(3) Special rule in the case of child of divorced parents, etc.—Any child to whom section 152(e) applies shall be treated as a dependent of both parents.

"(4) Marriage rules.—The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

"(c) Applicable Percentage.—For purposes of subsection (a), the applicable percentage for any taxable year is determined by the number of whole months in such year in which the taxpayer is a qualified individual.

"(d) Qualified Health Insurance Premiums.—For purposes of this section, the term 'qualified health insurance premiums' means premiums for—

"(1) a federally qualified health insurance plan, and

"(2) any other benefits or plans supplementary to such a federally qualified health insurance plan.

"(e) Federally Qualified Health Insurance Plan.—For purposes of this section, the term 'federally qualified health insurance plan' means a health insurance plan which is described in section 111 of the Consumer Choice Health Security Act of 1993.

"(f) Medical Care.—For purposes of this section—

"(1) In general.—The term 'medical care' means amounts paid—

"(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, and

"(B) for transportation primarily for and essential to medical care referred to in subparagraph (A).

"(2) Amounts paid for certain lodging away from home treated as paid for medical care.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

"(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

"(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed $50 for each night for each individual.

"(3) Cosmetic surgery.—

"(A) In general.—The term 'medical care' does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) Cosmetic surgery defined.—For purposes of this paragraph, the term 'cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

"(4) Physician.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

"(g) Special Rules.—For purposes of this section—

"(1) Limitation with respect to medicine and drugs.—

"(A) In general.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

"(B) Prescribed drug.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(2) Special rule for decedents.—

"(A) Treatment of expenses paid after death.—Expenses for the medical care of the taxpayer which are paid out of the taxpayer's estate during the 1-year period beginning with the day after the date of the taxpayer's death shall be treated as paid by the taxpayer at the time incurred.

"(B) Limitation.—Subparagraph (A) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this subparagraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

"(i) a statement that such amount has not been allowed as a deduction under section 2053, and

"(ii) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

"(3) Form of insurance contract.—In the case of an insurance contract under which amounts are payable for other than medical care—

"(A) no amount shall be treated as paid for insurance to which subsection (a) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

"(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

"(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

"(4) Exclusion of amounts allowed for care of certain dependents.—Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

"(5) Coordination with advance payment and minimum tax.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply to any credit to which this section applies.

"(6) Subsidized expenses.—No expense shall be taken into account under subsection (a), if—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) the payment, reimbursement, or subsidy of such expense is not includable in the gross income of the recipient.

"(7) Coordination with medical savings accounts.—The amount otherwise taken into account under subsection (a) shall be reduced by the amount (if any) of the distributions from any medical savings account of the taxpayer during the taxable year which is not includible in gross income by reason of being used for qualified medical expenses (as defined in section 25A(c)(2)).

"(h) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) Advance Payment of Credit.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF HEALTH EXPENSES CREDIT.

"(a) General Rule.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a health care expenses eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's health care expenses advance amount.

"(b) Health Care Expenses Eligibility Certificate.—For purposes of this title, a health care expenses eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 34A for the taxable year,

"(2) certifies that the employee does not have a health care expenses eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(3) states whether or not the employee's spouse has a health care expenses eligibility certificate in effect, and

"(4) estimates the amount of premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care (as defined in section 34A) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) Health Care Expenses Advance Amount.—

"(1) In general.—For purposes of this title, the term 'health expenses advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care included in the health care expenses eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) Advance amount tables.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) Other Rules.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(c) Clerical Amendments.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Health care expenses.".

(2) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of health care expenses credit.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 102. MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. MEDICAL SAVINGS ACCOUNTS.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 25 percent of the amount paid in cash during such year by or on behalf of such individual to a medical savings account.

"(b) Limitations.—For purposes of this section—

"(1) Only 1 account per family.—No credit shall be allowed under subsection (a) for amounts paid to any medical savings account for the benefit of an individual, such individual's spouse, or any dependent (as defined in section 152) of such individual if such individual, spouse, or dependent is a beneficiary of any other medical savings account.

"(2) Dollar limitation.—The aggregate amount of contributions which may be taken into account under subsection (a) with respect to any individual for any taxable year shall not exceed the sum of—

"(A) $3,000, plus

"(B) $500 for each individual who is a dependent (as so defined) of the individual for whose benefit the account is established.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Medical savings account.—

"(A) In general.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the individual for whose benefit the trust is established, but only if the written governing instrument creating the trust meets the following requirements:

"(i) No contribution will be accepted unless it is in cash and contributions will not be accepted for any taxable year in excess of the amount determined under subsection (b)(1).

"(ii) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(iii) No part of the trust assets will be invested in life insurance contracts.

"(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(v) The interest of an individual in the balance in such individual's account is nonforfeitable.

"(vi) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) shall apply to the distribution of the entire interest of beneficiaries of such trust.

"(B) Treatment of comparable accounts held by insurance companies.—An account held by an insurance company in the United States shall be treated as a medical savings account (and such company shall be treated as a bank) if—

"(i) such account is part of a federally qualified health insurance plan (as defined in section 34A(e)),

"(ii) such account is exclusively for the purpose of paying the medical expenses of the beneficiaries of such account who are covered under such health insurance plan, and

"(iii) the written instrument governing the account meets the requirements of clauses (i), (v), and (vi) of subparagraph (A).

"(2) Qualified medical expenses.—The term 'qualified medical expenses' means amounts paid by the individual for whose benefit the account was established for premiums for a federally qualified health insurance plan (as so defined) and the unreimbursed expenses for medical care (as determined under section 34A) of such individual, the spouse of such individual, and any dependent (as so defined) of such individual.

"(3) Time when contributions deemed made.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) Tax Treatment of Distributions.—

"(1) In general.—Except as otherwise provided in this subsection, any amount paid or distributed out of a medical savings account shall be included in the gross income of the individual for whose benefit such account was established unless such amount is used exclusively to pay the qualified medical expenses of such individual.

"(2) Excess contributions returned before due date of return.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount allowable under subsection (b) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) Penalty for distributions not used for medical expenses.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used to pay the medical expenses of the individual for whose benefit the account was established, shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

"(4) Rollovers.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the individual for whose benefit the account is maintained, if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such individual not later than the 60th day after the day on which the individual received the payment or distribution.

"(e) Tax Treatment of Accounts.—

"(1) Exemption from tax.—Any medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Loss of exemption of account where individual engages in prohibited transaction.—

"(A) In general.—If, during any taxable year of the individual for whose benefit the medical savings account was established, such individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a medical savings account as of the first day of that taxable year.

"(B) Account treated as distributing all its assets.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day) and no portion of such distribution was used to pay qualified medical expenses.

"(3) Effect of pledging account as security.—If, during any taxable year, the individual for whose benefit a medical savings account was established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual and not used to pay qualified medical expenses.

"(f) Custodial Accounts.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (c).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) Inflation Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1997, each applicable dollar amount shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(2) Cost-of-living adjustment.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the deemed average total wages (as defined in section 209(k) of the Social Security Act) for the preceding calendar year, exceeds

"(B) the deemed average total wages (as so defined) for calendar year 1996.

"(3) Applicable dollar amount.—For purposes of paragraph (1), the term 'applicable dollar amount' means the $3,000 and $500 amounts in subsection (b)(2).

"(4) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or, if such amount is a multiple of $5 and not of $10, such amount shall be rounded to the next highest multiple of $10).

"(h) Reports.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) Tax on Excess Contributions.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 25A(c)(1)),",

(3) by striking "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) Excess Contributions to Medical Savings Accounts.—For purposes of this section, in the case of a medical savings account (within the meaning of section 25A(c)(1)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 25A(b)(2) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account and a distribution to which section 25A(d)(2) applies shall be treated as an amount not contributed.".

(c) Tax on Prohibited Transactions.—Section 4975 of the Internal Revenue Code of 1986 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for medical savings accounts.—An individual for whose benefit a medical savings account (within the meaning of section 25A(c)(1)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 25A(e)(2)(A) to such account.", and

(2) by inserting "or a medical savings account described in section 25A(c)(1)" in subsection (e)(1) after "described in section 408(a)".

(d) Failure To Provide Reports on Medical Savings Accounts.—Section 6693 of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "**OR ON MEDICAL SAVINGS ACCOUNTS**" after "**ANNUITIES**" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 25A(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.".

(e) Clerical Amendments.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following:

"Sec. 25A. Medical savings accounts.".

(2) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical savings accounts, certain 403(b) contracts, and certain individual retirement annuities.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(g) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 103. OTHER TAX PROVISIONS.

(a) Exemption amount disallowed for uninsured individuals.—

(1) In general.—Subsection (d) of section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new paragraph:

"(5) Exemption amount disallowed for uninsured individuals.—The exemption amount for any individual for such individual's taxable year shall be zero, unless the individual includes the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual in the return claiming such exemption amount for such individual.".

(2) Employer role.—Section 3402 of the Internal Revenue Code of 1986 (relating to income tax collected at source) is amended—

(A) by striking "section 151(d)(2)" in subsection (f)(1)(A) and inserting "paragraph (2) or (5) of section 151(d)", and

(B) by adding at the end the following new subsection:

"(t) Determination of Standard Deduction Status.—For purposes of applying the tables in subsections (a) and (c) to a payment of wages, the employer shall treat the employee as having an exemption amount of zero unless there is in effect with respect to such payment of wages a withholding exemption certificate furnished to the employer by the employee by April 1, indicating the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(b) Termination of Medical Expense Deduction.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(g) Termination.—No amount paid after December 31, 1996, shall be treated as an expense paid for medical care.".

(c) Termination of Deduction for Health Insurance Costs of Self-Employed Individuals.—

(1) In general.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(d) Termination of Exclusion for Employer-Provided Health Insurance.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any amount paid after December 31, 1996.".

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

SEC. 111. FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.

(a) In General.—A federally qualified health insurance plan is a health insurance plan offered, issued, or renewed on or after January 1, 1997, which is certified by the applicable regulatory authority as meeting, at a minimum, the requirements of sections 112, 113, 114, and 115, and the regulatory program described in section 117.

(b) General Definitions.—As used in this Act—

(1) Health insurance plan.—The term "health insurance plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement, but does not include any of the following offered by an insurer:

(A) Accident only, dental only, disability only, or long-term care only insurance.

(B) Coverage issued as a supplement to liability insurance.

(C) Workers' compensation or similar insurance.

(D) Automobile medical-payment insurance.

(2) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

(A) in the case of a State with a program described in section 117, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

(B) if the State has not established such a program or such program has been decertified under section 117(b), the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, America Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 112. FAMILY SECURITY BENEFITS PACKAGE.

(a) IN GENERAL.—The requirements of this section are met, if the health insurance plan—

(1) provides coverage for all medically necessary acute medical care described in subsection (b),

(2) does not exclude coverage for selected illnesses or selected treatments if consistent with medically accepted practices, and

(3) meets the patient cost sharing requirements of subsection (c).

(b) ACUTE MEDICAL CARE.—Coverage for all medically necessary acute medical care is described in this subsection if such coverage includes—

(1) physician services,

(2) inpatient, outpatient, and emergency hospital services and appropriate alternatives to hospitalization, and

(3) inpatient and outpatient prescription drugs.

Nothing in this subsection may be construed to require the inclusion of abortion services.

(c) COST SHARING REQUIREMENTS.—The requirements of this subsection are as follows:

(1) LIMITATION ON DEDUCTIBLES.—A health insurance plan shall not provide a deductible amount for benefits provided in any plan year that exceeds—

(A) with respect to benefits payable for items and services furnished to a single individual enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $1,000; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

(B) with respect to benefits payable for items and services furnished to a family enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $2,000 per family; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by such percentage increase.

If the limitation computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—

(A) IN GENERAL.—A health insurance plan may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section after an individual or a family covered under the plan has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit for a plan year.

(B) LIMIT ON OUT-OF-POCKET EXPENSES.—As used in this paragraph—

(i) OUT-OF-POCKET EXPENSES DEFINED.—The term "out-of-pocket expenses" means, with respect to an individual or a family in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the individual or the family covered under the plan.

(ii) OUT-OF-POCKET LIMIT DEFINED.—The term "out-of-pocket limit" means for a plan year beginning in—

(I) a calendar year prior to 1998, $5,000; or

(II) for a subsequent calendar year, the limit specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

SEC. 113. RATING PRACTICES.

(a) IN GENERAL.—The requirements of this section are met, if, except as provided in subsection (b), the health insurance plan provides for—

(1) a variation in premium rates only on the basis of age, sex, and geography, and

(2) a charge of the same premium rates to new applicants and existing policyholders with the same age, sex, and geographic characteristics.

(b) INCENTIVE DISCOUNTS.—A plan may discount an individual's premium rate as an incentive for participating in a program, approved by the applicable regulatory authority to be offered in conjunction with the coverage, which has as its objective, 1 or more of the following:

(1) To promote healthy behavior.

(2) To prevent or delay the onset of illness.

(3) To provide for screening or early detection of illness.

SEC. 114. GUARANTEED ISSUE.

(a) IN GENERAL.—Except as provided in paragraph (2), in the case of applications made on and after January 1, 1998, the following rules apply:

(1) IN GENERAL.—The requirements of this section are met, if, except as provided in paragraph (2), the health insurance plan—

(A) provides guaranteed issue at standard rates to all applicants, and

(B) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant who, on the date the application is made, has been continuously insured for a period of at least 1 year prior to the date of the application under 1 or more of the following health insurance plans or programs:

(i) Another federally qualified health insurance plan.

(ii) An employer-sponsored group health insurance plan in effect before the date of the enactment of this Act.

(iii) An individual health insurance plan in effect before such date.

(iv) A program described in—

(I) title XVIII or XIX of the Social Security Act,

(II) chapter 55 of title 10, United States Code,

(III) chapter 17 of title 38, United States Code,

(IV) chapter 89 of title 5, United States Code, or

(V) the Indian Health Care Improvement Act.

(2) BREAK IN COVERAGE.—In the case of an applicant who has not been continuously insured for a period of 1 year prior to the date the application is made, the health insurance plan may exclude from coverage, or limit coverage for, any preexisting medical condition for a period no greater than the lesser of—

(A) the number of months immediately prior to the date of the application during which the individual was not insured since the illness or condition in question was first diagnosed, or

(B) 1 year.

(b) TRANSITION RULE.—In the case of applications made in 1997, the requirements of this section are met, if the health insurance plan—

(1) provides guaranteed issue at standard rates to all applicants, and

(2) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant.

SEC. 115. GUARANTEED RENEWABILITY.

The requirements of this section are met, if the health insurance plan provides the policyholder with a contractual right to renew the coverage which stipulates that the insurer cannot cancel or refuse to renew the coverage except for cases of—

(1) nonpayment of premiums by the policyholder, or

(2) fraud or misrepresentation by the policyholder.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

SEC. 117. ESTABLISHMENT OF REGULATORY PROGRAM FOR CERTIFICATION OF PLANS.

(a) IN GENERAL.—Each State shall establish no later than January 1, 1997, a regulatory program which meets the standards referred to in section 118.

(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review each State regulatory program to determine if such program continues to meet and enforce the standards referred to in section 118. If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards after such an opportunity, the Secretary shall decertify such program and assume responsibility with respect to health insurance plans in the State.

SEC. 118. STANDARDS FOR REGULATORY PROGRAMS.

(a) IN GENERAL.—The Secretary, in consultation with the National Association of Insurance Commissioners (hereafter in this section referred to as "NAIC") shall develop by not later than 1 year after the date of the enactment of this Act, in the form of model Acts and model regulations, State regulatory program standards which include—

(1) procedures for certifying that the requirements of part I of this subtitle have been met by a health insurance plan applying for certification as a federally qualified health insurance plan,

(2) the requirements described in subsections (b), (c), and (d),

(3) requirements with respect to solvency standards and guaranty funds for carriers of

federally qualified health insurance plans, and

(4) reporting requirements under which carriers report to the Internal Revenue Service regarding the acquisition and termination by individuals of coverage under federally qualified health insurance plans.

(b) Passback of Claims and Premiums.—The requirements of this subsection are met, if, in the case of an applicant who has been continuously insured, as described in section 114(b)(1)(B), and is at the time of the application receiving treatment for a preexisting medical condition—

(1) the federally qualified health insurance plan is allowed to pass back to the applicant's previous plan any claims relating to such condition, together with a portion of the premium, and

(2) such previous plan is required to pay such claims and premium incurred during the lesser of—

(A) the duration of the course of the treatment or spell of illness, or

(B) 2 years from the date at which coverage commenced under the federally qualified health insurance plan.

(c) Marketing Practices.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan retains the right to select agents with whom such plan contracts and to determine the amount and form of compensation to such agents, except that—

(1) if the carrier chooses to contract with an agent, the carrier may not terminate or refuse to renew the agency contract for any reason related to the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan, and

(2) the carrier may not, directly or indirectly, enter into any contract, agreement, or arrangement with an agent that provides for, or results in, any consideration provided to such agent for the issuance or renewal of such a plan to vary on account of the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan.

(d) Risk Adjustment or Reinsurance Programs.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan participates in a State-administered risk adjustment program (or, at the option of the State, a reinsurance program) designed to compensate for the potential occurrence of grossly disproportionate distributions of above-standard or below-standard insured risks among federally qualified health insurance plans.

(e) Nonbinding Standards.—The Secretary, in consultation with NAIC, shall also develop within the 1-year period described in subsection (a), nonbinding standards for premium rating practices and guaranteed renewability of coverage which, if the insurer so elects, is more generous (additional benefits or lower cost sharing or both) than the requirements under part I of this subtitle for federally qualified health insurance plans.

Subtitle C—Employer Provisions

SEC. 121. GENERAL PROVISIONS RELATING TO EMPLOYERS.

(a) Premiums Withheld.—Each employer shall—

(1) withhold from each employee's wages the amount of the employee's health insurance premium and remit, directly or indirectly, such premium to the insurance plan of the employee's choice according to an agreed upon schedule, and

(2) within the first 30 days of any calendar year or the date of the hire of an employee, notify each employee of the employee's right to claim an advance refundable tax credit for such premium under section 34A of the Internal Revenue Code of 1986.

(b) Effective Date.—The requirements under subsection (a) shall apply with respect to calendar year 1997 and thereafter.

SEC. 122. CONVERSION OF NON-SELF-INSURED PLANS.

In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is not a self-insured plan, the insurer from whom the plan was purchased (or, in the event such insurer refuses, any new subsidiary, corporation, insurer, union, cooperative, or association willing to become the new sponsor of the plan) shall—

(1) notify, not later than October 1, 1996, all of the primary insured beneficiaries of the employer-sponsored plan of their rights to convert their insurance coverage to a federally qualified health insurance plan (as defined in section 111) offered by the insurer with benefits identical to, or actuarially equivalent to, those of the employer-sponsored plan and the rates of that coverage, and provide such beneficiaries 60 additional days to decline or accept the new coverage, and

(2) offer such coverage beginning January 1, 1997, at premium rates which vary only by age, sex, and geography, except that the combined total of the new rates charged separately to the various beneficiaries may not exceed the total group rate paid by the employer or employees or both under the employer-sponsored plan on the last day it is, or was, in force.

SEC. 123. PROVISIONS RELATING TO EXISTING SELF-INSURED PLANS.

(a) In General.—In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is a self-insured plan, the employer sponsoring the plan may, at anytime following such date sell, transfer, or assign the plan to any existing or new, subsidiary, corporation, insurer, union, cooperative or association, willing to become the new sponsor of the plan, except that—

(1) such sale, transfer, or assignment may not take effect unless first approved by a two-thirds majority vote of all the primary-insured beneficiaries of the plan, and

(2) the terms or conditions and benefits or coverage of the plan, and the eligibility criteria for participation in the plan, may not be altered before such date.

(b) Provisions Governing Plan.—As of the date of the enactment of this Act, the sponsor of the plan described in subsection (a) becomes subject to all laws governing the operation of a corporation selling health insurance in the applicable State or States and to the provisions of section 122.

SEC. 124. CONTINUATION OF EMPLOYER-PROVIDED HEALTH COVERAGE REQUIRED UNTIL EFFECTIVE DATE OF NEW COVERAGE UNDER THIS ACT.

(a) In General.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by inserting after subclause (V) the following new subclause:

"(VI) Qualifying event involving end of plan.—In the case of an event described in paragraph (3)(G), December 31, 1996.".

(b) Qualifying Event Involving End of Plan.—Paragraph (3) of section 4980B(f) of the Internal Revenue Code of 1986 (defining qualifying event) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The termination by the employer of the group health plan after the date of the enactment of the Consumer Choice Health Security Act of 1993.".

(c) Conforming Amendment.—Clause (ii) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "The date" and inserting "Except in the case of a qualifying event described in paragraph (3)(G), the date".

(d) Effective Date.—The amendments made by this section shall apply to qualifying events occurring after the date of the enactment of this Act.

SEC. 125. REQUIREMENTS WITH RESPECT TO CASHING OUT EMPLOYER-SPONSORED PLANS.

(a) Non-Federal Employers.—

(1) In general.—Each employer contributing in whole or in part to an employer-sponsored health insurance plan on December 1, 1996, shall, within 30 days after such date—

(A) notify each employee participating in the plan of the amount spent by the employer on the employee's health insurance, as determined under paragraph (2),

(B) add such amount to the cash wages of the employee commencing with pay periods beginning on and after January 1, 1997, and

(C) hold each employee harmless for the employer's share of any payroll taxes due under chapter 31 of the Internal Revenue Code of 1986 on such amount.

(2) Amount of inclusion.—The amount described in paragraph (1)(A) shall equal the actuarial value of the employer's contribution for group health issuance coverage apportioned to the plan's beneficiaries according to the new premiums for individual and family coverage determined by the insurer.

(3) Prior termination.—Any beneficiary of an employer-sponsored health insurance plan who voluntarily terminates coverage under such a plan before December 1, 1996, forfeits the right to receive the value of the beneficiary's coverage in cash.

(b) Commission on Cashing Out FEHBP Benefits.—

(1) Establishment.—

(A) In general.—There is established an independent board to be known as the "Benefits Cash Out Commission" (in this subtitle, referred to as the "Commission").

(B) Duties.—The Commission shall study and propose a procedure under which individuals may cash out health benefits under chapter 89 of title 5, United States Code, and pay scales and retirement benefits would be adjusted accordingly. The Commission shall report to Congress regarding such study and proposal not later than 1 year after the date of the enactment of this Act.

(C) Membership.—

(i) In general.—The Commission shall be composed of 13 members appointed by the President by and with the advice and consent of the Senate.

(ii) Consultation.—In selecting individuals for nominations for appointments for the Commission, the President should consult with—

(I) the Speaker of the House of Representatives concerning the appointment of 3 members;

(II) the Majority Leader of the Senate concerning the appointment of 3 members;

(III) the Minority Leader of the House of Representatives concerning the appointment of 3 members; and

(IV) the Minority Leader of the Senate concerning the appointment of 3 members.

(iii) Chair.—The President shall designate 1 individual described in clause (ii) who shall serve as Chair of the Commission.

(iv) COMPOSITION OF COMMISSION.—The membership of the Commission shall include individuals with national recognition for expertise in the valuation of health insurance benefits and of Federal civilian pay and retirement benefits.

(D) ADMINISTRATIVE PROVISIONS.—

(i) MEETINGS.—Each meeting of the Commission shall be open to the public.

(ii) PAY AND TRAVEL EXPENSES.—

(I) IN GENERAL.—Each member, other than the Chair, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(II) CHAIR.—The Chair shall be paid for each day referred to in subclause (I) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(III) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(iii) STAFF.—

(I) IN GENERAL.—Subject to subclauses (II) and (III), the Chair, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(II) PAY.—The Chair may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS-15 of the General Schedule.

(III) DETAILED PERSONNEL.—Upon request of the Chair, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(iv) OTHER AUTHORITY.—

(I) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(II) LEASES, ETC.—The Commission may lease space and acquire personal property to the extent funds are available.

(2) CONSIDERATION.—

(A) IN GENERAL.—The proposal described in paragraph (1)(B) shall be considered by the Congress under the procedures for consideration of an "approval resolution" as described in subparagraph (D).

(B) EFFECTIVE DATE OF IMPLEMENTATION.—The provisions of the proposal shall become effective on January 1, 1997.

(C) PERIOD FOR RESUBMISSION OF PROPOSAL IN CASE OF NONAPPROVAL.—If the proposal of the Commission described in subparagraph (A) is not approved by Congress, the Commission shall by not later than January 1, 1996, submit a new proposal to Congress.

(D) RULES GOVERNING CONGRESSIONAL CONSIDERATION.—

(i) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subparagraph is enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in clause (ii), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(ii) TERMS OF THE RESOLUTION.—For purposes of subparagraph (A), the term "approval resolution" means only a joint resolution of the 2 Houses of the Congress, providing in—

(I) the matter after the resolving clause of which is as follows: "That the Congress approves the recommendations of the Benefits Cash Out Commission as submitted by the Commission on ____________________", the blank space being filled in with the appropriate date; and

(II) the title of which is as follows: "Joint Resolution approving the recommendation of the Benefits Cash Out Commission".

(iii) INTRODUCTION AND REFERRAL.—On the day on which the recommendation of the Commission is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such recommendation shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such recommendation is transmitted, the approval resolution with respect to such recommendation shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The approval resolution introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(iv) AMENDMENTS PROHIBITED.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this clause shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.

(v) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(I) IN GENERAL.—Except as provided in subclause (II), if the committee or committees of either House to which an approval resolution has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the approval resolution and it shall be placed on the appropriation calendar. A vote on final passage of the approval resolution shall be taken in each House on or before the close of the 30th day after the approval resolution is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the approval resolution. If prior to the passage by 1 House of an approval resolution of that House, that House receives the same approval resolution from the other House then the procedure in that House shall be the same as if no approval resolution had been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

(II) COMPUTATION OF DAYS.—For purposes of subclause (I), in computing a number of days in either House, there shall be excluded any day on which the House is not in session.

(vi) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(I) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) DEBATE.—Debate in the House of Representatives on an approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(III) MOTION TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of an approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(IV) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(V) GENERAL RULES APPLY.—Except to the extent specifically provided in the preceding provisions of this clause, consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(vii) FLOOR CONSIDERATION IN THE SENATE.—

(I) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) GENERAL DEBATE.—Debate in the Senate on an approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(III) DEBATE OF MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the approval resolution, except that in the event the manager of the approval resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(IV) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable.

A motion to recommit an approval resolution is not in order.

SEC. 126. ENFORCEMENT.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by inserting after section 5000 the following new sections:

"SEC. 5000A. FAILURE OF EMPLOYERS WITH RESPECT TO HEALTH INSURANCE.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to comply with the requirements of sections 121 and 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to an employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to comply with the requirements of section 121 or 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a health insurance plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the health insurance plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"SEC. 5000B. FAILURE OF CARRIERS WITH RESPECT TO HEALTH INSURANCE.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any carrier offering any health insurance plan to comply with the requirements of sections 122 and 123 of the Consumer Choice Health Security Act of 1993.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 50 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued by the carrier on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 carrier. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 carrier. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the carrier on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the carriers on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(b) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new items:

"Sec. 5000A. Failure of employers with respect to health insurance.

"Sec. 5000B. Failure of carriers with respect to health insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

Subtitle D—State Plan Requirements

SEC. 131. STATE PLAN REQUIREMENTS.

(a) IN GENERAL.—As a condition of receiving Federal funds for health care programs after December 31, 1996, each State shall meet the requirements of the following subsections.

(b) HEALTH PLANS FOR UNINSURED.—The requirement of this subsection is met, if the State establishes a program to provide health insurance coverage at least equal to that of the federally qualified health insurance plans (as defined in section 111) to any resident (other than a federally covered individual (within the meaning on section 34A(b)(2) of the Internal Revenue Code of 1986) who refuses to voluntarily purchase such insurance coverage privately. Such coverage may be through—

(1) the State's program under title XIX of the Social Security Act,

(2) an existing or new State health care program, including a State program established under section 1933 of the Social Security Act,

(3) any private insurer the State contracts with for this purpose, or

(4) any health insurance plan available to the resident.

(c) ENROLLMENT IN PLAN.—The requirement of this subsection is met, if—

(1) in the case of any uninsured individual described in subsection (b) who is eligible for assistance under a State program established under section 1933 of the Social Security Act, such individual is identified by the State and provided with assistance through such a program, and

(2) in the case of any uninsured individual described in subsection (b) who is not eligible for such assistance, such individual is identified by the State and automatically enrolled in the program described in subsection (b), except that—

(A) the State may charge such individual a premium for coverage under the program which the State deems appropriate given the cost of coverage and the individual's ability to pay, and

(B) such individual may, upon submitting proof of having purchased a federally qualified health insurance plan (as so defined), terminate coverage under the State program without penalty.

(d) MONITORING.—The requirement of this subsection is met, if the State designates or creates an office of the State government to monitor the health insurance coverage status of workers and their dependents residing in the State for the purposes of determining eligibility for State health care assistance programs.

Subtitle E—Federal Preemption

SEC. 141. FEDERAL PREEMPTION OF CERTAIN STATE LAWS.

All State laws in existence on January 1, 1997, in the following areas are preempted:

(1) MANDATED INSURANCE BENEFIT LAWS.—Laws requiring health insurance policies to cover specific diseases, services, or providers.

(2) ANTI-MANAGED CARE LAWS.—Laws restricting the ability of managed care plans to selectively contract with providers of their choice.

(3) MANDATED COST-SHARING LAWS.—Laws restricting the extent to which insurers may

require enrollee cost sharing as part of their plans, or restricting the extent to which managed care plans may impose different levels of cost sharing on enrollee claims for treatment by providers not participating in the plan.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

SEC. 201. STUDY OF MEDICARE PRIVATE HEALTH INSURANCE PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of permitting future medicare beneficiaries to elect, upon attaining medicare eligibility, to retain private health insurance coverage and receive, in lieu of the medicare benefits such beneficiaries would otherwise be entitled to, certificates for use in purchasing private health insurance coverage. The study shall recommend—

(1) certificate amounts which—

(A) provide the maximum assistance possible to eligible individuals,

(B) are adjusted for different classes of beneficiaries on the basis of age, sex, and geography to reflect actuarial differences in the cost of insurance, and

(C) will not further jeopardize the future solvency of the medicare program, as projected by the trustees of the medicare trust funds as of the date of the report of the study,

(2) a mechanism for annually adjusting such amounts, and

(3) legislative, regulatory, and administrative reforms necessary or desirable for establishing such a program.

(b) REPORT.—The Secretary shall submit a report regarding the study described in subsection (a) to the Congress no later than January 1, 1996.

SEC. 202. ELIMINATION OF MEDICARE HOSPITAL DISPROPORTIONATE SHARE ADJUSTMENT PAYMENTS.

Section 1886(d)(5)(F)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(i)) is amended by inserting "and before September 30, 1994," after "1986,".

SEC. 203. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c * (((1+r) to the nth power) - 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1994, 'c' is equal to 1.89,

"(II) October 1, 1994, and before October 1, 1995, 'c' is equal to 1.395, and

"(III) October 1, 1995, 'c' is equal to 0.74.".

SEC. 204. IMPOSITION OF COPAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Paragraph (3) of section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a copayment amount equal to 20 percent of the average of all per day costs for such services furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to post-hospital extended care services furnished on or after October 1, 1994.

SEC. 205. SHIFT PAYMENT UPDATES TO JANUARY FOR ALL PAYMENT RATES UNDER HOSPITAL INSURANCE PROGRAM.

(a) PPS HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) in the matter preceding subclause (I), by striking "fiscal year" and inserting "particular time period",

(B) in subclause (IX), by striking "fiscal year 1994",and inserting "the 15-month period beginning on October 1, 1993",

(C) in subclauses (X), (XI), and (XII), by striking "fiscal year", and

(D) in subclause (XIII), by striking "fiscal year 1998 and each subsequent fiscal year" and inserting "1998 and each subsequent calendar year".

(2) OTHER HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(ii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "fiscal years 1994 through 1997" and inserting "the 15-month period beginning on October 1, 1993,", and

(ii) by striking "and" at the end, and

(B) by striking subclause (VI) and insert the following:

"(VI) 1995 through 1997, is the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)), or in the case of a hospital for a calendar year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, and

"(VII) subsequent calendar years is the market basket percentage increase.".

(B) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI)—

"(I) a hospital's 'update adjustment percentage' for a calendar year is the percentage by which the hospital's allowable operating cost of inpatient hospital services recognized under this title for the cost reporting period beginning in fiscal year 1990 exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, increased for each calendar year (beginning with 1995) by the sum of any of the hospital's applicable reductions under subclause (VI) for previous years; and

"(II) the 'applicable reduction' with respect to a hospital for a calendar year is the lesser of 1 percentage point or the percentage point difference between 10 percent and the hospital's update adjustment percentage for the calendar year.".

(3) SOLE COMMUNITY AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(iv) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(i) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993",

(ii) in subclause (III), by striking "fiscal year", and

(iii) in subclause (IV), by striking "fiscal year 1996 and each subsequent fiscal year" and inserting "1996 and each subsequent calendar year".

(B) TARGET AMOUNT ADJUSTMENT.—Section 1886(b)(3)(C) of such Act (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(i) in clause (iii), by inserting "or portion of a cost reporting period occurring before December 31, 1994," before "the target amount", and

(ii) in clause (iv), by striking "fiscal year 1995 and each subsequent fiscal year" and inserting "1995 and each subsequent year".

(C) EXTENSION OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii)(II) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)(II)) is amended—

(i) by striking "for discharges occurring during a fiscal year ending on or before September 30, 1996" and inserting "for discharges occurring during the 15-month period beginning on October 1, 1993, and during any calendar year ending on or before December 31, 1996", and

(ii) by striking "such fiscal year" and inserting "such 15-month period or such calendar year, as the case may be".

(4) CONFORMING AMENDMENTS.—

(A) Section 1886(b)(3)(B)(iii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(i) by inserting "beginning in" after "cost reporting periods",

(ii) by striking "fiscal year" the first place it appears and inserting "particular time period",

(iii) by striking "or fiscal year" the first and second place it appears, and

(iv) by striking "cost reporting period or fiscal year" and inserting "period".

(B) Section 1886(d)(1)(A) of such Act (42 U.S.C. 1395ww(d)(1)(A)) is amended in the matter preceding clause (i) by inserting "or calendar" after "fiscal".

(C) Section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) is amended by inserting "or calendar" after "fiscal" each place it appears.

(D) Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended in the first sentence by inserting "or calendar" after "fiscal" the first place it appears and by inserting "for each fiscal year through 1994" after "in the United States, and".

(E) Section 1886(d)(3)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(ii)) is amended—

(i) by striking "1994," and inserting "1993, and occurring in the 15-month period beginning on October 1, 1993,", and

(ii) by striking "fiscal year" the second and last place it appears and inserting "time period".

(F) Section 1886(d)(3)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking "the fiscal year beginning on October 1, 1994" and inserting "1995".

(G) Section 1886(d)(3)(A)(iv) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(i) by striking "fiscal year beginning on or after October 1, 1995" and inserting "year beginning on or after January 1, 1996",

(ii) by striking "and within each region", and

(iii) by striking "fiscal" each place it appears.

(H) Section 1886(d)(3)(D) of such Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(i) by inserting "or calendar" after "fiscal" each place it appears, and

(ii) by inserting "for each fiscal year through 1994" after "and shall establish".

(I) Section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(i) in the second sentence, by striking "at least every 12 months thereafter" and inserting "beginning January 1, 1995, at least every 12 months thereafter", and

(ii) in the last sentence, by inserting "or calendar" after "fiscal" the first and last place it appears.

(J)(i) Section 1886(d)(4)(C)(iii) of such Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) is amended—

(I) by inserting "or calendar" after "fiscal" the first place it appears, and

(II) by deleting "fiscal" the last place it appears.

(ii) The requirements of paragraphs (3)(E) and (4)(C)(iii) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(K)(i) Section 1886(d)(5)(A) of such Act (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(I) in clause (i), by striking "fiscal years ending on or before September 30, 1997" and inserting "calendar years ending on or before December 31, 1997",

(II) in clause (ii), by striking "fiscal years beginning on or after October 1, 1994" and inserting "calendar years beginning on or after January 1, 1995",

(III) in clause (iv), by inserting "or calendar" after "fiscal",

(IV) in clause (v), by striking "fiscal year" each place it appears, and

(V) in clause (vi), by striking "fiscal" and inserting "calendar".

(ii) The requirement of section 1886(d)(5)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(L) Section 1886(d)(5)(E)(ii) of such Act (42 U.S.C. 1395ww(d)(5)(E)(ii)) is amended by inserting "or calendar" after "fiscal".

(M) Section 1886(d)(6) of such Act (42 U.S.C. 1395ww(d)(6)) is amended by inserting "or December 1 of each calendar year (beginning with calendar year 1995)" after "1984)".

(N) Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended in the matter preceding clause (i) by striking "fiscal year" and inserting "particular time period".

(O) Section 1886(d)(9)(C)(i) of such Act (42 U.S.C. 1395ww(d)(9)(C)(i)) is amended—

(i) by striking "fiscal year" the first place it appears and inserting "time period",

(ii) by striking "for fiscal year 1989", and

(iii) by striking "fiscal years" and inserting "time periods".

(P) Section 1886(d)(10)(C) of such Act (42 U.S.C. 1395ww(d)(10)(C)) is amended—

(i) in clause (i), by striking "fiscal year" and inserting "particular time period", and

(ii) in clause (ii), by inserting "or calendar" after "fiscal" the first place it appears and striking "fiscal" the last place it appears.

(Q) Section 1886(e)(2) of such Act (42 U.S.C. 1395ww(e)(2)) is amended—

(i) in subparagraph (A), by striking "fiscal years" and inserting "particular time periods", and

(ii) in subparagraph (B), by striking "fiscal year" each place it appears and inserting "particular time period".

(R) Section 1886(e)(3) of such Act (42 U.S.C. 1395ww(e)(3)) is amended—

(i) in subparagraph (A)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1986)", and

(II) by striking "that fiscal year" and inserting "the succeeding year", and

(ii) in subparagraph (B)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1989)", and

(II) by striking "that fiscal year" and inserting "the succeeding year".

(S) Section 1886(e)(4)(A) of such Act (42 U.S.C. 1395ww(e)(4)(A)) is amended in the first sentence by striking "fiscal" the first and last place it appears and by striking "(beginning with fiscal year 1988)".

(T) Section 1886(e)(4)(B) of such Act (42 U.S.C. 1395ww(e)(4)(B)) is amended by striking "fiscal" the first place it appears and by striking "(beginning with fiscal year 1992)".

(U) Section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) is amended—

(i) in subparagraph (A), by striking "the May 1 before each fiscal year (beginning with fiscal year 1986) and inserting "May 1" and by striking "that fiscal year" and inserting "the succeeding year",

(ii) in subparagraph (B), by striking "fiscal",

(V) The second and third sentences of section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) are each amended by striking "fiscal" each place it appears.

(W) Section 1886(g)(1)(A) of such Act (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(i) by striking "fiscal years 1992, through 1995" and inserting "fiscal years 1992 and 1993, the 15-month period beginning on October 1, 1993, and calendar year 1995", and

(ii) by striking "such fiscal year" and inserting "such period".

(5) CLERICAL AMENDMENTS CONCERNING TRANSITIONAL PAYMENTS FOR A RECLASSIFIED HOSPITAL.—

(A) Section 1886(d)(8)(A) of such Act (42 U.S.C. 1395ww(d)(8)(A)) is amended in the matter preceding clause (i), by striking "cost reporting periods" and inserting "years".

(B) Section 1886(d)(8)(A)(i) of such Act (42 U.S.C. 1395ww(d)(8)(A)(i)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(C) Section 1886(d)(8)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(8)(A)(ii)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(b) HOME HEALTH AGENCIES.—Clause (iii) of section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by striking "July 1, 1991, and annually thereafter (but not for cost reporting periods beginning on and after July 1, 1994, and before July 1, 1996)" and inserting "July 1 of 1991, 1992, and 1993 (but not for cost reporting periods beginning on and after July 1, 1994, and before January 1, 1997), and annually thereafter ".

(c) HOSPICE CARE.—

(1) IN GENERAL.—Clause (ii) of section 1814(i)(1)(C) of such Act (42 U.S.C. 1395f(i)(1)(C)) is amended—

(A) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993", and

(B) in subclauses (III), (IV), (V), and (VI), by striking "fiscal year" each place it appears and inserting "calendar year".

(2) CONFORMING AMENDMENT.—Section 1814(i)(2) of such Act (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'accounting year' means—

"(i) fiscal years 1985 through 1993,

"(ii) the 15-month period beginning on October 1, 1993, and

"(iii) calendar years beginning on or after January 1, 1995.".

(d) SKILLED NURSING FACILITY SERVICES.—

(1) IN GENERAL.—The last sentence of section 1888(a) of such Act (42 U.S.C. 1395yy(b)) is amended by striking "October 1, 1995" and inserting "January 1, 1996".

(2) CONFORMING AMENDMENTS.—

(A) Section 1888(d)(4) of such Act (42 U.S.C. 1395yy(d)(4)) is amended by striking "fiscal" each place it appears.

(B) Subsections (a)(1) and (b) of section 13503 of the Omnibus Budget Reconciliation Act of 1993 are amended by striking "fiscal years 1994 and 1995" each place it appears and inserting "the 15-month period beginning on October 1, 1993, and calendar year 1995".

SEC. 206. ACCELERATION OF TRANSITION TO PROSPECTIVE RATES FOR FACILITY COSTS IN HOSPITAL OUTPATIENT DEPARTMENTS.

(a) OUTPATIENT SURGERY.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) in subclause (I)—

(A) by striking "and 42 percent" and inserting "42 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 25 percent for portions of cost reporting periods beginning in fiscal year 1995, and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995", and

(2) in subclause (II)—

(A) by striking "and 58 percent" and inserting "58 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 75 percent for portions of cost reporting periods beginning in fiscal year 1995, and 100 percent for portions of cost reporting periods beginning on or after October 1, 1995".

(b) OUTPATIENT RADIOLOGY AND DIAGNOSTIC SERVICES.—Section 1833(n)(1)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking "January 1, 1991." and inserting "January 1, 1991, and beginning on or before September 30, 1994. The term means 25 percent for portions of cost reporting periods beginning in fiscal year 1995 and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995.".

Subtitle B—Medicaid

SEC. 211. CAP ON FEDERAL PAYMENTS MADE FOR ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"CAP ON FEDERAL PAYMENT MADE FOR ACUTE MEDICAL SERVICES FURNISHED UNDER THE MEDICAID PROGRAM

"SEC. 1931. (a) ANNUAL FEDERAL CAP.—For purposes of furnishing acute medical services to eligible individuals, the Secretary shall pay to a State for a fiscal year under section 1903 an amount that does not exceed the State's total funding amount for such fiscal year determined under subsection (b).

"(b) STATE TOTAL FUNDING AMOUNT.—

"(1) IN GENERAL.—A State's total funding amount for a fiscal year is an amount equal to the lesser of—

"(A) the sum of—

"(i) the product of—

"(I) the per-adult funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are at least 21 years of age who will receive acute medical services in the State during the fiscal year; and

"(ii) the product of—

"(I) the per-child funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are under 21 years of age who will receive acute medical services in the State during the fiscal year; or

"(B) the maximum Federal amount for such State (as determined under paragraph (3)).

"(2) PER-ADULT AND PER-CHILD FUNDING AMOUNTS.—The Secretary shall calculate for each State a per-adult funding amount and a per-child funding amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995—

"(I) the per-adult funding amount for a State shall be an amount equal to the base per-adult funding amount determined under subparagraph (B) increased by 20 percent of such amount; and

"(II) the per-child funding amount for the State shall be an amount equal to the base per-child funding amount for the State determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the per-adult funding amount for a State and the per-child funding amount for a State, respectively, shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 1 percentage point.

"(B) BASE PER-ADULT FUNDING AMOUNT.—The base per-adult funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were at least 21 years of age; divided by

"(ii) the total number of eligible individuals who were at least 21 years of age who received acute medical services in such State during fiscal year 1993.

"(C) BASE PER-CHILD FUNDING AMOUNT.—The base per-child funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were under 21 years of age; divided by

"(ii) the total number of eligible individuals who were under 21 years of age who received acute medical services in such State during fiscal year 1993.

"(3) MAXIMUM FEDERAL AMOUNT.—The Secretary shall calculate for each State a maximum Federal amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995, the maximum Federal amount for a State shall be an amount equal to the base maximum Federal amount determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the maximum Federal amount for a State shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 2.5 percentage points.

"(B) BASE MAXIMUM FEDERAL AMOUNT.—

"(i) IN GENERAL.—The base maximum Federal amount for a State is an amount equal to the State's applicable percentage (as determined under clause (ii)) of the State's total maximum amount (as determined under clause (iii)).

"(ii) STATE'S APPLICABLE PERCENTAGE.—A State's applicable percentage determined under this clause is a percentage equal to the quotient of—

"(I) the amount of Federal funds paid to the State for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993, divided by

"(II) the amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(iii) STATE'S TOTAL MAXIMUM AMOUNT.—A State's total maximum amount determined under this clause is an amount equal to the applicable percentage of the total amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(c) MINIMUM EXPENDITURE BY STATES.—

"(1) IN GENERAL.—For the purpose of furnishing acute medical services to eligible individuals and providing administrative services to such individuals in a fiscal year, a State shall incur expenditures which are at least equal to the product of—

"(A) the State's updated per capita amount, and

"(B) the total number of eligible individual's receiving acute medical services in the State during such fiscal year.

"(2) UPDATED PER CAPITA AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The updated per capita amount for a State shall be—

"(i) for fiscal year 1995, an amount equal to the State's base per capita amount, and

"(ii) for fiscal year 1996 and each succeeding fiscal year, an amount equal to the amount determined under this subparagraph for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(B) BASE PER CAPITA AMOUNT.—The base per capita amount for a State shall be an amount equal to the quotient of—

"(i) the total amount of State expenditures in fiscal year 1993 for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals, divided by

"(ii) the total number of eligible individuals receiving acute medical services during fiscal year 1993.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ACUTE MEDICAL SERVICES.—The term 'acute medical services' means all of the care and services furnished to individuals eligible under a State plan under this title except the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)).

"(J) Hospice care (as defined in section 1905(o)).

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is eligible to receive medical assistance under the State plan under this title.

"(3) FEDERAL FUNDS.—The term 'Federal funds' means funds paid to a State under section 1903, excluding funds paid under such section with respect to expenditures by such State in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(4) STATE EXPENDITURES.—The term 'State expenditures' means expenditures by a State under its plan under this title, excluding expenditures in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

SEC. 212. WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1932 as section 1933 and by inserting after section 1931 the following new section:

"WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM

"SEC. 1932. (a) IN GENERAL.—The Secretary shall establish a process under which a State with a State plan approved under this title may apply for waivers of any of the requirements under this title in order to establish innovative and cost effective programs for furnishing acute medical services (as defined in section 1931(d)(1)) to eligible individuals (as defined in section 1931(d)(2)).

"(b) APPLICATION FOR WAIVERS.—

"(1) IN GENERAL.—In order to receive a waiver under subsection (a), a State shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

"(2) APPROVAL OF APPLICATION.—

"(A) INITIAL REVIEW.—Within 60 days after an application is submitted by the State under this subsection, the Secretary shall review and approve such application or provide the State with a list of the modifications that are necessary for such application to be approved.

"(B) ADDITIONAL REVIEW.—Within 60 days after a State resubmits any application under this subsection, the Secretary shall review and approve such application or provide the State with a summary of which items included on the list provided to the State under subparagraph (A) remain unsatisfied. A State may resubmit an application under this subparagraph as many times as necessary to gain approval.

"(c) DURATION OF WAIVERS.—Except as provided in subsection (d), any waiver under this section shall be granted for a period of 5 years, and renewed for subsequent 5-year periods, unless the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(d) TERMINATION OF WAIVERS.—The Secretary may terminate a waiver granted under this section at any time if the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(e) REPORTS.—

"(1) IN GENERAL.—The State shall, through an independent entity, evaluate the programs operated under a waiver granted under this section and submit interim and final reports to the Secretary at such times and containing such information as the Secretary shall require.

"(2) REPORT TO CONGRESS.—Not later than 60 days after the receipt of a final report by the State regarding a waiver granted under this section, the Secretary shall submit a report to Congress.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

SEC. 213. TERMINATION OF DISPROPORTIONATE SHARE PAYMENTS.

(a) IN GENERAL.—

(1) ELIMINATION OF STATE PLAN REQUIREMENT.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended by striking "which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and".

(2) CONFORMING AMENDMENTS.—(A) Section 1923 of such Act (42 U.S.C. 1396r-4) is repealed.

(B) Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended by striking "facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and".

(C) Section 1902(s) of such Act (42 U.S.C. 1396a(s)) is amended by striking ", and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1),".

(D) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by striking "and subsection 1923(f)".

(E) Section 1903(d)(6) of such Act (42 U.S.C. 1396b(d)(6)) is amended—

(i) by striking "(6)(A)" and inserting "(6)",

(ii) by striking "(i)" and "(ii)" and inserting "(A)" and "(B)", respectively, and

(ii) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after October 1, 1996.

SEC. 214. GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION

"SEC. 1933. (a) IN GENERAL.—The Secretary shall provide grants to States for the purpose of conducting State programs under which individuals with incomes below 150 percent of the income official poverty line are provided health insurance coverage, acute medical services, preventive care, and disease prevention services. A State receiving a grant under this section shall conduct a program described in this section in consultation with the Secretary and in any manner determined appropriate by the State which is in accordance with subsection (b).

"(b) REQUIREMENTS ON PROGRAMS.—

"(1) PRIORITY OF BENEFITS.—A State program conducted under this section shall give priority to individuals who—

"(A) are ineligible for benefits under a State plan under title XIX of the Social Security Act,

"(B) are eligible for the tax credit established under section 34A of the Internal Revenue Code of 1986, and

"(C) has unreimbursed expenses for health insurance coverage and medical care—

"(i) exceeding 5 percent of the individual's adjusted gross income, and

"(ii) not otherwise taken into account in determining the credit under section 34A of the Internal Revenue Code of 1986 for such individual.

"(2) SERVICES.—

"(A) MANDATORY.—A State program conducted under this section shall provide financial assistance as determined by the State for purchasing health insurance coverage and paying medical bills to individuals described in paragraph (1).

"(B) OPTIONAL.—A State program conducted under this section may provide—

"(i) medical services directly to eligible individuals,

"(ii) primary and preventive care services to underserved populations,

"(iii) funding for community and migrant health centers,

"(iv) delivery of outpatient primary and preventive health services,

"(v) improvements to the availability and quality of emergency medical services and trauma care,

"(vi) transportation of victims of medical emergencies, including air transportation for victims of medical emergencies in rural areas, and

"(vii) telecommunications systems between rural medical facilities and other medical facilities which have expertise in certain areas or equipment that can be utilized by rural facilities through such systems.

"(c) FEDERAL FUNDS AVAILABLE FOR GRANTS.—

"(1) IN GENERAL.—The total amount of Federal funds available under this title for grants to States under this section shall be—

"(A) $14,200,000,000 for fiscal year 1997,

"(B) $15,800,000,000 for fiscal year 1998,

"(C) $17,400,000,000 for fiscal year 1999,

"(D) $20,000,000,000 for fiscal year 2000, and

"(E) for each fiscal year thereafter, the amount for the preceding fiscal year increased by 7.5 percent of such amount.

"(2) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(A) IN GENERAL.—The Secretary shall pay to each State conducting a program under this section for a fiscal year an amount equal to the State's percentage (as determined under subparagraph (B)) of the total amount available for grants under this section as provided in paragraph (1).

"(B) STATE PERCENTAGE.—

"(i) IN GENERAL.—A State's percentage determined under this subparagraph for a fiscal year is a percentage equal to the quotient of—

"(I) the number of individuals in the State's needy population (as defined in clause (ii)) for such fiscal year, divided by

"(II) the total number of individuals in the needy populations of all States for the fiscal year.

"(ii) STATE NEEDY POPULATION.—The term 'State's needy population' means, with respect to a fiscal year, the number of individuals equal to the product of—

"(I) the average number of individuals in the State with incomes below the income official poverty line during the 3 preceding fiscal years (as determined by the Secretary), and

"(II) the State's Federal percentage (as determined under clause (iii)).

"(iii) STATE FEDERAL PERCENTAGE.—

"(I) IN GENERAL.—A State's Federal percentage for a fiscal year is the greater of—

"(aa) 1 minus the percentage determined under subclause (II), or

"(bb) 40 percent.

"(II) PERCENTAGE DETERMINED.—The percentage determined under this subclause is the product of—

"(aa) .40, and

"(bb) the product of the amount determined under subclause (III) multiplied by itself.

"(III) AMOUNT DETERMINED.—The amount determined under this subclause is the quotient of—

"(aa) the State's share of total taxable resources, divided by

"(bb) the State's share of need.

"(d) STATE EXPENDITURES.—

"(1) IN GENERAL.—For a fiscal year, a State shall expend for purposes of conducting the State program described in subsection (a) an amount at least equal to—

"(A) for fiscal year 1997, the base year DSH payment for the State (as defined in paragraph (2)) updated by the percentage change in the consumer price index between fiscal year 1996 and fiscal year 1995 (as determined by the Secretary of Commerce), and

"(B) for fiscal year 1998 and each succeeding fiscal year, an amount equal to the amount determined under this clause for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(2) BASE YEAR DSH PAYMENT.—For purposes of paragraph (1), the term 'base year DSH payment' means the amount of expenditures made by the State in fiscal year 1996 in the form of payment adjustments in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(e) OTHER DEFINITIONS.—

"(1) INCOME OFFICIAL POVERTY LINE.—For purposes of this section, the term 'income official poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(2) STATE'S SHARE OF TOTAL TAXABLE RESOURCES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of total taxable resources for the State (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years), divided by

"(ii) the average of the total taxable resources for all States (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years).

"(B) SPECIAL RULE FOR THE DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), with respect to the District of Columbia, the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of the total personal income in such District for the 3 preceding calendar years (as determined by the Secretary of Commerce), divided by

"(ii) the average of the total personal income for all States for the 3 preceding calendar years (as determined by the Secretary of Commerce).

"(3) STATE'S SHARE OF NEED.—The term 'State's share of need' for a fiscal year means the quotient of—

"(A) the average number of individuals in the State with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary), divided by

"(B) the average number of individuals in all States with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1996.

TITLE III—HEALTH CARE LIABILITY REFORM

SEC. 301. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform Act of 1993".

SEC. 302. DEFINITIONS.

For purposes of this title the term—

(1) "approved by the Food and Drug Administration" means, with respect to a health care product, that the health care product—

(A) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug or device was approved by the Food and Drug Administration; or

(B) is generally recognized as safe and effective under conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations;

(2) "arbitration" means a dispute resolution process in which the parties submit the dispute outside of a Federal or State civil justice system for resolution by a person or panel of persons;

(3) "economic losses" means losses for hospital and medical expenses, lost wages, lost employment, and other pecuniary losses;

(4) "health care malpractice action" means a civil action alleging a health care malpractice claim against a health care provider or health care professional;

(5) "health care malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services based on negligence or gross negligence, breach of express or implied warranty or contract, or failure to discharge a duty to warn or instruct to obtain consent;

(6) "health care product" means a drug, as defined under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device, as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), or any combination thereof;

(7) "health care product liability action" means a civil action alleging a health care product liability claim against a manufacturer or seller of a health care product or against a health care provider or health care professional;

(8) "health care product liability claim" means any claim relating to harm alleged to have been caused by a health care product;

(9) "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State, including a physician, nurse, chiropractor, nurse midwife, physical therapist, social worker, or physician assistant;

(10) "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State;

(11) "injury" means any injury, illness, disease, or other harm that is the subject of a health care malpractice claim; and

(12) "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, and other nonpecuniary losses.

SEC. 303. HEALTH CARE MALPRACTICE.

(a) APPLICATION.—The provisions of this section shall apply to any health care malpractice action filed in any Federal or State court and any health care malpractice claim resolved through arbitration.

(b) PAYMENTS.—No person may be required to pay more than $100,000 in a single payment in damages for expenses to be incurred in the future, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based on projections of when expenses are likely to be incurred.

(c) DAMAGES.—(1) The total amount of damages received by an individual shall be reduced, in accordance with paragraph (2), by any other payment which has been made or which will be made to such individual to compensate such individual for an injury, including payments under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other source of payment intended to compensate such individual for such injury.

(2) The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described under subparagraph (A).

(d) STATUTE OF LIMITATIONS.—(1) Except as provided under paragraph (2), no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the expiration of the 4-year period that begins on the date the alleged injury occurred, whichever is later.

(2) In the case of an alleged injury suffered by a minor who has not attained 6 years of age, no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the date on which the minor attains 10 years of age, whichever is later.

(e) ATTORNEYS' FEES.—With respect to any health care malpractice action or any health care malpractice claim, attorneys' fees may not exceed—

(1) 40 percent of the first $50,000 of any award or settlement under such action or claim;

(2) 33⅓ percent of the next $50,000 of any award or settlement under such action or claim;

(3) 25 percent of the next $500,000 of any award or settlement under such action or claim; and

(4) 15 percent of any additional amounts.

SEC. 304. HEALTH CARE PRODUCT LIABILITY OF MANUFACTURER OR SELLER.

(a) NONAPPLICATION OF STRICT LIABILITY.—A manufacturer or seller of a health care product approved by the Food and Drug Administration shall not be strictly liable for any injury alleged to have resulted from—

(1) a defect in the design of the health care product; or

(2) a failure to warn or instruct regarding a risk posed by the health care product that was neither known nor reasonably knowable at the time the health care product left the control of the manufacturer or seller.

(b) DUTY TO WARN.—(1) A manufacturer or seller of a health care product that is to be prescribed by, or used at the direction of, a health care professional shall not be liable for harm allegedly caused by a failure to warn or instruct the ultimate user or recipient of the product about a risk if the manufacturer or seller provided adequate warning or instruction to the user's or recipient's health care professional.

(2) This subsection shall not apply to any health care product to which the Food and Drug Administration specifically provides that a warning or instruction regarding such product shall be given by the manufacturer or seller directly to the ultimate user or recipient.

SEC. 305. GENERAL PROVISIONS RELATING TO HEALTH CARE LIABILITY.

(a) LIMITATION ON NONECONOMIC DAMAGES.—(1) Except as provided under paragraph (2), the total amount of damages which may be awarded to an individual and the family members of such individual for noneconomic losses resulting from an injury which is the subject of a health care malpractice claim or a health care product liability claim may not exceed $250,000, regardless of the number of defendants against whom the claim is brought, the number of claims brought with respect to the injury, or the number of actions brought with respect to the injury.

(2)(A) In any jury trial, the jury shall not be informed of the limitation established under paragraph (1). If the jury awards an amount for noneconomic damages that exceeds $250,000, the court shall reduce the award to $250,000 unless the court finds that special circumstances (such as egregious injury) would make such reduction unjust.

(B) In any case in which the court finds a reduction under subparagraph (A) would be unjust, the court may—

(i) decline to reduce such award; or

(ii) reduce such award by a lesser amount than provided for under subparagraph (A).

(b) SEVERAL LIABILITY FOR NONECONOMIC LOSS.—(1) In any health care malpractice action or health care product liability action the liability of each defendant for noneconomic loss and for punitive damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss and punitive damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under paragraph (2). A separate judgment shall be rendered against such defendant for that amount.

(2) For purposes of this subsection, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 306. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable law, be awarded against a defendant in a health care malpractice action or a health care product liability action only if the claimant establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting conscious, flagrant indifference to the health of the claimant or to the health of those persons who might be harmed by the health care product.

(b) DETERMINATION OF AMOUNT.—The amount of any punitive damages award shall be determined (subject to appellate review as permitted by applicable law) by the trial judge.

(c) LIMITATION CONCERNING CERTAIN HEALTH CARE PRODUCTS.—Punitive damages shall not be awarded against a manufacturer or seller of a health care product approved by the Food and Drug Administration where that health care product caused the claimant's harm.

SEC. 307. EXCEPTIONS.

The provisions of sections 304(a) and 306(c) shall not apply in any case in which—

(1) the defendant, before or after premarket approval of a drug or device, withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government required information that is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(2) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device.

SEC. 308. RULES OF CONSTRUCTION.

Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the grounds of inconvenient forum;

(6) restrict or limit the preemptive effect of any other Federal law; or

(7) create any cause of action under Federal law.

TITLE IV—ADMINISTRATIVE COST SAVINGS

Subtitle A—Standardization of Claims Processing

SEC. 401. ADOPTION OF DATA ELEMENTS, UNIFORM CLAIMS, AND UNIFORM ELECTRONIC TRANSMISSION STANDARDS.

(a) IN GENERAL.—The Secretary shall adopt standards relating to each of the following:

(1) Data elements for use in paper and electronic claims processing under health insurance plans, as well as for use in utilization review and management of care (including data fields, formats, and medical nomenclature, and including plan benefit and insurance information).

(2) Uniform claims forms (including uniform procedure and billing codes for uses with such forms and including information on other health insurance plans that may be liable for benefits).

(3) Uniform electronic transmission of the data elements (for purposes of billing and utilization review).

Standards under paragraph (3) relating to electronic transmission of data elements for claims for services shall supersede (to the extent specified in such standards) the standards adopted under paragraph (2) relating to the submission of paper claims for such services. Standards under paragraph (3) shall include protections to assure the confidentiality of patient-specific information and to protect against the unauthorized use and disclosure of information.

(b) USE OF TASK FORCES.—In adopting standards under this section—

(1) the Secretary shall take into account the recommendations of current task forces, including at least the Workgroup on Electronic Data Interchange, National Uniform Billing Committee, the Uniform Claim Task Force, and the Computer-based Patient Record Institute;

(2) the Secretary shall consult with the National Association of Insurance Commissioners (and, with respect to standards under subsection (a)(3), the American National Standards Institute); and

(3) the Secretary shall, to the maximum extent practicable, seek to make the standards consistent with any uniform clinical data sets which have been adopted and are widely recognized.

(c) DEADLINES FOR PROMULGATION.—The Secretary shall promulgate the standards under—

(1) subsection (a)(1) relating to claims processing data, by not later than 12 months after the date of the enactment of this Act;

(2) subsection (a)(2) (relating to uniform claims forms) by not later than 12 months after the date of the enactment of this Act; and

(3)(A) subsection (a)(3) relating to transmission of information concerning hospital and physicians' services, by not later than 24 months after the date of the enactment of this Act, and

(B) subsection (a)(3) relating to transmission of information on other services, by such later date as the Secretary may determine it to be feasible.

(d) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress recommendations regarding restructuring the medicare peer review quality assurance program given the availability of hospital data in electronic form.

SEC. 402. APPLICATION OF STANDARDS.

(a) IN GENERAL.—If the Secretary determines, at the end of the 2-year period beginning on the date that standards are adopted under section 401 with respect to classes of services, that a significant number of claims for benefits for such services under health insurance plans are not being submitted in accordance with such standards, the Secretary may require, after notice in the Federal Register of not less than 6 months, that all providers of such services must submit claims to health insurance plans in accordance with such standards. The Secretary may waive the application of such a requirement in such cases as the Secretary finds that the imposition of the requirement would not be economically practicable.

(b) SIGNIFICANT NUMBER.—The Secretary shall make an affirmative determination described in subsection (a) for a class of services only if the Secretary finds that there would be a significant, measurable additional gain in efficiencies in the health care system that would be obtained by imposing the requirement described in such paragraph with respect to such services.

(c) APPLICATION OF REQUIREMENT.—

(1) IN GENERAL.—If the Secretary imposes the requirement under subsection (a)—

(A) in the case of a requirement that imposes the standards relating to electronic transmission of claims for a class of services, each health care provider that furnishes such services for which benefits are payable under a health insurance plan shall transmit electronically and directly to the plan on behalf of the beneficiary involved a claim for such services in accordance with such standards;

(B) any health insurance plan may reject any claim subject to the standards adopted under section 401 but which is not submitted in accordance with such standards;

(C) it is unlawful for a health insurance plan (i) to reject any such claim on the basis of the form in which it is submitted if it is submitted in accordance with such standards or (ii) to require, for the purpose of utilization review or as a condition of providing benefits under the plan, a provider to transmit medical data elements that are inconsistent with the standards established under section 401(a)(1); and

(D) the Secretary may impose a civil money penalty on any provider that knowingly and repeatedly submits claims in violation of such standards or on any health insurance plan (other than a health insurance plan described in paragraph (2)) that knowingly and repeatedly rejects claims in violation of subparagraph (B), in an amount not to exceed $100 for each such claim.

The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under subparagraph (D) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan—

(A) that is subject to regulation by a State, and

(B) with respect to which the Secretary finds that—

(i) the State provides for application of the standards established under section 401, and

(ii) the State regulatory program provides for the appropriate and effective enforcement of such standards.

(d) TREATMENT OF REJECTIONS.—If a plan rejects a claim pursuant to subsection (c)(1), the plan shall permit the person submitting the claim a reasonable opportunity to resubmit the claim on a form or in an electronic manner that meets the requirements for acceptance of the claim under such subsection.

SEC. 403. PERIODIC REVIEW AND REVISION OF STANDARDS.

(a) IN GENERAL.—The Secretary shall—

(1) provide for the ongoing receipt and review of comments and suggestions for changes in the standards adopted and promulgated under section 401;

(2) establish a schedule for the periodic review of such standards; and

(3) based upon such comments, suggestions, and review, revise such standards and promulgate such revisions.

(b) APPLICATION OF REVISED STANDARDS.—If the Secretary under subsection (a) revises the standards described in 401, then, in the case of any claim for benefits submitted under a health insurance plan more than the minimum period (of not less than 6 months specified by the Secretary) after the date the revision is promulgated under subsection (a)(3), such standards shall apply under section 402 instead of the standards previously promulgated.

SEC. 404. HEALTH INSURANCE PLAN DEFINED.

In this title, the term "health insurance plan" has the meaning given such term in section 111(b) and includes—

(1) the medicare program (under title XVIII of the Social Security Act) and medicare supplemental health insurance, and

(2) a State medicaid plan (approved under title XIX of such Act).

Subtitle B—Electronic Medical Data Standards

SEC. 411. MEDICAL DATA STANDARDS FOR HOSPITALS AND OTHER PROVIDERS.

(a) PROMULGATION OF HOSPITAL DATA STANDARDS.—

(1) IN GENERAL.—Between July 1, 1995, and January 1, 1996, the Secretary shall promulgate standards described in subsection (b) for hospitals concerning electronic medical data.

(2) REVISION.—The Secretary may from time to time revise the standards promulgated under this subsection.

(b) CONTENTS OF DATA STANDARDS.—The standards promulgated under subsection (a) shall include at least the following:

(1) A definition of a standard set of data elements for use by utilization and quality control peer review organizations.

(2) A definition of the set of comprehensive data elements, which set shall include for hospitals the standard set of data elements defined under paragraph (1).

(3) Standards for an electronic patient care information system with data obtained at the point of care, including standards to protect against the unauthorized use and disclosure of information.

(4) A specification of, and manner of presentation of, the individual data elements of the sets and system under this subsection.

(5) Standards concerning the transmission of electronic medical data.

(6) Standards relating to confidentiality of patient-specific information.

The standards under this section shall be consistent with standards for data elements established under section 401.

(c) OPTIONAL DATA STANDARDS FOR OTHER PROVIDERS.—

(1) IN GENERAL.—The Secretary may promulgate standards described in paragraph (2) concerning electronic medical data for providers that are not hospitals. The Secretary may from time to time revise the standards promulgated under this subsection.

(2) CONTENTS OF DATA STANDARDS.—The standards promulgated under paragraph (1) for non-hospital providers may include standards comparable to the standards described in paragraphs (2), (4), and (5) of subsection (b) for hospitals.

(d) CONSULTATION.—In promulgating and revising standards under this section, the Secretary shall—

(1) consult with the American National Standards Institute, hospitals, with the advisory commission established under section 415, and with other affected providers, health insurance plans, and other interested parties, and

(2) take into consideration, in developing standards under subsection (b)(1), the data set used by the utilization and quality control peer review program under part B of title XI of the Social Security Act.

SEC. 412. APPLICATION OF ELECTRONIC DATA STANDARDS TO CERTAIN HOSPITALS.

(a) MEDICARE REQUIREMENT FOR SHARING OF HOSPITAL INFORMATION.—As of January 1, 1996, subject to paragraph (2), each hospital, as a requirement of each participation agreement under section 1866 of the Social Security Act, shall—

(1) maintain clinical data included in the set of comprehensive data elements under section 411(b)(2) in electronic form on all inpatients,

(2) upon request of the Secretary or of a utilization and quality control peer review organization (with which the Secretary has entered into a contract under part B of title XI of such Act), transmit electronically the data set, and

(3) upon request of the Secretary, or of a fiscal intermediary or carrier, transmit electronically any data (with respect to a claim) from such data set,

in accordance with the standards promulgated under section 411(a).

(b) WAIVER AUTHORITY.—Until January 1, 2000:

(1) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is a small rural hospital, for such period as the hospital demonstrates compliance with such requirements would constitute an undue financial hardship.

(2) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is in the process of developing a system to provide the required data set and executes agreements with its fiscal intermediary and its utilization and quality control peer review organization that the hospital will meet the requirements of subsection (a) by a specified date (not later than January 1, 2000).

(3) The Secretary may waive the application of the requirement of subsection (a)(1) for a hospital that agrees to obtain from its records the data elements that are needed to meet the requirements of paragraphs (2) and (3) of subsection (a) and agrees to subject its data transfer process to a quality assurance program specified by the Secretary.

(c) APPLICATION TO HOSPITALS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall provide that each hospital of the Department of Veterans Affairs shall comply with the requirements of subsection (a) in the same manner as such requirements would apply to the hospital if it were participating in the Medicare program.

(2) WAIVER.—The Secretary of Veterans Affairs may waive the application of such requirements to a hospital in the same manner as the Secretary of Health and Human Services may waive under subsection (b) the application of the requirements of subsection (a).

SEC. 413. ELECTRONIC TRANSMISSION TO FEDERAL AGENCIES.

(a) IN GENERAL.—Effective January 1, 2000, if a provider is required under a Federal program to transmit a data element that is subject to a presentation or transmission standard (as defined in subsection (b)), the head of the Federal agency responsible for such program (if not otherwise authorized) is authorized to require the provider to present and transmit the data element electronically in accordance with such a standard.

(b) PRESENTATION OR TRANSMISSION STANDARD DEFINED.—In subsection (a), the term "presentation or transmission standard" means a standard, promulgated under subsection (b) or (c) of section 411, described in paragraph (4) or (5) of section 411(b).

SEC. 414. LIMITATION ON DATA REQUIREMENTS WHERE STANDARDS IN EFFECT.

(a) IN GENERAL.—If standards with respect to data elements are promulgated under section 411 with respect to a class of provider, a health insurance plan may not require, for the purpose of utilization review or as a condition of providing benefits under the plan, that a provider in the class—

(1) provide any data element not in the set of comprehensive data elements specified under such standards, or

(2) transmit or present any such data element in a manner inconsistent with the applicable standards for such transmission or presentation.

(b) COMPLIANCE.—

(1) IN GENERAL.—The Secretary may impose a civil money penalty on any health insurance plan (other than a health insurance plan described in paragraph (2)) that fails to comply with subsection (a) in an amount not to exceed $100 for each such failure. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan that is subject to regulation by a State, if the Secretary finds that—

(A) the State provides for application of the requirement of subsection (a), and

(B) the State regulatory program provides for the appropriate and effective enforcement of such requirement with respect to such plans.

SEC. 415. ADVISORY COMMISSION.

(a) IN GENERAL.—The Secretary shall establish an advisory commission including hospital executives, hospital data base managers, physicians, health services researchers, and technical experts in collection and use of data and operation of data systems. Such commission shall include, as ex officio members, a representative of the Director of the National Institutes of Health, the Administrator for Health Care Policy and Research, the Secretary of Veterans Affairs, and the Director of the Centers for Disease Control.

(b) FUNCTIONS.—The advisory commission shall monitor and advise the Secretary concerning—

(1) the standards established under this subtitle, and

(2) operational concerns about the implementation of such standards under this subtitle.

(c) STAFF.—From the amounts appropriated under subsection (d), the Secretary shall provide sufficient staff to assist the advisory commission in its activities under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1995 through 2000 to carry out this section.

Subtitle C—Development and Distribution of Comparative Value Information

SEC. 421. STATE COMPARATIVE VALUE INFORMATION PROGRAMS FOR HEALTH CARE PURCHASING.

(a) PURPOSE.—In order to assure the availability of comparative value information to purchasers of health care in each State, the Secretary shall determine whether each State is developing and implementing a health care value information program that meets the criteria and schedule set forth in subsection (b).

(b) CRITERIA AND SCHEDULE FOR STATE PROGRAMS.—The criteria and schedule for a State health care value information program in this subsection shall be specified by the Secretary as follows:

(1) The State begins promptly after enactment of this Act to develop (directly or through contractual or other arrangements with 1 or more States, coalitions of health insurance purchasers, other entities, or any combination of such arrangements) information systems regarding comparative health values.

(2) The information contained in such systems covers at least the average prices of common health care services (as defined in subsection (d)) and health insurance plans, and, where available, measures of the variability of these prices within a State or other market areas.

(3) The information described in paragraph (2) is made available within the State beginning not later than 1 year after the date of the enactment of this Act, and is revised as frequently as reasonably necessary, but at intervals of no greater than 1 year.

(4) Not later than 6 years after the date of the enactment of this Act the State has developed information systems that provide comparative costs, quality, and outcomes data with respect to health insurance plans and hospitals and made the information broadly available within the relevant market areas.

Nothing in this section shall preclude a State from providing additional information, such as information on prices and benefits of different health insurance plans, available.

(c) GRANTS TO STATES FOR THE DEVELOPMENT OF STATE PROGRAMS.—

(1) GRANT AUTHORITY.—The Secretary may make grants to each State to enable such State to plan the development of its health care value information program and, if necessary, to initiate the implementation of such program. Each State seeking such a grant shall submit an application therefor, containing such information as the Secretary finds necessary to assure that the State is likely to develop and implement a program in accordance with the criteria and schedule in subsection (b).

(2) OFFSET AUTHORITY.—If, at any time within the 3-year period following the receipt by a State of a grant under this subsection, the Secretary is required by section 422 to implement a health care information program in the State, the Secretary may recover the amount of the grant under this subsection by offset against any other amount payable to the State under the Social Security Act. The amount of the offset shall be made available (from the appropriation account with respect to which the offset was taken) to the Secretary to carry out such section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to make grants under this subsection, to remain available until expended.

(d) COMMON HEALTH CARE SERVICES DEFINED.—In this section, the term "common health care services" includes such procedures as the Secretary may specify and any additional health care services which a State may wish to include in its comparative value information program.

(e) STATE DEFINED.—In this title, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

SEC. 422. FEDERAL IMPLEMENTATION.

(a) IN GENERAL.—If the Secretary finds, at any time, that a State has failed to develop or to continue to implement a health care value information program in accordance with the criteria and schedule in section 421(b), the Secretary shall take the actions necessary, directly or through grants or contract, to implement a comparable program in the State.

(b) FEES.—Fees may be charged by the Secretary for the information materials provided pursuant to a program under this section. Any amounts so collected shall be deposited in the appropriation account from which the Secretary's costs of providing such materials were met, and shall remain available for such purposes until expended.

SEC. 423. COMPARATIVE VALUE INFORMATION CONCERNING FEDERAL PROGRAMS.

(a) DEVELOPMENT.—The head of each Federal agency with responsibility for the provision of health insurance or of health care services to individuals shall promptly develop health care value information relating to each program that such head administers and covering the same types of data that a State program meeting the criteria of section 421(b) would provide.

(b) DISSEMINATION OF INFORMATION.—Such information shall be made generally available to States and to providers and consumers of health care services.

Subtitle D—Preemption of State Quill Pen Laws

SEC. 431. PREEMPTION OF STATE QUILL PEN LAWS.

(a) IN GENERAL.—Effective January 1, 1996, no effect shall be given to any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic form.

(b) SECRETARIAL AUTHORITY.—The Secretary may issue regulations to carry out subsection (a). Such regulations may provide for such exceptions to subsection (a) as the Secretary determines to be necessary to prevent fraud and abuse, with respect to controlled substances, and in such other cases as the Secretary deems appropriate.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

SEC. 501. PENALTIES FOR HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) OFFENSE.—Whoever, being a health care provider, knowingly engages in any scheme or artifice to defraud any person in connection with the provision of health care shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

"1347. Health care fraud.".

SEC. 502. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

SEC. 511. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH INSURANCE PLAN.

(a) CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), in the matter before subparagraph (A), by inserting "or of any health insurance plan," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health insurance plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a health insurance plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health insurance plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health insurance plan" after "or XX".

(b) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH INSURANCE PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health insurance plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health insurance plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health insurance plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health insurance plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health insurance plan,", and

(ii) by striking "State plan," and inserting "State plan or the health insurance plan,".

(2) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a), (b), or (c), any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(3) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(c) HEALTH INSURANCE PLAN DEFINED.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH INSURANCE PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health insurance plan' means a health insurance program other than the medicare program, the medicaid program, or a State health care program.".

(d) CONFORMING AMENDMENT.—Section 1128(b)(8)(B)(ii) of such Act (42 U.S.C. 1320a-7(b)(8)(B)(ii)) is amended by striking "1128A" and inserting "1128A (other than a penalty arising from a health insurance plan, as defined in subsection (i))".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

TITLE VI—ANTITRUST PROVISIONS

SEC. 601. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN COMPETITIVE AND COLLABORATIVE ACTIVITIES.

(a) EXEMPTION DESCRIBED.—An activity relating to the provision of health care services shall be exempt from the antitrust laws if—

(1) the activity is within one of the categories of safe harbors described in section 602;

(2) the activity is within an additional safe harbor designated by the Attorney General under section 603; or

(3) the activity is specified in and in compliance with the terms of a certificate of review issued by the Attorney General under section 604 and the activity occurs—

(A) while the certificate is in effect, or

(B) in the case of a certificate issued during the 2-year period beginning on the date of the enactment of this Act, at any time on or after the first day of the 2-year period that ends on the date the certificate takes effect.

(b) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(1) IN GENERAL.—If any person brings an action alleging a claim under the antitrust laws and the activity on which the claim is based is found by the court to be exempt from such laws under subsection (a), the court shall, at the conclusion of the action—

(A) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(B) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(2) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to paragraph (1) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

SEC. 602. SAFE HARBORS.

The following activities are safe harbors for purposes of section 601(a)(1):

(1) COMBINATIONS WITH MARKET SHARE BELOW THRESHOLD.—Activities relating to health care services of any combination of health care providers if the number of each type or specialty of provider in question does not exceed 20 percent of the total number of such type or specialty of provider in the relevant market area.

(2) ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care provided to patients.

(B) EXCEPTION.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under this paragraph if the activity is conducted for purposes of financial gain.

(3) PARTICIPATION IN SURVEYS.—The participation of a provider of health care services in a written survey of the prices of services, reimbursement levels, or the compensation and benefits of employees and personnel, but only if—

(A) the survey is conducted by a third party, such as a purchaser of health care services, governmental entity, institution of higher education, or trade association;

(B) the information provided by participants in the survey is based on prices charged, reimbursements received, or compensation and benefits paid prior to the third month preceding the month in which the information is provided; and

(C) if the results of the survey are disseminated, the results are aggregated in a manner that ensures that no recipient of the results may identify the prices charged, reimbursement received, or compensation and benefits paid by any particular provider.

(4) JOINT VENTURES FOR HIGH TECHNOLOGY AND COSTLY EQUIPMENT AND SERVICES.—Any activity of a health care cooperative venture relating to the purchase, operation, or marketing of high technology or other expensive medical equipment, or the provision of high cost or complex services, but only if the number of participants in the venture does not exceed the lowest number needed to support the venture. Other providers may be included in the venture, but only if such other providers could not purchase, operate, or market such equipment or provide a competing service either alone or through the formation of a competing venture.

(5) HOSPITAL MERGERS.—Activities relating to a merger of 2 hospitals if, during the 3-year period preceding the merger, one of the hospitals had an average of 150 or fewer operational beds and an average daily inpatient census of less than 50 percent of such beds.

(6) JOINT PURCHASING ARRANGEMENTS.—Any joint purchasing arrangement among health care providers if—

(A) the purchases under the arrangement represent less than 35 percent of the total sales of the product or service purchased in the relevant market; and

(B) the cost of the products and services purchased jointly accounts for less than 20 percent of the total revenues from all products or services sold by each participant in the joint purchasing arrangement.

(7) NEGOTIATIONS.—Activities consisting of good faith negotiations to carry out any activity—

(A) described in this section,

(B) within an additional safe harbor designated by the Attorney General under section 603,

(C) that is the subject of an application for a certificate of review under section 604, or

(D) that is deemed a submission of a notification under section 605(a)(2)(B),

without regard to whether such an activity is carried out.

SEC. 603. DESIGNATION OF ADDITIONAL SAFE HARBORS.

(a) IN GENERAL.—

(1) SOLICITATION OF PROPOSALS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall publish a notice in the Federal Register soliciting proposals for additional safe harbors.

(2) REVIEW AND REPORT ON PROPOSED SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall—

(A) review the proposed safe harbors submitted under paragraph (1); and

(B) submit a report to Congress describing the proposals to be included in the publication of additional safe harbors described in paragraph (3) and the proposals that are not to be so included, together with explanations therefore.

(3) PUBLICATION OF ADDITIONAL SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall publish in the Federal Register proposed additional safe harbors for purposes of section 601(a)(2) for providers of health care services. Not later than 180 days after publishing such proposed safe harbors in the Federal Register, the Attorney General shall issue final rules establishing such safe harbors.

(b) CRITERIA FOR SAFE HARBORS.—In establishing safe harbors under subsection (a), the Attorney General shall take into account the following:

(1) The extent to which a competitive or collaborative activity will accomplish any of the following:

(A) An increase in access to health care services.

(B) The enhancement of the quality of health care services.

(C) The establishment of cost efficiencies that will be passed on to consumers, including economies of scale and reduced transaction and administrative costs.

(D) An increase in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(E) An improvement in the utilization of health care resources or the reduction in the inefficient duplication of the use of such resources.

(2) Whether the designation of an activity as a safe harbor under subsection (a) will result in the following outcomes:

(A) Health plans and other health care insurers, consumers of health care services, and health care providers will be better able to negotiate payment and service arrangements which will reduce costs to consumers.

(B) Taking into consideration the characteristics of the particular purchasers and providers involved, competition will not be unduly restricted.

(C) Equally efficient and less restrictive alternatives do not exist to meet the criteria described in paragraph (1).

(D) The activity will not unreasonably foreclose competition by denying competitors a necessary element of competition.

SEC. 604. CERTIFICATES OF REVIEW.

(a) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary and the Chair, the Attorney General shall (not later than 180 days after the date of the enactment of this Act) issue certificates of review in accordance with this section for providers of health care services and advise and assist any person with respect to applying for such a certificate of review.

(b) PROCEDURES FOR APPLICATION FOR CERTIFICATE.—

(1) FORM; CONTENT.—To apply for a certificate of review, a person shall submit to the Attorney General a written application which—

(A) specifies the activities relating to the provision of health care services which satisfy the criteria described in section 603(b) and which will be included in the certificate; and

(B) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 607.

(2) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—Within 10 days after an application submitted under paragraph (1) is received by the Attorney General, the Attorney General shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

(3) ESTABLISHMENT OF PROCEDURES FOR ISSUANCE OF CERTIFICATE.—In consultation with the Chair and the Secretary, the Attorney General shall establish procedures to be used in applying for and in determining whether to approve an application for a certificate of review under this title. Under such procedures the Attorney General shall approve an application if the Attorney General determines that the activities to be covered under the certificate will satisfy the criteria described in section 603(b) for additional safe harbors designated under such section and that the benefits of the issuance of the certificate will outweigh any disadvantages that may result from reduced competition.

(4) TIMING FOR DECISION ON APPLICATION.—

(A) IN GENERAL.—Within 90 days after the Attorney General receives an application for a certificate of review, the Attorney General shall determine whether the applicant's health care market activities are in accordance with the procedures described in paragraph (3). If the Attorney General, with the concurrence of the Secretary, determines that such procedures are met, the Attorney General shall issue to the applicant a certificate of review. The certificate of review shall specify—

(i) the health care market activities to which the certificate applies,

(ii) the person to whom the certificate of review is issued, and

(iii) any terms and conditions the Attorney General or the Secretary deems necessary to assure compliance with the applicable procedures described in paragraph (3).

(B) APPLICATIONS DEEMED APPROVED.—If the Attorney General does not reject an application before the expiration of the 90-period beginning on the date the Attorney General receives the application, the Attorney General shall be deemed to have approved the application and to have issued a certificate of review relating to the applicant's health care market activities covered under the application.

(5) EXPEDITED ACTION.—If the applicant indicates a special need for prompt disposition, the Attorney General and the Secretary may expedite action on the application, except that no certificate of review may be issued within 30 days of publication of notice in the Federal Register under subsection (b)(2).

(6) ACTIONS UPON DENIAL.—

(A) NOTIFICATION.—If the Attorney General denies in whole or in part an application for a certificate, the Attorney General shall notify the applicant of the Attorney General's determination and the reasons for it.

(B) REQUEST FOR RECONSIDERATION.—An applicant may, within 30 days of receipt of notification that the application has been denied in whole or in part, request the Attorney General to reconsider the determination. The Attorney General, with the concurrence of the Secretary, shall notify the applicant of the determination upon reconsideration within 30 days of receipt of the request.

(C) RETURN OF DOCUMENTS.—If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of documents submitted by the applicant in connection with the application for the certificate, the Attorney General and the Secretary shall return to the applicant, not later than 30 days after receipt of the request, the documents and all copies of the documents available to the Attorney General and the Secretary, except to the extent that the information has been made public under an exception to the rule against public disclosure described in subsection (g)(2)(B).

(7) FRAUDULENT PROCUREMENT.—A certificate of review shall be void ab initio with respect to any health care market activities for which the certificate was procured by fraud.

(c) AMENDMENT AND REVOCATION OF CERTIFICATES.—

(1) NOTIFICATION OF CHANGES.—Any applicant who receives a certificate of review—

(A) shall promptly report to the Attorney General any change relevant to the matters specified in the certificate; and

(B) may submit to the Attorney General an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) AMENDMENT TO CERTIFICATE.—An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

(3) REVOCATION.—

(A) GROUNDS FOR REVOCATION.—In accordance with this paragraph, the Attorney General may revoke in whole or in part a certificate of review issued under this section. The following shall be considered grounds for the revocation of a certificate:

(i) After the expiration of the 2-year period beginning on the date a person's certificate is issued, the activities of the person have not substantially accomplished the purposes for the issuance of the certificate.

(ii) The person has failed to comply with any of the terms or conditions imposed under the certificate by the Attorney General or the Secretary under subsection (b)(4).

(iii) The activities covered under the certificate no longer satisfy the criteria set forth in section 603(b).

(B) REQUEST FOR COMPLIANCE INFORMATION.—If the Attorney General or Secretary has reason to believe that any of the grounds for revocation of a certificate of review described in subparagraph (A) may apply to a person holding the certificate, the Attorney General shall request such information from such person as the Attorney General or the Secretary deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under this paragraph.

(C) PROCEDURES FOR REVOCATION.—If the Attorney General or the Secretary determines that any of the grounds for revocation of a certificate of review described in subparagraph (A) apply to a person holding the certificate, or that such person has failed to comply with a request made under subparagraph (B), the Attorney General shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Attorney General shall revoke the certificate or modify it as the Attorney General or the Secretary deems necessary to cause the certificate to apply only to activities that meet the procedures for the issuance of certificates described in subsection (b)(2).

(D) INVESTIGATION AUTHORITY.—For purposes of carrying out this paragraph, the Attorney General may conduct investigations in the same manner as the Attorney General conducts investigations under section 3 of the Antitrust Civil Process Act, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(d) REVIEW OF DETERMINATIONS.—

(1) AVAILABILITY OF REVIEW FOR CERTAIN ACTIONS.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to paragraph (3), the applicant or certificate holder (as the case may be) may, within 30 days of the denial or revocation, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous based on the preponderance of the evidence.

(2) NO OTHER REVIEW PERMITTED.—Except as provided in paragraph (1), no action by the Attorney General or the Secretary pursuant to this title shall be subject to judicial review.

(3) EFFECT OF REJECTED APPLICATION.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefore shall be admissible in evidence, in any administrative or judicial proceeding, concerning any claim under the antitrust laws.

(e) PUBLICATION OF DECISIONS.—The Attorney General shall publish a notice in the Federal Register on a timely basis of each decision made with respect to an application for a certificate of review under this section or the amendment or revocation of such a certificate, in a manner that protects the confidentiality of any proprietary information relating to the application.

(f) ANNUAL REPORTS.—Every person to whom a certificate of review is issued shall submit to the Attorney General an annual report, in such form and at such time as the Attorney General may require, that contains any necessary updates to the information required under subsection (b) and a description of the activities of the holder under the certificate during the preceding year.

(g) RESTRICTIONS ON DISCLOSURE OF INFORMATION.—

(1) WAIVER OF DISCLOSURE REQUIREMENTS UNDER ADMINISTRATIVE PROCEDURE ACT.—Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) RESTRICTIONS ON DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information disclosed—

(i) upon a request made by the Congress or any committee of the Congress,

(ii) in a judicial or administrative proceeding, subject to appropriate protective orders,

(iii) with the consent of the person who submitted the information,

(iv) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(v) in accordance with any requirement imposed by a statute of the United States, or

(vi) in accordance with any rule or regulation promulgated under subsection (i) permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in clauses (i) through (v).

(3) PROHIBITION AGAINST USE OF INFORMATION TO SUPPORT OR ANSWER CLAIMS UNDER ANTITRUST LAWS.—Any information disclosed in an application for a certificate of review under this section shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a person is entitled to the protections provided by such a certificate.

SEC. 605. NOTIFICATIONS PROVIDING REDUCTION IN CERTAIN PENALTIES UNDER ANTITRUST LAW FOR HEALTH CARE COOPERATIVE VENTURES.

(a) NOTIFICATIONS DESCRIBED.—

(1) SUBMISSION OF NOTIFICATION BY VENTURE.—Any party to a health care cooperative venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file with the Attorney General a written notification disclosing—

(A) the identities of the parties to such venture,

(B) the nature and objectives of such venture, and

(C) such additional information as the Attorney General may require by regulation.

(2) ACTIVITIES DEEMED SUBMISSION OF NOTIFICATION.—The following health care cooperative ventures shall be deemed to have filed a written notification with respect to the venture under paragraph (1):

(A) SUBMISSION OF APPLICATION FOR CERTIFICATE OF REVIEW.—Any health care cooperative venture for which an application for a certificate of review is filed with the Attorney General under section 603.

(B) CERTAIN VENTURES.—Any health care cooperative venture meeting the following requirements:

(i) The venture consists of a network of non-institutional providers not greater than—

(I) in the case of a nonexclusive network in which the participating members are permitted to create or join other competing networks, 50 percent of the providers of health care services in the relevant geographic area and 50 percent of the members of the provider specialty group in the relevant market; or

(II) in the case of an exclusive network in which the participating members are not permitted to create or join other competing networks, 35 percent of the providers of health care services in the relevant geographic area and 35 percent of the members of the provider specialty group in the relevant market.

(ii) Each member of the venture assumes substantial financial risk for the operation of the venture through risk-sharing arrangements, including (but not limited to)—

(I) the acceptance of capitation contracts;

(II) the acceptance of contracts with fee withholding mechanisms relating to the ability to meet established goals for utilization review and management; and

(III) the holding by members of significant ownership or equity interests in the venture, where the capital contributed by the members is used to fund the operational costs of the venture such as administration, marketing, and computer-operated medical information, if the venture develops and operates comprehensive programs for utilization management and quality assurance that include controls over the use of institutional, specialized, and ancillary medical services.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—

(A) REQUEST OF ATTORNEY GENERAL.—At any time after receiving a notification filed under paragraph (1), the Attorney General may require the submission of additional information or documentary material relevant to the proposed health care cooperative venture.

(B) PARTIES TO VENTURE.—Any party to a health care cooperative venture may submit such additional information on the venture's behalf as may be appropriate to ensure that the venture will receive the protections provided under subsection (b).

(C) REQUIRED SUBMISSION OF INFORMATION ON CHANGES TO VENTURE.—A health care cooperative venture for which a notification is in effect under this section shall submit information on any change in the membership of the venture not later than 90 days after such change occurs.

(4) PUBLICATION OF NOTIFICATION.—

(A) INFORMATION MADE PUBLICLY AVAILABLE.—Not later than 30 days after receiving a notification with respect to a venture under paragraph (1), the Attorney General shall publish in the Federal Register a notice with respect to the venture that identifies the parties to the venture and generally describes the purpose and planned activity of the venture. Prior to its publication, the contents of the notice shall be made available to the parties to the venture.

(B) RESTRICTION ON DISCLOSURE OF OTHER INFORMATION.—All information and documentary material submitted pursuant to this section and all information obtained by the Attorney General in the course of any investigation or case with respect to a potential violation of the antitrust laws by the health care cooperative venture (other than information and material described in subparagraph (A)) shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial proceeding in which such information and material is subject to any protective order.

(5) WITHDRAWAL OF NOTIFICATION.—Any person who files a notification pursuant to this section may withdraw such notification before a publication by the Attorney General pursuant to paragraph (4). Any person who is deemed to have filed a notification under paragraph (2)(A) shall be deemed to have withdrawn the notification if the certificate of review in question is revoked or withdrawn under section 604.

(6) NO JUDICIAL REVIEW PERMITTED.—Any action taken or not taken by the Attorney

General with respect to notifications filed pursuant to this subsection shall not be subject to judicial review.

(b) Protections for Ventures Subject to Notification.—

(1) In general.—

(A) Protections described.—The provisions of paragraphs (2), (3), (4), and (5) shall apply with respect to any action under the antitrust laws challenging conduct within the scope of a notification which is in effect pursuant to subsection (a)(1).

(B) Timing of protections.—The protections described in this subsection shall apply to the venture that is the subject of a notification under subsection (a)(1) as of the earlier of—

(i) the date of the publication in the Federal Register of the notice published with respect to the notification; or

(ii) if such notice is not published during the period required under subsection (a)(4), the expiration of the 30-day period that begins on the date the Attorney General receives any necessary information required to be submitted under subsection (a)(1) or any additional information required by the Attorney General under subsection (a)(3)(A).

(2) Applicability of rule of reason standard.—In any action under the antitrust laws, the conduct of any person which is within the scope of a notification filed under subsection (a) shall not be deemed illegal per se, but shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in relevant markets.

(3) Limitation on recovery to actual damages and interest.—Notwithstanding section 4 of the Clayton Act, any person who is entitled to recovery under the antitrust laws for conduct that is within the scope of a notification filed under subsection (a) shall recover the actual damages sustained by such person and interest calculated at the rate specified in section 1961 of title 28, United States Code, for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust under the circumstances.

(4) Award of attorney's fees and costs of suit.—

(A) In general.—In any action under the antitrust laws brought against a health care cooperative venture for conduct that is within the scope of a notification filed under subsection (a), the court shall, at the conclusion of the action—

(i) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(ii) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(B) Offset in cases of bad faith.—The court may reduce an award made pursuant to subparagraph (A) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

(5) Restrictions on admissibility of information.—

(A) In general.—Any information disclosed in a notification submitted under subsection (a)(1) and the fact of the publication of a notification by the Attorney General under subsection (a)(4) shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a party to a health care cooperative venture is entitled to the protections described in this subsection.

(B) Actions of attorney general.—No action taken by the Attorney General pursuant to this section shall be admissible into evidence in any judicial or administrative proceeding for the purpose of supporting or answering any claim under the antitrust laws.

SEC. 606. REVIEW AND REPORTS ON SAFE HARBORS AND CERTIFICATES OF REVIEW.

(a) In General.—The Attorney General (in consultation with the Secretary and the Chair) shall periodically review the safe harbors described in section 602, the additional safe harbors designated under section 603, and the certificates of review issued under section 604, and—

(1) with respect to the safe harbors described in section 602, submit such recommendations to Congress as the Attorney General considers appropriate for modifications of such safe harbors;

(2) with respect to the additional safe harbors designated under section 603, issue proposed revisions to such activities and publish the revisions in the Federal Register; and

(3) with respect to the certificates of review, submit a report to Congress on the issuance of such certificates, and shall include in the report a description of the effect of such certificates on increasing access to high quality health care services at reduced costs.

(b) Recommendations for Legislation.—The Attorney General shall include in the reports submitted under subsection (a)(3) any recommendations of the Attorney General for legislation to improve the program for the issuance of certificates of review established under this title.

SEC. 607. RULES, REGULATIONS, AND GUIDELINES.

(a) Safe Harbors, Certificates, and Notifications.—The Attorney General, with the concurrence of the Secretary, shall promulgate such rules, regulations, and guidelines as are necessary to carry out sections 602, 603, 604, and 605, including guidelines defining or relating to relevant geographic and product markets for health care services and providers of health care services.

(b) Guidance for Providers.—

(1) In general.—To promote greater certainty regarding the application of the antitrust laws to activities in the health care market, the Attorney General, in consultation with the Secretary and the Chair, shall (not later than 1 year after the date of the enactment of this Act), taking into account the criteria used to designate additional safe harbors under section 603 and grant certificates of review under section 604, publish guidelines—

(A) to assist providers of health care services in analyzing whether the activities of such providers may be subject to a safe harbor under sections 602 or 603; and

(B) describing specific types of activities which would meet the requirements for a certificate of review under section 604, and summarizing the factual and legal bases on which the activities would meet the requirements.

(2) Periodic update.—The Attorney General shall periodically update the guidelines published under paragraph (1) as the Attorney General considers appropriate.

(3) Waiver of administrative procedure act.—Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under paragraph (1).

SEC. 608. DEFINITIONS.

In this title, the following definitions shall apply:

(1) The term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) The term "Chair" means the Chair of the Federal Trade Commission.

(3) The term "health insurance plan" has the meaning given such term in section 111(b).

(4) The term "health care cooperative venture" means any activities, including attempts to enter into or perform a contract or agreement, carried out by 2 or more persons for the purpose of providing health care services.

(5) The term "health care services" means any services for which payment may be made under a health insurance plan, including services related to the delivery or administration of such services.

(6) The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(7) The term "person" includes a State or unit of local government.

(8) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(9) The term "specialty group" means a medical specialty or subspecialty in which a provider of health care services may be licensed to practice by a State (as determined by the Secretary in consultation with the certification boards for such specialties and subspecialties).

(10) The term "standard setting and enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

TITLE VII—LONG-TERM CARE

SEC. 701. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS OR 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS AND SECTION 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

"(a) General Rule.—The amount includible in the gross income of an individual for the taxable year by reason of qualified distributions during such taxable year shall not exceed the excess of—

"(1) the amount which would (but for this section) be so includible by reason of such distributions, over

"(2) the aggregate premiums paid by such individual during such taxable year for any long-term care insurance contract for the benefit of such individual or the spouse of such individual.

"(b) Qualified Distribution.—For purposes of this section, the term 'qualified distribution' means any distribution to an individual from an individual retirement account or a section 401(k) plan if such individual has attained age 59½ on or before the date of the distribution (and, in the case of a distribution used to pay premiums for the benefit of the spouse of such individual, such spouse has attained age 59½ on or before the date of the distribution).

"(c) Definitions and Special Rules Relating to Long-Term Insurance Contracts.—

"(1) Long-term care insurance contract.—

"(A) In general.—For purposes of this section, the term 'long-term care insurance contract' means any insurance contract issued if—

"(i) the only insurance protection provided under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(ii) the maximum benefit under the policy for expenses incurred for any day does not exceed $200,

"(iii) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(iv) such contract is guaranteed renewable,

"(v) such contract does not have any cash surrender value, and

"(vi) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(B) Special rules.—

"(i) Per diem, etc. payments permitted.—A contract shall not fail to be treated as described in subparagraph (A)(i) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(ii) Contract may cover medicare reimbursable expenses where medicare is secondary payor.—Subparagraph (A)(iii) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(iii) Refunds of premiums.—Subparagraph (A)(vi) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(2) Qualified long-term care services.—For purposes of this subsection—

"(A) In general.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, and rehabilitative services, and maintenance or personal care services, which—

"(i) are required by a chronically ill individual in a qualified facility, and

"(ii) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(B) Chronically ill individual.—

"(i) In general.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in clause (ii)) for a period of at least 90 days due to a loss of functional capacity, or having a similar level of disability (as determined by the Secretary in consultation with the Secretary of Health and Human Services), or

"(II) having a similar level of disability due to cognitive impairment.

"(ii) Activities of daily living.—For purposes of clause (i), each of the following is an activity of daily living:

"(I) Mobility.—The process of walking or wheeling on a level surface which may include the use of an assistive device such as a cane, walker, wheelchair, or brace.

"(II) Dressing.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(III) Toileting.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(IV) Transfer.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(V) Eating.—The process of getting food from a plate or its equivalent into the mouth.

"(C) Qualified facility.—The term 'qualified facility' means—

"(i) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(I) which is licensed under State law, or

"(II) which is a certified facility for purposes of title XVIII or XIX of the Social Security Act, or

"(ii) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in clause (i).

"(D) Maintenance or personal care services.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in subparagraph (B)(ii).

"(E) Licensed health care practitioner.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(3) Inflation adjustment of $200 benefit limit.—

"(A) In general.—In the case of a calendar year after 1995, the $200 amount contained in paragraph (1)(A)(ii) shall be increased for such calendar year by the medical care cost adjustment for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(B) Medical care cost adjustment.—For purposes of subparagraph (A), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(i) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(ii) such component for August of 1994.

"(d) Other Definitions.—For purposes of this section—

"(1) Individual retirement account.—The term 'individual retirement account' has the meaning given such term by section 408(a).

"(2) Section 401(k) plan.—The term 'section 401(k) plan' means any employer plan which meets the requirements of section 401(a) and which includes a qualified cash or deferred arrangement (as defined in section 401(k)).

"(e) Special Rules for Section 401(k) Plans.—

"(1) Withdrawals cannot exceed elective contributions under qualified cash or deferred arrangement.—This section shall not apply to any distribution from a section 401(k) plan to the extent the aggregate amount of such distributions for the use described in subsection (a) exceeds the aggregate employer contributions made pursuant to the employee's election under section 401(k)(2).

"(2) Withdrawals not to cause disqualification.—A plan shall not be treated as failing to satisfy the requirements of section 401, and an arrangement shall not be treated as failing to be a qualified cash or deferred arrangement (as defined in section 401(k)(2)), merely because under the plan or arrangement distributions are permitted which are excludable from gross income by reason of this section.".

(b) Conforming Amendments.—

(1) Section 401(k) of such Code is amended by adding at the end the following new paragraph:

"(11) Cross reference.—

"For provision permitting tax-free withdrawals for payment of long-term care premiums, see section 137.".

(2) Section 408(d) of such Code is amended by adding at the end the following new paragraph:

"(8) Cross reference.—

"For provision permitting tax-free withdrawals from individual retirement accounts for payment of long-term care premiums, see section 137.".

(3) The table of sections for such part III is amended by striking the last item and inserting the following new items:

"Sec. 137. Distributions from individual retirement accounts and section 401(k) plans for long-term care insurance.

"Sec. 138. Cross references to other Acts.".

SEC. 702. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

Subsection (a) of section 1035 of the Internal Revenue Code of 1986 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a long-term care insurance contract (as defined in section 137(c)(1)).".

SEC. 703. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured—

"(A) who is a terminally ill individual, or

"(B) who is a chronically ill individual (as defined in section 137(c)(2)(B)) who is confined to a qualified facility (as defined in section 137(c)(2)(C)(i)),

shall be treated as an amount paid by reason of the death of such insured.

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less.

"(3) PHYSICIAN.—For purposes of this subsection, the term 'physician' has the meaning given to such term by section 137(c)(2)(E).".

SEC. 704. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1994.

TITLE VI—WELFARE RESTRICTIONS FOR ALIENS

SEC. 801. INELIGIBILITY OF ALIENS FOR PUBLIC WELFARE ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (c), no alien shall be eligible for any program referred to in subsection (d).

(b) EXCEPTIONS.—

(1) REFUGEE EXCEPTION.—Subsection (a) shall not apply to an alien admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 6 years after the date of such alien's arrival into the United States.

(2) AGED EXCEPTION.—Subsection (a) shall not apply to an alien who—

(A) has been lawfully admitted to the United States for permanent residence;

(B) is over 75 years of age; and

(C) has resided in the United States for at least 5 years.

(3) CURRENT RESIDENT EXCEPTION.—Subsection (a) shall not apply to the eligibility of an alien for a program referred to in subsection (d) until 1 year after the date of the enactment of this Act if, on such date of enactment, the alien is residing in the United States and is eligible for the program.

(c) PROGRAMS FOR WHICH ALIENS MAY BE ELIGIBLE.—The limitation under subsection (a) shall not apply to the following programs:

(1) Medical assistance with respect to emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act).

(d) PROGRAMS FOR WHICH ALIENS ARE INELIGIBLE.—The programs referred to in this subsection are the following:

(1) The program of medical assistance under title XIX of the Social Security Act, except emergency services as provided in subsection (c).

(2) The Maternal and Child Health Services Block Grant Program under title V of the Social Security Act.

(3) The program established in section 330 of the Public Health Service Act (relating to community health centers).

(4) The program established in section 1001 of the Public Health Service Act (relating to family planning methods and services).

(5) The program established in section 329 of the Public Health Service Act (relating to migrant health centers).

(6) The program of aid and services to needy families with children under part A of title IV of the Social Security Act.

(7) The child welfare services program under part B of title IV of the Social Security Act.

(8) The supplemental security income program under title XVI of the Social Security Act.

(9) The program of foster care and adoption assistance under part E of title IV of the Social Security Act.

(10) The food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)).

(11) The school lunch program carried out under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(12) The special supplemental food program for women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(13) The nutrition programs carried out under part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.).

(14) The school breakfast program carried out under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(15) The child and adult care food program carried out under section 17 of the National School Lunch Act (42 U.S.C. 1766).

(16) The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(17) The summer food service program for children carried out under section 13 of the National School Lunch Act (42 U.S.C. 1761).

(18) The commodity supplemental food program authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(19) The special milk program carried out under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772).

(20) The program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(21) The program of assistance to public housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(22) The loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

(23) The program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1).

(24) The program of loans for rental and cooperative housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(25) The program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A)).

(26) The program of assistance payments on behalf of homeowners under section 235 of the National Housing Act (12 U.S.C. 1715z).

(27) The program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(28) The loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings.

(29) The loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor.

(30) The program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m).

(31) The program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c).

(32) The program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(33) The program under part B of title IV of the Higher Education Act of 1965.

(34) The program under subpart 1 of part A of title IV of the Higher Education Act of 1965.

(35) The program under part Cof title IV of the Higher Education Act of 1965.

(36) The program under subpart 3 of part A of title IV of the Higher Education Act of 1965.

(37) The program under part E of title IV of the Higher Education Act of 1965.

(38) The program under subpart 4 of part A of title IV of the Higher Education Act of 1965.

(39) The program under title IX of the Higher Education Act of 1965.

(40) The program under subpart 5 of part A of title IV of the Higher Education Act of 1965.

(41) The programs established in sections 338A and 338B of the Public Health Service Act and the programs established in part A of title VII of such Act (relating to loans and scholarships for education in the health professions).

(42) The program established in section 317(j)(1) of the Public Health Service Act (relating to grants for immunizations against vaccine-preventable diseases).

(43) The program established in section 317A of the Public Health Service Act (relating to grants for screening, referrals, and education regarding leading poisoning in infants and children).

(44) The program established in part A of title XIX of the Public Health Service Act (relating to block grants for preventive health and health services).

(45) The programs established in subparts I and II of part B of title XIX of the Public Health Service Act.

(46)(A) The program of training for disadvantaged adults and youth under part A of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.), as in effect before July 1, 1993.

(B)(i) The program of training for disadvantaged adults under part A of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.), as in effect on and after July 1, 1993.

(ii) The program of training for disadvantaged youth under part C of title II of the Job Training Partnership Act (29 U.S.C. 1641 et seq.), as in effect on and after July 1, 1993.

(47) The Job Corps program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.).

(48) The summer youth employment and training programs under part B of title II of the Job Training Partnership Act (29 U.S.C. 1630 et seq.).

(49) The programs carried out under the Older American Community Service Employment Act (42 U.S.C. 3001 et seq.).

(50) The programs under title III of the Older Americans Act of 1965.

(51) The programs carried out under part B of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5011–5012).

(52) The programs carried out under part C of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5013).

(53) The program under the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(54) The weatherization assistance program under title IV of the Energy Conservation and Production Act (42 U.S.C. 6851).

(55) The program of block grants to States for social services under title XX of the Social Security Act.

(56) The programs carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(57) The program of legal assistance to eligible clients and other programs under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.).

(58) The program for emergency food and shelter grants under title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.).

(59) The programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(60) A State program for providing child care under section 402(i) of the Social Security Act.

(61) The program of State legalization impact-assistance grants (SLIAG) under section 204 of the Immigration Reform and Control Act of 1986.

(e) NOTIFICATION OF ALIENS.—Any Federal agency that administers a program referred to in subsection (d) shall, directly or through the States, notify each alien receiving benefits under the program whose eligibility for the program is or will be terminated by reason of this section.

SEC. 802. STATE AFDC AGENCIES REQUIRED TO PROVIDE INFORMATION ON ILLEGAL ALIENS TO THE IMMIGRATION AND NATURALIZATION SERVICE.

Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following:

"(46) require the State agency to provide to the Immigration and Naturalization Service the name, address, and other identifying information that the agency has with respect to any individual unlawfully in the United States any of whose children is a citizen of the United States.".

TITLE IX—INCREASE IN ASSISTANCE TO COMMUNITY AND MIGRANT HEALTH CENTERS FROM RESIDUAL SAVINGS

SEC. 901. GRANT PROGRAM TO PROMOTE PRIMARY HEALTH CARE SERVICES FOR UNDERSERVED POPULATIONS.

(a) AUTHORIZATION.—The Secretary of Health and Human Services shall provide for a program of grants to migrant and community health centers (receiving grants or contracts under section 329, 330, or 340 of the Public Health Service Act) in order to promote the provision of primary health care services for underserved individuals. Such grants may be used—

(1) to promote the provision of off-site services (through means such as mobile medical clinics);

(2) to improve birth outcomes in areas with high infant mortality and morbidity;

(3) to establish primary care clinics in areas identified as in need of such clinics; and

(4) for recruitment and training costs of necessary providers and operating costs for unreimbursed services.

(b) CONDITIONS.—(1) Grants under this subsection shall only be made upon application, approved by the Secretary.

(2) The amount of grants made under this section shall be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated for each fiscal year, in the 5-fiscal-year period beginning with fiscal year 1995, such amounts as the Secretary estimates, in consultation with the Director of the Office of Management and Budget, reflects the net savings to the Federal Government in the fiscal year of the enactment of this Act.

(2) LIMITATION.—The total amount of funds made available under this section in such 5-fiscal-year period may not exceed $13.1 billion.

(3) USE OF FUNDS.—Of the amounts appropriated each fiscal year under this section, at least 10 percent shall be used for grants described in subsection (a)(1) and at least 10 percent shall be used for grants described in subsection (a)(2). The Secretary may use not to exceed 50 percent of the amounts appropriated to carry out this section for the purpose of making new grants or contracts under sections 329, 330, and 340 of the Public Health Service Act.

(d) STUDY AND REPORT.—The Secretary shall conduct a study of the impact of the grants made under this section to migrant and community health centers on access to health care, birth outcomes, and the use of emergency room services. Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on such study and on recommendations for changes in the programs under this section in order to promote the appropriate use of cost-effective outpatient services.

THE INTRODUCTION OF A SENSE-OF-THE-CONGRESS RESOLUTION ON AIDS EDUCATION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, I rise today to introduce a sense of the Congress resolution which expresses the need for quality HIV/AIDS education to help prevent the spread of AIDS.

This resolution calls for a real AIDS education initiative. With 315,390 AIDS deaths and more than 194,300 AIDS-related deaths since the discovery of the disease 12 years ago, the AIDS epidemic rages unabated. The need to marshall the powers of the Federal Government and communities across the Nation behind an all-out AIDS education effort to prevent the spread of this dreadful disease has never been greater. Clearly, we cannot battle AIDS without first ensuring that every American is educated about the disease and is continuously reminded of ways to prevent it.

That is why I am introducing a resolution which calls for greater AIDS education and prevention initiatives. This resolution calls for States to provide quality sex education programs in school for young adults who are least educated about the disease and at great risk for contracting it. It also calls for the Secretary of Health and Human Services and the Surgeon General to develop guidelines for the prevention of AIDS and HIV infection and to distribute those guidelines to parents and their children.

It also expresses the sense of the Congress that condom use for television, advertisements, and public service announcements should be encouraged rather than discouraged. Finally, it calls for the reinstatement of the National Commission on AIDS which has provided useful information about the disease.

Mr. Speaker, this country has been negligent in making AIDS education a public health priority. While we wait for a cure to put an end to this deadly disease, we must in the meantime take the necessary and appropriate prevention measures to help stop the spread of this disease which is devastating to so many Americans. I urge my colleagues to join me in cosponsoring this important measure.

JUSTICE DEPARTMENT MISCUE

HON. MARIA CANTWELL

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. CANTWELL. Mr. Speaker, numerous economic studies and statistics make it clear that the computer software industry is one of our Nation's strongest assets in today's global economy. To maintain our national leadership in this fast-changing industry of today and tomorrow, our policymakers should be certain that they do not inadvertently hobble U.S. software makers.

Two highly respected economists have written on this issue in recent days: Lester Thurow, professor of management and economics at MIT, and Robert Shapiro, vice-president of the Progressive Policy Institute and a principal economic advisor during President Clinton's election campaign. I commend their views to the attention of Members. I ask unanimous consent that the text of those articles be included at this point.

[From the Boston Globe, Nov. 9, 1993]

JUSTICE DEPARTMENT MISCUE

(By Lester Thurow)

The rest of the world must watch us with a mixture of envy, horror, and wonder.

The envy comes from the fact that the U.S. computer software industry sells 75 percent of the prepackaged software in the world and controls 50 percent of the overall nationwide market for all software sales and services; $20 billion in sales are made to foreigners each year. This is one of the industries of the 21st century that everyone would like to capture—a labor-intensive industry with growing employment (420,000) people now work there in the United States) paying high wages. It is the stuff of national economic dreams.

The horror springs from the fact that the Justice Department is thinking about bringing an antitrust case to hobble the most powerful firm, Microsoft, in the industry—a firm with a 50 percent market share for personal computer operating systems but a 6 percent overall market share.

In an antitrust tradition that dates back to the dinosaurs, "big is bad." If someone is successful in their market, they must have done something bad and if they haven't been doing something bad, they surely are planning to do something bad. If their prices haven't been too high, then surely their prices have been too low (one of the charges the Justice Department is thinking about bringing against Microsoft). If there is an economic success story out there in the big economy, it is the duty of the antitrust division of the Justice Department to ride to the rescue and break up the stuff of dreams.

The rest of the world knows that if they had a successful firm in a successful industry, they would be asking how their governments could help make that industry even more successful at home and abroad. They would be asking their governments to do something about the computer software piracy (copying of programs without paying for them—mostly in Asia) that deprives American firms of $12 billion in revenue that could make them even stronger in the future.

The last thing foreigners can imagine is doing anything to weaken either such firms or such an industry. Other countries all have active national industrial policies designed to capture the computer software industry. One of my colleagues at MIT, Mike Cusumano, has written a book about the Japanese computer software factory and the Japanese strategy for driving the American firms out of this industry.

The rest of the world's wonder comes from their wonderment at their good luck in that the American Justice Department will do something for them they haven't been able to do for themselves—weaken the American software firms and give them a chance to break into the industry. For if Microsoft were broken up or hobbled, the winners would not be other American firms but foreign firms who would first use this gap in the market to get their own national markets weaned back away from those American operating systems.

With local operating systems, other forms of American software couldn't be sold and foreign applications software firms would have a change to also get their national markets away from the Americans. Then, having established an unassailable national base, it would be time to use the profits made in this national base to attack the big American market and get some market share away from the Americans.

For the rest of the world, this is a dream come true. Who needs national strategy for capturing computer software when the Americans will give it to you?

If the Justice Department looks up and thinks for a few minutes, it will realize that almost by definition the computer software industry cannot be monopolized. It is just an industry that is too easy to enter. It doesn't take a lot of money. All it takes is a few bright computer programmers who get together and make the next breakthrough. It has happened in the past (that's how the Microsofts got big) and it will happen again in the future.

Even today there are seven or eight competing operating systems for personal computers—some of them owned by companies like Apple, IBM, Sun and AT&T, who are certainly too big to be driven out of business by prices that are too low and certainly plenty big enough to take advantage of anyone who attempts to set prices too high. Even if this weren't true, piracy sets a limit on how high software prices can be set. If prices were set too high and there were no effective competition, everyone would start illegally copying the systems they wanted but could not afford.

The Justice Department should wake up and understand that the world of the 1890s (the era when our anti-trust laws were formed) is not the era of the 1990s. Today's world is not a world where if one American firm is hobbled the beneficiary will automatically be another American firm. It is a world where nations vigorously attempt to create economic advantages for their own national firms.

[From the Washington Post, Nov. 14, 1993]

ONE WORLD UNDER DOS?

(By Robert J. Shapiro)

Health-care reform, NAFTA, national service, deficit reduction, public investment, welfare reform—virtually every part of President Clinton's domestic agenda can be seen as an attempt to help us become more competitive. But does the rest of his government get the message? Does it understand how the new economy works?

If reports on the business pages of many newspapers are accurate, the antitrust division in the Justice Department is considering moving against the Microsoft company, because the market share held by its MS-DOS operating system is deemed too big for healthy competition. For an administration disposed toward aggressive regulation of domestic markets, this case presents the first important test of its understanding of the new terms of competition in a global economy.

The case concerns, at base, two crucial changes in the rules of economic competition. The first is the most fundamental: In global competition, a firm's capacity to innovate is fast becoming more important than its ability to cut costs by being more efficient. After all, Honda succeeded not by building a Ford more cheaply but by introducing innovative processes, materials and designs that defined a new market segment—and Ford came back by doing much the same thing with the Taurus. The second change at issue here concerns the way that technological breakthroughs create their own markets that, as they expand, tend to strengthen the relative position of the market's leading firm.

If we proceed as if these changes had never happened, we may injure not only the world-class competitiveness of one U.S. firm, but the productivity of our software industry and even the large U.S. economy.

In many respects, the U.S. software industry epitomizes the new economy in which competitiveness is driven more by innovation than by traditional measures of efficiency. Global competition creates a dynamic in which new market segments are created or defined around the world by new products, production processes, sources of labor and materials and ways of marketing, financing and distribution. In this competitive hothouse, firms succeed not by producing a standard good more cheaply but by continually restructuring their resources so they can outpace their rivals.

What difference does this make for the case that a firm should be restrained because it has a large share of a segment of the software market? In the old economy, a large market share could confer on a firm the monopolist's power to preclude real competition. The reason is that size brings with it economies of scale, including better access to the investment capital crucial to becoming more efficient.

But in the new economy, where innovation is more important than simple efficiency, market share is a poor proxy of market power because a firm with an innovative product or process can overtake the industry leader without matching its scale. Software entrepreneurs don't have to raise the capital to build a plant as large as the industry leader's; rather, they have to find and motivate a handful of programming geniuses who can develop a program with new features or greater capacity. That's why the Horatio Alger route to success is so common in information-technology businesses—and so rare in old-economy industries. With a few exceptions such as IBM software, industry leaders have been born in garages and graduate-school labs, not in the divisions of large corporations.

In new-economy businesses, therefore, the competition that antitrust regulators are charged with protecting depends less on having a number of rivals of roughly the same size than on easy entry into a business line that requires human resources that no firm can monopolize.

In addition to the market power of innovation, the new information markets have a particular feature that makes market share an especially wrong-headed measure of market power. When these markets function well, they almost invariably—almost inherently—are dominated by one firm. The reason is what economists call network externalities. That's an intimidating term for a simple dynamic in which one innovation creates opportunities for more, which can work only in tandem with the original. A firm, for example, develops a new computer system or operating program with more power or versatility than current conversions, which attracts the attention of the people who write the application programs that consumers use, from word-processing and spreadsheets to graphics and games. As more applications are developed for the new software or hardware, the firms' market expands rapidly.

Nearly every segment of the information-technology market repeats this big-player pattern because it is, in a word, efficient. Microsoft is the significant player in operating systems for IBM-type computers—although others with market weight include IBM, Novell, Sun and Apple-Macintosh. But Novell has an even bigger share of the market niche for networking software. ATEX is the leading supplier of software designed for the publishing industry. Intel is the leader in the market for personal-computer microprocessors. IBM used to be the only big player in computer hardware—until innovators displaced it.

It is true that dominant products and players are aided by the fact that for an information technology to be useful for a broad variety of applications, it must conform to a standard in wide use—and patent and copyright laws protect the property rights of those who set those standards. But big players still run large risks: When a new product sets off network externalities, the market share of the old leader tends not to erode slowly but to collapse quickly. What competitive markets give they also can take away—which is why most contracts within the industry are short-term.

As a matter of national competitiveness, these market arrangements work well. Over the last decade, software has been the fastest-growing industry in the U.S. economy, with revenues up 239 percent (after inflation) since 1982 and employment growth of six to nine times the rates of the rest of the economy. And virtually alone among all our major industries, it has no foreign peers.

U.S. software companies hold 95 percent of the American market and 60 percent of foreign markets.

Curbing the leader in one segment of this well-functioning industry at the behest of the leader's lagging rivals would, in effect, subsidize firms that have not competed as successfully and so weaken all players' economic incentives for innovation. In a global economy with many advanced nations matching America's economies of scale, our chief competitive advantage lies in technological superiority. Software innovations play a crucial role in this process because they enable other industries to innovate and become more productive. For example, some close observers forecast that software advances on the horizon may enable U.S. firms to reclaim much of the market in consumer electronics. The lesson for the Justice Department's antitrust enforcers is that nothing is gained by restricting an industry leader in one important segment of a healthy market—and a great deal could be lost.

TRIBUTE TO MARY B. BURCH

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, life experiences have taught me that no one becomes who and what he or she is alone. There are always individuals who influence our lifestyle, our way of thinking and living. Sometimes these transformations are the result of luck or sometimes, the lack of luck. Sometimes they come about because of careful planning and monitoring.

One of the great influences on my life was my experience with the Leaguers and its founders, Dr. Reynold and Mrs. Mary Burch. Mr. Speaker, on Saturday, December 4, special tribute is being paid to Mrs. Mary Beasley Burch. On that day, friends, associates, and mentees will join in this tribute to a warm and loving person who shepherded so many of us to become successful men and women. Mrs. Burch is approaching her 90th birthday, the beginning of a new decade. A more appropriate time could not be found to say "thanks, Mrs. Burch, just for being there."

Mary Beasley Burch is a former schoolteacher who opened up her home to children in her neighborhood when she found them to be mischievous because they lacked a constructive use of leisure time. Mrs. Burch set up a system of rewarding displays of more positive behavior, and banded these young people into a formal group which met weekly. She planned weekly outings to theaters, museums, legislative sessions, cultural events, and so forth, and within a matter of months, young people came from all over the Essex County, NJ, area to her home as the news spread of this unique club. In 1948, the club became the Junior Leaguers.

Many young people attended important events under Mrs. Burch's leadership—events they would never have had the opportunity to attend. In 1949, there was the swearing-in ceremonies for Mayor Villani at Newark's city hall. There was the visit to Assemblyman Bowser's office in Trenton in 1950, and a weekend exchange to Philadelphia in 1951. One of the most memorable events was the first debutante cotillion in 1951 where high school students had an opportunity to attend a formal affair and garner social amenities. The cotillion became a scholarship fundraising event. The organization and its supporters devoted their energies to generating scholarship aid and assistance to a population of young people who, without it, had no hopes for college training.

The list of former leaguers who have become prominent citizens is endless. Former leaguers are serving in government, science, business, education, the performing arts, the judicial system, the diplomatic service, and medicine. I am proud to be a former leaguer. So are Secretary of Energy Hazel R. O'Leary, playwright Amiri Baraka, and recording artist Dionne Warwick.

Mr. Speaker, over the years I have had the privilege of working with young people as teacher, advisor, mentor, and friend. Working with our young people is one of the most important jobs I have held. I am sure my sense of commitment and dedication to our young people—our future—stem from my acquaintance with people like Mrs. Burch.

Mrs. Burch is a woman of courage, conviction, and high standards. She has given of herself in a tireless, unselfish way. She chose to invest her time, her energy, her money, and other resources in the development of youth. Mrs. Burch, on behalf of the generations who have gone before and those that will be, I want to thank you for having the courage and foresight to take some troublesome youth into your home and arms, and nurture them into fine and productive men and women.

RECOGNITION OF RONALD B. LAMB, VICE PRESIDENT, GOVERNMENT RELATIONS, LOS ANGELES CHAMBER OF COMMERCE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DIXON. Mr. Speaker, I rise today to recognize the contributions of several dedicated individuals who worked hard to ensure affordable housing for the military personnel at the Los Angeles Air Force Base/Space and Missile Systems Center in Los Angeles, CA. Former Los Angeles mayor, Tom Bradley; former deputy mayor, Linda Griego; Los Angeles unified school board superintendent, Sidney Thompson; and former Congressman Mel Levine are four individuals who played important roles in preventing the relocation of the Los Angeles Air Force Base/Space and Missile Systems Center. I also want to recognize the significant contribution of Ronald B. Lamb, vice president of government relations of the Los Angeles Area Chamber of Commerce.

Ron's exceptional leadership and commitment, brought to the forefront of our community's agenda, an issue which represents thousands of jobs and billions of dollars annually to the Los Angeles area. The civilian and military jobs that the Air Force base generates are vital to our economy. This support was vital to our success in retaining the Los Angeles Air Force Base and its important mission in Los Angeles.

In 1991 and earlier this year, the Department of Defense had considered relocating the Los Angeles Air Force Base to another city. When it was determined that the lack of affordable housing for military personnel was the critical factor in the base closure deliberations, Ron Lamb launched an exhaustive effort to find suitable property to meet the Air Force's housing needs, with support from local, State, and Federal officials. Several months ago, the Defense Base Realignment and Closure Commission recommended that the Los Angeles Air Force Base/Space and Missile Systems Center not be relocated.

The signing of the property lease agreement on October 16 by California Governor Wilson, Los Angeles unified school district superintendent Sidney Thompson, and a representative from the Air Force was a major milestone in our campaign. The unified school district property will be used by the Air Force to build affordable housing units.

Mr. Speaker, I ask my colleagues to join me in honoring Ron Lamb for his major role in ensuring that the Los Angeles Air Force Base/Space and Missile Systems Center remains in our community. I look forward to working with Mr. Lamb and community leaders on other projects that will maintain jobs and promote economic growth and development in the Los Angeles area.

COMMUNITY SCHOOL BOARD 8 QUINCENTENNIAL CELEBRATION OF THE DISCOVERY OF PUERTO RICO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SERRANO. Mr. Speaker, I rise today in recognition of the celebration Community School Board 8 will hold next Tuesday, November 30, at the Bronx's Public School 75 in honor of the quincentennial of the discovery of Puerto Rico.

Five hundred years ago a sailing ship from Spain made landfall on the island of Puerto Rico. That momentous event set in motion the forging of a new culture, which over the centuries has grown and spread and thrived, both on the island of Puerto Rico and on the mainland of the United States.

Mr. Speaker, I would like to express my appreciation to Community Superintendent Max Messer; Deputy Superintendents Michael M. Kadish and Harriett McFeeters; Principal Eva Garcia of Public School 75; the officers and members of Community School Board 8—President James Vacca, Vice President Ciro Guerra, Secretary Rose Foley, Treasurer Julia Rodriguez, Dennis R. Coleman, Jorge Martinez, Lynn M. Gerbino, Anne L. Schuster, and Carol Trotta; as well as all of the other individuals involved in the holding of this special celebration in this historic year.

TIME TO PLAN FOR A PEACEFUL FUTURE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, today I am introducing the Defense Alternative Use Committee Act. This legislation, when enacted, will help move this Nation's bloated defense establishment toward a peaceful, more productive, and economically competitive future.

With the end of the cold war, there is really no excuse for this Nation to waste billions of dollars each year stockpiling and developing the world's most sophisticated arsenal. If these expenditures are unnecessary, they are an obscene waste in a era in which children go hungry, tens of thousands of our neighbors must live on the streets, and our education system lacks the resources to train citizens for a productive future.

So why do we do it? Why, when earlier today we listened to hours of speeches denouncing wasteful spending? The answer is that large sectors of our economy are still dependent on defense purchases by our Government and by foreign governments. Members of this House will never vote for a rational and realistic Defense budget until we are able to reverse the militarization of our economy.

This bill is an attempt to reverse that process. When enacted, it would require all defense contractors, companies seeking permission to export arms, and federally operated defense plants to establish alternative use committees, composed of management, labor, and community representatives, whose job would be to plan for a peaceful and productive future for the plant and its employees.

This approach, pioneered by my predecessor, the late Ted Weiss, would reshape our Nation's defense conversion policy in an important way. Right now most of our energies are directed at helping workers and communities after the plant closes. These programs are important and often stand between the affected communities and economic disaster. But we need to do still more.

By relying on those who know the plant and the capabilities of its work force to plan for a peaceful future, the Defense Alternative Use Committee Act will provide a smooth transition to a peacetime economy.

Mr. Speaker, it is not simply a matter of making things we do not need—we are not making things we do need. You can't buy a VCR made in America. Ride on a passenger rail car in this country and you will see the logo of a foreign corporation. The list is endless, but the story is always the same—our best and brightest, the finest, most productive workers in the world are being wasted building doomsday weapons we must never use. These communities need more than the promise of Government-sponsored severance pay when the Federal Government stops buying their weapons. We owe it to these communities to bring planning for a peacetime economy, and for a stronger, more competitive national economy.

Mr. Speaker, I hope every Member of this House will join me in supporting the Defense Alternative Use Committee Act.

IN SUPPORT OF H.R. 3650

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. WAXMAN. Mr. Speaker, today with the support of Representative JOHN DINGELL and Representative TOM BLILEY, the chairman of the Committee on Energy and Commerce and the ranking minority member of the Subcommittee on Health and the Environment, I attempted to bring to the House floor legislation that would assure consumers continued access to dietary supplements. This bill, H.R. 3650, would establish beyond any possible doubt that the Food and Drug Administration may not require prescriptions for dietary supplements. It would also have placed a moratorium on any FDA action on claims for dietary supplements under the Nutrition Labeling and Education Act through June 30, 1994.

Regrettably and inexplicably, we were blocked in this effort by some of the very people who claim to be fighting for consumers who use dietary supplements. Representatives RICHARDSON and GALLEGLY informed me that they would object to the consideration of H.R. 3650, even though that bill would have both guaranteed consumers access to supplements and imposed a 6-month moratorium on claims.

For the past year, the manufacturers of vitamins and other dietary supplements have waged an extraordinary campaign to liberalize the advertising restrictions on their products. To build support for their effort, they have told the public that access to vitamins, minerals, herbs, amino acids, and other dietary supplements is threatened.

It worked. Thousands of people are scared and angry because they believe that the Food and Drug Administration is about to require prescriptions for vitamins and pull other dietary supplements off store shelves. Those people have written us countless letters asking Congress to keep those products available.

The Health Subcommittee held a hearing on this issue in June and I hoped we could draft consensus legislation that would have addressed all of the issues. We ran out of time to get it done, but it was clear to me we should not have left without assuring people they would have access to their food supplements.

H.R. 3650 would have done that. It would have assured consumers around our Nation that access would be maintained. It would prohibit the FDA from requiring prescriptions for supplements, and it would make it clear that products on the market before November 15, 1993 could stay on the market unless the FDA can prove that they are unsafe.

Mr. Speaker, the experience of this evening demonstrates the total irrationality that pervades the debate about dietary supplements. It is my hope that next year we will be able to resolve these issues in a way that both assures consumers access to these products but prohibits manufacturers from making health claims that are not supported by good scientific evidence.

Mr. Speaker, I insert H.R. 3650 immediately following this statement:

H.R. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Access and Claims Moratorium Act of 1993".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Many consumers use vitamins, minerals, herbs, amino acids, and other dietary supplements.

(2) There has been a public campaign to convince consumers that the Food and Drug Administration intends to require prescriptions for many dietary supplements, or that the FDA will otherwise act to take these products off the market.

(3) Due to public concern, it is appropriate for Congress to assure consumers that they will have access to the dietary supplements that are currently on the market.

(4) The dietary supplement industry is concerned that the Nutrition Labeling and Education Act of 1990 will prohibit health claims on dietary supplements. Congress shall extend the moratorium on FDA actions under such Act with respect to dietary supplements.

TITLE I-ACCESS TO DIETARY SUPPLEMENTS

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 102. ACCESS TO DIETARY SUPPLEMENTS.

(a) FDA MAY NOT REQUIRE PRESCRIPTIONS FOR DIETARY SUPPLEMENTS.—Section 503(b) (21 U.S.C. 353(b)) is amended by adding at the end the following:

"(6) For a dietary supplement marketed on or before November 15, 1993, the Secretary may not, after November 15, 1993, require a prescription. For a dietary supplement first marketed after November 15, 1993, this subsection as it was in effect on the date of the enactment of the Dietary Supplement Access and Claims Moratorium Act of 1993 shall apply.".

(b) FDA MAY NOT REQUIRE PREMARKET APPROVAL FOR DIETARY SUPPLEMENTS.—

(1) FOOD ADDITIVES.—Section 201(s) (21 U.S.C. 321(S)) is amended—

(A) by striking out the period at the end of subparagraph (5) and inserting in lieu thereof "; or"; and

(B) by adding after subparagraph (5) the following:

(6) any dietary ingredient in a dietary supplement.".

(2) DRUGS.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by adding at the end the following: "A dietary supplement which was on the market on or before November 15, 1993, and for which no claim is made is not a drug.".

(c) BURDEN OF PROOF ON FDA.—

(1) IN GENERAL.—Section 402 (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it contains a dietary ingredient at a level that may be injurious to health or is a dietary supplement which when used in accordance with the conditions of use may be injurious to health.".

(2) CONFORMING AMENDMENT.—Section 402 (21 U.S.C. 342) is amended by striking "food" in the matter preceding paragraph (a) and inserting "food or dietary supplement".

(d) DEFINITIONS.—

(1) IN GENERAL. Section 201(21 U.S.C. 321) is amended by adding at the end the following:

"(gg) The term 'dietary ingredient' means—

"(1) a vitamin,

"(2) a mineral,

"(3) an herb,

"(4) an amino acid, or

"(5) other ingredient,

contained in a product marketed in the United States as a dietary supplement on or before November 15, 1993.

"(hh) The term 'dietary supplement' means a product which contains one or more dietary ingredients and—

"(1) which is marketed to supplement the diet,

"(2) which is intended for use in tablet, capsule, powder, softgel, or liquid form and if in liquid form is formulated in a fluid carrier and is intended for ingestion in daily quantities measured in drops or similar small units of measure,

"(3) which is not represented for use as conventional food or as a sole item of a meal or of the diet, and

"(4) which does not include any ingredient other than a vitamin or mineral which has been approved as the active ingredient of a drug.".

(2) SECRETARIAL ACTION.—For purposes of the definitions added by paragraph (1), the Secretary of Health and Human Services shall, not later than 180 days after the date of the enactment of this Act, issue a regulation identifying the dietary ingredients which were marketed on or before November 15, 1993.

TITLE II—MORATORIUM ON DIETARY SUPPLEMENT CLAIMS

SEC. 201. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Prescription Drug User Fee Act of 1992.

SEC. 202. PROHIBITION OF IMPLEMENTATION.

Section 202(a)(1) (21 U.S.C. 343 note) is amended—

(1) by striking "December 15, 1993" and inserting "June 30, 1994", and

(2) by inserting "amino acids," after "herbs,".

SEC. 203. ISSUANCE OF REGULATIONS.

The amendments made by sections 202(a0(2)(B)(i) and 202(a)(2)(B)(ii) (212 U.S.C. 343 note) are each amended—

(1) by striking "December 31, 1993" and inserting "June 30, 1994", and

(2) by inserting "amino acids," after "herbs,".

SEC. 204 STATE ENFORCEMENT.

The amendment made by section 202(a)(3) (21 U.S.C. 343 note) is amended by striking "to such dietary supplement on December 31, 1993" and inserting "to dietary supplements of vitamins, minerals, herbs amino acids, or other similar nutritional substances on June 30, 1994".

SEC. 205. CLAIM APPROVAL.

Section 202(b) (21 U.S.C. 343 note) is amended—

(1) by striking "December 15, 1993" and inserting "June 30, 1994", and

(2) by inserting "amino acids," after "herbs,".

THE DOLLAR COIN: IT MAKES CENTS TO BUCK TRADITION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KOLBE. Mr. Speaker, I rise today to bring to my colleagues' attention legislation that Congressman ESTEBAN TORRES and I have introduced a bill that would save taxpayers at least $395 million annually. H.R. 1322, the United States One Dollar Coin Act of 1993, already has 226 cosponsors and continues to gain momentum.

The bill is simple. It would phaseout the $1 note in favor of a gold-colored $1 coin commemorating our veterans of war. And over the past several years that this legislation has been introduced, it has received broad-based support from the Federal Reserve Board, public-transit systems, coin collectors, vending operators, environmentalists, and consumers.

Despite all the support, skepticism still runs strong. But when the facts are made clear, much of the skepticism turns first into grudging acceptance, then enthusiastic support. I commend to my colleagues' attention several items that effectively lay out these facts—an article that appeared in the Washington Post, an article appearing in Forbes, and a letter to the editor appearing in today's Washington Post.

[From the Washington Post, Nov. 5, 1993]

THE DOLLAR COIN: IT MAKES CENTS TO BUCK TRADITION

(By James K. Glassman)

Here's a simple way for the government to cut the deficit by a half billion dollars or so a year and make our lives easier besides: Replace the anachronistic one-dollar bill with a coin.

Yes, I know, I know. The Susan B. Anthony dollar coin (1979-81) was a disaster. But it was the wrong design, introduced the wrong way. And since the suffragette made her ignominious exit, a high-denomination (dollar or thereabouts) coin has supplanted paper notes in nearly every industrialized country.

Some learned from our mistakes. Canada, for example, brought out a dollar coin in 1987 that could serve as model for the United States. Like the Anthony, this coin is roughly the size of a quarter, but it isn't quite round (it has 11 sides). More important, it's gold-colored and has smooth, rather than "reeded" edges.

The British one-pound coin (worth about $1.50) and the French 10-franc coin ($1.70) are relatively small, but thick. By touch alone in your pocket, you can tell what they are. And Mexico recently brought out a gorgeous, tow-tone 10-peso ($3.20) coin that's my own aesthetic ideal.

Even if the Anthony coin hadn't been so easy to confuse with a quarter, it would have been doomed from the start for another reason: It had to compete with the dollar bill. Experts agree that the coin has to replace the bill, not coexist with it; otherwise, inertia will prevent merchants and consumers from making a change.

But why do we need a dollar coin, anyway? One big reason is that the government will save hundreds of millions of dollars. A study by the Federal Reserve Board in 1992 said the coin would cut the deficit by $395 million a year over 30 years. George McCandless, a University of Chicago economist, estimates the savings at $862 million annually.

Much of the savings would come from the simple fact that dollar bills wear out in an average of about 17 months while coins last 30 years. A coin costs more to make—about 6 cents to 8 cents, compared with 3 cents for a bill—but it's around a lot longer.

The private sector would benefit from the change, too, since dollar bills aren't particularly amenable to use in vending machines—a bigger and bigger problem as the value of the dollar erodes through inflation.

A dollar-bill reader on a vending machine costs $400 or $500, and much of that cost—utterly unnecessary in Canada, Mexico, Australia, etc.—gets passed along to the consumer.

The Coin Coalition, which is lobbying for the change, says that processing dollar coins instead of dollar bills will save the mass transit industry alone more than $124 million a year. The Southern California Transit District, for example, has such a difficult time with crumpled-up dollar bills that it sells them to a contractor for 97 cents to "process"—which is to say, un-wrinkle by hand. Tom Rubin, the transit district's controller, says that a coin would save $4.5 million a year.

The Chicago Transit Authority does it own bill-unfolding, at a cost of $22 per thousand; processing coins costs just $1.64 per thousand.

One objection to the coin is that it weighs down pockets, but, under the new regime, you'll probably be carrying around fewer quarters. While four quarters weigh about 23 grams, one dollar coin will weigh about 8 grams.

There's really no reasonable argument against replacing the dollar bill with a dollar coin. Still, the chances that H.R. 1322, the "United States One Dollar Coin Act of 1993," will pass are no better than 50-50. The main reason, as the director of the Mint put it in testimony before Congress in 1990: "People like bills."

They do. Remember that scene in the movie "Big" where Tom Hanks, a kid who suddenly turns into an adult, asks for his entire paycheck in one-dollar bills, just for the tactile thrill?

Although bills are ostensibly flimsier than coins, people seem to consider them more "valuable." In a psychological sense, to turn a bill into a coin is almost to devalue it.

Even Canadians, "who are often more docile in such matters than U.S. citizens, registered unhappiness when their Royal Mint announced the dollar coin—now affectionately called a "loonie" after the diving bird depicted on it.

A poll by Gallup Canada Inc. in December 1986, just before the coin came out, registered just 38 percent approval and 32 percent disapproval. But, in less than a year, opposition dwindled. The government stood firm, and production of dollar bills stopped in 1989.

Just to test whether they still pine for paper, the General Accounting Office, Congress's auditing arm, hired Gallup to survey 1,025 Canadians in August 1992. Approval of the coin was 49 percent, disapproval 18 percent. "Knowledgeable Canadian officials believe resistance is no longer an issue," said the GAO in a report issued in March 1993.

But Canada has a parliamentary form of government, less swayed by the week-to-week vagaries of public opinion. Will Congress and the administration be able to hang tough if the radio talk show hosts whip up anti-coin sentiment? If there's an outcry about "debasing" the currency?

Don's count on any profiles in courage. So far, about 200 House members have signed on as sponsors to H.R. 1322, but it's far from a top priority. In 1979, worry over an adverse reaction to the Susan B. Anthony caused lawmakers to insist on continued production of dollars bills, thereby dooming the dollar coin, concluding, The GAO, with no ax to grind, comes out strongly for replacing the bill with the coin, * * * in an environment of difficult and unpopular deficit reduction measures, the alternative of securing $395 million in annual budget savings through updating our coinage is likely to be a relatively painless sacrifice."

Agreed, but the Clinton administration has more grandiose matters on its mind, and, in the end, the fate of the dollar coin—like other multibillion-dollar matters of state—may rest on the outcome of a battle between two sets of fairly insignificant interests groups.

The Coin Coalition has lined up the vending machine, convenience store, mass transit and copper folks. the status quo has support from ink and paper makers, as well as Congress's ubiquitous Texans—since the Forth Worth plant of the Bureau of Engraving and Printing prints about half of all dollar bills.

In addition, the firm that makes the paper for the bills, Crane & Co., is based in Dalton, Mass., home state of Rep. Joseph P. Kennedy II (D), chairman of the House subcommittee that has jurisdiction.

Ah, but the pro-coin forces know how to play the game! Their bill states, "The reverse side of the dollar shall have a design recognizing America's veterans." And veterans, of course, are a large and powerful interest group.

There's no requirement in the bill for what's depicted on the other side, the "obverse." But don't count on a flag or a bird. Eagles don't sway many votes in Congress. What about a band of sportsmen with rifles? Or some hearty union members? Or a crowd of civic-mined senior citizens?

[From Forbes, Nov. 8, 1993]

UNCLE, CAN YOU SPARE A COIN?

(By Peter Samuel)

Remember when you tossed down a coin or two for the price of a hot dog, a beer, a subway ride? You didn't have to reach for your wallet, find some greenbacks and count your change. During the decades when the cost of these items has climbed from around a quarter to well over $1, the quarter—which won't even buy most newspapers these days—has remained the highest commonly available coin. The dollar bill, once kept neat and crisp for relatively higher value purchases, is today typically a bedraggled shadow of its former self—faded and crumpled through overuse in all manner of small transactions.

For most people today coins aren't an asset, they are a nuisance.

Why not bring back a meaningful coin? Both the Federal Reserve and the General Accounting Office think it would be a good idea. So should Albert Gore if he is serious about looking for ways to cut out unnecessary federal spending. Because those dollar bills wear out so fast, using them for small purchases means they must be constantly replaced. The Fed and the GAO have estimated savings of about $400 million a year to the federal budget from the replacement of the $1 bill with a $1 coin.

Almost half of the 8.4 billion bills printed annually by the Bureau of Engraving & Printing are the $1 variety. Each dollar note costs about 4 cents to make.

A $1 coin would cost more—an estimated 8 cents. But the coins last 30 years, compared with 17 months for the dollar bill. On a per-year basis it costs almost ten times as much to keep a dollar bill in circulation as it would a dollar coin.

Various businesses and utilities stand to gain even more than the government by a dollar coin: vending machine operators, telephone companies with coin phones, transit systems, convenience stores, cities with parking meters, fast-food establishments, and toll roads and bridges.

At these establishments the handling of dollar bills is extremely difficult and costly to automate. Bills have to be manually sorted and straightened out and faced the right way before being inserted into counting machines. (How often has that vending machine turned up its nose at your slightly crumpled dollar bill?)

By contrast, coins can simply be dumped unsorted into the hoppers of counting machines that do all the work of sorting, counting and bagging automatically. William Buetow, treasurer at the Chicago Transit Authority, has said bills cost $22 per thousand to count, whereas coins cost less than $2 per thousand dollars.

The Los Angeles County Metropolitan Transportation Authority does not bother to sort its dollar bills. It sells them by weight to private sector contractors unprocessed for 98 cents on the dollar. Buetow has estimated Chicago could save about $2 million a year if a $1 coin were used rather than a bill. Los Angeles' transit authority says it could save $4 million.

The U.S. vending industry has had to install bill acceptors in many of its 4.5 million soda, snack and hot drink machines. The acceptors add about $400 to the capital cost of each machine—around 20%—and probably more to servicing costs, since bills are notorious for getting jammed.

In Canada, where a dollar coin was introduced in 1987, vending machine turnover has boomed, during which time sales from U.S. vending machines have been relatively flat.

So where's the $1 coin? Earlier this year bills for a dollar coin were reintroduced in both the U.S. House and the Senate. The Coin Coalition, a lobby group representing some 30 industry associations, made a major push to attract the attention of the Clinton Administration. But in Congress the bill is bottled up in a banking subcommittee chaired by Joseph P. Kennedy II (D-Mass.). Representative Kennedy seems to be too busy to bother with such trifles. As his staff puts it, "The congressman has higher priorities." Kennedy, of course, is very much in the family tradition. As this instance shows, he's more interested in spending government money than in saving it, more interested in bashing business than in helping it.

Other than Kennedy's laziness and short attention span, the only real opposition comes from the American Bankers Association, which stresses changeover costs in the switch from bill to coin and is concerned about the extra weight of coin in transportation.

The last two efforts at introducing a dollar coin—the Eisenhower coin in 1971 and the Susan B. Anthony in 1979—were flops, the latter because people had trouble distinguishing it from a quarter. In both cases, the government kept churning out $1 greenbacks. Most other countries that introduced higher-denomination coins stopped printing the equivalent-value bills. As long as both exist, a lot of people will prefer the paper because it is easier to carry and doesn't make your pockets bulge.

But does the $1 greenback make economic sense? It buys what a quarter bought 25 years ago; $5 does what the dollar did 35 years ago.

But given this Administration's lack of interest, such a desirable changeover is highly unlikely. So private industry is proceeding on its own. One of the largest teller machine networks, Money Access Service Inc. (MAC), based in Wilmington, Del., is investing heavily in development and trials of cards for vending machines, gasoline, transit, telephones, fast food, parking, meters, newspaper racks and convenience stores.

Existing credit and debt cards are okay for bigger transactions, where the transaction is large enough to justify charges for all the credit verification wizardry. But for the little transactions, it is too expensive. Donald Gleson, a president at MAC, is working on a stored value card that takes transactions of less than $20 electronically and can be read from, and written to, in a cheap, stand-alone point-of-sale terminal. None of that expensive instantaneous on-line communication with a central computer.

Joseph Schuler, a card consultant based in Gaithersburg, Md., says cards with a tiny microprocessor built in (dubbed "smart cards") will be the vehicle for this cash substitute. Current magnetic stripe cards like familiar ATM and credit cards are too limited in capability and increasingly subject to fraud. The smart card may, all in one credit-card-size piece of plastic, incorporate ATM cash card, credit card and a stored value cash substitute.

In all, the combined annual savings to both government and business could run into the billions if the use of paper money for small transactions could be reduced. Just one number to leave you with: Where motorists pay their tolls with a prepaid card in Oklahoma, costs per lane are $15,800 per year. A coin basket lane—which would be much more widespread with dollars coins—$16,500. Manned booths, a mighty $176,000.

[From the Washington Post, Nov. 22, 1993]

SAVE MONEY, THROW OUT DOLLAR BILLS

Last winter there was an article in The Post touting the savings of switching to a dollar coin and eliminating the dollar bill ["Durable Dollar Coin Proposed Again," news story, March 12]. I responded then that saving hundreds of millions of dollars a year was a nice piece of change to save for very little sacrifice. In the past year, we have spent an estimated $395 million to $862 million on dollar bills and are no closer to a new dollar coin ["The Dollar Coin," business, Nov. 5].

What is the delay? I don't want to hear that we have higher priorities than saving tax dollars or that "the Clinton administration has more grandiose matters on its mind." Nor do I want to hear that it will inconvenience a few people. Even if we decided today to go to a dollar coin, it would probably be two years before we could start using it. That means millions of dollars more have been wasted because of inaction on the part of Congress.

If members of Congress would take action on some of the smaller, simpler cost-savings matters before it, we would probably save a fortune. I think it is time for our great deliberative bodies to stop deliberating and start acting, especially on something that makes a lot of "cents."

Mr. Speaker, Congress is often chided for not leading, for not making tough decisions.

Here is an example of where Congress can lead and save taxpayers at least $395 million each year. I'm convinced that we will have a dollar coin. The only question is how much time and money will we waste before we have one?

LEGISLATION TO AMEND THE EXPORT ADMINISTRATION ACT OF 1979

HON. MARIA CANTWELL

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. CANTWELL. Mr. Speaker, I am today introducing legislation to amend the Export Administration Act of 1979 to liberalize export controls on software with encryption capabilities.

A vital American industry is directly threatened by unilateral U.S. Government export controls which prevent our companies from meeting worldwide user demand for software that includes encryption capabilities to protect computer data against unauthorized disclosure, theft, or alteration.

The legislation I am introducing today is needed to ensure that American companies do not lose critical international markets to foreign competitors that operate without significant export restrictions. Without this legislation, American software companies, some of America's star economic performers, have estimated they stand to lose between $6 and $9 billion in revenue each year. American hardware companies are already losing hundreds of millions of dollars in lost computer system sales because increasingly sales are dependent on the ability of a U.S. firm to offer encryption as a feature of an integrated customer solution involving hardware, software, and services.

The United States' export control system is broken. It was designed as a tool of the cold-war, to help fight against enemies that no longer exist. The myriad of Federal agencies responsible for controlling the flow of exports from our country must have a new charter, recognizing today's realities.

Next year, the House Foreign Affairs Subcommittee of Economic Policy, Trade and the Environment, of which I am a member, will be marking up legislation to overhaul the Export Administration Act. It is my hope that the legislation I introduce today will be included in the final Export Administration Act rewrite.

This legislation takes some important steps to resolve a serious problem facing some of our most dynamic industries. It would give the Secretary of Commerce exclusive authority over dual use information security programs and products, eliminates the requirement for export licenses for generally available software with encryption capabilities, and requires the Secretary to grant such validated licenses for exports of other software with encryption capabilities to any country to which we already approve exports for foreign financial institutions.

The importance of this legislation cannot be overstated. America's computer software and hardware companies, including such well-known companies as Apple, DEC, Hewlett-Packard, IBM, Lotus, Microsoft, Novell, and WordPerfect, have been among the country's most interntionally competitive firms earning more than one-half of their rvenues from exports.

The success of American software and hardware companies overseas is particularly dramatic and the importance of foreign markets is growing. Currently, American software companies hold a 75 percent worldwide market share and many derive over 50 percent of their revenues from foreign sales. American computer hardware manufacturers earn more than 60 percent of their revenues from exports.

As my colleagues are well-aware, we are participants in a new information age that is quickly transforming local and national marketplaces and creating new international marketplaces where none previously existed. President Clinton and Vice President GORE have both spent considerable time explaining their vision of the National Information Infrastructure that is essential to our continued economic growth.

Part of that infrastructure is already in place. International business transactions that just a few years ago took days or weeks or months to complete can now be accomplished in minutes.

Driving this marketplace transformation is the personal computer. And, at the heart of every personal computer is computer software. Even the most computer illiterate of us recognize that during the past decade, computer prices have dropped dramatically while computer capabilities have increased exponentially. That combination has made it possible to exchange information and conduct business at a scale that was considered science fiction only a few years ago.

Indeed, we all now rely on computer networks to conduct business and exchange information. Whether it be the electronic mail or "e-mail" system that we all now use in our congressional offices or the automated teller system relied on to conduct our personal financial affairs, we rely on computer networks of information.

In the future, individuals will use information technologies to conduct virtually any of the routine transactions that they do today in person, over the telephone, and through paper files. From personal computers at home, in schools, and in public libraries, they will access books, magazine articles, videos, and multimedia resources on any topic they want. People will use computer networks to locate and access information about virtually any subject imaginable, such as background on the candidates in local political races, information on job opportunities in distant cities, the weather in the city or country they will be visiting on their vacation, and the highlights of specific sports events.

Consumers will use their computers and smart televisions to shop and pay for everything from clothing and household goods to airline tickets, insurance, and all types of online services. Electronic records of the items they purchase and their credit histories will be easy to compile and maintain.

Individuals will access home health programs from their personal computers for instant advice on medical questions, including mental health problems, information about the symptoms of AIDS, and a variety of personal concerns that they would not want other family members, or their neighbors and employers to know about. They will renew their prescriptions and obtain copies of their lab results electronically.

The U.S. economy is becoming increasingly reliant on this information network. While we may not often think about these networks, they now affect every facet of our professional, business, and personal lives. They are present when we make an airline reservation; when we use a credit card to make a purchase; or when we visit a doctor who relies on a computer network to store our medical information or to assist in making a diagnosis. These networks contain information concerning every facet of our lives.

For businesses, the reliance on information security is even greater. While businesses rely on the same commercial use networks that individual consumers use, in addition, businesses are now transmitting information across national and international borders with the same ease that the information was once transmitted between floors of the same office building.

While all of this information exchange brings with it increased efficiencies and lower operating costs, it has also brought with it the need to protect the information from improper use and tampering.

Information security is quickly becoming a top priority for businesses that rely on computer networks to conduct business. According to a recent survey of Fortune 500 companies conducted for the Business Software Alliance, 90 percent of the participants said that information security was important to their operations. Indeed, almost half of the Fortune 500 companies surveyed recently stated that data encryption was important to protect their information. One third of those companies said they look for encryption capabilities when buying software.

The challenge for information security can be met by America's computer companies. American companies are deeply involved in efforts to ensure that the information transmitted on computer networks is secure. Numerous companies have developed and are developing software products with encryption capabilities that can ensure that transmitted information is received only by the intended user and that it is received in an unaltered form. Those encryption capabilities are based on mathematical formulas or logarithms of such a size that makes it almost impossible to corrupt data sources or intercept information being transmitted.

I wish I could stand here today and tell my colleagues that U.S. export control laws were working and encryption technology was only available to American software companies.

However, this is not the case. Sophisticated encryption technology has been available as a published public standard for over a decade and many private sources, both domestic and foreign, have developed encryption technology that they are marketing to customers today. It is an industry where commercial competition is fierce and success will go to the swift.

Software is being developed and manufactured with encryption capabilities for the simple reason that software customers are demanding it. Computer users recognize the vulnerability of our information systems to corruption and improper use and are insisting on protection. That protection will be purchased or obtained from American companies or from foreign software companies. The choice is not whether the protection will be obtained, but from which company.

Incredible as it may seem to most of my colleagues, the executive branch has seen fit to regulate exports of American computer software with encryption capabilities—that is, the same software that is available across the counter at your local Egghead or Computerland software store—munitions and thereby substantially prohibit its export to foreign customers. This policy, which has all the practical effect of shutting the barn door after the horses have left in preventing access to software with encryption capabilities, does have the actual detrimental effect of seriously endangering sales of both generally available American software and American computer systems.

This is because increasingly sales are dependent on the ability of a U.S. firm to offer encryption as a feature of an integrated customer solution involving hardware, software and services.

Indeed, software can be exported abroad by the simplest measures and our intelligence gathering agencies have no hope of ever preventing it. Unlike most munitions that are on the prohibited export list, generally available software with encryption capabilities can be purchased without any record by anyone from thousands of commercial retail outlets, or ordered from hundreds of commercial mail order houses, or obtained for free from computer bulletin boards or networks. Once obtained, it can be exported on a single indistinguishable floppy disk in the coat pocket of any traveler or in any business envelope mailed abroad.

Moreover, both generally available and customized software can be exported without anyone ever actually leaving the United States. All that is necessary are two computers with modems, one located in the United States and one located abroad. A simple international phone call and a few minutes is all that it takes to export any software program.

Once a software program with encryption capabilities is in a foreign country, any computer can act as a duplicating machine, producing as many perfect copies of the software as needed. The end result is that the software is widely available to foreign users.

All this was demonstrated at a hearing held on October 12 by Chairman GEJDENSON's Economic Policy Trade and Environment Subcommittee of the Foreign Affairs Committee.

Furthermore, while current executive branch policy regulates the export of American manufactured software with encryption capabilities, it is obviously powerless to prevent the development and manufacture of such software by foreign competitors. Not surprisingly, that is exactly what is happening. We heard testimony at the Subcommittee's hearing that over 200 foreign hardware, software and combination products for text, file, and data encryption are available from 20 foreign countries. As a result, foreign customers, that have, in the past, spent their software dollars on American-made software, are now being forced, by American policy, to buy foreign software—and in some cases, entire foreign computer systems. The real impact of these policies is that customers and revenue are being lost with little hope of regaining them, once lost. All precipitated by a well-intentioned, but completely misguided and inappropriate policy.

There were efforts, in the last Congress to correct this policy. In response, the Bush administration did, in fact, marginally improve its export licensing process with regard to mass market software with limited encryption capabilities. However, those changes are simply insufficient to eliminate the damage being done to American software companies.

My legislation is strongly supported by the Business Software Alliance. The Business Software Alliance represents the leading American software businesses, including Aldus, Apple Computer, Autodesk, Borland International, Computer Associates, GO Corp., Lotus Development, Microsoft, Novell, and WordPerfect. In addition, Adobe Systems, Central Point, Santa Cruz Operation, and Symantec are members of BSA's European operation. Together, BSA members represent 70 percent of PC software sales.

The legislation is also supported by the Industry Coalition on Technology Transfer, an umbrella group representing 10 industry groups including the Aerospace Industries Association, American Electronic Association, Electronics Industry Association, and Computer and Business Equipment Manufacturing Association.

All these companies are at the forefront of the software revolution. Their software, developed for commercial markets, is available throughout the world and is at the core of the information revolution. They represent the finest of America's future in the international marketplace, and the industry has repeatedly been recognized as crucial to America's technological leadership in the 21st century.

My legislation is straightforward. It would allow American companies to sell the commercial software they develop in the United States to their overseas customers including our European allies—something that is very difficult if not impossible under present policies.

I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill and a section-by-section explanation be printed at this point.

SECTION-BY-SECTION ANALYSIS OF REPORT CONTROL LIBERALIZATION FOR INFORMATION SECURITY PROGRAMS AND PRODUCTS

SECTION 1

Section 1 amends the Export Administration Act by adding a new subsection that specifically addresses exports of computer hardware, software and technology for information security including encryption. The new subsection has three basic provisions.

First, it gives the Secretary of Commerce exclusive authority over the export of such programs and products except those which are specifically designed for military use, including command, control and intelligence applications or for deciphering encrypted information.

Second, the government is generally prohibited from requiring a validated export license for the export of generally available software (e.g. mass market commercial or public domain software) or computer hardware simply because it incorporates such software.

Importantly, however, the Secretary will be able to continue controls on countries of terrorists concern (like Libya, Syria, and Iran) or other embargoed countries (like Cuba and North Korea) pursuant to the Trading With The Enemy Act or the International Emergency Economic Powers Act (except for instances where IEEPA is employed to extend EAA-based controls when the EAA is not in force).

Third, the Secretary is required to grant validated licenses for exports of software to commercial users in any country to which exports of such software has been approved for use by foreign financial institutions. Importantly, the Secretary is not required to grant such export approvals if there is substantial evidence that the software will be diverted or modified for military or terrorists' end-use or re-exported without requisite U.S. authorization.

SECTION 2

Section 2 provides definitions necessary for the proper implementation of the substantive provisions. For example, generally available software is offered for sale or licensed to the public without restriction and available through standard commercial channels of distribution, is sold as is without further customization, and is designed so as to be installed by the purchaser without additional assistance from the publisher. Computer hardware and computing devices are also defined.

DON BOSCO TECHNICAL HIGH SCHOOL MARKS 45 YEARS

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KLEIN. Mr. Speaker, I rise today to recognize a truly outstanding educational institution in my Eighth Congressional District of New Jersey, Don Bosco Technical High School. 1993 marks the 45th anniversary of the school's foundation. On December 4, 1993, Don Bosco Technical High School will hold a dinner and dance celebration at the school.

From its beginnings in September 1949, the school has contributed an extremely positive presence in the greater Paterson community. The educational program at Don Bosco Technical High School was purposefully designed to balance the spiritual, academic, and vocational training in order to enable the students to become good Christians and useful citizens.

In 1984, upon receiving their accreditation from the Middle States Association of Colleges and Schools, the school received the highest of praise from the accreditation team who commended the school for creating a climate which creates a family atmosphere. This atmosphere that the administrators and teachers have been able to create has successfully prepared students year after year to ably enter the work force or to continue their technological education in college.

It is not every day that you find a school that is so beloved by teachers, administrators, parents, students, and city residents alike.

Don Bosco Tech has combined learning, religion, athletics, and community service to establish a 45-year tradition of excellence. Therefore it is with great pleasure that I urge my colleagues to join with me in recognizing December 4, 1993, as Don Bosco Tech Day throughout the Eighth Congressional District.

RON HARDMAN RETIRES AFTER 27 YEARS ON THE HILL, "HAPPY NEW YEAR!"

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MYERS of Indiana. Mr. Speaker, when the House adjourns today, a "Happy New Year" greeting will be echoed on both sides of the aisle. But, in our office Happy New Year not only will signal the end of the session, it will signal the retirement of my administrative assistant, Ron Hardman, who came to Congress with me when I was elected in 1966.

For as long as anyone can remember, Ron has ended his telephone conversations with Happy New Year and bid goodbye to constituents in the office with those inevitable three words. Now, it is our turn to say Happy New Year to a dear friend and one of this institution's most loyal staff.

Ron was born with a passion for politics and a nose for news. So passionate was he to get a story for the Terre Haute Tribune Star about a young upstart from Covington who was running for Congress the he arrived for our interview out of breath and in need of a pen, which he borrowed from me.

That nose for news turned him into a broadcasting major at DePauw and Indiana State Universities, a reporter with Armed Forces Radio Network during his military service, an anchor on WTHI-News in Terre Haute, and a political reporter for the Terre Haute Star. And who can forget his recounting of interviews with Lyndon Johnson, John F. Kennedy, Richard Nixon, and Eleanor Roosevelt?

Ron started out in our office as the press secretary and for the last 20 years has served as my chief of staff. All along he's made certain I've gotten good coverage and good counsel. Ron has added another dimension to our office—a veritable Fourth of July parade with all the bells and whistles. With the enthusiasm of a drum major, he has led the office through our country's national crises from Vietnam to Watergate to the Persian Gulf and has been the first to offer comfort in any personal crisis.

Ron's commitment to public service has served the Seventh District well. That dogged determination to go the extra mile, make another phone call, write another letter, has indeed made things happen, changed lives and in one instance prolonged a life. His belief in finding something good in every person has brought out that good and produced a trust and confidence that is rare in public life.

Ron is a talker. But he's also a listener. He's a good friend. A good husband to Martha; a good father to Dora and Anne. And this Greencastle native has attracted a wide circle of friends on the Hill and in the Washington area while still keeping a loyal following in the Seventh District. So profound has been his influence that my constituents have wondered when he was going to run for my seat.

I shall miss Ron. And our office will miss him. We Hoosiers stick together. And Ron stuck with me and by me, with us and by us. Our friendship is something I will always cherish and his leadership, dedication, and spirit are his legacy to our office.

Happy New Year, Ron.

THE REGULATORY SUNSET ACT OF 1993

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CHAPMAN. Mr. Speaker, today I am introducing the Regulatory Sunset Act of 1993, a bill that will cut the costs of Federal regulations by putting a framework in place to abolish or modify regulations that are obsolete, inconsistent, duplicative, or impeded competition. Since 1978, each administration has sought to address the growing number of regulations and their economic impact on the Nation. Today, we still have a regulatory program that can be more of a burden than a benefit to American consumers, businesses, and the economy as a whole. It is time to force action on this issue.

In 1978, President Carter issued an Executive order to improve Government regulations. He announced,

> I came to Washington to reorganize a Federal Government which had grown more preoccupied with its own bureaucratic needs than with those of the people. This Executive order is an instrument for reversing this trend. It promises to make Federal regulations clearer, less burdensome, and more cost-effective.

In 1981, President Ronald Reagan issued his own directive to executive agencies to strengthen the key elements of President Carter's order. The Office of Management and Budget was made a central clearing house for regulations and a Presidential Task Force on Regulatory Review was established to review new and existing regulations.

In 1989, President Bush established the President's Council on Competitiveness to review regulatory issues and in January 1992 he declared a 90-day moratorium and review on Federal regulations. Executive agencies were to refrain from issuing new regulations and develop proposals to eliminate existing regulations that imposed unnecessary burdens.

Last month, President Clinton issued his own Executive order on Federal regulations. This order incorporates the key elements from earlier orders such as agency review of regulations, OMB oversight of regulatory compliance, and implementation of the most cost-effective rules.

I applaud President Clinton and the recognition by the National Performance Review that "thousands upon thousands of outdated, overlapping regulations remain in place" and that we must "clear the thicket of regulation by undertaking a thorough review of the regulations already in place". But, history has demonstrated that reliance upon the executive branch to tackle this problem alone will not result in overwhelming reform.

At the end of 1991, 59 difference agencies were working on approximately 4,900 regulations. Federal regulatory spending has grown to more than $13 billion annually. The cost to the private sector of complying with regulations is approximately $430 billion annually.

President Clinton's Executive order makes the case for reform very clear when it states,

> The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulator approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

The Regulatory Sunset Act of 1993 will require agencies to review their regulations and make recommendations to terminate, continue, or modify those regulations. It will designate a Regulatory Review Officer within each agency, who is responsible for furthering compliance with this directive. This is consistent with the National Performance Review's recommendation and President Clinton's Executive order.

However, regulatory reform will require an unprecedented relinquishing of power by executive agencies, and my legislation recognizes this. The Regulatory Sunset Act will mandate the automatic termination of agency regulations that do not measure up to criteria outlined in the bill; such as whether the regulation is obsolete, duplicative, cost-effective, impeded competition, et cetera. All existing regulations will sunset in 7 years unless reauthorized and new regulations promulgated after enactment of this bill will be subject to a 3-year sunset unless reauthorized. Once a regulation has been reauthorized, it will be subject to continuous review every 7 years thereafter.

Finally, the bill establishes a Regulatory Sunset Commission that will review agency recommendations on regulations and has the final authority over whether regulations should be continued, terminated, or modified. If the Commission recommends modification of a regulation, it provides time for the agencies to make appropriate modifications so the regulation can then be continued.

Federal regulations are necessary to meet statutory requirements and protect the environment and health and safety of individuals. However, regulatory burdens have increasingly impacted our ability to ensure an expanding economy. It is past time to address regulations that have unintended adverse impacts. The Regulatory Sunset Act of 1993 calls for taking a new approach to reforming our regulatory program.

COUNCILMAN SAM HORWITZ: A CAREER OF DISTINGUISHED SERVICE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, at the end of this year, a truly remarkable era in the life of New York City will come to an end. My good friend and colleague, Councilman Sam Horwitz will leave office after two decades of distinguished service to the people of the 47th councilmanic district and the people of Brighton Beach, Coney Island, Seagate, Bensonhurst and Gravesend. It is with both sorrow and deep gratitude that the people of these communities say goodbye and thank you for a job well done.

Sam Horwitz has served in several prominent positions in the council, reflecting his abilities and the regard in which he has been held by his colleagues. He served as the leader of the councils' Brooklyn delegation from 1982–86. From 1986–90, he chaired the committee on committees.

In the early 1980's, he was appointed chairperson of the council's committee on transportation. Sam was not content to sit in the committee chambers, but took to the streets, the subway stations, and the train yards. His work helped remove graffiti from trains, push forward the MTA's program to make the system fully accessible to all New Yorkers, reduce noise, and improve service. Having served as Sam's counterpart in the State assembly, I fully understand the challenges and difficulties he faced. It was a task as important to our city's future as it was challenging. It was our good fortune that Sam was more than up to the job.

In 1985, Sam took over the council's committee on general welfare which oversees all of the city's social services and the vast city agencies charged with serving our neighbors most in need. Sam improved the work of these agencies by getting more caseworkers and improving caseload distribution for Protective Services for Adults.

Sam's service to our city has been so varied, and has had such an impact, that it would be hard in the space of a single statement to encompass all he has done. Perhaps CBS News Radio put it best when it described Sam as a "legislator closest to the people."

Mr. Speaker, most of all, Sam Horwitz has been a good neighbor, and a tireless advocate for his community. Together with his wife, Estelle, their son Mark, daughter Susan, and granddaughter Phoebe, they have been stalwart citizens of Brooklyn. Through storms, whether brought by the forces of nature of politics, Sam Horwitz has served our city. On behalf of our city, I join my neighbors tonight in saying thank you to Councilman Sam Horwitz.

TRIBUTE TO BOB DELAZARO

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, as the first session of the 103d Congress draws to an end, I would like to pay tribute to Bob DeLazaro, an outstanding member of my staff who is retiring at the end of this year.

Bob has had a long and distinguished career. Bob graduated from Syracuse University in 1951, after serving a stint in the Army during the Korean war. Bob also attended graduate school at Columbia University and Stanford University. After attaining his undergraduate degree, Bob worked for a number of years as a newspaper reporter, columnist, and editor for such publications as the Courier News and the now-defunct Elizabeth Daily Journal. During this career as a newspaperman, Bob received an award from the American Political Science Association for distinguished reporting. Bob also won several awards from the New Jersey Press Association for distinguished reporting as an editorial writer and as a political editor.

In 1973, Bob joined the staff of my predecessor, Congressman Matt Rinaldo, as his press secretary. Bob served in that capacity until Matt retired from the House last year. In January, I hired Bob—or Bob D., as he is affectionately known by the other members of my staff—to be my special assistant.

Recently, I spoke to Congressman Matt Rinaldo, and asked him to give me his impressions of Bob. Matt told me that

> Bob is a dedicated family man, conscientious, extremely loyal, and has a high sense of purpose. Bob was not an employee in the conventional sense of the word, but instead was a real friend. He was a person that I could rely on for counsel and advice, and he always gave me his best judgment. We had many of the same friends and enjoyed many an evening dinner meeting together. We have been friends since childhood, growing up only one block apart in the City of Elizabeth, New Jersey. I knew his brother and the other members of his family well. I believe he contributed to the common goals that we shared to do our very best for the people of the then 12th and now 7th District, many of whom we knew on a first-name basis.
>
> Bob is a person who went to the mat for me, and I will never forget his hard work and untiring efforts on my behalf. I wish him well in his retirement, and look forward to a continuing friendship with him and his wonderful wife Kathy.

Mr. Speaker, I wholeheartedly concur with the sentiments of Congressman Rinaldo. Bob has been an invaluable asset to my staff, and his experience and knowledge of the 7th District will be impossible to replace. I believe the people of the 7th District owe Bob DeLazaro a debt of gratitude for all his efforts to improve the quality of life in our community. I wish him well in his well-deserved retirement.

ADDITIONAL COSPONSORS OF H.R. 2921

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CLEMENT. Mr. Speaker, several of my colleagues have asked that they be listed as cosponsors of H.R. 2921, the bill to create a matching grant program to preserve and restore the historic buildings on the campuses of the Nation's historically black colleges and universities. I thank my colleagues for their support of this important measure.

Since I cannot formally add the names to H.R. 2921 now that the bill has been reported from the Natural Resources Committee, I nonetheless want to acknowledge and thank them. They are Representatives ROBERT (BUD) CRAMER of Alabama, WILLIAM JEFFERSON of Louisiana, ROBERT UNDERWOOD of Guam, and LUCIEN BLACKWELL of Pennsylvania.

NATIONAL COMMUNICATIONS COMPETITIVENESS AND INFORMATION INFRASTRUCTURE ACT OF 1993

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MARKEY. Mr. Speaker, today I am introducing, along with the ranking minority member of the subcommittee, Mr. FIELDS, and Messrs. BOUCHER, OXLEY, BRYANT, MOORHEAD, HALL, BARTON, HASTERT, LEHMAN, GILLMOR, RICHARDSON, and SCHENK, the National Communications Competition and Information Infrastructure Act of 1993.

This legislation represents what I believe to be the Nation's roadmap for the information superhighway.

The purpose of this act is to help consumers by promoting a national communications and information infrastructure. This legislation seeks to accomplish that goal by encouraging the deployment of advanced communications services and technologies through competition, by safeguarding ratepayers and competitors from potential anticompetitive abuses, and by preserving and enhancing universal service.

The legislation we are proposing has three key elements. A more detailed explanation follows.

First, the act will promote and accelerate access to advanced telecommunications capability as well as spur competition to the local telephone companies from diverse competitors. As part of a national policy to promote competition to communications monopolies, competitors and information providers will be granted the right to compete with the local telephone company and to use its facilities. Such competitors, which could be cable companies, independent phone companies, information service providers, or others, will be allowed equal access to, and interconnection with, the facilities of the local phone company so that consumers are assured of the seamless transmission of telephone calls between carriers and between jurisdictions.

The FCC will be required to establish rules for compensating local telephone companies for providing interconnection and equal access to competitors.

Second, the legislation will promote and accelerate competition to the cable television industry by permitting telephone companies to compete in offering video programming. Specifically, the bill would rescind the ban on telephone company ownership and delivery of video programming that was enacted in the Cable Act of 1984. Telephone companies would be permitted, through a separate subsidiary, to provide video programming to subscribers in its telephone service area.

Telephone companies would be required to establish a video platform upon which to offer their video programming. Telephone companies, on a nondiscriminatory basis, must allow other providers to offer video programming to subscribers utilizing the same video platform. Other providers will be allowed to use up to 75 percent of the video platform capacity.

In order to protect against media concentration and to promote a more fully competitive marketplace, telephone companies would be prohibited from buying cable systems within their telephone service territory, with only tightly drawn exceptions. In this way, consumers would have at least one other independent delivery system from which to choose for telephone, video, or other multimedia services.

Third, the legislation will preserve and enhance the universal provision of telephone service at affordable rates. To ensure that universal service is preserved as local telephone service become more competitive, a Federal-State joint board is established by the legislation to develop a plan to perpetuate the universal provision of affordable, high quality telephone service. All providers of telecommunications services will be required to make an equitable contribution to the preservation of universal service.

To enhance universal service, the legislation requires that this joint board define the nature and extent of the services encompassed within a telephone company's universal service obligation. In addition, the legislation directs the FCC to investigate the policy changes needed to provide open platform service at affordable rates. Open platform service would provide digital phone service on a single line, end-to-end basis to residential subscribers. To ensure affordability, such service would be tariffed at reasonable rates.

Such digital service has the potential of enhancing the capacity of the existing twisted copper wire infrastructure tenfold for modest cost. A variety of applications for telemedicine, distance learning, and other multimedia services could utilize the additional capacity gained by going digital to empower consumers, schools, hospitals, small businesses and others.

In conclusion, I think this legislation represents a well-balanced approach to a difficult subject. In light of a recent court decision striking down the cabletelco prohibition as unconstitutional, this bill proposes consumer protections where there are now none. In addition, it continues a trend, starting in our country but emulated throughout the world, what shows consumers of telecommunications equipment and services benefit tremendously from competition. This bill will help achieve many of the goals I and my colleagues share for promoting an electronic superhighway to enrich the lives of all Americans in the information age. I urge my colleagues to join me in sponsoring this important telecommunications legislation.

SECTION-BY-SECTION SUMMARY OF THE NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT

TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND COMPETITION

Section 101. Section 101(a) adds new purposes of section 1 of the Communications Act of 1934. Section 101(b) adds new definitions to the Communications Act, including definitions for "information service" "telecommunications", "telecommunications service", "local exchange carrier", "telephone" "open platform service", and "equal access". The term "open platform service" is defined in functional terms as a service enabling subscribers to access voice, data, and video services on a single-line basis that is available throughout a State.

Section 102. This section adds a new subsection to section 201 of the Communications Act. Subsection (c) is entitled "Equal Access." Paragraph (1) of subsection (c) sets forth that all common carriers are subject to such rules of openness and accessibility as the Federal Communications Commission may require. It also set forth the obligations of local exchange carriers to provide access to their facilities.

Paragraph (2) directs the FCC to establish regulations providing reasonable and nondiscriminatory equal access to the facilities and capabilities of a local exchange carrier. This paragraph also directs the FCC to establish rules that compensate the local exchange carriers for opening up their facilities. In addition, this paragraph stipulates that rural exchange carriers do not have to provide access to another local exchange carrier. Significantly, the bill also gives the FCC authority to modify these requirements for carriers with fewer than 500,000 access lines. The bill directs the FCC to convene a Federal-State Joint Board to advise the Commission regarding access rules, and provides that the FCC can use existing rules if they are applicable.

Paragraph (3) provides that no State or local government may have rules or laws in place after one year that effectively prohibit the offering of telephone service or the entry of companies into the local telephone business.

Paragraph (4) requires local exchange carriers to have cost-based tariffs in place for equal access and interconnection services, and requires that the tariffs do not bundle together separable elements, features, or functions offered by the carrier.

Paragraph (5) establishes a process by which a local exchange carrier can obtain permission from State or federal authorities to have pricing flexibility in the offering of telecommunications services. The FCC is required to establish criteria for determining when pricing flexibility is appropriate, and then directs the FCC and States to use this criteria in reviewing applications for pricing flexibility. The FCC is required to respond to any application within 180 days.

Paragraph (6) establishes a Joint Board to formulate a plan to preserve universal service. The Joint Board is directed to develop a plan that establishes predictable mechanisms to ensure the continued viability of universal service, that promotes access to advanced telecommunications services, and that requires all providers of telecommunications services to contribute to preservation of universal service.

Paragraph (7) provides that the FCC and the States shall not prohibit resale of telephone exchange service. Paragraph (8) directs the FCC to review its rules established under this subsection to determine whether the goals of this legislation are being met. Paragraph (9) requires the FCC to conduct a study of rural phone service and the effects of competition on service in rural areas.

Subsection (d), paragraph (1) sets forth functionality and reliability obligations of common carriers. Paragraph (2) directs the FCC to establish procedures for coordinating network planning and for establishing procedures for the development of standards for interconnection and interoperability. Paragraph (3) directs the FCC to initiate an inquiry on the rules and policies necessary to make open platform service available to the public. This paragraph further directs the Commission to prescribe regulations as necessary for the provision of open platform service when such service is economically and technically feasible.

Paragraph (4) directs the Commission to establish regulations designed to make network capabilities and services accessible to individuals with disabilities. Paragraph (5) directs the Commission to designate performance measures or benchmarks for the purpose of ensuring the continued reliability of communications equipment and services. Paragraph (6) grants the FCC authority to waive or modify any of the requirements of subsection (d) for those companies serving rural areas.

Section 103. This section amends section 208 of the Communications Act to require that the FCC respond to any complaint on unreasonable or discriminatory interconnection within 180 days.

Section 104. This section amends section 7 of the Communications Act to provide for expedited licensing of new technologies.

Section 105. This section amends section 214 to require that a provider of telephone exchange service must address the means by which new or extended lines will meet the network access needs of individuals with disabilities.

TITLE II—COMMUNICATIONS COMPETITIVENESS

Section 201. This section amends section 613(b) of the Communications Act to provide that any common carrier subject to title II of the Communications Act may provide video programming to subscribers within its telephone service area provided that it provides video programming through a separate affiliate and otherwise consistent with part V of title VI of the Communications Act, as added by this legislation. This section also makes a conforming change to section 602 to define "telephone service area."

This section also amends title VI of the Communications Act to add a new "Part V—Cable Service Provided by Telephone Companies".

Section 651 defines key terms, such as "affiliated video programming", "control", "rural area", and "video platform".

Section 652 provides that a common carrier subject to title II must provide video programming through a separate affiliate. This section directs that the separate affiliate must maintain separate books, separate operations, and separate marketing, except telephone companies are permitted to handle in-coming inquiries on cable service. If a cable company is jointly marketing video and telephone services, then the common carrier can petition the FCC for relief from the general joint marketing prohibition. This section also permits the FCC to grant waivers from these requirements for small or rural telephone companies or, beginning 5 years after enactment, for any company that can demonstrate that a waiver will not harm telephone ratepayers and is in the public interest.

Section 653 directs that a common carrier that provides video programming must establish a video platform that provides access to programmers on reasonable and nondiscriminatory terms. The FCC must respond to telephone company video dialtone platform petitions within one year. This section also requires the FCC to study whether it is in the public interest to make cable operators common carriers and subject to a video platform requirement.

Section 654 stipulates that a common carrier can reserve for itself no more than 25 percent of the available capacity of a basic platform established pursuant to section 653. This requirement is scheduled to expire 5 years after enactment.

Section 655 directs the FCC to prescribe regulations prohibiting common carriers from including in telephone rates any expenses associated with the provision of video programming. The Commission is also directed to prescribe regulations prohibiting cable operators from including in the cost of cable service any expenses associated with the provision of telephone service.

Section 656 contains a general prohibition on buyouts by a common carrier of a cable system within its service territory. Subsection (b) provides for exceptions, including one that would permit a common carrier to engage in a joint venture with a cable system or systems so long as in the aggregate the area served by the joint venture did not exceed ten percent of the households served by the carrier. Another exception would permit a carrier to use the "drop" from the curb to the home that is controlled by the cable company, if such use was limited in scope and duration. This section also contains a waiver process, under which the Commission could grant a waiver upon a showing of undue economic distress by the owner of the cable system if a sale to a telephone company is blocked.

Section 657 establishes penalties for violations of this Part. Section 658 sets forth consumer protection provisions, including the formation of a Joint Board to ensure proper jurisdictional separation and allocation of costs of establishing a video platform.

Section 659 provides which sections of title VI would be applicable to a video platform. This section requires that video programming affiliates would have to comply with the rules on privacy, program access, and consumer protection contained in title VI. This section also directs the FCC to prescribe regulations requiring a video platform to comply with the rules on "must carry", capacity for public, educational, and governmental use (PEG), and other carriage obligations that generally fall on cable systems. This section also requires the video programming affiliate of a carrier to pay a fee equivalent to a franchising fee to the local franchising authority.

Section 660 stipulates that many of the provisions added by this legislation (sections 652, 653, 654, and 656) do not apply to common carriers providing service in rural areas.

THE LOWER SALMON RIVER IN CENTRAL IDAHO

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LAROCCO. Mr. Speaker, I had hoped in this particular month and in the concluding hours of the first session of this Congress to introduce legislation designating the Lower Salmon River as a component of the National Wild and Scenic River System.

Introduction of that legislation would be symbolically important to me and to thousands of Idahoans because November 1993 marks the 25th anniversary of enactment of the National Wild and Scenic Rivers Act. That section of Idaho's fabled Salmon River would complement a Wild and Scenic Rivers System which honors and protects our Nation's most outstanding river segments and their landscapes.

Any mark which I might leave in this Congress toward fulfillment of the National Wild and Scenic Rivers System also carries deep personal significance for me and for my family. We celebrate anniversaries together, and the celebration of this anniversary takes us back to earlier days when I worked for Idaho's Senator Frank Church.

Together with then-Interior Secretary Stewart Udall, Frank Church was the father and principal Senate sponsor of the National Wild and Scenic Rivers Act.

In those days, such legislation was a quixotic gesture. America had eclipsed other nations of the world in setting aside some measure of land as wilderness and extended protection for fish and wildlife in natural areas and alongside river corridors.

In pushing for legislation which recognized the unique role of rivers in our lives and in our landscapes, Stewart Udall and Frank Church allowed each of us to return to a particular river which flowed through our backyard and nurtured us through childhood—the memories of our fist fish, the torment of our first flood.

If their notion of selecting segments of our Nation's outstanding rivers for protection might then have been grounded by dreams, their actions are now anchored by reality. There is the reality of science, of finding ways of utilizing our natural resources to sustain communities within their natural surroundings.

There is also the reality of preserving a way of life which people value, and that seems to be at the heart of protecting the Lower Salmon River in my State.

The river corridor is remarkable. Idaho has a long history of competing with West Virginia as the whitewater capital of the world—a war which we are winning with much thanks to the Middle Fork. Main, and lower segments of the Salmon River.

Idaho battles in other arenas to prove its rivers to be the most remarkable in the Nation. In this case, my thought is that the designation of the Lower Salmon would contribute toward the full protection of the longest free-flowing river, without dams, in the Lower 48. A so-called expert told me I was wrong: that's the Yellowstone River. That expert reported back about the existence of a small dam on the headwaters of the Yellowstone River.

And so I'm right about the Salmon and glad to be encouraging a wild and scenic designation which would add significant protection to a free-flowing, 425-mile and as-yet-without-dams river system. The 150 miles which would remain unprotected are currently being studied jointly by the Bureau of Land Management and the USDA Forest Service as further—and for the Salmon final—additions to the National Wild and Scenic Rivers System.

The Lower Salmon flows from the community of Riggins, ID, to its confluence with the Snake River on the Idaho-Oregon border. It contains the physical evidence and sacred sites of ancient pathways for native Americans. As cultural history has evolved, the oral history and physical resources of the Lower Salmon have evolved as a fundamental element of traditional, as well as contemporary, Indian life in the Pacific Northwest.

And in history, the Lower Salmon provided much the same struggle against the elements for Asians who are now a substantial foundation in the Oregon and Idaho economic and social community. Brought unwillingly to this harsh land, shanghied Chinese ancestors endured their lives, pulling from the Lower Salmon corridor the mining and agricultural products from which they gained a real economic foothold throughout the Pacific Northwest.

As its name suggests, it remains today as a major—if struggling—habitat for spawning salmon. It sustains a sturgeon fishery and habitat which is probably equalled only by Oregon's Rogue River.

But today, the issues seem to be defined by personal values—a mixture of its spectacular natural geography, as well as the debate which surrounds the reasons for which people who were born along the Salmon River, continue to live along the Salmon River. And the reasons for which a few people who moved from urban areas in Idaho and elsewhere to the Salmon, don't wish to be followed by hordes of other urban refugees.

There are no specific and current threats to the corridor of the Lower Salmon River, but the kinds of trespass and development which have threatened other attractive rural communities are not going to be made welcome.

The question along the Salmon is, "Where do we go from here?" It's a question which plagues many rural and primitive areas of America which are rapidly becoming uncontrolled targets for destination tourism and unwelcome development. Some have successfully protected traditional land uses through the wild and scenic destination of the river as a recreational corridor. Community leaders in Riggins and Idaho County are pulling together the best information they can find from those experiences.

Mr. Speaker, it is important that I not take credit for identifying the need for a plan and a public process to resolve this question. Nor is the idea of turning to the Wild and Scenic Rivers Act for protection and sustained use of the Lower Salmon an idea which I originated.

Idaho's senior Senator recognized the community's problem, as long ago as when he still served as a Member of this body. Senator GORE has pursued the question for several years in collaboration with Lower Salmon landowners. Federal river managers, and with others in the State who are decisionmakers in the future of our State's economy and cultural values.

In the last Congress, Senator Craig sponsored the initial legislation proposing to designate the Lower Salmon, which I was happy to cosponsor. That opened the Senator's individual discussions with Lower Salmon communities and the landowners along the river corridor to others in the State who feel they have a stake in the outcome.

Inevitably, the legislation raised new issues—problems related to current and prospective uses of the river, to the transportation system into the area—a lot of issues which are now on the table, as advocates of those issues are not at the table

The major stumbling block has always been scenic easements. We're closer today to real landowner protection than we've ever been in the history of Federal activities. There is a need to renew the legislative forum in order to move forward on that and all of the other issues.

Republican members of my House Committee on Natural Resources may well have found an appropriate and acceptable form of protections for landowners. These are words amended into legislation recently in work on another wild and scenic bill, on H.R. 914 to designate the Red River in Kentucky. With that language, we may be able to answer the as-yet-unresolved concerns of landowners along the Lower Salmon.

Much as I had hoped more progress on the Lower Salmon would be made by now in this now concluding session of Congress, I remain committed to the process.

Nonetheless, I can't help tonight but regret the passing of a symbolic opportunity. The debate about our utilization of natural resources and our protection of natural resources will rage forever, in Idaho as well as everywhere else in the world. Issue-by-issue, we will involve our people in reaching a decision which represents shared responsible use—working toward the best version of an outcome which we can achieve together.

A given in Idaho is the heritage of our rivers—their history, their resources, their potential for our future. I have disappointed many people tonight in not introducing wild and scenic legislation for the Lower Salmon. The letters are on my desk—people from Idaho who share the goal of protecting the Salmon River and who would have been glad of an opportunity to be part of a symbolic anniversary as well.

Legislation, however symbolic, would have renewed on this anniversary the tie of the Salmon River to Idaho's history. And if well-celebrated, anniversaries are also our transition into the future. I will spend the weeks ahead in Idaho and will return here in January. We'll move this opportunity forward.

INTRODUCTION OF THE HIV EMERGENCY SUPPLEMENTAL GRANTS AMENDMENTS OF 1993

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, I rise to introduce the HIV Emergency Supplemental Grants Amendments of 1993. This bill amends the way in which funding for the supplemental grant under the Emergency Relief Program regarding HIV is determined for each grant application by directing that the cities with the highest cumulative number of AIDS cases be given priority in the distribution of grant funding.

My district in New York City is in many ways at the epicenter of the AIDS epidemic. With over 48,000 cases of AIDS—the highest number of any city in the country—and over 29,000 more cases than the next highest city, New York City in 1993 was unfairly shortchanged in receiving its fair share of Ryan White supplemental grant funding. It was the original intent of Congress under the law that these moneys would go to the hardest hit cities. There is no city that is harder hit than New York. In the first 3 months of 1993, there were 4,069 new cases of AIDS reported in New York City, compared with 1,811 cases in the last 3 months in 1992. The growth of this epidemic in New York is prevalent.

Mr. Speaker, New York City is in dire need of adequate financial assistance, and this bill accurately reflects that need. For the sake of those cities hardest city hit by this deadly disease, I urge my colleagues to support this crucial measure.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the conference report on H.R. 3167, the Unemployment Compensation Amendments of 1993.

I strongly support extending the unemployment benefits program. While our Nation's economy is gradually improving, thousands of people in my congressional district are still out of work, and unable to find even part-time employment. In October, the State of Michigan had 322,000 people who were unable to find jobs. While this is a long way from the nearly double digit unemployment rates we faced last year, we must not forget those families who, through no fault of their own, are facing the terrible uncertainty of yet another month of electric bills and mortgage payments without a paycheck.

This bill extends the authorization for new claims of emergency benefits from its expiration date of October 2, 1993 to February 5, 1994. The extension will provide 7 or 13 weeks of extended benefits for workers who have exhausted their regular State benefits. States which have adjusted insured unemployment rates of at least 5 percent would be eligible for 13 weeks of extended benefits. The majority of States like Michigan, whose rate falls below this threshold, would be able to offer 7 weeks of extended benefits. The bill would reduce the deficit by $24 million over the next 5 years. This savings is achieved through two straightforward financing provisions: the institution of worker profiling, which will enable beneficiaries to find employment more rapidly, and by extending to 5 years from its current level of 3 years the amount of time that the income of the sponsors of legal aliens is taken into account in determining the alien's eligibility for Supplemental Security Income [SSI] benefits.

Mr. Speaker, more than a quarter million jobless workers have been denied extended benefits since the program expired on October 2. To have delayed this extension for over a month and a half is simply unconscionable. The conference committee was correct to remove the controversial provision added by the other body regarding reductions in the Federal work force. This provision will be thoroughly debated as the House undertakes its discussion on additional spending cuts. Consideration of an unemployment benefits extension is not now, and never was, the place to have such a discussion.

Our economy is improving, but hundreds of thousands of Americans still need and deserve our help. I urge my colleagues to approve this conference report. Thousands of jobless workers have waited too long already.

CANCEL THE SPACE STATION

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ROEMER. Mr. Speaker, this year, the House almost made history. By a vote of 215–216, the amendment I introduced with Congressman Zimmer and 19 others to end the space station program almost ended one of the largest tax dollar wastes in history.

Today, we have a new opportunity to restart the journey down the road to fiscal sanity. I am proud and pleased to be here today to reaffirm my support for eliminating measures that cost the taxpayers billions of dollars, yet have lost their merit for continued public support.

I strongly believe that what I and the 27 original cosponsors of this measure are trying to do is in the best interest of the country, the taxpayers and certainly of NASA and the American space program.

I am a strong supporter of the American space program. But I find it sad to see the productive, smaller space projects being shut down so that larger and larger amounts of funding are eaten up by a space station program that has cost about $11 billion already with no hardware to show for it.

We are told that this latest new design will cost over $19 billion additional dollars. However, this does not include the emergency crew escape vehicle, the equipment for the science experiments, or any potential cost overruns. The General Accounting Office has produced reports stating that these costs will be at least $10 billion more.

In addition, it is estimated that the operational cost to run the space station could run at or over $100 billion.

While I laud the administration's goal to reduce these costs and the necessary manpower by one-third, NASA's management history with this program does not inspire confidence that this can be done anytime soon.

In any case, we are still talking about a program that will cost the American taxpayer well over $100 billion.

Now we have the proposed joint United States/Russian space station effort. This is a phoenix rising from the ashes of the recent, failed U.S. space station redesign effort. Early this year, the President asked NASA to prepare three options for a replacement for space station *Freedom*, to cost $5 billion, $7 billion and $9 billion respectively. The result was five, not three options.

These options, in turn, evolved into space station *Alpha*, an amalgam of these five versions and the original *Freedom*. The pricetag: About $19.5 billion. Recently, NASA itself stated that the two countries did not have the resources to keep two space station programs going. Presumably, this is an admission that NASA knows we cannot go forward with a space station alone.

But this proposal to turn to the Russians for help is fraught with peril. The events of early October clearly demonstrate that the political instability in Russian could threaten the program. There remains great skepticism that the Russian launch facility, in the country of Kazakhstan, is in good working order. In fact, this facility known as the Baikinour Cosmodrome, is located in Leninsk, a crumbling city with no real resources.

Far too many questions remain unanswered. NASA has yet to determine or release any cost figures for this program, but continues to offer robust assurances that it will save money. NASA has yet to provide any public information on a dollar value of the Russian contribution, how much cash, hardware, and services the United States will be required to give the Russians, and how many United States jobs will go to Russian citizens.

In addition, all this hinges on Russian compliance with the Missile Technology Control Regime agreement. What if they break this pact? What if a new leader in 3 years refused to go along with it? It means the cancellation of a joint space station.

In fact, there are far too many questions to remain answered for the United States to be comfortable in signing any lasting agreements.

I am all for working with our former adversaries, and sharing our knowledge of important scientific issues. But NASA is not the place for a massive foreign aid program to Russia.

The United States and Russian space agencies have taken two large, difficult and complex space station programs, both of which cost huge amounts of money, neither which produces any quality science, and proposed to merge them, making them even more complex and riskier without increasing the promise of success or results.

It is time to end this program before it kills NASA and its mission. There would be no shame in admitting failure and going back to the drawing board. Pushing forward is an affront to the taxpayers and to good science.

I suggest that we allow NASA the time and resources to improve its management structure and redefine its mission first, rather than move ahead with a mammoth, multibillion-dollar program whose costs will almost assuredly go over-budget.

Mr. Speaker, the choice is clearer than ever. I urge my colleagues to support this bill.

CONGRATULATIONS TO JUDY AND CARL HERBET ON THEIR 50TH WEDDING ANNIVERSARY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ENGEL. Mr. Speaker, I wish to offer my heartfelt congratulations to my good friends, Judy and Carl Herbet, on the occasion of their 50th wedding anniversary.

Carl and Judy were married on December 11, 1943. Carl had been a firefighter in Oregon in the C.C.C. and served in the U.S. Coast Guard. For many years Judy worked for Metropolitan Life and Carl was enjoyed in the supermarket industry. They lived in my district in Bronx, NY before moving to Colorado. Judy and Carl are the proud parents of two daughters, Marilyn Pinsker and Susan Christopher. They have four beautiful granchildren, Rachel, Aaron, Daniel, and Jason.

Judy and Carl have enriched the lives of their families and neighbors through their active participation in the community. Their love of children has prompted both of them to volunteer at the Eisenhower Elementary School in Boulder, CO. They are deeply committed to their synagogue, the Bonai Shalom Congregation of Boulder, and their neighbors and friends are appreciative of all the good work they have accomplished.

I join with their daughters, grandchildren, and sons-in-law Jerry Pinsker and Paul Christopher in wishing them a happy 50th wedding anniversary and many more years of health and happiness.

INTRODUCTION OF THE SUPERFUND LIABILITY REFORM ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BOUCHER. Mr. Speaker, last December at his economic conference in Little Rock, then President-elect Clinton said he was "appalled by the paralysis" of the Superfund Program and "by the fact that the money's being blown."

The President was right. The Superfund Program is in deep trouble. In a recent editorial, the Washington Post said, "Of all the environmental laws that Congress has written in the past two decades, Superfund is the most deeply flawed and troubling. It was created to do a necessary job—to clean up hazardous waste dumps. But it is generating intolerable injustices and needs to be fixed." Superfund, the Post concluded "has become notorious for inequity and inefficiency, giving a bad name to a good cause."

The principal source of the inequity of the Superfund Program and the primary cause of the program's failure is its liability system. It is a harsh, punitive, and unfair system that has set off a chain reaction of lawsuits, leading to the meltdown of the entire cleanup program.

Mr. Speaker, today I am introducing the Superfund Liability Reform Act, legislation which will break the cycle of wasteful litigation and will help refocus the Superfund Program on its intended purpose. I am pleased to be joined by the gentleman from Michigan [Mr. UPTON] in offering this measure.

The Congress is now working closely with the administration to fashion comprehensive reform of the Superfund Program. There are many complex matters to discuss in the context of Superfund reform. We are introducing the Superfund Liability Reform Act today to stimualte discussion with regard to the liability provisions in the hope that this proposal will serve as the foundation for a new and more equitable liability structure as we draft comprehensive Superfund reform next year. We fully expect that constructive refinements in the proposed structure will be made as these discussions progress.

The National Advisory Council on Environmental Policy and Technology [NACEPT], which has been meeting for many months under the auspices of the Environmental Protection Agency, has carefully examined the many problems of the Superfund Program and has reached general consensus on the means to address many of those problems. The legislation we are introducing today embodies the framework of recommendations coming from the NACEPT discussions regarding Superfund liability reform.

NACEPT identified certain essential aspects of reform of Superfund's liability system, including the need to expedite the determination of liability of parties at each Superfund site, the need to allocate shares of liability fairly among those parties and need for a neutral and impartial third party to make the liability determinations. The EPA, the environmental community and a wide array of stakeholders at Superfund sites, all of whom were represented in the NACEPT process, agreed on those principles. The bill I am submitting today creates a new system of liability which encompasses those principles and reflects the consensus of the group.

The bill reforms the current system of joint and several liability by allocating shares of liability to ensure that liable parties will pay only their fair share of cleanup costs. Liable parties that accept their assigned shares are released from further liability for cleanup costs. This feature will help minimize, and hopefully eliminate the time-consuming and expensive cycle of litigation which exists today.

The assignment of shares of liability for each site would be determined by a three-member panel of specially trained administrative law judges. To make its determination, each allocation panel would consider the so-called Gore Factors, principles developed by Vice President GORE in 1980 during the original Superfund reauthorization when the Vice President was a Member of the House of Representatives. The Gore Factors include the degree to which a party's contribution of hazardous substances to a site can be distinguished, the amount of hazardous substances contributed by a party, the degree of toxicity of those substances, the degree and nature of a party's involvement at the site, and whether a party cooperated with Federal, State or local officials in preventing harm to public health or to the environment. The Gore Factors, which passed the House of Representatives in 1980 but were not incorporated into the Superfund statute as enacted, provide very sensible criteria for determining each party's share of liability for cleanup costs.

The allocation of shares of liability would be a final, binding allocation of all recoverable response costs at a site and would be subject only to limited judicial review. Any challenge to the binding allocation of responsibility would be filed in U.S. District Court. Unless the court finds the allocation decision to be arbitrary and capricious, or that the challenging party is not liable as a matter of law, the unsuccessful challenger would pay all attorneys' fees incurred in defending the challenge and would be held liable for the costs of the orphan share at the site. This strong disincentive to appeal the decision of an allocation panel would limit unnecessary judicial review, expediting the final determination of liability and greatly reducing transaction costs for liable parties.

Although liable parties would no longer be jointly and severally liable for all cleanup costs at a Superfund site, this legislation retains a critical aspect of joint and several liability for the EPA to use an enforcement tool. Under the bill, the EPA would still retain its authority to impose liability on a party to perform the entire cleanup at a hazardous waste site, but that party would retain the right to collect from other liable parties their respective assigned shares of the cleanup costs.

Liable parties which are insolvent, defunct or unknown are called orphan parties, and the legislation provides for the orphan shares to be paid by the hazardous substance Superfund. The EPA will have a strong incentive to bring as many parties as possible into the allocation proceeding for each site in order to reduce the size of the orphan share. In addition, for each site the EPA will designate a guardian of the fund who will ensure that all liable parties pay their maximum fair share and protect the Superfund from covering too large of an orphan share.

The legislation places a moratorium on cost-recovery litigation at all national priority list sites pending the allocation of shares of liability at each site. No cost recovery action, no governmental enforcement action, and no contribution action could be filed with respect to any national priority list site until 90 days after a binding allocation decision is issued.

There would also be simple and swift enforcement of the binding allocation decisions. Liable parties would be obligated to pay promptly and manage the cleanup efforts, or face substantial civil and criminal sanctions.

A recent study by the Rand Corp. found that one-third of all the money spent by potentially responsible parties at Superfund sites went toward legal fees and other costs not related to the cleanup of the sites. The study revealed that 60 percent of the money was spent on these transaction costs in some cases. Lloyd S. Dixson, one of the authors of the report, said the finding "raises doubts whether Superfund's liability approach as currently designed is an efficient way to clean up the Nation's hazardous waste sites."

After studying this matter in depth and for some time, I am convinced the current Superfund liability system is inefficient, wasteful, and in need of wholesale reform. The legislation I am introducing today will lead to more efficient cleanups of hazardous waste sites and will discourage excessive litigation and the evasion of responsibility.

The Superfund Liability Reform Act maintains the essential "polluter pays" principle established under the original statute, so that any party found to have polluted a site must help to pay for the cleanup. The legislation also encourages the EPA to bring the maximum number of potentially responsible parties to the negotiating table, minimizing the orphan shares assigned to the hazardous substance Superfund. It will also force the EPA and the States to do their homework, making them develop a more comprehensive body of information as to who is responsible for the hazardous waste at each site.

Mr. Speaker, we introduce the Superfund Liability Reform Act today to help move the debate forward, so that the Congress can complete the reauthorization of the Superfund program before the end of next year. This proposal has been very carefully crafted and enjoys substantial support from the private sector. Following this statement is a section-by-section analysis of the bill. I encourage my colleagues to examine this legislation closely and hope they can offer their support.

SUMMARY OF THE SUPERFUND LIABILITY REFORM ACT

The Superfund Liability Reform Act creates a new Title V to the Comprehensive Environmental Response. Compensation and Liability Act of 1980 ("CERCLA"). establishing a new process for determining the liability of potentially responsible parties at Superfund sites. The principal features of the bill are as follows:

LIABILITY FOR COSTS OF RESPONSE ACTIONS

Section 107(a) of CERCLA is amended to provide that a liable party at a National Priority List site shall be liable only for its assigned share of the cost of the response action at that site, as determined by the liability allocation process established under the new Title V.

Section 107(a) is also amended to provide that the assigned shares of "orphan parties," or liable parties which are no longer in existence, insolvent or unknown, shall be paid out of the Hazardous Substance Superfund.

LIABILITY FOR PERFORMANCE OF RESPONSE ACTIONS

Section 107 is clearified to allowed the Environmental Protection Agency to retain its enforcement authority to impose joint and several liability on any liable party to perform the entire response action at a National Priority List site. The party performing the response action retains its right to collect from other liable parties their respective allocated shares of the costs of the response action at the site.

LIABILITY WITH RESPECT TO RECYCLING TRANSACTIONS

A new Section 127 is added to CERCLA, providing that a recycling transaction shall not be construed as an "arrangement for the treatment and disposal" of hazardous substances [which would subject a party to liability under Section 107(a)] if the following conditions are met:

The material being used in the transaction meets a specification grade (referred to as "specification grade secondary material").

Such secondary material is used to make a new product and contains elements necessary to make such a product.

Such secondary material competes with a virgin material.

The production of the secondary material results in a substantial amount of the input material being made available for use as a feedstock to make a new product.

There is evidence of a market for the secondary material.

The secondary material does not include unnecessary hazardous substances introduced during recycling.

The secondary material consists primarily of metal, paper, plastic, glass, textiles or rubber.

Section 127 also requires the EPA Administrator to promulgate management standards applicable to the production or transfer of secondary materials used as a feedstock to make new products.

BINDING ALLOCATIONS OF RESPONSIBILITY

A new Title V is added to CERCLA, providing a process for allocating shares of liability for the costs of response actions at National Priority List Superfund sites:

General Provisions

Allocation Panels

The EPA Administrator appoints panels composed of three administrative law judges, called "allocation panels," which perform expedited proceedings to determine the liability of parties at National Priority List sites.

Qualification of Administrative Law Judges

Each administrative law judge on an allocation panel is required to complete at least 40 hours of education and training in the operation of the Superfund program and in the science of soil and groundwater contamination and the technology for treating such contamination.

Powers of Allocation Panels

Allocation panels shall have the power and authority to issue requests for information and for production of documents, to rule upon motions and offers of proof, to issue orders, to administer oaths, to examine witnesses, to admit or exclude evidence, to hear and decide questions of fact and law, to require parties to attend settlement conferences, to obtain or employ clerical and investigative services and computer information and database management services and to establish a document repository for all documents associated with the liability allocation proceeding.

Allocation panels shall also have the power of subpoena to collect all necessary or relevant information for conducting the allocation process, including the power to compel the attendance and testimony of witnesses and the production of documents.

Informal Rules of Evidence

The binding allocation process is not bound by the Federal Rules of Evidence, but instead is governed by the informal rules of evidence currently used by the EPA in its enforcement and permit revocation proceedings.

Service of Process

Documents are deemed served on a party if they are mailed to the counsel of record for the party or to the address designated by a party not represented by counsel.

Binding Allocation of Responsibility Proceeding

Initial Petition

Within 30 days after initiating the remedial investigation study for a National Priority List site, the EPA or the State where the site is located files a petition at the EPA identifying the site and the potentially responsible parties and summarizing the legal and technical issues specific to the site.

Guardian of the Fund

The petition includes the name of a person appointed by the EPA Administrator to serve as the guardian for the Hazardous Substance Superfund for the site in question.

Parties' Statements

Within 30 days after the filing of the initial petition, the EPA, the State, the guardian and any potentially responsible parties identified in the petition may file statements stating defenses to liability, equitable considerations pertaining to any party's liability, additional relevant facts and issues and the names of additional potentially responsible parties.

Information Requests/Production of Documents

Within 30 days after the filing of the initial petition, the allocation panel mails requests for information and for production of documents to the State, to the guardian and to all potentially responsible parties. All parties have 45 days in which to respond.

Addition of Potentially Responsible Parties

Within 120 days after the filing of the initial petition, any party may identify and nominate additional parties as potentially responsible parties.

Initial List of All Potentially Responsible Parties

Within six months after the filing of the initial petition, the allocation panel causes to be published in the Federal Register and in general circulation newspapers in the State wherein the site is located a list of all potentially responsible parties. The allocation panel may add new potentially responsible parties at any time before the issuance of the final decision allocating shares of liability among liable parties.

"De Micromis" Settlements

Within six months after the filing of the initial petition, the allocation panel issues a list identifying parties found to have contributed only a miniscule amount of hazardous substances to the site in question. A "de micromis" party may resolve its liability and may be released from further liability at the site by paying a premium of $1,000, which reflects the administrative costs and the cleanup costs to the federal government for the site for that party. The amount is earmarked in the Hazardous Substance Superfund to help cover the response costs at the site.

Advocacy Papers

Within 30 days after the publication of the initial list of potentially responsible parties, the guardian, the State and any potentially responsible party may file an allocation advocacy paper outlining the legal and factual criteria to be used in determining whether a potentially responsible party at the site is a liable party. Parties also have an opportunity to submit a second advocacy paper after the allocation panel's issuance of the first allocation report.

Allocation Reports

Within 90 days after the publication of the initial list of potentially responsible parties, the allocation panel issues an allocation report specifying the criteria to be used in identifying the liable parties and how such criteria will be applied to the case in determining assigned shares of liability for response costs at the site.

Following receipt of the second round of advocacy papers the allocation panel issues its second allocation report identifying all liable parties of the site and specifying the assigned share of response costs for each liable party.

Hearings

Any potentially responsible party may request a hearing before the allocation panel on the determination that the party is a liable party and on the determination of its assigned share. The allocation panel has the discretion to grant or deny such a request. Most evidence in the allocation process is offered through the submission of documents and not through hearings.

Determination of Orphan Share

The guardian, the State and each liable party may file an orphan share advocacy paper offering evidence as to which liable parties are orphan parties whose assigned share of response costs at the site should be assigned to the orphan share. Following receipt of orphan share advocacy papers the allocation panel issues an orphan share allocation report identifying the orphan share.

Determination of Non-Liable Parties

At any time during the period beginning six months after the filing of the initial petition and ending 18 months after the filing of the initial petition the allocation panel may issue a list identifying all potentially responsible parties determined not to have contributed any amount of hazardous substances to the site in question. Such non-liable parties are released from all future liability with regard to that site.

Final Binding Allocation of Responsibility Decision

Within 18 months after the filing of the initial petition the allocation panel shall issue a final decision listing all liable parties and the assigned share of response costs for each and all orphan parties and the total orphan share. The final decision is based on the following factors:

The degree to which each liable party's contribution to a discharge, release or disposal of hazardous substances can be distinguished;

The amount of hazardous substances contributed by each liable party at the site, compared to the total amount of hazardous substances at the site;

The degree of toxicity of the hazardous substances contributed by each liable party;

The degree of involvement by each liable party in the generation, transport, treatment, storage or disposal of the hazardous substances;

The degree of care exercised by each liable party with respect to the hazardous substances concerned, taking into account the characteristics of such hazardous substances;

The degree of cooperation by each liable party with federal, state or local officials to prevent any harm to the public health or to the environment;

The weight of evidence as to the liability and the appropriate shares of each liable party; and

Any other equitable factors deemed appropriate.

"De Minimis" Settlements

As part of the final decision or at any time before the issuance of the final decision, the allocation panel issues a list of all potentially responsible parties determined to contribute 1.0 percent or less of the total quantity of hazardous substances present at the site in question. Such "de minimis" parties may settle with the EPA Administrator by paying a specified amount based on the EPA's estimate of the total cost of cleanup at the site multiplied by the de minimis party's allocated share, and increased by a reasonable premium to reflect the benefit of an early and complete resolution of liability. The proceeds of the de minimis settlements go towards the cost of the response action at the site.

Judicial Review

The binding allocation of responsibility decision constitutes a final agency action under the Administrative Procedures Act. Any challenge to the final decision must be filed in U.S. District Court. Unless the court finds the allocation decision to be arbitrary and capricious or an abuse of discretion, or that the challenging party is not liable as a matter of law, the unsuccessful challenger must pay all attorneys' fees incurred in defending the challenge and is held jointly and severally liable for the orphan share of response costs at the site.

Collection and Enforcement

After the final allocation decision any party which has incurred response cost above the amount allocated to that party is considered a "creditor party" entitled to collect from "debtor parties" any or all of their shares of allocated response costs, depending upon the amount incurred by the creditor party. The creditor party is also entitled to collect from the Hazardous Substance Superfund amounts corresponding to the orphan parties' allocated shares.

Liable parties are obligated to pay their allocated shares promptly and to manage the cleanup efforts if ordered to do so by the EPA Administrator, or face substantial civil and criminal penalties.

Moratorium on Cost Recovery Litigation

No cost recovery action, no government enforcement action and no contribution action may be filed with respect to any National Priority List site until 90 days after a final binding allocation of responsibility decision is issued.

Transition Provisions

At all National Priority List sites where potentially responsible parties are performing CERCLA cleanup work at the time of enactment of this legislation, whether the work is pursuant to a consent order or an enforcement order, the potentially responsible party's obligation to perform the work and the deadline for completion of that work remain unaffected.

At all National Priority List sites where cost recovery, enforcement or contribution litigation is ongoing, such litigation is stayed until a binding allocation or responsibility decision is issued. Such a decision will conclusively determine the liability of all parties at the site. Litigation over other issues, such as EPA claims for civil penalties or private party claims based on contracts for insurance or indemnification, may resume following completion of the binding allocation process.

At National Priority List sites where one or more potentially responsible parties have been determined to be liable for all past and future response costs, no binding allocation process shall be performed and the prior liability determinations remain in effect.

At National Priority List sites where liability has been partially determined, the binding allocation process shall proceed and the allocation panel shall allocate liability for the costs of the entire cleanup. In doing so, the allocation panel shall give credit to each potentially responsible party for prior costs incurred or for prior work performed.

Voluntary Settlements

Prior to the issuance of a final binding allocation decision, any group of potentially responsible parties may offer voluntarily to cover 100 percent of the costs of the response action at the site in question. No costs may be borne by the orphan share for such voluntary settlements and no party which is not a signatory to the voluntary binding allocation of responsibility may be held liable for any response costs at the site.

New Binding Allocations of Responsibility

A binding allocation decision may not be changed or revised for at least five years after the date of the final decision. New binding allocation proceedings may be available only if a party demonstrates that, due to new information not reasonably available during the original allocation proceeding, at least a 35 percent increase in total waste-in volume has been discovered.

DRUG COMPANIES JOIN IN RELIEF EFFORT TO AID THE FORMER YUGOSLAVIA

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, this morning the first shipment of critically needed medicine donated 11 of the Nation's leading pharmaceutical companies left Andrews Air Force Base. Tomorrow it will arrive in Zagreb, Croatia. From there, the supplies will be distributed to 10 hospitals throughout Croatia and Bosnia by Project Hope. This shipment was the result of a major coordinated effort aimed at easing both the physical and mental trauma of the ongoing civil war in the former Yugoslavia.

I first realized the unique opportunity to organize a humanitarian assistance project when I received a letter from one of my constituents, Herb Ditzel of Garwood, who was seeking my assistance in obtaining drugs to help alleviate the suffering in the former Yugoslavia. Herb, one of the longest living survivors of childhood cancer, owes his life to living in a country that has the best medical treatment in the world. He wanted to make sure that children, caught in a tragic conflict halfway around the world, had a fighting chance for survival by having access to the advanced medicines produced in my home State of New Jersey.

When I turned to some of the leading pharmaceutical companies to participate in a coordinated humanitarian relief project, the response was instant and overwhelming. In fact, many of the pharmaceutical companies were already making contributions. I felt that by bringing together pharmaceutical companies in a coordinated program, we would ensure that more medicine, and more of the right medicine, would reach the people who need it most.

A number of the Nation's leading pharmaceutical companies—Schering-Plough, Merck, Hoffman-LaRoche, Hoechst—Rousell, Pfizer, Sandoz, Warner-Lambert, Bristol-Myers Squibb, Lederle Laboratories, Johnson & Johnson, and Glaxo—have agreed to pool their resources to help those suffering in the former Yugoslavia. The shipment that left today for Yugoslavia contains high-priority pharmaceuticals and medical supplies including: antibiotics, IV fluids and administration sets, diuretics, cardiovascular drugs, vitamins, surgical bandages and gloves, and other important pharmaceutical products and supplies.

Mr. Speaker, America's pharmaceutical companies have been the scapegoat for much of what is wrong with our health care system. However, this humanitarian assistance program to the former Yugoslavia is just one example of the pharmaceutical industry's concern for the health of people of all nations. I wholeheartedly thank those participating pharmaceutical companies and Project Hope for helping to make this humanitarian project a wonderful success.

INTRODUCTION OF A BILL TO ALLOW FOR INCREASED COBRA COVERAGE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, I rise today to introduce a bill which will expand current COBRA health insurance statutes, which allows the Government to pay for private health insurance premiums for those who need it most—those Americans with debilitating diseases like AIDS who may be unable to work, and unable to afford health insurance.

This bill will extend health coverage provided by COBRA to individuals with incomes of up to 185 percent of the Federal poverty level. Current law allows States to assume the cost of health insurance premiums for persons needing medical attention who have incomes of up to 100 percent of the Federal poverty level.

Today, hundreds of thousands of people suffer from debilitating and fatal diseases like AIDS and cancer. Often, these diseases prevent their victims from working, and maintaining financial self-sufficiency. Disastrously, they also lose their private health insurance unless they can afford to incur both the employer and individual monthly share of the premium. At a time when these individuals need health care coverage the most, the cost of care becomes an overwhelming expenditure to the victim.

It is estimated that as much as a third of the Nation's medical costs stem from care given in the final year of life. In many of these cases, health insurance becomes unaffordable just when individuals can least afford to lose it. Worse still, in order to become eligible for Government assistance under current COBRA eligibility requirements, these individuals must become completely impoverished. This is simply not acceptable.

This legislation provides a much needed remedy. My bill calls on the Government to provide greater assistance to more people to help maintain their private health insurance coverage. Although these individuals are above the poverty level, they are truly in need of assistance.

This bill will provide increased health security through the continuation of private health care for more people. It will ensure access to services, a better quality of life, greater emotional and financial security, and will also save billions of dollars annually.

Mr. Speaker, I look forward to the day when we have adopted a national health care system that will alleviate the emotional and financial crisis that comes with debilitating diseases. Until that occurs, however, we must address the unmet health care needs of victims of diseases such as AIDS and cancer. I call on my colleagues to recognize the importance of this crucial measure in providing greater health and economic security for Americans. I urge you to cosponsor this important legislation.

NATIONAL PARK SERVICE REFORM INITIATIVE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. VENTO. Mr. Speaker, today I am introducing a series of bills that both individually and collectively make needed changes and improvements to the natural, cultural, and recreational programs of the National Park Service [NPS]. Together these bills form an important National Park Service reform initiative to address pressing issues facing the heritage preservation policies of our Nation today.

NEW AREA STUDIES

The first bill I am introducing today is the National Park Service New Area Study Reform Act. This bill makes several important changes to the current process for studying new areas for potential addition to the National Park System. These changes will lead to improved quality of new area studies and enhance the process of expanding the National Park System.

The National Park Service is charged with the management of the Nation's most precious natural, cultural, and historical resources. The 367 areas which make up the National Park System are a diverse collection of parks, historic sites, memorials, monuments, seashores, battlefields, parkways, and trails. These areas and known throughout the world for their scenic beauty and historical significance. Each year, the areas which make up the National Park System are visited by over 260 million people.

Considering the exceptional quality of our national parks, it is our obligation to ensure that only outstanding resources are added to the National Park System. I disagree with those who say that our National Park System is complete and that nothing else should be added. In our National Park System, several important natural land forms and themes of American history and culture are underrepresented or not represented at all—as well as unique recreational resources that are of national significance. The National Park System needs the ability to expand in order to reflect the progression of history and to respond to a rapidly growing population. In expanding the System, great caution must be exercised in order to make sure that only high quality resources are included.

While Congress has the final say with regard to establishing new park units, it is the National Park Service which furnishes Congress with the information it needs to make these policy decisions. Congress relies heavily on these studies to make evaluations about the significance of an area and its suitability for being designated as a national park unit. Between 1976 and 1981 the National Park Service had a program of identifying high priority candidates for study. This program was terminated by the Reagan administration and for the past 13 years the National Park Service has not had a legislative program. In the absence of any initiatives coming from the National Park Service, Congress directed numerous studies of specific areas in authorizing legislation and appropriations earmarks. Earlier this year the National Park Service revived their new area study program and for the first time in 13 years they requested funds for studying several areas.

There are several problems with the current new area study process. First, there are three separate sources for new area studies. These sources are the National Park Service itself, the authorizing committees and the Appropriations Committees. There is no agreed upon process for ranking the priority of these studies, nor is there adequate funding to get all of them done. Because studies usually take 2 to 3 years, some studies are delayed indefinitely or worse yet are started and stopped in midstream because all available funding in a particular fiscal year was earmarked for another study. The quality of the studies ranges widely, as does the level of review and scrutiny by the Washington office of the National Park Service. It has been too easy for political considerations to get injected into the study process, and recommendations of professional planners are sometimes changed and tailored for political reasons. Studies come to Capitol Hill without any preferred recommendation, often leading Members of Congress to push ahead with legislation to establish a unit when the resource involved might not meet the appropriate criteria or to select an inappropriate option.

The legislation I am introducing would make several changes to the new area study process. First, it would amend section 8 of the August 18, 1970 act commonly known as the General Authorities Act to require that all new area studies be authorized by Congress through an authorizations process. This applies to any study conducted by the National Park Service which may result in action by Congress to establish a new park system unit, affiliated area or major expansion of an existing unit. It does not cover projects or studies that provide technical assistance to State or local governments or studies addressing wild and scenic rivers, national trails system units, or wilderness areas. The bill requires the National Park Service to submit on January 1 of each year a list of new area studies they would like to undertake. This list would contain the highest study priorities of the National Park Service. Congress would then have to enact legislation directing the National Park Service to conduct specific studies. If enacted, it is likely that many of the candidates for study would come from the National Park Service list, and that these may be joined together with other priorities of Congress in an omnibus study bill. The National Park Service would then have 3 years from the date of enactment to complete the studies. The National Park Service would conduct the studies using the national significance, suitability and feasibility criteria currently defined in the National Park Service management policy guidebook. These studies should reflect the highest possible professional standards and provide a clear recommendation to Congress. If an area fails to meet established criteria, the study should clearly state this finding. The studies would be forwarded directly to the authorizing committees of Congress by the Director of the National Park Service.

Several other measures to change the new area study process have been introduced and I know the Clinton administration has indicated its interest in making some changes to the way new areas are studied and added to the System. I am committed to working with interested Members and the Clinton administration in fine-tuning this bill and in setting a course to guide the future evolution of the National Park System.

STEAMTOWN NATIONAL HISTORIC SITE

Last year, the House passed legislation, H.R. 3519, to provide significant policy reforms for Steamtown national historic site in Scranton, PA. That legislation would have put the Steamtown Project back on track and provided much needed reforms in the operations and development of the site.

In the 102d Congress, the other body declined to act on that legislation. In the meantime, the development of Steamtown national historic site, including the construction of a pedestrian bridge linking this unit of the National Park System to a shopping mall—named the shopping mall at Steamtown—has continued. My concerns are such that, frankly, it may be highly desirable to transfer this controversial park unit to the Commonwealth of Pennsylvania or to some other entity capable of better managing it and pursuing the nonpark policies that occupy this site's troubled management. However, my first and primary concern is to correct past mistakes to the extent possible and assure that the site's management be in accord with other units of the National Park System.

The bill I am introducing is identical to the bill that passed the House in 1992 with the one exception that language has been added to cap operations funding and ensure that further development, construction, or related activities will not be authorized without a specific act of Congress. While such development is substantially completed, this provision will cap the already high costs of creating Steamtown national historic site. I introduce this bill because I believe it is high time to resolve the future of Steamtown national historic site. The House took responsible action on this matter last year and I hope to again have my colleague's support in making these necessary reforms in the project.

NATIONAL PARKS AND LANDMARKS CONSERVATION

Our Nation's identity is steeped in images from our national parks: the power of Old Faithful in Yellowstone, the majesty of halfdome in Yosemite, the vision of Independence Hall, the endurance of Chaco Canyon's prehistoric ruins. These are places of national and international significance. Our Nation and people have been shaped by these special places which have come to symbolize America. We all care deeply about our national parks and landmarks and take great pride in them; they embody the best this Nation has. The statute of Liberty, the Everglades, Gettysburg, the Grand Canyon—these and other national parks help define us as an American people. In addition to the national parks, there are 2,000 national historical landmarks and 580 national natural landmarks, which although not owned or administered by the national Government have been found to be nationally significant and need to be protected in perpetuity as well as congressionally designated National Park sites.

Having inherited such wonders, we can do no less than pass them on to our descendants in the best condition possible. But today these special places are at risk, threatened by human-caused and natural forces. Numerous articles and studies report the threats, stress, strains, and degradation on our national parks and landmarks. Such problems and transboundary.

Threats to these resources originate both inside and outside parks and landmarks. Some dramatic threats are easily recognized. But other threats, whose impacts are often even more serious, are subtle and insidious. Our responsibility extends to all these special resources, and against all such threats.

As part of my effort to reform the National Park Service, I am introducing "The National Park and Landmark Conservation Act." It will help ensure that these resources and the threats they face are responded to in a manner and way that is both thoughtful and effective. Over 75 years ago when the National Park Service was established, park managers sincerely believed that they could ensure that national park resources would remain unimpaired by carefully managing actions within park boundaries. Today we know that national parks and landmarks are embedded in their larger ecosystems, and in their larger societal contexts. They are affected by forces from near and far. Today we realize that the forces endangering our national parks and landmarks are both more powerful and complicated than had been suspected. There is every reason to believe that such threats to our heritage will only become more complex as we learn more about them. Some threats are completely beyond our human control. But many other threats are very much within our power to counter. Public policy should strongly encourage communities and individuals around parks and landmarks to cooperate in their protection from careless, uncontrolled and adverse development. The law and public policy emanating from our Nation should direct other national agencies to coordinate with national parks and landmarks so that national dollars aren't simultaneously spent to save parks and landmarks, while other spending adversely impacts such special resources. National policy can provide mechanisms to deal with emergency situations so that we can avoid the crisis we encountered 3 years ago when the Manassas National Battlefield Park was under threat of a suburban shopping mall.

For this reason, I ask Members of join me in providing a renewed, thoughtful, and sensible framework for national park and landmark protection. The legislation is premised on cooperation rather than confrontation. This approach to national park and landmark protection combines a through knowledge of these special places and their needs, with careful management and cooperative efforts to prevent crises, and to provide emergency tools for those times crises cannot be prevented.

We need the political will to act on our deep concerns for our natural and cultural heritage as embodied within our national parks and landmarks.

Today I am introducing comprehensive legislation that furthers the protection of these resources so that the fundamental goals and objectives of their designation, their use, and their enjoyment might be optimized in perpetuity. My legislation has five simple principles.

First, we must ensure that the National Park Service can manage the resources in its care in the most professional way possible. My legislation includes the Presidential appointment of a professional Director of the National Park Service with Senate conformation and with clear authority over the organization. The National Park Service should never again lend itself to service as a political pincushion. Neither the National Park Service or its personnel should be politically manipulated.

Second, we need to understand the conditions and needs of national parks and landmarks as accurately and fully as possible so that wise protection decisions can be made. The measure directs the National Park Service to maintain a dynamic research and data program concerning the condition of our national parks and landmarks and to use these insights to make appropriate management decisions.

Third, we need to establish cooperative mechanisms among national parks and landmarks and those organizations, individuals, and governmental entities that can be partners in their protection and public enjoyment. We must craft partnership with those who interact with national parks and landmarks, so that those who live near parks and landmarks and those held responsible for their management can jointly preserve and enjoy these resources.

Fourth, we must craft tools to handle emergencies when they arise. Once a bulldozer has scraped away archaeological resources or a species is extinct it is too late. The Congress cannot create natural or cultural resources. We can only designate—and when we do it must carry with it the inherent tools for the National Park Service to effectively discharge its stewardship duties. These are irreplaceable nationally significant resources and there are rare times when action to save them must be quick and effective.

Fifth, there should be consistency in Federal actions: common sense would dictate that national or State government agencies or their programs should not damage the national parks and landmarks that the National Park Service is entrusted by law to protect.

This legislation does not create buffer zones, impose draconian policies, or otherwise force a heavy governmental hand on areas near parks and landmarks. It recognizes that the preservation and interpretation of these special places is best a stewardship effort shared by all of us—a task of conscious cooperation, collaboration, and comity.

The National Park and Landmark Conservation Act includes all the units of the National Park System as well as all the national landmarks, places that have been designated for their national significance and physical integrity. These resources are irreplaceable. They contain some of the most precious treasures of America. They deserve our full care and attention. They are a natural and cultural legacy given to us by those who came before us; we are temporary guardians of that heritage for future generations of Americans. Seventy-six years ago people with great vision established the National Park Service. Over 100 years ago we began to set aside these special places. The preservation and conservation of our natural and cultural resources—America's crown jewels—is recognized as one of the best ideas our Nation ever had. Let's build upon that heritage and not allow it to be despoiled or decay. We all benefit from the early visionaries that preserved this heritage for us today. This legislation is intended to maintain the essence of such vision so that future generations, too, will be able to fully benefit from our national parks and landmarks—their American heritage legacy. By instituting these reforms today we will help ensure that inheritance for tomorrow.

AMERICAN HERITAGE PARTNERSHIP PROGRAM

Finally, I am introducing legislation to establish a heritage partnership program to reserve recreational, cultural, historic, and natural resources. Our Nation contains many geographically and thematically unified areas, which include significant resources worthy of preservation and conservation. In many cases, these areas are connected by greenways, trails, or natural corridors which could be the focus of innovative recreational management ideas. While such areas are important nationally, they may not meet the criteria for inclusion as units of the National Park Service, and may best be managed in a true Federal partnership with State and local governments and private entities.

In fact, the strong State, local, and private support these areas receive, and their diverse resources, indicate that national involvement, while welcome and necessary, should be limited. The professional expertise of the National Park Service can be useful in identifying and providing assistance for defining, establishing, and managing these important areas. However, the diversity of their resources, the ownership patterns, and the variety of uses and activities taking place, suggest that a true Federal partnership, wherein the national Government provides recognition and limited financial and technical assistance, and other entities through the State and local government manage and fund the largest share of the necessary preservation and interpretation, is the most appropriate method of preserving these areas.

Proposals for heritage areas or corridors have significantly increased in the past several years. Affiliated with the National Park Service, there are currently four such areas which have been recognized and funded with various levels of success. Budgetary reality suggests that limited funds will be available to accommodate existing units of the National Park System, and less will be available for establishing new national park units or proposed heritage corridor areas outlined in this proposal. This American heritage areas program would extend national preservation efforts in a new cost effective manner and would assure that new heritage areas or corridors will have been properly reviewed.

My proposal establishes an American heritage area partnership program within the Department of the Interior. Under this program, States would nominate areas eligible for inclusion in the program. Based upon a preliminary survey and determination by the Secretary that such an area is suitable, the nomination would require the approval of Congress. Upon AHACP designation, the Secretary would enter into a binding cooperative agreement with the State or its assigns to clarify respective State and Federal responsibilities for implementing a management plan for the area.

American heritage areas must include resources with demonstrated national importance, and a variety of natural, recreational, historic, and cultural resources and themes, and may be connected by natural corridors, greenways, or trails. The Secretary's approval must be based on these criteria and a demonstrated commitment by the State, local, and private organizations involved to operate and maintain the area on a long-term basis and to provide appropriate regulatory assistance in preserving the area. The area must be worth recognizing and preserving, and public and private entities involved must be willing to use such tools as zoning laws, alternative funding sources, and tax incentives to assure the restoration and preservation of resources within the area.

To participate in a cooperative agreement, the States and localities must provide assurances that such agreement will be implemented and followed, and must take such regulatory and financial actions to provide for the operation and maintenance of the resources. Federal funding of individual projects within the area would be contingent upon a 50 percent match and an agreement that changes in the project funding would require the Secretary's approval.

The American heritage area partnership program would be funded through the historic preservation fund. No new funding authorization would be required; this would merely authorize an additional purpose for existing available funds. The Federal contribution would be limited to $300,000 for each area for planning and technical assistance, and $3 million for capital improvements.

Mr. Speaker, Americans are increasingly interested in conserving and preserving natural areas and cultural symbols. There is also an increased understanding that resource preservation and economic viability are not mutually exclusive but compatible and mutually enhancing. Obviously, the national Government can neither own nor manage each property or area worthy of preservation. In these active communities containing a variety of resources, multiple management, and funding sources would be the most appropriate method of preserving and interpreting the nationally important resources and themes. The legislation I am introducing today provides national encouragement for protecting these assets without instituting a massive new Federal bureaucracy or providing significant Federal funding. The National Government will neither own nor manage the majority of resources assembled in these areas. These are dynamic, thriving communities, which with the assistance of the

National Park Service will maintain an appropriate balance between preservation and growth. I urge my colleagues to join me in this fiscally responsible resources protection initiative.

REMARKS ON PALAU COMPACT APPROVAL

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. UNDERWOOD. Mr. Speaker, in a plebiscite on November 9 the citizens of the Republic of Palau voted by an overwhelming margin of 68 to 32 percent to approve the Compact of Free Association between the Republic of Palau and the United States.

I congratulate the Republic of Palau on this historic vote. With the implementation of the compact, the United States terminates its trust relationship and fulfills its responsibility to grant self-determination and self-government to the Trust Territory of the Pacific Islands.

The people of Guam share the immense pride of the people of Palau on this historic occasion. As neighbors, we share their dream of a better world for their children, we share their confidence in the future, and we share their hope in the new Pacific era.

We also join the people of Palau in affirming the values stated eloquently in the Preamble of the Palau Constitution:

> We renew our dedication to preserve and enhance our traditional heritage, our national identity and our respect for peace, freedom, and justice for all mankind. We venture into the future with full reliance on our own efforts and the divine guidance of Almighty God.

STATEHOOD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CLAY. Mr. Speaker, I wrote these remarks more than 15 years ago and it is sad to think that they are still relevant today. I recall Dr. Martin Luther King, as he sought civil rights for black Americans, rhetorically posing the question—how long, how long must we wait before enjoying the fruits of full citizenship? This plaintive cry has not been answered especially for the citizens of our Nation's Capital.

On December 20, 1977, I wrote the following as my weekly column:

> Washington, D.C., a city of over 800,000 mostly federal workers, mostly black, stands out as a prime example of why many foreigners take America's boast of representative government as a farce. The District of Columbia, supposedly the citadel of the greatest representative democracy in the history of the world has no representatives in the affairs of the body that directly impacts their lives. They have been denied the fundamental right of electing members of Congress and have little control of the decisions in local matters. There are more permanent residents in D.C. than in 10 of our states (note: now reduced to three). Yet these residents do not have one voting member in either House of Congress.
>
> The people of D.C. are citizens in every aspect of the word. They are required to pay the same federal taxes as others. They must fight to defend this country. They must obey the laws of the land. However, the law which says that every citizen is entitled to be represented is totally ignored in their case. What a mockery. What justification can be advanced to continue this flagrant kind of colonialism just blocks from the White House?
>
> The ten states in the union which have populations smaller than that of the District have a combined total of 34 votes in Congress. Certainly no intelligent person would suggest that the citizens of Delaware, Montana or Alaska have made more significant contributions to the development or defense of this country than those in the District. Surely they would not argue that somehow the citizens of those ten states were destined by divine providence to enjoy constitutional rights while the residents of D.C. were not. It is absurd to even suggest such.
>
> So why don't we get on with the urgent business at hand? Why is it taking Congress so long to pass a constitutional amendment which would give the District of Columbia proportionate representation? I think the reason is apparent but I hesitate to state it publicly for fear the anti-busing, anti-affirmative action, anti-open housing clique would accuse me of racism.

Now, Mr. Speaker, 16 years later I ask as did Dr. King, "how long, how long?"

UNIVERSAL HEALTH CARE FOR OREGONIANS ACT OF 1993

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. WYDEN. Mr. Speaker, over the past several years, as the Federal Government has failed repeatedly to come to agreement on a package of national health reforms, States have taken the undisputed leadership role in devising strategies to expand access to health insurance and contain the growth of health costs.

The States have been widely praised for this pioneering work by Members of Congress on both sides of the aisle. Both current and previous administrations have hailed these ground breaking States as laboratories of democracy. And there is good reason for such enthusiasm. Over the years, many of our most cherished Federal institutions got their start in State programs, including Social Security, Medicaid, and child labor laws. More recently, the health care reforms that began two decades ago in New Jersey paved the way of the Medicare hospital reimbursement system reforms of 1982.

Now there is an unprecedented opportunity for achieving health reform on a national scale. Last Saturday, November 20, the majority leader introduced President Clinton's Health Security Act, H.R. 3600, to begin formal consideration of national health reform in Congress. I believe that this legislation has many positive features and the President and the First Lady deserve a great deal of credit for all their efforts. But enactment of the President's bill will not mean the States will suddenly become less important to health care reform. In fact, if H.R. 3600 is enacted promptly into law, the new system it ushers in will be one built on a rapid expansion of State health reform activities, not a sudden shift to Federal control.

Under these circumstances, the worst thing Congress could do is create uncertainty that undermines State action toward achieving universal health insurance coverage. Congress needs to send a message to States that they will be able to continue with their reform efforts, but within the context of a national system. I believe Congress must also prepare for the possibility that the defenders of the status quo will try to stall the enactment of comprehensive health reform, or that its provisions may be amended to provide for a protracted phase-in of universal coverage.

No matter what happens, the wisest course for Congress to take would be to reward State innovation in health reform, and firmly reject proposals that would reverse or punish States for their innovation in extending health insurance to the uninsured.

In my home State of Oregon, the Oregon Health Plan will begin to provide a solid package of essential health benefits to 120,000 uninsured low income persons in just 3 months' time. Another 303,000 uninsured workers will be covered through the State's "play or pay" employer mandate many months before the Health Security Act can be fully implemented—even if there are no further delays in the enactment or phasing-in of that Federal legislation.

Oregon is not alone. Millions of uninsured Americans living in diverse States, including Washington, Florida, Maryland, Minnesota, Tennessee, Vermont, Ohio, and California, will benefit from State health reforms before national health reform can be put into place. These vulnerable citizens need our help to assure, first, that they receive health insurance coverage as quickly as possible, and second, an orderly transition from State health reform to national health reform.

Unfortunately, Federal law is smothering many of the State health reform programs that would help the uninsured pay for health care they and their families require.

While the Clinton administration has made good its commitment to grant waivers to innovative State Medicaid programs, there is no legal process for a State to obtain a waiver from section 514(a) of the Employee Retirement Income Security Act of 1974 [ERISA], which preempts State authority to regulate or tax certain employee health benefit plans.

This is no small technical problem. Courts have held repeatedly that the broadly-worded ERISA preemption provisions prohibit any State reforms which relate to self-insured group health plans. Far from receiving the careful congressional consideration appropriate to such a sweeping Federal claim over State consumer and worker protection authority, these provisions were drafted hastily toward the end of ERISA's consideration in Congress. ERISA's overbroad Federal preemption language was possible in part because it was enacted at a time when health costs were much more manageable for business, labor, and States, and when State health reforms were rarely enacted into law.

But today, more than half of the U.S. work force is employed by employers who are beyond the reach of even the most enlightened State health reforms, as a result of the sweeping preemption provisions of ERISA. Today, according to reports and testimony from the General Accounting Office [GAO/HRD–92–70], this ERISA preemption is a major hurdle that will be impossible for States to overcome unless Congress provides for selective ERISA exemptions for appropriate States.

Mr. Speaker, I would ask permission to include in the RECORD the executive summary of GAO's findings at the conclusion of my remarks.

In putting together this legislation to grant the State of Oregon a limited exemption from ERISA's preemption clause, I have sought to reach a balance among the interests involved in this debate. For example, I understand that any ERISA exemptions for States must be granted within the context of expected national health reform. In this bill, therefore, the State of Oregon would eventually be brought into the national health system likely to be enacted by this Congress, but Oregon would be allowed to come into the new system after it is fully established. In this way, I believe Congress can recognize and reward the State of Oregon for the substantial investment made by the State and its citizens in establishing its own system for covering the uninsured.

In addition, this bill and the Oregon Health Plan itself are careful not to jeopardize the self-insured employer health plans responsible for insuring so many Oregonians. While the ERISA exemption is critical to achieving universal coverage under the Oregon Health Plan, self-insured health plans in Oregon would feel little impact as a result of the full implementation of the Oregon Health Plan, because the State has adopted a "play or pay" approach. Self-insured health plans are already "playing" in the health care market, and would face no new obligation to "pay."

I wanted to take fully into account the concerns of these employers about future legislation, however, so my bill provides for equitable treatment of employers in the event that the State were to consider levying some form of assessment on employer based health plans at some point in the future, as a means of achieving universal health insurance coverage. Specifically, the ERISA exemption granted by this bill would require that any such assessment or tax be broadly based, and would prohibit any discriminatory assessment on employer health plans.

This provision is intended to prevent State tax levies from being imposed on too narrow a base. If States were to finance their health reforms solely through taxes on the ERISA plans, these taxes would rapidly become too burdensome on employers that already carry not only the burden of providing health insurance to their own employees, but also pay their competitors' employees' health costs through cost-shifting. This is precisely the circumstances that caused the demise of the long-established New Jersey system, and I can see no reason to duplicate that in Oregon.

No legislation is perfect upon introduction, and this bill, seeking to address a profoundly complex problem as it does, is certainly no exception. I offer this legislation to my colleagues and to States and organizations representing employers and employees in the hope that they will analyze and comment on it, and help me to perfect it over the months during and following the sine die adjournment.

Mr. Speaker, I thank my colleagues for their attention.

EXECUTIVE SUMMARY

PURPOSE

Providing health care to every American has become one of the most serious problems facing the nation. The number of individuals without—or with inadequate—health insurance is increasing, while the cost of providing care is growing. Chairmen John Dingell and Ron Wyden asked GAO to report on state initiatives to address the problems of access and affordability in the health care system and federal barriers that limit state options to achieve universal access to health care.

BACKGROUND

State governments have a major stake in financing and providing health care. States are concerned about the growing proportion of their budgets devoted to health—they already spend an average of 20 percent of their total budgets on health-related programs. Yet in some states, almost one-quarter of the population is uninsured.

In responding to the health care crisis, states are constrained by their budgetary problems. In addition, state reforms must comply with federal laws and regulations. The Employee Retirement Income Security Act of 1974 (ERISA) preempts state authority to regulate self-insured employer health plans. While ERISA primarily reacted to problems dealing with the solvency of employer-sponsored pension plans, its impact on employer-provided health benefits has grown as more firms have self-insured for health benefits. Over half of U.S. workers are employed in firms that self-insure, and states cannot require such employers to provide a specific health plan or pay state-imposed premium taxes. In addition, if a state wants to integrate the Medicaid program with a state plan, it needs federal permission to do so.

RESULTS IN BRIEF

States have taken a leadership role in devising strategies to expand access to health insurance and contain the growth of health costs. One hurdle that is difficult for states to overcome, however, is the restrictions imposed by ERISA's preemption clause. This clause effectively prevents states from exercising control over all employer-provided insurance. Hawaii, in part because its law requiring employers to provide health insurance took effect before ERISA war enacted, is the only state with an exemption. Even its exemption, however, has frozen the Hawaiian law in its original form, preventing state officials from making the improvements they would like to make.

Other states that have tried to move toward coverage of all their citizens have had to work within ERISA's constraints. One strategy, used by Massachusetts and Oregon, has been to create "play-or-pay" systems that rely on the State's power to tax. Employers are required to pay a tax to help finance state-brokered insurance; if they provide health insurance to employees, they generally receive a credit for the amount they spend on coverage. These laws, however, are expected to face legal challenges based on ERISA, and the outcome is uncertain.

Some state incentives have been more narrowly focused, creating programs to assist specific groups, such as low-income children and adults. These have successfully extended coverage to some residents, but state budgetary constraints have limited the programs to serving a small fraction of the uninsured population.

State efforts to help the medically uninsurable and small business employees gain access to coverage through the private health insurance market have also achieved modest results. In addition, while most States have concentrated on expanding access, a few have implemented payment reforms to control medical inflation and reduce administrative costs. Maryland, for example, has lowered cost growth through its hospital rate-regulation system.

GAO'S ANALYSIS

Hawaii approaches universal access with help of ERISA exemption

In some States, debate no longer centers on whether to set a goal of ensuring universal access to health care coverage, but on how to achieve it. Hawaii was the first state to try to extend coverage to all its residents, and its uninsured rate is the lowest of all the states. The principal tool that has allowed Hawaii to approach universal access is its 1974 law requiring employers to provide health insurance for full-time workers. Hawaii is able to enforce this requirement because its 1974 law is statutorily exempt from the ERISA preemption provisions. State requirements that virtually all employers provide insurance and that insurers cover all employees reduce uncompensated care and cost shifting. Most residents not covered by employers or Medicaid are eligible for a State-subsidized insurance program with less extensive benefits. Hawaii officials would like to refine their system, but the ERISA exemption precludes the state from modifying its existing employer-mandate law.

Massachusetts faces delays and obstacles

States adopting universal access plans more recently did not have Hawaii's option of requiring employer-provided insurance and had to devise other approaches. When Massachusetts enacted its package of reforms in 1988, it designed a play-or-pay provision that requires employers to pay a tax to a state-brokered health insurance fund. Employers that provide health insurance to employees may generally deduct their costs for providing the insurance from the required contribution. Although the play-or-pay system was specifically designed to be compatible with the requirements of ERISA, state officials are not sure whether it would withstand a legal challenge. Implementation of the play-or-pay requirement has been delayed until 1995. Programs targeted to specific uninsured groups—such as unemployed workers and disabled people—have been implemented and made some progress in expanding access to insurance, but tight budgets limit their effectiveness.

Oregon's comprehensive approach requires Federal waivers

Oregon, too, when exacting a comprehensive package of initiatives in 1989, chose a play-or-pay mechanism in the hope of avoiding an ERISA problem. Its requirement will go into effect in 1995, unless private market reforms are successful in reducing the uninsured population. One of the state initiatives is a Medicaid expansion that extends Medicaid benefits to all residents with incomes below the poverty level, including those who would not normally qualify for federal funds. Certain health services in the current benefits package would no longer be covered. The

Medicaid expansion requires a number of waivers from the federal government, and implementation of the play-or-pay requirement cannot proceed unless the state obtains the waivers needed to carry out the Medicaid plan. A decision on the waiver request is expected in June 1992.

New reform efforts in Minnesota, Florida, and Vermont

Proposals to achieve universal access continue to be developed in the states. Recently, Minnesota, Florida, and Vermont enacted comprehensive reform packages. Minnesota's initiative includes a provider tax to finance subsidized health insurance for low-income uninsured residents and measures to contain costs. Minnesota and Florida may seek ERISA exemptions to give them more flexibility.

Programs for low-income populations expand access incrementally

Instead of adopting comprehensive plans, some states have opted for programs targeted to specific uninsured groups, such as children. One in five American children lives in poverty, and one-third of poor children lack health insurance. Several states have created programs to assist these children. Access for low-income children is expanded through state-subsidized private health insurance, such as Minnesota's Children's Health Plan, or expanded Medicaid eligibility, such as Vermont's Dr. Dynasaur program. Both approaches successfully expanded access to some uninsured children, but there remain many uninsured children in both states who do not qualify for assistance.

Low-income adults, many of whom fall into the category of the working poor, are another population states have targeted with insurance and Medicaid expansion initiatives. Washington's Basic Health Plan (BHP) provides subsidized health insurance, and the Maine Health Program expands Medicaid eligibility. Budget constraints limit the extent to which these programs reach the target population: BHP enrolls fewer than 20,000 of the estimated 450,000 eligible, and Maine's programs have never covered more than 11,400 of its 113,000 uninsured.

States try to expand access to private insurance

Most states have also adopted measures to make it easier for people with high-cost health conditions and small business owners and employees to obtain affordable health insurance in the private market. Almost half the states have created high-risk pools to make insurance available to the medically uninsurable—people who cannot obtain conventional insurance because of their medical conditions—and to spread the risk of covering them among all insurers in the state. The funding base for the pools is limited because, as a result of ERISA constraints, the insurance assessments that supplement individual premiums do not apply to self-insured companies.

To address problems in the small business insurance market, states have adopted a broad range of initiatives, including subsidies and regulatory reforms, that attempt to make insurance more affordable and accessible. Thus far, most of these efforts have had only a modest effect on the number of small firms newly offering health insurance to their employees.[1]

Payment reform helps control costs

While most states have focused their attention on expanding access to coverage, some have made efforts to control increasing costs. Through changes in methods for reimbursing providers, these states attempt to limit the health care system's cost growth and administrative burden. Since 1972, Maryland has operated a hospital rate-setting system that provides for nearly uniform payments by all insurers. During this period, Maryland hospital costs per admission fell from 25 percent above the national average to 10 percent below.

In an attempt to reduce administrative costs, New York State is now implementing a system to coordinate health care billing and payment procedures. The Single Payer Demonstration Project is expected to reduce claims-processing costs for participating hospitals.

MATTERS FOR CONGRESSIONAL CONSIDERATION

States are hampered by the ERISA preemption provision, which makes it difficult to design and implement innovative health care reforms. If the Congress wants to give states more flexibility to develop comprehensive reforms, it should consider whether to amend ERISA so that the Department of Labor can give states a limited waiver from ERISA's preemption clause in order to develop innovative approaches to employer-based health insurance. The Congress could define minimum standards—governing such factors as benefits packages, extent of coverage, and terms under which the waiver might be revoked—that a state must meet to receive and maintain such a waiver.

AGENCY COMMENTS

As requested, GAO did not obtain written agency comments on this report. GAO discussed the report with Department of Labor officials, who did not agree with our suggestion that the Congress consider amending ERISA to give states greater flexibility in developing comprehensive health care reforms. They believe that it is important (1) to maintain a voluntary approach to employee benefits and (2) to preserve the ability of employee benefit plans to serve employees in many jurisdictions without becoming subject to differing state laws. Because the comprehensive reform efforts of states are a response to perceived shortcomings in the voluntary system, GAO continues to believe that the Congress should consider giving states more flexibility.

THE REASONS WHY MANY IN OUR SOCIETY OPPOSE NAFTA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, at the height of the debate over NAFTA, the New Bedford Standard Times ran an extremely thoughtful piece expressing the reasons why many in our society oppose NAFTA as vigorously as they did. One fact which was underlined during this debate was the extent to which class divisions remain in our society, and to which people in different social and economic classes fail to understand each others real needs and fears. This editorial by the Standard Times is an articulate, thoughtful and rational discussion of the concerns that many anti-NAFTA opponents have, and it is presented in the way in which fundamental policy debates ought to be conducted: forcefully, but in a manner respectful of the opposition. Because I think it does make an extraordinarily useful contribution to a debate that has not ended with NAFTA, but will continue over the next few years until we resolve the underlying issues, I ask that this editorial be printed here.

TRADE PACT DEBATE OPENS NEW TERRITORY FOR AMERICAN POLITICS

Politics in America may never be the same after the debate over the North American Free Trade Agreement. Weeks of intense arguing forced into the open some issues that economists knew were out there, and many people at the local level in "Rust Belt" cities have been dealing with for years.

But the NAFTA debate was more than talk, more than speculation. People had to sort out their priorities and decide whether their old political allegiances made sense anymore. When Bill Clinton pushes for a trade deal forged by Republicans and backed by big business, he made a serious breach with organized labor—but not all of it. The service and government unions didn't get their backs up about NAFTA as much as the industrial and farm unions did. "Big Labor" will take some redefinition in the future, depending on the subject involved. And Democrats can't necessarily count on it.

Rep. Barney Frank noticed something significant about the NAFTA debate that others have sensed as well: That this is a class issue. For about a generation, people with relatively little education but a good work ethic and skilled hands could make a reliable, respectable living in American industry. Today, though, the American dream is slowly slipping away from them as the jobs disappear and any new growth appears in areas where better-educated people pursue careers in areas that the older, less-skilled group can't hope to match.

This is the problem facing such places as Greater New Bedford, as it tries to make the transition into a new world economy. What are we going to do with all the people who depended on the old one? Are they simply disposable?

NAFTA didn't address that problem, and so far neither does the Clinton administration, although as a candidate Bill Clinton made some noises in that direction. Labor Secretary Robert Reich expresses understanding of the problem, but offers little in the way of real hope. Commentators such as Russell Baker of The New York Times phrase it in dramatic ways, pointing with dismay to the ruins left behind when capitalism moves on. Some economists dryly insist that this is the way the world has always worked, that nothing is going to change it, and we might as well get used to it. Screenwriter Paddy Chayevsky's cynical monologues about capitalism in the 1974 movie "Network" are replayed today and ring truer than ever.

But this is The United States of America, not just any country. Are we helpless to help ourselves? Aren't we supposed to be a bit beyond the idea that we are carried wherever the currents take us? The natural currents of capitalism didn't accidentally build this great country, did they? Doesn't some of our fate rest in our own hands? And isn't NAFTA a conscious decision to row with the current, to accelerate the inevitable, to stand out of the way of what we cannot stop?

If that's the case, and we are making conscious decisions to discard the opportunities and the dreams of perhaps millions of Americans because others will profit even more in the end, shouldn't this great country offer the economic outcasts anything more than a gold-plated watch and a map to the door?

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[1] For a more detailed discussion of state efforts to modify the health insurance market for small businesses, see Access to Health Insurance: State Efforts to Assist Small Businesses (GAO/HRD-92-90, May 1992).

When this newspaper looked closely at the economy of this area, we saw on a small scale many of the same issues that confront much of the nation. To their great credit, many creative, optimistic and intelligent people have rededicated themselves to building a new local economy. One of the jobs they will face is the plight of those who are being left behind as the old economy migrates. It's a perplexing problem with few clues to the answer.

But at least we're trying.

If President Clinton wants to keep his job in the next election, and if the two political parties want to maintain any credibility with a rightfully scared segment of the population, they had better get to work on breaking the fall for those who will pay the price for their world-conscious trade decisions. If doing so isn't the American way, we may begin to question the American way itself.

OPPOSING UNFAIR TOBACCO TAX

HON. THOMAS J. BARLOW III

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BARLOW. Mr. Speaker, I am unalterably opposed to the exorbitant excise tax increases the administration has proposed on tobacco products. The cigarette tax will drastically reduce quotas and punish the farmers of western and southern Kentucky who have made their living growing burley tobacco since the State was first settled. The effect this tax will have on the rural communities in my district cannot be overstated. In Kentucky, pensioners pay their bills, students pay their tuition, and farmers pay their taxes with money earned through backbreaking labor on tobacco—the number one cash crop in my State. These communities would be devastated by the proposed cigarette tax.

The proposed taxes on smokeless tobacco products will be even more damaging. The proposal increases taxes on the two main smokeless products—chew and snuff—10,000 and 3,000 percent respectively. Mr. Speaker, I do not recall ever before having heard a proposal to increase any tax by 10,000 percent. It is unreasonable and unfair.

The dark tobacco used in smokeless products is grown predominantly in western Kentucky and Tennessee. The farmers of these counties are being asked to absorb reductions of 10 to 30 percent of their incomes as a result of these taxes. No farmer can absorb that kind of loss, and the towns and industries that rely on these farmers for revenue and business cannot either. Tobacco is the lifeblood of Kentucky agriculture and many of the communities of western and southern Kentucky. I support the hard-working tobacco farmers and workers of our country, and I will work hard to defeat these outrageous tax proposals.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 23, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 2

9:30 a.m.

Governmental Affairs

Regulation and Government Information Subcommittee

To hold hearings to examine the use of new technologies to improve Government service and reduce costs.

SD–342

DECEMBER 15

9:30 a.m.

Indian Affairs

To hold hearings on S. 1216, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation.

SR–485

JANUARY 27

2:00 p.m.

Indian Affairs

To hold hearings on H.R. 734, to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona."

SR–485

HOUSE OF REPRESENTATIVES—*Monday, November 23, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At all the moments that span our days during all the times of opportunity and disappointment, whenever we wonder or worry, our hearts are grateful, O loving God, that Your spirit is ever with us. May each person, whatever the task or duty, be worthy of the high calling to which we have been called, to do justice, to love mercy, and to walk humbly with You.

Now may the Lord bless us and keep us.
The Lord make His face shine on us and be gracious to us.
The Lord look upon us with favor and give us peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. WALKER] lead the House in the Pledge of Allegiance?

Mr. WALKER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

AUBURN UNIVERSITY IS PEOPLE'S POLL CHAMPION

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, pretty soon the coaches poll and sportswriters poll will declare their choices for America's 1993 national champion in college football. This is the people's House, so today, on behalf of the people's poll, I am declaring Auburn University, which has completed its season with an unbeaten, untied 11 and 0 record, America's 1993 national champion. Warrrrrr Eagle.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE HOUSE HAS COMPLETED ITS BUSINESS OF THE SESSION

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 324) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 324

Resolved, That a committee of two Members of the House be appointed to wait upon the President of the United States and inform him that the House of Representatives has completed its business of the session and is ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as Members of the House to the committee to notify the President, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Illinois [Mr. MICHEL].

RE-REFERRAL OF H.R. 3600, THE HEALTH SECURITY ACT, TO COMMITTEE ON EDUCATION AND LABOR

The SPEAKER. Without objection, the bill, H.R. 3600, the Health Security Act, is re-referred to include among the titles referred to the Committee on Education and Labor part 1 of subtitle C of title V.

There was no objection.

LAYING ON THE TABLE HOUSE RESOLUTION 317 AND HOUSE RESOLUTION 321

The SPEAKER. Without objection, House Resolution 317 and House Resolution 321 are laid on the table.

There was no objection.

NEED FOR REAUTHORIZATION OF NEW YORK STATE'S CHILD ASSISTANCE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY], is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, I rise to bring to my colleagues' attention the urgent need to extend the authorization of New York State's historic welfare reform demonstration known as the Child Assistance Program [CAP]. The House approved a reauthorization of CAP as part of the OBRA 93 bill, but the measure was deleted by the other body on procedural grounds.

In the Omnibus Budget Reconciliation Act of 1987, Congress authorized CAP to enable New York State to test groundbreaking strategies in the area of welfare reform. Since that time, the New York Department of Social Services has conducted a highly successful and nationally significant demonstration project in seven New York counties, testing strategies for encouraging work and self-sufficiency among welfare recipients.

Earlier this month, Gov. Mario Cuomo released the results of a 2-year independent assessment of CAP that reported impressive successes in increasing the average earnings and work hours of CAP participants. CAP also succeeded in significantly increasing the rate of participants who obtained child support orders. All this was achieved while the average amount of cash assistance to CAP participants declined.

These results indicate that there are real and effective alternatives to the present welfare system, and that government can supplement rather than supplant the efforts of single parents trying to improve their children's lives.

Early in the next session I plan to introduce welfare reform legislation which draws on some of the lessons of CAP. However, in order for this program to continue to provide important information about welfare reform, it is essential that Congress move to reauthorize this demonstration effort before it expires at the end of March 1994.

Mr. Speaker, I submit for the RECORD the executive summary of the 2-year assessment of CAP.

EXECUTIVE SUMMARY

The New York State Child Assistance Program (CAP) is a demonstration program operating in seven New York counties. The program was conceived and developed by the New York State Department of Social Services (SDSS), and approved by the U.S. Departments of Agriculture and Health and Human Services under provisions of Section 9122 of the Omnibus Budget Reconciliation Act of 1987, Section 1115 of the Social Security Act, and Section 17(b)(1) of the Food Stamp Act.

CAP was designed as an alternative to the Aid to Families with Dependent Children program (AFDC), the nation's primary public assistance program for poor families with children. CAP intends to promote both the immediate and long-term prospects of children in AFDC single-parent families while requiring that their parents—both custodial and noncustodial—take responsibility for supporting their children to the best of their ability. CAP offers single-parent AFDC families a unique financial aid and social service package that includes: incentives for parents to work and assist with child support enforcement efforts; individualized case management services; less burdensome administrative requirements; and financial assistance supplementing parental contributions.

CAP's incentives and services are intended to alter the behaviors and circumstances of

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AFDC recipients. If the program is successful, it will: Motivate and help clients to increase their earnings; motivate and help clients to obtain complete child support orders; allow clients to raise their income above the poverty level even before becoming independent of assistance; and allow clients to attain enough income from earnings and child support and accumulate enough resources to move into sustained self-sufficiency.

Based on two years of clients' exposure to CAP, the evaluation finds that CAP had significant positive impacts on clients' earnings, support orders, and total income. CAP had no positive or negative impact on clients' receipt of public assistance during the first two years, and the program's long-term effect on self-sufficiency cannot yet be determined. CAP generated clear net financial benefits to clients over the two years at no cost to the government; in fact, net government expenditures declined slightly.

The following pages summarize the rationale, design, and results of the CAP demonstration. The full report presents more detail and discussion on all of these points.

CAP RATIONALE: AFDC HAS BEEN LARGELY INEFFECTIVE IN HELPING SINGLE-PARENT FAMILIES EXIT FROM POVERTY

Much of the basic rationale and program concept for CAP stems from an investigation of the relationship between poverty and economic dependence conducted by the New York State Task Force on Poverty and Welfare. One of the Task Force's findings was that poverty is heavily concentrated in children, particularly children in single-parent households. A second major finding was that the Aid to Families with Dependent Children program (AFDC), which was originally established to provide temporary income support for single mothers with children, has been largely ineffective in helping single-parent families become self-supporting or exit from poverty.

The Task Force found several features of AFDC to limit its effectiveness as an anti-poverty program. First, combined AFDC and food stamp benefits do not normally raise a family above the poverty line. Second, AFDC regulations provide no meaningful incentives for earnings. Third, because the labor market for entry-level or part-time workers with minimal skills typically offers low wages, job instability, and limited or no employee benefits, single parents with children may be financially better off receiving AFDC than working.

In the view of the Task Force, the problems of the AFDC program are compounded by a trend in the administration of welfare programs which has increasingly separated eligibility determination from social service. AFDC line staff are generally responsible for determining the eligibility and benefits of recipients, rather than providing the supportive services, job search assistance, and skills training which could promote economic independence.

CAP WAS DESIGNED TO OVERCOME THE OBSTACLES TO SELF-SUFFICIENCY SEEN IN THE AFDC SYSTEM

CAP is a voluntary program. Only single-parent families that are currently receiving AFDC may enroll. To qualify for CAP, the AFDC case must include a custodial parent and at least one child of an absent parent.

To motivate clients to increase their work hours and earnings, CAP offers a dramatically different treatment of earnings than AFDC. AFDC benefits are reduced by nearly a dollar for each dollar of earnings, once the client has worked more than four months. CAP benefits are reduced by only 10 cents for each dollar of earnings below the poverty level, and by 67 cents per dollar when their income surpasses the poverty line. CAP families may achieve incomes as high as 150 percent of the poverty level before losing program eligibility.

Grant levels are based on the number of children in the family who are members of the AFDC case and are covered by a court-issued order of child support. Children who are not eligible for CAP cannot receive AFDC while the family participates in CAP. The custodial parent therefore has a direct financial incentive to try to establish orders for every child in the family. CAP participants receive program assistance in obtaining child support orders and upgrading their current support orders.

Employment is not a prerequisite to participation in CAP, but the CAP grant will exceed the AFDC grant only when the family has substantial earnings. If all of the children in the family are covered by support orders, and therefore can be included in the CAP grant, monthly earnings of about $350 are needed for CAP to be financially advantageous. If one or more children in the AFDC case are not covered by support orders CAP may still be advantageous but at a higher level of earnings.

To further assist participants' efforts to become self-supporting, CAP eliminates the AFDC resource rule that prohibits clients from accumulating more than $1,000 in assets (including any equity value of a car exceeding $1,500). To encourage self-reliance and remove stigma, CAP provides food stamp benefits by check (commonly referred to as cashout) rather than coupons. CAP also eliminates the restricted shelter and energy vendor payment system commonly used in AFDC in New York State, so that CAP participants must be more actively involved in managing their own household budgets.

Finally, CAP features intensive case management. CAP workers are expected to handle caseloads of about 50 cases, on average, compared to caseloads several times as high for AFDC caseworkers. CAP case managers provide advice and assistance to help clients qualify for CAP and move toward self-sufficiency.

THE CAP DEMONSTRATION IS AUTHORIZED TO OPERATE IN SEVEN COUNTIES THROUGH MARCH 1994

The Child Assistance Program is authorized to run in seven local Department of Social Service districts from October 1988, through March 1994.[1] A mixed evaluation design includes non-experimental sites, to study CAP operations under normal operating conditions, as well as experimental sites that rigorously test the program for its impacts on participants.

In four counties—Albany, Allegany, Chautauqua and Ulster—enrollment is open to all eligible single-parent AFDC families, and for this reason they are referred to as saturation counties. The three remaining counties—Monroe, Niagara, and Suffolk—are participating in an experiment designed to measure CAP's effects on participations, and its costs and benefits. In these experimental counties, AFDC cases were randomly assigned to treatment and control groups. Members of the treatment group were informed of CAP, and invited to participate if they met the program's eligibility requirements. Control group members were not permitted to enroll in CAP for the duration of the demonstration.

THE IMPACT EVALUATION FOCUSES ON THE THREE EXPERIMENTAL COUNTIES, IN WHICH AFDC RECIPIENTS WERE RANDOMLY ASSIGNED TO TREATMENT AND CONTROL GROUPS AND CLOSELY TRACKED

The SDSS has contracted with Abt Associates, a research firm based in Cambridge, Massachusetts, to conduct the evaluation of the demonstration. The evaluation comprises four major studies: an impact study, a cost-benefit study, an implementation/process study, and a food stamp cashout study. This report presents the findings of the impact and cost-benefit studies. It is based on data covering the first two years of recipients' exposure to CAP.

One cannot determine whether CAP has its desired effects simply by measuring outcomes for CAP participant. Client outcomes under CAP must be compared to the outcomes that would have occurred in the absence of CAP. The most scientifically accepted way to make this comparison is to assign clients randomly to treatment and control groups and to compare the two groups' outcomes. This is the procedure used for the CAP evaluation. All members of the treatment group were offered the opportunity to enroll in CAP at any time they qualified and wishes to participate. Members of the control group had no such opportunity.

CAP impacts are measured by comparing the full treatment group with the full control group, including clients participating in CAP (in the treatment group only), those participating in AFDC, and those no longer receiving any form of assistance. We cannot measure separately the impact on those people who participate in CAP. In effect, the treatment-control comparison averages CAP's impact on participants with its (presumably much smaller) impact on non-participants (weighting the two impacts according to the number of participants and non-participants.

The three experimental counties (Monroe, Niagara, and Suffolk) had a combined total of about 18,000 AFDC cases that would be potentially eligible for CAP—that is, cases consisting of a custodial parent and one or more children of an absent parent. From these, the SDSS randomly selected about 4,300 cases, assigning half to the treatment group and half to the control group. The selected clients were approximately equally divided among four key subgroups: Those who already had some earnings and at least one support order when they were selected; those who had earnings but no support orders; those with at least one support order but no earnings; and those who had neither earnings nor support orders.

Three kinds of data were collected for each case. As the selected cases entered the demonstration, caseworkers administered a Background Information Form to record characteristics of the clients and their households. For each month thereafter, SDSS automated files provided information on assistance benefits and child support status. Finally, in follow-up surveys conducted one year and two years after selection, clients reported on their employment and earnings for the previous twelve months.

The two-year study period does not allow us to observe all of CAP's impacts. At any point after the demonstration's first few months, we would expect to find the treatment group clients divided into three types: those who have not yet enrolled (including those who will never enroll); those currently participating in CAP; and those who have completed a spell of CAP participation and either left welfare or returned to AFDC. Relatively few people completed the full cycle of CAP enrollment and participation with the two years. Thus the findings mainly reflect the experiences of clients who have not yet enrolled in CAP or who are currently participating.

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[1] At this writing, the possibility of extending this authorization for another five years is under discussion.

THE DEMONSTRATION POPULATION IS REASONABLY REPRESENTATIVE OF THE SINGLE-PARENT AFDC CASELOAD IN THE NATION

Virtually all of the AFDC recipients in the experimental sample are women. Most have one or two children, and half have at least one child less than three years old. Half of the clients had received AFDC continuously for two years or more when they entered the sample, and almost all were receiving food stamps as well as AFDC. Just over half had graduated from high school. About 40 percent are white, about the same number are black, and most of the remainder are Hispanic.

Very few clients (less than 3 percent) entered the experiment with enough earnings and child support orders for CAP to be immediately advantageous over AFDC. Although most had some work experience, only one in ten was employed in the month they entered the sample, and just one in twenty earned $350 or more that month. Half had at least one support order, but a third had orders for all of their children. Most of those without orders were never married to the absent parent, most had no contact with the absent parent, and most had an absent parent who lived out of state or whose location was unknown.

The three counties' caseloads differed in some potentially important ways. Monroe's clients appeared to face the greatest obstacles to participation in CAP. They had the youngest children and were the least likely to have ever married, obtained any support orders, finished high school, or ever worked for pay. Niagara's clients, in contrast, seemed the most likely to meet CAP's entry criteria. Niagara had the highest proportion who were employed as they entered the study and the highest proportion who had ever married, obtained support orders, or graduated from high school. Suffolk's caseload was more comparable to Monroe's than Niagara's

To the extent that comparable figures are available, the profile of the experimental sample appears quite similar to that of the national AFDC caseload. The sample also resembles in most respects the caseload in upstate New York (i.e., excluding New York City). The exceptions include higher percentages in the experimental sample of black and Hispanic clients, never-married clients, and clients with a child under age three, than in New York's upstate AFDC population as a whole. These differences reflect the generally urban nature of the experimental counties, while much of upstate New York is more rural.

TEN PERCENT OF TREATMENT GROUP MEMBERS PARTICIPATED IN CAP, ALTHOUGH MORE WOULD BE EXPECTED IN A NON-EXPERIMENTAL PROGRAM

CAP participation not only is voluntary, but requires most clients to take substantial steps to obtain earnings or child support order before they enroll. Thus it is to be expected that many AFDC recipients would never enroll in CAP. The 10 percent enrollment rate observed in the experimental counties is almost certainly lower than it would be in a non-experimental program, however, because the research design constrained CAP recruitment efforts.

Although CAP participants were limited in number, their characteristics were diverse. The need to obtain earnings and support orders did not exclude any major segments of the AFDC population (apart from those excluded by definition, such as two-parent families). Clients whose situation might make it difficult to obtain complete support orders, such as having an out-of-state absent parent, did have lower than average participation rates.

Clients who had some earnings and at least one support order when they entered the experiment were, not surprisingly, the quickest to enroll and had by far the highest participation rate. Only about 6 percent of clients already had earnings and orders, however, so they did not dominate the enrollee group. The majority of CAP enrollees (55 percent) had at least one child support order but no earnings when they entered the experiment.

LOCAL IMPLEMENTATION WAS CRITICAL TO CAP PARTICIPATION

Only 4 percent of the treatment group enrolled in CAP in Suffolk County, while the Monroe and Niagara had enrollments of 12 and 16 percent, respectively. Moreover, nearly half of the enrollees in Suffolk were clients who already had some earnings and support orders when they entered the experiment.

Effective recruitment is usually critical in voluntary programs. One might have expected it to be less important CAP, a program that offers immediate, automatic, and clearly defined financial benefits. However, CAP participation clearly depended heavily on CAP workers convincing clients that it was worth responding to the program's incentives. In Monroe and Niagara, CAP had a clear priority in the county Department of Social Services, workers implemented systematic and relatively intensive follow-up contacts with prospective clients, and the program was effectively presented to clients as being an attractive alternative to AFDC. These factor proved very important in motivating clients to take steps to qualify for CAP.

CAP RAISED CLIENTS' AVERAGE TOTAL EARNINGS FOR THE TWO YEARS BY 27 PERCENT

Members of the control group had average monthly earnings of $133 over the two years, with the average climbing throughout the period. More people worked in the treatment group and they worked more hours, on average. Thus treatment group members earned $37 more per month, on average, an increase of 27 percent.

CAP's impact grew over time, from 21 percent in the first in the year to 30 percent in the second. The gap between the treatment and control narrowed somewhat and seemed to level off toward the end of the period, but the future course of CAP impacts cannot be determined.

CAP had its greatest impact in Monroe, raising the two-year average income by 53 percent. Apparently because Niagara already offered an extensive array of employment and training services to AFDC recipients, average earnings in the control group almost kept pace with treatment group earnings. No significant impact was seen in Suffolk, probably reflecting the low CAP participation rate and the high proportion of CAP enrollees who already had earnings when the experiment began.

CAP did not induce people to sacrifice job quality in a quest for immediate earnings. On average, treatment group member's jobs provided equal or higher wages and health benefits than control group jobs. There is evidence, however, that some treatment group members were forgoing education and training activities, presumably to seek earnings quickly.

CAP LED TO 25 PERCENT INCREASE IN THE CHANCE THAT A FAMILY WOULD OBTAIN SUPPORT ORDERS FOR ALL CHILDREN WHO LACKED THEM

When they entered the experiment, nearly two-thirds of all clients had at least one child not covered by a support order. Control group members got new orders at a steady but quite slow pace. On average over the two years, 14 percent of the control members who initially had a gap in orders had filled the gap.

Treatment group members filled in their missing orders in greater numbers and at a faster pace. Over the two years, the proportion of families that had gained complete orders averaged about four percentage points higher than the proportion in the control group—a 25 percent improvement. Some of this increase appears to represent additional orders, orders that the custodial parent would not have sought in the absence of CAP. Some of the increase probably stems from client and CAP worker pressure to speed up orders that the clients would have obtained ultimately even without CAP.

The CAP effect was very large in Monroe (55 percent), but not statistically significant in either Niagara or Suffolk. The Monroe CAP hired a former Child Support Enforcement program worker, who worked aggressively with prospective participants to pursue orders that would help them qualify for CAP. In Niagara, where nearly twice as many clients started out with complete support orders, obtaining new orders had a somewhat lower priority. Suffolk's generally less effective implementation again led to no significant impact.

THE INCREASE IN SUPPORT ORDERS DID NOT LEAD TO A STATISTICALLY SIGNIFICANT INCREASE IN SUPPORT PAYMENTS DURING THE STUDY PERIOD

There is some evidence that the impact on orders can translate into increased child support income: statistically significant impacts on support payments were found in both Monroe and Niagara for clients who began the experiment with some earnings and at least one support order. Average support payments for the full treatment group were not significantly different from the average for the control group.

It seems likely that some of the "extra" support orders generated by CAP would not otherwise have been pursued because they would call for relatively low payments. These orders have potential future value if, for example, the absent parent's income rises and the award amount is adjusted upwards. This process did not generate statistically significant gains during the study period, however.

CAP CAUSED NO SIGNIFICANT INCREASE OR DECREASE IN THE AMOUNT PAID IN ASSISTANCE BENEFITS DURING THE TWO YEARS

Average assistance payments declined over the two years as clients slowly left AFDC and CAP. The decline for treatment group members followed almost exactly the same path as that for the control group, producing no statistically significant difference in average payments for the population as a whole.

The absence of an increase in assistance payments is somewhat surprising, because some planners assumed that CAP's more favorable treatment of earnings would lead to higher expenditures. Apparently CAP induced enough increases in earnings to counterbalance this aspect of the benefit formula.

When various assistance programs are considered singly, no significant differences are found for cash assistance (CAP, AFDC, and Home Relief), for Medicaid eligibility, for Emergency Assistance, or for Services.[2] CAP reduced average monthly food stamp benefits by $4 or 3 percent over the two years, because average earnings increased while cash assistance payments remained level. When benefit payments for these programs[3] are combined, CAP showed no significant effect on average payments.

CAP INCREASED TOTAL TWO-YEAR FAMILY INCOME BY 4 PERCENT AND SIGNIFICANTLY INCREASED A FAMILY'S CHANCE OF HAVING AN ABOVE-POVERTY INCOME

Total monthly discretionary income in the control group averaged $977 over the two years. This includes the client's earnings, other family members' earnings, cash assistance benefits, food stamps, child support payments, and income from other government sources (such as Social Security). Because the treatment group had higher average earnings, total monthly income for treatment group families averaged $41 or 4 percent higher than the control group average, a statistically significant difference.

The positive effect was concentrated in Monroe and Niagara counties. In Suffolk, where CAP participation was low and CAP did not affect earnings or child support orders, total income was likewise unaffected.

In addition to raising average incomes, CAP helped some families achieve incomes substantially above the poverty level. Families in the treatment group were 18 percent more likely than those in the control group to have incomes exceeding 125 percent of the poverty line.

THE NET RESULT OF ALL CAP'S COSTS AND BENEFITS WAS AN AVERAGE CLIENT INCOME GAIN OF $36 PER MONTH AND AN AVERAGE GOVERNMENT SAVINGS OF $2 PER MONTH FOR EACH FAMILY IN THE TREATMENT GROUP

CAP's principal effect on families' economic circumstances was to bring about a $37 increase in the average monthly earnings of clients in the treatment group. A series of small impacts on assistance benefits and other sources of income essentially cancelled each other out, leaving a net gain of $36 per family per month.

CAP's net effect on government expenditures was very close to no effect at all. The largest single impact was an increase in administrative costs amounting to about $7 per month for each family in the treatment group. This was offset by small reductions in cash assistance and food stamp payments and a small increase in child support collections for cases on assistance. The net result was a reduction in total government expenditures of about $2 per family per month.

The net cost-benefit result differed across the three counties. Clients' income gains were larger than the overall average in Monroe and Niagara but near zero in Suffolk. Government costs were reduced by several dollars in Monroe and Suffolk, but increased in Niagara. In Niagara, where much of the gain in client income stemmed from higher assistance payments, the clients' income gain was still larger than the government's extra cost.

CAP'S POSITIVE IMPACTS FOR CLIENTS AND THE GOVERNMENT ARGUE FOR SERIOUS CONSIDERATION OF THIS APPROACH TO WELFARE REFORM

CAP's impacts compare favorably in many respects with the impacts that have been documented for other welfare reform approaches. In particular, the gain in client earnings with CAP equals or surpasses the gains documented with employment and training programs, the most widely tested approach of the past decade. Because CAP's goal is to boost client incomes before they leave public assistance as well as afterward, CAP did not generate reductions in assistance payments as quickly as most employment and training demonstrations. Yet because its administrative costs were relatively low, CAP apparently paid for itself more quickly, while providing clients with more immediate income gains.

Such findings do not suggest that CAP is a "silver bullet" solution to the welfare dilemma; however, they indicate that CAP offers meaningful improvements relative to the current system, and that elements of this approach may merit more widespread consideration in forming welfare policy.

WAR CRIMES AND GENOCIDE IN THE FORMER YUGOSLAVIA

The SPEAKER. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 60 minutes.

Mr. HOYER. I rise today to discuss the prospects for bringing to justice those who have planned, perpetuated, and taken part in war crimes, crimes against humanity, and even genocide in the former Yugoslavia.

As my colleagues here know, for more than a year and a half I have been calling for the establishment of an international tribunal empowered to bring individual wrongdoers to justice.

Many in this body have called for the same. If we are in a new world order, it will be a world in which international crimes are not committed without justice being applied.

Last week, we were brought one step closer to this goal. Eleven judges were sworn in, who pledged to impose legal sanctions on those who have shocked the conscience of humanity with the atrocities they have committed in this conflict in the former Yugoslavia.

Mr. Speaker, if in the 1930's, when genocide began, we had had the oversight of the international community and the commitment to call to account those who would treat their fellow human beings so savagely, perhaps, just perhaps, millions of lives might have been saved.

Mr. Speaker, I realize, of course, that the obstacles this tribunal faces are daunting. So daunting, in fact, that its inaugural meeting has been met with doubt in many quarters as to whether it will be able to meet the goals set for it in its statute. In fact, I must confess that I share some of those concerns.

The tremendous delays experienced during the election of judges and the appointment of the chief prosecutor are indicative of the barriers erected by those at the U.N.—both within the U.N. bureaucracy and among the U.N. member states—who did not want this tribunal established at all and, frankly, I think do not want it to succeed now.

Although the Security Council had pledged to reflect the diversity of "the world's legal systems" in the election of judges, the final panel confirmed by the General Assembly includes only two women and, inexplicably, not one single Moslem. Efforts to select a chief prosecutor were equally disheartening: The Security Council deadlocked twice before it could reach agreement on a third nominee, reflecting the lack of a common sense of purpose in that body. Even today, the tribunal still has insufficient resources, insufficient staffing, and insufficient support from the members of the Security Council itself.

In spite of all this, I am not and I hope others are not—prepared to say that this tribunal cannot succeed, because I believe that many of the problems it faces can be addressed, in part if not totally. The United States must continue to lead the way, both in terms of the information we make available to the tribunal as we have to the Commission of Experts and in terms of financial resources, material, and expert staffing. In this regard, I know of no other country that has provided as much support for this effort as has the United States.

But even we can do more. The United States should undertake an interagency review of its classified materials in order to determine if critical information on war crimes has been unnecessarily withheld.

We know for a fact that this had occurred in the post-World War II history of this country.

This information should be made publicly available to the United Nations, as have previous reports on war crimes prepared by the United States. In addition, the United States should seek to make available to the court and to the chief prosecutor experts of the highest caliber, drawing not only from within its own ranks, but from the nongovernmental community as well.

□ 1210

In this way, the United States can set a positive example for other countries whose proclaimed support for prosecuting war crimes has not yet been translated into positive deeds.

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[2] This refers to a set of five social service programs available to welfare recipients: Child Protective Services, Adult Protective Services, Adoption Services, Title XX Child Care, and Domestic Violence.

[3] Medicaid and Services payments are not included because they reflect events that are highly variable from case to case and month to month. CAP had no impact on the percentage of months in which clients were eligible for Medicaid or the percentage of months in which they received Services.

But perhaps the most consequential undertaking that awaits the United States and the other Members of the Security Council is the adoption of provisions for the apprehension of alleged war criminals. Cooperation with the tribunal, established under chapter VII of the U.N. Charter, is required by all countries; but we know from experience that not all countries will, in fact, cooperate.

It is imperative, therefore, that consideration be given today—not next week or next month or year—for the establishment of a specific regime to which recourse can be made by the Security Council to implement the warrants for arrest, detention, surrender, or transfer of persons sought for trial by this tribunal. No country must be permitted to become a safe haven for those indicted for war crimes.

Let it be true of international law that those who harbor, protect, and further the criminal enterprise of those who commit genocide against the peoples of this world, let them, too, be branded equally guilty of such heinous crimes.

An undertaking of this scope is unprecedented, of course, and will require innovative approaches to be successful. Indeed, innovative approaches will be essential if a new world order is to be realized. It is conceivable that the Conference on Security and Cooperation in Europe could play a significant role in this process, possibly contributing to the formulation of such a regime or its ultimate implementation.

Some have suggested that this kind of planning will, in the end, be unnecessary. They imply that the perpetrators of these crimes have not left a documentary paper trail that would enable any court to convict them. Of course, few murderers do. I do not believe, however, that without a written confession we can never bring people to justice. In many of the cases arising from this war, I believe there will be ample evidence to issue indictments and arrest warrants; and in many of those cases, I believe convictions can and will be sustained.

For starters, we have the graves of thousands of noncombatants—civilians, neighbors like ours, children like ours, mothers like ours, fathers like ours, sisters like ours, brothers like ours—who were purposely, willfully, and criminally killed in the war in the former Yugoslavia.

The U.N. Commission of Experts, working with Physicians for Human Rights, has been engaged in the arduous process of gathering forensic evidence on graves such as these, evidence that may ultimately link silenced victims with their living killers.

We also, of course, Mr. Speaker, have survivors, eyewitnesses, and a significant body of intelligence about what troops were where, and when—placing the suspects, if you will, at the scene of the crime.

In particular, Mr. Speaker, I believe the chief prosecutor of the tribunal can and should immediately launch investigations into those figures about whom the most information has already been gathered.

Mr. Speaker, anonymity for war criminals is an important aspect for their success.

I would like to name briefly here some of those figures, whose role in this war has been documented by Helsinki Watch reports, by the New York Times and other newspapers, by the recent book of Pulitzer Prize winning Newsday correspondent, Roy Gutman, entitled "A Witness to Genocide."

Let me say parenthetically, Mr. Speaker, that in today's world we have all been witnesses to genocide. There is no excuse to say, "If we had only known, if we had only seen, if we had only heard of the deaths of children, the starving of peoples, the commission of crimes."

Finally, documentation comes from an April 1993 video report entitled "A Town Called Kozarac" produced for the British television program, Dispatches. The following people, Mr. Speaker, are among the most notorious.

Zeljko Raznjatovic, also known as Arkan, stands here. He is well-dressed, has a fancy uniform, a shaven face, a close haircut. Perhaps he is someone who we would otherwise think is just another person. He has already been branded an international criminal. He robbed banks in Belgium and the Netherlands for which he was imprisoned, and committed several burglaries in Sweden and Germany.

In early 1992, his group was responsible for a major massacre of moslems in the town of Bijeljina and elsewhere in Bosnia and Herzegovina. Arkan is a perpetrator of war crimes, a person who has furthered genocide in the best tradition of Adolph Hitler.

Vojislav Seselj is head of the fascist Serbian Radical Party and its paramilitary wing, known as the Serbian Chetnik Movement. His people have operated throughout Bosnia and Herzegovina during the course of the war, committing atrocities, not against military personnel, but against the civilian population. Seselj is a war criminal in the best tradition of Adolph Hitler.

Mladjo Krkan is an Omarska camp guard—like other guards at other prison camps about whom we have talked. He was known to be particularly brutal and is implicated in the murder of two prisoners.

But one thing we always know when it comes to war crimes is that unfortunately most are secret, done out of the light of witnesses or other observers.

Surviving prisoners in one British documentary said that most of the atrocities at the Omarska camp occurred during Krkan's shift. Krkan is a war criminal in the best tradition of Adolph Hitler.

Gen. Ratko Mladic is the head of the Bosnian Serb military. According to the New York Times, he is often called the ethnic cleanser in chief. "Ethnic cleansing," what an interesting phrase. Cleansing is a word that most of us feel makes things better. But what it has meant here is the genocide of a people, the expelling of a people, through death and injury, from the homelands in which they and their ancestors had lived for centuries.

Why? Because of their ethnicity, because they were a different kind of people and because an invading force wanted to sanitize a geographic region for their own people.

□ 1220

Before moving to the Bosnian front, Mladic was commander of the Yugoslav army in the Serb-controlled region of Krajina in Croatia, where he earned the additional title of "Butcher of Knin." The troops under his control are responsible for many of the atrocities we hear about in Bosnia and Herzegovina, and, as I said, that we witness on CNN, on NBC, on CBS, on ABC, on BBC and other countless television programs, brought into our very homes, brought to this Nation and nations around the world.

Radovan Karadzic is the Bosnian Serb political leader. He is cold, calculating and, at best, amoral, savaging others through puppets for political ends. He is a familiar face from his presence at the negotiations in Geneva. Trained as a psychiatrist, he is perhaps the person most responsible for ordering the atrocities that have been committed in Bosnia and Herzegovina. Karadzic is from the Serb population of Bosnia and Herzegovina, but he is the agent, clearly, of the next person: Slobodan Milosevic, with whom I have met.

Mr. Speaker, Slobodan Milosevic is more than the President of Serbia. He is the Hitler of Yugoslavia, the mastermind of the plan for a Greater Serbia. Milosevic has been the single most culpable figure in orchestrating this war.

Make no mistake, America. Make no mistake, my colleagues. If he had wanted to do so, he could have brought an end to the conflict. Not all the killing is organized, nor are all the atrocities. But he could have brought to an end the ethnic cleansing and the organized massacre of thousands, hundreds of thousands, of people. He could have stopped the largest migration of peoples in Europe since the Second World War, over 2½ million refugees, homeless, displaced, children, old people, families. Slobodan Milosevic is a name of infamy in the international community.

Some of these people, Mr. Speaker, were named as suspected war criminals by then-Secretary of State Lawrence Eagleburger almost a year ago, but they are still free and, in some instances, we negotiate with them.

I only assert the guilt of these individuals, because the new world order demands that we have a system of laws and not of men, a system in which even Milosevic has a right to defend his innocence. The international community, however, needs to have him at the dock, in the court, responding to the charges, as we did at Nuremberg. It is time to move forward with concrete indictment of specific individuals, establish a framework for apprehending them, and, ultimately, trials for war crimes.

Mr. Speaker, I am convinced that a lasting resolution of the war in the Balkans requires breaking the cycle of violence and vengeance that has racked this region, not just in this century, but in centuries past. That goal can only be achieved through the administration of justice, by an impartial and, in this case, international tribunal.

Mr. Speaker, if we are to have a new world order, it will be because, as we become witnesses, we then act. As we become witnesses, we become enraged and determined to hold accountable those who for no other reason than ethnic differences would commit acts of savagery on their fellow human beings.

Mr. Speaker, inaction in the face of genocide is both immoral and illegal, but here we are, witnesses to yet another attempt in this century to annihilate a people.

While I do not believe we have done all we can to prevent genocide in Bosnia, neither do I believe that it is too late to act.

As I have said many times on this very floor and in letters to the administration, the United States must take the lead. In particular the United States should put the U.N. Security Council on notice that unless it acts within a specified period of time to lift the arms embargo against Bosnia and Herzegovina, the United States will undertake unliteral action, if necessary, to uphold that country's right to self-defense, a right theoretically guaranteed to Bosnia by the United Nations Charter, but denied to it in practice.

In fact, Mr. Speaker, what we, and the rest of the world have done is to say, "We will neither defend you, nor will we allow you to get the arms to defend yourselves."

How many of us, Mr. Speaker, would say to our neighbor, under attack by those who would throw them from their home, that we have arms available for them to repell the criminal element at their door, but we will neither come to their aid, nor will we allow them to purchase an arm to protect themselves.

Mr. Speaker, that is not a moral policy. That is not a policy that is defensible. That is not a policy that allows any one of us to look at our neighbor the next morning and say, "We believed it was in the best interest of law and order in our community."

Mr. Speaker, some time ago, in the city of New York, in a built-up neighborhood, a cry was heard by many people. It was a cry of rape by a woman named Kitty Genovese, and she cried again asking for help from her neighbors and, perhaps, her friends. But no one took a risk to open the door, to open the door and go down the stairs, to where Kitty Genovese was being attacked. At least 50 people stayed in their homes, later to admit hearing the cries for help and the cries of pain.

□ 1230

We hear of a genocide. We hear of a genocide, and we say to ourselves it is dangerous to go outside the door.

Mr. Speaker, I do not advocate at this point in time the sending of American boys, American men, American personnel and material. But at the very minimum, Mr. Speaker, I believe it a moral imperative that we give to those under attack the right, the ability, and the means to defend themselves. For if we do not, their blood is not only on the hands of Slobodan Milosevic and those criminal elements with whom he conspires.

If the international community rewards aggression and permits criminals to retain their gains, with zero accountability, then we shall have forged the contours of a new world order far worse than the old. If we permit war criminals to prevail by sheer force, the post-cold war era will be shaped by the voices of violence and vengeance. If democracies are unwilling to back up their own principles with effective action, then we betray, Mr. Speaker, not only the innocent victims of this war, we betray ourselves and generations yet to come.

Mr. Speaker, this, we must not let happen.

DESIGNATION OF HONORABLE STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS FOR REMAINDER OF FIRST SESSION OF 103D CONGRESS

The SPEAKER pro tempore (Mr. ANDREWS of Maine) laid before the House the following communication:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 23, 1993.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions for the remainder of the First Session of the One Hundred Third Congress.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 960

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 960.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to rule I, the House stands in recess subject to the call of the Chair.

Accordingly, at 12 o'clock and 34 minutes p.m., the House stood in recess subject to the call of the Chair.

□ 1534

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 3 o'clock and 34 minutes p.m.

ADJOURNMENT TO FRIDAY, NOVEMBER 26, 1993

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Friday, November 26, 1993.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, could the gentleman just enlighten us as to what is happening and why we are recessing until then?

Mr. BONIOR. Mr. Speaker, if the gentleman will yield, the Senate is still considering, it is my understanding, the Brady bill. They have not cleared the adjournment resolution as well. That is tied up in that issue, so we have to meet until that issue is resolved.

Mr. SOLOMON. I did not hear exactly what the gentleman's unanimous consent request was.

Mr. BONIOR. Well, the first unanimous consent request that I made was that when we adjourn, we adjourn until 10 a.m. this coming Friday, the day after Thanksgiving.

Then I will ask unanimous consent, once this is given, that when we adjourn on Friday, we meet at 2 p.m. on Tuesday next.

Mr. SOLOMON. So the intention on Friday would be, provided the business had been completed on the Brady bill, that we would just go in and out until the 25th?

Mr. BONIOR. It would be pro forma, of course. If there is some resolution, which we do not expect, I guess, at that particular point, but it would just be pro forma, yes, the gentleman is correct.

Mr. SOLOMON. And we will go in and out on Friday, and if it was not settled by that time, and if the Senate so chose, we would come back in on Tuesday?

Mr. BONIOR. That is correct, Tuesday, and hopefully that issue will be resolved and we can adjourn sine die.

Mr. SOLOMON. With no other business in-between?

Mr. BONIOR. That is my understanding.

Mr. SOLOMON. Well, Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ADJOURNMENT OF THE HOUSE FROM FRIDAY, NOVEMBER 26, 1993, TO TUESDAY, NOVEMBER 30, 1993

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, November 26, 1993, it adjourn to meet at 2 p.m. on Tuesday, November 30, 1993.

Mr. SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOLIDAY WISHES

Mr. SOLOMON. Mr. Speaker, I would like to wish you all a happy Thanksgiving, and all the staff that has been inconvenienced here as well, have a good one.

Mr. BONIOR. And the same to the gentleman from New York.

The SPEAKER. The good wishes are reciprocated.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOYER, for 60 minutes, today.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 698. An act to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

H.R. 2632. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for the fiscal year 1994, and for other purposes.

H.R. 3167. An act to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On November 5, 1993:

H.R. 1308. An act to protect the free exercise of religion.

On November 17, 1993:

H.J. Res. 79. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 21, 1993, and November 20, 1994, as "National Family Week."

On November 19, 1993:

H.R. 3341. An act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

H.R. 2677. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building.

H.R. 2401. An act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

On November 20, 1993:

H.R. 3161. An act to make technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes.

H.R. 2650. An act to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems.

H.R. 914. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers Systems, and for other purposes.

On November 22, 1993:

H.R. 3225. An act to support the transition to nonracial democracy in South Africa.

ADJOURNMENT

Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until Friday, November 26, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2180. A letter from the Comptroller General of the United States, transmitting an updated compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by Congress (H. Doc. No. 103-175); to the Committee on Appropriations and ordered to be printed.

2181. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Federative Republic of Brazil, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

2182. A letter from the Secretary of Education, transmitting notice of final funding priorities—Research in education of individuals with disabilities, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2183. A letter from the Secretary of Education, transmitting a draft of proposed legislation entitled "Howard University Endowment Amendments of 1993"; to the Committee on Education and Labor.

2184. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Israel for defense articles and services (Transmittal No. 94-10), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2185. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs [CCNAA] for defense articles and services (Transmittal No. 94-12), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2186. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 94-14), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2187. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94-13), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2188. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by John Bundy Ritch III, of the District of Columbia, to be Ambassador to the International Atomic Energy Agency, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2189. A letter from the Director, Office of Management and Budget, transmitting a report concerning the accuracy, difficulties, benefits, and costs associated with the Federal agencies' audited financial statements; to the Committee on Government Operations.

2190. A letter from the Secretary of Energy, transmitting a letter from the Secretaries of Commerce, Energy, NASA, the National Science Foundation, and the Office of Science and Technology Policy with respect to the Penny-Kasich proposal to H.R. 3400; to the Committee on Government Operations.

2191. A letter from the Director, U.S. Soldiers' and Airmen's Home, transmitting the annual report under the Federal Managers' Financial Integrity Act for 1993, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2192. A letter from the National Adjutant, the Disabled American Veterans, transmitting the report of the proceedings of the organization's 72d National Convention, including their annual audit report of receipts and expenditures as of December 31, 1992, pursuant to 36 U.S.C. 90i; 44 U.S.C. 1332 (H. Doc. No. 103-176); to the Committee on Veterans' Affairs and ordered to be printed.

2193. A letter from the Comptroller General of the United States, transmitting the review of the interest rate charged to borrowers, referred to as the cost of money rate, as determined by the Governor of the Rural Telephone Bank for the preceding fiscal year; jointly, to the Committees on Government Operations and Agriculture.

2194. A letter from the Secretary, Department of Transportation, transmitting the Department's report on high-speed ground transportation research and development, pursuant to Public Law 102-240, section 1036(c)(1) (105 Stat. 1983); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

2195. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation entitled "John F. Kennedy Center Act Amendments of 1993"; jointly, to the Committees on Public Works and Transportation and Natural Resources.

2196. A letter from the Director, Office of National Drug Control Policy, transmitting a draft of proposed legislation entitled "Office of National Drug Control Policy (ONDCP) Reauthorization Act"; jointly, to the Committees on Government Operations, Post Office and Civil Service, the Judiciary, and Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LEWIS of California:

H.R. 3719. A bill to establish a wellness program for Americans; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. SCHUMER, and Mr. STARK):

H.R. 3720. A bill to regulate the manufacture, importation, and sale of jacketed hollow point ammunition, and for other purposes; to the Committee on the Judiciary.

By Ms. KAPTUR (for herself, Mrs. BENTLEY, Mr. KLINK, and Mr. HUNTER):

H. Con. Res. 195. Concurrent resolution expressing the sense of Congress that the Government should require that all tax benefits or other subsidies afforded to businesses operating in the United States as part of health care reform should be used for investment and job creation within the borders of the United States; to the Committee on Ways and Means.

By Mr. WASHINGTON:

H. Con. Res. 196. Concurrent resolution expressing the sense of Congress that United States assistance to Algeria should be terminated unless its military backed government proceeds towards democratization; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. GEPHARDT:

H. Res. 324. Resolution providing for the committee to notify the President of completion of business; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

267. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to Norton Air Force Base; to the Committee on Armed Services.

268. Also, memorial of the General Assembly of the State of California, relative to war atrocities in the former Yugoslavia; to the Committee on Foreign Affairs.

269. Also, memorial of the General Assembly of the State of California, relative to native American burial grounds; to the Committee on Natural Resources.

270. Also, memorial of the General Assembly of the State of California, relative to expenditure of surplus airport revenues; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. FARR.

H.R. 50: Ms. VELÁZQUEZ.

H.R. 70: Ms. MARGOLIES-MEZVINSKY, Mr. KINGSTON, and Mr. WALSH.

H.R. 214: Ms. MARGOLIES-MEZVINSKY and Mrs. MALONEY.

H.R. 301: Mr. COX.

H.R. 306: Mr. MANZULLO.

H.R. 391: Mr. KLUG.

H.R. 392: Mr. KLUG.

H.R. 657: Mrs. MALONEY.

H.R. 790: Mr. BARCA of Wisconsin, Mr. PALLONE, Mr. POMEROY, Mr. SCHAEFER, Mr. GOODLATTE, and Ms. MARGOLIES-MEZVINSKY.

H.R. 886: Mr. WALSH, Mr. BURTON of Indiana, and Mr. SOLOMON.

H.R. 894: Mr. HERGER.

H.R. 957: Ms. ESHOO.

H.R. 999: Mr. PALLONE.

H.R. 1009: Ms. MARGOLIES-MEZVINSKY.

H.R. 1120: Mr. ENGEL.

H.R. 1146: Ms. BROWN of Florida.

H.R. 1161: Mr. ENGEL.

H.R. 1168: Mr. ARCHER.

H.R. 1231: Mr. HOAGLAND, Mr. NADLER, Mr. HOLDEN, and Mr. ANDREWS of Maine.

H.R. 1277: Mr. PORTMAN.

H.R. 1493: Mr. GORDON, Mrs. MALONEY, and Mr. BROWN of Ohio.

H.R. 1523: Mr. BACHUS of Alabama.

H.R. 1552: Mr. FINGERHUT, Ms. MARGOLIES-MEZVINSKY, and Mr. KINGSTON.

H.R. 1604: Mr. BROWN of Ohio and Ms. MARGOLIES-MEZVINSKY.

H.R. 1621: Ms. MARGOLIES-MEZVINSKY.

H.R. 1720: Mr. EDWARDS of California and Mr. MOAKLEY.

H.R. 1778: Mr. FILNER.

H.R. 1900: Mr. FARR.

H.R. 1999: Mr. WILSON.

H.R. 2365: Mr. BARCA of Wisconsin and Mr. WYNN.

H.R. 2393: Mr. ZIMMER.

H.R. 2396: Mr. SANDERS.

H.R. 2443: Mr. GEKAS, Mr. DEAL, and Mr. KOPETSKI.

H.R. 2488: Mr. SANGMEISTER.

H.R. 2554: Mr. HOEKSTRA.

H.R. 2826: Mr. MOLLOHAN and Mr. DEUTSCH.

H.R. 2879: Mr. BILIRAKIS.

H.R. 2890: Mr. ENGEL.

H.R. 2958: Mrs. UNSOELD.

H.R. 3017: Mr. WELDON.

H.R. 3064: Mrs. MEYERS of Kansas.

H.R. 3080: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3097: Ms. SLAUGHTER.

H.R. 3128: Ms. MARGOLIES-MEZVINSKY.

H.R. 3179: Mr. HANCOCK.

H.R. 3183: Mr. MANZULLO.

H.R. 3195: Mr. ENGEL.

H.R. 3222: Mr. WALSH.

H.R. 3234: Mr. DELLUMS.

H.R. 3309: Mr. SWETT.

H.R. 3328: Ms. DUNN, Mr. DE LUGO, Mr. HOAGLAND, Mr. JOHNSON of South Dakota, Mr. VALENTINE, and Mr. MORAN.

H.R. 3334: Mr. DELAY, Mr. COX, Mr. SOLOMON, Mr. CRANE, and Mr. HOEKSTRA.

H.R. 3367: Mr. CAMP.

H.R. 3386: Ms. LAMBERT, Mr. HOBSON, Mr. BONIOR, Mr. FIELDS of Texas, Mr. HANCOCK, Mr. KANJORSKI, Mr. BOUCHER, Mr. HINCHEY, Mr. BREWSTER, Mr. CAMP, Mr. APPLEGATE, and Mr. ZELIFF.

H.R. 3430: Mr. BEILENSON, Mr. HOCHBRUECKNER, Mr. ACKERMAN, Mr. KING, and Mr. LEVY.

H.R. 3434: Mr. BECERRA.

H.R. 3480: Mr. PORTER.

H.R. 3527: Mr. BECERRA and Mr. ANDREWS of Maine.

H.R. 3589: Mr. FIELDS of Louisiana.

H.J. Res. 90: Mr. KIM and Ms. FURSE.

H.J. Res. 175: Mr. DARDEN, Mr. BILBRAY, Mr. DE LUGO, Mr. ANDREWS of Maine, Mrs. CLAYTON, Mr. COLEMAN, Mr. BROWDER, Mr. DOOLEY, Mr. FORD of Michigan, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HOUGHTON, Mr. ORTIZ, Mr. POMBO, Ms. PRYCE of Ohio, Mr. RICHARDSON, Ms. ROYBAL-ALLARD, Mr. ROHRABACHER, Mr. SABO, Mr. SCHIFF, Mr. STUPAK, Mr. THORNTON, Mr. TEJEDA, Ms. WATERS, and Mr. SMITH of New Jersey.

H.J. Res. 257: Mr. MATSUI, Mr. HUGHES, Mr. RAHALL, Mr. CONYERS, Mr. LEWIS of Georgia, Mr. SERRANO, Mr. SAXTON, Mr. SPENCE, Mr. SCHUMER, Mr. MOLLOHAN, Mr. TAYLOR of North Carolina, Mr. SANDERS, Mrs. MEYERS of Kansas, Mr. STENHOLM, Mr. HOBSON, Mr. CALLAHAN, Mr. CRAMER, Mr. LAFALCE, Mr. GRANDY, Mr. KLECZKA, Mr. MARKEY, Mr. TORKILDSEN, Mr. FORD of Michigan, Mr. STUPAK, Mrs. MALONEY, Mr. CRAPO, and Mr. KNOLLENBERG.

H.J. Res. 284: Mr. NADLER.

H. Con. Res. 14: Mrs. MEYERS of Kansas, Mr. TORRICELLI, Ms. BROWN of Florida, and Mr. TRAFICANT.

H. Con. Res. 148: Mr. CRANE, Mr. MARTINEZ, Mr. HUNTER, Mr. CUNNINGHAM, Mr. DELAY, Mr. BARTLETT of Maryland, Mr. YOUNG of Alaska, Mr. BOEHNER, Mr. DOOLITTLE, and Ms. BROWN of Florida.

H. Con. Res. 156: Mr. GEJDENSON and Mr. SANDERS.

H. Con. Res. 166: Mr. GINGRICH.

H. Con. Res. 167: Ms. BROWN of Florida, Mr. BARCA of Wisconsin, Miss COLLINS of Michigan, Mrs. MALONEY, and Mr. RUSH.

H. Res. 33: Mr. NADLER and Ms. FURSE.

H. Res. 234: Mr. WYNN, Mr. NADLER, Mr. BARLOW, Mr. COBLE, Mr. BAKER of Louisiana, Mr. BARTLETT of Maryland, Mr. HANCOCK, Mr. TAYLOR of North Carolina, Mr. THOMAS of Wyoming, Mr. YOUNG of Florida, and Ms. SCHENK.

H. Res. 242: Mr. BILIRAKIS.

H. Res. 243: Mr. BILIRAKIS.

H. Res. 244: Mr. BILIRAKIS.

H. Res. 281: Mr. MCNULTY, Mr. MCCRERY, Mr. MURPHY, Mr. MOLLOHAN, Mr. GORDON, Mr. POSHARD, and Mr. BACCHUS of Florida.

H. Res. 291: Mr. ARMEY.

SENATE—*Tuesday, November 23, 1993*

The Senate met at 10:30 a.m., and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us remember Senator DORGAN and his family in the loss of their 23-year-old daughter night before last.

"* * * *he that is greatest among you shall be your servant.*"—Matthew 23:11.

Our Father in Heaven, we express our profound gratitude for the wisdom, strength, courage, and fairness of the leadership of the Senate. We commend our leaders to Your loving care and gracious blessing for them and their families through these next weeks.

And we remember, Lord, all the Members of the Senate and their families. For those who travel, we pray that Thou wilt guide them in their journeys and bring them safely home. Grant that time with their families will be precious, reconciling, healing, and renewing.

Let Thy blessing rest upon all who serve on Capitol Hill and their loved ones.

"The Lord bless you, and keep you: The Lord make his face to shine upon you, and be gracious unto you: The Lord lift up his countenance upon you, and give you peace."—Numbers 7:24-26.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 23, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

In my capacity as a Senator from the State of Hawaii, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from Hawaii, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

STAFF TRIBUTE 103D CONGRESS, FIRST SESSION

Mr. MITCHELL. Mr. President, as we conclude the first session of the 103d Congress, I want to acknowledge and to thank members of the Senate staff for the assistance they have given me and my colleagues throughout the year.

Staff play an invaluable, albeit often invisible role in the operations of the Senate. From the service department to the Parliamentarian's office, staff work long and unpredictable hours. Their family lives suffer and their social lives are often put on hold.

All of us depend on staff for information, for assistance with constituents, for the smooth operation of our offices here and in our home States. We all depend on the officers and staff of the Senate for the smooth operation of the institution in which we have the honor to serve.

I begin by expressing my gratitude for the invaluable services of the Secretary of the Senate, Walter "Joe" Stewart. First appointed as Secretary by then-Majority Leader ROBERT BYRD in 1987, Joe is a Senate legend.

His efficiency and effectiveness contribute significantly to our work here, and I am grateful to him. Joe is ably assisted by assistant secretary, Jeri Thomson, and by Michelle Haynes, Dot Svendson, Muriel Anderson, Barbara Muller, and Ray Strong, all of whom also have my thanks.

I take special pleasure in thanking the Sergeant at Arms, Martha Pope. She has been with me for many years, and I depend on her counsel a great deal. The first woman in the history of the Senate to serve as Sergeant at Arms, Martha does an excellent job. I know she would be the first to acknowledge that much credit for the effectiveness of her office goes to her deputy, Robert Bean. Bob is the glue that holds the office together, and with it, much of the Senate. Martha Pope and Bob depend on the services of a very able and energetic team: Patty McNally, Loretta Fuller, Cristina Krasow, Patrick Hynes, Alvin Spriggs, Pete Beatty, Betty Bunch, Rita Harris, Christopher Wilson, Laura Parker, Bill Norton, and Blanche Williams.

I and my Democratic colleagues are fortunate to have Abby Saffold serving as secretary for the majority. The Senate would be a very different place without her. She is competent and professional, and, in addition, a pleasure to work with. She is fortunate to have the assistance of such capable people as Jerri Davis, Maura Farley, and Sue Spatz.

The assistant secretary for the majority, Martin Paone, is the person we all rely upon for assistance on the Senate floor. Marty works closely with the Democratic floor staff and has saved every Democratic Senator countless hours of time with his cogent advice and understanding of Senate rules. I thank him for his outstanding work.

Working on the Democratic floor staff are Lula Davis, Art Cameron, and Kelly Riordan. The long hours they put in and their reliable cheerfulness make the operations of the Senate Chamber run more smoothly and pleasantly. I appreciate all of their hard work. Nancy Iacomini and Brad Austin lend their valuable support to the floor operation.

Every Democratic Senator knows and appreciates the outstanding work of the Democratic Cloakroom staff: Lenny Oursler, Kathy Drummond, Gary Myrick, and Paul Cloutier. They make the life and work of Senators much easier and more productive. They have important jobs, tough jobs, filled with competing demands and pressures. They have proven themselves equal to these challenges, and I am grateful.

Mr. President, the U.S. Senate is well known for its complex rules and procedures. The body cannot function without the guidance of someone with extensive knowledge of those rules and the ability to interpret them for Members and staff.

We are fortunate that we have such a person serving as Senate Parliamentarian, Alan Frumin and his very capable assistants, Kevin Kayes, Beth Smerko, along with his executive assistant Sally Goffinet.

The Senate doorkeepers, directed by Arthur Curran and Don Larson, are with us every hour we are in session. I appreciate their long hours and dedication.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I also want to recognize the important work performed by the official reporters of debates: chief reporter, Chick Reynolds; the deputy chief reporter, Scott Sanborn; morning business editor, Ken Dean; and his assistant, Elizabeth MacDonough; and the official reporters of debates, Frank Smonskey, Ron Kavulick, Jerry Linnell, Raleigh Milton, Joel Breitner, Mary Jane McCarthy, and Paul Nelson. All have my gratitude for jobs well done.

Americans listening to the Senate hear the voices of legislative clerk Scott Bates and his assistant, David Tinsley, calling the roll and performing other essential duties. Bill clerk Kathie Alvarez and her assistants Mary Anne Moore and Christopher Mann; journal clerks William Lackey, Patrick Keating, and Mark Lacovara; enrolling clerk Brian Hallen and his assistant, Tom Lundregan; executive clerk Gerry Hackett and his assistant, Dave Marcos; and Daily digest editor Tom Pellikaan and his assistants Linda Sebold and Kimberly Longsworth, all have my thanks for their competence in performing some of the most exacting but crucial day-to-day tasks in the Senate.

I want to give special attention to Katie-Jane Teel and her staff of expert captioners. They are the very best in their field as is evidenced by the high praise they have received from the hearing impaired community. I appreciate their efforts in making the deliberations of the Senate accessible to all Americans.

The work of Barry Wolk and his printing services staff, Randell Curry, David Roman, and Kurt Stelter; the superintendent of the document room, Jeanie Bowles, and her staff; Mike DiSilvestro and his staff, are all fundamental to the effective workings of the Senate, and I commend them for it.

I want to give special attention and a special thanks to those young Americans who are also vital to the effective workings of the U.S. Senate—the Senate pages. I thank them for their energy, their zeal, and their hard work. They somehow manage to keep up with their school work while serving long hours in the Senate every day. I wish each and every one of them the very best in what I know will be very rewarding futures.

The Democratic Policy Committee, with Senator DASCHLE'S able leadership, has become an important vehicle for bringing Democrats together on key issues such as the economy, health care, education, and the environment.

Greg Billings, Director of Information Services, works hard to ensure that Senate Democrats are kept informed of the Senate's business. Deborah Silimeo, DPC's Director of Outreach, has been a major force behind our success in getting out the word about the Senate Democratic agenda, particularly health care, through press events, issue documents, and other promotional efforts.

Ken Rynne works hard on outreach and helping promote the Democratic agenda. Rindy O'Brien has been especially helpful in organizing Senate Democrats around a consensus health care bill. Dave Corbin has done a great job in developing creative, user-friendly reports on the economy and other issues of importance to working Americans and their families.

Paul Brown, Paul Carliner, Lauren Griffin, Leah Titerence, and Tony Morgan are diligent in keeping Senators and Senate offices informed about key Democratic initiatives and legislative activity on the floor of the Senate. Kelly Paisley, Heather Drinan, Michael Mozden, Dana Lewis, Trish Moreis, and Russ Dunn all lend important support to the DPC operations.

DPC has a team that works hard to ensure that DPC publications and voting materials get out accurately and on time. Marian Bertram, Marguerite Beck-Tex, and Doug Connolly help oversee the effort. Lynn Terpstra, Heather Mayes, Clare Amoruso, Colleen Stephenson, and Von Brown are all instrumental to this effort. Lisa Plante and Jeff Pray ably run the DPC–TV station.

Mr. President, I also want to take this opportunity to call attention to and to express my appreciation of the Republican counterparts to the Democratic staff.

I especially commend Sheila Burke, chief of staff to the Republican leader, and James Whittinghill; they are worthy counterparts, but more importantly, they are professionals. The work and the cooperation of the secretary for the minority, Howard O. Greene, and his assistant, John Doney, and Elizabeth Greene of the Republican floor staff help expedite the work of the Senate, and they are all unfailingly courteous and helpful persons to work with.

The staff of the Republican cloakroom assists Republican Senators and are likewise courteous, helpful, and very professional people. I thank them and all the other staff on the other side of the aisle.

Mr. President, the Senate could not function without the support and services of many other offices. I wish now to recognize and thank them for the important work they do.

One of the most difficult and complicated jobs around here is ensuring the safety of this great, historic building and the people who work in it, while preserving the right of the American people to see their Government in action.

The U.S. Capitol Police Force, headed by Chief Gary Abrecht and his Assistant Chief Robert Langley, protect the security of a building which has over 1 million visitors each year. I know of no security force in the world which must operate in similar circumstances. The work of the Capitol Police is demanding and potentially dangerous and the officers discharge their duties impeccably.

I commend the staff of the Service Department under the able leadership of Russell Jackson. These dedicated men and women are here early in the morning and late at night, when the Senate is in session and when it is not, making sure that Senate publications are ready the next day.

Officers and staff who are not always visible, but whose daily work is essential to the institution's operations are the director of the computer center, Mike Bartell, postmaster Gayle Cory, director of telecommunications Robert McCormick, the director of the recording and photo studios Jim Grahane, and director of the cabinet shop Don Gardner, and all of their staffs. Special acknowledgment also goes to the financial management team of Chris Dey, Ray Payne, Richard Zelkowitz, Amy Blanchard, and Alan Block. They may not always get the recognition they deserve for their outstanding work in their very demanding jobs, but all of them are appreciated more than they will ever know.

Also, I would like to commend those who keep this building so well maintained under the leadership of Karen Ellis, Phyllis Timms, and Ross Thomas.

Mr. President, I have often pointed out that former Senate Majority Leader Lyndon Johnson was fond of saying, "information is power." I have also explained that while I always understood what he meant by the phrase, it is as majority leader that I have come to fully appreciate what he meant. With each passing year, I become even more grateful to the Senate's information support services.

There is the Congressional Research Service—whose reports, issue briefs, and other publications are consulted by every Member of this Chamber and their staffs. The ability of CRS to retrieve information, find the most minute of facts, perform complicated research, and provide prompt, timely analysis on difficult issues makes them crucial to the effective workings of the U.S. Senate.

I also thank the Congressional Budget Office for its important and timely work. CBO's prompt, thorough analyses of the costs of pending legislation and its analyses of historical and programmatic trends have become a vital part of the legislative process.

I commend the Senate Library staff for their resourcefulness, and for the speed with which they fulfill the research demands of the Senate. Senate Librarian Roger Haley, assistants Ann Womeldorf, Greg Harness, Donnee Gray, and all the others on his talented hard-working staff are truly appreciated.

Senate Historian Dr. Richard Baker and his talented staff provide Members with invaluable knowledge of the past. I thank them for their work in meticulously documenting the history of this Chamber.

The Reverend Dr. Richard Halverson, the Senate Chaplain, is a spiritual leader whose compassion and thoughtful words inspire us all. Every morning that the Senate is in session he begins our day with thoughtful, guiding words. He provides comfort when it is needed, and inspiration in good times and bad. His work and his presence here are truly appreciated.

Attending to our physical needs and problems is Dr. Robert Krasner and his competent, and always pleasant medical staff.

Also attending to our physical needs, albeit in different ways, are the outstanding staffs of the Senate restaurants. I thank them for their service.

The Senate reception room is managed by Neil Cikins, Shirley Herath, "Irish" McLain, and Ruby Paone. I want to personally thank them for their friendliness and cooperation in serving as a liaison between people on and off the Senate floor.

Those who work in the Senate Press Galleries, including Bob Peterson, Jim Talbert, Maurice Johnson, Larry Janezich, and their deputies perform a valuable service in helping the media to follow the activities in this Chamber, and I thank them for it.

The staff of the recording studio's broadcast control perform the important chore of helping to bring the workings of the U.S. Government closer to the American people. They have my thanks for their valuable service.

Last but by no means least, Mr. President, I want to express my deep appreciation for my own staff who continue to serve me so well and so tirelessly. I begin by recognizing and commending my Senate leadership staff, headed by my chief of staff, John Hilley. His calm demeanor under extraordinary pressures, his ability to make the complex seem simple, and his political sagacity make him an excellent chief of staff.

Also making my life and work as Senate majority leader much easier and more comfortable are the other dedicated professionals in the majority leader's office. These include Lisa Nolan, whose disciplined, orderly thinking and behavior are blessings in an office where chaos constantly threatens.

My executive assistant, Pat Sarcone, is always there when I need her—indeed, she is the miracle worker that every office needs. She handles every demand and every task, no matter how difficult, with a professional style and an infectious positive attitude. I know of no person who has not found it a pleasure to work with her.

I have been very fortunate to acquire the services of Jim Weber, formerly of the Senate Parliamentarian's Office, who will serve as counsel to the majority leader. Jim has already proven his value in the closing days of this session, and I look forward to working with him in the years ahead.

I also commend the work and loyalty of special assistant Alice Aughtry and staff assistant Ross LaJeunesse for performing many of the needed tasks in the leader's office.

My communications office is under the direction of the very capable and talented Diane Dewhirst. Diane works splendidly with the press so that the public may be better informed on the workings of the Senate. Her capable assistants, Mary Ann Hill, Mary Helen Fuller, Julie Goldberg, John Byrne, Kevin McManus, Chris Deckel, Clare Flood, Kevin Kelleher, and Mark Marchione work hard to make sure the communications office serves its important purpose.

To the staffers in my personal office I owe a special debt of gratitude. They are talented, dedicated professionals who work hard on behalf of the Senate and the State of Maine. I applaud them for their efforts, and want them to know that I appreciate them very much.

I begin with my administrative assistant, Mary McAleney. She knows the State of Maine and its people as well as anyone, and I appreciate her tireless efforts on behalf of Maine's people. Mary relies on the experience and capability of Donna Beck, my office manager, whose discipline and consistency are the basis on which much of my office depends.

My legislative staff is outstanding. I thank each and every one of them for the excellent work they do. Bobby Rozen's knowledge of tax and banking issues cannot be matched, and I trust his counsel. Anita Jensen has been with me since the beginning. She is multitalented and tireless in all her efforts. Grace Reef is truly "amazing Grace" as she handles issues ranging from roads and bridges to housing and welfare—and does it all superbly. She is also a new mother, a job which I am sure she'll handle superbly as well. Chris Williams has worked all year and before to support our efforts to ensure that every American has access to affordable, quality health care. Kim Wallace deals with appropriations, budget, education, and many other important issues, and is a joy to know. Rich Arenberg has worked for me for a long time in several different positions; he is currently doing an excellent job as my special assistant for national security affairs. I rely on Bob Carolla for many and various issues, especially aviation. Steve Hart works on veterans, agriculture, forestry preservation issues—all matters very important to Maine.

Sandy Brown handles diverse areas ranging from science and technology to the arts. She is best known for her tireless efforts to restore passenger rail service to Maine. Seth Brewster handles trade, and has worked for the past year on the NAFTA Treaty, which he helped see to its successful approval. Peggy Dorothy works on labor and fisheries issues.

I am fortunate to have two very capable staffers working with me on environmental issues. Ann Tartre on my personal staff and Jeff Peterson of the Environment Committee balance issues of environmental preservation and economic development. Special assistant Ashley Abbott works with my judiciary staffer and maintains background and reference materials.

I have an extremely capable foreign policy staff on whom I rely tremendously. Ed King covers Asia and Central America. I especially value his crucial work on the China-MFN issue. Brett O'Brien handles defense issues and the Middle East. His knowledge of the defense industry is invaluable as we balance the needs of our national defense and our domestic priorities in a changing world.

I also express my deep appreciation for all those who perform the essential day-to-day tasks that keep the office functioning. Assistant office manager, Sally Ehrenfried keeps the office supplied, operating, and staffed whenever the need arises, trains and supervises the interns, and fills in wherever my office staff needs her.

Performing the important tasks of answering constituent phone calls and letters so that I can stay in contact with the people of Maine are Alice Steward, who oversees my legislative correspondents, Heidi Heal Bonner, Deb Cotter, Trey Kelleter, Patrick Maxcy, Jeff Sanders, John Simko, and Jill Ward. Staff assistants include Mike Rabasco and Charlie Strout, who sort through the hundreds of letters my office receives weekly—and Josh McIntyre and Dave Webber who answer the phones and respond to constituents' comments and requests.

Janie O'Connor is my liaison with Maine visitors. Janie has over 12 years' experience on Capitol Hill and is one of the very best tour guides on the Hill. Diane Smith is responsible for my Maine schedule. She has the difficult and often thankless job of balancing the many requests placed upon the majority leader against the time I need and want to spend in Maine. Diane can pack 12 hours of work into a 10-hour day and still leave time for a quick lunch. Jeff Hecker works hard to make sure that our computer system is up and running. Faye Johnson ably runs the CMS system.

My Maine press secretary David Bragdon, and his assistant, John Dougherty, make sure the people of Maine are fully aware of our legislative efforts.

And a special thanks to my driver, Willie Allen, who cheerfully and ably ensures that I meet the hectic schedule demands of majority leader.

My office could not function without the assistance of all the interns who pass through its doors. I assure each one of them that I and the rest of my staff truly appreciate their assistance throughout the year, and I wish each one of them future success.

Ensuring that the citizens of Maine have access to their Federal Government are my field staff. Under the superb supervision of Larry Benoit, this dedicated group of men and women includes Sharon Sudbay, Margaret Kneeland, Phil Potenziano, Judy Cadorette, Ann Marie Paquette, Jeff Porter, Joan Pederson, Sue Gurney, Janet Dennis, Tom Bertocci, Clyde MacDonald, Margaret Samways, Jeanne Hollingsworth, Elaine Huber-Neville, Mary Leblanc, and Marcia Gartley. My field staff are my eyes and ears and representatives to the people in Maine, and I thank them for the important work they do each and every day.

Mr. President, there are many other people who contribute to the productive workings of the U.S. Senate. I wish that I had the time to thank every one of them.

As a former Senate staffer myself, I know that it is easy to feel underappreciated for all the long hours the Senate demands. It is the people who work behind the scenes who ensure the smooth workings of the Senate, and who have enabled us, working together as a team, to have a productive first session of the 103d Congress. Each and every one of them has my gratitude and my thanks.

ARIZONA'S 1994 TEACHER OF THE YEAR: MARGO STONE

Mr. DECONCINI. Mr. President, Margo Stone, a cross-categorical resource teacher at Centennial Elementary School in the Flowing Wells Unified School District in Tucson has been chosen as the 1994 Arizona Teacher of the Year/Ambassador for Excellence. I would like to extend my congratulations as well as my appreciation for her efforts on behalf of Arizona's children.

As we all know, teachers are the backbone of our educational system. They are all-too-often unsung heroes on the frontlines of America's efforts to educate our children, to steer them away from the negative influences of drugs and gangs and to equip them and inspire them to seek a better future through education. Margo Stone exemplifies the finest of Arizona's and our Nation's teachers.

Margo Stone has been teaching special education in Arizona schools since 1983. In 1990, she came to Centennial Elementary School. Renate Krompasky, her nominating principal, is quick to extol her qualifications: "Margo is an exemplary teacher who can combine the scientific principles of teaching with human relations skills and creativity to make learning come alive for her special education students. It is amazing how confident the students become after a year of working with Margo Stone." Krompasky's support is shared by Stone's colleagues who praise her not only because of her dedication to her students, but for the assistance she provides to other teachers.

Stone believes that she brings to her classroom the confidence that her own teachers gave to her throughout her life. She no doubt passes this gift of self-confidence and drive for success on to her students.

Stone's accomplishments continue beyond the classroom into her community. She has been a block captain in a neighborhood crime-prevention program, the Centennial School's representative for the United Way Campaign, and a participant in the March of Dimes Walk America. In addition, she donates her time helping to prepare hot meals and brown bag lunches for the Salvation Army. She is also a member of the Council for Exceptional Children, the Learning Disabilities Association of America and Arizona, and a delegate to the Arizona Education Association.

Margo Stone deserves to be commended for her devotion to improving the lives of our children. I ask my colleagues to join me, along with many Arizona citizens, in honoring Margo Stone for her excellence as a teacher and role model.

TRIBUTE TO BEN GILDER GEORGE

Mr. HEFLIN. Mr. President, Ben Gilder George, the former owner and publisher of the Demopolis, AL, Times newspaper died on November 18. Ben was a past president and a board member of the Alabama Press Association, a former member and director of the Sigma Delta Chi journalism society, and a charter member of the Alabama Cattlemen's Association.

In addition to being a pillar in the field of journalism in the State, he was also active in many civic and community organizations. He served as President of the Demopolis Rotary Club, of which he was a member beginning in 1932. On the local board of education, he was chairman and a member for 7 years. He was also president of the Demopolis Area Chamber of Commerce; founder and chairman of the Blackbelt Baseball League; and an organizing Member of the Demopolis Country Club. He once received a Special Honorary Membership Award in recognition of a lifetime of service to his community.

Ben George was an honest and generous individual who truly cared about his community and State. He demonstrated this commitment in many different ways over the years and will be missed by those fortunate enough to have known him. I extend my sincerest condolences to Ben's wife, Elizabeth, and their entire family in the wake of their tremendous loss.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,466,980,042,700.48 as of the close of business yesterday, November 22. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,390.79.

COSPONSORSHIP OF S. 1576

Mr. HATCH. Mr. President, I rise today to announce my cosponsorship of S. 1576, the Family Investment, Retirement, Savings, and Tax Fairness Act of 1993 [FIRST].

It is time that we in Congress face up to the fact that the spending and taxation legislation that we pass is directly responsible for the health of our economy and the financial well being of our Nation's families. The failure of the Federal Government to significantly reduce Federal spending and its propensity to raise taxes as a quick fix have had serious adverse impacts. We cannot ignore the effect of a crushing national debt and rising taxes on all American families.

S. 1576 will help deal with these economic realities. First, the bill presents a plan for dealing with the deficit crisis by placing a 2 percent cap on the growth of Federal spending. This will force Congress to make the difficult choices and to set spending priorities. We cannot continue our reckless spending habits.

Second, the bill addresses the fiscal crisis in which many of our families find themselves by providing a $500 credit for every child under age 18. This will help every family in America that is struggling to pay the high costs of raising kids. The bill goes beyond this, however, by also providing tax incentives that will result in new jobs, so that today's kids will have employment opportunities in tomorrow's economy. These incentives include a reduced capital gain tax rate, a neutral cost recovery system, and expanded individual retirement accounts.

In short, the FIRST bill would eliminate the deficit in 10 years, while paying for the family tax relief and economic incentives previsions. This legislation recognizes that individual taxpayers and wage earners provide the spark for the entire economy.

Will this bill solve all of America's problems? Of course not. Is the bill perfect? No. Had I drafted the bill, I would have changed several provisions. What the bill does, though, is give us a starting point in dealing with these twin crises of the deficit and our families. I look forward to working with my colleagues on the Finance Committee in the coming year in finding solutions to these problems as well as to the related health care spending challenge that we face in this Nation.

TRIBUTE TO JULIA CHERRY

Mr. DURENBERGER. Mr. President, family, friends, and colleagues in Minnesota are saying goodbye to Julia Cherry today. Her life was a testament to the power of truth and the value of service.

Julia worked in my Minnesota office for a period of 13 years and retired last year.

She represented a living link, for my staff and myself, to the civil rights struggles on the 1960's. Having grown up in the South and endured discrimination during her own life time, she became the conscience of my organization on human rights matters.

Julia was a lifelong worker for community development and was involved with the urban concerns workshop, the NAACP, the Urban Coalition, and other groups. She understood that the building blocks of society are not Government programs, but families and churches and neighborhoods. She worked hard to build communities from the ground up, because she knew that Washington could never save them from the top down

Civil rights and community development were not abstract legal matters to her. She knew in her bones the need for us to be always moving forward, never slipping back, on the road to genuine equality among all Americans. And many, many times, Julia confronted our apathy or ignorance with the truth about history and challenged us to be diligently working toward an America where we are all free.

When most people think of the daily life of Senators, they think it is filled with endless debates and momentous decisions about the future of the country and the world. Unfortunately, much of that is done for show and nothing changes very much or very fast in that arena.

But where change does come is in the neverending effort of members of our staffs who intervene in the problems of daily life which confront our citizens. Getting the help Government promises to people delivered. Making impersonal regulations accommodate the needs of real people. Providing hope and encouragement to those who feel they've been left out or left behind.

That's the service Julia provided for over a decade to the people of Minnesota. How I wish the hundreds, even thousand of lives Julia touched could have stood in one place and thanked her personally. What an awesome sight that would be.

Julia Cherry's life was devoted to truth and service. All of the members of my staff extend their condolences to Julia's family, and join with them in celebrating the value and progress her life brought about.

THE CLEAN FUELS DEBATE

Mr. WALLOP. Mr. President, one of the most contentious debates involving both the Clean Air Act and the National Energy Policy Act centered on the issue of clean fuels for motor vehicles. It has been an energetic debate, with competing industries seeking to establish strong market positions. The major contestants have been the grain industry and the fossil fuel derivatives industry.

This fractious debate has been prompted by a requirement under the 1990 Clean Air Act amendments to develop a clean fuel to reduce pollution in nonattainment areas around the Nation. The clean fuels challenge is obviously a multi-million-dollar opportunity. The contestants will obviously use every means available to gain an advantage. I vividly recall our debates over amendments which would have created a statutory advantage by one type of fuel over others as the official clean fuel. This effort was, appropriately, defeated.

But, the competition continues. Recently, there was a barrage of criticisms aimed at one particular fuel, an obvious effort at what we in the political arena would call negative campaigning. As is typical of such campaigns, the truth is stretched and questionable claims are issued. In this instance, the target was oxygenated fuels, primarily methyl tertiary butyl ether, commonly known as MTBE. MTBE is the largest volume oxygenate used in oxygenated gasoline.

In this instance, the negative campaign appears to have gotten out of hand. The issue will be confused, clouded by questionable accusations. No oxygenate, whether ethanol or methanol, will benefit from misinformation. It will simply overshadow the numerous benefits which we all derive from the use of these products.

I have had discussions with the Oxygenated Fuels Association, which is obviously the umbrella association for the industry, about the various clean fuels. I have been particularly interested in the arguments surrounding MTBE. I should remind my colleagues that MTBE is not a new product. It has been in use long before it was enlisted in the battle to combat air pollution. As a chemical product, it is a mature compound. In fact, we have all used it in our gasoline tanks as an octane booster.

I have received useful materials from OFA regarding oxygenates, specifically MTBE, and their role in promoting clean air. I would ask that this material be included at the conclusion of my remarks. Hopefully, this material will help clear the air on this issue.

There being no objection, the material was ordered to be printed in the Mr. RECORD, as follows:

[From the Oxygenated Fuels Association, Inc.]

THE OXYGENATED FUELS PROGRAM
QUESTIONS AND ANSWERS

What are oxygenated fuels?

Oil refiners blend ethers and alcohols with gasoline to increase its oxygen content, resulting in a more complete combustion of the fuel. The most common of these oxygenates are merely tertiary butyl ether (MTBE) and ethanol.

Oxygenated fuels, also known as oxy-fuels, are used to improve combustion and reduce tailpipe emissions of carbon monoxide (CO) and unburned hydrocarbons.

Oxygenates, such as MTBE, have been researched and designed for use in existing vehicles to eliminate the need for costly engine or emission control technology modifications or changes to the existing U.S. fuel distribution system.

What is the Oxygenated Fuels Program?

The Oxygenated Fuels Program is designated to help reduce carbon monoxide concentration to levels allowable by federal air quality requirements—the National Ambient Air Quality Standards (NAAQS).

The program is mandated in Title II of the 1990 Clean Air Act Amendments, which regulates air pollution from mobile sources such as automobiles, and is, required in all cities that do not meet federal standards for CO because of vehicle exhaust.

Oxy-fuels are required during the winter when carbon monoxide pollution is the worst. Carbon monoxide is primarily associated with the poor combustion characteristics of fuels in engines operating at cold start-up temperatures, and intensified by cold weather conditions.

Why the concern for carbon monoxide?

Carbon monoxide (CO), a colorless, odorless gas emitted from automobile exhaust, poses a health risk to many individuals. Carbon monoxide enters the bloodstream through the lungs and inhibits the blood's capacity to carry oxygen to organs and tissues.

Carbon monoxide poisoning has been linked to impaired brain function, including headaches, fatigue, weakness, dizziness, nausea and shortness of breath.

People with chronic heart disease may experience chest pains when exposed to carbon monoxide. Exposure also can be harmful to pregnant women, small children, the elderly and people suffering from upper respiratory ailments.

Other potential ill effects include impairment of exercise capacity, visual perception, manual dexterity and learning functions.

How does the program work?

To meet strict emissions standards in targeted areas, the program requires oil refiners to add oxygen to gasoline by blending fuels with oxygenates. Fuels sold during designated control periods must contain a minimum oxygen content of 2.7 percent by weight.

Program parameters and procedures may vary by state, although most states have implemented extensive public education campaigns as part of the overall program.

Who is affected by the program?

The Oxygenated Fuels Program benefits those who live and work in participating cities because the program improves air quality.

Approximately 39 urban areas that exceeded federal carbon monoxide standards were required to implement the program in 1992. Of these, 36 areas maintained the program through the winter months.

The U.S. Environmental Protection Agency (EPA) originally designated the following areas as nonattainment areas for exceeding federal CO standards:

Albuquerque, NM, Boston, MA, Colorado Springs, CO, El Paso, TX, Fresno, CA, Hartford, CT, Los Angeles, CA, Minneapolis, MN, New York/Northern NJ, Portland, OR, Reno, NV, San Francisco, CA, Stockton, CA.

Anchorage, AK, Chico, CA, Denver/Boulder, CO, Fairbanks, AK, Grants Pass, OR, Klamath County, OR, Medford, OR, Missoula, MT, Philadelphia, PA, Provo/Orem, UT, Sacramento, CA, Seattle, WA, Syracuse, NY.

Baltimore, MD, Cleveland, OH, Duluth, MN, Ft. Collins, CO, Greensboro, NC, Las Vegas, NV, Memphis, TN, Modesto, CA, Phoenix, AZ, Raleigh, NC, San Diego, CA, Spokane, WA, Washington, DC.

Any state that can demonstrate to the EPA that its program has achieved and maintained federal CO standards for two consecutive years and submits an acceptable 10-year maintenance plan can be redesignated as an attainment area.

When does the program go into effect?

Entering its second year, the program will be in effect Nov. 1, 1993 through Feb. 28, 1994 for most areas, although some areas began as early as Sept. 1, 1993.

By law, all designated nonattainment areas (i.e., areas not in compliance with the NAAQS for CO) were required to establish, implement and maintain programs by Nov. 1, 1992.

Future control periods must be maintained annually and may range from four to six months depending on the area.

Did the program successfully improve air quality last winter?

During the 1992-93 winter season, the EPA reported the incidence of poor air quality was reduced by 95 percent in the areas outside of California, which operated the program for the first time. California implemented a 2.0 percent oxygen-by-weight program and showed an 80 percent reduction in CO exceedances.

The program was overwhelmingly successful. Based on available data from the EPA, the program helped achieve a dramatic reduction in carbon monoxide pollution—providing health benefits to more than 70 million people.

All 20 states with participating programs recorded improvements in CO air quality last year. States that have been able to estimate the reduction levels of CO concentrations have found declines from 10 to 17 percent, attributable to oxygenated fuel use.

Nitrogen oxides (NO_X), sulfur oxides (SO_X) and particulate emissions were reduced by up to 15 percent.

Emissions of toxic compounds including benzene, a known carcinogen, were reduced by up to 18 percent.

Exhaust and evaporative emissions of hydrocarbons, which contribute to smog and ozone pollution, were reduced by 6 percent.

MTBE

QUESTIONS AND ANSWERS

What is MTBE?

Methyl tertiary butyl ether (MTBE) is an oxygenate, and additive used to add oxygen content and raise the octane rating of gasoline.

MTBE is an oxygenated hydrocarbon produced from isobutylene and methanol. Isobutylene is produced from crude oil or natural gas liquids. Methanol can be produced from any sources but is most commonly and economically derived from natural gas.

Why is the use of MTBE in gasoline beneficial?

Concentrations of MTBE in the range of 11 to 15 percent by volume raise the oxygen content of gasoline, allowing the fuel to burn more completely and effectively. This cleaner-burning fuel results in lower tailpipe emissions of several pollutants:

Carbon monoxide emissions are reduced by up to 20 percent.

Nitrogen oxides (NO_X), sulfur oxides (SO_X) and particulate emissions are reduced by up to 15 percent.

Exhaust and evaporative emissions of smog-producing hydrocarbons are reduced by up to 6 percent.

Emissions of toxic compounds including benzene, a known carcinogen, are reduced by up to 18 percent.

How long has MTBE been used?

MTBE was first used commercially in Europe in 1973.

U.S. oil refiners have used MTBE as an additive to replace lead and increase the octane value in gasoline since 1979.

MTBE has been most widely used in premium grade gasolines to improve octane ratings.

Since 1987, MTBE has been used successfully as part of oxygenated fuels programs to reduce carbon monoxide pollution in several cities, including Denver, Las Vegas and Phoenix.

Because of this success, MTBE was added to gasoline in major U.S. cities during the 1992-93 winter season as part of the Oxygenated Fuels Program, mandated by the 1990 Clean Air Act Amendments.

How safe is MTBE?

MTBE is safe for use in gasoline. However, inhaling any gasoline fumes should be avoided.

The results of more than 40 MTBE health-related studies conducted prior to its use in the oxygenated fuels program showed no adverse effects at exposure levels that are present in and around motor vehicles and gasoline service stations.

Prior to the 1992-93 winter oxygenated fuels program, the federal EPA directed a major study program testing the potential health effects of the expanded use of MTBE. Eleven independent studies conducted with laboratory animals examined the chronic effects of short- and long-term exposures at levels up to 8,000 parts per million—an exposure level that is 320,000 times greater than the average estimated human exposure levels. The EPA found no compelling evidence in the test results that MTBE vapors posed a health risk relative to gasoline vapors.

In January 1993, the EPA and the oxygenated fuels industry began a joint clinical study of the acute health effects of MTBE on the public. This study exposed healthy adults, ages 18-35, for one hour to 1.4-1.7 parts per million MTBE—a higher concentration level than would be experienced by most people during driving and refueling. Completed in July 1993, the research found no health effects from exposure to MTBE.

MTBE has been used by the medical profession for the treatment of gall bladder problems. MTBE is injected into patients with gallstones as part of this treatment. While some temporary side effects have been reported, there is no evidence of long-term health effects.

Will MTBE significantly affect gasoline prices?

EPA has estimated the incremental cost of oxygenated gasoline at approximately 3 to 5 cents per gallon.

Gasoline prices more often are affected by factors unrelated to MTBE and fuel composition, including world oil costs, regional supply and demand, and local competition.

Will these fuels significantly affect fuel economy?

MTBE does not significantly reduce gasoline fuel economy. Eighteen independent studies, using a total of 149 automobiles ranging from model year 1974 to 1992, have shown a 1 percent decrease in mileage on average with an average MTBE content of 13 percent by volume. Some studies have shown a slight improvement in mileage.

For the consumer who drives approximately 15,000 miles per year, reduced fuel economy due to the use of MTBE-blended gasoline reflects an average cost of less than $5 for the four-month duration of the program.

Other wintertime factors typically have a greater impact on decreasing fuel economy and can result in a 10 to 15 percent reduction when compared with the summer driving season.

Colder temperatures have the greater impact on fuel economy for most consumers during the winter driving season because of longer warm-ups, poorer driving conditions and a higher percentage of short trips.

Wintertime gasoline is higher in butane, a compound that improves cold-weather starting. Because of a lower energy density than other gasoline components, increased butane content in gasoline contributes to a decrease in fuel economy.

How does MTBE affect my car's engine?

Gasoline containing MTBE are designed for use in existing vehicles. Most U.S. and foreign automakers have approved the use of MTBE at levels up to 15 percent by volume.

Some auto manufacturers, such as General Motors and Chrysler, recommend the use of oxygenated fuels in their cars or light-duty trucks.

OXYGENATED FUELS IMPROVE AIR QUALITY

(Remarks of Richard D. Wilson, Director, Office of Mobile Sources, U.S. Environmental Protection Agency, presented before the 1993 World Conference on Clean Fuels & Air Quality)

"The research that we have today provides no basis to question the continued use of MTBE in the oxy-fuel program, or in gasoline generally."

The first major program under the Clean Air Act was implemented last winter: the Oxygenated Fuels Program. It was based on the program that was pioneered in the late 1980s in Denver, Phoenix, Las Vegas, Reno, Tucson and Albuquerque. The idea is that oxygenates add more oxygen to the fuel, leaning the air/fuel mixture, reducing tailpipe emissions, particularly the CO emissions.

The required 2.7% oxygen yields about a 15–20% reduction in tailpipe CO emissions.

The results of last winter's program are really impressive. Our first desire was to hope that the states adopted the necessary rules to get the program up and running. It was more complicated in many ways than a reformulated program, because this program was not a federal rule but required each state to adopt their own program. When we got the program up and running, not only did it run on time and without many problems, but dramatic reductions in carbon monoxide exceedances were achieved last winter.

For the 20 cities that had this program for the first time, there was a 95% reduction in CO exceedances. For all the programs, including many of the ones that had some oxygenated fuels before, there was an 80% reduction. The average cost was about 3–4 cents per gallon. This is a dramatic demonstration of how successful our Clean Air Act programs can be, and particularly a dramatic demonstration of how we can get quick, large reductions in air pollution through the use of cleaner fuels.

We did have one glitch occur, however. In Fairbanks, AK we had some consumer complaints about acute health effects (e.g. short-term headaches, watery eyes, nausea, dizziness). As a result of the concern that was raised in that regard, we put together a group with our research and development office, industry groups, and other governmental agencies to try and do some quick work on looking at whether or not these health effects were real. It resulted in a comprehensive program that included epidemiological studies, clinical exposure studies, ambient air analysis, fuel sample analysis, and vehicle testing. The final report is now being peer-reviewed, but I can give you a little bit of a perspective on how we see the results of the studies.

First of all, the human clinical studies that were done at relatively high concentrations of pure MTBE, they did not reveal any health symptoms, eye and nose irritation, or behavioral changes in healthy adults.

Epidemiological studies that we did in New Jersey also did not detect any differences in symptoms reported by workers, in this case people working at state garages in northern New Jersey where they had MTBE oxy-fuel, versus southern New Jersey without the MTBE oxy-fuel. The one study that reportedly shows an effect is the one done by the CDC in Fairbanks which indicated an increased reporting of symptoms while MTBE was being used there.

On the other hand, a follow-up epidemiological study of various workers in commuter sub-groups in Stamford, Connecticut that had MTBE fuel, and Albany, New York, that did not, did not reflect any significant differences between the symptoms reported in those two cities. Obviously there are some uncertainties remaining, and we will continue to do research in this area.

Conclusion: The research that we have today provides no basis to question the continued use of MTBE in the oxy-fuel program, or in gasoline generally.

EPA/OFA/API Conference on MTBE—July 26–28, 1993

HEALTH TESTING SUMMARY

Exposure studies

Typical commuter/service station attendant exposures are below 1.0 ppm. Maximum average lifetime public exposure is 0.025 ppm.

Clinical studies

Two studies exposed 80 people to 1.5 ppm of MTBE for 1 hour with no sign of irritation or other health effects.

Epidemiology studies

Fairbanks, Alaska—Occurrence of symptoms, eye irritation, nausea etc. were found to correlate with MTBE exposure. However, effects of other factors, like CO and gasoline exposure, large price increases and extensive media coverage could not be distinguished, thus making the results very unclear.

Stamford, Conn—Workers with the highest exposure to MTBE had somewhat more key symptoms. Because these exposures correlate with other gasoline compounds further study is needed to provide clarification.

New Jersey—Similar groups of workers with and without exposure to MTBE were studied. No differences in reported symptoms could be found, leading to the conclusion that factors other than MTBE are likely responsible for health effects.

Long-term animal studies

Results from 11 new studies, exposing animals at up to 8,000 ppm MTBE, were used by EPA to increase the reference concentrate level for MTBE six-fold. This level represents the lifetime tolerance for exposure which would not result in adverse health effects. The revised reference concentration value for MTBE is 0.8 ppm, or about 40 times greater than the typical exposure during an oxy-fuels season.

Studies into the carcinogenic potential of MTBE were inconclusive. While no health risks were found, further research is needed to ensure adverse findings in laboratory animals are not related to people.

MTBE UPDATE: SUMMARY—IMPROVED AIR QUALITY IN 1992–93/ADDRESSING CONCERNS

Background

MTBE has been used by refiners to replace lead and increase the octane value of gasoline since 1979.

MTBE has been shown to reduce levels of CO in the air by an average of 15%.

MTBE, along with ethanol, has been used to reduce CO pollution since 1987 in cities like Denver, Las Vegas, and Phoenix—at levels up to 15% by volume.

Air Quality

During the '92–'93 winter season, MTBE (methyl tertiary butyl ether) was added to gasoline in major American cities as part of the 1990 Clean Act Oxygenated Fuels Program. The purpose of this program was to reduce the concentrations of carbon monoxide (CO) to within levels allowable by National Ambient Air Quality Standards.

Based on data available from the U.S. Environmental Protection Agency (EPA) through January, this program was overwhelmingly successful. It reduced the incidence of poor air quality in new program areas by 95% and provided health benefits to more than 70 million people.

MTBE use in gasoline can also reduce emission of NOx, SOx, particulates and toxic compounds like benzene.

Health Effects/Concens

Some people have experienced headaches or dizziness which they have attributed to a distinctive odor associated with the use of MTBE in gasoline. More than 40 scientific laboratory studies conducted since 1969 indicate that there should be no harmful effects from MTBE at these levels.

Additional studies, conducted since the introduction of oxy-fuels, show MTBE use in gasoline to have a wide margin of safety for the public.

Fuel Economy

Tests have shown there is a penalty on fuel economy, in miles per gallon, of one to three percent. The drop in fuel economy that accompanies wintertime fuels and driving conditions is typically much greater.

Cost Effectiveness

The use of MTBE for the oxygenated fuels program has been estimated by the U.S. EPA to cost refiners 3–5 cents per gallon.

The price of gasoline is affected by many factors besides fuel composition, including world oil costs, regional supply and demand, and local competition.

The cost of oxygenated fuels is lower than other methods for reducing CO pollution, including enhanced inspection and maintenance programs or transportation control measures.

MTBE UPDATE: HEALTH TESTING

Background

MTBE has been used as part of an oxygenated fuels program in several cities since 1987. Its widespread use in oxygenated fuels during the 1993 winter season has been the subject of consumer concerns, including complaints of a distinct odor and scattered reports of headaches and nausea.

Testing history

Prior to the 1992–93 winter oxygenated fuels program, a major testing effort to investigate potential health effects from the expanded use of MTBE was conducted at the direction of the U.S. Environmental Protection Agency. This program involved 11 separate studies, including short-term and long-term exposures with laboratory animals at levels up to 8,000 parts per million. These levels are ten to hundreds of thousands of times greater than exposure levels during refueling and driving cars.

The results of these studies, which began in 1987, as well as numerous other studies dating back to 1969, did not show any adverse effects at levels that are present in and around motor vehicles and service stations.

Newest results

A multi-million dollar government and industry research effort was initiated in response to concerns raised during the winter of '92–'93. These findings support earlier work which did not show any adverse effects.

These latest studies measured the actual levels of MTBE workers and consumers were exposed to in oxy-fuels areas. Clinical studies with human volunteers were conducted, exposing people to levels many times the average values found in the exposure surveys. After 1 hour of exposure no signs of irritation could be found.

Surveys of workers in New Jersey, Alaska and Connecticut were also conducted. The results could find no difference in exposure effects from MTBE except in Alaska, were frequent news reports and price increases 3–4 times the national average for oxy-fuels were cited by scientists as factors which further confuse the results.

MTBE UPDATE: ENVIRONMENTAL AND HEALTH BENEFITS

Oxygenates, like MTBE, have been used as part of air quality improvement programs since 1987. Oxygenated fuels provide improvements in air quality which benefit the people living and working in participating cities. New programs during the winter of '92–'93 reduced the incidence of poor air quality days by 95%. Oxygenated fuels this past winter benefited the health of more than 70 million people in the following ways:

Concentrations of carbon monoxide in the air we breathe were reduced by an average of 15%, due in part to MTBE.

Carbon Monoxide can impair brain function and in low concentrations is a threat to people with heart disease and to pregnant women.

The use of MTBE helps reduce the levels of other harmful compounds in gasoline, like benzene and sulfur, leading to a cleaner, safer fuel.

Emissions of the criteria pollutants, NO$_x$, SO$_x$ and particulates, are reduced by up to 15%.

Emissions of hydrocarbons from vehicle exhaust and refueling are reduced by 6 percent.

Emissions of toxic compounds, like benzene, are reduced 18%.

Severity of refinery operations used to make high-octane components are reduced, leading to less energy use and less pollution.

MTBE UPDATE: FUEL ECONOMY

Oxygen content

MTBE has been used by refiners to replace lead and increase the octane value of gasoline since 1979. The energy content of MTBE is somewhat less than the non-oxygenated components of gasoline. This is a direct result of MTBE's oxygen content. However, oxygenates are only one of several factors contributing to the normal decline in wintertime fuel economy.

Fuel efficiency

The addition of MTBE to gasoline does have a slight impact on fuel economy. Studies by automobile manufacturers, gasoline marketers, oxygenate producers and state and federal agencies have shown this impact to be about 1–3%.

Seasonal factors

Wintertime gasoline is higher in butane, a compound added to improve cold weather starting. Butane, like MTBE, is lower in energy content than gasoline, and its use in winter blends leads to a drop in fuel economy. Other factors, like colder weather, longer warmups and poor driving conditions, also lead to reduced fuel economy for most consumers during the winter driving season. These factors together account for as much as a 10–15% drop in fuel economy from summer conditions.

Year-to-year comparisons

Studies of total gasoline consumption in areas with oxygenated fuels programs has shown no significant changes from the previous year. Comparisons of the effect on fuel consumption from using oxygenates fuels must be made on a year-to-year basis to account for seasonal variations.

Consumer costs

The drop in fuel economy associated with oxygenated fuels represents a small cost of the average consumer. For the average consumer, who drives about 15,000 miles per year, this cost is less than $5 for the typical 4 month program period.

[From C & EN Sept. 20, 1993]

HEALTH STUDIES INDICATE MTBE IS SAFE GASOLINE ADDITIVE—ALASKAN HEALTH COMPLAINTS LAST WINTER SPURRED HASTILY ORGANIZED TEST PROGRAM, BUT OFFICIAL WORD ON ADDITIVE'S SAFETY STILL AWAITED

(By Earl V. Anderson)

The complaints started in Fairbanks, Alaska, early last winter and jumped to Anchorage. Then they popped up in scattered spots around the lower 48 states.

Headaches, dizziness, irritated eyes, and nausea were the usual ailments. The suspected culprit: methyl tert-butyl ether (MTBE), by far the largest-volume oxygenate used in oxygenated gasoline.

Initial reports of the complaints, along with scare headlines in newspapers, sent shivers down the spines of MTBE producers and oil companies. And they gave the Environmental Protection Agency (EPA) a headache to match the ones that some Alaskans said they were getting from MTBE-blended gasoline.

Certainly the uproar took producers by surprise. MTBE has been used in premium gasoline as an octane enhancer since 1979 without any major complaints. And several cities, including Denver since 1988, have been using MTBE in oxygenated fuels programs of their own with no problems.

The reports are EPA's headache because it is the agency that oversees the oxygenated fuels program, a major weapon in the fight against polluted air. The program, part of the 1990 Clean Air Act amendments, requires areas that do not meet federal carbon monoxide standards to use oxygenated fuels during the winter months when carbon monoxide levels are the highest. Gasoline in these areas must contain at least 2.7% oxygen by weight and the areas must use it for at least four months (November through February). Adding oxygenates such as MTBE, other eithers, or ethanol to gasoline provides the required oxygen. The 2.7% oxygen requires 15% by volume of MTBE in gasoline.

Last year, the oxygenated fuels program's first, 39 metropolitan areas including Fairbanks and Anchorage had to use oxygenated fuel. The program got its baptism by fire only last November.

The complaints in Alaska surfaced almost immediately. Alaskan state and city governments introduced resolutions calling for an end to the program. By December, Alaska Gov. Walter J. Hickel suspended the oxygenated fuels program in Fairbanks, where most of the complaints arose, even though the program still had months to run. In Washington, D.C., Rep. Don Young (R.-Alaska) introduced a bill that would give EPA the authority to grant Alaska a waiver from the program.

Environmental groups, which support the oxygenated fuels program, have been uncharacteristically quiet about the MTBE health issue. David D. Doniger, until recently senior attorney for the Natural Resources Defense Council, says only that NRDC supports the oxygenated fuels program because it reduces carbon monoxide pollution. And Phyllis Salowe-Kaye, director of the New Jersey Citizen Action, says that Citizen Action, too, will continue to support the use of oxygenates in gasoline.

After a few scattered complaints in the lower 48 states followed hard on the heels of those in Alaska, the potential for serious problems became all too obvious. MTBE, the premier oxygenate used in the oxygenated fuels program, was tainted with suspicions. Without MTBE, the program itself could be in jeopardy. Other oxygenates are available, such as ethyl tert-butyl ether (ETBE), tert-amylmethyl ether (TAME), diisopropyl ether (DIPE), and ethanol; but there's not enough capacity for these products. Last year, about 1.8 billion gal of MTBE went into gasoline, almost 50% more than in 1991. In 1995, when the reformulated gasoline program to combat ozone depletion starts up, even more oxygenates will be needed.

At stake for MTBE producers are billions of dollars invested in plants already in operation or planned. If MTBE were ever proven to be a health threat, or even banned, those investment dollars would be in jeopardy. Refiners have had to at least start considering the complicated and expensive logistics involved in switching to other oxygenates if it becomes necessary.

Well aware of the potential consequences, in early 1993 EPA called in various industry trade groups such as the American Petroleum Institute (API) and the Oxygenated Fuels Association (OFA) to start planning an extensive test program to investigate the validity of the health claims. The testing was parceled out to various government and private laboratories. Trade associations and even companies funded many of the projects. But EPA orchestrated the entire test program.

In late July, EPA assembled most of the participants at a hastily convened conference in Falls Church, VA, to discuss the results of this research. The speakers had no time to prepare papers; they spoke off-the-cuff, most of them only with the help of slides.

The proceedings still haven't been published and may not be for some time. Opinions about what was presented at the conference aren't unanimous by a long shot. But many experts—in and out of industry—believe that the scientific data presented went a long way toward restoring MTBE's tarnished reputation.

A little tarnish may still remain, however. When complaints first started in Fairbanks in November, the Centers for Disease Control & Prevention (CDC) was one of the first agencies on the scene. In December, it studied 18 people who routinely spend a lot of time around cars. CDC measured MTBE levels in their blood, how much MTBE they were exposed to, and what symptoms of illnesses they experienced.

CDC has not specifically come out and said that MTBE is harmful. However, in a recent letter to the Alaska Department of Environmental Conservation, Ruth Etzel, chief of CDC's department of health and human services, summarized the results of CDC's research. Basically, CDC found that people in Fairbanks with high MTBE levels in their blood tended to complain more about such things as headaches and nausea. It later did a similar study in Stamford, CT, and found the same relationship between blood levels and symptoms. "The consistency between the two study sites adds strength to these findings," Etzel writes.

CDC hasn't tagged MTBE as the culprit in Alaska's oxygenated fuels season last year. It does say, however, that questions about MTBE's safety remain until it is more fully evaluated.

More than a few MTBE supporters have criticized CDC's Alaskan study. They point out that it fails to mention other materials found in the air and blood; for instance, benzene, which can trigger similar symptoms and is a known carcinogen. And there is no baseline for comparison.

At the Falls Church meeting, however, MTBE advocates had to be happy with most of what they heard, including a report on studies of MTBE's health effects on animals initiated years before the complaints started piling up in Alaska.

With a 1987 test rule negotiated under the Toxic Substances Control Act, a task force of MTBE producers started a $3.5 million series of studies on animals to determine MTBE's potential chronic health effects. The studies, which began in 1988, were coordinated by OFA, but the Synthetic Organic Chemical Manufacturers Association (SOCMA) performed some of the work for OFA.

OFA exposed animals to very high levels of MTBE to check the oxygenate's toxilogical potential. The inhalation tests included single exposures, repeated daily exposures and lifetime exposures.

About the worst to come out of these studies is that the animals experienced drowsiness and lack of motor coordination. But they recovered completely in a very short time, even at extremely high levels. This reaction is consistent with data from metabolism studies. In these studies, MTBE absorbed into the body is rapidly converted to *tert*-butyl alcohol, which is safely eliminated from the body in urine.

Last year, OFA completed two lifetime exposure studies on animals to test for carcinogenicity and chronic effects. Rats and mice were exposed to 8000 ppm, 3000 ppm, and 400 ppm MTBE for 6 hours per day, 5 days per week for 24 months (rats) or 18 months (mice).

Researchers found an increased incidence of benign tumors in the livers of female mice at 8000 ppm. In rats, there was an increase in renal tubular cell tumors. But these occurred only in male rats and at 3000 ppm and 8000 ppm.

Larry Andrews, manager of toxics and regulatory affairs for Arco Chemical and head of the MTBE health task force, points out that, in toxicology studies, researchers use extremely high doses purposely to induce some effects in animals. And, he adds, the tumors seem to occur by mechanisms that aren't relevant to humans.

"These tests show that MTBE is not very toxic," says Andrews. In fact, he adds, there is a "large margin of safety."

Based on some of these chronic (long-term) exposure studies with animals, EPA reported at the Falls Church meeting that it had raised what it calls its inhalation "reference concentration (RfC)" for MTBE. Inhalation RfC is the airborne concentration that can be inhaled over a lifetime by people, including chemically sensitive people, without posing any appreciable health hazard. EPA increased the RfC level to 3.0 mg per cubic meter, a sixfold increase. One medical expert says this implies that EPA is even more certain than before that MTBE poses "minimal" health risks.

The Environmental & Occupational Health Sciences Institute (EOHSI), a cooperative venture of Rutgers University and Robert Wood Johnson Medical School, Piscataway, NJ., conducted an epidemiologic study this year. This one, however, was in New Jersey to determine if MTBE plays any role in symptoms that state garage workers have reported. EOHSI surveyed 237 garage workers in state agencies, primarily mechanics, mechanics helpers, and refuelers. The self-reported symptoms included headaches, nausea, coughing, lightheadedness, and eye irritation—very similar to the ones that first surfaced in Alaska.

The beauty of this EOHSI study is that the institute was able to compare workers in northern New Jersey, where oxygenated fuels were being used at the time of the study, with their counterparts in southern New Jersey, which does not use oxygenated fuels.

The results are particularly compelling, says OFA executive director John Murray. There were absolutely no differences in the responses given by southern and northern New Jersey workers. "(EOHSI) couldn't find any differences in symptoms or complaints, even though they tried hard to do so," he says.

Sandra Mohr concurs. An assistant professor at the Robert Wood Johnson Medical School, Mohr says the northern, high-exposure workers didn't report symptoms any more often than did the southern, low-exposure workers. "No untoward health effects were found in this cohort of 237 reasonably healthy working individuals," says Mohr.

Raymond A. Lewis, president of the American Methanol Institute, says the only thing wrong with MTBE is that it makes gasoline smell differently. Ethers, of course, have a distinctive odor—one that the typical motorist is not familiar with. But not much is known about how either adding an ether such as MTBE to gasoline may affect the characteristic odor of gasoline, or how motorists filling up at the pump may react psychologically to differences in odor.

To find some answers, earlier this year API and Arco Chemical commissioned an environmental consulting firm, TRC Environmental, Windsor, Conn, to determine odor threshold levels for gasoline, MTBE, other oxygenates, and gasoline-oxygenate blends. Not surprisingly, MTBE-gasoline blends have lower odor threshold levels than gasoline alone. In other words, people notice the odor of gasoline quicker when MTBE is in it.

For instance, the odor detection threshold for a reference gasoline is 0.58 ppm in air. For a blend of 15% MTBE in gasoline, it is only 0.26 ppm. An odor detection threshold is the level at which someone first becomes aware that there is an odor.

Odor recognition thresholds, on the other hand, are levels at which someone can recognize and describe a definite odor characteristic. In these studies, the odor recognition threshold was 0.80 ppm for the reference gasoline, but only 0.69 ppm for the 15% MTBE blend.

Despite the fact that the concentrations are low (a safe level of gasoline in the air is about 100 ppm), the tests indicate what everyone intuitively suspected—that motorists at a filling station will smell the blend easier and quicker than they will smell straight gasoline. Although it's difficult, if not impossible, to correlate the number of health complaints with the ability to smell MTBE, there's at least the suspicion among some observers that, psychologically, people may associate an unknown or unfamiliar smell with a sense of illness. Gerhard K. (Gerry) Raabe, director of epidemiology and medical information services for Mobil Oil, says, "When people get a whiff of something different, it sets them to thinking."

Researchers at EPA and Yale University used the numbers developed in the odor recognition threshold study as guides for two studies in which humans were exposed to MTBE and control substances in a chamber. Timothy Gerrity, chief of the clinical research branch in EPA's office of research and development at Research Triangle Park, N.C., says that even though CDC's epidemiologic studies in Alaska suggest a possible association between MTBE exposure and symptomatic responses, there were no data that could demonstrate a "direct causal relationship" between the two.

To help resolve the issue, EPA studied the sensory, symptomatic, cellular, and ocular responses of healthy humans exposed to MTBE in a controlled exposure chamber at 24°C. Researchers at Yale conducted a similar chamber study, funded by OFA and Arco Chemical, at its John B. Pierce Laboratory.

At Yale, William S. Cain, a fellow at the Pierce Laboratory, directed a group of researchers in a chamber study to see how exposing humans to 1.7 ppm MTBE for one hour would affect their selected behavioral and physiological reactions. They also exposed the 43 subjects to air and to a mixture of volatile organic compounds as controls. The chamber temperature was 24 °C.

Essentially, Yale researchers could detect no differences in how their subjects reacted when they were exposed to MTBE, to gasoline, or to air. Says Cain, "We conclude that one-hour exposures to levels of MTBE up to 1.7 ppm will, aside from odor, induce no reactions in normal, healthy young people." The participants ranged from 18 to 34 years old.

The EPA chamber study at Research Triangle Park was basically the same as the Yale study. The results were also similar, says Mary Smith, director of EPA's field operations and support division. The only differences were that Research Triangle Park researchers used air as its only control, their MTBE concentrations were 1.4 ppm instead of 1.7 ppm, and they used only 37 test subjects.

The results were, indeed, conclusively similar. EPA researchers found that the MTBE caused no increase in symptoms such as headaches, nasal irritation, coughing, or eye irritation, says Gerrity. Nor did exposure to MTBE have any effect on psychological performance or mood. In short, he says, MTBE at 1.4 ppm and room temperature doesn't trigger symptomatic responses from healthy individuals.

For MTBE producers, refiners, and EPA alike, these results were encouraging. The data are convincing, says Raabe, because humans were exposed for one hour, compared with the four minutes of exposure it usually takes for a refill of gasoline at the pump.

A corollary to these human exposure studies is a survey that EOSHI conducted among patient groups with unusual sensitivities to chemicals. EOSHI also surveyed New Jersey residents who registered complaints with the state's Department of Environmental Protection & Energy. It compared responses of 13 multiple chemical sensitivity (MCS) patients and five chronic fatigue subjects (CFS) with six normal control subjects.

As most MTBE observers would have expected, individuals with multiple physical complaints, including MCS and CFS patients, tended to report more MTBE symptoms than normal control subjects, even more than gas pump attendants who work with gasoline regularly. Apparently, chemically sensitive individuals or those who are ill may tend to become more symptomatic with MTBE. But, cautions EOSHI's Nancy Fiedler, an assistant professor at the Robert Wood Johnson Medical School, the symptoms may not even be associated with MTBE, but merely reflect the overall health of these individuals.

Because of the small number of people studied, the conclusions must be considered tentative, says Fiedler. Nevertheless, the study adds one more element to the pile of evidence that seems to dismiss MTBE as the cause of many health complaints.

In addition to farming out some of the tests, API made some surveys on its own earlier this year. A particularly revealing one was an occupational exposure study, designed to determine the amount of exposure for MTBE employees who work with the material in the MTBE and fuels industries. The bottom line: not much, even among those who work regularly with MTBE.

Jack Hinton, industrial hygiene manager for Texaco, who directed the study, says the data typify industry operations in all five of the steps required to bring MTBE to market. These include:

Manufacturing—producing MTBE at both chemical plants and refineries.

Blending—blending MTBE into gasoline, which includes handling both neat (100%) MTBE and blended MTBE fuels.

Transportation—moving MTBE or MTBE-blended fuels by barge, tanker, railcar, truck, or pipeline to their distribution points.

Distribution—storing MTBE at and moving it from distribution terminals to service stations.

Service stations—storing and dispensing MTBE-blended fuels to motorists.

The 2038 exposure measurements the study uncovered span an 11-year period and represent all the major producers and users of MTBE. Most of the data (92%) are post-1990, with 50% of the data collected during the winter months, when oxygenated fuels normally would be used. The 1992–93 oxygenated fuel season accounts for 45% of the data.

According to Hinton, exposures to more than 100 ppm of MTBE during a normal six-to nine-hour workshift (time-weighted average) happen only infrequently and generally only when workers are performing nonroutine tasks. The same is true of short-term tasks (less than 30 minutes), when exposures may reach 300 ppm.

Among production workers, personal exposures are less than 10 ppm in both routine and maintenance operations. A quality control laboratory reported one single exposure of 249 ppm while bottles were being washed. But it was an unusual situation, says Hinton. The automated bottle—washing equipment usually is fitted with exhaust ventilation. This time it wasn't.

Personal exposures in blending operations are less than 100 ppm, but numbers of less than 10 ppm dominate the data. In the transportation sectors, the usual levels are less than 2 ppm for short-term activities associated with mixed fuel and less than 10 ppm for similar operations with neat MTBE. Distribution workers generally encounter exposures of less than 1 ppm of MTBE, whereas service station attendants experience exposures of less than 3 ppm. These service station levels, says Hinton, usually only crop up when workers are repairing vehicles or dispensing pumps.

In addition, other on-site exposure studies were made at service stations to check MTBE concentrations in air. After the initial health complaints started surfacing in Alaska, EPA began planning its series of clinical research studies to investigate the validity of the claims. To design the studies, EPA needed estimates of typical concentrations of MTBE in air that motorists and service station attendants may experience during refueling.

To get the data, API funded a field study to measure ambient MTBE concentrations at 10 service stations in the New York metropolitan area. The study, carried out by a consulting company, International Technology Corp. (IT), Durham, N.C., included both full-service and self-service stations as well as stations with and without advanced vapor recovery systems.

The results are hardly surprising. The mean and maximum four-hour MTBE concentrations in air were highest in the "breathing zone," where attendants or customers actually pump gasoline into the cars. They were lower at the pump island itself and lower still at the perimeter of the service station. This means, says Ted Johnson, IT office manager, that refueling activities are the principal source of MTBE in air at service stations.

More important are the actual MTBE levels that the company detected. Mean MTBE concentrations measured during four-hour periods were below 1 ppm at the breathing zone and pump islands and below 0.02 ppm at station perimeters. Even the maximum four-hour concentrations are below 2.6 ppm at the breathing zone and pump islands, and below 0.2 ppm at the perimeters.

Johnson says that measurements may underestimate breathing zone measurements by a factor of up to three. But even allowing for this, the numbers mean that the average driver encounters very low concentrations of MTBE, even in the breathing zone, while he or she is refueling. And considering that the average fillup takes only four minutes or less—not four hours as in the field tests, driver exposure to MTBE is very low.

It's impossible, however, to compare these data to exposure levels in Alaska during its abbreviated oxygenated fuels season. The reason is that data on Alaskan exposure studies aren't available. CDC did have some exposure data but they don't correlate well with what actually happens at a service station.

EOSHI took the exposure studies one step further. It launched an API-sponsored study to find out what happens inside the car during refueling and during typical suburban commutes in the New York metropolitan area. This study focused on Fairfield County in Connecticut, Westchester County in New York, and Middlesex County in New Jersey. Like IT's study, this one covered the ballpark of service stations—self- and full-service, with and without advanced vapor recovery systems, as well as a mix of new and older cars.

To OFA's Murray, the study shows that MTBE has no adverse effects on commuters—either while they are refueling or while they are driving the car. The numbers bear him out.

The highest MTBE levels occurred during refueling, says P.J. Lioy, director of EOSHI's exposure measurement and assessment division. But those levels measured out in parts per billion, not million. During refueling, they ranged from 13 ppb to 4100 ppb. Inside the car, MTBE concentrations were even less during refueling. And, during a typical one-hour commute, the geometric mean concentration inside the car was only 8.2 ppb, with a range of 1.2 ppb to 160 ppb.

API also ran a questionnaire survey to find out if member companies were receiving many health complaints related to MTBE from their own workers. It didn't find many.

The 16 companies that responded reported 61 occupational complaints and nine consumer complaints. Most retail service stations are independently owned, and those owners do not have to maintain records of health complaints, which may explain the small number of consumer complaints. Because of the small number of complaints from consumers, API focused only on those from workers.

API sent its questionnaires to 18 U.S. refiners, which account for more than 60% of the gasoline used in the U.S. and an appreciably higher percentage of the fuels used in the oxygenated fuels program. Most of the complaints involved headaches, dizziness, and nausea. But there isn't any correlation between the number of complaints and a worker's exposure to MTBE.

"The study generated some interesting data," says Raabe. For instance, more than 70% of employee complaints came from California, New Jersey, and Pennsylvania. Raabe says it's only possible to speculate about the reasons. But he notes that the media in New Jersey and Pennsylvania gave the MTBE health issue heavy coverage, whereas California accounts for a significant percentage of gasoline consumption in the U.S.

The survey recorded worker complaints from 1984 to 1992, as well as complaints registered this year (through July 9). Over the nine-year period, more than 70% of the complaints surfaced in 1992. Prior to 1992, there were no more than five health-related MTBE complaints in any one year. In several years, there were none. And the amount of MTBE produced in 1992 was not significantly higher than in the 1989–91 time frame.

"What happened in 1992," Raabe asks, "that didn't happen in the previous few years?" The answer, of course, is the start of the oxygenated fuels program and the first reports of health complaints in Alaska. Says Raabe: "The number of [worker] complaints probably correlates better with the number of bad press articles that it does with the amount of MTBE produced or used in gasoline."

Another puzzle crops up when API analyzed the complaints by month. A significant majority of the complaints occurred in October and November—the start of the oxygenated fuels season. Raabe thinks that this is unusual for workers in the industry. Production and transportation workers would have been more exposed to MTBE months earlier than that, as they built up inventories for the start of the oxygenated fuels program. This suggests that factors other than actual MTBE exposure may have influenced the complaint rate, says Raabe.

In still another survey, API polled the states to determine how many complaints about adverse health effects they had received from consumers. It checked with state petroleum councils and state offices of health, environment, or transportation, which were most likely to receive such complaints.

API received responses from 14 of the 16 states it queried. Although some states received hundreds and, in one state, thousands of calls about the oxygenated fuels program, only one state received more than a few health complaints. That state, not surprisingly, was Alaska.

Of the 349 complaints about MTBE registered in Alaska, 100 were health related. The next largest number of health complaints—15—came in Montana.

The weak spot in these data is that some states may do a better job of recording complaints than others. Nevertheless, says Raabe, the study indicates that something is going on in Alaska that isn't going on in the lower 48 states. And there is nothing in the study to connect the health complaints to MTBE.

The results of all of the test programs launched since the Alaska incident has generated a huge sigh of relief in the MTBE and refining industries. Industry experts are unabashedly upbeat. The overwhelming consensus: MTBE has been given a clean bill of health—literally.

Lewis of the American Methanol Institute says that MTBE came out of the Falls Church meeting far better than some other components in gasoline. MTBE, says Lewis, isn't bad, it just smells different.

Bill Whitley, oxygenates business manager for Arco Chemical, says that what came out of the Falls Church symposium was very reassuring. "The consistency of the data from the toxicity work on lab animals, the human exposure studies, and the 'real world' studies involving consumers and the workplace give us a much higher level of confidence than we already had."

Mobil's Raabe says the weight of all the data is going in one direction—that MTBE is safe. "There's no magic bullet by itself," he adds, "it's the weight of the combined evidence."

As convincing as the test results may be, so far neither EPA Administrator Carol M. Browner nor anyone else at EPA's Washington, D.C., headquarters has revealed what EPA thinks about them. At press time, EPA was still trying to pull the data together.

Nevertheless, a statement released by EPA's Region 10 office last month may hint which way the agency is leaning. Referring to the test results unveiled at Falls Church, Jim McCormick, director of the air and toxics division, says that "the latest findings support the congressional mandate" to use oxygenated fuels to reduce carbon monoxide emissions. McCormick notes that EPA is still reviewing what he calls "the encouraging results." But "in my judgment, MTBE gasoline remains, on balance, a safe, effective, and relatively inexpensive solution."

In addition to Idaho, Oregon, and Washington, EPA's Region 10 includes Alaska, where the problem started. And where the problem still remains.

The results of the massive test program may indeed be encouraging, but they do not do one thing. They don't put a scientific finger on what actually happened in Alaska during its abbreviated oxygenated fuels season. All of the tests were run under temperate conditions. That doesn't help explain what happens at the frigid temperatures Alaskans endure in the winter. It's not unusual for the temperature in Fairbanks to hit −60 °F.

Nor is it unusual for someone to make the point that the bevy of complaints in Alaska may have been inspired by the flood of adverse publicity about MTBE. Or that the complaints suddenly materialized at the start of the oxygenated fuels program, when the price of gasoline rose about 15 cents a gallon. Several cities in the lower 48 have had oxygenated fuels programs for years. Complaints were common during the first year, but virtually disappeared later.

Such observations don't sit well with Sen. Ted Stevens (R.-Alaska). "When you can live at 45 and 50 degrees below [zero] and carry on your normal life-style, people are not normally complainers," he says.

Until researchers are able to prove MTBE safe at sub-arctic temperatures, it will be difficult to get many Alaskans to embrace MTBE. But conducting studies at sub-artic temperatures isn't easy to do because there aren't many labs that can go down that low. EPA's own lab at Research Triangle Park, for instance, can only go down to 0 °F. It's now being rigged to go to −20 °F.

Conditions in Alaska may be so much different from the lower 48 states that Alaska may have to have its own set of regulations, says OFA's Murray. That, of course, is Browner's call. but something along those lines could happen.

Two weeks ago, EPA received word from Alaska that the state would suspend the oxygenated fuel regulations again this year. Alaska told EPA that, once a joint decision is reached between the agency and the state, the state would give refiners 75 days' notice to get MTBE back into the distribution system. "These are Alaska's actions, not ours," says EPA's Smith.

Decisions will have to be made fast. The 1993–94 oxygenated fuels season is little more than a month away. EPA still is evaluating the test data discussed at Falls Church.

But, unless something startling happens, the oxygenated fuels program probably will go on in the lower 48 states as it did last year. The program has been successful. EPA says that oxygenated gasoline reduces carbon monoxide emissions 15 to 20%. The only difference may be that some cities that had to use oxygenated fuel last year may not have to this year because they have met carbon monoxide standards. Other cities that are not meeting the standards may be added to the program.

MTBE probably will be supplying most of the oxygen for the fuel. Alaska is a small market, so the big question is what impact the scare headlines may have had on consumers in the lower 48 states. MTBE marketers believe that it is slight to none. Besides, there's not enough of the other oxygenates available to satisfy demand. And these oxygenates haven't had nearly the amount of testing the MTBE has had "What's been done for MTBE was well beyond what's normally done for most chemicals," says Smith.

To Mobil's Raabe, the moral that came out of the Falls Church meeting was that "good science" won. And, he adds, "it was one of the best focused examples of coordinated R&D that I can remember."

UNIVERSITY OF WASHINGTON CORRESPONDENCE, DEPARTMENT OF ENVIRONMENTAL HEALTH.

February 5, 1993.

To: Mary Ellen Gordian, M.D.
From: Harvey Checkoway, Ph.D.
Subject: Oxyfuels Studies.

I have read through the material that you sent me regarding the symptom surveys in Fairbanks and Anchorage. Here are my comments.

Apparently, the Anchorage study was intended to have the same design and methods as the preceding study in Fairbanks. Therefore, both have similar strengths and weaknesses. Unfortunately, there is little to praise in either study.

The Fairbanks study had a small study size, asked subjects potentially leading questions about symptoms, and provided no information about how subjects were selected or whether there may have been important confounding factors, such as prior history of respiratory disease or smoking, that distorted the findings. The choice of university students as a reference group is inadequate because their age, socio-demographic, and lifestyle distributions probably differ from the other groups. Most significantly, there is no baseline information on what symptom prevalence rates were *before* the introduction of oxyfuels. It is thus impossible to rule out the influence of perception of damage to health on the findings.

The Anchorage study had all of these problems, and also suffered from the absence of any presumably low exposed reference group.

On balance, there appears to be a relatively high prevalence of symptoms of acute irritation in both cities, at least among the small sample studied. However, at most, there is only very tenuous scientific support for a causal connection between oxyfuels and these symptoms. This seems to me to be a very poor basis for discontinuing the use of oxyfuels.

I hope that these comments are clear and of use to you.

DEPARTMENT OF HEALTH & HUMAN SERVICES, CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC),

Atlanta, GA, September 23, 1993.

Hon. HENRY WAXMAN,
Chairman, Subcommittee on Health and the Environment, House of Representatives, Washington, DC.

DEAR MR. WAXMAN: In response to your letter of September 22, regarding the work of the Centers for Control and Prevention (CDC) on methyl tertiary butyl ether (MTBE), I am providing the following responses to your questions.

1. Are there health benefits associated with the addition of MTBE to gasoline in carbon monoxide (CO) nonattainment areas?

The issue of health benefits gained by adding MTBE to gasoline in order to lower carbon monoxide (CO) has been addressed by the U.S. Environmental Protection Agency. CDC studies do not specifically address this issue. Health benefits are based on EPA models which predict that lowering ambient CO levels will in turn lower human exposure to CO; significantly elevated CO levels have been shown to be related to adverse health outcomes such as angina, in high-risk populations. The degree of health benefit to be gained by adding MTBE to gasoline in any particular area would be proportional to the degree of the CO problem (number and degree of CO exceedances) and the expected reduction in the CO level, which may differ in arctic areas.

2. Have CDC studies demonstrated an adverse health effect associated with the use of MTBE in gasoline in carbon monoxide nonattainment areas?

CDC has conducted preliminary exposure surveys assessing the relationship between acute health complaints (such as headache, nausea, and eye and throat irritation) and exposure to MTBE in gasoline in Fairbanks, Alaska, and Stamford, Connecticut. Both of these areas are CO nonattainment areas. Results in both sites suggested a possible relationship between blood MTBE levels and health complaints. These health complaints are transient. Because these were small pilot studies, they are not definitive, and a cause and effect relationship between MTBE and the experience of these health complaints cannot be concluded. The studies clearly suggest that the issue should be investigated further. The possibility of long term health effects has not been investigated.

3. Have CDC studies demonstrated or suggested that an overall public health benefit would be produced if MTBE were to be removed from gasoline in carbon monoxide nonattainment areas?

The overall public health impact of the removal of MTBE from gasoline in carbon monoxide nonattainment areas needs to be interpreted within the larger context of the public health risks and benefits of MTBE use. This would include analyses of its effects on levels of other hazardous components of gasoline and motor vehicle exhaust such as CO, benzene, 1,3-butadiene, and formaldehyde.

Because of the unique arctic climate in Fairbanks, Alaska, which likely affects many of the factors influencing the overall public health impact of MTBE use, results in

Fairbanks may not be applicable to other carbon monoxide nonattainment areas.

Sincerely,

WALTER R. DOWDLE, Ph.D.,
Acting Director.

REMOVAL OF INJUNCTION OF SECRECY

Pursuant to an order of the Senate of November 19, 1993, the injunction of secrecy was removed from the Chemical Weapons Convention (Treaty Document No. 103-21), transmitted to the Senate by the President today; and the treaty considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The President's message follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the "Chemical Weapons Convention" or CWC). The Convention includes the following documents, which are integral parts thereof: the Annex on Chemicals, the Annex on Implementation and Verification, and the Annex on the Protection of Confidential Information. The Convention was opened for signature and was signed by the United States at Paris on January 13, 1993. I transmit also, for the information of the Senate, the Report of the Department of State on the Convention.

In addition, I transmit herewith, for the information of the Senate, two documents relevant to, but not part of, the Convention: the Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons and the Text on the Establishment of a Preparatory Commission (with three Annexes), adopted by acclamation by Signatory States at Paris on January 13, 1993. These documents provide the basis for the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons (Preparatory Commission), which is responsible for preparing detailed procedures for implementing the Convention and for laying the foundation for the international organization created by the Convention. In addition, the recommended legislation necessary to implement the Chemical Weapons Convention, environmental documentation related to the Convention, and an analysis of the verifiability of the Convention consistent with Section 37 of the Arms Control and Disarmament Act, as amended, will be submitted separately to the Senate for its information.

The Chemical Weapons Convention is unprecedented in its scope. The Convention will require States Parties to destroy their chemical weapons and chemical weapons production facilities under the observation of international inspectors; subject States Parties' citizens and businesses and other nongovernmental entities to its obligations; subject States Parties' chemical industry to declarations and routine inspection; and subject any facility or location in the territory or any other place under the jurisdiction or control of a State Party to international inspection to address other States Parties' compliance concerns.

The Chemical Weapons Convention is also unique in the number of countries involved in its development and committed from the outset to its nonproliferation objectives. This major arms control treaty was negotiated by the 39 countries in the Geneva-based Conference on Disarmament, with contributions from an equal number of observer countries, representing all areas of the world. To date, more than 150 countries have signed the Convention since it was opened for signature in January of this year.

The complexities of negotiating a universally applicable treaty were immense. Difficult issues such as the need to balance an adequate degree of intrusiveness, to address compliance concerns, with the need to protect sensitive nonchemical weapons related information and constitutional rights, were painstakingly negotiated. The international chemical industry, and U.S. chemical industry representatives, in particular, played a crucial role in the elaboration of landmark provisions for the protection of sensitive commercial and national security information.

The implementation of the Convention will be conducted by the Organization for the Prohibition of Chemical Weapons (OPCW). The OPCW will consist of the Conference of the States Parties, which will be the overall governing body composed of all States Parties, the 41-member Executive Council, and the Technical Secretariat, an international body responsible for conducting verification activities, including on-site inspections. The OPCW will provide a forum in and through which members can build regional and global stability and play a more responsible role in the international community.

The Convention will enter into force 180 days after the deposit of the 65th instrument of ratification, but not earlier then 2 years after it was opened for signature. Thus, the Convention can enter into force on January 13, 1995, if 65 countries have deposited their instruments of ratification with the depositary for the Convention (the Secretary General of the United Nations) by July 1994. The 2-year delay before the earliest possible entry into force of the Convention was intended to allow Signatory States time to undertake the necessary national legislative and procedural preparations and to provide time for the Preparatory Commission to prepare for implementation of the Convention.

The Convention is designed to exclude the possibility of the use or threat of use of chemical weapons, thus reflecting a significant step forward in reducing the threat of chemical warfare. To this end, the Convention prohibits the development, production, acquisition, stockpiling, retention, and, direct or indirect, transfer to anyone of chemical weapons; the use of chemical weapons against anyone, including retaliatory use; the engagement in any military preparations to use chemical weapons; and the assistance, encouragement, or inducement of anyone to engage in activities prohibited to States Parties. The Convention also requires all chemical weapons to be declared, declarations to be internationally confirmed, and all chemical weapons to be completely eliminated within 10 years after its entry into force (15 years in extraordinary cases), with storage and destruction monitored through on-site international inspection. The Convention further requires all chemical weapons production to cease within 30 days of the entry into force of the Convention for a State Party and all chemical weapons production facilities to be eliminated (or in exceptional cases of compelling need, and with the permission of the Conference of the State Parties, converted to peaceful purposes). Cessation of production, and destruction within 10 years after the entry into force of the Convention (or conversion and peaceful production), will be internationally monitored through on-site inspection.

In addition, the Convention prohibits the use of riot control agents as a method of warfare, reaffirms the prohibition in international law on the use of herbicides as a method of warfare, and provides for the possibility for protection against and assistance in the event of use or threat of use of chemical weapons against a State Party. The Administration is reviewing the impact of the Convention's prohibition on the use of riot control agents as a method of warfare on Executive Order No. 11850, which specifies the current policy of the United States with regard to the use of riot control agents in war. The results of the review will be submitted separately to the Senate.

The Convention contains a number of provisions that make a major contribution to our nonproliferation objectives. In addition to verification of the destruction of chemical weapons, the Convention provides a regime for monitoring relevant civilian chemical industry facilities through declaration and inspection requirements. States

Parties are also prohibited from providing any assistance to anyone to engage in activities, such as the acquisition of chemical weapons, prohibited by the Convention. Exports to non-States Parties of chemicals listed in the Convention are prohibited in some instances and subject to end-user assurances in others. Imports of some chemicals from non-States Parties are also banned. These restrictions will also serve to provide an incentive for countries to become parties as soon as possible. Finally, each State Party is required to pass penal legislation prohibiting individuals and businesses and other nongovernmental entities from engaging in activities on its territory or any other place under its jurisdiction that are prohibited to States Parties. Such penal legislation must also apply to the activities of each State Party's citizens, wherever the activities occur. Through these provisions, the Convention furthers the important goal of preventing the proliferation of chemical weapons, while holding out the promise of their eventual worldwide elimination.

The Convention contains two verification regimes to enhance the security of States Parties to the Convention and limit the possibility of clandestine chemical weapons production, storage, and use. The first regime provides for a routine monitoring regime involving declarations, initial visits, systematic inspections of declared chemical weapons storage, production and destruction facilities, and routine inspections of the relevant civilian chemical industry facilities. The second regime, challenge inspections, allows a State Party to have an international inspection conducted of any facility or location in the territory or any other place under the jurisdiction or control of another State Party in order to clarify and resolve questions of possible noncompliance. The Convention obligates the challenged State Party to accept the inspection and to make every reasonable effort to satisfy the compliance concern. At the same time, the Convention provides a system for the inspected State Party to manage access to a challenged site in a manner that allows for protection of its national security, proprietary, and constitutional concerns. In addition, the Convention contains requirements for the protection of confidential information obtained by the OPCW.

The Convention prohibits reservations to the Articles. However, the CWC allows reservations to the Annexes so long as they are compatible with the object and purpose of the Convention. This structure prevents States Parties from modifying their fundamental obligations, as some countries, including the United States, did with regard to the Geneva Protocol of 1925 when they attached reservations preserving the right to retaliate with chemical weapons. At the same time, it allows States Parties some flexibility with regard to the specifics of their implementation of the Convention.

Beyond the elimination of chemical weapons, the Chemical Weapons Convention is of major importance in providing a foundation for enhancing regional and global stability, a forum for promoting international cooperation and responsibility, and a system for resolution of national concerns.

I believe that the Chemical Weapons Convention is in the best interests of the United States. Its provisions will significantly strengthen United States, allied and international security, and enhance global and regional stability. Therefore, I urge the Senate to give early and favorable consideration to the Convention, and to give advice and consent to its ratification as soon as possible in 1994.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 23, 1993.*

TRIBUTE TO NED COLL AND THE REVITALIZATION CORPS

Mr. DODD. I rise today to call my colleagues' attention to the work of Ned Coll and the Revitalization Corps of Hartford, CT.

Ned has dedicated the last 30 years of his life to fighting for the poor and disadvantaged of this country. His life's work was inspired by the example of President John F. Kennedy, the 30th anniversary of whose assassination we marked this week.

Ned took seriously President Kennedy's exhortation, "Ask not what your country can do for you, but what you can do for your country." On June 22, 1964, he founded the Revitalization Corps, a social action agency based in Hartford.

Ned has spent the last 30 years as a living example of President Kennedy's vision of public service. As we embark on the holiday season, a time of hope and redemption, Ned is starting a bread-and-water fast to draw attention to the crisis of violence in our society. He plans to continue the fast through Christmas Eve.

I would like to take this opportunity to commend Ned for his work and to say that I hope we all take seriously his concerns about the effect of violence on our children and on our culture. We must all commit ourselves to stopping the tide of violence that is sweeping over our society.

I ask unanimous consent that a column about Ned Coll written by Tom Condon in today's Hartford Courant appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Hartford Courant, Nov. 23, 1993]

COLL HAS LIVED IN THE SPIRIT OF KENNEDY

(By Tom Condon)

The young man heard the news and, stunned, walked out of the building, into the streets of downtown Hartford.

"The city was a sea of white handkerchiefs. There were no Republicans or Democrats that day," he recalled. He resolved to go to the funeral.

That was Nov. 22, 1963. The young man was Edward T. "Ned" Coll, 23, a recent graduate of Fairfield University who'd fulfilled his family's ambitions for him by getting a job at an insurance company.

President John F. Kennedy had inspired many young people to go into politics (including the guy in the White House now), into the Peace Corps and into other branches of public service. But few pondered JFK's challenge to "ask not what your country can do for you, ask what you can do for your country" as seriously as Ned Coll.

At the Kennedy funeral, Coll determined he'd do something to remember JFK. Coll decided that Kennedy was about helping the poor and disadvantaged. It took several months to work out the details, but on June 22, 1964, Ned Coll launched the Revitalization Corps, a social action agency that would be a living memorial to John, and later to Robert Kennedy.

Thirty years later, Ned is still doing it. Every day he arrives at the brick building on Holcomb Street in Blue Hills.

One of the first programs he started was tutoring North End youngsters, and that's mostly what he's doing again. Each week he brings in busloads of students from the University of Connecticut and Loomis-Chaffee School to tutor about 150 youngsters ages 10 to 16.

Coll hadn't planned anything special for the anniversary of the assassination: "I'm just going to work." But his memory of JFK is as keen as ever, and he still thinks the young president left us much too soon.

"First of all, he never would have let Vietnam go as far as it did. (I agree.) His antennae were too sharp. Also, he would have stopped the cynicism that led to the yuppie era. He would have challenged our young people," Coll said.

Coll said Kennedy was effective because "a sense of humor guided his intellectualism."

For Coll, the 30 years have been a journey, in every sense. By the late 60's, the Revitalization Corps had offices across the country, and thousands of volunteers. In the late '60s and early '70s, Coll sought a number of elective offices, from the Hartford school board to the presidency, in mostly symbolic campaigns to publicize the plight of the poor.

He's marched along the highways and beaches, and fought for causes large and small. He's also been slowed by illness and some personal difficulties over the years. The Corps is just a Hartford operation again, but it's still here, still offering tough love to youngsters who desperately need it.

As with most people who work in the neighborhoods of North Hartford and Frog Hollow, Coll is appalled by the level of violence in the city. He thinks the worst offender in promoting the cult of violence is the electronic media.

"The electronic media promotes violence, which is bad in itself; and takes kids away from reading. You can't grow if you don't read," he said. "This country needs to read and pray." He praised Attorney General Janet Reno for taking a stand against electronic violence.

Friday Coll is starting a bread-and-water fast to last until Christmas, which he hopes will draw attention to the problem of urban violence. He has no regrets about founding the Corps. "I'm glad I decided to do it."

LOOKING TOWARD THE NATO SUMMIT

Mr. LIEBERMAN. Mr. President, in January 1994, before the Congress reconvenes, President Clinton will take part in a summit of NATO leaders to discuss the future of the North Atlantic Alliance. One of the subjects which will have to be addressed is whether or not to expand NATO's membership by offering any of the former Warsaw Pact countries an opportunity to join the Alliance in some capacity. This is an important issue which has profound implications for security and stability in Europe and, thus, for our own national security. I have every reason to believe that the President and his administration are taking this question very seriously and intend to offer proposals which will keep NATO the vigorous Alliance which has helped maintain peace in Europe for over 40 years.

I commend to the reading of my colleagues an article by Dr. Zalmay Khalilzad of the Rand Corp., "Extending the Western Alliance to East Central Europe: A New Strategy for NATO," published as a Rand Issue Paper in May 1993. Dr. Khalilzad argues, as have several of our colleagues in this body, that one way to reinvigorate NATO is by establishing partnerships with the States of East Central Europe. He recognizes that such actions would not be without costs, but that the costs of not helping stabilize East Central Europe could be far greater.

I hope that the President will consider these views as he goes to the summit. The NATO summit will be a time for the President to demonstrate vision and leadership as he addresses both the dangers and opportunities which confront the North Atlantic Alliance.

WELFARE REFORM

Mr. DOLE. Mr. President, I rise to join my colleague, Senator BROWN in his commitment to reform of the welfare system. With the support of many other Senators, we stand ready to make it possible for people on welfare to get a job and to support themselves and their families. These Americans need our help now, so they can join the mainstream of society.

Mr. President, we believe the Federal Government must continue welfare reform. Landmark progress was made in 1988 when President Ronald Reagan signed into law the Family Support Act—a hard fought bipartisan agreement. The Senate contributed to this effort by passing a visionary work requirement which also was approved in the House.

We must build upon these improvements which helped redefine the welfare debate. They established as a primary objective education and training so those on welfare could prepare for and get jobs to support their families.

Specifically, in 1988 we accomplished: Strengthening child support enforcement procedures, requiring States to implement work, education, and training programs for welfare mothers, and offering transitional child-care and medical benefits to families who have left the welfare rolls for a job.

These improvements have not completed our work. We must build upon them. We must continue to determine what works and what does not. We must encourage the American work ethic.

We begin again by submitting a preliminary outline of a Senate Republican welfare reform bill. Our goals are: To strengthen the work requirements for abled bodied adults on welfare, to encourage welfare parents to support their children, to increase flexibility for States to design welfare programs, and to limit welfare to those it was created to help.

Mr. President, these changes must be addressed to further reform our half century old welfare system and make it relevant to our society today.

During the campaign, President Clinton pledged "to end welfare as we know it." As I understand it, his primary goal was to place strict time limits on welfare benefits, while strengthening the opportunities for training and job placement.

We are ready to work with President Clinton in a bipartisan spirit as he attempts to fulfill his promises to the American people.

Mr. President, the House of Representatives and our Nation's Governors will also play a major role in securing reform. Like our House colleagues, we believe that welfare recipients must meet real work requirements and that we must emphasize parental responsibility and paternity establishment.

Senator BROWN included in his floor statement on welfare reform the following, "there is a secret to success in America. It is work. Work means opportunity and growth. It gives fulfillment. To reform welfare, we have got to provide people an opportunity for self-respect and work."

Let the work begin. It is our responsibility.

HEAR ME, MY CHIEFS

Mr. INOUYE. Mr. President, I rise today to share with my colleagues the transcript of a public service radio program that was first aired on September 25, 1949.

The narrator of the program was a young Hollywood celebrity at the time, a man who would later become the Governor of California and then the President of the United States—former President Ronald Reagan.

This public service radio program recounts the sad and moving story of "The Last Days of the Great Warrior," Chief Joseph, leader of the Nez Perce Indians, and his valiant efforts to save his people and to live in peace with the white man.

Mr. President, I will ask that the transcript of this program be printed in full in the RECORD immediately following my remarks, because I believe that in this month which is dedicated to the American Indian, and in this year which the United Nations has declared the international year of the indigenous people, it is appropriate that we should recognize the members of the great society that preceded us on this land.

We should remind one and all that this Nation's first Americans are alive and well—that they survived our efforts to exterminate them—and that they were and continue to be the protectors of this Earth, the first conservationists, and the keepers of our spiritual values.

Mr. President, as we return to our homes to join our loved ones in the celebration of Thanksgiving, we should also remember that it was the Indians who provided the food for the first Thanksgiving in the land that was to become the United States, and that Gen. George Washington and his troops would never have survived the harsh winter at Valley Forge had it not been for the generosity of the Indian people who provided them sustenance.

Mr. President, at the conclusion of this broadcast, the narrator refers to one of the oldest Indian organizations in the United States—an organization that is no longer located in Hollywood, but rather, cannot be found in the Nation's Capitol.

On behalf of my colleagues in the Senate, I want to express our gratitude to the executive director of this organization called ARROW—which stands for American Restitution and Righting of Old Wrongs, Inc.—Mr. E. Thomas Colosimo—for his patience and perseverance in securing the releases that would enable us to share this transcript that commemorated American Indian Day in the year of 1949.

Mr. President, I thank you for the opportunity to share with our colleagues, this program entitled. "Hear Me, My Chiefs."

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

"HEAR ME, MY CHIEFS"—AMERICAN INDIAN DAY PROGRAM

SOUND. Tom Tom and Indian Ponies Walking Some Distance Off.

RECORD. Indian Chant (Distant).

NARRATOR. This is Ronald Reagan. (Pause) On a bright May morning in 1877, several bands of Nez Perces Indians rode slowly into Fort Lapwai up in the Idaho Indian country. Their ponies streaked with red, the Indians came in chanting * * *.

VOICE 1. (Cue) Listen to 'em.

VOICE 2. Important day for them.

VOICE 1. Maybe for us, too.

VOICE 2. Bunch of 'em there.

VOICE 1. Half a hundred or more, I'd say.

VOICE 2. Brought their women with 'em.

VOICE 1. Always do. And notice their faces are streaked with red too.

VOICE 2. Looks like all of 'em's wearing new buckskins.

VOICE 1. Ain't new, but they likely been rubbing 'em with chalk last couple days t'make 'em LOOK new. Feel they gotta look their best when they're coming in to pow-wow with the General.

Sound and record up briefly—then BG.

REAGAN. The men wore buckskin leggins and moccasins, and blankets of brilliant colors. Their hair was braided and tied with gaudy strings. The women wore bright shawls or blankets, skirts to the ankle, and hightop moccasins. They rode completely around Fort Lapwai. The troopers stood and watched—some from the inside of barracks where they had been ordered, to minimize the possibilities of an incident. For, among these Indians was one the world would never forget.

ORGAN. Hits and surges up into EPIC melody of a continent . . . hold ten seconds then drop to BG:

ANNCR. Starring Ronald Reagan as the narrator, the National Broadcasting Company and ARROW—the nationwide committee for American Restitution and Righting of Old Wrongs—present a special program written and produced by Arnold Marguis, a tribute to our people of Indian blood, in observance of American Indian Day—

ORGAN. Brilliant chord and out completely.

ANNCR. Hear Me, My Chiefs!

ORGAN. Swells up in broad legato . . . struggle . . . Tom Tom beat (25) then BG:

REAGAN. Every trooper at Fort Lapwai had heard about the chief of these Indians. The Nez Perces called him Thunder-Rolling-Over-The-Mountains. His name was prophetic. But to the troopers, who now faced him, he was known as Chief Joseph.

HOWARD. Tell Chief Joseph to sit here in the front circle.

REAGAN. This was General O. O. Howard * * * speaking to his translator.

HOWARD. Tell Chief Looking Glass to sit on his left, and Chief White Bird and Alokut to sit on his right.

REAGAN. The Indians sat down. Chief Joseph sat impassive. He was tall, six feet tall, straight, well-formed and muscular. His forehead was broad, his expression calm. (He was thinking of many things: his people, their land, his father's dying words:)

OLD CHIEF. My son, my spirit is going very soon to the Great Spirit Chief. Then you will be the chief of these people. Always remember, your father never sold his country. You must stop your ears whenever you are asked to sign a treaty selling your home. Never forget my dying words: this country holds your father's body.

REAGAN. General Howard, called by the Indians "The One-Armed-Soldier-Chief", spoke:

HOWARD. We are here to sign the treaty for the Wallowa Valley.

REAGAN. The Wallowa Valley was the home of the Nez Perces. They called it the Valley of the Winding Waters.

HOWARD. We ask you to move here to Lapwai Reservation.

ORGAN. Sneaks in . . . warmth and friendship . . . (legato) hold B.G. . . .

REAGAN. The Nez Perces had lived in their Valley of the Winding Waters for generations . . . for as long as their legends knew. The Nez Perces were mountain Indians. They lived in tall, white teepees, they planted crops in the Valley, they hunted elk, bear, deer in the mountains. They worked all summer drying fish from the swift streams, gathering berries and tobacco for winter. Once a year they crossed the mountains over in Montana for a buffalo hunt. They wore beautiful tanned hide garments: hunting shirts, leggins, moccasins. The women were vivacious. They laughed and smiled easily. The men were of extraordinary gentle and upright character, and they were proud of their record of peace with the white man . . . from the first white man they had seen when Lewis and Clark came through their country seventy years before. (Music drifts out.)

HOWARD. Your neighbors, the other Indians, have signed this treaty.

REAGAN. It was General Howard speaking. Then Chief Joseph spoke:

JOSEPH. If we ever owned the land, we own it still. You claim our country has been sold to the Government. Suppose a white man should come to me and say: Joseph, I like your horses and I want to buy them. I say to him: No, my horses suit me, and I will not sell them. Then he goes to my neighbor and says to him: Joseph has some good horses. I want to buy them, but he refuses to sell them. My neighbor answers: Pay me the money, and I will sell you Joseph's horses. The white man comes back to me and says: Joseph, I have bought your horses, and you must let me have them. (Pause.) If we sold our lands to the Government, THIS is the way they were bought.

REAGAN. (Pause.) The Indians sat impassively and looked at the whites. General Howard regarded Chief Joseph. Here was no ordinary Indian, no ordinary man.

HOWARD. A number of white settlers have lived in the valley for several years now.

JOSEPH. They have not received permission from us.

REAGAN. In 1885, a number of Nez Perce bands had signed a treaty, and moved to the Lapwai Reservation. But not Old Chief Joseph * * * father of this Chief Joseph. And other Nez Perce bands had signed another treaty in 1863. But not Old Chief Joseph. Meantime more whites were infiltrating the Valley of the Winding Waters * * * In 1873, tired of the wrangling for the valley, President U.S. Grant issued an order:

GRANT. The Wallowa Valley is hereby receded to the Nez Perce Indians * * *

REAGAN. There was rejoicing among the Indians, but not for long:

SETTLER 1. They can't do that * * * give our land back to the Indians.

SETTLER 2. No. I've had my family here for five years.

SETTLER 1. I've had mine here for seven * * *

SETTLER 2. I didn't come way out here to Oregon to get pushed off my land by Indians * * * or by anybody else.

REAGAN. The white settlers in the valley refused to move. New settlers came in to join them. Two years later, President Grant revoked his order * * * And since then, the whites had tried to get Chief Joseph and his followers to leave their Valley of the Winding Waters and move into the Lapwai Reservation * * * General Howard addressed himself to Chief Joseph.

HOWARD. Here on the Lapwai Reservation you and your people can live, but you must leave Wallowa Valley.

JOSEPH. For many years I have been talking to the whites about our valley. It is strange they cannot understand me. The country you ask us to leave belonged to my father, and when he died it was given to me and my people. (Pause.) I will not leave it until I am compelled to.

REAGAN. (Pause.) Silence again. General Howard had his orders. He addressed himself to the other chiefs.

HOWARD. What do YOU say?

LOOK GL. As, brothers, I do not like to fight the white man.

REAGAN. This was Looking Glass. General Howard turned to White Bird, the heavy-set man with the poker face * * * the fighter. (Pause.) White Bird said nothing * * * White Bird remembered the five days in the guardhouse General Howard had previously given him for insolence in a council where he had thought he sat with power and immunities equal to those of the white man.

HOWARD. I will give you thirty days to decide. * * *

REAGAN. This was General Howard's order. The Council was ended. Chief Joseph, his handsome young brother, Alokut, * * *, Looking Glass, the peace-maker, and White Bird, the firebrand, rose and walked out. The troopers watched them as they rode with their band slowly out of Fort Lapwai.

SOUND. Tom Tom * * * (off Mike) * * * Indian Ponies walking on gravel * * *

REAGAN. As the red-streaked ponies jogged along in the dust, hardly an Indian spoke. Chief Joseph rode solemnly.

SOUND. Tom Tom and Indian ponies.

REAGAN. When finally they stopped, everyone knew there would be hot words. (Sound out.)

WH. BIRD. I will not move.

REAGAN. This was White Bird, the firebrand.

LOOK. GL. I want to live in peace with the white man.

REAGAN. This was Looking Glass.

JOSEPH. The One-Armed-Soldier Chief has given us thirty days to decide. This means that all our talk has gained us nothing.

WH. BIRD. What else can talk gain?

JOSEPH. Reasonable men can avoid war. (Pause.) I ask that we try the reservation life during these 30 days—at least to show our good faith.

SOUND. Tom Tom sneaks in * * * building toward war.

WH. BIRD. No. I will not surrender the land of my people.

LOOK. GL. The white man is coming like what tide. Soon they will be all around us.

WH. BIRD. I will not surrender.

JOSEPH. Let the young man speak. What do you say, Alokut?

ALOKUT. My brother, we have reached our decision. We will fight.

JOSEPH. Make war? No! We are not a warlike people.

ALOKUT. The young men have decided. We have been gathering ammunition. We will buy more—all we can get. We will no longer permit the white man to crowd us off the trails. (With determination.) We will not give up our Valley of the Winding Waters * * * We will fight!

SOUND. Tom Tom now comes up full * * * throbbing beat * * *

ORGAN. Deep danger * * * impending action * * * in time with Tom Tom * * * briefly then under:

REAGAN. At Fort Lapwai, General Howard alerted his troops . . . And in the valleys and along the mountain trails, the whites and the Indians bristled at the sight of each other. To get ammunition the Nez Perce young men sold whatever they had, bartered whatever would be taken in exchange. They watched the white settlers, watched the trails, watched the troopers at Fort Lapwai and noted their maneuvers . . . Suddenly it came:

MUSIC. Swells up full . . . cuts off sharply . . .

ALOKUT. (Coming in.) My brother, my brother . . .

JOSEPH. (Calmly) What is it, Alokut?

ALOKUT. Speaking Eagle is dead.

JOSEPH. Speaking Eagle dead?

ALOKUT. The white settler down near the bend killed him. (Pause.) The young men are bringing him in now.

WH. BIRD. The settler called Larry Ott?

ALOKUT. Yes.

JOSEPH. Wait, White Bird. Where are you going?

WH. BIRD. (Off.) My chief, can we not even defend ourselves?

JOSEPH. No one must touch the settler called Larry Ott.

ALOKUT. Some of the young men are already on the trail.

JOSEPH. Stop them. Go and stop them Alokut.

ALOKUT. (Fading.) If I can, my brother. If I can.

REAGAN. No Indian touched Larry Ott. He was not harmed. But word of the death of Speaking Eagle spread through the valleys and the hills. And suddenly, at Slate Creek, Idaho——

SOUND. Several rifle shots . . . riccochets . . .

BIZ. Ad Libs of settlers and Indians

REAGAN. And several hours later——

SOUND. Galloping horse fading in full speed . . . pulls up to stop man dismounts.

REAGAN. A white settler rode for his life into Fort Lapwai

SETTLER 1. (Gasping for breath) Massacre! Massacre! Indians. (SOBS)

COL. Massacre? Where?

SETTLER 1. Indians (Gasps) Slate Creek. They ambushed us . . . they killed my family (SOBS)

COL. Killed your whole family?

SETTLER 1. Yessir. (Gasps) My father . . . my mother . . . my sister . . . It's a massacre. It's an uprising, I tell you. (SOBS) It's a massacre!

MUSIC. Deadly attack . . . dread danger . . . (Tom Tom beat)

REAGAN. Word of the ambush reached Chief Joseph at Kamiah almost as soon as it reached Fort Lapwai.

JOSEPH. (Sadly.) Now war will come.

REAGAN. Now was to begin one of the most remarkable games of military chess . . . of military hide-and-seek—of masterful military strategy stretching over 2000 miles of mountain trails and valleys.

JOSEPH. All hope of avoiding bloodshed is gone. We must move at one . . .

MUSIC. Swells full . . . agitation . . . (Tom Tom beats) (drop to BG)

BIZ. Bustle of Indians packing for the trail

SOUND. Many horses milling about . . . sounds of packing horses (Ad Libs)

JOSEPH. White Bird . . . Looking Glass . . . Alokut . . . as soon as your bands are ready, start for White Bird Canyon in the Salmon River country . . .

ALOKUT. My young men are already on the trail.

WHITE BIRD. We will be ready to start before dark.

LOOKING. The women and children will slow us, but we will be on the trail soon.

JOSEPH. Lose no haste in getting to White Bird Canyon.

BIZ AND SOUND. Builds full . . . horses . . . packing . . . ad libbing of bustling milling group.

REAGAN. Within the next few hours Chief Joseph's entire band was on the trail . . . a fighting force of some 300, and twice that many women and children. By the time he reached White Bird Canyon, Chief Joseph knew that Perry's troopers from Fort Lapwai were already after him. Joseph posted pickets at the entrance of the canyon, and then sat down with his wife and twelve year old daughter to wait for two things: for the arrival of the troops, and for the birth of his child . . . (music out.)

SOUND. Fading in . . . hoofbeats of approaching horse.

ALOKUT. (Coming in.) The soldiers are coming up the slope

JOSEPH. Then it is time.

REAGAN. This man who had never fought a battle . . . who had no training in warfare, walked out to command his warriors. He was ready. His warriors were ready. For Chief Joseph had contrived to battle, flawless in every detail. White Bird stood ready to flank the troops at a chain of buttes above the Indian camp. Joseph and Alokut waited behind a rocky ridge . . .

ALOKUT. They have discovered our teepees . . .

JOSEPH. Yes.

ALOKUT. They think they have caught us sleeping.

JOSEPH. They have not yet discovered our herd of horses. They must not see us—yet.

ALOKUT. They are getting ready to charge our camp.

JOSEPH. White Bird will come out at the right time. Are you ready?

ALOKUT. I am ready . . . and my young men are ready . . .

JOSEPH. There goes White Bird on their flank.

SOUND. Rifle fire . . . (ad libs of attacking Indians) (All this off mike)

ALOKUT. We have surprised them! Look at them break.

JOSEPH. Now . . . attack!

ALOKUT. (Yells command in Indian)

SOUND. (On Mike) Rifle fire . . . Indian war whoops . . . galloping horse . . .

JOSEPH. Now . . . stampede the herd of horses straight into them . . .

ALOKUT. (Off . . . shouting.) Drive the horses into them . . . stampede the horses. . . .

BIZ. Ad libs responses. . . .

SOUND. Stampede of horses . . . rifle fire . . . (ad libs).

ALOKUT. Look—the stampede has broken up their lines!

JOSEPH. Now, Alokut . . . turn to the right flank . . . drive them into White Bird!

ALOKUT. (Off . . . yelling.) To the right . . . turn their right flank!

SOUND. Hard riding . . . rifle fire . . . (ad libs).

REAGAN. Within a few moments the troopers and the civilian volunteers were caught between White Bird on one side, and Joseph and Alokut on the other. Almost immediately, it became a route.

SOUND. Hard riding . . . rifle fire . . . ad libs.

REAGAN. Joseph's warriors pursued the troopers riding at breakneck speed . . .When the battle had ended, nearly a third of the troopers lay dead, scattered from the entrance of White Bird Canyon along the bluffs and on the floor of the valley for a distance of ten or twelve miles. . . .

MUSIC. Triste . . . swells in maestoso . . . briefly . . . then drops to BG:

SOUND. Old fashioned bug telegraph key.

REAGAN. The telegraph lines to Washington were hot.

VOICE. (Filter.) General O.O. Howard has started from Fort Lapwai with an overwhelming force to round up and take Chief Joseph and his band of Nez Perces. . . .

SOUND. Old fashioned bug up briefly . . . fade out.

REAGAN. Joseph's scouts brought him the same information as the women of his band came in to honor the birth of his baby at White Bird Canyon. He packed his wife and baby on horses and moved his entire band—women, children, old people, and his herd of two thousand horses and hundreds of cattle—down the Salmon River . . . He knew he could not fight Howard's superior force as he had fought Perry's. (Music out.) He crossed the river, and took up a strategic position.

JOSEPH. Here we can strike in whatever direction is necessary.

REAGAN. General Howard's scouts were watching Joseph, as Joseph's scouts were watching him.

HOWARD. So . . . he's taken up a position on the opposite side of the river.

MILES. Yes, and the Salmon is a swift stream.

HOWARD. Well, we can not pursue him with our whole force. Leave our settlements unguarded.

MILES. Probably what he wants.

HOWARD. Send Whipple to Cottonwood. We'll cross the stream and attack Joseph.

MILES. Yes, sir.

REAGAN. But this is what Joseph wanted—to divide Howard's army. Joseph waited and as Howard approached, drew him deep into the rough mountains, then circled around, recrossed the river, cut Howard's supply-line and attacked Whipple at Cottonwood! When Howard discovered what Joseph had done, he recrossed the Salmon River and raced back to the rescue of Whipple. Meantime, Joseph had drawn off to Clearwater and joined forces with Chief Looking Glass.

LOOKING GLASS. The One-Armed-Soldier-Chief is on his way here with 400 men and many guns . . Joseph. We will wait for them.

LOOKING. Can we defend our camp—our women, children, horses?

JOSEPH. We will not defend. We will attack.

REAGAN. Joseph now had no more than 250 fighting men armed with rifles. General Howard was approaching with 400, Regular Cavalry and mounted infantry, armed with rifles, pistols, a howitzer and two Gatling guns . . . Joseph waited until Howard approached. Then, in a bold and masterful strike——

SOUND. Hard riding ponies . . . rifle fire . . . (ad libs).

REAGAN. Joseph's warriors charged across the Clearwater River . . . attacked Howard.

SOUND. Rifle fire . . . howitzer.

REAGAN. Dawn of the second day found the Indian fighting from behind stone barriers they had erected in the night. The troopers, although outnumbering and outgunning the Indians, were actually besieged . . . Shortly afternoon——

LOOKING. Look . . . a cloud of dust in the distance . . .

JOSEPH. Yes-Looking Glass.

LOOKING. It is a troop of cavalry.

JOSEPH. Reinforcements from Fort Lapwai. We will withdraw.

SOUND. Shooting slackens off.

REAGAN. Joseph broke off the battle and headed for Lolo Pass in the Bitter Root Mountains. When they had eluded Howard's force under cover of darkness, they halted. Joseph sat down with his chiefs to council. Looking Glass spoke:

LOOKING. There is now no hope of settlement. . . .

REAGAN. Then White Bird spoke.

WHITE. We must fight or run . . .

LOOKING. If we are to run, we must head for Canada.

REAGAN. Then Alokut spoke.

ALOKUT. They will bring up more reinforcements.

LOOKING. Canada is our only refuge, now.

JOSEPH. Why should we flee? What are we fighting for? Is it for our lives? No. It is for this land where the bones of our fathers lie buried. I do not want to die in a strange land. Some of you tried to say once that I was afraid of the whites. Stay here with me now, and you will have plenty of fighting. We will put our women behind us in these mountains, and die on our own land fighting for them.

LOOKING. (Pause.) Rolling Thunder Over the Mountains, like you, I am a man of peace. I have fought all my life for it. But if we die here, we will win nothing. We must move.

WHITE. We must move so we can fight again when the advantage is ours.

JOSEPH. (Pause.) What say you and your young men, Alokut, my brother?

ALOKUT. We must flee now, and fight again.

JOSEPH. (Pause.) Before dawn we will move up Lolo Pass. We must gain the pass to get through the Bitter Root Mountains . . .

MUSIC. Determination . . . briefly . . . then hold under in BG.

REAGAN. But the troopers had been on the move during the night, too. Before Joseph could get his warriors, his women and children and old people, his 2000 horses and his many cattle into Lolo Pass, Colonel Mason and a detachment of cavalry was attacking his rear. Joseph turned and fought him off, then pushed into the pass. But Captain Rawns, with another force, had got into the pass first, and was blocking his way. (Music out.)

SOUND. Distant . . . rifle fire . . . ricchoets on Mike.

WHITE. We can fight our way through, Joseph.

JOSEPH. No. Our losses will be too great.

ALOKUT. Then let us scatter through their lines in twos and threes.

JOSEPH. No, my brother Alokut, we must keep our strength intact. (Pause.) We will hold the shoulder-strap-soldier in play here, with the threat of an attack. And you, Looking Glass, will slip around the troops with the main body. We will join you on the other side of the pass.

LOOKING. I will take them, my chief.

SOUND. Distant firing . . . riccochets.

REAGAN. Captain Rawns stood fast in Lolo Pass under the threat of a frontal attack by Joseph. At nightfall, after waiting all day, they heard distant singing.

RECORD. Indian chant . . . distant.

CAPT. Where is that singing coming from, Sergeant?

SERGT. Seems like it's coming from up there. (Pause.) Yes, look . . . look . . . 'way up there on that ridge. Injuns with all their gear crossing over . . . and there ain't no trail up there of no kind. . . .

CAPT. Then they're slipping through to the other side!

RECORD. Fades out in distance.

REAGAN. Where it seemed a goat could not pass, Joseph's people passed along the side of a cliff with all their impedimenta . . . far out of reach of Captain Rawns . . . and dropped down through the Bitter Roots into the valley beyond.

MUSIC. Sneaks in . . . (Tom Tom beat) . . . freedom . . . hold BG.

REAGAN. But Joseph knew that other troops would soon be searching him out on Montana, expecting him to head northward, toward Canada. So he feinted to the south, encamped at Big Hole to give his exhausted people and horses a chance to rest, and his wounded a chance to recuperate. . . . and to take advantage of the excellent hunting . . .

MUSIC. Swells full . . . contentment with note of danger . . . fade out.

REAGAN. At Big Hole just at daybreak, Gibbon surprised the sleeping Nez Perces . . . (Music out.)

SOUND. Hard riding cavalry . . . carbines and pistols.

BIZ. Chaos . . . ad libs of riding troops and surprised Indians.

LOOKING. Joseph, my chief, the whites are upon us.

JOSEPH. Protect the women and children, Looking Glass.

ALOKUT. (Coming in.) Are you safe, my brother?

JOSEPH. I am safe, Alokut. Rally your young men on your horses. Get out of range of their guns. We will attack.

ALOKUT. Yes, my brother. (Going.) To the horses, to the horses!

SOUND. Rifle and pistol fire.

WHITE. (Off . . . shouting.) Why are we retreating? Shall we run into the mountains and be killed like animals?

JOSEPH. (Coming in.) White Bird . . . rally your warriors. We will attack.

WHITE. I will rally them, Joseph. (Up) Fight, fight, my warriors. These soldiers cannot fight harder than the ones we defeated at the Salmon River and in White Bird Canyon. Fight. We can shoot as well as they can.

SOUND. Rifle and pistol fire . . . ad libs

MUSIC. Swells in . . . wipes out sound . . . trans excitement to triste.

REAGAN. When the all-day battle was over, eighty-nine Nez Perces lay dead. Joseph's wife lay dead. Chief Looking Glass lay dead. Sixty-nine troopers lay dead. And Joseph's camp and most of the possessions of his people lay in blackened ruin.

SOUND. Heavy beat of the Tom Tom . . . (dolorous).

REAGAN. Joseph once more gathered the able-bodied warriors he had left . . . something more than one hundred. He gathered the wounded, the women and children, the old people; rounded up his horses and his cattle. He doubled back to the north. He wound back and forth over the Rockies, fought two more engagements—one at Camas Meadow, one at Canyon Creek—and day by day inched closer to Canada . . . (Music drops out.) Joseph and his band now encamped near Snake Creek on the north slope of the Bear Paw Mountains in Montana, about 50 miles from the Canadian line. They were tired.

JOSEPH. My people, we have won our freedom. There are many empty places in our lodges and in our council. But we are in a land where we will not be forced to live in a place we do not want. If we can remain at a safe distance and talk straight to the men who will be sent out here by the Great Father, I believe we can get back to our Valley of the Winding Waters and return in peace . . .

REAGAN. But now a new force, a superior fresh force, had joined in the pursuit. Joseph was on the opposite side of the creek from the village when the first attack came.

SOUND. Cavalry charge . . . rifle and pistol fire . . . (ad libs).

WHITE. (Coming in.) It is a new shoulder-strap-soldier.

JOSEPH. Fresh troops, White Bird.

WHITE. They have cut our camp in two . . .

JOSEPH. We must get back to the main camp. (Going.) Come, White Bird.

SOUND. Galloping horses . . . rifle and pistol fire . . . (ad libs).

ALOKUT. Joseph, my brother, they have driven off most of our horses.

JOSEPH. Post your sharpshooters, Alokut. Pick off every shoulder-strap-soldier when they charge again.

ALOKUT. None will escape, my brother.

REAGAN. As Joseph had anticipated, Colonel Nelson A. Miles ordered a second charge—to try to cut off the Indian's water supply

SOUND. Volley of rifle shots . . . riccochets.

REAGAN. Hardly an officer survived. The deadly fire of the Indians dropped them in their tracks. Joseph ordered his people to dig in. The old people and the women did most of the digging, using shovels made of frying-pans. And Colonel Miles, being unable to dislodge them and suffering fearful losses, ordered a withdrawal. (Pause.) That night Joseph summoned six of his most trusted warriors.

JOSEPH. You will slip through the lines of the soldiers and ride with the wind to Sitting Bull. You will give him my message, and ask him to join our forces against the white man, and to send reinforcements with all haste.

VOICES. (Ad lib responses as they go.)

REAGAN. In the blackness of that night, the six trusted warriors silently slipped through the soldiers lines with their ponies and headed for the Sioux country and Sitting Bull. (Pause.) Next day, Colonel Miles' scouts reported this disquieting news to him.

MILES. Then, we have no time to lose. Now we must dislodge Joseph in the shortest possible time. . . . Order the attack.

SERGT. Yes sir.

REAGAN. The attack continued all the next day—and still Joseph was not dislodged. Colonel Miles settled down to starving him out.

SOUND. Blizzard.

REAGAN. And now the cold winds turned icy, snow started to fall, and a whistling blizzard swept through the valleys and over the Bear Paw Mountains . . . Joseph did not budge. His warriors, and his people suffered in the cold, and hunger gnawed mercilessly at them.

SOUND. Howitzers.

REAGAN. The firing continued . . . now, light artillery. (Sound fades out.) On the fourth day, Colonel Miles sent his Indian scouts, under a flag of truce, into Joseph's lines.

SCOUT. Children, we have come.

JOSEPH. What does the shoulder-strap-soldier want?

INDIAN. He wants to come in and talk with you.

JOSEPH. (Pause.) Tell them to. We will not harm them.

REAGAN. General Howard, the One-Armed-Soldier-Chief, and the new shoulder-strap-soldier, Colonel Nelson A. Miles rode slowly into the Indian lines.

MILES. Joseph—if you will come out and give up your arms, I will spare your lives and send you back to the Lapwai Reservation in Idaho.

REAGAN. Joseph was solemn. He could not surrender without the agreement of White Bird and his people. Now Joseph's magnificent young brother, Alokut was dead, killed in the first attack here at Bear Paw.

JOSEPH. We must have our guns.

MILES. Your guns and horses will be returned to you when you return to the Lapwai Reservation in Idaho.

JOSEPH. (Deep pause.) We will not have a trial.

MILES. There will be no court-martial.

JOSEPH. (Pause.) I must council with my people.

REAGAN. Colonel Miles and his party turned and rode slowly back to their lines . . . and waited. They waited all that night. Next morning an Indian messenger came through the lines. A trooper was sent back through the Indians lines. At ten o'clock in the morning, General Howard and Colonel Miles stood on a slight rise behind their lines and waited . . .

SOUND. Tom Tom . . . (doleful).

ORGAN. Sneaks in . . . picks up Tom Tom beat . . . (defeat) hold BG.

REAGAN. Out of the Indian lines rode Chief Joseph. Three of his warriors walked on foot beside him. He rode with his rifle lying across his thighs, his hands clasped on the pommel of his saddle. His head was bowed. (Music out.)

SOUND. Indian pony . . . walking slowly . . . slowly fading in.

REAGAN. When Joseph reached the crest where the officers stood, he straightened up and dismounted with dignity. He held out his rifle to General Howard.

HOWARD. Give it to Colonel Miles.

JOSEPH. My rifle . . . Colonel Miles.

MILES. I accept.

REAGAN. Joseph then stepped back two paces. Standing tall and solemn, he spoke . . . and in all history there is nothing to exceed the pathetic eloquence of what he said: (Tom Tom out)

JOSEPH. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Alokut is dead. The old men are all dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills and have no blankets, no food. I want to have time to look for my children. (Deep pause.) Hear me, my chiefs. I am tired. My heart is sick and sad. (Pause.) From where the sun now stands, I will fight no more, forever.

(Silence.)

SOUND. Tom Tom (Defeat).

MUSIC. Picks up Tom Tom beat . . . builds into full defeat . . . hold BG:

REAGAN. All that day, Joseph's people streamed slowly into the troopers line . . . 47 able-bodied warriors . . . 40 wounded warriors . . . 184 women . . . 147 children. But White Bird and a band had slipped through the picket-lines and made for the Sioux country to join Sitting Bull. (Pause.) Here ended a military campaign the equal of the most brilliant campaigns the world had ever known—and led by an Indian who never before had fought a battle. (Music out.) Military experts at West Point charted and studied Chief Joseph's strategic retreat.

CAPT. Here you see the course of Chief Joseph's retreat.

REAGAN. Instructors taught it to the officers in training.

CAPT. Joseph never had, at any time, more than 350 warriors, and his fighting strength was diminished in each battle. Yet he engaged, in all, some 2,000 soldiers, and was hemmed in by fresh troops again and again. Joseph fought eleven engagements—five pitched battles, of which he won three, tied one, and lost one. General Howard pursued him over a distance of 1,321 miles in 75 days. Joseph and his band, with his warriors, old people, women and children, horses and cattle, covered more than 1800 miles, for they had to double and loop and backtrack.

MUSIC. Surges in . . . throbbing.

REAGAN. The long, long chase was over. The Valley of the Winding Waters was lost forever. Joseph hoped that he might be sent back there, at least to die. Colonel Miles promised that he would be taken to Tongue River and kept there until spring, and then returned to the Lapwai Reservation in Idaho. Instead, they were sent to Bismarck, in the Dakota Territory. Colonel Miles protested by letter:

MUSIC. Out.

MILES. As these people, the Nez Perces, have hitherto been loyal to the government and friends of the white race, and in their skillful campaigns spared hundreds of lives and thousands of dollars worth of property which they might have destroyed, they have, in my opinion, been grossly wronged in years past, have lost many of their warriors, their houses and property. I have the honor to recommend that provision be made for their civilization to enable them to become self-supporting. Joseph is a man of more sagacity and intelligence than any Indian I have ever met. He counselled against war, never practiced the usual Indian cruelties, and even ordered that our wounded troops be given water when they could be reached.

REAGAN. From Bismarck in Dakota Territory, Joseph's band were moved to Fort Leavenworth, Kansas . . . from there to Baxter Springs, Kansas. Generals, commissioners, deputations from congress came to see this remarkable Indian, to ask what he wanted.

JOSEPH. How many times must I tell you? We want our Valley of the Winding Waters . . . We ask to be recognized as men. We ask that the same law shall work alike for all men.

REAGAN. When all he heard were words, he burst out:

JOSEPH. Good words do not pay for my country. They do not protect my father's grave. They do not pay for my horses and cattle. Good words will not give me back my children. Good words will not make good the words of your war chief, General Miles . . .

REAGAN. Seven years later when Colonel Miles had become General Miles, he succeeded in having the Nez Perces returned to the Lapwai Reservation in Idaho. But Chief Joseph, and the 118 who were considered the leaders in the fighting in 1877 were taken to the Colville reservation in Washington Territory. Joseph never stopped striving for his people. At last he was brought to Washington, D.C. And there he revealed himself as great an orator as he had been a warrior.

JOSEPH. If the white man wants to live in peace with the Indian, he can live in peace. Treat all men alike. All men were made by the same Great Spirit Chiefs. They are all brothers, and should all have equal rights. You might as well expect a river to run backwards as that any man born free should be contented, penned up. If you tie a pony to a stake, do you expect he will grow fat? If you pen up an Indian he will not be contented, nor will he grow and prosper.

MUSIC. Surges in . . . deep emotion and sadness . . . briefly then B.G.

REAGAN. Chief Joseph saw his beloved Valley of the Winding Waters once more. James McLaughlin, the U.S. Indian Inspector, rode with Joseph into the Wallowa. He could hardly believe what he saw; the white man had made the valley fruitful and beautiful. Some of the grazing lands had been turned into fields of grain and hay. The Winding Waters had been turned into flumes as they rushed from Wallowa Lake and watered the many wide acres. (Music: Out.)

JOSEPH. But why couldn't MY people live here, too? This is the only home they have on earth.

REAGAN. There was no answer to this. As Joseph returned to the Reservation at Colville, he said:

JOSEPH. I shall see one more snow.

REAGAN. (Pause.) A few months later, On September 21, 1904, Chief Joseph suddenly fell dead.

MUSIC. Swells in . . . dirge . . . briefly then B.G.

REAGAN. Chief Joseph's body lay in state three days . . . his face painted and dressed in full chieftan regalia.

SHAMAN. (Off) Murmurs Indian chant.

REAGAN. A shaman spoke over him.

BIZ. Low murmuring of Indians come to pay last respects.

REAGAN. Every member of his band came to see him. His tepee was destroyed. His horses' tails were docked, and they could not be ridden for two winters. The body was carried on a horse-litter to a circular cairn, and there the body of Chief Joseph was buried beneath a mound of stones. And after the burial, the shaman blew smoke to each of the four winds, and wafted the spirit of Chief Joseph back whence it had come.

SOUND. Tom tom softly . . . insistently . . .

MUSIC. Swells up dramatically . . . the apotheosis of a great spirit . . . to button . . .

ANNCR. In observance of American Indian Day, you have just heard Ronald Reagan as the Narrator of "Hear Me, My Chiefs," a special program written and produced by Arnold Marquis, a public service presentation by the National Broadcasting Company and ARROW—the nationwide committee for American Restitution and Righting of Old Wrongs . . .

MUSIC. Theme . . . briefly.

ANNCR. Again . . . Ronald Reagan:

REAGAN. If you wish information on how you can help the American Indian today, write ARROW, Hollywood . . . that's ARROW, Hollywood . . . and join with distinguished Americans in the nationwide effort to make restitution to these first Americans . . . Thank you.

MUSIC. Theme up full . . . as needed.

ANNCR. This program reached you from Hollywood.

You're tuned for the stars (two beat pause) on N.B.C.

TO IMPROVE THE CONSERVATION AND MANAGEMENT OF INTERJURISDICTIONAL FISHERIES

Mr. LAUTENBERG. Mr. President, yesterday, the Senate passed S. 1052, the Coast Guard Authorization Act of 1993. I am pleased that this bill included the provisions of S. 1126, the Atlantic Coastal Fisheries Cooperative Management Act, which I support.

S. 1126, sponsored by Senator FRITZ HOLLINGS, provides for effective interstate conservation and management of fishery resources along the Atlantic coast, which, of course, includes my home State of New Jersey.

A short time ago, a significant coalition of both recreational and commercial fishermen visited my office to express grave concerns with this bill. The members of this coalition told me that New Jerseyans who are interested in fishery issues are routinely shut out of the public process when it comes to discussing and making decisions on these issues. Regional decisions are made that are critical to the management and conservation of the resource without adequate regard or input from New Jersey.

Mr. President, anyone can look at a map and see that a large portion of my

State is surrounded by the Atlantic Ocean. It is imperative that my constituents have a seat at the table when Federal policy is made.

That's why I am pleased to say that when I approached the Senate Commerce Committee on behalf of my constituents, the committee effectively addressed my concerns.

As amended, S. 1126 requires the Atlantic States Management Fishery Commission to develop standards and procedures to govern the coastal fishery management plans. These plans must promote conservation based on the best scientific information available, and must ensure adequate opportunity for public participation. These changes sufficiently address my constituents' concerns.

Mr. President, the committee has made commendable changes to the original bill. I appreciate it and the people I represent appreciate it. This is a good example of consensus building on a matter of great importance to New Jersey residents.

With that, Mr. President, I am delighted to offer my support for this bill.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1993

Mr. HATCH. Mr. President, many have inquired about the status of the Dietary Supplement Health and Education Act of 1993, which is now sponsored by 63 Senators and 209 House Members.

As my colleagues are aware, this legislation continues to be my top priority. Senator KENNEDY and I have been working with other members of the Labor and Human Resources Committee in a continued effort to negotiate an acceptable compromise prior to adjournment. We made a lot of progress, but unfortunately, could not reach a final agreement.

For this reason, Senators KENNEDY, KASSEBAUM, and I introduced S. 1762, a 4-month continuation of the current moratorium on FDA regulations, which was approved by the Senate Saturday night. Unfortunately, for a number of reasons, the House was not able to approve that bill prior to adjournment, and thus the moratorium will not be extended.

I understand that Energy and Commerce Committee chairman JOHN DINGELL and Health Subcommittee chairman HENRY WAXMAN did introduce a bill last night to address certain provisions of the dietary supplement legislation. I will reserve judgment on that legislation until I have the opportunity to review the language, but I would like to say that I could not support congressional enactment of a measure proposing substantive changes which had not been reviewed and fully studied by all sides.

To all who have raised concerns about the expiration of the moratorium in December, let me reiterate that, under current law, new FDA regulations cannot go into effect for 6 months, that is, until next June.

However, given the FDA's persistent bias against dietary supplements, I am not at all comfortable with the idea of allowing them to go forward in developing regulations. As we saw with the current moratorium and the regulations the FDA issued in June, the more time we allow them to develop proposals, the worse those proposals become.

Today, Congressmen BILL RICHARDSON, ELTON GALLEGLY, and I have sent a letter to Secretary of Health and Human Services Shalala, to put HHS and the FDA on notice that we do not intend that the agency continue to operate in a vacuum and to promulgate important regulations such as those on dietary supplements without any congressional consultation.

I ask unanimous consent that the text of that letter be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 23, 1993.

Hon. DONNA E. SHALALA,
Secretary of Health and Human Services, Washington, DC.

DEAR MADAM SECRETARY: One of your agencies, the Food and Drug Administration, has consistently demonstrated an anti-dietary supplement bias over the past three decades. That bias has threatened consumers' access both to dietary supplements and to information about the beneficial health effects of those products.

Last year, the Senate approved 94–1 an amendment Senator Hatch offered to the Labor-HHS appropriations bill which would have imposed a one-year moratorium on the FDA's ability to promulgate health claims regulations for dietary supplements under the Nutrition Labeling and Education Act. Although later dropped in conference, the provision was included in the Dietary Supplement Act, Public Law 102-571.

Congress provided the one-year moratorium in anticipation that HHS and the FDA would work with us to resolve issues surrounding the treatment of dietary supplements within the NLEA framework. That dialogue, quite simply, never took place. We were shocked this June when FDA in effect reissued the previous proposal, giving rise to the congressionally imposed moratorium.

More recently, we have introduced the Dietary Supplement Health and Education Act of 1993, a bill which enjoys the cosponsorship of 63 Senators, and 209 members of the House. The Senate bill, S. 784, is sponsored by 11 of the 17 members of the Committee on Labor and Human Resources, and the House bill, H.R. 1709, by 25 of the 44 members of the Energy and Commerce Committee, and 16 of the 26 members of its Health Subcommittee.

When the Congress could not reach consensus on the Dietary Supplement Health and Education Act this year, which had fully been the intent, the Senate approved by unanimous consent S. 1762, the Hatch-Kennedy-Kassebaum legislation to extend the current moratorium for another four months. Unfortunately, for a number of reasons, the House was not able to pass that legislation prior to adjournment.

Our purpose in writing is twofold. First, we strongly urge you to make certain that the FDA takes no action to implement the June 18 FEDERAL REGISTER notice on dietary supplements prior to congressional approval of a dietary supplement bill. Our intent would be that the FDA proceed, however, with approval of health claims that are in the pipeline, such as folic acid, which we hope the FDA will process with all due speed despite its recalcitrance thus far.

We are aware that the "hammer" will fall on the FDA's proposals and that they will become final if no final regulation is promulgated prior to June 1994. We will work to make certain legislation is enacted prior to that time.

Second, we urge that you respond to our October 29 letter requesting that the Administration withdraw FDA's fatally flawed document, "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace" and that you meet with us to discuss this. This is a matter of some urgency to us, and we are disappointed that we have received only an interim response in writing, and a telephone call asking if we were serious. We are. Very serious.

Sincerely,

ELTON GALLEGLY,
Member of Congress.
BILL RICHARDSON,
Member of Congress.
ORRIN HATCH,
U.S. Senate.

Mr. HATCH. Mr. President, with respect to the future of S. 784, as I have stated, it is my intention that after Senator KENNEDY and I, and other members of the Labor Committee, reach agreement on a bill which will address our mutual concerns—continued consumer access to dietary supplements and information about their health benefits—we will work with the House and attempt to forge a consensus.

I deeply regret that we could not reach consensus on S. 784, much less a continuation of the moratorium. I continue to be encouraged, though, by the strong grassroots support for this legislation; it is this nationwide consumer drive to get the FDA off the backs of dietary supplements that will ultimately make our effort successful. I pledge my continued effort in getting a bill enacted prior to adjournment next fall.

THE FINAL PAGE?

Mr. SASSER. Mr. President, I rise today to share with my colleagues the reflections of Rabbi Rafael G. Grossman on the recent Israeli-PLO peace pact signing ceremony. Rabbi Grossman is senior rabbi at the Baron Hirsch Congregation in Memphis. In a recent article for the Memphis Commercial Appeal, Rabbi Grossman eloquently shares his feelings about the ceremony and his hopes for peace in the Middle East. I ask that the full text of the article appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FINAL PAGE?

(By Rafael G. Grossman)

"Ladies and gentlemen, the President of the United States, Prime Minister Yitzhak

Rabin of Israel and Mr. Yasser Arafat, chairman of the Palestine Liberation Organization."

As the speaker made this announcement, I looked up from my seat on the South Lawn of the White House in disbelief. Two years ago Arafat and his followers were ecstatic as Saddam Hussein's Scuds exploded over Israel. Now the PLO chairman stood beside the head of the nation that thwarted the rape of Kuwait and the destruction of Israel. To the right of the American president was one of the world's great soldiers, Yitzhak Rabin, who in 1967 as commander-in-chief of Israel's Defense Force crushed in six days the armies of Egypt, Jordan, Syria and Iraq and convinced friend and foe that the Jews, history's proverbial victims and the people of the book, had learned the use of the sword.

The ceremony began and then there was the signing of an agreement between Israel and the Palestinians. Arafat and Rabin shook hands. This was a moment in history, a page in one of the bloodiest books ever written. I hope it was the last page.

I overheard someone in front of me saying, "It won't work, Arafat is a terrorist and you can't trust him." I kept thinking of reasons this agreement was destined to fail. I saw flashbacks in my mind. Scenes of horror kept appearing, Munich and the 11 Israeli athletes killed by members of Fatah, Arafat's group in the PLO. I thought of Maalot, where schoolchildren were slaughtered, and many other tragedies perpetrated against unarmed men, women and children and the man who claimed responsibility was standing but a few feet in front of me saying, "It is time to put an end to decades of confrontation and conflict." Should he be believed?

Should I, as a Jew, not call up all my psychological defense mechanisms acquired as the result of my people suffering a holocaust and constant persecution? A voice in me wanted to shout to Arafat, "Where were you in 1947 when the very same ideas of dividing this land were advanced by the United Nations plan for partition? If you and your fellow Arabs had accepted this plan, thousands of deaths would have been avoided. Instead, what followed were hijackings and a reign of terror which has yet to abate."

Golda Meir, Israel's great prime minister, in an unforgettable speech, after the Six Day War, told Egypt's President Nasser, "I can forgive you for what you did to our sons and daughters who perished in this war, but I cannot forgive you for what you made us do to your sons and daughters." Sitting there on the South Lawn, I had a similar thought. "Mr. Arafat, if you can end this, your children can live as well as ours."

As the participants were led from the platform by President Clinton at the ceremony's conclusion, I wanted to say to all of them, "Make this glorious day last, bury the swords and turn in them into plowshares and all of us will relegate this 100-year nightmare of hate and bloodshed to just a bad dream." Theodore Herzl, the father of political Zionism, once said, "If you will it, it need not be a dream." God knows that for both Jews and Arabs, Israelis and Palestinians, it must be willed and therefore not a dream.

My late father spent his childhood in Jerusalem. He and his parents fled in 1903 from pogroms in Poland to return to the land of their origin. Forty generations of my family lived in the Holy Land until the Ottoman Turks expelled them in 1825. Having no other place to go, they returned incognito to Jerusalem. My father would tell me about the Arab woman who once picked him up from the floor and comforted him after he was beaten by her children. "Someday," she promised him, "little boys will play and pray and the big men will stop acting like little boys and make peace." That day may well have come Monday. You can argue against the agreement, but can anyone argue against peace?

Tonight, Jews the world over will observe Rosh Hashanah, the New Year. In Judaism, these days are commemorated as the anniversary of creation. In a sense, this Rosh Hashanah would be the beginning of peace among people, because it is the mark of hope, the act of forgiveness. Prime Minister Rabin appropriately ended his speech by quoting a Hebrew prayer recited each day in this synagogue. "He who makes peace in His high places, may He make peace for us."

Wisely, President Clinton invited a group of Palestinian and Israeli children to the ceremony. The president of the world's most powerful nation pointed to them as he urged both parties to continue the search for peace. I looked at the children, and at that moment they resembled each other, neither Arab nor Jew, God's children whom I prayed would live long and productive lives and die someday of old age. It's a dream, you bet it is, but it spells hope.

JUVENILE GANGS AND ASSISTED HOUSING

Mr. LAUTENBERG. Mr. President, I want to bring to my colleagues' attention a provision that I authored, and which was included in Senator BIDEN's manager's amendment to the crime bill last week, which will address the serious problem of juvenile gangs and juvenile drug crime in federally subsidized housing projects

Mr. President, the crime bill passed by the Senate includes a grant program designed to address the problem of juvenile crime. Under that program, as originally proposed, grants could be used for a variety of purposes, including efforts to reduce juvenile drug and gang-related activity in public housing projects.

My amendment expanded those provisions to include programs to eliminate this kind of juvenile crime in privately owned, federally assisted low-income housing, such as section 8 projects. Under the amendment, funds could be used for a wide variety of enforcement and prevention initiatives, including youth sports, girls' and boys' clubs, Scout troops, and little leagues.

Mr. President, last year a resident of a Newark, NJ, assisted housing project came to my office, along with three managers of assisted housing in my State. They described life in a housing project where violence is routine, where children are afraid to leave their apartments at night, and where residents must deal with gunfire, and drug dealing on a daily basis. The picture they painted, Mr. President, was of a nightmare come to life. Of housing that had deteriorated into a battlefield; an occupied territory ruled by drug dealers and armed criminals.

It is an absolutely outrageous situation, Mr. President, and one that a great country like ours must never tolerate.

Mr. President, when most people think of drug-related crime in subsidized housing, they think of public housing. But the problems in privately owned, federally assisted housing are also severe. In fact, it is not unusual for a section 8 project to exist immediately adjacent to a public housing project, and for gangs and drug dealers to operate out of both premises.

Mr. President, the owners and managers of assisted housing, in many cases public housing authorities themselves, are responsible for providing safe and secure housing for their residents. Yet many are faced with an exploding crime problem for which they are ill-equipped to address. Most are doing their best to cope. But too often, they are overwhelmed. And it is the residents who suffer.

Mr. President, we have a responsibility to do what we can to ensure that residents in federally subsidized housing, whether public housing or assisted housing, are freed from the grip of youth gangs and drug dealers. And it is not just the residents who must suffer with these criminals. It is also the millions of Americans who live near the projects or who travel through surrounding areas.

In fact, the ripple effects of youth gangs and drug dealers extend far beyond the projects themselves. By undermining hopes for economic growth and revitalization, these criminals are creating enormous social and fiscal problems for many of our cities and municipalities.

Mr. President, I am under no illusion that this antigang grant program will solve all these problems. But it's a positive and important step in the right direction. And I think it makes sense to expand the program to include assisted housing, where much juvenile gang and drug activity is concentrated. The result should be better lives for residents, and substantially improved conditions in surrounding communities.

I thank both the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished ranking member, Senator HATCH, for their cooperation in securing passage of this amendment.

FRIENDSHIP ACT

Mr. HELMS. Mr. President, this legislation is unprecedented in scope. It impacts the jurisdiction of eight committees—not one of which has held hearings on this matter, including the Foreign Relations Committee. Moreover, this bill repeals or revises more than 50 years of legislation enacted by the Congress in response to the menace of the Soviet Union and the butchery of communism throughout the world.

When this legislation was first presented to the Senate, I had significant reservations about the propriety of removing purely historical statutes. The sins of the Soviet Union are not automatically revisited upon the Russians and I do not believe it should matter in our relationship with Russia if we do not remove legislation referring to the murder of Lt. Col. Arthur Nicholson, Soviet persecution of religious believers, or Soviet intervention in Afghanistan and Angola.

I thank the able chairman of the Foreign Relations Committee for retaining several of these provisions in his legislation and for accommodating my concerns.

I am especially pleased that the legislation before us includes an authorization for a memorial in the District of Columbia to honor the many former and current victims of communism throughout the world.

Mr. President, it is impossible to quantify exactly how many actually died under communism. Khrushchev himself commented that "no one was keeping count." Archival materials uncovered in the former Soviet Union and Eastern Europe continue to shed light on the many unsolved mysteries of the Communist period, and I encourage continued provision of such archival material by the Russian Government.

I am pleased to note that the administration is not opposed to the memorial and that Congressman Hamilton has stated for the record that he expects the other body to accept this addition.

Mr. President, I ask unanimous consent that the letters of support I have received from ethnic communities relating to the construction of this memorial be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. For so many years the West spoke the truth for those under communism who were not allowed to speak. Communism was a great aberration in this century and we said it was so. It led to the enslavement of hundreds of millions of people and its evil was personified in its means—deportations, death camps, wars by proxy, conquest of entire nations, to name just a few of the unimaginable horrors. We cannot forget those in China, Tibet, North Korea, and Vietnam who still seek freedom.

Alexandr Solzhenitsyn once wrote, "we have shriveled in the decades of faleshood, thirsted so long in vain for the refreshing drops of truth, that as soon as they fall upon our faces we tremble with joy." None of us, therefore, should countenance the erasing of history.

Mr. President, the Soviet Union does not exist any more and the Russia of today seems to be a vastly different place. I have a great deal of personal esteem for President Yeltsin. I believe, after careful review, that legislation that actually impedes our relationship with the States of the former Soviet Union and that are good for the United States should be modified.

But let us be candid about the legislation before us. This legislation is not at all what President Yeltsin sought at the Vancouver summit or since then. This legislation includes only one provision specifically requested by Russia—a change in the captive nations resolution. Instead, I understand that what is on President Yeltsin's mind is the relaxation of export controls, the removal of trade-law restrictions, and the repeal of Jackson-Vanik.

Unfortunately, I do not believe the time has come in the United States-Russian relationship to take these last steps. As much as I respect President Yeltsin, I am distressed that Russia and several of the other States of the former Soviet Union continue many of the bad habits of the Soviet Union.

I am thankful to President Yeltsin for the progress that has been made in the removal of Russian troops from the Baltic States and I encourage continued progress. However, I am concerned that Russian troops remain stationed in Latvia and Estonia with no agreement on the final departure date for these former occupation troops. I am also troubled by Russia's growing interventionist tendencies in areas such as Moldova, Central Asia, and Georgia, for example.

Neither Russia nor any of the other former Soviet States should mistake this legislation as a lack of due diligence or resolve to closely monitor arms control and proliferation issues, State-sponsored terrorism and intervention in neighboring conflicts, hostile intelligence gathering, or a government's lack of respect for human dignity.

Mr. President, I would like to thank Senator Warner for his contribution in the process of reviewing the laws regarding intelligence gathering by nations of the former Soviet Union and I am pleased that his changes have been incorporated in this bill. Much of the legislation before us repeals findings relating to intelligence-gathering by nationals of the former Soviet Union. Although the former KGB, now called the SVR, has reduced its intelligence gathering activities, the Russian military apparatus continues its activities apace. The actions of the SVR and the GRU appear to be inconsistent with Russia's stated changes in policy and this does, indeed, trouble me.

Mr. President, I ask unanimous consent that two articles that appeared in the Wall Street Journal on August 2 and October 21, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. This legislation removes reports regarding arms control commitments by the Soviet Union. I have been assured that other reports will adequately address these compliance issues which I believe is especially important given Russia's recent request to revise the flank limits to the CFE Agreement and their reported development of new nuclear missiles with MIRV's capabilities.

Mr. President, the purpose of this bill is to amend or repeal numerous statutory provisions that restrict or impede normal relations between the United States and Russia. Mr. President, the administration has even admitted in writing to me that the legislation—to be repealed or revised—does not directly affect the provision of assistance or impede normal diplomatic relations between the United States and Russia. I would like to add that the United States taxpayer already provides billions of dollars in foreign assistance to the former Soviet Union.

It is also important to note for the record that although the title of this act refers to Russia, Ukraine, and other States of the former Soviet Union, to my knowledge, neither Ukraine, Armenia, or any of the other States have requested the legislation before us.

Mr. President, obviously I have lingering reservations about the legislation before us. However, since this legislation appears to be more symbolic than substantive, and since I have been assured by the administration that this legislation is not a shift in policy inasmuch it removes only congressional findings, one-time reports, and historical documents from law, I am prepared to move forward with this effort.

Exhibit 1

Ukrainian National
Association, Inc.,
Washington, DC, November 10, 1993.

Hon. Claiborne Pell,
Chairman,
Hon. Jesse Helms,
Ranking Minority Leader,
Committee of Foreign Relations, U.S. Senate, Washington, DC.

Dear Senators Pell and Helms: We understand that during the mark-up of pending legislation promoting reforms and improved partnership with the New Independent States, the Committee may consider an amendment to authorize construction of an international monument in the District of Columbia to honor the victims of communism.

The undersigned American organizations support the concept of a privately funded memorial in honor of the memory of all who suffered tyranny and injustice under communist rule and urge your favorable consideration of such an endeavor.

Sincerely,

Armenian Assembly of America.
Congress of Russian-Americans, Inc.
Polish American Congress.

LITHUANIAN-AMERICAN
COMMUNITY, INC.
UKRAINIAN NATIONAL
ASSOCIATION, INC.
UKRAINIAN NATIONAL
INFORMATION SERVICE.
JOINT BALTIC AMERICAN
NATIONAL COMMITTEE.
U.S.-BALTIC FOUNDATION.

CROATIAN DEMOCRACY PROJECT,
Washington, DC, November 8, 1993.

Senator CLAIBORNE PELL,
Washington, DC.

DEAR SENATOR PELL: I have learned of an effort to construct a memorial in the District of Columbia to commemorate the many victims of Communism. As you know, hundreds of millions of lives were lost in what history has recorded as the most costly political movement ever.

For millions of Croats who saw hundreds of thousands of family members tortured and executed by Tito's communist partisans, particularly as they are currently under threat of genocide from Serbian Communism, such a memorial would insure that such political extremism would never again be allowed to take root. In sum we risk it happening again if we forget.

I can state with full confidence that the two million strong Croatian-American community firmly supports the construction of a memorial to the victims of Communism.

Thank you for your consideration.

Sincerely,

MAX PRIMORAC,
President.

THE CUBAN AMERICAN
NATIONAL FOUNDATION,
Washington, DC, November 17, 1993.

Hon. JESSE HELMS,
U.S. Senate,
403 Dirksen SOB,
Washington, DC.

DEAR SENATOR HELMS, We wish to convey to you the full support of the Cuban American National Foundation for the creation of a monument in honor of the victims of communism worldwide.

For nearly fifty years, the foreign policy of the United States was one of steadfast resistance to that inhuman ideology, so that as few people as possible would be subjected to its cruelties. Now that the forces of freedom have triumphed, it is time to honor those who did not survive to share in that victory.

We will never know the exact human cost of communism, but in the construction of such a monument those who perished by its hand will never be forgotten. By keeping their memory alive, we can ensure that communism will never rise from the grave.

Of course, our victory remains incomplete. Communism continues to linger on in our native land of Cuba. Yet such a monument will stand as a symbol of solidarity with the continuing struggle of the Cuban people. As we have learned from those who survived communism in the former Soviet Union and East Europe, one of the most critical elements in the demise of communism was the West's continuing awareness of and attention to their plight.

Again, Senator, we believe the idea of such a monument is an idea whose time has come and it is a testament to your life-long commitment to defending freedom abroad. We strongly endorse your worthwhile initiative.

Cordially,

FRANCISCO J. HERNANDEZ,
President.

EXHIBIT 2

[The Wall Street Journal Europe, Aug 2, 1993]

THE KGB LINGERS UNREFORMED

(By J. Michael Waller)

Russian President Boris Yelstin gave himself the perfect opportunity to do away with the former KGB when he recently sacked Security Minister Viktor Barannikov. If there was ever a time since the 1991 coup attempt to strike at the heart of the all-powerful secret police, it is now.

But the populist Russian leader has recently squandered a series of chances to challenge and eliminate his government's most noxious Soviet-era elements. In so doing, he has alienated his reformist friends and rewarded his hard-line enemies. Among Mr. Yelstin's most destructive missteps was his decision to preserve most of the old KGB and his failure to dissolve the Soviet-designed "parliament" which has had him on the defensive. He has backed away from free-market economic reforms and responded weakly to the disastrous declaration that rubles printed before 1993 would no longer be honored as currency.

To win back some of the support of his countrymen and put the country's reforms back on track, President Yeltsin should take two bold steps. First, he must nullify—not water down—the decision made in his absence to gut the ruble, thereby rescuing the thousands of private businesses on the verge of ruin and salvaging the savings of millions of impoverished Russians. While it may be considered too late for this first step, the second is long overdue. Mr. Yeltsin must instruct his new security minister to conduct a wholesale purge of the secret police bureaucracy and do away with the legacy of the KGB once and for all.

THE KGB BEAST

The Ministry of Security is an immensely powerful institution. It retains most of the KGB's internal structures and functions, including counterintelligence, border guards, military and police counterintelligence, physical security of subways, highways, railroads and the Aerofloat airline fleet; economic and industrial security, counter-organized crime and counter-narcotics, security of bunkers and certain government buildings, analysis, military construction, technical laboratories, surveillance, mail interception, wiretapping, archives, investigations and training. A ministry spokesman has acknowledged that it also contains the "Administration for Combating Terrorism"—the new name for the former KGB Fifth Chief Directorate that was responsible for political repression.

While it is no longer an instrument of the Communist Party, the Ministry of Security is structured and staffed as though it still is. Two years after the coup attempt, the state security headquarters at Lubyanka Square in Moscow continue to sport the outward symbolism of the dreaded KGB, with its sword-and-shield crest still baring the hammer-and-sickle.

Those images, visible to any tourist who walks the perimeter of the complex, indicate the primitive mindset of those inside. According to KGB veterans I interviewed, training of new recruits is almost no different than it was in the past, the only exception worthy of note being an end to instruction in Marxist-Leninist ideology.

The KGB's cult-like devotion to Feliks Dzerzhinskiy, the mass-murdering founder of Lenin's Cheka secret police, is still inculcated among state security personnel, who continue proudly to call themselves "chekists." Dzerzhinskiy statues and memorabilia adorn ministry facilities like religious icons. One Russian parliamentary leader, Nikolai Ryabov, who interviewed a number of KGB officers after the coup attempt observed, "Meetings and conversations with KGB leaders of various ranks clearly highlight one detail. They have no understanding in their minds that they are serving the constitution or the law, they have no reverence for the rule of law and citizens' rights. They unquestioningly and consistently fulfilled only the orders of their superiors; this for them was the main value, even though there may have been declarations of the 'we serve the people and the motherland' type."

The old KGB informant networks—the massive files on innocent citizens, the scores of thousands of secret policemen who remain on duty in every Russian village, the persecutors of Andrei Sakharov and countless others—all remain in place. They serve no purpose if Russia is to become a real democracy. Now is the time for President Yelstin to sweep them all away.

There is no reason why legitimate security functions such as counterintelligence, criminal investigations, and the like, cannot be parceled out to other institutions such as the armed forces and the militsiya uniformed police, or established a independent agencies. While none of those institutions could be considered reformed, the breakup of the Ministry of Security would at least dilute the potential for abuse over the time it would take to create and staff new institutions compatible with democracy. Moreover, some of the ministry's departments have no legitimate function at all, and should be abolished altogether. Their records should be turned over to an independent commission for preservation and judicious release, much like the successful Gauck Commission has done with the Stasi archives of the former East Germany.

OPPORTUNITY FOR CHANGE

Recent experience has shown that mere replacement of the power-hungry General Barannikov, who managed to reverse some of the modest reforms carried out after the 1991 coup attempt, will not solve the problem. When Soviet leader Mikhail Gorbachev and Mr. Yeltsin named the reformist Communist Party functionary Vadim Bakatin to head the KGB immediately after the putsch, Mr. Bakatin jacked a trusted staff on whom he could rely to take control of the organization. He also believed, wrongly as events proved, that the KGB could be reformed from within.

Mr. Bakatin later lamented, "one of my main errors was that I came into the KGB without my own staff and without a large group of like-minded people devoted to the matter. I overestimated my own powers. Without my own staff to turn over this bulky and cumbersome thing called the KGB, it proved to be almost impossible."

Unless President Yeltsin directs his new security chief to bring in his own team and conduct a thorough, top-to-bottom purge of the bloated, corrupt and out-of-control chekist bureaucracy, old KGB insiders will quickly isolate him and turn him into a mere figurehead. Their powers safely preserved, they will use that figurehead to show the world, one more time, how the secret police have "reformed."

YELTSIN'S DEBT TO THE OLD KGB

(By J. Michael Waller)

MOSCOW.—Most commentators on the recent political turmoil in Russia maintain that President Boris Yeltsin owes a great debt to the military, which helped subdue the armed hardliners during the fateful events of Oct. 3-4. A closer look, however, indicates that the Russian leader's greatest debt is not to the highly visible military but to the little seen forces of the former KGB.

Ever since the collapse of the Soviet Union nearly two-years ago, Mr. Yeltsin has mortgaged his political and economic reforms by preserving the KGB's institutions. Rather than dismantling the organization as he had once advocated, he has maintained it in four separate bureaucracies: the ministry of security, which contains the KGB's internal security organs; the main guard administration, a 25,000-strong personal army of the president; the federal agency for government communications and information, responsible for electronic intelligence and secure communications; and the external intelligence service, formerly called the KGB First Chief Directorate. Little has changed in any of these.

In the weeks before his action against the Supreme Soviet and renegade Vice President Alexander Rutskoi, the Russian leader made a series of unsavory moves on behalf of the security organs. After firing Minister of Security Viktor Barannikov, a longtime crony from the uniformed police who was widely disliked by KGB professionals and who had been leaning toward the hardliners, Mr. Yeltsin was expected to name a reformer to impose a thorough housecleaning and reorganization.

VESTIGES FROM THE PAST

Instead, he replaced Gen. Barannikov with a hideous relic of the Soviet era: Nikolai Golushko, a KBG general who spent most of his 30-year career in the Fifth Chief Directorate, the dissident-hunting unit that repressed opponents of the Communist Party. The particular department that Gen. Golushko once headed was responsible for suppressing ethnic and nationalist sentiment—including Russian nationalism which native Ukrainians did with gusto. Once Gen. Golushko was formally installed as minister in August, he secured from the president a decree to expand his armed bureaucracy's broad and arbitrary powers, as well as a pay raise for all military and security personnel.

Thus the foundation was laid for the president to suspend the Supreme Soviet on Sept. 21. The ministry of security, which controls the counterintelligence and informant networks within the military and the national police, known as the MVD, was able to gauge the political reliability of those institutions and neutralize any major mutinies. MVD personnel had to be brought into Moscow from other cities due to the uncertainty about the loyalty of local MVD forces. In the first confrontation with a hardline mob, the MVD troops scattered. The military was indecisive and undependable.

It was not the army but the former KGB that saved the day for Boris Yeltsin. The Dzerzhinsky division, a motorized unit named for the founder of the Soviet secret police, was the first defense, repulsing the Rutskoi-sanctioned assault on the Ostankino television station the night of Oct. 3. Formally under MVD command, the division is subject to operational control of Gen. Golushko's ministry of security.

Nor did the army lead the attempt to retake the Supreme Soviet building the next morning. Initial infiltration was done by a joint team of highly-trained KGB commandos. According to Victor Yasmann of Radio Liberty, with whom I witnessed the fighting and have carefully investigated events since, 80 team members were from the Vympel Spetsnaz unit, and the remaining ones from the Alfa group. They infiltrated the compound mainly through a system of secret subterranean tunnels and nuclear bunkers.

This is extremely significant, because it begins to show exactly to whom Mr. Yeltsin owes his political life. The Vympel is a sabotage and terrorist force trained to infiltrate enemy territory and wreak mayhem behind the lines in time of war.

Previously a component of the KGB first chief directorate, Vympel is part of the external intelligence service. Alfa, formerly of the KGB Seventh Directorate, is an anti-terrorist and offensive shock force now with the president's personal security contingent. Although Alfa is acclaimed for not having attacked the Supreme Soviet building during the coup of 1991, its most infamous operation was a slaughter: the storming of the presidential palace in Kabul, Afghanistan, on the eve of the 1979 invasion. In that action, Alfa murdered more than 100 occupants of the palace, including President Hafizullah Amin and seven of his children.

The secret tunnels through which Vympel and Alfa penetrated the Supreme Soviet building are controlled by the ministry of security, which provided the blueprints and passage through the labyrinth. Upon taking the building's lower floors, Alfa kept the initiative, directing the fire of the army's small but dramatic group of 12 tanks into the building's upper stories. It was the combined Vympel-Alfa force, not the army, that triumphed at day's end by bringing out Vice President Rutskoi, Supreme Soviet Chairman Ruslan Khasbulatov and the others to face arrest. Two senior officers of that force actually negotiated the terms of surrender with the conspirators, Mr. Yasmann notes. Now the plotters are locked in Lefortovo Prison, the former KGB facility presently run by the ministry of security.

Most of the army units which helped Mr. Yeltsin were part of the KGB until two years ago. The Pskovskaya, Ryazan and Tula paratroopers who were called in had been under KGB command until after the coup attempt in 1991. So was the 117th Narosomensk regiment, recently recalled from Lithuania, which took part in the repressions against unarmed demonstrators in the Baltic republics earlier that year.

After the dust settled, as if to underscore who really controlled the streets, Mr. Yeltsin imposed a curfew in the capital which applied even to military officers. The curfew was enforced by the MVD and former KGB. Communication lines in the ministry of defense, general staff and GRU military intelligence were reportedly cut until Oct. 5—lines controlled by the former KGB Sixteenth Directorate.

PROTECTING THEIR OWN INTERESTS

The West should resist the temptation to view the units who stayed "loyal" to Mr. Yeltsin as defenders of democracy. The security organs did what they have done time and again since 1917: fired on fellow Russians to protect their man in the Kremlin and, more importantly, their own interests. The president after all was protecting them—essentially by not trying to control or reform them—and was helping them by attracting the hard currency and technology they need from the West. There is little reason to believe that they have changed.

In the most ugly irony yet of the post-Soviet reform process, Russian democracy now finds itself dependent on the institutions and individuals who ran the ever-growing informant networks that set neighbor spying on neighbor. These are the organs that provided international terrorists with training, weapons and money; they were the machinery that persecuted and even murdered their own citizens whose ideas ultimately helped sweep Mr. Yeltsin to power.

Mr. Yeltsin did what he had to do Oct. 4, but he has made a pact with the devil. Rather than looking the other way, the West must help the Russian leadership to break that pact and survive. This means fundamentally that the West must no longer be silent about the continued existence of a huge totalitarian-style security apparatus and the human rights abuses that go with it. The West must support the irreversibility of democracy in Russia by encouraging strict civil controls over the security and military forces, and the complete dismantlement of the instruments of repression that make the specter of dictatorship a continued threat to Russia and the rest of the world.

Mr. DOLE. Mr. President, the Berlin Wall was probably the most visible symbol of the cold war. When it fell and when the Warsaw pact and Soviet Union disintegrated, we knew that the cold war was over. Although these events signaling the end of the cold war happened so quickly, it has taken far more time to dismantle cold war policies and practices.

While President Bush and then, President Clinton, heralded the change in our relationship with Russia from adversary to partner, the task remained before us to implement this partnership—first, to assist Russia and the other former Soviet States, in their efforts toward reform, and second, to remove any barriers erected during the cold war which stood in the way of friendly relations.

When we passed the Freedom Support Act a few months ago, we provided Russia and the other former Soviet States with substantial financial and technical assistance to support critical Democratic and free market reforms.

Mr. President, this bill—the Friendship Act—is the second half of the equation: It removes cold-war-era restrictions and limitations that are barriers to genuine friendly diplomatic and economic relations between Russia and the United States. This bill also places in a historic context legislation which reflected the Congress' views on events and actions taken by the Soviet Union during the cold war. The bill clarifies that these provisions should not be construed as being directed against Russia, Ukraine, or the other Independent States of the former Soviet Union. I would like to commend the distinguished ranking Republican on the Foreign Relations Committee, Senator HELMS, on his amendment to this legislation which would authorize a monument to the victims of communism. Such a monument will serve as a reminder of the millions who suffered and died under Soviet rule.

Mr. President, I know that most, if not all, of my colleagues share the view that our stakes in reform in Russia and the other former Soviet States are high—we want democracy to triumph in the former Soviet Union. We don't want to see a return to cold war tensions and cold war arsenals. But, while Russia's parliamentary elections are only a few weeks away there are still some in Russia, in Ukraine, and elsewhere, who would like to see a return to communism and the rise of a new Soviet empire—who hope that President Yeltsin's reforms will eventually prove to be a failed experiment.

While the future of Russia and the other Newly Independent States lies mostly in the hands of their citizens, we, too, have an important role to play. The Freedom Support Act was a vital first step. This bill is an essential next step.

The distinguished majority leader, the chairman of the Foreign Relations Committee, Senator PELL and the ranking Republican, Senator HELMS, and I, committed to this project some months ago—it was no small task as I am sure the staff can attest to. Many long hours were spent working on this legislation to take into account administration requests and the concerns of interested Senators. In my view this is a good bill which accomplishes the objective of paving the way toward partnership between the United States and the Independent States of the former Soviet Union.

President Clinton had requested that the Congress pass the Friendship Act prior to his departure in January for the summit in Russia. I am pleased that we have been able to complete our work in the Senate on time. This bill sends a clear message to President Yeltsin and the Russian people that the U.S. Congress stands with President Clinton in fully supporting their efforts to achieve genuine democracy.

MESSAGES FROM THE HOUSE

At 10:49 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 486. An Act to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri.

H.R. 2921. An Act to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities.

H.R. 2947. An Act to amend the Commemorative Works Act, and for other purposes.

H.R. 3252. An Act to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes.

H.R. 3583. An Act to make certain non-Federal levees eligible for assistance under the Federal levee rehabilitation program, and for other purposes.

H.R. 3616. An Act to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the Memorial, and the Women in Military Service for America Memorial, and for other purposes.

H.R. 3617. An Act to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes.

H.R. 3400. An Act to provide a more effective, efficient, and responsive government.

H.J. Res. 300. Joint Resolution providing for the convening of the Second Session of the One Hundred Third Congress.

The message also announced that the House agrees to the amendment of the Senate to the following bills:

H.R. 2150. An Act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes.

H.R. 2840. An Act to amend title 17, United States Code, to establish arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

H.R. 3000. An Act for reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other new independent states of the former Soviet Union.

The message further announced that House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the house to the bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes.

The message also announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 422) to amend the Securities Exchange Act of 1934 to ensure the efficient and fair operation of the Government securities market, in order to protect investors and facilitate Government borrowing at the lowest possible cost to taxpayers, and to prevent false and misleading statements in connection with offerings of Government securities.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1769. An Act to make a technical amendment, and for other purposes.

S. 1732. An Act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 189. Concurrent Resolution expressing the sense of the Congress that every appropriate effort should be made to avert a humanitarian disaster in Bosnia-Herzegovina and the other former Yugoslav republics during the winter of 1993–1994.

H. Con. Res. 190. Concurrent Resolution providing for the sine die adjournment of the First Session of the One Hundred Third Congress.

The message further announced that the House has passed the following bills, without amendment:

S. 664. An Act making a technical amendment of the Clayton Act.

S. 1764. An Act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

S. 1777. An Act to extend the suspended implementation of certain requirements to the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions:

S. Con. Res. 44. Concurrent Resolution to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples.

S. Con. Res. 56. Concurrent Resolution to authorize corrections in the enrollment of S. 1766.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

H.R. 898. An Act to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

H.R. 2330. An Act to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and disability system, and for other purposes.

H.R. 1425. An Act to improve the management, productivity, and use of Indian agricultural lands and resources.

H.R. 3318. An Act to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

H.R. 3378. An Act to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes.

H.R. 3471. An Act to authorize the leasing of naval vessels to certain foreign countries.

H.J. Res. 75. Joint Resolution designating January 16, 1994, as "National Good Teen Day."

H.J. Res. 159. Joint Resolution to designate the month of November in 1993 and 1994 as "National Hospice Month".

H.J. Res 294. Joint Resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation.

S. 412. An Act to amend title 49, United States Code, relating to procedures for resolving claims involving unfiled, negotiated transportation rates, and for other purposes.

S. 1670. An Act to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993 the Secretary of the Senate, on November 23, 1993, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 698. An Act to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

H.R. 2632. An Act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for the fiscal year 1994, and for other purposes.

H.R. 3167. An Act to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

MEASURES REFERRED

The following bills, previously received from the House of Representatives, were read the first and second times by unanimous consent and referred as indicated:

H.R. 897. An Act to amend title 17, United States Code, to modify certain registration requirements, and for other purposes; to the Committee on the Judiciary;

H.R. 1250. An Act to amend the coastwise trade laws to clarify their application to certain passenger vessels; to the Committee on Commerce, Science and Transportation;

H.R. 1645. An Act to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States; to the Committee on Governmental Affairs;

H.R. 1994. An Act to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes; to the Committee on Environment and Public Works.

H.R. 2178. An Act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes; to the Committee on Commerce, Science and Transportation;

H.R. 2457. An Act to direct the Secretary of the Interior to conduct a salmon captive broodstock program; to the Committee on Environment and Public Works;

H.R. 2811. An Act to authorize certain atmospheric, weather, and satellite programs and functions of the National Oceanic Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2960. An Act to amend the Competitiveness Policy Council Act to provide for reauthorization, to rename the Council, and for other purposes; to the Committee on Commerce, Science and Transportation;

H.R. 1926. An Act to amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary;

H.R. 3402. An Act to establish a fountain darter captive propagation research program; to the Committee on Environment and Public Works;

H.R. 3512. An Act to abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council; to the Committee on Environment and Public Works; and,

H.R. 3515. An Act to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these Acts and to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

The following bills and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 58. An Act to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations; to the Committee on Commerce, Science and Transportation;

H.R. 324. An Act to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for ten years; to the Committee on the Judiciary;

H.R. 2921. An Act to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges; to the Committee on Energy and Natural Resources;

H.R. 2947. An Act to amend the Commemorative Works Act, and for other purposes; to the Committee on Energy and Natural Resources;

H.R. 3252. An Act to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes; to the Committee on Energy and Natural Resources;

H.R. 3400. An Act to provide a more effective, efficient, and responsive government; to the Committee on Governmental Affairs;

H.R. 3583. An Act to make certain non-Federal levees eligible for assistance under the Federal levee rehabilitation program, and for other purposes; to the Committee on Environmental and Public Works;

H.J. Res. 216. Joint resolution designating January 16, 1994, as "Religious Freedom Day"; to the Committee on the Judiciary.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 131. Concurrent resolution expressing the sense of the Congress with respect to the situation in Sudan; to the Committee on Foreign Relations; and,

H. Con. Res. 189. Concurrent resolution expressing the sense of the Congress that every appropriate effort should be made to avert a humanitarian disaster in Bosnia-Herzegovina and the other former Yugoslav republics during the winter of 1993–1994; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 1770. A bill to provide comprehensive reform of the health care system of the United States, and for other purposes.

S. 1775. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care for all Americans.

S. 1779. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON from the Committee on Energy and Natural Resources: Report to accompany the bill (H.R. 914) to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes (Rept. 103–206).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 293. A bill to provide for a National Native American Veterans' Memorial (Rept. No. 103–207).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 839. A bill to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes (Rept. No. 103–208).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 1780. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986, to provide security for workers, to improve pension plan funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes; to the Committee on Finance.

By Mr. SIMON (for himself, Mr. WOFFORD, Mr. ROBB, and Mr. ROCKEFELLER):

S. 1781. A bill to make improvements in the Black Lung Benefits Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself and Mr. BROWN):

S. 1782. A bill to amend title 5, United States Code, to provide for public access to information in an electronic format, to amend the Freedom of Information Act, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Con. Res. 57. A concurrent resolution providing for correcting the enrollment of H.R. 1025.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 1780. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986, to provide security for workers, to improve pension plan funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes; to the Committee on Finance.

RETIREMENT PROTECTION ACT OF 1993

• Mr. MOYNIHAN. Mr. President, I ask unanimous consent that a letter from the administration requesting consideration of the Retirement Protection Act of 1993 be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENSION BENEFIT GUARANTY CORP.,
Washington, DC, October 26, 1993.

Hon. DANIEL P. MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are pleased to send you the Administration's proposal to strengthen pension benefit security for millions of workers and retirees in underfunded defined benefit pension plans insured by the Pension Benefit Guaranty Corporation (PBGC).

Pension security is an issue of significant concern to the Administration, the Congress and the public. The Administration is committed to seeking passage of an effective, balanced reform program. We ask that you give full and speedy consideration to these reforms. We seek to include all those with a stake in the pension system in the review of our reforms, and we are prepared to work with the Committee on Finance and the other committees of jurisdiction in moving the legislative process forward. We have also transmitted this proposal to the Senate Labor and Human Resources Committee, the House Ways and Means Committee, and the House Education and Labor Committee.

The Retirement Protection Act of 1993 is the product of several months work by an interagency task force established to examine issues of pension benefit security and the long-term stability of the PBGC. The PBGC provides pension protection to 32 million workers and retirees in 65,000 single-employer defined benefit plans. The task force found that while most of these plans are strong and well-funded, the 25 percent that are not well-funded accounted for $38 billion in unfunded benefit promises in 1991. Underfunding in and of itself may not jeopardize participants' benefits if the responsible employer can and will fund all promised benefits. Underfunding does, however, pose long-run risks to workers and to the PBGC. These are serious problems that must be addressed now, while they are still manageable.

The proposal presents a package of comprehensive reforms to improve pension funding and protect workers and retirees. These measures will markedly increase funding in the most underfunded plans, attaining full funding of nonforfeitable benefits within 15 years. These reforms will stabilize the financial condition of the PBGC for the long run. Based on past PBGC experience, we expect that the PBGC's deficit will be eliminated within 10 years. In addition, the bill gives PBGC more compliance tools to assure that employers remain responsible for their plans.

In addition to the reforms in this proposal, the Administration has expressed its view in the context of deliberations on S. 540, the Bankruptcy Amendments of 1993, that it supports clarifying the administrative priority of post-petition minimum funding contributions in bankruptcy and allowing PBGC to sit on creditors' committees.

The Omnibus Budget Reconciliation Act of 1990 (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it would trigger a sequester if it is not fully offset. The Retirement Protection Act of 1993 would reduce tax revenues, but will also increase tax revenues and increase offsetting receipts in the form of premiums paid to the Pension Benefit Guaranty Corporation. Considered together, the provisions of the bill meet the pay-as-you-go requirement of OBRA. Preliminary estimates are shown on the table below:

PRELIMINARY PAY-AS-YOU-GO ESTIMATES

[Fiscal years; in millions of dollars]

	1994	1995	1996	1997	1998	1994–98
Revenue losses and gains	36	56	−370	−448	−480	−1,206
Offsetting receipts	......	91	286	463	446	1,286
Net effect	36	147	−84	15	−34	80

Again, we look forward to working with you to assure pension security for America's workers and retirees.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

ROBERT B. REICH,
Secretary of Labor, Chairman of the Board.
LLOYD BENTSEN,
Secretary of the Treasury, Board Member.
RONALD H. BROWN,
Secretary of Commerce, Board Member.•

By Mr. LEAHY (for himself and Mr. BROWN):

S. 1782. A bill to amend title 5, United States Code, to provide for public access to information in an electronic format, to amend the Freedom of Information Act, and for other purposes.

ELECTRONIC FREEDOM OF INFORMATION IMPROVEMENT ACT OF 1993

Mr. LEAHY. Mr. President, today I am joined by Senator BROWN in introducing a bill that we first introduced in 1991 to update the Freedom of Information Act. This bill, the Electronic Freedom of Information Improvement Act, give the public access to the records of Federal agencies maintained in electronic form, and takes steps to alleviate the endemic delays in processing requests for Government records.

This bill makes an important contribution to the President's plan for the national information infrastructure. That plan envisions the development of interconnected computer networks and databases that can put vast amounts of information at users' fingertips. Such an information infrastructure will give the public easy access to the immense volumes of information generated and held by the Government.

The Freedom of Information Act is an important tool for Americans to learn about the activities of their Government and to hold the Government accountable for its actions, policies, and decisions. FOIA embodies the principle that democracy depends on knowledge, and knowledge in turn depends on information.

New FOIA guidelines are needed to address new issues arising with the increased use of computers. While FOIA covers all Government information in any format, this bill redefines agency records to make that clear, requires an assessment of agency computer capability, and requires agencies to provide requested formats when possible.

Making Government information readily available electronically on people's computers can help to revitalize citizens' interest in learning what their Government is doing and better their understanding of the reasons underlying Government actions. This would, I believe, help reduce cynicism about Government.

We have recognized that Government must take advantage of the benefits of new technologies to provide easier and broader dissemination of information.

One provision of this bill now, and as it was introduced in the last Congress, requires agencies to publish certain information in an electronic form in the Federal Register. We recognized the importance of such electronic access when we recently passed a law requiring that people have online access to important Government publications, such as the Federal Register, the CONGRESSIONAL RECORD, and other documents put out by the Government Printing Office.

This administration has also taken laudable steps to make Government more open to the public. Just last month, Attorney General Janet Reno announced a new standard for Federal agencies to withhold information only when it was reasonably foreseeable that disclosure would be harmful to an interest protected by law and only when it need be. At the same time, President Clinton called for Federal agencies to renew their commitment to open Government. The Office of Management and Budget also issued a new circular urging Federal agencies to make information more widely available through electronic dissemination.

This electronic FOIA bill is an important step forward in using technology to make Government more accessible and accountable to our citizens.

To fulfill the promise of FOIA, Federal agencies must work to reduce the long delays, which in some agencies stretch to over 2 years, that it takes to give responses to FOIA requests. Because of these delays, newspaper reporters, students and teachers and others working under time deadlines, have been frustrated in using FOIA to meet their research needs. This works to the detriment of us all.

These delays are intolerable. This is not the level of customer service the American people deserve from their public servants, and does not satisfy the standard of service the President demanded in his September Executive order directed to every Government agency. The American taxpayer has paid for the collection and maintenance of this information and should get prompt access to it upon request.

Senator BROWN and I have proposed allowing agencies that are in substantial compliance with the statutory time limits to retain half of the FOIA fees they collect, instead of submitting those fees to the General Treasury as is currently the case. The fees the agencies can keep will be directed back to the agency FOIA operation to provide an incentive and resources to make these operations better and more efficient.

I look forward to working constructively with the administration and people in the FOIA community to keep FOIA up-to-date with new technologies and to ensure FOIA is an effective tool for open government.

Mr. President, I ask unanimous consent that the legislation and a section-by-section analysis be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Freedom of Information Improvement Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) since the enactment of the Freedom of Information Act in 1966, and the amendments enacted in 1974 and 1986, the Freedom of Information Act has been a valuable means through which any person can learn how the Federal Government operates;

(2) the Freedom of Information Act ensures access to information held by the Government, which is a valuable national resource;

(3) the Freedom of Information Act has led to the disclosure of waste, fraud, abuse, and wrongdoing in the Federal Government;

(4) the Freedom of Information Act has led to the identification of unsafe consumer products, harmful drugs, and serious health hazards;

(5) Government agencies increasingly use computers to conduct agency business and to store publicly valuable information; and

(6) Government agencies should use new technology to enhance public access to information.

(b) PURPOSES.—The purposes of this Act are to—

(1) foster democracy by ensuring access to public information;

(2) improve public access to agency records and information;

(3) ensure agency compliance with statutory time limits; and

(4) maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government.

SEC. 3. PUBLIC INFORMATION AVAILABILITY.

Section 552(a)(1) of title 5, United States Code, is amended—

(1) in the first sentence by inserting "electronically by computer telecommunications, and by other means," after "Federal Register";

(2) by striking out "and" at the end of subparagraph (D);

(3) by redesignating subparagraph (E) as subparagraph (H); and

(4) by inserting after subparagraph (D) the following new subparagraphs:

"(E) an index of all information retrievable or stored in an electronic form by the agency;

"(F) a description of any new database or database system with a statement of how such database or system shall enhance agency operations under this section;

"(G) a complete list of all statutes that the agency head or general counsel relies upon to authorize the agency to withhold information under subsection (b)(3) of this section, together with a specific description of the scope of the information covered; and".

SEC. 4. HONORING FORMAT REQUESTS.

Section 552(a)(3) of title 5, United States Code, is amended by—

(1) inserting "(A)" after "(3)";

(2) striking out "(A) reasonably" and inserting in lieu thereof "(i) reasonably";

(3) striking out "(B)" and inserting in lieu thereof "(ii)"; and

(4) adding the following new subparagraphs at the end thereof—

"(B) An agency shall provide records in any form in which such records are maintained by that agency as requested by any person.

"(C) An agency shall make reasonable efforts to provide records in an electronic form requested by any person, even where such records are not usually maintained in such form.".

SEC. 5. DELAYS.

(a) FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(viii) If at an agency's request, the Comptroller General determines that the agency annually has either provided responsive documents or denied requests in substantial compliance with the requirements of paragraph (6)(A), one-half of the fees collected under this section shall be credited to the collecting agency and expended to offset the costs of complying with this section through staff development and acquisition of additional request processing resources. The remaining fees collected under this section shall be remitted to the Treasury as general funds or miscellaneous receipts.".

(b) PAYMENT OF REQUESTER'S EXPENSES.—Section 552(a)(4)(E) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The court may assess against the United States all out-of-pocket expenses incurred by the requester, and reasonable attorney fees incurred in the administrative process, in any case in which the agency has failed to comply with the time limit provisions of paragraph (6) of this subsection.".

(c) CIVIL PENALTY FOR DELAY.—Section 552(a)(4)(E) of title 5, United States Code, is further amended—

(1) by inserting "(i)" after "(E)"; and

(2) by adding at the end thereof the following new clause:

"(ii) Any agency not in compliance with the time limits set forth in this subsection shall demonstrate to a court that the delay is warranted under the circumstances. It shall be within the discretion of the court to award the requester an amount not to exceed $75 for each day that the agency's response to his request exceeded the time limits set forth in paragraph (6) of this section.".

(d) AGENCY BACKLOGS.—Section 552(a)(6)(B) of title 5, United States Code, is amended in the fourth sentence by inserting "shall not include routine agency backlogs and" after "'unusual circumstances'".

(e) NOTIFICATION OF DENIAL.—The fourth sentence of section 552(a)(6)(C) of title 5, United States Code, is amended to read: "Any notification of any full or partial denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request and the total number of denied records and pages considered by the agency to have been responsive to the request.".

(f) EXPEDITED ACCESS.—Section 552(a)(6) of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(D)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing that upon receipt of a request for expedited access to records and a demonstration by the requester of a compelling need for expedited access to records, the agency shall determine within five days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such a request, whether to comply with such request. No more than one day after making such determination the agency shall notify the requester of such determination, the reasons therefor, and of the right to appeal to the head of the agency.

"(ii) A requester whose request for expedited access has not been decided within five days of its receipt by the agency or has been denied shall not be required to exhaust administrative remedies. An agency failing to comply with this time limitation shall be subject to the provisions of paragraph (4)(E)(ii).".

SEC. 6. COMPUTER REDACTION.

Section 552(b) of title 5, United States Code, is amended by inserting before the period in the sentence following paragraph (9): ", and such deletion shall be indicated on the released portion of the record at the place where such deletion was made".

SEC. 7. DEFINITIONS.

Section 552(f) of title 5, United States Code, is amended to read as follows:

"(f) For purposes of this section—

"(1) the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) the term 'record' includes all books, papers, maps, photographs, data, computer programs, machine readable materials, and computerized, digitized, and electronic information, regardless of the medium by which it is stored, or other documentary materials, regardless of physical form or characteristics; and

"(3) the term 'search' includes a manual or automated examination to locate records.".

ELECTRONIC FOIA BILL SUMMARY

SECTION 1. SHORT TITLE

The Act may be cited as the Electronic Freedom of Information Improvements Act of 1993.

SECTION 2. FINDINGS AND PURPOSES

This section acknowledges the increase in the government's use of computers and specifies that government agencies should use new technology to enhance public access to government information.

The purposes of this bill are to improve access to government information and to ensure that agencies do not delay responses in an effort to defeat the intent of the Freedom of Information Act.

SECTION 3. PUBLIC INFORMATION AVAILABILITY

This section requires agencies to publish in the Federal Register an index of all information retrievable or stored in an electronic form and a description of any new database system with a statement of how it will enhance agency FOIA operations.

This section requires agencies to publish a complete list of statutes that the agency relies upon to withhold information under subsection (b)(3) of the Act. Exemption (b)(3) covers information that is specifically exempted from disclosure by other statutes. These exemptions currently show up in non-FOIA bills and decrease information available to the public without the Judiciary Committee even looking at them. In order to prevent ill-considered exemptions to the access mandate of the FOIA, this section would place specific limitations on an agency's ability to rely on the authority of (b)(3) exemption statutes when they have not passed through prescribed legislative channels and have not been previously brought to public attention through publication in the Federal Register.

The section also requires that information which must be published or made available for copying under the FOIA, such as agency regulations, should be accessible by computer telecommunications.

Government information should be available to everyone and computers should be a gateway to this information. Access to the Federal Register in electronic form is an important first step in making government regulations more available to our citizens who are blind or visually impaired. Timely access to government regulations by citizens who cannot read ordinary print is particularly important in light of the passage of the Americans With Disabilities Act (ADA).

According to the American Foundation for the Blind, the availability of information in standard electronic machine readable form with greatly facilitate the expeditious and cost efficient production of such information in braille, large print, or synthetic speech output.

SECTION 4. HONORING FORM REQUESTS

The bill would require agencies to assist requesters by providing information in the form requested if the agency maintains the information in that form. If the agency does not maintain the information in the form requested, it should make reasonable efforts to make the requested information available to the requester.

In *Dismukes* v. *Department of the Interior*, a court held that the agency "has no obligation under the FOIA to accommodate plaintiff's preference [but] need only provide responsive, nonexempt information in a reasonably accessible form." In response to the 1990 Justice Department survey, agencies overwhelmingly expressed opposition to a requirement that they provide information in the format requested. Agency opposition is framed as a burden and cost issue.

SECTION 5. DELAYS

Fees.—In an effort to decrease the delays experienced by FOIA requesters, this section authorizes agencies to retain one-half of the fees they collect if the agency complies with the statutory time limits for responding to requests. The fee retention provisions of the bill would reward agencies that meet the statutory time limits and should diminish the burdens on agencies with particularly heavy FOIA workloads. It will be very important to structure the compliance criteria so that the reward system operates effectively and without favoring any class of requesters over other classes. During consideration of the bill, we will explore which specific criteria for determining timely compliance would be fairest and most workable.

Payment of Requester's Expenses and Civil Penalty for Delay.—The current statute allows for attorneys' fees and other litigation costs in any case in which the complainant has reasonably prevailed. The bill also permits payment of requesters' litigation expenses and reasonable attorneys' fees in any case in which the agency fails to comply with the time limits. The bill also authorizes the assessment of financial penalties against agencies which are not in compliance with the statutory time limits. Currently, the only sanction for the violation of the statutory time limits is to treat the non-response as a denial sufficient to exhaust administrative remedies and to seek judicial review.

Agency Backlogs.—The statute provides that in unusual circumstances, the statutory time limits can be extended. The statute defines unusual circumstances as the need to search for records in field locations separate from the office processing the request, to search voluminous records, or to consult with another agency. In *Open America* v. *Watergate Special Prosecution Force*, a district court held that a massive backlog of FOIA requests in an agency with insufficient resources to process them in a timely manner can constitute "exceptional circumstances." This section would overturn that decision by specifying that routine agency backlogs do not constitute unusual circumstances for purposes of the Act.

Expedited Access.—Finally, the legislation authorizes expedited access to requesters who demonstrate a compelling need for a speedy response. The requester bears the burden of showing that expedition is appropriate. The agency is required to make a determination about the request within five days.

SECTION 6. COMPUTER REDACTION

The ability to redact information on the computer changes the complexion of released documents. At times, it is impossible to determine whether one sentence or 30 pages have been withheld by the agency. The bill requires agencies to indicate deletions of the released portion of the record at the place where such deletion was made.

SECTION 7. DEFINITIONS

The bill adds definitions of "record" and "search" to the statute explicitly to address electronically stored information. The current FOIA statute does not define either term. The definition of record in the bill is an expanded version of the definition in the Federal Records Act, 44 U.S.C. 3301. At this point, there is little disagreement that the FOIA covers all government records, regardless of the from in which they are stored by the agency. The Department of Justice agrees that computer database records are agency records subject to the FOIA. See Department of Justice Report on Electronic Record Issues Under the Freedom of Information Act, p. 2.

The Leahy-Brown bill defines "search" as "a manual or automated examination to locate records." Under the FOIA, an agency is not required to create documents that do not exist. Because computer records may be located in a database rather than in a file cabinet, the question is whether a search for paper records is analogous to a computer search. Computerized records may require the application of codes or some form of programming to retrieve the information. Under the definition of "search" in the legislation, the search of computerized records would not amount to the creation of records. Any other interpretation would make it virtually impossible to get records that are maintained completely in an electronic form, like electronic mail, because some manipulation of the information likely would be necessary to search the records.

ADDITIONAL COSPONSORS

S. 154

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 154, a bill to insure that any peace dividend is invested in America's families and deficit reduction.

S. 411

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 411, a

bill to freeze domestic discretionary spending for fiscal years 1994 and 1995 at fiscal year 1993 levels.

S. 413

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 413, a bill to provide that the cost of living adjustment to increase the rate of pay for Members of Congress in calendar year 1994 shall not take effect.

S. 435

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 435, a bill to reduce the rate of pay for each Member of Congress to the rate which was in effect before the cost of living adjustment in calendar year 1993.

S. 449

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 449, a bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated.

S. 563

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 563, a bill to require CBO analysis of each bill or joint resolution reported in the Senate or House of Representatives to determine the impact of any Federal mandates in the bill or joint resolution.

S. 802

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 802, a bill to require the President to seek to obtain host nation payment of most or all of the overseas basing costs for forces of the Armed Forces of the United States in such nation, to limit the use of funds for paying overseas basing costs for United States forces, and for other purposes.

S. 921

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 921, a bill to reauthorize and amend the Endangered Species Act for the conservation of threatened and endangered species, and for other purposes.

S. 973

At the request of Mr. DORGAN, the name of the Senator from Alaska [Mr. MURKOWSKI) was added as a cosponsor of S. 973, a bill to require the Federal Communications Commission to evaluate and publicly report on the violence contained in television programs, and for other purposes.

S. 1083

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1083, a bill to amend the Internal Revenue Code of 1986 to provide that veterans' allowances and benefits administered by the Secretary of Veterans Affairs are not included in gross income.

S. 1087

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1090

At the request of Mr. BROWN, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1090, a bill to rescind unauthorized appropriations for fiscal year 1993.

S. 1148

At the request of Mr. BROWN, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1148, a bill to allow for moderate growth of mandatory spending.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1468

At the request of Ms. MOSELY-BRAUN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1468, a bill to amend the Higher Education Act of 1965 to require institutions of higher education to disclose participation rates, and program support expenditures, in college athletic programs, and for other purposes.

S. 1495

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1495, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1521

At the request of Mr. GORTON, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1521, a bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of the programs of such act for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing such act, to provide for equitable treatment of non-Federal persons and Federal agencies under such act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes.

At the request of Mr. SHELBY, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1521, supra.

S. 1576

At the request of Mr. HATCH, his name was added as a cosponsor of S. 1576, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 1586

At the request of Mr. JOHNSTON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1586, a bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana; and for other purposes.

S. 1618

At the request of Mr. MCCAIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1618, a bill to establish Tribal Self-Governance, and for other purposes.

S. 1626

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1626, a bill to amend title 38, United States Code, to revise the veterans' home loan program.

S. 1715

At the request of Mrs. HUTCHISON, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Virginia [Mr. ROBB], the Senator from Arizona [Mr. DECONCINI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Wyoming [Mr. WALLOP], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Washington [Mrs. MURRAY], the Senator from Indiana [Mr. LUGAR], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

At the request of Mr. HATCH, his name was added as a cosponsor of S. 1715, supra.

S. 1746

At the request of Mrs. KASSEBAUM, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1746, a bill to establish a youth development grant program, and for other purposes.

S. 1767

At the request of Mr. PACKWOOD, his name was added as a cosponsor of S. 1767, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes.

SENATE JOINT RESOLUTION 159

At the request of Mr. DODD, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 159, a joint resolution to designate the period commencing on February 14, 1994, and ending on February 20, 1994, as "Children of Alcoholics Week."

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. COATS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Concurrent Resolution 45, a concurrent resolution relating to the Republic of China on Taiwan's participation in the United Nations.

SENATE CONCURRENT RESOLUTION 57—RELATIVE TO THE ENROLLMENT OF H.R. 1025

Mr. DOLE submitted the following concurrent resolution; ordered to lie over under the rule:

S. CON. RES. 57

Resolved by the Senate (the House of Representatives concurring), That the Enrolling Clerk of the House of Representatives is directed to make the following change in the enrollment of H.R. 1025:

Strike all after the enacting clause and insert the following:

TITLE ___—BRADY HANDGUN CONTROL

SEC. ___01. SHORT TITLE.

This title may be cited as the "Brady Handgun Violence Prevention Act".

SEC. ___02. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending either on the day before the date that is 48 months after such date of enactment unless the Attorney General extends the date or on the day that the Attorney General notifies the licensees in all the States under section ___03(d) of the Brady Handgun Violence Prevention Act, whichever occurs earlier, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess or acquire a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.".

(2) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1), is amended by adding at the end the following:

"(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section ____03(e) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section ____03 of that Act;

"(B)(i) the system provides the licensee with a unique identification number; or

"(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

"(2) If receipt of a firearm would not violate section 922 (g) or (n) or State law, the system shall—

"(A) assign a unique identification number to the transfer;

"(B) provide the licensee with the number; and

"(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

"(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess or acquire a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) or State law of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

"(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. ____03. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) ESTABLISHMENT OF SYSTEM.—

(1) DETERMINATIONS.—Not later than the date that is 24 months after the date of enactment of this Act, the Attorney General shall determine whether—

(A) the equipment used to link State criminal history records systems to the national criminal history records system and the equipment necessary to operate the national instant criminal background check system are operational; and

(B) any group of States that—

(i) have at least 80 percent of the population of the United States; and

(ii) have reported during a 12-month period at least 80 percent of the number of crimes of violence reported by all of the States during that period,

have achieved and maintained in each State at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years; and

(C) if such determinations are made in the affirmative, the Attorney General shall certify that the national system is established.

(2) ESTABLISHMENT.—If the Attorney General makes an affirmative finding with respect to the matters described in paragraph (1) (A) and (B), the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone and by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code or State law.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(e) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms "firearm", "handgun", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, such sums as are necessary to enable the Attorney General to carry out this section.

SEC. ___04. REMEDY FOR ERRONEOUS DENIAL OF FIREARM.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 925 the following new section:

"§ 925A. Remedy for erroneous denial of firearm

"Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

"(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section ___03 of the Brady firearm Violation Prevention Act; or

"(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925 the following new item:

"925A. Remedy for erroneous denial of firearm.".

SEC. ___05. RULE OF CONSTRUCTION.

This Act and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.

SEC. ___06. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section ___03 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act.".

(b) ADDITIONAL FUNDING.—

(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1), may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, a total of $200,000,000 for fiscal year 1994 and all fiscal years thereafter.

SEC. ___07. WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.

If the Attorney General does not certify the national instant criminal background check system pursuant to section ___03(a) by—

(1) 24 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 24 months after the date of enactment of this Act falls shall be reduced by 5 percent on a monthly basis; and

(2) 36 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 36 months after the date of enactment of this Act falls shall be reduced by 10 percent on a monthly basis.

SEC. ___08. WITHHOLDING STATE FUNDS.

Effective on the date of enactment of this Act, the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section ___03(a).

TITLE ___—MULTIPLE FIREARM PURCHASES TO STATE AND LOCAL POLICE

SEC. ___01. REPORTING REQUIREMENT.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) in the second sentence by inserting after "thereon," the following: ", and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place,";

(2) by inserting "(A)" after "(3)"; and

(3) by adding at the end thereof the following:

"(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.".

TITLE ___—FEDERAL FIREARMS LICENSE REFORM

SEC. ___01. SHORT TITLE.

This title may be cited as the "Federal Firearms License Reform Act of 1993".

SEC. ___02. PREVENTION OF THEFT OF FIREARMS.

(a) COMMON CARRIERS.—Section 922(e) of title 18, United States Code, is amended by adding at the end the following: "No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.".

(b) RECEIPT REQUIREMENT.—Section 922(f) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.".

(c) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, as amended by section ____02(b), is amended by adding at the end the following new subsection:

"(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.".

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person who knowingly violates section 922(u) shall be fined not more than $10,000, imprisoned not more than 10 years, or both.

"(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.".

SEC. ____03. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "a pawnbroker dealing in firearms other than" and inserting "not a dealer in";

(2) in subparagraph (B) by striking "$25 per year" and inserting "$200 for 3 years, except that the renewal of a valid license shall be $90 for 3 years."; and

(3) by striking subparagraph (C).

MENTAL INSTITUTIONS

Section 503(a) of title I of the Omnibus Safe Streets and Crime Control Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) A certification that the State has established a plan under which the State will provide to the Department of Justice, without fee—

"(A) within 30 days after the date on which any person in the State is adjudicated as a mental defective or committed to a mental institution, notice of the adjudication or commitment; and

"(B) with 30 days after the date on which the Department of Justice requests it, a copy of the certified record of the adjudication or commitment.".

RECESS SUBJECT TO THE CALL OF THE CHAIR

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from Hawaii, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 11:49 a.m., recessed subject to the call of the Chair; whereupon, at 3:20 p.m. the Senate reassembled when called to order by the Presiding Officer [Mr. LIEBERMAN].

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, we are waiting for one Senator with reference to the Brady bill matters. Perhaps rather than to waste time, I could give my statement on the end of the session review which I will do at this time.

END OF SESSION REVIEW

Mr. DOLE. Mr. President, 10 months ago, on January 21, I outlined the priorities of the Senate Republicans for the first session of the 103d Congress, and I pledged that when President Clinton advanced policies that moved America in the right direction, then he could count on Republican support.

But I also said that we remained committed to Republican principles of less taxes, less spending, less government, less regulation, and a strong and secure America. And when President Clinton moved America away from these principles, then we would stand our ground.

As this session comes to a close, I believe it is clear that we have remained true to those words.

Although there are still a few who like to point at Republicans and holler "gridlock," I think any objective review makes it clear that Republicans have worked responsibly with President Clinton when it was in the best interests of the country.

This cooperation started almost immediately after President Clinton's inauguration, when the Senate moved with record speed to approve President Clinton's Cabinet nominations.

We have continued that cooperation throughout the session—approving nearly 500 Presidential nominations.

Senate Republicans have fought for many years to adopt the toughest crime bill possible. And we worked with President Clinton and the majority to adopt legislation which contained tough Republican provisions, including truth-in-sentencing, prison construction, violence against women, and antigang statutes. And it's important to note that this legislation is paid for.

Republicans have praised President and Mrs. Clinton for placing health care reform on top of our national agenda, and we have played a very constructive role in the initial stages of what will be a lengthy national debate.

Senator CHAFEE, Senator NICKLES, and Senator GRAMM have all been joined by Republican Senators introducing comprehensive and meaningful reform plans.

And in the coming months, I believe you can look for continued Republican leadership, as we seek to unite behind a plan that fixes the parts of our health care delivery system that needs to be fixed, while preserving the quality and choice that have made our system the best in the world.

Another example of bipartisan cooperation worth mentioning occurred this summer, when flood waters ravaged the midwest. Republicans and Democrats worked quickly to ensure that the flood victims would receive assistance in getting back on their feet.

And when it became apparent that the Russian Government needed our assistance to ensure that their new democracy would stay on its feet, Republicans worked for the quick adoption of a Russian reconstruction package.

The prime example of Republican cooperation with President Clinton, however, is the North American Free-Trade Agreement. In both the House and the Senate, the President depended upon Republican leadership to break the gridlock which was occurring in his own party.

Many in the media said that losing the NAFTA vote would have been fatal to President Clinton's administration. Yet, Republicans never wavered in doing what was right for America, and in providing the President with the support and the votes needed to adopt this historic agreement.

And just as President Clinton has had disagreements with members of his own party, he also has had disagreements with Republicans—most notably on his prescription for more taxes and more spending.

It was not partisan politics that led to this disagreement, rather, it was a fundamental difference in philosophy.

When it comes to the economy, the President honestly and sincerely believes that Uncle Sam knows best, and that the road to prosperity is paved with the largest tax increase in American history, more spending, more Government programs, and more mandates and regulations imposed on our small businessmen and women.

Every single Senate Republican united against this philosophy. But we did more than simply throw rocks at the President's plan, we listened to the American people's call to cut spending first, and we offered responsible alternatives.

When the President proposed a so-called emergency stimulus spending program that wasn't needed and that he simply charged to future generations, the Republicans offered an alternative that was paid for, and that addressed legitimate funding needs.

And when the President refused that offer, we stood firm for America's taxpayers, and saved them $11 billion.

When we return in January, Republicans intend to hold the President to the promise he made to obtain the necessary Democrat votes to pass his massive tax increase—a promise that he would propose a package of real and meaningful spending cuts.

Throughout the next session, Republicans will continue to insist that Government should learn to live within its income and without so much of the income of the American taxpayers.

And while Republicans believe that partisanship does stop at the water's edge, we have joined with many Americans in raising concerns about the direction of the Clinton foreign policy in Somalia, Haiti, and Bosnia, and in insisting that the priorities of the United States not be sacrificed to the priorities of the United Nations.

Mr. President, I believe that Republicans can look back at this session and take pride in the stands we took and the progress we made. By sticking to our principles and sticking together, Republicans made a difference for the American people.

Make no mistake, there is much more work to be done when we return in January, and we intend to continue to work with the President when we believe he is right, and to speak out and offer responsible alternatives when we believe he is wrong.

Finally, on behalf of my 43 Republican colleagues, I want to wish the President and all those on the other side of the aisle a happy and healthy holiday season.

I might say this was written before I knew we were coming back next week. I still wish a happy Thanksgiving.

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader.

Mr. MITCHELL. Mr. President, when this session began, Congress and the new Clinton-Gore administration pledged to work together to address the real needs of the American people. This session has seen us do that. We have real accomplishments completed and equally significant actions under way for next year.

In one of our first actions, we passed the Family and Medical Leave Act, a bill vetoed by President Bush but signed by President Clinton.

This landmark legislation benefits working families. For the first time, the Federal Government is acknowledging that the family responsibilities of America's workers are important. Workers worried about sick children cannot be productive. This bill gives both employers and workers the mechanism they need to make sure workers can work without distraction on the job, because they have been able to properly take care of their family responsibilities. That is valuable for American productivity and it is essential to maintaining our families.

The Congress took on the budget deficit with the passage of a historic deficit reduction bill. The $500 billion deficit reduction package is a fair, progressive plan which shifts the tax burden away from working class families, provides job creating opportunities for small businesses and industry, and encourages economic growth.

The budget package was a fair and responsible first step to restrain the deficit without provoking an economic downturn. Over the years to come, it will bolster the economy and help to ensure greater fiscal security for future generations.

We know it is just a first step, but it was a necessary and carefully calibrated one.

As part of the deficit reduction plan, Congress significantly broadened the earned income tax credit. The goal of this tax credit is to make certain that every American earns more by working than by going on welfare. Persons in low-income jobs deserve the dignity of being able to put a roof over their families' heads and food on the table. When low wages alone do not allow a worker to fulfill that minimal responsibility for her family, the incentive to work is undermined and devalued.

Speeches about the work ethic do not change the reality that too many working Americans simply do not earn enough to care for their families. Preaching the work ethic at a woman who works through the night cleaning office buildings at the minimum wage is not an answer. The earned income tax credit is. It rewards work, not welfare. It allows the worker to earn the dignity of being self-supporting. And it puts into concrete form the value that our Nation places on the work ethic.

We enacted one of the President's principal goals by the approval of the National and Community Service Trust Act. This proposal will provide an opportunity for young people to get an education after performing significant, meaningful work of benefit to the community. It represents an investment in our Nation's present and, more importantly, in its future.

This Congress also addressed the health care concerns of women. The reauthorization of the National Institutes of Health, a bill vetoed by President Bush, was passed again and signed into law by President Clinton.

The bill will make certain that medical research involves both male and female subjects in the future, rather than assuming that new therapies will have identical effects and results on women and men.

It also targets funds to breast cancer research and other conditions uniquely afflicting women. It is a needed redirection of health research funds to areas that have suffered neglect in the past.

President Clinton followed through on his campaign promise and acted to lift the gag rule which prevented reproductive health care providers from giving low-income women the information and counseling that wealthier women take for granted.

At the close of the session, the Senate passed the Freedom of Access to Clinics Act, legislation designed to prevent the harassment, violence, vandalism, and intimidation of abortion providers, workers, and patients. The issue of abortion may be controversial for many, but there cannot be any argument that there is a right to intimidate those who disagree or a right to destroy facilities such as clinics.

Congress has been working to improve the American economy by expanding opportunities to trade with foreign nations. Just last week, both Houses passed the implementing legislation for the North American Free-Trade Agreement.

The NAFTA provides the United States with significant new opportunities for the future: Expanded markets for American products in this hemisphere, more American jobs from higher export levels, and the growth of prosperity in the hemisphere which will ultimately reduce illegal immigration as a problem.

We did not fall prey to the politics of isolationism or fear. Rather, we looked to the future and did what is right for America and America's workers. The North American Free-Trade Agreement will define the U.S. role in the global economy and in world affairs well into the 21st century. We have chosen to embrace the economic challenges of this post-cold-war world, and in the future we will reap the benefits of our decision.

Although we have made much progress in turning around the recession that crippled our country for too long, we still have a long way to go. Unemployment has remained too high. Congress acted in March and again this month to extend the emergency unemployment compensation program in an effort to help the long-term unemployed.

We must take action soon to develop the job retraining and worker programs that are needed to help Americans move into the new job market that the postindustrial revolution will create.

And finally at the end of this year, the Senate acted responsively and appropriately to address a problem that Americans from all across the country are concerned about: Violent crime, unrestrained gun violence in our city streets, schools into which children smuggle weapons each day, a society in which basic fundamental civility seems on the verge of being lost.

The Senate's comprehensive crime control legislation addresses the problem of crime and random violence.

The Senate bill provides $22 billion to the violent crime prevention trusts fund. For the first time in many years, the legislation directs the resources to State and local authorities where almost all of those who commit acts of criminal violence are apprehended and prosecuted. As a result of this legislation, 100,000 more police will be on the streets to assist communities in preventing and fighting crime.

It will provide $3 billion to turn existing Federal facilities into boot camps where first-time nonviolent drug offenders can be incarcerated, to end the revolving door system of justice where addicts are jailed and other addicts are released back onto the streets.

It will fund drug courts, an approach that seeks to cure addicts of their addiction and return them to society as persons who have some incentive to find and keep honest work and make decent lives for themselves.

The bill funds the Violence Against Women Act, legislation that will substantially augment the ability of courts to deal with domestic violence and will give communities the resources to take preventive safety action in areas where crimes against women are endemic—bus stations, public transit areas, college campuses.

Both Houses of Congress have also passed the Brady bill, an important first step in ensuring that those who are not entitled to carry guns—convicted felons and those with certain mental illnesses—will not be able to purchase them legally. I remain hopeful that this measure can be enacted into law before we adjourn this year.

As we have acted to improve the lives of Americans, we have also worked to open up the political process to make it easier for all Americans to participate in our Government.

Enactment of the National Voter Registration Act, known as the motor-voter bill, will make it easier for working men and women to register to vote. People will be able to register to vote as easily as they can register their car. In last year's election, Maine had the highest rate of voter participation, something I am very proud of. This law will make it as easy for citizens of all our States to register and to vote as it is for the people of Maine.

The Hatch Act, which expands the opportunities for Federal employees to participate in the political process, was also enacted. No longer must Americans who work for the Federal Government give up their right to work for and support political candidates as a condition of employment. This change in the law retains safeguards to prevent Government employees from using their positions to advance political agendas, but gives Federal workers the same basic political rights as all other American citizens. It was a long overdue step.

The Senate passed a substantive campaign finance reform bill which, when enacted, will significantly change the way congressional campaigns are run.

It includes the essential element of true campaign finance reform: campaign spending limits. This bill will help to even the playing field by reducing the role of money in Federal election campaigns. Challengers who pose a serious and attractive alternative will no longer be hopelessly outspent by incumbents. They will have a chance to have their messages heard and judged by voters, all that any candidate can expect.

In May, the Senate passed the most sweeping lobbying reform bill since World War II. It replaces the existing array of disclosure laws with a single, uniform, tough law. The bill closes loopholes to ensure that all professional lobbyists are registered and streamlines disclosure requirements to make sure that meaningful information is disclosed and needless reporting burdens are avoided.

The Joint Committee on Congressional Reform has recommended changes in the way we conduct much of the business in the Congress. I look forward to completing action on those reform measures as well as campaign finance and lobbying reforms in the 103d Congress.

Next year, Congress will consider measures to streamline Government services and programs to reduce waste and inefficiency. The President and Vice President have proposed extensive changes to improve the way the Federal Government conducts its operations.

So this has been a productive session, well beyond what many would have predicted just half a year ago. We have made substantial progress on many fronts.

But the most significant step we have taken this year is not yet law: We have laid the groundwork for serious congressional action on comprehensive health care legislation.

Last year, the question was "if" we should consider health care. That question has been answered in the affirmative. The question this year and next is not "if," it is "how."

Too many Americans have the most basic decisions of their lives dominated, indeed dictated, by health care cost considerations. Whether to marry. Whether to have children. Where to work. Where to live.

These fundamental decisions should not be dictated by concerns about health insurance. But under the current system, they are.

President Clinton has given the highest possible priority and visibility to this issue. He has advanced a plan which will ensure meaningful access to quality health care for all Americans and control the rapidly escalating costs of health care.

Legislation to achieve these goals has been introduced in both Chambers.

Next year, Democrats and Republicans will work together to enact health reform legislation and eliminate for Americans the anxieties associated with getting and losing health insurance.

Looking outside of our country, world crises over the past year have raised important questions about the relationship between Congress and the executive branch regarding the deployment of U.S. Armed Forces abroad and their participation in U.N. peacekeeping operations.

The situations in Somalia, Bosnia, and Haiti have demonstrated that the end of the cold war has brought international instability and demands for international peacekeeping operations.

Today, the United States faces the unique challenge of leading the world in focusing international institutions to address these new realities. To ascertain how best our Nation can meet this new challenge, we have initiated a comprehensive review of the proper role of U.S. Armed Forces in the post-cold-war world, and the implications for U.S. foreign policy.

It is my hope that in the next session, we will complete this review and establish a clear process by which we can determine the appropriateness of U.S. involvement, and properly accommodate legislative and executive branch prerogatives.

Also in the second session, we must continue to reduce the deficit while helping to expand the economy. Unemployment remains too high; too many businesses are still struggling. We must continue to enact meaningful economic reforms which will create jobs and address the problems which still face our Nation.

In addition to reforming our health care system, we must also reform our immigration system. We must seek an appropriate balance between the benefits of our melting pot society and our country's ability to support an ever-increasing population. We must put an end to illegal immigration, and work to improve the system by which people become legal immigrants.

We must also reform our welfare system. President Clinton has pledged to "end welfare as we know it." We must work to redesign the system so that it provides a safety net for those in need, but also provides people with the skills and services they need to become productive, working members of our society.

Finally, we must enact education legislation. The President's Goals 2000 plan will set national education performance standards to ensure that all American students are receiving quality education. We must also examine the costs of pursuing higher education and create innovative responses to this problem. I have already announced that Goals 2000 will be among the first bills considered in the second session.

This first session of the 103d Congress has been highly productive. If we continue at this pace, I believe that the 103d Congress will go down in history as one of the most productive in modern times.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the

Senate completes its business today, it stand in recess until Friday, November 26, at 11 a.m., for a pro forma session only; that when the Senate completes its business on that day, it stand adjourned until Tuesday, November 30, at 5 p.m.; that immediately following the prayer, the Journal of proceedings be deemed approved to date, that no motions or resolutions come over under the rule, the call of the calendar be waived; and the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day; that upon the appointment of the Chair, the Senate proceed to the consideration of House Concurrent Resolution 190, the adjournment resolution; that upon its reporting, Senator DOLE be recognized to offer an amendment to the adjournment resolution directing the enrolling clerk to make changes in the enrollment of the conference report on H.R. 1025, the Brady bill, which the Chair will immediately rule on; that if the Chair's ruling is appealed, there then be 1 hour for debate equally divided between Senators BIDEN and DOLE or their designees on the appeal of the Chair's ruling; that at 6 p.m., the Senate vote on or in relation to the appeal, if it is made; that upon the conclusion of that vote, the Senate vote on the motion to invoke cloture on the conference report on H.R. 1025, the Brady bill, with the preceding occurring without any intervening action or debate; that if cloture is invoked, the Senate, without any intervening action or debate, vote on passage of the conference report and that upon the disposition of the conference report, House Concurrent Resolution 190, the adjournment resolution, be agreed to as amended, to provide for the House adjournment; that the Senate then consider and agree to House Joint Resolution 300, that the motions to reconsider be laid on the table en bloc, and the Senate stand adjourned sine die under the provisions of House Concurrent Resolution 190; that if cloture is not invoked on Tuesday, the Senate immediately stand in recess until 11 a.m. on Wednesday, December 1; that the time for the two leaders be reserved for their use later in the day, that the Senate resume consideration of House Concurrent Resolution 190, and Senator DOLE be recognized to offer another amendment to the adjournment resolution to change the enrollment of the conference report on H.R. 1025, the Brady bill, which the Chair will immediately rule on; that if the ruling of the Chair is appealed, there then be 1 hour for debate equally divided between Senators BIDEN and DOLE; that at 12 noon the Senate vote on or in relation to the appeal of the Chair's ruling; that immediately following that vote, the Senate vote on the second motion to invoke cloture on the conference report on H.R. 1025, the Brady bill, with the preceding occurring without any intervening action or debate; that if cloture is invoked, the Senate vote without any intervening action or debate on adoption of the conference report; that upon the disposition of the conference report or the failure of the second cloture vote, House Concurrent Resolution 190 be immediately considered and agreed to, as amended, to provide for the adjournment of the House; that the Senate then consider and agree to House Joint Resolution 300; that the motion to reconsider be laid on the table en bloc, with the preceding all occurring without any intervening action or debate, and the Senate then adjourn sine die in accordance with the provisions of House Concurrent Resolution 190; that when the Senate reconvenes for the session of the 103d Congress on January 25, 1994, at 12 noon, the call of the calendar be waived, no resolutions or motions come over under the rule, morning hour be deemed to have expired; that immediately after the prayer, the Senate conduct a vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators, and that the quorum calls prior to the cloture votes referenced in this agreement under the provisions of rule XXII be waived.

The PRESIDING OFFICER. Is there objection? The Senate Republican leader.

Mr. DOLE. Reserving the right to object, I have just a couple of questions I had not noted. It occurs twice that "the Brady bill, which the Chair will immediately rule on," when I offer "an amendment to the adjournment resolution directing the enrolling clerk to make changes in the enrollment of the conference report * * * which the Chair will * * * rule on."

Is there any time for debate after the amendment is offered?

The PRESIDING OFFICER. The agreement provides for 1 hour of debate on an appeal from the ruling of the Chair.

Mr. DOLE. And then, in the event that the appeal of the ruling of the Chair prevails, what happens? It says if it does not prevail. It does not say what happens if it does prevail. I assume that amendment is pending and would be disposed of?

The PRESIDING OFFICER. The Senate majority leader.

Mr. MITCHELL. My understanding is, in that event, we would have the cloture vote in any event.

Mr. President, in response to the distinguished Republican leader's question, it is my understanding that if the Chair rules that Senator DOLE's amendment to the adjournment resolution offered on Tuesday under this agreement, is not in order, then Senator DOLE appeals the ruling of the Chair and prevails in that appeal, in that event, we will proceed to the cloture vote at 6 p.m., or after the vote on the appeal. And if cloture is not invoked, then we would be on the adjournment resolution with the Dole amendment pending thereto. That would obviate the necessity of Senator DOLE offering the same amendment on Wednesday morning and the consideration of the adjournment resolution with the Dole amendment pending thereto would be interrupted by the second cloture vote on Wednesday.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Mr. DOLE. Mr. President, I am not under any great illusion we might prevail. In the event, I wanted to raise the question so we would have some procedure to deal with it in case it did happen.

As I will indicate after agreement is reached, there is still some hope we could work it out. On that basis, it could happen. I appreciate the majority leader clarifying that point.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object, and at this moment I have every intention of objecting, but I would like to ask the majority leader a series of questions, just to clarify my understanding.

First of all, I am a supporter of the Brady bill. I like the House version. I felt that the Senate action was less than what I would have preferred. Nevertheless, we have gone through the process. We were three votes short necessary to bring cloture to bear on the Brady bill. I would like to ask the majority leader if we have any reason to believe that that vote situation will be the same or different on Tuesday and Wednesday?

And I ask that for a simple reason. A majority of this Senate is within 3 hours of their home. For some of us, it is a full day, and a day and a half for Alaska and Hawaii. I have been here ready to do the Senate business at any time necessary. I chose to remain here until we were certain that we were going to be concluded in our business.

Why are we putting this off until Tuesday and Wednesday instead of doing it today and tomorrow since the House voted this issue, asked for a conference committee on yesterday, worked through the day? I would think that possibly with the same timeframe, we ought to be able to retrieve those colleagues of ours who have gone home by at least tomorrow. Why put this off until Tuesday and Wednesday of next week when at this point in time one of our pro-Brady supporters will be out of the country? I have no plan at this time to return next Tuesday or Wednesday because I have made other plans on the basis that I expected to have the Senate business end this week.

So with that situation in hand, I am not being adversarial because the majority leader and I are on the same side of this issue, but I just want to ask about the logistics of why we have to put this off until Tuesday and Wednesday and not have it happen today or tomorrow before Thanksgiving?

Mr. MITCHELL. Mr. President, just as the distinguished Senator from Oregon has made plans for next Tuesday, a large number of Senators have made plans for tomorrow. As the Senator knows, I have tried very hard to conclude the work of this session of the Senate so that Senators could return to their homes for Thanksgiving.

As in almost every case, and certainly every week, I receive a large number of requests from Senators about their travel schedules. I am more familiar with the plane schedules of America than the person who writes the airline guide, I can assure them of that. In almost every case, the schedules are conflicting.

The very largest number of Senators urged me not to have any action in the Senate on the Wednesday preceding Thanksgiving because of the extreme difficulty of making other travel arrangements and being in a position to get home for Thanksgiving Day, back with their families in their States.

Second, I will say to the Senator, when we passed the bill last Saturday night, it was my sincere and deeply felt belief and expectation that a conference would occur and that the conference would produce a result acceptable to all and that we could voice vote in the Senate last night the conference report.

Now, there has been a lot of discussion about what happened, and I know the distinguished Republican leader is going to make a statement about his amendment and I am going to make a statement about my understanding with respect to the conference. But I wish to say to the Senator, until last evening, I had been expecting we would not be here today, and we would not be here tomorrow, and we would not be here next week. I was completely surprised by the fact that the result of the conference report was not agreeable to all concerned. Therefore, I have now been forced into the situation of making this decision this day.

I say to the Senator, whom I regard as a very good friend and for whom I have the highest regard, I really do not think it is feasible for me now to try to call 100 Senators back here for a session tomorrow. I just do not think it is feasible.

Mr. HATFIELD. If the Senator will yield, it will not be quite 100.

Mr. MITCHELL. Well, 90 or so. I think that while clearly any session beyond tonight is inconvenient to all Senators, it is probably—indeed, I am almost certain—less inconvenient to do it under the circumstances I have suggested.

Mr. HATFIELD. I thank the Senator. Would he yield to the real important part of my question, of the many facets of my question, and that is, does the leader expect there is any possibility of a change in that vote configuration, where we had 57 votes for cloture, on next Tuesday or Wednesday? Or what is the purpose of the exercise?

Mr. MITCHELL. As the Senator will recall, after we had 57 votes for cloture, 3 short of the total, we then voted on the bill, and 63 Senators voted for the bill. That action intervened between the two cloture votes and the current time. It is my hope that those Senators who have already cast a vote for the bill will, I hope, to be consistent with their vote, vote for cloture.

Mr. HATFIELD. I pursue it just a little bit further. Is there a head count? Is there a whip check? I have heard of one that indicates a number of those Senators who voted for the bill and against cloture are not going to vote any differently on the next cloture vote.

Mr. MITCHELL. Mr. President, I have not been here nearly as long as the Senator from Oregon, but I know this. When Senators do not want to come here for something, the very first thing they do is say what they will not do in the hopes of not having to come here to do that.

That may be the case. I do not know for certain the outcome of the vote. But if I take the position that I am not going to have a vote because some Senators say, well, I will not do it if you call it as a reason for not coming back, then I can say to the Senator—and Senators may like this—sessions of the Senate and votes in the Senate will be few and far between.

Mr. HATFIELD. I appreciate the problems and difficulties the majority leader faces, not only on this issue but others. I would only say that there are many times we make parliamentary decisions on the basis there are 41 votes that have been pledged to vote against something or for something, in reference to bringing up a bill or a cloture motion, and I just am only relying on that procedure which has been pretty well established over a number of years, more especially in the last year.

But I just want to say to the Senator I am very dubious that there is going to be—in fact, we could really in effect, because I know one pro vote that is out of the country, come up with lesser votes on a second go-round on this cloture as it relates to the Brady bill, which I think is not helpful to the ultimate kind of Brady bill that some of us would like to see happen. That is one person's opinion.

Mr. MITCHELL. I appreciate that very much, and I take the opinion of the Senator making it very seriously and to heart. Each Senator will have to decide for himself or herself what is important to them. I have learned long ago not to question Senators' judgments on whether they think it is more important to be in the Senate Chamber when we vote or in their office or in their State or in another country. I express no view on that.

I recognize the inconvenience to Senators, but I must say to the Senator I think that if all this boils down to a request to me not to have the vote because it will be inconvenient for some Senators and therefore they might not be here to vote, I simply do not feel that having given this matter careful consideration I can propose that course of action.

Mr. HATFIELD. I appreciate that. And I believe the majority leader and minority leader both would say I have never made such a request to fit my particular convenience on whether a vote should occur or not occur, and I am not making such a request now. I am more concerned about whether it will be a setback for the Brady bill to come up with fewer votes for a cloture motion on next Tuesday than the high mark of 57 we achieved only this last week.

I think there is reason to believe that that could possibly be the outcome. We do not get the Brady bill any different, we have a lower vote on cloture, and in the long term it has been a minus rather than a plus. I am looking now at the Brady bill per se rather than the convenience of any Senators.

Mr. MITCHELL. Mr. President, I simply say that if I adopt that approach and say let us forget it and go home, then there is no chance of the Brady bill becoming law this year or well into next year. Therefore, we all have to evaluate the advantages and disadvantages of a particular course of action. I think under the proposal I have made there is a chance it will become law this year. I have great respect for the Senator's views, but I think this is the proper course of action.

Mr. HATFIELD. If the Senator will yield, I should have prefaced my political prediction with the simple fact that I predicted Dewey's election in 1948.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader still has the floor.

The majority leader.

CLOTURE MOTIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that it now be in order to file the two cloture motions on the conference report on H.R. 1025, the Brady bill, as referenced in the agreement, the votes to occur next week.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, I do withdraw any objection that I had intended to make against the initial unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I send the cloture motions to the desk.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the Chair directs the clerk to read the motions. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION NO. 1

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 1025, the Brady handgun bill:

George Mitchell, Joe Biden, Dennis DeConcini, Jay Rockefeller, Harris Wofford, Daniel Inouye, Max Baucus, Bob Kerrey, Herb Kohl, Bob Graham, Daniel P. Moynihan, Patrick Leahy, Claiborne Pell, Joseph Lieberman, Bill Bradley, Dale Bumpers.

CLOTURE MOTION NO. 2

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 1025, the Brady handgun bill:

George Mitchell, Joe Biden, Dennis DeConcini, Jay Rockefeller, Harris Wofford, Daniel Inouye, Max Baucus, Bob Kerrey, Herb Kohl, Bob Graham, Daniel P. Moynihan, Patrick Leahy, Claiborne Pell, Joseph Lieberman, Bill Bradley, Dale Bumpers.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to a Senate Concurrent Resolution which would correct the enrollment of the Brady conference report to include the Senate-passed bill, with certain changes, that the two leaders will jointly offer; that there be 10 minutes for debate equally divided between the two leaders or their designees, and that following the conclusion or yielding back of the time the concurrent resolution be deemed agreed to.

I further ask unanimous consent that once the House agrees to the concurrent resolution, without amendment, the conference report to accompany H.R. 1025, the Brady bill be deemed agreed to and the motion to reconsider be laid upon the table, all without any action or debate.

Mr. President, before anybody consents to this, I would like to just make a brief statement on what it does.

Mr. MITCHELL. Why do I not just reserve the right to object, and then the Senator can make the statement. I believe the Senator from Ohio is going to make a statement.

Mr. DOLE. Mr. President, the legislation on which I am seeking consent for Senate approval is that which passed the Senate by 63 votes—it could have been higher, I might add, if certain things had not happened—with the following changes:

First, on the so-called standards or the amount of data required to be in the instant check computer system, the case disposition or so-called accuracy is increased from 70 percent to 80 percent. This figure has been repeatedly sought by backers of waiting periods, the 80 percent figure. Just this morning, we checked with the FBI to determine whether any possibility exists to achieve these new, tougher standards in the 24 months prior to the start of the system. The FBI now believes it might, I repeat might, be possible.

This is a major concession. But, it is our hope that no more than 24 months pass prior to the start of a computerized background check being conducted on anyone seeking to purchase a firearm in the United States.

Keep in mind that there are already 18 million names out there that ought to be looked at before somebody gets a firearm. It seems to me that when we look at the instant check, it has a lot of advantages. They have the instant check in the State of Delaware, the State of Virginia, and other States.

Next, we have dropped the provisions on interstate face-to-face sales, antique firearms, mandatory minimum sentences for armed robbery of gun dealers even if death results, which we do not quite understand why there is an objection to that, and we also dropped the requirement that BATF notify licensees of rules changes.

We continue to strongly disagree with the views of the BATF on the effect of these provisions. I personally challenge the BATF to notify me of the number of reported cases in the last 5 years of previously convicted felons using a broomhandled Mauser in the commission of a crime. Unless there have been a large number of instances, the BATF objection to the antiques provision rests entirely on a completely false premise.

So I do not think we should hide behind the rhetoric. The status of the Brady bill is now crystal clear. I say to my friend from Oregon, who is not on the floor at this time, some of us are still hopeful—not all of us—on this side. We had cleared this consent agreement on our side of the aisle, and it was not too easy to do. I know it is going to be objected to on the other side of the aisle. There are some people who do not want anything to pass. There are some, maybe; not many.

It seems to me that, if we can figure out some way to deal with this, it can be done by the concurrent resolution. We can adopt many of the changes recommended in the conference yesterday. We would be back to the language suggested by the Senator from Ohio—4 years, plus another 12 months if the Attorney General says so, and we keep the waiting period at 24 months. That did not seem to be a big issue in the Senate. Everything else would be as agreed to. And on that basis there would be a big, big vote for the Brady bill as changed on this side of the aisle.

That would remove the entire package from the Senate when the House acted. They say they cannot act now. We cannot now either until we bring Members back. They can act when they bring Members back. We are not going to pass an adjournment resolution today, so they still have enough people around there to bring other people back. We could pass the Brady bill, as modified very slightly, in a matter of 1 week. Or the worst-case scenario, it would go from the Senate and it would pass in the House the first day they are back next year, January 25. I have already talked to the Republican leader about that, Congressman MICHEL.

So I want to make the record clear that there is an effort to get this issue behind us. There is an effort. Some of us have been there before. Some of us think there may be some way to do it.

As I indicated, I did call the President today about, I do not know, 2:30, 2:45, and indicated to him that there was, at least on our side—I think there is some interest on the other side, except for the parliamentary problems that were raised by the Speaker. The President said he had been informed by somebody in the House, well, if we did this, then the House could not act until early next year.

Well, they could act just as we are going to act next Tuesday and Wednesday. They could bring people back. It would pass, I assume, with an overwhelming vote on the House side.

So if people do not want to accept "yes" for an answer, then it is pretty hard to get an answer. I hope that between now and next Tuesday—it is a foregone conclusion that we are coming back on Tuesday—that we can reach some agreement.

I am going to ask that a copy of my resolution be printed in the RECORD, along with a copy of the amendment that I will offer next week. I will not offer the amendment today to the adjournment resolution. In the first place, it is not before us, I guess. In the second place, it may be that I would want to modify it in the event there is something to bring the Senate together. I would not want to send up a resolution, have the yeas and nays ordered, and then not be able to modify it further.

So I also ask unanimous consent that the amendment I intend to offer next week be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Just to print it.

Mr. METZENBAUM. I have no objection to the printing.

There being no objection, the material was ordered to be printed in the Record, as follows:

At the appropriate place, add the following:

That the Enrolling Clerk of the House of Representatives is directed to make the following change in the enrollment of H.R. 1025:

Strike all after the enacting clause and insert the following:

TITLE —BRADY HANDGUN CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the “Brady Handgun Violence Prevention Act”.

SEC. 02. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.

(a) Interim Provision.—

(1) In general.—Section 922 of title 18, United State Code, is amended by adding at the end the following:

“(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending either on the day before the date that is 48 months after such date of enactment unless the Attorney General extends the date or on the day that the Attorney General notifies the licensees in all the states under section _____03(d) of the Brady Handgun Violence Prevention Act, whichever occurs earlier, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

“(A) after the most recent proposal of such transfer by the transferee—

“(i) the transferor has—

“(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

“(II) verified the identity of the transferee by examining the identification document presented;

“(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

“(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

“(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

“(C)(i) the transferee has presented to the transferor a permit that—

“(I) allows the transferee to possess or acquire a handgun; and

“(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

“(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

“(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

“(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

“(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

“(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

“(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

“(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

“(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

“(B) a statement that transferee—

“(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

“(ii) is not a fugitive from justice;

“(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

“(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

“(v) is not an alien who is illegally or unlawfully in the United States;

“(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

“(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

“(C) the date the statement is made; and

“(D) notice that the transferee intends to obtain a handgun from the transferor.

“(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer the transferor has about the transfer and the transferee to—

“(A) the chief law enforcement officer of the place of business of the transferor; and

“(B) the chief law enforcement officer of the place of residence of the transferee.

“(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

“(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

“(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

“(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

“(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

“(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

“(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

“(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

“(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

“(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

“(8) For purposes of this subsection, the term ‘chief law enforcement officer’ means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

“(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.”.

(2) Handgun defined.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(29) The term ‘handgun’ means—

“(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1), is amended by adding at the end the following:

"(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section ____03(e) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section ____03 of that Act;

"(B)(i) the system provides the licensee with a unique identification number; or

"(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

"(2) If receipt of a firearm would not violate section 922 (g) or (n), or state law the system shall—

"(A) assign a unique identification number to the transfer;

"(B) provide the licensee with the number; and

"(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

"(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess or acquire a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or state law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(5) if the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) or state law of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the license a civil fine of not more than $5,000.

"(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 03. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) ESTABLISHMENT OF SYSTEM.—

(1) DETERMINATIONS.—Not later than the date that is 24 months after the date of enactment of this Act, the Attorney General shall determine whether—

(A) the equipment used to link State criminal history records systems to the national criminal history records system and the equipment necessary to operate the national instant criminal background check system are operational; and

(B) any group of States that—

(i) have at least 80 percent of the population of the United States; and

(ii) have reported during a 12-month period at least 80 percent of the number of crimes of violence reported by all of the States during that period.

have achieved and maintained in each State at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years; and (c) if such determinations are made in the affirmative, the Attorney General shall certify that the national system is established.

(2) ESTABLISHMENT.—If the Attorney General makes an affirmative finding with respect to the matters described in paragraph (1) (A) and (B), the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone and by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code or state law.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(e) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms "firearm", "handgun", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, such sums as are necessary to enable the Attorney General to carry out this section.

SEC. ___04. REMEDY FOR ERRONEOUS DENIAL OF FIREARM.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 925 the following new section:

"§ 925A. Remedy for erroneous denial of firearm

"Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

"(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section ___03 of the Brady Firearm Violation Prevention Act; or

"(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925 the following new item:

"925A. Remedy for erroneous denial of firearm.".

SEC. ___05. RULE OF CONSTRUCTION.

This Act and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.

SEC. ___06. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section ______03 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act."

(b) ADDITIONAL FUNDING.—

(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1), may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, a total of $200,000,000 for fiscal year 1994 and all fiscal years thereafter.

SEC. ___07. WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.

If the Attorney General does not certify the national instant criminal background check system pursuant to section ______03(a) by—

(1) 24 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 24 months after the date of enactment of this Act falls shall be reduced by 5 percent on a monthly basis; and

(2) 36 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 36 months after the date of enactment of this Act falls shall be reduced by 10 percent on a monthly basis.

SEC. ___08. WITHHOLDING STATE FUNDS.

Effective on the date of enactment of this Act, the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section —03(a).

TITLE—MULTIPLE FIREARM PURCHASES TO STATE AND LOCAL POLICE

SEC. —01. REPORTING REQUIREMENT.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) in the second sentence by inserting after "thereon," the following: ", and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place,";

(2) by inserting "(A)" after "(3)"; and

(3) by adding at the end thereof the following:

"(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.".

TITLE—FEDERAL FIREARMS LICENSE REFORM

SEC. —01. SHORT TITLE.

This title may be cited as the "Federal Firearms License Reform Act of 1993".

SEC. —02. PREVENTION OF THEFT OF FIREARMS.

(a) COMMON CARRIERS.—Section 922(e) of title 18, United States Code, is amended by adding at the end the following: "No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.".

(b) RECEIPT REQUIREMENT.—Section 922(f) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.".

(d) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, as amended by section —02(b), is amended by adding at the end the following new subsection:

"(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.".

(e) PENALTIES.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1)(A) A person who knowingly violates section 922(u) shall be fined not more than $10,000, imprisoned not more than 10 years, or both.

"(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.".

SEC. —03. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "a pawn-broker dealing in firearms other than" and inserting "not a dealer in";

(2) in subparagraph (B) by striking "$25 per year" and inserting "200 for 3 years, except that the renewal of a valid license shall be $90 for 3 years."; and

(3) by striking subparagraph (C).

The PRESIDING OFFICER. Is there objection to the initial unanimous-consent request made by the Republican leader?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I appreciate the comments made by the Republican leader. But I think it is important that all Senators and the American people understand where we are on this matter and how we got there.

The conference report, which reconciled the differing versions of the Brady bill passed by the House and Senate, was agreed upon yesterday and approved by the House yesterday. That is what we are trying to bring before the Senate for a vote. It is not amended.

I have before me a statement of explanation made by Senator BIDEN on how we got to the conference report, and I think everyone ought to know. It is the following:

> After the House and Senate appointed conferees to meet and reconciled the differences between the Senate-passed and the House-passed versions of the Brady bill, Chairman BIDEN understood that an agreement as to how to proceed at conference had been reached which accommodated the concerns of both sides.
>
> That tentative agreement would have, first, preserved the 5-year sunsetting provision that had been agreed upon by recorded votes in both the House and Senate, and second, it would have preserved the Senate's provision for an early instant check, triggering off of the waiting period, provided felony record standards were reached, with the records standards in the Senate bill increased.
>
> This proposal would have preserved the essence of the compromise that was originally reached in 1991 when 67 Senators voted for the Brady bill.
>
> Shortly before the conferees met on Monday, Senate Republicans replaced the two designated conferees, Senators HATCH and CRAIG, with Senators STEVENS and KEMPTHORNE. In conference, Senator STEVENS announced that the only outcome acceptable to Republican Senate conferees would be total acceptance by the House conferees of the Senate Brady provisions unchanged. All of the House conferees, including the House Republican conferees, rejected that demand, the demand that the House recede entirely from its Brady bill provisions to the Senate bill without change.

So that the position taken here today by the Republican leader of a compromise from the conference report was not the position taken by the Senate Republican conferees at the conference yesterday.

Senate Republican conferees in conference—I repeat the statement of Senator BIDEN:

> Senator STEVENS announced that the only outcome available to Republican Senate conferees would be total acceptance by House conferees of the Senate bill unchanged. All of the House conferees, including the House Republican conferees, rejected that demand * * *.

There followed offers and counteroffers, and it resulted in a conference report which was accepted by all of the House conferees, Republican and Democratic alike, and all of the Senate Democratic conferees. The only objection to the conference report came from the Senate Republican conferees, who had taken the position that they would accept nothing other than the Senate bill, with no changes.

So the reason we are here now is that the conference report was not acceptable to the Senate Republican conferees, whose position was there could not be any change in the Senate bill, and the proposal made now by the Republican leader represents a different position from that taken by the Senate Republican conferees.

I was not at the conference, but I believe that had this proposal been made, there might have been a way to work it out. But when the Senate Republican conferees say we cannot have any change, that it has to be the Senate bill and nothing else, the conference report that resulted was agreed by the House Republicans, House Democrats, and Senate Democrats, that is why we are here where we are today. I repeat that I was not present. I am reading a statement prepared by Senator BIDEN which, I believe, he already stated publicly last night. But that is the reason why we are here now. I will yield to the Senator from Ohio who wants to make a statement.

(Mr. BREAUX assumed the chair.)

Mr. DOLE. Mr. President, I wonder if I might indicate, I know about what Senator BIDEN thinks happened there, and he may be correct. We also had a conversation with Senator CRAIG. There never was any agreement with Senator CRAIG and Congressman BROOKS and, in fact, they talked in generalities about trying to get together on the waiting period and on standards and some of the FFL's. But there never was any agreement and, of course, the conference was postponed because the Senator from Delaware was not in town. Then the Senator from Idaho had to leave because he had some commitments today.

My point is that we did not have any conferees. Senator HATCH and Senator CRAIG were out of town and, of course, the majority determines when the conference will be held. At that point, we appointed two additional conferees. I was led to believe yesterday morning, personally, since we had been involved in the debate for about 5 days trying to work something out, we were going to be contacted; that they were going to have staff-level consultations and maybe they could work it out, and maybe it would not be necessary to have a full conference. That did not happen. That happens to a lot in conferences. Try going to one with the chairman of the House Ways and Means Committee when you are told, "We are not going to budge," and he generally does not budge. I have been to a lot of those conferences where people make statements, but that does not mean anything.

Of the two Republicans assigned to the conference report, one voted against the bill, and Chairman BROOKS voted against the bill on the House side. So signing the conference report—in my view, a lot of people do that, and Senators STEVENS and KEMPTHORNE could have signed the conference report. They were opposed to the bill and have been opposed to the bill.

My point is that do we want a Brady bill, or do we want a political issue? It seems to me that when people—and I tried to explain to the press earlier. They are only interested in a 5-day waiting period. They have not read anything else and do not intend do. They say: Do not tell me about the instant check or the 18 million names in the computer that can stop a lot of crime in this country if we used it. Do not tell me about the $200 million put into the bill to help States bring their lists up to date. All I want to know about is about the 5-day waiting period. Why are you holding up the 5-day waiting period?

We have a much better bill than the original Brady bill, in many respects. We have been through this. I think one thing that upset some of our colleagues was on Saturday evening. I am not going to go back and rehash it all. After the agreement was reached, that permitted the majority leader to get the regular order and call the bill up. It was announced by the chairman, after the agreement was reached. The chairman stands up and says: I do not care what it says; it is going to be 5 years.

That, I must say, was troubling to a lot of Members on this side of the aisle. If there would not have been any agreement or anything brought up—we would not be here today had that statement been made before the majority leader rose to bring the bill back before us, because there would have been an objection. I know, I have taken considerable heat because we even voted on Saturday night.

So the point is that we think we have been flexible, constructive, whatever. But what we end up here with before the Senate today is the same proposal that the distinguished chairman made to the Senator from Delaware when the conference opened. He was the chairman. He made the very same proposal that is before us today. That has been determined by somebody, without any consultation with a single Republican, as far as I know.

My staff waited all day; I waited all day. I know the chairman said: Somebody should have looked us up. Well, normally we sort of work together here. I talked to the distinguished Senator from Ohio yesterday morning, and he said he was going to have a press conference. I said, "Do not go out and whip us too hard. We are trying to work something out."

It seemed as though we started off on the right foot. Senator CRAIG said there was no agreement, and he had to depart for the same reason the Senator from Delaware could not be here throughout the day yesterday. But that is history.

Is there anything we can do to pass the Brady bill in somewhat the same condition it left here, making modifications? It was objected to even though they had been negotiated on this side by three different Senators and the Republican Senators—all these things had been agreed to on Saturday. Now somebody has filed an objection, so we are prepared to eliminate a couple and modify a couple more, go back to the Metzenbaum language on sunset, leave the language on the waiting period of 24 months, pass this concurrent resolution and send it to the House, and they can act on it, if you want a Brady bill this year.

Mr. MITCHELL. Mr. President, I want to make one thing crystal clear. We want to pass the Brady bill. I do not think there can be any conceivable doubt about that, given all of the effort that we have put into it over the past several weeks. I simply say to my colleague, with whom I have worked on this subject in good faith for 2½ years now, all of the effort to move the bill forward has come from this side of the aisle, and all of the effort to slow the bill down has come from that side of the aisle. I do not care about the political issue. I thought we were going to pass the bill last night, and nobody was more surprised than I when we could not pass the bill last night.

So I wish we could pass it right now. I believe the conference report is acceptable. It is approved by a majority of the House and clearly a majority of the Senate favors it. Clearly a majority of the American people favor it. Under the rules of the Senate, a minority can and is preventing a vote from occurring. That is their right. But I think that would be the best way to do it. Then we all would not have to come back.

Mr. DOLE. Mr. President, I will take another minute, and then I know the Senator from Ohio wants to make a statement.

When the Brady bill passes, the Senator from Ohio will deserve most of the credit because he has worked very hard on this. We want to pass it before his departure next year—long before his departure.

So, you always wonder if maybe your strategy was not too good. Maybe it should have been added to the crime bill. That was my original intent. Nobody wanted to do that. We had editorials in the New York Times and Washington Post saying: Pass the Brady bill, do not make it part of the crime bill. We had Members on both sides, including my side, who did not want it part of the crime bill. They said: I want to vote for the crime bill but not if the Brady bill is in it. Leave it out and bring it up freestanding.

There never was any filibuster. People write that word so easily. Everything we have done has been done by agreement, just as we have agreed today. There has not been a filibuster. We had 1 hour of debate the other night and we voted. So there has been no filibuster.

We have agreed on cloture votes that it was not even necessary to file a cloture motion. There have been no efforts to not let the majority leader proceed to the bill.

Mr. President, the debate over the Brady bill has led to many interesting moments. We have seen Democrats cry "filibuster" even while Republicans were working around the clock to obtain a bill which would actually pass the Senate and become law.

And once an agreement was reached, and the bill was allowed to reach the Senate floor, we heard the chairman of the Senate Judiciary Committee say that the negotiations were all for show, and that once we got to conference committee, he was going to throw the very provision which allowed the bill to pass in the first place out the window.

I will give Senator BIDEN credit. Once an agreement was reached, he was very honest with how he intended to ignore the wishes of the Senate. And that is precisely what occurred in the conference committee.

At the conference, the very first offer was one offered by Senator BIDEN, the chairman of the conference. While that offer was initially rejected by the House conferees, it is precisely that offer which was later offered by Congressman HUGHES and accepted by the Senate Democrat conferees.

But what has not been reported in the media is that not only were the wishes of the Senate completely ignored in the conference committee, but so, too, was the safety of the American people.

In the bill the Senate passed on Saturday evening, the Justice Department was given 2 years to develop and instant check system.

There can be no disagreement that a computer instant check system is the only effective way to ensure that convicted criminals, the mentally ill, and others who should not be allowed to possess guns, are actually prevented from doing so.

The House-passed bill, however, gives the Justice Department 5 years in which to develop an instant check system. That's 3 years longer than the Senate passed bill; 3 years in which guns can continue to be sold to those most likely to use them for criminal purposes.

Did the Senate bill better protect Americans? Yes. Did it matter to the conference committee? Not in the slightest. But perhaps the supporters of this bill are less interested in making good legislation, and more interested in making an issue for their political purposes.

Let me conclude by saying that there was a fair and balanced article in today's New York Times. Now, fair and balanced, aren't two words I usually apply to the New York Times, but, as I said, this debate has led to some interesting moments.

Let me quote from the article:

> In the 22 States that already have such waiting periods, there has been no sign of their having impact on overall crime. In California, for example, in the 5 years since a 15-day waiting period went into effect, violent crime has risen by more than 20 percent, and the State's murder rate is still 25 percent higher than the national average.
>
> On the other hand, in States that require would-be gun buyers to undergo background checks, like those in the Federal legislation, the requirement did halt sales to a few criminals and led to some arrests.

In other words, it is the wish of the conference committee that the only part of the Brady bill which has been proven effective in keeping guns away from criminals will not occur for 5 years—if ever. That is at least 1,085 days beyond when it would become effective in the Senate-passed legislation.

Those who say that America should not have to wait 1 more day for the Brady bill, should be more concerned about those 1,085 days.

I think today, just to round it out, there is a good piece today, if you have not read it, in the New York Times. It says, "Much Ado, Little Done." It talks about the very small impact the Brady bill is going to have.

We have 22 States now with a waiting period. California has a 15-day waiting period. It is not going to stop criminals from getting handguns. It will keep them under surveillance in the instant check. It applies to all firearms, not just handguns. If you put your little card in the machine when we have the instant check, it is like a credit card. If it says tilt, you do not get any gun. There are eight others. If I get eight in the crime bill and if it survives, those circumstances prevail.

I think my view, and many people in the Chamber have the same goal, is some of us want to go a little further. Some believe in the instant check. Some believe we ought to pass the waiting period.

I hope there is still a way to work it out. I am not certain we have pursued all the procedural avenues we can think of.

I assume the Chair will rule that my amendment to the adjournment resolution is not in order. We have some good precedents on that.

It was done on June 3, 1924. Senator LaFollette offered an amendment to the adjournment resolution which had the legislative agenda for the next year, and the majority leader, Senator Lodge, made a point of order. The point of order was overruled.

In the adjournment resolution, which is now pending, there is language which has been added.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Article II of the adjournment resolution, in my view, was added several years ago as an amendment to the adjournment resolution, which gives the leaders authority to call Congress back in session.

If I could make an inquiry of the Chair, was that an amendment offered? Can you tell me when that amendment was offered?

The PRESIDING OFFICER. The contained material is language that was received by the Senate when the resolution was received from the House.

Mr. DOLE. In the previous resolution, is there any constitutional authority for the majority and minority leaders, after consultation, to notify the Members of the House and Senate to assemble whenever the public interest shall warrant it? Is there any constitutional authority for that? I ask the Chair.

The PRESIDING OFFICER. The Chair will inform the minority leader the Chair does not get into decisions on constitutional questions.

Mr. DOLE. It is not in the Constitution; will the Chair agree to that? We have only had majority and minority leaders for 30 or 40 years.

So I think the only provision in the Constitution allows the President to call the Congress back.

The point I want to make, so the Parliamentarian can study up over the weekend, is that we have amended adjournment resolutions before, and the points of order have been overruled. The one we are considering today, which came to us from the House, was Article II, which was added several years ago, I think, by the distinguished Senator from West Virginia. Maybe not. So I just want the Parliamentarian to know that there have been amendments to the adjournment resolution.

One way to resolve this is to amend the adjournment resolution, send it to the House, and let them deal with it. They can pass it. They are still in session. They can pass these modifications. We will have the Brady bill next week, right after Thanksgiving, instead of right before Thanksgiving.

I ask unanimous consent that the copy of the article in the New York times, which is a balanced article—and I was surprised to find it—be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MUCH ADO, LITTLE DONE—GUN BILL'S PROMISE UNMET IN THE STATES

(By Clifford Krauss)

WASHINGTON, Nov. 22.—For seven long years, Congressional supporters of a waiting period for the purchase of handguns blamed the lawmakers who were blocking the measure for the deaths of tens of thousands of people.

But if the history of gun control and the views of law-enforcement officials are any measure, the changes are that any results from the legislation establishing the waiting period will be far less dramatic than the bitter legislative debate suggested. Indeed, the main impact may very well be a symbolic one.

Considering that the measure does nothing about the more than 70 million pistols already in the hands of Americans, its final passage in a matter of days or, at the most, weeks will not suddenly take guns from muggers or put to rest the public's fears that finally pushed the bill through Congress.

RESULTS IN THE STATES

In the 22 states that already have such waiting periods, there has been no sign of their having any impact on overall crime. In California, for example, in the five years since a 15-day waiting period went into effect, violent crime has risen by more than 20 percent and the state's murder rate is still 25 percent higher than the national average.

On the other hand, in states that require would-be gun buyers to undergo background checks, like those in the Federal legislation, the requirement did halt sales to a few criminals and led to some arrests. In Delaware, for instance, a gun-control law similar to the measure in Congress, the Brady bill, halted 1,271 gun purchases in the last two years; 140 of the people who were stopped from buying a gun were wanted felons, including 104 who were later apprehended.

In Oregon, police recently convicted a felon who had previously been imprisoned on kidnapping charges for illegally buying a firearm after he failed to pass a gun check.

And if nothing else, the experience of states suggests that the waiting period to buy a gun gives a chance to let passions cool: a dismissed employee angry at his boss, a wife enraged with her husband, a troubled person contemplating suicide in a moment of anguish.

"The legislation will not by itself solve the problem of handgun violence," said Dewey R. Stokes, president of the Fraternal Order of Police in recent testimony to a Congressional subcommittee. "What it will do, however, is to give the law-enforcement community a very valuable and effective tool to deter the purchase of a handgun by someone who is not qualified to possess one."

The fever pitch of the Congressional debate had less to do with the bill's actual provisions than its symbolic weight. The gun lobby warned for years that the Brady bill was a stalking horse for stronger gun control. Many of its proponents certainly hope that is true.

The bill is the first time Congress has changed the rules on the way Americans can buy guns since it banned the mail-order sale of rifles in 1968 after the assassinations of Senator Robert F. Kennedy and the Rev. Dr. Martin Luther King Jr.

Whatever the virtues of that 1968 law, killings with rifles have increased along with other kinds of violence over the years.

COMPONENTS OF BILL

Symbolism aside, the Brady bill will slow legal gun sales. After a conference committee resolves differences between the versions of the bill passed by the House and Senate this month, the measure is likely to include a mandatory waiting period of five business days to buy a handgun, to let law enforcement officials check perspective buyers for records of criminal activities or mental instability.

It will also authorize grants of at least $200 million for states to update their criminal records. And after four or five years, the waiting period will be replaced by an instant computer check of buyers, unless Congressional proponents of a waiting period can show that it is truly useful and then pass an extension.

The gun lobby argues that whatever few crimes are prevented with guns, limiting gun ownership was not worth the blow to citizens' Second Amendment rights to bear arms and protect themselves.

More than 9,000 people are killed each year and 15,000 are wounded by gun-carrying criminals, according to the Justice Department. Those figures could easily rise with or without gun control, law-enforcement officials and sociologists say, because advancing rates of broken families and illegitimacy means the size of the population most likely to commit crimes is growing.

In addition, 10,000 handgun deaths occur each year as a result of suicide or accident.

Neither the Brady bill, nor the $23 billion anti-crime package that also passed the Senate last week, addresses the underlying problems.

And opponents of the measure note that criminals will always be able to buy weapons illegally, and that they can easily circumvent computer checks by producing fake identification.

Indeed, a survey of the Bureau of Justice Statistics shows that only 27 percent of state prisoners who admit to having possessed handguns said they bought them at stores. And according to the National Crime Information Center, 207,481 firearms, including

141,846 handguns, were stolen in 1991—a problem that the Brady bill barely addresses.

"There has never been a study which has found any statistically noticeable reduction in gun crime associated with a waiting period," said David B. Kopel, an analyst at the Cato Institute, a libertarian research organization based in Washington. "Can anyone seriously believe that people who sell cocaine by the pound will not know where to obtain an illegal handgun? That a waiting period on guns will succeed where a complete prohibition on drugs has failed?"

Still, the experiences of the 22 states that have waiting periods suggest they do some good. According to the California Department of Justice, the state's 15-day waiting period and background check stopped felons from buying fire-arms 2,500 times last year, including people who had committed 37 homicides, 1s02 sex crimes and seven kidnapping.

The Brady bill finally passed this year because of voter outrage over crime, as expressed in the fall campaigns in New York City, New Jersey and Virginia. States around the country are tightening gun restrictions, because law-enforcement authorities and citizens are anguished over the increase in handgun-related murders by almost 60 percent in the last five years.

The Brady bill will be reinforced by a provision in the anti-crime package moving through Congress that bans the purchase of handguns by minors and even the giving of handguns to them. Another measure in the package would ban the manufacture of 19 military style assault weapons; the importing of such weapons is already against the law. But the ban on manufacture, which is in the Senate version of the bill, faces an uphill fight in the House and will probably be stricken in a Senate-House conference.

But if the legislative history of the Brady bill is at all instructive, if violent crime continues to rise, the ban of making assault rifles and other gun-control measures are sure to pass Congress before too long.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I would like, if I might, respectfully to disagree with my friend and colleague, the Republican leader, in two respects.

First, is this a filibuster? A filibuster is a means by which a minority of the Senate prevents the Senate from voting on an issue. It is usually, but not necessarily, accompanied by lengthy debate.

This is a filibuster. The old saying is if it looks like a duck, walks like a duck, and quacks like a duck, it is a duck. This is a filibuster.

Now, it is true that I am not requiring that there be all-night sessions and lengthy debates, a decision that I have made often for which I have been frequently criticized, and I accept that criticism.

But I believe that what we have here is plainly and obviously a filibuster to prevent the Senate from voting on this measure.

Second, in referring to the article in the New York Times, the Republican leader says that 22 States have the Brady bill and crime is still going up; why pass it nationally?

I would say 37 States have the death penalty, and crime is still going up. Why then did so many of our colleagues on that side of the aisle want more death penalties. If the logic applies to one, does it not apply to the other?

The fact of the matter is no single legislative act, by this or any other parliamentary body in the world, is going to "end violent crime." There is no organized society in all of human history that has not had violent crime, and there is no one means, no single legislative act by which we can end it.

What we can and should do is to take those measures which we deem appropriate to try to reduce it, to try to mitigate it, and at the very least to try to slow the rate of increase.

It is, I submit, an erroneous and a fallacious argument to take a proposal and say, well, this will not completely end the problem; therefore, we ought not bother to do it.

If we applied that test to every legislative act before this Senate, we would pass hardly any bill.

The real fact is, this is an epidemic in our society. It is an epidemic of violence. We must take not just one step, but several steps, as many as possible, to do what we can to reduce the rate of increase, to hopefully bring about a reduction, to bring about a more orderly and safe society. That ought to be the standard by which we measure this bill, or any other bill.

Does it help in the effort against violent crime? The precise amount of benefit clearly cannot be measured or stated. There is no living human being who has the knowledge, the wisdom, and the prescience to say this will occur. But all of the evidence we have is that this will make a modest difference in the right direction. That ought to be sufficient justification to enact it.

Mr. President, I yield to my patient and long-waiting colleague from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I thank the majority leader and, yes, I thank the minority leader as well.

There is something rather sad about this debate here this evening. It is sad because I believe four people have spoken this evening, and all four people actually would like to see the Brady bill passed, and that includes the minority leader.

What happened is we got into a conference and in the conference it proceeded appropriately. Senator STEVENS, who was really not a player in this entire matter originally, and who seemed to be totally against the Brady bill but apparently would go along with some form of it, was probably the strongest voice in that conference, notwithstanding the fact that the chairman on the House side was himself not really a supporter of the Brady bill, but there was kind of a dispassionate approach that he used. And so there were three Members on the House side and three Members on the Senate side, and we came to an agreement.

We did not come to that agreement easily. There were some offers and counteroffers, and finally we got to the point where we have this matter before us.

Apparently, someone's nose got out of joint about that time, and they got disturbed that this is not the way it was supposed to be. As a matter of fact, the minority leader has claimed he got zippo out of the conference on the Brady bill, and I think that is the minority leader's word. That is a quote, if I am not mistaken: "zippo."

Let me recount the events that have taken place here that show why this is just not true. As a matter of fact, there were concessions made.

We started this year by dropping in the Brady bill essentially as it had been negotiated in 1991, and as it was supported by the minority leader as well as the proponents of the Brady bill. Back in 1991, with the minority leader's help, we had negotiated down from the original Brady bill so that we could come up with a compromise version that could be supported by the minority leader and other opponents of the Brady bill.

A couple of weeks ago, we tried to move this compromise Brady bill and were blocked by the minority leader and others, and to this day and this moment, it has been my thought that he was doing the bidding of some of the people, of part of his party, and that he did not have the same strong feelings that others did.

So we sat down to negotiate further with the minority leader, and we changed a number of provisions. There were certain things we could not agree on and others that I was willing to go along with in order to get the bill considered.

We then had a vote on the provision that added a sunset to the waiting period. I make no bones about it. I, along with the Bradys and others who are supporters of the Brady bill, argued strenuously against such an automatic sunset, because I believe it is detrimental to the bill's goals. There had been no automatic sunset in the 1991 compromise that we worked out with the minority leader. However, which is well known, I lost that argument. The proponents of the Brady bill lost that argument in the House, as well. The 5-year sunset was put in the House bill by a Republican, Representative GEKAS, over the objection of the supporters of the Brady bill. The sunset provision was adopted by both houses. And when I attempted to extend the sunset provision the other evening, I was unsuccessful.

So the minority leader did get some portion of that which they were seeking. He got an automatic 5-year sunset of the waiting period. This is a weaker version of the Brady bill than was negotiated back in 1991 and supported by the minority leader.

In addition to the 5-year sunset, last week I reluctantly agreed to allow three new titles to be added to the Brady bill, involving issues that have nothing to do with the Brady bill and including provisions that I am frank to say I do not support. Yesterday, in conference, we agreed with the House's request to pare these three titles down, but leaving in place much of what the minority leader and many on that side of the aisle had insisted that we add to the Brady bill. These additions that were retained include a provision that would require dealers to notify State and local authorities of multiple gun purchases; a provision to increase the dealer license fee, which, by the way, I hope is just a start—that fee really needs to be raised higher to cover the costs of inspecting licensees; and a provision that federalizes the offense of stealing a gun from a dealer.

So, as anyone can see, the minority leader extracted significant concessions from proponents of the Brady bill, first, during Senate consideration of the bill, and second, in the conference committee as much as I wish these changes had not been made—and I am certain I speak for both Sarah and Jim Brady, as well—we went along with them in a spirit of compromise.

Now, in light of these facts, the minority leader did not get everything that he wanted and those on that side of the aisle did not get everything that they wanted, but it is a fact that the Bradys and I, the sponsor of the bill, and others on this side of the aisle, including the majority leader, we did not get what we wanted, but we came out with a compromise.

Now to say that there was only zippo attained and the opponents of the Brady bill can characterize the conference report as some extreme, uncompromised work-product is difficult for me to understand. Given that numerous changes were made to the original Brady bill, and given that every single one of these changes was proposed by either a Republican Senator or Republican Congressman, I believe it is obvious that we have achieved a middle-of-the road compromise.

I fear that this compromise is being mischaracterized and distorted for one simple reason: Opponents of the Brady bill, even in the face of a clear compromise, have one overarching goal—to kill the Brady bill in whatever form it comes before the Senate.

Now, Mr. President, I must say that I really feel a deep sense of remorse. We are coming back here next week to argue whether or not we have 60 votes.

Actually, there is no argument about the fact that a majority of the Members of the Senate want the Brady bill to be passed. Fifty-seven voted originally on the cloture motion. Sixty-three voted the second time around. And yet we are coming back because somebody's nose is out of joint—and I do not mean the minority leader—but somebody on that side of the aisle is insisting that we have to come back; that we could not voice vote this last night.

I think that is sad. I think it is sad for several reasons. One is I think it is sad because it is an exercise in futility. But the second thing is I think it is sad because every day, every hour, every minute that we delay in bringing the Brady bill to fruition and sending it to the President so that he may sign it means that many more people are going to be killed in the streets of America.

I do not stand here and claim that the Brady bill is a panacea and by enacting it is going to solve all the problems of crime in this country. But every time you take away from some people who should not have them the right to buy a gun or require them to be checked out to see that they are not mentally ill or that they do not have a criminal record, every time you deprive that individual of a gun, there is a little bit better chance that somebody's life will be saved.

I wish so much—and I know the minority leader is not in a position to do this anymore—but I feel a deep sense of regret that he, who has been so helpful and understanding and has not been one of those who wants to kill the Brady bill, is forced by circumstances to stand on the floor this evening and keep this body from passing the Brady bill and making it a reality. I wish it could be otherwise.

I referred to the number of concessions we made in order to bring about the compromise. My guess is the minority leader is not in a position to make a concession at this point and let us go forward.

But the fact is, we should not have to remain here or come back on Tuesday or Wednesday. It is no great problem for this Senator. I know it is a great problem for a number of other Senators. I feel confident that almost every single Senator will return, but I wish that it were not necessary.

I wish that the minority leader could come up with some way that we could just go forward and pass what came out of the conference committee. We made a lot of concessions. We started off with a lot of concessions. It is not a perfect bill, but very seldom do we here in the Congress of United States pass a perfect piece of legislation. I think this is a pretty damn good bill.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, first, I want to thank the Senator from Ohio. I think it has been an experience. You have quite a few around here from time to time.

But, in any event, I would just say, I think there is a sincere effort. It may not be total agreement, but I think there are Democrats and Republicans who think we can make this a better bill.

And that is why I have been working on the instant check since 1986. The longer we wait, as the Senator from Ohio has said, the more people are going to be hurt.

Right now there are 18 million names in those computers that ought to be used. We are going to try to keep a record here for the next several months on how many convicted felons get guns, one way or another, even after this bill passes.

So if this bill passes, what are you going to check it against? How are you going to determine if somebody should have a gun? That is the point we tried to make—we, apparently, did not do a very good job—on the instant check system. It is the only effective way that we know, unless there is a better way, to ensure that convicted criminals—and the President has talked about the mentally ill, mentally incompetent getting weapons—and others should not be allowed to possess guns.

What we tried to do—and there was not much objection in the Senate, it was 2 years, 24 months.

I want to correct the RECORD because yesterday Senator BIDEN and I had an exchange in which neither one of us were accurate, but the staff was.

I talked about going outside of the scope of the conference because I thought the House had 30 months and we had 24 months. I want the RECORD to reflect I was not correct. The House had 5 years and we had 24 months. So I would have the RECORD reflect that.

I did ask the distinguished Senator from Delaware at the time, but we were later corrected by staff and the staff is correct.

But we believe the 24 months—there was not much debate on it—the FBI tells us they can do this in 24 months—that we ought to start doing it for the very reason the Senator from Ohio said: Every day we wait, every day somebody gets through the net and gets a gun and shoots someone, it is another tragedy in America.

We did not think it ought to be 5 years. But that is the way it ended up in the conference report.

So it is very serious. We are talking about whether it ought to be 24 months or 60 months. If that were resolved, there would not be any problem with this bill as far as this Senator is concerned. But, you know, hope springs eternal around here. Maybe somebody can think of some parliamentary way this can be resolved.

Again, I thank Senator STEVENS for going to the conference. He did not particularly want to go to the conference. We did not have any conferees, so I called and asked if he would go. And he is not here to represent precisely what he said. He has been most cooperative. There are some who do not want any bill at all and they could have objected all last week to doing anything on any legislation. But Members on both sides who have that view did not object; they cooperated. We brought it up for a vote, as I said, on Saturday. And I am still hopeful. If we cannot resolve it this year obviously we will have to try again next year.

SENATE CONCURRENT RESOLUTION 57 TO GO OVER UNDER THE RULE

The PRESIDING OFFICER. The Chair will observe, objection having been heard to Senate Concurrent Resolution 57, it will go over under the rule.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I want to make just one brief additional comment. I want to say to the Republican leader, my friend, that I feel perhaps the greatest sadness that we have reached this situation and are not in a position to pass this bill tonight.

I want to go back in time. About 2½ years ago the original Brady bill passed the House of Representatives and I was asked my view of it and I said publicly that I was opposed to that bill, that I did not believe that it would accomplish the purpose its sponsors intended. It was, then, purely a waiting period bill.

As a result of that public statement I received a rather large amount of criticism. Me, and my motives, were questioned. I said that I believed it could be improved and I would set out to improve it. I then had a lengthy series of meetings, dozens of meetings, with the Bradys and their supporters and with the legislative representatives for the National Rifle Association and some of their supporters here in the Senate.

At that time the National Rifle Association position was that they were against the waiting period but they wanted the instant check system. And, so, I made the initial suggestion—actually it came from my staff person, Anita Jensen. We Senators get used to taking credit for things when actually we know it is the staff that is the brains here, the ones who come up with the ideas and know the details. I suggested, well, if the Bradys want a waiting period and the NRA wants an instant check system, from our standpoint they both make sense and, in fact, since you cannot have an instant check system right away—the debate has always been over how long it would take to get an instant check system—why not combine the two? And that is the measure that I proposed; to combine the two in a way that would have an immediate waiting period and incentives for an instant check system to encourage its implementation and then a phaseout of the waiting period. That became the basis of what is the current bill described as the Brady bill.

We then came to the floor and the Republican leader had some concerns about some parts of it and wanted to add some other things to it. And there followed, then, a second set of negotiations over many weeks involving the Republican leader, myself, Senator METZENBAUM, and Senator KOHL as the principal participants, but a whole lot of other people as well.

And that negotiation led to the bill which passed the Senate in 1991 by a vote of 67 to 32. I had hoped we could put that into law in 1991, but it was part of a larger bill which was not adopted.

Then, when we began this year, the legislation that we had worked out together in 1991 became the new basis for consideration. It is called the Brady bill, and rightly so, but it is not the original Brady bill. It is that bill having gone through, first the series of negotiations that I had with the Bradys and the NRA, and then the series of negotiations that Senator DOLE, Senator METZENBAUM, Senator KOHL, and I had.

Now, what really makes me sad is that we have come so very far together, such a very long way, and come close. I want to repeat what I said earlier, that no one was more surprised than I last evening that we were not going to pass the bill and have it become law this week. I regret that very much. I want to make clear that my comments earlier about Senator STEVENS' statement at the conference were not intended nor should they be construed as criticism of Senator STEVENS. That is his position. He has a perfect right to take it. Second, as I said and I repeat, I was not present. I was reading from a description of the conference by Senator BIDEN, who was, of course, present as the chairman of the Senate Judiciary Committee.

I hope we can still pass the bill. But I believe this is becoming increasingly clear. Sooner or later, this bill is going to become law. You cannot have a legislative proposal that is supported by about 90 percent of the American people that will not become law in this democracy. Its support continues to grow. The public continues to demand it. And it is going to become law. I hope it is sooner but I know it is going to happen.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. First of all, Mr. President, I want to express great appreciation for the role that the majority leader has played in this debate. The majority leader has indicated that some 93 percent of the American people support the Brady bill. Sixty-eight percent of NRA members are for it. But he also comes from a region of the country that I come from. He represents the State of Maine. And among the many popular pastimes in Maine is hunting. Many of the citizens of that State enjoy the ability to go off into what are some of the loveliest parts of America, enjoy the outdoors, and enjoy the legitimate sport of hunting. As a result, advocating any kind of restrictions or access to guns, or any reasonable waiting period, is not an easy political position for a Maine politician to take. Those of us who come from that region of the country see his leadership on this issue and we respect the important efforts he has made in the national interest. He explains them well, of course, back home. But for all of us who are deeply concerned about gun violence—those of us who are faced in a more direct way with the proliferation of weapons and the violence that is attendant thereto—we are very, very grateful to him.

We are also enormously grateful to the Senator from Ohio for his constancy on this issue. I value my friendship with him over a long period of time. We have been allies on many different issues. But I think all of us in this body would agree, if it had not been for his persistence and continuity on this issue we would not be where we are today.

Congress wants the Brady bill, and the country wants the Brady bill. As the events of recent days make clear, people across America are well aware of what is happening in the Senate. The National Rifle Association and a handful of Republican Senators are attempting to mug the Brady bill in the broad daylight of public opinion.

Perhaps not since the 19th century days of the railroad tycoon William Henry Vanderbilt and his notorious remark, "The public be damned," has there been such an arrogant, overt, and brazen act of special interest defiance of the public interest.

The public is rightly concerned about the epidemic of violent crime plaguing America. The Brady bill is one of the most important steps Congress can take to start to turn the tide. Our handgun laws are more loophole than law. There is no justification for tolerating the easy access to these weapons that are fueling the arms race on streets and in neighborhoods across America.

The Brady bill will stop thousands of illegal handgun purchases by giving local law enforcement the opportunity to conduct background checks on potential purchasers.

This step will help keep handguns out of the hands of criminals, juveniles, persons with a history of mental illness, and many others who should not be able to walk into a gun store or pawn shop and walk out with a handgun a few minutes later.

It is not enough to impose tough sentences on those who commit crimes with handguns. All of us who favor the Brady bill also support tough punishment for violent criminals.

But we know punishment alone is not a sufficient answer to the handgun crisis. The Brady bill can help prevent violent crime before it occurs. It will save lives and restore some measure of sanity to the debate on crime.

Above all, the passage of this bill will prove that Congress is capable of standing up to the National Rifle Association and acting responsibly in the public interest.

The Brady bill should have been enacted long, long ago and every day of delay means more lives lost to senseless handgun violence.

I can remember, Mr. President, when we debated the 1968 Gun Control Act. At that time, many of our colleagues in the U.S. Senate said, "Look, we already have 5 million or 6 million handguns out there. What possible good could it do to pass that kind of legislation?" We passed very modest legislation.

Then in 1986, we had the McClure-Volkmer bill. At that time, many of us who were most concerned about crime and violence said to the NRA, "We'll let you have the long guns." Long guns were only used—this is before the advent of assault weapons—in 4 or 5 percent of the homicides in this country. We said, "Just let us deal with the small concealable weapons, which are the weapons of choice in crimes and violence. Give us those guns." There was an absolute rejection of that position.

Now we have the proliferation of weapons and we hear: "What possible good is legislation when you have 100 million of these concealable weapons across the country?" That is the same argument we heard 25, 30 years ago. If we had taken the steps then and if we take the steps now, they can make a difference. There will be lives saved.

In listening to this debate about the details of the conference agreement, I hear people ask whether the conferences really agreed to certain insignificant provisions, and what they said, did they eliminate this or did they add that. But the debate should be about whether it is reasonable to impose a 5-day waiting period on the purchase of handguns.

I do not intend to take the time of the Senate now to recite constant examples of States which have had some waiting period have been able to identify felons, mentally ill persons and juveniles, in violation of State laws. We clearly know that those State laws are not as effective as a national waiting period would be, as the debate has pointed out.

So, Mr. President, I am really amazed at the fact that there is a continued reluctance to pass this important bill.

Two final points. We wonder whether we ought to come back to vote next week on this issue. I was in the Senate when we were called back between Christmas and New Year's Day by the venerable Senator from Oregon, Wayne Morse, on the issue of the war in Vietnam. That happened the first time in 1963 when he and a small group of individuals were beginning to call for an end to the war in Vietnam. The Senate turned out overwhelmingly because the issue was important to the people of this country.

Similarly, the Brady bill is of basic and fundamental importance to all Americans and all American families. They are going to wonder why we are out of session, why we are back home if we have not taken action on this conference report.

So, Mr. President, I applaud the decision to move ahead and have this vote next week. I just regret, as others do, that we cannot vote on it earlier, because we know that when it is signed and implemented, from that time on there will be lives saved. There are families who will not shed those tears. There will be families who will not feel the awful sense of loss.

Finally, this bill is really a monument to the perseverance and the courage of two brave citizens, Jim and Sarah Brady. Their valiant effort began in personal tragedy, and it continued as a long and lonely fight. But they never gave up. What an incredible job they have done. They are living proof that individuals can still make a difference in this country when they decide to work for change.

Finally, at long last, it is clear beyond a reasonable doubt that the Nation is squarely on their side. And it is unconscionable that a willful and desperate minority in the Senate is prepared to filibuster this bill. This shameful obfuscation must not be permitted to prevail.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRADLEY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLS READ FOR THE SECOND TIME—S. 1770, S. 1775, and S. 1779

The PRESIDING OFFICER. It being a new legislative day, the clerk will now read the bills for a second time.

The bill clerk read as follows:

A bill (S. 1770) to provide comprehensive reform of the health care system of the United States, and for other purposes.

A bill (S. 1775) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

A bill (S. 1779) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. On behalf of the minority leader, I object.

The PRESIDING OFFICER. Objection is heard.

MESSAGE FROM THE PRESIDENT—HEALTH SECURITY ACT OF 1993

Mr. MOYNIHAN. Mr. President, on Saturday, November 20, 1993, the Senate received a Presidential message transmitting the Health Security Act of 1993. I commend the President and Hillary Rodham Clinton on their extraordinary leadership in bringing the issue of national health care reform before the Congress.

The Senate Parliamentarian referred the President's message, which was accompanied by the President's bill, exclusively to the Committee on Finance. The Parliamentarian has noted, in writing, that the President's bill, the Health Security Act of 1993, lies within the sole jurisdiction of the Committee on Finance.

As is the custom when a Presidential message is received, as chairman of the Committee on Finance, I introduced the President's legislation yesterday. It will appear on the calendar at the close of business today as S. 1775.

I ask unanimous consent that the text of the President's message, as referred to the Committee on Finance, be printed in the RECORD:

The text of the message of the President reads as follows:

To the Congress of the United States:

I am pleased to transmit today to the Congress the "Health Security Act of 1993."

This legislation holds the promise of a new era of security for every American—an era in which our Nation finally guarantees its citizens comprehensive health care benefits that can never be taken away.

Today, America boasts the world's best health care professionals, the finest medical schools and hospitals, the most advanced research, and the most sophisticated technology. No other health care system in the world exceeds ours in the level of scientific knowledge, skill, and technical resources.

And yet, the American health care system is badly broken. Its hallmarks are insecurity and dangerously rising costs.

For most Americans the fear of losing health benefits at some time has become very real. Our current health insurance system offers no protection for people who lose their jobs, move, decide to change jobs, get sick, or have a family member with an illness. One out of four Americans is expected to lose insurance coverage in the next 2 years, many never to be protected again. Altogether, more than 37 million Americans have no insurance and another 25 million have inadequate health coverage.

Rising health care costs are threatening our standard of living. The average American worker would be making $1,000 a year more today if health care accounted for the same proportion of wages and benefits as in 1975. Unless we act, health care costs will lower real wages by almost $600 per year by the end of the decade and nearly $1 in every $5 Americans spend will go to health care.

Small businesses create most of the new jobs in America and while most want to cover their employees, more and more cannot. Under the current health care system, cost pressures are forcing a growing number of small business owners to scale back or drop health insurance for their employees. Small businesses spend 40 cents of every health insurance dollar for administration—eight times as much as large companies. And only 1 in every 3 companies with fewer than 500 workers today offers its employees a choice of health plan.

Our health care system frustrates those who deliver care. Doctors and nurses are drowning in paperwork, and hospitals are hiring administrators at 4 times the rate of health care professionals. The system places decisions that doctors should be making in the hands of distant bureaucrats. Its incentives are upside down; it focuses on treating people only after they get sick, and does not reward prevention.

Clearly, our challenges are great. This legislation is sweeping in its ambition and simple in its intent: to preserve and strengthen what is right about our health care system and fix what is wrong.

Our needs are now urgent. A Nation blessed with so much should not leave so many without health security.

This legislation draws upon history. It reflects the best ideas distilled from decades of debate and experience.

It reflects the sense of responsibility that President Franklin Roosevelt called for when he launched the Social Security Program in 1933 and recommended that health care be included.

It reflects the vision of President Harry Truman, who in 1946 became the first President to introduce a plan for national health reform.

It reflects the pragmatism of President Richard Nixon, who in 1972 asked all American employers to take responsibility and contribute to their workers health care.

And it reflects the ideas and commitment of generations of congressional leaders who have fought to build a health care system that honors our Nation's commitments to all its citizens.

Today America stands ready for reform. For the first time, members of both parties have agreed that every American must be guaranteed health care. An opportunity has been placed before us. We must not let it pass us by.

This legislation builds on what's best about the American health care system. It maintains and strengthens America's private health care. It extends the current system of employer-based coverage that works so well for so many. It protects our cherished right to choose how we are cared for and who provides that care. It invests in improving the quality of our care.

This legislation recognizes that America cannot, and need not, adopt one model of health care reform. It allows each State to tailor health reform to its unique needs and characteristics, as long as it meets national guarantees for comprehensive benefits, affordability, and quality standards. It establishes a national framework for reform, but leaves the decisions about care where they belong—between patients and the health care professionals they trust.

Under this legislation, every citizen and legal resident will receive a Health Security Card that guarantees the comprehensive benefits package. People will be able to follow their doctor into a traditional fee-for-service plan, join a network of doctors and hospitals, or become members of a Health Maintenance Organization. Like today, almost everyone will be able to sign up for a health plan where they work. Unlike today, changes in employment or family status will not necessarily force a change in health coverage.

The self-employed and the unemployed will receive their health coverage through the regional health alliance, a group run by consumers and business leaders, that will contract with and pay health plans, provide information to help consumers choose plans, and collect premiums. The largest corporations—those employing 5,000 workers or more—will have the option of continuing to self-insure their employees or joining a regional alliance.

The legislation is financed by three sources: requiring every employer and individual to contribute to paying the cost of health care; raising excise taxes on tobacco and requiring small contributions from large corporations, which form their own health alliance; and slowing the growth in spending on Federal health care programs. Enormous efforts have been made to ensure that the financing is sound and responsible.

The Health Security Act is based upon six principles: security, simplicity, savings, quality, choice, and responsibility.

Security. First and foremost, this legislation guarantees security by providing every American and legal resident with a comprehensive package of health care benefits that can never be taken away. That package of benefits, defined by law, includes a new emphasis on preventive care and offers all Americans prescription drug benefits.

Under this legislation, insurers will no longer be able to deny anyone coverage, impose lifetime limits, or charge people based on their health status or age. The legislation also limits annual increases in health care premiums, and sets maximum amounts that families will spend out-of-pocket each year, regardless of how much or how often they receive medical care.

The legislation will preserve and strengthen Medicare, adding new coverage for prescription drugs. To meet the growing needs of older Americans and people with disabilities, a new long-term care initiative will expand coverage of home and community-based care.

The legislation also provides residents of underserved rural and urban areas with better access to quality care. It also offers incentives for health professionals to practice in these areas, builds urban-rural health care networks, and protects those doctors, hospitals, clinics, and others who care for people in underserved areas.

Simplicity. To relieve consumers, business and health professionals of the burdens of excess paperwork and bureaucracy, this legislation simplifies our heath care system. It requires all health plans to adopt a standard claim form; creates a uniform, comprehensive benefits package; and standardize billing and coding procedures.

Savings. The legislation promotes true competition in the health care marketplace. It increases the buying power of consumers and businesses by bringing them into health alliances. Health plans will no longer succeed by trying to pick only healthy people to insure; they will have to compete on price and quality. This competition will be backed up by enforceable premium caps.

This legislation also criminalizes health fraud, imposing stiff penalties on those who cheat the system. And it takes steps to reduce "defensive medicine" and discourage frivolous medical malpractice lawsuits by requiring patients and doctors to try to settle disputes before they end up in court, and by limiting lawyer's fees.

Quality. The legislation empowers consumers and health care professionals by providing information on quality standards and treatment results. It calls for new investments in medical research, including heart disease, bone and joint disease, Alzheimer's disease, cancer, AIDS, birth defects, mental disorders, substance abuse, and nutrition. To help keep people healthy, rather than only treating them after they get sick, the legislation pays fully for a wide range of preventive services and offers new incentives to educate primary care doctors, nurses, and other family practitioners.

Choice. Through comprehensive reform, the legislation gives Americans a new level of control over their health care choices. It ensures that people can follow their doctor and his or her team into any plan they choose to join. It transfers the choice of health plan from the employer to the individual, and guarantees a choice of health plans, including at least one traditional fee-for-service plan. Doctors and health professionals may participate in multiple health plans if they wish.

Responsibility. Under this Legislation, every employer and individual will be required to pay for health coverage, even if that contribution is small. It extends the current employer-based system for financing health coverage—a system that now serves 9 of every 10 Americans who now have health insurance. To ensure affordability, small businesses, low-wage employers, and low-income individuals and families will get substantial discounts.

This legislation will strengthen our economy. Our current system is so much more costly than any other system in the world, and the American people should not be asked to pay huge new taxes in order to afford health care reform. This plan raises no new broad-based taxes, but spends our health care dollars more wisely. It levels the playing field for small businesses, making it possible for them to insure their families and employees. It eases the tremendous burden of rising health costs on big business, helping them to compete for global markets. And by bringing the explosive growth in health costs under control, it sets us in the right direction of reducing our national debt.

The legislation restores common sense to American health care. It borrows from what works today, letting us phase in change at a reasonable pace and adjust our course if needed. It builds on what works best—and makes it work for everyone. Our task now is to work together, to leave behind decades of false starts and agree on health care reform that guarantees true security. The time for action is now. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 20, 1993.*

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BURNS. Mr. President, on behalf of the majority leader and minority leader, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair.

There being no objection, the Senate, at 5:57 p.m., recessed subject to the call of the Chair; whereupon, at 7:03 p.m., the Senate reassembled when called to order by the Presiding Officer [Mr. METZENBAUM].

ORDERS FOR WEDNESDAY, NOVEMBER 24, 1993

The PRESIDING OFFICER. In my capacity as a Senator from the State of Ohio, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 10 a.m. Wednesday, November 24; that following the prayer, the Journal of the proceedings be approved to date; and that following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

Is there objection? Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. In my capacity as a Senator from the State of Ohio, I ask unanimous consent that the Senate stand in recess, as under the previous order.

There being no objection, the Senate, at 7:04 p.m., recessed until 10 a.m. Wednesday, November 24, 1993.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE WELL AMERICA ACT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. LEWIS of California. Mr. Speaker, I would like to address today an aspect of health care reform often considered a side issue, but the impact of which will, more than any other factor, determine whether Americans in 5 years, in 10 years, will consider that our reforms succeeded. I am talking about the need for an aggressive commitment to wellness.

Wellness extends far beyond traditional preventive medicine, such as innoculations, prenatal care, or mammograms, as necessary as these are. It addresses personal behaviors which lead to unnecessary illness. Wellness programs encourage healthier lifestyles and choices, activities which keep people out of the health care system in the first place.

It is not widely appreciated that an enormous portion of our health care costs result directly from the treatment of illnesses and conditions that could be prevented by changing our unhealthy behaviors.

The Worksite Health Promotion Alliance represents over 2,000 employers through such members as the Washington Business Group on Health, the Wellness Councils of America, the Association for Worksite Health Promotion, and the National Wellness Network. In a recent press release, the coalition noted "that over half of all disease is caused by poor health behaviors. Moreover, up to 30 percent of all employer-paid health care costs are due to unhealthy lifestyle habits, which can be significantly improved by worksite health promotion programs," That 30 percent stands for some $130 or $140 billion annually, and does not include a corresponding component for health costs paid by individuals and Federal programs and State health care programs.

While I do not suggest that all of this money can be saved, I feel very strongly that to ignore behavioral change is to place our reform efforts at significant risk of failure. If we do not start now to reduce the number of needless cases, of disease and injury flowing into our health care system, we will continue to shoulder increasingly unacceptable burdens regardless of what we do to make the financing and delivery systems more efficient.

It will eventually become apparent that neglecting wellness in favor of improving our sickness-based medical system is like the city elders responding to an ever-widening break in the dike by streamlining and reducing costs in the municipal bucket brigade.

For this reason, I am proposing today the Well America Program. This legislation is intended to be considered as an appendage to an overall health care reform bill, and is drafted generically. However, it can easily be adapted to virtually any model currently on the table. The proposal came to my attention through the Institute for Interactive Management, which developed it together with a collection of other health care reform ideas from a systems analysis viewpoint.

It would give to each person 30 years of age or over, approximately $200 per year to spend on wellness activities. These would include nutrition education and exercise programs, weight loss programs, and so forth. Such programs could be run by employers, communities, private companies, or non-profit groups.

I realize this proposal is not perfect. It can be tightened up, eligibility can be refined, et cetera. I am not wedded to it word for word. I introduce it because none of the leading proposals currently before the Congress faces behavioral change head-on. I introduce it because I feel that whatever else we do, we must act in this area. I hope that it will stimulate us to place wellness issues at the center of the health care debate.

I call upon all of those involved in the health care debate to pause and consider with me how we can reduce not only the cost, but the demand for health care services.

I ask for unanimous consent that the text of the bill be printed in the RECORD.

H.R. 3, THE HOUSE CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. SYNAR. Mr. Speaker, St. Augustine is said to have prayed to God to free him from his life of sin and debauchery "but not yet, Lord, not yet." The Members of Congress elected, some for generations, under a system almost universally regarded as distasteful, distorted, and disconnected from the voters who cast the ballots seem to be asking for campaign finance reform "but not yet, but not yet."

Like the drunkard clinging to his bottle and the addict to his syringe, Congress is refusing to face the hard reality of real reform. The Senate, in an orgy of self-congratulation, has passed a measure of byzantine complexity, internal incompatibility, and dubious constitutionality that ultimately secured the 60 votes for passage with the comforting reassurance that it would never become law. For its part, the House-passed campaign finance reform bill may score political points with reformers, but it won't be enacted in its current form, and its unlikely to get any better in conference. Net effect—the present decayed and rotten campaign finance system looks like it will continue at least through the next two election cycles.

The House conference position, embodied in H.R. 3, emerged after a small coterie of House Democratic leadership staff secretly labored for 11 months to produce a bill their bosses sold to the House, and will try to sell to the electorate, as real reform. After the long wait this year's bill looks a lot like last year's House-passed bill—deja vu all over again. I supported that bill, but this year I expected better. What I got is worse. The Democratic leadership bill has no effective overall campaign spending limits, it contains loopholes to subvert the nominal limits it does contain, it fails to curb the influence of PAC's, it won't become effective until 1996 at the earliest and worst of all, it's patently unconstitutional. In a recent memo on the leadership package, the ACLU flatly stated that the bill, "violates the free-speech and expressive guarantees of the first Amendment in multiple ways."

Can we fix all of these problems in conference and come up with a bill that has a prayer of reaching the President's desk? There is an answer to this mess and it's embodied in the simple, straightforward bipartisan proposal that I, with a number of my colleagues from across the ideological spectrum, have proposed. Our bill marginalizes PAC's and big givers by cutting maximum PAC contributions from $5,000 to $1,000 and cutting the maximum size of fat-cat donations from $1,000 to $500. The bill also bans bundling, a practice used to evade current contribution limits, and shuts down soft money, an election artifice that allows undisclosed contributions to influence Federal elections. Finally, we require broadcasters who sell ad time to independent groups that dive into elections to make equal and adjacent time available to the candidates targeted by these ads.

The bipartisan package's design is simple—drain money out of elections by reducing contribution levels, banning bundling and banning soft money and keep that money from getting back into the system via unanswerable independent expenditures. It's clean, it's simple and it's real reform. More importantly it can be enacted into law early next year and not sometime in the hazy future as we appear to be headed with the current reform plans.

The bipartisan proposal embodies the startlingly simple, but evidently novel, concept that true campaign finance reform should: First, actually begin to clean up campaigns for federal office; second, survive a constitutional challenge; and third, take effect before the next election. Anything not meeting this test is a fraud on the electorate, who went to the polls over 1 year ago under the impression they were voting for change. Some reform is better than no reform—we need to craft a conference report that actually has a chance to pass, not a package that delays any reform because it can't get the votes to pass.

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

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KURT WEISHAUPT WINS PRESTIGIOUS NATIONAL CARING AWARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. ACKERMAN. Mr. Speaker, I rise today to join the Caring Institute in celebrating the remarkable efforts of Kurt Weishaupt, who will be presented one of the Caring Institute's National Caring Awards, on Friday, December 3, 1993. Kurt's accomplishments as a businessman and philanthropist have had a positive impact on men, women, and children both in the United States and around the world.

The Caring Institute was created to identify and promote the efforts and values of those individuals who enhance the human spirit in all of us. Since 1985, the Caring Institute has presented the National Caring Award to only 10 men and women each year. I am just one of many people around the world who can testify to the fact that Kurt Weishaupt has lived by the values the Caring Institute cherishes.

I first met Kurt over 20 years ago in Queens County, NY; his extraordinary dedication to humanity was obvious even then. In addition to Kurt's philanthropic efforts, his leadership and vision were demonstrated day in and day out as a businessman. Kurt has truly lived the American dream. After escaping from Nazi Germany, Kurt eventually made it to the United States with his first wife, Trude. In 1941, they arrived penniless, like so many other immigrants, yet in time he built one of the largest philatelic firms in the world. Even with his tireless dedication to his firm, Kurt committed a large portion of his time and financial resources to major philanthropic efforts. Today, he is actively involved in leading or supporting more than 40 such humanitarian organizations.

Most noticeable of all his efforts is his role on the board of directors for the Gift of Life Program. Organized by Rotarian volunteers in 1973, this project has funded open-heart surgery for more than 1,000 destitute children from 26 different countries. Kurt has also been actively involved with the United Jewish Appeal, March of Dimes, and New York Hospital Medical Center where Kurt donated a dialysis machine in the name of his first wife, Trude. Kurt also was a founding member of Philatelic Hobbies for the Wounded, a cofounder of Boston's Cardinal Spellman Museum, and a board member of the Russian Children's Fund. In 1986, Kurt married Ethel Faye and together they continue to dedicate themselves to improving all of humanity.

Mr. Speaker, I would like to take this opportunity to congratulate both Kurt Weishaupt and the National Caring Institute for recognizing him. The National Caring Institute's Annual Award recognizes those few individuals who continuously demonstrate the sense of social responsibility that the rest of us aspire to. Along with other National Caring award winners, Kurt will have a permanent memorial at the Frederick Douglass Museum and the Hall of Fame for Caring Americans. The Caring Institute and the Friends of Frederick Douglass coordinated their efforts to create this museum. The museum is rooted in the spirit of Frederick Douglass' life; both by the values it promotes and its location in his former residence.

Mr. Speaker, I conclude by calling upon all of my colleagues in the House of Representatives to rise and express our congratulations and admiration for this true humanitarian—Kurt Weishaupt—as he is awarded the Caring Institute's National Caring Award.

SPENT-FUEL MANAGEMENT PROGRAM

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. SAXTON. Mr. Speaker, recently members of the New Jersey congressional delegation wrote to Secretary of Energy, Hazel O'Leary, bringing to her attention the concerns of our State regarding the Nation's spent nuclear fuel management program.

All 13 Members of the New Jersey congressional delegation are united in their view that the Federal Government move forward with its efforts to find a suitable storage site for spent nuclear fuel. It is also important that the Department of Energy take action to ensure it will meet its obligation to begin accepting spent fuel from utilities beginning in 1998.

Failure to meet these responsibilities will have significant consequences to American electric ratepayers in 41 States who have paid more than $7.6 billion to the nuclear waste fund and to New Jersey ratepayers who have paid more than $300 million into the fund. American nuclear electric generating plants were constructed with limited-capacity spent-fuel handling facilities because they were promised by the U.S. Government that a national waste repository would be available in the mid-1990's.

In New Jersey, three of the four electricity-generating reactors will be completely out of spent-fuel storage space shortly after the turn of the century. After that, we face the choice of either constructing additional temporary storage facilities, which is a safe but expensive option, or having to shut down efficient, reliable and nonpolluting powerplants that supply a significant percentage of the State's electricity.

I applaud Secretary O'Leary's recognition of DOE's moral obligation to move forward with its program to determine the suitability of Yucca Mountain as a repository and meet its 1998 responsibilities. However, Congress has the responsibility to make funds available for this to happen. To be clear, Congress needs to make available not taxpayer funds, not treasury funds, but the funds provided by ratepayers from New Jersey and across the Nation expressly for the purpose of managing spent nuclear fuel.

The New Jersey delegation supports Secretary O'Leary's efforts to establish a new funding mechanism—a revolving fund—which would ensure that ratepayer money is available to the program as needed and not subject to congressional budgetary constraints, which would divert these funds for deficit reduction. To be sure, this would be accomplished while retaining strong congressional oversight.

Mr. Speaker, this is not only an urgent matter for the citizens of New Jersey, but for our environment, for our energy security, and for American ratepayers who are shouldering the expense, which I stated to date is more than $7.6 billion. I ask Members to join with me in urging DOE to fulfill its responsibilities with the spent-fuel management program and adopt a revolving-fund mechanism to jump start this vital energy program and ensure that sufficient funds are available when needed.

Mr. Speaker, I am inserting the letter sent by the New Jersey delegation to the Secretary of Energy into the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 10, 1993.

Hon. HAZEL O'LEARY,
Secretary, U.S. Department of Energy, Washington, DC.

DEAR SECRETARY O'LEARY: We are writing to express our concerns regarding the progress of the Department of Energy's civilian radioactive waste management program. It is our understanding that the Department is reviewing its high level waste program. We encourage you to complete this review in an expeditious fashion, so that this important program can move forward.

As you are aware, the Nuclear Waste Policy Act of 1982 recognized the worlwide scientific consensus that deep geologic isolation is the environmentally preferred solution for the ultimate disposal of high-level nuclear waste. The Act also obligated DOE to construct a facility that would begin accepting spent fuel from utilities by 1998. To pay for the disposal program, a one-mill per kilowatt hour fee was imposed on electricity generated by nuclear energy. The fees that utilities pay are deposited in a special account in the U.S. Treasury—the Nuclear Waste Fund.

As of May 1993, customers of electric utilities in 38 states—including New Jersey—have paid more than $7.7 billion for the nuclear waste program. Of that amount, New Jersey utilities have contributed nearly $306 million.

Many utilities are concerned about delays in waste acceptance because they will soon be unable to store spent fuel on-site in their spent fuel pools. Three of four reactors in the State of New Jersey are expected to lose their full core discharge capability shortly after the turn of the century. The construction of additional on-site storage facilities, while safe, is expensive. In effect, utilities and their ratepayers will be paying twice for the storage and disposal of waste—first to the Nuclear Waste Fund, and a second time for added on-site storage necessitated by the delays in the DOE program.

We would also like to express our support for your efforts to establish a revolving fund which would allow contributions to the program to be spent in a timely and efficient manner. We believe it is imperative that the program receive adequate funding if DOE is to meet its obligation in 1998.

However, we believe that the benefits promised by the establishment of a revolving fund will only be realized if DOE program management is sharply improved.

Thank you for your consideration of our concerns.

Sincerely,

Bill J. Hughes, Marge Roukema, Donald M. Payne, Chris Smith, Dean Gallo, Robert Menendez, Jim Saxton, Herb

Klein, Frank Pallone, Jr., Robert Torricelli, Dick Zimmer, Rob Andrews, and Bob Franks.

LEGISLATION TO BAN JACKETED HOLLOW POINT AMMUNITION

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Ms. PELOSI. Mr. Speaker, today I am introducing legislation to regulate the manufacture, importation, and sale of jacketed hollow point ammunition.

On July 1, in my district, the city of San Francisco, a man entered the office building of the law firm Pettit & Martin and opened fire, killing eight people and wounding six others. The guns he used were 9 millimeter semiautomatic pistols loaded with "Black Talon" ammunition. The guns and ammunition are an incredibly deadly combination. They were both purchased legally.

The Black Talon has quickly become the most notorious example of jacketed hollow point ammunition. This bullet is designed to expand upon impact, mushrooming into six razor sharp points as it enters the target. It has been described as especially deadly and its effect has been compared to that of a high-speed cookie cutter. Because of its sharp points, this bullet also poses a significant hazard to trauma surgeons who treat gunshot victims. These bullets must be outlawed.

Jacketed hollow point ammunition is used by the Federal Bureau of Investigation and other law enforcement agencies. These bullets have been marketed to law enforcement agencies because of their superior stopping power, which means they are not as likely as other bullets to pass through one target and injure another.

They are also used because they are more lethal. As a result of its design, when a jacketed hollow point bullet is fired from a gun it causes more extensive damage and excessive bleeding.

All bullets are people killers. However, a jacketed hollow point bullet is designed with features which make it extra deadly, just as firearms have semiautomatic and multiple-round features which make them more deadly. My legislation, with an exemption of law enforcement agencies, proposes a ban on the jacketed hollow point bullet before it becomes the ammunition of choice for urban violence in America.

TRIBUTE TO CLAY CAVANAUGH

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. SPENCE. Mr. Speaker, I rise today to pay tribute to one of South Carolina's Second District's finest, Clay Cavanaugh. This fine young man has trained diligently, and proudly boasts the earned distinction of being the top junior wrestler in the State of South Carolina.

For his youth, he has attained numerous honors, awards, and recognitions throughout his wrestling career. He has been actively involved with the sport since the age of 9, wrestling freestyle in summer competitions and proving his ability. He experienced only one defeat throughout the seasons of his seventh and eighth grade years, and as a freshman achieved the rank of South Carolina's fourth best with a 24 and 9 record.

Currently, Clay is the State's champion with an undefeated record of 38 wins without a single takedown. I am certain that you are all aware of the competitive nature and demanding rigors of this sport and therefore understand the pride I share with this dedicated young man. Clay has chosen a sport which is both physically and mentally demanding and has proven himself a champion.

In addition to his outstanding record on the wrestling mat, Clay is equally successful in the classroom, ranked in the top third of his class at Lexington High School. In today's society I find it incredibly refreshing to come across a youth who is determined to achieve his goals and remains so focused on his dreams.

Today, I take great pride in saluting Clay Cavanaugh and his hard work. Perhaps the evaluation of his national scouting report says it best, explaining, "Clay is simply the best at what he does, although these statistics speak for themselves. Clay is in an elite category."

TRIBUTE TO SUSAN FAHRENHOLTZ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate Ms. Susan Fahrenholtz of Bloomfield, NJ, on her achievements as the director of Project SEED. The project, short for Summer Educational Experience for the Disadvantaged, has offered its participating students the opportunity to gain valuable hands-on experience and exposure to science. Ms. Fahrenholtz is trained as an organic chemist, and has extensive research and undergraduate teaching experience, and she has dedicated herself in particular to the instruction of students for whom science is a new field of study, opening up new doors of learning and exploration.

Susan's career at Fordam University's Lincoln Center campus has been long and distinguished. Not only has she shared her knowledge of science with her students, she has helped them to apply that knowledge and develop vital career skills as the administrator of five undergraduate and graduate summer research programs at AT&T Bell Laboratories. In fact, she has recruited more minority and women science students with higher educational qualifications than ever before for AT&T programs. In order to expand opportunities for still more students, Susan serves as a consultant to several institutions of higher learning on minority internships and on technology.

Ms. Fahrenholtz is also a respected leader in her own professional circles. She has served as a councilor of the American Chemical Society since 1990; as treasurer of the New Jersey Business/Industry/Science/Education Consortium from 1987–90, and as its chairman from 1992–1993. She has served as chair of North Jersey's SEED Program for disadvantaged students since 1986, and has organized and presided over several chemical symposia between 1972 and 1988. In addition to her leadership roles, Ms. Fahrenholtz holds two patents; one in Europe and one here in the United States. She is the author of numerous articles in her scientific field, and an upcoming guide for students considering graduate schools.

But, Mr. Speaker, it is for her attention and guidance given to the students of Union Hill and Emerson High Schools in my hometown of Union City, NJ, for which I express my greatest appreciation of her work. Ms. Fahrenholtz has been instrumental in identifying mentors for students in the Summer Scholars Program at Union Hill. It would be easy for such an accomplished scientific mind to ignore the problems of the workaday world. But Susan Fahrenholtz will have none of that. She makes it her business to share her knowledge and expertise, and to expand educational opportunities to students who might otherwise find the doors to higher education and jobs in the sciences closed to them. For the past 5 years, Susan has made it possible for the students in the Summer Scholars Program to gain the practical, scientific experience they need to begin successful academic careers.

Mr. Speaker, I ask that all of my colleagues join me today in paying tribute Ms. Susan Fahrenholtz for her dedication to the Summer Scholars Program, and in offering our congratulations on her recognition by Union City's scholars.

H.R. 3656—THE ANTI-ECONOMIC DISCRIMINATION ACT OF 1993—TIME FOR TOUGH ACTION AGAINST THE ARAB BOYCOTT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. LANTOS. Mr. Speaker, yesterday with a distinguished group of cosponsors from among our colleagues in the House, I introduced H.R. 3656, the Anti-Economic Discrimination Act of 1993.

This legislation is an effort to put teeth into our fight against the Arab boycott of United States companies which conduct normal business relations with companies in the State of Israel. Our legislation restricts sales and leases of defense articles and defense services to any country or international organization which as a matter of policy or practice is known to have sent letters to United States firms requesting companies with, or soliciting information regarding compliance with, the secondary or tertiary Arab boycott.

During the last full year, a number of countries sent letters to American companies in connection with the boycott. The latest quarterly figures reported by the Department of Commerce indicate little change from the pattern. For all of 1992 the countries which have sent letters to American firms in an effort to enforce the Arab boycott are as follows, with the number of letters received by American companies indicated in parenthesis: Kuwait, 2,864; the United Arab Emirates, 1,990; Saudi Arabia, 1,568; Syria, 522; Bahrain, 238; Qatar, 208; Jordon, 151; Libya, 91; Lebanon, 80; Egypt and Iraq, 22.

Mr. Speaker, at a time when Israel is making major risks for peace, some Arab countries—some of which would not exist if it were not for the United States—are still taking action to enforce this Arab boycott.

At a time when the American President has hosted Arafat and Rabin at the White House, some Arab countries appear to be undermining the effort for peace with their continued support of the Arab boycott. This is simply unacceptable.

Thus far, the U.S. Government has not been successful in resolving this long-festering problem, and it is time for legislation with teeth to deal with this impediment to peace in the Middle East.

Mr. Speaker, the provisions of H.R. 3656 are the same as those included in the Foreign Assistance Authorization Act that was adopted by the House earlier this year. Because the foreign assistance legislation has not moved quickly through the other body and to conference with the House, the anti-Arab boycott provisions have been introduced separately. These provisions include authority for the President to waive temporarily the provisions of the bill if it is in our national interest to do so. The State Department indicated that it had no objection to the provisions of this legislation at the time it was considered in the House and again when it was considered in the Foreign Relations Committee in the Senate.

Mr. Speaker, similar legislation has been introduced in the Senate by Senator HANK BROWN of Colorado and Senator DANIEL PATRICK MOYNIHAN of New York. It is my intention to press for quick action on this bill.

Mr. Speaker, those who have joined me as original cosponsors of this legislation are Mr. GILMAN of New York, Mrs. MALONEY of New York, Mr. SWETT of New Hampshire, Ms. MARGOLIES-MEZVINSKY of Pennsylvania, Mr. DEUTSCH of Florida, Mr. HASTINGS of Florida, Mr. BROWN of Ohio, Mr. ANDREWS of New Jersey, Mr. SCHUMER of New York, Mrs. LOWEY of New York, Mr. PALLONE of New Jersey, Ms. ROS-LEHTINEN of Florida, Mr. BERMAN of California, and Mr. ACKERMAN of New York.

I ask that the text of our legislation be included in the RECORD, and I invite our colleagues in the House to join us in cosponsoring this important legislation.

H.R. 3656

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Anti-Economic Discrimination Act of 1993".

SEC. 2. ARAB BOYCOTT.

(a) PROHIBITION ON CERTAIN SALES AND LEASES.—Defense articles and defense services may not be sold or leased by the United States Government to any country or international organization which as a matter of policy or practice is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the secondary or tertiary Arab boycott, unless the President determines, and reports to the relevant congressional committees, that the country or organization does not now send such letters as a matter of policy or practice.

(b) WAIVER OF PROHIBITION.—

(1) 1 YEAR WAIVER.—After the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the relevant congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, with appropriate notification to relevant congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

(c) RELEVANT CONGRESSIONAL COMMITTEES.—As used in this section, the term "relevant congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(d) EFFECTIVE DATE.—This section shall not take effect until one year after the date of enactment of this Act.

PENNY-KASICH AMENDMENT TO H.R. 3400, THE GOVERNMENT REFORM AND SAVINGS ACT OF 1993

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 23, 1993

Mr. SYNAR. Mr. Speaker, I rise today in opposition to the Penny-Kasich amendment to the Government Reform and Savings Act of 1993.

This is a budget debate that hinges on the power of false economic advertising. It seems that some legislators will never resist the opportunity to invoke grand ideas about budget savings and deficit reduction without solid facts and a legitimate strategy that does not rely on creative accounting to get to the bottom line.

The Penny-Kasich amendment is another of these proposals, and I object to it for four reasons. First, the proposal is Draconian and short-sighted. It attempts to lock in savings for deficit reduction rather than allowing appropriators to spend these savings on other unanticipated but critical needs.

The truth is, the administration's budget package already requires spending on discretionary domestic, defense and foreign aid programs to be below fiscal year 1993 levels in every year through 1998. In fact, these spending levels are already so low, Congress will need to find over $78 billion in savings over the next 5 years to meet current law. This means we will have to squeeze further critical domestic discretionary programs in areas such as WIC, housing, transportation, child immunization and HEAD START.

Even more troubling than this meat-cleaver approach to budgeting, however, is the fact that this legislation has double-counted its own savings assumptions. Specifically, over half the $26.7 billion in savings from streamlining 252,000 full-time Federal workers was included in the August deficit reduction agreement. Furthermore, the fiscal year 1994 budget resolution already assumes a 100,000 cut in the work force by 1998.

Second, Mr. Speaker, this measure undermines our national health care reform effort. As I have done in the past, I will oppose further cuts in Medicare until Congress faces up to its responsibility, that is, controlling the costs of medical care. This amendment is unfair to recipients of Medicare as well as District of Columbia providers. Until private sector costs are restrained, any reduction in Medicare will force providers to shift costs to private sector patients. And, frankly, I don't think rural hospitals in Oklahoma have anyone left who can absorb these cost shifts. Cutting Medicare payments without dealing with the underlying problems we are facing is patently unfair to our older Americans.

Also troubling is the way Penny-Kasich presumes to use simple cost accounting to legislate sweeping changes in public policy. The bill implements major policy changes by indiscriminately lumping together various Federal departments and drastically changing the way programs are configured and services delivered. These changes represent the worst of the budget drives policy techniques—revisions to current policy justified by grandly forecasted cost savings that, in the end, only result in negative impacts on real people.

For example, Penny-Kasich would undermine Davis-Bacon requirements on Federal projects, weaken protection for citizens at Superfund sites by relying on containment rather than permanent cleanup, eliminate library and legal education programs and require some seniors to pay increased part B Medicare premiums that in certain States would represent a 100-percent increase over their current payment.

Lastly, Mr. Speaker, this stringent deficit reduction measures included in this bill would likely place a huge drag on our economic recovery. Again, the administration set forth its own long-term agenda for the economy last February and Members of Congress endorsed it in the budget agreement in August. In his plan, the President specifies that long-term economic recovery rests on private, market forces finding opportunities for investment in plant and equipment that promise a return on that investment. This investment requires financing at reasonable rates of interest, and deficit reduction is the key to lowering and stabilizing these rates.

However, the private sector cannot do its work alone. Government needs to step up its efforts in education, worker training, infrastructure, and applied R&D—all things that are funded out of domestic discretionary dollars. I believe that, if the public sector provides the tools that the private sector needs to be productive; namely, an investment in human capital we will strengthen the competitiveness of the whole economy. Penny-Kasich would deny us the opportunity to target resources to these needs and strengthen the skills and health of our workers, the useful life of our infrastructure and the quality of our products.

Mr. Speaker, I voted with Congress to pass H.R. 2264, the Omnibus Budget Reconciliation Act which included $255 billion in spending cuts. The Sabo and Frank-Shays amendments are continuations of the type of real budget cuts that were included in the budget agreement. The Sabo and Frank-Shays amendments reflect my commitment to cutting ineffective spending and improving the efficiency of the Federal Government.

Specifically, the Frank-Shays proposal to save $20.6 million on four projects—termination of the space station, reduction in U.S. spending for the defense of Western Europe, decrease in funding for the Ballistic Missile Defense Program, and cancellation of the advanced liquid metal reactor—is right in line with the ideas I have pursued for improving the management of our natural resources in my work as chairman of the Subcommittee on Energy, Environment and Natural Resources. So, this is the kind of budget amendment that does the right thing for the American public. No dodges or maneuvers, just a straight-ahead approach to needed changes in national spending priorities.

It is in this spirit that I urge my colleagues to vote for judicious Federal spending and honest budget cuts and against an amendment that proposes nothing of the sort.

SENATE—*Wednesday, November 24, 1993*

(Legislative day of Tuesday, November 23, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Because that, when they knew God, they glorified Him not as God, neither were thankful; but became vain in their imaginations, and their foolish heart was darkened.—Romans 1:21.

Sovereign God, may this insight from the Apostle Paul take hold of us. Help us understand that, in a very basic way, thanklessness is Godlessness. We have so much for which to be thankful in our Nation—such luxurious bounty in every way, uncommon to most of the world. Most of us have more than we need of everything, while there are millions who never have enough of anything they need.

Gracious Father in Heaven, teach us gratitude, and give us compassion toward the many who suffer: the refugee, the homeless, the hungry, the poor in the inner city and in rural areas, the elderly who are frightened to go out in the street, the fearful who must live in our inner cities.

Help us never to take for granted the blessings we enjoy so bountifully. Forgive us for our ingratitude, and grant us compassionate concern for the needy all around us.

We pray this in Jesus name who loved the whole world. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, the one thing I can say with certainty is this will be the last day in which the Senate will be in session this week. It is also my hope that this will be the last day on which the Senate will be in session this year, but I do not know that yet and will not know that at least for a few minutes as we attempt to bring to a conclusion the discussions in which we have been engaged for some weeks now on disposition of the so-called Brady bill.

I will shortly meet with the Republican leader and it is our mutual hope, which we have discussed in a prior conversation this morning, that we can either reach an agreement shortly or agree that we cannot reach an agreement shortly. So, in either event, I do not expect this to be a lengthy session this morning. My hope is, of course, that we can reach an agreement, agree to the conference report, obviate the necessity of the Senate returning next week to attempt to end the filibuster on the conference report, and complete action for the year.

For the benefit of my colleagues, many of whom have called me to determine the substantive status of the negotiations, let me describe them as follows, and at the risk of redundancy, repeat some information of which several Senators are already aware.

In 1991 the House acted on the original Brady bill, which was simply a waiting period for the purchase of handguns. I was then asked my view on the matter and whether I would bring it up in the Senate and I responded by stating my opposition to that bill. I expressed my belief that, while well-intentioned, the bill as originally drafted would not accomplish that which the sponsors of it intended and that I would and did commit myself to working to improve it, to making it into what I felt would be effective legislation—modest to be sure, because no measure of this type is, by itself or even in combination with others, going to stop violence in our society. But our hope is that it can at least reduce the rate of increase in violent, gun-related crimes, and perhaps reduce them somewhat.

At that time the Brady bill provided just for a waiting period. The National Rifle Association bill, which had been introduced in the House of Representatives and considered there, provided for a national instant check system which would, once on line, permit instantaneous checks of the type now commonly made for credit cards and other transactions. I felt that bill as drafted was inadequate as well because, while it called for an instant check system, it contained no meaningful incentives to achieve an instant check system. It provided no substantial resources to States to computerize and upgrade their records, nor did it provide any incentive for States to make them available to a central national system which is, of course, the prerequisite to an effective national instant check system.

So I then undertook and began a series of meetings, both with the Bradys and their supporters and the National Rifle Association and their supporters in the Senate, to work out a compromise which I suggested include both measures, since they are in fact sequential in nature; that we should have a waiting period and while that waiting period was in effect we should work toward and create incentives toward establishing a national instant check system. And when that became effective the waiting period would be eliminated or sunsetted.

We then brought that bill to the floor and there were further negotiations between myself, Senator DOLE, Senator METZENBAUM, Senator KOHL, and others. And we achieved a compromise which included further improvements and that bill passed the Senate with 67 votes; 67 to 32—more than 2 to 1 the Senate endorsed that bill.

That bill included a waiting period. It included incentives to go to a national instant check system. And it included a set of standards by which the determination could be made that the State records had reached a level of thoroughness and effectiveness that the changeover from the waiting period to the instant check system could occur. That is to say, it established criteria to judge when the waiting period would be terminated and the instant check system was sufficiently effective to permit that termination to occur. That has come to be known as standards in this discussion.

Now, recently the House has passed a measure which was based upon the Senate's 1991 bill. This is no longer the original Brady concept of just a waiting period. This now includes a waiting period and a instant check system. The Senate did the same. But both Houses added a new element, which had not been included in the 1991 bill, and that is a specific date for terminating the waiting period unrelated to the status of the instant check system, a specific sunsetting measure. The House bill was 5 years; the Senate bill was 4 years with the authority given to the Attorney General, the completely unfettered and unlimited authority to the Attorney General, to add another year if she chooses to do so.

So there was not really much difference between the House provision of 5 years and the Senate provision of 4 plus 1, but some thought that was significant enough and, therefore, the bill passed the Senate with 63 votes.

Understand, Mr. President, the combination of a specific period of time when the waiting period would end and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the standards meant that the standards could only now operate to trigger off the waiting period prior to 5 years because it is going to end in 5 years anyway. So the only effect the standards would have would be to determine whether or not the waiting period would trigger off and the instant check system was sufficiently up and running in a period less than 5 years, because if we got to 5 years and the standards had not been met, the waiting period would trigger off anyway. So the sunsetting provision actually was an added layer of protection for those who oppose the waiting period and who are concerned about how long the waiting period would remain in effect.

Now, we brought up the conference report and we had a long discussion here yesterday—Senator DOLE and I and others—on what happened at the conference. I said yesterday, and repeat, that I was quite surprised that the conferees did not reach an agreement that would be acceptable to all or most of the Members of the Senate. I fully expected that we would pass it by voice vote Monday evening and leave for the year. But for a variety of reasons, some of which I will now detail, some of our colleagues on the Republican side did not like the conference report and, therefore, said that they would persist in their filibuster to prevent the Senate from voting on the measure, even though a majority of House Members favor it and a majority of Senators favor it and an overwhelming majority of Americans favor it, a majority of Americans who own guns favor it, and even a majority of members of the National Rifle Association favor it.

So we have been discussing now for the last 2 days, which is the culmination of the previous 2 weeks—which seems like 2 years —these negotiations to try to bring this to a conclusion.

First, it should be clear that the conference report cannot be changed. We either have to accept or reject the conference report in its current form, and then in an effort to accommodate our colleagues, what was suggested is that the Senate pass separately a freestanding bill embodying other measures which our colleagues would like to see included as part of a compromise. That would then go to the House of Representatives which would take it up next year. So the conference report would be agreed to, these additional measures would be included in a separate bill which would go to the House and be taken up next year with some assurance from the House leadership that they would support this and try to get it passed.

We are, therefore, down to a discussion of what should be included in this separate freestanding bill. The first request was that a provision authored by Senator CRAIG regarding publicly available records of persons with mental illness be included. That was included in the Senate-passed bill, deleted, along with other provisions, in the conference. We think that provision makes sense. It is consistent with the intent of this law, and we have indicated we are prepared to support that and have been willing to support that all along.

A second request was that we go back to the Senate language on the sunsetting provision; that is to say, instead of the straight 5 years, which was in the House bill and which was adopted by the conference, that we take the Senate language which says the waiting period will end in 4 years, unless the Attorney General adds a fifth year. We have indicated that we are prepared to accept that. That was in the Senate bill. It was negotiated here, and we think that makes sense. As I noted earlier, it is really a distinction without a difference.

Having agreed to that, we then were asked, well, the 1991 bill had standards in them, as I had defined them earlier. The Senate-passed bill has standards and so our colleagues now want standards in this bill, even though, as I indicated, when we negotiated the standards in 1991 and included them in the bill, that was in the absence of a specific sunsetting provision.

In effect, one could argue, and I will be prepared to argue very vigorously, that the adoption of a sunsetting provision eliminates the need for any standards because the standards were an attempt to determine when the State records would be in a condition that would be sufficiently effective to have a national instant check system and, thereby, eliminate the waiting period. Now we have added on top of that the additional layer of a specific sunsetting provision. So notwithstanding the condition of the records, the waiting period will be eliminated.

We agreed to that. We said, "All right, you want standards, we'll put standards in." But what we said was we will put in the standards that were in the 1991 bill. Those are the standards that were negotiated in good faith on both sides and passed with the votes of 67 Senators. Rather than get into a whole new negotiation on the arcane details of what standards ought to be here or there, why not take standards which we negotiated among ourselves and for which 67 Senators have already voted?

As I said, even though one could argue, and I would be prepared to argue vigorously, that the adoption of the sunset provision eliminates the need for any standards, but our colleagues want the sunset and the standards. So in an effort to go the extra mile to demonstrate our desire and willingness to bring this to a conclusion and get the bill passed to make clear that we do not want anything other than final action on this, we have indicated we are agreeable to adopting standards and we are agreeable to adopting the standards which 67 Senators have already voted for. So there cannot be much question about the agreeability or the appropriateness of those standards.

Mr. President, that is where we are. I hope that we can get an agreement on this; that we can bring it to a conclusion shortly; that we can agree to the conference report so that it will become law shortly; and that we can, in the Senate, pass this additional law which will include the provisions regarding mental health requested by Senator CRAIG, which will include the Senate-passed provisions regarding a sunsetting provision, 4 years plus 1, and which will include the standards which were drafted and adopted by a vote of 67 Senators in 1991.

I think this demonstrates a genuine, good faith and sincere desire to get this done, get it behind us, to end this filibuster, to let the Senate vote on the measure. I hope very much that we will be able to do that and that I can then announce to Senators that it will not be necessary to come back next week.

If we cannot, if for any reason our Republican colleagues are unable to proceed in this way and want to continue the filibuster, then we have no alternative—no alternative—but to return, as under the previous order, next Tuesday where we will have a vote to try to end the filibuster. As everyone knows by now, a majority is not enough in the Senate to end a filibuster. Although there have been 57 votes to end this filibuster on two previous occasions, there have to be 60 votes. We hope that 60 Senators will be here to vote to end the filibuster and we can agree to the conference report. If we cannot do so, we will have another vote to end the filibuster on Wednesday. If we cannot end the filibuster then, as far as I am concerned, we have done all we can do and we will quit for the year and the Brady bill will be dead for the year.

I have tried to give as complete, without being repetitious, an analysis as possible of the current situation, and it is my very strong hope that shortly we could complete action on the measure in a way which will permit us all to leave and not to have to return. But I expect to be able to make an announcement shortly one way or the other.

Mr. President, I thank my colleagues for all of their patience. I have received a lot of telephone calls from Senators in the last 36 hours giving me advice on what to do or not to do with respect to this vote and the schedule, and I have indicated to them I hope to have an answer shortly this morning.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon, [Mr. HATFIELD], is recognized on the Republican leader's time.

Mr. HATFIELD. Mr. President, I wish to commend the Democratic leader, the majority leader of the Senate, for outlining this situation in which we find ourselves.

I wish to say, in talking to the minority leader, I am as equally convinced that the minority leader, as the majority leader has so eloquently stated this morning, wants to see this matter resolved in a very efficient, expeditious way. Therefore, with our leadership, I believe, fundamentally committed to a resolution of this issue, I am very optimistic we should be able to reach that kind of an agreement without the necessity of calling the Senators back next week. I have canceled my plans, so I am going to be here. It is not a matter of personal convenience for me. Nevertheless, I do think that it is a matter of really communicating to the public the seriousness of this issue in a fashion understandable outside of the beltway.

Now, Mr. President, we understand these procedures, but when you are reduced to trying to explain to the public a procedure of the Congress as against a final action on a subject, you are really in deep trouble because procedure is not a substitute for action in the general public's mind. I agree with the leader. The overwhelming public, I believe, supports the Brady bill. I am a cosponsor of the Brady bill. There were four Republicans who were cosponsors of the Brady bill this year. When we came to the vote on the cloture, on which we failed by 3 to get the 60 votes required, there were 7 Republicans who voted for that cloture, including myself. When we came to the final passage of the bill, there were 15 Republicans, including myself, who voted for the Brady bill.

Mr. MITCHELL. If I might interject, my colleague from Maine voted for it as well. I am sure he would want that noted.

Mr. HATFIELD. And the Senator's colleague from Maine, yes. There were 28 original cosponsors from the Democratic side matching our 4. On cloture, there were 50 Democrats voting for cloture with the 7 Republicans and on final passage there were 48 Democrats and 15 Republicans.

So the public understands that not only is there a bipartisan support for this bill—maybe not in equal proportions but certainly constituting a bipartisan support base—but then they see where the House passed the bill by a 238 to 189 margin. They see the Senate having passed this by a 63 to 36 margin, the House passing the conference report by 238 to 187, and they say, "What does it take to get a bill? What does it take to get this law?" The President has indicated he will sign the law as soon as we act upon it.

So here is the House, the Senate, and the President all agreeing by these margins of votes that we want the Brady bill.

Now, we have to get into these fine points about conference reports that have added and subtracted and where we are at this moment.

Let me say I admire people like the Senator from Maine and the Senator from Kansas who are willing to take on the thankless, difficult task of trying to corral both sides of these aisles to try to get something done. I would not have their job for the world. I am not speaking for anybody but myself, but I admire their tenacity and their patience. I would give them the job of the year award for patience.

But I do not think the general public will understand what is really happening. In my view, when you have a public base of support, you have the leadership saying we want to resolve this and you have these votes and it is a bipartisan effort, it becomes almost impossible to tell the public why we did not get a Brady bill.

Now, we can get into these arguments on sunsets, and I think the majority leader already said this is a very, very major distinction—I am being very sarcastic—that one says 5 years and the other says 4 years and 12 months.

Now, by any arithmetic, you are going to get the same 5-year period. You just give it a little different twist. Go out and try to explain that to my constituents in Oregon or any other place and/or these other matters about a freestanding bill.

Now, if we could agree to pass this conference report as has been passed by the House and now pending before the Senate, and then we can postpone to next year certain components that this side of the aisle wanted particularly or Members of the other side—because there are both Democrats and Republicans who stand on both sides of this issue—than we are going to pass a bill in these closing days in which there are only one, two, three of us in the Senate Chamber now, and I do not know how many other Senators are still in the city. But, we can do it on a voice vote, very legitimately, very legally, and the House could do the same thing to act upon next session.

I think we have to be very frank with each other. That is a way to help resolve the current issue. It makes really no major commitment except to engage in the process next Congress. It does not say we have to pass it in the House or the Senate. It just says we will take it up in the normal legislative procedure so that these issues will still be live issues in the new session, the second session of this Congress—a very ordinary practice, nothing terribly unusual about it.

Therefore, the bill that would be taken up in the next session of this Congress is not locked into concrete. We are going to have the Senate work its will, the House work its will, and, I would venture—even maybe a wager at this moment—that whatever we put together as the separate, freestanding bill for next session is going to be changed by both Houses, or a good possibility of it being changed in the normal procedures of those two Chambers operating in the new session. We cannot bind that session.

Mr. MITCHELL. Mr. President, will the Senator yield for just a moment? If I might, I stated and my intention is that the Senate would pass that freestanding measure now, before we do the conference report.

Mr. HATFIELD. Yes.

Mr. MITCHELL. So we will have completed action on the freestanding measure and sent it to the House before we do the conference report.

Mr. HATFIELD. Let me get clarification further, if I could. We would pass it. Does that mean the House has guaranteed it would pass it and the President would sign it?

Mr. MITCHELL. My understanding is that there would be a commitment from the House leadership to take it up and to support it next year.

Mr. HATFIELD. Next year.

Mr. MITCHELL. When they come back in January.

Mr. HATFIELD. I am glad to get the clarification.

Mr. MITCHELL. The Senate would pass it; the House would not.

Mr. HATFIELD. I do not think my point has been shifted or changed. The fact that one House passes it; namely, the Senate, in no way makes it law until the other House acts upon it and, of course, until the President signs it.

So even if we act upon it this year in this session, there is still that second part of the procedure that has to be acted upon next year by the House. And I will still wager that would not be in the same form, perhaps, as we passed it in the Senate. We have not done that on this issue from the very beginning. We have each had differing perspectives.

My point is simply that we are not making any final determination now except in the Senate's action as far as that becoming law because the House is postponing action until next session.

So again we are into these fine points of procedure, that we—I even—get confused, and have to have clarification as to the procedure. You can imagine what is going to happen out in the villages, cities, and communities of our Nation in trying to go explain why we did not pass a Brady bill.

Mr. President, let me make one further observation. We have all seen change. Change is inevitable. There is some good change, and there is some bad change.

Let me take one mechanism: The single-issue groups that have formed on so many controversial and other issues, and the single-issue groups with their constitutional rights to so congregate and to assert themselves politically. I in no way demean their constitutional right to do so. But there is an interesting mentality that develops in these single-issue groups that I think have a tendency to rip our political fabric asunder, making the pluralism of our country less viable, making compromise less possible because they are out here.

They are representing their causes, and they have a legitimate constitutional right to do. But they also have a 100-percent mentality, winner take all. And if a vote is cast on a certain issue in which they have a concern, no matter if 99 other votes are cast that they agree with, you are wrong on that issue, you are wrong 100 percent.

As a consequence those are what I call the extremes. But that is not where good legislation comes. We move to the center. We move these conflicting and these pluralistic viewpoints, and these diversities that we have. And we pressure into a compromise to accommodate and to stay closer to the center than to the extremes.

You have people out here in the lobby that do not want any legislation. I came here in 1967 when we were outlawing machineguns, bazookas, and rockets. My colleague, who is probably one of the great constitutional lawyers that ever sat in this body, the late Senator Wayne Morse, argued that the constitutional right was being violated to outlaw bazookas, machineguns, and rockets.

That is from one perspective.

I was with a group the other night, including people from the Western States where we are looked upon as being the area of the gun advacates of the world or the United States. Yet, there were those who said, "As far as I am concerned, I would outlaw all guns." You have people who very sincerely believe that if you outlawed all guns somehow our crime problem would be solved, or at least we could see great diminution of our crime problem. So you have groups that have those, what I call, extreme positions on this. Constitutionally they have a right to do so.

But we know that in the legislative process as we try to meld all of the perspectives and all of the shades of gray, the truth is not found in black and white every time. The truth may be found more appropriately and more frequently in the shades of gray. That is what the legislative process is all about.

So I just wanted to take the floor at this particular moment to give support and encouragement to leaders who I know want to resolve this issue; that those who are here in this city at this moment will be willing to cooperate, be willing to help make that voice vote on this conference report, and to create that separate standing legislation that will be required to resolve it—make it a reality and not then have to call back all Senators.

Let me just add one point on that matter of coming back that I mentioned yesterday. We have on our side no complete head count. We have heard certain persons named as possibilities of shifting from an anticloture vote that was taken where we lost by three votes to possibly voting for cloture. Some of those people have been contacted, and they say, "No. We have no plan to change our position."

I would hope that therefore we would not set back the Brady vote. Let us take the worst-case scenario, that leadership could not accomplish this today, and hopefully they could do it maybe Monday or whatever date. Let us say then we went through that unanimous-consent procedure that was agreed to yesterday, that we call the Members back into session next Tuesday for two votes. Let us say we get only 55 votes for cloture instead of 57, or even 56 instead of 57.

Mr. President, we still have not passed the conference report at that point, and we have not achieved cloture. Frankly, in my view, if I were in that position—as a leader of this Senate in terms of majority or minority leader—I would call those people who wanted to filibuster back today and say the floor is yours, and you can stay right through Thanksgiving and you talk. You talk all you want to. But we are going to stay in session right through Thanksgiving. Challenge those people to make good on the word that they are going to threaten filibuster.

I do not think there are many. And I think we risk perhaps losing votes because one of the Republican votes is out of the country right now, and I do not know the plans, whether that Member could be back by Tuesday. You could say, well, that is one less. So that is 56 votes, even if everybody else comes back. If everybody else votes the same way they voted the last time, and nobody can tell me at this point, I have not heard anyone—I have asked the question of both the leaders on the Democratic side and the Republican side, who are the candidates for changing on the cloture vote? I just do not think that we have gained on behalf of the Brady bill.

I would hate to talk to Sarah and Jim Brady and say, in effect, well, we lost a vote or we lost two votes in our second try on cloture.

I would much rather see us really shed ourselves as much as possible of any of the peripheral or the extreme positions. I think we have a marvelous mechanism here that the majority and minority leaders have outlined of passing the conference report as it is now, and having a signing ceremony—the Brady bill wins the approval of the Congress.

Then, take those legitimate issues that concern many of our Members on both sides of the aisle, put them into this freestanding bill, move that through this Senate, and then let the House take it up in the next session.

So what are we down to? We are down to the simple proposition of what should be in that separate freestanding piece of legislation. Surely, we can resolve that, which has no guarantee of ever becoming law until the House acts, and the President signs it. That takes place in 1994, not in 1993.

So I want to encourage our leadership, and say I am here to do business, and to be helpful. I will be the messenger. I will be the water carrier. I will be any role necessary to get this resolved sooner than later.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I want to make clear that I have gone into such detail on the background and the current status of this matter because I have literally been deluged with calls and requests for information from our colleagues and from the press, both yesterday and this morning, wanting to know exactly what the status is. Therefore, I felt rather than trying to answer this question several dozen times separately, that it would be most useful to make the statement here which lays it out so that everyone can understand the situation.

Second, let me say that I appreciate very much the constructive comments of the Senator from Oregon. As always, his advice receives thoughtful and careful consideration. I will say to the Senator that I have considered the suggestion of keeping the Senate in through Thanksgiving, and have decided against it. I appreciate the Senator's view on that. I am sure my decision does not come as a surprise to him.

Mr. President, it has been my intention to simply have the Senate recess subject to the call of the Chair. I am advised that the Republican leader wishes to make a statement.

So, therefore, I will yield at this time to the distinguished Republican leader.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, I have listened with great interest to both my friend, the majority leader, and my colleague from Oregon. There are still negotiations going on. I am not certain what will happen. But I think there is—even on this side, even though some may oppose the legislation—a majority of Members who would now like to get the issue behind them for a number of reasons. In the first place, many have already made plans next week, as the Senator from Oregon has, and these include people who voted for cloture, against cloture, or whatever.

I think there is a feeling that we are so close. Again, last evening, without getting into the details—because I do not want to confuse the press—there are so many different negotiations going on. But I thought we were within an eyelash of working out an agreement where we would pass the conference report, pass the separate bill in the Senate. I even spoke to the Speaker—and I know the Speaker probably spoke to the majority leader—to have the Speaker indicate, and Chairman BROOKS and Congressman SCHUMER, that they would take up the Senate-passed bill early in January, if not the first day, some time early on, and have a vote on it. But we did not quite make it. I still do not know why.

It seems to me it was not a bad resolution. We thought it was pretty much like the concurrent resolution we had suggested, but this would have to wait until we got back here in January for completion. This way the conference report could be passed, and they could sign the bill.

The bill says it is not to be effective until 90 days after enactment. We agreed if we could not work out anything else and we had to wait until the House came back, we could shorten that period to 30 days. So there would not be any lost time for this bill to take effect. So if we had to wait 60 days for the conference report to get to the President, subtract the 60 days from the 90 days and you would have 30 days before enactment. You would not lose 1 day as far as making this bill effective.

I say to the majority leader—and I think my colleague from Oregon knows this—there are people opposed to this bill, and they are not all on this side of the aisle. There are Members on that side of the aisle who have been voting against cloture and will continue to do so, as will Members on this side of the aisle. So there is bipartisan support and bipartisan opposition, as in many, many cases. There are special interests involved on both sides of this issue, both sides of this issue. Some do not want any bill. Some do not want any change at all. They say: You cannot change a thing; you cannot do this, or you cannot do that. Even though, in some of these areas—like there are so many different waiting periods in this bill. I agree with the Senator from Oregon, 4 years plus 12 months is 5 years. But that is not the critical figure in this bill. It is 24 months before you start the instant check. Why is that so important? And they have the instant check in many States, Virginia and Delaware being two examples.

We have 18 million names now computerized at the NCIC. Some are convicted felons, some have been adjudicated, and others should not have any gun—handgun, long gun, whatever gun. We believe the sooner we have the instant check—and we have been working on it since 1986—the better it is going to be for Americans who want to be protected.

So we think it is a good addition to the Brady bill. In fact, as the majority leader pointed out, it came together because of efforts—and his staff called it to his attention—a few years ago, where somebody wants this and somebody wants that, and they both make sense; put them together and they still make sense.

I do not know why we cannot resolve it without bringing our colleagues back here next week. As the majority leader has stated, I have had a few calls, and there are not many happy voices on the other end. Nobody wants to rush back, not because they do not want to work, but they have made other plans in their States for very important meetings on health care and other issues, and they feel it is important to spend some time with their constituents.

We are going to try to make a decision one way or the other, because I know the majority leader wants to conclude business today fairly quickly. Now we are working on still another proposal which we intend to give the majority leader fairly soon.

I have been advised that we are trying to find even another compromise. I did talk to the President yesterday, and he indicated he was willing to compromise, and I think that is true of most Democrats. If it is all politics, then we cannot work it out. We will have to come back next Tuesday and see what happens next Tuesday. If not, if we cannot get cloture, we can try to get it Wednesday, and if we cannot get cloture, then it all goes over to next year. Maybe for some, that will be a victory. Maybe for some on this side, it will be a victory. Maybe for some on that side, it will be a victory. I think there is a broad middle here, as indicated by the Senator from Oregon, of conservatives, moderates, whatever, who would like to resolve this issue.

On the other hand, we understand there is a political issue involved. When 85 percent or 80 percent of the people say they support something, I can see why Democrats might not want it to happen too quickly, to let it drag on over the holidays and maybe we can settle it next year. In any event, we are going to try to make one additional offer to the majority leader soon. We need to contact one person who is not yet available. We need to contact an expert at the FBI. He is in firearms training right now at Quantico, but we are getting him on the phone. As soon as that information is available, I will get back to the majority leader. We will check it out, and I will get back to the majority leader.

Mr. HATFIELD. Will the leader yield for a question?

Mr. DOLE. Yes.

Mr. HATFIELD. As I have discussed this matter with the leader and others, I would like to just underscore a certain point the leader made. That is that for the Brady bill to be operative and to be effective and to perform what was intended and is intended, the whole instant check system—and your position on that is to speed up the implementation of the bill, assuming we are going to pass it at some point—is to speed up that operative character that has to be there before the Brady bill is really effective; is that correct?

Mr. DOLE. That is the view of some of us. Others do not share that view.

Mr. HATFIELD. I understand. But my leader is in that position of wanting to have this procedure speeded up for the implementation of the instant check once the Brady bill is effective or signed into law. I wanted to make that clear because even though it is not perhaps representative of all of the persons on either side of the aisle, that is our leader's position?

Mr. DOLE. That is correct. The Senator was citing some figures and the RECORD reflects, I think, that there are a majority on our side who oppose the bill. It took a considerable amount of persuasion to get them to even let us proceed because they feel very strongly about it. I do not quarrel with their position. Like any other issue, some Members on each side feel strongly about it.

I do believe we could get the cooperation of everyone on our side to let us proceed in a manner recommended by the Republican leader. So we are going to give it one more shot, and I will be in contact with the majority leader.

Mr. MITCHELL. Mr. President, I will, of course, as always, be pleased to receive and consider and give great weight to any suggestion made by the Republican leader. I point out, of course, that if we are to receive another offer, this is one in a series. This negotiation has been going on for weeks, virtually around the clock on some days. There have been several separate interlocking negotiations—dozens, perhaps hundreds of offers and counteroffers—and my hope is that we can bring it to a conclusion.

I have worked on this matter with the Republican leader for 2½ years now, and we have worked in perfectly good faith. But as he himself has acknowledged, many of his colleagues on that side of the aisle do not want this bill at all, and endless negotiations and endless offers and counteroffers is one mechanism for not having a bill.

One of the reasons we are where we are now is that we have not been able to bring these negotiations to a conclusion and that obviously suits the purpose of those who do not want a bill. I know the Republican leader is acting in good faith. He wants a bill. He voted for one in 1991, which he and I negotiated. My hope is that we can bring it to a conclusion.

Second, I categorically reject any suggestion or implication that it is we Democrats who are delaying this measure in an effort to seek political gain. The opposite is the truth. We want to pass this bill. I think the efforts that we have expended, even the extraordinary decision to recall the Senate and further including the repeated offers we have made and willingness to accept proposals from the other side are all strong and indeed overwhelming evidence of the fact that the last thing in the world we want is to have this measure go on beyond today or beyond next week or beyond any period of time.

We want to pass a bill. That is our objective, and we have been trying very hard to do that but we want it to be from the standpoint of those who favor a waiting period. We have had a lot of negotiations, Mr. President, and there have been people involved making suggestions who made it clear they are not going to support the bill no matter what the outcome of the negotiation.

So, I look forward to receiving this suggestion. I hope we can bring it to a conclusion. I do not know the details of it obviously and will not until I see it and I am sure we will give it good faith and careful consideration. I reiterate, I think it is important to bring it to a conclusion and I hope permit us to pass the bill.

The PRESIDENT pro tempore. The minority leader.

Mr. DOLE. Mr. President, I want to keep the record balanced. I think there are some on each side who will not want to change anything. This is something they have a leverage and do not change anything, do not give anything.

We thought we were, as I said, within an eyelash last evening—and I was here. Then we were told by a Member we had 5 minutes to make up our mind because he had to catch a plane. I do not have any quarrel with that.

I could not make up my mind in 5 minutes after we thought we had virtually had an agreement 10 minutes before that where we would go ahead and pass a conference report, pass a separate bill, get letters from certain people, they would pick it up in the House.

I am now advised—I am going to check it up myself—the FBI expert we wanted to talk to is not permitted to talk to us now that there is a gag order on the FBI. Someone is doing something to prevent us from getting information which would permit us to make, we think, a valid offer to the other side.

So maybe there is no politics here but something is happening at the FBI because we are now being told this man cannot talk to us. I am going to check it out myself.

I hope that is not the case. It would seem to me to be unprecedented if we cannot consult with the experts at the Federal Bureau of Investigation.

Mr. MITCHELL. Mr. President, obviously I know nothing about this. This is the first I have heard of it. I do not know anything about anybody saying 5 minutes and I have got to catch a plane. That is all complete news to me. I can only say we will check it out. I personally will check on this alleged gag rule of an FBI agent.

I will just repeat again what we have been going through this morning and for 2 weeks, day and night, with offer and counteroffer, offer and counteroffer, and so on. We want to bring this to a conclusion. We have been trying very hard. We have been forthcoming. A request is made and we agree to the request. Another request is made. We agree to that. Another request is made. We agree to that. There are still more requests, more discussions, and more negotiations.

I hope we can end it soon, and I will say this. We will end it soon one way or another. This is going to be over. Either we will have agreement or we will not, and we ought to know that very soon.

The PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am among only eight Republicans who have stood steadfast in support of the Brady bill. I have done so for many years. Therefore, I have not been a part of the group negotiating. Like my distinguished colleague from Oregon, Senator HATFIELD, I have been on the sidelines.

I commend my colleague from Oregon for his comments on behalf of the leadership. I wish to join him.

I have now had the privilege of serving 15 years with the distinguished Senator from Maine and our distinguished Republican leader, Senator DOLE. This body has tremendous confidence and respect for both of these leaders. While I do not know all the details respecting this controversy, I somehow intuitively feel both are proceeding in good faith to represent the respective interests in their two parties and are trying to reach an equitable reconciliation. I commend both.

It has been particularly difficult for Senator DOLE. Believe me, there is no Senator who has a stronger knowledge in the Senate on the effects of guns than our distinguished Republican leader, a World War II hero. Having voted for the Brady bill some 2 years ago, it must be very difficult for him today. I hope as his name is bandied across this Nation one way or another associated with this problem, there is an understanding of the unique problems that face leaders as they try and reconcile strong differences. Oftentimes they have to take positions that are not totally consistent with their own personal long-range goals. That is one burden of leadership they both accept.

I have voted for the Brady bill before. I have known both Jim and Sarah Brady, as all of us have for these many, many years. I knew Jim long before he was White House Press Secretary and indeed knew his lovely wife. I am proud that they are constituents of mine in the Commonwealth of Virginia.

I wish our leadership well. I know they are taking into consideration the fact that many of our colleagues are traveling afar today on official business.

I might just take this opportunity to speak on behalf of the Senator from Rhode Island, Senator CHAFEE. I spoke with him yesterday. He was anxious to stay here throughout this controversy, as have I, but he left yesterday to go to Guadalcanal. Senator CHAFEE is the only Member of this body who went ashore at Guadalcanal as part of that large force of U.S. Marines that fought that historic battle, a battle that was really the beginning of the turning of the tide in the Pacific war. He was then but 17 years old. He was a rifleman. He later came back and went to Officers' Candidate School. He then volunteered and returned to the Pacific for second tour of combat in Okinawa. He also served in Korea as a rifle company commander. He is a distinguished colleague in this body, and accepts his military and other public service with great humility.

That is just an example of plans that many of our colleagues are working on.

At the direction of Chairman NUNN, I am joining Senator LEVIN to depart in a few days to go to Somalia, to Mogadishu, to perform on behalf of the Armed Services Committee a special investigation of the tragic loss of our American servicemen.

I think there are very good reasons for the absence of many Members on official business. Therefore, it is my fervent hope the leadership will be able to bridge this gap.

I see our distinguished colleague from Vermont [Mr. LEAHY] on the floor here. I will yield to him.

I would like to continue my remarks as if in morning business on two other subjects later.

The PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY] is recognized for 10 minutes.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Virginia for yielding on this subject.

I agree with everything he said. I actually concur. This is the case: We have a lot of Senators who are planning on leaving on official business.

I already discussed with the distinguished Senator from Virginia his own trip to Mogadishu. He and Senator LEVIN are going there.

I commend them for doing that. It is a dangerous and arduous trip. Both he and Senator LEVIN are Senators well respected by all Members of this body, and their firsthand experience will be helpful to every one of us.

As I told him the other evening, I hope they will be very careful on the trip. He and Senator LEVIN are doing an onerous duty for all of us going there. It is a matter of some great personal inconvenience, and I might say danger.

As a former marine, Senator WARNER is used to that, but I still hope he will keep his head down when in that area.

I am obviously one of those who plan to be elsewhere.

I think this is probably the only time I have ever addressed the Senate in a sports jacket and sports shirt. I thought I would be cleaning out my desk today and heading off, but I wanted to stay and see this issue finished, too.

Unlike the Senator from Virginia, I am not one who voted for Brady. I felt that it was, at best, symbolic. I voted for a number of other proposals in crime control and gun control. I thought the Brady bill was more symbolic than otherwise.

Having said that, it has become a powerful symbol. It is obvious that the people of this country want us to vote on it and go forward, and I feel we should. I think both those who are for and those who are against Brady ought to reconcile. Now is the time to bring this debate to a halt. Whether you are for it or against it, bring it to a halt—the overwhelming majority of the Senate and the House, vote for it and pass it.

I might say that the negotiations have come very close, but we are almost, in a way, talking about differences without distinction and distinctions without differences.

I am reminded of some of the debates that went on in the Middle Ages. I think of some of the ecclesiastical scholars in Rome and Avignon who got into great debates, philosophical and theological debates.

We now look back at them and we wonder why. I am sure they were enthusiastic, concerned, thrilled by these debates and that sometimes people were considered heretical if they did not agree with one position or another. But we look back on it and it was basically balancing angels on the head of a pin. That is where the differences are now.

Let us bring it to a halt. Let us get it out of the way. Let the Senate and the House work their will. They have. Let us stop what will appear to many to be gridlock.

I commend the distinguished Senator from Kansas and the distinguished Senator from Maine. They, more than anybody, have tried to bring reason to this and tried to bring this to a conclusion.

I do not think any of us in the Senate, whether we supported Brady or opposed Brady, really have any sense of satisfaction from seeing this continue on and on and on.

It is not a matter of personal inconvenience. Senators have been here in the last couple of months until 1 and 2 o'clock in the morning. We have been here on Saturdays. We have flown back on Sunday afternoons to be here. We have given up evening after evening with our families, week after week. This it is not a matter of personal inconvenience. There is not a Senator who is not willing, if necessary, to do the country's business, to cancel any plans they have to come back here.

But we have reached beyond that point. We have reached beyond the point of whether this bill, as some who opposed the bill feel, is totally symbolic or whether, as those who support it feel, it will be a major crime control measure. Either way, all of us know in our hearts it is time to stop this. It is time to end the issue and to vote on it. It will be passed. It is going to be passed this month or it is going to be passed in January. What difference does it make if it is going to be passed? Pass it and send it on to the President of the United States.

Mr. President, I was going to suggest the absence of a quorum, but I see my distinguished friend from Virginia is still on the floor and has other issues he wants to discuss.

But I would note for my colleagues that when they have finished speaking the majority leader has asked me to put in a quorum call.

The PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. I thank my distinguished colleague. We have enjoyed a personal friendship for many years here together. His sentiments on behalf of all of us who travel in the Senate on official business are much appreciated. He has done extensive travel on his own to various places of the world, and it is not always the fancy watering holes that are so often visited.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, with Senators permitted to speak therein for not to exceed 10 minutes.

THE AIRCRAFT CARRIER "JOHN C. STENNIS"

Mr. WARNER. Mr. President, I rise to speak about our former colleague John Stennis. He was President pro tempore, as indeed the Presiding Officer now is, the senior Senator from West Virginia, who also has the highest regard for Senator Stennis.

We had the opportunity to name an aircraft carrier in his honor. As a matter of fact, the legislation for the naming of that carrier—while I had a hand in recommending it, along with many others—passed the Appropriations Committee over which the Presiding Officer is the chairman. It is one of the few times that this body has specifically acted to name a ship in honor of one of its Members.

John Stennis served for many years on the Senate Armed Services Committee and on the Senate Appropriations Committee. All of us have cherished memories for that great Senator.

On this occasion, the Vice President of the United States, which I thought was most fitting, came down and delivered a message on behalf of himself and President Clinton. Vice President GORE, of course, served on the Armed Services Committee with Senator Stennis for some several years prior to becoming Vice President of the United States.

We also were joined on this occasion by my colleague from Mississippi, Senator THAD COCHRAN. Senator COCHRAN, in many ways, has humbly assumed the mantle of graciousness and dignity that John Stennis carried forth in this Chamber for so many years.

Senator COCHRAN spoke most eloquently about Senator Stennis and his contributions to America's body of laws and how he unselfishly served not only his State but the Nation in a true bipartisan fashion, particularly as it relates to national defense.

Senator ROBB, my colleague from Virginia, and I also had the privilege of speaking at this particular occasion.

Mr. President, I ask unanimous consent to have printed in the RECORD today the statements of several—including the Vice President of the United States—who spoke at the launching of the *John C. Stennis* in Newport News, VA a short time ago.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN WARNER

Mr. President, on Veterans Day, November 11, 1993, I had the honor and privilege of participating in an event which was of great personal significance to me—the christening of our newest aircraft carrier, the U.S.S. *John M. Stennis.*

Vice President Al Gore delivered the keynote address at that event, and I would like to take this opportunity to share his eloquent and moving remarks with my colleagues. Recognizing John Stennis' half century of service to his country, the Vice President pointed out that the carrier's namesake was devoted to the welfare of America's armed forces members in peace and in war.

Also present at this very moving tribute to a great man was my friend and colleague, the Senator from Mississippi, Senator Cochran. Representing the Stennis family, he stated that "no finer tribute could be paid to its namesake than for a ship to sail safely on the seas, as a force for peace and stability in a troubled world, a symbol of strength, honor and rectitude." I would also like to share the full remarks of the Senator from Mississippi with my colleagues today.

Mr. President, it was my privilege to encourage the naming of the U.S.S. *Stennis* in honor of a man for whom I have the greatest admiration, respect and affection. He was, and is, a giant among men whose record of achievement speaks for itself. I can think of no more fitting tribute to John Stennis and this. As I stated during the ceremony, "A carrier, to me, is a symbol of America's commitment to deter oppression. It's an island of freedom proudly bearing the stamp, 'Made in the United States of America.'"

REMARKS OF SENATOR THAD COCHRAN

Thank you, Mr. Phillips. This is a very good day to be a Mississippian. We are all proud to have been represented in the United States Senate by John Cornelius Stennis.

As he is honored today in this special way, we feel honored, too.

When he was elected to the Senate on November 4, 1947, one newspaper editor in our state wrote:

"Mississippi has made a wise choice. It has elected a thoughtful, purposeful, and high-minded man to the United States Senate. He is not afraid of hard work and his ability to form lasting friendships will stand him in good stead in Washington. In his election, the State has well earned the plaudits of the Nation."

This proved to be a prophetic assessment of the newest Senator. When he retired from the Senate 41 years and 2 months later, the accolades and tributes from his colleagues were persuasive evidence of the respect he had earned during his illustrious Senate career.

Senator Robert Byrd of West Virginia said, "His career has been marked by integrity, honesty, character, devotion, and leadership."

Senator Pete Domenici of New Mexico said, "* * * He is a very special man, who came to serve when America needed a special man * * * Senator Stennis, we may miss you, but we will never forget you."

Senator Fritz Hollings of South Carolina said, "* * * as a role model and as an inspiration, John Stennis is very special to us. Especially in recent years, we have admired his courage and his tenacity. He will always be a man of the Senate—an institution that has been ennobled and elevated by his presence."

Senator Bob Dole of Kansas said, "Senator Stennis is one of a kind. And one of the characteristics that sets him apart in his vision of duty and responsibility. 'I want to plow a straight furrow,' Senator Stennis once said, 'right down to the end of my row.' There is no question that John Stennis has achieved that goal—and much, much more."

Those of us from Mississippi know from our unique, close relationship with him, that these observations of his fellow Senators describe Senator Stennis well. As his Senate colleague for ten years it was a great honor to work at his side, to learn from him, and to have the benefit of his friendship and his example.

It is particularly appropriate that this ship be named for Senator Stennis. A member of the Senate Armed Services Committee for 36 years, and Chairman for twelve, he was also Chairman of the Defense Subcommittee of the Senate Appropriations Committee, and Chairman of the full committee. With this combination of assignments and his leadership ability, Senator John Stennis was more responsible than anyone for the United States Navy's nuclear carrier fleet. in 1982, he was the key to the funding for the CVN-72, U.S.S. *Abraham Lincoln*, and CVN-73, U.S.S. *George Washington*. And in 1987, he was the driving force behind Congress providing funds for two more of these superb ships, CVN-74, *John C. Stennis*, and CVN-75, *United States*.

When our Defense Appropriations Subcommittee approved funding for CVN's 74 and 75, we cast a unanimous vote to urge that this ship be named for Senator Stennis. As subcommittee Chairman, however, he would not entertain the motion. His modesty and his influence prevailed until the legislation reached the floor, and on December 11, 1987, the Senate unanimously passed the resolution which brought us here today.

I am confident that it will be an honor and an inspiration to those who will serve on this ship to be guided by the ideals and the tradition of John C. Stennis.

No finer tribute could be paid to its namestake than for this ship to sail safely on the seas, as a force for peace and stability in a troubled world, a symbol of strength, honor and rectitude. He would be very proud.

REMARKS BY VICE PRESIDENT AL GORE

Thank you, Secretary Dalton. That was a gracious introduction.

And on behalf of President Clinton, thank you for your leadership since being confirmed in July.

Senator Robb, Senator Cochran, Congressmen Bateman, Scott Sisisky, Admiral Kelso, Mr. Mead, Mr. Phillips, Mrs. Womble, family and friends of Senator John Stennis, and fellow veterans.

Good afternoon.

One of the first recorded descriptions of the launching of an American naval vessel was that of the frigate *Raleigh*, in May, 1776.

One account said of the *Raleigh*, "She is esteemed by all those who are judges that have seen her, to be one of the compleatest ships ever built in America. The unwearied diligence and care of the three Master builders * * * and the good order and industry of the Carpenters, deserve particular notice."

Today we christen the Navy's seventh Nimitz Class nuclear carrier. We don't build ships out of wood anymore. But this warship has a lot in common with the Raleigh.

She too is one of the "compleatest" ships ever built in America. All the people who worked on her deserve equal praise as the Masterbuilders and carpenters who labored in Colonial America.

And like the *Raleigh*, she is designed to provide maritime superiority and meet our national security interests into the next century.

It's appropriate, too, that we name her after one of the Masterbuilders of America's national security strategy: Senator John Stennis. I wish he could be here today. And it's a real pleasure for me to share this day with his daughter, Margaret Stennis Womble.

John Stennis took office in the Senate a few months before I was born. He served with my father. He served with me. And he always commanded tremendous respect for his fairness, integrity and expertise. He worked diligently and tenaciously to forge a bipartisan consensus during the difficult years in which he served. He championed a number of significant weapons systems, including—of course—the Nimitz Class Aircraft Carrier.

He understood clearly that robust military power is essential to support diplomacy.

The U.S.S. *Stennis* will be mobile, agile, precise and flexible. It'll be well suited to operate in regions of the world where the United States continues to have vital strategic and economic interests.

Like her namesake, she will support democracy through active American involvement, just as other aircraft carriers do today, whether on station in the Adriatic where they are helping enforce the no-fly in Bosnia—to the Horn of Africa where they support U.S. and U.N. forces deployed in Somalia, and in the Western Pacific as well.

Now, in addition to his leadership in military issues, John Stennis was an outspoken champion of the millions of Americans who serve or have served in our armed forces.

This is the day we honor America's veterans. And so in addition to honoring John Stennis we must also honor those who have defended America and her Allies. Many of them lost their lives to preserve freedom and democracy. We need to remember those who have served—and recognize the sacrifices of those who serve today.

Most of you in this audience share with me a first hand understanding of the challenges and uncertainties of life in the armed services.

Sailors and marines are deployed today throughout the world on 174 of our warships. They are participating in 14 bilateral defense exercises. Soldiers and airmen are on watch world-wide from Korea to Latin America, Europe and the Middle East. These professionals stand their watch to ensure that no rival power arises to threaten the United States or our vital allies.

They make an enormous contribution. They help nurture democracy. They tip the scales of history in favor of free peoples around the world.

Clearly, there are uncertainties and anxieties as we rightsize our armed forces for the next century. But President Clinton and I are determined that our power projection forces—exemplified by this magnificent ship and her experienced crew—will be second to none.

They'll be the best trained forces in the world. The best equipped forces in the world, the most combat-ready military forces in the world.

The President is committed to a defense budget that balances the need for economic revitalization at home and our need to protect America's vital interest, expand democracy and encourage free markets abroad.

In the short term, the national security of the United States is protected by military power. In the long run, though, it also requires economic power.

For this reason, economic security is an essential underpinning of President Clinton's national security strategy.

Much of what's right about America's economic prowess is exemplified by the technological sophistication of Newport News shipbuilding.

It's a national asset. Each time you've delivered one of the twenty-six aircraft carriers built here you've made yourselves more of a national asset. Each time you deliver a Nimitz Class aircraft carrier ahead of schedule—as you do each time—you show us that in our effort to make government work better we should look to you for examples.

Now that the Cold War is over, the shipbuilding industry faces a new challenge. American shipbuilders must transfer their technical skills from the military to the commercial market.

The Clinton Administration will help. After all, expanding the commercial capabilities of U.S. shipyards helps maintain the defense industrial base, strengthen American exports and ensure a steady stream of high technology jobs for American workers.

On October 1, the President delivered a five point plan to Congress designed to do just that. It includes an initiative to ensure a level international playing field in the shipbuilding industry. It aims to improve the international competitiveness of American shipyards. It eliminates unnecessary government regulation. It helps with loan guarantees and international marketing.

The President's plan will supply important assistance for this talented work force here at Newport News—and in other shipyards around the country.

And now it is time for that part of this ceremony whose origins are almost as old as recorded history—certainly as old as the ancient Greeks, who launched ships by drinking wine to honor the gods and poured water on the new vessel to bless it.

The English used to use a large loving cup filled with wine. After it was gone they would throw it overboard and whoever retrieved it, kept it.

I think its interesting that after a while this got too expensive and they would use a net to catch the cup and reuse it—an early recycling program. The first description we have of an American christening is that of *Constitution*—Old Ironsides. Her sponsor stood on the weather deck at the bow and as she moved into the water, broke a bottle of fine old madeira over the heel of the bowsprit.

It's good to look back at these traditions because they remind us that while there is much in our ships that are new, our tradition and ideals remain as constant as the stars.

Mrs. Womble, President Clinton asked me to give you this letter addressed to your father. It expresses the President's appreciation for your father's near half century of service in the United States Senate.

When the U.S.S. *John C. Stennis* joins the Fleet in several years, Captain Klosterman and his crew will know their ship's namesake was devoted to them and their welfare in peace and war.

And they will know that just as Americans did with those who served on the old *Raleigh* or *Constitution* so long ago, we will always honor their sacrifice, their patriotism and their bravery.

APPRECIATION TO ALL

Mr. WARNER. Mr. President, I also would like to take this opportunity to express my appreciation to the many persons who make possible the daily operations of the U.S. Senate. They range all the way from the telephone operators to Capitol Hill police, food service employees, and, of course, most significantly those who are present in the Chamber with us serving in a variety of very important functions on a daily basis every time the Senate convenes and, indeed, during those periods when it is not in session, they are making preparations for the next session.

I express my appreciation to all. I thank the Sergeant at Arms employees who respond to numerous requests at all times of the day and night. Also, the Secretary of the Senate's office which oversees the operation of the vital administrative departments in the Senate. There are innumerable individuals who are here and present and serving loyally year after year in order that we can carry forth with our responsibilities as legislators.

I would like to single out—I have taken a particular interest in them, as a member of the Rules Committee for some many years—those who provide for the beautification of the gardens and the trees that surround this, the most beautiful Capitol in the entire world. It is done under the supervision of the Architect of the Capitol, Mr. White, who has served with great distinction for so many years.

Every time I drive up to Capitol Hill I am inspired by the magnificence of the architecture of this great structure that stands for the symbol of freedom, not only in this country but throughout the world.

I thank those who toil and labor, be it on the gardens or in the Halls, to make possible this institution, not only for those who come here as Senators or Members of Congress but for the millions of visitors who come and enjoy their Capitol each year, and indeed many from abroad who come to enjoy it and share it with us and return home, hopefully, with a greater inspiration for freedom.

Last, I thank those quiet masters of syntax, rhetoric, and grammar who meet the challenge of preparing this daily RECORD.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon is recognized for not to exceed 10 minutes.

THE WILL OF THE SENATE

Mr. HATFIELD. Mr. President, I do not intend to take 10 minutes.

I first want to thank the Senator from Virginia for both of his comments, one relating to the former Secretary of the Navy, Senator CHAFEE—and I would also take note that Senator WARNER also is a former Secretary of the Navy—explaining why Senator CHAFEE would be going to Guadalcanal.

I only mentioned that because I, too, was in Guadalcanal at a later time, somewhat less than a month or two after Senator CHAFEE had landed in Guadalcanal. So it elicits very interesting memories on my part. Also his comments about Senator Stennis, our long-time, beloved colleague. It was my privilege, as well as that of the Senator from West Virginia, the President pro tempore of the Senate, in the chair for the moment, to serve with him on the Senate Appropriations Committee. Early on in my Senate career I saw the Senator from Mississippi as certainly one of the role models that I wanted to study and wanted to emulate.

I want to return to just one final comment on the Brady bill, as I trust our leadership is now moving to at least make one more valiant effort to try to resolve this issue. Again, I want to focus on the importance of our leadership in the institution of the Senate. We oftentimes make reference to this aisle as the dividing line between Democrats on one side and Republicans on the other side. I have noticed the chairman of the Appropriations Committee, the President pro tempore of the Senate, oftentimes, when making a point, will move into the aisle. I have studied the Senator from West Virginia over the years, as a role model. I think oftentimes that is very important symbolism—to indicate that what I am saying, what I am representing, really does not just apply to one side of the aisle or the other because great legislation takes both sides to move in some kind of compromise and accord.

But let me also say that as we think of the leadership role in the Senate, I am convinced that criticisms of the Senator from Kansas, the Republican minority leader, Senator DOLE regarding what may be interpreted or reported as technicalities that have less desire to resolve and accomplish a purpose than to delay are without merit. Because I believe that the so-called technicalities as they have been referred to are very fundamental issues and principles that the Republican leader has represented from our side of the aisle.

Just a while ago we pointed out one of those. That was on this instant check. There are those on both sides of the aisle who are not supportive of this. The Republican leader is. He indicated that just a few moments ago in the small colloquy that we had. Therefore, I do not believe we should in any way indicate that the leader on either side is using procedure either to delay resolving this issue or to become an obstacle to its ultimate resolution.

I know the Republican leader. I have worked with the Republican leader. And I have had the privilege of working with the Democratic leader. The President pro tempore is very aware that in the first part of this session on the so-called jobs bill we engaged in much discussion back and forth, back and forth across the aisle, attempting to work out some kind of a compromise, some kind of a resolution of that. And I have had other experiences with the Democratic leader, the Senator from Maine, and I know that his positions and his statements are certainly made in an effort to be representative of his side and at the same time of the entire institution of the Senate to resolve the issues.

So I do not think there is any less than good faith on both sides of our leadership. But let me also say when you get out beyond the beltway the average person, in my view and my experience only—I am stating now my own perspective—does not see this center aisle. They may even not be aware of this center aisle. I have brought visitors here on the floor, as I am sure all of my colleagues have, and pointed out, "Here is the Democratic leader and here is the Republican leader and here are the Republicans." They say, "Oh, you sit on different sides of the Chamber?" Sort of a new bit of information. It is not necessarily trivia at all but just something they are not aware of. What they are looking at is the institution of the Senate. They are not looking at D's and R's.

Let me say, if we do not pass this Brady bill, in my view, the public will criticize the Congress, not the Democrats or the Republicans more than the other, nor the House more than the Senate, nor the Senate more than the House. They will just say, "That is the Congress."

Let me say in any opinion poll I have seen, we do not have that many points of approval to waste. In this particular instance it will be even more difficult. And at the risk of being a bit redundant, when they see the vast margins by which both Chambers on a bipartisan basis passed the bill and then passed the report on the House side, which is now pending on the Senate side, they are going to have less ability or desire to try to pinpoint blame. They will just create the whole criticism and make "the Congress" the target of their disfavor, in my view.

Mr. LEAHY. Will the Senator yield for a question?

Will the Senator not agree with me that it is probably safe to say the majority of our colleagues, whether they are for or against the Brady bill, would agree with the Senator from Oregon that the time has come?

Mr. HATFIELD. Yes.

Mr. LEAHY. The time has come to say, "Enough." Senators have had their chance to say why they are for or against it. Senators have had their chance to go on record either for or against it.

Mr. HATFIELD. Yes.

Mr. LEAHY. And, for the good of the institution, but also out of a sense of responsibility to the American people, it is time to complete this once and for all.

The Senator and I have been on opposite sides of this particular issue. But I think we can agree, and I think we can say most of our colleagues, Republicans and Democrats alike, agree that it is time to end this. It is time to complete this legislation and head home.

Mr. HATFIELD. Mr. President, I thank the Senator from Vermont, my good colleague and fellow Member of the Appropriations Committee. All three Members on the floor at this moment have worked with each other in many roles, but particularly on the Appropriations Committee.

I point out again the very point the Senator from Vermont makes. He is from the Democratic side of the aisle. I am from the Republican side of the aisle. The Senator from Vermont, a Democrat, voted against the Brady bill. I, a Republican from Oregon, voted for the Brady bill. Yet we feel at this moment that the institution, the will of the institution, must prevail. The majority of the people of this institution, by a vote of 63 to 36, said they wanted the Brady bill. The Senator from Vermont was on the losing side. I was on the winning side. But together we say "the institution" should prevail at this moment.

I see the Senator, my good friend from West Virginia, the President pro tempore of the Senate, who has written this fabulous history of the Senate. One of those persons he most admired, as I have most admired, was Senator Richard Russell of Georgia. I was fortunate to be here—just my first 2 years—when the Senator from Georgia was still here. I have so many fond memories.

In those days, unlike today, freshman Senators listened for a period of time before they chose to speak. Then when they did, they put some effort into what we call our "maiden speech" on the floor of the Senate. As a junior Senator from the far West, I came to the floor on a particular day to make my maiden speech. The Senator from Georgia, Senator Russell, was not in good health at that time. He often found it difficult to expend the energy required.

Yet, I remember seeing him start out this center aisle to leave the floor from having committed a bill, or whatever it was; he saw me rise to ask for recognition; that Senator from Georgia, Senator Russell, turned right around, came back and sat down. I believe he sat in the seat the Senator from West Virginia now occupies, and sat there as if enthralled by what I was saying to give me his full attention. I think he was the only Member on the floor at that time.

I do not recite that except to illustrate the point that he had a sense of the institution. He was opposed to every civil rights bill that came along, as I recall, and he fought those civil rights bills with all the rules of the Senate at his command. But when the cloture was put down, his statement was: "I have had my day. I have had my full rights as a Senator. Now the Senate must work its will."

I know few people, since Senator Russell—and the Senator from West Virginia is one of them—who has the understanding of the duality, if I can simplify it, the duality of our roles that we are to represent the people of our State, but we also have the national perspective and the national interests, as our Founding Fathers intended the Senate to represent. Therefore, in that sense, we have to come to the point of letting the Senate work its will as an institution on behalf of a national interest, as against perhaps our own parochial or our individual State interests.

I think we have come to that place because, in my view, the ultimate harm or hurt or criticism is going to fall on the institution rather than the individual Senators who may be ferreted out by interest groups on both sides of this issue, perhaps in the next elections. But immediately it is going to be the institution that passed a bill 63 to 36 on one side and 238 to 189 on the other side, and yet it did not become law. That to me is hurtful to the institution.

I think it is illustrated again by the presence of the Senator from Vermont [Mr. LEAHY] saying the institution at this moment should prevail in its will.

I only make that point, because as far as our leadership is concerned—both sides—and as far as the institution is concerned, besides my own personal view of supporting the Brady bill, I hope to see a quick resolution to this.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, and Members of the Senate, we are very near to a conclusion of this matter one way or the other. We are now awaiting a response from our colleagues with respect to the last proposal. I expect that to occur shortly, and I will then have an announcement to make.

Accordingly, I now ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 11:40 a.m., recessed subject to the call of the Chair; whereupon, at 1:39 p.m., the Senate reassembled when called to order by the President of the Senate [Mr. GORE].

The VICE PRESIDENT. The majority leader.

BRADY HANDGUN VIOLENCE PREVENTION ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOLE's bill, which he shall have until 4 p.m. today to introduce, making amendments to the Brady bill, be placed directly on the calendar; that the majority leader, after consultation with the Republican leader, may turn to its consideration at any time; that when the bill is considered, it be under a time limitation of 4 hours equally divided in the usual form; that no amendments or motions be in order to the bill; that the bill be modified with the consent of the two leaders; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on passage of the bill; that the Senate now proceed to consideration of the conference report to accompany H.R. 1025, the Brady bill; that the conference report be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. The Republican leader.

Mr. DOLE. Reserving the right to object, and I shall not object, but I think it might be well before the agreement that we have some exchange on what will happen.

We will have a bill by 4 o'clock. I assume if it is a few minutes after that, it is not fatal. They are working on it. The legislative counsel faxed it to us. We need to go over it carefully.

Second, I have talked with the Speaker. I understand members of our staff and the majority have had conversations with Congressman SCHUMER. We also had conversations with Congressman BROOKS. And the President indicated he will sign it. The Speaker agreed to consider the bill under a closed rule in the House. It will be dealt with expeditiously. We did not give any time. It will be my hope we do not put a date in it to complete action or disposition of the bill I will introduce before the February recess. I think we can work that out with the leaders.

The agreement also contains a provision that we can modify the amendment with the agreement of the two leaders. Obviously, we are not going to do anything unless there is a technical modification or some mistake in drafting. We do not intend to put the Republican health care bill—which is not a bad idea—in there as an amendment. But in any event, it will be relevant and it will be cleared by the majority leader.

I think, based on that, after we get the agreement, I would like to make a brief statement. But first I congratulate the majority leader and members of his staff and Members on his side of the aisle—Senator METZENBAUM is flying back from Cleveland, I understand—and also my staff and my colleagues on this side, because I could not have done this had I not been able to get consent from everybody on this side of the aisle. I have not talked to everybody, but I talked to key people on this side of the aisle. I can say that there is no objection to the majority leader's request.

The VICE PRESIDENT. Is there objection? Hearing none, the request is granted and the conference report is agreed to.

So the conference report was agreed to.

(The conference report is printed in the House proceedings of the RECORD of November 22, 1993.)

The VICE PRESIDENT. The majority leader.

Mr. MITCHELL. Mr. President, I thank the Republican leader for his courtesy and cooperation. We have been negotiating on this issue off and on for 2½ years. I think that while there are many people who will be pleased that it has been enacted, no one is more pleased than we are if for no other reason than the issue is now largely behind us. I thank him for his usual courtesy in discussing the matter. It has been a very lengthy and tedious negotiation.

Second, we have agreed to give the Republican leader until 4 p.m. today to introduce the bill, to which we have already agreed to have it brought up with no amendments and a vote because we do act in good faith and we know that it is going to be a bill that is consistent with the points that we have been discussing.

So I want to say to those of my colleagues who, having heard this order, raise a question that we have agreed to a very expedited procedure on a bill we have not seen, that although we have not seen the bill, we know essentially what is going to be in it.

Third, I said privately to the Republican leader a moment ago, there are many ironies in this situation, not least of which are the following two: We have just now ended a lengthy filibuster, and the price of ending the filibuster was that we had to agree to bring up a bill and not filibuster it. That is here in the Senate. In the House, the Republicans regularly criticize the Speaker for bringing up bills under a closed rule, and yet here the Republicans have demanded that the bill be brought up under a closed rule.

All of us here, whose words and actions are recorded regularly, meet ourselves coming around the corner. Rarely does it happen that two of them have come around the corner in such close time and proximity. But, frankly, Mr. President, I think this is a reasonable and an appropriate and a fair disposition of the matter. We could not reach agreement in time to get it done any other way, and this assures the Republican leader that a bill incorporating provisions which he feels should be in the Brady bill will be brought up and, without amendment and with a limited time, voted on when we return next year. The House leadership has committed that if the Senate brings it up, they will bring it up under a closed rule and do the same thing there.

I want to make clear to the Republican leader that he has not asked for nor have we given an agreement or a commitment to support the measure. We do not know that yet. Obviously, we want to see it; we want to review it. This has been the subject of very lengthy and, as I said, tedious negotiation. But we are committing ourselves in good faith to having it brought up, debating it, and I expect to do it very early in the session next year. I will, of course, as always, consult with the Republican leader before making a decision on that. So that matter can be dealt with.

In the meantime, the Brady bill has now been passed. I hope that the President will sign it shortly. I want to congratulate all of those who have worked so long and hard to make it possible for the Brady bill to become law, not the least of which, of course, includes Jim and Sarah Brady themselves who have worked tirelessly on this matter for many years; Senator METZENBAUM, who was the original sponsor and author of the bill and who for many years was a lonely voice; Senator KOHL, of Wisconsin, who has committed himself to this subject and worked very hard on it; and Senator DOLE, who, along with myself, has been at the center of the discussions on it for the past 2½ years. So I thank my colleague very much for his cooperation. I am pleased to say that we will not have to come in next week and we can now leave for Thanksgiving and Christmas and then return next year refreshed and ready to roll.

Mr. DOLE. I wonder if the leaders might get a couple extra days off in January.

Again, I want to thank the majority leader. I also had a good visit this morning with my good friend, the chairman of the Judiciary Committee, Senator BIDEN. We have had our little tiff here, but we understand each other. We are both grown. He indicated a willingness to help the process. He did not say he could vote for the bill, but we have given a draft to a member of his staff, who has been very helpful to us. She understands better than probably the principals, as does Anita.

In any event, we have been working on this for a long time together. It seems to me that we have reached the conclusion that most of our colleagues, even though they may oppose the bill, I think most of my colleagues—I can speak on this side. I just talked with Senator CRAIG, who I think is a very responsible Member of the Senate and feels very strongly about this measure. He is in Boise, ID. I have just had a conversation with him, and he said, "You can indicate, while I could not vote for the conference report, I certainly support the process." That was very important. I needed that, I might say to the majority leader.

I also talked with Senator Bob SMITH from New Hampshire, who felt very strongly about this. He felt we probably should have filibustered—a real filibuster. He indicated he could not vote for the conference report, but he supported the process.

It seems to me after a long, long, hard fight, Jim Brady has won. I want to congratulate him and congratulate Sarah Brady. We used to work together at the Republican National Committee. I know that this ordeal has been long and hard and frustrating for them. I believe all of us will feel better having this issue behind us. There will be other issues, maybe other gun issues, but at least as far as the Brady bill is concerned, it has now been passed. It will go to the President. There is no question in my mind the President will sign it as quickly as he receives it.

I will also say that I appreciate Speaker FOLEY's willingness to assist us.

The majority leader does point out that there is a time agreement. We hope there is a closed rule. But it is rather an exceptional request because of the circumstances to let the conference report go. We believe we can strengthen the Brady bill as we have been saying in the Chamber here for a number of days by adding provisions that will be in this bill which will be introduced by 4 o'clock. What they refer to is the 24-month waiting period before you kick in the computers.

We have now since been able to talk with the FBI. We have received some good information from the FBI, the person in charge of the computers. We want to strengthen this bill. That has been our hope from the start. The Brady bill has been a waiting period. Ours has been an instant check. We believe the instant check is working very well in many States. We believe it ought to be expanded. That is what the vote will be on.

We will also suggest that if somebody has been adjudicated mentally incompetent, or somebody has been acquitted in a crime because of criminal insanity, they cannot have weapons. We will give you case after case after case where people who have been adjudicated incompetent, mentally incompetent, criminally insane—in fact, there was, I understand, on "Date Line NBC" just last night where someone who was adjudicated criminally insane and was released after confinement after he had killed one person and shot another person three times, was back on the street, and he could get a gun under the Brady bill.

Fourteen years ago, Michael Levin of Ohio kidnapped Georgine and Julius Kravitz, demanded $1 million in ransom, forced them into a car and drove them to a prearranged motel room. Julius pleaded for the life of his wife. Kravitz responded by shooting Georgine three times, throwing her out of the car and later murdering Julius.

But Georgine survived her three bullet wounds and testified against him. He pleaded guilty by reason of insanity and the plea was accepted. He is in Cleveland, OH today, a free man, released after over a decade in mental hospitals. But he can erupt at any time. He is in Cleveland. He is walking the streets—a potentially dangerous man, observes State Attorney General Lee Fisher, a supporter, I believe, of the Brady bill. And, while in the hospital insisting he was insane, he repeatedly wrote death threats to his wife. Now she is hiding and he is free.

On November 22, ABC's "Day One" interviewed him and he said, "Thank God for Federal courts"—the court that ultimately released him to the street. "That's why I'm out now."

So these are the things we want to address. We want the media to focus on some of these provisions. Maybe we can do that now objectively with the Brady bill behind us. So we are going to make our case. There is going to be a vote. We are going to do our best, and I think we can prevail.

But again, I thank the majority leader for his patience. I know we both have other commitments today, and so I yield the floor.

The VICE PRESIDENT. The majority leader.

Mr. MITCHELL. I wish to conclude this discussion, at least among us, by saying that this is a significant accomplishment. It is an important victory for the American people. It will not, I repeat not, by itself end violence in America. It will not by itself end gun violence in America. No one should denigrate this measure by establishing for it an impossible standard which it must necessarily fail to meet. It is, however, a significant, albeit modest, step forward in what must be a total social effort to bring under control the violence that is an epidemic in America, and especially in American cities.

The assault weapons ban, the additional police on the streets that the crime bill will provide, the more swift prosecution, the more certain punishment, that measure, a whole range of others, can provide some reasonable progress toward attaining our objective of bringing under control the epidemic of violence that plagues American cities and streets all over this country.

I know there are some who oppose this measure and say, "Well, it will not stop violence." Of course, it will not. "Well, it will not end the presence of guns in America." Of course, it will not. No one has ever said or suggested that it will. But it is a significant, even though modest, reasonable step forward in trying to keep weapons out of the hands of those who ought not to have them. That is what this is all about. Convicted felons, persons with mental illness, publicly adjudicated, juveniles, drug addicts, others who ought not to be possessing firearms, this is an effort to keep them out of their hands.

Mr. President, I know there are some who will say and who will be quoted as saying that this will not end crime. Of course, it will not. That it will not end the presence of guns. Of course, it will not. That it will not end violence. Of course, it will not. Let us not diminish the significance of this action by suggesting an unattainable standard. It is a reasonable, positive, sensible, modest step to bringing under control the epidemic of violence in our society.

I congratulated several people. I wish to mention just a couple of others. Senator BIDEN, who is not here today, is the chairman of the Judiciary Committee. I repeat what I have said publicly on many occasions, and I know I may not have agreement on this, but I am expressing my personal opinion as majority leader. Senator BIDEN is the best manager of legislation in the Senate—the best, bar none. It is indisputable, in my judgment, that without Senator BIDEN's leadership, aggressive efforts and persistence we would not have passed the comprehensive crime bill, which we did pass, which all are now hailing, and we would not have passed this measure. I know there have been disagreements, but my hope is that those are now behind us and we can work together on other measures.

I have already mentioned Senator METZENBAUM.

There are dozens of staff, but I wish to mention especially three who I think did play an important role on our side. I know there have been many on Senator DOLE's side, and he will mention them, I am certain.

At the risk of offending by omission others, I wish to mention three people: Cynthia Hogan of Senator BIDEN's staff was truly a great help in this matter, always knowledgeable, always courteous, always helpful; Joel Johnson of Senator METZENBAUM's staff can be described in the same way; and finally, and to me most important, Anita Jensen of my staff, who is the person most responsible for creating the concept which is now law. That is, as I described earlier, the Brady bill initially was just a waiting period. The NRA initially was just an instant check system. And over that period of discussion of many months in 1991, Anita Jensen first came up with the concept, which she proposed to me, which I then presented and carried forward which has now become law of combining the two—in effect, taking the best of two approaches and putting them into a single package which would do the best job for the country. I think not many Americans know or have heard of Anita Jensen, but they should know of all the people responsible for getting this done, she ranks right at the very top.

The VICE PRESIDENT. The Republican leader.

Mr. DOLE. I do not want to prolong it. I just want to make another point. I certainly agree with what the majority leader just stated. I think it demonstrates again, if you did not have confidence in the two leaders, if we did not trust each other, we would not be here this afternoon. That is the way we have worked since the majority leader has been the majority leader. It is the only way we can operate. We may disagree, but if we did not try to keep moving, nothing would happen.

So again I wish to thank the majority leader. I also want to thank the Senator from Oregon, who was in the Chamber early this morning, who talked to the Bradys earlier this morning, and all of my colleagues who have called in saying let us try to work something out.

I wish to agree with what the majority leader said. This is not going to end crime, not going to end people getting guns. In fact, there are conflicting views whether it is going to have any impact at all. But it is the law now. If we are standing here a year from now or 2 years from now saying it ought to be changed, that is something else. But at least it is passed.

I congratulate, I wish to also say, people on Handgun, Inc., and the NRA. They may be miles apart, but in this particular case there had to be some give and take with these particular groups. And I wish to thank members of the NRA staff for their very objective assistance and help over the past several weeks.

Earlier we put out a hotline and asked people who wanted to be recorded against the conference report, and I particularly mentioned Senator HUTCHISON of Texas, but I will include in the RECORD others who want to be recorded "no" on the conference report. And then I would announce that any other Senators who want to be recorded "no," if it is not possible to get them all today, I will enter into the CONGRESSIONAL RECORD on Tuesday, January 25, 1994, a complete list of those Members who wish to be officially announced in opposition to the conference report.

I ask unanimous consent that the list of Senators be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

REPUBLICAN SENATORS WHO VOTED "NO" ON THE BRADY BILL CONFERENCE REPORT

Mr. Brown.
Mr. Burns.
Mr. Cochran.
Mr. Craig.
Mr. Faircloth.
Mr. Gramm.
Mr. Hatch.
Mr. Helms.
Mrs. Hutchison.
Mr. Kempthorne.
Mr. Lott.
Mr. Pressler.
Mr. Smith.
Mr. Stevens.

Mr. DOLE. Mr. President, some have said if you voted, there would be 58 Members in opposition to the conference report. I do not think that would happen. But in any event, they will have a chance to record and to announce their positions.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Mr. President, I want to express not only my appreciation, but—I am sure I speak for all the Members who are home preparing for Thanksgiving, for the holidays—our gratitude to the leaders of our Senate in resolving this issue.

I think the majority leader and the minority leader, Senator MITCHELL of Maine and Senator DOLE of Kansas, deserve the highest of accolades.

Mr. President, this was a very, very, very testy time. This was a very, very difficult issue. I think it has been resolved in a very, very professional parliamentary style because no one can claim 100 percent victory.

But there is an imprint—there is a fingerprint or imprint, whatever you want to call it—on this bill from both sides. I think that is the essence of good legislative procedure.

When you take this total package of what is going to be taken up in the beginning of the new session, the unresolved issues, that certainly can be said as part of the imprint of those who were opposed to this legislation.

I think passing the Brady bill, of which I am a cosponsor and a strong supporter, is certainly a victory for those of us who have supported this proposition.

But again, I think both sides can see their own imprint. I think that is important.

Mr. President, I am delighted and very happy for the institution as a whole. As I spoke earlier, I think the public supports this kind of action and in my estimation will be delighted, will be happy, and will be proud of the institution of the Senate, of the Congress as a whole, and the House.

Perhaps we will see a few points rise in the popularity polls, or the poll of respect or the poll of favorability, whatever you want to indicate, as far as the judgment of the Congress. I think this kind of action deserves a little blip upward in that stream and in that poll. I am very, very happy about the outcome.

One last point: I did talk to the Bradys, to Sarah Brady, a couple of hours ago. She was most happy, most pleased, that we were in the process of reaching this solution.

So from those who are both supportive and those who are perhaps on the other side, I think we can all take a sigh of relief that it is finished for this Congress, and that we have launched a very important experiment in trying to reduce crime in this country by reducing the weaponry available to irresponsible people.

As the majority leader and the minority leader both said, this is not the panacea, this is not going to be the ultimate solution at all, any more than the crime bill itself, which there will be a handful voting against, not because there were not good parts to it, but because I feel they relied too much on the failed policy of building more jails, having more policemen, and executing more people.

Nevertheless, I think together these restrictions on assault weapons and this particular Brady bill will have a positive effect.

I would like to say that on our side, Senator HATCH, who is the ranking member of the Judiciary Committee, and his chief of staff on this fine bill, Manus Cooney, and others on our side, certainly have contributed to this solution, whether they were supportive or in opposition.

It was an exercise in good legislative process of considering the pros and cons, and now this solution that Senator MITCHELL and Senator DOLE have achieved.

So I am very proud of this day, and to be a Member of the Senate.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

POLITICS AND THE JUSTICE DEPARTMENT

Mr. DOLE. Mr. President, they say that justice is blind. But as the Clinton administration nears the end of its first year, I am concerned that the blindfold at the Department of Justice may have been removed.

Whenever there is the slightest suggestion of a miscue by a Republican, the Justice Department is ready to sweep in take charge of the situation. But when allegations are directed at a Democrat, then the Justice Department would rather sweep things under the rug.

As the Wall Street Journal argued Monday, despite the Justice Department's continuing interest in allegations of vote fraud in New Jersey, there is no such attention to what the Journal calls "a far more documented case"—Republican allegations of massive vote irregularities in Pennsylvania's second Senate district, which determined control of the State Senate. The Journal says:

> U.S. Attorney General Janet Reno, who campaigned for Jim Florio, has investigators combing New Jersey looking for what appears to be phantom payoffs. No interest, though, in the documented political exploitation of Hispanics just across the river in Philadelphia.

Mr. President, I ask unanimous consent that the Wall Street Journal's November 23 editorial "Philly outvotes New Jersey," as well as an accompanying Journal piece by John Fund, be inserted in the RECORD following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1)

Mr. DOLE. But the appearance of politics at the Justice Department does not end there. Remember the travelgate affair, the State Department file search, the Crown Heights civil rights case, and allegations concerning other matters surrounding the present administration.

In July, after the White House issued its so-called travelgate management review, I wrote to Attorney General Reno requesting the appointment of a special counsel to look into the travelgate affair. My letter, citing specific laws that may have been violated, went unanswered for 2 months. Then I received a response from the Deputy Attorney General. Meanwhile, Congress directed the General Accounting Office to conduct its own investigation of travelgate. On September 30, the GAO issued an interim report, claiming it was having trouble getting access to relevant documents in possession of both the Justice Department and the White House.

When it was learned that State Department staff had allegedly searched the files of Bush administration State Department officials, Senator MCCONNELL wrote to the Attorney General requesting the appointment of a special counsel. Attorney General Reno denied that request. The Justice Department has since received a State Department inspector general's report—also requested by Republicans. The Justice Department has had that report for more than 2 weeks, but has made no decision on whether to proceed with a prosecution.

Senate Republicans, bolstered by an overwhelming sense-of-the-Senate vote, also urged a Federal civil rights investigation into the 1991 murder of Yankel Rosenbaum during the rioting in the Crown Heights section of New York. The Justice Department resisted, some speculated, to protect the reelection effort of New York's Democrat mayor. The Justice Department now claims that it has initiated an investigation, but it is my understanding that key witnesses have not yet been contacted.

Make no mistake, the Attorney General has the authority to appoint special counsels. Attorney General Reno's predecessor, William Barr, used that authority in the Inslaw case and the House bank scandal. But the appearance of politics at the Justice Department does not end there. In fact, it may have begun with Attorney General Reno's March Massacre, the simultaneous firing of all 93 U.S. attorneys, in the view of some just to remove Jay Stephens, U.S. attorney for the District of Columbia.

Mr. President, the scales of justice should not be tainted by political decisions, and I hope that is not the case. But many questions are being raised by what appears to be a partisan approach to the pursuit of certain matters before the Department of Justice.

EXHIBIT 1

[From the Wall Street Journal, Nov. 23, 1993]

PHILLY OUTVOTES JERSEY

For all the outrage vented over Ed Rollins's retracted claims that he discouraged minority voting in New Jersey, there's a far more well-documented case of minority voters being pressured this month into casting improper absentee ballots in neighboring Philadelphia. It's quite an amazing tale, and for national media still lost driving around Newark and Paterson in search of the Rollins lucre, we offer a roadmap to a real story.

The Philadelphia Inquirer has interviewed more than 150 minority voters who claim they were misled by Democratic workers into voting absentee even though they weren't eligible. Only voters who are ill or traveling on business can legally vote absentee in Pennsylvania.

Late last Thursday, Democrat William Stinson was sworn in only an hour after his disputed Nov. 2 election as a State Senator was certified. His seating gives the Democrats 25 of the 50 State Senators and partisan control, since a Democratic lieutenant governor can break the tie. Republicans charge massive irregularities and are challenging the election. They note that Republican Bruce Marks led by 562 votes among those who voted on Election Day. He lost because 1,391 of the 1,757 absentee ballots went for Democrat Stinson. In one ward, he won 99% of the absentees.

Normally only about 900 absentee ballots are cast in North Philadelphia's Second Senate District, and they usually break evenly. But Democratic workers fanned out through Hispanic neighborhoods telling residents about la nueva forma de votar—the new way to vote.

They carried applications for absentee ballots, had voters fill them out and returned a few days later with the actual ballots. Ana Lopez, a 19th Ward committeewoman, says she was deluged with calls from people asking why they could vote at home. "I told them it was illegal and that they shouldn't do it," she says.

But many voters still cast suspect ballots. Aracelis Velasquez told the Inquirer she felt pressured. "I told them I can't see well and that I needed to get my glasses. They said, 'Don't worry about it, just make an X right here and sign.' I did it." Victor Torres was accosted by a man who insisted he sign a form. He did, but uncertain about what he had signed he went to the polls and voted. Only later did he learn he'd voted twice. Voter Evelyn Adames thought she was signing for a program "where they fix the broken windows and your heating."

Zoraida Rodriguez was told she could vote at home, along with her brother and her common-law husband, both of whom are in jail. "I didn't think it would be right, but he said anybody can fill out anybody's paper, so I did," Ms. Rodriguez told the Inquirer. As for her own ballot, she told the campaign worker that she didn't know who to vote for. "He said, 'Well, vote for this person, because he's the one I work for,' so I did." Election records bear out her story.

Mr. Marks, the Republican candidate, challenged the ballots, but the case was heard by Judge Eugene Maier, whose wife has a patronage appointment with Democratic Mayor Ed Rendell. Mr. Stinson, the Democratic candidate, is a former aide to Mr. Rendell. The State Supreme Court took the case away from Judge Maier, but only after he had ordered virtually all the absentee ballots to be counted. By now, the ballots have been taken out of the envelopes that contain the voters' names, making it difficult to identify any suspect ones.

On Sunday, three voters came forward to say their signatures on absentee ballots were forged. Meanwhile, U.S. Attorney General Janet Reno, who campaigned for Jim Florio, has investigators combing New Jersey looking for what appears to be phantom payoffs (discussed in the nearby feature). No interest, though, in the documented political exploitation of Hispanics just across the river in Philadelphia. The next time the visitors from the Beltway take the train up to New Jersey, they should get off first at Philadelphia's 30th Street Station and ask some questions.

[From the Wall Street Journal, Nov. 23, 1993]

THE ROLLINS CLOUD'S SILVER LINING

(By John Fund)

* * * * *

Voter suppression isn't unknown in politics, but it's rare. In 1960, Texas Democrats delivered too few voting machines to GOP areas. Some Republicans couldn't wait in line, and left. In 1981, the GOP intimidated voters when they hired off-duty police officers to patrol against fraud at New Jersey polling places.

But the under-the-table deals with Democrats that Ed Rollins described strike seasoned observers as implausible. "The idea you win a race by striking deals with adversaries who can turn you in is ludicrous," says Ron Faucheux, editor of Campaigns & Elections magazine and a former Louisiana Democratic legislator.

- Mr. Florio lost in New Jersey because, although the turnout in cities went up, he won a smaller percentage of urban votes. The Bergen Record, the main newspaper in New Jersey's largest county, found that turnout in the state's five largest cities went up 1% over the last gubernatorial election. But voter registration in those cities was down 11% from 1989, so the cities cast fewer votes overall. In Jersey City, registration fell by 9% but turnout in the black Bergen-Lafayette ward was up 4%. Hudson County Executive Robert Janiszewsi, a Democrat, reports he had no difficulty hiring 1,500 Election Day workers to ring doorbells, man sound trucks and drive voters to the polls.

What was different was that Mrs. Whitman did well for a Republican in the cities. In 1989, Mr. Florio won 92% in Bergen-Lafayette. This year, he took only 78%. Statewide, exit polls report Mrs. Whitman won 25% of black voters. Jersey City Mayor Bret Schundler, a Republican who won last May with 40% of the black vote, isn't surprised: "I know African-Americans who liked her support for school choice. They also knew unemployment in this area went from 7% to 15% under Florio."

Essex County Democratic Chairman Thomas Giblin says the Florio campaign didn't aggressively register voters. He notes that turnout in Newark rose to 46% from 43%, but that registration dropped to only 90,000 from 107,000 in 1989. He says that continuing to question Mr. Rollins about voter suppression is like "beating a dead horse."

Indeed, Steve DeMicco, former executive director of New Jersey's Democratic State Committee, thinks Mrs. Whitman's energetic response to the Rollins crisis may help her build ties to black voters: "This is an opportunity that was created for her and it's one she seized and turned to her own advantage."

Mr. Florio's operatives didn't understand the cities. Mayor James of Newark told the New York Times that the Florio forces used inexperienced "out-of-towners who simply did not connect with the local constituency." Mr. Florio didn't campaign in many cities, signaling that he was taking the black vote for granted. Mrs. Whitman, in contrast, toured public housing projects with Mayor Schundler and former Housing Secretary Jack Kemp.

Further public attention on "street money" will lead to calls for its reform, which would mostly hurt Democrats. Charles Cook, a political analyst who once worked for the Democratic Senatorial Campaign Committee, says "Democrats nationally would rather the Ed Rollins discussion go away entirely, as a complete look at the existence and use of street money wouldn't be welcome.

Mr. Cook says a Clinton campaign official boasted to him that in 1992 the Democrats spent $900,000 in street money in New Jersey alone. "He said they needed so many small bills that it took them three days to get it from the banks," Mr. Cook says. "He then told how off-duty police officers delivered the cash." Perhaps his Democratic friend was telling a Rollins. But maybe not.

Mr. Cook estimates that for every $1 the GOP spends in cash to bring out voters, the Democrats spend $6 to $8. "I can't believe how sanctimonious some Democrats are about Rollins' comments," he says.

Ken Cornell, a New Jersey native who spent many years as a Democratic committeeman in Pennsylvania, says that Democrats who are demanding that every urban rock be turned over in probing the Rollins claims "don't realize that if you regulate street money you take away the lifeblood of the Democratic Party." He says any look at black churches will find that some ministers openly urge their congregations to vote a certain way, a violation of IRS rules. "Rollins would have done something wrong in paying the ministers, but he would have been simply paying to obey the law by not abusing their nonprofit status," he says.

Political reform is needed, but it's erstwhile reformers who are blocking some of the most needed changes. Already New Jersey's GOP Assembly Speaker Chuck Haytaian has proposed a bill to outlay the use of cash for "street money." All payments to individuals would have to be by check. The Bergen Record reports that Democratic legislators are calling his proposal "rash." Mr. Cornell, the former Democratic committeeman, says urban Democrats "are very concerned about reforms like that."

Indeed, earlier this year the U.S. Senate's campaign reform proposal would have barred candidates from raising "soft money" for outside groups that register voters. It was prompted by former Keating Five Sen. Alan Cranston's funneling of Keating money into questionable registration groups. The provision was dropped by House leaders after the Congressional Black Caucus defended the growing use of soft money. Rep. Mike Synar, a liberal Democrat, fought the House leadership's campaign reform bill because it didn't deal honestly with soft money. On Sunday, his effort to defeat the bill failed 220 to 207.

Mr. Faucheux, the editor of Campaigns & Elections magazine, says he welcomes reform of soft money. "Our current campaign law pretends to be reform but isn't. It benefits incumbents and rich candidates, violates free speech and opens up loopholes and inequities that make a mockery of the process." Mr. Faucheux wants to deregulate campaign finance law and instead have full public disclosure "of every penny that goes into a campaign, and every penny that comes out."

It's appropriate that a probe into Mr. Rollins's comments continue, despite his sworn denials. But the public policy debate would be improved if the inquiry were broadened to also look at street money and absentee ballot manipulation. It would be ironic if in breaking the code of silence that governs the discussion of America's seamier political practices, Ed Rollins ends up being an inadvertent catalyst for some genuine political reforms.

MORNING BUSINESS

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, November 23, 1993, the Federal debt stood at $4,469,257,508,771.35, meaning that on a per capita basis, every man, woman and child in America owes $17,399.65 as his or her share of that debt.

DEFENSE AUTHORIZATION BILL

Mr. LEVIN. Mr. President, I wish to enter into a colloquy with the distinguished chairman of the Armed Services Committee, Senator NUNN.

During consideration of the Defense authorization bill for fiscal year 1994, it was my understanding that an agreed conference language provision would be included in the conference report. The provision simply encourages the Defense Department to help develop a U.S. production base in critical technologies for our defense.

But, because of the hectic final negotiations toward a conference compromise, this provision was inadvertently omitted. I understand that there was no intention to omit this language provision. It was purely an oversight on the part of staff.

The agreed language read as follows:

The committee understands that the Department of Defense has chosen several critical technologies and industries in which to invest Federal funds to avoid dependence upon foreign suppliers of scarce and sophisticated military components. This includes technologies such as active matrix liquid crystal displays (AMLCDs). Indeed, the committee believes that the department can benefit from nurturing domestic sources, especially within emerging or fledgling technologies that have been determined to be critical to our defense industrial base, such as AMLCDs, in which the United States still may have the technological lead. The committee encourages the department, therefore, to use available resources to assist in developing a U.S. production base in these technologies.

Would the chairman of the Armed Services Committee agree that this provision was intended to be included in the conference report, and that it should be considered part of the conference report?

Mr. NUNN. Yes, the Senator from Michigan is correct. This was purely a matter of inadvertent omission. The staff were negotiating so many contentious items at the end of our conference that this one agreed item was not included by accident.

Mr. LEVIN. I thank the distinguished chairman and appreciate his assistance in this matter.

VIOLENT CRIME CONTROL AND ENFORCEMENT ACT

The text of the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, as passed by the Senate on November 19, 1993, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 3355) entitled "An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—PUBLIC SAFETY AND POLICING

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Community policing; "Cops on the Beat".

TITLE II—DEATH PENALTY

Sec. 201. Short title.
Sec. 202. Constitutional procedures for the imposition of the sentence of death.
Sec. 203. Specific offenses for which death penalty is authorized.
Sec. 204. Applicability to Uniform Code of Military Justice.
Sec. 205. Death penalty for murder by a Federal prisoner.
Sec. 206. Death penalty for civil rights murders.
Sec. 207. Death penalty for the murder of Federal law enforcement officials.
Sec. 208. New offense for the indiscriminate use of weapons to further drug conspiracies.
Sec. 209. Foreign murder of United States nationals.
Sec. 210. Death penalty for rape and child molestation murders.
Sec. 211. Death penalty for sexual exploitation of children.
Sec. 212. Murder by escaped prisoners.
Sec. 213. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 214. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 215. Murder in course of alien smuggling.

TITLE III—FIREARMS

Subtitle A—Restraining Orders

Sec. 301. Persons subject to restraining orders.

Subtitle B—Licensure

Sec. 311. Firearms licensure and registration to require a photograph and fingerprints.
Sec. 312. Compliance with State and local law as a condition to license.
Sec. 313. Action on firearms license application.
Sec. 314. Inspection of firearms licensees' inventory and records.
Sec. 315. Reports of theft or loss of firearms.
Sec. 316. Responses to requests for information.
Sec. 317. Notification of names and addresses of firearms licensees.

TITLE IV—GUN CRIME PENALTIES
Sec. 401. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
Sec. 402. Enhanced penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Theft of firearms and explosives.
Sec. 405. Revocation of supervised release.
Sec. 406. Revocation of probation.
Sec. 407. Increased penalty for knowingly making false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 408. Possession of explosives by felons and others.
Sec. 409. Summary destruction of explosives subject to forfeiture.
Sec. 410. Elimination of outmoded language relating to parole.
Sec. 411. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 412. Using a firearm in the commission of counterfeiting or forgery.
Sec. 413. Enhanced penalties for firearms possession by violent felons and serious drug offenders.
Sec. 414. Receipt of firearms by nonresident.
Sec. 415. Firearms and explosives conspiracy.
Sec. 416. Study of incendiary ammunition; report to Congress.
Sec. 417. Theft of firearms or explosives from licensee.
Sec. 418. Disposing of explosives to prohibited persons.
Sec. 419. Clarification of "burglary" under the armed career criminal statute.
Sec. 420. Increased penalty for interstate gun trafficking.
TITLE V—OBSTRUCTION OF JUSTICE
Sec. 501. Protection of court officers and jurors.
Sec. 502. Prohibition of retaliatory killings of witnesses, victims and informants.
Sec. 503. Protection of jurors and witnesses in capital cases.
Sec. 504. Death penalty for the murder of State officials assisting Federal law enforcement officials.
Sec. 505. Death penalty for murder of Federal witnesses.
TITLE VI—GANGS, JUVENILES, DRUGS, AND PROSECUTORS
Sec. 601. Short title.
Subtitle A—Criminal Youth Gangs
Sec. 611. Criminal street gangs offenses.
Sec. 612. Crimes involving the use of minors as RICO predicates.
Sec. 613. Serious juvenile drug offenses as Armed Career Criminal Act predicates.
Sec. 614. Adult prosecution of serious juvenile offenders.
Sec. 615. Increased penalties for employing children to distribute drugs near schools and playgrounds.
Sec. 616. Increased penalties for drug trafficking near public housing.
Sec. 617. Increased penalties for Travel Act crimes involving violence and conspiracy to commit contract killings.
Sec. 618. Amendments concerning records of crimes committed by juveniles.
Sec. 619. Addition of anti-gang Byrne Grant funding objective.
Subtitle B—Gang Prosecution
Sec. 621. Additional prosecutors.
Sec. 622. Gang investigation coordination and information collection.
Sec. 623. Continuation of Federal-State funding formula.
Sec. 624. Grants for multijurisdictional drug task forces.
Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974
Sec. 631. Juvenile drug trafficking and gang prevention grants.
Sec. 632. Conforming repealer and amendments.
Sec. 633. Grants for youth development centers.
Subtitle D—Bindover System for Certain Violent Juveniles
Sec. 641. Bindover system.
Subtitle E—Federal Prosecutions
Sec. 651. Prosecution as adults of violent juvenile offenders.
Subtitle F—Youth Handgun Safety
Sec. 661. Findings and declarations.
Sec. 662. Prohibition of the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.
Sec. 663. Prohibition of the sale and transfer for consideration of a handgun or handgun ammunition to a juvenile.
TITLE VII—TERRORISM
Subtitle A—Maritime Navigation and Fixed Platforms
Sec. 701. Offenses of violence against maritime navigation or fixed platforms.
Sec. 702. Technical amendment.
Sec. 703. Effective dates.
Subtitle B—General Provisions
Sec. 711. Weapons of mass destruction.
Sec. 712. Enhanced penalties for certain offenses.
Sec. 713. Territorial sea extending to twelve miles included in special maritime and territorial jurisdiction.
Sec. 714. Assimilated crimes in extended territorial sea.
Sec. 715. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 716. Torture.
Sec. 717. Extension of the statute of limitations for certain terrorism offenses.
Sec. 718. FBI access to telephone subscriber information.
Sec. 719. Violence at airports serving international civil aviation.
Sec. 720. Preventing acts of terrorism against civilian aviation.
Sec. 721. Counterfeiting United States currency abroad.
Sec. 722. Economic terrorism task force.
Sec. 723. Terrorist Death Penalty Act.
Sec. 724. Sentencing guidelines increase for terrorist crimes.
Sec. 725. Alien witness cooperation.
Sec. 726. Providing material support to terrorists.
TITLE VIII—SEXUAL VIOLENCE AND ABUSE OF CHILDREN, THE ELDERLY, AND INDIVIDUALS WITH DISABILITIES
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Sec. 5163. Gang resistance education and training projects.
Sec. 5164. Law enforcement personnel.
Sec. 5165. Review by the Attorney General of Federal prison capacity and construction and operational standards for State and local corrections facilities.
Sec. 5166. Coordination of substance abuse treatment and prevention programs.
Sec. 5167. Juvenile anti-drug and anti-gang grants in federally assisted low-income housing.
Sec. 5168. Definitions.

TITLE I—PUBLIC SAFETY AND POLICING

SEC. 101. SHORT TITLE.

This title may be cited as the "Public Safety Partnership and Community Policing Act of 1993".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) according to data compiled by the Federal Bureau of Investigation, in 1961, there was approximately 1 reported violent crime per city police officer, but while from 1961 to 1991 there was no substantial increase in United States cities' police employment rate, during the same period the number of reported violent crimes per city police officer rose to approximately 4.6 per officer;

(2) National Crime Survey figures indicate that nearly 5,000,000 households in the United States had at least 1 member who had been a victim of violent crime during 1991;

(3) these victims of violence experienced more than 6,400,000 crimes of which about one-half were reported to law enforcement authorities;

(4) community-oriented policing ("cops on the beat") enhances communication and cooperation between law enforcement and members of the community;

(5) such communication and cooperation between law enforcement and members of the community significantly assists in preventing and controlling crime and violence, thus enhancing public safety; and

(6) while increasing and maintaining police resources and presence in the community are the long-term responsibility of State and local governments, State and local law enforcement agencies are in need of immediate assistance to begin the process of rehiring officers who have been laid off for budgetary reasons and hiring new, additional officers to assist in the implementation of community-oriented policing.

(b) PURPOSES.—The purposes of this title are to—

(1) substantially increase the number of law enforcement officers interacting directly with members of the community ("cops on the beat");

(2) provide additional and more effective training to law enforcement officers to enhance their problem solving, service, and other skills needed in interacting with members of the community;

(3) encourage the development and implementation of innovative programs to permit members of the community to assist State and local law enforcement agencies in the prevention of crime in the community; and

(4) encourage the development of new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime,

by establishing a program of grants and assistance in furtherance of these objectives, including the authorization for a period of 6 years of grants for the hiring and rehiring of additional career law enforcement officers.

SEC. 103. COMMUNITY POLICING; "COPS ON THE BEAT".

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"PART Q—PUBLIC SAFETY AND CITY POLICING; 'COPS ON THE BEAT'

"SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General may make grants to units of State and local government, and to other public and private entities, to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

"(b) REHIRING AND HIRING GRANT PROJECTS.—Grants made under subsection (a) may be used for programs, projects, and other activities to—

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing; and

"(2) hire new, additional career law enforcement officers for deployment in community-oriented policing across the Nation.

"(c) TROOPS-TO-COPS PROGRAMS.—(1) Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(2) In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

"(d) ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—

"(1) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(2) provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

"(3) increase police participation in multidisciplinary early intervention teams;

"(4) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime;

"(5) develop and implement innovative programs to permit members of the community to assist State and local law enforcement agencies in the prevention of crime in the community, such as a citizens police academy, including programs designed to increase the level of access to the criminal justice system enjoyed by victims, witnesses, and ordinary citizens by establishing decentralized satellite offices (including video facilities) of principal criminal courts buildings;

"(6) establish innovative programs to reduce, and keep to a minimum, the amount of time that law enforcement officers must be away from the community while awaiting court appearances;

"(7) establish and implement innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young persons in the community; and

"(8) develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy.

"(e) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General shall give preferential consideration, where feasible, to applications for hiring and rehiring additional career law enforcement officers that involve—

(1) a non-Federal contribution exceeding the 25 percent minimum under subsection (i); and

(2) hiring former members of the Armed Forces to serve as career law enforcement officers under subsection (c).

"(f) TECHNICAL ASSISTANCE.—(1) The Attorney General may provide technical assistance to units of State and local government, and to other public and private entities, in furtherance of the purposes of the Public Safety Partnership and Community Policing Act of 1993.

"(2) The technical assistance provided by the Attorney General may include the development of a flexible model that will define for State and local governments, and other public and private entities, definitions and strategies associated with community or problem-oriented policing and methodologies for its implementation.

"(3) The technical assistance provided by the Attorney General may include the establishment and operation of training centers or facilities, either directly or by contracting or cooperative arrangements. The functions of the centers or facilities established under this paragraph may include instruction and seminars for police executives, managers, trainers and supervisors concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of the Public Safety Partnership and Community Policing Act of 1993.

"(g) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(h) MINIMUM AMOUNT.—Each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) not less than 0.6 percent of the total amount appropriated in the fiscal year for grants pursuant to that subsection. In this subsection, 'qualifying State' means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this part.

"(i) MATCHING FUNDS.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding 1 year for hiring or rehiring career law enforcement officers, the Federal share shall decrease from year to year for up to 5 years, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support, as provided in an approved plan pursuant to section 1702(c)(8).

"(j) ALLOCATION OF FUNDS.—The funds available under this part shall be allocated as provided in section 1001(a)(11)(B).

"(k) TERMINATION OF GRANTS FOR HIRING OFFICERS.—The authority under subsection (a) of this section to make grants for the hiring and rehiring of additional career law enforcement officers shall lapse at the conclusion of 6 years from the date of enactment of this part. Prior to the expiration of this grant authority, the Attorney General shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Attorney General may have for amendments to this part and related provisions of law in light of the termination of the authority to make grants for the hiring and rehiring of additional career law enforcement officers.

"SEC. 1702. APPLICATIONS.

"(a) IN GENERAL.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.

"(b) APPLICATION.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

"(c) CONTENTS.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy under section 503(a)(1);

"(2) demonstrate a specific public safety need;

"(3) explain the locality's inability to address the need without Federal assistance;

"(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate coordination with all affected agencies;

"(6) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

"(7) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support; and

"(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers—

"(A) specify plans for the assumption by the grantee of a progressively larger share of the cost in the course of time, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

"(B) assess the impact, if any, of the increase in police resources on other components of the criminal justice system; and

"(C) explain how the grant will be utilized to reorient the affected law enforcement agency's mission toward community-oriented policing or enhance its involvement in or commitment to community-oriented policing.

"SEC. 1703. REVIEW OF APPLICATIONS BY STATE OFFICE.

"(a) IN GENERAL.—Except as provided in subsection (c) or (d), an applicant for a grant under this part shall submit an application to the State office designated under section 507 in the State in which the applicant is located for initial review.

"(b) INITIAL REVIEW OF APPLICATION.—(1) The State office referred to in subsection (a) shall review applications for grants under this part submitted to it, based upon criteria specified by the Attorney General by regulation or guidelines.

"(2) Upon completion of the reviews required by paragraph (1), the State office referred to in subsection (a) shall determine which, if any, of the applications for grants under this part are most likely to be successful in achieving the purposes of the Public Safety Partnership and Community Policing Act of 1993.

"(3)(A) The State office referred to in subsection (a) shall list the applications for grants under this part in order of their likelihood of achieving the purposes of the Public Safety Partnership and Community Policing Act of 1993 and shall submit the list along with all grant applications and supporting materials received to the Attorney General.

"(B) In making the submission to the Attorney General required by subparagraph (A), the State office referred to in subsection (a) may recommend that a particular application or applications should receive special priority and provide supporting reasons for the recommendation.

"(c) DIRECT APPLICATION TO THE ATTORNEY GENERAL BY CERTAIN MUNICIPALITIES.—Notwithstanding subsection (a), municipalities the population of which exceeds 150,000 may submit an application for a grant under this part directly to the Attorney General. In this subsection, 'municipalities the population of which exceeds 150,000' means units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, and consortia or associations that include one or more such units of local government or law enforcement agencies.

"(d) DIRECT APPLICATION TO THE ATTORNEY GENERAL BY OTHER APPLICANTS.—(1) Notwithstanding subsection (a), if a State chooses not to carry out the functions described in subsection (b), an applicant in the State may submit an application for a grant under this part directly to the Attorney General.

"(2) Notwithstanding subsection (a), an applicant that is an Indian tribe or tribal law enforcement agency may submit an application for a grant under this part directly to the Attorney General.

"SEC. 1704. RENEWAL OF GRANTS.

"(a) IN GENERAL.—Except for grants made for hiring or rehiring additional career law enforcement officers, a grant under this part may be renewed for up to 2 additional years after the first fiscal year during which a recipient receives its initial grant, if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.

"(b) GRANTS FOR HIRING.—Grants made for hiring or rehiring additional career law enforcement officers may be renewed for up to 5 years, subject to the requirements of subsection (a), but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.

"(c) MULTIYEAR GRANTS.—A grant for a period exceeding 1 year may be renewed as provided in this section, except that the total duration of such a grant including any renewals may not exceed 3 years, or 6 years if it is a grant made for hiring or rehiring additional career law enforcement officers.

"SEC. 1705. LIMITATION ON USE OF FUNDS.

"(a) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to State or local governments or to Indian tribal governments shall not be used to supplant State or local funds, or, in the case of Indian tribes, funds supplied by the Department of the Interior, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this part, be made available from State or local sources, or in the case of Indian tribes, from funds supplied by the Department of the Interior.

"(b) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this part may be used for the costs of States in carrying out the functions described in section 1703(b) or other administrative costs.

"(c) NON-FEDERAL COSTS.—State and local units of government may use assets received through the Assets Forfeiture equitable sharing

program to cover the non-Federal portion of programs, projects, and activities funded under this part.

"(d) Hiring Costs.—Annual funding provided under this part for hiring or rehiring a career law enforcement officer may not exceed $50,000, unless the Attorney General grants a waiver from this limitation.

"SEC. 1706. PERFORMANCE EVALUATION.

"(a) Evaluation Components.—Each program, project, or activity funded under this part shall contain an evaluation component, developed pursuant to guidelines established by the Attorney General. The evaluations required by this subsection shall include outcome measures that can be used to determine the effectiveness of the funded programs, projects, and activities. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.

"(b) Periodic Review and Reports.—The Attorney General shall review the performance of each grant recipient under this part. The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under subsection (a) and such other data and information as the Attorney General deems reasonably necessary to carry out the responsibilities under this subsection.

"SEC. 1707. REVOCATION OR SUSPENSION OF FUNDING.

"If the Attorney General determines, as a result of the reviews required by section 1706, or otherwise, that a grant recipient under this part is not in substantial compliance with the terms and requirements of an approved grant application submitted under section 1702, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 1708. ACCESS TO DOCUMENTS.

"(a) By the Attorney General.—The Attorney General shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this part and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this part.

"(b) By the Comptroller General.—Subsection (a) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"SEC. 1709. GENERAL REGULATORY AUTHORITY.

"The Attorney General may promulgate regulations and guidelines to carry out this part.

"SEC. 1710. DEFINITIONS.

"In this part—

" 'Career law enforcement officers' means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.

" 'Citizens police academy' means a program by local law enforcement agencies or private non profit organizations in which citizens, especially those who participate in neighborhood watch programs, are given training in police policy and procedure, criminal law, the legal system, crime awareness, personal safety measures, and ways of facilitating communication between the community and local law enforcement in the prevention of crime.' ".

(b) Technical Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by striking the item relating to part Q and inserting the following:

"Part Q—Public Safety and Community Policing; 'Cops on the Beat'

"Sec. 1701. Authority to make public safety and community policing grants.
"Sec. 1702. Applications.
"Sec. 1703. Review of applications by State office.
"Sec. 1704. Renewal of grants.
"Sec. 1705. Limitation on use of funds.
"Sec. 1706. Performance evaluation.
"Sec. 1707. Revocation or suspension of funding.
"Sec. 1708. Access to documents.
"Sec. 1709. General regulatory authority.
"Sec. 1710. Definition.

"Part R—Transition; Effective Date; Repealer

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) Authorization of Appropriations.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O" and inserting "O, P, and Q"; and

(2) by adding at the end the following new paragraph:

"(11)(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) $1,035,000,000 for fiscal year 1994;
"(ii) $1,720,000,000 for fiscal year 1995;
"(iii) $2,070,000,000 for fiscal year 1996;
"(iv) $2,270,000,000 for fiscal year 1997; and
"(v) $1,900,000,000 for fiscal year 1998.

"(B) Of funds available under part Q in any fiscal year, up to 5 percent may be used for technical assistance under section 1701(e) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part Q, and up to 5 percent may be used for the costs of States in carrying out the functions described in section 1703(b) or other administrative costs. Of the remaining funds, 60 percent shall be allocated for grants pursuant to applications submitted as provided in section 1703(a) or (d), and 40 percent shall be allocated for grants pursuant to applications submitted as provided in section 1703(c). Of the funds available in relation to grants pursuant to applications submitted as provided in section 1703(a) or (d), at least 85 percent shall be applied to grants for the purposes specified in section 1701(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part Q. Of the funds available in relation to grants pursuant to applications submitted as provided in section 1703(c), at least 85 percent shall be applied to grants for the purposes specified in section 1701(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part Q. In view of the extraordinary need for law enforcement in Indian country, an appropriate amount of funds available under part Q shall be made available for grants to Indian tribes or tribal law enforcement agencies.

"(C) Of the amounts available to be expended for the Voilent Crime Reduction Trust Fund, $75,000,000 is authorized to be expended to constitute an Ounce of Prevention Fund, to be administered as follows and for the following purposes:

"(i) The Ounce of Prevention Fund shall be for the purpose of encouraging and supporting the healthy development and nurturance of children and youth in order to promote successful transition into adulthood and for preventing violent crime through substance abuse treatment and prevention.

"(ii) Activities to be supported by the Ounce of Prevention Fund include—

"(I) after school and summer academic enrichment and recreation conducted in safe and secure settings and coordinated with school curricula and programs, mentoring and tutoring and other activities involving extensive participation of adult role models, activities directed at facilitating familiarity with the labor market and ultimate successful transition into the labor market; and

"(II) substance abuse treatment and prevention program authorized in the Public Health Service Act including outreach programs for at-risk families.

"(iii) Except for substance abuse treatment and prevention programs, the children and youth to be served by Ounce of Prevention programs shall be of ages appropriate for attendance at elementary and secondary schools. Applications shall be geographically based in particular neighborhoods or sections of municipalities or particular segments of rural areas, and applications shall demonstrate how programs will serve substantial proportions of children and youth resident in the target area with activities designed to have substantial impact on the lives of such children and youth. The Ounce of Prevention Council created herein shall define more precise statistical and numerical parameters for target areas, numbers of children to be served, and substantially of impact of activities to be undertaken.

"(iv) Applicants may be cities, counties, or other municipalities, school boards, colleges and universities, nonprofit corporations, or consortia of eligible applicants. Applicants must show that a planning process has occurred that has involved organizations, institutions, and residents of target areas, including young people, as well as cooperation between neighborhood-based entities, municipality-wide bodies, and local private-sector representatives. Applicants must demonstrate the substantial involvement of neighborhood-based entities in the carrying out of the proposed activities. Proposals must demonstrate that a broad base of collaboration and coordination will occur in the implementation of the proposed activities, involving cooperation among youth-serving organizations, schools, health and social service providers, employers, law enforcement professionals, local government, and residents of target areas, including young people. The Ounce of Prevention Council shall set forth guidelines elaborating these provisions.

"(v) The Ounce of Prevention Council shall be chaired by the Attorney General and the Secretaries of Education and Health and Human Services, and shall include the Secretaries of Agriculture, Housing and Urban Development, and Labor, and the Director of the Office of National Drug Control Policy. Such sums as shall be necessary shall be appropriated for staff of the Ounce of Prevention Council, which will be headed by a Director chosen by the Council. The Council shall make grant awards under this program and develop appropriate guidelines for the grant application process.

"(vi) The portion of the costs of a program, project, or activity provided by a grant under the Ounce of Prevention Fund may not exceed 75 percent, unless the Ounce of Prevention Council waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. Grants may be renewed for up to 4 additional years after the first fiscal year during which a recipient receives an initial grant, provided the Council is satisfied that adequate progress is being made toward fulfillment of proposal goals. The provision of section 1705(a) concerning nonsupplantation, section 1705(b) concerning limits on administrative costs, section 1706 concerning performance evaluation, and section 1707 concerning revocation or suspension of funding shall apply to the program created by this subparagraph.".

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1993".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH SENTENCE

"Sec.

"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"(a) A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c), if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to intentionally kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(b) a defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(2) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(3) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592, including the aggravating factors set forth at subsection (c) below, in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(c) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in subsection (b) above, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (3), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section

32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under

subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the government establishes beyond a reasonable doubt that the error was harmless.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151 of this title) and which has occurred within the boundaries of Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death sentence .... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(4) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(5) KILLING OF FOREIGN OFFICIAL.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(6) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(7) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(8) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to intentionally kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

(9) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(10) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(11) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(12) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(13) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(15) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking the period after "both" and inserting ", or sentenced to death."; and by striking ", possessing a firearm as defined in section 921 of this title,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—In this section—

"'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

"'murder' means a first degree or second degree murder (as defined by section 1111).

"'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 207. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111, or, in the case of manslaughter, a sentence as provided under section 1112.".

SEC. 208. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1993".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§36. Drive-by shooting

"(a) DEFINITION.—In this section, 'major drug offense' means—

"(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); and

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

"(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

"(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Drive-by shooting.".

SEC. 209. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§1118. Foreign murder of United States nationals

"(a) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(2) The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign murder of United States nationals.".

SEC. 210. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§2245. Sexual abuse resulting in death

"A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

SEC. 211. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following:

"Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 212. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 109(a), is amended by adding at the end the following new section:

"§1119. Murder by escaped prisoners

"(a) DEFINITION.—In this section, 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.

"(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 109(b)(2), is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 213. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.".

SEC. 214. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (a) by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.".

SEC. 215. MURDER IN COURSE OF ALIEN SMUGGLING.

Section 274(a) of the Immigration and Naturalization Act (8 U.S.C. 1324) is amended by inserting before the period at the end the following: ": Provided further, That if during and in relation to an offense described in paragraph (1) the person causes serious bodily injury to, or places in jeopardy the life of, any alien, such person shall be subject to a term of imprisonment of not more than 20 years, and if the death of any alien results, shall be punished by death or imprisoned for any term of years or for life.".

TITLE III—FIREARMS

Subtitle A—Restraining Orders

SEC. 301. PERSONS SUBJECT TO RESTRAINING ORDERS.

(a) Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by adding "or" at the end of paragraph (7); and

(3) by adding after paragraph (7) the following new paragraph:

"(8)(A) is subject to an order, issued by a Federal or State court after a hearing about which that person received actual notice and at which that person had the opportunity to participate, restraining that person from harassing, stalking, threatening, or engaging in other such conduct that would place another person in fear of bodily injury or the effect of which conduct would be to place a reasonable person in fear of bodily injury; and

"(B) whom the court issuing the order finds under this subsection to represent a credible threat to the physical safety of that other person;".

(b) Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by adding "or" at the end of paragraph (7); and

(3) by adding after paragraph (7) the following new paragraph:

"(8)(A) who is subject to an order, issued by a Federal or State court after a hearing about which that person received actual notice and at which that person had the opportunity to participate, restraining that person from harassing, stalking, threatening, or engaging in other such conduct that would place another person in fear of bodily injury or the effect of which conduct would be to place a reasonable person in fear of bodily injury; and

"(B) whom the court issuing the order finds under this subsection to represent a credible threat to the physical safety of that other person;".

(c) Section 926(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by replacing "." with "; and" at the end of paragraph (2); and

(3) by adding after paragraph (a)(2) the following new paragraph:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in section 922(d)(8) or 922(g)(8).".

(d) Section 924(d)(1) of title 18, United States Code, is amended—

(1) by striking all between "trial," and "firearms" and inserting the following: "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

Subtitle B—Licensure

SEC. 311. FIREARMS LICENSURE AND REGISTRATION TO REQUIRE A PHOTOGRAPH AND FINGERPRINTS.

(a) FIREARMS LICENSURE.—Section 923(a) of title 18, United States Code, is amended in the second sentence by inserting "and shall include a photograph and fingerprints of the applicant" before the period.

(b) REGISTRATION.—Section 5802 of the Internal Revenue Code of 1986 is amended by inserting after the first sentence the following: "An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application.".

SEC. 312. COMPLIANCE WITH STATE AND LOCAL LAW AS A CONDITION TO LICENSE.

Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the applicant certifies that—

"(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

"(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

"(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

"(iii) that the applicant has sent or delivered a form to be prescribed by the Secretary, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license.".

SEC. 313. ACTION ON FIREARMS LICENSE APPLICATION.

Section 923(d)(2) of title 18, United States Code, is amended by striking "forty-five-day" and inserting "60-day".

SEC. 314. INSPECTION OF FIREARMS LICENSEES' INVENTORY AND RECORDS.

Section 923(g)(1)(B)(ii) of title 18, United States Code, is amended to read as follows:

"(ii) for insuring compliance with the record keeping requirements of this chapter—

"(I) not more than once during any 12-month period; or

"(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee.".

SEC. 315. REPORTS OF THEFT OR LOSS OF FIREARMS.

Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Secretary and to the appropriate local authorities.".

SEC. 316. RESPONSES TO REQUESTS FOR INFORMATION.

Section 923(g) of title 18, United States Code, as amended by section 215, is amended by adding at the end the following new paragraph:

"(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Secretary for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Secretary may require. The Secretary shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.".

SEC. 317. NOTIFICATION OF NAMES AND ADDRESSES OF FIREARMS LICENSEES.

Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(l) The Secretary of the Treasury shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.".

TITLE IV—GUN CRIME PENALTIES

SEC. 401. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code) if a semiautomatic firearm is involved.

(b) SEMIAUTOMATIC FIREARM.—In subsection (a), "semiautomatic firearm" means any repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.

SEC. 402. ENHANCED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted under section 844(h) of title 18, United States Code, has previously been convicted under that section.

SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 213, is amended by adding at the end the following new subsection:

"(j) A person who, with intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 404. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403(a), is amended by adding at the end the following new subsection:

"(k) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 405. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release,

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).".

SEC. 406. REVOCATION OF PROBATION.

(a) CONTINUATION OR REVOCATION.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing in violation of the condition imposed under subsection (a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 407. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B) by striking "(a)(6),"; and

(2) in subsection (a)(2) by inserting "(a)(6)," after "subsections".

SEC. 408. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 409. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 410. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION (e)(1) OF TITLE 18.—Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) SECTION 924(c)(1) OF TITLE 18.—Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.".

SEC. 411. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 412. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of a felony under chapter 25 of title 18, United States Code, if the defendant used or carried a firearm (as defined in section 921(a)(3) of title 18, United States Code) during and in relation to the felony.

SEC. 413. ENHANCED PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to—

(1) appropriately enhance penalties in cases in which a defendant convicted under section 922(g) of title 18, United States Code, has 1 prior conviction by any court referred to in section 922(g)(1) of title 18 for a violent felony (as defined in section 924(e)(2)(B) of that title) or a serious drug offense (as defined in section 924(e)(2)(A) of that title); and

(2) appropriately enhance penalties in cases in which such a defendant has 2 prior convictions for a violent felony (as so defined) or a serious drug offense (as so defined).

SEC. 414. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 415. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 404(a), is amended by adding at the end the following new subsection:

"(l) A person who conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy, except that—

"(1) in the case of a conspiracy to commit an offense under subsection (c) of this section, the authorized term of imprisonment shall be any term of years not exceeding 20; and

"(2) if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, the authorized term of imprisonment shall be any term of years or life.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) A person who conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy, except that in the case of a conspiracy to commit an offense under subsection (h) of this section, the authorized term of imprisonment shall be any term of years not exceeding 20.

SEC. 416. STUDY OF INCENDIARY AMMUNITION; REPORT TO CONGRESS.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the incendiary ammunition offered for sale under the brand name "Dragon's Breath" and also known as the "Three Second Flame Thrower", and all incendiary ammunition of similar function or effect, for the purpose of determining whether there is a reasonable sporting use for such ammunition and whether there is a reasonable use for such ammunition in law enforcement.

(b) REPORT TO THE CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committee on the Judiciary of the House of Representatives a report containing the results of the study required by subsection (a) and recommendations for such legislative or administrative action, with respect to the ammunition referred to in subsection (a), as the Secretary deems appropriate.

SEC. 417. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 415(a), is amended by adding at the end the following new subsection:

"(m) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 415(b), is amended by adding at the end the following new subsection:

"(m) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 418. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 419. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B)(ii);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding 1 year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 420. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 417(a), is amended by adding at the end the following new subsection:

"(n) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

TITLE V—OBSTRUCTION OF JUSTICE

SEC. 501. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years."; and

(4) in subsection (a), as designated by paragraph (1), by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 502. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 503. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 504. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 112(a), is amended by adding at the end the following new section:

"§ 1120. Killing persons aiding Federal investigations

"A person who intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced as provided in section 1111, including by sentence of death or by imprisonment for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 112(b), is amended by adding at the end the following new item:

"1120. Killing persons aiding Federal investigations.".

SEC. 505. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

TITLE VI—GANGS, JUVENILES, DRUGS, AND PROSECUTORS

SEC. 601. SHORT TITLE.

This title may be cited as the "Anti-Gang and Youth Protection Act of 1993".

Subtitle A—Criminal Youth Gangs

SEC. 611. CRIMINAL STREET GANGS OFFENSES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after chapter 93 the following new chapter:

"CHAPTER 94—PROHIBITED PARTICIPATION IN CRIMINAL STREET GANGS AND GANG CRIME

"Sec.
"1930. Crimes in furtherance of gangs.
"1931. Prohibited activity.
"1932. Penalties.
"1933. Joinder.

"§ 1930. Crimes in furtherance of gangs

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Criminal street gangs have become increasingly prevalent and entrenched in our society in the last several decades. In many areas of the country, these gangs exert considerable control over other members of their community, particularly through the use of violence and drugs. Criminal street gangs have also become more national in scope, extending their influence beyond the urban areas in which they originated.

"(2) The major activities of criminal street gangs are crimes of violence and the distribution and use of illegal drugs. It is through these activities that criminal street gangs directly affect interstate and foreign commerce, even when their particular activities, viewed in isolation, appear to be purely intrastate in character.

"(b) BASIS FOR CHAPTER.—On the basis of the findings stated in subsection (a), the Congress determines that the provisions of this chapter are necessary and proper for the purpose of carrying into execution the powers of Congress to regulate commerce and to establish criminal law.

"§ 1931. Prohibited activity

"(a) DEFINITIONS.—In this chapter—

"'criminal street gang' means an organization or group of 5 or more persons, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with a purpose that any of those persons alone, or in any combination, commit or will commit, 2 or more predicate gang crimes, 1 of which must occur after the date of enactment of this chapter and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior predicate gang crime.

"'participate in a criminal street gang' means to act in concert with a criminal street gang with intent to commit, or with the intent that any other person associated with the criminal street gang will commit, 1 or more predicate gang crimes.

"'predicate gang crime' means—

"(A) any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year, involving murder, attempted murder, voluntary manslaughter, kidnapping, robbery, extortion, arson, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or manufacturing, importing, receiving, concealing, purchasing, selling, possessing, or otherwise dealing in a controlled substance or controlled substance analogue (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) any act punishable by imprisonment for more than 1 year under section 922 or 924 (a)(2), (b), (c), (g), or (h) (relating to receipt, possession, and transfer of firearms), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1512 (relating to tampering with a witness, victim, or informant), or section 1513 (relating to retaliating against a witness, victim, or informant); or

"(C) any act punishable under subsection (b)(5).

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) UNLAWFUL ACTS.—It shall be unlawful—

"(1) to commit, or to attempt to commit, a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang;

"(2) to participate, or attempt to participate, in a criminal street gang, or conspire to do so;

"(3) to command, counsel, persuade, induce, entice, or coerce any individual to participate in a criminal street gang;

"(4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

"(5) to use any communication facility, as defined in section 403(b) of the Controlled Substances act (21 U.S.C. 843(b)), in causing or facilitating the commission, or attempted commission, of a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang. Each separate use of a communication facility shall be a separate offense under this subsection.

"§1932. Penalties

"(a) PENALTIES OF UP TO 20 YEARS OR LIFE IMPRISONMENT.—A person who violates section 1931(b) (1) or (2) shall be punished by imprisonment for not more than 20 years, or by imprisonment for any term of years or for life if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, and if a person commits such a violation after 1 or more prior convictions for such a predicate gang crime, that is not part of the instant violation, such person shall be sentenced to a term of imprisonment which shall not be less than 10 years and which may be for any term of years exceeding 10 years or for life.

"(b) PENALTIES BETWEEN 5 AND 10 YEARS.—A person who violates section 1931(b) (3) or (4) shall be sentenced to imprisonment for not less than 5 nor more than 10 years, and if a person who was the subject of the act was less than 18 years of age, to imprisonment for 10 years. A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment, including that imposed for any other violation of this chapter.

"(c) PENALTIES OF UP TO 5 YEARS.—A person who violates section 1931(b)(5) shall be punished by imprisonment for not more than 5 years.

"(d) ADDITIONAL PENALTIES.—

"(1) IN GENERAL.—In addition to the other penalties authorized by this section—

"(A) a person who violates section 1931(b) (1) or (2), 1 of whose predicate gang crimes involves murder or conspiracy to commit murder which results in the taking of a life, and who commits, counsels, commands, induces, procures, or causes that murder, shall be punished by death or by imprisonment for life;

"(B) a person who violates section 1931(b) (1) or (2), 1 of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be sentenced to a term of imprisonment which shall not be less than 20 years and which may be for any term of years exceeding 20 years or for life; and

"(C) a person who violates section 1931(b) (1) or (2), and who at the time of the offense occupied a position of organizer or supervisor, or other position of management in that street gang, shall be sentenced to a term of imprisonment which shall not be less than 15 years and which may be for any term of years exceeding 15 years or for life.

"(2) PRESUMPTION.—For purposes of paragraph (1)(C), if it is shown that the defendant counseled, commanded, induced, or procured 5 or more individuals to participate in a street gang, there shall be a rebuttable presumption that the defendant occupied a position of organizer, supervisor, or other position of management in the gang.

"(e) FORFEITURE.—

"(1) IN GENERAL.—A person who violates section 1931(b) (1) or (2) shall, in addition to any other penalty and irrespective of any provision of State law, forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

"(B) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation.

"(2) APPLICATION OF CONTROLLED SUBSTANCES ACT.—Section 413 (b), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p) of the Controlled Substances Act (21 U.S.C. 853 (b), (c), and (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p)) shall apply to a forfeiture under this section.

"§1933. Joinder

"In a prosecution of an offense under this chapter charging a conspiracy to commit an offense, the trial of all of the alleged conspirators shall be joined in a single district court, and a motion to transfer shall not be granted unless the interest of justice so requires.";

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 93 the following new item:

"94. Prohibited participation in criminal street gangs and gang crimes 1930".

(c) SENTENCING GUIDELINES INCREASE FOR GANG CRIMES.—(1) The United States Sentencing Commission shall at the earliest opportunity amend the sentencing guidelines to increase by at least 4 levels the base offense level for any felony committed for the purpose of gaining entrance into, or maintaining or increasing position in, a criminal street gang. For purposes of this subsection, "criminal street gang" means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with the intent that any of those individuals alone, or in any combination, commit or will commit, 2 or more acts punishable under State or Federal law by imprisonment for more than 1 year.

(2) The United States Sentencing Commission shall review and, if necessary, amend its sentencing guidelines to provide that activity of a defendant as an organizer or leader of a criminal street gang shall be an aggravating factor in determining a sentence for an offense under chapter 26 of title 18, United States Code.

SEC. 612. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person below the age of 18 years in the commission of the offense".

SEC. 613. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 614. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 615. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 616. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 617. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 618. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and by adding at the end new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure, or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of title 18, United States Code, is repealed, and the corresponding item in the chapter analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking "and section 3607 of title 18".

SEC. 619. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

Subtitle B—Gang Prosecution

SEC. 621. ADDITIONAL PROSECUTORS.

There is authorized to be appropriated $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 for the hiring of additional Assistant United States Attorneys to prosecute violent youth gangs.

SEC. 622. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1995.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1994.

SEC. 623. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1992" and inserting "1993".

SEC. 624. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by inserting "and gang" after "Except for grants awarded to State and local governments for the purpose of participating in multijurisdictional drug".

Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

SEC. 631. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

(2) by adding at the end the following new subpart:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States, units of general local government, private not-for-profit anticrime organizations, or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including prevention and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To develop and provide parenting classes to parents of at-risk youth, giving parents the skills they need to provide adequate care and supervision of such youth and to counteract the influences leading youth to a life of gangs, crime, and drugs.

"(6) To develop and provide training in methods of nonviolent dispute resolution to youth of junior high school and high school age.

"(7) To reduce and prevent juvenile drug and gang-related activity in rural areas.

"(8) To provide technical assistance and training to personnel and agencies responsible

for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(9) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(10) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(11) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(12) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(13) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(14) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 232. There are authorized to be appropriated $100,000,000 for fiscal year 1994 and such sums as are necessary for fiscal year 1995 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 233. The amounts appropriated for this subpart for any fiscal year shall be allocated as follows:

"(1) $500,000 or 1.0 percent, whichever is greater, shall be allocated to each of the States.

"(2) Such sums as are necessary to carry out section 235.

"(3) Of the funds remaining after the allocation under paragraphs (1) and (2), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 234. (a) IN GENERAL.—Each State or entity applying for a grant under section 231 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"MENTAL HEALTH SCREENING

"SEC. 235. (a) SENSE OF THE CONGRESS.—It is the sense of the Congress that no child should have to be incarcerated in a State youth center or detention facility solely in order to receive mental health treatment.

"(b) IN GENERAL.—Not later than two years after the date of enactment of this subpart, the Attorney General, acting through the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in collaboration with the Secretary of Health and Human Services, acting through the Administrator of Substance Abuse and Mental Health Services Administration, shall, subject to the availability of appropriations—

"(1) study the nature and prevalence of mental illness among youth in the juvenile justice system at several different points in the system, including the arrest stage, the adjudication, and dispositional state, and the commitment stage;

"(2) develop a model system that the States can use to assess, diagnose, and treat the mental health needs of youth who come in contact with the juvenile justice system for mental illness; and

"(3) disseminate the results of the study and the model to each State's Juvenile Justice Advisory Group.

"(c) STUDY.—The study should include analysis of—

"(1) national prevalence of rates of the different clinical categories of mental illness for youth who come in contact with the juvenile justice system;

"(2) the prevalence of multiple mental disorders among youth who have come in contact with the juvenile justice system;

"(3) recommendations to the Committee on the Judiciary of the Senate and the Committees on Education and Labor of the House of Representatives on the appropriateness and need for further Federal action; and

"(4) such other analysis as is appropriate.

"(d) MODEL.—The model should provide—

"(1) guidelines for accurate and timely assessment, diagnosis, and treatment at several different points in the juvenile justice system including the arrest stage, the adjudication and dispositional stage, and the commitment stage;

"(2) a method for fostering collaboration between the mental health agencies, juvenile justice agencies, educational agencies, social services agencies, substance abuse treatment agencies, police, and families;

"(3) a funding mechanism for the model; and

"(4) such other guidelines as are appropriate.".

SEC. 632. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

SEC. 633. GRANTS FOR YOUTH DEVELOPMENT CENTERS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.), as amended by section 611, is amended by adding at the end the following new subpart:

"Subpart III—Youth Violence Prevention Block Grants

"SEC. 238. (a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall subject to availability of appropriations make grants to States to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile violence.

"(b) ISSUES TO BE ADDRESSED.—A program funded under subsection (a) shall address issues identified as contributing to youth violence, which may include—

"(1) conflict resolution programs in schools;

"(2) alternatives to school suspension;

"(3) juvenile court diversion programs; and

"(4) other innovative projects.

"(c) ALLOCATION OF FUNDS.—The amount appropriated under this section for a fiscal year shall be allocated among the States by allocating to each State an amount that bears the same proportion to the amount appropriated as the number of residents of the State under the age of 18 years bears to the number of residents of all of the States under the age of 18 years.

"(d) ADMINISTRATION.—Grants made under this section shall be administered by the State office designated under section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(e) APPLICATIONS BY PUBLIC AND PRIVATE AGENCIES.—

"(1) IN GENERAL.—A public or private agency desiring to receive a grant or enter into a contract under this subpart shall submit an application at such time, in such manner, and containing such information as the office described in subsection (d) may prescribe.

"(2) CONTENTS.—In accordance with guidelines established by the office described in subsection (d), an application under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes described in subsections (a) and (b) and specifically identify each such purpose that the program or activity is designed to carry out;

"(B) provide that the program or activity will be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity will be coordinated with programs, activities, and services available locally;

"(G) provide that regular reports on such program or activity shall be sent to the administering office named in subsection (d); and

"(H) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(f) MATCHING FUNDS REQUIREMENTS.—

"(1) FUNDS RECEIVED UNDER THIS SUBPART.—Funds received through a grant under this section may not be expended for more than 75 percent of the cost of any program that is so funded.

"(2) FUNDS FROM OTHER SOURCES.—In providing for the 25 percent share of the cost of a program from other sources, a State—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, private sources, nonprofit sources, other Federal sources, or any combination of these sources.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1995 and 1996.".

Subtitle D—Bindover System for Certain Violent Juveniles

SEC. 641. BINDOVER SYSTEM.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 1002, is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(23) programs that address the need for effective bindover systems for the prosecution of violent juveniles 13 years of age and older in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 36 of title 18, United States Code.".

Subtitle E—Federal Prosecutions

SEC. 651. PROSECUTION AS ADULTS OF VIOLENT JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(A) Notwithstanding any other provision of this section or any other law, a juvenile who was 13 years old or older on the date of the commission of an offense under section 113 (a), (b), or (c), 1111, 1113, 2111 or 2113 (if the juvenile was in possession of a firearm during the offense), or 2241 (a) or (c) (if the juvenile was in possession of a firearm during the offense) shall be prosecuted as an adult in Federal court. No juvenile prosecuted as an adult under this paragraph shall be incarcerated in an adult prison.

"(B) If a juvenile prosecuted under this paragraph is convicted, the juvenile shall be entitled to file a petition for resentencing pursuant to applicable sentencing guidelines when he or she reaches the age of 16.

"(C) The United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, if necessary, to carry out the purposes of this section. For resentencing determinations pursuant to subsection (b), the Commission may promulgate guidelines, if necessary to permit sentencing adjustments which may include adjustments which provide for supervised release, for defendants who have clearly demonstrated (i) an exceptional degree of responsibility for the offense and (ii) a willingness and ability to refrain from further criminal conduct.

Subtitle F—Youth Handgun Safety

SEC. 661. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, guns, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SEC. 662. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply to—

"(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

"(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

"(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm.

"(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph:

"(5)(A)(i) A juvenile who violates section 922(s) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(s)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(s) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(s)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(d) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such a person of section 922(s)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (s)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(s) of this title," before "criminal prosecution on the basis".

(e) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(s) of title 18, United States Code, or a similar State law)."

(f) MODEL LAW.—The Attorney General, acting through the Director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

SEC. 663. PROHIBITION OF THE SALE AND TRANSFER FOR CONSIDERATION OF A HANDGUN OR HANDGUN AMMUNITION TO A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(t)(1) Except as provided in paragraph (3), it shall be unlawful for any person to sell or otherwise transfer for consideration to a person who the seller or transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) For purposes of this subsection—

"(i) the term 'juvenile' means a person who is less than 18 years of age; and

"(ii) the term 'handgun' means—

"(I) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(II) any combination of parts from which a firearm described in subclause (I) can be assembled.

"(3) This subsection shall not apply to a sale or a transfer of a handgun or ammunition if the sale or transfer was made in accordance with State and local law and with the prior consent of the juvenile's parent or legal guardian who is not prohibited by Federal, State, or local law from possessing a firearm.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking out "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), whoever knowingly violates subsection (t) of section 922 shall be fined not more than $5,000, imprisoned not more than five years, or both.

"(B) Whoever knowingly violates subsection (t) of section 922 knowing or having reasonable cause to know that the juvenile to whom the handgun or ammunition was sold or otherwise transferred for consideration intended to carry, possess, discharge, or otherwise use such handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

TITLE VII—TERRORISM

Subtitle A—Maritime Navigation and Fixed Platforms

SEC. 701. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§2280. Violence against maritime navigation

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

"(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1) (B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DEFINITIONS.—In this section—

"'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

"(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1) (B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(c) It is a bar to Federal presecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DEFINITIONS.—In this section—

"'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

"'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

SEC. 702. TECHNICAL AMENDMENT.

The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 703. EFFECTIVE DATES.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

Subtitle B—General Provisions

SEC. 711. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in section 2332a of title 18, United States Code, as added by subsection (b)) gravely harm the national security and foreign relations inierests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) DEFINITIONS.—In this section—

"'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'weapon of mass destruction' means—

"(A) any destructive device (as defined in section 921);

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

"(b) OFFENSE.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following new item:

"2332a. Use of weapons of mass destruction.".

SEC. 712. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) SECTION 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) SECTION 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(d) CHAPTER 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(e) SECTION 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 713. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 714. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) by inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 715. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 716. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§2340. Definitions

"In this chapter—

"'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) OFFENSES.—A person who outside the United States commits or attempts to commit torture shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 717. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 718. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 719. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§36. Violence at international airports

"(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.

"(c) It is a bar to Federal presecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 720. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, as amended by section 719(a), is amended by adding at the end the following new section:

"§37. Violations of Federal aviation security regulations

"A person who willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 315 or 316 of the Air Transportation Security Act of 1974 (49 U.S.C. App. 1356 and 1357), or a successor part, shall be fined under this title, imprisoned for not more than 1 year, or both.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 719(b), is amended by adding at the end the following new item:

"37. Violations of Federal aviation security regulations.".

SEC. 721. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"A person who, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TECHNICAL AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new item:

"470. Counterfeit acts committed outside the United States.".

(2) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by amending the item for chapter 25 to read as follows:

"25. Counterfeiting and forgery .... 470".

SEC. 722. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of

State, or the Secretary's designee, and consist of—

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

SEC. 723. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18, United States Code is amended to read as follows:

"(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 724. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 725. ALIEN WITNESS COOPERATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines—

"(I) is in possession of critical reliable information concerning a criminal organization or enterprise, and

"(II) is willing to supply such information to Federal or State law enforcement authorities or a Federal or State court of law, and

"(ii) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise,

and the spouse and minor children of the alien if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) The Attorney General may, in the Attorney General's discretion, waive the application of subsection (a) (other than paragraph (3)(E) thereof) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General deems it in the national interest. Any such waiver shall be deemed a waiver of any comparable ground for deportation under section 241(a)(1)(A).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 100.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Commissioner such information concerning the alien's whereabouts and activities as the Attorney General may require,

"(B) may not be convicted of any criminal offense in the United States after the date of such admission, and

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status.

"(5) The Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning—

"(A) the number of such nonimmigrants admitted,

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens,

"(C) the number of such nonimmigrants whose admission has not resulted in successful criminal prosecution or investigation, and

"(D) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(h)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S) has supplied information described in clauses (i) and (ii) of that section, and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the successful prosecution of an individual described in clause (ii) of that section,

the Attorney General may adjust the status of the alien (and the spouse and child of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval, and the Secretary of State shall reduce by 1 the number of visas authorized to be issued under section 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(A) by striking "or" before "(3)" and "(4)"; and

(B) by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))" after "five years".

SEC. 726. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding the following new item:

"2339A. Providing material support to terrorists.".

TITLE VIII—SEXUAL VIOLENCE AND ABUSE OF CHILDREN, THE ELDERLY, AND INDIVIDUALS WITH DISABILITIES

Subtitle A—Sexual Abuse

SEC. 801. SEXUAL ABUSE AMENDMENTS.

(a) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT FOR VICTIMS UNDER THE AGE OF 16.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

Subtitle B—Protection of Children, the Elderly, and Individuals With Disabilities

SEC. 811. SHORT TITLE.

This subtitle may be cited as the "National Child, Elderly, and Individuals with Disabilities Protection Act of 1993".

SEC. 812. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which organizations that care for children, the elderly, or individuals with disabilities may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective care providers have committed abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit organizations that care for children, the elderly, or individuals with disabilities to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective care providers have committed abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 813. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "abuse crime" means a child abuse crime, a crime against the elderly, or a crime against an individual with disabilities.

(2) the term "abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, an abuse crime: full name, race, sex, date of birth, height, weight, a brief description of the abuse crime or offenses for which the person has been arrested or is under indictment or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, under indictment for, or convicted of, an abuse crime;

(3) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle;

(4) the term "background check crime" means an abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, burglary, robbery, embezzlement, larceny, fraud, and a felony offense involving the use or distribution of a controlled substance;

(5) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(6) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(7) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(8) the term "care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;

(9) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(10) the term "elderly" means a person who is sixty-five years old or older.

(11) the term "exploitation" means child pornography and child prostitution;

(12) the term "mental injury" means harm to a person's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(13) the term "national criminal background check system" means the system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(14) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child, elderly person, or individual with disabilities;

(15) the term "individual with a disability" means an individual with a disability (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(21)));

(16) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(17) the term "provider" means—

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a person to whom the qualified entity provides care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a person to whom the qualified entity provides care;

(18) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services;

(19) the term "sex crime" means an act of sexual abuse that is a criminal act;

(20) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(21) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 814. REPORTING BY THE STATES.

(a) In General.—An authorized criminal justice agency of a State shall report child abuse crime information to, or index child abuse crime information in, the national criminal background check system.

(b) Provision of State Child Abuse Crime Records Through the National Criminal Background Check System.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall, subject to the availability of appropriations—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis through the national criminal background check system;

(B) establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of final case dispositions in computerized criminal history files for all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain at least 80 percent currency of final case dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve full disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) Liaison.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) Annual Summary.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) Annual Report.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) Study of Child Abuse Offenders.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee

on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 815. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), which guidelines shall include the requirements and protections of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a person to whom the qualified entity provides care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime; and

(ii) may not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a) be limited to the conviction or pending indictment information reasonably required to accomplish the purposes of this Act;

(F) that the qualified entity may choose to deny the provider unsupervised access to a person to whom the qualified entity provides care on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the provider who is the subject of a background check;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check;

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis a background check; and

(K) that a State or Federal provider of criminal history records, and any employee thereof, shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a criminal background check, or due to a criminal history record's being incomplete.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 816. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 914 of the National Child, Elderly, and Individuals with Disabilities Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child, Elderly, and Individuals with Disabilities Protection Act of 1993, and the information and records referred to in section 406 of the Indian Child Protection and Family Violence Prevention Act.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $40,000,000 for fiscal years 1995, 1996, and 1997.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 914 of this Act.

Subtitle C—Crimes Against Children

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 822. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from

prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints by a designated State law enforcement agency for child care services providers.

SEC. 823. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of enactment of this Act in which to implement the provisions of this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle D—Child Pornography

SEC. 824. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2258. Production of sexually explicit depictions of a minor for importation into the United States

"(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

"(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2258. Production of sexually explicit depictions of a minor for importation into the United States.".

(2) FINE PROVISIONS.—Section 2251(d) of title 18, United States Code, is amended—

(A) by striking "not more than $100,000, or" and inserting "under this title,";

(B) by striking "not more than $200,000, or" and inserting "under this title,"; and

(C) by striking "not more than $250,000" and inserting "under this title".

(c) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second place it appears and inserting "this chapter or chapter 109A".

(d) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A".

(e) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States Code, are each amended by inserting ", or attempts or conspires to violate," after "violates" each place it appears.

(f) RICO AMENDMENT.—Section 1961(l) of title 18, United States Code, is amended by striking "2251–2252" and inserting "2251, 2252, and 2258".

(g) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(1) by striking "(a) Whoever" and inserting "(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who"; and

(2) by adding at the end the following new subsection:

"(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2245) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 825. SENSE OF CONGRESS CONCERNING STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

It is the sense of the Congress that each State that has not yet done so should enact legislation prohibiting the production, distribution, receipt, or simple possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct (as defined in section 2256 of title 18, United States Code) and providing for a maximum imprisonment of at least 1 year and for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

Subtitle E—Rules of Evidence, Practice and Procedure

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of

another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

Subtitle F—Sexually Violent Predators

SEC. 841. SHORT TITLE.

This subtitle may be cited as the "Sexually Violent Predators Act".

SEC. 842. FINDINGS.

Congress finds that—

(1) there exists a small but extremely dangerous group of sexually violent persons who do not have a mental disease or defect;

(2) persons who are sexually violent predators generally have antisocial personality features that—

(A) are not amenable to mental illness treatment modalities in existence on the date of enactment of this Act; and

(B) render the persons likely to engage in sexually violent behavior;

(3) the likelihood that sexually violent predators will repeat acts of predatory sexual violence is high; and

(4) the prognosis for curing sexually violent predators is poor and the treatment needs of the population of the predators are very long-term.

SEC. 843. DEFINITIONS.

As used in this subtitle:

(1) MENTAL ABNORMALITY.—The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(2) PREDATORY.—The term "predatory", with respect to an act, means an act directed towards a stranger, or a person with whom a relationship has been established or promoted, for the primary purpose of victimization.

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" means an act that is a violation of title 18, United States Code or State criminal code that—

(A) involves the use or attempted or threatened use of physical force against the person or property of another person; and

(B) is determined beyond a reasonable doubt to be sexually motivated.

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

SEC. 844. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—In accordance with this section, the Attorney General shall establish guidelines for State programs to require a sexually violent predator to register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. The Attorney General shall approve each State program that complies with the guidelines.

(2) STATE COMPLIANCE.—

(A) IMPLEMENTATION DATE.—A State that does not implement a program described in paragraph (1) by the date that is 3 years after the date of enactment of this Act, and maintain the implementation thereafter, shall be ineligible for funds in accordance with subparagraph (B).

(B) INELIGIBILITY FOR FUNDS.—

(i) IN GENERAL.—A State that does not implement the program as described in subparagraph (A) shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(ii) REALLOCATION OF FUNDS.—Funds made available under clause (i) shall be reallocated, in accordance with such section, to such States as implement the program as described in subparagraph (A).

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—

(1) IN GENERAL.—An approved State program established in accordance with this section shall contain the requirements described in this section.

(2) DETERMINATION.—The determination that a person is a "sexually violent predator" and the determination that a person is no longer a "sexually violent predator" shall be made by the sentencing court after receiving a report by a board of experts on sexual offenses. Each State shall establish a board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) NOTIFICATION.—If a person who is required to register under this section is anticipated to be released from prison, paroled, or placed on supervised release, a State prison officer shall, not later than 90 days before the anticipated date of the release or commencement of the parole—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing not later than 10 days after the change of address;

(C) obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(4) TRANSFER OF INFORMATION TO STATE AND THE FBI.—Not later than 3 days after the receipt of the information described in paragraph (2), the officer shall forward the information to a designated State law enforcement agency. As soon as practicable after the receipt of the information by the State law enforcement agency, the agency shall—

(A) enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency that has jurisdiction over the area in which the person expects to reside; and

(B) transmit the information to the Identification Division of the Federal Bureau of Investigation.

(5) QUARTERLY VERIFICATION.—

(A) MAILING TO PERSON.—Not less than every 90 days after the date of the release or commencement of parole of a person under paragraph (2), the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(B) RETURN OF VERIFICATION FORM.—

(i) IN GENERAL.—The person shall return, by mail, the verification form to the agency not later than 10 days after the receipt of the form. The verification form shall be signed by the person, and shall state that the person continues to reside at the address last reported to the designated State law enforcement agency.

(ii) FAILURE TO RETURN.—If the person fails to mail the verification form to the designated State law enforcement agency by the date that is 10 days after the receipt of the form by the person, the person shall be in violation of this section unless the person proves that the person has not changed the residence address of the person.

(6) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESSES.—Any change of address by a person required to register under this section that is reported to the designated State law enforcement agency shall as soon as practicable be reported to the appropriate law enforcement agency that has jurisdiction over the area in which the person is residing.

(7) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to register and keep the registration current shall be subject to criminal penalties in the State. It is the sense of Congress that the penalties should include imprisonment for not less than 180 days.

(8) TERMINATION OF OBLIGATION TO REGISTER.—The obligation of a person to register under this section shall terminate on a determination made in accordance with the provision of paragraph (2) of this section that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency may release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be

immune from liability for any good faith conduct under this section.

TITLE IX—CRIME VICTIMS

Subtitle A—Victims' Rights

SEC. 901. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

SEC. 902. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h); and

(7) by adding at the end the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 903. SENSE OF THE CONGRESS CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Congress that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender's counsel to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 911. AMOUNTS OF FUNDS FOR COSTS AND GRANTS.

Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) 1 percent shall be available for grants under section 1404(c); and

"(D) 4.5 percent shall be available for grants as provided in section 1404A.".

SEC. 912. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 913. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 914. USE OF UNSPENT 1402(d)(2) MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose"; and

(2) by adding at the end the following:

"The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 915. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 916. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 917. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

Subtitle C—Senior Citizens

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "National Triad Program Act".

SEC. 922. FINDINGS.

The Congress finds that—

(1) senior citizens are among the most rapidly growing segments of our society;

(2) currently, senior citizens comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of our Nation's population;

(3) senior citizens find themselves uniquely situated in our society, environmentally and physically;

(4) many senior citizens are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors;

(5) physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to an older person's susceptibility to criminal victimization;

(6) senior citizens are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that senior citizens that are victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against senior citizens are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) although a few studies have attempted to define and estimate the extent of abuse and neglect of senior citizens, both in their homes and in institutional settings, many experts believe that this crime is substantially underreported and undetected;

(10) similarly, while some evidence suggests that senior citizens may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud;

(11) many law enforcement agencies do not have model practices for responding to the criminal abuse of senior citizens;

(12) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against senior citizens;

(13) those differences, in turn, can contribute to inconsistent approaches to the problem and inhibit a genuinely effective response;

(14) there are, however, a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of senior citizens;

(15) the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort; and

(16) recognizing that senior citizens have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal Government should seek to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population.

SEC. 923. PURPOSES.

The purposes of this subtitle are—

(1) to support a coordinated effort among law enforcement and social service agencies to stem the tide of violence against senior citizens and support media and nonmedia strategies aimed at increasing both public understanding of the problem and the senior citizens' skills in preventing crime against themselves and their property; and

(2) to address the problem of crime against senior citizens in a systematic and effective manner by promoting and expanding collaborative crime prevention programs, such as the Triad model, that assist law enforcement agencies and senior citizens in implementing specific strategies for crime prevention, victim assistance, citizen involvement, and public education.

SEC. 924. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) IN GENERAL.—The Director of the National Institute of Justice shall, subject to the availability of appropriations, conduct a qualitative and quantitative national assessment of—

(1) the nature and extent of crimes committed against senior citizens and the effect of such crimes on the victims;

(2) the numbers, extent, and impact of violent crimes and nonviolent crimes (such as frauds and "scams") against senior citizens and the extent of unreported crime;

(3) the collaborative needs of law enforcement, health, and social service organizations, focusing on prevention of crimes against senior citizens, to identify, investigate, and provide assistance to victims of those crimes; and

(4) the development and growth of strategies to respond effectively to the matters described in paragraphs (1), (2), and (3).

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a broad range of sources in order to develop accurate information on the nature and extent of crimes against senior citizens, including identifying and conducting such survey and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) institutional and community responses to elderly victims of crime, focusing on the problems associated with fear of victimization, abuse of senior citizens, and hard-to-reach senior citizens who are in poor health, are living alone or without family nearby, or living in high crime areas;

(3) special services and responses required by elderly victims;

(4) whether the experience of senior citizens with some service organizations differs markedly from that of younger populations;

(5) the kinds of programs that have proven useful in reducing victimization of senior citizens through crime prevention activities and programs;

(6) the kinds of programs that contribute to successful coordination among public sector agencies and community organizations in reducing victimization of senior citizens; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against senior citizens, including the changes that can be anticipated in the crimes themselves and appropriate responses as the society increasingly ages.

(c) Avoidance of Duplication.—In conducting the assessment under subsection (a), the Director of the National Institute of Justice shall draw upon the findings of existing studies and avoid duplication of efforts that have previously been made.

(d) Dissemination.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs described in sections 922 and 923, the Director of the National Institute of Justice shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 925. PILOT PROGRAMS.

(a) Awards.—The Director of the Bureau of Justice Assistance shall, subject to the availability of appropriations, make grants to coalitions of local law enforcement agencies and senior citizens to assist in the development of programs and execute field tests of particularly promising strategies for crime prevention services and related services based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) Triad Cooperative Model.—(1) Subject to paragraph (2), a pilot program funded under this section shall consist of the Triad cooperative model developed by the organizations described in section 922(15), which calls for the participation of the sheriff, at least 1 police chief, and a representative of at least 1 senior citizens' organization within a county and may include participation by general service coalitions of law enforcement, victim service, and senior citizen advocate organizations.

(2) If there is not both a sheriff and a police chief in a county or if the sheriff or a police chief do not participate, a pilot program funded under this section shall include in the place of the sheriff or police chief another key law enforcement official in the county such as a local prosecutor.

(c) Application.—A coalition or Triad program that desires to establish a pilot program under this section shall submit to the Director of the Bureau of Justice Assistance an application that includes—

(1) a description of the community and its senior citizen population;

(2) assurances that Federal funds received under this part shall be used to provide additional and appropriate education and services to the community's senior citizens;

(3) a description of the extent of involvement of each organizational component (chief, sheriff (or other law enforcement official), and senior organization representative) and focus of the Triad program;

(4) a comprehensive plan including—

(A) a description of the crime problems facing senior citizens and need for expanded law enforcement and victim assistance services;

(B) a description of the types of projects to be developed or expanded;

(C) a plan for an evaluation of the results of Triad endeavors;

(D) a description of the resources (including matching funds, in-kind services, and other resources) available in the community to implement the Triad development or expansion;

(E) a description of the gaps that cannot be filled with existing resources;

(F) an explanation of how the requested grant will be used to fill those gaps; and

(G) a description of the means and methods the applicant will use to reduce criminal victimization of older persons; and

(5) funding requirements for implementing a comprehensive plan.

(d) Distribution of Awards.—The Director of the Bureau of Justice Assistance shall make awards—

(1) to 17 Triad programs in counties with a population of less than 50,000;

(2) to 17 Triad programs in counties with a population of at least 50,000 but less than 100,000; and

(3) to 16 Triad programs in counties with a population of 100,000 or more.

(e) Post-Grant Period Report.—A grant recipient under this section shall, not later than 6 months after the conclusion of the grant period, submit to the Director of the Bureau of Justice Assistance a report that—

(1) describes the composition of organizations that participated in the pilot program;

(2) identifies problem areas encountered during the course of the pilot program;

(3) provides data comparing the types and frequency of criminal activity before and after the grant period and the effect of such criminal activity on senior citizens in the community; and

(4) describes the grant recipient's plans and goals for continuance of the Triad program after the grant period.

SEC. 926. TRAINING ASSISTANCE, EVALUATION, AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 924—

(1) the Director of the Bureau of Justice Assistance shall make awards to organizations with demonstrated ability to provide training and technical assistance in establishing crime prevention programs based on the Triad model, for purposes of aiding in the establishment and expansion of pilot programs under this section; and

(2) the Director of the National Institute of Justice shall make awards to research organizations, for the purposes of—

(A) evaluating the effectiveness of selected pilot programs; and

(B) conducting the research and development identified through the national assessment as being critical; and

(3) the Director of the Bureau of Justice Assistance shall make awards to public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against senior citizens and promoting ideas or programs to prevent them.

SEC. 927. REPORT.

The Director of the Bureau of Justice Assistance and the Director of the National Institute of Justice shall submit to Congress an annual report (which may be included with the report submitted under section 102(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(b)) describing the results of the pilot programs conducted under section 925.

SEC. 928. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $2,000,000 to the Bureau of Justice Assistance for the purpose of making Triad pilot program awards in that amount under section 925;

(2) $1,000,000 to the Bureau of Justice Assistance for the purpose of funding the national training and technical assistance effort under sections 924 and 926;

(3) $1,000,000 to the Bureau of Justice Assistance for the purpose of developing public service announcements under sections 924 and 926;

(4) $2,000,000 to the National Institute of Justice for the purposes of conducting the national assessment, evaluation pilot programs, and carrying out the research agenda under sections 924 and 926; and

(5) to the extent that funds are not otherwise available for the purpose, such sums as are necessary to pay the administrative costs of carrying out this subtitle.

TITLE X—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—DNA Identification

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1993".

SEC. 1002. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) Drug Control and System Improvement Grant Program.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) State Applications.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of funds received from a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1003 of the DNA Identification Act of 1993;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(iii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iv) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1003 of the DNA Identification Act of 1993.".

(c) DNA Identification Grants.—

(1) Part X.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C.

3711 et seq.), as amended by section 2802(a), is amended—

(A) by redesignating part X as part Y,

(B) by redesignating section 2401 as section 2501; and

(C) by inserting after part W the following new part:

"PART X—DNA IDENTIFICATION GRANTS

"SEC. 2401. GRANT AUTHORIZATION.

"The Director may make funds available under this part to States and units of local government, or combinations thereof, to carry out all or a substantial part of a program or project intended to develop or improve the capability to analyze deoxyribonucleic acid (referred to in this part as "DNA") in a forensic laboratory.

"SEC. 2402. APPLICATIONS.

"To request a grant under this part, the chief executive officer of a State or unit of local government shall submit an application in such form as the Director may require.

"SEC. 2403. APPLICATION REQUIREMENTS.

"No grant may be made under this part unless an application has been submitted to the Director in which the applicant certifies that—

"(1) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1003 of the DNA Identification Act of 1993.

"(2) DNA samples obtained by and DNA analyses performed at the laboratory shall be made available only—

"(A) to criminal justice agencies for law enforcement identification purposes;

"(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(D) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(3) the laboratory and each analyst performing DNA analyses at the laboratory shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program that meets the standards issued under section 1003 of the DNA Identification Act of 1993.

"SEC. 2404. ADMINISTRATIVE PROVISIONS.

"(a) Regulation Authority.—The Director may promulgate guidelines, regulations, and procedures, as necessary to carry out the purposes of this part, including limitations on the number of awards made during each fiscal year, the submission and review of applications, selection criteria, and the extension or continuation of awards.

"(b) Award Authority.—The Director shall have final authority over all funds awarded under this part.

"(c) Technical Assistance.—To assist and measure the effectiveness and performance of programs and activities funded under this part, the Director shall provide technical assistance as required.

"SEC. 2405. RESTRICTIONS ON USE OF FUNDS.

"(a) Federal Share.—The Federal share of a grant, contract, or cooperative agreement made under this part may not exceed 75 percent of the total costs of the project described in the application submitted for the fiscal year for which the project receives assistance.

"(b) Administrative Costs.—A State or unit of local government may not use more than 10 percent of the funds it receives from this part for administrative expenses.

"SEC. 2406. REPORTS.

"(a) Reports to Director.—Each State or unit of local government which receives a grant under this part shall submit to the Director, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Director may reasonably require which contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application submitted under section 2402; and

"(2) such other information as the Director may require.

"(b) Reports to Congress.—Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report that includes—

"(1) the aggregate amount of grants made under this part to each State or unit of local government for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"SEC. 2407. EXPENDITURE RECORDS.

"(a) Records.—Each State or unit of local government which receives a grant under this part shall keep records as the Director may require to facilitate an effective audit.

"(b) Access.—The Director, the Comptroller General, or their designated agents shall have access, for the purpose of audit and examination, to any books, documents, and records of States and units of local government which receive grants made under this part if, in the opinion of the Director, the Comptroller General, or their designated agents, such books, documents, and records are related to the receipt or use of any such grant.".

(2) Table of Contents.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 2802(c), is amended by striking the matter relating to part W and inserting the following:

"Part X—DNA Identification Grants

"Sec. 2401. Grant Authorization.
"Sec. 2402. Applications.
"Sec. 2403. Application requirements.
"Sec. 2404. Administrative provisions.
"Sec. 2405. Restrictions on use of funds.
"Sec. 2406. Reports.
"Sec. 2407. Expenditure records.

"Part Y—Transition; Effective Date; Repealer

"Sec. 2501. Continuation of rules, authorities, and proceedings.".

(3) Authorization of Appropriations.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 2802(c), is amended—

(A) in paragraph (3) by striking "and W" and inserting "W, and X"; and

(B) adding at the end the following new paragraph:

"(18) There are authorized to be appropriated to carry out part X $5,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.".

(4) Effective Date.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 1003. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) Publication of Quality Assurance and Proficiency Testing Standards.—(1)(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials.

(B) The advisory board shall include as members scientists from State, local, and private forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology.

(C) The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) Administration of the Advisory Board.—(1) For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation.

(2) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a).

(3) The DNA advisory board established under this section shall be separate and distinct from any other advisory board administered by the FBI, and is to be administered separately.

(4) The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) Proficiency Testing Program.—(1) Not later than 1 year after the effective date of this Act, the Director of the National Institute of Justice shall certify to the Committees on the Judiciary of the House and Senate that—

(A) the Institute has entered into a contract with an appropriate entity for establishing a blind external proficiency testing program for DNA analyses, which shall be available to public and private laboratories performing forensic DNA analyses;

(B) a blind external proficiency testing program for DNA analyses is already readily available to public and private laboratories performing forensic DNA analyses; or

(C) it is not feasible to have blind external testing for DNA forensic analyses.

(2) As used in this subsection, the term "blind external proficiency test" means a test that is presented to a forensic laboratory through a second agency and appears to the analysts to involve routine evidence.

(3) Notwithstanding any other provision of law, the Director of the Bureau of Justice Assistance may make available to the Director of the National Institute of Justice during the first fiscal year in which funds are distributed under this subtitle up to $250,000 from the funds available under part Y of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 to carry out this subsection.

SEC. 1004. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) ESTABLISHMENT OF INDEX.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) INFORMATION.—The index described in subsection (a) shall include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed by or on behalf of a criminal justice agency in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1003;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1003; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) FAILURE TO COMPLY.—The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) are not met.

SEC. 1005. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1003.

(B) Within 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory.

(C) In this paragraph, "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For 5 years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests described in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statues or rules; and

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) A person who—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(2) A person who, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1006. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation to carry out sections 1003, 1004, and 1005 $4,500,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

Subtitle B—Department of Justice Community Substance Abuse Prevention

SEC. 1011. SHORT TITLE.

This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1993".

SEC. 1012. COMMUNITY PARTNERSHIPS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least 7 organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, may make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1995, $20,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 522 the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

Subtitle C—Racial and Ethnic Bias Study Grants

SEC. 1021. STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, acting through the Bureau of Justice Assistance, may make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, whether the State plan expressly considers the role of race in procedures for jury selection in the State, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

Subtitle D—Improved Training and Technical Automation

SEC. 1031. IMPROVED TRAINING AND TECHNICAL AUTOMATION.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to units of State and local law enforcement for the purposes of improving law enforcement agency efficiency through computerized automation and technological improvements.

(2) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(A) increase use of mobile digital terminals;

(B) improve communications systems;

(C) accomplish paper-flow reduction;

(D) establish or improve ballistics identification programs;

(E) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis; and.

(F) improve computerized collection of criminal records.

(3) FUNDING.—No funds under this subtitle may be used to implement any cryptographic or digital telephony programs.

(b) TRAINING AND INVESTIGATIVE ASSISTANCE.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations—

(A) expand and improve investigative and managerial training courses for State and local law enforcement agencies; and

(B) develop and implement, on a pilot basis with no more than 10 participating cities, an intelligent information system that gathers, integrates, organizes, and analyzes information in active support of investigations by Federal, State, and local law enforcement agencies of violent serial crimes.

(2) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

(3) INTELLIGENT INFORMATION SYSTEM.—The intelligent information system described in paragraph (1)(B) shall be developed and implemented by the Federal Bureau of Investigation and shall utilize the resources of the Violent Criminal Apprehension Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1994—

(1) $100,000,000 to carry out subsection (a);

(2) $40,000,000 to carry out subsection (b)(1)(A); and

(3) $10,000,000 to carry out subsection (b)(2)(B).

TITLE XI—PROVISIONS RELATING TO POLICE OFFICERS

Subtitle A—Law Enforcement Family Support

SEC. 1101. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 309(b)(1), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following new part:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director may make grants to States and local law enforcement agencies and to organizations representing State or local law enforcement personnel to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency or organization that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency or organization that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(6) Provide technical assistance and training programs to support any or all of the services described in paragraphs (1), (2), (3), (4), and (5).

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency or organization that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"(10) Technical assistance and training to support any or all of the services described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9).

"SEC. 1904. APPLICATIONS.

"A law enforcement agency or organization desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality or from the highest ranking official from the organization applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency or $250,000 to a law enforcement organization for a period not to exceed 5 years. In any application from a State or local law enforcement agency or organization for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency or organization may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency or organization to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency or organization that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) Such report shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 309(b)(2), is amended by striking the matter relating to part R and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 309(b)(3), is amended—

(1) in paragraph (3) by striking "and R" and inserting "R, and S"; and

(2) by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated to carry out part U $5,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999. Not more than 20 percent of such funds may be used to accomplish the duties of the Director under that part, including administrative costs, research, and training programs.".

Subtitle B—Police Pattern or Practice

SEC. 1111. CAUSE OF ACTION.

(a) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

SEC. 1112. DATA ON USE OF EXCESSIVE FORCE.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through the victimization surveys conducted by the Bureau of Justice Statistics, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) ANNUAL SUMMARY.—The Attorney general shall publish an annual summary of the data acquired under this section.

Subtitle C—Police Corps and Law Enforcement Officers Training and Education

CHAPTER 1—POLICE CORPS

SEC. 1121. SHORT TITLE.

This chapter may be cited as the "Police Corps Act".

SEC. 1122. PURPOSES.

The purposes of this chapter are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 1123. DEFINITIONS.

In this chapter—

"academic year" means a traditional academic year beginning in August or September and ending in the following May or June.

"dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director.

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 1124.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"participant" means a participant in the Police Corps program selected pursuant to section 306.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"State Police Corps program" means a State police corps program that meets the requirements of section 1130.

SEC. 1124. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established by this chapter and shall have authority to promulgate regulations to implement this chapter.

SEC. 1125. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this chapter shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 1130.

SEC. 1126. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to *reimburse such participant for the costs of educational expenses if the student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).*

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1)(A) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director.

(B) An agreement under subparagraph (A) shall contain assurances that the participant shall—

(i) after successful completion of a baccalaureate program and training as prescribed in section 8, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(ii) complete satisfactorily—

(I) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study); and

(II) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 1128; and

(iii) repay all of the scholarship or payment received plus interest at the rate of 10 percent if the conditions of clauses (i) and (ii) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If a scholarship recipient is unable to comply with the repayment provision set forth in paragraph (1)(B)(ii) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from a participant who violates an agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. 1127. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 1130(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 1129, and such a participant shall be subject to the same benefits and obligations under this chapter as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 9, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this chapter that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 1128. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this chapter.

(2) The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 10 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 1129. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 1128 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1126, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1126(d)(1)(B)(iii) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1126, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1126(d)(1)(B)(iii) shall not apply.

SEC. 1130. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 1127;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 1131. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing Police Corps participants during the 4-year term of service prescribed by section 1129 shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) whose average size, in the year for which payment is to be made, not counting Police Corps participants assigned under section 106, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any Police Corps participant for years of service after the completion of the term of service prescribed in section 1129.

SEC. 1132. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $100,000,000 for fiscal year 1995 and $250,000,000 for fiscal year 1996; and

(2) such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

SEC. 1133. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program; and

(3) describe the progress of the Police Corps program and make recommendations for changes in the program.

CHAPTER 2—LAW ENFORCEMENT SCHOLARSHIP PROGRAM

SEC. 1141. SHORT TITLE.

This chapter may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 1142. DEFINITIONS.

In this chapter—

"Director" means the Director of the Bureau of Justice Assistance.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"law enforcement position" means employment as an officer in a State or local police force, or correctional institution.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 1143. ALLOTMENT.

From amounts appropriated under section 1150, the Director shall allot—

(1) 80 percent of such amounts to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such amounts to States on the basis of the shortage of law enforcement personnel and the need for assistance under this title in the State compared to the shortage of law enforcement personnel and the need for assistance under this title in all States.

SEC. 1144. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section 1143 shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State that receives an allotment under section 1143 the Federal share of the cost of the activities described in the application submitted pursuant to section 1147.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this chapter shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this title and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this title.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section 1143 may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 1143 shall ensure that each scholarship recipient under this title be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this chapter shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 1145. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this chapter shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this chapter may use the scholarship for educational expenses at an institution of higher education.

SEC. 1146. ELIGIBILITY.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this chapter if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this chapter.

SEC. 1147. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section 1143 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this title is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this chapter;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this chapter and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this chapter;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of persons who receive scholarships under this chapter;

(7) with respect to such student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 1148. LOCAL APPLICATION.

(a) IN GENERAL.—A person who desires a scholarship or employment under this chapter shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this chapter, each State shall give priority to applications from persons who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 1149. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this chapter shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement described in subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awarded the scholarship in accordance with the service obligation described in subsection (c) after completion of the scholarship recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the scholarship recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which the scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awarded the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), a person who receives a scholarship under this title shall work in a law enforcement position in the State that awarded the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awarded the scholarship for not less than 6 months but shall not be required to work in such a position for more than 2 years.

SEC. 1150. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this chapter $30,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section 1144(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections 1144(a)(1)(B) and 1144(a)(2).

TITLE XII—DRUG COURT PROGRAMS

SEC. 1201. COORDINATED ADMINISTRATION OF PROGRAMS.

(a) APPLICATION.—The Attorney General may establish a unified or coordinated process for applying for grants under parts T, U, and V of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by this title. In addition to any other requirements that may be specified by the Attorney General, an application for a grant under any provision of this title shall—

(1) include a long-term strategy and detailed implementation plan;

(2) explain the applicant's inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate coordination with all affected agencies;

(6) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(7) certify that no violent offenders will be eligible or allowed to participate in the program authorized under part U.

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Attorney General shall issue regulations and guidelines to carry out the programs authorized by this title, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and

documents maintained by grantees or other persons for purposes of audit or examination.

(2) PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.—The Attorney General shall—

(A) issue regulations and guidelines to ensure that the programs authorized under part U of this title do not permit participation by violent offenders; and

(B) immediately suspend funding for any grant under this title if the Attorney General finds that violent offenders are participating in any program funded under part U.

(c) TECHNICAL ASSISTANCE AND EVALUATION.—The Attorney General may provide technical assistance to grantees under the programs authorized by this title. The Attorney General may carry out, or arrange by grant or contract or otherwise for the carrying out of, evaluations or programs receiving assistance under the programs authorized by this title, in addition to any evaluations that grantees may be required to carry out pursuant to subsection (b).

(d) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section or other provisions of this title, or in coordinating activities under the programs authorized by this title.

(e) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by this title and report to Congress the results of the study on or before January 1, 1997.

(2) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under paragraph (1), including the identities and criminal records of program participants.

(3) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by this title, the Comptroller General shall consider, among other things—

(A) recidivism rates of program participants;

(B) completion rates among program participants;

(C) drug use by program participants; and

(D) the costs of the program to the criminal justice system.

(f) DEFINITION.—In this title, "violent offender" means a person charged with or convicted of an offense (or charged with or adjudicated as a delinquent by reason of conduct that, if engaged in by an adult would constitute an offense), during the course of which offense or conduct—

(1) the person carried, possessed, or used a firearm or dangerous weapon;

(2) there occurred the death of or serious bodily injury to any person; or

(3) there occurred the use of force against the person of another

without regard to whether any of the circumstances described in paragraph (1), (2), or (3) is an element of the offense or conduct of which or for which the person is charged, convicted, or adjudicated as a delinquent.

SEC. 1202. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1101(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—DRUG TESTING UPON ARREST

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested, during the pretrial period or during participation in any pre- or post-conviction diversion program.

"SEC. 2002. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State shall agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest during the pretrial period, or during participation in any pre- or post-conviction diversion program.

"(c) CENTRAL OFFICE.—The office designated under section 507—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2002(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2001 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in such State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified in such State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 2001, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2005. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year that funds are received under this part regarding the effectiveness of the drug testing project.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1101(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—DRUG TESTING UPON ARREST

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Local applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Report.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1101(c), is amended—

(1) in paragraph (3) by striking "and S" and inserting "S, and T"; and

(2) by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated to carry out the projects under part T $100,000,000 for each of fiscal years 1995, 1996, and 1997.".

SEC. 1203. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1202(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—ALTERNATIVE PUNISHMENTS FOR YOUNG NONVIOLENT OFFENDERS

"SEC. 2101. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young nonviolent offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young nonviolent offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young nonviolent offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young non-violent offenders;

"(2) boot camp prison programs that provide assurances that appropriate aftercare services (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) will be made available;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young non-violent offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young non-violent offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young non-violent offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 2102. STATE APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) ASSURANCES.—An application under subsection (a) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) STATE OFFICE.—The office designated under section 507 shall—

"(1) prepare the application as required under subsection (a); and

"(2) administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2103. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director shall make a grant under section 2101(a) to carry out the projects described in the application submitted by an applicant under section 2102 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—An application submitted under section 2102 shall be considered approved, in whole or in part, by the Director not later than 45 days after it is first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects other than alternative facilities described in section 2101(b) for young non-violent offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2104. LOCAL APPLICATIONS.

"(a) IN GENERAL.—To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 507.

"(b) APPROVAL.—An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after the application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(c) DISAPPROVAL.—The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(d) EFFECT OF APPROVAL.—If an application under paragraph (1) is approved, the unit of local government is eligible to receive the requested funds.

"(e) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—

"(1) IN GENERAL.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Director has approved the application submitted by the State and has made funds available to the State.

"(2) WAIVER.—The Director may waive the 90-day requirement of paragraph (1) upon a finding that the State is unable to satisfy the requirement under State statutes.

"SEC. 2105. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young non-violent offenders of the State bears to the number of young non-violent offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—

"(1) IN GENERAL.—A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified in section 2101 the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in such preceding fiscal year.

"(2) UNDISTRIBUTED FUNDS.—Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in section 2101.

"(3) AWARD OF FUNDS BY THE DIRECTOR.—If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award such funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102(a) for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2106. EVALUATION.

"(a) SUBMISSION.—

"(1) IN GENERAL.—Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) WAIVER.—The Director may waive the requirement specified in paragraph (1) if the Director determines that an evaluation is not warranted in the case of a particular State or unit of local government.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1202(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—ALTERNATIVE PUNISHMENTS FOR YOUNG NON-VIOLENT OFFENDERS

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Review of State applications.
"Sec. 2104. Local applications.
"Sec. 2105. Allocation and distribution of funds.
"Sec. 2106. Evaluation.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding at the end the following new paragraph:

"(24) 'young non-violent offender' means a non-violent first-time offender or non-violent offender with a minor criminal record who is 25 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1202(c), is amended—

(1) in paragraph (3) by striking "and T" and inserting "T, and U"; and

(2) by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated to carry out the projects under part U $200,000,000 for each of fiscal years 1995, 1996, and 1997.".

SEC. 1204. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1203(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2201. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, including residential substance abuse treatment programs for offenders who violate the terms of any post-conviction diversion program and who are committed to State correctional facilities.

"SEC. 2202. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State alcohol and drug abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, halfway house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507—

"(1) shall prepare the application as required under this section; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2203. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 2201 to carry out the projects described in the application submitted under section 2202 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2202 shall be considered approved, in whole or in part, by the Bureau not later than 90 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2204. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of the State bears to the total prison population of all of the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2202 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2205. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1203(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2201. Grant authorization.
"Sec. 2202. State applications.
"Sec. 2203. Review of State applications.
"Sec. 2204. Allocation and distribution of funds.
"Sec. 2205. Evaluation.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 2102(c), is amended by adding at the end the following new paragraph:

"(25) 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1202(d), is amended—

(1) in paragraph (3) by striking "and U" and inserting "U, and V"; and

(2) by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated to carry out projects under part V $100,000,000 for each of fiscal years 1995, 1996, and 1997.".

TITLE XIII—PRISONS

Subtitle A—Federal Prisons

SEC. 1301. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status.".

SEC. 1302. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated or in Federal penal institutions shall be accompanied by a prison impact statement, as defined in subsection (b) of this section.

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 14 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 1303. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1993".

(b) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, subject to the availability of appropriations, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title. There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.".

(2) The table of sections at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3608. Drug testing of Federal offenders on post-conviction release.".

(c) Conditions of Probation.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

(3) by adding at the end the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. Notwithstanding the requirements of section 3565(b), the court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(d) Conditions on Supervised Release.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. Notwithstanding the requirements of section 3583(g), the court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(e) Conditions of Parole.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. Notwithstanding the requirements of section 4214(f), the Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SEC. 1304. DRUG TREATMENT IN FEDERAL PRISONS.

(a) Short Title.—This section may be cited as the "Drug Treatment in Federal Prisons Act of 1993".

(b) Definitions.—As used in this section—

(1) the term "residential substance abuse treatment" means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

(A) directed at the substance abuse problems of the prisoner; and

(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

(2) the term "eligible prisoner" means a prisoner who is—

(A) determined by the Bureau of Prisons to have a substance abuse problem; and

(B) willing to participate in a residential substance abuse treatment program.

(c) Implementation of Substance Abuse Treatment Requirement.—

(1) In order to carry out the requirement of the last sentence of section 3621(b) of title 18, United States Code, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall, subject to the availability of appropriations, provide residential substance abuse treatment—

(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995;

(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996; and

(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter.

(2) Section 3621 of title 18, United States Code, is amended by adding at the end the following:

"(d) Incentive for Prisoners' Successful Completion of Treatment Program.—

"(1) Generally.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under subsection (b) of this section, shall remain in the custody of the Bureau for such time (as limited by paragraph (2) of this subsection) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for drug abuse and discontinue such conditions on determining that drug abuse has recurred.

"(2) Period of Custody.—The period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.".

(d) Report.—The Bureau of Prisons shall transmit to the Congress on January 1, 1993, and on January 1 of each year thereafter, a report. Such report shall contain—

(1) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

(2) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

(3) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

(e) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1995 and each fiscal year thereafter such sums as may be necessary to carry out this title.

SEC. 1305. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(a) Imposition of Sentence.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) Duties of the Sentencing Commission.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) Definition.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) Establishment of Grant and Technical Assistance Program.—

(1) In general.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, operating, and improving boot camp prison programs, city or county detention facilities, or low- to medium-security prisons;

(B) developing, constructing, and operating prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF PRIVATE SECTOR.—Nothing herein shall prevent the utilization of any grant funds to contract with the private sector to design, construct or provide any services associated with any facilities funded herein.

(4) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines. The chief executive of a State or the coordinator of a multi-State compact association may designate private sector participants for the design, construction or provision of services associated with any facilities for which funding is requested.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(3) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $3,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

SEC. 1322. NATIONAL INSTITUTE OF JUSTICE STUDY.

(a) FEASIBILITY STUDY.—The National Institute of Justice shall study the feasibility of establishing a clearinghouse to provide information to interested persons to facilitate the transfer of prisoners in State correctional institutions to other such correctional institutions, pursuant to the Interstate Corrections Compact or other applicable interstate compact, for the purpose of allowing prisoners to serve their prison sentences at correctional institutions in close proximity to their families.

(b) REPORT TO CONGRESS.—The National Institute of Justice shall, not later than 1 year after the date of the enactment of this Act, submit to the Committees on the Judiciary of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a), together with any recommendations the Institute may have on establishing a clearinghouse described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia and any territory or possession of the United States.

SEC. 1323. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State; and

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 1324. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) APPLICATION OF SECTION.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection, the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1) of this subsection, the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence, as that term is defined in section 924(c)(3).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 1325. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

SEC. 1331. GRANTS FOR COMMUNITY-BASED VIOLENT-JUVENILE FACILITIES.

(a) IN GENERAL.—The Attorney General, through the Bureau of Prisons, may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, and operating secure facilities for violent and chronic juvenile offenders. The mandate required by the Juvenile Justice and Delinquency Prevention Act shall not apply to grants under this subtitle.

(b) AUTHORIZATION.—There are authorized to be appropriated $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998.

Subtitle D—Regional Prisons and State Prisons

SEC. 1341. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearm offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—(1) IN GENERAL.—The Attorney General shall, after consultation with State correctional administrators, construct and operate a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. The Attorney General may contract with the private sector to design, construct or provide any services associated with the regional prisons. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States. In making a determination as to the location of regional prisons, the Attorney General shall give appropriate consideration to the feasibility of converting Federal correctional complexes currently in the planning or construction phase.

(2) CONSIDERATION OF COST-EFFECTIVE ALTERNATIVES AND STATE AND LOCAL RE-USE PLANS.—(A) In determining where to locate any of the regional prisons authorized in paragraph (1), and in accordance with the Department of Justice's duty to review and identify a use for any portion of an installation closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) and the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510) the Attorney General shall consider—

(i) whether using any portion of a closed military installation in the region or military installation scheduled to be closed in the region provides a cost-effective alternative to the purchase of real property or construction of new prison facilities;

(ii) whether such use is consistent with a reutilization and redevelopment plan. Consent must be obtained from the local re-use authority for the military installation, recognized and funded by the Secretary of Defense, before the Attorney General may proceed with plans for the design or construction of a prison authorized in paragraph 1; and

(iii) giving priority consideration to any installation located in a rural area whose closure under this title will have a substantial adverse impact on the economy of the communities for the economic recovery of such communities from such closure.

(B) Before proceeding with plans for the design or construction of a prison authorized in paragraph (1), the Attorney General shall submit to Congress a report explaining the basis of the decision on where to locate the new prison facility.

(C) If the Attorney General decides not to utilize any portion of a closed military installation or an installation scheduled to be closed for locating a regional prison, the report shall include an analysis of why installations in the region, the use of which as a prison would be consistent with a reutilization and redevelopment plan, do not provide a cost-effective alternative to the purchase of real property or construction of new facilities.

(D) The Attorney General shall obtain all information necessary to determine whether any portion of a closed military installation in the region or military installation scheduled to be closed in the region is a cost-effective alternative to the purchase of real property or construction of new prison facilities.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any felony crime of violence involving the use or attempted use of force against a person, or use of a firearm against a person for which a maximum sentence of 5 years or more is authorized that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentences for firearm offenders where death or serious bodily injury results, murderers, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a

particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;

(2) $600,000,000 for fiscal year 1995;

(3) $600,000,000 for fiscal year 1996;

(4) $600,000,000 for fiscal year 1997; and

(5) $600,000,000 for fiscal year 1998.

Subtitle E—Violent Crime Reduction Trust Fund

SEC. 1351. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years;

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1352. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position is such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1353. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§1115. Violent crime reduction trust fund

"(a) There is established a separate account in the Treasury, known as the 'Violent Crime Reduction Trust Fund', into which shall be deposited deficit reduction achieved by section 1352 of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,423,000,000;

"(3) for fiscal year 1996, $4,267,000,000;

"(4) for fiscal year 1997, $6,313,000,000; and

"(5) for fiscal year 1998, $8,545,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, 'appropriations under paragraph (1)' mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

"(30) an analysis displaying by agency proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 1352 of the Violent Crime Control and Law Enforcement Act of 1993.".

SEC. 1354. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $314,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $2,330,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $4,267,000,000 in new budget authority and $4,184,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $6,313,000,000 in new budget authority and $6,221,000,000 in outlays; and

(5) for fiscal year 1998, for the discretionary category: $8,545,000,000 in new budget authority and $8,443,000,000 in outlays.

TITLE XIV—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 1401. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 1402. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1403. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall, subject to the availability of appropriations, ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 1404. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 1405. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

SEC. 1411. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) Short Title.—This section may be cited as the "Drug Free Truck Stop Act".

(b) Amendment to Controlled Substances Act.—

(1) In general.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"Sec. 409. (a) Definitions.—In this section—

"'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists.

"'truck stop' means a facility (including any parking lot appurtenant thereto) that—

"(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716)) operating in commerce (as defined in that section); and

"(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

"(b) First Offense.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) twice any term of supervised release authorized by section 401(b) for a first offense.

"(c) Subsequent Offense.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is subject to—

"(1) 3 times the maximum punishment authorized by section 401(b); and

"(2) 3 times any term of supervised release authorized by section 401(b) for a first offense.".

(2) Technical amendments.—

(A) Cross reference.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(B) Table of contents.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409 and inserting the following new item:

"Sec. 409. Transportation safety
offenses.".

(c) Sentencing Guidelines.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (b).

Subtitle C—Rural Domestic Violence and Child Abuse Enforcement

SEC. 1421. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) Grants.—The Attorney General may make grants to units of State and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) Definition.—In this section, "rural State" has the meaning stated in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(c) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1995, 1996, and 1997.

(2) Additional funding.—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 103 to accomplish the objectives of this section.

TITLE XV—DRUG CONTROL

Subtitle A—Increased Penalties

SEC. 1501. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting "(d)".

SEC. 1502. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1503. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1504. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18 years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

SEC. 1505. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend existing guidelines to provide that a defendant convicted of violating section 419 of the Controlled Substances Act (21 U.S.C. 860) shall be assigned an offense level under chapter 2 of the sentencing guidelines that is no less than level 20.

SEC. 1506. ENHANCED PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) Declaration of Policy.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) Sentencing Guidelines.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to appropriately enhance the penalty for a person convicted of an offense—

(1) under section 404 of the Controlled Substances Act involving simple possession of a controlled substance within a Federal prison or other Federal detention facility; or

(2) under section 401(b) of the Controlled Substances Act involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility.

(c) No Probation or Suspension of Sentence.—Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person convicted of an offense described in subsection (b).

Subtitle B—Precursor Chemicals Act

SEC. 1511. SHORT TITLE.

This title may be cited as the "Chemical Control Amendments Act of 1993".

SEC. 1512. DEFINITION AMENDMENTS.

(a) Definitions.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacturer";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters" before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified"; and

(C) by striking "as a solvent, reagent, or catalyst";

(5) in paragraph (38) by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a

tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(43) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(44) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, buyer and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv)(II) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) TECHNICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of the section relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B) by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

SEC. 1513. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2) by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2) by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) if the person is a regulated person, to distribute, import, or export a list I chemical without the registration required by this Act.".

SEC. 1514. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 1515. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 1516. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 5(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 5(b), is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 1517. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 1518. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 1519. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B) by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C) by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 1520. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 1521. MANAGEMENT OF LISTED CHEMICALS.

(a) IN GENERAL.—Part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) ENHANCED PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1) a defendant shall be assessed the following costs to the United States, a State, or another authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a class D felony, or in the case of a willful violation, as a class C felony.

"(B) Pursuant to its authority under section 944 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide for an appropriate enhancement of punishment for a willful violation of subsection (a).

"(4) A court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) USE OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) EXCEPTION TO DISCHARGE IN BANKRUPTCY.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 1522. FORFEITURE EXPANSION.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraph (6) by inserting "or listed chemical" after "controlled substance"; and

(2) in paragraph (9) by striking "a felony provision of".

SEC. 1523. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the date of enactment of this Act, issue regulations necessary to carry out this title.

(b) EFFECTIVE DATE.—This title and the amendments made by this title shall become effective on the date that is 120 days after the date of enactment of this Act.

Subtitle C—General Provisions

SEC. 1531. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act".

SEC. 1532. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means".

(d) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1533. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISION OF PUBLIC LAW 101–516 THAT CONDITIONS PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101–516. The program shall notify the Governors and State Representatives of the requirements of that section.

SEC. 1534. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 1535. NATIONAL DRUG CONTROL STRATEGY.

(a) IN GENERAL.—Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended by adding at the end the following new paragraph:

"(5) Beginning with the first submission of a National Drug Control Strategy to Congress after the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1993, the goals, objectives, and priorities of such Strategy shall include a goal for expanding the availability of treatment for drug addiction.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that among the long-term goals of the National Drug Control Strategy should be the availability of drug treatment to all who are in need of such treatment.

SEC. 1536. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE SUMS OF CASH IN EXCESS OF $10,000 IN WEAPON SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of the enactment of this section, the Administrator shall issue regulations requiring employees and agents referred to in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers a controlled substance the possession of which may be a violation of Federal or State law, or any sizable sums of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

SEC. 1537. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. In an action under this section, the court shall determine the occurrence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $250,000, and to grant such other relief, including an injunction, as may be appropriate. Such remedies shall be in addition to any other remedy available under other law.".

TITLE XVI—DRUNK DRIVING PROVISIONS

SEC. 1601. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1993".

SEC. 1602. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1603. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XVII—COMMISSIONS

Subtitle A—Commission on Crime and Violence

SEC. 1701. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 25 members, appointed as follows:

(1) 7 persons by the President, 4 of whom shall be members of one major political party and 3 of whom shall be members of another major political party;

(2) 9 persons by the Speaker of the House of Representatives, 4 of whom shall be appointed on the recommendation of the minority leader; and

(3) 9 persons by the President pro tempore of the Senate, 5 of whom shall be appointed on the recommendation of the majority leader of the Senate and the chairman of the Committee on the Judiciary of the Senate and 4 of whom shall be appointed on the recommendation of the minority leader of the Senate and the ranking minority member of the Committee on the Judiciary of the Senate.

SEC. 1702. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1703. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Reviewing all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

Subtitle B—National Commission to Study the Causes of the Demand for Drugs in the United States

SEC. 1711. SHORT TITLE.

This subtitle may be cited as the "National Commission to Study the Causes of the Demand for Drugs in the United States".

SEC. 1712. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the United States (referred to in this subtitle as the "Commission").

SEC. 1713. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) examine the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes;

(2) evaluate the efforts being made to prevent drug abuse;

(3) identify the existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse;

(4) assess the needs of Government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs; and

(5) make recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(b) EXAMINATION.—Matters examined by the Commission under this section shall include the following:

(1) CHARACTERISTICS.—The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) ASSOCIATIONS AND SOCIAL RELATIONSHIPS.—The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(4) CULTURE.—Aspects of, and changes in, philosophical or religious beliefs, cultural values, attitudes toward authority, status of basic social units (such as families), and traditions that contribute to illicit drug use and abuse.

(5) PHYSIOLOGICAL AND PSYCHOLOGICAL FACTORS.—The physiological and psychological factors that contribute to the desire for illicit drugs.

(6) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of illicit drug use and abuse, including a review of drug strategies being promoted by Federal, State, and local authorities to address the causes of illicit drug use and abuse.

SEC. 1714. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall consist of 15 members, as follows:

(A) PRESIDENT.—Four individuals appointed by the President, 2 of whom shall be members of one major political party and 2 of whom shall be members of another major political party.

(B) SENATE.—Five individuals, 3 of whom shall be appointed by the majority leader of the Senate, after consultation with the chairman of the Committee on the Judiciary of the Senate, and 2 of whom shall be appointed by the minority leader of the Senate, after consultation with the ranking minority member of the Committee on the Judiciary of the Senate. At least 1 member appointed under this paragraph shall be a recovering drug user.

(C) HOUSE OF REPRESENTATIVES.—Five individuals, 3 of whom shall be appointed jointly by the Speaker and majority leader of the House of Representatives and 2 of whom shall be appointed by the minority leader of the House of Representatives. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(D) MINORITY CONGRESSIONAL LEADERSHIP.—One individual appointed jointly by the minority leader of the Senate and the minority leader of the House of Representatives.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) bio-medicine;

(v) addiction; and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and

shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1715. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1716. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1717. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 year before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1718. TERMINATION.

The Commission shall terminate on the date which is 2 years after the Members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle C—National Commission to Support Law Enforcement

SEC. 1721. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 1722. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1723. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 1724. DUTIES.

(a) IN GENERAL. —The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 1725. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 29 members as follows:

(1) 9 individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the Senate; and

(E) 1 shall be appointed by the President.

(2) 9 individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the Senate; and

(E) 1 shall be appointed by the President.

(3) 2 individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate.

(B) 1 shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) 2 Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) 1 individual from the Department of Justice, appointed by the President.

(7) 2 individuals representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed jointly by the majority leader and the minority leader of the Senate.

(8) 2 individuals representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed jointly by the Speaker and the minority leader of the House of Representatives.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approach of the Commission's study.

(c) CHAIRPERSON.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this Act.

SEC. 1726. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 1727. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1728. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 1729. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 1738.

SEC. 1730. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101–647; 104 Stat. 4918) and title II, section 211B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2122) are repealed.

Subtitle D—Presidential Summit on Violence

SEC. 1731. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) violence in America has reached epidemic proportions;

(2) this epidemic reaches into communities large and small, affects the richest and the poorest among us, touches people of every ethnic and economic background, and affects all institutions, both public and private;

(3) actual violence and depictions of violence are so pervasive that they have an enormous impact on the lives and character of our children;

(4) every person, group, and institution in America has a role to play in ending the epidemic of violence; and

(5) we need a national conference in order to develop a shared understanding of the causes of violence in America and to build a national consensus on the solutions to this epidemic.

SEC. 1732. PRESIDENTIAL SUMMIT ON VIOLENCE.

Congress calls on the President to convene as soon as possible a national summit on violence in America. The President is urged to include participants from all regions of the country and all walks of life, both public and private.

Subtitle E—Commission on Violence in Schools

SEC. 1741. ESTABLISHMENT SCHOOLS.

There is established, subject to appropriations, a commission to be known as the "National Commission on Violence in America's Schools" (referred to in this subtitle as the "Commission").

SEC. 1742. PURPOSES.

The purposes of the Commission are—

(1) to develop comprehensive and effective recommendations to combat the national problem of national scale and prepare a report including an estimated cost for implementing any recommendations made by the Commission;

(2) to study the complexities, scope, nature, and causes of violence in the Nation's schools;

(3) to bring attention to successful models and programs in violence prevention and control;

(4) to recommend improvements in the coordination of local, State, and Federal agencies in the areas of violence in schools prevention; and

(5) to make a comprehensive study of the economic and social factors leading to or contributing to violence in schools and specific proposals for legislative and administrative actions to reduce violence and the elements that contribute to it.

SEC. 1743. DUTIES.

The Commission shall—

(1) define the causes of violence in schools;

(2) define the scope of the national problem of violence in schools;

(3) provide statistics and data on the problem of violence in schools on a State-by-State basis;

(4) investigate the problem of youth gangs and their relation to violence in schools and provide recommendations as to how to reduce youth involvement in violent crime in schools;

(5) examine the extent to which weapons and firearms in schools have contributed to violence and murder in schools;

(6) explore the extent to which the school environment has contributed to violence in schools; and

(7) review the effectiveness of current approaches in preventing violence in schools.

SEC. 1744. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall consist of 22 members, as follows:

(A) PRESIDENT.—Two persons appointed by the President.

(B) SENATE.—Five persons appointed by the majority leader of the Senate and five persons appointed by the minority leader of the Senate.

(C) HOUSE OF REPRESENTATIVES.—Five persons appointed by the Speaker of the House of Representatives, and five persons appointed by the minority leader of the House of Representatives.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) law enforcement; and

(v) ethnography and urban poverty, including health care, housing, education, and employment.

(b) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(c) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(d) QUORUM.—Thirteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(f) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(g) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(h) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1745. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1746. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1747. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 years before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1748. TERMINATION.

The Commission shall terminate on the date which is 2 years after the members of the Commission have met and designated a Chairperson and Vice Chairperson.

SEC. 1749. AUTHORIZATION OF APPROPRIATIONS.

There are authorizedto be appropriated such sums as are necessary to enable the Commission to carry out its duties under this subtitle.

TITLE XVIII—BAIL POSTING REPORTING

SEC. 1801. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1993".

SEC. 1802. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance;

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code);

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code); and

(4) any violation of State criminal law involving an offense substantially similar to an offense described in paragraph (1), (2), or (3).

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective 60 days on the date of the promulgation of regulations under subsection (d).

TITLE XIX—MOTOR VEHICLE THEFT PREVENTION

SEC. 1901. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 1902. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 1903. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) A person who—

"(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

"(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item relating to section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XX—PROTECTIONS FOR THE ELDERLY

SEC. 2001. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall, subject to the availability of appropriations, award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1995, 1996, and 1997.

SEC. 2002. CRIMES AGAINST THE ELDERLY.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

(b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—In this section—

"crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code.

"elderly victim" means a victim who is 65 years of age or older at the time of an offense.

TITLE XXI—CONSUMER PROTECTION

SEC. 2101. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of

affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business, or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person about the financial condition or solvency of such business,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks or any receiver or similar official or any liquidating agent for such an entity, in his or her capacity as such, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—

(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293 of title 18, United States Code, is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

SEC. 2102. CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1993.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1993".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether it is affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 2103. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

TITLE XXII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 2201. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 2202. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 2203. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) Prohibition.—

"(1) In general.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) Minimum 10-year prohibition period for certain offenses.—

"(A) In general.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) Exception by order of sentencing court.—

"(i) In general.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) Period for filing.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) Penalty.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 2204. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) Fraud Task Forces Report.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

TITLE XXIII—SAVINGS AND LOAN PROSECUTION TASK FORCE

SEC. 2301. SAVINGS AND LOAN PROSECUTION TASK FORCE.

The Attorney General shall establish within the Justice Department a savings and loan criminal fraud task force to prosecute in an aggressive manner those criminal cases involving savings and loan institutions.

TITLE XXIV—SENTENCING PROVISIONS

SEC. 2401. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2402. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 2403. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by adding at the end the following new subsections:

"(h) Supervised Release Following Revocation.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) Delayed Revocation.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 2404. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) Amendment of Title 18, United States Code.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) Mandatory Minimum Sentence Provisions.—

"(1) Sentencing under this section.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) Offenses.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) Harmonization.—

(1) In general.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section

401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

SEC. 2405. MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A person who, during and in relation to a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of any State—

"(i) in the case of a first conviction of such a crime, in addition to the sentence imposed for the crime of violence or drug trafficking crime—

"(I) knowingly possesses a firearm shall be imprisoned not less than 10 years;

"(II) discharges a firearm with intent to injure another person shall be imprisoned not less than 20 years; or

"(III) knowingly possesses a firearm that is a machinegun or destructive device or is equipped with a firearm silencer or firearm muffler shall be imprisoned not less than 30 years;

"(ii) in the case of a second conviction of such a crime, in addition to the sentence imposed for the crime of violence or drug trafficking crime—

"(I) shall be imprisoned not less than 20 years if the person was in possession of a firearm during and in relation to the crime of violence or drug trafficking crime;

"(II) shall be imprisoned not less than 30 years if the person discharged a firearm during and in relation to the crime of violence or drug trafficking crime; or

"(III) if the person discharges a firearm that is a machinegun or a destructive device or is equipped with a firearm silencer or firearm muffler, shall be imprisoned for life; and

"(iii) in the case of a third or subsequent conviction of such a crime, shall be imprisoned for life.

"(B)(i) Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall a term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used.

"(ii) No person sentenced under this subsection shall be released for any reason whatsoever during a term of imprisonment imposed under this paragraph.

"(C) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime.

"(D) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this paragraph has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).

"(E) In this paragraph—

"'crime of violence' means an offense that is punishable by imprisonment for more than 1 year and—

"(I) has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or

"(II) by its nature involves a substantial risk that physical force against the person or property of another may be used during the course of the offense.

"'drug trafficking crime' means a crime punishable by imprisonment for more than 1 year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(F) It is the intent of Congress that—

"(i) this paragraph shall be used to supplement but not supplant the efforts of State and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under State law; and

"(ii) the Attorney General shall give due deference to the interest that a State or local prosecutor has in prosecuting a person under State law.

"(G) This paragraph does not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Attorney General.

"(H) There is a Federal jurisdiction over an offense under this paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce.".

SEC. 2406. MURDER INVOLVING FIREARM.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 504(a), is amended by adding at the end the following section:

"§1122. Murder involving firearm

"(a) OFFENSE.—A person who has been found guilty of causing, through the use of a firearm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228, shall apply.

"(b) JURISDICTION.—There is Federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) It is the intent of Congress that—

"(1) this paragraph shall be used to supplement but not supplant the efforts of State and local prosecutors in prosecuting murders involving firearms that have moved in interstate or foreign commerce that could be prosecuted under State law; and

"(2) the Attorney General shall give due deference to the interest that a State or local prosecutor has in prosecuting a person under Staate law.

"(d) This paragraph does not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Attorney General.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 504(b), is amended by adding at the end the following new item:

"Sec. 1122. Murder involving firearm.".

SEC. 2407. MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a

mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SEC. 2408. LIFE IMPRISONMENT WITHOUT RELEASE FOR DRUG FELONS AND VIOLENT CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a crime of violence after 2 or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

SEC. 2409. DIRECTION TO UNITED STATES SENTENCING COMMISSION REGARDING SENTENCING ENHANCEMENTS FOR HATE CRIMES.

(a) DEFINITION.—In this section, "hate crime" means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

(b) SENTENCING ENHANCEMENT.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall ensure that there is reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions.

SEC. 2410. CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a) (1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92-1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

TITLE XXV—SENTENCING AND MAGISTRATES AMENDMENTS

SEC. 2501. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 2502. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.".

TITLE XXVI—COMPUTER CRIME

SEC. 2601. COMPUTER ABUSE AMENDMENTS ACT OF 1993.

(a) SHORT TITLE.—This title may be cited as the "Computer Abuse Amendments Act of 1993".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXVII—INTERNATIONAL PARENTAL KIDNAPPING

SEC. 2701. SHORT TITLE.

This subtitle may be cited as the "International Parental Kidnapping Crime Act of 1993".

SEC. 2702. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following new section:

"§1204. International parental kidnapping

"(a) DEFINITIONS.—In this section—

"'child' means a person who has not attained the age of 16 years.

"'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(b) OFFENSE.—A person who removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights, and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence; or

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under The Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 2703. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

TITLE XXVIII—SAFE SCHOOLS

SEC. 2801. SHORT TITLE.

This title may be cited as the "Safe Schools Act of 1993".

SEC. 2802. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1204(a), is amended—

(1) by redesignating part W as part X;

(2) by redesignating section 2301 as section 2401; and

(3) by inserting after part V the following new part:

"PART W—SAFE SCHOOLS ASSISTANCE

"SEC. 2301. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in English and in other appropriate languages in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2302. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and use of illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices;

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools; and

"(5) to fund education programs to teach young individuals about the United States criminal justice system, including education about the applicable penalties for the use and sale of illegal drugs and the commission of violent or drug-related offenses.

"SEC. 2303. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2302;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be met with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps;

"(5) a description of the system the applicant will establish to prevent and reduce crime problems; and

"(6) a description of educational materials to be developed in English and in other appropriate languages.

"SEC. 2304. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2303(c).

"SEC. 2305. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2303(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2306. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2303(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Committee on Education and Labor and the Committee on the Judiciary a report by October 1 of each year in which grants are made available under this part which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under 2303(b)(4), and an evaluation of programs established under this part.

"SEC. 2307. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1204(b), is amended by striking the matter relating to part W and inserting the following:

"PART W—SAFE SCHOOLS ASSISTANCE

"Sec. 2301. Grant authorization.
"Sec. 2302. Use of funds.
"Sec. 2303. Applications.
"Sec. 2304. Allocation of funds; limitations on grants.
"Sec. 2305. Award of grants.
"Sec. 2306. Reports.
"Sec. 2307. Definitions.

"PART X—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2401. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1204(d), is amended—

(1) in paragraph (3) by striking "and V" and inserting "V, and W"; and

(2) by adding at the end the following new paragraph:

"(17) There are authorized to be appropriated to carry out projects under part W $100,000,000 for each of fiscal years 1994, 1995, and 1996.".

SEC. 2803. STATE LEADERSHIP ACTIVITIES TO PROMOTE SAFE SCHOOLS PROGRAM.

(a) SHORT TITLE; DEFINITIONS.—

(1) SHORT TITLE.—This section may be cited as the "State Leadership Activities to Promote Safe Schools Act".

(2) DEFINITIONS.—For the purpose of this section—

(A) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12));

(B) the term "Secretary" means the Secretary of Education;

(C) the term "State educational agency" has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)); and

(D) the term "State" means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(b) AUTHORITY.—The Secretary is authorized to award grants to State educational agencies from allocations under subsection (c) to enable such agencies to carry out the authorized activities described in subsection (e).

(c) ALLOCATION.—Each State educational agency having on application approved under subsection (d) shall be eligible to receive a grant under this section for each fiscal year that bears the same ratio to the amount appropriated pursuant to the authority of subsection (f) for such year as the amount such State educational agency receives pursuant to section 1006 of the Elementary and Secondary Education Act of 1965 for such year bears to the total amount allocated to all such agencies in all States having applications approved under subsection (d) for such year, except that no State educational agency having an application approved under subsection (d) in any fiscal year shall receive less than $100,000 for such year.

(d) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain a statement of the State educational agency's goals and objectives for violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting those goals and objectives; and

(3) contain a description of how the State educational agency will coordinate such agency's activities under this section with the violence prevention efforts of other State agencies.

(e) USE OF FUNDS.—Grant funds awarded under this section shall be used—

(1) to support a statewide resource coordinator;

(2) to provide technical assistance to both rural and urban local school districts;

(3) to disseminate to local educational agencies and schools information on successful school violence prevention programs funded through Federal, State, local and private sources;

(4) to make available to local educational agencies teacher training and parent and student awareness programs, which training and programs may be provided through video or other telecommunications approaches; and

(5) for other activities the State educational agency may deem appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1995 and 1996 to carry out this section.

TITLE XXIX—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 2901. INCREASED PENALTIES FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 2902. INCREASED PENALTIES FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the first undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 2903. INCREASED PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 2904. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "Whoever" and inserting "A person who"; and

(B) by striking "if an individual, be fined not more than $250,000 or imprisoned not more than 5 years, or both, and, if a person other than an individual, be fined not more than $1,000,000" and inserting "be imprisoned not more than 10 years, fined under this title, or both"; and

(2) in the second sentence by striking "if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if other than an individual, shall be fined not more than $5,000,000" and inserting "shall be imprisoned not more than 20 years, fined under this title, or both".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

SEC. 2905. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 2906. INCREASED PENALTIES FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts described in paragraphs (1) and (3) shall be fined under this title, imprisoned for not more than 5 years, or both, or (B) any of the acts described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "not more than ten years, or fined not more than $10,000" and inserting "not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "not more than twenty years, or fined not more than $10,000" and inserting "not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "not more than ten years or fined not more than $10,000" and inserting "not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "not more than twenty years or fined not more than $10,000" and inserting "not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 2911. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Subtitle C—Audit and Report

SEC. 2921. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 2922. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Gambling

SEC. 2931. CRIMINAL HISTORY RECORD INFORMATION FOR THE ENFORCEMENT OF LAWS RELATING TO GAMING.

A State gaming enforcement office located within a State Attorney General's office may obtain from the Interstate Identification Index of the FBI criminal history record information for licensing purposes through an authorized criminal justice agency.

SEC. 2932. CLARIFYING AMENDMENT REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

(a) The first paragraph of section 1081 of title 18, United States Code, is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 in effect as of September 21, 1993).".

Subtitle E—White Collar Crime Amendments

SEC. 2941. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§880. Receiving the proceeds of extortion

"A person who receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) A person who transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 2942. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) A person who receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 2943. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 2944. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 2945. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 2946. CONFORMING DEFINITION OF "1-YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any 1-year period' in section 666 of this title.".

Subtitle F—Safer Streets and Neighborhoods

SEC. 2951. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1993".

SEC. 2952. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

Subtitle G—Other Provisions

SEC. 2961. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

SEC. 2962. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 2963. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 2964. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 2965. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 2966. THEFT OF MAJOR ARTWORK.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§668. Theft of major artwork

"(a) DEFINITIONS.—In this section—

"'museum' means an organized and permanent institution, the activities of which affect interstate or foreign commerce, that—

"(A) is situated in the United States;

"(B) is established for an essentially educational or aesthetic purpose;

"(C) has a professional staff; and

"(D) owns, utilizes, and cares for tangible objects that are exhibited to the public on a regular schedule.

"'object of cultural heritage' means an object of art or cultural significance that is registered with the International Foundation for Art Research or an equivalent registry.".

"(b) OFFENSES.—A person who—

"(1) steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

"(2) knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) FORFEITURE.—

(1) CIVIL.—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting "668," after "657,".

(2) CRIMINAL.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "668," after "545".

(c) PERIOD OF LIMITATION.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§3294. Theft of major artwork

"No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense.".

(d) TECHNICAL AMENDMENTS.—

(1) CHAPTER 31.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of major artwork.".

(2) CHAPTER 213.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"3294. Theft of major artwork.".

SEC. 2967. BALANCE IN THE CRIMINAL JUSTICE SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) an adequately supported Federal judiciary is essential to the enforcement of law and order in the United States,

(2) section 331 of title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation,

(3) in 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990,

(4) during the previous administration, it took an average of 502 days from the time a judgeship became vacant until such vacancy was filled,

(5) the enactment of legislation providing additional funding for the investigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases,

(6) recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone,

(7) the General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary,

(8) the General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships,

(9) the allocation of resources to portions of the Federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

(10) the use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the Federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

SEC. 2968. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"A person who, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 2969. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) Robbery and Burglary.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) Kidnapping.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) Smuggling.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) Malicious Mischief.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 2970. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following new paragraph:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof.".

SEC. 2971. EXTENSION OF STATUTE OF LIMITATIONS FOR ARSON.

Section 844(i) of title 18, United States Code, is amended by adding at the end the following: "No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is found or the information is instituted within 10 years after the date on which the offense was committed.".

SEC. 2972. GUN-FREE SCHOOL ZONES.

(a) Amendment of Title 18, United States Code.—Section 922(q) of title 18 , United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting after "(q)" the following new paragraph:

"(1) The Congress finds and declares that—

"(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

"(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

"(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate;

"(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

"(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

"(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

"(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

"(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves; even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

"(I) Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.".

TITLE XXX—TECHNICAL CORRECTIONS

SEC. 3001. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) Cross Reference Corrections.—(1) Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of",

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)",

(3) in subsection (e) by striking "or (e)" and inserting "or (f)",

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but", and

(ii) by striking "this subsection," and inserting "this subsection", and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) Correctional Options Grants.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)", and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section", and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(c) Denial or Termination of Grant.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) Definitions.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) Public Safety Officers Disability Benefits.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),", and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)",

(ii) by striking "personal", and

(iii) in the first proviso by striking "section" and inserting "subsection", and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(f) Headings.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(g) Table of Contents.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant",

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications", and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(h) Other Technical Amendments.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,",

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon,

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319",

(4) in section 603(a)(6) by striking "605" and inserting "606",

(5) in section 605 by striking "this section" and inserting "this part",

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics",

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts",

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E",

(C) by striking "403(a)" and inserting "501", and

(D) by striking "403" and inserting "503",

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part",

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or",

(10) in section 808 by striking "408, 1308," and inserting "507",

(11) in section 809(c)(2)(H) by striking "805" and inserting "804",

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance",

(13) in section 901(a)(3) by striking "and," and inserting ", and",

(14) in section 1001(c) by striking "parts" and inserting "part".

(i) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 3002. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions" in lieu thereof.

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma which follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) CLERICAL AMENDMENT TO PART I TABLE OF CHAPTERS.—The item relating to chapter 33 in the table of chapters for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(b).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) AMENDMENT TO SECTION 3143.—The last sentence of section 3143(b) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

(j) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to the chapter 113A added by section 132 of Public Law 102-27, but subsequently repealed.

(k) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(l) TABLE OF CONTENTS CORRECTION.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(m) ELIMINATION OF SUPERFLUOUS COMMA.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 3003. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 1956 OF TITLE 18.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(f) SECTION 408 OF THE CONTROLLED SUBSTANCE.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)".

(i) SECTION 3143 OF TITLE 18.—The last sentence of section 3143(b)(1) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

SEC. 3004. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by striking the seventh and thirteenth paragraphs;

(4) in section 711, by striking the second paragraph;

(5) by striking section 754, and amending the table of sections for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160, by striking "white person" and inserting "non-Indian";

(10) in section 1698, by striking the second paragraph;

(11) by striking sections 1904 and 1908, and amending the table of sections for chapter 93 by striking the items relating to such sections;

(12) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391, and amending the table of sections for chapters 105 and 115, respectively, by striking the items relating to such sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100–690;

(15) in section 3113, by striking the third paragraph;

(16) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443, by striking "or (3) 5 years after 12 o'clock noon of December 31, 1946,"; and

(18) in sections 542, 544, and 545, by striking "the Philippine Islands,".

SEC. 3005. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) is amended, in subsection (a)(3), by striking "issuer" and inserting in lieu thereof "domestic concern".

SEC. 3006. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than 20 years".

SEC. 3007. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 3008. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(2) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(3) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d);

(4) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph;

(5) in section 151, by striking "mean" and inserting "means";

(6) in section 208(b), by inserting "if" after "(4)";

(7) in section 209(d), by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";

(8) in section 1014, by inserting a comma after "National Credit Union Administration Board"; and

(9) in section 3291, by striking "the afore-mentioned" and inserting "such".

SEC. 3009. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) SECTION 408 OF CONTROLLED SUBSTANCES ACT.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 3010. CORRECTIONS OF ERRORS FOUND DURING CODIFICATION.

Title 18, United States Code, is amended—

(1) in section 212, by striking "218" and inserting "213";

(2) in section 1917—

(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and

(B) by striking "the Commission" in paragraph (1) and inserting "such Office";

(3) by transferring the table of sections for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;

(4) so that the heading of section 1170 reads as follows:

"§ 1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the table of sections at the beginning of chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a), by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;

(7) in section 3509—

(A) by striking out "subdivision" each place it appears and inserting "subsection"; and

(B) by striking out "government" each place it appears and inserting "Government";

(8) in section 2252(a)(3)(B), by striking "materails" and inserting "materials";

(9) in section 14, by striking "45," and "608, 611, 612,";

(10) in section 3059A—

(A) in subsection (b), by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c), by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the table of sections at the beginning of chapter 11—

(A) in the item relating to section 203, by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204, by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the table of sections at the beginning of chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the table of sections at the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3), by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176, by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii), by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the table of sections at the beginning of chapter 203.

SEC. 3011. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

(a) Incorrect Reference and Punctuation Correction.—(1) Section 2587(b) of the Crime Control Act of 1990 is repealed, effective on the date such section took effect.

(2) Section 2587(b) of Public Law 101–647 is amended, effective the date such section took effect, by striking "The chapter heading for" and inserting "The table of sections at the beginning of".

(3) The item relating to section 3059A in the table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding a period at the end.

(b) Lack of Punctuation in Stricken Language.—Section 46(b) of Public Law 99–646 is amended, effective on the date such section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of such title.

(c) Biological Weapons.—(1) Section 3 of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective on the date such section took effect in subsection (b), by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the table of chapters for part I of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

(d) Placement of New Section.—Section 404(a) of Public Law 101–630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) Elimination of Erroneous Characterization of Matter Inserted.—Section 225(a) of Public Law 101–674 is amended, effective on the date such section took effect, by striking "new rule".

(f) Clarification of Placement of Amendment.—Section 1205(c) of Public Law 101–647 is amended, effective the date such section took effect, by inserting "at the end" after "adding".

(g) Elimination of Duplicate Amendment.—Section 1606 of Public Law 101–647 (amending section 1114 of title 18, United States Code) is repealed effective the date of the enactment of such section.

(h) Error in Amendment Phrasing.—Section 3502 of Public Law 101–647 is amended, effective the date such section took effect, by striking "10" and inserting "ten".

(i) Clarification That Amendments Were to Title 18.—Sections 3524, 3525, and 3528 of Public Law 101–647 are each amended, effective the date such sections took effect, by inserting "of title 18, United States Code" before "is amended".

(j) Correction of Paragraph Reference.—Section 3527 of Public Law 101–647 is amended, effective the date such section took effect, by striking "4th" and inserting "5th".

(k) Repeal of Obsolete Technical Correction to Section 1345.—Section 3542 of Public Law 101–647 is repealed, effective the date of enactment of such Public Law.

(l) Repeal of Obsolete Technical Correction to Section 1956.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective the date of enactment of such Public Law.

(m) Clarification of Placement of Amendments.—Public Law 101–647 is amended, effective the date of the enactment of such Public Law—

(1) in section 3564(1), by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and

(2) in section 3565(3)(A), by inserting "each place it appears" after the quotation mark following "subchapter".

(n) Correction of Word Quoted in Amendment.—Section 3586(1) of Public Law 101–647 is amended, effective the date such section took effect, by striking "fines" and inserting "fine".

(o) Elimination of Obsolete Technical Amendment to Section 4013.—Section 3599 of Public Law 101–647 is repealed, effective the date of the enactment of such Public Law.

(p) Correction of Directory Language.—Section 3550 of Public Law 101–647 is amended, effective the date such section took effect, by striking "not more than".

(q) Repeal of Duplicate Provisions.—(1) Section 3568 of Public Law 101–647 is repealed, effective the date such section took effect.

(2) Section 1213 of Public Law 101–647 is repealed, effective the date such section took effect.

(r) Correction of Words Quoted in Amendment.—Section 2531(3) of Public Law 101–647 is amended, effective the date such section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)".

(s) Forfeiture.—(1) Section 1401 of Public Law 101–647 is amended, effective the date such section took effect—

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

(2) Section 2525(a)(2) of Public Law 101–647 is amended, effective the date such section took effect, by striking "108(3)" and inserting "2508(3)".

(t) Incorrect Section Reference.—Section 1402(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)) is amended by striking "1404(a)" and inserting "1404A".

(u) Missing Text.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended by inserting after "domestic violence" the following: "for—

"(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

"(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

"(C) funeral expenses attributable to a death resulting from a compensable crime".

SEC. 3012. AMENDMENTS TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(D), by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),";

(2) in subsection (a)(2) and in subsection (b), by striking "transportation" each place it appears and inserting "transportation, transmission, or transfer";

(3) in subsection (a)(3), by striking "represented by a law enforcement officer" and inserting "represented"; and

(4) in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 3013. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for such part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title".

TITLE XXXI—DRIVER'S PRIVACY PROTECTION ACT

SEC. 3101. SHORT TITLE; PURPOSE.

(a) Short Title.—This title may be cited as the "Driver's Privacy Protection Act of 1993".

(b) Purpose.—The purpose of this title is to protect the personal privacy and safety of licensed drivers consistent with the legitimate needs of business and government.

SEC. 3102. AMENDMENT TO TITLE 18, UNITED STATES CODE.

Title 18 of the United States Code is amended by inserting immediately after chapter 121, the following new chapter:

"CHAPTER 122—PROHIBITION ON RELEASE OF CERTAIN PERSONAL INFORMATION

"Sec. 2720. Prohibition on release and use of certain personal information by States, organizations and persons.
"Sec. 2721. Definitions.
"Sec. 2722. Penalties.
"Sec. 2723. Effect on State and local laws.

"§2720. Prohibition on release and use of certain personal information by States, organizations and persons

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), no department of motor vehicles of any State, or any officer or employee thereof, shall disclose or otherwise make available to any person or organization personal information about any individual obtained by the department in connection with a motor vehicle operator's permit, motor vehicle title, identification card, or motor vehicle registration (issued by the department to that individual), unless such disclosure is authorized by that individual.

"(2) A department of motor vehicles of a State, or officer or employee thereof, may disclose or otherwise make available personal information referred to in paragraph (1) for any of the following routine uses:

"(A) For the use of any Federal, State or local court in carrying out its functions.

"(B) For the use of any Federal, State or local agency in carrying out its functions, including a law enforcement agency.

"(C) For the use in connection with matters of automobile safety, driver safety, and manufacturers of motor vehicles issuing notification for purposes of any recall or product alteration.

"(D) For the use in any civil or criminal proceeding in any Federal, State, or local court, if the case involves a motor vehicle, or if the request is pursuant to an order of a court of competent jurisdiction.

"(E) For use in research activities, if such information will not be used to contact the individual and the individual is not identified or associated with the requested personal information.

"(F) For use in marketing activities if—

"(i) the motor vehicle department has provided the individual with regard to whom the information is requested with the opportunity, in a clear and conspicuous manner, to prohibit a disclosure of such information for marketing activities;

"(ii) the information will be used, rented, or sold solely for a permissible use under this chapter, including marketing activities; and

"(iii) any person obtaining such information from a motor vehicle department for marketing purposes keeps complete records identifying any person to whom, and the permissible purpose for which, they sell or rent the information and provides such records to the motor vehicle department upon request.

"(G) For use by any insurer or insurance support organization, or their employees, agents, and contractors, in connection with claims investigation activities and antifraud activities.

"(H) For use by any organization, or its agent, in connection with a business transaction, when the purpose is to verify the accuracy of personal information submitted to that business or agent by the person to whom such information pertains, or, if the information submitted is not accurate, to obtain correct information for the purpose of pursing remedies against a person who presented a check or similar item that was not honored.

"(I) For use by any organization, if such organization certifies, upon penalty of perjury, that it has obtained a statement from the person to whom the information pertains authorizing the disclosure of such information under this chapter.

"(J) For use by an employer or the agent of an employer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701 et seq.).

"(b) UNLAWFUL CONDUCT BY ANY PERSON OR ORGANIZATION.—No person or organization shall—

"(1) use any personal information, about an individual referred to in subsection (a), obtained from a motor vehicle department of any State, or any officer or employee thereof, or other person for any purpose other than the purpose for which such personal information was initially disclosed or otherwise made available by the department of motor vehicles of the affected State, or any officer or employee thereof, or other person, unless authorized by that individual; or

"(2) make any false representation to obtain personal information, about an individual referred to in subsection (a), from a department of motor vehicles of any State, or officer or employee thereof, or from any other person.

"§2721. Definitions

"As used in this chapter:

"(1) The term 'personal information' is information that identifies an individual, including an individual's photograph, driver's identification number, name, address, telephone number, social security number, and medical and disability information. Such term does not include information on vehicular accidents, driving violations, and driver's status.

"(2) The term 'person' means any individual.

"(3) The term 'State' means each of the several States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) The term 'organization' means any person other than an individual, including but not limited to, a corporation, association, institution, a car rental agency, employer, and insurers, insurance support organization, and their employees, agents, or contractors. Such term does not include a Federal, State or local agency or entity thereof.

"§2722. Penalties

"(a) WILLFUL VIOLATIONS.—

"(1) Any person who willfully violates this chapter shall be fined under this title, or imprisoned for a period not exceeding 12 months, or both.

"(2) Any organization who willfully violates this chapter shall be fined under this title.

"(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles which willfully violates this chapter shall be subject to a civil penalty imposed by the Attorney General in the amount of $5,000. Each day of continued noncompliance shall constitute a separate violation.

"§2723. Effect on State and local laws

"The provisions of this chapter shall supersede only those provisions of law of any State or local government which would require or permit the disclosure or use of personal information which is otherwise prohibited by this chapter.".

SEC. 3103. EFFECTIVE DATE.

The amendments made by this title shall take effect upon the expiration of the 270-day period following the date of its enactment.

TITLE XXXII—VIOLENCE AGAINST WOMEN; SAFE STREETS FOR WOMEN

SEC. 3201. VIOLENCE AGAINST WOMEN; SHORT TITLE.

Titles XXXII through XXXVII may be cited as the "Violence Against Women Act of 1993".

SEC. 3202. SAFE STREETS FOR WOMEN; SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 3211. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) RECOMMENDATION BY THE SENTENCING COMMISSION.—The Sentencing Commission shall implement the amendment made by subsection (a) by recommending to the Congress amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 3212. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and recommend amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and recommend amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and recommend amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and recommend amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the defendant is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 3213. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: Provided, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or *testimony heard, pursuant to this section, shall be in camera in the judge's chambers.*

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: Provided, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 3214. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 3221. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 4 of Public Law 102–521 (106 Stat. 3404), is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1711. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

"SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) include proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1721. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult

and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1722. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90–284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1731. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1732. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1722 of subpart 2.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"Sec. 1711. High intensity grants.
"Sec. 1712. High intensity grant application.

"SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1721. General grants to States.
"Sec. 1722. General grants to tribes.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"Sec. 1731. General definitions.

"Sec. 1732. General terms and conditions.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 3231. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of titles XXXI through XXXVII may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 3232. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91–383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 3233. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violence Against Women

SEC. 3241. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, there shall be established a commission to be known as the National Commission on Violence Against Women (referred to in this subtitle as the "Commission").

SEC. 3242. GENERAL PURPOSES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall recommend Federal, State, and local strategies for preventing and sanctioning violent crime against women, including the enhancement and protection of the rights of the victims of such crimes.

(b) FUNCTIONS.—The purpose of the Commission shall include—

(1) evaluating the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women and to punish those responsible for such crime;

(2) evaluating the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of rules of evidence, practice and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal Laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending effective means of response to the problem; and

(10) evaluating the adequacy of, and make recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women.

SEC. 3243. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall consist of 12 members, as follows:

(1) PRESIDENT.—Four individuals, not more than two of whom shall be of the same major political party.

(2) SENATE.—Four individuals, two appointed by the Majority Leader and two by the Minority Leader.

(3) HOUSE OF REPRESENTATIVES.—Four individuals, two appointed by the Majority Leader and two by the Minority Leader.

(b) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience, and shall include representatives of State and local law enforcement, judicial administration, prosecution, legal experts, persons devoted to the protection of victims' rights, persons providing services to the victims of sexual assault or domestic violence, and survivors of violence.

(c) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

SEC. 3244. COMMISSION OPERATIONS.

(a) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date of enactment of this Act. After the initial meeting, the Commission shall meet at least 6 times.

(b) CHAIR.—Not later than 15 days after the members of the Commission are appointed, the President shall designate a chair from among the members of the Commission.

(c) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(d) PER DIEM.—Except as provided in subsection (c), members of the Commission shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 3245. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 3243, the Commission shall prepare and submit a final report to the President, the Senate Majority Leader, the Senate Republican Leader, the House Majority Leader, the House Republican Leader, and to the congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 3246. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chair, with the approval of the Commission, not later than 30 days after the Chair is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS-15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 3247. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chair of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 3248. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 3249. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 3244.

Subtitle E—New Evidentiary Rules

SEC. 3251. SEXUAL HISTORY IN ALL CRIMINAL CASES.

(a) RULE.—The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 412 the following new item:

"412A. Evidence of victim's past behavior in other criminal cases:
"(a) Reputation and opinion evidence excluded.
"(b) Admissibility.
"(c) Procedures.".

SEC. 3252. SEXUAL HISTORY IN CIVIL CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 3251, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant

evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title XXXIV of the Violence Against Women Act of 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 3251, is amended by inserting after the item relating to rule 412A the following new item:

"412B. Evidence of past sexual behavior in civil cases:
"(a) Reputation and opinion evidence excluded.
"(b) Admissible evidence.
"(c) Procedures.
"(d) Definitions.".

SEC. 3253. AMENDMENTS TO RAPE SHIELD LAW.

(a) RULE.—Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by adding at the end the item relating to rule 412 the following:

"(e) Interlocutory appeal.
"(f) Rule of relevance and privilege.".

SEC. 3254. EVIDENCE OF CLOTHING.

(a) RULE.—The Federal Rules of Evidence, as amended by section 3252, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 3252, is amended by inserting after the item relating to rule 412B the following new item:

"413. Evidence of victim's clothing as inciting violence.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 3261. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 3262. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title XXXII of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 3263. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 3264. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following new subdivision:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1), by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before "or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) the term 'victim' means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or

"(B) 1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE XXXIII—SAFE HOMES FOR WOMEN

SEC. 3301. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 3311. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1994, 1995, and 1996.".

Subtitle B—Interstate Enforcement

SEC. 3321. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Interim protections.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who—

"(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

"(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State,

shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the *manner in which and the schedule according to which the restitution is to be paid, including—*

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across a State line' includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses .... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 3331. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 3311, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser;

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; and

"(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in

common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—Domestic Violence, Family Support, and Shelter Grants

SEC. 3341. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Secretary of Health and Human Services shall make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) educational and informational programs relating to domestic violence;

(8) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(9) coalitions of domestic violence service providers, agencies, and programs;

(10) training programs for judges and court personnel in relation to cases involving domestic violence;

(11) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements; and

(12) shelters that provide services for victims of domestic violence and related programs.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Secretary a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The Secretary shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the Secretary.

(h) REPORT.—The Secretary shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $100,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

(j) AUTHORIZATION OF APPROPRIATIONS FOR THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and $125,000,000 for fiscal year 1996.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 3351. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 3361. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 3331, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the 'Secretary'). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations

such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year 1994.".

Subtitle G—Confidentiality for Abused Persons

SEC. 3371. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 3381. DEFINITIONS.

Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

SEC. 3382. SPECIAL ISSUE RESOURCE CENTERS.

(a) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(b) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(1) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

(2) by adding at the end the following new paragraph:

"(7) Providing technical assistance and training to State domestic violence coalitions.".

SEC. 3383. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and`court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

Subtitle I—Data and Research

SEC. 3391. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the Attorney General's Task Force on Violence Against Women.

SEC. 3392. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 3393. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1994.

TITLE XXXIV—CIVIL RIGHTS

SEC. 3401. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 3402. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes of violence motivated by gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for crimes of violence motivated by gender committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of crimes of violence motivated by gender, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled;

(5) crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects on interstate commerce caused by crimes of violence motivated by gender; and

(8) the victims of crimes of violence motivated by gender have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States

shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and due, at least in part, to an animus based on the victim's gender;

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this title.

(4) PENDENT JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 3402 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.".

SEC. 3403. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or title XXXIV of the Violence Against Women Act of 1993," after "1964".

SEC. 3404. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE XXXV—SAFE CAMPUSES FOR WOMEN

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

"(i) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.".

TITLE XXXVI—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SEC. 3601. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 3611. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 3612. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 3613. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 3614. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1994. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 3621. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 3612 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 3622. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 3621(a), to be available until expended through fiscal year 1995;

(2) $100,000 to the Federal Judicial Center to carry out section 3621(c) and any activities designated by the Judicial Conference under section 3621(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 3621(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

TITLE XXXVII—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

SEC. 3701. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 3702. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 3703. PAYMENT OF COST OF HIV TESTING.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

(b) TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR AIDS.—Victims of any offense of the type described in Chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with—

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

(c) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a State of Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(d) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to any personal physician or sexual partner(s) she may have had since the attack.

(e) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(f) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(g) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate committees of congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 3704. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 3705. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 3706. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

(a) Rule.—The Federal Rules of Evidence, as amended by section 3254, are amended by adding after rule 413 the following new rule:

"Rule 414. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.".

(b) Technical Amendment.—The table of contents for the Federal Rules of Evidence, as amended by section 4, is amended by inserting after the item relating to rule 413 the following new item:

"414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.".

SEC. 3707. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) Study.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) Report.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) Submission of Report.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) Definition.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) Authorization of Appropriation.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

SEC. 3708. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) Report.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) Components of Report.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 3709. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) Report.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) Use of Components.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 3710. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 3711. REPORT ON FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations, and report to Congress, regarding the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct that—

(1) protect litigants from a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants;

(2) counsel against reliance on generalizations or stereotypes that demean, disgrace, or humiliate on the basis of gender;

(3) protect litigants from a course of conduct intended solely to increase the expense of litigation; and

(4) prohibit counsel from offering evidence that the lawyer knows to be false or from discrediting evidence the lawyer knows to be true.

SEC. 3712. REPORT ON FEDERAL RULE OF EVIDENCE 404.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall complete a study of, and shall submit to Congress recommendations for amending, rule 404 of the Federal Rules of Evidence as it affects the admission of evidence of a defendant's prior sex crimes in cases brought pursuant to chapter 109A or other cases involving sexual misconduct.

(b) SPECIFIC ISSUES.—The study described in subsection (a) shall include—

(1) a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rules;

(2) a recommendation concerning whether rule 404 should be amended to introduce evidence of prior sex crimes and, if so—

(A) whether such acts could be used to prove the defendant's propensity to act therewith; and

(B) whether evidence of prior similar sex crimes should be admitted for purposes other than to show character;

(3) a recommendation concerning whether evidence of similar acts, if admitted, should meet a threshold of similarity to the crime charged;

(4) a recommendation concerning whether evidence of similar acts, if admitted, should be limited to a certain time period (such as 10 years); and

(5) the effect, if any, of the adoption of any proposed changes on the admissibility of evidence under rule 412 of the Federal Rules of Evidence.

SEC. 3713. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) IN GENERAL.—The Attorney General may, in each fiscal year, award an aggregate amount of up to $1,000,000 to a State that meets the eligibility requirements of subsection (b).

(b) ELIGIBILITY.—The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws or policies relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Provision of training and policy development programs for law enforcement officers, prosecutors, and judges concerning the investigation and prosecution of sexual offenses.

(2) Authorization of law enforcement and prosecutorial units and teams that target sexual violence.

(3) Funding of victim services programs for victims of sexual violence.

(4) Authorization of educational and informational programs relating to sexual violence.

(5) Authorization of pretrial detention of defendants in sexual assault cases where provision of flight or the safety of others cannot be reasonably assured by other means.

(6) Authorization of serious penalties for nonconsensual sexual assault offenses.

(7) Payment of the cost of medical examinations and testing by the victim for sexually transmitted diseases.

(8) Provision of rape shield protection to ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior in sexual assault cases.

(9) Provision of rules of professional conduct intended to protect against a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants in sexual assault cases.

(10) Authorization of the presence of the victim in the courtroom at the time of trial and provides for the victim's addressing the court concerning the sentence to be imposed.

(11) Authorization of awards of restitution to victims of sexual assaults as part of a criminal sentence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.

TITLE XXXVIII—ENHANCED PENALTIES FOR ANTI-FRAUD ENFORCEMENT EFFORTS

SEC. 3801. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "National Health Care Anti-Fraud and Abuse Act of 1993".

Subtitle A—Amendments to Criminal Law

SEC. 3811. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for life or any term of years.

"(b) For purposes of this section, the term 'health care plan' means a federally funded public program or private program for the delivery of or payment for health care items or services.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 3812. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following:

"(6)(A) If the court determines that a Federal health care offense is of a type that poses a serious threat to the health of any person or has a significant detrimental impact on the health care system, the court, in imposing sentence on a person convicted of that offense, shall order that person to forfeit property, real or personal, that—

"(i)(I) is used in the commission of the offense; or

"(II) constitutes or is derived from proceeds traceable to the commission of the offense; and

"(ii) is of a value proportionate to the seriousness of the offense.".

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud;

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud; and

"(v) section 301, 303(a)(2), or 303 (b) or (e) of the Federal Food, Drug and Cosmetic Act, if the violation or conspiracy relates to health care fraud.".

SEC. 3813. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

SEC. 3814. RACKETEERING ACTIVITY RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1961 of title 18, United States Code, is amended by inserting "section 982(a)(6) (relating to Federal health care offenses)," after "sections 891–894 (relating to extortionate credit transactions),".

Subtitle E—Amendments to Civil False Claims Act

SEC. 3821. AMENDMENTS TO CIVIL FALSE CLAIMS ACT.

Section 3729 of title 31, United States Code, is amended—

(1) in subsection (a)(7), by inserting "or to a health care plan," after "property to the Government,";

(2) in the matter following subsection (a)(7), by inserting "or health care plan" before "sustains because of the act of that person,";

(3) at the end of the first sentence of subsection (a), by inserting "or health care plan" before "sustains because of the act of the person.";

(4) in subsection (c)—

(A) by inserting "the term" after "section,"; and

(B) by adding at the end the following: "The term also includes any request or demand, whether under contract or otherwise, for money or property which is made or presented to a health care plan."; and

(5) by adding at the end the following:

"(f) HEALTH CARE PLAN DEFINED.—For purposes of this section, the term 'health care plan' means a federally funded public program for the delivery of or payment for health care items or services.".

TITLE XXXIX—SENIOR CITIZENS AGAINST MARKETING SCAMS

SEC 3901. SHORT TITLE.

This Act may be cited as the "Senior Citizens Against Marketing Scams Act of 1993".

SEC. 3902. FINDINGS AND DECLARATION.

The Congress makes the following findings and declaration:

(1) Unprecedented Federal law enforcement investigations have uncovered a national network of illicit telemarketing operations.

(2) Most of the telemarketing industry is legitimate, employing over 3,000,000 people through direct and indirect means.

(3) Illicit telemarketers, however, are an increasing problem which victimizes our Nation's senior citizens in disproportionate numbers.

(4) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Department of Justice are not sufficient to ensure that there is adequate investigation of, and protection from, such fraud.

(5) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact. Telemarketers can also be very mobile, easily moving from State to State.

(6) It is estimated that victims lose billions of dollars a year as a result of telemarketing fraud.

(7) Consequently, Congress should enact legislation that will—

(A) enhance Federal law enforcement resources;

(B) ensure adequate punishment for telemarketing fraud; and

(C) educate the public.

SEC. 3903. ENHANCED PENALTIES FOR TELEMARKETING FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended—

(1) by redesignating chapter 113A as chapter 113B; and

(2) by inserting after chapter 113 the following new chapter:

"CHAPTER 113A—TELEMARKETING FRAUD

"Sec.
"2325. Definition.
"2326. Enhanced penalties.
"2327. Restitution.

"§2325. Definition

"In this chapter, 'telemarketing'—

"(1) means a plan, program, promotion, or campaign that is conducted to induce—

"(A) purchases of goods or services; or

"(B) participation in a contest or sweepstakes,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant; but

"(2) does not include the solicitation of sales through the mailing of a catalog that—

"(A) contains a written description or illustration of the goods or services offered for sale;

"(B) includes the business address of the seller;

"(C) includes multiple pages of written material or illustration; and

"(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls take orders without further solicitation.

"§2326. Enhanced penalties

"An offender that is convicted of an offense under 1028, 1029, 1341, 1342, 1343, or 1344 in connection with the conduct of telemarketing—

"(1) may be imprisoned for a term of 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

"(2) in the case of an offense under any of those sections that—

"(A) victimized ten or more persons over the age of 55; or

"(B) targeted persons over the age of 55,

may be imprisoned for a term of 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

"§2327. Restitution

"In sentencing an offender under section 2326, the court shall order the offender to pay restitution to any victims and may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity.".

(b) TECHNICAL AMENDMENTS.—

(1) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by striking the item relating to chapter 113A and inserting the following:

"113A. Telemarketing fraud 2325
"113B. Terrorism .... 2331".

(2) CHAPTER 113B.—The chapter heading for chapter 113B of title 18, United States Code, as redesignated by subsection (a)(1), is amended to read as follows:

"CHAPTER 113B—TERRORISM".

SEC. 3904. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) The Court, in sentencing an offender under section 2326, shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as a result of the offense.".

SEC. 3905. INCREASED PENALTIES FOR FRAUD AGAINST OLDER VICTIMS.

(a) REVIEW.—The United States Sentencing Commission shall review and, if necessary, amend the sentencing guidelines to ensure that victim related adjustments for fraud offenses against older victims over the age of 55 are adequate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Sentencing Commission shall report to Congress the result of its review under subsection (a).

SEC. 3906. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 2325 which results in a conviction.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal, State, or local government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of an allegation or transaction that has been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 3907. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1994 for the purposes of carrying out this Act and the amendments made by this Act—

(1) $10,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 100 special agents and support staff to investigate telemarketing fraud cases;

(2) $3,500,000 to hire, equip, and train no fewer than 30 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute telemarketing fraud cases; and

(3) $10,000,000 for the Department of Justice to conduct, in cooperation with State and local law enforcement agencies and senior citizen advocacy organizations, public awareness and prevention initiatives for senior citizens, such as seminars and training.

SEC. 3908. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 3909. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 3910. INFORMATION NETWORK.

(a) HOTLINE.—The Attorney General shall establish a national toll-free hotline for the purpose of—

(1) providing general information on telemarketing fraud to interested persons; and

(2) gathering information related to possible violations of this Act.

(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.

TITLE XL—CHILD SAFETY

SEC. 4001. SHORT TITLE.

This title may be cited as the "Child Safety Act".

SEC. 4002. FINDINGS.

Congress finds the following:

(1) The problem of family violence does not necessarily cease when the victimized family is legally separated, divorced, or otherwise not sharing a household. During separation and divorce, family violence often escalates, and child custody and visitation become the new forum for the continuation of abuse.

(2) Some perpetrators use the children as pawns to control the abused party after the couple is separated.

(3) Every year an estimated 1,000 to 5,000 children are killed by their parents in the United States.

(4) In 1988, the Department of Justice reported that 354,100 children were abducted by family

members who violated custody agreements or decrees. Most victims were children from ages 2 to 11 years.

(5) Approximately 160,000 children are seriously injured or impaired by abuse or neglect each year.

(6) Studies by the American Humane Association indicate that reports of child abuse and neglect have increased by over 200 percent from 1976 to 1986.

(7) Approximately 90 percent of children in homes in which their mothers are abused witness the abuse.

(8) Data indicates that women and children are at elevated risk for violence during the process of and after separation.

(9) Fifty to 70 percent of men who abuse their spouses or partners also abuse their children.

(10) Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couples.

(11) In one study of spousal homicide, over half of the male defendants were separated from their victims.

(12) Seventy-three percent of battered women seeking emergency medical services do so after separation.

SEC. 4003. PURPOSE.

The purpose of this Act is to authorize funding to enable supervised visitation centers to provide the following:

(1) Supervised visitation in cases where there is documented sexual, physical or emotional abuse as determined by the appropriate court.

(2) Supervised visitation in cases where there is suspected or elevated risk of sexual, physical or emotional abuse, or where there have been threats of parental abduction of the child.

(3) Supervised visitation for children who have been placed in foster homes as a result of abuse.

(4) An evaluation of visitation between parents and children for child protection social services to assist such service providers in making determinations of whether the children should be returned to a previously abusive home.

(5) A safe location for custodial parents to temporarily transfer custody of their children with non-custodial parents, or to provide a protected visitation environment, where there has been a history of domestic violence or an order for protection is involved.

(6) An additional safeguard against the child witnessing abuse or a safeguard against the injury or death of a child or parent.

(7) An environment for families to have healthy interaction activities, quality time, non-violent memory building experiences during visitation to help build the parent/child relationship.

(8) Parent and child education and support groups to help parents heal and learn new skills, and to help children heal from past abuse.

SEC. 4004. DEMONSTRATION GRANTS FOR SUPERVISED VISITATION CENTERS.

(a) In General.—The Secretary of Health and Human Services (hereafter referred to in this Act as the "Secretary") is authorized to award grants to and enter into contracts and cooperative agreements with public or nonprofit private entities to assist such entities in the establishment and operation of supervised visitation centers.

(b) Considerations.—In awarding grants, contracts and agreements under subsection (a), the Secretary shall take into account—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract or agreement;

(2) the extent to which supervised visitation centers are needed locally;

(3) the relative need of the applicant; and

(4) the capacity of the applicant to make rapid and effective use of assistance provided under the grant, contract or agreement.

(c) Use of Funds.—

(1) In general.—Amounts provided under a grant, contract or cooperative agreement awarded under this section shall be used to establish supervised visitation centers and for the purposes described in section 4003. In using such amounts, grantees shall target the economically disadvantaged and those individuals who could not otherwise afford such visitation services. Other individuals may be permitted to utilize the services provided by the center on a fee basis.

(2) Costs.—To the extent practicable, the Secretary shall ensure that, with respect to recipients of grants, contracts or agreements under this section, the perpetrators of the family violence, abuse or neglect will be responsible for any and all costs associated with the supervised visitation undertaken at the center.

SEC. 4005. DEMONSTRATION GRANT APPLICATION.

(a) In General.—A grant, contract or cooperative agreement may not be made or entered into under this Act unless an application for such grant, contract or cooperative agreement has been submitted to and approved by the Secretary.

(b) Approval.—Grants, contracts and cooperative agreements under this Act shall be awarded in accordance with such regulations as the Secretary may promulgate. At a minimum, to be approved by the Secretary under this section an application shall—

(1) demonstrate that the applicant has recognized expertise in the area of family violence and a record of high quality service to victims of family violence; and

(2) be submitted from an entity located in a State where State law requires the courts to consider evidence of violence in custody decisions.

SEC. 4006. EVALUATION OF DEMONSTRATION PROJECTS.

(a) In General.—Not later than 30 days after the end of each fiscal year, a recipient of a grant, contract or cooperative agreement under this Act shall prepare and submit to the Secretary a report that contains information concerning—

(1) the number of families served per year;

(2) the number of families served per year categorized by—

(A) families who require that supervised visitation because of child abuse only;

(B) families who require supervised visitation because of a combination of child abuse and domestic violence; and

(C) families who require supervised visitation because of domestic violence only;

(3) the number of visits per family in the report year categorized by—

(A) supervised visitation required by the courts;

(B) supervised visitation based on suspected or elevated risk of sexual, physical, or emotional abuse, or threats of parental abduction of the child that is not court mandated;

(C) supervised visitation that is part of a foster care arrangement; and

(D) supervised visitation because of an order of protection;

(4) the number of supervised visitation arrangements terminated because of violations of visitation terms, including violence;

(5) the number of protective temporary transfers of custody during the report year;

(6) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations;

(7) the number of safety and security problems that occur during the report year;

(8) the number of families who are turned away because the center cannot accommodate the demand for services;

(9) the process by which children or abused partners will be protected during visitations, temporary custody transfers and other activities for which the supervised visitation centers are created; and

(10) any other information determined appropriate in regulations promulgated by the Secretary.

(b) Evaluation.—In addition to submitting the reports required under subsection (a), an entity receiving a grant, contract or cooperative agreement under this Act shall have a collateral agreement with the court, the child protection social services division of the State, and local domestic violence agencies or State and local domestic violence coalitions to evaluate the supervised visitation center operated under the grant, contract or agreement. The entities conducting such evaluations shall submit a narrative evaluation of the center to both the center and the grantee.

(c) Demonstration of Need.—The recipient of a grant, contract or cooperative agreement under this Act shall demonstrate, during the first 3 years of the project operated under the grant, contract or agreement, the need for continued funding.

SEC. 4007. SPECIAL GRANTS TO STUDY THE EFFECT OF SUPERVISED VISITATION ON SEXUALLY ABUSED OR SEVERELY PHYSICALLY ABUSED CHILDREN.

(a) Authorization.—The Secretary is authorized to award special grants to public or nonprofit private entities to assist such entities in collecting clinical data for supervised visitation centers established under this Act to determine—

(1) the extent to which supervised visitation should be allowed between children who are sexually abused or severely physically abused by a parent, where the visitation is not predicated on the abusive parent having successively completed a specialized course of therapy for such abusers;

(2) the effect of supervised visitation on child victims of sexual abuse or severe physical abuse when the abusive parent exercising visitation has not completed specialized therapy and does not use the visitation to alleviate the child victim's guilt, fear, or confusion;

(3) the relationship between the type of abuse or neglect experienced by the child and the use of supervised visitation centers by the maltreating parent; and

(4) in cases of spouse or partner abuse only, the extent to which supervised visitation should be predicated on participation by the abusive spouse in a specialized treatment program.

(b) Application.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including documentary evidence to demonstrate that the entity possesses a high level of clinical expertise and experience in child abuse treatment and prevention as they relate to visitation. The level of clinical expertise and experience required will be determined by the Secretary.

(c) Report.—Not later than 1 year after the date on which a grant is received under this section, and each year thereafter for the duration of the grant, the grantee shall prepare and submit to the Secretary a report containing the clinical data collected under such grant.

SEC. 4008. REPORTING.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing the information collected under the reports received under sections 4006 and 4007, including recommendations made by the Secretary concerning whether or not the supervised visitation center demonstration and clinical data programs should be reauthorized.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of awarding grants, contracts and cooperative agreements under this Act, there are authorized to be appropriated $15,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.

(b) DISTRIBUTION.—Of the amounts appropriated under subsection (a) for each fiscal year—

(1) not less than 80 percent shall be used to award grants, contracts, or cooperative agreements under section 4005; and

(2) not more than 20 percent shall be used to award grants under section 4007.

(c) DISBURSEMENT.—Amounts appropriated under this section shall be disbursed as categorical grants through the 10 regional offices of the Department of Health and Human Services.

TITLE XLI—FAMILY UNITY DEMONSTRATION PROJECT

Subtitle A—Family Unity Demonstration Project

SEC. 4101. SHORT TITLE.

This title may be cited as the "Family Unity Demonstration Project Act".

SEC. 4102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) an increasing number of children are becoming separated from their primary caretaker parents due to the incarceration of the parents in prisons and jails;

(2) such separation of children from their primary caretaker parents can cause harm to children's psychological well-being and hinder their growth and development;

(3) a significant number of children are born shortly before or during the incarceration of their mothers and are then quickly separated from their mothers, preventing the parent-child bonding that is crucial to developing in children a sense of security and trust;

(4) maintaining close relationships with their children provides a powerful incentive for prisoners to participate in and successfully benefit from rehabilitative programs; and

(5) maintaining strong family ties during imprisonment has been shown to decrease recidivism, thereby reducing prison costs.

(b) PURPOSE.—The purpose of this title is to evaluate the effectiveness of certain demonstration projects in helping to—

(1) alleviate the harm to children and primary caretaker parents caused by separation due to the incarceration of the parents;

(2) reduce recidivism rates of prisoners by encouraging strong and supportive family relationships; and

(3) explore the cost effectiveness of community correctional facilities.

SEC. 4103. DEFINITIONS.

In this title—

"child" means a person who is less than 6 years of age.

"community correctional facility" means a residential facility that—

(A) is used only for eligible offenders and their children under 6 years of age;

(B) is not within the confines of a jail or prison;

(C) has a maximum capacity of 50 prisoners in addition to their children; and

(D) provides to inmates and their children—

(i) a safe, stable, environment for children;

(ii) pediatric and adult medical care consistent with medical standards for correctional facilities;

(iii) programs to improve the stability of the parent-child relationship, including educating parents regarding—

(I) child development; and

(II) household management;

(iv) alcoholism and drug addiction treatment for prisoners; and

(v) programs and support services to help inmates—

(I) to improve and maintain mental and physical health, including access to counseling;

(II) to obtain adequate housing upon release from State incarceration;

(III) to obtain suitable education, employment, or training for employment; and

(IV) to obtain suitable child care.

"Director" means the Director of the Federal Bureau of Prisons.

"eligible offender" means a primary caretaker parent who—

(A) is sentenced to a term of imprisonment of not more than 7 years or is awaiting sentencing for a conviction punishable by such a term of imprisonment;

(B) except in the case of an offender awaiting sentencing, is incarcerated currently to serve that sentence;

(C) is not eligible currently for probation or parole until the expiration of a period exceeding 180 days; and

(D) has not engaged in conduct which—

(i) knowingly resulted in death or serious bodily injury;

(ii) is a felony for a crime of violence against the person; or

(iii) constitutes child neglect or mental, physical, or sexual abuse of a child.

"primary caretaker parent" means—

(A) a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to incarceration; or

(B) a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health, and safety of that child,

a parent who, in the best interest of a child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category "primary caretaker".

"State" means 1 of the States or the District of Columbia.

SEC. 4104. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this title $8,000,000 for each of fiscal years 1995, 1996, 1997, 1998 and 1999.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the amount appropriated under subsection (a) for any fiscal year—

(1) 90 percent shall be available to carry out title II; and

(2) 10 percent shall be available to carry out title III.

Subtitle B—Grants to States

SEC. 4111. AUTHORITY TO MAKE GRANTS.

(a) GENERAL AUTHORITY.—The Director may make grants, on a competitive basis, to States to carry out in accordance with this title family unity demonstration projects that enable eligible offenders to live in community correctional facilities with their children.

(b) PREFERENCES.—For the purpose of making grants under subsection (a), the Director shall give preference to a State that includes in the application required by section 202 assurances that if the State receives a grant—

(1) both the State corrections agency and the State health and human services agency will participate substantially in, and cooperate closely in all aspects of, the development and operation of the family unity demonstration project for which such a grant is requested;

(2) boards made up of community residents, local businesses, corrections officials, former prisoners, child development professionals, educators, and maternal and child health professionals will be established to advise the State regarding the operation of such project;

(3) the State has in effect a policy that provides for the placement of all prisoners, whenever possible, in correctional facilities for which they qualify that are located closest to their respective family homes;

(4) unless the Director determines that a longer timeline is appropriate in a particular case and notifies the Attorney General in writing of the length as reason for such extension, the State will implement the project not later than 180 days after receiving a grant under subsection (a) and will expend all of the grant during a 1-year period;

(5) the State demonstrates that it has the capacity to continue implementing a community correctional facility beyond the funding period to ensure the continuity of the work;

(6) for the purpose of selecting eligible offenders to participate in the project, the State will—

(A) give written notice to a prisoner, not later than 30 days after the State first receives a grant under subsection (a) or 30 days after the prisoner is sentenced to a term of imprisonment of not more than 7 years (whichever is later), of the proposed or current operation of the project;

(B) accept at any time at which the project is in operation an application by a prisoner to participate in the project if, at the time of application, the remainder of the prisoner's sentence exceeds 180 days;

(C) review applications by prisoners in the sequence in which the State receives such applications;

(D) not more than 50 days after reviewing such applications approve or disapprove the application; and

(7) for the purposes of selecting eligible offenders to participate in such project, the State authorizes State courts to sentence an eligible offender directly to a correctional facility, provided that the court gives assurances that the offender would have otherwise served a term of imprisonment.

(c) SELECTION OF GRANTEES.—The Director shall make grants under subsection (a) on a competitive basis, based on such criteria as the Director shall issue by rule and taking into account the priorities described in subsection (b).

(d) NUMBER OF GRANTS.—In any fiscal year for which funds are available to carry out this title, the Director shall make grants to no fewer than 4 and no greater than 8 eligible States geographically dispersed throughout the United States.

SEC. 4112. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 201(a), a State shall submit to the Director an application at such time, in such form, and containing such information as the Director reasonably may require by rule.

SEC. 4113. REPORT.

(a) IN GENERAL.—A State that receives a grant under this title shall, not later than 90 days after the 1-year period in which the grant is required to be expended, submit a report to the Director regarding the family unity demonstration project for which the grant was expended.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of prisoners who submitted applications to participate in the project and the number of prisoners who were placed in community correctional facilities;

(2) state, with respect to prisoners placed in the project, the number of prisoners who are returned to that jurisdiction and custody and the reasons for such return;

(3) describe the nature and scope of educational and training activities provided to prisoners participating in the project;

(4) state the number, and describe the scope of, contracts made with public and nonprofit private community-based organizations to carry out such project; and

(5) evaluate the effectiveness of the project in accomplishing the purposes described in section 102(b).

Subtitle C—Family Unity Demonstration Project for Federal Prisoners

SEC. 4121. AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Ten percent of the funds authorized under this title shall be used for defendants convicted of Federal offenses.

(b) GENERAL CONTRACTING AUTHORITY.—In implementing this title, the Bureau of Prisons may enter into contracts with appropriate public or private agencies to provide housing, sustenance, services, and supervision of inmates eligible for placement in community correctional facilities under this title.

(c) USE OF STATE FACILITIES.—At the discretion of the Attorney General, Federal participants may be placed in State projects, as defined in title II. For such participants, the Attorney General shall, with funds available under section 104(b)(2), reimburse the State for all project costs related to the Federal participant's placement, including administrative costs.

SEC. 4122. REQUIREMENTS.

For the purpose of placing Federal participants in a family unity demonstration project under section 301, the Attorney General shall—

(1) consult with the Secretary of Health and Human Services regarding the development and operation of the project; and

(2) submit to the Director a report containing the information described in section 203(b).

TITLE XLII—DOMESTIC VIOLENCE

SEC. 4201. SHORT TITLE.

This title may be cited as the "Domestic Violence Firearm Prevention Act".

SEC. 4202. FINDINGS.

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC. 4203. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8)(A) has been convicted in any court of an offense that—

"(i) involves the use, attempted use, or threatened use of physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person; or

"(ii) by its nature, involves a substantial risk that physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person may be used in the course of committing the offense; or

"(B) is required, pursuant to an order issued by any court in a case involving a person described in subparagraph (A), to refrain from any contact with or to maintain a minimum distance from that person or to refrain from abuse, harassment, or stalking of that person.".

(b) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following new paragraph:

"(8)(A) has been convicted in any court of an offense that—

"(i) involves the use, attempted use, or threatened use of physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person; or

"(ii) by its nature, involves a substantial risk that physical force against a person who is a spouse, former spouse, domestic partner, child, or former child of the person may be used in the course of committing the offense; or

"(B) is required, pursuant to an order issued by any court in a case involving a person described in subparagraph (A), to refrain from any contact with or to maintain a minimum distance from that person, or to refrain from abuse, harassment, or stalking of that person;".

TITLE XLIII—MISSING AND EXPLOITED CHILDREN

SECTION 4301. SHORT TITLE.

This title may be cited as the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act".

SEC. 4302. FINDINGS.

The Congress finds that—

(1) the victimization of children in our Nation has reached epidemic proportions; recent Department of Justice figures show that—

(A) 4,600 children were abducted by non-family members;

(B) two-thirds of the abductions of children by non-family members involve sexual assault;

(C) more than 354,000 children were abducted by family members; and

(D) 451,000 children ran away;

(2) while some local law enforcement officials have been successful in the investigation and resolution of such crimes, most local agencies lack the personnel and resources necessary to give this problem the full attention it requires;

(3) a majority of the Nation's 17,000 police departments have 10 or fewer officers; and

(4) locating missing children requires a coordinated law enforcement effort; supplementing local law enforcement agencies with a team of assigned active Federal agents will allow Federal agents to pool their resources and expertise in order to assist local agents in the investigation of the Nation's most difficult cases involving missing children.

SEC. 4303. PURPOSE.

The purpose of this title is to establish a task force comprised of law enforcement officers from pertinent Federal agencies to work with the National Center for Missing and Exploited Children (referred to as the "Center") and coordinate the provision of Federal law enforcement resources to assist State and local authorities in investigating the most difficult cases of missing and exploited children.

SEC. 4304. ESTABLISHMENT OF TASK FORCE.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) by redesignating sections 407 and 408 as sections 408 and 409, respectively; and

(2) by inserting after section 406 the following new section:

"TASK FORCE

"SEC. 407. (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

"(A) the Federal Bureau of Investigation;

"(B) the Secret Service;

"(C) the Bureau of Alcohol, Tobacco and Firearms;

"(D) the United States Customs Service;

"(E) the Postal Inspection Service;

"(F) the United States Marshals Service; and

"(G) the Drug Enforcement Administration.

"(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force selected under paragraph (1)(A)) shall act as chief of the Task Force.

"(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

"(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

"(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

"(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

"(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), 1 member from each agency shall initially serve a 1-year term, and the other member from the same agency shall serve a 1-year term, and may be selected to a renewal of service for 1 additional year; thereafter, each new member to serve on the Task Force shall serve for a 2-year period with the member's term of service beginning and ending in alternate years with the other member from the same agency; the period of service for the chief of the Task Force shall be 3 years.

"(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

"(c) SUPPORT.—

"(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

"(2) LEGAL GUIDANCE.—The Attorney General shall assign a United States Attorney to provide legal guidance, as needed, to members of the Task Force.

"(d) PURPOSE.—

"(1) IN GENERAL.—(A) The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

"(B) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall

not take a leadership role in any such investigation.

"(e) TRAINING.—Members of the Task Force shall receive a course of training, provided by the Center, in matters relating to cases of missing and exploited children.

"(f) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General shall cross-designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.".

TITLE XLIV—PUBLIC CORRUPTION

SEC. 4401. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1993".

SEC. 4402. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election through one or more of the following means, or otherwise—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority;

"(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 4403. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 4404. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§220. Narcotics and public corruption

"(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or

promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XLV—SEMIAUTOMATIC ASSAULT WEAPONS

SEC. 4501. SHORT TITLE.

This title may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

SEC. 4502. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.".

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(29) The term 'semiautomatic assault weapon' means—

"(A) any of the firearms, or types, replicas, or duplicates in any caliber of the firearms, known as—

"(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

"(ii) Action Arms Israeli Military Industries UZI and Galil;

"(iii) Beretta AR-70 (SC-70);

"(iv) Colt AR-15;

"(v) Fabrique Nationale FN/FAL, FN/LAR, and FNC;

"(vi) SWD M-10, M-11, M-11/9, and M-12;

"(vii) Steyr AUG;

"(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

"(ix) any shotgun which contains its ammunition in a revolving cylinder, such as (but not limited to) the Street Sweeper and Striker 12;

"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a bayonet mount;

"(iv) a flash suppressor or barrel having a threaded muzzle; and

"(v) a grenade launcher;

"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

"(ii) a barrel having a threaded muzzle;

"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;

"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

"(v) a semiautomatic version of an automatic firearm; and

"(D) a semiautomatic shotgun that has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a fixed magazine capacity in excess of 5 rounds; and

"(iv) an ability to accept a detachable magazine.

(c) PENALTIES.—

(1) VIOLATION OF SECTION 922(s).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "or (q) of section 922" and inserting "(q), or (s) of section 922".

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by inserting ", or semiautomatic assault weapon" after "short-barreled shotgun,".

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of title 18, United States Code, is amended by adding at the end the following new sentence: "The serial number of any semiautomatic assault weapon manufactured after the date of enactment of this section shall clearly show the date on which the weapon was manufactured.".

SEC. 4503. EXEMPTION FOR FIREARMS LAWFULLY POSSESSED PRIOR TO DATE OF ENACTMENT.

Section 922(s) of title 18, United States Code, as added by section 4502(a), is amended by adding at the end the following paragraph:

"(2) Paragraph (1) shall not apply to the transfer or possession of any firearm that was lawfully possessed before the effective date of this subsection.".

SEC. 4504. EXEMPTION FOR CERTAIN HUNTING AND SPORTING FIREARMS.

Section 922 of title 18, as amended by section 4503, is amended by adding at the end the following paragraph:

"(3) Paragraph (1) shall not apply to—

"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

"(B) any firearm that—

"(i) is manually operated by bolt, pump, lever, or slide action;

"(ii) is an unserviceable firearm; or

"(iii) is an antique firearm;

"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.".

SEC. 4505. EXEMPTIONS FOR GOVERNMENTAL AND EXPERIMENTAL USE.

Section 922(s) of title 18, United States Code, as amended by section 4504, is amended by adding the following paragraph:

"(4) Paragraph (1) shall not apply to—

"(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State; or

"(B) the manufacture, transfer, or possession of any firearm by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary, or for exportation.".

SEC. 4506. RECORDKEEPING REQUIREMENTS AND RELATED RESTRICTIONS.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 4505, is amended by adding at the end the following new subsection:

"(t)(1) It shall be unlawful for a person to sell, ship, or deliver an assault weapon to a person who does not fill out a form 4473 in connection with the purchase of the assault weapon.

"(2) It shall be unlawful for a person to purchase, possess, or accept delivery of an assault weapon unless the person has filled out a form 4473 in connection with the purchase of the assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of form 4473.

"(4) An owner of an assault weapon on the effective date of this subsection who requires retention of form 4473 under this subsection shall, within 90 days after publication of regulations by the Secretary under paragraph (5), request a copy of form 4473 from a licensed dealer in accordance with those regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of form 4473 under paragraph (4).".

(b) PENALTY.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) A person who knowingly violates section 922(t) shall be fined not more than $1,000 (in accordance with section 3571(e)), imprisoned not more than 6 months, or both.".

(c) DISABILITY.—Section 922(g)(1) of title 18, United States Code, is amended by inserting "or a violation of section 922(t)" before the semicolon at the end.

SEC. 4507. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by section 4506, is *amended by adding at the end the following new subsection:*

"(u)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

"(2) This subsection does not apply to—

"(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency of the United States or a State, or a department, agency, or political subdivision of a State;

"(B) the lawful transfer or lawful possession of a large capacity ammunition feeding device that was lawfully possessed before the effective date of this subsection; or

"(C) the transfer or possession of a large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of title 18, United States Code, as amended by section 4502(b), is amended by adding at the end the following new paragraph:

"(30) The term 'large capacity ammunition feeding device'—

"(A) means—

"(i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and

"(ii) any combination of parts from which a device described in clause (i) can be assembled; but

"(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.".

(c) LARGE CAPACITY AMMUNITION FEEDING DEVICES TREATED AS FIREARMS.—Section 921(a)(3) of title 18, United States Code, is amended in the first sentence—

(1) by striking "or (D) any destructive device."; and

(2) by inserting "(D) any destructive device; or (E) any large capacity ammunition feeding device.".

(d) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, as amended by section 4502(c), is amended by striking "or (s)" and inserting "(s), or (u)".

(e) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of title 18, United States Code, as amended by section 4502(d), is amended by adding at the end the following new sentence: "A large capacity ammunition feeding device manufactured after the date of enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.".

SEC. 4508. STUDY BY ATTORNEY GENERAL.

(a) STUDY.—The Attorney General shall investigate and study the effect of this title and the amendments made by this title, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 78 months after the date of enactment of this Act.

(b) REPORT.—Not later than 8 years after the date of enactment of this Act, the Attorney General shall prepare and submit to Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

SEC. 4509. EFFECTIVE DATE.

This title and the amendments made by this title—

(1) shall take effect on the date of enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

SEC. 4510. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States code, is amended by adding at the end the following appendix:

"APPENDIX A

Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M-1 Carbine
Iver Johnson 50th Anniversary M-1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Action Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine
Marlin Model 1894CS Carbine
Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica
Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Lever-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rilfe
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle
Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
A-Square Caesar Bolt-Action Rifle
A-Square Hannibal Bolt-Action Rifle
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700D Bavarian Bolt-Action Rifle
Anschutz 1733D Mannlicher Rifle
Barret Model 90 Bolt-Action Rifle
Beeman/HW 60J Bolt-Action Rifle
Blaser R84 Bolt-Action Rifle
BRNO 537 Sporter Bolt-Action Rifle
BRNO ZKB 527 Fox Bolt-Action Rifle
BRNO ZKK 600, 601, 602 Bolt-Action Rifles
Browning A-Bolt Rifle
Browning A-Bolt Stainless Stalker
Browning A-Bolt Left Hand
Browning A-Bolt Short Action
Browning Euro-Bolt Rifle
Browning A-Bolt Gold Medallion
Browning A-Bolt Micro Medallion
Century Centurion 14 Sporter
Century Enfield Sporter #4
Century Swedish Sporter #38
Century Mauser 98 Sporter
Cooper Model 38 Centerfire Sporter
Dakota 22 Sporter Bolt-Action Rifle
Dakota 76 Classic Bolt-Action Rifle
Dakota 76 Short Action Rifles
Dakota 76 Safari Bolt-Action Rifle
Dakota 416 Rigby African
E.A.A./Sabatti Rover 870 Bolt-Action Rifle
Auguste Francotte Bolt-Action Rifles
Carl Gustaf 2000 Bolt-Action Rifle
Heym Magnum Express Series Rifle
Howa Lightning Bolt-Action Rifle
Howa Realtree Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle
KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle
Krico Model 700 Bolt-Action Rifles
Mauser Model 66 Bolt-Action Rifle
Mauser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle
Navy Arms TU-33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1100M African Magnum
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle
Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle

Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle
Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter
Sako Safari Grade Bolt Action
Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sake Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG–S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle
Savage 110FXP3 Bolt-Action Rifle
Savage 110GV Varmint Rifle
Savage 112FV Varmint Rifle
Savage Model 112FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle
Savage 116FSS Bolt-Action Rifle
Savage model 116FSK Kodiak Rifle
Savage 110FP Police Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifles
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle
Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2165 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weatherguard Rifle
Wichita Classic Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM–S Rifle
Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G–90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle
Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle
Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine
Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable
C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System
Thompson/Center Contender Carbine Youth Model
Thompson/Center TCR '87 Single Shot Rifle
Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Baretta Express SSO O/U Double Rifles
Baretta Model 455 SxS Express Rifle
Chapuis RGExpress Double Rifle
Auguste Francotte Sidelock Double Rifles
Auguste Francotte Boxlock Double Rifle
Heym Model 55B O/U Double Rifle
Heym Model 55FW O/U Combo Gun
Heym Model 88b Side-by-Side Double Rifle
Kodiak Mk. IV Double Rifle
Kreighoff Teck O/U Combination Gun
Kreighoff Trumpf Drilling
Merkel Over/Under Combination Guns
Merkel Drillings
Merkel Model 160 Side-by-Side Double Rifles
Merkel Over/Under Double Rifles
Savage 24F O/U Combination Gun
Savage 24F–12T Turkey Gun
Springfield Inc. M6 Scout Rifle/Shotgun
Tikka Model 412s Combination Gun
Tikka Model 412S Double Fire
A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
AMT Lightning Small-Game Hunting Rifle II
AMT Magnum Hunter Auto Rifle
Anschutz 525 Deluxe Auto
Armscor Model 20P Auto Rifle
Browning Auto-22 Rifle
Browning Auto-22 Grade VI
Krico Model 260 Auto Rifle
Lakefield Arms Model 64B Auto Rifle
Marlin Model 60 Self-Loading Rifle
Marlin Model 60ss Self-Loading Rifle
Marlin Model 70 HC Auto
Marlin Model 990l Self-Loading Rifle
Marlin Model 70P Papoose
Marlin Model 922 Magnum Self-Loading Rifle
Marlin Model 995 Self-Loading Rifle
Norinco Model 22 ATD Rifle
Remington Model 522 Viper Autoloading Rifle
Remington 552BDL Speedmaster Rifle
Ruger 10/22 Autoloading Carbine (w/o folding stock)
Survival Arms AR–7 Explorer Rifle
Texas Remington Revolving Carbine
Voere Model 2115 Auto Rifle

Rimfire Rifles—Lever & Slide Action

Browning BL–22 Lever-Action Rifle
Marlin 39TDS Carbine
Marlin Model 39AS Golden Lever-Action Rifle
Remington 572BDL Fieldmaster Pump Rifle
Norinco EM–321 Pump Rifle
Rossi Model 62 SA Pump Rifle
Rossi Model 62 SAC Carbine
Winchester Model 9422 Lever-Action Rifle
Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armscor Model 14P Bolt-Action Rifle
Armscor Model 1500 Rifle
BRNO ZKM–452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60–J–ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle

Cabanas Leyre Bolt-Action Rifle
Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT-22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle
Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN "Little Buckaroo"
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU-KKW Training Rifle
Navy Arms TU-33/40 Carbine
Navy Arms TU-KKW Sniper Trainer
Norinco JW-27 Bolt-Action Rifle
Norinco JW-15 Bolt-Action Rifle
Remington 541-T
Remington 40-XR Rimfire Custom Sporter
Remington 541-T HB Bolt-Action Rifle
Remington 581-S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light arms Model 20 RF Bolt-Action Rifle
Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64-MS Left Silhouette
Anschutz 1808D RT Super Match 54 Target
Anschutz 1827B Biathlon Rifle
Anschutz 1903D Match Rifle
Anschutz 1803D Itermediate Match
Anschutz 1911 Match Rifle
Anschutz 54.18MS REP Deluxe Silhouette Rifle
Anschutz 1913 Super Match Rifle
Anschutz 1907 Match Rifle
Anschutz 1910 Super Match II
Anschutz 54.18MS Silhouette Rifle
Anschutz Super Match 54 Target Model 2013
Anschutz Super Match 54 Target Model 2007
Beeman/Feinwerkbau 2600 Target Rifle
Cooper Arms Model TRP-1 ISU Standard Rifle
E.A.A./Weihrauch HW 60 Target Rifle
E.A.A./HW 660 Match Rifle
Finnish Lion Standard Target Rifle
Krico Model 360 S2 Biathlon Rifle
Krico Model 400 Match Rifle
Krico Model 360S Biathlon Rifle
Krico Model 500 Kricotronic Match Rifle
Krico Model 600 Sniper Rifle
Krico Model 600 Match Rifle
Lakefield Arms Model 90B Target Rifle
Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86-SR Specialty Rifle
McMillan M-86 Sniper Rifle
McMillan Combo M-87/M-88 50-Caliber Rifle
McMillan 300 Phoenix Long Range Rifle
McMillan M-89 Sniper Rifle
McMillan National Match Rifle
McMillan Long Range Rifle
Parker-Hale M-87 Target Rifle
Parker-Hale M-85 Sniper Rifle
Remington 40-XB Rangemaster Target Centerfire
Remington 40-XR KS Rimfire Position Rifle
Remington 40-XBBR KS
Remington 40-XC KS National Match Course Rifle
Sako TRG-21 Bolt-Action Rifle
Steyr-Mannlicher Match SPG-UIT Rifle
Steyr-Mannlicher SSG P-I Rifle
Steyr-Mannlicher SSG P-III Rifle
Steyr-Mannlicher SSG P-IV Rifle
Tanner Standard UIT Rifle
Tanner 50 Meter Free Rifle
Tanner 300 Meter Free Rifle
Wichita Silhouette Rifle

Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL
Benelli Super Black Eagle Shotgun
Benelli Super Black Eagle Slug Gun
Benelli M1 Super 90 Field Auto Shotgun
Benelli Montefeltro Super 90 20-Gauge Shotgun
Benelli Montefeltro Super 90 Shotgun
Benelli M1 Sporting Special Auto Shotgun
Benelli Black Eagle Competition Auto Shotgun
Beretta A-303 Auto Shotgun
Beretta 390 Field Auto Shotgun
Beretta 390 Super Trap, Super Skeet Shotguns
Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun
Browning Bsa 10 Stalker Auto Shotgun
Browning A-500R Auto Shotgun
Browning A-500G Auto Shotgun
Browning A-500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun
Remington Model 1100 Shotgun
Remington 11-87 Premier shotgun
Remington 11-87 Sporting Clays
Remington 11-87 Premier Skeet
Remington 11-87 Premier Trap
Remington 11-87 Special Purpose Magnum
Remington 11-87 SPS-T Camo Auto Shotgun
Remington 11-87 Special Purpose Deer Gun
Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun
Remington 11-87 SPS-Deer Shotgun
Remington 11-87 Special Purpose Synthetic Camo
Remington SP-10 Magnum-Camo Auto Shotgun
Remington SP-10 Magnum Auto Shotgun
Remington SP-10 Magnum Turkey Combo
Remington 1100 LT-20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT-20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS Pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586-VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugster
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 879 SPS Special Purpose Magnum
Remington 870 SPS-T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunter Sport O/U Shotgun

Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux Over/Under
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A/Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K–80 Sporting Clays O/U
Krieghoff K–80 Skeet Shotgun
Krieghoff K–80 International Skeet
Krieghoff K–80 Four-Barrel Skeet Set
Krieghoff K–80/RT Shotguns
Krieghoff K–80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljutic LM–6 Deluxe O/U Shotgun
Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun
Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders
Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun
SKB Model 505 Deluxe Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun
Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns
Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun
AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Saba-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun
Auguste Francotte Sidelock Shotgun
Garbi Model 100 Double
Garbi Model 101 Side-by-Side
Garbi Model 103A, B Side-by-Side
Garbi Model 200 Side-by-Side
Bill Hanus Birdgun Doubles
Hatfield Uplander Shotgun
Merkell Model 8, 47E Side-by-Side Shotguns
Merkel Model 47LSC Sporting Clays Double
Merkel Model 47S, 147S Side-by-Sides
Parker Reproductions Side-by-Side
Piotti King No. 1 Side-by-Side
Piotti Lunik Side-by-Side
Piotti King Extra Side-by-Side
Piotti Piuma Side-by-Side
Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Uplander Side-by-Side Shotgun
Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun
Browning BT–99 Competition Trap Special
Browning BT–99 Plus Trap Gun
Browning BT–99 Plus Micro
Browning Recoilless Trap Shotgun
Browning Micro Recoilless Trap Shotgun
Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS–5 Trap Gun
Krieghoff KS–5 Special
Krieghoff K–80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel
Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Slug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90–T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun.".

TITLE XLVI—RECREATIONAL HUNTING SAFETY

SEC. 4601. SHORT TITLE.

This title may be cited as the "Recreational Hunting Safety and Preservation Act of 1993".

SEC. 4602. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting on Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) Federal lands comprise important wildlife habitat resources that—

(A) support many large, diverse, and vital populations of wildlife; and

(B) offer significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting on Federal lands in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to—

(A) the safety of hunters; and

(B) the legal rights of recreational hunters to participate peacefully in lawful hunts on Federal lands.

SEC. 4603. DEFINITIONS.

As used in this title:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks; and

(D) wildlife refuges.

(2) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, on Federal lands, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(4) NATIONAL PARK.—The term "national park" means lands and waters included in the national park system (as defined in section 2(a) of the Act entitled "An Act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes", approved August 8, 1953 (16 U.S.C. 1c(a))).

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) WILDLIFE REFUGE.—The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

SEC. 4604. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) engage in activities that prevent or impede the reasonable and usual means of access by those individuals who intend to participate in a lawful hunt, whether the activities occur on Federal lands or upon a public or private road, highway, path, trail, or other normal route of access to Federal lands;

(3) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(4) enter onto Federal lands or travel in interstate commerce to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 4605. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4604 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4604 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4604.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 4604, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4604 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

SEC. 4606. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4604 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4604, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 4607. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This title is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this title shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 4608. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

TITLE XLVII—Correctional Job Training and Placement

SEC. 4701. SHORT TITLE.

This title may be cited as the "Office of Correctional Job Training and Placement Act of 1993".

SEC. 4702. CORRECTIONAL JOB TRAINING AND PLACEMENT.

(a) FINDINGS.—Congress finds that—

(1) job training and placement are important to, and make a significant contribution to, the readjustment to society of incarcerated persons and ex-offenders; and

(2) there is a growing need for immediate action by the Federal Government to assist State and local job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

(b) PURPOSE.—It is the purpose of this section to encourage and support job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

(c) DEFINITIONS.—As used in this section:

(1) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any prison, jail, reformatory, work farm, detention center, or halfway house, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(2) CORRECTIONAL JOB TRAINING OR PLACEMENT PROGRAM.—The term "correctional job training or placement program" means an activity that provides job training or job placement services to incarcerated persons or ex-offenders, or that assists incarcerated persons or ex-offenders in obtaining such services.

(3) EX-OFFENDER.—The term "ex-offender" means any individual who has been sentenced to a term of probation by a Federal or State court, or who has been released from a Federal, State, or local correctional institution.

(4) INCARCERATED PERSON.—The term "incarcerated person" means any individual incarcerated in a Federal or State correctional institution who is charged with or convicted of any criminal offense.

(d) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—The Attorney General shall establish within the Department of Justice an Office of Correctional Job Training and Placement. The Office shall be headed by a Director, who shall be appointed by the Attorney General.

(2) TIMING.—The Attorney General shall carry out this subsection not later than 6 months after the date of enactment of this section.

(e) FUNCTIONS OF OFFICE.—The Attorney General, acting through the Director of the Office of Correctional Job Training and Placement, in consultation with the Secretary of Labor, shall—

(1) assist in coordinating the activities of the Federal Bonding Program of the Department of

Labor, the activities of the Department of Labor related to the determination of targeted jobs credits under section 51 of the Internal Revenue Code of 1986 with respect to ex-offenders, and any other correctional job training or placement program of the Department of Justice or Department of Labor;

(2) provide technical assistance to State and local employment and training agencies that—

(A) receive financial assistance under this Act; or

(B) receive financial assistance through other programs carried out by the Department of Justice or Department of Labor, for activities related to the development of employability;

(3) prepare and implement the use of special staff training materials, and methods, for developing the staff competencies needed by State and local agencies to assist incarcerated persons and ex-offenders in gaining marketable occupational skills and job placement;

(4) prepare and submit to Congress an annual report on the activities of the Office of Correctional Job Training and Placement, and the status of correctional job training or placement programs in the United States;

(5) cooperate with other Federal agencies carrying out correctional job training or placement programs to ensure coordination of such programs throughout the United States;

(6) consult with, and provide outreach to—

"(A) State job training coordinating councils, administrative entities, and private industry councils, with respect to programs carried out under this Act; and

(B) other State and local officials, with respect to other employment or training programs carried out by the Department of Justice or Department of Labor;

(7) collect from States information on the training accomplishments and employment outcomes of a sample of incarcerated persons and ex-offenders who were served by employment or training programs carried out, or that receive financial assistance through programs carried out, by the Department of Justice or Department of Labor; and

(8)(A) collect from States and local governments information on the development and implementation of correctional job training or placement programs; and

(B) disseminate such information, as appropriate.

TITLE XLVIII—POLICE PARTNERSHIPS FOR CHILDREN

SEC. 4801. SHORT TITLE.

This title may be cited as the "Police Partnerships for Children Act of 1993".

SEC. 4802. FINDINGS.

Congress finds the following:

(1) Homicide is the second leading cause of juvenile injury deaths for all youth 15 to 24 years of age.

(2) Homicide rates for children and youth have more than doubled since 1950.

(3) Teenagers are more than twice as likely as adults to be victims of violent crime, such as rape, robbery or assault.

(4) Physical fighting severe enough to require medical treatment for at least one participant occurs among high school students in patterns similar to those of homicide. The incidence rates of such physical fighting are higher for males than females, higher for minorities than for nonminorities, and more frequent between acquaintances than among strangers.

(5) Children increasingly live amidst chronic community violence and experience trauma as a result of such violence. One survey of inner-city children 6 to 10 years of age found that over 90 percent had witnessed some type of violence. A Chicago housing project survey found that virtually all children in such survey had firsthand experiences with shootings by the age of 5.

(6) Children who have been the victims of, or who have witnessed violence, are at risk of becoming involved in further violence if the trauma such children have experienced is not addressed.

(7) Police frequently encounter children who have been the victims of violence or who have witnessed violence in the course of the police work, but the police often lack the resources necessary to adequately respond to such children's needs. Child and family service agencies have expertise in child development and family issues that could support police efforts.

(8) Community-based police, by their visibility at the neighborhood level and their engagement in benign activities, can provide role models and resources to promote the well-being of children and families, as well as to identify and refer those at risk for behavioral problems.

SEC. 4803. PURPOSES.

The purposes of this title are to—

(1) augment law enforcement services and community policing efforts by providing accessible crisis intervention services for children who are involved in violent incidents, and training for law enforcement officers in child development, family, and cultural issues;

(2) identify children and families at high risk for developing behavioral or emotional problems resulting from exposure to community violence and provide mental health and other support services to such children and families, including crisis intervention for child witnesses and victims of violence;

(3) facilitate interaction between law enforcement agencies, child and family service organizations, local educational agencies, and other community members for the purpose of building coalitions for the prevention of community violence; and

(4) provide role models for high-risk children and youth and promote conflict resolution training for children and youth in local educational agencies.

SEC. 4804. DEFINITIONS.

For purposes of this title:

(1) CHILD AND FAMILY SERVICE ORGANIZATION.—The term "child and family service organization" means a public or private nonprofit entity (such as child guidance centers, child psychiatry or child psychology departments of hospitals or university medical centers, or community mental health centers providing child and family services) that provides mental health services to children and families and that meets nationally recognized guidelines (such as guidelines prescribed for mental health centers and for child welfare and family service agencies) with respect to the services provided to children and families.

(2) COMMUNITY-BASED POLICING.—The term "community-based policing" means a commitment and an effort (within the confines of budget restrictions) made by a law enforcement agency to establish or expand cooperative efforts between the police and a community in order to increase police presence in the community, including—

(A) developing innovative neighborhood-oriented policing programs and community-based crime-prevention programs; and

(B) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level, including the permanent assignment of officers to a specific neighborhood or substation.

(3) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means an entity that serves a specific community and has the routine responsibility of policing the activities of such community.

SEC. 4805. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) ESTABLISHMENT GRANTS.—The Attorney General, in consultation with the Secretary of Health and Human Services, and where appropriate the Secretary of Education, shall, subject to availability of appropriations, award grants to law enforcement agencies determined to be eligible under section 4806 for the establishment of law enforcement and child and family services partnership programs to carry out activities described in section 4806.

(2) PRIORITY.—In awarding grants described in paragraph (1), the Attorney General shall give priority to a law enforcement agency that—

(A) is engaged in community-based policing; and

(B) intends to target such agency's programs at disadvantaged communities.

(b) GRANT AMOUNT.—

(1) IN GENERAL.—A grant awarded under this section shall be of sufficient size and scope to adequately support all anticipated activities.

(2) ADDITIONAL AMOUNTS.—

(A) IN GENERAL.—The Attorney General may award additional grant amounts for the purpose of enabling a law enforcement agency (as described in section 4806(a)(1)) to provide mentoring or conflict resolution services.

(B) SPECIAL RULES.—

(i) PRIORITY FOR MENTORING SERVICES.—In awarding additional grant funds for the provision of mentoring services under subparagraph (A), the Attorney General shall give priority to a law enforcement agency (as described in section 4806(a)(1)) that demonstrates commitments from a broad spectrum of community groups to participate in mentoring programs.

(ii) CONFLICT RESOLUTION SERVICES.—In awarding additional grant funds for the provision of conflict resolution services under subparagraph (A), the Attorney General may not award grant funds to a law enforcement agency (as described in section 4806(a)(1)) unless such agency demonstrates a commitment from the local educational agency to provide conflict resolution programs in the schools in participation with such agency.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant made under this section may not exceed—

(A) with respect to the first fiscal year, 80 percent of the total costs of the projects described in the application submitted under section 4806 for such fiscal year;

(B) with respect to the second fiscal year, 70 percent of the total costs of the projects described in the application submitted under section 4806 for such fiscal year; and

(C) with respect to the third fiscal year, 60 percent of the total costs of the projects described in the application submitted under section 4806 for such fiscal year.

(2) IN-KIND CONTRIBUTIONS.—The Attorney General shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

(d) GRANT DURATION.—A grant awarded under this title shall be for a period of not less than 3 years.

SEC. 4806. APPLICATIONS.

(a) IN GENERAL.—To be eligible for a grant under this section an entity shall—

(1) be a law enforcement agency that has entered into a partnership with a child and family service organization to carry out a program under this title; and

(2) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish.

(b) ASSURANCES.—Each application submitted under subsection (a) shall provide the following assurances:

(1) There is a partnership established between the law enforcement agency and a child and family service organization.

(2) The management at the highest level of the law enforcement agency and the child and family service organization agrees to the establishment of such partnership, and ensures that such agency and such organization of such partnership will cooperate in carrying out the program.

(3) In developing the program, the applicant has coordinated with other segments of the community to ensure that the partnership efforts complement existing community anti-violence efforts.

(4) Programs established from funds received under grants awarded under this title will do the following:

(A) Be collaborative in nature, with respect to organizing and providing the necessary services to children and families.

(B) Provide response to crisis situations 24 hours a day.

(C) Provide confidentiality.

(D) Be able to provide adequate resources for training of law enforcement officers and for support of professional consultation services for children and families, including professionals licensed to provide child and family evaluations and treatment.

(E) Be able to respond to community needs in a manner reflecting sensitivity to the cultural diversity of that community.

(5) The partnership will provide the following program components:

(A) 24-hour consultation service that includes a team of child guidance professionals and specially trained law enforcement officers to respond to incidents where a child has been a perpetrator, a witness, or a victim of violence. Services by child guidance professionals may include in-home assessments, expedited referrals for treatment, treatment in a community where resources are not already available, consultations with parents and teachers, and on-the-spot crisis intervention.

(B) Training for law enforcement officers that includes instruction by child and family service organizations in the basic principles of human behavior, child psychology, and family systems. All training will be interactive and jointly taught by law enforcement officers and child guidance professionals, in order to make use of real-life examples drawn from officers' experience in the field.

(C) Weekly case conferences by the team of child guidance professionals and law enforcement officers described in subparagraph (A).

(D) Community activities for children and families that are designed jointly by the law enforcement and child and family services partnership, including conflict resolution training programs for children and youth, after-school activity and neighborhood recreation programs, and parent support groups co-led by child guidance and law enforcement professionals.

(6) The partnership will provide local matching funds in accordance with the Federal share requirements under section 4805(c).

(7) The applicant will submit to the Attorney General, for each fiscal year for which a grant is received, a report in accordance with uniform standards prescribed by the Attorney General.

(c) ADDITIONAL ASSURANCES FOR MENTORING AND CONFLICT RESOLUTION SERVICES.—

(1) IN GENERAL.—Each application submitted under subsection (a) for additional funding for the provision of mentoring or conflict resolution services under section 4805(b)(2) shall provide assurances described in paragraph (2) or (3), whichever is applicable.

(2) MENTORING.—With respect to the provision of mentoring services, an applicant shall provide assurances that the partnership of the applicant and the child and family service organization will—

(A) provide formal mentoring programs that will include mentors such as police officers, child and family services staff, and community and business leaders provided through a partnership with corporations, universities, labor organizations, nonprofit entities (such as professional societies) or government agencies;

(B) recruit mentors who are representative of the cultural mix of the community such mentors serve;

(C) provide ongoing support services to mentors through the partnership, including a framework for understanding the issues such mentors may encounter in working with youth from deprived environments and ongoing support groups to provide mentors an opportunity to discuss the problems encountered in working with children;

(D) provide practical work experience and, to the extent possible, permanent career opportunities to older youth; and

(E) collaborate, when possible, with elementary and secondary schools, universities, corporations, labor organizations, or government agencies with respect to matters relating to the partnership's mentoring program.

(3) CONFLICT RESOLUTION.—With respect to the provision of conflict resolution services, an applicant shall provide an assurance that the child and family service organization and the law enforcement agency partnership, in collaboration with the local educational agency (hereafter referred to in this subparagraph as the "LEA") will support the LEA in the development and implementation of conflict resolution programs. The support provided to the LEA in the preceding sentence shall be tailored to the needs and resources of the local school district, and may include providing assistance to an ongoing conflict resolution program operated by such LEA, developing curricula for such a program in cooperation with the LEA, and providing such a program to an LEA.

SEC. 4807. TRAINING AND TECHNICAL ASSISTANCE.

The Attorney General shall provide training and technical assistance to grantees and child and family service organization with which such grantees have formed a partnership.

SEC. 4808. EVALUATION AND REPORTS.

(a) EVALUATION.—The Attorney General shall conduct evaluations to determine the effectiveness of the programs funded under this title.

(b) SUBMISSION OF REPORTS AND EVALUATIONS.—

(1) INTERIM.—Not later than December 31, 1995, the Attorney General shall prepare and submit to the appropriate committees of Congress an interim progress report based on information reported by the grantees and the results (as of the date of the submission of such report) of the evaluation conducted under subsection (a).

(2) FINAL.—Not later than December 31, 1998, the Attorney General shall prepare and submit to the appropriate committees of Congress a review and summary of the results of the evaluation conducted under subsection (a).

SEC. 4809. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, of which not more than 10 percent shall be used for the mentoring and conflict resolution activities described in section 4806(c).

TITLE XLIX—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

SEC. 4901. SHORT TITLE.

This title may be cited as the "National Community Economic Partnership Act of 1993".

Subtitle A—Community Economic Partnership Investment Funds

SEC. 4911. PURPOSE.

It is the purpose of this subtitle to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

SEC. 4912. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary") is authorized, in accordance with this subtitle, to provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this subtitle an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 4916.

SEC. 4913. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—In evaluating applications submitted under section 4912(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this subtitle so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this subtitle; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this subtitle the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

SEC. 4914. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 4913 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this subtitle to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this subtitle shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this subtitle has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 4912(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this subtitle shall be used solely for the purposes described in section 4911 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this subtitle may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 4913(a)(4).

SEC. 4915. LIMITATIONS ON USE OF FUNDS.

(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this subtitle may be derived from funds made available from a line of credit under this subtitle.

(b) TECHNICAL ASSISTANCE AND ADMINISTRATIONS.—Not to exceed 10 percent of the amounts available from a line of credit under this subtitle shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this subtitle, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 4912(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this subtitle may be used only for the purposes described in section 4911 and shall be reinvested in the community in which they were generated.

SEC. 4916. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this subtitle to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section 4932(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

Subtitle B—Emerging Community Development Corporations

SEC. 4921. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) SKILL ENHANCEMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) OPERATING GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

SEC. 4922. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) AUTHORITY.—The Secretary is authorized to award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) USE OF THE REVOLVING LOAN FUND.—

(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

Subtitle C—Miscellaneous Provisions

SEC. 4931. DEFINITIONS.

As used in this title:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this title.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this title to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this title that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 4932. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out subtitles A and B, $40,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995 and 1996.

(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

(1) 60 percent shall be available to carry out subtitle A; and

(2) 40 percent shall be available to carry out subtitle B.

(c) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 4933. PROHIBITION.

None of the funds authorized under this title shall be used to finance the construction of housing.

TITLE L—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),

for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5 years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors invoving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.— No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies,

shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

TITLE LI—GENERAL PROVISIONS

SEC. 5101. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

(4) in subsection (b)—

(A) in the first sentence by inserting "(other than a prisoner serving a sentence for a crime of violence)" after "A prisoner"; and

(B) by inserting after the first sentence the following: "A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence, other than a term of imprisonment for the duration of the prisoner's life, may, at the discretion of the Bureau, receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, if the Bureau of Prisons determines that, during that year, the prisoner has displayed exemplary compliance with such institutional disciplinary regulations.".

SEC. 5102. PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO ILLEGAL ALIENS.

(a) DIRECT FINANCIAL BENEFITS.—Notwithstanding any other law, no direct Federal financial benefit or social insurance benefit may be paid, or otherwise given, to any person not lawfully present within the United States for Aid to Dependent Children (AFDC), Supplemental Security Income (SSI) for the Aged, Blind, and Disabled; Food Stamps; Medicaid except for emergency conditions; legal services; assistance under the Job Training and Partnership Act; unemployment compensation; and postsecondary student financial aid.

(b) UNEMPLOYMENT BENEFITS.—No alien who has not been granted employment authorization pursuant to Federal law shall be eligible for unemployment compensation under an unemployment compensation law of a State or the United States.

(c) DEFINITION.—In this section, "persons not lawfully present within the United States" means persons who at the time they applied for, receive, or attempt to receive a Federal benefit are not either a United States citizen, a permanent resident alien, an asylee or asylee applicant, a refugee, a parolee, a nonimmigrant in status under the Immigration and Nationality Act, or admitted with temporary protected status, or temporary residents, or persons granted Family Unity Protection Status under the INA.

SEC. 5103. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "ninety days" and inserting "180 days"; and

(B) in paragraph (2), by inserting before the period at the end the following: "or are otherwise fair and effective"; and

(2) in subsection (c)—

(A) in paragraph (1) by inserting before the period at the end the following: "or are otherwise fair and effective"; and

(B) in paragraph (2) by inserting before the period at the end the following: "or is no longer fair and effective".

(b) PROCEEDINGS IN FORMA PAUPERIS.—Section 1915(d) of title 28, United States Code, is amended to read as follows:

"(d) The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

SEC. 5104. AWARDS OF ATTORNEY'S FEES.

Section 526 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c)(1)(A) A current or former Department of Justice attorney; agent; or employee who supervises an agent who is the subject of a criminal or disciplinary investigation, instituted on or after the date of enactment of this subsection, arising out of acts performed in the discharge of his or her duties in prosecuting or investigating a criminal matter, who is not provided representation under Department of Justice regulations, shall be entitled to reimbursement of reasonable attorney's fees incurred during and as a result of the investigation if the investigation does not result in adverse action against the attorney, agent, or employee.

"(B) A current or former attorney; agent; or employee who supervises an agent employed as or by a Federal public defender who is the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this subsection, arising out of acts performed in the discharge of his or her duties in defending or investigating a criminal matter in connection with the public defender program, who is not provided representation by a Federal public defender or the Administrative Office of the United States Courts is entitled to reimbursement of reasonable attorney's fees incurred during and as a result of the investigation if the investigation does not result in adverse action against the attorney, agent, or employee.

"(2) For purposes of paragraph (1), an investigation shall be considered not to result in adverse action against an attorney, agent, or employee if—

"(A) in the case of a criminal investigation, the investigation does not result in indictment of, the filing of a criminal complaint against, or the entry of a plea of guilty by the attorney, agent, or supervising employee; and

"(B) in the case of a disciplinary investigation, the investigation does not result in discipline or results in only discipline less serious than a formal letter of reprimand finding actual and specific wrongdoing.

"(3) The Attorney General shall provide notice in writing of the conclusion and result of an investigation described in paragraph (1).

"(4) An attorney, agent, or supervising employee who was the subject of an investigation described in paragraph (1) may waive his or her entitlement to reimbursement of attorney's fees under paragraph (1) as part of a resolution of a criminal or disciplinary investigation.

"(5) An application for attorney fee reimbursement under this subsection shall be made not later than 180 days after the attorney, agent, or employee is notified in writing of the conclusion and result of the investigation.

"(6) Upon receipt of a proper application under this subsection for reimbursement of attorney's fees, the Attorney General and the Director of the Administrative Office of the United States Courts shall award reimbursement for the amount of attorney's fees that are found to have been reasonably incurred by the applicant as a result of an investigation.

"(7) The official making an award under this subsection shall make inquiry into the reasonableness of the amount requested, and shall consider—

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for equal services in the community in which the investigation took place.

"(8)(A) Reimbursements of attorney's fees ordered under this subsection by the Attorney General shall be paid from the appropriation made by section 1304 of title 31, United States Code.

"(B) Reimbursements of attorney's fees ordered under this Act by the Director of the Administrative Office of the United States Courts shall be paid from appropriations authorized by section 3006A(i) of title 18, United States Code.

"(9) The Attorney General and the Director of the Administrative Office of the United States Courts may delegate their powers and duties under this subsection to an appropriate subordinate.".

SEC. 5105. TASK FORCE AND CRIMINAL PENALTIES RELATING TO THE INTRODUCTION OF NONINDIGENOUS SPECIES.

(a) TASK FORCE.—

(1) IN GENERAL.—The Attorney General is authorized to convene a law enforcement task force in Hawaii to facilitate the prosecution of violations of Federal laws, and laws of the State of Hawaii, relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(2) MEMBERSHIP.—(A) The task force shall be composed of representatives of—

(i) the Office of the United States Attorney for the District of Hawaii;

(ii) the United States Customs Service;

(iii) the Animal and Plant Health Inspection Service;

(iv) the Fish and Wildlife Service;

(v) the National Park Service;

(vi) the United States Forest Service;

(vii) the Military Customs Inspection Office of the Department of Defense;

(viii) the United States Postal Service;

(ix) the office of the Attorney General of the State of Hawaii;

(x) the Hawaii Department of Agriculture;

(xi) the Hawaii Department of Land and Natural Resources; and

(xii) such other individuals as the Attorney General deems appropriate.

(B) The Attorney General shall, to the extent practicable, select individuals to serve on the task force who have experience with the enforcement of laws relating to the wrongful conveyance, sale, or introduction of nonindigenous species.

(3) DUTIES.—The task force shall—

(A) provide mutual assistance to Federal and State law enforcement agencies in the prosecution of violations of laws relating to the conveyance, sale, or introduction of nonindigenous species into Hawaii; and

(B) make recommendations on ways to strengthen Federal and State laws and law enforcement strategies designed to prevent the introduction of nonindigenous species.

(4) REPORT.—The task force shall report to the Attorney General and to the Judiciary Committees of the Senate and House of Representatives on—

(A) the progress of its enforcement efforts; and

(B) the adequacy of existing Federal laws and laws of the State of Hawaii which relate to the introduction of nonindigenous species.

Thereafter, the task force shall make such reports as the task force deems appropriate.

(5) CONSULTATION.—The task force shall consult with Hawaii agricultural interests and representatives of Hawaii conservation organizations about methods of preventing the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii.

(b) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716C the following new section:

"§1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants

"A person who knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that section 3015 of title 39 declares to be nonmailable matter shall be fined under this title, imprisoned not more than 1 year, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716C the following new item:

"1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants.".

SEC. 5106. SENSE OF THE SENATE REGARDING THE ROLE OF THE UNITED NATIONS IN INTERNATIONAL ORGANIZED CRIME CONTROL.

(a) FINDINGS.—The Senate finds that—

(1) international criminal activity has increased dramatically over the past decade and has been facilitated by modern developments in transportation and communications, relaxed travel restrictions, and the greatly increased volume of international trade;

(2) the expansion of international criminal activity is reflected in the growth of requests for mutual legal assistance and extradition made between the United States and other countries, the number of such requests having increased from 535 in 1984 to 2,238 in 1992;

(3) the global reach of organized crime constitutes a serious threat to the security and stability of sovereign nations;

(4) the expanding scope of international organized crime necessitates greater cooperation among nations to prosecute and eliminate organized criminal groups;

(5) there is an urgent need for new approaches designed to allow the international law enforcement community to pursue international criminals across national boundaries;

(6) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances has helped bring about improved international cooperation with respect to narcotics;

(7) the current role of the United Nations with respect to international organized crime is limited by the lack of a binding international convention dealing with the broad range of organized criminal activity beyond narcotics;

(8) the United Nations Commission on Crime Prevention and Criminal Justice has successfully facilitated the negotiation and implementation of mutual legal assistance and extradition treaties between certain nations,and has helped train nations to effectively execute the terms of such treaties; and

(9) the United Nations Commission on Crime Prevention and Criminal Justice currently has limited authority and resources.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should encourage the development of a United Nations Convention on Organized Crime; and

(2) the United Nations should—

(A) provide significant additional resources to the Commission on Crime Prevention and Criminal Justice;

(B) consider an expansion of the Commission's role and authority; and

(C) seek a cohesive approach to the international organized crime problem.

SEC. 5107. TASK FORCE ON PRISON CONSTRUCTION STANDARDIZATION AND TECHNIQUES.

(a) TASK FORCE.—The Director of the National Institute of Corrections shall, subject to availability of appropriations, establish a task force composed of Federal, State, and local officials expert in prison construction, and of at least an equal number of engineers, architects, and construction experts from the private sector with expertise in prison design and construction, including the use of cost-cutting construction standardization techniques and cost-cutting new building materials and technologies.

(b) COOPERATION.—The task force shall work in close cooperation and communication with other State and local officials responsible for prison construction in their localities.

(c) PERFORMANCE REQUIREMENTS.—The task force shall work to—

(1) establish and recommend standardized construction plans and techniques for prison and prison component construction; and

(2) evaluate and recommend new construction technologies, techniques, and materials,

to reduce prison construction costs at the Federal, State, and local levels and make such construction more efficient.

(d) DISSEMINATION.—The task force shall disseminate information described in subsection (c) to State and local officials involved in prison construction, through written reports and meetings.

(e) PROMOTION AND EVALUATION.—The task force shall—

(1) work to promote the implementation of cost-saving efforts at the Federal, State, and local levels;

(2) evaluate and advise on the results and effectiveness of such cost-saving efforts as adopted, broadly disseminating information on the results; and

(3) to the extent feasible, certify the effectiveness of the cost-savings efforts.

SEC. 5108. REPORT ON SUCCESS OF ROYAL HONG KONG POLICE RECRUITMENT.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in concert with the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Agency, the Commissioner of the Immigration and Naturalization Service, and the Commissioner of the Customs Service, shall report to Congress and the President on the efforts made, and the success of such efforts, to recruit and hire former Royal Hong Kong Police officers into Federal law enforcement positions. The report shall discuss any legal or administrative barriers preventing a program of adequate recruitment of former Royal Hong Kong Police officers.

SEC. 5109. INTERSTATE WAGERING.

Section 1301 of title 18, United States Code, is amended by inserting "or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest;" after "scheme;".

SEC. 5110. REMOVAL OF ALIEN TERRORISTS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 1803(a) of title 50, United States Code.

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

"(C) the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

“(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

“(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

“(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

“(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

“(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

“(6) If the judge determines—

“(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

“(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

“(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

“(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

“(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

“(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

“(3) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. The court of appeals shall consider such appeal in camera and ex parte.”.

SEC. 5111. MANDATORY LIFE IMPRISONMENT OF PERSONS CONVICTED OF A THIRD VIOLENT FELONY.

Section 3581 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

“(1) DEFINITION.—In this section, ‘violent felony’ means a crime of violence (as defined in section 16) under Federal or State law that—

“(A) involves the threatened use, use, or risk of use of physical force against the person of another;

“(B) is punishable by a maximum term of 5 years or more; and

“(C) is not designated as a misdemeanor by the law that defines the offense.

“(2) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of this title or any other law, in the case of a conviction for a Federal violent felony, the court shall sentence the defendant to prison for life if the defendant has been convicted of a violent felony on 2 or more prior occasions.

“(3) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.”.

SEC. 5112. EFFICIENCY IN LAW ENFORCEMENT AND CORRECTIONS.

(a) IN GENERAL.—In the administration of each grant program funded by appropriations authorized by this Act or by an amendment made by this Act, the Attorney General shall—

(1) encourage innovative methods for the low-cost construction of facilities to be constructed, converted, or expanded and the low-cost operation of such facilities and the reduction of administrative costs and overhead expenses; and

(2) give priority to the use of surplus Federal property.

(b) ASSESSMENT OF CONSTRUCTION COMPONENTS AND DESIGNS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall make an assessment of the cost efficiency and utility of using modular, prefabricated, precast, and pre-engineered construction components and designs for housing nonviolent criminals.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that in providing assistance to State and local governments, the Attorney General should emphasize the provision of technical assistance in implementing methods to promote cost efficiency and realization of savings.

SEC. 5113. RESTRICTION ON PAYMENT OF BENEFITS TO INDIVIDUALS CONFINED BY COURT ORDER TO PUBLIC INSTITUTIONS PURSUANT TO VERDICTS OF NOT GUILTY BY REASON OF INSANITY OR OTHER MENTAL DISORDER.

(a) Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting “and Certain Other Inmates of Public Institutions” after “Prisoners”;

(2) in paragraph (1) add “(A)” after “(1)”;

(3) in paragraph (1), by inserting at the end: “(B) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual for any month during which such individual is confined in any public institution by a court order pursuant to a verdict that the individual is not guilty of such an offense by reason of insanity (or by reason of a similar finding, such as a mental disease, a mental defect, or mental incompetence, unless the payment is made directly to the public institution to compensate the institution for its expenses.”.

(4) in paragraph (3), by striking “any individual” and all that follows and inserting “any individual confined as described in paragraph (1) if the jail, prison, penal institution, correctional facility, or other public institution to which such individual is so confined is under the jurisdiction of such agency and the Secretary requires such information to carry out the provisions of this section.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5114. DEFINITION.

Section 1201 of title 18, United States Code, is amended by adding at the end thereof the following:

“(h) As used in this section, the term ‘parent’ does not include any person whose parental rights as to the victim of an offense under this section have been terminated by a final court order.”.

SEC. 5115. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 621, is amended—

(1) by striking “and” at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(24) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.”.

SEC. 5116. PARENTAL ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 43 of title 18, United States Code, is amended by adding at the end the following new section:

“§5043. Civil penalties for parents of certain juvenile offenders

“(a) IN GENERAL.—(1) The parent or legal guardians of any juvenile charged with any violation of Federal law shall attend all court proceedings involving the juvenile, and

“(2) Except as provided in subsection (b), the parents or legal guardians of a juvenile who has been convicted of a criminal offense under any Federal law may be liable to the United States for a civil penalty of not more than $10,000.

“(b) EXERCISE OF PARENTAL RESPONSIBILITY.—The court may decline to enforce, if it would cause undue hardship, subsection (a)(1) or to impose a fine under subsection (a)(2) if the court makes an affirmative determination that under the circumstances, the parents or legal guardians exercised reasonable care, supervision and control of the juvenile and counseled the juvenile that criminal activity is not acceptable.

“(c) AMOUNT OF FINE.—

“(1) MANDATORY MINIMUM.—In no case shall a fine imposed under subsection (a) be less than $100.

“(2) FINANCIAL HARDSHIP.—In no case shall a fine imposed under subsection (a) be less than $500 unless the court makes a finding that a fine in that amount would impose a severe financial hardship on the family of the parent or legal guardians.

“(3) If the court determines that the parents or legal guardians are not financially able to pay the fine immediately, the court may set a schedule by which the fine will be paid over time.

“(d) COMMUNITY SERVICE OR PARENTING CLASSES IN LIEU OF CIVIL PENALTY.—A parent or legal guardian ordered to pay a civil penalty under this section may petition the court to perform such community service or attend and successfully complete parenting classes, as the court determines to be appropriate, in lieu of the civil penalty.

“(e) DEFINITIONS.—

“(1) For the purposes of this section, the term ‘juvenile’ means any person who is under 18 years of age.

“(2) For the purpose of this section, the term ‘parent’ means a biological or custodial parent who has legal responsibility for the juvenile at the time the crime was committed.”.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by adding at the end the following new item:

“5043. Civil penalties for parents of certain juvenile offenders.”.

SEC. 5117. PROTECTION OF RECIPIENTS IN COUNTERTERRORISM REWARDS PROGRAM.

(a) COUNTERTERRIORISM REWARDS PROGRAM.—Section 36(e) of the State Department

Basic Authorities Act (22 U.S.C. 2708) is amended—

(1) by inserting "(1)" immediately after "(e)"; and

(2) by adding the following to the end of section 36(e):

"(2) RELOCATION OF PROGRAM PARTICIPANTS.—(A) Whenever the information that would justify a reward under subsection (a) is furnished by an alien, and the Secretary of State and Attorney General jointly determine that the protection of such alien or members of the immediate family of the alien requires the admission of such alien or aliens to the United States, then such alien and the members of the immediate family of the alien, if necessary, may be admitted to the United States without regard to the requirements of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and shall be eligible for permanent residence as provided in paragraph (4)(A) below.

"(B) The total number of aliens admitted to the United States under subparagraph (A) shall not exceed 25 in any fiscal year.

"(3) CONDITIONS OF ENTRY FOR REWARDS FOR PROGRAM PARTICIPANTS.—(A) Any alien admitted under subsection (e) who otherwise would be inadmissible under section 212(a)(2) or 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182) shall be admitted and permitted to remain in the United States on the condition that the person: (i) shall have executed a form that waives the alien's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status, (ii) is not convicted of any criminal offense in the United States since the date of such admission, and (iii) shall report not less often than quarterly to the Commissioner of the Immigration and Naturalization Service such information concerning the alien's whereabouts and activities as the Secretary of State and the Attorney General may require.

"(B) The Secretary of State and the Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning (i) the number of such aliens admitted, (ii) the number of terrorist acts prevented, frustrated, or thwarted or prosecutions or investigations resulting from cooperation of such aliens, and (iii) the number of such aliens who have failed to report quarterly (as required under paragraph (3)(A)(i)(I) or who have been convicted of crimes in the United States after the date of their admission.

"(4) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—(A) If, in the opinion of the Attorney General, in consultation with the Secretary of State, the alien admitted into the United States under section 36(e) of the State Department Basic Authorities Act has supplied information that has contributed to the prevention, frustration, or favorable resolution of a terrorist act or has substantially contributed to an authorized investigation or the prosecution of an individual described in section 36(a) (1) and (2) of such section, the Attorney General may adjust the status of the alien (and the alien's immediate relatives if admitted under such section) to that of an alien admitted for permanent residence if the alien is not described in section 212(a)(3)(E) of the Immigration and Nationality Act: provided further, That if the alien is subject to paragraph (3)(A) above, such adjustment may be made not earlier than 3 years after the date of admission and upon a determination by the Attorney General in consultation with the Secretary of State that the conditions of paragraph (3)(A) (i) through (iii) have been met.

"(B) Upon the approval of adjustment of status under subparagraph (A), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) of the Immigration and Nationality Act for the fiscal year then current.".

(b) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), as amended by section 725, is further amended by striking "or" before "(5)" and by inserting before the period the following: "; or (6) an alien who was admitted pursuant to section 36(e) of the State Department Basic Authorities Act".

(c) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 725, is further amended by inserting "or section 36(e)(4)(A) of the State Department Basic Authorities Act" after section 245(h) in the parenthetical "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))".

SEC. 5118. VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) DEFINITION.—In this section, "major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, in consultation with the Attorney General, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug-related emergency exists throughout a State or a part of a State, the President, in consultation with the Attorney General and other appropriate officials, may declare the State or part of a State to be a violent crime or drug emergency area and may take any and all necessary actions authorized by this section and other law. For the purposes of this section, the term "State" shall be deemed to include the District of Columbia and any United States territory or possession.

(c) PROCEDURE.—

(1) IN GENERAL.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officer of a State or local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) REVIEW PERIOD.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) FEDERAL ASSISTANCE.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information; and

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a violent crime or drug emergency area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the Attorney General for an extension of assistance beyond 1 year. The President, in consultation with the Attorney General, may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section shall diminish or detract from existing authority possessed by the President or Attorney General.

SEC. 5119. STATE AND LOCAL COOPERATION WITH THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE.

(a) STATE AND LOCAL COOPERATION.—Notwithstanding any law, ordinance or regulation of any State or subdivision thereof to the contrary, officials of any State or local government or agency, upon the request of any duly authorized official of the United States Immigration and Naturalization Service, shall provide information regarding the identification, location, arrest, prosecution, detention, and deportation of an alien or aliens who are not lawfully present in the United States.

(b) REPORT.—Not later than 6 months after the enactment of this Act, the Attorney General, in concert with the Commissioner of the Immigration and Naturalization Service, shall report to the Congress and the President on the extent to which State and local governments are not cooperating with the United States Immigration and Naturalization Service. This report shall identify any State or local governments that have adopted laws, policies or practices of noncooperation with the United States Immigration and Naturalization Service, the specific nature of those laws, policies or practices, and their impact on the enforcement of the immigration laws.

(c) FUNDING BASED ON COOPERATION.—No State or local government or agency which has been identified in the Attorney General's report

required by the preceding paragraph, which has a policy or practice of refusing to cooperate with the Immigration and Naturalization Service regarding the identification, location, arrest, prosecution, detention, or deportation of aliens who are not lawfully present in the United States, shall be eligible for any Federal funds from appropriations made pursuant to a provision of this Act or of an amendment made by this Act authorizing appropriations, as long as such policy or practice remains in effect.

SEC. 5120. AMENDMENTS TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT AND THE NATIONAL LITERACY ACT OF 1991.

(a) TECHNICAL AMENDMENT.—The matter preceding paragraph (1) of section 214(d) of the Department of Education Organization Act (20 U.S.C. 3423a(d)) is amended by striking "under subsection (a)" and inserting "under subsection (c)".

(b) ESTABLISHMENT OF A PANEL AND USE OF FUNDS.—Section 601 of the National Literacy Act of 1991 (20 U.S.C. 1211-2) is amended by—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) PANEL.—The Secretary is authorized to consult with and convene a panel of experts in correctional education, including program administrators and field-based professionals in adult corrections, juvenile services, jails, and community corrections programs, to—

"(1) develop measures for evaluating the effectiveness of the programs funded under this section; and

"(2) evaluate the effectiveness of such programs.".

"(h) USE OF FUNDS.—Notwithstanding any other provision of law, the Secretary may use not more than five percent of funds appropriated under subsection (i) in any fiscal year to carry out grant-related activities such as monitoring, technical assistance, and replication and dissemination.".

SEC. 5121. PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS.

(a) GUIDELINES.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Director of the National Institute of Justice, shall develop and disseminate to appropriate entities, including State and local correctional institutions and the Immigration and Naturalization Service, guidelines for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions and persons held in holding facilities operated by or under contract with the Immigration and Naturalization Service.

(b) COMPLIANCE.—The Attorney General shall ensure that prisons in the Federal prison system and holding facilities operated by or under contract with the Immigration and Naturalization Service comply with the guidelines described in subsection (a).

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to State and local correction authorities and public health authorities to assist in establishing and operation programs for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions.

(2) FEDERAL SHARE.—The Federal share of funding of a program funded with a grant under paragraph (1) shall not exceed 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $20,000,000 to carry out this section.

SEC. 5122. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence;

"(2) shall include representatives of pertinent sectors of the local community, which may include the following—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions;

"(G) business and civic leaders; and

"(H) other pertinent sectors.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $20,000,000 for fiscal year 1995; and

"(2) such sums as are necessary for fiscal years 1996, 1997, and 1998,

to remain available until expended.

SEC. 5123. HATE CRIMES STATISTICS ACT.

Section 1(b)(1) of the Hate Crime Statistics Act (Public Law 101–275, 104 Stat. 140) is amended by adding "disability," after "religion,".

SEC. 5124. PENALTIES FOR DOCUMENT FRAUD.

(a) IN GENERAL.—Section 274C(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(3)) is amended—

(1) in subparagraph (A), by striking "not less than $250 and not more than $2,000" and inserting "not less than $1,000 and not more than $5,000"; and

(2) in subparagraph (B), by striking "not less than $2,000 and not more than $5,000" and inserting "not less than $5,000 and not more than $10,000".

(b) FRAUD AND MISUSE OF VISAS, PERMITS, AND OTHER DOCUMENTS.—(1) Section 1546 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "not more than five years" and inserting "not more than ten years"; and

(B) in subsection (b), by striking "not more than two years" and inserting "not more than five years".

(2) Whoever commits an offense under section 1546(a) or 1546(b) of title 18, United States Code, shall be fined, in addition to the fines provided under such section, $10,000 or $5,000, respectively.

(c) APPLICABILITY.—This section, and the amendments made by this section, shall apply to offenses committed on or after the date of enactment of this Act.

SEC. 5125. USE OF ANTILOITERING LAWS TO FIGHT CRIME.

The Attorney General shall—

(1) study the ways in which antiloitering laws can be used, without violating the constitutional rights of citizens as enunciated by the Supreme Court, to eradicate open-air drug markets and other blatant criminal activity;

(2) prepare a model antiloitering statute and guidelines for enforcing the statute in such a manner as to prevent, deter, and punish illegal drug activity and other criminal activity; and

(3) make the results of the study and the model statute and guidelines available to Federal, State, and local law enforcement authorities.

SEC. 5126. VICTIMS OF CHILD ABUSE PROGRAMS.

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.—

(1) REAUTHORIZATION.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $7,000,000 for fiscal year 1995; and

"(2) $10,000,000 for each of fiscal years 1996, 1997, and 1998.".

(2) TECHNICAL AMENDMENT.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "this chapter" and inserting "this subtitle".

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.—

(1) REAUTHORIZATION.—Section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $7,000,000 for fiscal year 1995; and

"(2) $10,000,000 for each of fiscal years 1996, 1997, and 1998.".

(2) TECHNICAL AMENDMENT.—Section 221(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13021(b)) is amended by striking "this chapter" and inserting "this subtitle".

(c) GRANTS FOR TELEVISED TESTIMONY.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by amending section 1001(a)(7) (42 U.S.C. 3793(a)(7)) to read as follows:

"(7) There are authorized to be appropriated to carry out part N—

"(A) $3,500,000 for fiscal year 1995; and

"(B) $5,000,000 for each of fiscal years 1996, 1997, and 1998.";

(2) in section 1401 (42 U.S.C. 3796aa) by striking "and units of local government" and inserting ", units of local government, and other public and private organizations";

(3) in section 1402 (42 U.S.C. 3796aa-1) by striking "to States, for the use of States and units of local government in the States";

(4) in section 1403 (42 U.S.C. 3796aa-2)—

(A) by inserting ", unit of local government, or other public or private organization" after "of a State"; and

(B) in paragraphs (3) and (4) by inserting "in the case of an application by a State," before "an assurance";

(5) by striking section 1405 (42 U.S.C. 3796aa-4); and

(6) in the table of contents by striking the item for section 1405.

SEC. 5127. LAW DAY U.S.A.

(a) FINDINGS.—Congress finds that—

(1) the first day of May of each year has been designated as "Law Day U.S.A." and set aside as a special day to advance equality and justice under law, to encourage citizen support for law enforcement and law observance, and to foster respect for law and an understanding of the essential place of law in the life of every citizen of the United States;

(2) each day, police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation;

(3) each year tens of thousands of law enforcement personnel are injured or assaulted in the course of duty and many are killed;

(4) law enforcement personnel are devoted to their jobs, are underpaid for their efforts, and are tireless in their work; and

(5) law enforcement personnel perform their duties without adequate recognition.

(b) EXPRESSION OF GRATITUDE.—In celebration of "Law Day, U.S.A.", May 1, 1994, the grateful people of this Nation give special emphasis to all law enforcement personnel of the United States, and acknowledge the unflinching and devoted service law enforcement personnel perform as such personnel help preserve domestic tranquillity and guarantee the legal rights of all individuals of this Nation.

SEC. 5128. TREATMENT OF INDIAN TRIBES UNDER TITLE I OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) MATCHING FUND SOURCE.—

(1) IN GENERAL.—Section 817 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789m) is amended—

(A) by amending the heading to read as follows:

"DISTRICT OF COLUMBIA AND INDIAN TRIBE MATCHING FUND SOURCE";

(B) by inserting "(a) DISTRICT OF COLUMBIA.—" before "Funds"; and

(C) by adding at the end the following new subsection:

"(b) INDIAN TRIBES.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the United States Government performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this title.".

"(2) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by amending the item relating to section 817 to read as follows:

"Sec. 817. District of Columbia and Indian tribe matching fund source.".

(b) DEFINITION.—Section 901 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

SEC. 5129. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 463 of the Social Security Act (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 653 of this title shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request for the purpose of locating any parent or child on behalf of the Office of Juvenile Justice and Delinquency Prevention. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

(b) CONFORMING AMENDMENT.—Section 463(c) of such Act (42 U.S.C. 663(c)) is amended by striking "(a), (b) or (e)" and inserting "(a), (b), (e), or (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1994.

SEC. 5130. SOLICITATION OF MINOR TO COMMIT CRIME.

(a) DIRECTIVE TO SENTENCING COMMISSION.—(1) The United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant 18 years of age or older who has been convicted of an offense shall receive an appropriate sentence enhancement if the defendant involved a minor in the commission of the offense.

(2) The Commission shall provide that the guideline enhancement promulgate pursuant to paragraph (1) shall apply for any offense in relation to which the defendant has solicited, procured, recruited, counseled, encouraged, trained, directed, commanded, intimidated, or otherwise used or attempted to use any person less than 18 years of age with the intent that the minor would commit a Federal offense.

(b) RELEVANT CONSIDERATIONS.—In implementing the directive in subsection (a), the Sentencing Commission shall consider—

(1) the severity of the crime that the defendant intended the minor to commit;

(2) the number of minors that the defendant used or attempted to use in relation to the offense;

(3) the fact that involving a minor in a crime of violence is frequently of even greater seriousness than involving a minor in a drug trafficking offense, for which the guidelines already provide a two-level enhancement; and

(4) the possible relevance of the proximity in age between the offender and the minor(s) involved in the offense.

SEC. 5131. ASYLUM.

(a) FINDINGS.—The Congress finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multi-layered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Congress that—

(1) asylum is a process intended to protect aliens in the United States who, because of events occurring after their arrival here, cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad;

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a non-credible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

SEC. 5132. FEDERAL JUDICIARY.

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.—There is authorized to be appropriated for the activities of the Federal Judiciary not to exceed $20,000,000 for fiscal year 1994, and not to exceed $70,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998 to help meet the increased demands for judicial activities which will result from enactment into law of this Act.

(b) Authorization of Additional Appropriations for the Department of Justice.—There is authorized to be appropriated for the activities and agencies of the Department of Justice, in addition to sums authorized elsewhere in this section, not to exceed $25,000,000 for fiscal year 1994, not to exceed $125,000,000 for fiscal year 1995, and not to exceed $150,000,000 for each of the fiscal years 1996, 1997, and 1998 to help meet the increased demands for Department of Justice activities which will result from enactment into law of this Act.

(c) Authorization of Additional Appropriations for the Federal Bureau of Investigation.—There is authorized to be appropriated for the activities of the Federal Bureau of Investigation not to exceed $20,000,000 for fiscal year 1994, not to exceed $50,000,000 for fiscal year 1995, and not to exceed $60,000,000 for each of the fiscal years 1996, 1997, and 1998 to help meet the increased demands for Federal Bureau of Investigation activities which will result from enactment into law of this Act.

(d) Authorization of Additional Appropriations for United States Attorneys.—There is authorized to be appropriated for the account Department of Justice, Legal Activities, "Salaries and expenses, United States Attorneys" not to exceed $10,000,000 for fiscal year 1994, and not to exceed $35,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998 to help meet the increased demands for litigation and related activities which will result from enactment into law of this Act.

(e) Funds appropriated pursuant to this section are authorized to remain available for obligation until expended.

(f) Funds authorized under this section may be appropriated from the Trust Fund established by section 1321C of this Act.

SEC. 5133. CONTROL AND PREVENTION OF CRIME IN INDIAN COUNTRY.

(a) Definition.—As used in this Act, the term "Indian tribal government" means the governing body of a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 35 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) Conforming Definition.—As used in this Act, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and Indian tribal governments.

(c) Matching Requirements.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the United States Government performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

(d) Nonsupplanting Requirement.—Funds made available to Indian tribal governments shall not be used to supplant funds supplied by the Department of the Interior, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this Act, be made available from funds supplied by the Department of the Interior.

SEC. 5134. CIVIL STATUTE OF LIMITATIONS FOR TORT ACTIONS BROUGHT BY THE RTC.

(a) Resolution Trust Corporation.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) Tort Actions Brought by the Resolution Trust Corporation.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) Effective Date; Termination; FDIC as Successor.—

(1) Effective Date.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) Termination.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC as Successor to the RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

SEC. 5135. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

(a) In General.—Section 401(b)(8) the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State or local penal institution.".

(b) Conforming Amendments.—

(1) Cost of Attendance.—Section 472 of such Act (20 U.S.C. 1087ll) is amended—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7), (8), (9), (10) and (11) as paragraphs (6), (7), (8), (9) and (10), respectively.

(2) Technical Amendments.—Section 401(b)(3)(B) of such Act (20 U.S.C. 1070a(b)(3)(B)) is amended—

(A) by striking "472(8)" and inserting "472(7)"; and

(B) by striking "472(9)" and inserting "472(8)".

(c) Effective Date.—The amendments made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

SEC. 5136. TRANSFER OF CERTAIN ALIEN CRIMINALS TO FEDERAL FACILITIES.

(a) Definition.—In this section, "criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility" means an alien who—

(1)(A) is in the United States in violation of the immigration laws; or

(B) is deportable or excludable under the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and

(2) has been convicted of a felony under State or local law and incarcerated in a correctional facility of the State or a subdivision of the State.

(b) Federal Custody.—Subject to the availability of appropriations, at the request of a State or political subdivision of a State, the Attorney General may—

(1)(A) take custody of a criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility; and

(B) provide for the imprisonment of the criminal alien in a Federal prison in accordance with the sentence of the State court; or

(2) enter into a contractual arrangement with the State or local government to compensate the State or local government for incarcerating alien criminals for the duration of their sentences.

SEC. 5137. FEDERAL ASSISTANCE TO EASE THE INCREASED BURDENS ON STATE COURT SYSTEMS RESULTING FROM ENACTMENT OF THIS ACT.

(a) In General.—The Attorney General, acting through the Director of the Bureau of Justice Assistance (the Director), shall, subject to the availability of appropriation, make grants for States and units of local government to pay the costs of providing increased resources for courts, prosecutors, public defenders, and other criminal justice participants as necessary to meet the increased demands for judicial activities resulting from the provisions of this Act and amendments made by this Act.

(b) Applications.—In carrying out this section, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in this section. The Director shall have final authority over all funds awarded under this section.

(c) Records.—Each recipient that receives a grant under this section shall keep such records as the Director may require to facilitate an effective audit.

(d) Authorization of Appropriations.—

(1) In General.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, to remain available for obligation until expended.

(2) Use of Trust Fund.—Funds authorized to be appropriated under paragraph (1) may be appropriated from the trust fund established by section 1321C.

SEC. 5138. TO IMPROVE FEDERAL AND STATE AUTOMATED FINGERPRINT SYSTEMS TO IDENTIFY MORE CRIMINAL SUSPECTS.

The FBI shall report by June 1994 to the Congress regarding how it can accelerate and improve automatic fingerprint systems at the State and Federal level in order to use fingerprints found at the scene of a crime to identify more criminal suspects more quickly and effectively.

SEC. 5139. APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

(a) Amendment of Title 18, United States Code.—Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§3626. Appropriate remedies with respect to prison crowding

"(a) Requirement of Showing With Respect to the Plaintiff in Particular.—

"(1) Holding.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) Relief.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) Inmate Population Ceilings.—

"(1) Requirement of Showing With Respect to Particular Prisoners.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for

conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on particular identified prisoners.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1), including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order or consent decree seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

(d) SUNSET PROVISION.—This section and the amendments made by this section are repealed effective as of the date that is 5 years after the date of enactment of this Act.

SEC. 5140. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence;

"(2) shall include representatives of pertinent sectors of the local community, which may include the following—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions;

"(G) business and civic leaders; and

"(H) other pertinent sectors.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $20,000,000 for fiscal year 1995; and

"(2) such sums as are necessary for fiscal years 1996, 1997, and 1998,

to remain available until expended.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.".

SEC. 5141. SENSE OF THE SENATE.

(a) DECLARATIONS.—The Congress declares that—

(1) it is the stated purpose of this Act, in part, to rehire law enforcement officers who have been laid off as a result of State and local budget reductions in community-oriented policing and to hire new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

(2) this affirms that local law enforcement must remain the sole prerogative of local government under their respective jurisdictions and authorities;

(3) a key element to fighting crime in America is to put more police officers on the street, and the Senate, in an effort to help the States and localities hire additional police officers in the short term, will, through the trust fund established by this Act, make funds available to local units of government for this purpose;

(4) The Senate should not add to the financial burden on local communities is reduced so that essential local services can be paid for by local government;

(5) the United States Conference of Mayors, on October 27, 1993, issued a study outlining the cost of just 10 unfunded Federal mandates on the reporting cities, and found the cost to those cities to be $54,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) local law enforcement must remain the sole prerogative of local government under their respective jurisdictions and authorities; and

(2) one way of providing more funds to units of local government for law enforcement is to aggressively address the issue of unfunded Federal mandates.

SEC. 5142. CHILD-CENTERED ACTIVITIES.

(a) SHORT TITLE.—This section may be cited as the "Community Schools Youth Services and Supervision Grant Program Act of 1993".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) public-private partnerships between government and community-based organizations offer an opportunity to—

(A) empower distressed and disconnected communities to develop their resources and abilities in order to meet the needs of children;

(B) forge innovative solutions to the challenges confronting the development of the children in such communities; and

(C) create environments where children grow up learning a healthy respect for themselves, for neighbors, and for their communities;

(2) increased resources should be invested in public-private partnerships; and

(3) community-based organizations, acting through such public-private partnerships—

(A) should provide year-round supervised sports programs, and extracurricular and academic programs, for children in the communities; and

(B) in providing such extracurricular and academic programs, should promote the positive character development of such children through programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities.

(c) FINDINGS.—The Congress finds that—

(1) parents are devoting less time than in previous generations to the supervision, education, and nurturing of their children;

(2) the lack of supervision and meaningful activity after school contributes to the spread of violent juvenile delinquency in the form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among children in our Nation;

(3) every child has the capacity to be productive and law abiding and deserves to grow in a safe and protected environment;

(4) communities have a responsibility to develop the children of our Nation into productive adults;

(5) because of their centrality, public schools are among the best facilities that communities can use to provide needed space and support services for programs for children;

(6) schools are most effective at serving a community when the people of the community are involved in activities designed to fulfill the needs of children in the community; and

(7) activities provided in community centers, recreational facilities, and other places where

children gather, have a significant impact and influence on the behavior and attitudes of children.

(d) DEFINITIONS.—As used in this section:

(1) COUNCIL.—The term "Council" means the Ounce of Prevention Council.

(2) CHILD.—The term "child" means an individual who is not younger than 5 and not older than 18.

(3) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders actively involved in providing employment and business development opportunities in the community.

(iii) Educators.

(iv) Religious organizations.

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) State government.

(viii) Other public agencies.

(ix) Other interested parties.

(4) ELIGIBLE COMMUNITY.—The term "eligible community" means an area identified pursuant to subsection (g).

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(6) PUBLIC SCHOOL.—The term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of such Act.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(e) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES.—For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this subsection, the Council shall allocate, for grants under subparagraph (B) to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Council may award grants from the appropriate State allocation determined under subparagraph (A) to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of such a fiscal year, the Council determines that funds allocated for community-based organizations in a State under subparagraph (B) remain unobligated, the Council may use such funds to award grants to eligible community-based organizations in another State to pay for such Federal share. In awarding such grants, the Council shall consider the need to maintain geographic diversity among the recipients of such grants. Amounts made available through such grants shall remain available until expended.

(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Council may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(f) PROGRAM REQUIREMENTS.—

(1) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(A) where appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(i) in a location that is easily accessible to children in the community; and

(ii) in compliance with all applicable local ordinances.

(2) USE OF FUNDS.—Such community-based organization—

(A) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(i) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(I) after school and on weekends and holidays, during the school year; and

(II) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months; and

(B) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities;

(C) may use—

(i) such funds for the renovation of facilities that are in existence prior to the operation of the program for which the organization receives the grant, purchase of sporting and recreational equipment and supplies, purchase (or lease) and repair of vehicles for transporting participants in the program, hiring of instructors and other staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, provision of first aid and nutrition guidance, and substance abuse treatment where appropriate; and

(ii) not more than 10 percent of such funds to pay for the administrative costs of the program; and

(D) may not use such funds to provide sectarian worship or instruction.

(g) ELIGIBLE COMMUNITY IDENTIFICATION.—

(1) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(2) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Council may by regulation require.

(h) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(C) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(D) set forth measurable goals and outcomes for the program that—

(i) will—

(I) where appropriate, make a public school the focal point of the eligible community; or

(II) make a local facility described in subsection (f)(1)(B) such a focal point; and

(ii) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(E) provide evidence of support for accomplishing such goals and outcomes from—

(i) community leaders;

(ii) businesses;

(iii) a school district;

(iv) local officials;

(v) State officials; and

(vi) other organizations that the community-based organization determines to be appropriate;

(F) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with subparagraphs (A) and (B) of subsection (f)(2);

(G) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(i) extracurricular and academic programs, such as programs described in subsection (f)(2)(B); and

(ii) activities that address specific needs in the community;

(H) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(I) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(J) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(K) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(L) contain an assurance that the program will maintain a ratio of at least 1 staff member (including volunteers) for each 20 participants in the program;

(M) contain an assurance that the program will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(N) contain an assurance that the community-based organization will comply with any evaluation under subsection (m), any research effort authorized under Federal law, and any investigation by the Council;

(O) contain an assurance that the community-based organization shall prepare and submit to

the Council an annual report regarding any program conducted under this section;

(P) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(i) provided by program volunteers, parents, adult mentors, drug and alcohol abuse counselors, teachers, clergy, or other persons providing tutoring and college or vocational preparation; and

(ii) provided solely through non-Federal private or nonprofit sources; and

(Q) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Council shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

(i) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(2) EXCLUSION.—

(A) NONDISCRIMINATION.—Except as provided in subparagraph (B), in selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) EXCEPTION.—In selecting children to so participate, a community-based organization may exclude a child from participation in such a program if the organization determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that the child would be unable to participate in the program with reasonable accommodation.

(C) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(j) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Council shall establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(2) COMPOSITION.—Such panel shall include at least 1 representative from each of the following:

(A) A community-based organization.

(B) A local government.

(C) A school district.

(D) The private sector.

(E) A charitable organization.

(F) A representative of the United States Olympic Committee, at the option of such Committee.

(3) FUNCTIONS.—Such panel shall conduct the initial review of all grant applications received by the Council under subsection (h), make recommendations to the Council regarding—

(A) grant funding under this section;

(B) a design for the evaluation of programs assisted under this section; and

(C) methods for achieving effective coordination between programs carried out under this section and programs carried out through Olympic Youth Development Centers under section 5143.

(k) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(l) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—The Council shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under subsection (h) the Federal share of the costs of developing and carrying out programs referred to in subsection (e).

(B) FEDERAL SHARE.—The Federal share of such costs shall be—

(i) 75 percent for each of the fiscal years 1994 and 1995;

(ii) 70 percent for fiscal year 1996; and

(iii) 60 percent for fiscal year 1997.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (h)(2)(P)).

(B) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(m) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the amounts in the Violent Crime Reduction Trust Fund established under section 1115 of title 31, United States Code, $100,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out this section.

SEC. 5143. OLYMPIC YOUTH DEVELOPMENT CENTERS.

(a) DEFINITIONS.—As used in this section:

(1) COUNCIL.—The term "Council" means the Ounce of Prevention Council.

(2) CHILD.—The term "child" means an individual who is not younger than 8 and not older than 18.

(3) COMMITTEE.—The term "Committee" means the United States Olympic Committee.

(b) GRANT.—The Council may make a grant to United States Olympic Committee for the purpose of establishing Olympic Youth Development Centers and carrying out programs through such centers.

(c) PROGRAM REQUIREMENTS.—

(1) LOCATION.—The Committee, on receiving a grant under this section to establish such a center shall ensure that the center is established in an appropriate facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(A) in a location that is easily accessible to children in the community; and

(B) in compliance with all applicable local ordinances.

(2) CENTERS.—The Committee shall, subject to the availability of appropriations, not later than 1 year after the date of enactment of this Act, establish not fewer than 6 such centers, and shall, subject to the availability of appropriations, to the extent possible, establish not less than 1 such center in each State by fiscal year 1997. In selecting locations for such centers, the Committee shall consider the need to maintain geographic diversity, and to maintain a balance of urban and rural locations for such centers.

(3) USE OF FUNDS.—The Committee—

(A) may use funds made available through the grant to provide supervised sports and recreation programs that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) may use—

(i) such funds for the renovation of facilities that are in existence prior to the operation of the program for which the Committee receives the grant, purchase of sporting and recreational equipment and supplies, purchase (or lease) and repair of vehicles for transporting participants in the program, hiring of instructors and other staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, and provision of first aid and nutrition guidance; and

(ii) not more than 10 percent of such funds to pay for the administrative costs of the program; and

(C) may not use such funds to provide sectarian worship or instruction.

(4) DESIGNATION.—The Committee may, at the discretion of the Committee, designate facilities through which programs are carried out under the Community Schools Youth Services and Supervision Grant Program Act of 1993 as Olympic Youth Development Centers. Such designation shall not entitle the programs to receive assistance under this section.

(5) EXECUTIVE DIRECTOR.—The Committee shall appoint an Executive Director to coordinate the centers and programs described in subsection (b), and shall appoint a Director for each such center to carry out such programs at the center.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, the Committee shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—The application submitted pursuant to paragraph (1) shall—

(A) contain an assurance that the program to be carried out through the center for which the grant is sought will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(B) contain an assurance that the Committee will comply with any evaluation under subsection (i), any research effort authorized under Federal law, and any investigation by the Administrator;

(C) contain an assurance that the Committee shall prepare and submit to the Administrator an annual report regarding any program conducted under this section;

(D) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(i) provided by program volunteers, parents, adult mentors, drug and alcohol abuse counselors, teachers, clergy, or other persons providing tutoring and college or vocational preparation; and

(ii) provided solely through non-Federal private or nonprofit sources;

(E) contain an assurance that the Committee will maintain separate accounting records for the program; and

(F) contain an assurance that the program will include outreach efforts in order to encourage participation in the program.

(e) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—The Committee shall select children to participate in programs that receive assistance under this section without regard to the athletic ability of the children. In selecting children to participate in programs that receive assistance under this section, the Committee

shall give priority to children from low-income communities and high-crime areas with demonstrated gang activity, as determined in accordance with regulations issued by the Council.

(2) EXCLUSION.—

(A) NONDISCRIMINATION.—Except as provided in subparagraph (B), in selecting children to participate in a program that receives assistance under this section, the Committee shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) EXCEPTION.—In selecting children to so participate, the Committee may exclude a child from participation in such a program if the Committee determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that the child would be unable to participate in the program with reasonable accommodation.

(C) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(f) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(g) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—On approval of an application under subsection (d), the Council shall, subject to the availability of appropriations pay to the Committee the Federal share of the costs of establishing the centers and carrying out the programs described in subsection (b).

(B) FEDERAL SHARE.—The Federal share of such costs shall be—

(i) 75 percent for fiscal years 1994 and 1995;

(ii) 70 percent for fiscal year 1996; and

(iii) 60 percent for fiscal year 1997.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (d)(2)(D)).

(B) SPECIAL RULE.—The Committee may not charge fees for the participation of children in programs carried out under this section.

(h) REPORTS.—At the end of each fiscal year, the Council shall submit to Congress a report on the activities conducted under this section, including a summary of the information in the report submitted under subsection (d)(2)(C).

(i) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated, from the amounts in the Violent Crime Reduction Trust Fund established under section 1115 of title 31, United States Code, $50,000,000 for fiscal year 1994 and $25,000,000 for each of fiscal years 1995, 1996, and 1997, to carry out this section.

(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available until expended.

SEC. 5144. AUTHORITY TO RELEASE CERTAIN CONFIDENTIAL INFORMATION RELATING TO ALIENS.

Section 245A(c)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)(C)) is amended by striking out "except that the Attorney General" and all that follows through "section 8 of title 13, United States Code." and inserting in lieu thereof "except that the Attorney General—

"(i) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien (as a result of an investigation of the alien by an investigative officer or law enforcement officer) that is necessary to locate and identify the alien if (I) such disclosure may result in the discovery of information leading the location and identity of the alien, and (II) such disclosure (and the information discovered as a result of such disclosure) will be used only for criminal law enforcement purposes as against the alien whose file is being accessed;

"(ii) may furnish information under this section with respect to an alien to an official coroner (upon the written request of the coroner) for the purposes of permitting the coroner to identify a deceased individual; and

"(iii) may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed to the Secretary of Commerce under section 8 of title 13, United States Code.".

SEC. 5145. CHILDREN AND YOUTH UTILIZING FEDERAL LAND.

(a)(1) Various Federal land, especially environmentally sensitive Federal land, should be made available to the States and territories for certain programs for children and youth;

(2) Federally owned land, such as national parks, fish and wildlife refuges, Bureau of Land Management land, and National Forest Service land, offer an excellent option to solve the problems of siting and zoning commonly faced by programs for neglected, abused, runaway, homeless, disturbed, "at-risk", and delinquent children and teenagers;

(3) Federal land and personnel administering it offer great educational and personal development opportunities for our young people, who offer in return significant work on the ecology and the promise of a planet-sensitive next generation;

(4) Wilderness settings provide the public security from seriously delinquent, violent teenagers for whom constructive discipline and a challenging environment are proven, effective correctional tools;

(5) Programs for youngsters who pose no threat to the public or themselves may be placed in less remote sites, even within communities.

(b) It is the sense of the Senate that—

(1) the Departments of Justice, Interior, Defense, Agriculture, Commerce, Labor, Education, Health and Human Services, and any other executive branch agencies having properties or resources to devote to a project to make such properties and resources available to programs for children and youth are urged to act cooperatively in the establishment and ongoing support of such programs; and

(2) a nationwide network of small, specialized, residential or nonresidential programs, principally operated by the private sector, under State or local control, and Federal approval and supervision should be established and supported.

SEC. 5146. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to *the affairs of estates in the person's charge by parties when directed by the court to do so; or*

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new sections:

"§156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§157. Bankruptcy fraud

"(a) OFFENSE.—A person who, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of a false or fraudulent pretense, representation, or promise, for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under that title,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) REQUIREMENT OF INTENT.—

"(1) IN GENERAL.—The degree of intent required to be shown in the case of an offense described in subsection (a) is that which is generally required to be shown in cases of fraud.

"(2) VIOLATION NOT ESTABLISHED.—A violation of subsection (a) is not established if the defendant committed the act that is alleged to constitute fraud for a lawful purpose.

"(3) VIOLATION ESTABLISHED.—A violation of subsection (a) may be established if the defendant committed the act that is alleged to constitute fraud with a purpose of—

"(A) preventing the proper application of title 11 in a particular case; or

"(B) using a proceeding under title 11 in a manner that, while on its face may appear to be legitimate, is in fact part of a scheme to defraud.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

SEC. 5147. HANDGUNS IN SCHOOLS.

HANDGUNS IN SCHOOLS.—

(1) IN GENERAL.—In any year after the first day of the first fiscal year after the expiration of the next regular session of the State legislature following the date of enactment of this subpart, the Administrator may award to a State that meets the requirement of paragraph (2) additional grant funds, from the funds reserved for the special discretionary fund established under subsection (e), in an amount equal to 25 percent of the amount of the grant that would be made without regard to this subsection.

(2) STATE LAW.—A State meets the requirement of this paragraph if the law of the State provides that—

(A) on receipt of notification from the principal (or equivalent official) of an elementary school or a secondary school in the State that a person was found in possession of a handgun on the premises of the school, the head of the State entity responsible for issuing driver's licenses shall, pursuant to such procedures as the State legislature and the head (or appropriate State entity) establishes—

(i) in the case of a person who holds a driver's license issued by the State, revoke the person's driver's license for a period of 5 years, during which period the license may not be reissued except as provided under paragraph (3); and

(ii) in the case of a person who does not hold a driver's license issued by the State, except as provided under paragraph (3), withhold for a period of 5 years or until the date on which the person attains the age of 18 years, whichever is longer, the issuance of a driver's license for which application may subsequently be made;

(B) on receipt of notification from the principal (or equivalent official) of an elementary school or a secondary school in the State that a person was found in possession of a handgun on the premises of the school during a period of revocation or withholding of the issuance of a person's driver's license under subparagraph (A), the head of the State entity responsible for issuing driver's licenses shall, pursuant to such procedures as the State legislature and the head (or appropriate State entity) establishes, extend the period of revocation or withholding for an additional 10 years, during which period the license may not be reissued except as provided in paragraph (3); and

(C) subparagraphs (A) and (B) do not apply to the possession of a handgun—

(i) on private property that is not part of the premises of a school;

(ii) if—

(I) the person possessing the handgun is licensed to possess the handgun by the State in which the elementary school or secondary school is located or by a political subdivision of the State; and

(II) the State or political subdivision of the State requires that, as a condition of the issuance of a driver's license, an appropriate law enforcement authority of the State or political subdivision of the State verify that the person is qualified under applicable law to hold the firearm license;

(iii) that is—

(I) not loaded; and

(II) in a locked container or in a locked firearm rack that is on a motor vehicle;

(iv) by a person for use in a program approved by the appropriate official of an elementary school or secondary school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school);

(v) by a person in accordance with a contract that the appropriate official of the elementary school or secondary school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school) has entered into with the person or employer of the person;

(vi) by a law enforcement officer acting in an official capacity; or

(vii) that is unloaded and possessed by a person while traversing the premises of the elementary or secondary school for the purpose of gaining access to public or private lands open to hunting, if the entry on the premises of the elementary school or secondary school is authorized by the appropriate official of the school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school).

(3) WAIVER.—A State law described in paragraph (2) may provide for a procedure under which the application of a portion of a revocation or withholding period under paragraph (2)(A) or (B) may be waived if—

(A) at least 50 percent of the withholding or revocation period has expired; and

(B) the person subject to the revocation or withholding period establishes, in a manner satisfactory to the head the State entity described in paragraph (2), that—

(i) the person is not the subject of any criminal charge (other than a charge related to the possession of a handgun that resulted in the revocation or withholding);

(ii) the person has not been the subject of a criminal conviction for engaging in a criminal activity during the withholding or revocation period (other than a conviction directly related to the possession of a handgun that resulted in the revocation or withholding); and

(iii) there is a compelling reason to waive the remainder of the revocation or withholding period.

(4) DUE PROCESS.—A State, in implementing a law described in paragraph (2), shall follow such procedures (including procedures to ensure that affected persons are afforded due process of law) as the Constitution may require.

(5) DEFINITIONS.—In this subsection—

"elementary school" has the meaning stated in 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

"handgun" means—

(i) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

(ii) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

"premises", in reference to an elementary school or secondary school, includes the school building and the grounds of the school.

"secondary school" has the meaning stated in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the government of a State or political subdivision of a State to enact and enforce a law that imposes a penalty that exceeds or supplements the penalties authorized under this subsection.

SEC. 5148. SENSE OF THE SENATE REGARDING A STUDY ON OUT-OF-WEDLOCK BIRTHS.

(a) FINDINGS.—The Senate finds the following:

(1) The National Center for Health Statistics has just reported that the out-of-wedlock birth rate reached 29.5 percent in 1991 (66.3 percent in Washington, D.C., 71.0 percent in Detroit).

(2) The out-of-wedlock birth rate has increased without interruption since 1970, and, as pointed out recently by George Will, "the rate of increase is not slowing even at extraordinarily high levels".

(3) Dr. Lee Rainwater of Harvard University predicts that the rate will reach 40 percent within 7 years.

(4) Professor James Q. Wilson has described the erosion of the family structure in the United States and many Western nations as "a major cultural convulsion" that is inextricably associated with the rise of violent urban crime.

(5) President Clinton has stated on the national television program "Meet the Press" that there is "absolutely" a correlation between crime and drugs and the breakdown of the family.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services, in consultation with the National Center for Health Statistics, should prepare an analysis of the causes of the increase in out-of-wedlock births, and determine whether there is any historical precedent for such increase, as well as any equivalent among foreign nations, and

(2) the Secretary of Health and Human Services should report to Congress within 12 months after the date of the enactment of this Act on the Secretary's analysis of the out-of-wedlock problem and its causes, as well as possible remedial measures that could be taken.

SEC. 5149. CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton in Virginia shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) CONGRESSIONAL HEARINGS.—The Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate shall conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) DEFINITION.—For purposes of this section, the terms "expanded" and "expansion" mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

SEC. 5150. NATIONAL NARCOTICS LEADERSHIP ACT.

(a) Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1994".

(b) Section 1008(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1)) is amended by striking "of such", and inserting, "subject to the availability of appropriations, of not less than 75 and such additional"

SEC. 5151. SUPREME COURT MARSHALS AND POLICE.

Section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1993" and inserting in lieu thereof "1996".

SEC. 5152. EXTENSION OF FULL-TIME STATUS OF MEMBERS OF THE UNITED STATES SENTENCING COMMISSION.

Section 992(c) of title 28, United States Code, is amended in the second sentence by striking "six years" and inserting "seven years".

SEC. 5153. SENSE OF THE SENATE THAT ABLE-BODIED CONVICTED FELONS IN THE FEDERAL PRISON SYSTEM WORK.

(a) FINDINGS.—The Senate finds that—

(1) Federal Prison Industries was created by Congress in 1934 as a wholly owned, nonprofit government corporation directed to train and employ Federal prisoners;

(2) traditionally, one-half of the Federal prison inmates had meaningful prison jobs; now, with the increasing prison population, less than one-quarter are employed in prison industry positions; and

(3) expansion of the product lines and services of Federal Prison Industries beyond its traditional lines of business will enable more Federal prison inmates to work, and such expansion must occur so as to minimize any adverse impact on the private sector and labor.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) all able-bodied Federal prison inmates should work;

(2) in an effort to achieve the goal of full Federal prison inmate employment, the Attorney General, in consultation with the Director of the Bureau of Prisons, the Secretary of Labor, the Secretary of Defense, the Administrator of the General Services Administration, and the private sector and labor, shall submit a report to Congress not later than March 31, 1994, that describes a strategy for employing more Federal prison inmates;

(3) the report shall—

(A) contain a review of existing lines of business of Federal Prison Industries;

(B) consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993); and

(C) make recommendations for legislation and changes in existing law that may be necessary for the Federal Prison Industries to employ more Federal prison inmates; and

(4) the report shall focus on—

(A) the creation of new job opportunities for Federal prison inmates;

(B) the degree to which any expansion of lines of business of Federal Prison Industries may adversely affect the private sector or displace domestic labor; and

(C) the degree to which opportunities for partnership between Federal Prison Industries and small business can be fostered.

SEC. 5154. FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) Section 3561 of title 18, United States Code, is amended by—

(1) redesignating subsection (b) as subsection (c);

(2) inserting the following new subsection after subsection (a):

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term 'domestic violence crime' means a crime of violence for which the defendant may be prosecuted in a court of the United States in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant.".

(b) Section 3563(a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting "; and" in lieu thereof; and

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561(b) by a defendant convicted of such an offense for the first time that the defendant attend a court-approved public, private, or private non-profit program, that has been authorized by that State Coalition Against Domestic Violence, and which is designed to rehabilitate such a defendant if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

(c) Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a court-approved public, private, or private non-profit program, that has been authorized by that State Coalition Against Domestic Violence, and which is designed to rehabilitate such a defendant if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

SEC. 5155. ASSET FORFEITURE.

(a) Section 524 of title 28, United States Code, is amended—

(1) by redesignating subsection (c)(1)(H) to be subsection (c)(1)(I); and

(2) by inserting a new subsection (c)(1)(H) as follows:

"(H) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and".

(b) The provisions of this section shall apply to all claims pending at the time of or commenced subsequent to the date of the enactment of this Act.

SEC. 5156. CLARIFICATION OF DEFINITION OF A "COURT OF THE UNITED STATES" TO INCLUDE THE DISTRICT COURTS FOR GUAM, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

(a) Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§23. Court of the United States defined

As used in this title, except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.".

(b) The analysis for chapter 1 of title 18, United States Code, is amended by inserting at the end the following:

"23. Court of the United States Defined.".

SEC. 5157. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) Fugitives.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 5158. EXPEDITED DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end thereof the following: "An applicant for asylum is not entitled to engage in employment in the United States. The Attorney General may authorize an alien who has filed an application for asylum to engage in employment in the United States, in the discretion of the Attorney General. The Attorney General may provide for the expedited deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.".

(b) There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 5159. IMPROVING BORDER CONTROLS.

There are authorized to be appropriated such sums as are necessary to increase INS's resources for the Border Patrol and the Inspections Program to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents.

SEC. 5160. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(1) Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(2) Authorization of Appropriations.—There are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 1995 through 1998.

SEC. 5161. CONSTRUCTION OF INS SERVICE PROCESSING CENTERS TO DETAIN CRIMINAL ALIENS.

Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary in fiscal year 1995 to construct or contract for the construction of two INS Service Processing Centers to detain criminal aliens and such sums as are necessary in fiscal year 1996 to construct or contract for the construction of two additional Service Processing Centers.

SEC. 5162. ASSISTANT UNITED STATES ATTORNEY RESIDENCY.

Section 545(a) of title 28, United States Code, is amended—

(1) by striking "and assistant United States attorney"; and

(2) by inserting the following after the first sentence: "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 50 miles thereof.".

SEC. 5163. GANG RESISTANCE EDUCATION AND TRAINING PROJECTS

(a) Authorization of appropriations for the Department of the Treasury for each of the fiscal years 1994, 1995, 1996, 1997, and 1998.

(b)(1) The Secretary of the Treasury shall establish no less than 50 Gang Resistance Education and Training (GREAT) projects to be located in communities across the country. Such amount shall be in addition to the number of projects currently funded.

(2) Communities identified for such GREAT projects shall be selected by the Director of the Bureau of Alcohol, Tobacco and Firearms, acting through the Secretary of the Treasury, on the basis of gang-related activity in that particular community.

(3) The Secretary of the Treasury shall make available no less than $800,000 per project, subject to appropriation, and such funds shall be allocated fifty percent to the affected State and local law enforcement and prevention organizations participating in such projects, and fifty percent to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

(c) There are authorized to be appropriated $30,000,000 for salaries and expenses of the Bureau of Alcohol, Tobacco and Firearms for the hiring, training, and equipping of no less than 200 full-time equivalent agent positions for the investigation of the trafficking of guns to juveniles and gangs, and the tracing of firearms used in the commission of violent crimes, and no less than 100 full-time equivalent inspector positions for the Firearms Compliance program and dealer policing activities.

(d) There are authorized to be appropriated $6,000,000 for the salaries and expenses of the United States Secret Service for the hiring, training and equipping of additional full-time equivalent positions to supplement current investigative authorities.

SEC. 5164. LAW ENFORCEMENT PERSONNEL.

(a)(1) Since we are losing control of our streets and our neighborhoods to gangs, drugs and violent crime;

(2) Since Americans tolerate a level of violence 5 times that of Canada and 10 times that of England;

(3) Since the Senate is about to adopt the Comprehensive Crime Control and Law Enforcement Act which establishes a $22,268,000,000 Violent Crime Reduction Trust Fund to combat the violent crime epidemic in this country;

(4) Since the Comprehensive Crime Control and Law Enforcement Act authorizes the revenues to fund the Trust Fund be derived from savings resulting from a reduction in Federal personnel; and

(5) Since the Federal law enforcement agencies charged with carrying out the provisions of the Comprehensive Crime Control and Law Enforcement Act will require substantial manpower to implement the Act.

(b) It is the sense of the Senate that law enforcement personnel should not be reduced and calls upon the President of the United States to exempt Federal law enforcement positions from Executive Order 12839 and other Executive memoranda mandating reductions in the Federal workforce.

SEC. 5165. REVIEW BY THE ATTORNEY GENERAL OF FEDERAL PRISON CAPACITY AND CONSTRUCTION AND OPERATIONAL STANDARDS FOR STATE AND LOCAL CORRECTIONS FACILITIES.

(a) Review of Federal Prison Capacity.—The Attorney General shall conduct a review of—

(1) the capacity of the facilities of the Federal Bureau of Prisons;

(2) the number of inmates in those facilities; and

(3) the characteristics of those inmates relative to their likelihood of criminal behavior, and especially violent criminal behavior, if released from custody under supervision.

(b) Review of Standards.—The Attorney General shall review the standards for construction and operation of State and local corrections facilities contained in the publications entitled "Standards for Small Jail Facilities" and "Standards for Adult and Local Detention Facilities" (3d ed.)

(c) Report to Congress.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall report to Congress on the reviews required under subsections (a) and (b).

(2) Contents.—The report under paragraph (1) shall contain the Attorney General's recommendations for administrative and congressional initiatives to—

(A) release space in the Federal Bureau of Prisons for occupancy by inmates transferred from State correctional facilities, pursuant to section 1321; and

(B) modify standards for construction and operation of local and State correctional facilities.

SEC. 5166. COORDINATION OF SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS.

The Attorney General shall consult with the Secretary of the Department of Health and Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

SEC. 5167. JUVENILE ANTI-DRUG AND ANTI-GANG GRANTS IN FEDERALLY ASSISTED LOW-INCOME HOUSING.

Grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted, low-income housing.

SEC. 5168. DEFINITIONS.

Section 921(a)(17) of title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.".

INVESTMENT ADVISER OVERSIGHT ACT OF 1993

The text of the bill (S. 423) to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter in this Act referred to as

the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected as specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	**Fee due:**
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000.	$500
$25,000,000 or more, but less than $50,000,000.	$1,000
$50,000,000 or more, but less than $100,000,000.	$2,500
$100,000,000 or more, but less than $250,000,000.	$4,000
$250,000,000 or more, but less than $500,000,000.	$5,000
$500,000,000 or more	$7,000.

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section (and the amendment made by this section) shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.

"(4) The Commission shall not require investment advisers to obtain a fidelity bond if—

"(A) fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment advisers are located; or

"(B) the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment advisers' competitive positions.".

EGG RESEARCH AND CONSUMER INFORMATION IMPROVEMENT ACT

The text of the bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1993".

SEC. 2. ASSESSMENT RATE.

(a) IN GENERAL.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—

(1) by designating the first and second sentences as paragraph (1);

(2) by designating the fifth and sixth sentences as paragraph (3); and

(3) by striking the third and fourth sentences and inserting the following new paragraph:

"(2)(A) The assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

"(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).

"(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.".

(b) REFERENDUM.—Section 9 of such Act (7 U.S.C. 2708) is amended—

(1) by designating the first and second sentences as subsection (a);

(2) by designating the last sentence as subsection (c); and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following new subsection:

"(b)(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

"(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this Act who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

"(B) The change in the assessment rate shall become effective if the change is approved or favored by—

"(i) not less than two-thirds of the producers voting in the referendum; or

"(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

"(3)(A) In the case of the order in effect on the date of enactment of this subsection, the Egg Board shall determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2).

"(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

"(i) 120 days after receipt of the request from the Egg Board; or

"(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.".

SEC. 3. RESEARCH.

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

SEC. 4. EXEMPTED PRODUCERS.

Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".

SEC. 5. AMENDMENT TO ORDER.

Notwithstanding any other provision of law:

(1) IN GENERAL.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. The amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to the order not later than 80 days after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by paragraph (1) shall become effective not later than—

(A) 30 days after the proposed amendments are issued; or

(B) if the Director of the Office of Management and Budget determines that the amendments are a significant action that requires review by the Director, 50 days after the proposed amendments are issued.

(3) REFERENDUM.—The amendments referred to in paragraph (2) shall not be subject to a referendum conducted under the Egg Research and Consumer Information Act.

RELIEF OF NATHAN C. VANCE

The text of the bill (S. 871) for the relief of Nathan C. Vance, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT TO NATHAN C. VANCE.

(a) PAYMENT.—Subject to subsections (b) and (c), the Secretary of Agriculture shall pay $4,850.00 to Nathan C. Vance of Wyoming for fire loss arising out of the Mink Fire in and around Yellowstone National Park in 1988.

(b) SOURCE OF FUNDS.—The Secretary shall make the payment pursuant to subsection (a) out of the regional fire budget of the Forest Service prior to making any other fire-related payment for fiscal year 1994.

(c) CONDITION OF PAYMENT.—The payment made pursuant to subsection (a) shall be in full satisfaction of all claims of Nathan C. Vance against the United States for the fire loss described in subsection (a), including Forest Service claim file number 6570.

ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT ACT

The text of the bill (S. 1059) to include Alaska Natives in a program for Native culture and arts development, as passed by the Senate on November 20, 1993, is as follows:

S. 1059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Alaska Native Culture and Arts Development Act".

SEC. 2. ALASKA NATIVE ART AND CULTURE.

Section 1521 of the Higher Education Amendments of 1986 (20 U.S.C. 4441) is amended to read as follows:

"PART B—NATIVE HAWAIIANS AND ALASKA NATIVES

"SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

"(a) IN GENERAL.—The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

"(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

"(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

"(b) PURPOSE OF GRANTS.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

"(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

"(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

"(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

"(c) MANAGEMENT OF GRANTS.—

"(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

"(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

"(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

"(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

"(C) include the president of the University of Hawaii,

"(D) include the president of the Bishop Museum, and

"(E) serve for a fixed term of office.

"(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

"(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

"(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

"(C) serve for a fixed term.".

AMENDING THE ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION ACT

The text of the bill (S. 1457) to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II, as passed by the Senate on November 20, 1993, is as follows:

S. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATIONS.

Subsection (d) of section 205 of the Aleutian and Pribilof Islands Restitution Act (Public Law 100–383) is amended by striking "$1,400,000" and inserting in lieu thereof "$4,700,000".

STEWART B. McKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT

The text of the bill (S. 1523) to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 1523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stewart B. McKinney Homeless Assistance Reauthorization Act of 1993".

SEC. 2. PRIMARY HEALTH SERVICES FOR HOMELESS CHILDREN.

Section 340(s)(8) of the Public Health Service Act (42 U.S.C. 256(s)(8)) is amended by striking "1993" and inserting "1994".

SEC. 3. COMMUNITY DEMONSTRATION PROJECTS.

Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa–3 note) is amended by striking "1993" and inserting "1994".

SEC. 4. ADULT EDUCATION ASSISTANCE TO HOMELESS PERSONS.

Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by striking "and 1993" and inserting "through 1994".

SEC. 5. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) Authorization of Appropriations.—Section 722(g)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(g)(1)) is amended by striking "and 1993" and inserting "through 1994".

(b) Local Educational Agency Grants.—Section 723(b) of such Act (42 U.S.C. 11433(b)) is amended—

(1) by inserting after the subsection heading the following: "Authorized activities may include—";

(2) by striking paragraph (1);

(3) in paragraph (2)—

(A) by striking "(2)" and all that follows in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (A) through (O) as paragraphs (2) through (16), respectively; and

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following new paragraph:

"(1) the provision of tutoring, remedial education services, or other education services to homeless children or homeless youths;"; and

(4) by realigning the margins of paragraphs (1) through (15) (as redesignated by paragraph (3)(B)) so as to align with paragraph (3) of subsection (a).

SEC. 6. JOB TRAINING FOR THE HOMELESS.

(a) Report.—Section 736(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11446(a)) is amended by striking "the termination date specified in section 741" and inserting "the end of the last fiscal year specified in section 739(a)".

(b) Authorization of Appropriations.—Section 739(a) of such Act (42 U.S.C. 11449(a)) is amended by inserting after paragraph (3), the following new paragraph:

"(4) Such sums as may be necessary for fiscal year 1994.".

(c) Repeal.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

SEC. 7. EMERGENCY COMMUNITY SERVICES FOR THE HOMELESS.

Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended by striking "and 1993" and inserting "1993 and 1994".

SEC. 8. FAMILY SUPPORT CENTERS.

Section 779 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11489) is amended by striking "fiscal year 1993" and inserting "each of the fiscal years 1993 and 1994".

AMENDING THE THOMAS JEFFERSON COMMEMORATION COMMISSION ACT

The text of the bill (S. 1716) to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports, as passed by the Senate on November 20, 1993, is as follows:

S. 1716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTS FROM THE COMMISSION.

Section 9 of the Thomas Jefferson Commemoration Commission Act (36 U.S.C. 149 note) is amended—

(1) in subsection (a), by striking "December 31, 1992" and inserting "March 15, 1994"; and

(2) in subsection (b), by striking "December 31, 1993" and inserting "December 31, 1994".

SEC. 2. AUDIT OF FINANCIAL TRANSACTIONS.

Section 10(b) of the Thomas Jefferson Commemoration Commission Act (36 U.S.C. 149 note) is amended—

(1) by striking "December 31, 1992" each place it appears and inserting "March 15, 1994";

(2) by striking "March 4, 1994" and inserting "March 3, 1995"; and

(3) by striking "1993" and inserting "1994".

THE DIETARY SUPPLEMENTAL REGULATION MORATORIUM ACT

The text of the bill (S. 1762) to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements, as passed by the Senate on November 20, 1993, is as follows:

S. 1762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Regulation Moratorium Act of 1993".

SEC. 2. PROHIBITION OF IMPLEMENTATION.

Notwithstanding any other provision of law, the Secretary of Health and Human Services may not implement the Nutrition Labeling and Education Act of 1990 (Public Law 101-535; 104 Stat. 2353), or any amendment made by such Act, earlier than April 15, 1994, with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances.

SEC. 3. ISSUANCE OF FINAL REGULATIONS.

(a) Nutritional Labeling Regulations.—The second sentence of section 2(b)(1) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by striking "except" and all that follows through the period and inserting "except that the Secretary shall not issue any final regulations applicable to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances before April 15, 1994.".

(b) Claims Regulation.—Section 3(b)(1)(B) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by striking "except" and all that follows through the period and inserting "except that the Secretary shall not issue any final regulations applicable to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances before April 15, 1994.".

SEC. 4. REGULATIONS CONSIDERED TO BE FINAL.

(a) Nutritional Labeling.—The first sentence of section 2(b)(2) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by striking "except" and all that follows through the period and inserting "except that the proposed regulations applicable to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances shall not be considered to be final regulations until April 30, 1994.".

(b) Claims Regulations.—The first sentence of section 3(b)(2) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by striking "except" and all that follows through the period and inserting "except that the proposed regulations applicable to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances shall not be considered to be final regulations until April 30, 1994.".

SEC. 5. STATE ENFORCEMENT.

Section 10(a)(1)(C) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by striking "except" and all that follows through "1993" and inserting "except that such amendments shall take effect with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances on April 30, 1994".

EXTENDING THE AUTHORITY OF THE MARSHAL OF THE SUPREME COURT

The text of the bill (S. 1764) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police, as passed by the Senate on November 20, 1993, is as follows:

S. 1764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1993" and inserting in lieu thereof "1996".

DANIEL WEBSTER SENATE PAGE RESIDENCE

The text of the bill (S. 1765) to designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence," and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 1765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DANIEL WEBSTER SENATE PAGE RESIDENCE.

The Federal building located at 300 4th Street, Northeast, in the District of Columbia, shall be known and designated as the "Daniel Webster Senate Page Residence".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Daniel Webster Senate Page Residence".

EXPRESSING THE SENSE-OF-THE-CONGRESS THAT U.S. TRUCK SAFETY STANDARDS ARE OF PARAMOUNT IMPORTANCE TO THE IMPLEMENTATION OF NAFTA

The text of the concurrent resolution (S. Con. Res. 36) expressing the sense of

the Congress that U.S. truck safety standards are of paramount importance to the implementation of the North American Free-Trade Agreement, as agreed to by the Senate on November 20, 1993, is as follows:

S. CON. RES. 36

Whereas the North American Free Trade Agreement in requiring the United States, Mexico, and Canada to "harmonize" their trucking safety standards should ensure the continuing application of vital United States safety standards;

Whereas the North American Free Trade Agreement will permit Mexican trucking companies and Mexican drivers to operate in Texas, New Mexico, Arizona, and California after 3 years and throughout the United States after 6 years;

Whereas the United States truck driver fatigue rules limit drivers to 10 hours per day behind the wheel, Canada allows 13 hours without rest, and Mexico has no limitations on truck driver time;

Whereas front brakes are required on United States trucks but are not required on Mexican trucks, and the lack of front brakes reduces stopping ability and increases a truck's susceptibility to jackknifing;

Whereas the United States maximum gross vehicle weight limit is 80,000 pounds without a special permit, compared to 137,000 pounds in Canada and 171,000 pounds in Mexico;

Whereas Mexico does not have a truck driver records system and the Canadian system does not link with the United States system, thereby making it impossible for enforcement officials in the United States to identify suspended or revoked drivers, or drivers with disqualifying offenses such as drunk, drugged, or reckless driving; and

Whereas only the United States requires industry-wide random testing for drugs and alcohol: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the intent of the Congress that the Secretary of Transportation, in carrying out harmonization negotiations under the auspices of the Land Transportation Standards Subcommittee established under article 913 of the North American Free Trade Agreement, shall uphold all United States truck safety standards, including truck sizes and weights, and safety standards such as truck driver hours of service, front brake and other safety equipment requirements, and the truck driver record system.

VEHICLE DAMAGE DISCLOSURE ACT

The text of the bill (S. 431) to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection, as passed by the Senate on November 20, 1993, is as follows:

S. 431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vehicle Damage Disclosure and Consumer Protection Act of 1993".

SEC. 2. PURPOSE.

Section 401 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1981) is amended by inserting after the second sentence the following new sentences: "It is also the purpose of this title to protect purchasers with respect to motor vehicles for which States have previously issued a title brand indicating prior damage. It is further the purpose of this title to protect purchasers with respect to motor vehicles which have been repurchased, replaced, or reacquired under a State lemon law.".

SEC. 3. DEFINITIONS.

Section 402 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1982) is amended by adding at the end the following new paragraphs:

"(9) The term 'manufacturer buyback vehicle' means a motor vehicle that has been repurchased, replaced, or reacquired pursuant to a State lemon law.

"(10) The term 'State lemon law' means a State law requiring that a motor vehicle manufacturer, distributor, or dealer repurchase, replace, or reacquire a new motor vehicle due to a nonconformity in materials or workmanship that renders the vehicle unfit for ordinary use or reasonably intended purposes.".

SEC. 4. DISCLOSURE REQUIREMENTS UPON TRANSFER OF OWNERSHIP OF A MOTOR VEHICLE.

Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding at the end the following new subsection:

"(h)(1) Any motor vehicle the ownership of which is transferred may not be licensed for use in any State unless the State discloses on the title whether records readily accessible to it indicate—

"(A) whether the vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'junk', 'reconstructed', or 'rebuilt', that it has been damaged by flood, or that it was a manufacturer buyback vehicle, and

"(B) if it was issued such a title, which State first issued such a title.

"(2) The Secretary shall—

"(A) not later than 90 days after the date of enactment of the Vehicle Damage Disclosure and Consumer Protection Act of 1993, prescribe by rule the manner in which, and the date by which, a State shall disclose the information described in paragraph (1)(A) and the manner in which such information shall be retained.

"(B) not later than 12 months after such date of enactment, in consultation with the task force established under section 140(a) of the Anti Car Theft Act of 1992 (15 U.S.C. 2041 note), prescribe by rule uniform minimum standards and procedures relating to the disclosure by a State on a vehicle certificate of title that a vehicle has sustained severe damage,

"(C) study and develop recommendations (in consultation, to the extent practicable, with the task force described in subparagraph (B)) concerning whether, in order to maximize consumer protection, a disclosure of the dollar value of damage to a motor vehicle should be included on all of its certificates of title, at times of title transfer, in any case in which the motor vehicle has neither been declared a total loss by an insurer or vehicle owner nor had its title branded with any word or symbol signifying that the vehicle was 'salvage', 'junk', 'reconstructed', or 'rebuilt' or that it was damaged by flood, and

"(D) not later than 12 months after the date of enactment of the Vehicle Damage Disclosure and Consumer Protection Act of 1993, prescribe by rule the minimum requirements of form and content for State certificates of title.".

SEC. 5. DISCLOSURE OF MANUFACTURER BUYBACK VEHICLES.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the various means that may be required by Federal law for disclosing to prospective purchasers that a motor vehicle is a manufacturer buyback vehicle. The study shall include a consideration of the advantages and disadvantages of each alternative, taking into account the cost to the vehicle manufacturer, distributor, or dealer of complying with such requirement and the effectiveness of the requirement in informing purchasers.

(b) MEANS FOR DISCLOSURE.—Among the means for disclosure that shall be the subject of the study required by this section are the following:

(1) A national uniform sticker, affixed to the windshield of a motor vehicle prior to a purchaser's agreement to purchase the vehicle, that States that the vehicle is a manufacturer buyback vehicle.

(2) A national uniform consumer disclosure statement, provided to any prospective purchaser before the purchase agreement occurs, that—

(A) includes the motor vehicle make, model, year, vehicle identification number, and any prior title numbers and prior States of title; and

(B) discloses that the motor vehicle is (according to records available to the State issuing the certificate of title, including records from any State in which a certificate of title has previously been issued for such motor vehicle) a manufacturer buyback vehicle.

(c) REPORT TO CONGRESS.—The Secretary of Transportation shall, not later than 6 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the results of the study required by this section.

(d) DEFINITIONS.—The terms "manufacturer buyback vehicle", "dealer", and "distributor" have the meanings those terms have under section 402 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988), as amended by this Act.

WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

The text of the bill (S. 778) to amend the Watermelon Research and Promotion Act to expand the operation of the Act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.

Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.
Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) by adding at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

SEC. 9. DEFINITION OF PRODUCER.

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(l) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

SEC. 10. AMENDMENT PROCEDURE.

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

"SEC. 1655. AMENDMENT PROCEDURE.

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

The text of the bill (S. 994) to authorize the establishment of fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry, and other persons, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.
Sec. 4. Issuance of orders.
Sec. 5. Required terms in orders.
Sec. 6. Exclusion; determinations.
Sec. 7. Referenda.
Sec. 8. Petition and review.
Sec. 9. Enforcement.
Sec. 10. Investigations and power to subpoena.
Sec. 11. Confidentiality.
Sec. 12. Authority for Secretary to suspend or terminate order.
Sec. 13. Construction.
Sec. 14. Regulations.
Sec. 15. Authorization of appropriations.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;

(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and

(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;

(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—

(A) purchase most of the cut flowers and cut greens marketed by producers;

(B) prepare the cut flowers and cut greens for retail consumption;

(C) serve as an intermediary between the source of the product and the retailer;

(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and

(E) add efficiencies to the market process that ensure the availability of a much greater variety of the product to retailers and consumers;

(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;

(5)(A) cut flowers and cut greens move in interstate and foreign commerce; and

(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;

(6) the maintenance and expansion of markets in existence on the date of enactment of

this Act, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;

(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;

(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on the date of enactment of this Act and the development of new markets for cut flowers and cut greens have been prevented;

(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information program authorized by this Act in that the program will enhance the market development efforts of the programs for domestic producers;

(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and

(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.

(b) POLICY AND PURPOSE.—It is the policy of Congress that it is in the public interest, and it is the purpose of this Act, to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.

(2) CUT FLOWERS AND CUT GREENS.—

(A) IN GENERAL.—

(i) CUT FLOWERS.—The term "cut flowers" includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.

(ii) CUT GREENS.—The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.

(iii) EXCLUSIONS.—The terms "cut flowers" and "cut greens" do not include a foliage plant, floral supply, or flowering plant.

(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.

(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens from a handler to a retailer or exempt handler.

(4) HANDLER.—

(A) QUALIFIED HANDLER.—

(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—

(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and

(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.

(ii) INCLUSIONS AND EXCLUSIONS.—

(I) IN GENERAL.—The term "qualified handler" includes—

(aa) bouquet manufacturers (subject to paragraph (2)(B));

(bb) an auction house that clears the sale of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse; and

(cc) a distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales.

(II) TRANSFERS.—For the purpose of determining sales of cut flowers and cut greens to a retailer from a distribution center described in subclause (I)(cc), each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C).

(III) TRANSPORTATION OR DELIVERY.—The term "qualified handler" does not include a person who only physically transports or delivers cut flowers or cut greens.

(iii) CONSTRUCTION.—

(I) IN GENERAL.—The term "qualified handler" includes an importer or producer that sells cut flowers or cut greens that the importer or producer has imported into the United States or produced, respectively, directly to consumers and whose sales of the cut flowers and cut greens (as calculated under subparagraph (C)), together with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more.

(II) SALES.—Each direct sale to a consumer by a qualified handler described in subclause (I) shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in subparagraph (C).

(III) DEFINITIONS.—As used in this paragraph:

(aa) IMPORTER.—The term "importer" has the meaning provided in section 5(b)(2)(B)(i)(I).

(bb) PRODUCER.—The term "producer" has the meaning provided in section 5(b)(2)(B)(ii)(I).

(B) EXEMPT HANDLER.—The term "exempt handler" means a person who would otherwise be considered to be a qualified handler, except that the annual sales by the person of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.

(C) ANNUAL SALES DETERMINED.—

(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of the cut flowers and cut greens sold.

(ii) TRANSFERS.—

(I) NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (III), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center (as described in subparagraph (A)(ii)(II)), or a direct sale to a consumer by an importer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by an order to represent the mark-up of a wholesale handler on a sale to a retailer.

(II) DIRECT SALES BY PRODUCERS.—Subject to subclause (III), in the case of a direct sale to a consumer by a producer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by an order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(III) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (I) or (II) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(5) ORDER.—The term "order" means an order issued under this Act (other than sections 9, 10, and 12).

(6) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.

(7) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 5(b).

(8) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.

(9) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.

(10) RETAILER.—

(A) IN GENERAL.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller), as described in an order, that sells cut flowers or cut greens to consumers, and a distribution center described in subparagraph (B)(i).

(B) DISTRIBUTION CENTERS.—

(i) IN GENERAL.—The term "retailer" includes a distribution center that is—

(I) owned or controlled by a person described in subparagraph (A), or owned or controlled cooperatively by a group of the persons, if the predominant retail business activity of the person is not floral sales; or

(II) independently owned but operated primarily to provide food products to retail stores.

(ii) IMPORTERS AND PRODUCERS.—An independently owned distribution center described in clause (i)(II) that also is an importer or producer of cut flowers or cut greens shall be subject to the rules of construction specified in paragraph (4)(A)(iii) and, for the purpose of the rules of construction, be considered to be the seller of the articles directly to the consumer.

(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

(13) UNITED STATES.—The term "United States" means the States collectively.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—

(1) ISSUANCE.—To effectuate the policy of this Act specified in section 2(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to qualified handlers of cut flowers and cut greens.

(2) SCOPE.—Any order shall be national in scope.

(3) ONE ORDER.—Not more than 1 order shall be in effect at any 1 time.

(b) PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—

(A) SECRETARY.—The Secretary may propose the issuance of an order.

(B) OTHER PERSONS.—An industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person who will be affected by this Act, may request the issuance of, and submit a proposal for, an order.

(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—

(A) the date on which the Secretary proposes an order, as provided in paragraph (1)(A); and

(B) the date of the receipt by the Secretary of a proposal for an order, as provided in paragraph (1)(B).

(3) ISSUANCE OF ORDER.—

(A) IN GENERAL.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this Act.

(B) EFFECTIVE DATE.—The order shall be issued and become effective not later than 180 days after publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and provisions specified in this section.

(b) PROMOFLOR COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council, consisting of 25 members, to administer the order.

(B) MEMBERSHIP.—

(i) APPOINTMENT.—The order shall provide that members of the PromoFlor Council shall be appointed by the Secretary from nominations submitted as provided in paragraphs (2) and (3).

(ii) COMPOSITION.—The PromoFlor Council shall consist of—

(I) participating qualified handlers representing qualified wholesale handlers and producers and importers that are qualified handlers;

(II) representatives of traditional retailers; and

(III) representatives of persons who produce fresh cut flowers and fresh cut greens.

(2) DISTRIBUTION OF APPOINTMENTS.—

(A) IN GENERAL.—The order shall provide that the membership of the PromoFlor Council shall consist of—

(i) 14 members representing qualified wholesale handlers of domestic or imported cut flowers and cut greens;

(ii) 3 members representing producers that are qualified handlers of cut flowers and cut greens;

(iii) 3 members representing importers that are qualified handlers of cut flowers and cut greens;

(iv) 3 members representing traditional cut flowers and cut greens retailers; and

(v) 2 members representing persons who produce fresh cut flowers and fresh cut greens, of whom—

(I) 1 member shall represent persons who produce the flowers or greens in locations that are east of the Mississippi River; and

(II) 1 member shall represent persons who produce the flowers or greens in locations that are west of the Mississippi River.

(B) DEFINITIONS.—As used in this subsection:

(i) IMPORTER THAT IS A QUALIFIED HANDLER.—The term "importer that is a qualified handler" means an entity—

(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and

(II) that is subject to assessments as a qualified handler under the order.

(ii) PRODUCER THAT IS A QUALIFIED HANDLER.—The term "producer that is a qualified handler" means an entity that—

(I) is engaged—

(aa) in the domestic production, for sale in commerce, of cut flowers or cut greens and that owns or shares in the ownership and risk of loss of the cut flowers or cut greens; or

(bb) as a first processor of noncultivated cut greens, in receiving the cut greens from a person who gathers the cut greens for handling; and

(II) is subject to assessments as a qualified handler under the order.

(iii) QUALIFIED WHOLESALE HANDLER.—

(I) IN GENERAL.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier that is subject to assessments as a qualified handler under the order.

(II) DEFINITIONS.—As used in this clause:

(aa) FLORAL SUPPLIER.—The term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.

(bb) FLORAL WHOLESALE JOBBER.—The term "floral wholesale jobber" means a person who conducts a commission or other wholesale business in buying and selling cut flowers or cut greens.

(C) DISTRIBUTION OF QUALIFIED WHOLESALE HANDLER APPOINTMENTS.—The order shall provide that the appointments of qualified wholesale handlers to the PromoFlor Council made by the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States.

(3) NOMINATION PROCESS.—The order shall provide that—

(A) 2 nominees shall be submitted for each appointment to the PromoFlor Council;

(B) nominations for each appointment of a qualified wholesale handler, producer that is a qualified handler, or importer that is a qualified handler to the PromoFlor Council shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, respectively, through an election process, in accordance with regulations issued by the Secretary;

(C) nominations for—

(i) 1 of the retailer appointments shall be made by the American Floral Marketing Council or a successor entity; and

(ii) 2 of the retailer appointments shall be made by traditional retail florist organizations, in accordance with regulations issued by the Secretary;

(D) nominations for each appointment of a representative of persons who produce fresh cut flowers and fresh cut greens shall be made by the persons through an election process, in accordance with regulations issued by the Secretary; and

(E) in any case in which qualified wholesale handlers, producers that are qualified handlers, importers that are qualified handlers, persons who produce fresh cut flowers and fresh cut greens, or retailers fail to nominate individuals for an appointment to the PromoFlor Council, the Secretary may appoint an individual to fill the vacancy on a basis provided in the order or other regulations of the Secretary.

(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary in accordance with procedures specified in the order.

(5) TERMS; COMPENSATION.—The order shall provide that—

(A) each term of appointment to the PromoFlor Council shall be for 3 years, except that, of the initial appointments, 9 of the appointments shall be for 2-year terms, 8 of the appointments shall be for 3-year terms, and 8 of the appointments shall be for 4-year terms;

(B) no member of the PromoFlor Council may serve more than 2 consecutive terms of 3 years, except that any member serving an initial term of 4 years may serve an additional term of 3 years; and

(C) members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for the expenses of the members incurred in performing duties as members of the PromoFlor Council.

(6) EXECUTIVE COMMITTEE.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The order shall authorize the PromoFlor Council to appoint, from among the members of the Council, an executive committee of not more than 9 members.

(ii) INITIAL MEMBERSHIP.—The membership of the executive committee initially shall be composed of—

(I) 4 members representing qualified wholesale handlers;

(II) 2 members representing producers that are qualified handlers;

(III) 2 members representing importers that are qualified handlers; and

(IV) 1 member representing traditional retailers.

(iii) SUBSEQUENT MEMBERSHIP.—After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole.

(iv) TERMS.—Each initial appointment to the executive committee shall be for a term of 2 years. After the initial appointments, each appointment to the executive committee shall be for a term of 1 year.

(B) AUTHORITY.—The PromoFlor Council may delegate to the executive committee the authority of the PromoFlor Council under the order to hire and manage staff and conduct the routine business of the PromoFlor Council consistent with such policies as are determined by the PromoFlor Council.

(c) GENERAL RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—The order shall define the general responsibilities of the PromoFlor Council, which shall include the responsibility to—

(1) administer the order in accordance with the terms and provisions of the order;

(2) make rules and regulations to effectuate the terms and provisions of the order;

(3) appoint members of the PromoFlor Council to serve on an executive committee;

(4) employ such persons as the PromoFlor Council determines are necessary, and set the compensation and define the duties of the persons;

(5)(A) develop budgets for the implementation of the order and submit the budgets to the Secretary for approval under subsection (d); and

(B) propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval under subsection (d) plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(6)(A) implement plans and projects for cut flowers or cut greens promotion, consumer information, or related research, as provided in subsection (d); or

(B) contract or enter into agreements with appropriate persons to implement the plans and projects, as provided in subsection (e), and pay the costs of the implementation, or contracts and agreements, with funds received under the order;

(7) evaluate on-going and completed plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(8) receive, investigate, and report to the Secretary complaints of violations of the order;

(9) recommend to the Secretary amendments to the order;

(10) invest, pending disbursement under a plan or project, funds collected through assessments authorized under this Act only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used only for a purpose for which the invested funds may be used; and

(11) provide the Secretary such information as the Secretary may require.

(d) BUDGETS; PLANS AND PROJECTS.—

(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to submit to the Secretary for approval budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Council in the implementation of the order, including the projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.

(2) PLANS AND PROJECTS.—

(A) PROMOTION AND CONSUMER INFORMATION.—The order shall provide—

(i) for the establishment, implementation, administration, and evaluation of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens, and for the disbursement of necessary funds for the purposes described in this clause;

(ii) that any plan or project referred to in clause (i) shall be directed toward increasing the general demand for cut flowers or cut greens and may not make reference to a private brand or trade name, point of origin, or source of supply, except that this clause shall not preclude the PromoFlor Council from offering the plans and projects of the Council for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary; and

(iii) that no plan or project may make use of unfair or deceptive acts or practices with respect to quality or value.

(B) RESEARCH.—The order shall provide for—

(i) the establishment, implementation, administration, and evaluation of plans and projects for—

(I) market development research;

(II) research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens; and

(III) other research with respect to cut flowers or cut greens marketing, promotion, or consumer information;

(ii) the dissemination of the information acquired through the plans and projects; and

(iii) the disbursement of such funds as are necessary to carry out this subparagraph.

(C) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval a proposed plan or project for cut flowers or cut greens promotion, consumer information, or related research, as described in subparagraphs (A) and (B).

(3) APPROVAL BY SECRETARY.—A budget, or plan or project for cut flowers or cut greens promotion, consumer information, or related research may not be implemented prior to approval of the budget, plan, or project by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—

(A) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the PromoFlor Council, with the approval of the Secretary, may enter into a contract or an agreement for the implementation of a plan or project for promotion, consumer information, or related research with respect to cut flowers or cut greens, and for the payment of the cost of the contract or agreement with funds received by the PromoFlor Council under the order.

(B) REQUIREMENTS.—The order shall provide that any contract or agreement entered into under this paragraph shall provide that—

(i) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project, together with a budget that includes the estimated costs to be incurred for the plan or project;

(ii) the plan or project shall become effective on the approval of the Secretary; and

(iii) the contracting or agreeing party shall—

(I) keep accurate records of all of the transactions of the party;

(II) account for funds received and expended;

(III) make periodic reports to the PromoFlor Council of activities conducted; and

(IV) make such other reports as the PromoFlor Council or the Secretary may require.

(2) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council may enter into a contract or agreement for administrative services. Any contract or agreement entered into under this paragraph shall include provisions comparable to the provisions described in paragraph (1)(B).

(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—

(1) IN GENERAL.—The order shall require the PromoFlor Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may require; and

(C) account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.

(2) AUDITS.—The PromoFlor Council shall cause the books and records of the Council to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.

(g) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that the PromoFlor Council shall, as soon as practicable after the order becomes effective and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the PromoFlor Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order, and conduct, supervise, and evaluate plans and projects under the order.

(h) ASSESSMENTS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The order shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner provided in the order, an assessment on each sale of cut flowers or cut greens to a retailer or an exempt handler (including each transaction described in subparagraph (C)(ii)), except to the extent that the sale is excluded from assessments under section 6(a).

(B) PUBLISHED LISTS.—To facilitate the payment of assessments under this paragraph, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.

(C) MAKING DETERMINATIONS.—

(i) QUALIFIED HANDLER STATUS.—The order shall contain provisions regarding the determination of the status of a person as a qualified handler or exempt handler that include the rules and requirements specified in sections 3(4) and 6(b).

(ii) CERTAIN COVERED TRANSACTIONS.—

(I) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center (as described in section 3(4)(A)(ii)(II)), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or a producer (as described in section 3(4)(A)(iii)), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.

(II) AMOUNT OF SALE IN THE CASE OF NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (IV), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center, or a direct sale to a consumer by an importer, the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by the order to represent the mark-up of a wholesale handler on a sale to a retailer.

(III) DIRECT SALES BY PRODUCERS.—Subject to subclause (IV), in the case of a direct sale to a consumer by a producer, the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by the order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(IV) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (II) or (III) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(2) ASSESSMENT RATES.—With respect to assessment rates, the order shall contain the following terms:

(A) INITIAL RATE.—During the first 3 years the order is in effect, the rate of assessment on each sale or transfer of cut flowers or cut greens shall be ½ of 1 percent of—

(i) the gross sales price of the cut flowers or cut greens sold; or

(ii) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii).

(B) CHANGES IN THE RATE.—

(i) IN GENERAL.—After the first 3 years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—

(I) the gross sales price of a product sold; or

(II) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii),

except that the assessment rate may in no case exceed 1 percent of the gross sales price or 1 percent of the transaction amount.

(ii) REQUIREMENTS.—Any change in the rate of assessment under this subparagraph—

(I) may be made only if adopted by the PromoFlor Council by at least a ⅔ majority vote and approved by the Secretary as necessary to achieve the objectives of this Act (after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title);

(II) shall be announced by the PromoFlor Council not less than 30 days prior to going into effect; and

(III) shall not be subject to a vote in a referendum conducted under section 7.

(3) TIMING OF SUBMITTING ASSESSMENTS.—The order shall provide that each person required to pay assessments under this subsection shall remit, to the PromoFlor Council, the assessment due from each sale by the person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days after the end of the month in which the sale took place) as is specified in the order.

(4) REFUNDS FROM ESCROW ACCOUNT.—

(A) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—

(i) establish an escrow account to be used for assessment refunds, as needed; and

(ii) place into the account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order becomes effective, as provided in section 4(b)(3)(B), and ending on the date the initial referendum on the order under section 7(a) is completed.

(B) RIGHT TO RECEIVE REFUND.—

(i) IN GENERAL.—The order shall provide that, subject to subparagraph (C) and the conditions specified in clause (ii), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in subparagraph (A)(ii), if—

(I) the qualified handler is required to pay the assessments;

(II) the qualified handler does not support the program established under this Act;

(III) the qualified handler demands the refund prior to the conduct of the referendum on the order under section 7(a); and

(IV) the order is not approved by qualified handlers in the referendum.

(ii) CONDITIONS.—The right of a qualified handler to receive a refund under clause (i) shall be subject to the following conditions:

(I) The demand shall be made in accordance with regulations, on a form, and within a time period specified by the PromoFlor Council.

(II) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which the refund is demanded.

(III) If the amount in the escrow account required under subparagraph (A) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 7(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand the refund.

(C) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum conducted under section 7(a), there shall be no refunds made, and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.

(5) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (less any refunds expended under the terms of the order required under paragraph (4)) shall be used for payment of costs incurred in implementing and administering the order, with provision for a reasonable reserve, and to cover the administrative costs incurred by the Secretary in implementing and administering this Act.

(6) POSTPONEMENT OF COLLECTIONS.—

(A) AUTHORITY.—

(i) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of this Act, the PromoFlor Council may grant a postponement of the payment of an assessment under this subsection for any qualified handler that establishes that the handler is financially unable to make the payment.

(ii) REQUIREMENTS AND PROCEDURES.—A handler described in clause (i) shall establish that the handler is financially unable to make the payment in accordance with application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(B) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—The PromoFlor Council may grant a postponement under subparagraph (A) only if the handler demonstrates by the submission of an opinion of an independent certified public accountant, and by submission of other documentation required under the rules established under subparagraph (A)(ii), that the handler is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when otherwise due.

(C) PERIOD OF POSTPONEMENT.—

(i) IN GENERAL.—The time period of a postponement and the terms and conditions of the payment of each assessment that is postponed under this paragraph shall be established by the PromoFlor Council, in accordance with rules established under the procedures specified in subparagraph (A)(ii), so as to appropriately reflect the demonstrated needs of the qualified handler.

(ii) EXTENSIONS.—A postponement may be extended under rules established under the procedures specified in subparagraph (A)(ii) for the grant of initial postponements.

(i) PROHIBITION.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that the funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.

(j) BOOKS AND RECORDS; REPORTS.—

(1) IN GENERAL.—The order shall provide that each qualified handler shall maintain, and make available for inspection, such books and records as are required by the order and file reports at the time, in the

manner, and having the content required by the order, to the end that such information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(2) CONFIDENTIALITY REQUIREMENT.—

(A) IN GENERAL.—Information obtained from books, records, or reports under paragraph (1) or subsection (h)(6), or from reports required under section 6(b)(3), shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council.

(B) SUITS AND HEARINGS.—Information described in subparagraph (A) may be disclosed to the public only—

(i) in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, involving the order; and

(ii) to the extent the Secretary considers the information relevant to the suit or hearing.

(C) GENERAL STATEMENTS AND PUBLICATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person who violates the order, together with a statement of the particular provisions of the order violated by the person.

(3) LISTS OF IMPORTERS.—

(A) REVIEW.—The order shall provide that the staff of the PromoFlor Council shall periodically review lists of importers of cut flowers and cut greens to determine whether persons on the lists are subject to the order.

(B) CUSTOMS SERVICE.—On the request of the PromoFlor Council, the Commissioner of the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.

(k) CONSULTATIONS WITH INDUSTRY EXPERTS.—

(1) IN GENERAL.—The order shall provide that the PromoFlor Council, from time to time, may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects.

(2) SPECIAL COMMITTEES.—

(A) IN GENERAL.—For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than PromoFlor Council members.

(B) CONSULTATION.—A committee appointed under subparagraph (A)—

(i) may not provide advice or recommendations to a representative of an agency, or an officer, of the Federal Government; and

(ii) shall consult directly with the PromoFlor Council.

(l) OTHER TERMS OF THE ORDER.—The order shall contain such other terms and provisions, consistent with this Act, as are necessary to carry out this Act (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) and for carrying out section 6).

SEC. 6. EXCLUSION; DETERMINATIONS.

(a) EXCLUSION.—An order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.

(b) MAKING DETERMINATIONS.—

(1) IN GENERAL.—For the purpose of applying the $750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler under section 3(4), or to a specific facility in order to determine the status of the facility as an eligible separate facility under section 7(b)(2), an order issued under this Act shall provide that—

(A) a determination of the annual sales volume of a person or facility shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year, except as provided in subparagraph (B); and

(B) in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor Council, the determination may be made using an alternative time period or other alternative procedure specified in the order.

(2) RULE OF ATTRIBUTION.—

(A) IN GENERAL.—For the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—

(i) in the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;

(ii) in the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(iii) in the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and

(iv) in the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(B) STOCK AND OWNERSHIP INTEREST.—For the purpose of this paragraph, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(3) REPORTS.—For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.

SEC. 7. REFERENDA.

(a) REQUIREMENT FOR INITIAL REFERENDUM.—

(1) IN GENERAL.—Not later than 3 years after the issuance of an order under section 4(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether the order then in effect shall be continued.

(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).

(b) VOTES PERMITTED.—

(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).

(2) ELIGIBLE SEPARATE FACILITY.—For the purpose of paragraph (1):

(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of other facilities owned or operated by the qualified handler.

(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.

(C) ANNUAL SALES DETERMINED.—For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 3(4) shall apply.

(c) SUSPENSION OR TERMINATION REFERENDA.—If an order is approved in a referendum conducted under subsection (a), effective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order; and

(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order.

(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

SEC. 8. PETITION AND REVIEW.

(a) PETITION AND HEARING.—

(1) PETITION.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 10(b)(2) and be held within the United States judicial district in which the residence or principal place of business of the person is located.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed not later than 20 days after the date of the entry of the ruling by the Secretary.

(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMAND.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.

SEC. 9. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action brought under subsection (a) shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, or an order or regulation issued under this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—A person who violates a provision of this Act, or an order or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this Act, may be assessed by the Secretary—

(i) a civil penalty of not less than $500 nor more than $5,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSES.—Each violation shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this Act, or an order or regulation issued under this Act.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 10(b)(2) and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—

(A) IN GENERAL.—Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—

(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and

(ii) sending a copy of the notice by certified mail to the Secretary.

(B) COPY OF RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person had committed a violation.

(2) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY AN ORDER.—

(1) IN GENERAL.—A person who fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d).

(2) SEPARATE VIOLATIONS.—Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.

(f) FAILURE TO PAY A PENALTY.—

(1) IN GENERAL.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.

(2) SCOPE OF REVIEW.—In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this Act shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 10. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this Act or any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) INVESTIGATIONS.—For the purpose of making an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or 9(c)(3), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).

(2) ORDER.—The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) FAILURE TO OBEY.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.

SEC. 11. CONFIDENTIALITY.

(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this Act shall be made public.

(b) PENALTY.—Any person who knowingly violates subsection (a) or the confidentiality terms of an order, as described in section 5(j)(2), shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.

(c) ADDITIONAL PROHIBITION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or an investigatory or enforcement action necessary for the implementation of this Act.

(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.

SEC. 12. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this Act specified in section 2(b), the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

SEC. 13. CONSTRUCTION.

(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this Act.

(b) PRODUCER RIGHTS.—This Act—

(1) may not be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens; and

(2) shall be construed to treat all persons producing cut flowers and cut greens fairly and to implement any order in an equitable manner.

(c) OTHER PROGRAMS.—Nothing in this Act may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or a State.

SEC. 14. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act and the powers vested in the Secretary by this Act, including regulations relating to the assessment of late payment charges and interest.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for the payment of the expenses or expenditures of the PromoFlor Council in administering a provision of an order.

LIME RESEARCH ACT

The text of the bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 1766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lime Research, Promotion, and Consumer Information Improvement Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Lime Research, Promotion, and Consumer Information Act of 1990 was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.

(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.

(3) Although the intent of such Act was to cover seedless limes, the definition of the term "lime" in section 1953(6) of such Act applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.

(4) Since the enactment of the Lime Research, Promotion, and Consumer Information Act of 1990, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the United States production of limes is in Florida.

(b) PURPOSES.—The purpose of this Act is—

(1) to revise the definition of the term "lime" in order to cover seedless and not seeded limes;

(2) to increase the exemption level;

(3) to delay the initial referendum date; and

(4) to alter the composition of the Lime Board.

SEC. 3. DEFINITION OF LIME.

Section 1953(6) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6202(6)) is amended by striking "citrus aurantifolia" and inserting "citrus latifolia".

SEC. 4. REQUIRED TERMS IN ORDERS.

(a) COMPOSITION OF LIME BOARD.—Subsection (b) of section 1955 of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204) is amended—

(1) in paragraph (1)(A), by striking "7" and inserting "3";

(2) in paragraph (2)(B), by striking "7" and inserting "3";

(3) in paragraph (2)(F), by adding at the end the following new sentence: "The Secretary shall terminate the initial Board established under this subsection as soon as practicable after the date of the enactment of the Lime Research, Promotion, and Consumer Information Improvement Act."; and

(4) by inserting after paragraph (2)(F) the following new paragraph:

"(G) BOARD ALLOCATION.—The producer and importer representation on the Board shall be allocated on the basis of 2 producer members and 1 importer member from the district east of the Mississippi River and 1 producer member and 2 importer members from the district west of the Mississippi River.".

(b) TERMS OF MEMBERS.—Subsection (b)(4) of such section is amended—

(1) by striking "The Secretary" and all that follows through "shall—" and inserting "The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—";

(2) in subparagraph (A), by striking "3" and inserting "2";

(3) in subparagraph (B), by striking "4" and inserting "2"; and

(4) in subparagraph (C), by striking "4" and inserting "3".

(c) DE MINIMIS EXCEPTION.—Subsection (d)(5) of such section is amended by striking "35,000" each place it appears and inserting "200,000".

SEC. 5. INITIAL REFERENDUM.

Section 1960(a) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6209(a)) is amended by striking "Not later than 2 years after the date on which the Secretary first issues an order under section 1954(a)," and inserting "Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 1955(d),".

LOWER MISSISSIPPI DELTA INITIATIVES ACT

The text of the bill (S. 991) to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta region, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Lower Mississippi Delta Initiatives Act of 1993".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short Title.
Sec. 2. Table of Contents.
Sec. 3. Findings.
Sec. 4. Definitions.

TITLE I—INITIATIVES WITHIN THE DEPARTMENT OF THE INTERIOR

Sec. 101. Definitions.
Sec. 102. Natural Resources and Environmental Educational Initiatives.
Sec. 103. Lower Mississippi Delta Region Heritage Study.
Sec. 104. Delta Region Heritage Corridors and Heritage and Cultural Centers.
Sec. 105. Historic and Prehistoric Structures and Sites Survey.
Sec. 106. Delta Antiquities Survey.
Sec. 107. Historic and Archeological Resources Program.
Sec. 108. Authorization of Appropriations.

TITLE II—INITIATIVES WITHIN THE DEPARTMENT OF ENERGY

Sec. 201. Definitions.
Sec. 202. Delta Energy Technology and Business Development Center.
Sec. 203. Institutional Conservation Program for the Delta Region.
Sec. 204. Energy Related Educational Initiatives.
Sec. 205. Integrated Biomass Energy Systems.
Sec. 206. Weatherization Assistance Program for the Delta Region.
Sec. 207. Renewable Energy Production Incentives.

SEC. 3. FINDINGS.

(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100-460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational

and other opportunities in the areas of mathematics and science and technology transfer for Delta residents;

(4) the Delta Initiatives Report recommended—

(A) the implementation of pre-college education programs in mathematics and science as well as other initiatives to enhance the educational and technical capabilities of the Delta Region's workforce;

(B) that States and local school systems seek ways to expand the pool of qualified educators in mathematics and sciences;

(C) that institutions of higher education in the Delta Region work with local school districts to promote mathematics and science education;

(D) that Federal grant-making agencies target more research and development monies in selected areas to institutions of higher education in the Delta Region, including Historically Black Colleges and Universities;

(E) that institutions of higher education establish a regional consortium to provide technical assistance and training to increase international trade between businesses in the Delta Region and foreign countries;

(F) designating the Great River Road as a scenic byway, and designating other hiking and motorized trails throughout the Delta Region;

(G) that the Federal Government identify sites and structures of historic and prehistoric importance throughout the Delta Region;

(H) the further study of potential new units of the National Park System within the Delta Region;

(I) that the Federal Government should create economic incentives to encourage the location of value-added facilities for processing agricultural products within the Delta Region; and

(J) that Congress provide practical incentives to encourage the construction of alternative fuel production facilities in the Delta Region.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100-460;

(2) "Delta Initiatives Report" means the May 14 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential";

(3) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region was defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this Act;

(4) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

(5) "minority college or university" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)).

TITLE I—INITIATIVES WITHIN THE DEPARTMENT OF THE INTERIOR

SEC. 101. DEFINITIONS.

As used in this title, the term—

(1) "Department" means the United States Department of the Interior, unless otherwise specifically stated; and

(2) "Secretary" means the Secretary of the Interior, unless otherwise specifically stated.

SEC. 102. NATURAL RESOURCES AND ENVIRONMENTAL EDUCATIONAL INITIATIVES.

(a) Office of Education.—(1) There shall be established within the Department an Office of Education to encourage, support, and coordinate education programs of the Department at the elementary, secondary, college and university, and graduate levels.

(2) The goals of the Office of Education shall be to—

(A) enhance the quality of education in the areas of natural resources, the environment, the sciences, cultural resources management, historic preservation, archeology, aquaculture, and related subjects;

(B) establish initiatives at minority colleges or universities;

(C) encourage the consideration of careers in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects;

(D) enhance teacher development and recruitment;

(E) increase research opportunities for teachers and students;

(F) enhance curriculum development; and

(G) improve laboratory instrumentation and equipment through purchase, loan, or other transfer mechanisms.

(b) Duties.—The duties of the Secretary, through the Office of Education, shall be to—

(1) coordinate the educational programs within the Department, including implementation of programs established under this title, in order to ensure the goals of the Office of Education are met; and

(2) inventory existing education programs within the Department.

(c) The Secretary shall report to Congress, within one year after the date of the enactment of this Act and annually thereafter, on an inventory of existing education programs of the Department, the status of such programs, and progress toward meeting the goals of the Office of Education as established in this Act.

(d) Minority College and University Initiative.—(1) Within one year after the date of enactment of this Act, and annually thereafter, the Secretary, through the Office of Education, shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges or universities to participate in programs and activities carried out by the Department. The Secretary, through the Office of Education, shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department with respect to, or in conjunction with, minority colleges or universities in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects;

(B) describe ongoing research, development or demonstration programs involving the Department and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) include specific proposals and recommendations for providing assistance to minority colleges and universities to enter into memoranda of understanding and other appropriate forms of agreement with the Department in order to plan and develop programs to foster greater involvement of these schools in the contract, research, education, training, and recruitment activities of the Department;

(E) address the need for, and potential role of, the Department in providing minority colleges or universities with the following—

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty department and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, through purchase, loan, or other transfer mechanisms;

(F) address the need for, and potential role of, the Department in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges or universities; and

(G) include specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department in order to assist minority colleges or universities in providing education and training in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects.

(2) The Secretary, through the Office of Education, shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges or universities directed at jointly planning and developing programs to foster greater involvement of minority colleges or universities in the research, education, training, and recruitment activities of the Department.

(e) Scholarship Program.—The Secretary, through the Office of Education, shall establish a scholarship program for students pursuing undergraduate or graduate degrees in natural resource and environmental related fields including, but not limited to: biology, wildlife biology, forestry, botany, horticulture, historic preservation, cultural resource management, archeology, anthropology, aquaculture, geology, engineering, the environment, the sciences, and ecology at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance; and (2) academic potential in the particular area of study.

(f) Pre-College Education.—The Secretary, through the Office of Education, shall undertake activities to encourage precollege education programs in subjects relating to natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects, for students in the Delta Region. Such activities shall include, but not be limited to, the following:

(1) Cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students.

(2) Cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs for elementary, middle, and secondary school students.

(3) Cooperation with, and assistance to, State departments of education and local school districts in the Delta Region in the development and use of curriculum and educational materials.

(4) The establishment of education programs for elementary, middle, and secondary school teachers in the Delta Region at research facilities of the Department.

(g) Volunteer Program.—The Secretary, through the Office of Education, shall establish and carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in educational enrichment programs relating to natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects, in cooperation with State departments of education and local school districts in the Delta Region.

(h) Women and Minorities in the Sciences.—The Secretary, through the Office of Education, shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(i) Center for Aquaculture Studies.—The Secretary, through the Office of Education, shall establish a Center for Aquaculture Studies at the University of Arkansas at Pine Bluff, Arkansas, in cooperation with Southern University in Baton Rouge, Louisiana, and Alcorn State in Lorman, Mississippi, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the field of aquaculture. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and Alcorn State in Lorman, Mississippi, and other minority colleges or universities in the Delta Region to carry out affiliated programs and coordinate program activities at such colleges or universities.

(j) Coordination With Other Federal Agencies.—The Secretary, through the Office of Education, shall ensure that the programs authorized in this section are coordinated with, and complimentary to, educational assistance programs administered by other Federal agencies. These agencies include, but are not limited to, the Department of Energy, the Department of Agriculture, the Department of Education, the Department of Defense, the National Science Foundation, and the National Aeronautics and Space Administration.

SEC. 103. LOWER MISSISSIPPI DELTA REGION HERITAGE STUDY.

(a) In General.—The Secretary, in consultation with the States of the Delta Region, the Lower Mississippi Delta Development Center, and other appropriate Delta Region institutions, is directed to prepare and transmit to the Congress within three years after the date of the enactment of this Act, a study of significant natural, recreational, historical or prehistorical, and cultural lands, waters, sites, and structures located within the Delta Region. This study shall take into consideration the research and inventory of resources conducted by the Mississippi River Heritage Corridor Study Commission.

(b) Transportation Routes.—(1) The study shall include recommendations on appropriate designation and interpretation of historically significant roads, trails, byways, waterways, or other routes within the Delta Region.

(2) In order to provide for public appreciation, education, understanding, interpretation, and enjoyment of the significant sites identified pursuant to subsection (a), which are accessible by public roads, the Secretary shall recommend in the study vehicular tour routes along existing public roads linking such sites within the Delta Region.

(3) Such recommendations shall include an analysis of designating the Great River Road (as depicted on the map entitled "Proposed Delta Transportation Network" on pages 102–103 of the Delta Initiatives Report) and other sections of the Great River Road between Baton Rouge and New Orleans, Louisiana and an analysis of designating that portion of the Old Antonio Road and the Louisiana Natchez Trace which extends generally along Highway 84 from Vidalia, Louisiana, to Clarence, Louisiana, and Louisiana Highway 6 from Clarence, Louisiana, to the Toledo Bend Reservoir, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(4) The Secretary shall also recommend in the study an appropriate route along existing public roads to commemorate the importance of timber production and trade to the economic development of the Delta Region in the early twentieth century, and to highlight the continuing importance of timber production and trade to the economic life of the Delta Region. Recommendations shall include an analysis of designating that portion of US 165 which extends from Alexandria, Louisiana, to Monroe, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(5) The study shall also include a comprehensive recreation, interpretive, and visitor use plan for the routes described in the above paragraphs, including bicycle and hiking paths, and make specific recommendations for the acquisition and construction of related interpretive and visitor information facilities at selected sites along such routes.

(6) The Secretary is authorized to make grants to States for work necessary to stabilize, maintain, and widen public roads to allow for adequate access to the nationally significant sites and structures identified by the study, to allow for proper use of the vehicular tour route, trails, byways, including the routes defined in paragraphs (3) and (4) or other public roads within the Delta Region and to implement the comprehensive recreation, interpretive, and visitor use plan required in paragraph (5).

(c) Listing.—On the basis of the study, and in consultation with the National Trust for Historic Preservation, the Secretary shall inventory significant structures and sites in the Delta Region. The Secretary shall further recommend and encourage cooperative preservation and economic development efforts such as the establishment of preservation districts linking groups of contiguous counties or parishes, especially those that lie along the aforementioned designated routes. The Secretary shall prepare a list of the sites and structures for possible inclusion by the National Park Service as National Historic Landmarks of such other designation as the Secretary deems appropriate.

SEC. 104. DELTA REGION HERITAGE CORRIDORS AND HERITAGE AND CULTURAL CENTERS.

(a) Findings.—The Congress finds that—

(1) in 1990, the Congress authorized the Institute of Museum Services to prepare a report assessing the needs of small, emerging, minority, and rural museums in order to identify the resources such museums needed to meet their education mission, to identify the areas of museum operation in which the needs were greatest, and to make recommendations on how these needs could best be met;

(2) the Institute of Museum Services undertook a comprehensive eighteen month study of such needs with the assistance of two advisory groups, surveyed 524 museums from throughout the Nation, held discussion groups in which representatives of 25 museum groups participated, and conducted case studies of 12 museum facilities around the Nation;

(3) on the basis of this assessment, the Institute of Museum Services issued a report in September 1992, entitled, "National Needs Assessment of Small, Emerging, Minority and Rural Museums in the United States" (hereinafter "National Needs Assessment") which found that small, emerging, minority, and rural museums provide valuable educational and cultural resources for their communities and contain a reservoir of the Nation's material, cultural and scientific heritage, but due to inadequate resources are unable to meet their full potential or the demands of the surrounding communities;

(4) the needs of these institutions are not being met through existing Federal programs;

(5) fewer than half of the participants in the survey had applied for Federal assistance in the past two years and that many small, emerging, minority and rural museums believe existing Federal programs do not meet their needs;

(6) based on the National Needs Assessment, that funding agencies should increase support available to small, emerging, minority, and rural museums and make specific recommendations for increasing technical assistance in order to identify such institutions and provide assistance to facilitate their participation in Federal programs;

(7) the Delta Initiatives Report made specific recommendations for the creation and development of centers for the preservation of the cultural, historical, scientific and literary heritage of the Delta Region, including recommendations for the establishment of a Delta Region Native American Heritage and Cultural Center and a Delta Region African American Heritage and Cultural Center with additional satellite centers or museums linked throughout the Delta Region;

(8) the Delta Initiatives Report stated that new ways of coordinating, preserving, and promoting the Delta Region's literature, art, and music should be established including the creation of a network to promote the Delta Region's literary, artistic, and musical heritage; and

(9) wholesale destruction and attrition of archeological sites and structures has eliminated a significant portion of Native American heritage as well as the interpretive potential of the Delta Region's parks and museums. Furthermore, site and structure destruction is so severe that an ambitious program of site and structure acquisition in the Delta Region is necessary.

(b) GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Smithsonian Institution, the Lower Mississippi Delta Development Center, Historically Black Colleges and Universities, other Delta Regional educational institutions, and appropriate African American and Native American organizations in the Delta Region, is further directed to prepare and transmit to the Congress a plan outlining specific recommendations, including recommendations for necessary funding, for the establishment of a Delta Region Native American Heritage Corridor and Heritage and Cultural Center with a network of satellite or cooperative units.

(c) DELTA REGION NATIVE AMERICAN HERITAGE CORRIDOR AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a network of parks, museums, and other centers to interpret Native American culture and heritage in the Delta Region, including a ten year development strategy for such a network.

(2) Such plan shall include specific proposals for the development of a Native American Heritage Corridor and Heritage and Cultural Center in the Delta Region, along with recommendations for the appropriate Federal role in such a center including matching grants, technical and interpretive assistance.

(3) Such plan shall be conducted in consultation with tribal leaders in the Delta Region.

(4) Such plan shall also include specific proposals for educational and training assistance for Delta Region Native Americans to carry out the recommendations provided in the study.

(d) DELTA REGION AFRICAN AMERICAN HERITAGE CORRIDOR AND HERITAGE AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a heritage corridor or trail system, consisting of one or two major north-south routes and several east-west-spur loops to preserve, interpret and commemorate the African American heritage and culture in the Delta Region during all significant historical periods.

(2) Such plan shall make specific recommendations for representing all forms of expressive culture including the musical, folklore, literary, artistic, scientific, historical, educational, and political contributions and accomplishments of African Americans in the Delta Region.

(3) Such plan shall make specific recommendations for implementing the findings of the Delta Initiatives Report with respect to establishing an African American Heritage Corridor and Heritage and Cultural Center and related satellite museums in the Delta Region, together with specific funding levels necessary to carry out these recommendations and shall also include recommendations for improving access of small, emerging, minority or rural museums to technical and financial assistance.

(4) Such plan shall be conducted in consultation with institutions of higher education in the Delta Region with expertise in African American studies, Southern studies, archeology, anthropology, history and other relevant fields.

(5) Such plan shall make specific recommendations for improving educational programs offered by existing cultural facilities and museums as well as establishing new outreach programs for elementary, middle and secondary schools, including summer programs for youth in the Delta Region.

(e)(1) In furtherance of the purposes of this section, the Secretary is authorized to make planning grants to State Humanities Councils in the Delta Region to assist small, emerging, minority and rural museums selected on a financial needs basis in the development of a comprehensive long term plan for these institutions. The Secretary is also authorized to make implementation grants to State Humanities Councils in the Delta Region who, in consultations with State Museum Associations, shall make grants to small, emerging, minority or rural museums for the purpose of carrying out an approved plan for training personnel, improving exhibits or other steps necessary to assure the integrity of collections in their facilities, for educational outreach programs, or for other activities the Secretary deems appropriate including the promotion of tourism in the region. Such institutions shall be selected competitively and on the basis of demonstrated financial need. The Secretary is also authorized to make grants to State Humanities Councils to update, simplify and coordinate the respective State Works Progress Administration guides and to develop a single comprehensive guide for the Delta Region.

(2) The Secretary is authorized to provide grants and other appropriate technical assistance to State Humanities Councils, State Museum Associations, and State Arts Councils in the Delta Region for the purpose of assessing the needs of such institutions. Such grants may be used by these institutions to undertake such an assessment and to provide other technical, administrative and planning assistance to small, emerging, minority or rural institutions seeking to preserve the Delta Region's literary, artistic, and musical heritage.

(f) MUSIC HERITAGE PROGRAM.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a Music Heritage Program, with specific emphasis on the Mississippi Delta Blues. The plan shall include specific recommendations for developing a network of heritage sites, structures, small museums, and festivals in the Delta Region.

(2) The plan shall include an economic strategy for the promotion of the Delta Region's music, through the participation of musicians, festival developers, museum operators, universities, and other relevant individuals and organizations.

(g) COMPLETION DATE.—The plan authorized in this section shall be completed not later than three years after the date funds are made available for such plan.

SEC. 105. HISTORIC AND PREHISTORIC STRUCTURES AND SITES SURVEY.

(a) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities to undertake a comprehensive survey of historic and prehistoric structures and sites located on their campuses, including recommendations as to the inclusion of appropriate structures and sites on the National Register of Historic Places, designation as National Historic Landmarks, or other appropriate designation as determined by the Secretary. The Secretary shall also make specific proposals and recommendations, together with estimates of necessary funding levels, for a Comprehensive Plan to be carried out by the Department to assist Historically Black Colleges and Universities in the preservation and interpretation of such sites and structures.

(b) GRANTS.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities for stabilization, preservation and interpretation of such sites and structures.

SEC. 106. DELTA ANTIQUITIES SURVEY.

(a) GENERAL.—(1) The Secretary is directed to prepare and transmit to the Congress, in cooperation with the States of the Delta Region, State Archeological Surveys and Regional Archeological Centers, a study of the feasibility of establishing a Delta Antiquities Trail or Delta Antiquities Heritage Corridor in the Delta Region.

(2) Such study shall, to the extent practicable, use nonintrusive methods of identifying, surveying, inventorying, and stabilizing ancient archeological sites and structures.

(3) In undertaking this study, the Secretary is directed to enter into cooperative agreements with the States of the Delta Region, the State Archeological Surveys, and Regional Archeological Centers located in Delta Region institutions of higher education for on-site activities including surveys, inventories, and stabilization and other activities which the Secretary deems appropriate.

(4) In addition to the over 100 known ancient archeological sites located in the Delta Region including Watson's Brake, Frenchman's Bend, Hedgepeth, Monte Sano, Banana Bayou, Hornsby, Parkin, Toltec, Menard-Hodges, Eaker, Blytheville Mound, Nodena, Taylor Mounds, DeSoto Mound and others, such study shall also employ every practical means possible, including assistance from the National Aeronautics and Space Administration, the Forest Service and Soil Conservation Service of the Department of Agriculture, the Army Corps of Engineers of the Department of Defense, and other appropriate Federal agencies, to locate and confirm the existence of a site known as Balbansha in southern Louisiana and a site known as Autiamque in Arkansas. The heads of these Federal agencies shall cooperate with the Secretary as the Secretary requires on a non-reimbursable basis.

(b) In furtherance of the purposes of this section, the Secretary is authorized to provide technical assistance and grants to private landowners for necessary stabilization activities of identified sites and for preparing recommendations for designating such sites as National Landmarks or other appropriate designations as the Secretary, with the concurrence of the landowners, determines to be appropriate.

(c) The Secretary is authorized to enter into cooperative agreements with the States, State Archeological Surveys, and Regional Archeological Centers of the Delta Region to develop a ten-year plan for the stabilization, preservation and interpretation of those sites and structures as may be identified by the Secretary.

SEC. 107. HISTORIC AND ARCHEOLOGICAL RESOURCES PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a comprehensive program for the research, interpretation, and preservation of significant historic and archeological resources in the Delta Region.

(b) ELEMENTS OF THE PROGRAM.—The program shall include, but not be limited to—

(1) identification of research projects related to historic and archeological resources in the Delta Region and a proposal for the regular publication of related research materials and publications;

(2) the development of a survey program to investigate, inventory and further evaluate known historic and archeological sites and structures and identify those sites and structures that require additional study;

(3) identification of a core system of interpretive sites and structures that would provide a comprehensive overview of historic and archeological resources of the Delta Region;

(4) preparation of educational materials to interpret the historical and archeological resources of the Delta Region;

(5) preparation of surveys and archeological and historical investigations of sites, structures, and artifacts relating to the Delta Region, including the preparation of reports, maps, and other related activities.

(c) GRANTS AND TECHNICAL ASSISTANCE.—(1) The Secretary is authorized to award grants to qualified tribal, governmental and nongovernmental entities and individuals to assist the Secretary in carrying out those elements of the program which the Secretary deems appropriate.

(2) The Secretary is further authorized to award grants and provide other types of technical and financial assistance to such entities and individuals to conserve and protect historic and archeological sites and structures in the Delta Region identified in the program prepared pursuant to this section.

(d) The Secretary shall establish a national demonstration project for the conservation and curation of the archeological records and collections of Federal and State management agencies in the Delta Region.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—INITIATIVES WITHIN THE DEPARTMENT OF ENERGY

SEC. 201. DEFINITIONS.

As used in this title, the term—

(1) "Center" means the Delta Energy Technology and Business Development Center established under section 202 of this Act;

(2) "Department" means the United States Department of Energy, unless otherwise specifically stated;

(3) "departmental laboratory" means a facility operated by or on behalf of the Department of Energy that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(d)(2)) or other laboratory or facility the Secretary designates;

(4) "persons in the Delta Region" means an entity primarily located in the Delta Region, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

(A) a for-profit entity;

(B) a private foundation or corporation exempt under section 501(c)(3) of the Internal Revenue Code;

(C) a non-profit organization such as a public trust;

(D) a trade or professional society;

(E) a tribal government;

(F) institutions of higher education; or

(G) a unit of State or local government; and

(5) "Secretary" means the Secretary of Energy, unless otherwise specifically stated.

SEC. 202. DELTA ENERGY TECHNOLOGY AND BUSINESS DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Secretary shall enter into an agreement with Louisiana State University in partnership with Southern University in Baton Rouge, Louisiana, to establish the Delta Energy Technology and Business Development Center. The agreement shall provide for cooperative agreements with the University of Arkansas at Pine Bluff, Arkansas, and Alcorn State University in Lorman, Mississippi, and other universities and institutions in the Delta Region, to carry out affiliated programs and coordinate program activities at such universities and institutions.

(b) PURPOSE.—The purpose of the Center shall be to—

(1) foster the creation and retention of energy resource and manufacturing and related energy service jobs in the Delta Region;

(2) encourage the export of energy resources and technologies, including services related thereto, from the Delta Region;

(3) develop markets for energy resources and technologies manufactured in the Delta Region for use in meeting the energy resource and technology needs for foreign countries;

(4) encourage the successful, long-term market penetration of energy resources and technologies manufactured in the Delta Region into foreign countries;

(5) encourage participation in energy-related projects in foreign countries by persons in the Delta Region as well as the utilization in such projects of energy resources and technologies significantly developed, demonstrated, or manufactured in the Delta Region; and

(6) assist in the establishment of technology transfer programs in cooperation with Federal laboratories to create businesses in energy resources and technology in the Delta Region.

(c) GENERAL.—The Center, in cooperation with participating universities and institutions in the Delta Region, shall—

(1) identify and foster the establishment of flexible manufacturing networks in consultation with the States of the Delta Region to promote the development of energy resources and technologies that have the potential to expand technology development and manufacturing in, and exports from, the Delta Region;

(2) provide technical, business, training, marketing, and other assistance to persons in the Delta Region;

(3) develop a comprehensive database and information dissemination system, that will provide detailed information on the specific energy resources and technologies of the Delta Region itself, as well as domestic and international market opportunities for businesses in the Delta Region, and electronically link the Center with other institutions of higher education in the Delta Region;

(4) establish a network of business and technology incubators to promote the design, manufacture, and sale of energy resources and technologies from the Delta Region;

(5) enter into contracts, cooperative agreements, and other arrangements with the Federal Government, international development agencies, or persons in the Delta Region to carry out these objectives; and

(6) coordinate existing Department and other Federal programs having comparable goals and purposes.

(d) ASSISTANCE FROM THE SECRETARY.—The Secretary is authorized to provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center and affiliated participating universities and institutions to carry out its activities under this section.

(e) GRANTS.—The Secretary is authorized to provide grants and other forms of financial assistance to the Center for the Center and participating universities and institutions to (1) support the creation of flexible manufacturing networks as identified in subsection (c)(1); and (2) develop the comprehensive database described in paragraph (c)(3); and (3) support the training, marketing, and other related activities of the Center.

(f) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

(A) grants and donations from private individuals, groups, organizations, corporations, foundations, State and local governments, and other entities; and

(B) transfers of funds from other Federal agencies.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the programs under this section and for the establishment, operation, construction, and maintenance of the Center and facilities of participating universities and institutions.

SEC. 203. INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended by adding a new section 400K as follows:

"INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION

"SEC. 400K. (a) PURPOSE.—The purpose of this section is to encourage the use of energy conservation measures in the schools and hospitals of the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary is authorized to provide grants to schools or hospitals, or to consortiums consisting of a school or hospital and one or more of the following: State or unit of local government; local education agency; State hospital facilities agency; or State school facilities agency. Such grants shall be for purposes of conducting innovative energy conservation projects and providing Federal financing for energy conservation projects at schools and hospitals in the Delta Region.

"(c) APPLICATIONS.—(1) Applications of schools or hospitals for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency, in consultation with the Planning and Development Districts in the Delta Region, and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing institutional conservation programs under this part; provided, however, that the Secretary shall encourage flexible and innovative approaches consistent with this Act.

"(d) SELECTION OF APPLICATIONS.—(1) Not later than six months after the receipt of applications under subsection (c), the Secretary shall select at least seven, but not more than 21, proposals from States to receive grants under subsection (b).

"(2) The Secretary may select more than 21 applications under this subsection, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

"(3) No one State shall receive less than one, or more than four, grants under subsection (b).

"(4) Such grants shall be in addition to such grants as would otherwise be provided under Part G of this Act.

"(5) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria—

"(1) the location of the grant recipient in the Delta Region;

"(2) the demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section;

"(3) the demonstrated or potential ability of the grant applicant to improve energy conservation measures in the designated school or hospital; and

"(4) such other criteria as the Secretary deems appropriate for carrying out the purposes of this section.

"(f) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential'.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1995, and 1996, and 1997.".

SEC. 204. ENERGY RELATED EDUCATIONAL INITIATIVES.

(a) MINORITY COLLEGES OR UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department or the departmental laboratories with respect to, or in conjunction with, minority colleges or universities in the areas of mathematics, science, and engineering;

(B) describe ongoing research, development, demonstration, or commercial application activities involving the Department or the departmental laboratories and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) identify ways for the Department or the departmental laboratories to assist minority colleges or universities in providing education and training in the fields of mathematics, science, and engineering;

(E) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

(F) address the need for, and potential role of, the Department or the departmental laboratories in providing minority colleges or universities with the following—

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty development and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer mechanisms;

(G) address the need for, and potential role of, the Department or departmental laboratories in providing financial and technical assistance for the development of infrastructure facilities; including buildings and laboratory facilities, at minority colleges and universities; and

(H) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories in order to assist minority colleges or universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

(2) The Secretary shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges and universities directed at jointly planning and developing programs to foster greater involvement of minority colleges and universities in research, education, training, and recruitment activities of the Department.

(b) MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAMS FOR THE DELTA REGION.—The Secretary shall establish a scholarship program for students pursuing undergraduate or graduate degrees in energy-related scientific, mathematical, engineering, and technical disciplines at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study.

(c) PRE-COLLEGE EDUCATION.—The Secretary shall undertake activities to encourage pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for students in the Delta Region. Such activities shall include, but not be limited to the following—

(1) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students in energy-related scientific, mathematical, engineering, and technical disciplines;

(2) cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs in energy related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students;

(3) cooperation with, and assistance to, State departments of education and local school districts in the development and use of curriculum and educational materials in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary students; and

(4) the establishment of education programs in subjects relating to energy-related scientific, mathematical, engineering, and technical disciplines for elementary, middle, and secondary school teachers in the Delta Region.

(d) VOLUNTEER PROGRAM.—The Secretary shall carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in educational programs relating to energy-related scientific, mathematical, engineering, and technical disciplines, in cooperation with State departments of education and local school districts in the Delta Region.

(e) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences, mathematics, engineering and technical disciplines. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, education assistance programs administered by the Department and by other Federal agencies in the Delta Region. These agencies include, but are not limited to, the Department of the Interior, the Department of Agriculture, and Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 205. INTEGRATED BIOMASS ENERGY SYSTEMS

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a research, development and demonstration program to determine the economic viability of integrated biomass energy systems within the Delta Region.

(b) PROGRAM PLAN.—Not later than six months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a program plan to guide the activities under this section.

(c) SOLICITATION OF PROPOSALS.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the program plan. Such activities shall include at least three demonstrations of integrated biomass energy systems that—

(1) involve the production of dedicated energy crops of not less than 25,000 acres per demonstration;

(2) include predominantly herbaceous energy crops;

(3) include predominantly short-rotation woody crops;

(4) demonstrate cost-effective methods for growing, harvesting, storing, transporting, and preparing energy crops for conversion to electricity or transportation fuel; and

(5) result in the conversion of such crops to electricity or transportation fuel by a non-

Federal energy producer or the Tennessee Valley Authority.

(d) COST SHARING.—(1) For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.

(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this section if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1995, 1996, and 1997.

SEC. 206. WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION

Title IV of the Energy Conservation and Production Act (42 U.S.C. 6851, 6861-6846) is further amended by adding a new section 423 as follows:

"WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION

"SEC. 423. (a) PURPOSE.—The purpose of this section is to encourage the weatherization of low-income dwelling units in the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary shall make grants to (1) States, and (2) in accordance with the provisions of subsection (413)(d), to Indian tribal organizations to serve Native Americans in the Delta Region. Such grants shall be made for the purposes of providing financial assistance for the weatherization of low-income dwelling units.

"(c) APPLICATIONS.—(1) Applications of States or Indian tribal organizations for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State weatherization agency, in consultation with Community Action Agencies and Planning and Development Districts in the Delta Region, and the State weatherization agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants for energy conservation projects shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing weatherization assistance programs under this Part.

"(d) SELECTION OF APPLICATIONS.—(1) The Secretary shall select applications from States to receive grants under subsection (b).

"(2) Such grants shall be in addition to such grants as would otherwise be provided under section 414 of this Act.

"(3) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section in accordance with the requirements of sections 414(b) and 415 of this Act, and on the basis of the following criteria—

"(1) the location of the grant applicant in the Delta Region;

"(2) the demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section; and

"(3) the demonstrated or potential ability of the grant applicant to improve energy efficiency in low-income dwelling units.

"(f) COORDINATION WITH OTHER WEATHERIZATION ASSISTANCE PROGRAMS.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, Department weatherization assistance programs under sections 413, 414A and 414B of this Act.

"(g) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential'.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1995, 1996, and 1997.".

SEC. 207. RENEWABLE ENERGY PRODUCTION INCENTIVES.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by inserting immediately after "foregoing," the following: "by the Tennessee Valley Authority,".

HIGH RISK DRIVERS ACT

The text of the bill (S. 738) to promote the implementations of programs to improve the traffic safety performance of high-risk drivers, as passed by the Senate on November 20, 1993, is as follows:

S. 738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Risk Drivers Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 4. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

TITLE I—YOUNG DRIVER PROGRAMS

SEC. 101. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Programs for young drivers

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets four of the nine criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets five of such criteria;

"(iii) in the third year of receiving such grants, meets six of such criteria;

"(iv) in the fourth year of receiving such grants, meets seven of such criteria; and

"(v) in fifth year of receiving such grants, meets seven of such criteria.

"(2) GRADUATED LICENSING PROGRAM.—(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The nine criteria referred to in paragraph (1)(B) are as follows:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under age 21 years of age.

"(C) The State requires that all front seat and rear seat occupants of any motor vehicle shall use safety belts.

"(D) The State requires that the license of a driver under 21 years of age be suspended for a period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(E) The State conducts youth-oriented traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(F) The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.

"(G) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(H) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.

"(I) The State has a law or regulation that—

"(i) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;

"(ii) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;

"(iii) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and

"(iv) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner, or owner.

"(f) Supplemental Grant Program.—

"(1) Extended application of provisional license requirement.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least one year with a clean driving record as described in subsection (e)(2)(B).

"(2) Provision of insurance information.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(3) Readily distinguishable licenses for young drivers.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that the provisional driver's license, or full driver's license, of any driver under 21 years of age be readily distinguishable from the licenses of drivers who are 21 years of age or older, through the use of special background, marking, profile, or any other features, consistent with any guidelines developed by the Secretary in cooperation with the American Association of Motor Vehicle Administrators; and

"(B) employs the Social Security number as a common identifier on every driver's license so as to facilitate the transfer of traffic records among States.

"(4) Driver training prerequisite.—For purposes of this section, a State is eligible for a supplemental grant in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(5) Remedial driver education.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.

"(6) Provisional license requirement after license suspension or revocation.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any driver whose driving privilege is restored after license suspension or revocation resulting from a traffic safety violation shall for at least 1 year be subject to the following:

"(A) The restored license shall be immediately suspended, for a period to be determined by the Secretary, upon the driver's conviction of any moving traffic safety violation, except that the Secretary may by regulation define limited circumstances under which the State may waive this immediate suspension requirement.

"(B) A full driver's license shall be issued only after the driver has held a provisional license for at least 1 year with a clean driving record, as described in subsection (e)(2)(B).

"(C) The driver shall be—

"(i) deemed to be driving while intoxicated if the driver has a blood alcohol concentration of .02 percent or greater; or

"(ii) prohibited from operating a motor vehicle with such a blood alcohol concentration.

"(7) Record of serious convictions; habitual or repeat offender sanctions.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least ten years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(8) Oversight of alcohol sales to underage drinkers.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount appropriated to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State exercises effective oversight of colleges and universities to ensure that colleges and universities do not provide, and do not allow the selling of, alcohol to individuals under 21 years of age.

"(g) Applicability of Chapter 1.—

"(1) In general.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) Inconsistent provisions.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) Credit for state and local expenditures.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) Increased federal share for certain Indian tribe programs.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) Treatment of term 'State highway department'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

"(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $18,000,000 for each of the fiscal years ending September 30, 1994, and September 30, 1995, $20,000,000 for the fiscal year ending September 30, 1996, and $22,000,000 for each of the fiscal years ending September 30, 1997, and September 30, 1998.".

(b) Conforming Amendment.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) Deadlines for Issuance of Regulations.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 102. PROGRAM EVALUATION.

(a) Evaluation by Secretary.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).

(b) Report to Congress.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (a) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

TITLE II—OLDER DRIVER PROGRAMS

SEC. 201. OLDER DRIVER SAFETY RESEARCH.

(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration entitled "Addressing the Safety Issues Related to Younger and Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(e) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 2000, and $1,500,000 is authorized for each of the fiscal years 2001 through 2005, to support older driver programs described in subsections (a), (b), (c), (e), and (f).

TITLE III—HIGH RISK DRIVERS

SEC. 301. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the State to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and the Driver License Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 302. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.

COMPREHENSIVE DRUG ABUSE PROGRAM

The text of the bill (S. 1767) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes, as passed by the Senate on November 20, 1993, is as follows:

S. 1767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Chemical Diversion Control Act of 1993".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33), by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters," before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified"; and

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38), by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v), by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title III based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40), by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(42) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(43) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of that portion relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B), by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D), by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1), by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e), by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State, and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b), by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f), by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2), by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2), by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3), by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6), by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e), by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h), by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by amending paragraphs (6) and (7) to read as follows:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III;

"(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III or, in the case of an exportation, in violation of this title or title III or of the laws of the country to which it is exported;";

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) to distribute, import, or export a list I chemical without the registration required by this title or title III.".

SEC. 4. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 5. EXEMPTION AUTHORITY; ANTI-SMUGGLING PROVISION.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1505(a) of this Act, is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 4(b) of this Act, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 6. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B), by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C), by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 7. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 8. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 9. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 10. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE OPERATION OF THE CARIBBEAN ECONOMIC—MESSAGE FROM THE PRESIDENT—PM 76

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Committee of the United States:

I transmit herewith the first report of the operation of the Caribbean Basin Initiative. This report is prepared pursuant to the requirements of section 214 at the Caribbean Basin Economic Recovery Expansion Act of 1990 (19 U.S.C. 2702(f)).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 24, 1993.*

MEASURES REFERRED

The following measures, previously received from the House of Representatives, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3474. An act to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3548. An act to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial, and the Women in Military Service for America Memorial, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3617. An act to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for Mr. DASCHLE):

S. 1783. A bill to amend the Mount Rushmore commemorative Coin Act to allow proceeds from the sale of coins to be used to renovate the Mount Rushmore National Memorial; considered and passed.

By Mr. BOND (for Mr. MURKOWSKI (for himself and Mr. STEVENS)):

S. 1784. To restore the Central Council of Tlingit and Haida Indian Tribes of Alaska to the Department of the Interior list of Indian entities recognized and eligible to receive Services from the United States Bureau of Indian Affairs; considered and passed.

By Mr. DOLE: S. 1785.

A bill to amend the Brady Handgun Violence Prevention Act to establish standards for determining whether the national instant criminal background check system is operational and to amend section 503(a) of title I of the Omnibus Safe Streets and Crime Control Act of 1968 to require a State to certify that the State has established a plan under which the State will provide to the Department of Justice notice of the adjudication of any person as a mental defective or the commitment of any person to a mental institution.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 176. A resolution to designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 426

At the request of Mr. SHELBY, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. LUGAR], the Senator from North Carolina [Mr. HELMS], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Idaho [Mr. CRAIG], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 426, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 717

At the request of Mr. PACKWOOD, his name was added as a cosponsor of S. 717, a bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

S. 848

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 848, a bill to amend the Agricultural Act of 1949 to modify the authority for haying and grazing on wheat and feed grain reduced acreage, and for other purposes.

S. 1523

At the request of Mr. KENNEDY, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1523, a bill to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes.

S. 1715

At the request of Mrs. HUTCHISON, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

SENATE RESOLUTION 176—RELATIVE TO THE DANIEL WEBSTER SENATE PAGE RESIDENCE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 176

Resolved,

SECTION 1. DESIGNATION OF DANIEL WEBSTER SENATE PAGE RESIDENCE.

The Federal building located at 300 4th Street, Northeast, in the District of Columbia, shall be known and designated as the "Daniel Webster Senate Page Residence".

AMENDMENTS SUBMITTED

SINE DIE ADJOURNMENT CONCURRENT RESOLUTION

MITCHELL (AND DOLE) AMENDMENT NO. 1242

Mr. SASSER (for Mr. MITCHELL and Mr. DOLE) proposed an amendment to the concurrent resolution (H. Con. Res. 190) providing for the sine die adjournment of the First Session of the One Hundred Third Congress; as follows:

On page 1, line 4, strike "Monday" through "23" on page 1, line 5, and insert the following: "Friday, November 26, or the legislative day of Tuesday, November 30, or the legislative day of Wednesday, December 1".

THRIFT SAVINGS PLAN AMENDMENT ACT OF 1993

STEVENS AMENDMENT NO. 1243

Mr. BOND (for Mr. STEVENS) proposed an amendment to the bill (S. 1624) to standardize withdrawal options for Thrift Savings Plan participants, and for other purposes as follows:

On page 2, line 23, strike out all after "under" through the period on line 24 and insert in lieu thereof "section 8433(b) of this title.".

On page 5, line 14, insert "the" before "annuity".

VIETNAM WOMEN'S MEMORIAL COIN ACT OF 1994

NUNN AMENDMENT NO. 1244

Mr. NUNN (for Mr. SASSER) proposed an amendment to the bill (S. 469) to require the Secretary of the Treasury to mint coins in commemoration of the Vietnam Women's Memorial; as follows:

Strike lines 7-10 and insert the following:

(c) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this title during the period beginning on May 1, 1994 and ending on May 1, 1995.

TECHNICAL CORRECTIONS ACT

INOUYE AMENDMENT NO. 1245

Mr. SASSER (for Mr. INOUYE) proposed the following amendment to the bill (S. 1654) to make certain technical corrections; as follows:

On page 6, line 3, delete the following:

SEC. 7. TLINGIT AND HAIDA INDIANS OF ALASKA.

The Secretary of the Department of the Interior shall restore to the list, published in the Federal Register on October 21, 1993, pursuant to part 83 of title 25 of the Code of Federal Regulations, the tribe defined and recognized in the Act of June 19, 1935 (49 Stat. 388), as amended, relating to the Tlingit and Haida Indians of Alaska.

OMNIBUS COMMEMORATIVE COIN BILL

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3616, the omnibus commemorative coin bill, just received from the House; that the bill deemed be read the third time, passed, and the motion to reconsider laid upon the table; further, that any statements thereon appear in the RECORD at the appropriate place as if read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 3616) was deemed read the third time, and passed.

SINE DIE ADJOURNMENT OF THE FIRST SESSION OF THE 103D CONGRESS

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 190, the adjournment resolution.

The PRESIDENT pro tempore. The clerk will state the resolution.

The legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 190) providing for the Sine die adjournment of the first session of the 103d Congress.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

AMENDMENT NO. 1242

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for Mr. MITCHELL, for himself, and Mr. DOLE, proposes an amendment numbered 1242.

On page 1, line 4, strike "Monday" through "23" on page 1 line 5, and insert the following: "Friday, November 26, or the legislative day of Tuesday, November 30, or the legislative day of Wednesday, December 1."

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1242) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 190), as amended, was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SETTING THE DATE FOR CONVENING OF THE SECOND SESSION OF THE 103D CONGRESS

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 300, the joint resolution setting the date for the convening of the second session of the 103d Congress, and that the joint resolution be deemed read the third time, and passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 300) was deemed read the third time, and passed.

DOMESTIC CHEMICAL DIVERSION CONTROL ACT

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3216 regarding Domestic Chemical Diversion Control Act, just received from the House; that the bill be deemed read the third time, and passed, and that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 3216) was deemed read the third time, and passed.

ARBITRATION EXTENSION ACT

Mr. SASSER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1732) a bill to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes.

The PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, that the bill from the Senate (S. 1732) entitled "An Act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes", do pass with the following amendment: Add the following after section 1:

SEC. 2. TREATMENT OF EXPIRED PROVISIONS.

Chapter 44 of title 28, United States Code, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, shall be effective on or after the date of the enactment of this Act as if such chapter and item had not been repealed by section 906 of the Judicial Improvements and Access to Justice Act, as such section was in effect on the day before the date of the enactment of this Act.

Mr. SASSER. I move that the Senate concur in the House amendment.

The motion was agreed to.

TRUMAN FARM HOME

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 486, just received from the House; that the bill be read a third time, passed, that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

The PRESIDENT pro tempore. Is there objection to the several requests? The Chair hears no objection.

Without objection, it is so ordered.

So the bill (H.R. 486) was deemed read a third time and passed.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, we have just passed the Truman Farm Home bill, a measure which has come over on this side. I cosponsored it with Senator DANFORTH.

We are indeed grateful for the leadership of Chairman BUMPERS and assistance of Senators WALLOP and MURKOWSKI.

Mr. President, when a large part of the original Truman Farm in Grandview, MO was sold to developers, Truman was quoted in the Kansas City Star as saying; "I sure hate to see the old place go." Happily, action just completed by the House and now with the concurrence of the Senate, what historian David McCullough characterized as "a national treasure" will be added to the Harry S. Truman National Historic Site preserving it for all to share.

The historical significance of the Truman Farm Home is no longer in question. Most recently, inclusion of the Truman Farm Home was endorsed by David McCullough in a letter to Chairman BUMPERS that I would like unanimous consent to enter as part of the RECORD.

As those who have studied the life of President Truman well know, Truman was a real farmer. Truman lived and worked on the farm from 1905 until he left for the Army in 1917. As many have testified, the significance of the Truman Farm Home is it's integral role in shaping the character and values of the future President. It has here he learned to nurture, to preserve, to persevere, to appreciate the goodness of humanity and that one must first sow before one can reap.

He recognized that working from the soil brings man closer to integrating the basics of what is fundamental and God given. He knew that the internal rewards associated with farm life are what turns life into living and he valued it through and beyond his Presidency.

Mr. President, I thank a number of people who pushed this legislation. In particular, I thank Mr. Robert Eller from Grandview who is the president of the Truman Farm Home and who testified earlier this year on behalf of this legislation. At his own expense he traveled to Washington to do so. He is one of the devoted and knowledgeable volunteers who have worked diligently to protect this important historical site. Additionally, thanks should go to David McCullough and his daughter Dorie who gives every appearance of being just the kind of daughter a distinguished historian might rely upon.

In the Senate, I especially thank Chairman BUMPERS. His knowledge of President Truman rivals that of even the proudest Missourian and we would not be here today if not for his support of this legislation. Finally, thanks to Senators WALLOP and MURKOWSKI and my congratulates to Senator DANFORTH with whom I have worked for some time to render passage of this legislation.

Mr. President, I thank the Senator for helping our Nation preserve this historical treasure where Truman learned what it took to understand the "heat in the kitchen"—a quality he later applied so brilliantly as President during one of history's most critical periods.

Mr. President, I ask unanimous consent that a letter from David McCullough, biographer of President Truman be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 29, 1993.

DEAR CHAIRMAN BUMPERS: I am writing to urge you and your committee to give full support to the bill S-845 that would save the old Truman family homeplace at Grandview, Missouri, and make it part of the National Park Service operation that maintains the Truman home in Independence.

The importance of the Truman farmhouse, in the life of President Truman, and in what it says about our country, could not be greater. The two most formative experiences of his life were his service in France in World War I and his years on the farm. It was there, in the house at Grandwiew, that he lived with his mother, father, and sister for eleven years, up every morning to work the long days as a partner in the family enterprise, in all seasons, beset often by drought, insect plague, falling prices, and always with a load of debt.

It was there on the farm his mother liked to say, that, "Harry got his common sense." It was there, writing to the love of his life, Bess Wallace of Independence, that he poured out the events of his days, his ideas and his heart's desire in hundreds of letters that fortunately have survived, letters that tell us so much about him and about a whole vanished way of life in rural America. It was there, in a house without electricity or running water, that young Harry held the lantern while a country doctor operated on his mother, there that he watched over his father in his dying hour, John Truman having literally worked himself to death.

Some supposedly historic houses have in fact been of only marginal importance in the life of the past Americans they honor. This is not one of those and its preservation is entirely in the national interest.

Harry Truman was not the avocational kind of farmer who never pulled a weed, or never knew the satisfactions and pride of being truly a farmer. He was in this, as in so much else in his life, the real thing. Further, his years on the farm, from 1906 to 1917, coincided with what historians call "The Golden Age" of American agriculture. His grandfather had pioneered the land when it was unbroken prairie. He and his family were living still the Jefferson ideal. He himself often expressed that ideal in the long letters to Bess Wallace, and he would, when the time came, leave the plow and go to war in the spirit of Cincinnatus, another of his heroes.

If the walls of that small plain, seemingly ordinary house could speak, they would have the most American of stories to tell. So let us make sure it is properly preserved. Let the house stand as a symbol of the strength and pride and bedrock decency of the "good farmer," as Truman might have said. It is a national treasure.

Respectfully,

DAVID MCCULLOUGH.

Mr. BOND. I thank the Chair.

CASH AWARDS ACT OF 1993

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 314, S. 1070, a bill to prohibit cash awards to certain Federal officers.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike on page 3, lines 3 through line 6, and insert the part printed in italic on page 3, lines 7 through line 17.

S. 1070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer serves in—

"(1) an Executive Schedule position under subchapter II of chapter 53; or

"(2) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.
"4509. Prohibition of cash award to Executive Schedule officers.".

Mr. SASSER. Mr. President, I ask unanimous consent that the committee amendment be agreed to; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; and that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDENT pro tempore. Is there objection to the several requests by the Senator from Tennessee [Mr. SASSER]?

Mr. BOND. No objection.

The PRESIDENT pro tempore. Hearing no objection, without objection, it is so ordered.

So the bill (S. 1070), as amended, was deemed read three times and passed, as follows:

S. 1070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer serves in—

"(1) an Executive Schedule position under subchapter II of chapter 53; or

"(2) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.
"4509. Prohibition of cash award to Executive Schedule officers.".

The PRESIDENT pro tempore. The Senator from Tennessee, [Mr. SASSER].

WITHDRAWAL OPTIONS OF THE THRIFT SAVINGS PLAN

Mr. SASSER. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1624, regarding the standardizing of withdrawal options of the Thrift Savings Plan, and that the Senate then proceed to its immediate consideration.

The PRESIDENT pro tempore. Is there objection to the discharge of the committee?

The Chair hears no objection. Without objection, it is so ordered.

The clerk will state the title of the bill.

The legislative clerk read as follows:

A bill (S. 1624) to standardize withdrawal options for the Thrift Savings Plan participants, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDENT pro tempore. The Senator from Missouri, [Mr. BOND].

AMENDMENT NO. 1243

(Purpose: To make technical corrections)

Mr. BOND. Mr. President, I send to the desk a technical amendment on behalf of Senator STEVENS for immediate consideration, request the amendment be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the amendment (No. 1243) was agreed to, as follows:

On page 2, line 23, strike out all after "under" through the period on line 24 and insert in lieu thereof "section 8433(b) of this title.".

On page 5, line 14, insert "the" before "annuity".

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARDIZATION OF WITHDRAWAL OPTIONS FOR THRIFT SAVINGS PLAN PARTICIPANTS.

(a) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Section 8351(b) of title 5, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Section 8433(b) of this title applies to any employee or Member who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and separates from Government employment.";

(2) by striking out paragraphs (5), (6), and (8);

(3) by redesignating paragraphs (7), (9), and (10) as paragraphs (5), (6), and (7), respectively;

(4) in paragraph (5)(C) (as redesignated under paragraph (3) of this subsection) by striking out "or former spouse" in both places it appears;

(5) by amending paragraph (6) (as redesignated under paragraph (3) of this subsection) to read as follows:

"(6) Notwithstanding paragraph (4), if an employee or Member separates from Government employment and such employee's or Member's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b) of this title."; and

(6) in paragraph (7) (as redesignated under paragraph (3) of this subsection) by striking out "nonforfeiture" and inserting in lieu thereof "nonforfeitable".

(b) BENEFITS AND ELECTION OF BENEFITS.—Section 8433 of title 5, United States Code, is amended—

(1) in subsection (b) by striking out the matter before paragraph (1) and inserting in lieu thereof "Subject to section 8435 of this title, any employee or Member who separates from Government employment entitled to an annuity under subchapter II of this chapter or any employee or Member who separates from Government employment is entitled and may elect—";

(2) by striking out subsections (c) and (d) and redesignating subsections (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), and (g), respectively;

(3) in subsection (c)(1) (as redesignated under paragraph (2) of this subsection) by striking out "or (c)(4) or required under subsection (d) directly to an eligible retirement plan or plans) (as defined in section 402(a)(5)(E) of the Internal Revenue Code of 1954)" and inserting in lieu thereof "directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986)";

(4) in subsection (d)(2) (as redesignated under paragraph (2) of this subsection) by striking out "or (c)(2)"; and

(5) in subsection (f) (as redesignated under paragraph (2) of this subsection)—

(A) by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in paragraph (1) (as redesignated under subparagraph (A) of this paragraph)—

(i) by striking out "Notwithstanding subsections (b) and (c), if an employee or Member separates from Government employment under circumstances making such an employee or Member eligible to make an election under either of those subsections, and such employee's or Member's" and inserting in lieu thereof "Notwithstanding subsection (b), if an employee or Member separates from Government employment, and such employee's or Member's"; and

(ii) by striking out "or (c), as applicable"; and

(C) in paragraph (2) (as redesignated under subparagraph (A) of this paragraph) by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(c) ANNUITIES: METHODS OF PAYMENT; ELECTION; PURCHASE.—Section 8434(c) of title 5, United States Code, is amended to read as follows:

"(c) Notwithstanding an elimination of a method of payment by the Board an employee, Member, former employee, or former Member may elect the eliminated method if the elimination of such method became effective less than 5 years before the date on which the annuity commences.".

(d) PROTECTIONS FOR SPOUSES AND FORMER SPOUSES.—Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A) by striking out "subsection (b)(3), (b)(4), (c)(3), or (c)(4) of section 8433 of this title or change an election previously made under subsection (b)(1), (b)(2), (c)(1), or (c)(2)" and inserting in lieu thereof "subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2)";

(2) by striking out subsection (b);

(3) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively;

(4) in subsection (b) (as redesignated under paragraph (3) of this subsection) by amending paragraph (2) to read as follows:

"(2) Paragraph (1) shall not apply, if—

"(A) a joint waiver of such method is made, in writing, by the employee or Member and the spouse; or

"(B) the employee or Member waives such method, in writing, after establishing to the satisfaction of the Executive Director that circumstances described under subsection (a)(2) (A) or (B) make the requirement of a joint waiver inappropriate."; and

(5) in subsection (c)(1) (as redesignated under paragraph (3) of this subsection) by striking out "and a transfer may not be made under section 8433(d) of this title".

(e) JUSTICES AND JUDGES.—Section 8440a(b) of title 5, United States Code, is amended—

(1) in paragraph (5) by striking out "Section 8433(d)" and inserting in lieu thereof "Section 8433(b)"; and

(2) by striking out paragraphs (7) and (8) and inserting in lieu thereof the following:

"(7) Notwithstanding paragraphs (4) and (5), if any justice or judge retires under subsection (a) or (b) of section 371 or section 372(a) of title 28, or resigns without having met the age and service requirements set forth under section 371(c) of title 28, and such justice's or judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).".

(f) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b of title 5, United States Code, is amended—

(1) in subsection (b)(4) by amending subparagraph (B) to read as follows:

"(B) Section 8433(b) of this title applies to any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under section 377 of title 28 or section 2(c) of the Retirement and Survivors Annuities for Bankruptcy Judges and Magistrates Act of 1988.";

(2) in subsection (b)(4)(C) by striking out "Section 8433(d)" and inserting in lieu thereof "Section 8433(b)";

(3) in subsection (b)(5) by striking out "retirement under section 377 of title 28 is" and inserting in lieu thereof "any of the actions described under paragraph (4) (A), (B), or (C) shall be considered";

(4) in subsection (b) by striking out paragraph (8) and redesignating paragraph (9) as paragraph (8); and

(5) in paragraph (8) of subsection (b) (as redesignated under paragraph (4) of this subsection)—

(A) by striking out "Notwithstanding subparagraphs (A) and (B) of paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b) or (c)" and inserting in lieu thereof "Notwithstanding paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b)"; and

(B) by striking out "and (c), as applicable".

(g) CLAIMS COURT JUDGES.—Section 8440c of title 5, United States Code, is amended—

(1) in subsection (b)(4)(B) by striking out "Section 8433(d)" and inserting in lieu thereof "Section 8433(b)";

(2) in subsection (b)(5) by striking out "retirement under section 178 of title 28, is" and inserting in lieu thereof "any of the actions described in paragraph (4) (A) or (B) shall be considered";

(3) in subsection (b) by striking out paragraph (8) and redesignating paragraph (9) as paragraph (8); and

(4) in paragraph (8) (as redesignated under paragraph (3) of this subsection) by striking out "Notwithstanding paragraph (4)(A)" and inserting in lieu thereof "Notwithstanding paragraph (4)".

(h) JUDGES OF THE UNITED STATES COURT OF VETERANS APPEALS.—Section 8440d(b)(5) of title 5, United States Code, is amended by striking out "A transfer shall be made as provided under section 8433(d) of this title" and inserting in lieu thereof "Section 8433(b) of this title applies".

(i) TECHNICAL AND CONFORMING AMENDMENTS.—Chapters 83 and 84 of title 5, United States Code, are amended—

(1) in section 8351(b)(5)(B) (as redesignated under subsection (a)(3) of this section) by striking out "section 8433(i)" and inserting in lieu thereof "section 8433(g)";

(2) in section 8351(b)(5)(D) (as redesignated under subsection (a)(3) of this section) by striking out "section 8433(i)" and inserting in lieu thereof "section 8433(g)";

(3) in section 8433(b)(4) by striking out "subsection (e)" and inserting in lieu thereof "subsection (c)";

(4) in section 8433(d)(1) (as redesignated under subsection (b)(2) of this section) by striking out "(d) of section 8435" and inserting in lieu thereof "(c) of section 8435";

(5) in section 8433(d)(2) (as redesignated under subsection (b)(2) of this section) by striking out "section 8435(d)" and inserting in lieu thereof "section 8435(c)";

(6) in section 8433(e) (as redesignated under subsection (b)(2) of this section) by striking out "section 8435(d)(2)" and inserting in lieu thereof "section 8435(c)(2)";

(7) in section 8433(g)(5) (as redesignated under subsection (b)(2) of this section) by striking out "section 8435(f)" and inserting in lieu thereof "section 8435(e)";

(8) in section 8434(b) by striking out "section 8435(c)" and inserting in lieu thereof "section 8435(b)";

(9) in section 8435(a)(1)(B) by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)";

(10) in section 8435(d)(1)(B) (as redesignated under subsection (d)(3) of this section) by striking out "subsection (d)(2)" and inserting in lieu thereof "subsection (c)(2)";

(11) in section 8435(d)(3)(A) (as redesignated under subsection (d)(3) of this section) by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (b)(1)";

(12) in section 8435(d)(6) (as redesignated under subsection (d)(3) of this section) by striking out "or (c)(2)" and inserting in lieu thereof "or (b)(2)";

(13) in section 8435(e)(1)(A) (as redesignated under subsection (d)(3) of this section) by striking out "section 8433(i)" and inserting in lieu thereof "section 8433(g)";

(14) in section 8435(e)(2) (as redesignated under subsection (d)(3) of this section) by striking out "section 8433(i) of this title shall not be approved if approval would have the result described in subsection (d)(1)" and inserting in lieu thereof "section 8433(g) of this title shall not be approved if approval would have the result described under subsection (c)(1)";

(15) in section 8435(g) (as redesignated under subsection (d)(3) of this section) by striking out "section 8433(i)" and inserting in lieu thereof "section 8433(g)";

(16) in section 8437(c)(5) by striking out "section 8433(i)" and inserting in lieu thereof "section 8433(g)"; and

(17) in section 8440a(b)(6) by striking out "section 8351(b)(7)" and inserting in lieu thereof "section 8351(b)(5)".

(j) Interim Provision.—Section 8433(d) of title 5, United States Code, is amended by striking out "shall transfer the amount of the balance" and inserting in lieu thereof "may transfer the amount of the balance".

(k) Effective Dates.—(1) Except as provided in paragraph (2), the provisions of this section shall take effect 1 year after the date of enactment of this Act or upon such other date as the Executive Director of the Federal Retirement Thrift Investment Board shall provide in regulation.

(2) The provisions of subsection (j) of this section shall take effect upon the date of the enactment of this Act.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the title amendment be agreed to.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. Without objection, it is so ordered.

So the title was amended as follows:

Amend the title so as to read: "A bill to amend title 5, United States Code, to eliminate narrow restrictions on employee training, to provide a temporary voluntary separation incentive, and for other purposes.".

TRIBAL SELF-GOVERNANCE ACT OF 1993

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 332, S. 1618, a bill to establish tribal self-governance.

The PRESIDENT pro tempore. The clerk will state the title of the bill.

The legislative clerk read as follows:

A bill (S. 1618) to establish Tribal Self-Governance, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Self-Governance Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-governance flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States Government with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States, and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities intended to benefit Indians, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 3. DECLARATION OF POLICY.

It is the policy of this Act to permanently establish and implement Self-Governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in Self-Governance;

(3) to co-exist with the provisions of the Indian Self-Determination Act relating to provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 4. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (referred to in this title as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (referred to in this title as 'Self-Governance') in accordance with this title.

"SEC. 402. SELECTION OF TRIBES.

"(a) Continuing Participation.—Each tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) Additional Tribes.—In addition to those tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year, from the applicant pool described in subsection (c), to participate in Self-Governance.

"(c) Applicant Pool.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance; and

"(3) has demonstrated, for the previous 3 fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) Planning Phase.—Each tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

"SEC. 403. FUNDING AGREEMENTS.

"(a) Authorization.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government.

"(b) Contents.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities administered by the Department of the Interior that are otherwise available to Indian tribes or Indians, including—

"(A) the Act of April 16, 1934 (popularly known as the 'Johnson-O'Malley Act') (48 Stat. 596, chapter 147; 25 U.S.C. 452 et seq.); and

"(B) the Act of November 2, 1921 (popularly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13);

"(2) subject to the terms of the agreement, authorize the tribe to redesign programs, services, functions, or activities, and to reallocate funds for such programs, services, functions, or activities;

"(3) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) to the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(4) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(5) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(6) provide for retrocession of programs or portions of programs pursuant to section 105(e);

"(7) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(8) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) Submission for Review.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Committee on Natural Resources of the House of Representatives.

"(d) Payment.—

"(1) In general.—At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) Amount.—Subject to paragraph (3) of this subsection and paragraphs (1) and (3) of subsection (b), the Secretary shall provide funds to the tribe for one or more programs, services, functions, or activities in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members.

"(3) Trust services.—Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(e) Civil Actions.—

"(1) Definition of 'contract'.—Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) Professional contracts.—For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(f) Facilitation.—

"(1) Interpretation.—Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2) Waiver.—

"(A) Request.—A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) Decision.—Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is [expressly] prohibited by Federal law.

"(C) Appeal.—Not later than 60 days after denial of a waiver request, the Secretary shall, at the request of a tribe, provide the tribe with a hearing on the record and opportunity for an appeal.

"SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress, any funds proposed to be included in Self-Governance.

"SEC. 405. REPORTS.

"(a) Requirement.—Not later than January 1 of each year after the date of enactment of this title, the Secretary shall submit to Congress a report regarding the administration of this title.

"(b) Contents.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members, and the corresponding reductions in the Federal bureaucracy; and

"(3) include the separate views of the tribes.

"SEC. 406. EFFECT ON OTHER AGREEMENTS AND LAWS.

"Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"SEC. 407. NEGOTIATED RULEMAKING.

"(a) In General.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) Committee.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section, shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) Adaptation of Procedures.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) Effect.—The lack of promulgated regulations shall not limit the effect of this title.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this title.".

Mr. McCAIN. Mr. President, on November 4, 1993, I introduced S. 1618, the Tribal Self-Governance Act of 1993. I have been joined in this effort by Senators Inouye, Murkowski, Gorton, Simon, Wellstone, Durenberger, Campbell, and Reid.

S. 1618 would establish self-governance as a permanent policy within the Department of the Interior and would provide the opportunity for an annual increase in the number of self-governance tribes. In addition, the bill would provide authority for the Secretary of the Interior to promulgate regulations by adapting the general requirements of the Negotiated Rulemaking Act of 1990, as amended (Public Law 101-648).

Mr. President, since 1988 the Department of the Interior has conducted self-governance under demonstration authority. The goal of this demonstration project was to examine the benefits of allowing Indian tribal governments to assume more control over programs and services to their members which are now largely provided through the Bureau of Indian Affairs [BIA]. The project permits participating tribes to enter into compacts for self-governance and annual funding agreements with the Federal Government. Pursuant to these agreements, management authority over specific programs and services is transferred from the BIA to Indian tribal governments. In turn, each participating tribal government is allowed to redesign and operate those programs and services with minimal regulation and BIA involvement.

I have received numerous letters from self-governance tribes endorsing permanent self-governance legislation. These letters include examples of the many positive effects that tribes have experienced under self-governance, such as improvements in: education, economic development, law enforcement, tribal courts, forestry, public works, community services, cultural programs, and tribal government operations. In general, self-governance tribes testified before the Committee on Indian Affairs that:

They are able to more effectively design programs and services that meet the needs of tribal members;

Self-governance has made tribal governments more responsive to the concerns of tribal members; and

Self-governance has allowed them to be more independent of the Bureau of Indian Affairs.

Mr. President, for too long the Federal Government has dictated the policies and procedures that govern Federal Indian programs. Self-governance, on the other hand, returns the management and decisionmaking authority to the tribes and gives the tribes the flexibility to design and allocate funding in a manner that each tribe determines will best meet the needs of its citizenry.

There is no doubt in my mind that self-governance has been a success. One of the ways that I measure the success of self-governance is to see how hard the Federal bureaucracy will fight to maintain the old ways. In this instance, and notwithstanding Secretary Babbitt's support of the self-governance demonstration project, the BIA continues to fight for the status quo.

I predict that over the next couple of months between the close of the first session of the 103d Congress and the beginning of the second session, the BIA will do everything in its power to sabotage the enactment of permanent self-governance legislation. Fortunately, self-governance has enjoyed longstanding, bipartisan congressional support. I am pleased to note that Congressman BILL RICHARDSON, chairman of the House Subcommittee on Native American Affairs, recently introduced H.R. 3508, the companion bill to S. 1618. As Congressman RICHARDSON succinctly state:

> The Self-Governance Act was a proposal developed in Indian country by Indian tribes themselves. It is the right direction at the right time. The bill is nothing less than the future of Indian Affairs.

I look forward to working with Chairman RICHARDSON next year to promptly consider and pass permanent self-governance legislation.

Mr. President, I urge my colleagues to support the passage of S. 1618.

The PRESIDENT pro tempore. The question is on agreeing to the reported committee amendment.

The committee amendment was agreed to.

The PRESIDENT pro tempore. Are there further amendments?

There being no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATING THE DANIEL WEBSTER SENATE PAGE RESIDENCE

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 176, a resolution to designate the Daniel Webster Senate Page Residence, submitted earlier by the majority leader; that the resolution be agreed to, and the motion to reconsider laid upon the table.

The PRESIDENT pro tempore. Is there objection?

Mr. BOND. No objection.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the resolution (S. Res. 176) was agreed to; as follows:

S. RES. 176

Resolved,

SECTION 1. DESIGNATION OF DANIEL WEBSTER SENATE PAGE RESIDENCE.

The Federal building located at 300 4th Street, Northeast, in the District of Columbia, shall be known and designated as the "Daniel Webster Senate Page Residence".

TECHNICAL CORRECTIONS ACT OF 1993

Mr. SASSER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1769) a bill to make a technical correction, and for other purposes.

The PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Amendment: Strike out all after the enacting clause, and insert:

SECTION 1. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days after the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 2. INCREASE OF CDBG PUBLIC SERVICES CAP.

(a) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after the penultimate comma; and

(2) by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) in fiscal year 1994 to the City of Pittsburgh, Pennsylvania, such city may use not more than 20 percent in each such fiscal year for activities under this paragraph".

SEC. 3. CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

SEC. 4. EXCEPTION TO FIRE SAFETY REQUIREMENT FOR NEWLY CONSTRUCTED MULTIFAMILY PROPERTY.

In the case of any newly constructed multifamily property, as defined in section 31(c)(2)(A)(ii) of the Federal Fire Prevention and Control Act of 1974, in the city of New York in the State of New York, the requirement contained in section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 with respect to an automatic sprinkler system shall be deemed to be met if such property meets an equivalent level of safety (as defined in section 31(a)(3) of such Act).

Mr. SASSER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion to concur.

The motion was agreed to.

VIETNAM WOMEN'S MEMORIAL COIN ACT OF 1994

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 233, S. 469, a bill to require the minting of coins in commemoration of the Vietnam Women's Memorial.

The PRESIDENT pro tempore. The clerk will state the title of the bill.

The legislative clerk read as follows:

A bill (S. 469) to require the Secretary of the Treasury to mint coins in commemoration of the Vietnam Women's Memorial.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDENT pro tempore. Are there any amendments?

AMENDMENT NO. 1244

Mr. SASSER. Mr. President, on behalf of the distinguished Senator from Georgia [Mr. NUNN], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for Mr. NUNN, proposes an amendment numbered 1244.

Strike lines 7-10 and insert the following:

(c) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this title during the period beginning on May 1, 1994 and ending on May 1, 1995.

The PRESIDENT pro tempore. The question is on the agreeing to the amendment.

The amendment (No. 1244) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, on Tuesday, March 2, 1993, Senator MIKULSKI and I introduced S. 469, the Vietnam Women's Memorial Coin Act of 1994. I am pleased that this legislation has passed the Senate, and accordingly I would like to thank all my colleagues for supporting such a worthy cause.

Military women made many sacrifices on behalf of our country during the Vietnam war. It is the objective of the Vietnam Women's Memorial project [VWMP] to honor and recognize these women who volunteered to serve in the Armed Forces. Passage of the Vietnam Women's Memorial Coin Act provides an opportunity for every American to honor the tens of thousands of women who served during the Vietnam war era by establishing an endowment which would serve as a permanent source of support for the Vietnam Women's Memorial.

As many of you know, the memorial was dedicated in a moving ceremony held on Veterans' Day, November 11, 1993, at the site of the Vietnam Veterans' Memorial. It is the first memorial in the Nation's Capital to pay tribute to women's military service.

The passage of this legislation in the Senate, and ultimately in the House of Representatives, will provide the Vietnam Women's Memorial project with the financial wherewithal to ensure a living memorial. Even thought the memorial to the women who served has been dedicated, the healing must continue.

Many deserve recognition in making this project a reality. One individual, however, is deserving of special praise, Diane Carlson Evans. Through her will and dedication, this memorial was made possible.

Also, I would like to recognize Ms. Gleena Goodacre. Ms. Goodacre, a sculptor from Santa Fe, NM, created the memorial. Her creative vision for this memorial capture the spirit of the woman who served in Vietnam.

I look forward now to the passage of S. 469 in the House of Representatives. I am confident that Congresswoman CONNIE MORELLA and Congresswoman BLANCH LAMBERT will be successful in their efforts.

The PRESIDENT pro tempore. Are there further amendments?

If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vietnam Women's Memorial Coin Act of 1994".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 600,000 one-dollar coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the coins issued under this Act shall be emblematic of the Vietnam Women's Memorial sculpture. On each coin there shall be a designation of the value of the coin, an inscription of the year "1994", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SELECTION OF DESIGN.

The design for the coins authorized by this Act shall be selected by the Secretary after consultation with the Chair of the Vietnam Women's Memorial Project, Incorporated. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this title during the period beginning on May 1, 1994 and ending on May 1, 1995.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins authorized under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (c) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(c) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Vietnam Women's Memorial Project, Incorporated, to be used—

(1) to establish and maintain an endowment to be a permanent source of support for the Vietnam Women's Memorial;

(2) for education and research concerning veterans and their families; and

(3) for the identification and documentation of the more than 250,000 women who served in the Armed Forces of the United States during the Vietnam era.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Vietnam Women's Memorial Project, Incorporated, as may be related to the expenditures of amounts paid under section 8.

SEC. 10. NUMISMATIC PUBLIC ENTERPRISE FUND.

The coins issued under this Act are subject to the provisions of section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

SEC. 11. FINANCIAL ASSURANCES.

It is the sense of the Congress that this coin program shall be self-sustaining, and should be administered to result in no net cost to the Numismatic Public Enterprise Fund.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER].

ORDER FOR STAR PRINT—REPORT 103–188 TO ACCOMPANY S. 1675

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate Report number 103–188, the Report to accompany S. 1675, the Government Streamlining and Reform Act, be star printed to reflect the changes I now send to the desk.

Mr. BOND. No objection.

The PRESIDENT pro tempore. Without objection, it is so ordered. The star print will be so printed.

COIN SALE TO RENOVATE THE MOUNT RUSHMORE MEMORIAL

Mr. SASSER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 1783, a bill introduced earlier today by Senator DASCHLE, to allow proceeds from the sale of coins to renovate the Mt. Rushmore National Memorial, that the bill be read three times, passed, the motion to reconsider laid upon the table, and further that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Is there any objection to the several requests of the Senator from Tennessee?

Mr. BOND. No objection.

The PRESIDENT pro tempore. Hearing no objection, the requests are granted.

The bill (S. 1783) was deemed read the third time and passed as follows:

S. 1783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF PROCEEDS FROM MOUNT RUSHMORE COMMEMORATIVE COINS.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

MEASURES INDEFINITELY POSTPONED—CALENDAR NOS. 113, 114, 115, 117, 118, 119, 189, 190, 191 and 328

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed:

Calendar Nos. 113, 114, 115, 117, 118, 119, 189, 190, 191 and 328.

Mr. BOND. No objection.

The PRESIDENT pro tempore. Is there objection to the indefinite postponement of the aforesaid items en bloc? The Chair hears no objection and the request is agreed to.

CHANGE OF REFERENCE—S. 1735

Mr. SASSER. Mr. President, I ask unanimous consent that S. 1735, the Privacy Protection Act of 1993, be discharged from the Judiciary Committee and referred to the committee of jurisdiction, the Governmental Affairs Committee.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Tennessee? Hearing no objection, the request is agreed to.

ACTION ON TITLE AMENDMENT VITIATED—S. 1624

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I ask unanimous consent that Senate action on the title amendment to S. 1624 be vitiated.

The PRESIDENT pro tempore. Is there objection to the Senator's request? There being no objection, the request is granted.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TLINGIT AND HAIDA INDIAN TRIBES

Mr. BOND. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1784, a bill to restore the Tlingit and Haida Indian tribes to the list of Indian entities recognized to receive services from the Bureau of Indian Affairs, introduced earlier today by Senators MURKOWSKI and STEVENS; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements relating to this measure appear in the RECORD at the appropriate place, as if read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (S. 1784) was deemed read the third time and passed, as follows:

S. 1784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION.

The Secretary of the Department of the Interior shall restore to the list, published in the Federal Register on October 21, 1993 pursuant to 25 C.F.R. Part 83, the tribe defined and recognized in the Act of June 19, 1935 (49 Stat. 388), as amended, relating to the Tlingit and Haida Indians of Alaska.

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Central Council of Tlingit and Haida Indian Tribes of Alaska technical correction bill of 1993.

On April 20, 1993, the Bureau of Indian Affairs published a new list of "Indian entities recognized and eligible to receive Services from the United States Bureau of Indian Affairs." The Central Council of Tlingit and Haida Indian Tribes of Alaska was not included on the new list.

Mr. President, the first list to include any tribal entities in Alaska was published in 1982. Subsequent lists have been printed by the U.S. Bureau of Indian Affairs in 1983, 1985, and 1986. The Central Council of Tlingit and Haida Indian Tribes of Alaska has been on every one of these lists.

The Bureau of Indian Affairs removed the Central Council of Tlingit and Haida Indian Tribes of Alaska from the list without congressional oversight. The Senate Committee on Indian Affairs held no hearings on this matter and the Bureau of Indian Affairs did not formally present any explanation for the removal of the Central Council of Tlingit and Haida Indian Tribes of Alaska from the list. This is a significant misuse of Federal department power.

To resolve this problem, on November 18, 1993, during the Senate Committee on Indian Affairs markup of S. 1654, I offered an amendment to restore Central Council to BIA's list. My amendment was accepted by the committee without a single objection. Unfortunately, the Bureau of Indian Affairs has informed my office that the BIA will recommend the President veto S. 1654 if the bill includes the Central Council provision. For this reason, Senator INOUYE and I agreed to strike the central council provision from S. 1654 and introduce a freestanding bill concerning the Central Council of Tlingit and Haida Indian Tribes of Alaska.

This bill is identical to the amendment that passed in committee by unanimous consent on November 18, 1993.

The bill does not do anything new. The bill makes a technical correction to BIA's list and should not be viewed as setting any precedent for Federal recognition of a tribe. My bill simply restores the status quo of October 20, 1993, by placing the Central Council of Tlingit and Haida Indian Tribes of Alaska back on the list and restores central council to the same position it was in before it was deleted from the republished list.

I urge my colleagues to support this legislation.

TECHNICAL CORRECTIONS ACT OF 1993

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 312, S. 1654, to make technical corrections to the various Indian laws.

The PRESIDENT pro tempore. The clerk will state the bill.

The legislative clerk read as follows:

A bill (S. 1654) to make certain technical corrections.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to insert the part printed in italic on page 5, line 5, through page 6, line 9.

So as to make the bill read:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) ENVIRONMENTAL COSTS.—Section 7(e) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374, 106 Stat. 1186 et seq.) is amended by adding at the end thereof the following new sentences: "All costs of environmental compliance and mitigation associated with the Compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States. All moneys appropriated pursuant to the authorization under this subsection are in addition to amounts appropriated pursuant to the authorization under section 7(b)(1) of this Act, and shall be immediately available.".

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(b)(1)(B) and 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

SEC. 2. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) AMENDMENT.—Section 3704(d) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (Public Law 102–575) is amended by deleting "reimbursable" and inserting in lieu thereof "nonreimbursable".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered to have taken effect on October 30, 1992.

SEC. 3. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

The part of the text contained under the heading "BUREAU OF INDIAN AFFAIRS", and the subheading "OPERATION OF INDIAN PROGRAMS", in title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, which reads "*Provided further*, That any funds provided under this head or previously provided for tribally controlled community colleges which are distributed prior to July 1, 1994 which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with title III of the Tribally Controlled Community Colleges Assistance Act." is amended by deleting "section 331 of the Higher Education Act" and inserting in lieu thereof "section 332(c)(2)(A) of the Higher Education Act of 1965".

SEC. 4. WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985.

Section 7 of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended by adding at the end thereof the following:

"(f)(1) The Secretary is authorized to make a one-time deletion from the second list published under subsection (c) or any subsequent list published under subsection (e) of any allotments or interests which the Secretary has determined do not fall within the provisions of subsection (a) or (b) of section 4, or subsection (c) of section 5, or which the Secretary has determined were erroneously included in such list by reason of misdescription or typographical error.

"(2) The Secretary shall publish in the Federal Register notice of deletions made from the second list published under subsection (c) or any subsequent list published under subsection (e).

"(3) The determination made by the Secretary to delete an allotment or interest under paragraph (1) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

SEC. 5. AMENDMENTS.

(a) TECHNICAL AMENDMENT.—Section 3508(d)(1) and section 3509(c)(1) of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act (title XXXV; Public Law 102-575; 106 Stat. 4731) are each amended by deleting "1 year" and inserting in lieu thereof in each such section "twenty-six months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered as having taken effect October 30, 1992.

SEC. 6. AMENDMENTS.

Section 1(c) of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended as follows:

(1) delete "9,811.32" and insert in lieu thereof "9,879.65"; and

(2) delete everything after "5 8 17 All 640.00" and insert in lieu thereof the following:

"6 8 1	*SW1/4SW1/4,W1/2SE1/4SW1/4*	*53.78*
"6 8 1	*S1/2E1/2SE1/4SW1/4*	*9.00*
"6 7 8	*Tax lot 800*	*5.55*
"TOTAL	....	*9,879.65".*

SEC. 7. TLINGIT AND HAIDA INDIANS OF ALASKA.

The Secretary of the Department of the Interior shall restore to the list, published in the Federal Register on October 21, 1993, pursuant to part 83 of title 25 of the Code of Federal Regulations, the tribe defined and recognized in the Act of June 19, 1935 (49 Stat. 388), as amended, relating to the Tlingit and Haida Indians of Alaska.

AMENDMENT NO. 1245

(Purpose: To make certain technical corrections)

Mr. SASSER. Mr. President, on behalf of the distinguished Senator from Hawaii [Mr. INOUYE], I send to the desk an amendment and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for Mr. INOUYE, proposes an amendment numbered 1245.

On p. 6, line 3, delete the following:

SEC. 7. TLINGIT AND HAIDA INDIANS OF ALASKA.

The Secretary of the Department of the Interior shall restore to the list, published in the Federal Register on October 21, 1993, pursuant to part 83 of title 25 of the Code of Federal Regulations, the tribe defined and recognized in the act of June 19, 1935 (49 Stat. 388), as amended, relating to the Tlingit and Haida Indians of Alaska.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

So the amendment (No. 1245) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I would like to voice my support of S. 1654, making technical corrections to the Northern Cheyenne Indian Water Rights Settlement Act of 1992. These corrections are necessary to clarify the portion regarding the environmental compliance and mitigation.

Due to a typographical error, the correction contained in S. 1654 clarifies that the funds may be spent on the environmental compliance. It is important to stress that the State of Montana remains firmly committed to paying for its share of the compact's implementation costs—totaling $21.8 million. These costs will include mine flooding and agricultural dewatering mitigation which are a part of the construction costs.

It is important that this bill move forward in the legislative process. I would like to thank Chairman INOUYE of the Indian Committee and ranking member MCCAIN for their work on behalf of this settlement.

I thank the Chair.

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1654), as amended, was passed, as follows:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) ENVIRONMENTAL COSTS.—Section 7(e) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374, 106 Stat. 1186 et seq.) is amended by adding at the end thereof the following new sentences: "All costs of environmental compliance and mitigation associated with the Compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States. All moneys appropriated pursuant to the authorization under this subsection are in addition to amounts appropriated pursuant to the authorization under section 7(b)(1) of this Act, and shall be immediately available.".

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(b)(1)(B) and 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

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(a) AMENDMENT.—Section 3704(d) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (Public Law 102–575) is amended by deleting "reimbursable" and inserting in lieu thereof "nonreimbursable".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered to have taken effect on October 30, 1992.

SEC. 3. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

The part of the text contained under the heading "BUREAU OF INDIAN AFFAIRS", and the subheading "OPERATION OF INDIAN PROGRAMS", in title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, which reads "*Provided further*, That any funds provided under this head or previously provided for tribally controlled community colleges which are distributed prior to July 1, 1994 which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with title III of the Tribally Controlled Community Colleges Assistance Act." is amended by deleting "section 331 of the Higher Education Act" and inserting in lieu thereof "section 332(c)(2)(A) of the Higher Education Act of 1965".

SEC. 4. WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985.

Section 7 of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended by adding at the end thereof the following:

"(f)(1) The Secretary is authorized to make a one-time deletion from the second list published under subsection (c) or any subsequent list published under subsection (e) of any allotments or interests which the Secretary has determined do not fall within the provisions of subsection (a) or (b) of section 4, or subsection (c) of section 5, or which the Secretary has determined were erroneously included in such list by reason of misdescription or typographical error.

"(2) The Secretary shall publish in the Federal Register notice of deletions made from the second list published under subsection (c) or any subsequent list published under subsection (e).

"(3) The determination made by the Secretary to delete an allotment or interest under paragraph (1) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

SEC. 5. AMENDMENTS.

(a) TECHNICAL AMENDMENT.—Section 3508(d)(1) and section 3509(c)(1) of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act (title XXXV; Public Law 102-575; 106 Stat. 4731) are each amended by deleting "1 year" and inserting in lieu thereof in each such section "twenty-six months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered as having taken effect October 30, 1992.

SEC. 6. AMENDMENTS.

Section 1(c) of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended as follows:

(1) delete "9,811.32" and insert in lieu thereof "9,879.65"; and

(2) delete everything after "5 8 17 All 640.00" and insert in lieu thereof the following:

"6 8 1	SW1/4SW1/4,W1/2SE1/4SW1/4	53.78
"6 8 1	S1/2E1/2SE1/4SW1/4	9.00
"6 7 8	Tax lot 800	5.55
"TOTAL.................		9,879.65".

Mr. SASSER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to speak as in morning business for up to 10 minutes, or until such time as the leaders return.

The PRESIDENT pro tempore. Morning business has not been closed. The Senator is recognized for not to exceed 10 minutes.

REFORMING HEALTH CARE

Mr. BOND. Mr. President, this year, we have seen a great deal of discussion and a good deal of information that has gone back and forth by Members of this body by concerned citizens about reforming health care. I believe there is a general recognition now that while we have the finest health care system in the world today, there are definitely reforms which must be made.

When a person is sick, if they live in another country, if they have a very serious illness, they usually want to come to the United States because we can do a better job of treatment with high technology and skilled professionals than any other country in the world.

At the same time, however, we see the problems in the health care system. We see spiraling costs, which make it impossible for some families to buy insurance.

We see the problems of people who are not covered by insurance. These people often do not get the care they need, and when they do get the care they need, it is usually at the very late stage of their illness when it is more difficult to care for them and it is often in an inappropriate setting.

Finally, we see too much waste in the system itself. There is waste from the paperwork blizzard; there is waste in overly restrictive antitrust regulations; there is waste from malpractice and litigation costs. In addition, we know that people have lost their insurance when they have become sick because companies have chosen to lower their premiums by choosing to avoid insuring those who are sick, avoiding the risk rather than spreading the risk. This has meant that too many families across this country, and I know personally families in my State, who have found with a sudden illness, a severe illness in the family or the birth of a child with significant birth defects, their insurance has been cut off and the family has been put in severe financial straits, if not bankruptcy, as a result of the loss of insurance.

I think also, Mr. President, there is widespread agreement that we have to deal with those problems. I have been encouraged that we have begun a dialog in this body and in Washington and in communities throughout this country on what needs to be done in health care reform.

I intend personally to participate in a number of the summits and a number of the discussions out across the country in the next few months. I know my colleagues will as well. I think we ought to consider the fact that this is a sufficiently important decision that every American should take the time to consider what health care reform will mean, what it may mean to their families, to themselves, and to the country as a whole.

The President, with the very able leadership of the First Lady, has brought forth a major piece of health care reform legislation. In the House, there have been several pieces of legislation that have been introduced, one by Representatives COOPER and GRANDY, that has gained a good deal of attention.

In this body, just the other day, Senator CHAFEE introduced on behalf of the Republican cosponsors the HEART proposal. I am cosponsor of that. There have been other measures introduced by Senators BREAUX and DURENBERGER, by Senator GRAMM, by Senator NICKLES, and others. I think we have the general idea of the framework in which health care reform is going to be discussed. It is my view that we ought to approach this question by saying, first, let us do no harm. If there are areas where the system is not broken, let us not break it. Do not try to fix something that is not broken.

There is agreement on the areas that we should fix. We need to have electronic data information, electronic filing. The President calls it the health security card. I think that can save billions of dollars. We should move forward on that.

With the Senator from Michigan, Senator RIEGLE, I have introduced a measure which will establish the standards, the groundwork, and the privacy and confidentiality standards needed for electronic filing of health care claims, the processing and the paying of them. Ultimately, it will give us better information on illnesses, sicknesses, and the treatment and what works best. It can also help us in the competitive marketplace by seeing who charges too much, where there are people who are doing the treatments, providing the care more efficiently and effectively. That is one part of it. That needs to go forward.

We also believe that competition can do a job of bringing down health care costs. Just 2 days ago I received a statement from a company headed by an acquaintance of mine in Springfield, MO, whose job it is to handle health care claims for small- and medium-sized employers in the area. He has found that by using the purchasing power, getting information from the health care providers, he can hold health care costs down. This is a small company, but it is providing a vitally important role in the competitive market system by pointing out which providers charge too much and getting other providers to bring their costs down. I believe that competition can work. I believe there are examples in other areas where large corporations have purchased health insurance effectively. We know California, North Carolina, and other States are moving forward.

I believe, however, that one of the elements in the President's plan, that of requiring you purchase your health insurance through a monopolies alliance would work against these competitive efforts to see that the purchasers of insurance get the best deal. If we have only one health alliance in the area, and there are penalties imposed on you if you do not go through it, then you can expect the kind of service that you get from a monopoly. It would be like going to the State store in a Communist country; they will take care of you if and when they want to. In our competitive system, voluntary groups working together to provide the best deal for those purchasing health care can make a difference, and I believe we should give it a try.

In addition, I know that many of my colleagues in this body are concerned about the proposal to require employers to provide health care. Most employers I know today who can afford to provide health care do it because it is a very important and valuable tool for recruiting employees. For those who cannot, to tell them that they must provide health care, threatens to cut back on jobs. People are going to hire fewer workers if they have to pay health care insurance. Some small businesses suggest they might go out of business. Economists will disagree whether it could cost 600,000 or 3 million employees. But any number is too many.

I believe that even the system of subsidies, which is a very complicated one and a very expensive one, does not solve the problem. That is why we have been working on a bipartisan basis in a mainstream coalition with Members of both sides of the aisle in this body and both sides of the aisle in the other body to assure that we reform the health insurance market, to assure that we reform the malpractice market, to make sure we have electronic data information, to utilize competition and to make health care readily accessible to all. The way the Chafee-Dole-Bond bill does it, the HEART bill, is to provide tax fairness, allowing everybody who pays health insurance premiums up to the standard amount, which roughly would be $4,200 a year, would get to deduct it. For insurance premiums above that, they would not be deductible. That would pay for making everybody equal, giving them an even playing field in terms of deductibility. For the poor who are not on Medicare or Medicaid or other Government programs or Indian health care programs or native American health care programs, we would make vouchers, vouchers equal to 100 percent of the standard benefit plan, that $4,200 of which I spoke. We would make that available to the individuals who are below the poverty level or at it and enable them to purchase through voluntary cooperatives or choose their own health care providers.

As we develop savings by changes not by ratcheting down the reimbursement for Medicare but substantive changes like bringing in managed care for Medicaid, means testing part B entitlements for Medicare, as we phase those in and only as we phase those in, under the HEART plan we would increase partial vouchers on a declining scale to people 240 percent of poverty. At that time everybody would be required to have health insurance, and there would be a tax penalty if you were above the poverty line and did not have that insurance. That would end the problem of cost shifting, which is a serious problem. Unfortunately, cost shifting is also in part caused by the Federal Government which has ratcheted down reimbursements for Medicare and Medicaid. We need to get rid of the practice of trying to squeeze more money out of providers if we are forcing those costs on to the private pay sector.

But probably the most important thing we need to do in health care is to avoid starting a major new entitlement program that will run out of control.

I note with concern that there are at least four major entitlement programs in the President's health care plan. We all know that the growth in entitlements, mandated spending programs, threaten to drive this country into a fiscal crisis where our budget is totally out of control if we do not deal with it. We need to deal with the entitlement programs like Medicare and Medicaid. But unfortunately, there is a danger as we consider health care that we might replace these rapidly growing entitlements or build on them by adding entitlements for early retirees, for prescription drugs, and for other areas for which we cannot pay.

I am concerned so that I would urge my colleagues, and those who are interested, to look at the statements of independent economists, economists who have taken a look at these financing plans. Many have called them extremely expensive. Some have suggested the cost of some of these entitlements could run anywhere from $70 to $100 to $300 billion a year. That amount would either be added to the deficit which would further push our country toward hyperinflation, degrade our currency or it would require significant percentage increases in the income tax to avoid it.

I believe that we must reform health care. I trust that we can work together on a bipartisan basis in this body next year to come to solid agreements on what we can do to fix that which is wrong. But I hope that we will not make mistakes that break down the system that we have today, or that throw people out of work unnecessarily, or that drive costs through the roof and put our Federal budget further out of control.

Mr. President, 1994 should be a challenging and exciting year, and I look forward to working with my colleagues on the health care reform as we proceed in that year.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed as though in morning business for 3 or 4 minutes.

The PRESIDENT pro tempore. The Senate is in morning business and the Senator from Minnesota is recognized and may proceed for 10 minutes.

THE FEAST OF THANKSGIVING

Mr. DURENBERGER. Mr. President, I appreciate that. I appreciate being here today. I appreciate seeing the President pro tempore in the chair—it's a very pleasant way to end the year 1993.

I am leaving to celebrate the feast of Thanksgiving with my parents. I also celebrate the fact that just this week I discovered that I am going to be a grandfather for the first time. I am feeling very, very grateful in what has been a rather amazing year for me as a person. For a lot of the rest of us, I feel very grateful for the gift of life.

MARSHALL HOUTS

Mr. DURENBERGER. Mr. President, I came here today because today is a very sad day for me. I have just learned of the death of a very, very dear friend, Marshall Houts, who lived in Dana Point, CA, right near the fire. In fact, he used to have a home just a year or so ago with his wonderful wife, Mary, at Emerald Beach in Laguna Beach.

But I rise to say goodbye, to him here in the Senate, because I have the privilege of this floor, and the privilege of this service. But, I would have traded all of this for the privilege of being Mary Houts and being married to this wonderful Marshall Houts for all the years she was.

Marshall was born an itinerant preacher's son in Tennessee many years ago. Because his parents worked hard to educate their children, he was able to go to the University of Minnesota, and get a good education. He decided that the law was the forum in which he could carry on the same kind of crusade that his father had carried on as a preacher—packing his talents in his saddlebags, and going from town to town bringing the word of the Lord and the benefits of his education to people. Marshall chose to do that in the law, and met his wife, Mary—a young lady from Pipestone, MN—at the University of Minnesota. They married, and he went to Pipestone to practice law, it's a very small town and he enjoyed it a great deal. But the Second World War came along almost immediately. He went into the FBI. He spent his period of time in the FBI in various theaters of operation, and ended up in Burma where he contracted malaria, and came back with the aftereffects of that malaria.

But he also came back with this talent to use the law for the benefit of other people. He also had a talent for writing and for communicating.

He became a special municipal judge in Pipestone, and taught law at UCLA, the University of Michigan, Pepperdine University, and University of California—Irvine.

One of the key chances that came along in his life was to work with the late, great Erle Stanley Gardner. For those who are old enough in this Chamber, and I may be the only one—perhaps the President pro tempore also remembers the beginning of television and the near-miraculous opportunity TV gave us to see and do things that we could not do otherwise—Erle Stanley Gardner brought us his truly classic version of the "whodunit." But he also spread the opportunity to have cases resolved to a lot of people dealing with very difficult cases.

Marshall Houts was a principal researcher, for Gardner's "Court of Last Resort"—the man behind the legend. That's where he picked up his interest in medical pathology. He has written 35 books and 150 articles on medical-legal pathology, and at the time of his death was probably the preeminent expert in this country on medical-legal issues.

Among his notable works are "Lawyers Guide to Medical Proof," "Courtroom Medicine," "Courtroom Toxicology" (6 vols.), "Providing Medical Diagnosis and Prognosis" (12 vols.), "The Art of Advocacy: Cross-examination of Medical Witnesses." and "How They Judged Him: The Legal Trials of Jesus." He also co-wrote former Minnesota Governor Harold Stassen's "Eisenhower: Turning the World Toward Peace."

In the latter part of his life, he and Mary raised 7 children. They were extremely happy with those children. The children bore them grandchildren, and they became friends to all of the rest of us. And in some of my times of trial I personally have had over the last 4 years, he is probably my best friend. He would react to what we saw on TV and read in the papers, and he would send me these extremely sincere and helpful message slips.

He was never happy with my lawyers. He always thought my lawyers were not giving me my money's worth. He would send me critiques once he got a FAX machine.

His son told me that over the weekend as he was dying of leukemia—which for some period of time he thought might have been related to his malaria—at one point when he was delirious he said, "Don't let them do that to Dave. Don't let them do that to Dave. Let David reduce his bill. Let Dave do his thing." He was committed to what he knew I knew about health care reform and how involved I was in it, and somehow he saw some of the trials in my life as an impediment to getting that done.

I appreciate that being among his last lucid or other thoughts, because it was so typical of Marshall Houts and everything that he did in his life. He lived for other people. He reached as many people as he possibly could and in as many ways as he possibly could.

It came as a shock to me and to his many other friends in Minnesota and around this Nation that the Lord chose to take him now and to take him so quickly.

We miss him deeply. We share with his wife, Mary, and with all of his children, with his many friends that loss as our way of guaranteeing that we will remember in our lives what Marshall Houts taught us.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, we are now prepared to conclude business in the Senate for today and but for a formal act on Friday for the year.

Much has been said about what we have done, but I want to say before leaving that I genuinely appreciate the cooperation and patience of all Senators with the difficult demands which the legislative schedule has imposed this year. I hope all Senators will enjoy the Thanksgiving holiday with their families and then return in January refreshed and ready to proceed with what I know will be an important agenda of business, including health care reform and other measures.

Finally, I want to say that, as always, it has been a great personal pleasure for me to have worked with my friend, the distinguished Republican leader, Senator DOLE. As he said a short time ago on the Senate floor, we often disagree, but never once has it been personally disagreeable. As the distinguished Presiding Officer knows himself, having been a leader for much longer than either Senator DOLE or I, it is imperative that there be a relationship of trust between the leaders. Otherwise, the Senate could not function, or could function only with much greater difficulty than is the case.

So I thank the Republican leader for his courtesy, his cooperation, and the fact that where we have disagreed—and that has been often, there is no masking that fact—it has been on principle and issues, and never in a way to undermine or break the relationship of trust which is so essential for leaders in this institution.

Mr. DOLE. Mr. President, let me thank the Presiding Officer for all his help and encouragement over the years, particularly this year. It has been a difficult year, particularly with some of the issues coming from the Appropriations Committee, and also for the many statements he has made on the floor, and for his continued concern about the Senate as an institution.

I want to repeat what I said earlier. I think the leaders must get along. Otherwise, nothing would happen, and as we mentioned gridlock, you have deadlock, or something worse.

So I have enjoyed, and always have, working with the leaders on the other side of the aisle, with the distinguished President pro tempore, and now with Senator MITCHELL. We have to trust each other. We have to have private meetings where it does not go outside of the room, because otherwise the work of the Senate would not be completed. We have had disagreements. That is the nature of this place, and we have different views on different issues, and different philosophies in some cases when it comes to parties. But I believe we have moved fairly well this year. Maybe it was a rocky start, but I think we have moved fairly well.

I put in the RECORD the other day how many nominations have been cleared and how many bills passed. It is a good record. We have worked hard at it. The Senate has worked hard. In addition to thanking the majority leader, I thank all of my colleagues on both sides of the aisle for their patience, and I apologize for their frustrations from time to time with the leadership, on both sides, I assume.

JIM WHITTINGHILL

Mr. DOLE. Mr. President, in the remarks I made earlier regarding those who were helpful on the Brady bill, I omitted the name of Jim Whittinghill. I want the RECORD to reflect recognition of his outstanding efforts to bring this matter to a conclusion.

Mr. MITCHELL. Mr. President, one concluding remark—10 months ago, when we began this session, the Presiding Officer was in the chair. It is fitting and appropriate that the distinguished President pro tempore of the Senate, chairman of the Senate Appropriations Committee, former minority leader, former majority leader, and clearly the person most knowledgeable about and most identified with the U.S. Senate be in the chair as we conclude this session.

I know the distinguished chairman will not mind my encouraging Senators to include in their reading plan for the recess period the truly remarkable series of 14 statements which the President pro tempore delivered on the floor of the Senate through the course of the year on the origins of a large part of what we know as democracy and the roots of the concept of separation of powers.

I have read each of the 14 twice, and I marvel at the knowledge and wisdom which went into those statements. In fact, I think it is the kind of thing every American should read to give us some understanding and appreciation of what we have in this country. We are the most fortunate people ever to have lived to be American citizens of the most free, open, and just society in all of human history; and all Americans would do well to gain a better appreciation of that by reading the series of lectures by the distinguished President pro tempore.

I will say, finally, we do work very hard and we did get a lot done. I know I speak not only for the distinguished Republican leader and the President pro tempore, but for every single Member of this Senate in saying there can be no greater honor in a representative democracy than serving in this institution. It is the highest honor and the privilege of my life, and I believe every Senator feels that and believes that. Our obligation now is to follow on the efforts of this first session with the second session, which will justify our heritage and our obligation.

ORDERS FOR NOVEMBER 26, 1993

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until Friday, November 26, at 1 p.m., unless the Senate has, by that time, been notified that the House has concurred in the Senate amendment to House concurrent resolution 190 and has adjourned sine die, in which case the Senate is considered adjourned sine die until January 25, 1994, as under the previous order.

The PRESIDENT pro tempore. Is there objection?

Hearing no objection, the request is agreed to.

ADJOURNMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand adjourned as under the previous order.

There being no objection, The Senate, at 3:07 p.m., adjourned until Friday, November 26, 1993, at 1 p.m.

ADJOURNMENT SINE DIE

Under the previous order, and in accordance with the provisions of House Concurrent Resolution 190, the Senate adjourned sine die.

Thereupon, at 3:07 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate November 24, 1993:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

THOMAS A. DINE, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE CAROL C. ADELMAN, RESIGNED.

DEPARTMENT OF DEFENSE

ROBERT M. WALKER, OF WEST VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE SUSAN MORRISEY LIVINGSTON, RESIGNED.

APPALACHIAN REGIONAL COMMISSION

JESSE L. WHITE, JR., OF NORTH CAROLINA, TO BE FEDERAL COCHAIRMAN OF THE APPALACHIAN REGIONAL COMMISSION, VICE JACQUELINE L. PHILLIPS, RESIGNED.

FEDERAL DEPOSIT INSURANCE CORPORATION

ANDREW C. HOVE, JR., OF NEBRASKA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF 6 YEARS. (REAPPOINTMENT)

ANDREW C. HOVE, JR., OF NEBRASKA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

ANNE L. HALL, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF 6 YEARS, VICE C.C. HOPE, JR.

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be brigadier general

COL. HARRY I. WADDLE [redacted]

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. RICHARD C. ALLEN, U.S. NAVY [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

To be major

ABRAMS, LAWRENCE J. [redacted]
*ACE, GARY W. [redacted]
ADAMS, DAN L., JR [redacted]
ADAMS, DAREN L. [redacted]
*ADAMS, EMORY Y. [redacted]
ADENDORFF, ADRIAAN [redacted]
AHN, SOONG B. [redacted]
*AHRENS, PATRICK J. [redacted]
ALBERTO, DONNA A. [redacted]
ALBERTO, RONALD P. [redacted]
ALEXANDER, JOHN S. JR. [redacted]
*ALLEN, GERALD B. [redacted]
ALLEN, WILLIAM T. [redacted]
ALLEN, CHRISTOPHER [redacted]
*ALSTON, WILFORD A. [redacted]
*ALTAVILLA, PETER A. [redacted]
*ALTMAN, MARY A. [redacted]
ALVAREZ, JULIO L. [redacted]
ANDERSON, DAVID P. [redacted]
*ANDERSON, ELIJAH [redacted]
*ANDERSON, GLENN A. [redacted]
ANDERSON, KEITH A. [redacted]
*ANEST, PERI A [redacted]
ANGEVINE, JOHN E. [redacted]
ANZALONE, JOHN E. [redacted]
ARINELLO, MICHAEL J. [redacted]
ARP, JAMES W. [redacted]
ARREDONDO, STEFAN [redacted]
ASHLEY, ROBERT P., JR. [redacted]
ATCHER, DAVID A. [redacted]
*ATCHISON, KNOWLES Y. [redacted]
ATKINS, DENNIS W. [redacted]
*AVERNA, RICHARD B. [redacted]
AVERY, KENNETH R. [redacted]
AVERY, MICHAEL D. [redacted]
AYERS, CARL G. [redacted]
AYERS, MARK H. [redacted]
AZEMAR, JACQUES A., [redacted]
*BACHMAN, JEFFREY L. [redacted]
BAEHR, ROBERT B. [redacted]
BAGGIO, DANIEL L. [redacted]
BAGLEY, HUBERT E. [redacted]
*BAILEY, JEFFREY L. [redacted]
*BAILLERGEON, FREDER [redacted]
BAKER, ANITA L. [redacted]
BAKER, DAVID P. [redacted]
BAKER, DAVID R. [redacted]
BAKER, JEFFREY [redacted]
BAKER, MARY A. [redacted]
*BAKER, SHARON H. [redacted]
*BALL, JIMMY F. [redacted]
BALLEW, ROBERT S. [redacted]
BANNISTER, JEFFREY [redacted]
*BARGER, STEPHEN E. [redacted]
BARLOW, SUSAN M. [redacted]
BARONE, LAUREEN M. [redacted]
*BARRETO, CONFESOR [redacted]
BARRINEAU, JAMES E. [redacted]
BARSZCZ, KEVIN [redacted]
BARTEK, THOMAS J. [redacted]
*BARTLETT, KENNETH C. [redacted]
BARTLEY, NELSON G. [redacted]
*BASHAM, CHARLES S. [redacted]
BASHAM, TERRY D. [redacted]
BASS, JAMES D. [redacted]
BASS, JOSEPH L. [redacted]
BATTAGLIA, PHILIP F. [redacted]
BATULE, KEVIN M. [redacted]
BAUGHMAN, CHRISTOPH [redacted]
*BAUTISTA, KENNETH F. [redacted]
*BAVIS, JOHN M. [redacted]
BAXTER, ROBERT M. [redacted]
BAYER, PETER C. [redacted]
BAYER, STEPHEN H. [redacted]
*BEACHLER, KEITH W. [redacted]
BEARDEN, DAVID B. [redacted]
*BEATTIE, TAYLOR V. [redacted]
BEATY, DOUGLAS H. [redacted]
BEAUSOLEIL, SUSAN R. [redacted]
BEAVER, PHILIP F. [redacted]
*BECK, MARLON K. [redacted]
BECKMAN, STEVEN A. [redacted]
BECKMANN, JAMES P. [redacted]
BEDELL, CYNTHIA M. [redacted]
BEECH, MICHAEL F. [redacted]
BEINKEMPER, JAMES A. [redacted]
BEISEL, LARRY D. [redacted]
BELCHER, ERIC R. [redacted]
*BELL, JAMES A., [redacted]
*BELL, JOSEPH M. [redacted]
BELL, MICHAEL S. [redacted]
*BELL, RICKEY W. [redacted]
*BELL, ROBERT E. [redacted]
*BELLAMY, BARBARA R. [redacted]
BENNETT, HENRY W. [redacted]
BERGLUND, RICHARD A. [redacted]
BERMINGHAM, SEAN [redacted]
*BEST, ROBERT F. [redacted]
*BEURSKENS, KEITH R. [redacted]
BIACAN, DAVID L. [redacted]
BIANCHI, JOHN E. [redacted]
BIEGA, MICHAEL J. [redacted]
*BIEVER, LUIGI E. [redacted]
BILLS, MICHAEL A. [redacted]
BINGHAM, RAYMOND L. [redacted]
*BIRD, CRAIG H. [redacted]
BISHOP, DAVID J. [redacted]
*BITHER, DAVID E. [redacted]
BITHER, WILLIAM F. [redacted]
BLABER, PETER E. [redacted]
BLACK, JOHN R. [redacted]
BLACKBURN, DAVID M. [redacted]
BLAKE, GEOFFREY N. [redacted]
*BLACK, WILLIAM R. [redacted]
*BLAND, DAN [redacted]
BLAND, WILLIAM S. [redacted]

BLANDO, ANTHONY E. [redacted]
*BLIXTT, JERRY L. [redacted]
*BOELKE, ROSS D. [redacted]
BOERNER, ERICH V. [redacted]
*BOGGS, LARRY D. [redacted]
BOGNAR, ATTILA J. [redacted]
BOISSELLE, JAMES C. [redacted]
BOLSTER, KENT R. [redacted]
*BONNELL, CHARLES W. [redacted]
BORGARDTS, ALLEN L. [redacted]
*BORHAUER, RACHEL D. [redacted]
*BOTT, ROLFE B. [redacted]
BOTTERS, ROBERT J [redacted]
BOTTON, CYNTHIA J. [redacted]
BOUIE, MICHAEL E. [redacted]
BOURGEOIS, MARK H. [redacted]
BOWEN, JOHN A. [redacted]
*BOWERS, MICHAEL W. [redacted]
BOWMAN, DARRYL L. [redacted]
BOWMAN, MICHAEL P. [redacted]
BOYD, JOHNNY L. [redacted]
*BOYD, JUDITH F. [redacted]
*BOYKINS, CORNELIUS. [redacted]
BOYLAN, TIMOTHY J. [redacted]
BRADLEY, JULIE M. [redacted]
BRADY, PETER E. [redacted]
BRALEY, WILLIAM W. [redacted]
BRANDT, CURT R. [redacted]
*BRANLEY, WILLIAM C. [redacted]
BRAY, MICHAEL W. [redacted]
*BRAZIER, DAVID A. [redacted]
BREDEHOFT, BRENT B. [redacted]
*BRENT, DANIEL R. [redacted]
BRENTZIN, RANDALL H. [redacted]
BRIDGFORD, ROBERT S. [redacted]
BRITT, KENNETH W. [redacted]
BROEKHOVEN, DAVE P. [redacted]
BROOKS, PAUL R. [redacted]
BROUILLETTE, GREGOR [redacted]
*BROWN, ALVIN V. [redacted]
*BROWN, ANNETTE [redacted]
BROWN, CLAYTON E. [redacted]
BROWN, DORIS R. [redacted]
*BROWN, JOHN R. [redacted]
BROWN, OTIS L., II [redacted]
*BROWN, PETRA K. [redacted]
BROWN, ROBERT C. [redacted]
*BROWN, ROBERT L. [redacted]
BROWN, RUTH S. [redacted]
BROWN, TYRONE K. [redacted]
BRUEGMANN, MARK C. [redacted]
BRYANT, THOMAS H. [redacted]
BRYAR, RICHARD D. [redacted]
BRYNSVOLD, RICHARD [redacted]
*BRYSON, STEVEN K. [redacted]
BUCHS, TODD A. [redacted]
*BUELL, GRACE L [redacted]
BUHIDAR, RANDY A. [redacted]
BULLINGER, JAMES R. [redacted]
*BULLINGTON, JOHNNY [redacted]
BURCH, RAYMOND E. [redacted]
*BURCHELL, ROBERT E. [redacted]
BURGESS, SCOTT, S. [redacted]
*BURKLUND, RICHARD A. [redacted]
BURNETTE, OTTO C. [redacted]
*BURNS, DONALD F. [redacted]
BURNS, JOSEPH E. [redacted]
BURNS, ROBERT T. [redacted]
BURNELL, CLINTON L. [redacted]
*BURRELL, WILLIAM C. [redacted]
*BURRIS, BRYAN D. [redacted]
BURNSTEIN, KENT D. [redacted]
BURT, MICHAEL R. [redacted]
BURTON, JAMES B. [redacted]
BUSHYHEAD, JOHN E. [redacted]
BUSS, JOHN C. [redacted]
BUTCHER, BRIAN J. [redacted]
*BUTLER, DAVID L. [redacted]
*BUTLER, DWIGHT D. [redacted]
*BUTLER, JANET I. [redacted]
BUTLER, ODIE L., II [redacted]
BUTLER, PRESTON A. [redacted]
*BUXTON, DONALD W. [redacted]
BYRN, DAVID R., SR. [redacted]
CALE, PAUL P. [redacted]
*CALHOUN, VICTORIA A. [redacted]
*CALLAHAN, JAMES A. [redacted]
*CALLAHAN, MICHAEL O. [redacted]
CALLAHAN, TIMOTHY J. [redacted]
*CAMPBELL, JOHN D. [redacted]
CAMPBELL, RANDALL L. [redacted]
*CAMPBELL, ROBERT L. [redacted]
*CANE, MICHAEL [redacted]
CANTELOU, CAMPBELL [redacted]
*CAPEHART, ART W. [redacted]
*CAPONIO, FRANCIS J. [redacted]
CAPPEL, JOHN W. [redacted]
CARLSEN, CALVIN T. [redacted]
CARLSON, RICHARD A. [redacted]
CARNEY, STEVEN P. [redacted]
*CAROE, DALE O. [redacted]
CAROTHERS, JOHN K. [redacted]
*CARPENTER, MARTIN T. [redacted]
*CARROLL, JEFFREY S [redacted]
*CARROLL, TIMOTHY J. [redacted]
CARSON, ROBERT J. [redacted]
*CARSON, WILLIAM S [redacted]
*CARTER, ROBERT F. [redacted]
CARVER, CURTIS A. [redacted]
*CASHELL, JAMES E. [redacted]
CASTILLO, HECTOR R. [redacted]
CATON, TONY M. [redacted]
*CAVALERI, DAVID P. [redacted]
CECIL, JOHN D. [redacted]
CELLINI, JOSEPH A [redacted]
CHAMBERS, CHRISTOPH [redacted]
CHANDLER, CLATON D. [redacted]
CHANDLER, JOHN, JR. [redacted]
*CHAO, EILEEN F. [redacted]
CHAPMAN, JAMES R. [redacted]
CHAPPELL, ANDREW P. [redacted]
*CHATMAN, WILLIAM T. [redacted]
*CHESTER, LAVERNE M. [redacted]
*CHICKY, JON E. [redacted]
*CHILDERS, MICHAEL W. [redacted]
*CHIRDON, HENRY J. [redacted]
CHOPPA, ROBERT E. [redacted]
CHRISTMAN, GERALD J. [redacted]
CIOPPA, ARMON A. [redacted]
CLARK, DAVID J. [redacted]
*CLARK, FRANKLIN D. [redacted]
CLARK, KEVIN D. [redacted]
CLARK, KEVIN W. [redacted]
*CLARK, SCOTT E. [redacted]
*CLARK, STEVEN C. [redacted]
*CLARKE, MICHAEL F. [redacted]
*CLAWSON, MICHAEL N. [redacted]
CLAY, PAUL L. [redacted]
*CLAYBURN, ERIC G. [redacted]
CLAYTON, WILFRED D. [redacted]
*CLOSSON, ROBERT W. [redacted]
CLOWES, WILLIAM B. [redacted]
COBURN, DAVID C. [redacted]
CODY, ALAN G. [redacted]
COHEN, STEVEN E. [redacted]
COLEMAN, GEOFFREY K. [redacted]
*COLES, THERESA D. [redacted]
COLLINS, STEVEN N. [redacted]
*COLLINS, STEVEN W. [redacted]
COLLITON, KELLY M. [redacted]
COLLYAR, CHRISTINE [redacted]
*COLTHART, THOMAS M. [redacted]
COLTRAIN, ROBERT S. [redacted]
*COLVIN, ELLIS D. [redacted]
*COLWELL, VINCIENT J. [redacted]
CONDON, PAUL B. [redacted]
CONLEY, MARK A. [redacted]
*CONNELLY, DARRELL T. [redacted]
CONNELLY, TERRY E. [redacted]
*CONTRERAS, JAMES P. [redacted]
*CONWAY, JAMIE A. [redacted]
COOK, DAVID A. [redacted]
COOK, DWIGHT L. [redacted]
COOK, JUDSON A. [redacted]
*COOK, KATHERINE M. [redacted]
COOK, NICKY A. [redacted]
COON, RICHARD E. [redacted]
*COONEY, MICHAEL W. [redacted]
COPELAND, ANTHONY E. [redacted]
*CORCORAN, KEVIN P. [redacted]
CORDELLI, BRUCE A. [redacted]
CORDES, GARY B. [redacted]
CORONEL, MARIO [redacted]
COSS, MICHAEL A. [redacted]
*COSTELLO, THOMAS M. [redacted]
*COSTELLO, WILLIAM M. [redacted]
*COTE, DONNA M. [redacted]
COTTER, CRAIG S. [redacted]
COTTER, DAVID G. [redacted]
COTTRELL, CHRIS L. [redacted]
COTTRELL, DANIEL T. [redacted]
*COUNTOURIOTIS, STEV [redacted]
COWAN, THOMAS H. [redacted]
COWELL, CRAIG E. [redacted]
COX, BENJAMIN F. [redacted]
*COX, JERRY L. [redacted]
*COX, JOHN R., JR. [redacted]
CRABB, JEFFREY A. [redacted]
CREA, THOMAS M. [redacted]
CREDLE, IRA O. [redacted]
CRENSHAW, MARK L. [redacted]
*CRESPO, LOURDES [redacted]
*CROCKETT, HARVEY L. [redacted]
CROFFORD, CLIFFORD [redacted]
*CROUCH, KEVIN D. [redacted]
CRUM, BARRY N. [redacted]
CUMMINGS, DANIEL J. [redacted]
CUMMINGS, TERRENCE [redacted]
*CUNNANE, JOHN L. [redacted]
CUNNINGHAM, WILLIAM [redacted]
CURL, JEFFERSON M. [redacted]
CURRANKELLEY, RICHA [redacted]
*CURRY, MICHAEL S. [redacted]
CURRY, PETER J. [redacted]
CURRY, RANDALL C. [redacted]
*CUSIMANO, GREG W. [redacted]
*CYR, MICHAEL F. [redacted]
*CZARZASTY, PAUL M. [redacted]
DALESANDRO, JENNIFE [redacted]
*DALLSTREAM, CARLOTT [redacted]
DALTON, THOMAS B. [redacted]
*DAMATO, MARK A. [redacted]
DANIELS, GREGORY L. [redacted]
DANIELS, LINDA K. [redacted]
DANIELS, PAUL M. [redacted]
DANNON, JOHN H. [redacted]
DARDEN, LOLA J. [redacted]
*DARULLA, STEPHEN D. [redacted]
DASKEVICH, ANTHONY [redacted]
DAVID, WILLIAM E. [redacted]
DAVIES, JOSEPH E [redacted]
DAVIS, ALFRAZIER, JR [redacted]
DAVIS, ANDRE M. [redacted]
DAVIS, CLEOLA M. [redacted]
DAVIS, GRANT M. [redacted]
*DAVIS, JAMES W. [redacted]
DAVIS, JEFFREY H [redacted]
DAVIS, JIMMY D. [redacted]
DAVIS, KIRK A. [redacted]
DAVIS, MARK A. [redacted]
*DAVIS, TIMOTHY S. [redacted]
DAY, ROGER T. [redacted]
DAY, TODD E. [redacted]
DEAN, CHARLES E. [redacted]
DEAN, TIMOTHY J. [redacted]
DEANTONA, JOSEPH P. [redacted]
*DEBOLT, KATHY J. [redacted]
DECAMP, PHILIP D. [redacted]
*DEDNER, MIKE [redacted]
DEGNON, THOMAS J. [redacted]
*DEJESUS, JUAN A [redacted]
DELL, THOMAS A. [redacted]
DELROSARIO, MICHAEL [redacted]
DELUCA, PETER A. [redacted]
DEMPSEY, BRUCE W. [redacted]
DENNIS, WADE F. [redacted]
DENNIS, YOLANDA C. [redacted]
DERRICK, CHARLES E. [redacted]
*DERROW, DAVID L. [redacted]
DETWILER, WAYNE L. [redacted]
*DEVAN, KENNETH W. [redacted]
*DEVER, DOUGLAS A. [redacted]
DEVINE, JAMES T. [redacted]
*DEVOE, KENNETH A. [redacted]
DICKERSON, JERRY D. [redacted]
DIRKSE, JAMES W. [redacted]
DODD, ANTHONY W. [redacted]
DODD, DAVID E. [redacted]
*DODGE, GEORGE E. [redacted]
DOESCHER, CURT W. [redacted]
DOLLOFF, SCOTT C. [redacted]
DOLPH, DAVID P. [redacted]
DONOGHUE, JOHN J. [redacted]
*DONOVAN, MICHAEL J. [redacted]
DORMAN, EDWARD F. [redacted]
DORNBLASER, DAVID W. [redacted]
*DORSEY, CHARLES J. [redacted]
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ZIEK, THOMAS G., [redacted]
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HOUSE OF REPRESENTATIVES—*Friday, November 26, 1993*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In this season of thanksgiving, we pray, O God, that we would continue the days ahead in the spirit of gratitude and praise for Your gifts to us. For us and for our Nation we know that if we have no vision, we will perish; if we have no faith, we will be consumed by doubt; if we have no hope, life will lose all meaning and days will be empty; if we have no love, we will never know the joy and satisfaction of sharing and caring, of affection and understanding. May the spirit of this season of thanksgiving abound in our hearts and all we do, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri [Mr. GEPHARDT], the majority leader, please lead the House in the Pledge of Allegiance.

Mr. GEPHARDT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 486. An act to provide for the addition of the Truman Farm Home to the Harry S Truman National Historic Site in the State of Missouri;

H.R. 3216. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes;

H.R. 3321. An act to provide increased flexibility to States in carrying out the Low-Income Home Energy Assistance Program;

H.R. 3514. An act to clarify the regulatory oversight exercised by the Rural Electrification Administration with respect to certain electric borrowers;

H.R. 3616. An act to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the Memorial, and the Women in Military Service for America Memorial, and for other purposes;

H.J. Res. 272. Joint resolution designating December 15, 1993, as "National Firefighters Day"; and

H.J. Res. 300. Joint resolution providing for the convening of the Second Session of the One Hundred Third Congress.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following titles:

H. Con. Res. 190. Concurrent resolution providing for the sine die adjournment of the First Session of the One Hundred Third Congress.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1732) entitled "An act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1769) entitled "An act to make a technical amendment, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1944) entitled "An act to provide for additional development at War in the Pacific National Historical Park, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1025) "An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) "An act to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
November 24, 1993.

Hon. THOMAS S. FOLEY,
The Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Wednesday, November 24, 1993, at 10:00 a.m. and said to contain a message from the President whereby he transmits the first report of the Caribbean Basin Initiative.

With great respect, I am

Sincerely,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

FIRST REPORT OF THE CARIBBEAN BASIN INITIATIVE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following communication from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

To the Congress of the United States:

I transmit herewith the first report of the operation of the Caribbean Basin Initiative. This report is prepared pursuant to the requirements of section 214 of the Caribbean Basin Economic Recovery Expansion Act of 1990 (19 U.S.C. 2702(f)).

WILLIAM J. CLINTON.
THE WHITE HOUSE, *November 24, 1993.*

MESSAGE FROM THE SENATE

The Chair laid before the House the following privileged message from the Senate:

Resolved, That the resolution from the House of Representatives (H. Con. Res. 190) entitled "Concurrent resolution providing for the sine die adjournment of the First Session of the One Hundred Third Congress" do pass with the following amendment:

Page 1 line 3, strike out all after "of" down to and including "23," in line 5 and insert "Friday, November 26, or the legislative day of Tuesday, November 30, or the legislative day of Wednesday, December 1,".

The SPEAKER. Without objection, the Senate amendment is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

REPORT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE HOUSE HAS COMPLETED ITS BUSINESS OF THE SESSION

Mr. GEPHARDT. Mr. Speaker, your committee appointed to inform the President that the House is ready to adjourn, and to ask him if he has any further communications to make to the House, has performed that duty. The President has directed us to say that he has no further communications to make to the House.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE CERTAIN APPOINTMENTS NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the 1st session of the 103d Congress, the Speaker and the minority leader be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GIVING THANKS AND SEASON'S GREETINGS TO STAFF AND OFFICERS OF THE HOUSE

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time to express the profound thanks and appreciation of all of us in leadership on both sides for what the staff and officers of the House have done to get us through this session of Congress as we have. Then, too, since this is an opportune time, I wish both the Speaker and the majority leader a very merry Christmas, and we will look forward to seeing you in the new year.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, I would like to express to the staff a hearty appreciation for all of their good work, and to return the wish of the gentleman from Illinois [Mr. MICHEL] for a happy and merry holiday season.

The SPEAKER. The Chair, of course, reciprocates the kind wishes of both the Republican leader and the majority leader.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 714. An act to provide for the remaining funds needed to assure that the United States fulfills its obligations for the protection of depositors at savings and loan institutions, to improve the management of the Resolution Trust Corporation ("RTC") in order to assure the taxpayers the fairest and most efficient disposition of savings and loan assets, to provide for a comprehensive transition plan to assure an orderly transfer of RTC resources to the Federal Deposit Insurance Corporation, to abolish the RTC, and for other purposes;

S. 717. An act to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes;

S. 778. An act to amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes;

S. 1716. An act to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports; and

S. 1766. An act to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes.

SINE DIE ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, pursuant to House Concurrent Resolution 190, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with the provisions of House Concurrent Resolution 190, the Chair declares the 1st session of the 103d Congress adjourned sine die.

Thereupon (at 10 o'clock and 5 minutes a.m.) pursuant to House Concurrent Resolution 190, the House adjourned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1621: Mr. BAKER of California.

H.R. 963: Mr. MANTON.

H.R. 1621: Mr. FINGERHUT, Mr. BROWN of Ohio, and Mr. KREIDLER.

H.R. 1673: Mr. BROWN of Ohio and Mr. KREIDLER.

H.R. 3259: Ms. FURSE.

H.R. 3328: Mr. HANSEN and Mr. HOEKSTRA.

H.R. 3483: Mr. STEARNS, Mr. FINGERHUT, and Mr. PAXON.

H.R. 3546: Mr. GINGRICH.

H. Con. Res. 152: Mr. FRANK of Massachusetts, Mr. PORTER, Ms. SLAUGHTER, and Mr. LAFALCE.

DISCHARGE PETITIONS

Under clause 3, rule XXVII, the following discharge petitions were filed:

Petition 10, November 21, 1994, by Mr. McCOLLUM on House Resolution 295 has been signed by the following Members: Bill McCollum, Lamar S. Smith, Tillie K. Fowler, Joe Knollenberg, Michael Huffington, Carlos J. Moorhead, Jon Kyl, Bob Stump, Cass Ballenger, Howard Coble, Charles H. Taylor, Porter J. Goss, Thomas W. Ewing, William H. Zeliff, Jr., Joe Barton, Tom DeLay, Doug Bereuter, Jim Lightfoot, Wayne T. Gilchrest, Richard K. Armey, Martin R. Hoke, Terry Everett, Fred Upton, Charles T. Canady, Barbara F. Vucanovich, Steve Gunderson, Jim Kolbe, Jennifer Dunn, Deborah Pryce, Susan Molinari, Bill Paxon, David L. Hobson, Donald A. Manzullo, Ernest J. Istook, Jr., Jim Bunning, Christopher Shays, Peter Blute, Michael Bilirakis, and Don Sundquist.

EXTENSIONS OF REMARKS

H.R. 3650

HON. BILL RICHARDSON

OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Friday, November 26, 1993

Mr. RICHARDSON. Mr. Speaker, after the Senate passed a 120-day extension of the moratorium on the implementation of the regulations for the Nutritional Labeling and Education Act on November 20, I assumed the House would follow suit and provide additional time to legislate a comprehensive dietary supplements bill. I am sorry to report that my assumption was wrong.

The Hatch-Richardson bill, H.R. 1709/S. 784, has been the subject of over 24 hours of scrutiny and careful examination in the congressional hearings over the past 4 months. The bill introduced on the House floor Monday night, H.R. 3650, the Dietary Supplement Access and Claims Moratorium Act of 1993, has not been the subject of any congressional hearings. Even so, one would assume with so many hours devoted to dietary supplements in congressional hearings this past year, this bill introduced in the last night of the first session would accurately address the concerns of supplement users aired in those hearings. Once again, I am sorry to report that assumption is wrong.

The shortcomings of H.R. 3650 begins with a narrow definition of a dietary supplement. The definition is critical to other sections of the bill. The definition in H.R. 3650 does not provide for the development of future products, thus allowing them no protection against categorization as a drug or food additive. The definition also excludes some products currently on the market.

Section 102(a) of H.R. 3650 prohibits the need for a prescription for dietary supplements on the market now that are not treated as drugs by the Food and Drug Administration [FDA]. However, section 102(a) does not prohibit the FDA from categorizing existing or future products as drugs. For this reason, section 102(a) of H.R. 3650 does not completely dispel concerns about access to dietary supplements.

I am pleased to see the elimination of food additives status in section 102(b) of H.R. 3650. However, the limited definition of a dietary supplement weakens the impact of this elimination.

Furthermore, the attempt to prohibit a dietary supplement from being considered a drug is incomplete because section 201(g)(1) does not protect supplements about which nutritional support claims and health claims are made. Manufacturers should be able to make such claims if those claims are truthful, nonmisleading and supported by the totality of currently available scientific evidence.

Section 102(c) of H.R. 3650 appears to shift to the FDA the burden of proof that a product is unsafe. However, the way the section is written the burden would actually shift back to the manufacturer to product positive evidence of safety if the FDA claims the product is not safe.

Finally, the 6-month extension of the moratorium on the Nutrition Labeling and Education Act regulation is incomplete. This section of the bill leaves the restrictive NLEA health claims proposal for dietary supplements in place. Apart from one approved health claim and one proposed health claim, every dietary supplement with a health claim will not be allowed to remain on the market under this bill. The 6-month moratorium in H.R. 3650 does not in any way direct the FDA to change its highly restrictive view of the standard for dietary supplement health claims.

For all of the reasons stated above, I cannot support H.R. 3650. Now that the moratorium appears set to expire, let's move forward and pass a comprehensive bill that balances the need for consumers to have access to dietary supplements with the need for adequate fraud and safety precautions.

THE HEALTH SECURITY ACT OF 1993

HON. BILL RICHARDSON

OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Friday, November 26, 1993

Mr. RICHARDSON. Mr. Speaker, for far too long, this Nation has been struggling with very difficult problems facing our health care system. Costs have been increasing at well over twice the rate of inflation each year. The number of people without insurance, particularly young children, is disturbing. Obvious and glaring inefficiencies continue to proliferate, especially in the reporting of health claims.

I commend the President for beginning to tackle these difficult problems in the Health Security Act of 1993. I believe the goals he has laid out for health care reform—security, savings, simplicity, quality, responsibility, and choice—are what we should all strive for in any health care reform. The President's plan represents an excellent framework for achieving those goals and that is why I have joined 99 of my colleagues including all of the House leadership as original cosponsors of the President's plan as introduced in the House, H.R. 3600. However, this does not mean that I endorse all parts of the plan.

To reach perfection in the first legislative draft of a health care reform plan is a tall task. I believe there are potential problems with the President's plan that need to be debated and carefully examined.

The employer's share of the costs of individual and family coverage may be burdensome to business owners in spite of subsidies. It may be difficult to keep wages from falling, particularly among the group of employees hardest hit in the past 20 years—blue-collar workers and small business employees. The value of health benefits will not be as evident to them as salary and other benefits.

The formation of health alliances must be very carefully undertaken. Managed care, let alone managed competition, does not have a strong track record in rural areas or traditionally underserved areas. Maximum flexibility must be provided to rural areas to create their own community-based networks of care.

Community health centers and migrant health centers must be given full support to continue to function independent of the alliance system, if need be, and not be inadvertently punished for serving as a safety net. These health centers have served an incredibly important function for people who have had no other recourse to get health care. They can still serve an important function under any new system. Public health must continue to be one of the top priorities of any new health care delivery system.

The financing of any health care reform plan will be carefully scrutinized because of the large transactions involved. Possibly more than any other aspect of health care reform, we must not lose the confidence of the public on the financing of a health care reform plan. They must be confident that any new revenues or additional spending will truly be devoted to health care reform.

In order to enhance accountability, I believe we should consider separating revenues and spending for health care reform from the other parts of the Federal budget. This will help to keep a check on any unfettered entitlements while also keeping public confidence high.

Certainly, health care reform will be a difficult undertaking. Nevertheless, we must tackle the problems of the system and find solutions before those problems become any more intractable. H.R. 3600 places some potential solutions on the table. Some of those solutions would undoubtedly help our ailing system. Other potential solutions, as I have pointed out, could make our system weaker. More debate and discussion is needed on those parts of the President's plan. After all, attempts to reform our health care system should follow one of the primary rules of medicine: First, do no harm.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.